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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Friday, October 27, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, we begin this day with gratefulness for the freedoms we enjoy and the heritage of liberty with which we have been blessed. Even as we recall these blessings we remember those who are denied these gifts. We pray for all those who cannot share the love of family and friend, particularly those held hostage. May Your good spirit, O God, that transcends all the barriers of time and space, give to the hostages and their families the hope and the peace that You alone can give. May Your promises and power be with them and each of us, now and evermore. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Missouri [Mr. EMERSON] will come forward and lead the House in the Pledge of Allegiance.

Mr. EMERSON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the bill (S. 1792) "an act to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planned a replacement crop on disaster-affected acreage, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the concurrent resolution (S. Con. Res. 74) "concurrent resolution authorizing the 'Gift of Democracy' from the U.S. Congress to the new Senate and Sejm in Poland. This gift is comprised of equipment and training that is determined to be most useful in helping Poland establish an effective parliamentary system."

The message also announced that Mr. SANFORD be a conferee, on the part of the Senate, on the bill (H.R. 1487) "an act to authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes," vice Mr. CRANSTON, excused.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include extraneous material on the special order given today by the gentleman from Illinois [Mr. LIPINSKI].

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

EARTHQUAKE HAZARDS REDUCTION ACT OF 1977 AMENDMENTS

The SPEAKER. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, recent events in California have caused all of us to rivet our attention to the destructiveness of earthquakes and heightened our concern about the possibility of earthquakes in other seismic areas around our Nation.

My congressional district in southeast and central Missouri contains what has long been thought to be a strong contender for a very major earthquake. That is the New Madrid Fault which lies principally in the boothill of Missouri, which affected some 18 neighboring States in the last monumental quake of that fault during the winter of 1811 and 1812.

I introduced yesterday, together with a number of my colleagues, including all my neighbors along the fault line, particularly including Mr. POSHARD, Mr. HUBBARD, Mr. TANNER, Mr. SUNDQUIST, Mr. ALEXANDER, Mr. SKELTON, and Mr. HANCOCK, and others who are deeply interested in this problem, I introduced amendments to the Earthquake Hazards Reduction Act of 1977.

We have to prepare our communities and our emergency services to be able to react effectively in the event of major earthquakes.

This legislation has that goal as its purpose. It would increase activities to educate the public about earthquake hazards. It would require a review and an update of building codes and construction guidelines. It would examine the cost of retrofitting existing buildings. It would review the existing earthquake response systems in high potential areas, including the availability of equipment and personnel, the readiness of emergency broadcast system facilities, and preparedness of emergency medical services, and search and rescue operations.

As I mentioned, the last major monumental earthquake of the New Madrid Fault occurred in the winter of 1811 and 1812. There was a series of three earthquakes that rocked the region, the immediate region, but rang church bells as far away as Boston and Richmond, and caused the Mississippi River, we are told by the few people who were actually there and gave an account at the time, the areas then relatively uninhabited, but this earthquake it is said caused the Mississippi to actually flow in a northerly direction for several hours. That gives Members some idea of the magnitude of it.

Earthquake experts tell us today that New Madrid and the surrounding area are hit by minor earthquakes which are detected by instrumentation several times every day, 365 days a

year, and those that can be detected by humans occur on the average of once every 48 hours.

The Senate has just recently passed legislation similar to that which I and a number of colleagues have introduced. I hope that my colleagues here in the House will join in supporting this bill and that we move very expeditiously to allow this bill to become law.

Earthquake protection is a very serious matter for many geographic regions of the country, and we must all work together to prevent the loss of life and property when such disasters occur.

I invite all of my colleagues to review this legislation and to seriously consider becoming cosponsors of it so that it may move expeditiously.

Mr. HUBBARD. Mr. Speaker, will the gentleman yield?

Mr. EMERSON. Mr. Speaker, I am delighted to yield to the gentleman from Kentucky [Mr. HUBBARD], my neighbor across the river.

Mr. HUBBARD. Mr. Speaker, I would like to compliment my colleague from Missouri [Mr. EMERSON] for being the chief sponsor of this legislation. I am grateful for the opportunity to be a cosponsor. Our districts do adjoin each other, the Mississippi River being the dividing line.

Our districts are both in the Madrid Fault zone. We have had earthquakes in the past. We fear another one.

It is a pleasure to join with the gentleman from Missouri in this effort as we work together toward earthquake protection.

Mr. EMERSON. Mr. Speaker, I thank my friend and colleague and look forward to working with him as we pursue the goals of this legislation. I am absolutely delighted to have my friend's cooperation and leadership in this area.

PROTECTING SAFETY OF AMERICA'S FOOD

(Mr. JONTZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONTZ. Mr. Speaker, I commend the President for announcing yesterday his plans to improve the laws and programs by which the safety of the food we eat is protected.

There is no question that Americans enjoy the safest food in the world, but consumers in this Nation are asking that we do better. And we can.

The President proposes that we streamline the process by which EPA considers suspending the use of dangerous chemicals—but shouldn't we require suspension when unacceptable risk is present?

The President supports review of pesticide tolerances to update Federal standards—but shouldn't we allow States to keep higher standards if they choose?

There is good in the President's proposal, but there is also much which can be improved. Let's get on with the task of ensuring Americans that everything possible is being done to protect the safety of the food they eat.

□ 1010

SUCCESS OF MOTION PICTURE INDUSTRY IS UNQUESTIONED

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, as a self-described movie buff I was shocked and dismayed reading in yesterday's Washington Post that former President Ronald Reagan thinks something is wrong with the movies coming out of Hollywood and that the major movie studios might be better off under foreign control.

While I certainly do not like all of the movies I see, I find it amazing to read a foreign influence may be helpful in bringing back decency and good taste to America's movies. Maybe Mr. Reagan has not seen the quality of most foreign films—if he had he would find many are indeed of poor quality and are much more casual about nudity and pornography.

The success of our American motion picture industry is unquestioned—why else would the European Community try to limit imports of American television and motion picture programming? Yet our former President has encouraged the sale of a major motion picture studio to a foreign company—does he forget how important Hollywood was in the war effort. Does Mr. Reagan forget that it is the American motion picture industry that gave him his start in politics.

It is highly unlikely that the change of ownership at Columbia will improve the films being produced. It should be our churches, our schools, our families and national leaders who should be held responsible for teaching American values.

The American motion picture industry offers consumers the world over an unparalleled variety of film entertainment. It certainly deserves more than a slap in the face of the former President. I cannot help but wonder whether the $2 million that Ronald Reagan received from a Japanese media company might have clouded his judgment.

Mr. President, it is okay to take the $2 million, but do not become a flack to get it.

NATIONAL HOSTAGE AWARENESS DAY

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, Terry Anderson's 42d birthday is today, his 1,686th day in a dark room somewhere in Lebanon.

At the time of his being kidnaped in Beirut on March 16, 1985, Anderson was chief Middle East correspondent for the Associated Press.

Terry Anderson is the longest held of eight U.S. hostages in the Middle East.

Anderson's sister, Peggy Say of Cadiz, KY, is a friend and constituent of mine. I like and admire Peggy Say and her husband, David Say. Peggy Say works tirelessly to remind people that Anderson is a hostage.

U.S. Senator PATRICK MOYNIHAN of New York stands in the Senate every day to announce the number of days Anderson has been held.

We in the Congress have passed a resolution proclaiming today as National Hostage Awareness Day. Today, many of us in Congress and many other Americans nationwide are wearing yellow ribbons and, yes, we are praying for the hostages.

Former hostages and relatives of those still held will participate in a "Mass of Hope" today at Georgetown University in Washington.

Since his kidnaping, Anderson's fiancee has given birth to their daughter, and his father, Glenn, has died of cancer.

His fiancee, Madeleine Bassil, made a videotaped plea for his release last year with their daughter Sulome, 4, whom Anderson has never seen.

Anderson's last general contact was an October 1988 videotape. His family says he looked strong and determined.

We need to continue to remember and pray for Terry Anderson and the other Americans being held hostage in Lebanon by inhumane, vicious terrorists who have no respect for freedom or human life.

HISTORICAL OPPORTUNITY NEARING FOR THE UKRAINIAN CATHOLIC CHURCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, I rise today to once again call attention to the Ukrainian Catholic Church, whose plight has been documented many times in this Chamber since the initiation of Gorbachev's liberalizations in the Soviet Union. While I am discouraged that the persecution of Ukrainian Catholics in the Soviet Union remains a fact, I have great hope that this injustice may finally end in the very near future. This new sense of hope lies in the historical meeting to take place at the Vatican in November between Mikhail Gorbachev and Pope John Paul II.

For all its significant results within the Soviet bloc, one remarkable fact about Gorbachev's glasnost remains: There is always another hurdle to surpass.

Unfortunately, one major hurdle unaddressed by Gorbachev is the status of the Ukrainian Catholic Church, which remains illegal and unrecognized in the Soviet Union.

It was the spring of 1988 when this Congress commemorated the millennium of the Ukrainian Catholic Church, joining in the celebration with millions of Ukrainian Catholics from the Soviet Union to Chicago. At that time, with Gorbachev's liberalization process in full swing, I thought the future looked bright for Ukrainian Catholics. Leading the international call for justice in the Ukraine, the United States Congress demanded that Gorbachev cease "the active persecution of the Ukrainian Catholic Church and its forcible incorporation into the Russian Orthodox Church."

I take great pride in the year long celebration of the millennium of Christianity in the Ukraine, and the role this body played in that important event. However, I am deeply discouraged that, over a year later, we are still making the same call for justice, the same call for the legalization of the Ukrainian Catholic Church.

Fortunately, Mikhail Gorbachev has an unprecedented opportunity to correct the injustice levied against Ukrainian Catholics by the Soviet Union for the last 43 years. Within a month, Pope John Paul II will meet Gorbachev in an unprecedented exchange between the Pope and the leader of the Communist world.

The plight of Ukrainian Catholics will top the agenda at that meeting, as Pope John Paul has made it clear that normalization of relations between the Vatican and the Soviet Union depends upon legalization of Ukrainian Catholicism.

Fighting for the freedom of religion, the United States must be sure to put this historic meeting in the international spotlight. This summit presents yet another opportunity for the West to show that our acceptance of glasnost relies on continued real results for the people of the Soviet Union. Glasnost must include new freedom and openness for all peoples of the Soviet Union, not just state approved providers of dissent. Until the Ukrainian Catholic Church is legalized, its suppression will undermine the legitimacy of all Gorbachev's other programs.

Along with the opportunity represented by the Vatican meeting, the Ukrainian Catholic Church can gain confidence from recent developments in the Ukraine. Although events are marching in the right direction, we must remember that the battle is not won until the church is legalized, recognized, and free.

We can take heart in last month's show of strength in Lvov, when over 150,000 Ukrainian Catholics demonstrated for the legalization of the church, on the anniversary of the Soviet annexation of the Ukraine. The size of the demonstration was vital in dismissing the Soviet authorities' claim that Ukrainian Catholics were actually very small in number; 60,000 also demonstrated in Kiev.

Even more dramatic are reports just confirmed this week by sources within the Ukraine that a Ukrainian Catholic Church has officially reopened its doors. Church officials in Rome reported that Ukrainian Soviet authorities allowed a Ukrainian Catholic Church in the western Ukrainian town of Yavoriv to reopen as a Catholic parish, as they handed the keys over to Rev. Petro Zeleniukh. Thousands gathered for a prayer service on the next Sunday, October 8. Hopefully, this event signals a nationwide change which Gorbachev is prepared to undertake.

Furthermore, the Soviet press and human rights activists continue to highlight the injustice in the Ukraine, and cite the need for greater religious freedom. Andrei Sakharov put it simply when he was in Italy. He stated, "There is an absolutely anomalous situation in which an entire church with its great number of faithful finds itself in an illegal, clandestine situation."

Like these human rights activists and writers and Ukrainian leaders, the United States Congress realizes the status of the Ukrainian Catholic Church is an anomaly, completely against the tide of change underway in the Soviet bloc. Gorbachev must know that there is only one measure which will amend this injustice. The Ukrainian Catholic Church must be legalized and recognized, to allow Ukrainian Catholics to worship God in the manner of their ancestors and in accordance with their conscience.

I urge my colleagues to signify that the Ukrainian Catholic Church is at the top of our congressional agenda as well as the international human rights agenda. Over 80 colleagues have already written to President Gorbachev, urging him to legalize Ukrainian Catholicism at his meeting with the Pope in November. This active American participation on behalf of the church will play a significant role in finally bringing about justice for the Ukrainian Catholic Church, and I invite Members to join in the effort.

Mr. HOYER. Mr. Speaker, I am pleased to take part in today's special order on behalf of the Ukrainian Catholic Church in the Soviet Union, and I commend my colleague, Mr. LIPINSKI, for raising this timely issue on the floor of the House.

All of us here are familiar with the history of the Ukrainian Catholic Church. We remember how Stalin tried to physically eradicate the church by killing and imprisoning its clergy and confiscating its property, and later how for decades the Soviet Government claimed that a confession with millions of adherents was no more than a creation of "bourgeois nationalists" in the West. But the Ukrainian Catholic Church in western Ukraine could no more be destroyed by Moscow today than could the early Christian church be destroyed by the pagan emperors of Rome. The faith was too strong then, and it is too strong now.

The situation of the Ukrainian Catholic Church presents a significant contrast in the area of religious liberties in the Soviet Union today. Under the leadership of Mr. Gorbachev, major improvements can be seen, at least in practice, if not in law. Sometimes when I read about what is occurring in the Soviet Union in terms of religious activities, I find it difficult to believe that this is the same country where, when the Helsinki Review Conference opened in Vienna in November 1986, Roman Catholic and Russian Orthodox priests, Baptist pastors, Pentecostal emigration activists, and a host of other believers were serving labor camp sentences for practicing their faith. Even those who were not imprisoned endured discrimination and harassment for practicing their faith openly.

Three years later, we see Bibles and religious literature being imported in trucks instead of smuggled over the border in double-bottomed suitcases. Churches are being reopened, Evangelical services held in parks and public buildings with the approval of local authorities. Congregations are being allowed, even invited, to take part in charitable activities in the community. In Soviet-occupied Latvia, pastors and church members are involved in an active prison ministry. In neighboring Lithuania, a second Roman Catholic seminary has been opened, and seminary authorities decide which candidates are to be admitted, not the KGB.

Meanwhile, in western Ukraine, Ukrainian Catholics have to gather for their services in front of padlocked church doors. Priests who celebrate Masses outdoors are threatened and fined, and Masses themselves have been broken up by police. Lay activists have been assaulted by unknown assailants in the street.

Moreover, in recent years Russian Orthodox churches of somewhat doubtful pedigree have suddenly appeared in villages where the population is overwhelmingly Catholic. We have been informed that even local government officials, representatives of an officially atheistic government, have signed up as members of a Russian Orthodox Church Council and arranged to have a local church opened in order to prevent the Ukrainian Catholic congregation from seeking use of the same church. Let me emphasize, however, that reformers within the Russian Orthodox Church oppose this sort of subterfuge and have called upon the Soviet Government to recognize the Ukrainian Catholic Church.

Still, small positive steps can be noted. Moscow is no longer denying that the Ukrainian church exists. When the Helsinki Commission visited Moscow in November of last year to discuss human rights with members of the Supreme Soviet, our interlocutors acknowledged the church's existence and claimed that legalization of the Ukrainian Catholic Church was being considered by the Government. Ukrainian Catholic clergymen have been interviewed in the Soviet press, and Fyodor Burlatsky, a leading Soviet spokesman in the area of human rights, recently predicted legalization of the church with passage by the Supreme Soviet of a proposed new law on freedom of conscience.

And yesterday the Helsinki Commission received word from Rome that a Ukrainian Catholic Church near the Polish border has been officially recognized by local authorities and the keys to the church turned over to the church council. We hope this is only the first of many such reports.

Mr. Speaker, as we know, Mr. Gorbachev plans to visit the Vatican later this year. Pope John Paul II has been a vigorous supporter of Ukrainian Catholics in their struggle. On October 5, he called upon Soviet authorities to grant immediate legal status to the Ukrainian Catholic Church. In the words of John Paul II:

The readiness and good will of the authorities must be brought to bear so that they may, after decades of neglect, solve the problem of the recognition of the rights of the Ukrainian Catholics seeking the right to pray in public.

And to this call to conscience, we in the Congress add our voices. We hope and pray that Mr. Gorbachev will have a positive response for the Pontiff, and for Ukrainian Catholics and their supporters throughout the world.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleague from Illinois, the Honorable WILLIAM LIPINSKI, and the other Members of the House of Representatives in urging Secretary General Mikhail Gorbachev to legalize the Ukrainian Catholic Church in the Soviet Union, and immediately end human and religious rights violations against the Ukrainian people.

This November the Secretary General will be meeting with Pope John Paul II, and it is important to let him know that the United States is deeply concerned about the plight of Ukrainians. Like many Members of Congress, I was glad to take this opportunity to send a letter to Secretary General Gorbachev urging him to alter his country's position in this matter. A copy of that letter follows:

OCTOBER 20, 1989.

General Secretary MIKHAIL GORBACHEV,
Union of Soviet Socialist Republics, The Kremlin, Moscow 103132, USSR.

DEAR MR. GENERAL SECRETARY: I am writing to you to express my concern about human rights violations against Ukrainian Catholics living in the Soviet Union, and the banning of the Ukrainian Catholic Church.

Your upcoming meeting with Pope John Paul II in November is a unique occasion to change your country's position in this matter. In the spirit of the new reforms you have proposed for the Soviet Union, I urge you to immediately legalize and fully reinstate the Ukrainian Catholic Church in the Soviet Union, and allow all Ukrainian Catholics to freely practice their religion without fear of persecution, in accordance with the provisions of the United Nations Charter, the Universal Declaration of Religious Intolerance, the U.N. Declaration Against All Forms of Religious Intolerance, and the Helsinki Accords, of which your country is a signatory.

Sincerely,

FRANK ANNUNZIO,
Member of Congress.

Mr. Speaker, it is important that we in Congress focus the attention of the world on the religious persecution of Ukrainians living under the repressive Soviet rule, and we must continue in our efforts until Ukrainians are free to practice their religious beliefs without fear of reprisal and the Ukrainian Catholic Church is legally and officially protected.

Mr. COX. Mr. Speaker, ever since the liquidation of the Ukrainian Catholic Church by Stalin and its brutal incorporation into the Russian Orthodox Church in 1946, its members have been fiercely persecuted throughout the Soviet Union. Even as recently as September of this year, Ukrainian Catholics were harrassed and fined for worshiping God in the manner of their ancestors and in accordance with their conscience. Faithfuls who earned 40 rubels per month were fined 50 rubels for participating in a church service.

Yet, in spite of these impediments, the Ukrainian Catholic Church has grown in numbers and in the strength of religious commitment of its members. The distinguished gentleman from Illinois [Mr. LIPINSKI], who is of Ukrainian descent, has always been in the forefront of efforts to ease the plight of Ukrainian Catholics through the legalization of the Ukrainian Catholic Church in accordance with Soviet law and pertinent international agreements. On July 13, 1989, I was privileged to cosponsor H.R. 2022 that focused Congress' attention on the tenacious and occasionally extremely brutal attack on Ukrainian nationalism and Christianity. I also joined Communist Party General Secretary with Mr. LIPINSKI in urging our colleagues in the House of Representatives to write to Soviet Mikhail Gorbachev on behalf of the Ukrainian Catholic Church.

I am pleased to report that these efforts of our membership have not been in vain. According to our latest information, the Catholic Church of the Dormition of the Mother of God in the western Ukrainian town of Yavoriv was recently opened by the authorities as a Ukrainian Catholic parish.

Again, I would like to thank the many thoughtful Members who participated in this noble and rewarding effort. As Pope John Paul II prepares to meet with Gorbachev this November, it appears that at last the Ukrainian Catholic Church may finally be restored to its previous legal status.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EMERSON) to revise and extend their remarks and include extraneous material:)

Mr. EMERSON, for 5 minutes, today.

(The following Members (at the request of Mr. MCCLOSKEY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

(The following Member (at the request of Mr. EMERSON) and to include extraneous matter:)

Mr. GINGRICH.

(The following Members (at the request of Mr. MCCLOSKEY) and to include extraneous matter:)

Mr. MAZZOLI.

Mr. CROCKETT in two instances.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1792. An act to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes.

ADJOURNMENT

Mr. HUBBARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 17 minutes a.m.), under this previous order, the House adjourned until Monday, October 30, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1898. A letter from the Secretary, Department of the Treasury, transmitting an annual report on the operations of the exchange stabilization fund [ESF] for fiscal year 1988, pursuant to 31 U.S.C. 5302(c)(2); to the Committee on Banking, Finance and Urban Affairs.

1899. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-92 "Closing of a Public Alley in Square 74, S.O. 86-99, Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1900. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-93, "The Catholic University of America Revenue Bond Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1901. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-94, "The Howard University Revenue Bond Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1902. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-95, "National Rehabilitation Hospital, Inc. Revenue Bond Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1903. A letter from the Secretary of Education, transmitting a copy of final regulations—Chapter 1—Migrant Education Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1904. A letter from the Administrator, Environmental Protection Agency, transmitting the toxic substances [TSCA] report for fiscal years 1987 and 1988, pursuant to 15 U.S.C. 2629; to the Committee on Energy and Commerce.

1905. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed lease of defense articles to Australia (Transmittal No. 1-90), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

1906. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions for Frances D. Cook, of Florida, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Cameroon, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1907. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess

royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1908. A letter from the Under Secretary, Department of the Treasury, transmitting notification of determination that, by reason of the public debt limit, the Secretary is unable to comply with the requirements of 5 U.S.C. 8348(c), pursuant to 5 U.S.C. 8348(1)(2), 8348(i)(2); to the Committee on Ways and Means.

1909. A letter from the Secretary of the Treasury, transmitting his views concerning the necessity of congressional action on the debt limit prior to its expiration on October 31; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Oct. 26, 1989, the following reports were filed on Oct. 27, 1989]

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3265. A bill to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes; with an amendment (Rept. 101-316). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3310. A bill to authorize appropriations for activities of the National Telecommunications and Information Administration for fiscal years 1990 and 1991 (Rept. 101-317). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MICHEL (for himself and Mr. ANNUNZIO):

H.R. 3541. A bill to provide an additional judgeship for the Northern District of Illinois, to make the temporary judgeship for the Northern District of Illinois permanent, and to provide an additional temporary judgeship for each of the Central and Southern Districts of Illinois; to the Committee on the Judiciary.

By Mr. WISE (for himself and Mr. STAGGERS):

H.R. 3542. A bill to amend the Food Stamp Act of 1977 to require that certain children's clothing allowances, and certain costs associated with seeing eye dogs and hearing dogs, be deducted from income for purposes of determining benefits, and for other purposes; to the Committee on Agriculture.

MEMORIALS

Under clause 4 of rule XXII,

299. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Amtrak sanitation; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 239: Mr. DYSON.

H.R. 2674: Mr. IRELAND, Mr. DANNEMEYER, and Mr. WILSON.

H.J. Res. 420: Mr. WALSH, Mr. BUSTAMANTE, Mr. CAMPBELL of Colorado, Mr. BILBRAY, Mr. BROWN of California, Mr. DIXON, Mr. HAYES of Louisiana, Mr. HUGHES, Mr. NEAL of North Carolina, Mr. ROE, and Mr. SKELTON.

H.J. Res. 421: Mr. FROST, Mr. PARKER, Mr. SYNAR, Mr. MORRISON of Connecticut, Mr. FRENZEL, Mr. HAMMERSCHMIDT, Mr. PAYNE of Virginia, Mr. BRUCE, Mrs. MEYERS of Kansas, Mr. KILDEE, Mr. DORNAN of California, Mr. ENGEL, Mr. DWYER of New Jersey, Mr. FALEOMAVAEGA, Mr. BLAZ, Mr. SMITH of Florida, and Mr. SCHUETTE.

SENATE—*Friday, October 27, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The Spirit of the Lord is upon me, because he hath anointed me to preach the gospel to the poor; he hath sent me to heal the brokenhearted, to preach deliverance to the captives, and recovering of sight to the blind, to set at liberty them that are bruised.—Luke 4:18.

Mighty God of truth and justice, on this 42d birthday of Terry Anderson, hostage in Lebanon since March 16, 1985, we pray for those who are captive and for their families. Somehow help them to know they are not forgotten. And forbid that we should forget. We remember Terry Anderson, Thomas P. Sutherland, Frank Herbert Reed, Joseph James Cicippio, Edward Austin Tracy, Jesse Jonathan Turner, Alann Bradford Steen, Robert Bruce Polhill. Grant that every possible effort for their freedom be relentless and that release be soon. Encourage their families in the knowledge that millions pray for them. May the peace of God that passeth understanding fill the hearts of these suffering brothers and may hope sustain them hour by hour. In the name of Jesus who understands suffering in its most painful, humiliating form. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 27, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders, there will be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 10:30 a.m., the Senate will begin consideration of the conference report accompanying H.R. 2916, the VA-HUD appropriations bill for fiscal year 1990.

For the information of Senators, rollcall votes are possible today as the Senate considers the VA-HUD conference report and other conference reports which may be available. This could include the military construction conference report, which I understand the House completed action on last evening.

THE HOSTAGES

Mr. MITCHELL. Mr. President, I begin by commending Reverend Halverson for the moving and thoughtful prayer today opening the Senate session, and particularly his reference to the hostages.

His words remind us of the tragedy which has befallen those individuals and their families and our Nation and calls upon all Americans to remember their plight and to continue to do all possible to seek to gain their freedom.

I believe every Member of the Senate feels a deep, personal concern and a continuing desire to take all steps necessary to obtain their freedom.

I commend Reverend Halverson, and I commend his words to the consideration of all Americans.

AID TO POLAND AND HUNGARY

Mr. MITCHELL. Mr. President, this morning in the Washington Post, an editorial entitled "Slowdown on Polish Aid" expressed its concern about delay in legislation to provide aid to Poland and Hungary as a result of the effort by our Republican colleagues to attach a capital gains tax cut to that legislation.

As we all know, the capital gains issues has nothing to do with aid to Poland and Hungary, and the only effect of this unwise effort will be to delay aid to Poland and Hungary at a time when it is desperately needed and is critical to the success of the democractic effort there.

Winter will soon be upon the Polish people. Inflation is skyrocketing. The economy is in a very difficult and fragile state. Other Western nations are providing assistance, and the United States is being prevented from doing so because an effort is being made to attach a wholly unrelated matter, one which has nothing to do with aid to Poland, to that legislation.

This is most unfortunate for all concerned.

In an effort to expedite action on the Poland legislation, I have agreed to present it to the Senate to encourage prompt action, although I recognize there are legitimate and honest differences of opinion in the Senate on what the best makeup of that package should be, and the distinguished Republican leader has an alternative proposal.

I think that should be fully debated and discussed, and when that is done, the Senate should vote and move to act on that matter and not be delayed by this very unfortunate and completely unrelated action.

So, Mr. President, I ask unanimous consent that the editorial in this morning's Washington Post making that point be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. Mr. President, it is my hope that this unfortunate effort will be withdrawn and we can proceed to act on the Poland-Hungary bill promptly for the benefit of democracy in Poland, for the benefit of freedom everywhere, and certainly in the interest of the United States.

EXHIBIT 1

[From the Washington Post, Oct. 27, 1989]

SLOWDOWN ON POLISH AID

Getting aid to Poland is a matter of some urgency. Solidarity's success and the survival of its new democratic government are

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

going to require artificial respiration for an economy that has gone into shock. But the Senate Republicans have now brought the emergency aid bill to a dead stop by entangling it in the parliamentary struggle about the capital gains tax.

Cutting the capital gains tax is irresponsible, and the Democratic leadership is blocking it. But President Bush is determined to pursue it and is giving it an importance all out of proportion even to the benefits that its warmest supporters claim. Since the Senate Republicans haven't got the 60 votes to break the filibuster, they have been casting about for a bill that the Democrats want to see enacted. The idea is to attach one to the other.

A delay of a few days might not matter much. But a deadlock that went on for weeks—and that's possible—would greatly diminish the value of American aid when it finally arrived. Winters are long and harsh in Poland, and how well the Poles get through the one ahead will strongly influence the political developments that follow it there and throughout Eastern Europe. It is not necessary to recite here the many reasons to leave the capital gains tax as it stands and to drop this misguided attempt to cut it.

Values sometimes get confused in Senate floor fights when the parliamentary dueling begins to take on a life of its own. In the fascination with tactics people begin to forget what it is that they are fighting about. That seems to have happened here.

The United States is hardly leading the way in Eastern Europe. France has just announced an aid program for Poland that is nearly as large as the one Congress seems to have in mind. When West Germany's Chancellor Helmut Kohl goes to Warsaw next month, he will probably take with him an offer that is larger. The American money will certainly be useful, whenever it arrives. But this time, uncharacteristically, the United States is bringing up the rear. Why? One reason is that Mr. Bush wants his tax cut. Another is that the Senate is taking time off for a routine partisan squabble.

RESERVATION OF THE MAJORITY LEADER'S TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I am now pleased to yield to the distinguished acting Republican leader.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes Senator GRASSLEY.

Mr. GRASSLEY. Mr. President, I have the permission of my leader to use 5 minutes out of his leader time, and I also ask unanimous consent to use the first 5 minutes of morning business time so I may speak uninterrupted for 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE HOSTAGE TRAGEDY

Mr. GRASSLEY. Mr. President, today is the fifth birthday of Terry Anderson while in captivity.

I am an original cosponsor of a bill signed into law 4 days ago by the President to make today, Anderson's birthday, our Nation's Hostage Awareness Day.

I wish to commend Senator DOLE, the chief Senate sponsor, for his efforts on this commemorative. I, too, would like to see this country demonstrate its support by tying yellow ribbons and doing other symbolic acts that keep the hostages in Beirut in our memory.

But that is not why I rise here today. Instead, I would like to throw out a few facts behind the hostage tragedy and get them on the record. These may not be the kind of comments that some would like to hear on a day of commemoration like today, but someone needs to get these facts on the record.

This is a story about how the hostages have become victim to petty jealousies and turf battles, and the kind of bureaucratic inertia that stems from risk avoidance, hidden agendas, and other career-protecting activities.

My interest in this matter began in November 1986, shortly after the Iran-Contra story first broke. I have followed developments on the hostage issue very closely ever since.

In fact, a long time before that, I did it because Thomas Sutherland has deep family interests in my State. The in-laws of Thomas Sutherland, the dean of agriculture at the American University in Beirut, are from my home State of Iowa. Periodically, I have seen Sutherland's father-in-law, professor emeritus Bill Murray, when I go back home. Murray at one time was a candidate for Governor of Iowa. On occasion during my trips through Iowa, I would see Murray and he would ask me to do whatever I could to help free Sutherland and the other hostages. I assured him I would get involved; and that is exactly what I did, in November 1986. After nearly 3 years of dealing with this issue on a quiet basis, I have come to the belief that certain facts now have to be out on the table. In bringing these facts out and on the record, my hope is to turn what has thus far been inactivity on the hostage issue into a resolution of it.

In early 1986, the U.S. Government was beginning to get highly reliable information about hostage locations. The information came from a Christian Militia group. The information was so good, our Government began preparing for a rescue. It has gotten to the point where Delta Force scouts went into Lebanon to make final preparations, sometime in September of 1986. But the effort was short-circuited at the last moment by a group of back-channelers at the U.S. mission.

The rescue was called off not because of potential risks but because these back-channelers were engaged in their own effort: the Iran arms-for-hostages deal. Some details of the rescue mission and its premature demise were included in Steven Emerson's book "Secret Warriors," published in March 1988. Emerson attributed the scuttling of the mission to turf battles.

Additional details of the rescue surfaced again this past July, shortly after a film was released of Lt. Col. William Higgins hanging by the neck. I ask unanimous consent, Mr. President, to have printed in the RECORD several news articles pertaining to the rescue and to our intelligence shortcomings in Lebanon.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Defense Week, Aug. 21, 1989]

CRITIC ASSAILS THE PENTAGON'S RELUCTANCE TO GET ITS HANDS DIRTY IN THE ANTITERRORIST FIGHT

DEFENSE WEEK. The president a couple of weeks ago said the lack of intelligence tied his hands. From your experience, is that a legitimate complaint?

COWAN. Yeah, I think it's a fair criticism. Unfortunately, I don't believe the intelligence community in terms of penetrating terrorist-supported elements in Lebanon has done a very good job of trying to be creative. We all know that in the Carter days the focus was taken away from the human aspect of intelligence collection [HUMINT] and passed off to the technical side. Frankly, the intelligence community still suffers from that.

We don't have the mechanisms for human intelligence, that is agent penetration of whatever areas we want to collect against, and we've not done well in Beirut. I would say specifically that the environment in Beirut is one in which intelligence collection has to be based on some pretty sharp new ideas, new approaches to getting in, whether it just be HUMINT or using human sources to place technical collection devices and frankly, from what I know about that environment, we have not done a good job.

DW. But isn't part of it the nature of the sects involved? It's tough to penetrate an agent——

COWAN. You might not be able to penetrate one of the specific groups with a HUMINT agent or the sects with a person, but again, creative thinking. If you know how these people go about conducting their business, you can start thinking of ways to get technical collection devices inside. Now I'm not talking about the big overhead platforms. . . . Just a simple example: you know that they always buy their food at the same market. Some of the food bought at this market is moved to the headquarters of one of the factions. Maybe you want to find some ways to implant a device in say, an orange peel. You know they won't eat the orange peel, they'll throw it away. But if you get something like that in the environment where you can collect on——

DW. Who do you blame for the lack of creativity? It can't be blamed on simply the Carter administration.

COWAN. No. The current people who are working the intelligence programs I would say in Lebanon unfortunately . . . they tried to use the traditional agent operations. They tried to use the traditional overhead platforms and I have not seen a tremendous amount of creativity in trying to find new means and methods of penetrating.

DW. You were one of the agents who attempted to penetrate Beirut——

COWAN. I was involved in operations in Beirut after the bombing of the Marine compound [in October 1983].

DW. How close did you come to spotting hostage locations?

COWAN. There were no hostages at the time I was over there. [CIA station chef] Bill Buckley was kidnapped about two months after I left. Essentially, one of the things we were looking at was some sort of retaliatory options against those who bombed the Marine Corps compound and embassy. And I emphasize those were options. We were going to bring back options to lay before the Joint Chiefs of Staff about the kinds of things they might consider doing.

DW. How successful were you in terms of getting on the ground and checking out possible target areas?

COWAN. I think we were very successful. We passed through various terrorist checkpoints. There was only one area of Beirut we were not able to get into personally, but we did devise means of penetrating it with other people or technical devices.

DW. Say you have an agent who's creative, gets the material and refers it back to the Pentagon or State Department. Where has the process fallen down?

COWAN. It's been a problem in the Pentagon. That's why the Congress passed legislation in 1986 to strengthen, both on the civilian and the military side, our capabilities in counterterrorism, in a larger sense special operations forces. I don't think the Pentagon has done a very good job of preparing plans for options. I don't think that the target folders they developed such as in the case of when [Col.] Rich Higgins was killed a few weeks ago . . . the Pentagon did not have prepared for the president a wide series of military options which he could accept or reject—not the Pentagon accept or reject but the president.

DW. How do you know that?

COWAN. I just know that from friends of mine working the problem inside the Pentagon.

DW. That indicates to you a failure——

COWAN. We spend massive amounts of time, material and dollars making sure every target folder on every Soviet target is complete and updated with all the fine details. We owe the same kinds of details to the president in terms of terrorist options. You know at every time the Israelis suffer some kind of attack at the hands of the Palestinians, they are very quick to respond. They have their targets all prepared. They know exactly what they are going to do. The president needs to be the one who says yes or no against options which are laid out before him. The Pentagon has failed to do that.

DW. Why is that? You'd think that it's a building populated by men of action.

COWAN. I don't think they've had the forceful leadership at the top. Again, I refer back to the 1986 legislation where Congress tried to get the Pentagon moving in the right direction. I think that under Secretary [Dick] Cheney things will change dramatically. He has nominated [Senate Armed Services Committee professional staff member] Jim Locher to be the new assistant secretary of defense for special operations. I think Jim has a very keen understanding of what the purpose of the legislation was, of the need inside that building to make sure all special operations forces and options for missions they may carry out will be prepared and be available.

DW. Is it more of an institutional problem with the Pentagon or a function of personalities?

COWAN. I think it's an institutional problem. The Pentagon is focued on big strategic programs and conventional warfare. But it's just the mindset of trying to focus on targets, sites where terrorists would be—training camps, maybe even possible hostage locations or command headquarters of factions. We just don't have the high-level leadership saying let's devote the time, energy, resources, material, money and men to make sure that we are getting all the information together we need to strike at these things.

DW. Well how does the Pentagon shape up vis-a-vis the Israelis, the Germans and British?

COWAN. We know the Israelis can respond very, very quickly——

DW. Why is that?

COWAN. Because they are prepared. In the Israeli military, every general officer has served in a special operations command. Every general officer understands that the focus from a special operations perspective is much different from strictly the conventional perspective. And I think within the Pentagon the focus continues to be on the Soviet Union, continues to be on the Warsaw Pact.

The French responded immediately when their barracks was bombed the same day the Marine compound was bombed in [October] 1983, running air strikes against known terrorist positions.

DW. In terms of responses, there's the story about how the Soviets responded when one of their officials was taken in Beirut. Apparently, they dismembered . . .

COWAN. I think what I was told at one point was that they castrated [a kidnaper]. I've never been able to pin down whether that story was fact or fiction, but it makes a good story.

DW. But is it question that we are so powerful, we have such an arsenal of massive weaponry we are not capable of the so-called surgical strike or more discriminating violence?

COWAN. We are capable of it. What we failed to have is the will on the part of high level leaders. You cannot go to the National Security Council today and easily convince the NSC that you can run a hostage rescue mission. It's probably like explaining heart surgery to an auto mechanic. You are not going to get anywhere trying to do it.

I believe that there was time during the Higgins capture when there was good information as to where Higgins was being held. There was sufficient information in the minds of many to at least commence the planning process for a rescue mission—I'm not saying execute it—I'm saying to get the planning going, start looking at the target, start talking about now you are going to run special collections, start getting teams ready for deployment, talk about how you're going to put them down, where you are going to put them, how are you going to do the extraction. All these things, which take a period of time to do properly, there was sufficient intelligence at one point to begin that planning process and it never happened.

DW. What point are we talking about? Over the last five or six months?

COWAN. People have told me it was within the past year.

DW. Why didn't that happen?

COWAN. No leadership. If you had a strong assistant secretary of defense for special operations who is entwined in all the information going on about the hostages and terrorism, he should have been there demanding that it happen. He should have been there talking to the secretary of defense saying "Mr. Secretary, let's get going on this."

DW. You're talking about former Amb. Charles Whitehouse.

COWAN. I am talking about Ambassador Whitehouse.

DW. Are you saying that he fell down on the job in terms of advocating or planning——

COWAN. I say that he didn't exercise strong leadership over those things the Congress wanted him to exercise a leadership role in.

DW. When you were working on behalf of the government in intelligence gathering in this area, did you come across examples where the Pentagon ignored your information?

COWAN. That's a sore subject with me. I'll just speak generally to it. After the [April 1983] bombing of the U.S. embassy myself and some other people did some work in Beirut and developed a series of recommendations [to beef up intelligence and security]. Had those recommendations been carried out it's unlikely that the bombing of the Marine barracks would have occurred as it did. We wrote in our report that it was impossible to assure the secretary that there wouldn't be some major terrorist incident that would take 10 to 15 Marine lives. It would be impossible considering how they were deployed to prevent that.

But the recommendations we made were not only ignored. There were people in the Pentagon who were adamantly opposed to them for turf and bureaucratic reasons and again 241 people didn't have to die as they did. After that bombing, I went back in with another team. We did some more work with respect to how we might take some action against those who had bombed the embassy and compound. That report came back and was also stifled inside the Pentagon bureaucracy. We were supported strongly by Bill Buckley, CIA chief of station, but once it got back into the Pentagon it kind of got lost.

It never got any high level attention. Some of the recommendations involved intelligence operations.

UNITED STATES FAILS TO PLAN FOR HOSTAGE RESCUE

(By Knut Royce)

WASHINGTON.—The U.S. military has failed to prepare operational plans for hostage rescue missions in Lebanon since 1986, when administration officials abruptly ordered the Pentagon to abandon a rescue mission at the last minute and to halt contacts with a Lebanese intelligence network that had been providing detailed information on the hostages' whereabouts, according to knowledgeable officials.

By the time the mission was called off, for reasons that remain unclear, two Delta Force scouts had already entered Lebanon to make final preparations for an assult on a remote site in the Bekaa Valley, according

to sources in the Pentagon and the Chrisian Militia, the Lebanese group that was providing the intelligence information. The military had reported that three or four American hostages were being held there in tents and caves, information confirmed by U.S. reconnaisance photos, according to U.S. intelligence documents.

The Pentagon's failure to prepare operational rescue plans since then—and its resulting inability to mount a rescue without taking unacceptable risks—reduced President Bush's military options after the reported hanging July 31 of Marine Lt. Col. William Higgins, according to the sources, who have first-hand knowledge of U.S. operational capabilities.

"All we've been doing (since 1986) is half-assed, generic planning (for rescue missions)," a Pentagon official familiar with the planning said. he declined to elaborate.

Intelligence documents obtained by Newsday and interviews with Pentagon officials, members of the Lebanese intelligence network and congressional officials who have been briefed on the events paint a tableau of missed opportunities and interagency turf fights hampering efforts to free most of the eight American hostages held by a formidable pro-Iranian foe, the Hezbollah.

Initial contact between the Lebanese network and the U.S. military began in early 1986, when the Christian Militia, also called the Lebanese Forces, approached a representative of the Army's supersecret counterterrorism unit, the Intelligence Support Activity, at the U.S. Embassy in Beirut.

The militia, according to Pentagon sources, proved invaluable because it had well-placed sources among all the ethnic and religious groups inside Lebanon and had developed moles among the guards holding the hostages. This ability to obtain up-to-the-minute information—so-called "real-time intelligence"—is critical for a successful operation, because the location of hostages and the number of guards holding them can change from one moment to the next, according to a State Department counterterrorism expert.

During the first few months the military established its bona fides by providing a bonanza of what proved to be solid intelligence, according to military sources. This included disclosing plans by Abu Nidal to attack a U.S. installation in Adana, Turkey, and identifying the Paris safe houses of Ali Atwa, a Hezbollah terrorist implicated in the 1985 hijack of a TWA jetliner that resulted in the death of Navy diver Robert Stethem.

Military options for a rescue took on added importance in late May 1986, when the National Security Council concluded that the Iran arms-for-hostages initiative had been stalemated, according to the Tower Commission Report. On June 6 President Reagan approved military planning to rescue the hostages, according to the report.

By July the Christian Militia had pinpointed a remote site in Arsall, in the rolling hills of the Bekaa Valley near the Syrian border, where three or four American hostages were being held, according to Pentagon and militia sources. The militia reported there were five tents and several caves in the immediate area where Hezbollah guards and hostages were staying. They noted that a high-voltage cable was strung above the site, a critical detail if helicopters were to be used. They also reported on a top-secret Syrian radar installation 4 miles to the east, which would pick up approaching aircraft.

A U.S. intelligence document obtained by Newsday says that satellite reconnaissance confirmed the hostage site. It said that the militia had not only provided information on the location of hostages and the identity of the captors but "support data necessary to attempt a hostage recovery."

The CIA and Pentagon constructed a detailed mockup of the complex in a table-top sandbox, and two members of the Army's elite hostage rescue team, the Delta Force, were sent into Lebanon for final preparations. Suddenly in the second week of September, the National Security Council called off the operation and the CIA ordered the Intelligence Support Activity to halt all further contact with the Christian Militia, according to officials involved in the planning at the time. The CIA is charged with coordinating all foreign intelligence operations, even if they are conducted by military agencies.

Why the National Security Council called off the operation and the CIA barred further contacts with the militia remains unclear. The ban is still in effect, sources say, though there remain occasional one-on-one contacts between members of the militia and U.S. military officials.

After the rescue mission was canceled, the CIA told the military in followup meetings that the militia, with which the CIA had been dealing until 1983, was untrustworthy, according to sources who were briefed on the subsequent events. Yet a U.S. intelligence document reviewed by Newsday discloses that the CIA station chief in Beirut tried to enlist members of the militia after the Pentagon was ordered not to deal with them. Angered and confused by the sudden cutoff from the Intelligence Support Activity, the militia members refused to cooperate with the CIA. Militia members have told Newsday that they have established only limited contact with the CIA.

CIA spokesman Bill Devine refused to discuss the entire episode.

Military and congressional sources familiar with the events said they believe the National Security Council halted the operation because former National Security Council aide Oliver North had reopened hostage talks in late 1986 with Iranian officials, this time with what the Iran-contra committees called the "second channel," Iranians believed to be more moderate than those who had been negotiating initially.

Then came another flip-flop. In October the National Security Council called the Pentagon and ordered a new rescue attempt, according to a source involved in the planning. He said the Intelligence Support Activity in Lebanon made a quick assessment and determined that some of the hostages could be located "but that we had to get those Christian fellows (the militia) to look at them" for an operation to be successful.

A militia source told Newsday that it had located a building inside Moslem west Beirut, in the neighborhood of Bir al-Abd, where three American hostages were being held. He said his unit had one or more contacts among the guards who provided information on when and where they would be moved.

The Pentagon source involved in the planning of this second attempt said that the Intelligence Support Activity's assessment that the Christian Militia was needed was conveyed during briefings to Pentagon and CIA officials. "It was clear the CIA got nervous," he said.

[From the Australia/Israel Review, Aug. 21-Sept. 4, 1989]

KILLING AMERICANS

(By Tom Clancy)

Another marine has died in Lebanon, just one more to add to all the others. Lieutenant-Colonel William Higgins had been sent into the region to do something or other. It was supported to have had something to do with peacekeeping.

Just one more dead marine, sent like the others on an equivocal mission by a government that showed its loyalty to its own people by doing precisely nothing about their murders.

Not all that long ago William Buckley, a CIA station chief in Lebanon, was captured by other people in the area. Mr. Buckley was tortured to death. A Pan Am 747 was blasted out of the sky around Christmas—remember?—and again a government of, by and for the people has done—what?

There is no activity safer for an international terrorist than to kidnap or kill Americans.

America's options are limited, people say. When Mr. Buckley was being tortured, important people met around tables in the environs of Washington and sagely decided that to attempt a rescue was "too risky". Too risky for whom? The tiger was chewing on Mr. Buckley's face. Too risky for people with reputations and jobs to protect, one supposes. After all, one must have one's priorities properly arranged.

If they do anything to Iran, they say, they run the risk of an adverse political development in the Middle East—as opposed to what exists now. Colonel Higgins was hanged, perhaps not tortured to death. This may reflect moderation in those Iranian elements. It just wouldn't do to offend them, would it?

Lacking the ability, we are told to do something substantive, what can America do? Well for starters, it has already started criticizing Israel for abducting a Shi'ite "religious leader". (To call such a person a religious leader is bigoted mockery of Islam, but that is another question.) Colonel Higgins would not have been murdered, some suggest, except for what Israel did. For those Washingtonians who really think that way, I propose a trip to Georgetown University where a Jesuit might give them a briefing in classical logic. Colonel Higgins was murdered by his kidnappers, not by the Israelis. To say anything else bespeaks a curiously expressive sort of cowardly impotence that has gained currency in the US government.

Colonel Higgins was America's man, serving his country. It is the United States that sent him to Lebanon, and it is the United States that failed utterly to rescue him. One wonders how hard—or even if—it tried to do so.

When three or four Soviets were kidnapped by people similar to Colonel Higgin's captors, the KGB, it is said, bagged several members of the group and returned one with a portion of his anatomy missing. The Soviets citizens were returned forthwith.

Perhaps the Soviets know something that Americans don't. You do have to worry about being taken seriously. How can any foreign power be expected to respect a government that does nothing when its citizens are murdered?

For a generation America has had a fixation with "sending a message" to its enemies. We want to be your friends. The

problem is that very often the other side doesn't bother answering the phone.

A good start, perhaps, would be to demonstrate that the principles for which America stands—the right to pursue one's life with freedom and dignity—are backed by the same force that earned those rights for American citizens; and that he who tries to deny those rights to Americans will be hunted down without remorse to the ends of the earth.

The tools are at hand to do just that. It is dangerous, but America employs hunters who are more than willing to take their chances. It is about time the government found within itself the political will to fulfill its obligations to its own people. Respect will follow. It always has.

(Mr. Clancy is the author of the bestseller "Hunt for Red October". He contributed this comment to the Los Angeles Times.)

[From the Washington Post, July 5, 1989]

A PLEA FOR ACTION TO FREE THE HOSTAGES

(By Jack Anderson and Dale Van Atta)

In an outcry heard all the way to the White House, 146,630 angry Americans took to their telephones the other night and called for military action to free the nine remaining American hostages. Or if a rescue is not practical, many Americans want military retribution against the captors.

This was their thunderous response to our recent television report on terrorism, the results of which we sent to the White House. Only 9,831 callers wanted to continue relying on diplomacy to gain the hostages' release.

From intelligence reports and briefings, we have learned that the American hostages have been singled out for special abuse. Usually they are confined to dark cells, chained to their beds and blindfolded. When they are moved to new locations, they are sometimes wrapped like mummies and transported in wooden coffins.

One hostage has gone mad and babbles incoherently. Two escaped but were caught; they were beaten so mercilessly that they haven't fully recovered. The hostage with the most time in custody, Terry Anderson, once became so frustrated that he smashed his head repeatedly against a wall until blood streamed down his face.

The terrorists responsible for this inhuman treatment, ironically, call themselves the Party of God (Hezbollah). They look to Iran for guidance. Iran's Speaker of the Parliament Hashemi Rafsanjani has jurisdiction over the terrorist underground. He communicates with them through the "Office of Support for Lebanon," located in the Revolutionary Guards' central headquarters in Tehran. President Bush does not disagree with those who want action to free the hostages. "If I could rescue hostages by use of U.S. force and feel that the odds were reasonably good that they would be saved alive," he told us, "I certainly would."

Sources who have studied the possibility of a rescue mission tell us it would be impossible. The hostages are guarded by the Musawi clan, whose members are related to one another and, therefore, cannot be infiltrated. At any sound of commotion outside their makeshift prison, the guards also rush into the cells and put guns to the heads of the hostages.

But military retribution remains an option. We reminded the president that U.S. intelligence agencies possess positive evidence, including intercepted messages, that Hezbollah takes orders from Tehran. Why, we asked, doesn't the United States retaliate against Iran?

"I learned long ago, when I was director of the Central Intelligence Agency, not to comment on intelligence matters," Bush said. But he added quickly, "If the fingerprints of state-sponsored terrorism are found on hostage-taking, that state should be expected to pay a price."

The typical American attitude was expressed bluntly by Col. Leland Holland, himself one of the 52 original hostages taken in Iran, and who was abused by his captors. Even when his life was on the line, he said, he would have liked to see his government react more forcefully.

"The Russians do that," he said. "The Iranians haven't picked on the Russians."

[From Soldier of Fortune, October 1989]

OPERATION BETRAYAL

(By Neil Livingstone and David Halevy)

By late August 1986 nearly all was in readiness for the boldest military operation of the Reagan era: the rescue of the American hostages in Lebanon. U.S. Army intelligence operatives were busy finalizing the last details. Aided by a network of Lebanese allies, safe houses had been set up, vehicles pre-positioned, and infiltration and exfiltration routes identified. The actual operation was to be carried out by members of SEAL Team 6, the Army's Delta Force, and Air Force elements from 1st Special Operations Wing. Under the cloak of darkness they would slip into Lebanon, pluck the hostages from their fetid captivity in the West Beirut suburb of Bir el Aabed and the Sheik Abdallah barracks in Lebanon's Bekaa Valey, and then—if all went well—escape to the sanctuary of U.S. warships anchored off the coast.

If all didn't go well, the U.S. commandos were prepared to make it one hell of a fight.

Shortly before it was scheduled to commence, the operation was put on hold. Although the men involved didn't know it at the time, the reason was that the United States was engaged in secret behind-the-scenes dealings with the government of Iran that would later be called the Iran-Contra scandal. Despite millions of dollars and months of preparation devoted to the operation, it was never revived. And America's hostages continue to languish in captivity.

This is the story of the plan to free U.S. hostages in Lebanon by force, rather than by buying their freedom.

INTELLIGENCE SUPPORT ACTIVITY (ISA)

No problem was more vexing to the Reagan Administration than that of the American hostages in Lebanon. As Oliver North often told friends, "Not a day goes by that the President of the United States doesn't ask about the hostages." In many respects, it was this preoccupation with freeing the hostages that was at the bottom of the Iran/Contra scandal.

In early 1983, the Joint Chiefs had tasked a secret military unit called ISA (Intelligence Support Activity) with developing a viable military operation to free the hostages. Run out of the bowels of the Pentagon, ISA was a good choice for the assignment. No newcomer to the Middle East, ISA had operated in many parts of the Arab world since its creation in 1981, and its agents had worked in Beirut and throughout much of Lebanon. ISA operatives had served under official cover at the U.S. embassy in Beirut and as advisers to the U.S. Marine Expeditionary Force before it pulled out in 1984.

The ISA men were not desk jockeys but "can do" types, with little tolerance for red tape, a quality that often brought them into conflict with Pentagon brass. The highly-classified unit had formed in the wake of the abortive rescue mission to free the U.S. hostages in Iran that ended at Desert One in 1980. Initially called the Foreign Operating Group (FOG), the unit's name was later changed to ISA.

ISA's mission was twofold: to collect tactical intelligence and to provide operational support. Its chief mandate was the collection of precise, detailed intelligence for actual and potential operations conducted by the U.S. special operations community. The lack of such information had contributed to the 1980 failure of "Operation Rice Bowl" in Iran. It was envisioned that ISA would collect the kind of tactical intelligence that the CIA was unable to provide to commando assaults and raiding parties, such as how many guards are at the objective, where they are positioned, what kind of arms they have, which way do the doors swing, and so on.

ISA was also charged with establishing a worldwide logistic network capable of assisting special operations units in executing military operations. Among its responsibilities were identifying and preparing landing and drop zones, conducting reconnaissance, providing transport, and acting as "guides" to raiding parties.

ISA's annual budget was approximately $10 million and it had a staff of around 120 full-time operators, mostly officers and NCOs. ISA teams included SIGINT (signals intelligence) specialists, special equipment specialists, deep cover penetration agents (most fluent in foreign languages), computer wizards, and communications specialists. There was also an action element composed of small teams of ISA commandos proficient in sniping, close quarters combat, unarmed combat, and explosives.

In order to ensure operational security and secrecy, ISA personnel did not appear on the Army's regular listings, and its personnel were carried on the Army's Special Roster, or ASR. This roster includes army personnel whose identities, units, tasks and deployment are a closely guarded secret. No mention of ISA appeared on the personnel records of members of the unit.

ISA operated under the DCOSOPS of the Army and was tasked both by DIA (Defense Intelligence Agency) and by the Army's Assistant Chief of Staff for Intelligence (ACSI). When special operations opponents at the Pentagon recommended in 1982 that the unit be dismantled, it was saved by the ACSI, Lt. Gen. William "Bill" Odom, who later became the head of the National Security Agency (NSA). Those with action-oriented billets often spent time with Delta and other special operations units perfecting their commando and anti-terrorist skills.

Because of internal fighting within the Pentagon and the U.S. intelligence community, ISA had to coordinate all of its activities with the CIA. In an effort to maintain its independence, ISA commanders clashed, at one time or another, with the Joint Chiefs of Staff (JCS) and the leadership of Delta, SEAL Team Six, Seaspray, and the Air Force's special operations wing.

During the 1985 hijacking of TWA flight 847, ISA teams accompanied Delta and SEAL Team Six commandos to Akrotiri, Cyprus, to prepare for a rescue mission into Lebanon in the event that negotiations that eventually led to the release of the hostages broke down. Similarly, ISA operatives were

standing by with Navy SEALs to retake the Italian cruise ship Achille Lauro later that same year. The seajackers, members of the Palestine Liberation Front (PLF), surrendered to Egyptian authorities and the operation was called off. ISA personnel, however, were part of an operation which successfully freed eight American hostages in the Sudan, after they had been kidnapped by south Sudanese rebels. Using intelligence collected by ISA operators on the ground and special training provided by Delta, Sudanese commandos were able to rescue the American church and relief agency officials.

PROFILE OF AN ISA OPERATOR

The military personnel assigned to ISA all generally had some special operations background and experience. Most received additional training once they joined ISA. New recruits went through an ISA six-month basic training course, and afterwards were given additional training by the CIA, FBI and Secret Service. Those involved with ISA's action component also trained with Delta and other special operations units.

For a profile of a typical ISA operator, "Scuba" is very representative. Since he is still involved in special operations with another military unit, his real name cannot be used. "Scuba" was born on 2 July 1947, in Oregon, where he was raised and educated. In 1968, he dropped out of college and joined the army. Upon graduation from OCS (Officer Candidate School) at Fort Benning in 1969, he was sent to jump school and then was attached to the Sixth Special Forces Group at Fort Bragg. Late in 1969, he began a three-year tour of duty in Vietnam, mainly conducting long-range reconnaissance missions and surveillance of the Ho Chi Minh Trail.

After returning to the states in 1972, he served two years with the Second Armored Division and was sent to the Advanced Infantry Course. Upon graduation he was transferred to the First Infantry Division at Fort Riley, Kansas. During his three-year stint at Fort Riley, he got his degree in political science and sociology. After a tour of duty with the Tenth Special Forces Group, he was assigned to FOG, the forerunner of ISA. "Scuba" held top positions with ISA's operations squadron and with its deep cover unit. He stayed with ISA until his retirement in 1987.

LEBANON: HOTHOUSE OF INTERNATIONAL TERRORISM

During the past 14 years, Lebanon has come apart at the seams. In many respects it no longer exists as a viable nation. It is dominated by foreign armies and armed militias, representing different religious factions. One of the unforeseen consequences of the Lebanese civil war has been the rise of the long-oppressed Shi'ites of Lebanon, spurred on by the Iranian revolution and the wave of Islamic fundamentalism that has swept over much of the Middle East.

The leaders of revolutionary Iran viewed Lebanon as another potential Islamic republic. Iran joined the PLO and its leftist allies in an effort to destory the power of Lebanon's Christian minority, who were regarded as allies of Israel and descendents of the hated Crusaders. As many as 1800 Revolutionary Guards (Pasdaran) were sent to Lebanon, most based in the Beckaa Valley. By 1983-1984, Iranian operatives had taken over Herzbollah, the so-called Party of God, and were using it to wage war on Lebanese Christians and all sources of Western influence and culture in the country. The United States was regularly described by the Ayatollah Khomeini and other top Iranian leaders as the "great Satan," and Hezbollah terrorists, often with the aid of Syria, struck out repeatedly at U.S. targets in the country. The U.S. embassy and the embassy annex were both bombed, as was the U.S. Marine barracks at Beirut International Airport, with the loss of 241 American servicemen. On 16 March 1984, the CIA's chief-of-state, William Buckley, was kidnapped in Beirut by Iranian terrorists. Buckley died in captivity the following year after having been subjected to continuous torture and abuse. Over the months that followed Buckley's abduction, other Americans living in Lebanon—journalists, educators, a hopsital official, a priest, and at least one mentally impaired individual—were also seized and disappeared into the terrorist netherworld.

Virtually all of the Western intelligence organizations were "blind" when it came to dealing with the rising tide of Iranian-and Syrian-backed terrorism in Lebanon. Not only were their respective intelligence services forced to deal with a totally fluid situation, where nothing remained the same for long, but all had traditionally ignored Lebanon's Shi'ite community. In the past, the Shi'ite had not been a major factor in Lebanon. Even the Israelis, with a massive network in Lebanon had paid little attention to radical Shi'ite factors like Hezbollah and its Iranian masters—until it was too late.

After the traumas of 1983-1984, and with the epidemic of hostage-taking that began in 1985, the United States was desperate to develop intelligence "assets" in Lebanon. A crash program was launched to collect timely information about terrorist threats and to locate the American hostages. According to a top-ranking ISA officer, "When the hostage crisis started taking on a life of its own, we were tasked to provide intelligence and potential support for any type of rescue operation. Delta was told to start planning a rescue operation and we were tasked, apparently by DIA and Delta, to start a collection operation [intelligence] to support Delta's entry into Beirut."

A small number of ISA men had worked undercover in Beirut ever since the bombing of the U.S. Marine barracks, but given the urgent need for results and the enormity of the task, it rapidly became clear to ISA officials that they would need to find new allies and recruit new personnel for the operation.

RECRUITING THE NETWORK

"It was a blind date," recalled a Lebanese national living in Washington, D.C., who got a mysterious phone call in October 1985. The caller invoked the name of a mutual "friend" in Beirut and asked if Michael would join him for a drink. Michael assumed it was a purely social meeting and agreed without hesitation. When he arrived at the bar at 1600 hours the following day, he was met by a tall, slender American with a mustache. The man was dressed in a business suit and had a mid-Western twang.

In contrast to Michael's expectation of a casual evening of drinks and chit-chat about mutual friends, the American was all business. He introduced himself as a representative of the U.S. Government, but apologized for his inability to show Michael any identification. Not one for small-talk, the American came straight to the point. He wanted to meet a senior Lebanese Forces intelligence official, who lived outside of Lebanon and was a friend of Michael's. He told Michael that there was a highly-sensitive matter that he wanted to discuss with the Lebanese Forces official—some thing that would benefit both the United States and the Christian community in Lebanon.

Michael listened to the man but did not initially commit to help him. The conversation then turned to the situation in Lebanon. After about an hour, the man told Michael that he had to leave. "I'll call you," he asked, and then gave Michael what later turned out to be a false name, Paul Dunbar.

Uneasy about the strange meeting, Michael got in touch with his friend and told him what had happened. Although they had no idea where the contact might lead, "my friend decided to carry on with the 'game'," says Michael.

Two weeks later a second meeting was arranged at an Irish pub in the Washington suburb of Alexandria. When Michael arrived this time, he found Dunbar seated at a table in back of the pub with an associate. The associate was six feet tall and all muscle. "He looked every bit an infantry soldier," recalls Michael. Unlike the first meeting, this time Dunbar was far more relaxed and easygoing, although his companion barely uttered a word. Dunbar asked Michael if he enjoyed Washington and they talked about several extraneous subjects. Finally, the convention took a serious turn. Dunbar told Michael that he was looking for information about Lebanon, very specific information. Michael responded that he needed to know who wanted the information. Dunbar would only say that they were "operating under an inter-agency mandate" and were involved in "antiterrorist activities," Michael asked them to describe the kind of information they were seeking. "Information about terrorist groups in Lebanon," came the reply. Then, as if an afterthought, Dunbar indicated that they were also interested in any intelligence about the American hostages.

"It was very clear to me that their main interest was the hostages," says Michael, "since there are far better sources than me for information about terrorist groups in Lebanon." They told Michael if he could set up the meeting with this friend, they would introduce him to their superiors, so that he could verify their bona fides.

After the meeting, Michael contacted his friend, the Lebanese intelligence official who went by the name of "Shanon," and made arrangements for him to come to Washington. Although a Christian, born in Lebanon, Shanon had been raised and educated in Europe and was, in many respects, more European than Lebanese. However, with the outbreak of the Lebanese civil war, Shanon had voluntarily joined the Christian fighting militia, the Lebanese Forces (LF), and quickly rose to the top rung of its intelligence apparatus, even though he was only in his early 30s. He became chief of the LF international section and was sent abroad to liaise with and establish ties to other intelligence agencies, mostly in the West. In practical terms, he was the chief representative of the Lebanese Forces in the West. But more important to ISA, over the years he had developed many unique contacts both within Lebanon's Shi'ite community and Hezbollah. He had meticulously assembled a network of informers, friends, and other contacts in Lebanon, and had the ability to reach into virtually any faction or militia for information.

ISA had selected the right person. Now it was a matter of recruiting him.

Despite misgivings, Shanon agreed to meet in Washington with Michael's mysterious "friends." Michael and the two ISA men picked him up at National Airport and they

took great care to avoid being spotted or tailed. "We changed cars three times, drove in circles, and took other evasive action," recalls Shanon. "In the end, I was not sure that they even knew where they were heading."

Finally, after about 45 minutes of driving, they pulled into a hotel near the airport. Shanon was shown to a large suite, where he met two other Americans, identified as Dunbar's "ultimate superiors." One introduced himself as "Mr. Lake," and the other remained anonymous.

The meeting was strained and formal; no one relaxed. Shanon was asked about his access to sensitive information, especially relating to various terrorist groups operating in the Middle East, and about the Soviet role in the region. They also wanted to know about certain terrorist activities in Europe. Shanon responded to the inquiries warily, giving short clipped responses, usually "yes" or "no." Finally, they began a probing series of questions about Lebanese Forces, its organizational structure, chain of command, and certain key figures.

Shanon was able to quickly ascertain that they were special operations veterans and had spent some time in Beirut during the 1985 TWA 847 hijacking. It was also readily apparent that their only real concern was the American hostages. What troubled Shanon was why they weren't working through normal channels. Since the Lebanese Forces maintained intelligence ties to CIA, DIA, and the Israelis, it seemed strange that they would use such a circuitous route to obtain his cooperation.

As the meeting drew to a close, Shanon concluded that Dunbar and his companions were "for real" and their operation was sanctioned. Security considerations, he decided, explained the elaborate secrecy and distance from other intelligence organizations.

He agreed to help the American effort, and in the months that followed became the central figure in a network of Lebanese intelligence operatives that would ultimately pinpoint the precise location of all the American hostages. This information, in turn, precipitated the most serious rescue attempt to date to wrench the hostages from their Shi'ite captors.

MOMENTUM

It took about four months before the Lebanese component was fully operational and transmitting hard information back to ISA. All of the data received by ISA was turned over to CIA and NSA (National Security Agency) for further verification. This led to the positioning of a spy satellite over Lebanon that was dedicated to gathering intelligence about the hostages and, as part of that function, to checking out Shanon's information. For the most part, Shanon's information turned out to be extremely accurate and precise.

On 17 May 1986, for example, ISA received a message from Shanon's operations center regarding the "transfer of the hostages to the region of Hakrak." According to the message, "the source of Riad Tleis of Hezbollah have verified that the prisoners and foreign hostages were transferred from the locality of Brital [Britel] and the Sheik Abdalah barracks (in Na'albek) to a Hezbollah military camp located in the region of Hakrak [Hermel] in the heights of the northern Bekaa."

Several weeks later, Shanon's operatives reported further developments. "On 12 June 1986, the American hostages were transferred from 'Miqraq' fort (compound) in the Ba'albek area to the headquarters of the Iranian Revolutionary Guard [sic] located at 'Breetal' [Britel] town; and they are still there," wrote the ISA man who transcribed the message.

As Shanon's men closed in on the hostages, the U.S. spy satellite monitoring events in Lebanon was repositioned to get a better look at the village of Britel in the Bekaa Valley. This followed receipt of the following message, which was translated from French:

Please note the positioning of the hostages;

1. CR [cable reference] 46 where the hostages are probably 70 percent being detained at the moment.

2. Concerning Breetal [Britel] village (in the Bekaa) specific sources identify the detention area of the hostages in the 'al-Husayniya' building or barracks situated at the Breetal village with map coordinates: 221440/189200. Coordinates from the 'Shiek Abdallah' barracks (the main barracks for Hezbollah in the Bekaa valley) in the Breetal (also Brital) area with the deployment of the DCA.

194480/227980,
193980/227980,
194420/227620.

PS Coordinates of the Mosque of Brital are 188700/221500.

So successful was the operation that Shannon's men were generating literally hundreds of pages of intelligence material every week. "We did not bargain over the intel," says Shanon. "The traditional way the Lebanese Forces and the Lebanese Government handled intel of this kind was to send 90 percent and bargain over the rest. We gave ISA everything we got. Everything on the Palestinians, Shi'ites, Libyan agents, Iranian agents, Syrian activities." In addition, America's clandestine cooperation with the LF began to take other forms. During the September 1986 hijacking of Pan Am flight 73 to Pakistan, for example, the LF permitted Delta Force to secretly use its facilities in East Beirut in anticipation that the plane would ultimately be diverted to Lebanon. The hijacking, however, was resolved in Karachi after a shootout. Shanon's operators also gave the United States valuable intelligence about terrorist operations in other parts of the world, including an attack on a U.S. base in Turkey.

SO CLOSE YET SO FAR

By the middle of the summer of 1986, Shanon's men had, according to ISA sources, identified where all of the U.S. hostages were being held. CIA sources, by contrast, claim that, "They had a fix on five hostages and did not know where the others were. . . . It was a cat and mouse game, and you can't launch an operation based on this kind of intelligence." An ISA officer disagrees. "They [Lebanese Forces intelligence] provided us with the exact location of every hostage," he claims. They told us where they were being moved to, each new location. We were able to verify this by other means. We could have launched the operation and freed the hostages."

So good was the information being supplied to ISA that the other U.S. intelligence agencies soon were in an uproar. Since ISA had little analytical capability, the information from Lebanon, in its raw form, was fed into the computerized data banks of the U.S. intelligence community. This meant that CIA, NSA, the National Security Council, and certain elements at the State Department ultimately had access to it. As a result, they bombarded ISA with scores of questions and clarifications, often demanding to know the precise source of a specific piece of intelligence. "Everyone wondered where we were getting this unusual and accurate information," said a former ISA man.

Despite bureaucratic jealousies and bickering, however, in July 1986, planning for an operation to rescue the hostages in Lebanon was authorized. That same month, an ISA colonel with the code name "Gabby," traveling undercover and in disguise, was dispatched to Lebanon to get a firsthand look at the situation. He arrived at the Christian-controlled port city of Juniyah and spent 10 days in-country. He inspected the staging areas set up by the Lebanese Forces and actually observed some of the sites where the hostages were being held. At the same time, Gabby was assessing—before American forces were placed in jeopardy—the efficacy of the Lebanese Forces intelligence network and the key individuals that would be part of any future operation. He was even permitted to meet with some of the LF intelligence "assets" and informers.

Satisfied with what he had seen, upon Gabby's return ISA began pulling together a rescue operation, working with other special operations elements that would be involved. By the end of August, most of the planning was complete and intelligence collection had been stepped up to monitor the situation in Lebanon as closely as possible. Shanon's network was working around the clock on logistics matters and to detect any changes in the hostages' condition or location that would affect the operation. Overheard, U.S. KH-11 spy satellites were conducting photo recon missions so that highly detailed maps of certain areas in West Beirut and the Bekaa Valley could be produced. NSA, meanwhile, had accelerated its "collection" activities, and was monitoring virtually all phone traffic in the country.

THE PLAN

The final mission plan called for assembling a combined force of 50 to 60 Delta and SEAL Team 6 commandos on a supply ship steaming with the Sixth Fleet. At a designated location north of Cyprus, the commandos would be transferred under cover of darkness to a Christian-operated cargo vessel, which traveled regularly between Lebanon and Larnaca, Cyprus. There would be four empty cargo containers on deck to conceal the presence of the commandos. While the commandos would be ferried to the Christian vessel in small boats, their equipment would be transferred via ship-to-ship cables. The whole procedure was not expected to last more than a half hour.

The equipment being carried by the commandos included special eavesdropping devices that permitted them to monitor events in bunkers, closed rooms, and cellars; satellite communications gear to link the commandos directly to the White House, the Joint Chiefs, and mainframe computers operated by the intelligence community; a secure communications system that would allow the raiders to communicate among themselves without fear of compromise; and portable computers designed to transmit and receive encripted messages. In addition, they carried certain special weapons, explosives, first aid gear, and equipment for breaching doors. Shannon and his men were asked to provide them with unmarked AK-47s, M16s, and Uzis that could be used in the operation and left behind. The commandos were supposed to dress in civilian clothing of non-identifiable battle fatigues.

When the vessel reached the port of Beirut, it would put in at dock number five, which was controlled by the Lebanese Forces. The five containers, with the commandos and their equipment inside, would be off-loaded and taken to a remote storage area within the port. Later that night, a Lebanese Forces convoy—including jeeps and six-wheeled trucks—would pick them up and transport them to Christian-controlled East Beirut. There, at safe houses provided by the LF, the commandos would divide into three pre-assigned teams.

Guided by Shanon's men, the first team would enter Moslem West Beirut and make their way to Bir el Aabed, where some of the hostages were being held. The second team, also guided by Lebanese Forces intelligence operatives, would strike out for the Bekaa Valley and the Sheik Abdallah Barracks. The third team would remain behind, held in reserve in case either of the other two units encountered serious problems.

To transport the commandos inside Shi'ite-controlled areas, station wagons, sedans, and Land-Rovers bearing Amal and Hezbollah markings had been assembled. The necessary travel and identification documents had been bought, stolen, and otherwise obtained, and then provided by Shanon to ISA, where they were duplicated.

The operation would be masked by threatening maneuvers, conducted by two Lebanese Forces intelligence teams, designed to draw Shi'ite and Hezbollah units away from the target areas. However, as one American participant remembers, "We did not rely heavily on the Lebanese Forces to fight or even to conduct operations that could have supported us. We were ready to do the operation alone, single-handed, and come home with the hostages." Although the Christian-dominated Lebanese Army had also expressed, through the CIA, its willingness to be of assistance in the event a rescue was attempted, for security reasons the offer was not accepted.

"The operation was 'Made in the U.S. of A.'," says an ISA operator. "We could have used additional support, but the idea was to carry out a clean, neat, quick operation. Every support activity would only have complicated matters. This was supposed to be a quick and dirty operation."

Timing was all important. The strikes against the two Hezbollah prisons were to be closely coordinated. There was little margin for error. It was expected that the raiders would meet with little resistance at the two prison facilities, since Hezbollah and the Pasdaran operated on the principle that it was not the number of guards but the frequent movement of the hostages that guaranteed their security. As a result, there were only a small number of guards at each facility. Once the operation at Bir el Aabed was complete, the commandos and, hopefully, the hostages, would head for the coast, using one of a number of potential escape routes. There, they would rendezvous with ISA operators and be evacuated by means of swift boats or helicopters to U.S. naval vessels standing by a short distance away.

The operation in the Bekaa was more complicated and the escape options more limited. The plan called for the team that hit the Sheik Abdallah Barracks to reach the coast and to leave via the sea. In the event of an emergency, however, there was a direct line of communication to the Israelis. Although they had not been informed of all of the operational details, the Israeli defense and intelligence established had agreed, in a "worst case" situation, to come to the assistance of the commandos or to provide for "quick entry" into Israeli-controlled territory.

INTERNECINE WARFARE

As usual, there were those at the U.S. embassy in Beirut and in the American intelligence community that were opposed to a high risk operation to rescue the hostages. Some opposed any operation that was not under their personal or institutional control; others refused to enlist behind any idea that was not their own. There was a third category, however, of "weak sisters" and so-called "Arabists," mostly at the State Department, that harbored intense antipathy toward Israel and its Lebanese Christian allies. For political and ideological reasons, they were not above "selling out" an operation that would strengthen American ties to the Christians or provide Ronald Reagan with a dramatic victory in Lebanon.

Relations between the ISA operators and the U.S. embassy in Beirut were virtually nonexistent. The embassy was viewed as having its own agenda, which did not include a military rescue of the hostages. Because of what were seen as past betrayals, ISA and the special operations components involved in the rescue mission treated the American ambassador, the CIA chief-of-station, and other embassy personnel as "the enemy." By contrast, they viewed Shanon and his men as "friends," whose agenda was right out in the open. "They wanted to get recognition for the LFI [Lebanese Forces Intelligence]," says a former ISA officer, "and wanted support from the U.S. of their independent stand in Lebanon." Despite certain bureaucratic problems, however, the CIA ended up providing ISA with cover and other support.

The operation received a major setback in July when a number of the ISA men and commandos were pulled out of the Lebanon operation in order to beef up security in New York. Federal officials were afraid that there might be some kind of foreign terrorist attack in conjunction with the Statue of Liberty centennial celebration on the Fourth of July that was to be attended by the president, although there was little hard evidence to sustain such fears.

Between August and October 1986, ISA and the commandos rerhearsed the operation and "sat on their suitcases" waiting for the signal to "go." The Lebanese Forces even provided two ships and there was a dry run involving the transfer of men and equipment from one-vessel to the other.

END OF THE ROAD

On 11 October 1986, the fax machine began to whine in the small office in suburban Virginia, near the Pentagon, that served as the operational nerve center of ISA. The message being transmitted had originated in Beirut and was forwarded to the Arlington address from Montreal, via secure telephone line. As the slick pages were spewed from the secure machine, a boyish-looking major grabbed them and jammed them into a red cardboard folder. There were no identifying markings on the pages or on the folder.

The major quickly crossed the corridor with the folder tucked underneath his arm and opened a heavy steel-reinforced door which, like the pages and the folder, was unmarked. He did not knock. Across from the door, behind an almost-bare government-issue metal desk, was a grim-faced lieutenant colonel. Without a word, the major handed the folder to his superior and stood motionless in front of the desk.

The colonel placed the folder squarely on the desk in front of him, opened a locked drawer, and extracted a small code pad. He perused the faxed pages slowly, glancing from time-to-time at the code pad. Once he had finished, he reviewed the message a second time for accuracy, then handed both the folder and the code pad to the major.

"Read it," he said bitterly. "We're in trouble. The bad guys won."

The major took a chair and did as instructed, a sense of dread began to grow in his gut. The message confirmed his worst fears. Finally, he closed the folder and replaced it on the desk, along with the code pad.

"It's all over, colonel. Finished," said the major in a stony voice. "What now?"

The Colonel didn't reply. He knew that this was the end of the line and that their promising military careers were most likely over. He also realized that the American hostages were unlikely to be freed any time soon.

The text of the message was as follows:

* * * 10/11/86 12:56.

Attn: Frankie/Oscar [code names for ISA officers]

From: Shanon [the Lebanese network]

Subject: Current situation

We believe the DST [French intelligence] and your bad guys [CIA] are on Tessin's [Syria's] side.

Number of reasons:

1. On 10/11/86 meetings were held in Tessin [Syria] between SIS [Syrian Intelligence Service] and DST. At the same time the Iranian Minister for the Revolutionary Guards, Mr. Mohsen Daoust is in Tessin [Syria] for conversations with Tessin [Syria] high level.

2. Colonel Ghazi Kanaan, chief of SIS in our place [Beirut] left Martyr [Lebanon] in a hurry to Tessin [Syria] to take part in number one.

3. Big bargaining is being discussed:

A. A deal on Cargo [hostages] with the complete approval of the bad guys [CIA], DST. Green light for Tessin [Syria] on the subject.

B. To take over by Tessin [Syria] the western suburbs [West Beirut].

C. Complete cover to Tessin [Syria] in exchange for the Cargo [hostages].

D. Green light to Tessin [Syria] to move on Felix [Lebanese Christian Forces] and put Felix finally out of the "Game" [rescue operation].

E. It's clear that this will happen in the next weeks.

Baba on Felix [ISA's independent network in Lebanon and the Lebanese Christian Forces]

Best regards.

Keep you informed.

The rescue operation was being sold out. But why? And by whom? The colonel could only guess at the answers to those questions, but within weeks it would become abundantly clear. First, came the revelations about the Reagan Administration's secret arms-for-hostages dealings with the Iranian government. Then, on 29 October 1986 the French and Iranian governments publicly announced that they had reached a settlement involving a $1 billion loan. This would pave the way, nearly two years later, for the release of the French hostages being held by Hezbollah.

In restrospect, there could be little question but that the rescue mission had been put on "hold," and subsequently "sold out," because White House policymakers and intelligence officials were afraid to undertake any rescue operation that might impact negatively on their secret negotiations with

Iran. in their defense, it could be asserted that they felt that negotiations, rather than force, held greater promise for the successful release of the hostages. Nevertheless, in hindsight there is little question but that they became so committed to the Iranian initiative that they lost sight of everything else, and gave far too little thought to the consequences—for the hostages—if their negotiations failed.

By the time Lt. Col. Oliver North was fired from the National Security Council staff, on 25 November 1986, for his part of the Iran-Contra scandal, the clandestine operation being mounted by ISA and its Lebanese network had already been dismantled. Virtually every trace of the operation was shredded or burned. It was almost as if it had never existed. The most successful operation to penetrate Hezbollah and to collect vital intelligence on Lebanon was over, and along with it any chance of securing the release of America's long-suffering hostages.

ADDRESS BY MSGR. ELIAS EL-HAYEK, THE INTERNATIONAL CLUB, AUGUST 23, 1989, WASHINGTON, DC

LEBANON TODAY: CONSPIRACY OF SILENCE

I would like to thank Mr. Frank Ahmed, President and to Mr. Carl Levin, member of the Board of the International Club, for inviting me to speak to you tonight on the subject of "Lebanon Today."

Lebanon has become unfortunately known for the atrocities and crimes which racked its population for the past 14 years. Today it finds itself drowned in a bloodbath and its civil population threatened by the Syrian onslaught the like of which no people has seen since World War II.

The daily shelling of the civilian population and the threat that it poses to their existence, is compounded by a well orchestrated campaign of disinformation aimed at camouflaging the real intentions of the aggressors and their identity.

It is evident that the conflict does not oppose so-called "progressives" to "conservatives", nor Christians to Muslims. But in reality the conflict consists of the invasion by the Syrian army of the sovereign state of Lebanon in an attempt to subjugate its people and destroy its institutions.

When the invitation was issued to address the International Club just a few weeks ago, the relentless shelling of the Christian areas by the Syrians was the only story coming out of Lebanon.

But on July 31, Lt. Col. William Higgins, an American hostage, was reportedly hung in retaliation for the Israeli kidnapping of a Hezbollah leader, Sheikh Abdul Karim Obeid. These events brought to the forefront, once again, the burning issue of the hostages, compounding the already complex conflict in Lebanon.

Although the time allotted to me is relatively short, I feel it necessary to address these two interconnected issues—the conflict in Lebanon and the Hostage situation. Hopefully, we will be able to cover additional ground during the question and answer period.

Despite the fact that Col. Higgins was kidnapped, beaten, interrogated and eventually shot by Hezbollah terrorists probably in March of this year according to credible individuals; some American officials seemed poised to condemn the Israelis, which can only make any sense, if the goal of such criticism was to deflect Public and Media attention and condemnation away from the real culprits.

This is what is known as a "Knee-Jerk" reaction. And quite rightly so, because the last thing the administration wants at this time, is any sort of serious, sustained media or congressional focus on the plight of the hostages in Lebanon, lest it embarrass or obstruct the Syrian effort to establish its political and military hegemony over Lebanon and particularly over the defiant Christian Community under the leadership of constitutionally appointed Prime Minister, Gen. Michel Aoun. I would like to underscore what I have said, by providing you the following perspective:

Current U.S. Policy to Lebanon and Syria was initiated in the mid-70s during the days of Henry Kissinger's mid-east shuttle diplomacy. Since then Syria has been effectively mandated by the United States to:

Curb, confront and defeat PLO forces in Lebanon preventing them from taking over the country.

Prevent dominance of any one Lebanese faction over another.

Act as a good faith mediator amongst the Lebanese leading to a constitutional convention to resolve the Lebanon problem.

In sum, current U.S. policy which was devised over 15 years ago, sees Syria as the agency for stability in Lebanon particularly through the use of Syrian "Peacekeeping" forces.

This policy has been based on the assumptions that Syria has no territorial ambitions in Lebanon and that Syria is the proper surrogate to establish an "Independent, Sovereign and Democratic" government in Lebanon with a market economy, a representative parliament and a free press.

That these assumptions defy logic and fact goes without saying and it points to the irrationality and the corruption of the U.S. policy in Lebanon. Let me explain briefly.

President Assad is a brutal but clever dictator. By sponsoring Palestinian terrorist groups in the "1970s" and by creating an alliance with the Islamic republic of Iran in the "1980s" Assad was able through violence and intimidation to force various American administrations to "freeze" the favorable pro-Syrian policy construct of the mid-seventies.

As a result the United States has been forced to act like "Alice in the Looking Glass." It rationalizes the role of Syria in whatever way the Syrians want at any given moment. As an example: on July 10, N.Y. Times correspondent Alan Cowell, reported that:

"The United States Ambassador Edward P. Djerejian, said 'U.S. policy is not to exclude Syria from the peace process'. The Ambassador arrived here one year ago with instructions to expand American-Syrian relations."

The bombings of the U.S. Embassy in Beirut, the destruction of the marine barracks, the interrogation and executions of William Buckley and Col. Higgins, the bombings of Pan Am 103 and the Dec. 1985 Gander explosion with 248 members of the 82nd Airborne Division were all acts of Syrian directed and/or sponsored terrorism of the type of warfare, known to experts, as low-intensity conflict.

Quite bluntly, this war against America has cowed the United States government into accepting and justifying the Syrian aggression, brutality and rape of a small country. No better example of this perversion of the laws of International behavior exist; than the administration's mouthpiece editorial in the N.Y. Times of Weds. Aug. 16:

"But the new carnage has been unleashed by the deliberate suicidally stubborn strategy of one man, Gen. Michel Aoun, the Maronite Catholic army leader. He deliberately, provoked a ruthless enemy, Syria, to murderous violence in the hope of compelling the West to come to his rescue. Western leaders would serve the interests of all Lebanese by making clear that they will not be drawn in.

"It is unrealistic to expect unilateral Syrian withdrawal outside the context of an overall Middle East settlement—at the moment a remote prospect. It is equally unrealistic to expect the West to champion the Maronite cause at the very moment it is seeking Syrian help on the hostage issue."

Is it not sick and twisted logic that the legally appointed Prime Minister of Lebanon and a General of the Lebanese Army, who can still retain the loyalty of the Muslim soldiers who make up 30% of his Direct Command, is castigated as the agency of destabilization, because he seeks to rid his own Country of a belligerent occupying foreign army that deliberately targets innocent Lebanese civilians with 240 mm shells. The issue of power sharing among the various factions is the smoke screen used to hide the real intentions of the Syrians and their supporters.

Clearly, this perverse attempt to justify the annexation of Lebanon to an outlaw terror and Police State like Syrian at the expense of a million people, that the N.Y. Times has selectively labeled as the "Maronite Catholics" smacks of an endorsement of mass slaughter or even of genocide.

This is not an exaggeration. On Aug. 15, His Holiness Pope John Paul II, His Voice ringing with an emotion I have never seen or heard before said:

"In the name of God, I appeal to the Syrian authorities, asking them to cease the bombings that aim at destroying the capital of Lebanon and the entire country".

"Before the eyes of all the world, Lebanon is being consumed by a process, I would say, of genocide, a process that involves the responsibility of the entire international society. It is a process that is leading to the destruction of Lebanon."

Since that statement, the level of violence and the totally evil bombardments have subsidied, and we can only hope that American officials will show courage and change their policies to Lebanon, including immediate shipments of humanitarian aid to all Lebanese.

I believe, that the only way to break the conspiracy of silence that has been imposed upon the horrible events concerning Lebanon, must come from the American press and from the U.S. Congress.

In that respect it is very encouraging to have finally read some of the real activities concerning the hostages in Lebanon. In particular, I am referring to the recent nationally syndicated story by noted Middle East Experts Neil Livingston and David Halevy, and the investigative front-page N.Y. Newsday article by Pultizer prize winner, Knut Royce.

These reports detail how it was the work of a Lebanese-Christian unit who, at risk of their own lives, provided the N.S.C. and the Pentagon, with accurate, credible and detailed information on the location, status and condition of the hostages and their captors. So good was the information that the U.S. seriously prepared for a rescue mission, until these efforts were "spiked" because it would upset the still secret Iran-Contra operation.

For over two years, this flow of information on the hostages which could even have possibly saved the life of Col. Higgins, was

readily available. For over two years, the American administration has said it will talk to anyone who could help on the hostage situation. As you all know, the U.S. has talked to the Iranians, the Syrians, the Soviets, the Pakistanis, the Japanese, even the P.L.O. It has talked to everyone, but it has deliberately barred itself from talking to the very people who proved their ability to help and to this day still offer to provide the United States Government precise and accurate information on hostages including a direct channel into the Hizbullah command for possible direct discussions leading to the safe release of the American captives. Of course the administration professes not to be aware of anything like this despite the fact that NSC memos do outline this specific opportunity.

Why?

To answer that question, I refer to Steve Emerson's important book "Secret Warriors of the Reagan ERA."

In 1985, the U.S. Government, through certain secret agencies, requested the assistance of a Lebanese-Christian intelligence group to deliver accurate information on the hostages. So successful was this group in doing what had been asked of them, that they eventually posed a danger in exposing the hypocrisy and deception in the United States Policy to Lebanon, Syria and the Hostages. From certain segments of the administraton the group was derisively labelled as 'Anti-Syrian' and had to endure political and even physical threats from these same elements of the U.S. Government who so piously espouse their concern over the hostages.

In reference to this, I quote from the August 11 Newsday article;

"Why the NSC called off the operation and the CIA barred further contacts with the Christians remains unclear. The ban is still in effect, sources say, though there remain occasional one-on-one contacts between members of the militia and U.S. military officials.

"At the State Department there had been concerns that a unilateral military move by the United States would upset the Syrians whom the department believed could be helped in freeing the hostages, according to officials involved in the deliberations at the time. The State Department's belief in the importance of Syria appears to have continued. A confidential cable dated last August to the U.S. embassies in Beirut and Damascus directed them to notify the Syrians, "in line with our practice of passing to the Syrians from time to time hostage location information. . . ."

Can anybody in this audience, explain how it is that a government which professes not to have information on hostage locations, is able to pass such information on a regular basis to the very country, Syria, which it continuously singles out as the only country that can locate and release the hostages? In fact Syria and its allies in Iran have been using those very hostages as bargaining chips in secret negotiations with the United States.

In the case of Syria, as Messrs. Halevey and Livingston have shown, the Syrians used the Hostages as the Political leverage to secure a green light from the United States to enter and occupy West Beirut. This is but one segment of the Iran-Contra story the public has not been entitled to know about.

The truth about the hostages has been barred from reaching the American people.

I anticipate, that certain groups or agencies in the administration will try to discredit these beacons of light from the media by claiming that the information the Christians provided was actually Syrian in origin, they may even go so far as to "rent" some Lebanese authority who may participated in operation to engage in a discreditation process.

Finally, from all this, I can only conclude, that it is Syria and President Assad, through the use of violent force and political leverage, who dictate the U.S. policy to Lebanon and who make a mockery of all the brave Americans who have died in the terrorist-related events that I mentioned earlier.

This conspiracy of silence against an entire country and in particular against one religious community must be looked into by the appropriate congressional committees before any more Americans and Lebanese die in vain.

The paralysis of the International Community in front of the threat of terrorist retaliation against any state which dares supply even humanitarian aid to their own citizens caught in this war of extermination is underscored by Jacques Daniel in the french magazine Le Nouvel Observateur:

"The International Community and both superpowers do very well in funerals look what they did in Cambodia". My friends we are witnessing another holocaust in Lebanon and we are offering only condolences for the dead.

[From Newsweek, Nov. 7, 1989]

IGNORING HOSTAGE TIPS—IS WASHINGTON TOO WARY OF PRIVATE CHANNELS?

(By Richard Sandza and Douglas Waller)

Question: You are a State Department official who receives a call from a retired military officer who claims to have important information about American hostages in Lebanon. Specifically, he offers to set up a meeting with a contact who can provide news of the fate of Marine Lt. Col. William R. Higgins. The contact has a handwriting sample and a recent photograph of Higgins, who was kidnapped near Tyre on Feb. 17 and has not been heard of since. Do you:

(a) Invite him to your office and arrange a briefing for the secretary of state?

(b) Arrange to meet the man in a movie theater in Chevy Chase, Md.?

(c) Thank him for his interest, assure him the safe return of the hostages is a primary goal of U.S. foreign policy, and hang up?

It goes without saying that the administration wants to bring home the nine American hostages who have been held in Lebanon for as long as three and a half years. But not, it seems, at the risk of another humiliation like the Iran-contra scandal, with its unsavory cast of fanatic colonels and high-living fixers. "We've made it very clear we're not going to use any private channels to get the release of the hostages," says L. Paul Bremer III, the State Department's top counterterrosim official. The administration will talk only with official representatives of recognized governments, meaning in practice Iranians. As the election nears, this approach has been pursued with even greater delicacy. "The guidance is, 'Keep everything off the headlines'," says one government intelligence analyst.

The retired officer, who just suffered through a month of cold shoulders from various agencies, is one of dozens of would-be middlemen who have run up against the policy. Some were undoubtedly frauds. Others, say disgruntled officials in the military and intelligence communities—some of whom are itching to try another rescue mission—may have been genuine. In an incident dating to 1986, a source who offered what he said was detailed information on where the hostages were being held—down to the floor and room of the building—was cut off totally by American agents. In another case just this fall, an American was approached by a Lebanese contact who offered a meeting with a ranking member of Hizbullah, the radical Shiite Muslim group believed to be behind most or all of the kidnappings. The Hizbullah official was said to have first-hand information about the conditions of the hostages—but there has been no effort even to determine whether the offer was genuine. The message, according to a White House aide, is: "If you think you can get them released, go get them released. But don't come ask us for an entree to begin some kind of negotiation. The only negotiation I'm interested in is where we will pick them up."

Actually, says Bremer, the government would welcome genuine information about the hostages, as distinguished from help in getting them out. But in practice all such contacts have been rejected for the simple reason, he says, that they turn out to be worthless. "The people who have surfaced in the last two years have simply not been credible. None of them were worth a dime to make a phone call." He puts them in three categories: con men seeking money or favors; *agents provocateurs* with political motives, such as embarrassing the United States, and well-meaning dupes of one of the above. At least one dubious contact asked a hostage family for $200,000 to get their man out. In another case, the middleman turned out to be an Arlington, VA, rug merchant trying to peddle his wares in the State Department. Last week Italian police arrested a Lebanese woman as she attempted to enter the country with $1,000 in counterfeit U.S. currency and photos and letters purporting to be of hostages Terry A. Anderson and Alann Steen. The documents proved to be fakes, and investigators now suspect she may have been part of a plot to swindle U.S. intelligence agents. Under State Department rules, a contact who asks even for expenses is presumptively a swindler. The man offering word about Higgins may have run up against this rule when he mentioned that he would need a plane ticket to a neutral site. Critics point out, though, that U.S. intelligence pays for information all the time.

LINGERING BELIEF

The more serious objection is that a policy of dealing only with official Iranian representatives amounts to a policy of doing nothing. Naturally, the hostage families feel this most keenly. Anderson's sister Peggy Say held a press conference last Thursday to mark his 41st birthday, his fourth since being kidnapped. The administration, she charged, appears to "consider it a point of honor not to be involved in anything" that could help the hostages. Even some disinterested observers dispute the premise that, as one senior administration official puts it, "the hostages are going to come out when the Iranians decide to get them all out." "There's still this lingering belief in the State Department that somebody out there is in charge," says Yahya M. Sadowski, a Mid-east expert at the Brookings Institution. He thinks Hizbullah is more a loose federation of clans than a monolith taking orders directly from Teheran. "It's demeaning for people in the State Department to think about negotiating with all these petty

arms merchants and drug dealers who are used as intermediaries by the different groups that hold our citizens," Sadowski says. "The fact is, that's all you've got."

Mr. GRASSLEY. Mr. President, the reason these stories appeared in July and August is because there is a direct link between the scuttling of that rescue mission and our lack of human intelligence today in Lebanon, particularly Beirut. It was rather obvious that our options for responding to the Higgins affair were sharply limited, and our intelligence was extremely poor. You may recall, Mr. President, that the issue of poor intelligence came up repeatedly at that time.

The net effect of our lack of human intelligence in that area is that the President of the United States does not presently have a military option, whether to use or to have that option in his back pocket. The military has not seriously prepared operational rescue plans since the fall of 1986. And do you not think the Hizbullah knows that we have no military option there?

The resulting effect of certain backchannelers scuttling the rescue effort has permanently hurt our human intelligence capability in Lebanon. A lot of good people who put themselves at risk were hung out to dry.

I began looking at this issue, Mr. President, only after the fact. My concern at that time was to pick up some of the pieces and try to get reliable information flowing once again to the U.S. Government about the health and locations of the hostages. I can tell you, Mr. President, from my own experience, that the administration did not want to listen. I am not talking about the current administration, of President Bush, but I am talking about the previous one.

Publicly, the administration was saying it would talk to anyone about information related to the hostages. The report by the Task Force on Combating Terrorism, put out in 1986, said we will take information from all sources, that we will leave no stone unturned. Well I am here to tell you, Mr. President, that there were more stones sat on than turned over.

For the 2 years from November 1986 to the end of the last administration, I studied three separate cases, and watched them as they developed, in which the Government, when either presented with hard and reliable information or with overtures from credible sources, said not only "no," but "heck no." The information became like a football. It was lateraled from agency to agency, not vertically up the chain of command, but horizontally.

I will not go into details about any of these cases; I have supplied details to two congressional committees. But suffice it to say that when it came to putting their actions where their rhetoric was, that administration, The Reagan Administration was nowhere to be found.

Now, Mr. President, let me stress the fact that these circumstances occurred during the last administration. I want to be very clear about that. And consequently, this administration has a long way to go to restore major deficiencies in our intelligence capabilities in Lebanon and our ability to maintain military force as a viable option. And of course most important, and why we are commemorating this day—the National Hostage Awareness Day—because as a nation we have a need to know the status and whereabouts of the hostages.

I have asked two committees of Congress to look into this matter, Mr. President. I personally find it frustrating to learn that information about the hostages in Lebanon was being ignored, and that some Government officials may have short-circuited efforts to gather information on the hostages and even opportunities for gaining their release.

In summation, I will continue to press this matter, to push for investigations here in Congress, and to work with this new administration so that certain mid-level bureaucrats cannot frustrate the will of this President when he says we are doing all we can for the release of the hostages.

Mr. President, I reserve the remainder of the leader's time, if there is any, beyond my 5 minutes of morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

CAPITAL GAINS RATE

Mr. SYMMS. Mr. President, I would just like to comment on the remarks that the distinguished majority leader made here this morning with reference to the capital gains tax and tying it to the Polish package.

It seems to me there is probably nothing more important with respect to aid to Poland than having the United States do things that reduce the cost of capital in the United States, that make us a better example of a bastion of free enterprise, capitalism, production; and opportunities than to reduce the capital gains rate and to increase the opportunity for viable individual retirement accounts and to deregulate excessive interventions on the part of the Government with employer-provided health plans, which is in the Packwood amendment.

I would say that if we want to make the Polish package sustainable and healthy for Poland for the long run, one of the best things we could do, in the midst of that package, is reduce the capital gains rate here. The votes are here to do it. It is very clear to this Senator that the majority leader does not want to vote on it because he knows the votes are here in the Senate to reduce the capital gains rate. That is what the American people want. I think that is what we are elected to do; to respond to those wishes, demands and needs.

I hope that the majority would allow a vote on the Packwood amendment and if it passes, we pass it with the Polish package and go from there. I hope we do that.

The Senator from Colorado [Mr. WIRTH] is recognized.

AID TO POLAND

Mr. WIRTH. Mr. President, I want to briefly remark on the leader's comments the first thing this morning.

We have drifted too long on Poland and Hungary. Here we have an extraordinary change going on in central and eastern Europe. It is getting the attention now in the U.S. Congress which it deserves. Unfortunately, there was too much drift downtown for a period of time.

We recognize that the world is changing. The cold war is ending where it began. We have a political obligation to move very quickly, and we also have a humanitarian obligation. Winter is coming. People are starving and these economies are not working.

Let us get on with it and not get it all tangled up with the capital gains issue.

GLOBAL WARMING

Mr. WIRTH. Mr. President, I want to return very briefly to the issue of global warming and the question of why this administration has not focused on the global warming issue and the obligations that we in the United States have.

Two or three days ago, I laid out in the RECORD a long history of the administration's promises and its noncommitments to those promises. This has gone on since January. We had very noble rhetoric from President Bush as a candidate about the White House effect. Unfortunately, that rhetoric has not been met by commitments of people at the highest level in the administration.

Yesterday I discussed what can be done. Some arguments have been made that if we move aggressively on global warming, that puts us at a competitive disadvantage. As I discussed

yesterday, that just is not the case. We should pursue energy conservation, auto efficiency, forestation programs, alternative fuels programs, even if there were not any global warming threat. Yet, the threat is very, very real. Even if that did not exist, these are steps that we ought to take anyway for the purposes of strengthening our economy and our national security and for good environmental policy right here at home.

These steps do not put us in a noncompetitive position. That is not an argument for the United States to forgo a leadership position.

So, as I was musing on this last night, Mr. President, I asked myself: Well, maybe the White House has information that we do not have. Maybe they have information that the problem of global warming is not a real problem. Perhaps they do.

Maybe they have gotten different information from the scientific community on the outside. But I believe that overwhelmingly, within the scientific community, the question is not, "Will we warm?" But it is, "How much? How fast?" Maybe the White House has other information.

If they do, I do not know who they talked to; they have certainly not talked to the research community that has so much involvement in Washington, the World Resources Institute, and other research organizations in Washington. They have not spoken to NASA or taken advantage of the extraordinary expertise that exists at the National Center for Atmospheric Research. They have certainly not talked to the research complex on the west coast. When I say "they" I mean people at the highest level in the White House.

What I would suggest, Mr. President, is that the White House, for the purposes of the President's information and that of the chief people in the White House, ought to convene a conference or seminar of the best scientists in the United States on this issue of global warming.

I think President Bush ought to be brought up to speed about the fact that this is no longer a research issue. We do have other research to do; yes. But overwhelmingly we know the atmosphere is changing and the planet could warm at alarming rates. Only recently there was a major report in Science magazine on what we are finding out about the warming of the continent in China during the last 10,000 years. What is going on internally in China is exactly what would be predicted by the models of global warming.

I urge the White House staff at the highest level, Mr. President, to pull together the best scientists in the country and let the President know firsthand what is going on. Do not block the information from him. Give him the information. I think he truly cares. I think he is truly committed to being a President who has a commitment in this direction. But I think the information is being blocked out.

Finally, Mr. President, I will have printed in the RECORD a letter which Senator JOHNSTON and I sent out dated October 26, to the President, urging him "to meet his May 1989 commitment to convene an international conference in Washington to identify the potential effects of a global climate change. The United States should join with the majority of nations that support the early development of a general framework convention on climate modeled after the existing Vienna Convention for the Protection of the Ozone Layer. We believe negotiations on a framework convention should be held in the United States * * *."

Twenty-six Senators in a day have signed this letter, Mr. President. If the United States were to move now, Mr. President, the chances are we might be the host of the major United Nations conference. If we said we wanted to move, let us do it and do it very rapidly. We have that opportunity.

I ask unanimous consent that this letter be printed in the RECORD at this point.

Ms. MIKULSKI. Will the Senator withhold offering his unanimous consent? I would like to be on the letter.

Mr. WIRTH. The letter now has 27 cosponsors and I ask all my colleagues to join on. Why are we not out in front as leadership?

The distinguished Senator from Maryland has done a wonderful job as chairman of the Appropriations Subcommittee and is shoring up a lack of will by funding programs that address these issues.

Ms. MIKULSKI. I thank the Senator for his kind comments. In a few short minutes we will be bringing up the VA-HUD-EPA appropriations.

We tried to put in the financial resources that even the administration would not ask for on all matters related to the environment. The administration came in and asked for a $300 million cut.

The ACTING PRESIDENT pro tempore. Time has expired.

Mr. WIRTH. Mr. President, I ask unanimous consent the Senator be allowed to continue for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. MIKULSKI. They came in for a $300 million cut. We said heck no, that cannot go, cleaning up our environment. So we not only made sure the EPA budget made 1989 levels but we added a substantial amount of money so there will be essentially an appropriation of $5,600,000,000.

We are going to put the resources there but we cannot put the will there. We cannot put the will there to clean up the environment. I do not know if it takes jawboning or whatever.

I think the Senator has taken significant leadership and I am happy to be a full-time partner with him on this and other environmental issues.

I thank him for his persistence and sustainability here.

Mr. WIRTH. I thank the distinguished Senator for her good work on the Appropriations Committee. We have to move.

There is an urgency to this, Mr. President. That urgency has to be transmitted to the administration at the highest level. We have extraordinary opportunities. Let us take them.

I now ask unanimous consent the letter dated October 26, 1989, to President Bush, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 26, 1989.

Hon. GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We note with dismay the recent decision of the White House to reject the suggestion of Environmental Protection Agency Administrator, William K. Reilly, to convene an international convention on global climate change in Washington next year. The United States must seize this opportunity to establish a leadership role in the fight to protect our global environment through the development of energy, commercial, agricultural, and environmental policies which reduce the release of carbon dioxide and other trace gases into the atmosphere. Continued U.S. inaction and ambivalence on the single most important environmental issue of the century sends a dangerous signal to the rest of the world that we can no longer be counted as leaders in the effort to establish an international dialog on global environmental change.

We, therefore, urge a reiteration of your May 1989 commitment to convene an international conference in Washington to identify the potential effects of a global climate change. The U.S. should join with the majority of nations that support the early development of a general framework convention on climate modeled after the existing Vienna Convention for the Protection of the Ozone Layer. We believe negotiations on a framework convention should be held in the United States to clearly demonstrate this country's commitment to address the global climate change issue.

In addition, we strongly urge your support for a decisive U.S. role in future international conferences, including the upcoming November meeting of seventy environmental ministers in the Netherlands, to identify and discuss the issues related to rising atmospheric concentrations of carbon dioxide and other trace gases. The development of an aggressive domestic agenda for mitigating greenhouse gas emissions as well as the development of specific economic and environmental policies for dealing with this issue, must be one of this nation's highest concerns. We hope your oft quoted phrase

". . . those who think we [the U.S.] can do nothing about the greenhouse effect are ignoring the White House effect," will continue to be a driving force behind Administration policy.

Sincerely,

TIMOTHY E. WIRTH.
J. BENNETT JOHNSTON.

COSIGNERS OF JOHNSTON-WIRTH LETTER

Senator Johnston, Senator Wirth, Senator Fowler, Senator Metzenbaum, Senator Heflin, Senator Lautenberg, Senator Kerrey, Senator Kohl, Senator Conrad, Senator Matsunaga, Senator Baucus, Senator Biden, Senator Sarbanes, Senator Gore, Senator Daschle, Senator Bryan, Senator Lieberman, Senator Pryor, Senator Kerry, Senator Levin, Senator Adams, Senator Sanford, Senator Nunn, Senator Hollings, Senator Bingaman, Senator Sasser, Senator Mikulski.

Mr. DOLE. Mr. President, I ask to be recognized for 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

APPLAUDING SECRETARY BRADY

Mr. DOLE. Mr. President, I wanted to have printed in the RECORD a letter received yesterday by myself and other members of the leadership on both sides, and I assume Senators BENTSEN and PACKWOOD. It is a letter from Secretary Brady indicating he is going to borrow $17 billion to make certain we protect senior citizens and Social Security payments which are supposed to go out on November 3.

I applaud Secretary Brady for this action. I think he had a real concern about whether or not Congress would act on the debt ceiling by Tuesday night at midnight. There was nothing scheduled, no indication we were going to take up the debt ceiling.

There were a number of amendments that would have been offered and this will delay the deadline to November 7. It will give us time to consider extending the debt ceiling at an appropriate time.

Again, I applaud the Treasury Secretary for doing what I think he had to do in this case. Otherwise, there would have been some concern whether we would have finished action in time so the checks which were to be mailed out on November 3, to millions and millions of Social Security recipients—whether or not that could have been done.

I ask unanimous consent to have printed in the RECORD at this point the complete text of the letter from the Secretary of the Treasury, Nicholas F. Brady.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

THE SECRETARY OF THE TREASURY,
Washington, DC, October 26, 1989.

Hon. ROBERT DOLE,
Republican Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am writing to reemphasize the immediate need for action by the Congress on debt limit legislation.

As I indicated in my letter of October 16, without any action prior to the expiration of the debt ceiling on October 31, our current projections indicate that the Treasury could run out of cash on November 2, and is certain to default on its obligations on November 3. In light of the uncertainty surrounding Congressional action on debt limit legislation and the necessity of issuing Social Security checks on November 3, I have explored extraordinary administrative actions that could be taken to enable the Federal Government to temporarily meet its financial obligations beyond the November 3 default date.

Our most recent estimate indicates that there will be approximately $17 billion of unused statutory borrowing authority when the temporary debt limit expires at midnight on October 31. In order to extend the period during which we would have sufficient cash to pay Social Security benefits and other Government obligations, the Treasury would need to borrow up to the debt limit before the debt ceiling reverts to its permanent level of $2,800 billion on November 1.

For the reasons stated above, Treasury intends to proceed with plans for such borrowing. Our current cash flow estimate, which assumes no unprecedented cash demands, indicates that this action should provide sufficient cash to cover obligations presented for payment through November 8. However, even with this borrowing up to the debt limit, it is important that Congress act on debt limit legislation no later than November 7, in order to ensure adequate time to arrange market borrowings to avoid default.

I must emphasize that we are aware of no other realistic measures, other than debt limit legislation, that could further extend the anticipated date of default.

Sincerely,

NICHOLAS F. BRADY.

Mr. DOLE. Mr. President, I also ask we have some indication when the debt ceiling legislation will be coming to the Senate floor because there will be amendments, I assume on both sides, and it may take a number of days.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New Mexico [Mr. BINGAMAN].

CAPITAL GAINS: THE PRESIDENT'S SOLE DOMESTIC AGENDA ITEM

Mr. BINGAMAN. Mr. President, I want to take a few moments this morning to express my growing frustration, and I am sure that of many colleagues, at the unwillingness that seems to exist to move forward on the real problems facing us in the country. The sole item we seem to be focused on at this point, and that the President's domestic agenda contains, appears to be this capital gains tax reduction.

It is hard to say in the foreign policy and defense policy areas we have any real plan or idea of where we are headed either, since we recently had statements by Mr. Darman and by Congressman GINGRICH, indicating they would feel comfortable accepting a permanent sequester which would involve about a $13 to $14 billion decrease in defense spending. They think that would be preferable to accepting a reconciliation bill without a capital gains tax reduction attached to it.

Mr. President, the subcommittee I Chair on the Armed Services Committee tries to oversee procurement. Every study that has come out of there indicates that the greatest single waste in procurement on defense derives from budget instability.

This sequester that is now in effect and is continuing because of our inability to resolve this issue on capital gains tax reduction is adding greatly to that instability. In my home State, if this sequester were to become permanent, a $13 billion decrease in defense spending would mean that real people in our national laboratories, at our military facilities in Albuquerque, and Los Alamos in Clovis and Portales and North Van Nuys and Alamagordo and Las Cruces would, in fact lose their jobs.

I do not believe it makes sense for us to continue to play politics with various issues, rather than getting that sequester put aside and going forward as necessary.

We have a great many issues that are discussed by the administration—education, child care, environment, drugs—but in fact when we look at all of these areas and look at what has occurred this year, it is the Congress that has proposed the modest increases in resources that have been spent to address these various problems.

So, we have a great deal of rhetoric about them but very little action and very little leadership to bring about that action.

In my view, Mr. President, the time has come to move beyond this obsession with capital gains. In the remaining weeks of our legislative session, our job and the President's job needs to be to complete the business at hand, three major items. The appropriations bills, we are getting ready to deal with one of those shortly; the reconciliation bill; and the debt limit bill.

I believe we need to avoid a permanent sequester which, in my view, would make shambles of our claim to a foreign or defense policy. It would also fall disproportionately on areas such as education, the environment, drug abuse prevention and research in order to maintain the technological competitiveness of this country.

In the President's zeal to reduce taxes for the rich, this sequester

threatens to become permanent. If that happens we will all have failed, but I believe the President will have failed first and foremost. The consequences of that failure will be with us for some time.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Time for morning business has expired.

EXTENSION OF MORNING BUSINESS

Mr. SYMMS. Mr. President, I ask unanimous consent that time for morning business be extended for 7 more minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from Idaho [Mr. SYMMS].

THE VALUE OF THE AMERICAN DOLLAR

Mr. SYMMS. Mr. President, it seems it has become a very popular issue nowadays to discuss the appropriate exchange value of the American dollar. There are many people in this country, largely among major exporters, who would like to see the dollar depressed in price. Exporters believe they may sell more goods and make more profits. But, Mr. President, it is a fallacy—an example of the "broken window" fallacy.

A cheaper dollar may bring in more dollars for some U.S. exporter, but it won't bring in more yen, or more francs, or more marks. And everything we import would cost some other American more dollars. We would not be better off even if we did finally export more and import fewer goods. Some Americans may be better off, but they will be better off at the expense of some other Americans, who will be worse off.

Mr. President, I just want to make a few comments about currencies. I have some articles I want to have printed in the RECORD. I think first I will say that it is not worthy of a great nation to have a weak currency. Weak currencies are a sign of distrust of a government's future policies, both by its own citizens and by others. The value of our currency is a measure of what other citizens in other countries think of us.

If we think somehow having a weak currency is going to make America a greater nation or make our economy stronger, then I think we should take heed to what Lawrence Kudlow recently said. He was formerly an economist with the Office of Management and Budget. He said, "Were it true that a weak currency would pave the way for a trade surplus, then Argentina should be the center of today's global economy."

I think one should just look at Brazil, Argentina, and Mexico. They would be the world's most successful trading nations. Japan would be one of the weakest traders in the world if, in fact, it paid to have a weak currency when, in fact, it is just the opposite. If the intervention of the Fed and Treasury is effective, it will only raise the price of all imported goods for all consumers in this country. It will generate price inflation, which can lead to further monetary inflation. This would be very destructive to the real growth in the economy and not be at all helpful to the American economy.

In addition to that, Mr. President, a weaker dollar would allow foreign countries to buy America's engines of production more cheaply. So while major exporters, and some of my friends in the agriculture business in Idaho are involved in exporting agriculture products abroad, sometimes get excited about the dollar going down so they can be more price-competitive in those foreign markets, they fail to look at the question all the way through. I always make the point to them, if you are willing to sell your farms to the Japanese, then go ahead and let the dollar go on down. That is exactly the situation that will happen when they come in and start buying up these assets with an undervalued dollar.

I think the real question is, Should we be intervening to try to drive our currency down? I personally think what we need to do is go to the C-7 meetings—and I have discussed this with Secretary Brady—and ask each country to run a sound monetary and sound fiscal policy. That is what we should do and let the currencies seek their own level.

In 1988, the Federal Reserve reported $500 million in losses from its foreign exchange intervention, realized losses. Unrealized losses were greater. The Fed purchased $23 billion in foreign exchange in 1988 and 1989 and already has unacknowledged losses of approximately $4.5 billion. This whole idea of currency intervention is a loser, Mr. President.

So I think rather than berate the dollar and talk the dollar down, what we should do is to encourage a strong, sound policy here in this Congress. That would mean a reduction in spending to meet the targets of Gramm-Rudman and a reduction in the capital gains rate of taxation, and avoiding excessive intervention with respect to our business policy in the country so we can, in fact, produce and maintain a competitive stance.

Mr. President, I ask unanimous consent that an article from the Washington Times newspaper yesterday by a very distinguished economist, Mr. Warren Brookes, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Oct. 26, 1989]

WOBBLY CURRENCY QUANDARY

(By Warren Brookes)

One of the three key planks of the 1980 supply-side agenda was the reform of the monetary system back to some kind of commodity standard and away from central bank manipulation.

Unfortunately, it was largely ignored by President Ronald Reagan, and casually dismissed by President George Bush. But the nation is continuing to pay the price of world monetary instability, which has produced massive trade imbalances, excessively high interest rates, and ever-threatening inflation.

It also produces periodic financial idiocy, as represented by the current efforts of the Treasury to drive the dollar down, even as the Federal Reserve pursues policies that push it up. Obviously, no one can agree about the dollar's "correct" value. That disagreement could badly damage the world economy.

The irony of all this monetary schizophrenia is that last September, Federal Reserve Board Gov. Wayne Angell, along with supply-side guru Jude Wanniski, were invited to the Soviet Union specifically to instruct its leadership on how and why to adopt the gold standard as a way of making the ruble convertible in international markets. Mr. Angell compared the present ruble to a thermometer with lines, but no mercury and no numbers, and thus no common reference of measurement.

But that analogy applies in degree to all the world's major currencies since the United States terminated the Bretton Woods Agreement in 1971 and severed the dollar's final tenuous link to gold.

Since that severance, world interest rates have soared, along with inflation, debt and exchange-rate volatility. As economist David Ranson of H.C. Wainwright in Boston said in a recent paper:

"Prices cannot be stable when they must be expressed in terms of an unstable [paper] unit. Nor can interest rates be stable when the future value of the currency is unpredictable.

"Monetary instability confuses markets, distorts supply and demand, and makes it harder for the economy to operate."

Most of all, it results in the kind of economic nonsense of wasting $5 billion in net taxpayer costs in the last 13 months trying to drive the United States dollar down in value, on the fatally flawed theory that strong currencies produce trade deficits, and weak paper currencies produce trade surpluses.

As Bear Stearns economist Larry Kudlow notes, if this were literally true "Argentina would be the center of today's global economy . . . and Japan and Germany would be first and second on the IMF's debtor watch list." Since the 1971-73 Bretton Woods breakdown, the yen has been the strongest world currency. "Yet contrary to Keynesian assertions Japan over this period has accumulated huge trade and financial surpluses. What's more the yen's strength has been accompanied by the lowest inflation and interest rate structure of any of the major industrialized nations."

In other words, anti-inflationary policies that promote price stability and strong currencies produce very low interest costs of capital and those cost advantages more than offset the competitive disadvantage of the higher exchange rate.

Conversely, inflationary policies that promote currency devaluation, also drive up domestic costs, which more than offset the competitive advantage of lower currency valuations.

The problem is, without any real value standard for paper currencies, all interest rates have to be much higher to reassure investors and give otherwise worthless paper currencies some credibility. This makes anti-inflationary policies, as desirable as they are, economically much more risky in the short run.

Great Britain is a case in point. Even though it is running a huge fiscal budget surplus, it is running a massive trade deficit, which is relatively equivalent in size to a $190 billion trade deficit in the United States. That deficit was fueled in part by inflationary monetary policies followed by Chancellor of the Exchequer Nigel Lawson after the 1987 stock market crash, when interest rates were lowered to 7.5 percent, and the pound fell sharply as U.K. inflation rates suddenly doubled, to more than 8 percent.

If the floating-exchange-rate Keynesians had been right, the falling pound should have produced a trade surplus. Instead, it coincided with the worst trade deficit in U.K. history.

Yet, to fight soaring inflation and support the pound, Mr. Lawson has now had to put interest rates up to 15 percent, and this in turn has made Britain even less competitive.

This illustrates the basic dilemma of purely paper currency systems managed by fallible central bankers. In the long run, Federal Reserve Chairman Alan Greenspan's stated commitment to zero inflation, and against foolish currency-market intervention or pegging is surely the best way to promote U.S. competitiveness.

Unfortunately, in a purely paper money world, Mr. Greenspan has discovered it is very difficult to get real price stability without waging a Phillips-curve interest-rate war against growth, and risking driving up the dollar and the trade deficit.

Mr. Kudlow correctly argues that "the goal of U.S. monetary policy should not be a higher dollar or a lower dollar but a stable dollar," and he salutes "the Fed's effort to maintain monetary discipline by linking the dollar to broad commodity indexes including gold" which he argues "could lead to astonishing results if it continues."

Those results, he says, could be 2 percent or less inflation, interest rates of 6 percent or less, and "American business and capital costs could be sufficiently low and competitive so as to generate a flood of exports and a virtual end to the trade deficit."

But Mr. Kudlow argues the only way that will happen is if the Treasury Department "moves away from willy-nilly currency intervention" and pushes for "an international commodity standard. Exchange rates should be anchored to gold and commodity indexes. This is a prescription for expanded world trade, economic growth, international cooperation and prosperity."

Unfortunately, Mr. Kudlow fails to note that central bankers, finance ministers and their bureaucracies understand all too well that taking such a prescription would be institutional suicide, while monetary instability gives them power and well-paid employment.

This is why the ruble is more likely to become gold-convertible than the dollar or the pound.

Mr. SYMMS. Mr. President, I ask unanimous consent that an article by Keith Bronstein of Glencoe, IL, entitled "Neville Chamberlain Economics" be printed in the RECORD. I think it is significant for my colleagues to read this. When he talks about how for us to think we can solve our trade problems by manipulating the value of the dollar he makes my central point clear. What we have to do is be more competitive, make better goods and services available to export and that will do for us everything that needs to be done.

Mr. President, I also ask unanimous consent that a letter from Prof. Steve Hanke at Johns Hopkins University, dated September 27, to me with reference to the Federal Reserve policy be printed in the RECORD. Dr. Hanke has documented how much our government has wasted on behalf of this misguided policy of currency intervention.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOHNS HOPKINS UNIVERSITY,
DEPARTMENT OF ECONOMICS,
Baltimore, MD, September 27, 1989.

Senator STEVE SYMMS,
Senate Hart, Room 509, Washington, DC.

DEAR STEVE: The Federal Reserve has pursued monetary restraint since May 1988. To date, this has proven to be a prudent policy, since the economy has continued to grow and inflation has moderated. In consequence, the nominal exchange value of the dollar has risen.

The dollar's strength has motivated politicians to claim that our competitiveness is being damaged. This claim is largely unfounded. Our competitiveness depends on real, inflation-adjusted exchange rates, not nominal rates. To appreciate this point, consider that, if our inflation rate fell five percentage points relative to our foreign competitors', an increase of five percent in the nominal exchange value of the dollar would be required to keep dollar's real exchange rate and our competitiveness constant.

To accommodate political pressures, the Federal Reserve has engaged in sterilized intervention on a massive scale. This policy has no lasting effect on exchange rates.

Intervention (the acquisition of foreign currency) requires the Federal Reserve take a speculative position: that foreign currencies will appreciate vis-a-vis the dollar. In other words, it requires the Federal Reserve to gamble that its inflation control policies will fail.

If this type of government speculation were not bad enough in principle, it is very costly. In 1988 the Federal Reserve reported $500 million in losses on foreign exchange intervention. However, the Shadow Open Market Committee points out that the losses are much greater because (1) the Federal Reserve only reports realized losses (Unreported losses on the $23 billion of foreign exchange purchased in the 13-month period ending in July 1989 were about $4.5 billion), and (2) the Federal Reserve fails to report losses on the Treasury's secret Exchange Stabilization Fund.

Allow me to urge you to do everything in your power to convince your colleagues (and the Federal Reserve) that foreign exchange intervention is a misguided and costly policy. In addition, you should insist that the Federal Reserve be required to report all of the realized and unrealized losses from U.S. foreign exchange intervention if it should occur.

With my best wishes, I am

Yours sincerely,

STEVE H. HANKE,
Professor of Applied Economics.

NEVILLE CHAMBERLAIN ECONOMICS

(By Keith Bronstein)

The United States administration's economic policy makers have somehow been mistakenly convinced that the road to economic prosperity is through making exchange rates the principle focus of policy. One need only to look at Great Britain's obsession with the value of the pound, to see the folly in this idea. If all a country sets out to do is to manage its exchange rate, then that economy is destined for trouble.

Exchange rates in a free environment are a reflection of monetary, fiscal and macroeconomic policy, economic trend developments and investments and capital formations strategy with sound responsible exchange rates arriving at efficient levels. Nevertheless, United States administration economic policy makers have chosen to manipulate the exchange rate policy as a panacea for whatever economic problems appear to exist in the world today.

This exchange rate policy can take us into the 1990's on one of two paths. The first path is that of a country with a strong currency, which in turn makes the cost of imports low, reduces inflation pressures and allows our economy to expand vigorously. This is possible with the low interest rates and a strong monetary growth that a strong currency make possible.

The second path and preferably "the road not taken", is that of the dollar debasement. This bumpy road brings with it inflationary pressures, economically strangling monetary growth restraint and high interest rates. All of this will eventually lead to economic stagnation at best and more probably, to a worse-case scenario of a severe contraction. Lacking in the necessary fundamental understanding of economic history, these strategists have chosen to follow this road and will thus fall prey to "history repeating itself" with the most negative consequences.

All of this leads, even the casual observer, to ponder if those in charge of our economy have discussed the following questions. "Has there ever been a time when a nation prospered by pursuing a policy of debasing its currency?" "Are we modeling exchange rate policy after that pursued by economic 'sick men' like Great Britain and our more immediate neighbors of Mexico and Brazil, or, are we trying to copy the economic titans like Japan and West Germany?" "Is there any logic to the arguments put forward by the other G-7 nations at these semi-annual U.S. bashings?"

If, in fact, any of these questions had been asked, they would lead to some tragic conclusions. For just a moment, let's review our recent history with regard to the debasement of currency. In the 70's, the Nixon administration presided over a dollar debasement process. This was accompanied by a rapidly expanding money supply which led to an explosion of inflation. This was then followed by the most severe economic contraction since the Great Depression. On the heels of this collapse, the 70's Carter admin-

istration also pursued a dollar debasement strategy. Again exploding money supply growth and a collapsing dollar, resulted in inflation and ultimately, very high interest rates and another severe economic contraction.

Since 1987, was have been practicing "Dollar Debasement—Part III". This time, however, there is a difference. Now, Federal Reserve officials have refused to play the game. Money supply growth has been held at very constrained levels. By almost any measure, liquidity has grown at the lowest rate in 20 years. Thus, without the complicity of monetary officials, the treasury, and its foreign "bosses", (or the more benign sounding "G-7 Partners") can only lower the dollar by selling dollars. Federal Reserve officials clearly understand that if they pursue a constructive pro-growth, anti-inflation policy, that the market forces will assure the fair economic exchange rate.

This brings us to G-7 and Neville Chamberlain. Reading the reams of public statements that surround these talks, I continue to wonder why U.S. officials seem so unable to grasp economic reality. For example, during the late 70's, our trading partners rightfully accused the U.S. of being the international "engine of inflation" because of our double-digit money supply growth and collapsing currency flooding the world. They maintained responsible money supply growth and were rewarded with low interest rates and very strong currencies. Ultimately market discipline forced much higher interest rates in the U.S. and after a severe economic shake-out, we returned to monetary sanity.

Now, just a few years later, these same trading partners insist that by running a responsible monetary policy which has contributed, along with our firm economic growth, to a strong dollar, that the U.S. is again the "engine of inflation". The fact that Japan's money supply grows at double digit rates, flooding the world with Yen liquidity and European Central Banks follow a similar, although less dramatic policy, makes the U.S. again the villain in the inflation debate. Even a child can see that this is a case of "heads I win, tails you lose". Could it possibly be that our economic policy decisions are being made by someone less astute than a child?

Our trading partners say that we should protect their relative monetary profligacy by bashing our currency so that they can maintain relatively low interest rates with buoyant money growth and booming domestic economies. Then as an added bonus, they have the leverage to purchase U.S. assets at fire-sale prices. These fire-sale prices exist since all U.S. assets become cheaper denominated in Yen and Deutchmarks, et al. This, of course, includes the fact that there are a phenomenal amount of Yen being created and loaned to Japanese businesses and investors at 5 percent interest rates versus much higher rates in the U.S. Is it any wonder that our property and desirable productive assets are being snapped up?

Japanese capital spending is growing at the fastest rate in 15 years. They are investing in all of the productive assets and capital improvements that will assure them control of the world's economic future. Certainly, they are entitled to whatever economic success they achieve, but why are we financing this expansion through our mindless exchange rate policy? Can we really compete if we finance our competition?

How about this awful trade imbalance the G-7 asks? Since 1987, the U.S. trade balance has narrowed to some degree. Since 1985, however, the dollar has been virtually halved against the Yen and our trade balance has improved only imperceptively. Are there some other dynamics at work here? Are we debasing our currency, and subsidizing the economic growth of our international competitors at a tremendous cost, with little or no benefit?

Thus our economic policy makers surely deserve comparison to the famous Prime Minister of Great Britain. Neville Chamberlain lacked vision and understanding of dynamic foreign affairs in Europe between the wars. This lack of vision, understanding, will and the courage to stand up for the right principles, allowed him to be bullied into fatal errors in negotiations with Hitler's Germany.

Now, 50 years later in the arena of internaitonal economic relation, the U.S. has lost its vision, its belief in rational economic thought and clearly its will to negotiate on an equal footing with our G-7 partners. If we fail to quickly get our wits about us, raise our sights and pursue national policies, including the vision to realize that with fundamentally sound monetary and fiscal policy, we must undertake domestic, long-term projects like education and rebuilding our infrastructure, that our standard of living will decline dramatically.

Now is the time to stop subsidizing everyone else's growth at our own expense by bashing the dollar. Instead, we must allow the dollar to seek, in the world market place, a value that is commensurate with economic and monetary fundamentals. If we fail to heed the warnings of the past, then the year 2000 will look very different for the people of the United States. The U.S. runs the risk of matching the rest of the Western Hemisphere with its high external debt, a "junk" currency, sky-high interest rates, a depressed standard of living and all worthwhile property and worthwhile productive assets, owned by everyone . . . but ourselves.

It is not too late to learn a lesson in tactics from Neville Chamberlain's failure . . . but the clock is ticking very fast.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SYMMS. I thank the distinguished Presiding Officer.

IN MEMORY OF FORMER CONGRESSMAN ROBERT ASHMORE

Mr. THURMOND. Mr. President, on October 5, 1989, our country lost an outstanding statesman and dedicated public servant with the death of former Congressman Robert Thomas "Bob" Ashmore. Congressman Ashmore was a respected leader who believed that to be an effective public servant one must serve the people with dedication, honesty, and compassion. It is for this reason that I rise before you today to pay tribute to Congressman Ashmore.

A native of Greenville, SC, Bob Ashmore was born on February 22, 1904. He attended public schools in Greenville County and was graduated from Greenville High School. While a student, Bob Ashmore worked part-time in agriculture, retailing and also was employed as a substitute rural mail carrier. He later attended Furman University where he earned his law degree.

In 1927, he was admitted to the South Carolina bar and opened a law practice in Greenville. In 1930, he entered public service by being elected solicitor of Greenville County. He served in that capacity until 1936 when he was elected solicitor of the 13th judicial circuit. As a circuit court judge during this period, I had the opportunity to observe Mr. Ashmore in court on many occasions. He was an efficient solicitor, and I found him to be extremely effective in this capacity.

During World War II, Mr. Ashmore took a leave of absence from his duties as solicitor to enlist in the Army. He served as a lieutenant colonel from 1942 until 1946, remained in the Reserves, and was promoted to the rank of colonel in 1955.

In June 1953, Mr. Ashmore was elected to the 83d Congress to fill a vacancy created by the death of Joseph Bryson. He served 15 years as the U.S. Representative from the Fourth District before retiring in January 1968. He was a respected Member of Congress and served on both the House Administration Committee and the House Judiciary Committee.

Upon retiring, Congressman Ashmore returned to Greenville County and resumed his successful law practice. He continued to take a leadership role in his community, serving as director, vice president and president of the Greenville Jaycees; president of the South Carolina State Jaycees; a charter member and president of the Greenville Exchange Club; a member and chairman of the Appalachian Regional Planning and Development Commission, and as a member of the Men's Garden Club of Greenville.

Mr. President, our entire State mourns the death of this great American and I feel a deep personal loss in his passing. My wife Nancy joins me in sending our deepest sympathies to his lovely wife, Willie Vance Linthicum (Billy) Ashmore; his daughter, Nancy Vance Ashmore of Columbia; and a sister, Mrs. Claude Eskew of Greenville.

I ask unanimous consent that the following article which appeared in the Greenville News and Piedmont be included in the RECORD immediately following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FORMER CONGRESSMAN ROBERT ASHMORE DIES

(By Dale Perry)

Robert Thomas "Bob" Ashmore, a Greenville attorney who served 15 years as U.S. Representative from the 4th District, died today. He was 85.

Ashmore, who was born Feb. 22, 1904, was first elected to Congress as a Democrat in 1953 and held the seat until he decided not to run for re-election in 1968. He was 4th

District representative longer than any other person in the last 100 years.

Former Gov. Dick Riley described Ashmore as "a political person who was very honorable" and "a man of integrity who served the public well for many, many years."

Riley said Ashmore was a role model for him when he was young. "He was in public office during my formative years, those years when I was taking an interest in government and politics—and I always had a very high respect for Mr. Ashmore."

Riley's father, E.P. "Ted" Riley, also recalled that Ashmore's political career was one that attracted the support of thousands for many years because of his interest in people.

"I often kidded Bob that I was the one who really got him started in his long political career back in the 1930s, when four of us Democrats ran for County Attorney—Bob and I were in a runoff, and he beat me. From then on he served well many years as county attorney, solicitor and in Congress."

U.S. Sen. Strom Thurmond, recalled, "I held court and tried many cases in Greenville County as a judge when Bob Ashmore was the solicitor, and I found him to be very effective," Thurmond said. "I also served with him in Congress, and he was an able member who always upheld the traditions of South Carolina and this great country."

Schaefer Kendrick, who worked in Ashmore's eight congressional races, described him as "truly a congressman who cared about people and using the position to help them." "His life covered a span that saw many drastic changes—the Depression, two world wars—and I'd say he was a man who adjusted to it all very well," he said.

Ashmore, of 100 Manley Drive, was a son of the late John Thomas and Lena Smith Ashmore. He attended public schools in Greenville, graduated from Greenville High School and received a law degree from Furman University.

He began his law practice in Greenville in January 1928. He was solicitor of Greenville County for 1930 to 1934 and then solicitor of the Thirteenth Judicial Circuit from 1936 to 1953. In June 1953 he was elected to the 83rd Congress to fill a vacancy caused by the death of Joseph Bryson. He was reelected to the 86th through the 90th Congresses before retiring in January 1968.

Ashmore served as director, vice-president and president of the Greenville Jaycees. He was instrumental in organizing the State Junior Chamber of Commerce, was first president of the State Jaycees and vice president of the United States Junior Chamber of Commerce.

He was a charter member and past president of the Greenville Exchange Club. He was a member of the Junior Order of United American Mechanics, Odd Fellows, Woodmen of the World and the Men's Garden Club of Greenville. He was a member and former chairman of the Appalachian Regional Planning and Development Commission.

He was a U.S. Army veteran of World War II, a colonel in the Army Reserves, a member of the Reserve Officers Association and the American Legion.

He was a member of White Oak Baptist Church, and had served as a Deacon and Superintendent of the Sunday School. Surviving are his wife, Willie Vance Linthicum (Billy) Ashmore of the home; a daughter, Nancy Vance Ashmore of Columbia; and a sister, Mrs. Claude (Lucille A.) Eskew of Greenville.

Funeral services will be 4 p.m. Friday at White Oak Baptist Church. Burial will be in the church cemetery. Visitation: Thursday from 6:30 until 8 p.m. at The Mackey Mortuary.

Memorials may be made to White Oak Baptist Church Renovation Fund, 1805 Wade Hampton Blvd., Greenville 29609 or to the charity of one's choice.

MEMORIAL TRIBUTE TO MAJ. CHARLES JEROME "JERRY" HUNEYCUTT, JR., USAF

Mr. SANFORD. Mr. President, Arlington National Cemetery is the final resting place of this Nation's most honored heroes. Every day that we conduct the business of the Nation in this Chamber, another hero is laid to rest amongst the rolling green hills just across the Potomac. Monday, October 30, 1989, is no exception. Maj. Charles Jerome "Jerry" Huneycutt, Jr., USAF, will be laid to rest, a casuality of the Vietnam war.

Major Huneycutt was born in Morehead City, NC, on June 20, 1943. As the son of a Methodist minister, many North Carolina towns were his home. Charlotte, NC, was his last official place of residence. Like his mother, Mrs. Alberta Huneycutt of St. Petersburg, FL, he was a graduate of Duke University. As an Air Force first lieutenant he was listed as missing in action in Vietnam on November 10, 1967.

Jerry was one of 60 North Carolinians listed as MIA in Southeast Asia. The wait is over for his family and friends. The anxiety caused by uncertainty turns to the pain of loss and finally yields to the healing that time will bring.

I wish to express my deepest sympathy to the family of Maj. Jerry Huneycutt. Some years ago I had the honor of being on the program with Jerry's mother at a ceremony commemorating the 25th anniversary of the U.S. Air Force. She has endured these 22 years with great strength and dignity. There are thousands of other families across this Nation that continue to endure what she has since the fall of 1967. As we remember Jerry Huneycutt today, we should not forget the other Americans who are still unaccounted for in Southeast Asia.

I join the family and friends of Maj. Jerry Huneycutt, Jr., in their tribute to his memory and his dedication to our country. North Carolina is proud of this native son.

A SATELLITE TRACKING SYSTEM MAY HELP PREVENT OILSPILLS

Mr. PELL. Mr. President, I would like to share with my colleagues a suggestion by Trudy Coxe, executive director of Save the Bay in Rhode Island. Her suggestion, which has been embraced by Rhode Island's congressional delegation, is to use satellite tracking to help prevent oilspills.

I am confident that we all share her enthusiasm for a demonstration of this tracking system, called a global positioning system [GPS]. In addition to seeking funding for a demonstration, members of the delegation are encouraging the Coast Guard to conduct its first trial of the system in Narragansett Bay.

All members of the delegation were on hand during the Coast Guard's response to a spill in June when the tanker *World Prodigy* ran aground on Brenton Reef, off Newport, RI. The response was magnificent and we were fortunate, but we must do what we can to prevent another spill and the threat of a future environmental disaster.

Mr. President, I ask unanimous consent that the text of an op-ed piece by Trudy Coxe, entitled "Eyes Above Will Halt Oil Spills Below," from the Providence Sunday Journal of October 22, 1989.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Sunday Journal, Oct. 22, 1986]

EYES ABOVE WILL HALT OILSPILLS BELOW

(By Trudy Coxe)

The devastation wreaked by oil spills from Prince William Sound to Narragansett Bay continues to grab the headlines. We can't help but ask ourselves whether Exxon's clean-up or the punishment of a Greek tanker captain has gone far enough to satisfy our deep sense of offense at the violation of America's fragile coast.

Unfortunately, even as we talk about these matters, another spill, under the same circumstances, could be taking place off Brenton Reef. For all the outcry for more equipment, clean-up crews and double-hulled tankers, the key principle is being overlooked: Prevention.

Prevention in this case is eliminating the navigational errors that were the common denominator in all of this year's disturbing accidents. Fortunately, the means of prevention are at hand, through the sophistication of modern technology. These are satellites, now orbiting the earth, which can be used to track ships to within 10 yards of where they are sailing, and alert a helmsman and the local Coast Guard station when a ship is heading into troubled waters.

In April this year, in response to the *Exxon Valdez* disaster, the Coast Guard unveiled a research study done in Groton, Conn., which recommended a state-of-the-art spill prevention system that would employ military satellites in what is called a Global Positioning System (GPS). The Coast Guard's conclusion was emphatic in recommending that this high-tech satellite system should be employed to ensure against further spills.

Put simply, the system is designed to set off bells and whistles, figuratively, on the bridge of the ship and at the local Coast Guard station when a ship is beginning to stray into a dangerous area. Monitored by three separate satellites, the movement of the tanker is constantly relayed to the ship and Coast Guard base. If the ship begins to stray off course, the Coast Guard and pilot

house are immediately alerted, and assistance may be radioed out to the vessel in order to halt it before there is an accident.

Whether a pilot is or is not aboard, the helmsman knowledgeable of the waters or not, or the captain lost in a fog or drunk below deck, the warnings are incapable of being ignored, except by premeditated choice.

The Defense Department has invested $12 billion in satellites for this system. Like a radio signal to which millions of people may listen at the same time, the satellites have an unlimited capacity. They may be used as navigational beacons for water, land and/or air traffic monitoring simultaneously, as the demand warrants.

Because these satellites are available, the tracking system can be implemented at a fraction of the cost of radar systems, with much higher efficiency. Current radar systems cost about $50 million per Coast Guard station over 10 years, while the new GPS system would cost only $5.6 million over the same span of time. The cost of the shipping industry is also minimal: A mere $26,000 for tracking equipment per vessel guarantees the safety of a multimillion-dollar ship and our invaluable natural resources.

Since the time Save the Bay discovered the existence of the Coast Guard's proposal, and its inspiring viability and potential, we have pushed to have a demonstration of the system conducted in Narragansett Bay. The tracking equipment necessary is being produced in the United States, and manufacturers are eager to show how well their wares can combat future oil spills.

Prototypes of the GPS system have been used to monitor barges dumping sludge off the Eastern seaboard, and the upgraded system is being pursued by the Federal Aviation Administration for safer air traffic control.

Now the decision rests with Congress. Rhode Island's congressional delegation must find the necessary funding to conduct a demonstration of the system in Rhode Island. If the trial proves successful, Save the Bay would urge that Narragansett Bay become the first port in the world to utilize this satellite tracking system. A move is under way to bring the demonstration to Rhode Island.

Senator Claiborne Pell has written to the Coast Guard Commandant, Adm. Paul Yost, expressing interest in having the Rhode Island coast be the site of the test run. Senator John Chafee and Representative Claudine Schneider are attempting to include language in oil spill prevention bills in their respective houses of Congress which would provide the estimated $500,000 a demonstration would cost, as well as having the satellite navigation system featured in further research and development work called for in the separate bills.

Working with Schneider is Rep. Ron Machtley, an avowed supporter of satellite tracking, who has also written directly to Admiral Yost to urge him to test the GPS in Rhode Island waters.

As we discovered last June, even with an incredibly rapid reaction and properly functioning equipment—described by Robert Duce, head of the Graduate School of Oceanography at the University of Rhode Island as "a perfect response to the spill"—we still found our shores awash in fuel oil that skimmed over the booms.

In the Delaware Bay, a pilot well acquainted with the area was aboard when the spill occurred. In Alaska, scientists later projected that, even with a double-hulled tanker, the Exxon Valdez disaster would still have occurred. Prevention, not measures taken after the fact, is the key to the navigational error factor that can solve the oil spill puzzle.

After the World Prodigy spill, many of us rolled our eyes to heaven to despair over this frightening threat to our greatest natural resource. Now, with optimism, and in hopes of never experiencing another nightmare in Narragansett Bay, we should again turn our eyes to the sky—because that is where the solution truly lies.

HONORING THE MEN OF FIRE DISTRICT NO. 1, OCEAN PARK, WA

Mr. GORTON. Mr. President, in recent weeks we have watched the heroic efforts of Americans helping Americans in the aftermath of several natural disasters, Hurricanes Hugo and Jerry, and the San Francisco earthquake. It is heartwarming to watch and reaffirms our faith in one another. If there is a silver lining to these tragedies, it is that they bind us together as a people, differences of color and creed and geography forgotten as we strive toward a common goal.

But, Mr. President, one need not await a disaster of the magnitude of a hurricane or earthquake to witness the acts of heroic Americans. Many smaller scale incidents occur in this country that never gain wide media attention, though the actions of those involved are no less deserving of accolades. I would like to recount one such story, in homage not only to those involved, but also as a tribute to the thousands of other unsung heroes across America whose efforts have saved lives and averted disaster.

On August 8 of this year, near Ocean Park, WA, six teenagers were swimming. Amy Pearsall, Jayme Sasse, Stacey Tiffaney, Nicole Claybaugh, Sean Boland, and Heather Williams suddenly found themselves being swept out to sea by a strong undertow.

An observer, Melody Killens, who is also to be commended, saw the danger and swam out to assist. Unfortunately, the strength of the undertow prevented her from rescuing any of the group, and in fact, subjected Ms. Killens herself to the danger of drowning.

The next person to join in the rescue attempt was Mr. Norman Thomas, the grandfather of one of the teenagers. Mr. Thomas, too, was overcome by the power of the sea, and soon needed rescue as well.

Finally someone notified Fire District No. 1 of Ocean Park of the crisis. Fire Chief George Hill and fireman Charles Sexton were the first to arrive on the scene. Mr. Sexton immediately swam out a half mile to those endangered, while tethered to a rope held by Chief Hill. In two trips he managed to rescue three teenagers and Ms. Killens, though the rope broke once and his foot became entangled in it another time. Both incidents contributed to the panic of those being rescued, thus making that rescue even more difficult.

In the meantime, two more members of Fire District No. 1, Tom Downer and Dean Byrd, arrived with a skiff and managed to save two more of the teenagers. The last teenager was able to swin back on her own.

By this time the Coast Guard had arrived, and managed to pull Mr. Thomas from the surf. Tragically, the ordeal proved too strenuous for him, and he later died at the hospital.

Mr. President, the courageous men of Fire District No. 1 in Ocean Park, WA, have received commendations for their actions from the Pacific County Commissioners, and from Washington State Gov. Booth Gardner as well. It is praise well-deserved, and earned at great personal risk.

I ask today, Mr. President, that we in the Senate also recognize and commend these heroic actions. In so doing, we honor not only the bravery of four men from Washington State, but also their many counterparts who, unsung and unrecognized on a national level, have risked the ultimate sacrifice to help their fellow Americans.

Chief Hill, Mr. Sexton, Mr. Downer, and Mr. Byrd: On behalf of a grateful and admiring country, we salute you and we thank you.

ASSASSINATION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that an exceptional, insightful, blunt, and truthful editorial from the Rochester Democrat and Chronicle be put in the RECORD at this point. The headline says it all: "No Shortcut to Democracy—Assassination Is No Way To Advance American Interests in the World."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Rochester Democrat and Chronicle, Oct. 22, 1989]

NO SHORTCUT TO DEMOCRACY—ASSASSINATION IS NO WAY TO ADVANCE AMERICAN INTERESTS IN THE WORLD

The United States has a right and a duty to support the democratic ideals of the victims of tyranny.

Of course, that's easier said than done. An effective policy—one that supports but does not instigate revolution—has long eluded American presidents.

New ideas are always welcome. But softening the ban on assassinating foreign leaders, suggested last week by CIA director William Webster, is an idea that's neither new nor welcome.

In the finger-pointing rituals after the failed coup in Panama two weeks ago, some Bush administration officials blamed U.S. indecisiveness on the no-assassinations order.

The alibi goes like this: CIA officers backed away from discussions with the coup

plotters for fear that Gen. Manuel Noriega might be killed in the revolt.

In an interview with The New York Times, Webster said that he'd like to see a less strict interpretation of the ban—so intelligence agents would be free to offer advice to would-be revolutionaries.

That's a smokescreen, plain and simple. In interviews with The Washington Post last week, two of Webster's deputies said the ban did not hinder operations in Panama.

The order has led to a "proper caution" on the part of agents, said Richard F. Stolttz, the CIA's deputy director for operations.

Yes, the order is restrictive: "No person employed by or acting on behalf of the United States government shall engage or conspire to engage in assassinations."

But American hands ought to be tied when it comes to someone else's revolution. Giving American agents the right to pull the trigger would only tempt presidents to "terminate" their enemies in the name of democracy.

Remember that the ban was imposed, not just in reaction to reports of CIA plots to kill Cuban leader Fidel Castro, but in response to successful U.S.-backed killings of Chilean President Salvador Allende and South Vietnamese President Ngo Dinh Diem. Neither advanced American interests, let alone democracy.

When popular opposition to a dictator is deep enough and broad enough, citizens will rise up and remove him—often by firing squad.

The U.S. should support those efforts, but not try to lead them.

When U.S. bullets outrun the natural pace of a revolution, the result is likely to be resentment and backlash—and more tyranny.

Assassination is a bad idea: There is no shortcut to democracy.

The trouble isn't that the CIA can't give advice. The trouble is that agents often can't distinguish between disgruntled and democratic opposition. And too often they are serving a president who isn't willing to wait for nature to take its course.

HURRICANE HUGO AGRICULTURE RELIEF ACT

Mr. HOLLINGS. Mr. President, I rise to address the urgent needs of farmers and rural communities that suffered catastrophic losses from Hurricane Hugo. I want to let the farm community know that Congress has not forgotten them.

Today I would like to describe legislation that I have drafted to meet the needs of our farmers. I am working to have this legislation included in a broad, bipartisan package that the Senate will soon offer to address the natural disasters that have recently hit our country.

Permit me to begin by briefly enumerating the four major components of the agriculture provisions that I have drafted: First, amendments to clarify the Disaster Assistance Act of 1989 to ensure that relief payments will be forthcoming to Hugo-impacted farmers; among these amendments is a provision clarifying that fall and spring vegetable crops will not be averaged together in determining eligibility for disaster payments; second, a cost-sharing program to assist orchard owners in clearing and replacing uprooted trees; third, provisions authorizing the transfer of funds from the Federal Emergency Management Agency to the Emergency Watershed Protection Program and to the Emergency Conservation Program; and fourth, expansion of funding authority for Agriculture Extension Service in disaster areas for purposes of providing technical assistance, training and counseling.

Quite frankly, Mr. President, the media have focused almost exclusively on Hugo's impact on urban areas such as Charleston, Myrtle Beach, and Charlotte. That is understandable; it is logistically easier to report from cities, and, of course, millions of people around the country feel a special attachment to Charleston and were hungry for news about the damage there. But, in the process, the media missed a major chapter of the story of Hurricane Hugo, which was the tremendous destruction wrought by the storm across vast stretches of inland rural areas. At farm after farm, crops just ready for late-summer harvest were completely wiped out. And more than 20 largely rural counties in South Carolina, many of them already cursed with extensive poverty and unemployment, were dealt a catastrophic, long-term economic setback by Hugo.

Mr. President, to date, help to rural areas in South Carolina has been excruciatingly slow and inadequate. Many farmers in particular are on the brink of financial catastrophe. They have gone into debt to finance their inputs: seed, machinery, fertilizer, labor, you name it. And now their output has been cruelly wiped out. I emphasize that we are talking about good, extremely hard-working people. They want a helping hand, not a hand-out. They want and deserve a fair chance to get back on their feet and to keep their land and livelihoods.

Mr. President, farmers represent an absolutely vital component of South Carolina's economy. Let me give you some idea of the farm losses that were inflicted on September 21 and 22 as Hugo raked across the State. Bear in mind that not many crops, or even trees for that matter, can withstand 135 mile-per-hour winds. Vast acreage of vegetables were wiped out. Prior to Hugo, cotton farmers were expecting one of the best crops in years, but across the length and breadth of some 100,000 acres, Hugo plucked the cotton right out of the bolls. Soybeans, corn, beans, tomatoes, and cucumbers fared no better—and the list goes on.

Losses in commodities are estimated to be as high as $92.7 million. Some $3 million worth of livestock was destroyed. Damage to farm buildings accounts for another $200 million, while damage to machinery is estimated at $14 million. However, the immediate farm losses do not begin to describe the true economic impact. The shock waves ramify across every segment of the rural economy.

Mr. President, my agriculture proposals will address many of the most pressing emergencies facing the agricultural community. However, I make no pretense that this bill will be a panacea for our hard-hit farmers. Quite apart from the Hugo disaster, America's farmers need a long-term commitment by Congress to addressing their needs, beginning with reform of the Crop Insurance Program and the Farmers Home Administration.

This summer, the distinguished chairman and ranking member of the Senate Agriculture Committee worked diligently to fashion a disaster relief package that covers farmers all across the country. Under the Disaster Assistance Act of 1989, farmers who suffered substantial losses from Hugo will receive payments that will keep their farms viable until next year's harvest. My proposal will clarify the provisions of the Disaster Act to ensure that South Carolina's farmers receive their urgently needed payments.

The administration interpreted the Disaster Act as excluding payments on repeat crops of the same commodity in the same year. For instance, our vegetable farmers in South Carolina often plant two crops, one in the spring and one in the fall. Both crops require capital, and these farmers should get equitable treatment under the Disaster Act of 1989. My proposal clarifies that each normal harvest period in Hugo-impacted areas will be eligible for disaster payments, provided that acreage planted in subsequent crops shall not be planted on the same acreage as the first crop.

This proposal also clarifies that "related conditions" determining disaster-relief eligibility will include hurricanes for purposes of granting assistance for orchards. It also ensures that payments will be made on tobacco losses for tobacco that farmers had already taken to warehouses to be auctioned.

The Disaster Assistance Act of 1989, while reasonably generous in many respects, does not adequately address orchards devastated by a natural catastrophe such as Hurricane Hugo. Some 2,500 acres of peach trees were leveled by Hugo, and the pecan crop was largely lost. In fact, the vast majority of trees in the 2- to 5-year age range were literally ripped from the ground. Accordingly, I have come up with a plan to authorize a program through which the Secretary of Agriculture will cost-share to help orchardists remove uprooted trees and other debris and to replace the lost stock from the orchards. Under this plan, the Government would pay up to 75

percent of costs associated with clearing and replanting.

Yet another major problem in Hugo's aftermath has been the damage done to South Carolina's watersheds. USDA has estimated that the need for assistance under the Soil Conservation's Emergency Watershed Program is $100 million. The post-Hugo need in South Carolina alone simply overwhelms the capacity of this program under regular appropriations. It is imperative that we cut through the redtape preventing immediate restoration of the damaged watersheds, which currently pose a major health and safety danger.

In the aftermath of Hugo, the Soil Conservation Service declared an exigency situation in 20 counties in South Carolina. SCS has identified at least 2,385 miles of water courses or major floodways in these counties that are clogged with fallen trees and debris. In addition to the inland destruction from Hugo's powerful winds, the storm also brought in a 17-foot tidal surge that flooded our low-lying coastal areas. Following the hurricane, we experienced the highest tides of the decade, and subsequent rains have further saturated the State. To add to the problem, sewage from the many broken lines is spilling into these waterways, and the waterlogged soils and floodways are fast becoming a fetid breeding ground for mosquitoes and other insects.

Under the able direction of Mr. Billy Abercrombie, the State conservationist in South Carolina, SCS has done work in as many areas as possible. However, they have now simply run out of money. I am sad to report that, 1 month after the hurricane, a bureaucratic logjam is holding up new funding and is preventing the hard-working people of the Soil Conservation Service from doing their job. It simply compounds the tragedy of Hugo to deny SCS—an agency with great expertise and ability—the opportunity to remove these threatening situations simply because the Federal Government cannot cut through redtape in an emergency situation.

It is precisely the purpose of my proposal to cut through this tape by allowing the Federal Emergency Management Administration to allocate a portion of its funds to do work through the Emergency Watershed Progam. This provision also allows FEMA to divert some of its funds to the Emergency Conservation Program, which is a program that helps farmers clear debris out of their farmland and to help prevent further erosion to damaged farmland. Estimates for need under the Emergency Conservation Program are $29 million for areas hit by Hugo. Again, this need greatly overwhelms available funds in the program, and the act enables FEMA to help out with the situation.

Finally, this act authorizes additional funds for the Extension Service in Hugo-impacted areas for purposes of assessing damage in rural areas and for providing counseling services. The Extension Service of South Carolina, which is run very ably by experts at Clemson University, has an excellent track record of providing technical expertise and advice to our farmers. Over and over again I hear our farmers praise the Extension Service and its ability to guide farmers in the right direction. In this time of our greatest need, the Extension Service experts at Clemson can provide invaluable services to our stricken farmers, but first we must provide the funding to make this possible.

Finally, let me speak to the issue of the Farmers Home Administration. Regrettably, the problems of FmHA have impacted all American farmers, not just those hit by Hugo. I am hopeful that Congress will soon address these problems.

Of course, we all want our Government to be accountable for the money it spends. Accordingly, our FmHA loan programs are structured to require extensive proof that the loan recipient is truly in need of the loan. However, this whole process has not accommodated the immediate and urgent needs of our farmers in the wake of a disaster of the magnitude of Hugo.

I have heard from a farmer in Rock Hill, SC, who spent weeks running around attempting to meet all the paperwork requirements for a FmHA loan. He finally finished the initial paperwork, and when he turned it in they gave him yet another stack of paperwork. Meanwhile, rains are soaking his exposed farm equipment as well as his barn, which is roofless courtesy of Hugo. He has had to drive to York several times to meet with FmHA officials—time away from the work on his farm. And he is lucky, relatively speaking, because he has a car to drive to all the places he is directed by FmHA. Many people lost their vehicles in the hurricane.

Meanwhile, our farmers are becoming frustrated and resentful of FEMA officials boasting on national news shows about people being able to get a $10,000 grant just by filling out a one-page application. I don't blame our farmers one bit for being angry. Congress has a profound obligation to see that the problems at FmHA are fixed, so that victims of the next Hugo-like disaster do not have to suffer the same runarounds and delays.

For the time being, however, let's keep our eye on the ball, which is providing urgent relief to the farmers who have been devastated by Hugo. I expect a bipartisan comprehensive relief bill to be available within the next week. I urge my colleagues' support for this important relief bill. And, by all means, let us act as expeditiously as possible.

PESTICIDES AND FOOD SAFETY

Mr. CRANSTON. Mr. President, yesterday the Bush administration announced its proposal to reform our Nation's pesticide and food safety laws.

While pesticide and food safety is a national issue, nowhere would the impact of the Bush administration's proposal be felt more profoundly than in the State of California.

As the Nation's leading agricultural State producing more than 200 different commodities, California uses the largest percentage of the agricultural chemicals sold nationwide.

California has one the most stringent pesticide programs in the country, with tougher standards than those of the Federal Government.

In 1986 California voters overwhelmingly approved proposition 65 to require that the public be warned about exposure to chemicals which cause cancer and birth defects when levels exceed "no significant risk." I strongly believe the public is entitled to this information.

The Bush administration proposal, however, would preempt California's law. I strongly believe the preemption is unjustified.

In December 1988 a White House Working Group reviewed the economic impacts of proposition 65 and concluded that the costs of compliance have been minimal and that industry has greatly overestimated the costs for out-of-State food producers. The Working Group also concluded that very few products contain amounts of chemicals sufficient to require warnings. Moreover, since the Working Group report was issued, a number of other concerns about proposition 65 have been resolved, such as the decision not to require warnings for vitamin A in milk.

I want to advise my colleagues that I cannot support the Bush administration's new pesticide proposal. It is not in the interests of California.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, as I have done every day that we have been in session since March, I rise to inform my colleagues that Terry Anderson's ordeal has not ended. In fact, today marks the 1,686th day that Terry Anderson has been held in captive in Beirut. More, today is his 42d birthday.

Terry Anderson is in his fifth year of captivity. In these years, his father and brother have died. He probably does not know this. Three months after he was taken hostage, his daughter was born. He has not seen her.

An excellent journalist, a robust young man, Terry Anderson has been kept hidden, often chained to a bed and blindfolded, abused mentally and physically. This we know from other hostages who have been freed and from a handful of reports.

Mr. President, this must not continue. On this, Terry Anderson's 42d birthday and "National Hostage Awareness Day," we will keep Terry Anderson in our thoughts and prayers; we must also resolve to bring him home.

I ask unanimous consent that a recent article and chronology on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANDERSON ENDURES 5TH CAPTIVE BIRTHDAY

AMERICAN HOSTAGE HAS BEEN SILENT FOR YEARS

(By Christine Lata Rook)

Terry Anderson used to tease the Rev. Lawrence Jenco, saying that he was lazy because Anderson's self-winding watch would run down when Jenco wore it during the day.

Anderson managed to keep his sense of humor, despite years of harsh captivity, said David Jacobsen, who spent 16 months in captivity somewhere in Beirut with the Former Batavia resident in 1985 and 1986

"The only way you can survive is with a sense of humor," Jacobsen said in a recent interview. The former director of the American University of Beirut was released Nov. 2, 1986, a few months after he was kidnapped.

It's been almost a year since the world has heard from Anderson, who was chief Middle East correspondent for The Associated Press when he was kidnapped March 16, 1985. Since then, Anderson's sisters, brother, wife, and friends have had to rely on a few letters, video tapes and scraps of information relayed by other hostages who have shared the dismal rooms in which Anderson is held prisoner—chained and stripped to his underwear.

He will celebrate his 42nd birthday—his fifth in captivity—on Friday.

Anderson, a man who friends say always knew what he wanted, can do nothing. Only his humor and perseverance keep him going.

"He's a very persistent, resilient, gutsy guy. He does not give up easily," said the Rev. Benjamin Weir, who shared a windowless room with Anderson for two months in 1985. Weir was released in September 1985 after 16 months.

The image most Americans have of Anderson is from the series of stern-looking photographs seen on television and in newspapers during his years of captivity. His sister, Peggy Say, who moved from Batavia, Genesee County, to Kentucky last year, has worked tirelessly to keep his cause alive.

But most people in his home town of Batavia recognize Anderson's name from news reports, but few other than his Beirut coworkers know his ambition and compassion.

"He was a reporter's reporter. He was the best of the best," said Bonnie Anderson, an NBC reporter when Anderson was kidnapped.

She cried during a recent interview as she recalled how Anderson covered the terrorist bombing of the U.S. Marine barracks that killed 241 on Oct. 23, 1983. He spent 1½ hours collecting names and telephone numbers of dazed soldiers. "When he was done with his story, he called hundreds of Marine families to let them know their sons were OK."

Anderson had the ability to remain calm, even under heavy shelling and gunfire, his co-workers said.

During the Israeli invasion of Lebanon in the summer of 1982, Anderson was brought in from South Africa to assist in reporting, said Nick Tatro, 42, former Beirut bureau chief.

A building had collapsed in an air raid and Anderson and another reporter were interviewing survivors when two car bombs went off.

Despite the danger. Anderson searched for his comrade and helped console the man, who had been interviewing a pregnant woman when the blast cut her in half, Tatro said. "With bombs falling all around you, if you're not pretty well wrapped, you're going to fall apart in a hurry."

Beirut tested everyone's ability to remain calm.

"You could have a fire fight break out over a parking space," said Bill Foley, 34, an AP photographer who lived in the same Beirut apartment building as Anderson. "It seemed all so senseless. People were being killed by snipers on the way to the grocery store."

But Terry Anderson and other reporters felt they were there for a reason.

"The slaughtering wasn't going to go away once we left. It would go unnoticed," Bonnie Anderson said.

Terry Anderson was a victim of opportunity for the Muslim extremist group Islamic Jihad. He was a promiment American in West Beirut, highly visible and easily accessible.

"Before Terry was taken, we all felt safe—that we were telling their story," Foley said. "Of course we were all wrong."

Once Anderson was kidnapped, the feelings changed and AP pulled its American staff out of Beirut, he said.

"If it wasn't Terry, it would have been somebody else," said Don Mell, 27, who was with Anderson when three gunmen and their driver forced him into a green Mercedes. "It was a roll of the dice."

The kidnapping that morning on the Rue Graham was well choreographed, recalled Mell, an AP photographer and photo editor in Beirut at the time.

The Mercedes had passed Anderson's car twice that morning, but Mell could only see a driver and therefore didn't think much of it as they made a few stops after playing tennis.

The kidnappers forced Anderson out of his car at gunpoint and into the Mercedes, leaving Mell shaken and confused in the street.

"I didn't understand why I was left behind," said Mell, who now works for AP in New York as a photo editor. "Later I learned they had picked him as the kidnap victim and I was picked as the witness."

Neither Anderson's bosses nor his coworkers saw him as a risk-taker—no more than anyone else who chose to be a foreign journalist in war-torn Lebanon.

"All of us realized there was no story worth being killed for," Mell said. But Anderson always wanted to write the perfect story, Bonnie Anderson said—with every word being the proper and correct word in the right place, with all the facts straight and a little heart in it."

"There was no end to his curiosity," Foley said. "The more he knew, the more he wanted to know. It was part of the reason he was good."

Anderson always seemed to want to improve his lot, said Richard Pyle, who worked in the Tokyo bureau in 1979 as an editor at the time Anderson was there. "Terry's a guy who was determined to make something of himself."

As an editor, Anderson was punctual and worked his staff hard, associates said.

"He beat you over the head if you didn't do it right but made you feel good once it was done right." Mell said.

"He had no tolerance for fools or jerks," Pyle said.

Anderson was born in Lorain, Ohio, a hard-working steel town just west of Cleveland on the Lake Erie shore.

"They struggled like the rest of us," said Anderson's cousin, Peggy Craig, of nearby Sheffield Village.

Anderson's father, Glenn Sr., drove a beer truck for a time and then took a job with the U.S. Steel mill that dominates the northeast section of the city of about 75,000.

Working-class bars still dominate 28th Street near the mill. Steel workers gather at places like Biggy's Pub to drink and talk politics.

It was in the same neighborhood that Terry's grandfather, Gustav Anderson, carved out a new life as a teen-aged Swedish immigrant. The grocery store he ran has been replaced by a duplex, but the oak tree that grew in front still stands.

Anderson's 66-year-old cousin, Jim Anderson, of Lorain, said the family was taught to live by a few basic rules.

"You give 'em eight hours good work for eight hours pay, and if you can't be loyal to the man you're working for then quit," he said.

Glenn Anderson carried those blue-collar values with him when he and his wife, Lily, moved Terry and his two older brothers and sister to Albion, in Orleans County, when Terry was about 9. The Andersons had another daughter and son after they moved to Albion.

Anderson's father drove a tractor-trailer for a Waterport egg farmer and his mother waited tables at what is today the Elks Lodge on Route 98.

The gray house where Anderson lived while in elementary school is now a flower shop, but Lynn Miller, 44, Anderson's childhood friend, still remembers the war games they used to play in the vacant lot in back.

"We always played war and capture the flag and cowboys and Indians," said Miller, who lives on West State Street.

"In the summer we would walk down the railroad tracks and go swimming in one of the quarries."

Anderson had a toothy, friendly smile, friends say. And while he was rough and tumble, he didn't get into fights.

The family moved to Batavia the summer of 1960 as Anderson prepared to enter eighth grade.

From a distance, he seemed quiet and studious. Those closer to him saw Anderson as a comic.

"He created the Royal Order of the Mushroom or something and had a bunch of guys running around with underwear on their heads," said Gary Heale, of Elmgrove Road in Greece, who was in Boy Scouts with him.

Anderson's closest friend, Mark Abrams, who recently moved from Batavia to Fort Payne, Ala., remembers a young man who hungered for knowledge.

"He was the kind that carried a little pocket (size) book when everyone else carried slingshots. No matter what happened, it always seemed like he was two or three pages ahead of everyone else," Abrams said.

From the time he was in seventh grade, Anderson wanted to be a Marine, Miller said.

Anderson graduated from high school in 1965 and joined the Marines. It was there that he got his start as a journalist in 1967 as a reporter for the Armed Forces Radio and Television Service in Japan.

Anderson met his wife, Mikki, there in 1967 and they married in 1968.

He went back to the states in 1969 for training before being sent to Vietnam, where he served as a combat correspondent.

Friends say Vietnam strengthened Anderson, and his training there, if anything, will bring him through his current ordeal.

"He's probably clinging to a greater good. I don't think he's focused on himself because if he does, he dies," said Dale Dye, 45, who trained Anderson for six months in Da Nang.

In 1970, his final year in the Marines, he was a public affairs officer at the recruiting station in Des Moines, Iowa.

"He so hated that job," said Mikki Anderson, speaking in a telephone interview from her Tokyo home.

Before leaving the Marines as a staff sergeant, he already was working for the former KRNT Television and Radio. In 1971, he enrolled at Iowa State University in Ames.

Anderson chose a double major in political science and journalism/mass communications.

University adviser Jack Shelley remembers Anderson as determined, with a sense of purpose. "When he came in, it was strictly business."

Anderson was older than his classmates, said a professor, Lorraine Wechsler, who now heads the science writing program at the university. He said he wasn't the best but he was an A student, she said. And she knew he would do well.

While others covered campus activities, Anderson interviewed a parole officer in Des Moines and wrote about justice, Wechsler said.

Anderson graduated in May 1974 and joined the AP in Detroit on temporary assignment. He worked for six months at the *Ypsilanti* (Mich.) *Press* and then returned to the AP, where he was promoted in March 1976 to the foreign desk in New York. A month later, his daughter, Gabrielle, was born.

In January 1977, he was transferred to the Tokyo bureau as a reporter and editor.

"We always talked about going back to Japan," Mikki said.

Anderson had studied hard to learn Japanese, and although he wasn't fluent, she said, it was part of the reason he was chosen for the Tokyo bureau.

Roy Essoyan, 70, the former Tokyo bureau chief, remembers Anderson as capable. "He looked forward to becoming a bureau chief somewhere and moving up the ladder of life."

In September 1981, Anderson and his family moved to Johannesburg, South Africa, where he worked as news editor. A little over a year later, he was transferred to the Beirut bureau, and was named chief Middle East correspondent a year after that.

Anderson had wanted the challenge of Beirut and decided to take the job partly because the stories were hot and partly because of his dislike for South Africa, where his Japanese wife and daughter were classified as honorary whites.

Anderson's daughter Gabrielle has always been important to him, Mikki said.

"He would buy for her some interesting children's books," Mikki recalled from her home in Japan. They often went on family outings to the zoo or museums.

Anderson was looking for a challenge in Beirut, Mikki said. "He really wanted to go. . . ."

Mikki and Gabrielle followed in November, but the bombings and violence frightened them.

"If they not fight, that's good . . . It's a beautiful country (Lebanon) but they fight."

In August 1983, Mikki and Gabrielle were evacuated to Cyprus for a couple of weeks. They were evacuated again in February 1984. Gabrielle had been out of school for about a year because of the destruction, Mikki said. The fighting did not look like it was going to cease, so the two went to Japan in April for the start of the school year.

Anderson stayed because it was his responsibility, she said. "I don't think he enjoyed it but he had to—(because of) his job."

To cope with the stress, he played poker, tennis, jogged and cooked. Sometimes, he simply worked harder, his associates said.

"We would drink a lot. We would party a lot. We would play poker once a week," said Bonnie Anderson.

They would turn up Linda Ronstadt to drown out the shooting and spend hours playing chess and double solitaire.

His friends say he was happy—that he had found himself, and hoped to head a major bureau somewhere.

After Mikki and Gabrielle had been evacuated from Beirut a second time, Anderson asked Mikki for a divorce, she said.

"I can't understand, we come back to Japan . . . waiting for his transfer to someplace else. He said he (would) not come back to me. . . . (He didn't give any reason)."

She said he had stopped in New York City in the spring of that year to ask for a transfer out of Beirut.

She said she found out a year later that Anderson had another daughter, by a woman named Madeleine Bassil, who had worked in Beirut with Bonnie Anderson monitoring radios. She and Terry had started seeing each other in 1984, Bassil said in an interview several years ago. Bassil, contacted through an intermediary, declined to be interviewed because she believed it might jeopardize Anderson's safety. A year ago, she made a videotaped plea for his release. The tape showed their daughter, Sulome Teresa.

Anderson has never seen Sulome. He was snatched off the street in Beirut three months before her birth.

After 4½ years in captivity, Anderson is fighting feelings he has been forgotten, Bill Foley said. Former French hostages have relayed that message, he said. "He's angry and he's mad. I think by and large, his profession let him down. There are people in this country who don't know who he is."

Most frustrating to Anderson, Jacobsen said, is not being able to contact his family.

"We knew where we were," he said. "But our families had absolutely no knowledge of us."

Anderson's last contact with the world was a videotape he made in late October 1988.

Anderson's family said he looked strong and determined in the tape, which was released a year ago.

His sister, Judy Walker, 34, of Ocala, Fla., said his faith will carry him. "He has a belief in God and a belief in himself." Peggy Say declined to be interviewed.

But after 4½ years of yellow ribbons on posters and prayer gatherings, it is still easy to find people in his native city of Lorain, Ohio, who have never heard of him and those who have heard of him but don't care.

To many, he is a face on a poster or a name in the news.

Weir, Jacobsen and others who have spent time in captivity with him say Anderson has found ways to save his sanity.

He has constructed playing cards from bits of cardboard and made chess pieces from aluminum foil. He studies Arabic, exercises, and sweeps and mops the floor to pass the time.

"I think he has some hope," Mikki said. "I think that's why he can stay strong."

PRE-1985

Oct. 29, 1947: Terry Anderson is born in Lorain, Ohio. He moves with his family to Albion, Orleans County, seven years later and then to Batavia, Genesee County.

May, 1974: Anderson graduates from Iowa State University and takes a job with The Associated Press.

October, 1982: Anderson is transfered from South Africa to Beirut.

1985

March 16: Anderson is kidnapped by gunmen in West Beirut.

April 21: Anderson's sisters, Peggy Say and Judy Blouin, film a videotape pleading for their brother's release.

April 25: The Rev. Jesse Jackson contacts Say and Blouin, offering his help in bringing Anderson and other hostages out of Lebanon.

May 15: Anderson's captors make their first threat to kill the hostages if their demands are not met. The Islamic Jihad, in messages to Lebanese newspapers, says the hostages will be hanged if members of the extremist group are not freed from a prison in Kuwait.

June 7: Anderson's daughter, Sulome Teresa, is born in Batavia.

July 21: "Terry Anderson Day" is held in Lorain, Ohio, where Anderson was born and lived until he was 7 years old. He and his family then moved to Albion, Orleans County, and later to Batavia.

Sept. 15: The Rev. Benjamin Weirs' 16-month ordeal ends when he is the first of seven hostages to be released.

1986

Feb. 12: Anderson's father, Glenn, 69, dies of cancer. June 7: Anderson's brother, Glenn Jr., dies of cancer. July 26: The Rev. Lawrence Jenco, a hostage for 19 months, arrives at the U.S. Embassy in Damascus. He was freed because of failing health.

Oct. 29: A one-minute video-tape of Anderson's 16-month daughter, Sulome Theresa, is broadcast by Beirut television stations.

Nov. 2: Hostage David Jacobsen is freed by Islamic Jihad.

Nov. 19: Reagan defends the "high-risk gamble" of secret weapons sales to Iran, saying that they had resulted in the release of three American hostages. Dec. 1: So says the Reagan administration.

* * * * *

1987

Jan. 20, 1987: Church of England envoy Terry Waite captured.

Dec. 24: Anderson sends videotaped message to his family and government and says he is in "good health but tired and very lonely."

1988

March 16: Prayers and yellow ribbons in Batavia and Washington mark Anderson's third anniversary in captivity.

April 10: Islamic Jihad threatens "slow and quiet massacre" of hostages if demands in Kuwait jumbo jet hijacking not met.

May 7: Madeleine Bassil goes public; makes plea to Reagan to work for Anderson's release. June: Say moves to Cadiz, Ky., to escape reporters and press conferences.

REGULATION OF PESTICIDES AND CHEMICALS

Mr. REID. Mr. President, 5 weeks ago today, on Friday, September 22, I chaired a hearing on pesticides in the Senate Subcommittee on Toxic Substances, Environmental Oversight, Research and Development.

At that hearing, we released a 75-page report recommending extensive changes in the way the Evironmental Protection Agency regulates pesticides and chemicals.

The message at that hearing—from witness after witness—was that the danger from pesticides and chemicals in our food supply did not end when the use of Alar was cut back by the Apple industry.

Alar was just one chemical out of thousands used on the food we eat in this country. The problem with Alar got out of hand because the EPA regulations didn't protect families or consumers by pulling Alar off the market.

In chairing that hearing 5 weeks ago, I said that it would be a mistake to rely on this same regulatory process to protect children and consumers from poisons on the grocery shelf and on the dining room table.

It was obvious then—as it is today—that Congress and the administration have a responsibility to do something about this problem. It is our responsibility as legislators—and theirs as Administrators—to learn from past mistakes by reforming and streamlining the regulation of pesticides by EPA.

It's this simple: We don't want another Alar disaster.

Along with Senators WARNER, LIEBERMAN, CHAFEE, and RIEGLE, we succeeded in solving the Alar problem. This success came out of another hearing held in my subcommittee—this one in May of this year—to consider the risks from pesticides on the food we eat.

As we said at the time, the Alar controversy was just the tip of the ice berg.

Yesterday—apparently in recognition of the work begun here in the Senate—the President announced plans to introduce legislation that he promised would speed up the removal of dangerous chemicals from the food supply.

The President yesterday recognized what we in Congress have known for a long time: People are worried about pesticides and chemicals in the foods we eat.

The responses to the President's announcement, by those who follow the issue most closely, are not encouraging. His so-called plan has been criticized as involving "small advances but major retreats." Others have suggested that the plan puts profits and pesticides before consumers and children.

The regulation of pesticides is not a PR problem—it is a health and safety problem.

It is not enough to offer up a steady diet of tough words, but timid policy. It's okay for the President to have the right rhetoric, but you have to follow it up with the right policy.

I look forward to working with the President in order to turn this latest news announcement into a policy with which the American people can live—and eat safely.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DEPARTMENT OF VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES, BOARDS, COMMISSIONS, CORPORATIONS, AND AFFAIRS APPROPRIATIONS, FISCAL YEAR 1990—CONFERENCE REPORT

Ms. MIKULSKI. Mr. President, under the previous order, I submit a report of the committee of conference on H.R. 2916 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 18, 1989.)

Ms. MIKULSKI. Mr. President, I am pleased to submit the conference report for the 1990 appropriations for the Departments of Veterans Affairs, Housing and Urban Development and 20 miscellaneous Federal agencies.

Mr. President, I think it is fair to say that the 1990 appropriations bill for the VA-HUD Subcommittee was one of the toughest we have had to piece together.

As I have said on many occasions since I first took over this subcommittee in January, I thought I was given a Federal checkbook. After having gone through our hearings, Senate action and conference with the House, I now realize it was a change purse, and not a checkbook, that I was given.

We began our task with a 302(b) allocation that was $1.5 billion short in outlays from what we determined was needed to meet all of our programmatic responsibilities.

In addition, we faced a large number of meritorious requests from members. In the Senate alone, we received about 550 requests, with a dollar value totaling $33 billion.

Because we only had $48 billion to work with in our allocation, it simply was not possible to accommodate every one of these items. Nevertheless, I believe the conferees have made a solid, good-faith effort to do as much as possible.

Because of our outlay limits, we were forced to make up some of our 302(b) shortfall with scorekeeping adjustments to avoid cuts that would have been forced on high outlay programs, like NASA and VA medical care, which between them represent almost 73 percent of the new outlays in this bill.

And even with the use of these scorekeeping techniques, we were still forced to take a 1.55-percent across-the-board cut from every program, project and activity in the discretionary accounts in the bill, except VA medical care, where a 1-percent reduction was made.

Like all conference agreements with the House, this bill contains some compromises that modify the original Senate-passed legislation. However, on balance, the conference report represents a balance between the many diverse and important agencies which it funds.

I would like to outline some of the most important highlights in the conference report:

WAR ON DRUGS

The conference report fully funds its component of President Bush's call for a war on drugs, by providing over $138 million for drug treatment and enforcement activities.

These funds are in addition to money for housing and veteran drug programs included in the Byrd amend-

ment to the Transportation appropriations bill.

First, we have included over $49 million in drug elimination grants for public housing. The conferees believe strongly that public housing should be part of America's opportunity structure for the poor, not a small business incubator for drug dealers.

This $49 million, coupled with the $50 million in the Byrd amendment for public housing, will help Jack Kemp and local public housing officials make sure public housing is the gateway to a better life it was meant to be.

In addition, the conference agreement provides almost $89 million for drug treatment funding under VA medical care, about $9 million more than requested by the President. These funds will help provide badly needed treatment at the VA's 172 medical centers.

When coupled with the additional $50 million in the Byrd amendment, VA drug treatment programs will receive a total of nearly $139 million in 1990, up over 80 percent from last year.

VETERANS

The bill recommends over $29.3 billion for the Department of Veterans Affairs. Within discretionary programs for the VA, the bill provides funds well above the President's request.

In VA medical care, one of this committee's most important concerns, the bill provides, after all across-the-board reductions, $693 million more than the Bush budget. When the $50 million from the Byrd amendment is added, the increase is over $743 million over the budget request, an increase of about 6.9 percent.

These funds will be used to:

Restore staffing levels to the congressionally mandated staffing level of 194,720 positions;

An additional $135 million for equipment, materials and supplies, for a total of $2.1 billion;

An additional $100 million for community nursing homes above the President's request, for a total of $308 million;

A total of $30 million for homeless programs for veterans; and

An extra $6 million for post-traumatic stress disorder activities for Vietnam era veterans.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The bill recommends almost $15.1 billion for HUD, an increase of over $2.3 billion over fiscal year 1989 and more than $2.1 billion above the President's request.

Almost half of this increase, however, about $1.1 billion, is to renew 40,000 section 8 contracts which would otherwise expire. 1990 is the first year when we need to renew a substantial number of these contracts.

Unfortunately, HUD underestimated the amount of units in the President's budget needing renewal by about 80 percent, forcing the conferees to absorb about $430 million not provided for in either the budget or our 302(b) allocation.

So we had no choice but to absorb this error or run the prospect of having thousands of families face the prospect of going homeless.

We have also proposed almost $3 billion to continue the CDBG program, a cornerstone for more than 2,000 cities and towns over the last 15 years.

Also included in the conference report is almost $450 million for homeless Americans, $180 million more than the 1989 level. In providing these funds, the conferees have placed a stronger emphasis on providing permanent and transitional housing. We did so because it is only through guaranteeing decent and affordable housing for all Americans that we will end the scourge of homelessness on our streets.

Finally for HUD, the committee has proposed an increase in the Department's staffing levels by about 900 staff-years above the President's budget.

This will be used to help offset the severe reductions which the Department has suffered over the last 8½ years, when HUD's staff has been cut by about 40 percent.

While there has been much talk about HUD reform in recent months, the administration has failed to propose giving HUD the people and the dollars it needs to ensure proper oversight of its programs. This conference report, by increasing HUD staffing, matches our money with our rhetoric.

ENVIRONMENTAL PROTECTION AGENCY

For the Environmental Protection Agency, we have provided just over $5.6 billion, an increase of over $745 million, or more than 15 percent, above the President's budget, and 8 percent more than last year.

The conference report includes over $1.55 billion for Superfund, an increase of $125 million over last year, and $2.018 billion for sewage treatment construction grants, more than $800 million above the President's budget request.

In addition, there is a 12-percent increase in EPA operating programs, up $217 million over last year. This includes $50 million for EPA's asbestos-in-schools removal program and $40 million to begin the section 319 nonpoint-source pollution grant program.

These increases will help sustain major efforts to increase environmental protection throughout the Nation and help make our Nation and our world a cleaner place to live.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

For America's space program, we have provided nearly $12.4 billion, an increase of $1.7 billion over last year, or 16 percent. NASA has one of the most important responsibilities in our bill and as a result, the conferees took our commitment to it very seriously.

Within the amount for NASA, $1.8 billion is for the space station, twice the amount provided for last year. While not as much as we wanted, I believe it is a good number given how lean this year's budget was.

The subcommittee has also included $70 million above the President's request for key space science projects, for a total space science budget of $2.065 billion.

Included in the conference report is: $30 million for the CRAF/Cassini new start; $22 million to continue the Gravity Probe-B; and $10 million to continue work on the total ozone mapping spectrometer satellite, as part of the Earth probes portion of the mission-to-planet-earth global change initiative.

NATIONAL SCIENCE FOUNDATION

Finally, the committee has provided $2.07 billion for the National Science Foundation, about $186 million, or nearly 10 percent, above last year's regular appropriation.

Included in this amount is $1.688 billion for research and related activities, an increase of almost 7 percent above last year's regular appropriation, with particular importance given to global change research.

We have also included $153.5 million for NSF's Antarctic research programs, an area of study that is crucial to help us understand the phenomena of global warming.

The conference report also includes over $206 million for science and engineering education, $35 million, or 20 percent, above last year's appropriations. While this sounds like a large increase, it represents about half the level at which this account was funded in 1968.

Promoting science and engineering education is particularly important to me as we continue to hear report after report challenge America's competitiveness in math and science. I hope that the conferees action in this area renews NSF's own commitment to its science and engineering education directorate, a commitment that is reflected in their 1991 budget request.

Finally for NSF, the conference report includes $20 million for the new facilities modernization program. This is an important first step in helping many small- and middle-sized schools cope with compelling facility and equipment needs.

CONCLUSION

In conclusion, I believe this bill represents a strong, balanced program for the agencies within its jurisdiction, particularly given the enormous 302(b) allocation problems which we have had to face.

It represents our best efforts to provide funds for America's future in space, science and the environment, while not deserting our commitment to those with inadequate housing and America's veteran population.

I want to thank a number of key people who have been instrumental in my first year as chair of the VA-HUD Subcommittee.

First, my full committee chairman, and the distinguished President pro tempore of the Senate, Senator ROBERT C. BYRD. His advice and counsel have been invaluable to me, particularly in this first year, and I deeply appreciate it.

I also appreciate the help of our committee's staff director, Jim English, as well as all the members of the full committee staff who have helped us behind the scenes on this legislation.

In addition, I want to thank our full committee's ranking member, Senator MARK HATFIELD, and the ranking member on the subcommittee, Senator JAKE GARN. They too have been steadying forces whose cooperation has made this difficult process far less so than it otherwise could have been.

Finally, I want to thank the subcommittee staff, Kevin Kelly, Carrie Simmons, Sharon Whitlock, and Stephen Kohashi, for their hard work and dedication on this legislation.

This conference report is a sound and balanced one, and I urge my colleagues to support it.

In addition, we faced a large number of meritorious requests from Members. In the Senate alone we received over 500 requests with a dollar value of over $33 billion. We evaluated those requests in light of national interests, compelling local need, and also fiscal resources. We had a limited amount, and it was simply not possible to accommodate those requests, but I do believe we did meet the test for those individual requests.

Because of our outlay limit, we were forced to make up some 302(b) shortfalls with some scorekeeping adjustments to avoid cuts that would have been forced in high outlay programs like space and veterans medical care which between them represent almost 73 percent of the new outlays in this bill.

Like all conference agreements with the House, this bill contains some compromises that modify the original Senate-passed legislation. However, on balance, the conference report represents a balance between the many and diverse important agencies which it funds.

That is budget kind of talk, Mr. President, but I would like to outline what we did in this bill. For the war on drugs, it will contain over $138 million for the treatment and enforcement programs managed by VA and HUD. These funds are in addition to the money for housing and veteran drug programs included in the Byrd amendment.

For American veterans, those ordinary men and women who were called to do extraordinary things in World War II, Korea, and Vietnam, it includes $29.3 billion for essential veterans programs that will go to every State in this great Union. Of the greatest importance is an increase for veterans medical care of almost $750 million more than was requested by the administration.

For housing, this bill reverses a decade of decline in HUD's budget with an increase of over $2.3 billion over last year. My colleagues should not be deceived by the size of this increase. Almost half of it will go to renew 40,000 section 8 contracts which would otherwise expire. There are substantial increases, however, in HUD staffing so that we can clear the decks, reform HUD, restore its integrity, so that we can then move on to ingenuity. About $3 billion will go to the community development block grant program because Republicans and Democrats alike agree that creativity lies at the local level. We intend to support Secretary Kemp with his issues related to reform.

For the environment, this bill represents a significant achievement. The EPA will receive over $5.6 billion, an increase of over $745 million, 15 percent more than the President's request.

These numbers do not say anything even when I read them; it does not create a picture, but, Mr. President, we are going to clean up the Superfund sites in this country. We are going to have sewage treatment money so local communities can deal with those point source pollutions, and we hope that EPA will have the resources to meet the environmental challenges.

For America's space program, we provided $12.4 billion, an increase of over 16 percent. This means we will fund the space station at $1.8 billion, full funding for CRAF/Cassini, a new start, and increases to maintain the safety and reliability of the space shuttle program.

Finally, for the National Science Foundation, we provided $2.7 billion, nearly a 10-percent increase above last year's regular appropriations. Within these funds we have provided a substantial increase for science and engineering education, the request for the Antarctic program and new starts for facility modernization.

In conclusion, I want to thank my entire subcommittee for the work they have done, the way they have attended hearings and participated, but I would also like to thank my ranking minority member, Senator GARN, for his advice and assistance.

We had the cooperation of BOB TRAXLER and BILL GREEN on the House side, but I would also like to thank the President pro tempore, Senator BOB BYRD. His advice, his counsel, and his 302(b) allocation were absolutely invaluable. I also want to thank our staffs, Kevin Kelly, Carrie Simmons, Sharon Whitlock, and Stephen Kohashi for their hard work and dedication.

Mr. President, I think we have done a good job.

I now submit this report to the Senate, and at the appropriate time, I will move its adoption.

Mr. LAUTENBERG. Mr. President, I want to express my concern about a proposal I understand is under review by the Department of Housing and Urban Development to move the Public Housing Division Development Office that is now part of the Newark, NJ, area office to the Department's regional office in New York City.

Mr. President, public housing authority officials throughout New Jersey rely on the Newark Division office for numerous services and benefit from its proximity to their facilities. Moving the development office would impose a significant inconvenience on New Jersey PHA's. Housing officials would be forced to travel to New York City for meetings and information.

In addition, the move would create confusion, as New Jersey's PHA officials would be required to deal with the Newark office for the comprehensive improvement assistance program and operating subsidy matters, and with the New York office when planning the construction of new units.

Moreover, given the questions that have been raised recently about the functioning of the New York office, it would seem inappropriate to expand the authority of that office at this time.

As relocation of the Public Housing Division Development Office could disrupt the efficient development of public housing in New Jersey, I would urge HUD to retain responsibility for the management of New Jersey public housing development in the Newark office.

I yield to my distinguished colleague, the Chair of the VA, HUD and Independent Agencies Subcommittee, for any comments she may have on this matter.

Ms. MIKULSKI. I share the concerns expressed by the Senator from New Jersey. Before the Department takes any steps to reassign functions now performed by the Newark office, as Senator LAUTENBERG has mentioned, it should consult with the VA, HUD and Independent Agencies Subcommittee and give the subcommittee sufficient lead time to review the proposal and its asserted justification.

Mr. LAUTENBERG. I thank the distinguished Chair of the VA, HUD, and

Independent Agencies Subcommittee for her statement.

Mr. KERREY. Mr. President, I wish to ask the Chair of the subcommittee for a clarification.

One of the items in amendment 37 is the Center for Paralyzed Veterans and the Chronically Disabled in Omaha. Unfortunately, we have been plagued by a typographical error in connection with this project. The amount needed for the center is $1,450,000. That is the amount which was included in the errata sheet—middle column, item 15—which was printed in the September 28, 1989, CONGRESSIONAL RECORD, page S12055, when the appropriations bill was originally considered and it is the amount which was listed in the conference notes when we conducted the conference on the bill. However, the conference report lists this project at $1,250,000. So, I would like to ask the Chair to confirm that the figure was suppose to be $1,450,000 and that the reduction is the result of a technical error.

Ms. MIKULSKI. We intended that the figure be $1,450,000 and I would encourage the Secretary of the Department of Housing and Urban Development to support the project at that level.

Mr. KERREY. I thank the Chair of the subcommittee. She has been most helpful both with this project and with several others of importance to my State. I appreciate her assistance and counsel.

Mr. MURKOWSKI. Mr. President, I rise in strong support of the conference report on H.R. 2916, the Departments of Veterans Affairs and Housing and Urban Development, and independent agencies appropriations bill for 1990. As ranking minority member of the Committee on Veterans' Affairs, I am most pleased that the conference report includes a generous allocation of funds for VA.

Specifically, with regard to the proposed fiscal year 1990 appropriations for VA medical care, the bill will provide $11,549,431,000. This is truly an extraordinary amount of money.

There will be those that argue that this amount is insufficient. We may never have enough to do all we would like. However, we must live within the fiscal realities which we face.

I thank the Appropriations Committee members on both sides of the Capitol for their fair treatment of VA programs as outlined in this legislation.

ASTRONOMY OBSERVATORIES IN ARIZONA

Mr. DECONCINI. Mr. President. I commend Senator MIKULSKI for her efforts in placing the proper priority and emphasis upon radio and optical astronomy. As the Senate committee report noted: Astronomy research has taken a back seat to other priorities of the National Science Foundation. Astronomy research must receive the adequate resources to insure the viability of the national astronomy centers.

I agree with the committee's statement. Most university astronomers depend upon the national observatories for their research. The National Radio Astronomy Observatory and the National Optical Astronomy Observatory operate in Arizona. These facilities operate world-class telescopes for visiting astronomers. Last year alone the Tucson radio telescope housed 127 astronomers from 58 institutions, including representatives from 10 foreign countries. Recently, several Arizona newspapers have carried articles that express grave concern over the financial viability of the Kitt Peak facility during fiscal year 1990. Therefore, I would like to ask the Senator from Maryland if the bill now before the Senate provides adequate funding to the National Science Foundation to insure the continued operation of these observatories in fiscal year 1990?

Ms. MIKULSKI. The fiscal year 1990 appropriations for the National Science Foundation's "research and related activities" adequately funds astronomy research endeavors. The committee has expressed its concern to the National Science Foundation regarding the priority of astronomy research. Accordingly, we are confident that the National Science Foundation will distribute the research funds equitably to insure the continued success of U.S. astronomy research in addition to the continued operation of the National Radio Astronomy Observatory's millimeter-wave research facility and the National Optical Astronomy Observatory in Arizona.

Mr. DECONCINI. I thank the Senator very much for clarifying the committee's intent with regard to astronomy research. Her comments have given me confidence that the NSF will have the funds necessary to insure that these astronomy observatories in Arizona will be maintained at current levels. This funding will provide the scientific community with the continued access to these internationally recognized research facilities.

Mr. GARN. Mr. President, the standard line floor managers give during debate on a conference agreement is it is the best we could get. Unfortunately, so it is with this appropriations bill. We did the best we could in impossible budgetary constraints with the differing priorities of the House and the Senate, but in my judgment it is the best we could expect and that is a tribute to the skill and hard work of the Senator from Maryland, the chairman of our subcommittee.

Mr. President, the measure before us cuts nearly $800 million in outlays from the level requested by the President for discretionary programs within our jurisdiction. This is after adding over $700 million in budget authority, $423 million in outlays to the budget request for veterans medical care. In other words, we cut the President's request by a total of $1.2 billion in outlays so that we could satisfy political demands for veterans medical care and remain within our constrained budget allocation.

Unfortunately, virtually the entire cut was taken in the budget request for NASA, $995 million in outlays, and the National Science Foundation research, $97 million in outlays. When only 16 percent of those veterans receiving VA medical care are being treated for service-connected injuries or disabilities, I consider it outrageous that we are forced to augment this account at the expense of investment in science, space and technology which represents our Nation's best hope for continued prosperity and economic security in the future.

As a veteran, it disturbs me that so much political hoopla is made over the need to provide these costly medical services when the vast majority of the program is a form of welfare. The poor veterans should be provided adequate medical care but in my view deserve no special treatment not otherwise available to all Americans.

Of course—and I wish to emphasize—those veterans who are suffering from injuries or disabilities resulting from military service deserve the finest medical care that we can provide. They ought not to be lost in the shuffle to fund an empire of hospitals, clinics and nursing homes serving any veteran for any medical problem.

It has now been nearly 30 years, 30 years in January, since I was released from active duty as a naval aviator. I am in better shape and 30 pounds lighter today than I was at that time.

My point is with nonservice-connected disabilities, I simply do not understand, nor do those in the vast majority who served our country willingly and had no difficulties as a result of service, the ongoing obligation, but I do want to emphasize that we could do a better job for those who were injured or had illnesses as a result of their service. We owe even more to them.

Mr. President, as I said before, the conference report before us represents a compromise between very differing priorities. Compromise is difficult and painful when resources are as constrained as they are in our subcommittee budget allocation but given the political realities confronting us, the conference report reflects the best deal possible.

I urge its adoption, and again I thank the Senator from Maryland [Ms. MIKULSKI] for a fine job under very difficult circumstances.

Mr. BENTSEN. Mr. President, I ask unanimous consent to speak out of order.

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The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, last evening I received a call from Secretary Brady and then it was followed up by a letter. It informs me of an action by the administration which really is quite surprising. It is astonishing and deeply troubling to me. If there is one trademark which underpins the stability of the financial markets of this country, and to a great extent of the world, it is confidence in the U.S. Treasury and the securities that it sells.

One of the main reasons for that kind of confidence is that the Treasury Department has among its professional personnel competent debt management people, a debt management team. And that team handles the sale of T-bills, notes, bonds, in a manner that is designed to promote the best interests of the United States and to maintain stable markets on our securities. They do not gamble and they do not play politics with the credit of the United States.

And so I was astonished and troubled to learn that the White House has ordered these professionals who manage our public debt to do what they have always resisted doing.

They have been ordered to depart from the normal, ordinary debt issuance procedures. They have been ordered to speed up the borrowing, even though that will likely raise interest costs. They have been ordered to stockpile cash. They have been ordered to take an action based on a gamble that Congress and the President might do this year what they have never done before, force the country to go into default. We have never done that.

I do not see how such an action can fail to undermine confidence in the integrity of our national credit operations, to lessen the Treasury Department's own credibility, and to undermine the certainty that default will never be tolerated.

I am puzzled about why this administration made this kind of a decision. The letter from Secretary Brady cites uncertainty about whether the Congress is going to raise the debt limit and the need to assure that Social Security payments will be made. But that is not a new and different situation from previous times when we have reached a debt limit. We have been there before. And every time we have acted responsibly.

This situation did not cause previous administrations to panic. I might understand that action—though I would still not agree with it—if the Congress was tied up in knots over a heavily amended debt limit bill; but that is not the case. I might understand it if the leadership of the Congress were threatening to use the debt limit to provoke some kind of a confrontation with the President. That is not the situation here.

What we have on the Senate calendar is a debt limit bill that has already passed the House of Representatives. What we have is a clean bill; a clean, long-term debt limit bill. That is just the kind of a bill that previous administrations, previous Secretaries of the Treasury, have asked for, and that is the kind of bill I want to see as chairman of the Finance Committee.

Far from threatening confrontation, the chairman of the Finance Committee, the majority leader of the Senate, are ready, willing, and—I believe—able to ask their colleagues to send that bill on to the President in just that form. And I would ask the leadership on the other side to join in this effort.

There was no danger that Congress would fail to pass a debt limit bill in the time to assure that Social Security checks could be issued. I do not know anyone in this Senate, Democrat or Republican, who would be politically dumb enough to hold Social Security payments as hostage for achieving some other aim.

I feel certain I can speak for the Democratic Members of the Senate on that, and I also do not believe there are any Republican Senators who would want to threaten Social Security checks. If the White House is aware of some who would, then they ought to let that be known. But it sure would surprise me.

Then why did the Treasury take this kind of an extraordinary action? I have heard only one explanation that hangs together, although I am reluctant to believe it. I have difficulty with the idea that the administration would compromise the professionalism of the Nation's debt management operation, damage to the Treasury Department's credibility with the Congress, and possibly create instability in the markets all for the attainment of a short-term political victory.

Nevertheless, there seems to be only one reason why the Treasury would disrupt the normal debt issuance process to gain a single week, and a dubious one at that, of additional debt limit time. That reason is to let the administration make yet another attempt to attach a capital gains proposal to a bill where it really does not belong.

Let me show you the record on this one. On October 16, 10 days ago, the Secretary of the Treasury sent me a letter which really represents the best professional judgment of that Department, and that letter says that November 1 is the very last day before default. In fact, it says there is "no opportunity for administrative actions to prolong the availability of cash." That is what was said just 10 days ago to me; no availability, no option to get additional cash. Ten days later the administration sends us a letter which says Treasury can pull a rabbit out of that hat and get us to November 8.

What happened in those 10 days? Why this sudden change? What happened was that the administration found that Republican Senators were not ready to play that capital gains game if it meant endangering the issuance of the November Social Security checks. So the administration orders the Treasury Department to tear up that original letter, forget it, and find some way to push the default date past November 3. If that is not what happened, I would sure like to hear another credible explanation.

But, in any case, I have to give the administration the bad news. If that is what you are up to, it is just not going to wash. The fact is the action the Treasury Department has just taken does not protect Social Security recipients. It does much the opposite. It is true that Social Security checks are issued on the 3d, but the crucial question is not whether or not they are issued but whether or not they are any good when the recipients bring them to the bank on the 6th, 7th, and the 8th, and throughout the month. The question is will the Treasury have enough cash to honor those checks?

With or without this new trick, the Treasury's ability to raise cash gets cut off at midnight Tuesday. True, they will be stocked up a bit, but predicting cash balances when your credit has been cut off is a very tricky business.

So how sure can you be that checks issued on the 3d will turn out to be good? Well, if current projections hold and if there is no unpredictable cash demands, then there should be enough cash to make it to the 8th of November. You say, well, is that some Democrats' alarm bell that he is ringing? No. That is not my analysis. That is the analysis of the Secretary of the Treasury because in his latest letter he says just this:

"Our current"—current—"cash flow estimate which assumes"—assumes—"no unprecedented cash demands indicates, that this action should—"should" is the word—"provide sufficient cash to cover obligations presented for payment through November 8."

I am not willing and I do not believe any other Senators, Democratic or Republican, will be willing to ask the older citizens of this country to gamble their November Social Security checks on that kind of halfhearted assurance that the money should be there.

I hope my interpretation is dead wrong and that this action was just a momentary lapse rather than a convoluted plot to trade the sanctity of our national credit and the security of our older citizens for a capital gains law. But in any case, we have to pass this debt limit.

I hope that Secretary Brady and the President will prove my theory wrong by publicly and privately requesting all Senators to agree to let the debt limit go forward without any amendments from Republicans or Democrats.

Let us take care of the primary obligation of this country and pass that debt limit, without amendment. Let us ask unanimous consent that we do it that way. Let us see who wants to stand up and object to that.

Thank you, Mr. President.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. BENTSEN. I yield.

Mr. BYRD. I compliment him on his statement, and he is exactly right in encouraging the administration and the Congress to pass a clean debt limit.

There is another aspect of this. We are told by the chairman of the Ways and Means Committee in the House that if we pass a clean debt limit, we will also get a clean reconciliation bill from the conference.

Our leader showed real leadership a few days ago when he recommended that we strip out what I am told was more than 600 extraneous items from the reconciliation bill, and the distinguished Republican leader joined that.

I complimented them both on that occasion for their act of statesmanship. That took statesmanship. That was real leadership, and the Senate followed that leadership, and we stripped down that bill.

Our work is only half done, and we have this opportunity, with the House being willing to strip out those items and come back with that clean reconciliation bill, as well, if we will pass the clean debt ceiling bill.

We ought to take up that offer and demonstrate to this country that we are serious and mean business about the financial matters that confront this country, and serious about cleaning up our own house when it comes to discipline in the appropriations and budget process.

I join the distinguished Senator in his support for a clean debt limit bill and a clean reconciliation bill. We ought to stop playing these games. We have all played games at one time or another, but it is time to stop it. Now is a good place to stop it.

I thank the Senator. I think he has made a fine statement and has rendered a real service, and I hope we will take heed.

Mr. BENTSEN. I thank the distinguished President pro tempore of the U.S. Senate for his generous comments. Between the Ways and Means Committee and Finance Committee, the jurisdictions are such that a great part of reconciliation falls to these two committees. We have many things in there that we worked a long time on, like child health care, rural health care, many things that we thought were important and should be carried on.

But in trying to move this thing forward and really cut that deficit, and do it expeditiously, we chose to put those off to another day. The distinguished ranking member of the Budget Committee held up that reconciliation bill, and he said, "If we keep on like this, we are going to be measuring reconciliation by the pound."

My reply was, "If we do not cut this deficit, and do it effectively, we are going to be measuring reconciliation by the yen." That is what can happen in this country, unless we aggressively cut this deficit, get the interest rates down, and increase investment capital and get personal savings up. That is the responsible action to take.

I yield the floor.

(Mr. FOWLER assumed the chair.)

Mr. BUMPERS. Has the Senator from Texas yielded the floor?

Mr. BENTSEN. Yes.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I rise first of all to say to both the Chair and the ranking Member that I, too, want to applaud them for a bill that I know has been very difficult to achieve a consensus on, and I have the utmost respect and admiration for both of them and the members of the committees.

But I am troubled by one aspect of the bill, and I want to first of all propound a parliamentary inquiry to the Chair. The inquiry is this: When the House has one funding figure and the Senate has another, is there any obligation on the conference committee to work within those parameters?

The PRESIDING OFFICER. The Chair will advise the Senator from Arkansas that based on recent precedents, if the figure in question is reported out within the conference report, it is not challengeable upon the grounds that the Senator inquired about.

Mr. BUMPERS. Further inquiry, Mr. President. In the House version of this VA-HUD Appropriations bill, the bill contained $384,300,000 for "construction of facilities" in NASA.

The Senate struck the $384,300,000, and inserted $341,000,000 instead. It came back from conference at $601,300,000 or $217,000,000 above the higher of the two figures.

Parliamentary inquiry. Did the conference committee have the authority to exceed the level approved by either the House or the Senate—in this case, by $217,000,000?

The PRESIDING OFFICER. I say to the Senator from Arkansas that it is the judgment of the Chair, after consultation with the Parliamentarian, that the understanding is this: The conferees took no action on the amendment in question by the Senator from Arkansas. The amendment was reported in disagreement so that the requirements of rule XXVIII are not at issue, and what we are left with is an independent action by the other body, which, I am advised by the Parliamentarian, we could confirm at this time or be subject to further amendment.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Is it necessary for the distinguished Chair of the VA-HUD Subcommittee to move to recede and concur in the House position on the bill on this particular amendment?

The PRESIDING OFFICER. The Chair will say to the Senator from Arkansas that basically he is correct that the course he just described is the option.

Mr. BUMPERS. Further inquiry: There are a series of amendments here. The two that troubled me most, of course, were 93 and 95. Are those amendments a part of the bill, or is it necessary for the floor managers to move the adoption of those amendments? That is, amendment No. 93, Mr. President.

Ms. MIKULSKI. Will the Senator yield for a comment?

Mr. BUMPERS. Yes.

Ms. MIKULSKI. Those amendments are in technical disagreement. At the appropriate time I was going to offer the appropriate amendments to bring us back into the necessary conformity.

Mr. BUMPERS. May I ask the distinguished floor manager, while we are waiting for the Parliamentarian, what would be the nature of the motion?

Ms. MIKULSKI. I will have to go back to my notes. I believe the Senator is talking about amendment 93.

Mr. BUMPERS. Amendment 93 especially. There are a whole series of amendments, as the Senator knows.

Ms. MIKULSKI. While the Parliamentarian is going over his precedents, let me go back over our amendments to see the exact nature.

The PRESIDING OFFICER. The Chair will state to the Senator from Arkansas—I do not think he completed his parliamentary inquiry.

Mr. BUMPERS. My inquiry simply was—I guess it is necessary for the floor manager of this bill to move to recede to the House on those amendments or to recede and concur or simply concur in those amendments?

Ms MIKULSKI addressed the Chair.

The PRESIDING OFFICER. Will the distinguished Senator withhold until we work out this parliamentary inquiry?

Ms. MIKULSKI. Yes.

The PRESIDING OFFICER. I say to the Senator from Arkansas, and I hope this is responsive to his parlia-

mentary inquiry, that if the Senate desires to agree with the House position on one of the amendments in disagreement, then, yes, we would have to concur by taking the appropriate action to concur with the House.

Mr. BUMPERS. Mr. President, on page 43 of the conference report, the first paragraph at the top of page 43, it states:

> Amendment No. 93 reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the sum proposed by said amendment insert the following, "$601,300,000".

And then there are additional specific provisions.

What I want to know is, if this is an amendment in technical disagreement, whose amendment is it? Is it the House's or the Senate's? Who added the $217 million, and who has to concur in that addition?

The PRESIDING OFFICER. It is the opinion of the Chair that amendment No. 93, reported in technical disagreement, is a House amendment currently pending before our body.

Mr. BUMPERS. So in order for that money to be added, the Senate will have to move to concur in that amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. Mr. President, let me ask one further parliamentary inquiry to which I already know the answer, because I have visited with the Parliamentarian about it. It is this: Is there a 1985 precedent on this question? And, if so, what is the precedent that allows a conference committee to go and, in this case, almost double an appropriation in excess of what either the House or the Senate adopted? I want to know what the precedent is that allows that to happen.

The PRESIDING OFFICER. The Chair will consult.

Mr. BUMPERS. Let me further phrase it. Will a point of order lie against that and, if not, why not, and what is the precedent for it?

The PRESIDING OFFICER. The Chair will once again attempt to satisfy the inquiries of the distinguished Senator from Arkansas. After research and consultation, it is the opinion of this Chair that the 1985 precedent cited by the distinguished Senator from Arkansas is not a precedent to the facts before the body in the material at issue today. It is the understanding of the Chair that the 1985 precedent involved material entirely within the purview of the conference committee and that the point of order that the Senator from Arkansas might have anticipated would not apply because the material at issue today is outside the conference report in an amendment in disagreement.

Mr. BUMPERS. Mr. President, as I understand it, the Senate is now in the position of validating an amendment adopted by the House that came back from the conference. Restated or saying it another way, the conference committee came up with an addition to NASA construction of over $200 million. It went back to the House as an amendment, I guess, from the conference committee and the House adopted that amendment. Now the bill is over here and it is up to us to concur in that amendment. Is that a fair statement?

The PRESIDING OFFICER. Trying to be precise on the language, the Chair says to the Senator from Arkansas, the amendment in issue was a recommendation by the conference committee, which was adopted by the House.

Mr. BUMPERS. They adopted a recommendation of the conference committee, is that correct?

The PRESIDING OFFICER. That is the Chair's understanding of the appropriate legal description.

Mr. BUMPERS. Let me ask one further parliamentary question. Once the House and Senate have debated a bill, such as the VA-HUD appropriations bill, and we have, both sides, given formal, final approval to what is in that bill, are there rules in either the House or Senate which specifically state that this procedure can be used to go outside the scope of either bill, or is that simply a practice that has been permitted?

The PRESIDING OFFICER. The Chair advises the Senator from Arkansas, obviously the Chair cannot speak to House rules, but there is nothing within the rules of this body that prohibit the increasing or decreasing of a monetary figure included in an amendment by the House sent to this body in disagreement having been adopted outside the rules of the conference.

Mr. BUMPERS. A further inquiry: If the House has a rule which permits such an amendment, adopting a recommendation of the conference and their rules permit that, but our rules would not permit the same procedure, then does a point of order lie because it is a violation of Senate rules? Or are we simply dealing with an amendment that came over from the House to which we must either concur or reject?

The PRESIDING OFFICER. The Chair will again advise the Senator from Arkansas, it is the opinion of the Chair that the amendment in question does not violate the rules of the Senate and, therefore, this body is free to concur with it, reject it, or amend it in any way, as it would any other amendment in disagreement coming from the other body.

Mr. BUMPERS. Mr. President, I believe the Parliamentarian is correct. The reason I raise these issues this morning is because it is really a sad commentary that we debate endlessly here on these bills and think we have put them to bed, in the certain knowledge that the conference will be obligated to operate within the limits of the two bills.

I am sure that this is not a first. But I have never seen anything quite like this since I have been in the Senate. Obviously, we have the right to amend.

Parliamentary inquiry: Is that not correct, Mr. President, that anybody in the Senate can amend any of these amendments that are in disagreement?

The PRESIDING OFFICER. The Chair responds to the Senator, as he knows, with the provision that when the House has added language, yes, any member of the Senate can amend that language.

Mr. BUMPERS. And this is language apparently that was added by the House. We have to concur in it or not concur in it.

So my point is simply that if somebody wants to strike the $217 million, he or she can just make the argument that it is a very bad precedent to allow the conference to almost double an appropriation.

Now I am going to let my good friend from Louisiana and my good friend from Mississippi heave a sigh of relief because I am not going to offer an amendment to this amendment. My phone started ringing off the wall this morning about this, almost before I got up. And I understand it. I have been in that position many times myself.

For the benefit of the body, what we are talking about here is a new facility to manufacture advanced solid rocket motors for the shuttle. And there is not anybody in this body, certainly nobody's concern for the space program and the safety of the shuttle exceeds that of the Senator from Utah, who is the distinguished ranking member of this subcommittee. And I have visited with him about it.

Having said that, I want the Senate to know now that this bill left here with $10 million in it for the construction of a facility to manufacture advanced solid rocket motors at Yellow Creek, MS. The House bill which we were dealing with at the time had zero for this facility. Prior to that time, there had been a debate going on about whether to allow private contractors to involve themselves in this or whether this should be a government facility.

The distinguished Senator from Ohio [Mr. METZENBAUM], as we say in Arkansas, "raised Cain" about the private sector getting involved in this. And I am told one of the reasons the House appropriations bill did not have anything in it was because they thought private capital was going to finance and build this facility. But be-

cause he raised so much Cain about it, that decision was reversed and now it is going to be a totally Government financed operation. The contract will go to Lockheed to build an advanced, hopefully safer, rocket motor for the shuttle.

But, when this bill came back from conference, instead of the $10 million the Senate had, or the zero figure from the House, it had $90 million for construction at Yellow Creek, MS.

One of the reasons I do not intend to offer an amendment is because Arkansas and Mississippi are neighbors, and I have done everything I know how to scream my head off in the Senate the last 2 years to help this region. I got a bill passed creating a Delta Commission to deal with poverty in the Delta.

Incidentally, this facility is sort of in three corners. I thought for awhile talking on the phone this morning that this facility adjoined every State in the Union. But apparently it is in the corner of Alabama, Mississippi, and Tennessee. And I am extremely pleased Mississippi is going to get this facility.

I have said on this floor and in committee more than 100 times, one of the ways we can redress poverty in that area along the Mississippi River, from the southern tip of Illinois to the mouth of the Mississippi in New Orleans, is to build Federal facilities.

The Government is the biggest buyer of all kinds of products in the United States. We ought to be giving people an advantage, to go in there and manufacture things for the Government and bring those people into the economic mainstream of this Nation. So I am immensely pleased this is going to be built in Mississippi. It is like Arkansas. We are both poor States. It is going to provide a lot of jobs and a lot of resources.

But I am deeply troubled about two or three things. I say this for our future use and reference. No. 1, it is not customary for us to be undertaking a $530 million expenditure for a facility before the research is begun on the purpose for the facility. Presumably the research is not going to be done at this facility, but once the research is done and the rocket motor is to be built, it will be built in that facility. But this is a big undertaking.

Second, Mr. President, I am really troubled about this process. We worry around here about the line item veto. I worry about it. I do not believe in it. I hope President Bush will not attempt to exercise a line item veto, as he is threatening to do, without a change legislatively or constitutionally.

I am not going to argue the line-item veto here but I will say this. This body, and the House body, is giving a line item veto in a perverse way, every time we pass a bill and it goes to conference. If the precedents and the rules are as stated by the Chair this morning, then I do not see any reason to debate these bills on the floor. We can just appoint conferees and say, you folks go out there and figure this out and bring it back to us.

I have been in the Senate now almost 15 years, and I have been in a lot of conference committees and I have seen a little Mickeying around here and a little Mickeying around there. But it never occurred to me that the conference has the kind of latitude that the Chair this morning said it has. I do not intend to try to stop this because, as far as I am concerned, it is fairly meritorious—even though I have a document here that says it is not meritorious at all. But I am going to let the Senator from Utah address that.

My point is I am not going to try to stop this project. I am certainly not going to try to stop it on a procedural ground. As I said, if they are going to build it, I want it either in Mississippi or Arkansas. But there are very few Senators in this body who would have ever dreamed that a conference committee could take a bill, an appropriations bill, and sit down and almost double the appropriation for a specific purpose and bring it back to the body for their concurrence. It is a very bad precedent and I think it ought to be changed.

Mr. President, apparently there are virtually no rules governing conferences, and there ought to be. I can think of a half a dozen things right now that have come up in conferences in the last few months, where we make a parliamentary inquiry to whoever the presiding chairman is of that particular conference, and he does not know the answer. The reason the chairman does not know is because there is no answer. That is no way to run a railroad. It is certainly no way to run a government.

Maybe that is the reason everybody in the country thinks the Government is out of control. We certainly cannot deal with the deficit. And certainly cannot deal with it when we come back here with double appropriations.

Having said that, I am elated. Some of my very best friends in this body come from the three States that are going to derive a tremendous economic benefit, and I am elated for them and I am pleased for them. But the process here is a very bad one. The rules ought to be written. There ought to be a task force, and I may just attempt to get a Senate resolution passed here to do precisely that.

Somebody ought to sit down and figure out what are the parameters of these conferences, what the rules are for governing a conference, and so on.

Mr. President, with that I yield the floor.

The PRESIDING OFFICER. The Senator from Utah [Mr. GARN].

Mr. GARN. Mr. President, I will not take long but I do wish to comment on the remarks of the Senator from Arkansas.

First of all, under procedures, he is absolutely correct. This is not the only time it has been done. I can think of other instances, on many occasions, where we have gone into conference with the House on an issue, the Senate has had one number, the House has had another, and we have come out with a higher figure. I do not think that is right even though it has been done many times.

So, procedurally I object. I completely agree with the Senator from Arkansas.

This was not done by accident, it was done deliberately. Because of the constraints on NASA's budget, there was not enough money to go ahead with the so-called go/go, or Government-controlled facility. So, coming out of both subcommittees in the House and the Senate there was zero dollars for this facility.

When the Senate Appropriations Committee met, the distinguished Senator from South Carolina put in his amendment for $10 million. This was all planned, I say to the Senator from Arkansas. The $10 million there was insignificant. It was deliberately put in there as a placekeeper, as we would call it, so when we went to conference we could work that out, where the House had nothing; work it out of the construction budget and divert the $90 million.

First of all, the precedent is wrong. Second, it is wrong when you cannot get your way openly and aboveboard through the committee process, to use these kind of gimmicks. I think the Senator from Arkansas is correct. One of the reasons the American people get upset with us is because of the games.

It seems to me if we cannot get our way or our positions openly and aboveboard through the rules, we should not be able to do it. The Senator is absolutely right. On the precedents, it is not a proper way to work. It should not have been done. It was set up through the process. I could see it coming and could not do anything about it simply because we have to have 50 percent of the votes in this body, and I did not have 50 percent of the votes in that committee.

Having said that, let me comment on the substance because I think a couple of things are fair to say that nobody can dispute. I suggest there is nobody in this body who has spent more of a percentage of their time over the last 15 years, trying to build up science, the National Science Foundation, and NASA in this country. I probably spent about 50 percent of my time trying to do that, above all other interests.

That is one of my primary concerns in this body because of the future of our technological base in this country. Not just a space shuttle, not just solid rocket motors, not just a space station, but science education. Do we have enough science and math teachers in this country? Do we have enough engineers? No, we do not.

The West Germans, the Russians, the Japanese are training a lot more than we are.

I had a Japanese delegation say to me one of the reasons we have such a big trade deficit with Japan is because in our country we train attorneys and in their country they train engineers. Eighty percent of the world's attorneys are in the United States. There are more attorneys in Washington, DC than there are in all of Japan.

Do we have enough science and math teachers? We wonder why we are losing our technological lead. I do not think we have to look very far to figure that out. So I make no apology for trying to fund NASA, and science education and the National Science Foundation adequately. We only spend 1 percent of our entire national budget on NASA.

Look what we are going to learn from Galileo. I was very proud last week when the commander of *Atlantis* inserted that into orbit and sent it on its way, to arrive at Jupiter by 1995, because Don Williams was the pilot on my flight.

Yet we are so shortchanging the future for the present. Well to the substance of the issue.

I think the second thing I can say that nobody will dispute, there is not anybody else in this body who I see or around the Senate who has ridden solid rocket boosters into space, except this Senator. I know what it feels like. I know what it feels like when they ignite. For 2 minutes you are riding a controlled explosion. It is an incredible experience.

I will say, first of all, I would ride those same solid rocket boosters tomorrow morning without even fixing the O-rings, as long as it was a warm day. there was nothing wrong with those solid rocket boosters. I am constantly asked, "Well, after *Challenger*, wouldn't you be afraid? Weren't you scared?" No, I would not have gone the first time if I had been.

There is nothing wrong with those solid rocket motors, except there was a decision made to fly them out of design tolerances. It is like taking a 5-mile-an-hour bumper on your car. They say if you run them into the wall at 5 miles an hour, there is no damage to the car. Well, if you run them into a wall at 25 miles an hour, they fail. That is not the fault of the 5-mile-an-hour bumper and it is not the fault of those solid rocket motors because they decided to fly them on a day icicles were forming off the tank of the liquid nitrogen and oxygen. That is why I said I would ride them again tomorrow morning without a fix, as long as it was a nice warm day. Give me 60 or 70 degrees, and I would love to ride them again.

What do we conclude after all of the redesign, several successful flights now with no problems whatsoever with those that we need an advance solid rocket motor? I do not dispute that. That is not the issue. Sure we want to improve; certainly we want to go on with improved products, and we want to make it as safe as possible, although you simply cannot guarantee safety in space. I do not care how careful we are, how long it takes, you cannot guarantee safety in space. You cannot guarantee your safety on the Capital Beltway. I think I will take my chances in space compared to the Capital Beltway. You certainly cannot guarantee safey in space. You do the very best job you can.

I am not opposed to the proposition to improve the boosters, to continue to improve the Orbiter and make it better, get the best performance we can and higher lift capabilities out of it. There are other options. We ought to go ahead with shuttle C, as well with heavy lift capability. But the issue of suddenly deciding that a Government-controlled facility is the best way to produce safer solid rocket motors just boggles my mind. When has this Government done something better than the private sector? I would like to know.

I am not going to take the Senate's time to go over and over the failures of Government. Look how well we have done with HUD. Wonderful working relationship we have had with HUD and all of the scandals and talk about the S&L crisis. I defy anybody to give me a good example of when Government is efficient, when we have done something well, and when we have gotten away from private contractors bidding and doing the best job they can. I object in principle to a Government-owned facility wherever it is. It just does not make any sense to this Senator.

Then we got into the argument about where it should be and the transportation of the solid rocket motor segments and all of that. That is one of the reasons that we do not build them in Utah anymore. That is fine. Thiokol decided not to bid on this contract anyway, so that is not unusual.

If you want to eliminate transportation, where do you build it? You build it at the cape. The only reason we have the Johnson Space Center in Texas and the launching facility in Florida is because Lyndon Johnson was President of the United States. It had nothing whatsoever to do with whether it makes sense, and it does not make any sense to have all the astronaut corps trained in Houston and then every time we wanted to train on the orbiter, both *Challenger* and *Discovery*, in my case, we had to fly to the cape and have another facility there.

So a political decision was made, you cannot launch in Texas. I am sure President Johnson would have had the launch facilities there if it had fit the right parameters, but it did not. Obviously, we need to launch on the east coast of Florida so you launch out over the ocean. But we put all the training facilities there. Once again, we made a political decision. We decided to go to Mississippi because the two chairmen of the Senate and House Appropriations Committees were from Mississippi. I do not begrudge them for trying to do that for their State. I try to do things for my State. That is not the problem. I have no personal criticism of them.

No Senator has loved a fellow Senator like I loved John Stennis. I served on the Armed Services Committee with him. There has never been a finer human being or finer U.S. Senator than John Stennis, so I do not want my remarks misinterpreted. But, nonetheless, it was a political decision, not based on the merits.

No. 1, we decided a Government-controlled facility is better, which I think is ridiculous, and, No. 2, we picked a site on the political basis, and, No. 3, we are playing games with the process to get it done, rather than doing it up front.

Then we have claims from NASA engineers, and I very rarely disagree with NASA. In fact, the press is always talking about how I never disagree with them. I do on this one. They are telling me, an old Navy and Air Force pilot with over 10,000 hours of pilot experience, that they have a design sitting on a drawing board for an advanced solid rocket motor that is going to meet all these design specifications, and yet they have never begun to put one together yet.

They have not done the research and development. That is ridiculous. That is insulting to my intelligence. I can see airplanes on diagrams. I never liked to fly them or decide what their design parameters would be until they had been tested. We are making claims for a solid rocket motor that may or may not come true. I guarantee you something else. You will not see one flying until after the year 2000. Their timetable is ridiculous.

Take an even much simpler flight system. Look at an F-16 which has never been controversial at all. It is a remarkable airplane. But look at the problems they had through the test phase. Look at the delays. Virtually every earthbound airplane that we deal with has been delayed because of the research and development in test phase. It takes longer.

I do not have any objection to improving the solid rocket motor. We should, but the process bothers me and the claims for when it will be available. I guarantee you we will be building current generation, and improving as we go along, of solid rocket motors well beyond the year 2000 because this new one will not be ready.

I wish we could do things more straightforward and more on the basis of substance. I just do not understand why the Senate and the House have to behave in this manner. I do not wish to delay my colleagues any longer except to say some of you, if you are still around—I do not expect to be here around the year 2000; in fact, I guarantee you I will not be—some of you will be around and look in the CONGRESSIONAL RECORD where Senator JAKE GARN said the advanced solid rocket motor will not be flying until after the year 2000; they will never meet their timetables, and you are not going to improve the quality or the safety because Government owns the facility. That is the most ridiculous concept of all, considering their record. Ask the American people what they think about the record of Government performance compared to the private sector.

I understand the position of the Senator from Arkansas. I did not intend to bring this up today, but I could not let it pass without commenting because I asked special hearings to be held on this issue. I have more than had my opportunity. The Senator from Maryland allowed me that privilege. I held one when I was still chairman. We discussed this whole thing, and NASA sticks to their position; come hell or high water, they have their minds made up. It does not make any difference, and their friends here in Congress will push it no matter whatever means.

I wish we could get that kind of consensus on adequate funding for a space station. I wish we could get that kind of drive to increase money for the National Science Foundation and for math and science teachers in this country.

I wish we could get some adequate money for the Orient Express, which we are barely hanging on to that vital airplane. I wish we could get some adequate money for shuttle C. NASA has a tight budget, but we are going to move ahead with a Government-controlled facility to build a solid rocket motor that has not yet been invented.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I certainly will not take but a few moments of the Senate's time to comment on some of the things that the Senator from Utah has said well and better than I could.

There is a facet to this which he talks about that ought to at least be of concern, and it is not that you would want to torpedo this whole project, or that we do not want to improve the safety of the existing solid rocket motors on the shuttle. But NASA has, for 21 years, had an aerospace safety advisory panel. The chairman of that panel is Joseph Sutter. Joseph Sutter was the chief designer of the Boeing 747, and that panel said that this plan ought to be put on hold for a number of reasons. Mr. President, I will at the conclusion of my remarks send excerpts from that report to the desk to be inserted in the RECORD.

But if safety is really the concern, the main engine on the shuttle ought to be a concern. On the Galileo launch, which took place last week, according to NASA, the main engine on that shuttle flight had a 63-percent higher probability of failure than the solid rocket motors. And so it seems to me, if you are going to spend money for safety, at least some of the money should have gone into redesign of the main engine. If we have concerns about the existing solid rocket motors, which apparently we do not, why are we accelerating shuttle launches? Those two do not jibe.

Mr. Sutter, the head of the safety panel I mentioned a moment ago, says that the safety changes which need to be made could be made much faster and a lot cheaper in the existing solid rocket motors than starting from scratch and spending $2 billion to try to build new ones.

Mr. Sutter goes on to say that the current redesigned booster is a booster that we feel is safe. The question is, When we get this new booster built, are we going to feel any safer about it? You think of all the testing we are going to have to go through. Then the Senator from Utah mentioned the shuttle C, which is a proposed unmanned configuration of the space shuttle. The Senator from Utah mentioned the space station. There is not a dime in here for the shuttle C, and yet it would take only 5 launches by the shuttle C, as envisioned, to build a space station where it would take 14 launches with the existing shuttle, even with the new, advanced solid rocket motor. Yet we say we want a space station and we are talking about the difference between 14 and 5 launches to build it.

Mr. President, I hope I have made my point. I want to return to my initial reason for being on my feet, and that is there is something really anachronistic about this body appropriating money in both Houses and then allowing a conference committee to literally torpedo all the endless hours that have gone into debate on the floors of both Houses. It is crazy. It makes no sense.

I repeat again, I am pleased for a State like Mississippi, with a low income per capita, low median family income, just as in my State. If we are going to build this facility, I could not be more pleased for them that they are getting it, but I can tell you that the process lends itself to bad results.

Mr. President, I compliment again, the Senator from Maryland, for bringing this bill to us and say again, I do not intend to ask for a rollcall on final passage. Unless somebody else does, we should be able to proceed to final passage.

Mr. President, I ask unanimous consent that excerpts from NASA's Aerospace Safety Advisory Panel, March 1989 annual report be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

ADVANCED SOLID ROCKET MOTOR (ASRM)

NASA has received well deserved worldwide congratulatory comments on the successful resumption of Space Shuttle flights. Of particular interest at this time has been the performance and post-flight condition of the solid rocket motors. Examination of the motors thus far has not disclosed any flaws or unusual condition that would indicate cause for concern about the safety and reliability of the Redesigned Solid Rocket Motor (RSRM). In view of this it is difficult to understand NASA's determination to proceed with the procurement of a new solid rocket motor—designated as the Advanced Solid Rocket Motor (ASRM)—for which is claimed superior safety and reliability. As discussed in the section of this report devoted to the Solid Rocket Booster, the Redesigned Solid Rocket Booster (RSRB) has corrected the major design deficiencies of the STS 51-L SRMs and improved other components that were considered marginal.

NASA's premise is that the ASRM will benefit from advanced solid rocket motor technology and automated manufacturing methods and thus evolve into a safer and more reliable solid rocket motor than the current RSRM. It is not evident why such improvements, as they develop, could not be introduced into the current production process. In any event the current STS schedule, if successfully carried out, would see more than 180 uses of the RSRMs before the new ASRM is introduced. With such a history behind it, any quantitative risk assessment analysis would most certainly favor the RSRM as regards reliability and safety.

In view of this situation—and because other elements of the STS system, if modified or replaced, could contribute more to improving safety margins—the Panel recommends that NASA reexamine the plan to procure the ASRM and study other options for the replacement of the current solid rocket motors. Such options should consider liquid rocket motors including the pressure-fed type. Safety and reliability should be the prime objective but it is believed these features can be achieved along with any desired performance enhancement.

The ASAP endorses the liquid pressure-fed rocket technology program being undertaken at MSFC and recommends that NASA support and expedite their effort. Also, rocket technology improvements arising from the Advanced Launch System (ALS) technology program should be carefully monitored and applied to the manufacturing processes of the current rockets.

ADVANCED SOLID ROCKET MOTOR (ASRM)

Finding: NASA's decision to procure the Advanced Solid Rocket Motor (ASRM) is based on the premise that the new motor will benefit from advanced solid rocket motor technology and new manufacturing methods and thus would evolve into a safer and more reliable motor than the current redesigned solid rocket motor (RSRM).

On the basis of safety and reliability alone it is questionable whether the ASRM would be superior to the redesign solid rocket motor which has undergone extensive design changes until the ASRM has a similar background of testing and flight experience. This may take as long as 10 years from go-ahead. In the interim, the current design is expected to have had over 160 additional firings prior to the introduction of the ASRM.

Furthermore, it is not evident why the new manufacturing processes planned for the ASRM cannot be applied to the manufacture and assembly of the RSRM. Consequently, it is not clear to the ASAP why NASA is proceeding with its plan to develop a new and expensive solid rocket motor, especially as there are still many elements of the STS system which, if modified or replaced, would add significantly to the safety of the operation. Furthermore, NASA has not thoroughly evaluated other alternative choices to the ASRM such as liquid rocket boosters.

Recommendations: The ASAP recommends that NASA review its decision to procure the Advanced Solid Rocket Motor and postpone any action until other alternatives, including consideration of long range objectives for future launch requirements have been thoroughly evaluated.

ADVANCED SOLID ROCKET MOTOR (ASRM)

The continuous program to increase the safety and reliability of the current solid rocket motors which will be used for the foreseeable future raises the question as to the wisdom of proceeding with the procurement of a new solid rocket motor which, by the time it is introduced, will have less proven and documented safety and reliability features than the current Redesigned Solid Rocket Motor (RSRM). The ASAP recommends that NASA reconsider its intention to procure the ASRM because for a small and questionable increase in reliability over the continually improved RSRM it will command large expenditures which should better be directed towards the improvement of the STS's overall safety. Furthermore, as NASA has not yet decided on those steps it will take regarding Space Shuttle and Expendable Launch Vehicle evolutionary development, it would be prudent to delay the ASRM decision until these future launch vehicle decisions are made. Among the things that should be included in this evaluation are an independent risk assessment and the possibe replacement of the solid motors with liquid rocket boosters.

Mr. COCHRAN. Mr. President, I am not going to take the time of the Senate with prolonged debate over the correctness or accuracy of the NASA decision to recommend the construction of the advanced solid rocket motor facility and to locate that facility at Yellow Creek, MS. There is an abundance of evidence to support that decision. The matter has been carefully reviewed by both the Congress and the officials who direct the programs at NASA. That is the decision. It has been made.

There is also ample evidence to support the decision to move forward to a new generation of rocket motors for our space program. There is of course no unanimity among those familiar with the issue, and a very eloquent statement has already been made by the distinguished Senator from Utah on the other side of that issue.

Let me make just a few points, Mr. President, and then I am going to yield the floor.

According to information from NASA itself, the design of the advanced solid rocket motor eliminates many of the failure points found in the current rocket motor. Not only will the design improve safety; it will also provide the ability to lift heavier payloads into orbit, which is essential to development of the space station. The manufacturing process will be extensively automated to minimize defects and to reduce costs significantly. Improved payload performance will also reduce program costs, and the payback will begin with the first flight. The advanced solid rocket motor will increase the utilization of the shuttle by 17 percent, an equivalent of 2.4 additional shuttle flights per year.

Mr. President, these are examples of reasons why it is important for us to move forward and approve the appropriation of these funds for this important new program for NASA.

I thank the distinguished Senator from Arkansas for his willingness to refrain from pushing an amendment to delete these funds. I understand his concerns and respect him as a neighbor and a friend. We appreciate very much his willingness not to press forward on this issue today.

Mr. HEFLIN. Mr. President, I congratulate the distinguished chairman of this Appropriations Subcommittee dealing with VA, HUD and Independent Agencies which contains the appropriations for NASA, and the ranking minority member, Senator GARN, for their diligent work in regards to taking an allocation which was, in my judgment, exceptionally low for this subcommittee's work, including all of the departments and agencies that were involved, and coming up with an appropriations bill that, while it did not meet the expectations, hopes, or the aspirations that I might have and that they also might have pertaining to the space program, did an outstanding job with work that had.

I feel they accomplished a great deal. They got nearly the amount of money that NASA wanted on the space station—$1.8 billion, whereas NASA had requested $2 billion relative to the building of the space station.

The House figure was some $200 million below that. I think this allows the space station to go forward without at this time having to go through a reconfiguration or redesign of the space station for the future. It may well be somewhere in the future that may occur.

I think they are to be congratulated relative to the inclusion of some money pertaining to the shuttle C. There is $10.5 million for the shuttle C that is included in this final conference report. This bill allow studies for this very important program to continue. The Nation needs this heavy-lift launch vehicle.

I was very much interested in the advanced solid rocket motor [ASRM]. I anticipated in the debate on the NASA authorization bill last year the Senate-passed language which would allow for the private development of the advanced solid rocket motor, including language dealing with contingent liability. The House failed to include that contingent liability in their bill, and when last year's bill was finally passed, a provision for contingent liability for the ASRM facility as not included.

There was some $27 million included for the construction, after a detailed colloquy on the floor with the distinguished chairman of the Commerce Committee and myself in which NASA and the space program comes within their purview.

I entered into a colloquy pertaining to contingent liability where the bidding could go forward, and the awarding of a contract could be announced pertaining to the advanced solid rocket motor.

But nevertheless, if we were going to pursue the private financed approach for the ASRM facility, it was necessary that the contingent liability—that is, termination of liability—be passed. Termination liability is required on a Government program which contains an element of private financing and then the Government, on its own, makes a decision, say, in a depression or war or for some other reason, that it will cancel the contract.

There are liabilities out there that the private sector would be involved in, and therefore this termination liability or contingent liability provision was necessary if that route were to be followed.

I introduced a bill which would provide that this year. It ran into some opposition, as was mentioned by the distinguished Senator from Arkansas, from several, and those who voiced some ideas that this might violate the Gramm-Rudman-Hollings budget act.

When the appropriation bill came up, there were discussions and it was determined that if we had an amount in it for the construction, a decision could be made to switch from the private financing to public financing if that proved to be the best approach for this program. In that regard, the

Senator from South Carolina [Mr. HOLLINGS] offered on behalf of myself and other supporters of this program to provide $10 million for the construction of a Government-owned ASRM facility.

We had researched this issue extensively with regard to Senate rules and scope of the conference and felt it would be within the purview of the conference to raise that figure if possible and necessary. That is, of course, what happened.

I would like to say a few words about the advanced solid rocket motor. There were problems with the O-ring on the old solid rocket motors. Perhaps the weather problem was the primary problem that caused the disaster of the *Challenger*, but it was the O-ring that failed. NASA has done an outstanding job with regard to the redesigned solid rocket motor and getting the space shuttle, and thus America, flying again.

But nevertheless, on a long-range basis, it is felt by NASA that this new advanced solid rocket motor will make the booster rockets many times safer than the existing solid rocket motors.

The Commerce Committee held hearings on the ASRM. Although not a member of that committee, I attended the hearings. They allowed me to participate in the questioning of the board pertaining to the revision and changes in existing solid rocket motors.

They admitted that even with the many changes made on the currently used sold rocket motors, the shuttle system will still need updated technology and increased safety and reliability. The motors we use now are still 1960's technology. We need to update the motors and the process that we use to build them.

So NASA engineers determined that it was needed and we should go forward under this advanced solid rocket motor program.

I congratulate the Senators for their activities involved in this, the staff involved from the Commerce Committee—particularly Marty Kress—worked exceptionally hard relative to this program. I also want to thank the staff of the Appropriations Committee on both sides of the Capitol, Senate and House, for their efforts on behalf of this program. Also, I appreciate all of the contributions that have been made by the many others who have been involved in this program. This is an outstanding project and is badly needed for our Nation's space program.

NASA has also done an outstanding job on this program. I am sure that in the future they can also continue to do an outstanding job.

Thank you, Mr. President.

Mr. KOHL. I would like to engage in a brief colloquy with the distinguished Senator from Maryland, the chair of the VA-HUD Appropriations Subcommittee.

I would like to begin by extending my appreciation to the Senator for her leadership with respect to the pending VA, HUD appropriations bill. Without her attention, I am sure the conference agreement would not have had the same success.

However, I want to draw particular attention to the decision to eliminate funding for section 8 moderate rehabilitation programs for fiscal year 1990. Given the massive mismanagement of this program by the Housing and Urban Development Agency, I understand the decision made by the House-Senate conference to require better management of certain housing programs at the agency before funding is provided. Unfortunately, some moderate rehabilitation programs never tainted by the recent scandalous behavior, such as one consisting of 95 units in Madison, WI, are being punished for the mistakes of others. More than 1,300 families and individuals are currently on a waiting list for moderate rehabilitation housing in Madison. My concern is not just directed toward my State with respect to moderate rehabilitation housing, but the Nation as a whole. Most States have similar housing programs that will be jeopardized without a boost in funding.

I wonder if the Senator could indicate what her thinking is in regard to the best way to address the continuing need for moderate rehabilitation housing.

Ms. MIKULSKI. I understand the concerns of the Senator from Wisconsin and I share them. I can assure the Senator that I will work diligently with Members of Congress and HUD to reinstitute proper management of the Moderate Rehabilitation Housing Program. I believe we can accomplish this task by fiscal year 1991. The decision to restrict funding for this program was a difficult one, but it was necessary. We need this next year to reevaluate the Section 8 Moderate Rehabilitation Program and make adjustments, if needed, with respect to its management. Once that task is completed, I hope and fully expect that we can resume funding of this program should HUD take the necessary steps to reform it and communities across the Nation, like Madison, continue expressing need for its extension.

Mr. KOHL. I thank the Senator, and I look forward to working with her to make the changes in HUD that need to be made so that we can get back to the business of addressing the housing needs of our people.

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I would like to express my support for the provisions of the pending measure making appropriations for Department of Veterans Affairs programs. I congratulate the subcommittee chairperson, Ms. MIKULSKI, for her strong efforts to provide adequate VA funding levels in this measure. VA appropriations in the conference report include primarily $16,196,146,000 for benefits programs, the amount requested by the administration, and, in the so-called discretionary accounts, $11,434,092,000 for the medical care account, $454,592,000 for construction programs, $212,652,000 million for the medical and prosthetics research account, and $830,292,000 for the general operating expenses account. These figures reflect both the 0.43-percent reduction made in all discretionary accounts in this measure to provide for the war-on-drugs funding being appropriated in the Transportation and Related Agencies Appropriations Act, 1990 (H.R. 3015) and the general 1.12-percent reduction—0.56 percent in the case of the medical care account—that the conferees made in the discretionary accounts in this measure in order to keep the overall discretionary funding total within the Budget Act section 302(b) overall allocation for those accounts. Since VA's medical care account is also receiving $50 million of the war-on-drugs funds in order to expand VA drug and alcohol treatment programs, the actual total currently being made available in that account for fiscal year 1990 is $11,484,092,000.

MEDICAL CARE

In general: Even though the $11,484,092,000 being appropriated to VA's medical care account is below by some $77 million the $11,561,431,000 passed by the House and below by some $31 million the $11,514,938,000 in the Senate version—which also included a provision to give the Secretary of Veterans Affairs authority to transfer up to an additional $50 million to this account from the construction, major projects account—the final amount is still $742,661,000 more than the amount proposed by the administration, a 7-percent add on. It is very disappointing that, despite repeated urgings, the Bush administration never revised the initial, terribly inadequate request proposed by the previous administration on January 9, 1989. The fiscal year 1990 appropriation for this account continues a most regrettable pattern throughout the 1980's of disastrously low administration requests for VA medical care, leaving it to the Congress to find the funds necessary for this account to which the Congress attaches a very high priority.

If the administration had this year requested the funds necessary to continue the program level supported by the fiscal year 1989 appropriation with the $345 million July supplemental—which would have required at least $800 million over the administration request—or to restore the cuts in serv-

ices and programs made during fiscal year 1989—which would have required about $1.1 billion—I am confident Congress would have responded. Finding $742.7 million over the administration request was a mammoth undertaking by the Appropriations Subcommittees and their leadership.

Over the past 4 years alone—fiscal years 1987 through 1990—Congress has added $1.757 billion to the administration's requests for VA medical care. Just as the administration requests have been extremely disappointing and inadequate, the efforts of the very able chairperson of this Appropriations Subcommittee, Ms. MIKULSKI, and of the distinguished chairman of the VA-HUD Appropriations Subcommittee in the House, Mr. TRAXLER, and the ranking minority members of the two subcommittees, Mr. GARN and Mr. GREEN, this year carry on a strong tradition of remedial congressional action to maintain the ability of VA's health-care programs to provide quality care to our Nation's sick and disabled veterans.

Post-traumatic stress disorder: Mr. President, I am especially grateful that the conferees have honored my recommendation, in my June 22, 1989, letter to Senator MIKULSKI, which appears on page S11379 of the RECORD for September 19, 1989, to add $6 million for post-traumatic stress disorder [PTSD] treatment activities. In a statutorily mandated VA contract study on Vietnam veterans' psychological readjustment problems, which the Research Triangle Institute [RTI] completed last year, RTI found that nearly half a million Vietnam veterans currently suffer full-blown cases of PTSD while another 350,000 suffer from some PTSD symptoms. Even more disturbing, the RTI study showed that almost 40 percent of those with full-blown PTSD have never been seen by a mental-health professional and that, in the 12 months prior to the study, almost 80 percent had not used any mental-health services. These data show a vast, unmet treatment need among Vietnam veterans which this funding will help to address.

As specified in the joint explanatory statement accompanying the conference report (H. Rept. No. 101-297, page 6), of the $6 million earmarked for PTSD treatment, at least $5 million is for the establishment of not less than 20 PTSD clinical treatment teams, with not more than $500,000 to be used for PTSD treatment-related activities, such as education, research, and evaluation, and not less than $500,000 to be used for the National Center on PTSD. These funds are in addition to the $5 million PTSD add on included in the fiscal year 1989 appropriation at my request and annualized in the fiscal year 1990 request.

Mr. President, the conference report does not contain the Senate add on of $1 million to VA's medical and prosthetic research account for a study of PTSD and other psychological problems of minority Vietnam veterans. Instead, the conferees have directed VA, through the National Center on PTSD, to study how best to provide outreach to and treatment for minority Vietnam veterans, including women Vietnam veterans, who are experiencing PTSD and other psychological problems in readjusting to civilian life. I urge VA to begin this most important study as quickly as possible.

Drug and alcohol treatment: Mr. President, I am pleased to note that the conference report contains an increase of $10 million above the budget request of approximately $80 million for drug treatment and prevention activities for veterans. In fiscal year 1989, cutbacks in drug and alcohol treatment programs led to the closing of eight VA programs which annually had over 4,500 inpatient and more than 8,600 substance abuse outpatient program admissions. Section 2502 of the Anti-Drug Abuse Act of 1988 authorizes funding of $15 million for each of fiscal years 1989 and 1990 for VA drug treatment programs, over and above basic appropriation levels. This authorization level was derived from an earmark of funding for VA that I had succeeded in having included in the Senate version of that legislation.

This year, I had recommended to the Appropriations Subcommittee an add on at that full authorization level in order to restore treatment programs that were cut in fiscal year 1989 and to expand modestly VA's ability to provide treatment to substance abusers. Although the full amount that I had proposed could not be provided, the $10 million add on will be of substantial help in restoring program cutbacks and making some expansions, and I am grateful for the subcommittee's work in this regard as well.

As I mentioned earlier, I am also very pleased that an additional $50 million is being appropriated in the fiscal year 1990 Transportation and Related Agencies Appropriations Act for additional support of alcohol and drug treatment programs within VA.

Prosthetics: Mr. President, the conference committee has wisely provided expressly for $5.6 million to help eliminate VA's backlog in providing prosthetic devices and to enable VA to provide timely and necessary service to veterans requiring prosthetics. This figure represents the amount I recommended to Senator MIKULSKI for this purpose in my June 22 letter, and I thank her for her sympathetic consideration of my request. In the fiscal year 1989 supplemental appropriation that I referred to earlier, my recommendation of an additional $5 million was included for prosthetics purchases. Together, these two amounts are designed to eliminate the prosthetics backlog of $10.6 which VA reported to use earlier this year. However, I must point out that recent committee investigative work indicates that the prosthetics program may be suffering from major management and procurement deficiencies, including an inability to determine accurately what its backlog is.

AIDS: Mr. President, recognizing the enormous, growing costs of AIDS treatment in VA and the inadequacy of VA's resource allocation mechanism to provide equitably for these costs in the VA health-care facilities which provide care for large numbers of AIDS patients, the conferees directed that VA make a special AIDS allocation for the first quarter of fiscal year 1990 to the 16 VA hospitals with the highest AIDS caseloads (H. Rept. No. 101-297, page 6). In addition, VA is directed to submit by December 1, 1989, a report on the adequacy of fiscal year 1990 funds to cover the actual costs of caring for AIDS patients. Although I had recommended in my June 22 letter that an additional $50 million be appropriated specifically for AIDS care, the subcommittee chairperson and I agreed on this direction in the Senate report to get funds to those facilities which need it most for AIDS care and to require VA to report on AIDS funding adequacy. I am delighted that this direction was maintained in conference. I believe these steps will assist in better identifying and focusing on VA facilities' needs in the very important area of caring for AIDS patients.

MEDICAL AND PROSTHETICS RESEARCH

Mr. President, although the $212,652,000 million that the conference committee has proposed for medical and prosthetics research is nearly $7 million less than the amount proposed by the Senate, it nevertheless represents a very significant increase—$15,342,000—over the level proposed by the administration. VA research activities have contributed greatly to many important modalities available to care for veteran patients. This appropriation will assist VA in continuing to make such contributions.

Also, as many of my colleagues are aware, VA is experiencing a physician shortage in certain specialties and in specific geographic areas. In addition to salary increases, one of the best methods to attract high-caliber doctors is to maintain a well-supported VA research program. Certain physicians are willing to work in VA for less money than they could elsewhere if research funds are available in VA.

GENERAL OPERATING EXPENSES

Mr. President, in regard to the general operating expenses [GOE] account, the conference report has provided an appropriation of

$804,395,000—which is only $916,000 over the administration's request.

However, the conference report includes discretionary authority for the Secretary to transfer, as proposed by the Senate, to the GOE account from the construction, minor projects account up to $21 million which is $6 million more than the $15 million transfer authority provided for in the House-passed bill.

I join with House Veterans' Affairs Committee Chairman MONTGOMERY in urging the Secretary to use this authority in order to enable the Veterans' Benefits Administration [VBA] to carry out vitally important functions in fiscal year 1990—including its critical ADP modernization program. The VBA and its predecessor, the Department of Veterans' Benefits, had to absorb huge staffing cuts since fiscal year 1980, resulting in a serious decline in VA's ability to provide benefits on a timely and effective basis. In my June 22 letter to Senator MIKULSKI, I indicated that, compared to the administration's budget, VA needs $8 million and 250 more full-time employee equivalents [FTEE's] for VBA staffing needs to reduce unacceptable delays in claims adjudication; $10 million and 244 more FTEE's to improve loan guaranty counseling; $4.2 million and 121 more FTEE's to reduce vocational rehabilitation counselor caseloads to acceptable levels; and $10.5 million for necessary contract support for the 12-point ADP modernization plan and to acquire equipment to implement the Automated Information Exchange System. VA also needs $1 million more than the administration requested to help enable VA's General Counsel to discharge its new responsibilities, in representing VA before the new U.S. Court of Veterans Appeals.

Although the conferees clearly recognized the needs in many of these areas, the conference report would enable VA to fund only a fraction of these critical needs. I truly regret that the transferred funds would decrease the construction, minor projects account, but it is clear to me that VBA's immediate needs for serving veterans must take priority at this point.

U.S. COURT OF VETERANS APPEALS

Finally, Mr. President, I am pleased that the pending measure would provide $3,938,000 for the new U.S. Court of Veterans Appeals—which is only $62,000 less than the $4 million passed by the Senate, compared to the $3 million originally passed by the House.

I am also pleased to note that the conference report contains the provisions of an amendment which the committtee's ranking minority member, Mr. MURKOWSKI, and I authored and which was agreed to by the Senate on September 18 to first, exempt the court in its first full fiscal year from section 509 of the bill, a general provision prohibiting any funds appropriated by this measure for personnel compensation and benefits from being used for other purposes, and second, require the chief judge of the court to transfer back to VA's medical and prosthetics research account such amount, not to exceed $1 million, as the chief judge determines by July 1, 1990, to be excess to the needs of the court during fiscal year 1990. As my colleagues will recall, VA's research account was the source of the $1 million add-on provided in our amendment for the court. Should the full $1 million not be needed by the court in fiscal year 1990, it should be returned to that account. Although I regretted drawing funds from VA research for this purpose, I believed it was necessary for veterans, given the budgetary uncertainties that the new court faces in its first year of operations, to make sure that the court has the resources it needs to handle veterans' appeals while at the same time providing that unneeded funds are restored to the VA research account.

CONCLUSION

Mr. President, I wish again to express my gratitude for the efforts of Senator MIKULSKI and the other members of the conference committee for their efforts to provide adequate and equitable funding levels for veterans' programs, given the constraints under which they had to work. Although I believe that additional funding for VA's medical programs is needed and desirable, I also recognize the work that the conferees and their staff members put into the crafting of this measure with a view toward minimizing for veterans programs the fiscal sacrifices that are currently required under the budget process.

NEW JERSEY CENTER FOR THE PERFORMING ARTS

Mr. LAUTENBERG. Mr. President, this bill includes $1.2 million that I requested for the New Jersey Center for the Performing Arts, an important project that will help revitalize the city of Newark, NJ.

Mr. President, the State of New Jersey has initiated an ambitious plan to develop cultural and performing arts centers throughout the State. The New Jersey Center for the Performing Arts is the cornerstone of this plan. Located in downtown Newark, the arts center will be financed through a multimillion-dollar public-private partnership.

In addition to providing a home for cultural and artistic activities in Newark, the arts center will serve as the catalyst for commercial and economic development in the city. It is expected to stimulate the development of restaurants, cafes, shops, and other uses which will reinforce the redevelopment of the area and provide widespread economic benefits for the entire city.

The $1.2 million would help fund planning, design, site preparation and construction of outdoor public spaces at the center. These would be available to the general public.

Mr. President, Mayor Sharpe James of Newark has made significant progress in restoring a sense of pride and progress throughout his city. But much work remains to be done. The city is still economically distressed—unemployment and poverty remains high, as does crime.

Newark is trying to lift itself up by its own bootstraps, Mr. President, and the performing arts center is an integral part of that effort. The local and State business community is committed to providing $33 million for the project. In addition, the New Jersey State government will be providing assistance—the State legislature has voted to issue $20 million in bonds to help purchase the site and has also provided direct appropriations.

Mr. President, this is exactly the kind of project that the Federal Community Development Program was designed to promote. A description of the project and the proposed funding in the bill was submitted to the Department, which confirmed that it met the statutory requirements of the CDBG Program.

We have an economically distressed city. Its residents are suffering from the ravages of unemployment, crime, and poverty. Its business community is putting up real resources. The State government is pitching in. And we have a project that promises to make a real difference.

Mr. President, revitalizing cities like Newark is in everyone's interest. Economic development means better lives for the people in these areas. But it means much more than that. It also means reduced demands on the Federal and State governments—everything from lower welfare and unemployment compensation payments to reduced needs for law enforcement and anti-drug assistance. And, significantly, it means more revenues to reduce the deficit and to pay for other Federal and State programs.

Mr. President, the arts center is an important project that will make a real difference to one of our Nation's most economically depressed cities. I urge my colleagues to support it.

Mr. BIDEN. Mr. President, there is a provision in the Veterans-HUD appropriations bill that is critically important to the veterans of Delaware. The bill specifies that $1 million shall be spent on design work for the proposed clinical addition to the Elsmere Veterans Hospital in Delaware. This clinical addition is badly needed, and work should begin immediately.

Mr. President, we as a nation have a very serious commitment to our veterans. They have sacrificed much for us, and we remain a free people because of their efforts.

Unfortunately, the quality of veterans medical care has not kept pace with the needs of veterans, or with our national obligation. Cuts in the Veterans' Administration budget during the Reagan administration caused the quality of care for veterans to suffer. Funds have not increased as quickly as the demand for medical care, due to an aging veterans population, or as quickly as inflation in health costs. In many parts of the country, there has been an erosion in the quality of care. In particular, some facilities are outdated, antiquated, and overcrowded.

The Elsmere Veterans Hospital in Delaware is one of the most serious examples of such a facility. When it was built in 1948, in the wake of World War II, its outpatient facilities were designed to serve about 25,000 patients. Last year, it served 73,000 patients. It is expected to serve 80,000 patients by 1991.

Unfortunately, a number of its outpatient facilities are overwhelmed. The critical surgery suite was built in 1950 and has never been renovated. The laboratory and radiology services are outdated, cramped, and inadequate. Veterans have been forced to wait for surgery or tests in the halls or on gurneys, subjecting already anxious persons to the additional stress of having dozens of people pass them in their hospital gowns.

The Elsmere facility's pharmacy is also inadequate. Many veterans must literally wait for hours to have their prescriptions filled. In addition, the pharmacy is located next to the boiler room. As a result, it is so hot in the winter that there have been incidents where medications melted down or were altered.

This crowded, obsolescent atmosphere not only has serious implications for the quality of medical care for the patients being served, but it can also make it extremely unpleasant for the hospital's staff. There have even been concerns that the Jefferson medical students would refuse to work in the facility, which would dramatically affect the quality of medical care.

Plans for this clinical addition have been on the drawing boards since 1973, when it was first proposed in a quality of care report to the Congress from the Veterans' Administration. Over 90 percent of the goals and projects recommended in that report have been met, but the Elsmere clinical addition is still needed. I believe that it is high time that it was built.

For each of the last several fiscal years, when the VA has recommended that this project be funded, the Office of Management and Budget has opposed that recommendation. The crux of the OMB's opposition has been that the VA has assumed too many inpatient beds in its calculations, making the overall job more expensive than it needs to be. The VA performed $1.5 million of design work about 10 years ago, and the subsequent trends toward inpatient care have shown that the early assumptions about outpatient beds were excessive.

Congressman TOM CARPER and I recently met with Secretary of Veterans Affairs Edward Derwinski, and with representatives of the OMB, to discuss the Elsmere clinical addition. We have found general agreement with both sides that while there is a serious need for the clinical addition to improve the hospital's outpatient facilities, the number of inpatient beds in the Elsmere facility could be reduced substantially. The space saved could greatly reduce the cost of the proposed clinical addition, and help eliminate the basis for the OMB's historic objections to this facility. This $1 million will help the DVA to reconsider and update that earlier design work.

It is now 16 years since this clinical addition was first proposed. That is a long time—too long a time—to wait. The veterans of Delaware have watched with dismay as this important, needed project has been bounced back and forth and tied up in bureaucratic knots for too many years. It is time to break through this logjam. It is time for common sense to take over, and for us to do what all experts agree is necessary—start the work on designing and building this clinical addition.

By funding this crucial redesign work, this bill takes an important first step. I intend to make sure that we continue on this course next year and the year after, until this addition is not only redesigned, but is built and standing. The veterans of Delaware deserve no less.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report on fiscal year 1990 VA, HUD, and independent agencies appropriations bill.

Mr. President, I first want to express my thanks to the chair of the VA, HUD, and Independent Agencies Appropriations Subcommittee, Senator MIKULSKI, for her outstanding work on this bill and for her help in securing funding for several items that I had personally requested. Senator MIKULSKI has taken on one of the most difficult subcommittee assignments in the Senate, and has done a remarkable job in a very short time. Her excellent staff, led by Kevin Kelly and Carrie Simmons also deserves enormous credit. I would also like to thank our distinguished ranking minority member, Senator GARN for his efforts to shape this bill, and to note the fine work of Stephen Kohashi of his staff.

Mr. President, I am especially pleased that this bill includes $50 million for the Public Housing Drug Elimination Act, a program I developed in the 100th Congress. The problem of drugs in public housing has reached crisis proportions. Many housing projects are virtual war zones. Tenants are afraid to leave their apartments, and violence has become routine.

The Public Housing Drug Elimination Act will provide tenants and housing authorities with much-needed tools to fight back. The act establishes a competitive grant program, under which funding is provided for additional security, tenant patrols, physical improvements designed to enhance security, and innovative antidrug programs.

Earlier this year, the Congress approved $8.2 million for the program in the fiscal year 1989 supplemental appropriations bill; $50 million therefore represents more than a 500-percent increase.

Since the supplemental appropriations bill was enacted, HUD reports that it is being inundated with inquiries from housing authorities around the country. I know in New Jersey there has been a tremendous response to the program. Clearly, the need for such funding is enormous.

Mr. President, I am also pleased that the bill includes $1.2 million for the planned Newark, NJ, Performing Arts Center. The center promises to contribute significantly to the revitalization process now underway in Newark.

I am also pleased that the bill includes a provision to increase the FHA mortgage limit from $101,250 to $124,875. This will be very useful in high cost areas in New Jersey.

Mr. President, this bill also does a very good job of addressing many of our environmental priorities. While I would have liked more for Superfund, I realize the constraints the subcommittee chair labored under. The bill achieves the highest Superfund appropriation in the history of the program, funding the program at $1.575 billion. That is $150 million more than the House and last year's appropriation. While I supported even higher levels for Superfund, I appreciate the efforts of our House colleagues and Senator MIKULSKI to achieve at least the level in the Senate bill, given the funding constraints under which the subcommittees worked.

We achieved this Superfund level while increasing construction grants by $800 million above the President's budget. The administration's failure to request sufficient resources for construction grants and other programs made it very difficult to address the growing needs of the Superfund program. I hope President Bush will respond to this conference report by realizing that future budgets must address not only Superfund, but construction grants and other vital programs at EPA.

I would like to note a number of provisions in the conference report to which I have given special attention.

The conference report has a special provision for the Lipari Landfill, the No. 1 site in the Nation. The measure includes $273,000 to study the health consequences on area residents of exposure to Lipari Landfill.

The bill also includes what would be the highest appropriation to date for implementation of the Emergency Planning and Community Right to Know Act, title III. I have sponsored a series of measures that raise total funding for this program by about $10 million and 42 FTE's above the President's budget request, including $3.84 million for State grants by the Federal Emergency Management Administration under section 305 of title III. The measures I sponsored in the EPA accounts provide additional headquarters and regional resources and personnel for the Office of Solid Waste and Emergency Response, the Office of Pesticides and Toxic Substances, the Office of Enforcement and Compliance Monitoring, and the Office of Research and Development.

The language of the Senate report, which is binding given that it is not superseded by either the House report or conference report, identifies a number of priorities to be included in EPA's implementation of title III, both with funds assumed in the President's fiscal year 1990 budget and with the increased funds provided by the conference report.

The Senate includes an itemization of emissions inventory activities and emergency planning activities, as well as some activities, such as technical assistance and enforcement, which apply to both planning and emissions inventory work. As the Senate report makes unmistakably clear, while emissions inventory activities are critical, it is the Appropriations Committee's intention that both in implementation and allocation of resources, EPA play a major role in carrying out the emergency planning provisions of the title III. The committee states clearly that the role of EPA on emergency planning, although different, is equal to that of State and local entities. The equal emphasis placed on emergency planning and emissions inventory should be reflected in EPA's use of funds in the President's budget as well as the increased funds for the salaries and expenses account and the abatement, control and compliance account provided by the conference report.

As should be clear from these observations, merely adding up the number of activities identified in the Senate report attributable to either the emissions inventory or emergency planning components of the title III program will not provide proper guidance in allocating funds. Those activities listed in the Senate report are not intended to be an all-inclusive list of how funds should be spent, but are instead the minimum of priorities that must be addressed in allocating funds.

To allocate title III funds, EPA must start with the premise that the Appropriations Committee considers both planning and inventory work as equal partners in the title III program. The Agency must then allocate resources in a manner that addresses the threshold activities identified in the Senate report as well as the needs of the various Agency offices involved in title III implementation, and is consistent with the underlying congressional philosophy on the equal importance of emergency planning and emissions inventory work. Only through such an approach can EPA allocate funds and staff in a manner consistent with this bill to the various offices involved with implementation of title III.

The conference report includes $3.84 million for title III's section 305 grants, as well as $120,000 for administration of the grants program. Because neither the House report nor conference report supersedes the Senate report language concerning these grants, FEMA is bound by the Senate report language to assure that these grants are issued without restrictions on the percentage of State training courses or personal services. FEMA should also carefully heed the Senate report's directive to take a more aggressive approach to implement Federal emergency response and training in the hazardous materials area, and to assure that such efforts are coordinated with EPA. Coordination by FEMA with EPA in implementing title III is necessary for effective implementation of title III.

I also note that, like the House report, the Senate report includes language clarifying that funds requested in the budget for assistance to States for AHERA and funds for assistance for State efforts under title III, including those of State emergency response commissions and local emergency planning committees, should be provided pursuant to section 28 of the Toxic Substances Control Act.

The conference report includes necessary statutory authority to allow EPA to receive a Defense Department helicopter to perform medial waste surveillance flyovers of the New Jersey-New York shore.

I am encouraged by the $40 million increase in the measure for the Clean Water Act's nonpoint pollution program to provide money to States to address water pollution due to such causes as runoff from land. Nonpoint pollution is a major threat to coastal waters, and this bill would do much to boost support to States to attack this threat.

We have also provided a $50 million increase for EPA's asbestos mitigation loans and grants program for schools. Although the administration was content to ignore this program, Congress is not.

As a continuation of our previous support for the development of a hazardous waste laboratory in Edison, NJ, the bill includes statutory authority for the New Jersey Institute of Technology to lease space from EPA for a joint university-EPA hazardous waste facility, previously funded through provisions in prior appropriations measures. This statutory language should clear the way for the project to move forward.

We have also continued support of $250,000 for a group of eight Northeastern States, including New Jersey and New York, for coordinated efforts to address interstate ozone and air pollution problems. Interstate transport of pollution is a problem for my State and the Nation, and I am hopeful that these coordinated efforts will help us achieve some progress on this problem.

Mr. President, the bill also includes $3.1 million for expanding the clinic laboratories at East Orange VA Hospital in Newark. These funds would permit the renovation of the first floor of building 7 to accommodate clinic research, and the renovation of backfill space in the main hospital building for clinic labs. These facilities are needed to carry out important research at Lyons that will contribute to the improved health of veterans.

The bill also includes $10.7 million for renovations at Lyons VA Hospital in Lyons, NJ. These funds will permit the renovation of the three floors of a psychiatric care unit to improve patient privacy, provide a new elevator, and correct life safety code and other deficiencies in the structure. These renovations are important to providing the best possible care for our veterans. I am also pleased that we were able to provide an increase of $6,000,000 for posttraumatic stress disorder treatment activities over the President's budget request.

Mr. President, I am also pleased that the conference report includes an earmark of $750,000 for the disrict heating and cooling program. As I noted in an earlier floor statement, this program offers great promise for cities such as Camden, NJ.

I am also pleased that the House receded to the Senate position on the ACTS Program and the final version of the bill includes $62 million for ACTS. These funds will enable NASA to continue with the ACTS program, which is critical to maintaining America's leadership in communications satellite technology.

We also increased funds for the training program authorized by section 126 of the Superfund Amendments and Reauthorization Act of 1986. Training skilled workers through

a bonafide, established training program is essential if Superfund is to succeed. The Congress recognizes that need and realizes that the American Trade Union movement through established training programs is a vehicle that is in force to produce the necessary skilled workers to work in the Superfund Program, and that many of the affiliates of the AFL-CIO are grantees of the Superfund training program. It is our intent that the necessary funds be provided for training programs. We realize that union related programs are helping to ensure that America's future will be dedicated to a safer environment that is protective of human health.

Mr. President, while I would note that all of the specific levels I've mentioned above will be affected by relatively minor across the board reductions to conform the bill to the subcommittee's allocation, on the whole I believe this is a strong bill, and I commend the subcommittee chair and ranking minority member for their efforts.

Mr. DOMENICI. Mr. President, I rise to address the conference report accompanying H.R. 2916, the VA-HUD independent agencies appropriations bill for fiscal year 1990.

The conference agreement, as adjusted, provides $65.7 billion in budget authority and $69.6 billion in outlays for fiscal year 1990. The conference report is technically under the subcommittee's 302(b) allocation by $0.2 billion in budget authority and $0.1 billion in outlays.

The conference report is technically under the Senate subcommittee's 302(b) allocation, but that result is achieved by using budget gimmicks which are not based on sound policy or budgetary considerations.

This conference report contains many budget gimmicks, including delays in the obligation of funding for NASA, the National Science Foundation, and VA programs; the reprogramming of NASA and VA funding from slow to high spending accounts, which will increase outlays outside of the regular budget process; and a lease-purchase agreement to finance a new EPA project. Although several objectionable provisions have been stricken by the conferees, this is still the "short" list of budget gimmicks in this bill.

I feel it necessary to mention a worrisome pattern that is clearly present in the VA-HUD appropriations bill. That pattern is the narrow focus of reaching 1-year deficit reduction targets at the expense of making sound policy decisions.

We have become so fixated on meeting 302(b) allocations that we often lose sight of larger budget and policy considerations. I believe this trend remains evident in the VA-HUD appropriations conference report before us today.

I hope it is clear that next year when the outlays associated with the delays in obligations occur, the results of these budget actions will have to be absorbed within the Appropriations Committee's domestic discretionary totals. These gimmicks will affect the level of new spending available to the overall committee in fiscal year 1991, not just the VA-HUD Subcommittee.

A glaring example of the budget gimmicks is the inclusion of eight different provisions to delay or limit the obligation of domestic discretionary appropriations until a later point in the fiscal year. These provisions allow approximately $575 million fewer outlays from being scored against this bill for fiscal year 1990.

Another example of these budget gimmicks is an amendment to increase the mortgage limit for the Federal Housing Administration [FHA], which will generate $104 million in fees. These fees are intended to cover losses on defaulted mortgages.

This subcommittee spends these receipts as an offset for other discretionary spending. Using these fees to offset current appropriations means, in effect, that we are spending these funds twice.

As I understand the situation, CBO has scored the outlay savings resulting from these provisions, and that is acceptable to the chairman of the Budget Committee. It is not acceptable to this Senator for several reasons.

First of all, the delays in the obligation of funding until the middle or end of the fiscal year puts an extreme burden on the executive branch to administer the programs Congress has authorized in law. Delaying obligations forces agencies to reassess their priorities. This disruption will occur because the conferees put their focus on meeting the 302(b) allocation at the expense of agency program needs.

The delays in the obligation of certain funding included in this bill will affect NASA's space station program, space transportation, space science, and space flight, control, and data communications programs. In other words, virtually every major activity of NASA will be limited under the conference agreement.

In addition, the Senate bill first attempted to shift $83 million in domestic discretionary spending from the National Science Foundation's U.S. Antarctic Program to a new defense account. Reclassifying this account would have violated the spirit of the bipartisan budget agreement. Instead, the conference report has just turned this into another delay in the obligation of funding.

My concern, Mr. President, is that although these provisions will save outlays in the short-term, these are not good decisions on the basis of larger policy or budgetary considerations.

I do not believe this is a responsible approach to Congress' budgetary responsibilities, and I fear that there will be a significant price to pay for our shortsightedness in the not too distant future.

Mr. THURMOND. Mr. President. I rise in strong support of passage of the conference report on H.R. 2916, the VA, HUD, independent agencies appropriations bill. I am pleased that under this bill, the Environmental Protection Agency construction grants program will provide $6.8 million for the construction of a connector sewer line between the towns of Honea Path and Ware Shoals, SC.

Mr. President, I want to now include some background information on this grant. At the present time, none of the wastewater treatment facilities serving the small town of Honea Path, SC, are capable of operating at acceptable discharge limits. Accordingly, the State of North Carolina has imposed a consent order on the town to construct a new facility, that would comply with acceptable wastewater treatment standards.

The town of Ware Shoals, which is only 10 miles away, has an existing wastewater treatment facility that has the capacity to treat not only its own discharge, but also all of the wastewater of Honea Path. Although the facility at Ware Shoals has the capacity to treat 4.5 million gallons per day, it presently treats an average of 300,000 gallons per day. A sewer connection between these two towns will provide for the efficient use of this excess capacity, and enable one community to share their resources with another. It just makes good economic sense. Accordingly, the $6.8 million will specifically provide for the installation of a series of four pump stations, and a main trunk line connecting the towns of Honea Path and Ware Shoals. With such a hookup, everyone will benefit.

Mr. President, providing for such a connector sewer line promotes the underlying policies of the clean water programs of the EPA and I am pleased that this provision was included in this bill.

I am pleased to offer my strong support to the conference report.

Mr. KERRY. Mr. President, I rise in support of the conference report on VA-HUD and independent agencies appropriations bill for fiscal year 1990.

I would like to commend my distinguished colleague from Maryland [Ms. MIKULSKI] for her leadership as chairman of the subcommittee and congratulate her for her excellent work as a leader of the conference and as manager of this bill.

The legislation before us today includes a number of important alloca-

tions. First and foremost, the bill contains the first significant increase in funds for housing programs in more than 8 years. I am extremely pleased to see that Congress has finally seen its way clear to reverse the downward trend that characterized housing and the funding of housing programs during the last administration.

In the housing area, this measure includes important funds to assist the homeless. As the "Housing Now" march on Washington earlier this month clearly demonstrated, the pervasiveness of the concern for homelessness throughout this country is widespread. As we work to eliminate homelessness through the provision of decent, safe and affordable housing, we must also ensure that the winds of winter do not find our fellow citizens homeless and freezing on our streets.

The measure also includes funds to provide for public housing modernization and public housing operating subsidies. These resources should go a long way to ensuring that our current housing stock is adequately maintained; that dilapidated units are brought up to speed and that our public housing authorities have the resources they need to fulfill their mandated roles as overseers of the Government's housing supply.

Mr. President, I am also pleased that H.R. 2916 addresses two other important housing related concerns. First, the measure includes an increase in funding over last year's level for the Community Development Block Grant [CDBG] Program. This important program is instrumental in providing a variety of essential services to low- and moderate-income populations throughout the country, ranging from housing development and rehabilitation to day care, home health care and job training and counseling. CDBG plays a vital role in helping local governments meet the needs of their communities.

Second, H.R. 2916 includes about $1 billion to fund expiring section 8 contracts. Mr. President, this foresight in funding will help prevent thousands from potential homelessness and will ensure that 42,167 units of housing will remain available to low-income persons in 1990.

Finally, Mr. President, the VA-HUD and independent agencies appropriations bill contains a number of important allocations in the environmental area. In this regard, I am quite pleased that H.R. 2916 includes $20 million for the Boston Harbor cleanup project. This $20 million installment on the $100 million commitment that was approved in 1986, represents an important component of the crucial Boston Harbor cleanup project. The funds approved by passage of this measure today will be used to begin to develop new primary treatment facilities and to prepare Deer Island for the new primary treatment facility that will be built there.

Ms. MIKULSKI. Mr. President, I believe the conference report has had adequate and spirited debate. The issues raised about both the NASA allocation and the policy issues of the advanced solid rocket motor I think have also been adequately debated. I am not going to add to that.

I certainly believe the subcommittee acted both in terms of solid policy, since the policy we advocated was recommended by the authorizing committee, No. 1; No. 2, in terms of the fiscal propriety of what we have done in the conference report. We were talking about apples and oranges. What we essentially came up with was a new fruit stand, because the amount in the VA-HUD 302(b) was more than the House amount. That was disallowed. Then they went back to the drawing boards and gave us a new allocation which we specifically used for NASA.

So that is why the numbers have changed. That is why the numbers have expanded. But we feel, whether we came in with a lemon or an orange, we ended up with a pretty good situation.

Mr. President, now that we have completed that, I am going to ask unanimous consent to dispose of all amendments in disagreement prior to the vote on the VA-HUD conference.

I ask unanimous consent to be able to dispose of those amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Utah.

Mr. GARN. Mr. President, if I could interrupt for just a moment and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I move adoption of the conference report, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY] and the Senator from Nebraska [Mr. EXON] are necessarily absent.

Mr. DOLE. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Texas [Mr. GRAMM], the Senator from Vermont [Mr. JEFFORDS], the Senator from Mississippi [Mr. LOTT], the Senator from Indiana [Mr. LUGAR], the Senator from Idaho [Mr. MCCLURE], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 84, nays 6, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—84

Adams	Fowler	McConnell
Baucus	Garn	Metzenbaum
Bentsen	Glenn	Mikulski
Biden	Gore	Mitchell
Bingaman	Gorton	Moynihan
Bond	Graham	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Breaux	Hatch	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burdick	Heinz	Pryor
Burns	Hollings	Reid
Byrd	Inouye	Riegle
Chafee	Johnston	Robb
Coats	Kassebaum	Rockefeller
Cochran	Kasten	Rudman
Cohen	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
D'Amato	Kohl	Shelby
Danforth	Lautenberg	Simon
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dodd	Lieberman	Thurmond
Dole	Mack	Wallop
Domenici	Matsunaga	Wilson
Ford	McCain	Wirth

NAYS—6

Armstrong	Helms	Roth
Dixon	Humphrey	Symms

NOT VOTING—10

Bradley	Jeffords	Simpson
Durenberger	Lott	Warner
Exon	Lugar	
Gramm	McClure	

So the conference report was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the amendments of the House to the amendments of the Senate in disagreement be considered and agreed to en bloc with the exception of amendment 25.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments are agreed to.

The amendments in disagreement agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided,* That of the sum appropriated, $7,250,000,000 is available only for expenses

in the personnel compensation and benefits object classifications".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "46,112,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$817,059,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

GENERAL PROVISION

Notwithstanding the earmarking of funds for the Veterans Benefits Administration identified in this Act within the general operating expenses appropriation, $565,329,000 of the $817,059,000 appropriated shall be for the Veterans Benefits Administration.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $8,115,221,525, to remain available until expended: *Provided,* That of the new budget authority provided herein, $134,373,600 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $457,717,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,030,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 14371); $2,500,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $883,830,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $180,000,000 for amendments to section 8 contracts for projects developed for the elderly and handicapped under section 202 of the Housing Act of 1959, amended; $1,148,332,500 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f), of which $47,302,500 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $112,350,000 shall be for certificates to assist in the relocation of other eligible tenants or for project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987; up to $318,545,152 shall be for section 8 assistance for property disposition; $782,521,950 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); and $1,373,060,823 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: *Provided further,* That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further,* That up to $143,490,000 shall be for loan management under section 8; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the $8,115,221,525 provided herein, $324,062,500 shall be used to assist handicapped families in accordance with section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $50,000,000 shall be for amendments to contracts under section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q); and $25,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount, and the $20,000,000 appropriated under Public Law 100-404 for such program, shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof; and $50,000,000 shall be used for grants under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.): *Provided further,* That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1990, shall be rescinded: *Provided further,* That 50 percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: *Provided further,* That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: *Provided further,* That up to $14,000,000 of the funds provided under this heading may be transferred, merged, and added to sums appropriated for "Salaries and expenses" and any amount or amounts earmarked under this heading may be reduced accordingly.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by inserting after subsection (a) the following new subsection:

"(b)(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing and public housing for Indians and Alaska Natives in accordance with the Indian Housing Act of 1988 shall provide that the total development cost of the project on which the computation of any annual contributions under this Act may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 percentum of such amount unless the Secretary for good cause determines otherwise.

"(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by

"(A) in the case of elevator type structures, 1.6; and

"(B) in the case of nonelevator type structures, 1.75.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $1,091,978,475, to remain available until expended, of which $517,777,500 shall be for existing certificates, $449,145,000 shall be for housing vouchers and $125,055,975 shall be for loan management under section 8: *Provided,* That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further,* That to the extent any amount in this paragraph is insufficient for the purpose for which it is earmarked, the Secretary may supplement such amount with up to $90,000,000 from funds otherwise earmarked under this paragraph: *Provided further,* That to the extent such supplement is insufficient, the Secretary may, from the Annual Contributions for Assisted Housing paragraph, transfer to, add to, and merge with the amounts appropriated under this paragraph up to $90,000,000 to fund such insufficiency, and the $1,373,060,823 earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, in the Annual Contributions for Assisted Housing paragraph, shall be reduced by an amount equal to the amount transferred.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "$93,400,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That $1,200,000 of the $93,400,000 shall be available for a special project under section 107 for infrastructure development on Hawaiian home lands by the Hawaii State Department of Hawaiian Home Lands, notwithstanding the provisions of section 107(d)(1)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That of such $93,400,000, notwithstanding any requirements or other provision in title I of the Housing and Community Development Act of 1974, as amended, $16,000 shall be available for the communities of Parshall and New Town, North Dakota, for municipal services provided in connection with properties owned by the Fort Berthold Indian Reservation Housing Authority, and $500,000 shall be available for West Valley City, Utah, for basic infrastructure in connection with the West Ridge Commerce Industrial Park".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "provisos".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "and for reimbursement to the Resolution Trust Corporation for properties conveyed by such Corporation for such use, in accordance with section 810(g)(3) of such Act, $13,200,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$738,530,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$397,278,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided,* That during fiscal year 1990, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,402 for Public and Indian Housing Programs".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

If the Secretary of the Department of Housing and Urban Development has not issued the lead-based paint technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods and acceptable post-abatement lead dust levels by April 1, 1990, the Department's September 29, 1989, draft guidelines shall take effect and remain in force until revised by the Secretary.

Of the amount appropriated in this Act under the heading "Annual contributions for assisted housing" and earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), the Secretary shall set aside and may use up to $1,000,000 to indemnify any public housing agency that receives assistance under section 14 of the Act to test and abate lead-based paint in the the Lead-Based Paint Abatement Demonstration Program under section 302(d)(2)(A) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(2)(A)) and any person under contract with such agency, with respect to all or parts of claims arising from such testing or abatement, in accordance with the terms and conditions that the Secretary shall specify for the validation, processing, and payment fo claims, and any other matters concerning the administration of the amount set aside: *Provided,* That any balances not obligated before October 1, 1992, shall be made available without regard to this paragraph.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and matter inserted by said amendment, insert "$16,000,000, to remain available until expended".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 71 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$2,800,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$15,000,000, of which $3,000,000 shall be made available as a grant for an environmental laboratory addition to be constructed and owned by the University of Nevada, under such terms and conditions as the Administrator deems appropriate, with all of such sums".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,050,000,000 to remain available under expended, of which $1,002,000,000 shall be for title II (other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209) of the Federal Water Pollution Control Act, as amended; $1,002,000,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $46,000,000 shall be for title V of the Water Quality Act of 1987, consisting of $7,000,000 for section 510, $20,000,000 for section 513, and $19,000,000 for section 515: *Provided,* That of the funds appropriated in previous fiscal years under this heading to carry out the purposes of section 206(a) of the Federal Water Pollution Control Act, as amended, $47,700,000 are rescinded: *Provided further,* That, notwithstanding sections 602(b)(6) or 201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the construction of publicly owned treatment works as defined in section 212 of that Act: *Provided further,* That, notwithstanding any other provision of law, from sums appropriated under this paragraph and allotted to the State of Texas under section 205 of the Federal Water Pollution Control Act, as amended, the State of Texas is authorized to set aside, at the discretion of the Governor, up to $15,000,000 for the establishment of a special revolving fund for the sole purpose of making loans to residents of colonias in the counties of Cameron, Hidalgo, Zapata, Starr, Webb, Maverick, Val Verde, Terrell, Brewster, Presidio, Hudspeth, and El Paso. Repayment amounts may remain in the special revolving fund for future loans to colonia residents, and funds set aside but not used for loans, including repayment amounts, may be transferred by the State to its general title VI revolving fund. Loans from the special revolving fund shall be made for the purposes of connecting residences to sewer collection systems and making any necessary plumbing improvements to enable such residences to meet existing county or city code requirements. The Texas Water Development Board is authorized to use funds from this set-aside for the administrative expenses of the special revolving fund: *Provided further,* That, notwithstanding any provision of law, from sums appropriated under this paragraph and before allotment of title II funds to the states under section 205, the Administrator shall award a grant under title II for $6,800,000 for construction of a connector sewer line, consisting of a main trunk line and four pump stations, for the Town of Honea Path, South Carolina to the wastewater treatment facility in the Town of Ware Shoals, South Carolina: *Provided further,* That, notwithstanding any other provision of law, sums appropriated under this heading allotted for title VI capitalization grants to American Samoa, Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of Palau (or its successor entity), Virgin Islands and the District of Columbia, may be used for title II construction grants at the request of the chief executive of each of the above named entities.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 86 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$142,499,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation

of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $5,366,050,000, to remain available until September 30, 1991: *Provided,* That of the funds made available under this heading, $1,800,000,000 is for the space station program only, $750,000,000 of which shall not become available for obligation until June 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That of the funds made available under this heading, $320,000,000 is for space transportation capability development only, which amount shall not become available for obligation until April 15, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That of $2,064,600,000 made available under this heading for space science and applications, only $1,000,000,000 shall be available prior to April 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a ncecssary (but secondary) result of a significant policy change: *Provided further,* That no funds appropriated by this Act or any other Act may be used to enter into contracts of the National Aeronautics and Space Administration for the comet rendezvous and asteroid flyby and Cassini missions (CRAF/Cassini) if the estimated total budget authority for development of the two spacecraft, through launch plus 30 days of the Cassini mission, exceeds $1,600,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$4,614,600,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, and change the sum named in said matter to read as follows: "$75,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$601,300,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 94 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$152,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 95 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That of the amounts transferred under the authority of the foregoing proviso, not to exceed $85,000,000 may be for 'Space flight, control and data communications', and not to exceed $67,000,000 may be for 'Research and program management': *Provided further,* That in addition to the foregoing transfers, up to $25,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for 'Research and development' ".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 97 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That of the funds made available under this heading, up to $195,000 may be transferred to the 'Office of Inspector General' : *Provided further,* That the grade retention provisions of 5 U.S.C. 5362 shall remain available to Goddard Space Flight Center employees of the National Aeronautics and Space Administration, displaced by the conversion on September 3, 1989, of their civil service positions to private sector positions, from the time an affected employee is placed in a lower graded position until one or more of the conditions of 5 U.S.C. 5362(d) is met".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

SMALL AND DISADVANTAGED BUSINESS

The NASA Administrator shall annually establish a goal of at least 8 per centum of the total value of prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, which funds will be made available to small business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6)), including Historically Black Colleges and Universities and minority educational institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

To facilitate progress in reaching this goal, the NASA Administrator shall submit within one year from enactment of this Act a plan describing the process to be followed to achieve the prescribed level of participation in the shortest practicable time.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 105 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That none of the funds appropriated in this Act may be used directly or through grants, contracts or other award mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES-6 for assignments to Senior Executive Service positions, unless specifically authorized by law: *Provided further,* That notwithstanding the preceding proviso, none of the funds appropriated in this Act may be used to pay the salary of any individual functioning as a Federal employee, or any other individual, through a grant or grants at a rate in excess of $95,000 per year: *Provided further,* That of the funds appropriated in this Act, $900,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 109 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: ", nor for procurements covered by the GATT Agreement on Government Procurement: *Provided,* That the vessel contracted for pursuant to the foregoing shall be of United States registry".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 110 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; improvement of environmental practices and enhancement of safety; hire of passenger motor vehicles; not to exceed $82,000,000, to remain available until expended: *Provided,* That funds made available under this heading shall not become available for obligation until September 30, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1990, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, such sums as may be necessary: *Provided,* That the Chairman of the Federal Deposit Insurance Corporation shall provide quarterly reports to the Committees on Appropriations beginning November 15, 1989, on the receipts, disbursements, cash balance, estimated Treasury payments required by fiscal year, and total estimated costs to the FSLIC Resolution Fund.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

After January 1, 1990, and for the duration of fiscal year 1990, within the Department of Housing and Urban Development, the number of noncareer appointees to the Senior Executive Service shall not exceed 13 percent of the total number of Senior Executive Service positions in such department, unless the Office of Personnel Management

approves a waiver to exceed that limitation in accordance with 5 U.S.C. 3134. The Office of Personnel Management, in consultation with the Office of Management and Budget, shall undertake an expedited review of Senior Executive Service positions in the Department of Housing and Urban Development and report its findings, recommendations, and justification for any waiver determination to the Congress by December 15, 1989.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 123 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert:

SEC. 517. Notwithstanding any other provision of this Act, amounts otherwise provided by this Act for the following accounts and activities are reduced by the following amounts:

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFIT ADMINISTRATION

"Direct loan revolving fund", $15,000;

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

"Medical care", $115,339,000;

"Medical and prosthetic research", $3,348,000;

"Medical administration and miscellaneous operating expenses", $715,000;

"Grants to the Republic of the Philippines", $8,000;

DEPARTMENTAL ADMINISTRATION

"General operating expenses", $12,664,000;

"Office of Inspector General", $340,000;

"Construction, major projects", $6,514,000;

"Construction, minor projects", $1,762,000;

"Parking garage revolving fund", $455,000;

"Grants for construction of State extended care facilities", $651,000;

"Grants for the construction of State veterans cemeteries", $68,000;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

"Annual contributions for assisted housing", $125,786,525;

"Assistance for the renewal of expiring section 8 subsidy contracts", $16,925,475;

"Rental rehabilitation grants", $2,015,000;

"Housing for the elderly or handicapped fund", $7,442,000;

"Congregate services", $93,000;

"Payments for operation of low-income housing projects", $27,832,000;

"Housing counseling assistance", $54,000;

"Federal Housing Administration Fund" (limitation on guaranteed loans), $1,162,500,000;

"Federal Housing Administration Fund" (temporary mortgage assistance payments), $1,373,000;

"Nonprofit sponsor assistance", $17,000;

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

"Guarantees of mortgage-backed securities", $1,286,500,000;

HOMELESS ASSISTANCE

"Emergency shelter grants program", $1,162,000;

"Transitional and supporting housing demonstration program", $2,015,000;

"Supplemental assistance for facilities to assist the homeless", $170,000;

"Section 8 moderate rehabilitation single room occupancy", $1,162,000;

COMMUNITY PLANNING AND DEVELOPMENT

"Community development grants", $46,500,000;

"Community development grants" (by transfer), $775,000;

"Community development grants" (limitation on guaranteed loans), $2,232,000;

"Urban homesteading", $205,000;

POLICY DEVELOPMENT AND RESEARCH

"Research and technology", $325,000;

FAIR HOUSING AND EQUAL OPPORTUNITY

"Fair housing activities", $198,000;

MANAGEMENT AND ADMINISTRATION

"Salaries and expenses, $11,447,000;

"Salaries and expenses" (by transfer, limitation on FHA corporate funds), $6,158,000;

"Office of Inspector General", $481,000;

"Office of Inspector General" (by transfer, limitation on FHA corporate funds), $102,000;

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

"Salaries and expenses", $248,000;

CONSUMER PRODUCT SAFETY COMMISSION

"Salaries and expenses", $553,000;

COURT OF VETERANS APPEALS

"Salaries and expenses", $62,000;

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

"Salaries and expenses", $195,000;

ENVIRONMENTAL PROTECTION AGENCY

"Salaries and expenses", $13,556,000;

"Office of Inspector General", $492,000;

"Research and development", $3,743,000;

"Abatement, control, and compliance", $12,864,000;

"Buildings and facilities", $232,000;

"Hazardous Substance Superfund", $24,412,000;

"Hazardous Substance Superfund", (limitation on administrative expenses), $3,410,000;

"Leaking underground storage tank trust fund", $1,178,000;

"Leaking underground storage tank trust fund", (limitation on administrative expenses), $93,000;

"Construction grants", $31,775,000;

EXECUTIVE OFFICE OF THE PRESIDENT

"Council on Environmental Quality and Office of Environmental Quality", $23,000;

"National Space Council", $15,000;

"Office of Science and Technology Policy", $45,000;

FEDERAL EMERGENCY MANAGEMENT AGENCY

"Disaster relief", $1,550,000;

"Salaries and expenses", $2,209,000;

"Office of Inspector General", $41,000;

"Emergency Management Planning and Assistance", $4,267,000;

"Emergency Food and Shelter Program", $2,077,000;

GENERAL SERVICES ADMINISTRATION

"Consumer Information Center", $21,000;

"Consumer Information Center" (limitation on administrative expenses), $32,000;

DEPARTMENT OF HEALTH AND HUMAN SERVICES

"Office of Consumer Affairs", $29,000;

INTERAGENCY COUNCIL ON THE HOMELESS

"Salaries and expenses", $17,000;

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and development", $84,174,00;

"Space flight, control and data communications", $71,526,000;

"Construction of facilities", $9,320,000;

"Research and program management", $30,724,000;

"Office of Inspector General", $136,000;

NATIONAL CREDIT UNION ADMINISTRATION

"Central liquidity facility" (limitation on direct loans), $9,300,000;

"Central liquidity facility" (limitation on administrative expenses, corporate funds), $13,000;

NATIONAL INSTITUTE OF BUILDING SCIENCES

"Payment to the National Institute of Building Sciences", $8,000;

NATIONAL SCIENCE FOUNDATION

"Research and related activities", $26,582,000;

"Research and related activities" (program development and management), $1,517,000;

"Academic research facilities", $310,000;

"United States Antarctic program activities", $1,147,000;

"United States Antarctic logistical support activities", $1,271,000;

"Science education activities", $3,255,000;

"Office of Inspector General", $40,000;

NEIGHBORHOOD REINVESTMENT CORPORATION

"Payment to the Neighborhood Reinvestment Corporation", $423,000;

SELECTIVE SERVICE SYSTEM

"Salaries and expenses", $408,000.

In carrying out these reductions, each amount earmarked in this Act and not otherwise specified in this section shall be reduced in proportion to the overall reduction in the applicable account with the exception of the earmarking for personnel compensation and benefits costs carried in the Department of Veterans Affairs "Medical care" appropriating paragraph which shall not be reduced.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 518. The authority of the Department of Veterans Affairs in section 618 of Public Law 100-440 to operate a leave transfer program for employees subject to section 4108 of title 38, United States Code, is extended through December 31, 1989. The provisions of the final sentence of such section 618 shall apply to transferred leave that is unused as of December 31, 1989.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 519. None of the funds appropriated under title II of this Act under the heading entitled Community Planning and Development, Community Development Grants, to any department, agency, or instrumentality of the United States may be obligated or expended to any municipality that fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations.

AMENDMENT IN DISAGREEMENT NO. 25

Ms. MIKULSKI. Mr. President, I ask that the clerk read amendment 25.

The PRESIDING OFFICER. The clerk will read amendment 25.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $350,093,000, to remain available until expended.

During fiscal year 1990, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1990, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $57,290,172,000

During fiscal year 1990, gross obligations for direct loans of not to exceed $88,600,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

Mr. GARN. Mr. President, the motion to disagree with the amendment of the House simply reaffirms the original Senate-passed limitation on overall FHA mortgage guarantees. The limitation of $57 billion proposed in the amendment of the House will artificially constrain FHA activity, and will likely force a supplemental early next summer, just as the peak homesale period picks up steam.

When the Senate set a higher limitation of $75 billion in its version of the bill, we had just agreed to an amendment which provided for an increase in the maximum individual mortgage size to $124,875. The higher aggregate FHA limitation reflects the anticipated demand for FHA mortgage guarantees based on this expanded eligibility standard.

The conference agreement adopted both of these amendments of the Senate. Unfortunately, because of a twist in the rules of the House, and because of a procedural interpretation of the application of the Budget Act, the House departed from the conference agreement and adopted this more restrictive limitation.

The motion to disagree with the House amendment should be adopted to avoid any unnecessary disruption of FHA activities. Furthermore, unless the higher Senate-passed overall limitation is enacted by the Congress, the previously adopted increase in individual mortgage eligibility will have the unanticipated effect to reducing the number of low and moderate income families that can obtain FHA assistance.

I therefore am hopeful and expect that when the House reconsiders this matter, they will concur in the original Senate position.

I urge adoption of the motion.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Senate disagree to the amendment of the House to the remaining amendment of the Senate in disagreement numbered 25.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, that completes the consideration of the HUD-VA and independent agency conference report.

Mr. MITCHELL. Mr. President, I congratulate the managers of the bill for their prompt action in disposing of this matter.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators regarding the schedule for the remainder of today and on Monday, it is my intention shortly to move to the conference report on the military construction appropriations bill. I have checked with the distinguished Republican leader. We know of no Senator who requests a rollcall vote on that conference report. Unless some Senator indicates now a desire for such a vote, it is my intention to state that there will be no rollcall vote required on that, which means that this vote just having occurred will have been the last vote today.

Not hearing any response, Mr. President, I therefore accept that no Senator seeks a rollcall vote on the military construction appropriation conference report. Therefore, the vote having just occurred will be the last vote today.

On completion of the military construction appropriations conference report, pursuant to discussions I have had with the distinguished Republican leader, it is my intention to return to deliberation of the Poland-Hungary aid bill, with respect to which the capital gains amendment is pending, for the purpose of 3 hours of debate on that measure, equally divided, with the understanding that there will be no motions or amendments or cloture motions or any other action taken. It will be for purposes of debate only.

Upon the conclusion of that debate, the Senate would go out until Tuesday morning. The Senate would not be in session on Monday. On Tuesday morning it is my intention, depending upon the status of conference reports, to proceed to the consideration of at least two more remaining reports, one being State, Commerce, Justice, the other the legislative appropriations conference report.

I want to make that clear for the benefit of Senators' schedules. I apologize to those Senators who had been anticipating a session on Monday which earlier in the week I indicated would be required. However, that was in anticipation of the Tuesday midnight deadline on the debt limit extension. And in view of the action announced yesterday by the Treasury Department, which was completely unknown to and unexpected by me, that action, the requirement of proceeding to that debt limit extension, no longer had the same degree of urgency that it had earlier this week.

I am going to ask the distinguished Republican leader to comment here in a moment. But to recapitulate, there will be no further rollcall votes today. We will complete action on the military construction conference report by voice vote. We will then proceed to debate for 3 hours equally divided on the pending amendment to the Poland-Hungary aid bill, with the understanding that there would be no action taken during that period.

We will then go out until Tuesday morning, when it is my present intention, barring something intervening that is not now anticipated, to attempt to complete action on two of the remaining appropriation conference reports, State, Commerce, Justice, for the first one, and then the legislative appropriations conference report.

I would like not to yield to my distinguished colleague to make certain what I have just stated accords with the prior discussion we have had and that his views are consistent with mine on that.

Mr. DOLE. If the majority leader will yield—and they are consistent—I just want to make certain when we bring down the proposed Polish aid bill, the reference to "no amendments, no motions" refers to everything, not just the substitute, but the committee substitute, and any other part of the bill.

Mr. MITCHELL. Yes.

Mr. DOLE. It will be for debate only, 3 hours equally divided.

Mr. MITCHELL. That is right.

Mr. DOLE. So everybody understands, debate only, no amendments, no motions, whatever. And we will on Tuesday, hopefully, take up additional conference reports. I understand there may be two available on that date.

Mr. MITCHELL. That is correct, yes.

Mr. DOLE. In the meantime, I understand the majority leader will discuss how we may proceed with the rest of next week.

Mr. MITCHELL. The Senator is correct. It is my understanding the agreement with respect to motions and cloture motions, amendments, and anything else relates to the entire legislation. It is just for purposes of debates.

I did not intend—perhaps I inadvertently did so—to limit debate just to the capital gains provisions. It is understood any aspect of the legislation

will be open for debate for any Senator who wishes to do so.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1990—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 3012 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3012) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 24, 1989.)

UNANIMOUS-CONSENT AGREEMENT—S. 1582

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon disposition of H.R. 3012, the Senate resume consideration of S. 1582, the Poland-Hungary aid bill with the agreement that consideration be for 3 hours of debate, equally divided, and no action to occur during that period; that is, there are to be no amendments, no motions, no cloture petitions; that there be no action of any kind other than debate on the measure to be equally divided with the time to be under the control of the majority and minority leaders or their designees and in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I thank the distinguished Republican leader.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1990 CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. SASSER. Mr. President, I am pleased to bring before the Senate the conference report on the military construction appropriations bill for fiscal year 1990. The conference report we are presenting today is within the revised 302(b) budget allocation for both budget authority and outlays.

This agreement represents more than a 14-percent real reduction in military construction funding levels from the military construction funding levels of last year. The amount provided for the regular military construction accounts, funded in this bill, is $7,999,000,000. That amount is $55 million under the President's budget request and is more than $960 million under appropriations for fiscal year 1989.

Mr. President, this year we had more than 380 differences in conference between the House and Senate and we had to make many difficult decisions, the distinguished ranking member, Senator GRASSLEY, and I, in order to comply with the necessity of holding down Government spending on this military construction bill.

I believe it is entirely appropriate that military construction funding be moderated, as all Government spending must be moderated, during this time of fiscal austerity. I think we have seen the peak of military construction spending for several years to come.

It is likely that next year's military construction budget will be even smaller than the bill that we approve here today.

Mr. President, we should continue to moderate new military construction investments until we can get a clearer picture of the changes that will be coming in the future as a result of force structure reductions and perhaps further base realignments and closures. Certainly, I do not want to be misunderstood. There are legitimate military construction and family housing needs which we must meet. The bill before us today continues to meet the highest priority needs for fiscal year 1990.

We made substantial changes from the priorities included in the President's original budget request. The conferees have eliminated more than $550 million for projects that were requested by the President for construction at overseas military bases. Funding for overseas military bases, that is, bases outside the continental United States and Hawaii and Alaska, will continue to be a low priority until our allies substantially improve their contributions to the common defense and until the results of arms control talks and base rights agreements are known.

Mr. President, the conference report provides an increase over the budget request of more than $209 million for what the committee deems the more cost-effective National Guard and Reserve components. That is a 46-percent increase over the amount requested by the administration and indicates the high priority that the committee and the Congress places on our National Guard and on our Reserve.

I hope the leadership of the Department of Defense takes note of the priority that we continue to place on the Guard and the Reserve. This Nation, I believe, must begin placing more reliance for our national security on a ready and active National Guard and a ready Reserve where we clearly get more bang from the defense buck.

The Department of Defense continues to greatly underfund the National Guard and the Reserve. Our committee believes the Department is being shortsighted and we will continue to shift priorities in the budget to place appropriate resources at the disposal of both the Guard and the Reserve.

I hope the Department of Defense understands this. Congress is not going to approve future budget requests which underfund the Guard and the Reserve while at the same time, in our view, taking those resources and overfunding certain components of the active force structure.

Mr. President, the active military services, of course, do not want to make the hard decisions that must be made on force structure. That is understandable. No one wants to make the decisions along that line.

But changing realities in the world—we must accept the fact—may permit force structure reductions which also need to be made for budgetary reasons.

Even as we bring this military construction bill to the floor here in the U.S. Senate, not many feet away from where I speak, members of the Supreme Soviet are meeting with their counterparts here in the U.S. Senate. I joined other Senators in discussion with these members of the Supreme Soviet this morning and they were telling us of their efforts to control military spending in the Soviet Union and to have the Supreme Soviet have substantial control and say so about military expenditures and indicated they look forward to a continued reduction of military expenditures in their country.

So if we find that arms control permits reductions in forces stationed abroad, we should disestablish those units and reduce active military manpower and strength. That is the only way that conventional arms control is going to translate into budgetary savings. In such an environment, the roles and missions assigned to the Guard and Reserve must necessarily

be increased if we are to continue to maintain stability and deterrence throughout the world.

I have no concern about placing more national defense responsibility in the Guard and Reserve. With proper resources, our citizen soldiers have always been up to task. They will keep the peace while returning a fiscal dividend to the U.S. Treasury.

Mr. President, there is one additional item included in the conference report which I will discuss. The committee of conference agreed to place an additional $500 million in the military construction bill to capitalize the base closure account. My colleagues will recall that jurisdiction over the base closure account in the Senate had been in the Subcommittee on Defense Appropriations.

The distinguished chairman of the Subcommittee on Defense Appropriations, Senator INOUYE, who also serves as the senior member of the Military Construction Subcommittee, agreed in conference to permit base closure funding to be included in the bill before us today.

Mr. President, the original authorization for base closures in the Senate was $300 million. Based on agreements which have been reached in the defense authorization conference, the conferees on the military construction appropriations bill agreed to provide $500 million for base closure activities, and that is the level that was requested by the Bush administration.

Mr. President, the conference report also places a legislative cap of $2.4 billion on the amount of construction that may be undertaken to support base closure activities. The conferees are very concerned, I might emphasize, that the cost estimates for construction to support base closures have already risen one-third over the amount initially identified by the Commission on Base Realignments and Closure. The legislative cap that is included in this bill will help ensure that there will be no gold-plating at military bases as a result of base closure activities.

Mr. President, many of our Members have legitimate concerns with the way the Base Closure Commission selected bases for closure and what appear to be faulty assumptions and data that were apparently used by the commission staff. But the House and Senate approved by large margins the legislation creating the commission and by large votes defeated amendments by Members seeking to alter base closure decisions.

There was no option open for the conferees but to recognize the reality of the votes in both Chambers and to approve the administration's request and to approve the authorized level of funding.

I understand the Department of Defense may be considering even more base closure and realignment actions in the fiscal year 1991 budget, which will be submitted next January. Next year, the department will have no special legislation or committee to insure that any new base closures will be automatically approved as they, in essence, have been this year.

Whether or not base closure actions are approved by the Congress in future years will depend entirely on the quality of the package submitted by the Department of Defense. If that package is not balanced, if it fails to provide for actual manpower and strength reductions, if it does not include base closures overseas, that package is going to be dead on arrival.

Many Members are not convinced that the package of base closures recommended by the Commission earlier this year will result in appreciable budgetary savings. The package results in no personnel end strength reductions and no bases overseas were included for closure. Without the automatic pilot provided by last year's base closure legislation, the Commission's package might never have been approved by the House and Senate. So I hope that the Department of Defense has learned from the mistakes of base closures undertaken this year and is prepared in any future submission to present the Congress with a balanced and well-thought-out package that will result in tangible budget savings.

Mr. President, I am pleased to yield to the distinguished ranking member from Iowa, Senator GRASSLEY, at this point and to say, Mr. President, that it has been a genuine pleasure to work this year on the military construction bill with my friend from Iowa, Senator GRASSLEY. He has made countless, varied constructive contributions to this bill and to our deliberations. For that I thank him and yield to him at this time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I thank my colleague for yielding and for his outstanding statement, particularly as that statement looks to the next fiscal year. I also rise in support of the conference agreement to H.R. 3012. This, of course, makes appropriations for military construction for the fiscal year 1990. The conference committee agreement appropriates $8.5 billion in new budget authority for fiscal year 1990 to support military construction and family housing requirements. Also included is $500 million for the initial increment of funding to implement the Base Closure Commission recommendations.

Mr. President, the bill before us is within the subcommittee allocations for budget authority, as well as outlays. It is $65 million under the President's budget request, and it is nearly $500 million under last year's appropriation. I stress that because there are not too many appropriations bills that pass this body or this Congress or are signed by the President that appropriate less money this year than the year before.

Mr. President, at this time I want to commend the distinguished chairman of our subcommittee, the Senator from Tennessee [Mr. SASSER] for his leadership in bringing this bill before the Senate today. His work over the last 6 or 7 months on this legislation, this subject of military construction, has taken much of his time because of his leadership as chairman of this subcommittee.

We were faced in this subcommittee with many problems in reaching agreement on this bill. The chairman was able to work with the House and reach agreement on over 300 differences. The funding in this legislation will provide the Department of Defense with vitally needed facilities to support new missions as well as to continue on with a much-needed modernization of our aging bases throughout the world.

Mr. President, our bill follows closely what we expect will be the conference agreement on military construction authorization. However, we have provided funding for several urgent items and have directed the department to seek the necessary authorization as appropriate.

Another item of particular interest should be the increased level of funding provided for the Guard and Reserve components. Mr. President, for many years, the Congress has increased funding for the Guard and Reserve. I support this position. I believe it is safe to say that it will continue into the future. The Department of Defense should recognize the need for increased funding in the Guard and Reserve and provide increases in these accounts in the future.

Mr. President, in closing, I want to once again thank the chairman for his diligence, but I also want to take some time at this hour to thank all members of the subcommittee for their cooperation. But most especially we ought to remember the senior member of the subcommittee, the Senator from Hawaii [Mr. INOUYE], for his support of the bill because during the conference, our House colleagues expressed an extremely strong position on funding for the base closure account. In so doing, they expressed doubt over two items of interest to Senator INOUYE, neither of which had any direct bearing on the base closure account.

The distinguished Senator from Hawaii had to make some very tough decisions to give up money from the defense bill to bring our conference to a close. In the true spirit of compromise, he did so. He deserves all of our

thanks for allowing the bill to be before us today.

Mr. President, the conference agreement before us is fair and equitable. It deserves our support, and I urge my colleagues to vote in favor of this legislation.

Mr. SASSER. Mr. President, I thank my distinguished colleague for his statement, and also for his generous remarks about the chairman personally.

Mr. President, I ask unanimous consent that a table entitled "Budgetary Impact of Conference Report" be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGETARY IMPACT OF CONFERENCE REPORT—PREPARED IN CONSULTATION WITH THE CONGRESSIONAL BUDGET OFFICE PURSUANT TO SEC. 303(a), PUBLIC LAW 93-344, AS AMENDED

[In milions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount of bill	Committee allocation	Amount of bill
Comparison of amounts in the bill with committee allocations to its subcommittees of amounts in the First Concurrent Resolution for 1990: Subcommittee on Military Construction	8,500	8,500	8,580	[1] 8,580
Projections of outlays associated the recommendation:				
1990				[2] 3,105
1991				3,011
1992				1,454
1993				527
1994 and future years				402
Financial assistance to State and local governments for 1990 in bill		105		13
Credit authority estimates, 1990	[3]	[3]	[4]	[4]

[1] Includes outlays from prior year budget authority.
[2] Excludes outlays from prior year budget authority.
[3] Direct loans.
[4] Loan guarantees.

Mr. DIXON. Mr. President, I rise to inquire of the Senator from Tennessee and floor manager of the conference report on H.R. 3012, about the conference agreement's effect on the ongoing Comptroller General review of the recommendations of the Commission on Base Closure and Realignment, a review requested by the Senate and House Committees on Armed Services.

I understand that the joint explanatory statement of the committee of conference emphasized the need for the Department of Defense to comply with the directives pertaining to base closure contained in the House reports. The report of the House Appropriations Subcommittee on Military Construction noted the preliminary findings of the Comptroller General that the Base Closure Commission's estimate savings were overstated in some cases. Furthermore, the House report expressed deep concerns over the fact that environmental cleanup costs were excluded from the Base Closure Commission's calculation of base realignment and closure costs. Particular concern was expressed in the House report that bases not remain unutilized—or, I would say, unusable—for years after closure due to insufficient progress on environmental cleanup.

Since the Comptroller General's analysis already has broached the issue of environmental cleanup costs in connection with my Readiness Subcommittee's hearing on base closure, I ask whether it is the understanding of the committee of conference that the Comptroller General should include in his report analysis of environmental cleanup costs as part of its review of the Base Closure Commission's estimates of cost savings from base realignment and closure.

Mr. SASSER. The Senator from Illinois is correct and raises a good point. The committee of conference on H.R. 3012 has expressed a deep concern about environmental cleanup costs, yet no particular analysis of these costs has been performed. Both the Congress and the Department of Defense will benefit from a review by the Comptroller General of the potential cleanup costs associated with the proposed base realignments and closures.

Mr. DIXON. I thank the Senator for his clarification and would like to ask one other question. Since the committee of conference has agreed to the funding level of $500,000,000 for base realignment and closure, is it the intent of the committee of conference that some of those funds be used for environmental cleanup to ensure that the property of the bases complies with all applicable environmental laws prior to closure?

Mr. SASSER. The Senator from Illinois is correct. It is the intent of the committee of conference, consistent with the directive articulated in the House report on H.R. 3012, that the vacated property of a base be cleaned up before the land and facilities are sold.

Mr. DIXON. I thank the Senator from Tennessee for his additional clarification.

Mr. DOMENICI. Mr. President, the Senate is now considering the conference agreement accompanying the fiscal year 1990 military construction appropriations bill.

I commend the distinguished chairman and ranking member of the subcommittee, Senators SASSER and GRASSLEY, for reporting a military construction appropriations bill that advances the modernization of the Nation's defense infrastructure and promotes the well-being of our military personnel.

I understand that an appropriate reallocation of budget authority and outlays has been made to the Military Construction Subcommittee to accommodate the conference agreement.

With that reallocation, I am pleased to support the conference report.

Mr. President, the conference agreement provides $8.5 billion in budget authority and $3.1 billion in new outlays for military cosntruction and family housing activities in fiscal year 1990.

When outlays from prior-year budget authority are taken into account, the bill totals $8.5 billion in budget authority and $8.6 billion in outlays for these programs in fiscal year 1990.

With the inclusion of the House language and funding for the Base Realignment and Closure Program and other initiatives, the conference agreement exceeded the Senate subcommittee's 302(b) allocation. The Senate had included this initiative in the Defense appropriations bill.

It is my understanding that the revised 302(b) allocation for the subcommittee accommodates the final bill.

I thank the subcommittee for its endorsement of numerous military construction projects in my home State of New Mexico. I wholeheartedly endorse their recommendations for additional National Guard and Reserve activities in my State.

I am especially pleased that the conferees have agreed to include planning and design funding for the large blast thermal simulator [LBTS].

The House Defense appropriations bill denied these funds, while the Senate Defense appropriations bill recommended that the planning and design money be included in the military construction appropriations bill.

I strongly supported the Senate approach on this project. The military construction appropriations bill approved in the Senate not only included the $9.6 million needed for planning and design for the LBTS, it also directed the Department of Defense to request construction funds in the fiscal year 1991 military construction budget request.

The Defense Nuclear Agency is prepared to complete the planning and design of the LBTS as quickly as possible so that construction can begin on approximately this schedule.

I thank the distinguished chairman and ranking member for their strong support of this initiative in the Senate and in conference with the House.

I urge the adoption of the conference report.

Mr. SASSER. Mr. President, I note the distinguished Senator from Rhode Island [Mr. CHAFEE], is on his feet. It is my understanding he has a quesiton about this military construction bill.

Mr. CHAFEE. Mr. President, I thank the distinguished senior Senator from Tennessee. I do have a question.

My question deals with the family housing units at Newport Naval Education and Training Center in New-

port, RI. It is my understanding that this is explicitly taken care of in the conference report or in the overall measure, that the 220 units for the Naval Education and Training Center in Newport are included and will be covered in this legislation. Am I correct in that?

Mr. SASSER. The Senator is correct. The 220 units at the Newport Naval Training Facility are included in this military construction bill. It is my understanding that they will also be included in the authorization bill when it becomes final.

Mr. CHAFEE. I thank the distinguished floor manager for that reassurance. I also thank the minority floor manager, Senator GRASSLEY.

This is very important to us. We have turned in Rhode Island, for reasons that sometimes are hard to fathom, into a State in which housing has become quite expensive, and thus these 220 units for those enlisted men and officers who are stationed in Newport and going through the training facilities are extremely important.

I thank both Senators and their counterparts on the Milcon Appropriations Subcommittee for these 220 units.

Mr. SASSER. I might say parenthetically, Mr. President, on my trips through Newport, I have seen many expensive houses lined up along the beach, and I can understand why perhaps housing throughout Newport is rising to that level.

But in any case, we are pleased to include this in the bill.

Mr. GRASSLEY. If the Senator from Rhode Island will yield, I concur in the statement made by the distinguished chairman of the subcommittee, Senator SASSER. That is my understanding of how we have taken care of the situation. This Senator is very certain that the goods will be delivered.

Mr. CHAFEE. Good, I thank the Senator from Iowa for that reassurance, because, as I indicated before, this is extremely important and I am gratified. I appreciate that.

I thank the Chair.

Mr. SASSER. Mr. President, I know of no further debate on this military construction bill. With the acquiescence of the distinguished ranking member, I move adoption of the conference report.

The PRESIDING OFFICER (Mr. LAUTENBERG). The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. SASSER. I move to reconsider the vote by which the conference report was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate concur en bloc with the amendments of the House to the amendments of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments of the House to the amendments of the Senate agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,139,250,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,227,296,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$537,440,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert: ": *Provided further,* That, effective February 1, 1990, none of the unobligated funds appropriated in the Act for Defense Medical Facilities Office planning and design may be obligated until the Defense Medical Facilities Office initiates design of the aerospace medicine facility as required by the conference report accompanying Public Law 100-447".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$78,982,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,453,982,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$741,808,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert:

SEC. 127. (a) SALE OF LANDS.—Notwithstanding any other provision of law, and subject to subsections (b) through (h), the Secretary of the Navy (hereinafter the "Secretary") may sell the following real property together with improvements thereon:

(1) Approximately 108 acres in Pearl City, Oahu, Hawaii, known as the Manana Storage Area; and

(2) Approximately 14 acres in Pearl City, Oahu, Hawaii, known as Pearl City Junction.

(b) CONDITIONS OF SALE.—

(1) MANANA STORAGE AREA.—The State of Hawaii shall have the right to acquire and the Secretary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (c);

(2) PEARL CITY JUNCTION.—The State of Hawaii shall have the first right to acquire and the Secretary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (d). Should the State and the Secretary fail to consummate an agreement, the Secretary shall have authority to sell this property through competitive procedures;

(3) Consideration for each sale shall not be less than the fair market value of the property, as determined by the Secretary; and

(4) Payment may be by cash or as specified in subsections (c) and (d), as determined by the Secretary.

(c) SALE OF MANANA STORAGE AREA.—

(1) As consideration for any transfer to the State of Hawaii of the Manana Storage Area, the Secretary shall receive:

(a) At a site or sites to be determined by the Secretary, design and construction to reasonable specifications to the Secretary's satisfaction: (1) an openable causeway from mainside Pearl Harbor Naval Base to Ford Island; and (2) replacement facilities for those Navy facilities presently on Manana Storage Area; and actually relocate on Oahu, to the satisfaction of the Secretary, the functions presently on Manana Storage Area; or

(b) Funds to allow the Secretary to perform the design, construction and relocation specified in subsection (c)(1)(a); or

(c) Any combination of the consideration enumerated in subsections (c)(1)(a) and (c)(1)(b) above that accomplishes the design, construction, and relocation, at the discretion of, and to the satisfaction of, the Secretary.

(2) If the State of Hawaii constructs the causeway or replacement facilities or any portion thereof, upon the acceptance by the Secretary, the State shall transfer complete title to those facilities to the Secretary free of any liens or encumbrances.

(d) SALE OF PEARL CITY JUNCTION.—As consideration for the sale of Pearl City Junction, the Navy shall receive either funds, or actual design and construction of facilities plus relocation, or a combination thereof, as determined by the Secretary, to accommodate consolidation and relocation of the functions on the sale property to other Navy and Marine Corps property. This may include:

(1) Relocation and consolidation of functions at Manana Storage Area and Pearl City Junction to common replacement facilities; and

(2) Relocation of Marine Corps functions that would be displaced by such consolidation to replacement facilities to be designed and constructed at Marine Corps Air Station, Kaneohe Bay.

(e) USE OF FUNDS.—(1) The Secretary may use the funds derived from any sale of land under this section to accomplish any of the purposes described in subsections (c) and (d) including any related expenses;

(2) Funds received from the sales of lands under this section may be placed in an interest bearing account by the Secretary until expended and the accrued interest therefrom may be used in the same manner as the sale proceeds; and (3) Any funds which are unexpended after all the actions described in subsections (c) and (d) have been accomplished, shall be available for design and construction of additional support facilities for Naval Supply Center, Pearl Harbor.

(f) LEGAL DESCRIPTIONS OF LANDS.—The exact acreages and legal descriptions of the properties to be transferred to the State of Hawaii or sold under this section shall be in accordance with surveys that are satisfactory to the Secretary.

(g) NOTIFICATION.—The Secretary may not enter into any contract under this section to:

(1) Convey title to real property;

(2) Provide for design or construction of a causeway to Ford Island, replacement facilities or other support facilities; and

(3) Provide for relocation of functions from the properties to be sold until:

(a) The Secretary has transmitted to the appropriate Committees of Congress a report of the details of the proposed transaction; and

(b) A period of 21 days has expired from the date such report has been received by the Committees.

(h) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in agreements entered into under this section as the Secretary considers appropriate to protect the interests of the United States.

Mr. SASSER. Mr. President, I thank all Senators. If there is no further statement from the distinguished ranking member, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may have permission to proceed as if in morning business for about 5 minutes to address a very important subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTICOMPETITIVE PRACTICES IN THE JAPANESE BANKING INDUSTRY

Mr. MURKOWSKI. Mr. President, the Senator from Alaska rises today to call to the attention of his colleagues a recent article which appeared in the October 16 edition of the Far Eastern Economic Review regarding alleged anticompetitive practices in the Japanese banking industry. As a former banker, this is an area in which I have some familiarity, and I am sure my colleagues will agree that this issue merits our attention.

The article states that six of Japan's largest banks, Dai-ichi, Kangyo, Sumitomo, Fuji, Mitsubishi, Sanwa, and Mitsui, as a matter of regular course hold meetings at the managing director level, meetings in which the Ministry of Finance—comparable to our Secretary of the Treasury—and others have taken part, to discuss very important issues affecting the banking industry, not just domestically in Japan but internationally, and, as a consequence, of the presence of Japan's banking system in the United States.

In these meetings the managing directors, Finance Ministers, and other officials are discussing topics such as the fixing of prices for deposit rates, pricing of major credit, as well as other items of common interest to the major banks. Even more alarming is that these meetings are intentionally being held in secret to avoid possible antitrust action by Japan's Fair Trade Commission.

Mr. President, what happens when a Japanese bank comes in to solicit a credit line from a major United States corporation? Obviously, these are competitive considerations, and we are aware more and more that the Japanese banks are underpricing the domestic banks in the availability of credit lines.

The significance of that is, further, that the Japanese have compensating deposits that go with the demands of the credit line. Obviously, the board of directors of the various United States corporations have an obligation to get their financing at the lowest rates available, and, as a consequence, we are seeing the emergence of Japanese banking into the American domestic marketplace in an even greater abundance. The implication is that, as they enter into the financial picture in the United States, why, obviously, they get stronger and stronger as they pick up more compensating deposits as a consequence of their ability to accommodate the credit needs of many major U.S. corporations.

The point is, Mr. President, could you imagine the outrage that would occur in this country if this type of activity were going on, if our Treasury officials were a party to it with our U.S. banks in generating not only credits, but deposits.

These are exactly the types of practices which our Government is seeking to address in the structural impediments talks with Japan. Whether it be in construction, whether it be in bid rigging, or other areas where we know price fixing is rampant in Japan, or in the emerging banking industry where government officials are meeting to go in and attempt to circumvent Japan's antitrust laws. As a consequence the United States must take strong action to encourage Japan to strengthen and enforce its antimonopoly laws.

This is not an issue of Japan bashing. It is simply an issue of fairness; obviously, they are too willing to come into our market as a competitive factor. We want the same terms, and the terms are different. Obviously, if they are not adhering to Japan's Fair Trade Commission laws and Japan's regulatory oversight, our institutions and our law, antitrust law, absolutely mandates that this type of price fixing is not allowed; and further, Mr. President, people can go to jail in this country for those kind of charges. So it is a serious matter.

Many of us in this body are aware of the growing strength of Japan's financial institutions. In 1988, Japanese banking assets were $4 billion. In the State of California over 25 percent of the deposits are now controlled by Japanese banks. Japan has the 10 largest banks in the world, in comparative figures to U.S. banks.

I do not necessarily agree with the entire spectrum of concerns which have been raised in this area. However, there is a growing awareness that more and more of these firms will be determining the fate of financing for many business activities that will be undertaken by U.S. companies here in the United States. We must ensure that matters such as this, and other matters that are critical, such as deposit rates, credit pricing, are not done behind closed doors; that the scrutiny of the Japanese oversight capability is evident, and that they adhere to the same practices of free and fair assessment and trade, as we must.

The U.S. Congress must continue to send a strong signal that we are very interested, and we expect results from the structural impediment talks, not just vague assurances that U.S. concerns are being reviewed. We have more than concerns in many cases; it is actually survival, Mr. President.

These anticompetitive practices are detrimental to the global trading and banking system, as we compete in it, and as Japan emerges as a major financial power, which is certainly happening, the management of top Japanese banks, as well as officials in the Japanese finance ministry which overseas the activities, must realize that it simply cannot be business as usual within the normal tradition of Japan. It must address the concerns of the United States, and the realization that it be fair and subject to oversite scrutiny.

If the discussions regarding anticompetitive practices such as collusion are to succeed, it will take the will of the Japanese Government to end their active support for this type of activity. It will require Japan to provide more resources to the Japan Fair Trade Commission. I commend this commission. They have already identified many areas of price fixing, particularly with regard to contracts on naval bases, U.S. naval bases in Japan, where there has been indeed a number of Japanese construction firms charged with price fixing, and the cooperation from the Japanese Fair Trade Commission is very gratifying. Unfortunately, we did not get this same cooperation from the Ministry of Construction. I want to encourage the continuance of the Japan Fair Trade Commission's efforts in this regard.

In addition, the Japanese Government must send a strong signal to the Japanese taxpayers and consumers, as well as Japan's trading partners, that they view this type of anticompetitive activity with the same seriousness as other industrialized countries.

I am today calling the Secretary of the Treasury, United States Attorney General, and the United States Trade Representative, to look into and investigate these alleged activities, both in the United States and in Japan.

In closing, I ask unanimous consent that the editorial from the Far Eastern Economic Review, as well as editorials from Yomiuri Shimbun and Asahi Shimbun, regarding anticompetitive practices in the Japanese construction industry be printed in the RECORD at this time.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Far Eastern Economic Review, Oct. 26, 1989]

BANKING PRACTICES

Six of Japan's biggest banks (Dai-Ichi Kangyo, Sumitomo, Fuji, Mitsubishi, Sanwa and Mitsui) are holding regular "informal" meetings at managing director level, at which Finance Ministry officials take part, to discuss important issues affecting the industry. Topics include setting deposit rates and many other banking matters. The meetings are kept secret to avoid possible antitrust action by Japan's Fair Trade Commission. The consultation would also be of interest to US officials currently investigating restrictive business practices in Japan, as part of the structural impediments initiative involving the two countries.

[From the Daily Yomiuri, Oct. 9, 1989]

WHY BID-RIGGING IS BAD

The U.S. Government plans to sue 140 Japanese construction companies, seeking compensation for their alleged rigging of bids for construction work at a U.S. Navy base at Yokosuka, Kanagawa-ken.

The move seems to be "shock treatment" by the United States to eliminate the bid-rigging system which pervades the construction industry here.

The construction companies oppose the demands, saying that no damages were incurred.

This is the first time anyone involved in a public project in Japan has sought compensation from contractors for inflating prices through rigged bidding procedures.

Even in Japan, bid-rigging has been criticized as a waste of tax money. It will be interesting to see how the case develops.

The companies cited by the U.S. Government were also warned by the Fair Trade Commission late last year for violating the Antimonopoly Law in fixing bids for construction work at the new Kansai Airport. Some of them were fined.

During the recent Japan-U.S. Structural Impediment Initiative [SII] talks, however, the U.S. Government criticized the lightness of the penalties, saying that the companies would have faced criminal charges in the United States.

The U.S. Senate has passed a resolution to bar the 140 companies from U.S. military construction, showing how quickly criticism of bid-rigging in Japan's construction industry has escalated.

U.S. Government sources insist that claims for compensation have no relation to the SII talks or with a report on Japan's construction market to be released in November.

It may be inferred that the United States is trying to destroy the bid-rigging to allow U.S. corporations easier entry to the Japanese construction market.

U.S. Trade Representative Carla Hills will probably raise the subject during her visit to Japan this week.

Japanese construction companies should no longer be allowed to continue manipulating bids. However, most construction companies believe bid-rigging is a "necessary evil" in their industry.

Although there are about 500,000 construction firms in Japan, most of them are small or medium-sized. Without bid-rigging, construction company officials said, they will have no idea of their volume of orders, and their businesses will suffer.

They also said that the absence of prearranged bids will result in excessive price competition and widespread bankruptcies. Since in their business the "product" is made after the order is received, unlike in manufacturing, it is difficult to improve productivity, they say.

The companies' "customers," such as ministries and other government organizations, set a maximum price on a project before allowing designated contractors to submit tenders. They do not seem to realize that free, fair competition would cut their payouts drastically.

Bid-rigging hits the taxpayer in the pocketbook. The practice is not viewed indulgently by other nations.

The U.S. move will help destroy the practice. It is unfortunate that, in this country, pressure from other nations seems indispensable before the wishes of the public can be achieved.

[From the Tokyo Asahi Evening News, Oct. 6, 1989]

A RIGGED SYSTEM

The United States has demanded an enormous amount of damages from Japanese construction firms involved in fixing bids on construction contracts ordered by the U.S. Navy base at Yokosuka. The demand has come as a great shock to the Japanese construction industry which has continued to do business in a climate where fixing bids is considered commonplace.

The corporations involved refuse to comply with the American demand as they contend, among others, that they have not inflicted enough damage on the Americans. Washington is poised to institute legal proceedings. Some of the Japanese businesses which operate in the United States may be sued under U.S. law. Should such action be taken, the amount of damages sought would be tripled.

Aside from whether the damages are numerically legitimate, the American appeal that the corporations should pay compensation for the squandered tax money as a result of inflated construction costs may find sympathy with Japanese taxpayers, who are fed up with the commonplace fixing of bids on public-works projects. Japanese taxpayers are urged to keep an eye on how this case is resolved.

It is reported that what the Americans really have in mind is to gain an edge in winning access to the Japanese construction market for U.S. companies.

Washington's position is that what makes the participation difficult is the fixing of bids, an inevitable part of Japanese public-works projects. This issue was also raised in the recent structural impediments initiative talks between the United States and Japan.

The complaint this time from Washington might perhaps be taken as part of its censure against the traditional practice of fixing bids in Japan.

Against this background lies Washington's stern posture. Strict controls are exercised on the fixing of bids not only in the United States but in other Western nations as well. There, huge fines are used to prevent recurrences of fixed bids.

The climate is significantly different from that of Japan, where the fixing of bids is considered an open secret and very few cases are prosecuted. Among those that are, companies get off with very light penalties. In Japan, it seems that government agencies, when offering contracts on public-works projects, not only look the other way but also create conditions that make it easy to fix bids. This is discernible from the adoption of a system in which companies seeking contracts are nominated in advance of their bids.

This practice reflects a traditional Japanese trait that last-minute competition is something detestable, with greater importance attached to laying groundwork. Not a few arguments are set forth in support of the fixing, such as that the lack of bid fixing would give rise to fierce competition, thus leading to shoddy construction work; that companies could not count on receiving orders if free competition prevailed, thereby endangering the management of the corporations involved; and that the fixing is a means of self-defense for those undertaking the projects, who have less power than the ordering agencies.

Whatever reason there may be, the fixing is absolutely uncondonable, not just because it is illegitimate but because there is a danger that the contract prices are higher than in free competition, thus resulting in a sheer waste of invaluable tax money.

Even if it is assumed here that the contract prices would not roll up, a prolonged situation where there remained no competition would weaken the corporate vitality, slowing down the pace at which companies would try to improve their management.

As it now stands, the Japanese construction industry, where bid fixing is now an everyday practice, is considerably less productive than its counterparts in the United States and West Germany as well as the Japanese manufacturing industry. It is inevitable in some aspects that the productivity of the construction industry lags behind that of the manufacturing industry, but the fact stands that the difference in Japan is greater than in the United States and other Western nations.

Nonetheless, there has not emerged in Japan a notion that the losses caused by the fixing of bids ought to be indemnified partly because government agencies ordering the contracts make it a practice to determine and advise what the maximum bids should be.

In other words, once it is determined that orders will not be granted unless bids come in under a certain ceiling it is much more difficult to prove damages are legitimate. This is precisely why there have been virtually no cases involving charges of fixing under the Criminal Code in situations where fair prices are impaired.

Undeniable, this climate serves to dampen the sense of consciousness about a waste of tax money with the practice of fixing bids. It also enables construction firms to keep profits high. The question is, will these arguments hold up under U.S. anti-trust laws?

In another aspect, the U.S. Administration is carrying out a fact-finding survey on the actual Japanese fixing practice with a view to facilitating corporate America's involvement in the Japanese construction market. Regrettable though it is that we have to rely on pressures from abroad, we cannot find sanctuary in a "kingdom of fixings" for any length of time.

Mr. MURKOWSKI. I thank the chair and suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator suspend before that quorum call? The clerk will report the pending business.

SUPPORT FOR EAST EUROPEAN DEMOCRACY ACT

The legislative clerk read as follows:

A bill (S. 1582) to amend the Foreign Assistance Act of 1961, to provide for certain forms of assistance to Poland to ensure the success of freedom and democracy in Poland.

The Senate resumed the consideration of the bill.

Mr. SIMON. Mr. President, I rise today to speak about the absolute need to get moving on our legislation to provide critical aid to Poland and Hungary. We have let what is essentially a bipartisan effort on Poland and Hungary get bogged down in a partisan fight over capital gains, and this is not right.

There is an old expression in American foreign policy to the effect that politics ought to end at the water's edge. Rarely has that old saw been more appropriate. We may have some disagreements between the Dole amendment and the Simon amendment, but we are all agreed that it is urgent to get legislation enacted quickly to help our newest friends—the Poles and Hungarians who have brought new hope to millions throughout all of Eastern Europe.

Unfortunately, Senator PACKWOOD has added a capital gains tax cut to the pending Poland and Hungary aid bill, which has nothing to do with helping Poles and Hungarians consolidate their new-found freedoms. Capital gains is unrelated, and the amendment ought to be withdrawn. Let's get on with the matter at hand.

Finally, Mr. President, I noticed that the RECORD left off a number of names of cosponsors of the Simon modification that was submitted to S. 1582, the Poland-Hungary aid bill that is the underlying bill we are considering. The following Senators are cosponsors of the Simon modification: Senator BOSCHWITZ, Senator MIKULSKI, Senator HUMPHREY, Senator KENNEDY, Senator BIDEN, Senator MITCHELL, Senator PELL, Senator CRANSTON, Senator GRAHAM, Senator HARKIN, Senator LIEBERMAN, Senator LEVIN, Senator ROBB, Senator LAUTENBERG, Senator RIEGLE, Senator METZENBAUM, Senator KERRY, Senator DECONCINI, Senator SARBANES, and Senator DODD.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

PRESIDENT BUSH VETOES DISTRICT OF COLUMBIA APPROPRIATIONS BILL

Mr. ADAMS. Mr. President, I take this time to state that we have just received word that President Bush has vetoed the drug emergency funds contained in the District of Columbia appropriations bill for fiscal year 1990. He has done so because of language contained in the bill which restricts the use of Federal funds in the bill for abortion, except in cases where the mother's life is in danger or in instances of rape and incest.

Mr. President, 2 days ago I took the floor, along with the chairman of the Appropriations Committee, the chairman of the Judiciary Committee, and the majority leader, to implore the President to look at the complete bill before deciding whether to veto or sign the bill, a bill which includes nearly $32 million to fight the war on drugs in the Nation's Capital.

Our Capital City is plagued with a record number of murders, and this violence is inevitably spreading to the suburbs. We have had over 360 murders since the beginning of this year in the Capital City. Most of these are drug related. We heard from the President of the United States and from his drug czar, Mr. Bennett, that the Capital was going to be made a model of the war against drugs. We took him seriously in the U.S. Senate and in the House of Representatives.

We not only came up with a strategy, which I will describe in a moment, but also funded it, and now he has vetoed those funds. The President has said no to more police, no to more judges, no to drug treatment programs for pregnant women, and no to expanded after-school programs so that children can have a safer place to spend their idle hours. The reason the President gives for this veto is that this bill gives to the District's residents—and I hope a number of the Senators are listening to this—the same right as all other citizens of the United States have, and that is to determine how to spend their own local tax dollars; through their elected representatives, on the choice and abortion issue, a right that they have had all but 1 year in the history of the District. Only last year was this restricted. So we on the Appropriations Committee and later the full House and the full Senate returned to the rule of allowing the District to have the same right that any local government, be it Houston, New York, Seattle, wherever, to spend their money as their local representatives have selected.

Mr. President, the language that the President of the United States has been objecting to in the D.C. law has been there for 10 of the last 11 years and was signed by President Reagan as a separate appropriations bill on three different occasions.

For the President of the United States to veto this bill for any reason is a tragedy, but to veto this bill and still try to conduct a strategy through rhetoric on drugs that says we are fighting the drug and murder problem just simply means that the President's words are not matched by his actions. It is a tragedy. When we talk about saving lives, regardless of which side of the choice issue we are on, we are talking in this case about lives being lost in the streets of Washington, DC.

I hope that we will be able to override this veto, and there are three reasons that are different than any others that will come before the Senate and the House.

The first is the principle of local government. Each government should be able to decide the way it wants to spend its money on such a difficult issue through its own elected representatives.

The second reason is that this is a drug bill. This is a bill to fight the war on drugs and to stop the murders that are occurring on the streets of this city.

And the third is that this is the Nation's Capital which he and Mr. Bennett said would become a shining light in the war against drugs.

For those three reasons we should set aside personal beliefs and views on choice and abortion, override the veto on this bill, and go about the Nation's business.

I thank the Senate for this time.

PRESIDENT BUSH'S VETO OF THE DISTRICT OF COLUMBIA APPROPRIATION BILL

Mr. CRANSTON. Mr. President, for the second time in the past few days, President Bush has vetoed a critically important appropriation bill because it would allow for funding for abortions for poor women.

Last Saturday, he vetoed the Labor-HHS appropriation bill—a bill of vital necessity to the Nation's welfare—because it authorized Medicaid funding for abortions for women who had been raped or for young girls who were incest victims.

Today, he has vetoed the District of Columbia's appropriation bill because it allows the locally elected government of the Nation's Capital to spend their local funds for abortions for indigent women. This appropriations bill contained essential funding for the war on drugs and maintenance of es-

sential law enforcement and human services in the District of Columbia.

Mr. President, I am appalled and outraged at the lack of compassion and concern for the welfare of impoverished women exhibited by these vetoes.

This kind of policy will simply force poor women into later, more dangerous and more costly abortions. Without financial assistance to obtain a safe and legal abortion, desperate poor women will be forced to resort to alternatives that risk their lives and health.

Years ago, D.C. General Hospital had a special ward for women who had become infected because of botched, illegal abortions. The end result of the President's policy will be a return to that era, when poor women are forced into the hands of back-alley butchers or self-induced coathanger abortions.

Before the Senate Appropriations Committee voted to restore the authority of the D.C. government to determine its own policy regarding abortion funding for impoverished women, it heard testimony about the growing number of cases of desperate women who have been turned away from public facilities because of last year's ban. The executive director of Planned Parenthood of Metropolitan Washington, DC, described one case of an HIV-positive pregnant woman seeking an abortion who had been turned away from DC General Hospital. With no funds, she was unable to get an abortion until she was 19 weeks pregnant. At that point, the abortion cost more than $800 and was far more complicated and dangerous to her health. The DC Planned Parenthood Program—a private, voluntary agency—helped this woman by paying for her abortion at a private hospital. But to do so they had to divert funds from their Family Planning Program which provides contraceptive services to low-income families. Reducing family planning services provided by agencies like Planned Parenthood will simply increase the number of unintended pregnancies and the need for abortion.

President Bush promised to bring us a kinder, gentler nation. For whom, we should ask?

Certainly not for an AIDS victim who is forced by this policy to carry a pregnancy to term, forced to give birth to an AIDS-infected infant condemned to an agonizing and brief existence.

Certainly not for the 11- or 12-year-old incest victim forced to give birth because of this policy.

Certainly not for a rape victim, forced to carry a rape-induced pregnancy to term because of this policy.

Certainly not for the desperate woman who is mutilated when she is forced to have an illegal abortion or a self-induced abortion.

Mr. President, if President Bush wants to give us a kinder, gentler nation, he could start with a more humane approach to helping poor women who are the victims of rape or incest, or need access to a safe, legal abortion.

These vetoes are cruel. They are inhumane. They should not be the policy of this Nation. I will continue to fight against them until they are defeated.

SUPPORT FOR EAST EUROPEAN DEMOCRACY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Delaware.

THE U.S. ECONOMY NEEDS CAPITAL GAINS AND SAVINGS TAX RELIEF NOW

Mr. ROTH. Mr. President, I alert my colleagues to a front page New York Times article this morning entitled "Japan Leading U.S. in Raising Capital for Corporations." The article outlines how Japanese corporations "are finding it easier to raise relatively cheap capital to modernize, increase productivity and expand."

The article continues with the observation that this "could benefit them as they prepare for increasingly tough competition in the global marketplace." The article also notes that the Japanese save more than Americans and that the Japanese stock market is providing a relatively inexpensive source of capital for Japanese corporations.

Mr. President, I also call to your attention an article in the week's Economist, entitled "Peter Dunker's 1990," where it makes the same point that financially the capital cost for the Japanese is around 5 percent or so in contrast American companies now pay up to 20 percent for money. The article goes on to explain why that is handicapping American business which means that it is handicapping American jobs in relation to the Japanese.

I also point out that Japan had a zero capital gains rate during its period of rapid economic development. It just began a capital gains tax which would amount to between 1 percent and 2 percent for long-term investors in new ventures and for entrepreneurs. Obviously this is a much better policy for the Japanese economy than that of the United States.

Furthermore, Japan has long given generous tax incentives for private saving. The broad income tax exemption for interest on personal saving has boosted private saving according to most experts. This liberal Japanese treatment of personal saving is in fact similar in many respects to my IRA-plus legislation.

The reasons for the advantages enjoyed by Japanese businesses are complex, and public policy is only one factor. But if there is one thing we do know, it is that the U.S. Tax Code discriminates against saving and investment. The double taxation of saving under the U.S. Tax Code puts U.S. firms and workers at a competitive disadvantage. While many in Government like to talk about our need to increase private saving and investment, fewer seem to realize the extent to which our own policies contribute to our problems.

Under our Tax Code, the amount saved is taxed, and the interest or return on that saving is taxed yet again. In contrast, consumption is only taxed once since it creates no return. To a considerable degree Americans consume more and save less because that is the policy, albeit unintended, on the part of our Government. The Packwood-Roth bill would help correct this mistaken policy.

Similarly, saving in the form of private investment is taxed at least twice. A person purchasing $500 of stock has paid tax on that $500. If the earnings outlook for the corporation improves, the value of the stock will rise. Both the corporation and the individual investor will eventually pay income tax on these higher future earnings of the corporation.

But these higher future earnings are what will boost the price of the stock now, leading to a capital gain. The capital gain represents the economic value of the future higher income stream which will be taxed twice under the income tax. A capital gains tax simply adds another layer of tax. The capital gains tax is not in fact a tax on income, but merely one on capital which transfers its title from the saver to the Government.

Mr. President, I urge my colleagues to support the Packwood-Roth bill to improve incentives for saving and investment. U.S. firms and workers should not continue to be hamstrung by U.S. tax policy. Let us free saving and investment to improve American productivity and competitiveness.

I ask unanimous consent that a copy of the New York Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JAPAN LEADING UNITED STATES IN RAISING CAPITAL FOR CORPORATIONS

(By James Sterngold)

TOKYO, October 26.—At a time when volatile swings and uncertainty on Wall Street have made it increasingly tough for American companies to raise money, the comparatively stable and strong Japanese stock market has been churning out record levels of fresh capital for Japanese corporations.

But in the United States, the amount of money raised from the sale of stock, the fuel for corporate expansion, has been shrinking from a peak three years ago. In the first eight months of this year, Japanese corporations raised more than $110 billion, compared with $20 billion by American companies, by far the largest gap ever between the countries, according to figures

from the Tokyo Stock Exchange and the Securities Data Company in New York.

A PROFOUND MESSAGE

The boom in raising capital in Japan carries a profound message for competition between American and Japanese banks and corporations: Japanese companies are finding it easier to raise relatively cheap capital to modernize, increase productivity and expand. That could benefit them as they prepare for increasingly tough competition in the global marketplace.

"The really awesome thing is what this will mean in three or four years, when the Japanese begin to realize the benefits of their investments and their productivity shoots up," said Eric Rasmussen, an economist at Jardine Fleming Securities in Tokyo.

In some ways, companies prefer selling stock to borrowing, because they do not have to repay the money, as they do with a loan. Of course, stock prices can be volatile. But because equity capital is permanent, managers can generally plan for the long term in a more stable environment.

BIG ISSUES COMMONPLACE

Every month there are more huge offerings of stock here. For example, Sanwa Bank's announcement last week that it would issue stock to raise nearly $2.5 billion seemed such a commonplace that Japanese newspapers barely took notice. The deal would have made headlines in the United States, where such issues have been few and far between.

The stock market crash in October 1987 marked a watershed in this capital-raising trend. In 1986 American companies raised a record $67.9 billion from the sale of stock and similar securities—money known as equity capital. That was more than double the level in Japan that year. In 1987 the two nations were nearly equal, with slightly more than $60 billion raised in each market.

That is when the uncertainties from the market turmoil took their toll. Equity-raising in the United States withered, while it rose sharply in Japan, where the market weathered the market crash with far less volatility and a swifter recovery. A stronger economy and greater stability in shareholdings in Japan, along with the firm hand of Government regulators, helped the Japanese market hold its ground and then resume its upward course.

MORE THAN A CASINO

What the contrast in the amount of newly raised capital underscores is that a strong stock market provides more than a casino for speculators.

Of course, many people criticize the Japanese market for shortcommings like high fixed commissions on trades and paltry dividend payments. In addition, extensive networks of cross-holdings, in which groups of corporations own large blocks of shares in each other, tend to reduce the voice of smaller shareholders.

But the market is performing the classical economic function of providing a means for investors to channel their savings into productive enterprises. Japanese save far more than Americans. And Japanese companies are feverishly translating that money into more productive operations.

"It's clear that this is helping Japanese companies in no small way," said Richard Koo, senior economist at the Nomura Research Institute.

MASSIVE AMOUNTS FOR BANKS

Particularly for commercial banks, where capital can play an even more critical role in competitive strength, the difference between the markets has been lopsided.

Since the crash of 1987, American banks have raised $5.7 billion in equity, according to Securities Data; in the same period, just eight major Japanese banks have raised more than $22 billion, a study by Salomon Brothers found.

"The buoyancy and discipline of the Tokyo capital markets have enabled the banks to raise massive amounts of capital—sums beyond the wildest dreams of Western bank chiefs," Salomon Brothers wrote in the report.

Prices on the Tokyo Stock Exchange have risen spectacularly over the last decade, prompting criticism in Japan and on Wall Street that it is built on a foundation of soap bubbles that could burst at any moment. While Japanese stock prices trade on average at more than 40 times the companies' earnings per share, American shares trade for only slightly more than 10 times earnings.

As a result, it takes significantly fewer shares in Japan to raise the same amount of capital. And by issuing fewer shares, there is less dilution of the holdings of existing shareholders and of the company's earnings per share. In other words, the lofty level of the Japanese stock market makes it far cheaper to raise equity capital.

INTEREST RATES LOW, TOO

And when Japanese companies want to borrow money, they also have an advantage over American companies: Japan's relatively low inflation rate—less than 3.5 percent—and low interest rates make borrowing relatively inexpensive as well.

With its strong gains, the Japanese market has defied doomsayers for more than five years, particularly during moments of enormous stress, as at the time of the crash on Oct. 19, 1987, and two weeks ago, when Wall Street suffered its second-biggest drop ever.

The Tokyo stock market hardly skipped a beat when the New York Stock Exchange fell nearly 7 percent on Oct. 13; it dropped less than 2 percent and then bounced right back, causing no delay in Sanwa Bank's long-planned new-share issue.

Whatever the reason for that stability—and few agree on just what is behind it—the benefits to Japanese corporations are clear.

Nowhere is the difference between the two countries more pronounced than in commercial banking, where there is a worldwide struggle to build capital to meet strict new regulatory standards and to compete in the emerging international marketplace.

A study by Merrill Lynch Japan Inc. found that since the stock market crash two years ago, Japanese banks have nearly doubled their equity capital. About three-fourths of the increase is directly related to the strength of the Japanese stock market.

ENORMOUS FLEXIBILITY

"If you can raise these funds in such massive amounts this easily, it gives you enormous flexibility in terms of expanding your business," said James Russell, Merrill Lynch's banking analyst here. "This trend has all sorts of implications for even the average American company, in terms of where it's going to be getting its banking services in the future."

For instance, after its just-announced offering, Sanwa Bank's shareholder's equity will stand at about $11.2 billion, more than double the $4.5 billion at the end of March 1987.

To be sure, Japanese banks face significant hurdles in the international expansion. Their major problem is that they have grown up in a highly protected domestic market. As a result, they lag behind their foreign rivals in developing high-margin new products and more sophisticated services. But their ability to invest heavily is allowing them to close this gap quickly.

The Japanese banks have benefited in two ways from the strong stock market. The first, of course, is that they have issued new shares and billions of dollars worth of bonds that later are converted to stock. The second is that their own portfolios of stocks have sharply risen in value.

THE RULES ARE DIFFERENT

While American banks are restricted from owning shares in other companies, unless the holdings are in businesses that relate directly to their financial operations, Japanese banks can own up to 5 percent of other corporations.

Historically, the Japanese banks have used their shareholdings to reinforce ties to clients and other members of integrated financial and industrial groupings, known as keiretsu. Over time the value of those holdings has exploded.

That gain has generally not been recognized, because the banks reflect only what they paid for the stock on their balance sheets. But if they sell a fraction of those shares, they realize the gains to bolster their earnings and capital base.

And that well of capital runs deep. For instance, in a recent public filing in the United States in which it had to disclose the value of its stock portfolio, Mitsubishi Bank said that as of last March 31 it had the equivalent of $28.5 billion in unrealized stock gains, as translated at current exchange rates.

IMPACT OF STOCK PROFITS

Salomon Brothers estimated that Japan's major banks earned $7.9 billion, or just under half of their pretax profits, in the fiscal year 1988 from selling small amounts of their stock holdings.

And Mr. Russell found that 75 percent of the $24.4 billion increase in the shareholders' equity of Japan's seven largest banks from the end of March 1987 to the end of March 1989 had been accounted for by the issuance of new shares and the sale of some stock from their portfolios.

By contrast, profits from regular operations, which have been the historical source for new capital for Western banks, provided just 25 percent of the increase over that period for the Japanese banks.

"What will be interesting to watch is what happens when they put all that money to use," said Mr. Rasmussen of Jardine, Fleming.

Mr. ROTH. Mr. President, I yield back the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that the time which runs under the quorum calls this afternoon be equally charged to each side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time during the quorum call be charged against the time for debate under the previous order, with that time to be charged equally against both sides.

The PRESIDING OFFICER. The request has been previously agreed to under an unanimous consent propounded by the Senator from Arkansas.

Mr. MITCHELL. Demonstrating his usual foresight and good judgment, Mr. President.

I thank the Chair and I yield the floor.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, I rise today as the author of one of three components of the Packwood-Roth-Kasten amendment. Included in this amendment is the text of my bill, S. 1774, which would repeal section 89 of the Internal Revenue Code. Since January of this year, I have been engaged in an effort to repeal section 89. Frankly, it has been a long and often lonely quest. I greatly appreciate the assistance I have received over the months from Senators PETE DOMENICI, DENNIS DECONCINI, TRENT LOTT, RUDY BOSCHWITZ, and STEVE SYMMS in working to repeal this complex and unworkable law.

We have persisted in our fight because we are absolutely convinced that allowing section 89 to take effect would be a tragedy for America. It would especially be a tragedy for the backbone of our Nation's economy—small businesses all across our country.

Today we have an opportunity to write the final chapter in the Senate's debate on section 89. We have before us today an amendment that provides for the complete, outright repeal of section 89. I would like to focus the attention of my colleagues on two things: First, the policy reasons for repealing section 89; and second, the need for immediate action on repeal.

And I cannot, Mr. President, emphasize this enough. We have been fighting this battle now since January. People have come to the floor from time to time, come to the Small Business Committee, the Finance Committee, and everyone says we are going to change it; we are going to repeal it; we are going to fix it.

Right now we are in the exact same position we were last January because neither the House or the Senate has been able to get together, and now we are being once more prevented from voting on the repeal of section 89.

First, I would like to discuss the policy implications of section 89. We all realize section 89 regulations are unwise, unworkable, and just plain unfair. What Senators must ask themselves is this: Do we really need new nondiscrimination regulations? We had nondiscrimination regulations under the old law and I know many Senators may not know that, but it is true. Nondiscrimination law is already in existence.

The amendment before us today is simple and the amendment before us today is straightforward. It would repeal section 89 and put those prior law nondiscrimination rules back in place. It is just that simple.

Section 89 is, and I believe always has been, a solution in search of a problem. It is precisely because no real problem existed under the old law that so many of my colleagues are prepared to endorse repeal.

Section 89 was originally intended to eliminate discrimination in the provisions of employee health benefit plans. No one supports discrimination against rank-and-file workers, but under section 89 the small businessmen and women of America were assumed guilty from the beginning. In order to prove they were not guilty, in order to prove they were innocent, they had to climb a mountain of paperwork and navigate through a maze of complex and costly regulations. Many employers in Wisconsin and across the country simply decided to cancel their health insurance benefits completely.

At a time when we ought to, in this country, be encouraging more people in more businesses to expand and improve their health insurance, section 89 was having precisely the opposite effect of reducing health coverage for rank-and-file workers. Because people, particularly small businesses, were being forced to drop their plans because they could not afford the accounting, the legal and the consulting fees, in order to prove what they already knew: that they were not guilty. They were innocent. But it was going to cost them too much money to fill out the forms and go through the tests.

No Senator wants discrimination. Every Senator in this body wants workable nondiscrimination rules. But section 89 simlply cannot be made to work.

Nondiscrimination should not be our only health care policy goal. We need to strive for other goals as well. The small businesses of America must be allowed to continue to expand their health care coverage. We need to liberate small businesses from heavy-handed regulations and leave them free to do what they are supposed to do: work hard, provide jobs, help communities grow, and offer employee benefits. We need to avoid taxing the benefits of innocent and unwitting employees.

Mr. President, section 89 would prevent these other worthy goals from being reached. My amendment would not.

What is the impact of section 89, the net impact on America? A study by the Institute for Research on the Economics of Taxation sent some alarming signals. The study indicates that the costs to businesses of complying with section 89 will be more than $4 billion next year. The Treasury is saying they might get $100 million or $120 million in.

Let us assume that is right and let us assume Treasury does not have to hire new employees in order to read the forms being filled out across America; let us assume people decide to pay the tax, the $120 million, instead of dropping their plans, which I do not think is true. But let us give them the $120 million. The point is it costs America $4 billion to produce what I think is a questionable $100 million or $120 million at Treasury; $4 billion for the IRS to have $120 million.

These increased costs, the $4 biilion, would cause a net reduction of $800 million in Federal revenues alone because of the drag on the economy. The study points out throughout the economy almost 90,000 jobs could be lost as a result of section 89, the costs being imposed on our economy.

Mr. President, these figures are very, very troubling. To top it off, nearly 20 percent of the respondents to a survey that accompanied this study said they planned to reduce or eliminate health benefits in response to section 89.

I know that is happening in Wisconsin. That is 20 percent. Twenty percent are saying they are going to reduce or cut back on their health benefits because of the legal and accounting and consulting fees.

It is the same kind of decline we saw shortly after the passage of ERISA. Statistics given to me by the Employees Benefit Research Institute, which is the most respected source in the Nation for employee benefit statistics, show the following: Pension coverage rate for private sector employees, that is the percentage of private sector em-

ployees covered by pension plans, declined from 1979 to 1983.

In 1979, 56 percent of the work force had pension plans. By 1983, that figure dropped to 52 percent. And section 89 would have us impose the same kind of system on health benefit plans that we imposed on pension plans. This is crazy. We are going the opposite direction of where the policy goals of this country and this Congress ought to be going.

Mr. President, I submit we ought to be putting more incentives into the system to promote health care coverage and start taking disincentives like section 89 out. We would all like to see health care coverage expanded, but I am convinced we are much better off using the carrot than the heavy stick like section 89. Section 89 hurts our economy, it hurts our budget, it hurts health care coverage in America, and it must be repealed.

Across America, particularly small business but all across America, some people think the House vote repealed it. People want section 89 repealed.

This summer I held 4 days of hearings in eight cities throughout Wisconsin on this issue. I know a number of my colleagues have held hearings and town meetings, meetings with business men and women across their States also. I went out and heard from hundreds of small business men and women. They were unanimous in their support for the complete outright repeal of section 89.

I might point out to my colleagues, these are lawyers and accountants and consultants on health care plans as well as small business people. Even the people who were in the position of making money by advising their clients on how to comply with section 89, the lawyers, the accountants, and the others, even they came and testified that section 89 is too complex to work and should be repealed.

All across this Nation small companies are struggling with the section 89 requirements. They are not sure. Is it going to take place in December? Is it going to be canceled? Is it going to be reformed? What is going to happen?

Small businesses are outraged and it is the sense of outrage that we should heed now in voting for repeal.

Let me spell out exactly what this amendment would do. It repeals section 89 outright; it would ensure an orderly transition to pre-1986 nondiscrimination rules. This approach was approved by 390 Members of the House of Representatives. This approach was approved unanimously for inclusion in the Finance Committee's reconciliation package before we voted to strip down that bill.

Now, once more, here we stand. I think it is ironic, the Senator from Arkansas and I have been involved in this debate three or four different times, trying to figure out how possibly can this make sense. Once more we are in the process of being blocked from having a vote up or down on repeal of section 89.

The House vote, 390 Members; overwhelming. I predict when a vote occurs, up and down on repeal of section 89, it will be overwhelmingly repealed by this Senate as well.

The House vote, I think, is clear. This is where we are. Yet we are prevented, through one more process of either trying to get a supermajority or blocking cloture, or whatever, we are preventing a vote on the repeal of section 89 to occur.

That brings me to my second point. We have to repeal section 89 immediately. Over the past several weeks I have heard Senator after Senator come to the floor or to the Small Business Committee or other places and speak about the urgent need to repeal section 89. These Senators have been absolutely correct. Five weeks from today every single employer in America must be in full compliance with section 89; December 1. The Secretary of the Treasury has moved that date back twice. Right now the law says section 89 goes into force on December 1.

I do not think any Member of this body wants it to happen. We know it is going to be changed one way or the other. Yet if we do not act immediately, that will be the case. It goes in 5 weeks from today. The Senate still has not voted repeal, in favor of outright repeal. There is repeal language in the House version of the reconciliation bill, but we know because of the problems we have in reconciliation, the Senate wanting a clean version, a clean bill, it has to work its way through the conference.

I am on that conference. I have to say to my colleagues, I am not optimistic about anything coming together there. This is the place to repeal section 89.

A clean bill means the effort to repeal section 89 must start anew. And that is why we are here today.

We have to start this effort today. I hope we will vote in favor of this amendment on Monday or Tuesday, whenever this vote occurs. The small businesses of America cannot afford to wait any longer. Every Senator should be aware that a vote against this amendment is, once more, a vote against the repeal of section 89.

It will require a supermajority, but these votes count. The majority position is being blocked right now on something that is very, very serious for the United States of America. This might be the last opportunity to take action on this vital issue.

I am not sure there is going to be an effort made to have a clean debt ceiling. I am not sure we are going to have another financed Ways and Means vehicle on which we can put section 89 repeal. This amendment is more than just capital gains, in other words. The amendment is a repeal of section 89, and the small businesses of this Nation desperately need a repeal. The small businesses throughout America are strongly behind this amendment.

I would like to list just a few of the small business groups who strongly support the repeal language in this bill: The Chamber of Commerce supports the language; the National Federation of Independent Business supports the language; the Small Business Legislative Council supports the language; the Small Business United Groups supports the language.

Allow me to read one letter, and I will print the rest in the RECORD.

DEAR SENATOR KASTEN: I received your language for restoring tax treatment of employer-offered health insurance to pre-1986 status, and I believe it is the most appropriate and fairest approach to repealing section 89.

I urge all of your colleagues to support it. Furthermore, section 89 goes into effect, according to the Treasury Department, on December 1, in spite of the fact that both Houses of Congress have overwhelmingly voted to repeal it.

Time is running out. Opportunities for action are dwindling. Therefore, we support all efforts to resolve the question of section 89 before December 1, 1989.

This is our opportunity. This is our chance. A vote to repeal section 89 is also key vote to a number of other groups. For example, the following list of groups also support section 89 provisions of the amendment. I am not going to read this whole list, Mr. President. I simply ask unanimous consent that the list of groups supporting section 89 repeal be printed in the RECORD, along with the position of two other groups, Citizens for a Sound Economy, and the U.S. Chamber of Commerce, and also a letter from the National Federation of Independent Business.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF GROUPS SUPPORTING SECTION 89

National Association of Manufacturers;
National Restaurant Association;
Printing Industries of America;
National Grocers Association;
National Retail Merchant's Association; and
Association of Builders and Contractors.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, October 26, 1989.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, 110 Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: I have reviewed your language for restoring the tax treatment of employer-offered health insurance to its pre-1986 status, and I believe it is the most appropriate and fairest approach to repealing Section 89. I urge all of your colleagues to support it.

Furthermore, Section 89 goes into effect, according to the Treasury Department, on

December 1 in spite of the fact that both Houses of Congress have overwhelmingly voted to repeal it. Time is running out and opportunities for action are dwindling, therefore we support all efforts to resolve the question of Section 89 before December 1, 1989.

Sincerely,

JOHN J. MOTLEY III,
Director, Federal Governmental Relations.

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, October 26, 1989.

CSE POSITION ON THE PACKWOOD-ROTH-KASTEN AMENDMENT REGARDING CAPITAL GAINS AND SECTION 89

DEAR SENATOR: The Senate may soon vote on cloture regarding the Packwood-Roth-Kasten amendment to S. 1582, the Poland aid bill. As you know, this amendment contains a capital gains reduction, an IRA proposal and repeal of Section 89.

On behalf of our 250,000 members and supporters across the country, I urge you to vote for cloture. If there is cloture vote, CSE will designate it as a key vote to be reported to our members.

The United States has an historic opportunity to encourage an Eastern bloc country to move away from communism and toward a more market oriented economy. So, in one sense, it is fitting that a vote on capital gains take place on the Poland aid bill. At this critical juncture, let us remember the lesson that has made our own economy a model to be exported worldwide—a vibrant private sector makes our economy strong. A capital gains reduction will stimulate the private sector and encourage economic growth.

Thank you for your consideration.

Sincerely,

BRIAN C. LOPINA,
Director of Government Relations.

U.S. CHAMBER OF COMMERCE,
Washington, DC, October 26, 1989.

Members of the United States Senate:

Senator Packwood has offered an amendment to the pending measure authorizing U.S. aid to Poland and Hungary. The Packwood amendment would reinstate a capital gains differential, repeal Section 89 and expand individual retirement accounts. A cloture vote with respect of the amendment is expected this evening or early tomorrow. Because of the importance of these three measures to the future of American business, we urge you to vote to invoke cloture.

Sincerely,

ALBERT D. BOURLAND.

Mr. KASTEN. Mr. President, it is clear that millions of small businesses all across America strongly support the repeal of section 89.

I urge my colleagues first to vote for cloture. Now we have ourselves in a position where a supermajority is going to be required, but we can get it. First to vote for cloture, then to support this amendment, and let us get on with it.

We have gone on too long, Mr. President, where the will of a clear majority of this body is being thwarted by a small group who somehow want to save or hold onto some piece of section 89. We are over that hump; the majority has spoken in the House of Representatives. Now we have to get over that hump and let the majority speak in the U.S. Senate.

Unfortunately, we have to get the votes for a supermajority because of the parliamentary position which the leadership has once more put us in. I think we can get 60 votes to repeal section 89. They got 390 in the House of Representatives. We can get these votes, and we can repeal section 89. We can beat the supermajority. We can get what we need.

I simply urge all my colleagues to recognize this may be the last chance between now and December 1 to repeal section 89 and how important it is. I urge my colleagues to vote first for cloture and second for repeal of section 89.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PACKWOOD-ROTH AMENDMENT

Mr. DOLE. Mr. President, I would like to discuss the so-called Packwood-Roth amendment, which is a second-degree amendment to the substitute I offered on Polish aid a few days ago. Let me say, first of all, that this vehicle would not be my first choice, but it is clear that we are going to have very few measures the rest of the year and do not have that many choices. I think we should have an opportunity to debate capital gains on the merits along with repeal of section 89, which I think everybody supports, and the so-called Roth plan on IRA's, which some support, some do not, but I think the IRA's generally have some support on both sides of the aisle.

Certainly this Senator recognizes the importance of the Polish aid package and in no way wants to diminish its significance, but capital gains and IRA's are of equal importance to us domestically. I am hopeful that all of these issues can be resolved promptly in a conference with the House.

The majority leader has charged that this amendment jeopardizes urgently needed aid to Poland. However, the legislation before us does not transfer a single dollar to Poland. The appropriations legislation, which actually spends this money, has not been affected by our amendment. It can and should go forward without delay.

In addition, many of the programs contained in this aid package do not require reauthorization. They are included in this bill to reaffirm our commitment to Poland, not to affect their terms. These programs are already on the books, and the funds are flowing.

Finally, let me indicate that in the wish to expedite this legislation, I have been asked, "Well, what is your strategy?" I said, "My strategy, the Republican strategy, I hope it is a bipartisan strategy, is let us have a vote."

Let us have a vote on this amendment. They may be amendments to the amendment if it is agreed to. But we are ready to vote now, today, or at the pleasure of the distinguished majority leader. I would indicate that any delay is not being caused on this side. We are prepared to vote. We believe the President should have a vote. The President campaigned on this issue. As I have said many times, it is not a surprise. Nobody is taken by surprise. It seems to me that one way to resolve it is to vote it up or down.

As I have indicated, the amendment has three major components, the Packwood-Roth capital gains and IRA provisions, the repeal of section 89, and, of course, the Polish aid package. There are also two minor revenue measures that offset the 1990 revenue shortfall which results from the repeal of section 89.

There is always a lot of discussion about who is going to benefit from capital gains but never much discussion of the merits: Is this a good idea? Should it be done? Who does benefit?

Mr. President, our high cost of capital is hurting American business and its effort to compete in world markets. That is a fact. Every day we read that foreign competitors have increased their share in yet another industry. Many of these inroads are directly traceable to the relative costs of capital in the United States and abroad.

For example, Japanese banks have captured a 25-percent share of the commercial loan market in the State of California because they can afford to lend on razor-thin margins. The reason is their low capital costs. Stocks of Japanese banks sell for more than 50 times earnings per share. American bank stocks sell for 6 to 10 times earnings per share.

One factor in this disparity is the difference in capital gains taxes. Japan taxes the proceeds of stock sales at a 5-percent rate. The U.S. taxes capital gains at rates of 28 or even 33 percent. So it is 28 or 33 percent compared to 5 percent in Japan.

Mr. President, our high capital gains tax rates inhibits capital formation, while providing incentives for excessive consumption. We tax invested capital twice. Corporations, like other taxpayers, are taxed on current earnings. Shareholders are taxed again when they withdraw this capital in the form of capital gains, even though a significant portion of this gain may be illusory, reflecting mere inflation.

The results of this policy are readily apparent throughout our economy. We have become a nation of consumers. Old capital is locked into less pro-

ductive investments because of the capital gains tax penalty imposed upon reinvestment, and new private capital is directed away from equity investments because of the tax barriers.

Mr. President, this legislation will help to alleviate these tax payments on savings and investment. It provides an incentive for long-term holdings by reducing the capital gains tax rate according to the length of time an investment is held. Moreover, it removes the inflation tax on capital by offering investors the alternative of excluding inflationary gains, that is, of indexing their cost bases for inflation in computing their tax liability.

Mr. President, President Bush and a clear majority of the Members of both Houses, in the opinion of this Senator, recognize a simple truth, that we can promote economic growth in America by lessening the tax penalty on uses of capital that contribute to that growth. I believe this legislation is critical to our future productivity and competitiveness, and I do not think it should be delayed.

What about IRA's? We have had the so-called Bentsen plan. The highly respected Senator, chairman of the Finance Committee, advanced a plan on IRA's. Then we have the plan of the highly respected Senator from Delaware [Mr. ROTH], who has been associated with individual retirement accounts, IRA's, for as long as I can recall. We all know that America's national savings rate is no longer sufficient to finance its obligations. We are increasingly dependent on foreign capital, and this dependence in part is due to the short-term proconsumption bias of our tax structure. Savings and long-term investment are subject to multiple and excessive taxation on real, noninflationary returns.

Lowering capital gains tax rates will provide necessary relief from the high cost of new investment capital. However, it is also important to provide positive incentives for savings. The Packwood-Roth IRA does this in a manner which would be the most beneficial to lower- and middle-income Americans.

The chairman of the Senate Finance Committee has proposed to extend the deductibility of IRA contributions to those families earning more than $50,000 per year. That is the top 12 percent of all income earners. In Kansas, this provision would benefit only the richest 5 percent of the population.

Not only does this provision benefit only the wealthiest Americans, but it targets the segment of the population which already has money in the bank, money which can be shifted into an IRA. In other words, this proposal is not likely to succeed in generating the new savings this country needs.

By contrast, the Roth-Packwood IRA does not expand the deductibility of IRA contributions to wealthy families. Rather, it permits the withdrawal of IRA funds without tax at retirement or to pay for education, a first home, or catastrophic illness.

The primary beneficiaries of this IRA will be the lower- and middle-income elderly who are currently subject to the highest marginal tax rates of all taxpayers due to the taxation of Social Security benefits, the Social Security earnings limit, and, so far at least, the catastrophic surtax. These moderate-income elderly who saved for retirement are seeing those savings confiscated in taxes at the time they are needed most.

The Packwood-Roth IRA ensures that retirement savings will be available at retirement to meet the needs they were intended to serve.

In addition, in allowing withdrawals for housing, education, and catastrophic illness, this proposal accomplishes goals which I have sponsored and supported for many years. First, it would remove a barrier for long-term savings by young families who are afraid to commit savings to an IRA which may be needed to purchase a home or to educate their children in the future.

Second, it will provide a pool of capital for uses which are important to our future economic growth: Improved opportunities for higher education and a stimulus to the construction of safe and affordable housing.

In combination with a reduction in the capital gains tax rate, this IRA will help to reverse the short-term, proconsumption focus which has plagued this country and threatens its economic future.

Mr. President, objections have been raised to this proposal in a recent CBO study, citing potential long-term revenue losses. Clearly, if you ignore any increase in net savings generated by the IRA-plus, this plan and every other IRA plan, including that proposed by the distinguished chairman of the Finance Committee, will lose revenue over time.

All economists, even those at CBO, agree that a tax deduction for IRA contributions, as proposed by Senator BENTSEN, is the exact equivalent of a tax exemption for eventual IRA withdrawals as included in the IRA-plus, provided that tax rates remain constant. However, our IRA-plus proposal provides the American taxpayer with the important assurance that his retirement savings will not be taxed at higher tax rate in the future. Thus, taxpayers who do not trust the Congress to maintain our current low tax rates will no longer be deterred from long-term savings.

CBO's analysis includes examples showing that taxpayers will be better off by converting their current IRA's into IRA-plus accounts. For example, the study points out that, in addition to insurance against future tax increases, the IRA-plus also increases the amount that a taxpayer can set aside for his retirement by making those contributions with after-tax dollars. In other words, future tax liability reduces the retirement savings component of existing IRA's, but not of the IRA-plus. The removal of this liability correspondingly increases the tax incentive of the IRA-plus, but it can hardly be regarded as a criticism.

Mr. President, it seems to me that in combination with the capital gains tax relief the IRA-plus will help to promote long-term savings and investment in America.

As I have said at the start, I would certainly urge adoption of this amendment. I would certainly hope we could have some agreement to vote on this amendment. We have been quarreling among ourselves over primarily capital gains for the last 30 days; for a week or so on whether or not it should be in budget reconciliation.

It was finally agreed, I think properly so, that everything ought to come off the Senate budget reconciliation—nearly everything come off. We have removed about 10 pounds of add-ons in a 13-pound measure. I think that was a distinct improvement.

But I do not understand the reluctance to prevent us from having a vote on this particular issue. The House has acted. It is not something brought up late in the session. The House has acted. There has been weeks and weeks, and months and months of discussion.

As I have indicated this is part of the President's campaign of last year. It is no surprise to the American people. He carried 40 States. I think there was an indication that the President would take us in the right direction and this was part of his agenda.

So it would seem to me we have some obligation—it is the President's first year, his first term—to let Congress at least dispose of the President's proposals. This is a very important and a very key proposal on President Bush's agenda.

So I do not know precisely what the plans of the majority leader are. But I would hope that we can have some vote. I know some of my colleagues on the other side will not vote with us on procedural matters but sooner or later procedural matters may be a vote on capital gains. You cannot have it both ways. You cannot say "Oh, I am for capital gains but I am not going to vote for any procedural matter." How do we ever get to capital gains if we have to have 60 votes?

So it seems to me one way to test it is somebody could move to table the amendment. It only takes 51 votes to table the amendment. That would be a clear indication of who supports capital gains: Those who voted to table obviously would be opposed to capital

gains, and those who voted not to table would be supporters of the capital gains tax rate reduction.

Perhaps we can have something like that occur in the next few days. It has been suggested by some that perhaps we put a number of things together. Members on that side have some priorities. Members on this side have some priorities. Maybe there might be some way to put together some megapackage. It might include capital gains. It would have to include capital gains. It might include child care. It might include catastrophic insurance. It might include section 89. It might include IRA's. There are a number of things that might be in this megapackage that we might wish to consider separate and apart from what now may be happening in reconciliation.

So it is the hope—I think I speak for the President, I know I speak for the President on this issue—that we would, as the House did, give him a vote, give President Bush a vote. As far as I know, he did quite well in the election. I believe he is entitled to have a vote on this particular issue.

So I hope there is some way we can arrive at some resolution that would protect the interests of those who oppose capital gains, and at the same time give those who support the concept or support the idea an opportunity in the very near future to have a vote which would be a solid recognition of where you stand on this issue, where you stand on repeal of section 89, and where you stand on IRA's.

We believe a vote in the affirmative on the pending amendment would be an indication that you support IRA's, and that you support repeal of section 89, as well as the capital gains tax reduction.

As I have indicated earlier, I do not suggest that either one of these amendments as drafted by those of us on this side are perfect. If the issue is ability to modify or change the proposal, we are certainly prepared to consider changes or modify cases. We know that some have difficulty with the Roth IRA plan. Some have a different idea. We are certainly willing to discuss those, and work out some arrangement for amendments.

The same with capital gains—some might have different ideas on how we finally approach capital gains. We are not suggesting that our amendment will end the debate because there are going to be differences, and honest differences of opinion. I do not question some who just flat out oppose the capital gains tax rate reduction for reasons they feel to be sound. I may not agree but I do not disagree with their right to hold that opinion.

Finally, I would say, as I said at the outset, unless I have missed something there is nothing in this Polish aid bill that is being delayed. I noticed the Washington Post editorial, and they proposed more often than not as a spokesman for the Democratic Party—the spokespaper, I guess, for the Democratic Party—talking about how we are delaying Polish aid. It has only been on the floor about a day and a half as I can recall. But they went on to say in the fine print, well, maybe a day or week or so will not make any difference.

But I would like the Washington Post to—it is a very fine paper—take a look at the committee substitute, Polish aid committee substitute, and take a look at the substitute I offered for myself and Senator DOMENICI, and try to distinguish—and perhaps distinguish the differences between the merits of each proposal. I believe they are going to find there is $400 million less money. Our substitute achieves better results than the more expensive, almost $1 billion, package in the committee substitute.

I indicate, as I did a day or two ago, it is not a question of helping the Polish Government. It is not a question of helping Solidarity. It is a question of how can we do it so they can move toward a market economy? Do we want to continue to, in effect, to subsidize socialist enterprises that have already failed? Communism is failing in Poland. We need to have the new government look in another direction—in fact, march in another direction toward a market economy.

Just to have a contest in this body or in the Congress of who can spend the most money—we will lose that every time to the Democrats. We will admit they are the champs of spending. They will always spend more, probably than the Republicans would, and maybe on rare occasions they are right.

But on this occasion, we are talking about the difference between $540 and $958 million, and we believe we can provide the same relief with our program, and the bottom line is, hopefully, when we figure out a way to dispose of capital gains, figure out a way to dispose of the Packwood-Roth amendment, hopefully by adoping it, but if there is some other way to dispose of it, then we can go back and maybe in a bipartisan way, work out the differences between the so-called committee substitute and the substitute offered by myself and Senator DOMENICI with reference to aid to Poland.

Other governments are moving in that direction. France is moving to help the new Polish Government. West Germany is moving to help the new Polish Government. They should. We certainly have a responsibility, and we have encouraged freedom around the world. It is happening in Poland, and we want to do our part.

As I have also indicated, I do not know how many times we will be voting to help Poland, but I have to believe it is going to be a number of times in the next few years. Let us make certain that we start off in the right direction so we do not discover a year, or 6 months, or 2 years from now that, well, that bill we passed was all right. We spent $1 billion, but it really was not focused in the right way, and now we have to take another look at it.

It seems to me that it is in the interest of our taxpayers, and certainly those who live in Poland, that when we start our program, we know precisely the direction it should go. Maybe we should spend a little time trying to work out some of the differences that will launch a successful program.

In closing, I again urge my colleagues on both sides to adopt our strategy on capital gains, and our strategy is let us vote. Let us vote. We have discussed it for weeks. There have been all kinds of innovative ideas on how to delay and how to make us have 60 votes, how to avoid a vote. I do not quarrel with that, but that is not a strategy.

Let us vote it up or down. If we lose, I am prepared to say that would be the end of it for the year. I know the majority leader cannot deal with this issue every day between now and the time we adjourn. So we are prepared to accommodate the wishes of the majority, the majority leader, and at the same time hope that he might accommodate, in this case primarily, the wishes of the President, and also the wishes of the Republican leader and others on both sides of the aisle, in permitting us to have a vote on capital gains tax rate reduction on an IRA plan and a repeal of section 89.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader for his comments and wish now to address some of the issues he raised, and other issues which were not included in his remarks, but are relevant to the subject matter now under discussion.

First, I was surprised yesterday to learn that the Secretary of the Treasury is taking an action that is without precedent—and he acknowledged that his action is without precedent—in engaging in accelerated borrowing to extend the debt limit from the currently anticipated expiration date of next Tuesday, October 31, until on or about November 8. This will cost American taxpayers about $20 million, according to the Secretary of the Treasury. And it is an obvious and transparently political decision to avoid or to provide an advantage to those proponents of capital gains in the debate now underway. That is re-

grettable. The politicization of the management of the U.S. debt is a serious matter, and it calls into very serious question the management by the Secretary and the excessive deference to political considerations in that important task.

It had been, and remains, my hope that we can pass a clean debt limit extension by next Tuesday, midnight, to save the American taxpayers $20 million. We need not go through this exercise, and I think it is regrettable. It is a very expensive political tactic, particularly when the cost is being borne by American taxpayers. That may not be possible.

I hope in further discussions with the distinguished Republican leader that we can reach some agreement on how best to proceed on the various issues confronting us—the debt limit, the reconciliation bill, disposition of the capital gains issue, progress on the Poland-Hungary aid—that will permit us to do that, and to save the American taxpayers $20 million that, in my judgment, will be unnecessarily expended for what are plainly and purely political purposes.

Mr. President, during this debate we have heard many statistics bandied about. We have heard about capital gains taxes in other countries, and we have heard about the cost of capital for American business. On any major public policy issue, many so-called facts can be and are stated. Proponents of capital gains tax cut often make the argument that U.S. tax policy severely disadvantages business investment compared to policies in other nations. Typically, comparison is made of the alleged lower cost of capital in other nations and their lower capital gains tax rates.

We have been told time and time again that a cut in capital gains tax offers a magic way to reduce our cost of capital and make America competitive. First, Mr. President, every American, surely every Senator, ought to recall that it was Ronald Reagan and George Bush who proposed to eliminate the capital gains tax differential. Let me repeat that, because that appears to have been lost in the discussion here. It was the administration of President Reagan and Vice President George Bush which proposed to eliminate the capital gains differential.

It was 49 out of 53 Republican Senators who, just over 3 years ago, voted on this very Senate floor to eliminate the capital gains differential. It was the then Republican chairman of the Senate Finance Committee who stood on this very Senate floor 3 years ago to denounce capital gains tax differential as a gimmick to help the rich, as something that should be removed from our Tax Code.

So the history of this is that a Republican administration in which George Bush was Vice President, a Republican-controlled Senate, urged this Congress to abolish the capital gains tax rate, the differential, the very thing that the very same people are now saying is a magic way to restore competitiveness to the American economy.

What has occurred in the past 3 years to make what was so obvious then so obscure now to our colleagues? President Bush has placed more emphasis on this issue than any other in his administration, and if he feels so strongly about this issue, where was he 3 years ago when the administration in which he was Vice President was proposing to abolish the very thing which he now says is needed to rescue the American economy?

Have Mr. Bush's views on this issue made a complete, total, and dramatic reversal in that period of time?

Does the President not have some obligation to explain to Americans how it is that the issue now, that to him, is the most important thing in his administration, the most important item on the agenda, is something which he participated in abolishing just 3 years ago?

It does not make any sense to me. I do not think it makes any sense to the American people, and I hope President Bush will explain it to us.

How is it, Mr. President, that just 3 years ago you participated in abolishing the capital gains tax differential and 49 out of 53 Republican Senators voted to abolish the capital gains differential and now we are told it is the most important thing in this administration?

Mr. President, there have been many studies on the cost of capital, most suggesting our trading partners have an advantage. But while economists may differ on the cost of capital in America compared to the rest of the world, they do agree that our current tax system narrows the advantage other nations may have.

Businesses in the United States have a lower tax burden than do corporations in Japan and West Germany. They are subject to lower tax rates and have more beneficial cost recovery allowances. This difference alone gives us a cost of capital advantage. But the advantages bestowed by our tax system are more than offset by other factors, the most important of which is our fiscal policy which through the budget deficit encourages a low level of savings and higher real interest rates than those of our major trading partners.

Mr. President, the single most important thing that we can do to reduce the cost of capital in this country and make the United States more competitive is to reduce the Federal budget deficit, and that is why it is so difficult to understand that on legislation that is intended to reduce the Federal budget deficit President Bush would insist that we include his capital gains tax proposal which will increase the deficit by $67 billion over the next decade, according to the Joint Tax Committee, a panel of nonpartisan experts relied upon by Members of Congress from both parties and in both Houses.

Again I ask, Does it make any sense to propose as part of a deficit reduction bill a provision which will increase the deficit by $67 billion? I believe not.

If the President and his advisers put half as much time, a fraction as much time, into an effort to reduce the budget deficit as they are now putting into this effort to reduce capital gains taxes, then they would be doing something to make American business more competitive internationally.

Another misleading comparison that is often made is to look only at selected tax policies in other nations. For example, we are told that Japanese and German companies have a competitive advantage because those nations have a lower capital gains tax rate than the United States. The problem with this argument is that both Japan and Germany have a range of tax laws and other policies, some of which are more favorable, others of which are less favorable. It is highly misleading to make selective comparisons.

Most of our major trading partners have a higher level of overall taxation than the United States and almost all have higher marginal tax rates. While many of these nations do have lower capital gains tax rates on some categories of capital assets, the overall burden of taxation on all capital assets is not necessarily lower. The maximum tax rate in the United States is 28 percent. By contrast, the maximum rate in Japan is 5 percent; in Germany, 53 percent; in France, 57 percent; in Taiwan, 50 percent; in Korea, 64 percent; in the United Kingdom, 40 percent.

Total tax revenue as a percentage of gross domestic product is about 29 percent in the United States, a little higher in Japan; in Canada it is 15 percent higher; in Germany about 30 percent higher; in the United Kingdom 35 percent higher; in France 53 percent higher.

It is particularly interesting to look at the trend in tax burdens of the last several years. From 1976 to 1986, Japanese tax burdens increased 32 percent, French up 14 percent, British up 12 percent, in the United States up 2 percent.

U.S. tax policy is often criticized for encouraging consumption over investment; yet taxes on consumption account for a far higher percentage of total tax revenues in this country than in Japan, about 30 percent higher, and at the same time business taxes are far

higher in Japan, about 20 percent of total revenue as compared to about 7 percent in the United States.

Since Japan is inevitably thrown up as a comparison of the nation whose tax policies we should emulate, a closer look at their tax system is in order. We have heard it mentioned repeatedly on this floor that Japan does not tax capital gains. That is simply untrue.

The Congressional Research Service recently examined the capital gains tax policies of Japan. It found that with respect to capital assets held less than 5 years, the capital gains tax burden is higher in Japan than in the United States. The maximum tax rate in Japan is 50 percent on these capital assets compared to 28 percent in the United States. For assets held longer than 5 years, the actual tax burden in Japan is probably higher, at least for higher income families. In the case of real estate held less than 10 years, the tax burden in Japan is unquestionably far higher. The capital gains tax rates on this property ranges from 40 to 55 percent. Only in the case of real estate held longer than 10 years and on most stock transactions is the capital gains tax rate lower than in the United States. And then with respect to stock, the maximum tax rate is 20 percent.

While some of our trading partners have lower marginal capital gains tax rates on some assets, it is less clear that the actual effective tax rate on capital in the United States differs very much. For example, a study by Don Fullerton, a former Treasury Department Assistant Secretary in the Reagan administration, found that the effective tax rate on capital gains in the United States is less than 6 percent. This arises because of the ability to defer gains, to receive step-up basis at death, and because of the substantial corporate equity holdings by tax-exempt institutions. While Japan does not tax capital gains at death, it does require that the basis be carried over so that the tax is only deferred; not forgiven as in the United States.

These are the facts but unfortunately facts tend to get lost in a debate such as this. Every American is vitally concerned about our ability to compete in international trade.

Mr. President, I would like to conclude now with some brief remarks on two points that have been raised earlier today.

The White House, the distinguished Republican leader, and numerous Republican Senators have said that since there is a clear majority of both Houses in favor of the capital gains tax cut, why do we not just have a vote on the merits? That is the precise wording—"vote on the merits" of the bill that has been presented. The White House spokesman has made several statements suggesting that I am using the Senate rules in a manner as to prevent that result from occurring.

Mr. President, on September 13 of this year, 66 Senators voted to place certain restrictions on the FSX fighter plane transaction between the United States and Japan. Thirty-four Senators voted in the contrary. The view of the 34 Senators prevailed. Even though 66 Senators voted to place such restrictions on it, under the rules by which the Senate operates, the position taken by only 34 Senators prevailed.

It was the President's position that prevailed, even though 66 Senators voted to the contrary. There was no Senator, no White House spokesman on that day asking that there be a vote "on the merits," or who spoke of "the majority in both Houses."

The President's position prevailed, even though it clearly was a minority position. Our view did not prevail, even though it was clearly the overwhelming majority position.

On August 3 of this year, 54 Senators voted to place the savings and loan bailout bill on budget. Forty-six Senators voted in the contrary. The view of the 46 Senators prevailed, even though they were in a minority, even though a clear majority of the Senate held a contrary position. The minority view which prevailed was the view of President Bush.

So the President's position prevailed, even though only a minority of the Senate supported it; our view did not prevail, even though a clear and substantial majority of the Senate did favor it.

Those were two of the most recent of 34 occasions, 34 times, since January of 1987, in which the minority view in the Senate has prevailed, and the majority view has not prevailed. In every one of those instances, it was the Republican position that was in the minority. In every one of those instances, the Democratic position was held by a majority of the Senate, and in every one of those instances, the majority position did not prevail. The minority position did prevail.

Not once, not once on any of those 34 occasions did any Republican Senator or any spokesman for the White House or the President stand up and ask "Let's have a vote on the merits" or "Let's let the majority of both Houses prevail."

They did not ask that because, of course, if there had been votes on the merits, if the view of the majority had prevailed on those 34 occasions, the President's position would have been defeated or the administration's position—of course some of this occurred prior to the current incumbent President—would have been defeated but was not defeated because of the rules by which we operate.

Mr. President, just this week, just this week, a clear and substantial majority of both the Senate and the House voted to permit Medicaid funding of abortions for unfortunate women who have been the victim of rape or incest and who become pregnant and do not have enough money to pay for an abortion. The question was, if an American woman is the victim of a rape or incest and she becomes pregnant, and she does not have enough money to pay for an abortion, should the Medicaid Program, the Federal, State health insurance program for the poor, should Medicaid pay for an abortion in those circumstances?

A substantial majority of the House of Representatives said "yes." A substantial majority of the Senate said "yes." President Bush said "no," and President Bush's position prevailed because in that circumstance it was not enough to have a majority.

Therefore, Mr. President, it is simply incredible on the very same week that the President's position has prevailed, even though it is a minority position, that the White House and Republican Senators ask that there be a vote "on the merits" on the one issue that they have selected. Their position is that the Senate rules ought to apply to the Democrats but the same Senate rules ought not to apply to the Republicans.

So I asked the President if he wants a majority vote, is he prepared to accept a majority vote on the issue of Medicaid funding of abortions? If he wants a majority vote, is he prepared to accept a majority vote on the question of the on-budget funding of the savings and loan crisis? If he wants a majority vote, is he prepared to accept a majority vote on the issue of the FSX fighter transaction with Japan?

He cannot have it both ways. He cannot say that when the rules operate in his favor, as they have done 35 times now, with the abortion issue, since January of 1987, he wants to take advantage of those rules, but when the very same rules apply to his disadvantage he wants to be exempted from those rules.

The American people do not understand, nor should they, the rules of the Senate, but the American people understand fairness and playing by the rules of the game. Fairness means that the same rules apply to every Senator and every issue. Fairness means that you do not select which rules you will follow, that you do not select which issues the rules will apply to. Fairness means that the rules are applied evenly, equally to all Senators, equally on all issues.

That is what we are doing. Playing by the rules of the game means that you do not take advantage of rules when they help you and then try to get out from under those rules when they operate to your disadvantage.

It means that if you accept the benefit of the rules on 35 occasions, you accept the disadvantages of those rules on the one occasion when they provide you with a disadvantage.

That is what is at issue here, Mr. President, fairness, playing by the rules, having the same rules apply to every Senator and every issue.

So long as I am majority leader of the U.S. Senate the rules are going to be applied equally, evenly, fairly to all. No Senator need even ask to be exempt from the rules, and that goes to Democratic Senators as well as Republican Senators. No Democratic Senator need even bother to come to me and ask me to change the rules, to bend the rules, to exempt him or her from the rules, to exempt one issue from the rules. If the rules are fair we follow them. If they are unfair, then those who think them unfair should change them. There are processes by which we can change the rules. If people think that this rule ought to be changed, that in every instance it ought to be a simple majority that makes these determinations, then that is what we should discuss and debate and consider and vote on.

Mr. President, finally I want to say that it is my hope that we will in the near future be able to proceed to prompt action on the Poland-Hungary aid bill. That is a matter which I know the Presiding Officer has a deep and abiding concern about and interest in. It is important to the people of this country. It is important to the people of Poland. And I hope that the language it has encountered will soon be removed, obstacles will be removed, the delay will be ended, and we will be able to get on with that legislation.

In the meantime Mr. President, it is my hope that we could proceed next week to the long-term debt limit. I would like to discuss that briefly with the distinguished Republican Senator privately. So, Mr. President, I conclude my remarks, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am advised that the visiting Soviet delegation, which Senator DOLE and I have been hosting, is waiting for us for statements.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

CAPITAL GAINS

Mr. GORTON. Mr. President, I have listened to this debate with great interest. As is the case with both the majority and minority leader, I was a Member of the Senate in 1986 at the time of the passage of the tax reform bill. I voted in favor of it. That does not mean that in light of hindsight and the experience of the last 3 years there are not a number of elements in that tax reform package which do not deserve a second look and for that matter amendment.

I was not a Member of this body in 1988 when the Congress of the United States passed another tax, a surtax, on certain senior citizens for the payment of catastrophic health care which has been the subject of considerable debate in the Senate since that time.

I find it curious that the majority leader should so consistently during the course of this session have taken the position that once such a tax policy is passed it should seemingly not be subject to reexamination. We have debated catastrophic health care and its surtax at considerable length.

The majority leader and the chairman of the Finance Committee did their level best to see to it that no vote took place on the merits of that subject and were successful for some 8 or 9 months.

Finally, demands of Members on both sides were sufficient so that we did in fact debate that catastrophic health care bill on its merits. A responsible proposal by the Senator from Arizona [Mr. MCCAIN] which did not repeal the entire program but did repeal the surtax, was passed ultimately—wonder of wonders—by a 99-to-nothing vote, including the votes of even those Senators who were most adamantly opposed to so much as debating that proposition.

An element of the 1986 tax reform which has been an issue similarly discussed is so-called section 89, a section which I suspect a majority of the Members of the Senate at the time who were not members of the Finance Committee did not even know was included in that long and ponderous bill. It had a good goal: the ending of discrimination in health care plans on the part of the employers. It was such an overkill, however, that it was estimated that it would require 9 million man-hours of work in order to implement it, that it would cost the business enterprises of this country several billions of dollars in order to produce for the Treasury perhaps $50 million or $100 million.

It also has been the subject of great frustration to the Senator from Wisconsin [Mr. KASTEN] and others who sought its modification or repeal. The Senate has never been able or been allowed to vote on a flat-out repeal of section 89, although it is clear by other votes that a vast majority of the Members of the Senate wish exactly that purpose. And it is because of that frustration, Mr. President, that the repeal of section 89 is now included as a part of the amendment under discussion to a bill on aid to Poland and Hungary.

The capital gains issue falls into exactly the same category. I listened with interest and appreciation to arguments made by the distinguished majority leader, many of which I have agreed with in the past. I also point out that since that 1989 bill, the current President of the United States has run and been elected to the Presidency of the United States on a platform that there should be modifications in the tax provisions dealing with capital gains and some kind of special treatment for them.

While it is legitimate, it seems to me, Mr. President, to disagree with that position, it is hardly something to castigate the President that he has firmly and consistently attempted to keep a campaign promise. And it is hardly out of line for Members of this body to suggest as strongly as they possibly can that this body be allowed to debate the issue, be allowed to vote on it, and that a majority point of view on the subject be allowed to prevail.

It is simply because the majority point of view, both on capital gains and on section 89, has so long been frustrated, Mr. President, that it now comes up as an amendment to this bill to authorize certain aid to Poland and to Hungary.

I am certain that the Senator from Oregon [Mr. PACKWOOD] and the minority leader would be delighted to withdraw this amendment immediately upon assurance at a specific time and under specific circumstances that we would be allowed to deal with these two issues, either together or individually, on the merits, straight up or down, with no other subject being considered. We have not been given that opportunity, Mr. President. And it is for precisely that reason that any delay in the passage of this bill related to Poland and to Hungary simply must be laid at the feet of those who frustrate or seek to frustrate the will of the majority of the Members of this body on two issues so important as capital gains and section 89.

Bluntly, aid to Poland and Hungary will take place when and as they take place by reason of their inclusion in appropriations bills. The bill we have before us today has little in fact to do with what will happen with respect to Poland and Hungary, but it has a great deal to do with whether or not the body should be permitted to debate one issue vitally important to the small business community of this country and another issue which was at the heart of the Presidential election campaign in 1988.

I very strongly suggest, Mr. President, that as soon as reasonably possible the majority leader permit a majority of the Members of this body to debate those issues on their merits. If

in fact his arguments against the desirability of capital gains and repeal of section 89 find merit in the view of the majority of the Members of this body, they will be defeated. He, after all, is the leader of the majority party in this body. All he has to do is to keep his own majority together and he will win. It seems to me quite obvious that, simply because the majority party will produce many votes in favor of changes in both of these subjects, that is the primary reason that we are not being allowed to debate them at all.

Mr. President, I yield the floor.

Mr. SARBANES. Mr. President, will the Senator from Washington yield for a question on the previous statement of which I caught part?

Mr. GORTON. The Senator is happy to do so.

Mr. SARBANES. I listened to the Senator. Is it the Senator's position that the Senate should repeal the rule with respect to debate so that we could be joined on the substance of a matter if a simple majority wishes to do so?

Mr. GORTON. No; it is the position of the Senator from Washington that it ill behooves those who exercise the right of unlimited debate to prevent a vote on the two issues in which the Senator from Washington is interested to turn around and then criticize the proponents of the amendment for the delay in passing a bill related to Polish and Hungarian aid.

Mr. SARBANES. Of course the Senator, I believe, in a number of instances, has, as I recall, used the rules to serve his purposes; has he not?

Mr. GORTON. He certainly has and will again.

Mr. SARBANES. Pardon?

Mr. GORTON. He certainly has, and will again.

Mr. SARBANES. Well, it is not quite clear to me why he wishes to deny that right to others.

Mr. GORTON. The Senator from Washington is simply pointing out that in issues of this importance, it might be well to see to it that Members of the Senate are permitted to vote on them by majority vote.

The Senator from Washington scarcely recognizes——

Mr. SARBANES. I might agree with the Senator, but if we are going to do that, it seems to me the way to do it is to change the rules.

(Mr. SIMON assumed the chair.)

Mr. GORTON. The Senator from Washington not only recognizes but supports the right of the minority to engage in extended debate.

The Senator from Washington, on the other hand, finds it somewhat disingenuous on the part of those who seek extended debate, who utilize those rules in order to prevent a vote on the merits, to then turn around and criticize the majority, those who propose vitally important tax changes for the United States, to accuse them, in turn, of delaying the passage of a bill dealing with aid to Poland and to Hungary.

Mr. SARBANES. Of course, we can delay any bill simply by seeking to attach to it a measure which is so controversial within the body that Members are prepared to exercise their full rights under the rule.

My colleague can choose to try to add capital gains to every measure that comes along, and then claim it ought to be allowed to go to a vote because he wants a vote on the underlying bill. But the Senator is the one who has provoked the difficulty by seeking to add it to a totally unrelated measure.

It is not even a tax measure. It has nothing to do with the Finance Committee and does not even touch taxes.

The Senator is trying to add capital gains onto a different measure that is quite critical. My colleague can do it to any measure that comes along under the rules of the Senate.

And then he turns and says, Well, we simply ought to allow it to move forward on the basis of a simple majority.

I am prepared seriously, and I mean this for the Senator to consider, if he is advocating a change in the underlying rules of the Senate, to allow the majority——

Mr. GORTON. I find it incredible that the Senator from Maryland—who is here defending the rights of a minority in this case to cause this debate to go on forever—is so critical of other Members of the Senate using their rights under the rules to propose nongermane amendments.

Mr. SARBANES. No. I say, if the Senator is going to, in effect, introduce a totally extraneous matter to a subject that is on the floor, it seems to me any delay that then results falls upon those who introduce the extraneous element. That is what the Senator has done in this instance.

Mr. GORTON. I think that is a very confortable position.

Mr. SARBANES. That is what you have done in this instance and potentially will do in every other—you want to hold any and every measure hostage to pass capital gains. It has become such a fixation on the part of some in this body that they will bring everything to a screeching halt in order to try to get this major and unjust tax break for those at the very top of the income scale.

There are some who feel very strongly about that, obviously. It is a matter of great controversy. And every time my colleague tries to introduce it into some other measure he, in effect, is contributing to significant delay, not only on the tax measure, but others as well. That is obvious.

Mr. GORTON. To the best knowledge of this Senator this is the first measure to which this proposal has been added as an amendment. That seems to me to be a rather modest goal; that we be allowed to debate a question which was at the heart of the Presidential campaign last year, which was passed by the House of Representatives, and which an obvious majority of the Members of the Senate would vote on affirmatively if they were given a chance to do so.

I certainly respect the right of the Senator from Maryland to disagree with that proposition. And, for that matter, to contribute to extended debate on the issue. But, as I say, it does seems to me to go somewhat beyond the pale, then, to criticize the proponents of so important a matter for slowing progress on a bill which, whatever its importance, is certainly not as important as the amendment.

Mr. SARBANES. I do not agree with that. I think this legislation is of the highest priority. We have spent vast amounts from our Treasury in the postwar period to contain communism, in the hope and expectation that at some point we might be able to move those countries that fell behind the Iron Curtain out from behind it.

There is now an opportunity to do exactly just that, which has been one of the focal points of our entire postwar policy. We have a potential now to see a transforming event in Eastern Europe.

It seems to me that those changes and this legislation ought to be at the very top of our priority list. We have had a foreign policy for 40 years designed to achieve this state of affairs. Now this evolution, this development has taken place in the Eastern European countries, at least in Poland and Hungary, and we are not prepared to move on it.

I think it is a matter of grave import to the national security posture of the United States.

Mr. GORTON. Well, it seems to me the Senator from Maryland is hung on the horns of a dilemma. Either this bill is as absolutely vital as he asserts it to be, something for which we have been looking for 40 years, in which case, if it is that important it is obviously important enough to permit a vote on this amendment in order that we can get to the basic issue on its merits.

Mr. SARBANES. No. No.

Mr. GORTON. Or it may be less important than that, and he may have missed the part of my earlier remarks in which I pointed out, as has the minority leader, in fact this bill will not provide any aid for Poland or Hungary at all.

Aid for Poland and Hungary will be provided or not provided through appropriations bills which are now working their way through the legislative process in an entirely different fash-

ion. So aid to Poland and Hungary is not being slowed down by this debate a bit.

Mr. SARBANES. These bills provide the framework through which that aid will be provided, and authorize a number of programs which were developed very carefully by the very able Senator from Illinois who, as it turns out, is now presiding, in order to enable those countries to move forward and for the U.S. effort to help them.

There are a number of authorizations in this legislation that are important for the United States effort in Poland and Hungary.

My colleagues have such a fixation on this capital gains that they want to try to get it on any vehicle that comes along. They can try, but they are going to run into Members who feel very strongly on that issue, saying it has to be done according to the rules of the Senate. That is exactly where we are, and that is where we will continue to be.

I do not see for a moment the justification for giving a major tax break to the wealthiest people in the country. What we are trying to do, in fact, is to address the budget deficit and to get on to a more responsible fiscal policy.

My colleague is now proposing to make it more irresponsible.

Mr. GORTON. Well, the Senator from Maryland may also have missed the proposition, included in this amendment, the repeal of section 89, which creates a tremendous burden on the literally millions of small business people who do not fit into even his most alarming category, another proposition in which the majority of this body has been frustrated in creating any plain debate.

Either it is the position of the Senator from Maryland that this Polish aid bill is more important than those millions of small American businessmen and more important than allowing a full debate and vote on the serious subject of capital gains—which, of course, he can characterize as he will, and people on the other side characterize as a great incentive for economic development—or, alternatively, if in fact Polish aid is more important than these issues, then he should be willing to allow a vote on these issues so we can get to Polish aid.

Mr. SARBANES. I do not see how the Senator can call the capital gains proposal a great incentive for economic development. The fact of the matter is, it is simply a windfall at a time when we are in a difficult situation trying to reduce the budget deficit. It is a windfall for the people at the top end of the income scale who do not need a windfall.

What we need to do in terms of economic development is get our fiscal policy in order, not get it into further disorder, which is exactly what this proposal will do. The Senator and his colleagues who want it are seeking to attach it to anything that comes along to prevent orderly consideration of other matters in order to try to get their capital gains affixed onto something. They are going to encounter very strong opposition.

There is no economic sense in this proposal. The President made a promise to his wealthy supporters that he would go for a capital gains tax cut. The President is trying to get it, and others, I guess, feel compelled to support him in that effort, even though the consequence of it is to compound and worsen the economic problems which we confront in our fiscal situation.

Mr. GORTON. The Senator from Maryland states a magnificent case for his point of view. It is obvious, however, that that case is not persuasive even for Members on his own side of the aisle. His party has a majority of 10 in this U.S. Senate. If, in fact, the case is as one-sided as he asserts it to be, he should have no difficulty in permitting the vote on the issue and winning that vote on the merits.

The real proposition is, of course, as he understands it, that many people in his own party, as well as those on this side of the aisle, quite profoundly disagree with him on the economic impacts of the capital gains cut, and it is simply because he is unable to find a majority for his point of view that he so vociferously objects even to allowing the Senate of the United States to vote on it.

Mr. SARBANES. Is it the Senator's view the extended debate affects only the minority political party?

Mr. GORTON. The debate rule protects any minority which wishes to avail itself of it.

Mr. SARBANES. Is not even a minority of one entitled to invoke the rule?

Mr. GORTON. A minority of one can invoke the rule only for a relevant short period of time because cloture would be invoked on a minority of one.

Mr. SARBANES. If the others decide to do it. But it is a rule that is available to each and every Member of the Senate.

Mr. GORTON. Yes.

Mr. SARBANES. The Senator earlier was talking about the majority party and the minority party as though somehow the rule was only applied to the minority political party. That is not my understanding of the rule and, I assume, not the Senator's.

Mr. GORTON. But it is the Senator from Maryland who came to this floor to protest against not only the proposition that there should be a vote on this issue, but also, for some reason or another, the proposition that those who feel strongly about this issue should be allowed to bring it up on a bill basically on another subject.

Whatever the rules of this Senate are for the protection of minorities, as far as debate is concerned, they are equally strong in the protection of the right of any individual Member of this body to introduce and to cause a debate on a nongermane amendment. That is exactly the situation in which we find ourselves now. If the Senator from Maryland wishes to exercise his own right, undoubted right of a person who is in a minority on this particular issue, he should certainly not object on grounds of the supposed importance of this bill to its being used as a vehicle to cause a debate on capital gains or on the repeal of section 89.

Mr. SARBANES. I could not agree with the Senator more that under the rules he has the right to bring up a nongermane amendment, and, if he is so wedded to getting this tax break for the very wealthy, he can offer his amendment to any bill that comes along. But the responsibility, then, for the delay that may ensue in considering that underlying bill because of the controversy over his amendment rests on his shoulders. That is all I am saying. You can put it forward, and others will invoke their right to debate, but the fact, then, that that debate may slow down the whole process is a consequence of your having offered that amendment. That is exactly what has happened here.

Mr. GORTON. The responsibility rests on those who are filibustering, I say to the distinguished Senator from Maryland.

Mr. SARBANES. It rests on those who invoke it by offering the amendment. The Senator has offered the amendment knowing that it is a highly controversial matter, and this is the result of it. As a consequence, he has held up everything else that follows along with it.

Mr. GORTON. We are perfectly willing to live with the result, I say to the distinguished Senator.

Mr. SARBANES. Mr. President, I simply observe that this situation has been provoked by the Senator or his colleagues who are so desperate to try to get this capital gains tax cut in order to reward the wealthy, to hold up any and all business that comes along. I do not question the Senator's right under the rule. Once he had done that however, he has precipitated the situation which follows.

Mr. GORTON. I am not sure either of us, Mr. President, is adding to the light of this debate so far. I simply suggest to the Senator from Maryland that if his case is as good as he thinks it is, he ought to be willing to abide by the result.

Mr. SARBANES. I am prepared to seek a change in the rules if the Senator wants to do that, but he indicated he was not prepared to do that. We can then move to majoirty rule in all

of the operations of the Senate. There are some arguments against doing that, I might say, Mr. President, but it is a matter that can be considered.

Mr. GORTON. Mr. President, I think I have the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, this is an interesting debate about capital gains and what we ought to do about it. I have been a supporter of cuts in capital gains taxes, but that was when the income tax rate was 90 percent and 70 percent and then 50 percent. I fought hard to try to bring the tax rates down, but I do not support a capital gains rate differential today because we have reduced the tax rate on ordinary income to 28 percent.

I met the other day with a group of wealthy folks back home and they said, "Senator, tell us why you are opposing capital gains cuts now." I said, "Frankly, I do not believe that people who are paying at a 28-percent top rate, which is the lowest top rate paid on personal income tax of any major nation in the world, will alter their investment strategy in response to a reduction in the capital gains tax rate." The proponents of a capital gains rate differential contend that a rate cut would result in more investment capital. I do not believe it.

They also contend that a reduction in the capital gains tax rate will stimulate the venture capital markets. Do you know why people put money in venture capital? They do it because they want to hit that home run. They want to be the first to invest in the next Apple computer. Most new ventures in this country, less than 1 out of 10, survive. But most people enter into these investments with the belief that they are going to hit the big one. Others invest because they want to help finance a business started by a friend or close relative. I do not believe that tax considerations will deter these individuals. If they hit the big one, all of sudden, they can increase their return 40 times over. So they may have to pay tax on the gain, but if they hit it big do you think they are going to be concerned about paying 6, 7, or 8 percent less tax on that profit? No, they will pay the tax and put the gain in the bank.

Let's look at the facts. Where does most venture capital come from? It does not come from individuals. Approximately 95 percent of it comes from pension funds and other tax-exempt organizations that do not pay any taxes—none at all.

We must also look at how this proposal would affect the budget deficit. And you can't just look at the short run. What happens to the deficit in the outyears?

I listened to Richard Darman say that one of the problems in this country is that there is too much "now-nowism," too much instant gratification. Well, this proposal is a classic example of "now-nowism" or instant gratification. It would cut the tax rate and send the bill to our grandchildren. That's fiscally irresponsible and I oppose it.

The House proposal is another classic example of fiscal irresponsibility. This proposal would reduce the rate to 19.6 percent for 27 months, and then yank it back up to 28 percent. At least this proposal is structured somewhat more sensibly.

But this proposal, at the end of 10 years, will have a total cost to the Treasury of $37 billion according to the Joint Tax Committee. That means that much less money to cut back on the deficit. Then they add on the back-end IRA which is even more expensive.

I had proposed the Bentsen IRA. My proposal would allow people, who are currently not eligible for the IRA, to have a deduction of $1,000 on a $2,000 IRA contribution. That would achieve some of the very major goals of most American families. It would help that young couple buy that first home, help them pay for college education that is getting tougher and tougher to get, and help them provide for their personal retirement.

But this one comes along differently. This is what they call a back-end IRA. They call it IRA-plus. Well, I think what that plus really stands for is "Pay Later Uncle Sam." Put it off into the future.

We had the Secretary of the Treasury testifying before the Finance Committee. Asked the difference between the Bentsen IRA and the back-end IRA, he said the difference is which generation pays it. In the Bentsen IRA, it is paid for now. In the back-end IRA, you let your grandchildren pay it. You pass it on to the next generation.

I really admire the creativity of the folks that put this amendment together. The capital gains tax cut, as proposed by my distinguished colleague, the ranking member on the Finance Committee, and the back-end IRA proposed by the distinguished Senator from Delaware, Senator ROTH, is structured to get by the 5-year window on controlling the budget deficit. It is very creative for 5 years. But then the bottom falls out. Then you begin to get huge losses and they go on and on and on.

I saw the estimate of CBO, the Congressional Budget Office, a bipartisan, nonpartisan estimate. Their projection was that the back-end IRA, if you assume people take their money out in 20 years, then over the 20 years the losses to the Treasury would be approximately $100 billion—$100 billion.

Now, if you take what they are talking about on their capital gains with a $37 billion loss in 10 years and add the $100 billion loss from the back-end-loaded IRA, that is $137 billion that the budget deficit will increase. But, it will not just be $137 billion, because over that 20 years you will have the additional losses from the capital gains tax break. When you add it all up, the cost of this amendment could well be more than what we have had in the debacle with the savings and loan industry. The administration is now saying that the cost of the S&L blowup over 30 years could amount to $180 billion.

So in talking to these friends of mine, some of them quite well off, I said I am voting against your short-term best interest and I guess my own. But, I will tell you something else; I am voting for your best long-term interest because it is in the country's best long-term interest that we get this deficit down, that we get savings up in our country, that we have capital accumulation. How can we compete today when we have a 10.5-percent prime interest rate? The West Germans have an 8.5-percent prime; the Japanese have a 4.8-percent prime.

We need to increase investment in this country in order to improve our competitiveness. You have to finance that investment. And if you have to pay over twice as much as your competitor does for the investment capital and then crank that into the cost of your product, you're at a competitive disadvantage. I do not care how smart your management is, how hard labor works in that plant; you are at a tremendous competitive disadvantage. That is why it is important to increase savings and lower interest rates. The biggest thing you can do to improve savings and lower interest rates is get the deficit down. And a properly structured IRA will also help increase national savings.

The charge has been made that really what the IRA did in the past was shift savings from one savings account to another in order to take advantage of the tax deduction of the IRA. Do you know what the big source of revenues from their proposal, the back-end IRA, is? They raise revenue by switching savings from IRA's already in existence to these new accounts. Those who make the transfer would pay taxes over 4 years but only on that amount that they invested and previously received a deduction on—however, many years ago it was. Under this proposal they would pay no tax on interest earnings or equity earnings.

Now, if you do that for IRA's, why not do it for all pension accounts in this country? Why stop with IRA's?

You would have an explosion in the deficit in the future. You really would have passed on the tax obligations to future generations.

It reminds me of that fellow who was pitching to Willie Mays. He wound up and pitched, and Willie Mays hit it right out of the park, a home run. The press went over to the pitcher and asked, "What went wrong?" He said, "Well, I'll tell you this, it was one heck of a pitch for the first 60 feet."

That is the way it is with this kind of capital gains cut. Let us look down the road. Let us not settle for gratification now. Let us invest in the future of our country and of our children. Let us have a clean debt limit. Let us have a clean reconciliation bill. Let us get our job done.

I yield the floor, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have previously discussed with the distinguished Republican leader my hope that we could on Tuesday pass the debt limit extension without amendment and that I will undertake, if it appears desirable, an effort to dissuade any Democrat from offering an amendment to it in the hopes that we could act in that manner.

The House has already passed the bill and we have it here so our action would permit the debt limit to be extended on Tuesday in a manner that I think would also facilitate the disposition of other issues with respect to reconciliation.

I recognize there are many considerations which the distinguished Republican leader must take into account in this. But I inquire of him now whether he feels that would be possible or whether he feels it is desirable and something that we should both make an effort to move toward?

Mr. DOLE. If the majority leader will yield, first, I think we have at least one amendment. I believe Senator COATS has a long and abiding interest in rescission. I believe he has made it clear to this Senator that he intends to offer it on this long-term debt ceiling. I do not believe there would be any dissuading him from that effort.

I think we have indicated that another question would be whether we would offer capital gains, the Packwood reported amendment, with IRA's and repeal a section 89. As I indicated to the majority leader, we will have a policy luncheon on Tuesday, and I would be happy to explore that.

I think much would depend on, A, will we get a vote on the Packwood amendment on Polish aid; or, B, is there some other way to have some expression on another vehicle that might go somewhere beyond the Senate door that might pass the House?

But I would be happy to explore those possibilities. Obviously, if there is no reason not to do it, we ought to do it.

Mr. MITCHELL. I thank my friend and colleague. I would like very much to have us do that. I hope we will be able to do it. I will pursue it among my colleagues with the understanding that the distinguished Republican leader will raise it with his colleagues and I recognize, as I said, that there are other factors which he must take into account.

But I think it would be very helpful to all concerned if we could get unanimous consent on Tuesday to do that and act promptly to extend the debt limit. So that is my hope and intention. We will agree to discuss it further at that time.

I thank my colleague.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Order No. 450, Stephen J. Markman, to be U.S. attorney for the Eastern District of Michigan; and Sidney L. Jones, to be an Assistant Secretary of the Treasury, reported today by the Committee on Finance.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Stephen J. Markman, of Michigan, to be U.S. Attorney for the Eastern District of Michigan.

DEPARTMENT OF THE TREASURY

Sidney L. Jones, of Utah, to be an Assistant Secretary of the Treasury, vice Michael R. Darby, resigned.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:38 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1792. An act to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 11:14 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 1, 5, 10, 15, 16, 17, 20, 21, 22, 23, 24, 26, 29, 33, 34, 35, 36, 39, 45, 46, 48, 49, 50, 51, 55, 58, 59, 60, 62, 63, 64, 66, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 81, 88, 89, 90, 92, 93, 94, 97, 99, 100, 101, 102, 103, 104, 105, 107, 108, 113, 118, 120, 123, 126, 135, 138, 139, 141, 143, 145, 146, 147, 149, 151, 153, 155, 157, 166, 167, 169, 172, 173, 175, 178, and 179 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 2, 7, 8, 9, 12, 13, 14, 19, 27, 28, 30, 31, 38, 40, 41, 43, 44, 47, 53, 54, 56, 57, 61, 64, 67, 79, 80, 82, 86, 87, 95, 96, 106, 110, 115, 117, 119, 122, 124, 128, 129, 131, 132, 136, 137, 140, 144, 148, 150, 152, 154, 156, 158, 164, 165, 168, 170, 171, 174, 176, 177, 181, 182, 186, 187, 189, and 191 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendment of the Senate No. 83 to the bill.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3012) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and

for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 5 and 8 to the bill, and agrees thereto; and that it recedes from its disagreement to the amendments of the Senate numbered 3, 6, 10, 13, 20, 22, 27, and 36 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2939) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. OBEY, Mr. YATES, Mr. MCHUGH, Mr. LEHMAN of Florida, Mr. WILSON, Mr. GRAY, Mr. MRAZEK, Mr. COLEMAN of Texas, Mr. WHITTEN, Mr. EDWARDS of Oklahoma, Mr. LEWIS of California, Mr. PORTER, Mr. GALLO, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the Speaker makes the following supplemental appointment in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3299) entitled "an act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990," by inserting the following after the appointment of the first panel from the Committee on Interior and Insular Affairs:

Provided, That Mr. Sharp is appointed in place of Mr. Williams for consideration of subtitles B and C of title VI of the House bill.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 45. An act to establish a statutory framework for the Attorney General to afford temporary protected status to nationals of countries subject to extraordinary and temporary conditions, including armed conflicts, to provide for certain studies and for congressional review of such studies, to provide temporary transition protection for nationals of certain countries, and for other purposes; and

H.R. 2494. An act to reauthorize the Export-Import Bank tied aid credit fund and pilot interest subsidy program, to provide for the participation of the United States in a replenishment of the Inter-American Development Bank and in the Enhanced Structural Adjustment Facility of the International Monetary Fund, to improve the safety and soundness of the United States banking system and encourage the reduction of the debt burdens of highly indebted countries, to encourage the multilateral development banks to engage in environmentally sustainable lending practices and give greater priority to poverty alleviation, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 170. A concurrent resolution authorizing the printing of the book entitled "Black Americans in Congress."

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 241. Joint resolution designating October 25, 1989, as "National Arab-American Day."

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 45. An act to establish a statutory framework for the Attorney General to afford temporary protected status to nationals of countries subject to extraordinary and temporary conditions, including armed conflicts, to provide for certain studies and for congressional review of such studies, to provide temporary transition protection for nationals of certain countries, and for other purposes; to the Committee on the Judiciary.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3007. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 170. A concurrent resolution authorizing the printing of the book entitled "Black Americans in Congress"; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1990" (Rept. No. 101-175).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1430: A bill to enhance national and community service, and for other purposes (Rept. No. 101-176).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Sidney L. Jones, of Utah, to be an Assistant Secretary of the Treasury.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE (for himself and Mr. CRANSTON):

S. 1805. A bill to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164; to the Committee on Energy and Natural Resources.

By Mr. HEINZ:

S. 1806. A bill to ensure that certain retirement benefit checks are delivered early if the usual delivery date falls on a Saturday, Sunday, or holiday; to the Committee on Governmental Affairs.

By Mr. SPECTER:

S. 1807. A bill to expand the circumstances under which the death penalty is authorized under the Continuing Criminal Enterprise statute: to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE (for himself and Mr. CRANSTON):

S. 1805. A bill to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164; to the Committee on Energy and Natural Resources.

RELATING TO THE REINSTATEMENT OF CERTAIN OIL AND GAS LEASES

● Mr. INOUYE. Mr. President, this private relief bill that I am introducing today deals with an oil and gas lease in central California that was originally issued under section 14 of the Mineral Leasing Act of 1920. This particular lease, LA 033164, is owned by Mr. Paul Lieb and Mr. John Prescott.

This bill would allow the Bureau of Land Management to reinstate this lease, which was terminated in 1986, due to a misunderstanding over the payment of the lease rent. In enacting the 1982 amendments to the Mineral Leasing Act of 1920, leases issued under section 14 were not included in the reinstatement clause, because there were so few of these leases. Accordingly, although leases issued under section 17 may be reinstated, section 14 leases were not included in this statute.

The relief proposed by this legislation then, is consistent with the intent of the reinstatement provisions of the statute.

It does not call for any specific funding, nor does it risk any potential of opening "floodgates" as there are so few section 14 leases.

Mr. President, I urge my colleagues to join me in support of this private relief bill, and I ask unanimous consent to print the text of the bill in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1805

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

SECTION 1. The Secretary of the Interior is hereby directed to treat United States oil and gas lease LA 033164 as if it had been issued under Section 17(c) of the Mineral Leasing Act, 30 U.S.C. § 226(c), for purposes of reinstatement only.

SEC. 2. Within thirty days after the enactment of this Act, the Secretary of the Interior shall give written notice to the last lessee of record for lease LA 033164 that said lessee may petition for reinstatement in accordance with the procedures and conditions in subsections 31 (d) and (e) of the Mineral Leasing Act (30 U.S.C. § 188(d) and (e)). The last lessee of record shall have sixty days from the date of the Secretary's notice to file such petition. If the Secretary determines that lease LA 033164 qualifies for reinstatement pursuant to subsection 31(d) (30 U.S.C. § 188(d)), in all respects except for compliance with the deadline imposed by that provision, the Secretary shall reinstate the lease pursuant to the conditions of subsection 31(e) of the Mineral Leasing Act (30 U.S.C. § 188(e)).●

By Mr. HEINZ:

S. 1806. A bill to ensure that certain retirement benefit checks are delivered early if the usual delivery date falls on a Saturday, Sunday, or holiday; to the Committee on Governmental Affairs.

RETIREMENT CHECK DELIVERY ASSURANCE ACT OF 1989

● Mr. HEINZ. Mr. President, I rise today to introduce legislation that will correct an oversight Congress made over 10 yeas ago and has since gone uncorrected. In 1977 we authorized the early delivery of Social Security and veterans' benefits checks if the scheduled delivery date fell on a weekend or holiday. This same consideration, however, has yet to be extended to recipients of civil service, railroad and military retirement checks and black lung benefits checks.

The 1977 provisions alleviated legitimate concern that Social Security beneficiaries had to wait several days before they could cash or deposit their benefit checks in instances where the delivery date fell on a Saturday, Sunday, or legal public holiday.

The legislation I am introducing today will put equity into the distribution of Federal pension benefits. Quite simply, this legislation will ensure timely delivery of Federal benefit checks for the 2.2 million civil service retirees and survivors, 890,000 railroad retirees, 1.6 million military retirees, and 392,000 black lung benefits recipients. In the event the scheduled delivery date of these benefits falls on a weekend or holiday, they will be available on the preceding business day.

The Postal Service currently receives benefit checks for disbursement on a specified date, usually the first or third of the month. In the event the date of disbursement falls on a Saturday, Sunday, or legal public holiday, the Postal Service delivers the checks on the next available business day. As a result, retirees and those receiving black lung benefits must wait several days before they receive their checks.

Many individuals in my home State of Pennsylvania and across the Nation depend upon these pension checks and benefits as their sole source of income. For them, the delay that results could mean the difference between meeting their day-to-day financial obligations and potential hardship.

Last year, the inequities of this situation were brought home to one of my contituents, Mrs. Ruth Kline of Mars, PA, who receives railroad retirement benefits. At the end of December, she read in the newspaper that Social Security checks were scheduled for issuance on Sunday, January 3, but instead were available on Thursday, December 31. Railroad retirement checks had an issuance date of January 1, New Years Day, public holiday.

On Thursday, December 31, Mrs. Kline went to the post office to pick up her retirement check. She waited in line and when her turn came, she requested her check. Distinguishing between the two different piles of checks behind him, the postal clerk informed her that although all the retirement checks were sitting there, ready for delivery, only Social Security and veterans' benefits recipients could receive their checks. Other retirement and benefit checks had to be held for delivery on the issuance day.

The post office was close on January 1, and thus did not deliver Mrs. Kline's check. She received her retirement check on the afternoon of Saturday January 2, but because the banks closed early on Saturdays, she could not cash her check until Monday, January 4—3 full days after the date of issuance.

Nearly 4.5 million individuals now receiving civil service, railroad and military retirement checks and black lung benefit checks do so with the unnecessary impediment removed for Social Security and veterans' benefits recipients more than 10 years ago. This seemingly simple improvement in the delivery of Federal benefits can go a long way in avoiding hardship and ensuring fairness.●

By Mr. SPECTER:

S. 1807. A bill to expand the circumstances under which the death penalty is authorized under the Continuing Criminal Enterprise statute; to the Committee on the Judiciary.

EXPANDING THE CIRCUMSTANCES UNDER WHICH THE DEATH PENALTY IS AUTHORIZED

● Mr. SPECTER. Mr. President, I feel that this is the appropriate time to introduce a bill on a topic that has been a principal concern of mine since I was the Philadelphia District Attorney. Yesterday, the Senate passed legislation providing for the death penalty for terrorists, and the Senate will soon take up broader legislation on the death penalty.

This bill authorizes the death penalty for major narcotics traffickers. It adopts the statutory language of 21 U.S.C. 848 in defining a major trafficker as the principal administrator, organizer, or leader of an enterprise who distributes 300 times the quantities described in subsection 841(b)(1)(B) of title 21 and otherwise meets the requirements of the subsection. Anyone who had at least prior one conviction under the continuing criminal enterprise statute and who trafficked in the requisite amount as a principal administrator, organizer, or leader, would be subject to the death penalty. Examples of threshold amounts would be 300 kilograms of a mixture containing heroin or 1,500 kilograms of a mixture containing cocaine. This death penalty would be an important weapon in the fight against the purveyors of poison on our streets.

The 1988 drug bill addressed the need for the death penalty where death results from narcotics-related activity. What has not been addressed is the devastation, societal erosion and virtual institutionalization of violence that have arisen as a direct consequence of organized narcotics distribution in our communites.

On September 19, 1989, during committee hearings on the death penalty, I engaged Assistant Attorney General Edward Dennis in a discussion of the constitutionality of the death penalty for major drug traffickers. At that time, I expressed my sense that public policy dictates and the public supports, the death penalty for major traffickers. I have developed this sense as a result of my many years as a prosecutor and Senator. As I stated to Mr. Dennis at the hearing, I believe that death is a natural and foreseeable consequence of massive sales of narcotics. I asked Mr. Dennis as the representative of the Justice Department, to study the issue and deliver an opinion.

In a subsequent hearing on October 2, 1989, Mr. Dennis expressed the view of the Justice Department on the issues that I had raised with him on September 19. He stated that:

[I]t is the considered view of the Department of Justice that imposition of the death penalty on the leaders of large-scale drug production and distribution operations would be consistent with the proportionality requirement of the Eighth Amendment.

My bill will provide the safeguards required under *Furman* v. *Georgia,*

408 U.S. 238 (1972), and its progeny. I have stated before that while I believe a death penalty is necessary, procedural safeguards must be in place so that it is applied fairly. In Furman versus Georgia, the Court did not conclude that capital punishment is unconstitutional, but only that the procedures of the Georgia statute were constitutionally invalid because it provided unguided discretion to the factfinder.

My bill provides for the death penalty even in situations where death has not been shown to be a direct result of the illegal activities. The Court held in *Coker* v. *Georgia*, 433 U.S. 584 (1984), that the State may not impose a death sentence upon a rapist when the crime does not result in death. The Court thereby announced the standard that punishments are barred by the eighth amendment when they are excessive in relation to the crime committed. A punishment had to meet both prongs of a two-pronged test. A punishment would be considered excessive if it: First, "makes no measurable contribution to acceptable goals of punishment . . .; or is grossly out of proportion to the severity of the crime." However, the Court also stated that public and legislative attitudes, history, and precedent must all go into the analysis of what constitutes excessive punishment.

My amendment would withstand the objective analysis required by Coker. There is much to show that the American people believe that the drug epidemic is the most severe problem confronting our Nation. Few communities have been left untouched by the organized drug gangs as they peddle their deadly wares. With the direct harm that the drugs cause have come the natural byproducts of violence, disease, and social dislocation. Not since World War II has there been such a consensus among the American people about who and what the enemy is. A consensus has developed that the moral depravity and injury to the public caused by large-scale trafficking is at least on a par with that caused by individual murders. The death penalty authorized by my bill would satisfy the goals of retribution and deterrence. Under article I, section 8, clause 18 of the Constitution, Congress has the unique right and responsibility to enact measures that ensure the Nation's security. Because of this right and responsibility, Congress has more leeway than the States to implement the death penalty as a furtherance of this goal.

A recent trilogy of cases provides additional support for the rationale behind my amendment. In *Tison* v. *Arizona*, 107 S. Ct. 1676 (1987), *Cabana* v. *Bullock*, 474 U.S. 376 (1986), and *Enmund* v. *Florida*, 458 U.S. 782 (1982), the Supreme Court held that applying the death penalty to accomplices convicted of felony murder was not violative of the eighth amendment's prohibition against cruel and unusual punishment. The new standard allows defendants to be sentenced under a death penalty statute if it is found that they killed, intended to kill, attempted to kill, or acted with reckless indifference to human life while acting as a major participant in a felony. My bill defines what a "major participant" is. To state that major narcotics traffickers act with "reckless indifference to human life" is to state the obvious. The law recognizes that in many instances, the actions of people indicating a reckless or depraved indifference to human life are as blameworthy and indicate the same level of malice as the actions of people who intend to kill. The law recognizes that a person who fires a gun into a room that he knows is occupied by several people, who plays Russian roulette with another person, or who drives a car at high speed along a major street is engaging in conduct that involves a very high degree of unjustifiable homicidal danger. It is time that we make the statement that major drug dealers, who, unlike the examples above, have targeted every person in this country, will now have to face the ultimate for their conduct.

Drugs are by definition, addictive. The more people a drug dealer is able to hook, then the better business will be. A major drug dealer increases the harm to society exponentially with each new regular customer. The harm comes about through overdose, the spreading of disease, families destroyed, and the increase in violence from addicts and the traffickers protecting their markets. The consequences are direct and foreseeable.

It is generally accepted that, with certain procedural safeguards, the death penalty for espionage and treason is not cruel and unusual punishment. This is true even where death has not resulted. The use of the death penalty for major narcotics traffickers is at least as compelling.

Accordingly, I urge my colleagues to consider this important issue. It is my present intention to offer this bill as an amendment to the death penalty bill or other drug control legislation.●

ADDITIONAL COSPONSORS

S. 82

At the request of Mr. THURMOND, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 82, a bill to recognize the organization known as the 82nd Airborne Division Association, Inc.

S. 562

At the request of Mr. RIEGLE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 562, a bill to amend the Social Security Act to provide for improvements in services to applicants and beneficiaries under the Old-Age, Survivors, and Disability Insurance Program and the Supplemental Security Income Program.

S. 747

At the request of Mr. DECONCINI, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 747, a bill to amend chapter 44 of title 18, United States Code, regarding assault weapons.

S. 1109

At the request of Mr. PELL, the names of the Senator from Connecticut [Mr. DODD], the Senator from Vermont [Mr. JEFFORDS], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 1109, a bill to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such act through the fiscal year 1995.

S. 1214

At the request of Mr. DECONCINI, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1214, a bill to provide that ZIP Code boundaries may be redrawn so that they do not cross the boundaries of any unit of general local government.

S. 1216

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by sections 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1405

At the request of Mrs. KASSEBAUM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1405, a bill to ensure the eligibility of displaced homemakers and single parents for Federal assistance for first-time home buyers.

S. 1560

At the request of Mr. BURNS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1560, a bill to suspend the enforcement of certain regulations relating to underground storage tanks, and for other purposes.

S. 1653

At the request of Mr. BAUCUS, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1653, a bill to preserve the solvency of the railroad retirement system.

SENATE JOINT RESOLUTION 140

At the request of Mr. GLENN, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. PACKWOOD], the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Arizona [Mr. DECONCINI], the Senator from Wisconsin [Mr. KOHL], the Senator from Michigan [Mr. LEVIN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. KERRY], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 140, a joint resolution designating November 19-25, 1989, as 'National Family Caregivers Week."

SENATE JOINT RESOLUTION 198

At the request of Mr. SIMON, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Wisconsin [Mr. KOHL], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating November 1989 as "An End to Hunger Education Month."

SENATE JOINT RESOLUTION 207

At the request of Mr. JOHNSTON, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 207, a joint resolution approving the location of the Memorial to the Women who served in Vietnam.

SENATE JOINT RESOLUTION 214

At the request of Mr. THURMOND, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of Senate Joint Resolution 214, a joint resolution to express the sense of the Congress regarding the removal of offensive sexual material from television broadcasting.

SENATE JOINT RESOLUTION 216

At the request of Mr. DURENBERGER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of Senate Joint Resolution 216, a joint resolution designating November 12 through 18, 1989, as "Community Foundation Week."

SENATE RESOLUTION 180

At the request of Mr. SANFORD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Resolution 180, a resolution to encourage schools and civic enterprises to observe the 200th anniversary of the Bill of Rights on September 25, 1989.

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

BOSCHWITZ AMENDMENT NO. 1072

(Ordered to lie on the table.)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to the bill (S. 1630) to amend the Clean Air Act to provide for attaintment and maintenance of health protective national ambient air quality standards, and for other purposes; as follows:

At the appropriate place in the bill insert the following new section—

SEC. . FEDERAL VEHICLES.

(a) Beginning January 1, 1991, gasoline powered vehicles owned or leased by the United States and operated in an area designated under the Clean Air Act as a nonattainment area for carbon monoxide shall be supplied with fuel which is composed of at least 3 percent oxygen.

(b)(1) Vehicles under subsection (a) shall be operated exclusively on such fuels except when operated—

(A) so as to make it impracticable to obtain such fuel; or

(B) in an area during any month in which such area is a nonattainment area for ozone under the Clean Air Act.

(2) The provision of subparagraph (B) of paragraph (1) shall not be applicable if the Administrator determines that the use of such fuel in such month would improve air quality.

Mr. BOSCHWITZ. Mr. President, today I would like to submit an amendment to the clean air legislation that would further the use of alternative fuels. Under this measure, all Federal vehicles in areas of the country not in compliance with Clean Air carbon monoxide standards would be required to use fuel composed of at least 3-percent oxygen.

Alternative fuels have become an important option for alleviating the pollution problems in our major cities. By mandating the use of alternative fuels with at least a 3 percent oxygen level for our Federal fleets, we can take steps to decrease carbon monoxide emissions and help reduce the threat of global warming. Three States, Colorado, Arizona, and Nevada, have already moved in this direction by mandating the use of oxygenated fuels for all autos in carbon monoxide non-attainment areas.

The new demand for alternative fuels would not only help solve pollution problems but would also create new markets for agricultural products. Because fuels such as ethanol are produced from products like corn and wheat, a new market would be opened for farmers, and all of rural America would benefit.

In recent weeks, there have been an increasing number of stories about threats to our energy security. As the supply of oil reserves declines around the world, the largest Arab producers are gaining a larger share of the oil market. A move toward alternative fuels would have the added benefit of reducing our dependency on these nations for our energy supply.

The Federal Government's fleets are comprised of several hundred thousand cars and trucks. This would include close to 170,000 postal vehicles, 150,000 Department of Defense vehicles, and approximately 115,000 vehicles under the control of the General Services Administration. By mandating use of oxygenated fuels in these Federal autos, we will set an example for the rest of the country to follow.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing is a continuation of earlier hearings held on October 5, 1989, and scheduled to take place on October 31, 1989. The purpose of this hearing to continue to receive testimony on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner. The hearing will also focus on S. 972, S. 1304 and S. 1802.

The hearing will take place on Monday, November 13, 1989, at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

For further information, please contact Mary Louise Wagner or Teri Curtin at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ADAMS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, October 27, at 10 a.m. to hold a nomination hearing.

NOMINEES

Mr. Smith Hempstone, Jr., of Maryland, to be Ambassador to the Republic of Kenya.

Mr. Francis Terry McNamara, of California, to be Ambassador to the Republic of Cape Verde.

Mr. Keith Leveret Wauchope, of Virginia, to be Ambassador to the Gabonese Republic and to serve concurrently as Ambassador to the Democratic Republic of Sao Tome and Principe.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. ADAMS. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on October 27, 1989, at 1 p.m. to hold a hearing on H.R. 3275, the Steel Trade Liberalization Program Implementation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ADAMS. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on October 27, 1989, beginning at 10 a.m., in 485 Russell Senate Office Building, on Indian education.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ADAMS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 27, 1989, at 10 a.m. to hold a hearing on the nominations of Dr. James B. Wyngaarden, of North Carolina, and Dr. J. Thomas Ratchford, of Virginia, to be Associate Directors of the Office of Science and Technology Policy [OSTP].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ADAMS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, October 27, 1989, at 9:30 a.m., for a hearing on Presidential nominee Debra Bowland to be Administrator of the Wage and Hour Division, Department of Labor.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE HARTFORD COURANT: AMERICA'S OLDEST CONTINUOUSLY PUBLISHED NEWSPAPER

● Mr. LIEBERMAN. Mr. President, I rise today to bring to the attention of my colleagues an anniversary which is significant, not only to American journalism, but to our American history as well. On October 29, 1764, the Connecticut Courant published its first weekly newspaper. Two hundred and twenty-five years later, the Courant continues to roll off the presses. Now known as the Hartford Courant, the paper is the oldest continuously published newspaper in the United States.

On Monday, October 29, 1764, the front page of the Courant carried a preamble printed by Thomas Green which stated:

> Of all the arts which have been introduced amongst mankind, for the civilizing human-nature, and rendering life agreeable and happy, none appear of greater advantage than that of printing. . . . Was it not for the press, we should be left almost entirely ignorant of all those noble sentiments which the antients were endowed with. The benefit of a weekly paper, must in particular have its advantages as it is the channel which conveys the history of the present times to every part of the world.

The truth of Mr. Green's words were never more clear than 8 years later when the Thirteen Original Colonies became the United States. That world-shaking news was chronicled in the Courant with remarkable clarity and insight, and reminds us that the Courant actually predated our history as a nation by 12 years.

In 1781 the Courant had the very impressive circulation of 8,000 subscribers for each issue. At that time, few London papers could compare with the success of this colonial publication. Printed on paper from its own mill, the Courant was one of the most attractively presented and comprehensive publication in America.

Today, more than two centuries later, it still is. The founders of the Connecticut Courant would be stunned at the success it enjoys today. In a recent letter to its readers, editor, publisher, and chief executive officer, Michael J. Davies, notes the incredible growth of the Courant with a current daily circulation of 225,000 and a Sunday circulation of 310,000.

Much has changed in the 225 years since the Courant began publishing the news. Our Nation has grown and the field of communication has expanded to include electronic media. But the foundation for public communication is built in the newspaper. Edward R. Morrow once said:

> It is well to remember that freedom through the press is the thing that comes first. Most of us probably feel we couldn't be free without newspapers, and that is the real reason we want the newspapers to be free.

For more than two centuries, the people of Connecticut have learned about the changing world around them from the pages of the Courant. I offer the newspaper and its employees my congratulations on this anniversary. I am confident the Courant will continue to inform, educate, enlighten, and entertain for a long time to come.●

CUBAN DRUG TRAFFICKING

● Mr. MACK. Mr. President, this past summer Fidel Castro tried and executed a number of high ranking Cuban officials for their supposed involvement in drug trafficking. It is becoming clear, it if ever was in doubt, that these trials were Stalin-style show trials, designed to eliminate popular military commanders rather than to fight drug trafficking.

Testimony before Federal officials in March by Reinaldo Ruiz, a convicted Colombian drug trafficker now jailed in Miami, confirms what United States drug officials had suspected all along. Castro and his government were and still are actively engaged in assisting drug traffickers through their territory.

The testimony of Mr. Ruiz concerning dates of shipments, individuals involved, and amounts of payoffs corresponds almost exactly to that of the Cuban officials involved in the trials this summer. Ruiz also confirmed the pervasiveness of the corruption in Castro's government stating that it would be impossible to "go anywhere near the Cuban coastline without full authorization." Adm. Aldo Santamaria, the individual charged with protecting Cuba's shores, was indicted by a United States court in 1982 for drug trafficking. He was last seen as a member in good standing of the honor tribunal which condemned Mr. Ruiz's counterparts this summer.

I commend to the attention of Senators the essay which I insert into the RECORD at this point, detailing Mr. Ruiz's testimony on Cuban involvement in drug trafficking.

The essay follows:

[From the Wall Street Journal, Sept. 25, 1989]

MAN IN THE MIDDLE OF DRUG TRAFFICKING

(By David Asman)

MIAMI.—Reinaldo Ruiz sits in a tiny room set up for interviews in the Miami Correctional center. The visitor's hall in this maximum-security prison is air-conditioned. But the adjoining interview room, in which Mr. Ruiz, his lawyer and I barely fit, is not. Still, Mr. Ruiz insists on keeping the door to the hot, airless room shut tight. Like most convicted drug smugglers who have given state's evidence, Mr. Ruiz is afraid of reprisals.

Considering his long association with members of Colombia's most ruthless drug cartel, his fears seem justified. However, the man Mr. Ruiz fears most is not Colombian. He's a man to whom Mr. Ruiz—a Cuban-American with a large bearing and a graying beard—bears a remarkable resemblance: Fidel Castro.

In March, Mr. Ruiz traded testimony concerning his involvement with top-level Cuban officials-cum-drug-traffickers for a significant reduction in his sentence (to 17 years from life imprisonment). While his testimony is considered highly reliable by federal investigators, the word of a convicted felon is always suspect. But Mr. Ruiz's accounts were recently corroborated by an unlikely source.

Testimony presented during this summer's dramatic drug trafficking and corruption trials in Cuba—in which some of Mr. Castro's top military and intelligence officials were tried and imprisoned or executed—matches almost perfectly with statements made by Mr. Ruiz on dates of shipments, amounts of payoffs, individuals involved, etc.

Some have suggested that the Cuban trials provide hope that Mr. Castro is ready to help in the international effort to fight drug trafficking. However, the closely related Ruiz case shows the danger of cooperating with someone whose primary goal of totalitarian control outweighs all others, including drug interdiction or even loyalty to comrades. It also makes a strong case for the State Department to stick with its own strategy concerning Cuba, rather than be pressured into acting on behalf of those who have shown faulty judgment about Mr. Castro's commitment to fighting the drug war.

If you look at a map of the Caribbean, you will see that there's one unavoidable obstacle in the air space between Miami, Fla., and Colombia: Cuba. At least since the 1970s. U.S. Customs planes have been forced by Cuban MIGs to halt their pursuit of drug-laden planes from Colombia as the latter fly over Cuba on the way to the U.S. But the evidence presented by Mr. Ruiz showed a much more extensive Cuban involvement.

Cuba did not merely guarantee safety on overflights. Mr. Ruiz provided U.S. prosecutors and drug-enforcement officials with extensive evidence of ground, sea and air cooperation involving Cuban officials at the highest levels. Drugs were flown from Colombia into Varadero, Cuba, where they were repackaged and sent by ship to the U.S. mainland, all the while protected by the Cuban coast guard, air force and intelligence officers. Mr. Ruiz and his son (a pilot who flew several of the missions) were meanwhile accorded VIP treatment on the island—driving unescorted in Mercedes-Benzes, going to the Tropicana nightclub and, in the case of 51-year-old Reinaldo, being allowed to marry a 21-year-old Cuban and take her to the U.S.

Could Mr. Ruiz's highly visible operation have been missed by all but a relatively small group of Cubans—namely those prosecuted by Mr. Castro? "You try to go anywhere near the Cuban coastline without full authorization," says Mr. Ruiz, "and you'll see how many levels of authority are interwined." In fact, the man responsible for protecting Cuba's coastline, Adm. Aldo Santamaria, was indicted in 1982 by a U.S. court for trafficking. He was last seen as a member in good standing of the honor tribunal that condemned some of Mr. Ruiz's Cuban accomplices.

Reinaldo Ruiz originally became associated with Cuban officials because of a chance meeting in Panama with his cousin, Miguel Ruiz Poo. Mr. Ruiz Poo was head of operations in Panama for MC, the branch of Cuban intelligence designed to circumvent the U.S. embargo of Cuba through licit and illicit operations. The record is hazy as to who made the first move, but Reinaldo—who then had a Colombian girlfriend associated with drug lord Pablo Escobar—convinced his cousin that their various connections would converge nicely in a cocaine smuggling operation.

Mr. Ruiz Poo reported his smuggling plans to the head of MC, a highly decorated colonel named Antonio "Tony" de la Guardia. The operation was approved, and the first of several smuggling operations took place in early 1987.

Whether or not Col. de la Guardia informed his superiors of the Ruiz operation, Mr. Castro must have realized that the extent of detailed information obtained by U.S. authorities through the Ruiz case required some response. A host of federal prosecutors, drug enforcement agents and even drug smugglers agree that the Cuban trials were merely an attempt to isolate Cuba's involvement in drug trafficking to the one area about which the U.S. has irrefutable evidence. Of course, this is not to say that evidence collected before the Ruiz case was paltry.

For years, U.S. intelligence agencies, the Customs Service, the Drug Enforcement Agency, and even local law-enforcement officials have gathered volumes of less spectacular evidence about Cuban involvement in drug trafficking. Robert Merkel, a former U.S. Attorney in Tampa who was instrumental in bringing indictments against Panamanian dictator Manuel Noriega and Colombian drug lord Carlos Lehder, comments: "We've had information on Cuba's involvement dating back to Lehder's operations in the 1970s, in which Cubans were paid off for overflights. . . . And every attempt to get Castro interested in our interdiction efforts failed.

Jerome Sanford was head of the Narcotics Conspiracy Unit out of Miami's U.S. Attorney's office from 1975 to 1980. One of his biggest cases was against Miami's marijuana-smuggling kingpin, Jose Alvero-Cruz. "As of 1978, I was certain Cuba was deeply involved in the Cruz case," Mr. Sanford says.

Although ultimately convicted only on tax violations, Mr. Alvero-Cruz's relations with Cuban officials came out during the trial. After he allegedly bribed Cuban officials, boats laden with tons of marijuana from Jamaica were escorted safely along the Cuban coastline by the Cuban coast guard (the same tactics that led to the 1982 indictment of Adm. Santamaria). In spite of being an alumnus of the anti-Castro Bay of Pigs invasion, Mr. Alvero-Cruz had free access to the island fortress and on one occasion used a passport validated in Cuba in 1976 to deposit money in one of his Madrid bank accounts. As the cases of Mr. Ruiz and fugitive Robert Vesco also demonstrate, the Cubans have a long history of treating well-known drug smugglers like diplomats.

Despite these and many other accounts, Mr. Castro has until quite recently steadfastly denied any Cuban involvement in drug trafficking. As recently as February of last year, Mr. Castro bristled when asked by NBC's Maria Shriver about Cuba's role. "Look, I believe that answering that question would be debasing myself," shouted Mr. Castro. "It is miserable and absolute slander! . . . No other country has fought against drugs more systematically than Cuba."

Few U.S. representatives were willing to take Mr. Castro at his word. But some nonetheless advocated working more closely with him in drug-interdiction efforts. Senate Foreign Relations Chairman Claiborne Pell (D., R.I.), after returning from a fact-finding trip to Cuba last November, suggested that the Cuban coast guard work with the U.S. Coast Guard on drug interdiction (even as the Cuban coast guard was providing protection for traffickers). On his return from a December 1988 visit with Mr. Castro in Cuba, Rep. Charles Rangel (D., N.Y.) chastised critics of cooperation with Cuba on narcotics matters, saying; "It's not Communists who are killing our kids. It's drugs."

State Department personnel came under increasing fire from these critics because of their natural reluctance to share sensitive information with the Cuban government. But as Mr. Ruiz began providing officials with the most concrete evidence yet of direct Cuban involvement, the time seemed right to test Mr. Castro's sincerity once and for all. So, according to an administration official closely involved in the international drug-interdiction effort, some information provided by Mr. Ruiz was shared with Cuban officials.

Separately, Mr. Ruiz, with the knowledge of U.S. drug enforcement officials, sent one of his operatives to Cuba on three separate occasions to get information on other Cuban drug operations as well as arrange plans for the defection of Miguel Ruiz Poo and Col. de la Guardia. The colonel would have been a wonderful "catch" for U.S. intelligence. The information he and Mr. Ruiz Poo could have provided on the drug trade and Cuba in general would have been valuable. Unfortunately, we may never know exactly how valuable.

The fate of Mr. Ruiz's Cuban contacts already had been sealed. Mr. Ruiz Poo was sentenced to 30 years in prison on July 7 and Col. de la Guardia was executed on July 13.

At a time when Fidel Castro is more removed than ever from the civilized world—even to the point of openly denouncing Mikhail Gorbachev's perestroika—cooperation of any kind simply makes no sense. Indeed, it may well be that the attempt to cooperate with him in the Ruiz case led directly to a coverup in which Mr. Castro has tried to clear himself at the expense of his underlings. In addition, an opportunity may have been missed to get two of those officials out of Cuba before they could be silenced by Mr. Castro.

Furthermore, if the Cuban leader continues assisting drug dealers—and the Drug Enforcement Agency has evidence of Cuban-assisted drug overflights since the drug trails—providing him with intelligence on drug operations could be dangerous. As former U.S. Attorney Robert Merkel says: "If the Cubans know the parameters of your knowledge, the will better know how to desive schemes to go around your knowledge."

And back at Miami Correctional Center it becomes increasingly clear why Reinaldo Ruiz fears Fidel Castro more than he fears the Colombians. "They say I'm safe here in prison. But you can't play with Fidel—like some U.S. senators are trying to do—without getting burnt."●

CHARLES D. LOCKETT, KNOXVILLE, TN

● Mr. SASSER. Mr. President, I rise today to pay tribute to a man who has dedicated so much of his time and energy to serving the people of Knoxville, TN. Mr. Charles D. Lockett is celebrating two golden anniversaries this year, and I would like to take this opportunity to commend Mr. Lockett for his civic-minded spirit that has endured half a century.

It was 50 years ago Mr. Lockett set up his law practice in the rear of a building on Gay Street soon after returning from WWII, and it was 50 years ago he married his wife, the former Helen Cole. With this auspicious beginning, Mr. Lockett went on to build a successful law practice and become an active member of Knoxville's civic and political community. Mr. Lockett served on the University of Tennessee Board of Trustees for 13

years and managed three successful gubernatorial campaigns. He is also a past chairman of the Knox area chapter of the American Red Cross and a life board member.

Over the years, Mr. Lockett has received a number of distinguished awards for his service to the community. A 30-year veteran of the Regular Army and Reserve, he was awarded the Military Order of World Wars. In 1971, the Knoxville Chamber of Commerce named Mr. Lockett as the recipient of the Outstanding Community Service Award, and he has also been recognized by United Way and the Association of Governing Boards of Colleges and Universities. These honors were fitting tribute to a man who represents a shining example of personal commitment and civic involvement.

Mr. President, I would like to offer my sincere gratitude to Mr. Lockett for all that he has done in Knoxville. The city is a better place because of his endeavors.●

SECRETARY KEMP'S REFORM PACKAGE

● Mr. BOSCHWITZ. Mr. President, we have heard it said that our government, to operate efficiently and effectively, should be run more like a business.

Never has the failure to run a Government Agency according to sensible business practices and principles been more evident that in the past operations of the Department of Housing and Urban Development.

Well, I am pleased to say that HUD Secretary Jack Kemp—in announcing a comprehensive set of management, financial and ethical reforms at HUD—intends to return sound business practices to Government policy.

Among the many changes, the Secretary stated his intention to create within the Department a chief financial officer who, like a corporate CFO, will be charged with overseeing HUD's fiscal operations with an eye towards restoring and maintaining the Department's financial health.

Second, like any public corporation in America, HUD will, for the first time in its history, now produce financial statements on the activities of the Federal Housing Administration, and allow independent auditors to review the financial management of its operations and programs.

Third, again like any corporation, HUD will impose stricter standards and reviews of the many outside agents who work on its behalf, including a greater emphasis on program monitoring and evaluation functions.

These basic business practices will help guarantee that HUD's "goods and services"—clean, decent, safe, and affordable housing for low and moderate income Americans—will be delivered. And, equally important, our stockholders—the American people—will be receiving a greater return on their investment in good Government.

I am pleased to say that the Department of Housing and Urban Development is, finally, back in business.●

BULGARIA'S HUMAN RIGHTS SITUATION

● Mr. DECONCINI. Mr. President, a matter of deep concern has arisen in Sofia, Bulgaria, which I feel must immediately be brought to the attention of my colleagues in the Senate.

As chairman of the Commission on Security and Cooperation in Europe [CSCE], more commonly known as the Helsinki Commission, I am very much involved in the various CSCE multilateral meetings and negotiations which have been taking place this year. One such meeting recently convened in Sofia to discuss issues pertaining to the environment. This is the first CSCE meeting to be held on the subject. Given the critical need for the 35 signatory states in the Helsinki process to direct their attention to the environmental crisis affecting all of us, this meeting is a much-needed one.

Regrettably, however, the Bulgarian authorities have chosen to overshadow the urgent necessity to address environmental problems within the context of the Helsinki process by violating the heart of this process, the fundamental freedoms and human rights of the individual.

One of the key requirements for any country hosting a CSCE meeting is that there be no interference by the host government in the ability of private individuals and groups to gain access to the meeting. Further, these individuals and groups must be allowed to freely express their concerns and viewpoints publicly as well as to members of the attending delegations.

Because of the traditionally representative nature of the current Bulgarian Government, many delegations, including the United States, expressed initial reservations about agreeing to permit Bulgaria to host a CSCE meeting—the first CSCE follow-up activity to be held in a Warsaw Pact country following the conclusion of the Vienna CSCE review meeting earlier this year. Similar concerns were expressed in connection with the human dimension meeting scheduled to take place in Moscow in 1991. After repeated assurances by Bulgarian officials that the rules of openness and access would be faithfully adhered to, consensus was given by all signatory states to allow Bulgaria to host this meeting.

The initial reports which I received from my staff in Sofia last week were encouraging. The meeting was not only accessible to private individuals and groups but an environmental group known as ECO glasnost was being permitted to hold public meetings of its own and even to collect signatures on a petition expressing concern about some of the environmental policies of the Bulgarian Government. Although this type of public expression is a matter of common activity in the West, it represented the first glimmer of glasnost in Bulgaria in many decades.

Freedom of expression, Mr. President, goes to the very heart of the Helsinki process and it appeared as though the Bulgarian authorities were at long last beginning to recognize this right. Regrettably, this does not seem to be the case. I have been informed by telephone from Sofia that internal security forces have forcibly disbanded members of the ECO glasnost group in a park where they were peacefuly assembling. Further, many members of the group were beaten and have been detained.

The role of environmental activists in shaping national policy in the United States and other countries has been invaluable. To deny Bulgarian citizens their right to speak out not only violates the human rights provisions of the Helsinki agreements, it indicates a total lack of sincerity on the part of the Bulgarian authorities about the need to honestly address the very serious environmental pollution affecting Bulgaria and its neighbors. If we as a community of nations are ever going to solve the global crisis of the environment we must work together on all levels of our societies.

I urge the Bulgarian authorities to immediately release those who have been detained and to cease their harrassment of Bulgarian citizens who are attempting to exercise their basic right to freedom of expression. We will not make progress in solving the crisis of the environment until the courage of individuals to voice their concerns is matched by their respective governments' resolve to respect and listen to those who are suffering most from the environmental negligence all governments are guilty of.

The latest incident in Bulgarian human rights abuses compounds the already reprehensible actions taken by Bulgarian authorities against their Turkish minority. I visited the Bulgarian/Turkish border this past August and saw first hand the cruel treatment of ethnic Turks by the Bulgarian authorities. These actions are a tragic reminder of how far behind Bulgaria is from most of the countries in the Helsinki process in implementing all of its CSCE commitments. The promises of Helsinki are finally beginning to be a reality in some CSCE states whose record of compliance had previously been very poor. Bulgaria apparently has chosen not to join the encouraging forward movement of the Helsinki process which we are currently witnessing elsewhere in Eastern Europe.

The Bulgarian people have much to contribute to this process, I sincerely hope they will be allowed to do so. If the Sofia meeting fails because Bulgarian citizens have been silenced, Bulgaria will be marked historically as being responsible for thwarting a promising beginning in the Helsinki process toward correcting decades of environmental abuse amongst CSCE signatories.●

HIS EMINENCE ARCHBISHOP IAKOVOS, PRIMATE OF THE GREEK ORTHODOX CHURCH OF NORTH AND SOUTH AMERICA

● Mr. HATFIELD. Mr. President, I rise today to honor His Eminence Archbishop Iakovos, Primate of the Greek Orthodox Church of North and South America. April 1, 1989, marked the 30th anniversary of the enthronement of His Eminence and, to honor the occasion, the United Hellenic American Congress of North and South America will hold their annual dinner in his honor.

Archbishop Iakovos is an ardent ecumenist and was the first Greek Orthodox Archbishop in 350 years to visit the Pope when he was received by Pope John XXIII at the Vatican in 1959. His Eminence had dedicated his life to initiating changes for those people whose human and civil rights have been jeopardized. He marched with Dr. Martin Luther King at Selma and worked for passage of the Civil Rights Act. I would like to congratulate Archbishop Iakovos on his successes and wish him many more in the years to come.●

THE MADDENING OF AMERICA

● Mr. SIMON. Mr. President, I am inserting into the RECORD a lengthy speech given by a Chicago leader by the name of Joe Kellman.

I do not agree with every item in the speech, but the general thrust of what he has to say, I agree with completely.

What I particularly appreciate about the speech is the sense of urgency that he has about what is happening in education in this country. It is a sense of urgency that, frankly, we lack in the Senate and in the House and the administration lacks. The President talks about being an "Education President," yet he provides no significant leadership other than public relations summit conferences.

In Congress we are doing somewhat better, but we have not tackled this problem with the sense of urgency that it demands.

The second thing that I like about his speech is that he is willing to break new ground, to think fresh ideas.

I first learned about this particular school enterprise that he is involved in from a leading Chicago area businessman, "Skip" O'Neill. He heads the Paschen Construction Co., probably the largest construction company in the Chicago area. He flew down to my home in southern Illinois one time to talk to me about it, a rare display of interest in an educational project on the part of a business leader. That trip said something about "Skip" O'Neill. It said something about this school project. And it said something about the leadership of Joe Kellman.

There are gems in his speech that make it well worth taking the time to read.

For example, he says:

> If there were a profit motive, is there any doubt that IBM, General Motors, and other major companies would be solving the education problem in the Lawndales and Harlems of America?

He quotes Ross Perot as saying:

> A child's only chance in life is to get a good education. Would you rather spend a little bit of money and give him a good education, or would you rather keep him on welfare for the rest of your life out of your tax bite?

He quotes David Kearns, the chief executive officer of Xerox, and Dennis Doyle, as saying in the book "Winning the Brain Race"—

> The public schools' failure to teach children right in the first place costs society an enormous amount of money each year. The Committee for Economic Development estimates that each year's class of dropouts costs the nation $240 billion in lost earnings and foregone taxes over their lifetime. Billions more will be spent on crime control, welfare, health care, and other social services.

What he does not go into but what is there, unspoken, is that we are an increasingly segregated society on the basis of economics. And because the educational problems of the poor are no longer on our doorsteps, they become easier and easier for middle income and higher income America to ignore. As he points out so clearly, we ignore them, ultimately, at our own peril.

In Kellman's paper, he quotes the chairman of the Prudential Insurance Co. as saying that last year, 44 percent of those who applied for work at their Newark office could not read at the ninth grade level. You have to assume that large numbers did not even go to the trouble to apply.

Recently, I had breakfast with the CEO of a major American corporation, and he told me that they have a fairly lengthy employment application form, and less than 2 percent of those who fill out the form can fill it out completely and accurately.

In his call for decisive action, Joe Kellman has one marvelous line: "If we keep tinkering, we will tinker away America's future."

He quotes Alan Shedlin, who is involved in the New York City educational system, as saying, "The American elementary school was designed for a society that no longer exists." I fear there is much truth to that statement.

Joe Kellman also calls on the suburbs to take a much greater interest in the problems of education in the city. That clearly is essential. That is not happening now. While he cites Illinois, he could be citing any other urban-suburban situation. We're going to have to be concerned about the poor in our midst, as we are not now.

I urge my colleagues and the staff who read the CONGRESSIONAL RECORD to take note of the Joe Kellman speech gleaning good ideas from it and capturing his sense of urgency.

I ask to insert his comments in the RECORD at this point.

The speech follows:

THE MADDENING OF AMERICA

(Speech by Joe Kellman)

Thank you for giving me this opportunity to speak to you today. My subject today is a serious one. It is entitled "The Maddening of America." We are creating a permanent underclass, unable to compete, and driven to violence and self-destruction. We have the know-how to reverse this trend, and a complete restructuring of our public school system is an all important key. Yet, we are not using that know-how. Instead, we are closing schools—and building prisons. Let me give you a little background as to why I believe so deeply that—unless we find the political will to stop this trend—America's future is in grave jeopardy.

There is a public school in my neighborhood. On its north wall, on two huge concrete slabs in letters almost a foot high, there are quotes. One says: "The foundation of every state is the education of its youth." That's from the Greek philosopher Diogenes, who lived over two thousand years ago. I wonder what Diogenes would say about the education of America's youth today? We're surely not building much of a foundation for their future, this state—or our nation.

On the other slab is this quote from Horace Mann, the father of American public education: "The common school is the greatest discovery ever made by man."

Diogenes is just as right today as he was then. And Horace Mann's observation is still valid.

Our public schools are still a great discovery. Perhaps the only hope for millions of children. The only hope for minorities living in inner-city ghettos in our major urban areas, and also poor white rural and suburban American children. And, as I suggested earlier, the only hope for our country. The schools simply have not kept pace with society. Twenty years ago we spoke of the culturally deprived and the economically disadvantaged. Today we speak of at risk children and a permanent underclass. Give it any name you want. The bottom line is that, in our major cities, they are the same predominantly black and Hispanic children and adults. Except there's more of them, and millions more to come. The only college or university far too many of them will see will be the kind with bars on them.

In a recent, hard-hitting Wall Street Journal Magazine pullout, sponsored by the Whitman Corporation, a strong supporter of the Corporate/Community Schools of America, it was reported that "today half as

many black men are in prison as are in college." It's a national disgrace.

I've been concerned about this for nearly 30 years. One of the best things I ever did was to establish the Better Boys Foundation. It started out as a boxing club in 1961. I thought competitive sports would solve the gang problem in the inner-city. How wrong I was! I discovered the obvious—sports were a lure, not a cure. So, in 1966, BBF dropped its boxing program and began preventive programming for younger boys and girls—before they joined the gang.

We've put hundreds of neighborhood high school graduates through college, providing them with financial aid and—just as important, intensive counseling—because many of our graduates represent the first person in their entire family to go beyond elementary or high school. Better Boys has been for 23 years the sole recipient of the proceeds from the world's largest sports/celebrity event in the country, the NFLPA Mackey Awards Banquet. We have made a difference in thousands of lives since the organization was established. And I am very proud of that.

But, even with a program other than sports, it became clear to me that—no matter how good at what they do—community social agencies were like tiny hospitals in inner-city war zones with thousands of casualities. Necessary, but totally inadequate to deal with tens of thousands of new casualties every year.

In November 1968 in the wake of the devastating riots of the late 60's, as a businessman and the founder of Better Boys, I was invited to speak by the University of Illinois and the University of Pittsburgh. I entitled that talk—"Black Blood, Red Ink: Whose Business Is It?"

In that speech over 20 years ago, I mentioned the *heart-breaking double talk* from our nation's leaders, who played the same shell game too many of our leaders are playing today.

In that speech I spoke of "better brand unworkable" approaches to solving the problems of the ghetto. That's when you buy a product that doesn't work, then switch to a "new, improved" version that doesn't work either. I urged business to get involved before we were overwhelmed by the problem. It was then that I first proposed the corporate school idea.

It's tough for me to believe that over 20 years have passed, and in spite of all the high sounding talk and school reform ballyhoo, our schools are no better. You see, it was just 21 years ago that the President of the American Management Association, replying to my request for AMA participation, said:

"Business, with its historic ability to get things done, can achieve anything if it makes up its mind to. This could be the year American business committed itself to take on the massive problems that beset our cities."

Unfortunately it wasn't that year. It wasn't that decade. And I pray that it won't take a century, because there is not that much time left for our country.

He added, "What we do need, and can realistically urge as I believe you do, is the involvement of business leaders in our cities in the daily administration of our school system."

It was over 20 years ago that someone printed a series called "Dynamics of Change". Contained in it was the following:

"It does now seem apparent that a system of universal and lifelong education will have to be devised, and there is some question whether the traditional school is the place to do it. It may be that among other of its new responsibilities, business will also have to put its enormous talents and resources to work educating minds, with the same enthusiasm with which it has produced goods."

For over 20 years, I've been vocally and actively concerned about the need for direct business involvement in managing the turnaround of our nation's inner-city schools, where the problem is toughest—in the ghettos of our nation, where educational failure and the street culture go hand in hand. This is where vulnerable young children become the fodder for tomorrow's prisons, unemployment lines, and welfare rolls, not to mention the drug culture. For the last 20 years of our country's history, we have been closing schools and building prisons. Truly, "The Maddening of America."

It puzzles me that, for all that is known about what it takes to create one good school, little of that knowledge is ever extended to create an entire system of good schools. In business, we are always working to get our least performing divisions to measure up to the standards set by the best of them.

I'm puzzled by the fact that, in education, excuses are made for the exceptional performance of their best divisions, called schools. It's just the opposite in business. In business, if you build a better mousetrap, the world beats a path to your door. In education, you become an outcast! Success somehow threatens the bureaucracy. So things remain the same. This enigma has been with us for decades . . . it's a big part of The Maddening of America.

Changing the system is a formidable task which we must neither over- nor under-estimate. It is achievable. If there were a profit motive, is there any doubt that IBM, General Motors, and other major companies would be solving the education problem in the Lawndales and Harlems of America?

I think of my own experience when I think of the school problems of today. I was born and raised in North Lawndale. Pa had his own business. By the time I was 14 he needed me to work full-time, so he took me out of school. I never got beyond a 9th grade formal education. But Pa taught me! He was my teacher, my mentor! Many of today's children will never enjoy that very special relationship. Thus, the burden falls upon our schools to prepare today's children to become the mentors of tomorrow's children.

My father was a pretty good teacher. I am still a student . . . a student of life. I am intrigued by the enormous potential of the human mind and the human spirit. I know deep down inside that if we are clever enough to send men into orbit, and bring them safely back to earth, we certainly have the powers of reason and logic that will enable us to put America's schools on higher ground. When we abandon reason and logic, we also abandon hope.

Texas billionaire and corporate leader, Ross Perot, is talking logic when he says, "A child's only chance in life is to get a good education. Would you rather spend a little bit of money and give him a good education, or would you rather keep him on welfare for the rest of your life out of your tax bite?"

To quote from "Winning the Brain Race," by Xerox Corporation CEO, David Kearns, and Co-author Dennis Doyle: "The public schools failure to teach children right in the first place costs society an enormous amount of money each year. The Committee for Economic Development estimates that each year's class of dropouts costs the nation $240 billion in lost earnings and foregone taxes over their lifetime. Billions more will be spent on crime control, welfare, health care, and other social services."

$240 billion is a lot of money. If The Committee for Economic Development is only one-half right, and we could save our taxpayers only $120 billion, the taxes that we would invest now would be substantially returned in the future as a result of this more productive citizen. The story simply is pay now and get a huge return on your investment. And if not for you, then for your children and their children.

We can solve this problem. What is stopping us is American madness.

Pick a major city. Take Philadelphia, for example. In some of Philadelphia's inner-city schools, the dropout rate is as high as 60%. Nationwide, 3,800 teenagers drop out of school each day. Of every three urban high-school students, at least one will be on welfare as an adult. This pattern is being repeated tens of thousands of times each year across the country. It's insane! We can put a stop to this!

Here is more reason and logic. According to Dr. Harold Hodgkinson of the Institute for Educational Leadership: "Today, we are a nation of $14.6 million Hispanics and 26.5 million Blacks. But by 2020, we will be a nation of 44 million Blacks and 47 million Hispanics—even more if Hispanic immigration rates increase. One of every three of us will be non-white by the year 2000."

"In 1950 seventeen workers paid the benefits of each retiree. By 1992, only three workers will provide the funds for each retiree, and one of the three workers will be a minority."

We need to protect their interest, if for no reason other than self-interest.

Let me talk for a bit about the crime problem in America, since it is so closely related to the education problem. Schools that work are the best defense against the crime and fear of crime that is plaguing our cities, our country, and your pockets. In Chicago the jails are so full that between April 1st and December 8th of 1988 nearly 20,000 inmates were released, on their own recognizance at the rate of 118 per day! When Judge Milton Shadur imposed a $1,000 a day fine on corrections officials because overcrowding has forced Cook County inmates to sleep on the jail floor, the Department of Corrections promptly budgeted $365,000 to cover the fines for one year! Madness!

At one point more than 500 inmates had to sleep on the floor at Cook County jail. The Chief of Police said: "Let them sleep in shifts." The Cook County Sheriff said the situation is "out of control".

Right now, I understand that Illinois ranks 44th in state school spending, and there are close to 200 of our school districts in financial trouble. In the meanwhile, a new $100 million county jail is in the works to help accommodate the exploding criminal population. It seems we are more concerned about criminal justice than we are about social justice. Madness!

In a March 2nd Chicago Tribune article, it was reported that "Downstate Mattoon was forced to close 1 of its 9 schools after voters approved a property tax increase. Without the increase, three schools would have to close in the 4,000 student district."

The people in the little town of Mattoon, Illinois needed only a few million dollars to keep all of their schools open. Yet, the state's new budget calls for hundreds of mil-

lions of dollars for new prisons. More and more money to house a criminal class that promises only to grow, unless we redeem the forgotten children of Lawndale, and the "Lawndales" throughout America.

According to a July 9th Chicago Tribune article—"Legislature Sets Off New Prison Race"—"In the last ten years Illinois has spent nearly $335 million dollars constructing a dozen adult prisons, including 9 new penitentiaries and 3 prisons converted out of closed mental health centers while the inmate population doubled."

Here's another example of the same problem in other states: According to a Fortune Magazine article, when a manager at Procter & Gamble asked an Ohio legislator to support preschool programs, he was told—we can't invest in preschool. We have three more prisons to build. In 1988, Michigan spent $2 million on preschool programs—and over the next five years budgeted nearly $1 billion for 15,000 new prison cells. More madness!

The prison problem is becoming ominous in another way that, to me, has very sinister implications for our future society. What I am talking about is this: for the first time in history, that I know of, people in smaller communities are now begging for prisons in those communities. According to that July 9th Chicago Tribune article, the 5,000 people of the southeastern Illinois community of Flora want to know: "Is we is, or is we isn't gonna get ourselves a prison?" To encourage prison officials to locate a new prison in Flora, they even made a promotional video featuring a group called the Barbed Wire Choir.

Well, with the prison population exploding the way it is . . . with state legislatures compelled to vote hundreds of millions for new prisons . . . with private, for-profit groups going into the prison business the way they have in Texas and California . . . with smaller communities now competing for prisons as a source of jobs and economic stability . . . well, when you add it all up, you have to wonder if, in the future, America will not become the military industrial complex that President Eisenhower warned about, but instead a prison industrial complex. As if this isn't sinister enough, the eagerness for new prisons as a means of insuring economic stability in smaller communities effectively places a bounty on the head of every high school dropout and every illiterate, especially if they happen to be Black or Hispanic. After all, they are the ones who are filling our jails today. Could it be that, in the future, a new prison lobby will insist that schools turn out even dumber kids? Sadly, this may not be as farfetched a possibility as some might think.

I have talked about the prison problems in Illinois, Michigan and Ohio, but things are just as bad elsewhere—California and Texas, for example. And in Dade County, Florida, the jails were so overcrowded they were forced to keep some of the overflow in guarded tents! Truly the maddening of America. Is it possible that new prisons are a substitute for new housing? It is time we stopped this trend. Let's create an America that will close prisons . . . and build schools!

We must change the equality of the public schools in the inner-city—not just because it's right—but because it's vital to all of our futures, in one way or another. The business community has finally begun to understand their stake in this issue. For them, it's not just a matter of taxes or crime. It also goes to the quality of the work force they can draw on in the future. And as they make their decisions about where to locate operations, a central issue will be the quality of the public schools and the workers those schools produce.

I truly believe the Corporate/Community Schools of America can help force the changes that are needed. It took me 15 years to find Vernon R. Loucks, Jr., chairman of Baxter International, who first accepted the call to action represented in the C/CSA. Loucks has since been joined by the chairmen of many other great American companies, most of them headquartered in the Chicagoland area. Together they have invested almost $3 million to support our first three years, and pledged to secure an additional $3 to $5 million for the next 3 years.

To help solidify our funding base, on June 25th a group of 13 of our key CEOs hosted a breakfast for a gathering of almost 50 heads of major companies. The four co-chairmen for this spectacular event were Ed Brennan, the Chairman of Sears Roebuck & Co.; Vernon R. Loucks, Jr., Chairman of Baxter International; William D. Smithburg, Chairman of Quaker Oats Company; and Stephen Wolf, Chairman of United Airlines. The purpose of that breakfast was to begin securing the $3 to $5 million needed for C/CSA's next 3 years.

To help us achieve our first $3 million to get this project underway, Miss Oprah Winfrey personally contributed $25,000 to C/CSA, and she has committed to provide a similar gift in each of the next 3 years. Oprah also brought Revlon into the fold with their contribution of $100,000. Obviously, strong financial support is needed to keep our flagship school viable and to position C/CSA for national expansion, which is very much a part of our gameplan.

We are also very gratified with the types of people who are on our National Advisory Board. Dr. Hanna Gray, president of the University of Chicago; Bart Giamatti, newly appointed Commissioner of Professional Baseball and former president of Yale University; and chairman Walter Massey, of the University of Chicago and Argonne National Laboratories, are all members at this time. This board will be expanded as C/CSA models are developed in other cities.

Because of heavy commitments, Commissioner Bart Giamatti was unable to join us for our ribbon-cutting last summer. But here are a few words from his letter, which I read to the audience on that sweltering day in August:

"The unique promise of the C/CSA rests in its singular partnership of people in our urban communities, our educators, and involved corporations. For the sake of the least among us, this partnership must succeed and grow. I look forward to continuing and expanding my participation with the C/CSA team and to the national outreach so necessary to achieving our ultimate goal."

National expansion is very much in our future plans, because what we are addressing is a national problem. After hearing our story, Senator Alan Cranston of California contacted David Rockefeller, Jr., who expressed interest in our program. We visited with him in New York on February 13th, and came away very pleased. It is my hope that "Loucks" will be spelled "Rockefeller" in New York, or "Busch" in St. Louis, or "Iacocca" in Detroit.

It's as Ross Perot advises, "There's no way to do this at the national level. You've got to do it 50 times over."

That is exactly what C/CSA hopes to do: link the Buschs and the Rockefellers, and the Loucks and the Iacoccas and their counterparts in every state of this nation in an aggressive strategy to force the changes our schools so desperately need.

We hope to build an entire fleet of C/CSA pilots, with C/CSA pilot schools operating in every major city in this country! And then to use those pilot schools as a vehicle to forge a new coalition for changing the entire system. In Chicago that means 595 schools. And that is the meaning of our C/CSA motto: "The force for critical change."

But you say, isn't business already involved? What about Adopt-A-School? And what about the Boston and Cleveland Compacts? What about Eugene Lang from New York, who is sending an entire 6th grade class to college. To Lang's credit, he is supplying important counseling supports to his students, and the program, called "I Have a Dream" is expanding nationally.

Let me tell you how truly ridiculous this thing gets. I read an article which told how Lang's program has spread to 25 cities, and that now 8,000 students are involved. But get this. Later in the article it tells how there are about 1 million dropouts! But the more important point is this: why would Mr. Lang and those who have joined him not spend their time and their money addressing the source of the problem? Because if there's a million dropouts this year—and you don't attack the source—you can bet your boots there will be another million next year, and the year after that!

What about the latest plan I heard about—free pizzas and congratulations to school children who read a book? There are dozens of programs like these, and many—like Adopt-A-School, have been around for decades. My study of Adopt-A-School plans, by the way, finds the same uneducated children coming out of better looking schools.

All of these programs have commendable goals. But time is running out, folks. And these programs leave the millions of underachievers untouched! Their lives can be touched only by changing the system, not merly tinkering at its margins.

I read in a June 27th Wall Street Journal article that corporations are now beginning to re-think their participation in such programs as Adopt-A-School and the Boston Compact. The article quoted Michael Bailin, the President of a Philadelphia-based consulting group which studied 9 well publicized business aid programs like the ones I've been talking about. According to Bailin, "We went looking for the good news and couldn't find any." The article further reports on how national business leaders are taking a tougher stand on issues of structural reform. I say, "hallelujah", it's about time!

Here is more from that Wall Street Journal article on what corporate America is beginning to say about these problems: "The public schools don't work worth a damn, contends Joseph F. Alibrandi, Chief Executive of Whittaker Corp. in Los Angeles. Band-aids won't work any more. We need a total restructuring."

"I see a lot of (business) programs going on in a lot of schools. And I don't see anyone saying the schools are doing great, says Thomas Donahoe, President of the (Pacific Telesis Group's) company foundation. Unless there are fundamental reforms going on, we're convinced there will be little long term good."

On this point we recently met with Robert C. Winters, the Chairman of the Prudential Insurance Company, to discuss his interest in C/CSA. His staffers sent to us a speech

Mr. Winters delivered at Princeton University. In that speech Winters says: "It is time to stop blaming the children . . . last year 44% of all those who applied for work at our Newark office . . . were unable to read at the 9th grade level. They are 17 years old and virtually unemployable for life . . . the time has come for systematic . . . educational reform. In fact, what we really need is not just reform, but a revolution."

It is amazing to me that, with so much at stake, we continue to expend our energies on piecemeal approaches and patchwork proposals that are like band-aids on a cancer. Our school systems need radical surgery, and that's not a job for well-intentioned do-gooders. It's a job for people who have both the skills and the authority to grab hold of the patient and do the difficult, painful work that must be done to save the patient.

All of these well intentioned plans have been tried for many years, and the educational situation is either no better or worse. Now doesn't that tell you something? So why do we continue with these no solution efforts? Why, why, why? If we keep tinkering, we will tinker away America's future.

You know, along these same lines there's all this talk about athletes serving as role models these days. My question is—when are America's great athletes going to recognize that model roles in today's society includes joining forces with those of us who are demanding realistic educational change for our inner-city children. Their voices need to be heard by corporate leaders, union leaders, and legislative leaders much more than the children.

Additionally, when will celebrity America come back and raise $50 million . . . not for the starving people of Africa, but for the starving minds in America? Of greater importance, when will celebrity America let its voice be heard on this issue in state legislatures and in the halls of Congress? The truth is their voice, added to the voice of others of us who are crying out for realistic reform, is far more important than the millions of dollars they might give in support of this cause.

C/CSA is beginning to make some headway in promoting this point of view with people like the great Walter Payton, Miss Oprah Winfrey, Gale Sayers, and other sports and celebrity stars. That's part of what makes C/CSA different and why, personal ego involvement aside, I believe this effort has such tremendous promise of achieving its objectives as "the force for critical change."

What is the Corporate/Community Schools of America, and why are we different from other business aid programs like Adopt-A-School? C/CSA is a group of influential business, education, and community leaders—and national celebrities—coalesced in the cause of fundamental change in urban education, or as Vern Loucks says it in our video tape: "C/CSA can be the force for critical change in the educational pattern of this country."

The model school serves as the vehicle for bringing this coalition together and for keeping it together. The school itself is a unique social invention—a tuition-free, private school organized in the public interest.

Today, thanks largely to the encouragement and support of that remarkable man Vernon Loucks, we have taken a giant step forward with the opening of our first model school, which at peak enrollment will serve 300 two-year olds through 13-year olds inner-city neighborhood children.

Our goal is to prove the doubters and the naysayers wrong—to prove that we can create inner-city schools that produce dramatic results, spending no more per pupil than the average in the Chicago Public School System.

Shortly after our school opened, it was editorialized in the Chicago Tribune as "A school for hope." And that's what we are. Our goal is to show those who believe we must give up on a generation of kids . . . and in doing so, give up on our future . . . that they're dead wrong.

We began by consulting America's foremost experts—famed teacher Marva Collins; Dr. Jim Comer of the Yale Child Institute; Dr. Armstead Robinson of The University of Virginia Carter C. Woodson Institute; Professor William Julius Wilson of the University of Chicago, and many others.

We also spoke to leading pediatricians, nutritionists, and child development specialists. We drew on the ideas of teachers, parents, and community leaders. We went to the people who know and asked what it would take to create a dynamic, cost-effective school whose methods could be replicated in larger school systems. They gave us their best thinking.

Then we went to the corporate community to ask for the resources it would take to implement their ideas. We didn't want their money alone. We asked for a commitment of their brainpower as well. And we have that commitment. That's what the combination of business bucks and business brainpower did for C/CSA, and a hint at what a coalesced business community might do for an entire system of schools.

Our corporate friends recruited the probono assistance of such top guns as Hill & Knowlton and Burson-Marstellar to handle public relations; Sidley & Austin for legal counsel; and Price Waterhouse for auditing. They also secured for us the services of an international corporate strategic planning group, Bain & Company, to assist us. Our Bain team assessed national school reform efforts, other model school programs, business-education partnerships, and the "best demonstrated practices" in classroom instruction and school management across the nation. Their work formed an invaluable blueprint for our model school and a framework for C/CSA as "the force for critical change."

Now it was time to turn good ideas into reality, and that required locating a home for our flagship school, and a first-class CEO, or principal as you call it, to run it.

We found our home in the heart of Lawndale—an abandoned school building that belonged to the Chicago Archdiocese. Cardinal Bernardin and representatives of the church made the building available to us at very generous terms. For $800,000, we rehabilitated the building to fit the needs of our children, their parents, and our school staff.

We empaneled a national committee of educators to find a superb principal—a CEO for our enterprise. We found one in Dr. Elaine Mosley, who was chosen from among 5 finalists out of the more than 200 individuals who applied for the job. We accomplished all of this with just two paid staffers.

In short, we brought to bear the lessons we learned in business—lessons that are too often ignored by the educators who run our public school systems.

We paid close attention to the bottom line, both the cost and the quality of education. We studied the best demonstrated practices for improving that bottom line. And we sought and, more important, we used input from the field's best and brightest minds.

On August 18th, 1988, the project was officially launched. The front steps of the school, where our ribbon-cutting was held, overflowed with a crowd of well-wishers that spilled out into the streets and down the block.

There were residents of the Lawndale community, standing shoulder-to-shoulder with the leaders of Sears Roebuck, United Airlines, Johnson Publications, McDonald's, Premark, Quaker Oats, and other business and celebrity supporters, such as Chicago's own Walter Payton, Oprah Winfrey, and Gale Sayers.

There were educators, politicians, and neighborhood groups, all standing together—a living symbol of the unique coalition C/CSA is building. And, I must add, I saw rays of hope beaming from the faces of community people, many of whom had no doubt given up on hope long ago.

Our flagship school began last year with 150 two- through eight-year-olds. The school is in the inner-city where the dual problems of poverty families and educational failure are well documented. Our children were randomly selected by computer—under the watchful eye of an independent researcher at the University of Illinois—to achieve a student body comparable to that of neighborhood public schools. Tuition is free; and at full capacity, as I mentioned earlier, we'll operate at or below the average per pupil cost of Chicago's public schools. What we are demonstrating, in a nutshell, is that the proper formula for creating successful inner-city schools does not require magic—just plain common sense, effective management, a commitment to getting the job done, and a clear vision of what we want our schools to be.

Over the next 3 years our student population will reach 300, from pre-K through 8th grade. We are beginning with 2-year-olds. Why 2-year-olds? Because there is ample evidence that early intervention with "at-risk" student populations pay huge dividends for these children in the future. According to the Research and Policy Committee on Economic Development: "Every dollar spent on early prevention and intervention can save $4.75 in the costs of remedial education, welfare, and crime further down the road."

Other reports document that a single year of quality early childhood education for high risk children can reduce their dropout rate by as much as one-third.

That's why we're beginning with 2-year-olds! And that's why every state in this nation must begin to invest heavily in quality early childhood education programs. It's common sense! Not doing it is madness!

Our school is open year round, closed only for 3 weeks in August. It is run by the principal and our faculty were carefully recruited. Their salaries are slightly higher than their counterparts in the public schools, and they are compensated based upon very clear performance standards.

Our board, which is made up of 4 educators, 4 community people, and 7 representatives from sponsoring companies, sets policy and monitors the performance of the school. The bottom line is student achievement, as measured by the same tests used by the public schools. Student achievement is the basic yardstick by which our principal and faculty will be judged. Again, common sense and logic.

An entire school system could be run this way. Of course, our C/CSA board is voluntary. To run an entire system, we say there would be a need for full-time paid people, but with the same commitment, and the same kinds of skill found in our board. I'll talk more about this later, but there's one other very, very important aspect of our school that you should know about.

In addition to teaching the 4R's—reading, writing, arithmetic—and reasoning, C/CSA believes that today's schools, especially in the inner-city, must function as the HUB in a network of services to families. So far, we have enlisted over 30 agencies, including hospitals, community social agencies; the Chicago City Colleges; counselling and drug treatment programs; the public libraries; and others to help parents to become more self-reliant and capable of fending for themselves and their children.

Through this HUB of a network, we're taking parental involvement beyond blaming the parents, to sharing the responsibility for their children with them and equipping them to overcome real problems in their lives. Their children are our children. When we help the family, we help the child . . . and we help solve the riddle of the urban underclass. These parents need help in dealing with the drug culture, the gang culture, and the ghetto culture itself. And our HUB is doing just that.

Our HUB of a network concept is based on the notion that the elementary school structure in place today originated more than a century ago, but is expected to tackle modern problems such as aids, teen pregnancy, suicide, child abuse and drug abuse. "Simply stated, the American elementary school was designed for a society that no longer exists," according to Alan Shedlin of New York's Elementary School Center.

Our project staff have developed a working paper on the HUB concept to share broadly with educators, social service providers, and policy makers throughout the nation. We've only been in existence for less than a year, and already we believe C/CSA has found a realistic approach to helping schools deal with the street culture and increased parental involvement from among struggling, inner-city poor families.

With corporate America in the vanguard, we've planted an intellectual garden where the skeptics maintained that no flowers could grow. But my purpose today isn't to boast of our success. Our purpose was to set a standard for what our inner-city schools should be—and to find a path to lead us out of the tragedy and danger of mass ignorance and failing school systems.

In its most important aspects, C/CSA is not just a school. It is a vehicle for change. Our action timetable called for 3 or 4 years of careful, strategic partnership-building before taking our model school's predictably successful findings to the general public, and then to the Legislature. But Chicago's 19-day school strike in 1987 forced us to become involved in the broader reform effort much sooner than we had expected.

At that time I was not prepared for what I learned in the countless hours I spent in meetings with leading legislators, businessmen, educators, union leaders, community people, and others involved in the school reform effort. I always thought that the major impediment to school reform was the unions. I personally met with top union leaders throughout the state, and I asked some pretty tough questions.

Following these discussions it became clear to me, that with skilled negotiations, the unions might find themselves ready to join in support of realistic reforms that would give teachers the salaries they deserve, better working conditions, and increased prestige as a profession.

You know, in my business I have had to deal with unions for 40 years. In all those years I have had only one brief strike. In talking with union leaders such as Jackie Vaughn, President of the Chicago Teachers Union; Bob Healy, President of the Chicago AFL-CIO; representatives of the Engineers Union; and even Al Shanker, President of the powerful American Federation of Teachers, who flew into Chicago to meet Vernon Loucks and a group of us at Baxter's offices, and who said—"The C/CSA project was potentially one of the most important innovations in American education today"—I clearly came to understand that the unions are only a small part of the problem. The biggest part of that problem is that we let unskilled people negotiate with them. You can't blame the unions for having a field day.

While I was somewhat encouraged by what I learned about the unions, I truly was not prepared for some of the other actors on the school reform stage. Logic and reason, by the way, were only bit players in that drama.

I watched in amazement as various special interest groups—most of them well meaning—came forward with their own versions of school reform. They pushed for—and the Illinois General Assembly passed—Senate bill 1840, calling for community control and the break-up of the Chicago Public School System into 595 "pieces". I argued against the bill. I think it's important for you to understand why.

First, in a C/CSA commissioned study of New York's decentralization, it was found that the purpose of their 20-year old system of community control was political, and that administrative decentralization does not improve education, especially in those communities having the greatest need. Their district boards are, for the most part, controlled by the United Federation of Teachers; patronage replaces professional administration; and less than 10% turn out for school board elections, with the UFT slate usually winning. Why would it be any different in Chicago?

"I was all for decentralization until I saw how it was being abused," said Dr. Kenneth B. Clark, a famed black psychologist, who was a member of the New York State Board of Regents from 1965 to 1985. "I thought parents would play a significant role in the schools. They have not. They have been blocked by the politicians and the school unions. I don't see any benefits from decentralization."

Shortly before his untimely death, New York City Schools Chancellor, Dr. Richard Green, said low voter turnout in their recent school board elections was unacceptable. Regarding decentralized school management, he went on to say: "In my view, it just doesn't work well." (New York Times 5/04/89)

By the way, in the wake of a 20-year failure with their system, New York has recently appointed a commission to study it to see if it can be salvaged, or if it must be scrapped. On this point, we believe big city school systems need a new form of central management, including the turnaround skills that are found in corporate America and throughout the corporate world. I'll elaborate on this later. But, to get back to the decentralization issue, I fully understand that Chicago's brand of decentralization and community control differs from that of New York's. New York is broken up into 32 districts. Chicago's plan breaks the system up into 595 units, with elected local school councils having considerable powers over the management of each school. But there are enough similarities so that the politics, of the elections and the potential for abuse are the same as in New York—or the abuses could be worse.

Second, we also studied the results of decentralization in Detroit. According to our study, here are some of the reasons why the people of that city voted 75% against the decentralization they voted for eleven years prior in 1970.

(1) It did nothing to raise student achievement.

(2) It provided a new forum for political bickering.

(3) It was so cumbersome that it defied accountability.

(4) It added another layer of bureaucracy.

(5) It was not cost effective.

Third, in view of the Detroit and New York experience, I wouldn't go near decentralization and community control with a ten foot pole! Doesn't it make you folks wonder why Chicago did?

Fourth, I think it's grossly irresponsible to turn our worst schools over to our struggling communities and expect that, by some magic, inner-city schools will improve. We need much higher levels of parental involvement. We need principals who are strong and respected. We need skilled, dedicated, highly respected, and well-compensated new teachers in our teaching force. And a better, safer environment at every school. In order to meet these needs systemwide, we need skilled and paid new leadership working full time at the top, and committed citizens working in volunteer capacities at each school.

Let me talk for a moment about teachers. The success of any enterprise depends on the quality of the people in it. Yet, I understand that America's teaching force, for the most part, is coming from the bottom 25% of college graduating classes. In an effort to attract and retain top teaching talent, one city—Rochester, New York—has done some extraordinary things, including paying teachers $70,000 or more.

But, according to a recent Wall Street Journal article, in Rochester, "the school system has openly conceded that it has failed most of the disadvantaged minority students now flooding its classrooms. It admits that it has been pushing them through the machinery and out into the street without giving them the tools they need to make a living. It has now taken a vow to find ways to educate every student."

The article continues: "This all seems very earnest, logical and high-minded, but in practice the fundamental reform aimed for may be extremely difficult to achieve. For one thing, the money needed to go on paying those high teacher salaries depends in part on more state financing, and the state has budget problems that might force retrenchment here. For another, the mindset encouraged by the old educational system is deeply rooted, hard to overcome."

"They got a 40% pay increase over three years out of the $27 million contract, but they are still ambivalent about what they collectively agreed to."

On this point, their school superintendent, Peter McWalters, took a pretty tough stand when he learned that, according to

the article, "our achievement patterns are absolutely predicted by race and class."

McWalters continues that the attitude of many teachers is: "Send us a better caliber of inmate, and we'll run a better prison. . . Teachers are angry about student attitudes, and they've absolutely right. But it's not going to get any better—that's the client, folks. An effective school can find ways to get around this."

You bet your life it can.

The article also states a sad fact about the teaching profession. "It's the only profession . . . where if you do well, nothing happens to you, and if you do poorly, nothing bad happens to you."

My point is simply this: Unless we find the ways to dramatically improve the recruitment, training, retention, and evaluation of our teachers, our schools will never improve. Corporate America, or shall I say the corporate world, deals with these issues all the time. It is called human resource management. Why not copy their successful techniques?

Again, from the same Wall Street Journal article, it was stated that the teacher problem is compounded by the fact that "over the next five years the U.S. will need more than a million new teachers. At current rates it will graduate in that time only about 625,000 people trained to teach—and a lot of those will likely decide to do something else, at least at first."

The article continues: "Sharp increases in teacher pay over the past six years haven't yet translated into any rush by students into the profession. In 1968, almost a quarter of all incoming college freshmen wanted to become teachers. From this all-time high, interest plunged to the nadir of 4.7% in 1982 before recovering last year to 8.8%. So we have a real challenge here."

With a somewhat different slant on the same subject, a July 20th New York Times article reported that "within five years, nearly half of America's teachers may retire or leave their classroom for other pursuits." The article continues, "The single most important action the nation can take to improve the schools is to strengthen teaching." This article was based on a report put out by the National Board for Professional Teaching Standards, which was created by the Carnegie Forum on Education and the Economy. What it tells us is that we have a golden window of opportunity to attract bright new talent into the teaching profession.

However, unless we have the management systems in place to recruit that talent, monitor and evaluate that talent, and to provide the type of monetary and other incentives that will keep that talent working for us in America's classrooms, that window of opportunity will slam shut. And America will find itself scraping the bottom of the barrel for the educators whose grave task is to prepare future generations to lead this country.

On this point, as stated so very well in a recent Chicago Sun-Times article, "for more progress, teacher training institutions must improve their education courses and teachers unions and school boards must change their system so that a teacher isn't someone who's just a step ahead of the kids, but someone who makes decisions and exercises authority."

We need good teachers. We need good principals. We need lots of other things if we're going to produce quality schools. As I said earlier, in order to make these things happen, we need skilled and paid leadership working full time at the top, and committed citizens working in volunteer capacities at each school. We need to build on the strengths of our poorer families so these families can begin to carry a greater share of the responsibility for the education, discipline, and well-being of their children. But the last thing we should do is to set inner-city parents up for failure by giving them control over schools that are bankrupt.

After the school reform legislation—Senate Bill 1840—passed, Illinois Senator Aldo DeAngelis, who cast the Senate's only "no" vote, said: "We have raised expectations in this bill that are not going to be fulfilled. If we have erred, we have created a catastrophe of great proportions."

State Representative Monique Davis, who also voted "no", went as far as to suggest, and I quote: "This bill is designed to create chaos."

Only three of 118 House and Senate members voted against Senate's Bill 1840. But even among those who voted for it, most said: "It's only a first step." "It's merely a power shift," said others.

I thought Senator Bill Marovitz was very clear on this point: "I am 100% for this package, but let nobody in this audience or within hearing distance be deceived. This is not school reform. Don't go home and believe this is school reform. Don't go home and believe that when we pass this bill, as we will, that the reading scores of John and Mary in the classroom are going to change. This is not school reform, and I don't think that the press should refer to this as school reform. This is management reform . . ." Sun-Times columnist Vernon Jarrett called it "management deform".

Marovitz continued: "We have a $2 billion system. Its management requires special skills and full-time leadership. I would hope that this Body will be back here in a couple of years and realize that perhaps that school board needs to be full-time, well-paid, with experts in this area who have managed the turnaround of corporations, failing businesses, and who can help us manage the turnaround of a deplorable failing system. . . ."

Senator Marovitz is saying exactly what C/CSA has argued. Other important political leaders are also beginning to take note. Here's what just one of them, Illinois State Comptroller Roland Burris, said to me in a recent letter:

"I was very impressed with the (C/CSA model) school, as I am with the entire concept of schools run by corporate management techniques. I am in favor of your plan, as an effective and efficient method in which to "turn around" the educational system in Chicago, and in other areas of need. I feel that there is definite merit in managing the school system like a business, with accountability for the results produced."

I recently had the pleasure of a private meeting with Chicago's new Mayor, Richard Daley. I shared some of my ideas with him, and came away very, very pleased with his reaction.

Just one more painful lesson from school reform, or as I refer to it, "reform school". And also, when we went to members of the Illinois Black Legislative Caucus, we found that, essentially, black legislators are in the same boat with white legislators. Their black middle and upper class constituencies have fled inner-city communities and inner-city education, right along with the white middle and upper classes. They vote their constituency, with little regard for the impact of their vote on the worsening plight of the educationally disenfranchised underclass.

I say this: my dear legislators, we are not asking you to live with them. We are asking you to let them live! The great H. G. Wells said: "Human history more and more becomes a race between education and catastrophe." If we could get into Well's Time Machine and travel to the year 2020, would we witness a new form of civil war raging in our major cities? Not black against white, mind you, but upperclass vs. underclass. I believe the stage is being set right now.

Here's a clue to this ominous possibility, as reported in a 12/04/88 New York Times article:

"Worsening matters is the fact that the city's establishment has little personal investment in the public schools. Nearly 80% of the system's 940,000 students come from minority groups, and few community leaders send their children to public schools."

"We can't handle this alone," says Jose E. Serrano, the Assemblyman who represents the largely Black and Hispanic Morrisania section of the Bronx where District 9 is located. "But how do you tell someone on the East Side of Manhattan or a stable neighborhood of Brooklyn this is their problem, too?"

In Chicago, let's change that to middle class communities such as Rogers Park or South Shore. How do we tell them that the poor areas like Lawndale and Cabrini Green and Austin are their problem too?

Here is something that school reformers pay very little attention to: What works in smaller districts . . . what works in more affluent communities . . . won't work in poorer communities in our major cities. Middle and upperclass communities—and perhaps smaller districts throughout the states will want, and may do very well with, community control, choice, or even vouchering, and thus their legislators must vote that way. But under any of these schemes, it's likely the plight of the disenfranchised will remain unchanged. Thus disproportionately high numbers of uneducated Blacks and Hispanics will be denied a real education. Much more important, we will continue to divide America's whites, blacks, and hispanics and we will continue drifting toward a society of haves and have-nots.

The hard-hitting Wall Street Journal article I mentioned earlier also carried important news about the latest "cure" for public education . . . something called choice. Here are just a few quotes—

"The bad schools? Close them down, say disciples of choice. Or at least dismiss their principals and reorganize them."

"But will the schools teach harder and better? Will students wind up knowing more algebra or history? Most choice plans haven't been around long enough to provide definitive answers. And some of the older ones are giving mixed signals."

"Many educators remain deeply skeptical, even suspicious, of choice. They contend it could drain resources from inner-city schools and worsen their plight. Black educators, especially, argue that in practice, some plans give black students access only to inferior schools."

"It may help a small number of students, but it won't do much good across the board," adds Willard Baker, former executive director of the Minnesota School Boards Association.

"Whatever its merits, choice has snowballed—partly it seems, out of frustration with the educational reform movement's accomplishments so far."

"But choice has stirred old passions here (Boston) giving rise to charges that the city's white power structure would use it to disenfranchise black students. The School Committee's nine white members voted for the plan. All four black members voted against it, arguing that schools in heavily black neighborhoods are decrepit and couldn't compete fairly for students. Thomas Atkins, a lawyer for the plaintiffs in the school desegregation case, says that the plan lacks adequate safeguards to privent resegregation. He vows to haul the system back into court unless changes are made."

I believe, folks, the real problem with choice or vouchering in public education is that the more sophisticated buyers will buy out the best schools. So, in my view, these are not solutions to the problem.

I spoke at a recent gathering of business people, many of whom seemed to favor choice. I responded to a question from a lady representing one of America's largest companies who favored closing schools that aren't working. My question to her was: "Where will the children go?" The plain fact is that these children are locked in slum environments because they and their families are not wanted among freshly scrubbed, well-dressed, middle class students. So where will they go? Can they come to your child's school? Please, let's not forget the reasons white and middle-class blacks fled our inner-cities in the first place! By the way, one of the harshest realities of the ghetto is the gang turf issue. At BBF, we have children who are afraid to cross certain streets for fear of their lives. What will choice mean for these children?

As to vouchers, I believe inner-city schools will need more of them, or a higher value voucher, if they are to meet the special needs of their predominantly at risk student populations. Here we have a dilemma. Will the middle-class, which is already resisting tax increases, be willing to support higher voucher payments for at risk kids? I don't think that is likely, and we simply can't get the job done without the necessary financial resources. So, in my view, vouchering might actually make things worse, not better, for the very group of students for whom good schools can mean the difference between a life of poverty or a life of productive citizenship.

In "Winning The Brain Race," David Kearns hits it on the nose when he says: "The middle class in all advanced nations is expert at getting what it wants, through subsidies, gifts, tax breaks, or grants. Middle-class people are the decision makers, the backbone of a complex society. And if they are denied access to good public schools, they will eventually insist that their choice of private schools be subsidized. Public schools still have time to reform, but the sand is running through the hourglass."

Kearns goes on to say: "The taxpaying public, the folks who pay the bills, will be willing to underwrite the costs of schools that work, schools they have confidence in. They will not underwrite schools that continue to fail."

My personal fear is that one day some demagogue may get on TV and protest that middle and upper class folks pay taxes to educate them. When education fails, they pay taxes to incarcerate them. Why pay double? Why pay these taxes at all? We have already seen signs of such legislative revolts in several states.

I recently read where "much of Louisiana's middle class is in a tax revolt, feeling that tax increass will benefit the less fortunate while impacting negatively on the middle class quality of life." The principal subject of the article, however, was the election to the Louisiana Senate of Former Ku Klux Klansman David Duke, who has fueled these sentiments with his rhetoric. Duke is precisely the type of demagogue I'm talking about. They play on people's fears and insecurities. And, since we are living in a time when there is much to fear, the David Dukes of this world have a chance at gaining a broad following. It's all part of the Maddening of America, folks.

The July 23rd Chicago Sun-Times carried a front page story entitled "Winds of Tax Revolt Heating Up". The articles discusses how angry taxpayers on Chicago's north and northwest sides have swarmed to meetings to vent their outrage at recent property and income tax increases.

On August 8th, the Chicago Sun-Times carried a headline story: "Tempers, Tea Bags, Thousands Stall On Tax." The article told how 50,000 property owners showed up at various county offices to protest their tax bills. It told how James Tobin, the head of a group called National Taxpayers United of Illinois said that "he has oral pledges from about 500 (people) to withhold their taxes." In the spirit of the Revolutionary War era, some of the tax protesters in Chicago's Loop area distributed tea bags, a symbol of the Boston Tea Party. Can America, more than 200 years later, afford another "Boston Tea Party?"

If citizen tax revolts ever happen on a larger scale, the social consequences are too frightening to contemplate. You pay to educate them. When education fails, you pay to incarcerate them, or put them on welfare. Can America sue millions of citizens who refuse to pay double any longer? If that day ever arrives, it will surely be the end of our public school system, and it may be the end of the American dream.

Perhaps this is part of what the great American educator, Mortimer Adler, had in mind when he said: "* * * if we do not deal with our education problem within two more generations, by the year 2050, we can forget about the country. It will have gone down the drain."

What contributes to this grave possibility are some sad realities about school funding over the past 20 years. Again I quote the Wall Street Journal magazine article: "Your property taxes are eating you alive. Relax, you tell yourself. Isn't the bulk of the money going to improve our schools? And doesn't that mean our kind will be better fitted for more demanding modern jobs? Won't we be better able to compete with the Japanese and everyone else in the dog-eat-dog global economy? Of course. So it's all worth it."

The article continues: "But is it? A growing number of people think not. In fact, as a panacea for educational reform, money is actually getting a bad name. There are numerous indications that the sheer weight of cash thrown at the many problems of the U.S. educational system has had little effect in solving them: The hard fact is that our schools are in many ways worse off than they were when we were spending a lot less."

"So, adequate funding remains important. But even more important is the realization that cash alone can't do the trick, that educational reform can't be purchased like a sack of groceries. The U.S. has already tried that, and it has failed."

So, at least in my mind, this sets the stage for the possibility that good decent people will someday feel perfectly justified in refusing to pay double any longer.

And then there are those prisoners—80% of whom are barely literate—that we can't seem to build prisons fast enough for. We let them back into the streets * * * more hostile and skilled in their craft than they were before they went to jail. They'll soon be back in jail for committing another crime. But the madness doesn't stop there.

According to Owen Butler, former CEO of Procter & Gamble, who is also the chairman of the Committee on Economic Development, "There is hardly a major city in the United States that does not have a 50% school dropout rate. What kind of country are we going to have if 50% of the people in every major city are unemployable? Does anyone in this room think that throwing human resources away at this rate is not going to seriously impact and eventually destroy the very business you work for?"

He continues: "People are not going to live forever in the midst of wealth without demanding a share of it. If we don't give them a chance to earn a decent living, we will either have to give it to them or they will take it. Look at any two-class society in the world—Manila, Puerto Rico, Mexico City. Where do the wealthy live? Behind walls, with barbed wire, and guards with submachine guns protecting the perimeter. In other words, they live in a prison. That's not the life I want for my grandchildren."

The madness continues. On April 25th the Chicago Sun-Times carried a story entitled, "Teen Rampage, Rape of Jogger, Stirs New York Anger". In the story, 12 teenagers between the ages of 14 and 17 went what they call "wilding". That's a new term for random, remorseless violence against innocent people.

In this now infamous incident, these children—that's what they were—smashed a 28 year old woman in the head with a lead pipe and brick, ripped her clothes off, and about five of them took turns raping her. Then they left her to die in a muddy patch in Central Park.

Here's the clincher, and I quote: "Officials say not a single one of those youths showed any remorse." The Woman was one of nine joggers they had attacked that evening. That's "wilding". They did it for fun! Wasn't this violent act just what Mr. Owen Butler was warning us about, except that they are taking place today? This, my friends, is truly the Maddening of America.

One of America's most distinguished black journalists, Louis Martin, wrote about what he calls "The Poison of Prejudice" in a recent newspaper article. According to Martin:

"Today a young Black faces a hostile white public almost everywhere in the big city. I have had Black youngsters tell me that all the whites got off the elevator in some buildings when they get on. Stories of wilding and random violence have so frightened whites that they don't want to be in the same elevator with young Blacks especially."

He goes on to say: "Even educated young blacks may not be able to escape the growing prejudice."

When crime is black on black, the black victim hates the black criminal. When crime is black on white, the white victim hates black people. It's not color that separates us * * * it's ignorance! Time is running out!

Government leaders, federal, state, and city—how will you keep America as a democracy in the face of the hundreds and thou-

sands more of these incidents to happen in the days, months, and years to come?

You know, it seems that, in the matter of technological advances, our society is moving forward at a very rapid speed. Yet, in our attitudes toward our fellow man, we are moving backward. These vicious, often racially motivated acts are daily occurrences in our major cities, though often unreported by the major media. Even on our college campuses, there are shocking increases in clashes between white and black students—often erupting in violent words and acts. So we are going forward and backward at the same speed. Is America elastic enough to stand the strain, or will America be ripped apart? Time—and not much time I am afraid—will tell.

Listen to this, from the New York Times: "The brutal attack in Central Park by minority teenagers is only the most recent example of the cost of our inaction. The State of New York has responded with an anti-crime plan. Its cornerstone is building 9,000 new prison cells."

That, my friends, is madness. We have two options—we can concentrate our energies on building productive citizens; or we can spend a greater fortune on dollars and human suffering to control an ever-growing number of destructive citizens. Two options, but only one real choice!

Representative Thomas J. Downey (D-NY), chairman of the Ways and Means Subcommittee on Human Resources, said that the growing gap between rich and poor has ominous portent for our society. "You're not going to have enough locks on the doors or police in the streets to protect you from a generation of people who are not part of the mainstream of American economic life," he said.

Since we are directed by majority rule, and properly so, what do you do when majorities of the people are in the middle and upper class, and the problems in America's growing underclass are threatening not only our ability to compete, but our society itself? The majority in all state legislatures represents middle/upper/suburban and rural classes, and thus can't or won't act on behalf of the underclass.

In Illinois, for example, C/CSA commissioned a study on this very issue. Here's a couple of findings from that study:

At least 41 of Illinois' 59 senators represent suburban, rural, or other urban constituents, excluding Chicago.

Of the 118 representatives, 84 come from areas outside of the Chicago, with an undetermined number representing middle and upperclass districts in Chicago.

Chicago has over 54% of—all—low income children in the State of Illinois. This means that it probably costs more to provide them with a decent education because of the variety of needs they bring to the school setting. Now, here is more madness for you. In a recent Chicago Tribune poll it was found that 2 out of every 3 suburban residents believe that what's good for Chicago is good for the suburbs. But, in that very same poll of the very same people, they were 9 to 1 against increased taxes for Chicago's schools. And, believe me, if they are against it, then their representatives in the legislature are against it, too. It's called "politics".

Twenty years ago the Kerner Report warned of two Americas, separate and unequal. It is clear to me, at least, that America did not heed that first ominous warning.

Some of you may know about the 1983—only 6 years ago, "Nation At Risk" report and its second ominous warning for the future. What you may not know is that this report on our country's educational problems was the result of a full 2-year study by 18 of the brightest minds in America. They didn't call it "A City At Risk", or "A State At Risk". They didn't even call it "Children At Risk." They called it "A Nation At Risk!" And I quote: "If a foreign power imposed this mediocre education system on our country, we might consider it an act of war!"

A very recent study, America's Shame, America's Hope, reports that 30% of children in our poorest public schools have been adversely affected since the Nation At Risk report. I guess the "America's Shame" study can be considered a third ominous warning.

Will we see Civil War in our major cities in the 21st century? Will AA no longer stand only for Alcoholics Anonymous, but for American Apartheid? Those millions of at risk children, if they remain uneducated, too soon will grow up to become adults in America's dangerous and growing underclass. As adults, not only will they be uneducated and unskilled, they will be hostile. As Owen Butler suggests, in this, the greatest and richest of all countries, how could it be otherwise?

Now there's another study, a major one. It's 600 pages of facts and figures and analysis commissioned by the National Research Council. It is called "A Common Destiny". In this one, a blue-ribbon committee of 22 of our country's leading thinkers and researchers—the Committee on the Status of Black Americans—did their work. What they found is that things have gotten worse. What they found is that "barring unforseen events or changes in present conditions—that is, no changes in educational policies and opportunities * * *, our findings imply several negative developments for Blacks in the near future, developments that in turn do not bode well for American society." So there you have it. A Fourth ominous warning. Tell me, how many ominous warnings do we need before it is indeed too late? How many more studies do we need? It seems we commission studies, then commission new studies to study the studies!

It was heartening to read in President Bush's remarks to the members of the Business Roundtable his view on this particular issue. What he said is what I believe: "We've spent plenty of time studying the problem * * * The time for study is past. It's time to take action." We do have a common destiny. Time is running out!

Education is their only way out, and it is America's only way out. But, if we act decisively, there is hope. And I am convinced that the best hope for a turnaround of our big city school systems lies in replacing politically appointed governing structures with a much less political corporate-style management structure. I agree with former Chicago Board of Education President George Munoz, who describes the school board as "11 unpaid volunteers with no background in this area * * * who are somehow supposed to manage a $2 billion corporation." This from a former President of the Chicago Board of Education mind you.

It is a mystery * * * an almost impossible to understand mystery, as to why our major cities continue to adopt such ineffective measures to correct the educational disaster. It appears that they look for the most unworkable solutions when the obvious one is so obvious.

When, oh when are we going to stop trying to first turn around and then permanently manage our almost bankrupt major city school systems with part-time, unskilled and no or low paid volunteers? When, when, when? We are running out of time.

In a 1989 C/CSA survey of 30 urban school districts we found that 26 of them were elected, and 4 including Chicago were appointed. Their pay runs from nothing in 12 of those cities, with the other 18 ranging from $30.00 a meeting in Detroit, to $25,320 annually in Washington, D.C. The average for members of the 18 paid boards is less than $10,000. Obviously not a single one of them depends for a living on this low paying or no paying job.

How long will we continue to ignore the simple fact that you cannot improve the system to the point of making it highly successful, with volunteer school board members who work part-time and are either appointed or elected, and all having one thing in common—working part-time, unskilled, with meager pay, and not enough legislative authority to change a light bulb without asking permission from the unions.

How long will we continue to avoid the obvious? Let's put skilled people into positions of authority. Let them work full time. Pay them salaries commensurate with those paid in private industry. Most important of all, give them the legislative power to turn the system around. Create a structure to hold them accountable, and I guarantee you, there will be results!

As far as the politics of school boards is concerned, I agree with Xerox Corporations' David T. Kearns, who says in "Winning The Brain Race"—"* * * school boards don't know any more about education than the parents who put them there, which is why * * * relying exclusively on the political process will not improve the schools. What's more, it's wholly at variance with the other learned professions. Can you imagine running hospitals or law practices by majority vote of a fixed political jurisdiction?

He goes on to say: "Once there are performance standards, schools can be encouraged to do it their way in precisely the way corporations do. A corporate CEO expects his division chiefs and manager to innovate and improve on their own. Those that cannot are penalized, just the opposite of most schools today." That's exactly what I was saying over 20 years ago.

The Chicago Tribune recently conducted a 7-month study of the Chicago Public School System. It was one of the most hard-hitting pieces of journalism I've ever read. The newspaper series, which resulted from the study, has now been collected and published by the Tribune as a book, entitled, Chicago Schools, "Worst in America". Here is part of the editorial statement that closes that book:

"What will save Chicago's public schools, the worst in America? Not the Chicago Board of Education. It hasn't the guts or know-how to make changes. Not the superintendent of schools. His bloated bureaucracy soaks up school money and smothers efforts to change. Not the teachers. The Chicago Teachers' Union has a militant interest is only two things—getting more money for its members and preventing even the most incompetent of them from every being fired. Not Chicago's mayor. He doesn't count. Chicago mayors, past and present, have forfeited their role in school management and no longer have the political clout to make a difference. Not the state legislature. Its leaders aren't concerned about Chicago schools, except when they are useful for political deal-making. Not the report on school reform from the high-level Education Summit. Its 45 prestigious members wasted

so much time and goodwill trying to reach a consensus without treading on vested interests that they talked themselves into near-paralysis and an ineffective patchwork of proposals."

On May 21st a Chicago Sun-Times editorial carried the headline, "CEO Type—Not Educator—Needed to Run School." In that article by Sun-Times editorial chief Ray Coffey, it says: "Our $2 billion a year schools are a big business, a labor intensive business, a bloated and badly run business—in fact, if you look at the product, a failing business * * * our most blazingly evident needed is for a managerial someone to run the system—to take charge, shake it up, and shake it out."

I agree with Coffey, except that I believe it will take more than just one skilled manager or CEO to get the job done.

Here's a simple, 3-point plan that I believe will help Chicago and every big city school system take the public education bull by the horns and turn it around:

POINT 1

A greatly strengthened and enhanced education authority, racially balanced, and prescreened for appointment by the Mayor and/or the Governor, comprising top education, business, and civic leaders. The most important function of the Oversight Authority will be to monitor the performance of the Board of Education executive team and to hold them accountable for results.

POINT 2

A full-time, paid central board, which in the corporate world is called the Executive Management Team, pre-screened by the Authority, selected by the Mayor and/or Governor, and comprising a racially balanced group of experts in education, community relations, and business. The educators on the board will manage educational issues related to school improvement; the community relations component will work with parent and neighborhood groups to assist them in developing stronger, more meaningful working relationships with individual schools; and the business component will manage basic business functions within the system, e.g., human resources, real estate management, public relations, finance, legislative, legal, management information systems, union negotiations, etc. And this full-time paid central board will elect a chairman and/or CEO who will report to the Education Authority.

Perhaps the board might even be paid by corporations for a period of time. One leading CEO has told me that the sum of money involved to support a full-time, paid board would be money well spent by Chicagoland corporations.

He felt many would join in support of something they can believe in. Personally I believe that the board could easily be paid with the money saved in streamlining the bloated bureaucracies.

POINT 3

Most important, the education authority and the paid central board must be given the power by our legislatures to do the job unimpeded by present constraints.

You see, I believe the question confronting realistic school reform is not what or why—it's who, and when! I have given you the who with the authority and the full time paid board of experts. The when is right now! And I pray it's not already too late!

Let me say just a few words about the school funding issue, which is so critical to any meaningful reform. It is difficult to predict what the full price tag on big city school reform might be. It depends, I believe, on how many dollars can be diverted by streamlining the bloated school bureaucracies and taking other steps to move more of the dollars which are presently available down to the level of the individual school. It also depends on the extent to which more equitable school aid formulas can be achieved.

Let me add that, on the national level, the Committee for Economic Development plainly states that "any plan for major improvements in the development and education of disadvantaged children that does not recognize the need for additional resources is doomed to failure. The price of action may seem high, but the costs of inaction are far higher." Marion Wright Edelman of the Children's Defense Fund uses just five words to make the same point: "There ain't no cheap grace!" Or, as someone said it, "If you think education is expensive, try ignorance!"

In a recent Chicago Tribune report on the widening gap in school funding for the rich and poor districts throughout the state, the top financial official of the Illinois State Board of Education, Mike Belletire, said: "It is clear that the disparity in revenues is going to get greater—not lesser—over the next 3 or 4 years unless there is some radical change * * *"

So it appears that a major issue—and a very difficult one—has to do with a restructuring of state school finance mechanisms. It's a tough problem.

The article reports that: "McAuley, a tiny one room school district in * * * wealthy DuPage County, spends $10,900 for each of its 26 students."

On the other hand, according to the report, "Pembroke, serving a predominantly black rural township outside of Kankakee, spends $2,100 for each of its 714 students." Belletire's view on this and similar situations throughout the state is: "If you've got that much money that you are willing to put into education, then you should share some of that money with communities that don't have enough money to spend on education."

Like I said, folks, this is a tough one. But it's a problem that will have to be faced by wealthier districts. I believe the truth is that, especially for Chicago, what's good for Chicago is good for the collar counties. But I truly wonder if the counties will ever take this position unless they are mandated to do so by our state legislature.

If the middle and upper class folks in our major cities are to enjoy full confidence in local school reform efforts—and if it is necessary to go to them for a tax increase—the support of the unions and the corporate involvement, hopefully combined with athletic and celebrity America, which is part of the plan I laid out, should go a long way to inspiring the vote for an increase. It is much easier to predict what will happen if state taxpayers are found unwilling to pick up the tab because they lack confidence in the reform plan. In that tragic scenario, the community could well wind up with control of schools that are bankrupt . . . and the state will be ordering dozens of new prisons.

I promised you the news would not be cheerful, so let me wrap this up. I argued my views unsuccessfully in our state capitol throughout the many months which culminated in the passage of Senate Bill 1840.

As for the new school reform legislation, we are continuing to monitor the situation. The big news has been the new agreement between the 7-member interim board and the Chicago Teachers Union, which gave teachers an across the board 5.4% increase—the highest increase for teachers in the past six years. So it appears certain that the shcools will open up on time, and everybody seems happy with that.

Some people are so happy, in fact, that it worries me. According to a July 28th Chicago Sun-Times article, the leadership of the teachers union called the agreement "a real coup". As I said earlier, in my business, I've dealt with unions for over forty years. If in any of those years the unions I have had to deal with called one of our agreements "a real coup", I know that something would be wrong. So that's why this deal with the Chicago Teachers Union worries me. If it's a coup for the unions, there's a problem.

I am reminded of a Chicago Tribune editorial I read, over a year ago, entitled "How To Fix America's Worst Schools". What I remember is this quote: "The Chicago Teachers Union has a militant interest in only two things—getting more money for its members and preventing even the most incompetent of them from ever being fired."

If that editorial statement is correct, and if the Unions are calling this new agreement a real coup, doesn't it make you folks wonder? What did they give up?

They got more money, but what did they give in return? That's what negotiating is supposed to be all about * * * give a little, take a little. But here it looks as though the unions gave a little, and took a lot.

Did they give up tenure? Was the tenure issue ever on the bargining table? The Chicago Tribune's "Worst in America" series was full of examples of downright incompetence on the part of some teachers * * * incompetence protected by tenure and other union agreements having to do with evaluation and remediation issues.

The series reported that, out of the 28,675 teachers in the system, 1, out of 4 are substitutes, and 1 out of 5 are working, in spite of the fact that they have failed or declined to take required certification tests.

One story from the series talks about a teacher by the name of Grace Currin. She had been in the system 30 years. Four different principals tried to fire her for outright incompetence. Her career goal is, and I quote, "to retire at full pension." Yet, she is protected. To heck with the kids!

Another teacher, a suspected child abuser, was bounced around to fifteen different schools over a period of 18 years. 18 years! It was impossible to fire him. He left Chicago and went to teach in Dallas, where they quickly fired him. He came back to Chicago and—guess what—he got his teaching job back! Listen, even after the guy was arrested on charges of criminal sexual assault on two 15-year old boys, the system still couldn't fire him. A year after his arrest, he was still in the system! That's a disgrace.

As I suggested earlier, no business—no school system can be successful if it is forced to keep incompetence. I know there are a lot of peachy teachers out there. We all know that there are plenty of lemons, too. Can you believe that, over a period of 5 years, out of nearly 30,000 teachers, attempts were made to fire only 139 of them? But it's worse than that. According to the Tribune series 99 of those 139 teachers were still in the classroom a year ago, and I'll bet many of them still are. What madness!

So I ask, what did the unions give up? Again, to quote from that hard-hitting Tribune editorial, "what's necessary first of all are radical changes to wrestle the schools

away from the bureaucrats and the unions. The Chicago Teachers Union must be dumped. This is major surgery. It will hurt. The recovery period will be slow. But without it, the schools will not improve." Really, folks, this is the only type of coup we should be interested in. Otherwise, we get change, but no solutions. And the maddening of America will continue.

The next major task we will be monitoring is the October elections of the 595 local school councils called for in the legislation. It will be interesting to see whether the voter turnout will exceed that of New York, where the turnout as I said earlier is normally less than 10%. The new business group, Leadership For Quality Education, is doing all that it can to ensure a greater turnout. But we'll have to wait and see on this one.

A major article in the August 27th Chicago Tribune carried the headline: "Parents Uneasy As Time Nears for School Votes." According to the article: "With seven weeks before the elections, which will be the most dramatic test of Chicago's efforts to improve the city's schools, parents in some predominately black and Hispanic neighborhoods say they are confused about their crucial role and uncertain whether to run for council seats."

Throughout the period of debate leading up to the passage of the school reform legislation, special interest groups testified that the 30 hours of training for the more than 5,000 parents at the system's 595 schools was doable. But here's what the Tribune reported in that same article which pointed out, mind you, that the local school council elections are just seven weeks away: "The (training) efforts have lacked central coordination and have differing strategies, leaving some parents deluged with information that has confused them, while others say that they have not gotten information to understand their new roles . . . The disjointed efforts make it difficult, at best, to estimate how manly communities have received school reform information of any kind."

So there you have it. A piece of school reform legislation whose proponents all agree that its success is highly dependent on the turnout for local school council elections and the quality of people elected to these councils, and the training process isn't even coordinated. What a tragedy! And the greater tragedy is that this situation was so easily predictable.

As for our model school, we are continuing successfully to build solid working relationships with parents, community agencies and institutions, and the public school system. We are very pleased to have added to our board of directors a Chicago public school system District Superintendent. We are in this for the long haul. Locally, our goal is to serve as a resource to families and to join with the public schools and community agencies in the battle to find new cost-effective ways to better educate and to protect the future of all of our children.

In addition, it is my hope that—in the coming year—we still have found the counterpart to Vernon Loucks in another major city, who will take the ball and run with it—just as Mr. Loucks did. I am willing to visit interested corporate leaders in any of our cities, and at my own expense. Creating the school is relatively easy. In fact, most of the work was done, as I stated, by just two full-time, paid people and myself. But if we are to achieve our broader goal of systemic change, it will take an national coalition of prominent people who recognize the stakes and who give enough of a damn to begin to do something about. C/CSA is about building that coalition, with the model schools as the vehicle. We have a plan, and we're ready to travel.

You know, following his visit at our model school, the former Deputy Undersecretary of the U.S. Department of Education, Dr. Linus Wright, wrote this to a very prominent national figure: "I spoke with Mr. Joe Kellman, President of the group, and let him know that his goals are achievable, and I encouraged him to continue this important endeavor. I also encouraged the business community to continue their involvement and support. As you are will aware, I truly believe that corporate America can, with the proper initiative, work with schools to help them become successful.

Let me repeat Ross Perot's words again: "There's no way to do this at the national level. You've got to do it 50 times over."

We have started in Chicago, Illinois. And I certainly hope that, a year from now, I will be able to say we've also started in one or more other cities in this great country.

In closing, I want to tell you about what was to me a shocking phone call and another letter I received following an op ed piece I wrote describing my position on school reform. After Crain's, a Chicago business magazine, published the article, I received a phone call from a Mr. Morrow. He angrily demanded to know why I was having trouble defining who the hell was responsible for those children and their damn parents. I said to him—"Alright, Mr. Morrow, I agree with you. It is the parents' fault. What do you say about us getting together to draft a bill to kill all children whose parents won't get involved in their education?" Blaming the parents is no solution, yet I worry because I am afraid there are millions of Americans who feel the same way Mr. Morrow does.

After the phone call I received his letter. As it turned out, Mr. Morrow was an executive at a mid-sized Chicago company, not some kook. His letter started out by saying: "I consider you to be a very dangerous person." He also said: "The only solution is to destroy the system." And he underlined the word destroy". He concluded in his P.S.: "I also consider you to be a courageous person. This is war."

If Mr. Morrow thinks I am a very dangerous person; and if he thinks I am a very courageous person; and if he calls my effort at school reform war, should I hire a bodyguard? Is it dangerous to be involved in school reform? Isn't this the United States of America?●

IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

● Mr. LIEBERMAN. Mr. President, I would like to explain why I voted to acquit Judge Alcee L. Hastings of each of the articles of impeachment brought against him by the House of Representatives. Before addressing these issues, however, I would like to thank the chairman and vice chairman of the Impeachment Trial Committee for their fine and distinguished work in organizing and supervising the work of the committee and its staff. In addition, I also want to thank the committee staff, especially counsel Elaine Stone and Mark Klugheit, administrator Anthony Harvey, and Senate Legal Counsel Michael Davidson and his staff, as well as my counsel, John Nakahata and Aaron Bayer, for the assistance they have provided me throughout these proceedings.

Having had the opportunity to serve on the Impeachment Trial Committee on the articles of impeachment against Judge Hastings, I have come to appreciate the wisdom of placing the constitutional responsibility for adjudicating impeachments in the Senate. I hope the Senate will not consider further delegating, because of time pressures, its important role of deciding whether to remove Federal judges and officers. The Senate's responsibility is unique. In my view, it requires a duly constituted elected body such as this one to act as the public's representatives in judging whether an elected or appointed official should remain in office.

In deciding how to vote, I considered three questions: First, whether double jeopardy bars trial of Judge Hastings on the articles of impeachment; second, what standard of proof should be applied in order to vote to convict; and third, whether the House has met its burden of proof. For me, the standard of proof was dispositive. After listening to the evidence, I concluded that, had I been sitting on the jury at Judge Hastings' criminal trial, I could not have found him guilty beyond a reasonable doubt. But I also doubted Judge Hastings' version of the facts at several significant junctures. I cannot say, however, that the evidence clearly convinced me that Judge Hastings was guilty of the offenses alleged in the articles.

Because I believe conviction requires clear and convincing evidence of guilt, I voted not guilty on each article of impeachment. While I thought the quality of advocacy by the House of Representatives was outstanding, the quality of evidence was simply not sufficient for me to vote to remove Judge Hastings from office.

I. DOUBLE JEOPARDY

This past February, Judge Hastings moved to dismiss articles I through XV on grounds that the double jeopardy clause of the fifth amendment bars trial before the Senate on these articles. The Senate denied that motion by a vote of 93 to 1. That decision was amply grounded in constitutional history and law, as the Senate has argued in its brief filed in the U.S. Court of Appeals for the District of Columbia Circuit.[1]

On the issue of double jeopardy, I find it dispositive that impeachment is a unique constitutional process separate from the functions exercised by

[1] Brief of Appellees, *The Hon. Alcee L. Hastings v. United States Senate*, App. No. 89-5188, at 22-33 (D.C. Cir. filed Sept. 11, 1989) [hereafter "Sen. Br."].

the executive and judicial branches. A criminal prosecution determines whether a defendant will be subject to criminal punishment for alleged misconduct, including deprivation of personal liberty or property, but cannot result in removal from Federal office. Conversely, in impeachment proceedings, we determine only whether the accused will be removed from office as a result of alleged misconduct and possibly be barred from holding future Federal office; we cannot impose fines or incarceration. (See J. Story, 2 "Commentaries on the Constitution," §§ 780–781 (1833).)

Justice Story, in his *"Commentaries on the Constitution,"* noted the distinction between impeachment and judicial processes and concluded:

> There is wisdom, and second policy, and intrinsic justice in this separation of the offence, at least so far, as the jurisdiction and trial are concerned, into its proper elements, bringing the political part under the power of the political department of the government, and retaining the civil part for presentment and trial in the ordinary forum. Id. at § 784.

A consequence of this division of functions, however, is that a public official may be subject to trial twice, once in a court of law on criminal charges and once before the Senate upon an article of impeachment regarding his continuation in office. Thus, I do not find the double jeopardy clause bars trial by the Senate as a court of impeachment.

II. STANDARD OF PROOF

For me, a central question was and is what standard of proof should I apply? While "standard of proof" is a term of legal art, it is not merely a lifeless slogan or formula. The standard of proof is the way our Anglo-American system of jurisprudence has chosen to help juries and judges, and in this instance Senators, to do justice. Here, it disciplines each Senator by demanding a specific degree of certainty before voting for conviction, thereby assuring the respondent due process and freedom from undue speculation.[2]

Any discussion of standard proof presumes that each Senator will be weighing the evidence as a trier of fact would in our courts. This assumption itself is problematic since impeachment trials are only partially judicial in nature. As Alexander Hamilton wrote in the Federalist No. 65, impeachment trials "are of a nature which may with peculiar propriety be denominated political, as they relate to injuries done immediately to the society itself. The prosecution of them, for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties, more or less friendly or inimical, to the accused." The Federalist No. 65, at 331 (G. Wills, ed. 1982). Moreover, because our judgment here is not subject to review by the courts, if a Senator decides to vote to convict for ideological or political reasons, or because of some other factor unrelated to the allegations made and the evidence presented, he or she has the power to do so regardless of whether the evidence against the respondent is slight or overwhelming. The Constitution itself contains the only effective safeguard against such a politically motivated removal: it requires a majority vote of the House of Representatives to impeach and a two-thirds vote of the Senate to convict. But because I believe strongly that our proper role here is to act as a quasi-judicial trier of fact and law, and because I am aware that our decision in important cases implicates important public values, I find it necessary to determine the proper standard of proof to apply.

The Constitution and the rules of the Senate are silent on the standard of proof each Senator must apply. The Senate has previously considered this question on two occasions without enunciating a uniform standard. When impeachment proceedings against President Nixon were contemplated, Senator Mansfield proposed a rule, which was never adopted, requiring clear and convincing evidence for conviction. During our consideration of the articles of impeachment against Judge Harry. E. Claiborne, Judge Claiborne moved that the Senate designate "beyond a reasonable doubt"—the standard in criminal cases—as the standard of proof. The Senate rejected his proposal by a 17 to 75 vote. (132 Cong. Rec. S15507 (1986).) At that time, however, the Presiding Officer ruled each Senator remained free to apply any standard of proof, including a "beyond a reasonable doubt" standard. Thus, the Senate itself has not determined the proper standard of proof.[3]

Without benefits of precedent, the standard of proof must be determined by its function and purpose. Because it specifies the degree of certainty required to convict, the standard of proof allocates the risk of error between the officeholder and the public, which the Senate represents.[4] That allocation is best determined by weighing the interests affected by an impeachment trial and allocating the risk of error accordingly.

In deciding upon a standard of proof to apply, we therefore have to ask ourselves what values and principles are at stake and what relative weight we give to them. Clearly, one value is the honesty and integrity of the government. Also implicated are the independence of the judiciary, and the possible harm to the individual officeholder. And we must take care that the public, for whom we act as agents in this process, will view our actions as legitimate and not arbitrary. I will now examine each of these interests in more detail.

A. THE INTEGRITY OF THE JUDICIARY

The impeachment process was included in the Constitution "to provide a means 'for defending the Community.'" Sen. Br. at 23, *quoting* M. Farrand, *The Records of the Federal Convention of 1787*, at 65 (rev. ed. 1966) (Madison). Impeachment is a "national inquest into the conduct of public men" and "the subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or in other words from the abuse or violation of some public trust." *The Federalist No. 65*, at 331 (Hamilton) (emphasis in original). And while the Constitution enumerates very few specific crimes warranting removal from office, bribery—which is at issue here—is one such offense.

The standard of proof we adopt must, therefore, protect and safeguard the public's interest in an honest government. Standing alone, honesty in government argues for a lower standard of proof, which is to say that any taint we see in a public official—if we are most interested in honesty in government—ought to lead us toward a conclusion that the official should be removed. A lower standard of proof reduces the risk that a corrupt officeholder will remain in office.

The other factors, however, suggest that a higher standard of proof would be appropriate.

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[2] *See Addington v. Texas*, 441 U.S. 418, 423 (1979) ("The function of a standard of proof, as that concept is embodied in the Due Process Clause and in the realm of factfinding, is to 'instruct the factfinder concerning the degree of confidence our society thinks he should have in the correctness of factual conclusions for a particular type of adjudication.'").

[3] The history of impeachment proceedings in England prior to the nineteenth century also provides no guidance on what the standard of proof should be. Moreover, even if the House of Lords had articulated a standard of proof, such a standard would not necessarily be appropriate in the context of American impeachment trials. English and American impeachments carried very different consequences for the accused: "Unlike the practice in England, where impeachment was viewed as a criminal process resulting in the imposition of criminal, including capital, punishment, the Framers deliberately confined the consequences of impeachment "to a removal from and disqualification for office, thus limiting the punishment to such modes of redress as are peculiarly fit for a political tribunal to administer, and as will secure the public against political injuries." Sen. Br. at 24, *quoting*, 1 J. Story, *Commentaries on the Constitution*, § 812, at 591 (5th ed. 1905).

[4] Each of the four common law standards of proof represents a different allocation of the risk of error: by the standard of "proof beyond a reasonable doubt," society "imposes almost the entire risk of error upon itself" (*Addington v. Texas*, 441 U.S. at 423); the standard of clear and convincing evidence allocates to society most, but not all, of the risk of error; under the preponderance of the evidence standard, society and the officeholder would share the risk of error almost equally; and a probable cause standard would assign most of the risk of error to the accused officeholder.

B. INDEPENDENCE OF THE JUDICIARY

In a governmental structure as carefully balanced as our own, other governmental considerations are affected. We must be especially careful not to undermine judicial independence, which the Framers viewed as "essential" if the courts are to serve as "bulwarks of a limited constitution against legislative encroachments," and "to guard the constitution and the rights of individuals. * * *" The Federalist No. 78, at 397 (Hamilton).

The standard of proof will not, for reasons previously discussed, insulate a judge from a purely political attack by a majority of the House and two-thirds of the Senate. A higher standard of proof will, however, give an innocent judge some protection against evidence "trumped up" or otherwise marshalled in a politically motivated attempt to secure his or her removal. In this regard, I note that the House need not be the perpetrator of such a politically motivated attempt to remove a judge, as the evidence may be distorted or manipulated as early as the initial criminal investigation.

C. THE OFFICEHOLDER'S PRIVATE INTERESTS

In addition to the public interests to be safeguarded, the personal interests of the individual involved, while not conclusive, are also important. He or she has a right to due process. He or she has a right to be protected from public humiliation and, indeed, from the historic infamy to which he or she would be consigned by a conviction.

Although an accused Federal judge has some interest in retaining his or her life-tenured position, I do not believe that interest is of much weight here. Properly considered, life tenure appertains to the office, not to the person holding the office. The purpose of judicial life tenure is to ensure the "firmness and independence" of the judiciary. *See The Federalist No. 77,* at 393.

The accused judge's interest in his or her reputation is a much more substantial reason for applying a higher standard of proof. Our courts, for example, judge criminal cases by a standard of beyond a reasonable doubt in part because of the stigma imparted by a conviction. *In re Winship,* 397 U.S. 358, 363 (1970). Similarly, civil cases involving fraud or other quasi-criminal wrongdoing frequently are judged by the clear and convincing standard to protect the accused's reputation. (*Addington* v. *Texas,* 441 U.S. 418, 424 (1979).) [5]

D. THE LEGITIMACY OF THE IMPEACHMENT PROCESS

The legitimacy of the impeachment process to the public we serve is another important value at stake here, and that to me also argues for a higher standard of proof. As the representatives of the people of our States, whatever we do here must be credible and fair to them. The public must perceive that we are not acting arbitrarily or improperly.

The Constitution itself, by requiring a majority vote of the House to impeach and a two-thirds vote of the Senate to convict, has in part addressed this need to give the impeachment process legitimacy. Congress can only remove a person from office where it has a substantial consensus.

In considering the legitimacy of our actions to the public at large, however, we also must be cognizant of the standards we use to govern ourselves. Both the Committee on Standards of Official Conduct of the House of Representatives and the Senate Select Committee on Ethics require proof by clear and convincing evidence before finding a violation of ethics rules by a member of the House or Senate.[6]

It is not necessarily incongruous for us to apply a higher standard in disciplining Members of this body than in adjudicating impeachments. Unlike Federal judges, Members of the House and Senate face judgment by the electorate whenever they stand for election. Thus, if we fail to take disciplinary action because we apply a higher standard of proof, a Member's constituents can remove him or her and be free of corrupt or errant representation. Nevertheless, the appearance of arbitrariness that would result from applying a less exacting standard of proof for removing a judge from the bench than we demand for disciplining misconduct by our own colleagues strongly argues for use of the clear and convincing standard for adjudicating impeachments.

E. THE EFFECT OF A PRIOR ACQUITTAL ON THE STANDARD

Judge Hastings, in his brief, urges that his prior acquittal requires application of a high standard of proof. Brief for Respondent Judge Alcee L. Hastings, at 4-5 [hereafter "Hastings Post-Trial Br."]. I do not believe this is true, either as a matter of law or policy. It is especially important to recall that criminal trials and the "National Inquest" of impeachment are separate processes that protect separate public interests. As I discussed previously, impeachment only addresses whether the officeholder has violated the public trust and is therefore unfit to continue in office.

As a matter of law, the prior verdict of not guilty establishes only that a jury found there was a reasonable doubt that Judge Hastings conspired to receive a bribe. The jury's verdict is not, however, an affirmative finding that Judge Hastings did not commit the acts alleged. I believe therefore that any Senate judgment is logically consistent with the jury's verdict unless the Senate finds Judge Hastings guilty on the bribery conspiracy charges beyond-a-reasonable-doubt.

Deference by the Senate to the jury's verdict neither strengthens the jury system nor adequately protects the public interests safeguarded through impeachment. The jury verdict reminds us that Judge Hastings may be innocent, but it does not relieve us of our duty to examine the facts, weigh the evidence, and determine Judge Hastings' fitness to remain in office.

F. THE BALANCE OF INTERESTS

Upon weighing the competing interests and evaluating the relative severity of an erroneous outcome, I adopt for my own use the standard of clear and convincing evidence. The beyond a reasonable doubt standard fails sufficiently to recognize impeachment's purpose of defending the community against corrupt judges; it is too deferential to the judge. The probable-cause standard fails to respect the potential for conviction of judges on "trumped-up" charges, society's interest in retaining skilled and honest jurists, and the damage to the innocent jurist's reputation wrought by an erroneous conviction.

On balance, the factors discussed above—protecting judicial independence, the judge's reputation, and the legitimacy of the impeachment process—lead me to choose the clear-and-convincing-evidence standard over preponderance of the evidence. I am particularly troubled by the prospect of applying a lower standard of proof for the removal of a Federal judge than for disciplining a Member of the Senate. I do not believe the public would accept any reasons we proffered for doing so.

Several additional points bolster my decision to use the clear-and-convincing-evidence standard. First, by requiring a two-thirds majority to convict, the framers evinced an intent that removal of a Federal officer through the impeachment process be difficult. Significantly, it shows that the framers did not view the need to protect the integrity of the judiciary as an interest

[5] In both criminal and civil cases, a higher standard of proof is often also invoked where a judgment may adversely affect or burden a significant right. Thus, proof by clear and convincing evidence is needed to terminate parental rights (*Stantosky* v. *Kramer,* 455 U.S. 745 (1982)), to deport an alien (*Woodby* v. *INS,* 385 U.S. 276 (1966)), or to involuntarily commit a person in civil proceedings (*Addington* v. *Texas,* 441 U.S. 418 (1979)). These cases are distinguishable from impeachment because the judge in an impeachment proceeding has no personal right to hold office.

[6] Rule 16(e) of the Committee on Standards of Official Conduct of the House of Representatives ("At a disciplinary hearing the burden of proof rests on the staff with respect to each count to establish the facts alleged therein clearly and convincingly by the evidence that it introduced."); *Herman E. Talmadge Investigation: Report of the Senate Select Committee on Ethics,* S. Rep. No. 337, 96th Cong., 1st Sess. 84 (1979) (ruling, upon motion by respondent, that "the 'clear and convincing' standard is appropriate for weighing all the evidence which is introduced in the forthcoming hearings.").

so strong that it overwhelmed all other considerations.

In addition, the experience and judgment of the States in judicial disciplinary proceedings support application of the clear-and-convincing -vidence standard. Most of the States, including my own State of Connecticut, conclude that the gravity of the matter and the severity of the impact upon the judge warrant application of the clear-and-convincing-evidence standard. See Council on Probate Judicial Conduct re: Kinsella, 476 A.2d 1041, 1048 (Conn. 1984); In re Miera, 426 N.W.2d 850, 854 (Minn. 1988) ("the clear and convincing standard arises from an appreciation of the gravity of a disciplinary proceeding and the magnitude of the loss to which a disciplined judge is subjected.").[7]

Finally, our courts have found the clear-and-convincing-evidence standard appropriate in cases where factual findings implicate important constitutional values. In libel cases brought by public persons, for example, the courts require clear and convincing proof that a false statement was made knowingly or with reckless disregard for its truth. *Gertz* v. *Robert Welch, Inc.*, 418 U.S. 323, 342 (1974). That standard proof is used to balance the first amendment's interest in a vigorous debate on public issues with protection of private individuals' reputations. *Hutchinson* v. *Proxmire*, 443 U.S. 111, 133-134 (1979). Here, I believe the clear-and-convincing-evidence standard similarly would accommodate the framers' desire to maintain judicial independence while continuing to protect the public against corrupt officeholders.

On balance, therefore, conclude that we need to find the evidence against Judge Hastings to be clear and convincing in order to convict him.

[7] *Also In re Hanson*, 532 P.2d 303, 307-308 (Alaska 1975); *McComb v. Commission on Judicial Performance*, 19 Cal.3d Supp. 1, 11, 564 P.2d 1, 6 (1977); *In re Jones*, 728 P.2d 311 (Colo. 1986); *In re Crowell*, 379 So.2d 107, 109 (Fla. 1979); *In re Rome*, 218 Kan. 198, 542 P.2d 676, 684 (1975); *Nicholson v. Judicial Retirement & Removal Commission*, 573 S.W.2d 642, 644 (Ky. 1978); *In re Daniels*, 340 So.2d 301, 306-307 (La. 1976); *In re Diener & Broccolino*, 268 Md. 659, 670, 304 A.2d 587 (1973), *cert. denied*, 415 U.S. 989 (1974); *In the Matter of Troy*, 364 Mass. 15, 306 N.E.2d 203, 235 (1973); *In re Nowell*, 293 N.C. 235, 247, 237 S.E.2d 246 (1977); *In the Matter of Field*, 281 Or. 623, 629, 576 P.2d 348 (1978); *Matter of Braig*, 520 Pa. 409, 554 A.2d 493, 495 (1989); *In re Friday*, 263 S.C. 156, 159, 208 S.E.2d 535 (1974); *Matter of Heuermann*, 90 S.D. 312, 317, 240 N.W.2d 603 (1976); *Matter of Deming*, 108 Wash.2d 82, 736 P.2d 639 (1987); *In re Pauley*, 314 S.E.2d 391, 399 (W.Va. 1983); *Matter of Johnson*, 568 P.2d 855, 865-866 (Wyo. 1977); *contra In re Walton*, 676 P.2d 1078, 1085 (questioning *Hanson*); *In re Terry*, 262 Ind. 667, 670-71 n.2, 323 N.E.2d 192, *cert. denied*, 423 U.S. 867 (1975) (preponderance); *Matter of Loyd*, 384 N.W.2d 9 (Mich. 1986) (preponderance); *Matter of Duncan*, 541 S.W.2d 564, 569 (Mo. 1976) (preponderance); *Matter of Seifert*, 491 N.Y.S.2d 145 (N.Y. 1985) (preponderance); *In re Brown*, 512 S.W.2d 317, 319-20 (Tex. 1974); *Matter of Corruzi*, 95 N.J. 557, 472 A.2d 546 (N.J. 1984) (beyond a reasonable doubt).

III. THE ARTICLES OF IMPEACHMENT

Having selected the standard of proof, the next question is whether the House of Representatives presented clear and convincing evidence supporting any of the articles of impeachment. Although some of the evidence on the bribery conspiracy and false statement articles is troubling, I do not find the evidence to be clear and convincing.

With respect to all the articles, the evidence seems inconsistent with the line of Judge Hastings' life. Judge Hastings is a man born of modest means, who worked hard to get himself through college and law school. A community activist in every sense of the word, Judge Hastings was active in the National Bar Association, in his community in south Florida, and in politics and civic life. All the witnesses who testified to his judicial skills and his courtroom demeanor described him as an outstanding trial judge and a man of integrity. We must consider the articles of impeachment against this background.

I will consider first those articles which I find to be insubstantial or without merit, including article XVI (disclosure of wiretap information), articles X-XIII (telephone calls to Pride), and article XIV (telephone calls from the L'Enfant Plaza Hotel). I will then turn to the more difficult articles which allege a bribery conspiracy (article I) and related false statement allegations (articles II-VII, XV), and fabrication of evidence (article IX).

A. ARTICLE XVI (DISCLOSURE OF WIRETAP INFORMATION)

In article XVI, the House of Representatives accuses Judge Hastings of disclosing information learned in the course of supervising a confidential wiretap to Stephen Clark, mayor of Dade County, an individual whose name had surfaced in those wiretaps. According to the House, while both were attending a breakfast meeting at which Judge Hastings was the keynote speaker and Mayor Clark received an award, Judge Hastings told Mayor Clark to "Stay away from Kevin Gordon, he's hot, he's been using your name in the Hialeah area." 2A Hearings Before the Senate Impeachment Trial Committee, S. Hearing No. 194, 101st Cong., 1st sess., at 1123 (1989) [hereafter *"Hearings"*].

A significant problem for me with respect to article XVI was the lack of a sufficient motive for Judge Hastings to tell Mayor Clark to stay away from Kevin Gordon. There is no evidence that Judge Hastings and the mayor were close friends or political allies.

In addition, Mayor Clark's direct testimony that Judge Hastings told him to "stay away from Kevin Gordon" is undermined significantly by other evidence. While Mayor Clark testified that Judge Hastings revealed this information to him after Judge Hastings spoke that morning, the evidence showed that Judge Hastings left the auditorium by a rear entrance immediately following his speech in a manner in which he could not have spoken to Mayor Clark. Furthermore, the telephone call the House claims Mayor Clark made after Judge Hastings' alleged leak occurred at 8:58 a.m., before Judge Hastings' speech. Report of the Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings, S. Rept. No. 146, 101st Cong., 1st Sess. 137 (1989) [hereafter "Report"].

Given the lack of a motive and the contradictory nature of the central evidence, I cannot conclude that the allegations in article XVI have been proven by clear and convincing evidence.

B. ARTICLES X THROUGH XIII (CALLS TO HEMPHILL PRIDE)

Articles X through XIII allege that Judge Hastings falsely testified during his trial that certain telephone records reflected calls from him to Hemphill Pride in South Carolina. The House contends that Judge Hastings made these false statements in a deliberate attempt to bolster his claim that his conversation of October 5, 1981 with William Borders was a conversation about providing assistance to Hemphill Pride. Post-Trial Memorandum of the House of Representatives, at 111 (filed Sept. 25, 1989) [hereafter "House Post-Trial Br."]. The House further contends that Judge Hastings lied about these telephone calls to support his claims that the "letters for Hemp," which he introduced at his trial, were not fabricated, as the House contends. Id.

Regardless of whether Judge Hastings knowingly lied about the nature of these calls, they do not strike me as being impeachable offenses. I find these calls to be of little significance. In any event, I do not believe the evidence establishes that Judge Hastings knew at the time that his testimony was false. It is equally plausible that the judge erred in his testimony. Thus, had we voted on these articles, I would have voted to acquit.

C. ARTICLE XIV (CALLS ON OCTOBER 9, 1981)

Article XIV alleges that Judge Hastings falsely testified at his trial that on October 9, 1981, prior to his return to Fort Lauderdale, FL, Judge Hastings called his mother and Patricia Williams from the L'Enfant Plaza Hotel in Washington, DC. Judge Hastings acknowledges that he may have been mistaken about the timing of his calls to his mother and Ms. Williams. 2B Hearing at 2353.

Even if Judge Hastings' testimony about these calls was factually untrue, I do not find his misstatements to be material. Although Judge Hastings testified both at his 1983 trial and before the committee that he returned

home in part because he had spoken with his mother, who was hysterical, he also testified that he returned home at Hemphill Pride's suggestion in order to face any allegations on his home court. 2B Hearing at 2266. Pride, in his testimony, confirmed that he urged Judge Hastings to return to Florida before speaking with the FBI. 2A Hearing at 695. See also Report at 116-117.

Because I find Pride's testimony to be compelling, I do not believe Judge Hastings' case, either in 1983 or now, is strengthened by the alleged misstatements concerning the timing of his calls to his mother and Ms. Williams. Accordingly, I would have voted to acquit Judge Hastings on article XIV.

D. ARTICLES I-VIII, XV (BRIBERY CONSPIRACY)

Articles I-VIII and XV focus on the essential elements of the House's allegations that Judge Hastings participated in a conspiracy to receive a bribe. As outlined in these articles, the House alleges that from sometime in the first half of 1981, Judge Hastings and William Borders agreed that Borders would attempt to solicit a bribe from two defendants before Judge Hastings, Thomas, and Frank Romano. Articles I-II. On September 12, 1981, Borders met with an FBI agent, H. Paul Rico, who was posing as Frank Romano. At that meeting, Borders agreed that Judge Hastings would dine at the Fountainebleau Hotel on September 16, and that Rico would thereafter pay a $25,000 "down payment." The House contends Borders and Rico agreed that 10 days after Borders received the down payment, Judge Hastings would issue an order returning a substantial amount of property. Then, following payment of the balance of the $150,000 "bribe" and the filing of a motion by the Romanos to mitigate sentence, Judge Hastings was to reduce the Romanos' sentences to eliminate any time in jail. House Post-Trial Br. at 17; see articles III-IV.

Following that September 12 meeting, the House alleges that Borders returned to Washington, DC, according to a prearranged plan with Judge Hastings, in order to report to Judge Hastings on Border's meeting with Rico. See article VI. The House contends that Judge Hastings then dined at the Fountainebleau Hotel on September 16, 1981 in order to fulfill Border's promise to Rico that Judge Hastings would do so as a "show of proof." See article V. After Borders received the $25,000 "down payment," the House argues, Judge Hastings on October 5, 1981, ordered his law clerk to complete the order returning approximately $845,000 in previously forfeited property to the Romanos and, that same day, confirmed in a coded conversation with Borders the receipt of the down payment and the arrangements for Borders to obtain the balance from Rico. See articles VII-VIII.

The House further contends that on October 9, 1981, after Borders was arrested, Judge Hastings fled Washington, DC, by way of Baltimore-Washington International Airport in an effort to elude the FBI. See article XV. The House argues that Judge Hastings fled in order to have time to concoct a viable alibi, and that his flight therefore is strong evidence of guilt. House Post-Trial Br. at 87-88.

It is extremely difficult to evaluate the House's allegations. While there is much direct evidence of illicit activity by William Borders, there is little evidence to tie Judge Hastings to Borders' actions. I find much of the evidence of contacts or attempted contacts between Judge Hastings and Borders, especially those drawn from telephone records, to be inconclusive at best. The House's case must therefore stand or fall on the strength or weakness of its evidence on the few key events of September and October 1981 that directly involve actions by Judge Hastings.[8] I now turn to those significant events of September and October 1981.

1. THE DINNER AT THE SHERATON

In considering these allegations in light of the evidence, I immediately dispose of the House's allegation that Judge Hastings expected Borders to arrive at the Washington Sheraton on September 12, 1981, as a prearranged part of their alleged bribery scheme. See article VI. The committee heard from each of the people, other than Borders, who joined Judge Hastings for dinner that evening, and the testimony was contradictory as to whether they expected Borders to appear. Report, at 64-66. The most that can be established from the evidence is Borders had the opportunity to tell Judge Hastings that he needed to appear at the Fountainebleau Hotel on September 16. Judge Hastings admitted as much when he testified that Borders, in separate conversations on September 13 and 14, told Judge Hastings that he would be at the main dining room of the Fountainebleau Hotel in Miami Beach, FL, at 8 p.m. on September 16, 1981. Report, at 66.

2. THE DINNER AT THE FOUNTAINEBLEAU HOTEL

This brings me to the first significant point in the House's account of Judge Hastings' alleged conspiracy with William Boarders that actively involved Judge Hastings, the September 16, 1981 dinner at the Fountainebleau Hotel. Judge Hastings testified that he went to the Fountainebleau that evening expecting to meet Borders and to socialize with him, and not as part of a conspiracy. 2B Hearing at 2247. I found the evidence presented by the House to rebut this testimony, and Judge Hastings' apparent inability fully to reconcile that testimony with his actions that evening to be troubling. I cannot, however, conclude that the evidence presented by the House amounted to clear and convincing evidence that Judge Hastings dined at the Fountainbleau Hotel in furtherance of a conspiracy with William Borders.

The House contends that Judge Hastings' actions on September 16, 1981, belie his testimony that he expected to meet Borders at the Fountainebleau that evening. As the House points out, Judge Hastings took a date to dinner with him, he did not tell her that he was expecting to see Borders, he only made reservations for two for dinner, and he did not object when two place settings were removed. Moreover, he did not inquire after Borders at the hotel desk or attempt to have him paged. Report, at 67-68.

Judge Hastings' explanation of these facts was unconvincing. Before the committee, Judge Hastings stated that he made two reservations for dinner because he only expected to pay for two dinners, which frankly makes little sense. 2B Hearings, at 2248. His further explanation that he did not know whether Borders would eat because Borders had not eaten on some other occasions (2B Hearings, at 2464), and that he was doubtful Borders would appear because Borders had failed to show at a dinner in Washington, DC in July 1981 (Hastings Post-Trial Br., appendix C at 95) are less than persuasive. The explanation offered by his counsel at final argument and in appendix C to his brief—that he did not tell his date about possibly meeting Borders or object to the removal of the place settings, or make a more concerted effort to find Borders because Judge Hastings did not want to be embarrassed in front of Ms. Thompson—while plausible, lacks any support in Judge Hastings' own testimony.

Judge Hastings testified, on the other hand, that he told the maitre d' and hostess he was waiting for Borders, although Essie Thompson, his date, did not overhear such a conversation. The House does not dispute Ms. Thompson's testimony that, after the Judge Hastings got up and walked around the restaurant and into an adjacent lounge, he told her that he had been looking for some friends from Washington, DC. 2A Hearings at 521.

I cannot find the evidence concerning Judge Hastings' dinner at the Fountainebleau Hotel to be clear and

[8] Prior to September 1981, the only actions taken by Judge Hastings which the House alleges to be in furtherance of the conspiracy are the continuance of the Romano case on May 11, 1981, and the imposition on the Romanos of a substantial jail term at the July 8, 1981, sentencing. Because the continuance was requested by Neal Sonnett, counsel for the Romanos, and the jail term was requested by the prosecutor and was recommended in the presentence report, those actions are not evidence that Judge Hastings was Borders' co-conspirator.

convincing proof of his participation in the alleged conspiracy with Borders. While this showing might be clear and convincing if accompanied by other strong evidence of a bribery conspiracy, as presented here it does not reach that threshold.

3. THE OCTOBER 5 HASTINGS/BORDERS TELEPHONE CALL

The next significant step in the House's chronology of the alleged conspiracy was Judge Hastings' order to his law clerk on October 5, 1981, and his allegedly coded telephone conversation with William Borders. Standing alone, the order to the law clerk to complete the forfeiture order in United States versus Romano seems unremarkable, especially in light of the undisputed fact that Jeffrey Miller was due to leave Judge Hastings' employ within the month. The October 5 instruction by extent that it serves to bolster other, stronger evidence of a conspiracy.

The October 5 conversation between Judge Hastings and William Borders is stronger evidence if one accepts the House's view that this conversation was a coded discussion of the bribery conspiracy. Here again, while I find aspects of Judge Hastings' explanations of this conversation troubling, I do not believe the House has demonstrated by clear and convincing evidence that this conversation was part of the alleged conspiracy.

What is troubling is that the House's explanation of that conversation, which is reprinted in full on page 83 of the committee's report, dovetails with the general outline of events as they unfolded in the undercover bribery investigation. Considering only the language of the conversation, it is plausible that, as the House contends, when Judge Hastings told Borders, "I've drafted those ah, ah, letters, ah, for Hemp," he was referring to the forefeiture order in the Romano case that he had ordered his law clerk to finish preparing. It is also plausible that when Judge Hastings, asked Borders, "did you hear * * * from him after we talked?" he was inquiring about the status of Borders' dealings with Rico, and that Borders' response "I talked to him and he, he wrote some things down for me. * * * And then I was supposed to go back and get some more things" could refer to Borders' receipt of the down payment from Rico and his plan to collect the remainder of the bribe following issuance of the Romano forfeiture order. Pride's testimony that he did not recall discussing his financial condition with Borders when he and Borders met in a coffee shop in Washington, DC in early September 1981 (2A Hearings, at 732-733), and that he did not write anything down for Borders, lends support to this interpretation of the October 5 conversation.

Judge Hastings' own explanation of this conversation in some ways undermines his explanation that this simply was a conversation about letters of support for Hemphill Pride. It stretches the imagination to believe, as Judge Hastings testified, that Borders was prodding him in almost every conversation to write letters soliciting support and money for Hemphill Pride from March 1981, and especially after July 1981, until October 1981. Moreover, Judge Hastings is hurt by his own inability to tell the committee what "financial information" Borders was to gather from Pride, by his admission, that, at the time of that conversation he did not know Pride had judgments levied against him (2B Hearings at 2420, 2474-75), and by his failure to seek from Borders, during the conversation, the preliminary results of Borders' initial discussion with Pride (id. at 2428-29, 2490). Judge Hastings' answer that this was a common subject of conversation between Borders and himself (id. at 2490) is hard to square with these facts.

Thus, I am again left with doubts about Hastings, explanation to the committee. Several factors, however, prevent me from moving from this concern to a finding by clear and convincing evidence that the October 5 conversation was a coded conversation about the alleged bribery scheme. First, the House relied heavily upon the expert testimony of a linguist, Dr. Robert Shuy, to establish that the October 5 conversation was coded. I found Dr. Shuy's testimony to be unpersuasive and not generally scientifically recognized.

Second, the time of the October 5 conversation is not consistent with the conspiracy as alleged by the House. Borders received the $25,000 down payment from Rico on September 19. On September 20 or 21, Judge Hastings and Borders spoke by telephone. Report, at 77. If Judge Hastings and Borders were conspirators, they presumably would have discussed receipt of the down payment at that time. There would have been no need for Judge Hastings to reconfirm Borders' receipt of the down payment during the October 5 telephone conversation.

The House also fails to provide a coherent explanation for Borders' failure to attempt to contact Judge Hastings between September 20 or 21 and, at earliest, October 2, 1981. The House further leaves unaddressed Judge Hastings' failure to issue the Romano forfeiture order within 10 days of Borders' receipt of the down payment on September 19. September 29 came and went without the judge issuing the order and without any calls by Borders inquiring about why Judge Hastings was delaying the issuance of the order. These are, as Judge Hastings points out, significant gaps in the House's account of events.

Also lacking is a clear motive for Judge Hastings to conspire with Borders. As previously discussed, Judge Hastings was by all accounts a man of integrity. Even the FBI, at the time it investigated the bribery allegations, concluded that Judge Hastings lived within his means as a Federal judge. There was no testimony that Judge Hastings had a gambling or drug problem. According to the line of his life, Judge Hastings was not a man for whom money seemed extremely important.

Finally, it seems relevant that Judge Hastings' actions in the Romano case were consistent with the law at that time. The House concedes that the order issued in the Romano case on October 6, 1981, returning forfeited property was compelled both by the Fifth Circuit's decision in U.S. versus Martino, and by its later decision in U.S. versus Peacock. The fact that Judge Hastings may initially have been disinclined to follow Martino, does not make his decision to follow Martino in the wake of Peacock suspect.

In light of the inconsistency of this evidence, despite the fact that Judge Hastings' explanations trouble me, I cannot find clear and convincing evidence that the October 5, 1981, conversation between Judge Hastings and William Borders was a coded conversation concerning the alleged bribery conspiracy.

4. "FLIGHT"

The final step in the House's chronology of the alleged conspiracy is Judge Hastings' alleged flight from Washington, DC, to Fort Lauderdale, FL, on October 9, 1981. Without a doubt, it is suspicious.

Judge Hastings addresses this issue in two ways. He admits he panicked. This panic, Judge Hastings contends, did not result from a guilty conscience, but from his experiences with the FBI while a practicing attorney and from, to put it frankly and in a way Judge Hastings deliberately avoided, his experience and perspective as a black man. I find his explanations to be plausible.

Moreover, Hemphill Pride's testimony that he advised Judge Hastings to return to Florida to get a home court advantage in facing the allegations of bribery, provides a sufficient explanation of the judge's conduct. In light of this evidence, I cannot conclude that the judge's flight from Washington, DC, is a clear indication of his guilt.

5. CONCLUSION ON THE BRIBERY CONSPIRACY AND RELATED FALSE STATEMENT ARTICLES

Upon consideration of all the evidence on articles I-VIII, and XV, I cannot conclude the House has shown by clear and convincing evidence that Judge Hastings participated in a con-

spiracy with William Borders to solicit a bribe from Thomas and Frank Romano, as alleged in article I. I also cannot conclude, based on clear and convincing evidence, that Judge Hastings committed perjury during his 1983 criminal trial, as alleged in articles II-VIII and XV. Accordingly, I voted to acquit Judge Hastings on each of articles I-VIII, and I would have voted to acquit him of article XV.

E. ARTICLE IX (FABRICATION OF EVIDENCE)

Article IX alleges that Judge Hastings fabricated the draft "letters for Hemp" that he introduced at his criminal trial, and that he perjured himself when he testified in 1983 that those drafts were authentic. Again, while I was disturbed by some of Judge Hastings' testimony, I cannot find clear and convincing evidence of guilt.

Judge Hastings attempted to explain the chain of custody of these letters. On direct examination, Judge Hastings testified that he kept these letters in his desk drawer until he put them in the safe of one of his attorneys, Andrew Mavrides. Before producing the letters in November or December 1982, Judge Hastings testified that he retrieved them from Mavrides' safe and gave them to Jeanette Montee, who ultimately produced them to the Government. 2B Hearings, at 2309-10.

After he testified that he showed the letters to Borders' attorney John Shorter, Judge Hastings then explained that he had gotten the letters from Mavrides in order to show them to Shorter, and that he subsequently returned them to Mavrides. Id. at 2481-82. Judge Hastings did not have a distinct memory of returning the letters to Mavrides, and did not testify as to the details of how he obtained the letters to show them to Shorter, and returned them to Mavrides. Id. at 2482, 2487-88.

Judge Hastings' unspecific and somewhat changing recollection of the chain of custody of the letters was not completely credible. On the other hand, I found no basis in the evidence to be sufficiently certain that he did not draft the letters on or about October 5, 1981 to find him guilty of article IX by clear and convincing evidence. Forensic tests failed to confirm or deny the authenticity of these drafts. The failure of the House's proof on articles I-VIII and XV also undermines greatly the strength of the "chain of custody" evidence alone. In the absence of stronger evidence that these letters were not drafted on or about October 5, 1981, I voted to acquit on this article.

IV. CONCLUSION

For the reasons stated, I voted to acquit Judge Hastings of all the Articles of Impeachment which were put to a vote of the Senate, and I would have voted to acquit him of all other articles.

Do I worry that I have made a mistake and may have voted to leave a guilty man on the bench? The evidence is too uncertain to feel otherwise. But I would rather assume the risk of being incorrect than the risk that I will unfairly and unjustifiably remove this man from the judiciary, ruining his reputation, consigning him to historic infamy, and making him only the sixth Federal judge in more than 200 years of American history to be convicted by the Senate of an Article of Impeachment. I am more comfortable risking error because of the unrebutted testimony of Judge Hastings' outstanding performance on the bench.

I worry also that if I apply a lower standard of proof, such as preponderance of the evidence, I could set a precedent that would allow future judges to be removed for political or ideological reasons and jeopardize the independence of the judiciary and the legitimacy of the impeachment process.

Because I know that some will question the good faith of the Senate's vote to remove Judge Hastings, I wish to make clear that my disagreement with the Senate's action does not mean that I believe there has been a miscarriage of justice. The chairman and vice chairman conducted the committee's proceedings in an extraordinarily fair manner and all the members of the committee discharged their responsibilities fairly, impartially, and conscientiously. The Senate's closed deliberations were among the most thoughtful and impressive moments of this my first year in the Senate. I was struck by the quality of the debate and the fairness and seriousness of purpose exhibited by my colleagues. Put simply, this is a case upon which reasonable men and women can and did differ.●

IMPEACHMENT OF ALCEE L. HASTINGS

● Mr. BIDEN. The House of Representatives argued that former Judge Alcee Hastings should be impeached because, while serving as a judge on the U.S. District Court for the Southern District of Florida, he:

First, engaged in a bribery conspiracy;

Second, lied about the conspiracy at his jury trial to gain an acquittal;

Third, improperly disclosed confidential information that he learned in his official capacity as a Federal district court judge; and

Fourth, undermined the integrity of the judiciary and betrayed the trust of the American people.

The House of Representatives exhibited 17 articles of impeachment.

ARTICLE I

The House charged that in 1981 former Judge Hastings engaged in a corrupt conspiracy with attorney William A. Borders, Jr., to obtain $150,000 from two brothers, Tom and Frank Romano, in return for eliminating jail sentences that Judge Hastings had imposed after the Romanos were convicted of racketeering offenses.

ARTICLES II TO XV

The House charged that in securing his acquittal by a jury on the bribery conspiracy charge, in 1983, former Judge Hastings lied repeatedly under oath and submitted false evidence.

ARTICLE XVI

The House charged that former Judge Hastings, while acting as the supervising judge of a wiretap, revealed highly confidential information that he learned as a result of that wiretap.

ARTICLE XVII

The House charged that, by virtue of all the foregoing alleged acts of misconduct, former Judge Hastings undermined confidence in the integrity and impartiality of the judiciary and betrayed the trust of the people of the United States.

STANDARD OF PROOF

The Senate previously decided not to establish the stanard of proof that should be used in impeachment trials, and it did not make a determination for former Judge Hastings' impeachment trial. Each Senator must decide individually what standard of proof is appropriate.

The Constitution does not mandate a required standard of proof for impeachment trials. During the impeachment of former Judge Claiborne, the Senate rejected Judge Claiborne's motion to establish "beyond a reasonable doubt" as the appropriate standard of proof in impeachment trials. At the time, however, it was clear that individual Senators could decide that beyond a reasonable doubt was an appropriate standard of proof.

I decided that the appropriate standard of proof in this impeachment trial was the beyond a reasonable doubt standard, even through the Constitution does not require that Senators use this standard. Former Judge Hastings was acquitted by a unanimous jury verdict of the bribery conspiracy charge. The jury heard essentially the same evidence presented to the Senate. It observed the witness and weighed each side's presentation of the evidence when deciding to acquit Judge Hastings. That jury verdict should have been considered by the Senate. I believe that deference to the jury verdict required proof beyond a reasonable doubt.

EVIDENCE

I voted not guilty on articles I-IX and article XVI because the circumstantial facts were not marshaled to prove guilt beyond a reasonable doubt. Doubts about the key elements of the House's case remain. For example, if

former Judge Hastings was a participant in the bribery conspiracy, why did he issue the forefeiture order several days after Mr. Borders promised it would be issued.

During the debate, a few of my colleagues made conclusory arguments advocating former Judge Hastings' guilt in response to my inquiry about what, if any, new evidence had been discovered after the jury trial. I was concerned about a few of my colleagues' reliance on the findings of the Judicial Conference and the Judicial Council of the Eleventh circuit that former Judge Hastings was guilty of the misconduct alleged in the impeachment articles, when it appears that they did not have any new evidence that was not before the jury. More importantly, Senators should make their own decision in impeachment trials based on the all evidence before the Senate, not based solely on the determination of guilt or innocence by another group or government body.

ARTICLE XVII

I voted to acquit on article XVII because the appropriate reading of this article required a finding that Judge Hastings committed all four alleged acts of misconduct, in order to vote guilty. The facts were not marshaled to prove that former Judge Hastings committed all four acts of misconduct.●

THE IMPEACHMENT OF JUDGE ALCEE HASTINGS

● Mr. DURENBERGER. Mr. President, the U.S. Senate has been called upon to perform its most difficult constitutional duty: To vote on the Articles of Impeachment for U.S. District Court Judge Alcee L. Hastings.

Before I begin, I want to thank the minority leader and my colleagues for the opportunity to serve on the special committee. The special committee membership was very impressive, with six or eight of the Nation's most esteemed prosecutors, U.S. district attorneys, and small-town prosecutors. While I have a law degree and practiced a little courtroom law, these colleagues helped me a great deal to understand and add definition to this complicated case. None of us who served on the committee looked forward to the task. We all had some idea how difficult the case was and how difficult a 4-week trial would be in the middle of a very tough legislative session. And, Mr. President, Senators BINGAMAN and SPECTER deserve special praise for their leadership and commitment. They held the committee together and made the proceedings fair to all involved.

But, despite the impressive committee, in the end, for the first time in my life I had to be a jurror; somebody who had to sit and listen to a lot of very, very difficult facts over a 4-week period of time, and some to a verdict. It was not easy, and for that reason, I am glad I am not one of the 88 Members of the Senate who did not serve on the special committee because of numerous troublesome factors involved with this case. One reason is the circumstantial nature of the evidence. Although there are hard facts, they are not the kind where you can say "I will take that one, it settles the case for me beyond a reasonable doubt."

Another reason is the incredible length of time from the events in 1981 and today at the end of 1989 when the Senate is to decide. This time lag means that certain evidence was unavailable to both sides. Evidence could not be produced no matter how hard you try to produce it. Thus, we have to agonize over gaps in the evidence.

As Senators mull over the case, some implication will be drawn from the failure of the alleged cosponsor, William Borders, to testify. And, Mr. President, I did draw some implication from the fact that William Borders is sitting in jail today because he is unwilling to testify in a case in which his testimony is critical. The failure of the FBI to allow the case to move from circumstantial to hard evidence is also troubling. The FBI could have made the decision to let the money run and see if it ended up in the hands of Judge Hastings, and that would have made the case much simpler.

Regarding Judge Hastings, if my collegues had sat through the hearings, they would have been impressed by this man and by both his local and national reputation. This forced me to ask why in the world would he do what he is alleged to have done. I do not know how many times all of us have asked ourselves this question. Then there is Hemphill Pride. He gave compelling testimony—for both sides—and is the only person who had no reason to lie. Thus, should I as juror put extra amount of weight on this one almost incredible man, who had been a very, very close friend to both Judge Hastings and Bill Borders?

But, Mr. President, the biggest problem is that there is no instruction on the burden of proof. There is no judge to sit at the end of all this and say here is what you have to find before you make your decision. So every Senator is on their own to not only sift the facts and their different explanations, but to determine what weight they give those facts and explanations. And the Senate doesn't even have the recommendation of the committee, as it has with legislation. That was not the special committee's role; the Founding Fathers left the burden of impeachment to the conscience of Senators.

In the hearing I made the decision not to reach a decision regarding Judge Hastings' guilt or innocence until the final oral arguments were made on the Senate floor. And it was a very difficult decision that I finally reached, very difficult. It was the most difficult of the two decisions I could have made: I decided to vote to impeach Judge Alcee L. Hastings on several but not all of the Articles of Impeachment.

Admittedly, at the outset, there was a point at which I felt that acquittal by a jury in this case was compelling evidence which I needed to consider. But, the responsibility that a Member of the U.S. Senate brings to an impeachment differs from the responsibility of an ordinary juror. As we perform our duty, we must not only execute our constitutional obligations, but we must keep a wary eye on public interest. The House of Representatives and Judge Hastings urge us to balance our trust and confidence in the judiciary against the rights of one judge.

As I have indicated, in making my decision, the greatest difficulty lay in determining the burden of proof. While a normal juror is comforted by the judge's instructions, here we have no judge and we have no instructions. We are left to our conscience. Alone, each of us must come to our own judgment on this subject. My judgment is that I must be convinced by the evidence brought during the Senate trial. In addition, I gave merit to the decisions rendered by my colleagues in both bodies and by the investigating committee of the Federal Judicial Council. The Council was comprised of persons with considerably more experience in these matters than I. Had I been able to reach an easier conclusion in this case, or had I gone away from the 4 weeks of trial with a clear conviction as to Judge Hastings' innocence or guilt, I would not have considered the past deliberations. However, that is not the case and therefore I am compelled to look to the conclusions of others, including the Judicial Council, for assistance.

In my 11 years in the Senate we have not had an impeachment as difficult as this. There are many disturbing facets to this case. They include:

First, the circumstantial nature of the evidence;

Second, the incredible length of time between the alleged wrongdoing and now, which resulted in lost of unavailable evidence and witnesses; third, William Border's unwillingness to testify; fourth, the failure of the FBI to allow the case to move from circumstantial to hard evidence by arresting Borders at the point he was paid off; fifth, the character and reputation of Judge Hastings which was uncontroverted by witnesses; sixth, the failure to identify a clear motive for Judge Hastings to be involved in the Borders conspiracy; seventh, the impressive

testimony of Hemphill Pride; eighth, Judge Hastings' plausible explanations for each of the circumstances on which the House argued he should be convicted; ninth, the failure to have a burden of proof instruction.

However, as I sorted through the facts and assessed the evidence, I was able to reach certain conclusions:

First, Judge Hastings' explanation of the events contain a flaw. A key part of Judge Hastings' defense was his desire to help Hemphill Pride. According to Judge Hastings, "the biggest topic that Borders and I were talking about at this time—in late April and early May—was helping Hemphill Pride * * * and that's when Pride was pressuring me." How can the aid being planned by Borders and Hastings possibly go on for 5 months in a relationship that's as close as theirs with the benefitting party—Pride—not being aware of or desiring such treatment? The judge used this assistance of Pride to explain not only the letters to Borders, but many of the telephone conversations and other contacts that he had with him. All of which took place during the course of the summer and fall. Yet, in his testimony, Hemphill Pride clearly states that he was pressing neither of his friends for letters to reinstate him to the South Carolina bar. Separately, I have determined that of all the people in this case, Pride has no reason to do anything but be as truthful as his conscience and instincts permit.

This disturbing evidence leads me to believe that when forced to chose between the House's explanation for the evidence and Judge Hastings', I must agree with my colleagues and will therefore vote "guilty' on impeachment articles I and XVIII.

Second, although much has been made of the so-called letters for Hemp, the conversation between Borders and Hastings is not critical to my decision. Their personal friendship and ability to communicate by a variety of means indicates to me that if in fact Rico and Borders cut a deal at the Miami Airport on Saturday morning, September 12, that to the degree that Judge Hastings was an essential part on delivering on that deal, his role would have been communicated to him by Borders prior to the 5:12 phone call on October 5. Therefore, I find it difficult to come to judgment on the purpose of that call or its meaning and will consequently vote "not guilty" to article VIII.

Third, regarding the letters themselves, Judge Hastings claims to have drafted them on the bench during the course of a trial on October 5. My colleagues in the House were unable to prove that they were anything other than what Judge Hastings purported them to be and for this reason I will vote "not guilty" to article IX.

Nonetheless, the letters to Hemphill do trouble me. Hastings suggested that his secretary was gone when he came off the bench with the letters so he stuck them in his desk drawer. I can't believe that in light of the other things he managed to get done—the phone calls and the orders to produce the Romano order—that he never got them typed and sent as he said he would in the "coded" conversation.

Fourth, with regard to the September 16 dinner at the Fountainbleau Hotel, common sense, experience, and even the argument made by Judge Hastings and his counsel, would lead one to believe that a friend as close as Hastings would have known that Borders would be in Las Vegas that evening, not at the Fountainebleau. Borders made no effort to keep his trip secret to others. For that reason, I have concluded that any testimony of Judge Hastings with regard to the Fountainebleau is contrived and will vote "guilty" on article V.

Fifth, regarding article VII and the issuance of the order, I am convinced that Judge Hastings ordered Jeffery Miller to get the order out as his part of the conspiracy. Counsel for Judge Hastings argues that bribery was contingent on the performance of two acts: First, the appearance of the judge at the Fountainebleau—which has already been addressed; and second, the issuance of the order returning the forfeited property. While the issuance of the order did not occur within the 10 days Borders predicted, it was issued after several repeated attempts by Borders to talk to Hastings.

The issuance of the order was also unusual. It was rare for Judge Hastings to demand his clerks to draft orders immediately, even when they were over due. In addition, this order was sent special delivery Thus, Borders' prediction, when combined with his repeated attempts to contact Hastings which appeared to grow increasingly urgent as the order becomes more overdue, and the judge's unusual actions to finally get the order out, led me to believe that its issuance was part of the conspiracy. Therefore, I will vote "guilty" on article VII.

Sixth, I am bothered by Hastings' reaction to the news that he received in the early afternoon of October 9 from Hemphill Pride. Pride told Hastings that Borders had been arrested and that the arrest was pertaining to "something that took place in your courtroom." Hastings did not ask Pride for any details; instead, his first reaction was to ask how the potential media attention would affect his mother. While this is an admirable thought, one cannot help but think that Hastings would have asked for some detail, that is unless he knew already why Borders was arrested. He had various sources he could have turned to—Borders, Borders' attorney John Shorter, or Ken Mundy—before leaving town. Yet he did not try to get any details. He simply fled to Florida. The record shows that he did not talk to any potential sources of information before he visited with his mother, Pat Williams, and the FBI.

Arguably, there is another way to look at this. Hastings said that it was immediately clear to him during his FBI interview that "I was not a witness, I was a target." That's why he refused to take a polygraph. If that were true, that it only came to him at this point, in the middle of the night, that he was a target not a witness, why was he concerned for his mother while he was still at L'Enfant Plaza and why was he also concerned that the FBI might be listening to his telephone conversations with either his mother or Patricia Williams? Furthermore, why would he use a payphone that was impossible to tap and take a $50 cab ride to BWI? Hastings claimed that the Florida reporters had gotten to his mother and scared her. He could only have learned that by calling his mother which he did not do until arriving at BWI. The House reported that journalists signed in at his mother's compound on October 9, but not until 8 p.m. Consequently, they were not there in the afternoon when Hastings claims they were.

There is one other peculiarity that I take note of regarding the events at L'Enfant Plaza. On October 9, when Pride discovered that Borders was arrested by the FBI and that his friend Alcee Hastings may have been involved, his advice to Hastings was to go home and face the music on his own court. From then on, all the evidence indicates that Pride was suspicious of both Borders and Hastings and their requests of him to play a part in their exoneration. Pride's testimony before us left no doubt in my mind that he continues to harbor these same suspicions.

For all the aforementioned reasons, I will vote "guilty" on article XV as well.

Finally, Mr. President, while I have developed a great admiration and affection for Judge Hastings as well as his counsel, every time I ponder the mountains of evidence, albeit their characterization as circumstantial, it becomes more difficult to reach a conclusion different from that reached by the Federal Judicial Council and its investigating committee. That was a true jury of his peers and I have no doubt that they used a standard that they would want used against themselves. It is the same conclusion arrived at by every member of the House investigating committee, chaired by JOHN CONYERS, and the House itself.

Regarding the other Articles of Impeachment, the articles regarding Hastings' phone calls to Hemphill

Pride in South Carolina, articles X to XIII, and article XIV, I accept Judge Hastings' declaration that these statements were good faith mistakes. Also given the fact that they are immaterial to the case, I will vote "not guilty" on these articles.

In addition, I feel the House has not carried its burden regarding article XVI, dealing with the disclosure of confidential wiretap information. While I accept the fact that if Judge Hastings did in fact make such a disclosure it would be an impeachable offense, I am not convinced that he did so. Therefore, I will vote "not guilty" on article XVI.

In conclusion, Mr. President, as I searched my soul and attempted to reach my decision, I have repeatedly asked whether a higher standard of ethics applies to elected officials or American citizens than applies to a lifetime appointment to the Federal judiciary? I continually ask myself whether this is an issue of ethics or morality? While I have not reached a satisfactory conclusion of these questions in my own mind, I have carefully weighed the evidence, and although it is extraordinarily complex and partially based on circumstantial evidence, I have reached the very unpleasant conclusion that Judge Alcee L. Hastings participated in a criminal conspiracy to solicit a bribe and that he is therefore unfit to continue to serve as a U.S. district judge and must be impeached.●

INCREASED SETTLEMENT AUTHORITY AND EXPANDED COVERAGE RELATING TO CLAIMS FOR DAMAGES RESULTING FROM LAW ENFORCEMENT ACTIVITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar item No. 293, S. 604, a bill to increase settlement authority and expand coverage relating to claims for damages resulting from law enforcement activities.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 604) to amend title 31 of the United States Code to increase settlement authority and expand coverage relating to claims for damages resulting from law enforcement activities.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment.

On page 2, line 11, strike "any officer" through and including "Service" on line 14, and insert the following: "an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is emloyed by the Department of Justice";

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The bill is deemed read a third time.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar item No. 310, H.R. 972, the House companion measures; that all after the enacting clause be stricken and the text of S. 604, as amended, be inserted in lieu thereof; and that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 972), as amended, was passed.

Mr. MITCHELL. Mr. President, I now ask that the Senate proceed to the passage of S. 604.

The PRESIDING OFFICER. Without objection, the bill is deemed passed.

So the bill (S. 604) was passed, as follows:

S. 604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO SETTLE CLAIMS.

(a) Section 3724 of title 31, United States Code, is amended—

(1) in the section heading, by inserting "our other law enforcement component of the Department of Justice" after "Investigation";

(2) in subsection (a), by striking "$500" and inserting "$50,000";

(3) in subsection (a), by striking out "Director" and all that follows through "Investigation" and inserting "an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is employed by the Department of Justice"; and

(4) in subsection (b), by amending the first sentence to read as follows: "The Attorney General shall make an annual report to the Congress on any settlements made under this section.".

(b) The item for section 3724 in the table of sections for chapter 37 of title 31, United States Code, is amended by inserting "or other law enforcement component of the Department of Justice" after "Investigation".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply to—

(1) any claim arising on or after the date of the enactment of this Act;

(2) any claim pending on the date of enactment of this Act; and

(3) any claim arising before the date of enactment of this Act for which the time for presenting the claim to the Attorney General under the last sentence of section 3724(a) of title 31, United States Code, has not expired.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 320, 321, 322, 323, 324, 325, 326, 327, 328, and 329 en bloc; that the committee amendments, where appropriate, be agreed to; that the resolutions be deemed read a third time and passed; that the preambles be agreed to; and motions to reconsider the passage of the resolutions be laid upon the table.

I further ask unanimous consent that any statements in reference to these calendar items appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the title amendments, where appropriate, will be agreed to.

NATIONAL DIABETES MONTH

The joint resolution (S.J. Res. 131) to designate November 1989 as "National Diabetes Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 131

Whereas diabetes is a leading cause of death by disease in the United States;

Whereas diabetes affects over eleven million Americans, of whom almost six million are not aware of their illness;

Whereas diabetes costs the Nation $20,400,000,000 annually in health care costs, disability payments, and increased mortality due to diabetes;

Whereas up to 85 per centum of all cases of noninsulin dependent diabetes may be prevented through greater public understanding, awareness, and education;

Whereas diabetes is particularly prevalent among black Americans, Hispanic Americans, Native Americans, and women; and

Whereas diabetes is a leading cause of new blindness, kidney disease, heart disease, strokes, birth defects, and foot and leg amputations, all of which can be reduced by better public understanding and awareness of diabetes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1989 is designated as "National Diabetes Month." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

NATIONAL ADOPTION WEEK

The joint resolution (S.J. Res. 187) to designate the periods commencing on November 19, 1989, and ending on

November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, as "National Adoption Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 187

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 11 years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's basic right;

Whereas approximately fifty thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental, and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for the continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, are each designated as "National Adoption Week", and the President of the United States is authorized and requested to issue proclamations calling upon the people of the United States to observe each such week with appropriate ceremonies and activities.

AN END TO HUNGER EDUCATION MONTH

The joint resolution (S.J. Res. 198) designating November 1989 as "An End to Hunger Education Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

Whereas hunger affects the lives of 500,000,000 to 1,000,000,000 people in the world and takes the lives of 13,000,000 to 18,000,000 people annually, ¾ of whom are children under the age of 5;

Whereas while famines often gain widespread media attention and the subsequent response of the public, little attention is focused on the problem of chronic hunger;

Whereas there is a need to promote continuing activities that increase education and heighten public awareness about the extent of hunger, its causes, and consequences;

Whereas a society educated about the pervasiveness of hunger is equipped to respond to the needs of hungry people around the world; and

Whereas schools and communities should conduct educational programs that lead to the development of viable methods for alleviating hunger: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 1989 is designated as "An End to Hunger Education Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activites.

NATIONAL SPINA BIFIDA MONTH

The joint resolution (S.J. Res. 210) to designate the month of October 1989, as "National Spina Bifida Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

Whereas spina bifida is a birth defect in the spinal column which occurs in one of every one thousand births in the United States;

Whereas spina bifida is the most common crippler of newborns, resulting when one or more bones in the back (vertebrae) fail to close completely during prenatal development;

Whereas while the cause of spina bifida is not known, it appears to be the result of multiple environmental and genetic factors;

Whereas although most of the March of Dimes and Easter Seal poster children have spina bifida, many people have not heard of the defect;

Whereas only a few cities in the United States have proper care centers and specialized professionals that can provide the most effective, aggressive treatment for children and adults with spina bifica; and

Whereas an increase in the national awareness of the problem of spina bifida may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for spina bifida: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1989 is designated "National Spina Bifida Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

NATIONAL MILITARY FAMILIES RECOGNITION DAY

The joint resolution (S.J. Res. 215) acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 215

Whereas Congress recognizes and supports Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas in times of war and military action military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 68 percent of officers and 48 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses or children) account for more than two million seven hundred thousand of the more than four million eight hundred thousand in the active duty community, and spouses and children of members of the Reserves in paid status account for more than one million five hundred thousand of the more than two million seven hundred thousand in the Reserves community;

Whereas spouses, children, and other dependents living abroad with members of the Armed Forces total nearly five hundred thousand and these family members at times face feelings of cultural isolation and financial hardship; and

Whereas military families are devoted to the overall mission of the Department of Defense and have accepted the role of the United States as the military leader and protector of the free world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Congress acknowledges and appreciates the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation; and

(2) November 20, 1989, is designated as "National Military Families Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

COMMUNITY FOUNDATION WEEK

The joint resolution (S.J. Res. 216) designating November 12 through 18, 1989, as "Community Foundation Week" was considered.

Mr. DURENBERGER. Mr. President, I rise today to thank my colleagues in the Senate for agreeing to Senate Joint Resolution 216, a joint resolution to designate November 12 through 18, 1989, as "Community Foundation Week"; 1989 is the 75th anniversary of the creation of the first community organization, so this year is the perfect opportunity for the United States to recognize these philanthropic organizations. Although these foundations have been serving American communities for 75 years, the spirit behind them dates back even further—to the beginning of philanthropy in America, when those who were able donated their resources to community needs.

Community foundations provide an opportunity for large and small donors alike to pool their resources into a central fund, which is distributed by a board of volunteers knowledgeable about the needs of its community. Programs that might be targeted by these foundations cover a range of community needs—education, minority issues, the environment, the handicapped, teenage pregnancy, immigrants, and countless other community challenges. Community foundations themselves are as diverse as the programs they sponsor, representing small and large communities, and even entire States. The Council on Foundations, the international nonprofit organization that represents these grantmakers, claims that these diverse foundations have six things in common:

First, a flexible, yet permanent collection of funds supported by a wide range of donors;

Second, the relative independence to determine the best use of those funds to meet community needs;

Third, a governing board of volunteers, knowledgeable of their community and recognized for their personal involvement in civic affairs;

Fourth, an organizational commitment to provide leadership on pervasive community problems;

Fifth, a commitment to assist donors to create funds and distribute proceeds in accordance with the donors' intent; and

Sixth, adherence to sense of "community" that overrides individual interests and objectives.

Currently, there are over 300 community foundations, located in 46 States, having total assets of well over $4 billion. Last year, American community foundations gave over $300 million to charitable organizations.

Community foundations have become the fastest growing sector of philanthropy, and much of the credit should go to the dedicated, talented volunteers behind them. I am particularly proud of one of these volunteers in my home State of Minnesota—Paul Verret, an outstanding civic leader and the president of the St. Paul Community Foundation. Over the last 12 years and under Mr. Verret's leadership, the St. Paul Community Foundation has grown to be one of the 10 largest community foundations in the United States. With the help of over 12,000 contributors, its net assets have ballooned from $5 million to over $145 million. With this pool of charitable donations, the St. Paul Foundation is able to direct $7 million every year to worthy community projects. In one such program, the foundation is cooperating with public schools to improve the academic achievement of low-income minority students, and to promote school curriculums that enhance cultural diversity.

Mr. President, this is just one of the many ways that community foundations are advancing the spirit of American private enterprise to meet the diverse needs of our communities. A week of commemoration will increase public awareness of these tax-exempt organizations, and therefore may encourage an even greater number of donations to community foundations. I hope that our colleagues in the House of Representatives will join us in commemorating 75 years of selfless service to American communities.

The joint resolution (S.J. Res. 216) was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 216

Whereas the citizens of the United States have a strong tradition of contributing generously to the well-being of their communities and the Nation;

Whereas community foundations are tax-exempt organizations formed to attract endowment funds and to distribute foundation earnings to further the well-being of their communities;

Whereas these earnings are distributed by volunteers boards of directors who are knowledgeable of their communities' needs in areas such as education, arts and culture, social services, economic development, health, the environment, and civic affairs;

Whereas community foundations augment the effectiveness of public and other private services by providing essential coordination to these efforts, and address community needs by providing leadership and resources on a permanent basis;

Whereas community foundations are in their seventy-fifth year of existence in the United States, and are the fastest growing form of philanthropy today;

Whereas there are now more than three hundred community foundations in the United States with total assets of over $4,750,000,000; and

Whereas the Nation's citizens who generously support philanthropic and charitable organizations should be highly commended and encouraged to increase and perpetuate private voluntary contributions to community foundations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 12 through 18, 1989, is designated as "Community Foundation Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

NATIONAL BURN AWARENESS WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 217) to designate the period commencing February 4, 1990, and ending February 10, 1990, as "National Burn Awareness Week," which had been reported from the Committee on the Judiciary, with an amendment.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, as amended, and the preamble, are as follows:

S.J. RES. 217

Whereas the burn problem in the United States is one of the worst of any industrialized nation in the world;

Whereas burn injuries are one of the leading causes of accidental death in the United States today;

Whereas every year over 2,000,000 people are the victims of some form of burn injury in the United States alone, and children account for between one-third and one-half of this total;

Whereas of these injuries, over 70,000 are hospitalized and account for 9,000,000 disability days and $100,000,000 in costs annually;

Whereas over 6,000 people die from burn injuries annually, and the rehabilitative and psychological impact of burns is devastating;

Whereas young children are in the highest risk group suffering from hot liquid burns and injuries caused by child fire play and fire setting;

Whereas older adults and the disabled are also at great risk and extremely susceptible to burn injuries;

Whereas burn survivors often face years of costly reconstructive surgery and extensive physical and psychological rehabilitation in overcoming disabilities and fears of rejection by family members, friends, coworkers, schoolmates, and the public in general;

Whereas it is estimated that approximately 75 percent of all burn injuries and deaths could be prevented by a comprehensive national educational and awareness campaign and by changes in the design and technology of homes and consumer products;

Whereas a general public awareness of the need for smoke detectors and home fire escape plans, in combination with an understanding of the risk associated with items in the home environment, can cause a reduction of injuries and loss of life; and

Whereas there is a need for an effective national program that deals with all aspects

of burn injuries and on the prevention thereof: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 4, 1990, and ending February 10, 1990, and the period commencing February 3, 1991, and ending February 9, 1991, are designated as "Nation Burn Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe that week with appropriate programs and activities.

The title was amended so as to read "Joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, and the period commencing February 3, 1991, and ending February 9, 1991, as 'National Burn Awareness Week'."

NATIONAL AUTISM WEEK AND SILVER ANNIVERSARY YEAR FOR THE AUTISM SOCIETY OF AMERICA

The joint resolution (S.J. Res. 220) to designate the week of December 3, 1989, through December 9, 1989, as National Autism Week and 1990 as National Silver Anniversary Year for the Autism Society of America, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 220

Whereas autism is a serious communication and social disability affecting over 250,000 children and adults;

Whereas autism is a lifelong condition that requires services and support as well as understanding by the community at large;

Whereas the general public often misunderstands this complex neurological disability;

Whereas parent support groups have dedicated 24 years of service to the education and welfare of persons with this disorder;

Whereas the Autism Society of America remains committed to educating the general public to a better understanding of autism;

Whereas greater understanding, education, and vocational opportunities for persons with autism are necessary: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 3, 1989, through December 9, 1989, is designated as "National Autism Week", and the year 1990 is designated as the "National Silver Anniversary Year for the Autism Society of America". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe these occasions with appropriate programs and activities to enhance the lives of persons with autism.

COMMEMORATING VOLUNTEERS OF THE UNITED STATES AND THE HUGH O'BRIAN YOUTH FOUNDATION

The concurrent resolution (S. Con. Res. 55) to commemorate the volunteers of the United States and the Hugh O'Brian Youth Foundation, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 55

Whereas 30 years ago, Hugh O'Brian, a popular American television actor, in an effort to give back part of his own success by motivating aspiring future leaders to strive for excellence, founded the Hugh O'Brian Youth Foundation;

Whereas what originally began as a few promising students participating in an informal exchange of ideas with some of the business associates of Hugh O'Brian has become a network of 83 leadership seminars held annually throughout the United States, the Bahamas, Canada, and Mexico, and culminating with a week-long international seminar;

Whereas since its inception in 1958, the Hugh O'Brian Youth Foundation has provided over 90,000 high school sophomores with the opportunity to meet with the leading professionals of our Nation in business, industry, education, government, and the arts;

Whereas exposure to these professionals encourages the youth of our Nation to develop and use their talents and abilities to the fullest extent possible and to become the leaders of tomorrow;

Whereas it should be recognized that these leadership seminars exemplify the great volunteer spirit of our Nation because they are made possible through the generous sponsorship of the business community, private individuals, and members of the General Federation of Women's Clubs, Jaycees, Kiwanis, and Optimists;

Whereas the volunteerism demonstrated by the Hugh O'Brian Youth Foundation should be commended for bring leading professionals in contact with young people who wish to excel in their chosen field of endeavor and for the example set by the volunteers who plan, organize, pay for, and run the leadership seminars;

Whereas the volunteers of the United States, as exemplified by the Hugh O'Brian Youth Foundation, are responsible for providing much of the work necessary for improving the quality of life of the American people; and

Whereas the stated philosophy of the Hugh O'Brian Youth Foundation is that every person in created as the steward of his or her own destiny with great power for a specific purpose: to share with others, through service, a reverence for life in a spirit of love: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress commends all volunteers of the United States and the Hugh O'Brian Youth Foundation for their contributions to the betterment of our Nation.

NATIONAL TAP DANCE DAY

The joint resolution (H.J. Res. 131) to designate May 25, 1989, as "National Tap Dance Day," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

MEASURES INDEFINITELY POSTPONED

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Calendar Nos. 318 and 319 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY

RECESS AND MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:30 a.m. on Tuesday, October 31, and that following the time for the two leaders, there be a period for morning business until 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TUESDAY FROM 12:30 P.M. TO 2:15 P.M.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that the Senate stand in recess from 12:30 to 2:15 p.m. in order to accommodate the party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11:30 A.M., TUESDAY, OCTOBER 31, 1989

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent the Senate stand in recess, under the previous order, until 11:30 a.m. on Tuesday, October 31, 1989.

There being no objection, the Senate, at 4:09 p.m., recessed until Tuesday, October 31, 1989, at 11:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 27, 1989:

DEPARTMENT OF THE TREASURY

SIDNEY L. JONES, OF UTAH, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

STEPHEN J. MARKMAN, OF MICHIGAN, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF 4 YEARS.

EXTENSIONS OF REMARKS

SUPPORT FOR TEMPORARY STATUS FOR CHINESE AND CENTRAL AMERICANS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. MAZZOLI. Mr. Speaker, the House voted on H.R. 45, legislation which would suspend for 3 years the deportation from the United States of illegal immigrants who are nationals of the Peoples Republic of China, El Salvador, and Nicaragua.

I voted for the bill, which was passed by the House and sent to the Senate, though not without some reservations.

I continue to have deep concerns about designating citizens of certain nations for protected treatment while denying that same treatment to citizens—who possess similar characteristics—who come to the United States from other nations.

The cornerstone of a successful immigration and refugee policy is fairness and evenhandedness and objectivity. A nation-specific measure such as H.R. 45 violates that baseline.

However, I was able, with reservations, to support the bill because H.R. 45 limits the protected status given citizens of these three nations to 3 years. Earlier versions of H.R. 45 had an openended status. H.R. 45 establishes a permanent generic and non-nation-specific mechanism to deal with future situations. This mechanism closely follows the "safe haven" legislation I introduced in earlier Congresses along with my friend and colleague, Representative HAMILTON FISH.

The introduction to our statute books of a permanent mechanism to deal with the temporary dislocations and migrations of nationals of other lands—who enter the United States to seek protection from armed conflict, natural disaster, or other conditions which pose threats to personal safety—overcame my displeasure with the remainder of H.R. 45.

CAN GUATEMALA'S LEADERS SUMMON THE POLITICAL WILL TO SAVE THEIR COUNTRY?

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. CROCKETT. Mr. Speaker—

A government is responsible not only for what it orders or assists, but also for its tolerance of violent crime by certain groups against others . . . And the Guatemalan government is, at present, responsible for tolerating what it has been unable to stop.

These are not the words of a liberal Member of Congress, or of a Guatemalan human rights monitor. These are the words of the man who for the last several years has worked to improve the administration of justice in Guatemala.

These words do not come easily to Dr. Philip Heymann, James Barr Ames Professor of Law and Director of the Center for Criminal Justice at Harvard University, and former Assistant Attorney General in charge of the Criminal Division of the Department of Justice from 1978 to 1981. Dr. Heymann has defended Harvard's involvement in the Administration of Justice Program against numerous attacks.

But the recent wave of terror that has engulfed Guatemala—including 10 or more students that have disappeared, with 5 of them found dead and tortured—and the Government's continuing inability to act, have driven Dr. Heymann to go public with his concerns and his questions about continuing the program he has fought so hard to protect.

He writes:

It is true that the government did inherit a moribund judiciary . . . and a police force which had little training, . . . yet since the inception of the Cerezo regime in 1986, our nation and others in the West have provided millions and millions of dollars to improve the administration of justice. The government can now count on a significant number of trained prosecutors, judges and police investigators. A failure to act now is plainly a failure of political will, not a failure of capacity.

Dr. Heymann asks that the travel advisory currently in effect with respect to Guatemala be continued in effect until the Guatemalan Government takes reasonable steps to investigate and prosecute these terrorist murders.

I urge my colleagues to study his letter to me, and his article detailing the deteriorating situation in Guatemala, which follow:

HARVARD LAW SCHOOL,
Cambridge, MA, October 23, 1989.

Hon. GEO. W. CROCKETT, Jr.,
Chairman, Subcommittee on Western Hemisphere Affairs, House of Representatives, House Office Building Annex 1, Washington, DC.

DEAR MR. CHAIRMAN: As I'm sure you are aware, in the past two months the situation with regard to democracy and law in Guatemala has taken a dramatic turn for the worse. Ten or more students have been disappeared; five of them have been found dead and tortured. A number of labor leaders have been disappeared, particularly from the Coca-Cola union. A number of human rights workers connected with CERJ have been killed or disappeared. There is, of course, widespread fear among the members of any similar groups.

There has also been additional terror and violence which may or may not have the same motivation. A leader of the Christian Democratic Party was shot and killed. A leading banker met the same fate. And bombs have been thrown, often hand grenades, at everything from GAM headquarters to the Hotel Camino Real.

It seems to me that the Department of State has responded splendidly in three ways. The Charge d'Affaires in Guatemala, Philip Taylor, made a strong statement. I understand that he has been pressing the Guatemalans to take a set of steps that I discussed with him and others in Guatemala at the end of September. Perhaps most important, as the stick that goes with those verbal statements, the Department announced its Travel Advisory for Guatemala which is now in effect until October 31st. Besides being the muscle behind our words, it also makes sense in terms of the safety of Americans. So long as the Guatemalan leaders are unwilling to investigate vigorously and prosecute thoroughly whoever may be behind this political violence, and certainly including the violence that is targeted against those on the left of the Guatemalan political spectrum, the physical risk to American travellers will be very real.

I would like to urge you at this time to support the maintenance of a Travel Advisory until the government of Guatemala takes reasonable steps to investigate and prosecute the string of terrorist murders that are threatening to bring an end to democracy in that country, or to narrow democracy to a very limited political spectrum. What the Embassy has proposed to the Guatemalan government is simple and straightfoward. The failure to take vigorous steps at such a terrible time is, if not a sign of complicity, an indication of terrible indifference. It is also an invitation to further violence with accompanying risks to American travellers.

I would of course be happy to talk with you about these issues if that would be helpful. I am enclosing a fuller statement of my views of the present situation in Guatemala which is the basis of an article.

Sincerely,

PHILIP B. HEYMAN.

GUATEMALA'S TURNING POINT

(By Philip B. Heyman [1] and Morris Panner [2])

There are 15 months left in the term of Guatemala's first freely elected government in many years. Some have regarded it as a mere facade for repressive forces of the right; others have found in it the hope for a

[1] Philip B. Heymann is James Barr Ames Professor of Law and Director of the Center for Criminal Justice at Harvard Law School. He was Assistant Attorney General in charge of the Criminal Division of the Department of Justice from 1978–1981.

[2] Morris Panner graduated from Harvard Law School in 1988, and is a lawyer working in Guatemala for the Harvard Center for Criminal Justice on a project to improve the administration of criminal justice in Guatemala.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

future of progress toward popular choice without fear or terror. Now this government faces a challenge that promises to answer what it really is and what Guatemala will be.

It must arrest and prosecute those responsible for a current wave of terrorism symbolized most dramatically by the recent kidnapping of 10 student leaders and the brutal murder of at least five of them. Within the past month, these students at the national university have been abducted, often in broad daylight, by groups of heavily armed men driving vehicles with polarized windows. None have been released. The Guatemalan people and the international community have a right to expect the government to solve these crimes. Anything less and there will be only the most limited form of democracy in that nation.

For the people of Guatemala, the murder and kidnapping of these students sends the clear message that political freedom is ebbing away. During the late 1970s and early 1980s, student and other groups were ravaged by murders, kidnappings and disappearances. In the name of a war against Marxist guerrillas, the military governments committed terrible excesses, making all but the most conventional political thought dangerous. Judicial investigations were not possible. Judges and other individuals who spoke out were murdered. Thousands fled into exile. Guatemala became a parish nation.

The present government has never endorsed political violence. It has condemned the most recent wave of terrorism and has denied its involvement. In fact, there is no evidence that the highest levels of the government are directing death squads, although there are widely held and well defended suspicions that the students and others may have been killed by elements of army intelligence, which was responsible for much of the violence of the past. Lower levels of the military and some police forces still elude the firm control of the top brass. Two recent coup attempts by rogue officers attest to this instability. Powerful individuals and private groups, the government points out, also carry out murders for their own political agenda and are also prime suspects now.

The difficulty of identifying the perpetrators of terror without a thorough investigation is not crucial to assessing the responsibility of the government of President Cerezo. A government is responsible not only for what it orders or assists, but also for its tolerance of violent crime by certain groups against others. Much state-supported terrorism takes this form. And the Guatemalan government is, at present, responsible for tolerating what it has been unwilling to stop. Its denials that it is indifferent to the murder of students, labor leaders, peasant leaders, or human rights workers by private groups or dissident security forces are grounded in tired old arguments. The problem, it says, is that it is simply unable to stop such terrorist groups. It asks, as it always has, the Guatemalan people and the international community for patience for the indefinite future while it develops that capacity.

But at some point in the development of a government this explanation no longer holds up. It is true that the government did inherit a moribund judiciary—atrophied in the climate of the summary justice dispensed by past military regimes—and a police force which had little training, and had been used by the military to carry out tortures and executions against suspected subversives.

Yet since the inception of the Cerezo regime in 1986, our nation and others in the West have provided millions and millions of dollars to improve the administration of justice. This has included substantial support for police training. The Guatemalan government can now count on a significant number of trained prosecutors, judges and police investigators. A failure to act now is plainly a failure of political will, not a failure of capacity.

Terrorist acts such as the kidnapping and murder of the students are exactly the type of crimes that nations are good at solving—if they want to. The kidnappings are "pattern" crimes. That is, it is likely they were committed by the same people using more or less the same techniques. They required a number of people and substantial logistics to keep them secret. The criminals who kidnapped and murdered the Guatemalan students did not take special care to avoid detection. Witnesses reported the crimes and were even able to report license plate numbers on cars.

Terrorism is not a problem unique to Guatemala. All over the world democratic governments have had to wrestle with the problem of how to confront violence while remaining true to the rule of law. Almost all successful anti-terrorist campaigns in other countries have included a number of steps that Guatemala has not taken. Officials at the highest levels of government must make credible announcements of their political resolve to fight the crimes. Colombia's President is a proud example. Law enforcement and intelligence branches of government must share information about terrorist groups. Rewards must be offered. The police and the prosecutors must work together closely, devoting specialized effort and massive commitments of time to these priority cases. Judges must work in teams to avoid creating a single target for reprisals or intimidation. To date, there has been no evidence of efforts on the part of Guatemalan leaders to take steps like these. In the absence of such steps one wonders about the political will of Guatemala's leaders.

It would be foolish to conclude from the recent wave of terror that Guatemala has returned to its frightening past. The level of political discussion and debate in recent years would never have been possible just five years ago. Too many people there value the progress that had been made for it to be quickly washed away by a wave of extremist terror.

But it would be equally foolish to fail to recognize that this is a decisive moment for Guatemala. In the absence of strong, lawful measures, the history of Guatemala could easily turn back toward a battle of governmental and private terrorists for the fearful quiescence of the population. If, however, the government acts vigorously and lawfully to solve these murders, Guatemala will have taken a long step toward true democracy, where debate and political choice is not inhibited by fear and terror.

Some argue that the fragile administration would pay too high a price to pursue the crimes, for acting vigorously could force the Cerezo government to confront serious challenges. Even a government that is "democratic" in name only should be preserved at any price, the argument goes. But a government, even a democratic one, cannot have a its only goal its own survival. Guatemalan leaders must summon the political will to take all the steps within their power to ensure continued political progress in a nation still a long way from a stable democracy. Without these steps forward, Guatemala's democracy will become a hollow shell with its historic sins of commission gradually twisting themselves into equally serious sins of omission, and with terror, torture and death as central to the new order as to the old.

The international community can no longer be satisfied with pleas by the government that it can't stop the crimes or with half-hearted steps such as conferences on human rights. The future of Guatemala is at severe risk. To bring to trial and convict the perpetrators of these most recent brutal acts against the students and others will be a decisive victory in the battle of democracy against tyranny. To ignore these crimes or accept the excuse of incapacity on the part of the government would be to allow Guatemala to begin a tragic descent into repression and darkness.

SURVEY CONDUCTED AT CHILDREN'S PEACE FAIR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. STOKES. Mr. Speaker, I would like to share the results of an interesting survey that was taken at the Children's Peace Fair. The fair was cosponsored by Physicians for Social Responsibility and WJW-TV 8 held in Cleveland during the month of August. The Ohio Chapter of the National Association of Social Workers and the Children's Defense Fund are responsible for this survey of over 1,000 parents and children, who attended the fair.

The purpose of the survey was to provide an opportunity for parents and children to share their opinions on a better future for their families. Better than a fourth of the responses expressed a need for world peace as a prerequisite for a better future. This was followed closely by a vote for a safe environment. The need for a decent education came in third following in order, by housing, quality child care, adequate nutrition, racial and religious tolerance, health care, "more caring," nuclear disarmament, and better communication.

Mr. Speaker, I am pleased to share the results of this survey with my colleagues. The results reflect the hopes of all Americans for a more secure and fulfilling life. I urge my colleagues to consider the sentiments of parents and children on improving the quality of their lives in this country.

FLAG OVER CORREGIDOR

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. GINGRICH. Mr. Speaker, Franklin Grupe of Cedartown, GA, gave me a picture of the American flag raised over Corregidor in 1945 with the following note attached:

This is the flag that was raised by General MacArthur on his return to Corregidor in

1945. It cost many lives to put it there. I shall always remember this moment and cannot understand why there is not a constitutional amendment to protect it.

I think this is a very moving testimony giving reason for an amendment to protect the flag.

THOMSON CONSUMER ELECTRONICS INVESTING IN INDIANA'S ECONOMY

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. JONTZ. Mr. Speaker, I rise today to recognize Thomson Consumer Electronics, Inc. and its efforts to continue 40 years of commitment to Indiana's economy and the Fifth Congressional District, which I represent.

Thomson Consumer Electronics is the successor to the GE and RCA consumer electronics businesses. Thomson employs some 6,300 Hoosiers at its Indianapolis headquarters and manufacturing plant, a Bloomington television plant, and a plant in Marion IN, in my district.

In April, Thomson reaffirmed its commitment to the people and the economy of Indiana by announcing a $75-million expansion of the Marion plant. The Marion facility is being retooled in anticipation of the expanding market for larger screen color televisions. The Marion plant currently produces RCA color picture tubes in the 19–V, 20–V, and 25–V sizes. This new investment will allow Thomson to install production equipment for larger 31–V and 35–V tubes.

Thomson is thinking for the future. The large screen television market is one of the fastest growing segments of the consumer electronics market, and one in which the United States still holds an edge. More than 90 percent of large screen television receivers are built in American plants.

Consumer demand for receivers larger than 30 inches is expected to increase significantly in the coming years, rising from the current 200,000 per year to an anticipated 1 million sets by 1992.

Thomson's investment in the Marion facility is all the more remarkable in this age when many electronics manufacturers are moving operations out of the country. The consumer electronics industry is a high-volume, competitive business. While other companies are looking to gain a competitive advantage by looking to other countries for cheap wage rates, Thomson has made a commitment to retaining and increasing the number of high-quality, high-paying jobs in our State.

Not only is Thomson investing in its plants to meet current and future demand for the products it currently manufactures, it is also making significant investments in the research and development of one of the important technologies of the future: High definition television.

In cooperation with the David Sarnoff Research Center and NBC, more than $60 million has been invested in the development of advanced compatible television, a widescreen, enhanced definition television system which could lead the way for American development of HDTV.

I commend Thomson for its dedication to the economy of our State and our Nation and for its farsightedness in developing products for the future.

DETROIT CITY COUNCIL SUPPORTS EXTENDED VOLUNTARY DEPARTURE STATUS FOR SALVADORAN REFUGEES AND A NEGOTIATED SOLUTION CONFLICT IN EL SALVADOR

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. CROCKETT. Mr. Speaker, as chairman of the Subcommittee on Western Hemisphere Affairs, as the Representative of the 13th Congressional District in Michigan, I wanted to share with my colleagues the resolution adopted on October 4, 1989, by the Detroit City Council supporting a peaceful negotiated settlement to the conflict in El Salvador and recognizing the rights of Salvadorans who seek refuge in the United States to be recongized as refugees with all the rights accorded by that status.

The resolution was adopted by the city council on the occasion of the visit of 12 Salvadoran refugees that are taking part in the National Pilgrimage for Peace. The pilgrimage is attempting to educate people in the United States about the plight of Salvadoran refugees.

The full text of the resolution of the Detroit City Council follows:

RESOLUTION IN SUPPORT OF NATIONAL PILGRIMAGE FOR PEACE IN EL SALVADOR

Whereas, On October 25, 1989, twelve Salvadoran refugees will be in Detroit. They are part of the National Pilgrimage for Peace and are attempting to educate people in the United States about the the plight of Salvadoran refugees, and

Whereas, Hundreds of thousands of El Salvadorans have fled to this country seeking safe haven because of widespread human rights abuses in their home country. During the past year, international human rights institutions such as Amnesty International report a dramatic worsening in the human rights situation in El Salvador, and

Whereas, The United States has provided more than $3 billion in military and economic assistance in the El Salvadoran government since 1980. Without our assistance, that country would be forced to reach a peaceful settlement with all opposition parties there, and

Whereas, The Refugee Act of 1980 (8 U.S.C. Sec. 1101(a) (42) provides refugee status within the United States for any person "who is unable or unwilling to avail himself or herself of the protection of their country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion . . .," and

Whereas, The Immigration and Naturalization Service (INS) almost never grants applications for political asylum submitted by Salvadoran refugees. The United States is the only country in the Western Hemisphere that routinely deports Salvadorans to El Salvador, where they are subject to grave human rights abuses, and

Whereas, The Moakley-DeConcini Bill, which is currently pending before Congress, would temporarily stay the detention and deportation of Salvadoran refugees, and

Whereas, Because the vast majority of Salvadorans have come to our country after 1981, they do not qualify for legalization under the Immigration and Reform Act of 1986 and therefore are barred from working under that law, and

Whereas, The Universal Declaration of the Rights of Man sets out the right to work as a fundamental human right. The United Nations Conventions Relating to the Status of Refugees recognizes the rights of refugees to work and support themselves: Therefore, be it

Resolved, That the Detroit City Council endorses the Pilgrimage For Peace, and be it further

Resolved, That the Detroit City Council recognizes the rights of Salvadorans who seek refuge in the United States to be recognized as refugees with all the rights accorded by that status, including the right to remain and work in the United States while they are unable to return to their home country, and be it further

Resolved, That the Detroit City Council supports the passage of the Moakley-DeConcini Bill. We urge our Congress and Administration to pursue efforts aimed at encouraging the government of El Salvador to reach a peaceful negotiated solution to the conflict in that country, which is the ultimate solution to the problems of Salvadoran refugees, be it further

Resolved, That the City Clerk send a copy of this resolution to President Bush and the United States Congress.

LOUISVILLE: ONE OF AMERICA'S MOST LIVABLE PLACES

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. MAZZOLI. Mr. Speaker, it is my great honor to represent my hometown of Louisville, KY, here in the House of Representatives. And, it is always a privilege for me to speak of the love and great pride we Louisvillians hold for our community.

It is especially so when our objective opinion is endorsed by the experts and neutral observers as it is in the soon-to-be-published third edition of "Places Rated Almanac," which ranks Louisville as the eighth "Most Livable Place" in the United States.

This is the second time Louisville has been recognized in the top 10 places of the United States by the Almanac, following her selection as 19th best in 1981. The study rates areas on the basis of climate, cost of living, arts, recreation, health care, education, jobs, transportation, and crime.

While these rankings may produce no end of argument and gentle boasting among natives of the 333 metropolitan areas surveyed, these do offer some interesting perspectives on the changing face of life in America's increasingly urban landscape.

In Louisville, I believe we have hit on the formula for success in providing for ourselves, our children, and generations to come, the kind of quality of life and opportunities which are most amenable to the human spirit.

The ingredients in this recipe are many, but at its core it is the character of her people which gives form and identity to a community. In Louisville, we are blessed with good people, concerned about others before themselves. We have honest people who work hard for the rewards of their labors. We have diversity of views and background, but unity of purpose. We have a good-natured attitude, a can-do spirit, a pluckiness to surmount whatever obstacles may be placed before us. This is always so evident in time of crisis, be it natural disaster or by the hands of man.

So, beyond all those categories used to judge the cities and towns of this Nation, beyond the simple arithmetic of arbitrary ratings points, a community cannot accurately be portrayed without taking into account its people. And, in that respect, I feel Louisville is unsurpassed.

We have strong elected leadership, involved and committed corporate citizens, and an active, creative, vocal "grass roots" that is concerned about our community and the world around us.

I am pleased by the recognition of my hometown in this latest survey, Mr. Speaker. Of course, in my book, Louisville is No. 1. And, I hope to do all in my power with the responsibilities entrusted to me to keep it that way always.

THE 436TH MEMBER OF CONGRESS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. STOKES. Mr. Speaker, I rise today to share with my colleagues an article from the Cleveland Plain Dealer entitled "The 436th Member of Congress." This endearing title, given to Mr. Joe V. Machugh, exemplifies his familiarity with most of my colleagues and the Halls of Congress for almost 40 years. We can always find Joe waiting for us by the subway to the Capitol Building with a smile and some very positive and encouraging words. I know that many have benefited, as I have, from his advice and counsel.

Mr. Speaker, I hope my colleagues will take a moment to read the article. I am sure that it will bring a smile to many faces. For those who have not yet had the pleasure of meeting and talking to Joe, you may end up seeking our warm and colorful "colleague" out in the Halls of Congress.

[From the Plain Dealer, Oct. 1, 1989]

THE "436TH MEMBER OF CONGRESS"

(By Amy Gamerman)

WASHINGTON.—Dapper in a gold jacket and orange paisley tie, an elderly man stands in the bowels of the Capitol building with a neat stack of his own essays, scanning the subways that ferry lawmakers from the congressional office buildings.

"I'm going to give this one to Jay Rockefeller, I hope he comes by for lunch," he says, tapping a envelope marked "Jay" for the Democratic Senator from West Virginia. "And this one's for Alan Simpson."

He doesn't hold elected office, but Joe Machugh may be one of best known faces on Capitol Hill. When he was vice president, George Bush dubbed him "the 436th member of Congress." Sen. Howell Heflin, D-Ala., gave a speech in his honor on the Senate floor. And in a similar tribute, former California Rep. Bob Wilson declared him the House's "unofficial philosopher in residence."

For nearly 40 years, the energetic Machugh, who will turn 90 in December, has been a fixture here, handing out his inspirational essays with titles like "Smiling Back at You," "Resolving Powder Keg Controversies—Permanently," and "Corridors to Enduring Tranquility."

Although his jackets come from the Salvation Army, Machugh has an access to lawmakers that most paid lobbyists would kill for. "I don't know of a person who has known more members on both sides of the aisles of both the House and Senate than Joe has—and he knows them by their first name," said Rep. William Broomfield, R-Mich.

Most days, Machugh catches a bus from the Roosevelt Hotel for senior citizens to the Capitol, eats breakfast in a House cafeteria, then heads for the subways with his current stack of essays—which focus on issues like cooperation, humility and public service rather than on the capital gains tax or the war on drugs.

"I read them going back and forth on the subway," said Sen. John Glenn, D-O. "They're all good ideas."

After early attempts to buttonhole lawmakers in their offices proved fruitless, Machugh realized there was an easier way to make contact—in the basement corridors that connect the Capitol building with the House and Senate offices.

Machugh gives out 300 to 500 copies of each essay. He pays for most of the photocopying out of his savings, but relies on kindly House secretaries to make extras. Although he knows almost all the senators and representatives by their first names, he gives copies only to those he knows will take them.

"There's Larry Pressler," Machugh says, nodding as the South Dakota Republican senator boards a subway car. "He's one that doesn't want any."

But most seem to enjoy his essays. Machugh shows off thank-you notes from Hubert H. Humphrey, Lyndon B. Johnson, Jimmy Carter and George Bush. Rose Mary Woods, President Richard M. Nixon's secretary, put one in his reading file—Machugh has letters from both to prove it.

"I read them all," said Rep. Charles Bennett, D-Fla., senior member of Florida delegation. "They have two great virtues: One, they're loaded with great advice and positive thinking, and two, they're not long."

Over time, Machugh has managed to wear down resistance of most members of Congress.

"I didn't (read them) for awhile, but one day I don't know where I was caught, but I didn't have anything else to read," said Rep. Andy Jacobs, D-Ind. "I read it and I thought, wait a minute, there's some real gold here."

Born in Boston in 1899, ten doors down from the Kennedys, Machugh had a long and varied career before coming to Congress as a self-appointed goodwill ambassador and parkbench philospher.

He served in both world wars, and worked as a lawyer in the Justice Department's Antitrust Division, a congressional staffer and an oil company employee. He never married.

He once beat Joe Kennedy Sr. at tennis, and enjoyed a long correspondence with Bernard Baruch, the millionaire philanthropist and advisor to Presidents Franklin D. Roosevelt and Woodrow Wilson. "Spread the word, my boy, spread the word—write your ideas and disseminate them," Machugh recall Baruch saying.

Machugh always has been full of advice, from his suggested campaign slogan for Humphrey—"Over the Hump with Humphrey—to his advice for Johnson when he ran for president in 1960. "I told him to get out of Washington," Machugh said. "I think LBJ would have beaten John Kennedy if he had followed my advice."

Lawmakers seem to value him most for the humanity he injects into their proceedings. When Sen. Joseph R. Biden Jr., D-Del., failed in his 1988 presidential bid, Machugh had a special essay for him entitled "Misfortune's Challenge." He had kind words for Bennett when his son died, and he always opens the door for the Florida lawmaker—who walks with two canes.

When Machugh doesn't show up at his usual spots for awhile, people worry.

"Joe's an institution," said R.L. Dextradeur, a policemen who has kept watch at the Senate subways for the past 13 years. "When he's missing, everybody wonders where he's at. . . . They ask, 'Is he sick, have you seen him around at all?' "

But lately if you don't see Joe Machugh every day it may be intentional. Although he used to come in every day, he now tries to cut back.

"I'm trying not to do it," he explained. "Voltaire once said, 'the secret of being a bore is to tell everything.' The last article I wrote was all about it."

TRADE PROTECTIONISM: THE COST TO THE AMERICAN CONSUMER

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. COX. Mr. Speaker, economists of all political stripes are increasingly in agreement that protectionism doesn't work. Free and fair trade with our allies has and will continue to make the American consumer, our national economy, and the world better off.

Dr. Larry P. Arnn, the distinguished president of the Claremont Institute, has recently reported that conservative estimates of the cost of protectionism to the average American family are $1,000 a year. This is a hidden, regressive tax, which inhibits economic growth, contributes to inflation and unemployment, and hurts those least fortunate among us the most.

Even more disturbing for our democratic system is that these unnecessary costs are the result of special interests being able to obtain protectionist policies at an outrageous cost to average Americans. It is time for the Congress to stand up to such favoritism and defend the general welfare.

Mr. Speaker, Dr. Arnn more fully outlined the challenge facing us in the July-August edition of "The Asia Column," published by The Claremont Institute's Asian Studies Center. I urge my colleagues to consider carefully his thoughtful essay.

AMERICAN PROTECTIONISM IN THE ADMINISTRATIVE ERA

(By Larry P. Arnn)

Practically no one these days will deny that protectionism is bad policy. Those who favor some form of it usually do so with apologies and excuses, claiming "special circumstances" and "temporary measures." Hardly anyone favors protectionism for its own shinning virtures and benevolent influence in the world.

The general public looks upon the issue with a great deal of common sense. People know that manufactured goods from Taiwan, and Japanese cars, and Korean televisions are reliable and good. People know that they are inexpensive or at least competitively priced. People know that they are in many cases superior in quality to their domestic competitors.

Yet a strange fact prevails, amidst all this ostentatious uannimity. Protctionism is growing in our country and in the world. For some reason, we are all saying one thing, and we are doing quite another. This is typical of American politics today. It happens in a dozen important areas of policy. It happens for a set of reasons that pervades every branch of government. Nowhere are those reasons more clear than they are here, in the area of international trade. To understand these reasons is indeed vital to the restoration of good government to our country, which ought to be the supreme task of any political party. The reasons for this new wave of protectionism are deeply political in their nature. They constitute a threat to the main principles upon which America is built. They harm our people at home and our standing in the world. They harm our relations with countries that are and should be our best and most dependable friends. Our behavior in the area of trade is becoming unworthy of a great power, and especially of a great democracy.

The trade issue affects profoundly our strategic position around the world, but nowhere so forcefully as East Asia. The region has come to boast some of the United States' largest trading partners, and American trade with these nations will almost certainly increase in the 1990s. And the free nations of the Pacific Rim are critical to the United States for another, more profound reason. Our nation depends for its security, in large part, upon our democratic allies. We depend upon the increase of democratic government in the world. It is necessary that the United States encourage those nations that aspire toward democratic government, and support those that have embarked on the path toward it. American trade policy must be understood within this context.

To a certain extent, trade relations have, regrettably always had a seamy side. But today such practices prevade our whole government, a government that is bigger, more dangerous to the freedom of its own people, and more responsible for the security of other peoples, than it has been in the past. Protectionism is bad wherever it exists. For a great power, afflicted already with special-interest legislation to a massive extent, it is poison. It is the avenue by which bureaucratic politics in America begin to dominate American diplomacy.

We must ask why the United States should engage in protectionist behavior. The first thing to realize is that it has practically no connection with the wider interests of the American people. On the contrary, it operates specifically in opposition to that interest. For example, one of the most heavily subsidized industries in America is automobiles. Even if it were admitted that good policy required this subsidy, the manner in which we implement it is ludicrous. The Institute for International Economics reports that Americans pay roughly $105,000 each time they save, through formal or informal protection measures, a job in the automobile industry. By a direct payment to the worker in question, as much as $60,000 could be saved. For only $22,000, a Korean could be given a Chrysler K car free of charge. Instead, we raise average wages across the whole automobile industry to a level 80 percent higher than the average wage in U.S. manufacturing industries generally. Mr. Lee Iacocca of Chrysler Corporation, ardent in the cause of protection of the industry, made $28 million in 1987. Much of this came in the form of profit sharing, and much of his company's profits were derived from protectionist measures.

The heart of the problem is to be found in the administrative nature of our national government, and particularly of our legislature. Increasingly the Congress of the United States operates as an ombudsman for particular interests in the nation that desire help from the immense federal administrative structure. The ebb and flow of diplomatic relations with all of our allies and major trading partners is now monitored constantly by congressional staffs. At decisive moments in these negotiations, interest groups approach legislators, basing their claim upon their ability to contribute to congressional campaigns. Legislators, ever ready to advance their own cause, approach executive officials basing their claim upon their ability to approve agency budgets and to disrupt agency functions.

The key to the working of this system is direct access by the Congress to the functionaries in the executive branch who carry out policy. The President himself is still possessed of considerable, if inadequate, power to resist the demands of the legislative branch. His private office may still, if the President's will is strong, resist congressional demands for documents and constant briefings on the details of policy execution. His principal agents, even at the Cabinet level, are weaker. Heads of independent agencies are weaker still. If they resist congressional advice, they may well find their offices disrupted, their records removed, and even their own personal salaries deleted from the agency budget.

In light of this fact, the new trade bill makes the U.S. Trade Representative a crucial position. In the new scheme, the Trade Representative is, himself, empowered and required to make findings of trade discrimination. This "Section 301" authority previously required the President's signature. Now it does not.

The Trade Representative is now required to identify foreign trade practices whose elimination will most likely increase American exports. He must identify specific barriers to foreign trade in foreign countries. Once he does so, machinery is set in motion under Section 301 of the Trade Act—now amended—of 1974. This machinery proceeds in a most relentless manner. Either the offending country must reform within a specified time period or sanctions will be imposed upon certain of its goods. The Trade Representative will, himself, determine and announce what the nature of those sanctions will be. Meanwhile, he is required to report regularly and directly to Congress on the position of all his negotiations with foreign powers.

The President may, of course, object to some finding or another of the Trade Representative. But he is outside the loop, and his interventions may well be ignored by a Trade Representative answering directly to the Congress on a routine basis and by statutory command. In January, newly appointed Trade Representative Carla Hills announced that she will open foreign markets "with a crowbar or a handshake." The new trade act gives her a mighty instrument with which to work. But it also limits her discretion—and still more the President's—in how it is used. All this became clear when the list of offending nations was delivered in late May, fulfilling the chief requirement of the Trade Act. Concessions and intensive negotiations had earned Taiwan and South Korea omission from the list. Japan, India, and Brazil, however, were named among the top offenders. Selection of these two Asian nations was particularly awkward given the fact that both governments were shortly to face elections. Timing like this made vehement reactions inevitable.

Conservative estimates hold that protectionism costs every family in America, every year that they live, $1,000. The clothes they buy, and the food they eat, are now more expensive than would be true in a system of free trade. Basic necessities, consumed in equal quantities by the rich and the poor, are now heavily taxed in a manner invisible and indirect. And the taxation is growing.

Ultimately, the protection debate is just one part of the debate about how we ourselves are to be governed. The institutions with which we are blessed were established to be impartial among individuals who are prone, as our Founders knew, to act out of interest and passion. The separation of powers in our government was built to discourage this tendency in the people and to prevent it from seizing control of policy.

As that feature of our institutions breaks down, we find a political danger developing of the first magnitude. Our allies can now see that a fever has developed among us. Our representatives confront them with demands for concessions that mean little in the large scheme of things. But in the maelstrom of Washington politics, the groups that demand these concessions dominate.

The most serious lesson is the one learned by our own people. They look at government as a place to make a deal. In the process, class and interest politics are inflamed, and the credit of our national institutions sinks low. Everywhere the politics of avarice is spread. Everywhere industry is hampered. Everywhere the moral is discredited that he who works the hardest reaps the most. How to correct this larger problem will remain our generation's most serious challenge.

IN HONOR OF REVEREND FATHER ANTHONY KANAVOS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. VISCLOSKY. Mr. Speaker, on Saturday evening, November 4, 1989, the parishioners and friends of Saint George Greek Orthodox Church will gather in Schererville, IN to honor Reverend Father Anthony Kanavos, who is retiring after more than 40 years of distinguished service to his church and community.

Born on May 12, 1923 to Theodosios and Erasmia Kanavos, Father Kanavos spent his early years in Lowell, MA. In 1942, he entered the Holy Cross Theological School and began his religious studies. Shortly after his graduation from Holy Cross in 1947, he married Diane Zaramboukas. Today, they are blessed with three children and four grandchildren.

In October 1947, Father Kanavos was ordained first as a deacon and then as a priest of the Greek Orthodox Church. He came to Saint George Greek Orthodox Church of East Chicago, IN in 1948. Reverend Father Anthony Kanavos has remained at Saint George Church for the past 41 years dedicating himself to building a strong foundation for the church and its congregation. He has shared with his congregation in times of sadness as well as such joyous occasions of birth, baptism, and marriage.

In his retirement, Father Kanavos will devote many of his energies not only to his family, but also to his fondest wish and project—building a new Saint George Church. Due to his commitment, I am confident that he will achieve his goal.

Mr. Speaker, on behalf of his parish, friends, and neighbors in northwest Indiana, I wish to offer my warmest congratulations to Reverend Father Anthony Kanavos on the occasion of his retirement, as well as sincere thanks for a job well done.

LOCAL EFFORTS MOUNTED TO EASE THE PLIGHT OF THE HOMELESS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. MAZZOLI. Mr. Speaker, one of the most pressing issues facing our Nation today is the heartrending plight of the homeless.

Earlier this month, many thousands came to Washington—including several hundred from my hometown of Louisville, KY—to participate in the Housing Now! march in behalf of the homeless.

I am pleased by the efforts mounted in my community to deal with homeless individuals and families. These efforts have largely been successful.

I particularly call attention to the work done by Sue Speed, executive director for Louisville and Jefferson County's Coalition for the Homeless, by Candy Olmstead of the Housing Authority of Louisville, and by Alex Brodrick, president of the Volunteers of America in Louisville.

I was fortunate to have met with these folks and others from Louisville and Kentucky here for the march. We discussed pending housing bills, and I look forward to working with them in the weeks and months ahead to pass effective Federal housing legislation.

I believe that by coordinating Federal efforts and resources with State and local initiatives—such as those which have proved to helpful in Kentucky and other areas—we will be able to provide the homeless with the assistance they so desperately need and deserve.

NEW YORKERS STRUGGLE TO OVERCOME RACIAL POLITICS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 27, 1989

Mr. STOKES. Mr. Speaker, I am sure that most of my colleagues have been following the mayoral race in New York City with great interest. I am also sure that the will agree that this race has been an embittered struggle between the Democratic candidate, David Dinkins, and the Republican nominee, Rudolph Giuliani. Robert C. Maynard, publisher of the Oakland Tribune, recently commented on the racial politics that have contaminated the mayoral race in New York City.

Mr. Speaker, Mr. Maynard's commentary entitled, "New Yorkers Struggle To Overcome Racial Politics," appeared in the Cleveland Plain Dealer on October 7, 1989. Mr. Maynard briefly chronicles the most recent incidence of racial tension between the two camps in New York and the effects of this tension on the city and the mayoral race.

Mr. Speaker, I urge all of my colleagues to read this enlightening commentary on one of the most riveting mayoral races in recent years.

[From the Plain Dealer, Oct. 7, 1989]

NEW YORKERS STRUGGLE TO OVERCOME RACIAL POLITICS

(By Robert C. Maynard)

In the waning days of overtly racial politics in the Deep South, a losing candidate for governor explained his loss. His opponent, he said, "just out-egged me." By that, he meant that his own appeal had been insufficiently virulent in segregationist rhetoric.

At that time, a generation ago, New Yorkers read such stories and clucked their tongues in derision. Those people in the South, New Yorkers told themselves—they just don't know how to live. An appeal to race over reason was not the New York style.

Edward I. Koch came on the scene in the middle of the last decade. The chemistry of New York politics took a nasty turn. New Yorkers elected Koch mayor in 1977. For the first time, a resident of Gracie Mansion became a symbol of racial politics. His abrasive approach to sensitive subjects heightened tensions between the African-American and Jewish-American communities.

After 12 years, the Democratic Party ousted Koch in the primary last month. They nominated David Dinkins. If the voters choose Dinkins on Nov. 7, he will be the first black mayor of New York. Ordinarily, the Democratic nomination is tantamount to election in a city where Democrats outnumber Republicans 5-to-1.

This is no ordinary election year for New York. The Republican nominee, Rudolph Giuliani, is a well-financed, popular former federal prosecutor. He busted Ivan Boesky and began the undoing of Michael Milken. That gives him cachet in a town that loves to give the raspberry to the rich.

Untested in electoral politics, Giuliani had important post-primary tasks. New Yorkers expected him to define his concept of New York, its future and the job of mayor. Instead, he brought in Roger Ailes and the team that gave you Willie Horton in the Bush presidential campaign.

In a matter of days, Giuliani had New York embroiled in a new round of racial politics. This time it was against the backdrop of a killing. A white gunman shot a black youth in the Bensonhurst section of Brooklyn.

Jackie Mason tells ethnic jokes of dubious taste and humor for a living. He became Giuliani's "ambassador" to the Jewish community. Mason immediately tossed a five-gallon can of kerosene on the smoldering embers of racial tension. He called Dinkins a name in Yiddish that has derogatory connotations. He gratuitously sought to link Dinkins to the most extreme of Jesse Jackson's positions on the Middle East. He said Jewish voters supported black candidates out of guilt.

Meanwhile, over at Guiliani campaign headquarters, Ailes and company busily placed ads in Jewish newspapers. In Yiddish, the ads challenged Jewish voters to "choose your own destiny." How? Look at the pictures. There were two. One showed Giuliani in earnest consultation with Bush. The other showed Dinkins receiving an election-night bear hug from Jackson.

The Jewish community was neither charmed nor amused. Rabbis and other leaders stepped forward to denounce the Giuliani campaign as intolerable. Mayor Koch, after whom Giuliani surely modeled his methods, joined the chorus of condemnation of Giuliani's tactics.

Giuliani committed one of the worst political miscalculations in recent municipal political history. He assumed he could build on Koch's residue of alienation. He tried to out-Koch Koch. More than 20 years after those tactics died in their birthplace in the Deep South, Giuliani did not resurrect them in the North.

Barring some extraordinary development in the next three weeks, David Dinkins will win on Nov. 7. In no small way, he will have Ed Koch and Rudolph Giuliani to thank.

Between them, they gave New York a strong dose of racial politics. That forced the voters to take a stand against intolerance. When Giuliani set out to out-Koch Koch, he forgot that the voters had just rejected Koch. By that act alone, he proved he is not smart enough to govern New York City.

HOUSE OF REPRESENTATIVES—*Monday, October 30, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, gracious God, that whatever might be our place in life, whether our moments of joy or sorrow, laughter or tears, Your grace is always sufficient for us. Your favor to us, O God, forgives us our errors, supports us in good deeds, cleanses our motives and thoughts, and allows us to hold to the promises You have freely given. For these and all Your many blessings we offer this prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule, I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Colorado [Mrs. SCHROEDER] come forward and lead the House in the Pledge of Allegiance.

Mrs. SCHROEDER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 131. Joint resolution to designate May 25, 1989, as "National Tap Dance Day."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1231. An act to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective-bargaining units.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2916) "an act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 4, 8, 9, 17, 18, 19, 37, 38, 39, 40, 43, 46, 47, 48, 55, 57, 71, 75, 80, 86, 90, 91, 92, 93, 94, 95, 97, 98, 105, 109, 110, 116, 122, 123, 124, and 128.

The message also announced that the Senate disagrees to the House amendment to the Senate amendment numbered 25, to the above-entitled bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3012) "an act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 3, 6, 10, 13, 20, 22, 27, and 36, to the above-entitled bill.

The message also announced that the Senate has passed bills, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1062. An act to amend the Earthquake Hazards Reduction Act of 1977 to improve the Federal effort to reduce earthquake hazards, and for other purposes;

S. 1191. An act to authorize appropriations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes;

S. 1798. An act to provide for the imposition of the death penalty for the terrorist murder of United States nationals abroad;

S.J. Res. 131. Joint resolution to designate November 1989 as "National Diabetes Month";

S.J. Res. 187. Joint resolution to designate the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, as "National Adoption Week";

S.J. Res. 198. Joint resolution designating November 1989 as "An End to Hunger Education Month";

S.J. Res. 210. Joint resolution to designate the month of October 1989 as "National Spina Bifida Month";

S.J. Res. 215. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day";

S.J. Res. 216. Joint resolution designating November 12 through 18, 1989, as "Community Foundation Week";

S.J. Res. 217. Joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, and the period commencing February 3, 1991, and ending February 9, 1991, as "National Burn Awareness Week";

S.J. Res. 220. Joint resolution to designate the week of December 3, 1989, through December 9, 1989, as National Autism Week and 1990 as National Silver Anniversary Year for the Autism Society of America; and

S. Con. Res. 55. Concurrent resolution to commemorate the volunteers of the United States and the Hugh O'Brian Youth Foundation.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
October 27, 1989.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 11:58 a.m. on Friday, October 27, 1989 and said to contain H.R. 3026, the "District of Columbia Appropriations Act, 1990," and a veto message thereon.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1990—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-105)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 3026, the "District of Columbia Appropriations Act, 1990."

I informed the Congress earlier that I would veto this bill if it permitted the use of appropriated funds to pay for abortions other than those in which the life of the mother would be endangered if the fetus were carried to term. The limitation I proposed is identical to the one included in the District of Columbia Appropriations Act for 1989 (Public Law 100-462).

This year, regrettably, the Congress has expanded the circumstances in which Federal funds could be used to pay for abortions. Moreover, unlike Public Law 100-462, H.R. 3026 would also permit payment for abortions with local funds, which under current law must be appropriated by the Congress. Thus, H.R. 3026 would not restrict the use of such funds for abortion in any way.

I am, therefore, compelled to disapprove H.R. 3026.

GEORGE BUSH.

THE WHITE HOUSE, *October 27, 1989.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Mr. DIXON. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on the bill, H.R. 3026, be postponed until Wednesday, November 1, 1989.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PRESIDENT BUSH'S VETOES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, we have just heard the veto message of the President of the United States. I think it is very sad that this weekend in the District of Columbia we saw the murder rate go above last year's all-time high, and the year is not over.

The President of the United States seems willing to hold up all funding to help us with the drug war in the District of Columbia over the whole issue of whether or not the District of Columbia can spend its own money aiding women who are victims of rape and incest.

This weekend the pollster, Lou Harris, said that the President's popularity among women is sinking rapidly. There is no question why when you look at his three vetoes.

Veto No. 1 was of the minimum-wage bill. Two-thirds of the minimum-wage workers are women who are trying to work their way out of poverty.

Veto No. 2 was the Health and Human Services bill, and he was willing to kill the whole department's budget over the issue of rape and incest.

Now today we see the third veto message where he will stop the whole drug war in the District of Columbia in order to prevent them from using their own money to help victims of rape and incest.

I think women feel very targeted by this President and are confused about his "kinder, gentler" rhetoric and see it for what it is, all rhetoric.

RAISING THE MINIMUM WAGE MEANS JOBS LOST

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, we remember the 1970's. We were losing jobs in America at the rate of 50,000 a week. We were 16th in new inventions. We had the highest inflation and interest rates since the Civil War.

Then we began a new course for the 1980's. Since that time, since 1982, America has created twice as many jobs as the rest of the world combined.

We have cut black teenage unemployment by two-thirds, we have cut the number of people on minimum wage in half.

Now, Mr. Speaker, I see on the menu for tomorrow we have a cauterizing idea, they want to cauterize the economy again. They want to pass a law that says to a person, to the black teenager, the person on the low end of the economic ladder, we are going to pass a law that says, "You cannot be hired." We are going to jump the minimum wage. We can calculate to a certainty the number of jobs that would be lost by how high we raise that ladder.

That is a mean, vicious thing to do to anyone. Let us not go back, let us defeat that bill.

ABORTION IS HOMICIDE AGAINST THE UNBORN

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, I share the gentlewoman from Colorado's concern over the homicide rate in the District of Columbia. It certainly is appalling.

Equally appalling, however, is the homicide rate of the unborn child. The District of Columbia has the dubious distinction of committing more homicides against the unborn than any other State or city in the country.

According to statistics provided by the Alan Guttmacher Institute—published in USA Today on July 27, 1989—the District's abortion rate is triple that of any State in the Nation. The DC government's official report on abortion (statistical note No. 75, released September 1987), points out that during 1986 19,942 abortions were reported to the DC government. The report stated that for DC residents, the rate of abortions was the same as the rate of live births.

President Bush acted responsibly in vetoing the DC bill. Abortion kills the life of a child after it has begun through various methods, including poison shots, literal dismemberment, poisoning through saline, aminocentesis and a whole host of other methods.

We ought to stand firmly behind President Bush. He acted on a very high moral imperative that all human life, regardless of age or condition of dependency, is worthy of respect and protection. And certainly there is no reason for any of us to be paying with taxpayer funds to subsidize the killing of the unborn child.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, October 27, 1989:

H.R. 3281. An act to reauthorize the National Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, October 31, 1989.

VETERANS HEALTH PROFESSIONALS EDUCATIONAL AMENDMENTS OF 1989

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3199) to amend title 38, United States Code, to establish a program to provide postsecondary educational assistance to students in health professions who are eligible for educational assistance under the Reserve GI Bill Program in return for agreement for subsequent service with the Department of Veterans Affairs as amended.

The Clerk read as follows:

H.R. 3199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Health Professionals Educational Amendments of 1989".

SEC. 2. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAMS.

(a) COORDINATION WITH DEPARTMENT OF DEFENSE PROGRAMS.—(1) Chapter 76 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

"§ 4351. Authority for program

"(a) As part of the Educational Assistance Program, the Secretary of Veterans Affairs

may select qualified individuals to receive assistance under this subchapter.

"(b) To be eligible to receive assistance under this subchapter, an individual must be accepted for enrollment or be enrolled as a full-time student at a qualifying educational institution in a course of education or training that is approved by the Secretary and that leads toward completion of a degree in a health profession involving direct patient care or care incident to direct patient care.

"§ 4352. Eligibility: individuals entitled to benefits under the GI bill program for members of the Selected Reserve

"The Secretary of Veterans Affairs may not approve an application under section 4303 of this title of an individual applying to receive assistance under this subchapter unless—

"(1) the individual is entitled to benefits under chapter 106 of title 10; and

"(2) the score of the individual on the Armed Forces Qualification Test was above the 50th percentile.

"§ 4353. Amount of assistance

"The Secretary may pay to a person selected to receive assistance under this subchapter the amount of $400 (adjusted in accordance with section 4331 of this title) for each month of the person's enrollment in a program of education or training covered by the agreement of the person entered into under section 4303 of this title. Payment of such benefits for any period shall be coordinated with any payment of benefits for the same period under chapter 106 of title 10.

"§ 4354. Obligated service

"A person receiving assistance under this subchapter shall provide service in the full-time clinical practice of the person's profession as a full-time employee of the Department for the period of obligated service provided in the agreement of such person of obligated service provided in the agreement of such person entered into under section 4303 of this title.

"§ 4355. Breach of agreement; liability

"(a) A person receiving assistance under this subchapter who fails to maintain employment as an employee of the Department permanently assigned to a health-care facility shall be liable to the United States in an amount determined in accordance with section 4317 of this title.

"(b) Any amount owed the United States under subsection (a) of this section shall be paid to the United States during the one-year period beginning on the date of the breach of the agreement.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

"4351. Authority for program.
"4352. Eligibility: individuals entitled to benefits under the GI bill program for members of the Selected Reserve.
"4353. Amount of assistance.
"4354. Obligated service.
"4355. Breach of agreement; liability.".

(b) PERIODIC ADJUSTMENTS IN AMOUNT OF ASSISTANCE.—Section 4331 of such title is amended—

(1) in the first sentence of subsection (a)(1)—

(A) by striking out "amount and" and inserting in lieu thereof "amount,"; and

(B) by striking out "amount." and inserting in lieu thereof "amount, and the maximum Selected Reserve member stipend amount.";

(2) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The term 'maximum Selected Reserve member stipend amount' means the maximum amount of assistance provided to a person receiving assistance under subchapter V of this chapter, as specified in section 4353 of this title and as previously adjusted (if at all) in accordance with this subsection.".

(c) CONFORMING AMENDMENTS.—(1) Section 4301(a) of such title is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) the Selected Reserve member stipend program provided for under subchapter V of this chapter.".

(2) Section 4302 of such title is amended by inserting "under subchapter I or II of this chapter" in subsections (a) and (b) after "Educational Assistance Program".

(3) Section 4304 of such title is amended by striking out "subchapter II or III" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapters II, III, or V".

The SPEAKER. Is a second demanded?

Mr. SMITH of New Jersey. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3199, the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

□ 1210

Mr. Speaker, H.R. 3199, as amended, is designed to help the Department of Veterans Affairs attract much needed health care professionals through the successful GI bill, which we enacted in 1984, for the All Volunteer Force. The GI bill has been very, very successful.

The program established under H.R. 3199 was brought to our attention by the very able ranking minority member of our Subcommittee on Education, Training, and Employment, the gentleman from New Jersey [Mr. SMITH]. I commend the gentleman for his efforts in creating this unique recruiting incentive for the Department of Veterans Affairs. The bill will be explained by the subcommittee chairman, the gentleman from Minnesota [Mr. PENNY].

I also want to thank the gentleman from Minnesota [Mr. PENNY] for holding hearings on the bill before us today, and moving it to the floor so quickly. I also want to commend the distinguished ranking minority member of the full committee, the gentleman from Arizona [Mr. STUMP], for his work on this measure. Because of his cooperation, we are able to bring this legislation to the floor today.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY], the chairman of the subcommittee.

Mr. PENNY. Mr. Speaker, the Veterans Health Professionals Educational Amendments Act of 1989, H.R. 3199, as amended, would establish a discretionary educational assistance program for students in health professions who are eligible for the Montgomery GI bill-selected reserve (chapter 106, title 10, United States Code).

I think it's appropriate to mention at this point that the newest GI bill, which was authored and championed by Chairman MONTGOMERY, has been an enormous success. Latest figures show that over 135,00 members of the National Guard and Reserves have trained under the chapter 106 program and more than 790,000 servicemembers have elected to participate in the Montgomery GI bill for active duty service personnel. So far, over $800 million has been collected through the payroll deductions from active duty personnel, and that is more than enough to support the cost of the Montgomery G.I. bill, for many years to come.

In addition to the $140 per month benefit provided under the chapter 106 program, a participant in the Selected Reserve Member Stipend Program established under H.R. 3199 would receive $400 per month. This stipend would generally be paid only during the last 2 years of a 4-year program when the student is taking health-related courses. In exchange, these future health-care professionals would agree to serve 1 year with the Department of Veterans Affairs for each year of assistance provided. A participant who fails to fulfill the service obligation to the DVA would be required to repay the assistance amount, plus interest and penalty, to the Department.

We believe this program, in combination with the Montgomery GI bill for members of the National Guard and Reserves, would enhance the ability of the Department of Veterans Affairs to recruit much-needed health

care professionals. DVA staffing shortages have reached critical levels, and the recruitment tool established under H.R. 3199 would provide a cost-effective way to address this serious problem. Additionally, it should be pointed out that this program would also enhance the ability of the selected reserve to attract the bright, able young men and women they need.

I want to commend CHRIS SMITH, the ranking minority member of the Subcommittee on Education, Training and Employment, for developing this legislation. I also want to thank the chairman and BOB STUMP, ranking minority member of the full committee, for their support and cooperation.

H.R. 3199, as amended, is an excellent bill, and I urge my colleagues to support it.

Mr. Speaker, on August 4, 1989, H.R. 3199, a bill to provide postsecondary educational assistance to students in health professions who are eligible for benefits under the Montgomery GI bill (chapter 106, title 10, United States Code) in return for agreement for subsequent service with the Department of Veterans Affairs [DVA], was introduced by the ranking minority member of the Subcommittee on Education, Training and Employment, CHRIS SMITH. The subcommittee held hearings on the bill on September 14 and 21, 1989. The subcommittee then met on October 12, 1989, and voted unanimously to recommend H.R. 3199, as amended, to the full committee. On October 18, 1989, the full committee unanimously approved H.R. 3199, as amended, and ordered the bill reported to the House.

MAJOR PROVISIONS OF H.R. 3199, AS AMENDED

H.R. 3199, as amended, would:

First, permit the Secretary of Veterans Affairs to identify staffing shortages in health professions within the Department of Veterans Affairs and establish a discretionary assistance program for Montgomery GI bill-selected reserve (chapter 106, title 10, USC) participants who major in such health care professions and agree to work for the DVA for 1 year for each year of assistance received.

Second, permit benefits to be awarded to individuals pursuing a degree in a health profession involving direct patient care or car incident to direct patient care.

Third, provide that benefits be paid only for the period the student is taking the health-related course—generally the last 2 years of a 4-year program.

Fourth, provide, in addition to the amount the selected reservist receives from the Montgomery GI bill for financing undergraduate education, that the DVA may pay $400 per month to the individual pursuing a degree in a health profession.

Fifth, require, if the individual reneges on the agreement to work for the DVA, that the total benefit amount, plus interest and penalty, must be repaid to the Department.

BACKGROUND

As the Nation's largest health care system, the Department of Veterans Affairs is struggling, along with other health care providers in the country, to find ways to deliver affordable, quality medical care. According to the 1988 VA survey of health occupational staff, DVA health care facilities nationwide are experiencing significant staffing shortages in numerous health care professions. DVA statistics for 1988 indicate a 25-percent vacancy rate in physical therapy positions, 20-percent vacancy rate in occupational therapy positions, an 8-percent vacancy rate in pharmacy positions, and a 5-percent vacancy rate in nursing staff. Much of the difficulty in obtaining health care employees is the result of fewer individuals choosing health-related careers. For example, according to the American Association of Colleges of Nursing, basic baccalaureate degree enrollments in nursing have declined 18 percent in recent years.

As the number of health care professionals declines and the cost of delivering care increases, institutions are searching for creative ways to best utilize their resources to maximize health care delivery. In this respect, the DVA has a unique advantage because of the wide variety of entitlement and benefit programs which it can utilize and build on to strengthen and expand its ability to deliver health care to our Nation's veterans.

The DVA currently administers two separate programs; both provide educational assistance to certain eligible students. One program, the Health Professional Scholarship Program, was established pursuant to the Veterans Administration Health Care Amendments of 1980, Public Law 96–330. This scholarship program provides monthly benefits to students who major in certain health-related fields. In return, scholarship recipients must agree to work in a DVA health care facility 1 year for every year the scholarship is awarded.

The Department of Defense Authorization Act of 1985, Public Law 98–525, established the Montgomery GI bill-selected reserve (chapter 106, title 10, United States Code). This program is named for the Chairman of the full committee, Hon. G.V. (SONNY) MONTGOMERY, who was the author of the newest GI bill. Under this highly successful program, which is funded by the Department of Defense and administered by the DVA, certain members of the National Guard and Reserves are entitled to a total of $5,040 to finance undergraduate studies. In order to qualify for the GI bill benefit, an individual must enlist, reenlist, or extend an enlistment in the selected reserve for at least 6 years. Additionally, an individual must earn a high school diploma or an equivalency certificate before completing initial active duty for training and hold no previous baccalaureate degree. Under this educational assistance program, individuals receive $140 per month for 36 months—no kickers or bonuses are currently offered. According to statistics provided by DVA and DOD, approximately 63,938 Montgomery GI bill-selected Reserve participants used the education benefit for full-time study in fiscal year 1988, and approximately 2,900 were pursuing health-related careers during that year.

The representative of the Association of the U.S. Army stated in testimony before the subcommittee, concerning H.R. 3199, AUSA believes it would provide reserve component members with an excellent opportunity to pursue a health care profession, while at the same time enhancing the military health care contribution to the Nation's defense. We concur with this assessment and believe a program similar to the Health Professional Scholarship Program targeted to members of the Selected Reserve would be of interest to guardmen and Reservists pursuing health careers. An additional DVA benefit of $400 per month, added to the current chapter 106 benefit of $5,040, would provide eligible individuals with substantial educational assistance in return for obligated service in a DVA facility. This program established under H.R. 3199 would serve the dual purpose of attracting employees to DVA facilities as well as providing the Selected Reserve with an additional recruitment and retention tool, thus strengthening both the DVA and our Nation's military.

AUTHORITY FOR THE PROGRAM

Section 2 of H.R. 3199, as amended, would establish a discretionary assistance program for Montgomery GI bill-Selected Reserve (chapter 106) participants who major in a health care profession identified by the Department of Veterans Affairs. The participants in turn agree to work for the DVA for a specified time. Although the program would be discretionary, we believe this assistance would be a cost-effective recruitment tool, enhancing the ability of the Department to attract health care professionals. Accordingly, we expect the DVA to make this program a high priority and request adequate funding.

A guardsman or reservist enrolled or accepted for enrollment as a full-time student who is eligible for education benefits under chapter 106 may apply to the DVA to participate in the assistance program. The DVA may award the benefit based on its staffing needs and may target the assistance to those pursuing careers in health care fields most needed at DVA facilities. Additionally, DVA may change the focus of the assistance in response to changes in staff vacancy rates, thus providing the Department maximum flexibility in meeting its personnel needs.

Statistics provided by the Department of Defense for fiscal year 1988 indicate that approximately 84 percent of chapter 106 participants are pursuing degrees on a full-time or three-quarter-time basis. Therefore, requiring full-time study in order to qualify for participation in the program established under the reported bill would include a sufficient pool of Selected Reservists from which the DVA may recruit while also enabling the Department to utilize these health-care employees within a reasonable, predictable period of time.

In order to qualify for the stipend provided under the Committee bill, an individual would be required to attend a qualifying educational institution that is approved by the Secretary of Veterans Affairs. The Secretary would have the discretion to extend eligibility to students in all academic programs preparing entry-level practitioners in designated health care shortage occupations. This would include those programs in which entry level qualification would require a generic masters degree. For example, the current trend in the field of physical therapy is to require a masters degree as a minimum entry level of practice. This provision is not intended to establish a program of assistance for students pursuing specialty masters degrees; rather, the entry level masters is authorized with the expectation that it

would be rarely used and only in cases when absolutely required.

ELIGIBILITY

The Secretary of Veterans Affairs could award assistance only to those applicants who, at the time of application, are eligible for education benefits under chapter 106. In order to establish eligibility under the Montgomery GI bill-Selected Reserve, individuals must first enlist, reenlist, or extend an enlistment in the Selected Reserve for at least 6 years. Additionally, GI bill participants must earn a secondary school diploma or equivalency certificate before completing initial active duty for training and hold no previous baccalaureate degree. Only members of the selected reserve who score in the 50th percentile or above on the Armed Forces Qualification Test would be permitted to apply for assistance under the program established by H.R. 3199.

Assistance under the stipend program would be in addition to, and coordinated with, payment of educational assistance to selected reservists under chapter 106 of title 10. Eligibility for the stipend would be contingent upon eligibility for receipt of educational assistance as a member of the Selected Reserve. The rate of assistance for selected reservists who are full-time students is currently $140 per month. Under the measure, the monthly payment of $140 would be coordinated with the $400 stipend so that a participant would receive $540/month from the Department of Veterans Affairs.

Exhaustion of benefits under the chapter 106 program would not, however, result in cessation of stipend payments if the Selected Reserve service of the individual continued to be satisfactory. Should a stipend recipient fail to participate satisfactorily in required training in the Selected Reserve during the period of obligated service which created the entitlement to educational assistance under chapter 106, the individual would be liable to the United States for breach of the agreement under subchapter V of chapter 76 of title 38, United States Code. Specifically, it is intended that any person deemed to have failed to participate satisfactorily in the Selected Reserve under section 2135 of title 10 shall be deemed to have breached the agreement entered into under section 4303 of title 38, United States Code.

AMOUNT OF ASSISTANCE

Under the program established by H.R. 3199, as amended, the Secretary may award a stipend of $400 per month to an eligible Selected Reservist pursuing a designated health career as a full-time student. Assistance would be provided only when the student is taking health-related courses leading to a degree in direct patient care or care incident to direct patient care.

Statistics show that during fiscal year 1989, the DVA awarded an average of $19,243 per nursing student and $23,454 per physical therapy student under its successful health professional scholarship program. Forty-nine percent of the total scholarships were for 1-year awards, and 51 percent were for 2-year awards. Under H.R. 3199, the DVA would award approximately $3,600 for a 1-year award and $7,200 for a 2-year award. DVA estimates that under its health professional scholarship program, it costs $23,454 to recruit a physical therapist while under the program established by the reported bill, it would cost the DVA $7,200 to recruit a physical therapist for 2 years of service. The participant, however, would generally receive a total of $12,240 because individuals eligible to receive the DVA stipend are also eligible to receive $5,040—$140/month for 36 months—funded by the Department of Defense, under the Montgomery GI bill-Selected Reserve. Accordingly, the assistance provided under H.R. 3199, combined with the chapter 106 benefit, would provide eligible members of the Selected Reserve with a substantial benefit which would also be a cost-effective recruitment tool for the DVA and DOD.

OBLIGATED SERVICE

In order to receive the assistance under H.R. 3199, recipients must serve one year in a DVA health care facility for every year of assistance received. This requirement would meet the DVA's staffing needs without imposing an overly burdensome obligation on a participant which could actually discourage participation in the program.

A participant would be required to provide clinical service as a full-time employee in a location determined by the Secretary. Under the Health Professional Scholarship Program, DVA attempts to accommodate the participant's needs when determining where the individual will fulfill his or her service obligation and has generally been successful in this effort. Similarly, we expect the DVA would attempt to coordinate location of the service obligation with the participant's outstanding Reserve obligation.

In the event a participant is ordered to active duty in the Armed Forces during a time of war or national emergency, or is ordered to active duty at any time under the provisions of section 673b of title 10, the participant's primary obligation would be the individual's military commitment. After fulfillment of his or her active duty responsibility, the participant would then begin or complete his or her service obligation to the DVA.

BREACH OF AGREEMENT—LIABILITY

Under H.R. 3199, a participant in the program who fails to fulfill the service obligation to the DVA would be required to repay the assistance amount, plus interest and penalty, to the DVA. The amount to be repaid would be determined by adding the amount of all assistance paid to the participant, or on the participant's behalf, plus interest, multiplied by three, minus months of service obligation satisfied.

This liability agreement is also used in the Health Professional Scholarship Program and has proven to be an effective deterrent against breach of agreement under that program. According to DVA statistics, only six percent of the Scholarship Program participants have failed to fulfill their service obligation since the program was established in 1982.

I want to commend CHRIS SMITH for developing this legislation. I also want to thank the chairman of the full committee, SONNY MONTGOMERY, and the ranking minority member of the full committee, BOB STUMP, for their support and cooperation.

H.R. 3199, as amended, is an excellent bill, and I urge my colleagues to support it.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to be sponsoring H.R. 3199, The Veterans Health Professionals Educational Amendments Act of 1989.

I deeply appreciate the bipartisan cooperation and suggestions offered by my good friends Mr. MONTGOMERY, the distinguished chairman of our committee, Mr. STUMP, ranking member; and Mr. PENNY, the chairman of the Subcommittee on Education, Training and Employment.

Let me also thank the unsung heros of this—and every bill we draft in committee—Mack Fleming, Jill Cochran, Pat Ryan, Gale Griffin and Kingston Smith, to name a few.

Mr. Speaker, H.R. 3199, as amended, establishes a new discretionary assistance program for the Montgomery GI bill—Selected Reserve participants who major in a health care profession identified by the Department of Veterans Affairs and who in turn agree to work for the VA for a limited time.

Current Montgomery GI bill benefits entitle most reservists and members of the National Guard to a benefit of $5,040 from the Department of Defense [DOD] to finance undergraduate studies. H.R. 3199 enables the VA to award to a reservist or guardsman pursuing a health career an additional $400 per month. The bill is intended to provide assistance only when the student is taking their health-related courses. In order to receive this added assistance, recipients must serve 1 year in a VA health care facility for every year of assistance received. If the participant reneges on the agreement, he/she must repay the assistance amount, plus interest and penalty, to the VA.

We are all aware of the difficulty the VA has had in recruiting and retaining nursing personnel, but it is also true that similar shortages exist in other professions. According to the "1988 VA Survey of Health Occupational Staff," VA health care facilities nationwide are experiencing a 25-percent vacancy rate in physical therapy positions, 20-percent vacancy rate in occupational therapy positions, and an 8-percent rate in pharmacy positions, as compared to a 5-percent vacancy rate in nursing staff.

H.R. 3199 helps the VA to combat the staffing shortages facing its hospitals by guaranteeing the VA an employee once the reservist accepts assistance. H.R. 3199 also benefits DOD by strengthening the Selected Guard and Reserve GI Educational Program and providing the Reserves with an additional recruitment tool. The contributions to our Nation's health care industry would also be significant—H.R. 3199 would help increase the supply of health care professionals by encouraging students to select health

careers. According to Congressional Budget Office [CBO] estimates, almost 2,000 individuals will be using the program in 1991.

The VA currently administers the Montgomery GI bill—Selected Reserve, and another program, the Health Professional Scholarship Program. Administrative mechanisms from these programs will be combined in order to carry out the provisions in H.R. 3199 and it is believed that implementation of this assistance program will be fairly simple. Because the reservist is already receiving $5,040 from DOD, the VA is able to award less money than under the Health Professional Scholarship Program but still provide the reservist with a substantial benefit.

Under the very successful Health Professional Scholarship Program, it costs the VA approximately $23,454 to attrack a physical therapist; under H.R. 3199, it would cost the VA $7,200 to attract a physical therapist for 2 years of service. The participant, however, would receive a total of $12,240 because individuals eligible to apply for this assistance already receive $5,040—$140 a month for 36 months—from the Department of Defense under the chapter 106 program.

Mr. Speaker, H.R. 3199, is supported by the administration, veterans organizations, and military groups. During hearings held on the bill, the representative from the Association of the United States Army stated that the association believes H.R. 3199 would "provide Reserve component members with an excellent opportunity to pursue a health-care profession, while at the same time enhancing the military health-care contribution to the Nation's defense." Likewise, the VA states that it "favors enactment of H.R. 3199 in view of its cost effectiveness, discretionary nature, and potential attractiveness as an effective recruitment tool."

Mr. Speaker, I urge my colleagues to join these groups and the administration in support of the Veterans Health Professionals Educational Amendments of 1989.

Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute. On H.R. 3199, it will evolve the Department of Veterans Affairs to recruit qualified nurses and other critical health care professionals, and it will be cost effective.

Mr. Speaker, I would like to point out that the peacetime GI bill is working well. We believe by March or April of next year, over 1 million young Americans will have signed up for the newest GI bill provided for active duty servicemembers and the Selected Reserve.

As Members know, under the active duty program, young men and women have to agree to a basic pay reduction of $100 a month for 12 months in order to qualify for $10,800 in educational benefits. As a result of the required pay reduction, Mr. Speaker, over $820 million has been reverted to the Treasury since the program began in 1985. Members know how much the taxpayer had to pay out: less than $100 million. Therefore, it has been a big saving to the taxpayer. I recognize, of course, Mr. Speaker, that in the future, program costs will increase, and this $820 million will be used to educate young Americans, and it will be money well spent. We want to educate Americans who volunteer to serve this country. I want to commend the gentleman from Minnesota [Mr. PENNY] the chairman of the subcommittee, for improving the peacetime GI bill.

H.R. 3199 will help the Veterans' Administration recruit qualified people into the medical care system. The author of the bill is the gentleman from New Jersey [Mr. SMITH] and I congratulate him.

Mr. Speaker, I yield back the balance of my time.

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The SPEAKER pro tempore (Mr. SHARP). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 3199, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to establish a program to provide post-secondary educational assistance to students in health professions who are eligible for educational assistance under the GI bill program for members of the Selected Reserve in return for agreement for subsequent service with the Department of Veterans Affairs.".

A motion to reconsider was laid on the table.

VETERANS' EDUCATION AMENDMENTS OF 1989

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3390) to amend title 38, United States Code, with respect to certain veterans' education programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INFORMATION TO ASSIST VETERANS RECEIVING EDUCATION BENEFITS.

(a) IN GENERAL.—For the purpose of assisting individuals receiving education benefits from the Department of Veterans Affairs, the Secretary of Veterans Affairs shall prepare, and update periodically, a document containing a detailed description of the benefits, limitations, procedures, requirements, and other important aspects of the education programs administered by the Department.

(b) DISTRIBUTION.—The Secretary shall, beginning in fiscal year 1990 but not before July 1, 1990, distribute copies of such document—

(1) to each individual applying for benefits under an education program administered by the Department of Veterans Affairs and to each such individual at least annually in the years thereafter in which the individual receives such benefits;

(2) to education and training institution officials on at least an annual basis; and

(3) upon request, to other individuals significantly affected by education programs administered by the Secretary, including military education personnel.

(c) FUNDING. The Secretary shall use funds appropriated to the readjustment benefits account of the Department to carry out this section.

SEC. 2. REPORTING REQUIREMENT AND FEE.

(a) IN GENERAL.—Section 1784 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking out "chapter 34," and inserting in lieu thereof "chapter 31, 34,";

(2) in subsection (b), by striking out "chapters 34," and inserting in lieu thereof "chapters 31, 34,"; and

(3) in subsection (c), by striking out "chapters 34," and inserting in lieu thereof "chapters 31, 34,".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

SEC. 3. WORK-STUDY.

(a) PAYMENT PERIOD.—Section 1685(a) of title 38, United States Code, is amended—

(1) in the second sentence—

(A) by striking out "either";

(B) by striking out "two hundred and fifty or $625, whichever is the higher" and inserting in lieu thereof "the number of hours worked during the applicable period"; and

(C) by striking out "two hundred and fifty hours during a semester or other applicable enrollment period," and inserting in lieu thereof "not more than 20 hours a week,"; and

(2) by striking out the third and fourth sentences thereof.

(b) ELIGIBILITY.—Section 1685(b) of such title is amended—

(1) in the first sentence by striking out "veterans-students who are pursuing" and all that follows through the period and inserting in lieu thereof "individuals who are pursuing at least half-time programs of rehabilitation, education, or training under chapter 30, 31, 32, 34, or 35 of this title."; and

(2) in the last sentence by striking out "the veteran ceases to be" through "the veteran" and inserting in lieu thereof "an individual ceases to be at least a half-time student before completing such agreement, the individual".

(c) TECHNICAL AMENDMENTS.—(1) Section 1685(b) of such title is amended by striking out "per centum" and inserting in lieu thereof "percent".

(2) Section 1685 of such title is amended—

(A) by striking out "Veteran-students" and inserting in lieu thereof "Individuals";

(B) by striking out "veteran-students" each place it appears and inserting in lieu thereof "individuals";

(C) by striking out "veteran-student" and "A veteran-student" in subsection" and "An individual", respectively;

(D) by striking out "veteran-student's" each place it appears and inserting in lieu thereof "individual's";

(E) by striking out "veterans" each place it appears and inserting in lieu thereof "individuals";

(F) by striking out "veteran" each place it appears, other than in subsection (b) and in subsection (c)(4), and inserting in lieu thereof "individual"; and

(G) by striking out "veteran's" each place it appears other than in subsection (c)(4) and inserting in lieu thereof "individual's".

(3)(A) The section heading of section 1685 of such title is amended to read as follows:

"§ 1685. Work-study allowance".

(B) The table of sections at the beginning of chapter 34 of such title is amended by striking out the item for section 1685 and inserting in lieu thereof the following:

"1685. Work-study allowance."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

SEC. 4. ACCEPTING SCHOOL CERTIFICATION FOR RENEWAL OF EDUCATIONAL BENEFITS AFTER UNSATISFACTORY PROGRESS.

(a) VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 1674 of title 38, United States Code, is amended by striking out clauses (1) and (2) and inserting in lieu thereof the following:

"(1) the veteran will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such veteran's reenrollment and certified it to the Department of Veterans Affairs; or

"(2) in the case of a proposed change of either educational institution or program of education by the veteran—

"(A) the cause of the unsatisfactory attendance, conduct, or progress has been removed;

"(B) the program proposed to be pursued is suitable to the veteran's aptitudes, interest, and abilities; and

"(C) if a proposed change of program is involved, the change meets the requirements for approval under section 1791 of this title.".

"(b) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 1724 of such title is amended by striking out clauses (1) and (2) and inserting in lieu thereof the following:

"(1) the eligible person will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such eligible person's reenrollment and certified it to the Department of Veterans Affairs; or

"(2) in the case of a proposed change of either educational institution or program of education by the eligible person—

"(A) the cause of the unsatisfactory attendance, conduct, or progress has been removed;

"(B) the program proposed to be pursued is suitable to the eligible person's aptitudes, interests, and abilities; and

"(C) if a proposed change of program is involved, the change meets the requirements for approval under section 1791 of this title.".

SEC. 5. UNIFORMITY OF ATTENDANCE REQUIREMENT.

(a) IN GENERAL.—Section 1780(a) of title 38, United States Code, is amended—

(1) in clause (1) of the second sentence, by striking out "enrolled in a course" through "1788(a)(7) of this title,";

(2) by striking out clause (2) of the second sentence;

(3) by redesignating clauses (3), (4), and (5) of the second sentence as clauses (2), (3), and (4), respectively;

(4) in the third sentence, by striking out "set forth in clause (1) or (2)" and inserting in lieu thereof "set forth in clause (1)";

(5) in subclause (A) of the third sentence, by striking out ", and such periods" through "subsection"; and

(6) in subclause (B) and (C) of the third sentence by striking out ", but such periods" through "subsection".

(b) CONFORMING AMENDMENTS.—Section 1674 and section 1724 of such title are each amended by striking out "conduct" in the first sentence and inserting in lieu thereof "attendance, conduct,".

SEC. 6. MEASUREMENT OF COURSES.

(a) IN GENERAL.—Section 1788(a) of title 38, United States Code, is amended by inserting after "three hours" in clause (c) of the second sentence the following: "(or three 50-minute periods)".

(b) CONFORMING AMENDMENT.—Section 1788(c) of such title is amended by inserting after "three hours" in the second sentence the following: "(or three 50-minute periods)".

SEC. 7. CLOCK-HOUR MEASUREMENT OF CERTAIN UNIT COURSES OR SUBJECTS.

Section 1788(e) of title 38, United States Code, is amended to read as follows:

"(e)(1) For the purpose of measuring clock hours of attendance or net of instruction under clause (1) or (2), respectively, of subsection (a) of this section for a course—

"(A) which is offered by an institution of higher learning, and

"(B) for which the institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree pursued in residence on a standard quarter- or semester-hour basis,

the number of credit hours (semester or quarter hours) represented by such unit courses or subjects shall, during the semester, quarter, or other applicable portion of the academic year when pursued, be converted to equivalent clock hours, determined as prescribed in paragraph (2) of this subsection. Such equivalent clock hours then shall be combined with actual weekly clock hours of training concurrently pursued, if any, to determine the total clock hours of enrollment.

"(2) For the purpose of determining the clock-hour equivalency described in paragraph (1) of this subsection, the total number of credit hours being pursued will be multiplied by the factor resulting from dividing the number of clock hours which constitute full time under clause (1) or (2) of subsection (a) of this section, as appropriate, by the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.".

SEC. 8. TECHNICAL AND CLERICAL AMENDMENTS.

(a) IN GENERAL.—Title 38, United States Code, is amended as follows:

(1) Section 1434 is amended—

(A) in subsection (a)(1), by inserting "1780(f)," after "1780(c),";

(B) by redesignating subsection (c) as subsection (d); and

(C) by inserting after subsection (b) the following new subsection:

"(c) Payment of educational assistance allowance in the case of an eligible individual pursuing a program of education under this chapter on less than a half-time basis shall be made in a lump-sum amount for the entire quarter, semester, or term not later than the last day of the month immediately following the month in which certification is received from the educational institution that such individual has enrolled in and is pursuing a program at such institution. Such lump-sum payment shall be computed at the rate determined under section 1432(b) of this title.".

(2) Section 1633 is amended by adding at the end the following new subsection:

"(d) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under subsection (c) of this section shall be reduced in the same proportion as the monthly benefit payment payable is reduced under subsection (b) of this section.".

(3) Section 1790 is amended—

(A) in subsection (a)(2) by striking out "and prepayment"; and

(B) in subsection (b)(3)(A) by inserting "30," before "32".

(b) TECHNICAL AMENDMENTS TO CHAPTERS 31, 32, 34, 35, AND 36 CONCERNING THE NEW DEPARTMENT OF VETERANS AFFAIRS.—Title 38 is amended as follows:

(1) Chapters 30, 31, 32, 34, 35, and 36 are amended by striking out "Administrator" each place it appears (other than in section 1652(b)) and inserting in lieu thereof "Secretary".

(2) Sections 1723(e), 1743, 1779(b), 1780(d)(3), 1790(b)(3)(B)(i)(III), 1794, 1796(c), and 1799(d) are amended by striking out "Administrator's" and inserting in lieu thereof "Secretary's".

(3) Section 1402 is amended—

(A) by striking out paragraph (5) and inserting is lieu thereof the following:

"(5) The term 'Secretary' means the Secretary of Veterans Affairs."; and

(B) by adding at the end of the following:

"(7) The term "Secretary of Defense' means the Secretary of Defense, except that it means the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

(4) The following sections, as in effect on the day before the date of the enactment of this Act, are amended by inserting "of Defense" after "Secretary":

(A) Sections 1418(a)(3), 1621(c), 1621(e), 1622(a), 1622(d), 1623(b), 1631(a)(2)(C), and 1642.

(B) Sections 1421(a), 1421(b), and 1622(e), the second place "Secretary" appears.

(C) Section 1422(b), the third place "Secretary" appears.

(D) Section 1436(b), 1622(c) amd 1643, each place "Secretary" appears.

(5) Section 1415(c), as in effect on the day before the date of the enactment of this Act, is amended—

(A) by striking out "prescribed by the Secretary," and inserting in lieu thereof "prescribed by the Secretary of Defense,"; and

(B) by inserting "of Defense" after "Secretary" the last place it appears.

(6) Section 1621(b)(1), as in effect on the day before the date of the enactment of this Act, is amended by striking out "(hereinafter" and all that follows through "Secretary')".

(7) Section 1623(d), as in effect on the day before the date of the enactment of this Act, is amended—

(A) by inserting "of Defense" after "Secretary" the first place it occurs; and

(B) by striking out "the "Secretary" the second place it appears and inserting in lieu thereof "such Secretary".

The SPEAKER pro tempore. Is a second demanded?

Mr. SMITH of New Jersey. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3390 as amended would put into law certain changes in various educational programs administered by the Department of Veterans Affairs. Mr. Speaker, I might say for the information of Members on the floor, that the Department of Veterans Affairs administers the Montgomery GI bill, a part of which, the GI bill for the selected reserve, is funded by the Department of Defense.

H.R. 3390 contains several of the recommendations from the study conducted by the Commission on Veterans' Education Policy. The Commission was established several years ago and completed its work this year.

I commend the distinguished chairlady of the Commission, the Honorable Janet Steiger. She and the other members of the Commission devoted a great deal of time and effort, to developing their recommendations during many months of deliberations.

I particularly want to acknowledge the work of a member of the Commission, Oliver Meadows, who was the very able staff director of the House Veterans' Affairs Committee for many years. I am deeply grateful to all the members who served on the Commission.

I want to thank the gentlewoman from South Carolina [Mrs. PATTERSON], who is also on the House Veterans' Affairs Committee. She made a great contribution to this measure by offering an important amendment which was accepted by the committee.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, on August 2, 1989, the Subcommittee on Education, Training and Employment held a hearing to review recommendations made by the Commission on Veterans' Education Policy. H.R. 3390, as amended, is largely based on testimony we received at that hearing. The Commission was established by section 320 of Public Law 99-576 and was charged with reporting its findings, views, and recommendations regarding the administration of Department of Veterans Affairs educational assistance progams. The members of the Commission did an excellent job, and we appreciate their efforts.

I'd like to summarize the major provisions of H.R. 3390. First, the bill would require the DVA to prepare a brochure describing the benefits, procedures, requirements, and other pertinent information regrading veterans' education programs. This document would be sent to individuals when they first apply for DVA education benefits and to education and training institutions. We believe this would be a practical, cost-effective method of ensuring that individuals seeking to train under DVA education programs would have the information necessary to ensure the efficient operation and integrity of these programs.

Additionally, H.R. 3390 would include veterans training under the vocational rehabilitation program for disabled veterans—(chapter 31, title 38, United States Code)—in the annual tally of students receiving DVA education benefits when determining the reporting fee to be paid to an educational institution or training establishment. This fee is paid to help defray the costs of processing reports and certifications required by the Department.

H.R. 3390 would permit veterans and eligible persons to work a maximum of 20 hours per week in the DVA's work-study program; it would allow veterans and eligible persons attending school on at least a half-time basis to participate in work study; and it would extend eligibility for the work-study program to survivors and dependents training under chapter 35, title 38, United States Code.

The measure would permit the DVA to accept a school's certification for renewal of an individual's education benefits following termination for unsatisfactory conduct or progress.

Additionally, the gentlelady from South Carolina [Mrs. PATTERSON], proposed an excellent amendment to H.R. 3390 which was approved by the committee. This amendment would permit the conversion of credit hours to the equivalent clock hours when a combination clock/credit hour program is pursued. It would also make the attendance requirement for vocational education courses consistent with that of degree programs and would require the DVA to consider three 50 minute periods of workshop training as the equivalent of one standard class session.

I want to thank CHRIS SMITH and all members of the subcommittee for their help and assistance. I also want to thank Chairman MONTGOMERY and the ranking minority member of the full committee, Mr. STUMP, for their cooperation and support.

The enactment of H.R. 3390, as amended, would greatly improve the implementation and administration of veterans' educational assistance programs, and I urge my colleagues to support this measure.

Section 320 of Public Law 99-576, the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, established the Commission to Assess Veterans' Education Policy. The Commission was charged with reporting its findings, views, and recommendations regarding the administration of Department of Veterans Affairs [DVA] educational assistance programs to the House and Senate Committees on Veterans' Affairs and the Secretary of Veterans Affairs.

On August 2, 1989, the Subcommittee on Education, Training and Employment held a hearing to review the Commission recommendations. On October 2, 1989, H.R. 3390, a bill to amend title 38, United States Code, with respect to certain veterans' education programs, was introduced. The provisions of this bill were largely based on the testimony received at the August 2 hearing. The subcommittee met on October 12, 1989, and voted unanimously to recommend H.R. 3390, as amended, to the full committee. On October 18, 1989, the full committee approved H.R. 3390, as amended, and ordered the bill reported to the House.

BACKGROUND

The Commission to Assess Veterans' Education Policy was established by section 320 of Public Law 99-576 and was charged with reporting its findings, views, and recommendations regarding the administration of DVA educational assistance programs. The Commission was specifically charged with addressing the following issues: The need for distinctions between certificate granting courses and degree granting courses; the measurement of courses for the purposes payment of educational assistance benefits; the vocational value of courses offered through home study; the role of innovative and nontraditional programs of education and the manner in which such programs should be treated for purposes of educational assistance benefits by the DVA, including courses that result in the achievement of continuing education units; and other matters relating to the administration of DVA educational assistance programs as the Commission considered appropriate or necessary or as suggested by the Secretary or the House and Senate Committees on Veterans' Affairs.

Under the provisions of Public Law 99-586, the Commission was required to submit its first report on its findings and recommendations 18 months after the date on which at least 8 of the Commission's 11 members were appointed. Six months following the sub-

mission of the Commission's first report, the Secretary was required to submit an interim report to the committees. This report was to contain the Secretary's views on the desirability, feasibility, and cost of implementing the Commission's recommendations as well as any other proposals the Secretary considered appropriate in light of the Commission's report. The Commission was then required to submit a final report to the committees and the Secretary 90 days following submission of the Secretary's comments responding to that report. Not later than 2 years following submission of the Commission's final report, the Secretary is to submit a final report to the committees describing actions taken with respect to the recommendations of the Commission and any further recommendations the Administrator considers appropriate.

In addition to the Commission's first meeting on April 29, 1987, six open meetings were held and several field activities conducted, including three field trips to DVA regional offices and participation in several national meetings of groups associated with veterans' education. Views and comments were sought from DVA field personnel, educational institutions, State approving agency personnel, and others who deal with or are affected by DVA educational assistance programs.

The implementation of the newest veterans' educational assistance program in 1985, the Montgomery GI bill—Public Law 98-525, and the resulting influx of a new group of veteran students presented us with an excellent opportunity to review and reevaluate existing program requirements, procedures and practices.

MAJOR PROVISIONS OF H.R. 3390, AS AMENDED

H.R. 3390, as amended, would:

First, require the Department of Veterans Affairs [DVA] to prepare and distribute, on or after July 1, 1990, a detailed document describing the benefits, procedures, requirements, and other pertinent information regarding veterans' educational assistance programs. The document would be sent to individuals when they first apply for DVA educational benefits, to educational and training institutions, and, upon request, to other individuals significantly affected by education programs administered by the Secretary, including military education personnel.

Second, include, beginning January 1, 1990, veterans training under the vocational rehabilitation program for service-connected disabled veterans--chapter 31, title 38, United States Code—in the annual tally of individuals receiving DVA education benefits for purposes of determining the "reporting fee" to be paid to an educational institution.

Third, provide, effective January 1, 1990, that veterans and eligible persons may work up to a maximum of 20 hours per week when participating in the DVA's work-study program.

Fourth, permit all veterans and eligible persons attending school on at least a half-time basis to participate in the DVA work-study program.

Fifth, extend eligibility for the DVA work-study program to survivors and dependents receiving training under chapter 35, title 38, United States Code.

Sixth, permit the DVA to accept a school's certification for renewal of an individual's educational benefits following termination for unsatisfactory progress or conduct.

Seventh, make the attendance requirement for vocational education courses consistent with that of degree programs.

Eighth, require the DVA to consider a minimum of three 50-minute periods of workshop training as the equivalent of one standard class session.

Ninth, provide that the measurement of a combination clock/credit hour program would permit the conversion of credit hours pursued to the equivalent clock hours.

INFORMATION TO ASSIST VETERANS RECEIVING EDUCATION BENEFITS

Section 1 of H.R. 3990 would require the Department of Veterans Affairs to prepare, and update periodically, limitations, procedures, requirements, and other important aspects of the education programs administered by the Department. The Secretary is to distribute this document, on or after July 1, 1990, to all individuals first applying for DVA education benefits and at least annually in the years thereafter in which these individuals receive DVA benefits. Additionally, the document is to be provided to education and training institution officials annually and, upon request, to other individuals significantly affected by education programs administered by the Secretary, including military education personnel. The Secretary is required to use funds appropriated to the readjustment benefits account of DVA to carry out this section.

In their report dated August 29, 1988 (House Committee Print No. 17, 100th Congress), the Commission recommended that counseling and associated support services be provided on an up-front basis to individuals seeking to use GI bill benefits as well as on a continuing basis as required or requested. The Commission noted that, ". . . more effective use of GI bill benefits would result if individuals seeking to use their benefits were advised of the intricacies of the program and of their rights and responsibilities at the outset of their training." Additionally, the Commission pointed out that the recommended counseling need not involve direct, individual contact. In many instances, clear, written information would be sufficient and helpful.

We agree with the Commission's comments and believe such an approach would be a practical, cost-effective method of ensuring that individuals seeking to train under DVA education programs would have the information necessary to assure the efficient operation and integrity of these programs. Accordingly, we expect the DVA to produce a brochure which clearly and fully explains the provisions of education programs administered by the Department. The brochure should also inform the reader of the various types of training and services available, such as tutorial assistance, work-study positions, refresher and remedial training, and counseling assistance generally associated with determining educational, vocational, or professional goals and career selection. Additionally, DVA procedures and policies and related individual responsibilities should be clearly explained. For example, monthly self-certification should be discussed as well as the consequences to the individual if the certification requirements are not met. We also expect the brochure will address, but not be limited to, issues such as mitigating circumstances, change of program limitation, and notification of change of status.

We intend that the DVA brochure shall be designed in such a way that it attracts the attention of those receiving it. The text should be clearly written and useful as a reference to individuals unfamiliar with the technical terms associated with the education programs administered by the DVA.

REPORTING REQUIREMENT AND FEE

Under current law, the DVA annually pays a reporting fee to educational institutions and training establishments to help defray the costs of processing reports and certifications required to be submitted to the DVA for veterans and eligible persons. The amount of the fee is determined by multiplying $7 by the number of individuals at an institution receiving benefits under programs of education administered by the DVA, including chapters 30, 32, 34, 35, 36, and chapter 106 of title 10. Generally, this number is based on the veterans and eligible persons enrolled in the institution or establishment on October 31. Veterans training under the vocational rehabilitation program for service-connected disabled veterans—chapter 31, title 38, United States Code—are not now, however, included in the tally.

As recommended by the Commission, section 2 of H.R. 3390, as amended, would include chapter 31 trainees when calculating the amount of the reporting fee. The Commission notes, in support of its recommendation, that service-connected disabled veterans often require services and assistance in

addition to those provided to nondisabled veteran students. Although a book-handling charge is paid to institutions on behalf of chapter 31 trainees, the Commission points out that this charge, in many instances, is not paid to the institution because many bookstores are not in the institution's administrative structure and operate as independent entities. Additionally, in its final report dated July 27, 1989, the Commission notes that the book-handling charge is also a matter of economy for the DVA as it is sometimes used to compensate a book supplier who can more easily and efficiently procure special supplies and equipment for chapter 31 than can the Department.

WORK STUDY

As provided under section 1685 of title 38, United States Code, the DVA operates a work-study program for full-time students, training under the Montgomery GI bill active duty—chapter 30, vocational rehabilitation—chapter 31, VEAP—chapter 32, and the Vietnam era GI bill—chapter 34. Under current law, veteran students who perform work generally related to the administration of education and other DVA programs may receive minimum wage payments for up to 250 hours of employment during a semester or other enrollment period. Work study participants may be engaged in first, activities under the DVA's outreach services program, second, the preparation and processing of necessary papers and other documents at educational institutions or DVA regional offices, third, the provision of hospital and domiciliary care at DVA medical centers, or fourth, the DVA activities determined appropriate by the Secretary. The DVA determines the number of work study positions each enrollment period based on the number of veteran students who can be effectively utilized. Whenever feasible, preference for work study opportunities is given to service-connected disabled veterans rated 30 percent or more disabled.

Work study is a popular program that has greatly assisted veterans and the DVA. In their report dated August 29, 1988, the Commission noted that this program was the subject of much comment—in a survey of institutions done by the Commission, during discussions with educators and other participants at Commission meetings, and during visits to the field. The primary concern expressed to the Commission by participating institutions and DVA personnel was the need to attract more students into the program. It was suggested that effective use of the program is hampered by a lack of interested students eligible to participate in the program.

In response to this situation, section 3 of H.R. 3390 contains a provision recommended by the Commission—that is, to expand eligibility for the DVA work-study program to include eligible persons training under the chapter 35 Dependents and Survivors Educational Assistance Program. Including this group of individuals in the pool of those eligible to participate in the work-study program expands the number of students from which the DVA may recruit work-study participants. It also provides eligible survivors and dependents with an opportunity to earn additional income needed to meet basic needs while attending school.

Section 3 of H.R. 3390 would also permit all eligible students attending school on at least a half-time basis to participate in the work-study program. Restricted under current law to full-time students, extending eligibility for work-study to eligible students attending school on at least a half-time basis would further broaden the pool of potential work-study participants from which the DVA may recruit.

Additionally, section 3 would remove the current work-study payment limitations and provide that veterans may work up to a maximum of 20 hours per week. Under current law, work study is limited to performance during a semester or other enrollment period of not more than 250 hours of service, payable at the Federal minimum wage or $625, whichever is higher. It was brought to the attention of the subcommittee that, because veterans are currently restricted to 250 hours of employment per semester or other enrollment period, veterans attending an institution on a semester basis do not have the opportunity to work as many hours as those attending school on a quarter or trimester system. For example, under current law, a veteran attending an institution which operates on a three-quarter system could work 250 hours each quarter, for a total of 750 hours. A veteran attending an institution which works on the semester system, however, could work 250 hours each semester, for a total of 500 hours. Restricting work-study hours on a weekly basis rather than on enrollment period would eliminate the current inequity in earning potential.

ACCEPTING SCHOOL CERTIFICATION FOR RENEWAL OF EDUCATIONAL BENEFITS AFTER UNSATISFACTORY PROGRESS

Section 4 of H.R. 3390 would permit the DVA to accept a school's certification for renewal of an individual's educational benefits following termination for unsatisfactory conduct or progress. Application of this provision would be limited to resumption of the same program at the same educational institution which reported the unsatisfactory progress. Under current law, section 1674 of title 38, the Secretary must find that the cause of the problem has been removed and the program of education suitable to the veteran's aptitudes, interests, and abilities before resuming payment of benefits.

When recommending that this change be made, the DVA noted that

• • • experience has shown the Department's development of evidence for purposes of the required determination seldom provides any cogent information which would support a continued denial of benefits. Moreover, the development requirement adds substantially to the time it takes to process these claims to award benefits.

UNIFORMITY OF ATTENDANCE REQUIREMENT

Section 5 of bill, as recommended by the Commission, would make the attendance requirement for vocational education courses consistent with that of degree granting programs. Current section 1780(a) of title 38, United States Code, bars payment of educational assistance or substance allowances to an individual enrolled in certain courses not leading to a standard college degree of any day of absence in excess of 30 days in a 12-month period.

As pointed out by Mr. John W. Davis, vice president for student services, Asheville-Buncombe Technical Community College, Asheville, NC, current law results in a serious inequity in absence reporting for veterans enrolled in courses not leading to a college degree. In his statement submitted to the subcommittee, Mr. Davis said,

To illustrate just how unfair the current system is, we offer the example of a veteran in a NCD [non-college degree] program in a North Carolina community college. The veteran maintained perfect attendance; yet due to the school's schedule of holidays, class breaks, etc., the veteran was charged with two days excessive absence. To compound this absurdity—since he was paid on the basis of a thirty day month repayment for absences was based on a twenty day month—he actually had to pay back three days instead of two. All of this while having perfect attendance.

In order to correct this inequity, H.R. 3390 would eliminate the bar to payment described above and require instead that no payment shall be made to a person who is not pursuing his or her course in accordance with the regularly prescribed policies and regulations of the educational institution and of the Secretary, and with the requirements of title 38 education program provisions.

MEASUREMENT OF COURSES

Current law requires a student enrolled in a course with shop instruction to attend 3 hours—three 60-minute periods—of shop training per week in order to obtain the training time equivalent of one quarter or one semester hour or one standard class session. In contrast, a student enrolled in academic instruction is required to attend one 50-minute period per week in order to obtain the training time equivalent of one quarter or one semester hour or one standard class session. Section 6 of H.R. 3390, as amended, would amend section 1788(a) and

(c) of title 38, United States Code, to change the standard for evaluating the training time of DVA students enrolled in courses with shop training to require the DVA to consider a minimum of three 50-minute shop periods per week as the equivalent of one quarter or one semester hour or one standard class session.

The intent of this provision is to conform the training time measurement standard with the common academic practice of organizing classes, including shop periods, in 50-minute increments. Students receiving DVA benefits should not have their training time, and hence their benefits, reduced because they attend a school which follows the generally accepted practice of scheduling shop instruction in 50-minute increments.

CLOCK-HOUR MEASUREMENT OF CERTAIN UNIT COURSES OF SUBJECTS

In its report, the Commission stated that,

Under current law, regulations, and policies, there are a variety of distinctions in the treatment of NCD and degree granting programs of education. Among the most notable are distinct requirements dealing with * * * credit-hour versus clock-hour measurement.

In the Commission report it was further noted that,

* * * in 1986, with the enactment of Public Law 99-576, the Congress attempted to deal with situations where an institution offers both degree and NCD programs of education. Section 315 of that law established a "mixed-measurement" approach designed to ameliorate situations where veterans sitting in the same classroom were treated differently, particularly in terms of attendance requirements and hours of study required. In practice, however, this approach has proven unwieldy and unnecessarily complicated * * *

We agree with the Commission's assessment of the current approach to clock-hour measurement of certain unit courses or subjects. Accordingly, section 7 of the bill would simplify the method for measuring pursuit of a course not leading to a standard college degree offered by an institution of higher learning, where the course consists of one or more required unit courses or subjects creditable toward a standard college degreed at the institution. Under this section, the number of such unit course or subject credits would be converted to equivalent clock hours, which then would be combined with the actual number of clock hours being concurrently pursued, if any, to determine training time under the clock-hour measurement standards of section 1788 (a) (1) or (2).

I want to again extend my thanks to my colleague, CHRIS SMITH, and to all members of the subcommittee for their assistance in developing this measure. I also want to express my gratitude to the chairman of the full committee, SONNY MONTGOMERY, and the ranking minority member of the full committee BOB STUMP, for their cooperation in moving this bill.

The enactment of H.R. 3390, as amended, would greatly improve the implementation and administration of veterans' educational assistance programs, and I urge my colleagues to support this measure.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3390, as amended, a bill to simplify and improve VA education programs—and I am pleased to be one of the sponsors of this worthwhile bill.

H.R. 3390 was drafted in response to recommendations made by the Commission on Veterans Education Policy. The Commission reviewed the various education programs administered by the VA and suggested ways to simplify and standardize the administration and implementation of these programs. Many of the Commission's suggestions are included in H.R. 3390.

H.R. 3199 established a more equitable method of determining the reporting fees VA pays education institutions, it expands the work study program for veterans, and modifies distinctions in the way the VA treats degree and nondegree programs.

Additionally, H.R. 3390 requires the VA to create and distribute to veterans and education institutions a brochure explaining important aspects of VA education programs. This, I believe, will help to clarify the VA's programs and facilitate program participation for the veteran and the institution.

Mr. Speaker, these provisions are all very important to the efficient administration of VA education programs. H.R. 3390 will simplify the system under which benefits are adjudicated and administered, and help the veteran attain his or her education goal in an efficient, effective manner.

Mr. Speaker, I would like to express my appreciation for the outstanding leaderhship of our subcommittee's chairman, TIM PENNY, and would also like to thank the chairman and vice chairman of the full committee, Mr. MONTGOMERY and Mr. STUMP, for their leadership and support. I strongly support H.R. 3390 and urge my colleagues to join in support for this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, we believe this is a good bill and we urge our colleagues to support the legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 3390, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3390, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT AMENDMENTS CONSENT ACT OF 1989

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2642) granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact, as amended.

The Clerk read as follows:

H.R. 2642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southeast Interstate Low-Level Radioactive Waste Compact Amendments Consent Act of 1989".

SEC. 2. CONSENT OF CONGRESS TO AMENDMENTS TO COMPACT.

Congress consents to the amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact made by party states to such Compact. Such amendments are substantially as follows:

At the end of article 5 add the following new section:

"E. No party state shall be required to operate a regional facility for longer than a 20-year period, or to dispose of more than 32,000,000 cubic feet of low-level radioactive waste, whichever first occurs.".

Article 7 is amended by striking out sections G and H and inserting in lieu thereof the following:

"G. Subject to the provisions of Article 7 Section H., any party state may withdraw from the compact by enacting a law repealing the compact, provided that if a regional facility is located within such state, such regional facility shall remain available to the region for four years after the date the Commission receives verification in writing from the Governor of such party state of the rescission of the Compact. The Commission, upon receipt of the verification, shall as soon as practicable provide copies of such verification to the Governor, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party states as well as the chairman of the appropriate committees of the Congress.

"H. The right of a party state to withdraw pursuant to section G, shall terminate thirty days following the commencement of operations of the second host state disposal facility. Thereafter a party state may with-

draw only with the unanimous approval of the Commission and with the consent of Congress. For purposes of this section, the low-level radioactive waste disposal facility located in Barnwell County, South Carolina shall be considered the first host state disposal facility.

"I. This compact may be terminated only by the affirmative action of the Congress or by rescission of all laws enacting the compact in each party state.".

The SPEAKER pro tempore (Mr. MONTGOMERY). Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2642 grants Congress' consent to two amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact. Each of the eight States comprising the Southeast Compact—Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee and Virginia—have previously adopted the two amendments. The amendments limit the obligation of member States hosting a low-level waste repository and restrict the right of member States to withdraw from the compact.

Civilian low-level radioactive waste is produced by hospitals, universities, various industrial operations and commercial nuclear power plants. These wastes are in the form of medical wastes, discarded protective clothing, contaminated rags, tools, equipment and other trash that has been contaminated by radioactive materials. Low-level waste is less hazardous and its radioactivity is less intense and shorter-lived than high-level waste such as spent reactor fuel or high-level defense wastes. Nonetheless, low-level waste must be isolated from the environment and properly disposed of at special sites.

Under the Low-Level Radioactive Waste Compact Act passed by Congress in 1980, each State is responsible for providing disposal capacity for civilian low-level radioactive wastes generated within its borders. That act, as since amended, gives the States until 1993 to develop disposal facilities and imposes penalties on the States for failing to meet the act's milestones. The act also encourages States to combine in interstate compacts to manage low-level radioactive wastes on a regional basis. Since 1985, Congress has approved nine compacts encompassing 41 States.

The Southeast Compact was formed on July 21, 1983 and Congress granted its consent to it with the enactment of the Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act on January 15, 1986. The Southeast Compact is the largest of the Nation's nine low-level compacts both in terms of the number of member States and the percentage of the Nation's low-level waste generated within its borders. Radioactive low-level waste generated by the Southeast Compact States is currently disposed of at the Barnwell, South Carolina, repository.

This bill, H.R. 2642, amends the Southeast Compact by adding two new provisions. The first new section provides that no member State will be required to operate a regional disposal facility for more than 20 years or to dispose of more than 32,000,000 cubic feet of radioactive low-level waste at the facility, whichever comes first. The second new section requires the unanimous consent of the Southeast Compact Commission and the consent of Congress for any member State to withdraw from the compact more than 30 days after a second disposal facility in North Carolina begins operating.

Mr. Speaker, congressional consent to the amendments to the Southeast Compact approved by H.R. 2642 is needed because the State of North Carolina has expressly conditioned its remaining in the Southeast Compact on Congress formally consenting to the amendments. Thus, congressional consent is necessary in this instance to further the goals of the Low-Level Radioactive Waste Policy Act. I urge the House to pass this bill.

□ 1230

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support H.R. 2642, the Southeast Interstate Low-Level Radioactive Waste Compact Amendments Consent Act of 1989. H.R. 2642, of course, was introduced by my Republican colleague, Mr. MCMILLAN, who should be commended for his efforts in shepherding this legislation through Congress. H.R. 2642 gives Congress' consent to two changes to the southeast compact adopted by the eight States that are members of that compact. The two changes are first, that North Carolina will host the regional disposal facility for no more than 20 years, or will accept no more than 32 million cubic feet of waste, whichever comes first, and second, that the unanimous consent of the compact commission is required for any member of the compact to withdraw more than 30 days after North Carolina begins accepting waste. These two changes limit North Carolina's obligation to accept waste and prevent other States from deserting the compact once North Carolina begins accepting waste. I know of no reason why Congress should object to these changes.

I thus urge my colleagues to support H.R. 2642.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I will not take 5 minutes. I simply want to thank my colleagues for their work on this legislation, including the lead sponsor, the gentleman from North Carolina [Mr. MCMILLAN], a member of the Committee on Energy and Commerce, and I also appreciated working with the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee, and the gentleman from Arizona [Mr. UDALL], the chairman of the Committee on Interior and Insular Affairs.

Mr. Speaker, this is simply a noncontroversial consent by the Congress to the changes in the interstate compact on an extremely important question, even though there is no controversy here in the Congress about it, and that is how to dispose of the low level nuclear wastes that are generated throughout the country. It is very important that the States and/or compacts of States move expeditiously, and it is important when they have, that we move expeditiously to get those approvals. I know the gentleman from Mississippi [Mr. MONTGOMERY], who is now the presiding officer of the House, is a cosponsor of this legislation, and I am delighted we can move forward in full agreement here.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 2642, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REMOVAL OF H.R. 2854 FROM CONSENT CALENDAR

Mr. UDALL. Mr. Speaker, I ask unanimous consent that H.R. 2854 be stricken from the Consent Calendar.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

EXTENDING DEADLINES FOR FERC PROJECTS

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3021) to extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington, as amended.

The amendment strikes out all after the enacting clause and inserts a new text.

H.R. 3021

A bill to extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensees for FERC Projects numbered 2833, 4204, 4586, 4587, 4659, and 4660 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of each of such projects for up to a maximum of 3 consecutive 2-year periods. This section shall take effect with respect to each such project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3021, a bill to provide for statutory time extensions for commencement of construction of certain hydropower projects.

The Federal Power Act gives the Federal Energy Regulatory Commission [FERC] authority to give hydropower licensees up to 4 years to begin construction on a hydroproject once the license has been granted. In the case of each of the projects named in H.R. 3021—three in the State of Washington, three in the State of Arkansas—that 4-year clock is about to run. While the agency and all stakeholders are not opposed to a time extension, the Power Act gives FERC no authority to do so. That is why the bill is necessary.

I fully support this bill, and commend my colleagues on the committee, Chairman DINGELL, Mr. MOORHEAD, and Mr. SWIFT for efforts. I want also to reiterate my own and Chairman DINGELL's commitment to finding a generic solution to this recurrent problem. I want finally to commend two colleagues, Congresswoman UNSOELD and Congressman ALEXANDER, for their efforts and assistance in moving this worthy piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3021, which gives the Federal Energy Regulatory Commission the discretionary authority to extend the time required for commencement of construction of six specific hydroelectric projects for up to a maximum of three consecutive 2-year periods. None of the six hydroelectric projects covered by this bill have yet commenced construction but all have advanced sound reasons relating to local electricity supply and regional power planning for the extensions. Additionally, none of these projects appears to be controversial as no State agency, environmental group, or FERC concerns have been raised against them. Thus, I think we can advance these projects with no qualms and I am particularly pleased that our action today should prevent the license for Independence County's lock and dam No. 2 project from expiring before its November 8 expiration date. I thus urge my colleagues to support this bill.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, H.R. 3021 allows the Federal Energy Regulatory Commission to extend the construction permits on three hydroelectric projects in Washington State and three in Arkansas. I thank the distinguished chairman from Michigan [Mr. DINGELL]; the distinguished subcommittee chairman from Indiana [Mr. SHARP]; and my distinguished colleague from Washington [Mr. SWIFT], for the tremendous amount of work and support they have provided for these projects.

Mr. Speaker, the projects are all noncontroversial and have the potential to be very beneficial to their regions. The Cowlitz Falls project in my district not only will increase the region's power supply, but will also enhance its fisheries resources.

The Lewis County Public Utility District [PUD] has been pursuing this project for nearly 10 years and was given the green light by FERC in June 1986, to commence construction within 2 years. In April 1988, FERC granted a one-time, 2-year construction extension to the PUD. The project is now required to be under construction by June 30, 1990. FERC has no discretion to extend further the deadline; only Congress can do so.

The Senate has already passed the necessary legislation (S. 750) on June 8, 1989, to permit FERC to issue as many as three, 2-year extensions on this project and the three Arkansas projects.

Mr. Speaker, the PUD has identified the Cowlitz Falls project as the only major energy resource, apart from energy conservation, that is both cost-effective and located within the district. Earlier this year, the Northwest Power Planning Council agreed with the PUD's conclusions and projected a need for more regional power resources in the 1990's. Additionally, the Bonneville Power Administration's most recent projections indicate the Northwest no longer has an energy surplus and that conservation measures and new energy sources may need to be developed.

The Cowlitz Falls project, with the generating capacity of 70 megawatts and a projected average of 261,000 megawatt-hours of electricity annually, has the potential to contribute substantially to the region's future energy needs. This energy production is the equivalent of about 428,000 barrels of oil or 128,000 tons of coal per year.

Despite the projected need for the project, it is too costly for the ratepayers of Lewis County to finance alone at this time. With the extensions provided by this bill, the PUD hopes to attract other utilities who will share the costs—and benefits—of the Cowlitz Falls project. In agreements signed earlier this year, the PUD assured its customers that it would raise rates by no more than 14 percent. This extension will provide needed flexibility to develop the best financing program for the project.

In view of the special importance of regional power planning in the Pacific Northwest, I hope that in considering this and future requests for extensions for the Cowlitz Falls project, FERC will take into account regional power planning objectives and marketing conditions.

This project is also the only potential means of someday restoring the magnificent salmon and steelhead runs that once returned to the upper Cowlitz River. Older dams, built in an-

other era, have cut off this habitat. Because of its "run-of-the-river" design, the Cowlitz Falls project will permit fish collection in the future when scientists cure the fish diseases now plaguing lower Cowlitz River fish runs.

Mr. Speaker, the question that many of my colleagues will have is, Why Congress should allow this project to receive additional time before proceeding with construction?

The answer is simple.

After the Cowlitz Falls project received a FERC license in 1986, the PUD applied for a Washington State shoreline permit. At that time, three separate parties—a State agency, a corporation, and a local citizen—filed formal appeals before the State shoreline's hearings board. The PUD, while recognizing its Federal preemptive rights, did not exercise them. Instead it attempted to negotiate reasonable solutions acceptable to all of the parties.

Last summer, the PUD reached an accord with all appellants through separate, but interrelated, settlement agreements. These agreements contain many project enhancements and provide added environmental mitigation.

One of the most exciting aspects of this project is its potential benefit of the fisheries resources in the upper Cowlitz drainage. I am particularly pleased that the PUD will be providing financial support for a new Trophy Trout Program being sponsored by one of my local sportsmen's organizations, the Friends of the Cowlitz.

Under the Trophy Trout Program, the PUD will grant $100,000 in capital construction matching funds to build trout rearing pens on the upper reaches of the Cowlitz River. In addition, the PUD will contribute up to $35,000 annually to rear and stock trophy-sized rainbow and cutthroat trout. These are trout which will be raised in river water ponds for 3 to 4 years, on a natural diet, before being released.

Once established, the trophy trout fishery on the Cowlitz River is expected to attract sports enthusiasts from throughout the Pacific Northwest, pumping needed tourism dollars into the local economy.

In short, I want my colleagues to know that this utility district used its one-time, 2-year extension to address the environmental concerns of the three appellants. It chose not to enter the courts to seek its Federal preemptive rights and it agreed to provide additional mitigation for fisheries resources that were not required under its FERC license.

Mr. Speaker, in the same spirit of community and regional cooperation, I urge my fellow members to support H.R. 3021 as amended in committee.

Mr. ALEXANDER. Mr. Speaker, I rise in strong support of H.R. 3021, and I wish to thank the chairman and ranking member of the full Energy and Commerce Committee, Mr. DINGELL and Mr. LENT, and the chairman and ranking member of the Energy and Power Subcommittee, Mr. SHARP and Mr. MOORHEAD, for bringing this measure to the floor in an expedited manner.

In addition to projects in Washington State, H.R. 3021 incorporates provisions of my bill H.R. 2964, which would grant the Federal Energy Regulatory Commission authority to further extend construction start deadlines for three hydroelectric projects in Independence County, AR. I am grateful to the committee for including the projects in this legislation.

In the mid-1980's, the city of Batesville and Independence County acquired licenses from FERC that would permit them to convert three mothballed Corps of Engineers lock and dam facilities on the White River for electric power production.

Over the last 4 years, Batesville and Independence County have worked diligently to find a purchaser for the electric power to be generated at the dams. I am informed that negotiations with one potential purchaser are very close to successful completion. Obviously, Batesville and Independence County do not want to make the irreversible financial commitments necessary for beginning construction until they are assured of a return on those commitments from a power purchaser.

However, the license for one of the projects will expire if construction is not begun by November 8, and the other two licenses require commencement of construction by February 1990. Section 13 of the Federal Power Act does not give FERC the authority to extend these deadlines, notwithstanding the fact that negotiations with a power purchaser are nearly complete. Therefore, this special legislation is necessary if FERC is to have the authority to provide further extensions of the licenses for the three projects.

Allowing Batesville and Independence County to proceed with these projects will be good for the city and county governments, and it will be good for the electric consumers of the Southwest.

When the project go on-line, Batesville and Independence County will have a new source of revenue that will partially offset the loss of general revenue sharing and other Federal assistance.

Ratepayers of the utility purchasing the dams' power will have a clean, cheap source of electricity. There is currently an electric power glut in the Southwest, and that is why it has taken Batesville and Independent County so long to find a power purchaser. However, projections indicate that the glut will turn into a shortage by 1995.

Generation and transmission of electric power from the three Independence County dams could eliminate the need for a power-purchasing utility to construct new coal-fired, gas-fired, or nuclear powerplants in the mid-1990's and save the utility's ratepayers millions of dollars.

The need for further extensions of construction deadlines on these and other projects has indicated to the Energy and Commerce Committee that section 13 of the Federal Power Act may not provide FERC with sufficient flexibility to extend construction start deadlines when there is a good reason to do so. Chairman DINGELL and Chairman SHARP have expressed an interest in generic legislation amending section 13 to cover situations like this one, and I look forward with interest to that legislation.

However, I want to express my gratitude to the committee for bringing forth this legislation on specific projects before proceeding with any generic amendment to section 13. Through no fault of its own, Independence County faces imminent deadlines that it cannot meet. The committee has been more than accommodating in the resolution of this problem.

Finally, I would also like to express my thanks to Mr. Richard Lehfeldt of the Subcommittee on Energy and Power staff, who has shepherded this legislation through the committee process, and to Independence County Judge David Wyatt, Batesville Mayor Jim Shirrell, and Ms. Rita Potts, assistant to Judge Wyatt, who have done tremendous work in providing me with the supporting material necessary to make the case for these projects.

H.R. 3051 is urgently needed, and I urge my colleagues to support it.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 3021, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. SHARP. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 750) extending time limitations on certain projects and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission upon the request of the licensees for FERC projects numbered 2833, 4204, 4659, and 4660 (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend:

(1) the time required for commencement of construction of projects numbered 2833,

4204, 4659, and 4660 for up to a maximum of three consecutive two-year periods for each such project,

(2) the time required for completion of construction of such projects for a reasonable period not to exceed five years after commencement of construction of each project, and

(3) the time required for the licensees to acquire the real property required for such projects for a period of up to five years from the date of enactment of this Act.

The authorization for issuing extensions under paragraphs (2) and (3) of this section shall terminate three years after enactment of this Act. The Commission may consolidate requests concerning projects 4204, 4659, and 4660 under this Act.

MOTION OFFERED BY MR. SHARP

Mr. SHARP. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHARP moves to strike out all after the enacting clause of S. 750 and to insert in lieu thereof the provisions of H.R. 3021, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3021) was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3021, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3310) to authorize appropriations for activities of the National Telecommunications and Information Administration for fiscal years 1990 and 1991.

The Clerk read as follows:

H.R. 3310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there are authorized to be appropriated for activities of the National Telecommunications and Information Administration $14,554,000 for fiscal year 1990 and $14,713,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1990 and 1991.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

I would like to begin by thanking our legislative counsel, Steve Cope, for his work in framing this legislation so that the Democrats and the Republicans can work off of it. Although Terry Haines and Gerry Salemme and Larry Irving and Kevin Joseph and others do a lot of work on these issues, we cannot really work successfully in the Congress without the building block of legislative counsel, and I would just like to take note of this at this particular point in time, because they are down there in the bowels of Congress doing the hard work that makes it possible for this legislation to come out here on an ongoing basis and to make this country work.

Mr. Speaker, I rise in support of H.R. 3310, the bill authorizing appropriations for activities of the National Telecommunications and Information Administration. The bill authorizes $14.6 million for fiscal year 1990 and $14.7 million for fiscal year 1991, together with such sums as may be necessary in increases resulting from adjustments in salaries, pay and retirement, and other employee benefits required by law and other nondiscretionary costs.

Mr. Speaker, as we know, the world is in the midst of a telecommunications revolution and the rapid emergence of telecommunications technologies across this planet is helping not only to make the world more efficient, but also helping to democratize it.

The agency we are talking about today is one which is at a forefront inside our Government insuring that there is a coordinated and forward-thinking policy which can be used to insure that our country remains No. 1 in telecommunications, looking over its shoulder at No. 2 at the Pacific rim countries, at other countries, at the Europe 1992 countries, by the year 2000. That is why this agency is so critical, because its role is in insuring working with the FCC and working with the other agencies over at the State Department that we put together a coordinated policy.

You know, Mr. Speaker, the Japanese are targeting upward of 20 percent of their gross national product by the year 2000 which will be in the telecommunications hardware and software, 20 percent of the gross national product. In our country, we have as yet to put together a comprehensive policy which can help us to achieve that goal.

What I hope is that working with this agency and others inside the administration the Congress can put together a policy so that those jobs, blue collar, whites, blacks, Hispanics, and Asians will be here in the year 2000 in the telecommunications field. We cannot do that unless we have the direct assistance of an agency that has the responsibility to put together a solid telecommunications policy.

The prospects are, Mr. Speaker, that by the year 2000 telecommunications will have replaced energy as the single most important source of oil for the economy in our country. We cannot afford to have that transition not properly managed so that we have the optimum benefits which flow to our society. So whether it be fiber optics, whether it be artificial intelligence, whether it be high definition television, whether it be personal computer TV, whether it be a whole range of incredibly exciting new technologies that are coming down the line, that is where the hundreds and thousands and millions of new jobs are going to be created on this planet heading into the 21st century. That is why I think the National Telecommunications and Information Agency is so important, because it will in fact insure that we have the type of policy put together that will put us as No. 1, and that is what our country's goal should be. That is what this agency provides for us in terms of a foundation, a building block.

No, it is not perfect yet. Yes, it would be a lot better if we had better coordination at this point in time.

This is the agency, though, that we have got to work with if we are to build that comprehensive policy that is going to work for our country.

I hope that the Congress will unanimously accept our recommendation that was put together on a bipartisan basis, by the way, working with the gentleman from New Jersey [Mr. RINALDO], and our ranking minority member, the gentleman from New York [Mr. LENT], the gentleman from California [Mr. MOORHEAD] who represents southern California and understands this telecommunication industry so well, because so significant a portion of it is based down there, that we will be able to move forward in a way that will insure that our country is No. 1.

Mr. Speaker, as you know, the world is in the midst of a communications revolution. The rapid emergency of telecommunications technologies is spawning exciting, new communications products and services and stimulating the development of domestic and international

market opportunities. Innovations like HDTV, PCTV, artificial intelligence, and supercomputers are blurring the lines between communications and computers. Fiber optic cable soon will be bringing integrated voice, video, and data services to the Nation's businesses, institutions, and homes. This revolution will affect the way we live and do business, and to a great extent, will determine America's position in the world economy.

In this evolving world economy, the role of NTIA as the principal executive branch adviser to the President on domestic and international communications policy is more critical than ever. The NTIA has five primary responsibilities.

First, NTIA is charged with developing and presenting the executive branch's policies on telecommunications and other information issues, both to other agencies and to Congress. NTIA reports and recommendations have fueled debate and promoted improvements on a wide range of domestic telecommunications issues.

NTIA, in conjunction with other Federal agencies, also develops U.S. policy regarding international telecommunications issues, including international satellites and trade. These international activities have advanced U.S. trade and technology interests in the world's telecommunications marketplace.

In addition, NTIA manages and allocates the Federal Goverment's portion of the radio frequency spectrum, and it conducts extensive research through its Institute for Telecommunications Sciences and its Office of Policy Analysis.

Finally, NTIA administers the Public Television Facilities Program [PTFP], a competitive matching grant program that supports public television and public radio facilities. While we have made great strides in bringing public television and radio to all Americans, there is still much ground to cover. A recent NTIA study determined that although 94 percent of the U.S. population receives at least one over the air public television signal, only 86 percent of the population receives at least one public radio signal. PTFP plays a crucial role in the continuing campaign to expand public television and radio coverage.

To fulfill its responsibilities, NTIA requires not only adequate funding but also sufficient independence and visibility. On January 6, 1989, then Secretary of Commerce, C. William Verity, announced organizational changes within the Commerce Department that would have reduced NTIA's status and autonomy. Under the Verity plan, NTIA was to report to the Under Secretary of Technology rather than directly to the Secretary undermining its ability to promote national telecommunications policies within the administration and in an international forum. In response, I joined with Chairman DINGELL, Congressman RINALDO, and other Members to raise concerns about the appropriateness of this change in an era where telecommunications industries are so closely linked to America's economic future. Recently, Secretary Robert Mosbacher announced plans to restore NTIA's independent status within the Commerce Department. I applaud this action, and I believe it reflects renewed appreciation for the importance of a strong, comprehensive national telecommunications policy, not only by the Congress, but also within the Bush administration.

The funding levels for NTIA contained in this legislation are consistent with the needs of the agency and the needs of our Government in the development and coordination of our national policy for the critical telecommunications industry. I urge my colleagues to support this legislation.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the House to approve this legislation to authorize funds for NTIA, the President's Chief Policy Adviser on telecommunications issues.

I certainly congratulate the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO] for the foresight they have shown on the issues that are before us on telecommunications issues.

For those of you who have had an opportunity to visit southern California and see the work at Cerritos, CA, where there are all kinds of experimentations going on with cable, with the telephone companies, with other units in the most modern techniques that are available to telecommunications and to give the people an opportunity to see them in action, they certainly are encouraged by this kind of development.

This is a clean bill, free of substantive legislation. Its funding levels are not controversial, and do not exceed the President's budget request. This authorization will insure that NTIA runs at full strength for the next 2 fiscal years and can continue its fine work.

□ 1250

The minority members of the Committee on Energy and Commerce have no objections to the legislation, and I urge the House to support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume, and I will consume just an additional 30 seconds, and that is only to note that the last administration began a process which would have reduced the status of the NTIA and in a fashion, I think, deemphasized or undermined our ability to be able to give the full focus to telecommunications as a centerpiece for ensuring that the United States does become the Electronic States of America in order to retain our world primacy in the economic sphere by the year 2000 and beyond.

Thankfully Secretary Mosbacher, the new Secretary of Commerce, has made the decision that he is going to elevate it, that he is going to retain, and, in fact, enhance, the position of this agency and to give it the luster, give it the attention, give it the credibility which it needs. That means we can work together on a bipartisan basis with the administration on these policies.

The gentleman from Michigan [Mr. DINGELL] and I, the ranking minority members, the gentleman from New York [Mr. LENT], the gentleman from New Jersey [Mr. RINALDO], and on down the line all worked together to put these issues together.

I hope the House can accept this place of legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 3310.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3310, the bill just passed.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1989

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3265) to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Communications Commission Authorization Act of 1989".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. (a) There are authorized to be appropriated for the administration of this Act by the Commission $109,831,000 for fiscal year 1990 and $121,478,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and

other nondiscretionary costs, for each of the fiscal years 1990 and 1991.

"(b) In addition to the amounts authorized to be appropriated under this section, not more than 4 percent of the amount of any fees or other charges payable to the United States which are collected by the Commission are authorized to be made available to the Commission until expended to defray the full distributed costs of such fees collection.

"(c) Of the amounts appropriated pursuant to subsection (a) for fiscal year 1991, such sums as may be necessary not to exceed $2,000,000 shall be expended for upgrading and modernizing equipment at the Commission's electronic emissions test laboratory located in Laurel, Maryland.".

SEC. 3. COMMERCIAL RADIO OPERATOR EXAMINATIONS.

Section 4(f) of the Communications Act of 1934 (47 U.S.C. 154(f)) is amended by adding at the end the following new paragraph:

"(5)(A) The Commission, for purposes of preparing and administering any examination for a commerical radio operator license or endorsement, may accept and employ the services of persons that the Commission determines to be qualified. Any person so employed may not receive compensation for such services, but may recover from examinees such fees as the Commission permits, considering such factors as public service and cost estimates submitted by such person.

"(B) The Commission may prescribe regulations to select, oversee, sanction, and dismiss any person authorized under this paragraph to be employed by the Commission.

"(C) Any person who provides services under this paragraph or who provides goods in connection with such services shall not, by reason of having provided such service or goods, be considered a Federal or special government employee.".

SEC. 4. TRAVEL REIMBURSEMENT PROGRAM.

Section 4(g)(2)(D) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)(D)) is amended by striking "1989" and inserting "1991".

SEC. 5. COMMUNICATIONS SUPPORT FROM OLDER AMERICANS.

Section 6(a) of the Federal Communications Commission Authorization Act of 1988 (47 U.S.C. 154 note) is amended by striking "and 1989" and inserting ", 1989, 1990, and 1991".

SEC. 6. TARIFF NOTICE PERIOD.

Section 203(b) of the Communications Act of 1934 (47 U.S.C. 203(b)) is amended—

(1) in paragraph (1), by striking "ninety days notice" and inserting "120 days' notice"; and

(2) in paragraph (2), by striking "ninety days" and inserting "120 days".

SEC. 7. AMATEUR RADIO SERVICE RECIPROCAL PERMITS.

(a) IN GENERAL.—Section 303(l)(3) of the Communications Act of 1934 (47 U.S.C. 303(l)(3)) is amended by striking "bilateral agreement between the United States and the alien's government" and inserting "multilateral or bilateral agreement, to which the United States and the alien's government are parties,".

(b) CONFORMING AMENDMENT.—Section 310(c) of the Communications Act of 1934 (47 U.S.C. 310(c)) is amended by striking "bilateral agreement between the United States and the alien's government" and inserting "multilateral or bilateral agreement, to which the United States and the alien's government are parties,".

SEC. 8. WILLFUL OR MALICIOUS INTERFERENCE.

Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end the following new section:

"WILLFUL OR MALICIOUS INTERFERENCE

"SEC. 333. No person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.".

SEC. 9. CONSIDERATION OF IMPACT ON COMMERCE IN PUBLIC INTEREST DETERMINATIONS.

Section 4 of Communications Act of 1934 (47 U.S.C. 154) is amended by adding at the end thereof the following new subsection:

"(p) In making any finding with respect to the public interest as required for purposes of any decision or determination under this Act (other than a decision or determination with respect to the certification of equipment), the Commission may, in its discretion, assess the impact of that decision or determination on the foreign commerce of the United States.".

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although the point does not have to be made, I think at the same time it bears repeating, and that is that the legislation which we have produced is something which is done on a bipartisan basis. Our entire committee, from the gentleman from Michigan [Mr. DINGELL] on down, really do believe it is critical for us to have a comprehensive national policy which will make it possible for us to fully capture all the opportunities which this global telecommunications revolution is offering to us.

The Federal Communications Commission, along with the NTIA, are the two key agencies. It would be like trying to separate Babe Ruth and Lou Gehrig. One really cannot do it. They each have worked together, and they have to be complementary. We have to have some sense of a common direction that we are going to be going in this area of telecommunications. That is why this legislation, as amended, increases funding for the FCC for fiscal year 1991.

When the Commission provided the subcommittee with its initial estimate regarding its requirements for fiscal year 1991, it requested outlays of $117.8 million. Subsequently, the Commission initiated a comprehensive review of its requirements and determined that an additional $3.7 million would be required for full funding of the agency's needs, bringing the total fiscal year 1991 funding to $121.5 million.

□ 1300

The Commission asserted that the additional $3.7 million would permit the repair and the replacement of antiquated technical equipment, the improvement of the FCC's computer operations, the replacement of motor vehicles used for field monitoring and enforcement operations and the hiring of new employees.

We support this. We believe this is critical, that we give this kind of support to the Federal Communications Commission, that we continually identify where the opportunities are for the American society to move into these critical areas and to take full opportunity for all our citizens.

That is why this bill is here on a bipartisan basis. It seeks to once again build that bridge which is going to be necessary in our country if we are to compete internationally.

The FCC plays a critical role in that issue, along with the NTIA. Our hope is the bill can be accepted unanimously by the Congress because that sends the right signal to the agency and to the rest of the world that we are serious about international competition in the telecommunications area.

Mr. Speaker, I rise in support of H.R. 3265, the Federal Communications Commission Authorization Act of 1989 which authorizes for fiscal years 1990 and 1991.

Today, as we enter an unprecedented period in the evolution of America's telecommunications industries, the role of the FCC is critical to promoting a competitive market place, providing timely and effective regulation, and encouraging the continued development of efficient, innovative communications facilities and services. This independent agency must have the resources needed to implement congressional policies, to regulate the dynamic, burgeoning telecommunications industry and to carry out its statutory responsibilities to promote the public interest.

The Commission and its staff must not only be able to manage new sophisticated technologies and the complex domestic marketplace in which they reside but also understand how emerging technologies will affect U.S. competitiveness and our economic primacy as we prepare for the year 2000. The legislation we are considering today will ensure that the FCC has adequate resources to meet its growing mandate.

During the subcommittee markup I offered on behalf of myself and my good friend, the gentleman from New Jersey [Mr. RINALDO] an amendment in the nature of a substitute. The legislation before us today contains several provisions requested by the Commission that were added during subcommittee markup and that significantly improved the legislation.

The legislation, as amended, increases funding for the FCC for fiscal year 1991. When the Commission provided the subcommittee an initial estimate regarding its requirements for fiscal year 1991, it requested outlays totaling $117.8 million. Subsequently, the Commission initiated a comprehensive review of its requirements and determined that an additional $3.7 million would be required for full funding of the agency's needs, bringing the total fiscal year 1991 request to $121.5 million. The Commission asserts that the additional $3.7 million will permit the repair and replacement of antiquated technical equipment, the improvement of the FCC's computer operations, the replacement of motor vehicles used for field monitoring and enforcement operations and the hiring of new employees to replace personnel who left, but were not replaced, during the Commission's 2-year hiring freeze.

The Commission has enormous responsibilities in this rapidly changing technological environment. As we in Congress press the Commission to reduce delays when considering applications, to speed up its testing and type processing activities and to increase its enforcement activities, I believe it imperative that we provide it adequate resources to fulfill its statutory mandate. I support the Commission's request for a small increase in its authorized funding level.

H.R. 3265, as amended, also makes several other noncontroversial, but important, changes in existing Commission policy and procedure. First, the legislation would permit the FCC to delegate its commercial radio operator examination services to outside parties. The legislation also would authorize the Commission to make changes in amateur radio reciprocal permits. Under the legislation, amateur radio operations in the United States would be permitted to operate radio equipment in any country that is party to the multilateral agreement.

The Commission also requested inclusion in this legislative package language prohibiting willful or malicious interference to radio communications. The language contained in H.R. 3265 substantially would assist the Commission in curtailing willful and malicious interference by clearly making such activity a criminal offense subject to fines of up to $10,000 or imprisonment for up to 1 year, or both, for a first offense, and the same fine limitations and up to 2 years imprisonment for repeated offenses.

The legislation permits the Commission to retain not more than 4 percent of the amount of any fees or other charges collected by the Commission to defray the cost of such collection. In the recent budget reconciliation package, the House and Senate agreed on an expanded fee program for the FCC. Implementation of the fee program by the FCC will require utilization of additional resources, and this amendment will ensure that the Commission has those resources. The 4-percent figure contained in this substitute reflects a compromise between the 6-percent figure requested by the Commission and the 2-percent figure contained in the Senate authorization legislation.

In addition, the full committee adopted a provision to clarify and make explicit the Commission's existing authority to assess the effect of each of its decisions or determinations on foreign commerce of the United States. In adopting this provision the committee was expressing the concerns that while the United States has a policy of open entry into our telecommunications market the policies of foreign nations are impeding the ability of U.S. companies to offer their telecommunications services abroad.

I believe this legislation will meet the current and anticipated needs of the Commission, and I urge the members of the full committee to join me in supporting the bill.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding me this time.

I just wish to make a couple of points in relation to this authorization.

Mr. Speaker, first of all, the Federal Communications Commission is a regulatory agency that has over a period of most recent years done a lot of deregulation. This would lead one intuitively to assume that their regulatory responsibility was less, that they might be able to do it with less personnel, that they might be able to carry out their responsibilities with less money. The fact is that deregulation in the communications industry has meant, inadvertently perhaps, the proliferation of companies to be regulated. For exmaple, in the telephone industry alone, it used to be that if one did an adequate job of regulating AT&T, they pretty well covered the waterfront. AT&T was broken up, and now we have seven regional operating companies plus AT&T, so we have, in a sense, increased the regulatory responsibility eightfold, in addition to which the FCC presides over an area in which technology is absolutely exploding. The regulatory responsibilities of the FCC are greater.

Mr. Speaker, I have been a fairly vocal critic of recent Federal Communications Commissions. I have high hopes for the current Commission as being one that Congress can work with. I believe that Congress has a possibility of overregulating because of past experience with a Commission that did not want to do its job and its regulatory responsibilities. That can mean that for some time we can overlegislate. We can intrude too deeply into details that ought to be left alone for a regulatory agency.

I would hope that those at OMB who seem to have the final word in all of these things would realize that, first, the regulatory responsibilities of this particular Commission have not been reduced, that technological change, in fact, is increasing their regulatory responsibilities, and that the greatest assurance that there will not be overdrafting of legislation by Congress is for Congress to be comfortable that the agency with the regulatory authority has all of the resources necessary to do a crackerjack job of regulation. I believe this FCC has the will, but I am not at all sure that it has the means, and as the current members of the Commission get into their jobs more thoroughly and as they begin to make their recommendations to the administration on what their budget needs are in order to be able to do their job adequately, it is my hope that OMB will understand that the judgments it makes in that regard are crucial to the effectiveness of the agency at hand.

The other point that I would like to raise is I believe the committee at some point in the future needs to examine as to whether or not we need to extend just a touch more authority to the FCC. In this respect, there are decisions being made by the FAA, the Federal Aeronautics Administration, which impinge on some of the responsibilities of the FCC. An example is a building in the city of Seattle which the FAA permitted to be built at a certain height, the building of which interfered with the signals of three major television stations in Seattle. It seems to me that consulting with the FCC prior to that decision would have been appropriate.

Interestingly enough, those television stations now need to raise their towers in order to clarify their signals again. Who are they dealing with primarily? With the FAA. Clearly this is an area in which we have legitimate but conflicting governmental concerns in both agencies, and I would hope that we can provide a means in next year's legislation that will see that the FCC gets an opportunity to express its concerns and its policy problems with decisions made by the FAA where those two agencies' authority come into juxtaposition. I think this should be done with appropriate consultation with other authorization committees in the Congress, not looking to have any interference with the responsibilities of the FAA in its pursuit of safety questions dealing with air travel at all, but I think they should not be able to make their judgment unilaterally without input from the regulatory agency which has the responsibility to be sure that the broadcasting stations of America can carry out their work without interference.

Those are two things for the future.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support the FCC authorization bill as amended by the Energy and Commerce Committee.

This bill is free of controversial items. It provides the FCC with the full amount it requested for fiscal

1990. It also gives the agency a $12 million increase in funding for fiscal 1991, to $121 million. This takes into account the costs associated with the FCC's move to new quarters, as well as funding to refurbish its lab and get the agency back to full strength. It is money that the agency sorely needs.

The committee added an amendment to make explicit the FCC's authority with respect to trade policy. The committee's majority and minority worked together on this amendment, and it passed the committee by voice vote.

The administration's fears that this amendment may direct the Commission to make trade policy have been addressed. This amendment creates no new FCC authority; it only permits the Commission to take into account trade policies set by the President. The amendment and the committee report make clear that the executive branch makes trade policy: The Commission can make rules consistent with it, but is not given power to deviate from the policies of the President.

I commend the chairman of the Energy and Commerce Committee, the gentleman from Michigan [Mr. DINGELL]; the chairman of the Telecommunications Subcommittee, the gentleman from Massachusetts [Mr. MARKEY]; and the ranking Republican members of the full committee and subcommittee, Mr. LENT and Mr. RINALDO, for their work on this authorization bill. I urge the House to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, I rise at the request of the gentleman from Florida [Mr. GIBBONS], chairman of the Subcommittee on Trade of the Committee on Ways and Means, in hopes of clarifying our understanding of section 9 of the bill on page 6.

Mr. Speaker, in a December 1986 notice of inquiry and proposed rulemaking, the FCC sought public comment on whether it can and should promote trade reciprocity by taking actions to limit access to the U.S. market by foreign-owned providers of telecommunications goods and services based on whether their home markets were open or closed. The overwhelming public response opposed such a policy, and the administration, among others, argued that the FCC has no statutory authority to take actions based on a policy of reciprocity with our trading partners.

In its December 1988 public statement dropping its notice of inquiry and proposed rulemaking, the Commission stated in part that "it believes that as a matter of policy the Commission should not take action, including information collection, solely for trade purposes.

The United States has an international obligation to provide national treatment—that is, to treat foreign companies no less favorably than the most favored domestic companies in the U.S. market. Moreover, a number of trade statutes, including the Telecommunications Trade Act of 1988 and section 301 of the Trade Act of 1974, give the President and the U.S. Trade Representative specific authorities relating to international trade in telecommunications goods and services.

In the view of the gentleman from Massachusetts [Mr. MARKEY], does the language of section 9 in any way alter the FCC's authority in this area or give it a basis upon which to impose a policy of reciprocity in its actions affecting foreign providers of goods or services in the U.S. market?

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Speaker, no, section 9 does not alter the FCC's statutory authority in the area of trade in any way and does not give that agency the authority to impose limitations on foreign telecommunications providers on the basis of a policy of reciprocity.

Mr. FRENZEL. Mr. Speaker, the gentleman from Florida [Mr. GIBBONS] and I thank the distinguished subcommittee chairman for the clarification.

Mr. MARKEY. Mr. Speaker, I yield myself 30 seconds so that I may conclude.

Mr. Speaker, again we do this legislation on a bipartisan basis. Mr. RINALDO, Mr. MOORHEAD, Mr. LENT, Mr. DINGELL, myself and all of our subcommittee members, working together; David Leach, full committee staff person, working in coordination with the majority and minority staff legislative counsel.

Our goal is to make sure that the FCC gives our domestic telecommunications industry a positive, affirmative way of looking at the opportunities which are out there in the field of telecommunications.

They have a broad jurisdiction: all the telephone companies, the cable companies, television companies, you go right down the line; it is such a broad jurisdiction with so many key industries in our country that it is important that we develop on a bipartisan basis a view of the world that is very positive and will give those companies the niche they want in the American marketplace that will make us the envy of the world because they will go out there and make our country competitive if we have created that kind of environment.

Our goal is to work together with all committees in order to accomplish that goal.

Mr. Speaker, I hope that the House will accept our piece of legislation. We think it is a good one, one that will advance the long-term interests of our country.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 3265, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 3265 the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

M.P. DANIEL AND THOMAS P. CALHOON, SR. POST OFFICE BUILDING

Mr. HAYES of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 922) to designate the building located at 1515 Sam Houston Street in Liberty, TX, as the "M.P. Daniel and Thomas F. Calhoon, Sr. Post Office Building".

The Clerk read as follows:

H.R. 922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building located at 1515 Sam Houston Street in Liberty, Texas, known as the United States Post Office Building, is designated as the "M.P. Daniel and Thomas F. Calhoon, Senior, Post Office Building". Any reference to such building in any law, map, regulation, document, or other paper of the United States shall be deemed to be a reference to the M.P. Daniel and Thomas F. Calhoon, Senior, Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois [Mr. HAYES] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, not often is a community so blessed that it can look to two outstanding people as deserving namesakes for a public building. This is the case, however, in Liberty, TX. I believe it quite fitting to designate the Liberty Post Office as the "M.P. Daniel and Thomas F. Calhoon, Sr. Post Office Building."

The late M.P. Daniel was a postmaster in Dayton, TX. He was an active supporter of the U.S. Postal Service throughout his life. It was due to his almost single-handed effort that the Liberty, TX Post Office Building became a reality back in the 1930's.

Mr. Thomas F. Calhoon, Sr. was commissioned postmaster under President William McKinley in 1897. Mr. Calhoon died in 1937 at the age of 88 after more than 17 years as Liberty's postmaster. His service started a tradition in the Calhoon family. Three generations of Calhoons have contributed over 50 years to the community as postmasters.

Both men are remembered for their commitment to community service and dedication to progress in Liberty County. There is a great deal of support in Liberty for this building dedication, and I urge the support of my colleagues for this bill.

Mr. Speaker, I reserve the balance of my time.

□ 1310

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

The minority has been consulted on this bill, and I am informed by the gentleman from New York [Mr. GILMAN] that the minority has no objection to passage, and feel it is an appropriate piece of legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYES of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY.) The question is on the motion offered by the gentleman from Illinois [Mr. HAYES] that the House suspend the rules and pass the bill, H.R. 922.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYES of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 922, the bill just passed.

The Speaker pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MICKEY LELAND FEDERAL BUILDING

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3318 to redesignate the Federal building, known as the Concord Building, located at 1919 Smith Street in Houston, TX, as the "Mickey Leland Federal Building," as amended.

The Clerk read as follows:

H.R. 3318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 1919 Smith Street in Houston, Texas, and known as the Concorde Tower shall be known and designated as the "George Thomas 'Mickey' Leland Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "George Thomas 'Mickey' Leland Federal Building".

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

THE SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a sad, but special honor today to urge the House to pass H.R. 3318, legislation to rename the Concorde Tower Building in Houston, TX, after our dear colleague Mickey Leland.

His death in a plane crash in Ethiopia on August 7, 1989, brought to a tragic end a lifetime devoted to bettering the human condition. Mickey died on one of his many missions of kindness and compassion for the starving people of Africa.

Mickey was born on November 27, 1944, in Lubbock, TX. He grew up in Houston, TX, attended Phyllis Wheatley High School, and graduated from Texas Southern University in 1970 with a bachelor of science (pharmacy) degree.

In 1978, after serving in the Texas State Legislature for 6 years, he won a seat in Congress representing Houston.

Although his life was cut short at a young age, Congressman Leland had already accomplished much to aid the powerless and needy wherever they might be. Mickey helped people in need by persuading Congress to establish the Select Committee on Hunger in 1984. He served as its chairman from its beginning until his death. In 1985 he persuaded Congress to appropriate $785 million for famine relief assistance for Africa.

Congressman Leland served as chairman of the Black Caucus during 1985 and 1986. He was also an active member of the Committee on Post Office and Civil Service and the Committee on Energy and Commerce.

In tribute to Congressman Leland's many contributions to his State of Texas, the Nation and the world, it is fitting and appropriate to name the Federal building, known as the Concorde Tower, located at 1919 Smith Street in Houston, TX, as the George Thomas "Mickey" Leland Federal Building.

I urge my colleagues to give their strong support to this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3318, which would name a Federal building in Houston, TX, in honor of our recently departed colleague, Mickey Leland.

The House is still mourning the loss of this dedicated Member who was killed in an airplane crash last August while monitoring hunger relief efforts in Ethiopia. Mickey's energy in support of issues of concern to him were recognized and admired in the Congress. On a personal note I was honored to consider Mickey a very good friend.

H.R. 3318 is cosponsored by the entire Texas delegation and endorsed by the heads of Federal agencies on the Houston Federal executive board. Passage of H.R. 3318 will be a small but fitting tribute to Mickey's dedication and contributions to the country.

Mr. RAHALL. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I rise in support of this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. PETRI], the ranking member of the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation.

Mr. PETRI. Mr. Speaker, I rise in support of H.R. 3318, which would

name a Federal building in Houston, TX, in honor of our former colleague, Mickey Leland.

Representative Leland served in the House more than 10 years until his tragic and untimely death in Ethiopia this August. He was deeply committed to the cause of ending world hunger and it was during a mission to monitor hunger relief efforts that Mickey was killed in a plane crash. The issue of world hunger was but one of many concerns to which he was committed and for which he fought.

H.R. 3318 is cosponsored by the entire Texas delegation and has the endorsement of Federal agencies located in Houston. Naming the Federal building in Houston, TX, the "George Thomas 'Mickey' Leland Federal Building" would be a fitting and appropriate honor in recognition of Representative Leland's many years of dedicated service to the country.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

I do want to mention that this particular Member of Congress has had the honor of traveling with the late Representative Leland to the African nation of Angola. We traveled there to the capital of Luanda, in June of 1987. The purpose of our trip was to bring back a downed American pilot. We were successful in that mission.

Representative Leland's knowledge of this particular area of the country was very insightful and very helpful in not only this particular situation of bringing back a downed American pilot, but also of informing this particular Member of the problems and the very dire circumstances in which many people in many African nations live today.

Therefore, I join with my colleagues in asking support of this legislation. As I do so, I want to also recognize two particular members of the staff of the House Committee on Public Works and Transportation. They are very interested and have been very instrumental in not only drafting of this legislation, but on many other pieces of legislation that have come through the Committee on Public Works and Transportation, that are directed toward rebuilding the infrastructure of our Nation. These individuals have served a number of years in helping our colleagues on the Committee on Public Works and Transportation, and in the entire body of the Congress, reach consensus on many tough issues, and have helped pass legislation that rebuilds our Nation. The chief counsel of the Committee on Public Works and Transportation for the past 33 years has been Mr. Dick Sullivan. His tenure as chief counsel for the Committee on Public Works and Transportation is perhaps the longest tenure in the House of Representatives for any such position of chief counsel. To Dick Sullivan and to the other departing member of our staff on Public Works and Transportation, Dorothy Beam, who has served 31 years with the committee, and 48 years here on Capitol Hill, I want to extend my personal thanks and appreciation to their decades of work and dedication to not only the House of Representatives, but to the people of this Nation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to associate myself with the gentleman's remarks, and express my own personal deep appreciation for the longtime service of Dick Sullivan and Dottie Beam.

I know I speak for the members on our side of the minority side. I express my appreciation for their long service. I did not realize we were going to do this. I would have been better prepared.

Mr. RAHALL. Mr. Speaker, the news just came to me, and as they are right here on the floor at this moment, I wanted to extend that special thanks to Dick Sullivan and Dottie Beam.

Mr. TOWNS. Mr. Speaker, I rise today to celebrate the dedication of the George Thomas "Mickey" Leland Federal Building, formerly known as the Concorde Federal Building, in Houston, TX. Renaming this building in honor of our late colleague, Mickey Leland, will help sustain his memory and inspire future generations to emulate his strength of spirit, and the true commitment to economic and social justice which motivated his most noble efforts in Congress.

Mickey Leland's tenure in Congress exemplified the qualities most desired in a legislator: political savvy, energetic defense of strongly held principles, and dedication to humanitarian causes. These are the values which we would like our young people to adopt, both inside and outside the political arena. The Nation could only benefit from the sort of positive energy that Mickey Leland brought to so many of his causes and endeavors.

It is my hope that rather than being a sad reminder of Mickey Leland's passing, the dedication of this Federal building in his honor will serve as a monument to his contributions at home and abroad, and as an inspiration to others who strive to match his example of principled statesmanship and humanitarian diplomacy.

Mr. BOSCO. Mr. Speaker, I want to urge my colleagues today to pass H.R. 3318, legislation to redesignate the Concorde Tower Building in Houston, TX, as the "George Thomas 'Mickey' Leland Federal Building." Mickey had his district office in this building.

When our colleague Mickey Leland died in a plane crash on August 7, 1989, while on an official trip in Africa, the American people and the U.S. Congress lost a statesman and a crusader for the poor and the hungry. Throughout his life he fought for the rights and needs of the powerless at home and abroad.

Mickey was successful in achieving his humanitarian goals because he was not an ideologue, but rather, he became a friend to all regardless of their politics, religion, or race. In this way he was able to build coalitions to achieve the important aspirations to which he dedicated his life.

Mickey was born on November 27, 1944, in Lubbock, TX. He grew up in Houston, TX, attended Phyllis Wheatley High School, and graduated from Texas Southern University in 1970 with a bachelor of science (pharmacy) degree.

In 1978, after serving in the Texas State Legislature for 6 years, he won a seat in Congress representing Houston. An active Member of Congress, Congressman Leland was chairman of the Congressional Black Caucus during 1985 and 1986, and was chairman of the Subcommittee on Postal Operations and Services of the Committee on Post Office and Civil Service. Representative Leland also was a member of the Committee on Energy and Commerce and served on several of its subcommittees.

Mickey dedicated himself to the issue of world hunger. He championed the idea of a caucus on world hunger and achieved this goal in 1984 when the House of Representatives adopted a resolution establishing the Select Committee on Hunger which he chaired from its inception until his death. In 1985, Representative Leland persuaded Congress to provide $785 million for famine relief assistance for Africa. Mickey loved children very much. This love moved and motivated him to try and keep trying to see that no child anywhere would starve again.

In tribute to Congressman Leland's many contributions to his State of Texas, the Nation, and the world, it is fitting and appropriate to name the Federal building, known as the Concorde Tower, located at 1919 Smith Street in Houston, TX, as the "George Thomas 'Mickey' Leland Federal Building."

I urge my colleagues to give their strong support to this legislation.

Mr. GEREN. Mr. Speaker, I rise today in support of H.R. 3318, a bill to redesignate the Federal building, known as the Concorde Building in Houston, TX, as the Mickey Leland Federal Building, and to pay special tribute to our former colleague Mickey Leland. I am a cosponsor of H.R. 3318.

Representative Leland was a very talented Member of the House of Representatives and a unique member of the Texas delegation. He served the 18th Congressional District, the State of Texas, and this country with pride and distinction. Mickey was elected to the 96th Congress in 1978, replacing one of our truly outstanding Texans, former Congresswoman Barbara Jordan. Although I did not have an opportunity to serve with Mickey in the House, I will always remember him as a caring person who put the needs of others before his own.

In the short period that Mickey was in the House of Representatives, he was able to raise our consciousness to the severity of the problem of world hunger. Through Mickey's untiring leadership as chairman of the Select Committee on Hunger, he focused Congress' attention on this problem. He gave his life so that so many others may live. The lives of thousands of people were saved because of

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Mickey's personal efforts in fighting world hunger.

Mr. Speaker, it is very fitting that the Federal building in Houston will be renamed in honor of Mickey. Prior to his election to the House of Representatives, Mickey represented the 88th District in the Texas Legislature. Mickey was a champion of the less fortunate in Houston, and continued his effort to help here in Washington.

The Mickey Leland Building in Houston, TX, will serve as an inspiration to all of us that we can make a difference.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill. H.R. 3318, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to redesignate the Federal building in Houston, Texas, known as the Concorde Tower, as the 'George Thomas "Mickey" Leland Federal Building'.".

A motion to reconsider was laid on the table.

□ 1320

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. (Mr. MONTGOMERY). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AUTHORIZING ADDITIONAL COSPONSORS OF H.R. 2585

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that I be allowed to submit the names of cosponsors of H.R. 2585, the bill of which Mickey Leland was the original sponsor, and that those cosponsors be added to that list.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The list is as follows:

Mr. Moody, Mr. Studds, Mr. Downey, Mr. Coyne, Boehlert, Mr. Weldon, Mr. Smith of Vermont, Mr. Berman, Mr. Weiss, Mr. Skaggs, Ms. Schneider, Mrs. Morella, Mr. Solarz, Mr. Atkins, Mr. McDermott, and Mr. Matsui.

BACK U.S. DEBT WITH GOLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, the House and the Senate, the Congress of the United States, has been wrestling with the problem that up until now has defied solution relating to how we are going to dig ourselves out of the financial mess into which we have collectively dug ourselves lo these last 21 years.

I am talking about the fact that in the decade of the 1980's we began with a national debt of $1 trillion and will end the decade of the 1980's with a national debt of $3 trillion. If we continue the course in the 1990's as we have in the 1980's, we could, by the turn of the century, have a national debt of $7 or $8 trillion.

Right now we are using roughly 43 percent of our general fund revenue to pay interest on the national debt. If that would ever get to the point of 100 percent, I do not think we could any longer sell debt, because it would then be obvious to all the world that we are broke.

So what can be done? What really can be done with the fact that the interest rate on the national debt of close to $3 trillion currently is carried at an interest rate of approximately 9 percent? The gross interest expense in maintaining the national debt this year was in excess of one-quarter of one trillion dollars.

Some of my colleagues may ask, well, is it not true that Congress this year will produce a deficit plan that will achieve compliance with the Gramm-Rudman-Hollings target of $100 billion for fiscal year 1990? How do you reconcile that claim of reducing the deficit to $100 billion with the fact that we are going to increase the national debt by in excess of one-quarter of a trillion dollars?

The answer I think is obvious to all Members who serve in the House and the Senate, that we are reducing the general fund deficit to the tune of about $147 billion in the form of trust fund money, which to me is not what Members should be doing with that trust fund money.

A good portion of this is Social Security money. This should be invested in a form that will preserve its status, so that when the people who want to depend upon it in 2010 and 2015 and 2020 retire, it will be there to provide retirement, not in the form of taxes which have to be developed at that time to pay that expense.

Just 1 week ago our Nation witnessed a televangelist by the name of Bakker who was sent to prison for using trust fund money for general purposes. One question today what will happen to all of us when we face our sentencing on this issue in November 1990, as to whether or not the people of the districts that send us here will continue to permit us to exercise the stewardship of running the affairs of the U.S. Congress.

It was interesting to this Member from California just several weeks ago that a member of the U.S. Federal Reserve Board, Mr. Angell, was asked by the Soviet leadership to travel to Moscow and to give them advice as to how they could correct their economic problems.

The advice that he gave the Soviet leadership I thought was very interesting, because he said to them, back the ruble with gold and issue gold backed bonds that could be sold in world markets for 3 percent annual interest.

I would submit to my colleagues that the advice which our member of the Federal Reserve Board gave to the Soviet leadership is good for the American political leadership as well, and if we take this step we could once again permit the United States government to sell its debt at 2 percent, 1½ to 2 percent.

One does not need to have a Ph.D. in economics to recognize that if we reduce the annual cost of maintaining the national debt interest-wise from 9 percent to 2 percent, we have driven 7 percentage points off of that cost. With a national debt of $3 trillion, 7 percent times $3 trillion is over $200 billion a year in reduction of annual interest expense. That reduction of annual interest expense is close to the entire annual budget deficit as defined by the amount we will increase the national debt by in this fiscal year, and is a major policy reform.

President Bush was kind enough to permit half a dozen Members of the House several weeks ago to visit with him in the White House on this subject. Present for that meeting were the gentleman from Illinois [Mr. CRANE], the gentleman from Idaho [Mr. CRAIG], the gentleman from Missouri [Mr. HANCOCK], the gentleman from California [Mr. ROHRABACHER], and the gentleman from New Hampshire [Mr. SMITH]. Also there were President George Bush, Secretary of Treasury Nicholas Brady, and Director of OMB, Mr. Darman.

We discussed with President Bush the necessity of reforming the monetary system of this country so as to decrease the size and growth of the debt bubble before we find out how big it can get before it blows up in our face. Nobody knows the answer to that.

Common sense tells us that this Nation cannot continue down the road indefinitely of adding one-quarter of a trillion dollars to our national debt each year without sometime facing the reality that there is a limit to the growth of the debt bubble.

The problem is that the United States has lost access, formerly taken for granted, to capital at the lowest available interest rate in the world. This is at the same time the cause and the effect of the unprecedented volatility in the value of the dollar so that the two problems, lowering interest rates and stabilization of the the

dollar, are either solved simultaneously, or not at all.

A stable dollar would eliminate the urge for jockeying by special interest groups: One for a low dollar, another for a high dollar. The only way to do justice to the various and sometimes contradictory demands on the dollar by creditors and debtors, importers and exporters, producers and consumers, is to stabilize it. The strongest currency is a stable currency, and a country with such a currency has never had a problem to balance its budget and its trade accounts.

A devaluationist mentality has taken hold of the American mind. It is widely believed that the way to balancing the country's trade accounts is to make the dollar weaker on the foreign exchanges. This ignores the fundamental truth that the most effective tool a government can put into the hands of every businessman and financier—and, for that matter, into the hands of the wage earners, who do most of the country's saving—is the integrity of the currency, to be held above politics, agitation, and demagogy. No country in recorded history has ever achieved greatness through systematic currency debasement. The five great powers, all members of the victorious alliance in WW II: Britain, China, France, the Soviet Union, and the United States have seriously injured themselves economically when they embraced, one after another, the policy of deliberate currency depreciation. The vanquished of WW II: Germany and Japan, have eclipsed their conquerors economically and financially in the postwar era by virtue of their adherence to the principles of a sound currency: They have kept the value of the national currency out of the political arena. The clear loser is the United States, the only country among the seven whose home base has escaped physical destruction in WW II, and the only one which has been able to preserve its patrimony in the Holocaust—but one which now cuts the sorry figure of a man on skid row, as a result of its addiction to the dope of currency devaluation.

Disturbing economic developments in America have been obscured by a steady stream of optimistic statistical indicators on jobs, GNP, and by buoyant stock and bond markets. Item: Japanese firms have increasingly replaced American manufacturers as internationally successful producers of quality, future-oriented merchandise. Item: Annual trade deficits—reaching $174 billion in 1987—have ended 80 years of uninterrupted surpluses, raising serious questions about the productivity and competitiveness of American industry. Item: U.S. debt of all kind is at record levels and still increasing, with no hint how these debts will ever be extinguished, short of default. Item: The equity and debt markets, in spite of appearances, are extremely vulnerable, as the 1981 bond market crash and the 1987 stock market crash show. Item: Japanese banks have replaced American banks on the list of the world's first 10. As reported by the Wall Street Journal in a feature article on October 12, 1989, under the title "Credit Siege," what we see is not merely a change in relative size, but an appalling loss of competitiveness and market share at home and abroad by the American banks to the Japanese.

Most American experts are unable to put the problem in the right context. Prof. Jeremy Siegel of the University of Pennsylvania's Wharton School comments that "competition in banking is * * * unlike [that in] automobiles; quality does not enter into it: money is money." The Japanese, of course, know better. Between money and money, there could be the difference of heaven and hell. Money does have quality—as distinct from quantity, or the rate of growth thereof. The source of this quality is found in the government's determination to prevent the value of monetary unit from becoming a plaything in the hands of demagogs and speculators. All the evidence shows that the American Government is deficient on that score, and it is trying hard to make a virtue out of this deficiency. Meanwhile the Japanese Government, without much fanfare, is holding on to the principles of sound money.

In economics there are no miracles. The only way to cure our perennial trade deficit is to bring down the marginal cost of capital in America to or below the level prevailing in Japan. This shall of course happen, whether or not the United States can muster the political will and adopt the appropriate policy. But in the absence of a dollar-stabilization policy, the cure will indeed be a bitter pill to swallow. The cost of capital will be brought down in this country by the Japanese making further inroads upon American finance. Japanese superbanks, which control the world's largest and cheapest supply of capital, will take over from home-grown suppliers of funds the role of financing American technology, research, and development. This is not the place to analyse the national security implications of this development. But the effect on the American banking industry will be devastating.

American banks will be forced to move further down on the asset-quality ladder; the Japanese will reinforce their capital advantage and pricing power as they consolidate their newly acquired market share in world finance. It takes no special powers of perception to see what Japanese domination of the lending market for high-quality American corporations will untimately bring. Not only is the Japanese banking system poised to dominate world finance, but the American banking system is being set up as the fall guy in case of an international monetary panic.

The United States is in the clutches of an unprecedented debt crisis, the root cause of which is the abnormal growth of the Federal debt. Interest on the Federal debt is presently paid at the rate of $250 billion per annum. Since the Federal debt is growing at about the same rate, it is clear that interest payments can only be maintained through the creation of new debt. We must borrow every dollar we pay out in interest; not one of these dollars comes out of taxation, let alone production. Our Government finance is a make-believe system.

But perhaps the worst aspect of the debt tower is not its size or the rate of its growth, but its faulty construction. The debt which is being created at breakneck speed is of the least desirable kind. It is short-term debt. Thus the financing of the new debt—debt created to cover interest payments—will put ever greater pressure on the credit of the Government, already strained by pressures to finance the fast maturing old debt. Here we see the dizzying acceleration of a vicious spiral. The maintenance of this fast-breeder of debt, whereby the new debt is being created not for generating new wealth but for the payment of interest as it falls due on the old debt, is wholly inconsistent with a stable economy.

This would be a very dangerous situation even if the operation of the fast-breeder of debt depended entirely on the credulity of people under the jurisdiction and taxing-power of the United States. How much more dangerous it is, then, in the present situation where we have come to depend on foreigners to feed the beast. What if they refuse? America is in danger of losing control over her financial destiny, which also involves her political destiny as well.

The solution will be phrased here as a seven-point plan, the purpose of which is to phase out the short-term debt of the Federal Government and replace it with long-term, gold-bonded obligations as follows:

First, the Treasury must retire the entire short-term debt, as it matures, during a 4-year period. No new Treasury bills will be issued except during income tax paying time, to facilitate the payment of taxes. Former holders of Treasury bills will have to offer their funds to the private sector on the best terms they can get. Their competition for earning assets will bring down interest rates dramatically.

Second, the high-interest, short-term Government debt must be replaced by low-interest, long-term debt.

A low rate of interest is available for gold-bonded obligations.

Third, foreign central banks and other large holders of monetary gold around the world will be the primary bidders for the new gold bonds. They will be eager to carry the gold bond, which is an earning asset, instead of gold, which is not. Governor Wayne Angell of the Federal Reserve System has estimated that financial institutions would be glad to lend monetary gold at 2 percent interest or less to governments. This is consistent with the estimates of other experts.

Fourth, the gold flowing into the Treasury in consequence of the sale of gold bonds will be minted into U.S. eagle coins. These coins will be sold, worldwide, in exchange for U.S. dollars.

Fifth, the Treasury must use the proceeds from the sale of gold coins exclusively for the retirement of the short-term debt. At the end of the 4-year period the short-term debt will be phased out completely, and the long-term debt will be funded at the lowest available interest rate.

Sixth, if speculators tried to push the gold price upward, the Treasury would accelerate the sale of gold bonds, thereby increasing the flow of cash gold to the market, effectively controlling the upward pressure on the gold price.

Seventh, if speculators tried to push the gold price downward, the Treasury would buy gold at the lower price and use it, by way of open-market operations, to repurchase outstanding gold bonds at a profit. Early retirement of gold bonds would thus drain the cash market of excess gold. The Treasury could effectively control the downward pressure on the gold price.

To summarize, gold bonds provide the Treasury with a new mechanism to stabilize the dollar. Presently, the Treasury is helpless. In the absence of a market in gold bonds, the value of the dollar is a plaything in the hands of international currency speculators. The only meaningful way to break their power over the dollar is to issue gold bonds. Then pressures to change the gold value of the dollar can be countered by an appropriate change in the flow of gold bonds to the market.

In the absence of a gold-bond market, a program of dollar stabilization could and perhaps would be frustrated by speculators. They might combine to exhaust the Treasury's supply of gold. Gold bonds would obviously prevent this. No combination of speculators could corner the world's supply of monetary gold which, through the gold-bond connection, would be at the disposal of the Treasury.

The attractiveness of the gold-bond plan lies in the fact that it kills two birds with one stone. The two birds are: Interest rate volatility and exchange rate volatility. Not only do gold bonds make the lowest available interest rates in the world once more accessible to the people and the Government of the United States. It is just as important that they offer an efficient mechanism for the stabilization of the dollar. Points 6 and 7 above describe the mechanism through which the dollar can be stabilized. We shall take another look at the operation of this mechanism in more detail.

Let us assume, for the sake of argument, that the Treasury wants to stabilize the gold value of the dollar at $350 per share. To that end, the Treasury will post a bid price of $340 and an asked price of $360. If no transactions take place at these prices, then the spread between the bid and asked prices can be narrowed, until traders are coaxed into action. Should the asked price come under attack by bull operators, the Treasury would step up its sale of gold bonds and use the proceeds to satisfy speculative demand. The effect is that the speculators are subsidizing the retirement of the short-term debt to the tune of $10 per ounce, or about 3 percent of the cash value of the operation. Should the Treasury's bid price come under attack by bear operators, the Treasury would buy all the gold offered at $340, and use it in open market operations to retire outstanding gold bonds, before they mature, at a profit. The effect is that the speculators are subsidizing the retirement of the long-term debt to the tune of $10 per ounce, or about 3 percent of the cash value of the operations.

Since the speculators are not prepared to subsidize Treasury operations, trading at the gold window will dry up the Treasury, will narrow the spread between its asked and bid prices to the gold import and gold export points.

A public statement from the Treasury on its open-market operations in gold bonds will change the nature of speculation. The Treasury need no longer worry about the gold price. Arbitrageurs will see to it that the gold price stays between the gold points. Gold speculation will wither away.

But bond speculation will also wither away. After all, bond speculation is but amplified currency speculation. It was nonexistent under the gold standard in peacetime. Nothing can stabilize the value of dollar-denomintned assets more than the stability of the dollar itself. The upshot of the open-market operations in gold bonds is that interest rates will be not just lower—the lowest available anywhere in the world—but they will also be much less volatile.

To be sure, interest rates cannot be stabilized in the same sense as the gold price through open-market operations, nor should they be. Minor changes which will occur must be treated as important market signals from the purveyors of capital to the users. Still, we may talk about the stabilization of interest rates in a looser sense, as the extreme volatility of bond values which has plagued the markets for the last 20 years would be a thing of the past.

This dual stabilization would be accomplished at no cost to the taxpayer, and at no risk to Treasury gold. If anything, tax cuts might soon be possible as a result of the huge reduction in the cost of debt service. The gold-bond plan does not mean automatic adherence to a gold standard, so there is no need to conjure up the deflation bogies of the 1821, 1879, and 1925 stabilizations. In those episodes, the objective was a return to the status-quo ante. The gold content of the currency was to be stabilized at the pre-war level.

There is no such constraint in the present gold-bond plan. The gold weight of the dollar is to be stabilized at a level designated by the Treasury. A new parameter, not available in the earlier episodes, is at the disposal of the Treasury. The gold price will be fixed at a level which is likely to serve the national interest best. This extra degree of freedom makes the stabilization effort technically simpler. It is this extra degree of freedom which makes the simultaneous achievement of the two independent goals, lower interest rates and a stable dollar, feasible.

This agenda is eminently realistic. Putting it into effect does not call for any sacrifices whether in the form of a tax increase, cuts in social services, or forced debt liquidation. Nor is it a something-for-nothing scheme. Its multifarious benefits come from tapping a tangible world resource—a resource deliberately, albeit mistakenly, left idle for the past two decades—the world's stock of monetary gold. In bringing gold back to the world economy we materially add to the world's pool of loanable funds. In assigning gold a meaningful role—one for which it is so superbly qualified: The lowering of the interest rate structure—we are releasing new energies that can be harnessed for economic development at home and abroad.

Two objections against the gold-bond plan will be dealt with:

First, the Giscard-bond plan, the only comparable project during the past 15 years, was an unmitigated failure. The French Treasury got the low interest rate it wanted, but ended up paying 10 times more to bondholders at maturity, in consequence of higher gold prices.

The Giscard plan was doomed before the bonds were printed. The French were shooting from the hip. They did not have any contingency plan for the

possibility that the gold price might be bid up by speculators while the Giscard bonds were outstanding. This was an invitation to speculators to do just that. The present proposal is as different from the Giscard plan as day from night. Here, gold bonds are not proposed as a one-time shot to replenish an empty Treasury. Rather, gold bonds are proposed as the mainstay of currency stabilization, as the linchpin of fiscal and monetary reform.

The French Government used the proceeds of the Giscard bonds for current expenditures. The U.S. Treasury would be explicitly barred from doing that. The proceeds from the sale of gold bonds must be used to retire the short-term debt. The refunding of the short-term debt in the form of long-term obligations is an act of stabilization per se. It removes the main source of instability: The short-term Government debt, hanging like the Sword of Damocles over the markets.

Those who imply that a government having gold obligations is at the mercy of speculators have got it all mixed up. The shoe pinches the other foot. It is precisely those governments which feed their money markets with short-term paper that are vulnerable. Speculators are in the market for the fast killing. They will dump the paper when it embarrasses the Government most. Speculators are attracted to the bond market only if bond prices are inherently unstable. That will be repelled by gold bonds, because their price is eminently stable. History teaches that in peacetime, under a gold standard, bond speculation is conspicuous only by its absence.

The fact that gold obligations make the Government wary of fiscal and monetary policies which might destabilize the gold price is not a defect of the gold-bond plan; it is its main excellence. It creates incentives for the Government to pursue policies which make the dollar independent of the changing ambitions and doctrines of political parties and interest groups—incentives which are sorely missed under our present monetary and fiscal arrangements.

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The second argument that needs rebutting: Gold-bond financing of the United States Government would confer undue power upon America's adversaries, the Soviet Union and South Africa, by virtue of their leading position as gold producers. They could sabotage the smooth operation of the American financial system by either dumping gold on the market or by withholding gold from it.

In the early 1970's French monetary economist Jacques Rueff and other experts suggested that the dollar should be stabilized by fixing the official price of gold at $70 per ounce. The proposal was rejected on the strength of the argument that it would give windfall profits to America's adversaries. Little did the authors of the floating dollar realize at the time that, in denying a 100 percent windfall, they were paving the way to a 1,000-percent windfall to the Soviet Union and South Africa. Thus, by their own standards, the architects of the soft dollar have perpetrated a damage 10 times as great as the damage the advocates of the hard dollar were accused of perpetrating.

The proposition that the maintenance of a hard currency in America would somehow help our enemies was a red herring in the 1970's. Today, the suggestion that refinancing America's debt by issuing low-interest, long-term bonds would somehow help America's enemies is just another red herring. We have a runaway debt-tower to worry about, which may topple and bury us under the rubble. There is only one way to rein in the runaway debt, namely, by putting the gold harness on it. That harness is our lifesaver. Let us not bicker about the point whether the lifesaver was manufactured in a country friendly or unfriendly to us.

The notion that the Soviets or the South Africans would be in the position to sabotage our efforts by dumping newly mined gold or by withholding it, is entirely fanciful. Gold is a valuable asset, even in the hands of our adversaries. If they waste it or misuse it in any way, they are only harming themselves. Therefore, to the extent that they are our enemies, they would be helping, rather than harming us.

In any event, annual gold production is only a small fraction of the world's gold stocks, in the neighborhood of 1 percent. Those who believe that the tail can sometimes wag the dog should realize that the dog has a North American and also an Australian tail. Gold production in North America and Australia has increased more than six-fold during the past decade. With or without newly mined gold from the Soviet Union and South Africa, there is no shortage of gold in the world. On the other hand, huge additional supplies from the gold mines can be absorbed smoothly, as they have been during this past decade.

Rather than sabotaging the stabilization efforts of the United States, the Soviets are more likely to imitate it. As widely reported in the press, the Soviet Government is actively considering the issuance of gold bonds as a means of obtaining credits at 3 percent interest. The United States cannot allow the Soviets to invade, unopposed, the world's last remaining pool of loanable funds, the world's store of monetary gold. If the Soviets were to have a monopoly in the gold bond market, the arguments about the threat and efficacy of Soviet sabotage would become real.

For this reason alone, it is a matter of some urgency that we put the gold-bond plan into effect.

The meaning to every borrower of money in the United States is quite clear. Rather than a homeowner being compelled to pay 10 to 11 percent in fixed-rate mortgage debt today to participate in the American dream, the people of America would be able to participate in the American dream on their home mortgage loan of 5 to 6 percent, and college students would be able to borrow money to finance their education similarly at interest rates of 5 or 6 rather than 10 or 11 percent. American business would have its competitiveness restored, because the fact of the matter is today the prime rate in this country is about twice what it is in Japan.

We should not be surprised when American goods and world markets cannot compete on an even playing field when the cost of capital to a Japanese producer is half what it is to an American producer. Indeed, every person who borrows money in America is now paying an inflation premium to continue the charade that currently is being practiced in this country as fiscal and monetary policy. This charade has got to stop. It will only stop when we in Congress have the courage to adopt the plan that is talked about here this afternoon, namely, to refinance the U.S. debt through the issuance of gold-backed bonds.

In conclusion, let me observe, as I said earlier, if this advice is good for the Soviet leadership in removing or improving or correcting the deficiencies in their economic system, it also is good advice to the United States Government for us to follow in this country.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DANNEMEYER) to revise and extend their remarks and include extraneous material:)

Mr. RITTER, for 60 minutes, on November 2.

Mr. DANNEMEYER, for 60 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LIPINSKI, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DANNEMEYER) and to include extraneous matter:)

Mr. HANCOCK.

Mr. QUILLEN.

Mr. HUNTER.

Mr. LEWIS of California.

(The following Members (at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. DOWNEY.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. MONTGOMERY.

Mr. LANTOS.

Mr. BONIOR.

SENATE BILLS, JOINT RESOLUTIONS, AND CONCURRENT RESOLUTION REFERRED

Bills, joint resolutions, and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1062. An act to amend the Earthquake Hazards Reduction Act of 1977 to improve the Federal effort to reduce earthquake hazards, and for other purposes; to the Committees on Interior and Insular Affairs and Science, Space, and Technology.

S. 1191. An act to authorize appropriations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes; to the Committee on Science, Space, and Technology

S. 1798. An act to provide for the imposition of the death penalty for the terrorist murder of United States nationals abroad; to the Committee on the Judiciary.

S.J. Res. 131. Joint resolution to designate November 1989 as "National Diabetes Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 187. Joint resolution to designate the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending in November 25, 1990, as "National Adoption Week;" to the Committee on Post Office and Civil Service.

S.J. Res. 198. Joint resolution designating November 1989 as "An End to Hunger Education Month;" to the Committee on Post Office and Civil Service.

S.J. Res. 210. Joint resolution to designate the month of October 1989 as "National Spina Bifida Month;" to the Committee on Post Office and Civil Service.

S.J. Res. 215. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day;" to the Committee on Post Office and Civil Service.

S.J. Res. 216. Joint resolution designating November 12 through 18, 1989, as "Community Foundation Week;" to the Committee on Post Office and Civil Service.

S.J. Res. 220. Joint resolution to designate the week of December 3, 1989, through December 9, 1989, as National Autism Week and 1990 as National Silver Anniversary Year for the Autism Society of America; to the Committee on Post Office and Civil Service.

S. Con. Res. 55. Concurrent resolution to commemorate the volunteers of the United States and the Hugh O'Brian Youth Foundation; to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3281. An act to reauthorize the National Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee did on this day present to the President, for his approval a joint resolution of the House of the following title:

H.J. Res. 241. Joint resolution designating October 25, 1989, as "National Arab-American Day."

ADJOURNMENT

Mr. DANNEMEYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 55 minutes p.m.) the House adjourned until tomorrow, Tuesday, October 31, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1910. A letter from the Acting Secretary of Defense, transmitting his views concerning the President's alternative sequestration report; to the Committee on Appropriations.

1911. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the tied-aid and partially intied-aid credits offers by the Bank, pursuant to July 31, 1945, chapter 341, section 15(g) (100 Stat. 1205, 102 Stat. 1383); to the Committee on Banking, Finance and Urban Affairs.

1912. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "Funding for Homeless Shelter located at 425 2nd Street, N.W.", pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

1913. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1914. A letter from the Chairman, Board for International Broadcasting, transmitting a report on the status of the implementation of the Inspector General Act Amendments of 1988, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

1915. A letter from the Acting Special Counsel, U.S. Office of Special Counsel transmitting a report on the status of the implementation of the Inspector General Act Amendments of 1988, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

1916. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1917. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1918. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend section 4 of the Vessel Bridge-to-Bridge Radiotelephone Act (Public Law 92-63; 85 Stat. 164; 33 U.S.C. 1203)"; to the Committee on Merchant Marine and Fisheries.

1919. A letter from the Secretaries of Transportation and Defense, transmitting findings of a joint review of special use airspace, pursuant to 40 U.S.C. app. 2203; to the Committee on Public Works and Transportation.

1920. A letter from the Secretary of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to clarify the authority of the Chief Medical Director or designee regarding review of the performance of probationary title 38 health care employees; to the Committee on Veterans' Affairs.

1921. A letter from the Secretary of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to streamline the disciplinary process for employees, to allow for the delegation of authority of the Chief Medical Director in certain situations and for related purposes; to the Committee on Veterans' Affairs.

1922. A letter from the Secretary of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to require, after the effective date of this amendment, licensure, certification or registration of social workers appointed in the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

1923. A letter from the Chairman, Interstate Commerce Commission, transmitting the Commission's annual report for fiscal year 1988, pursuant to Public Law 96-448, section 217(c)(1) (94 Stat. 1925); jointly to the Committees on Energy and Commerce and Public Works and Transportation.

1924. A letter from the Secretary of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize the Department of Veterans Affairs to appoint, without regard to civil service hiring procedures, graduates in certain health-care professions

or occupations trained by the Department; jointly to the Committee on Veterans' Affairs and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3021. A bill to extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington; with an amendment (Rept. 101-318). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 3318. A bill to redesignate the Federal building, known as the Concord Building, located at 1919 Smith Street in Houston, TX, as the "Mickey Leland Federal Building"; with amendments (Rept. 101-319). Referred to the House Calendar.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 2581. A bill to authorize the Federal Aviation Administration to establish an aviation research grant program, with an amendment (Rept. 101-320). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 897. A bill authorizing the National Oceanic and Atmospheric Administration to modernize and expand its fleet of ocean research vessels, and for other purposes; with an amendment (Rept. 101-321). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

H.J. Res. 424. The Committee on Appropriations discharged from further consideration of House Joint Resolution 424 pursuant to section 252(c)(2)(F)(i) of the Balanced Budget and Emergency Deficit Control Act. House Joint Resolution 424 referred to the Committee of the Whole House on the State of the Union. Ordered to be printed.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. NELSON of Florida introduced a bill (H.R. 3543) for the relief of Harold W. Brown, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 633: Mr. LOWERY of California and Mr. LAUGHLIN.

H.R. 1515: Mr. HUTTO, Mr. BEREUTER, and Mr. NEAL of Massachusetts.

H.R. 2015: Mr. GRANT.

H.R. 2144: Mr. WALSH.

H.R. 2581: Mr. JAMES.

H.R. 2585: Mr. MOODY, Mr. STUDDS, Mr. DOWNEY, Mr. COYNE, Mr. BOEHLERT, Mr. WELDON, Mr. SMITH of Vermont, Mr. BERMAN, Mr. WEISS, Mr. SKAGGS, Ms. SCHNEIDER, Mrs. MORELLA, Mr. SOLARZ, Mr. ATKINS, Mr. MCDERMOTT, and Mr. MATSUI.

H.R. 3030: Mrs. BENTLEY, Mr. VOLKMER, Mr. DYMALLY, and Mr. BROWDER.

H.R. 3037: Ms. SNOWE and Mr. MCDERMOTT.

H.R. 3120: Mr. MACHTLEY, Ms. SLAUGHTER of New York, Mrs. SAIKI, and Mr. LAUGHLIN.

H.R. 3136: Mr. BEREUTER.

H.R. 3155: Mr. HAYES of Illinois, Ms. SLAUGHTER of New York, and Mr. BROWN of California.

H.R. 3319: Mr. DORNAN of California.

H.R. 3343: Mr. DENNY SMITH, Mr. JACOBS, Mrs. ROS-LEHTINEN, Mr. LIPINSKI, Mr. BRENNAN, Mr. CLINGER, Ms. SLAUGHTER of New York, Mr. ARMEY, and Mr. ENGEL.

H.R. 3394: Mr. SOLARZ, Mr. BATES, and Mr. PRICE.

H.R. 3440: Mr. DUNCAN, Mr. LAGOMARSINO, and Mr. MCEWEN.

H. Con. Res. 123: Mr. JACOBS, Mrs. LOWEY of New York, Mr. MORRISON of Connecticut, Mr. HOCHBRUECKNER, Mr. SMITH of Vermont, and Mr. DOWNEY.

H. Con. Res. 127: Mr. DOUGLAS and Mr. NIELSON of Utah.

H. Res. 206: Mr. NEAL of North Carolina, Mr. KOLBE, Mr. FLIPPO, Mr. DOWNEY, Mr. MRAZEK, Mr. CAMPBELL of California, Mr. HARRIS, Mr. BATES, Mr. SHUMWAY, Mr. MONTGOMERY, Mr. NEAL of Massachusetts, Mr. SKELTON, Mr. SAXTON, Mr. SUNDQUIST, Mr. WELDON, Mr. DURBIN, Mr. KLECZKA, Mr. DYMALLY, Mr. PRICE, Mr. ARMEY, Mr. LIPINSKI, Mr. ROE, Mr. GOSS, Mr. BOEHLERT, Mr. DEFAZIO, Mr. MARTIN of New York, Mr. CROCKETT, Mr. MCCANDLESS, Mr. BOUCHER, Mr. MCCOLLUM, Mr. CLINGER, and Mr. WALSH.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

118. By the SPEAKER: Petition of the Speaker of the National Assembly, Seoul, Korea, relative to a copy of a passed resolution which seeks a cooperative means for settlement of bilateral trade issues through dialogs; to the Committee on Ways and Means.

119. Also, petition of the Ambassador of Costa Rica, Washington, DC, relative to a memorandum regarding section 10426 of the House budget reconciliation bill (H.R. 3299) affecting motor fuel ethanol imports from the Caribbean; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3443

By Mr. DEFAZIO:

—Page 5, line 3, strike "or".

—Page 5, after line 3, insert the following:

"(4) that the acquisition would result in a major reduction in wages, benefits, or number of employees of the air carrier which is not agreed to by the employees and is required primarily as a result of added costs arising out of the acquisition; or

—Page 5, line 4, strike "(4)" and insert "(5)".

EXTENSIONS OF REMARKS

ELIE WIESEL HONORED WITH DOCTORATE OF HUMANITIES DEGREE FROM BRIGHAM YOUNG UNIVERSITY

HON. TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. LANTOS. Mr. Speaker, Prof. Elie Wiesel, who has been called the conscience of the Holocaust for his perceptive understanding and analysis of the meaning of this most horrible of humanity's nightmares, has been honored with the Nobel Prize for Peace, numerous honorary degrees and diplomas, and countless other most appropriate recognitions. Professor Wiesel's most recent honor was the awarding of the degree of doctor of humanities, honoris causa, by Brigham Young University.

Mr. Speaker, I would like to join in congratulating my dear and good friend, Elie Wiesel, for this most deserved honor. It is an honor, both to Elie and to Brigham Young University.

For the benefit of my colleagues, Mr. Speaker, I insert the excellent introduction of Professor Wiesel by Brigham Young University president and former Solicitor General of the United States, Rex E. Lee, in the RECORD. I also insert the outstanding address given during the convocation by Professor Wiesel in the RECORD:

CITATION FOR ELIE WIESEL BY PRESIDENT REX E. LEE

"To guard against indifference I tell tales, I speak of remembrance, of humanism of compassion, of faith of people fighting and working together. To a society lost in its own apathy, in its own moral indifference, we shout 'Wake up.' "

Elie Wiesel's appeal for humanity to revive its conscience comes from his own personal experience with violent inhumanity. A survivor of the Jewish Holocaust, he is one of the most eloquent and powerful witnesses of the atrocities committed against the Jewish people. His efforts have earned him the United States Congressional Gold Medal of Achievement, the Medal of Liberty Award, and in 1986, the Nobel Prize for Peace.

On awarding him the Peace Prize, the Nobel Committee described Elie Wiesel as "one of the most important spiritual leaders and guides in an age when violence, repression, and racism continue to characterize the world. He is a messenger to mankind: his message is one of peace, atonement, and human dignity." Since receiving the award, Professor Wiesel has said that the Peace Prize, while a great personal honor, is not his alone. "It belongs to all the survivors who have tried to do something with their pain, with their memory, with their silence, with their life." He was named from a field of more than 80 candidates, and his selection symbolized increasing world efforts focused on human-rights issues.

Addressing a BYU audience at a university forum assembly in January 1985, Professor Wiesel outlined some of the lessons for the future that could be learned from the Jewish past. He stressed the importance of greater understanding of our individual and collective roles in humanity. "We, as people, must respond to the needs of other people," he said. "People must be moved by despair and not to despair. Despite fear and anguish, we must continue."

Born Eliezer Wiesel in 1928 in Sighet, Transylvania (Romania), he was raised with his three sisters in a Hasidic home by faithful, loving parents. Elie was particularly close to his grandfather, who instilled in the young boy a "love of God and feeling of unity and kinship among humanity." He studied Mitzvot, Mishnah, and Gemara in the traditional manner of Jewish scholarship, and he became fascinated with and enveloped by the laws and traditions of God. Many suggested that Elie might someday become a great scholar within their community.

Yet history held another fate for the young boy from Sighet. At dawn on the final day of Passover in 1944, troops of the Waffen SS occupied the city, and fewer than 50 days later deportation orders arrived with instructions to relocate the entire Jewish community to concentration camps. Elie's family was taken to Birkenau, the processing center for Auschwitz. There they were separated; Elie and his father were taken to one side, Elie's mother and sisters to another. Elie would never see his mother and youngest sister again. He would spend the next year of his life first at Auschwitz and then at Buchenwald, required to perform hard labor, subjected to routine yet indiscriminate beatings, and forced to watch his father suffer from the acute dysentery that eventually took his life. When his father's illness was in its most severe stages, Elie was the only one who would care for him, carrying him to and from his bed and carefully feeding him each day's ration of bread. In the end, Elie was not even to see his father's death; he awoke one morning to find his father gone from his bed, carried away in the night.

In describing his experiences, Professor Wiesel has said: "There is something about this Event that eludes rational thought. Only those who were there know what it meant to be there. The others can, at best, come close to the gate." By his own account, he gave up everything in the death camps that mattered to him except life itself: his parents, his sister, his innocence, his faith, and—for a time—his humanity.

With the liberation of the camps in 1945, Wiesel was sent to Paris by an international relief agency to salvage what remained of his old life and to construct a new one. As he attempted to adjust to a new environment and tried to deal with the stark reality of his year in the camps, he made a vow not to write or speak about what had happened for a period of ten years. He enrolled at the Sorbonne in Paris where he studied literature, philosophy, and psychology, and later he signed on as a correspondent for a Tel Aviv newspaper, covering post-war Europe and eventually the United Nations. As a journalist, he reported on such events as the German-Israeli negotiations on war reparations and the trial of Adolph Eichmann, the Nazi war criminal. After more than ten years since his release from Buchenwald, Wiesel could finally begin to tell his story.

His first book, Night, tells of the night in which his family was separated in the darkness of Birkenau and is dedicated to the memory of his parents and youngest sister, Tzipora, all of whom died in the camps. Originally published in France, this entry into literary circles would become the first of more than 30 books published by Professor Wiesel. His work is highly acclaimed in professional circles, and many critics anticipated that he would be awarded the Nobel Prize for Literature, in place of or perhaps in addition to the Peace Prize.

On the importance of education, Professor Wiesel has said: "I cannot imagine a civilization without teachers or students. Today ignorance is probably the greatest danger threatening our people. It is easy to become ignorant. All you have to do is . . . nothing."

John Silber, president of Boston University, says Professor Wiesel's appeal for dignity and humanity breaks the silence that surrounds the struggle of those victimized by wars and human-rights abuses. Beyond his writings concerning the Holocaust, Silber points out, "Elie has pleaded the cause of oppressed peoples such as Laotians, Cambodians, Afghans, Arabs, and Soviet Jews." Once, along the Thai-Cambodian border, he was leading a group of relief workers and a caravan of 20 truckloads of food and medical supplies intended for war-torn Cambodian villages. The Cambodian border guards refused to allow the shipment to pass, coldly ignoring the requests and pleadings of Elie and his group. While a frustrating experience for all, it held special significance for Elie Wiesel: Exactly 35 years had passed since that cold night in Buchenwald when his father was taken from him. In the end, the trucks were forced to leave their supplies in refugee camps within Thailand after being forcibly prevented from entering Cambodia. "I came here because no one came when I was there," he said. "Perhaps we cannot change the world, but I do not want the world to change me."

In an interview given two days after winning the Nobel Prize, Elie Wiesel said: "If there is one word that describes all the woes and threats that exist today, it's indifference. You see a tragedy on television for three minutes and then comes something else and something else. Indifference, to me, is the epitome of evil. The opposite of love is not hate, it's indifference. The opposite of art is not ugliness, it's indifference. The opposite of faith is not heresy; it's difference. And the opposite of life is not death, it's indifference. Because of indifference, one dies before one actually dies."

For telling a story that the world must hear, for bearing an unfailing witness to all who will listen, for striving to change the world without letting the world change him, and, above all, for refusing to be indifferent, Brigham Young University is pleased to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

present to Elie Wiesel the degree of doctor of humanities, honoris causa.

ADDRESS OF PROF. ELIE WIESEL, COMMENCEMENT ADDRESS, BRIGHAM YOUNG UNIVERSITY

President Lee, President Holland, members of the Board of Trustees, the graduating class, and families and friends. How can I thank you for allowing me to celebrate with you an important moment in your lives? Perhaps the emphasis should be on gratitude. Gratitude is the measure of a person. Show me someone who is grateful, and I will believe in his or her humanity.

I was here in 1985, and I wondered why. Now I know. Four years ago when many of you entered this school, your teachers wanted to see whether I deserved the degree. So I, too, am now part of this commencement. I am proud to be your fellow graduate, for this singular institution of higher learning reconciles the quest for knowledge with a thirst for faith. It combines compassion toward others with rigor toward oneself. It offers a taste for discovery with a powerful obsession for memory.

What can I, a Jew of my generation, tell you students and teachers who grew up in another? Perhaps on this special occasion I could share with you some memories filled with melancholy, yet open to hope, some of my visions inhabited by fire, yet penetrated by the desire to recite ancient prayers and be worthy of them.

Allow me to tell you a story told by the celebrated Hasidic master, Rabbi Nahman of Bratzlav, the forerunner of Franz Kafka:

Once upon a time there was a man in a boat. We do not know why he was there or where he was heading. Was he fleeing danger? Or tempted by hidden promises? Perhaps. All we know is that one morning he began digging a hole under his seat. When other passengers noticed what he was doing, they began yelling at him, "What are you up to? Are you crazy?" As for our hero, he could not understand their anger. He could not comprehend their fear. "Why are you shouting?" he asked. "I am digging a hole under my seat not yours."

I am confident that after so many years in this school you have understood the lesson inherent in this Hasidic tale. We are all in the same boat—Jews and Christians, Moslems and Buddhists. Whatever happens to one group ultimately will affect all groups. And if this planet of ours, which is shrinking from day to day, from hour to hour—if this planet of ours is going to drown in an ocean of flames, the end of humanity will be our end. I have learned this in my own way, from my own past.

When Jews were singled out for annihilation, many nations thought, why bother? the enemy means them not us. Wrong! The enemy always means all of us. Asians or Europeans, white or black, poor or rich, we all have the same enemy. Regardless of race, color, or religious or nonreligious affiliation, created in God's invisible image, there is something unique in every human being. It is the unique wonder of the human being that makes him or her the center of creation. Every person is worthy of God's ambition. Every person is humanity's ultimate aspiration. Only dictators believe that the human being as a unit, as a person, as an individual, doesn't matter—doesn't count. In our traditions, yours and mine, every human being counts. Human lives are not parallel. They form concentric circles, moving in the same direction, often, but not always at the same pace. They try to attain the same sense of power or the same measure of redemption. And in my tradition, we believe that redemption is universal. And we believe, you and I, that redemption can be brought or at least hastened by any living human being.

Why did God create one man alone? Said the magnificent Midrashic commentary: "So as to teach all his descendants that whoever kills, kills the entire human race. And whenever a human life is saved or dignified or befriended, it is humanity that survives."

Is that all? Were it all it would be sufficient. But a story calls for further commentary. Here it is, at least in part:

God began the human story with one man and, later, one woman alone so as to prevent any man or woman at later stages from boasting of being superior to his or her fellow human beings. No one is superior. No one is inferior. We all have the same grandfather; we all have the same beginning. We are equally responsible for God's creation—and equally responsible for one another. Ultimately, we must believe that we are all God's children. All roads lead to Him. Anyone who claims to possess the exclusive truth or the monopoly on truth is both misled and misleading. Truth is one; but many roads lead to it. The Jewish faith is good for Jews. Just as Christianity is good for Christians. And your faith is good for you.

The enemy does not believe so; the enemy believes that he—or it—knows everything. The enemy believes that it is his right to determine my way, my road, my means, my goal—or yours. The enemy does not know what we know—that we all have the same questions, the ultimate and fundamental questions of life and death. And the answer lies in mutual respect and understanding.

Cain and Abel became one another's murderer and victim because they forgot that they were brothers. Each thought of himself alone. Blind divisiveness is irrevocably destructive. Regrettably, society remains divided. As you are about to enter society, you must know it. The world which is waiting for you is cold, cynical, and you will see, unfortunately, that the world doesn't want you. I have heard with great emotion what your president said about you—that most of you have come to study in order to share, and all of you see yourselves as emissaries, as messengers to other people who need comfort, education, healing, hope. I am moved by that. Because your work is not going to be easy. The world is for the moment like a train running toward a precipice, and all we can do together is try to pull the alarm.

Think about what a few terrorists have done to the human condition. Show me one institution that hasn't developed security in the last twenty years. Twenty years ago, security was not part of any budget. When you take a plane now, they search you, and you are glad that they do. What a few people, misguided, blinded by fanaticism have done to us! Imagine if those terrorists one day chose the option of nuclear terrorism or of chemical terrorism. I am worried, and you are our hope. I am worried because the world as I see it has not learned enough of the past, and therefore we see so many divisions. Poor against rich, young against old, Moslem against Jew and against Christian. But think about it. Is Beirut ever going to stop committing suicide? Day after day we see what is happening there. Hundreds of children and parents are being killed or maimed every day. When will it end? Do you know why it is happening? Nobody knows.

What about Ireland? A medieval war is being waged in Ireland. Why? Can't people understand that God is one, and if God is one, He is one for every one of us? And we can all speak to Him in our language. In our prayers God understands all languages, not only Hebrew. We ask the questions, and the questions are urgent. Will there be no end to violence and bloodshed? Is hate never to be curtailed? Will evil and indifference to evil ever be vanquished? But in spite of all rational and irrational fears, I have not given up hope. History seems to have accelerated its pace, and it is moving—if we want to move—toward reassuring possibilities. The Cold War is all but over.

A few months ago—just imagine—Mikhail Gorbachev, the number one communist in the Soviet Union, went to Cuba to get a lesson in communism from Castro. If ever there was an absurdity in politics—and there are many absurdities in politics—this one surely was a crowning one. . . . The territorial wars seem to have vanished in Europe, and all frontiers may disappear in the early 1990's. Until recently, hundreds and thousands were killed in Europe because of a few miles!

In our own land, not only has racism been abolished but it has become old-fashioned, outdated. The mentality of our people changed. We now know that racism is wrong. Now we know that we cannot judge a person by his or her color. True, too many children still die of starvation in Africa and Asia. True, too many homeless people dwell in our own cities. True, too many choose the easy and yet destructive escape from life through drugs. But now at a point where your generation meets mine, we all know that any person can make a difference in at least one other person's life. We should be humble but audacious. Here in this school, you have learned the questions. And I love questions.

All my life I have devoted my work and my quest to find the right questions. Some of them are naive. I remember in my hometown a father said to his son, "My son, close the door because it is cold outside." And the son answered, "Father, and if I close the door will be it be warm outside?" The question is still valid. I once asked a great master in Brooklyn, "How can you believe in God after what happened?" And he said, "How can you not believe in God after what happened?" And I said, "If your answer is a question, I accept it." I don't accept it as an answer—for there is no answer to certain tragedies. The response to tragedy exists, but there is no answer to them. And the response must be a human response. If you see a person suffer, your response to suffering must be to help that person overcome suffering. The person is poor; the person is desperate. You can help that person. And you have learned. Therefore on this day, which is so important to you and to me, may I add my congratulations to you, to all of you—to doctoral students, to master's students, to you, hundreds and thousands of young students who move me simply by your presence. May your quest for knowledge become a passion for justice. May your newly acquired knowledge move you to speak up for victims of malediction and misfortune. Remember that power is to be shared, not imposed. Remember that freedom must be extolled, never ridiculed.

Education must be used for humanity, not against it—not to obtain power but to humanize it, not to impose your will or your views on others but to discover theirs in an atmosphere of respect and understanding.

Remember every person everywhere is worthy of your love, of your life. Remember like everything else, words can hurt or heal, elevate or humiliate, bring the heavens down into the mud or lift the dust up to the heavens. It depends on you, and mostly on you, whether they become swords of hate or prayers for compassion—hence the urgency of Rabbi Nahman of Bratzlav's parable: Woe unto to our generation, for it is now given to a single person to provide ultimate disaster, and yet one must not yield to resignation. For it is given to every one of us to prevent catastrophe. At least on a human scale.

"The whole world," said our beloved Rabbi Nahman of Bratzlav, "is but a narrow ridge. And what matters is not to be afraid." What matters is to oppose fear—together—to invoke hope in spite of everything.

My young friends, believe me, when I was your age I had all the reasons in the world to give up hope and faith and confidence in humanity. There was no reason to justify a renewed covenant. And yet I came to the conclusion that suffering does not offer any privileges. It is what you do with suffering that matters. And I came to the conclusion that although there are no reasons to go on hoping and living and working and getting married and getting an education, it is up to us to invent hope, to create it. And you can invent and create it. That is what education is all about. That is what religious faith is all about. But then you tell me—isn't that what life is all about? Thank you.

TESTIMONY OF MS. JACKIE PARKER BEFORE THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. STOKES. Mr. Speaker, I would like to bring to my colleague's attention the following testimony of Ms. Jackie Parker, chair of the U.S. Senate Black Legislative Staff Caucus. The testimony is entitled, "The Underrepresentation of African Americans in the U.S. Senate." Ms. Parker gave this compelling and intriguing statement before the Senate Committee on Governmental Affairs on September 14, 1989, during hearings on S. 272 and S. 1165, congressional civil rights bills.

THE UNDERREPRESENTATION OF AFRICAN AMERICANS IN THE U.S. SENATE

(Testimony of Ms. Jackie Parker)

My name is Jackie Parker. Since 1979, I have served as Legislative Assistant to Senator Carl Levin of Michigan. Prior to that time, I served as Chief Legislative Assistant in the U.S. House of Representatives to the late Congressman James A. Burke of Massachusetts. I am the current Chair of the Senate Black Legislative Staff Caucus. Much of my statement today represent my personal views as a long-time congressional employee and advocate for increased employment on Capitol Hill. My remarks are not intended to exclusively represent the views of the members of the staff caucus.

Thank you Mr. Chairman for giving me an opportunity to share some concerns relative to the underrepresentation of African Americans in the Congress, particularly in the Senate. On behalf of the Black staffers in the Senate, I want you to know we appreciate your vision, your commitment, and your diligence in moving this issue. We admire your ability and that of your colleague, Senator Patrick Leahy of Vermont, to persist in the face of strong opposition and deafening indifference over the past 12 years. You have kept your eyes on what is required by simple justice. I would also like to acknowledge the active support of Senate Majority Leader George Mitchell, who has taken the time to meet with us to hear our concerns and has committed to improving the status of Blacks in the Senate.

My participation here today is not only an honor for our organization, it is historic. With no Black members in the United States Senate, our caucus serves as a voice of Black America in the Senate on matters of national importance. It is not a role we choose, and it is not a position we cherish. We are not here as a result of any popular votes. Instead, we are a policy voice of Black America in the U.S. Senate by default. We represent the descendants of people who did not come here by choice.

Despite the fact that Blacks represent more than 13 percent of the American population, we have seen only one of our own elected to this prestigious body of the people since the end of Reconstruction. We can find no pride in that historical note. And that reality makes our job different from that of our non-Black staff counterparts.

For many years, we have struggled with our role in the Senate. We have walked a delicate balance. On the one hand, serving as political and policy advisors in a capacity identical to our non-Black staff colleagues. But at the same time, we have the responsibility to assure that the Senators we serve are acutely aware of the impact of their decisions on the Black community—even in instances where those members are not significantly influenced by a Black voting population. Although the dual roles we play will remain difficult, your acknowledgement of our existence Senator, has by itself, energized our ranks.

Unfortunately, those ranks are small. Despite the fact that Black voters have demonstrated their ability to significantly affect the make-up of the Congress, Blacks account for only 64 of the approximately 2,700 senior policy employees in the Senate. There are no Black Administrative Assistants; only two Black Committee Staff Directors; one Black Deputy Committee Staff Director; three Black Subcommittee Heads; one Legislative Director; one Black Press Secretary; and three Black Deputy Press Secretaries. Although this represents some progress, it is sad that this also represents the highest number of Black policy advisors in the history of the U.S. Senate.

According to the Congressional Black Caucus, although 9 percent of the policy positions in the U.S. House of Representatives are held by Blacks, that figure drops to only 3 percent once the payrolls of the 24 Black members are excluded. In a June 12, 1987 letter to his colleagues in the House urging that they hire more Blacks, Congressman Mervyn M. Dymally, then Chairman of the Congressional Black Caucus wrote, in part, and I quote:

"There are over 12,290 employees of the House of Representatives, yet fewer than 3 percent are hired by non-minority Members. . . . While the pool of qualified Blacks is significant the record of hiring is disappointing. We have much to do in both Houses to bring aboard competent staff with a wide range of expertise in positions of significant and substantive responsibility."

The fact that the percentage of Blacks employed in the Congress has remained somewhat stagnant during the last twenty years becomes particularly glaring when one considers that the pool of qualified applicants has expanded tremendously. Of the 400 resumes currently placed with the Senate Black Legislative Staff Caucus, 53 percent have law degrees, 30 percent have graduate degrees and 10 percent have previous Hill experience.

Mr. Chairman, today you have given me an opportunity to share with you my views with respect to underrepresentation of Black staffers in the U.S. Senate. I have used the bulk of my time to provide the Committee with an understanding of how current hiring and promotion practices result in employment patterns that strongly disfavor Blacks. Allow me please to take just a moment to make some specific suggestions about how this problem can best be addressed.

The current system of hiring depends largely on an informal network of contracts. Those who are in the communications loop have an opportunity to vie for open positions, those who are not a part of that network never know an opening exists. Such informal networks can have the same devastating effects as an explicitly discriminatory system since Blacks are disproportionately out of the loop. This is particularly disappointing since many of our most ardent supporters in Congress, those members who are the chief architects and unwavering proponents of civil rights legislation have staffs who are chosen on this informal network basis and therefore have staff compositions that exclude Blacks.

The bottom line Mr. Chairman, is that there must be a moral decision or commitment to hire minorities. There is currently a closed door process. The current atmosphere does not encourage, nuture or promote Blacks as it does for young white professionals.

Thank you for this opportunity Mr. Chairman. I am extremely grateful.

THERE IS NO WAY TO FIGHT TERRORISM "ON THE CHEAP"

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. BROOMFIELD. Mr. Speaker, sometimes it is necessary to invest a little money in order to save lives and prevent damage. The U.S. Government's rather modest National Counterterrorism Research and Development Program coordinated by the Department of State is a good example. Development of better equipment to deter terrorist attacks on our people, our planes and our buildings is a worthwhile investment.

Thus I was disturbed to see that the conference report on the Commerce, Justice, and State appropriations bill, which was yesterday considered by the House, includes only $2 million for this program. The administration had requested $6 million for fiscal year 1990. This two-thirds cut would severely hamper this program which provides seed money for im-

portant research and development efforts to find better ways of protecting our planes from the kind of plastic explosives used to destroy Pan Am 103 and to detect chemical and biological agents.

The program already has been badly hurt by previous cuts. Last year, although the House approved the administration's full $6 million request for fiscal year 1989, the final appropriations approved was only $3 million. This level already badly hurt the program, but at least it would have allowed funding for some very important projects designed to help prevent future bombings of airlines. The national R&D program funds American participation with a dozen other countries in developing a chemical preblast taggant for plastic explosives.

As the ranking Republican member of the House Foreign Affairs Committee, I strongly support this international effort by the administration to develop a chemical taggant and work through the International Civil Aviation Organization to develop a treaty dealing with chemical taggants. The national R&D program also helps facilitate our efforts to work with several allied countries to coordinate counterterrorism R&D efforts. This could not be done if the program was fragmented or run by other agencies as seems to be the misguided view of some in the other body.

If the $4 million cut in the program as proposed by the conference report is allowed to stand, other important projects also are endangered, including efforts to develop improved vapor detectors to detect plastic explosives and methods to detect chemical and biological agents even if they are in sealed containers. Although other agencies have research and development programs to deal with their specialized concerns, such as the FAA efforts to screen baggage this is the only U.S. Government effort designed to help launch projects whose applications eventually could be used by a variety of organizations, including those at the local level. The potential applications can be used to protect civilian buildings as well as aircraft or airports.

I know that my colleagues will agree that it is very pound-foolish to cut this important counterterrorism program. After all the anguish we have seen following the terrible bombing of Pan Am 103, how can we say that a great country like ours cannot find at least another million or two dollars to keep alive this important program. This is a small price to pay to support an important counterterrorism program, and continue the war against this international menace.

MR. PRESIDENT, OLDER AMERICANS AWAIT YOUR CALL

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. DOWNEY. Mr. Speaker, yesterday I was joined by representatives of the Leadership Council of Aging Organizations, representing millions of older Americans, at a press conference critizing President Bush for his failure to call for a White House Conference on Aging in 1991.

As the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I am extremely concerned about the administration's extensive delay in announcing the 1991 conference, which is authorized by Public Law 100-175, the Older Americans Act Amendments of 1987. Older Americans can no longer sit and wait for the Bush administration to decide whether or not to hold a White House Conference on Aging. While time runs out, the President has remained silent. A 1991 White House Conference on Aging is needed to help shape our policy blueprint for the coming decade. The Bush administration must assume its responsibility to older Americans with quick and decisive action.

I would like to share the statement I issued at the press conference with my colleagues:

STATEMENT OF CONGRESSMAN DOWNEY CRITICIZING PRESIDENT BUSH'S FAILURE TO CALL A WHITE HOUSE CONFERENCE ON AGING

We are here today to urge President Bush to call the 1991 White House Conference on Aging. Older Americans can no longer sit and wait for the President to decide whether or not to hold the White House Conference. We need to have a decision or at least why the President is delaying the decision.

We are puzzled and concerned by President Bush's failure to make a decision. We are not breaking new ground here. President Eisenhower, Nixon and Carter each called a White House Conference on Aging. Those conferences held in 1961, 1971 and 1981 all left a clear record of accomplishment. They helped to set the agenda for legislation affecting millions of Americans.

We stand at the threshold of the 21st Century. The discussions we hold, the agenda we set at the 1991 Conference will carry us forward into the next century.

The fact is that the House and Senate by overwhelming margins passed the Older Americans Act Amendments in 1987, which authorized the President to call the 1991 conference. In June, I held a hearing of the Subcommittee on Human Services to urge the President to hold the 1991 Conference. At that time, the Administration assured us that the Conference was under review.

In August, the Leadership Council of Aging Organizations, on behalf of 24 organizations representing millions of older Americans, wrote to President Bush and urged him to call the Conference. In September, with 91 of my colleagues, I wrote President Bush and urged him to call the White House Conference. At that time, we said "Time is running out". Six more weeks have passed. Whenever I speak to senior citizen groups I am asked about the White House Conference. People are concerned about the delay and wonder whether it portends bad news for the Conference.

This is not an idle concern. Nor is it a decision to be lightly made. The President can not simply wake up one morning a year from now and decide to have a conference. The planning of a White House Conference is no simple task. To be most effective it must be preceded by state and regional conferences which produce recommendations which can be acted on by the full White House Conference. I have checked the record. No other President has delayed this critical decision so long.

Whenever we inquire of the White House about the status of the Conference, we are told it is under review. Unfortunately, we see a recurring pattern here. Policy reviews are more and more becoming excuses for Administration inaction and timidity. Our Soviet policy was paralyzed for months by a policy review, which essentially concluded that we should stay the course. At a critical juncture, our Panamanian policy was on hold because of a policy review. Now when we seriously need to examine our policies affecting the elderly, we are told "Not yet, it is under review." Mr. President: Stay the course. Do as Presidents Eisenhower, Nixon and Carter did before you. Call the Conference. Tens of millions of Americans await your call.

COURT OF VETERANS APPEALS CONVENES

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. MONTGOMERY. Mr. Speaker, October 16 marked a new and historic era in the adjudication of veterans' benefits claims. Veterans can now get a prompt, independent review of their cases before a court of law.

In a ceremony at U.S. District Court for the District of Columbia, the Court of Veterans Appeals established by the 100th Congress officially convened.

I want to congratulate our three new judges on the Court of Veterans Appeals—Chief Judge Frank Nebeker and Associate Judges Ken Kramer and John Farley. I know my colleagues join me in wishing them well as they begin the important business of hearing veterans' appeals for benefits. I believe we have three very wise and able men to carry out this responsibility. Hopefully, we will soon have a full complement of seven judges appointed to the court.

Mr. Speaker, the creation of the Court of Veterans Appeals will help strengthen veterans' confidence in the system. It sends a new, clear message that the Nation wants to do the right thing when it comes to taking care of our defenders and seeing to it that they receive necessary benefits and services.

For many years, there was no consensus among the Nation's veterans' service organizations on whether veterans' claims should be subject to judical review; therefore, putting a bill together that organizations could support was very difficult. It is the result of a lot of hard work and compromise. But I believe we are all pleased with what we were able to develop, and I was particularly pleased to have been present to help dedicate this new and special court for veterans.

Mr. Speaker, I would like to share with my colleagues the very eloquent comments of the Chief Justice of the United States, the Honorable William Rehnquist, and chief judge of the Court of Veterans Appeals Frank Nebeker during the convocational ceremony.

THE HONORABLE WILLIAM H. REHNQUIST, CHIEF JUSTICE OF THE UNITED STATES

It's a great privilege to be here today at the occasion of the commencement of the Court of Veterans Appeals and to have sworn in Judge Farley and Judge Kramer.

The United States Court of Veterans Appeals is beginning its existence almost two hundred years after the Supreme Court of the United States began its existence. Our Court began February 1, 1790.

And there is more than one similarity here because you are convening, Frank, with three judges and you have a quorum, but you don't have your full complement.

When our Court began two hundred years ago, there were only three out of six, which was not a quorum, according to the statute; so the court simply adjourned and came back the next day, and they found that two more judges had arrived in town and they had a quorum.

The United States Court of Veterans Appeals is going to indulge or rather engage, I dare say, in some very important work.

For many, many years Congress had precluded review in the courts of decisions awarding veterans benefits; and this was felt necessary by Congress because they thought keeping it on an informal basis and having a non-adversary procedure, as they viewed it, would help the veterans in the long run.

But the feeling was developed by many people that the veterans were not being accorded the same right to go to court and challenge awards as many other citizens were.

There was a statute that prohibited an attorney employed in obtaining veterans benefits from charging a fee of more than ten dollars, and this statute was enacted in 1863.

And so even by the standards of its own day, it was rather stringent; of course, it was the same thing as saying, "there shall be no paid attorneys in veterans cases."

Well, whatever the rights and wrongs of that long dispute, our Congress has now acted to create a tribunal in which veterans have recourse to the court of veterans appeals from veterans benefits decisions made in the Veterans' Administration.

And I know that everybody here in this room and I'm sure everyone throughout the country joins me in wishing to you, Chief Judge Nebeker, Judge Farley, and Judge Kramer and future colleagues on this court the very best wishes for success in your new and very important endeavor. Thank you.

THE HONORABLE FRANK Q. NEBEKER, CHIEF JUDGE OF THE UNITED STATES COURT OF VETERANS APPEALS

Thank you, Mr. Chief Justice, for those fine comments.

This day indeed produces an historical event for our veterans and for the Federal judiciary. For the first time the traditional process of judicial review of administrative action is provided for veterans claims.

The court is not engaged in a process of a judicial trial of the underlying facts of a particular claim but, rather, is engaged in one of traditional judicial review of adverse actions on veterans claims by the new United States Department of Veterans Affairs, where basically the same administrative methods of adjudication remain.

For the Federal judiciary, on the other hand, this event is significant for it is only the seventh time in the history of the United States that a United States court of national jurisdiction, that is, a court unfettered by geographical limit on its jurisdiction, has been created.

The first, as the Chief Justice pointed out, was the Supreme Court.

There was a considerable period of time before another such national court came on the scene. In 1942, the United States Emergency Court of Appeals, which some of you here may well remember, aided in that adjudication of the wartime price control program that was in existence during World War II.

In 1950, the United States Court of Military Appeals commenced its operation with no antecedent tribunal from which to inherit anything by way of jurisprudence or anything by way of just property—the same situation that the U.S. Court of Veterans Appeals finds itself in today.

In 1974, there was a temporary Emergency Court of Appeals dealing with wage and price stabilization of the last decade.

A Special Court for Regional Reorganization of Railroads, believe it or not, was created also in 1974; and the Foreign Intelligence Surveillance Court is also one which has been created, if you will, with no antecedent entity before it.

Well, that's the history so far, Mr. Secretary, of the court. I pledge to you work and attention to the rules as they are prescribed.

I pledge that to all who come before the court.

THERESA AND GUIDO CIANCIOTTA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a husband and wife team who have worked tirelessly to serve the North Brooklyn community for many years. Theresa (Tish) and Guido Cianciotta are dedicated leaders of the Concerned Citizens of Withers Street [CCWS] and the area block association.

As leaders of CCWS, Tish and Guido, have been an inspiration to the residents of the Greenpoint and Williamsburg communities. Under their able leadership, the residents of the two communities have joined together to improve the quality of life in the area.

In their commitment and dedication to the betterment of the community, this dynamic husband and wife team are actively involved with many grassroots community groups and local organizations. In addition to CCWS, their community involvement is manifested through their memberships in: the Greenpoint Renaissance Enterprise Corp.; Community Board No. 1; and the Greenpoint YMCA.

Under the mantleship of Tish and Guido, CCWS has been recognized locally and nationally. The Honorable STEPHEN SOLARZ, Member of Congress from the 13th Congressional District of New York presented CCWS with a Congressional Medal of Merit for outstanding service to the community. In 1987, the Citizens Committee for New York presented CCWS with their Drug Prevention Award.

In 1986, Seneca Club presented the Cianciotta's with their Community Service Award. In 1987, the North Brooklyn Merchants Association honored Tish and Guido for their efforts to obtain Christmas lights for Graham Avenue. In 1988, this dynamic couple was among the honorees at the 20th anniversary community celebration of the Brooklyn Legal Services Corp.

Tish joined the board of the Greenpoint YMCA in 1987. She and Guido have participated actively in YMCA youth programs. They have spoken on behalf of the YMCA's service to youth program and by fundraising for the annual Invest-In-Youth campaigns.

Tish and Guido have been married for 34 years. Tish is an aide to Assemblyman Joseph Lentol. Guido is retired from the department of sanitation where he was a local 831 union delegate for 15 years.

It is a pleasure for me to honor this team for demonstrating their longstanding commitment to the community.

TRIBUTE TO THE LEMPKE BLACKWELL VETERANS OF FOREIGN WARS POST 7573

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to the Lempke Blackwell Veterans of Foreign Wars Post 7573 in New Baltimore, MI.

On October 30, 1949, the 23 original charter members of the newly founded VFW Post 7573 drew the names Lempke and Blackwell from a hat. These two names were selected to represent all seven New Baltimore residents who died in combat during the Second World War.

Since 1949 the Lempke Blackwell Post has seen the groundbreaking of their own hall in 1957 and an increase in membership to 513. There is reason to believe that the future holds even more success for this post.

The post has always remained active in fostering community interest in the great country its members served. Dedicated to promoting a spirit of national pride, the post sponsors the Voice of Democracy Program for high school students in the New Baltimore area.

The Voice of Democracy is a scriptwriting program. The nationwide program gives high school students the opportunity to voice their opinion on their responsibilities to our country. Post 7573 was the sponsor of Michigan's Voice of Democracy winner, Mr. Kevin Lindamood, this past year. This is a distinction of which they should be proud.

The post also sponsors a junior scriptwriting contest for junior high students and a campout for younger kids. The ways that the post has touched the New Baltimore area are exemplified by their commitment to the community's young people.

I commend the Lempke Blackwell Veterans of Foreign Wars Post 7573 on their 40 successful years of existence. I am confident the next 40 years will be even better.

Above all, Mr. Speaker, I pay tribute to the brave men and women who have given their lives to keep this great sovereign Nation free.

A SALUTE TO JOHN M. HAIRSTON

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. STOKES. Mr. Speaker, I always enjoy bragging on the outstanding leaders from Cleveland. Today, is no different. I am pleased to recognize Mr. John M Hairston, community relations chief for the Cleveland public schools, an unwavering advocate for quality education in Cleveland and a longtime friend.

John is one of the many dedicated and committed individuals working with the Cleveland public schools to make the educational process a productive and enjoyable one for the children of Cleveland. John Hairston is an individual who has remained enthusiastic about helping young people to utilize a free education for their betterment and for the benefit of the community.

Mr. Speaker, at this moment, our country needs more John Hairstons. Our Nation must have more leaders like John Hairston, who are committed to making the educational process work for the community and for our youth.

Recently, John was featured in the "Today's Profile" section of the Cleveland Plain Dealer for his contributions to Cleveland public schools. The text of that profile follows:

Mr. Speaker, I am proud to salute John M. Hairston's commitment to the children of Cleveland.

[From the Cleveland Plain Dealer, Oct. 18, 1989]

CHIEF SPOKESMAN FOR CITY SCHOOLS ALSO A LISTENER

(By Zina Vishnevsky)

JOHN M. HAIRSTON

Age: 46.

Born in Johnson City, Tenn., and graduated from Bluefield State College in West Virginia.

Received a master's degree in education administration from Cleveland State University.

Lives in Cleveland with his wife, Delaney. Has four grown children and a granddaughter.

Enjoys hunting and fishing.

Whatever the role he plays during a crisis, John M. Hairston, community relations chief for the Cleveland public schools, says he has to struggle to keep from internalizing the problems—taking them home with him and brooding.

Hairston was raised in Northern Tennessee and Southern West Virginia, where his father was a Pentecostal Holiness preacher. His grandfather was a traveling preacher for a church district that covered West Virginia and Eastern Tennessee. As a child, Hairston would tag along with his grandfather on weekend ministry tours.

"What I learned is people want to be listened to," said Hairston.

He came to Cleveland in 1964 to teach. Five years later, he was drafted by Superintendent Paul Briggs to become a project manager in the compensatory education department.

As spokesman for the school district for the last 11 years, Hairston has had to speak for 11 different superintendents, including court-appointed administrators.

The low point of his career was the January 1985 suicide of Superintendent Frederick D. Holliday. Because Holliday had been establishing himself as a role model for black youngsters, Hairston said, "I made up my mind at that time that anyone who called on me to speak would get the same show, whether it's three people or 200."

In addition to being the district's chief spokesman, he is one of its troubleshooters. He said he liked the problem-solving part of his job, but disliked "the inability to make immediate change for both the kids and parents.

"Change in education is a long, drawn-out process," he said.

"GENERAL" ORTEGA'S THREAT TO RENEW WAR

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. BROOMFIELD. Mr. Speaker, over the past weekend the largest group of Western Hemisphere leaders in over 20 years gathered together in Costa Rica to celebrate that nation's longstanding and proud democratic tradition. They met to promote democracy and freedom throughout the region.

One leader must not have read the agenda. That leader spoke from an entirely different script. That leader spoke of continued war and aggression and subversion of the democratic process. That leader, Daniel Ortega, revealed his true colors—again!

True to form, "General" Ortega skipped the concluding ceremony in the Plaza of Democracy and held a press conference to threaten the Nicaraguan people with plans to scrap the unilateral cease-fire in place in Nicaragua and begin an all-out military offensive against members of the resistance.

Commandante Ortega's threat to renew war is particularly shameful in the face of the ongoing electoral process moving toward the Nicaraguan Presidential elections.

President Ortega should understand that such threats are not met with lightly in the Congress. He should understand his "game" is not without penalty. Should the commandante press forward with his threat as a first step to cancel the elections or as a pretense to impose emergency laws, he should well understand that he is once again raising the specter of renewed military aid to the resistance.

THE NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. QUILLEN. Mr. Speaker, today is the ground-breaking ceremony for the National Law Enforcement Officers Memorial in Washington, DC. The purpose of the memorial is to honor law enforcement officers who die in the line of duty as well as all those who serve in this vital role.

Many Americans take for granted those who daily place their lives on the line to protect the rest of us from violence. But on this occasion, it is fitting that we should stop and express thanks to those brave men and women who work long and hard to protect us. We should be especially mindful of those who have died and those who will die so that the rest of us may be safe in our homes and communities.

In the last decade in Tennessee, 31 law enforcement officers have given their lives in the line of duty.

The memorial is a way for the rest of us to honor all law enforcement officers and especially to those who have paid the ultimate price.

CONGRATULATIONS, JIM McPOLAND

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. ENGEL. Mr. Speaker, I rise today to offer congratulations to one of my constituents, Jim McPoland. Jim, who during his 74 productive years, has been the holder of five world records in track, is today being inducted into the Hall of Fame for New York University.

Jim has led an active and full life. He was an athletic champion even in grammar school. At George Washington High School in New York, Jim was an all-around athlete. He won more varsity letters than any other student in the history of the school. He was captain of the football team and was selected as quarterback for the 1934 New York City all-city football team. Additionally, he participated in track, baseball, swimming, handball, soccer, and golf.

However excellent Jim McPoland was at all these sports, his real love was track. He was the captain of the track team. He was the leadoff man on the 880 and mile relay teams that were undefeated for 2 years and set many meet records. His team also set one indoor world record that stood for more than 35 years. Jim's team won two U.S. championships. Individually, Jim also ran the 100- and 220-yard dashes and the 440-yard run. He won several high school championships. Jim's coach, Dick Eliff, when he retired from teaching, wrote a book about the history of George Washington High School. He devoted an entire chapter to Jim McPoland, the perfect all-around athlete.

Just out of high school—not yet in college, Jim anchored the New York Athletic Club 1,000-yard relay team to a new outdoor world record that has stood for many years.

By the time he had completed high school Jim McPoland was offered scholarships from 18 colleges and universities. He chose to attend Georgetown University. While a freshman attending Georgetown University, in a predental program, Jim was invited to participate in numerous meets at Madison Square Garden. He would run the 60-yard dash against the likes of Jesse Owens, Ralph Metcalfe, Ben Johnson, and others. Jim would also appear later in the program running

middle distances, the 500- and 600-yard invitationals. He was also the anchor for the mile relay team. The Georgetown University freshman team was undefeated, won several championships and climaxed the year by winning the freshman championship of America at the Penn relays. Jim continued to run and win many important races in his sophomore year.

After his sophomore year, Jim decided to become a teacher rather than a dentist. He transferred to New York University, and although he lost a year of eligibility, NYU offered him a full scholarship. Jim ran for the New York University team for 2 years, first as leadoff man on the track team and eventually captain. The team won every race, setting records and winning championships every time they ran. The 1940 indoor track season was climaxed when, with Jim as the leadoff man, the New York University team won and set world records in both the half mile and mile relays on the same night. In 1940 he was chosen as the outstanding all-around athlete at New York University.

Throughout his life, Jim McPoland continued to be an outstanding citizen. After leaving New York University he served as first an enlisted man and then an officer in the Marine Corps during the World War II. He was twice wounded on Iwo Jima, where, as company commander, he was awarded the Navy Cross for extraordinary heroism.

After the war, Jim returned home to Yonkers, but did not forget his interest in sports. He was one of the first directors of the Yonkers Little League and was the first president of the East Yonkers Little League. He also obtained the charter for and established the original Babe Ruth Baseball League for Yonkers.

Jim went on to raise a family and to participate fully in the life of the city of Yonkers. He was a commander of American Legion Post No. 1122 and remains active to this day. He was elected to the county board of legislators and served in that body well as its minority leader for 8 years.

Jim McPoland continued to serve his community and the sports world, well into his retirement as director of maintenance for the city of Yonkers. He served, from its founding in 1977 until 1988, as the Hudson Valley regional director of the New York Empire State Games. First Governor Carey and then Governor Cuomo appointed Jim to be one of the seven directors of these Olympic-style games.

Jim McPoland has never forgotten his own personal interest in sports. In 1982, he participated in what will probably be his last athletic event. He entered and won first place in the 100-meter dash for runners between the ages of 55 to 70. Prior to that he hadn't entered a race since 1942!

Jim McPoland raised 6 children, has 19 grandchildren, and 1 great-grandchild—with 2 more on the way. His wife Pat, who is retired from the library of the city of Yonkers, has been active in politics. She was also an essential part of his participation in the Empire State Games. His children have also inherited his love of sports and commitment to community. One of his daughters works here in Congress and another one has taught developmentally disabled children in the city of Yonkers for almost 20 years. His grandchildren are almost all active in sports, with two of them having participated in the Empire State Games.

Mr. Speaker, I would like to salute Jim McPoland, a truly great American.

A TRIBUTE TO A. GARY ANDERSON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today a most outstanding man who has committed his adult life to professional and community service. A. Gary Anderson, a native of California's Inland Empire, is being recognized by the Anti-Defamation League [ADL] for his numerous achievements in and contributions to the mortgage banking industry. Presently serving as the chairman and chief executive officer of Directors Mortgage Loan Corp., he will be honored on November 21 by the ADL as the recipient of the 1989 Inland Empire Distinguished Citizen Award.

Gary began his successful career in mortgage banking following his education at Chaffey College and the University of Southern California. After working as a real estate salesman for 3 years, he began working at the Southern California Mortgage and Loan Corp.—presently Shearson-Lehman Mortgage—and 9 years later, bought Directors Mortgage Loan Corp. Since that time, Gary has had phenomenal success, building one of the most highly respected mortgage banking businesses in California. That success has carried over into other endeavors as well; Gary operates a number of other businesses and is president of Allmark, Inc., a firm once owned by his father specializing in real estate development and property management.

Gary has served as president of the California Mortgage Bankers Associations and is presently serving a 3-year term on the Board of Governors of the Mortgage Bankers Association of America. In addition, he has played an important role in the success of the Inland Empire Economic Council and the San Bernardino County First Fund of Children's Resources. He is also an active supporter of many civic organizations, including the Boy Scouts of America, YMCA, and the ADL.

Mr. Speaker, I ask you and my colleagues to join me today in recognizing the many fine contributions of A. Gary Anderson to our area and in wishing him God's speed and good health in the years to come.

NATIONAL LAW ENFORCEMENT MEMORIAL

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. GUNDERSON. Mr. Speaker, I want to take a moment to acknowledge a special event taking place today in Washington—the ground breaking ceremony for the National Law Enforcement Officers Memorial. This memorial will honor law enforcement officers who die in the line of duty as well as recognize all who serve as law enforcement officers in the United States.

Police officers put their lives on the line every day to protect our neighborhoods. With the drug wars raging out of control, America's law enforcement officers need our support. Approximately 30,000 law enforcement officers have been killed on duty in U.S. history. In 1988 alone, 161 were killed, 21,015 were injured, and 58,752 were assaulted. This memorial will not only remind us of the sacrifice and dedication of these brave men and women but ensure that their efforts will never be forgotten.

Judiciary Square, a federally-owned park in Washington, DC, has been selected as the site for the memorial. The design will include the names of fallen officers engraved on a stone wall along a tree-lined oval pathway. Apart from the land, no Federal funds will be used for building the memorial. More than $4 million has been raised from corporations, law enforcement organizations, and more than 400,000 individuals.

Mr. Speaker, although no words or deeds can ease the suffering of a fallen loved one, this memorial will at the very least be a special place of honor for all law enforcement officers. It will be a place where all law enforcement officers will feel proud of their service and never be forgotten.

HONORING JOHN G. GREEN

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. MANTON. Mr. Speaker, on Wednesday, November 1, 1989, the Greater New York Safety Council will hold its eighth annual labor-management awards dinner honoring John G. Green, president and business manager of the International Union of Elevator Constructors, Local 1. I want to take this opportunity to congratulate John for 31 years of outstanding service and dedication to safety.

Mr. Speaker, John began his career in the elevator construction industry in 1958 as a member of local 1 in New York. In 1974, he was elected vice president and business agent of local 1. Ten years later, he was elevated to president and business manager of the local, a position he still holds today. Throughout his career in the elevator construction industry, John has been a strong and tireless advocate for strict adherence to all safety codes. He is chairman of the National Education Program, which makes certain the industry is kept up to date on the latest safety standards and practices.

Mr. Speaker, as well as serving as president of local 1, John is vice president of the New York State Building and Trades Council, seventh vice president of the International Union of Elevator Constructors, and is a member of the executive board of the New York City Building Trades Council. John also plays an active role in community support organiza-

tions, such as the Red Cross and the United Way.

Mr. Speaker, I know my colleagues join me in congratulating John, his wife Joan, and his seven children on this outstanding award from the Greater New York Safety Council.

CHILD CARE AND GOOD PUBLIC POLICY

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. HAWKINS. Mr. Speaker, the House-Senate conferees are attempting to work out a compromise on the child care legislation which is part of the reconciliation package.

Last Friday, the Washington Post published an editorial entitled, "a House-Senate Child Care Bill," which included its position on the church-state issue. Several other individuals and organizations have submitted their views on the church-state issue which should be made public. For the benefit of my colleagues, I am inserting some of this correspondence in the RECORD.

A HOUSE-SENATE CHILD CARE BILL

The MOST important item in the House-Senate child care conference now tentatively under way has nothing to do with child care. The House bill contains a major increase in the little-known refundable earned-income tax credit, a negative income tax or federal wage supplement administered through the tax code for the working poor with children.

Republicans including the president have adopted this most racial of redistributional devices as an all-purpose alternative to what they describe instead as big government. They have made it do double duty this year as a stand-in for both a large increase in the minimum wage (they would tolerate a small one) and a Democratic plan to expand support for child care through grants to the states. The Democrats want a larger credit in addition to these other steps, but that is the only difference. Expanding the credit is a good idea that will help to counter the growing income inequality in the country; it ought to pass. But the House version would cost more than $4 billion a year; one question will be what else the conferees can afford.

The Senate has two other tax proposals in its bill (atop a small EITC expansion). One, by Finance Committee chairman Lloyd Bentsen (D-Tex.), would create a new credit to help low-income working parents buy or pay their share of health insurance provided it covered their children. That may or may not be a good idea that needs more discussion, but it doesn't belong in this legislation; it should be dropped. The other would make the existing child care credit refundable and thereby available to those too poor to owe income taxes. This is a good and relevant proposal whose cost should be defrayed by phasing out the credit for families above a lower-middle income band.

On the spending side, the House bill authorizes increased amounts for both Head Start and school-based child care programs. But these (the Senate bill also authorizes a Head Start increase) would then have to compete within the appropriations process with other discretionary programs before any money could actually be spent. No harm there.

The dispute is about a related new program to subsidize child care mainly for lower-income families through (sensibly) controlled grants to the states. The Senate bill authorizes a fairly large such undertaking ($1.75 billion the first year, open-ended thereafter), the House bill a program about half that size. Both would be subject to the appropriations process. The House bill also contains a rival proposal to provide a still smaller but theoretically guaranteed amount less visibly and outside the appropriations process by expanding existing social services grants to the states.

This automatic funding proposal should be dropped. The right way to express the mix of federal interests is to create the separate and visible new program but make it compete for available funds each year.

But the legislation should not allow these funds to be used to support sectarian programs. Much current child care is in churches, some of that is sectarian, and the Senate bill would expressly let parents spend vouchers in sectarian programs unless and until the courts rule that unconstitutional. The House leadership, to win votes on the floor, indicated that it, too, would accept such a provision in conference. It's the wrong thing to do. The dollars are the easy part; a trifling with the principle of separation of church and state in this easy fashion is too high a price to pay, even for a good child care bill.

SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS,
Washington, DC, October 23, 1989.

Hon. RICHARD GEPHARDT,
Office of the Majority Leader, Washington, DC.

DEAR MAJORITY LEADER: We are deeply disturbed about the apparent decision of the House leadership to "move toward" the Senate version of the church-state provisions of the child care bill. This is a move in the wrong direction. The church-state and anti-discrimination language in S. 5, the "Act for Better Child Care Services" is completely inadequate, and the House should hold firm to the protections embodied in H.R. 3.

S. 5 creates a "voucher" program where institutions are reimbursed by the government after they receive "child care certificates" from parents. The Senate language specifically permits use of these certificates by sectarian child care providers even if they teach religion to the children enrolled in their programs. Such Federal support clearly violates the Establishment Clause of the First Amendment.

S. 5 also permits direct aid to religious institutions which engage in sectarian worship or instruction, as long as specific federal dollars which go to an institution are not used for sectarian worship or instruction. The kind of scrutiny involved in tracing the path of particular Federal funds will burden and entangle government in the management of religious institutions.

Finally, the Senate bill allows direct grants to religious institutions for preschool and day care programs that discriminate in hiring and admissions.

It is too late in the day for the Congress to return to a willingness to fund discriminatory programs of any kind. If a religious institution chooses to accept Federal funding for its child care program, we must at least insist that the program be free of all discriminatory practices.

Moreover, if we begin a retreat in this proposal from the principles of strong church-state separation and non-discrimination where Federal dollars flow, we will have set precedents which will infect the whole future of educational funding by the Federal government.

H.R. 3 suffers from none of these fatal flaws. We hope that in the further process of crafting a child care program, the Leadership will hold fast to the House language which develops a reasonable accommodation for religious institutions while at the same time guaranteeing no unconstitutional advantage to sectarian groups.

Sincerely,

DON EDWARDS,
Chairman.
JOHN CONYERS, JR.
GEORGE W. CROCKETT, JR.
ROBERT W. KASTENMEIER.
PATRICIA SCHROEDER.

THE NATIONAL PTA,
OFFICE OF GOVERNMENTAL RELATIONS,
Washington, DC, October 24, 1989.

Hon. AUGUSTUS HAWKINS,
Rayburn Office Building, Washington, DC.

DEAR REPRESENTATIVE HAWKINS: The National PTA represents over 6.6 million parents, teachers and concerned citizens. We urge you to support a child care/preschool bill that links child care to education, avoids vouchers, and prohibits federal dollars from going to programs that engage in religious or discriminatory activity.

Members will soon conference final language for a child care package. The National PTA strongly supports Representative Hawkins' H.R. 3, the Early Childhood Education and Development Act. Please keep both the structure of H.R. 3 and the church-state language. H.R. 3 provides an appropriate church-state balance, whereby religious institutions can receive funds and avoid excessive state interference into the management of these activities.

The National PTA opposes any move to have child care legislation resemble S. 5, the Act for Better Child Care Services (ABC). Under ABC, services to young children are social or custodial in nature. ABC fails to acknowledge that an increasing number of parents want early childhood educational opportunities for their youngsters. ABC does not put the public sector on an equal basis with other community child care or early childhood education providers. ABC falls short of being a comprehensive child care/preschool initiative.

S. 5 also violates constitutional church-state separation principles. Specifically, S. 5 allows vouchers and public funds to purchase religious instruction—a violation of the Establishment Clause of the First Amendment. This mechanism would create excessive entanglement between the government and religious institutions that accept tax dollars. If successfully challenged in the courts, families would face a disruption of services.

S. 5 would permit a religious provider to require the employee to follow the tenets of the program. The National PTA believes this language erodes any civil rights or employment discrimination protection that all personnel deserve.

Please maintain the structure of H.R. 3. We ask that a compromise measure link child care to education, avoid vouchers, and prohibit the use of federal dollars in programs that engage in religious or discriminatory activity.

Sincerely,

ARLENE ZIELKE,
Vice-President for Legislative Activity.

IN SUPPORT OF THE PRESIDENT'S VETO

HON. MEL HANCOCK

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. HANCOCK. Mr. Speaker, in the debate on whether or not to provide Federal funds for abortion I wish to voice the concerns of a specific constituent of mine who has a unique perspective on this issue and had the courage to write to me about it.

The following is from a letter from a young woman who had an abortion, the person our pro-abortion opponents claim they are trying to protect. She says:

I am writing to ask that you continue to promote pro-life legislation. To torture and kill unborn children for any reason but the endangering of the mother's life is nothing short of barbaric. I had an abortion 11 years ago and regret every day of my life that I killed my baby. I was never told the effect of the abortion on the baby or the possible ill effects to myself. If abortion had been unlawful, I never would have gotten one and a life—a precious child—would have experienced sunshine and love.

Mr. Speaker, this constituent of mine is correct. We must save our unborn children and their mothers from abortion. I support the President's veto.

H.R. 3508, THE FEDERAL INSPECTION FOR SEAFOOD HEALTHFULNESS ACT OF 1989

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. JONES of North Carolina. Mr. Speaker, I rise today to join the distinguished chairman of the Committee on Agriculture and my other distinguished colleagues in introducing H.R. 3508, the "Federal Inspection for Seafood Healthfulness Act of 1989."

During the years that I have represented the First District of North Carolina, where fisheries and agriculture are very important, and during my service as chairman of the Committee on Merchant Marine and Fisheries, I have seen the fisheries of the United States make great progress. Prior to passage of the Magnuson Fishery Conservation and Management Act in 1976 which established the U.S. 200-mile exclusive economic zone, massive foreign fishing fleets stripped huge quantities of fish from waters just a few miles from our shores. Under Magnuson Act conservation and management planning, American fishermen now catch most of these fish for domestic sale and consumption or for export.

I have also seen the per capita consumption of seafood and seafood products increase steadily every year to record levels. The American consumer is increasingly concerned about a healthy diet attained in an economical way. There is a new understanding of the health benefits of seafood in terms of its affordability, nutritional quality, low fat and cholesterol content, and cholesterol-reducing characteristics. There is a growing realization that seafood not only tastes good, it is very, very good for you.

But the summer of 1988 was not a good one for the beaches of America. An onslaught of stories about medical wastes floating up onto the beaches and other gruesome tales became prominent in the public consciousness and, as a consequence, tourism on the beaches, and national per capita consumption of seafood actually fell for the first time—even though the reported events had absolutely nothing to do with the health and safety of fish and seafood products.

North Carolina is nationally known for its clean waters and coastlines, skillful fishermen, and the quality of its seafood products. But consumer fears and perceptions can have a powerful impact on even a fishing industry as well established and respected as this. In 1987, a red-tide event dealt a near fatal blow to much of the seafood industry in North Carolina. A red tide is a sudden growth of marine algae which, when consumed by, and concentrated in, the flesh of filter-feeding claims and oysters, makes consumption of the shellfish dangerous to humans. It has no effect whatsoever on flounders, striped bass, or other finfish, or on the safety of those who eat them. However, the publicity about the red tide caused a precipitous drop in sales and consumption of all seafood in the markets and in restaurants, whether shellfish or finfish, whether caught in North Carolina or New York or California or Iceland. This caused a major, unnecessary economic loss and pointed out clearly that whatever affects consumer confidence and the quality of seafood, affects the fishing industry in North Carolina and everybody who depends on the fishing industry for their livelihood.

Studies by the General Accounting Office, statistics collected by the Centers for Disease Control, and other information show that the vast majority of fish and seafood products consumed in the United States are quality products—safe and healthful. Seafood that can be shown to cause illness is to a very large degree limited to certain species or product forms such as raw molluscan shellfish. But the examples I provide above illustrate the fact that partially understood information, fears, perceptions, or isolated incidents such as outbreaks of raw molluscan shellfish related illness, can have a real effect on consumption and the market.

Most importantly, consumers demand—and deserve—seafood products in which they can have true confidence. More than 35 consumer and environmental organizations, many with chapters in North Carolina, are on record as supporting the basic concept of a national seafood inspection system. Ms. Ellen Haas of the Public Voice for Food and Health Policy has been a tireless and exceptionally effective advocate and I commend her for her efforts.

At the present time, existing inspection programs for seafood do not adequately provide the basis for that confidence. There is clearly a developing consensus that in the interest of public safety, consumer confidence, and competition in the domestic and international marketplace, a comprehensive, effective Federal Fish Inspection Program for domestic and imported seafood must be developed and implemented at the earliest opportunity.

Thus, I am an enthusiastic cosponsor of H.R. 3508, a bill that would provide and maintain confidence in a safe and nutritious seafood supply—confidence based in knowledge and reality—through a nationwide Federal Inspection Program for Seafood Healthfulness [FISH]. A good program will assure the consumer of a healthful supply of seafood, and in the future will also help us to prevent the waste and economic hardship that results when red tides and other misunderstood events erode consumer confidence and affect the seafood marketplace.

I have the full expectation that H.R. 3508 will serve as an effective basis—with the full participation of the seafood harvesting, processing, and sales industries in North Carolina and elsewhere—including the Nation's farmers engaged in aquaculture—as well as the States and consumer organizations—for further discussion and for the development of specific provisions and requirements. This process must anticipate and address real problems in realistic and cost-efficient ways, and produce real results for the American consumer and seafood industry.

The Department of Agriculture currently has the responsibility for inspecting meat and poultry products, but does not inspect seafood. However, the Department does have in place the budget and infrastructure on a scale domestically and internationally that would seem to indicate that it is the most suitable Federal lead agency to undertake a national seafood inspection system.

However, several other Federal agencies have a great deal of responsibility and expertise in this area. The National Marine Fisheries Service [NMFS] in the Department of Commerce is one of the oldest of all Federal agencies and has wide knowledge and expertise in all aspects of commercial fisheries and the environment that fisheries depend on. The NMFS provides a voluntary and user-paid inspection service that is growing rapidly because many seafood producers realize that the consumer will buy more, and pay better prices for, products with a Government seal of approval in which they have confidence. But this service still inspects only a small part of all seafood. The Food and Drug Administration [FDA] also has a program for setting standards, testing, analyzing, inspecting, and monitoring domestic and imported seafood products but samples only a small proportion of such products. In addition, the States enforce their laws and regulations relating to food safety, monitor and manage their shellfish production waters, and coordinate with one another and with the FDA in the National Shellfish Sanitation Program.

This division of responsibilities and agency jurisdictions should not inappropriately delay the development of a national seafood inspection system. However, the process of developing and implementing a comprehensive and consistent system should take full advantage of, and work with, the base of knowledge and experience in all Federal agencies, and it should acknowledge and actively support existing State programs and authorities.

The existing Federal inspection programs for meat and poultry are properly financed out of general tax moneys. A fish inspection program must be financed exactly the same way, and H.R. 3508 is premised upon this principle. Fish products compete against meat and poultry products. It would be patently unfair to fund the seafood inspection program by user fees assessed against the industry while competitive foods were inspected at the Federal Government expense.

A very key component of the process of developing an appropriate mandatory national inspection program is the use of the "hazard analysis critical control point" HACCP concept. This concept is based on a comprehensive assessment of seafood and seafood products and their harvesting and processing. The concept is meant to identify hazards, assess the severity of the hazards and risks, determine critical control points required to control the hazards and risks, and establish and implement monitoring procedures to determine that each critical control point is under control.

The HACCP process is a very important reason for my support of a mandatory national seafood inspection system because HACCP will also serve to identify components of the fish harvesting and processing industry that should not be included within the system. For example, I am very concerned about the possible crippling regulatory and economic impact that a number of aspects of a mandatory inspection system could have on small coastal fishing vessels and establishments. Unless the HACCP process shows clearly that certain vessel types, establishments, or fisheries do in reality constitutue a hazard or risk to the consumer of their product, they should not be subject to mandatory aspects of the system against their will, merely in the interest of comprehensiveness or consistency. H.R. 3508 largely accommodates my concern in this regard by exempting certain types of fishing vessels until the Secretaries of Agriculture and Commerce complete a study—conducted pursuant to the HACCP concept—of the necessity of including such vessels in the Inspection Program.

The National Marine Fisheries Service and the National Fisheries Institute, on their own initiative, are already well under way with this process with regard to a number of specific fisheries and produce forms. A very important aspect of this process is that it is carried out in a workshop format with the full participation of the fishing industry to take advantage of the industry's experience and expertise. This should result in a process that is appropriate to the actual practices of the industry, and that is familiar and acceptable to those that the Inspection Program will eventually encompass.

In summary, there is an active and growing determination throughout the Nation to establish an effective national seafood inspection system in the interest of the public safety and consumer confidence. I look forward to working with my colleagues and with all interested parties to refine and further the progress of this important legislation, which has been jointly referred to the Merchant Marine and Fisheries Committee and the Agriculture Committee.

THE NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. KILDEE. Mr. Speaker, it gives me great pleasure to rise today in honor of the groundbreaking ceremony for the National Law Enforcement Officers Memorial. This memorial is a long overdue expression of our appreciation for the efforts and sacrifices made in the line of duty by our Nation's Federal, State, and local law enforcement officers. It is indeed fitting and proper that we dedicate a memorial in the heart of the Nation's Capital for these brave men and women who have given their lives to protect our communities, homes, and businesses from the threat of crime.

Congress authorized the establishment of the National Law Enforcement Officers Memorial in 1984. In the same year, legislation which I sponsored became public law to provide a survivors' benefit of $50,000 for families of Federal law enforcement and firefighters who were killed in the line of duty. I am pleased that just last year, Congress extended that death benefit to $100,000 in order to keep pace with the cost of living.

Over 1,500 law enforcement officers have been killed in the line of duty over the last 10 years—39 of those officers were from the State of Michigan. These dedicated men and women gave their lives in an unremitting, undeclared national war on crime. Every 20 seconds a violent crime is committed somewhere in the United States. The efforts and sacrifices of these 1,500 officers, and all law enforcement officers, represent our Nation's first line of defense in this war on crime and drugs.

Mr. Speaker, we depend on our Federal, State, and local law enforcement agencies to safeguard our families, our homes, and our communities. The dedication of a national memorial for the men and women who put their lives on the line every day for our safety and wellbeing is a proper way for our Nation to express our gratitude for their efforts.

PENTAGON SHOULD PLAN MORE, SPEND LESS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. MILLER of California. Mr. Speaker, an important column in today's Wall Street Journal by Franklin Spinney carries a very serious message that every Member of the Congress—and every taxpayer—should carefully read before we begin deliberations on the next military appropriations and authorization bills.

Mr. Spinney knows what he is talking about. He is a longtime Pentagon employee, and a nationally acknowledged expert on military spending and budgets.

What Mr. Spinney tells us is this: Pentagon spending is not driven by what is needed to protect American security, but by number manipulation. The people charged with developing and executing strategies to protect all of our security are apparently incapable of controlling costs in the Pentagon's $300-billion-a-year budget.

As a result, it is expected that the military budget will rise by a third, to nearly $400 billion, in the next 5 years, even as the major military threats to this country are rapidly changing and, in some cases, disappearing. At a time when most Americans harbor serious, and well taken, doubts about cost control, duplication, cost overruns, and waste in the military, the current 1990-94 Pentagon spending plan calls for $1.7 trillion in military spending. And as Mr. Spinney points out, much of that estimate is based on artificially low predictions of inflation and other assumptions that are manifestly inaccurate and that will boost the military bill by tens of billions of dollars, or more.

Mr. Speaker, we cannot continue to pour the limited resources of this country into a bottomless pit called the Pentagon. Yes, we need the best security in the world to protect this Nation from attack. But no, we do not want, and we cannot afford, the kind of irresponsible, wasteful, and shortsighted spending that Mr. Spinney details in this article.

We have too many other urgent goals that have already been constrained by the lavish sums we have spent on the military. At home, important policies like deficit reduction, affordable housing, transportation improvements and repair, toxic waste cleanup, national health services, higher education assistance, infant and child nutrition—all suffer because of inadequate funding. In many cases, just the waste from the Pentagon could replenish these deficient accounts without adding a dollar to the deficit.

There are millions of Americans who see the scenes of East Europeans fleeing to the West, who cheer the rising democracies of the Eastern bloc, who are heartened by the relaxing of East-West tensions—not only by President Gorbachev but by NATO allies, too. And those Americans, the vast majority of Americans, believe that our own Government—and I include the Congress as well as the President—appear oblivious to the changes in the world, changes that will allow us to reallocate some of our excessive military to unmet, but urgent, domestic priorities.

If we wonder why many of the American people have lost confidence in their Government, I submit it is because they know the level of waste and the myopia of the military spending machine, and they find incomprehensible our unwillingness, or our inability, to impose reasonable constraints that address both our legitimate security, and our urgent budget requirements.

The American people looking to the Congress to redeploy our national priorities. Franklin Spinney may not provide us with all the answers, but this article certainly gives us several hundred billion dollars to fuel the process and begin the debate.

The article follows:

[From the Wall Street Journal, Oct. 30, 1989]

TEACH THE PENTAGON TO THINK BEFORE IT SPENDS

(By Franklin Spinney)

Defense intellectuals have complained for years that the Pentagon cannot determine priorities because it has no strategy. Last April, the new defense secretary, Richard Cheney, acknowledged that, "given an ideal world, we'd have a nice, neat, orderly process. We'd do the strategy and then we'd come around and do the budget. This city doesn't work that way." With a five-year defense plan costing more than $1.6 trillion, it's about time we put together a defense strategy that works in Washington.

This won't happen until strategists come down from their ivory tower and learn to work in the real world of limited budgets and uncertain futures. As it is, we identify national goals and the threats to these goals, we shape a strategy to counter these threats, we determine the forces needed to execute the strategy, before finally forging the budgets needed to build and maintain the forces. These procedures consume millions of manhours of labor and produce tons of paper, and each year, their end product—the Five Year Defense Plan—promptly melts away.

The graph on the left shows how this happens. Compare the past eight five-year plans with actual appropriations. The Pentagon's strategists produce budgets that simply cannot be executed because they assume a defense strategy depends only on goal and threats. Strategy, however, is about possibilities, not hopes and dreams. By ignoring costs, U.S. strategists abdicate their responsibility for hard decisions. That puts the real strategic decisions in the hands of others: bean counters, budgeteers, and porkbarrelers. These people have different agendas. And as a result—as the recent vote by the House to undo Mr. Cheney's program terminations suggests—the preservation of jobs is becoming the real goal of defense "strategy."

START IN THE PENTAGON

How can we turn this situation around?

Reform starts in the Pentagon. Strategists should consider the impact of budget uncertainties at the beginning of the planning process. They ought to examine how a range of optimistic to pessimistic budget scenarios would change the defense program. They would then develop priorities by identifying the least painful program cuts as they moved from higher to lower budgets. They would also identify the best way to add programs, should the budget come in at higher levels. This kind of contingency analysis is common in war planning and business planning. There is no reason that it can not be done for defense planning.

Two steps are necessary to translate this idea into action. Step 1 cleans up our books. Our five-year plan contains three accounting devices—negative money, an above guidance management reserve and optimistic inflation estimates—which understate the spending the Pentagon has committed itself to by almost $100 billion.

Negative money was invented in 1988 to make the 1990-94 Five Year Defense Plan conform to the numbers in President Reagan's final budget submission to Congress. That plan exceeded the numbers contained in his budget message by $45 billion. To make the books balance, as is required by law, somebody invented a new budget line item that simply subtracted $45 billion. It is known in the Pentagon as the "negative wedge."

The Pentagon argues that the negative wedge is the net effect of $22 billion in the as yet unidentifed procurement reductions that it intends to find in future years and $23 billion in an "above guidance" management reserve that accounts for undefined programs that will materialize in the future.

The 1990-94 plan also assumes inflation will decline to 1.7% by 1994. Most forecasters, including those in the Congressional Budget Office, assume inflation will be in excess of 4% in each of those five years. At that rate, the defense plan is underfunded by $48 billion.

By adding the negative wedge and recalculating the remaining program using a more probable inflation estimate, we arrive at a baseline program costing $1.7 trillion between 1990 and 1994.

Step 2 examines how four progressively lower budget scenarios would change the baseline and how these changes would affect our national security. The graph on the right (which assumes a 4% rate of inflation), places these scenarios in the context of recent appropriations. Note how the baseline program assumes a sharp increase in future appropriations. Step 2 will answer the question: What happens if these increases do not materialize?

Scenario 1, known as the "Constant Dollar Freeze," reimburses the Pentagon for inflation only—it slopes upward at 4% per year. This scenario has been the rough position of the U.S. Senate since 1985, and it reduces the baseline by $106 billion between 1990 and 1994.

Scenario 3, the "Current Dollar Freeze," has been the approximate position of the House of Representatives for about four years. It freezes the budget at its current level, and forces the Pentagon to eat the effects of inflation until 1994. This reduces the baseline by $229 billion.

Scenario 2 extends the recent compromises between the House and the Senate; it splits the difference between Scenarios 1 and 3, by increasing the budget at 2% per year. It reduces the baseline by $169 billion.

Finally, Scenario 4 reduces the budget by 2% per year for the next five years—a total reduction of $287 billion. This can be thought of as a pessimistic prediction, perhaps driven by the sequestering effects of the Gramm-Rudman deficit reduction law or possibly a relaxation of tensions with the Soviet Union.

The strategic planners in the Joint Chiefs of Staff would construct the most effective defense program for each scenario, maximizing strengths and minimizing weaknesses. They would conclude their efforts by producing a comprehensive net assessment for each plan—including the assumptions made, an analysis of its deficiencies and limitations, the impact on national security, and the best strategy for working around these limitations.

This exercise would reveal the true cost of a particular program by forcing the strategists to make hard decisions. If, for example, they choose to keep the B-2 Stealth bomber, they would have to sacrifice more and more other programs—such as carrier battlegroups or army divisions—as they moved toward lower budget levels. These tradeoffs would evolve priorities by revealing when the cost of the B-2 became prohibitive.

Some may be tempted to argue that the idea of a strategic review merely resurrects the infamous Zero-Based Budgeting (ZBB) concept of the Carter administration. But ZBB did not involve the strategic planners in the Joint Chiefs of Staff, and therefore degenerated into a bean-counting drill driven by budget politics. Anyway, ZBB's procedures were so cumbersome that everyone involved was crushed under a burden of marginalia. A strategic review is fundamentally different. It would be run by the joint chiefs under simple directions: Produce the best possible force for each budget scenario and provide the Secretary of Defense with a comprehensive net assessment of how that force could be used to achieve U.S. goals.

GAMING AND MISTRUST

It might be feared that even thinking about lower budgets will hurt national security because the door will be opened to opportunistic budget cutting by an irresponsible Congress. This argument plays well in the atmosphere of gaming and mistrust permeating the Pentagon and Congress, and unfortunately, there is some truth to it. But in the end, it must be rejected for logical as well as moral reasons. To say that the Pentagon should act irresponsibly because acting responsibly will provoke Congress into acting irresponsibly leads to the conclusion that the Pentagon should deliberately exaggerate its needs in the national interest; in other words, that it is justified in committing a crime—lying to Congress—because it is morally superior.

Strategy is not a game between the Pentagon and Congress; it is the art of the possible in a world where constraints force us to choose between unpleasant or imperfect alternatives. If we want meaningful priorities, we must understand the trade-offs they imply before we make commitments. Strategy is not a separate event in an idealized sequence of discrete events; it is a way of thinking that neutralizes threats to our interests in a manner consistent with our financial, cultural and physical limitations.

GOP SHOULD JUST SAY NO TO NEW TAXES

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1989

Mr. HUNTER. Mr. Speaker, I thought that my colleagues of both sides of the aisle would be interested in this enlightening article by the San Diego Union's Robert Caldwell.

[From the San Diego (CA) Union, Sept. 24, 1989]

GOP SHOULD JUST SAY NO TO NEW TAXES

(By Robert J. Caldwell)

Republicans still looking for a realignment issue (i.e., one that could make the GOP the nation's majority party) are staring one in the face. It is—read our lips—taxes.

Hardly a day goes by without yet another veiled suggestion from Democrats in Congress that what America needs is a tax increase.

Without more taxes, it is said, little of the nation's current political agenda can be accomplished. The war on drugs, supporting reform in Eastern Europe, bailing out the botched Catastrophic Health Care Act, cleaning the air, shrinking the deficit; all this and more supposedly depend on what the Democrats decorously refer to as more "revenue."

What they mean, of course, is a tax increase. But Democrats rarely say so out loud lest they hand President Bush a sharp sword to use against them.

Mr. Bush and the Republicans need not wait. They could seize the metaphorical tax sword themselves and wield it with devastating political effect. The reasons are self-evident.

Any argument for more taxes rests on the implicit assumption that Americans are currently undertaxed. Not surprisingly, most Americans disagree. A Gallup Poll taken last January and February found overwhelming majorities of Americans opposed to broad-based new taxes, including across-the-board hikes in income tax rates, higher gasoline taxes, or a national sales tax.

A Roper Poll released last January showed similar results. A high majority, 73 percent opposed new taxes. Those polled favored reducing the deficit through spending cuts rather than tax increases by a margin of nearly 14-1.

Indeed, 70 percent of those polled by Roper said that higher taxes would only prompt Congress to spend more. Recent history supports his belief.

Warren T. Brookes, an economist and columnist, notes that during the last 30 years, every tax increase has been accompanied by falling growth rates and increases in overall spending. Over these three decades, every $1 increase in tax rates produced about $1.29 in additional spending. The notion that a tax hike is the answer to the deficits is at least simplistic, if not wrong altogether.

And far from considering themselves undertaxed, most Americans believe they are, if anything, overtaxed, judging from the Roper poll and other opinion surveys.

Mr. Bush carried 40 states last November in no small measure because of his most celebrated campaign pledge: "Read my lips. No new taxes."

But the case against a tax increase rests on more than rhetoric, sloganeering, or public preference. It rests on the hard data showing that Americans are paying a hefty, and growing, percentage of their gross incomes in taxes to federal, state, and local governments.

As Stephen Moore, a research fellow at the Washington-based Heritage Foundation, wrote recently, "The percentage of the American paycheck that is diverted to the coffers of government is back to the peak level of 1981. Thirteen separate federal tax hikes have been enacted since 1982, while tax revenues at the state level have been growing for the last three years at roughly twice the rate of inflation."

The result, Moore notes, is that total tax receipts this year at the federal, state, and local levels will exceed $1.5 trillion, an amount equal to about one-third of the country's gross national product (GNP).

In 1987 (the latest year for which figures are available), the average proportional tax burden for all income classes was 36.31 percent of gross income. Put another way, most American families paid more than one-third of their gross incomes in taxes at all levels in 1987. Since then, the percentages have inched upward.

A typical two-earner family with a gross income between $40,000 and $49,000 paid out 33.61 percent of its income in taxes in 1987. That computes to a tax bill of perhaps $15,000 in a single year.

Will the Democrats tell the millions of American families in these middle-income categories that they are undertaxed? If they do, it will mean many more votes for Republicans.

The poor and the working poor—families with gross incomes up to $19,000 a year—are paying from 34 percent to 49 percent of their gross incomes in taxes. One might assume that the Democrats would not risk telling these families, typically among the Democrats' core constituents, that they need to pay more taxes.

Yet some congressional Democrats are quietly backing suggestions for higher taxes on alcohol and tobacco products. These taxes would add disproportionately to the tax burdens of those on the lower rungs of the economic ladder. Other Democrats, and some Republicans, favor increases in the gasoline tax, as both a conservation and revenue-generating measure.

But higher gasoline taxes also affect the poor and low-income families disproportionately because larger shares of their small incomes go to such necessities as transportation.

Excusing the middle class and the working poor leaves only the "rich" to pay the higher taxes many in Congress favor.

But American families with incomes over $90,000 a year (and many of these are only affluent, not rich) already pay more than half of their gross income in taxes. And, as many Democrats belatedly recognize, "soaking the rich" is bad economics. It is even shopworn as political rhetoric.

In 1986, Congress dropped the top income tax rate from 50 percent to 28 percent as part of an historic tax reform. The original legislation containing this reduction passed the Senate 97-3. A later, final version passed the Senate 74-23 and the House 292-136. A majority of Democrats in the House and Senate voted for reform, including a top income tax rate of 28 percent.

Democrats did not vote to cut the top rate nearly in half as any favor to the mostly Republican wealthy. Rather, Democrats, Republicans, and most economists had come to recognize that high marginal tax rates discouraged economic growth. Moreover, by limiting growth and driving the affluent to shelter their income in unproductive tax dodges, high marginal rates cost the government far more tax revenue than they "saved."

The 1981 Reagan tax cut dropped the top income tax rate from 70 percent to 50 percent. By 1983, tax revenue from the richest Americans increased dramatically, as did their proportional contribution to the revenue realized from all personal income taxes.

So, rhetoric aside, there seems little to gain by resorting to that Democratic bromide—tax hikes on the rich.

The only remaining alternative might be higher taxes on corporations. But this option, too, tends toward the self-defeating. American corporations struggling to compete in a highly competitive global marketplace would only be hurt by the added burden of increased taxes.

With many of America's competitors in Asia and Europe cutting tax rates to become even more competitive, now seems a singularly bad time to pile new burdens on American corporations. Jobs and growth would suffer, as would the competitiveness of American business.

Without tax hikes, Congress and the federal government would have to rely on fiscal discipline, and a more rigorous setting of priorities. It is not an impossible task, even for government. State governments balance their budgets because their constitutions force them to. And the governors of most states have the line-item veto that presidents need, but cannot get from Congress, to trim outsized budgets and keep spending under control.

As the Heritage Foundation's Moore notes, the states have finished each of the last 20 years with a cumulative net surplus while the federal government has run annual deficits.

As for the federal deficits, it remains a problem and needs to be reduced further. But the deficit also should be viewed in proper perspective. Borrowing by government in the United States averaged 2.8 percent of GNP during the 1980s—lower than West Germany's 3.1 percent and lower than the average for Britain, France, Belgium, Denmark, Ireland, West Germany, Luxembourg, and the Netherlands.

The point is, the Republicans have the facts to argue that tax increases now are not necessary, and are not desirable.

What is more, the Republicans have an immense political opportunity. Republicans can offer the American people a sort of social compact, a stipulation that one-third of the average American family's income is all that government should ever cost in peacetime.

Then let the voters decide whether Republicans or Democrats should constitute the majority party.

OVERALL TAX BURDEN AS PERCENT OF INCOME

[By income level, 1987]

Income level [1]	All taxes (Percent)	Federal taxes (Percent)	State and local taxes (Percent)
Less than $10,000	49.81	24.21	25.60
$10,000 to $14,999	34.77	19.02	15.75
$15,000 to $19,999	34.56	19.83	14.73
$20,000 to $29,999	33.42	20.14	13.28
$30,000 to $39,999	32.75	20.44	12.30
$40,000 to $49,999	33.61	21.30	12.31
$50,000 to $59,999	32.13	20.24	11.89
$60,000 to $69,999	35.95	23.64	12.31
$70,000 to $89,999	32.08	20.56	11.53
$90,000 and over	54.02	40.14	13.88
All income levels	36.31	22.65	13.67

[1] Income before personal taxes.
Source: Citizens for a Sound Economy.

1989 cost of Federal tax increases imposed from 1982-88

[Individual, corporate and total impact in billions of dollars]

Legislation	*Revenue*
Tax Equity and Fiscal Responsibility Act of 1982:	
Total	55.7
Individual income tax	15.9
Corporate income tax	38.5
Highway Revenue Act of 1982:	
Total:	5.1
Social Security Amendments of 1983:	
Total:	30.9
Railroad Retirement Revenue Act of 1983:	
Total:	1.1
Deficit Reduction Act of 1984:	
Total	27.7
Individual income tax	16.0
Corporate income tax	10.6
Consolidated Omnibus Budget Reconciliation Act of 1985:	
Total	3.0
Individual income tax	0.2
Corporate income tax	−0.1

Legislation	*Revenue*
Omnibus Budget Reconciliation Act of 1986:	
Total	2.0
Individual income tax	0.7
Corporate income tax	0.1
Superfund Amendments and Reauthorization Act of 1986:	
Total	0.8
Individual income tax	−0.2
Corporate income tax	0.4
Continuing Resolution for 1987:	
Total	3.0
Individual income tax	1.4
Corporate income tax	1.4
Omnibus Budget Reconciliation Act of 1987:	
Total	13.9
Individual income tax	0.4
Corporate income tax	6.0
Continuing Resolution for 1988:	
Total	2.7
Individual income tax	1.1
Corporate income tax	1.6
Medicare Catastrophic Coverage Act of 1988:	
Total	0.6
Individual income tax	0.6
Family Support Act of 1988:	
Total	0.1
Total Tax Increases:	
Total	146.6
Individual income tax	36.1
Corporate income tax	58.5
Social Security, Excise, Customs and Misc	52.0

Source: The Heritage Foundation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 31, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 1

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Telecommunications and Information Administration, Department of Commerce.
SD-562

Foreign Relations
To hold hearings on the nomination of William Clark, Jr., of the District of Columbia, to be Ambassador to India.
SD-419

Labor and Human Resources
Business meeting, to consider pending committee business.
SD-430

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Government Information and Regulation Subcommittee
To resume hearings to examine the quality of U.S. education information, focusing on the availability of national education data bases.
SD-342

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer and Regulatory Affairs Subcommittee
To hold oversight hearings on efforts to control the laundering of drug money.
SD-538

Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on programs administered by the U.S. and Foreign Commercial Service, Department of Commerce.
SR-253

Foreign Relations
To hold hearings on the Convention (No. 160) on Labor Statistics (Treaty Doc. 101-2).
SD-419

NOVEMBER 2

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to mark up S. 1729, authorizing funds through fiscal year 1994 for the Commodity Exchange Act, and to reorganize the Commodity Futures Trading Commission.
SR-332

Energy and Natural Resources
To hold hearings on the findings of the study conducted by the Monitored Retrievable Storage (MRS) Commission and the Department of Energy's plans for including MRS in the waste management system.
SD-366

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings on S. 38, to make long-term care insurance available to civilian Federal employees.
SD-342

Select on Indian Affairs
To hold oversight hearings to review the current state of Indian agriculture, focusing on future directions and recommendations on ways to overcome barriers to existing farming techniques.
SR-485

10:00 a.m.
Foreign Relations
Business meeting, to consider the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Treaty Doc. 101-4), Certified Copy of the Convention Concerning Labor Statistics (Treaty Doc. 101-2), S. Con. Res. 53, concerning Iranian persecution of the Baha'is, and pending nominations.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on Indian health facilities.
SR-485

NOVEMBER 3

9:30 a.m.
Energy and Natural Resources
To hold hearings on the nominations of Martin L. Allday, of Texas, to be a Member of the Federal Energy Regulatory Commission, Melva G. Wray, of Connecticut, to be Director of the Office of Minority Economic Impact, and William H. Young, of New Jersey, to be Assistant Secretary for Nuclear Energy, all of the Department of Energy.
SD-366

Joint Economic
To hold hearings on the employment-unemployment situation for October.
2359 Rayburn Building

10:00 a.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation to extend international trading rules to agriculture in the Uruguay Round of General Agreement on Tariffs and Trade (GATT) negotiations.
SD-215

Governmental Affairs
General Services, Federalism, and the District of Columbia Subcommittee
To hold oversight hearings to review the activities of the General Services Administration.
SD-342

NOVEMBER 6

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on U.S.-Japan Structural Impediments Initiative (SII).
SD-215

NOVEMBER 7

9:30 a.m.
Energy and Natural Resources
To resume hearings on S. 324, to establish a national energy policy to reduce global warming, focusing on provisions relating to the Public Utility Regulatory Policy Act contained in Subtitle B of Title III.
SD-366

2:00 p.m.
Finance
International Trade Subcommittee
To resume hearings on the U.S.-Japan Structural Impediment Initiative (SII).
SD-215

2:30 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposed legislation to strengthen and improve U.S. agri-

cultural programs, focusing on reform of P.L. 480, food for peace programs.
SR-332

NOVEMBER 8

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 1741, to increase competition among commercial air carriers at the Nation's major airports.
SR-301

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 891, to provide for the modernization of testing of consumer products which contain hazardous or toxic substances.
SR-253

NOVEMBER 9

9:30 a.m.
Energy and Natural Resources
To hold hearings on a proposed committee amendment to S. 406, Competitive Wholesale Electric Generation Act.
SD-366

Governmental Affairs
To hold hearings to examine the current status of science and math education.
SD-342

NOVEMBER 14

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on potential alternative energy sources for transportation, focusing on compressed natural gas, reformulated gasoline, ethanol, and electricity (electric vehicles).
SD-366

NOVEMBER 15

9:30 a.m.
Veterans' Affairs
To hold hearings on health care for rural veterans.
SR-418

NOVEMBER 16

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

NOVEMBER 17

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

NOVEMBER 21

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 1236, to provide for a waiting period before the sale, delivery, or transfer of a handgun.
SD-226

CANCELLATIONS

OCTOBER 31

9:30 a.m.
Governmental Affairs
To hold hearings on trade and technology issues.
SD-342

POSTPONEMENTS

NOVEMBER 2

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat production.
SR-332

HOUSE OF REPRESENTATIVES—*Tuesday, October 31, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that at all the great moments of life we will have the courage to stand for the truth as You have led us to believe. We recognize that so much of what we think important is not so, and much that separates us is not worth the division. May Your gift of grace, O God, so touch our lives, that we will focus on the great issues that deal with justice and mercy and so show forth Your praise. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas [Mr. COMBEST] please come forward and lead the House in the Pledge of Allegiance.

Mr. COMBEST led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 972. An act to amend section 3724 of title 31, United States Code, to increase the authority of the Attorney General to settle claims for damages resulting from law enforcement activities of the Department of Justice.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 604. An act to amend title 31 of the United States Code to increase settlement authority and expand coverage relating to claims for damages resulting from law enforcement activities.

MINIMUM WAGE

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, after much travail, President Bush has finally agreed to the elements of an increase in the minimum wage. While I am pleased that this issue has been resolved, I remain disappointed with the President's failure to agree to more than a 90-cent increase.

After all, 90 cents won't even get you to work in many places; 90 cents won't buy a Sunday newspaper; 90 cents won't buy a gallon of gas; 90 cents won't buy a Big Mac; and in many places, 90 cents won't even buy a cup of coffee.

The President has talked about a gentler nation; a stronger nation. Unfortunately, he has acted gently with the powerful and strong with only the weak.

Let's support an increase in the minimum wage.

THE FIGHT FOR FREEDOM, JUSTICE, AND DEMOCRACY IN NICARAGUA

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, while others speak of minimum wage, there are important battles equally important going on around the world such as the fight for freedom, justice, and democracy. As we review the 4-day trip which six Members of Congress recently returned from, Nicaragua, Panama, and El Salvador, Nicaragua for the first time there is the promise of a fair and free election. A group known as Via Pacifica, the Pacific Way, formed of people who have no jobs, taxi drivers, former ranchers who do not have any ranches which have been seized by the Sandinista Marxist government, school teachers, average individuals, are pledging 10,000 poll watchers for the February election to ensure that for the first time since the Marxists seized control in 1979 the Nicaraguan people will have the right to be involved in a free and fair election.

UNO has the possibility of winning.

For the first time in 4 years, I am convinced there can be a free and fair election.

Now the question is: Will Daniel Ortega, who performed so miserably at the recent conference in San Jose by calling for war-like provisions to be established, now today, thank goodness, has backed away from that statement.

Will he allow the election to be held? Will the Marxists for the first time in this hemisphere allow a free election to take place so that their people can join the world of the democratic republics like the United States and again enjoy the empowerment of civilians over the military?

RESTORE THE MINIMUM WAGE

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, it appears that the White House has finally agreed with Congress that workers earning the minimum wage deserve to make a living wage. The persistent refusal of the past administration to provide a decent minimum wage eroded one of our basic principles, which says that if you work hard your efforts will be rewarded.

The issue of the minimum wage has never really been about numbers and statistics, but about the way we view work in this country.

It is about whether we will offer young people a real opportunity in the workplace, not just lip service about traditional values.

It is about whether we will ensure that no worker is exploited.

And it is about whether we as a country will honor the principle that if you work, you and your family will not go hungry.

The American dream says you can work your way out of poverty. But that dream has been denied to millions of Americans who deserved better. I am glad we will finally have the opportunity to offer them a chance to share in that dream once again.

H.R. 2170, FAIR LABOR STANDARDS AMENDMENTS

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, I rise today in strong support of H.R. 2170, the fair labor standards amendments, which raises the minimum wages for the first time since 1981. Today, in 1989, Mr. Speaker, it is about time that we provide a decent hourly wage for the working men and women of America.

We are giving the President a second chance, Mr. Speaker, to do what is right for the working poor of this country.

Mr. Speaker, I say to the President this will not hurt him a bit. The working poor are not the cause of inflation. The working poor are not the cause of the budget deficit. I say to the President that this is his second chance to give the working poor a measure of justice.

WEST TEXANS ARE QUITE FOND OF ODESSA

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, the way folks in Odessa, TX, look at it, Places Rated Almanac must think smog, polluted rivers, and traffic jams are just dandy. Odessa, where pollution and congestion are something you only read about—was recently ranked 332d on a list of 333 cities by Places Rated Almanac based on livability standards.

In fact, Odessa is a very livable place that offers a pleasant and diversified atmosphere. The city is equipped with plenty of clean air, wide open spaces, and room to grow. Odessa is the heart of Ector County, which is the second largest oil producing county in Texas. Traffic jams and cloudy days do not plague this city, which claims over 300 days of sunshine each year.

Furthermore, Odessa provides abundant educational and recreational opportunities. The city maintains its own art institute, symphony, and one of the Nation's finest magnet school systems. It is also home to the world's only exact replica of Shakespeare's Globe Theater and the nationally ranked Odessa Permian High School football team whose 20,000 capacity stadium is always a sell out.

The city is proudest of its friendly people and is well-known for its genuine Texas hospitality. Despite this recent ranking, 133,000 west Texans are quite fond of Odessa. After all, it is the place they call home.

SEQUESTRATION

(Mr. HUCKABY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUCKABY. Mr. Speaker, newspapers throughout America screamed out the headline this morning, "Japanese buy Rockefeller Center." We are experiencing a slow but steady transfer of America's wealth to the Japanese.

It is estimated that the Japanese now own at least 20 percent of America's debt and they currently buy 30 percent of our U.S. Treasury bills, bonds, and notes. Many feel that we have become so dependent upon Japanese capital, that the degree of their participation in our bond markets determines our interest rates as much as the Fed does by its discount rate.

It is time to regain control over our own economic destiny. We do this by simply reducing our borrowing to zero following the road map laid out by Gramm-Rudman. Everyone knows the reconciliation bill before us contains hollow savings. If we are serious about real deficit reduction, the only alternative that we have is to make the deliberate choice to leave sequestration in place. A bold choice, not a copout. Think about it.

□ 1210

WELCOME TALKS WITH PRESIDENT GORBACHEV

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, the announcement today by President Bush and President Gorbachev that they will meet in early December is very welcome news. There is simply no substitute for face-to-face meetings between world leaders.

The world as we have known it for 50 years is changing very rapidly. There is a limit to what America can do to affect the speed or direction of the changes in the East bloc. But there is a need to do what we can to ensure that this change does not somehow lead to armed conflict.

This is no time for either nation to make a serious miscalculation about the interests of the other. That is why it is so important for these two leaders to sit down without any intermediaries and talk seriously about what their interests and expectations are.

This meeting is further evidence that the administration's policy of prudence in the conduct of foreign affairs is paying off.

ORTEGA

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, an internationally known president, through repeated fumbles, goofs, and blunders, has indeed kept the Contra rebels alive.

Who is this president?

If there is anyone who doesn't know, here's a hint. His last name has six letters, including an R, and E, and A, and a G.

Yes, Ortega! Daniel Ortega, President of Nicaragua.

The most recent dumb moves by Daniel Ortega clearly reveal his indifference to democracy.

However, this time he embarrassed his own Nicaraguan Government at the 100th annivesary of Costa Rica's democracy, an event organized by Nobel peace prize winner Oscar Arias, Costa Rica's elected President.

Ortega's contribution to the celebration in Costa Rica was to announce an end to the 18-month cease-fire between the Sandanistas and the Contras.

Fortunately, there is universal outrage at Ortega.

Everyone knows the limited, ineffective Contra army isn't a threat to the people of Nicaragua.

The threat is the man Ortega—arrogant, corrupt, and, as President Bush noted, "an animal at a garden party."

Yes, Daniel Ortega—the skunk at the picnic, the bull in a china shop.

On his own, Mr. Ortega has a tough time looking good.

We in the Congress must not do anything to make him look good at this point.

PAC CONCERNS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, recent polls show that Americans continue to have grave concerns about the role of political action committees in the electoral process.

Many citizens believe that Congress pays less attention to their concerns than those of the special interests that fund congressional campaigns.

Public perceptions about PAC's will be a key factor in determining whether citizens favorably view our efforts at congressional ethics reform, including the proposed pay raise.

Citizens will approve of a pay raise only if we enact reforms that are meaningful to them.

For instance, to restrain PAC influence, we should limit PAC dollars relative to individual contributions. This is the intent of my bill, H.R. 3020, which would allow one-third of a candidate's funds to be raised from PAC's.

A percentage limitation will show individual Americans that their contributions are the main financial force behind every congressional race.

SPENCER GIFT CO. RACISM

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan keeps buying into America. Today it is Rockefeller Center. I guess tomorrow we could expect the Japanese Empire State Building.

However, I am here today about a different message. While Japan keeps

buying America, an American company is selling racism. The Spencer Gift Co. of New Jersey should be ashamed of themselves for marketing a mask called "The Sheik." That is an outright racist act, denigrating the character and tremendous involvement of Arab Americans in our country. They are marketing the mask right next to Freddie Kreuger, Jason, and Dracula.

When confronted with it, a Spencer Gift Co. official says, "Hey, we do not find anything wrong with it." They think it is fun.

Ladies and gentlemen, I am urging all Members of Congress to write and call the Spencer Gift Co. and ask them to take this racist mask off the market. Today is Holloween. Spencer Gift Co. should not be treating Arab-Americans to the dirtiest trick in Holloween history.

WHAT HAPPENED TO RECONCILIATION?

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, the hobgoblins are stirring, conjuring up the haunted horrors of Halloween.

Mr. Speaker, our own night of the living dead dawned 2 weeks ago, on October 16, when the meat ax of Gramm-Rudman did its dirty deed, slicing 5.3 percent off domestic programs and 4.3 percent off defense programs.

Everyone said don't worry. We'll pass reconciliation, and relegate Gramm-Rudman back to the hell-hound womb from which it sprang.

Well, I, for one, am worried. It's beginning to look like hell will freeze over before we pass reconciliation.

Think of the consequences: One million students eliminated from Pell grants—more ignorance; up to 1,000 research grants at the National Institutes of Health gone—more sickness; $389 million in subsidized housing—more homelessness; $292 million cut in EPA—more noxious air; and cuts in all the drug programs—more violence and destruction.

Have the forces of good surrendered to the dark powers of evil? Is Congress under a spell? Are we a bunch of zombies and pumpkinheads?

Mr. Speaker, the horrors of sequester are upon us. Let's get serious about reconciliation.

COMPLIMENT TO SOVIET LEADERSHIP

(Mr. WILSON asked and was given permission to address the House for 1 minute.)

Mr. WILSON. Mr. Speaker, an international event took place last week that was so remarkable that we cannot let it pass without acknowledgment. The Soviet Union openly declared to the world that its 1979 Christmas invasion of Afghanistan and the decade long war it waged there was contrary to Soviet law, Soviet ethics, and a great mistake.

It is not easy for an international giant and great power to make such a striking admission of guilt—especially in a society that has been so long closed so tight. I would, therefore, take this moment to compliment the leadership of the U.S.S.R. for forthrightness and honesty regarding this tragic war.

I would also compliment President Bush for his consistent determination to stay the course in support of the heroic Mujahideen until their valiant struggle for self-determination succeeds.

Finally, I tip my hat to my colleagues on both sides of the aisle and on both sides of the Capitol for your patience and generous support of the freedom fighters of the Hindu Kush who will never cease their jihad until they have driven the hated alien, ideology from their beloved mountains and valleys.

OMISSION FROM "MUST-PASS" LEGISLATION

(Mr. PAXON asked and was given permission to address the House for 1 minute.)

Mr. PAXON. Mr. Speaker, I agree that before we adjourn this first session of the 101st Congress, we need to act on a number of important legislative items. Unfortunately, though we disagree on what is "must-pass" legislation for 1989. Apparently, Mr. Speaker, so do your own Democrat colleagues.

When the Speaker spoke to the press last week and disclosed the Speaker's list of "must-pass" legislation for 1989, I was struck by not by what the Speaker listed, but what was omitted.

A list of omissions include: Repeal of section 89, with 218 of your majority colleagues voting for repeal; repeal of catastrophic tax, with 196 of your majority colleagues voting for repeal; and the capital gains tax cut, Mr. Speaker, would not have passed were it not for the 64 votes coming from your side of the aisle.

Mr. Speaker, that list of "must-pass" legislation that was named, must be expanded. Your own colleagues, obviously, support these key initiatives.

□ 1220

TRIBUTE TO FATHER ODDO

(Mr. WYDEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, last Sunday afternoon our country lost a wonderful, caring young man when the Reverend Tom Oddo, president of the University of Portland, died in an automobile accident. He was an inspiration to his students and his colleagues, and we all miss him very much.

In just 45 short years Father Tom made a real difference. He was always there for his students with what he called his open door policy. He was a tremendous advocate for the needy, usually those off campus, who lacked food or decent medical care. He spoke passionately about community service and seniors, and I considered him to be one of the models of the educator of the future.

Our community is hurting right now over the loss of Father Oddo. We are going to try to pick up where he has left off, but it is going to be very hard. The priests and the brothers of the Holy Cross have lost a great leader, but so has America.

DO NOT OUTLAW JOBS

(Mr. McEWEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, it is devotedly to be wished that by passing legislation we could increase the income of all American workers. If that were the case, then I believe Members should do it with a vengeance, $15, $20, $25 an hour minimum wage.

When we pass minimum wage legislation it says one thing, Mr. Speaker: It says to the young black in the inner city, it says to the handicapped individual, it says to the young person looking for a first time job, unless you can meet a minimum standard, we will pass a law that says it is a violation of the Federal statute to hire such a person.

Mr. Speaker, we can calculate to a certainty the number of people that we will unemploy by raising the minimum wage to various levels. At $4.50, at $5, at $6, hundreds of thousands of people are denied access to the job market. Minimum wage laws create unemployment. That is a mean, vicious thing to do.

Mr. Speaker, minimum wage laws say to the young entrepreneur in the inner city, the person trying to hire an unemployed person looking for a job, for that first opportunity to work, minimum wage is a block to them that locks them off the economic escalator.

Mr. Speaker, we should not do that. Since 1982 we have cut minimum wage recipients in half, black teenage unemployment has been cut by two-thirds. We should not go back to Carterizing the economy now by destroying the 300,000 new jobs every month that are currently being created. We should

not pass a law to injure the disadvantaged Americans seeking a job.

FOREIGN INVESTMENT/REAGAN TRIP TO JAPAN

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, it was not until Ronald Reagan left office that the Japanese finally decided they did want to buy an American product, our former President. In fact, they put him on the Japanese payroll to the tune of $2 million to visit Japan, plus another $2 million for his official library.

Of course, he unofficially worked very hard on behalf of Japanese interests throughout his two terms in office, to the detriment of America's trade balance and our industrial heartland.

All of America is now clearly up for sale. Sony Corp. has purchased one of our largest motion picture studios. A Japanese real estate corporation just purchased Rockefeller Center, a symbol of American business and culture. Another Japanese corporation is looking at Bloomingdales. Every woman in America knows what that means.

From Los Angeles to New York, from auto parts to motion pictures, from real estate to banking to manufacturing, America is losing its economic independence.

Our former head of state has put his stamp of approval on this transfer of wealth as he too sells out to the Japanese. Has he no concern for the $50 billion trade deficit America racked up during his watch?

It is time to stop and ask ourselves when will this buyout of America stop? When will Japan start buying our products and not our former Presidents?

A TRIBUTE TO MARY STAHL

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, earlier this month, Mary Stahl, a transcriber in the Office of Official Reporters of Debates and my constituent from McLean, VA, retired after 20 years of Government service.

Mary is originally from Turners Falls, MA. She attended Smith College and later studied piano at the Juilliard School of Music in New York.

After the death of her husband in 1964, Mary moved to the Washington area with her three children and taught piano. Finding that she needed additional means of support in raising her family, in midlife she embarked on a new career, first as a court reporter in the District Court of Washington, DC, and then as a transcriber with the Official Committee Reporters of the House and ultimately with the Reporters of Debates.

Mary Stahl soon became a highly regarded and respected House employee, with her coworkers looking upon her as the "den mother" of the office. She loved her work, and but for a medical problem, would not have retired.

I understand, though, that she is much improved and we wish Mary Stahl well in her retirement, as she spends time enjoying her family, including her five grandchildren. We also thank her for her years of dedicated service to the House of Representatives.

INTRODUCTION OF THE SUSTAINABLE AGRICULTURAL ADJUSTMENT ACT OF 1989

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, I am pleased today to be able to join my colleague from Indiana, Mr. JONTZ, in introducing the Sustainable Agricultural Adjustment Act. I believe that this legislation is a right step toward making our existing farm programs more responsive to the needs and concerns of producers as well as those concerned about the sustainability of our planet and its resources.

The approach taken in this legislation involves a carrot, not a stick. This is a voluntary program designed to encourage producers to do what many feel they cannot do under existing commodity programs—use cropping practices that would be beneficial to the soil and in turn the productive capacity of that soil. Current programs are not mandatory in nature, but they have become so for many out of economic necessity. We have seen an excellent example of this in my own State of South Dakota which has traditionally been the number one oats producing State in the Nation. There has been a decline in the amount of oats produced in this Nation for several reasons including base planting and a relatively unattractive target price program. The Sustainable Agricultural Adjustment Act would allow producers to utilize an oats-alfalfa-corn rotation without the economic penalty of no Government protection.

This act also utilizes the existing structure and long tradition of assistance provided by the Cooperative Extension Service to disseminate information and technical assistance regarding sustainable production systems. USDA and the Extension Service have done work in the area of sustainability, but this effort would add renewed vigor to the activities involved in educating producers to the alternatives available to them and adaptable to their particular situation.

I am hopeful that this legislation will cause all of us to take a second look at the effect that Federal Government agricultural programs have on our long-term economic and social stability and focus on ways that we can foster sustainable, productive agriculture that will not leave us with long-term implications for our society and the environment to overcome.

EPA IMPLEMENTATION OF 1984 INSTRUCTIONS CONCERNING LEAKING UNDERGROUND STORAGE TANKS

(Mr. MORRISON of Washington asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MORRISON of Washington. Mr. Speaker, the Environmental Protection Agency is proceeding with implementation of 1984 instructions from the Congress concerning leaking underground storage tanks.

Like many environmental issues, we must proceed with this protection, but we must also in the process not put most of America's service stations and convenience stores out of business.

The Committee on Small Business is holding hearings on those regulations. This is a very special opportunity for Congress to help the Environmental Protection Agency with timing on these underground storage tank regulations.

There are some warning signs. Large petroleum marketers owning from 100 to 1,000 tanks have faced the deadlines this last week, and only 50 percent could afford the insurance involved. Our concern that 50 percent of the big marketers cannot afford this coverage should be for rural American small business operators. What happens to them?

We should request that the Environmental Protection Agency delay the process. Let the States have time to assist underground tank owners in finding the environmental risk, and then through tank testing and upgrades, improve the position.

Mr. Speaker, I am absolutely convinced that help with underground tank owners in analyzing their problem can assist them in then buying insurance. In that way we protect the environment without closing over one-half of America's small service stations.

NO SURVIVORS FROM ALOHA ISLAND AIR FLIGHT 1712

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, on Saturday evening, Aloha Island Air Flight 1712 departed from Kahului, Maui, bound for Hoolehua, Molokai. What was to be a short 20-minute hop turned into a nightmare. Flight 1712 never made it. It crashed into a mountainside on a remote northeast coast of Molokai. There were no survivors.

The crash claimed the lives of 20 people—13 were Molokai residents, 8 of whom were members of the Molokai High School volleyball team, returning from matches on Maui.

I am always shocked and saddened to hear of such tragic accidents, but this one touched me like no other, for onboard flight 1712 were bright and promising students full of hopes and dreams.

My heart goes out to the families and friends of those lost, and I pray that they will seek solace in the loving memories and good times shared.

This tragedy sent shock waves across my State, but in particular, it has been devastating to the people of Molokai. Molokai is a special island comprised of a small, close knit community where neighbors and friends of all ethnicity are embraced as ohana or family. Every resident of the island grieves over the loss of their loved ones.

I extend my sincere condolences and sympathies to the families of the passengers of flight 1712. I share in your sorrow; and I pray that the Almighty comforts you and gives you strength during this most difficult of times.

□ 1230

LEGISLATION MANDATING AIRLINE ACCIDENT PREVENTION PROGRAM

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, today I am introducing legislation which, for the first time ever, will establish systems to detect flaws and failures before air crashes like United Flight 232 in Sioux City.

The Sioux City crash is but another example of a preventable crash leading to still more tombstone technology proposals by both Government and industry experts.

The time is past to end the flying experiment mentality of waiting until an accident occurs before effectively addressing obvious problems.

It is a mentality developed over years of Government putting more stock in industry views than in the American flying public.

The American public can no longer accept statements that it is safer to fly than take a bath, when it learns a flaw in an engine that killed 112 people in Iowa may have been there when the engine was assembled.

The bill I am filing today mandates an aggressive problem detection and accident prevention research program.

The aviation community needs such a program.

The American flying public demands it.

THE MINIMUM WAGE MUST BE INCREASED

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker and colleagues, it is my pleasure today to rise once again in support of the legislation to increase the minimum wage. The minimum wage legislation is long, long overdue. It has not been increased since January 1981, when it went to $3.35 an hour, and, if my colleagues do not think an increase is justified, let me share with them some statements that really make the case.

Mr. Speaker, if the minimum wage kept pace with inflation since 1981, it would now stand at $4.57 an hour, and we are talking about raising it to $4.25 an hour in 2 years. Today the minimum wage is only 34 percent of the average, private, nonsupervisory wage. In the 1960's and 1970's it has traditionally stood at about 50 percent of the nonsupervisory wage rate. In the 1960's and 1970's a person could earn minimum wage in a full-time job and earn slightly more than what it takes to keep a family of three out of the poverty line. Today, however, the earnings of a full-time minimum wage worker with three children puts someone 29 percent below the poverty line.

Mr. Speaker, I think the case is compelling. The minimum wage must be increased, and I urge all of my colleagues that vote tomorrow to do just that.

A NEED FOR A BALANCED BUDGET

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, I rise to express my very real concern about the apparent inability of the Congress to responsibly deal with the budget and to move on into the pressing agenda for this country. Rather than forthrightly laying out a summary of authorized expenditures and projected revenues and then voting to establish priorities, we have played legislative games with all kinds of nonbudget issues, political priorities, and personal agendas. The people of this country deserve better than that.

First, Mr. Speaker, they deserve a straight-up hearing and vote on the budget, not on substantive legislative changes. Second, they deserve an open and honest summary of the budget situation, no mirrors, no smoke; tell it like it is. Finally, they deserve to have a process that is done in a timely fashion and not have the budget held hostage to avoid dealing with nonbudget items which have the support of the majority of the Members, but not the support of the leadership of the majority.

Above all, Mr. Speaker, we need a balanced budget. What we are doing is not a process conducive to good government. We deserve better.

WHICH IS IT, MR. PRESIDENT?

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. President, close your eyes. See this? $25 thousand.

All this green; that is what you are going to give your wealthy friends with your capital gains cut—$25 thousand.

See this, Mr. President? This is a silver dollar. This is what you would not give to all those living on a minimum wage right now. You refuse to give them this, or a little bit more.

So, Mr. Speaker, now we are going to debate in the next day or two and hopefully pass, probably over the President's objections, a minimum wage that gives them 90 percent of this silver dollar.

Twenty-five thousand dollars versus 9 cents. I ask the President, "Which is it, Mr. President? Are you going to make it wrong to be poor in this country and try to help yourself out, or are you going to try and let the people who want to work, work with a dignified wage?"

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCDERMOTT). The Members will be reminded that the rules of the House require that Members address the Speaker.

THE NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, yesterday here in the Nation's Capital, President Bush participated in the ground breaking ceremony for the long awaited National Law Enforcement Officers Memorial. I want to commend the President for his endorsement of this worthy project. But more importantly, I want to pay my respects to those fallen officers who are memorialized by this monument.

So often, we take the well of this chamber to call for more police, more arrests, and more tough law enforcement laws. Yet, too often we forget about the danger and threat of injury to all those who serve as peace officers. Sheriffs, U.S. Marshals, State troopers, Federal agents, and all the local officers put their lives on the line day in and day out. And with the illegal drug industry growing at an alarming rate, these officers are put in increased danger.

Over 1,500 law enforcement officers have been slain in the line of duty during the past decade. Almost 600,000 have been assaulted. It is an ugly fact that these numbers will increase. We should respect, honor, and commend those officers for their service to our Nation. The National Law Enforcement Officers Memorial will do this.

The Memorial, which was authorized by Congress in 1984, is a privately funded project whose sole purpose is to honor law enforcement officers. The Memorial will remind us all that the work done by officers of the peace should not be taken for granted, that their sacrifices have bettered our society and our Nation. In addition, the Memorial will offer to the families of the fallen officer the peace of mind in knowing that their loved ones did not die in vain. I was pleased to serve as an honorary member of the National Groundbreaking Committee and I am pleased to support this worthy memorial.

THE CATASTROPHIC HEALTH CARE ACT BEING HELD HOSTAGE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, it is Halloween today, and I hope that the U.S. Congress is not on its way to playing a trick on our Nation's senior citizens.

Not too long ago we heard urgent talk of repealing the Catastrophic Health Care Act because it is unfair and our senior citizens said loud and clear that they did not want it. We turned their talk into action by voting overwhelmingly in the House of Representatives to repeal the catastrophic health care law. We heard the people and reacted.

Mr. Speaker, there is one big problem. The job is not finished. The repeal of the Catastrophic Health Care Act has apparently slipped into some type of legislative oblivion. It seems to be being held hostage in the other body.

The fact is that we did tell our Nation's seniors that we would repeal this discriminatory law, and then we voted amid great fanfare to do so, and now they assume that we are going to be true to our words.

Mr. Speaker, if we fail to resolve the issue of catastrophic health care during this session of Congress, the Nation's seniors will come knocking at our doors around this time at Halloween next year, and they will have a trick of their own in store for us.

THE CHESAPEAKE AND OHIO CANAL DEVELOPMENT ACT

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, today I am introducing legislation to amend the Chesapeake and Ohio Canal Development Act and to make certain changes relating to the Park Citizen Advisory Commission.

The authorization for this Commission is slated to expire in January of 1991, and I want to extent it for an additional 10 years.

The C&O Canal is a unique American cultural resource, and in its infancy it was the child of George Washington who persisted in seeking a waterway to the West to encourage early American commerce. As early as 1774 Washington formed a company to improve navigation on the Potomac River. The canal reached its western terminus in Cumberland in 1850.

Today, Mr. Speaker, this thin, 184-mile stretch of canal and towpath are protected as part of our national park, and the park plays host to over 2 million visitors annually.

□ 1240

For the last 20 years this resource has been protected by the caring park superintendents and nurtured by a Volunteer Citizens Advisory Committee. This Commission has guided the park through its creation, through numerous projects and created an outstanding national treasury that exists today.

It is in this spirit that I ask the House to extend this authorization of the Commission, and I hope my colleagues will cosponsor this legislation.

TRICKED OR TREATED?

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, today, Rockefeller Center.

Yesterday, Columbia Pictures.

This year, $100 billion in U.S. banking assets.

And the list rolls on of Japanese acquisitions in the United States.

No one seemed to mind the purchase of a tire company. Real estate—everyone knows the United States has over 3 million square miles, so what does it matter if the Japanese buy a little? Joint ventures—what difference if the Japanese are financing all but one of the United State's major steel companies?

But now—our cultural institutions are being plucked.

Moving pictures are as American as you can get. Columbia Pictures is a repository of our culture. Now we don't own it.

Rockefeller Center, with the Radio City Music Hall, has been a mecca of American tourists. And now we don't own it.

Will the Rockettes become Geishas?

Will any one mind if they evict David Letterman or Phil Donahue?

And will we wake up tomorrow—All Saints Day—and find out our allies are not saints and, instead of being treated, we have been tricked.

WAITING FOR DANIEL ORTEGA'S DECISION ON CEASEFIRE

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, on December 13, 1987, the dictator of Nicaragua, Daniel Ortega, said, "If we hold an election in Nicaragua and by chance the Sandinistas were to lose that election, we will give up the government, but we will never give up power."

Well, Mr. Speaker, on this Halloween, we are sitting here anxiously awaiting the decision of Daniel Ortega as to whether or not he will, in fact, bring about an end to that cease-fire that has been in existence for 19 months.

The arrogance of standing up to the free world is reprehensible. He has learned from Wojciech Jaruzelski in Poland and Manuel Noriega in Panama that you cannot hold an election and survive if you are imposing this kind of totalitarianism on the people.

Mr. Speaker, let us see a free and fair election on February 25 and let us see every Member of this House work to apply pressure to insure that it does take place.

A DARK DAY IN THE HALLS OF THE SENATE

(Mr. STANGELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STANGELAND. Mr. Speaker, several weeks ago several foolhardy Members of the Senate had the audacity to suggest a challenge to the House in the genteel game of contract bridge. As captain of the distinguished House team, I polled our Members who relished such a prospect. Due to our international experience, we felt that the result would be a foregone conclu-

sion, but due to our deference to the other body, we responded with restrained dignity. Our squad represented by JIM BUNNING of Kentucky, BOB KASTENMEIER of Wisconsin, JIM LEACH of Iowa, HOWARD NEILSON of Utah, BOB SMITH of Oregon, and myself as captain, routed our colleagues in the other body. Even though we lent our adversaries one of our finest pairs, HANK BROWN of Colorado and LYNN MARTIN of Illinois. Senate hopefuls—the Senate team captained by RUDY BOSCHWITZ of Minnesota, and including THAD COCHRAN of Mississippi, JIM JEFFORDS of Vermont, and BOB PACKWOOD of Oregon, could not rise to the occasion, undoubtably because they were further disadvantaged by the fact that staff was not present. It was a dark day in the Halls of the Senate. As captain of the House team I was proud to accept the winners trophy donated by Kathie Wei, coach of the Senate team and world champion. In closing, I want our friends in the other body to know that we are ready, willing, and able to defend this championship, anytime, anywhere.

THE NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL WILL BE A LASTING SYMBOL TO OUR VALUED PEACE OFFICERS

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise to recognize the service and sacrifice of our law enforcement officers across our country, and to recognize the importance of the National Law Enforcement Officers Memorial as a lasting symbol of this uniquely dangerous and demanding profession. Yesterday, I was privileged to join with hundreds of police officers, as well as the families of officers slain in the line of duty, as the President broke ground at the memorial site here in Washington at Judiciary Square. In addition to the President's compassionate speech, I was moved by the presentation of Vivian Eney, president of Concerns of Police Survivors, and impressed with the coordination of the ceremony by Craig Floyd, chairman of the National Law Enforcement Officers Memorial Fund, and the members of his staff.

Mr. Speaker, a law enforcement officer is killed in the line of duty in America at a shocking rate of one every 57 hours. A total of 30,000 officers have been killed in our Nation's history. It is the names of these 30,000 officers that will be carved on the granite walls of the memorial. For all the survivors, this memorial will stand as a tribute and reminder to the dedication, courage, and ultimate sacrifice of their loved ones. For active law enforcement officers, this memorial will continue to demonstrate to them that their exemplary work and dedication are not only highly valued, but also fully recognized.

This will be the first national memorial to commemorate our law enforcement officers who risk their lives daily to protect the public. It is long overdue and richly deserved. I look forward, with great pleasure, to the unveiling of the completed memorial on Peace Officers Memorial Day, this coming May 15.

DANIEL ORTEGA NOW BIGGEST BOOSTER FOR CONTRA AID

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the biggest booster for Contra aid is not President Reagan, President Bush or any Member of the minority, it is Daniel Ortega.

Mr. Speaker, in one fell swoop Daniel Ortega, threatening to eliminate the cease-fire that has been negotiated by Central American Presidents, by the majority and the minority of the Congress, he is right now on the verge of persuading the Congress and the American people that aid to the Contras may be necessary.

We thought we had buried the military side of this war. We thought that the peace process was going to take effect and that in February the Nicaraguans would decide their own future, but in one fell swoop he has threatened the entire process.

Mr. Speaker, at one time President Ortega went to Moscow after a critical House vote. Then he went to Cuba. Now he is in the process of throwing the whole process away for purposes of possibly consolidating his own power.

Mr. Speaker, I understand he is making an announcement at 3 p.m. I can hardly wait to see what the next announcement will be.

LEVERAGED BUYOUTS

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, we have a very important piece of legislation that will be considered today in H.R. 3443 that gives the Secretary of Transportation the opportunity to review proposed leveraged buyouts in the airline industry.

Now, normally I would be opposed to any more Government interference into business or industry, but in the case of the airline industry, a very fragile one at best, we have a responsibility to the flying public.

Second, when the corporate raiders come in, they come in and seize the assets, they get all they can and get out, and they have no regard, as a general rule, for the well-being of the industry they come into.

In my district in Tulsa, OK, our largest employer is American Airlines. I believe American Airlines is the best run airline in the business. The king of corporate raiders, Donald Trump, has proposed to come in and take it over.

Mr. Speaker, it may be a game to Donald Trump, but it is no game to 10,000 families in Tulsa, OK, and 77,000 families throughout America who have their families at stake in this proposed takeover.

Mr. Speaker, I ask for support for H.R. 3443.

KICKOFF OF MEDIA CAMPAIGN, "DRUGS DON'T JUST KILL ADDICTS"

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revised and extend his remarks.)

Mr. SHAW. Mr. Speaker, earlier today I joined one of America's leading corporate presidents and several of my colleagues in the Capitol to introduce a national antidrug television advertising campaign.

It is timely and right, that one day after President Bush participated in the groundbreaking ceremony for the National Law Enforcement Officers Memorial, that we in Congress should have the honor of helping to kickoff this powerful media campaign entitled "Drugs Don't Just Kill Addicts."

From my own district of Fort Lauderdale, FL, to here in the streets of our Nation's Capital, law enforcement officers risk their lives each day to get the poison we call drugs off our streets.

Members Only, a leading apparel company, under the able management of Mr. Herb Goldsmith, has invested time and money, with the conviction that each corporate leader can make a difference in our war on drugs. Through his efforts, he has risen to be one of those thousand points of light, and I challenge corporate leaders in my district, my home State of Florida, and across the Nation to rise to this challenge as well.

□ 1250

ORTEGA JOCKEYING FOR POSITION TO CALL OFF ELECTIONS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I, too, am holding my breath for the Daniel Ortega 3 o'clock press conference to see what his Halloween surprise is. I think it is pretty easy to

analyze this person and what he is up to.

At the Jesse Jackson Chicago home, I once had the opportunity, unusual opportunity, of spending 4½ hours with Daniel Ortega, and I walked away with one overriding impression, that he was not very bright, but that he was a very fixed person on his goal of maintaining a Communist dictatorship in Nicaragua. His scheme is to merely jockey himself into position to call off the elections. His skunk-at-the-lawn-party analogy that President George Bush used, showing up in his Boy Scout military uniform at a meeting of 22 democratically elected people from all of the countries in this hemisphere backfired. So he may just back off and buy some more time at 3 o'clock.

I think he is jockeying to get into a position to call off the elections in February now that he is behind in the polls to the incomparable widow of the slain newspaper publisher, Dona Violeta Chamorro.

I am going down there on February 25, God willing, and I hope 50 Members of this body from both sides of the aisle will be there with me to make sure that there is a fair election this coming February 25 in Nicaragua.

TRIBUTE TO DANIEL R. DOTSON

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute.)

Mrs. MORELLA. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I am happy to yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Speaker, Daniel R. Dotson, a court reporter with the Office of Official Reports to House committees here at the House of Representatives, died at his home in Silver Spring, MD, on October 21, 1989 after a short illness.

He joined the staff of the House committee reporters in 1985 and quickly established himself as an invaluable member of their staff.

Dan reported hearings for all the committees of Congress and was especially proud of the fact that he was chosen as one of the official reporters for the joint House-Senate hearings on the Iran-Contra matter. Dan held many security clearances and reported hearings for the House Permanent Select Committee on Intelligence as well as classified hearings for the Committees on Foreign Affairs and Armed Services.

He was a member of the National Shorthand Reporters Association and held their Certificate of Merit, an award given on the basis of a high degree of skill and knowledge in written shorthand. Dan was known for his competence and was a well-respected reporter in the Washington metropolitan area for the past 20 years.

Dan was the father of two children, Erika and Dan, who live in Silver Spring, MD.

Everyone who worked with Dan will miss his upbeat personality, his delightful sense of humor, and his spirit of professionalism and commitment to his job. I know I can speak for the entire membership of the House in expressing our appreciation for his dedicated service to the House of Representatives and in extending our sympathies to his colleagues, friends, and family.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1990

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes, with a House amendment to the Senate amendment numbered 25, recede from the House amendment to the Senate amendment numbered 25, and concur in the Senate amendment numbered 25.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment No. 25: Page 20, after line 13, insert:

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $350,093,000, to remain available until expended.

During fiscal year 1990, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1990, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $75,000,000,000.

During fiscal year 1990, gross obligations for direct loans of not to exceed $88,600,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

Mr. TRAXLER (during the reading). Mr Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Michigan?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, under my reservation of objection, I rise to express my reservations about the action taken by the Senate in amendments Nos. 25 and 54 of this appropriations bill.

The Senate wants to spend more on this bill than had been allocated for this purpose. To raise an additional $104 million, the Senate increased the FHA loan limit for a one-family home from $101,250 to $124,875 in fiscal year 1990. The higher loan limit would result in higher premium revenue paid by borrowers.

The Senate's action caused a Budget Act violation which the House corrected last week by lowering the FHA loan guarantee ceiling. On October 27, the Senate reasserted its original position so that we are again faced with a bill which violates section 302(F)(1) of the Budget Act.

Mr. Speaker, even if we forced this contest to go for several more rounds, the final outcome is already evident. Compelling the Appropriations Committee to get a rule would only use up time and energy but it would not alter the final decision.

The Senate's action is bad policy and we should not allow this to set a precedent.

The Senate has legislated in an appropriations bill. Its action has a direct impact on the FHA insurance fund—the soundness of which has recently been questioned. The Senate's action does not represent a concern for housing but a concern for additional spending. In order to allow $104 million in additional spending, the Senate is using a backdoor device and creating $3.8 billion in additional loan guarantees which the Government must stand behind.

This is not good budget policy, housing policy, or legislative policy. I hope that today's action will not become a precedent for future action.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3015, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. LEHMAN of Florida. Mr. Speaker, I call up the conference report on

the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

The Clerk read the title of the bill.

Mr. SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 26, 1989, at page 26309.)

Mr. SPEAKER pro tempore. The gentleman from Florida [Mr. LEHMAN] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. COUGHLIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we bring before the House today the conference report on the fiscal year 1990 Transportation appropriations bill.

This year we had 144 amendments in conference—including 9 amendments to increase Government-wide funding to fight our war on drugs. I am pleased to report that the conferees have agreed to a resolution on all 144 amendments. The result is a package that I believe preserves a balanced transportation program for the Nation, and provides an additional $3.183 billion in much needed funding to step up this country's war on drugs.

ANTIDRUG FUNDING

Of the $3.183 billion in emergency drug funding provided in title IV, about $2.2 billion is made available for antidrug law enforcement and about $1 billion is provided for drug prevention and treatment. This is $1.1 billion more than requested by the President.

Title IV also contains Government-wide reductions in other programs to help pay for the drug package.

Also, as many Members know, there were eight separate antidrug legislative amendments inserted into this bill by the Senate. Subsequent to Senate passage of the Transportation appropriations bill, the Senate also passed a separate authorizing bill, S. 1735, that includes these very same legislative provisions. That bill, S. 1735, has been referred to the appropriate authorizing committees for action. In view of this, the Senate conferees for the Transportation appropriations bill receded on these eight legislative amendments.

The distinguished chairman of the full committee, Mr. WHITTEN will be prepared to address further the emergency drug funding package when we take up for consideration amendment number 136.

TRANSPORTATION APPROPRIATIONS

Mr. Speaker, with respect to the transportation items in this bill, the conference agreement provides a total of $11.969 billion in new budget authority and $14.967 billion in obligation limitations. This provides an aggregate transportation program level of $26.936 billion—an increase of $1.253 billion, or 4.9 percent over last year's level. The details of the conference agreement are described in the statement of the managers that has been printed in the record. But I would like to highlight several points.

First, the agreement provides an $852 million increase over last year—nearly 14 percent—for FAA programs.

Second, when combined with DOD funds that we expect will be agreed to, the Coast Guard will receive $161 million more in appropriated funds over last year—an increase of 5.2 percent.

Third, this bill continues Amtrak and our country's mass transit program at about $75 million below the current rate instead of being slashed by $2.2 billion under the President's budget proposal.

Fourth, our Nation's vital highway programs will receive over $13.9 billion in fiscal year 1990—including appropriations and exempt programs—which is over $1.5 billion more than the amount requested by the President.

Fifth, the agreement includes language banning smoking on virtually all domestic airline flights. The only exception is for flights to or from Alaska or Hawaii that are scheduled for over 6 hours.

Sixth, the agreement provides $31 million for essential air service subsidies in fiscal year 1990. This should save service to 90 of the 111 communities currently receiving subsidies. I think this is a fair compromise given budget constraints and the very high subsidy rates and low usage rates that are currently being funded.

Mr. Speaker, this has been one of the toughest bills I have had the privilege to manage. There have been some major compromises and very tough decisions to get to this point. In my judgment, it is the best bill that can be produced given the fiscal realities we face. It deserves the Member's support. I urge its overwhelming adoption today.

□ 1300

Mr. Speaker, I reserve the balance of my time.

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in very strong support of the conference report on H.R. 3015, the fiscal year 1990 transportation appropriations and emergency drug funding legislation.

Our distinguished chairman, the gentleman from Florida, Mr. LEHMAN, has done a fantastic job both in getting this bill to and through the conference, which is no easy task, and, as well, explaining the agreements which have been reached.

We were not all that far from the Senate in our compromises. So we were able to first save the vast majority of the essential air service flights; second, to fund the new Denver airport; third, to ban smoking on all flights of 6 hours or less; and, fourth, to provide for Coast Guard operations, FAA operations, transit operations and Amtrak operations and the accompanying capital expenditures to go with it.

Mr. Speaker, this bill is about $2 billion over the new section 302(b) allocation in budget authority and about $200 million in outlays.

The $2 billion overage comes from, first, the $1 billion in highway earthquake repairs that were carried in last week's further continuing resolution which are attributed to this committee and scored against our 302(b) allocation.

That money was urgently needed money, and I hope that we will not forego that money.

In addition, there is about $1 billion in drug money that is not fully offset.

I might say that the administration has no problem with the transportation section of this bill, and, in fact, they want the drug money. They have not come out with, issued any formal position on the overage and on the overall amount of the bill.

Mr. Speaker, then let me turn for a moment as the ranking member of the Select Committee on Narcotics Abuse and Control, to comment on the drug portions of the bill. This legislation would fund the Nation's drug effort at about $9 billion, $3 billion of which is in this bill. This is about $1.1 billion more than the President originally asked for but it was the amount that was approved by the Senate with the support of the administration.

Back on September 21 the administration transmitted their strategy to Congress. A week later, on September 27, the Senate voted to pass the DOT appropriations bill and the amendments necessary to carry out the provisions of the President's national drug control strategy.

The other body acted quickly and effectively.

When the conferees were named to this bill, I sponsored a motion to instruct the conferees to accept the Senate amendments as part of the entire package. A majority of the House agreed that these amendments were essential, voting 402 to 15 in support of that motion.

Last week, when the conference occurred, the funding which I have previously described was continued to be included in the bill, but the amendments, the authorizing amendments that were part of the President's package, were stripped out of the bill and

are now in various authorizing committees of this body.

In the course of those deliberations, my colleagues, I spoke with the Speaker, who assured me that the President's drug package, the authorizing legislation, would be considered by this House before the end of this session and we would have an opportunity to consider those pieces of legislation essentially as proposed by the President and passed by the Senate.

Mr. Speaker, I would urge that the committees bring those pieces of legislation to the floor promptly so that we are not delaying the implementation of the President's drug strategy, so that we are not sending a message to the American people that we are not serious about implementing the drug strategy, as well as sending the message to our gallant friends in Colombia and other nations around the world who are part of this fight.

We created the drug czar, my colleagues, to propose a strategy to us. The drug czar proposed that strategy. It was reported by the President, it was brought up to us by the President, it is time to act on these measures. And I hope that this body will act promptly in response to the action that has already taken place in the Senate.

Mr. Speaker, I reserve the balance of my time.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I want to say both to the gentleman from Pennsylvania [Mr. COUGHLIN] and to the gentleman from Florida [Mr. LEHMAN] that they have had enough of a challenge with this bill with the usual matters that are in it, trying to work out all the problems they had to stay within the 302(b) allocation. But in addition to that, they were thrown some extra problems with regard to the Drug Law Enforcement Program and other things they did not ask for.

I want to compliment them on the way that they worked out the bill and managed to get the bill back to the floor here after a conference.

The conference report includes about $3 billion in drug law enforcement and treatment funds that ordinarily would be in some other bills, most of it, of course, in the Commerce, Justice, and State appropriations bill that we had here on the floor last Thursday.

I do want to emphasize this: To get the total picture as to what we are doing in the drug law enforcement area, you have to look at that bill and this bill together. When you add the two together, you will find that in every instance we have at least equaled or in some instances exceeded the amount that the administration had requested for drug law enforcement fiscal year 1990.

□ 1310

I am pretty much in agreement with this package for fiscal year 1990. For fiscal year 1991, we need to shape a little bit different kind of a package and perhaps a larger package. However, the amounts that are in this bill together with the Commerce, Justice, and State appropriations bill represents, for a full year, approximately the same amount of money that would have been available if the fiscal year 1989 supplemental had passed for the balance of the last fiscal year. Therefore, the package, I think, is satisfactory for fiscal year 1990. We will need, however, to look at it again before we get to the fiscal year 1991 appropriations bill.

I want to say that I appreciate the subcommittee working out the problems with the drug law enforcement package, and to compliment the two gentleman on handling the bill.

Mr. COUGHLIN. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Speaker, I would like to commend the Appropriations Transportation Subcommittee for their hard work and diligence in putting together the bill we have before us today, the conference report on H.R. 3015, making appropriations for the Department of Transportation for fiscal year 1990.

I know that many, many hours went into the crafting of this legislation. And the subcommittee, under the able leadership of my good friends, Chairman BILL LEHMAN and ranking minority member LARRY COUGHLIN, has produced a workable funding measure.

I support the conference report and will vote for it because of the many positive and productive things it accomplishes for the transportation needs of this Nation and for the battle we are waging against drugs.

However, there is a very important and vital program that has been unjustifiably underfunded in H.R. 3015. This conference report deals a severe blow to rural America by chipping away at the Essential Air Service [EAS] Program.

The most recent battle on Essential Air Service began when the House subcommittee tried to gut the program by imposing a 60-percent cut—60 percent—as well as completely changing the way in which the eligibility for EAS subsidies is determined. In addition, alleged abuses were not eliminated with this unfair and poorly conceived formula.

The Senate, recognizing how vital Essential Air Service is to the mobility and economic survival of rural America, provided $35.5 million for the program in its version of H.R. 3015. This item was very contentious in conference. The House subcommittee, with most of its Members hailing from urban areas, would not allow for the full amount of funding, and a faulty compromise was agreed upon.

This compromise will allow $30.7 million for the program, but will discontinue EAS subsidies to 21 communities. For $34.5 million, only $3.8 million more than the conference allowed, each needy rural community currently receiving Essential Air Service subsidies could have retained them.

And where did we get this compromise? You may remember that the supplemental spending measure passed this spring contained a mandate that the Secretary of Transportation complete within 60 days of enactment a report to Congress regarding Essential Air Service.

The bill was enacted June 30, 1989. Therefore, the report was due on August 29. Only four Members received a copy of the report shortly before the conference committee met to resolve differences in this bill; the report was almost 2 months late, and its recommendations are what the conference committee accepted as a compromise.

Therefore, a report from DOT delivered nearly 2 months late is dictating a brand new formula for EAS eligibility.

We should have left the program intact this year, then all Members could have taken a closer look at the DOT report to assess the changes it proposes.

We did not get a chance to review this report before this compromise was forced upon us, but you can be sure that it will be carefully studied in the coming year, as I work with my colleagues, especially those on the authorizing committee, toward restoring subsidies to those needy communities that were eliminated under this bill.

I have agreed that the program needs to be tightened up and the abuses eliminated. However, the report language accompanying the bill before us today does not eliminate all abuses and does not retain subsidies for the communities that desperately need them for continued air service and for continued economic survival.

As recommended in the belated DOT report, 24 communities would be eliminated if they meet one of two criteria. The first criteria is included in the conference report language and eliminates communities based on mileage restrictions. If a community is less than 70 miles from a medium or large hub airport, 55 miles from a small hub airport, or 45 miles from certain larger nonhub airport, it will be eliminated from the program.

The second criteria is much more troublesome and arbitrary. Six communities will be eliminated because of

subsidies of more than $200 per passenger. According to DOT officials who will be carrying out the program, it was the Department's intention to eliminate these six communities without so much as one chance to renegotiate a subsidy to less than $200 per passenger. I ask you, my colleagues, is that fair?

I will lose two communities in my district because of the second criteria. These two communities, as are the other four eliminated under the second criteria, are well within the mileage limitations set by the first criteria.

For example, Sidney, NE, with a subsidy per passenger of $216—just over the limit—is more than 160 miles from the hub airport of Denver. But, because of an arbitrary decision, this community of about 6,000 is an isolated area of western Nebraska will lose its subsidy, and there will be no chance to renegotiate to meet the new criteria.

At this point, I would like to sincerely thank my colleagues, the gentleman from Illinois [Mr. DURBIN] and the gentleman from West Virginia [Mr. WOLF] of the subcommittee, who tried to persuade the conference committee to allow for the flexibility needed to renegotiate these subsidies.

I greatly appreciate their efforts and wish the other members of the conference committee could have agreed to a provision that would have allowed for the air carrier flying into Sidney to get its subsidy per passenger reduced to less than $200.

As I have pointed out, 21 communities will lose subsidies because of either proximity to other airports or an arbitrary per passenger subsidy cap. But, DOT recommended that 24 be eliminated. I am certainly not going to start pointing fingers on the House floor, but milage restrictions contained in the DOT report were changed in the 11th hour so that three specific communities, all close to alternative air service, will retain subsidies.

In the DOT report the conference committee used to eliminate these communities, it says, and I quote:

A subsidy-per-passenger cap may be an appropriate tool to eliminate the most excessive subsidy expenditures in the program, but it might not be appropriate for use as a primary measure to cut out points.

The report used also states:

The variable isolation standard is the single best measure of communities air service needs.

Yet the conference committee eliminated six communities, all within the mileage restrictions, because of a subsidy-per-passenger cap.

I am a member of the Appropriations Committee, and I am well aware of budget constraints and how difficult it is to put together these appropriations bills to try to keep all interests satisfied.

But there is no dearth of funds in this bill for some programs. For example, it is difficult for this Member to explain to Nebraska's taxpayers how this Congress can vote to provide $85 million for Washington Metro, more than double the budget estimate, while shortchanging an important rural program by a mere $3.8 million.

Although I will vote for the conference report because of the overall good it accomplishes, I do so with deep reservations. If the Metro had received $81.2 in funding, just 4 percent less than the large amount being provided, 21 rural communities would have air service next year.

I want to tell you that today I was advised that city and airline officials are going to pitch in to try to continue air service to Sidney until next year.

And you can be sure that I will begin work today to review this situation so that EAS assistance can be restored next year to Sidney, NE, and other communities that need the vital transportation link and economic development opportunities EAS provides.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. DURBIN], a member of the subcommittee.

Mr. DURBIN. Mr. Speaker, let me say at the outset that I want to applaud the fine efforts of my subcommittee chairman, and the gentleman from Florida [Mr. LEHMAN], and the Republican spokesman and minority leader on this side, the gentleman from Pennsylvania [Mr. COUGHLIN].

It was a difficult task this year for our subcommittee to come together. There were many divisive issues. I think we are presenting a product that will be a great source of pride to all in Congress, as well as to people in this country.

There is one particular issue in the conference report near and dear to my heart. In February or March of next year, airline passengers across America can start to breathe a little easier. This law will finally make it the policy of this land that on virtually every air flight, nonsmokers will be protected from the dangers of tobacco smoke. This is a historic day in the history of the House of Representatives.

We know from the medical and scientific evidence that secondhand smoke causes lung cancer, respiratory disease, and heart disease. It worsens the problems suffered by those already afflicted by these problems, and it creates an unhealthy work environment for the flight attendants and the flight crews that must be on these airplanes every day. It particularly threatens, in that confined environment, the lungs of babies and young children.

However, for decades the tobacco lobby in this town has stopped legislation calling for the sensible regulation of the use of tobacco. Over the past 3 years the Members of Congress have challenged this lobby. I am happy to report that with the passage of this conference report, the people of this country have finally won. Poll after poll has shown that by a margin of 2 to 1, the people of the United States of America support sensible regulation of the use of tobacco. Even smokers themselves have endorsed the extension of the ban on smoking on airplanes. Despite all the hurdles that have been thrown in our path by the forces who oppose this House legislation, a coalition of Democrats and Republicans came together to fight for this critical health issue.

We debate many life-and-death issues in Congress: assault rifles, drugs, AIDS. However, not one of these issues threatens the lives of as many Americans each year as our national addiction to tobacco. More than 1,000 Americans will die today in the United States from tobacco-related diseases. More than 390,000 will die this year. There is not another health challenge as great in terms of raw statistics and numbers.

However, our agenda must move forward from the regulation of smoking on airlines. There are other items that we must address. The one that I think is particularly noteworthy is the insidious recruitment of our children, by the tobacco companies, to become tomorrow's nicotine addicts. Fifty percent of the people smoking today started before the age of 16. Ninety percent before the age of 18. When these kids are the most vulnerable, the least likely to make the right choice, they are recruited by the tobacco companies, and they, then, have to face this challenge the rest of their lives; a challenge which, unfortunately, many of them will be unable to meet.

Today, the millions of Americans who have lost their loved ones to tobacco-related diseases have won a great victory. Those who suffer from asthma, heart disease, and respiratory problems are the real winners when this report passes. Also, the infants who are especially vulnerable in the airline cabins will get some protection. It will come about 96 days after this bill is signed by the President. Sometime in February or March of next year, the air will be a lot better on the airlines that serve America.

Mr. Speaker, at this point I would like to recognize those who helped make this ban a reality.

Mr. Speaker, I would like to take this opportunity to recognize the hard work of a large number of people and organizations who helped to make the ban on smoking on domestic airline flights a reality.

The following organizations were particularly active in the fight to ban smoking on commercial airline flights:

Coalition on Smoking OR Health.
American Cancer Society.

American Heart Association.
American Lung Association.
Association of Flight Attendants.
American Association for Respiratory Care.
American Medical Association.
Americans for Nonsmokers' Rights.

In addition to these fine groups, many other organizations were very supportive in this effort, including the following:

Action on Smoking and Health.
American Academy of Family Physicians.
American Academy of Pediatrics.
American Association of Dental Schools.
American Chiropractic Association.
American College of Cardiology.
American College of Chest Physicians.
American College of Obstetricians and Gynecologists.
American College of Preventive Medicine.
American Council on Science and Health.
American Dental Association.
American Diabetes Association.
American Licensed Practical Nurses Association.
American Medical Student Association.
American Medical Women's Association.
American Public Health Association.
American Society of Clinical Oncology.
American Society of Hemotology.
American Society of Internal Medicine.
Association for Nonsmokers-Minnesota.
Association of American Cancer Institutes.
Association of Professional Flight Attendants.
Association of Schools of Public Health.
Association of State and Territorial Health Officials.
Committee for Children.
Consumers Union.
Illinois Interagency Council for a Tobacco-Free Society.
Independent Union of Flight Attendants.
National Alliance of Senior Citizens.
National Coalition for Cancer Survivorship.
National Minority Health Association.
New Jersey Group Against Smoking Pollution.
Oncology Nursing Society.
Physicians' Committee for Responsible Medicine.
Public Voice for Food and Health Policy.
Smokefree Educational Services.
The Advocacy Institute.
Western New York Coalition Against Smoking.

Organizations are made up of individuals, and it is individual people who ultimately make the difference. It would be impossible for me to name every person who was involved in this effort. However, some people stand out because of their continual efforts on behalf of an airline smoking ban. If I have left anyone out, I apologize in advance and hope that any oversight will be forgiven. Among the most active people I am aware of are the following:

M. Arnita Hannon, American Lung Association.
Nancy Hailpern, American Cancer Society.
Mary Crane, American Heart Association.
Jo Ellen Deutsch, Association of Flight Attendants.
Cliff Douglas, Coalition on Smoking OR Health.
Matthew Myers, Coalition on Smoking OR Health.
Cheryl Brown, American Association for Respiratory Care.
Jayne Hart, American Medical Association.
Julia Carol, Americans for Nonsmokers Rights.
Anne Marie O'Keefe, Americans for Nonsmokers Rights.
Joan Wages, Association of Professional Flight Attendants.
Susan Lightfoot, American College of Obstetricians and Gynecologists.
Patricia Young, flight attendant.
Suzette Ahrendt, flight attendant.

A number of my colleagues in the House have played a special role in this fight, including the following:

Mr. Andrews of Texas.
Mr. Atkins of Massachusetts.
Mr. Bates of California.
Mrs. Boxer of California.
Mr. Chandler of Washington.
Mr. DeFazio of Oregon.
Mr. Hansen of Utah.
Mr. McDermott of Washington.
Mr. Mrazek of New York.
Mr. Oberstar of Minnesota.
Mr. Petri of Wisconsin.
Mr. Scheuer of New York.
Mr. Shumway of California.
Mr. Synar of Oklahoma.
Mr. Torricelli of New Jersey.
Mr. Visclosky of Indiana.
Mr. Walgren of Pennsylvania.
Mr. Wheat of Missouri.
Mr. Whittaker of Kansas, the cochair of our task force on Tobacco and Health.
Mr. Young of Florida.

Many staff members have also been very helpful, including the following:

Steve Ahnen (Mr. Whittaker).
Steve Blakely (Mr. Durbin).
Kaye Drahozal (Mr. Whittaker).
Tom Faletti (Mr. Durbin).
Caroline Gabel (Mr. Oberstar).
Harry Glenn (Mr. Young of Florida).
Jim Jepsen (Mr. Durbin).
Rondalyn Kane (Mr. Wheat).
Dave Kendall (Mr. Andrews).
Jim Kessler (Mr. Atkins).
Kim Koontz (Mr. Synar).

The domestic smoking ban is a great victory for public health and safety. The American public owes a big "thank you" to all of these groups and individuals who worked so hard to promote the health and welfare of air travelers.

Mr. COUGHLIN. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. CONTE], the distinguished ranking minority member of the Committee on Appropriations.

Mr. CONTE. Mr. Speaker, I rise in support of the conference report on H.R. 3015, the transportation appropriations bill. This is the 10th conference report we have brought to the House floor. Maybe I should say the 10th and 11th, because it really is two bills in one: a $27 billion transportation appropriations bill and a $3.2 billion "war against drugs" bill.

We didn't have any say in the Senate's decision to piggyback the war against drugs initiative to the transportation appropriations bill, and I think Chairman BILL LEHMAN and ranking member LARRY COUGHLIN deserve extra credit for taking it all in stride and making both work. My good friend from Florida did yeoman's work, as usual, to make this a good bill, and I certainly appreciate his efforts.

My longtime friend and colleague from Pennsylvania deserves applause not only for his contributions to the transportation bill but also for taking the lead on the Senate's drug package. You have our thanks LARRY.

Mr. Speaker, one of the consequences of our eagerness to fight the war against drugs is the total mess it has made of our 302(b) allocations for transportation. CBO had trouble sorting out this one.

The $3 billion in budget authority that the drug amendment adds puts us $1 billion over our 302(b) allocation, but outlays are $7 million below the 302(b) target. CBO also counts the $1 billion disaster relief added to Federal highways for victims of the earthquake against the 302(b) allocation. That's another billion over. Lost in all this is the transportation bill itself, which with the drug offsets meets the original 302(b) allocation and is $43 million under in outlays.

The transportation bill is really the innocent bystander. It's fiscally responsible, even if the drug amendment and the disaster relief are not.

And it is a good bill. We took care of the Coast Guard—I made sure of that. It's funded at $3.23 billion including the $300 million transfer from Defense. That's $100 million over fiscal 1989's level, and includes $690 million in drug interdiction activities requested by the President.

We took care of railroads too. Amtrak is getting nearly $614 million, $85 million of it for much-needed capital improvements which will help them increase their revenues. We've included nearly $7 million for local rail service assistance, which helps small railroads improve their tracks. this weekend I'll be visiting one of the many short-line railroads which has been given new life by this program.

The only thing we were not able to accomplish was funding the 511K loan guarantee program for railroads. That's a good program which many railroads could use, but we had no guarantee authority in the House allocations.

We increased the FAA's funding $950 million above last year's level. That money is going into safety and security of our airways as well as for increased capacity. We also funded the President's Commission on Aviation Security and Terrorism at $1,000,000.

We have even managed to establish some reasonable limits on the essential air service. The per passenger subsidy is capped at $200, and no airports within 70 miles of a major hub are eligible for assistance. That means that any community which is no longer eligible for EAS is just an hour and a half away from alternative service.

29-059 O-90-6 (Pt. 19)

Mr. Speaker, we have a good conference report before us—notwithstanding the budget complications. I urge my colleagues to support it.

□ 1320

Mr. LEHMAN of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. PAYNE], for purposes of colloquy.

Mr. PAYNE of Virginia. Mr. Speaker, I want to commend the chairman of the subcommittee, the ranking minority member, and the other members of the Appropriations Committee on all they have done to bring this bill before the House today. This piece of legislation will greatly fulfill the transportation requirements of our Nation, and I am looking forward to supporting this bill.

However, before we vote on this piece of legislation, I would appreciate if the gentleman could clarify which airports will receive essential air subsidies. In the CONGRESSIONAL RECORD of October 26, 1989, page H7698, a list of airports that will continue to receive essential air service subsidies under this appropriation bill was printed. I noticed that Danville, VA, was not included in that list, and I would appreciate if we could address this issue.

According to the criteria established in this bill, an airport that is 70 or more miles away from a medium or large hub, is 55 miles or more away from a small hub, and receives less than $200 in passenger subsidies will still receive essential air subsidies in fiscal year 1990.

Danville, VA, fulfills all of these requirements. Danville receives $10.78 in subsidies per passenger per flight. It is 65.9 miles away from the Piedmont Triad International Airport in Greensboro, NC, which the Department of Transportation classifies as a small hub, and it is more than 70 miles away from Raleigh/Durham Airport, a medium hub. The Department of Transportation has been using map readings to determine the distance from Danville to Greensboro, and their estimation of 53.9 miles is incorrect. The Danville Police calibrated this distance by driving the shortest possible way from the city hall in Danville to the Greensboro Terminal. I would be pleased to submit their results for the record.

The volume of air travel at the Danville Airport is at an all-time high. Since 1983, the number of flights has increased from two flights per day to six flights a day in 1989. In 1988, there were 19,568 passengers at the Danville Airport. We expect the total number of passengers to increase to 20,200 in 1989. Also, the per passenger subsidy has decreased drastically since 1983. In 1983, Danville received $130 per passenger per flight. We certainly have come quite a way to decrease this amount to less than $11. If Danville loses its subsidy, we stand a very good chance to lose service. This would have a very negative impact on economic development throughout southside Virginia, an area that very much needs that kind of economic development.

Mr. Chairman, in light of the criteria in H.R. 3015, should the list of airports receiving essential air subsidies be corrected so that the Danville Airport will continue to receive support under this program?

Mr. LEHMAN of Florida. Mr. Speaker, if the gentleman will yield, I commend the gentleman for the very thorough analysis of the problem. His data certainly appears to be persuasive. While we are not in a position to make the ultimate judgment on this, I do believe that the Department of Transportation should carefully consider the data you have presented and make appropriate adjustments for Danville in their rulemaking, if required.

Mr. PAYNE of Virginia. Mr. Speaker, I wish to thank the gentleman from Florida [Mr. LEHMAN], for his consideration of this important matter to Danville, VA.

Mr. Speaker, I include the following letter for the RECORD:

DEPARTMENT OF POLICE,
Danville, VA, March 7, 1988.

To Whom It May Concern:

On March 6, 1988 we, Patrol Officers R.A. Ruis and C.S. Brown of the Danville, Virginia Police Department, checked the distance from City Hall in Danville, Virginia to the City Hall in Greensboro, North Carolina. The route used was U.S. 29 South to Summit Avenue to the downtown area and Green Avenue to the Greensboro, North Carolina City Hall. The total number of miles from the Danville City Hall to the Greensboro City Hall is 46.3 miles.

The distance was then checked from the Greensboro, North Carolina City Hall to the terminal building at the Greensboro, North Carolina airport utilizing Summit Avenue, Wendover Avenue and Interstate 40 to N.C. 68 and then to the airport. The mileage from the Greensboro City Hall to the Greensboro Terminal Building was 20.6 miles, for a total of 66.9 miles.

The mileage was checked from the Geensboro Terminal Building to the Danville, Virginia City Hall by traveling North Carolina 68 to Interstate 40 to U.S. 29 into Danville. The mileage from the Greensboro, North Carolina Terminal Building to the City Hall in Danville, Virginia is a total of 65.9 miles.

Danville Police Unit #611, which has a calibrated speedometer, was used to check the mileage.

I/we certify the above information to be true and correct.

CHRIS BROWN.
R. ALLEN RUIS, Jr.

Mr. COUGHLIN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], a member of the committee.

Mr. DELAY. Mr. Speaker, I rise in strong support of the conference report on H.R. 3015, the transportation appropriations bill. I want to commend my chairman, BILL LEHMAN, my ranking member LARRY COUGHLIN, and my subcommittee colleagues for producing such a good bill.

This bill adequately meets the needs of the various components of our national transportation system. The concerns and funding requirements of the FAA, the Coast Guard, UMTA, the Federal Highway Administration, the National Highway Transportation Safety Administration, and the Federal Railroad Administration have been listened to and met.

I particularly want to commend the conference for including funding for the Houston Metro System. This bill appropriates $65 million for the Houston Metro and its proposed light rail system. A comprehensive public transportation plan for Houston is needed in our growing city and is widely supported by the local population; additionally, the subcommittee has consistently supported the development of the efficient Houston Metro System as a model for other cities to follow. I greatly appreciate this support for Houston.

Mr. Speaker, the smoking ban issue in this bill has attracted a great deal of public attention; the conference agreement bans smoking on flights of up to 6 hours. The fervor surrounding this issue has created the widespread, but mistaken, impression that banning smoking is the sole and complete solution to the cabin air quality problem. I urge the subcommittee as well as the airlines to continue to examine other causes of cabin air quality problems, as the ongoing DOT study is doing.

I urge my colleagues to favorably consider the conference report on H.R. 3015.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL of Colorado. Mr. Speaker, I rise in strong support of the antidrug provisions in the conference report for transportation appropriations, and congratulate my colleague, the gentleman from Florida [Mr. LEHMAN], and the gentleman from Pennsylvania [Mr. COUGHLIN] for their leadership and helping to provide some serious money to fight a very serious drug war.

The increased emphasis on drug abuse and prevention are of special interest to me. Although we all know that better law enforcement and drug interdiction initiatives are important, and I support these, the war on drugs will not be won in the jungles of South America or on the high seas or at our borders or in our streets in our home towns. It will be won through a national awareness in our schools, in our churches, and in our families, that we cannot tolerate a situation in which 5,000 Americans try cocaine for the first time every day.

My own family's tragedy of drug abuse brings the problem home for

me. My father was an alcoholic for 40 years, my sister died of an overdose, and many of my relatives on the reservation have died of alcohol or drug abuse, or a combination of both.

We have the opportunity today to place the emphasis in the war on drugs where it belongs, on education and prevention efforts in our schools, our neighborhoods, and our communities.

I urge my colleagues to support the increased funding for drug abuse programs contained in this report.

Mr. COUGHLIN. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas, [Mr. HAMMERSCHMIDT], the very distinguished ranking member of the Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise to join my distinguished colleague Mrs. SMITH to express my own disappointment about the treatment of the Essential Air Service [EAS] Program in this conference report.

The EAS Program is a very small program—in the context of the DOT budget—but a very important program for many small communities and rural areas. Only about $30 million per year goes to support Essential Air Service. Yet this provides important benefits to many communities and their citizens.

Despite these benefits, the House Appropriations Committee continues to chip away at this program. A few months ago, in the emergency supplemental, it eliminated six communities from the program. Now, in this bill, it eliminates 21 more.

What is even more disturbing is the way this was done. The criteria for cutting communities are set forth in the statement of managers where it cannot be challenged or voted on by this body.

And what are we achieving by this drastic cut? For all the hardship this will cause in rural areas, we are only saving a relatively small amount. This is a trivial sum in the DOT budget.

I urge Members who represent small communities and rural areas to let the Appropriations Committee know how important air service is to your area. Otherwise, we will probably see further cuts in the future.

The chairman of the Aviation Subcommittee, Mr. OBERSTAR, is to be commended for his support of the EAS Program. I would like to express my willingness to work with him and Mrs. SMITH of Nebraska in any efforts to preserve and enhance the Essential Air Service Program.

□ 1330

Mr. LEHMAN of Florida. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, before we act on this conference report extending and expanding the airline smoking ban to all domestic flights, I would like to call to the attention of the Members that this is being done in the absence of DOT recommendations on airline cabin air quality.

It seems to me that this is not a responsible way to legislate. The DOT study has been going on for almost 2 years and is the first comprehensive study of airline cabin air quality, covering not only sidestream smoke, but also carbon monoxide, aerosols, ozone, cosmic radiation, and other particles.

We will have wasted almost half a million dollars on a study we are not willing to wait a few more months for, in order to have reliable information on which to make a decision in this matter.

It is not likely that Congress will revisit this issue in the near future, and I think it is most unfortunate that we could not wait a few more months to get the results of this study.

Mr. COUGHLIN. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, previously in the discussion it has been indicated that this bill was inflated by the addition of significant portions of the antidrug program, and, as a matter of fact, the committee was at some pains to revise its 302(b)(A) limitations so that it could accommodate that drug program. This particular account was raised by over $1 billion.

Nevertheless, Mr. Speaker, when we get to amendment No. 136, the total amount of budget authority appropriated under this bill will be 2.113 over even the revised 302 limitations, and, as far as I am concerned, that is another one of our rules that we occasionally ought to try to stay with. Because we had never reduced anything when we come to our emergency add-ons, we get into this kind of trouble.

Mr. Speaker, it is always hoped that the Budget Act will give, or somebody will waive Gramm-Rudman or whatever, but I intend to make a point of order against this particular amendment, and it is my hope that that point of order will be sustained.

Mr. Speaker, one of the reasons I do so is to call attention to the fact that this House is now working on a reconciliation bill. I expect that all of our appropriations will be passed by the time that reconciliation bill is passed. That reconciliation bill is going to have to sweep up all the loose pieces of this puzzle, is going to have to make up for the overspending of the Budget Act for the drug package, for the overspending in the highway allocations to take care of the earthquake disaster extra appropriations.

So, Mr. Speaker, I want the body to be on notice that I do intend to raise this point of order. The reason is so that we will all know that, when we complete all of the appropriating for the fiscal year, and I hope this includes supplementals, but perhaps that is a vain hope, that we will still remain within our budget resolution, within the 302 limits, as adjusted, and under the Gramm-Rudman targets for the year. If so, it would probably be unique in our history, but I am going to give it my best work.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I congratulate the gentleman from Florida [Mr. LEHMAN], the chairman of the subcommittee, and his ranking Republican, the gentleman from Pennsylvania [Mr. COUGHLIN], for really a good job. I know that they had extra duty because we have $3.18 billion in here, the drug package, that was tacked on to this bill, but they have done a good job in navigating the lines that were out there.

Mr. Speaker, I support the conference report. I do that with some hesitation because frankly I have some concerns over the way in which we are financing the war on drugs.

Mr. Speaker, it reminds me a little bit of my youth, visiting carnivals. They had a shell game. As my colleagues know, the object of the game was to try to find out where the pea was in the shell, under which shell, and that is how I picture what is happening with money today. It is very difficult to understand how we can continue to back away from coming to grips with some fiscal problems.

But be that as it may, it is a good bill. The $3.18 billion in here for drugs will finally fully fund the 1980 Antidrug Abuse Act. In fact, it has a little more money and would fully fund that act. We have not done that, and I regret that because there is no more serious problem in this country than drugs.

Mr. Speaker, we point to Colombia as a country that has lost its criminal justice system. Homicides are commonplace, however we do not have to look to Colombia to see what is happening to this country. Look at Washington, DC. I ask the gentleman from Virginia [Mr. WOLF], "It's what? 360-some homicides so far this year that are drug related?"

Mr. Speaker, we are losing our neighborhoods to the drug barons. We cannot afford to lose this war, and this is a major step forward.

So, Mr. Speaker, I want to thank my colleagues on the Subcommittee on Transportation of the Committee on Appropriations for doing a good job. This will mean fully funding our antidrug incentives. I just hope that we protect the Coast Guard in the process. The Coast Guard does a good job, and we need to protect their missions,

and I hope they do not get clobbered in the process.

Mr. COUGHLIN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in strong support of the bill, and I want to congratulate the gentleman from Florida [Mr. LEHMAN], the chairman, and the gentleman from Pennsylvania [Mr. COUGHLIN], the ranking minority member.

Mr. Speaker, this is a fair and a balanced bill. As the previous speaker, the gentleman from New Jersey [Mr. HUGHES] talked about, we have a great need with regard to the drug money. It has money in here necessay for the infrastructure for transportation and for air safety, and I would ask my colleagues for an "aye" vote.

Mr. Speaker, it is a good bill and a good conference report.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Colorado (Mr. SKAGGS).

Mr. SKAGGS. Mr. Speaker, I would like to express my support for the fiscal year 1990 transportation appropriations conference agreement. Our strength as a nation depends on a safe and efficient public transportation system. And this bill provides the critical funding to maintain and improve that system.

I would like to take a moment, Mr. Chairman, to highlight a few of the provisions which are of particular importance to my home State of Colorado.

First, this bill puts the new Denver International Airport on course. In addition to listing Denver as a priority for Airport Improvement Program [AIP] funding and increasing by $100 million the amount of discretionary money available for new capacity projects like Denver's, the bill approves $40 million in the FAA's facilities and equipment [F&E] budget to purchase the air traffic control equipment which will be necessary to operate the new airport. This $40 million, added to the $60 million in fiscal year 1989 discretionary funding approved recently by Secretary of Transportation Samuel Skinner, sends a clear signal that the Federal Government is behind the Denver-area project.

There is a good reason for this vote of confidence. Our new airport is the only major airport start planned for the next decade. Geographically located in the middle of the Nation, the airport will be the modern gateway to the new West, as well as the channel for much the air traffic from West to East. Yes, this new airport will be built in Colorado, but it will be used by citizens throughout the Nation and around the world.

In passing this bill, the U.S. Congress is joining Secretary Skinner in saying that we are going to expand our national airway capacity to keep pace with skyrocketing demand, and we need the new Denver airport and several more like it to do that.

Some of you may be aware that there were disagreements over Federal funding for the airport which needed to be resolved in conference. I would like to take a moment to thank my distinguished colleagues who worked hard to help craft the compromise which the conference adopted—the committee chairman; the distinguished ranking minority member, [Mr. COUGHLIN], the gentleman from Michigan [Mr. CARR], the gentleman from Pennsylvania [Mr. GRAY], the gentleman from Minnesota [Mr. SABO] the gentleman from Illinois [Mr. DURBIN], and the gentleman from New York [Mr. MRAZEK] have been especially helpful. I really appreciate their efforts and their flexibility.

Second, this bill includes $16 million for first phase construction of an HOV/bus lane on I-25 in the metro-Denver area. This marks the fourth consecutive year that Congress has approved funding for this important project, which is designed to address the Denver area's acute transit requirements as well as improve regional air quality. If we are going to make real headway in our fight for clean air, we must continue to encourage and support important mass transit projects such as this HOV/bus lane.

And finally, the bill gives the I-70/I-25 interchange priority listing for I-4R discretionary funds. This major intersection in the Denver Metro area, commonly called the "mousetrap" because of its poor configuration, is severely congested and poses a hazard to motorists. Reconstruction of this interchange has national as well as obvious local significance, because both of these roads are among the most heavily traveled north-south and east-west routes, respectively, in our Nation. Perhaps most important is the fact that I-25, unfortunately, is also a major national route for the transportation of hazardous materials. I am sure you will agree that we can afford nothing less than top quality roadwork and design when it comes to shipping hazardous wastes through our communities. I am grateful my colleagues have recognized the urgency of this situation and have agreed to give this crucial project priority consideration for funding.

I would like to again thank the committee chairman, and just add that I think when we talk about transportation, we have got to stress that there is no such thing as a "local" transportation project. Our Nation's infrastructure is a massive network of interconnected roads, bridges, airports, and highways. We all rely on a quality transportation system for our own personal convenience and safety. Our economic well-being—our trade and commerce—also depends on it. So, while I am happy we will be able to get to work on some projects which are critical to those of us who represent Colorado, they also benefit the whole Nation. For the very nature of an infrastructure is its interconnectedness—we all win, or we all lose. I think this bill takes some important steps in the right direction. I urge my colleagues to support the conference report.

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Mr. Speaker, I would like to thank the distinguished chairman for yielding time, and to congratulate him on the excellent work on this bill. If I may, I would like to have a brief discussion on a matter of great importance to the national aviation system.

As the chairman knows, this conference agreement includes an additional $100 million in discretionary Airport Improvement Program funding for new capacity projects. This money is critical to airports around the Nation, including the new Denver International Airport.

Am I correct in my understanding that the $75 million cut in overall AIP funds required to fund title IV drug programs would not affect discretionary reservations, in particular the added $100 million for air capacity projects?

Chairman LEHMAN of Florida. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. SKAGGS. If I may also, Mr. Speaker, express my support for the fiscal year 1990 conference agreement, our strength as a Nation depends on a safe and efficient transportation system. This bill provides critical funding to that end, and in particular puts the new Denver Airport on course.

I thank the distinguished chairman, the distinguished ranking member and the members of the committee for the extraordinary understanding and assistance and flexibility shown to me and the Representatives of Denver and my colleagues from the Colorado delegation, particularly the gentlewoman from Denver [Mrs. SCHROEDER] in our efforts to get this project on course.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Speaker, although I support this bill as a whole, I would like to express my strong concern for the severe adverse impact certain provisions in the Transportation appropriations bill, H.R. 3015, will have on my congressional district. The two provisions deal specifically with the exclusion of Brownsville, TX, as a community eligible for essential air service benefits and the elimination of funds for the Brownsville Railroad relocation project.

Brownsville, TX, a city in my congressional district, has been without passenger air service for the past 2 years. Through its designation as a community eligible for EAS payments, the city of Brownsville has been in constant pursuit of attracting airline serivces to reestablish air service to its city. As a result of the most recent conference agreement negotiations, the city of Brownsville, TX, is no longer eligible for EAS funds.

If one of the fears of airline deregulation was that smaller communities would be edged out of airline service, then this fear has become a reality in the case of Brownsville, TX. With the many economic blows the city of Brownsville has received in recent years, this is yet another setback from which it will have to recover.

Another program which now has seen a complete cut of funding is the Brownsville Railroad relocation project. Funds for this program have been carefully and completely extricated from this year's conference agreement. The Brownsville Railroad Relocation project is a key railroad infrastructure project that will allow the city of Brownsville, TX, to attract new industry and improve rail-highway safety. Completion of all phases of the project will permit removal of over 20 railroad-street intersections in a highly congested downtown area. The project is crucial to the future economic growth of the area and will greatly improve rail-highway safety. Year after year, the Brownsville Railroad relocation project has seen a steady trickle of funds to help relieve this serious problem. However, this year, funds have been completely cut off and important relief program has been eliminated. Why the committee has elected to cut these programs at the expense of the good citizens of Brownsville, TX, is simply unjust and unfair.

Again, I am very concerned with the proposed cuts in these two very important programs in my congressional district and the serious adverse impact it will have on the city of Brownsville.

I do want to take this opportunity to praise the committee for its positive work on the bill as a whole.

Specifically, as it pertains to the inclusion of $3.2 billion in funding for antidrug programs. Monies under this appropriations bill will be used for the three broad purposes of health and human services, education and law enforcement.

Because of the proximity of my congressional district to the United States Mexican border, increased support by the Congress for stepped up drug efforts are crucial. By our nation as a whole recognizing the serious problem we are facing in our war against drugs this is sending a clear message to my constituents that we are united in envisioning the day we can be a drug-free nation.

Mr. COUGHLIN. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I just simply want to take a minute to thank two Members of Congress, the gentleman from Illinois [Mr. DURBIN] and the gentleman from Kansas [Mr. WHITTAKER] for their work on this bill that has led to a virtual ban on smoking on airlines for flights within the domestic United States.

I think we have reached a point where we no longer have to prove that there is a harmful effect from smoking. It is enough that it is uncomfortable and that people have chosen not to have to put up with it. These two leaders of both parties have guided the rest of us to this conclusion. I think they are to be complimented for their leadership, and we all owe them a great deal of respect for the work that they have done.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the committee chairman for yielding me this time.

I also want to thank the committee for the terrific work they have done in this bill. They have taken limited dollars and done a tremendous balance in trying to repair things that needed repair, trying to build new things, and also trying to prepare the country for its needs in the 21st century.

We in Denver have appreciated their great patience with us and I think everyone in this body has appreciated the terrific juggling act they have done, as the Senate threw them curve balls and all sorts of other things came at them. I am sure they are happy to be here this day to have this thing concluded.

Mr. Speaker, I encourage everyone to support this conference report, and thank them for their vision and patience shown in this bill.

Mr. COUGHLIN. Mr. Speaker, I yield myself 30 seconds.

I want to encourage my colleagues to support this bill, both because of the very important transportation measures that it concerns, and also because of the very important drug funding measures that it has. This is one of the critical bills of this session of Congress, and I hope it will receive overwhelming support by the Members.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 3015, the Department of Transportation appropriations for fiscal year 1990 and I would like to commend the gentleman from Florida [Mr. LEHMAN] and the gentleman from Pennsylvania [Mr. COUGHLIN] for bringing this measure to the floor. I would also like to commend the distinguished gentleman from Mississippi, the chairman of the Appropriations Committee [Mr. WHITTEN] and the distinguished gentleman from Massachusetts, the ranking minority member [Mr. CONTE] for their efforts.

Mr. Speaker, H.R. 3015 provides $3.2 billion for emergency drug funding. This represents $900 million more than the President's request, bringing overall fiscal year 1990 appropriations to $9.4 billion. H.R. 3015 provides for an increase of $998.6 million in the areas of education, prevention, and treatment, and an increase of $2.184 billion for law enforcement.

Following the President's September 9, 1989, announcement of the national drug control strategy, antidrug sentiment has enjoyed a steady increase throughout our Nation. However, the war on drugs cannot oe won with good intentions alone. The desperately needed emergency drug funding, provided for in this measure, will help us fight the worst problem our Nation faces.

Mr. Speaker, I have long advocated that our war on drugs should be our No. 1 funding priority, and I am pleased that H.R. 3015 will add an important step in the rights direction. Accordingly, I urge my colleagues to join in support of this measure.

Mr. LEVINE of California. Mr. Speaker, I am very pleased to rise in support of the conference report on H.R. 3015, the transportation appropriations, and commend my colleagues on the conference committee for their diligence in including urgently needed funding for antidrug programs. In the face of administration footdragging, I am pleased that the committee took this decisive action to provide more of the funding necessary to fight the drug war.

Southern California is struggling with an epidemic of drug trafficking and violence. Tragically, Los Angeles is being called the drug capitol of the United States, leading the Nation in the importation, distribution, and manufacture of illegal drugs.

In the face of this deadly epidemic the Bush administration has failed to designate Los Angeles as a high-intensity drug trafficking area, which would entitle southern California to the additional Federal funding it desperately needs to fight illegal drugs. This failure on the part of the administration has had tragic consequences for the entire Nation, not just southern California. Los Angeles-based gangs are exporting drugs and violence to every other region in the United States, and have been identified trafficking drugs in over 50 major cities and even in rural areas where drug abuse previously has been largely unknown. As the administraton foot-drags, the entire Nation is swamped with a glut of cocaine, heroin, PCP, and methamphetamine, most of which comes in through Los Angeles.

H.R. 3015 includes an additional $3.2 billion for antidrug programs, including $2.1 billion for law enforcement activities, and approximately $1 billion for education and treatment programs. Funding for law enforcement will be used for grants for State and local law enforcement as well as for additional U.S. attorneys, U.S. marshals, FBI, DEA, and INS agents. Funding for education and treatment will allow additional grants to reduce waiting times for drug treatment, and provide additional funds for drug-free schools.

The situation in southern California demands that we take action. The administra-

tion's failure to designate Los Angeles as a high-intensity drug trafficking area is like fighting a rear-guard action, while surrendering the frontline to the enemy. I commend the conferees for their work, and urge my colleagues to support this legislation.

Mr. VENTO. Mr. Speaker, I rise in support of the conference report on H.R. 3015, the Department of Transportation appropriations bill for fiscal year 1990.

In addition to the transportation provisions of this bill, the conference agreement provides critically needed resources to fight the war on drugs. The legislation includes $3.2 billion for antidrug programs, an increase of $900 million over President Bush's request. While I applaud President Bush for declaring a war on drugs, the specifics of his battle plan left much to be desired. His initial proposal did not provide enough resources to adequately fight this national menace, it emphasized interdiction and enforcement at the expense of prevention and treatment, and it was proposed to be paid for by cutting other urban programs such as public housing and juvenile justice truly a contradictory inequitable funding source. The conference agreement addresses these deficiencies by substantially increasing antidrug funding without raising taxes and places a more equal emphasis on the demand side of the drug equation.

While this bill contains a number of important antidrug initiatives, I am particularly supportive of the increase it provides for an important program I authored in the 100th Congress to help pregnant women to stop using drugs. This bill provides an additional $45 million to the Office of Substance Abuse Prevention [OSAP] for its demonstration grant programs. One of these programs is the model projects for pregnant and postpartum women and their infants, based on the Drug Free Mothers and Babies Act I introduced last year.

Mr. Speaker, the facts about drug abuse in our Nation among pregnant women in particular are startling. Twenty million people in this country have experimented with cocaine in one form or another. Five million are regular users. A recent study found that 1 in every 10 mothers use illegal drugs during their pregnancies. This means that each year, 375,000 newborn babies are subject to health risks including premature birth, low birthweight, lack of development of the small intestine and brain damaging strokes.

Our future depends on our children. If we cannot provide a safe, healthy and drug-free environment for our children to grow up in, our future is gravely threatened. An increasing percentage of our Nation's children are unfortunately growing up disadvantaged, with inadequate nutrition, education, health care, and housing. These children are already at risk and susceptible to the added danger of drugs. Children born into a drug-infested environment, or worse yet, born addicted to drugs, have diminished changes of succeeding or even surviving in our society.

Mr. Speaker, this is not only occurring in our intercities and among the disadvantaged population, it is occurring in affluent and middle-class suburban areas as well.

Increased funding for OSAF demonstration grants is desperately needed. In fiscal year 1989, over 60 projects to help pregnant mothers were approved, yet funds were only available for 18 projects nationwide. Although I was glad to learn recently that one of these projects was in my community, I realized that many deserving projects throughout the Nation were turned down.

I urge my colleague to support this bill which will help pregnant women and other Americans free themselves from the stranglehold of addictive and life-threatening drugs. Our success in winning the war on drugs will hinge on our creativity, our determination and our willingness to commit adequate resources in this war. This goal seems elusive, nearly impossible to achieve. Passage of this bill today is an important step all be it a small step toward reaching that goal.

Mr. RAHALL. Mr. Speaker, I am in support of the conference report on H.R. 3015, Department of Transportation and related agencies appropriations for fiscal year 1990. I would like to take this opportunity to highlight several of the programs funded in this measure that are especially important to my home State of West Virginia.

The agreement provides $716 million for the Federal Railroad Administration for fiscal year 1990, including $613 million provided for Amtrak. This is $49 million—7 percent—more than the fiscal year 1990 level, and $655 million more than requested by the administration. Unfortunately, the Bush administration, like the Reagan administration, has failed to request funding for Amtrak. I am pleased that we in Congress are demonstrating that we have not forgotten those who rely so heavily on Amtrak. In West Virginia, the Cardinal not only supplies an important link in our transit system for West Virginians, it also brings people from throughout the country to enjoy the beautiful scenery and many recreational opportunities in our great State. This is important since tourism is our second largest industry.

The agreement also provides funding for programs administered by the Urban Mass Transportation Administration which also was not requested by the administration. The agreement appropriates $1.6 billion for the formula grant program which provides mass transportation capital and operating assistance to both urban and nonurban areas. This program is heavily depended upon by West Virginia's rural and urban transportation systems and provides the foundation for systems such as the Tri-State Transit Authority in Huntington. While the House bill provided $80 million more than the fiscal year 1989 level for this program, I am pleased that the conferees provided $20 million more than last year's level.

Also of great importance to the State of West Virginia is the essential air service [EAS] payments to subsidize airline service to smaller communities. The essential air service was created as part of deregulation to ensure that smaller communities would still have access to vital air transportation. Regrettably, the administration requested no funds for this program as well. The agreement provides $30.7 million for this program. While I am pleased that we in Congress were able to provide these funds, I am concerned that this level is below the $35.5 million necessary to fund this program adequately. I am also concerned that this program, like so many programs helpful for economic development, will also be slowly phased-out of existence. I hope we will gain the administration's support for this, and other such programs.

Five communities in West Virginia will receive EAS fuding. Two of these areas, Beckley and Bluefield, are located in my congressional district, and I can personally attest to the vital need for EAS support in these communities. Without the assistance provided by the EAS, the continuation of air service in southern West Virginia would be in severe jeopardy. At a time when we in the State are working so hard to address our poor economic situation and broaden our industrial and economic base, some of our greatest hopes lay with our growing tourism industry. The discontinuation of any air service in the State would be a severe blow to that budding industry.

The agreement also appropriates $282 million for the Federal Highway Administration. This is $116 million—69 percent—more than the fiscal year 1989 level, and $250 million more than the administration request. The bill also authorizes the release of $12.2 billion from the Highway Trust Fund for Federal highway grants to assist States in the construction and repair of the Interstate Highway System and secondary roads and bridges. West Virginia and the other States are dependent upon this assistance to maintain and improve this Nation's highway system. I am also pleased that the conferees have agreed to provide $10 million to make improvements on corridor G and $32 million to make improvements on corridor H.

Finally, the agreement includes $3.2 billion is fiscal year 1990 funding for programs to combat drug abuse. Combined with the funding provided in several other appropriations bills, this measure brings total antidrug funding for fiscal year 1990 up to $8.8 billion. This total is $900 million—11 percent—more than President Bush's total request. I think it is important that we make a serious commitment to both law enforcement and drug abuse prevention and treatment if we are going to win the war on drugs. This agreement reflects such a commitment.

I urge my colleagues to support this measure, which is not only of great importance to the transportation needs of all West Virginians, but indeed all Americans.

Mrs. LOWEY of New York. Mr. Speaker, across our Nation, drugs are destroying lives and threatening our children. They are making our streets and neighborhoods unsafe. They are overburdening local law enforcement officials and costing taxpayers millions of dollars.

Today, we have an opportunity to strike back against drugs and drug criminals. We have an opportunity to fight a real war against drugs—a war that will save lives, brighten the future of our young people, and make our streets safe to walk on again. We have the opportunity to make a difference in the lives of American citizens everywhere.

A few weeks ago, when President Bush unveiled his national drug control strategy, I applauded his personal commitment to fighting drugs, and I expressed support for many parts of his proposed antidrug strategy. Specifically,

I praised his efforts to fight narcoterrorists in the Andean nations of Colombia, Peru, and Bolivia. And I applauded his efforts to support our local law enforcement officials, who are on the front lines in fighting the drug menace.

However, I expressed my concern about the relative lack of attention his plan paid to the very important issues of keeping drugs out of our schools and providing additional drug treatment for those who are seeking help.

We cannot fight the drug war on one front or two fronts. We must fight the drug war on all fronts. That means providing funding and leadership and strong support for efforts to fight drugs abroad, strengthen local law enforcement, interdict drugs at the borders, provide additional drug treatment, and keep drugs out of our schools.

Mr. Speaker, a half-hearted war would be a cruel hoax. Drugs are the chief threat to our society today. It is our future that is at stake, and unless we are willing to fight an all-out war, the very future of our Nation will be at risk.

Fortunately, the bill we have before us today funds the President's commendable proposals to fight drugs abroad. But it doesn't stop there. It provides additional funds for local law enforcement. It provides additional funds for drug treatment. And it provides additional funds for keeping drugs out of our schools. In fact, the bill provides $900 million—or 11 percent—more than the administration's request. Importantly, it provides this funding by cutting programs of lower priority rather than increasing the Federal budget deficit.

But more important than the dollar figure is the fact that the legislation provides for an all-fronts attack on the drug war—an attack that goes beyond rhetoric and is really aimed at accomplishing what we say we want to do.

The Government cannot solve the drug problem alone. As President Bush has pointed out, we will need the active involvement of all American citizens—parents, teachers, students, employers, and health professionals. All American citizens will have to join together to fight the drug menace. But government must take a leadership role and move beyond rhetoric in initiating real action against drugs and drug criminals.

That is what this legislation is all about. President Bush deserves praise for his anti-drug proposals. And the Congress deserves commendation for building on these proposals and providing a balanced strategy that can really work. Fighting the drug war must be a high priority, and this bill makes sure that it is.

I urge my colleagues to join in reclaiming our streets, restoring our future, and providing a better future for all Americans. Let's get on with the task of building a drug-free America. Support the antidrug package.

Mr. ACKERMAN. Mr. Speaker, I rise in strong support of provisions contained in H.R. 3015, the Transportation Department appropriations for fiscal year 1990, that would provide $3.2 billion in funding for antidrug abuse programs. When added to sums already appropriated this year, funding for fiscal 1990 anditdrug efforts total $8.8 billion, $900 million more than requested by President Bush in his national drug strategy unveiled September 5.

I am particularly pleased that the measure provides $999 million in additional funding for drug abuse prevention and treatment programs, substantially more than sought by the President. It is clear that enforcement efforts alone, without matching efforts to reduce demand through drug treatment and community and school-based drug education, are not enough to reverse the destructive trend of drug abuse and its related crime. Professionals involved in drug rehabilitation agree that the demand for treatment is far outpacing their ability to deliver services. However, there is no existing data from which to determine the number of people who are denied treatment. The American Medical Association estimates that there is only one treatment space for every 10 intravenous drug users in the country, approximately 150,000 treatment slots to service nearly 1.5 million addicts.

I find it appalling that there are drug addicts who reach the point where they decide to take that courageous and frightening step of reaching out for assistance in kicking their drug habit, only to be told to come back in several months, or that there is no room available and a long waiting list. Before we can adequately address drug addiction in our society, we have to understand just how widespread the problem is and to what extent the desire for treatment goes unmet. That is why I offered an amendment which was incorporated into the Anti-Drug Abuse Act of 1988 to require the collection of statistical information on the number of people who have requested drug abuse treatment, but were denied help due to insufficient program capacity. When the data becomes available it will enable us to begin assessing the extent of the need to expand our capacity to provide drug abuse treatment.

More recently, I reintroduced H.R. 1041, legislation that would make unobligated Federal asset-forfeiture funds from drug trafficking available to the States in which they were seized for drug treatment and education programs. Use of forfeited funds in this manner would, in effect, make drug traffickers pay for the costs of programs to combat the addiction they have promoted, and to educate the public about the dangers and consequences of drugs. This would also reduce reliance on general tax revenues and lessen the need for new taxes to fund efforts to reduce the demand for drugs.

Today, we have an opportunity to assist the States and localities in providing desperately needed drug abuse treatment and essential expansion of prevention programs. H.R. 3015 earmarks $40 million for special grants to drug treatment programs to reduce waiting times for treatment. This addition raises today fiscal year 1990 funding for these grants to $65 million, $40 million more than requested by President Bush. I urge my colleagues to support passage of H.R. 3015.

Mr. DAVIS. Mr. Speaker, I rise in support of H.R. 3015, making appropriations for the Department of Transportation and related agencies for fiscal year 1990.

Very few Federal agencies have earned the recognition and genuine appreciation of the American public as has the U.S. Coast Guard. The praises of the Coast Guard have been sung repeatedly over the years while frequently the funding for even the most essential activities of this agency have been cut. I am happy to see that is not the case this year, and it follows on a year that ultimately turned out to be an increase for the Coast Guard. The appropriations cycles have been erratic, with a net plus in assets, but this has not provided a firm base on which the Coast Guard can plan its operations and maintenance of its core. It is critical that this steady level of funding continues so that the Coast Guard can concentrate on its personnel and its degenerating shore facilities.

Significant among those assets that must be sustained is one that is essential to the Great Lakes, the USCGC *Mackinaw*. This aged, yet still valuable vessel, is scheduled to begin the first phase of a 5-year service life extension. No other vessel is as perfectly suited to perform the task required of her to keep the Lakes clear during a severe winter navigation season, and there are presently no plans for a comparable replacement vessel. I am pleased to see the *Mackinaw* recognized for the valuable part she plays in an important area of our Nation's economy.

I am further pleased to see the provision that prohibits the use of any of the moneys in this appropriation act for the closure of Coast Guard search and rescue stations. The determination to save the threatened search and rescue stations is not just to protect those within my district, or to preserve an endearing bit of Americana. The local SAR stations are the heart and soul of the Coast Guard and we must make certain that current and passing priorities do not lose sight of their significance. This is not an effort to micromanage the Coast Guard with this prohibition. Ten years of in-depth experience with the Coast Guard's budget has revealed a distressing trend in decisionmaking. Both in the Anti-Drug Abuse Acts of 1986 and 1988, the Coast Guard was expressly prohibited from expanding its participation in the war on drugs unless it was fully funded by Congress. That has not been the case. The Coast Guard has continued to expand this mission, often by signing Memoranda of Understanding with other Federal agencies, totally unbeknownst to Congress.

Our message remains the same. As critical as the war on drugs is to all of us, there are other Coast Guard missions that are equally important to us and cannot be performed without the search and rescue stations. We cannot allow these stations to be sacrificed on the altar of a streamlined, glittery new Coast Guard that has forgotten the primary purpose of its existence.

There are also several specific items of concern in this act. The requirements for several reports should include distribution to the authorizing committees as well, in order to keep the same foundation of information behind the decisionmaking process faced by all four committees. I feel it is in the Coast Guard's best interest if we have an exchange of this information and I presume this will not be a problem.

Further, there is a provision that prohibits the use of funds appropriated in this act for the documentation of vessels. Since 1986 the Coast Guard has been collecting a documentation fee for all vessels that makes this lan-

guage obsolete. Last Congress, a new vessel identification system was created which depends upon the fees collected to establish it. If the Appropriations Committee continues to consider the collection of documentation fees as an offset to their outlays, the funds will never be available to develop this important and valuable system.

I note that in H.R. 3015, there is a reference to Public Law 92-75 in regard to the boat safety account. I would like to point out that this public law no longer exists. In fact, it was repealed, and then codified into chapter 131 of title 14 in 1983.

Although there are differences between our committees on the needs of the Coast Guard, I am happy to see that H.R. 3015, when combined with the additional funds from the Defense appropriations, will fully fund the Coast Guard at the level of the President's request. This agency deserves more than just our thanks for a job well done; it deserves a stable level of funding. Our faith in the Coast Guard has always been justified and I want the Coast Guard to be able to have the same faith in us. Please join me in supporting H.R. 3015, making appropriations for the Department of Transportation and related agencies.

Mr. PAYNE of Virginia. Mr. Speaker, I want to take this opportunity to comment on legislating the ban on smoking on airline flights in this appropriations bill. The Committee on Public Works and Transportation, which has jurisdiction over this issue, passed H.R. 598 on July 29, 1989. This bill would have permanently banned smoking on airline flights of 2 hours or less. The current ban is scheduled to expire in April 1990.

The Department of Transportation is presently studying the quality of aircraft cabin air. This study, which is costing the American taxpayer $750,000, is expected to be completed in February 1990. I am convinced that this study will show that there are other factors, and not simply cigarette smoke as many people would have us believe, that adversely affect the quality of air in aircraft cabins.

The Committee on Public Works and Transportation held an extensive hearing—almost 12 hours in length—on this issue. We came to what I believe is a fair compromise—in light of the fact that the Department of Transportation will be issuing its report in the very near future. I feel that by including this ban in this appropriations bill, we are ignoring the work that the Public Works Committee has done on this issue and are proceeding with a ban that is hardly fair to the entire traveling public.

I hope that we will not continue to throw away expensive reports before they are issued and ignore the work that has already been done on a matter simply to satisfy the wishes of special interest groups.

Mr. PANETTA. Mr. Speaker, I rise today in support of the conference report for H.R. 3015, the Department of Transportation approprations for fiscal year 1990. In particular, I rise in support of the moratorium contained in this bill which prohibits the use of Coast Guard funds to implement a proposed vessel traffic routing system for the California central coast.

In 1982, the Coast Guard proposed to establish a 5-mile-wide navigation fairway for vessel traffic off the central coast of California. Objections to this 1982 proposal were raised by the Minerals Management Service [MMS] as they believed the 5-mile-wide fairway may potentially exclude the development of oil in some areas. Unfortunately, MMS has succeeded in pressuring the Coast Guard to weaken its 1982 fairway proposal and narrow its originally proposed 5-mile-wide fairway to two, 1-mile-wide fairways.

The Coast Guard's new proposal, contained in the April 27, 1989, Federal Register, would route vessels in 1-mile-wide lanes through the area proposed for oil and gas development under lease sale 119. A recent study conducted by independent geologists has concluded that if lease sale 119 goes through, oil tanker traffic off the California central coast will increase by 41 percent.

When considering the Coast Guard's new proposal, it is important to keep in mind that the *Exxon Valdez* was only 1.6 miles out of its shipping lane when it hit Bligh Reef in Prince William Sound. In light of the lessons learned from the disaster at Prince William Sound and the looming 41 percent increase in oil tanker traffic for central California, it is absolutely preposterous for the Coast Guard to propose to route vessels through a treacherous obstacle course 1 mile from offshore oil rigs.

I applaud my colleague, Congresswoman BOXER, for initiating the fight against this proposed rule and was very pleased to join her and Congresswoman PELOSI in requesting that the Committee on Appropriations place a moratorium on implementing this rule for fiscal year 1990.

Clearly Congress, the administration, and concerned citizens will need this time to thoroughly investigate the risks this proposed rule poses to the sensitive marine environments of the California central coast. I am very pleased that the conferees for this appropriations bill have insisted on good stewardship of our coastal resources by accepting this moratorium.

I would like to express my appreciation to Chairman LEHMAN and all the conferees for their support of this moratorium and strongly urge my colleagues to support the passage of this bill.

Mr. ANDERSON. Mr. Speaker, I rise first to commend the conferees on providing substantially the amount needed by the Essential Air Service Program. I am, however, concerned at the criteria used to eliminate the 21 communities for which there is not enough money in the compromise agreement.

These criteria were developed by the Department of Transportation, and adopted almost verbatim by the conferees.

Thus, the conference agreement would impose DOT and Appropriations Committee criteria for those developed by the authorizing committee, the House Public Works Committee, and approved by a vote of 385 to 14 just 2 years ago, as part of the 1987 airport and airway reauthorization.

I, therefore, urge the Department of Transportation not to implement these cuts immediately, but to give the Public Works and Transportation Committee time to review the criteria and perhaps develop our own.

This is the proper way to conduct the business of the House.

Mr. COUGHLIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEHMAN of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 394, nays 21, answered "present" 1, not voting 17, as follows:

[Roll No. 319]

YEAS—394

Ackerman	Combest	Geren
Akaka	Condit	Gibbons
Anderson	Conte	Gillmor
Andrews	Cooper	Gilman
Annunzio	Costello	Gingrich
Anthony	Coughlin	Glickman
Applegate	Cox	Gonzalez
Armey	Coyne	Goodling
Aspin	Craig	Gordon
Atkins	Crockett	Goss
AuCoin	Darden	Gradison
Baker	de la Garza	Grandy
Ballenger	DeFazio	Grant
Barnard	DeLay	Gray
Bartlett	Dellums	Green
Barton	Derrick	Guarini
Bateman	DeWine	Gunderson
Beilenson	Dickinson	Hall (OH)
Bennett	Dicks	Hall (TX)
Bentley	Dingell	Hamilton
Bereuter	Dixon	Hammerschmidt
Berman	Donnelly	Hansen
Bevill	Dorgan (ND)	Harris
Bilbray	Dornan (CA)	Hastert
Bilirakis	Douglas	Hatcher
Bliley	Downey	Hawkins
Boehlert	Duncan	Hayes (IL)
Bonior	Durbin	Hayes (LA)
Borski	Dwyer	Hefley
Bosco	Dymally	Hefner
Boucher	Dyson	Henry
Boxer	Early	Herger
Brennan	Eckart	Hiler
Broomfield	Edwards (CA)	Hoagland
Browder	Edwards (OK)	Hochbrueckner
Brown (CA)	Emerson	Holloway
Brown (CO)	English	Hopkins
Bruce	Erdreich	Horton
Bryant	Espy	Houghton
Buechner	Evans	Hoyer
Bustamante	Fascell	Huckaby
Byron	Fawell	Hughes
Callahan	Fazio	Hunter
Campbell (CA)	Feighan	Hutto
Campbell (CO)	Fields	Hyde
Cardin	Fish	Inhofe
Carper	Flake	Ireland
Carr	Flippo	Jacobs
Chandler	Foglietta	James
Chapman	Ford (MI)	Jenkins
Clarke	Ford (TN)	Johnson (CT)
Clay	Frank	Johnson (SD)
Clement	Frost	Johnston
Clinger	Gallegly	Jones (GA)
Coble	Gallo	Jones (NC)
Coleman (MO)	Gaydos	Jontz
Coleman (TX)	Gejdenson	Kanjorski
Collins	Gephardt	Kaptur

Kasich	Myers	Shuster
Kastenmeier	Nagle	Sikorski
Kennedy	Natcher	Sisisky
Kennelly	Neal (MA)	Skaggs
Kildee	Neal (NC)	Skeen
Kleczka	Nelson	Skelton
Kolbe	Nowak	Slattery
Kolter	Oakar	Slaughter (NY)
Kostmayer	Oberstar	Slaughter (VA)
LaFalce	Obey	Smith (FL)
Lagomarsino	Olin	Smith (IA)
Lancaster	Ortiz	Smith (NE)
Lantos	Owens (NY)	Smith (NJ)
Laughlin	Owens (UT)	Smith (TX)
Leach (IA)	Oxley	Smith (VT)
Leath (TX)	Packard	Smith, Denny (OR)
Lehman (CA)	Pallone	
Lehman (FL)	Panetta	Smith, Robert (OR)
Lent	Parris	
Levin (MI)	Pashayan	Snowe
Levine (CA)	Patterson	Solarz
Lewis (CA)	Paxon	Spence
Lewis (FL)	Payne (NJ)	Staggers
Lewis (GA)	Payne (VA)	Stallings
Lightfoot	Pease	Stangeland
Lipinski	Pelosi	Stark
Livingston	Perkins	Stearns
Lloyd	Pickett	Stenholm
Long	Pickle	Stokes
Lowery (CA)	Porter	Studds
Lowey (NY)	Poshard	Sundquist
Luken, Thomas	Price	Swift
Lukens, Donald	Pursell	Synar
Machtley	Quillen	Tallon
Madigan	Rangel	Tanner
Manton	Ravenel	Tauke
Markey	Ray	Tauzin
Marlenee	Regula	Taylor
Martin (IL)	Rhodes	Thomas (CA)
Martin (NY)	Richardson	Thomas (GA)
Martinez	Ridge	Thomas (WY)
Matsui	Rinaldo	Torres
Mavroules	Ritter	Torricelli
Mazzoli	Roberts	Towns
McCandless	Robinson	Traficant
McCloskey	Roe	Traxler
McCollum	Rogers	Udall
McCrery	Rohrabacher	Unsoeld
McCurdy	Ros-Lehtinen	Upton
McDade	Rose	Valentine
McDermott	Rostenkowski	Vander Jagt
McGrath	Roth	Vento
McHugh	Roukema	Visclosky
McMillan (NC)	Rowland (CT)	Volkmer
McMillen (MD)	Rowland (GA)	Vucanovich
McNulty	Roybal	Walgren
Meyers	Russo	Walsh
Mfume	Sabo	Watkins
Michel	Saiki	Waxman
Miller (CA)	Sangmeister	Weber
Miller (OH)	Sarpalius	Weiss
Miller (WA)	Savage	Weldon
Mineta	Sawyer	Wheat
Moakley	Saxton	Whittaker
Mollohan	Schaefer	Whitten
Montgomery	Scheuer	Williams
Moody	Schiff	Wise
Moorhead	Schneider	Wolf
Morella	Schroeder	Wolpe
Morrison (CT)	Schuette	Wyden
Morrison (WA)	Schulze	Wylie
Mrazek	Schumer	Yates
Murphy	Sharp	Young (AK)
Murtha	Shays	Young (FL)

NAYS—21

Archer	Gekas	Sensenbrenner
Bates	Hancock	Smith, Robert (NH)
Bunning	Hubbard	
Burton	Kyl	Solomon
Crane	McEwen	Stump
Dannemeyer	Nielson	Walker
Dreier	Penny	
Frenzel	Petri	

ANSWERED "PRESENT"—1

Shaw

NOT VOTING—17

Alexander	Engel	Rahall
Boggs	Florio	Shumway
Brooks	Garcia	Spratt
Conyers	Hertel	Wilson
Courter	Molinari	Yatron
Davis	Parker	

□ 1404

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 1: Page 2, strike out all after line 3, over to and including line 14, on page 4 and insert:

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of Transportation, $56,470,000, including not to exceed $45,000 for allocation within the Department for official reception and representation expenses as the Secretary may determine.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, $1,090,000.

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Immediate Office of the Deputy Secretary, $470,000.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $6,120,000.

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Policy and International Affairs, $8,250,000.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $2,325,000, including not to exeed $40,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $2,300,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $24,700,000.

OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Public Affairs, $1,350,000.

EXECUTIVE SECRETARIAT

For necessary expenses of the Executive Secretariat, $835,000.

CONTRACT APPEALS BOARD

For necessary expenses of the Contract Appeals Board, $488,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $1,315,000.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

For necessary expenses of the Office of Commercial Space Transportation, $725,000.

OFFICE OF ESSENTIAL AIR SERVICE

For necessary expenses of the Office of Essential Air Service, $1,727,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $3,500,000, of which $2,600,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided*, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 5, after line 13, insert:

COMMISSION ON AVIATION SECURITY AND TERRORISM

For necessary expenses for the operation and expenses of the Commission on Aviation Security and Terrorism, to remain available until expended, $1,200,000, to implement the Executive Order 12686 of August 4, 1989.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$1,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent that Senate amendments numbered 6, 7, 15, 24, 65, 67, 68, 69, 70, 71, 80, 85, 92, 94,

95, 111, 112, 117, 122 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Florida?

There was no objection.

The texts of the various Senate amendments refered to in the foregoing unanimous consent request are as follows:

Senate amendment No. 6: Page 6, line 3, after "count" insert, "notwithstanding any other provision of law, and of which $25,000,000 shall remain available for obligation until September 30, 1991".

Senate amendment No. 7: Page 6 line 6, after "activities" insert "and not less than $168,467,000 shall be available for environmental protection activities".

Senate amendment No. 15: Page 8, line 2, after "damage" insert ": provided further, That the unexpended balances of the appropriation "Coast Guard Shore Facilities" shall be transferred to and merged with this appropriation, and remain available for obligation until September 30, 1993".

Senate amendment No. 24: Page 12, line 16, after "available insert; and the lease or purchase of one aircraft from funds available under this head, or prior year funds available under this head, or a combination thereof".

Senate amendment No. 65: Page 25, after line 17, insert:

CORRIDOR H IMPROVEMENT PROJECT

For the purpose of carrying out a demonstration of methods of eliminating traffic congestion, and to promote economic benefits for the area affected by the construction of the Corridor H segment of the Appalachian Highway System, there is hereby appropriated $32,000,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

Senate amendment No. 67: Page 25, after line 17, insert:

DES MOINES INNER LOOP DEMONSTRATION PROJECT

For the purpose of demonstrating the benefits of improved access for the revitalization of an underdeveloped portion of a cental city, there is hereby appropriated $2,800,000 to remain available until expended, for design, engineering, acquisition of rights-of-way and construction and realignment of roads from I-235 and Harding Road to Fleur Drive at the Des Moines Water Works in Des Moines, Iowa: *Provided,* That all funds appropriated, under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

Senate amendment No. 68: Page 25, after line 17, insert:

CORRIDOR G IMPROVEMENT PROJECT

For the purpose of carrying out a demonstration of methods of eliminating traffic congestion, and to promote economic benefits for the area affected by the construction of the Corridor G segment of the Appalachian Highway System, there is hereby appropriated $10,000,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

Senate amendment No. 69: Page 25, after line 17, insert:

CORNING BYPASS SAFETY DEMONSTRATION PROJECT

For the purpose of carrying out a demonstration of traffic safety and flow improvement, there is hereby appropriated $20,000,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

Senate amendment No. 70: Page 25, after line 17, insert:

SPRING MOUNTAIN DEMONSTRATION PROJECT

For the purpose of carrying out a demonstration project to improve Interstate 15 Spring Mountain interchange in Las Vegas, Nevada, for the purpose of demonstrating construction and reconstruction techniques available for replacement of a major intersection on a heavily utlized, urban transportation route, there is hereby appropriated $2,200,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

Senate amendment No. 71: Page 25, after line 17, insert:

MANHATTAN BRIDGE REPLACEMENT DEMONSTRATION PROJECT

For the purpose of carrying out a demonstration project to replace the Kansas River Bridge in Manhattan, Kansas, there is hereby appropriated $3,210,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway saftey construction programs.

Senate amendment No. 80: Page 28, after line 14, insert:

LOCAL RAIL SERVICE ASSISTANCE

For necessary expenses for rail assistance under section 5(q) of the Department of Transportation Act, as amended, $7,000,000, to remain available until expended: *Provided,* That notwithstanding any provision of sections 5(f) through 5(p) of said Act, from such funds $36,000 shall be reserved for each eligible State for the purposes of either section 5(i) or section 5(h) of said Act, provided that timely application is made in accordance with procedures employed by the Secretary, and the balance of such funds are reserved for use only under sections 5(h)(3)(B)(ii) and 5(h)(3)(C) of said Act: *Provided further,* That no State may apply for fiscal year 1990 funds under section 5 of said Act until such State has obligated all funds granted to it under said section 5 in previous fiscal years.

Senate amendment No. 85: Page 29, line 11, after "$615,000,000" insert ", of which $530,000,000 shall be available for operating losses incurred by the Corporation and for labor protection costs, and of which $85,000,000 shall be available for capital improvements. Funds made available for operating losses and for labor protection costs which remain unobligated as of September 30, 1990, may be available for capital improvements".

Senate amendment No. 92: Page 34, line 2, after "$31,809,000" insert ": *Provided,* That none of the funds provided in this Act shall be used to implement or enforce the April 25, 1989, Notice of Proposed Rulemaking, 'Major Capital Investment Projects'".

Senate amendment No. 94: Page 34, line 18, after "expended" insert ": *Provided,* That notwithstanding any other provision of law, of the funds provided under this head for formula grants, no more than $804,691,892 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended".

Senate amendment No. 95: Page 34, line 18, after "expended" insert ": *Provided further,* That notwithstanding any other provision of law, before apportionment of these funds, $16,554,033 shall be made available for the purposes of section 18 of the Urban Mass Transportation Act of 1964, as amended".

Senate amendment No. 111: Page 48, line 23, strike out all after "321." over to and including line 12 on page 49, and insert:

(a) Within 30 days after the date of enactment of this Act, the United States, acting through a duly authorized official, shall convey to the Saint Lawrence Seaway Development Corporation without consideration, all right, title, and interest of the United States, in the real property described in subsection (b) (and any improvements thereon) for the purposes of emergency response and any other purposes as the Administrator of the Corporation deems necessary.

(b) The real property referred to in subsection (a) is that property (formerly known as the Cape Vincent Coast, Guard Station, Village of Cape Vincent, Jefferson County, New York), which is described as follows: beginning at an iron pipe (meander corner) set in the shoreline of the Saint Lawrence River at the Northwest corner of the land either now or formerly of the Roat Estate Property also being at the Northeast corner of the former Arney parcel (Liber 453, page 402, recorded 8/21/45); thence running south 4° 13′ 48″ West a distance of 146.09 feet to a concrete monument set at the most Westerly Corner of the Roat Estate land; thence running South 39° 26′ West a distance of 112.05 feet to a concrete monument; thence running South 69° 17′ West a distance of 145 feet to an iron pin; thence running North 24° 58′ West a distance of 95 feet to an iron pin; thence running North 68° 47′ 12″ East a distance of 116.13 feet to a 2 inch pipe; thence running North 3° 07′ 18″ East a distance of 166.09 feet to the most westerly corner of a steel piling wharf on the shoreline of the St. Lawrence River; thence running a meandering line South 87° 20′ 24″ East a distance of 99.07 feet along the shore of the St. Lawrence River to the most easterly corner of a steel sheet piling wharf on the shoreline of the St. Lawrence River; thence running a meandering line South 81° 56′ 37″ East a distance of 41.8 feet along the shore of the St. Lawrence River to the point of beginning. Containing 0.912 acres of land more or less.

Senate amendment No. 112: Page 49, line 17, strike out all after "323." down to and including line 23 and insert "Notwithstanding section 106, subsection (a)(3)(B) of Public Law 100-223, the Airport and Airway Safety and Capacity Expansion Act of 1987, funds apportioned under such section for airports in the State of Hawaii may be made available by the Secretary for primary airports and airports described in section 508(d)(3) in such State.".

Senate amendment No. 117: Page 53, line 4, strike out all after "333." down to and including line 17 and insert "Notwithstanding any other provision of law, the Secretary shall reimburse the State of California for

the Federal share of the fair market value of right of way incorporated into one or more of the following projects and conveyed to the State by the City of Irvine, the City of Tustin, and/or the County of Orange for the construction of the Barranca Parkway/State Route 133 interchange, the Tustin Ranch Road/Interstate Route 5 interchange, the Bake Parkway/Interstate Route 5 interchange, and the improvements to the confluence of Interstate Route 5 and Interstate Route 405 in Orange County, California, upon application by the State of California for reimbursement. The fair market value of the right of way shall be established as determined by the Secretary of Transportation in accordance with regulations and statutes governing the acquisition of rights of way for projects on the Federal Aid Primary and Interstate System.".

Senate amendment No. 122: Page 54, after line 11, insert:

SEC. 337. Notwithstanding any other provision of law, not to exceed one-fourth of 1 per centum of funds apportioned in fiscal year 1990 or 1991 to a State under sections 104(b), 130, 144, and 152 of title 23, United States Code, shall be available to carry out section 140(b) of title 23, United States Code, upon a request by the State highway department.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendments of the Senate numbered 6, 7, 15, 24, 65, 67, 68, 69, 70, 71, 80, 85, 92, 94, 95, 111, 112, 117, 122 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 6, line 19, after "stations" insert ", or to close or decommission, or to plan for such action, any unit of the United States Coast Guard unless such closure or decommissioning was provided for in the Budget of the United States, and its supporting documentation, and was agreed to by the Congress in this Act, as provided for in its legislative history, including Committee reports".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ", or to close or decommission any unit of the United States Coast Guard unless such closure or decommissioning was provided for in the Budget of the United States, and its supporting documentation, and was agreed to by the Congress in this Act, as provided for in its legislative history, including Committee reports".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 9: Page 6, line 24, strike out "$423,800,000" and insert "$455,200,000".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert the following: "$445,500,000, of which $7,500,000 shall be derived by transfer from 'Operating expenses' ".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 13: Page 7, line 5, strike out "$62,800,000" and insert "$68,600,000".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$71,100,000".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 13, line 15, after "development" insert ": *Provided further,* That of the funds available under this head, $3,000,000 shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration, to conduct demonstration projects in the development, advancement, or expansion of airway science curriculum programs, and such funds, which shall remain available until expended, shall be made available under such terms and conditions as the Secretary of Transportation may prescribe, to such universities or colleges for the purchase or lease of buildings and associated facilities, instructional materials, or equipment to be used in conjunction with airway science curriculum programs, but in no event shall the total Federal share provided for any airway science construction project exceed 50 per centum of the total cost of such project: *Provided further,* That of the funds available under this head, $1,000,000, to remain available until expended, is appropriated and shall be available for grants under the Federal Grant and Cooperative Agreement Act of 1977 to the National Aviation Institute, Pleasantville, New Jersey to fund research and development in the area of facilitating research by cataloguing and prioritizing aviation related research efforts and providing a central clearinghouse for aviation research".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 27, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following *": Provided further,* That of the funds available under this head, $1,000,000, to remain available until expended, is appropriated and shall be available for grants under the Federal Grant and Cooperative Agreement Act of 1977 to the National Aviation Institute, Pleasantville, New Jersey, to fund research and development in the area of facilitating research by cataloguing and prioritizing aviation related research efforts and providing a central clearinghouse for aviation research".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 32: Page 16, after line 15, insert:

Section 21 of the Urban Mass Transportation Act of 1964, as amended, is amended as follows:

(a) in subsection (c)(2) by striking "and (b)" and inserting instead ", (b) and (i)";

(b) in subsection (i)(1) by adding the following before the period: "to remain available until expended"; and

(c) by deleting the language in subsection (i)(2) and adding the following: "From the Highway Trust Fund (other than the Mass Transit Account), $5,000,000 shall be available for the purposes of section 11(b) for each of the fiscal years 1990 and 1991, to remain available until expended. Funds authorized by this paragraph shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction, but shall be excluded from any distribution of such limitation.".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

UNIVERSITY TRANSPORTATION CENTERS

(HIGHWAY TRUST FUND)

For necessary expenses for university transportation centers, as authorized by section 21(i)(2) of the Urban Mass Transportation Act of 1964, as amended, $5,000,000 to be derived from the Highway Trust Fund (other than the Mass Transit Account).

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 38: Page 18, line 25, strike out $42,500,000 and insert "$47,850,000, together with an amount not to exceed the amount of 1989 obligations recovered.".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following, "$42,500,000, together with an amount not to exceed the amount of 1989 obligations recovered".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 42: Page 19, after line 16, insert:

Notwithstanding section 402(d) of the Surface Transportation Safety Act of 1982 (P.L. 97-424, 96 Stat. 2155), for states which have received only development grants under this section and which participated in the commercial Motor Carrier Safety Inspection and Weighing Demonstration Program, the Secretary shall only approve a plan under this section for fiscal year 1990 which provides that the aggregate expenditure of funds of the state and political subdivisions thereof, exclusive of federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditure for the last two full fiscal years preceding the date of the plan is approved.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Notwithstanding subsection (d) of Sec. 402 of the Surface Transportation Assistance Act of 1982 (Public Law 97-424, 96 Stat. 2155, 2156) for states which have received only development grants under such section 402 and which have participated in the Commercial Motor Carrier Safety Inspection and Weighing Demonstration Program, the Secretary shall only approve a plan under such section 402 for fiscal year 1990 which provides that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditure for the last two full fiscal years preceding the date the plan is approved.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 66: Page 25, after line 17, insert:

ROAD EXTENSION DEMONSTRATION

For the purpose of carrying out a demonstration of economic growth and development benefits of four lane bypasses of cities, there is hereby appropriated $11,000,000, to remain available until expended, for the acquisition of rights-of-way and other costs incurred in the upgrading and construction of a portion of a four-lane facility bypassing the cities of Pella, Iowa, and Oskaloosa, Iowa, on Highway 163 and Highway 63: *Provided*, That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ROAD EXTENSION DEMONSTRATION

For the purpose of carrying out a demonstration of economic growth and development benefits of four lane bypasses of cities, there is hereby appropriated $11,000,000, to remain available until expended, for the acquisition of rights-of-way and other costs incurred in the upgrading and construction of a portion of a four-lane facility bypassing the cities of Pella, Iowa, and Oskaloosa, Iowa, on Highway 163: *Provided*, That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 72: Page 25, after line 17, insert:

JUNCTION CITY HIGHWAY IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project in Junction City, Kansas, for the purpose of demonstrating the value of adding acceleration and deceleration lanes along two exits of U.S. Route 60, there is hereby appropriated $400,000, to remain available until expend-

ed: *Provided*, That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the U.S. route number named in said amendment, insert "77".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 79: Page 27, line 17, after "expended" insert ", and of which $1,000,000 shall be available for grants for up to 50 per centum of the cost of contractual support needed for private sector interstate high-speed rail projects, and for the Federal Railroad Administration to engage in studies relating to safety provisions of super-high-speed magnetic levitation systems".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$500,000".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 90: Page 33, strike out lines 7 to 18.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 90 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

AMTRAK CORRIDOR IMPROVEMENT LOANS

The Secretary is authorized to provide $3,500,000 in loans to the Chicago, Missouri and Western Railroad, or its successors, to replace existing jointed rail with continuous welded rail between Joliet, Illinois and Granite City, Illinois: *Provided*, That any loan authorized under this section shall be structured with a maximum 20-year payment at an annual interest rate of 4 per centum: *Provided further*, That the Federal Government shall hold a first and prior purchase money security interest with respect to any materials to be acquired with federal funds: *Provided further*, That any such loan shall be matched on a dollar for dollar basis by the State of Illinois.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 101: Page 36, line 19, strike out "$16,800,000" and insert "$14,715,000".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 101 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$17,373,000".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 105: Page 38, line 16, strike out "$43,860,000" and insert "$42,863,000".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 105 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$44,450,000".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 110: Page 47, lines 18 and 19, strike out "Within 14 calendar days of the obligation date" and insert "Every 45 days".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 110 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "Every 30 days".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 113: Page 50, line 18, strike out all after "325." down to and including line 25 and insert:

(a) USE OF DEADLY FORCE.—The Secretary shall report to the Committee on Appropriations and the Committee on the Judiciary of the Senate and House of Representatives, to the Senate International Narcotics Control Caucus, and to the Select Committee on Narcotics Abuse and Control of the House of Representatives on—

(1) all current provisions of law and regulation permitting the use of deadly forces during time of peace by United States Coast

Guard personnel in the performance of their official duties—

(A) within the territorial land, sea, and air of the United States, its territories and possessions; and

(B) outside the territorial land, sea, and air of the United States, its territories and possessions.

(2) changes, if any that may be necessary to existing law, regulations, treaty, or executive agreements to permit United States Coast Guard personnel to employ deadly force under the following circumstances—

(A) to bring down a suspected drug smuggling aircraft which has refused or ignored instructions to land at a specified airfield for customs inspection after penetrating the territorial airspace of the United States:

(B) to halt a suspected drug smuggling vessel on the sea which has been ordered to heave to for inspection by a United States vessel or aircraft and has ignored or refused to obey the order;

(C) and to halt a suspected drug smuggler who has crossed the land border of the United States illegally and who has refused to obey or ignored an order to stop for customs inspection.

(3) The required report shall be submitted not later than ninety days after the enactment into law of this Act. The required report may be submitted in both classified and unclassified versions.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 113 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

(a) ESSENTIAL AIR SERVICE COMPENSATION.—Notwithstanding any other provision of law, the Secretary of Transportation shall make payments of compensation under subsection 419 of the Federal Aviation Act of 1958, as amended, only to the extent and in the manner provided in appropriations Acts, at times and in a manner determined by the Secretary to be appropriate, and claims for such compensation shall not arise except in accordance with this provision.

(b) USE OF DEADLY FORCE.—The Secretary shall report to the Committees on Appropriations and the Committees on the Judiciary of the Senate and House of Representatives, to the Senate International Narcotics Control Caucus, and to the Select Committee on Narcotics Abuse and Control of the House of Representatives.

(1) All current provisions of law and regulation permitting the use of deadly force during time of peace by United States Coast Guard personnel in the performance of their official duties—

(A) within the territorial land, sea, and air of the United States, its territories and possessions; and

(B) outside the territorial land, sea, and air of the United States, its territories and possessions.

(2) Changes, if any that may be necessary to existing law regulations, treaty, or executive agreements to permit United States Coast Guard personnel to employ deadly force under the following circumstances—

(A) to bring down a suspected drug smuggling aircraft which has refused or ignored instructions to land at a specified airfield for customs inspection after penetrating the territorial airspace of the United States;

(B) to halt a suspected drug smuggling vessel on the sea which has been ordered to heave to for inspection by a United States vessel or aircraft and has ignored or refused to obey the order;

(C) and to halt a suspected drug smuggler who has crossed the land border of the United States illegally and who has refused to obey or ignored an order to stop for customs inspection.

(3) The required report shall be submitted not later than ninety days after the enactment into law of this Act. The required report may be submitted in both classified and unclassified versions.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 115: Page 52, line 1, strike out all after "329." down to and including line 9 and insert: Notwithstanding section 16 of the Federal Airport Act of 1946 or any other provision of law, the United States hereby releases the right or reversion of the United States on 7.8 acres of land at the South Big Horn Country Airport in Wyoming proposed to be transferred to the Wyoming State Highway Department provided such land is used for a highway rest area.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 115 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

(a) VILLAGE OF ALSIP, ILLINOIS.—Section 149(a)(30)(D) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended—

(1) by striking out the heading "CALUMET PARK" and inserting in lieu thereof "VILLAGE OF ALSIP"; and

(2) by striking out all that follows after "reconstruction" and inserting in lieu thereof "of 127th Street between Illinois Route 83 and Kostner Avenue in Alsip, Illinois.".

(b) WYOMING STATE HIGHWAY REST AREA.—Notwithstanding section 16 of the Federal Airport Act of 1946 or any other provision of law, the United States hereby releases the right of reversion of the United States on 7.8 acres of land at the South Big Horn Country Airport in Wyoming proposed to be transferred to the Wyoming State Highway Department provided such land is used for a highway rest area.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 116: Page 52, line 10, strike out all after "330." down to and including line 14 and insert:

Notwithstanding section 23 of the Airport and Airway Expansion Act of 1970 (as in effect on November 29, 1976), or any other provision of law, including obligations arising under grant agreements issued pursuant to the Airport and Airway Improvement Act of 1982, as amended, or implementing regulations, the Administrator of the Federal Aviation Administration is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance, dated November 29, 1976, under which the United States conveyed certain property to the State of Hawaii for airport purposes.

Any release granted by the Administrator pursuant to this subsection shall be subject to the following conditions:

(A) The property for which a release is granted under this subsection shall not exceed 4,550.2 acres of submerged lands known as Keehi Lagoon as described in the quitclaim deed, dated November 29, 1976.

(B) The property for which a release is granted shall not include submerged lands within an area 1,000 feet perpendicular to either side of the centerline of Runway 26L, extending 2,000 feet from the end of Runway 26L at the Honolulu International Airport.

(C) The use of property to which such release applies shall not impede or interface with the safety of flight operations or otherwise derogate approach and clear zone protection at the Honolulu International Airport.

(D) Any subsequent release or authorization for use of the property for other than airport purposes shall contain the right to overfly the property and the right to make noise.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 116 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

(a) VESSEL TRAFFIC SAFETY FAIRWAY.—None of the funds in this Act shall be available to plan, finalize or implement regula-

tions that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

(b) HONOLULU INTERNATIONAL AIRPORT.—Notwithstanding section 23 of the Airport and Airway Expansion Act of 1970 (as in effect on November 29, 1976), or any other provision of law, including obligations arising under grant agreements issued pursuant to the Airport and Airway Improvement Act of 1982, as amended, or implementing regulations, the Administrator of the Federal Aviation Administration is authorized, subject to the provision of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance, dated November 29, 1976, under which the United States conveyed certain property to the State of Hawaii for airport purposes.

Any release granted by the Administrator pursuant to this subsection shall be subject to the following conditions:

(A) The property for which a release is granted under this subsection shall not exceed 4,550.2 acres of submerged lands known as Keehi Lagoon as described in the quitclaim deed, dated November 29, 1976.

(B) The property for which a release is granted shall not include submerged lands within an area 1,000 feet perpendicular to either side of the centerline of Runway 26L, extending 2,000 feet from the end of Runway 26L at the Honolulu International Airport.

(C) The use of property to which such release applies shall not impede or interface with the safety of flight operations or otherwise derogate approach and clear zone protection at the Honolulu International Airport.

(D) Any subsequent release or authorization for use of the property for other than airport purposes shall contain the right to overfly the property and the right to make noise.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 118: Page 53, line 18, strike out all after "334." down to and including line 20, and insert "Section 337 of Public Law 100-457 is amended to read as follows:"

"Notwithstanding any other provision of law, when a commuter rail service has been suspended for safety reasons, and when a statewide or regional agency or instrumentality commits to restoring such service by the end of 1989, and when the improvements needed to restore such service are funded without Urban Mass Transportation Administration funding, the directional route miles of such service shall be included for the purpose of calculating the fiscal year 1990 section 9 apportionment, as well as the apportionment for subsequent years. If such service is not restored by the end of 1989, the money received as a result of the inclusion of the directional route miles shall be returned to the disbursing agency, the Urban Mass Transportation Administration.".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 118 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

(a) INTERMODAL URBAN DEMONSTRATION PROJECT.—Funds appropriated in this Act for "Intermodal Urban Demonstration Project" shall remain available until expended.

(b) UMTA COMMUTER RAIL SERVICE.—Section 337 of Public Law 100-457 is amended to read as follows:

"Notwithstanding any other provision of law, when a commuter rail service has been suspended for safety reasons, and when a statewide or regional agency or instrumentality commits to restoring such service by the end of 1989, and when the improvements needed to restore such service are funded without Urban Mass Transportation Administration funding, the directional route miles of such service shall be included for the purpose of calculating the fiscal year 1990 section 9 apportionment, as well as the apportionment for subsequent years. If such service is not restored by the end of 1989, the money received as a result of the inclusion of the directional route miles shall be returned to the disbursing agency, the Urban Mass Transportation Administration.".

(c) STATEWIDE OPERATING ASSISTANCE.—Section 9(2)(A).—In any case in which a statewide agency or instrumentality is responsible under State laws for the financing, construction and operation, directly by lease, contact or otherwise, of public transportation services, and when such statewide agency or instrumentality is the designated recipient of UMTA funds, and when the statewide agency or instrumentality provides service among two or more urbanized areas, the statewide agency or instrumentality shall be allowed to apply for operating assistance up to the combined total permissible amount of all urbanized areas in which it provides service, regardless of whether the amount for any particular urbanized area is exceeded. In doing so, UMTA shall not reduce the amount of operating assistance allowed for any other State, or local transit agency or instrumentality within the urbanized areas affected. This provision shall take effect with the fiscal year 1990 section 9 apportionment.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 119: Page 53, line 23, strike out all after "335." down to and including "DURATION.—" in line 25.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 119 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

Permanent Prohibition Against Smoking on Scheduled Airline Flights.—

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 120: Page 54, line 1, after "amended" insert "by deleting in 49 U.S.C. App. 1374(d)(1)(A), all after the words 'any scheduled airline flight' and inserting in lieu thereof, 'segment, commencing 95 days after the date of enactment of this Act, in air transportation or intrastate air transportation, which is between any two points in the United States, and".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 120 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

by deleting in subparagraph (A) of section 404(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1374(d)(1)(A)) all after the words "any scheduled airline flight" and inserting in lieu thereof the following: "segment in air transportation or intrastate air transportation, which is—

"(i) between any two points within Puerto Rico, the United States Virgin Islands, the District of Columbia, or any State of the United States (other than Alaska and Hawaii), or between any point in any one of the aforesaid jurisdiction (other than Alaska and Hawaii) and any point in any other of such jurisdicitons;

"(ii) within the State of Alaska or within the State of Hawaii; or

"(iii) scheduled for 6 hours or less in duration, and between any point described in clause (i) and any point in Alaska or Hawaii, or between any point in Alaska and any point in Hawaii.",

to take effect upon the commencement of the 96th day following the date of enactment of this Act, and

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 124: Page 54, after line 11, insert:

SEC. 339. Notwithstanding any other provision of law, section 149(a)(14)(B) of Public Law 100-17 is amended by striking "at least".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 124 and concur therein with an amendment, as follows: In lieu of section number "339" insert "338".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 125: Page 54, after line 11, insert:

SEC. 340. The Secretary shall conduct a thorough independent safety review of the New York Metropolitan Transportation Authority, including the New York City Transit Authority, the Long Island Railroad and Metro-North commuter railroads, using available funds or funds withheld from formula money allocated to the New York portion of the New York-Northeast New Jersey urbanized area. The Secretary shall submit a comprehensive plan, within thirty days after the date of enactment of this Act, for conducting such an investigation, including the cost and scope of the investigation and an expeditious schedule for completion of such an investigation.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 125 and concur therein with an amendment, as follows: In lieu of the section number "340" insert "339".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 126: Page 54, after line 11, insert:

SEC. 341. The Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1609 et seq.), is amended by adding at the end of section 23 the following new subsection:

"(h) SAFETY, FINANCIAL AND PROCUREMENT COMPLIANCE REVIEWS.—In addition to the purposes provided for under subsection (a), the funds made available under subsections (a) (1) through (5) may be used by the Secretary to contract with any person to provide safety, procurement, management and financial compliance reviews, and audits of any recipient of funds under any such subsection. Any contract entered into under this subsection shall not be subject to the requirements of subsection (d), (e), (f), or (g).".

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the HOUSE recede from its disagreement to the amendment of the Senate numbered 126 and concur therein with an amendment, as follows: In lieu of the section number "341" insert "340".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 127: Page 54, after line 11, insert:

SEC. 342. The Department of Transportation shall study the effect on consumers of State regulation of the rates, routes, and services of the express package industry and make recommendations to Congress.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 127 and concur therein with an amendment, as follows: In lieu of the section number "342", insert "341".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 128: Page 54, after line 11, insert:

SEC. 343. Notwithstanding any other provision of law, any lease agreement entered into between Union Pacific Railroad Company and School District numbered 25, Bannock County, State of Idaho, for purposes of providing recreational and athletic facilities, shall be deemed consistent with purposes identified in 22 Stat. 148 and shall not be considered an abandonment of that property by Union Pacific Railroad Company.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 128 and concur therein with an amendment, as follows: In lieu of the section number "343" insert "342".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 129: Page 54, after line 11, insert:

SEC. 344. Notwithstanding any other provision of law, funds available to the Coast Guard under the head "Operating Expenses" in this Act shall be available for expenses incurred in fiscal year 1990 by the Coast Guard in responding to any oilspill.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 129 and concur therein with an amendment, as follows: In lieu of the section number "344" insert "343".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 130: Page 54, after line 11, insert:

SEC. 345. Before making the allocation of sums authorized to be appropriated for fiscal year 1990 for public lands highways, the Secretary of Transportation shall set aside $2,000,000 for the Chief Joseph Scenic Highway in the State of Wyoming, to be available until expended.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offered a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 130 and concur therein with an amendment, as follows: In lieu of the section number "345" insert "344".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 131: Page 54, after line 11, insert:

SEC. 346. Of the funds made available to the Federal Railroad Administration under the head "Railroad Research and Development", $500,000 shall be available to identify suitable toilet and waste retention technologies that do not discharge onto tracks to be included as part of future year passenger car acquisitions. The Federal Railroad Adminstration shall report its findings to the appropriate committees within nine months after passage of this Act.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 131 and concur therein with an amendment, as follows: In lieu of the section number "346" insert "345".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 132: Page 54, after line 11, insert:

SEC. 347. Notwithstanding any other provision of this Act or any other law, funds appropriated or made available by this Act or any other Act, for purposes of section 104(c) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(c)), may also be expended for soundproofing of private schools in a noise impact area surrounding an airport which, on the date of the enactment of this Act, has submitted a noise abatement plan pursuant to Federal Aviation Regulation 150 but such plan has not, as of such date, been acted on by the Secretary of Transportation. The expenditure of such funds pursuant to this section shall be at the discretion of the Secretary of Transportation, and in accordance with regulatory requirements applicable to soundproofing of public schools under section 104(c).

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 132 and concur therein with an amendment, as follows: In lieu of the section number "347" insert "346".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 133: Page 54, after line 11, insert:

SEC. 348. (a) Not more than $16,371,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Transportation.

(b)(1) Not later than 20 days after the end of each fiscal quarter, the Secretary of Transportation shall (A) submit to Congress a report on the amounts obligated and expended by the Department during that quarter for the procurement of advisory and assistance service, and (B) transmit a copy of such report to the Comptroller General of the United States.

(2) Each report submitted under paragraph (1) shall include a list with the following information:

(A) All contracts awarded for the procurement of advisory and assistance services during the quarter and the amount of each contract.

(B) The purpose of each contract.

(C) The justification for the award of each contract and the reason the work cannot be performed by civil servants.

(c) The Comptroller General of the United States shall review the reports submitted under subsection (b) and transmit to Congress any comments and recommendations the Comptroller General considers appropriate regarding the matter contained in such reports.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 133 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 347. Not more than $14,000,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Transportation.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 134: Page 54, after line 11, insert:

50TH ANNIVERSARY OF THE ALASKA HIGHWAY

SEC. 349. (a)(1) Since 1992 marks the 50th anniversary of the construction of the Alaska Highway, the first and only road link between Alaska and the contiguous United States;

(2) Since the construction of the Alaska Highway across Canada was an enormous feat of engineering, accomplished in less than a year;

(3) Since the Alaska Highway played a key part in the progression of Alaska from a territory to a state;

(4) Since Project 92, the celebration of the 50th Anniversary of the Alaska Highway in 1992, is to be a major international event involving the United States, Alaska and Canada; and

(5) Since Project 92 is designed to recognize the historical significance and heritage of the Alaska Highway and its contribution to the development of Alaska and Canada: Now, therefore, be it

(6) Declared that it is the sense of the Senate that the U.S. Department of Transportation should join with the State of Alaska and the Great Alaska Highways Society in planning the celebration of the 50th anniversary of the Alaska Highway as well as appropriate improvements of the Highway.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 134 and concur therein with an amendment, as follows: In lieu of the section numbered "349" insert "348".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the final amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 136: Page 54, after line 11, insert:

TITLE IV—EMERGENCY DRUG FUNDING

SEC. 401. (a) Except as provided in subsection (b) and notwithstanding any other provision of this or any other Act—

(1)(A) each appropriation item and loan program level provided for in appropriations Acts for fiscal year 1990 in accounts not included within the major functional category 050 shall be reduced by .300 percent, rounded to the nearest $1,000: *Provided*, That such reduction shall be applied proportionally to each program, project, and activity as set forth in section 252(a)(1)(B)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901); and

(B) each subcommittee of the Committee on Appropriations of the Senate with respect to the appropriations bill appropriating funds for fiscal year 1990 within the jurisdiction of such subcommittee shall reduce the total amounts provided in such bill for any appropriations items and loan program levels not included within the major functional category 050 by an amount of new budget outlays equal to the reduction in new budget outlays that would result from a .130 percent reduction within each program, project, and activity not included within the major functional category 050 in such bill and shall achieve such reduction by—

(i) reducing amounts provided for specific programs;

(ii) applying a percentage reduction in each appropriation item or loan program level provided for in the appropriations bill; or

(iii) a combination of (i) and (ii); and

(2) each subcommittee of the Committee on Appropriations of the Senate with respect to the appropriations bill appropriating funds for fiscal year 1990 within the jurisdiction of such subcommittee shall reduce amounts provided in such bill for appropriations items and loan program levels within the major functional category 050 by an amount equal to $1,318,000,000 in budget authority and by an amount equal to $797,000,000 in budget outlays and shall achieve such reductions by—

(A) reducing amounts provided for specific programs;

(B) applying a percentage reduction in each appropriation item or loan program level provided for in the appropriations bill; or

(C) a combination of (A) and (B).

If a subcommittee fails to achieve the reductions required by paragraph (1)(B) or (2), any appropriations items and loan program levels within the appropriations Act for the subcommittee shall be reduced by the percentage necessary to achieve the reduction required by paragraph (1)(B) or (2). Any percentage reduction under this subsection shall be applied proportionally to each program, project, and activity as set forth in section 252(a)(1)(B)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901).

(b) Subsection (a) shall not apply to (1) programs scored as mandatory by the Congressional Budget Office as set forth on pages 80 through 83 of the report of the House of Representatives accompanying House Concurrent Resolution 106 (House Report 101-42), or (2) the amounts provided in subsection (c).

(c) There is hereby appropriated for the following programs the amounts specified:

CHAPTER I

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $10,261,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, general legal activities", $41,476,000, to remain available until expended.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and expenses, United States Attorneys", $80,699,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", $23,819,000.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States prisoners", $23,000,000, to remain available until expended; of which not to exceed $10,000,000 shall be available under the Cooperative Agreement Program.

ASSETS FORFEITURE

For an additional amount for expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F) and (G), as amended, $25,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For an additional amount for "Organized crime drug enforcement", $46,361,000 shall be available to reimburse participating agencies from the Departments of Treasury and Transportation: *Provided*, That of this amount $8,045,000 shall be available to reimburse the Immigration and Naturalization Service.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," $97,045,000: *Provided*, That $15,000,000 of this amount shall be available until expended for construction of Pod B of the Engineering Research Facility at Quantico, Virginia.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $64,301,000.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $16,891,000.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $54,923,000.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities", $1,000,000,000, to remain available until expended.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance", $308,821,000, to remain available until expended: *Provided*, That $300,000,000 shall be available for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program and $8,821,000 for the Juvenile Justice and Delinquency Prevention Program.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $59,550,000.

DEFENDER SERVICES

For an additional amount for "Defender services", $41,373,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners", $4,000,000, to remain available until expended.

COURT SECURITY

For an additional amount for "Court security", $15,400,000.

RELATED AGENCY

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $4,020,000, to remain available until expended.

CHAPTER II

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

For an additional amount for "Construction", for expenses necessary to carry out sections 2207 and 2211 of Public Law 100-690, $4,000,000, to remain available until expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICES

INDIAN HEALTH SERVICES

For an additional amount for "Indian Health Services", for expenses necessary to carry out sections 2212, 2213, 2215, and 2217 of Public Law 100-690, $7,250,000.

INDIAN HEALTH FACILITIES

For an additional amount for "Indian Health Facilities", for construction expenses necessary to carry out section 2212 of Public Law 100-690, $1,500,000, to remain available until expended.

CHAPTER III

DEPARTMENT OF LABOR

SALARIES AND EXPENSES

For an additional amount for substance abuse employee assistance programs in the workplace, $2,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For an additional amount for health care for the homeless, $10,00,000.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for "Disease control, research, and training", $3,150,000.

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For an additional amount for "Alcohol, Drug Abuse, and Mental Health", for carrying out substance abuse activities only, $708,084,000: *Provided,* That the amounts provided for block grants to States under Title XIX of the Pulbic Health Service Act shall not be used to calcuate amounts to be used for programs and activities relating to drug abuse as required by section 1916(c)(7)(B) of said Act.

FAMILY SUPPORT ADMINISTRATION

COMMUNITY SERVICES BLOCK GRANT

For an additional amount for "Community services block grant", $11,000,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

For an additional amount for "Human development services", $24,500,000.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAM

For an additional amount for part F of title IV and title V of Public Law 100-297, $183,500,000, of which $2,000,000 shall be for section 4607, $7,500,000 shall be for part C and $2,000,000 shall be for part D of title V and $172,000,000, which shall become available on July 1, 1990, and remain available until September 1991, shall be for part B of said title of which not less than $25,000,000 shall be for section 5121(a) for urban and rural emergency grants.

RELATED AGENCIES

ACTION

For an additional amount for substance abuse prevention and education activities under part C of title I of the Domestic Volunteer Service Act of 1973 as amended, $1,500,000 of which not more than $150,000, may be used for administrative expenses.

CHAPTER IV

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $10,000,000.

United States Customs Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $18,000,000.

OPERATIONS AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for "Operations and maintenance, air interdiction program" for the procurement of helicopters, surveillance, tracking, and interceptor aircraft; and operation and maintenance expenses for these and other assets of the United States Customs Service air interdiction program, $35,800,000.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the "Customs forfeiture fund", an additional amount not to exceed $5,000,000 as authorized by Public Law 100-690; to be derived from deposits in the fund.

INTERNAL REVENUE SERVICE

INVESTIGATION, COLLECTION AND TAXPAYER SERVICE

For an additional amount for "Investigation, collection and taxpayer service", $5,000,000, solely for activities related to the criminal investigations division.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", for activities related to the designation of high intensity drug trafficking areas, $25,000,000.

SPECIAL FORFEITURE FUND

For expenses authorized by section 6073 of Public Law 100-690, not to exceed $115,000,000 to be derived from the Department of Justice Assets Forfeiture Fund, and to remain available until expended for prison construction purposes.

CHAPTER V

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For an additional amount for "Medical care", $50,000,000, to remain available until expended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for operation of low-income housing projects", $50,000,000: *Provided,* That such amount shall be made available, notwithstanding section 9(d) of the United States Housing Act of 1937, for grants authorized under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901, et seq.).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numberd 136 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

TITLE IV—EMERGENCY DRUG FUNDING

CHAPTER I

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $10,261,000 to enhance drug and criminal law enforcement efforts with special emphasis on improving drug law enforcement efforts among the various Justice Department agencies and on expedited deportation proceedings of convicted criminal aliens.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $41,476,000 to remain available until expended, to improve the effectiveness of the Department's legal activities, to improve coordination between law enforcement programs in this country and other countries, to improve efforts in extradition of drug cartel kingpins and to improve Criminal Division efforts in Federal/State task forces.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

To continue efforts begun in fiscal year 1989 to improve the ability of the United States Attorneys to prosecute drug and other crime related offenses, $80,699,000, for new assistant United States Attorneys, for annualization of new attorney positions funded in fiscal year 1989, and for automation enhancements necessary to improve productivity and case management in the various United States Attorneys offices.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For carrying out efforts at National Drug Control and the President's initiative to combat violence crime, $23,819,000 to im-

prove the ability of the United States Marshals Service to pursue and apprehend alleged major drug and organized crime figures, and to improve the security required for anti-drug and organized crime judicial proceedings.

SUPPORT OF UNITED STATES PRISONERS

To fight the war on drugs, $23,000,000, to remain available until expended for enhancing the availability of jail space for unsentenced Federal prisoners in the custody of the United States Marshals Service; of which not to exceed $10,000,000 shall be available under the Cooperative Agreement Program to obtain guaranteed housing for Federal prisoners in State and local detention facilities.

ASSETS FORFEITURE FUND

To fight the war on drugs, $25,000,000 for awards for information in drug cases, purchase of evidence for drug violations, equipping conveyances for drug law enforcement, and other expenses as authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F) and (G), as amended, to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For carrying out efforts at National Drug Control, $46,361,000 to strengthen the ability of the Federal Government to attack drug cartels and other organized crime groups through the eleven cooperating Federal agencies which participate in the organized crime drug enforcement task forces.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control, $97,045,000 to strengthen Federal domestic law enforcement at the local level to include additional agents, support personnel and equipment, improvements in automation and telecommunications, and enhancements in field equipment and training.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control, $64,301,000, for additional agents, support personnel and equipment for improved domestic drug law enforcement; for expanded cleanup and disposal of toxic chemicals from clandestine laboratories; to expand State and local task forces; to complete the nationwide placement of asset removal teams; and to improve intelligence programs.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $16,891,000, for additional Border Patrol agents to improve drug interdiction efforts and for additional investigators and other staff needed to increase the apprehension and detention of criminal aliens.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $54,923,000, for additional staff to activate new prisons, to improve staffing at existing institutions, and to fund additional support costs associated with the projected increases in Federal prison populations.

BUILDINGS AND FACILITIES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $1,000,000,000, to remain available until expended, for acquisition and construction of new Federal prison facilities in order to handle the projected growth in prisoner populations resulting from the increased number of drug-related convictions.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

To fight the war on drugs, $308,821,000, to remain available until expended; of which $300,000,000 is for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs for State and local agencies to improve efforts in street-level and community-based drug law enforcement efforts; and of which $8,821,000 is for the Juvenile Justice and Delinquency Prevention Program in order to improve programs for the prevention, intervention and treatment of juvenile crime, especially where it relates to youth gangs and drugs.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $59,550,000 for additional clerks office personnel, probation and pretrial services personnel, magistrates and related support personnel, and drug aftercare treatment services necessary to handle the growth in drug and crime related caseloads in the Federal courts.

DEFENDER SERVICES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $41,373,000, to remain available until expended, for the increased expenses associated with Federal public defender and community defender organizations and private panel attorneys necessary to handle the growing drug and crime related caseload of the Federal courts.

FEES OF JURORS AND COMMISSIONERS

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $4,000,000, to remain available until expended, for the increased cost of grand and petit juries resulting from the growth in the drug and crime related caseload of the Federal courts.

COURT SECURITY

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $15,400,000, to provide for expanded security and protective services for the Federal courts to handle the increase in drug and crime related judicial proceedings which require a higher level of security.

RELATED AGENCY

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For carrying out the provisions of section 7321 of the Anti-Drug Abuse Act of 1988 (P.L. 100-690), $4,020,000, to remain available until expended, to allow the State Justice Insititute to expand its programs to assist States in improving their court systems to allow them to handle the growing drug and crime related caseload.

CHAPTER II

DEPARTMENT OF THE INTEROR

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

To fight the war on drugs, $4,000,000, to remain available until expended, for the provision of additional emergency shelters for Indian youth and for the construction of Juvenile detention facilities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

To fight the war on drugs, $7,250,000, for the Indian Health Service to increase after care services and provide for family outpatient care, expand community education and training efforts with a focus on prevention and training of program staff, expand alcoholism and drug abuse prevention efforts for adolescents through urban Indian health programs, and provide contract health services for substance abuse treatment and rehabilitation of Indian youth and their families.

INDIAN HEALTH FACILITIES

To fight the war on drugs, $1,500,000, to remain available until expended, to allow the Indian Health Service to complete the construction or renovation of facilities to provide detoxification and rehabilitation services in youth regional treatment centers.

CHAPTER III

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for substance abuse employee assistance programs in the workplace, $2,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG AND ABUSE, AND MENTAL HEALTH

For carrying out activities to fight the war on drugs including substance abuse research, treatment, and prevention, $727,000,000: *Provided*, That of this amount, $415,000,000 shall be provided for block grants to States under title XIX of the Public Health Service Act to be used exclusively for substance abuse activities and shall remain available for obligation by the States until March 31, 1991 and such obligated funds shall remain available for expenditure by the States until March 31, 1992: Provided further, That of this amount, $40,000,000 shall be available for treatment waiting period reduction grants, if authorized in law.

FAMILY SUPPORT ADMINISTRATION

COMMUNITY SERVICES BLOCK GRANT

For an additional amount for anti-drug abuse activities under the Community Services Block Grant Act, $2,000,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

To fight the war on drugs and by providing assistance to runaway and homeless youth, by providing drug prevention activities related to youth gangs, and by providing temporary child care, crisis nurseries and abandoned infants assistance to children impacted by drugs, $23,750,000.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

To ensure a drug free learning environment for American students by carrying out the Drug-Free Schools and Communities Act of 1986, as amended, part F of title IV of the Elementary and Secondary Education Act, as amended, and the Department of Education Organization Act, $183,500,000: *Provided,* That of this amount $170,000,000 shall be for State grants under part B, which shall become available on July 1, 1990 and remain available until September 30, 1991; $2,000,000 shall be for innovative alcohol abuse programs under section 4607; $7,500,000 shall be for teacher training under part C; $2,000,000 shall be for national programs under part D; and $2,000,000 shall be transferred to "Departmental Management, Program Administration" for administrative costs: *Provided further,* That of the amounts available for part B, not less than $25,000,000 shall be for section 5121(a) for urban and rural emergency grants: *Provided further,* That funds available under the "Department of Education Appropriations Act, 1990" for "Rehabilitation Services and Handicapped Research" shall also be available for activities under title II of Public Law 100-407; funds available for "School Improvement Programs" shall also be available for activities under title IX of the Education for Economic Security Act, as amended; and funds available for "Student Financial Assistance" shall be administered without regard to section 411F(1) of the Higher Education Act of 1965 (20 U.S.C. 1001 et. seq.), and the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary of Education, mean the sum received in the first calendar year of the award year from the sources described in that section.

RELATED AGENCY

ACTION

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities under Part C of title I of the Domestic Volunteer Service Act of 1973 as amended, $1,500,000, of which not more than $150,000 may be used for administrative expenses.

CHAPTER IV

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

SALARIES AND EXPENSES

To fight the war against armed career criminals, an additional amount of $10,000,000 for the hiring, training and equipping of additional agents and inspectors to enhance the arrest and conviction of armed career criminals who violate Federal firearms statutes.

United States Customs Service

SALARIES AND EXPENSES

To fight the war on drugs, an additional amount of $18,000,000, of which $15,000,000 shall be available to undertake investigations to counter drug-related money laundering or other law enforcement activities, and of which $3,000,000 shall be available to increase the air interdiction program staffing level to 960 permanent full-time equivalent positions: *Provided,* That none of the additional funds shall be made available for the establishment of the Financial Crimes Enforcement Network without the advance approval of the House and Senate Committees on Appropriations.

OPERATIONS AND MAINTENANCE, AIR INTERDICTION PROGRAM

To fight the war on drugs, an additional $35,800,000, to remain available until expended, for the procurement of interceptor and support aircraft, and to provide for the operation and maintenance expenses of these assets to more effectively interdict the illegal importation of drugs into the United States.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

To fight the war on drugs, an additional amount of $5,000,000, to be derived from deposits in the Fund, for authorized law enforcement purposes.

INTERNAL REVENUE SERVICE

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

To fight the war on drugs, an additional amount of $5,000,000 for criminal investigative activities to support a vigilant enforcement of Federal tax law violations and money laundering related to illegal narcotics activity.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

To fight the war on drugs, an additional amount of $25,000,000 for drug control activities related to the designation of high intensity drug trafficking areas: *Provided,* That from within available funds, the Office of National Drug Control Policy, in conjunction with other departments and agencies, shall undertake assessments of program effectiveness of all federally funded anti-drug programs for the purposes of determining their impact in reducing the illegal drug problem, including their impact on the production, importation, cost, availability, and use of drugs, as well as on the successful treatment and rehabilitation of users and addicts: *Provided further,* That said assessments shall contain comparative cost-benefit and cost-effectiveness data to aid in determination of the absolute and relative value of each program in reducing the illegal drug problem.

SPECIAL FORFEITURE FUND

For Federal prison construction purposes to incarcerate drug traffickers and others who violate Federal statutes, an amount not to exceed $115,000,000, to be derived from deposits in the Fund, and to remain available until expended.

CHAPTER V

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For providing necessary medical care and treatment to eligible veterans with alcohol or drug dependence or abuse disabilities, an additional $50,000,000, which shall be available only for programs and activities described in section 2502(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), and as authorized under chapter 17 of title 38 United States Code.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

To fight the war on drugs and eliminate drug-related crime in public housing projects, without regard to section 9(d) of the United States Housing Act of 1937 (42 U.S.C. 1437), an additional $50,000,000, which shall be available only for grants authorized under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.) and subject only to the requirements of such Act for project security, physical improvements, enforcement activities, support for voluntary organizations, and innovative programs designed to reduce drug use in and around public housing projects: *Provided,* That $1,000,000 shall be available for contracts, including the provision of technical assistance to public housing officials and resident groups to better prepare and educate them to confront the widespread abuse of controlled substances in public housing projects, pursuant to the Drug-Free Public Housing Act of 1988 (42 U.S.C. 11922, 11923).

CHAPTER VI

DEPARTMENT OF ENERGY

NUCLEAR WASTE DISPOSAL FUND

In order to provide funds for the war on drugs, funds appropriated by the Energy and Water Development Appropriations Act for Fiscal Year 1990 (Public Law 101-101) for the "Nuclear Waste Disposal Fund" are reduced by $46,000,000.

CLEAN COAL TECHNOLOGY

The second paragraph under this head contained in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990 is amended by striking "$450,000,000" and inserting "$419,000,000" and by striking "$125,000,000" and inserting "$156,000,000".

SPR PETROLEUM ACCOUNT

Outlays in fiscal year 1990 resulting from the use of funds appropriated to this account in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990 shall not exceed $147,125,000: *Provided,* That for purposes of section 202 of Public Law 100-119 (2 U.S.C. 909) this action is a necessary (but secondary) result of a significant policy change.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

LAND ACQUISITION AND DEVELOPMENT FUND

The authority to borrow from the Treasury of the United States provided under this heading in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990, is hereby reduced to $100,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

Notwithstanding the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990, the amount available for Health Care Financing Administration Program Management shall include not to exceed $1,885,172,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance, the Federal Supplementary Medical Insurance, the Federal Catastrophic Drug Insurance, and the Federal Hospital Insurance Catastrophic Coverage Reserve Trust Funds.

LEGISLATIVE BRANCH

In order to provide funds for the war on drugs, each discretionary appropriation for fiscal year 1990 provided in the Legislative Branch Appropriations Act, 1990, (H.R. 3014), shall be reduced by 0.43 percent: *Provided,* That $3,578,000 representing excess receipts from the sale of publications shall be transferred from the Government Printing Office revolving fund to the Salaries and Expenses Appropriation of the Office of the Superintendent of Documents, Government Printing Office.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

Notwithstanding any other provision of this Act, each discretionary appropriation account, loan program, and obligation limitation in Titles I and II of this Act is hereby reduced by 0.3 percent: *Provided,* That the reductions made pursuant to this paragraph shall not apply to "Federal-Aid Highways (Limitation on obligations) (Highway Trust Fund)", the obligation limitation under "Grants-in-Aid for Airports", and to any appropriation account applicable to salaries and expenses in an amount less than $45,000,000: *Provided further,* That this paragraph shall not reduce the minimum amount specifically designated for drug enforcement activities under "Coast Guard, Operating Expenses": *Provided further,* That, notwithstanding any other provisions of this paragraph, the obligation limitation under the head "Grants-in-Aid for Airports" is hereby reduced to $1,425,000,000 and the obligation limitation under the head "Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)" is hereby reduced to $12,210,000,000: *Provided further,* That $25,000,000 of unobligated contract authority available for airport planning and development under section 505(a) of the Airport and Airway Improvement Act of 1982, as amended, is rescinded.

DEPARTMENT OF THE TREASURY

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $14,000,000 are rescinded.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $141,000 are rescinded.

PROCESSING TAX RETURNS

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $1,499,000 are rescinded.

EXAMINATION AND APPEALS

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $3,488,000 are rescinded.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $2,299,000 are rescinded.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The limitation established under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, for the rental of space, as well as the aggregate limitation established thereunder, are reduced by $14,400,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $945,000 are rescinded.

CHAPTER VII

OFFICE OF NATIONAL DRUG CONTROL POLICY

Not later than 30 days after the enactment of this Act, the Director of National Drug Control Policy shall report on how funds made available under Title IV of this Act have been allocated and shall, for each quarter of the fiscal year thereafter, within 45 days following the close of the quarter, report on how these funds have been obligated. Reports made under this section shall be filed with the House of Representatives and the Senate and made available to the Committees on Appropriations and other committees, as appropriate.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

POINT OF ORDER

Mr. FRENZEL. Mr. Speaker, I have a point of order.

Mr. Speaker, I make a point of order against the language in the pending motion under section 320(f)(1) of the Congressional Budget Act of 1974.

Section 302(f)(1) of the Congressional Budget Act, as amended, provides that it shall not be in order to consider a bill or amendment providing new budget authority for a fiscal year if enactment of such bill would cause the appropriate section 302(b) allocation of new discretionary budget authority for such fiscal year to be exceeded.

The net effect of the language in amendment No. 136 is to increase new discretionary budget authority by $3.02 billion. This amendment causes the transportation subcommittee of the Committee on Appropriations to exceed its 302(b) allocation for new discretionary budget authority as set forth in House Report 101-302 by some $2.113 billion.

The appropriate 302(b) allocation for the new discretionary budget authority for the Transportation Subcommittee is $13.454 billion. The total enacted by the subcommittee to date is $1 billion in Public Law 101-130. The total contained in the conference agreement plus all the amendments in disagreement is $14.567 billion. Therefore, enactment of this amendment would cause the subcommittee's 302(b) allocation to be exceeded by $2.113 billion.

I urge the Speaker to sustain my point of order.

The SPEAKER pro tempore. (Mr. MCDERMOTT). Does the gentleman from Mississippi wish to be recognized?

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to proceed for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, first may I congratulate my fellow subcommittee members, my colleagues and friends. A great job on this bill has been done.

I asked unanimous consent to proceed so that I may discuss the point of order rather than speak in opposition to it.

□ 1420

The point raised by the gentleman from Minnesota raises objection to the action of the conference with regard to title IV of the Transportation bill—that dealing with funding for the war on drugs. As all Members know, the war on drugs is the No. 1 priority of both the Bush administration and the Congress. To this end, the conferees worked with the administration to present a deficit-neutral package for consideration to the Congress that would address this problem.

The conferees worked diligently to develop a deficit-neutral package that is balanced between supply reduction and demand reduction. The conferees worked hard to develop a responsible funding package that will address our most immediate concerns while keeping our eye on the issue of government spending. We are presenting in amendment No. 136, a package that provides $3,183,000,000 in budget authority and $1,237,000,000 in outlays. The actual spending from the Treasury that will result from enactment of this bill is completely offset by a combination of spending reductions, or restraints through the 302 allocation process between the various subcommittees.

Mr. Speaker, the vote that we had, 394 to 21, on the conference report represents the feeling of the Members of Congress. I would like an opportunity to express my appreciation in the RECORD for the job that our committee has done in trying to handle this matter within the rules of the House.

The SPEAKER pro tempore (Mr. MCDERMOTT). Does the gentleman concede the point of order?

Mr. WHITTEN. Mr. Speaker, I do not. I moved to strike the last word.

Mr. CONTE. Mr. Speaker, may I be heard on the point of order.

The SPEAKER pro tempore. The Chair will hear the gentleman.

Mr. CONTE. Mr. Speaker, if I may, I am surprised that this point of order is being raised. The drug package in title IV is deficit neutral. All the outlays expected in this year have been offset; $1.2 billion in new drug outlays, $1.2 billion in outlay reductions in all 13 appropriations bills.

I don't know if the gentleman recalls, but when we had the 1989 supplemental up here all last spring, the proposal was to spend $1.2 billion more on drugs without offsets. We battled that one to the ground, to the point where we now have a drug package with outlay offsets. Combine that one with what we did on the earthquake package, insisting that that money count against Gramm-Rudman-Hollings, and it's clear we're not taking money off budget. Any money spent this year is offset. Any money spent in the outyears will have to fit within budget and Gramm-Rudman ceilings. I would have thought that the gentleman would be pleased.

This package was negotiated in conjunction with the administration. It had their concurrence. No objection to passing this bill has been registered. This is the President's drug package, and the gentleman is knocking it down.

The SPEAKER pro tempore (Mr. MCDERMOTT). The Chair must sustain the point of order, based upon the estimates submitted by the Committee on the Budget, pursuant to section 203(g) of the Budget Act, which are inserted at this point, that the allocation of new budget authority to the Subcommittee on Transportation and Related Agencies contained in House Report 101-302, pursuant to section 203(b) would be exceeded by the adoption of the Senate amendment No. 136 as amended.

Mr. BLILEY. Mr. Speaker, I rise today to express my concern that Congress has taken the issue of airline smoking and turned it into an issue of highest priority in the funding of this country's already overtaxed and highly stressed transportation system.

Considering the time and energy spent on passing the ban, one would think that airline smoking is the No. 1 issue on America's transportation agenda. I submit, Mr. Speaker, that when it comes to transportation issues, the vast majority of Americans care more about congested airports and airways, flight delays, maintenance of aircraft, and rail equipment, loss of air and rail service, crumbling highways and bridges, urban traffic jams, transportation of hazardous materials and other important safety issues. It is impossible for me to explain to my constituents why Congress has even taken up in-flight smoking when it hasn't yet begun to address these problems.

It is even more difficult for me to explain why Congress authorized, indeed directed, the Department of Transportation to spend approximately $75,000 of the taxpayer's money to study aircraft cabin air quality, including tobacco smoke, and then refused to wait a few more months for the results before deciding on a course of action. Why bother to commission a scientific study if you're not willing to abide by the results?

The debate over smoking aboard airlines has been long on emotion and short on facts. Supporters of the ban often point to a 1986 report by the National Academy of Sciences to justify their stance. That report, however, concluded that while "air quality on board commercial airliners warrants concern . . . empirical evidence is lacking in quality and quantity." The report also concluded that "the dearth of pertinent data limits conclusions about the potential for adverse health effects to no more than estimates. Much more research must be conducted before risks can be accurately measured."

I am deeply troubled, Mr. Speaker, that Congress has rushed to judgment on this issue and wasted the taxpayers money. Such actions do not reflect fairness and balance in policy making or inspire public confidence in government.

Mrs. KENNELLY. Mr. Speaker, I rise in strong suport of the conference report on Transportation appropriations. Finally, I can stop reading lips. Contained in this package is real money to fight real drug problems—drug problems that we as a nation have finally realized are not going away—not without our commitment of energy and most importantly, resources.

In 1984, Ronald Reagan campaigned "to make it possible for you to walk your neighborhood streets without being afraid." Today, there are neighborhoods in Washington where this is not possible because of drugs. There are neighborhoods in my district, in Hartford, CT, where drugs make this impossible. We've all heard and recited the rhetoric, "Take Back the Streets." Well in this package there are resources to help take back those streets. The conference report contains an additional $2.2 billion in fiscal year 1990 for law enforcement activities.

In 1986, we in the Congress passed the Anti-Drug Abuse Act. It was 480 pages long, contained 15 titles and was to be America's offensive in the war on drugs. But, as new statistics rolled in, it quickly became clear, we were losing the battle—it wasn't working.

In the final hours of the 100th Congress we passed legislation yet again. This legislation authorized an additional $2 billion to strengthen drug law enforcement efforts and to expand education, prevention, and treatment programs. This legislation set forth stiffer penalties for drug offenses, including the death penalty for drug kingpins, and authorized the appointment of a drug czar to be part of the President's Cabinet to deal with this serious problem.

The drug czar, William Bennett, was appointed, but where were the funds? I introduced a resolution calling for the immediate appropriation of these funds. Yet, the funds were never appropriated in full.

The President appeared on national television, making his speech, an eloquent speech, once again declaring war on drugs. Well, Members of Congress are rarely afforded the air time of the President of the United States, but with a package that brings total drug funding for fiscal year 1990 to a level which is 56 percent more than that of the fiscal year 1989 level and 11 percent more than the Bush proposal—it looks like the Congress is providing the ammunition to fight the war. The good news is not only in the funding level, but in the direction of the funds. More money will be doled out for law enforcement efforts, and even more money will be spent on drug treatment and education. This is an essential part of solving the Nation's drug problem as the public health crisis that it is.

I applaud the conference committee's hard work on the many compromises that appear in this bill and strongly support its passage. This bill is an example of a process that can work—a process we can be proud of.

H.R. 3015, TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL FOR FISCAL YEAR 1990

Mr. PANETTA. Mr. Speaker, the conference report to accompany H.R. 3015, the Transportation and related agencies appropriations bill for fiscal year 1990, provides:

	Millions
New discretionary budget authority	$15,567
New direct loan obligations	43
New loan guarantee commitments	0

The 302(b) report of the Committee on Appropriations, House Report, 101-302, filed on October 24, 1989, allocates:

	Millions
New discretionary budget authority	$13,454
New direct loan obligations	46
New loan guarantee commitments	0

Consequently, the conference report with the amendment in disagreement to accompany H.R. 3015, as filed in the House, is $2,113 million over the appropriate 302(b) subdivision of discretionary budget authority. Therefore, the amendment in disagreement would be subject to a point of order under section 302(f)(1) of the Budget Act. Any amendment providing new discretionary budget authority would cause the Appropriations Committee to further exceed its 302(b) allocations.

Section 302(f)(1) provides that it shall not be in order to consider any bill, resolution, or amendment which, if enacted, would exceed the appropriate allocation made pursuant to section 302(b) for a fiscal year or new discretionary budget authority or new credit authority.

Amendment No. 136 provides $3,012 million in budget authority and $1,073 million in outlays.

[In millions of dollars]

	Budget authority	Outlays
Conference report without amendment No. 136:		
Discretionary	12,555	27,747
Mandatory	456	459
Total	13,011	28,206
Appropriations Committee 302(b) subdivision:		
Discretionary	13,454	28,527
Mandatory	456	459

[In millions of dollars]

	Budget authority	Outlays
Total	13,910	28,986
Over (+) under (−) 302(b) subdivision:		
Discretionary	−899	−780
Mandatory		
Total	−899	−780

This agreement is issued in accordance with the responsibility of the Committee on the Budget pursuant to section 302(g) of the Budget Act.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report and the amendments in disagreement on the bill, H.R. 3015.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
October 27, 1989.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit four sealed envelopes received from the White House at 3:41 p.m. on Monday, October 30, 1989 and said to contain a message from the President whereby he transmits an agreement effected by exchange of notes extending for a period of 2 years from December 31, 1989, until December 31, 1991, the Agreement between the Government of the U.S.A. and the Government of Japan Concerning Fisheries off the Coasts of the United States; and said to contain a message from the President wherein he informs of the continuation of the national emergency with Iran beyond November 14, 1989; and said to contain a message from the President whereby he transmits two annual reports under the Highway Vehicle Safety Act for calendar year 1988; and said to contain a message from the President whereby he transmits the twelfth annual report on Federal Energy Conservation Programs describing the energy conservation and management activities of the Federal Government for fiscal year 1988.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

EXTENDING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-106)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

(For message, see proceedings of the Senate of today, Tuesday, October 31, 1989.)

CONTINUATION OF NATIONAL EMERGENCY WITH IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-107)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

(For message, see proceedings of the Senate of today, Tuesday, October 31, 1989.)

REPORT ON FEDERAL ENERGY CONSERVATION PROGRAMS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Tuesday, October 31, 1989.)

REPORT ON ACTIVITIES UNDER HIGHWAY SAFETY ACT AND NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce and the Committee on Public Works and Transportation:

(For message, see proceedings of the Senate of today, Tuesday, October 31, 1989.)

PROVIDING FOR CONSIDERATION OF H.R. 3443, REVIEW OF CERTAIN ACQUISITION OF VOTING SECURITIES OF AIR CARRIERS

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 274 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 275

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3443) to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. House Resolution 272 is hereby laid upon the table.

□ 1430

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 275 is an open rule providing for the consideration of H.R. 3443, a bill to provide for Department of Transportation review of air carrier securities acquisitions. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation.

Mr. Speaker, House Resolution 275 is a totally open rule providing that any germane amendment may be of-

fered to the bill when it is considered for amendment. The rule provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule and the substitute shall be considered as having been read. The rule further provides that at the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted and that any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole. Finally, the rule provides that the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, section 2 of House Resolution 275 provides that upon adoption House Resolution 272 is laid upon the table. House Resolution 272 was reported by the Committee on Rules last week, but after that resolution was reported, it was necessary for the committee to report a new rule providing for the consideration of H.R. 3443. Section 2 of the rule is merely a housekeeping provision and does not affect the consideration of H.R. 3443 under the provisions of House Resolution 275.

Mr. Speaker, as is nearly every Member of the House, I am a frequent flier and, as such, I have more than a passing interest in the safety of our Nation's airlines. More than that, however, because the Dallas/Fort Worth International Airport lies within my congressional district and because American Airlines is headquartered in the Dallas/Fort Worth area, I have a strong interest in the continued financial well-being of American, as well as all carriers flying in and out of DFW.

As were many of the residents of the Dallas/Fort Worth area, I was truly alarmed when I heard the news that AMR Corp., the parent of American Airlines, was the subject of a hostile leveraged takeover bid. While this bid has now been at least temporarily abandoned, it did highlight the potential damage that could be done to a thriving air carrier and the threat such a buyout could pose for an entire community. It is for these reasons that I strongly support H.R. 3443 as a means to assure that any leveraged buyout of an air carrier must essentially be certified by the Department of Transportation as a buyout that will not debilitate that carrier's financial health or its ability to ensure safety for its passengers.

We are all aware that in the past decade there have been more than a few leveraged buyouts of American business concerns. In some instances, these buyouts have resulted in the sales of healthy assets to meet financially overwhelming debt repayment schedules. I cannot help but be concerned that heavily leveraged takeovers of air carriers could result in debt so great that even the healthiest airline may be forced to sell off assets critical to its ability to compete; abandon efforts to modernize its fleet; and neglect personnel operations important to airline maintenance. In addition, I am concerned that even if a takeover bid is unsuccessful, the efforts of the target company to resist takeover could leave the company significantly weakened. In sum, I am concerned that leveraged buyout attempts, whether or not they are successful, have the potential to leave air carriers in a financial condition that may threaten the safety of passengers of the Nation's airlines.

Mr. Speaker, H.R. 3443 requires the Department of Transportation to disapprove buyouts if the Department finds that such a buyout would weaken a carrier financially and substantially impair its ability to operate safely or its competitive effectiveness. The bill would also require DOT to disapprove a buyout if such a buyout would give a person who is not a citizen of the United States the power to exercise control over the carrier.

Mr. Speaker, because of the unique character of the airline industry, I believe review by the Department of Transportation of proposed leveraged buyouts is a reasonable and rational means to protect the safety and competitiveness of American air carriers. For that reason, I urge my colleagues to adopt House Resolution 275 in order that the House may consider this most important legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I would like to commend the chairman and ranking member of the Committee on Public Works and Transportation, the gentleman from California [Mr. ANDERSON] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for their leadership in putting this legislation together.

The condition of the airline industry in this Nation affects almost every Member of this House on a regular basis, and affects the lives of many of our constituents almost as frequently.

Some opponents of this bill have argued that this legislation gets us closer to reregulating the airline industry.

I realize that not everyone would agree with that contention, but even if it were true, what would be so bad about that? From what I have seen of deregulation, it is not producing the desired results of improved service and lower prices, especially to smaller cities.

Most of the airlines want to compete on a limited number of major routes, but service to medium size and smaller cities has gone down the drain. I have found that on flights which are not sufficiently full, it sometimes turns out that the airline cannot locate a pilot and the flight has to be canceled. The passengers are kept waiting for a later flight. In some cases the later flight is much later, because the more lightly traveled routes do not have very many flights each day.

Mr. Speaker, I think it is time that we did something to improve airline service outside the major hubs in this country. If that means reregulation, then I am for it.

It is not fair to our constituents to leave them with an airline system which does not serve their needs. The function of the airline industry is not to make millions for takeover specialists on Wall Street. The purpose of the airline industry is supposed to be providing reliable service to Americans at a fair price, and that is not happening today. We can do better.

I should note that the administration opposes enactment of this bill and has provided a policy statement indicating that the President's senior advisors would recommend that he veto this bill or any similar legislation.

The Rules Committee has provided an open rule which will permit the House to make necessary changes in the bill. I will support the rule so that the House can proceed to act promptly on this legislation to provide for increased Federal review of airline acquisitions.

Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of the rule governing consideration of our bill (H.R. 3443) dealing with leveraged buyouts [LBO's] in the airline industry.

The issue of airline acquisitions has come to the forefront recently with all the publicity surrounding the Northwest, United, and American takeovers. These takeovers raise very real concerns about the safety and future competitive health of the airline industry.

Our bill is really a rather modest approach to the issue. It merely requires advance notice of a proposed airline acquisition and gives DOT a chance to disapprove acquisitions that would be harmful to the public.

However, this bill is not without controversy. Some Members on our side of the aisle may have problems with this bill in its current form. Members on the other side of the aisle may want to make changes as well. Therefore, I am pleased that the Rules Committee has seen fit to grant an open rule for the

consideration of this bill. This will allow all the questions raised by this legislation to be considered by the full House.

Accordingly, Mr. Speaker, I support this rule and favor its immediate adoption.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. ANDERSON], the distinguished chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Speaker, I support the rule.

The rule will permit consideration of important legislation to regulate leveraged financing, and foreign ownership and control of major U.S. airlines. Leveraged financing sometimes requires airlines to take on excessive amounts of debt. This could weaken airlines financially, compromising safety and impeding competition. We cannot afford any further weakening of the few major carriers remaining in the industry.

As we will discuss at greater length in general debate, the bill which is covered by this rule, H.R. 3443, will improve the Department of Transportation's effectiveness by requiring that acquisition proposals be filed with DOT 30 days before implementation, allowing DOT the opportunity to review the proposal and disapprove it if necessary.

The rule offers a fair procedure for consideration of this legislation. The rule is an open rule without limitation on amendments. The rule will give the House an opportunity for full consideration of this important issue.

Mr. Speaker, I urge a vote for the rule.

□ 1440

Mr. QUILLEN. Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I appreciate very much the Committee on Rules' actions to offer an open rule which does allow some of us who have some serious concerns about the bill to express our feelings and to offer amendments. So, I appreciate the open rule, support it and certainly testified in favor of it before the Committee on Rules.

However, Mr. Speaker, I do have some problems with the legislation as it moved through my committee and my subcommittee of the Committee on Public Works and Transportation, and I think that many members of my committee have some of the same concerns.

One, it is not necessary for us to pass legislation for safety purposes. There is ample and abundant law in existence now to protect the safety of our riding passengers and to provide adequate safety precautions. So, this should not and is not couched to become a safety piece of legislation.

Let us face the facts. It simply deals with buyouts, the buying and selling of assets of any corporation.

Mr. Speaker, in this particular piece of legislation we are dealing with airlines, but make no mistake about it. When we impose regulatory requirements on buyouts and the selling and buying of assets, the selling and buying of stock in an airline company, it is certainly a precedent that will lend itself in the future to other regulatory measures with other industries.

What are some of the concerns that I have with this piece of legislation? It inhibits the free flow of capital in terms of companies and their survival. If we enact H.R. 3443, we will send a message to the investment community that I think is the negative and a wrong message.

As a matter of fact, Mr. Speaker, as our subcommittee debated and held hearings on this piece of legislation, it was right at that moment that the stock market literally went into chaos as it relates to airlines and airline takeovers. American was in the process, United was in the process, and we have just dealt with some of Eastern's problems and other problems, and, when we begin to go through the motions of controlling the leveraged buyouts, certainly the stock market in my judgment, and in the judgment of many other economists, responded very negatively.

Mr. Speaker, this piece of legislation would impose a 30- to 50-day waiting period mandated in the bill that would wait for any leveraged buyout to be consummated. During that 30- to 50-day period there is no question that many of the buyouts would simply not be able to survive. It would be an effective means of killing many of the many justifiable and positive buyouts.

Mr. Speaker, DOT already has authority to ensure compliance with air safety, with financial fitness, with citizenship requirements. This bill is not necessary for that purpose.

This bill is not limited to simply leveraged buyouts. Every transaction of shares in an airline is treated in the same manner, whether it be a leveraged buyout, whether it be a cash buyout, whether it be a debt or a merger. They will be controlled under this bill.

In addition, under the terms of this piece of legislation a buyout, even if it were a cash buyout, would be greatly discouraged by the requirements of this piece of legislation.

Mr. Speaker, this bill in my judgment imposes draconian restrictions on all buyouts and takeovers in an effort to prevent one or two undesirable takeovers from taking place. The Donald Trumps and the Frank Lorenzos of the corporate world do not necessarily represent the vast majority of buyouts, which are good, and to place the kinds of restrictions that this bill will do is simply inappropriate.

For example, it requires the Secretary of Transportation to disapprove of a leveraged buyout if three or four findings are found. Two of them deal with safety. I have no problem with that except that safety requirements are already existing in law, and thus this becomes redundant and unnecessary.

Mr. Speaker, it is the other provisions and findings that would require the Secretary to disapprove of a leveraged buyout that gives me the greatest concern. This bill would require the disapproval of an airline buyout, and the airline would be required to dispose of substantial portions of its aviation related assets. It simply means that a company could not downsize itself in order to meet its financial responsibilities.

My goodness, if AT&T fell under the restrictions of this piece of legislation, it would have never been able to survive the breakup. A bank could not sell off a branch or sell off some of its assets under the terms of this piece of legislation if it fell under the requirements of this restrictive language.

Furthermore, Mr. Speaker, an airline would not be able to deteriorate its ability to provide air transportation if the buyout would bring that cause about.

Mr. Speaker, this simply is not workable in the corporate world, highly restrictive, and frankly I think it would be inappropriate to pass. Hopefully during the time we debate the bill and the amendments, and I will have two amendments that I would like to offer to try to improve this legislation, we will have an opportunity during that time to further debate some of these substantive issues that I think make this inappropriate.

I should mention in the final moments of my time that the President strongly opposes this piece of legislation and has indicated that he will surely veto the bill if it comes to his desk, and the Secretary of Transportation opposes it, and certainly I do.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, with all due respect to the gentleman from California [Mr. ANDERSON], my extraordinarily good friend, the former mayor of Hawthorne, our former lieutenant Governor and distinguished chairman of the full Committee on Public Works and Transportation and others who are supporting this bill, I have to say that it is to me incomprehensible that we could even be considering such legislation. Mr. Speaker, let me say why.

A week ago last Thursday, October 19, I happened to be out in California.

That was just 2 days after the earthquake, but, even though I did not get a chance to vote on it, we passed legislation which was designed specifically to encourage and to provide incentive for the private sectors of both Hungary and Poland.

Mr. Speaker, at this point the prospect of legislation like this makes it look as if we should have designated the private sector of the United States of America for that kind of incentive because we are clearly providing a great disincentive here. The prospect of charging the Transportation Secretary with determining who can buy and sell stocks is to me ludicrous, and, Mr. Speaker, once again we are struggling, looking at the cost of capital all over this country and throughout the world as we deal with this global economy.

Sure, this bill is very well intentioned, but could my colleagues imagine what the cost of capital for the airline industry would be if we were to pass this?

□ 1450

It would be much greater than it would be for other sectors of the economy.

I congratulate my friend, the former mayor of Carlsbad, the gentleman from California [Mr. PACKARD] for his amendment. I would like to associate myself, Mr. Speaker, with his fine comments, and I hope very much that this Congress does not pass this unbelievable legislation.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Minnesota [Mr. OBERSTAR], the distinguished chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation.

Mr. OBERSTAR. Mr. Speaker, I want to thank the gentleman from Texas [Mr. FROST], the floor manager of the rule, for yielding me this time, and I want to compliment the Rules Committee on a very fair and open rule that has been provided for the consideration of H.R. 3443.

I just want to say for the record, the gentleman from Texas has had a very longstanding, a very strong and well-informed interest in aviation. It is no surprise to any of us that he should be the floor manager of the rule providing for this very important legislation for the future of aviation. The gentleman has long been an active participant in matters involving the adequate financing of airport improvement of facilities and equipment programs and the strengthening of the FAA. I want to compliment the gentleman on his very strong, longstanding, and effective interest in this very important national public policy issue.

The bill before us simply is legislation to provide for an orderly process for the Secretary of Transportation to review buyouts before they are consummated, rather than after they are consummated. As the Secretary of Transportation testified at the hearings of the Aviation Subcommittee on this issue, the objective should be to review transactions before they are entangled with stock transfers and the Department is placed in the position of having to unravel a very complicated situation. He said it would be very useful for us to have prior review authority, and that is what this legislation provides. It is very wise. It is very sensible on a public policy issue of broadest public concern and for the very specific purpose of insuring that in this era of deregulation we will continue to have carriers adequately financed and able to carry out the responsibilities under law to assure the benefits of deregulation, increased competition, and service to the public at low fares.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. COX].

Mr. COX. Mr. Speaker, it was my privilege as a member of the Committee on Public Works and Transportation to participate with the other members in hearings on this bill. As the chairman of the Republican task force on capital markets, I have a special interest in this bill and its application to our stock markets.

The essence of the bill, I think we should understand at the outset, all transactions involving shares of large publicly owned air carriers will be halted in their tracks, good or bad, if they involve 15 percent ownership. The bill, in short, says nothing about leveraged buyouts. Now, we will hear a lot today about leveraged buyouts, whether they are good or whether they are bad, and I think that is an important argument for us to have here in America, but the fact is that this bill is not limited to LBO's. Every transaction in the shares of airlines is treated in the same manner, not just leveraged buyouts, but any purchase of an airline, for cash, for debt, by merger, is covered in exactly the same way.

There is another feature of the bill of which we should be aware. It will hurt competition. The airline industry right now is characterized by high barriers to entry. It is an expensive industry to enter, and it is a concentrated industry. There are really only eight major carriers at present. In an industry of this type, the best way, or certainly one of the best ways to insure new competitors is to make it possible for the marketplace to come in and spinoff airline assets, creating new airlines, but this bill has a bias toward bigness.

It says that bigger is better, because it instructs the Secretary of Transportation to disapprove those transactions where it is the probable intent of the acquiror to dispose of substantial airline assets.

Now, the Secretary of Transportation, to be sure, is permitted the discretion to determine whether such a spinoff is in the public interest, but as my colleague, the gentleman from California just a moment ago pointed out, that is really in the nature of a centralized economy, not a stock market. That is the government deciding what economic transactions are good, as opposed to the market.

We will hear a little bit later today about airline safety. I believe this bill seriously threatens airline safety. Airline safety requires investment. It requires new capital. It requires maintenance expenditures. This bill, by raising the cost of capital in the airline industry, will substantially diminish available new capital for investment in airlines, and hence it can do nothing but hurt airline safety.

Finally, the bill will hurt American shareholders. Press reports attributed much of the blame for the October 13 190-point drop in the Dow to what was going on in the Congress on this subject. It was airline shares that first fell. The markets imposed trading halts on both American Airlines and United Airlines. As a consequence, all takeover stocks started selling off and the rest of the market, because of that selling pressure, went through the floor. In the ensuing period, up until now, airline stocks broadly and transportation stocks broadly have been going down.

Just to take one carrier to be specific, American Airline shares, which were selling at over $100 were pushed down to $70. That is a significant loss for the small shareholder in America, for people who want to invest in our capital markets, and after all, that is what attracts people to invest in the stock market in the first place, the opportunity to gain on their transactions. By wiping out shareholders' value, of course we make it much less likely that new people will enter the market. That in turn restricts new capital and new investment for the airline industry and ultimately will be anti-competitive, anti-safety and anti-new jobs.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield further time, I would like for the committee to seriously consider a look at the airline industry, because the smaller communities of this Nation are not being serviced properly. The airline managers are concentrating too much on the financial markets. I think it is time that we took a look at reregulating the airlines. I hope that you will.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I am happy to yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding to me, and I certainly appreciate his perspective and share the gentleman's concern about adequacy of service. We have already begun on a bipartisan basis with a movement along the lines that the gentleman is suggesting, with hearings on concentration of economic power in the airline industry, concentration of power at the main hubs. We will move next to consideration of issues affecting the regional and commuter airlines, including many of the issues the gentleman raised in the course of the Rules Committee hearing, when he so forcefully expressed the viewpoint he has just enunciated.

I know that the Republican membership, the leadership on our committee, share that concern. We will be moving further to examine very closely those matters of competition and adequacy of service to small sized communities.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman.

I agree that we should take a very close look at it.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I rise in opposition to H.R. 3443, which will give one more bureaucrat power to decide how a major American industry will be structured. It will erect one more barrier to the free flow of capital in our economy. It serves no purpose except to protect the powerful at the expense of millions of average Americans who will pay a heavy price if it is enacted.

Proponents of this legislation contend that it is in the public interest and the interest of competition to give the Secretary of Transportation this review and reject authority. I am as concerned about competition in the airline industry as anyone; but, we already have agencies looking at antitrust implications, and we already have agencies responsible to protect other aspects of the public interest for any major transactions of this type.

Proponents also assert that these controls will promote safety. Along with the rest of my colleagues I fly to my district frequently. I do not want to see a decline in the safety of the airlines any more than my colleagues, or the traveling public. But it is also in the best interests of the industry to maintain a high level of safety to promote its business. And there is already sufficient authority under present law to ensure safety. If we are concerned about safety, let us discuss the existing safety regulations and educate the public as to which carriers are providing and ensuring the safest travel.

No, the real issue here is not safety, or competition, or the public interest in general. The real issue, is whether we should promote corporate democracy, and the free flow of capital, or protect the interests of top management of threatened companies.

I believe somebody has to stand up for the rights of the common shareholders, who benefit from these acquisitions. Somebody has to stand up against entrenched management. There are millions of shareholders around the country who have precious little defense against entrenched management and captive boards. One of the few defenses they do have is takeovers, and the threat of takeovers. If someone thinks the assets of a company can be better deployed and managed, and he is willing and able to buy it, why shouldn't we not let him?

The best thing that we can do for the smooth functioning of capitalism in America, the modernization of our economy and the promotion of higher share values on which millions of individuals and their pension funds and insurance companies depend, is to make the free flow of capital easier, not more difficult. Further restrictions are just a hindrance to these movements of capital.

I have yet to see an example of a successful takeover that did not benefit the original shareholders of the acquired company. If this bill passes, we will be giving management yet another tool to fight off takeover attempts that are beneficial to the shareholders. If Members want to help CEO's hang on to their million dollar jobs regardless of their performance, then they could support this bill. But if Members are on the side of the stockholder, his insurance company, his pension fund, and the health of the American capitalist economy, then they should oppose this bill. Please do not vote for the corporate and bureaucratic elite. Vote for the common man. Vote against this harmful bill.

□ 1500

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge adoption of this rule. It has strong bipartisan support from the leadership of the committees. It is clearly necessary to make sure that the flying public is served and that people who are in the leveraged-buyout business cannot dictate transportation policy in this country.

Mr. Speaker, I have no further requests for time; I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DOWNEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 414, nays 2, not voting 17, as follows:

[Roll No. 320]

YEAS—414

Ackerman	Derrick	Hochbrueckner
Akaka	DeWine	Holloway
Anderson	Dickinson	Hopkins
Andrews	Dicks	Horton
Annunzio	Dingell	Houghton
Anthony	Dixon	Hoyer
Applegate	Donnelly	Hubbard
Archer	Dorgan (ND)	Huckaby
Armey	Dornan (CA)	Hughes
Aspin	Douglas	Hunter
Atkins	Downey	Hutto
AuCoin	Dreier	Hyde
Baker	Duncan	Inhofe
Ballenger	Durbin	Ireland
Barnard	Dwyer	Jacobs
Barton	Dymally	James
Bateman	Dyson	Jenkins
Bates	Early	Johnson (CT)
Beilenson	Eckart	Johnson (SD)
Bennett	Edwards (CA)	Johnston
Bentley	Edwards (OK)	Jones (GA)
Bereuter	Emerson	Jones (NC)
Berman	English	Jontz
Bevill	Erdreich	Kanjorski
Bilbray	Espy	Kaptur
Bilirakis	Evans	Kasich
Billey	Fascell	Kastenmeier
Boehlert	Fawell	Kennedy
Boggs	Fazio	Kennelly
Bonior	Fields	Kildee
Borski	Fish	Kleczka
Bosco	Flake	Kolbe
Boucher	Flippo	Kolter
Boxer	Foglietta	Kostmayer
Brennan	Ford (MI)	Kyl
Broomfield	Ford (TN)	LaFalce
Browder	Frank	Lagomarsino
Brown (CA)	Frenzel	Lancaster
Brown (CO)	Frost	Lantos
Bruce	Gallegly	Laughlin
Bryant	Gallo	Leach (IA)
Buechner	Gaydos	Leath (TX)
Bunning	Gejdenson	Lehman (CA)
Burton	Gekas	Lehman (FL)
Bustamante	Gephardt	Lent
Byron	Geren	Levin (MI)
Callahan	Gillmor	Levine (CA)
Campbell (CA)	Gilman	Lewis (CA)
Campbell (CO)	Gingrich	Lewis (FL)
Cardin	Glickman	Lewis (GA)
Carper	Gonzalez	Lightfoot
Carr	Goodling	Lipinski
Chandler	Gordon	Livingston
Chapman	Goss	Lloyd
Clarke	Gradison	Long
Clay	Grandy	Lowery (CA)
Clement	Grant	Lowey (NY)
Clinger	Gray	Luken, Thomas
Coble	Green	Lukens, Donald
Coleman (MO)	Guarini	Machtley
Coleman (TX)	Gunderson	Madigan
Collins	Hall (OH)	Manton
Combest	Hall (TX)	Markey
Condit	Hamilton	Marlenee
Conte	Hammerschmidt	Martin (IL)
Cooper	Hancock	Martin (NY)
Costello	Hansen	Martinez
Coughlin	Harris	Matsui
Cox	Hastert	Mavroules
Coyne	Hatcher	Mazzoli
Craig	Hawkins	McCandless
Crane	Hayes (IL)	McCloskey
Crockett	Hayes (LA)	McCollum
Dannemeyer	Hefley	McCrery
Darden	Hefner	McCurdy
de la Garza	Henry	McDade
DeFazio	Herger	McDermott
DeLay	Hiler	McEwen
Dellums	Hoagland	McGrath

McHugh	Rangel	Smith, Robert (OR)
McMillan (NC)	Ravenel	Snowe
McMillen (MD)	Ray	Solarz
McNulty	Regula	Solomon
Meyers	Rhodes	Spence
Mfume	Richardson	Staggers
Michel	Ridge	Stallings
Miller (CA)	Rinaldo	Stangeland
Miller (OH)	Ritter	Stark
Miller (WA)	Roberts	Stearns
Mineta	Robinson	Stenholm
Moakley	Roe	Stokes
Mollohan	Rogers	Studds
Montgomery	Rohrabacher	Stump
Moody	Ros-Lehtinen	Sundquist
Moorhead	Rose	Swift
Morella	Rostenkowski	Synar
Morrison (CT)	Roth	Tallon
Morrison (WA)	Roukema	Tanner
Mrazek	Rowland (CT)	Tauke
Murphy	Rowland (GA)	Tauzin
Murtha	Roybal	Taylor
Myers	Russo	Thomas (CA)
Nagle	Sabo	Thomas (GA)
Natcher	Saiki	Torres
Neal (MA)	Sangmeister	Torricelli
Neal (NC)	Sarpalius	Towns
Nelson	Savage	Traficant
Nielson	Sawyer	Traxler
Nowak	Saxton	Udall
Oakar	Schaefer	Unsoeld
Oberstar	Scheuer	Upton
Obey	Schiff	Valentine
Olin	Schneider	Vander Jagt
Ortiz	Schroeder	Vento
Owens (NY)	Schuette	Visclosky
Owens (UT)	Schulze	Volkmer
Oxley	Schumer	Vucanovich
Packard	Sensenbrenner	Walgren
Pallone	Shaw	Walker
Panetta	Shays	Walsh
Parris	Shuster	Watkins
Pashayan	Sikorski	Waxman
Patterson	Sisisky	Weber
Paxon	Skaggs	Weiss
Payne (NJ)	Skeen	Weldon
Payne (VA)	Skelton	Wheat
Pease	Slattery	Whittaker
Pelosi	Slaughter (NY)	Whitten
Penny	Slaughter (VA)	Williams
Perkins	Smith (FL)	Wilson
Petri	Smith (IA)	Wise
Pickett	Smith (NE)	Wolf
Pickle	Smith (NJ)	Wolpe
Porter	Smith (TX)	Wyden
Poshard	Smith (VT)	Wylie
Price	Smith, Denny (OR)	Yates
Pursell	Smith, Robert (NH)	Young (AK)
Quillen		Young (FL)
Rahall		

NAYS—2

Bartlett	Gibbons

NOT VOTING—17

Alexander	Feighan	Sharp
Brooks	Florio	Shumway
Conyers	Garcia	Spratt
Courter	Hertel	Thomas (WY)
Davis	Molinari	Yatron
Engel	Parker	

□ 1523

Messrs. ROHRABACHER, PURSELL, and COYNE changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to section 2 of House Resolution 275, House Resolution 272 is hereby laid upon the table.

AUTHORIZING ADDITIONAL COSPONSORS OF H.R. 2812

Mrs. MORELLA. Mr. Speaker, I ask unanimous consent to add cosponsors to H.R. 2812, whose prime sponsor was the late Mickey Leland.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

The list is as follows:

Mr. Conyers and Mr. Moakley.

REVIEW OF CERTAIN ACQUISITIONS OF VOTING SECURITIES OF AIR CARRIERS

The SPEAKER. Pursuant to House Resolution 275 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3443.

□ 1525

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3443) to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes, with Mr. LEATH of Texas in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. ANDERSON] will be recognized for 30 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3443, a bill which will enhance the power of the Secretary of Transportation to deal with leveraged buyouts and increased foreign ownership and control of U.S. airlines. Public concerns over leveraged buyouts have been heightened by the recent buyout of Northwest, and by the unsuccessful efforts to acquire control of our two largest airlines, United and American.

H.R. 3443 was developed by the Committee on Public Works and Transportation to deal with the problems of leveraged buyouts, and the substantial new debt they create for airlines. After a leveraged buyout, the acquired airline needs to produce enough cash-flow to pay annual debt servicing costs of hundreds of millions of dollars. Aviation is a cyclical industry and we are concerned that in a recession an airline will not have sufficient profits to meet its debt servicing costs. This would create temptations for the airline to cut corners on safety. It may also require the airline to reduce its competitive effectiveness by selling assets or cutting back on employment. In view of the substantial decline in airline competition which has occurred in recent years, we cannot afford to have one of our remaining major airlines dismantled or seriously disabled by the burden of servicing excessive debt resulting from a leveraged buyout.

Foreign ownership and control of U.S. airlines raises other problems. Foreign ownership may reduce the willingness and ability of U.S. airlines to commit aircraft to the Department of Defense for use in a civil emergency. Foreign ownership may also undercut competition between U.S. and foreign airlines and may impair the ability of the U.S. Government to negotiate aviation agreements with foreign countries which serve the interests of the traveling public.

There are deficiencies in the Department of Transportation's authority under existing law to review leveraged buyouts and acquisitions involving foreign ownership and control. One problem is that there is no requirement that a group seeking to acquire control of an airline obtain the prior approval of the Department. This means that a transaction may be completed before the Department is ready to act. The Department may be in the untenable position of either grounding a major airline or trying to come up with ways to unscramble a completed transaction in which the airline has already taken on new debt and bought out the existing shareholders.

There are also questions about the adequacy of the substantive provisions in existing law. The Department's authority to prevent an airline from being weakened financially may extend only to situations in which the airline would be unable to operate safely. DOT may not have authority under existing law to prevent a financial weakening which would substantially impair an airline's ability to compete or require it to sell a major portion of its aviation-related assets.

H.R. 3443 takes a moderate and reasonable approach to the problems of leveraged buyouts and foreign ownership. The bill establishes prior review procedures closely modeled on those of the Hart-Scott-Rodino Act which provides for prior review in the antitrust area. Hart-Scott-Rodino has worked well in the antitrust field, without burdening legitimate acquisitions and mergers. These procedures should work equally well in the airline field.

H.R. 3443 also establishes new standards for the Department to use in re-

viewing acquisitions. The Department is directed to disapprove an acquisition if it would weaken a carrier financially so as to substantially impair its ability to operate safely, or its competitive effectiveness, or would require the carrier to dispose of a substantial portion of its aviation-related assets. Another ground for disapproval is that the acquisition would lead to a major reduction in the size of a carrier, if the Department is unable to find that there would be overriding public benefits from the reduction in size. Disapproval is also required if the acquisition would give a person who is not a citizen of the United States the power to exercise control over the airline.

Mr. Chairman, I believe that H.R. 3443 will allow acquisitions and mergers which would benefit the public to go forward, while stopping acquisitions which are based primarily on the desire for quick profits and which threaten the future of a major airline. I strongly urge my colleagues to join me in supporting this legislation.

□ 1530

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, during our committee's hearing on this issue, witnesses testified about the need for a process like the Hart-Scott-Rodino process to handle airline acquisitions. Under that process, a person seeking to merge with another business has to give the Government 30 days advance notice.

That is the process we have developed in the bill before us now. It would require a person to give the DOT 30 days notice of a plan to buy an airline. If the DOT did not disapprove the acquisition within those 30 days, the buyout could proceed.

This differs from DOT's current process where they review the acquisition after the fact and then have to undo those parts of it that they do not like. That is not a good approach because it is harder to unwind a transaction after it is consummated than to rule on it before it is consummated. The advance review process in our bill is the better way to go.

Mr. Chairman, I had hoped that DOT would be able to support this bill. Unfortunately, they are not able to do so. However, I continue to believe that it strikes the proper balance.

This bill does not prevent airline takeovers or significantly interfere with an owner's property rights. It merely gives DOT the opportunity to review those transactions that might harm the public interest. And the procedures it establishes are basically the same as those now used by the Justice Department to review mergers.

In reviewing an airline acquisition, DOT would be expected to consider the impact that the acquisition would have on passenger safety, and airline competition. But DOT would not decide whether the deal was a good one from a business standpoint. That is for the investors to decide. Indeed, investors may benefit by the advance review procedure in the bill since that would provide them with the Government view on the deal at an earlier point in the process.

The focus of the bill on passenger safety and airline competition is appropriate. Witnesses did testify that there is no relationship between an airline's financial troubles and safety. However, given its importance, air travelers expect assurances that the heavy debt load incurred during the acquisition will not lead to a deterioration in safety.

The focus on competition is also necessary in light of recent concerns. Given the increased concentration in the airline industry, we would not want to see leveraged buyouts lead to the loss of any more competitors.

One objection that I have heard to this bill is that it would prevent a purchaser from downsizing or splitting up an airline even if that would make the airline more competitive. But that objection is no longer valid. As a result of our committee's approval of an amendment I offered, the Secretary could now approve an acquisition that would result in a sale of assets or a smaller airline if that would be in the public interest.

Therefore, for all these reasons, I believe this is a good bill and I urge a yes vote on it.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, I rise in support of H.R. 3443, in the interest of safety for airline passengers. The bill would allow a respite in the aggressive takeover binge affecting our Nation's airlines. I'm particularly interested in this issue because I represent thousands of employees of American Airlines and those affiliated with the Dallas-Fort Worth International Airport.

H.R. 3443 will provide for a waiting period of 30 days, during which the Secretary of Transportation can analyze proposed leveraged buyouts and make a determination regarding the ability of the potential owners to "operate with the highest degree of safety." If the Secretary determines that the financial arrangements will lead to the breakup of the carrier or leave it in a weakened state, unable to compete or remain a viable entity within the industry, the Secretary can disapprove the takeover.

When Donald Trump first made known his desire to purchase American Airlines in a highly leveraged package, an effort which he has since abandoned, many observers were left scratching their heads. Anyone who knows the aviation industry knows that American Airlines is among the finest, most well-managed carriers in the industry. The board of directors works with the employees and their unions, and together they provide a level of safety and comfort which has no rival.

Trump's attempt did not make sense at the time, and it still doesn't make sense to take over a well-run airline in a hostile fashion, loading on an estimated $6 billion in debt. The traveling public is the big loser. Highly leveraged owners are going to be understandably preoccupied with paying back their financial obligations, which I fear might detract their attention from ensuring adequate passenger safety.

The safety of the traveling public is and should be the No. 1 priority of the Secretary of Transportation. Secretary Skinner already has the responsibility for the safety of airlines, and this legislation will give him the power to accompany that responsibility.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I rise in strong support of H.R. 3443 and congratulate the chairman and the subcommittee chairman on their fine work on this much needed legislation.

We heard earlier from some colleagues on the other side that bemoaned the fact that this legislation might throw a little bit of cold water on the leverage buyout crisis on Wall Street, that it may have caused a collapse in some speculation which caused a temporary reduction in the stock market. I hope that is true. I hope this bill does have that sort of chilling effect because, quite simply, what we are seeing is a system in which money is being borrowed by people who have no expertise in the management of airlines, nor any long-term perspective in the management and operation of our airlines to purchase perfectly efficient airlines, some of the best-run airlines in the world, saddle them with enormous amounts of debt, such as they will be unable to meet the challenges of the 1990's and the next century, the acquisition of new assets, the acquisition of dates, the acquisition of new aircraft, the maintenance and the upgrading of the existing fleets that are required, the new personnel, to fight some of the marketplace to get qualified pilots, machinists, and attendants during a labor shortage.

Quite frankly, they would say that whoever has the money should be able to purchase these airlines and the public be damned, and safety be damned. It is time to bring that cowboy era to an end. That is what this bill would do. It would merely say that the Secretary who is vested with the authority to protect the health and safety of the traveling public, and promote the industry, would be given specific authority in cases of these acquisitions, to disallow the acquisitions when they jeopardize public safety.

The bottom line is here, they would have Members destroy the airline industry in order to save it, they say, from inefficient management. I believe the opposite is true. The industry has

been destroyed in the cases of acquisitions like Eastern and Continental and the best operators and the stars on the horizon, American, United, and Delta and others, do not need to be taken over and saddled with huge amounts of debt. They can do a good job now and meet the challenges in the future if they are not threatened.

I urge my colleagues to support this.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. INHOFE], a member of the committee.

Mr. INHOFE. Mr. Chairman, I thank the gentleman from Arkansas for yielding me some of the precious time on this bill.

It is disturbing to me to have listened to the discussions during the rule debate, that makes it appear that this should be Democrat versus Republican type of approach. I rise in support of H.R. 3443.

I would like to point out a couple of things I do not think have really been said up to this time. First of all, when we say that safety is not a consideration, that this is something that is not going to improve safety, those individuals have not been living very closely to a major airline when they see how much time has to go into the preparation for a safety program on the long term. It happens that American Airlines, in my district, is our largest employer. We have 10,000 families in my district in Tulsa, OK. When I was mayor of Tulsa, we worked with these individuals, to try to help them and assist them in their long-term plans, and their long-term plans were to have a safety record that would be second to none anywhere in the country.

□ 1540

It does mean they are going to barely comply with the Department of Transportation mandates. It means they are going to try to come up with a program that is a good program that is going to make them keep them No. 1.

This is an airline that has been characterized in the current addition of Business Week as the "biggest and best run carrier in America." Safety is an issue.

Second, we talk about government interference. I would defy anyone to find any Member on this floor who has a better record in supporting the free enterprise system, the free economy, supporting deregulation, and supporting business in general, than this Member. Yet when we look at this we look at other groups who feel the same way about it as I do.

At a meeting held in Hot Springs, VA, just a couple of weeks ago of he largest CEO's of the 100 largest companies in America, without exception they all stated for the record that the crash of Friday's stock market prior to that meeting was due to the threat from LBO's.

Lastly, I want to say there are a lot of corporate bandits out there who have no intention of doing anything with some entity or corporation that they would absorb. Right now we have what has been characterized as the largest and best run airline threatened for a takeover by Donald Trump.

Donald Trump, I will characterize his feelings on takeovers by quoting him, what he said on television. He said, "It is a part of the game I have to play. It is all a game really."

Let me tell Members that it may be a game to Donald Trump, but it is not a game to 77,000 families of the best run airline in America.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I rise today in strong support of H.R. 3443. I do not believe that we in Congress should allow the Donald Trump's of the world to takeover major airline carriers by leveraged financing for the sole purpose of turning a quick profit. Transportation Secretary Samuel Skinner agrees. In testimony before the Subcommittee on Aviation, Secretary Skinner said it would be "cleaner, more efficient" if he could block leveraged buyouts of airlines before they happened.

We need this legislation. HUB cities like Nashville where airlines have invested heavily into the community, could see long-range growth and expansion plans threatened by LBO's. An LBO can devastate the community, and devastate the employees and families. And LBO can affect safety. And it can also affect the price we pay for an airline ticket.

This is not just a free enterprise issue. While I do not like to see infringements on free enterprise by government, airlines are private, investor-owned utilities. H.R. 3443 does not squash the opportunity to make a profit. What H.R. 3443 does is keep the industry in a position to provide a safe and reliable service.

I urge my colleagues to support H.R. 3443.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PACKARD], a distinguished member of the committee.

Mr. PACKARD. Mr. Chairman, this legislation is based on the presumption that all buyouts are bad and that all leveraged takeovers are bad. That is simply not the case.

We have talked a little bit about Donald Trump and his activities with American Airlines. Let us suppose it was Lee Iacocca that wanted to takeover American Airlines and run it as a legitimate good business. Would we look upon this leveraged buyout in the same light? Would we want to put the same controls on?

There are multitudes of buyouts that have very responsible new leadership coming in that may be necessary to actually revive a faltering company. We are placing restrictions on those kinds of buyouts in an effort to try to control the bad buyouts.

There is no question that there are some buyouts, but the marketplace has a remarkable way of handling those. The marketplace is resilient to those types of buyouts. Frankly, we are simply placing restrictions that will not permit good buyouts to take place in an effort to try to prevent and control the bad ones.

This is one giant step toward re-regulating the airlines. I am not sure that that is what my committee wants to do, and I am not sure that that is what this Congress wants to do, is to go back to re-regulating the airlines.

Who is going to pay the price? Who is going to pay the price for re-regulating and thus increasing the cost of the tickets? It is going to be the consumer, the riding public. They are going to pay substantially as we put these kinds of controls in and limit the amount of venture capital that comes into play as companies run into problems.

I reiterate what I mentioned at the time we debated the rule, and that is if a bank, a troubled bank, or even a healthy bank, were placed under the same restriction that this legislation will place on the airlines, a bank could not sell off any of its assets. It could not sell a branch without meeting certain guidelines.

I see this as the beginning step of perhaps regulating other industries that would prevent them from being able to operate in a normal fashion.

I urge Members to defeat this bill, or to certainly look carefully at the amendments that will be offered that will help to remove some of the more onerous portions that prevent the selling of assets. I urge a "no" vote on this piece of legislation.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, millions of American travelers have come to depend on air transportation. Yet the numerous airline accidents in recent years have diminished our faith in air safety.

Many issues are raised as we consider the effects of an airline leveraged buyout. An LBO can drain a company of finances, eliminate an airline's competitive edge, and demoralize its employees. But today I am concerned about safety standards.

Of course, there is no way we can completely eliminate the risks of air travel. But we can certainly create an environment that minimizes these

risks as much as possible. That means keeping safety a top priority in the airline industry. These days airlines are challenged to meet high safety standards and continue to work to advance their technology. Safety factors should not be jeopardized—but they are by leveraged buyouts.

Today the cost of maintaining a safe fleet of aircraft is immense. Modernization alone involves valuable capital. However, committing that capital to excessive debt may threaten a company's commitment to safety.

LBO's can undermine an airline's integrity. When an air carrier assumes a large debt, it's not hard to see how safety may take a back seat. Often revenues are tied up in debt relief while safety corners are cut and workers' wages reduced.

The question before us today is should we allow financiers to buy out an airline without going through precautionary checkpoints. Much like Donald Trump is doing in his pursuit for American Airlines in my home State of Texas. If an LBO is on the negotiating table, the Secretary of Transportation should be able to review its effects. Essential questions must be asked: Will the airline be able to maintain the highest level of safety? Will the airline remain up to speed with the most advanced technology?

Only after these questions are completely answered should a leveraged buyout of an airline take place. LBO's can threaten its full potential to provide the most secure flights. I urge you to join me in my support for H.R. 3443.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Cox], a very valuable member of our committee.

Mr. COX. Mr. Chairman, I would like to respond if I might to some of the points that have been raised in the debate thus far. The first is that Secretary of Transporation Skinner has recognized the need for this legislation. In fact, Secretary of Transportation Skinner opposes this legislation, as does the administration.

I have a letter from Secretary of the Treasury Brady, chairman pro tempore of the Economic Policy Council, dated October 30, 1989.

"I would like to advise you" says the Secretary of Transportation, "that the administration firmly opposes H.R. 3443."

The Secretary goes on to note that Secretary Skinner has made it clear that the Transportation Department already has sufficient authority to insure compliance with its financial rules.

□ 1550

Mr. Chairman, a second point raised in the debate is that because of concern with LBO's we need this legislation. It is important to point out that this legislation says nothing about LBO's. It applies to all transactions, whether financed with cash or debt. It throws out the baby with the bath water. It is a very ham-fisted measure that substitutes Government approval for the judgment of the marketplace.

Interestingly, this bill was dubbed by the Wall Street Journal the Aeroflot bill. It was dubbed the Aeroflot bill because it makes the Secretary of Transportation, who opposes it, a new commissar of airline acquisitions. In the Soviet Union Aeroflot is, of course, owned by the government. In this country we have privately owned airlines where a company can go out and raise money in the debt and equity markets using our very free stock exchanges. For the first time in our country's history the Government is going to tell a willing buyer and a willing seller, both U.S. citizens on our stock exchange, "You can't do it unless I say so first"; "I" being the Government.

Mr. Chairman, there are others whose opposition to this bill should be noted. Michael Levine, the dean of the Yale School of Management, was one of our witnesses. He strongly opposed this bill because of the higher costs of capital it would impose on an industry that needs new investment. It would impose higher costs of capital because simply it would make ownership of airline shares less attractive to investers than other shares which do not have this preapproval requirement before they can be bought and sold. Michael Jensen of Harvard Business School, who has written a great deal on these subjects, strongly opposes this bill.

Frankly, Mr. Chairman, I wish that we had more time to debate this both in our committee, where the debate on the bill was limited to 2½ hours, and today, where our time is of necessity limited under our rule. However I want people to be sure to understand that, as we consider it, first it applies, not just to debt financed transactions, but to all transactions; and, second, the administration, for the reasons outlined, is strongly in opposition to this, and a veto is being recommended.

Mr. Chairman, I for one plan to support President Bush, Secretary Skinner, Secretary Brady, vote against the bill and vote to sustain the veto when cast.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, I rise in support of H.R. 3443. As chairwoman of the Subcommittee on Government Activities and Transportation, I am increasingly concerned about the financial health, fitness, and safety of our Nation's airlines. When deregulation of the airline industry was passed in 1978, we saw an increase in the number of new carriers, and consequently an increase in competition between or among the airlines. Less than 10 years later, only 4 of the 22 postderegulation new airlines have survived. The others have either failed, been acquired by other carriers or changed to commuter service. The Committee Report on H.R. 3443 notes that between 1985 and 1987 the Department of Transportation promoted reduced competition by approving 10 mergers of major carriers.

The price tag of such mergers is extremely high. Acquisitions funded by the taking on of substantial new debt can have a debilitating effect on an airline. Transportation Secretary Skinner recently testified that "the pressure to pay down the principal and to meet interest payment could threaten the carrier's ability to meet its other obligations including fleet replacement, aircraft repairs and maintenance, security, crew training, and other safety related expense." In other remarks to the International Aviation Club on September 19, Secretary Skinner voiced concerns over the possibility of "debt-ridden airlines, forced to adapt sweeping austerity measures" and unintentionally compromising the safety of the traveling public.

We must always be concerned about the possible effects of any acquisition attempt. More vigorous scrutiny must be directed to the would-be purchaser. Recent history has demonstrated that those prospective purchasers who have repeatedly demonstrated an inability or an outright lack of interest and commitment to improving the financial health of its acquisitions will continue their destructive ways if this measure is not passed.

My subcommittee held a series of oversight hearings in 1987 on maintenance at Eastern Airlines. What we learned was shocking. Apparently, corporate cost cutting impacted Eastern's maintenance practices to such a degree that literally hundreds of alleged maintenance violations were uncovered by the FAA. Eastern ultimately agreed to a $9.5 million payment, the largest penalty ever collected by the FAA.

It is said that those who fail to learn from the mistakes of the past are doomed to repeat them in the future. The lessons of the past include Continental, Eastern, People's Express, and New York Air. The lessons of the past include a management team which, after repeatedly failing to service its acquisition, simply rolled on, taking over additional airlines, acquiring greater debts, filing additional bankruptcy actions, abrogating more and more collective bargaining agreements, driving more employees out to the picket lines, and leaving hundreds,

thousands of consumers stranded and holding worthless tickets.

How can we maintain our confidence in the fiscal and physical integrity of these airlines? Faced with staggering debts to be serviced, the maintenance of aging and stressed aircraft, and the constant pressure to rob Peter to pay Paul, something has to give. The traveling public cannot afford this kind of stressed airline industry. We have not yet experienced a tragedy or fatalities that can be linked to back-breaking debt and the resulting need to cut costs. Hopefully we will avoid such a catastrophe.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, where do we start on a bill like this? If we are for competitiveness, then I think we should be against this bill.

Time and time again the debate of competitiveness in this country and what enhances competitiveness in this country has shown us that time and time again too much government interference is seriously inhibiting our ability to compete in this world economy. Mr. Chairman, that is a general philosphy.

Getting down to this particular bill, my colleagues, what we would be doing is enhancing government interference in our free and efficient flow of capital in the airline industry. We might as well have some department of stock exchanger, and have some secretary sit there and be involved in every transaction on the New York Stock Exchange as to have this kind of bill.

What we would be doing is saying to America, "There will be no competition in the airline industry in this country," and what we would be saying is, "American, you're protected; United, you're protected," and, if any of my colleagues are from districts that have a strong influence and presence of United and American, I can understand their position.

Mr. Chairman, I come from Houston, strong Texas Air country, and I disagree with the gentleman from Oregon and resent the fact that Continental Airlines is called the destroyer of the airline industry. If it were not for Texas Air, we would not have people working that were working for Frontier Airlines, for Peoples Airlines. If we had had this bill in effect, they would not be working today. Those airlines would be shut down, and no one would be operating.

Mr. Chairman, it is the very reason that government is interfering in what is going on with Eastern that Texas Air is having the problems that they are having in creating a good, efficient, well-run, safe airline. Furthermore, this brings in government to further interfere in the free flow of capital in the acquisition or the spin-off of airlines. It can go so far as, if someone wants to streamline their airline, they have got to go to the Secretary of Transportation to get approval to sell off 15 percent of their company so that they could streamline, and become more efficient and be able to provide a good, safe service.

Mr. Chairman, this bill is not the way to stop acquisitions of American and United. Please vote no on this bill.

Mr. ANDERSON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Chairman, I rise in strong support for the proposal before us. There is reason to be concerned about the proliferation of leveraged buyouts throughout our economy. Too many times, well-healed fast buck artists have been able to target and acquire healthy American business, cashing out capital, piling up debt and, all the while, skimming off huge profits for themselves. Often these speculators have no apparent interest, let alone expertise, in increasing the efficiency or productivity of businesses they acquire. Their motives instead are personal profit.

Certainly, with the airline industry, an industry we entrust with the lives of thousands of Americans each day, it makes sense for us to examine the likely outcome of a leveraged buyout before that buyout is completed.

The proposal before us will do just that. It simply requires that the Department of Transportation review efforts to buy out major air carriers and insure that the safety of the flying public and the health of our economy are protected. If the motives of the acquiring person are good, if that person is capable of running an airline in a safe and efficient manner, there is nothing in this legislation to inhibit them and nothing to fear from a DOT review.

The airilne industry is particularly vulnerable to the debitating effects of a leveraged buyout. The industry is already highly consolidated with under 10 airlines controlling over 90 percent of the passenger miles. Its cyclical nature makes it very difficult to predict long-term economic performance. A leveraged buyout resulting in a huge debt could leave an airline with no choice other than to sell off valuable assets in an effort to reduce debt and commit revenues to the relief of debt rather then modernizing fleets and improving maintenance procedures critical to the safety of air travelers.

The recent effort by Donald Trump to acquire American Airlines, though at least temporarily abandoned, provides an excellent example of how even the best run, strongest airline in the industry can become victim to a buyout effort.

Dallas/Fort Worth International Airport serves as the hub of American Airlines and is located within my congressional district. The airline operates over 480 planes, serves 100 airports, and will board about 14 million passengers this year. American benefits the Dallas-Fort Worth metropolitan area in the amount of about $1.5 billion annually.

No one disputes that American is currently the largest, best run airline in our Nation. Yet, Donald Trump, with all of his 3 months or so of experience in running an airline, was prepared to saddle American with over $6 billion of debt—an amount that could cripple the very best in the industry and turn its revenues away from serving passengers, committing it instead to servicing debt.

It is not in the public interest to allow high-dollar parasites to seek out and prey upon our most successful firms, extracting profits for themselves leaving only a shell to collapse under the weight of its debt. I urge my colleagues to join me in support of the proposal.

□ 1600

Mr. HAMMERSCHMIDT. Mr. Chairman, I understand the Judiciary Committee has some question about one portion of the bill, and I yield 3 minutes to the gentleman from New York [Mr. FISH], the distinguished ranking member of the Judiciary Committee, for a colloquy that he may have with the chairman of the Aviation Subcommittee.

Mr. FISH. Mr. Chairman, I particularly want to thank my friend and colleague for this courtesy in yielding time to me.

I share the concerns of the members of the Committee on Public Works and Transportation regarding the potential adverse effects which certain acquisitions or mergers involving U.S.-based airlines could have on aircraft safety and reliable service to the public. However, I do think certain factors need to be clarified so that the legislative history regarding H.R. 3443 is clear and unambiguous.

As of January 1, 1989, the authority to review the potential anticompetitive effects of airline mergers and acquisitions was transferred back to the U.S. Department of Justice. This means that the Justice Department is empowered to determine whether a particular acquisition or merger violates the Federal antitrust laws. This review authority, of course, is exercised under the Hart-Scott-Rodino premerger notification statute and the test for antitrust compliance is contained in section 7 of the Clayton Act.

The legislation we consider today provides the Secretary of Transportation with the authority to disapprove airline acquisitions for reasons unrelated to compliance with the Federal antitrust laws. However, just for clarification of the record, I ask the gentleman from Minnesota [Mr. OBERSTAR]:

Is it correct that the language "ability to compete" contained in the new section 420(c)(1)(D) of the Federal Aviation Act contained in H.R. 3443, is not intended to create an alternative test or separate standard for antitrust compliance? That is, H.R. 3443 in no way dilutes the full application of the Federal antitrust laws to airline mergers and acquisitions, nor the exclusive jurisdiction of the antitrust enforcement agencies to enforce the antitrust laws.

Would the gentleman from Minnesota care to comment and respond?

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, the gentleman has interpreted the bill correctly. It is not intended to deal with antitrust compliance. It is not intended to create an alternative test or a separate standard for antitrust compliance.

The bill deals with entirely different aspects of airline acquisitions, and respects that bifurcation of responsibility which gives to the Justice Department the responsibility for reviewing mergers, and I thank the gentleman for his support.

Mr. FISH. Mr. Chairman, I thank the gentleman very much, again thank my colleagues for their support.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER], the ranking member of the Aviation Subcommittee of the Committee on Public Works and Transportation.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the bill that is before us today, and as is developed here along the way, I am going to oppose all the amendments that are going to be proposed.

It is clear from the debate that we have had thus far that there is a deep philosophical division within the body over the merits of this bill. There are those who would say that this bill will singlehandedly destroy the free market system, that it interferes with the efficient distribution of capital, and that it is the first step toward reregulation and so forth.

People have been predicting the demise of the free market system and capitalism for a long time. I recall Bernard Baruch back in 1933 saying that in his opinion branch banking was the first step on the way to the demise, the death of capitalism in this country. Well, we survived branch banking, and I think we will survive this bill as well.

There are others who say that the bill does not go far enough, and in fact, suggest that perhaps we should reregulate the aviation industry. They say that service has gone to pieces, that we are not getting good service from the airlines. They suggest that we should protect workers in this bill from cuts in compensation, suggestions that we should perhaps protect management from hostile takeovers in this bill. Others would suggest perhaps that we should use the bill to punish those who we view as malefactors, such as perhaps Mr. Lorenzo or others.

This suggests to me, Mr. Chairman, that this is probably a pretty good bill, since we seem to have opposition on both sides of the issue, and it would seem to me that we probably struck a pretty good balance here.

What does it do? Well, it gives the Secretary of Transportation an opportunity to review these proposed leveraged buyouts before they are closed, and that is really the significant additional factor that we have put in here. Prenotification can result in modifications of the deal that it is before them, but it is done before the deal is locked in concrete. That was the problem in the Northwest situation, where the Secretary did indeed review, as he is required to do, the fitness of the survivor out of this leveraged buyout, but he had to do it after the fact, and that meant that he had to go back in and change some of the agreements that had been in the first place.

So why is this a good idea, to give the Secretary this kind of pre-notification? Well, we all recognize that safety of commercial air travel is a Department of Transportation responsibility. The Department has ongoing fitness review authority; unfortunately, however, the only remedy it has if he determines that the fitness is going to be affected, is to pull the certificate of the airline. That is a very drastic, draconian kind of remedy. Under this provision, under this bill, he can modify without shutting the airline down. He can work with the airline to come up with something that is not going to affect safety, not going to affect their ability to compete. It gives the parties direction in advance as to what kind of a deal would be accessible.

This is not, I stress, a big new precedent. The bill is based on the Hart-Scott-Rodino provisions which we enacted in the seventies, which gives the Department of Justice pre-review authority, which was alluded to in the colloquy, on mergers for competitiveness.

I have reviewed the debate and the committee reports at the time of the Hart-Scott-Rodino debates, and the same arguments, Mr. Chairman, the same arguments were made then that are being made now, and this is an interference in the free market system that will affect that efficient distribution of capital, that the free market system is infallible, that it is conducted by some sort of god-like hand that insures that anything the free market system determines is correct and proper and in the best interests of the country.

They also said at that time that there was no need for the Hart-Scott-Rodino provisions to be put into place because mergers were a thing of the past. This was in the early seventies. We were not going to have any more mergers, because that whole process had been taken care of.

Mr. Chairman, I would submit they were wrong on both counts. The seventies and the eighties were the time of merger mania. We have seen more mergers and acquisitions in this period of time than ever before.

The second fact is that there is absolutely no evidence that the Hart-Scott-Rodino provisions intimidated the process one iota. It did affect its review, but it did not intimidate. So we have the same kind of speculation going on here now, that the prospect that this bill somehow chilled the United deal, that it caused the collapse, that it was unwarranted meddling in the dynamic free market system. I would say nonsense to those arguments, Mr. Chairman.

The basic reason for the collapse of the UAL deal, the aviation business is a cyclical industry, that this deal projected sustained economic growth in the aviation industry from now to the end of time without any recession, without any drawback, and nobody could just believe that. That was just not credible, and that is really what caused the failure of the UAL deal.

But even if it was true, I would say, right on.

This was a bad deal for the traveling public. Let me just read one excerpt out of an article that was in the Post yesterday with regard to this in which it is said:

> To many, the $300 a share United buyout at a price more than twice as high as what the stock was selling at before takeover rumors began symbolizes all that is wrong with the 1980's takeover binge. They relied on high amounts of corporate debt and rewarded United's chairman with nearly $100 million worth of benefits and used rosy projections of future cash flow based on United's best year in the past decade.

This is a bad deal, Mr. Chairman, and deserved to go down the tubes.

□ 1610

But proponents say that there is no evidence that there is any connection between a limited buyout and safety, that the debt load is irrelevant, that the fact that you have increased your debt load by 10 or 20 times really has no effect. How can they be so sure of that?

Mr. Chairman, the limited buyouts and merger revisions and the mania that we have seen is a very relatively recent phenomenon, at least in the aviation industry.

The erosion of the safety margin could take a significant amount of time. It is true that the FAA keeps close watch on safety, but they deal with safety one airplane at a time, not necessarily with the big picture, and the big picture very well could be that an airline is under such a crushing debt load that they start to cut corners on maintenance to save money.

Most airlines today have maintenance standards that are higher than what the FAA demands, but they would not be required to have those higher standards if they felt that they needed to cut a few corners to meet their debt load.

Mr. Chairman, the bottom line is that airline customers are entitled to some assurance that the leveraged buyout of their favorite airline is not going to result in the safety margin being reduced on that airline, and that is what makes airline mergers and buyouts different from cosmetic companies or banks or newspapers. One might get inferior products or services from the surviving cosmetic company or bank after a buyout, but it is not going to kill them. That is why the Secretary of Transportation needs to have a look at these deals before they are closed, Mr. Chairman.

Mr. Chairman, that is why I would urge an "aye" vote on this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Cox].

Mr. COX. Mr. Chairman, as we consider this bill, we should keep in mind that there is no reason for limiting all transactions in shares of airlines if what we are after is debt. There is no reason, to give one example, to say no to a transaction that involves only cash if it is LBO's that we are after.

This bill, of course, addresses itself not only to leveraged buyouts, so-called LBO's, but also to cash acquisitions of shares in the marketplace. All that is necessary in order to trigger the 30-day period, that is the 30-day stop-in-your-tracks provision, is that 15-percent control should be involved.

It may be that I am one of the few people in the House who formerly worked in corporate finance. I did so about a decade. My experience in representing those in management who wanted to defend themselves against the marketplace was that time was their best weapon. If a transaction, say, a tender offer, and say it was a proposed merger, could be stopped for a period of 2 weeks, 30 days, up to 50 days as in this bill, bylaw changes, many other provisions could be added, other options taken advantage of to fend off so-called hostile tender offers, but these tender offers and takeover efforts are hostile only to incumbent management. They are not hostile to the shareholders themselves.

Mr. Chairman, in fact, it is the shareholders who are putting up the money to run the companies, and what we are saying in this bill, by saying no longer are the shareholders the determinant of the company's fortunes, is that the Government knows better. "The Government knows better than you how to spend your money."

Back when I worked as counsel to Ronald Reagan in the White House, one of my interesting duties was to help him fashion answers to an interview consisting of written questions from Isvestia, the No. 2 newspaper in the Soviet Union. They wanted to ask him about the 1987 stock market crash, and the answers that I worked on with the President began by explaining to people in the Soviet Union what a stock market is, because, of course, they do not have one, and before one can talk about a crash, they have to understand what a stock market is, and the President explained that a stock market permits individual people who want to start a business to raise money. That is where investment comes from in our country, and as a result of our stock exchanges, which are the envy of the world, and Japan has nothing like them, Germany has nothing like them, and we have the largest, freest, most liquid capital markets in the world. We are able to attract investment from all sources to make American businesses bigger and more profitable. That provides jobs. That provides expansion. That provides, in fact, a market for our air carriers.

I would like to simply say that, as a consequence, I naturally oppose the bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I appreciate the opportunity to speak one last time on this piece of legislation. I certainly appreciate the ranking minority member of my committee for yielding.

Mr. Chairman, on the whole, airlines are healthier now than they have ever been before. We now are about to meddle into the process that made them the healthiest in thieir history. We are about to inhibit them from the process that has made them healthy, by buying and selling, by improving, by infusing additional capital into their businesses. If it is not broke, then we ought not fix it.

Deregulation has allowed everyone to fly. Flying used to be only reserved for the rich, but now we find that because of deregulation, Americans are flying like they have never done before, and it is because of deregulation.

We are about to embark on a path to re-regulate that I think will have, certainly, a chilling effect upon the traveling public.

One of the economists has written in a recent article in Business magazine, "Takeovers and the threat of being taken over prodded companies to slim down bureaucracies and to split up unwieldy conglomerates. This legislation would prevent that from happening."

Mr. Chairmam, to me that would be a mistake. Competition does work, and that is the basic message.

Prenotification in this piece of legislation of 30 to 50 days required would throw the stock market into chaos on any proposed takeover. We have already seen the gyrations of the stock market on the proposed takeovers, of American and United Arlines. If there was a 30-to-50 day built-in process, a waiting period, we can imagine during that 50 or 30-day period how wild the stock markets would go on those proposed takeovers. Again, I strongly urge a no vote.

Mr. ANDERSON. Mr. Chairman. I yield 2 minutes to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today I rise in strong support of legislation to expand the authority of the Department of Transportation to review leveraged buyouts in the airline industry.

Simply, this legislation will allow the Department of Transportation to review take over efforts involving U.S. air carriers. The purpose of this legislation is to insure that the safety of the American public is not jeopardized during the recent leveraged buyout frenzy.

Today, anyone can buy an airline, regardless of experience. An acquisition of control starts with buying out existing share holders. Unfortunately the stock purchase is done by having the airline borrow the money and take on substantial new debt. In turn, the acquisition requires substantial cash flow to service and debt. As such, many are forced to sell assets and dismantle the company. All of this is at the expense of the traveling public and employees of the airlines.

In order to service this new debt, I am concerned that many marginally profitable airports will lose the little service that they now retain. I am hopeful that through H.R. 3443 the Department of Transportation will get involved with these multibillion dollar transactions that could not only jeopardize today's major mode of transportation but also the hundreds of thousands of jobs of Americans that depend on this service.

□ 1620

Mr. ANDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding time to me and want to thank the chairman of the committee for the splendid support and encouragement, insight and leadership he has given to the development of this legislation. I also want to compliment my colleague, the gentleman from Pennsylvania [Mr. CLINGER], the ranking Republican on the subcommittee who has provided such brilliant insight into so many key aspects of this legislation as we have moved the bill along. I would particularly recognize his scholarly rendition of the debate during formulation of the legislation that is now known as the Hart, Scott, Rodino Act which guided us in shaping the present bill, to make it responsible, valid, necessary, as well as a moderate piece of legislation in the best interests of aviation.

In a way it is appropriate, Mr. Chairman, that we are considering this bill on Halloween, because I think all of the spooks and hobgoblins have come out from behind the shadows to be expressed here, in one fell swoop, about this legislation. It may be appropriate to say what this bill is not, to put to rest some of those spooks and hobgoblins.

It is not an antitakeover bill. Some may support it because they think it is. Some oppose it because they think it is. As my colleague from Pennsylvania said, maybe that is a good reason why this is such a good bill.

It is a public interest review of the financing of acquisition of air carriers. It is a procompetitive bill. This legislation does attempt to assure that in this era of deregulation, in this era when we have tried to foster competition by getting the government out of the regulation business, there will be carriers to compete in the future, and that financial dealings, leveraged buyouts or whatever other kind of transaction occurs with respect to air carriers, those carriers are not so weakened that they cannot compete, they cannot do what the era of deregulation permits them to do.

Economics drives the airline business, but we do not want to see economics so load up a carrier with debt that it cannot compete, that it falls to the wayside as some of the other transactions in the LBO era have done.

This is not a reregulation of the airline business. It is fine tuning of the existing rather broad authority that the Secretary of Transportation has to review safety and financial fitness of air carriers. Regulation meant control of entry and control of rates and fares by the former Civil Aeronautics Board; it meant control by the government of who can enter and serve a market, and what price they can charge to serve in that market. That was thrown out with the deregulation act of 1978.

This legislation does not reregulate entry. It does not regulate rates. It does fine tune this very broad existing authority of the Secretary of Transportation to review the fitness of carriers with respect to their ability to do the things that they need to do to stay competitive in the airline business.

Under this legislation, the Secretary would review the possibility of an airline being financially weakened with respect to safety, wtih respect to aviation-related assets, and with respect to the ability to compete. What the Secretary now has is authority that is equivalent to punishment of shoplifting with the death penalty. That is, for whatever infraction the Secretary finds by a carrier in the conduct of its fitness authority, his only authority now is to pull the ticket of that carrier, to ground the airline. It has never been done, not even for safety reasons.

What we are doing in this legislation is what Secretary Skinner recommended, requested, which is to give him authority to review these deals before they are consummated rather than afterward to fine tune those deals, to look at them from a different perspective than that of the marketplace. Yes, we have heard, "Let the market make these judgments." The marketplace looks at financial transactions in the air carrier industry from a very different perspective than the Secretary of Transportation would do under this legislation, and than he already does and has done in the case of Northwest Airlines, which is from the viewpoint of the public interest the bill would have the Secretary ask, "Does this deal serve the broad public interest?"

The marketplace looks at those transactions from the standpoint of how much those aircraft are worth if they can be sold; how much is this carrier worth; how much can we squeeze out of this entity, and how much money can we get from this particular piece of business.

We in this bill are looking at the carrier from the standpoint of the traveling public, a very different standpoint than that of the marketplace. If the marketplace is so infallable, then why did the Campeau deal go belly up? Who looked at that one? The marketplace, the flinty-eyed financiers who said this was a good deal; yet it went belly up.

We heard about how the Subcommittee on Aviation, merely by scheduling hearings on this legislation, caused the stock market to take a nosedive. What power we have. My goodness.

There is a different viewpoint in the Economist, that international publication of economics which says:

> The accurate script is that bankers, regardless of nationality, were asked to lend money in the United Airlines deal to one of the riskiest LBOs yet devised, without the benefit of collateral and on lousy terms. They refused, and layers of takeover-induced froth suddenly disappeared from New York's market.

That is what happened to the United Airlines deal, and that, simply, is what we want the Secretary of Transportation to be doing in the LBO business, to look at the financial strength of the deal. Is it in the public interest? Will the carrier be able to compete after the deal as it did before? That is a very different judgment than those the market makes.

Will the legislation interfere with the flow of capital, as suggested by one of the previous speakers? No, not if it is a good deal.

What about cash deals? One of our previous speakers suggested that this might interfere with a cash deal. It will not interfere at all. If a cash transaction for a carrier does not weaken the airline, then the cash transaction will not be an obstacle.

The question is not the deal but the financing of it.

It has also been suggested, another one of the hobgoblins raised, that time is important in these issues, and the time provided for review will weaken a deal or scare some deals off. Just as in the antitrust provisions under Hart-Scott-Rodino, all of the parties who enter into a transaction know that the Secretary of Tranportation will have a certain amount of time to review the deal. They build that time in, they factor the time into their transaction. It is not going to scare any deals off unless they are lousy deals and should not have been made in the first place.

So it is not going to cause chaos in the stock market. It is not going to scare any good money off. It may scare some bad money off. It may scare some bad deals off. It will give the Secretary the authority that he needs to exercise the public trust on behalf of air travelers.

Of the 22 new entrants into the air carrier industry since the early days of deregulation, only four of those remain. Only eight major carriers hold 92 percent of all enplanements.

I have the view that fewer and bigger is not better, and I have the view that this legislation is going to assure that we have more rather than fewer carriers, that we have greater rather less competition, and that the resulting carriers are going to be stronger and better able to compete. Whatever the transaction is, it ought to be a good, sound one in the public interest, and that is what this legislation provides. It gives the Secretary that authority, limited, narrowly drawn, but targeted to the public interest, and not to the maximum profit to be drawn from skimming off from whatever may pique the interest of the marketplace in the airline industry.

□ 1630

This is good legislation, this is good public interest legislation; narrowly drawn, a fine tuning of the Secretary's authority. Mr. Chairman, it deserves everyone's support.

The CHAIRMAN. The gentleman from California [Mr. ANDERSON] has 3 minutes remaining.

Mr. ANDERSON. Mr. Chairman, I yield back the balance of my time.

Ms. PELOSI. Mr. Chairman, I rise in support of H.R. 3443 which would place restrictions on leveraged buyouts in the airline industry. As someone who flies at least 240,000 miles each year, I understand the concerns of the flying public about the effects that leveraged buyout activity have on airline safety. I commend Congressman OBERSTAR for his sponsorship of H.R. 3443, which I believe is significant in that it recognizes the connection between airline financial health and passenger safety.

The bill would give the Secretary of Transportation enhanced capability to deal with the alarming increase in both leveraged buyouts of airlines and foreign ownership of U.S. carriers. Leveraged buyouts, which are generally accompanied by a marked increase in long-term debt, have placed the entire airline industry in a financially unsound position. The cost of servicing debt has risen astronomically, forcing airlines to streamline operations to meet debt obligations.

My concern is that increased debt service obligations will cause airlines to forego modernization of their fleets and may have a negative effect on airline safety. I am also concerned about the adverse effects that leveraged buyouts have had, and will continue to have, on airline employees.

Since deregulation of the airline industry, we have seen a consolidation of airline companies. Today, eight airline companies control 90 percent of the passenger market. Air travelers cannot afford any further decrease in the number of corporate players either as a result of further consolidation or of bankruptcy caused by excessive debt. Competition in the market requires an open market and a significant amount of players. It is essential that the Federal Government take a closer look at potential mergers to ensure the consumers are able to obtain safe service at the lowest possible cost.

H.R. 3443 would mandate that proposals to acquire 15 percent or more of the voting securities of an airline would have to be filed with the Department of Transportation 30 days before they are implemented. The Department would then have the opportunity to disapprove a transaction before it is consummated.

I believe H.R. 3443 is an important piece of legislation and I urge my colleagues to support it.

Mr. VENTO. Mr. Chairman, I rise in strong support of H.R. 3443, a bill to require the Department of Transportation to review the attempted acquisition of U.S. airlines where a party plans to acquire 15 percent or more of an airline's voting stock. This legislation also sets clear standards by which DOT may evaluate the fitness of an air carrier to operate following an acquisition involving leveraged financing or foreign investments.

I want to commend the distinguished chairman of the Public Works and Transportation Committee, Mr. ANDERSON, as well as my good friend and fellow Minnesotan, the chairman of the Aviation Subcommittee, Mr. OBERSTAR, for bringing this measure to the House floor today.

Since the passage of the Airline Deregulation Act in 1978, we have witnessed dramatic changes in the airline industry. Dozens of new carriers emerged on the scene in the first years after deregulation apparently fulfilling the promise of the proponents of deregulation that there would be increased competition. However, the next wave of post-deregulation economics came into play as the major airlines began buying up smaller carriers and commuter airlines to feed traffic into their route systems. Today, the Nation's eight largest carriers control over 90 percent of the air traffic market. In many major markets across the Nation, including the Minneapolis-St. Paul area, one airline company is predominant. The consequences of this predominance have been to adversely impact competition and to increased fares for consumers.

Now a new phenomenon is sweeping the airline industry as the giant carriers themselves have become prey to both domestic and foreign investors and speculators. One rationale behind this activity has been that airlines are undervalued given their ability to generate revenues and given the significant tangible assets which airlines own, including aircraft, gates, routes, computer reservation systems, and property. Furthermore, the array of speculators, however, most often do not put up the requisite and reasonable amounts of equity on their own to buy an airline. Instead, their financial plan is to leverage an airline's assets to raise the funds necessary to complete a sale with the use of high-yield or junk bonds. Even airlines which avoid being sold or taken over often must assume significant new debt as the runup value of stock must be bought back at inflated prices. Furthermore, airlines are subject to significant economic volatility. Airlines typically operate on a very thin margin between profitability and losses. A 1-cent increase in the price of jet fuel, for example, can cost an airline millions of dollars.

This significant increase in the debt load of airlines has important ramifications for maintenance and safety. Will an airline that must struggle to meet high monthly interest payments on new debt be able to invest what should be invested in maintenance and safety or in new aircraft acquisitions? Will an airline that is heavily in debt even be able to compete effectively against other carriers that are not functioning under this burden? What happens to the jobs of thousands of workers in the airline industry if the speculators have miscalculated an airline's ability to generate sufficient revenues to pay off its debt? All of these questions are unanswered given the present structure of the Department of Transportation's regulatory framework. That is precisely why this legislation is urgently needed.

Northwest Airlines, based in Minnesota, became an early target for a leveraged buyout this year. Finally, Wings Holdings, Inc., an investment consortium led by investor Alfred Checchi and including KLM Royal Dutch Airlines and Elders Ltd. of Australia were ultimately successful in purchasing Northwest for $3.6 billion. Shortly after NWA became a takeover target, I wrote, along with other Members of Congress, to Transportation Secretary Samuel Skinner and urged him to carefully review any proposed takeover of the airline to ensure that it would not compromise the airline's safety and maintenance program and to ensure that it would be in the best interests of Northwest's employees and the communities it serves.

Secretary Skinner, realizing that the NWA case would set a precedent for DOT's review of future airline sales, requested substantial information from Wings Holdings, from Mr. Checchi, and from Northwest. DOT's review as well as a review by the General Accounting Office [GAO] requested by Aviation Subcommittee Chairman OBERSTAR substantiated many of the projections made by Wings about Northwest's ability to service its debt, to maintain the jobs of the airline's 37,000 workers, and to continue taking delivery of new aircraft on order. To his credit, Mr. Checchi complied fully with DOT's numerous requests for information in this transaction. He also complied when DOT requested that Wings modify the equity interest of KLM Royal Dutch Airlines as well as KLM's future role on Northwest's board of directors.

Mr. Chairman, it appears that the DOT's review of the Northwest sale was something of a model, both in terms of the type of information DOT requested and in terms of the purchaser's cooperation in providing the information. However, the legal status of that rule is tenuous at best. Since the Northwest sale, bids have been made for United and American Airlines. Shouldn't we formalize that review process so that it is not left to chance in the future? Shouldn't we also guarantee that all parties involved in future airline acquisitions play by the same ground rules?

H.R. 3443 builds a solid legal framework requiring parties planning to acquire 15 percent or more of the voting stock of a major airline to notify DOT of their intent within 30 days before making the acquisition. DOT would then be required to review the proposal and, if warranted under standards set in the bill, may disapprove of the transaction. DOT would be required to assess several issues: First, whether the acquisition is likely to weaken the airline financially to the degree where safety may be compromised; second, whether a substantial portion of aviation-related assets would have to be sold to meet its financial obligations; and third, whether the airline would be able to compete effectively against other carriers in the market. This measure provides predictability and certainty with regard to ownership changes that today harbor the potential for significant economic disruptions.

The bill also directs DOT to determine whether the acquisition of a U.S. airline would give a foreign interest effective control. Foreign control of such a critical component of this Nation's economy such as its major airlines would raise profound problems.

Finally, H.R. 3443 gives DOT the authority to disapprove of an acquisition where a poten-

tial purchaser has not cooperated in furnishing DOT with requested information.

Mr. Chairman, I trust that President Bush and Secretary Skinner will reconsider their opposition to this legislation. We have all seen what happens when regulators don't regulate. The public pays the price in higher fares, less competition, and less safety. Workers pay the price in lost jobs and careers. There must be a sense of order maintained in the marketplace. H.R. 3443 restores some semblance of order to the chaos which has overtaken the airline industry. I urge my colleagues to vote for H.R. 3443.

Mr. PAYNE of Virginia. Mr. Chairman, I want to express my support for H.R. 3443 which would allow the Secretary of Transportation to review and approve the leveraged buyouts of major airlines, as appropriate. Presently, if the Secretary has concerns regarding the safety of an airline due to a leveraged buyout, he can either try to persuade an entity buying an airline to adhere to his recommendations prior to the purchase or he can revoke the airline's certification after the buyout has been completed and completely close down the airline. There is no middle ground to address this issue, and this bill will rectify this dilemma.

Since deregulation, we have seen the airline industry concentrated in 10 large carriers that control the majority of air travel, and the demise of 1 air carrier can have a severe effect on air travel. I share my colleagues' concern that burdening an airline with a high debt can adversely impact its ability to provide safe and adequate service. By financing a large debt, an airline must curtail some of its activity in other areas. However, some areas, such as maintenance, airplane replacement, personnel training, and security, are vital to the safety of air transportation, and an airline should not reduce its efforts at all in these areas. This bill will allow the Secretary to disapprove a buyout if the airline's ability to comply with safety procedures and operate safely is diminished as a result of the takeover.

I urge my colleagues to support this bill. We need to ensure that this important mode of transportation which is so vital to the economy of our Nation is not overly burdened by debt. I believe that this bill is both good for the airline industry and good for the flying public whose safety we must protect.

Mr. McEWEN. Mr. Chairman, I would like to express my strong opposition to the legislation we are considering today. This legislation is bad for America, and it is bad for the American flying consumer. The bill is anticompetitive, and will certainly discourage future investment in airlines—the result could be lower safety standards and diminished service to the public.

This bill will halt all types of large airline acquisitions and send the wrong message to our markets—today we desperately need more investors to accommodate the demand for growth and expansion in the airline industry, yet this bill would discourage increased investments and risk by putting a hold on all acquisitions involving 15 percent of a carrier, as well as establishing onerous requirements for DOT approval.

The path to growth and competition is less regulation, not more—the Department of Transportation already has the authority to review airlines for financial and safety fitness. They should not sit in judgment of financial transactions, and the DOT does not want this authority—they have already said they will recommend a veto of this bill, which is an unwarranted intrusion by government into the marketplace.

I hope you will join me in opposition to this bill.

Mr. GREEN. Mr. Chairman, because a trust of which I am a beneficiary and members of my family own American depository shares of British Airways, which has been involved in acquisition proposals regarding U.S. airlines, I shall vote "present" with respect to H.R. 3443 and all amendments thereto.

Mr. KLECZKA. Mr. Chairman, today the House is considering H.R. 3443, the bill to improve the Department of Transportation's review of proposed acquisitions of major American air carriers, especially those which would involve the debt-dependent leveraged buyout.

We have seen the effects of recent airline buyouts on the stock exchange, at the airline terminals, and in the unemployment lines. Clearly, the best interest of the air carriers and the passengers they serve must be the focus of these financial decisions. Better review of the impact of proposed buyouts would serve that purpose.

Consider also the priority of airline safety. We are all aware of the aging fleets maintained by many carriers and the significant capital expenditure required for modernization of these planes. You have to wonder where the carrier could find these needed funds while trying to meet a huge debt obligation.

The Wall Street wizards may be able to arrange a big deal for an LBO, but they are long gone when the time comes for tough choices regarding the airline's continued survival.

Under current law, the Department of Transportation's review is limited to ensuring that airlines remain fit, willing, and able to provide air service.

Make no mistake, incurring huge amounts of debt and selling off assets will affect the fitness of an airline. Putting off needed repairs and modernization will affect the fitness of airlines. Alienating loyal and talented employees will affect the fitness of airlines. H.R. 3443 addresses these fitness standards for consideration by the Department of Transportation.

The Nation's airlines passengers and airline employees have a stake in this issue. Safety and service must not be compromised for a quick profit. Let us improve review of these acquisitions and support passage of this legislation.

The CHAIRMAN. All time has expired.

The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. LEWIS of Georgia) assumed the chair.

The SPEAKER pro tempore. The Chair will receive the message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1631

REVIEW OF CERTAIN ACQUISITIONS OF VOTING SECURITIES OF AIR CARRIERS

The Committee resumed its sitting.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment and shall be considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE FEDERAL AVIATION ACT OF 1958.

(a) REVIEW PROCESS.—Title IV of the Federal Aviation Act of 1958 (49 U.S.C. App. 1371-1389) is amended by adding at the end thereof the following new section:

"SEC. 420. REVIEW OF CERTAIN ACQUISITIONS OF VOTING SECURITIES OF AIR CARRIERS.

"(a) GENERAL RULE.—No person shall acquire, directly or indirectly any voting securities of a major air carrier or person who controls a major air carrier unless the acquiring person files notification pursuant to the rules under subsection (d), the waiting period described in subsection (b)(1) has expired, and the Secretary has not disapproved such acquisition under subsection (c)—

"(1) if such acquisition is of 15 percent or more of the voting securities of the acquired person; or

"(2) if, before such acquisition, the acquiring person holds less than 15 percent of the voting securities of the acquired person and, as a result of such acquisition, the acquiring person would hold 15 percent or more of the voting securities of the acquired person.

"(b) WAITING PERIOD.—

"(1) GENERAL RULE.—The waiting period required under subsection (a) shall—

"(A) begin on the date of receipt by the Seccretary of the completed notification required under this section from the acquiring person; and

"(B) end on the 30th day after the date of such receipt or such later date as may be set under subsection (e)(2).

"(2) TERMINATION.—The Secretary may, in individual cases, terminate the waiting period specified in paragraph (1) and allow any person to proceed with any acquisition subject to this section and promptly shall cause to be published in the Federal Register a notice that the Secretary does not intend to take any action within such period with respect to such acquisition.

"(c) DISAPPROVAL.—The Secretary shall disapprove an acquisition of voting securities subject to this section if the Secretary finds—

"(1) that the acquisition is likely to weaken the acquired person financially to such an extent—

"(A) that a deterioration in the ability of the air carrier to comply with its established safety procedures would occur;

"(B) that the air carrier would be unable to take the steps necessary to continue to operate with the highest degree of safety;

"(C) that the air carrier would be required to dispose of a substantial portion of its aviation-related assets in order to meet its financial obligations; or

"(D) that a substantial deterioration in the air carrier's ability to compete in providing air transportation would result;

"(2) that the probable intent of the acquiring person is to make a major reduction in the size of the air carrier by disposing of aviation-related assets; except in any case in which—

"(A) such disposition would be necessary, in the absence of the acquisition, to avoid the financial failure of the air carrier;

"(B) the assets to be disposed of could not be used profitably by the air carrier, or

"(C) such disposition would be in the public interest;

"(3) that the acqusition would result in a person who is not a citizen of the United States having power to exercise control over the air carrier; or

"(4) that the acquiring person is not providing, in a timely manner, the documentary material and information required by the Secretary to make a decision regarding the acquisition under this section.

"(d) FORM OF NOTIFICATION AND OTHER RULES.—

"(1) IN GENERAL.—The Secretary, by regulation—

"(A) shall require that the notification under subsection (a) be in such form and contain such information and documentary material relevant to a proposed acquisition as is necessary to enable the Secretary to determine whether such acquisition should be disapproved under this section, and

"(B) may prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section, including rules relating to the submission by the air carrier of information or documentary material described in subparagraph (A).

"(2) DEADLINE FOR ISSUANCE OF REGULATIONS.—Not later than 10 days after the date of the enactment of this section, the Secretary shall issue regulations necessary to carry out the objectives of this section.

"(e) EXTENSION OF WAITING PERIOD.—

"(1) SUBMISSION OF ADDITIONAL INFORMATION.—The Secretary may, before the expiration of the 30-day waiting period specified in subsection (b)(1), require the submission of additional information or documentary material relevant to the proposed acquisition, from a person required to file notification with respect to such acquisition under section (a), from the air carrier, or from any officer, director, partner, agent, or employee of such person.

"(2) DURATION.—The Secretary, in his discretion, may extend the 30-day waiting period specified in subsection (b)(1) for an additional period of not more than 20 days after the later of—

"(A) the date on which the Secretary receives from the acquiring person or any officer, director, partner, agent, or employee of such person all of the information and documentary material required to be submitted pursuant to a request under paragraph (1); or

"(B) the date by which the air carrier or any officer, director, partner, agent, or employee of the air carrier is directed to submit information or documentary material pursuant to a request under paragraph (1).

"(f) PROTECTION OF INFORMATION.—Any information or documentary material filed with the Secretary pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either House of Congress or to any duly authorized committee or subcommittee of Congress.

"(g) COMPUTATION OF VOTING SECURITIES.—For purposes of this section, the amount or percentage of voting securities of a person which are acquired or held by another person shall be determined by aggregating the amount or percentage of such voting securities held or acquired by such other person and each affiliate thereof.

"(h) DEFINITIONS.—As used in this section—

"(1) MAJOR AIR CARRIER.—The term 'major air carrier' means an air carrier with annual revenues of more than $750,000,000.

"(2) VOTING SECURITIES.—The term 'voting securities' means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 relating to title IV of such Act is amended by adding at the end thereof the following new item:

"SEC. 420. Review of certain acquisitions of voting securities of air carriers.".

The CHAIRMAN. Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. BOSCO

Mr. BOSCO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bosco: Page 5, line 3, strike "or".

Page 5, after line 3, insert the following:

"(4) that the acquisition would result in a person, who (before, on, or after the date of the enactment of this section) controls or has controlled, in any manner whatsoever, air carriers which, while under such control, have filed, collectively, more than 1 petition under the bankruptcy laws contained in title 11 of the United States Code, having power to exercise control over the acquired air carrier; or

Page 5, line 4, strike "(4)" and insert "(5)".

Mr. BOSCO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELAY. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. DELAY] reserves a point of order.

The gentleman from California [Mr. Bosco] is recognized for 5 minutes.

Mr. BOSCO. Mr. Chairman, may I ask if the proper amendment was read by the Clerk?

The CHAIRMAN. The Clerk will rereport the amendment.

The Clerk read as follows:

Amendment offered by Mr. Bosco: Page 5, line 3, strike "or".

Page 5, after line, insert he following:

"(4) that the acquisition would result in a person, who (before, on, or after the date of the enactment of this section) controls or has controlled, in any manner whatsoever, air carriers which, while under such control, have filed, collectively, more than 1 petition under the bankruptcy laws contained in title 11 of the United States Code, having power to exercise control over the acquired air carrier; or

Page 5, line 4, strike "(4)" and insert "(5)".

Mr. BOSCO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DELAY. Mr. Chairman, reserving the right to object, which amendment is the gentleman offering?

Mr. BOSCO. I am offering the amendment which was just read by the Clerk.

The CHAIRMAN. The amendment that was just reported.

Did the gentleman from Texas [Mr. DELAY] not hear it?

Mr. DELAY. I was otherwise engaged. I did not hear that amendment.

Mr. Chairman, is this the amendment on the bankruptcy laws of the United States Code?

The CHAIRMAN. The gentleman is correct.

Mr. DELAY. Mr. Chairman, I withdraw my reservation of objection.

Mr. Chairman, I further reserve a point of order on this amendment.

The CHAIRMAN. The gentleman's point of order is noted.

Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Chairman, I want to express my gratitude to our committee chairman, Mr. ANDERSON, and the Aviation Subcommittee chairman, Mr. OBERSTAR, for coming forward with criteria that should be used by the Department of Transportation in determining the financial fitness of those seeking to purchase U.S. airline companies. Financial fitness has indeed been a criteria for airline certification in the past; however, the standard of what constitutes fitness has been vague and seldom enforced. My amendment is a simple one, and derived from legislation I sponsored in 1985 with bipartisan cosponsorship of 86 members. It would raise the pre-

sumption that any person who has been in control of airline carriers and has collectively filed for bankruptcy more than once is unfit to acquire yet another airline. The aim is to prevent the future abuse of chapter 11 proceedings, such as we have seen in the airline industry in the recent past.

Bankruptcy has historically been viewed as a compassionate opportunity for those overwhelmed by debt to wipe the slate clean and have another chance—in their personal lives or in business. In the past bankruptcy carried with it a stigma—an assumption that those who got themselves into such serious financial difficulty, almost always at the expense of others, should be watched carefully in the future. In today's world of high finance bankruptcy seems to carry with it no stigma at all. Rather, some high-flying financiers in the airline industry and other major industries have used bankruptcy as a weapon against creditors, competitors, employees, consumers, stockholders. Instead of being a shield against creditors, bankruptcy is now a sword against a host of innocent individuals who are purposely and ruthlessly victimized by laws that were meant for protection, not harm. Nowhere is this perversion more evident than the airline industry, and while my amendment is not directed against any one individual or company, the management of the Texas Air Corp. is a case in point.

In September 1983, Texas Air put its largest subsidiary, Continental Airlines, into bankruptcy. This scheme was employed to abrogate Continental's union contracts, covering over 8,000 pilots, flight attendants, mechanics, and ground personnel. The use of chapter 11 proceedings for such purposes was so abusive that Congress soon tightened the Bankruptcy Code to prevent it from being used to dissolve labor contracts entered into in good faith. Notwithstanding close to $1 billion in outstanding debts owed by Continental, the Texas Air management, in 1985, made an unsuccessful bid for Trans World Airlines and successful bids for Denver-based Frontier Airlines and also People's Express. In 1986, Texas Air acquired Eastern Airlines. Eastern's employees were stripped on their membership on the Eastern board of directors, forced into a half-billion dollar wage and benefit concession, and a $60 million payment to their pension fund was deferred. The management of Texas Air then systematically stripped Eastern of valuable assets including its computerized reservation system worth over $300 million, and started to charge Eastern for fuel, management fees, and some $41 million for "strike preparation services." After "upstreaming" Eastern's valuable assets, Texas Air put Eastern into bankruptcy in March of this year.

Mr. Chairman, during a time when the airline business was booming in our country, Frank Lorenzo, chief of Texas Air, has lost astonishing amounts of money at Continental and Eastern. At Continental in 1986 he lost $185 million; in 1987, $257 million; and 1988, $315 million. At Eastern in 1986 he lost $130 million; in 1987, $181 million, and in 1988, $335 million. The Wall Street Journal pointed out recently that his purpose seems to be cash flow and not profits. While this goal might be acceptable in other industries, it is hardly the foundation upon which we want our Nation's air transportation system to rest.

In closing, let me emphasize that bankruptcy is declared at the expense of others. Creditors get a fraction of return on their dollar. Stockholders can suffer. Employees lose their jobs and health benefits. Consumers can end up holding worthless tickets, and eventually lost the benefit of a competitive marketplace.

The amendment before us now gives the chapter 11 bankrupt two strikes. But we put him out of the game before he has a chance to take that third strike and victimize yet another airline and yet another set of innocent people.

The CHAIRMAN. Does the gentleman from Texas [Mr. DELAY] insist upon his point of order?

Mr. DELAY. No, Mr. Chairman, I withdraw my point of order.

Mr. CLINGER. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment offered by the gentleman from California [Mr. BOSCO].

Mr. Chairman, I do so reluctantly. As I understand it, this amendment would prohibit a person from acquiring an air carrier if that person had been in chapter 11 bankruptcy more than once.

It seems to me, the protestations notwithstanding, it is clearly designed to prevent a certain individual from acquiring an air carrier. As I indicated during general debate, I did not feel that this was the appropriate vehicle to accomplish that objective. I believe this is the wrong approach because it amounts to special interest legislation which is aimed at one individual and therefore I do not think it should be adopted.

The simple fact is that because a person has been in bankruptcy more than once does not necessarily mean that the person is unable to run a business. In fact, it may be necessary to take a financially distressed company into chapter 11 bankruptcy in order for it to continue to operate in the future.

□ 1640

The amendment may have the effect of creating mischief where none, in fact, is intended. It may preclude the buyout of a bankrupt airline which might otherwise continue to operate under chapter 11. That would certainly not be what we would hope to accomplish with this bill.

We are trying to increase competition, increase the number of carriers, not reduce them. So clearly we should protect our pool of air carrier competitors. They have already sunk to a distressingly low level. I think this would put others at risk of disappearing.

As I mentioned before, Mr. Chairman, this amendment is targeted, in my view, at one specific individual, and in my view, it is inappropriate for this legislation.

I urge Members to vote against it.

Mr. ANDERSON. Mr. Chairman, I rise in opposition to the amendment.

While I can certainly see the problems created by an acquisition of control of an air carrier by a person who has taken other air carriers into bankruptcy on two occasions, I think that this amendment would create unnecessary controversy about the bill.

Acquisitions by persons who have been in bankruptcy twice can be judged by the basic standards established by the bill. The past track record of a party in acquiring air carriers and managing them would be relevant to a determination of whether an acquisition would be likely to result in a substantial weakening of the carrier. I believe these grounds for review will be sufficient and accordingly I oppose the amendment.

Mr. DEFAZIO. Mr. Speaker, I move to strike the last word.

What we are voting on here is a simple amendment which goes to the fitness, the character, the capabilities of the person who wishes to acquire an airline. I think it is a simple and a prudent amendment that says any person who has filed bankruptcy two times or more would not be eligible to purchase an airline.

Now, the gentleman on the minority side said in a case of a bankrupt airline, this could limit acquisition. He is correct. If a person who has twice bankrupted airlines wanted to acquire a bankrupt airline, that person would be restricted.

Now, I think we might raise some questions about that situation where an airline that has declared bankruptcy is being acquired by a person who has twice bankrupted airlines previously. This is very simply an amendment which goes to the heart of the problem here, which is the productivity, the competitiveness, and the future of this industry into the next century here in the United States of America.

The question is, what sort of persons do we want to run and to acquire to run our airlines? Do we want it to be the fly-by-night artists, those who bankrupt airlines for short-term benefit, sell assets for pennies on the dollar

for themselves, make themselves fabulously wealthy at the same time that our constituents, the consumers of America, are holding worthless pieces of paper that only moments ago were tickets? Is that "buyer beware," when a person purchases a ticket that they need to consult the Index, Standard and Poor's or whatever else, to find out whether or not this airline is about to be acquired, or about to be bankrupted, by one of these pirates? I had school bands in my district that could not travel to Florida with their life savings because of the bankruptcy of Eastern Airlines. Are we going to defend those sort of actions here on the floor of the House? I cannot believe we would do that. If we do not defend the actions, Members would accept this noncontroversial amendment, the Bosco amendment to say those who bankrupted airlines twice should not have a third chance.

Mr. DELAY. Mr. Chairman, I move to strike the last word.

I rise in adamant opposition to the Bosco amendment. This amendment would prohibit any individual who has filed chapter 11 bankruptcy more than once from acquiring any airline. While this amendment is obviously aimed at Texas Air and Frank Lorenzo, it could unfortunately result in disastrous consequences for airline competition. This amendment seeks to prevent future situations like those that have occurred at Texas Air. But a closer examination of the facts reveal that, without Texas Air, there would be two less major airlines, 54,000 fewer jobs in the airline industry, and higher fares.

Before Texas Air acquired Continental, Continental had serious structural problems. It had no hubs and was unable to compete effectively. With its merger with Texas International Airlines, hubs were formed in Houston and Denver. The process of this restructuring was very expensive and ultimately resulted in Continental filing bankruptcy. Following bankruptcy, there were less than 4,000 employees at Continental.

Continental emerged from bankruptcy after one of the most successful reorganizations in history—it was at least 50 percent bigger than it had been prior to bankruptcy, operated over 145 aircraft, and had 81 percent more seat capacity. Today, Continental boasts 34,000 employees and serves over 100 cities.

People Express was on the brink of bankruptcy when Continental purchased it in 1986. It was losing money at the rate of $10 to 20 million per month. Had Continental not acquired and rebuilt People Express, and no one else was willing to do so, thousands of employees would have been out of jobs.

The Eastern situation is no different. When Texas Air purchased Eastern in 1986, it was on the verge of bankruptcy. In fact, the then-CEO of Eastern said that he only had two choices—sell it or tank it. The sale of Eastern to Texas Air is the only reason it exists today. Even following the strike and bankruptcy, Eastern remains a major air carrier. It currently has 700 daily flights to 80 cities and boasts nearly 18,000 employees. By next spring, Eastern plans to have 1,000 daily flights—the same as before the strike. And, there will be over 20,000 employees. Eastern will emerge as a stronger, more competitive airline—this is good for competition and good for the American consumer.

It is clear that two major carriers would not exist in the airline industry today if chapter 11 bankruptcy procedures had not been available to protect these companies while they rebuilt. And I support rebuilding as opposed to shutting their doors forever.

This amendment does not preserve needed competition for the carriers. Because it imposes penalties on anyone who files more than one bankruptcy, it discourages what might be a needed and justifiable reorganization. This could place a business in the position of filing for liquidation rather than reorganization—and I ask the supporters of this amendment just who this would benefit? Certainly not the employees nor consumers.

I urge the defeat of this untimely and anticompetitive amendment that is so obviously seeks to attack one individual to the detriment of the entire industry and American consumers.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

As a matter of public policy, certainly a person who has already had a track record of taking two major air carriers into bankruptcy ought not to be allowed to do it again. Fool me once, shame on you; fool me twice, shame on me.

It sounds attractive; but this amendment is clearly directed at a single individual. It probably ought to be subtitled. "Don't let Frank Lorenzo take over another airline amendment." I have observed Mr. Lorenzo's track record, and it is not very good, frankly. I would not want to see him take over another air carrier, but this legislation already gives the Secretary of Transportation the specific authority he needs to weed out this sort of person who wants to acquire an air carrier. It does exactly what the gentleman's amendment wants to do in a very different way, and in special interest legislation. If the Secretary finds that it is likely that an acquisition by this type of person, who has already taken two carriers into bankruptcy and now wants to buy a third airline, would likely result in still another bankruptcy, the Secretary has ample authority under this bill to disapprove the acquisition. That is what we are trying to do with this legislation, to provide some broad, generic, general authority, in specific areas, to give the Secretary the authority he needs to assure we will have adequate competition that will be adequately financed to carry out the business of air carrier competition.

□ 1650

It is unnecessary. It is well-intentioned. Certainly my heart is with the purpose of the gentleman's amendment, but I am opposed to the language, because we have drafted a bill that gives the authority to the Secretary to do exactly what the amendment seeks to accomplish. But we do it in a way that will hopefully avoid opposition from the administration and get us to a bill that can be signed. That is my objective, getting legislation that can be signed.

So, Mr. Chairman, I oppose the gentleman's amendment and urge a vote against it.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment.

The legislation before us now is designed to deal generically with the issue of airline acquisitions. It is not directed at any particular acquisition or any particular person.

It seems to me that that is the proper approach to take. Congress should use this bill to deal with the problem generally, not to pursue a quarrel with any particular individual.

Unfortunately, the amendment appears to take the latter approach. Although it seems to be broadly drafted, it is really directed at one particular individual. It is designed to block further acquisitions by the chairman of the Texas Air Corp.

Now whatever one may think of this individual, I believe it is a misuse of the legislative process to craft amendments designed to affect only him. Furthermore, a broadly drafted amendment such as this one could have unintended consequences. We cannot be sure who else could be affected someday in the future. It may be someone who we would not want to see forever barred from acquiring an airline.

Accordingly, I oppose this amendment and I urge my colleagues to do the same.

Mr. BOEHLERT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Bosco amendment because I think it will make a good bill a better bill. Simply put, two time losers will be prevented from acquiring a major airline and wreaking further havoc upon an industry suffering too much turmoil and too many dislocations as it is.

When all is said and done we might say to Frank Lorenzo, thank you for making this amendment necessary.

Do not misinterpret that thank you, Mr. Chairman. It in no way represents an expression of appreciation. Quite the contrary, a look at the record reveals what I mean.

We all know the Continental and Eastern stories. We know them too well. There was a leveraged buyout for Continental in 1981; 2 years later, chapter 11, consumers were left holding tickets, labor contracts abrogated, thousands of jobs lost, major disruptions to the lives of so many people. But that was the first time.

Then there was the second time, the leveraged buyout of Eastern Airlines in 1986. The Continental story was repeated in spades. Consumers were told tough luck. Labor strife abounds. More than 25,000 jobs were lost.

Mr. Chairman, I think the record is there for all to see. Should we not learn from these bitter experiences? I say we should. I say the Bosco amendment deserves to be supported. Let us pass the amendment.

Mr. FIELDS. Mr. Chairman, I rise in opposition to the Bosco amendment. The Bosco amendment would prohibit any individual who has filed chapter 11 bankruptcy more than once from acquiring an airline. The amendment is simply another attack on Texas Air Corp. and on its employees, many of whom I represent. It is obvious to me that many Members of this body do not like the business practices of Frank Lorenzo. However, I don't think I nor any of my colleagues were elected to this body to carry out personal vendettas through legislation.

If Frank Lorenzo has broken any laws, he should be prosecuted like any other businessman who shuns our laws. But, carving out special laws just because we do not approve of the business practices of one individual is bad legislating—it's just plain wrong!

Because the Bosco amendment strikes out at one particular corporation, it is a violation of the uniformity clause of the U.S. Constitution. Second, the amendment conflicts with section 525 of the Bankruptcy Code which states that a governmental unit may not discriminate against anyone by virtue of the fact that such a person has previously filed for bankruptcy. But, more importantly, this amendment could significantly limit competition in the airline industry.

Time after time, I hear Frank Lorenzo and Texas Air Corp. being blamed for the loss of jobs in the airline industry. I'm no apologist for Frank Lorenzo, but I represent hundreds of Continental employees who feel that they have jobs because Texas Air Corp. saved Continental from total financial collapse.

Continental filed bankruptcy with less than $40 million in the bank. Restructuring was painful for many employees. I do not deny that. But, Continental emerged from bankuptcy 50 percent bigger than it has been prior to chapter 11, operating 147 aircraft versus 105 in 1983 and with 81 percent more seat capacity. Today there are 34,000 Continental employees—10,000 of them in the Houston area.

People Express was on the brink of bankruptcy when Continental purchased it in 1986. Had Continental not acquired and rebuilt People, thousands would have been without jobs and northern New Jersey would have been virtually without air service.

Similarly, Eastern Airlines was on the brink of bankruptcy when Texas Air purchased it. Over the last decade Eastern had lost approximately $1.5 billion. It is unfortunate that Eastern and its machinists union could not resolve their disputes and that the ensuing strike drove an already financially weak Eastern to bankruptcy. But, since its chapter 11 filing, Eastern has been growing steadily stronger. It currently has 700 daily flights and nearly 18,000 employees. By next spring Eastern is projected to have 1,000 daily flights, virtually the same number as before the strike.

Mr. Chairman, the Bosco amendment is dangerous aviation policy. Although the amendment is clearly aimed at Texas Air Corp., it would affect anyone who filed more than one petition in bankruptcy. Therefore, it discourages chapter 11 reorganizations which, while they may be painful, may be the only route to the survival of an airline.

Furthermore, this amendment makes it unattractive to purchase an airline in distress, leaving some air carriers no choice but straight liquidation.

Finally, Mr. Chairman, I would like to try to dispel the myth that Texas Air Corp. is a poor corporate citizen with no concern for its employees or the communities it serves. In the Eighth District of Texas and across the world, Texas Air, through Continental Airlines, has a strong record of charitable service. For example:

Texas Air, through its subsidiaries, Continental and Eastern Airlines contribute broadly to charitable activities. Continental's contributions alone are well in excess of $1.5 million yearly.

Continental Airlines contributed over $55,000 to the families of the children who were killed and injured in the bus tragedy in Alton, TX.

Continental contributed over $80,000 last year alone to Father Woody in Denver to feed the homeless, a program which is also in effect this year.

Continental runs a program called the Continental Care Force which is an organization consisting of the wives of Continental employees who screen and administer a program under which ill children are flown for free on Continental to hospitals for treatment, as well as their families.

It was Continental who transported dozens of volunteers to United States gateways to get them to Armenia to help with the disastrous earthquake there.

Continental flew several planes with supplies to the Yucatan Peninsula after Hurricance Gilbert.

Continental flew several DC-10's with supplies to Mexico to help after the earthquake there.

Continental is involved in the Make A Wish campaign which is a program which attempts to provide a wish to children who are dying. Continental provides air service for this program.

And, there are many, many more examples.

I urge my colleagues to oppose the Bosco amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. Bosco].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOSCO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 283, noes 132, answered "present" 1, not voting 17, as follows:

[Roll No. 321]

AYES—283

Ackerman	Edwards (CA)	Lehman (CA)
Akaka	Edwards (OK)	Lehman (FL)
Alexander	Engel	Lent
Annunzio	English	Levin (MI)
Anthony	Erdreich	Levine (CA)
Applegate	Espy	Lewis (GA)
Aspin	Evans	Lipinski
Atkins	Fascell	Lloyd
AuCoin	Fazio	Long
Baker	Feighan	Lowey (NY)
Barnard	Fish	Luken, Thomas
Bateman	Flake	Machtley
Bates	Flippo	Manton
Bennett	Foglietta	Markey
Bentley	Ford (MI)	Martin (NY)
Bereuter	Ford (TN)	Martinez
Berman	Frank	Matsui
Bevill	Frost	Mavroules
Bilbray	Gallo	McCloskey
Bilirakis	Gaydos	McCurdy
Boehlert	Gejdenson	McDade
Bonior	Gephardt	McDermott
Borski	Geren	McEwen
Bosco	Gilman	McGrath
Boucher	Gingrich	McHugh
Boxer	Gonzalez	McMillen (MD)
Brennan	Goodling	McNulty
Browder	Gordon	Meyers
Brown (CA)	Guarini	Mfume
Brown (CO)	Gunderson	Miller (CA)
Bruce	Hall (OH)	Miller (OH)
Bryant	Harris	Mineta
Buechner	Hatcher	Mollohan
Bustamante	Hawkins	Montgomery
Byron	Hayes (IL)	Moody
Campbell (CA)	Hayes (LA)	Morella
Campbell (CO)	Hefley	Morrison (CT)
Cardin	Hefner	Mrazek
Carper	Hoagland	Murphy
Carr	Hochbrueckner	Murtha
Clarke	Holloway	Myers
Clay	Hopkins	Nagle
Clement	Horton	Natcher
Coleman (MO)	Hoyer	Neal (MA)
Coleman (TX)	Hubbard	Neal (NC)
Collins	Huckaby	Nelson
Condit	Hughes	Nowak
Conte	Hutto	Oakar
Cooper	Inhofe	Obey
Costello	Jacobs	Olin
Coyne	Jenkins	Owens (NY)
Crockett	Johnson (CT)	Owens (UT)
Darden	Johnson (SD)	Pallone
de la Garza	Johnston	Panetta
DeFazio	Jones (GA)	Parris
Dellums	Jones (NC)	Pashayan
Derrick	Jontz	Patterson
Dickinson	Kanjorski	Payne (NJ)
Dixon	Kaptur	Payne (VA)
Donnelly	Kennedy	Pease
Dorgan (ND)	Kennelly	Pelosi
Downey	Kildee	Penny
Duncan	Kleczka	Perkins
Durbin	Kolter	Pickett
Dwyer	Kostmayer	Poshard
Dyson	LaFalce	Price
Early	Lancaster	Quillen
Eckart	Lantos	Rahall

Rangel	Schroeder	Tanner
Regula	Schumer	Taylor
Richardson	Sharp	Thomas (GA)
Ridge	Shaw	Torres
Rinaldo	Shays	Torricelli
Robinson	Sikorski	Towns
Roe	Sisisky	Traficant
Rogers	Skaggs	Traxler
Ros-Lehtinen	Skelton	Udall
Rose	Slattery	Unsoeld
Rostenkowski	Slaughter (NY)	Vento
Roukema	Smith (FL)	Visclosky
Rowland (CT)	Smith (IA)	Volkmer
Rowland (GA)	Smith (NJ)	Walgren
Roybal	Smith (VT)	Watkins
Russo	Snowe	Waxman
Sabo	Solarz	Weiss
Saiki	Solomon	Weldon
Sangmeister	Spence	Wheat
Sarpalius	Spratt	Whitten
Savage	Staggers	Williams
Sawyer	Stallings	Wise
Saxton	Stark	Wolpe
Schaefer	Stokes	Wyden
Scheuer	Studds	Yates
Schiff	Swift	
Schneider	Tallon	

NOES—132

Anderson	Hamilton	Porter
Andrews	Hammerschmidt	Pursell
Archer	Hancock	Ravenel
Armey	Hansen	Ray
Ballenger	Hastert	Rhodes
Bartlett	Henry	Ritter
Barton	Herger	Roberts
Beilenson	Hiler	Rohrabacher
Bliley	Houghton	Roth
Boggs	Hunter	Schuette
Broomfield	Hyde	Schulze
Bunning	Ireland	Sensenbrenner
Burton	James	Shuster
Callahan	Kasich	Skeen
Chandler	Kolbe	Slaughter (VA)
Chapman	Kyl	Smith (NE)
Clinger	Lagomarsino	Smith (TX)
Coble	Laughlin	Smith, Denny (OR)
Combest	Leach (IA)	Smith, Robert (NH)
Coughlin	Leath (TX)	Smith, Robert (OR)
Cox	Lewis (CA)	Stangeland
Craig	Lewis (FL)	Stearns
Crane	Lightfoot	Stenholm
Dannemeyer	Livingston	Stump
DeLay	Lowery (CA)	Sundquist
DeWine	Lukens, Donald	Synar
Dingell	Madigan	Tauke
Dornan (CA)	Marlenee	Tauzin
Douglas	Martin (IL)	Thomas (CA)
Dreier	Mazzoli	Thomas (WY)
Dymally	McCandless	Upton
Emerson	McCollum	Valentine
Fawell	McCrery	Vander Jagt
Fields	McMillan (NC)	Vucanovich
Frenzel	Miller (WA)	Walker
Gallegly	Moorhead	Walsh
Gekas	Morrison (WA)	Weber
Gibbons	Nielson	Whittaker
Gillmor	Oberstar	Wilson
Glickman	Ortiz	Wolf
Goss	Oxley	Wylie
Gradison	Packard	Young (AK)
Grandy	Paxon	
Grant	Petri	
Hall (TX)	Pickle	

ANSWERED "PRESENT"—1

Green

NOT VOTING—17

Brooks	Garcia	Molinari
Conyers	Gray	Parker
Courter	Hertel	Shumway
Davis	Kastenmeier	Yatron
Dicks	Michel	Young (FL)
Florio	Moakley	

□ 1713

Messrs. HYDE, STENHOLM, and HALL of Texas changed their vote from "aye" to "no."

Mr. ROBINSON and Mr. COYNE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. ANDERSON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FASCELL] having assumed the chair, Mr. LEATH of Texas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3443) to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. PARKER. Mr. Speaker, due to previously scheduled activities in my district, I was unable to attend the proceedings of the House on Tuesday, October 31, 1989. Had I been present, I would have voted as follows:

Rollcall No. 319: On agreeing to the conference report making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes, "yea."

Rollcall No. 320: On agreeing to the resolution providing for the consideration of the bill (H.R. 3443) to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes, "yea."

Rollcall No. 321: On agreeing to the Bosco amendment (A001) to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes, "yea."

TRIBUTE TO RICHARD J. SULLIVAN ON HIS RETIREMENT AS CHIEF COUNSEL OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

(Mr. ANDERSON asked and was given permission to address the House for 5 minutes and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, as chairman of the Committee on Public Works and Transportation, I wish to let the House know of the retirement of Richard J. Sullivan after 33 years with the committee.

Today will be his last day as chief counsel on the committee after 33 years. It is an understatement to say that committee will not be the same.

A graduate of Fordham College and Law School, Dick Sullivan left his law practice in the Bronx in 1957 to take a temporary job with the committee working for Representative Charles Buckley from New York. He has continued as chief counsel since then, perhaps the longest tenure any individual has held that position. Unquestionably, very few with any committee in the history of the House have been as productive.

His retirement comes after 33 years of outstanding service to the people of the United States. There is truly not a community in this country that has been touched and enhanced by his efforts on behalf of the infrastructure, economic development, and environment.

In the 21 years that I have been a member of the committee, it has been a pleasure working with Dick and watching him work. It is a tribute to his abilities that he served under seven different chairmen on the committee, a remarkable feat that few others could equal.

I am sure my predecessors would echo my admiration for Dick's ability to cut to the core of matter, any matter we worked on, and complete a job. If anybody could get the job done, it was Dick.

After 33 years of hard work, late nights, drafting and redrafting, the never-ending jurisdictional squabbles, and a few thousand choruses of "East Side, West Side," Dick has certainly earned his retirement. He has come a long way from the streets of the Bronx and we have all been better off because he decided to leave New York to come to Washington.

I thank Dick for continuing as chief counsel during my 18 months as chairman. Dick, on behalf of the committee and as a friend of 21 years, I wish you Godspeed and the best of everything for your family and yourself. I know how much your wonderful family means to you and I hope you will have more time to spend with them.

Anyone who knows Dick and the work he has done on the committee also knows his longtime assistant Dorothy Beam, who is also retiring. Dotty Beam, who came to Washington from Youngstown, OH, has been a Capitol Hill employee for as long as any Member of the House has been here. That is an outstanding accomplishment and she deserves commendation for it.

Dotty, as the committee's executive assistant for many years, did many of the little things that usually went unnoticed but enabled the committee to get its work done. Dotty did these things well, in fact with her long experience she generally knew better than the rest of us what had to get done. Dotty, you will be missed but after all this time I can understand why you would decide to retire. It was quite a feat that you were able to put up with the Members for as long as you did. Good luck in whatever you choose to do.

My wife, Lee, joins me in wishing the best always to Dick, his wife, Julie, and to Dotty Beam.

□ 1720

TRIBUTE TO DICK SULLIVAN AND DOTTIE BEAM

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 5 minutes.)

Mr. HAMMERSCHMIDT. Mr. Speaker, today marks the final floor appearance of Dick Sullivan as chief counsel, of our Public Works and Transportation Committee. I take note of this fact with much regret but also with great appreciation for the tremendous job that Dick has done for the committee, the Congress, and the Nation.

He has assisted me personally time and again, and always with wise counsel and warm friendship. Our association spans more than two decades, and I count myself fortunate in that respect.

Dick has been the committee counsel for over 32 years, serving with special distinction under seven chairmen and eight Presidents. In that time, he has done more than persevere; he has influenced in a major way the important legislative agenda of the committee. All of the important highway, water, aviation, and economic development legislation drafted by our committee and enacted into law over the past three decades bears the mark of Dick Sullivan.

He has worked cooperatively with members on both sides of the committee and while there is no mistaking that Dick is a proud Democrat, he has always personified the spirit of bipartisanship that has traditionally been the trademark of the Public Works Committee.

I don't have to tell my colleagues that Dick Sullivan is an imposing and persuasive figure, whether in our hearing room or on the floor. And we all know that he is a superbly talented singer. He will gladly and often spontaneously oblige us with one of his favorite Irish selections, and we all feel better for the performance.

Dick has a great love and respect for this institution and those who work in and for it. That is a reflection of his great humanity, which he has demonstrated in and outside the Halls of Congress.

Dick and his lovely wife, Julie, have worked tirelessly over the years for the Candlelighters Childhood Cancer Foundation and the Ronald McDonald House. After losing a young daughter to cancer, they helped found the Candlelighters, a support group for parents who have children stricken with cancer. In a public tribute to their work, Dick and Julie Sullivan received the Marie Lombardi Humanitarian Award in 1987.

Those of us who serve on the committee also know that Dick has had a not-so-secret weapon in his long and successful career. Dorothy A. Beam of Youngstown, OH, has worked with Dick for over 31 years, and he quickly acknowledges her importance to his work. The late chairman of the committee, Jim Howard, often referred to Dick as the "heart of the committee" and Dottie as the "soul of the committee."

Dick, you are a very uncommon and unselfish man. Your friends, both Members and staff, will greatly miss these hours with you on the floor and in Committee. Thank you for serving us so loyally and so capably for so many years. I wish you the very best in the days ahead.

TRIBUTE TO DICK SULLIVAN AND DOTTIE BEAM

(Mr. DE LUGO asked and was given permission to address the House for 1 minute.)

Mr. DE LUGO. Mr. Speaker, I rise to praise two outstanding professionals who have served this House so loyally and so effectively for so many years. Richard J. Sullivan, the chief counsel of the Public Works Committee for 33 years, and Dorothy A. Beam, his trusted lieutenant and right hand who has served 31 years with the committee and who has a total of 48 years with the House of Representatives.

Dick literally helped to invent the Interstate System. His contributions to the development of the infrastructure of the United States are legendary, and I personally will always be grateful to him for all his assistance with the insular areas.

The foresighted pieces of legislation that swept out of the Public Works Committee and literally transformed our great country owed much to Dick's vision and dedication and to the unfailing support of his ally, Dotty.

To Dick and Dotty, I salute you and say to you both, in the words of the old Irish prayer:

May the road rise to meet you. May the wind be always at your back. May the sun shine warm upon your face; the rains fall soft upon your fields, and until we meet again, may God hold you in the palm of his hand.

TRIBUTE TO DICK SULLIVAN AND DOTTIE BEAM

(Mr. SHUSTER asked and was given permission to address the House for 1 minute.)

Mr. SHUSTER. Mr. Speaker, I rise to recognize both Dick Sullivan and Dottie Beam.

Dick Sullivan in his office has a poster of the great Babe Ruth. In many ways Babe Ruth symbolizes the power of the Committee on Public Works and Transportation, hitting home runs again and again for the betterment of America, from the Interstate Highway System to the most advanced aviation system in the world.

But many people forget that hitting behind Babe Ruth was the immortal Lou Gehrig. Without Gehrig in the cleanup spot, Ruth could not have achieved his greatness, and so it is with the Committee on Public Works and Transportation, that without Dick Sullivan in that cleanup spot and in so many different ways, the committee could not have achieved many of its successes, and just as Gehrig became the Iron Man of the Yankees playing in 2,130 consecutive games, so Dick Sullivan, over his 33 consecutive years, has become the Iron Man of the Public Works Committee, serving under seven chairmen, counseling scores of members on both sides of the aisle, contributing to our successes and, yes, often guiding us around potential failures.

I am one of those Congressmen who came onto the committee as a freshman without any legislative experience, and it was Dick Sullivan to whom I could turn for honest, wise, professional expertise. He never, never once injected partisanship into our deliberations. His interest always was only what was best for the committee, the Congress, and the country.

□ 1730

It has often been said that the Public Works and Transportation Committee is the all-American committee because our business is building a better America. We cannot forget that one of the reasons it is an all-American committee is because we have been blessed for 33 years with an all-American chief counsel, Richard J. Sullivan.

TRIBUTE TO DICK SULLIVAN AND DOTTIE BEAM

(Mr. BOSCO asked and was given permission to address the House for 2 minutes.)

Mr. BOSCO. Mr. Speaker, this is indeed a sad day for the Public Works and Transportation Committee and for the Congress as a whole. Dick Sullivan and Dottie Beam always worked as a pair, and I will speak of them as such in adding my testament to the value that they have had to the people of this country.

So many people think of public works as being a matter of pavement, and bricks, and mortar, and pilings, and the physical things that make up our Nation's infrastructure. But it really is a matter of people more than that.

We sometimes forget how much all of these pieces of infrastructure mean in average people's lives, and Dick and Dottie always recognized that. They always infused into our work what it would mean for the American people out there.

Dick, especially, would be the first to take new Members, teach them the way of the Congress, teach them how to help their constituents. He was never ashamed of that. He represented always a bygone sort of spirit that I do not know if we have that much of around here anymore where we would respect each others' rights to do what is best for our constituents. We will miss Dick and Dottie very much. We know that they will be back and that they will always be a part of this Congress in spirit, and Godspeed to both of you. I hope that you recognize that the American people will always appreciate your contribution.

TRIBUTE TO DICK SULLIVAN AND DOTTIE BEAM

(Mr. OBERSTAR asked and was given permission to address the House for 2 minutes.)

Mr. OBERSTAR. Mr. Speaker, Dick Sullivan brought to his work on the Committee on Public Works and Transportation the canny understanding of the legislative process, of politics in its largest sense, and of understanding of human beings that he learned from his native New York in Brooklyn, but he learned also from Charlie Buckley who brought Dick to Washington when Mr. Buckley became chairman of the Committee on Public Works and Transportation, and brought a no-nonsense approach to the issues that this committee deals with, the building committee of the Congress. Dick was that mortar that kept the committee together over all of the years and the many difficult issues that it had to deal with, but always with a sense of direction, where we were headed and the purpose of this committee.

It has been my pleasure and privilege to work with Dick for nearly 26 years, starting as a legislative assistant, as I did in January 1963, with John Blatnik, former Member of this House, and later chairman of the committee.

I saw Dick work tirelessly, endlessly for the purposes of this committee, for the purposes that it serves in the broader sense of public interest. He gave of himself unselfishly and untiringly, but he gave also with a sense of what we are about, and that is to improve the lot of our fellow human beings, to give of ourselves that what we leave behind will be better than what we were given. Dick has surely done that, and so has Dottie Beam in her long service to this House.

They serve who also stand and wait. They have served, they have given, and this is our hour to recognize their contribution. Rarely in the history of the House has a nonsitting Member been given the tribute that Dick Sullivan was just given on the floor a few moments ago when Members rose to give his applause. It is well deserved. His contribution will be large and it will be written in the laws of the land and in the hearts of all of us who served with him.

TRIBUTE TO DICK SULLIVAN AND DOTTIE BEAM

(Mr. NOWAK asked and was given permission to address the House for 1 minute.)

Mr. NOWAK. Mr. Speaker, I would like to just take a minute to join my colleagues. I think the essence of Dick Sullivan has been captured, and certainly Dottie Beam was a part of that essence as we look through the record of the last 33 years in the Public Works and Transportation Committee. It speaks volumes of fingerprints and handprints and certainly the mind of Dick Sullivan has helped all of the Members on both sides of the aisle, and certainly the chairman of the Public Works and Transportation Committee as we moved through the whole reconstruction, if you will, after the Second World War and bringing America to really the height of where we stand in our infrastructure and transportation network in this country.

But he also had great human feelings, as has been expressed. I do not think any Member ever felt inconvenienced and certainly when Dick would spend the time with a Member that Member was always better off for the time. He was always willing to share, as well as Dottie, their experiences to lead especially the new Members through the committee network, and bring them into being a productive member of this committee.

So I join in this tribute, and I am sure I speak for all of those Members not on the Public Works and Transportation Committee who have benefited from the great service of Dottie Beam and Dick Sullivan.

Dick, congratulations.

TRIBUTE TO DICK SULLIVAN

(Mr. McEWEN asked and was given permission to address the House for 2 minutes.)

Mr. McEWEN. Mr. Speaker, it was the Democrat National Convention in 1932 when during the rollcall of States, the State of Oklahoma placed in nomination its favorite son and the great spirit-lifter of the Depression, the great Will Rogers. Among all of the ovation that ensued as he came forward to withdraw his name in favor of the nominee, a hush fell across the Chamber, and the humorist said a very simple yet eloquent truth. He said that two of the greatest things that could ever happen to a man were to have a good wife and to be accepted by your own people.

Mr. Speaker, I think tonight this exceptional tribute to an exceptional man is highly appropriate. Having been blessed with a good wife and a lifetime of service to his country, he is now acknowledged by the Members of the House of Representatives of the United States of America in this unique manner.

Mr. Speaker, it was my privilege some 20 years ago to serve as an intern to my predecessor, the ranking member on the Public Works and Transportation Committee, the Honorable Bill Harsha. Bill Harsha and Dick Sullivan were long-time and continued to be good friends, and in that relationship I was able to benefit from the kindness and generosity and oversight that Dick Sullivan extends to all.

In 1981 it was a privilege to come to the Public Works and Transportation Committee and to have the benefit of the counsel of the committee, Dick Sullivan.

As has been mentioned here tonight, America is different. Our country is better, people are safer. Yes, people live that would perhaps have been injured on our highways and in our air transportation system and on our waterways had Dick Sullivan not served his country well.

So it is a special privilege and a unique joy to join in this tribute to a man for whom I have the utmost respect, and I say thank you on behalf of a grateful nation for a lifetime of service.

Mr. Speaker, a remarkable career of public service ends today with the retirement of the Public Works and Transportation Committee's chief counsel, Richard J. "Dick" Sullivan.

Dick left his Bronx law practice and came to the committee on a temporary basis in 1957—and we can all be grateful that he liked what he saw and stayed on to run our committee with great skill and effectiveness over the next three decades and more.

It is hard to imagine the Hill without the imposing figure of Dick Sullivan. Few have ever mastered the legislative process and exercised influence so forcefully and adeptly. And few can sing an Irish tune with such gusto.

Building and rebuilding America is what the Public Works Committee is all about, and Dick Sullivan has certainly been one of the principal architects of our efforts. His legal and political knowledge and his great rapport with both Democrats and Republicans are legendary.

The talents of Dick Sullivan will be missed by all of us. I wish him the very best in the future.

□ 1740

TRIBUTE TO RICHARD SULLIVAN AND DOROTHY BEAM

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, as a local official, as a member of the city council, I had the opportunity to be part of a search team to bring to San Jose a city manager. That person was Tom Fletcher, who at that time was the deputy mayor of Washington, DC.

After we had hired Tom, I had the occasion to come to Washington, DC, with Tom Fletcher, our new city manager, and one of the first things that Tom did was to bring me, as a member of the city council of San Jose, to the Committee on Public Works room, and I had the opportunity at that time to meet this tall, lanky fellow, Dick Sullivan. Being 5 foot 8, after a conversation with Dick Sullivan, I would walk away with a whiplash.

But from that time I came to respect and to admire this individual very much.

Unfortunately at that time Dick and Julie were going through a very difficult time because their daughter was diagnosed as having leukemia.

I can recall very vividly right now, when I first met Dick, a crayon picture that he had on the wall that was drawn by his daughter who about 2½ to 3 years later passed away of leukemia.

But Dick and Julie and their children have meant a great deal to all of us on the Public Works Committee.

Little did I realize that some 6 years later I would be here serving as a member of the committee with Dick Sullivan.

Dick is just Dick to all of us. Officially, I guess, Richard J. Sullivan. Even that has a nice ring to it.

But, Dick, I just want to say, "Thank you very, very much for your years of service. You have taught all of a great deal about the jurisdiction of the Public Works and Transportation Committee."

In 1974, of course, Dick's deft hand, with all those Members of the Congress at that time, reformulated the Public Works Committee into the Committee on Public Works and Transportation.

But Dick has had a great deal to do with every piece of legislation in his 33 years of service to the House of Representatives.

So as all of us board airplanes or drive cars or drink water or whatever we do every day, Dick Sullivan has had a hand in that legislation which has served this country so well.

Of course, as the chairman of our committee, the gentleman from California [Mr. ANDERSON] has mentioned, the retirement of Dorothy Beam: Dottie is again a person whom all of us have turned to for assistance. She has been Dick's right-hand person. So to her as well goes a lot of love and thanks for the service that Dottie has meant to us on the Public Works Committee and the House of Representatives.

So, Mr. Speaker, I just would like to join everyone else in congratulating Dick and Dottie for their years of service, and we are going to miss them a great deal. But we know that every time we look around, their legacy of service here to the House and to this great country will be seen.

TRIBUTE TO RICHARD SULLIVAN AND DOROTHY BEAM

(Mr. BORSKI asked and was given permission to address the House for 2 minutes and to revise and extend his remarks.)

Mr. BORSKI. Mr. Speaker, I rise to pay tribute to an outstanding public servant and the institutional memory of the Public Works and Transportation Committee, Dick Sullivan, on the occasion of his retirement.

When I first came to the Congress and was appointed to the Public Works and Transportation Committee, Dick Sullivan was one of the first people I met. He has been a friend and a counsel to me during my service on the committee. He taught me the importance of the Public Works and Transportation Committee and the bipartisan tradition of its members.

He helped me cut through the red tape and the complexity of the issues, and he helped me to represent my district and my city to the best of my ability.

Mr. Speaker, I will sorely miss my friend, Dick Sullivan. But every time our committee authorizes another bridge or another highway or another mass transit system, I will think of him.

I know Dick and Dottie are retiring now, but I feel as though this is not an end to their service but probably a new beginning, and I wish him all the success in any of his new endeavors.

TRIBUTE TO RICHARD SULLIVAN AND DOROTHY BEAM

(Mr. HAYES of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Louisiana. Mr. Speaker, Senator JOHN BREAUX asked me to come to the House floor and to state that for the 14 years during which he served as a member of the Committee on Public Works and Transportation, during which time he was able to become involved in so many important projects that affect the State of Louisiana, that much of the credit and much of the acclaim go to the gentleman, Dick Sullivan, who is leaving us today.

I took JOHN's place in the 100th Congress. And the only person who he introduced me to was Dick Sullivan.

As we walked down the hall, JOHN looked and he said:

Now you know the secret of the Public Works Committee. You can skip everybody else. Talk to Dick Sullivan and I believe you too can be acclaimed for having a productive term.

That has been entirely correct.

While John and his wife Lois are not here today and while my wife Leslie cannot stand on the House floor, all of us join in congratulating Dick on an extraordinarily fine career and show appreciation not only to ourselves individually but to those people in the State of Louisiana who are able to drive across the projects that are there, to those who deal with the Corps of Engineers and are able to maintain levees that would otherwise not be there, and those who prepare to deal with the wetlands issues in the future. Someone will hold Dick Sullivan's job, but I assure you no one will take his place.

Mr. CLEMENT. Mr. Speaker, I join my Public Works Committee colleagues in paying tribute to Dick Sullivan on his retirement as chief counsel to the committee.

Although I have been a member of the committee for only 18 months, I quickly learned of the legendary Dick Sullivan and his value to committee members as a storehouse of information about the many programs under the committee's jurisdiction.

Quick with a friendly hello and a happy song, Dick worked tirelessly to help individual members as well as the committee succeed in their efforts to address our Nation's infrastructure needs. Not only was his substantive knowledge invaluable, but also his understanding of the committee's folkways and traditions—the very history which make membership on the committee most interesting and satisfying.

It is thus sad to learn that Dick is retiring as chief counsel to the committee. While I wish him godspeed and every success, the committee will not be the same without Dick Sullivan. They don't make staffers like him anymore and no matter how hard we work, it will be difficult to fill Dick's shoes.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 35) designating November 5-11, 1989, as "National Women Veterans Recognition Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to my colleague and friend, the gentleman from Florida [Mr. BILIRAKIS], who is the chief sponsor of this measure.

Mr. BILIRAKIS. Mr. Speaker, as the sponsor of House Joint Resolution 35, to designate the week of November 5 as "National Women Veterans Recognition Week," I wish to thank Chairman SAWYER and the ranking Republican, TOM RIDGE, for their assistance and leadership.

In 1984, I sponsored the first piece of legislation introduced in Congress that called for national recognition of women veterans. While I was pleased to be the originator of this worthwhile endeavor, I was surprised and disappointed that such recognition had not been given before. I am proud to say that every year since, Congress and the President have approved "National Women Veterans Recognition Week."

The Department of Veterans Affairs estimated that there are more than 1.2 million women veterans in this country, representing 4.2 percent of the total veteran population. In the State of Florida over 75,000 women veterans reside.

I sponsored National Women Veterans Recognition Week so that we might honor the women who have served in the Armed Forces and to increase the public awareness of their significant contributions to the defense of this great Nation. Women have served in and with the military services since our country was founded.

Despite the fact that women are officially excluded from "Combat Duty," we all know that many women veterans served under very difficult and dangerous circumstances—and many gave their lives for this Nation.

Official military participation for women began in 1901 with the formation of the Army Nurse Corps and was followed in 1903 with the formation of the Navy Nurse Corps. However, in every war before the 20th century in which the United States was involved, small numbers of women disguised themselves as men in order to serve in combat areas.

Among the most famous of these women veterans were Deborah Sampson, alias Robert Shurtleff in the Revolutionary War; Lucy Brewer, alias George Baker in the War of 1812; and Loreta Vasquez, alias Harrt T. Buford in the Civil War.

During World War I, the Army held fast to its prohibition against the enlistment of women, but the Navy enlisted the assistance of 13,000 women as telephone operators, clerical workers, typists, and stenographers. These women were the first to be accorded full military rank and status.

When the First World War ended, however, they were demobilized, and save for the Army Nurse Corps, the American armed services were once again all-male.

In 1947–48, Congress recognized the valuable service of women during World War II and granted them active duty status in the regular Army, Navy, Marine Corps, and Air Force. A total of 350,000 women served in the four services during World War II.

Women continued to play an active role in Korea and Vietnam and, in 1975, Congress further recognized their important contributions by requiring the service academies to admit women. In fact, this year marks the first time that West Point has a woman as the first captain of the cadets, Kristin Baker.

Additionally, it is my hope that National Women Veterans Recognition Week will highlight the special needs of women veterans, particularly in the areas of health care, employment, and readjustment problems. Of greatest importance is to increase women veterans' awareness of the availability of VA benefits and services for which they are eligible. Although much has been accomplished in the past several years, women veterans are less likely than their male counterparts to use veterans' benefits such as VA Health Care and the Home Loan Guarantee Program.

In closing, Mr. Speaker, I want to state emphatically that I am pleased to have played a role in increasing the public awareness of women veterans. I wish to thank the women's organizations and national veterans' organizations who worked so diligently and the House Members who cosponsored this measure.

It is my understanding that Senator ALAN CRANSTON is working this week to obtain the necessary support in the Senate for National Women Veterans Recognition Week. It is my hope that we act quickly so that the President can sign the proclamation in time to honor these brave and honorable women veterans.

□ 1750

Mr. RIDGE. Mr. Speaker, I thank the gentleman for his work, and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The clerk read the joint resolution, as follows:

H.J. RES. 35

Whereas there are more than 1,200,000 women veterans in the Nation, representing 4.2 percent of the total veteran population;

Whereas the number of women serving in the Armed Forces and the number of women veterans continue to increase;

Whereas women veterans have contributed greatly to the Nation's security through honorable military service which in many cases involved great hardship and danger;

Whereas the contributions and sacrifices of women veterans on behalf of the Nation deserve greater public recognition and appreciation;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas this lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled; and

Whereas designating a week to recognize women veterans in November 1989 will help further important gains made by women veterans following National Women Veterans Recognition Week in November 1984, 1985, 1986, 1987, and 1988: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 5-11, 1989, is designated as "National Women Veterans Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COMMUNITY FOUNDATION WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 425) designating November 12 through 18, 1989, as "Community Foundation Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I yield to the chief sponsor of this joint resolution, my colleague on the Committee on Banking, Finance and Urban Affairs, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, this year marks the 75th anniversary of the formation of the first community foundation in the United States. Community foundations are an outgrowth of America's tradition of charity. The dedication of these foundations to addressing changing local needs through the promotion and testing of innovative new ideas has proven very successful. Accounting for nearly $5 billion in assets, today's community foundations serve over 300 communities around the Nation, including all the major metropolitan areas. Community foundations are the fastest growing sector of philanthrophy in America today.

Mr. Speaker, it is appropriate that we take advantage of this occasion to recognize the dedication of community foundations and to commemorate this 75th anniversary. That is why I introduced House Joint Resolution 425 des-

ignating November 12 through 18, 1989 as "Community Foundation Week." Cosponsored by a significant majority of my colleagues, this resolution celebrates the 75 years of service which community foundations have provided. More importantly, this is a good opportunity to increase the public's awareness of how much their local communities benefit from community foundations and therefore I would urge my colleagues to enthusiastically support this resolution and community foundations.

A community foundation is a collection of funds which have been established into a permanent endowment for the benefit of the surrounding community. Among other things, they contribute to the educational, artistic, and civic growth of the communities which they serve. While the first community foundation was created in order to provide a more efficient and flexible means for individual citizens to contribute to local projects, they clearly serve in a greater capacity today. Community foundations are committed to providing leadership toward solving pervasive local problems. Governed by representative boards of directors possessing an intimate knowledge of and essential contacts within their communities, these foundations often serve as the "eyes" and "ears" for funneling national funds into their local areas.

Mr. Speaker, an excellent example of the ability of these community foundations success to serve their communities is the Trident Community Foundation—in Charleston, SC—which has acted as a central repository for charitable assistance in the wake of Hurricane Hugo. Even more recently, California's community foundations have joined together in a coordinated effort to assist victims of the earthquake which struck the northern part of the State. These foundations are redirecting funds toward emergency grants to direct service providers such as the Red Cross and the Salvation Army. They have also been guaranteeing loans to foundations in smaller communities which were the hardest hit by the disaster.

Mr. Speaker, the citizen's who generously support charitable organizations should be commended and encouraged to increase their voluntary contributions. The resolution before us today provides us with an opportunity to do this. By celebrating this anniversary of service, we can assist the community foundations around America in their efforts to increase the public's appreciation for the work that these foundations accomplish. We can guarantee that community foundations will continue to grow and continue to contribute to the expansion and well-being of their communities. I urge my colleagues to enthusiastically support this House Joint Resolution in commemoration of Community Foundation Week.

Mr. RIDGE. Mr. Speaker, I want to note that the gentleman from Minnesota [Mr. VENTO] managed to get 218 cosponsors, which is the magic number, in 2 days. We thank him for that prodigious effort as well.

Mr. GILMAN. Mr. Speaker, as an original cosponsor of this legislation, I rise in strong support of House Joint Resolution 425, introducd by my good friend and colleague the gentleman from Minnesota [Mr. VENTO], which designates November 12 through 18, 1989, as "Community Foundation Week."

This resolution celebrates the 75th anniversary of the first community foundation in the United States. Since the creation of the first community foundation, over 300 have been developed all across the Nation. These foundations provide more efficient and flexible means for an individual citizen to contribute to local projects.

A community foundation is a collection of funds which benefit local activities. They are committed to providing leadership, as well as contributing to the educational, artistic, and civic growth of their communities.

Mr. Speaker, Americans have a generous tradition of charity. I believe that House Joint Resolution 425 will bring national attention to the services provided by our community foundations.

I urge my colleagues to join me in support of this worthwhile resolution.

Mr. COLEMAN of Texas. Mr. Speaker, I rise today in support of a commemorative resolution being considered by the House of Represenatives today. This resolution, introduced by my colleagues from Minnesota, Mr. VENTO and Mr. FRENZEL, would declare the week of November 12 to 18 as "Community Foundation Week." As the fastest growing sector of philanthropy, there are now more than 300 community foundations across the United States. Last year, community foundations granted more than $300 million to charitable organizations.

In many of our communities, community foundations are making great efforts and significant charitable contributions to many causes in which we as a Congress are interested. On the issues of health, education, and housing, for instance, community foundations throughout the country are achieving much success through private efforts to assist other organizations carrying out projects to assist those in need.

In my congressional district in El Paso, TX, for instance, the El Paso Community Foundation has been very active in identifying groups that are both in need of resources and capable of implementing projects in a number of areas to assist their fellow citizens. As the representative of the 16th Congressional District, I am very proud of the fact that the El Paso Community Foundation is one of four groups from around the country being recognized in Washington next month for their achievements. In particular, their activities in the field of education will be recognized with a presentation on the successes of the private sector in education. Foundations in Concord, Detroit, and St. Paul are also being recognized for their achievements.

I would especially like to recognize Ms. Janice Windle, executive director of the El Paso Community Foundation and a member of the board of directors of the Council on Foundations. Through the efforts of many volunteers as dedicated as Ms. Windle and as knowledgeable of their individual community's needs, our communities are better places in which to live and our citizens are living better lives.

I urge my colleagues to support this legislation.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 425

Whereas the citizens of the United States have a strong tradition of contributing generously to the well-being of their communities and the Nation;

Whereas community foundations are tax-exempt organizations formed to attract funds and to distribute foundation earnings to further the well-being of their communities;

Whereas these earnings are distributed by volunteers boards of directors who are knowledgeable of their communities' needs in areas such as education, arts and culture, social services, economic development, health, the environment, and civic affairs;

Whereas community foundations augment the effectiveness of public and other private services by providing essential coordination to these efforts, and address community needs by providing leadership and resources on a permanent basis;

Whereas community foundations are in their 75th year of existence in the United States, and are the fastest growing form of philanthropy today;

Whereas there are now more than 300 community foundations in the United States with total assets of over $4,750,000,000;

Whereas the Nation's citizens who generously support philanthropic and charitable organizations should be highly commended and encouraged to increase and perpetuate private voluntary contributions to community foundations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 12 through 18, 1989, is designated as "Community Foundation Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GAUCHER'S DISEASE AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Commit-

tee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 73) to designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I yield to the chief sponsor of this joint resolution, the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I would like to thank Chairman SAWYER for including House Joint Resolution 224, "Gaucher's Disease Awareness Week" in the consideration of today's votes.

House Joint Resolution 224, "Gaucher's Disease Awareness Week," is designed to bring attention to a vicious disease for which there is no known cure. the disease is caused by the body's failure to produce enough of an enzyme that controls the amounts of fatty acids in the body. Fatty acids accumulate in the spleen, liver, bones, heart, lungs, and brain of people stricken with Gaucher's disease. The presence of these deposits causes a great deal of pain, as well as distended stomachs, nosebleeds, anemia, lack of energy, and easily broken bones.

I would like to thank the House, especially the 218 Members who cosponsored this resolution, for its support of my efforts to increase awareness of this disease. Gaucher's disease is cruel and deadly, and we must promote any and all efforts to find a cure for it.

I sincerely hope that the passage of this resolution, and the subsequent focus brought upon Gaucher's disease, will draw attention to this disease so that the unfortunate people who have been stricken can receive some relief.

Mr. RIDGE. Mr. Speaker, I thank the gentleman from Florida for his work, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 73

Whereas Gaucher's disease is caused by the failure of the body to produce an essential enzyme;

Whereas the absence of such enzyme causes the body to store abnormal quantities of lipids in the liver and spleen and frequently has an adverse effect on tissues in the body, particularly bone tissue;

Whereas among Jewish persons, Gaucher's disease is the most common inherited disorder affecting the metabolism of lipids, which are one of the principle structural components of living cells;

Whereas there is no known cure for Gaucher's disease and no successful treatment of the symptoms of the disease;

Whereas the increased awareness and understanding of

Gaucher's disease by the people of the United States can aid in the development of a treatment and cure for the disease;

Whereas the National Gaucher's Disease Foundation provides funds for research in the United States with respect to the disease; and

Whereas research and clinical programs with respect to Gaucher's disease should be increased: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 29, 1989, is designated as "Gaucher's Disease Awareness Week", and the President is authorized and requested to issue a proclamation caling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AN END TO HUNGER EDUCATION MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 198) designating November 1989 as "An End to Hunger Education Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to yield to my friend and colleague who is the chief sponsor of this joint resolution, the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I am gratified for this opportunity to address the House so that I may bring to its attention a very important resolution, Senate Joint Resolution 198, to designate November 1989 as "An End to Hunger Education Month." I realize that commemoratives have lately come under fire for being vehicles for self-serving interest groups. And yes, an "An End to Hunger Education Month" will serve a particular interest group; that being the world's hungry popluation.

While we in Congress certainly hear this term every day, 500 million people around the world actually live it. Long after the press corps have abandoned their famine coverage of villages in India, Ethiopia, and the Sudan, hunger remains, as insidious and painful as ever. Even in our own country, men, women, and children that we see every day on the streets, in the classrooms, in the playgrounds, and even in the Halls of Congress, are hungry.

"An End to Hunger Education Month" seeks to promote awareness and educational programs about hunger in this country, and to lead to the development of viable methods for alleviating chronic hunger worldwide. With the passage of this resolution, we in Congress call upon the people of the United States to recognize that hunger is not a temporary thing that strikes other people—it is the everyday tragedy of millions of people just like ourselves.

Mr. GILMAN. Mr. Speaker, I rise in support of Senate Joint Resolution 198, legislation designating November "End to Hunger Education Month" and I commend the gentleman from Florida [Mr. SMITH], for crafting the resolution.

This initiative, coming on the heels of World Food Day—October 16—will serve as an appropriate tool in furthering the goals and aspirations of hundreds of World Food Day organizations in the United States and around the world. The focal point and success of World Food Day and its national committee headed by Ms. Pat Young, has been the working philosophy that every day is World Food Day. World Food Day is in its 9th year now and its many educational programs scheduled throughout 1989 will serve as a source of inspiration and material for the efforts of those participating in "End to Hunger Month."

Accordingly, I applaud the gentleman's initiative and I urge my colleagues to support Senate Joint Resolution 198.

□ 1800

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 198

Whereas hunger affects the lives of 500,000,000 to 1,000,000,000 people in the world and takes the lives of 13,000,000 to 18,000,000 people annually, ¾ of whom are children under the age of 5;

Whereas while famines often gain widespread media attention and the subsequent response of the public, little attention is focused on the problem of chronic hunger;

Whereas there is a need to promote continuing activities that increase education and heighten public awareness about the extent of hunger, its causes, and consequences;

Whereas a society educated about the pervasiveness of hunger is equipped to respond to the needs of hungry people around the world; and

Whereas schools and communities should conduct educational programs that lead to the development of viable methods for alleviating hunger: Now, therefore, be it.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 1989 is designated as "An End to Hunger Education Month", and the President of the United States is authorized and requested to

issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WASHINGTON CENTENNIAL DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 209) to designate November 11, 1989, as "Washington Centennial Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I am certainly pleased to yield to the gentleman from Washington [Mr. DICKS], one of its favorite "Huskies" and the chief sponsor of this joint resolution.

Mr. DICKS. Mr. Speaker, on November 11, the State of Washington will hold a ceremony in its capital city of Olympia to mark the anniversary of the day, 100 years ago, when President Benjamin Harrison signed the proclamation making Washington our 42d State.

In recognition of that historic event, the Washington State congressional delegation introduced the resolution we are now considering, marking November 11, 1989, as Washington Centennial Day.

Bringing this resolution to the floor could not have been possible without the hard work of each member of the delegation and the assistance and guidance of my friend, the subcommittee chairman, TOM SAWYER and his ranking member TOM RIDGE. I would also like to thank Chairman BILL FORD who steered this resolution through the Post Office and Civil Service Committee, reporting it by a unanimous vote.

In 1792, Capt. George Vancouver first sailed into Puget Sound and declared:

> I could not possibly believe that any uncultivated country had ever been discovered exhibiting so rich a picture.

Vancouver further observed:

> The abundant fertility that unassisted nature puts forth, requires only to be enriched by the industry of man with villages, mansions, cottages and other buildings, to render it the most lovely country imagined; whilst the labour of its inhabitants would be amply rewarded in the bounties which nature seems ready to bestow on cultivation.

As exploration continued by little known sea captains and the Lewis and Clark Expedition, others saw the promise of the land appreciated by Vancouver: Excellent natural ports, wealth in timber and furs, salmon filled waters of the mighty Columbia River, and later, the apple and cherry orchards east of the Cascades and the rich wheatlands of the Palouse.

Much of our State's growth and history, from its early exploration and settlement to the construction of the northern railroad and the State's massive hydroelectric power system, is a result of far-sighted leaders such as Senators Jackson and Magnuson, who, in the words of Captain Vancouver, attempted to enrich nature by the industry of man. As a delegation and a State, we are especially proud that in the year of our State's centennial, our senior Member, TOM FOLEY, is Speaker of the House of Representatives—carrying on that illustrious tradition of enlightened leadership and vision of the State.

Over the last 100 years, Washington has grown from its original economic dependence on timber and beaver pelts to become a giant in international trade, agriculture, and aerospace manufacturing as well as home for three national parks and six national forests. Washington's next 100 years will bring the challenge of responding to reapidly increasing population growth and diminishing natural resources. I hope Washington's future leaders, as they struggle with these new demands, will find ways to enhance prosperity by using man's energy to further enrich the State without destroying the unique qualities that brought the first settlers to the Northwest.

Mr. Speaker, in closing, I would like to say that I am proud to stand here on the floor of the House and honor the Evergreen State on the eve of her 100th birthday. Together, you and I have served the people of Washington for many years and I look forward to meeting the State's future challenges with you and the other Members of our congressional delegation.

Mr. RIDGE. Mr. Speaker, I appreciate the gentleman's good word and all his good work on this matter.

Mr. Speaker, continuing my reservation of objection, I am pleased to yield to my colleague, the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, as the members well know, we from the Northwest like to say we come from "God's country."

When we say that, we may be thinking of the Olympic Mountains, stretching up along the peninsula, across the Puget Sound from Seattle. We may be thinking of the Cascades, or of Mount Rainier, which hovers above everyone living between Seattle and Tacoma. And, when you can't see Mount Rainier anymore, either because you are too far north or south, you can take a look at Mount Baker or Mount St. Helens.

When we say "God's country," we could be thinking of the dairy farms of Whatcom County, the tulip fields of Skagit County, the daffodils of Pierce County, the sweet onions of Walla Walla County or the wheat fields of the Palouse.

We in "God's country" have changed with the times, though, Mr. Speaker. We have made our name across the Nation through the products we share. We have done so, either by sending these products to other States, or taking advantage of our ports through trade with the Pacific Rim. Wines, airplanes, computer software, apple products, fish products—the list of things "made from Washington" is a long one.

In Washington State, we mix the adventurous spirit of yesterday, the beautiful surroundings of today, and the progress of tomorrow.

Mr. Speaker, Washington State is celebrating its first 100 years. The centennial celebration is a grassroots effort in our State, with more than 3,000 events in each of the State's 39 counties.

One hundred years ago, on November 11, at 9 minutes after 3 in the afternoon, U.S. President Benjamin Harrison sent a telegram to Washington State, declaring it the 42d State of the Union. On Saturday, November 11, 1989, thousands will celebrate the centennial in our State capital.

I ask that we join in this celebration, by making November 11, 1989, Washington State Centennial day. Let's celebrate the 32d State, "the other Washington," known to many as "God's country," and wish it happy birthday.

Mr. RIDGE. Continuing my reservation of objection, Mr. Speaker, I want to assure people that NORM DICKS was not there to receive that telegram from President Harrison.

At this time under my reservation of objection, Mr. Speaker, let me yield to my colleague the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, in Washington State this is the celebration of the century. We are very proud of it and delighted to have Congress join us as we say happy birthday to the great State of Washington.

The 3,000 community celebrations that have been held have been highlighted by not just a review of the past, but more importantly in each case by an investment in the future, part of this spirit of the great State of Washington. I am pleased to join in this celebration. I thank my colleagues for this opportunity to do so.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 209

Whereas on November 11, 1889, at 5 o'clock and twenty-seven minutes, President Benjamin Harrison signed a proclamation declaring Washington State;

Whereas Washington is known as the Evergreen State;

Whereas Washington State has become a national leader in aviation, computer software, education, health care, commerce, and trade;

Whereas Washington State's beautiful mountains, trees, waters, and fields are appreciated and preserved; and

Whereas on November 11, 1989, Washington State will see the dawn of a new century: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 11, 1989, is designated as "Washington Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social, and historic contributions of the people of Washington to the United States of America over the past century.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DIABETES MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 131) to designate November 1989 as "National Diabetes Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I wish to thank the gentleman from Pennsylvania, the ranking member, for yielding, and thank the subcommittee chairman, the gentleman from Ohio [Mr. SAWYER] for his leadership in bringing this joint resolution to the floor.

Mr. Speaker, as the original sponsor of House Joint Resolution 210, the House companion resolution to Senate Joint Resolution 131, I rise in strong support of this resolution to designate November as National Diabetes Month. I would like to thank the chairman of the subcommittee, Mr. SAWYER; and the ranking member, Mr. RIDGE, for bringing the resolution to the floor.

I have sponsored similar legislation for the past 7 years. For each of these years the Congress has designated November as National Diabetes Month. The important public awareness programs which take place during this month, sponsored by the American Diabetes Association, help focus attention on diabetes and the need to support diabetes research and education.

Nearly 11 million Americans have diabetes. Minorities, especially native Americans, Hispanic Americans, and African-Americans are increasingly contracting diabetes. In fact, diabetes is one-third more prevalent in the black population than in the general population. Yet, only 6 million Americans are aware they have the disease. National Diabetes Month will help reach the Americans who don't know, so they can get the health care they need to control their disease. Almost 85 percent of all cases of noninsulin dependent diabetes may be prevented through greater public understanding, awareness, and education.

Diabetes costs the United States $20.4 billion annually in direct and indirect medical expenses, disability payments, lost productivity, and absenteeism. Diabetes is a leading cause of death in this country. It is also the leading cause of new blindness. In fact, over 5,000 people go blind every year because of diabetes. Diabetes is also a leading cause of kidney disease and failure. And it is the leading cause of nontraumatic foot and leg amputations.

While we still do not have a cure for diabetes, there is a great deal that can be done. Greater public awareness and education can help to prevent these complications. Diabetes is unique among chronic diseases and disorders in that careful self-monitoring by the patient with diabetes can avoid the development of some of the most serious complications of the disease. Proper diet, exercise, and medication are the keys to good control, which can only be achieved through the active participation of the patient with diabetes.

The National Diabetes Month resolution can help increase public awareness and understanding of diabetes. In turn, this can increase public support for diabetes research, help develop better methods of diagnosing and treating the disease, and help the 6 million undiagnosed people with diabetes in this country seek the proper medical attention they so urgently need.

Mr. Speaker, I urge my colleagues to join me in supporting this resolution and hope that each of my colleagues will take some time this month to help promote diabetes awareness in their congressional districts.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to my colleague, the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank my colleague for yielding and rise to offer particular thanks to the gentleman from Maryland [Mr. HOYER] for his continuing effort to bring the kind of attention that is necessary to diabetes through the designation of November as National Diabetes Month.

Mr. Speaker, it is with a sense of both sadness and renewed hope that I rise in support of House Joint Resolution 210 to designate the month of November 1989 as "National Diabetes Month."

While we can often consider important resolutions that serve to increase public awareness about diseases and health problems, I believe this effort to focus attention on diabetes is particularly critical. Most people know about diabetes. But many people do not know that diabetes can kill. They do not know that the complications from diabetes can be painful and debilitating.

I learned the hard way. Earlier this year, my close friend, colleague and administrative assistant, Jim Dolan, passed away. Jim suffered from diabetes and he died from complications of the disease.

Many of my colleagues knew Jim well; he served several Members of Congress from both sides of the aisle with distinction and commitment. During his long career in Congress, Jim represented the very best of what it means to be a public servant and to serve our Nation in the political arena.

It is difficult to find enough ways to say thank you to Jim. I often am frustrated by the circumstances that took so respected and vibrant a man so early in life.

I hope that by playing a direct role in facilitating the passage of this resolution, I can help the millions of Americans who also may suffer from diabetes, but may not be aware of their illness. I hope that more people will understand that diabetes cannot always be controlled through insulin treatment and dietary restrictions—that diabetes can lead to blindness, heart and kidney disease, respiratory problems, and amputations.

In the final months of his life, Jim suffered many of these complications from diabetes. But he never lost his zest for life and his commitment to and genuine love for the great institution in which we serve.

For Jim, and for myself, I hope we can renew our commitment to understanding, controlling, and finding a cure for this devastating disease.

□ 1810

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection for the benefit of those who would like to speak to this particular joint resolution, I yield to my colleague, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I congratulate the gentleman from Maryland [Mr. HOYER] for being the sponsor of this important resolution. I do not think that anybody un-

derstands how devastating diabetes can be until it hits a member of the family, and I had the experience just last year where my 13-year-old grandson was suddenly found to be a diabetic, and I can certify to my colleagues of the seriousness of the disease and the devastating effect it can have on one's life, especially a child's life, and the entire family.

Mr. Speaker, the entire way of life of a diabetic must be changed with freequent blood checks during the day, and of course the insulin injections that go on all of the life of the patient, a life that is generally, unfortunately and sadly shortened by at least 20 years.

There has been remarkable progress, but it is still a long way from being cured, and the gentleman from Delaware [Mr. CARPER] mentioned and the gentleman from Maryland [Mr. HOYER] mentioned the good work being done by the National Institutes of Health. Also the Veterans' Administration will be doing some important work.

In addition the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of the Committee on Veterans' Affairs, held a hearing the other day where a witness came forward with a new implant in the abdomen, with a computer attached that is not noticeable at all, and that is so that the amount necessary for the daily injection of insulin is measured and guided by the computer so that a much more normal life can be led by the patient.

Mr. Speaker, certainly that is a great advance, but with more money, because it takes money to find cures for dreadful diseases, with more money, and more devotion and more attention given to diabetes, I think we can all hope that someday there will be a cure.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 131

Whereas diabetes is a leading cause of death by disease in the United States;

Whereas diabetes affects over eleven million Americans, of whom almost six million are not aware of their illness;

Whereas diabetes costs the Nation $20,400,000,000 annually in health care costs, disability payments, and increased mortality due to diabetes;

Whereas up to 85 per centum of all cases of noninsulin dependent diabetes may be prevented through greater public understanding, awareness, and education;

Whereas diabetes is particularly prevalent among black Americans, Hispanic Americans, Native Americans, and women; and

Whereas diabetss is a leading cause of new blindness, kidney disease, heart disease, strokes, birth defects, and foot and leg amputations, all of which can be reduced by better public understanding and awareness of disabetes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1989 is designated as "National Diabetes Month." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3051

Ms. SLAUGHTER of New York. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3051, a bill that I did not cosponsor. My name was added in error.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR AND WAIVING POINTS OF ORDER AGAINST MOTION TO RECEDE AND CONCUR IN SENATE AMENDMENT 136 TO H.R. 3015, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1990, WITH AN AMENDMENT

Mr. GORDON, from the Committee on Rules, submitted a privileged report (Rept. No. 101-322) on the resolution (H. Res. 276) providing for the consideration of a motion to recede and concur in Senate amendment numbered 136 to the bill (H.R. 3015) making appropriations for the Department of Transportation and Related Agencies, for the fiscal year ending September 30, 1990, and for other purposes, with the amendment printed in the joint statement of the managers accompanying the conference report, and waiving certain points of order against said motion, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1465, OIL POLLUTION PREVENTION, RESPONSE, LIABILITY, AND COMPENSATION ACT OF 1989

Mr. GORDON, from the Committee on Rules, submitted a privileged report (Rept. No. 101-323) on the resolution (H. Res. 277) providing for the consideration of the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT PROVIDING FOR CONSIDERATION OF H.R. 2710, FAIR LABOR STANDARDS AMENDMENTS OF 1989

Mr. GORDON. Mr. Speaker, I ask unanimous consent that the Committee on Rules have until midnight tonight to file a privileged report providing for the consideration of H.R. 2710, the Fair Labor Standards Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

NATIONAL GLAUCOMA AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 194) designating November 12 through 18, 1989, as "National Glaucoma Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so simply to identify the work of our colleague, the gentleman from Pennsylvania [Mr. WALGREN], who is the chief sponsor of this joint resolution.

Mr. WALGREN. Mr. Speaker, among all the commemorative designations by the Congress, I want to say how important I feel it is for the House to pass legislation designating the week of November 12–18, 1989 as "National Glaucoma Awareness Week." Through this resolution, which has already passed the Senate, we hope to bring attention to the need for early, preventive treatment of glaucoma. And in doing so, save the eyesight of those who would otherwise be blinded by this disease.

Approximately two million Americans have glaucoma. At least one-half of them are unaware that they have it. Because glaucoma can be detected by a routine eye examination and often controlled with treatment, increasing public awareness of the disease is the first step in preventing many cases of blindness.

Glaucoma is the second leading cause of blindness in the United States and the leading cause of blindness among Black Americans. The elderly, those with diabetes, and those with a family history of the disease carry an especially high risk of contracting the disease; 80,000 individuals in the United States are already blind from glaucoma and 5 to 10 million Americans have elevated intracocular pres-

sure that has not been diagnosed or detected, putting them at a high risk of developing glaucoma.

Because damage to the eye from glaucoma is progressive, irreversible, and without cure once it occurs, early detection and treatment is critical. The earlier the disease is recognized, the more successfully it can be treated and controlled.

Through "National Glaucoma Awareness Week," we hope to give a focal point for all the local organizations across the country who are working to increase awareness of this danger. We hope, ultimately, that research will find a cure for this condition. But until that time, we must rely on public education, early detection, and prevention.

I want to credit the 223 Members of the House who recognized the importance of raising public awareness of glaucoma by cosponsoring this bill. And I especially want to thank Congressmen SAWYER, RIDGE, and FORD, for the House Post Office Committee for their help in bringing this resolution to the point of passage in the House of Representatives.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 194

Whereas glaucoma is the second leading cause of blindness among individuals in the United States;

Whereas glaucoma is the leading cause of blindness among black individuals in the United States;

Whereas the risk of blindness from glaucoma significantly increases in older age groups;

Whereas diabetes increases the risk of developing glaucoma;

Whereas at least two million individuals in the United States have glaucoma and at least 50 per centum of the individuals with glaucoma are unaware of it;

Whereas eighty thousand individuals in the United States are already blind from glaucoma and five million to ten million Americans are believed to have undiagnosed and elevated intraocular pressure, often a silent symptom of glaucoma;

Whereas early detection is critical to preventing blindness from glaucoma; and

Whereas periodic comprehensive eye examinations are the best means of detecting glaucoma and the number of individuals that receive examinations could be increased through greater public understanding, awareness, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 12 through 18, 1989, is designated as "National Glaucoma Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BASE AND SEQUESTER AMOUNTS REQUIRED BY BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-108)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Union Calendar and orderd to be printed.

(For message, see proceedings of the Senate of today, Tuesday, October 31, 1989.)

□ 1820

BUDGET RECONCILIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 5 minutes.

Mr. PEASE. Mr. Speaker, today marks the end of the first month of fiscal year 1990, and we still have no budget reconciliation agreement. I would like to spend a few minutes today to talk about what we will accomplish—and what we will not accomplish—if the budget reconciliation conference comes to a successful conclusion.

As far as most of the public is concerned, if Congress meets the Gramm-Rudman deficit targets it is faithfully discharging its fiscal responsibilities.

But the fact is that the seriousness of our true fiscal dilemma will be evident only in conjunction with the decisions we make in upcoming days with respect to the Federal debt ceiling. We are virtually at the end of our borrowing authority. Yet, if we are able to agree on an increase in the debt ceiling, we will look responsible because we have averted shutting down the Federal Government.

What gets obscured in all this near-panic about the consequences of a shutdown is the message the debt ceiling increase is really sending. It is the increase in the debt ceiling from year to year, not the adherence to Gramm-Rudman, that measures the Federal Government's true annual deficit. The sad truth is that the Gramm-Rudman deficit figure is largely a sham.

For example, the struggle in the reconciliation conference is focused on getting the Gramm-Rudman deficit down to $110 billion, to meet the $100 billion target plus a $10 billion cushion. The real deficit—the amount we will actually add to the national debt in 1990—will likely be about $200 billion.

For fiscal year 1989, just ended, the Gramm-Rudman target was $136 billion. The final calculation of the annual deficit released by the Treasury last week was $152.1 billion. We missed by more than $16 billion, even though under Gramm-Rudman the year counts as a success.

But here is the really important thing: No analysis based on Gramm-Rudman would reveal that the increase in the national debt was an estimated $269 billion.

For the past 4 fiscal years, the total of Gramm-Rudman target deficits was $596 billion. The actual 4-year deficit total—as measured by national debt increase—was $1.05 trillion.

The truth is that it is simply dishonest to congratulate ourselves for coming to grips with the country's fiscal problems just because we achieve the Gramm-Rudman targets.

How can we be doing well at keeping the official deficit moving downward and still have to borrow money at the rate of roughly a quarter-trillion per year? You have to look for the answer in the way we deal with one of the few bright spots in the area of Government income—the Social Security trust funds.

Because of changes in 1983, the Social Security trust funds are registering increasing surpluses every year. In the current fiscal year, those trust funds will take in about $70 billion more than necessary to meet current obligations. We count the excess receipts to help reduce the annual deficit, but then we turn around and loan that money to the Treasury, which runs up the national debt.

It does not matter that the Government owes that particular debt to itself. The Government essentially holds the debt instruments in trust for the beneficiaries who expect to receive Social Security benefits when they are due.

The same argument holds true for the Government trust funds maintained for such programs as Medicare, military and civilian retirement, highway construction, airport improvements, unemployment compensation, and others.

We talk much too easily of the need to make hard and painful choices about the deficit. The pain of Gramm-Rudman will seem like a pinprick when the time comes to do something serious about the national debt.

THE MITSUBISHI COUP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HAYES] is recognized for 5 minutes.

Mr. HAYES of Illinois. Mr. Speaker, I rise today to express my concern about Japan's largest real estate company, Mitsubishi Estate Co., announcing that it will take over controlling interest in the Rockefeller Group which owns Rockefeller Center, Radio

City Music Hall, the GE Building and the Warner Communications Building in New York City.

First, let me say that I am fully aware that we live in a free enterprise system. I certainly do not rise today to advocate restrictive measures be taken to address this matter. However, I am merely curious as to how far we will allow outside interests to continue to take over, not only landmarks such as Rockefeller Center, but any of our other national or historical landmarks.

Are we, as a nation, at all challenged by this financial coup? My concern has to do with the economic issue. What happens when Mitsubishi owns not only a 51-percent interest, but a 90-percent interest in the Rockefeller Group? While NBC-TV or the Rockettes are sending their rent payments abroad, what assurance do we have that any of those American dollars will return to fuel our economy. How obliged will Mitsubishi be to reinvest in America. You tell me, given our current deficit concerns, and let's not even mention our trade deficit, whose economy is more in need of help.

We have heard it said over and over again, and we know it to be fact, that we are now a debtor nation, no longer respected as the economic power we once were. I thought it important today to express my concern that with the continued loss of control over our domestic economy, advantage will be taken by foreign interests.

My real purpose is to encourage efforts to reinvest in our economy, in our communities, so that our children and grandchildren will maybe have the opportunity to own controlling interest in Rockefeller Plaza. We need to tend to our business instead of selling our businesses and property to foreign interests.

Let me close by saying that the Japanese, just like the British or the Dutch, are obviously welcome to partake of the benefits of our capitalist society. The fact that Mitsubishi is Japanese-owned does not concern me as much as the fact that we are slowly but surely sitting idly by while America is being sold. Of greater importance is the fact that as with most things, the few that do benefit from these mega-buck mergers and acquisitions, benefit at the expense of the many—the middle- and low-income American that continues to suffer because of the chaos in our economy.

I guess I pass my thoughts on in hopes that we begin to take an active role in solving our deficit problem in a way that benefits our Nation as a whole, and that presents a positive future for those that come after us.

□ 1830

FAIRNESS FOR SMALL BUSINESSES FROM BATF TAXATION WITHOUT NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I rise today to introduce legislation that will correct a gross injustice in our Tax Code. As many of my colleagues know, the U.S. Bureau of Alcohol, Tobacco, and Firearms BATF, with help from the IRS and State alcohol license agencies currently trying to collect large, sometimes decades-old tax debts, including penalties and interest, from thousands of small businesses on a tax of which many have been completely unaware.

As you know, the BATF recently issued notices ordering businesses to immediately pay in full the balance of all uncollected taxes previously unknown to most businesses. This is a prime example of an overzealous bureaucracy creating an absolute injustice to honest businesses who have no intention of evading tax liabilities. These levies, known as occupational taxes, are imposed on all producers, wholesalers, and retailers of alcoholic beverages, including grocery stores and restaurants. Retailers must pay $250 a year, regardless of their size, and wholesalers pay $500. Producers pay $1,000 if they have gross receipts of $500,000 or more or $500 if their gross receipts are less than $500,000.

However, prior to this year the tax on retailers was only $54 and considered not cost-effective to enforce. In fact, this tax has been in existence since 1866. In 1987, the tax was raised to $250 a year and the BATF was put in charge of collecting all back taxes. With this new incentive of higher revenues through the collection of the increased tax, the BATF instructed businesses to pay all back taxes plus interest and penalties without any statute of limitations. Thus, businesses are being taxed for back taxes owed, going back several years, plus interest and penalties on that tax. This BATF action has created an enormous burden for small businesses without taking into account the possible impact of the policy.

My legislation would waive all taxes, interest, and penalties incurred prior to this change in the law and lower the rate for alcohol retailers to $165. I believe that it is the responsibility of the Congress to correct this injustice. Most of these honest business people, who had no idea that such a tax existed, are now faced with bills that endanger their business. We must not let this type of action take place.

In addition, my bill would offset any reduction in Federal revenue due to the enactment of this legislation by reducing the deductibility of interest on corporate indebtedness. This provision would act to significantly curb the use of large amounts of debt used in leveraged acquisitions. Congress must end the incentives currently in the Tax Code which reward the use of debt financing.

Mr. Speaker, I ask that my colleagues join me in support of this important piece of legislation. This type of action by the IRS and the BATF is simply taxation without notification and must be corrected by Congress.

Following is the text of my bill:

H.R. 3556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION OF OCCUPATIONAL TAX ON RETAIL DEALERS IN LIQUORS AND BEER.

(a) IN GENERAL.—Section 5121 of the Internal Revenue Code of 1986 (relating to imposition and rate of occupational tax on retail dealers) is amended by striking "$250" each place it appears and inserting "$165".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1990.

SEC. 2. LIMITATION ON ASSESSMENT PERIOD FOR OCCUPATIONAL TAX ON RETAIL DEALERS IN LIQUORS AND BEER.

(a) IN GENERAL.—In the case of any tax imposed by section 5121 of the Internal Revenue Code of 1986, with respect to any taxable period beginning before January 1, 1989—

(1) no assessment of any such tax may be made after the date of the enactment of this Act,

(2) if such tax was assessed after December 31, 1987, and on or before such date of enactment, such assessment shall be abated, and

(3) if such tax was collected after December 31, 1987, and on or before such date of enactment, the amount so collected shall be credited or refunded as an overpayment.

(b) DEFINITION.—For purposes of paragraphs (1) through (3) of subsection (a), the term "tax" includes any interest, addition to tax, additional amount, or assessable penalty with respect to the tax.

SEC. 3. LIMITATION ON DEDUCTION FOR INTEREST ON CORPORATE STOCK ACQUISITION INDEBTEDNESS.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by inserting after section 279 the following new section:

"SEC. 279A. INTEREST ON CORPORATE STOCK ACQUISITION INDEBTEDNESS.

"(a) GENERAL RULE.—No deduction shall be allowed for any stock acquisition interest paid or incurred by a C corporation during any taxable year to the extent that such interst exceeds $5,000,000.

"(b) EXCEPTION FOR STOCK PURCHASE TREATED AS ASSET ACQUISITION UNDER SECTION 338.—This section shall not apply in the case of any major stock acquisition which is a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies.

"(c) STOCK ACQUISITION INTEREST.—For purposes of this section—

"(1) IN GENERAL.—The term 'stock acquisition interest' means—

"(A) any interest on indebtedness incurred or continued in connection with any major stock acquisition, and

"(B) any other interest expense allocable to stock acquired in such an acquisition.

Subparagraph (B) shall not apply to interest incurred after the date 5 years after the date of the last acquisition which was part of the stock acquisition.

"(2) ALLOCATION.—For purposes of paragraph (1)(B), the portion of the taxpayer's interest expense allocable to stock acquired in a major stock acquisition is an amount

which bears the same ratio to the corporation's interest expense as—

"(A) the corporation's average adjusted bases of stock acquired in such an acquisition, bears to

"(B) the average adjusted bases for all assets of the corporation.

"(3) SPECIAL RULES.—

"(A) STOCK REDEMPTIONS, ETC.—If any stock of a corporation is acquired by such corporation in a major stock acquisition, such stock shall be treated as an asset of such corporation for purposes of paragraph (2).

"(B) COORDINATION RULES.—Rules similar to the rules of section 265(b)(6) shall apply for purposes of paragraph (2).

"(d) MAJOR STOCK ACQUISITION.—For purposes of this section—

"(1) IN GENERAL.—The term 'major stock acquisition' means any acquisition of stock in a corporation (by purchase, redemption, or otherwise) which is pursuant to a plan of the corporation making the acquisition (or any group of persons acting in concert with such corporation) to acquire 50 percent or more (by vote or value) of stock in a corporation.

"(2) ALL PLANS TREATED AS 1 PLAN.—All plans referred to in paragraph (1) by any corporation (or group of persons acting in concert with such corporation) shall be treated as 1 plan.

"(3) AGGREGATION OF ACQUISITION DURING 3-YEAR PERIOD.—All acquisitions during any 3-year period shall be treated as pursuant to 1 plan.

"(4) CONSTRUCTIVE OWNERSHIP RULES.—The rules of section 382(l)(3)(A) shall apply for purposes of this section.

"(e) DOLLAR LIMITATION IN CASE OF CONTROLLED GROUP.—For purposes of subsection (a)—

"(1) all component members of a controlled group (as defined in section 179(d)(7)) shall be treated as 1 corporation, and

"(2) the dollar limitation of subsection (a) shall be apportioned among the members of such group in such manner as the Secretary shall by regulations prescribe."

"(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 279 the following new item:

"Sec. 279A. Interest on corporate stock acquisition indebtedness."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock acquired after December 31, 1989.

FAILURE OF THE ORGANIZATION OF AMERICAN STATES TO RESPOND TO GENERAL NORIEGA'S LAWLESS BEHAVIOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, the Organization of American States or the OAS will be meeting within the next 2 weeks to consider a wide range of issues. One item likely to be on the agenda is the recent announcement by the Group of Eight that Cuba should be admitted to the OAS. Given the Cuba's human rights record, and its continued propensity to export arms to revolutionary movements throughout the hemisphere, admittance of Cuba would be wholly inappropriate. There is little evidence that Cuba is willing to play a constructive role in hemispheric affairs.

But perhaps a more disturbing aspect of the Organization of American States is its failure to respond adequately to hemispheric crises. The indecisive action—or, more accurately, inaction—with regard to Manuel Noriega's ruthless dictatorship has been particularly abhorrent. This is a clear-cut situation of right and wrong. Elections were held, the democratic opposition won those elections in a landslide, and General Noriega used the Panamanian Defense Force and his "dignity battalions" to steal the elections and deny the will of people. Here is a case where all nations of the Western Hemisphere except, not surprisingly, Cuba and Nicaragua, have agreed that General Noriega should not be allowed to retain power.

The weak and totally ineffective response of the OAS casts a black eye on that organization. After months of fruitless negotiations, it became clear that Noriega would not respond to the appeals of the OAS delegation, and that the OAS was unwilling to take more decisive action.

If the OAS wishes to take a leadership role in hemispheric affairs or even to have respect as an organization, it must change its mindset. As a recent editorial in the New York Times noted, the OAS by its fumbling, mumbling response has discredited itself and damaged multilateralism, thereby undermining the very principle it needs to sustain in order to play a meaningful role.

The Latin American nations understandably are often concerned and would be vocally very critical if the United States engages in unilateral military actions to restore democracy. The United States has therefore turned to the OAS to seek a resolution to the Panamanian crisis, and the OAS has failed pathetically. The indecisive and apathetic behavior of the OAS in recent months does not bode well for hemispheric stability. Either the OAS should execute the responsibilities for which it is designed, or the United States should reevaluate its role in this organization.

Mr. Speaker, at this point I insert into the RECORD an editorial from the New York Times entitled "Mumbling Won't Move Noriega." As the editorial notes, General Noriega has turned OAS ineptitude to his advantage.

MUMBLING WON'T MOVE NORIEGA

The Panama crisis offered the Organization of American States a rare opportunity to demonstrate the advantages of cooperative hemisphere diplomacy. Instead, by its fumbling, mumbling response, the O.A.S. has discredited multilateralism, undermining the very principle it needs to sustain in order to play a meaningful role.

Latin America's leaders rightly fault Washington's record of go-it-alone diplomacy and unilateral intervention. Far better, they argue, to devise regional solutions to shared hemispheric problems. Far better indeed. But multilateral approaches can only work if Latin nations themselves shoulder uncomfortable diplomatic responsibilities. Regrettably, this week's O.A.S. meeting on Panama suggests that they remain unwilling to do so.

The Bush Administration deserves credit for turning to the O.A.S. last May when Gen. Manuel Antonio Noriega's brazen electoral fraud brought violence to Panama's streets. That marked a welcome departure from the Reagan Administration's cowboy approach to regional issues, and a recognition that such swaggering can provoke opposition even to reasonable American goals.

Panama seemed a natural candidate for regional action. Even Latins reluctant to interfere in other countries' internal affairs would surely acknowledge legitimate grounds for intervention.

Almost every O.A.S. member is not committed to protecting democracy. Thanks to earlier Noriega mischief, Panama is suspended from the working club of Latin democracies. Further, the general threatens neighboring states by letting international drug syndicates use Panama. Those syndicates have now declared war on Colombia's Government, and collaborate with guerrillas elsewhere. And General Noriega's lawlessness complicates execution of the Panama Canal treaties, treaties vitally important to the region.

Yet after three months of failure to persuade General Noriega to make meaningful concessions, the O.A.S. has now settled for an insipid statement that "resolutely exhorts" Panamanians on both sides to settle their differences. The mediators then shamelessly blame U.S. troop maneuvers for poisoning the negotiating climate, even while General Noriega uses the Panamanian military as his principal political tool.

Meanwhile, the momentum of his opposition's apparent election triumph last spring has been lost. General Noriega has regained his iron grip, turning O.A.S. ineptitude to his own propaganda advantage.

In theory, multilateral diplomacy remains the best approach in dealing with this canny but vulnerable tyrant. The O.A.S. fiasco risks giving multilateralism a bad name.

TRIBUTE TO DAVID A. BRODY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. MILLER] is recognized for 20 minutes.

Mr. MILLER of Washington. Mr. Speaker, I thank several of my colleagues for joining me here this evening. We come to recognize and show appreciation for the work of David A. Brody, a man known by practically everybody in the Congress and known by thousands of Americans for his good deeds.

David Brody was born and educated in New York City, came down to Washington, DC, almost 50 years ago after graduating from law school, worked as an attorney for the Rural Electrification Agency, then served as an officer in the U.S. Navy, and then

went to work for the Agriculture Department. Then in the late 1940's he went to work for an organization which he is identified with, or I should say an organization that is identified with him, and that is the Anti-Defamation League of B'nai B'rith. He went on to become the Washington representative of that organization and served almost 40 years with that organization, retiring as Washington representative earlier this year.

We honor David Brody and speak of his good deeds today because of that retirement, although he has gone on and is doing many other things.

For 40 years with the Anti-Defamation League, David Brody was a fighter for civil rights in this country. He fought against anti-Semitism; he fought against discrimination of all groups on the basis of race, color, or religion. He played a major role in the enactment of the Civil Rights Act in the 1960's, and then went on to work on many other causes, including the establishment and solidifying of the alliance between the United States and Israel.

David Brody's wife Bea joined him in making up a great team in our Nation's Capital. In the other body, he is known as the 101st Member. Senators DOLE and MITCHELL refer to him as the 101st Senator. I suppose in this body we could say that is the 436th Member.

So many of us have come to know him and benefit from his kindness and have worked with him on so many causes.

Mr. Speaker, at this point I yield to some of my other colleagues who have joined me tonight. First, I yield to my distinguished colleague, the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I appreciate what the gentleman has said about David Brody. I will not reiterate it. I will say, however, that I came to know David and Bea Brody very well on a trip, sir, that involved the distinguished gentleman from Washington [Mr. MILLER], who just yielded to me. We traveled to Israel during the month of January in 1985. I had previously planned to go to the Mideast, Israel specifically, on three previous occasions, but on each occasion was forced to postpone because of pressing business in my district.

We then finally were able to go, the gentleman will recall. We had a very fine, meaningful, informative trip, and David and Bea Brody made it happen. There were about, I guess, between 12 and 15 of us, only 3 Members of the Congress. We initially had about 15, and the gentleman will recall that that was a time of strife in the Middle East, and many of the Members declined to go at the last minute. We even came back by way of Ireland, David and Bea will recall.

But I appreciate his friendship and Bea's friendship as well.

In closing, I will say that I will quote from David Brody. He once was quoted as saying:

> I don't come around only when I need something. I come around to chat on a general exchange of views. He said, I don't have a heavy-handed, demanding style.

Mr. Speaker, and my friend from Washington, I think that probably is a good formula for all of us to practice. He certainly has practiced it, and I wish for him and Bea, as they begin their years of retirement, smooth sailing and much happiness.

Mr. MILLER of Washington. Mr. Speaker, I thank my colleague from North Carolina for his fine remarks.

Mr. Speaker, I yield to my distinguished colleague, the gentleman from Indiana [Mr. HILER].

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Mr. HILER. Mr. Speaker, I thank the gentleman for yielding, and I too want to congratulate him for calling this special order to commemorate David Brody.

So often when we have special orders in this House to talk about individuals, it is after they are no longer around to hear what we have to say or to read what we have had to say. And it is so infrequent really that we take time out of our busy schedules to talk about people who have had an impact on this country, on this institution, and on us individually. So I was delighted when I heard the gentleman was giving this special order and to be able to come down and put my two cents in for David and Bea Brody, two delightful people, who I, like the gentleman from North Carolina, had the opportunity to meet on a mission to Israel and to spend about 8 days with them and with others.

As the gentleman from Washington State knows, when you get ready to go on a trip and you are going with people you do not know, and it is an extended period of time, and you are going to be in a van, or a car, or a plane, or whatever it is going to be, and you are going to be there for quite a while, one of your first concerns is you sure hope that you get along with this person, because 8 days could be a long time to be with people who you are less than delighted about being with.

But I must say that not having known David and Bea before, but certainly having known David by reputation, we had absolutely a delightful time, a time that I would only hope to duplicate at some time in the future, if that is even possible. What made our mission to Israel so very, very enjoyable was not just the opportunity to meet with government officials there and the chance to see what is a very intriguing country, and certainly to see a region of the world that is of tremendous strategic interest and human interest to the United States, but also the fact that we could go on the trip with people who knew and understood the land, the culture, the people, and could communicate that in a way that, as the gentleman from North Carolina said, was not a heavy-handed way, was not in a way that even half way implied that we are only doing this because we need something from you. It truly was a mission in which all of us went on it gained by the experience.

I was not very old when some of the major civil rights battles took place in the late 1950's and 1960's, but clearly they were important civil rights battles that will have an impact on this country for so many years to come. One of the things you notice when you look at the history of the people who were involved in those battles is that they did not get involved in that battle just for that time in history or just for one particular group or another. They got involved in those battles because they believed so strongly in Thomas Jefferson's words that he wrote in the Declaration of Independence that all men are created equal, that they are endowed by their Creator with certain inalienable rights. Those were not words that were spoken for one time, or for one people, or for one country. They were words that were spoken for all people, for all time, in all countries.

I think David Brody understands that as well or better than most, and his battles on behalf of the landmark civil rights legislation of the 1960's were because of his living embodiment of those principles that Thomas Jefferson espoused.

I am just so delighted to be here to commemorate a real gentleman and lady, and wish them well in their years ahead. I personally have told David that I thought he should write a book about his many, many experiences, but I think that in some respects he is too much of a gentleman to write a book and tell the inside story.

So with that, I yield back to the gentleman from Washington State.

Mr. MILLER of Washington. I thank my distinguished colleague from Indiana.

Mr. Speaker, I yield to my distinguished colleague, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Washington for yielding and congratulate him for his initiative in arranging this very pleasant series of speeches tonight. I have been appreciative of the eloquence of my other colleagues who have already spoken about the retirement and the career of our good friend, Dave Brody.

I have an advantage over some of my colleagues, Mr. Speaker, because I met

Dave Brody 25 years ago, nearly 26 years ago when I first came here and we were engaged in trying to enact the omnibus civil rights bill. This was in 1963 and Jack Kennedy was still President, and we were having a very difficult time. I even met giants like Martin Luther King, Joe Rauh, Clarence Mitchell, and Dave Brody who were the heart and soul behind this very important bill that is a landmark of civil rights law, the law that was finally passed in 1964, the omnibus bill.

Since that time on the Judiciary Committee we have had a close connection with Dave Brody. Year after year in defending the Constitution and the various civil rights laws from the onslaughts of people who disagreed with us, we could always count on Dave and his splendid organization, the Anti-defamation League of B'nai Brith for their support and their wisdom and their counsel.

Just the other day, just last month the Senate passed a resolution, unanimously, of course, and it called Dave a man of uncommon wisdom and vision. I think that describes him very well, because David is not just a champion relating to Jewish-American affairs, but he is a champion of all issues relating to all Americans, and indeed all of the people of this Earth.

The resolution went on to say that the Senate had relied on Dave for 40 years, his entire time of service with B'nai Brith. And I can testify, Mr. Speaker, that so did the House. We relied on him too, and especially the Judiciary Committee.

Dave is retiring, but certainly is not going to retire from his good works. We are still going to be able to count on him. He is still and remains a dear friend of many of us, and we all wish him well. We send him thanks and affectionate regards and best wishes.

Again I thank the gentleman from Washington.

Mr. MILLER of Washington. I want to thank my colleague from California for his fine remarks.

Mr. Speaker, several of our colleagues had intended to be here tonight, but because of family commitments on Halloween could not. My colleagues, the gentleman from Tennessee [Mr. CLEMENT] and the gentleman from Missouri [Mr. EMERSON], both intend to give 1-minute speeches either tomorrow or this week expressing their appreciation to David Brody.

Mr. Speaker, in conclusion, I just would like to say that I did not think the Anti-defamation League of B'nai Brith could have had a better Washington, DC representative. This is a man that many Senators and many Members of this body have known as their friend, counselor and adviser. On so many issues he has left his imprint on American politics and history, and while he retires as the representative of the Anti-defamation League of B'nai Brith in our Nation's Capital, he still is on special assignment for them, and he has taken on some other tasks, and I am sure that for years to come he will continue to serve our Nation with the wisdom, and the compassion, and distinction that he has helped serve our country over the past several decades.

Mr. GILMAN. Mr. Speaker, I rise to commend my colleagues for their participation in today's special order. I am pleased to join the gentleman from Washington [Mr. MILLER], the gentleman from Missouri [Mr. EMERSON], and the gentleman from Tennessee [Mr. CLEMENT], in sponsoring today's congressional tribute to Dave Brody. His many years of service, to the American people and to the Congress, are highly deserving of special recognition.

The sponsorship of today's special order reflects the geographic diversity of Dave Brody's influence. Known affectionately as the "101st Senator," in this body perhaps, we could also call him our "436th Representative." Dave Brody served for four decades as Washington representative of the Anti-Defamation League of B'nai B'rith, a national organization whose members can be found in every State of our Union. He represented their views, and those Americans not members of ADL, meritoriously, unceasingly, tirelessly, and with wisdom and vigor.

Dave Brody's service to our Nation began early on, first as an officer in the U.S. Navy, and then as an attorney in the Department of Agriculture. Over the years he became conversant and indeed, expert, on a wide range of issues, including civil rights, civil liberties, freedom for Soviet Jews, and, of course, Israel. It was from his platform as Washington representative for the Anti-Defamation League that Dave Brody was able to work for civil rights, for a better America, a better and stronger Israel, and indeed, a better world. His wise counsel and good friendship have stood us in good stead these many years. Dave Brody has earned our gratitude and appreciation for his dedicated efforts. It is therefore with great pride and pleasure that I join with my colleagues today in honoring an outstanding American.

Mr. FISH. Mr. Speaker, on September 6, 1989, the Senate passed legislation, S. Res. 173, expressing gratitude to David A. Brody for his years of faithful service to the Anti-Defamation League of the B'nai B'rith and to the United States. I would like to take this opportunity to add my praise and appreciation to the many accolades which have already been bestowed upon this fine individual.

For more than forty years, David Brody has devoted himself to working tirelessly on numerous issues of concern to the Jewish-American Community. He has not, however, allowed himself to focus narrowly on this particular interest, but has instead become actively involved in advancing the rights of all Americans. In carrying out my duties on the Judiciary Committee, I have enjoyed the benefit of his wise counsel on a variety of topics ranging from the emigration of Soviet Jews to civil rights and social welfare.

Over the past 21 years, I have come to regard Dave and Bea Brody as trusted friends. Although some refer to Dave as the "101st Senator", there are many of us who could easily imagine him as the "436th Member of the House." It is a pleasure for me to pay tribute to my friend today.

Mr. LEHMAN of Florida. Mr. Speaker, I would like to join with my colleagues today in honoring a man who has played an important role vis-a-vis Congress and who has promoted the interests of Americans. While not an elected leader, David A. Brody has been involved for more than forty years as an advocate for the concerns of all Americans. He has been a valuable resource, a practical doer, and a friend to many Members of Congress. Recently retired, David Brody served with distinction as director of the Washington office of the Anti-Defamation League of B'nai B'rith. Under his leadership, the ADL was actively involved in educating our leaders and the public on civil rights and other issues of great concern to Jewish Americans and all Americans.

I know that David will continue to be involved in issues of importance. I wish him a happy, healthy, and active retirement.

Mr. LEVIN of Michigan. Dave Brody has been a shining light in Washington for a good part of this century.

It is fitting that we today take note of its meaning.

Dave has been an important voice for tolerance and good will. He has worked for causes that reflect our Nation's stake in equal opportunity for all its citizens.

Dave has come to know numerous people with political power—invariably on a first name basis. But that has never blinded him to the important purpose of power—to help others.

Dave will really never retire. He is one of those enduring presences in the Nation's Capitol.

Our hats are off to you Dave Body. We salute you on your years of devotion to the common good.

Mrs. MORELLA. Mr. Speaker, I would like to thank the gentleman from Washington, Mr. MILLER, as well as my distinguished colleagues, Mr. GILMAN, Mr. CLEMENT, and Mr. EMERSON, for calling this special order in honor of David A. Brody, who has recently retired after 40 years of service to the B'Nai B'rith Anti-Defamation League [ADL]. I am pleased to be participating today not only because of Mr. Brody's outstanding record of public service to our country, but also because he is a good friend.

An examination of Mr. Brody's ascendancy to various positions of respect and influence in our Nation's Capital exemplifies the American dream. He grew up in Brooklyn the son of a garment worker who had immigrated to this country through Ellis Island. He was educated in our public school system before receiving degrees from City College and the University of Columbia Law School.

Upon receiving his law degree, Mr. Brody arrived in Washington, where in 1940 he became an attorney for the Department of Agriculture's Rural Electrification Agency [REA], which immeasurably improved the quality of life for millions of Americans by bringing them electric power for the first time. Without casting doubt on the sincerity of Mr. Brody's interest in public service, which speaks for itself, we should not forget that antisemitism and

quota systems in this country limited his career choices from the outset. After working for REA, Mr. Brody served his country as a naval officer during World War II.

After the war, Mr. Brody returned to Washington to work again with the Department of Agriculture. In 1949, he was hired by the ADL, where he made his greatest accomplishments. Among his earliest successes was his critical role in instituting the United States' relationship with Israel, an alliance which has proven to be of great moral and strategic importance. Mr. Brody's work in persuading the House and Senate leadership in 1951 to support and then pass the first United States foreign aid authorization for Israel is indicative of the persuasive abilities which he lent to the goals which he supported.

His work and his beliefs encouraged him to play a significant role in the civil rights crusades of the 1950's and 1960's, and he continues to work on these issues. Mr. Brody fought for and strongly supported every important piece of civil rights legislation considered by Congress during that era. Under his leadership, the ADL particularly led the way in challenging the legality of restrictive convenants, which forbid the sale of houses to blacks, Jews, and other minorities. To this day Mr. Brody continues working in support of his ideals, and is currently concentrating on authorization of aid to Israel and legislation which would allow for effective enforcement of fair housing laws.

I applaud the other body for its passage of a resolution September 6 honoring Mr. Brody for his work in dedication to United States-Israeli relations, Soviet Jewry, civil rights, civil liberties, and social welfare, and I look forward to the House acting on a similar resolution in the near future.

While I am saddened by Mr. Brody's retirement, I am encouraged to know that he will continue working with the ADL as a special counsel, and I am pleased to know that his sage advice and insight into different issues will remain but a phone call away.

Once again, I would like to thank my distinguished colleague, Mr. MILLER, for calling this special order to pay tribute to David A. Brody's record of distinguished and extraordinary public service.

Mr. WILSON. Mr. Speaker, I would like to join Mr. MILLER and the rest of my colleagues in honoring David Brody's 40 years of energetic efforts at the Anti-Defamation League of the B'nai B'rith.

David has called himself a catalytic force for access. He is the master of the network, the game of "contacts" so important in Washington and on Capitol Hill. And his strategy is so simple one wishes that more would learn it: Make friends with the people you'll be working with even when you're on opposite sides of an issue. Chances are, the next time you may be allies.

He is called friend by Republicans, Democrats, Liberals, Conservatives. Some people may have found his steady, enthusiastic style exhausting from time to time, but none would deny he is effective. He has been considered by his colleagues to be an invaluable source of information, a role model, and I am sure many expect David, like most institutions, to go on forever. We can be grateful that his retirement is only "semi," that he will continue to champion the interests of Jewish-Americans and all Americans.

Mr. BROWN of Colorado. Mr. Speaker, I would like to take the opportunity to honor David A. Brody, an extraordinary man who, as the director of the Washington Office of the Anti-Defamation League of B'nai B'rith, gave 40 years of his life working with the Congress on issues of great importance to the Nation.

David Brody worked hard in 1951 to secure the first United States foreign aid package to Israel. Since then he has continued to fight for Israel's interests, including continued foreign aid and the Export Administration Act of 1979 which established the United States as the first Western nation to outlaw cooperation with the Arab nations' economic boycott of Israel. Besides being a good friend to Israel, David has fought for equality for all Americans, taking the lead in lobbying for civil rights legislation since 1958. Included in his accomplishments was the fight against restrictive convenants that discriminated against minority groups.

Upon David Brody's retirement as director of ADL's Washington office, I commend him for his outstanding service to the United States and expect that as special counsel to the ADL, he will continue to serve as a voice of justice and equality.

Mr. LANTOS. Mr. Speaker, I would like to join my distinguished colleague, JOHN MILLER, in paying tribute to Dave Brody. I commend my colleague from Washington State for giving us in the Congress this important opportunity to honor one of the pillars of good government in Washington, DC.

David has been director of the Washington office of the Anti-Defamation League of B'nai B'rith for longer than I can remember. In fact, it is difficult to answer the question, "Which came first, David Brody or B'nai B'rith?" Certainly in Washington, David is B'nai B'rith.

For those of us in the Congress, David has been one of our most important resources. When you have a question, Dave had the answers; he seemed to know everything there was to know about almost any topic. He became so well-known and respected on the Hill that he was referred to as the "101st Senator." He could just as well have been known as the 436th Congressmen.

David has been the conscience of the Congress on such critical issues as civil rights, civil liberties, and social welfare. He has also championed issues of interest and concern to all Americans, including Soviet Jewry and the security and prosperity of Israel.

Mr. Speaker, I am delighted to pay tribute to David Brody today. He has given four decades of faithful, selfless service to the Anti-Defamation League and through his exemplary work with the Congress he has made an outstanding contribution to our Nation and to all Americans. I urge my colleagues to join us here in honoring him today.

Mr. FROST. Mr. Speaker, I speak today with the utmost respect and appreciation for a man who has dedicated over 40 years of his life to American-Jewish concerns—for the security of Israel, for the needs of Jewish communities across our Nation, and for the civil liberties and social welfare of all Americans.

David A. Brody is a man who cares. His visions have infused strength into the system; his mission has been met with uncommon success. With remarkable energy and tenacity, Mr. Brody served the Anti-Defamation League of the B'nai B'rith for 40 years. Those who have observed David Brody know his talent for bringing people together. And his unfailing wisdom over the years as a counselor and advocate, as a resource and friend to the Members of Congress has been invaluable.

Let us hope that the accomplishments of David Brody inspire others to continue the struggle for Israeli safety and to fight for the civil rights of all citizens. His presence here on Capitol Hill will certainly be missed.

Mr. HOYER. Mr. Speaker, I would like to take this opportunity to join with my colleagues in honoring David Brody, the retiring director of the Washington office of the Anti-Defamation League of the B'nai B'rith.

Dave's retirement is a loss to the Congress, even though he will continue to work with us in a less official capacity.

David Brody has served the Anti-Defamation League for more than 40 years, for the last 24 years as an articulate, knowledgeable and forceful advocate for the cause of civil rights for all Americans, equal justice under the law, and the state of Israel. I am also proud to be able to call him my friend.

David Brody's life has been one of service. A native New Yorker, David graduated from City College, Columbia Law School, and served as a Navy officer in World War II. He first came to Washington in 1940 as an attorney in the Rural Electrification Agency.

He joined the League's two-person Washington office in 1949, and became their chief Washington representative in 1965.

David has always been a passionate advocate for the causes he believes in, particularly civil rights and justice. He was a front-line fighter in the early battles for civil rights, having worked closely with Rev. Martin Luther King, A. Philip Randolph, Roy Wilkins, and many others.

He was also a strong battler for equal rights for all, fighting to prevent real estate agents and others from discriminating against anyone on the basis of race or religion.

And, David Brody was always a strong supporter of American support for Israel, beginning with the first foreign aid package for Israel in 1951. But through all of that time, he's always been a friend, even to those who have on occasion voted against his positions.

The New York Times described David Brody in 1983 as a "short, kinetic institution who seems to know just about everyone in government." That discription seems particularly apt to me.

Dave Brody is the consummate advocate and lobbyist, and his full-time devotion to his causes will be missed. But I am sure that he will not be able to stay away for long periods of time, and we will have his informal counsel and advice for a long time to come.

Mr. FASCELL. Mr. Speaker, I am pleased to join our colleagues today in recognizing the achievements of David A. Brody of the Anti-Defamation League of B'nai B'rith.

David Brody retired this past February after 40 years with the Anti-Defamation League of B'nai B'rith. I use the term retired advisedly since David did the kind or work that a person can never really put aside. For 40 years it was his job to make friends and to frankly speak his mind on the issues of the day. He has done that with admirable success and I fully expect that he will continue to do so.

Many of us in the Congress have had the benefit of his wise counsel on a wide variety of issues. Those of us who have been here for a while recall not only his staunch advocacy of Jewish-American concerns, but also his strong support in the long struggle for civil rights and social welfare.

Widely known and universally respected, Mr. Brody has had significant impact on the political dialog of the past four decades. His persuasive arguments and principled views have made an outstanding contribution to the legislative process over the years. He leaves an indelible impression on the body of law, no less than on the memories of those of us who have the pleasure of knowing him. I certainly extend my best wishes to David Brody for a happy and productive retirement.

Mr. WEISS. Mr. Speaker, I thank my friend from Washington for having taken this special order. I am honored to be able to speak on behalf of David A. Brody, a man who has dedicated himself to promoting and preserving our Nation's democratic ideals.

During the first decade of this century, a time of overt and unabashed anti-Semitism, a group of determined volunteers set up two desks in a Chicago law office in order to help "stop the defamation of the Jewish people * * * and to secure justice and fair treatment to all citizens alike." This small but well-intentioned setup marked the beginning of one of America's oldest and most recognized human relations agencies, the Anti-Defamation League of B'nai B'rith. Since its inception, the ADL has mushroomed into a global agency, with 27 regional offices in the United States, a European office in Paris, an Israeli office in Jerusalem, affiliated offices in Latin America, and a consultant in Rome. This organization has dedicated itself to promoting tolerance and to combating bigotry and anti-Semitism in America and wherever they exist throughout the world.

Like the Anti-Defamation League itself, David A. Brody, its renowned Washington representative, burgeoned from modest beginnings. David Brody was born into the family of immigrant garment workers who entered this country through Ellis Island. He grew up in Brooklyn and attended public schools. He worked hard and earned a scholarship to Columbia University law school.

After completing his formal education, David Brody committed himself to the betterment of humanity. He served this country faithfully as an officer in the U.S. Navy during World War II, as an attorney in the Department of Agriculture, as an attorney and distinguished lobbyist in Washington, DC, and as the Washington representative of the Anti-Defamation League.

Because David Brody has been so successful in his efforts to serve humanity he has often been called the only "unelected Senator." Being unique, however, is not new to this man of uncommon widsom and vision.

Before the civil rights movement gained its momentum, David Brody was personally involved in the struggle for civil rights. As early as 1958, David was pushing for civil rights legislation in Congress. He has long understood that discrimination anywhere threatens us all.

At a time when many Americans, including many elected officials, participated without question in restrictive covenants which excluded the sale of homes to minorities, David Brody did not. As a member of the Anti-Defamation League he vigorously fought these discriminatory agreements in the courts and through legislation.

In addition to his commitment to equality at home, David Brody has been active in the international arena. At a time when only a handful of Members of Congress demonstrated their support for aid to Israel, pioneer David Brody led the lobbying campaign to help secure Israel's first United States foreign aid funds in 1951.

Also, pioneer David Brody led the fight for the Export Administration Act of 1979. This law made the United States the first—and still one of the few—Western nations to outlaw cooperation with the Arab nations' economic boycott of Israel.

As the ADL's Washington representative, David Brody has left very big shoes to fill. I am confident, however, that his worthy successor, Jess Hordess, will fit into them comfortably. Jess Hordess, like David Brody, has devoted himself to the ADL and the causes it promotes for many years and has proven to be an exceptional individual.

To date, David Brody has dedicated himself to translating this country's heritage of democratic ideals into a way of life for all Americans. In light of the kind of man David Brody has proven to be, I am sure that his service to humanity will not end with his retirement from ADL. I wish him luck in his future and look forward to seeing how he will futher make this world a better place for all to live.

Mr. YATES. Mr. Speaker, in 1949 David Brody began a remarkable career with the Washington office of the Anti-Defamation League. I was sworn in as a Member of the House for the first time in that year and it has been my very real pleasure to know David all those years.

My admiration for his ability, skills, and dedication grew with every passing year. David's accomplishments, and there are many, are a tribute to his character and shining intellect. All of us who support the fine work of B'nai B'rith and the Anti-Defamation League are immensely proud of him and thank him for what he has done.

I know David will have an enjoyable and productive retirement but we shall miss him. I hope he will remember his friends in the Capitol and stop by for a visit from time to time.

Mr. GREEN. Mr. Speaker, I should like to pay tribute to my good friend David A. Brody for his distinguished service to our country and his tireless efforts on behalf of the Anti-Defamation League of B'nai B'rith.

This remarkable man was born in Brooklyn, NY. He graduated from the College of the City of New York and Columbia University School of Law. In 1940, Mr. Brody came to Washington to work for the Department of Agriculture. He joined the staff of the Anti-Defamation League of B'nai B'rith in 1949 and served for more than 40 years, until his retirement this past February as director of the Washington office.

Dave Brody has concerned himself not only with Jewish interests, but also with civil liberties for all Americans. He is a member of the executive committee of the Leadership Conference on Civil Rights and has served as the chairman of the National Civil Liberties Clearing House. He was a major figure in the passage of many of our civil rights laws.

I know that Dave will continue to work for those issues that are important to him, even in his retirement. I hope that my colleagues will join me in wishing Dave Brody happiness and success for the future.

Mr. YATRON. Mr. speaker, I rise today to pay tribute to a good friend and extremely respected individual on Capitol Hill, David Brody, who is retiring from his position at the Anti-Defamation League of B'nai B'rith. For more than 40 years, David Brody has worked tirelessly to ensure that the concerns of the Jewish-American community are represented in Congress and that the civil rights of all Americans are secured and strengthened. As the director of the Washington office of the Anti-Defamation League of B'nai B'rith, David Brody has left an indelible mark on Washington, advising Senators, Representatives, and Presidents on a wide variety of issues. His trusted advice, insight, and keen judgment have earned David Brody a hallowed place in the Halls of the Senate—the designation as the institution's "101st Senator."

Originally bound for a job with the Rural Electrification Agency, Dave Brody worked there briefly before joining the Navy. Following his service within the Navy, Dave returned to Washington and worked for the Department of Agriculture. Soon thereafter, he was hired by the Anti-Defamation League and has remained one of the most effective pro-Israel lobbyists in Washington. His work in combatting anti-Semitism both here and abroad is widely acclaimed and rightfully so. On the issue of Soviet Jewry, David Brody has also played a key role and I have been honored to work with him in addressing the concerns of the Soviet Jews. Overall, as a resource to the Congress, David Brody has proven himself invaluable and will always be fondly regarded by all who have had the pleasure of knowing and working with him.

Although David Brody is retiring from the Anti-Defamation League of B'nai B'rith, I know that he will continue to remain active in those areas in which he has already made great strides. In closing Mr. Speaker, I would like to express my personal gratitude to David Brody for all his assistance over the years, as well as his support and friendship. I ask my colleagues to join me in wishing David Brody the very best on his retirement and much success in all of his future endeavors.

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the distinguished gentleman from Washington, Mr. MILLER, for reserving this time for us to pay tribute to Mr. David A. Brody. It is a special honor for me to join in this salute to a distinguished leader and longtime friend.

Dave Brody recently retired after more 40 years with the Anti-Defamation League of B'nai B'rith [ADL], most recently as director of the Washington office. There are few people in Washington who do not know Dave personally or know that he has been one of the most influential lobbyists on Capitol Hill for over 40 years. Affectionately referred to as the "101st Senator", Dave has earned the respect of those with whom he has worked on behalf of the ADL.

I first met Dave Brody when I came to Washington to represent the 21st Congressional District of Ohio. Over the years, I have benefited from a close working relationship with him on behalf of the ADL. I have come to admire his leadership and commitment to the organization.

Mr. Speaker, Dave Brody has earned the reputation of being a tough advocate for the civil rights of all Americans. He is one of those unique individuals who has the respect of the establishment and whose judgment is sought after in areas of Jewish concern, such as Israel and Soviet Jewry, civil rights, civil liberties, and social welfare issues. Dave played a key role in the passage of many of the civil rights laws from which all Americans benefit. Through his work with the ADL, he has been instrumental in working to translate this country's heritage of democratic ideals into a way of life for all Americans.

Mr. Speaker, for more than 70 years, the Anti-Defamation League of B'nai B'rith has grown steadily in strength and scope. The success of the League's work is clearly attributable to the outstanding professional leadership of Dave Brody. I join my colleagues today in saluting Dave Brody and wishing him a future blessed with good health and good fortune.

Mrs. JOHNSON of Connecticut. Mr. Speaker, David Brody, a lobbyist for B'nai B'rith for many years, is one of the most knowledgeable individuals about Israel that I have ever met. He appreciates the complexities and contradictions frequently present in Israel life and so is an individual advisor on matters effecting Israel and the Middle East.

I have had the pleasure of traveling to Israel with David and visiting with him many times since. I have valued that trip for the outstanding people we met, representing very diverse often contradictory points of view. That kind of trip can only develop and take place with the guidance of such a knowledgeable and savvy leader.

Congress will miss David for he is a lobbyist who never asked for slavish support. Instead, his goal was to enlighten and inform the policy making process. David is a man who lived his belief in democracy as few do and I wish him every happiness in his retirement.

Mr. KILDEE. Mr. Speaker, it gives me great pleasure to rise today in honor of a great American, David A. Brody. This February marked the end of David Brody's 40 years of service to the Anti-Defamation League of the B'nai B'rith. We all know David to be an outstanding person who has traveled among us during our daily lives here at the Capitol. He has befriended many of us over the last 40 years and he has certainly won the respect of us all.

David Brody is one of the rare few who, with his humor and personal magnetism, has the ability to bring together people of differing views and reconcile those differences. He has the almost unique skill of really hearing what people say and sensing what is most important to them and what their current concerns are. These talents have served him in good stead during his decades of service as the Washington representative for the Anti-Defamation League.

David has been one of the central figures in our Nation's struggle to respect the civil and human rights of all Americans. A striking illustration of David's key role in the civil rights movement is a picture on his office wall of David going over what would become the landmark 1968 Civil Rights Act with President Lyndon B. Johnson, Rev. Martin Luther King, Jr., A. Philip Randolph, Roy Wilkins and other civil rights leaders. His commitment to the American-Jewish community, and moreover, his commitment to civil rights and civil liberties for all Americans has contributed to our efforts to ensure that every citizen is guaranteed an equal opportunity to succeed.

The security and well-being of the State of Israel has also been one of David's highest priorities. Working with the late I.L. Kenen, the founder of the American Israel Public Affairs Committee, David was one of the original lobbyists to help secure Israel's first United States foreign aid funds in 1951—$150 million. As ADL's Washington representative, David has been intimately involved in many of the milestone events in United States-Israel relations, such as the conclusion of the Camp David Accords. He has been a steadfast defender of Israel's security and economic needs, providing very valuable and timely advice to Members of Congress on these issues.

Mr. Speaker, David Brody's retirement after more than 40 years of service with the ADL is in itself a milestone event. We will deeply miss his wit, his wisdom, his knowledge of the issues and personalities and his vision of a better, fairer world. I am pleased to know that he will continue his work with the ADL as a special counsel. It is comforting to know that his good counsel will still be available to his many friends here on Capitol Hill.

Mrs. LOWEY of New York. Mr. Speaker, it is a privilege to join my colleagues in paying tribute to David Brody, a man who has dedicated his life to causes which are also very near and dear to me: the security of the state of Israel and civil rights here in the United States. His commitment has been unswerving and his contributions have been a tribute to his insight, his dedication and his wisdom.

Though I came to the Congress just as he announced his intention to step down from his leadership of the Washington office of the Anti-Defamation League, David Brody is an institution in this city the legacy of which will serve all of us for years to come. When David Brody saw the need to respond to a crisis in the Middle East or to an inequity or unfairness here in the United States, he went to work to resolve the problem. He was always armed with the facts, with a solid understanding of the workings of government, and with unswerving commitment to the principles for which he fought.

As a new member of Congress, I wish that David Brody were still at ADL. I know that he is a man who worked to bring people together, to help them work with one another on behalf of his causes and their own. As I have learned the ways of the Congress, I have seen first hand what David Brody knows so well: that ours is indeed a government of people as well as of laws. David Brody is deeply committed to this Nation and to Israel. Both are democracies, and it is clear that David Brody knows the strengths of democratic government and that, ultimately, that process will sustain his confidence.

David Brody, the "101st Senator," is an American to whom we can all turn for inspiration. Our people and the people of Israel will always be indebted to him for what he has done to lift them up, to articulate their vision and to work for their futures.

Mr. SCHEUER. Mr. Speaker, I join with my colleagues in the House to pay special tribute to an old friend of mine, David Brody.

The man who has brought so many of us together over the years is now retiring from his career as chief counsel of the Anti-Defamation League of B'nai B'rith.

Born to an immigrant garment worker who entered this country through Ellis Island, David Brody worked his way through the New York City public school system and earned his law degree from Columbia University on a scholarship.

David Brody served this country faithfully, as an officer in the U.S. Navy during World War II. In 1940 David Brody came to Washington to work as a lawyer for the Department of Agriculture. In 1949 he began his exemplary career with the Anti-Defamation League.

Over the last five decades David Brody has become a Capitol Hill insider who has brought together Democrats and Republicans, and friends and enemies on a variety of issues of common concern. I wish David the best of luck in his new and challenging career.

Mr. EMERSON. Mr. Speaker, on October 31, the House of Representatives paid tribute to a unique and truly special individual. Unfortunately, I was unable to participate in this tribute because of Halloween obligations with my children, but today, I would like to say "thank you" to Dave Brody for his many years of good and unselfish service and tireless efforts on Capitol Hill, in the community, the country and, indeed, the world.

So many nice things were said about Dave on Tuesday—about his dedication for the rights of all Americans, of his personal commitment to democracy and the principles for which it stands, of his unrelenting work to establish strong and fruitful relations between the United States and Israel, and of the many friends and allies that Dave has made over the 40 years that he has served as an unelected representative on Capitol Hill. However, there was one thing that was not mentioned of which I am particularly proud. That is, that Dave's ties to my home State of Missouri go back almost 50 years when Dave was first working in Washington, in the Government, for the Rural Electrification Agency.

I had the pleasure of traveling to Israel with Dave and Bea Brody earlier this year. On that trip, I was not only afforded a wonderful per-

spective, indeed a crash course on the history and traditions of the state of Israel, but with Dave's insight and experience, I gained a fresh perspective on United States-Israel relations. This undertaking was especially meaningful and memorable to me because of Dave's ever-present warmth, wit, wisdom, and depth of knowledge.

I also noticed in perusing the CONGRESSIONAL RECORD that no one mentioned what a humbling experience it is as a Member of Congress to walk through the halls of the Capitol with Dave Brody. It seems that every person you pass makes a special point to say hello to Dave and very often doesn't even notice the presence of whoever may be in his company.

Dave has as many friends as God promised Abraham children. Those of us who have had the privilege of knowing David Brody have been truly blessed. All Americans—for whom Dave has been working over the past 50 years—are very lucky. I wish this friend of mine—a friend of 30 years standing—and of the American people, the best the future has to offer. And, of course, these good wishes embrace as well his dear wife, Bea.

Mr. MATSUI. Mr. Speaker, it gives me great pleasure to rise today to commend an American citizen who, for more than 40 years, has been a positive force in the promotion of legislation concerning the security and prosperity of not only Jewish-American, but all American citizens. Mr. Speaker, I speak of Mr. David Brody.

Throughout his successful career, Mr. Brody has served our country in many capacities. He has served as an attorney with the U.S. Department of Agriculture; a legal assistant officer in the Navy during World War II; and for the past 40 years, he has represented the Anti-Defamation League of B'nai B'rith in Washington, DC, on such issues as Israel and Soviet Jewry, civil liberties, civil rights, and social welfare.

Mr. Brody's ability to effectively listen, assess, and lobby for issues of current concern has earned him much respect and admiration among Members of the House and Senate. He has proven to be dedicated and committed to service to the Anti-Defamation League of B'nai B'rith and the United States.

I would like to congratulate Mr. Brody on his outstanding accomplishments. His long years of service in the human relations field will serve as an impressive example to his colleagues and future lobbyists. I offer my sincere best wishes to this outstanding citizen as he enters a well deserved period of rest and relaxation in retirement.

Mr. MINETA. Mr. Speaker, I am proud to join with my colleagues in honoring the many accomplishments of our friend David Brody as we salute him on the occasion of his retirement from the B'nai B'rith Anti-Defamation League.

The contributions David has made to the United States are impressible both in number and in deed. At a time when our Nation has begun to celebrate the diversity which has given us our strength and vitality, David's work for the B'nai B'rith Anti-Defamation League has served as an inspiration.

I know that my other colleagues will speak of the many achievements David has to his credit both in his work for B'nai B'rith as well as in his many other interests and successes. For my part, I will speak of a single struggle in which David's dedication, principles, and abilities stood out in a crowd of stars.

Several Congresses ago, those of us who supported legislation to offer redress for those Americans of Japanese ancestry whose civil rights were abrogated by the U.S. Government during the Second World War knew that we would need to build a broad-based coalition of support if we were to achieve victory.

We knew that the issues surrounding the forcible removal and internment of 120,000 loyal Americans reached into the core of our constitutional rights and that the issues were of concern to all Americans. Yet we also knew that many would perceive our legislation as a so-called Asian-American bill.

We quickly decided that we needed to reach out beyond the community of existing support. Suddenly, David Brody was there.

I don't know how David first heard about our effort—but he was with us from that moment on. He can claim with pride that he was one of the earliest and most diligent supporters of the historic Civil Liberties Act of 1988.

His presence alone was a milestone in the coalition we needed to build. But his support, advice, and counsel represented a significant and important contribution to our efforts.

Knowing we had David Brody's support was a major factor for many other organizations as they signed on to the redress effort. Such was the measure and reputation of the man.

Early in 1987, our momentum began to carry our legislation, H.R. 442, toward consideration by the full House of Representatives. The bill had been introduced in earlier Congresses, but had not moved out of committee. In the historic 100th Congress, however, the bill's cosponsors numbered more than 160, and both the Judiciary Committee and the House leadership were determined to put the measure before the House.

Victory was by no means certain. Our coalition of supporters was called into action.

David Brody was a leader in this last push for success. He came to every meeting. He provided valuable strategic advice. He made countless calls and visits on behalf of the legislation.

Many doubted our chances of victory on the House floor. Some complained. Others were unable to deliver on their commitment to assist the effort.

David asked, "What can I do?"—and then he set out to do it.

As the world now knows, the Civil Liberties Act of 1988 was passed by Congress and signed into law by the President.

No single individual or group can claim sole credit for this landmark achievement, which redressed the personal justice denied 120,000 Americans for 46 long years. But David Brody made his mark in this struggle for justice, and our Nation and the American people are better as a result.

Mr. Speaker, we will miss David's daily advice and presence in these Halls. But he can retire with great pride and satisfaction.

His achievement and his public-spirited self-sacrifice will inspire Americans for years to come.

Mr. KOLBE. Mr. Speaker, it gives me great pleasure to rise today to pay special tribute to David Brody. David has become a trusted friend, who for the last four decades has been a leader in the fight for the civil rights, security, and prosperity not only for the Jewish community but for all Americans. I join my colleagues today in honoring the many accomplishments of David Brody upon his retirement from the B'nai B'rith Anti-Defamation League.

Throughout his successful career he has exemplified the best in the commitment to bettering America. David has served as an attorney with the U.S. Department of Agriculture; a legal assistant officer in the Navy during World War II; and in 1949, began a long and successful career representing the Anti-Defamation League of B'nai B'rith before Congress and this country.

Born to an immigrant garment worker who entered this country through Ellis Island, David Brody worked his way through the New York City public school system and earned his law degree from Columbia University on a scholarship.

David Brody has established a reputation as one who has been able to effectively listen, assess, and articulate issues of current concern on a broad range of social, political, and international matters. The contributions he has made to this country are impressive both in their number and in their breadth of influence.

I salute David Brody for his personal dedication to those myriad worthwhile causes, for his advice and presence on Capitol Hill, and for the sense of appreciation so many of us share for having been enriched by his lifelong work. We will miss his counsel but will continue to be inspired by his self-sacrifice and the legacy of his achievements.

Mr. TAUKE. Mr. Speaker, I am pleased to join the gentleman from Washington and my fellow colleagues in honoring the outstanding career of David A. Brody. As the long-time director of the Anti-Defamation League of B'nai B'rith, David tirelessly worked to promote the highest ideals of our great Nation.

David retired in February after a distinguished public career. During his tenure with the Anti-Defamation League, David established himself as one of Washington's leading voices on issues of importance to our Nation's Jewish community. However, his commitment to issues relating to civil rights and civil liberties made him a leading voice for all Americans.

Although David has stepped down from his day-to-day management of the Anti-Defamation League, I am pleased to note that David has not fully retired from active duty and that he will continue to serve the ADL as special counsel. He is still working for justice and equality.

David and his wife, Bea, have been wonderful friends to my wife, Beverly, and me. Not only are they stimulating conversationalists who have unique insights into the activities of our Nation's Capital, they are also just plain fun to be with.

Our Nation and this institution are better because of David Brody. By working tirelessly, he accomplished his goals. By always maintaining his good humor, he made all of our jobs more pleasant.

David has often been called the 101st Senator. This title truly reflects the affection and esteem of the U.S. Congress.

On September 6, the Senate honored David with a resolution commending him on his many years of public service. He certainly deserved this special honor.

I am pleased to join my many colleagues today in paying tribute to my friend, David Brody, a truly outstanding American.

GENERAL LEAVE

Mr. MILLER of Washington. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Washington?

There was no objection.

□ 1850

TRICK OR TREAT

The SPEAKER pro tempore (Mr. HARRIS). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, All Hallow's Eve—the precursor to Halloween—commemorated the ancient, annual Scottish-Irish observance of the last night before All Hallow's Day—All Saints Day.

Communities would light fires to ward off faeries and "little people" that would wreak havoc before All Saints Day on November 1 and All Souls Day on November 2.

Through the course of the centuries, Halloween evolved into a special night—of ghosts and goblins and gremlins—and of children going door to door and receiving candy.

"Trick or treat" is the cry heard in the streets. But it is not the only place we hear that cry. It is October-November—and for Congress, it is the time of smoke, mirrors, sequestration, continuing resolutions, and budget legerdemain.

These are the days and nights of masquerade and of whispered cries "trick or treat."

Congress is charged to produce yearly 13 appropriation bills—1 for each of the departments—Defense, Treasury, State, and so forth. But every year, save one, since 1975, Congress has failed to produce all of its bills before the beginning of the next fiscal year, which is October 1.

This year we finished only 4 of 13. But programs—from paving roads to making jets to funding food stamps—need to continue.

So Congress rubs the lamp, and the genies come out for yet another year. And the masquerade party begins.

It was only 4 years ago, that Congress—after great gnashing of teeth—bit the bullet and admitted that it finds it difficult to balance its own checkbook—and Gramm-Rudman-Hollings was born.

Gramm-Rudman merely said that if Congress couldn't balance the budget in 5 years by a series of scheduled reductions in expenditures, automatic cuts, or sequestration, would take place. Four years later, the deficit still measures in the $200 billion range.

But even Houdini could have learned from the masterful handlers of the budget.

First, the President moved an Armed Forces payday from the beginning of October to the end of September—thereby "saving" $2.3 billion in DOD's 1990 budget.

Next, Congress voted, at the urging of the President, that around $30 billion needed for the S&L bailout would be "off-budget"—or not counted for the purposes of Gramm-Rudman—in other words, would disappear in the smoke of off-budget bonds issued by a U.S.-chartered corporation not backed by the full faith and credit of the United States.

And we could go on and on.

The fact that Gramm-Rudman did kick in on October 16—with its mandated $16.2 billion sequestration order—didn't bother our budget magicians. Sequestration has only the effect of law. A later law, for example, one passed this year, would supersede Gramm-Rudman. Sequestration can be lifted retroactively, which has been done before.

And last Wednesday, the Government was broke—no money. As the clock hand reached toward 12, music of the Phantom could be heard in the hall—"darkness stirs and wakes imagination, silently the senses abandon their defenses."

With all due dispatch, a continuing resolution [CR] was passed to keep the Government train chugging along until November 15.

The CR contained needed moneys for California and South Carolina. Helping people face their disasters is one of the unwritten mandates of a government.

But there were no guarantees that the moneys would be earmarked for the purposes alone. Some of it could go into the cauldron which could be spirited away by clever sorcerers in other agencies.

There were efforts again to remove the aid package from Gramm-Rudman restrictions on the budget. Some congressional leaders were heard chanting in stentorian tones, "but we can't take this money from other programs,"

Don't you wish you could use similar logic when your car broke down, or a tree blew into your living room?

Where do they think they are going to get the money? Raise taxes?

However, the good guys won this one—and the CR is "on-budget." But it is time for fiscal sanity. We need to put the budget in the "garish light of day" for all to see.

We should put the genie back in the lamp, and cancel the Phantom's run at the opera, and beware those Government officials who whisper promises of "treat"—because all to often they have a "trick" up their long, long sleeves.

It is time to consider seriously a constitutional amendment that would mandate a balanced budget—except in times of shooting wars.

Not only would we squeeze the pork out—such as commissions on such esoteric subjects as the United States-Canada border dispute—and reduce interest rates—with an accompanying drop in mortgage rates; but we would also return to fiscal integrity.

And integrity is the least we should expect every day—be it All Hallow's Eve or All Saints Day.

INCREASED JAPANESE INVESTMENT IN UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] will be recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, today it was announced in the newspapers across the country that the Rockefeller Center in New York City, the controlling interest of that group, was purchased by Mitsubishi of Japan. They are buying 51 percent of the Rockefeller Center. They are going to pay $846 million for that interest.

I would like to read just a little bit from an article in today's Washington Post:

Japan's largest real estate company today announced that it will acquire a controlling interest in Rockefeller Group Inc. which owns Rockefeller Center and other buildings in mid-town Manhattan for $846 million.

The Rockefeller Group's showcase property is Rockefeller Center, the heart of Manhatten's midtown office district. An ice skating rink and holiday retail displays draw thousands of tourists every Christmas. The group controls 19 buildings in and around the center, including Radio City Music Hall, the GE Building (formerly the RCA Building), the Exxon Building, the McGraw-Hill Building and the Warner Communications Building. It owns 15 of the buildings outright and has a majority interest in another.

The group is planning the development of an office building on a site on Seventh Avenue and 49th Street. It is also engaged in the development of a 670-acre international trade center in Mount Olive, N.J. Rockefeller Group owns 70 percent of that development, which is expected to cost about $500 million when completed.

The article concludes by saying that:

According to United States Commerce Department statistics, Japan's stake in United States real estate increased from $744 mil-

lion in 1984 to more than $10 billion by the end of 1988. Overall direct investment, including manufacturing companies, increased from $16 billion to a total of $53 billion during the same period, ranking Japan second behind Britain.

Some people think they are first in investment in the United States.

Now some other statistics that might be of interest to my colleagues: Annual merchandise trade deficit for 1988 with Japan was $119 billion. In 1988 the United States trade deficit with Japan was $55.4 billion and the August 1989 monthly trade deficit with Japan was $10.77 billion, which is about $2.5 billion higher than July.

Now why am I bringing this up tonight? We believe in free trade in America. We believe in fair trade in America.

I talked to Boone Pickens, who is the president of the Boone Co., a couple of weeks ago about some correspondence I had received from him concerning an interest that he had acquired in a Japanese company.

Now you just heard that Japan owns a great deal of America. They own, I believe, a majority of the office buildings in places like Los Angeles, New York, Chicago, Washington, DC, major urban areas of this country. We have not discouraged that kind of investment.

Along with their investment they have acquired positions on boards of directors and major blocks of stock.

I want to read to you this letter I received from Mr. Pickens, dated October 13, 1989. It would take just a moment, but it will tell you how the Japanese are treating American investors in their country and you can compare that with how they are being treated by American companies in which they are making investments.

DEAR CONGRESSMAN BURTON: I would like to give you an update of Boone Co.'s investment in Koito Manufacturing Co., a Japanese manufacturer of automotive lighting based in Tokyo.

Koito management, through Washington lobbyists, is making a clumsy attempt to divert your attention from the real issues surrounding Boone Co.'s investment. As Koito's largest stockholder with nearly 25 percent—

And remember that, he is the largest stockholder with nearly 25 percent. This man and his company own 25 percent of this major Japanese corporation.

□ 1900

As Koito's largest stockholder with nearly 25 percent, I wonder why management insists on wasting profits on a Washington-based disinformation campaign. Koito should be answering legitimate questions concerning its discriminatory treatment of Boone Company's investment.

As Sony's recent $3.4 billion acquisition of Columbia Pictures dramatizes, America greets Japanese investment with encouragement and open arms. As our $1.2 billion investment in Koito unfolds, Japan greets American investment with discouragement, closed doors and silent "cultural" barriers. Our trade relationship with Japan, the world's second largest economy, is a one-way street. I am convinced the Japanese will do everything in their power to keep it that way.

The Japanese simply cannot afford to allow Americans to participate in their system from the inside. I have seen that it is a cozy, interlocking system of cartels that excludes outsiders. If Japan is determined to compete for the long term in a global economy, it must open its markets as the United States has. This concept already is taking hold in Japan. Professor Hideo Ishada of Keio University criticized corporate Japan with this recent statement: "It is quite certain that Japanese corporations will be criticized by foreign countries as being unfair and closed if they insist on maintaining these unique practices including those related to stable shareholders and interlocking shareholding."

Boone Co.'s rights as a Koito shareholder continue to be denied.

I hope my colleagues get this next piece, "When we asked for representation on the Board of Directors," and they are the biggest investor in that company, the next largest investor in Koita is Toyota, they have 19 percent of the stock and three board members, now bear that in mind.

Mrs. BENTLEY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. What percentage of the stock does Mr. Boone Pickens have?

Mr. BURTON of Indiana. Mr. Pickens has 25 percent of the stock.

Mrs. BENTLEY. If the gentleman will continue yielding, he has 25 percent and Toyota has 19 percent?

Mr. BURTON of Indiana. The gentlewoman is correct.

Mrs. BENTLEY. Toyota has 3 board members out of the 20 board members, and Boone Pickens cannot get a seat on there?

Mr. BURTON of Indiana. That is right.

When we asked for representation on the board of directors, they replied, "No." When we asked to send four Boone Co. representatives to the annual stockholders' meeting last June, the response was "No." In fact, when we arrived, they allowed me and an interpreter to enter, but they barred my wife, Bea, and other Boone Co. representatives at the door. When we asked for financial information, the request was denied. We asked that management increase its dividend to stockholders, they again said, No.

He concludes by saying:

This kind of treatment toward any stockholder, large or small, is unacceptable and unfair.

Corporate Japan's lobbyists can throw everything but the kitchen sink at foreign investors if that's what it takes to barricade Japan from the watchful eyes of the rest of the world. I know that you are closely watching the Administration's Structural Impediments Initiative talks with Japan, and I thought you would want to know that your concerns about Japanese anti-competitive practices are being proven correct.

Thank you for your continued interest.

As my colleague has pointed out many times on this floor, we have free trade with Japan from our perspective, but not fair trade. Here is a perfect example. We have huge trade deficits. We have allowed the Japanese to make huge investments in America and to control major corporations, and yet they will not even let this gentleman have 1 seat on the board out of 20, when he is the major stockholder. They will not let him and his representatives into the stockholders' meetings. They will not let his wife in. They will not give him financial records, and yet he is the biggest stockholder of that corporation. We really need to do something about that. I submit to my colleague, and I hope other Members will speak on this, I submit to my colleague and all the other colleagues in this Chamber, that we ought to pass legislation that treats Japan exactly the way they treat Americans. If they will not allow Americans on a board of directors over there, even when they have majority interests, say, for 2 years, we should not allow them to have controlling interest or board membership on American companies for 2 years. If they bury our products and erect trade barriers to our products and do not let them into the country, we should do the same.

People say we will start a trade war. My friends, we are in a trade war and have been losing it and must take steps that we not only have free trade but fair trade.

I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I want to commend my colleague from Indiana for bringing this subject up on the floor tonight in special orders and for reading that letter from T. Boone Pickens. Mr. Pickens is a very superb person, and I have heard him talk some on this subject, but as the gentleman has laid it out in that letter, it explains the thing in great detail on how an American is precluded from doing business in Japan.

This is part of what I have been saying on this floor. It is not a two-way street. It is a one-way street, and a one-way street into America. We seem to roll out the red carpet whenever anybody from Japan comes over. We say, "Here, take what you want out of our country and go." They go and take it, and as Members know, they do not go away, they come in and take more.

When we want to go over there, it is a different story entirely. I have been criticized, as a matter of fact, as being a Japan basher because I have pointed this out repeatedly. However, once again, the gentleman has verified exactly what I have been saying. It is a one-way street, and we are the losers in this whole game.

Mr. BURTON of Indiana. Mr. Speaker, let me thank the gentlewoman for her contribution.

Let me just say that I do not consider it Japan bashing when a Member points out they mistreat American investors while, at the same time, they are getting very good treatment by American corporations, and being able to make large investments in this country with great return, and they also have almost free access to our markets, and we do not have access to theirs. If that is Japanese bashing, so be it, but I do not consider it that.

I think it is important to my colleagues and the people of this country to realize that we are being taken down the road to the cleaners by the Japanese, and the trade deficits will bear this out. We only ask for one thing, and that is fair treatment. We are not getting it.

Mrs. BENTLEY. Equal treatment. It should be a two-way street, and it should be equal treatment. When our automobiles, the few that are ever allowed to go into Japan, go in there, for instance, what do they do? They strip them. They literally strip them apart to make certain that they meet the Japanese standards, and by the time they reassemble them, no, they are not adding tariffs, just adding to the cost, so that an automobile from here that might sell for $20,000 in the United States, that would be up to $75,000 over there, and that is why our automobiles are not selling over there. That is not fair treatment. That is not equal treatment. We are getting the short end of the stick.

Mr. BURTON of Indiana. There is no question about it, and my colleague brought up the subject not long ago with a number of other colleagues about the FSX airplane that we were involved in. We have agreed to give the Japanese the technology from the F-16 fighter plane. They are going to have, as I recall, controlling interest in that corporation or in that deal, and we are being more than fair with them.

Many of the Members thought until we had free and fair trade we should not be giving them this kind of a deal, but nevertheless it passed the Congress. Here, after we did that, allowing them to be a full partner, and many think that was a good deal for both countries. Here we are once again, taking a major investor, in one of their major corporations, and not even allowing them a seat on the board, and even excluding their people from coming to the board meetings.

□ 1910

Mrs. BENTLEY. That is so wrong. I am glad the gentleman mentioned the FSX. I am glad my colleague brought that one out, because one of the things I have not been able to understand is why the officials have shown such a disinterest in a report that I mentioned on this floor on two occasions, that back in 1979 there is reason to believe that Mitsubishi got the plans for the F-16 at that time, and that is why they were using them over us and saying we will go ahead and build our own plane if you do not go along with us on this FSX agreement.

They had all of that information in advance. It was taken from this country by Mr. Shina, who was the Japanese involved with the gentleman accused on the sex scandal here in Washington. He not only sold it to Mitsubishi, but they were also sold to the Soviet Union.

Mr. BURTON of Indiana. So this was actually kind of espionage that got these plans for the F-16.

Mrs. BENTLEY. Yes, it is sort of like what happened to Toshiba, when they sold the milling machine equipment to the Soviet Union.

The thing that upsets me, and I know it upsets my colleague just as much, is that we appear to be being made fools of. We are trying to be the good guys, and we are trying to say that we want everybody to love us. I guess the world just is not that way.

Mr. BURTON of Indiana. The thing that concerns many of us is if you look at these trade deficit figures for the month of August, it is $2.5 billion higher than the month of July, over $2.5 billion, $10.77 billion during that 1 month. That means, if you adjust that figure for a year, you are looking at an over-$120-billion trade deficit. It will not be that great, but it is certainly going to be $60 billion or $70 billion.

All of the trade surplus that they have, that they enjoy, much of that money is coming back into the United States for investment. They are buying huge chunks of America and getting controlling interest in major corporations.

Now, if they are doing that because of the trade surplus that they enjoy, they ought to at least give us access to their markets and fair trade, as well as fair representation on boards of directors of major corporations when an American invests in that corporation.

They are simply not doing that. I think Mr. Pickens should get at least three or four seats on this board, as should any other major investor from America who is making investments in that country.

Mrs. BENTLEY. Has the gentleman inquired whether or not our Special Trade Representative has made any effort or whether our State Department has made any effort to push for Mr. Pickens to have a seat on that board? Do we know that?

Mr. BURTON of Indiana. I have had a call in to Carla Hills, our Trade Ambassador, for 3 or 4 days now. I realize she has been involved in very important meetings. I presume she will get back to me as soon as she returns to her office.

I fully intend to bring this to her attention. I am sure she is aware of it. I will urge her to talk with the Japanese officials to make sure that not only Mr. Pickens, but any other major investor in a Japanese corporation, gets fair and equal treatment.

Mrs. BENTLEY. I hope that the gentleman succeeds when she does call him back.

While we are talking about this, let me point out a Journal of Commerce article by Mr. A.E. Cullison, which is very recent, entitled "Takeovers May Exceed 340 in 1989. Japan Increases Pace of Foreign Acquisition."

This article states that Japanese companies are likely to acquire more than 340 United States and foreign companies through mergers and acquisitions this year, despite rising opposition abroad. This comes from a Japanese official.

Then there is a Newsweek poll of October 9 which says Americans are clearly worried about Japan's growing economic power, they consider Japanese trading practices unfair, and would like Washington to push Tokyo harder to change their trading practices.

The poll also asks the question if Japan does not make its trade practices with the United States more fair, would you seriously not buy Japanese products.

Sixty percent of the respondents said yes, they would stop buying Japanese products. We may have to do something that drastic to get their attention to the fact that, hey, come on, it has to be evenhanded.

Mr. BURTON of Indiana. I think that is right. I believe that their well-intentioned, the 60 percent of Americans that said they would not buy Japanese products in that poll, probably would go down to the store and if there was a Japanese product there, they may go ahead and buy it without checking the label, so I believe it is incumbent upon the Government, upon those of us in the Congress of the United States, and in the bureaucracy, our Trade Representative Carla Hills and others, to make absolutely sure that the Japanese know we are willing and able to pass legislation that will force them into treating us fairly if they will not do it voluntarily.

I would rather not, and I know the gentlewoman from Maryland would not want to pass legislation that would force this issue, but if the Japanese will not do it voluntarily, then, by golly, we are going to have to do something, because we cannot allow people like Mr. Pickens, who have major interests in a corporation, to not even get financial information, let alone sit upon the board of directors, it just does not make sense.

All of the products they keep out of their country, agricultural products and others that would be very important to farmers in America and other producers of products in America, has to be changed. We cannot allow them to dump their Toyotas and other automobiles over here while they continue to disallow us access to their markets.

Mrs. BENTLEY. Mr. Speaker, I want to once again commend the gentleman from Indiana for his bringing up the situation concerning T. Boone Pickens and also about Rockefeller Center today. Let me in closing just say, will it not be awful if it were renamed Mitsubishi Center.

Mr. BURTON of Indiana. Mr. Speaker, I wish to thank the gentlewoman from Maryland for her very valuable comments. Let me end up by saying for those who may think this is the last you are going to hear of this issue, you are sadly mistaken, because there is a growing number of Congressmen who will be participating in special orders and possibly proposing amendments to trade legislation dealing with this very subject of the Japanese do not change their methods of doing business with American companies.

All we ask for is free and fair market. That is all we ask. If the Japanese will do that and Japanese corporations will do that and the Japanese Government will do that, there will not be any other problems.

FREE THE HOSTAGE SOCIAL SECURITY BENEFITS

The SPEAKER pro tempore (Mr. HARRIS). Under a previous order of the House, the gentleman from Minnesota [Mr. FRENZEL] is recognized for 20 minutes.

Mr. FRENZEL. Mr. Speaker, I am introducing a bill today that would make sure that Social Security benefits are paid even when the public debt ceiling has been reached.

Social Security narrowly avoided being taken hostage by congressional inaction on the public debt limit this week. Only an unprecedented and timely maneuver by the Secretary of the Treasury assured that most of the checks being sent out on Friday will not bounce.

Unfortunately, until we establish an alternative mechanism to assure payment of Social Security benefits even when the debt ceiling has been reached, we are doomed to repeat these periodic cliffhangers.

Here's what happens. When the public debt ceiling has been reached, no further Government debt can be incurred. Since Social Security revenues are prudently invested in safe interest-paying Federal securities, some of those securities must be redeemed to pay each month's benefits. To get the cash to pay off the trust funds' securities, Treasury must issue other securities—but it can't do this when the debt ceiling has been reached.

And that is not even the worst part. Under such a scenario, about half the benefits would be electronically transferred and the remainder would be mailed out as Social Security checks on the 3d of the month. About 35 million annuitants would present those checks for payment at their banks or begin to draw the funds out of their accounts. But since the funds needed to honor those checks had not been made available by the Treasury, the checks would bounce. Banks might even levy bad check charges for overdrafts due to the rubber Social Security checks.

To prevent Social Security benefits from being held hostage in the future to congressional games of "chicken" over the debt ceiling, I am introducing today legislation mandating the Treasury Department to establish a system for paying OASDI benefits even when the debt limit has been reached.

My bill would take effect 1 year from the date of enactment. Because setting up such an alternative payment mechanism is completely unprecedented, my bill also would require the Secretary of the Treasury submit within 3 months to the Committee on Ways and Means and the Committee on Finance recommendations for any additional legislation needed to implement the new system.

Although there are a number of ways Treasury could structure an alternative payment mechanism, my bill does not mandate precisely what system must be used. Instead I would have the Treasury Department weigh the alternatives and establish the plan they feel best serves the goal of making sure Social Security benefits are paid on schedule—and that the checks don't bounce—despite congressional fun and games with the debt ceiling.

Social Security recipients should not have to worry about whether they will receive their checks or whether those checks will bounce. Plenty of assets are on hand to cover those checks. We just have to make sure that those assets can't be taken hostage by legislative banditry.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS (at the request of Mr. MICHEL), for today, on account of illness.

Mr. BROOKS (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of illness.

Mr. HERTEL (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of illness.

Mr. MOAKLEY (at the request of Mr. GEPHARDT), for today after 4:30 p.m., on account of death in family.

Mr. ALEXANDER (at the request of Mr. GEPHARDT), for today until 4:30 p.m., on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MILLER of Washington) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

Mr. FRENZEL, for 20 minutes, today.

(The following Members (at the request of Mr. HAYES of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. HAYES of Illinois, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LEHMAN of Florida, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes each day, on November 3 and 6.

Ms. OAKAR, for 60 minutes each day, on November 1 and 8.

Mr. RAHALL, for 60 minutes each day, on November 1 and 8.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MILLER of Washington) and to include extraneous matter:)

Mr. GREEN.
Mr. BALLENGER.
Mr. BUECHNER.
Mr. CLINGER.
Mr. HORTON.
Mr. WHITTAKER.
Ms. ROS-LEHTINEN in two instances.
Mr. CONTE.
Mr. DUNCAN.
Mr. GILMAN in three instances.
Mr. MCEWEN in three instances.
Mr. MACHTLEY.
Mr. GALLEGLY.
Mr. GALLO.
Mr. LEWIS of Florida.
Mr. SHUSTER.

(The following Members (at the request of Mr. HAYES of Illinois) and to include extraneous matter:)

Mr. WISE.
Mr. BONIOR.
Mr. NOWAK.
Mr. MINETA.
Mr. LAFALCE.
Mr. BERMAN in three instances.
Mr. APPLEGATE.
Mr. CLEMENT.
Ms. PELOSI.
Mr. STARK in three instances.
Mr. DONNELLY in two instances.
Mr. RAHALL.
Mr. JACOBS.
Mr. HAMILTON.
Mr. ECKART.
Mr. WAXMAN.
Mr. NEAL of Massachusetts.
Mr. LANTOS.
Mrs. KENNELLY.
Mr. WEISS.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 24. An act to amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such act, and for other purposes;

H.R. 3012. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes; and

H.J. Res. 131. Joint resolution to designate May 25, 1989, as "National Tap Dance Day."

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On October 30, 1989:

H.R. 3281. An act to reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly, (at 7 o'clock and 17 minutes p.m.) the House adjourned until tomorrow, Wednesday, November 1, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1925. A letter from the Board of Governors, Federal Reserve System, transmitting a report entitled, "Deposits at Nonproprietary Automated Teller Machines", pursuant to Public Law 100-86, section 603(e)(4) (101 Stat. 641); to the Committee on Banking, Finance and Urban Affairs.

1926. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of reports of political contributions by Loret Miller Ruppe, of Maryland; Sally J. Novetzke, of Iowa; Nicolas Miklos Slago, of Florida, Ambassadors-designate, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1927. A letter from the Secretary, Department of the Interior, transmitting the 17th annual report on the operations under adopted criteria for coordinated long-range operation of Colorado River reservoirs for the preceding Colorado River compact water year, and projected operation for the current year, pursuant to 43 U.S.C. 1552(b); to the Committee on Interior and Insular Affairs.

1928. A letter from the Director, Office of Personnel Management, transmitting the agency's annual report on drug and alcohol abuse prevention, treatment, and rehabilitation programs and services for Federal civilian employees covering fiscal year 1988, pursuant to 5 U.S.C. 7363; to the Committee on Post Office and Civil Service.

1929. A letter from the Comptroller General, General Accounting Office, transmitting a report entitled, "Saint Lawrence Seaway Development Corporation's 1988 Financial Statements" (GAO/AFMD-89-101), pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 276. Resolution providing for the consideration of a motion to recede and concur in Senate amendment No. 136 to the bill H.R. 3015, with the amendment printed in the joint statement of the managers accompanying the conference report, and waiving certain points of order against said motion (Rept. 101-322). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 277. Resolution providing for the consideration of H.R. 1465, a bill to establish limitations on liability for damages from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes (Rept. 101-323). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. House Resolution 278. Resolution providing for the consideration of H.R. 2710, a bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes (Rept. 101-324). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 215. A bill to amend title 5, United States Code, with respect to the method by which premium pay is determined for irregular, unscheduled overtime duty performed by a Federal employee; with an amendment; referred to the Committee on Appropriations for a period not to exceed 15 legislative days, with instructions to report back to the House as provided in section 401(b) of Public Law 93-344 (Rept. 101-325, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FASCELL (for himself and Mr. BROOMFIELD) (both by request):

H.R. 3544. A bill to authorize the transfer of a specified naval landing ship dock to the Government of Brazil under leasing authority of chapter 6 of the Arms Export Control Act; to the Committee on Foreign Affairs.

By Mrs. BYRON (for herself, Mrs. MORELLA, Mr. CARDIN, Mr. DYSON, Mr. STAGGERS, Mr. HOYER, Mr. MFUME, Mr. MCMILLEN of Maryland, and Mrs. BENTLEY):

H.R. 3545. A bill to amend the Chesapeake and Ohio Canal Development Act to make certain changes relating to the Chesapeake and Ohio Canal National Historical Park Commission; to the Committee on Interior and Insular Affairs.

By Mr. ENGEL (for himself, Mr. ACKERMAN, Mr. FISH, Mr. GILMAN, Mr. MANTON, and Mr. MORRISON of Connecticut):

H.R. 3546. A bill concerning paramilitary groups and British security forces in Northern Ireland; to the Committee on Foreign Affairs.

By Mr. FRENZEL:

H.R. 3547. A bill to mandate the Secretary of the Treasury to pay Social Security benefits under title II of the Social Security Act notwithstanding a failure to increase the public debt limit; to the Committee on Ways and Means.

By Mr. HAWKINS (for himself and Mr. SAWYER):

H.R. 3548. A bill to strengthen the teaching profession, and for other purposes; to the Committee on Education and Labor.

H.R. 3549. A bill to provide financial assistance for teacher recruitment and training, and for other purposes; jointly, to the Committees on Education and Labor and Science, Space, and Technology.

By Mr. HUGHES:

H.R. 3550. A bill to amend section 524 of title 28, United States Code, with respect to the special forfeiture fund, to amend section 511 of the Controlled Substances Act to make technical, clarifying, and administrative changes, and for other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. HUNTER (for himself, Mr. BATES, Mr. LOWERY of California, and Mr. PACKARD):

H.R. 3551. A bill to authorize the Secretary of the Interior to participate with the city of San Diego, CA, in a water reclamation and reuse study; to the Committee on Interior and Insular Affairs.

By Mr. JONTZ (for himself, Mr. BROWN of California, Mr. JOHNSON of South Dakota, Mr. NAGLE, Mr. EVANS, Mr. HAMILTON, Mr. DURBIN, Mr. MCCLOSKEY, Mr. DEFAZIO, Mr. ATKINS, Ms. SCHNEIDER, Ms. SLAUGHTER of New York, Mr. TOWNS, and Mr. BRYANT):

H.R. 3552. A bill to amend the Agricultural Act of 1949 to foster and encourage a sustainable agricultural system in the United States; to the Committee on Agriculture.

By Mr. KASTENMEIER:

H.R. 3553. A bill to provide a general statute of limitations for civil actions arising under Federal law; to the Committee on the Judiciary.

By Mr. LAGOMARSINO (for himself and Mr. MINETA):

H.R. 3554. A bill to amend the Warren Act (act of February 21, 1911, 43 U.S.C. 523 et seq) to expand the purposes for which excess storage or carrying capacity in reclamation projects may be used, and for other

purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEWIS of Florida:

H.R. 3555. A bill to amend the Federal Aviation Act of 1958 relating to research, development, and implementation of a management plan to improve communications with respect to aircraft accident prevention; jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

By Mr. PANETTA:

H.R. 3556. A bill to amend the Internal Revenue Code of 1986 to reduce the occupational tax on retail dealers in liquors and beer, to limit the period during which such tax may be assessed, and to offset any resulting reduction in Federal revenues by denying the deduction for interest on certain corporate stock acquisition indebtedness; to the Committee on Ways and Means.

By Ms. PELOSI (for herself, Mr. TOWNS, Mr. ESPY, Mrs. BOXER, Mrs. KENNELLY, Mr. FUSTER, Mr. ERDREICH, Mrs. COLLINS, Mr. HERTEL, Mr. FAZIO, Mr. BRYANT, Mr. MCDERMOTT, Mr. HYDE, Mr. FAUNTROY, Mr. VENTO, Mr. NEAL of Massachusetts, Mr. MARKEY, Mr. ENGEL, Mr. MFUME, and Mr. FLAKE):

H.R. 3557. A bill to require the Secretary of Housing and Urban Development to carry out a demonstration program of providing grants to public housing agencies to provide facilities for one-stop perinatal services programs for public housing residents; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RAHALL:

H.R. 3558. A bill to amend the Mineral Leasing Act to encourage greater competition in the Federal Onshore Oil and Gas Leasing Program, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RIDGE (for himself and Ms. OAKAR):

H.R. 3559. A bill to amend the National Housing Act to provide for accountability of lenders making mortgage loans under the act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STARK (for himself, Mr. MATSUI, Mr. THOMAS of California, Ms. PELOSI, Mr. CAMPBELL of California, Mrs. BOXER, Mr. DELLUMS, Mr. MILLER of California, Mr. LANTOS, Mr. DERRICK, Mr. TALLON, Mr. FUSTER, and Mr. DE LUGO):

H.R. 3560. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for certain disaster losses, and for other purposes; to the Committee on Ways and Means.

By Mr. TAUKE:

H.R. 3561. A bill to amend title II of the Social Security Act to require that a minimum amount of earnings by disability beneficiaries, equivalent to the exempt amount under the earnings test for individuals under retirement age, be necessary to serve as a basis for any determination of substantial gainful activity, while maintaining existing rules for blind beneficiaries; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. MADIGAN, Mr. MOAKLEY, Mr. COOPER, Mr. SCHEUER, Mr. WALGREN, Mr. SIKORSKI, Mr. SHARP, Mr. LEVINE of California, Mr. SMITH of Iowa, Mr. FALEOMAVAEGA, Mr. PALLONE, Mr. PEASE, Mr. STUDDS, Mr. STARK, Mrs. BOXER, Mr. SOLARZ, Mr. WHEAT, and Ms. PELOSI):

H.R. 3562. A bill to amend the Federal Food, Drug, and Cosmetic Act to prescribe nutrition labeling for foods and for other purposes; to the Committee on Energy and Commerce.

By Mr. WISE:

H.R. 3563. A bill to provide for more representative allocation of funds for assisted housing; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WISE (for himself and Mr. ENGLISH):

H.R. 3564. A bill to amend the Rural Electrification Act of 1936 to make the Rural Electrification Administration and the Rural Telephone Bank more responsive to the needs of rural telephone subscribers, and to accelerate the provision of modern telecommunications technology to rural areas; to the Committee on Agriculture.

By Mrs. KENNELLY (for herself, Mr. GEJDENSON, Mr. MORRISON of Connecticut, Mr. ROWLAND of Connecticut, Mr. SHAYS, Mrs. JOHNSON of Connecticut, Mr. TOWNS, Mr. FUSTER, and Mr. HORTON):

H.J. Res. 428. Joint resolution designating the week beginning December 3, 1989, as "National Pay Telephone Week"; to the Committee on Post Office and Civil Service.

By Mr. MINETA (for himself, Mr. ANDERSON, Mr. HAMMERSCHMIDT, and Mr. SHUSTER):

H.J. Res. 429. Joint resolution to designate the week of December 10, 1989, through December 16, 1989, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. WEISS (for himself and Mr. LEACH of Iowa):

H.J. Res. 430. Joint resolution to designate December 1, 1989, as "World AIDS Day"; to the Committee on Post Office and Civil Service.

By Mr. SOLARZ (for himself, Mr. LEACH of Iowa, Mr. FALEOMAVAEGA, Mr. CLARKE, and Mr. BLAZ):

H. Con. Res. 218. Concurrent resolution concerning the establishment of a South Pacific Nuclear Free Zone; to the Committee on Foreign Affairs.

By Mr. HYDE:

H. Res. 279. Resolution to amend rule XLVIII of the Rules of the House of Representatives to change the size of the Permanent Select Committee on Intelligence, to require secrecy oaths and security clearances for members and staff of the select committee, and to grant the Speaker the right to attend any meeting and to have access to any information in the possession of the select committee; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LAGOMARSINO (by request) introduced (H.R. 3565) for the relief of Nancy S. Garcia, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 215: Mr. PEASE and Mr. KILDEE.

H.R. 379: Mr. BOEHLERT, Ms. SLAUGHTER of New York, and Mrs. LOWEY of New York.

H.R. 381: Mr. SCHNEIDER, and Mrs. MARTIN of Illinois.

H.R. 418: Mr. STOKES.

H.R. 509: Mr. AKAKA, Mr. CLINGER, Mr. COSTELLO, Mr. DINGELL, Mr. DONNELLY, Mr. GEJDENSON, Mr. GEREN, Mr. GILMAN, Mr. HATCHER, Mr. HEFNER, Mr. HOYER, Mr. HUNTER, Mr. INHOFE, Mrs. JOHNSON of Connecticut, Mr. LAUGHLIN, Mr. LEWIS of California, Mr. MCDERMOTT, Mr. MARTIN of New York, Mr. MILLER of Washington, Mr. NEAL of North Carolina, Ms. SCHNEIDER, Mr. SCHULZE, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mr. TALLON, Mr. TRAFICANT, and Mr. WELDON.

H.R. 525: Mr. EDWARDS of California.

H.R. 529: Mr. MARTIN of New York.

H.R. 638: Mr. MANTON and Mr. FROST.

H.R. 675: Mr. JAMES.

H.R. 720: Mr. LEACH of Iowa.

H.R. 796: Mr. HAMILTON Ms. LONG, Mr. GOSS, Mr. JONTZ, Mr. ORTIZ, Mr. BRYANT and Mr. RAY.

H.R. 844: Mr. LIVINGSTON.

H.R. 913: Mr. PAYNE of New Jersey, Mr. SCHEUER, and Mr. COLEMAN of Missouri.

H.R. 930: Mr. LANTOS, and Mr. HAYES of Illinois.

H.R. 995: Mr. MCMILLIAN of North Carolina.

H.R. 1078: Mr. JOHNSON of South Dakota.

H.R. 1083: Mr. STOKES, Mr. NATCHER, Mr. MCMILLEN of Maryland, Mr. STUDDS, Mr. DE LUGO, Mr. SUNDQUIST, Mr. MARTINEZ, Mr. GONZALEZ, Mr. SANGMEISTER, Mr. VENTO, Mr. LIGHTFOOT, Mr. GEPHARDT, Mr. DENNY SMITH, Mr. ROBERT F. SMITH, Mr. ROWLAND of Georgia, Mr. CONYERS, and Mr. BORSKI.

H.R. 1175: Mr. MOODY, Mr. WILLIAMS, and Mr. NIELSON of Utah.

H.R. 1180: Mr. MCCLOSKEY.

H.R. 1185: Mr. HAWKINS.

H.R. 1205: Mr. YATES.

H.R. 1250: Mr. GONZALEZ.

H.R. 1351: Mr. GUNDERSON.

H.R. 1395: Mrs. COLLINS, Mr. DWYER of New Jersey, Mr. FROST, Mr. KOLTER, and Mr. SAVAGE.

H.R. 1400: Mr. HAMILTON, Mr. MILLER of California, Mr. EMERSON, Mr. BEREUTER, Mr. COURTER, Mr. THOMAS of Wyoming, Mr. BOEHLERT, and Mr. OWENS of Utah.

H.R. 1416: Mr. MADIGAN.

H.R. 1457: Mr. LEWIS of California, Mr. SAWYER, Mr. DAVIS, and Mr. JACOBS.

H.R. 1804: Mr. JOHNSTON of Florida.

H.R. 1995: Mr. GIBBONS.

H.R. 2025: Mr. STUDDS, Mr. STAGGERS, Mr. CAMPBELL, of Colorado, Mr. FOGLIETTA, Mr. SMITH of New Jersey, Mr. LEVINE of California, Mr. TORRICELLI, Mr. YATRON, Mr. KILDEE, Mr. KENNEDY, Mr. DIXON, and Mr. PAYNE of New Jersey.

H.R. 2041: Mr. GINGRICH and Mr. CRANE.

H.R. 2104: Mrs. LOWEY of New York.

H.R. 2140: Mr. HANSEN.

H.R. 2168: Mr. BATES, Mr. STARK, Mr. FLORIO, Mr. ROSE, Mr. BROWN of California, Mr. FROST, Mrs. LLOYD, Mr. GLICKMAN, Mr. CAMPBELL of Colorado, Mr. DURBIN, and Mrs. UNSOELD.

H.R. 2192: Mr. BATEMAN.

H.R. 2257: Mr. SCHUETTE.

H.R. 2418: Mr. MONTGOMERY, Mr. HASTERT, Mrs. VUCANOVICH, and Mr. HEFLEY.

H.R. 2430: Mr. OWENS of Utah.

H.R. 2523: Ms. SCHNEIDER.

H.R. 2584: Mr. STAGGERS and Mr. MARTIN of New York.

H.R. 2664: Mr. BONIOR and Mr. BATES.

H.R. 2700: Mr. WILSON, Mr. JONES of North Carolina, Mr. INHOFE, and Mr. HUTTO.

H.R. 2707: Mr. DAVIS, Mr. DEFAZIO, and Mr. BILBRAY.

H.R. 2740: Mr. MOODY, Mr. LEWIS of California, Mr. COBLE, Mr. GRADISON, and Mr. NIELSON of Utah.

H.R. 2754: Mr. BATES, Mrs. BENTLEY, Mr. GILMAN, Mr. KASICH, Mr. LAFALCE, Mr. MCNULTY, Mr. MARTIN of New York, Mr. RANGEL, Mr. RAVENEL, Mrs. ROUKEMA, Mr. STUMP, Mr. TRAXLER, and Mr. YATRON.

H.R. 2798: Mr. FROST, Mr. BATES, Mr. DONALD E. LUKENS, Mr. DANNEMEYER, Mrs. ROS-LEHTINEN, Mr. MARTINEZ, Mr. MADIGAN, and Mr. TAUKE.

H.R. 2801: Mr. DELLUMS and Mr. KOLBE.

H.R. 2812: Mr. CONYERS and Mr. MOAKLEY.

H.R. 2856: Mr. BLILEY.

H.R. 2857: Mr. BLILEY.

H.R. 2923: Mr. BEREUTER and Mr. DAVIS.

H.R. 2972: Mr. JONES of North Carolina, Mr. DEFAZIO, Mr. ROBINSON, Mr. LAUGHLIN, and Mr. BILBRAY.

H.R. 2996: Mr. BATES.

H.R. 3004: Mr. BRENNAN, Mr. ENGEL, Mr. LEACH of Iowa, Mr. MCDERMOTT, and Mr. TRAXLER.

H.R. 3020: Mr. REGULA.

H.R. 3028: Ms. PELOSI.

H.R. 3051: Mr. ROHRABACHER, Mr. ROWLAND of Georgia, Mr. COUGHLIN, Mr. UPTON, Mr. FISH, Mr. DOUGLAS, Mr. BILIRAKIS, Mr. BALLENGER, Mr. DAVIS, Mr. JAMES, and Mr. ARMEY.

H.R. 3079: Mr. CLINGER.

H.R. 3099: Mr. OWENS of Utah.

H.R. 3267: Mr. MOAKLEY.

H.R. 3274: Mr. SCHUETTE and Mr. SLATTERY.

H.R. 3296: Mr. FALEOMAVAEGA, Mr. MACHTLEY, and Mr. OWENS of Utah.

H.R. 3321: Mr. JONTZ, Mr. SISISKY, Mr. MCMILLAN of North Carolina, and Mr. MADIGAN.

H.R. 3322: Mr. ATKINS, Mr. UPTON, Mr. DANNEMEYER, Mr. JAMES, Mr. FAUNTROY, and Mr. DORNAN of California.

H.R. 3349: Ms. PELOSI.

H.R. 3350: Mr. BEREUTER, Mrs. MARTIN of Illinois, Mr. LOWERY of California, Mr. WALSH, Mr. SMITH of Texas, Mr. FIELDS, Mr. WHITTAKER, Mr. GILLMOR, Mr. EMERSON, Mr. HYDE, Mr. HUTTO, Mr. MOORHEAD, Mr. GILMAN, Mr. MACHTLEY, Mr. SHUSTER, Mr. BALLENGER, Mr. SHUMWAY, Mr. BURTON of Indiana, Mr. BATEMAN, Mr. WYLIE, and Mr. MARLENEE.

H.R. 3380: Mr. LEWIS of Georgia, Mr. COYNE, Mr. DEFAZIO, Mr. WHEAT, Mr. REGULA, Mr. PARKER, Mr. BARNARD, Mr. SHUMWAY, Mr. HUCKABY, Mr. VALENTINE, Mrs. BYRON, Mr. SCHUETTE, Mr. DENNY SMITH, Mr. STENHOLM, Mr. MRAZEK, Mr. TAUZIN, Mr. CLEMENT, Mr. LAUGHLIN, and Mr. SHAW.

H.R. 3409: Mr. BROWN of California, Mr. JONES of Georgia, Mr. HAYES of Illinois, Mrs. BOXER, and Mr. CLEMENT.

H.R. 3430: Mr. HYDE and Mr. BILBRAY.

H.R. 3475: Mr. SMITH of New Jersey, Mr. EVANS, and Mr. BILBRAY.

H.R. 3480: Mr. MCGRATH, Mr. BUSTAMANTE, Mr. OWENS of New York, Mr. MCNULTY, Mr. RANGEL, Mr. MONTGOMERY, Mr. WALSH, Mr. TOWNS, Mr. ACKERMAN, Mrs. MEYERS of Kansas, Mr. GRANT, Mr. RAHALL, Mrs. COLLINS, and Mrs. SCHROEDER.

H.R. 3484: Mr. ATKINS, Mr. SUNDQUIST, Mr. NAGLE, Mr. JONTZ, Mr. DEFAZIO, Ms. SLAUGHTER of New York, and Mr. KOLTER.

H.R. 3496: Mr. FALEOMAVAEGA, Mr. HOYER, and Mr. TRAFICANT.

H.R. 3530: Mr. HUGHES, Mr. PAYNE of Virginia, and Mr. MURPHY.

H.J. Res. 122: Mr. BATEMAN, Mr. SISISKY, Mr. BUNNING, Mr. OWENS of Utah, Mr. MCNULTY, Mr. ATKINS, Mr. COLEMAN of Missouri, Mr. FASCELL, Mr. SMITH of Vermont, Mrs. JOHNSON of Connecticut, Mr. LEWIS of Florida, Mr. ESPY, Mr. BILIRAKIS, Mr. DUNCAN, Mr. PALLONE, Mr. STALLINGS, Mr. CARR, Mr. CARPER, Mr. JENKINS, Mr. FORD of Tennessee, Mr. ROWLAND of Connecticut, Mr. SAVAGE, Mr. SKEEN, Mr. CARDIN, Mrs. MORELLA, Mr. SHAW, Mr. TRAXLER, Mr. ANTHONY, Mr. LIVINGSTON, Mrs. KENNELLY, Mr. LEVIN of Michigan, Mr. MFUME, Mr. HAMMERSCHMIDT, Mr. CROCKETT, Mr. HAYES of Illinois, Mr. QUILLEN, Mr. GRADISON, Mr. NIELSON of Utah, Mr. MILLER of California, Mr. TRAFICANT, Mr. WYDEN, Mr. INHOFE, Mrs. BOGGS, Mr. SYNAR, Mr. RICHARDSON, Mr. BROWN of Colorado, Mr. DORGAN of North Dakota, Mr. BENNETT, Mrs. ROUKEMA, Mr. HEFNER, Mr. GREEN, Mr. SHUMWAY, Mr. GALLO, Mr. SUNDQUIST, Mrs. MARTIN of Illinois, Mr. ANDERSON, Mr. APPLEGATE, Mr. BUSTAMANTE, Mr. CONYERS, Mr. DELLUMS, Mr. DE LUGO, Mr. DICKS, Mr. DINGELL, Mr. FEIGHAN, Mr. FUSTER, Mr. GARCIA, Mr. GEJDENSON, and Mr. KASICH.

H.J. Res. 256: Mr. MCDERMOTT, Mr. HEFNER, Mr. BRENNAN, Mr. HUGHES, and Ms. SNOWE.

H.J. Res. 286: Mr. NIELSON of Utah.

H.J. Res. 341: Mr. COURTER, Mr. GEREN, Mr. MAVROULES, and Mr. SAWYER.

H.J. Res. 364: Mr. BURTON of Indiana, Mr. ENGEL, Mr. PORTER, and Mr. WAXMAN.

H.J. Res. 405: Mr. JENKINS, Mr. PAYNE of New Jersey, Mr. CLINGER, and Mr. HAYES of Illinois.

H.J. Res. 410: Mr. MARTIN of New York and Mr. VOLKMER.

H.J. Res. 425: Mr. LEVIN of Michigan, Mr. UPTON, Mr. BROOMFIELD, Mr. FALEOMAVAEGA, Mr. FORD of Michigan, Mr. HENRY, Mr. SCHUETTE, Mr. LANTOS, and Mr. HUNTER.

H. Con. Res. 6: Mr. DEFAZIO.

H. Con. Res. 146: Mr. COSTELLO, Mr. POSHARD, Mr. CARR, Mr. FLIPPO, Mr. DELLUMS, Mr. FEIGHAN, Mr. MANTON, Mr. TOWNS, Mr. MURTHA, Mr. KOLTER, Mr. MRAZEK, Mr. SISISKY, Mr. OBERSTAR, Mr. KOSTMAYER, Mr. KANJORSKI, Mrs. COLLINS, Mr. APPLEGATE, and Mr. BOUCHER.

H. Res. 269: Mr. DORNAN of California, Mr. BEREUTER, Mr. LIVINGSTON, Mr. COMBEST, Mr. COURTER, Mr. DOUGLAS, Mr. GALLEGLY, Mr. HORTON, and Mr. MICHEL.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3051: Ms. SLAUGHTER of New York.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1465

By Mr. McDERMOTT:

—Page 110, after line 13 of the amendment in the nature of a substitute, insert the following:

SEC. 5010. ESTABLISHMENT OF DOUBLE HULL REQUIREMENT FOR TANK VESSELS.

(a) IN GENERAL.—Section 3708 of title 46, United States Code, relating to self-propolled tank vessel minimum standards, is amended—

(1) in the heading by striking "Self-propelled tank vessel" and inserting in lieu thereof "Tank vessel";

(2) by designating the existing text of such section as subsection (b); and

(3) by inserting before subsection (b) (as designated by paragraph (2)) the following:

"(a) A tank vessel of at least 10,000 gross tons that transports oil from the port of Valdez, Alaska, shall be equipped with a double hull, including double sides and a double bottom fitted throughout the cargo length of the vessel, which satisfies the criteria for a segregated ballast tank set forth in Appendix C to part 157 of title 33, Code of Federal Regulations (as in effect on June 1, 1989).".

(b) APPLICATION.—Section 3708(a) of title 46, United States Code, as added by subsection (a), shall apply—

(1) after the date of the enactment of this Act to all tank vessels for which construction is begun after that date of enactment; and

(2) after the date which is 15 years after the date of the enactment of this Act to all other tank vessels.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 37 of title 46, United States Code, is amended by striking the item relating to section 3708 and inserting in lieu thereof the following:

"3708. Tank vessel minimum standards.".

—Page 3, in the table of contents of the bill, insert after the item relating to section 5009 the following:

"Sec. 5010. Establishment of double hull requirement for tank vessels.".

By Mr. CARDIN:

—Page 80, after line 22, of the amendment in the nature of a substitute, insert the following new sections:

SEC. 4110. PERIODIC GAUGING OF PLATING THICKNESS OF COMMERCIAL VESSELS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations—

(1) establishing minimum standards for the plating thickness of vessels transporting oil in bulk or commercial quantities, and

(2) requiring periodic gauging of the plating thickness of all vessels over 30 years old which are used to transport oil in bulk or commercial quantities upon the navigable waters or the waters of the exclusive economic zone.

SEC. 4111. OVERFILL AND TANK LEVEL OR PRESSURE MONITORING DEVICES.

(a) STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish, by regulation, minimum standards for devices for warning persons of overfills and tank levels of oil in cargo tanks and devices for monitoring the pressure of oil cargo tanks.

(b) USE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations establishing requirements concerning the use of—

(1) overfill devices, and

(2) tank level or pressure monitoring devices, which are referred to in subsection (a) and which meet the standards established by the Secretary under subsection (a), on vessels transporting oil in bulk or commercial quantities upon the navigable waters and the waters of the exclusive economic zone.

Redesignate subsequent sections and conform the table of contents of the bill accordingly.

Page 83, line 17, after the semicolon insert "and".

Page 83, strike lines 18 and 19.

Page 83, line 20, strike "(G)" and insert "(F)".

Page 83, strike lines 21 and 22.

Page 83, line 23, strike "(9)" and insert "(8)".

Page 84, line 1, strike "(10)" and insert "(9)".

Page 84, line 7, strike "(11)" and insert "(10)".

H.R. 2710

By Mr. BARTLETT:

—Page 16, strike out line 16 and all that follows through line 21 on page 21, and redesignate the succeeding sections accordingly.

The purpose of this amendment is to strike the section providing for a training wage.

SENATE—*Tuesday, October 31, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

** * * ye have not, because ye ask not.*—St. James 4:2.

Ask and it shall be given you; seek, and ye shall find; knock, and it shall be opened unto you.—St. Luke 11:9.

Our Father which art in Heaven, times like these—the pressures of critical issues, relentless ticking of the clock, deadlines, aroused emotions, and the paralysis of frustration, make these simple promises of the efficacy of prayer compelling. President Abraham Lincoln under the crushing burden of civil war, testified, "I have been driven many times to my knees by the overwhelming conviction that I had nowhere else to go. My own wisdom, and that of all about me, seemed insufficient for that day." Help us to realize, Lord, that prayer is not inimical to strong leadership. Teach your servants to ask and seek and knock. In Jesus' name, who prayed often and long under the unprecedented pressure of His mission. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business until 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each. At 12:30, the Senate will stand in recess until 2:15 p.m. in order to accommodate the party conferences. At 2:15, it is my hope that we can gain consent to move to a clean debt limit bill we could enact prior to this evening's original expiration date for the debt limit.

I would like to remind Senators that on tomorrow, Wednesday, and again on Thursday, at 2 p.m., the Senate will resume consideration of the impeachment proceedings against Judge Walter L. Nixon, Jr. The attendance of Senators at these proceedings is imperative and I, again, urge my colleagues to plan their schedules accordingly.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time.

The PRESIDENT pro tempore. The time of the majority leader is reserved.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. The Republican leader is recognized.

FLAG-BURNING ON CAPITOL STEPS

Mr. DOLE. Mr. President, yesterday we witnessed another flag-burning—but this time closer to home—right here on the steps of the Capitol Building. Like most Americans, I was outraged by what I saw on television. And I commend the Capitol Police for taking quick action against these shameless publicity seekers.

EXPEDITED REVIEW BY SUPREME COURT

But, fortunately, every cloud has its silver lining. As a result of yesterday's outrage, the Supreme Court should now have a chance to redeem itself from last June's blunder. It should now have the opportunity to review the constitutionality of the new flag statute passed by Congress earlier this month.

And the sponsors of the statute, I believe, have an obligation to ensure that the Supreme Court's review is put on the fast track—that this review is indeed expedited. After all, that's what the flag statute calls for—expedited review by the Supreme Court.

The American people have a right to know whether the flag statute works as advertised—and they have a right to know not 2 years from now, not even 1 year from now, but in the next several months.

DOUBTFUL CONSTITUTIONALITY

My opinion of the statute is well known. I believe that the statute is nothing more than legal hocus-pocus—that it is grossly overboard and most probably unconstitutional—and that it is a defensive and weak-kneed response to a Supreme Court decision that 97 Senators considered a grave mistake.

If I had my druthers, Congress would have passed a constitutional amendment that would now be working its way through the 50 State legislatures.

But I hope I am wrong. I hope that Gregory Johnson is convicted and that—this time—his conviction is upheld by the Supreme Court. And I hope that the Flag Protection Act of 1989 does not become the Flag Burners Protection Act after all the smoke has cleared.

CONCLUSION

Mr. President, this issue will simply not go away. The American people are not looking for "quick fixes." They want a real solution to the flag burning problem. And they want to give Old Glory permanent, constitutional protection.

So I look forward to the Supreme Court's decision, and I sincerely hope that the flag statute does indeed work.

But I am not holding my breath. And don't be surprised if you hear an "I-told-you-so" speech from this Senator sometime in the very near future.

DENOUNCE DANIEL ORTEGA

Mr. DOLE. Mr. President, it is my hope that sometime today we can consider a resolution denouncing the tinhorn dictator in Nicaragua, Daniel Ortega. I know there are some in this body who have been defending Ortega for some time, and we never seem to be able to come together on what kind of a dictator he is and what kind of a Communist he is. But I think he sort of blew away the smoke in the last few days and demonstrated again that he can shoot himself in the foot more than anybody I can recall in recent memory.

He is an obstacle to free and fair elections in Nicaragua. He is an obstacle to peace in that part of the world, and it seems to me when he chose the hemispheric conference, which is there to discuss democracy, to attend in his military uniform and, in effect, said that he was going to abandon the cease-fire because of some alleged act that he said occurred to me is another demonstration of his insincerity, his being out of touch with the people of Nicaragua.

As I have said recently, perhaps he is concerned about all the people who are registering to vote in that country. He should be concerned. If they are given free and fair elections, this dictator will be long gone from the scene. But if he is going to try to out Noriega, Noriega then even after the election, if there is an election, even though he will lose 4 or 5 to 1, he will declare himself the winner and we will be stuck with another Noriega-type dictator in this part of the world.

We hope to work together on a bipartisan resolution, and we hope to point out in that resolution precisely what happened and not make any apologies for Daniel Ortega. I think he needs to understand that Congress—I am speaking about all of us in the Congress—feels that his last act was totally irresponsible and that is what we ought to address. We ought to serve notice on him, and it ought to be coming from the Republicans and Democrats in both the House and Senate. We are very tolerant, we are willing to go along, but this time he stepped over that line of reason.

Hopefully, later on today, we can act on a resolution. Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. Without objection, the remaining time of the Republican leader is reserved.

COMMENDING FRANK E. BECK ON THE OCCASION OF HIS RETIREMENT

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 199) to commend Frank E. Beck on the occasion of his retirement from service to the United States Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, this is a sense-of-the-Senate resolution commending the Senate's chief electrician, Frank Beck, on his 32 years of uninterrupted service to this body.

It is useful for Senators to be reminded that we are not the only persons in the Senate called upon to work long hours under difficult conditions.

Too often, we forget that virtually none of our work could go forward were it not for the superb quality of services provided by support staff like Frank.

The men and women who provide our support services work hours as long and irregular as our own. They are asked to fulfill the demanding task of satisfying 100 different Senate offices.

Frank Beck has done his job superbly, and we will all miss his expertise when he leaves.

Frank came to the Senate in 1958, when not even the typewriters were electric. He leaves at a time when the computer revolution is in full swing.

Frank and the men in his shop have the task of wiring old and historic buildings for modern power-intensive equipment. They work under extraordinary time pressures and difficult conditions. Frank has provided responsive, excellent service to all of us and scores of former Senators.

Mr. President, Frank Beck may be the only person in this body who can truthfully claim that he has dedicated his career to throwing light on the issues.

He has done that well and diligently, and for his services and his labor, he has earned our thanks and our good wishes in his retirement.

Mr. DOLE. Mr. President, I certainly thank the majority leader for sponsoring this resolution, and I certainly want to join him in everything that he has said about Mr. Beck, and to extend our congratulations and our best wishes upon his retirement.

I think that we have often noted around here that sometimes we get so involved in all of our own problems and agendas that we do forget that there are many dedicated members that serve us over the years—in this case, many, many years. I think it is a very appropriate and fitting recognition. I am happy to join the majority leader in it.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 199) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 199

Whereas upon his retirement from the staff of the United States Senate on October 31, 1989, Frank E. Beck completes more than 32 years as a member of the staff of the United States Senate;

Whereas in performing valuable service to the United States Senate, Frank E. Beck has demonstrated outstanding dedication;

Whereas Frank E. Beck, as Chief Electrician, has upheld the high standards and traditions of the staff of the United States Senate with unfailing dedication, a high degree of loyalty, and a large measure of hard work: Now, therefore be it

Resolved, That the Senate of the United States recognizes the faithful and outstanding service of Frank E. Beck to the Senate of the United States and expresses appreciation upon the occasion of his retirement.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I yield the floor and reserve the remainder of my leadership time.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, the Senate will now proceed to the consideration of morning business with Senators permitted to speak therein for not to exceed 5 minutes each. Who seeks recognition?

Mr. CONRAD addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Dakota.

THE RISING NATIONAL DEBT

Mr. CONRAD. Mr. President, what could be more clear than: it is time to take serious action on the alarming buildup of the national debt. I have taken this floor many times, as the Chair wells knows, to talk about the economic policy that we have pursued in this country over the last several years, which I have described as a policy of debt, deficit, and decline.

Mr. President, in just the last 9 years, as this chart indicates, we have increased the national debt threefold. We have gone from a national debt of about $900 billion to a current national debt of $2.8 trillion. Now the President is coming to us and seeking a debt limit extension to $3.240 trillion.

Mr. President, at the same time we have seen this massive increase in the national debt, we have also seen an enormous increase in the trade deficit of this country. This chart shows the U.S. merchandise trade balance over an extended period—the last 20 years. What it shows is that the trade deficit in 1988 was greater than the total of all the accumulated trade surpluses since World War II. Debt, deficit and decline. Triple the national debt, fourfold increase in the annual trade deficit, and the inevitable result has been a decline in U.S. position in the world. Our economic strength is at risk.

Mr. President, we have gone from being the largest creditor nation in the world, as recently as 1982—more countries owing us money than any other country in the world—to now being the largest debtor nation in the world—owing more money than any other country in the world.

Mr. President, I submit to my colleagues that this chart ought to alarm us. It ought to tell us that it is time to act, that it is time to move on, and it is time for a plan. Some would say, so what. We have had all of these things happen, tripling the debt, fourfold increase in the trade deficit, become the biggest debtor nation in the world, but at the same time some of my colleagues say, "Unemployment is down, interest rates are down, are things not going OK?"

No, they are not, Mr. President. We are living off the balance sheet of this country. We are in serious danger, I believe, of loading this country so full of debt, that we will find our economic strength eroding.

David Broder, in a column that recently appeared headlined, "Going Over the Cliff Together," said it very well. Mr. President, I would like to read the opening paragraph:

The collapse of the savings and loan system and the necessity of a $50 billion Federal bailout didn't do it. The 180-point drop in the stock market—which knocked 7 percent off the value of listed securities in a single day—did not do it. The California earthquake, whose cleanup costs clearly will bust the Federal budget ceiling, hasn't done it either.

None of those shocks was enough to shake Washington into getting serious about the budget deficit.

At about the same time as Mr. Broder's column appeared, an article in the Washington Post, headlined, "America's Balance Sheet, a Smaller Bottom Line," appeared in the business section of that newspaper. The conclusion of that report was economic growth from 1968 to 1978 averaged somewhere in the range of 7.1 percent. Last year the growth of actual personal income and wealth of individuals in this country was down to 1.4 percent. Mr. President, what could be more clear? The linkage between this massive buildup of debt and the weakening of growth in this country is clear, and it is time to act.

Against, at almost the same time as the two previous articles to which I have referred, an article appeared in the New York Times—"The Changes Forced by Deficits." That article indicated that at an international banking conference at Pace University in New York this week, Robert Triffin, professor emeritus of economics at Yale, a prime mover in the construction of the European monetary system, observed that foreigners have been financing about 80 percent of the United States external and internal deficits to the tune of hundreds of billions of dollars. Mr. Triffin is quoted as saying:

Such an absurd pattern of international financial policies cannot continue indefinitely.

The article goes on to say:

But a great many economists and policymakers at home and abroad argue that this circular pattern with the United States running big trade deficits, foreigners recycling the dollars and buying up American assets and Americans emitting IOU's can go on for a long time.

Mr. President, it may go on for a long time, but the consequences are clear. This morning it was announced in the paper that Rockefeller Center is being sold to the Japanese. How much more of America is going to have to be sold to foreign interests before America wakes up? How much more of the wealth of this country is going to have to be taken away before America responds and reacts? Mr. President, I think that is the question, the foremost question, before the Congress of the United States today.

I believe it is time for the President to come forward with a plan. That is the obligation of the Chief Executive of this country. Now is the time. We cannot wait. We are presented with a proposal to extend the long-term debt limit until July 1991.

Mr. President, I want to put my colleagues on notice that I will fight such a proposal with every breath that is in me. We should not extend the long-term debt limit until July 1991. That just puts off the problem. Now is the time to confront the problem, and I urge my colleagues, and I urge the executive branch, and I urge the President, for God's sake, let us not allow this buildup of debt to go on and on and on without a plan. We have an obligation, and now is the time to exercise that obligation.

Mr. President, again, I urge my colleagues, I beseech my colleagues, now is the time, and I beseech the President to come forward with a plan. I urge all of us to concentrate on this problem.

I ask unanimous consent that the articles previously mentioned be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Minot (ND) Daily, Oct. 25, 1989]

GOING OVER THE CLIFF TOGETHER

(By David Broder)

WASHINGTON.—The collapse of the savings-and-loan system and the necessity of a $50-billion federal bailout didn't do it. The 180-point drop in the stock market, which knocked 7 percent off the value of listed securities in a single day a couple weeks ago, didn't do it. The California earthquake, whose cleanup costs clearly will bust the federal budget ceiling, hasn't done it either.

None of those shocks was enough to shake Washington into getting serious about the budget deficit.

The Gramm-Rudman-Hollings law, which is supposed to limit deficits, is in shreds. Even as its sequester provisions slice indiscriminately into useful and wasteful domestic and defense programs, Congress and the administration blithely issue "budget ceiling waivers" to avoid paying for the spending needed to deal with the crises of Bush's first year. So the bill for this—and for an increasing proportion of routine government spending—is covered by borrowing from abroad and passed on to the next generation, provoking recurrent spasms of understandable nervousness in the financial markets.

How did we get into a situation where only a financial or physical disaster of immense proportions can jar Washington to its senses?

A year ago this week, the editors of The Economist (of London), which leans to conservatism at home and abroad, felt called upon to explain why they would not endorse George Bush, as they had Ronald Reagan. Despite what they regarded as the manifest foreign-policy shortcomings of Michael Dukakis, their editorial said, Bush "has failed the one big test, on the budget, that the fates have set him. Inviting Americans to 'read my lips,' he has promised not to raise taxes, thus unilaterally disarming himself in the greatest battle he may have to fight. . . . Mr. Bush has insured that the economic side of his presidency would be crisis-driven."

The Bush "read my lips" promise was, at first, no more than a rhetorical tactic to help him recover from a setback in the Iowa caucuses and regain his footing in the following week's primary in New Hampshire, probably the most tax-averse state in the nation. "The pledge" was vital to Bush's recouping the lead from Sen. Bob Dole (R-Kan.), who put governmental responsibility ahead of political opportunism.

Repeated often during the general-election campaign, it became a commitment from which the newly elected President could not renege. And as long as the President kept taxes off-limits, there could be no large-scale assault on the budget deficit. As Senate Minority Whip Alan Simpson (R-Wyo.) said years ago, the only way to reduce the deficit was for "everyone to link arms and go over the cliff together," by agreeing that all elements—entitlements, discretionary domestic spending, defense and revenues—would be part of the solution.

Early this year, Budget Director Richard Darman hinted to congressional negotiators of both parties that if they would not press Bush to go back on his word in the talks then taking place, everything—including taxes—might be on the table by this fall. That prospect now has vanished.

There's a reason why Bush is increasingly locked into his no-new-tax stance. It's not just stubborness. It's a hard political calculus, spelled out in private conversations by some of the people to whom the President listens closely on election strategy.

Like all politicans, they worry first and foremost about nurturing their base constituency. For all the President's high standing in the polls, they know that core is shaky.

From 1980 through 1988, the Republican conservative coalition had three cementing issues. The first was staunch anti-communism, a readiness to stand up to Moscow and to deploy the military strength that would make the Kremlin bosses think twice.

That cement is weak. Bush is cheerleading for Mikhail Gorbachev's "perestroika" and barely squawking about the cuts in the Pentagon budget.

The second bond was furnished by "the social issues," of which abortion was by far the most emotionally important. As long as Republicans could rail against abortion, while the Supreme Court protected abortion rights, the GOP could use the issue as a rallying point, without mobilizing those who were on the other side of the question.

But that luxury disappeared with the Webster decision last spring. Increasingly GOP strategists recognize they have to find some way to move off their strong anti-abortion position—or pay a high price.

So what does that leave them? It leaves them the no-new-tax pledge. That is one place, and perhaps the only place, they can tell their core constituency that they really are different from the Democrats, who are stuck with a reputation for always wanting to raise taxes and spend more money.

What this means is that even if George Bush were inclined to renege on his New Hampshire-born promise, he would hear strong voices in his political entourage tell-

ing him that he would thereby jeopardize his own reelection and his party's hopes of expansion in the 1990s.

Thus do desperate campaign tactics become bedrock national policy. Remember that when it all comes crashing down.

[From the Washington Post, Oct. 24, 1989]

AMERICA'S BALANCE SHEET: A SMALLER BOTTOM LINE

(By John M. Berry)

Last year, if all the wealth in the country had been distributed equally, each American could have claimed ownership of $60,000 out of the country's $15 trillion total worth.

Ten years earlier, the figure for U.S. domestic net worth was $7.4 trillion, less than half as much, and the amount per person was a little more than $33,000.

But of course the nation's wealth is not distributed equally, and if the figures are adjusted for inflation, a far different picture emerges. Instead of being more than 200 percent as wealthy a country as a decade earlier, "real" (inflation-adjusted) domestic net worth has gone up only 18.4 percent. On a per person basis, real wealth rose 6.7 percent, just over half a percent a year.

In addition, compared to earlier 10-year periods, the numbers in a new report by the Federal Reserve paint a stark picture. It is not that the United States is getting poorer, but the rate of its growth in cumulative wealth has become markedly lower.

The basic figures on the nation's wealth are part of the Fed's annual report, "Balance Sheets for the U.S. Economy, 1949–88."

The report includes figures for the country's domestic net worth—the value of all the privately owned land, homes, business assets and consumer durables such as cars and appliances in the country, less any amount owed on them. It also provides details about ownership of assets by households and different types of businesses. Taken as a whole, it gives a gauge of how the country's wealth has changed over time.

The report does not include the value of government-owned equipment, structures or land—everything from the White House to the latest Army tank to Yosemite National Park. On the assumption, however, that income from the private sector must be used to pay the debts owned by local, state and federal governments, the Fed in calculating domestic net worth reduced the value of privately owned assets by the $2.1 trillion in public sector debt to arrive at the $15 trillion figure.

Last year, alone, the report said, the increase in domestic net worth rose $807 billion. After adjustment for inflation, the increase was 1.4 percent.

In contrast, between 1968 and 1978, real domestic wealth rose 84 percent. Last year's increase in real wealth was not only below the 1.9 percent annual average for the past 10 years, it was far below the 7.1 percent annual gain between 1968 and 1978.

On a per person basis, wealth has risen in the 1980s only about one-tenth as fast as it did in the 1970s.

Most of the slowdown in the rate at which America has been getting wealthier has been due to a large decline in U.S. saving. During the 1980s, private saving has fallen off while the federal government has chalked up big deficits.

The Commerce Department, in a separate report published last month, put the value of all equipment and structures owned by governments at $2.6 trillion. There are no estimates available for the value of government-owned land in the United States—about 39 percent of the nation's 3.6 million square miles.

To come up with the domestic net worth estimates, the Fed used similar Commerce numbers for the net value of residences, factories, business inventories and consumer durables, along with its own figures for land. In every case, assets were valued according to current market value rather than original purchase prices. For assets other than land, the values were adjusted for depreciation—essentially wear and tear.

Basic information on which the estimates are based came from a wide variety of sources. For residential structures, for example, the figures for current value come from year-by-year numbers for new home construction, modified for depreciation and changes in prices over time.

The domestic net worth figures do not include the value of assets in the United States owned by foreigners, or the value of foreign assets owned by U.S. residents. As has been reported before, the value of foreign assets in this country has been rising much more rapidly than the value of U.S. assets abroad since 1984.

At the end of last year, foreigners owned nearly $1.3 trillion worth of assets here compared to $738 billion worth of U.S. assets abroad. As recently as 1983, U.S. assets abroad were $575 billion compared to $503 billion in foreign assets here.

Looking at national wealth in slightly different terms, the Fed adds the value of U.S. assets abroad to domestic net worth and then subtracts the value of U.S. assets owned by foreigners. The result, in which the $21 billion worth of U.S. monetary gold and special drawing rights from the International Monetary Fund are also included, is a version of U.S. wealth called national net assets.

National net assets last year were $14.4 trillion, up from $13.8 billion the year before. By this measure, U.S. wealth is growing even more slowly, after adjustment for inflation, than by the domestic net worth measure. In real terms, national net assets increased 0.5 percent last year and 13 percent since 1978. That's a decade average of 1.3 percent a year, once again a number far lower than the previous decade.

Between 1968 and 1978, real national net assets rose 82 percent, or about 6.9 percent a year on average.

Among other details shown in this year's report were figures showing that the net worth of U.S. corporations other than banks and other financial businesses continues to decline in real terms. In terms of current prices, the net worth of such firms reached $3.7 trillion. After adjustment for inflation, however, their net worth dropped 1.6 percent.

[From the New York Times, Oct. 27, 1989]

ECONOMIC SCENE: THE CHANGES FORCED BY DEFICITS

(By Leonard Silk)

The White House and Congress still pay lip service to the importance of getting rid of the budget deficit. But virtually nobody believes that the Government will come close to balancing its budget in the foreseeable future. This means that with the budget deficit subtracting from the already low national savings rate, the United States has been compelled to sell assets to foreigners to maintain its existing level of consumption and investment.

How long can this go on? Nobody knows, but a lot of non-economists instinctively feel it cannot go on indefinitely. In a speech to the United Nations Association in New York this week, H. Ross Perot, the Texas entrepreneur, held up a recent cover of Time magazine, showing George Washington with a tear rolling down his cheek, to mourn "the death of Government."

Mr. Perot said the United States was surrendering its world economic and political leadership role and, by refusing to discipline itself, piling unsustainable burdens of debt on its children.

There are still some economists who share this anxiety. At an international banking conference at Pace University in new York this week, Robert Triffin, professor emeritus of economics at Yale and a prime mover in the construction of the European Monetary System, observed that foreigners have been financing about 80 percent of the United States external and internal deficits, to the tune of hundreds of billions of dollars. "Such an absurd pattern of international financial policies cannot continue indefinitely," he said.

But a great many economists and policy makers, at home and abroad, argue that this circular pattern, with the United States running big trade deficits, foreigners recycling the dollars and buying up American assets, and Americans emitting i.o.u.'s, can go on for a long time and that there is no urgent need to get rid of the budget and trade deficits.

At the Pace conference, Sylvia Ostry, special adviser to Canada's Secretary of State for External Affairs, said the threat of a dollar crisis, which she called "the best international argument to spur U.S. budget action," had become "embarrassingly less credible in the face of reasonable exchange rate stability and, indeed, recent dollar strengthening.".

Politically here at home, there is little prospect of decisive action to get rid of the deficit by steeply increasing taxes or cutting expenditures. Gramm-Rudman is simply forcing more spending off budget, as with the bailout of savings and loans.

And President Bush holds to "read my lips, no new taxes" harder than ever; David Broder, the political columnist of the Washington Post, says that having lost ground with his party's right wing on the two crucial issues of anti-Communism and anti-abortion, Mr. Bush is less willing than ever to change his anti-tax position, vital to retaining the support of his political base.

Does all this mean that with the true fiscal deficit (counting tax expenditures and off-budget as well as on-budget spending) likely to persist and even widen, Americans and their political representatives will simply settle down to enjoy the trade deficit, the deficit in the balance of payments on current account, the continuing inflow of capital and the transfer of assets to foreigners?

Mrs. Ostry suggests they cannot and will not. "In the absence of fiscal action, the stalled current-account adjustment process will once again create mounting popular demands to 'do something,'" she said. What will that "something" be?

One thing it is likely to be is more Japan-bashing. The Japanese themselves are worried about that trend and have begun some America-bashing of their own. Their importation of former President Ronald Reagan for healing speeches appears designed to head off an American anti-Japanese attack.

Another American response, directed more broadly at not only Japan but also the newly industralized countries in Asia and

the uniting Europe, will be a tougher trade policy, already labeled, among other things, "aggressive reciprocity," "bilateral activism" and "unilateralism." But as the current trade talks in Geneva show, the United States is still holding the line against out-and-out protectionism and instead seeking to open markets for trade in services and agricultural products, where it has strength.

A third area where the United States may press harder is on the "competitiveness" front, which may mean more government-industry research, as in semiconductors or other high-technology fields, and less anti-trust resistance to collaboration by private companies.

Further, the United States is likely to press its allies harder to take over military and foreign-aid and foreign-loan burdens that this country has been carrying since the postwar period, when its economic strength was dominant. But there is uncertainty and anxiety here about what the consequences would be of trying to transfer such responsibilities to Japan, West Germany and others.

Thus, the startling chances in the United States' economic and financial position, exacerbated by the failure of the country to discipline itself at home, is forcing a fundamental and potentially hazardous restructuring of America's external and domestic policies.

The critical problem facing America, the greatest threat to our economic security, the greatest threat to the security of this Nation is our economic vulnerability.

I thank the Chair and yield the floor.

The PRESIDENT pro tempore. The senior Senator from Florida [Mr. GRAHAM], is recognized for not to exceed 5 minutes.

Mr. GRAHAM. Mr. President, I ask unanimous consent to be allowed to speak for up to 8 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida is recognized for not to exceed 8 minutes.

THE DEFICIT

Mr. GRAHAM. Mr. President, I ask unanimous consent that an editorial from this morning's edition of the Florida Times-Union be printed in the RECORD following my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. Mr. President, this editorial points out that we are now paying more in interest on the national debt than we are paying to Social Security beneficiaries.

The current White House versus Congress standoff on the budget is like a seventh-grade school dance when no one dances because of fear of ridicule.

Who should make the first move, and what will everyone else say? Those two questions, which sometimes terrify adolescents, have produced political paralysis in Washington.

The administration will not budge from candidate George Bush's read-my-lips no-taxes rhetoric.

The Democratic leadership in the Congress does not want to consider a cut in capital gains taxes. Congressional Republicans do not want to be heard to suggest a cut in entitlements.

Everyone fears retribution—that any bold move would be exploited for advantage by the other side, encapsulated in political missiles known as 30-second negative TV ads.

So no one has made the first move. Forget about getting on the dance floor—no one is talking to each other.

The October 23 issue of Time magazine had a cover story which featured a tearful George Washington with a cover story "Is Government Dead?"

No, government is not dead. And I submit that the current paralysis presents promise.

We should view the current gridlock on capital gains as a springboard to much larger issues, as an opportunity for long-term deficit reduction and restoration of mutual trust.

For years, we have deferred serious action on the deficit, in large part due to the strong economy. If the economy was robust, why worry about the deficit?

But increasingly, economic indicators point to vulnerability.

Economists—notorious for their disagreement with each other—concur that the deficit saps our economic vitality. The Government is like a vacuum cleaner, sucking money out of our economy to pay our national mortgage, and America is selling itself to foreign buyers in order to pay our bills.

More than ever this century, and perhaps in the history in our Nation, America is vulnerable to international pressures.

We do not have much time for political détente. The Bush honeymoon is over, and mutual respect between the White House and the congressional leadership is fading.

The platitudes exchanged at inauguration time have been replaced by hissing and finger pointing about why the spring budget agreement did not achieve more results.

At the time, everyone acknowledged that the spring summit was a modest step.

But optimists said that step could build trust for more substantial deficit reduction in the future. If the construction of trust was the objective of the plan then the plan was a bust.

Mr. President, it is time to break this paralysis by joint agreement to everything on the table—capital gains, entitlements, defense and taxes—with the following objectives:

First, a multiyear budget agreement to achieve real deficit reduction, producing stability in the budget process.

In recent years, our collective energy—Congress and the executive branch—has been focused on finding ways to circumvent Gramm-Rudman and then try to convince the public the deficit is going down.

Let us not kid ourselves or the American people. Gramm-Rudman-Hollings as it is functioning is a fraud. The national debt has not gone down.

The national debt has increased—and increased dramatically—since Gramm-Rudman has been in effect. In 1985, the national debt was $1.8 trillion. In 1989, the national debt was more than $2.8 trillion.

Just to focus on 1 year Mr. President, in 1989 Gramm-Rudman-Hollings called for a deficit reduction of $136 billion. The latest figures from the Congressional Budget Office indicate that actual deficit reduction was $152.1 billion. But the increase in the national debt was not $136 billion or $152.1 billion. The increase in the national debt was $273 billion.

The more we burrow into debate on process; that is, can we "fix" Gramm-Rudman, the further we are distracted from coming to grips with real results on deficit reduction.

Mr. President, a second element to end this political paralysis is to consider reforms that are necessary to lengthen the timeframe for economic decisions. Investors, entrepreneurs and managers need to make decisions on a longer range basis, instead of the hyperactive, quarter-by-quarter myopic focus on the near term.

Third, restoration of a level of trust between the executive and legislative branches so we can effectively govern.

The Founding Fathers anticipated tension between the Congress and the White House, a productive tension—not gridlock.

We should not end this stalemate by resorting to quid pro quo dealmaking, such as trading Presidential approval of the child-care bill for congressional approval of a capital gains cut.

Instead of horse trading, we should trade in political timidity for fortitude.

We should trade our fear of rejection for willingness to take risks.

Pat Choate, a respected economist, wrote the other day in the New York Times that the current generation of political leadership is perhaps the weakest in America's history.

His assessment may be a bit stark, but certainly he has made a point. How long do we want to be like the adolescent kid at the dance, standing by the wall and watching, but stuck by fear?

We cannot long afford a continuation of this paralysis. If we can move to the dance floor, we might step on toes and might even trip. But the rewards would be tremendous—for the Nation and for our ability to deal with future challenges.

If we can turn the current stalemate into a new direction, into a productive dialog on the most difficult fiscal issues of our day, we will be faithful to the national interest—and perhaps prompt Pat Choate to write another chapter with another view of our ability to lead.

EXHIBIT 1

[From the Florida Times-Union, Oct. 31, 1989]

BUSINESS AS USUAL IN CONGRESS AS NEW FISCAL MARK IS REACHED

One of those tiny milestones that are rarely noticed—but should be—was reached recently.

In the fiscal year that ended Sept. 30, interest on the nation's public debt for the first time exceeded spending on the largest government program, Social Security.

Paying the governmental equivalent of the finance charge on a U.S. citizen's credit card bill cost $240.88 billion last year, the U.S. Treasury reported.

It took $27.5 million every hour of every day in fiscal 1989 to pay just the interest on the national debt.

Congress made the debt situation worse to the tune of $152.08 million—last year's official budget deficit.

The fact that it is getting smaller in relation to the gross national product is little consolation. The deficit needs to be reduced substantially.

That is supposed to be accomplished by the Gramm-Rudman-Hollings act, but that law is so lacking in force that it is routinely disregarded. Last year the deficit far exceeded the "limit" set by Gramm-Rudman of $136 billion. Were it not for budgetary tricks, the excess would have been even greater.

Congress failed to enact a balanced budget for this fiscal year—even after cooking the books—so the automatic spending cuts set by Gramm-Rudman are at work, lopping millions from the defense budget and social programs.

Is anyone in Congress ashamed or embarrassed about this situation? Apparently not enough of them. Members are still stuffing pork into every bill they can find, all the while decrying the terrible lack of taxation that is hampering them from doing even more for us.

Meanwhile, Americans are wondering what it is that they are getting for the $1.5 trillion in new taxes Congress has laid on them in the past 10 years.

The PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH] is recognized for not to exceed 5 minutes.

Mr. HATCH. I thank the Chair. I also wish to thank my distinguished colleague from Indiana and also my friend from Nebraska, who are willing to wait for me just to make these short remarks.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I thank the Chair.

(The remarks of Mr. HATCH pertaining to the introduction of S. 1810 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

BURNING OF THE FLAG

Mr. HATCH. Mr. President, I know that every Member of this body was appalled by what went on on the steps of the U.S. Capitol yesterday, where these people came and burned our flag, trampled on it, and desecrated it right in full view of all of us and everybody else in this country.

I hope that the appropriate law enforcement authorities will take this statute that has been passed here and go to court and enforce it and let us have a test of its constitutionality I, for one, hope with all my heart that that statute will be found constitutional, that we can stop this type of desecration of our national symbol and emblem. I do not believe it will be held constitutional, but at least we could have a test case and find out. If it is not, then we seriously ought to consider going to the constitutional amendment approach that many of us feel is the only way to stop this type of offensive activity. I think it has to be done.

NICARAGUA

Mr. HATCH. Mr. President, I am absolutely outraged by Daniel Ortega and his government down there in Nicaragua who are suspending, or at least intending to suspend, their commitments to the peace process up to now.

I personally believe that the only reason the peace process has even a chance of succeeding is that the Sandinistas are afraid of the upcoming elections. As inadequate as the preparations of the opposition has been, as much as they are trampled upon by the current leadership in Nicaragua, as much as it is difficult for them to get their views across and register people, the fact of the matter is Mrs. Chamorro is leading in the polls and I think the Sandinistas are deathly afraid they are going to lose. So they are covering their bets by making sure that they do not lose.

I condemn that approach.

Mr. President, this is an important time in the history of this hemisphere. I think it is important that we act with very great strength as a government in support of free and open elections down in Nicaragua and in support of democratic principles. I hope that we will stand strongly and that the whole hemisphere will stand strongly against this type of activity by Mr. Ortega.

I have taken enough time, so I yield back the remainder of my time, and I thank my colleagues again for their patience and courtesy to me.

The PRESIDENT pro tempore. The Senator from Nebraska [Mr. KERREY], is recognized for not to exceed 5 minutes.

Mr. KERREY. Mr. President, I ask unanimous consent to be permitted to speak for not to exceed 8 minutes.

The PRESIDENT pro tempore. Without objection, the Senator from Nebraska, [Mr. KERREY], will be recognized for not to exceed 8 minutes.

EXTENDING THE DEBT CEILING EXTENSION DEADLINE

Mr. KERREY. Mr. President, I rise to discuss issues similar to what the distinguished Senator from North Dakota and the distinguished Senator from Florida have raised earlier, and that is the issue of the U.S. deficit and the borrowing this country is doing.

I rise, as well, to point out an event that occurred yesterday that is not a terribly glamorous moment as political issues go. It is not the sort of thing that will capture headlines. It is certainly not on a par with the President's announcement to meet with General Secretary Gorbachev on a ship in December to discuss the relationship between the United States and the Soviet Union. It is not on a par with what I consider to be rather petty name-calling between the President and Mr. Ortega of Nicaragua. It does not excite the mind as events in Eastern Europe do. It is not the sort of thing that is apt to get a great deal of attention.

Nonetheless, I think it is an opportunity for us to see what the borrowing and spending practices of this decade are doing to our country.

Yesterday, as a consequence of the decision made by Treasury Secretary Brady, the U.S. Government sold in the financial market 17 billion dollars' worth of bonds. We took out the Federal credit card and we charged $17 billion to make some purchases.

In this case, as the distinguished majority leader said, the move was a transparent political move to enhance the efforts to get the capital gains cut the President so dearly wants.

The distinguished chairman of the Finance Committee, Senator BENTSEN, of Texas, said, with some accuracy, that this move would "undermine confidence in the integrity of our national credit operations * * * all for a short-term political victory." The Senator from Texas predicted the move would add $20 million to the cost of financing this debt.

I must observe that the prediction of the Senator from Texas has come to pass; that this offering yesterday, this $17 billion offering, cost the Treasury an additional 10 basis points paid to investors that we will now be paying for a long time to come. Thus, the President bought an additional 10 days, approximately, to debate the capital gains reduction at a cost of approximately $2 million a day.

Mr. President, as the distinguished Senator from North Dakota and the distinguished Senator from Florida have already pointed out, the cost is much greater than just $2 million a day. The greater cost—and it is a large cost—is the cost of confidence which we, the Congress, now have in Treasury. Unlike previous Treasury Secretaries who have always hammered Congress first to raise the debt ceiling without resorting to tricks, Secretary Brady has now resorted to a trick first. He seized the low ground by showing us there was an easier way in the short term.

Secretary Brady, who is a good and decent man, has also undercut his credibility with Congress on the issue of raising the debt ceiling with a very clumsy action. What will happen the next time we are asked to raise the debt ceiling? It is not an altogether pleasant event, it seems to me. It will be my first opportunity to vote on it. We would all prefer to avoid it. We would all prefer to avoid having to take this responsible action. What will we say the next time when this debt ceiling comes before us? Will we feel the sense of urgency to act or will an awful lot of us say, "Maybe the Treasury Secretary will have some other tricks that he can resort to in order to avoid having to take this responsible action?"

Senator BENTSEN's prediction, I believe, is worth examining in closer detail because I think there are some additional costs to the American taxpayer. The Treasury yesterday sold $7.8 billion of 3-month bills and $7.8 billion of 6-month bills, as I said earlier, at approximately 20 basis points more than would have been necessary under normal circumstances.

Mr. President, I am aware that the event is rather mundane. It is like a cold coffee in the morning. It is not terribly stimulating.

But there are two additional points, as we examine the bond sale yesterday, that I think are worth making, which will become important for the American people.

First, any American who borrows money—whether you are a small business person, whether you are a farmer, whether you are a municipality, whether you are a school district, whether you are a homeowner—any person who borrows money and has the cost of that borrowing tied to the cost of Treasury bills are going to pay a higher rate of interest in the short term as a consequence of what the Treasury Secretary did.

More important, there is great uncertainty in the marketplace that has been created by this rather irresponsible action, which will add volatility to interest rates, a decidedly unappealing consideration for any investor.

Second, Mr. President, this action is a living/breathing example of what the borrowing and spending fiscal policy—which both President Reagan and President Bush have raised to an art form—does to all of us. Again, as Senator BENTSEN has pointed out, we took out the Federal credit card, borrowed $17 billion yesterday, and here is what we are going to do with it.

On Friday of this week, the Federal Government is going to mail out millions of Social Security checks. The Americans who receive these checks, plus a few additional Government employees who are going to get paid as a consequence of the borrowed $17 billion, will incorrectly assume the money came from some sort of cash fund which was built up just for them. Unfortunately, the source of funds is not cash. It is the borrowing that the Federal Government has done yesterday.

As we look into this window, Mr. President, we can see that $17 billion that these individuals will be using for purchases also, unfortunately, did not all come from America. Approximately $3 to $4 billion of that is coming from foreign investors, and as we look at what the individuals who receive those checks are going to purchase with it, we also begin to see what is happening to America. Because approximately 20 to 25 percent of those purchases will be for foreign purchases.

In essence, we took out the Federal credit card yesterday and borrowed $17 billion. We will cut checks on Friday to go to the American people; $3 to $4 billion is coming from Japanese and Germans and other foreign investors and we will use the borrowed proceeds to purchase their goods and services. Thus through this window, Mr. President, we are able to see what we are doing to our children.

Rather than looking at the preamble to the Constitution and saying the highest purpose of this Government is to try to ensure the blessings of liberty for our posterity, we are saying to posterity: Here is another $17 billion worth of IOU's that will cost us $1.3 billion of interest a year for as long as we continue borrowing and spending policies that we acquired in the 1980's.

Mr. President, the rise in gross national product and other statistics which tend to make us think we are relatively healthy economically are extremely deceptive.

I ask unanimous consent to have printed in the RECORD a portion of an editorial from yesterday's Washington Post.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The GNP tables are a portrait of a society that works pretty hard, earns high incomes and spends them nearly as fast as it makes them. It doesn't show much sense of the future, beyond a vague sense that things will probably work out all right. Savings continue to be strikingly low, a pattern that has persisted through the 1980's and shows no sign of changing. Investment is high enough to avoid immediate disaster, but not high enough to ensure Americans' ability to keep matching Japanese and German manufacturers' productivity. Everyone has been aware for years of this country's weak performance in investment; Ronald Reagan made an issue of it when he was running for president in 1980. But neither he nor anyone else found it necessary to do much about it.

Mr. KERREY. This editorial reveals a much more difficult truth, reveals in fact what we are doing today in the United States of America is funding an increase in gross national product with borrowed money, and we are funding, as well, that increased gross national product with money that we are borrowing from others, not just Americans.

Mr. President, it is driving up our cost of capital; it is impairing the standard of living of our children; and it is precisely the opposite, I think, of what we as responsible political leaders should be doing.

In short, Mr. President, the action of Treasury Secretary Brady is the easy way, the now-now way, and it is not the disciplined way we are insisting Eastern European nations take before they receive any assistance from us. It is undisciplined, and its only appropriateness, I believe, is its proximity to Halloween.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Colorado is recognized.

CONCENTRATE ON THE DEFICIT

Mr. WIRTH. Mr. President, I was struck this morning with the discussions about flag burning. I am reminded, Mr. President, of second-grade behavior. Remember when the naughty little boy was cutting up or doing something in the classroom, you wondered why was that individual doing it?

An individual does it for the purpose of getting a lot of attention. And the more attention you give him on that front, the more he is going to do it. It seems to me that is what is going on in this whole flag issue. The more attention we put out there, the more we blow this whole thing out of proportion, which is precisely what is going on.

Mr. President, away from the fundamental psychology of this, even worse is the fact we are being diverted; our attention is being diverted away from what is really important.

We heard this morning three very good discussions of the deficit from the Senator from North Dakota, the Senator from Florida, and the Senator from Nebraska. I was struck, Mr. President, by this morning's paper, reading about the sale of Rockefeller Center.

There is probably no place in the country that is more a symbol of American capitalism than Rockefeller Center, other than the Empire State Building. I cannot think of very many pieces of real estate in the United States that are more symbolic.

The purpose of focusing on that, Mr. President, is not to say we ought to bash foreign investors, but rather to come back to the fundamentals of the problem. The fundamentals are that we are running this enormous deficit. And it is not $130 billion, it is $230 billion when we include, as we should, the trust funds. As long as we continue to overspend in this extraordinary fashion, we are going to be drawing capital in. We are going to have interest rates go up. And foreign capital is going to come in and look for good assets, and that is what is going to go on.

As long as we continue to raise our foreign debt as we are by $1.3 billion every 3 days, to the point that by 1992 we are going to have $1 trillion in foreign debt, as long as that continues to happen, we are going to see very objectionable things happening, like the sale of Rockefeller Center and a variety of others.

How does this relate to flag burning? We are fiddling while the house burns. The question is, When are we going to get some serious leadership from this administration on the issue of the deficit? How soon are they going to stop hiding behind putting the S&L thing off the budget; how soon are we going to stop playing around on the edge, as we are, with the capital gains debate, and really start focusing on the fundamentals of this economy and the deficit?

We pride ourselves for telling the Brazilians, "Go and get your economic house in order; get rid of the fundamental problems, the structural problems that exist in your economy."

But who are we to be saying that? We have very fundamental structural problems in our economy, and there is nothing coming from the only administration we have to address that. Where is the strategy for what we are going to do?

It certainly is not this game with capital gains. It is certainly not continuing to put things off deficit. We cannot continue to fiddle while the house burns, Mr. President. It is time for us to get from the administration the kind of leadership that all of us need to get behind a program to significantly move in on this deficit.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

LINE-ITEM VETO

Mr. COATS. Mr. President, I take this occasion this morning to alert my colleagues, when the long-term debt extension legislation comes to this floor, I intend to offer the Coats-McCain legislative line item veto amendment to that legislation. I wanted to use some time this morning to explain a little bit of the history and reasoning that went into that decision.

Senator MCCAIN, Senator HUMPHREY, Senator ARMSTRONG, and I, several months ago, along with the distinguished minority leader, worked out a compromise piece of legislation which we titled "The Legislative Line Item Veto Act of 1989." S. 1553 primarily shifts the burden of action in the current rescission procedure, making Congress put its votes on the line if it wants to overturn a Presidential cut aimed at budgetary reform.

I will not go into all the details of the legislation right now, but I want my colleagues to know some of the background in terms of why we are offering it on this debt limit extension in the midst of legislative battles against reconciliation, sequestration, debt limit, and so forth.

Several months ago when we were considering this legislation, I had indicated an interest in offering this type of amendment to the supplemental appropriations bill. However, we had not fully completed our work in terms of bringing all of us together who wanted to have input on this particular legislation, and so we deferred it at that time.

After several careful months of negotiation and a lot of input by Senators MCCAIN and HUMPHREY and ARMSTRONG, and the minority leader and others, we did fashion S. 1553 and had it ready to go. Our intent then was to offer it to the August debt limit extension, and we were fully prepared to do so and notified the leadership on both sides that that was our intent.

We were asked by the leadership to hold off at that particular time. There were concerns about the savings and loan legislation, and concerns about the impending August recess.

At that time, we were assured by the leadership that there would be another debt limit extension in the fall that would be open to amendments. On the basis of that assurance, we agreed to defer introducing S. 1553 at that particular time. In September, I wrote a letter signed by Senator MCCAIN, Senator HUMPHREY, and Senator ARMSTRONG to both Senator MITCHELL and Senator DOLE informing them that we intended to carry through with our plan, as discussed in August, in terms of offering this to the debt limit extension.

I mention all this because certainly we will be faced with a situation where many will counsel that we ought to have a clean debt limit extension bill on the floor and that we should not be offering these amendments, even though I would argue that is somewhat germane to the discussion that will be undertaken. But we have deferred in the past, and we have duly notified Members on both sides, as well as the leadership, as to our intent. We think this is the appropriate time and the appropriate place to do this. We do not seek to hold up the debt limit extension. We are willing, as we indicated in our letter to the leadership, to agree to a time limit. All we want is a fair hearing and fair debate on the floor of the Senate, as well as a vote on the issue.

So we are open to discussion in terms of accommodating the needs of this body and the needs of the country as we look at having to extend the debt limit extension. I want to add my support to a number of discussions that have taken place earlier this morning relative to the bigger question, and that is the question of continuing to add debt to our national debt, continuing to go into the red, and the fact that at some point we need to look at genuine reform in terms of how we budget our legislative process and our governing process in this country.

The legislative line item veto, or the enhanced rescission, as some have called it, is one tool which can help bring about some of that budget reform. We think it is an important tool. We think it is one that ought to be discussed, fully debated, and voted on so that Members of this body can exercise support for the measure. We will be planning to offer that whenever that legislation comes forward. I wanted to take this opportunity to put everyone on notice that that is our intention. I yield back the remaining time I have.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I thank the Chair.

(The remarks of Mr. ROCKEFELLER and Mr. DURENBERGER pertaining to the introduction of S. 1809 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Chair will entertain a motion or request for unanimous consent that we extend morning business until an appropriate hour so Senators may be accommodated.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. DURENBERGER. Mr. President, I ask unanimous consent that

the time for morning business be extended until 12:45.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Arizona.

NICARAGUAN REPRESSION

Mr. McCAIN. Mr. President, over the years, I and many Members of Congress have invested much time and effort trying to define for other Members of Congress and for the American people the character and purposes of the tyrants that have ruled Nicaragua for the last 10 years. We have warned of their commitment to Leninist principles of totalitarian rule. We have pointed to their devotion to the supremacy of the party over the people, of the state over the individual. We have criticized their ruthless, single-minded pursuit of power while the misery of Nicaraguans increased a hundredfold. We have noted again and again the zeal the Sandinistas demonstrate when destabilizing neighboring societies while their own society is left to collapse in ruins.

Mr. President, we have tried to signal our concern that the Sandinistas are committed, old school Marxists who are dedicated to the repression of Nicaraguans and the subversion of their neighbors. I am sorry to admit, Mr. President, that our efforts have not always been successful. We were often unable to convince many of our colleagues of the clear and present danger that the Sandinistas represented to our security interests and to the democratic aspirations of Nicaraguans. Perhaps, we were not as eloquent and persuasive as were our critics in Congress. Perhaps, our dire warnings sounded unreasonable in comparison to the calm voices of those who were less concerned with the nature and ambitions of Nicaragua's rulers.

Our frequent failure to convince others of the threat posed by the Sandinistas has been a source of great frustration to me. I have made no secret of my disappointment in Congress' refusal to continue military assistance to the Nicaraguan resistance. I have been unable to mask my chagrin when some public officials persist in trusting proven liars like the Sandinistas. I have been puzzled by the eagerness of some people to enter into bargains with these practiced promise breakers without insisting on even modest precautions to discourage the Sandinistas from violating their commitments.

However, Mr. President, throughout the inconsistencies and disappointments that have attended our relations with our Sandinista adversaries I have noticed one constant irony. It is an irony that would be quite amusing if it did not directly involve our national security concerns. It is an irony that was revealed yet again last Saturday when Commandante Ortega stood, as usual, in his Fidel fatigues, before the leaders of democratic nations at a celebration for the triumph of democracy in Costa Rica and announced his intention to resume hostilities with the democratic Nicaraguan resistance.

The irony, Mr. President, is in the fact that I have come to rely on Daniel Ortega. I have come to rely on Ortega and his colleagues to make the case that I and others have often failed to make: That the Sandinistas cannot be trusted to honor any commitment they undertake, great or small, if that commitment conflicts with their unswerving opposition to human freedom and regional stability. In short, Mr. President, Daniel Ortega has unexpectedly become the advocate of my views.

Mr. President, I find it painful to accept that every time Congress has acted or failed to act concerning Nicaragua in a manner I found objectionable that all my arguments, all my impassioned persuasion, all my determined pleading was of little consequence until Daniel Ortega provided me with new evidence that my concerns were well founded. Whenever Congress has refused a request for military assistance or rejected warnings of Sandinista duplicity that is the moment he has chosen to rush into the arms of his Soviet patrons or invade Honduras or imprison more Nicaraguan human rights advocates. I have come to rely on the commandante to give my arguments their weight. Apparently, his powers of persuasion greatly exceed my own.

Mr. President, Daniel Ortega proved another of our points last Saturday when he threatened to violate the cease-fire. Whether or not he terminates that cease-fire today, he demonstrated on Saturday that the measure of his commitment to democracy is precisely the same as it was when the Sandinistas assumed power 10 years ago—nonexistent. What Ortega's threat reveals is the Sandinistas' commitment to remain in power at any cost. And apparently, despite their total control of the army, the police, and all the various apparatus of the state, they are concerned that the people of Nicaragua intend to use the February elections to respectfully request that the Sandinistas refrain from any further mismanagement of the affairs of Nicaragua.

Of course, Mr. President, they would prefer to continue to misrule the country by winning elections that have been rigged in advance rather than blatantly stolen in the end or called off for contrived national security reasons. But if they must blatantly steal them or subvert them by re-imposing a state of emergency, then they will do so. Without the threat of an armed resistance, they will take whatever steps are required to consolidate their power. They will intimidate and discourage opposition supporters from registering to vote. They will prevent Nicaraguan exiles from voting by failing to provide them with passports. And if the opposition remains a formidable threat then they will scare off voters and stuff ballot boxes. And if all else fails, and with no viable military challenge to their tyranny remaining, they will steal the election under the cover of martial law.

Mr. President, irrespective of the decision of Nicaraguan voters, the wishes of their neighbors or the sensibilities of the rest of the world, the Sandinistas will not relinquish power if the only consequence they will face is expressions of Western disappointment over the Sandinistas' infidelity to Western values. Certainly, they would like to make a show of complying with the will of the Nicaraguan people. But not at the price of actual compliance. They have an obvious need for Western assistance to repair the damage they have done to Nicaraguan society and to the Nicaraguan economy. They recognize that their refusal to permit or abide by free elections would jeopardize this assistance. But, Mr. President, to these people that is a small price to pay to avoid the loss of their stranglehold on Nicaragua.

I have heard Ortega's behavior last Saturday described as unwise and ill-timed. Mr. President, that description implies that Ortega has done his cause an injustice. I doubt it. He has survived these controversies before and he is confident that he will survive this one. He has seldom been seriously penalized for his faithlessness in the past. He may feel that even the threat of canceled elections will not convince the majority in Congress to support a resumption of armed resistance to the regime.

Mr. President, Ortega may have inconvenienced his apologists, but he holds us all—critic and apologist—in contempt. He scorns our democatic values. He ridicules our desire for a democratic hemisphere. He is indifferent to the suffering of his people. He is unmoved by the fears of his neighbors. He is unconcerned that he and Castro are fast becoming anachronisms—rulers of countries less free than East Germany. No, Mr. President, the Sandinistas are not worried about disappointing their Western supporters. They may desire Western assistance, but they are prepared to go only so far with this democracy charade if they face no physical threat to their power.

Mr. President, some may ask why I supported assistance to the United Nicaraguan opposition if I am so pessimistic that free elections will actually be held. Mr. President, I hoped that

support for the political opposition would comprise part of a broader proposition for the Sandinistas—either permit a free election or face a resumed military threat from a rearmed resistance. A choice between democracy and continued military struggle would not be as easily made by the Sandinistas as the choice between democracy and greater alienation from the West. A clear indication that the United States will resume lethal aid to the Contras if the Sandinistas steal or cancel these elections may persuade Ortega to take his chances in the political arena.

Mr. President, I am not certain that even this would convince the Sandinistas to permit free elections and honestly abide by the result. But I hoped that supporting the political opposition would reveal the Sandinista's hand. If they were to steal this election they would have to do so after the fashion of Manuel Noriega. Last Saturday Ortega and company took another step in that direction. If they do indeed resort to the blatant theft of an election perhaps the consequences they suffer will be more serious than those they have ridiculed in the past.

Perhaps, then, Mr. President, when I and others address the Congress and proclaim the necessity of supporting a viable resistance to the tyranny of Sandinista rule we will no longer need to wait for Daniel Ortega to prove us right.

Mr. President, let me conclude by stating what I hope is obvious to all Senators. If Daniel Ortega violates the cease-fire—if he marshals his considerable military resources to slaughter the vastly outnumbered and underarmed Contras—if he subjects his country to another harsh and unnecessary state of emergency—if he deprives the Nicaraguan people of their right to determine who will govern them—if he makes a mockery of the democratic aspirations of the leaders and people of the Americas—then, Mr. President, I hope no public official will fail to recognize that the United States is obligated to resume military assistance to the Nicaraguan resistance. It is an obligation we have assumed on behalf of Nicaragua, on behalf of the United States and on behalf of all of the Americas.

Thank you, Mr. President.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the submission of Senate Concurrent Resolution 78 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. The Senator from Maine is recognized.

EXTENSION OF MORNING BUSINESS

Mr. COHEN. Mr. President, if I could inquire how many of our colleagues also wish to speak this morning, I intend to ask unanimous consent that the time for morning business be extended to 1 o'clock in order to accommodate each of the colleagues who are on the floor.

I ask unanimous consent that the time be extended for morning business until 1 p.m. under same provisions previously ordered and that the recess be delayed accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN pertaining to the introduction of S. 1811 and S. 1812 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Thank you, Mr. President.

NATIONAL ECONOMIC PRIDE

Mr. LIEBERMAN. Mr. President, Americans awoke to the news this morning that the historic Rockefeller Center in New York City is now, in a sense, the Mitsubishi Center, with 51 percent of control of the company having gone into the hands of the Mitsubishi Corp.

Obviously the people who owned Rockefeller Center have a legal right to sell it, and the Japanese have every legal right to make this purchase.

But the news that Rockefeller Center is now going to be owned by Japanese interests is another blow to our national economic pride.

This year, when they turn on the lights of that Christmas tree in Rockefeller Center, we Americans are going to have to come to grips with the reality that this great national celebration is actually occurring on Japanese property.

Mr. President, I hope that we take this jarring news as another warning sign that things are not right with our economy. While the Japanese are flush with capital, our own corporations are having more and more difficulty raising money for investment in their future.

Last Friday the New York Times pointed out that in the first 8 months of this year American companies have raised only $20 billion from the sale of stock. The Japanese, in contrast, have raised more than $110 billion, and that gap bodes ill for America's economic future.

It is no wonder Japanese companies can afford to buy places like Rockefeller Center. And there can be little doubt that more such purchases are on the way.

What can we do about it?

I think we have to look at ways to change the economic climate in which American business acts. We have an environment today where leveraged buyouts are more attractive than investment in enterprises that create new jobs. Debt is accumulated at a rapid rate, and saving is a steep decline, and that is ripping the heart out of our economy and threatening to make it a hollow shell.

What makes matters worse is that increasingly it is foreigners who are providing financing for America's debt. So it is our money going into their hands that is coming back to purchase American properties. We need to find ways to encourage businesses to plan and invest for the long term.

Senator BENTSEN and Secretary Brady have offered proposals to address this issue, and we need to give them serious consideration.

I for one believe that a cut in the capital gains tax rate can stimulate the kind of long-term investment we need, and making the research and development tax credit permanent is another step in restoring long-term economic stability and achievement.

Obviously we have to also get our deficit in line, and that means inserting discipline into our public life. That will ultimately cut the cost of capital for American businesses because at present Federal spending simply soaks up too much of our savings.

Mr. President, we do not only have ourselves to blame for this spectacle of Japanese purchases in America. Obviously, we must push the Japanese to make changes in their economy to assure fair competition and free trade so that we will have more opportunity to participate in the Japanese market, just as they have an equal opportunity to participate in ours.

I see my distinguished colleague from Illinois [Mr. DIXON] here and I recall his leadership in the battle against the FSX agreement.

We were trying to send a simple message to our allies in Japan: "You are not playing fair with us, and until you do, there is going to be a lot of resentment here in America."

But the bottom line of this story of Rockefeller Center being sold to the Mitsubishi Corp., is that we Americans must put together an economic growth package that will redirect the energy of American business and labor into long-term growth and not just short-term profits.

Mr. President, we have to understand again that we are in this together and we have a choice to make. We are either going to work together in a disciplined way to rebuild America's economy and make it fully competitive

in the decades ahead, or we are going to have to accept the reality that we will be sitting passively by and watching the titles to more and more pieces of much of America's great economic heritage pass into foreign hands.

I thank the Chair and I yield the floor.

THE FEDERAL DEFICIT

Mr. ROBB. Mr. President, I will not take much time at this point because the hour is late. I just want to join with several of my colleagues who spoke earlier about their concern about the Federal deficit and our inability at the Federal level to deal with both the deficit and the consequences of that deficit. I will have more to say later on.

As a new Member of this body, I remain extremely frustrated by our inability to deal with what to me seems to be the most pressing problem facing this country today. I have had a great deal to say about it over the past decade. I will have to say that this decade, whatever it is ultimately known for, it will be probably known at the very least as the most fiscally irresponsible decade in American history.

Clearly, some very serious steps are going to have to be taken. It is going to require executive leadership. I do not think it is realistic to think any legislative body is willing to walk the plank unless the Chief Executive is prepared to lead and go over the side with them if that is required.

I do not know of any more serious challenge facing this country today. I join with many of my colleagues who have expressed their views today and put others on notice that we will have to make some of the tough decisions that we have been postponing for far too long.

Mr. President, I thank the Chair, and I yield the floor.

SAVE THE FEDERAL HOUSING TAX CREDIT

Mr. DIXON. Mr. President, I remind my colleagues of the miserable failure of our assisted housing programs, and the adverse effect this is having throughout the country on low- and moderate-income families.

From 1981 to 1988, Federal assisted housing programs were cut by nearly 80 percent. As a result, many areas of the country are now experiencing an acute shortage of available and affordable decent housing.

Additionally, the Tax Reform Act of 1986 repealed all incentives for low income housing production and rehabilitation. It replaced the incentives with the low-income tax credit program, which is due to expire December 31, 1989.

Mr. President, we cannot afford to turn our backs on these less fortunate families. We have learned that almost two-thirds of the poor that have found decent housing are paying more than half of their income in rent.

I believe that an October 27, 1989, Chicago Tribune editorial, "Save the Federal Housing Tax Credit," is right on target. It calls on Congress to permanently extend the much needed low income housing tax credit program.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Oct. 27, 1989]

SAVE THE FEDERAL HOUSING TAX CREDIT

Friday the 13th spelled bad luck this month for one of the few remaining federal programs that helps provide homes for low-income people. The budget bill approved by the Senate on that date failed to renew the income tax credit for investors in low-cost housing, an innovation in the 1986 tax law that has become a model of public-private cooperation.

In just two years, the tax credit has generated 130,000 units of affordable housing nationwide. In Chicago, the private investment attracted by the credit has created about 5,000 units.

Of course the Senate should be looking for ways to cut the massive federal deficit, but it's stupid to pick on a program that costs only $300 million a year upfront and returns many more times that amount in the long run. The Senate Finance Committee and the House had voted to keep the credit alive, so it's still possible that the inexplicable Friday the 13th action will be corrected in a conference committee.

During its eight years in the White House, the Reagan administration took away 80 percent of the federal money that had been available for housing programs and squandered much of the rest on clout-heavy consultants and contractors. Congress added to the housing squeeze by reducing or eliminating most construction incentives with its 1986 tax act.

That act, though, did include one housing incentive, and it has proved immensely successful. In Chicago, local corporations working with Chicago United and the Local Initiatives Support Corp., a technical adviser to community development corporations celebrating its 10th anniversary, created the Chicago Equity Fund to pool their use of the tax credits. So far, the fund has raised $30 million, and that money has seeded a total of $110 million in newly constructed or rehabbed housing priced for low-income families.

The 5,000 homes that money has produced would not exist today without the housing tax credit. Nor would the construction jobs the $110 million generated, or the income tax money and other tax revenue contributed by the workers who got those jobs, or the spinoff jobs created by the income earned by those workers, or the property tax revenue paid by the people who own those 5,000 dwellings.

Add in the value of injecting new life to ailing neighborhoods, and it's clear that whatever this subsidy cost will be more than returned to federal, state and local governments in the form of other tax revenue.

Congress must find new money to cut the federal deficit, but it should't be squeezed from one of the few remaining programs to help low-income families find decent homes. Without some form of subsidy, private developers cannot afford to produce low-cost housing. And this tax credit is one of the most economical, effective subsidies ever created on Capitol Hill. The conference committee should revive it, but not just for another year. It should be a permanent part of the federal tax code.

CAREER TRIBUTE TO DR. ROBERT E. MITCHEL, MEDICAL CORPS, U.S. NAVY

Mr. GLENN. Mr. President, today, I invite the attention of the Senate and the American people to an outstanding American and aerospace medical authority, Capt. Robert E. Mitchel, Medical Corps, U.S. Navy. Though I would like to claim Dr. Mitchel as a native Ohioan, I must admit that he was born and raised in Merced in the great State of California.

I think that the characteristic that has so distinguished Dr. Mitchel over his long, illustrious and continuing career, is his unceasing and selfless dedication to his country and to the well-being of his fellow man. Today, he continues to pursue a very active career as a recognized authority in aerospace medicine, as a well-published author, and as an extremely productive member of numerous professional societies and organizations.

As a veteran of two wars myself, I particularly want to recognize Dr. Mitchel's outstanding service in the rehabilitation of American prisoners-of-war from the Vietnam conflict, an effort he still is heavily involved in today as a staff member of the Naval Aerospace Medical Institute in Pensacola, FL.

I commend to all Americans a close consideration of the superb record of service that Dr. Mitchel has compiled over the last 45 years.

Prior to his entering the Navy as an ensign in 1944, Captain Mitchel received his bachelor and master of arts degrees in 1942 from the University of California at Berkeley.

In 1947 he received his doctor of medicine and his master of surgery degrees from McGill University in Montreal, and from there reported to U.S. Naval Hospital, San Diego, for his internship. He followed this with residency training in internal medicine at Naval Hospitals San Diego (1948–49) and Oakland (1950–52), and further graduate training at Walter Reed Army Medical Center in Washington (1952–53), Navy Diving School in Washington (1961), and London Heart Hospital in England (1962).

Doctor Mitchel was designated a naval flight surgeon in 1955. Upon designation, he reported to the research division of the School of Aviation Medicine at Pensacola, FL, where he served until 1958. Subsequently he

had two more tours at the laboratory, from 1960 to 1965 and again from 1969 to 1980. During these tours he was heavily involved in major research efforts in the "Thousand Aviators" project which was designed to track the careers and lives of 1,000 Naval aviators—both Navy and Marine pilots—over an extended period to assess the impact of such a career in both personal and professional terms; this study is now in its 50th year.

Dr. Mitchel was a prime researcher in the program assessing the health of repatriated Navy-Marine Corps prisoners in the Vietnam war; this program started in 1973, with a comparison group study initiated in 1976. During much of this period he was head of the medical sciences department of the Naval Aviation Medical Research Laboratory [NAMRL], a position he held from 1970 until he assumed command of the laboratory in August 1975.

Captain Mitchel retired from the Navy in 1980, but was immediately recalled to active duty in order to serve at the Naval Aerospace Medical Institute in Pensacola, FL, where he continues to serve today. There, among other projects, he continued his followup of the "Thousand Aviators" project, and of the POW repatriate and comparable groups; during this time he also became an original member of the medical team which worked with the American hostages who had been held in Iran.

During his career, Captain Mitchel has served extensively in overseas assignments: Kwajalein, the Marshall Islands 1949–1950; Naples, Italy 1953–54; U.S.S. *Shangri La* (CVA 38) 1958–1960; 1st Marine Aircraft Wing, Vietnam 1965–66; and at Naval Station, Rota, Spain 1966–68, where he commissioned Naval Hospital Rota in 1968 as its first commanding officer.

He is the recipient of many professional honors in the field of medicine: He was elected a Fellow of the Aerospace Medical Association in 1966; elected to the International Academy of Aviation and Space Medicine in 1971; elected to the International Academy of Astronautics in 1978; and elected a Fellow of the Royal Society of Medicine in England in 1985. In 1980 he received the Theodore C. Lyster Award of the Aerospace Medical Association "For outstanding Achievements in the General Field of Aerospace Medicine"; in 1982 he was elected an honorary member of NAM-POW, Inc., and the organization later installed a plaque in his honor in the naval aviation museum in 1986; and in 1989 he was elected an honorary member of the Pioneer and Early Naval Aviator's Association.

Dr. Mitchel is a member of the American Medical Association; the Aerospace Medical Association; the American Association for the Advancement of Science; the American Heart Association, in which he was president of the West Florida Chapter 1975–76 and again in 1977–78, and a member of the association's Florida affiliate board of directors; the Naval Aviation Museum Foundation, where he is on the board of trustees and also is chairman of the medical exhibit committee; the Association of Naval Aviation, where he sits on the first national board of trustees and also is the flight surgeon member of the local executive board of that organization; the Society of U.S. Naval Flight Surgeons; and the United States Naval Institute, where he is a life member.

He has written extensively on medical and aerospace issues, and is the author or coauthor of numerous published works. He also has made, and continues to make, many presentations on these matters to various groups all over the country.

He is married to the former Elizabeth Miller of Dalhousie, New Brunswick, Canada, and they have two children.

I know that we can all agree that this is the biographic profile of an outstanding American who has benefited our Nation and its citizens in numerous ways over some 45 years as a naval officer, medical doctor, flight surgeon, aerospace scientist, and humanitarian, and who even today continues his hectic schedule to the great benefit of his countrymen and the world.

Mr. Mitchel, we salute you.

SUPERCOMPUTERS AND SUPER BOMBS

Mr. GLENN. Mr. President, I have spoken many times about the threats facing the Nation and international peace from the global spread of nuclear weapons. Although it has recently become fashionable to campaign against the proliferation of chemical and biological weapons and missiles—a campaign that I support wholeheartedly—there is a danger that our preoccupation with such weapon systems might distract our attention from the still serious, and I am afraid growing, nuclear threats we face from abroad.

OUT OF SIGHT, OUT OF MIND

Many Americans believe that this threat has lessened over the years; after all, no additional nations have formally announced a nuclear detonation since India set off its so-called peaceful nuclear explosion back in May 1974. And a decade has passed since the occurrence of that "mystery flash" in the South Atlantic which many believe was a clandestine nuclear test. If proliferation could be defined merely by the detonation of a nuclear explosive, then history does suggest some progress in stopping the global spread of the bomb.

Unfortunately, proliferation also takes place through a more insidious route: nations can acquire both a weapons capability and a nuclear arsenal without having to take the step of actually exploding, or even assembling, one of these devices. Whenever proliferation occurs in specialized laboratories rather than at nuclear weapons testing sites, there will be the danger of complacency.

We have been hearing a lot from this administration lately about the importance of education to our country's future. Yet we have seen little to indicate that the administration is serious about its responsibility to educate the American people about nuclear proliferation—one of the gravest threats facing global security and our Nation's future. Anyone who has read the administration's most recent annual report to Congress, required by section 601 of the Nuclear Non-Proliferation Act—or for that matter, any of the earlier annual reports—surely understands what I am saying.

We would do well to recall the words of James Madison:

> A popular government without popular information or the means of acquiring it, is but a prologue to a farce, or a tragedy, or perhaps both.

Over the next few weeks, I will be making a series of brief statements about various specific challenges we face from the global spread of nuclear weapons. I do not intend just to scare people—but to stimulate some thinking and action. There is nothing to be gained from participating in a conspiracy of silence about the problem of nuclear proliferation.

SUPERCOMPUTERS AND BOMBS

Today, I will address the contributions that supercomputers make to the development of nuclear weapons and the need for tough export controls to ensure that such computers are not used for such purposes.

Almost 40 years ago, America and the Soviet Union detonated nuclear explosives based on the fusion of hydrogen isotopes. As devastating as the city-busting fission bombs were that detonated over Hiroshima and Nagasaki in 1945, the new H-bombs, or supers, were a hundred times more powerful.

Because the early supers and their ballistic missile delivery systems were designed without the benefit of today's modern supercomputers, some people have concluded that it is silly for us to restrict our exports of such computers. "We need the markets," we are told. "If we don't sell, we will just lose the business to our foreign competitors," others declare. "You don't need a supercomputer to build a super bomb or long-range missile," some assert.

Mr. President, I ask unanimous consent to insert into the RECORD at the end of my remarks an article that appeared in the New York Times on

August 20, 1989, which summarizes many of these claims.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. When you look closely at these arguments, however, they are not very convincing. Surely they do not suffice to justify rolling back existing export controls over sales of such devices to nations known to be actively developing nuclear explosives or long-range, nuclear-capable delivery systems.

First, sales of supercomputers are not going to reverse our trade imbalance, and even the most fervent believers in free trade admit to the need for some limits. Do we truly want a laissez-faire global market in the technology for building weapons of mass destruction? Most of the world market for such computers is found in advanced countries that have committed themselves not to acquire or promote the proliferation of nuclear weapons. I believe that it is neither in our economic nor our security interests to sell supercomputers to nations lacking impeccable nonproliferation credentials.

Second, it is worth noting that the United States presently faces very little foreign competition in the field of supercomputers—in fact, our only serious competitor, Japan, has shown little interest in marketing its supercomputers to nations engaged in activities associated with nuclear or missile proliferation. Of course this could change. If it does, however, it would be far wiser for us to negotiate some limits on this trade rather than simply try to out-export a foreign competitor in this sensitive area.

Third, it is a curious argument indeed to claim that because the superpowers acquired their supers without supercomputers, it is therefore bad policy to restrict the sale of such devices today. The question immediately arises: Whose word should we rely upon when it comes to determining the utility of supercomputers for making bombs? Who can speak with greater authority on this issue, our bureaucrats or our bomb designers? Surely nobody knows bombs like the scientists in our nuclear weapon labs know bombs. And I for one have considerable respect for the competence of these labs when it comes to their judgments about the relevance of supercomputers for advance nuclear designs.

VIEWS OF THE NUCLEAR WEAPON LABS

I would like to draw my colleagues attention to a useful, straightforward reference describing how supercomputers are used to develop or improve nuclear weapons.

In January 1986, America's three nuclear weapon labs—the Los Alamos National Lab, the Lawrence Livermore National Lab, and Sandia National Laboratories—published—under the auspices of the Department of Energy—an unclassified report called, "The Need for Supercomputers in Nuclear Weapons Design." The following extracts clearly identify the utility of supercomputers for the design and advancement of nuclear weapons.

Large-scale computers are essential to carrying out the weapons program mission. Computers provide essential understanding and enable us to simulate extremely complicated physical processes. * * * Computers enable us to evaluate performance and safety over the decades of a weapon system's lifetime. * * * Computers enable us to verify weapon designs within testing limits.

With large-scale computers, we have been able to improve our designs by optimizing design parameters, while reducing the number of costly experiments in the design process. * * * Tests involving high explosives have been reduced from 180 tests for a 1955-vintage weapon to fewer than 5 for today's weapons because of computation.

Computers enable us to extrapolate to new capabilities. * * * It is this computational capability, driven by the needs of the weapons design, that has made possible new concepts and enhanced safety in weapons.

The inability to calculate solutions to complex problems [during the years of the Manhattan Project] hampered development and forced weapons designers to build in large margins against error (e.g., large amounts of high explosives, which increased weight to such an extent that some designers were uncertain the devices could actually be carried by existing aircraft). * * * It has been estimated that a team of scientists using the calculators of the 1940's would take five years to solve what it takes a Cray computer one second to perform.

Without supercomputers, the nation's nuclear weapons program would be deprived of much of its vitality * * * supercomputing is essential * * * in providing us with a tool to simulate the complex processes going on during a nuclear explosion * * * computers enable us to infer real-environment weapon performance form underground nuclear tests.

The computer becomes absolutely essential in the evolution of a design that will survive the "fratricide" threat * * * the computer is essential in designing a system whose vulnerability to an ABM attack is reduced to an acceptable level.

Computers enable the designer to "test" ideas before actually committing to hardware fabrication * * * computing capabilities are absolutely critical to progress in new designs.

The report I have just quoted leaves no doubt whatsoever about the many contributions that supercomputers can make to a nuclear weapons program. Sure bombs can be made without them. But that is not the point—if supercomputers reduce the cost or expand the time required to acquire or perfect a nuclear weapon or a nuclear-capable missile, then they should be controlled. Although it is true that any nation can, with enough determination, probably acquire a nuclear weapon in the long run, we are under no obligation to make that objective any easier to achieve. That is why the Nuclear Non-Proliferation Act requires controls over "all export items * * * which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes," section 309c.

HOLDING TO OUR STANDARDS

It is useful to recall just how our system of export controls implements this section. Part 778.4 of the Code of Federal Regulations lists specific nonproliferation-related criteria to be met by exporters seeking validated licenses to export of nuclear-related commodities or technical data. The criteria include:

The importing country's status as a party to the treaty on the non-proliferation of nuclear weapons or the treaty for the prohibition of nuclear weapons in Latin America; whether the importing country has all its nuclear activities under International Atomic Energy Agency safeguards or equivalent full scope safeguards; whether there is an agreement for cooperation in the civil uses of atomic energy between the United States and the country concerned; the importing country's public statements and policies concerning nuclear developments and nonproliferation; the extent of cooperation in nonproliferation policy generally—indications such as willingness to consult on international nonproliferation issues; and intelligence data on the importing country's nuclear intentions and activities.

It seems to me that these are reasonable standards. I have nothing at all against exporting supercomputers to nations that can satisfy all of these standards, and there are many such nations. I recognize the importance of such computers for a wide variety of legitimate scientific and economic development ends.

But once we start watering down our standards to accomodate political or economic interests of the day, where will this process end? Will our nuclear-weapon-related technology some day become, as former NRC Commissioner, Victor Gilinsky once warned, "the modern day equivalent of glass beads and Indian blankets"? I, for one, hope that day never comes.

The world looks to the United States for leadership to stop the proliferation of nuclear weapons and missiles. Our ability to continue this leadership can only be weakened to the extent that we prove unable—or unwilling—to exercise the type of discipline that we expect of our trading partners. I hope that America's nuclear-related exports never put us through a national humiliation like West Germany experienced when its lax export control practices helped Libya to acquire a chemical weapons plant.

Our ability to avoid this fate can only improve to the extent that we have some informed discussion about the problem we face. I hope that my series of brief statements on nuclear

proliferation threats we face today, will help us to avoid either of James Madison's darkest fears of tomorrow: farce of tragedy.

EXHIBIT 1

[From the New York Times, Aug. 20, 1989]

U.S. DEBATES SELLING SUPERCOMPUTERS TO 3 NATIONS

(By John Markoff with Stephen Engelberg)

The Bush Administration is sharply divided over whether to permit the sales of American-built supercomputers to Brazil, India and Israel, Administration officials said.

The officials said several agencies, including the Pentagon, have objected to the proposed sales on the ground that the powerful computers could be used for designing missiles or nuclear weapons.

But officials in the Commerce Department, which has the ultimate authority to grant export licenses for computers, and the State Department favor approving the deals. Proponents of the sales argue that the computers would provide minimal assistance to a nuclear weapons program, and some contend that the United States risks losing its supremacy to Japanese competitors if it passes up potentially valuable export markets. Japan has just begun to offer commercial supercomputers for export, and is now the only other country to do so.

A decision on the export licenses is expected within weeks, and officials said it would set a significant precedent for future supercomputer exports.

The three nations have all assured the United States that the computers would be used only for civilian purposes, an assertion dismissed as impossible to verify by Administration officials who oppose the sale.

The officials said the cases confront the Bush Administration with a difficult political and technical question: whether it serves any useful purpose to bar American-built supercomputers from countries known to have begun covert programs to develop nuclear weapons.

SUPERCOMPUTERS MAKE TEST BLASTS UNNECESSARY

Supercomputers are not essential to designing an atomic weapon. Indeed, the calculations for the first American bomb were performed on adding machines, and the hydrogen bombs introduced in the 1950's relied on computers no more powerful than today's desktop models.

But all of those bombs were developed with the aid of extensive test explosions. Officials said a supercomputer can produce a mathematical model for a nuclear explosion or for a missile's trip toward a target, allowing a country like Israel, which has never acknowledged that it has a weapons program, to make significant improvements without actual explosions.

American officials think Israel has already produced a small arsenal of atomic weapons, and they suspect it is researching a hydrogen bomb.

India exploded an atomic bomb in 1974; officials said the nation has continued its research and may be taking steps toward developing a hydrogen bomb. Brazil has not tested a bomb but has done research on a variety of secret nuclear projects outside international inspection.

India, Brazil and Israel have all refused to sign the nuclear nonproliferation treaty, under which nations agree to international inspection of their nuclear programs to assure that radioactive material is not being used for weapons.

The applications to export supercomputers involve a Cray Research Inc. model for the Technion, a technical university in Israel: an International Business Machines Corporation computer for the University of Sao Paulo in Brazil, another I.B.M. computer for Embraer S.A., a concern largely owned by the Brazilian Government that makes aircraft, and a Cray machine for the Indian Institute of Technology in Bangalore.

Officials opposing the sales to Brazil and Israel said American intelligence had uncovered links between the foreign institutions and the secret weapons program of Brazil and Israel.

In Israel, Administration officials said the staff of Technion includes scientists who are also working on Israel's secret program to produce nuclear weapons, which is centered at a closely guarded installation in the city of Dimona. Technion's brochures disclose that it has "the first interdisciplinary center for space studies in Israel" with emphasis on rocket design, propulsion and remote-control guidance.

A BRAZILIAN INSTITUTE AND PLUTONIUM TESTS

Officials said concern about Brazil's applications center on the activities of the National Institute for Energy Research, which is at the University of Sao Paulo. The institute has experimented with the extraction of plutonium, a key ingredient for a bomb, and is building a 20-megawatt heavy water reactor to produce the radioactive substance, according to a report in Nucleonics Week, an industry newspaper.

Administration officials are questioning the second proposed Brazilian sale, to Embraer, because the company is 80 percent owned by the Brazilian Air Force and holds a share in Orbita, a company making ballistic missiles for export. Embraer says the computer is only for aircraft design.

The concerns about India are of a more general nature, officials said. Officials were said to be worried about the presence of as many as 10,000 Soviet technical experts in India.

Widespread international access to computer networks further clouds the issue. It is now possible to connect to a supercomputer in the United States and other countries from more than 70 countries around the world over commercial computer networks like Telenet and Tymnet, which are operated by the U.S. Sprint Communications Company and the McDonnell Douglas Corporation, respectively.

This access raises the possibility that a country could use supercomputers outside its borders for nuclear weapons research. Indeed, the leading supercomputer maker, Cray, has already sold 80 machines outside the United States and Canada. The other American manufacturer, I.B.M., is just entering the supercomputer market.

Also, it is now technically possible to harness large numbers of microprocessors, which are widely available and inexpensive, to do the work of one supercomputer for some applications.

OBJECTIONS RAISED BY FEDERAL AGENCY

Administration officials said several members of a committee of high level Federal agency staff members called the Special Nuclear Export Committee, had raised objections earlier this year to the proposed export licenses for Brazil and Israel.

In the panel's deliberations, Administration officials said the Pentagon and the Arms Control and Disarmament Agency, a Government agency that provides advice on strategic issues objected to the sales to Brazil and Israel on the ground that the computers could be used for developing missiles or nuclear weapons. The State Department and Commerce Department favored granting the license. The Department of Energy has been more flexible, approaching supercomputer exports on a case-by-case basis.

The matter was thus sent to a group of higher-level officials from various agencies called the Policy Coordinating Committee. It is headed by Reginald Bartholomew, who as Under Secretary of State for Security Assistance, Science and Technology is the State Department's senior official on issues of weapons proliferation. Officials said that the committee discussed the supercomputer issue last month without reaching a decision and that officials have only begun to draw up procedures for deciding such cases.

Administration officials said the Commerce Department could act unilaterally to permit the exports. In a related decision made last month, the department angered Pentagon officials when it moved to broaden the range of personal computers that can be sold to Soviet-bloc nations.

An Administration official termed the dispute over the sales "theological" and said the disagreement appears only to have sharpened.

"The policy issue is whether we should supply supercomputers at all to countries who haven't signed the non-proliferation treaty and who have secret nuclear weapons programs and also have ballistic missile programs," said Gary Milhollin, a professor at the University of Wisconsin Law School and an expert on the spread of nuclear weapons.

EXPERTS DISAGREE ON DEGREE OF BENEFIT

Nuclear weapons experts are also divided on how much benefit a nation trying to develop a nuclear weapon could gain from a supercomputer.

"I see no reason to restrict super-computer technology anywhere as far as the development of nuclear weapons is concerned," said Theodore B. Taylor, who has been a leading United States weapons designer. "The computer requirements for weapons design are really not excessive. My little Sanyo PC can do everything the computers at Los Alamos could do during the 1950's."

But other weapons experts argue that computing powers can make a difference in bomb design.

"They are absolutely essential for doing certain advanced things," said Paul S. Brown, a physicist and disarmament expert at Lawrence Livermore National Laboratories in Livermore, Calif. "It's possible to develop unsophisticated weapons with minimal computing power; however, if you're going to do more sophisticated designs, you need computer power. Exports ought to pose a concern."

In 1987, the United States permitted the export of a Cray supercomputer to a meteorological installation in India. Provisions have been agreed upon between the two nations for an inspection program to insure that the machine is used only for peaceful purposes. A Government official said a recent visit by an inspection team had found that the machine was not yet fully functioning. As a result, its use could not be fully determined at the time of the visit.

Cray Research officials refused comment on specific export license applications, but they acknowledged that the exports to

countries with secret nuclear weapons development programs raised significant security risks.

"It's a tradeoff," said John A. Rollwagen, chairman of Cray Research. "There are obviously some significant security risks involved in delivering supercomputer technology or other kinds of high technology to various countries in the world. The problem is that the technology can be used in lots of different ways, including national security. It can be used to develop useful products, and for valuable scientific research."

A. BARTLETT GIAMATTI

Mr. LIEBERMAN. Mr. President, I shared with many others across the country a sense of shock at the news that A. Bartlett Giamatti had passed away. Most Americans knew of him as Commissioner of Baseball. I was lucky to know him as a fellow student at Yale, and since then as a neighbor and friend in New Haven. His zest for scholarship, life, and, yes, baseball, were in full evidence all that time.

Through the years, my admiration and affection for Bart grew. A mutual friend, Jaroslav Pelikan, Sterling professor of history at Yale, spoke at Bart Giamatti's burial last month. His eulogy is full of eloquence, warmth, and insight.

Mr. President, to honor the memory of a truly great and civilized man, I ask unanimous consent that Professor Pelikan's remarks be printed in the RECORD.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

AT THE GRAVESIDE OF A. BARTLETT GIAMATTI, SEPTEMBER 6, 1989, JAROSLAV PELIKAN

Friends and fellow members of the extended family of Bart Giamatti, anyone who had read Dante's words of grief over Beatrice as carefully as Professor Giamatti had, already under the tutelage of another Professor Giamatti, had to be aware that all too often the good die young. But even that awareness has not prepared any of us for the necessity of having to meet here today, at the very time when right across the street the members of the Class of 1993, who were entering second grade when he became President, are attending their opening day of classes in Yale College. I knew him as a scholar, having read every book and article in print as well as various drafts and manuscripts, and as a teacher, having taught a joint seminar on "Dante and Aquinas" with him in the Fall term of 1979, his second year in office. Thus I should be in a position to say something about him (quoting your request) "as scholar, teacher, and friend."

In darker moments he and I used to wonder whether there were not two mutually exclusive groups of scholars: those with high technical skill and those with flair. But the quality of Yale is predicated on the daring assumption that we can find, at any given moment, a critical mass who manage to be both. He, for one, did manage to be both. When the news came on Friday afternoon, I prayed the *Requiem* for him (in Latin, as he would have wanted) and then took down the copies of all the books that he had so lovingly inscribed to me. There again was evidence of the technical equipment he brought to his close reading—linguistic, literary, philological, historical, and, yes, theological (he did, after all, write his dissertation about Paradise). But always, even in that dissertation, the philology was illumined by the spark of imagination: comparison and contrast, analogy and "the anxiety of influence." Therefore each discipline he touched as a scholar in Comparative Literature benefited from his intuitions, as I have reason to know.

But it was that same combination of qualities that made him such a magical teacher. I can remember, wistfully, the zest with which he used to come to our seminar after a day in Woodbridge Hall: "This," he would sigh, "is what that is really all about!" It is not surprising that the announcement of an undergraduate seminar by President Giamatti and a colleague evoked lively interest—and many applications. As we sifted these, he wanted to be sure that we did not restrict ourselves to students who could learn just as much on their own; and so we spread our acceptances over all three eligible classes, over various majors also beyond the Humanities, over those with such scintillating essays that we couldn't conceivably turn them down and those who obviously had a long way to go. In handling the seminar, too, he would ask me about someone who had not been speaking up, and we found ways to tease out comments and questions from even the most taciturn. After reading each batch of papers, I would bring them to him; always he would probe beneath and beyond the written work to the mind and the person that had produced it. All over the country this week members of that seminar are lighting candles in memory of a teacher who was Aristotelian in his attention to detail, Platonic in his concern for the One and the All, but Socratic in his pedagogical method and pastoral concern for the individual.

And he was my friend and brother. Repeatedly we found ourselves, without having to consult about it, standing for the same values and espousing the same traditions. Ever since our seminar, I have been working on Dante as theologian, and my little book on that subject will come out next year. I planned to give him the first copy, and therefore had not told him that I was dedicating it:

To Angelo Bartlett Giamatti—my favorite Dantista, and now impresario of tutto d'Angelici ludi (Par.XXVIII.126), the words of the Paradiso in which Dante describes how the Blessed Virgin Mary smiles at "all the games of the angeli [and of Angelo]"—including Gene Autry's California Angeli but all the other teams as well. Well, now Angelo is learning about all the games of all the angeli at first hand.

BILL LOPER, CONGRESSIONAL FELLOW

Mr. WARNER. Mr. President, I have been most fortunate since last December to have had Lt. Comdr. William B. Loper, U.S. Army, an American Political Science Association Congressional Fellow, serve on my staff. He has made significant contributions during his time with us and is now about to leave for a new assignment. Because of his dedication, intellect, and commitment, I wanted to take a few moments to commend him and express my appreciation for his service and dedication.

As a professional officer, Bill brought a broad perspective to the Senate on a wide variety of issues, both in the defense of foreign affairs arena. As such, he was able to make an immediate contribution to the ongoing legislative work.

Soon after he arrived, I sent him to the U.S.S.R. following the devastating earthquake in Armenia as my personal representative to help effect the humanitarian evacuation of 37 seriously injured children and their guardians in what was the first American military airlift of Soviet citizens since World War II. He performed magnificently displaying consummate organizational ability, flexibility, and genuine concern for his fellow man while dealing with the Soviet Government and American humanitarian organizations as well as American military personnel in Turkey, Germany, and the Soviet Union, and the United States Foreign Service.

Later, he played a major role in crafting and assuring passage of amendments to the Defense authorization bill which will bring the Department of Defense to the forefront of environmental policy development and implementation. His efforts will allow continued research in the use of degradable plastic in military ration packaging and foster renewed effort in the areas of recycling of military waste and the use of degradable plastic products within the Department of Defense.

Further, Bill has played an important role in a host of veterans' issues. His sensitivity, along with a keen appreciation for the consequences of these issues, contributed in a meaningful way to bettering the situation for the American veteran. His experience provided a solid basis from which to take positive action. He coordinated and brought to fruition an agreement between the United States Marine Corps and the Vietnam Veterans Memorial Fund by which 10 additional panels will be purchased by the fund and stored by the Marine Corps at one of their bases against the possibility of damage to the panels currently comprising the memorial.

A polished officer and gentleman, Bill occupied a unique position in that he served concurrently as the Army's senior social aide at the White House. Working simultaneously in both the legislative and executive branches of Government allowed him to bring an added dimension to my staff.

Highly motivated, Bill quickly became an integral and invaluable member of my staff. He expresses himself very well both in written and verbal communication, and is a consistent source of reliable and well-conceived advice. Of particular note is an

innate capability to get to the heart of a matter and ferret out the salient factors. This not only made for more efficient staff work, but also resulted in far more effective problem resolution.

His recommendations were always well-founded and reflected a genuine intellectual maturity. He is highly respected by all with whom he has been associated. His accomplishments are indicative of a persevering and authentic dedication, both to duty and our Nation. I very much appreciate the many contributions he made while a part of my staff. His departure will leave a void that will be difficult to fill.

As Colonel Loper moves on to other duties, I would like to once again express my sincere appreciation to him for his outstanding service and support, and wish him the very best in all his future endeavors.

CATASTROPHIC HEALTH INSURANCE ACT

Mr. DASCHLE. Mr. President, as the date for a House-Senate conference Catastrophic Health Insurance Act approaches and Congress prepares to make major decisions on whether to dramatically restructure or repeal this year-old expansion in the Medicare Program, lawmakers should consider new costs that the elderly may incur if catastrophic coverage is reduced or eliminated.

Recently released data from the Blue Cross and Blue Shield Association send us a loud signal that repeal of this law has hidden costs associated with it that may affect millions of seniors. While some seniors will save money in reduced supplemental premiums, many other Medicare beneficiaries will spend far more money in increased Medigap premiums if this law is repealed.

Blue Cross and Blue Shield should know—their system has 73 different plans, each with their own Medigap product. A Blue Cross and Blue Shield Association analysis of data gathered from their plans reveals that repeal of the Catastrophic Health Insurance Act will cause an average increase in Blue Cross Medigap policies of 24 to 29 percent. If the Catastrophic Health Act is not tampered with at all, Blue Cross Medigap plans would increase by about one-third of that rate. While it is not possible to precisely estimate the number of elderly who would face higher payments, we do know that 25 to 33 million Medicare recipients carry some form of supplemental insurance. These seniors may face significant new costs for private insurance.

Before Congress beats a hasty retreat on this carefully crafted legislation, all of these costs should be considered.

I ask that the full text of the letter Blue Cross and Blue Shield Association sent to Representative STARK be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BLUE CROSS AND
BLUE SHIELD ASSOCIATION,
Washington, DC, October 25, 1989.

Hon. FORTNEY (PETE) STARK,
Chairman, House Ways and Means, Health Subcommittee, Washington, DC.

DEAR CONGRESSMAN STARK: As you requested, I am enclosing data on the projected impact of repeal of Medicare Catastrophic legislation on some sample Blue Cross and Blue Shield Medigap monthly premiums in 1990.

There are many factors that go into rate adjustments. One factor is when the last rate increase went into effect. Several of our Plans have not had any rate adjustments in a few years, with the result that some of them are paying out more in benefits each year than the amount collected in premiums from policyholders. Other factors include the general increases in health care costs and overall utilization by Medicare beneficiaries.

The Blue Cross and Blue Shield system has 73 plans, each with their own Medigap products. Rate changes for each of these products vary depending on the unique situation of each product: its benefits, enrollment, cost trends, and prior rate adequacy.

I would like to emphasize that these sample data reflect estimates of the effect of repeal of the Medicare Catastrophic legislation. In most instances, these premium rates have not yet been filed with the appropriate State Insurance Commissioner. Generally, our Plans have to get prior approval of Medigap rate increases.

Our Blue Cross and Blue Shield Association actuaries estimate a typical Medigap product that covers the Medicare part A deductible and part B coinsurance amounts cost about $50–55 per month in 1989. They estimate the 1990 premium under current law would increase by 8–10 percent. Repeal of Medicare Catastrophic legislation would result in an additional premium increase of 15–17 percent. This is an estimate based on national data and may not be an accurate indicator of the premium increase for any particular Blue Cross and Blue Shield Medigap policy. The estimate also excludes the need of many of our Plans to make up for prior premium inadequacies on their Medigap products.

Please let me know if you need additional information.

Sincerely,

MARY NELL LEHNHARD,
Vice President.

TRIBUTE TO GRETCHEN THOMSON BYRD, WIFE OF FORMER U.S. SENATOR HARRY BYRD

Mr. THURMOND. Mr. President, it is with great sadness that I rise today to mark the passing of Mrs. Gretchen Thomson Byrd, one of the loveliest Senate ladies I have ever had the privilege to know during my tenure here in the U.S. Senate. Mrs. Byrd, wife of my good friend and former colleague Senator Harry F. Byrd, Jr., died last Thursday, October 26, after a year long battle with cancer. She will be forever remembered as a kind, supportive and loyal friend, and her death represents a personal loss to me and my family.

Mrs. Byrd, a native of New Orleans, LA, graduated from the Washington National Cathedral School and then returned to her hometown to attend Tulane University. While in New Orleans, she made her debut, served as a member of the Mardi Gras Court, and was generally considered to be one of the great beauties of that city. In 1937, Mrs. Byrd won the title of Shenandoah apple blossom queen, a tradition she carried on for many years by hosting 20 of the next 62 apple blossom queens at her home in Winchester, VA.

One year after the death of her father in 1938, Mrs. Byrd and her family moved to Winchester, VA—the State that her future husband would represent in the U.S. Senate for 18 years. Senator and Mrs. Byrd were married on August 9, 1941, in Winchester, VA.

Mrs. Byrd's dedication to helping others was widely acknowledged and praised by her many friends and admirers. For almost 25 years, she regularly attended the weekly meeting of Senate wives to perform volunteer work for the American Red Cross.

In her brave fight against cancer, Mrs. Byrd was an inspiration to all those around her, never letting her spirits sag and always cheering others with her wonderful sense of humor. As a friend, Mrs. Byrd was understanding and deeply compassionate. I can recall several times when her caring and concern were there for so many others.

My wife Nancy joins me in extending our most sincere condolences to Senator Byrd and to the rest of their fine family; their two sons, Harry F. Byrd III and Thomas Thomson Byrd; their daughter, Beverly Byrd; Mrs. Byrd's brother, James M. Thomson; and the Byrd's nine grandchildren.

Mr. President, I ask unanimous consent that the following article from the Winchester Star be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Winchester Star, Oct. 27, 1989]

GRETCHEN BYRD, 71, WIFE OF SENATOR, LOSES CANCER FIGHT

Gretchen Thomson Byrd, 71 wife of former U.S. Sen. Harry F. Byrd Jr., died Thursday afternoon in Winchester Medical Center.

Mrs. Byrd's death ended a nearly yearlong fight with cancer. She underwent surgery in December 1988 and radiation treatments this past summer.

Despite her pain, she maintained her sense of humor and "never once complained," Sen Byrd said.

Mrs. Byrd was born in New Orleans, the daughter of Gretchen Bigelow and Paul J. Thomson.

She was a graduate of National Cathedral School in Washington D.C., where she was

vice president of her class, and attended Tulane University in New Orleans.

She made her debut in New Orleans, was in the Mardi Gras Court, and was the Shenadoah Apple Blossom Queen in 1937. The New Orleans newspaper called her "a noted beauty" and reported that when actor Cary Grant came to New Orleans, "he spent much time with Gretchen Thomson."

She and her mother and brothers moved to Winchester in 1939 after the death of her father the previous year.

Gretchen Tomson and Harry Flood Byrd Jr. were married in Christ Episcopal Church, Winchester, on Aug. 9, 1941.

During the war years she remained in Winchester while her husband was on naval duty in the Pacific.

When Byrd was elected to the Virginia Senate in 1947, she divided her time between the three children in Winchester and her husband in Richmond.

When her husband went to the U.S. Senate in 1965, she spent most of her time with him in Washington, where they had an apartment. But she kept their home open in Winchester and was hostess to 20 of the 62 Apple Blossom queens.

During Byrd's 36 years in public office, Mrs. Byrd entertained a president of the United States, senators, and governors in her home on Tennyson Avenue.

She was an avid reader, and needlepoint was her favorite hobby. For nearly a quarter of a century Mrs. Byrd attended regularly the weekly meeting of a group of Senate wives doing volunteer work for the American Red Cross. This regular attendance continued until her cancer surgery last December.

Although married to a politician, Mrs. Byrd had little enthusiasm for politics. But Sen. Byrd valued her judgment and said many times that she was a great help to him, especially her "uncanny ability to size up other politicians and tell me which could be trusted and which needed a watchful eye."

Surviving, besides her husband, are two sons, Harry F. Byrd III and Thomas Thomson Byrd, both of Clarke County; a daughter Beverley, of London, England; brother, James M. Thomson of Richmond; and nine grandchildren.

A graveside service will be at noon Saturday in Mount Hebron Cemetery, Winchester, with the Rev. David Knight, rector of Christ Episcopal Church, officiating.

Memorials may be made to Henry & William Evans Children's Home, 330 E. Leicester St., Winchester, or to the Winchester Chapter, American Cancer Society, 1804 Valley Ave., Winchester 22601.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise today to inform my colleagues that today marks the 1,689th day that Terry Anderson has been held in captivity in Beirut.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business closed.

RECESS UNTIL 2:15 P.M.

Mr. DIXON. Mr. President, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, at 12:53 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

RECESS

The PRESIDING OFFICER. Without objection, the Senate will stand in recess until 2:45 p.m.

There being no objection, the Senate, at 2:15 p.m., recessed until 2:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent to be able to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

PRESIDENT BUSH IS SEEKING TO EXERCISE A LINE-ITEM VETO

Mr. KENNEDY. Mr. President, according to news reports in the past week, President Bush is seeking an opportunity to exercise a line-item veto, without waiting for Congress to give him the power to do so. In my view, the assertion of such a power would be flatly unconstitutional.

I urge the President to reconsider this reckless course of action and show a proper respect for the Constitution.

I support appropriate legislation to give the President the line-item veto power, and I have voted for it in the past.

But proposals to give this power to the President are highly controversial in Congress, and unlikely to reach the President's desk soon. The President's impatience is no excuse for resorting to extraconstitutional means to claim the power.

Hopefully, the recent press accounts are nothing more than trial balloons that will quickly disappear. If the President is giving them serious consideration, Congress must legitimately wonder about the quality of constitutional advice the President is receiving from the Department of Justice.

As constitutional questions go, this issue could not be clearer. There is no line-item veto power in the Constitution. No President has had the presumption to claim it in 200 years. And President Bush does not have it now.

In general, when a bill approved by Congress is presented to the President, he has three choices—he can sign it, permit it to become law without his signature, or return it to Congress with his veto.

In all of these exercises of his Presidential power over legislation, however, the President must treat the bill as a whole. He cannot pick and choose among its provisions. He cannot accept those he supports and veto those he disapproves.

For President Bush to assert the line-item veto power on his own would be to flout the Constitution and the unbroken practice of every President before him—and President Bush should not do so, if he intends to be faithful to the oath of office he took when he was inaugurated.

This is not just my view. I believe that it is widely shared by scholars across the philosophical spectrum. At my request, two distinguished professors of constitutional law, Laurence H. Tribe of Harvard Law School and Philip B. Kurland of the University of Chicago Law School, have provided a letter setting forth their detailed views on the line-item veto. These two highly respected authorities—who have broadly differing views on many matters of constitutional interpretation—agree unequivocally that any attempt by the President to exercise a line-item veto "would clearly be unconstitutional."

I hope that President Bush will reconsider the course of action on which he seems to have embarked. The small band of conservative extremists—egged on by the Wall Street Journal editorial board—who are urging President Bush to take this action are insulting the Constitution and leading the President into a needless and senseless confrontation with both the Constitution and the Congress.

I ask unanimous consent that the full text of the letter from Professor Tribe and Professor Kurland may be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

October 31, 1989.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: We write in response to your request for our views regarding whether it would be constitutional for the President to attempt to veto a portion of a bill passed by Congress, while permitting the remainder of the bill to become law. We believe that any attempt to exercise such a "line-item veto" would clearly be unconstitutional.

The language of the Constitution itself limits the President's veto power only to entire bills and other measures passed by both the Senate and the House of Repre-

sentatives. Article I, section 7, clause 2 provides:

"Every Bill which shall have passed the House of Representatives and the Senate shall, before it becomes a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall . . . proceed to reconsider it. If after such Reconsideration two-thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a Law. . . . If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be law."

And article I, section 7, clause 3 provides:

"Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill."

It has been suggested that the latter provision supports the existence of a presidential line-item veto. See, e.g., Glazier, Reagan Already Has Line-Item Veto, Wall Street Journal, Dec. 4, 1987, at A14, col. 4. According to James Madison's notes from the Constitutional Convention, this provision was added to ensure that Congress did not evade the President's veto authority by congressional acts "under the form and name of Resolutions, votes &c." *Notes of Debates in the Federal Convention of 1787 Reported by James Madison*, 465 (Ohio Univ. Press ed. 1984).

By its terms, however, the clause requires the President to exercise his veto power by returning the entire "Order, Resolution or Vote" to the Congress. The Constitution thus contemplates that a President may do one of three things when presented with a bill or other measure that has passed the House and Senate: sign the bill, return "it" (i.e., the entire measure), or permit the bill to become law without presidential signature. No provision is made for vetoing a portion of a bill or other measure, as opposed to the whole.

This commonsense reading of the constitutional text is supported by the absence of any evidence that the Framers contemplated that the Constitution would permit a line-item veto. See Fisher, The Presidential Veto: Constitutional Development, in *Pork Barrels and Principles: The Politics of the Presidential Veto*, 17-19 (1988). There is ample reason to believe, however, that the Framers understood that appropriations bills enacted by the Congress would address more than a single subject. In this regard, the practices of the First Congress are instructive. See *Marsh v. Chambers*, 463 U.S. 783, 790 (1983). In 1789, "[t]he first appropriations bill passed by Congress was omnibus," Fisher, *supra* at 22; yet the concept of a presidential line-item veto did not surface in U.S. law until the Civil War-era. Id. at 19.

In any event, presidential line-item veto authority would require far more than a federal constitutional rule against omnibus bills, or bills combining unrelated matters. For such a rule would at most tell the President that he should veto a "bill" in its entirety on constitutional grounds upon concluding that it covers too disparate a set of subjects. Pruning such a bill represents an altogether different exercise of power—power inherently legislative in character.

Moreover, since the Constitution was ratified, the Executive Branch has consistently manifested belief in the view that the President lacks line-item veto authority. More than one dozen Presidents since Ulysses S. Grant have sought constitutional amendments granting such authority; and no President has attempted to exercise a line-item veto. All have shared the view that such lawmaking power is beyond the reach of the Executive Branch.

Our conclusion is also buttressed by the aftermath of the Reagan Administration's instructions to federal agencies not to comply with certain provisions of the Competition in Contracting Act of 1984, Pub. L. No. 98-369, because President Reagan believed the provisions were unconstitutional. The provisions in question were later upheld by the United States Court of Appeals for the Ninth Circuit. The court's discussion of the Administration's actions in directing federal agencies not to comply with certain provisions of the Act is instructive.

"Art. I, sec. 7 does not empower a President to revise a bill, either before or after signing. *It does not empower the President to employ a so-called 'line item veto' and excise or sever provisions of a bill with which he disagrees.* The only constitutionally prescribed means for the President to effectuate his objections to a bill is to veto it and to state those objections upon returning the bill to Congress. *The 'line item veto' does not exist in the federal Constitution*, and the executive branch cannot bring a de facto 'line item veto' into existence by promulgating orders to suspend parts of statutes which the President has signed into law." *Lear Siegler, Inc., Energy Products Div. v. Lehman*, 842 F.2d 1102, 1124 (9th Cir.), *rehearing granted*, 863 F.2d 683 (1988) *decision withdrawn on other grounds*, No. 87-5670 (9th Cir. July 17, 1989) (emphasis added).

In sum, we believe that the President lacks the constitutional authority to exercise a line-item veto.

Sincerely,

LAURENCE H. TRIBE,
Tyler Professor of Constitutional Law, Harvard Law School.
PHILIP B. KURLAND,
William R. Kenan, Distinguished Service Professor, University of Chicago.

Mr. KENNEDY. Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, as I indicated earlier, it was my intention to seek unanimous consent to proceed to a clean debt limit extension bill without amendments to be offered to it. I am advised by the distinguished Republican leader that he is unable to give that consent. I merely want to confirm that at this time, and I will accordingly ask unanimous consent that there be a period for morning business until 3:30 p.m. with Senators permitted to speak for up to 5 minutes, and that at 3:30 p.m. the Senate begin consideration of the State, Justice, Commerce appropriations conference report, H.R. 2991.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Then I simply invite the distinguished Republican leader to confirm that he is unable to give that consent.

Mr. DOLE. Mr. President, the majority leader is correct. I am not in position at this time to indicate there will not be amendments on this side. As I said before, it is always the hope of the chairman of the Finance Committee and the leader when the debt ceiling extension comes up not to have amendments. I have been on both sides of that issue. As chairman of the Finance Committee, I used to plead with my colleagues to keep it clean, most of the time without success.

In any event, I do not have the request of the majority leader, and it was raised in our conference. I did have some indication people would not back off, but I think it depends on what you might finally put together as far as the other items in that package are concerned.

Mr. MITCHELL. I thank the distinguished Republican leader for his comments.

Accordingly, Mr. President, in view of the fact he made clear he would object, I see no necessity of going through the futile effort to propound the request. I accept his comment as objection, and we will proceed to State, Justice, Commerce, and I understand that the distinguished Republican leader will be having further discussions today, and we will be discussing it at a later time this afternoon.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

NOMINATION OF CLARENCE THOMAS TO BE A JUDGE OF THE U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

Mr. DANFORTH. Mr. President, it is with enormous personal pride that I note that today the President has nominated Clarence Thomas, the Chairman of the EEOC, as a member of the U.S. Court of Appeals for the District of Columbia.

I have known Clarence Thomas since he was a third-year student at Yale Law School back in 1974. I was at the law school at that time interviewing students for possible employment. I was very impressed with Clarence Thomas and with his résumé. I hired him to become an assistant attorney general for the State of Missouri when I was State attorney general.

Clarence Thomas came to Jefferson City, worked with me in the attorney general's office, handled a large amount of litigation in that office, particularly representing the State's department of revenue. And he did an excellent job as an attorney in our office.

After several years in the attorney general's office, he went to work for Monsanto, headquartered in St. Louis, in their legal department, and then some time after I came to the Senate, I asked Clarence Thomas if he would come to Washington and work in my office as a legislative assistant. He did.

Then in 1981 when President Reagan took office, Clarence became an Assistant Secretary of Education for Civil Rights, and then he became the Chairman of the Equal Employment Opportunity Commission.

The background of Clarence Thomas is very interesting, Mr. President. He was raised in rural Georgia, first by his mother; he was raised in a house without indoor plumbing. He then went to live with his grandparents, his maternal grandparents. They put him through the Catholic schools in Savannah, GA, and then sent him to a Benedictine monastery in northwest Missouri where he was a seminarian and then deciding that that was not the vocation for him, he went to college at Holy Cross. He graduated with honors, and from there he went to Yale Law School.

I have worked with Clarence Thomas, as I have said, in two different capacities: One in the attorney general's office, and the other in my office here in Washington.

I know him to be an absolutely first-rate lawyer, and beyond that, I know him to be a first-rate human being.

Despite all this, Mr. President, I am concerned about what I fear might happen to my friend Clarence Thomas when he comes before the Senate Judiciary Committee in his confirmation hearings. Clarence Thomas has one thing that is going against him, and that is he is a black lawyer of fairly conservative political and judicial philosophy. He is an intellectual disciple of Thomas Sowell, the conservative black economist.

My concern is that those interest groups that did a job on William Lucas in the Senate Judiciary Committee are going to be mobilized again to do a job on Clarence Thomas, and that when the effort is made to defeat somebody, absolutely no holds are barred and anything goes in an effort to destroy a person who is a nominee with whom you disagree. Obviously, the D.C. Court of Appeals is a very high court. Most people would call it the second highest court in the United States. For that reason, this nomination has drawn a great deal of attention.

Maybe people want to attack Clarence Thomas because of his philosophy. But I hope that people would not attack Clarence Thomas because of some stereotype of what they think a black lawyer should believe. I hope there would not be a kind of a litmus test applied to him which says that you have to think the way we believe you should think or you are not qualified for this job. I hope that those who would attack Clarence Thomas on the basis of his judicial philosophy or his political philosophy would hold it at a philosophical attack and not do the kind of full-scale personal attack that has sometimes characterized other nominees who have come before the United States.

Mr. President, if anybody wants to know about Clarence Thomas, ask the Senator from Missouri. If anybody wants to know about his legal talents, ask me. If anybody wants to know about his character, please ask me about his character. If anyone has any doubts whatever about this fine human being, please discuss with me any concerns that you have. I have known him for 15 years. I have worked with him for a good part of that 15 years. I consider him to be not only my colleague but also my friend.

I want to inform the Senate that I am available to discuss this matter with anybody at any time; that I have the highest regard for Clarence Thomas; that I believe that he is an excellent nominee for the U.S. Court of Appeals for the District of Columbia.

My hope is that he will be confirmed by the Senate with a wide margin of support and with little or no opposition at all.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SHELBY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the call for the regular order not displace the pending State, Justice, Commerce conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their patience—the managers; the chairman and ranking member of the Appropriations Subcommittee; and the chairman of the Foreign Relations Committee. I believe the Senate is now prepared to proceed to this matter.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1990—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 2991, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 20, 1989.)

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, we never present, at least I as chairman, the conference report on the Commerce, Justice, State, the Judiciary Appropriation Act without a deep feeling of gratitude and admiration for the way my ranking member and former chairman, the Senator from New Hampshire [Mr. RUDMAN] works, leads, and assists. He has been a tremendous help in this and in getting this product out which we are extremely proud of, because we have been working on it all year long. We were sidetracked momentarily with respect to a special amendment relative to drugs.

Mr. President, we had the formal conference on October 19 after several days of intense negotiations with the House managers to work out the 192 Senate amendments to the bill. That is an unusual number of amendments but it is getting to be the rule with this bill. As the Senators will recall, our House colleagues only appropriated for authorized programs and sent us a skinny 20-page bill. When we got to conference they were not so punctilious and gave us their full agenda.

As I indicated the distinguished ranking minority member and former chairman, the junior Senator from New Hampshire [Mr. RUDMAN] was with me in all our meetings and we

stood shoulder to shoulder to achieve as many of the Senate's objectives as possible.

Mr. President, when the Senate approved H.R. 2991 on September 29, the total new budget authority in the bill was $17,419,689,000. Due to the House's original bill not including unauthorized programs, the Senate amount was $11,618,288,000 over what the House approved.

Subsequent to Senate passage of H.R. 2991, the Committee on Appropriations modified the 302(b) allocation for this bill by decreasing the budget authority by $300,000,000 and the outlays by $80,000,000. In addition, the action on the Transportation Appropriations Act—which added my amendment of $1,916,940,000 to the Department of Justice, the Judiciary, and the State Justice Institute to carry out the war on drugs—also required an additional $56,000,000 outlay reduction to this bill. That was a total of $136,000,000 that the Senate version of H.R. 2991 had to be reduced so that the conference agreement provides a total of $17,248,903,000, or $170,786,000 less than the amount approved by the Senate.

I think it is important to get these fundamental figures in so the amounts are known. But I hasten to add the first thing we established in conference was that there would be no erosion in the war on drugs.

WAR ON DRUGS

When we add the moneys in the drug amendment to the amounts in this bill for those same agencies, we have provided the following major programs in our commitment to save a generation from the deadly effect of drug abuses.

FEDERAL PRISON SYSTEM—BUILDINGS AND FACILITIES

The total for new prison construction is $1,401,332,000. These moneys will provide for 24,000 new prison beds through the construction of 7 complexes (maximum, medium, minimum); 3 medium security prisons; 4 detention centers; 2 military acquisitions; the lease/purchase of 1 medium prison; the expansion of Oakdale II; and expansion of existing prisons.

FEDERAL PRISON SYSTEM—SALARIES AND EXPENSES

The total provided for staffing Federal prisons is $1,152,554,000—an increase of $199,542,000 over last year. This will allow for the activation of one new prison (Three Rivers, TX); the activation of six housing units (Milan, MI, Bastrop, TX, Lewisburg, PA, Sandstone, MN, Rochester, MN, Memphis, TN); the acquisition of five prison camps; and the acceleration of prison activations.

DRUG ENFORCEMENT ADMINISTRATION

The total for the DEA is $556,481,000—an increase of $77,301,000 which is the same as the President's request. These moneys will privide for additional State and local drug task forces; a new intelligence computer for the El Paso Intelligence Center [EPIC]; the continued cleanup of clandestine laboratories; and additional staff, including 164 agents.

FEDERAL BUREAU OF INVESTIGATION

The total of $1,550,385,000 is available for the FBI which is an increase of $97,045,000 above base and the same as the President's request. These moneys will provide 224 new FBI agents; $15,000,000 for construction of Pod B of the Engineering Research Facility at Quantico, VA; increased investigations of financial institution fraud cases; and expanded narcotics and violent crime investigations.

ORGANIZED CRIME DRUG ENFORCEMENT [OCDE]

The total of $214,361,000 is available for this new account created in the 1988 drug bill whereby all agencies involved in drug law enforcement have transferred moneys (FBI, DEA, U.S. attorneys, U.S. marshals, Immigration and Naturalization Service, Customs, ATF, and Coast Guard).

STATE AND LOCAL LAW ENFORCEMENT GRANTS

A total of $45,000,000—an increase of $300,000,000 over last year. Plus, the conferees agreed to the Senate language to continue through 1990 the current 75/25 percent Federal/State match.

EQUITABLE SHARING, ASSETS FORFEITURE LAW

The conference agreement postpones enactment of section 6077 of the 1988 Anti-Drug Abuse Act until October 1, 1990. This 2-year delay will provide the authorizing committees ample time to work out a resolution which permanently protects the equitable sharing program so vital to our Federal, State, and local law enforcement efforts in the war on drugs.

THE JUDICIARY

For the Judiciary, a total of $1,730,115,000 is provided. This represents an increase of $273,842,000 over fiscal year 1989. Within this increase, an additional $224,000,000 is provided the drug-related accounts of the Judiciary (Courts of Appeals, District Courts, and other Judicial Services; Defender Services; Fees of Jurors and Commissioners; and Court Security).

I ask unanimous consent that the following table which identifies the total amount available for the agencies within this bill fighting the war on drugs; be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1990 FUNDING—DRUG-RELATED AGENCIES

[In millions of dollars]

	Fiscal year 1990 budget request	Appropriations		
		Conference, H.R. 2991	Title IV, H.R. 3015	Total available
Department of Justice:				
General Administration	101	87	10	97
General legal activities	304	258	41	299
U.S. attorneys	526	445	81	526
U.S. marshals	241	217	24	241
Support of U.S. prisoners	160	137	23	160
Fees and expenses of witnesses	57	57	.....	57
Assets forfeiture fund	100	75	25	100
Organized crime drug enforcement	215	169	46	215
Federal Bureau of Investigation	1,550	1,453	97	1,550
Drug Enforcement Administration	556	492	64	556
Immigration and Naturalization Service	891	878	17	895
Federal Prison System:				
Salaries and expenses	1,153	1,098	55	1,153
National Institute of Corrections	10	10	.....	10
Buildings and facilities	1,401	401	1,000	1,401
Office of Justice Programs	446	330	309	639
Subtotal	7,711	6,107	1,792	7,899
Judiciary:				
Courts of appeals, district courts and other services	1,350	1,288	60	1,348
Defender services	128	87	41	128
Fees of jurors	59	55	4	59
Court security	58	43	15	58
Subtotal	1,595	1,473	120	1,593
State Justice Institute: Salaries and expenses	15	8	4	12
Grand total	9,321	7,588	1,916	9,504

COMPETITIVENESS AND TECHNOLOGY

Mr. HOLLINGS. Mr. President, drugs are certainly our No. 1 priority, but in the conference we did not lose sight of our other national priorities. Last year we enacted the Trade and Competitiveness Act and in this bill we have provided for expansion of trade and competitiveness activities. For example:

We establish the National Trade Data Bank at the Bureau of Census with $425,000.

The $6 million increase of the U.S. Foreign and Commercial Service is provided.

The support is maintained at $3,360,000 for the Tailored Clothing Technology Corp., to keep our apparel industry competitive.

The $7,500,000 funding level is maintained for the Regional Centers for Transfer of Manufacturing Technology; as well as $10 million to initiate the new Advanced Technology Program, and $1,300,000 for the Technology Transfer Program of the National Institute of Standards and Technology.

The sum of $750,000 to establish the joint Legislative/Executive Competitiveness Policy Council created in the Trade Act.

We provide the full budget of the U.S. Trade Representative plus an additional $1,170,000 for the USTR's additional workload in implementing the Trade Act, the Canada Free-Trade Agreement, as well as the Uruguay

round of multilateral trade negotiations.

Mr. President, those are the major themes of the conference agreement. This bill covers 3 departments, the Judiciary, and 27 related agencies are funded by 125 appropriation line items that cover many other vital responsibilities of the agencies and I will take a few minutes to highlight the balance of the agreement.

DEPARTMENT OF COMMERCE

For the Department of Commerce we recommend $3,527,024,000, an increase of $368,610,000 over 1989 which is primarily due to the $1,244,544,000 provided for the decennial census next April. Incidentally, that is the big pressure to get this bill going because by April of next year we have to recruit, hire, and train 350,000 enumerators and other temporary personnel to take the census.

The House agreed to our amendment restoring EDA, by reducing the amount of $191,196,000, which includes $36,714,000 for title IX to help the communities rebuild the public facilities devastated by Hurricane Hugo. At the insistence of the House managers we have reinstated the projects in last year's bill that were not funded, but there are no new EDA projects.

In NOAA I believe the Senators will be satisfied that we held on to the many projects of particular concern to them. We also obtained agreement on the Senate's $18 million to expand global climate change but had to recede to the House's $6,400,000 for the new coastal/ocean initiative. We also obtained the critical Senate's increase for NOAA's systems acquisitions for AWIPS, and NEXRAD, as well as the full Senate level for the polar and land remote sensing satellite systems and operations.

DEPARTMENT OF JUSTICE

While I have already mentioned our efforts in the war on drugs, let me say that for the Department of Justice we recommend $6,277,475,000, an increase of $429,091,000 over fiscal year 1989. In addition, we have $53,582,000 in offsetting receipts credited the Department for increased fees created in the bill—$30 million for the FBI fingerprint fee, $15 million for the antitrust premerger filing fee, and $8,582,000 for the Immigration and Naturalization Service examination fee. The amount recommended maintains existing services for all programs within the Department of Justice.

You can see that the word of the committee has been highly detailed and miniscule in many instances but that is the year-long struggle in which we try to comply with the various cuts.

However, when we add the $1,792,597,000 increase provided in the drug amendment for the Department of Justice we bring the total increase for the Department to $2,275,270,000.

The conferees approved the Senate's amendment making the reparation payments to the Japanese-Americans interned during World War II an entitlement beginning in fiscal year 1991. I am pleased to say this was sustained by a vote of 249 to 166 when the conference agreement was before the House on October 26.

HART-SCOTT-RODINO FILING FEES

In section 605 of the bill, the Senate approved a new filing fee for the premerger notification reports pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976. We provided a temporary fee of one-fiftieth of 1 percent of the value of the transactions pending the establishment of a final fee by the Federal Trade Commission and the Attorney General. It was anticipated that this fee would raise at least $30 million which would be split by the Antitrust Division and the FTC.

Subsequent to Senate passage, the staff of the Senate and House Appropriations Subcommittees, as well as the Judiciary and Commerce Committees, and representatives from the Department of Justice and the Federal Trade Commission, had a meeting to discuss this new fee. Assistant Attorney General Carol Crawford expressed the administration's preference that the fee be a flat fee established in the bill, so in the conference, we established the fee at $20,000 per filing. The estimated gross receipts generated by the fee has been revised to at least $40 million, which in accordance with the provisions of the Senate amendment, are to split between the Antitrust Division and the FTC. Receipts in excess of $40 million will be deposited in the Treasury.

Also at the request of the administration, the conference agreement provides that the fee will not come into effect until 5 days after enactment of this bill.

DEPARTMENT OF STATE

The conferees agreed to a total of $3,091,323,000 for the Department of State, which is $252,624,000 below the requests. You must understand, when they say a deal is a deal, it is not such a good deal. In fact we had to give up some $367 million in foreign affairs, and we were allocated some $167 million for our 150 agencies. Because of the additional $136 million outlay reduction I described earlier, the conference agreement reduces the Senate level for State by an additional $76,600,000.

In order to maintain the Department's basic diplomatic and consular activities the reductions taken in the conference were mainly taken in the contributions for international organizations and for international peacekeeping. The Senate had approved $668,011,000, the full amount required for the 1990 assessments to the United Nations and 43 other international organizations and the conference agreement reduces that to $622 million. The Senate also approved the full $111,184,000 for peacekeeping but that was reduced to $81,500,000.

While I appreciate that these reductions are of some frustration to Secretary Baker, we do anticipate that the administration will provide for transfers for peacekeeping as was accomplished in 1989.

RELATED AGENCIES

The conference report includes a total of $2,847,966,000 for the 27 related agencies in this bill, or $29,699,000 less than what the Senate approved. By the large the related agencies are maintained at their base levels. The notable items are:

MarAd: A total of $154,050,000 is recommended, a reduction of $16,600,000 from the Senate. The reduction mainly comes in the Ready Reserve Force appropriation where only $89 million of the $239,030,000 requested is recommended.

We received letters from Secretary Cheney and Secretary Skinner emphasizing the national defense impact of reductions to the RRF, which OMB transferred out of the Defense 050 category, to domestic discretionary spending for fiscal 1990. It should be abundantly clear that we cannot stretch our domestic allocation to absorb an additonal $150 million for the RRF and the administration must put this account back under 050 in the 1991 budget.

ACDA: The full request of $33,876,000, approved by the Senate, is in the conference agreement. I want to make it clear that the conferees are agreed that up to $750,000 of the appropriation is to be used for the Non-Proliferation Treaty Review Conference and related preparatory meetings in addition to $250,000 to be allocated from the Department of State for this purpose.

BIB: We agreed on a total of $373,500,000, including the full Senate-passed $183,500,000 for the Israel Relay Station account.

FCC: The conference agreement provides $109 million which will restore 40 workyears lost of inflation. It also continues the previously enacted restrictions on minority ownership, swaps, and cross-ownership.

FTC: The conference agreement provides the full budget of $69,580,000 plus $5 million more from the new premerger filing fee on Hart-Scott-Rodino filings discussed earlier.

Legal Services Corporation: The conference agreement provides LSC an increase of 4.1 percent bringing their total to $321 million. The conferees continued the program as it was last year, with separate funding for State and national support centers, migrants, et cetera.

SEC: The full request of $168,707,000 which will be offset by a change in the filing fee on which we worked closely with the Banking Committee and the SEC. The conference adopted our report directing that $500,000 be allocated for processing the filings of public utility holding companies. I think we have had dynamic leadership there in former chairman, Mr. Ruder, and I am looking forward to the continuation of that outstanding leadership by the new chairman Mr. Breeden.

SBA A total of $432,900,000, which includes $5 million over the Senate level for the small business development centers, as well as $4 million more for direct loans. More importantly, the House receded to the full $3,977,000,000 that the Senate allowed for guaranteed loans, including $3,200,000 for the 7(a) general business loans. The Senate version also included technical language to the authorization bill requested by the Small Business Committee, and that was retained.

USIA: A total of $934,150,000 was agreed to, which regrettably is $12 million less than the Senate level. This will cause some disruption in the programs funded by the salaries and expenses appropriation, but the agreement provides $156,506,000 for the exchanges; and the Senate level of $85 million for radio construction, of which $16 million is for TV-Marti.

GENERAL PROVISIONS

The general provisions are basically the same as carried previously in the bill except that we made some technical changes to language in the bill with regard to Legal Service Corporation.

We also gained acceptance of Senator JOHNSTON's amendment requiring the Secretary of State to initiate negotiations for the development of international agreements to protect endangered and threatened sea turtles. At the request of the House managers we approved an addition on the ban on imported shrimp not harvested by vessels using TED's shall not apply if the "particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting."

We also obtained House concurrence with a general provision that I sponsored on behalf of myself and the distinguished junior Senator from Tennessee [Mr. GORE], to protect the emerging United States satellite launch industry from unfair Soviet and Chinese competition. In conference we added language worked out with the chairman of the House Science, Space, and Technology Committee allowing the President to waive this restriction if he reports to Congress that "it is in the national interest of the United States."

The conference agreement also includes in it the language of the amendment offered by Senator LEVIN of Michigan relative to items which should be part of the agenda of an international drug summit, including consideration of measures to remove the dictator and drug trafficker, Manuel Noriega.

Mr. President, I urge that the Senate adopt the conference report.

Let me thank and yield to my ranking member.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I thank the Chair, and I thank my good friend from South Carolina.

Mr. President, the unique thing about this bill is, really, well after the bill was adopted, there were major changes, and they related to the drug bill, which Senator HOLLINGS has spoken to.

Of course, Senator HATFIELD led the negotiations on our side on that bill, on behalf of our side of the aisle, as well as the administration. Senator STEVENS made a major proposal to delay the increase in State share for matching funds for State and local drug programs.

Senator KASTEN supported increases in funding for law enforcement, and Senator GRAMM was a stalwart for the FBI and DEA requests. I say parenthetically that everyone in the subcommittee understands this, and it is correct that no one takes a back seat to my friend from South Carolina, FRITZ HOLLINGS, in supporting law enforcement on Federal and local levels.

So we have a bill here which really remarkably changes those levels in a way that makes a real impact, I think, on the capacity of these agencies to wage what will be a long war on drugs.

Finally, I point out that we did fund all of the major requests in a way that will enable these agencies under the jurisdiction of this subcommittee to meet our obligations, and I would hope that any Members of the Senate that have amendments to offer, or wish to dispute some of the ones that are contained here, would come to the floor at this time so that we might address them.

I know my friend from Rhode Island is here, Senator PELL, and he will be offering his.

Finally, if I could have the chairman's attention, I would like to thank him and his staff. Senator HOLLINGS may have asked for a divorce from Gramm-Rudman-Hollings, but our marriage on this subcommittee, Mr. President, is as strong as ever.

Mr. President, the conference report we are considering today represents the distillation of months of work in the House, in the Senate, and in conference. It is not perfect, and there are provisions contained in the agreement with which I do not agree. However, given the conflicting demands for the limited funds available in our section 302(b) allocation, I believe we have succeeded in addressing all the major priorities of the administration and the Congress.

In the area of law enforcement, this conference agreement—combined with the funds contained in the drug title of the Transportation appropriations bill—represents an increase of over $2.3 billion, or 40 percent, above the funds appropriated to the Department of Justice in 1989. The resources available to the DEA, the FBI, the Organized Crime Drug Enforcement task forces, and for construction of Federal prisons, are identical to the request of the President. In addition, the conference agreement delays until 1991 the requirement that the State match for the $450 million in State and local drug grants be increased from 25 to 50 percent.

The chairman of the subcommittee, Senator HOLLINGS, has been instrumental in assuring that the additional funds needed for law enforcement have been provided in this conference report and in the drug title of the Transportation bill. He and I both served on the bipartisan task force that reached an agreement on drug funding, and it is safe to say that no one takes a back seat to FRITZ HOLLINGS in supporting law enforcement on the Federal and the local levels.

I also want to thank my Republican colleagues on the subcommittee, each of whom made major contributions to this conference agreement. Senator HATFIELD led the negotiations on our side on drug funding and did a masterful job in presenting the views of the Republicans and the administration on the need for law enforcement funding. Senator STEVENS was a major proponent of the provision to delay the increase in the State matching funds for State and local drug grants in order to allow for the orderly disbursement of these funds. Senator KASTEN was a strong supporter of the increase in funding for law enforcement agencies. Finally, Senator GRAMM was a stalwart defender of the President's request for the DEA and the FBI, and led the charge for an increase in State and local drug grants. I want to thank all of them for their support and assistance.

There are other provisions in this conference agreement which bear mentioning, including: The full budget request of $97 million for the U.S. and Foreign Commercial Service; $41 million for the National Sea Grant Program, an increase of $2 million over last year's level; $18 million for NOAA's Climate and Global Change Program, an increase of 100 percent; $10 million for the new Advanced Technology Program of the National Institute of Standards and Technolo-

gy; $321 million to provide legal assistance to the poor through the Legal Service Corporation; and the full budget request of $168.7 million for the important work of the Securities and Exchange Commission.

Mr. President, I yield the floor.

Mr. HOLLINGS. I thank the distinguished Senator from New Hampshire.

To get to the parliamentary order of things now is the time to move the adoption of the conference report. Later this afternoon, of course, we will entertain amendments from other Members—I think there are several—one I will offer on behalf of the distinguished colleague from Delaware, one from Senator PELL from Rhode Island, and a couple, perhaps, from the distinguished Senator from North Carolina.

I urge adoption of the conference report.

Mr. ADAMS. Mr. President, I rise to speak in support of this bill which encompasses many programs beneficial to my State of Washington. However, I would first like to thank my colleague and the chairman of this subcommittee, Senator HOLLINGS, for his help and assistance throughout this process.

Mr. President, it is with great pleasure that I rise to support this bill which provides funds for 1990 for such agencies as the National Oceanic and Atmospheric Administration [NOAA] and the Department of Justice.

One of the important funding needs that I identified was full support of the National Marine Sanctuaries Program within NOAA. We have been able to obtain full funding for this program which encompasses the development of a sanctuary off the west coast of Washington State. This program will help by establishing a flexible management system for our coastal resources.

Mr. President, also found within the NOAA budget is my request for funding of the weather station on Stampede Pass. Funds for this weather station located in the Cascade Mountains will be used to fund human observation, which is critical to ensure the safe passage of general aviation and military flights through the mountains.

Another area of importance to the economy of Washington State is the identification and funding of fish research programs. I am extremely pleased that the committee has provided for line item identification for each of these programs. Let me say, that this is the first time in the history of these programs that this has been done. Fish research and the fisheries industry in Washington State are greatly enhanced with the establishment of these line items.

In addition, we were also able to provide substantial funds for these programs. They include funds for: The Pacific Fishery Information Network; West Coast Groundfish Research; Marine Mammal Research; Japanese Salmon Treaty; Pacific Salmon Treaty; the Regional Fisheries management Councils; the Columbia River Hatcheries, and the Drift Net Act Implementation.

Mr. President, I also want to point out that we have fully funded a very important national program that has its roots in Seattle, WA. This is the Court Appointed Special Advocates Program. This program provides the court system with volunteers to temporarily look after children involved in child abuse and placement cases. It is a compassionate way to deal with a very complex problem.

And last, Mr. President, I want to say that I am pleased that this committee has adopted entitlement language that provides for guaranteed reparation payments to those Japanese-Americans who were interned during World War II, beginning in October 1990. This shameful episode in American history can never be completely mitigated, however, I believe that the language goes very far in supporting an official apology from the Government of this country.

Mr. SANFORD. Mr. President, I rise today to support and commend my colleague and friend, the chairman of the Foreign Relations Committee. I add my voice and vote to the arguments he has made to remove the waiver contained in this conference report.

But, more importantly, I rise to fight for the integrity of the legislative process. The Foreign Relations Committee spent weeks marking up this legislation and reported it out by a unanimous vote. Likewise the full Senate devoted 5 days to debating this legislation before passing it on a voice vote.

The House has also passed a State Department authorization bill and we are now in conference.

Furthermore, during consideration of this bill, our chairman and ranking member received a letter from the Appropriations Committee requesting that certain provisions of the bill, primarily those which contained floors or mandated spending, be removed.

Reluctantly, the committee agreed to do this, and the bill was amended to reflect those changes.

In that letter, the chairman and ranking Member of the Appropriations Committee stated, and I quote:

> The Appropriations Committee would like to cooperate with the Foreign Relations Committee in the funding of authorized programs, as it did several years ago when we included provisions to ensure that the President would sign the authorization act into law.
>
> * * * * *
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> We intend to attempt to reflect the priorities of the authorization act—and by implication the Senate—to the extent possible within the constraints of the section 302(b) allocation for the Subcommittee on Commerce, Justice, State, and Judiciary and related agencies.

Far from that, what we are now faced with is a conference report which contains a provision waiving the statutory requirement of an authorization bill. Furthermore, this waiver was not contained in either the Senate or House versions of this bill.

It is totally unprecedented for an Appropriations Subcommittee to waive an authorization bill that has passed both Houses and is in conference.

One of the most basic principles of our legislative process is that authorizing committees authorize programs and levels of spending, and the appropriations committee appropriates funds within those limits. This waiver is a complete circumvention of that process.

The authorizing committees cannot abrogate our responsibilities in this process, nor can we allow them to be usurped.

I urge the adoption of the amendment.

Mr. LIEBERMAN. Mr. President, it is disturbing to see that the conference report on the Commerce, State and Justice Department appropriations bill contains only $2 million for counter terrorism research and development. This means that, for the second consecutive year, Congress is deeply slashing funds for this interagency program which provides seed money for projects including those designed to prevent future tragedies such as Pan Am Flight 103.

The administration had requested $6 million for this program for fiscal year 1990, as it did for fiscal year 1989. However, last year Congress appropriated only $3 million. And, although the Senate version of the appropriations bill would have allowed $3 million for fiscal year 1990 as part of the salaries and expenses account, the conferees cut even this bare-bones level to $2 million. At the same time, increases were allowed for other programs which might be desirable, but are not as likely to help save lives.

As I stated in my floor remarks on this subject on September 29 (page S12264), "We must take steps to detect and counter the increasingly sophisticated weapons and explosives used by terrorists." In those remarks, I described in some detail the national interagency program coordinated by the Department of State. This issue was also discussed in hearings held September 11, 1989, by the Senate Committee on Governmental Affairs on this terrorism menace facing the United States.

Mr. President, there is clearly a need for this interagency program to provide seed money for priority projects which otherwise are not being funded by other agencies. It is not sensible for the Congress and administration to

cut the program when we still face the danger of terrorists using increasingly sophisticated bombs and perhaps even chemical agents. From the results of the conference report, I'm not convinced either that the administration has given enough priority to supporting this program or that Congress fully understands the need to "get ahead of the curve" in dealing with terrorists who develop increasingly sophisticated ways of concealing their explosives and weapons.

Therefore, Mr. President, I strongly urge the administration to seek a supplemental or reprogramming of funds to keep this important counterterrorism program functioning. We're not talking about spending very much money, but we are talking about possibly saving very many lives.

Mr. BUMPERS. Mr. President, I would like to take this opportunity during consideration of the fiscal year 1990 Commerce, State, Justice appropriation bill to clarify for the record a clerical error regarding funding for the Stuttgart Fish Farming Experimental Station in Stuttgart, AR.

The proposed bill language in amendment No. 19 states that total funding for Stuttgart equals $2,050,000—$1,500,000 for construction and renovation of facilities and $550,000 for operational expenses. This is the correct amount. However, additional explanatory language contained in the conference report states that only a total of $1,500,000 will be provided for "construction, renovation and operation of facilities at the Stuttgart Fish Farming Experimental Station."

Mr. President, as you know, bill language controls in this situation; thus, the $2,050,000 figure applies.

I appreciate having this opportunity to clarify this minor error for my collegues and the National Oceanic and Atmospheric Administration [NOAA].

Mr. President, I yield the floor.

ADDITIONAL FUNDING FOR THE FEDERAL BUREAU OF INVESTIGATION'S EFFORT TO FURTHER THE LAW ENFORCEMENT USE OF DNA PROFILING

Mr. SIMON. Mr. President, I rise today to bring to your attention an important provision in the Commerce, Justice, State and Judiciary appropriations bill. First, I would like to thank my colleague Senator HOLLINGS, chairman of the Senate Appropriations Committee, Subcommittee on Commerce, Justice, State, and the Judiciary for his assistance in providing an additional appropriation of $819,000 to the Federal Bureau of Investigation [FBI] to further their efforts in the law enforcement use of DNA technology.

Earlier this year, I held the first congressional hearing on the use of DNA profiling as a weapon in the fight against crime. I am convinced that the advent of this technology is the most important development in law enforcement since conventional fingerprinting. I have also held two statewide conferences in Illinois which dealt with the practical law enforcement applications of DNA profiling. The law enforcement community in Illinois, as in other States, has shown a great deal of interest in learning how to best utilize this most exciting crime-fighting tool.

To gain a better understanding of how DNA profiling identifies the guilty and exonerates the innocent, I met with FBI Director William Sessions and visited the FBI DNA laboratory in Washington. The FBI has taken a leadership role in developing this technology, training State and local law enforcement agencies and offering programs for visiting scientists.

The additional funding will allow the FBI to continue to provide this high level of service to the law enforcement and scientific communities, and will help to further the following FBI initiatives.

Establishment of a national DNA data base system. The FBI would administer the system, organizing and standardizing DNA-generated information, to be made available to State and local law enforcement authorities—much like the NCIC system operated by the FBI for the last 20 years. Implementation of this system would enable law enforcement agencies in different jurisdictions to coordinate investigative efforts and share valuable evidentiary information. Such information is of great value in solving violent, interstate crimes, such as serial murders or rapes.

Training of State and local examiners in DNA analysis. Presently, only one State forensic lab is conducting DNA testing. All other testing is being conducted by the FBI—which is experiencing a time-consuming backlog—or private laboratories, at a considerable cost to prosecutors and defense attorneys.

The capability to perform DNA testing at the State and local levels, and to exchange information derived from those tests, will significantly reduce the costs of performing the tests and will yield results in a more timely manner. In addition, law enforcement agencies will save valuable manhours and other resources as DNA testing will help to alleviate protracted investigations and duplicative investigative efforts among agencies. Further, DNA profiling will reduce lengthy judicial proceedings. DNA-generated evidence points to only one individual, with remarkable certainty, often causing the suspect to admit guilt when presented with DNA evidence.

Law enforcement authorities must have the opportunity to employ the latest technological advances in fighting violent crime. To date, DNA analysis has produced information which has lead to the apprehension and conviction of some of our Nation's most dangerous criminals.

I would again like to thank Chairman HOLLINGS and the subcommittee for their cooperation. I strongly believe that the additional funding for DNA profiling will ensure that the law enforcement community today and in the future will possess the most potent weapons available to fight violent crime.

Mr. KERRY. Mr. President, this bill contains appropriations for the Economic Development Administration's Loan Guarantee Program.

Mr. HOLLINGS. That is correct.

Mr. KERRY. I would like to confirm my understanding of the standards under which such guarantees are issued. As I understand, the loan guarantee program is intended to provide financial assistance to firms that create or retain permanent jobs through the expansion, establishment, or retention of plants in distressed situations.

Mr. HOLLINGS. Yes that is my understanding.

Mr. KERRY. A limitation on EDA's authority to provide loan guarantees is contained in section 702 of the Public Works and Economic Development Act of 1965, which prohibits EDA assistance which would cause an increase in production where there is an insufficient demand for existing capacity. However, it is my understanding that section 702 was not intended to bar assistance to an enterprise which has been experiencing economic distress, or even a temporary shutdown or change of ownership, through, for example, an ESOP buyout, so long as the purpose of the assistance is to allow that enterprise to retain or regain the ability to produce at recent historical levels. Is that a correct interpretation of the standards under which the EDA loan guarantee is administered?

Mr. HOLLINGS. The Senator's understanding of section 702 is in accord with my own.

Mr. INOUYE. Mr. President, as the Senate considers the conference report to the fiscal year 1990 Commerce, Justice, State appropriations bill, I join my House colleague, Congressman DANIEL AKAKA, in expressing my continued support for the Hawaii Undersea Research Laboratory [HURL]. In light of the recent difficulties Congressman AKAKA and I have encountered with NOAA in securing the release of fiscal year 1989 appropriated funds for other Hawaii projects, I wish to take this opportunity to clarify Congress' intent and ensure that funding for HURL will be maintained.

The conference report provides $14,285,000 for NOAA's Undersea Research Program which is the same level as was provided in fiscal year

1989. Although no specific earmark was provided for HURL, Senate Report 101-144, page 26, reflects Congress' intent to provide funding for HURL in the amount of $3 million, which is the same level as was provided in the fiscal year 1989. Under committee procedures regarding report language, and as reflected on page 10 of the Senate report, this amount was not contradicted in the House report nor specifically denied in the conference report, and is considered as having been approved by both Houses of Congress. Accordingly, it was the intent of Congress, and as specified in the conference agreement, that there be a continuation of the grant to HURL in the coming year at the fiscal year 1989 level.

FUNDING FOR THE ANTITRUST ACTIVITIES AT THE DEPARTMENT OF JUSTICE AND THE FEDERAL TRADE COMMISSION

Mr. RUDMAN. Mr. President, title VI of this conference agreement includes a general provision requiring the Federal Trade Commission, 5 days after the enactment of the Act, to assess and collect filing fees of $20,000 to be paid by persons acquiring voting securities or assets who are required to file premerger notifications by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a) and regulations promulgated thereunder. Fees collected pursuant to this section are to be divided equally and credited to the appropriations accounts of the Federal Trade Commission and the Antitrust Division of the Department of Justice. During fiscal year 1990, receipts in excess of $40 million are to be deposited to the credit of the U.S. Treasury.

I would ask my good friend, the distinguished chairman of the subcommittee, whether it is his understanding that the fees authorized in section 605 were intended to reimburse the Antitrust Division and the Federal Trade Commission for the actual costs of each agency in processing Hart-Scott-Rodino notifications?

Mr. HOLLINGS. Yes, that is my understanding of the agreement reached by the conferees. It is expected that the fees established are reasonably related to the direct and indirect costs incurred by the Antitrust Division and the Federal Trade Commission, respectively, in reviewing such notifications.

Mr. RUDMAN. Mr. President, the conference agreement reduced the appropriated amount available to each agency with the expectation that receipts from the fees would be sufficient to compensate for those reductions. It is my understanding that it was the intent of the conferees that the fee receipts and direct appropriations would at least fully fund the budget requests of the two agencies and that if the fee receipts did not materialize it would be necessary to review possible adjustments to these appropriated accounts. Is that correct?

Mr. HOLLINGS. That is correct. In fact, the total level from direct appropriations and fees assumed in the conference agreement for each agency exceeds, by $5 million, the actual budget request of the agencies. This action was taken with the recognition that receipts from fees are based on estimates which could vary as merger activity varies. The conference agreement reflects receipts based on a fiscal year 1990 estimate of 2,000 premerger notification filings. The conferees have provided the fullest amount possible to the Federal Trade Commission and the Antitrust Division within the overall allocation for this bill. If there is a shortfall and additional resources are required, suitable financial adjustments will be considered.

Mr. RUDMAN. I thank the distinguished chairman of the Commerce, Justice, State Subcommittee for his consideration and assistance with this matter. As always, it has been a great pleasure to work with my good friend and colleague from South Carolina on this important Appropriations Act.

THE NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION ACT OF 1989

Mr. INOUYE. As approved by the Senate, this legislation would have appropriated $2.5 million for fiscal year 1990 for the National Endowment for Children's Educational Television Act of 1989, (S. 797). This endowment is intended to provide funds for the production of children's educational television programs. Under this legislation, the Secretary of the Department of Commerce, with the advice of the Advisory Council on Children's Educational Television, is required to establish criteria to be used by the Secretary in making grants for the production of such programming. To provide Congress an opportunity to review the criteria developed under this act, we expect the Secretary to submit the criteria to the Congress for review 60 days prior to the date on which the criteria become effective.

Mr. HELMS. Mr. President, I thank the Senator from Hawaii for accommodating my concerns in this area. My reservations about this legislation are similar to those I recently expressed in the controversy involving the National Endowment for the Arts [NEA]. The genesis for the NEA controversy has been that the NEA was established with very little guidance as to the quality of what it was intended to support. We must avoid that same mistake while creating this new endowment.

I remind Senators that the NEA was established in 1965 with a budget of $2 million much as this National Endowment for Children's Educational Television is being established with a budget of $2.5 million. Since 1965, however, the NEA's budget has blossomed to around $150 million a year and has created a federally supported constituency for its funding that makes it almost impossible to debate commonsense restrictions on what the NEA sees fit to fund with the taxpayers' money.

It is only prudent, therefore, that Congress get some idea of what criteria the National Endowment for Children's Educational Television will use in picking and choosing among applicants for funding. I commend the Commerce Committee for recognizing these concerns by requiring the endowment to establish such criteria and to provide Congress with an opportunity to review them.

Mr. ADAMS. Mr. President, I rise to engage in a colloquy with my friend and the chairman of the Appropriations Subcommittee for Commerce, Justice, State, and the Judiciary, Senator HOLLLINGS.

As the chairman is aware, a very important fisheries research program, the Bering Sea pollack research was provided no funding for fiscal 1990.

Mr. HOLLINGS. The Senator from Washington State is correct. Certain fiscal constraints were present. However, as the Senator is aware, we have funded many programs impacting the Pacific Coast fisheries industry. This includes but is not limited to PACFIN and the west coast groundfish. Furthermore, all these programs represent new categories of specific funding. This is something that has not been done before. Let me also make it clear that the Senate subcommittee fully supported funding the Bering Sea Research Pollack Program. However, in the spirit of compromise, the Senate receded to the House request that the funds be provided within the Sub-Arctic Fisheries Program.

Mr. ADAMS. The chairman is quite correct in pointing out that this subcommittee has supported the Bering Sea Research Pollack Program, as well as generally committing a substantial amount of resources to support the Pacific Coast fishing industry. I thank the chairman for his interest and support. However, I am nevertheless very concerned that the Bering Sea Pollack Research Program does not have the necessary dollars for 1990. This concern is due to the fact that the Bering Sea supports the most valuable commercial fishery in the United States. Biological information on the health and abundance of this resource is critical for sound long-term management of this fishery.

Accordingly, I would hope that if discretionary funds become available within the National Oceanic and Atmospheric Administration, the administration will closely review the compelling needs of this program, and within the guidelines laid down by the subcommittee, strongly consider pro-

viding the necessary funds. I would also seek an expression of support from the chairman for such a request.

Mr. HOLLINGS. I would concur with the Senator that it would be appropriate for the National Oceanic and Atmospheric Administration to engage in considering such a proposal if discretionary funds were found and if consideration occurred within the guidelines laid down by this subcommittee.

Mr. ADAMS. I thank the chairman.

COUNTERTERRORISM RESEARCH AND DEVELOPMENT PROGRAMS

Mr. KERRY. Mr. President, people everywhere share a profound concern over the tragic consequences of international terrorism and have a deep desire to reduce incidents of terrorism throughout the world. The Senate Foreign Relations Committee has attempted to address this problem seriously and forthrightly. The Subcommittee on Terrorism and Narcotics which I chair has held hearings on the Pan Am 103 tragedy and other aspects of international terrorism. The testimony we have received is distressing and heart rending.

We have to do more to counter the threat of international terrorism. Our Government is pursuing a number of avenues to strengthen these efforts, including the improvement in our intelligence gathering and security capabilities, and international cooperation efforts. All these efforts will be stymied, however, if we do not fund adequately, research and development efforts for improved equipment which can be used to detect bombs and guns before they are smuggled aboard planes or into buildings.

For these reasons, I am deeply concerned that despite our strong statements in support of strengthening our antiterrorism efforts, the conference report on the Commerce, State, and Justice appropriations includes only $2 million for the U.S. Government's Interagency Counterterrorism Research and Development Program for fiscal year 1990. This cut from the administration's $6 million request comes on top of the $3 million reduction the conferees made last year in an identical request.

Have we forgotten so soon the tragedy of Pan Am 103 and the UTA 722 crash only a month ago in Chad? These cuts will only prolong the research and development efforts required to produce better equipment for detecting plastic explosives of the type used to blow up these planes, as well as improved equipment to detect chemical and biological agents which might be used by terrorists. There is also a major requirement for the development of better equipment for our security and counterterrorism personnel who have to respond to terrorist threats. Included is the development of more sophisticated detectors and protective gear for protection against terrorist-employed chemical and biological agents; equipment to detect and man radio controlled devices; and more sophisticated equipment to detect plastic weapons or explosives.

This interagency program provides startup money for research on priority projects which are judged by a group of scientists and experts as critical to the overall U.S. Government counterterrorism program, but have not been funded by other agencies because the applications were not readily apparent to an individual agency or because they were concentrating their priorities on other projects. Without the program chaired by the State Department, none of these projects would ever be developed.

The national R&D program already has funded projects to create new advanced systems for use in detection of plastic and sheet explosives as well as hard-to-detect chemical and biological agents. The program is also the focal point of the U.S. effort to generate cooperation on R&D with other countries. These efforts include working with a dozen countries to develop a chemical taggant for preblast detection of plastic explosives of the type used to blow up Pan Am 103.

The $3 million allowed in the Senate versions of the State Department authorization and appropriations bills for counterterrorism R&D would have funded efforts to develop a taggant for plastic explosives and vapor detectors to aid in detecting plastic explosives. Also, we would have been able to fund a project to detect chemical and biological agents in sealed containers. The action of the conferees, however, eliminates funding which would have provided important seed money to these projects.

Mr. President, it is disconcerting that, despite all the talk about doing something about terrorism, a higher priority is not placed on actually doing something about this problem. While we are literally at the 12th hour with this conference report, I urge the administration to either reprogram funds to fully fund this important program, or to submit a supplemental request to ensure that adequate moneys are available for critical counterterrorism projects. If Congress and the administration remain silent in the face of this cut, we cannot truthfully tell the families of the victims of future terrorist attacks that we did all we could to prevent another tragedy from occurring.

CIVIL LIBERTIES FUND

Mr. SIMON. Mr. President, I rise to make special note of a very important provision in H.R. 2991, the Commerce, State, and Justice appropriations bill. I wish to commend the conferees on their agreement with regard to the Civil Liberties Fund for Japanese-Americans interned during World War II.

I have spoken on the floor a number of times before in support of this provision and I do not need to go into detail again about what the relocation of Americans of Japanese ancestry in 1942 has meant to me. I was living in the State of Oregon at the time and my father, as a Lutheran minister, spoke out publicly against what we were doing to Japanese-Americans. Very few people spoke up for Japanese-Americans and the experience taught me something I have carried with me ever since, the importance of standing up for civil rights of all individuals in our society.

It took 45 years for Congress to officially apologize for Executive Order 9066 and its impact on loyal Americans of Japanese ancestry. Today, I want to commend Appropriations Subcommittee Chairman FRITZ HOLLINGS and his ranking member WARREN RUDMAN and their counterparts in the other body for fulfilling our commitment in this area. It is a commitment, not just to the 120,000 internees, not just to Japanese-Americans, but to all Americans and to our basic rule of law. The bill we pass today will provide the mechanism for the completion of the compensation portion of the Civil Liberties Act by 1993.

Even though the relocation took place almost 50 years ago, we know that its impact is still felt today. Just last weekend in southern California, a small group of Japanese-Americans who were denied their high school diplomas from Los Angeles High School in 1942 went through a graduation ceremony to receive their diplomas. They are now able to close a previously unfinished chapter in their lives. The redress provision in this bill similarly means that justice no longer delayed is no longer denied.

I ask unanimous consent that a newspaper article "Delayed Diplomas To Close Chapter on Justice Denied" previously referred to be entered in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Oct. 25, 1989]

DELAYED DIPLOMAS TO CLOSE CHAPTER ON JUSTICE DENIED

(By Larry Gordon)

Forty-seven years late, Japanese-American classmates from Los Angeles High School are set to receive their rightful diplomas this weekend in a ceremony intended to correct a historical injustice.

World War II internment interrupted the education of those Los Angeles High students, who were only a few weeks away from graduation in 1942. To make matters worse, the school apparently bucked policy and did not send diplomas to the detention camps.

"Our rights were denied us all these years," said Hayao Shishino, a retired cook

who lives in Cerritos. "We want to be on the rolls of the Class of 1942."

Most of the 15 Japanese-Americans from that senior class eventually obtained diplomas through correspondence courses or night classes after leaving the camps. The others finally received degrees through a 25th anniversary class reunion in 1967. But Shishino and others did not want diplomas dated 1943, 1944, or, in his case, 1967.

Shishino wrote about the matter earlier this year to Warren Furutani, the Los Angeles school board member whose mother-in-law is among the 14 classmates still living. The first Japanese-American on the board, Furutani requested what turned into a painstaking search of old school records. As a result, Shishino will get his wish Saturday morning at his alma mater on Olympic Boulevard.

Eleven of the now senior citizens, accompanied by their children and grandchildren, are expected to participate in the commencement ceremony they say was denied them by anti-Japanese sentiment during the war. Their new diplomas are dated June 26, 1942, although signed by current officials of the Los Angeles Unified School Board.

"The most important part of this episode is that it is a living history lesson. We have an opportunity to go back and set the record straight," Furutani said.

The former students blame Paul Webb, the wartime principal at Los Angeles High, for their difficulties. They contend that Webb, who is dead, brought them to his office just before the evacuation of Japanese-Americans from Los Angeles in late April, 1942, and told them he would deny them diplomas. They say he did not change his mind even though the Los Angeles School Board in June, 1942, declared that all Japanese seniors in good academic standing before the internments should be sent their degrees. A communal graduation was held at the relocation center at the Santa Anita race track but the Los Angeles High students were excluded, they said.

"I was really upset. But we didn't speak up," recalled Fumiko Matsumura Wakamatsu of Mar Vista. "In those days, you didn't talk back to a teacher, you didn't talk back to a principal . . . And when we found out that the students from the other schools received their diplomas without all this hassle, it was even more bitter." She received a diploma in 1943 after course work by mail.

Dan Isaacs, the school districts' current assistant superintendent for senior high schools, said there is no way to confirm the former students' allegations that Webb was the only principal in Los Angeles who took such a position and that Webb purposely disobeyed board policy out of either racism or wartime passions. But, Isaacs added, it is clear that the Los Angeles High alumni should have gotten their diplomas 47 years ago.

"To me, it's a very touching thing to be supportive of people who should have been supported many decades ago," he said.

The awarding of the diplomas is another symbol that the nation now recognizes the mistreatment of Japanese-Americans during World War II, said Aiko Yoshinaga, Furutani's mother-in-law, who is flying in from her Virginia home for the reunion.

She is widely known in the Japanese-American community for her discovery in government archives of documents purportedly showing that the U.S. military trusted no Japanese-Americans. That contradicted the official argument that internment was necessary to separate the loyal from disloyal after the attack on Pearl Harbor.

Her discovery was crucial evidence in the 1986 federal trial that overturned the convictions of three internment resisters. It also helped in last year's commitment by Congress to award about $20,000 apiece to the estimated 60,000 survivors of the camps—although payment is held up by budget squabbles.

"Some people just don't believe there were such things as concentration camps in this country. Just the fact that it is happening," Yoshinaga said of the high school event, "will educate people that this kind of thing did happen here."

In interviews this week, she and her classmates recounted how they remain affected by the internment and the withholding of the diplomas in 1942, even though many went on to succesful lives after the war.

Yoshinaga had to abandon her dreams of studying music and art in college, enrolled in a night high school in New York and was drawn into political activism. But she still has her Los Angeles High School yearbook and plans to bring it Saturday so classmates can write messages over their youthful photos as they should have in 1942.

Wakamatsu ruefully recalled the difficulty of sending school projects by mail for the diploma she obtained a year later. In one assignment, a nursing class teacher required her to produce a hypothetical household budget. Wakamatsu wrote back that her budget would be zero since she and her family were trapped in a camp, all expenses paid by the government. Today, she still bristles at her resulting grade: a C.

After living in Chicago and New York, Wakamatsu returned to Los Angeles and was accepted at UCLA in 1947. But because she had voted in an election in New York, the University of California wanted her to pay tuition as an out-of-stater, something she could not afford. Life moved on with marriage, children and work as an office manager. Now, retirement is near and she is contemplating enrolling at Santa Monica College. "Everybody in the family has a college degree except me," she said. "It would be nice and my kids are all for it."

Shishino also planned to go to UCLA. After the camps, he worked in Minnesota as a cook and moved back to California. Family responsibilities precluded further education, he said. That is why receiving the proper high school degree is so important to him.

"Even if it takes 47 years for justice to run its course," he said.

IMMIGRATION AND NATURALIZATION SERVICE

Mr. SIMON. Mr. President, I rise to add my support to the provisions appropriating funds for the Immigration and Naturalization Service for fiscal year 1989.

This bill, H.R. 2991, appropriates well over $800 million for the Immigration and Naturalization Service. As a member of the Subcommittee on Immigration and Refugee Affairs, I am fully aware of the challenges the INS faces and its increasing responsibilities. This bill provides the Service with increased funds for equipment and personnel at the border and for other enforcement duties.

The conferees have wisely urged the Immigration and Naturalization Service to enhance and improve its capabilities in the citizenship and naturalization area. I have been concerned about the delays experienced by those immigrants who want to apply to be U.S. citizens. Frequently, individuals who are qualified and desire to be U.S. citizens face 6 months to 1 year delays in their applications. This is the wrong picture for new Americans to see of the workings of our Government and I am hopeful that the new INS Commissioner will be able to make improvements in this area.

Finally, let me thank the conferees for funding the Immigration Emergency Fund. This is a $35 million fund of particular interest to our colleague from Florida, Senator GRAHAM, and myself which at least in part will be available to reimburse State and local governments heavily impacted by immigration. This fund is authorized by the Immigration Reform and Control Act of 1986, but has not previously had money appropriated to it. I appreciate the conferees doing so for fiscal year 1990.

The PRESIDING OFFICER. Is there further debate on the conference report?

If there be no further debate, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, there are 68 amendments in disagreement. I ask unanimous consent that the Senate concur to the amendments of the House to the amendments of the Senate, except for amendments Nos. 53, 79, 83, 171, 182, and 191.

This has been worked out on both sides, that by unanimous consent the Senate concur en bloc to the amendments of the House to the amendments of the Senate, except for amendments 53, 79, 83, 171, 182, and 191.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The amendments of the House to the amendments of the Senate in disagreement, agreed to en bloc, are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$28,173,000, of which not to exceed $1,467,000 shall be available for the Office of the General Counsel".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $191,196,000, of which, notwithstanding any other provision of law $11,350,000 shall be used to make or complete each grant designated in P.L. 100-459 in subsections (a), (c), (h), (i), (k), and (l) under the heading "Economic Development Assistance Programs" which has not been made and for which pre-application or applications have been filed: *Provided,* That during fiscal year 1990 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further,* That the Secretary of Commerce or his designees shall not promulgate or enforce any rule, regulation, or grant agreement provision affecting programs authorized by the Public Works and Economic Development Act of 1965, as amended, unless such rule, regulation, or provision is either required by statute or expressed as the explicit intent of the Congress or is in substantial conformity with those rules, regulations and provisions in effect prior to December 22, 1987.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$25,475,000 of which not to exceed $494,000 shall be available for the Office of Chief Counsel".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977: *Provided further,* That notwithstanding any other provision of law, not to exceed $4,016,618 of the funds appropriated by this Act for "Economic Development Assistance Programs" shall be available for the purpose of paying the Economic Development Administration for any debt that arises due to the expenditure of funds under grant number 06-19-01498 as described in Inspector General Final Audit Report No. D-184-8-024 and that none of the funds appropriated by this Act shall delay or otherwise adversely affect any grant application for fiscal year 1990 by the City of Chicago as a result of negotiations on the grant described in such audit report: *Provided further,* That none of the funds appropriated by this Act shall be available to enable the Economic Development Administration, Department of Commerce, to delay or otherwise adversely affect any grant application for fiscal year 1990 by the State of Oregon, or to which the State of Oregon will contribute funds, on the basis that the contribution by the State of Oregon does not conform with law or regulation. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1990, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with those employees who filled those positions on that date: *Provided further,* That none of the funds may be used to formulate or implement any action, activity, guideline, program, project, policy or regulation which alters the practice of making grants directly to planning and development districts which was in effect on December 31, 1988, or which results in denial of funding to any planning and development district on the basis of the number of years such district has received economic development assistance program funding or on the basis of the geographic area such district encompasses or on the basis of the population situated in the geographic area such district encompasses or a combination of any of these factors.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ", to remain available until expended, of which $3,000,000 shall be for support costs of a new materials center in Ames, Iowa: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment of assessments for services provided as part of these activities."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That of the funds provided in this Act or any previous Acts for the International Trade Administration Trade Adjustment Assistance Program including those amounts provided in advance to recipient organizations which remain unexpended or which have been obligated or reserved for fiscal year 1990 expenses, including close out costs, by those organizations as of October 1, 1989, not to exceed $10,877,000 shall be available for the Trade Adjustment Assistance Program during fiscal year 1990. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum "$41,800,000" named in said amendment, insert "$42,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$1,214,607,000, to remain available until expended, of which $1,500,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $377,000 shall be available only for a semi-tropical research facility located at Key Largo, Florida; and in addition, $30,000,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $55,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $4,500,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided,* That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further,* That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities: *Provided further,* That for fiscal year 1990 and hereafter funds appropriated under this heading shall be available for acquisition of land for facilities".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$3,900,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the core programs of the National Institute of Standards and Technology, $144,809,000, to remain available until expended, of which not to exceed $3,430,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $1,300,000 shall be available for construction of research facilities; and in addition for grants for regional centers for the transfer of manufacturing technology as authorized by section 5121 of the Omnibus Trade and Competitiveness Act of 1988, $7,500,000, to remain available until expended; and in addition for expenses of the Advanced Technology Program as authorized by section 5131 of the Omnibus Trade and Competitiveness Act of 1988, $10,000,000 to remain available until expended; and in addition for technology transfer extension services pursuant to section 5121 of the Omnibus Trade and Competitiveness Act of 1988, $1,300,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and in-

serted by said amendment, insert "$20,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$87,439,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$10,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $257,000,000, of which not to exceed $5,751,000 shall be available for the operation of the United States National Center Bureau, INTERPOL; and of which to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1991: *Provided,* That of the funds available in this appropriation, not to exceed $12,160,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and Expenses, General Administration: *Provided further,* That for fiscal year 1990 and hereafter the Chief, United States National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That for fiscal year 1990 and hereafter the Attorney General may establish and collect fees to cover the cost of identifying, copying and distributing copies of tax decisions rendered by the Federal Judiciary and that any such fees shall be credited to this appropriation notwithstanding the provisions of 31 U.S.C. 3302: *Provided further,* That, notwithstanding any other provision of law, not to exceed $1,000,000 for expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the special fund established to pay judgments awards under the Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said named in said amendment, insert "Subject to the provisions of section 104(e) of the Civil Liberties Act of 1988 (Public Law 100-383; 50 U.S.C. App. 1989(b-3(e)), the maximum amount authorized under such section for any fiscal year is appropriated, from money in the Treasury not otherwise appropriated, for each fiscal year beginning on or after October 1, 1990, to the Civil Liberties Public Education Fund established by section 104(a) of the Civil Liberties Act of 1988, for payments to eligible individuals under section 105 of that Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$32,222,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $440,000: *Provided,* That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for: allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 54 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

FEDERAL BUREAU OF INVESTIGATION, SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,730 passenger motor vehicles of which 1,850 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,423,340,000 of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1991; of which not to exceed $8,000,000 for research and development related to investigative activities and $15,000,000 for construction of Pod B of the Engineering Research Facility at Quantico, Virginia, shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: *Provided,* That the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification services and associated costs: *Provided further,* That not to exceed $30,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $7,500,000 for a language translation system shall remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 56 to the aforesaid bill, and concur therein with amendments as follow: In lieu of the number "525" named in said amendment, insert "620", and in lieu of the sum "823,486,000" named in said amendment, insert "$828,300,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

IMMIGRATION EMERGENCY FUND

For necessary expenses of the immigration emergency fund as authorized by section 404(b) of the Immigration and Nationality Act, $35,000,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase, leasing and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $401,332,000, to remain available until expended: *Provided,* That labor of United States Prisoners may be used for work performed under this appropriation: *Provided further,* That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other

Act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum "$80,783,000" named in said amendment, insert "$90,783,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$64,193,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 209. (a) The Civil Liberties Act of 1988 (Public Law 100-383; 50 U.S.C. App. 1989b and following) is amended by adding at the end thereof the following new section:

"SEC. 110. ENTITLEMENTS TO ELIGIBLE INDIVIDUALS.

"Subject to Sections 104(e) and 105(g) of this title, beginning on October 1, 1990, the payments to be made to any eligible individual under the provisions of this title shall be an entitlement. As used in this section, the term 'entitlement' means 'spending authority' as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974.".

(b) Section 105 of the Civil Liberties Act of 1988 is amended by adding at the end thereof the following:

"(g) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN THE FUND.—

"(1) GENERAL RULE.—An eligible individual may be paid under this section only from amounts in the Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in this title shall authorize the payment to an eligible individual by the United States Government of any amount authorized by this section from any source other than the Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS TO BE PAID.—If at any time the fund has insufficient funds to pay all eligible individuals at such time, such eligible individuals shall, to the extent permitted under paragraph (1), be paid in full in the order specified in subsection (b).".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 82 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the date "1991" named in said amendment, insert "1990".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 86 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SALARIES AND EXPENSES

[INCLUDING TRANSFER OF FUNDS]

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945) and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, conventions, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, except that passenger motor vehicles with additional systems and equipment may be purchased without regard to any price limitation otherwise established by law as authorized by 31 U.S.C. 1343(c), $1,742,239,000, and in addition not to exceed $250,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 38(b)(3)(A) of such Act (section 1255(c) of Public Law 100-204). In addition, not to exceed $51,152,000, to remain available until expended, may be transferred to this appropriation from "Acquisition and Maintenance of Buildings Abroad": *Provided,* That the level of service provided through the Foreign Affairs Administrative Support System (FAAS) shall be commensurate with the amounts appropriated, or otherwise made available therefor in Appropriations Acts.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$21,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 95 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$622,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 96 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$81,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 106 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$31,900,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 110 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert

"SEC. 302. For fiscal year 1992, the Department of State shall submit a budget justification document to the Committees on Appropriations which provides function, subfunction, and object class information for each activity, subactivity, and bureau within the Department."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 115 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert

", of which $2,121,000 shall remain available until expended: *Provided,* That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Act, as amended); and for snow removal by hire of men and equipment or under contract, and for the replacement of electrical transformers containing polychlorinated biphenyls, both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 117 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$1,287,424,000 (including the purchase of firearms and ammunition)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 119 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$86,627,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$54,700,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code: *Provided further,* That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for refreshment of jurors".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum "$34,670,000" named in said amendment, insert "$33,670,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation in said amendment, insert "403".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 129 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 404. (a) For fiscal year 1990 and hereafter, such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

(b) JUDICIARY AUTOMATION FUND.—

(1) ESTABLISHMENT AND USE OF FUND.—Chapter 41 of title 28, United States Code, is amended by adding at the end of the following new section: "Section 612. Judiciary Automation Fund.

"(a) ESTABLISHMENT AND AVAILABILITY OF FUND.—There is hereby established in the Treasury of the United States a special fund to be known as the 'Judiciary Automation Fund' (hereafter in this section referred to as the 'Fund'). Moneys in the Fund shall be

available to the Director without fiscal year limitation for the procurement (by lease, purchase, exchange, transfer, or otherwise) of automatic data processing equipment for the judicial branch of the United States. The Fund shall also be available for expenses, including personal services and other costs, for the effective management, coordination, operation, and use of automatic data processing equipment in the judicial branch.

"(b) PLAN FOR MEETING AUTOMATIC DATA PROCESSING NEEDS.—

"(1) DEVELOPMENT OF PLAN.—The Director shall develop and annually revise, with the approval of the Judicial Conference of the United States, a long range plan for meeting the automatic data processing equipment needs of the judicial branch. Such plan and revisions shall be submitted to Congress.

"(2) EXPENDITURES CONSISTENT WITH PLAN.—The Director may use amounts in the Fund to procure automatic data processing equipment for the judicial branch of the United States only in accordance with the plan developed under paragraph (1).

"(c) DEPOSITS INTO FUND.—

"(1) DEPOSITS.—There shall be deposited in the Fund—

"(A) all proceeds resulting from activities conducted under subsection (a), including net proceeds of disposal of excess or surplus property and receipts from carriers and others for loss of or damage to property;

"(B) amounts available for activities described in subsection (a) from funds appropriated to the judiciary; and

"(C) any advances and reimbursements required by paragraph (2).

"(2) ADVANCES AND REIMBURSEMENTS.—Whenever the Director procures automatic data processing equipment for any entity in the judicial branch other than the courts or the Administrative Office, that entity shall advance or reimburse the Fund, whichever the Director considers appropriate, for the costs of the automatic data processing equipment, from appropriations available to that entity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund for any fiscal year such sums as are required to supplement amounts deposited under subsection (c) in order to conduct activities under subsection (a).

"(e) CONTRACT AUTHORITY.—

"(1) FOR EACH FISCAL YEAR.—(A) In fiscal year 1990, and in each succeeding fiscal year, the Director may enter into contracts for the procurement of automatic data processing equipment in amounts which, in the aggregate, do not exceed $75,000,000 in advance of the availability of amounts in the Fund for such contracts.

"(2) MULTIYEAR CONTRACTS.—In conducting activities under subsection (a), the Director is authorized to enter into multiyear contracts for automatic data processing equipment for periods of not more than five years for any contract, if—

"(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and for payment of any costs of cancellation or termination of the contract;

"(B) such contract is awarded on a fully competitive basis; and

"(C) the Director determines that—

"(i) the need for the automatic data processing equipment being provided will continue over the period of the contract; and

"(ii) the use of the multi-year contract will yield substantial cost savings when compared with other methods of providing the necessary resources.

"(3) CANCELLATION COST OF MULTIYEAR CONTRACT.—Any cancellation costs incurred with respect to a contract entered into under paragraph (2) shall be paid from currently available amounts in the Fund.

"(f) APPLICABILITY OF PROCUREMENT STATUTE.—The procurement of automatic data processing equipment under this section shall be conducted in compliance with section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759).

"(g) AUTHORITY OF ADMINISTRATOR OF GENERAL SERVICES.—Nothing in this section shall be construed to limit the authority of the Administrator of General Services under sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759).

"(h) ANNUAL REPORT.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of automatic data processing equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

"(i) REPROGRAMMING.—The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States, and upon notification to the Committees on Appropriations of the House of Representatives and the Senate, may use amounts deposited into the Fund under subparagraph (c)(1)(B) for purposes other than those established in subsection (a) only by following reprogramming procedures in compliance with provisions set forth in Section 606 of Public Law 100-459.

"(j) APPROPRIATIONS INTO THE FUND.—If the budget request of the Judiciary is appropriated in full, the amount deposited into the Fund during any fiscal year under the authority of subparagraph (c)(1)(B) will be the same as the amount of funds requested by the Judiciary for activities described in subsection (a). If an amount to be deposited is not specified by Congress and if the full request is not appropriated, the amount to be deposited under (c)(1)(B) will be set by the spending priorities established by the Judicial Conference.

"(k) DEFINITION.—For purposes of this section, the term "automatic data processing equipment" has the meaning given that term in section 111(a)(2)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)(A)).

"(l) TERMINATION OF AUTHORITY.—The Fund, and the authorities conferred by this section, terminate on September 30, 1994. All unobligated amounts remaining in the Fund on that date shall be deposited into the "Judicial Services Account" to be used to reimburse other appropriations.

"(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 41 of title 28, United States Code, is amended by adding at the end the following new item: "612. Judiciary Automation Fund.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation in said amendment, insert "405".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 132 to the aforesaid bill, and concur therein with an amendment as follows:

SEC. 406. (a) Section 1930(a)(1) of title 28, United States Code, is amended by striking out "$90" and inserting in lieu thereof "$120". Pursuant to section 1930(b) of title 28, the Judicial Conference of the United States shall prescribe a fee of $60 on motions seeking relief from the automatic stay under 11 U.S.C. section 362(b) and motions to compel abandonment of property of the estate. The fees established pursuant to the preceding two sentences shall take effect 30 days after the enactment of this Act.

(b) All fees as shall be hereafter collected for any service enumerated after item 18 of the bankrupcty miscellaneous fee schedule prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. section 1930(b) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931 and shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts, and other Judicial Services and the Administrative Office of the United States Courts. The Judicial Conference shall report to the Committees on Appropriations of the House of Representatives and the Senate on a quarterly basis beginning on the first day of each fiscal year regarding the sums deposited in said fund.

(c) Section 589a(b)(1) of title 28, United States Code, is amended by striking out "one-third" and inserting in lieu thereof "one-fourth".

(d) Section 1931 of title 28, United States Code, is amended by striking out the following before the colon "as provided in annual appropriation acts".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 135 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $65,050,000, to remain available until expended, and in addition $2,250,000 shall be derived from unobligated balances of "Ship Construction": *Provided,* That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 137 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$89,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 140 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum "$195,000,000" named in said amendment, insert "$190,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 144 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: ", to remain available until expended, and in carrying out the purposes of this Act, the Commission is authorized to enter into contracts, grants, or cooperative agreements as directed by the Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3; 31 U.S.C. 6301). and in addition, $705,000 to remain available

until expended shall be available to the National Park Service to carry out provisions of Public Law 100-421; in all, appropriating $15,005,000,"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 148 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$750,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 150 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum "$109,831,000" named in said amendment, insert "$109,000,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 152 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum "$64,580,000" named in said amendment, insert "$54,580,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 154 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

LEGAL SERVICES CORPORATION PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $321,000,000 of which $274,965,000 is for basic field programs, $7,304,000 is for Native American programs, $10,088,000 is for migrant programs, $1,144,000 is for law school clinics, $1,040,000 is for supplemental field programs, $649,000 is for regional training centers, $7,518,000 is for national support, $8,158,000 is for State support, $900,000 is for the Clearinghouse, $531,000 is for computer assisted legal research regional centers, and $8,703,000 is for Corporation management and administration.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 156 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum "$18,830,000" named in said amendment, insert "$18,000,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 158 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by was said amendment, insert: "$242,000,000, of which $500,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, and of which $500,000 shall be made available for the establishment of a training program at the East-West Center to assist American businessmen and trade delegations in the Pacific basin, and of which $1,500,000 shall be made available for a grant to the University of Kentucky's Somerset Community College for a regional center for rural economic development with a special emphasis on small business and,"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 164 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

ADMINISTRATIVE PROVISIONS

(1) Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

"(2) In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration, except as provided in paragraph (6), shall be—

"(A) not less than 90 percent of the balance of the financing outstanding at the time of disbursement if such financing does not exceed $155,000: *Provided,* That the percentage of participation by the Administration may be reduced below 90 percent upon request of the participating lender; and

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 percent nor more than 85 percent of the financing outstanding at the time of disbursement if such financing exceeds $155,000: *Provided,* That the participation by the Administration may be reduced below 70 percent upon request of the participating lender; and

"(ii) not less than 85 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16); The Administration shall not use the percent of guarantee requested as a criterion for establishing priorities in approving guarantee requests nor shall the Administration reduce the percent guaranteed to less than 85 percent under subparagraph (B) other than by determination made on each application. Notwithstanding subparagraphs (A) and (B), the Administration's participation under the Preferred Lenders Program or any successor thereto shall be not less than 80 percent, except upon request of the participating lender. As used in this subsection, the term 'Preferred Lenders Program' means a program under which a written agreement between the lender and the Administration delegates to the lender (I) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration, and (II) authority to service and liquidate such loans.'.

(2) Section 7(a)(19) of the Small Business Act (15 U.S.C. 636(a)(19) is amended to read as follows:

"(19)(A) In addition to the Preferred Lenders Program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a Certified Lenders Program for lenders who establish their knowledge of Administration laws and regulations concerning the guaranteed loan program and their proficiency in program requirements. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or that the loss experience of the lender is excessive as compared to other lenders, but such suspension or revocation shall not effect any outstanding guarantee.

"(B) In order to encourage all lending institutions and other entities making loans authorized under this subsection to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, during fiscal years 1989, 1990, and 1991, the Administration shall (i) develop and allow participating lenders to solely utilize a uniform and simplified loan form for such loans, and (ii) allow such lenders to retain one-half of the fee collected pursuant to section (7)(a)(18) on such loans. A participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless the amount in excess of $50,000 is an amount not approved under the provisions of this paragraph.".

(3) The last sentence of subparagraph (A) of section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended to read as follows: "In the case of cosponsored activities which include the participation of a Federal, State, or local public official or agency, the Administration shall take such actions as it deems necessary to ensure that the cooperation does not constitute or imply an endorsement by the Administration of or give undue recognition to the public official or agency, and the Administration shall ensure that it receives appropriate recognition in all cosponsored printed materials, whether the participant is a profit making concern or a governmental agency or public official.".

(4) Section 303 of the Small Business Investment Act of 1958 is amended by striking subsection (c) and inserting in lieu thereof the following new subsections:

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled, on debentures issued by small business investment companies operating under the authority of section 301(d) of this Act. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(1) The Administration may purchase shares of nonvoting stock (or other corporate securities having similar characteristics), provided—

"(A) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum, except as provided in paragraph (5);

"(B) on liquidation or redemption the Administration is entitled to the preferred payment of the par value of such securities; and prior to any distribution (other than to the Administration) the Administration shall be paid any amounts as may be due pursuant to subparagraph (a) of this paragraph;

"(C) the purchase price shall be at par value and, in any one sale, $50,000 or more;

"(D) the amount of such securities purchased and outstanding at any one time shall not exceed—

"(i) from a company licensed on or before October 13, 1971, 200 per centum of the combined private paid-in capital and paid-in surplus of such company, or

"(ii) from any such company licensed after October 13, 1971, and having a combined paid-in capital and paid-in surplus of less than $500,000, 100 per centum of such capital and surplus, or

"(iii) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus; and

"(E) the amount of such securities purchased by the Administration in excess of 100 per centum of such capital and surplus from any company described in clause (i) or (iii) may not exceed an amount equal to the amount of its funds invested in or legally committed to be invested in equity securities; for the purposes of this subsection, the term 'equity securities' means stock of any class (including preferred stock) or limited partnership interests, or shares in a syndicate, business trust, joint stock company or

association, mutual corporation, cooperative or other joint venture for profit, or unsecured debt instruments which are subordinated by their terms to all other borrowings of the issuer.

"(2) The Administration may purchase or guarantee debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)), provided—

"(A) such debentures are issued for a term of not to exceed fifteen years;

"(B) the interest rate is determined pursuant to this section or section 317; and

"(C) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having combined private paid-in capital and paid-in surplus of less than $500,000 shall not exceed 300 per centum of its combined private paid-in capital and paid-in surplus less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having combined private paid-in capital and paid-in surplus of $500,000 or more, 400 per centum of its combined private paid-in capital and paid-in surplus less the amount of such preferred securities.

"(3) Debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(C) of this subsection (c).

"(4) The Administration may require, as a condition of the purchase or guarantee of any securities in excess of 300 per centum of the combined private paid-in capital and paid-in surplus of a company, that the company maintain a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate.

"(5) Notwithstanding the foregoing provisions of this subsection, securities purchased by the Administration on or after the effective date of this Act (A) shall provide that dividends shall be preferred and cumulative to the extent of 4 per centum of par value per annum and (B) shall include a provision requiring the issuer to redeem such securities, including any accrued and unpaid dividends, in 15 years from the date of issuance: *Provided,* That the Administration may, in its discretion, guarantee debentures in such amounts as will permit the simultaneous redemption of such securities, including such amounts as it deems appropriate to include all or any part of accrued and unpaid dividends: *Provided further,* That the Administration shall not pay any part of the interest on such debentures except pursuant to its guarantee in the event of default in payment by the issuer.

"(6) In no event shall the Administration purchase or guarantee debentures or securities if the amount of outstanding securities and debentures of a company operating under the authority of section 301(d) would exceed 400 per centum of its combined private paid-in capital and paid-in surplus or $35,000,000, which ever is less.

"(d) If the Administration guarantees debentures issued by a small business investment company operating under authority of section 301(d) of this Act, it shall make, on behalf of the company payments in such amounts as will reduce the effective rate of interest to be paid by the company during the first five years of the term of such debentures to a rate of interest 3 points below the market rate of interest determined pursuant to section 321. Such payments shall be made by the Administration to the holder of the debenture, its agents or assigns, or to the appropriate central registration agent, if any. The aggregate amount of debentures with interest rate reductions as provided in this subsection or as provided in section 317 which may be outstanding at any time from any such company shall not exceed 200 per centum of the private paid-in capital and paid-in surplus of such company. The authority to reduce interest rates as provided in this subsection shall be limited to amounts provided in advance in appropriations acts, and the total amount shall be reserved within the business loan and investment fund to pay an amount equal to the amount of the reduction as it becomes due.

"(e) In determining the private capital of a small business investment company, Federal, State, or local government funds received from sources other than the Administration shall be included solely for regulatory purposes, and not for the purpose of obtaining financial assistance from or licensing by the Administration, providing such funds were invested prior to the effective date of this Act.

"(f) Notwithstanding the provisions of any other law, rule, or regulation, the Administration is authorized to allow the issuer of any preferred stock heretofore sold to the Administration to redeem or repurchase such stock upon the payment to the Administration of an amount less than the par value of such stock. The Administration, in its sole discretion, shall determine the repurchase price after considering factors including, but not limited to, the market value of the stock, the value of benefits previously provided and anticipated to accrue to the issuer, the amount of dividends previously paid, accrued, and anticipated, and the Administration's estimate of any anticipated redemption. The Administration may guarantee debentures as provided in paragraph (5) of subsection (c) and allow the issuer to use the proceeds to make the payments authorized herein. Any monies received by the Administration from the repurchase of preferred stock shall be deposited in the business loan and investment fund and shall be available solely to provide assistance to companies operating under the authority of section 301(d), to the extent and in the amounts provided in advance in appropriations acts.".

(5) Section 321(a) of the Small Business Investment Act of 1958 is amended by inserting after the word "companies" the following: ", including companies operating under the authority of section 301(d),".

(6) Section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302), as amended, is further amended by striking "October 1, 1990" and by inserting in lieu thereof "October 1, 1991".

(7) Notwithstanding any other provision of this Act, none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committee on Appropriations under reprogramming procedures except that this provision shall not apply to uniform common rules applicable to multiple Federal departments and agencies including the Small Business Administration; nor may any of such funds be used to restrict in any way the right of association of participants in such program.

(8) The funds made available by this Appropriations Act for Small Business Development Centers shall be available for grants for performance in fiscal year 1990 or fiscal year 1991.

(9) The limitation of $1,813,250,000 on gross obligations for new direct loans to carry out section 7(b) of the Small Business Act, as amended, which is contained in Sec. 108(c) of H.J. Res. 423 as enacted into law is hereby waived: *Provided,* That the de facto credit limitation during fiscal year 1990 on gross obligations for new direct loans to carry out Section 7(b) of the Small Business Act, as amended, imposed in the final Presidential sequestration order of October 16, 1989 and based on the calculation listed in the Final OMB Sequester Report to the President and Congress for Fiscal Year 1990 is hereby waived.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 165 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$8,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 168 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000 as authorized by 22 U.S.C. 1474(3); $638,569,000, none of which shall be restricted from use for the purposes appropriated herein: *Provided,* That not less than $32,800,000 shall be available for the Television and Film Service nothwithstanding Section 209(e) of Public Law 100-204: *Provided further,* That not to exceed $1,210,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further,* That not to exceed $12,902,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain

available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477(b), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: *Provided further,* That not to exceed $6,000,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 170 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum "$160,300,000" named in said amendment, insert "$156,506,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 174 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$17,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 176 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 605. Five working days after enactment of this Act and thereafter, the Federal Trade Commission shall assess and collect filing fees established at $20,000 which shall be paid by persons acquiring voting securities or assets who are required to file premerger notifications by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a) and the regulations promulgated thereunder. For purposes of said Act, no notification shall be considered filed until payment of the fee required by this section. Fees collected pursuant to this section shall be divided evenly between and credited to the appropirations, Federal Trade Commission, "Salaries and Expenses" and Department of Justice, "Salaries and Expenses, Antitrust Division": Provided, that fees in excess of $40,000,000 in fiscal year 1990 shall be deposited to the credit of the Treasury of the United States.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 177 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum "$250,000" named in said amendment, insert "$500,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 181 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 609. (a) The Secretary of State, in consultation with the Secretary of Commerce, shall, with respect to those species of sea turtles the conservation of which is the subject of regulations promulgated by the Secretary of Commerce on June 29, 1987—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of such species of sea turtles;

(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which, as determined by the Secretary of Commerce, may affect adversely such species of sea turtles, for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species of sea turtles;

(3) encourage such other agreements to promote the purposes of this section with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of such species of sea turtles;

(4) initiate the amendment of any existing international treaty for the protection and conservation of such species of sea turtles to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section; and

(5) provide to the Congress by not later than one year after the date of enactment of this section—

(A) a list of each nation which conducts commercial shrimp fishing operations within the geographic range of distribution of such sea turtles;

(B) a list of each nation which conducts commercial shrimp fishing operations which may affect adversely such species of sea turtles; and

(C) a full report on—

(i) the results of his efforts under this section; and

(ii) the status of measures taken by each nation listed pursuant to paragraph (A) or (B) to protect and conserve such sea turtles.

(b)(1) IN GENERAL.—The importation of shrimp or products from shrimp which have been harvested with commercial fishing technology which may affect adversely such species of sea turtles shall be prohibited not later than May 1, 1991, except as provided in paragraph (2).

2. CERTIFICATION PROCEDURE.—The ban on importation of shrimp or products from shrimp pursuant to paragraph (1) shall not apply if the President shall determine and certify to the Congress not later than May 1, 1991, and annually thereafter that—

(A) the government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

(B) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting; or

(C) the particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 186 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation named in said amendment, insert "611".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 187 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 612 (a)(1) The Federal Building and United States Courthouse located at 707 Florida Avenue in Baton Rouge, Louisiana, shall hereafter be known and designated as the "Russell B. Long Federal Building and United States Courthouse".

(2) Each reference in law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Russell B. Long Federal Building and United States Courthouse".

(b)(1) There is hereby authorized to be appropriated such sums, not to exceed $5,500,000 to remain available until expended, as may be necessary to establish a clinical law center at Seton Hall University in Newark, New Jersey.

(2) The Secretary of Education shall make such grant in accordance with all of the terms, conditions, and requirements set forth for such a center in Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 [99 Stat. 305]) and the Secretary of Education is authorized to receive, review and certify for payment applications for said grant. Not more than $1,000,000 of such grant shall be devoted to facilities.

(c) There is hereby authorized to be appropriated under Title III of the Higher Education Act of 1965, as amended, $4,500,000 to remain available until expended, for the cost of construction and related costs for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina.

(d)(1) The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, is authorized, in accordance with the provisions of this subsection, to provide a grant for a Bioscience Research Center serving the midwestern States to be established at the University of Kansas in Lawrence, Kansas.

(2) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary of Health and Human Services may reasonably require.

(3) There are authorized to be appropriated not to exceed $5,200,000 to carry out the provisions of this subsection. Funds appropriated pursuant to this section are authorized to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 189 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation named in said amendment, insert "613".

AMENDMENT IN DISAGREEMENT NO. 53

The PRESIDING OFFICER. The clerk will report the first amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $168,560,000: *Provided,* That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed in this Act: *Provided further,* That appropriations under this heading may be used to reimburse agencies for any costs incurred by Organized Crime

Drug Enforcement Task Forces between October 1, 1989 and the date of this Act.

AMENDMENT NO. 1073 TO AMENDMENT IN DISAGREEMENT NO. 53

Mr. HOLLINGS. Mr. President, I move to concur in the amendment of the House to the amendment of the Senate No. 53, with an amendment as follows, and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina, [Mr. HOLLINGS] proposes an amendment numbered 1073 to the amendment in disagreement, No. 53.

In lieu of the matter proposed by said amendment, insert the following:

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $168,560,000: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed in this Act: *Provided further*, That appropriations under this heading may be used to reimburse agencies for any costs incurred by Organized Crime Drug Enforcement Task Forces between October 1, 1989 and the date of this Act: *Provided further*, That section 506(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, is amended by adding "or 0.25 percent, whichever is greater," after "$500,000".

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I rise for two purposes. One, to compliment my colleagues. They have one of the toughest jobs in this outfit dealing with this significant appropriation. I am not being solicitous. I always marvel how well my friends from South Carolina and New Hampshire handle this issue and work it out year after year in a way that gets the job done and gets both the House and the Senate to sign on with them. It is not an easy task; so my compliment.

I am going to be very specific for the record. As the distinguished managers of the bill know, when we passed this appropriation in the Senate prior to going to conference we had a much larger minimum number based on percentage for small States.

That is what this amendment is all about. This amendment is all about assuring that small States receive a minimum out of this appropriation and the formula is going to be a minimum of $500,000 or 0.25 percent, whichever is larger.

Because of the present appropriation, because of the urgency with which the managers of this bill and the House and the Senate and the Senate as a whole and the House have viewed the war on drugs, the overall number here for State and local is higher than it has been in the past. It has been the concern of the Senator from Delaware that if that fervor were to wane next year, the following year the year after, the 20 smaller States would find themselves in a position of getting relatively no money under future appropriations.

I think the compromise that has been worked out with the House is appropriate and I compliment the staffs of the manager and the minority leader in this effort for coming up with the solution they have. I think it is equitable. I think it works.

Again, in a very parochial sense, I particularly thank the Senator from South Carolina for looking out for the jurisdictional interest of the Senator from Delaware who coincidentally at this moment is chairman of the Judiciary Committee. He has been extremely gracious, and I appreciate the support and the compromise. I yield the floor.

Mr. HOLLINGS. Madam President, it is easy to be gracious when you have merit on your side. There is no question the 0.4 percent we have in this over the $500,000 agreed to by us in conference should have been sustained but was knocked out on the House floor when they adopted the conference report, to the dismay of this particular Senator. It would cut, for example, the allocation to the State of the distinguished chairman of the Judiciary Committee that has been leading the way and providing for the war on drugs, and all of a sudden his State has been cut a million bucks. We could not countenance that. We hope this compromise will work out with our colleagues over on the House side. And I am glad to help the Senator from Delaware, the sponsor of this particular provision to have this compromise.

It is up now and the question is on the adoption of the amendment.

The PRESIDING OFFICER. Is there any further debate on the motion?

Mr. RUDMAN. Madam President, the Senator from Delaware, who originally discussed this at our drug task force when the two groups got together, is precisely right. This problem is nationwide. It is certainly in small States and many large States as well. It would be anachronistic if we developed a drug bill that somehow took care of 18 States and not 32 States. I do think that the level of funding this year is such that this 0.25 percent is going to handle it very well.

I can assure the Senator from Delaware that if we ever get to the point—I do not think we will—when funding drops become some gross amount making this percentage inadequate, he will have a number of allies on our subcommittee to reinstate the original intent which was very wise, very well designed, and I am at a loss to understand why it was rejected on the floor of the House.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HOLLINGS. Madam President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT IN DISAGREEMENT NO. 79

Mr. HOLLINGS. Madam President, I move that the Senate concur in the amendment of the House to amendment No. 79.

The PRESIDING OFFICER. The clerk will report the amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 79 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 208. Section 6077(c) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 4325) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

Mr. HOLLINGS. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT IN DISAGREEMENT NO. 83

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House insist on its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill.

Mr. HOLLINGS. Madam President, I move that the Senate recede from amendment number 83.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

Mr. HOLLINGS. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT IN DISAGREEMENT NO. 171

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 171 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $84,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a), of which not to exceed $16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba, including, but not limited to the purchase, rent, construction, improvement and equipping of facilities, operations, and staffing: *Provided*, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment: PROVIDED FURTHER, That the availability of such funds for television broadcasting to Cuba shall be subject to the provisions of Part B, title II of H.R. 1487 as passed the House of Representatives until such time as legislation authorizing such activity is enacted into law.

Mr. HOLLINGS. Madam President, I ask unanimous consent that we set aside 171 and go to 191. The distinguished chairman of the Foreign Relations Committee is here. He has an amendment to amendment number 191.

The PRESIDING OFFICER. Without objection, the unanimous consent request is agreed to.

AMENDMENT IN DISAGREEMENT NO. 191

The PRESIDING OFFICER. The clerk will report amendment No. 191.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 191 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 614. Until H.R. 1487, the Foreign Relations Authorization Act for Fiscal Year 1990 is enacted into law, the funds appropriated by this Act for the Department of State and the United States Information Agency may be obligated and expended on or before November 30, 1989, at a rate of operations not exceeding the rate available for fiscal year 1989 or the rate provided in H.R. 2991 as passed the Senate, whichever is lower and under the authority and conditions in applicable appropriations acts for fiscal year 1989, notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948: *Provided*, That if H.R. 1487, the Foreign Relations Authorization Act of Fiscal Year 1990 is not enacted into law by November 30, 1989 funds appropriated by this Act for the Department of State and the United States Information Agency may be obligated and expended at the rate of operations and under the terms and conditions provided by H.R. 2991 as enacted into law, notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948.

AMENDMENT NO. 1074 TO AMENDMENT IN DISAGREEMENT NO. 191

Mr. PELL. Madam President, I move that the Senate agree to the amendment of the House to the amendment of the Senate numbered 191, with an amendment which I now send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 1074 to the House amendment to Senate amendment in disagreement No. 191.

That the Senate agree to the amendment of the House to the amendment of the Senate numbered 191, with an amendment as follows:

In the House amendment, strike all after "Educational Exchange Act of 1948" the first time it appears.

Mr. PELL. My amendment, which is cosponsored by Senator HELMS and supported by the membership of the Foreign Relations Committee, strikes the waiver of the requirement for an authorization. Section 15 of the Basic Authorities Act for the State Department requires an authorization before appropriated funds can be expended. An authorization bill has passed both Houses and is now in conference.

To waive section 15—the authorization requirement—is not in accord with the legislative process and unjustified under current circumstances. Further, the authorization waiver will undermine the prospects for enactment of the State Department Authorization Act.

Last July the Senate spent 5 full days deliberating on this year's State Department Authorization Act. The bill includes such important provisions as China sanctions, limitations on contacts with terrorists, the criminalization of certain Iran-Contra type activity, and a whole title devoted to environmental protection. In addition, the bill authorizes funding for the Department of State, USIA, Radio Free Europe and Radio Liberty, and U.S. participation in the United Nations. New initiatives include construction of a major transmitter facility for VOA in Israel as well as mandates for VOA broadcasts to China and Tibet.

Some of these provisions are opposed by the administration and by waiving the authorization requirement, we will reduce the likelihood of passage of the authorization bill. If so, we will, in effect, cancel out a full week of the Senate's work and many provisions offered by Senators in committee and on the floor will be lost.

Even more important, the integrity of the legislative process is at stake. This waiver was in neither the House- nor Senate-passed versions of the appropriations bill. Rather, the waiver and several important legislative provisions were inserted by the conferees into the conference report. There was no consultation with the authorizing committee.

Authorization bills are intended to set the parameters for the programs that are then funded in the appropriations bill. We provide the ceiling, though not necessarily the floors. If we accept the proposition that appropriators can legislate willy-nilly and without reference to either the authorizing committees or the full Senate, then we are abdicating our responsibilities to a handful of our colleagues. In my judgment, this is not a proper legislative process.

The State Department authorization bill is in conference. This assault on the authorization process, I believe, is unjustified.

I hope my colleagues will join the Foreign Relations Committee in this effort to defend the regular legislative process.

Mr. HELMS. Madam President, the distinguished Senator from Rhode Island, who is the able chairman of the Foreign Relations Committee, is exactly right. He stated the case very well. As he has indicated, I am a cosponsor of his amendment now pending.

Here is the point, Madam President. Section 15 of the Basic Authorities Act for the State Department requires the enactment of an authorization bill before any funds can be spent. This places a serious responsibility upon the Foreign Relations Committee to ensure the enactment of such an authorization.

I would add that we have an excellent track record in that regard. When Senator PELL and I assumed the leadership position on the Foreign Relations Committee in January 1987, both of us placed high priority on a State Department authorization bill. The Senate, after more than 1 week of floor activity, passed an authorization that we took to conference with the House. The bill was signed by the President in December of 1987 and provided a 2-year authorization for the State Department.

This year, once more we have placed a high priority on the State Department bill. In the early spring of this year, the staff began working on a draft bill that we marked up with active participation by most of the members of the committee. In July, we took that bill to the floor of the

Senate. And after a full week of consideration, the Senate passed the bill that includes many provisions that are important to a number of Senators. The Senate-passed bill included provisions on China sanctions, aid to Cambodia, policy toward negotiations with the PLO, policy on the environment, a tightening on the embargo on Cuba, and those are just a few.

Madam President, shortly after the Senate moved to final passage on the State Department bill, staff of the Foreign Relations Committee began discussions to resolve a number of provisions in the bill. But no sooner did the conferees sit down to meet on this bill than we learned that the Commerce-Justice-State conference inserted a waiver of our authority.

So, Madam President, the issue before the Senate is whether there is any role for authorizing committees in the legislative process or, to be a little bit blunt about it, whether we ought to sit back and be steamrolled. Senator PELL and I say no to the latter.

Madam President, I very much support the amendment of the chairman of the Foreign Relations Committee.

The Senate authorizing committee has been ready since July to go to conference with the House on the State Department authorization bill, H.R. 1487. However, the House delayed the appointment of conferees for several months, only appointing them within the last 2 weeks.

We have had two meetings of the conference.

Unfortunately, the delay on the part of the House has resulted in a much-slowed process on the authorization bill. Frankly, that delay is further exaccerbated by the House position expressed thus far in conference that the House conferees do not wish to deal with many of the Senate amendments which they have deemed as "nongermane"—that is, not germane, so they claim, to the House-passed bill.

At any rate, Madam President, the Senate conferees have been disadvantaged by the slow House reaction. Nevertheless, the chairman and I are committed to trying to come to completion of the authorization conference.

That job, however, is made enormously more difficult by the action of the appropriations conferees in inserting amendment number 191 which provides a waiver of the requirement in existing law that an authorization be enacted prior to an appropriation.

The waiver results, in effect, in undermining our committee's chances of concluding the authorization conference—because so much of what we would do is subsumed in the waiver of authorizations.

Mr. HOLLINGS. Now, Madam President, as the former Senator from Rhode Island, Senator Pastore, used to say, around 7 o'clock in the evening, "well, now, Madam President," and he would harken history.

The distinguished Senator, most respected, has alluded to, "willy-nilly appropriations." He acts as if a waiver is the most unique and unheard of matter.

The fact of the matter is, I worked with the distinguished chairman and the distinguished Senator from North Carolina to 3 o'clock in the morning on the bill some 2 years ago and saved the authorization bill by granting the waivers about which the President threatened to veto the authorization bill.

So, let everyone understand what is really involved. There is a unique provision in law for the Department of State enacted. It is called section 15 of the Basic Authorization Act of 1956. Section 15 says none of the moneys that Congress has appropriated can be expended unless authorized.

That does not pertain to any other authorization other than the USIA, of course, which has a similar restriction in section 701(a) of their act. That does not pertain to any other authorizing committee. I happen to be chairman, obviously, of the Commerce, Space, Science, and Transportation Committee. I would love to have that leverage, where we never could appropriate unless and until I got an authorization to my liking. But that is not the way it works except, of course, here.

This is a strange thing that we have to contend with every time we come up to the State Department. It is almost like a debt limit bill, Madam President, closing down, not, of course, the Government, but closing down the Department of State.

We have a responsibility in appropriations and that responsibility is to conform here to the authorizing committee. Everything that we have in this particular conference report conforms to the U.S. Senate authorizing bill, the State Department authorization.

But there is one exception. I must mention it in order to be honest. Of course, I enjoy it because it is an exception for the distinguished chairman of the authorizing committee, the author of the amendment.

In September, last month, he said that the authorization for the International Fisheries Commission was not enough and he asked, "Please exceed what was authorized." And we did because I think he is right, I think the Senator from Rhode Island is right, and we were glad to respect his authorization ceilings in all other regards except this one exception.

So I do not like to hear the expression by my distinguished chairman of Foreign Relations about "willy-nilly appropriations." This is about as deliberate as we can get. We waited all year long. It is November tomorrow. And the authorizing committee, of course, has taken its due time.

I understand the distinguished chairman has problems. I noted he had to have eight meetings of his committee to get the authorization bill reported. That was on June 12 and in July it passed the Senate. The House conferees were not appointed until October 5, and just this last week they had the first meeting.

So there have been difficulties. Senator RUDMAN and I, conferring on both sides, said we do not want to pressure. We want to adhere to and wanted to respect—and we did respect—the authorization bill. But we cannot get into the jam of another continuing resolution.

Oh, boy, I would hate to be a majority leader around this day in time. Because now come all the animals and the jackals, including me and everyone else, with debt limit that you have to pass; with continuing resolutions that you have to pass; and everything else. I want to put on there my campaign financing; I want to put on my Social Security bill, I want to put on——

GEORGE MITCHELL and BOB DOLE are "Jack be nimbles and Jack be quicks," trying to dance around this body trying to get some kind of agreement so we can get out of here this year.

Realizing this, we agreed as was strongly suggested on the House side, that we give them 30 days. That was the middle of October. We said we would do better.

We said we understand the target date for adjournment was Thanksgiving, so we add an extra week, to November 30. We really do not waive. We just said that appropriations shall be in conformance with the 1989 authorization bill, which has been signed into law, unless and until they have adopted a conference report on the authorization for the Department of State.

If they get that, that will be the one that we will conform to because our bill conforms to it and we have no problem. If they do not get a conference report on the State Department authorization, then on November 30, it will be assumed to be passed because we have it right here in black and white. Everything we have in here, Senator, is black and white, what the Senate authorized. We have not exceeded it except the one exception I pointed to at the request of the distinguished chairman.

How much fairer can we get? What can we do? This is November, but the appropriation bill is supposed to be used again to get pressure for another 2 weeks, get a midnight meeting on Thanksgiving Eve or Christmas Eve or whatever it is and, oh, yes, they have to pass it now because the Department of State does not have any appropriations. So, after November 15, they have to close the Department unless

we adopt this conference report or get another continuing resolution with my Social Security amendment, with my budget process amendment, with my campaign finance amendment, with my child care amendment, with my—oh, all of these other necessary things that I believe it.

That is what the distinguished Senator from New Hampshire and I did in the conference, working it out on the House side.

I think, most respectfully, if it had been willy-nilly, the House would never have accepted it. They are really sticklers, if you please, for authorizing committees.

So much so that they sent us a bill totally absent the Department of Justice, I guess it was, and a good position of the Department of Commerce, and practically all of State, as well as nothing for the USIA.

Incidentally, we have 128 measures under this bill. We have not had a Department of Justice authorization. If we adopted this particular procedure for the other departments, we would close down the Department of Justice. We would close down the Economic Development Administration. We would close down Legal Services. We would close down—right on down the line. I can start naming all the ones we have not passed an authorization for.

I ask unanimous consent, for example, that this list, Madam President, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMERCE, JUSTICE, STATE, THE JUDICIARY APPROPRIATIONS ACT—UNAUTHORIZED APPROPRIATIONS

1. Economic Development Administration—last authorized in 1980.

2. Minority Business Development Administration—never authorized; created by Executive Order.

3. Export Administration—H.R. 2653 passed Senate 10/3/89.

4. United States Travel and Tourism Administration—S. 1791 introduced 10/25/89.

5. Technology Administration & National Institute of Standards and Technology—S. 1191 passed Senate 10/26/89.

6. National Telecommunications and Information Administration—no 1990 authorization bill introduced.

7. All of Department of Justice, except the Office of Justice Programs—last authorized in 1980.

8. All of the Department of State—except Payment to the Foreign Service Retirement and Disability Fund—Foreign Relations Authorization Act (H.R. 1487).

9. Only Court Security in the Judiciary is not authorized.

10. Arms Control and Disarmament Agency—no Senate action on 1990 authorization.

11. Board for International Broadcasting—Foreign Relations Authorization Act (H.R. 1487).

12. Commission on Civil Rights—authorized through 11/30/89. S. 1801 introduced 10/26/89.

13. Federal Communications Commission—S. 1022 ordered reported 10/5/89.

14. Federal Trade Commission—last authorized in 1980. Commerce reported S. 1249, 9/18/89.

15. Legal Service Corporation—last authorized in 1980.

16. United States Information Agency—Foreign Relations Authorization Act (H.R. 1487).

Mr. HOLLINGS. The Commission on Civil Rights, Federal Communications Commission, the Federal Trade Commission, the Arms Control and Disarmament Agency.

Yes, our duty and our responsibility is to respect and adhere to our Senate Foreign Relations authorization. And, by Jove, we have done just that. And I do not know how to do it better.

If we are going to be a pawn in the maneuvering that is going on around here—and I do not say that in the pejorative sense, that happens and I happen to participate in it—but now that I am crystal clear here this evening, one of the rare times, why not stand up and talk about it.

I do not think we ought to, Madam President, be put into that particular position, and that is why the amendment of the distinguished Senator from Rhode Island should be defeated.

I yield.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Madam President, as usual, my friend from South Carolina sums it up in about 5 or 6 minutes and puts it in a context that everybody can clearly understand. I want to also take issue with my fellow New Englander and chairman of the Foreign Relations Committee in his remark that we put this in here "willy-nilly."

Let me advise my friend from Rhode Island, we put this in with malice of forethought, not willy-nilly. We put it in deliberately, intentionally, because it is necessary.

For those who are interested in Government, they may wonder how in the world did sane people ever come up with a provision called section 15(a)? It is the only provision in the entire Government like it.

Can anyone here imagine what this Government would be like if each of the departments of this Government has a section 15? Madam President, we would be here during the months of September, October, November, and December, all night every night, meeting deadlines before we would close down the FBI, the courts, the Defense Department, HHS, the fight on AIDS, the fight against drugs, et cetera.

It is an absurd provision. But generally speaking, people in the Congress do not write absurd provisions. Generally there is a history and the history of this section 15(a) ought to be clearly understood by everyone as to how it got here and why. It got here, Madam President, in the early 1970's. It was inserted by the then distinguished chairman of the Foreign Relations Committee, Senator Fulbright, of the State of Arkansas. It was inserted during the height of the Vietnam War. It was inserted because of a failure of a response by the administration at that time to legitimate requests of the Congress for information, for reports, for information that the Congress is entitled to. So, based on that history and probably, I imagine, frustrated beyond belief, the Senate inserted this provision which essentially said to the State Department, until you meet your responsibilities to the legislative branch, which is a coequal branch under the Constitution, then we will not under any circumstances allow your agency to operate.

I was not here at that time. Some of my friends here were. I would bet the reports were forthcoming very quickly. I would imagine the administration came forth. But, Madam President, that is not why we are here today. Like learned lawyers and judges speak about cases, hard cases make bad law. This is a bad law. If it is a good law, then I propose that we pass the same law for the Defense Department, for the Commerce Department, for the Agriculture Department and so forth, so that every department will shut down unless there is an authorization bill by a date certain.

What I am about to say, I certainly am not in any way directing that to any present Members of the Senate because they did not write this provision, but if I ever saw a provision that I would call legislative blackmail, this is the one; this is the one, this particular provision, held like a club over an administration, Democrat or Republican, to force them to do things they do not want to do.

But, Madam President, there is something even more interesting about this provision. In this case, the fight is not so much between the Senate Foreign Relations Committee or the House Foreign Affairs Committee and the administration, although there is certainly some of that; there are a couple of amendments, one that my friend, the Senator from New York, and I have been working on that I am sure we would like to have some pressure on them to get that accepted. I understand that, but the real battle here is between the Foreign Relations Committees of the two Houses of the Congress, the House and the Senate. That is where this battle is.

What we are essentially being asked to do by the Senator from Rhode Island and the Senator from North Carolina is to say, all right, we will take this section out; come November 30, if you have not solved your problem, and there is no assurance in my mind that they will, then we have to now, being faced with the State Department being faced with a situation

where they cannot operate, go on to another continuing resolution—that is no way to run a Government, Madam President.

I am sorry that the Foreign Relations Committee, for legitimate reasons, has been unable to reach a satisfactory solution between themselves and send a bill to the White House for the President's signature or veto. But the fact of the matter is that they have not. Chairman WHITTEN, who has served in the Congress for a long time—I do not know how many years; I guess it is probably close to 40—the chairman of the House Appropriations Committee, said several weeks ago in a very similar situation, and I read what he said: "I work where the work gets done," and where, I might add, the work must be done in order for the Government to operate.

I am sorry that we are in this dispute with our friends in the Foreign Relations Committee, and they are our friends. Our responsibility is to make sure this Government operates. That is the responsibility of the Appropriations Committee. We must give the Government money to operate, all departments, all agencies.

I regret that the Foreign Relations Committees are unable to come to a justifiable, reasoned, and proper solution; but they cannot. It is now almost November 1. Maybe they will reach agreement November 5; maybe they will not. Maybe they will November 30; maybe they will not. The State Department cannot be held in limbo waiting for these issues to be worked out.

Let me conclude, Madam President, by saying this. If there were some outrages within this particular bill of ours that totally confounded what the Foreign Relations Committee wished to do, I can understand it. As my distinguished chairman has just said, we have done precisely what they have asked us to do; we have been very zealous in our adherence to the authorization in terms of amounts. There is no argument to what we have done here.

So, Madam President, for my colleagues who do not get too involved in these esoteric issues of budget waivers, section 15 waivers, and so forth, it is very simply put: The administration should be allowed to have the State Department operate normally the day this bill is signed, irrespective of what happens to the foreign relations authorization bill.

I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Madam President, I would like to make a couple of points here. In the past, the appropriations subcommittee has waived certain specific provisions of the bill but never the entire bill. This is a waiver not merely of a specific provision, but of the entire need for an authorization bill. It is unprecedented to waive the requirement for an authorization also when that same authorization bill is in conference. I might repeat, too, that this waiver was inserted without consultation with the authorizing committee and, in spite of a letter from Senators BYRD and HATFIELD promising to work with the committee. Further, they asked us to accommodate them in the matter of earmarks, which we did. We changed the earmarks into authorizations as a result of their request. I would only hope they would have accommodated us.

It is also true I acceded to the request of several Great Lakes States colleagues to ask for an authorization in the bill for the sea lamprey control. This can hardly serve as a precedent for inserting major legislative matters from the authorization bill, like TV Marti and Worldnet, or to waive the authorization requirement altogether.

The question has been raised also whether the State Department will run out of money. Elimination of the waiver will not force the State Department out of business or require a new continuing resolution. It would simply put the authorization bill on the same must-pass basis as the appropriations bill.

Considering how much work the Senate put into this bill, as I said before, a week of the Senate floor time, I think this would be appropriate.

As far as section 15 goes, I think we all believe it should be repealed and maybe that might be an action on which we could all agree and vote to repeal section 15.

Mr. RUDMAN. Will the Senator yield for a question?

Mr. PELL. Certainly.

Mr. RUDMAN. If the Senator from Rhode Island believes we ought to repeal it, why are we considering this amendment? What we are doing is repealing it for this year and this waiver, which the House insisted on. If the Senator from Rhode Island agrees with me and my friend from South Carolina that this section ought to be repealed, why are we trying to reinstate it for this year?

Mr. PELL. To my mind, it would not be a bad idea if we did do it. It would be a second-degree amendment on my amendment and have a repeal of it. I think we ought to think about it a little more thoroughly before doing it on the floor.

Mr. HOLLINGS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Madam President, I rise as a most junior member of the Committee on Foreign Relations. I can make no claim to any long association with this specific provision. But the issue being discussed is in reality broader than this particular discussion might indicate; namely, the question of the troubled relations between the authorizing committees and the Appropriations Committee, or for that matter the Finance Committee.

I serve on the Finance Committee, Madam President, and we frequently find ourselves in discussions not different from the one we are discussing today. In the mid-1970's the Budget Act was passed and the Budget Committee emerged. We found ourselves with three levels of committees dealing with identical subjects, whether defense matters or the State Department or the Social Security Administration or the farm program, or what you will.

Over nearly two centuries we had developed a pattern whereby certain committees had particular areas of legislative concern. They would bring laws to the floor with the authority that comes from knowledge of the subject.

Simultaneously, many of these laws—not all by any means—required public outlays such that an Appropriations Committee actually allocated funds to be spent. The statute might be open-ended, or the statute might specify an upper limit, such as $500 million. As events evolved the Appropriations Committee might then make a judgment that there were insufficient funds at hand, and lower the actual allocation to $400 million, for example. This worked harmoniously.

In addition, about half of the budget goes through the Finance Committee. Tariffs are a tax, Social Security is funded through a payroll tax, and so forth. We on the Finance Committee make decisions about the allocation of resources through the Tax Code.

When the Budget Committee came along, it was basically in competition with the Appropriations Committee and the Finance Committee, which are the money committees. I like Mr. RUDMAN's quotation from Mr. WHITTEN, the chairman of the Appropriations Committee in the House of Representatives: "I work where the work gets done." There can be no question that appropriations are central to the legislative process.

But it would be extremely unfortunate if we were to lose the services provided by the authorizing committees where the conceptual legislation originates, where we write our laws, and I see that happening.

I dare to think that there are not many Members of this body who do

not themselves encounter this problem in one form or another, the problem of being caught between the Budget Committee at the top and the Appropriations Committee at the bottom. Between those bodies are the committees that deal with the basic statutes of the Nation, the laws that embody our values, our purposes, our rules, and our goals.

They are framed by the authorizing committees. If we lose the ability to set goals and pass laws which embody our ideals this body will become an accounting firm and not a legislative body. We will sit here keeping the Nation's books: So much comes in, so much goes out. The purposes and values will get lost, That is why the chairman of the Foreign Relations Committee has come to the floor with this question.

I think no one in this Chamber would dispute that there are few persons in the Senate who aggressively defend programs advantages to their territorial jurisdiction. We have that problem. Madam President, I hardly need tell the distinguished Members of this Chamber that the territorial principle has been with us from the very beginning. I represent the State of New York. The distinguished Senator from Delware is on the floor representing Delaware.

Committees have the same territorial quality to them, and defense of it is instinctive in the species, I suppose. But that is not the nature of the senior Senator from Rhode Island, who has been in this Chamber since 1961. I remember the great joy in the Syracuse campaign headquarters for Kennedy-Johnson in 1960. One of the young campaign workers for that campaign was a cousin of CLAIBORNE PELL, and we celebrated not only the election of John F. Kennedy but CLAIBORNE PELL of Rhode Island as well.

In those nearly 30 years, I do not believe that this man has ever come to this floor and asked on his own behalf and for the Committee on Foreign Relations, that we not adopt this type of provision. But this is a provision which was never passed by the Senate and never passed by the House. It emerged Venus-like from the tables at which this conference committee met.

It is not appropriate, Madam President, that legislation should be written or waived by conferees. Moreover, the Senator from New Hampshire, who is as able an advocate as this Chamber has ever known, quite rightly describes the origins of the particular provision which the conferees propose to waive. It was adopted when Senator Fulbright was the chairman of the Foreign Relations Committee, and the purposes for which it was enacted are just as valid today as they were then.

The Foreign Relations Committee does not deal with a great deal of legislation per se. The Congress does not pass many laws about foreign policy. Great moments do come along. You deal with great treaties; issues of war and peace. But they do not arise as a matter of routine. They come at dramatic moments in history.

It is much more the role of the Foreign Relations Committee to watch what is happening in the executive branch. This is a coequal branch, which has responsibility for foreign policy by the deliberate design of the Constitution. Thus, the Foreign Relations Committee must make policy judgments and to make those judgments we need information, and we need cooperation. That is why there are four great committees of this Congress. In alphabetical order, they are Appropriations, Defense, Finance, and Foreign Relations. Those are the four "A" committees. It is uniquely the role of the Foreign Relations Committee to be concerned with the activities of the executive branch, and to be vigilant on behalf of a Senate that has a role in foreign affairs provided by the Constitution. We ratify treaties. We consent to the ratification of treaties. We give our advice and consent.

There are in the current State Department authorization bill, reported out and passed on this floor, two very important measures, as the distinguished chairman of the Foreign Relations Committee has said. One was offered by the Senator from North Carolina, and the other was offered by the Senator from New York, the present Senator, these are provisions that go to the heart of foreign policy. They are provisions that would only arise in the Foreign Relations Committee in the aftermath of scrutiny, consideration, and inquiry.

That is a process this Chamber cannot do without. Yet, as we see, it is the result of a fragile arrangement. The Foreign Relations Committee does not pass farm support bills. It does not authorize the construction of a 600-ship Navy. But the committee asks, what those navies will do, how well have they performed, and to what purposes they are to be directed.

That is why it is a privilege to be a member of the committee. That is why we are so fortunate to have in the Senator from Rhode Island a chairman who was a diplomat and served behind the Iron Curtain, one of the rare men at the time to do so. He comes to this floor with a very open and candid statement.

This measure was not in either appropriations bill when it left either Chamber. It appears from nowhere and without need.

We are in conference on the State Department authorization bill. We have done our duty, our work. And we will produce a bill.

We have other details which also need attention. Not all, but many of us learned with some sorrow, some distress, that the appropriations bill puts these United States deeper in debt to the international community, to the United Nations, to international organizations. In particular we have a very sharp reduction in the peacekeeping funds which we allocate to the United Nations—in a year after these peace operations won the Nobel Peace Prize.

The Secretary of State does not want this reduction, and neither do the appropriators. They make that very clear in the conference report. They regret this.

But, Madam President, they look at this issue in a manner that appropriators must. They have only so much money to go around. You have to cut a little bit here and cut a little bit there. The Committee on Foreign Relations has a larger responsibility. The United States is becoming an embarrassment to its friends and no friend of itself by refusing to pay or being unwilling to pay the dues owed by members of the United Nations.

For years, it was our practice to point to the Soviet Union and say, "Why are you not paying your dues? Why are you not supporting the peacekeeping operations? Your obligation under the charter is to do it." It was a good speech; we made it year after year. I had that role myself in a period when I was our permanent representative at the United Nations.

We cannot make that speech anymore, Madam President. The Soviet Union is virtually paid up with its dues and is now paying off assessments for peacekeeping operations that go back some 20 and 25 years. Madam President, it is no pleasure to report that countries that owe dues to the United Nations among the few are Libya, Iran, South Africa, and the United States. And the United States is overwhelmingly the nation with the largest outstanding debt.

There is a word for that. I am not going to use it on this floor. We threw it around pretty readily when the Soviets were in this situation. With the President trying to reestablish our relationship with the international community, which was pretty frayed, we need to pass an appropriations bill with funding commensurate with those established in the State Department authorization bill as reported from the Foreign Relations Committee. That bill commits us to pay the money we owe, and to honor commitments we have made. That is the job of the Committee on Foreign Relations. It has been its role from the beginning of the Republic. It is a role that is indispensable, and yet easily assaulted as we see today.

I hope we will not do that, not the least because the President is going to meet Mr. Gorbachev in the Mediterranean not many weeks from now. I do

not want my President to show up aboard a Soviet warship, to have the leaders talk about U.N. peacekeeping forces, and have the General Secretary of the Soviet Union say, "What is the matter with you fellows? Can you not pay your bills? Can you not pay your dues? Are you hard up? Can we lend you money? What is the problem?" We should not put the President in such a position.

We will have done that if we simply pass this appropriations bill. If we pass this appropriations bill you may also be sure that the administration will see to it that nothing happens on the authorization measure because there are two points, two amendments—the chairman has mentioned them—which the administration does not want, and which this body has voted for by a stand-up-and-be-counted vote. As the very distinguished Senator from New Hampshire observed, he and I are working, both sides of the aisle are working, to bring about some settlement, and an acceptable compromise with the administration on one of those amendments.

So, Madam President, I do not wish to delay the Senate. I see the very distinguished Senator from Kansas is on the floor. I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Madam President, I request the yeas and nays on this vote.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Madam President, I wish to take a few moments to speak on behalf of the amendment of the Senator from Rhode Island [Mr. PELL].

On behalf of keeping intact the process which I believe is very important for the work of the U.S. Senate, we have always had a State authorization bill. It is not as if we have been inept in carrying out our duties. We are in the middle of conference now on this authorization, and I think it is terribly important for us not to waive the responsibility and right that we have to an authorization bill.

The point has been made, I think very well, on behalf of colleagues that have spoken in support of this motion, to strike or not to strike from the bill the waiver for the authorization report, because I feel so strongly, Madam President, that if we are going to trample on the committee process, then we should reform the committee process.

I think many of us are concerned about authorizing on appropriations, and most of us say, oh, well, it is done, let us continue to do so. If someone else is going to do it, we may as well do it, also. I really believe that the time has come to say that this is something that we simply should not allow and take a stand at this juncture.

I realize that the Appropriations Committee is ready to move forward. They have a solid appropriation measure before us. But I think, again, it goes back to the process, and it seems to me that that is what is at stake at this point, Madam President.

I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, most respectfully to my colleague from Kansas, let us not use the expression "trample on the process." Nothing could be further from the truth. The distinguished Senator is in error. We have always done it. They have not put out a foreign aid authorization in 8 years.

Let us get to the State Department one, which we have had the misfortune of having to fool with, and that goes right back here. And let me refer—because the Senator from Rhode Island and the Senator from New York and now the Senator from Kansas are in error—I am reading, Madam President, from House Joint Resolution 370 on November 30, 1981. Page 20, section H.

> Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, and section 701 of the United States Information and Educational Exchange Act, 1948, such amounts as may be necessary for projects or activities provided for in the Departments of Commerce, Justice and State and Judiciary, Related Agencies, Appropriations Act, 1982, at the rate provided in H.R. 4169 as passed by the House on September 9, 1981.

And under the authority and conditions provided in the Applicable Appropriation Act for the fiscal year 1981, that proviso waives the entire authorization, because it was not, Madam President, until August, 11 months into the fiscal year 1982, that this outstanding committee passed this authorization. Then they had to pass it for 2 years. I can refer to page 127 of "Legislation on Foreign Relations" through 1987, a committee print, dated March 1988. Department of State Authorization Act, fiscal years 1982 and 1983. It was not approved until August 24, 1982.

We had to waive it, my distinguished colleague from Kansas. We did it in 1982. We did it in 1986. No one is trampling on the process. We have had a very eloquent presentation—and he is always eloquent, my colleague from New York—about are we going to lose the role of the authorizing committee.

The truth of the matter is, Madam President, they have taken on the role by my trying to hold the line and get an application so we do not have to close down the department, because the distinguished Senator PELL is in error again, inaccurate when he says they are running out of money. It is a prohibition against spending it. That is what we have here.

When we say lose the role, the truth of the matter is, you can go over to your authorizing committee, if we were to pass this conference report, and in the next 5 minutes, they can become the Appropriations Committee, because they say, "notwithstanding any other provisions of law, not less than so much be spent; notwithstanding any other provisions of law, not more than so much can be spent."

The truth is, we put ourselves in jeopardy trying to maintain the process, the committee system. There is nothing in this bill that you did not authorize and vote on in the Senate. That is totally inaccurate to say, if you want to talk about the entire bill, the bill has passed the House. That is why we have it here. Everything is done in conformance. Rather than trampling on, willy-nilly, I really feel that the members of our Foreign Relations Committee have been given totally inaccurate information. We respect that distinguished committee and respect this distinguished chairman. Senator PELL has done an outstanding job, and we work hand in glove.

I did have to make one exception for him, and we pointed that out. When we come out on the floor about trampling on the committee process, when we are trying to sustain it, they have to understand the inaccuracy of their statements. I am embarrassed about meeting the taxpayers back on Main Street. When I go home—I live in a State, as the distinguished Senator from Virginia does, that has a triple A credit rating. I do not wait for Gorbachev and an international conference saying why can you not pay your bills? I will hear that this weekend. I heard it last weekend, and if I get home this weekend, I will hear it again. I have been hearing it for years.

I have frozen budgets, and I have tried my level best to cut across the board with Gramm-Rudman-Hollings, and now I have appeared for the last 3 years before the Finance Committee, proposing a value added tax to pay the Nation's bills. So we are not going to talk about the embarrassment, on the one hand, on this particular provision, or on the other hand, as it never appeared before and not authorized. It is all in lockstep with the authorization.

What they are saying is two things. I take it the distinguished Senator from New York—and I voted for his particular provision, that those things prohib-

ited in law shall not be solicited or dealt with directly that are prohibited directly. That seems to be a sound approach to government, to restore the confidence in government.

But then again, in the general language of that kind, if you were the President, you would worry about it. Let us say that things are prohibited with respect to any one of the countries when you get into the distinguished field of foreign relations and diplomacy; there are many things that have not been authorized or many things prohibited relative to Cuba. Does that mean directly or indirectly when I make some approaches to, let us say improved relations or whatever there is, if we had some improved relations, or do you go lock up the President for talking to the PLO?

(Mr. ROBB assumed the chair.)

Mr. HOLLINGS. We prohibited that on many an amendment and there is a matter of dispute about it right this minute.

But if you pass that Moynihan amendment it could be that then you would be charged with violating the law rather than trying to do a job, say, as a President or as a diplomat or as an Ambassador, or trying to bring about some order from terrorism, and other things of that kind.

So I can understand the misgiving with respect to the Foreign Relations Committee member coming down here but come down on the right information. Do not let the staff come forward and say we trampled and we did it willy-nilly. It is not malice aforethought; it is deliberate. It is with friendship aforethought.

We are saying to you, look, we are going to get together; we are trying to get out of here by Thanksgiving. We will give you the entire month and what you authorize in your conference that will govern your particular appropriation; if you do not, what will pass through the Senate will guide this appropriation because everything is in accordance with your authorization.

How can I do more? I do not know how I could do more.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Rhode Island, Senator PELL.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I would point out that the Foreign Affairs programs are not the only ones that require an authorization of the Defense Authorization Act. Section 114 of title 10 stipulates that there must be an authorization before funds may be expended on defense programs. I just wanted this as a matter of record.

I also ask unanimous consent to print in the RECORD a letter signed by all members of the Foreign Relations Committee.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, October 30, 1989.

Hon. GEORGE J. MITCHELL,
Majority Leader.
Hon. ROBERT DOLE,
Minority Leader.
Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations.
Hon. MARK O. HATFIELD,
Ranking Minority Member,
Committee on Appropriations,
U.S. Senate, Washington, DC.

DEAR SENATORS MITCHELL, DOLE, BYRD AND HATFIELD: As members of the Foreign Relations Committee, we are writing to express our deep concern about a provision inserted into the pending Commerce-Justice-State (CJS) Appropriations Conference Report which infringes on the jurisdiction of our committee and which seriously undermines the prospects for enactment of the FY 1990 State Department Authorization Act.

The CJS conference report waives section 15 of the Basic Authorities Act for the State Department which stipulates that no appropriated funds may be expended without an authorization bill. The waiver of section 15 was contained in neither the House-passed nor the Senate-passed version of the CJS appropriations bill. Rather, it was inserted by the conferees without even a word of consultation with the Senate authorizing committee.

The Senate spent five full days considering this year's State Department Authorization Act. The bill includes many important provisions including China sanctions, international environmental protection, limitations on PLO contacts, as well as the authorizations for the State Department, USIA, RFE/RL, U.S. participation in international organizations, and for the construction of new radio facilities. Some of these provisions are opposed by the Administration and, by waiving the authorization requirement, the CJS conference report reduces the likelihood that our committee's bill can be enacted. The waiver provision could, in effect, cancel out a full week of the Senate's work.

The State Department authorization bill is currently in conference with the House and we have every expectation that the conference report can be concluded in the near future. Under this circumstance, we believe the waiver to be both unwarranted and unprecedented.

Under the normal legislative process, authorizing committees set forth the programs to be funded along with the legislative parameters. When an appropriations bill waives the authorization process and includes significant legislative provisions, as does this CJS conference report, this system is circumvented. The abuse of process is more egregious when the authorization waiver and legislative provisions are inserted in conference without the opportunity of consideration by either House.

The striking of the authorization waiver is essential to preserving the distinction between legislative and appropriations measures. A failure to maintain this distinction could lead to a replay of the five-day Senate authorization deliberations in connection with consideration of the CJS conference report.

During Senate consideration of the authorization bill, we worked with the Appropriations Committee to accommodate their concerns about earmarking language. We would now like your support for our effort to strike the authorization waiver when the CJS conference report comes before the Senate. In this way we can preserve the regular order of the legislative process.

Sincerely,

Claiborne Pell, Alan Cranston, Terry Sanford, Frank H. Murkowski, Rudy Boschwitz, Daniel Moynihan, Dick Lugar, Paul Simon, Chuck Robb, Larry Pressler, Mitch McConnell, Chris Dodd, Nancy Landon Kassebaum, Paul Sarbanes, Connie Mack, Joe Biden, John F. Kerry, Jesse Helms, Gordon Humphrey.

Mr. PELL. Mr. President, I would also observe that in connection with section 15 I believe we should let it stand. I would not want to mislead any colleague in this regard.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question occurs on the motion by the Senator from Rhode Island to concur in the House amendment to Senate amendment No. 191 with an amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. SIMON] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—53

Adams	Cranston	Kassebaum
Armstrong	Daschle	Kennedy
Baucus	Dixon	Kerry
Bentsen	Dodd	Leahy
Biden	Exon	Levin
Boschwitz	Glenn	Lott
Breaux	Gore	Lugar
Burdick	Grassley	Mack
Burns	Hatch	McCain
Chafee	Helms	McConnell
Coats	Humphrey	Metzenbaum
Conrad	Jeffords	Moynihan

Murkowski	Robb	Simpson
Nunn	Roth	Specter
Packwood	Sanford	Symms
Pell	Sarbanes	Warner
Pressler	Sasser	Wirth
Pryor	Shelby	

NAYS—45

Bingaman	Ford	Lautenberg
Bond	Fowler	Lieberman
Boren	Garn	Matsunaga
Bradley	Gorton	McClure
Bryan	Graham	Mikulski
Bumpers	Gramm	Mitchell
Byrd	Harkin	Nickles
Cochran	Hatfield	Reid
Cohen	Heflin	Riegle
D'Amato	Heinz	Rockefeller
Danforth	Hollings	Rudman
DeConcini	Johnston	Stevens
Dole	Kasten	Thurmond
Domenici	Kerrey	Wallop
Durenberger	Kohl	Wilson

NOT VOTING—2

Inouye	Simon

So the motion was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the motion to concur was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The pending question before the Senate is in disagreement with amendment No. 171. Is there debate? The Chair recognizes the Senator from North Carolina [Mr. HELMS].

AMENDMENT NO. 1075 TO AMENDMENT IN DISAGREEMENT NO. 171

Mr. HELMS. I send an amendment to the desk and ask for for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1075 to the House amendment to Senate amendment in disagreement No. 171.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment, add the following:

"Section 725 of the International Security and Development Cooperation Act of 1981 (22 U.S.C. 2370 note) is hereby repealed."

Mr. HELMS. Mr. President, on September 23, many Members of the Senate met with President Carlos S. Menem of Argentina, who was elected in an important election last May, and sworn in on July 8.

In discussions with Senators that day, I was deeply impressed with the universal approval which greeted President Menem, and the good will which was expressed toward the reforms introduced by his new government, including its attitude toward economic reform, guarantees of human rights, and national reconciliation.

His election marked the transition of power from one civilian government to another through democratic elections, a process which was itself an important step toward stability. Moreover, the leadership qualities of President Menem which have made such an important impact on the recovery of Argentina were evident to all who talked with him.

In discussing ways of improving relations with Argentina, President Menem expressed hope that Congress would remove section 725 of the International Security and Development Cooperation Act of 1981. This is an obsolete provision that was intended for another government in another period of Argentina's history.

This provision section 725 was originally proposed by the distinguished Senator from Massachusetts [Mr. KENNEDY]. I conferred with the Senator and he readily agreed to cosponsor the repeal of this obsolete provision. It is so outdated that the President has to execute a waiver every year to make it inoperative. The provision has no effect whatsoever any more, but it remains as a blot upon our relations with Argentina. Yet removing it would be a strong token of our interest in seeing the new government succeed.

On the day after President Menem's visit, the State Department appropriations bill was on the Senate floor. Along with Senator KENNEDY and the distinguished Senator from Connecticut [Mr. DODD], chairman of the Western Hemisphere Subcommittee, I proposed amendment 907 to abrogate section 725.

Although the amendment was proposed to an appropriation bill, the amendment was in essence a technical amendment to delete a short, outdated provision of law. The Senate accepted the amendment and it went to conference, where the Senate receded.

Mr. President, this is not an earthshaking provision. Granted it was technically a legislative amendment, but it was not the only legislative amendment to this bill or to other bills. But if it was legislation that could be agreed upon by Senators HELMS, KENNEDY, and DODD, I do not see how it could be considered controversial.

Yet somehow, it fell between the cracks and got deleted. I have the feeling that the conferees were looking at the amendment in a technical way, and did not consider it in the context of President Menem's visit. Therefore, I am asking the distinguished managers to accept this amendment once more, and take it back to the House.

Mr. President, I do not want Senators to feel faint, but I ask unanimous consent that Senator KENNEDY be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Senator from Massachusetts.

I hope the managers of the bill will be inclined to accept it. I do not think a rollcall vote will be necessary. I yield the floor.

Mr. HOLLINGS. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1075) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid upon the table.

Mr. HOLLINGS. Mr. President, I move we concur in amendment No. 171, as amended.

The PRESIDING OFFICER. The question is on the motion to concur in the amendment of the House to the Senate amendment No. 171, as amended.

The motion was agreed to.

AMENDMENT IN DISAGREEMENT NO. 182

The PRESIDING OFFICER. The clerk will report the next amendment, No. 182.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 182 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 610. (a) No monies appropriated by this Act may be used to reinstate, or approve any export license applications for the launch of United States-built satellites on Soviet- or Chinese-built launch vehicles unless the President makes a report under subsection (b) or (c) of this section.

(b) The restriction on the approval of export licenses for U.S.-built satellites to the People's Republic of China for launch on Chinese-built launch vehicles is terminated if the President makes a report to the Congress that:

(1) the Government of the People's Republic of China has made progress on a program of political reform throughout the entire country which includes—

(A) lifting of martial law;

(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

(C) release of political prisoners;

(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

(c) it is in the national interest of the United States.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina [Mr. HELMS].

AMENDMENT NO. 1076 TO AMENDMENT IN DISAGREEMENT NO. 182

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1076 to the House amendment to Senate amendment No. 182.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment, add the following:

SEC. 610A. POLICY TOWARD ADDITIONAL SANCTIONS AGAINST THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—The Senate hereby—

(1) condemns the Government of the People's Republic of China for carrying out massive arrests and numerous executions of students and workers who participated in the prodemocracy movement in that country;

(2) commends the President for taking additional measures against the Government of the People's Republic of China in response to those arrests and executions; and

(3) urges additional measures be taken against the Government of the People's Republic of China to discourage additional arrests and executions.

(b) ADDITIONAL MEASURES.—It is the sense of the Senate that—

(1) the President urge the Export-Import Bank of the United States to postpone immediately approval of any application for financing United States exports to the People's Republic of China;

(2) under the direction of the Secretary of the Treasury, the United States executive directors of the appropriate international financial institutions should oppose the extension of loans or any other financial assistance by such institutions to the People's Republic of China;

(3) the President should immediately review—

(A) the advisability of continuing to extend most-favored-nation (MFN) trade treatment to Chinese products;

(B) all bilateral trade agreements between the United States and the People's Republic of China;

(C) the bilateral commercial agreements governing Chinese-American cooperation on satellite launches; and

(D) the Chinese-American Agreement for Cooperation on the Peaceful Uses of Atomic Energy, signed at Washington on July 23, 1985; and

(4) the President should consult—

(A) with the allies of the United States at the upcoming Economic Summit regarding the feasibility of adopting a collective economic response to the recent tragic events in China;

(B) with the members of the Coordinating Committee on Exports to Communist Countries (COCOM) regarding the suspension of any further easing of export controls with respect to China and for the purpose of reviewing the current favorable treatment accorded to high technology exports to the People's Republic of China; and

(C) with the other signatories of the General Agreement on Tariffs and Trade (GATT) for the purpose of reviewing the People's Republic of China's observer status at meetings on GATT and reassessing the People's Republic of China's right to accede to GATT.

(c) HUMAN RIGHTS.—

(1) The President should emphasize to the Government of the People's Republic of China that an important factor in our relationship will be the degree to which they recognize the Chinese and Tibetan peoples' legitimate desires for democracy, human rights and simple justice.

(2) It is the sense of the Congress that—

(A) the President should ask the United Nations Commission on Human Rights to initiate an investigation into the condition of human and democratic rights in China including Tibet;

(B) the President should convey to the Government of the People's Republic of China that the lifting of martial law, the release of political prisoners, and the opening of Tibet to foreigners is a critical factor in the future improvement of relations; and

(C) towards Hong Kong the President and the Secretary of State should convey to the People's Republic of China the importance of living up to its international undertaking with respect to the 1984 Joint Declaration for the future prosperity and stability of Hong Kong. The Secretary of State should advise the United Kingdom of the United States continuing concern about the absence of guarantees of free direct elections and human rights in the Joint Declaration.

(d) SUSPENSIONS.—

(1) OVERSEAS PRIVATE INVESTMENT CORPORATION.—The overseas Private Investment Corporation shall suspend the issuance of any new insurance, reinsurance, guarantees, financing, or other financial support with respect to the People's Republic of China for a period of 6 months from the date of enactment of this Act, unless the President makes a report under subsection (e) of this section.

(2) TRADE AND DEVELOPMENT PROGRAM.—The President shall suspend the use of any funds made available to carry out section 661 of the Foreign Assistance Act of 1961, for activities of the Trade and Development Program with respect to the People's Republic of China for a period of 6 months from the date of enactment of this Act, unless the President makes a report under subsection (e) of this section.

(3) MUNITIONS EXPORT LICENSES.—The issuance of licenses under section 38 of the Defense Trade and Export Control Act for the export to the People's Republic of China of any defense article on the United States Munitions List, including helicopters and helicopter parts, shall, subject to subsection (e), continue to be suspended unless the President makes a report under subsection (e) of this section.

(4) CRIME CONTROL AND DETECTION INSTRUMENTS AND EQUIPMENT.—The issuance of any license under section 6(k) of the Export Administration Act of 1979 for the export to the People's Republic of China of any crime control or detection instruments or equipment shall be suspended, unless the President makes a report under subsection (e) of this section.

(5) NUCLEAR COOPERATION WITH THE PEOPLE'S REPUBLIC OF CHINA.—(A) Any—

(i) application for a license under the Export Administration Act of 1979 for the export to the People's Republic of China for use in a nuclear production or utilization facility of any goods or technology which, as determined under section 309(c) of the Nuclear Non-proliferation Act of 1978, could be of significance for nuclear explosive purposes, or which, in the judgment of the President, is likely to be diverted for use in such a facility, for any nuclear explosive device, or for research on or development of any nuclear explosive device, shall be suspended;

(ii) application for a license for the export to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall be suspended;

(iii) approval for the transfer or retransfer to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall not be given; and

(iv) specific authorization for assistance in any activities with respect to the People's Republic of China relating to the use of nuclear energy under section 57 b. (2) of the Atomic Energy Act of 1954 shall not be given;

until—

(i) the President has certified to the Congress that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any non-nuclear weapons state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices;

(ii) the President has made the certifications and submitted the report required by Public Law 99-183; and

(iii) the President makes a report under subsection (e) of this section.

(B) For purposes of this paragraph, the term "Agreement" means the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, done on July 23, 1985.

(6) LIBERALIZATION OF EXPORT CONTROLS.—The President shall negotiate with the governments participating in the group known as the Coordinating Committee to suspend, on a multilateral basis, any liberalization by the Coordinating Committee of controls on exports of goods and technology to the People's Republic of China under section 5 of the Export Administration Act of 1979, including—

(A) the implementation of bulk licenses for exports to the People's Republic of China; and

(B) the raising of the performance levels of goods or technology below which no authority or permission to export to the People's Republic of China would be required.

The President shall oppose any liberalization by the Coordinating Committee of controls which is described in subparagraph (B), until the end of the 6-month period beginning on the date of enactment of this Act, or until the President makes a report under subsection (e) of this section, whichever occurs first.

(c) TERMINATION OF SUSPENSIONS.—A report referred to in subsection (d) is a report by the President to the Congress—

(1) that the Government of the People's Republic of China has made progress on a program of political reform throughout the entire country, which includes—

(A) lifting of martial law;

(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

(C) release of political prisoners;

(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

(2) that it is in the national interest of the United States to terminate a suspension under paragraph (1), (2), (3), or (4) to terminate a suspension or disapproval under paragraph (5), or to terminate the opposition required by paragraph (6), as the case may be.

(f) APPLICABILITY OF SUBSECTION (D)(3).—The suspension set forth in subsection (d)(3) shall not apply to systems and components designed specifically for inclusion in civil products and controlled as defense articles only for purposes of export to a controlled country, unless the President determines that the intended recipient of such items is the military or security forces of the People's Republic of China.

(g) REPORTING REQUIREMENT.—It is the sense of the Senate that, 30 days after the date of enactment of this Act, the President should inform the Congress of—

(1) the results of his review of the bilateral relationship between the United States and the People's Republic of China and his consultations with the major allies of the United States regarding each ally's economic, commercial, and security relations with the People's Republic of China, as called for by Senate Resolution 142 (adopted June 6, 1989); and

(2) his actions pursuant to subsection (c).

Mr. HELMS. Mr. President, this morning brought the news that children of our diplomats in Peking have been threatened by the Communist Chinese police. According to the Associated Press the Chinese Communist police have pointed their rifles at the children, along with other instances of intimidation.

Moreover, the Communists in Peking have taken to slashing the tires of United States diplomats who meet with Chinese people.

This is not the first instance. Immediately following the massacre in June, Chinese Communist soldiers shot up United States diplomats' living quarters. Had it not been for a brave Chinese nursemaid, two of the children would undoubtedly have been casualties.

When the Communists begin to terrorize the children of our diplomats, it is the time to retaliate.

Therefore, I am offering today an amendment to the State, Justice, Commerce conference report. The amendment would add the leadership China sanctions package from the State Department authorizations bill passed by the Senate 81 to 10 on July 14.

The amendment will be an addition to 182 in the conference report.

Mr. RUDMAN. Mr. President, I believe I can state the managers are of a mind to accept this. Unfortunately, we have been advised that there is opposition to it.

I wonder whether my friend from North Carolina would be willing to set it aside at this time if, by unanimous consent, which I assume the majority leader would offer, we would return to it as the first item in the morning so that the Republican leader might offer a freestanding amendment he wishes to offer.

Mr. HELMS. Of course, I will be glad to. I yield the floor.

DEPLORING THE UNILATERAL SANDINISTA ABROGATION OF THE NICARAGUAN CEASE-FIRE

Mr. MITCHELL. Mr. President, Senator DOLE and I through our staffs have been working on a concurrent resolution to be submitted jointly by us dealing with the statements and events of the past weekend with respect to Nicaragua. It is my intention at this time to offer this concurrent resolution, freestanding, not as an amendment to the bill, to ask for its immediate consideration, to have 15 minutes of debate equally divided between the distinguished Republican leader and myself, and then to have a rollcall vote on this and have that be the final vote this evening, to permit Senators, particularly those with small children, to spend some portion of this evening with their small children and then to return to the pending measure and the pending bill tomorrow morning.

Accordingly, Mr. President, I send the concurrent resolution to the desk. I ask unanimous consent that it be immediately considered.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 79) to deplore the unilateral Sandinista abrogation of the Nicaraguan cease-fire.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MITCHELL. Mr. President, I am advised that objection has been made to any time limitation on consideration of this resolution. May I inquire of the Chair, make a parliamentary inquiry, whether or not my request for a time limitation has been agreed to?

The PRESIDING OFFICER. No such request has been agreed to at this time. The only request was that it be taken up for immediate consideration.

Mr. MITCHELL. Mr. President, I suggest that the distinguished Republican leader proceed with his statement while I attempt to determine the extent and nature of any possible objection to it, and we can proceed along those lines. It remains my hope to have a vote on this very shortly. I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, in the United States, it is Halloween.

In Nicaragua, it is Halloween in reverse.

In the United States, children put on horrible masks and run around trying to scare their friends.

In Nicaragua, dictators take off their false faces, and run around trying to scare their own people.

It is Halloween—and DANIEL ORTEGA is at it again.

It was vintage of Ortega. Thumbing his nose at the hemisphere's democratic leaders gathered in Costa Rica, he announced that the Sandinistas were going to unilaterally trash the cease-fire in Nicaragua, and plunge his country back into full-scale war.

It was too much, even for some regional leaders who have made careers out of falling for Ortega's phony promises. Costa Rican President Arias—who hosted the San Jose meeting—condemned Ortega's action. So did many of the other Democratic leaders at the meeting.

And even Ortega's most enthusiastic apologists in Congress are having a hard time coming up with excuses for this one.

Mr. President, democracy is on the march in this hemisphere, with three big exceptions: the tyranny triplets—Ortega, Noriega, Castro.

I am sorry to say, we have learned to live with Castro—despite the fact that even the Soviets can not seem to stomach his act any more.

Apparently, we have not quite run out of patience with Noriega—though I hope, and believe, that the clock is ticking on his tenure in Panama.

And we still seem to put up with Ortega's tryanny and tantrums.

But should we not at least let Commandante Ortega know that we—all of us, both parties, across the political spectrum—are not going to put up with this outrage?

Should we not shout out in unison, on this occasion at least: Enough is enough?

In three words, that is what this resolution says: Enough is enough?

In three words, that is what this resolution says: Enough is enough.

We stopped giving military aid to a brave group of men and women, willing to risk their lives to try to win back their own freedom and their own country.

We bought onto a very shaky Central American peace initiative.

We signed on to a bipartisan accord which had tied the President's hands in executing American policy in the region but which has not kept his crit-

ics from conducting their own destructive private diplomacy in the region.

We had to pull out all the stops to provide a piddling amount of money to Ortega's democratic opponents—while the Soviets and Cubans are pouring hundreds of millions of dollars into Sandinista coffers.

Still Ortega pulls this kind of outrage.

Mr. President, is it not time to say—enough is enough?

Is it not time to send a real message—a meaningful message—to Commandante Ortega, that we are fed up? Fed up with his bullying. Fed up with his blustering.

Mr. President, the people of Nicaragua are sending their own message to Ortega. Despite Sandinista intimidation and trickery, they turned out in huge numbers—nearly 2 million—to register for the February election.

The message of that turnout is the same message the people of the Philippines sent to Marcos, the same message the people of Poland sent to the Communist regime there, the same message we are sending in this resolution: enough is enough.

Mr. President, it is Halloween—Ortega's favorite time of year. He is up to his old tricks, and he is treating us to the same, tired tap dance of tyranny.

Is it not time to say to him: Enough is enough?

I think it is. And I think one way to do it is to pass this resolution, now, unanimously.

Mr. MOYNIHAN. Mr. President, may we have order to hear the majority leader?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be no amendments or motions in order with respect to the resolution, and that the vote on the resolution itself occur at 6:10 p.m. this evening.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, this will be the last rollcall vote this evening, and the Senate will, when we return to session tomorrow morning, resume consideration of the pending State, Commerce, Justice appropriations conference report.

Mr. President, if I might address myself briefly to the resolution, it speaks for itself. It expresses the dismay of the United States Senate with respect to the statements made over the past weekend in Costa Rica by President Ortega of Nicaragua, and it urges that the cease-fire which has been in effect now since last year be continued in effect. It represents the collective interests of the United States Senate, Democrat and Republican alike, in the free, fair, and open election process in Nicaragua as elsewhere.

We believe in self-determination. We believe in the right of peoples everywhere to determine their own future freely and fairly in an open electoral process. We want that to occur in Nicaragua, as it occurs in this country and as we hope will occur in other countries around the world, and particularly now in Eastern Europe which is also moving in that direction.

So, Mr. President, I urge all of my colleagues to cast their votes in support of this resolution.

Mr. President, I know the distinguished senior Senator from Florida has had a longstanding interest and concern in events in Central America generally and Nicaragua specifically. We all look to him as a leader in this area. I would like now to yield so that he may be permitted to address the subject.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Thank you, Mr. President. To majority leader, I appreciate his graciousness, and I will not speak at length. But I wanted to make three points.

Mr. President, one is we all share the sense of outrage which is contained in the language of this resolution. After so many lives, after so many months, after so much hope has been invested in the electoral process in Nicaragua, now to have Daniel Ortega in such a cavalier manner, at a gathering which was called to commemorate a century of democracy in a neighboring state, to announce that he is going to unilaterally abandon the cease-fire, reinitiate the conflict, is an outrage to all civilized mankind.

Second, Mr. President, I believe there is a lesson to us from this event; that is, that our weakness begets this type of activity.

Our weakness in Nicaragua, including our delay in making the decision that we were going to support the electoral process, our weakness in Panama including our now largely admitted failure to have an effective plan to back up our rhetoric, that we were encouraging civil uprising against the dictator in that country—those evidences of weakness are what emboldened a Daniel Ortega to take the action that he did last Saturday in Costa Rica.

Third, we must now redouble our efforts in support of democracy in Nicaragua because what clearly has happened is a very strong signal of intimidation has been sent by President Ortega to the people of Nicaragua. It will take a greater international effort than was even thought to be necessary as massive as we had previously anticipated in order to create a climate in which a credible election can be held, and a result that warrants the support and respect of the world can be secured.

Mr. President, our task as a result of what has occurred is an even more difficult one. This resolution will assist in completing that task by allowing us to speak on behalf of the people of America about our sense of outrage at what has occurred.

I hope we will hear the reverberations of that message in terms of our own action, and that in the future we will deal with these questions with a sense of resolve and firmness, and at no future date send a message that can be interpreted as one of weakness and vulnerability.

Mr. President, I ask unanimous consent that editorials from today's editions of three newspapers be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD.

[From the St. Petersburg Times, Oct. 31, 1989]

ORTEGA DOES IT AGAIN

Now there's something else as certain as death and taxes: Given half an opportunity to put his foot in his mouth, Nicaraguan President Daniel Ortega will do it enthusiastically and dramatically.

His latest grand diplomatic faux pas took place over the weekend at the meeting in Costa Rica of 16 leaders from nations in the hemsiphere. The purpose of the gathering was to celeberate the centennial of Costa Rican democracy, to discuss ways to advance peace in Latin America and to honor the host, Costa Rican President Oscar Arias, whose work for peace in Central America won the 1987 Nobel Peace Prize.

Ortega took that occasion to announce that he would renounce the 19-month ceasefire agreement between his army and the U.S.-sponsored Contras, which was a prelude to the February elections in his country. Instead, he said, the Sandinistas would launch a broad offensive on Nov. 1.

Ortega's surprise backfired immediately. The other leaders in San Jose were dumbfounded. The meeting was distracted from its purposes. A European diplomat told the New York Times: "It was an utter, unbelievable mistake. To do this there, in this kind of forum—you have to wonder what they could have been thinking."

What apparently was a misguided attempt by Ortega to draw attention to the Contras' violations of the ceasefire agreement ended in disaster. It was so bad he beat a hasty retreat to Managua. He now seems to be backing away from his threat to end the ceasefire and says he'll announce his government's decision today.

Unfortunately, President Bush didn't add any dignity to his image by his conduct in Costa Rica. He stooped to name-calling, describing Ortega as a "little man" and twice as "an unwanted animal at a garden party." The reaction was so negative that White House spokesman Marlin Fitzwater felt called upon to make a clarification that Bush was not talking about Ortega's physi-

cal size. Bush was referring, Fitzwater insisted, "to the small-minded pettiness of Mr. Ortega in his performance at the summit meeting.

On the forgotten point of Contra violations of the ceasefire, Fitzwater said the U.S. Government was "telling them to live up to the peace agreement." That's not quite good enough. The Contras exist only because of the support and financing of the United States. If the peace process is to move ahead, the Bush administration must guarantee that Contra attacks such as as that on Oct. 21 that left 19 dead and six wounded will not be repeated.

Democratic leaders in Congress also have a responsibility to see that the administration lives up to its promises to restrain the Contras. That was a part of the deal when Congress passed the last Contra aid bill in April, which no one in Congress seems to remember.

Ortega no doubt will make more foolish statements, or maybe even a trip to Moscow or Havana for advice, before the Nicaraguan elections. For its part, the U.S. Government should follow a steady course of holding the Contras in check, looking for a fair election and supporting the efforts by Costa Rica and other Central American Democracies to bring to the region.

[From the Washington Post, Oct. 31, 1989]

MR. ORTEGA'S FUMBLE

Once again, Daniel Ortega's chronic and revealing indifference to democratic impulses has backfired on him. This time he embarrassed his government at the 100th anniversary of Costa Rica's democracy, an event organized by Nobel peace laureate Oscar Arias, the elected president. As leader of a military regime, the Nicaraguan president was in San Jose mostly as a courtesy; he was the lone guest in uniform. This startling contribution to the festivities was to announce an end to the year-and-a-half cease-fire between the Sandinistas and the contras. Apparently hoping to isolate the United States for its continuing nonlethal aid to the contras, he instantly isolated Nicaragua for threatening to break the peace. So strong was the Latin reaction that he was forced at least temporarily to back off.

The immediate trigger was an incident on Oct. 21 in which 18 Sandinista reservists were reported killed in a skirmish with some of the few contras still based in Nicaragua. There have been regular skirmishes during the cease-fire—no surprise given the edginess of both sides and the Sandinistas' refusal to sit down with the contras and work out rules of the road. Washington, acknowledging contra responsibility for some of these attacks, has cut funds to units found to take the offensive. Until now, however, the level of violence has not seemed high enough to either side to warrant denouncing the cease-fire. The contras, with most of their forces in Honduras and with no military aid flowing, are especially poorly placed in this regard.

The darker possibility is that, by threatening to resume the war, Mr. Ortega means to head off the elections planned for next February. He accepted this vote and agreed to allow its close international monitoring as part of a broad deal that would see the contras out. As far as the Latins and the United States are concerned, the deal is still on. The Soviet Union, too, has said it will accept the Nicaraguan people's choice.

As the election campaign unfolds, however, Mr. Ortega may be wondering whether his party's great advantages—it controls the army, police, bureaucracy and much else—are going to be enough to enable him to prevail. The useful result of his outburst at San Jose is that the hemispheric leaders gathered there told him in no uncertain terms to forget about a military distraction and to stay on the electoral road.

[From the Orlando Sentinel, Oct. 31, 1989]

ORTEGA'S RECKLESS THREAT

Nicaraguan President Daniel Ortega sauntered into a conference on democracy last week with a curious plan: He threatened to break a cease-fire with the Contra rebels to induce them to give up their guns faster.

What a colossal blunder. With Nicaragua's election only a few months away, such talk has merely caused jitters from Managua to Washington. The Bush administration was right to condemn Mr. Ortega's recklessness.

Indeed, criticism is pouring in from all over the world—so much that Mr. Ortega appears to have second thoughts.

But the United States also needs to keep a clear focus in Nicaragua.

Consider the question of U.S. aid. Mr. Ortega's comments have raised the unwelcome specter of renewing military help to the Contras. Fortunately, most of Congress want the peace effort to succeed; they won't even consider military aid.

The only U.S. help that's appropriate is the nearly $50 million in humanitarian assistance Congress approved in April. Lawmakers must give the nod to continuing this aid at the end of November. It's a worthwhile gesture to help take care of the Contras until the election.

At the same time, the United States needs to keep pushing for a free and fair election in Nicaragua.

Ironically, just a few days before Mr. Ortega's bombshell, United Nations observers had praised his efforts. The U.N. team, led by former U.S. Attorney General Elliot Richardson, said Nicaragua's electoral council was open-minded and flexible.

Most important, opposition political parties are campaigning freely. Indeed, a Gallup Poll last week showed opposition presidential candidate Violetta Charnorro slightly ahead of Mr. Ortega.

Several organizations helped pay for the survey, including a pro-Sandinista newspaper, Nuevo Diano. No doubt these results worry Mr. Ortega. They may have prompted his bellicose behavior.

Others look for the cause in a plausible rivalry between Mr. Ortega and Costa Rican President Oscar Arias, who basks in global attention for spearheading peace in Central America.

Mr. Ortega, however, insists that Contra attacks are to blame. He's crying wolf.

In truth, small-scale skirmishes have been going on from the beginning of the cease-fire. And, realistically, some Contras never will give up their arms. No one questions the right of Sandinista troops to defend themselves against these die-hards.

But the fact is that most Contras aren't fighting now. Mr. Ortega can't justify an all-out war. His tack only encourages suspicion of the Sandinistas' intentions.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the concurrent resolution.

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Iowa [Mr. HARKIN], the Senator from Michigan [Mr. RIEGLE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—95

Adams	Garn	McClure
Armstrong	Glenn	McConnell
Baucus	Gore	Metzenbaum
Bentsen	Gorton	Mikulski
Bingaman	Graham	Mitchell
Bond	Gramm	Moynihan
Boren	Grassley	Murkowski
Boschwitz	Hatch	Nickles
Breaux	Hatfield	Nunn
Bryan	Heflin	Packwood
Bumpers	Heinz	Pell
Burdick	Helms	Pressler
Burns	Hollings	Pryor
Byrd	Humphrey	Reid
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Rudman
Conrad	Kasten	Sanford
Cranston	Kennedy	Sarbanes
D'Amato	Kerrey	Sasser
Danforth	Kerry	Shelby
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lieberman	Thurmond
Domenici	Lott	Wallop
Durenberger	Lugar	Warner
Exon	Mack	Wilson
Ford	Matsunaga	Wirth
Fowler	McCain	

NAYS—0

NOT VOTING—5

Biden	Harkin	Simon
Bradley	Riegle	

So the concurrent resolution (S. Con. Res. 79) was agreed to.

The preamble was agreed to.

The concurrent resolution with its preamble, reads as follows:

S. CON. RES. 79

Whereas a cease-fire has been in effect in Nicaragua for 18 months.

Whereas although there have been periodic violent incidents, and accusations of violations of the cease-fire by each side against the other, there has been no major, widespread breakdown in the cease-fire to date.

Whereas U.S. policy has been to discourage the Contras from undertaking any offensive military actions, and we have withheld American aid from Contra units which have initiated such actions.

Whereas on October 28, Daniel Ortega announced the Sandinista regime's intention to unilaterally end the cease-fire.

Whereas Ortega's announcement was made at a hemispheric meeting held in Costa Rica to celebrate democracy in the region—another instance in which Ortega and other Sandinista leaders have shown disregard for their democratic neighbors and their own commitments.

Whereas many of the democratic leaders of the hemisphere, including Costa Rican President Oscar Arias, have already denounced Ortega's announcement.

Whereas many observers are concerned that Ortega's announcement could be the prelude to a Sandinista effort to cancel or postpone elections scheduled to be held in February 1990.

Whereas despite incidents of Sandinista intimidation and harassment, and the fact that the voter registration period was limited to four Sundays in October, nearly two million Nicaraguans registered to vote in the February 1990 elections.

Whereas in the Bipartisan Accord on Nicaragua and Public Law 101-14, the Congress indicated its intention to provide humanitarian assistance to the Contras until after the February 1990 elections: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress:

(1) Condemns Daniel Ortega's announced intention to abrogate the cease-fire they originally declared in Nicaragua as totally unjustified, a major breach of the Sandinista regime's commitments to its democratic neighbors and its own people, and a serious threat to regional peace and stability;

(2) Calls on Daniel Ortega to cease his reckless rhetoric, and to begin to fulfill the many commitments he and his regime have made to end their aggression in the region, end their tyranny over their own people, and permit the establishment of democracy inside Nicaragua;

(3) Urges the Sandinistas to renew their commitment to continuing the cease-fire now in effect;

(4) Insists that Ortega and the Sandinistas reaffirm their pledge to hold elections on February 25, 1990, and to begin to carry out in good faith their commitment to a free and fair electoral process leading up to those elections;

(5) Deplores any effort by the Sandinista regime to terminate, postpone or curtail the limited progress they have made to date in fulfilling their commitment to be free and fair electoral process, or to impose emergency laws, under the phony pretext of a major Contra-initiated breakdown of the cease-fire;

(6) Strongly urges the extension of the period during which Nicaraguans are permitted to register to vote for at least 60 days;

(7) Reaffirms its intention to abide by the provisions of the Bipartisan Accord on Nicaragua and Public Law 101.14, to include continuing to provide humanitarian assistance to the Contras until February 28, 1990; and

(8) Reminds Ortega, the Sandinista regime, and the other leaders of the hemisphere that United States policy articulated in the Bipartisan Accord on Nicaragua and Public Law 101-14 is contingent on the Sandinistas fulfilling the commitments they have undertaken as part of the Central American peace process.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurent resolution was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Is it in order that I may proceed for 30 seconds?

The PRESIDING OFFICER. The Senator may proceed.

PRESIDENTIAL MISSION TO POLAND

Mr. DOMENICI. Mr. President, yesterday President Bush announced the formation of a Presidential mission to Poland. This high-level Cabinet mission will review the new Government's economic plans and advise the President on the best ways of assuring the effective use of U.S. assistance.

The Presidential mission will be led by Secretaries Yeutter, Mosbacher, and Dole, and Council of Economic Advisers Chairman Boskin. Other experts, including labor and corporate leaders, are part of the mission.

I ask unanimous consent that the White House statement explaining the mission, its purpose, and what the President expects to come from it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

FACTSHEET—PRESIDENTIAL MISSION TO POLAND, OCTOBER 30, 1989

Since the beginning of this Administration, the President has taken a deep interest in the political and economic reforms occurring in Eastern Europe. In his April 17 speech at Hamtramck, Michigan, the President outlined U.S. support of the then-nascent reform process.

In July, after the first partially free elections in 40 years, the President traveled to Poland and pledged additional support for the reforms. In early September, he asked Congress for a $100 million Enterprise Fund for Poland, a $4 million technical assistance and labor training package, and a $15 million environmental assistance program. In addition, the President has extended an additional $108 million in emergency food aid at the urgent request of the new Polish government.

Reform in Poland has been dramatic. The government is now headed by a non-communist Prime Minister and it plans major economic reforms, some of which are already being implemented. In this respect, Poland has requested $1 billion in Western economic aid to stabilize the economy when the new government puts the more radical stabilization measures into effect early next year. In response, the President has requested of Congress $200 million in grants as the U.S. contribution to that stabilization fund, which will be tied to Poland's expected agreement with the IMF. The total Presidential assistance package for Poland is thus well in excess of $400 million.

In his continuing efforts to assist Polish reform, the President today announced the formation of a Presidential Mission to travel to Poland at the end of November to examine the new government's economic plan and to advise the President on the best ways of assuring the effective use of U.S. assistance. The Mission will be led by Secretaries Yeutter, Mosbacher and Dole and CEA Chairman Boskin. It will consist primarily of corporate and labor leaders, economists, and other experts from the private sector, including, among others, Lane Kirkland, Murray Wiedenbaum, Michael Harper (CONAGRA), John McGillacuddy (Manufacturers Hanover), Gale Johnson and Arnold Harberger (University of Chicago), Robert Giorgine (AFL-CIO), and Edward Moskal (Polish-American Congress).

The Mission will focus on those economic sectors where U.S. expertise and experience can be of greatest assistance—agriculture, business management, industry, financial services—as well as studying Poland's overall plan of structural, macroeconomic and price reforms. The Presidential Mission will report its findings to the President, and share them with the EC Commission and with others in the 24-nation "Group for Economic Assistance to Poland and Hungary." The Mission will depart on November 29 and return on December 2.

This initial Mission will be followed by experts' missions in key economic sectors. In addition, Administration economists will examine urgently the structural economic challenges Poland will face now and in the years ahead so that we can provide the most effective help possible to the Polish people in their reform efforts.

Mr. DOMENICI. Mr. President, I commend the President for taking this initiative. None of us trying to help Poland has had the benefit of a comprehensive assessment of the situation in Poland. We need one. Now we will have one by mid-December.

Why is it so important to send another group to Poland? I think the answer can be found in the contents of the four different congressional plans to help Poland. Everyone of the congressional sponsors wants to help, but a large part of what we are proposing is nothing more than the traditional foreign aid approach. Poland doesn't deserve this.

Poland is not a primitive, Third-World country. It is a unique and special opportunity for freedom. It makes no sense to try again in Poland the failed micromanagement and well-meaning aid projects that litter the landscapes of Africa and Latin America. Poland has not struggled to be free from Soviet domination in order to be governed by a United States aid mission in Warsaw. Poland doesn't deserve that.

Some of the congressional proposals to help Poland would increase Poland's debt. That is the case with the trade credit insurance program and

the Export-Import Bank proposals. It doesn't make sense to increase Poland's debt. Is that what the new Polish Government wants from us?

Other congressional proposals recognize the Polish debt problem and attempt to legislate the problem away through debt swaps and other ideas. Let us find out what the Polish Government thinks? Is that what they want, and is it in their and our best interest?

The President has personally visited Poland, and has done a good job of responding to Poland's needs. Admittedly, his approach, like ours in Congress has been incremental. The President has come to the conclusion that before we go much further in our attempts to help Poland, we need to have a comprehensive, high-level assessment of the situation. And he is absolutely right.

In July of this year, I wrote the President suggesting that a team of American experts be dispatched to the newly democratic nations of Central Europe. Later I had the opportunity to talk personally with President Bush and with Secretary of State Baker about this idea.

Now that the President has announced his high-level team for Poland. I hope that this approach can be extended to cover the whole political economy of central Europe. As the President has indicated on many occasions, everything we do for Poland is being coordinated with the European Community and the OECD. I hope the Presidential mission will have an opportunity to meet with our European friends who are also helping Poland.

Mr. HEINZ. Mr. President, may I proceed for not more than 1 minute as if in morning business?

The PRESIDING OFFICER. The Senator may proceed.

THE DEBT CEILING BILL

Mr. HEINZ. Mr. President, earlier today there was a suggestion that we should pass a clean debt ceiling bill. I am here to say that this is one Senator that will object to that because I think we would be irresponsible as a body if we passed a debt ceiling bill without addressing the issue of the Social Security trust funds which are now on budget and by keeping on budget we obscure the size—whether we intended to or not is another issue—of the true size of the Federal deficit.

It is this Senator's intention to offer an amendment to correct that. Many of our colleagues have amendments. And if this hastens some Senator on the other side of the aisle, such as Senator MOYNIHAN or Senator HOLLINGS, whom, I know, no doubt will be recognized first to do so, so be it.

The main thing we will have accomplished is to take action on an issue that should trouble many Americans, continuing to treat the Social Security trust fund surplus that we realize each year, some $68 billion this year, as if they are general revenues and are there to be spent and applied to whatever program or purposes we think.

Mr. President, those funds should be put aside. Those funds should be reserved. Those funds are coming from payroll taxes and they should be reserved in the Social Security trust fund not for the general purposes of Government, but to pay the retirement benefits of this generation and future generations.

I know there were some, as I said; the leadership floated an agreement today that said they would like a clean debt ceiling bill. I can understand that. But we cannot let another year go by without addressing this question and I am determined to address it even if there is no other Senator in this body who wants to.

I am told, as I said a moment ago, this probably means somebody from the other side of the aisle, in the majority, will offer the amendment. Let me say I am delighted. It is about time this body gets serious about it, and if my announcement today forces that, I am delighted.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I thank the Senator for his remarks. I can assure him his announcement earlier today had nothing to do with the decision made with respect to that.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHITE PLAINS PRESBYTERIAN CHURCH'S 275TH ANNIVERSARY

Mr. D'AMATO. Mr. President, I rise today to pay recognition to the White Plains Presbyterian Church which is celebrating its 275th anniversary.

Since 1714, the Presbyterian Church has been the oldest church in White Plains. It was not without struggle that the structure of the church was able to be built. Although a lack of money and support stood in the way, persistence and dedication allowed the congregation to eventually build a structure for the church. Unfortunately, in 1776 a tragic fire destroyed the White Plains Presbyterian Church. In 1825, the church members were able to rebuild the church.

As if the church had not had enough hardships, another fire wreaked havoc on the church in 1854. However, this time the congregation restored the edifice in less than 2 years.

Mr. President, I feel that the church is an institution which is very instrumental in keeping the family unit together. In today's world where things are always changing, it is refreshing to know that the White Plains Presbyterian Church is able to celebrate 275 years of service to its parish and community. This is a remarkable accomplishment and one which has obviously been laden with obstacles.

Mr. President, I wish to send the congregation my best wishes on this happy occasion and I look forward to many more of their celebrations in the future.

Thank you, Mr. President.

LAW ENFORCEMENT OFFICERS MEMORIAL

Mr. CRANSTON. Mr. President, as crime increases across the United States, it is important for us to take the time to applaud the efforts of the people who are on the front lines of the struggle against crime. I speak in reference to our Nation's law enforcement officers.

All of us in this country deeply appreciate and admire those law enforcement officers who risk their lives to protect us from criminal acts. Without them, this country would be unable to function effectively. To those who lose their lives in the fight against crime, we owe a great deal. A small token of our gratitude is expressed by the new National Law Enforcement Officers Memorial in Washington, DC.

This Memorial, for which the ground-breaking ceremony took place yesterday, serves to honor Federal, State, and local law enforcement officers who gave their lives to protect us. During the last 10 years, over 1,500 officers have been killed while on duty, 146 in California alone, Let us understand this memorial both as a way to honor the many officers who have died in the line of duty and as a clear statement that the citizens of this country support law enforcement efforts that protect our communities every day.

AIDS UPDATE

Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of September 30, 1989, 109,167 Americans have been diagnosed with AIDS; 63,836 Americans have died from AIDS; and 45,331 Americans are currently living with AIDS.

Mr. President, 9,231 more Americans have developed AIDS and 6,742 more Americans have died from this horrible disease since I last noted these statistics 3 months ago.

Mr. President, since my last update, two milestones in the progression of the AIDS epidemic were reached.

First, the total number of AIDS cases surpassed the 100,000 mark. Let me repeat that figure. More than 100,000 Americans have been diagnosed with AIDS since the epidemic began in this country 9 years ago. Hundreds of thousands more have been infected and that number continues to grow.

Second, the total number of deaths from AIDS has surpassed the total number of Americans that were killed during the entire Vietnam war. Between the Gulf of Tonkin resolution and the evacuation of the Embassy in Saigon—1964 to 1975—approximately 57,600 Americans lost their lives—losses from which America has still not recovered.

In the timespan between 1981 and the present the number of Americans lost to AIDS exceeds that from the Vietnam war. The most tragic aspect of this fact is that—far from this being the end of the AIDS epidemic—the number of deaths from AIDS will continue to mount. We may face the equivalent of two or three Vietnams before the dying stops.

Mr. President, I make these statements because we cannot afford to become complacent about the pace of progress against this killer disease. We must continue to be vigilant about providing funding to research new ways to treat and prevent AIDS and to ensure that people with this disease have access to experimental therapies as well as to basic health services. Only through a comprehensive and compassionate response will we be able to bring an end to this tragedy.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on October 30, 1989, during the recess of the Senate, received a message from the President of the United States transmitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received on October 30, 1989, are printed in today's RECORD at the end of the Senate proceedings.)

EXTENSION OF NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT—PM 70

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying documents; which was referred to the Committee on Banking, Housing, and Urban affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency is to continue in effect beyond November 14, 1989, to the *Federal Register* for publication. Similar notices have been sent annually to the Congress and the *Federal Register* since November 12, 1989, most recently on November 9, 1988, dated November 8, 1988.

The crisis between the United States and Iran that began in 1979 has not been fully resolved. Although the international tribunal established to adjudicate claims of U.S. nationals against Iran and of Iranian nationals against the United States continues to function, normalization of commercial and diplomatic relations between the United States and Iran has not been achieved. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that may be needed in the process of implementing the January 1981 agreements with Iran and in the eventual normalization of relations with that country.

GEORGE BUSH.
THE WHITE HOUSE, *October 30, 1989.*

AGREEMENT BETWEEN THE UNITED STATES AND JAPAN CONCERNING FISHERIES OFF THE COAST OF THE UNITED STATES—MESSAGE FROM THE PRESIDENT—PM 71

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to Public Law 94-265, was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265; 16 U.S.C. 1801 *et seq.*, "the Act"), I transmit herewith an agreement effected by exchange of notes, October 6, 1989, extending for the period of 2 years from December 31, 1989, until December 31, 1991, the Agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries off the Coasts of the United States, signed at Washington on September 10, 1982. The exchange of notes, together with the present agreement, as amended, constitute a governing international fishery agreement within the meaning of section 201(c) of the Act.

Several U.S. fishing industry interests have urged prompt consideration of this agreement. Because of the importance of our fishing relationship with Japan, I urge that the Congress give favorable consideration of this agreement at an early date.

Since 60 calendar days of continuous session, as required by the legislation, will not be available before the current agreement is scheduled to expire, I recommend the Congress consider passage of a joint resolution approving the extension.

GEORGE BUSH.
THE WHITE HOUSE, *October 30, 1989.*

REPORTS ON ACTIVITIES UNDER THE HIGHWAY SAFETY ACT AND THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 72

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

It is my privilege to provide you with the annual reports on activities under the Highway Safety Act (23 U.S.C. 401 note) and the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1408), both enacted in 1966. These reports provide an overview of our activities during calendar year 1988.

The report on motor vehicle safety includes the annual reporting requirement in Title I of the Motor Vehicle Information and Cost Savings Act of 1972 (bumper standards).

In the Highway Safety Acts of 1973, 1976, and 1978, the Congress expressed its special interest in certain aspects of traffic safety that are addressed in the volume on highway safety.

Last year was a year of significant gains in traffic safety. The National Highway Traffic Safety Administration opened 167 safety investigations of motor vehicles and equipment, which is the most since 1973. In addition, the traffic fatality rate, the accepted measure of risk on the road, was 2.4 deaths per 100 million vehicle miles traveled, the lowest in history and down 27 percent since 1980. Safety belt use is also higher than ever, with 47 percent of Americans buckling up, and drunk driving fatalities have declined significantly.

There is good news for Americans in virtually every critical part of the highway safety picture. The decline in the fatality rate is especially encouraging and means we are able to drive more without being at increased risk, and the dramatic increase in safety

belt use and public concern about drunk driving have translated into thousands of lives saved and injuries avoided.

The progress we have made is, of course, no consolation to the relatives and friends of the 46,900 people who, despite the safety advances and greater public awareness, lost their lives in 1988.

We will continue to pursue highway and motor vehicle safety programs that are most effective in reducing deaths and injuries, and are convinced that significant progress in traffic safety can be achieved through the combined efforts of government, industry, and the public.

GEORGE BUSH.

THE WHITE HOUSE, *October 30, 1989.*

ANNUAL REPORT ON FEDERAL ENERGY CONSERVATION PROGRAMS—MESSAGE FROM THE PRESIDENT—PM 73

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the provisions of section 381(c) of the Energy Policy and Conservation Act (42 U.S.C. 6361(c)) and subtitle H of the Energy Security Act (42 U.S.C. 8286), I herewith transmit the twelfth annual report on Federal Energy Conservation Programs describing the energy conservation and management activities of the Federal Government for fiscal year 1988.

GEORGE BUSH.

THE WHITE HOUSE, *October 30, 1989.*

FISCAL YEAR 1990 SEQUESTER PROGRAM, PROJECT, AND ACTIVITY DETAIL—MESSAGE FROM THE PRESIDENT—PM 74

The PRESIDING OFFICER laid before the Senate the following message from the President, together with an accompanying report; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, and the Committee on Veterans' Affairs:

To the Congress of the United States:

In accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, I herewith transmit to the Congress the program, project, and activity information required by section 252(b)(4) of the act.

The attachment provides information on both base and sequester amounts for each program, project, and activity in each budget account subject to the sequester.

GEORGE BUSH.

THE WHITE HOUSE, *October 31, 1989.*

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following enrolled bills and joint resolutions:

On June 30, 1989:

S. 694. An act to extend title I of the Energy Policy and Conservation Act;

S. 1077. An act to authorize the President to appoint Admiral James B. Busey to the Office of Administrator of the Federal Aviation Administration;

S. 1180. An act to authorize the President to appoint Rear Adm. Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration;

S. 1184. An act to allow the obsolete destroyer United States ship Edson (DD946) to be transferred to the Intrepid Sea-Air-Space Museum in New York before the expiration of the otherwise applicable sixty-day congressional review period; and

S.J. Res. 96. Joint resolution designating July 2, 1989, as "National Literacy Day."

On July 21, 1989:

S.J. Res. 95. Joint resolution to designate the week of September 10, 1989, through September 16, 1989, as "National Check-Up Week."

On July 25, 1989:

S.J. Res. 137. Joint resolution designating January 7, 1990, through January 13, 1990, as "National Law Enforcement Training Week."

On July 26, 1989:

S.J. Res. 85. Joint resolution to designate the week of July 24 to July 30, 1989, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War."

On July 27, 1989:

S.J. Res. 93. Joint resolution to designate October 1989 as "Polish American Heritage Month"; and

S.J. Res. 110. Joint resolution designating October 5, 1989, as "Raoul Wallenberg Day."

On July 28, 1989:

S.J. Res. 129. Joint resolution to provide for the designation of September 15, 1989, as "National POW/MIA Recognition Day"; and

S.J. Res. 142. Joint resolution designating the week beginning July 23, 1989, as "Lyme Disease Awareness Week."

On August 2, 1989:

S.J. Res. 150. Joint resolution to designate August 1, 1989, as "Helsinki Human Rights Day."

On August 10, 1989:

S.J. Res. 136. Joint resolution designating August 8, 1989, as "National Neighborhood Crime Watch Day."

On August 11, 1989:

S.J. Res. 78. Joint resolution to designate the month of November 1989 and 1990 as "National Hospice Month";

S.J. Res. 126. Joint resolution commemorating the bicentennial of the U.S. Coast Guard; and

S.J. Res. 127. Joint resolution designating Labor Day weekend, September 2 through 4, 1989, as "National Drive for Life Weekend."

On August 14, 1989:

S.J. Res. 55. Joint resolution to designate the week of October 1, 1989, through October 7, 1989, as "Mental Illness Awareness Week"; and

S.J. Res. 67. Joint resolution to commemorate the 25th anniversary of the Wilderness Act of 1964 which established the National Wilderness Preservation System.

On September 13, 1989:

S.J. Res. 109. Joint resolution to designate the period commencing September 11, 1989, and ending on September 15, 1989, as "National Historically Black Colleges Week."

On September 15, 1989:

S.J. Res. 132. Joint resolution designating September 1 through 30, 1989 as "National Alcohol and Drug Treatment Month."

On September 26, 1989:

S. 1075. An act to authorize appropriations for the American Folklife Center for fiscal years 1990, 1991, and 1992.

On October 2, 1989:

S.J. Res. 146. Joint resolution designating the week of September 24, 1989, as "Religious Freedom Week."

On October 3, 1989:

S.J. Res. 118. Joint resolution designating October 6, 1989, as "German-American Day."

On October 6, 1989:

S. 85. An act to authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, West Virginia;

S. 1709. An act to provide interim extensions of Department of Veterans Affairs programs of respite care for certain veterans, community-based residential care for homeless, chronically mentally ill veterans, State home construction grants, and leave transfers for certain health-care professionals, and of Department of Veterans Affairs home-loan fees;

S.J. Res. 117. Joint resolution to designate the week of November 19, 1989, through November 25, 1989, and the week of November 18, 1990, through November 24, 1990, as "National Family Week";

S.J. Res. 133. Joint resolution designating October 1989 as "National Domestic Violence Awareness Month";

S.J. Res. 138. Joint resolution designating October 16, 1989, and October 16, 1990, as "World Food Day"; and

S.J. Res. 148. Joint resolution to designate the week of October 8, 1989, through October 14, 1989, as "National Job Skills Week."

On October 13, 1989:

S.J. Res. 81. Joint resolution to designate the week of October 1 through 7, 1989, as "National Health Care Food Service Week"; and

S.J. Res. 122. Joint resolution to designate October 1989 and 1990 as "National Down Syndrome Month."

On October 23, 1989:

S. 248. An act to amend title 18 of the United States Code to provide increased

penalties for certain major frauds against the United States.

On October 24, 1989:

S.J. Res. 213. Joint resolution to designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America."

On October 30, 1989:

S. 1792. An act to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes; and

S.J. Res. 177. Joint resolution to designate October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day."

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on October 30, 1989, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 3281. An act to reauthorize the National Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes.

Under the authority of the order of the Senate of January 3, 1989, the enrolled bill was signed on October 30, 1989, during the recess of the Senate, by the President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 6:31 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 24. An act to amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such act, and for other purposes;

H.R. 3012. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes; and

H.J. Res. 131. Joint resolution to designate May 25, 1989, as "National Tap Dance Day."

At 6:35 p.m., a message from the House of Representatives announced that the House has passed the bill (S. 750) extending time limitations on certain projects; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 922. An act to designate the building located at 1515 Sam Houston Street in Liberty, TX, as the "M.P. Daniel and Thomas F. Calhoon, Senior, Post Office Building";

H.R. 2642. An act granting the consent of Congress to amendments to the Southeast Interstate low-level radioactive waste management compact;

H.R. 3199. An act to amend title 38, United States Code, to establish a program to provide postsecondary educational assistance to students in health professions who are eligible for educational assistance under the GI bill program for members of the Selected Reserve in return for agreement for subsequent service with the Department of Veterans Affairs;

H.R. 3265. An act to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes;

H.R. 3310. An act to authorize appropriations for activities of the National Telecommunications and Information Administration for fiscal years 1990 and 1991;

H.R. 3318. An act to redesignate the Federal building in Houston, TX, known as the Concorde Tower, as the "George Thomas 'Mickey' Leland Federal Building"; and

H.R. 3390. An act to amend title 38, United States Code, with respect to certain veterans educational programs, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 922. An act to designate the building located at 1515 Sam Houston Street in Liberty, TX, as the "M.P. Daniel and Thomas F. Calhoon, Senior, Post Office Building"; to the Committee on Environment and Public Works.

H.R. 2642. An act granting the consent of Congress to amendments to the Southeast Interstate low-level radioactive waste management compact; to the Committee on the Judiciary.

H.R. 3265. An act to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3310. An act to authorize appropriations for activities of the National Telecommunications and Information Administration for fiscal years 1990 and 1991; to the Committee on Commerce, Science, and Transportation.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred to the Committee on Foreign Relations:

H.R. 2494. An act to reauthorize the Export-Import Bank tied aid credit fund and pilot interest subsidy program, to provide for the participation of the United States in a replenishment of the Inter-American Development Bank and in the Enhanced Structural Adjustment Facility of the International Monetary Fund, to improve the safety and soundness of the U.S. banking system and encourage the reduction of the debt burdens of highly indebted countries, to encourage the multilateral development banks to engage in environmentally sustainable lending practices and give greater priority to poverty alleviation, and for other purposes.

MEASURES HELD AT THE DESK

Pursuant to the order of October 17, 1989, the following bill was held at the desk by unanimous consent:

H.R. 3318. An act to redesignate the Federal building in Houston, TX, known as the Concorde Tower, as the "George Thomas 'Mickey' Leland Federal Building."

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on October 27, 1989, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 1792. An act to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes; and

S.J. Res. 120. Joint resolution to designate the period commencing November 12, 1989, and ending November 18, 1989, as "Geography Awareness Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1843. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to provide a time limit of 10 years of servicing water and waste disposal grants or industrial development grants made under the Consolidated Farm and Rural Development Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1844. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, notice that the Department of the Navy intends to exercise the authority for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-1845. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Federal Home Loan Bank Board's 1988 and 1987 Financial Statements"; to the Committee on Banking, Housing, and Urban Affairs.

EC-1846. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the operation of the Exchange Stabilization Fund for fiscal year 1988; to the Committee on Banking, Housing, and Urban Affairs.

EC-1847. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on tied-aid credit; to the Committee on Banking, Housing, and Urban Affairs.

EC-1848. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1988; to the Committee on Commerce, Science, and Transportation.

EC-1849. A communication from the Deputy Associate Director for Collection

and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1850. A communication from the Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, a notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-1851. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1852. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1853. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual reports on activities and the review and regulation of new and existing chemicals under the Toxic Substances Control Act for fiscal years 1987 and 1988; to the Committee on Environment and Public Works.

EC-1854. A communication from the Under Secretary of the Treasury, transmitting, pursuant to law, notice that as of the expiration of the temporary debt limit at midnight on October 31, 1989, the Treasury will be unable to invest or roll over maturing investments of trust funds and other government accounts, including the Civil Service Retirement and Disability Fund that the Thrift Savings Fund of the Federal Employees' Retirement System; to the Committee on Finance.

EC-1855. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Analysis of D.C. Public Schools Personal Services Contracts"; to the Committee on Governmental Affairs.

EC-1856. A communication from the National Treasurer of the Navy Wives Clubs of America, transmitting, pursuant to law, the audit report of the Navy Wives Clubs of America, Inc. for the year September 1, 1988 to August 31, 1989; to the Committee on the Judiciary.

EC-1857. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Chapter 1—Migrant Education Programs; to the Committee on Labor and Human Resources.

EC-1858. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to clarify the authority of the Chief Medical Director or designee regarding review of the performance of probationary title 38 health care employees; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-344. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY JOINT RESOLUTION NO. 40

"Whereas, the South Korea and Taiwanese have engaged in high seas drift and gill net fishing in the Pacific Ocean throughout the 1980s without the benefit of a comprehensive international fishing agreement to limit the scope of the fishing and to share information concerning their activities; and

"Whereas, in 1952, Japan, Canada, and this country entered into an agreement known as the International Convention for the High Seas Fisheries of the North Pacific (INPFC) and recently the parties have been negotiating for an international fishing agreement concerning Japanese driftnet practices for squid, but no negotiations are underway with the South Korean and Taiwanese governments; and

"Whereas, under Articles 66, 116, 117 and 118 of the United Nations Law of the Sea Treaty and customary international law, nations engaged in high seas fishing are required to enter into cooperative international fishing agreements; and

"Whereas, the United States Department of State has been unsuccessful in its attempts to convince Japan, South Korea, or Taiwan to enter into international fishing agreements relating to high seas fishing in compliance with the Driftnet Impact Monitoring, Assessment, and Control act of 1987 (P.L. 100-220, Title IV Secs. 4001-4009); and

"Whereas, these three nations support at least 800 vessels, each fishing approximately 20 to 60 miles of monofilament driftnet daily or 20,000 miles of driftnet each day or 2,000,000 miles of net in 1988 that indiscriminately catch virtually everything that swims into their paths, including whales marine mammals, sea birds, and immature salmon and steelhead from the rivers of the pacific Northwest; and

"Whereas, high seas interception of these pirated salmon and steelhead constitutes a waste of the salmon and steelhead resource due to the small size of these fish; and

"Whereas, these fish caught in violation of customary international law and the United Nations Law of the Sea Treaty compete with mature salmon and steelhead legally caught by nations of their origin thereby causing a direct harm to the West Coast economy; and

"Whereas, high seas interception of salmon and steelhead undermines the efforts of the Pacific Northwest states to restore the salmon and steelhead resources; and

"Whereas, squid is the primary target of the high seas fishing of these three nations, and since squid constitutes an essential link in the aquatic food chain, the continued unbridled harvest of squid may cause irreparable harm to the marine environment; now, therefore be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the legislature of the State of California respectfully memorializes the President and the Congress of the United States to do the following:

"(a) Ensure that any agreement reached between the United States federal government and Japan forbids the mixed catch of salmon, and provide for increases in the number of independent observers aboard Japanese driftnet vessels and the use of telemetry to determine vessel location and water temperatures.

"(b) Take immediate action against the South Korean and Taiwanese governments which would do the following:

"(1) Increase the penalties for illegal commercial fishing and for knowingly receiving, shipping, processing, or marketing fish which were taken illegally.

"(2) Provide a statutory presumption that fishing is taking place if a foreign fishing vessel is operating in areas that are prohibited pursuant to an international agreement or if the foreign fishing vessel refuses to permit the United States Coast Guard to board the vessel and search for the fish.

"(3) Extend the "Pelly" import sanctions (16 U.S.C. Sec. 1825) to include the embargo of imports other than fish and fish products; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Secretary of State, to the United States Secretary of Commerce, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from Alaska, California, Idaho, Oregon, and Washington in the Congress of the United States."

POM-345. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION NO. 45

"Whereas, during World War II, Filipinos fought courageously in the United States military efforts in the South Pacific; and

"Whereas, Filipinos were an integral part in regaining the independence of the Philippines for the United States during World War II; and

"Whereas, Filipinos served the United States military with honor and distinction as scouts and members of the resistance; and

"Whereas, Filipinos served the United States military with American soldiers under the command of General Douglas MacArthur; and

"Whereas, the Filipinos' courage and valor at Corregidor and during the Bataan Death March are the finest examples of the dedication of free men opposing and resisting tyranny; and

"Whereas, the Filipinos' love of freedom and dedicated defense of the United States during time of war truly shows that their loyalty is a matter of heart and mind, not of race, creed, or color; and

"Whereas, Filipino veterans who fought in World War II have had to fight for their citizenship on a case-by-case basis because of delays imposed by the Immigration and Naturalization Service; and

"Whereas, many of these Filipino veterans who are most affected are passing away, never to attain the goal of U.S. citizenship; and

"Whereas, some Filipinos have obtained permanent resident status, the first step toward naturalization, under the amnesty provisions of the Immigration Reform and Control Act of 1986 (P.L. 99-603); and

"Whereas, the United States Supreme Court held in INS v. Pangilinan, 100 L. Ed. 2d 882, that any remedy for the patent injustice visited upon these veterans must be left solely to the will and conscience of Congress; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California re-

spectfully memorializes the Congress of the United States to grant immediate United States permanent resident status to Filipinos who are of sound moral character and can demonstrate service in the United States armed forces during World War II; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Represenative from California in the Congress of the United States."

POM-346. A resolution adopted by the National Association of the Physically Handicapped supporting the efforts of the March in Washington on October 7, 1989, relative to homelessness; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 280. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System (Rept. No. 101-177).

By Mr. BIDEN, from the Committee on the Judiciary:

Special report entitled "Legal Issues Raised by Lt. Col. Oliver North's Retirement Pay" (Rept. No. 101-178).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX (for himself, Mr. PRYOR, and Mr. SIMPSON):

S. 1808. A bill to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. DURENBERGER, Mr. MITCHELL, Mr. DOLE, Mr. BYRD, Mr. BRADLEY, Mr. PRYOR, Mr. RIEGLE, Mr. DASCHLE, Mr. HOLLINGS, Mr. GRASSLEY, Mr. HATFIELD, Mr. COHEN, Mr. WARNER, and Mr. DANFORTH):

S. 1809. A bill entitled the "Medicare Physician Payment Reform Act of 1989"; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. DECONCINI, Mr. STEVENS, and Mr. JEFFORDS):

S. 1810. A bill to provide for a Pilot Program of Fair Housing Testing in the Department of Justice; to the Committee on the Judiciary.

By Mr. COHEN:

S. 1811. A bill to amend the Public Health Service Act to improve health conditions in health manpower shortage areas, and for other purposes; to the Committee on Labor and Human Resources.

S. 1812. A bill to require the Secretary of Health and Human Services to conduct a study concerning the area health education center program and submit recommendations for the improvement of such program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORTON (for himself, Mr. ADAMS, Mr. MCCAIN, and Mr. INOUYE):

S. 1813. A bill to ensure that funds provided under section 4213 of the Indian Alcohol and Substances Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters; to the Select Committee on Indian Affairs.

By Mr. LOTT:

S. 1814. A bill for the relief of Wilson Johan Sherrouse; to the Committee on the Judiciary.

By Mr. BOSCHWITZ:

S. 1815. A bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips; to the Committee on Finance.

By Mr. HELMS (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. GARN, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. LOTT, Mr. MCCLURE, Mr. NICKLES, Mr. SHELBY, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, and Mr. GRAMM):

S. 1816. A bill to protect the retired pay of certain members of the Armed Forces convicted of an offense under section 2071(b) of title 18, United States Code; ordered held at the desk.

By Mr. CRANSTON (by request):

S. 1817. A bill to amend title 38, United States Code, to authorize the Department of Veterans Affairs to appoint, without regard to civil service hiring procedures, graduates in certain health-care professions or occupations trained by the Department; to the Committee on Veterans' Affairs.

By Mr. CRANSTON (by request):

S. 1818. A bill to amend title 38, United States Code, to require, after the effective date of this amendment, licensure, certification or registration of social workers appointed in the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

S. 1819. A bill to amend title 38, United States Code, to streamline the disciplinary process for employees, to allow for the delegation of authority of the Chief Medical Director in certain situations and for related purposes; to the Committee on Veterans' Affairs.

S. 1820. A bill to amend title 38, United States Code, to clarify the authority of the Chief Medical Director or designee regarding review of the performance of probationary title 38 health care employees; to the Committee on Veterans' Affairs.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. COCHRAN, Mr. DECONCINI, Mr. MURKOWSKI, Mr. BURDICK, Mr. DASCHLE, and Mr. CONRAD):

S. 1821. A bill to increase housing opportunities for Indians; to the Select Committee on Indian Affairs.

By Mr. BREAUX:

S. 1822. A bill to amend the Clayton Act to prohibit certain activities by local governments that operate airports, and for certain other purposes; to the Committee on the Judiciary.

By Mr. BENTSEN (for himself, Mr. PACKWOOD, Mr. MITCHELL, Mr. MOYNIHAN, and Mr. DOLE):

S. 1823. A bill to amend the Social Security Act to increase the amount of earnings exempt from reduction under the retirement test under title II of such Act; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. DURENBERGER, Mr. KENNEDY, Mr. HATCH, Mr. DOLE, Mr. SIMON, Mr. JEFFORDS, Mr. MATSUNAGA, Mr. COATS, Mr. DODD, Mr. PELL, Mr. METZENBAUM, Mr. ADAMS, Ms. MIKULSKI, Mr. CHAFEE, Mr. INOUYE, and Mr. KERRY):

S. 1824. A bill to reauthorize the Education of the Handicapped Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. SIMPSON, Mr. THURMOND, Mr. SPECTER, Mr. JEFFORDS, Mr. BURDICK, Mr. DURENBERGER, Mr. HOLLINGS, Mr. MOYNIHAN, Mr. LEVIN, Mr. CHAFEE, Mr. DASCHLE, Mr. NUNN, Mr. GLENN, Mr. SARBANES, Mr. LAUTENBERG, Mr. DIXON, Mr. BOREN, Ms. MIKULSKI, Mr. DOMENICI, Mr. BRADLEY, Mr. WILSON, Mr. PELL, Mr. COCHRAN, Mr. SIMON, Mr. REID, Mr. WARNER, Mr. DOLE, Mr. KERREY, Mr. ADAMS, Mrs. KASSEBAUM, Mr. BURNS, Mr. GORE, Mr. PACKWOOD, Mr. HEFLIN, Mr. KOHL, Mr. KENNEDY, Mr. WIRTH, Mr. GRASSLEY, Mr. BRYAN, Mr. BOSCHWITZ, Mr. STEVENS, Mr. HATCH, Mr. KERRY, Mr. DODD, Mr. GRAMM, Mr. GARN, Mr. PRYOR, Mr. ROTH, and Mr. SANFORD):

S.J. Res. 221. Joint resolution designating November 5-11, 1989, as "National Women Veterans Recognition Week; to the Committee on the Judiciary."

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 199. Resolution to commend Frank E. Beck on the occasion of his retirement from service to the U.S. Senate; considered and agreed to.

By Mr. PELL (for himself, Mr. BOSCHWITZ, Mr. WIRTH, Mr. LEAHY, Mr. GORE, Mr. HEINZ, Mr. CRANSTON, Mr. BOREN, Mr. KERRY, Mr. JOHNSTON, and Mr. SANFORD):

S. Res. 200. Resolution expressing the support of the Senate for firm and decisive action by the United States at the upcoming meeting of environmental Ministers in the Netherlands on November 6 and 7 in support of a framework convention on climate change; to the Committee on Foreign Relations.

By Mr. MITCHELL (for Mr. KERRY):

S. Res. 201. Resolution to commend the courage and heroism of Walter Suskind, and unrecognized hero of World War II; considered and agreed to.

By Mr. ROTH (for himself, Mr. DANFORTH, and Mr. MCCAIN):

S. Con. Res. 78. Concurrent resolution expressing the sense of the Congress relating to the conference committee action on the reform of the Medicare Catastrophic Coverage Act of 1988; to the Committee on Finance.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. THURMOND, Mr. GRAHAM, Mr. ROCKEFELLER, Mr. GRASSLEY, and Mr. D'AMATO):

S. Con. Res. 79. Concurrent resolution to deplore the unilateral Sandinista abrogation

of the Nicaraguan cease-fire; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX (for himself, Mr. PRYOR, and Mr. SIMPSON):

S. 1808. A bill to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants; to the Committee on Finance.

NUCLEAR DECOMMISSIONING RESERVE FUND ACT

Mr. BREAUX. Mr. President, I rise today to introduce the Nuclear Decommissioning Reserve Fund Act of 1989 along with my colleagues Senators PRYOR and SIMPSON. This legislation will have the dual benefit of lowering electric utility rates for consumers across the Nation while increasing tax revenues from existing qualified nuclear decommissioning reserve funds.

It is estimated that this legislation will lower the Nation's electric bill from $70 to $90 million a year between 1990 and 2004. And this savings is passed directly through to the ratepayers in its entirety. For example, the people in my State of Louisiana will save approximately $100 million in electricity bills over the next 35 years for the decommissioning of the Waterford and River Bend facilities.

There are over 100 commercial nuclear powerplants in the United States. An owner of a nuclear powerplant must close down, dismantle, and decontaminate the plant at the end of its useful life. This process, called decommissioning, is expected to occur after the plant has operated for several decades and is an extremely expensive and lengthy process. A utility company that owns a nuclear powerplant usually collects a portion of the estimated future cost of decommissioning the plant each year from customers and saves it in a special fund. Investments in this fund are governed by both Federal law and State public utility commissions.

Current law permits utilities to set up their decommissioning funds in two ways. One type of fund contains amounts that are not deductible by the utility company until the amounts are actually spent on decommissioning. This type of fund is not affected by this bill.

Contributions to the other type of fund, called a qualified nuclear decommissioning fund, are deductible by the utility company when they are made. A qualified fund is a separate trust fund that may be used only for the payment of nuclear decommissioning costs and related expenses.

A qualified fund is a separate taxable entity, and its income is subject to tax under current law at the maximum corporate income rate—now 34 percent. The assets of a qualified fund, like those of a tax-exempt black lung disability trust fund, may be invested only in Federal obligations, tax-exempt State and local government obligations, and certain bank or credit deposits. These types of investments have relatively low rates of return.

Utility companies that establish qualified funds generally limit their investments to tax-exempt State and local obligations because of the high tax rate imposed on the qualified funds. As a result, the U.S. Treasury is denied significant tax revenue from qualified funds.

The Nuclear Decommissioning Reserve Fund Act of 1989 would make the establishment of a qualified fund more attractive by lowering the tax rate on the income from 34 to 15 percent and eliminating the current investment restrictions.

These changes would allow qualified funds to invest in obligations that generate higher rates of return and therefore would decrease the amounts needed to be collected from customers for decommissioning. They also would increase the taxes paid by qualified funds.

This legislation would benefit public safety by encouraging utility companies to set aside in the qualified fund even more than the minimum amounts for decommissioning that are required by the nuclear regulatory commission.

Finally, the changes would have the result of decreasing our dependence of foreign oil by reducing the decommissioning component of the American consumer's cost of electricity. The bill would not permit utilities to make speculative investments with the assets of qualified funds because the investment of the assets would remain subject to regulation by public utility commissions.

This legislation will reduce electricity costs to American consumers and will benefit the health and safety of the American public. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Decommissioning Reserve Fund Act of 1989".

SEC. 2. NUCLEAR DECOMMISSIONING RESERVE FUND.

Subsection (e) of section 468A of the Internal Revenue Code of 1986 (relating to special rules for nuclear decommissioning costs) is amended—

(1) in paragraph (2)(A) by striking "equal to the highest rate of tax specified in section 11(b)" and inserting "of 15 percent", and

(2) in paragraph (4) by striking subparagraph (C), by adding "and" at the end of subparagraph (B) and inserting a period.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1988.

By Mr. ROCKEFELLER (for himself, Mr. DURENBERGER, Mr. MITCHELL, Mr. DOLE, Mr. COHEN, Mr. BYRD, Mr. BRADLEY, Mr. PRYOR, Mr. RIEGLE, Mr. DASCHLE, Mr. HOLLINGS, Mr. GRASSLEY, Mr. HATFIELD, Mr. WARNER, and Mr. DANFORTH):

S. 1809. A bill entitled the "Medicare Physician Payment Reform Act of 1989"; to the Committee on Finance.

MEDICARE PHYSICIAN PAYMENT REFORM ACT

Mr. ROCKEFELLER. Mr. President, today my colleague, Senator DAVE DURENBERGER, and I are introducing the Medicare Physician Reform Act of 1989. Joining us as original cosponsors are the distinguished majority and minority leaders, Senator MITCHELL and Senator DOLE, as well as our esteemed colleagues, Senators BYRD, BRADLEY, PRYOR, RIEGLE, DASCHLE, HOLLINGS, GRASSLEY, and HATFIELD.

Mr. President, several weeks ago, this legislation was unanimously approved by the Finance Committee, and for very good reasons.

The Congress and the administration have been hard at work on reforming Medicare's physician reimbursement program for 5 years. The program, in a word, is broken. Payments don't make sense. Neither doctors nor patients understand the billing system. Costs are spinning out of control. And the growing financial burdens threaten beneficiaries, as well as the entire Medicare Program.

The Medicare Physician Payment Reform Act of 1989 will make reimbursement to physicians more fair and more workable. It will protect beneficiaries. And, it will help stabilize program costs.

To start, the bill establishes a national resource-based relative value fee schedule to replace our current system of usual, customary, and reasonable charges. The RBRVS fee schedule was developed by Dr. Hsiao, at Harvard University, to pay physicians according to the cost of providing care. Under the national fee schedule, there will be no more unfairness in Medicare payments to discourage doctors from seeing patients in rural America or in innercities. There will be no more distorted financial incentives to over-provide expensive procedures. In short, the resource-based relative value scale payment system will promote better medicine and a better distribution of medical resources.

The Medicare Physician Payment Reform Act will help beneficiaries, as well. Our bill continues and strengthens protections against balance billing

in a way that is fair to both seniors and to doctors. Earlier this year, the president of my State's medical association observed that it takes him several weeks each year to figure out his own MAAC—or maximum allowable charge—under Medicare. Any system that arcane cannot be serving either doctors or patients very well.

Our bill replaces the complex MAAC's with a simpler, overall limit on balance billing that phases in over several years. Beginning in 1992, the limit would be 125 percent of the Medicare payment, gradually moving to 115 percent in 1994. In this way, doctors will retain flexibility in their charges and patients will be protected from excessive cost-sharing. Our bill also requires doctors to submit claims to Medicare for their patients. Already doctors submit more than 80 percent of claims. Extending this practice will improve the accuracy and timeliness of data, and will relieve seniors of this often burdensome responsibility.

Finally, Mr. President, our bill provides a new mechanism for stabilizing Medicare costs through a rational, informed, congressional process. Congress would use this process—known as Medicare Volume Performance Standards—to make more informed and fair decisions on fee updates and on policies to control costs and improve access and quality of care. This is an inclusive, analytical program. Our bill calls for annual reports and recommendations from the Secretary and from the Physician Payment Review Commission. It requires direct involvement by physicians. It requires explicit consideration of information from medical practice guidelines. And, it will work. CBO estimates that this process of setting updates advised by volume performance standards will save over $2 billion during the next 5 years.

Mr. President, this bill represents true consensus and a truly constructive effort to strengthen the Medicare Program. Let me read from just a few of the letters and statements in support of this bill.

From the President of the United States, George Bush:

* * * the Physician Payment Review Commission—a nonpartisan blue ribbon panel—has recommended a three-part reform of physician payment under Medicare. I support this three-part approach. * * * The [Finance] Committee is to be commended for the policy balance struck in the Rockefeller-Durenberger proposal. I support Senate passage of this proposal.

From the American Academy of Family Physicians:

[We have] appreciated the opportunity to provide review and comment throughout the development of the physician payment reform proposal by you and Senator Durenberger. * * * We believe that this approach will enhance access to care by Medicare beneficiaries by addressing longstanding disparities and historical inequities inherent in the current system. * * * We will encourage your Senate colleagues to favorably consider [your] package * * *

From the AARP:

Your proposal recognizes that important goals of this reform must be to improve access * * * [W]e believe that the Rockefeller-Durenberger proposal is a constructive step toward physician payment reform, which the Association is pleased to support.

From the National Association of Manufacturers:

The Rockefeller-Durenberger Medicare Physician Payment Reform bill * * * is a thoughtful approach to improving the physician payment system. In our view, this proposal is an important step in addressing the physician cost problem.

Mr. President, we have similar statements of support from the American Medical Association, Blue Cross and Blue Shield, the National Rural Health Association, the National Council of Senior Citizens, Families USA, the American College of Emergency Physicians, the American College of Surgeons, and on and on.

Certainly this consensus reflects the nature of this bill—an effective compromise approach to reforming Medicare payments. Even more, though, the broad support for this measure is an indication of the national mandate to get moving. It is time to fix Medicare's physician payments.

I urge all of my colleagues to cosponsor this bipartisan, consensus bill.

Mr. DURENBERGER. Mr. President, I am proud to join the Senator from West Virginia in introducing today the Physician Payment Reform Act of 1989. Along with the list of cosponsors that he indicated, I would like to indicate that one of the original cosponsors after Senators MITCHELL and DOLE was Senator COHEN of Maine, and I ask unanimous consent that his name be placed in that order on the representation of the original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I commend the leadership of the Senator from West Virginia on this issue, and I commend his hard work and that of this staff on an issue that produced a bill that I believe all of our colleagues can support.

Mr. President, there are two reasons why the Federal Government gets into the health care business in the first place. First, we get involved to guarantee access for everybody in this country, that the medical services are generally available to all of our citizens. Second, we are there to ensure that those services are of the highest quality. The Medicare Program is our primary focus, serving the needs of 37 million elderly and disabled Americans.

It is through the Medicare reimbursement system under part A, which pays for hospital stays, and part B, which pays for doctor bills, that we try to create a system which provides both access and quality care. The basic principle which underlies the Federal role in health care is that we can change the way we provide services in this country by changing the way we pay for these services. This bill is designed to change the kind of physician services we provide by changing the way we pay for them.

After several years of experience with the current part B reimbursement system, we can observe the leading edge of several very serious problems. The first group of problems deals with access. We have a serious problem today both in our rural areas and our inner cities. The small towns of Minnesota and southeast Washington are in the same boat, inadequate access to health care.

Across the country there are shortages in a number of key specialties: Primary care, preventative care, diagnostic care, and family care. People do not have access to certain medical services they need. The reason is we have developed a system in America which provides strong incentives, through the reimbursement system, for physicians to establish their practices around high technology medicine, in highly specialized fields and in high cost areas.

This high technology, high specialty, and high price reward system is creating the access problems I have already described. It is also contributing to health care cost inflation, which drives health insurance premiums up and prices people out of the health care market.

In addition, it is distorting our definition of what quality health care is and should be. The ironic result is that the United States is, at the same time, a world leader in medical technologies and has one of the highest infant mortality rates in the developed world.

The goal of the bill put before the Senate today is to do a much better job of meeting the access and quality needs of our seniors by reforming the way we reimburse physicians.

This bill will accomplish its goal in three ways:

First. By reducing the geographical and specialty disparities in the current system: we propose to replace the current reimbursement, which is based on historical charges, with a resource based relative value scale. This will ensure that the cost of a service reflects its value to the patient.

Second. By reducing the administrative and paperwork burdens of beneficiaries by having physicians deal directly with Medicare: the responsibility for submitting claims belongs with the doctor's office, which is equipped to handle it. This will be a great relief to millions of seniors, and it will be more accurate and timely in the bargain.

Third. By establishing a national yardstick the Congress and the administration can use to monitor and control costs: we create a Medicare volume performance standard, which will help us get a handle on this fastest growing part of the Medicare budget.

Mr. President, we are pleased to have the cosponsorship of Senators MITCHELL, DOLE, GRASSLEY, PRYOR, DANFORTH, and HATFIELD. This bill has also been endorsed by President Bush the American Medical Association, and the National Association of Manufacturers. And as my colleagues know, this bill was included by the Finance Committee in its reconciliation package. I urge all my colleagues to study this bill carefully, and join us in this effort to build a Medicare system which does a better job of providing access and quality to our senior Americans.

Mr. MITCHELL. Mr. President, I am very pleased to join Senators ROCKEFELLER and DURENBERGER in cosponsoring the Medicare Physician Payment Reform Act of 1989, a bill to revise Medicare payment methods for physician services. Senators ROCKEFELLER and DURENBERGER deserve a great deal of credit for this truly bipartisan effort. They have endeavored to develop compromise legislation reflecting many viewpoints on this sensitive and complicated subject matter, without wavering in its purpose.

There are many reasons that this bill is important. First, it establishes a more rational and equitable payment system for physician services, based on a relative value scale of resources and effort expended. Second, it provides a systematic process for judging the appropriate growth rate in physician-related services. And third, it furnishes, through research and education, the clinical information physicians need to practice better medicine.

Each of the these goals are mutually supportive. Taken together, they lead us to a health care system that pays fairly for each service rendered, pays for an appropriate level of services, and provides physicians with guidance for delivering optimal care. It accomplishes this while protecting Medicare beneficiaries from increased cost sharing and reductions in access to quality care.

The outcomes research program incorporated into this bill has my special interest. My earlier legislation in this area initiated, at the Federal level, scientific inquiry into the variations in medical practice. This year, I introduced S. 702 to expand that program in both size and scope. Therefore, I am particularly pleased that S. 702 has been incorporated into the body of the Rockefeller-Durenberger package.

Outcomes research is integral to the success of any effort to reform physician payments for Medicare beneficiaries. Through improved knowledge of what works best in medicine, we can enhance health status and quality of care while controlling expenditures. Without such a program, we would be asking physicians to hold down unnecessary utilization without providing them with a research and guidance program to tell them the best ways to do this.

I am hopeful that every Senator will agree with the need to stabilize Medicare costs and improve quality of care in the Medicare Program. I urge my colleagues to support the Medicare Physician Payment Reform Act of 1989.

By Mr. HATCH (for himself, Mr. DECONCINI, Mr. STEVENS, and Mr. JEFFORDS):

S. 1810. A bill to provide for a Pilot Program of Fair Housing Testing in the Department of Justice; to the Committee on the Judiciary.

DEPARTMENT OF JUSTICE FAIR HOUSING TESTING ACT

Mr. HATCH. Mr. President, today I am introducing the Department of Justice Fair Housing Testing Act of 1989 on behalf of Senators DECONCINI, STEVENS, JEFFORDS, and myself. This act establishes a pilot program in the Department of Justice to fund testing by the Department to identify violations of various provisions of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq., which we amended just last year.

As my colleagues know, the Fair Housing Act bans discrimination on the basis of race, color, religion, sex, handicap, familial status, or national origin in the rental and sale of housing. Fair Housing Act, section 804; 42 U.S.C. 3604. It also bans discrimination by those who lend money or provide other financial assistance for residential real estate related transactions, such as the purchase, construction, improvement, repair, or maintenance of a dwelling. It also bans discrimination in the lending of money secured by residential real estate and the selling, brokering, and appraising of residential real estate. Fair Housing Act, section 805; 42 U.S.C. 3605.

Housing discrimination—the exclusion of individuals from housing because of their personal characteristics as listed in the Fair Housing Act—remains a serious problem in our country today. It is unacceptable for persons to be turned away from a home or apartment which they can afford to purchase or rent because of their color or the other irrelevant characteristics as set forth in the Fair Housing Act. It is equally unacceptable to discriminate in residential real estate financing on such grounds. While I believe that America has made a great deal of progress in eradicating discrimination during the last 25 years, and I reject the suggestions of some doomsayers that we have slipped back in recent years, we should always seek effective strategies to combat the discrimination which remains. My own sense is that we have made more progress in eradicating employment discrimination than we have made in eradicating housing discrimination. I think that many Americans who may have been initially resistant have become used to, and comfortable with, the notion that they must work side-by-side, from 9 to 5, with Americans of different races and colors. They understand that job discrimination is wrong. The notion that when it is time to go home at the end of the work day people of different races should be free to live together in the same apartment building or neighborhood, however, has been slower in taking hold. Now, it is the case that some of our country's housing patterns do reflect the free choice of our citizens, nondiscriminatory zoning requirements, and factors such as economics. But prohibited discrimination continues to exist in the housing market, and it should be rooted out.

Testing is a means of determining whether housing discrimination is occurring. Under this device, visits are made by two persons or two couples, within a reasonably short time of each other, to an apartment building, a real estate company, or lender. They each seek to rent or buy housing or to borrow money for such purpose. They present the same or substantially the same housing or financial needs to the person with whom they are dealing. They present the same or substantially the same demographic background, with one major difference. This major difference is the characteristic for which the test is being conducted, such as race, ethnicity, or disability.

Let me give one example of how testing works. A white couple goes to the rental office of the XYZ apartment house at 9:30 a.m. They tell the rental agent in the office that they would like a two-bedroom apartment on the first of the following month. They fill out an application, or simply tell the rental agent, that they have a yearly income of $48,000. The rental agent tells them that there are three two-bedroom apartments available on the first of next month, and proceeds to show one to them. The visit then concludes. At 10:45 a.m., a black couple arrives at the rental office of the XYZ apartment house. They tell the rental agent that they need a two-bedroom apartment on the first of the following month. They indicate that they earn $50,000 per year. The rental agent informs these black testers that no two-bedroom apartments are available and to come back after the first of the month to seek an apartment for the following month.

In this example, unless the XYZ apartment house can produce evidence

that the three-two bedroom apartments available for the white testers at 9:30 a.m. had been rented between then and 10:45 a.m. when the black testers showed up, the rental agent, and thus the owner of the apartment house, have violated the Fair Housing Act. Section 804(d) makes it unlawful to represent to any person, because of race, color, religion, sex, handicap, or familial status, that housing is unavailable for inspection, sale, or rental when such housing is so available. 42 U.S.C. 3604(d). The Department of Justice could bring a case based on such evidence, properly gathered and recorded, for violation of the Fair Housing Act. Indeed, the black testers themselves would have standing to bring a lawsuit for violation of section 804(d), *Havens Realty Corp.* v. *Coleman*, 455 U.S. 363 (1982), although under my proposal, only the Justice Department would have the ability to use evidence from the testing funded by the proposal.

Testing, then, when properly conducted and documented, can provide reliable evidence of housing discrimination. The Department of Justice does not currently have funding to hire or retain their own testers to assist in the investigation of Fair Housing Act cases. I believe that the Congress can provide a significant boost to Federal fair housing enforcement efforts by providing the Department of Justice with funding to conduct the kinds of tests I have described. Accordingly, this act provides for a modest pilot program to fund just such testing. Once we are able to see how the Department uses the funding, and we receive a report from the Attorney General on how effective it has been and how the program can be improved, Congress can then decide whether to make the program permanent.

Let me now describe the provisions of the bill:

SECTION 2

Section 2 directs the Attorney General to hire testers. They can be used in any part of the country. For example, if the Department decides to conduct tests in New York City, or Chicago, or Los Angeles, the Department could hire testers and supervise them through the local U.S. attorney's office. It would be up to the Attorney General to determine where to test and how to conduct the testing program. It would be his responsibility to train the testers and design a testing program best calculated to yield the most credible evidence of discrimination.

I would hope, however, that the testing program would not be concentrated in one metropolitan area or one region of the country.

The testers are to test for violations of sections 804(a)-(d), 804(f)(1)-(3)(B) and 805 of the Fair Housing Act, 42 U.S.C. 3604(a)-(d), 3604(f)(1)-(3)(B). These sections make it unlawful:

To refuse to sell or rent after the making of a bonafide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person on the basis of race, color, religion, sex, national origin, handicap, or familial status (section 804(a));

To discriminate "in the terms, conditions or privileges of the sale or rental of a dwelling, or in the provision of services in connection therewith," because of these same factors (section 804(b));

To make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based" on these factors (section 804(c));

To represent to any person because of these factors "that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available" (section 804(d));

For any person or other entity engaged in residential real estate-related transactions "to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction" because of these factors (section 805);

To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of: that buyer or renter, any person residing or intending to reside in that dwelling, or any person associated with the buyer or renter; and to discriminate in the terms, conditions, or privileges of the sale or rental of a dwelling or the provision of services or facilities in connection with such dwelling on the basis of handicap (section 804(f)(1)-(3)(B)).

SECTION 3

Subsection 3 requires the Attorney General to submit to Congress an evaluation of the effectiveness of the pilot program within 2 months of its conclusion. The evaluation must include the number and geographic location of the tests conducted under the program and the number and geographic location of cases in which the Attorney General utilized or relied upon evidence obtained through the pilot program. Congress will need this kind of information, and a general evaluation by the Attorney General, in order to determine whether and how to make this program permanent, as I fully expect we will wish to do.

SECTION 4

Subsection 4(1) defines the term "test" to mean: a method of gathering credible evidence of violations of Sections 804(a)-(d), 804(f)(1)-(3)(B), and 805 of title VIII wherein (A) one or more visits are undertaken in a timely manner by at least two individual testers to a housing rental or sales agent, management firm or owner, real estate sales or rental firm, or lender and (B) the individual testers identify themselves as having the same or substantially equivalent housing or financial needs and demographic profile as each other, except for the attribute which may be the basis of the violation described in this definition.

Section 4(2) defines the term "testers" to mean: individuals who, without an intent to rent or purchase or finance a home or apartment, pose as renters or purchasers or borrowers for the purpose of collecting evidence of violations of sections 804(a)-(d), 809(f)-(1)-(3)(B), and 805 of title VIII.

SECTION 5

This section provides for the sunset of the pilot program on September 30, 1991.

SECTION 6

This section authorizes $650,000 for fiscal year 1990 and $750,000 for fiscal year 1991. I understand that it can cost $25,000 to $30,000, depending on the region, to hire a reliable tester for a year. The appropriations under this act thus provide for several teams of testers. These teams of testers should each be able to generate at least 10 tests per week. Thus, there is a potential for a dramatic number of cases being generated by this pilot program, even if only 10 percent of the tests generate credible evidence of violations. The Civil Rights Division's Housing and Civil Enforcement Section has been bringing in the neighborhood of 20 to 25 cases per year, including public accommodations and equal credit cases. With their new responsibilities and remedial power under the recently amended Fair Housing Act, the division's resources may be stretched thin. Accordingly, this pilot program should be large enough to evaluate the utility of a permanent testing program at the Department of Justice but not so large that it may overload the department's resources in the next year or two. It may be necessary during this period to seek additional attorney positions for housing enforcement if the caseload under the amended Fair Housing Act and this pilot program substantially increases. If the testing program is made permanent, we can also assess what its impact will be on future department resource requirements.

I believe this program will provide a concrete, measurable advance in civil rights enforcement that all Americans of goodwill can applaud. The use of irrelevant characteristics such as race, religion, or disability to block free housing choice is a scourge we must all fight.

Mr. DECONCINI. Mr. President. I rise in support of Senator HATCH's bill, of which I am a cosponsor, to provide

for a pilot program of fair housing testing in the Department of Justice.

Mr. President, the Fair Housing Act of 1988, which amended the fair housing provisions of the Civil Rights Act of 1968, was enacted into law with the goal—to guard against discrimination, and ensure equal access to housing by families and handicapped persons. I remain convinced, as I was at the time I voted for the 1988 act, that equal access to housing is a fundamental right of all Americans—a right that the Congress is obligated to uphold.

I believe that the Congress has fulfilled that obligation through the passage of the Civil Rights Act of 1968, and the Fair Housing Amendments Act of 1988. Through this legislation, the Congress has spoken out against discriminatory housing, and provided appropriate penalties for violations.

In my home State of Arizona, where we are experiencing rapid growth, equal access to housing is a major concern. Many Arizonans have come to the State to take advantage of abundant economic opportunity, as well as our favorable climate. Many Arizonans are senior citizens, many are veterans, and many have families. I supported the Fair Housing Act of 1988 not only out of my belief that equal access to housing is a fundamental right of all Americans, but because as the elected representative for the State of Arizona, I believed that strong measures were needed to guard against discrimination toward families and handicapped persons. At the same time, I recognized that many of the elderly communities in Arizona and other States occupy a unique position in the fabric of the country. Senior communities provide our senior citizens not only services and facilities, but support, friendship, and solidarity.

The Fair Housing Act of 1988 provides a balance between competing housing needs of all Americans, and I believe that it is working. However, in light of the importance of equal access to housing, a pilot program for testing is required. Senator HATCH's bill will address two separate concerns. First, we must determine that housing providers are complying with the provisions of the Fair Housing Act. Second, those housing providers not complying with the act must be brought into conformity. By acting now, we can ensure that the provisions of the Fair Housing Act are being enforced, and set an example for the future. I commend Senator HATCH, and I urge the Members of Congress to vote favorably on this legislation.

By Mr. COHEN:

S. 1811. A bill to amend the Public Health Service Act to improve health conditions in health manpower shortage areas, and for other purposes; to the Committee on Labor and Human Resources.

S. 1812. A bill to require the Secretary of Health and Human Services to conduct a study concerning the area health education center program and submit recommendations for the improvement of such program, and for other purposes; to the Committee on Labor and Human Resources.

RURAL PHYSICIAN SHORTAGE ACT AND AREA HEALTH EDUCATION CENTERS ENHANCEMENT ACT

Mr. COHEN. Mr. President, many communities across our Nation are desperate for a doctor. In Minnesota, one community not long ago offered a bounty of $5,000 to anyone who could find a family physician willing to set up a practice there. Our colleague, Senator PRYOR, some months ago related the story of another small town that hung banners across its main roads to advertise its need of physicians. Not long ago, a rural community in northern Maine sent some recruiters with a similar banner to a nationally televised professional football game in the hopes that a network camera might bring their plea for a doctor to a willing practitioner somewhere. Physician vacancies at rural facilities in Maine still go begging, in some cases after more than a year of recruiting efforts.

These stories of medical manhunts and "Wanted * * * Alive" posters catch our attention because the tactics involved are clever and unusual. But, they are also desperate. Communities in rural America are wracking their brains over the critical shortage of health care professionals necessary to meet their basic health care needs.

Last month, I presided at a joint hearing of the Senate and House Aging Committees in my hometown of Bangor, ME. Together with Representative OLYMPIA SNOWE of Maine's Second Congressional District, I heard the opinions and feelings of those involved in giving and receiving health care in rural Maine. Unfortunately, I also heard more evidence of what we all know too well, that many rural Americans do not have adequate access to the health professionals and facilities necessary to basic health care.

Fully one-fourth of our Nation's population is rural. Our rural population tends to be older, poorer, and less often insured than their urban cousins. Rural residents also have higher rates of chronic health conditions than do urban residents. In short, for all these reasons, rural Americans often have a greater need for health care services, but a much more difficult time in meeting their needs.

Access to adequate health care must be a part of rural living, for if it is lacking, those who need care suffer without it, or find themselves going to lengths that residents of urban or suburban America would never dream of. The physical and emotional toll of this kind of dilemma can be devastating.

It is for these reasons that I am today introducing two important legislative initiatives. These bills, combined with several other legislative measures I have cosponsored in recent months will, I believe, put us well along the road to making significant improvement in access to medical care in rural America.

RURAL PHYSICIANS SHORTAGE ACT OF 1989

One of the most critical problems facing rural Americans is the scarcity of doctors and other health professionals in rural areas. Nationwide, rural communities are short some 4,000 doctors. Access to physicians with specialized skills can be extremely limited.

Over the years, rural areas have relied heavily on the National Health Service Corps Program to bring health professionals to where they were lacking. Now, however, the corps program is no longer in a strong position to bring doctors and other health professionals into the many areas that so desperately need them.

The first piece of legislation I am introducing today, the Rural Physician Shortage Act, would take steps toward revitalizing the National Health Service Corps. This bill would:

Direct the Secretary of Health and Human Services to update the 1980 Graduate Medical Education National Advisory Committee [GMENAC] study of health manpower;

Require the Secretary of Health and Human Services to project and establish a plan for maintaining the field strength of the National Health Service Corps at a level adequate to the need for physicians in rural areas;

Prevent the Secretary of the Department of Health and Human Services from going forward with a proposed rule change that would remove the health manpower shortage area designation from rural areas that have the part-time services of a doctor and an unmet need—according to the Department's calculations—for less than an additional full-time physician;

Require the National Health Service Corps to establish a pilot program for holding recruitment seminars at medical schools; and

Recognize the need of rural areas for midlevel health practitioners by authorizing the corps to make scholarship awards and loan repayment for physician assistants agreeing to serve in rural areas.

As my colleagues may recall, the so-called GMENAC study, which anticipated a physician glut, was the impetus for drastic cutbacks in the National Health Service Corps. In 1980, the corps spent almost $80 million for scholarships that brought young doctors to where they were needed most. This year the corps will spend about $8 million for that purpose.

Unfortunately, glut or no glut, rural areas now face a critical shortage of physicians and other health professionals. By updating the GMENAC study—with attention to the distribution of doctors as well as to the total number, Congress will have a fuller understanding of the health manpower needs of rural areas and of the appropriate future role of the National Health Service Corps.

On August 8, the Department of Health and Human Services issued a proposed regulation that would reduce the number of Health Manpower Shortage Areas [HMSA's] throughout the United States. This regulation would add a requirement that most areas must demonstrate a need for at least one additional full-time equivalent practitioner in order to be designated as a manpower shortage area. This would eliminate some 670 of the 1,955 areas now designated as health manpower shortage areas.

The manpower shortage designation is key to Federal programs to improve health care in rural areas. The National Health Service Corps, the Area Health Education Centers Program, the Rural Health Clinic Act, and other Federal programs all hinge on the manpower shortage designation and, therefore, would be put in jeopardy by the proposed regulation change. At a time of crisis in rural health care, this is clearly the wrong direction to take.

Another provision of the legislation I am introducing today would authorize National Health Service Corps scholarships and loan repayment for physician assistants [PA's]. Physician assistants play a very important role in Maine and in other States with extensive rural areas. Increasingly, however, the economic and demographic forces that make it difficult to keep physicians in rural areas have had their effect on the availability of physician assistants as well. National Health Service Corps scholarships and loan repayment would help keep PA's in rural areas where they are needed.

The practice of medicine in a rural setting is not for many doctors. As we know, physicians are staying away in droves as they continue to flock to more affluent and urban areas. Common notions about the social deprivation, the economics, lack of backup, and other factors prevent more medical students and practitioners from considering rural practice. However, at the hearing Representative SNOWE and I held last month we heard very enlightening and encouraging testimony and suggestions from two doctors who tried rural practice and now highly recommend it. One of the two physicians, Dr. Gregory O'Keefe, refused to give up his practice on Maine's Vinalhaven Island when the National Health Service Corps ordered his transfer to a desk job in the Washington, DC, area several years ago. The other physician, Dr. Roger Pelli, attracted national attention recently for the ingenuity of his arrangement with six small rural communities in rural Maine. The six towns came up with tuition for Roger Pelli's medical education in return for his promise to serve their communities after his graduation.

These two doctors described the unique challenges, the sense of purpose, and their relationship with their communities and their patients that can make the rural practice of medicine so rewarding. I believe that they make a persuasive case for rural medical practice that medical students would do well to consider. The pilot program for National Health Service Corps recruitment seminars that this bill would create would give the Public Health Service the opportunity to present a more balanced and favorable picture of rural practice to students who might find it an appealing alternative.

THE AREA HEALTH EDUCATION CENTERS ENHANCEMENT ACT

The second measure that I am proposing today is also intended, in part, to encourage medical students to consider the rewards as well as the challenges of rural practice.

The Area Health Education Centers [AHEC] Program links academic medical centers with actual clinical training in medically underserved areas. AHEC's serve both the medical student and underserved communities with continuing education for physicians, clinical instruction of undergraduate medical students, and the training of physician assistants and nurse practitioners. In addition, AHEC's support continuing education and clinical instruction of other health personnel, primary care residencies, and multidisciplinary training and practice in underserved areas. There is an AHEC Program in Maine that has been doing very fine work and has been providing medical students from the University of New England's College of Medicine with valuable experience in rural settings.

The AHEC legislation that I am introducing today would:

Increase the authorization for the AHEC Program by 50 percent;

Direct the Secretary of Health and Human Services to study and analyze the circumstances which work to the disadvantage of certain AHEC programs;

Allocate a portion of increased AHEC funding to disadvantaged AHEC programs in need of additional resources; and

Allocate a portion of increased Federal funding for the establishment of AHEC clinical clerkships in States which do not have medical schools.

This legislation is intended to bolster existing AHEC's and to encourage the establishment of AHEC's in States which do not now have such programs. Currently, 19 States have AHEC's, many of which face extremely challenging circumstances—such as the remoteness of the parent medical school from the rural areas which need the services the AHEC can provide—with very limited resources. This legislation would give consideration to such factors in allocating Federal AHEC funding.

By strengthening and expanding the AHEC Program, the AHEC Enhancement Act would provide additional physicians to shortage areas; decrease the professional isolation of current health care providers; and encourage more medical students to consider rural practice.

Mr. President, not surprisingly, a great many of our colleagues are also concerned with the problems of health care in rural areas. The two measures I am introducing today are intended to complement several other measures already under consideration in the Senate. I am pleased to be a cosponsor of two measures sponsored by Senator PRYOR, the Rural Primary Care Incentives Act of 1989, which would establish tax incentives for primary care physicians to practice in rural areas, and the Rural Hospital Improvements Act of 1989, which would improve Medicare reimbursement to hospitals that serve rural areas.

I am also a cosponsor of two measures introduced by Senator DASCHLE, the National Health Service Corps Improvements Act of 1989, which like my bill would take steps to strengthen the corps, and the Rural Nursing Incentives Act of 1989, a bill that would enhance the availability of health care services in rural areas by providing for direct Medicare reimbursement of nurse practitioners and clinical nurse specialists in federally designated rural health centers.

I applaud the efforts of Senators PRYOR and DASCHLE, as well as those of the many Senators who have demonstrated their concern over the critical problems in rural health care with contributions of their own. I hope that they will support the two measures I have introduced today as part of our combined efforts to improve the quality and availability of health care for rural Americans.

By Mr. GORTON (for himself, Mr. ADAMS, Mr. MCCAIN, and Mr. INOUYE):

S. 1813. A bill to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters; to the Select Committee on Indian Affairs.

29-059 O-90-10 (Pt. 19)

USE OF CERTAIN FUNDS FOR SUBSTANCE ABUSE AND RELATED TREATMENT SERVICES

● Mr. GORTON. Mr. President, alcoholism and substance abuse are the most severe health and social problem facing Indian youth today, and nothing is more costly to Indian people than the consequences of those problems: family disruption—especially the youth—incarceration, and considerable pain and illness.

The tribes participating in the Northwest Washington Inter-tribal Education and Training Board have identified a major deficiency of substance abuse and related treatment services pursuant to the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986. These five Northwest tribes—the Nooksack, Upper Skagit, Stillaguamish, Sauk Suiattle, and Swinnomish, have formally developed a plan for an intertribal youth substance abuse treatment group home in response to this need. Their focus will be largely on rural-based adolescents who are from, or would otherwise return to, a high-risk situation. The adolescents will be between the ages of 14 and 21 years old, for whom no services now exist that specifically address their cultural, social background, and treatment needs. The Bureau of Indian Affairs, ranked this proposal as one of the top in the Nation.

Unfortunately, Mr. President, an oversight in this very law prevents these tribes from moving forward to implement their excellent plan. The way the act is crafted, it limits the Secretary of the Interior and the Secretary of Health and Human Services to making available only local Federal facilities, property and equipment to the tribes on their reservations. However, these five Northwest tribes have limited land bases and no available Federal facilities to use as an emergency shelter or a halfway house for Indian youth. The tribes inability to acquire land under this act, when money is already set aside for their proposal, not only exacerbates the ever-increasing problem of alcohol and drug abuse on these reservations, but I believe goes against the original intent and spirit of this law.

Therefore, I rise today to introduce a bill which is essentially a technical amendment to the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986. My bill will ensure that funds provided under section 4213 of the act may be used to acquire land for emergency shelters and halfway houses.

I am optimistic that passage of this legislation will allow the Northwest Inter-tribal Education and Training Board to proceed in a timely fashion to acquire the land and necessary facilities for their substance abuse treatment home for Indian youth. I urge my Senate colleagues to give this simple yet vital proposal their prompt and full support.

I would especially like to thank Senator ADAMS, Senator MCCAIN, and Senator INOUYE for cosponsoring this important piece of legislation, and I commend the tribes for their tireless efforts to ensure that this essential substance abuse treatment facility for Indian youth will be built. It is my hope that purchase of this facility will be perfectly suited to meet the treatment needs of our Indian youth in northwest Washington, and will provide the needed care and aftercare plan for transition back into their communities.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433 (e)) is amended—

(1) by inserting ", or purchase or lease of land or facilities for," after "renovation of" in paragraph (1),

(2) by striking out "subject to contracting" in paragraph (3) and inserting in lieu thereof "subject to contracting or available for grants", and

(3) by adding at the end thereof the following new paragraphs:

"(4) Funds appropriated under the authority of this subsection may be used by Indian tribes and tribal organizations to purchase or lease any land or facilities if the Indian tribes and tribal organizations enter into an agreement with the Secretary of the Interior that requires the Indian tribes and tribal organizations to use the land or facilities for emergency shelters or half-way houses described in subsection (a).

"(5) Nothing in this Act may be construed—

"(A) to limit the authority for contracts with, or grants to, Indian tribes or tribal organizations under the Indian Self-Determination Act for the construction, improvement, renovation, operation, repair, land acquisition, or maintenance of tribal juvenile detention facilities, emergency shelters, or half-way houses, or

"(B) to require a lease of tribal facilities to the United States to qualify for financial assistance for the facilities under this or any other Act.".●

● Mr. ADAMS. Mr. President, I join my colleague from Washington, Senator GORTON, as a cosponsor of this legislation.

The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 contains a grant program that provides funds for the establishment of substance abuse residential treatment facilities for Indians, and Indian youth. This legislation would make it clear that funds disbursed under this grant program can be used to purchase or lease land or facilities in cases where a tribe or tribal organization enters into an agreement with the Secretary of the Interior which requires the tribe or tribal organization to use the land or facilities for the purposes for which the grant has been awarded.

While the language of this legislation is general in application, I am cosponsoring it to assist a worthy program in Washington that has recently run afoul of BIA's administration of this grant program.

In 1987, the Northwest Inter-Tribal Education and Training Board, an intertribal consortium representing several small tribes in the northwest corner of Washington, developed a proposal to establish an intertribal halfway house for substance-abusing native American youth. The board's action plan included the purchase and renovation of an existing structure located near the Sauk-Suiattle Reservation.

In late 1987, in response to a request for proposals from the BIA, the board submitted this plan to the BIA. In 1988, the board was informed that their proposal had been ranked 12th nationally, well within the range where funding could be expected. Early in 1989, the board was informed that funds would soon be available, either as a grant or through a BIA 638 contract. The board elected to receive funds through a grant.

Soon after, however, the board was informed that an internal controversy had arisen within the BIA as to whether it had statutory authority to allow grant funds to be used for the purchase of land. The BIA solicitor subsequently held that the BIA did not have such authority. Following this decision, the BIA initially took the position that the funds set aside for this grant should now be awarded to other grantees ranked lower on the priority list. If followed, this course would have left the board, who in reliance on their award had pursued additional State funding for this program, out in the cold.

Fortunately, the BIA learned that there was interest in Congress in addressing this issue through legislation, and the funds initially set aside for the grant may still be available. I appreciate the BIA's willingness to work with the interested congressional offices on this matter, but find it frustrating that congressional intervention is even necessary. The BIA is the Federal agency responsible for implementing fulfillment of Federal trust responsibility toward Indian people. We have so little Federal resources for Indian people as it is, and groups like this board operate on shoestring resources. I wish the BIA would spend less time involving groups like this in bureaucratic nightmares, and more time ensuring they get the resources they need.●

By Mr. BOSCHWITZ:

S. 1815. A bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips; to the Committee on Finance.

EXCLUSION OF EMPLOYER SOCIAL SECURITY TAXES ON CASH TIPS

● Mr. BOSCHWITZ. Mr. President, today I am introducing legislation which, by amending the Internal Revenue Code of 1986, will repeal the current requirement that employers must pay FICA (Social Security and Medicare) taxes on the cash tips of their employees.

Prior to 1987, an employer was responsible for contributing a matching amount of FICA taxes on tipped employees' income up to the minimum wage. For tipped employees receiving the minimum wage in cash and tip credit, the FICA payment was $0.24 per hour. In 1987, Congress extended the employer's FICA tax requirement to all declared tips in excess of the minimum wage. This increased the employer's FICA tax payment by 71 percent, to $0.41 per hour.

Despite this substantial increase, the most persuasive argument in support of repealing this new tax is altogether different. Social Security and Medicare are payroll taxes based upon wages and any tip credit counted by the employer. Cash tips, on the other hand, are not wages. Employers see none of this money, and I fail to understand why they should have to pay FICA taxes on it.

Further, this tax on tips targets a class of businesses that operate on very tight margins: Small, independent restaurant operators who employ the vast majority of waiters and waitresses. I think it is patently unfair to target the hospitality industry, in which tip income is most prevalent, for purposes of collecting new tax revenues.

Mr. President, I believe my bill will be very beneficial to small businesses. As ranking minority member of the Small Business Committee, reducing unfair regulation and taxation of small businesses is one of my top priorities. I encourage my colleagues to support this legislation.

I ask unanimous consent that a copy of my legislation be inserted in the RECORD at the conclusion of my statement.

Thank you, Mr. President. I yield the floor.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NO EMPLOYER SOCIAL SECURITY TAX TO BE IMPOSED ON CASH TIPS.

(a) IN GENERAL.—Section 3121(q) of the Internal Revenue Code of 1986 (relating to the inclusion of tips for employee and employer taxes) is amended—

(1) by striking "Both Employee and Employer Taxes" in the heading and inserting "Employee Taxes";

(2) by inserting "other than for purposes of the taxes imposed by section 3111," after "chapter,";

(3) by striking "remuneration for such employment (and deemed to have been paid by the employer for purposes of subsections (a) and (b) of section 3111)" and inserting "remuneration for employment"; and

(4) by striking "; except that, in determining the employer's liability in connection with the taxes imposed by section 3111 with respect to such tips in any case where no statement including such tips was so furnished (or to the extent that the statement so furnished was inaccurate or incomplete) such remuneration shall be deemed for purposes of subtitle F to be paid on the date on which notice and demand for such taxes is made to the employer by the Secretary".

(b) CONFORMING AMENDMENTS.—

(1) Section 3111 of such Code (relating to rate of tax) is amended—

(A) in subsection (a), by inserting "and (t)" after "section 3121(a)"; and

(B) in subsection (b), by inserting "and (t)" after "section 3121(a)".

(2) Section 3121 is amended by inserting after subsection (s) the following new subsection:

"(t) SPECIAL RULE FOR DETERMINING WAGES SUBJECT TO EMPLOYER TAX IN CASE OF CERTAIN EMPLOYERS WHOSE EMPLOYEES RECEIVE INCOME FROM TIPS.—If the wages paid by an employer with respect to the employment during any month of an individual who (for service performed in connection with such employment) receives tips which constitute wages, and to which section 3102(a) applies, are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act), the wages so paid shall be deemed for purposes of section 3111 to be equal to such total amount.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid on or after January 1, 1990.●

By Mr. HELMS (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. GARN, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. LOTT, Mr. MCCLURE, Mr. NICKLES, Mr. SHELBY, Mr. STEVENS, Mr. WALLOP, and Mr. GRAMM):

S. 1816. A bill to protect the retired pay of certain members of the Armed Forces convicted of an offense under section 2071(b) of title 18, United States Code; ordered held at the desk.

PROTECTING THE RETIRED PAY OF CERTAIN MEMBERS OF THE ARMED FORCES

Mr. HELMS. Mr. President, in accordance with the unanimous-consent agreement that was reached on August 4, I am introducing a bill identical to the amendment I offered on August 4 regarding the retirement pay for Lt. Col. Oliver North. I am honored to be joined in sponsoring this legislation by Senators SYMMS, THURMOND, WALLOP, NICKLES, HEFLIN, MCCLURE, COCHRAN, HOLLINGS, GARN, HATCH, STEVENS, LOTT, and SHELBY.

From the beginning Colonel North acknowledged publicly and forthrightly that he violated section 2071(b) of title 18 of the United States Code by shredding certain Government documents. Title 18, section 2071(b), reads as follows:

Whoever, having the custody of any [government] record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, destroys the same, shall be fined not more than $2,000 or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States.

After convicting Ollie North of this and two other charges, the court sentenced him to perform 1,200 hours of community service and to pay a $150,000 fine. Some may think that sentence was too severe; others may think it was not severe enough. I do not propose by introducing this legislation that Congress should or could alter the sentence handed down by the court. What I am proposing is that Congress act promptly to clarify an ambiguity in the law that is placing an unwarranted penalty on Colonel North and his family.

Mr. President, because section 2071(b) requires that a person "forfeit his office," the Navy had to determine whether Colonel North was in fact holding an "office" of the United States inasmuch as he was retired from active duty.

On June 30, 1989, the Judge Advocate General of the Navy, Rear Adm. E.D. Stumbaugh, submitted to the Secretary of the Navy a memorandum in which he stated:

In my opinion, the type of office held by a retired naval officer is not the same as that contemplated by the forfeiture portion of 18 U.S.C. 2071(b). Accordingly, a retired naval officer convicted of such an offense does not forfeit his commission, nor does he lose his retired pay as a consequence thereof.

Mr. President, Admiral Stumbaugh concluded that Colonel North does not hold an office within the meaning of subsection 2071(b) and therefore should not forfeit his retirement pay. In his memorandum of law, Admiral Stumbaugh makes a compelling case that the Navy should not withhold the retirement pay of Colonel North. I ask unanimous consent that a copy of that memorandum of law be printed in the RECORD at the conclusion of my remarks.

Let me summarize what I consider to be two of the most compelling arguments made by the Navy Judge Advocate General:

First, he emphasized that forfeiture provisions, such as the one in section 2071(b), are not intended to be punitive. Rather, the provisions are intended to ensure that one who has violated the statute will no longer have access to Government documents. Since Colonel North had left active military

service, he no longer had access to Government documents.

Second, the Judge Advocate General of the Navy pointed out that if an officer in the Marine Corps Reserves or a retired civilian official had been convicted of the exact same offense, neither would have to forfeit his or her retirement pay.

Since this question was one of first impression for the Navy, Admiral Stumbaugh recommended that the Secretary seek the opinion of the Comptroller General, who determines questions involving the expenditure of appropriated funds. Despite Admiral Stumbaugh's analysis, the general counsel at GAO concluded that because Colonel North was retired from active military service, he is considered as holding an office of the United States and therefore must forfeit his retirement pay.

Mr. President, with all due respect to the general counsel at GAO, I can't agree with his resolution of this issue. The general counsel acknowledges that the statute in question is ambiguous in its application to retired military officers and that there is insufficient legislative history to resolve that ambiguity. He did not dispute Admiral Stumbaugh's point that ambiguities in criminal statutes are construed in favor of defendants. Nevertheless, based on the historical treatment of retired military officers in other contexts, he concluded that Colonel North is considered to be holding an office and must forfeit his retirement pay.

His conclusion simply isn't convincing—especially when one considers how Colonel North earned his retirement pay.

During his 20 years of military service, Oliver North was in more than 70 combat actions. He earned the Silver Star, the Bronze Star, two Purple Hearts, Navy Commendation medals, the Vietnamese Cross of Gallantry with Silver Stars, and many others.

The citations that accompanied his awards are compelling. For example: "conspicuous gallantry in action" * * * with complete disregard for his own safety" * * * "seemingly oblivious to the intense machine gunfire impacting around him" * * * "calmly braving the intense fire of the tenacious hostile soldiers" * * * his heroic actions and vigorous efforts inspired all" * * * "heroic achievement in connection with combat operations" * * * "his patrol came under intense automatic weapons and machinegun fire from a numerically superior force." * * * "North boldly remained in his dangerously exposed position on top of a tank to deploy the men." * * * "fearlessly moved across the fireswept terrain" * * * "courage, leadership." And so on.

For those who argue that Colonel North was convicted of a felony and therefore does not deserve a Federal pension, I suggest a look at the drug bill Congress passed last year. In that legislation, there was a provision—which is now law—that allows convicted drug dealers, even those convicted of repeated offenses, to continue to receive "any retirement, welfare, Social Security, health, disability, veterans' benefit, public housing, or other similar benefit."

Those who argue that Colonel North does not deserve a Federal pension, a pension that he fought and shed his blood for, I would ask: Do you really believe that this man, who demonstrably was willing to lay down his life for his country, should be denied the benefits he earned for his family, while convicted drug dealers are allowed to keep theirs?

Let me acknowledge that Ollie North is a personal friend of mine. I confess a personal interest in the well-being of Colonel North and his family. I am convinced that whatever errors of judgment he may have made, he made them consistent with what he perceived to be in the best interests of his country—which he has served with valor and courage.

I feel that it would be a gross injustice for Colonel North to have to lose his military retirement pay as a result of a nonpunitive statutory forfeiture provision that would not even apply to a retired military Reserve officer or a retired civilian official of the U.S. Government.

Mr. President, the extraordinary volume of mail I've received on this question, indicates that the vast majority of the American people share my belief that Congress should act to restore Colonel North's pension. I ask unanimous consent that several letters be printed in the RECORD at the conclusion of my remarks.

The first letter is from Larry W. Rivers, executive director, on behalf of the more than 2.7 million members of the Veterans of Foreign Wars of the United States. Attached to Mr. Rivers' letter are: First, a copy of the testimony he gave before the Senate Judiciary Committee; and second, two resolutions adopted by the 90th National Convention of the VFW held in August of this year.

The second letter is from Phyllis Schalafly, president, on behalf of approximately 70,000 members of the Eagle Forum.

The fourth letter is from Thomas Lizardo, executive director, on behalf of the 50,000 members of Young Americans for Freedom.

I will also note that I have received more than 2,800 petitions from people across the country in support of this legislation.

I have also received several letters of support from specific organizations in North Carolina: American Legion Post 206, in High Point; VFW Post 619, in High Point; and the ladies auxiliary to the VFW Post 619. I ask unanimous consent that copies of those letters be printed in the RECORD.

Finally, I ask unanimous consent that a position paper published by the Heritage Foundation be printed in the RECORD. I further ask unanimous consent that this bill be held at the desk pursuant to the agreement entered into on August 4.

Mr. President, Ollie North has been punished enough. Let the vendetta end. Restore the pension to Ollie and his family.

Enough is enough.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
Alexandria, VA, June 30, 1989.

MEMORANDUM FOR THE SECRETARY OF THE NAVY

Subj: Status and entitlement to retire pay of a retired naval officer upon conviction of violating 18 U.S.C. § 2071(b) (1982).

1. You requested my opinion as to the legal status and pay entitlement of a retired naval officer convicted of a violation of 18 U.S.C. § 2071(b) (1982). The two parts of this statute prohibit essentially the same acts and provide for identical penalties. Subsection (a) applies to any individual. Subsection (b), however, applies only to a custodian of public records and adds an office forfeiture and disqualification provision.

2. Forfeiture and disqualification provisions similar to section 2071(b) have existed since at least 1853. Similar provisions in other statutes are not punitive but remedial. The forfeiture is not part of the announced sentence but a consequence of conviction. The purpose is the protection of the public; the disqualification is an incidental consequence, and not a punishment or penalty. Such a forfeiture, if applied to a retired naval officer, would result in the loss of all retired pay as well as medical and other retirement benefits.

3. In my opinion, the type of office held by a retired naval officer is not the same as that contemplated by the forfeiture portion of 18 U.S.C. § 2071(b). Accordingly, a retired naval officer convicted of such an offense does not forfeit his commission, nor does he lose his retired pay as a consequence thereof. My analysis and relevant legal authority are contained in the attached memorandum.

4. Normally, a retired officer's status determines the question of entitlement to retired pay. The Comptroller General, however, finally decides questions involving expenditure to appropriated funds. As an agency head, you are entitled to an advance ruling regarding any proposed expenditure. Since this is a question of first impression, I recommend you ask the Comptroller General if he has any objection to continued payment of retired pay in these circumstances.

E.D. STUMBAUGH,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocate General.

MEMORANDUM OF LAW

Subj: Status and entitlement to retired pay of a retired naval officer upon conviction of violating 18 U.S.C. § 2071(b) (1982).

1. Question: What effect does an 18 U.S.C. § 2071(b) conviction have on a retired naval

officer's status and entitlement to retired pay?

2. Short answer: The type of office held by a retired naval officer is not the same as that contemplated by the forfeiture portion of 18 U.S.C. § 2071(b). Accordingly, a retired naval officer convicted of such an offense does not forfeit his commission, nor does he lose his retired pay as a consequence thereof.

3. Discussion: a. There have been several cases of *active-duty* military officers convicted of offenses involving forfeiture or disqualification provisions similar to those in section 2071(b).[1] In both the forfeiture and the disqualification situation, the officers were separated from the military service by operation of law. Secretarial action in such cases was limited to notifying the individual that as of the date of conviction he ceased to be a member of the service.[2]

b. There are no reported cases involving *retired* military officers convicted of civil offenses resulting in forfeiture of office. One case discusses, in dictum, the effect of a disqualification provision on a retired Army officer.[3] The officer had been convicted of an offense with such a provision, and, upon reversal of his conviction, sought restoration of active-duty and retired pay. The Court of Claims and the Attorney General found that the officer had been removed from the Army and was not entitled to pay. Both further opined that the effect of the statute would have been removal from the Army, even if he had been retired. Those opinions, however, were unsupported by any rationale or authority and were collateral to the issues raised. Thus, the question of forfeiture of office by a retired officer has never been squarely addressed.

c. Initial attempts to determine whether the forfeiture provision applied to a retired naval officer focused on the meaning of the term "office." Analysis based on the abstract meaning of this technical term, generally used only in the specialized area of military personnel law, results in, at best, an inconclusive answer. What must be determined is the meaning of the term "office" in the statutory context in which it is found.[4] Additional factors considered in this memorandum are the relevant legislative history, the purpose and intent of similar forfeiture provisions in other statutes, and later enactments that express congressional intent in a similar context.[5]

d. It should be recognized at the outset that this question would not even arise in the case of a retired civilian officer or employee of the Federal government, since they no longer hold an office to forfeit. Title 5, *United States Code*, defines "officer" for purposes of that title as one who is "engaged in the performance of a Federal function under authority of law or an Executive act." Once retired, Federal civilian office holders no longer perform any Federal function, and are, by definition, not officers.[6] Only the special status of a retired commissioned officer gives rise to the question.

e. That retired naval officers remain members of their respective services[7] and retain their office[8] in the sense that they retain their status as commissioned officers is well established. There is a significant difference, however, between retired military and civilian officers that must be taken into account. The common meaning of the term "office" connotes one who exercises significant authority under the laws of the United States.[9] In determining the meaning of any Act of Congress, unless the context indicates otherwise—"officer" includes any person authorized by law to perform the duties of the office.[10] The Comptroller General has defined the elements of civil office: "The specific position must be created by law; there must be certain definite duties imposed by law on the incumbent, and they must involve the exercise of some portion of the sovereign power."[11] Retired military officers exercise no authority pursuant to the laws of the United States.[12] They are thus distinguished from active-duty officers and from civil office holders by the absence of duties.

f. This office-without-duties status may be the basis for otherwise unexplained inconsistencies in the law. For example, retired military personnel are considered to hold an "office" for some purposes under the Constitution but not for others. Article I of the Constitution prohibits any person "holding any office under the United States" from being "a Member of either House during his Continuance in Office."[13] Both retired regular and Reserve officers, however, have been and are members of Congress.[14] On the other hand, retired service members, including enlisted personnel, are considered to hold an office of profit or trust within the meaning of section 9, article I of the Constitution, thus requiring the consent of Congress for foreign employment.[15]

g. Similarly, retired naval officers have an "office" for some statutory purposes, but for others, their officer status is irrelevant.[16] That status is, therefore, not an authoritative or reliable basis for determining the intended effect of a specific forfeiture or disqualification provision. The history and purpose of each statute must be examined individually to determine the intended effect in a specific instance. Therefore, we must look beyond the four corners of the statute in question to determine its intended application.[17]

h. The legislative history of section 2071(b) is sparse. Antecedent statutes were enacted in 1853, 1909 and 1940.[18] The earliest statute involving tampering with public records was limited to court records.[19] From 1909 until 1948, the section was included in a chapter titled "offenses against public justice" that prohibited acts such as bribing a judge. In 1948, the statute was enacted in its present form. No legislative history regarding the intended application of the section has been found, but in the context of antecedent sections, it appears that it was originally intended to only protect court papers, and only later amended to include public records generally.[20]

i. The general purpose of the statute is "to preserve the public records and papers intact from all kinds of spoilation, mutilation, or destruction."[21] A public interest that would be served by the forfeiture provision of 18 U.S.C. § 2071(b) is the safeguarding of public documents through removal of the custodian's access. Both parts of section 2071 prohibit essentially the same acts[22] and provide for identical penalties. Subsection (a) applies to any individual. Subsection (b), however, applies only to a custodian of public records and contains the additional provision requiring forfeiture of, and disqualification from, office. Since a military officer is relieved of all duties upon retirement, the public purpose underlying this statute would not be served by forfeiture of such an officer's commission.[23]

j. No case law can be found directly addressing the application of the forfeiture and disqualification provisions of 18 U.S.C. § 2071(b). One case, however, involves its immediate predecessor 18 U.S.C. § 235.[24] In that case, the court of appeals concluded that an identical disqualification provision was not properly included as part of the sentence. The issue was whether the lower court, limited by statute to imposing only punishments of fine and imprisonment, had exceeded its authority by including office disqualification in the sentence. Citing *Burton* v. *United States*,[25] the court found it unnecessary to decide the question and simply ordered the office-disqualification language stricken from the sentence. That provision in the sentence did "nothing more than declare or recite what, in the opinion of the trial court, is the legal effect attending or following a conviction under the statute."[26] The Attorney General has stated that the purpose of such provisions "is the protection of the public; the disqualification is an incidental consequence, and not a punishment or penalty."[27]

k. If the forfeiture and disqualification provisions of this section are construed to apply to retired naval officers, not only would those officers' status be terminated, but also entitlement to retired pay and all other benefits provided in retirement. For at least the last thirty years, Congress has protected retired pay, once attained, of all former employees, including retired military members,[28] from forfeiture unless they are convicted of offenses for which forfeiture of retired pay is expressly provided. At one time, the "Hiss Act" mandated forfeiture of Federal retired pay upon conviction of *any* felony.[29] Congress, in 1961, clarified its intention that retired pay only be lost by those who commit specified offenses such as espionage. The rationale for the change in the law was that "[c]lear evidence has been developed . . . that the present law does not reflect our traditional sense of justice. A number of individuals have lost . . . valuable benefits because of offenses not only minor in nature but in no way related to security."[30] Section 2071(b) is not one of the offenses for which the "Hiss Act" requires a forfeiture of retired pay. A retired Federal civilian employee convicted of a section 2071(b) violation thus could not forfeit retired pay.

l. Retired military officers should not be subject to an even greater forfeiture merely because they continue to hold a commission, absent clear statutory language requiring such a result. This view is consistent with the long established rule of statutory construction that penal statutes should be strictly construed against the government and in favor of the persons on whom penalties are sought to be imposed.[31] This rule rests on the fear that expansive judicial interpretations will create penalties not originally intended by the legislature. Such laws will be given their common and ordinary meaning so that they may be understood by all. Such strict construction is a means of assuring fairness to persons subject to the law by requiring penal statutes to give clear and unequivocal warning, in language that people generally would understand, concerning actions that would expose them to liability for penalties and what the penalties will be.[32]

4. Conclusion: For the reasons stated above, it is the opinion of the Judge Advocate General that forfeiture by operation of law of a retired naval officer's commission is not a consequence that was intended by the legislature when 18 U.S.C. § 2071(b) was originally enacted. Thus, a conviction of violating that statute has no effect on the status or entitlement to retired pay of such an officer.

Footnotes at end of article.

FOOTNOTES

[1] *See e.g., McMullen v. United States*, 100 Ct.Cl. 323 (1943), *cert. denied*. 321 U.S. 790 (1944) (active-duty officer ceased to be an officer due to disqualification from office provision. *U.S. v. Motto*, 348 F.2d 523 (Ct. Cl. 1965) (active-duty officer convicted and removed from service because of 18 U.S.C. § 202, containing both forfeiture of office and disqualification provisions).

[2] *U.S. v. Motto*, 348 F.2d 523 (Ct. Cl. 1965).

[3] *McMullen*, 100 Ct. Cl. at 340. *See also* 39 Op. Att'y Gen. 437, 440 (1940).

[4] *Cf. Riddle v. Warner*, 522 F.2d 882 (9th Cir. 1975) (determining that an officer did not forfeit his military office upon acceptance of the civil office of notary public because that office was not the type of office intended by the "purposes underlying the statute." *Id.* at 884).

[5] N. Singer, Sutherland Statutory Construction, §§ 59.03, 59.08 (Sands 4th ed. 1986).

[6] 5 U.S.C. § 2104 (1982).

[7] *United States v. Tyler*, 105 U.S. 244 (1882); *McCarty v. McCarty*, 453 U.S. 210 (1981).

[8] *Wood v. United States*, 107 U.S. 414 (1882); *In re Winthrop*, 31 Ct. Cl. 35 (1985).

[9] *Buckley v. Valeo*, 424 U.S. 1, 125-6 (1976).

[10] 1 U.S.C. § 1 (1982).

[11] 29 Comp. Gen. 363, 366 (1950) (noting a distinction between "military office" and "civil office").

[12] *See* article 0811, *U.S. Navy Regulations, 1973.*

[13] U.S. Const., art. I, § 6, cl. 2.

[14] *See Schlesinger v. Reservists Committee to Stop the War*, 418 U.S. 208, 210 (1974).

[15] 37 U.S.C. § 908 (1982); 65 Comp. Gen. 382 (1986).

[16] For example, retired naval officers are subject to the Uniform Code of Military Justice, but are not prevented from holding civil office unless on active duty and are exempted from some standards of conduct provisions. 10 U.S.C. §§ 802, 973; 18 U.S.C. § 206 (1982).

[17] *Riddle v. Warner*, 522 F.2d 882 (9th Cir. 1975).

[18] An Act to prevent Frauds upon the Treasury of the United States, ch. 81, 10 Stat. 170 (1853); An Act to codify, revise, and amend the penal laws of the United States, ch. 321, 35 Stat. 1088 (1909).

[19] An Act for the Punishment of Certain Crimes against the United States, ch. 9, 1 Stat. 115 (1790) (parallels 18 U.S.C. § 2071(a) in its application to any person and absence of office forfeiture, but includes falsification).

[20] *See McInerney v. U.S.*, 143 F. 729 (1st Cir. 1906) (concluding that "by reason of its fixed connection with an actual investigation and judicial act, which in a judicial proceeding established a right, it was a record within the fair meaning of the statute [predecessor to 18 U.S.C. § 2071(b) enacted in 1953]." *Id.* at 732.).

[21] *U.S. v. De Groat*, 30 F. 764, 765 (E.D. Mich. 1887).

[22] Both prohibit concealing, removing, mutilating, obliterating, and destroying records. Subsection 2071(b) also prohibits falsifying records.

[23] A retired officer's commission alone does not allow the officer to place himself on duty. Article 0824, *U.S. Navy Regulations, 1973.* Retired officers may be ordered to active service, with their consent, in time of peace or in time of war or national emergency, by the Secretary of the Navy. Article 0834, *U.S. Navy Regulations, 1973.*

[24] *Husar v. U.S.*, 26 F.2d 847 (9th Cir. 1928), *cert. denied* 278 U.S. 625 (1928).

[25] 202 U.S. 344 (1905).

[26] *Id.* at 369.

[27] 38 Op. Att'y Gen. 468, 471 (1936) (citing *State v. Langer*, 256 N.D. 377). *See also Trop v. Dulles*, 356 U.S. 86, 95 (1958) (involving the loss of the right to vote upon conviction of a felony. The Supreme Court stated "[b]ecause the purpose of [such a forfeiture] is to designate a reasonable ground of eligibility for voting, this law is sustained as a nonpenal exercise of the power to regulate the franchise.").

[28] Retired officers can be dropped from the rolls only if they have forfeited retired pay under the "Hiss Act." DODDIR 1332.16 of 10 Mar 1970, Dropping Retired Military Personnel from the Rolls of the Armed Forces. Officers on *active-duty*, on the other hand, can be dropped from the rolls for conviction of any offense resulting in a sentence to confinement or administratively separated without their consent. Retired officers are not subject to administrative separation processing. Officers subject to removal from active duty for cause, if eligible for retirement, must be allowed to retire. Officers not eligible to retire are simply discharged from the service.

[29] 5 U.S.C. § 2282 (repealed by Pub. L. No. 87-299, § 1, 75 Stat. 640 (1961) (codified as 5 U.S.C. §§ 8311-8322) (1982 Supp. V 1987)).

[30] S. Rep. No. 862, 87th Cong., 1st Sess. *reprinted in* 1961 U.S. Code Cong. & Admin. News 2928.

[31] *U.S. v. Wiltberger, 18 U.S. 76 (1820).*

[32] 3 N. Singer, Sutherland Statutory Construction, § 59.03, (Sands 4th ed. 1986).

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, October 16, 1989.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: On behalf of the more than 2.7 million men and women of the Veterans of Foreign Wars of the United States and its Ladies Auxiliary, I wish to commend you for your efforts to restore Lt. Col. Oliver North's retainer pay. The VFW strongly believes that Lt. Col. North has earned every penny of his retainer pay and regardless of his actions while assigned to the National Security Council is entitled to and should receive that pay. The forfeiture of Lt. Col. North's retainer pay, in our opinion, constitutes a further penalty which goes well beyond the intent of the court's verdict.

Again, Senator Helms, the VFW strongly supports your compassionate effort to restore Lt. Col. North's retainer pay and stands ready to assist you in any way we can. For use as you may deem appropriate, I am attaching copies of my anticipated testimony before the Senate Judiciary Committee and VFW Resolutions Nos. 431 and 461.

Sincerely,

LARRY W. RIVERS,
Executive Director.

STATEMENT OF LARRY W. RIVERS, EXECUTIVE DIRECTOR, WASHINGTON OFFICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

RESTORING RETAINER PAY OF LT. COL. OLIVER NORTH

Mr. Chairman and members of the subcommittee: Thank you for the opportunity to present the views of the Veterans of Foreign Wars of the United States on the question of whether Lieutenant Colonel Oliver North, USMC (Retired) must forfeit his retired pay. The VFW is appreciative of the Committee for holding this hearing on what we consider an extremely important issue.

As we all know, on May 4, 1989, Lt. Col. North was convicted in the United States District Court in the District of Columbia of violating 18 U.S.C. 2701(b) by willfuly and unlawfully destroying United States Government documents. The Court sentenced him to public service and forfeiture of a $150,000 fine. Section 2071(b) of title 18 provides in part that anyone convicted under said section shall forfeit his office and be disqualified from holding any office under the United States. The controversy lies in whether the legislative intent of 18 USC 2071(b) was to include officers, both active and retired, in the Armed Forces, as "holders of office under the United States". But, there is yet another controversy surrounding the imposition of a fine by a non-judicial agency. On July 31, 1989, a General Accounting Office decision stripped Lt. Col. North of his retired/retainer pay. This decision by a non-judicial administrative agency imposes a $600,000 penalty on Lt. Col. North. This is a heavier penalty than imposed by the court. We question whether it is the province of an administrative agency to go beyond the intent of the Court's verdict or to impose a harsher penalty than the court chooses to do.

Mr. Chairman, setting aside the legal ambiguities, the VFW has a definite and strong opinion on this issue. We firmly believe Lt. Col. North has earned every penny of his retired/retainer pay and regardless of his actions while assigned to the National Security Council, is entitled to and should receive that pay. One must not forget that Lt. Col. North has given 20 years of his life serving our nation. He is a decorated Vietnam veteran who unquestionably has served his country under difficult combat conditions. He has been awarded a Silver Star, a Bronze Star with V for Valor Medal and two Purple Hearts for his combat related service. In addition to his service in Vietnam, Lt. Col. North has assisted in planning the liberation of Grenada and arranging the capture of the terrorists who hijacked the "Achille Lauro". This, Mr. Chairman, is the criteria that should determine whether Lt. Col. North should receive his retired/retainer pay; not one series of events which unfortunately ended an unblemished, brilliant military career.

How much more must this man be punished? The administration decision to revoke his retired/retainer pay will further penalize him an estimated $600,000 in lifetime earnings and bring his monetary penalty to 3/4 of a million dollars. Is this the way a nation treats its war heroes? We see no equal justice in denying Lt. Col. North his retirement pay when others convicted of more serious crimes can continue to draw their federal pensions. I would point out that even several former members of Congress were allowed to continue to receive their retirement pensions despite their convictions on felony charges.

In closing, Mr. Chairman, the delegates to our most recent National Convention, representing the more than two million members of the VFW overwhelmingly passed Resolution No. 461 entitled "Restore Lieutenant Colonel North's Retainer Pay". So strong is the VFW's membership on this issue that they also passed a resolution calling for the President to pardon Lt. Col. North. Both resolutions are attached to my statement for your review.

This concludes my statement. I will be happy to respond to any questions you have.

RESOLUTION NO. 461—RESTORE LIEUTENANT COLONEL NORTH'S RETAINER PAY

Whereas, Lieutenant Colonel Oliver North already has been fined $150,000.00 as a result of his Iran-Contra conviction (now on appeal); and

Whereas, Lieutenant Colonel North, a decorated Vietnam veteran who was described by former President Ronald Reagan as an "American hero," has lost his military retainer pay as a result of an administrative decision by the General Accounting Office (GAO); and

Whereas, the GAO decision to revoke his retainer pay would further penalize him the $600,000.00 lifetime earnings of his military retainer pay, thus imposing on him a fine of $750,000.00; now, therefore

Be it resolved, by the 90th National Convention of the Veterans of Foreign Wars of the United States, that the Veterans of Foreign Wars of the U.S. endorses the current effort to restore his military retainer pay to Lieutenant Colonel North.

Adopted by the 90th National Convention of the Veterans of Foreign Wars of the United States held at Las Vegas, Nevada, August 18-25, 1989.

RESOLUTION NO. 431—PARDON LTC (RET.) OLIVER NORTH

Whereas, LTC (Ret.) Oliver North has spent most of his adult life in the distinguished and patriotic service of his country, both as a military officer and as a civilian with a record of many noteworthy and honorable accomplishments; and

Whereas, LTC (Ret.) Oliver North is presently undergoing a period of legal difficulty growing out of his most recent service to his country; and

Whereas, it is the desire of the Veterans of Foreign Wars that we give support to him during this period of difficulty and to further express the sense and feeling of this organization to the effect: (1) that Colonel North's actions were motivated by what he deemed to be in the best interest and welfare of this country and were done by him as would have been done by any military officer in the normal chain of command, following the dictates of superior orders and his own sense of loyalty and duty to country; and (2) that no willful criminal intent, as such, was ever intended on his part but rather only another step in the ongoing battle against the spread of communism and its aggression, which step was especially warranted at this time because of the continuing and increasing intensity of these problems in our country's own backyard; now, therefore

Be it Resolved, by the 90th National Convention of the Veterans of Foreign Wars of the United States, that at such time as the judicial process so indicates or at any other appropriate or desired time, the President of the United States be urged to grant LTC (Ret.) Oliver North a full pardon and restore him to all of the rights and privileges of any other such loyal and patriotic citizen of our country.

Adopted by the 90th National Convention of the Veterans of Foreign Wars of the United States held at Las Vegas, Nevada, August 18-25, 1989.

CONCERNED WOMEN FOR AMERICA,
Washington, DC, October 12, 1989.

Hon. JESSE A. HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: This letter is written on behalf of Lieutenant Colonel Oliver North, United States Marine Corps (Retired). As you know, Colonel North has been awarded Navy Commendation medals, the Vietnam Cross of Gallantry with Silver Stars, two Purple Hearts, a Bronze Star, and our nation's third-highest medal for valor—the Silver Star. Long before Oliver North was a household word, he was a true American hero.

As a United States Marine he carried out his duties in accordance with the orders handed down by his Commander-in-Chief! Even though he was expected to make decisions on a daily basis, he did so for the good of the Corps and for the good of his country.

Colonel North's pension was suspended after being convicted of defending the friends of his country and protecting his wife and children—for being a Marine! He was following the orders of his superiors. Judge Gesell stated that, in his opinion, Colonel North was a subordinate working to carry out initiatives of a few superiors. He performed his duties in accordance with his orders.

Very Sincerely,

BEVERLY LAHAYE.

EAGLE FORUM,
Washington, DC, October 17, 1989.

DEAR SENATOR HELMS: I pledge Eagle Forum's complete support to your amendment to restore Colonel Oliver North's pension.

Colonel North has courageously earned his pension by supporting America and defending freedom.

Following 20 years active duty in the United States Marine Corps, North's retirement is well earned. It amazes me that someone who has served in Vietnam, who has been honored with the Silver Star, the Bronze Star, and two Purple Hearts, must now fight for his pension.

Thank you for sponsoring such worthy legislation to thwart the injustice against this true American. Colonel Oliver North indeed deserves his pension.

Faithfully,

PHYLLIS SCHLAFLY.

YOUNG AMERICANS FOR FREEDOM
Vienna, VA.

Senator JESSE HELMS,
U.S. Capitol,
Washington, DC.
Attention Andy Hartsfield.

DEAR SENATOR: On behalf of the 50,000 members and supporters of Young Americans for Freedom, I write to express our deep support for the motion to restore the military pension of Oliver North.

North has fought to defend his country in Viet Nam and elsewhere. He has earned his pension after 20 years of service to America, some of it faced looking into loaded guns held by enemies of our nation.

Colonel North has not only served, but served with much distinction, and to deny him his pension, regardless of the rulings of courts or other federal agencies, is an error.

The American people understand that it is up to the United States Senate to take responsible action, and restore the pension of this decorated war veteran, and parenthetically, up to President Bush to do likewise by issuing a pardon.

Sincerely,

THOMAS LIZARDO,
Executive Director.

AMERICAN LEGION POST 206
High Point, NC, October 17, 1989.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

MY DEAR SENATOR HELMS: I was recently informed that your continuing efforts to represent the citizens of North Carolina, and the people of America, have included the defense of Col. Oliver North, and his right to receive retainer/retired pay for the years he dedicated his life to the military service.

This matter has been brought before the members of our post, as well as the members of the American Legion and VFW in Greensboro. It is unanimously agreed that Col. North has justifiably earned this remuneration, and we urge, and support you in your efforts to reinstate his retired pay, and your opposition to the bureaucracy which threatens the future of all military veterans and Americans who are committed to the preservation of peace and freedom of this great nation.

Col. Oliver North and Senator Jesse Helms are truly Americans who give meaning to the adage, ". . . that those who died have not died in vain".

For God and Country,

JACK M. AUSTIN,
Commander.

HIGH POINT, NC, *October 19, 1989.*

To Senator JESSE HELMS:

Concerning your proposal to amendment number 693, regarding the reinstatement of Lieutenant Colonel North's pension, VFW Post 619, High Point, North Carolina, has voted unanimously to support your amendment number 694.

Please contact us if we may be of service.

Sincerely,

DWIGHT Y. UPTON,
Commander, VFW Post 619.

P.S.—Jesse, we want to help.

HIGH POINT , NC, *October 19, 1989.*

To Senator JESSIE HELMS:

Concerning your proposal to amendment number 693, regarding the reinstatement of Lieutenant Colonel North's pension, Ladies Auxiliary to the VFW Post 619, High Point, North Carolina, has voted unanimously to support your amendment number 694.

Please contact us if we may be of service.

Sincerely,

FARRES H. UPTON, *President,*
Ladies Auxiliary to the
VFW Post 619.

[From the Heritage Foundation, Sept. 14, 1989]

JUSTICE DENIED: RESTORE OLIVER NORTH'S PENSION

As a result of one of his recent controversial felony convictions, Lieutenant Colonel Oliver North has been stripped of his Marine Corps pension. In light of his years of outstanding service as a Marine, including combat leadership in Vietnam, this punishment is excessive and unjust. North's pension should be restored, and can be, by an act of Congress that would override other laws. This would not affect North's punishment or prejudice the process of appeals from the verdict against North. Nor would it weaken the deterrent power of the law in other cases. What it would accomplish is simple: justice.

The Automatic Forfeit. One of the three criminal counts of which Oliver North was recently convicted charged him with destroying federal documents. Title 18, Section 2071 (b) of the United States Code says that any federal officer who destroys, mutilates or falsifies federal documents shall be subject to fine and imprisonment, "and shall forfeit his office and be disqualified from holding any office under the United States." The pension of a retired Marine officer is deemed to be an "office" which is forfeited on conviction.

The policy embodied in the statute is, in principle, a wise one. Federal employees must be deterred from destroying or falsifying information for personal or partisan political purposes. However, Oliver North has testified that, in shredding documents and undertaking other acts of concealment, he believed that he was legally authorized by the administration he served.

Whether North was correct in believing that his activities were legally authorized or not is a question that will continue to engage not only constitutional lawyers and scholars but historians for years. In the meantime, however, North and his family must suffer a severe financial loss as the result of the automatic operation of a criminal law which in all likelihood was never intended to punish individual federal officers caught in struggles between Congress and their superiors over the direction of American foreign policy.

The Jury and the Judge. The automatic forfeiture of North's pension is particularly disturbing, because it prevents either judges or juries from varying the punishment to fit the crime. The jury in North's trial showed a capacity to make subtle moral distinctions that impressed all observers. Not only did the jury find North not guilty of the major counts of obstructing congressional and presidential inquiries, they acquitted him of charges that he had enriched himself by defrauding the Nicaraguan Democratic Resistance and the U.S. Internal Revenue Service. North was found innocent of almost all the charges brought against him.

North was deemed guilty only of destroying National Security Council documents, and of accepting an "illegal gratuity" in the form of a $13,800 security fence that he allowed to be built around his home to protect his family against possible terrorist attacks. The jury evidently believed North was following orders, and acting in what he believed to be the best interest of the United States, in carrying out the other activities with which he was charged. The lenient sentence that the judge imposed suggests that he agreed with the jury.

Neither judge nor jury, however, is allowed to show understanding or leniency in the case of North's pension. Neither judge nor jury can alter the automatic forfeiture provision.

But Congress can pass a special act to restore the pension, notwithstanding any other federal law to the contrary. By making an exception to the law in the form of a special statute, Congress can signal its intent to any potentially criminal federal officers that the punishment shall otherwise stand as firm as the policy behind it.

Paying What Is Owed. The restoration of North's pension would not affect a possible reversal of one or more of North's convictions on appeal. Nor would restoration of the pension prevent George Bush from pardoning North after the final outcome of the appeals process. Even more important, Congress, which is at it lowest ebb of popularity in decades, can demonstrate that it is capable of the impartiality and statesmanship which it accused the administration which North served of lacking.

North is paying for his violations of the law by community service. The taxpayers have already paid their own price for the trial of North: more than $40 million dollars, spent by the government in investigating him. It is inhumane that North should be denied his reward for his many years of dedicated and honorable service to his country, in battlefields as well as in public office. To do so is for the nation to renege on its obligation to North as an American fighting man. In uniform and on battlefields under enemy fire, North—as millions of other Americans—earned his military pension. It should be paid to him.

MICHAEL E. LIND,
Visiting Fellow.

Mr. THURMOND. Mr. President, I rise as an original cosponsor in support of legislation introduced by Senator HELMS which would protect the retirement pay of Lt. Col. Oliver North.

On May 4, 1989, Lt. Col. Oliver North was convicted of destroying Government documents. On July 5, 1989, Lieutenant Colonel North was sentenced to perform 1,200 hours of community service and pay a fine of $150,000. The statute under which Lieutenant Colonel North was convicted contains a provision that some argue should operate to deny a retired military officer his pension. The Senate recently passed legislation which requires the Judiciary Committee to hold a hearing and report back its findings as to whether the statute in question was intended to apply to retired military officers and whether Lieutenant Colonel North is deserving of his retirement pay.

Regarding the specific statute in question, section 2071(b) of title 18 of the United States Code, provides in part that "whoever willfully and unlawfully destroys a government document * * * shall forfeit his office and be disqualified from holding any office under the United States." Some conclude that based upon the language of this statute, Lt. Col. Oliver North and his family should be denied his retirement pay and medical benefits. I disagree with this conclusion. However, this is a case of first impression as to whether Lieutenant Colonel North "holds office" as originally contemplated by this particular statute.

Mr. President, I have carefully reviewed the statute in question along with interpretations of it by appropriate Government attorneys. The report issued by the Judge Advocate General of the U.S. Navy concludes that the type of office held by a retired naval officer, such as that held by Lieutenant Colonel North, is not the same as that contemplated by the forfeiture provision of section 2071(b). The Judge Advocate General went on to affirmatively rule that a retired officer convicted of an offense under this statute does not forfeit his commission, nor does he lose his retirement pay as a consequence of a conviction under this statute. After a review of the statute in question, I support the opinion of the Judge Advocate General of the Navy, an opinion shared by the General Counsel of the Navy, that section 2071(b) does not apply to retired military officers and therefore does not apply to Lt. Col. Oliver North.

As drafted, some take the position that section 2071(b) is ambiguous on its face. The legislative history does not indicate what Congress intended by the phrase "office under the United States." While I strongly believe that the appropriate interpretation should not deny Lieutenant Colonel North his pension, it is appropriate for Congress to clarify any ambiguous statute with remedial legislation. However, pending clarification of this statute, it is clearly unfair to deny this man his retirement—a retirement he earned after 20 years of dedicated service to this country.

In closing, regardless of how one chooses to interpret the statute, the bottom line is that Lt. Col. Oliver North served his country honorably for over 20 years. Lieutenant Colonel North was an outstanding member of our Armed Forces. He participated in over 70 combat actions earning the Silver Star, the Bronze Star for bravery, and two Purple Heart commendations for injuries sustained in combat, various Navy commendation medals, and the Vietnamese Cross of Gallantry with Silver Stars. It is simply unfair and unjust to deprive this man of the retirement pay he earned after such a brilliant military career.

Mr. President, I am proud to support the legislation introduced by Senator HELMS, and urge each Member of the Senate to vote to restore Lt. Col. Oliver Norths' retirement pay.

By Mr. CRANSTON (by request):

S. 1817. A bill to amend title 38, United States Code, to authorize the Department of Veterans Affairs to appoint, without regard to civil service hiring procedures, graduates in certain health-care professions or occupations trained by the Department; to the Committee on Veterans Affairs.

EXPEDITING APPOINTMENT OF DEPARTMENT OF VETERANS AFFAIRS-TRAINED HEALTH-CARE PROFESSIONALS

Mr. CRANSTON. Mr. President, as Chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 1817, a bill to authorize expedited Department of Veterans Affairs [VA] appointments of certain VA-trained health care professionals. The Secretary of Veterans Affairs submitted this legislation by letter dated October 24, 1989, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the October 24, 1989, transmittal letter and enclosed analysis of the proposed bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1817

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 4106 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) Without regard to competitive examining procedures prescribed in subchapter I of chapter 33 of title 5, United States Code, the Secretary, upon the recommendation of the Chief Medical Director, may ap-

point in the competitive service under title 5 individuals with a recognized degree or certificate from an accredited institution in a health-care profession or occupation who were appointed to and successfully participated in a clinical education program affiliated with the Department of Veterans Affairs.

(2) In using the authority provided by this subsection, the Secretary shall apply the principles for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5."

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, October 24, 1989.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, to authorize the Department of Veterans Affairs to appoint, without regard to civil service hiring procedures, graduates in certain health-care professions or occupations trained by the Department" with the request that it be referred to the appropriate committee for prompt consideration and enactment.

The purpose of the draft bill is to permit the Department of Veterans Affairs (VA) to appoint highly-qualified graduates in "allied health-care" professions to civil service positions without regard to the civil service register process. This appointment authority would be limited to those graduates who served under an appointment in a VA health-care facility in a clinical education program which was affiliated with an accredited college or university.

Under its statutory mission to develop and carry out a program of education and training of health-care personnel for the Nation, VA trains annually in clinical education programs in our facilities approximately 50,000 students in "allied health-care" professions, such as pharmacology, occupational therapy, psychology, social work, audiology, speech pathology, dietetics, and recreational therapy. Yet current law prevents hiring these students in many of these professions upon graduation without first undergoing the complicated and often lengthy process required under the civil service competitive system.

Thus, when a highly-qualified student in a title 5 "allied health-care" profession with excellent training in an affiliated clinical education program at a VA facility receives a professional degree and expresses an interest in working at the VA facility, the facility is unable to offer that professional a position until the entire civil service process is completed. The result, as documented in 1982 by the Agency report to Congress, is that highly motivated potential employees become frustrated with the length and complexity of the procedures and accept offers elsewhere. A VA study found that fewer than six percent of students take jobs with the VA facility where they were trained. Though the civil service hiring procedures normally serve the interests of the Government very well, we believe the delay necessitated by civil service screening in this narrow case is a factor in VA's inability to keep the professionals it has trained as students. As a result of the expected or actual delay, candidates who, through their performance as students in our facilities, have more than satisfied VA of their qualifications, routinely choose careers with non-Government employers, where rapid screening and hiring are the norm.

Currently, VA is experiencing staff shortages in certain of these "allied health-care" positions, and the situation could get worse. There is a decreasing number of individuals entering training for many of these professions and an intense competition for these professionals, especially recent graduates. The draft bill would enable VA to meet current and future shortages by offering employment as rapidly as other health-care employers with whom we compete and take advantage of training relationships by allowing the Department to secure career commitments even in advance of graduation.

This proposal would not only help VA anticipate and deal with the shortages but would also improve on current hiring procedures for these positions, without jeopardizing the principles of merit selection. We believe the proposal would permit us to select professionals who have already served under supervision at a VA facility where we were able to directly observe and evaluate whether their performance and skills meet our standards. Before offering employment, in short, VA would know their qualifications. The direct hiring authority would also remove the largely redundant "red-tape" barrier between our readiest source of supply for these professions and our staffing requirements and could prevent any disruption of care because we could give qualified students career appointments immediately upon graduation. Finally, this proposal would save resources that are now expended to recruit and screen applicants for these professions, eliminating the need for tedious, costly, and time-consuming orientation and training periods for new employees.

It should be emphasized that, under this direct-hire authority, not only must the graduates meet VA's high standards for a position in our facilities, but they must have served under an appointment from the Department in an affiliated clinical education program in a VA facility. In exercising this authority, VA would remain subject to the prohibitions in the current law against giving preferences not based on merit and against otherwise abusing merit principles. When a qualified graduate is not available, VA intends to continue to rely on the civil service register as a valuable source for qualified individuals for employment in "allied health-care" professions.

Finally, the draft bill does not intend benefits or privileges not already provided to other title 5 employees and specifically preserves the current statutory preference for hiring veterans.

The draft bill would not result in any additional costs to VA.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of this bill to Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

ANALYSIS OF DRAFT BILL

The draft bill would amend section 4106 of title 38, United States Code, which governs appointments and promotions by the Secretary of the Department of Veterans Affairs (VA) for certain health-care personnel, such as physicians, dentists, and nurses, in the VA Veterans Health Services and Research Administration.

The purpose of the draft bill is to authorize the Secretary to appoint directly to health-care positions under title 5, United States Code, without regard to the competitive civil service procedures, a qualified graduate with a degree or certificate from an accredited institution in an "allied health-care" profession or occupation who also successfully participated as a student, under an appointment, in a clinical training program affiliated with an accredited college or university at a VA health-care facility. This authority would effectively relieve VA of the burdens required by the civil service process encumbering the Agency from directly hiring qualified personnel to these positions.

The lengthy, complex civil service procedures, as noted in an Agency report to Congress in 1982, have resulted in frustrating highly-motivated potential employees who have then accepted employment elsewhere. *Study of the Feasibility and Desirability of Converting Selected Health Care Occupations to Title 38, United States Code,* prepared by the Veterans' Administration, printed by the Committee on Veterans' Affairs, House of Representatives, 97th Cong., 2d Sess., Committee Print No. 108. A 1986 agency study found that fewer than six percent of students take jobs with the VA facility where they were trained.

The authority under the draft bill would only apply to graduates of an "allied health-care" profession or occupation who are employed under the hiring authority in title 5, United States Code, and according to qualification standards established by the Secretary under current authority delegated by the Office of Personnel Management, which would remain generally the same as they are now. *See* attached list of these professions.

This authority would not apply to professionals hired under the authority in chapter 73 of title 38, United States Code (*i.e.*, physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, occupational therapists, and pharmacists).

The draft bill does not authorize any employment benefits or privileges which are not already authorized under title 5, United States Code. It specificially requires application of the current preference under subchapter I of chapter 33 of title 5 for the hiring of veterans and other eligible persons.

The authority provided by the draft bill only waives competitive appointment procedures contained in subchapter I of chapter 33 of title 5, United States Code, and would not permit the waiver of any other provisions in that subchapter. Also, in exercising the authority under the draft bill, VA would still remain subject to hiring prohibitions contained in title 5, United States Code, such as those in section 2302 against giving preferences not based on merit and against otherwise abusing merit principles. VA would still be authorized to use the civil service register to find qualified candidates for these positions.

The draft bill would not result in any additional costs to the Department.

By Mr. CRANSTON (by request):

S. 1818. A bill to amend title 38, United States Code, to require, after the effective date of this amendment, licensure, certification or registration of social workers appointed in the Department of Veterans Affairs.

QUALIFICATIONS FOR DEPARTMENT OF VETERANS AFFAIRS SOCIAL WORKERS

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 1818, a bill to require prospectively that Department of Veterans Affairs social workers be licensed, certified, or registered in a State. The Secretary of Veterans Affairs submitted this legislation by letter dated October 19, 1989, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as my amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the October 19, 1989, transmittal letter and enclosed analysis of the proposed bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1818

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 4105 of title 38, United States Code, is amended by adding a new paragraph (10) as follows:

"(10) Social Worker—

hold a master's degree in social work from a college or university approved by the Secretary and, where the law of the State of employment so requires, be licensed, certified or registered as a social worker, except that to allow completion of requirements for such licensure, certification or registration, the Secretary may waive the requirement for a period not to exceed three years."

SEC. 2. This amendment shall not apply to any person employed as a social worker by the Department of Veterans Affairs on or before the date of enactment of this amendment.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, October 19, 1989.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, to require, after the effective date of this amendment, licensure, certification or registration of social workers appointed in the Department of Veterans Affairs," with the request that it be referred to the appropriate committee for favorable consideration. This draft bill would establish in statute the qualification of licensure, registration or certification in order to be appointed to the position of social worker in the Department of Veterans Affairs (VA).

The draft bill reflects the improving formal standards for admission to the practice of social work in the United States. Currently 45 States, the District of Columbia, Puerto Rico and the Virgin Islands regulate the practice of social work through licensure, certification or registration. The remaining States have some form of licensure requirement or regulation under consideration. The U.S. Public Health Service, as part of its licensure and credentialing standards published in January 1986, established licensure as a basic requirement for social workers employed by that agency.

Further, the Joint Commission on Accreditation of Hospitals (JCAH), in its hospital accreditation manual designates as a "key factor" in the accreditation decision process, current licensure, registration or certification of social workers as legally required. The JCAH accreditation manual also considers professional licensure in determining the appropriateness of granting clinical privileges, a function of professional social workers in the delivery of care to veterans in all VA medical centers.

Moreover, third party payers for health care (Medicare, Medicaid, private insurance, etc.) require that the care for which payment is to be made be provided by individuals with appropriate credentials. CHAMPUS and the Federal Employees Health Benefit Program have used licensure, except in areas which do not regulate social work, as the basis for identifying minimal clinical practice standards for social workers participating in these programs.

Thus, some form of social work licensure is fast becoming the universal standard for social work practice in health and mental health activities throughout the nation. The VA mission of providing quality medical care to veterans dictates that qualifications for social workers in the Department of Veterans Affairs be no less stringent than those prevailing in the health care community generally.

Licensure of newly hired social workers in Department of Veterans Affairs facilities would help assure the continued quality of care provided by the VA health-care system by requiring that social workers employed to care for veterans meet ethical and qualification standards at least as high as those for social workers working with the general population.

The draft bill would apply, prospectively, to social worker applicants hired after the effective date of the amendment, and would not affect individual social workers presently employed at the VA. It would not require licensure, certification or registration for appointment to positions in VA facilities in States that do not regulate social workers. The draft bill would provide for a three-year period of waiver for completion of the licensure, registration or certification requirement. The waiver provision is included to allow for completion of licensure, registration or certification requirements after graduation, upon transfer, or after enactment of, or revision to, social worker regulations in an individual State.

There would be no costs or savings during Fiscal Years 1990-94 resulting from enacting this draft bill.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to submission of this draft bill to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

ANALYSIS OF DRAFT BILL

The purpose of the draft bill is to establish that persons appointed as social workers in the Department of Veterans Affairs in States where the practice of social work requires such a credential, be licensed, certified or registered. The draft bill also includes the requirement of a master's degree in Social Work. The draft bill provides for a waiver period to allow new graduates or transferred employees to meet the specific State regulatory requirements.

Section 1 of that draft bill would add a new paragraph (a)(10) to section 4105 of title 38, which would make a matter of statute the educational and licensure qualifications of social worker appointees. The new paragraph would set out, consistent with the positions already covered in section 4105, the qualifications required for appointment to the position of social worker in the Veterans Health Services and Research Administration. To indicate parallelism with the current qualifications in section 4105(a) for appointing psychologists, the draft bill includes language addressing the educational requirements under current qualification standards.

Under Public Law 99-166, Section 204, the Department of Veterans Affairs is required to determine and monitor the credentials, including professional licensure, of health care professionals in connection with their delivery of care to veterans. State licensure and its associated examination would help assure competence and optimum use of social work skills in the treatment and delivery of health care to veterans.

Currently, regulation of social work practice is determined by the individual State, and States have varying requirements for a social worker to register, become certified or obtain a license to practice in the State. The draft bill would thus allow appointment as a social worker based on the form (license, certification or registration) or regulation used in the individual State.

In addition, each State has varying requirements before it will issue the licensure, certification or registration. For example, under State social worker clinical practice regulatory requirements in Virginia and Florida, a social worker must obtain experience credit or work in a social work setting under the supervision of a social worker for three years before obtaining the State license. The draft bill would allow a waiver period of up to three years to allow a graduate or transferred employee to meet the individual State requirement. The three year waiver authority is sufficiently long to accommodate even those States with three-year practice requirements before licensure, given that current administratively imposed licensure requirements for social workers include an internship which is countable in those States.

Section 2 of the draft bill establishes that the draft bill would have prospective application, requiring licensure, certification or registration of applicants for employment who would be hired after the effective date of the amendment. Social workers currently employed would not be required to obtain licensure, certification or registration, even after being transferred or promoted to a State that requires licensure, certification or registration.

It is anticipated the draft bill would not, over Fiscal Years 1990-94, provide savings or incur costs. It is anticipated implementation of the draft bill would not result in any outlay of funds.

By Mr. CRANSTON (by request):

S. 1819. A bill to amend title 38, United States Code, to streamline the disciplinary process for employees, to allow for the delegation of authority for the Chief Medical Director in certain situations, and for related purposes; to the Committee on Veterans' Affairs.

HEALTH CARE PROFESSIONALS DISCIPLINARY PROCEEDINGS

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 1819, a bill to modify procedures for disciplining Department of Veterans Affairs title 38 health care professionals. The Secretary of Veterans Affairs submitted this legislation by letter dated October 19, 1989, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the October 19, 1989, transmittal letter and enclosed section-by-section analysis of the proposed bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1819

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That Subchapter 1 of Chapter 73 title 38, United States Code is amended as follows:

(a) Section 4110 is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) The Chief Medical Director, under regulations prescribed by the Secretary, shall from time to time appoint members and chairmen of disciplinary boards, such boards to determine, upon notice and fair hearing, the charges in any disciplinary action proposed against a person employed in a position listed in paragraph (a) of section 4104 of this title (hereafter in this section referred to as the 'respondent') on the basis of performance or conduct during the tenure with the Department of Veterans Affairs.

"(2) A disciplinary board shall consist of not less than three nor more than five employees of the Veterans Health Services and Research Administration who are senior in grade to the respondent. The majority of the members of such board shall be employed in the same category of position as the respondent.".

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The members and chairmen of disciplinary boards shall have the authority to administer oaths.".

(3) in subsection (d)—

(A) in the first sentence, by striking out "to the Administrator" and all that follows and inserting in lieu thereof "within limitations prescribed by the Secretary that the proposed disciplinary action be sustained or modified.";

"(A) an advance written notice stating the specific reasons for the proposed action;

"(B) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(C) representation by an attorney or other representative; and

"(D) a written decision and the specific reasons for the decision at the earliest practicable date.

"(3) The Secretary may provide for review of disciplinary actions described in paragraph (1) of this subsection under an agency review procedure to be established by the Secretary. Any such agency review procedure established by the Secretary shall include—

(A) a right to formal review by an impartial examiner within the Department of Veterans Affairs;

"(E) a prompt report of the findings and recommendations by the impartial examiner; and

"(B) in the second, third, and fourth sentences, by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary";

"(4) by deleting subsection (e), and inserting in lieu thereof:

"(e) An employee may appeal a disciplinary action taken under this section to the Secretary. In the absence of an appeal within the time limits prescribed by the Secretary, the decision shall have the same force and effect as a decision of the Secretary.".

(5) by adding at the end the following:

"(f)(1) A disciplinary board is not required in the case of a disciplinary action if the proposed action is suspension for 14 calendar days or less, reassignment or transfer without a reduction in basic pay, reduction in rank without a reduction in basic pay, reprimand, or admonishment.

"(2) An employee against whom a disciplinary action described in paragraph (1) of this subsection is proposed to be taken shall be entitled to—

"(C) a prompt review of the examiner's findings and recommendations by an official of a higher level than the official who issued the disciplinary action.".

SECRETARY OF VETERANS AFFAIRS,
Washington, DC, October 19, 1989.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith, a draft bill "To amend title 38, United States Code, to streamline the disciplinary process for employees, to allow for the delegation of authority of the Chief Medical Director in certain situations and for related purposes" with the request that it be referred to the appropriate committee for prompt consideration and favorable action.

Current law, codified at section 4110 of title 38, United States Code, establishes a cumbersome process for all disciplinary actions against tenured physicians, dentists, podiatrists, optometrists, nurses, physician assistants and expanded-function dental auxiliaries, for reasons of inaptitude, inefficiency, or misconduct. Though the process achieves due process for affected employees, its complexities and attendant delays are inappropriate in cases involving relatively minor disciplinary action. Yet the law requires the same process for both severe actions such as removal and less severe ones such as a reprimand or short suspension.

Under the current system, disciplinary boards composed of three peers are appointed by the Chief Medical Director (CMD), and the chairman and secretary of the board are appointed by the Secretary. Current procedures involve notice of charges, opportunity for a pre-decision hearing, right to legal representation and post-decision appeal. The hearing, required by request of the employee, is a trial type adversarial hearing of which a verbatim transcript is taken.

When charges are sustained, the disciplinary board recommends appropriate disciplinary action to the Secretary, who either approves, modifies, or disapproves such recommendation. The decision of the Secretary is final. The Secretary may delegate to the CMD the authority to appoint a chairman and secretary to the disciplinary board and to receive and act upon recommendations of the board, in which case the employee may appeal the decision to the Secretary.

The average case thus involves several administrative levels within the Department and takes six to twelve months to complete. Moreover, as the volume of disciplinary actions being processed by limited staff increases, further processing delays are incurred.

The effect of the length and complexity of the current disciplinary board system has been to diminish the use of less-severe disciplinary actions as a means of ensuring high standards of professional performance in the medical centers. The complexity and its attendant cost act as a disincentive for management to take less than drastic disciplinary measures, serving to impede the principle of progressive discipline. The current disciplinary board system compares poorly with the Civil Service Reform Act, which has established expeditious mechanisms to process title 5 disciplinary actions. There is no reason why title 38 disciplinary actions should take longer to be resolved than those in effect for title 5 employees. Fairness requires that the two systems be reasonably equal in timeliness.

The draft bill would amend section 4110 to exclude less severe disciplinary actions from the disciplinary board process: admonishment, reprimand, suspensions for 14 days or less, and reassignments and demotions not involving loss of grade or pay. The disciplinary board process would still apply to the more severe actions in which an employee's interests are much more substantial. The draft bill would empower the Secretary to establish an administrative appeal procedure, similar to that available to title 5 employees but featuring review by a peer examiner, for the review of these less-severe disciplinary actions. As a result, the volume of 4110 disciplinary actions will be reduced, which will enable the Department to more realistically use staff resources and in turn reduce processing time for an average case. Further, lesser disciplinary actions can be effectively utilized in developing an effective progressive disciplinary approach. In short, the VA disciplinary process would be streamlined to a more expeditious process, similar to that available to title 5 employees.

In addition, the draft bill would retain the CMD's authority to appoint disciplinary boards but would add authority to appoint the board chairmen and members. This

would authorize the appointment of a large number of members, who then could be impaneled in subgroups in individual cases, thus helping to decentralize the process. The draft bill would also delete current language concerning delegation to the CMD of the authority to appoint a chairman and secretary to the disciplinary board and to receive and act upon recommendations of the board. Section 212(a) of title 38 already amply authorizes delegation and redelegation of the Secretary's authority. Existing subsection (e), by specifically providing only for delegation to the CMD, but not for redelegation, could be applied so as to frustrate the Secretary's power to authorize redelegation. Thus, the draft bill would delete that part of subsection (e) in order to end any confusion on this point. (Of course, any redelegation would be to an appropriate line management official, who would be at a higher level than the official bringing the charges.) But the draft bill would not affect the existing right to appeal a decision to the Secretary which is retained. (Absent such an appeal, the decision of the Chief Medical Director or designee has the same force and effect as a decision of the Secretary.) Decentralizing the disciplinary board process will expedite board results.

Enactment of this measure would result in some limited cost savings through reduced expenses for processing disciplinary actions, including travel expenses for board members and reduced salary costs for employees pending disciplinary action. The major benefit would be a more responsive and timely disciplinary action. The major benefit would be a more responsive and timely disciplinary system.

A detailed analysis of this proposal is enclosed.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to submission of this draft bill to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

SECTION-BY-SECTION ANALYSIS

The draft bill would amend section 4110 of title 38, United State Code. Section 4110 authorizes the Chief Medical Director to appoint disciplinary boards to determine charges of inaptitude, inefficiency or misconduct of certain nonprobationary full-time health care professionals. The draft bill would limit the function of disciplinary boards in determining charges in the more severe personnel actions which require a highter degree of due process protection. The draft bill also would clarify that certain authority could be delegated to officials below the level of Chief Medical Director. In addition, the draft bill would prescribe procedures for less severe disciplinary actions and would authorize an appeal procedure for such actions.

Subsection (a) of the draft bill contains the amendments to section 4110. It would substitute a new subsection (a) which would clarify that severe discipline is based on job-related conduct and/or performance. In addition new subsection (a) would retain the authority of the Chief Medical Director to appoint disciplinary boards, but would add that this authority includes the appointment of the chairmen and members of the boards. Currently, section 4110 provides that the Chief Medical Director shall appoint disciplinary boards. As amended by subsection (a), section 4110 would specify that the Chief Medical Director's power to appoint boards includes the appointment of a large number of members, who then could be impaneled in subgroups. Combined with the deletion of current subsection (e), discussed below, this amendment would help in decentralizing the process by eliminating the need to appoint a board in each case.

Subsection (d) of section 4110, as amended by the draft bill, would provide that when the disciplinary board sustains the charges against the employee it shall recommend, under regulations prescribed by the Secretary, that the proposed disciplinary action be sustained or modified. Currently, disciplinary boards are appointed to determine charges of inaptitude, inefficiency, or misconduct, without regard to the type of disciplinary action proposed. When charges are sustained, the board recommends appropriate disciplinary action. As amended by this draft bill, the disciplinary board would be limited to recommending that a specific proposed disciplinary action be sustained or modified.

In addition, subsection (a) of the draft bill would delete that part of existing subsection (e) which specifically provides for delegation of the authority to appoint the Chairman and Secretary of a disciplinary board and to receive and act upon a board's recommendations. Section 212(a) already provides for delegation and redelegation of the Secretary's authority. Existing subsection (e), by specifically providing only for delegation, but not redelegation, could be read so as to frustrate the Secretary's power to authorize redelegation. This results in a highly centralized and time-consuming process. Thus, the draft bill deletes that part of subsection (e) to end any confusion on this point so that the Chief Medical Director may redelegate authority to an official of his choice in cases where it can be more appropriately and expeditiously handled at other levels, such as the local medical center level. (Of course, any redelegation would be to an appropriate line official, who would be at a higher level than the official bringing the charges.) The right to appeal a decision to the Secretary is retained.

Subsection (a) of the draft bill also would amend section 4110 by adding a new subsection (f). This new subsection would exclude suspensions for 14 days or less, reassignments, transfers and demotions not involving loss of grade or pay, reprimands, and admonishments from the disciplinary board process. Under the current section 4110, the same procedural requirements exist for all disciplinary actions, including these less severe actions. An employee's less substantial interests affected by such less severe actions would be adequately protected by the administrative appeal procedure provided in this new subsection (f). To this end, new subsection (f)(2) prescribes minimal procedural protections such as notice, opportunity to respond, representation and a written decision. Also, new subsection (f)(3) authorizes review under an administrative appeal process (with certain required procedures to assure fairness and timeliness of decisions). As amended by subsection (a), section 4110 boards would give the higher level of protection against arbitrary deprivation of the substantial property and liberty interests involved in the more severe disciplinary actions, while reserving other types of actions for appeals or grievance procedures set up by regulations prescribed by the Secretary.

Editorial changes are made throughout to change "Administrator" to "Secretary" to reflect the conversion of VA to the Department of Veterans Affairs pursuant to Public Law Number 100-527.

By Mr. CRANSTON (by request):

S. 1820. A bill to amend title 38, United States Code, to clarify the authority of the Chief Medical Director or designee regarding review of the performance of probationary title 38 health care employees; to the Committee on Veterans' Affairs.

REVISING REVIEW PROCEDURES OF CERTAIN DEPARTMENT OF VETERANS AFFAIRS PROBATIONARY HEALTH-CARE EMPLOYEES

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 1820, a bill to revise the procedures for the review of Department of Veterans Affairs title 38 probationary health care employees. The Secretary of Veterans Affairs submitted this legislation by letter dated October 19, 1989, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the October 19, 1989, transmittal letter and enclosed analysis of the proposed bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1820

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 4106(b) of title 38, United States Code, is amended to read as follows:

"(b) Appointments under section 4104(1) of this title shall be subject to a probationary period of two years. The record of performance of each person serving under such appointment may be reviewed at any time during that period by a board or boards appointed in accordance with regulations issued by the Secretary. Procedures governing the review of employee performance during the probationary period shall be established in regulations issued by the Secretary. The board(s) shall recommend to the Chief Medical Director, or designee, action consistent with the ability of the employee, as determined by the board(s), to perform efficiently. Such recommended actions could include retention or separation from service, reassignment to another position, or other corrective measures to enable the employee to be fully qualified and satisfactory. The Chief Medical Director, or designee, may accept, reject, or modify the recommendation of the board(s). If the Chief Medical Director, or designee, takes action not recommended by the board(s), a statement of the reasons therefor shall be prepared and made part of the record.".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, October 19, 1989.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith, a draft bill "To amend title 38, United States Code, to clarify the authority of the Chief Medical Director or designee regarding review of the performance of probationary title 38 health care employees" with the request that it be referred to the appropriate committee for prompt consideration and favorable action.

Currently, section 4106 of title 38, United States Code, provides authority to the Department of Veterans Affairs (VA) to appoint doctors, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries. That statute also subjects these employees to a two-year probationary period to allow the Department an opportunity to train newly-hired employees and evaluate their total performance.

At the end of the probationary period, the appointee's performance must be reviewed by a board to determine whether the probationary employee is fully qualified and satisfactory. If the board finds that the employee is not fully qualified and satisfactory, and following a review by the Chief Medical Director of its recommendations and findings, the Department has no option, under the plain language of the current law, but to separate the employee from service.

The current law provides no options to the Department other than separation from service even in a situation where a probationary employee has the potential to serve the Department with excellence, but did not satisfactorily perform VA duties assigned by the end of the probationary period. Moreover, a decision from the Federal Court of Appeals for the Eighth Circuit further limits the Department. That court ruled that the Chief Medical Director, the official responsible for the operation of the Veterans Health Services and Research Administration, has no discretion to adopt a corrective action differing from a recommendation of the professional standards board where the board has not recommended separation.

The draft bill would allow a professional standards board to tailor its recommendations to fit the particular circumstances of each case. It would authorize a board to recommend corrective action, in cases where performance or qualifications are less than fully satisfactory, other than removal. A board could, instead, recommend additional training or even reassignment to another position where the employee could provide a high level of service. This authority would enable boards to recommend actions that may help the employees become fully qualified instead of having to ignore differences between clearly not qualified employees. And finally, it would empower the Chief Medical Director with *total* discretion, based on his or her own review, to choose among an array of measures that may salvage a candidate who would have to be separated under current law. Clear authority to "salvage" potentially effective health care professionals is increasing.

This proposal would also clarify the intent of Congress that the Secretary of Veterans Affairs has the power to prescribe by regulation both the procedures to be followed by the board and the circumstances in which board proceedings may be initiated and that final action in the review process should be taken by the Chief Medical Director.

There are no costs anticipated from the enactment of this proposal.

The Office of Management and Budget advised that there is no objection from the standpoint of the Administration's program to submission of this draft bill to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

ANALYSIS OF THE BILL

This bill would clarify and expand the authority of the Chief Medical Director under 38 U.S.C. § 4106(b). That subsection establishes the probationary period for certain employees in the Veterans Health Services and Research Administration and requires periodic review of the performance of those employees. The employees affected are physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries.

The authority of the Chief Medical Director to accept, reject or modify the findings and recommendations of Professional Standards Boards appointed pursuant to this section would be clarified. Current practice under this section is in doubt because of the literal language of the statute and a court decision in the Federal Court of Appeals for the Eighth Circuit severely limiting the Chief Medical Director's discretion.

The proposal would not limit an employee's rights but would clarify that the Chief Medical Director is the decision-maker rather than the Professional Standards Boards. The bill would authorize reviewing boards to choose among a range of recommended actions so that remedies other than complete separation from service would be brought clearly within the law. Instead of separation of service, a board could instead recommend corrective measures, such as further training or even reassignment to another position, to enable the employee to become fully qualified and satisfactory.

The current limitation can color a Board's action when an employee is not performing satisfactorily because of unsuitable assignment or other reason. Under this proposal, the Board and the Chief Medical Director would have discretion to take action with regard to such an employee which could utilize available skills and abilities rather than being forced to choose between terminating a potentially useful employee or retaining an employee when performance of duties at the time of review is marginal.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. COCHRAN, Mr. DECONCINI, Mr. MURKOWSKI, Mr. BURDICK, Mr. DASCHLE, and Mr. CONRAD):

S. 1821. A bill to increase housing opportunities for Indians; to the Select Committee on Indian Affairs.

INDIAN HOUSING OPPORTUNITY ACT

● Mr. MCCAIN. Mr. President, I rise to introduce a bill to increase housing opportunities for American Indians and Alaska Natives, and to more closely examine the housing problems of Native Hawaiians. I am pleased to have the cosponsorship of my distinguished colleagues, Senators INOUYE, COCHRAN, DECONCINI, MURKOWSKI, BURDICK, DASCHLE, and CONRAD.

Before I begin my remarks, I would like to publicly express my appreciation to Senator MIKULSKI and Senator GARN and their staffs for all their efforts to secure and preserve 1,800 units of Indian housing in the fiscal year 1990 VA, HUD Appropriations bill. I know this appropriation bill give Indian people a renewed sense of hope that their housing needs have not been forgotten.

Mr. President, in the near future the Congress and the administration will begin active consideration of national housing legislation which, among other things, is expected to focus on issues such as homelessness, home ownership, and the supply of affordable housing. It is my hope that the Congress and the administration will also devote some long overdue attention to the unique and extraordinary demand for housing among American Indians and Alaska Natives.

On the surface, it would seem that a strategy for American Indian and Alaska Native housing issues would be a natural component in a national housing policy. But the history of housing programs for Indians and Alaska Natives reveals a different story. While the majority of the Nation has been served under the public housing program since it was first established in 1937, American Indians and Alaska Natives were not declared eligible for Federal housing programs until 1961. A substantial number of Indian housing units was not authorized until the early 1970's and an office of Indian housing was permanently established in 1978. Given the slow evolution of the Indian housing program, it is not surprising to learn that the Bureau of Indian Affairs consolidated housing inventory estimates that over 90,000 Indian families are in need of new or substantially rehabilitated dwelling units.

Compounding the problem of demand is the fact that many of the traditional solutions to urban and rural housing problems have proven to be largely unworkable on Indian reservations and in Alaska Native villages. Yet there has never been a careful review to see what improvements can be made to the current operation of Indian housing programs or an evaluation and testing of alternative delivery methods for Indian housing.

The bill I am introducing today seeks to address these and other concerns in four ways:

First, the bill would establish a National Commission on American Indian, Alaska Native, and Native Hawaiian Housing. The 2-year commission is tasked with the mission of evaluating current problems which impede the development of safe, sanitary, and affordable housing and to assess the most promising alternative strategies for providing housing for low-income and moderate-income Indian families. The Commission will be asked to develop an action plan which would include their recommendations for any

legislative, regulatory, or administrative actions that are necessary to effectuate their recommendations.

Second, the bill would establish a Housing Grant Program. This program would allow Indian tribes and Indian housing authorities the opportunity to design and implement their own community based strategies to improve the delivery of housing for their members, including programs to promote home ownership. A grant program could not exceed $2 million per fiscal year unless the Secretary determines that additional funding is warranted. The bill establishes certain criteria that the Secretary must consider in making grant awards and requires that each grant recipient must submit information to the Secretary for evaluation of the grant program and submit a final report at the end of the grant term.

Third, the bill amends title V of the Farmers Home Administration [FmHA] program of the U.S. Department of Agriculture. Currently, many qualified Indian people do not take advantage of the FmHA program because of their concern that in the event of a default on a grant or loan they could lose control over their land to a nontribal member. Language in this bill would rectify that problem by requiring that the Secretary would only be able to liquidate the house to the tribe, a tribal member, or the tribe's Indian housing authority. The eligibility criteria for an FmHA loan or grant is not affected.

Finally, the bill would provide an annual authorization for 3,000 new units of Indian housing. The primary concern of Indian tribes continues to be the authorization level for the development of new housing units. This authorization, which continues funding for new development under the existing Indian housing program, will remain the primary source of meeting the Indian housing need until such time as other alternative delivery methods are found. In addition the bill authorizes $60 million for the modernization of HUD Indian housing units under the comprehensive improvement assistance program.

Last year the Indian Housing Act of 1988 was enacted into law. That act was designed to make the HUD Indian housing program more flexible and appropriate to the needs of American Indians and Alaska Natives. My bill is intended to build upon that act and, I believe, represents another step forward in providing decent, safe and sanitary housing for American Indian and Alaska Natives.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL PROVISIONS AND POLICIES

SEC. 101. SHORT TITLE.

This title may be cited as the "Indian Housing Opportunity Act of 1989".

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Indian tribes face an unprecedented crisis due to the lack of shelter for a growing number of individuals and families, including elderly persons, persons with disabilities, and families with children;

(2) the demand for Indian housing has become more severe and, in the absence of more effective efforts and consistent funding, is expected to become dramatically worse, endangering the lives and safety of Indian and Alaska Native people;

(3) the Federal Government has a historical and special legal relationship with, and resulting responsibility to, Indian tribes;

(4) the Hawaiian Homes Commission Act of 1921 established a trust relationship between the United States and the Native Hawaiian people, founded upon a special historical and legal relationship;

(5) these Native Hawaiians who have been accorded legal status as eligible beneficiaries of the public trust provided for in the Hawaiian Homes Commission Act have not been able to participate in Federal housing programs because they are not specifically named in these programs as eligible recipients; and

(6) there is a severe housing shortage on Hawaiian Home Lands, and the waiting list of eligible beneficiaries continues to grow; in fulfillment of its trust responsibility it is appropriate for the United States to provide assistance in response to this urgent need.

(b) PURPOSE.—It is the purpose of this Act—

(1) to establish a National Commission on American Indian, Alaska Native, and Native Hawaiian Housing;

(2) to allow Indian tribes and Indian housing authorities throughout the United States to design and implement innovative strategies to supply affordable housing for low-income and moderate-income American Indians and Alaska Natives;

(3) to authorize a consistent level of funding for the development and improvement of Indian housing; and

(4) to address the unique circumstances facing Indian tribes in their effort to provide decent, safe, and sanitary housing for their members.

TITLE II—NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

SEC. 201. ESTABLISHMENT.

There is established a Commission to be known as the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing (hereinafter in this title referred to as the "Commission").

SEC. 202. MEMBERSHIP.

(a) APPOINTMENT.—(1) The Commission shall be composed of 12 members, appointed not later than 60 days after the enactment of this Act. The members shall be appointed as follows:

(A) 2 members to be appointed by the Secretary of Housing and Urban Development;

(B) 2 members appointed by the Chairman and the Ranking Minority Member of the Select Committee on Indian Affairs of the Senate;

(C) 3 members appointed by the Chairman and the Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance, and Urban Affairs of the House of Representatives;

(D) 3 members appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate;

(E) 1 Native Hawaiian appointed by the Secretary of Housing and Urban Development; and

(F) 1 Native Hawaiian appointed by the Chairman and Ranking Minority Member of the Select Committee on Indian Affairs of the Senate.

(2) Except as provided in paragraph (3), the Secretary and the congressional leaders referred to in subparagraphs (A) through (D) of paragraph (1) shall appoint as members of the Commission individuals who are elected officials of Indian tribes, who are officials of Indian housing authorities, or who have experience in Federal Indian housing programs.

(3) The congressional leaders referred to in subparagraphs (C) and (D) shall appoint 1 individual under each such subparagraph with experience in housing development and finance.

(4) The members appointed under subparagraphs (E) and (F) of paragraph (1) shall be individuals with experience in the Native Hawaiian community in housing programs available to beneficiaries of the Hawaiian Homes Commission Act.

(b) CHAIRPERSON.—The Commission shall elect a chairperson from among the members of the Commission.

(c) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(d) VOTING.—Each member of the Commission shall be entitled to one vote, which shall be equal to the vote of every other member of the Commission.

(e) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the original manner in which the appointment was made.

(f) PROHIBITION ON ADDITIONAL PAY.—Members on the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

SEC. 203. FUNCTIONS OF THE COMMISSION.

(a) EVALUATION OF CURRENT PROBLEMS.—The Commission shall evaluate the factors currently impeding the development of safe and affordable housing for American Indians, Alaska Natives, and Native Hawaiians, including factors related to tribal administrative capacity, internal management, access to financial markets, infrastructure development, and the adequacy of existing housing programs for Indians, Alaska Natives, and Native Hawaiians.

(b) EVALUATION OF ALTERNATIVE STRATEGIES.—The Commission shall assess the most promising strategies for the development, management, and modernization of housing for Indians, Alaska Natives, and Native Hawaiians. The assessment shall include housing projects that have been implemented by Indian housing authorities, public housing authorities, other govern-

ment agencies at the Federal, State and local level, and the private sector.

(c) DEVELOPMENT OF AN ACTION PLAN.—The Commission shall establish an action plan for American Indian and Alaska Native housing based upon the assessment in subsections (a) and (b). The action plan shall—

(1) specify objectives that the Department of Housing and Urban Development could achieve in cooperation with Indian housing authorities, Indian tribes, Native Hawaiian organizations, and other interested parties;

(2) provide a schedule by which such objectives could be achieved; and

(3) recommend legislative, regulatory, or administrative action necessary to achieve such objectives.

(d) FINAL REPORT.—Not later than 24 months after the appointment of members of the Commission under section 202(a), the Commission shall submit to the Secretary and to the Congress a final report which shall contain the information, evaluations, and recommendations specified above.

(e) DEFINITION.—As used in this section, the term "Native Hawaiian organization" means any organization which is established and controlled by beneficiaries or eligible beneficiaries under the provisions established by the Hawaiian Homes Commission Act of 1920.

SEC. 204. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may for the purpose of carrying out this title, hold such hearings and sit and act at such times and places as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) The Commission may secure directly from any department, agency, or instrumentality of the United States such data and information as the Commission may require for the purpose of this title. Upon request of the Commission, any such department, agency, or instrumentality shall furnish such data or information. The Commission may require data or information directly from Indian housing authorities to the same extent the Secretary could acquire such data or information.

(2) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) Upon the request of the chairperson of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this title.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this title.

(f) STAFF.—(1) The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

(2) In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(g) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

Of the total amount approved in appropriations Acts under section 9(c) of the United States Housing Act of 1937, there shall be set aside to carry out this title $1,000,000 for fiscal year 1991, and $1,000,000 for fiscal year 1992.

TITLE III—HOUSING GRANTS

SEC. 301. SHORT TITLE.

This title may be cited as the "American Indian and Alaska Native Housing Grant Program".

SEC. 302. PURPOSE.

The purpose of this title is to allow Indian tribes and Indian housing authorities throughout the United States to design and implement innovative strategies to supply affordable housing for low-income and moderate-income American Indians and Alaska Natives.

SEC. 303. AUTHORITY.

The Secretary, acting through the Assistant Secretary for Indian and Public Housing, shall award grants to Indian tribes or Indian housing authorities to pay 80 percent of the cost of planning, developing, and implementing innovative housing programs or alternative delivery methods for meeting low-income and moderate-income housing needs in accordance with provisions of this title.

SEC. 304. ELIGIBLE GRANT USES.

(a) IN GENERAL.—(1) Grants made available under this title may be used by Indian tribes or Indian housing authorities to demonstrate innovative housing programs or alternative delivery methods for meeting low-income and moderate-income housing needs of American Indians and Alaska Natives on Indian reservations and other Indian areas, including programs to encourage homeownership.

(2) Any grant awarded under paragraph (1) shall not exceed $2,000,000 for each fiscal year, unless the Secretary determines otherwise.

(3) The 20 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under subsection (a) that are not paid from such grant may be paid by the grant recipient in cash or through the provision of property or services.

(b) SELECTION CRITERIA.—The Secretary shall by regulation establish selection criteria for grant awards, which criteria shall take into account—

(1) the direct impact of the program on the applicant's housing needs;

(2) the cost-effectiveness of the program;

(3) the schedule for completion of the program; and

(4) Whether the applicant has the managerial, technical, or administrative capacity to carryout the proposed program, or can acquire the managerial, technical, and administrative capacity to carryout the proposed program. Additionally, applicants that have previously participated in the Indian housing program must have performed adequately, or in cases of previously documented deficient performance, the applicant must have taken appropriate corrective action to improve its performance.

(c) REPORTS.—Each recipient of a grant award under section 303 shall—

(1) furnish such information as the Secretary may require to—

(A) evaluate the program for which the grant was made, and

(B) ensure that the grant funds are expended for the purposes for which the grant was made;

(2) submit to the Secretary at the close of the term of the grant a final report which, in addition to such other information as the Secretary may require, includes—

(A) a detailed description of the program;

(B) the problems encountered in establishing the program;

(C) the extent to which the program was effective or ineffective in meeting the overall purpose of this Act; and

(D) any recommendations of the grant recipient.

SEC. 305. DEFINITIONS.

As used in this title:

(1) The term "Indian tribe" means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.

(2) The term "Indian housing authority" means a public housing agency established—

(A) by exercise of a tribe's powers of self-government independent of State-law, or

(B) by operation of State law providing specifically for housing authorities for Indians;

(3) The term "reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(4) The term "Indian area" means the area within which an Indian housing authority is authorized to provide housing.

(5) The term "Secretary" means the Secretary of Housing and Urban Development.

(6) The term "low-income" means families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because the prevailing levels of construction costs or fair market rents, or unusually high- or low-family incomes.

(7) The term "moderate-income" means families whose incomes do not exceed the median family income for the area, as determined by the Secretary for the area with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high- or low-family incomes.

SEC. 306. TECHNICAL ASSISTANCE ON A NONREIMBURSABLE BASIS.

The Secretary may upon the request of any grantee provide technical assistance on a nonreimbursable basis to allow a grantee

to develop a program authorized pursuant to this title.

SEC. 307. AUTHORIZATION.

There are authorized to be appropriated to carry out this Act, $30,000,000 for each of the fiscal years 1991, 1992, and 1993.

TITLE IV—MISCELLANEOUS

SEC. 401. DISPOSITION OF INTERESTS ON INDIAN LAND.

Section 509 of the Housing Act of 1949 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) In the event of default involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, he shall not sell, transfer, or otherwise dispose or alienate the property except to one of the aforementioned entities.".

TITLE V—AUTHORIZATIONS

SEC. 501. AUTHORIZATIONS.

Section 5(c) of the United States Housing Act of 1937 is amended by adding at the end the following:

"(9) Using the additional budget authority that becomes available during fiscal years 1991 and 1992, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

"(A) $223,956,000 each year for Indian housing public housing grants under subsection (a)(2); and

"(B) $60,000,000 each year for comprehensive improvement assistance under section 14.".

● Mr. INOUYE. Mr. President, I am pleased to cosponsor the Indian Housing Opportunity Act of 1989, a bill introduced today by the vice-chairman of the Select Committee on Indian Affairs, Senator JOHN MCCAIN.

Mr. President, as you know, there is a severe housing shortage across the United States. As is often the case with other social and economic problems in this country, these problems are magnified on Indian reservations and in Native American communities. The need for housing in these areas is critical, and the possibility of meeting this need through existing resources is remote. The United States has a special legal and historical obligation to the native peoples of this land, and it is appropriate that we are endeavoring to meet this responsibility through the enactment of legislation that will work toward solving this problem.

The Indian Housing Opportunity Act of 1989 directly addresses housing problems facing Native Americans. Among other provisions, the legislation creates a National Commission on American Indian, Alaska Native Housing, and Native Hawaiian Housing. The purpose of the Commission is to assess strategies for the development, management, and modernization of Indian, Alaska Native, and Native Hawaiian housing, and to develop an action plan to achieve the objectives by the Commission.

I would like to take this opportunity to briefly explain the inclusion of Native Hawaiian concerns within the National Commission.

This past August, the Select Committee on Indian Affairs held 5 days of joint oversight hearings with the House Interior Committee in Hawaii on the Hawaiian Homes Commission Act of 1920. This was the first time oversight hearings had ever been held on this act, and the testimony that came forth was overwhelming.

In 1921, the Hawaiian Homes Commission Act was signed into law. The major provisions of the act included setting aside approximately 187,000 acres of specific public lands on the islands of Hawaii, Maui, Molokai, Oahu, and Kauai for leasing to native Hawaiians. The goal of the program was to put Hawaiians back on the land, from which they were becoming rapidly alienated, and the signing of this act constituted the undertaking of a trust obligation by the United States to benefit an indigenous people.

The act was implemented and administered by the territorial government through the Hawaiian Homes Commission. As a condition of statehood in 1959, the Department of Hawaiian Home Lands was established and title to Hawaiian Home Lands was transferred to the State of Hawaii.

The act provides direct benefits in the form of 99-year leases to beneficiaries who are defined as Native Hawaiians of one-half degree or more blood quantum descending from the original, pre-European contact inhabitants of the islands. The lease awards are for residential, agriculture, aquacultural, or pastoral uses. When the act was passed by Congress, a committee report stated that accessible water in adequate amounts must be provided for all DHHL tracts.

Since enactments, 32,713 acres of Hawaiian home lands have been awarded as homestead lots for residential, agricultural, or pastoral uses as of June 30, 1987. In the meantime, over 19,000 applications by eligible beneficiaries are on the waiting list to receive awards.

It became clear during the hearings that the problems of administering the homelands are severe, largely because the Department of Hawaiian Home Lands has never had adequate resources to properly carry out the program. The infrastructure needs are overwhelming, and without first meeting these needs, further development of the land has been slow.

We are taking a first step in this bill to include Hawaiian home lands housing needs in the study to be performed by the Commission. Testimony from the hearings pointed to the need to include Federal assistance in the development of housing on Hawaiian home lands, which has not previously been provided. The regional administrator of region IX of the Department of Housing and Urban Development testified at one of the hearings that DHHL has not been eligible to participate in Federal housing programs because it is not specifically named as an eligible recipient. American Indians, Alaska Natives, and South Pacific Islanders are all named in HUD statutes as eligible recipients.

As a result of these hearings, I anticipate that the United States will play a larger role than it has in the past in fulfilling its obligation to the native Hawaiian people. The Commission is a start, and I look forward to working with my colleagues on the Senate Banking, Housing, and Urban Affairs Committee to meet the U.S. responsibility to all native people of this great Nation.●

● Mr. MURKOWSKI. Mr. President, I am pleased to join my distinguished colleague from Arizona, Senator MCCAIN, in sponsoring the Indian Housing Act of 1989. It is my conviction that it holds much promise at improving the opportunities of American Indians, Alaska Natives, and native Hawaiians to obtain safe, decent, and affordable housing.

In much of rural Alaska, housing conditions of Alaska Natives are deplorable. Houses are dilapidated or in disrepair, inadequately insulated, and overcrowding is common.

To address these conditions, I joined my colleagues on the Select Committee on Indian Affairs earlier this session in urging an increase in the authorization of Indian housing from 1,000 units to 3,000 units. In these efforts, we were only partially successful, but I am grateful for that partial success.

I thank my colleagues on the Appropriations Subcommittee on HUD and Independent Agencies who, in the face of many competing demands for funding, did approve increasing the number of Indian housing units to 1,800 for fiscal year 1990. Even with this increase, however, only a few hundred units will be available to meet the housing needs of Alaska Natives.

The housing needs of Alaska Natives far exceed what existing programs are providing, and these needs are well documented. The latest survey, prepared in 1988 for the State of Alaska Department of Community and Regional Affairs, shows a need for 6,740 housing units. More than half of these are needed as replacement for existing stock, and the remainder required to reduce severe overcrowding. Thousands more require major repairs, including foundations and foundation pads—to cure permafrost problems—doors and windows, roofing, and insulation.

What is needed to more nearly meet Alaska Native housing needs is increased authorization for new housing, funding to repair and rehabilitate existing stock, and identification of housing strategies to meet their unique circumstances. All of these are goals of the Indian Housing Act, and I am hopeful that the Senate will move swiftly to enact it into law.●

By Mr. BREAUX:

S. 1822. A bill to amend the Clayton Act to prohibit certain activities by local governments that operate airports, and for certain other purposes; to the Committee on the Judiciary.

FAIR AIRPORT ACCESS ASSURANCE ACT

● Mr. BREAUX. Mr. President, today I am introducing legislation designed to protect smaller businesses and consumers from paying unreasonable and discriminatory airport access fees.

Several years ago, the Congress passed legislation which prohibits airports from charging airline passengers head taxes. Although the fees at the time were relatively modest, and the process for imposing such fees had been approved by the Supreme Court, the Congress was concerned about the unrestrained ability of airports to impose arbitrary fees upon individuals traveling in interstate commerce. Today, some airports are exploiting a loophole in this law by imposing head taxes indirectly in the form of access fees charged to off-airport service providers. Since these fees are generally passed through to the consumers, they are really head taxes in disguise.

These new access fees have been initially charged to car rental companies, but may eventually spread to other businesses. For example, San Francisco International Airport has proposed to charge such access fees to hotels and motels. Access fees generally range from 7 to 10 percent of gross receipts, and are imposed simply for the privilege of operating a courtesy van on public roadways to pick up and discharge passengers at the airport. The amount that the airports can charge is not limited in any way. There is one reported case of an airport in Colorado increasing the fee from 8 to 15 percent simply because the off-airport car rental company complained about the fee.

Although gross receipts fees are charged on-airport car rental companies, these fees can be unfair to off-airport companies because these businesses may not receive the valuable benefits provided to the on-airport companies. The on-airport companies have sales booths, direct access to air travelers, parking, and advertising privileges which are not typically provided to the off-airport companies. In addition, the fees need not have any relation to the benefits received by the off-airport companies, or to the costs incurred by the airports.

The gross receipts fees are a relatively new development. Until about 3 years ago, airports either charged no fees, or charged fees that were reasonable and were willingly paid by the off-airport businesses. Over a relatively short period of time, however, the number of airports charging these fees has risen to more than 30. Many other airports are considering the imposition of such fees on off-airport companies.

Under existing Federal law, airlines receive protection from the imposition of excessive fees by airports. During the 100th Congress, my former colleague from Florida, Senator Chiles, introduced legislation which would have applied this same standard of protection applicable to the airlines to off-airport businesses. The legislation would have simply required that fees be "reasonable and not unjustly discriminatory," a standard with which almost anyone should be able to agree. A similar bill was introduced in the House and attracted numerous cosponsors.

The airports opposed this legislation with a massive lobbying effort, and as a result, the bill was stalled in committee. However, a hearing in the Senate Aviation Subcommittee and extended debate on the issue generated enough concern about the problem that the Department of Transportation [DOT], in consultation with the Federal Trade Commission [FTC], was directed by the Congress to conduct a study of the problem. Earlier this year, that study was completed, and the findings demonstrate that these fees may have significant anticompetitive consequences.

The study pointed out that the four largest companies, Hertz, Avis, Budget, and National, dominate 95 percent of the on-airport segment of the car rental industry. As a result, the imposition by airports of gross receipts fees on off-airport businesses can "change the competitive relationship" between the on- and off-airport companies. This, according to the study, provides the on-airport businesses "an opportunity to either increase prices—hence profits—market share or both." For the consumer, this will mean two things—higher prices and fewer choices.

According to the FTC, these benefits would give the on-airport companies the incentive to lobby airports to charge their off-airport competitors access fees. In essence, this gives the larger rental companies a way to use governmental entities, the airports, to decrease competition. If the airports act at the urging of these companies to impose fees that lessen competition for on-airport companies, the off-airport businesses have no viable remedy to correct the situation.

Airports are quasi-governmental entities and are, therefore, protected from antitrust action with respect to the regulation of airport facilities. Airports should not, however, be allowed to take actions which may unfairly stifle competition. The bill that I am introducing would simply allow smaller, off-airport companies to seek an injunction against an airport under antitrust laws if an airport imposes "unreasonable and unjustly discriminatory" fees that "substantially lessen competition or tend to create a monopoly." The legislation is narrowly drawn so that it applies only if an airport receives some kind of Federal subsidy.

Mr. President, the legislation would not interfere with the ability of airports to raise needed revenue or to charge reasonable and fair fees. Off-airport companies agree that they may be charged reasonable fees, and airports would be free to charge such fees under my bill. The Nation's airports are crucial to this country's economy and the well-being of its citizens. Accordingly, I strongly support reasonable efforts to assure adequate airport funding. However, airports are governmental monopolies which receive substantial subsidies from the Federal Government and should be expected to operate according to basic rules of fair play. My bill would simply require that airports act in a fair and reasonable manner in setting fees for off-airport businesses. I urge my colleagues to join me in supporting this proconsumer and prosmall business legislation.

Mr. President, I ask for unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ANTITRUST LIABILITY OF LOCAL GOVERNMENTS.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by redesignating section 27, and any reference to such section, as section 28 and inserting after section 26 the following new section:

"SEC. 27. It shall be unlawful for any city, county, parish, town, township, village, or other general or special function governmental unit that owns or operates an airport that receives Federal assistance or issues airport improvement bonds the interest in which is tax exempt under the Internal Revenue Code of 1986 to impose an unreasonable and unjustly discriminatory tax, fee, or condition on non-tenant, non-aeronautical, commercial users of such airport, where the effect of such tax, fee, or condition may be to substantially lessen competition or tend to create a monopoly in any line of commerce, whether or not such tax, fee, or condition is authorized by State law.".

SEC 2. LIMITATION ON APPLICABILITY TO CIVIL ACTIONS.

This Act and amendments made by this Act shall not apply to any civil action in

which a judgment has been entered on or before the date of enactment of this Act.●

By Mr. BENTSEN (for himself, Mr. PACKWOOD, Mr. MITCHELL, Mr. MOYNIHAN, and Mr. DOLE):

S. 1823. A bill to amend the Social Security Act to increase the amount of earnings exempt from reduction under the retirement test under title II of such act; to the Committee on Finance.

INCREASE IN SOCIAL SECURITY EARNINGS TEST

● Mr. BENTSEN. Mr. President, earlier this month the Committee on Finance approved a substantial increase in the amount a Social Security beneficiary may earn before his benefits are reduced. This proposed increase in the Social Security earnings test was intended to be included in a separate committee amendment to the reconciliation bill. The committee agreed to offer the earnings test increase, along with other Social Security matters, as a separate amendment because under Budget Act rules for reconciliation any measure amending Social Security is subject to a point of order. For obvious reasons, the committee did not want a point of order to be raised against the entire Finance Committee package.

As the reconciliation bill evolved on the Senate floor, I was unable to offer the Social Security amendment. But my interest in liberalizing the earnings test is in no way diminished. I am committed to finding a way to deal with this issue at the earliest opportunity.

Today I am introducing the earnings test amendment as a separate bill. I am aware of the widespread interest in this issue, and I believe it will be useful to give Senators an opportunity to become familiar with what I am trying to achieve on behalf of those older Americans who want and need to work.

My bill would raise the threshold of earnings under present law where you begin to lose Social Security benefits by roughly $5,000 a year. And those who cross that threshold will be able to keep more benefits than present law allows. The proposal is fully financed in a way that will not add to the deficit.

Mr. President, I hope the Senate will soon have an opportunity to consider this legislation. I have been privileged in my years in the Senate to be able to support several increases in the retirement test. I am particularly pleased to offer this amendment as a significant contribution to helping those older Americans who continue to work beyond the usual retirement age.

I ask unanimous consent that the text of S. 1823 be printed in the RECORD immediately following my remarks, along with a factsheet describing the bill in more detail.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RETIREMENT TEST EXEMPT AMOUNT INCREASED TO $11,700 IN 1990 AND $14,520 IN 1991.

(a) IN GENERAL.—Subparagraph (D) of section 203(f)(8) of the Social Security Act (42 U.S.C. 403(f)(8)) is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

"(i) $975.00 for each month of any taxable year ending after 1989 and before 1991, and

"(ii) $1210.00 for each month of any taxable year ending after 1990 and before 1992.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. 2. REDUCTION FACTOR WITH RESPECT TO CERTAIN EARNINGS LOWERED TO 25 PERCENT.

(a) IN GENERAL.—Paragraph (3) of section 203(f) of the Social Security Act (42 U.S.C. 403(f)) is amended by striking "33⅓ percent" and all that follows through "paragraph (8)" and inserting "equal to the sum of (A) 25 percent of so much of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8) as does not exceed $5,000, and (B) 33⅓ percent of so much of such earnings in excess of such product as exceeds $5,000,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 3. INCLUSION OF CERTAIN DEFERRED COMPENSATION IN DETERMINATION OF WAGE-BASED ADJUSTMENTS.

(a) IN GENERAL.—Section 209 of the Social Security Act (42 U.S.C. 409) is amended by adding at the end the following new subsection:

"(k)(1) For purposes of sections 203(f)(8)(B)(ii), 213(d)(2)(B), 215(a)(1)(B)(ii), 215(b)(3)(A)(ii), 224(f)(2)(B), and 230(b)(2) (and for purposes of determinations under section 230(b)(2) as in effect immediately prior to the enactment of the Social Security Amendments of 1977), the term 'deemed average total wages' for any particular calendar year means the product of—

"(A) the SSA average wage index (as defined in section 215(i)(1)(G) and promulgated by the Secretary) for the calendar year preceding such particular calendar year, and

"(B) the quotient obtained by dividing—

"(i) the average of total wages (as defined in regulations of the Secretary and computed without regard to the limitation specified in subsection (a)(1) and by including deferred compensation amounts) reported to the Secretary of the Treasury or his delegate for such particular calendar year, by

"(ii) the average of total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year preceding such particular calendar year.

"(2) For purposes of paragraph (1), the term 'deferred compensation amount' means—

"(A) any amount excluded from gross income under chapter 1 of the Internal Revenue Code of 1986 by reason of section 402(a)(8), 402(h)(1)(B), or 457(a) of such Code or by reason of a salary reduction agreement under section 403(b) of such Code,

"(B) any amount with respect to which a deduction is allowable under chapter 1 of such Code by reason of a contribution to a plan described in section 501(c)(18) of such Code, and

"(C) to the extent provided in regulations of the Secretary, deferred compensation provided under any arrangement, agreement, or plan referred to in subsection (i) or (j).".

(b) CONFORMING AMENDMENTS.—

(1) Sections 203(f)(8)(B)(ii), 215(b)(3)(A)(ii), and 230(b)(2)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(B)(ii)(I), 415(b)(3)(A)(ii)(I), and 430(b)(2)(A)), as amended by subsection (d)(2)(A)(i), are each further amended—

(A) by striking "the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)(1)) reported to the Secretary of the Treasury or his delegate" and inserting "the deemed average total wages (as defined in section 209(k)(1))";

(B) by striking "the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate" and inserting "the deemed average total wages (as so defined)"; and

(C) in section 215(b)(3)(A)(ii)(I), by striking "(after 1976)".

(2) Sections 213(d)(2)(B), 215(a)(1)(B)(ii), and 224(f)(2)(B) of the Social Security Act (42 U.S.C. 413(d)(2)(B), 415(a)(1)(B)(ii), and 424a(f)(2)(B)), as amended by subsection (d)(2)(A)(i), are each further amended—

(A) by striking "the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)(1)) reported to the Secretary of the Treasury or his delegate" and inserting "the deemed average total wages (as defined in section 209(k)(1))";

(B) in section 213(d)(2)(B) and 215(a)(1)(B)(ii)(II), by striking "(as so defined and computed)" and inserting "(as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)(1))"; and

(C) in section 224(f)(2)(B)(ii), by inserting "(I)" after "(ii)", by striking "as so defined and computed)" and inserting "(as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)(1))", and by inserting after "disability)" the following: ", if such calendar year is before 1991, or (II) the deemed average total wages (as defined in section 209(k)(1)) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability), if such calendar year is after 1990".

(3) Section 215(i)(1)(G) of the Social Security Act (42 U.S.C. 415(i)(1)(G)) is amended by striking "the average of the total wages reported to the Secretary of the Treasury or his delegate as determined for purposes of subsection (b)(3)(A)(ii)" and inserting "the amount determined for such calendar year under subsection (b)(3)(A)(ii)(I)".

(4) Section 215(a)(1)(C)(ii) of the Social Security Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "change." and inserting "change (except that, for purposes of subsection (b)(2)(A) of such section 230 as

so in effect, the reference therein to the average of the wages of all employees as reported to the Secretary of the Treasury for any calendar year shall be deemed a reference to the deemed average total wages (within the meaning of section 209(k)(1)) for such calendar year).".

(5) Section 230(d) of the Social Security Act (42 U.S.C. 430(d)) is amended by striking "change." and inserting "change (except that, for purposes of subsection (b)(2)(A) of such section 230 as so in effect, the reference therein to the average of the wages of all employees as reported to the Secretary of the Treasury for any calendar year shall be deemed a reference to the deemed average total wage (within the meaning of section 209(k)(1)) for such calendar year).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply with respect to the computation of average total wage amounts (under the amended provisions) for calendar years after 1990.

(2) TRANSITIONAL RULE.—For purposes of determining the contribution and benefit base for 1990, 1991, and 1992 under section 230(b) of the Social Security Act (42 U.S.C. 430(b)) (and section 230(b) of such Act as in effect immediately prior to enactment of the Social Security Amendments of 1977)—

(A) the average of total wages for 1988 shall be deemed to be equal to the amount which would have been determined without regard to this paragraph, plus 2 percent of the amount which has been determined to be the average of total wages for 1987,

(B) the average of total wages for 1989 shall be deemed to be equal to the amount which would have been determined without regard to this paragraph, plus 2 percent of the amount which would have been determined to be the average of total wages for 1988 without regard to subparagraph (A), and

(C) the average of total wages reported to the Secretary of the Treasury for 1990 shall be deemed to be equal to the product of—

(i) the SSA average wage index (as defined in section 215(i)(1)(G) of the Social Security Act (42 U.S.C. 415(i)(1)(G)) and promulgated by the Secretary) for 1989, and

(ii) the quotient obtained by dividing—

(I) the average of total wages (as defined in regulations of the Secretary and computed without regard to the limitations of section 209(a)(1) of the Social Security Act (42 U.S.C. 409(a)(1)) and by including deferred compensation amounts, within the meaning of section 209(k)(2) of such Act (as added by this section) reported to the Secretary of the Treasury or his delegate for 1990, by

(II) the average of total wages (as so defined and computed without regard to the limitations specified in such section 209(a)(1) and by excluding deferred compensation amounts within the meaning of such section 209(k)(2)) reported to the Secretary of the Treasury or his delegate for 1989.

(3) DETERMINATION OF CONTRIBUTION AND BENEFIT BASE FOR 1993.—For purposes of determining the contribution and benefit base for 1993 under section 230(b) of the Social Security Act (42 U.S.C. 430(b)) (and section 230(b) of such Act as in effect immediately prior to enactment of the Social Security Amendments of 1977), the average of total wages for 1990 shall be determined without regard to subparagraph (C) of paragraph (2).

(d) CLERICAL AMENDMENTS.—

(1) DESIGNATION OF UNDESIGNATED PROVISIONS.—Section 209 of the Social Security Act (42 U.S.C. 409) is further amended—

(A) by redesignating paragraphs (1) through (9) of subsection (a) as subparagraphs (A) through (I), respectively;

(B) by redesignating clauses (1) through (3) of subsection (b) as clauses (A) through (B), respectively;

(C) by redesignating clauses (1) through (9) of subsection (e) as clauses (A) through (I), respectively;

(D) by redesignating paragraphs (1) and (2) of subsection (f) as subparagraphs (A) and (B), respectively;

(E) by redesignating paragraphs (1), (2), and (3) of subsection (g) as subparagraphs (A), (B), and (C), respectively;

(F) in subsection (h), by redesignating clauses (i), (ii), and (iii) as clauses (I), (II), and (III), respectively, by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively, and by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(G) by redesignating paragraphs (1) and (2) of subsection (l) as subparagraphs (A) and (B), respectively;

(H) by redesignating paragraphs (1) and (2) of subsection (m) as subparagraphs (A) and (B), respectively;

(I) by redesignating paragraphs (1) and (2) of subsection (p) as subparagraphs (A) and (B), respectively;

(J) by redesignating subsections (a), (b), (d), (e), (f), (g), (h), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), and (t) (in the matter preceding subsection (k) added by subsection (a) of this section, and as amended by the preceding provisions of this paragraph) as paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), and (18), respectively;

(K) by inserting "(a)" after "SEC. 209.";

(L) by striking "Nothing in the regulations" and inserting the following:

"(b) Nothing in the regulations";

(M) in the undesignated paragraph commencing with "For purposes of this title, in the case of domestic service", by inserting "(c)" at the beginning thereof, and by striking "subsection (g)(2)" each place it appears and inserting "subsection (a)(6)(B)";

(N) in the undesignated paragraph commencing with "For purposes of this title, in the case of an individual performing service, as a member", by inserting "(d)" at the beginning thereof, and by striking "subsection (a)" and inserting "subsection (a)(1)";

(O) by inserting "(e)" at the beginning of the undesignated paragraph commencing with "For purposes of this title, in the case of an individual performing service, as a volunteer";

(P) by inserting "(f)" at the beginning of the undesignated paragraph commencing with "For purposes of this title, tips received";

(Q) by inserting "(g)" at the beginning of the undesignated paragraph commencing with "For purposes of this title, in any case where";

(R) by inserting "(h)" at the beginning of the undesignated paragraph commencing with "For purposes of this title, in the case of an individual performing service under the provisions";

(S) by inserting "(i)" at the beginning of the undesignated paragraph commencing with "Nothing in any of the foregoing"; and

(T) by inserting "(j)" at the beginning of the undesignated paragraph commencing with "Any amount deferred".

(2) CONFORMING AMENDMENTS.—

(A) Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended—

(i) in sections 203(f)(8)(B)(ii)(I), 213(d)(2)(B), 215(a)(1)(B)(ii)(I), 215(b)(3)(A)(ii)(I), 224(f)(2)(B)(i), and 230(b)(2)(A), by striking "section 209(a)" and inserting "section 209(a)(1)";

(ii) in section 203(f)(5)(C), by striking "subsections (a), (g)(2), (g)(3), (h)(2), and (j) of section 209" and inserting "'paragraphs (1), (6)(B), (6)(C), (7)(B), and (8) of section 209(a)";

(iii) in clauses (B) and (C) of the last sentence of section 224(a), by striking "209(a)" and inserting "209(a)(1)";

(iv) in section 217(b)(1), by striking "209(e)(2)" and inserting "209(a)(4)(B)";

(v) in section 218(c)(5), by striking "paragraph (2) of section 209(h)" and inserting "subparagraph (B) of section 209(a)(7)"; and

(vi) in section 203(f)(5)(C)(ii), by striking "209(m)(2)" and inserting "209(a)(11)(B)".

(B)(i) Section 6(f)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(f)(1)) is amended by striking "209(g)" and inserting "209(a)(6)".

(ii) Section 1(h)(5)(iii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(h)(5)(iii)) is amended by striking "the third paragraph of section 209" and inserting "section 209(d)".

FACTSHEET ON SOCIAL SECURITY EARNINGS TEST

How the earnings test works.—The primary purpose of the social security program is to provide an income for older individuals who are retired. To determine whether an individual is retired, the program looks at the individual's age and earnings. Under present law, those age 70 or above are automatically considered retired and get full benefits without regard to earnings. Those under age 70 are considered retired and eligible for full benefits only if their earnings are lower than a specified exemption level. In 1990, the exemption level for retirees age 65 to 69 will be $9,360. Above that level, individuals will have their social security benefits phased out on the basis of a $1 reduction in benefits for every $3 of earnings.

Changes made by the bill.—Under this proposal, the amount of earnings totally exempt from reduction under the earnings test for individuals age 65 to 69 would increase to $11,700 in 1990, and to $14,520 in 1991. This is an increase of roughly $5,000 over present law.

In addition, starting in 1991, the proposal would lower the rate of reduction on earnings for an additional $5,000 above that exempt amount. For earnings between $14,520 and $19,520, the reduction rate under the earnings test would be 25 percent instead of the current law rate of 33⅓ percent (which would continue to apply to earnings above that level).

Inclusion of certain deferred compensation in determination of wage-base adjustments.—Current law provides for annual indexing of the so-called "contribution and benefit base" to take account of the growth in wages convered by the social security system. This base is the amount of annual earnings for each individual that is subject to social security taxes and countable towards benefit eligibility.

However, for the past several years, certain types of deferred compensation (e.g., 401(k) contributions) have not been included in measuring wage growth, even though these wage payments are in fact subject to social security tax and therefore are a part of "covered wages." This exclusion has slowed the growth of the wage indexing series used to increase the base.

Changes made by the bill.—The 1990 contribution and benefit base would be increased by an additional 2 percent ($900) to take into account the past failure to include the deferred compensation payments. For future years, deferred compensation would be factored into the indexing for both the contribution base and for determining benefits. For purposes of benefit computations and other program amounts, actual deferred compensation amounts would be included beginning with 1990 wages and would be reflected in benefit computations and other program amounts beginning in 1993.

The 1990 increase, which makes up for past accounting deficiencies, would not be used to raise the benefit factors. Instead the funds generated would be used to offset the increase in the retirement test.●

● Mr. PACKWOOD. Mr. President, I am very pleased to rise today as an original cosponsor of legislation, introduced by the distinguished Senator from Texas [Mr. BENTSEN], which will benefit working senior citizens in my own State of Oregon and across America.

Under current law, Social Security recipients age 65 to 69 have their benefits reduced if they have wages or other earnings above $9,360 in 1990. Beneficiaries lose $1 in benefits for every $3 in earnings above the limit.

Mr. President, seniors want to work. Many need the money to support themselves and their families. But most of all, they want to contribute as productive members of society.

As Mr. Boyd Gibson of Medford, OR, wrote me last April:

Many of us like to keep busy and be rewarded for it * * *. [I] have a small commercial fishing boat that provides a modest income. What can be done to provide us "seniors" with an incentive to stay out of the rocking chair?

Mr. President, when you couple income taxes with the earnings limit, seniors face significant penalties for being productive. This is not fair. Nor is it a sensible economic policy for our Nation at a time when the number of young people entering the work force has dropped significantly.

The legislation I am cosponsoring today would take important steps to change that situation. First, the bill would increase by more than $5,000 or 55 percent the amount an individual can earn without losing any benefits. In 1991, seniors could earn up to $14,520 and keep every dime of their Social Security check. Second, for earnings between $14,520 (the law limit) and $19,520 the penalty would be reduced significantly. Beneficiaries would lose only $1 in benefits for every $4 in earnings. The following table gives a couple of examples.

SOCIAL SECURITY BENEFITS LOST IN 1991

	Current law	New legislation
Earnings of:		
$11,000	$383	0
$13,000	1,042	0
$15,000	1,703	$120
$17,000	2,363	620
$19,000	3,023	1,120

The bottomline, Mr. President, is that seniors will keep more of what they earn. They will be rewarded for their efforts. That is good policy.

Mr. President, this bill is responsible from a budget standpoint. By including a technical change in the calculation of the Social Security wage base, the legislation pays for itself. Indeed, the Congressional Budget Office estimates that between 1990 and 1994, the bill will result in a net increase to the Social Security Trust Fund balances of about $350 million.

Mr. President, I should point out that this legislation is identical to a measure we approved in the Finance Committee earlier this month as part of the committee's budget reconciliation bill. However, the Social Security provisions were dropped from the budget bill when a bipartisan agreement was struck to limit that bill to items which cut spending. I strongly supported that move because I believe the budget bill should concentrate on reducing the budget deficit. But I believe we must also press forward with important legislative initiatives that were dropped. This bill is a first step in that process. I salute Senator BENTSEN and the other distinguished cosponsors for moving ahead with this bill.●

By Mr. HARKIN (for himself, Mr. DURENBERGER, Mr. KENNEDY, Mr. HATCH, Mr. DOLE, Mr. SIMON, Mr. JEFFORDS, Mr. MATSUNAGA, Mr. COATS, Mr. DODD, Mr. PELL, Mr. METZENBAUM, Mr. ADAMS, Ms. MIKULSKI, Mr. CHAFEE, Mr. INOUYE, and Mr. KERRY):

S. 1824. A bill to reauthorize the Education of the Handicapped Act, and for other purposes; to the Committee on Labor and Human Resources.

EDUCATION OF INDIVIDUALS WITH DISABILITIES ACT

● Mr. HARKIN. Mr. President, I rise today on behalf of myself, Senator DURENBERGER, Senator KENNEDY, Senator HATCH, Senator DOLE, Senator SIMON, Senator JEFFORDS, Senator MATSUNAGA, Senator COATS, Senator DODD, Senator PELL, Senator METZENBAUM, Senator ADAMS, Senator MIKULSKI, Senator CHAFEE, Senator INOUYE, and Senator KERRY, to introduce the Education of Individuals with Disabilities Act of 1989, legislation to reauthorize the discretionary programs of the Education of the Handicapped Act.

In 1975, Congress passed Public Law 94-142, The Education for All Handicapped Children Act, which created a right to a free, appropriate, public education for all school-aged children with disabilities. Through this program, the Federal Government provides financial assistance to States to help them meet the excess costs of educating these children. Congress considered this program, which became part B of the Education of the Handicapped Act, to be of such importance that we gave it a permanent authorization.

The discretionary programs, parts C through G of the Education of the Handicapped Act, require reauthorization periodically. These are programs that support research and demonstrations, personnel training, technical assistance and the dissemination of information, and address the particular needs of certain populations of individuals with disabilities. The discretionary programs support the part B basic State grant program and keep our Nation's special education system on the cutting edge.

The roles of the various discretionary programs have changed through the years, and they continue to evolve. The reauthorization process has given us the opportunity to reassess these programs to make sure they are doing what they were intended to do, and doing so effectively and efficiently.

The past two reauthorizations added significant expansions to the Education of the Handicapped Act—enhancement of the preschool incentive grant program in 1983, and further expansions of the preschool program as well as an entirely new Early Intervention Program for infants and toddlers with disabilities, part H, in 1986. In the belief that we must be careful not to overburden the special education system by placing major new demands on State and local education agencies as they attempt to implement these important new programs, we have focused this reauthorization of fine tuning the discretionary programs.

Within the limits of very real fiscal constraints with which we are all too familiar, it has been necessary to prioritize from among the many suggestions for amending the discretionary programs.

The Subcommittee on the Handicapped, which I chair, held a hearing on April 3, 1989, where witnesses discussed several important areas which need to be addressed in this reauthorization.

Among these are the continuing shortage of appropriately trained personnel to provide special education, related services, and early intervention. The U.S. Department of Education reports that in school year 1985-86 there was a shortage of 27,474 special education teachers. This is reflective of a

long-term trend, and, furthermore, may inadequately represent the number of persons practicing in special education who do not meet State standards, a figure reported to be 30 percent nationally. Ensuring the availability of an adequate number of appropriately trained professionals to provide early intervention, special education, and related services, must be among our highest priorities.

The parent training and information programs funded under the Education of the Handicapped Act provide information and training to parents of children with disabilities to enable them to understand the laws affecting their children and to interact with the educational system and other entities that provide services to their children. The impact of the parent programs has been impressive. However, it has become very clear that these programs are not adequately reaching parents in all the States and in all parts of the larger States. One disturbing finding from a recent study was that many parents do not become involved in the educational planning process for their handicapped child. Ten States still lack parent training and information programs. We must ensure that parents of children with disabilities have access to this important program.

Each year, research funded under the discretionary programs of the Education of the Handicapped Act generates new information in the field of special education, related services and early intervention. However, it has been pointed out repeatedly that this new information, as well as important existing information in the field of special education, is not reaching those for whom it was intended—teachers in the classrooms and providers of related services and early intervention. New emphasis must be placed on the dissemination of knowledge generated by the discretionary programs and the synthesis of valuable existing information. It is important to identify the gaps in knowledge so that future research efforts can be directed at areas of need, without duplication. In addition to research directed at improving the practice of special education, in this era of limited financial resources a focus is also needed on research to help States and localities improve the management and effectiveness of their programs in this area.

Testimony delivered at the April hearing made it clear that students with severe emotional disturbances remain significantly underserved or unserved by the special education system. It was pointed out that there is a serious lack of research and demonstration initiatives specifically related to this population of students. The reauthorization gives us the opportunity to address this long neglected problem.

Significant advances have been made in a very short span of time in the area of the transition from special education to postsecondary education and adult services for individuals with disabilities. However, much remains to be accomplished. The discretionary programs can help foster collaboration between special education and rehabilitation agencies to effect successful transitions in the lives of our young people with disabilities.

In addition, witnesses at the April hearing pointed out that there are multiple transitions in the lives of children with disabilities. Barriers remain to the successful transition of children with disabilities and chronic health impairments from medical care settings to special education, or infants with disabilities from hospital care to early intervention services. As implementation of the part H program proceeds, it is necessary to address the successful transition of young children from early intervention to special education and regular education.

Finally, the particular needs of children with disabilities from diverse racial, ethnic, and linguistic backgrounds have been inadequately addressed in the context of special education. The Education of the Handicapped Act discretionary programs are an appropriate place to begin to address these needs.

The bill we are introducing today addresses the discretionary programs within the context of these priorities, recognizing the very real constraints on funding for the discretionary programs, and our continuing obligations to part B and part H of the Education of the Handicapped Act. In the 14 years since the passage of the Education for All Handicapped Children Act, we have made great strides in providing a free, appropriate, public education for all children with disabilities. With this reauthorization of the Education of the Handicapped Act discretionary programs, we continue our commitment to achieving this goal.●

● Mr. SIMON. Mr. President, I am proud to join my colleague, Senator TOM HARKIN, in introducing a bill to reauthorize the Education of the Handicapped Act.

In 1975, when I was a member of the House of Representatives, we passed the Education for All Handicapped Children Act [EHA] guaranteeing children with disabilities a free and appropriate public education. This was landmark legislation that opened many doors to students with disabilities. In 15 years, we have made great strides in ensuring access to public education, but we still have some work to do in maintaining the quality of these programs.

Part B of the EHA was permanently authorized in 1975, and is more commonly known as Public Law 94-142. Parts C through G, known as the discretionary programs, are those dealing with research, personnel training, services for special populations, technical assistance, and the dissemination of information. These programs provide the necessary support to keep our special education system going, and these are the programs that we focus on today.

Senator HARKIN and his staff should be commended for their hard work in developing a bill that addresses concerns raised by many individuals and organizations. The Subcommittee on the Handicapped held a hearing on EHA in April, and I had the opportunity to chair a field hearing on this in Springfield, IL, last July.

Among the concerns raised during the hearings and in staff meetings was the shortage of appropriately trained personnel. The U.S. Department of Education reported a shortage of more than 27,000 special education teachers in the 1985-86 school year. We hope to expand the personnel development and training provisions under EHA, in order to better prepare our teachers so they may better serve our children.

Other issues that have been raised include the inadequacy of parent training programs, and the gaps in information dissemination programs. A great deal of research is being done in the special education field, but the information is not reaching teachers and parents.

Testimony delivered at the hearings also indicates that the needs of children with serious emotional disturbances are not being met. The bill we are proposing increases the authorization levels for the section dealing with severe emotional disturbances.

I have been particularly concerned about children born addicted to drugs. We don't yet know how these children will develop but they are bound to face some problems in school. Senator HARKIN has responded to this concern and we are expanding the authority of the early intervention program so that a few projects can examine the nature of the problem, and the specific needs of children who have been victims of prenatal substance abuse.

Again, I commend Senator HARKIN and his staff for their hard work. I am pleased with the changes that we have made in the reauthorization bill, and I look forward to moving it quickly through the Labor and Human Resources Committee.●

● Mr. DURENBERGER. Mr. President, Horace Mann once stated that "Education, then, beyond all other devises of human origin, is the great equalizer of conditions of men—the balance wheel of social machinery." Fourteen years ago Congress took a giant step toward equalizing opportunity for all Americans by enacting the Education of the Handicapped Act [EHA]. Since that time, doors that

had been previously shut to persons with disabilities began to open.

I see nothing more reflective of the success of Public Law 94-142 than the current efforts underway in this body to provide comprehensive civil rights protections for persons with disabilities. Many of the same people who are pushing for the right to work, the right to accessible transportation and accessible buildings are themselves products of the EHA. They have graduated from our public school system with higher expectations and greater demands of what they themselves can achieve and contribute to society.

So it is with great enthusiasm that I rise to join my distinguished colleague from Iowa in introducing the reauthorization of Public Law 94-142, the Education of the Handicapped Act of 1989.

Mr. President, just 3 years ago, we made significant changes to the EHA by adding both a new preschool program for children ages 3 to 5, and a new early intervention program for individuals from birth to age 2. In order to give these programs time to develop, it was decided—and I believe wisely so—that the current reauthorization would focus its attention on fine tuning and improving quality in the current discretionary programs.

Over the past months, I have heard from various groups about the needs within the current reauthorization. I am pleased that this bill closely weighed the requests of various different groups within the disability community and reflects a sound balance of their needs.

We heard testimony before the subcommittee on the importance of strong parental involvement and the need to focus attention and resources on the Patent Training and Information Program. This bill reflects the vital role parents play in the education and development of their children by creating a separate line item. The bill also creates another new section aimed at addressing the needs of children with serious emotional disturbances. This is a population that has traditionally been harder to serve and significantly underserved. By creating this new section and adding additional research authority in this area, this bill will improve identification and referral of children with serious emotional disturbances.

The reauthorization will improve the transition of efforts for children and youth, not only in the traditional transition period from school to work or continued education, but also in multiple transition periods including medical care to special education, hospital care to early intervention programs or special education to regular education. The bill will also allow for new demonstration authority to address the teaching of independent living skills in the secondary school setting. It is vitally important that independent living services and training be included as part of a child's individualized education plan and within the secondary school setting. A successful transition program from school to adult life must include the teaching of everyday life occurrences such as doing laundry, riding the bus, and other living skills, and I am pleased that this bill will add the authority to test the effectiveness of programs through model demonstrations.

We have heard over and over about the serious shortage of qualified special education and related services professional, and that without change in the near future, that this shortage will reach crisis proportion. According to U.S. Department of Education statistics, there was a shortage of 27,474 special education teachers in school year 1985-86. This news is especially troublesome for minority populations. This bill will address this need by increase funding for this program by 22 percent in fiscal year 1990 and 67 percent over the next 5 years, as well as enhancing personnel prep and research in this area.

I am pleased that this bill includes language from a bill introduced earlier this year by Senator HARKIN, myself, and others that would correct a Supreme Court decision that held that handicapped children who are denied a free and appropriate public education by a State are not entitled to be reimbursed for their tuition paid by their parents for placement in an appropriate program.

I am also pleased that this legislation changes the terminology throughout to reflect the current preference of the word "disability" over the word "handicap." This change is long overdue.

Overall, I think this bill presents a balanced and realistic approach to improving and expanding the discretionary programs within Public Law 94-142. The discretionary programs are the linchpin in providing children and youth with disabilities with the opportunity to better themselves through education. I urge my colleagues to support this important legislation.●

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. WILSON, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 38, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 478

At the request of Mr. DODD, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 478, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

S. 511

At the request of Mr. INOUYE, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 513

At the request of Ms. MIKULSKI, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 513, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend certain retirement provisions of such chapters which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service.

S. 543

At the request of Mr. SIMON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 543, a bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under the act, and for other purposes.

S. 565

At the request of Mr. GORTON, his name was withdrawn as a cosponsor of S. 565, a bill to authorize a new corporation to support State and local strategies for achieving more affordable housing; to increase home ownership; and for other purposes.

S. 619

At the request of Mr. SARBANES, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 619, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 682

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 682, a bill to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association," "Visiting Nurse Service," "VNA," "VNS," or "VNAA," or the unauthorized use of the name or insignia of the Visiting Nurse Association of America.

S. 714

At the request of Mr. MCCLURE, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 714, a bill to extend the authorization of the Water Resources Research Act of 1984 through the end of fiscal year 1993.

S. 804

At the request of Mr. MITCHELL, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 804, a bill to conserve North

American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats.

S. 857

At the request of Mr. GLENN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 857, a bill to amend title 10, United States Code, to reduce the premium paid by retired members of the uniformed services for coverage for their survivors under the Survivor Benefit Plan and to provide a new Supplemental Survivor Benefit Plan to offset the effect of the two-tier annuity computation under the Survivor Benefit Plan for spouse and former spouse beneficiaries.

S. 878

At the request of Mr. WILSON, the names of the Senator from Utah [Mr. HATCH] and the Senator from Oregon [Mr. PACKWOOD] were added as a cosponsors of S. 878, a bill to grant a Federal charter to the Michael Jackson International Research Institute.

S. 980

At the request of Mr. MITCHELL, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 980, a bill to amend the Internal Revenue Code of 1986 to improve the effectiveness of the low-income housing credit.

S. 1065

At the request of Mr. PRESSLER, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 1065, a bill to authorize the Secretary of Transportation to carry out a highway bridge demonstration project to improve the flow of traffic between the States of Nebraska and South Dakota.

S. 1150

At the request of Mr. CONRAD, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1150, a bill to provide for the payment by the Secretary of the Interior of undedicated receipts into the Refuge Revenue Sharing Fund.

S. 1270

At the request of Mr. MCCAIN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1270, a bill to provide an Indian mental health demonstration grant program.

S. 1273

At the request of Mr. BOREN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1277

At the request of Mr. FORD, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1310

At the request of Mr. SIMON, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 1310, a bill to eliminate illiteracy by the year 2000, to strengthen and coordinate literacy programs, and for other purposes.

S. 1361

At the request of Mr. FOWLER, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1361, a bill to amend title 38, United States Code, to require that burials be permitted in national cemeteries on weekends and holidays under certain conditions, and for other purposes.

S. 1399

At the request of Mr. SARBANES, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1399, a bill to improve forest management in urban areas and other communities, and for other purposes.

S. 1531

At the request of Mr. ROTH, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1531, a bill to facilitate the effective management of fisheries resources in U.S. waters by including tuna in the regulatory structure under the Magnuson Fishery Conservation and Management Act.

S. 1577

At the request of Mr. BOREN, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Arkansas [Mr. PRYOR], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1577, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 1643

At the request of Mr. DIXON, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1643, a bill to provide protection to consumers in connection with certain telephone services.

S. 1661

At the request of Mr. PRYOR, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

S. 1690

At the request of Mr. DODD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1690, a bill to establish programs to improve foreign language instruction, and for other purposes.

S. 1692

At the request of Mr. NUNN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1692, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities under passive loss rules.

S. 1714

At the request of Mr. SIMON, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1714, a bill to reestablish the U.S. Commission on Civil Rights, and for other purposes.

S. 1720

At the request of Mr. MCCONNELL, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1720, a bill to impose mandatory sentences for violent felonies committed against individuals of age 65 or over, and for other purposes.

S. 1774

At the request of Mr. KASTEN, the names of the Senator from Missouri [Mr. BOND], the Senator from Washington [Mr. GORTON], the Senator from North Carolina [Mr. HELMS], the Senator from Indiana [Mr. LUGAR], the Senator from New Mexico [Mr. DOMENICI], the Senator from Montana [Mr. BURNS], the Senator from Arizona [Mr. MCCAIN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1774, a bill to amend the Internal Revenue Code of 1986 to repeal section 89 nondiscrimination rules.

S. 1783

At the request of Mr. MCCAIN, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1783, a bill to regulate Indian child protection and prevent child abuse on Indian reservations.

S. 1787

At the request of Mr. DECONCINI, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a consponsor of S. 1787, a bill to restore the recordkeeping requirement of the Child Protection and Obscenity Enforcement Act of 1988.

S. 1791

At the request of Mr. ROCKEFELLER, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 1791, a bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

SENATE JOINT RESOLUTION 106

At the request of Mr. GORE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Joint Resolution 106, a joint resolution to authorize a commemorative stamp to be issued on January 18, 1991, to honor Dr. Thomas Anthony Dooley III, and commemorate the 30th anniversary of his death.

SENATE JOINT RESOLUTION 186

At the request of Mr. MCCLURE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution. 186, a joint resolution designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week."

SENATE RESOLUTION 205

At the request of Mr. BIDEN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Joint Resolution 205, a joint resolution designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week."

SENATE JOINT RESOLUTION 217

At the request of Mr. WILSON, the names of the Senator from Maine [Mr. COHEN], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Joint Resolution 217, a joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, as "National Burn Awareness Week."

SENATE JOINT RESOLUTION 218

At the request of Mr. INOUYE, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 218, a joint resolution to designate the week of December 3, 1989, through December 9, 1989, as "National American Indian Heritage Week."

AMENDMENT NO. 1054

At the request of Mr. BIDEN, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from California [Mr. CRANSTON], the Senator from Florida [Mr. GRAHAM], the Senator from Iowa [Mr. HARKIN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of amendment No. 1054 proposed to S. 1582, a bill to amend the Foreign Assistance Act of 1961 to provide for certain forms of assistance to Poland to ensure the success of freedom and democracy in Poland.

SENATE CONCURRENT RESOLUTION 78—RELATING TO CONFERENCE COMMITTEE ACTION ON THE REFORM OF THE MEDICARE CATASTROPHIC COVERAGE ACT

Mr. ROTH (for himself, Mr. DANFORTH, and Mr. MCCAIN) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 78

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the committee of conference reconciling the actions of the Senate and the House of Representatives concerning the reform of the Medicare Catastrophic Coverage Act of 1988—

(1) shall only consider matters that are within the parameters set by the legislative language previously agreed upon by the Senate and the House of Representatives,

(2) shall not reestablish benefits and premiums eliminated by such legislative language, including—

(A) the medicare supplemental premium under section 59B of the Internal Revenue Code of 1986,

(B) the prescription drug benefits other than immunosuppressants and home intravenous drugs, and

(C) the annual limit on medicare part B out-of-pocket expenses, and

(3) shall not establish new benefits or premiums not included in such legislative language.

Mr. ROTH. I rise, Mr. President, to submit on behalf of Senator DANFORTH and Senator MCCAIN legislation expressing the sense of Congress regarding conference committee deliberations for the reform of the Medicare Catastrophic Coverage Act of 1988. I would like to make it clear to my colleagues that while my concurrent resolution is a free standing bill, I intend to offer this legislation as an amendment at the earliest opportunity.

This concurrent resolution simply reaffirms that conferees not reconsider Medicare catastrophic provisions which an overwhelming majority of the House and Senate voted to repeal.

Because of past quirks that have occurred during conference committee exchanges, I believe it is essential that a commitment is made that the conference consideration of catastrophic not extend beyond the parameters set by the legislative language that was passed by both the House and the Senate.

This concurrent resolution makes our commitment clear to seniors and to the conferees.

The House and Senate agreed to repeal several of the same Medicare catastrophic benefits and premiums. This concurrent resolution clearly states that conferees are not to consider provisions that both legislative bodies agreed to repeal such as the Medicare supplemental premium—known as the surtax, the prescription drug benefit other than immunosuppressants and home intravenous drugs, and the annual cap on Medicare part B out-of-pocket expenses. Once accepted, the Roth concurrent resolution also makes it clear that conferees shall not establish new benefits or premiums. Yet, Delaware seniors are calling and asking me what can they expect Medicare to be next year—and I can not answer their question. The matter is pressing, and we must expedite the appropriate reform of the Medicare Program—over 32 million beneficiaries are waiting for the outcome.

We are approaching the end of the year, elderly and disabled beneficiaries need to know what Medicare benefits and premiums will be in place next year. According to what Medicare changes are enacted, elderly citizens who have or who are seeking Medigap policies need time to select the appropriate policy. And, of course, we have the private insurance industry waiting to respond to Medicare changes. Hospitals, doctors, home health care agencies, and hospices—all are dependent on Medicare dollars and they need to know what to expect for next year.

My view 3 weeks ago when I offered the House-passed repeal language was to keep catastrophic out of conference. Now I believe we need to make clear our intent that conference considerations not to go beyond what 99 Senators and 360 Republicans voted for over 3 weeks ago. Again, I would like to make it clear to my colleagues that at the earliest opportunity, I intend to offer this concurrent resolution as an amendment.

SENATE CONCURRENT RESOLUTION 79—DEPLORING THE UNILATERAL SANDINISTA ABROGATION OF THE NICARAGUAN CEASE-FIRE

Mr. MITCHELL (for himself, Mr. DOLE, Mr. THURMOND, Mr. GRAHAM, Mr. ROCKEFELLER, Mr. GRASSLEY, and Mr. D'AMATO) submitted the following resolution; which was considered and agreed to:

S. CON. RES. 79

Whereas a cease-fire has been in effect in Nicaragua for 18 months.

Whereas although there have been periodic violent incidents, and accusations of violations of the cease-fire by each side against the other, there has been no major, widespread breakdown in the cease-fire to date.

Whereas United States policy has been to discourage the Contras from undertaking any offensive military actions, and we have withheld American aid from Contra units which have initiated such actions.

Whereas on October 28, Daniel Ortega announced the Sandinista regime's intention to unilaterally end the cease-fire.

Whereas Ortega's announcement was made at a hemispheric meeting held in Costa Rica to celebrate democracy in the region—another instance in which Ortega and other Sandinista leaders have shown disregard for their democratic neighbors and their own commitments.

Whereas many of the democratic leaders of the hemisphere, including Costa Rican President Oscar Arias, have already denounced Ortega's announcement.

Whereas many observers are concerned that Ortega's announcement could be the prelude to a Sandinista effort to cancel or postpone elections scheduled to be held in February 1990.

Whereas despite incidents of Sandinista intimidation and harassment, and the fact that the voter registration period was limited to four Sundays in October, nearly two million Nicaraguans registered to vote in the February 1990 elections.

Whereas in the Bipartisan Accord on Nicaragua and Public Law 101-14, the Congress indicated its intention to provide humanitarian assistance to the Contras until after the February 1990 elections: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress:

(1) condemns Daniel Ortega's announced intention to abrogate the cease-fire they originally declared in Nicaragua as totally unjustified, a major breach of the Sandinista regime's commitments to its democratic neighbors and its own people, and a serious threat to regional peace and stability;

(2) calls on Daniel Ortega to cease his reckless rhetoric, and to begin to fulfill the many commitments he and his regime have had to end their aggression in the region, end their tyranny over their own people, and permit the establishment of democracy inside Nicaragua;

(3) urges the Sandinistas to renew their commitment to continuing the cease-fire now in effect.

(4) insists that Ortega and the Sandinistas reaffirm their pledge to hold elections on February 25, 1990, and to begin to carry out in good faith their commitment to a free and fair electoral process leading up to those elections;

(5) deplores any effort by the Sandinista regime to terminate, postpone or curtail the limited progress they have made to date in fulfilling their commitment to a free and fair electoral process, or to impose emergency laws, under the phony pretext of a major Contra-initiated breakdown of the cease-fire;

(6) strongly urges the extension of the period during which Nicaraguans are permitted to register to vote for at least 60 days;

(7) reaffirms its intention to abide by the provisions of the Bipartisan Accord on Nicaragua and Public Law 101-14, to include continuing to provide humanitarian assistance to the Contras until February 28, 1990; and

(8) reminds Ortega, the Sandinista regime, and the other leaders of the hemisphere that United States policy articulated in the Bipartisan Accord on Nicaragua and Public Law 101-14 is contingent on the Sandinistas fulfilling the commitments they have undertaken as part of the Central American peace process.

SENATE RESOLUTION 199—COMMENDING FRANK E. BECK ON THE OCCASION OF HIS RETIREMENT FROM SERVICE TO THE SENATE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 199

Whereas upon his retirement from the staff of the United States Senate on October 31, 1989, Frank E. Beck completes more than 32 years as a member of the staff of the United States Senate;

Whereas in performing valuable service to the United States Senate, Frank E. Beck has demonstrated outstanding dedication;

Whereas Frank E. Beck, as Chief Electrician, has upheld the high standards and traditions of the staff of the United States Senate with unfailing dedication, a high degree of loyalty, and a large measure of hard work: Now, therefore be it

Resolved, That the Senate of the United States recognizes the faithful and outstanding service of Frank E. Beck to the Senate of the United States and expresses appreciation upon the occasion of his retirement.

SENATE RESOLUTION 200—RELATING TO THE UPCOMING MEETING OF ENVIRONMENTAL MINISTERS IN THE NETHERLANDS

Mr. PELL (for himself, Mr. BOSCHWITZ, Mr. WIRTH, Mr. LEAHY, Mr. GORE, Mr. HEINZ, Mr. CRANSTON, Mr. BOREN, Mr. KERRY, Mr. JOHNSTON, and Mr. SANFORD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 200

Whereas the problem of global warming is urgent and needs to be addressed decisively by the United States and all other developed and developing nations alike;

Whereas the President has repeatedly stated his commitment to have the United States play a leading role in addressing global warming issues;

Whereas the leaders of the G-7 nations agreed at the Paris Economic Summit that decisive action was urgently needed to understand and protect the Earth's ecological balance;

Whereas the United Nations has recognized the seriousness of the threat to the environment posed by global warming through its endorsement of the creation of the Intergovernmental Panel on Climate Change;

Whereas the Netherlands is hosting an international conference on climate change that will be attended by the environmental Ministers of over seventy developing and developed nations;

Whereas the Netherlands conference presents an opportunity for the United States to demonstrate its commitment to protect the earth's environment by proposing a forceful and specific agenda to address climate change issues;

Whereas the United States has expressed its support for the negotiation of an international framework convention on climate change and the upcoming conference in the Netherlands presents an opportunity to achieve significant progress towards that goal;

Whereas the negotiation of a framework convention on climate change could be accelerated by the announcement of a target date for the conclusion of such an agreement;

Whereas an invitation to begin negotiations in the United States on a framework convention on climate change would advance those negotiations and would demonstrate the United States' commitment to addressing the problem of climate change in a responsible and timely manner; and

Whereas the United States is the world's largest producer of greenhouse gasses and a declaration of a commitment to reduce those emissions would signal the United States' seriousness in addressing this problem: Now, therefore, be it

Resolved, That the Senate urges the President to use the upcoming meeting of environmental Ministers in the Netherlands to—

(1) announce the United States' support for the initiation of negotiations on a framework convention on climate change in early 1990;

(2) announce the United States' intention to host an international meeting to begin negotiations on a framework convention on climate change;

(3) set a target date for the completion of a framework convention on climate change as soon as possible, but no later than March, 1991;

(4) announce a commitment by the United States to reduce emissions of greenhouse gasses in conjunction with other industrialized countries.

SENATE RESOLUTION 201—COMMENDING THE COURAGE AND HEROISM OF WALTER SUSKIND

Mr. MITCHELL (for Mr. KERRY) submitted the following resolution; which was considered and agreed to:

S. RES. 201

Whereas during the occupation of the Netherlands by German Nazi forces in World War II, Walter Suskind saved hundreds of lives, especially the lives of children;

Whereas Walter Suskind continually lived with the risk of the loss of his life as he saved the lives of others in *De Hollandse Schouwburg,* The Dutch Theater, which was used as a holding station by the Nazi forces for persons waiting to be deported;

Whereas with a great amount of courage, Walter Suskind worked in secrecy and disguised his efforts to save others;

Whereas Walter Suskind used charm and fluency in the German language to gain access to and destroy important files of German SS Troops and rescue hundreds of families awaiting deportation to concentration camps;

Whereas wrongly, Walter Suskind was believed to be collaborating with the Germans because of associations that he maintained in conducting such secret activities;

Whereas along with other individuals, Walter Suskind saved the lives of 1200 children, and there is no greater gift to humanity than to save and protect children;

Whereas ultimately, Walter Suskind was sent to the Nazi concentration camp in Auschwitz, where he perished along with his wife and young daughter;

Whereas Dr. and Mrs. Maurice Vanderpol, two former citizens of the Netherlands, who have been Americans for 40 years, have had the dream of sharing the memory of Walter Suskind and his great charm, wit, humor, and courage; and

Whereas on November 4, 1989, many special guests from the Netherlands and from this Nation will come together in Boston at the Wang Center for the Performing Arts to pay tribute to Walter Suskind: Now therefore, be it

Resolved, That the Senate of the United States recognizes the courage and exemplary heroism of Walter Suskind in saving hundreds of lives, especially the lives of children, during the German occupation of the Netherlands in World War II and commends Walter Suskind posthumously for such acts of humanitarianism and heroism.

AMENDMENTS SUBMITTED

COMMERCE, STATE, JUSTICE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1990

HOLLINGS AMENDMENT NO. 1073

Mr. HOLLINGS proposed an amendment to the amendment of the House to the amendment of the Senate numbered 53 to the bill (H.R. 2991) making appropriations for the Departments of Commerce, State, and Justice, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, as follows:

In lieu of the matter proposed by said amendment, insert the following:

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $168,560,000: *Provided,* That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed in this Act: *Provided further,* That appropriations under this heading may be used to reimburse agencies for any costs incurred by Organized Crime Drug Enforcement Task Forces between October 1, 1989 and the date of this Act: *Provided further,* That section 506(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, is amended by adding "or 0.25 percent, whichever is greater," after "$500,000".

PELL AMENDMENT NO. 1074

Mr. PELL proposed an amendment to the amendment of the House to the amendment of the Senate numbered 191 to the bill H.R. 2991, supra, as follows:

That the Senate agree to the amendment of the House to the amendment of the Senate numbered 191, with an amendment as follows:

In the House amendment, strike all after "Educational Exchange Act of 1948" the first time it appears.

HELMS AMENDMENT NO. 1075

Mr. HELMS proposed an amendment to the amendment of the House to the amendment of the Senate numbered 171 to the bill H.R. 2991, supra, as follows:

At the end of the pending amendment, add the following:

"Section 725 of the International Security and Development Cooperation Act of 1981 (22 U.S.C. 2370 note) is hereby repealed."

HELMS AMENDMENT NO. 1076

Mr. HELMS proposed an amendment to the amendment of the House to the amendment of the Senate numbered 182 to the bill H.R. 2991, supra, as follows:

At the end of the pending amendment, add the following:

SEC. 610A. POLICY TOWARD ADDITIONAL SANCTIONS AGAINST THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—The Senate hereby—

(1) condemns the Government of the People's Republic of China for carrying out massive arrests and numerous executions of students and workers who participated in the prodemocracy movement in that country;

(2) commends the President for taking additional measures against the Government of the People's Republic of China in response to those arrests and executions; and

(3) urges additional measures be taken against the Government of the People's Republic of China to discourage additional arrests and executions.

(b) ADDITIONAL MEASURES.—It is the sense of the Senate that—

(1) the President urge the Export-Import Bank of the United States to postpone immediately approval of any application for financing United States exports to the People's Republic of China;

(2) under the direction of the Secretary of the Treasury, the United States executive directors of the appropriate international financial institutions should oppose the extension of loans or any other financial assistance by such institutions to the People's Republic of China;

(3) the President should immediately review—

(A) the advisability of continuing to extend most-favored-nation (MFN) trade treatment to Chinese products;

(B) all bilateral trade agreements between the United States and the People's Republic of China;

(C) the bilateral commercial agreements governing Chinese-American cooperation on satellite launches; and

(D) the Chinese-American Agreement for Cooperation on the Peaceful Uses of Atomic Energy, signed at Washington on July 23, 1985; and

(4) the President should consult—

(A) with the allies of the United States at the upcoming Economic Summit regarding the feasibility of adopting a collective economic response to the recent tragic events in China;

(B) with the members of the Coordinating Committee on Exports to Communist Countries (COCOM) regarding the suspension of any further easing of export controls with respect to China and for the purpose of reviewing the current favorable treatment accorded to high technology exports to the People's Republic of China; and

(C) with the other signatories of the General Agreement on Tariffs and Trade (GATT) for the purpose of reviewing the People's Republic of China's observer status at meetings on GATT and reassessing the People's Republic of China's right to accede to GATT.

(c) HUMAN RIGHTS.—

(1) The President should emphasize to the Government of the People's Republic of China that an important factor in our relationship will be the degree to which they recognize the Chinese and Tibetan peoples' legitimate desires for democracy, human rights and simple justice.

(2) It is the sense of the Congress that—

(A) the President should ask the United Nations Commission on Human Rights to initiate an investigation into the condition of human and democratic rights in China including Tibet;

(B) the President should convey to the Government of the People's Republic of China that the lifting of martial law, the release of political prisoners, and the opening of Tibet to foreigners is a critical factor in the future improvement of relations; and

(C) towards Hong Kong the President and the Secretary of State should convey to the People's Republic of China the importance of living up to its international undertaking with respect to the 1984 Joint Declaration for the future prosperity and stability of Hong Kong. The Secretary of State should advise the United Kingdom of the United States' continuing concern about the absence of guarantees of free direct elections and human rights in the Joint Declaration.

(d) SUSPENSIONS.—

(1) OVERSEAS PRIVATE INVESTMENT CORPORATION.—The overseas Private Investment Corporation shall suspend the issuance of any new insurance, reinsurance, guarantees, financing, or other financial support with respect to the People's Republic of China for a period of 6 months from the date of enactment of this Act, unless the President makes a report under subsection (e) of this section.

(2) TRADE AND DEVELOPMENT PROGRAM.—The President shall suspend the use of any funds made available to carry out section 661 of the Foreign Assistance Act of 1961, for activities of the Trade and Development Program with respect to the People's Republic of China for a period of 6 months from the date of enactment of this Act, unless the President makes a report under subsection (e) of this section.

(3) MUNITIONS EXPORT LICENSES.—The issuance of licenses under section 38 of the Defense Trade and Export Control Act for the export to the People's Republic of China of any defense article on the United States Munitions List, including helicopters and helicopter parts, shall, subject to subsection (e), continue to be suspended unless the President makes a report under subsection (e) of this section.

(4) CRIME CONTROL AND DETECTION INSTRUMENTS AND EQUIPMENT.—The issuance of any license under section 6(k) of the Export Administration Act of 1979 for the export to the People's Republic of China of any crime control or detection instruments or equipment shall be suspended, unless the President makes a report under subsection (e) of this section.

(5) NUCLEAR COOPERATION WITH THE PEOPLE'S REPUBLIC OF CHINA.—(A) Any—

(i) application for a license under the Export Administration Act of 1979 for the export to the People's Republic of China for use in a nuclear production or utilization fa-

cility of any goods or technology which, as determined under section 309(c) of the Nuclear Non-proliferation Act of 1978, could be of significance for nuclear explosive purposes, or which, in the judgment of the President, is likely to be diverted for use in such a facility, for any nuclear explosive device, or for research on or development of any nuclear explosive device, shall be suspended;

(ii) application for a license for the export to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall be suspended;

(iii) approval for the transfer or retransfer to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall not be given; and

(iv) specific authorization for assistance in any activities with respect to the People's Republic of China relating to the use of nuclear energy under section 57 b. (2) of the Atomic Energy Act of 1954 shall not be given;

until—

(i) the President has certified to the Congress that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any non-nuclear weapons state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices;

(ii) the President has made the certifications and submitted the report required by Public Law 99-183; and

(iii) the President makes a report under subsection (e) of this section.

(B) For purposes of this paragraph, the term "Agreement" means the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, done on July 23, 1985.

(6) LIBERALIZATION OF EXPORT CONTROLS.—The President shall negotiate with the governments participating in the group known as the Coordinating Committee to suspend, on a multilateral basis, any liberalization by the Coordinating Committee of controls on exports of goods and technology to the People's Republic of China under section 5 of the Export Administration Act of 1979, including—

(A) the implementation of bulk licenses for exports to the People's Republic of China; and

(B) the raising of the performance levels of goods or technology below which no authority or permission to export to the People's Republic of China would be required.

The President shall oppose any liberalization by the Coordinating Committee of controls which is described in subparagraph (B), until the end of the 6-month period beginning on the date of enactment of this Act, or until the President makes a report under subsection (e) of this section, whichever occurs first.

(c) TERMINATION OF SUSPENSIONS.—A report referred to in subsection (d) is a report by the President to the Congress—

(1) that the Government of the People's Republic of China has made progress on a program of political reform throughout the entire country, which includes—

(A) lifting of martial law;

(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

(C) release of political prisoners;

(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

(2) that it is in the national interest of the United States to terminate a suspension under paragraphs (1), (2), (3), or (4) to terminate a suspension or disapproval under paragraph (5), or to terminate the opposition required by paragraph (6), as the case may be.

(f) APPLICABILITY OF SUBSECTION (D)(3).—The suspension set forth in subsection (d)(3) shall not apply to systems and components designed specifically for inclusion in civil products and controlled as defense articles only for purposes of export to a controlled country, unless the President determines that the intended recipient of such items is the military or security forces of the People's Republic of China.

(g) REPORTING REQUIREMENT.—It is the sense of the Senate that, 30 days after the date of enactment of this Act, the President should inform the Congress of—

(1) the results of his review of the bilateral relationship between the United States and the People's Republic of China and his consultations with the major allies of the United States regarding each ally's economic, commercial, and security relations with the People's Republic of China, as called for by Senate Resolution 142 (adopted June 6, 1989); and

(2) his actions pursuant to subsection (c).

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding an oversight hearing on Thursday, November 2, 1989, beginning at 9:30 a.m., in 485 Russell Senate Office Building on Indian Agriculture.

The previous notice of hearing scheduled for Thursday, November 2, 1989, beginning at 2 p.m. in 485 Russell Senate Office Building on Indian Health Facilities has been postponed until further notice.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on global warming legislation, S. 1610. The hearing will be held on Monday, November 6, 1989, at 2 p.m. in SR 332.

For further information, please contact Jim Phippard of the committee's staff at 224-2035.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on Monday, November 6, 1989. The focus of the hearing will be to examine contracting practices and the use of consultants by the Environmental Protection Agency and the Department of Energy. The subcommittee will hear witnesses from the Environmental Protection Agency and the Department of Energy.

The hearing is scheduled for 9:30 a.m., in room 342 of the Senate Dirksen Office Building. For further information, please contact Ed Gleiman, subcommittee staff director, on 224-2254.

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on Thursday, November 2, 1989. The focus of the hearing will be S. 38, Federal Employees Long-Term Care Insurance Act of 1989. The subcommittee will hear witnesses from the Office of Personnel Management, the insurance industry, and the private sector.

The hearing is scheduled for 9:30 a.m., in room 342 of the Senate Dirksen Office Building. For further information, please contact Ed Gleiman, subcommittee staff director, on 224-2254.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, October 31, 1989 at 10 a.m. to conduct an oversight hearing on the safety and soundness of Government-sponsored enterprises.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, October 31, 1989, at 11 a.m. to hold a hearing on drug abuse prevention campaigns.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 31, at 10 a.m. to hold hearings on S. 1227 and S. 1421, national security implications of missile proliferation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, October 31, 1989 at 2:30 p.m. to conduct a hearing on the HUD section 8 moderate rehabilitation program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate October 31, 1989, 9:30 a.m. for a continuation of October 5 hearing to receive testimony on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner; and on Senate bills S. 972, S. 1304, and S. 1802.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities be authorized to meet during the session of the Senate on Tuesday, October 31, 1989: 2:30 p.m., hearing on:

S. 1540, Critical Languages and Area Studies Program Assistance Act; and

S. 1690, Foreign Language Competence for the Future Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, October 31, 1989: 9:30 a.m., a hearing on state of the teaching profession:

S. 1675, Excellence in Teaching Act; and

S. 1676, National Teacher Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

● Ms. MIKULSKI. Mr. President, 5 years ago, Congress authorized a memorial to be constructed in honor of those law enforcement officers who have died in the line of duty.

Yesterday, the Americans who have devoted themselves to this cause saw their efforts come to fruition. Ground was broken for a 3-acre memorial at Judiciary Square here in the District of Columbia.

Three hundred and sixty-five days a year, 24 hours a day, our police forces are fighting for safer communities. They have one of the toughest jobs in the world. They work awful hours, often in inhospitable surroundings, dealing with people at their worst. And they do it for salaries that it would be hard to call generous.

Mr. President, no one thanks these folks for a job well done. They do this work because they are dedicated. It takes dedication to be a good cop, and dedication to be a cop's family. These people want to make things better. They want to right things they see are wrong, and they want to make a direct contribution to that effort.

That dedication deserves to be honored, and I can not think of a better way to honor it than with the National Law Enforcement Officers Memorial.●

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

● Mr. COHEN. Mr. President, an important event took place in Washington yesterday—the ground breaking ceremony for the National Law Enforcement Officers Memorial. This project, authorized by Congress in 1984, is intended to honor Federal, State and local law enforcement officers who have given their lives in the line of duty.

Service in the law enforcement field is a very dangerous and, all too often, a thankless task. In the last 10 years, more than half a million officers have been assaulted, nearly 205,000 wounded and more than 1,500 killed in the line of duty. The 500,000 courageous male and female active law enforcement officers who serve across this country are losing their lives at the rate of one every 57 hours.

Fortunately in Maine the figures are not quite so numbing, but they are serious nonetheless. Since 1808, according to research by the Maine Department of Public Safety, there have been 63 Maine officers killed in the line of duty. Nearly one-fifth of those have died since 1980. Two of those officers were killed last year and two others already this year.

While no monument can ever do justice to the grief and pain felt by the families and friends of these felled officers, this memorial will serve as a constant reminder of and tribute to the daily dangers faced by those who keep the peace in our behalf.

I would also like to note that this national project has spurred an effort in my State as well. The Maine Legislature has authorized the Maine Chiefs of Police Association to solicit funds to build a permanent memorial in Augusta, our State capital, to honor State law enforcement officers. I wish this effort well. These brave men and women in uniform who put their lives on the line deserve our respect and recognition.●

BAN ON USE OF POLYSTYRENE OPENS DOOR FOR DEGRADABLE REPLACEMENT

● Mr. GLENN. Mr. President, I rise today to discuss the forthcoming ban on polystyrene cups, plates, and trays presently being used in the Department of Interior's cafeteria. This ban, recently announced by Interior Secretary Manuel Lujan, Jr., begins on November 1, 1989. Secretary Lujan also urged our national park concessionaires to take parallel action on a voluntary basis, a proposal which has received the support of the National Parks and Conservation Association. Secretary Lujan is to be commended for his insight and concern for preserving the quality of our environment.

Secretary Lujan's initiative reflects the recent surge of interest in finding methods to preserve our environment. The fact that landfill space is rapidly dwindling has sparked research into developing innovative ways to address our solid waste management crisis. One option is the use of agricultural-based commodities in developing degradable plastics. Statistics show that plastics comprise about 7 percent, by weight, of the material disposed of in landfills. The Environmental Protection Agency estimates that plastics take up two to three times more space for a given weight than other landfill materials. Use of degradable plastics could be one way to reduce these figures.

In June, I introduced S. 1237, the Degradable Commodity Procurement and Standards Act of 1989. This legislation would provide for the establishment of an intergovernmental agency council to work with private sector agencies to develop uniform definitions, standards, and testing criteria for degradable plastics. It would also promote the use of degradable products by authorizing the General Services Administration to procure preferentially these items for use in Federal agencies. Further, this bill would demonstrate the Government's support for programs to protect our environment and provides incentives to expand markets for agricultural commodities for our farmers.

Our solid waste management problems require that a forward-looking strategy be developed to maintain landfill space beyond the year 2000. Although the Interior Department initiative includes recycling, it also supports and provides a basis for developing other programs to decrease waste in our landfills. There is a definite

need to promote research and use of safe degradable plastics to complement recycling efforts. Unfortunately, widespread use of degradable plastics will not be possible until more research is conducted to provide accurate data regarding the durability and feasibility of degradable items. Combined initiatives, such as degradable plastics and recycling, will, however, enable us to move forward in our fight to reduce the amount of litter in our environment.

Mr. President, I ask that a recent Washington Post article which discusses this Interior Department initiative be reprinted at this point in the RECORD. The article refers to a forthcoming announcement by Secretary Lujan, which was, in fact, subsequently made.

The article follows:

[From the Washington Post, Oct. 4, 1989]

POLYSTYRENE TO BE OUSTED AT INTERIOR—FOOD-CONTAINER CURB ALSO URGED FOR PARKS

Interior Secretary Manuel Lujan Jr. was expected to announce today a ban on the use of non-biodegradable products at the department's main cafeteria in Northwest Washington, a move officials said was designed to demonstrate his concerns about the environment.

The ban, which will take effect Nov. 1, is expected to apply primarily to polystyrene cups, plates and trays that are used by the cafeteria's concessionaire, Guest Services Inc., according to Steve Goldstein, Lujan's press secretary.

Goldstein said Lujan also will urge concessionaires at national parks to adopt voluntarily a similar ban. The Yosemite Park and Curry Co., the concessionaire at Yosemite National Park, has already done so, and Goldstein said Lujan was "impressed" with the results.

In a prepared statement scheduled for release today, the interior secretary said, "As employees of the U.S. Department of the Interior. . . . I believe it is essential that we set an example of resolute action in preserving the quality of our environment."

Lujan also encouraged the department's 70,000 employees to make "recycling our waste resources part of your daily routine," according to the statement.

Paul Pritchard, president of the National Parks and Conservation Association, praised the secretary's move, saying it would likely spur other federal agencies to ban nonbiodegradable materials and encourage recycling. "If he has done it, why can't other departments do it?" Pritchard said.

Pritchard predicted that most of the 300 concessionaires serving the 50 national parks would comply with the voluntary ban.

Polystyrene, a widely used packaging material, does not break down biologically after disposal. Jerry Johnson, executive director of the Polystyrene Packaging Council, an industry group, said he hopes Lujan will modify his policy, adding that he believes polystyrene can be successfully recycled after use.●

REFUGEE EARLY EMPLOYMENT PROJECT

● Mr. HATFIELD. Mr. President, I would like to bring to my colleagues' attention an innovative refugee assistance program in Oregon which has proven to be especially cost effective in helping newly arrived refugees achieve economic self-sufficiency.

The Refugee Early Employment Project [REEP] is a federally funded demonstration project based in Portland, OR, which carries national significance. A 3-year study of REEP has recently been completed by the Refugee Policy Group (RPG), a Washington-based refugee advocacy organization. The study is a fitting tribute to the many Oregonians who have dedicated themselves to enhancing the lives of refugees in Oregon.

The aim of REEP is to facilitate employment and economic self-sufficiency among refugees, in addition to exploring alternative strategies for the delivery of cash assistance, social services, and case management. REEP has managed to accomplish these goals, while reducing expenditures by a margin of 18.5 percent compared to Oregon's previous refugee assistance program.

More important than cost savings, however, is the direct effect that this program has had on refugees struggling to begin a new life in the United States. REEP attained one of its primary objectives by placing at least 75 percent of employable refugees in permanent, full-time employment within 18 months of their arrival in this country. As a result of this increased employment rate, more refugee families can be expected to obtain economic self-sufficiency at an earlier time, thus reducing the expenditures required to support these families during their first 18 months in America.

If REEP can be successfully replicated in other regions of the United States, and all indications are that it can, it will result in a considerable financial savings to refugee assistance programs, and it will provide a tremendous boost to the livelihood of refugees seeking a new life far away from their own war-torn and often repressive nations.

Special gratitude is owed to Ron Spendal and Shari Cook of the Oregon Adult and Family Services Division for their imaginative leadership during the project. Their efforts, together with the coordinated contributions of many others, are helping to bring about a brighter future for refugees in the United States.

Mr. President, I ask that the contents of the Refugee Policy Group executive summary on "The Refugee Early Employment Project" be printed in the RECORD following my remarks.

The summary follows:

THE REFUGEE EARLY EMPLOYMENT PROJECT: AN EVALUATION

AUTHORSHIP

This report was written by Elzbieta Gozdziak and Susan Forbes Martin. The project team also included Maria Boza, Margaret Chamberlain, and Dorothy Rutherford Angell. The computer analysis was conducted by Robert Bach and Rita Carroll-Seguin.

ACKNOWLEDGEMENTS

The funding for this project was made possible by a contract from the Adult and Family Services Division, Department of Human Resources, state of Oregon. This report does not represent the official opinion or policy of the state of Oregon for its financial support of the project.

We would like to express our appreciation as well to all of those who contributed to these findings by responding to our requests for information.

Special recognition and gratitude go to the staff and clients of the Refugee Early Employment Project. They gave generously of their time during numerous interviews conducted over a three year period.

Finally, we would like to express our appreciation to Ron Spendal and Shari Cook of the Oregon Adult and Family Services Division for their assistance and careful guidance throughout the project.

EXECUTIVE SUMMARY

Introduction

The Refugee Early Employment Project (REEP), a demonstration project implemented under the Fish-Wilson Amendment to the Refugee Act of 1980, was part of a national effort to examine alternative strategies for the delivery of cash assistance, social services and case management to refugees. Still in operation, REEP integrates the delivery of cash assistance with case management, social services and employment services. Its aim is to promote early employment and economic self-sufficiency among eligible refugees. Its results have been impressive: higher levels of employment for refugees and lower costs to the resettlement system.

REEP addresses issues that have been at the forefront of thinking about refugee resettlement in the United States. While the refugee program has had considerable success in resettling more than one million refugees since 1975, there are a number of issues that have continued to present problems for the resettlement system as well as the clients it has sought to serve. The problems include: Continued utilization of public assistance programs by some refugees; reliance by the Federal, State and local governments on public assistance mechanisms, procedures and regulations; reliance on formulas and pro forma approaches in developing resettlement plans for individual clients; the erosion of effective private sector involvement in funding for refugee programs; lack of effective coordination of the various organizations concerned with refugee resettlement; and the disincentives to early employment of refugees resulting from difficulties in obtaining health care coverage for refugees.

REEP sought to address these problems, focusing in particular on the role of the private sector in the refugee assistance program; the desirability of "front-loading" services for refugees; the relationship between the provision of cash assistance and the delivery of services; and the role of medical assistance in influencing refugee employment. Because REEP has resulted in higher levels of employment and lower costs to the resettlement system, its lesson deserve careful consideration.

During the past three years, the Refugee Policy Group has undertaken an evaluation

of REEP.[1] The final report of this evaluation describes the objectives and principal components of REEP, details the characteristics of REEP clients, analyzes the employment of REEP clients and their attainment of self-sufficiency, examines the costs of the project, analyzes the factors contributing to the effectiveness of the project, and concludes with discussion of the replicability of the approach tested in this demonstration project.

Design and Implementation of REEP

REEP was implemented in the Fall of 1985. Considerable planning went into its design. Through the work of committees that have focused on policies and procedures, consensus was developed regarding the objectives and basic components of the demonstration project. In addition, the REEP implementors adapted the demonstration project, as necessary, as a result of policy changes imposed from outside, budget adjustments, information about client progress, and changes in the numbers of clients and their composition.

The demonstration was designed to refocus the Oregon refugee assistance program. Prior to REEP, the service system concentrated primarily on refugees approaching the end of their eligibility for cash assistance. As a result of this approach, about 90 percent of the refugees in Oregon for 18 months or less were unemployed and were relying on cash assistance as their source of income.

REEP was to emphasize new arrivals. REEP, in effect, was a "front-loaded" service system which maintained a constant emphasis on early employment. Front-loading of refugee services has long been seen as a potentially effective strategy for helping refugees attain longer-term self-sufficiency. The theory is that the refugee assistance program should concentrate its resources on providing services to refugees immediately after their arrival in the United States, with later cost savings accruing from reductions in cash assistance utilization.

The specific objectives of the demonstration project—as contained in the proposal submitted to the Office of Refugee Resettlement (ORR) by the state of Oregon were as follows:

To place 75 percent of employable clients in full-time permanent employment within 18 months of their arrival in the United States.

To place 25 percent of employable clients in full-time permanent employment within 6 months of their arrival.

To enable 63 percent of all participants (including minor children) to graduate from the demonstration within 18 months of their arrival because their family earnings exceeded program income standards.[2]

The demonstration project was also to result in cost savings over the three year period of its implementation. A condition of receiving authorization from ORR was that REEP be "budget neutral"—that is, the costs of REEP (cash and medical assistance, case services and designated employment services) were not to exceed what would otherwise have been spent. The implementors hoped for a five percent reduction in costs.

The key components of REEP have been the following:

Cash assistance and case management are the responsibilities of the three voluntary agencies resettling refugees in the Portland area—U.S. Catholic Conference (USCC); Ecumenical Services of Oregon (an affiliate of Church World Service); and Lutheran Family Services.

Employment services—aimed at early employment for all eligible household members—are the responsibility of the International Refugee Center of Oregon (a consortium of Mutual Assistance Associations) which works closely with the case managers.

Medical assistance is provided to all REEP clients through a contract with Multicare, a full service medical provider. Clients who obtain employment remain eligible for medical care if their incomes do not exceed the standard for medical coverage. Those who do exceed the income standard for medical coverage may retain eligibility for an additional four months.

Monitoring of REEP implementation is performed by officials of the state of Oregon, in part through a contract with the Center for Urban Education which had responsibility for developing REEP policy, training and monitoring REEP staff, and operating a computerized management information system.

REEP aimed at improving coordination among the cash assistance, case service, and employment service components of the refugee program in order to ensure that the agencies responsible for each of these activities were in agreement about policies, procedures, and desired outcomes.

The demonstration further strived to develop better mechanisms for monitoring refugee progress toward self-sufficiency, and, if necessary, sanctioning refugees who were not in compliance with their employability plans.

And last, recognizing that family size and composition were influencing the capacity of refugee households to become self-sufficient, a new approach to service delivery was introduced: the Family Unit Approach. This approach emphasizes the needs and employment potential of the entire refugee family or household, rather than just the traditional breadwinner.

Characteristics of REEP clients

The total number of adults enrolled in REEP by the end of the third year of its implementation equalled 1,423. Fewer refugees resettled in Oregon during this period than had been the case in earlier years, so these numbers represented a smaller caseload than anticipated.

REEP clients represented a diverse array of languages, cultures and socio-economic backgrounds. REEP clients originated in over a dozen different countries. Table 1 shows the geographic distribution of REEP clients.

TABLE 1.—*Nationality of adult client population*

	Percent
Vietnamese	38
Laotian	22
Rumanian	20
Cambodian	6
Other	15

Table 2 presents selected characteristics of the adult client population. The average age on arrival in the United States was 30 years. At the end of the third year of implementation of REEP, its clients had lived in this country for an average of approximately 22 months. Men outnumbered women by a slight margin. A slightly bigger proportion lived in single person households than did in two-parent families.

TABLE 2.—SELECTED CHARACTERISTICS OF THE ADULT CLIENT POPULATION, BY SEX AND NATIONALITY

Characteristics	Men	Women	Vietnamese	Laotian	Cambodian	Rumanian	Total
Age at arrival in United States	30.8	29.5	29.5	30.2	28.3	32.3	30.2
Median months since entry to United States	22.5	22.3	23.2	20.0	34.7	22.3	22.3
Median months in program	7.6	8.9	7.9	9.9	12.2	7.6	8.0
Proportion of men	N/A	N/A	52.2	53.6	49.4	59.1	54.8
Proportion who live in a single-person family	51.3	38.3	59.1	27.5	23.0	40.5	45.4
Proportion who live in 2 parent family	36.0	45.1	29.9	55.2	58.6	46.2	40.1
Years of final schooling before arrival in the United States	8.5	6.0	7.4	4.4	2.6	9.4	7.3
Proportion who speak little or no English	56.0	70.0	60.0	80.0	70.0	60.0	63.0

At the time of arrival, the REEP clients had, on average, 7.3 years of formal schooling in their home country. Men were better educated than women. There was also variation by nationality. Similarly, English language proficiency varied by nationality and gender.

Outcomes of REEP

The success of the demonstration project was measured against the three major objectives described above: (1) to foster early employment among REEP clients; (2) to increase the proportion of refugees who were economically self-sufficient—that is, who were able to support their families through earned income; and (3) to accomplish the first two objectives at a cost savings to the refugee resettlement program.

Employment Outcomes

By and large REEP was successful in helping refugees attain employment early in their resettlement experience. In contrast to the pre-REEP situation in Oregon, the vast majority of employable refugees[3] were becoming employed within their first 18 months in the United States, with many obtaining employment even earlier. The demonstration project reached its objective of placing at least 75 percent of employable refugees in permanent, full-time employment within 18 months of their arrival. By the end of the third year of REEP, approximately 74 percent of all employable adults had held at least one job. Since approximately 28% of the REEP clients had been in the United States for much less than 18 months, these statistics are very encouraging. It should be noted that most national surveys of refugees have found lower employment rates among those in the country for this period of time.

Variations in employment outcomes are shown in Tables 3 and 4. Employable men were more likely to obtain jobs than em-

[1] See Appendix A for purpose and methodology of the evaluation.

[2] The remainder of the participants were to exit the project for other reasons, including outmigration from the target area, transfer to state public assistance categorical programs, permanent terminations resulting from lack of client cooperation, and time-expiration of program benefits.

[3] Employables include those who are actively seeking work and those who have already found employment. REEP requires most adults to seek employment. Unemployables are those who expected not to seek work because they have a disability that prevents them from working, have child responsibilities or are unemployable for other reasons.

ployable women. Length of time in the United States also influenced employment patterns, with the employed having been in this country longer than the unemployed. In most other characteristics the employed and unemployed were very similar: both groups came to the United States at a similar age; both have had the same number of years of formal education in their home countries; and the majority of both groups speak little or no English. These similarities are significant because foreign education and English language proficiency have been found to influence employment rates in other studies.

TABLE 4—CHARACTERISTICS OF EMPLOYABLE PERSONS BY EMPLOYMENT STATUS

Characteristic	Not employed (N=194)	Employed (N=549)
Age at arrival in United States	31.1	30.6
Median months since entry to United States	3.3	24.6
Median months in program	2.6	12.1
Proportion of men	52.6	62.5
Years of formal schooling before entry to United States	8.7	8.6
Proportion who speak little or no English	64.9	60.5
Proportion who live in a single-person family	50.5	48.3

By contrast, training received in REEP programs has been an important factor in explaining employment patterns. In fact, participation in training programs was one of the most consistent predictors of employment. Training generally consisted of Work Registration (weekly, hour-long classes for clients actively seeking work); Pre-Employment Training (five- or ten-week classes that teach clients about the U.S. world of work); and Vocational Training (power sewing, janitorial training, building maintenance, fabric cutter training, electronic assembly, and certified nurse's aid training). Table 5 shows participation of REEP clients in training programs. The majority of employable clients participated in more than one training activity.

TABLE 5.—PARTICIPATION IN TRAINING BY SEX AND NATIONALITY EMPLOYABLE REEP CLIENTS

Training	Men	Women	Vietnamese	Laotian	Cambodian	Rumanian	Total
No training	16.9	23.2	14.4	21.0	34.4	13.1	19.4
Work registration only	11.2	10.4	14.4	1.1	9.4	15.9	10.9
Pre-employment Training	30.1	21.4	21.2	33.1	21.9	31.7	26.6
Vocational training	41.8	45.0	50.0	44.8	34.3	39.3	43.1

Since one of REEP's objectives was to secure long-term employment for its clients, efforts were made to determine if clients were still employed 90 days after obtaining their jobs. The overall job retention rate was 56 percent. Another 18 percent were employed at the end of the reporting period but it was too soon to tell if they would pass the 90 day mark.

REEP clients may be employed in several jobs before finding permanent employment, with the majority quitting or being laid off. REEP deliberately applied a strategy of placing refugees in short-term, often seasonal jobs in order to give them the necessary work experience, and, thus, make them more employable.

The median wage rate of REEP clients equaled $4.00 per hour and remained constant throughout the demonstration project. The mean wages, on the other hand, increased by $0.50 and $0.70 in the second and third year, respectively. Refugees who left their first job for a second one tended to receive the same or lower wages in the second job. There is evidence, however, that third and fourth jobs bring higher wages.

Self-Sufficiency

REEP implementors, as described above, had hoped that 63 percent of all participants would graduate from REEP because family earnings would exceed the program income standards. This did not, in fact, occur. Even after having obtained employment, many families continued to require some level of assistance. By the end of the third year of REEP, 274 cases (30 percent) had been closed due to economic self-sufficiency while 181 cases (20 percent) lost eligibility because of time-expiration and 242 cases (26 percent) left the Portland area.

The REEP experience indicates then that early employment does not necessarily translate into immediate self-sufficiency. For many refugees, earnings alone were insufficient to make their families income-ineligible for cash assistance. Until their special eligibility for assistance expired at the end of 18 months, they continued to receive supplementary cash payments and/or medical assistance.

Whether the early employment successes translate into longer-term self-sufficiency lies outside the scope of this evaluation and can only be determined by future monitoring of the REEP population. There is cause for some optimism, however. There is evidence of rising wage levels among the already employed. Even more important, the Family Unit Approach has led to increasing emphasis on multiple wage earner strategies within refugee households. Many families with one employed member are likely to become economically self-supporting as other family members also obtain jobs.

Costs

The demonstration project also resulted in cost savings over the three year period of its implementation. As described above, a condition of receiving authorization from ORR was that REEP be "budget neutral." REEP implementors hoped to go beyond budget neutral and show a five percent reduction in costs. In fact, REEP exceeded these expectations considerably. During the three years, the demonstration project resulted in 18.5 percent savings. The largest savings, 25.6 percent, occurred in the second year.

Factors influencing the outcomes

The demonstration project has been able to perform effectively, particularly in relationship to its early employment objectives, because:

There was shared understanding of the goals, objectives, and practices of the demonstration project.

Implementation of REEP evolved from an extensive planning process in which the groups involved in its operation participated. The resulting design of the demonstration project reflected not only the realities of the local situation but also the views of the implementors as to what approaches would work better than the existing system. In effect, then, REEP developed from the experiences and needs of those who were to implement the pilot program. The model was not imposed on the service providers. They were its creators.

REEP operated with a well-coordinated and integrated system of service delivery.

It is clear that the effectiveness of REEP was influenced by the appropriateness and strength of linkages between various service providers, particularly case managers and job service workers. These linkages included:

A formal process of mandatory referrals that allowed for confirmation of refugee service utilization and precluded inappropriate or excessive use of services;

Formal reporting requirements that provided for frequent, thorough monitoring of client progress and allowed for proactive intervention on the part of the case manager; and

Joint intakes and assessments of individual refugee clients by case managers and employment specialists.

Case workers, operating in partnership with job service workers, worked closely with REEP clients to ensure compliance with the employment plans that are developed. Case workers generally had a great deal of information about their clients—their needs, their progress in job search and their employment status. The case workers were able to implement sanctions without a lengthy bureaucratic process if clients did not comply with the program's requirements. Even with an appeal, the process was expeditious enough to be meaningful to both staff and clients.

The dual role of a helper and sanctioner also allowed case workers to reward refugees. REEP established a system of incentive checks for clients who attended classes regularly and complied with other parts of their employment plan. Those refugees who received incentive checks said that they could use the extra money and felt encouraged by this form of incentive.

A staff-intensive system played an important role in ensuring that the system would work as planned. Each case worker was responsible for 35 cases. This gave case workers sufficient time to perform their various functions. Staff in the public assistance office argued that they would be able to achieve the same outcomes—both in terms of client employment and accountability—if they had a similar staff-case ratio.

Services were tailored to meet the needs of clients served by REEP.

The multiple wage earner strategy and a Family Unit Approach were applied when it became apparent that many refugee households need the incomes of several members in order to become self-supporting. The new approach to service provision and the multiple wage earner strategy applied by REEP have enabled the employment services to reach under served groups such as older refugees or refugee women. Implementing a Family Unit Approach as part of the overall service system involved thinking about the "clients" as an entire household unit, rather than as individuals. Planning for household self-sufficiency included developing a schedule for achieving the full employment potential of all household members through simultaneous or phased attention to the skills and service needs of different household members. REEP staff recognized that in small families, or families where the primary wage earner has transferable skills that will enable him or her to obtain a job at high wages, the employment of a single household member may be adequate to achieve household self-sufficiency. In larger families, or families where the potential workers are likely to begin in entry level jobs, it is more likely that more than one wage earner will be required to support the family. REEP staff also realized that for some large families, the opportunities in the local labor market may not hold out much hope of short-term or even medium-term

economic self-sufficiency. In these cases, the household self-sufficiency plans called for a combination of earnings and assistance.

Under this view, self-sufficiency plans included the total range of social services that increase the self-support capacity of the household, from improved English language skills for all employable household members to pre-employment training, from job placement services to child care support and transportation assistance. Finally, the household self-sufficiency plans developed by REEP staff reflected an understanding that achievement of full economic self-sufficiency is likely to be a process that occurs over a number of years, rather than during the first few months after arrival in the United States. Therefore, the self-sufficiency plans had a clearly understood timetable and a series of phased, realistic objectives along the road to self-sufficiency. They included, for example, the goal of rapid employment as well as plans for job upgrading and skill development.

REEP operated in private agencies that showed flexibility in responding to the needs of the refugee population while demonstrating accountability for the funds they administered.

The fact that REEP operated in the private sector permitted considerable flexibility in adapting the project as needed. There was no need to obtain approval for change through a complicated bureaucracy. This flexibility allowed REEP to respond to the varied needs of different refugee households, ethnic backgrounds, and skill levels of REEP clients.

While the flexibility of the private sector has been recognized, concerns have been raised for many years about whether private agencies would be able to implement cash assistance programs with a sufficient degree of accountability to ensure that funds are properly used. Throughout the demonstration project, REEP case workers maintained a zero error rate in determining eligibility and calculating payments for clients. Their ability to do so was a function of good procedures, training and monitoring. In order to ensure accountability, REEP developed an operations manual that was similar in its size and complexity to that of many public programs.

There was a system of health care for refugees after they became employed.

The self-sufficiency of REEP clients was strengthened considerably due to their ability to maintain medical assistance after securing employment. In the case of REEP clients, taking a job does not necessarily mean loss of medical assistance. The demonstration project provides the option of receiving partial cash and medical assistance or medical assistance only. Employed REEP clients are able to retain eligibility for medical assistance provided that their earnings do not exceed the income standard. The medical standard is higher than the income cut-off for cash assistance. They can also receive a four month extension of medical assistance after they have become income-ineligible for any REEP assistance.

Using a mainstream health care provider also had its advantages. At Multicare, refugees were introduced to a system of care which they could continue to access after they lost eligibility for REEP.

Replicability of REEP

As a strategy for enhancing refugee employment, REEP should be replicable in other resettlement sites. Many of its basic components—an integrated service delivery system, emphasis on early employment, a ratio of staff to clients that allows for front-loading of services, medical assistance coverage—can be found in other locations or could easily be adopted.

The primary new ingredient in REEP is the transfer of control over cash assistance to case managers located in private agencies. REEP has shown that there is nothing inherently problematic in so transferring authority. REEP developed procedures and processes that ensured accountability of funds. In fact, the advantages of combining cash assistance and case management were clear. Through their oversight of cash assistance, case workers had the authority to ensure that clients complied with employment plans.

There is one caveat to be made in concluding that REEP is replicable. Considerable planning went into the design of REEP. It evolved out of the experiences of those implementing the project. Since implementing staff had a hand in developing both its objectives and its components, there was tremendous commitment to making REEP successful. Imposing REEP's design on other locations, where there are different realities and beliefs, could prove counterproductive. That having been said, however, it is clear that REEP has proven itself to be a potentially useful model not only in Portland but elsewhere in the United States as well.

APPENDIX

Purpose and methodology of the evaluation

Because REEP has been testing a new approach to resettlement, special efforts to collect data, monitor performance, and analyze implications were warranted. The aim of this evaluation was:

To document the goals of the demonstration project and the mechanisms used to achieve these objectives, as well as their evolution over the source of the demonstration.

To assess the outcomes of the demonstration project in terms of refugee employment, welfare utilization, secondary migration, earnings, and other relevant measures of self-sufficiency.

To evaluate the results of the demonstration project in terms of systemic changes in the resettlement program, such as improved coordination, monitoring, private sector involvement, etc.

To identify those factors that contributed to the measured outcomes, isolating, to the extent possible, those elements that were unique to the demonstration project itself.

To assess the cost-effectiveness of the model of resettlement implemented in the REEP project.

To determine factors contributing to the effectiveness of the model and its replicability.

The evaluation utilized both qualitative and quantitative data. The statistical analysis was based on data generated by the Case Management Information System (CMIS). Qualitative information was derived from interviews with administrators and service providers, REEP clients, and employers who have had a long history of hiring refugees as well as a review of case files.●

GLOBAL CLIMATE CHANGE

● Mr. BAUCUS. Mr. President, Tuesday's Washington Post contained a story with headlines blaring "White House Balks at Hosting Talks on Global Warming." The story goes on to provide the details of Administrator Reilly's rebuff by White House advisers in his proposal to invite representatives of other nations to begin negotiating an international convention on global warming.

Candidate George Bush promised us the "White House effect" to deal with global warming. But all we are getting from President Bush is the "whiplash effect."

Consider this administration's record: Candidate George Bush promised that in the first year of his Presidency he would convene an international meeting at the White House on the global environmental crisis. But it was not until May 12 that his administration took any steps to carry out that promise. Even then it did so only under the extreme duress created by not one but two firestorms of controversy.

The first arose when the U.S. delegation to May's Geneva meeting of the Response Strategies Working Group of the Intergovernmental Panel on Climate Change was dispatched to that meeting with no clear mandate for action. A day or two later, OMB was found to have altered the congressional testimony of NASA scientist James Hansen. Only then did the administration resurrect Candidate Bush's promise. At the last minute, the administration cabled to the U.S. delegation in Geneva instructions to invite the delegates to hold their planned fall meeting here in Washington. In announcing the turnabout, EPA Administrator Reilly reported that the administration fully expected the IPCC's work to lead directly to the negotiation of a climate convention.

What has happened since? Last month the fall meeting promised for Washington was moved back to Geneva, where the United States adopted a position of objecting to a date certain for the conclusion of a climate convention and resisting calls by other countries to place a limitation on greenhouse gases as part of the framework convention.

And now, Mr. Reilly has been rebuffed again in trying to push his administration into the leadership role which the United States must assert.

Unfortunately, the Bush administration's record is replete with this pattern of whiplash, this pattern of bold rhetorical initiatives yanked back by policy reversals.

On January 30, just 5 days after taking office, Secretary of State Baker gave a compelling speech on global warming before the Intergovernmental Panel on Climate Change. In this speech, Secretary Baker made several points—with all of which I am in full agreement.

The first is that we can probably not afford to wait until all of the uncertainties have been resolved before we do act. Time will not make the problem go away. The second is that while scientists refine the state of our knowledge, we should focus im-

mediately on prudent steps that are already justified on grounds other than climate change. These include reducing CFC emissions, greater energy efficiency and reforestation. The third is that whatever global solutions to global climate change are considered, they should be as specific and cost-effective as they can possibly be.

Less than 2 weeks later, President Bush proposed his first budget, calling for, among other things, an Executive order on global climate change, "setting out responsibilities of Federal agencies and departments as well as establishing effective coordination mechanisms."

On September 9, the White House released details of a comprehensive interagency research program to study the scientific and social causes of global climate change and asked Congress for $191 million in fiscal 1990 to pay for it.

But the bold thrusts have been parried by the administration's own policy performance.

At the same time that Secretary Baker was calling for a renewed U.S. commitment to international solutions, the Bush administration proposed a 16-percent cut in the parent organization of the very same group Secretary Baker was addressing, the U.N. Environmental Program.

While it is clear to most of those seeking solutions to this issue, that energy efficiency and conservation will play a major role in reducing global warming, on July 26, in the context of the Interior appropriations bill, the administration called for the elimination of funds for the major grant program responsible for funding State energy conservation projects, and a 50-percent reduction in energy efficiency research.

The Executive order to coordinate policymaking promised 9 months ago is still not forthcoming. Despite the importance of automobile fuel efficiency for global warming purposes, the administration has failed to support—or even indicate its views concerning—legislation increasing fuel efficiency standards. The administration has failed to respond to a specific congressional mandate contained in the Global Climate Change Act calling for a coordinated national policy.

While the administration has moved slowly to coordinate and articulate a clear and concrete policy position—the Senate has begun to take action.

Over the past 10 months, nearly 50 bills have been introduced to combat global warming. The Environment and Public Works, Commerce, and Foreign Relations Committees have all moved forward within the past 3 months to report legislation spanning from the coordination of global environmental research to the elimination of ozone-depleting chemicals. Legislation to increase automobile fuel efficiency, to expand and promote energy efficiency and to conduct a major research program on agriculture and global climate change are currently moving through the legislative process. Key budgetary increases have been included in appropriation bills for global warming research and programs.

Clearly, much more remains to be done. But we in the Senate cannot act alone and we certainly cannot act with this administration's whiplash effect in full force. Next month, my Democratic colleagues and I will set forth a concrete legislative agenda outlining the steps we intend to take to address this critical issue. We urge the President to examine our proposals and approach, and join us in the urgent task of combating global warming.●

THE GREAT LAKES MARITIME TRADE ACT OF 1989

● Mr. GLENN. Mr. President, I recently introduced the Great Lakes Maritime Trade Act of 1989, S. 1350. A number of my colleagues from the Great Lakes States are cosponsoring this bill in the Senate, and a companion bill in the House has more than 30 sponsors.

Mr. President, we are proud of the Great Lakes contribution, not only as a great recreational resource, but also as a huge waterway of commerce for the agricultural and industrial heartland of the United States. The Great Lakes Maritime Trade Act is directed to our maritime system, which is not only essential to the economic vitality of our region but is also crucial to the economic interest of the Nation.

The September issue of the Seaway Review, the international business transportation magazine, contains an article I authored on the maritime trade legislation. Mr. President, I ask that a copy of the article be printed at this point in the RECORD.

The article follows:

SEAWAY REVIEW—SEPTEMBER 1989

(The Great Lakes Maritime Trade Act of 1980: A System-Wide Approach to Improving Competitiveness—by Senator John Glenn)

The Great Lakes and St. Lawrence Seaway constitute a remarkable transportation asset. While composed of distinct ports and maritime interests, the Great Lakes and St. Lawrence Seaway clearly represent a single integrated and cohesive system, and a vital resource. Since opening in 1959, the St. Lawrence Seaway has been the conduit for over 1.3 billion tons of cargo—roughly 150 million tons per year. In 1988, over 90 million tons of Lake commerce passed through the canal at Sault Sainte Marie, Michigan.

Despite these impressive statistics, certain statutory and infrastructural trends threaten to impede competitiveness of the Great Lakes maritime trade industry. An example of a statutory obstacle arises from the terms of the 1985 Food Security Act. The Act expanded U.S. flag cargo preference from 50% to 75% on all government food aid cargoes, a change that disadvantages the Great Lakes ports because they are serviced mostly by foreign flag ocean-going vessels. While a Great Lakes set-aside provision was added to the Act to guarantee Great Lakes ports at least a small percentage of P.L. 480 food aid cargoes, the set-aside is due to expire at the end of this shipping season. Meanwhile, the expansion of cargo preference is to remain in place indefinitely under the 1985 law.

As long as cargo preference remains a part of our national shipping policies, strict reflagging requirements also present special problems for Great Lakes maritime interests. Present cargo preference laws prohibit foreign-built vessels from carrying non-military government cargoes until the vessels have been under the U.S. flag for at least three years. This three-year waiting period creates an unnecessary disincentive for reflagging—limiting both new additions to our merchant marine fleet, and greater ocean-going service to Great Lakes ports under the American flag.

Infrastructural improvements also are needed to help Great Lakes competitiveness. A replacement lock is needed for aging facilities at the Soo, where only one lock of four can accommodate the modern 1,000 footers. In addition, ice-breaking capacity needs to be maintained and upgraded.

Better international policy related to St. Lawrence Seaway tolls would also increase competitiveness of the Great Lakes/St. Lawrence Seaway shipping system. Seaway tolls were instituted in 1959 when the Seaway was completed. The Water Resource Development Act of 1986 (P.L. 99-662) effectively eliminated U.S. tolls with a rebate procedure, a measure which I and my Great Lakes Senate colleagues supported. Still, Canadian tolls—which include Well and Canal lockage fees—remain in place and are likely to increase in future years. The Canadian tolls, until eliminated, will impair Great Lakes competitiveness.

Individual ports and shipping interests are affected more by some of these problems than others. Yet the health of these constituent parts of the Great Lakes/St. Lawrence Seaway maritime industry depends upon the competitiveness of the Great Lakes/St. Lawrence Seaway transportation system as a whole. For this reason, in my role as Co-Chair of the Senate Great Lakes Task Force, I introduced in the Senate the Great Lakes Maritime Trade Act of 1989, S. 1350. The Great Lakes Maritime Trade Act of 1989 is an omnibus bill that ties together several individual measures. It provides a general "tune-up" to our Great Lakes maritime transportation system. Through the omnibus approach, the region can work in concert to boost the Great Lakes system in the context of competing modes of transportation and port ranges.

The Great Lakes Maritime Trade Act of 1989 would extend the Great Lakes set-aside indefinitely; remove the three-year waiting period for reflagging on U.S. flag ships serving the Great Lakes; initiate negotiations with Canada toward elimination of St. Lawrence Seaway tolls; require the U.S. Army Corps of Engineers, in anticipation of cost-sharing arrangements, to complete the study phase of replacement lock construction at the Soo; and establish a sense of Congress that adequate ice-breaking capability is essential to maritime commerce on the Great Lakes. A benefit of the omnibus approach is broadbased support. At the time of introduction, there was a total of eleven co-sponsors joining with me in introducing S. 1350, including Senators Dixon, Kasten, Durenberger, Kohl, Simon, Lugar, Coats, D'Amato, Boschwitz, and Levin from the Great Lakes region. Senator Burdick also

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co-sponsored S. 1350, in light of the advantages of Great Lakes shipping competitiveness to the commodities producing states.

Because of the immediate need to act on the Great Lakes set-aside issue, I will be strongly urging timely hearings and action on the Great Lakes Maritime Trade Act. The bill was referred to the Committee on Commerce, Science and Transportation's Subcommittee on Merchant Marine.

In conclusion, the Great Lakes and St. Lawrence Seaway comprise a vibrant commercial transportation system. Yet several improvements, both statutory and infrastructural, must be carried out to assure continued competitiveness. The Great Lakes Maritime Trade Act of 1989 approaches the Great Lakes/St. Lawrence Seaway system as a unified asset of the region and nation. I look forward to your support for the enactment of this omnibus Great Lakes maritime legislation.●

S. 1364, A BILL TO ESTABLISH A JOINT FEDERAL-STATE COMMISSION ON POLICIES AND PROGRAMS AFFECTING ALASKA NATIVES

● Mr. INOUYE. Mr. Chairman, I rise to supplement the record and to clarify certain statements which appeared in Senate Report 101-139, accompanying S. 1364, a bill to establish a joint Federal-State commission on policies and programs affecting Alaska Natives.

Section 2(b)(5) of the bill provides that the President and the Governor of Alaska shall give careful consideration to recommendations received from Alaska Native village, regional and State organizations. The committee's intent is that both the President and the Governor should consider recommendations for appointments by the whole spectrum of Native interests in Alaska. The report then specifically mentions the Alaska Federation of Natives [AFN] as one of the organizations to be consulted and urges that no appointments be made to the Commission until AFN's recommendations have been received.

It is not the committee's intent that the recommendations of the AFN should have any greater weight than the recommendations of any other Native interests in the State. It has recently been reported by the press in Alaska that the language in the report means AFN is to have a strong hand in deciding who gets appointed and should have the most clout in selecting the Commission. Although the committee values AFN's leadership role in the Alaska Native community, we recognize that there is great diversity among Alaska Natives.

The committee's intent is that at a very minimum, AFN's recommendations should be heard before any appointments are made to the Commission. However, that does not mean that AFN's recommendations should be given greater weight than those of other Native interest in Alaska, including specifically tribal and other interests making recommendations from the village and regional levels. It is essential that the Native tribal perspectives be adequately considered by the Commission. The members of the committee and I personally urge Native village and regional interests, as well as AFN, to make their recommendations directly known to the Governor's office, the Alaska Congressional delegation and the Senate Select Committee on Indian Affairs.

Mr. Chairman, I appreciate the opportunity to clarify this important aspect of S. 1364.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Senator PELL to participate in a conference in Paris, sponsored by the Institut Kurde.

The committee has determined that participation by Senator PELL in the conference in Paris, at the expense of the Institut Kurde, is in the interest of the Senate and the United States.●

A NEW APPROACH TO HOUSING POLICY

● Mr. KASTEN. Mr. President, on October 24, I withdrew as a cosponsor of S. 565, the National Affordable Housing Act—otherwise known as the Cranston-D'Amato bill.

In light of the recent HUD scandals, I have come to the conclusion that the Cranston-D'Amato legislation would only encourage the expansion of the flawed housing programs that are currently in place—the same magnets for waste, fraud, abuse, and influence peddling that we all claim to deplore.

It would channel more taxpayer dollars into costly housing programs that benefit upper-income households, facilitators, political consultants, lawyers, financiers, ex-Cabinet members, ex-HUD officials, and developers—rather than into programs that directly benefit the working poor and the homeless.

A prime example of what is wrong with the Cranston-D'Amato bill is the proposal to expand the Federal Housing Administration loan program. The bill would lower the downpayment that home buyers must pay in order to qualify for FHA insurance and raise FHA loan limits to 95 percent of the median house price. This proposal would do nothing to make homes more affordable for the working poor. And it would expose FHA to more financial risk at a time when FHA is running losses of about $40 million a month.

The bill would continue the inefficient use of housing dollars by emphasizing costly construction and production of housing programs instead of direct assistance to the homeless and the working poor. Currently, for every dollar of housing assistance, only a fraction actually reaches poor people.

Finally, several provisions of Cranston-D'Amato would add new layers of bureaucracy to HUD. More bureaucracy would only increase the potential for the kind of fraud, abuse, and mismanagement of HUD programs that have occurred during—and before—the Reagan administration.

I continue to support the Cranston-D'Amato bill's innovative tax initiatives to expand home ownership, including the low-income housing tax credit and penalty-free withdrawal of funds from individual retirement accounts for first-time home buyers. I am a cosponsor of the Mitchell-Danforth bill to extend the low-income housing tax credit, and of the Roth bill to allow IRA withdrawals for first-time home purchases. These proposals will be considered in a tax bill later this year.

Mr. President, the HUD scandal shows that we need a new approach to the Nation's housing policy—including an outright overhaul of HUD programs. Federal housing policy should focus on market-oriented policies to empower the poor.

President Bush and HUD Secretary Jack Kemp are committed to ending homelessness and poverty through direct government action and, more importantly, through low-tax policies aimed at increasing economic growth, job opportunities, and living standards. The enactment of a capital gains tax cut and urban enterprise zones will provide a strong and secure economic base from which we can lead a successful struggle against homelessness.

Enterprise-zone legislation in particular would open up a broad spectrum of choices to inner-city residents. At a time when the war on drugs is focusing our national attention on the crisis of our inner cities, we ought to be doing all we can to provide alternative futures for the young people of these communities. A writer for the New Republic recently commented that when all the choices you have are bad ones, using crack becomes a more and more attractive choice.

We can provide better choices for young Americans. And we ought to begin with enterprise zones.

It is time to recognize as well that the main problem for the poor is not an insufficient amount of housing stock. Rather, the problem is a lack of money with which to rent the housing stock. The Nation's rental vacancy rate today stands near its all-time peak. So HUD shouldn't be squandering money on new construction of massive public housing projects—instead, it should be providing housing assistance to help poor people meet the monthly rent.

Housing vouchers would provide the poor the cash equivalent of rent payments to acquire housing. Vouchers are HUD's most cost-effective low-income housing programs because the Federal subsidy goes directly to the poor. In contrast, only a small fraction of the Federal dollars spent on production-based housing programs actually reaches the poor—because most of the money goes to middlemen like builders, developers, and public housing authorities. More importantly, vouchers give the poor the freedom to choose the neighborhoods where they want to live. Vouchers allow low-income families to live in safe and decent neighborhoods that are closer to good job opportunities and better schools for their kids.

According to a recent Commerce Department report entitled "Current Housing Reports, Housing Vacancies and Homeownership," an expansion of HUD's voucher program would make many of the existing 2.7 million vacant rental units immediately available to the poor. We should increase the share of HUD's budget dedicated to the voucher program and offset that cost by reducing expenditures for HUD's production programs.

Finally, Federal housing policy should strive to create opportunities for poor people to manage and eventually own their own residences. Tenant management gives public housing residents a stake in the health and welfare of their neighborhoods. Heritage Foundation analyst Stuart Butler recently commented on the success of tenant management in public housing:

In St. Louis, Boston, Washington, and other cities, the embryonic movement has turned once crime-ridden, blighted projects into models of improvement and hope. Crime has been cut, maintenance and administrative costs slashed. Even more important, tenant managers have moved residents off welfare by giving them jobs to take care of the project. In short, allowing poor communities to manage their own affairs is not just a way to improve services and give dignity to the poor—it is also a potent method of generating economic growth in those communities.

Mr. President, our course is clear. We have to create jobs. We have to boost small business startups. We have to do everything we can to provide the residents of our blighted inner cities a way up and a way out. HUD Secretary Jack Kemp is expected to propose housing reforms that would restore fairness and efficiency to America's housing policy. Yesterday, I joined 27 Senators in a letter to Secretary Kemp urging him to adopt this new approach that focuses on empowering the poor.

I ask that this letter be included in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, October 24, 1989.

Hon. JACK KEMP,
Secretary, Department of Housing and Urban Development, Washington, DC.

DEAR MR. SECRETARY: We are writing to express our serious concern with the direction of our nation's housing policy, and to support your efforts to redirect limited federal housing resources to those most in need.

We believe the recently exposed problems at the Department of Housing and Urban Development reflect an underlying flaw in our current housing programs, We also observe that current efforts in the Senate, particularly the set of initiatives known as the Mitchell-Cranston bill, are nothing more than an expansion of the types of programs shown to be expensive, inefficient and open to fraud and abuse.

We are encouraged by the new ideas for which you have expressed support during your brief tenure at HUD. We hope that those new ideas will be quickly translated into legislative proposals. We further hope that such changes will be major redirections of policy and not marginal changes to existing programs.

American's housing policy should be designed to help those who need it the most. The HUD scandal is showing that billions of dollars intended for the poor have gone to everyone except the poor. This is outrageous. Real changes in housing policy should focus on policies which empower the poor. That is why we have defined the following objectives for which we request your support:

Put dollars in the hands of poor people, not developers who have become dependent upon Federal subsidies. Currently, for every dollar of housing assistance, only a fraction actually reaches the poor.

Create opportunities for the poor to manage and/or own their own residences. Current programs assume poor people are not capable of making their own decisions.

Give low income individuals the freedom to choose the housing and neighborhoods where they wish to live. Current programs force individuals to live where they are told, even if it means isolating them from areas where jobs and better educational opportunities can be found.

Encourage the development of neighborhoods which offer a decent and safe place to live. Public housing segregates the poor into concentrations plagued by crime and terrorized by drug gangs.

As you know, the Senate Majority Leader Mitchell has created a Democratic Task Force on Housing. Task Force Chairman Cranston recently announced his intention to offer new housing legislation, which "improves upon the provisions of" the National Affordable Housing Act. The Mitchell-Cranston legislation will be a "13 point program" which would continue the failed programs which channel money through a costly and cumbersome collection of bureaucracies and facilitators, rather than directly to the poor who need the help. The bill is expected to be marked-up in the Senate Banking Committee on November 8, 1989.

One example of what is wrong with the Mitchell-Cranston legislation is their proposed Housing Opportunity Partnership (HOP) program. This program authorizes $3 billion a year to increase the supply of housing for the entire nation. This ignores the fact that there is not a nationwide supply problem.

By placing such a strong emphasis on costly production programs, the Mitchell-Cranston legislation continues to inefficiently use federal housing dollars. A more reasonable and responsive housing agenda should focus on an accessible and flexible rental assistance program, one which allows families to choose where they want to live.

Just as disturbing is that the Mitchell-Cranston legislation would add another layer of bureaucracy to HUD. Such wasteful and expensive duplication is irresponsible when there are thousands of families who desperately need housing.

We are encouraged by your reform proposals and believe they mark the first real step toward restoring the fairness and efficiency of our housing policy.

As you continue your role as Secretary of Housing, we encourage you to ensure the durability of your reform proposals by developing a housing policy characterized by a strong departure from the Mitchell-Cranston legislation. It is our intention to work with you in the formulation of policy which reflects our commitment to empowering the poor.

Sincerely,

Slade Gorton, Phil Gramm, Strom Thurmond, Bob Dole, Don Nickles, Connie Mack, Malcolm Wallop, Alan Simpson, Thad Cochran, John McCain, Dan Coats, Dick Lugar, Steven Symms, Chuck Grassley, Larry Pressler, Jake Garn, Kit Bond, Gordon Humphrey, Orrin G. Hatch, Mitch McConnell, Bob Kasten, Jim McClure, Trent Lott, Rudy Boschwitz, Warren B. Rudman, Frank H. Murkowski, Bill Armstrong.●

FEDERAL HOUSING POLICIES

● Mr. GORTON. Mr. President, on March 15, 1989, I became an original cosponsor of S. 565, the National Affordable Housing Act, introduced by my colleagues Senators CRANSTON and D'AMATO. At that time, the Cranston-D'Amato legislation appeared to be an appropriate bipartisan effort to address the diverse housing and homeownership problems which face our country.

But, Mr. President, since that day our country has witnessed a series of disturbing events which, combined, have led me to reconsider the adequacy and effectiveness of the National Affordable Housing Act.

Mr. President, please consider the following:

Since that day, we have witnessed dozens of allegations of influence peddling at the Department of Housing

and Urban Development. Those allegations arise out of the type of programs now in existence at HUD that encourage awarding funds to developers and contractors largely on the basis of political connections.

It is apparent that the National Affordable Housing Act would entrench those programs now proven to attract a long line of developers, lawyers, consultants, ex-Cabinet members, ex-HUD officials, and well meaning nonprofit groups, who intervene between HUD and the poor, incur costly fees, and reduce the amount of financial assistance that ultimately reaches the poor.

Since that day in March, Mr. President, the General Accounting Office audit of the Federal Housing Administration has shocked Americans with news of FHA's deeply troubled operations. The FHA is now the fourth major Federal credit program since 1987 to lose more than $4 billion and the likelihood of yet another taxpayer bailout is looming.

Meanwhile, the National Affordable Housing Act would worsen FHA's situation and its losses. Despite the fact that low downpayments are the single greatest contributor to high FHA default rates and losses, the National Affordable Housing Act would allow downpayments of less than 3 percent of the amount of the FHA mortgage.

Since that day in March, it has become apparent that the national housing shortage off-quoted by industry and homeless advocates no longer exist—if it ever did. In fact, Mr. President, the level of available housing nationwide is higher than ever. According to HUD and Census Bureau studies, there are over 100 million housing units in the United States—46 percent more than in 1970 and 14 percent more than were available in 1980—yet there are only 89 million households, leaving 11 million vacant units at any one time. Rental vacancy rates were 8 percent in 1988, the highest rate in 20 years. Furthermore, there are an estimated 70,000 vacant public housing units. This is not to say that no shortages exist in any community, but that the problem—and any solution—is certainly far different then previously believed.

Meanwhile, the National Affordable Housing Act would further fund brick-and-mortar programs, thereby funneling scarce Federal dollars through developers to increase the supply of housing instead of providing housing assistance directly to the poor family who are most in need.

Mr. President, since that day in March the bipartisan nature of the National Affordable Housing Act has diminished. The creation of a democratic task force on housing by Majority Leader, MITCHELL and the appointment of Senator CRANSTON as its chair, all the while ignoring the nearly 2-year effort of Senator D'AMATO as well as the cosponsorship by other Republican Senators of S. 565, signals that the majority of this body no longer intends to proceed in a bipartisan manner.

That is a most unfortunate course indeed. Housing is one of the most fundamental human needs. We should be looking for ways to prevent fraud, abuse and waste, and finding ways to empower the poor and get the most housing from each taxpayer dollar. I welcome any Senator—Democrat or Republican—who will join me in that effort.

But I will not be party to any effort that risks perpetuating waste and fraud, and worse, does so in a highly partisan manner.

For these reasons, I am withdrawing my support for the National Affordable Housing Act. I have joined with 26 of my colleagues in supporting Secretary Kemp's efforts to redirect Federal housing resources away from programs which are inefficient and riddled with abuse, and into the hands of our Nation's most needy.●

RICHARD S. MANLEY NAMED ALABAMA OUTSTANDING LEGISLATOR OF THE YEAR

● Mr. SHELBY. Mr. President, I rise today to pay tribute to a former colleague, an outstanding legislator and a good friend. Alabama State Senator Richard S. Manley of Demopolis was selected as the Outstanding Legislator of the Year by the Alabama Cable Television Association. But the Alabama Cable Television Association is not the first organization to realize that Rick Manley is a uniquely gifted representative of our State.

A native of Epes in Sumter County, Rick Manley is a graduate of Livingston High School. Rick went on to receive his bachelor of science degree in commerce and business administration from the University of Alabama and his law degree from this same fine academic institution.

As an attorney, Rick Manley has practiced for 31 years in Demopolis, establishing his practice the year he graduated from law school. Rick has also served the legal profession as the president of the 17th Judicial Circuit Bar Association and has served six consecutive 3-year terms on the Alabama Board of Bar Commissioners. Rick Manley has also served as vice president of the Alabama State Bar Association in both 1979-80 and again in 1983-84. This same group honored Rick by awarding him the Alabama State Bar's Award of Merit for services to the bar in July 1988.

The call to public service came for Rick Manley in 1966, when he successfully campaigned for the Alabama house of representatives. He was a member of that body until 1983, during which time he served on the house judiciary committee—8 years of which was spent as this prestigious committee's chairman. In addition, between 1978-82, Rick Manley served as speaker pro tempore of the house of representatives.

Rick's work during this period did not go unnoticed. In 1975, he was elected by the Alabama Capitol Press Corps as the most effective member of the house. In 1981, Rick was selected on a secret ballot by the members of the house and the senate as the most effective lawmaker in the Alabama Legislature. Finally in 1983, Rick was selected again by secret ballot as the most outstanding member of the Alabama House.

Rich has since moved over to the State senate where he currently serves as the chairman of the governmental affairs committee and is a member of the rules committee, finance and taxation committee, and state development and tourism committee. Senator Manley also serves as chairman of the Southern Legislative Conference Committee on Economic Development and Trade.

Rick Manley's commitment to his hometown of Demopolis and to the State of Alabama extends far beyond his work as a political public servant. Rick is the past president of the Demopolis Jaycees, the Demopolis Area Chamber of Commerce, and the Demopolis City Board of Education. Senator Manley has also served as one of Alabama's five members of the Tennessee-Tombigbee Waterway Development Authority since 1975. Finally, Rick Manley was a colonel in the U.S. Marine Corps Reserve serving on active duty from 1953 to 1956.

I know I join with Rick's family—his wife Rosemary, his children Richard Jr. and Alyce and his stepson Brian, and his two beautiful grandsons in wishing him congratulations in being selected Outstanding Legislator of the Year by the Alabama Cable Television Association. This is a well deserved honor befiting a man who had dedicated his entire life to serving others and making Alabama a better place to live. I am proud to serve as one of Rick's representatives in Washington and prouder still to call him my friend.●

FIRST AMERICAN IN PRESTIGIOUS BRITISH CHOIR

● Mr. DURENBERGER. Mr. President, Chris Brunelle, 20, a Minnesotan, has been granted an enormous honor. He will be the first American to sing with the prestigious British choir of King's College at Cambridge University, England. I would like to extend my congratulations to Chris, a recent magna cum laude graduate from Carleton College.

I would like to request that the newspaper article which appeared in

the Faribault Daily News about Chris' accomplishment, be printed in the RECORD. On behalf of the State of Minnesota, I congratulate Chris Brunelle for an outstanding achievement.

The article follows:

[From the Faribault Daily News, Sept. 21, 1989]

FIRST AMERICAN IN PRESTIGIOUS BRITISH CHOIR

NORTHFIELD.—For 500 years, the choir of King's College at Cambridge University has featured some of Britain's finest young voices. And chances are excellent that it will retain its world-class vocal reputation for another half-millennium.

But after October, the choir will never be the same again.

The start of Michaelmas Term at Cambridge on Oct. 10 will mark the barrier-breaking entrance of an American, Chris Brunelle of Golden Valley, into England's pre-eminent all-British choir.

Brunelle, 20, graduated magna cum laude from Carleton College in June, with a degree in music and classical languages. He will enter King's College of Cambridge as an affiliated student—a student who has already garnered a degree elsewhere—and will be able to complete a degree in Latin and Greek classics in just two years. During that time, he will also be a member of the college's famous choir.

Understandably, Brunelle is excited.

"It's an opportunity of a lifetime," he said. "Some would say it's the top men's and boys' choir in the world."

Drenched in tradition, the choir has remained much the same over its five-century existence. Shortly after King Henry VI founded King's College in 1441, the college was provided with a choir of 24 men and boys—all members of Cambridge—to sing Anglican Hymns in the King's College Chapel (as big as America's largest cathedrals).

There are a few new twists to today's choir. It now consists of 14 "male undergraduates" and 16 "male trebles" (boys). The choir still sings Anglican music in the chapel, but, buoyed by its high reputation, now gives concerts around the world and on radio and television. The choir is perhaps best known for its chapel service of The Festival of Nine Lessons and Carols, given annually on Christmas Eve since 1918 and currently broadcast to a global audience of millions via radio and television.

However, one of the choir's biggest changes to date is a fresh-scrubbed, blond-haired young man with a rich bass voice and a penchant for music.

It would be fair to say that Brunelle was born into music. His father, Philip, is founder and director of the acclaimed Plymouth Music Series in Minneapolis; and his mother, Carolyn, has sung with the Plymouth Festival Choir for several years. Chris Brunelle started piano lessons as a boy, and advanced rapidly, giving solo performances and accompanying Plymouth Music Series concerts while still a teen-ager.

Brunelle didn't begin singing formally until high school, with the Hopkins Senior High Madrigals. At Carleton, he sang with the college's Chamber Singers and performed in or accompanied several musicals, including "Of Thee I Sing" and "H.M.S. Pinafore," even though he did not take formal voice lessons until the summer of 1988.

"A lot of people know me as a pianist," Brunelle said. "The fact that I'm going to sing with one of the most renowned choirs in the world is kind of funny (considering my work as a pianist) but I'll take it."

Brunelle's chance to sing happened partly by accident. He had never planned on singing with the choir until Stephen Cleobury, director of the King's College Choir, brought the subject up during the summer of 1988.

Brunelle explains the rest: "The choir had come to sing here before, as part of the (Plymouth) Music Series. My father, Philip, asked the director, Stephen Cleobury, about academic possibilities at Cambridge. Stephen asked my father if I was considering applying for the choir. He was thinking that it was time for an American to sing."

In August of that year, Brunelle flew to New York to audition for Cleobury and was accepted for the choir. He realizes that he owes his father some credit for his acceptance.

"This might not have come up if my dad didn't know Stephen Cleobury," Brunelle admits. "But I'd like to think that (Cleobury) knew I must have been a potential candidate."

Cleobury isn't the first director to spot Brunelle's talents.

William Wells, professor of music at Carleton, directed Brunelle for four years in the college's Chamber Singers and in several musicals. Within that time, he probably heard Brunelle sing more than anyone else.

"Chris is a good choral singer and a good sight reader," Wells said. "He was with the group for four years and contributed tremendously, both in his *esprit de corps* and his talent."

Wells saw Brunelle as an unselfish performer, one who was willing to help his fellow musicians—a great attribute for choral singing.

"As a pianist, his greatest skill is as an accompanist," Wells said. "He accompanied probably more student performers than any pianist in recent memory," he said. "The department is indebted to him for that reason. He'll be sorely missed."

While Brunelle may be an accompanist for the King's College Choir, he mostly will be singing English music written within the last four centuries.

The choir practices and sings every day except Monday. At 5 p.m. daily it sings "evensong"—the Anglican Church's evening prayer. The performances in the chapel are free and are as popular with tourists as with the college.

Brunelle is aware that his distinctly American voice will be noticed—at least at first—amid all the British voices. But he's confident that he'll quickly fit in.

"I don't want to stand out as a novelty," Brunelle said. "I want to be part of a 30-member choir and be adding what I can."●

RONALD L. THOMPSON, NATIONAL MINORITY ENTREPRENEUR OF THE YEAR

● Mr. DIXON. Mr. President, I rise today to honor one of my constituents, Mr. Ronald L. Thompson, who was recently named National Minority Entrepreneur of the Year.

In 1980, Mr. Thompson purchased General Railroad Equipment & Services, Inc., in East St. Louis, IL. Since that time the company's sales have grown to over $25 million, and the employment base has increased fivefold from 64 employees to 300.

General Railroad has been recognized many times for the contributions it makes to the communities in which it operates. Mr. Thompson's initiatives include sponsorship of a program which educated minority youth about entrepreneurship, as well as maintenance of an active affirmative action strategy resulting in significant improvements in the number of disadvantaged employees. The company also actively seeks to promote minority suppliers, including professional and service firms. In each of the past 3 years, the company has purchased in excess of $1 million in goods and services from minority vendors.

Mr. President, Ronald Thompson continues to make valuable contributions to our society, and this was recognized by President Bush on August 4, 1989. His work toward improvement in the area of minority opportunity should be an inspiration to us all.

I am proud to honor Ronald L. Thompson today as National Minority Entrepreneur of the Year.●

McDONALD'S TACKLES NEW PLASTIC RECYCLING PROGRAM

● Mr. SIMON. Mr. President, I want to take this opportunity to congratulate McDonald's restaurants for its new recycling program launched recently in New England. I understand there are plans to extend the program to other parts of the country, including the Midwest with a recycling center in Chicago.

Recycling plastics is one answer to the growing problem of more and more garbage and less and less landfill space. Even though polystyrene foam food containers represent less than one-quarter of 1 percent of our solid waste, recycling will help keep these containers out of landfills, roadside ditches, and lakes, oceans, and rivers.

The next big challenge is to educate consumers so they participate in the McDonald's recycling program. Customers at 100 McDonald's restaurants in New England are being asked to place their foam containers, utensils, salad containers, and hot drink and sundae cups in special trash bins marked "for recyclable plastic only." Educated consumers hopefully will apply these new habits to recycle other disposable products.

McDonald's based in Oakbrook, IL, is a good corporate citizen and has taken the lead in raising money to help seriously ill children and their families and many other worthy causes. Many will remember that Ray Kroc started his first McDonald's in Des Plaines, IL. Ray Kroc would be proud of the leadership McDonald's has taken in this venture to help our environment.●

DEFENSE BUDGETING PROCESS

● Mr. WIRTH. Mr. President, the recent Gramm-Rudman-Hollings mandated budget sequestration reminds us that the Federal budget deficit continues to constrain all aspects of discretionary Federal spending, including defense. As we face up to these fiscal constraints in a rapidly changing world, I believe we need to reestablish the essential link between our national strategy and our national resources in this process.

Secretary Cheney should be commended for having begun a process of more realistic budgeting in his amended budget submission for fiscal year 1990 and in his recent direction to the services to base their fiscal year 1991 budget submissions on zero real growth. However, the past four budgets have included real decreases in defense funding; fiscal year 1990 will be the fifth consecutive year of real decline. Our Nation's fiscal problems and the changing world situation will undoubtedly continue or accelerate that trend. No longer can we consider strategic requirements which are removed from the budget realities facing our Nation.

Mr. President, the time for movement on this issue must be soon. Recent congressional action has recognized this fact. Section 1202 of the House-passed version of the National Defense Authorization Act for fiscal year 1990-91 would begin the process of putting these thoughts into action by exploring possible links between congressional decisions and the DOD's 5-year funding levels. As a modest first step, the Congressional Budget Office is directed to conduct an experiment by attempting to project the outyear fiscal impact of changes to the 1990-91 budget request—as reflected in the conference report on the 1990 defense appropriations bill—and to provide the committee with the results of that analysis within a reasonable period of time. In this way, Congress will be able to better understand the implications and possibilities of any formal linkage to be made in the future.

More far-reaching solutions to this problem must be examined closely. Yesterday, in the Wall Street Journal, Mr. Franklin Spinney articulated a strategy to attack the problem I have addressed. One of the key elements of Mr. Spinney's proposal is to mandate contingency budgeting in the DOD. In short, strategic planners would be asked to examine how a wide range of budget funding scenarios would affect the defense program. By striving to maximize strengths and minimize weaknesses within the constraints of each budget scenario, they could identify the least disruptive program cuts as they moved from higher to lower budgets. Such a process would actively reinvolve the DOD in substantive strategic decisionmaking. It would also make explicit the true cost of particular programs by forcing us to make tradeoffs and set priorities that enable us to achieve our realistic objectives.

Mr. Spinney's insightful and persuasive article provides us with a set of proposals which deserves our serious consideration. I commend Mr. Spinney's article to my colleagues and request that it be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Oct. 30, 1989]

TEACH THE PENTAGON TO THINK BEFORE IT SPENDS

(By Franklin Spinney)

Defense intellectuals have complained for years that the Pentagon cannot determine priorities because it has no strategy. Last April, the new defense secretary, Richard Cheney, acknowledged that, "given an ideal world, we'd have a nice, neat, orderly process. We'd do the strategy and then we'd come around and do the budget. This city doesn't work that way." With a five-year defense plan costing more than $1.6 trillion, it's about time we put together a defense strategy that works in Washington.

This won't happen until strategists come down from their ivory tower and learn to work in the real world of limited budgets and uncertain futures. As it is, we identify national goals and the threats to these goals, we shape a strategy to counter these threats, we determine the forces needed to execute the strategy, before finally forging the budgets needed to build and maintain the forces. These procedures consume millions of manhours of labor and produce tons of paper, and each year, their end product—the Five Year Defense Plan—promptly melts away.

The graph on the left shows how this happens. Compare the past eight five-year plans with actual appropriations. The Pentagon's strategists produce budgets that simply cannot be executed because they assume a defense strategy depends only on goals and threats. Strategy, however, is about possibilities, not hopes and dreams. By ignoring costs, U.S. strategists abdicate their responsibility for hard decisions. That puts the real strategic decisions in the hands of others: bean counters, budgeteers, and porkbarrelers. These people have different agendas. And as a result—as the recent vote by the House to undo Mr. Cheney's program terminations suggests—the preservation of jobs is becoming the real goal of defense "strategy."

START IN THE PENTAGON

How can we turn this situation around?

Reform starts in the Pentagon. Strategists should consider the impact of budget uncertainties at the beginning of the planning process. They ought to examine how a range of optimistic to pessimistic budget scenarios would change the defense program. They would then develop priorities by identifying the least painful program cuts as they moved from higher to lower budgets. They would also identify the best way to add programs, should the budget come in at higher levels. This kind of contingency analysis is common in war planning and business planning. There is no reason that it cannot be done for defense planning.

Two steps are necessary to translate this idea into action. Step 1 cleans up our books. Our five-year plan contains three accounting devices—negative money, an above guidance management reserve and optimistic inflation estimates—which understate the spending the Pentagon has committed itself to by almost $100 billion.

Negative money was invented in 1988 to make the 1990-94 Five Year Defense Plan conform to the numbers in President Reagan's final budget submission to Congress. That plan exceeded the numbers contained in his budget message by $45 billion. To make the books balance, as is required by law, somebody invented a new budget line item that simply subtracted $45 billion. It is known in the Pentagon as the "negative wedge."

The Pentagon argues that the negative wedge is the net effect of $22 billion in the as yet unidentified procurement reductions that it intends to find in future years and $23 billion in an "above guidance" management reserve that accounts for undefined programs that will materialize in the future.

The 1990-94 plan also assumes inflation will decline to 1.7% by 1994. Most forecasters, including those in the Congressional Budget Office, assume inflation will be in excess of 4% in each of those five years. At that rate, the defense plan is underfunded by $48 billion.

By adding the negative wedge and recalculating the remaining program using a more probable inflation estimate, we arrive at a baseline program costing $1.7 trillion between 1990 and 1994.

Step 2 examines how four progressively lower budget scenarios would change the baseline and how these changes would affect our national security. The graph on the right (which assumes a 4% rate of inflation), places these scenarios in the context of recent appropriations. Note how the baseline program assumes a sharp increase in future appropriations. Step 2 will answer the question: What happens if these increases do not materialize?

Scenario 1, known as the "Constant Dollar Freeze," reimburses the Pentagon for inflation only—it slopes upward at 4% per year. This scenario has been the rough position of the U.S. Senate since 1985, and it reduces the baseline by $106 billion between 1990 and 1994.

Scenario 3, the "Current Dollar Freeze," has been the approximate position of the House of Representatives for about four years. It freezes the budget at its current level, and forces the Pentagon to eat the effects of inflation until 1994. This reduces the baseline by $229 billion.

Scenario 2 extends the recent compromises between the House and the Senate; it splits the difference between Scenarios 1 and 3, by increasing the budget at 2% per year. It reduces the baseline by $169 billion.

Finally, Scenario 4 reduces the budget by 2% per year for the next five years—a total reduction of $287 billion. This can be thought of as a pessimistic prediction, perhaps driven by the sequestering effects of the Gramm-Rudman deficit reduction law or possibly a relaxation of tensions with the Soviet Union.

The strategic planners in the Joint Chiefs of Staff would construct the most effective defense program for each scenario, maximizing strengths and minimizing weaknesses. They would conclude their efforts by producing a comprehensive net assessment for each plan—including the assumptions made, an analysis of its deficiencies and limitations, the impact on national security, and the best strategy for working around these limitations.

This exercise would reveal the true cost of a particular program by forcing the strate-

gists to make hard decisions. If, for example, they chose to keep the B-2 Stealth bomber, they would have to sacrifice more and more other programs—such as carrier battlegroups or army divisions—as they moved toward lower budget levels. These tradeoffs would evolve priorities by revealing when the cost of the B-2 became prohibitive.

Some may be tempted to argue that the idea of a strategic review merely resurrects the infamous Zero-Based Budgeting (ZBB) concept of the Carter administration. But ZBB did not involve the strategic planners in the Joint Chiefs of Staff, and therefore degenerated into a bean-counting drill driven by budget politics. Anyway, ZBB's procedures were so cumbersome that everyone involved was crushed under a burden of marginalia. A strategic review is fundamentally different. It would be run by the joint chiefs under simple directions: Produce the best possible force for each budget scenario and provide the Secretary of Defense with a comprehensive net assessment of how that force could be used to achieve U.S. goals.

GAMING AND MISTRUST

It might be feared that even thinking about lower budgets will hurt national security because the door will be opened to opportunistic budget cutting by an irresponsible Congress. This argument plays well in the atmosphere of gaming and mistrust permeating the Pentagon and Congress, and unfortunately, there is some truth to it. But in the end, it must be rejected for logical as well as moral reasons. To say that the Pentagon should act irresponsibly because acting responsibly will provoke Congress into acting irresponsibly leads to the conclusion that the Pentagon should deliberately exaggerate its needs in the national interest; in other words, that it is justified in committing a crime—lying to Congress—because it is morally superior.

Strategy is not a game between the Pentagon and Congress; it is the art of the possible in a world where constraints force us to choose between unpleasant or imperfect alternatives. If we want meaningful priorities, we must understand the tradeoffs they imply before we make commitments. Strategy is not a separate event in an idealized sequence of discrete events; it is a way of thinking that neutralizes threats to our interests in a manner consistent with our financial, cultural and physical limitations.●

THIRTY YEARS OF COMMITMENT

● Mr. SIMON. Mr. President, the spiritual leader of the more than 2 million Greek Orthodox faithful of North and South America, His Eminence Archbishop Iakovos, celebrated the 30th anniversary of his enthronement on April 1, 1989. In honor of that occasion, the United Hellenic American Congress will be honoring Archbishop Iakovos at their annual dinner on November 11, 1989, in Chicago. I would like to recognize the great work of His Eminence and congratulate him on his success on behalf of human and civil rights.

The archbishop has been honored by more than 35 universities, by several nations, and by church and world leaders. He also received the Nation's highest civilian award, the Presidential Medal of Freedom, in 1980. It is fitting that Archbishop Iakovos be honored by the United Hellenic American Congress. I congratulate His Eminence, and wish him many more years of continued good works.●

PROBLEMS WITH U.S. STATISTICS

● Mr. BINGAMAN. Mr. President, in the past few months, we have seen a number of reports about the quality of U.S. statistics. Yesterday, on the front page of the New York Times, a story of Jonathan Fuerbringer entitled "Accuracy in Short Supply in Flood of U.S. Statistics," clearly summarizes the problems with the Federal statistical system.

As the article points out, economic statistics have become uncertain indicators of the state of the economy. The result is an uncertainty in policymaking and an increased risk of poor policies. As the article states, "it will not be long, some say, before the Government will be trying to set economic policy with a statistical compass so inaccurate that it cannot find north." A recent poll of members of the National Association of Business Economists showed that 72 percent were unhappy with the quality of government economic statistics and 38 percent thought the problems were getting worse.

Earlier this month, I introduced legislation to attack this problem. The Federal Information Resources Management Act, S. 1742, reauthorizes the Paperwork Reduction Act and the Office of Information and Regulatory Affairs in the Office of Management and Budget [OIRA]. As signed into law in 1980, the Paperwork Reduction Act gave OIRA the responsibility for Federal statistical policy, among other functions. However, as Mr. Fuerbringer's report and a study by the Office of Technology Assessment, "Statistical Needs for a Changing U.S. Economy," point out, the statistical system has suffered in the past from a lack of funding and from a lack of leadership and coordination.

The Federal Information Resource Management Act takes a number of steps to improve the quality of Federal information, especially statistical information. Specifically, the bill increases the responsibility of the OIRA Administrator in the area of statistical policy in order to strengthen the leadership and coordination of our decentralized statistical system. Specifically, there is a new overall leadership role, a new international coordination role, and an emphasis on dissemination of statistics to the public.

Just as important, the bill strengthens the information infrastructure and statistical database of the Federal Government, including improving agency capabilities and public access to government information. One of the best ways to ensure quality statistics is to have sound management of information collection, archiving, dissemination, protection of security and privacy, and more. In an era of rapid technological advances more needs to be done by OMB to coordinate Government information policy.

The bill also establishes a Commission on Federal Information to look at the broad question of the health of the Federal information (including statistical) system. The functions of the Commission are to look at the contribution of information to economic and social welfare and to competitiveness, to identify long term information needs, to identify gaps and other problems in the current system especially with respect to quality, timeliness and relevancy, to set priorities for information in light of changes in the economy and society, and to look at how better to organize the information system for better coordination and to ensure that the system is capable of keeping up with changes in the economy and society. In part, these functions represent an update of the 1970 President's Commission on Federal Statistics.

Mr. President, we face a serious problem with our economic statistics. And it is a problem that is only going to get worse if we continue to ignore it. Provisions in the Federal Information Resources Management Act begin to deal with this problem. I urge my colleagues' support for this legislation.

I ask that Mr. Fuerbringer's article be included in the RECORD.

The article follows:

[From the New York Times, Oct. 30, 1989]

ACCURACY IN SHORT SUPPLY IN FLOOD OF U.S. STATISTICS

(By Jonathan Fuerbringer)

The Government's system of gathering economic statistics, much like the nation's highway network, is badly in disrepair.

Statisticians and economists, both in and out of government, say that a combination of budget cuts and deregulation—much of it a legacy of the Reagan era—is eroding important yardsticks and undermining policy makers striving to guide the economy.

Furthermore, despite an effort by the Bush Administration to reverse the trend, statistical agencies face more spending restraint this year. This could compound the damage, hurting some well-known reports, including the index of leading economic indicators, and reducing the frequency of data collection of eliminating some data altogether. Efforts to improve other gauges that professionals consider imprecise—notably those for retail sales and foreign trade—will also have to be set aside, officials said.

EVERYONE IS AFFECTED

And lest anyone think this is a dusty debate for economists and bureaucrats, the truth is that these numbers affect the lives of all Americans. Social Security payments and some wages are tied to the official inflation rate, and the Government uses statistics to help evaluate welfare and other social programs. On a broader scale, bad

numbers can mean bad policy and a recession instead of a recovery.

What is more, the financial markets increasingly jump up or down, making or losing millions for investors, with each new economic report—and with the revisions that follow.

For example, measured growth for the second quarter went from 1.7 percent in July, to 2.7 percent a month later, to a second revision of 2.5 percent in September, undermining confidence in the numbers and leading to wide confusion about the economy's direction. The 2.5 percent growth, after adjustment for inflation, reported last week for the third quarter could be subject to the same kind of revisions.

No one doubts that data gatherers face a difficult task: tracking precisely the nation's growing, shifting economy. But critics say they could do better.

A LAG IN TECHNIQUE

Critics see two problems: Current statistics, they say, are deteriorating because staffs and data collection have been cut and sampling techniques have not kept up with the economy.

They also maintain that budget cuts have forced statistics agencies to skimp on research needed to make data reflect broader changes in the way the economy functions. Economists are debating whether important statistics like productivity, savings and the G.N.P. really measure what is going on in the economy.

It will not be long, some say, before the Government will be trying to set economic policy with a statistical compass so inaccurate that it cannot find north.

In a poll taken at a recent meeting of the National Association of Business Economists, Walter J. Williams, president of American Business Econometrics Inc., said he found that 72 percent of his colleagues were unhappy with data quality, up from 61 percent in 1988. A rising number, 38 percent, said data quality was deteriorating. The figures on merchandise trade, retail sales and G.N.P. were rated the worst.

Jerry L. Jordan, a member of President Reagan's Council of Economic Advisers, said he shrugs when he sees many of the closely watched statistics spewed out monthly.

"I take the numbers with a big grain of salt," he said. "There are enormous problems."

Lyle Gramley, a former governor of the Federal Reserve Board, withholds judgment on monthly numbers "subtly and unconsciously" because of his concern about their quality.

"The worry," he added, "would be that at a critical juncture the statistics would suggest a course of policy that we would come later to regret."

Much of the erosion is a result of Reagan-era policies, including deregulation and a general de-emphasis of the data's importance. Budgets have also been held constant, at best, after adjustment for inflation.

Staffs have been cut in the Bureau of the Census, the Bureau of Economic Affairs, the Bureau of Labor Statistics and other agencies. At the Bureau of Economic Affairs, for example, the staff has been reduced from 453 in 1979 to 371 this year.

The number of mathematicians at these agencies has been held constant, and there are fewer statisticians. The size of critical surveys, like the Current Population Survey, which is a base for employment reports, has been reduced. Key revisions in the calculation of other data, like the Consumer Price Index, have been delayed for several years.

In addition, research money needed to improve the data has been diverted just to ensure adequate staffing and surveys for the core reports, like the G.N.P. and the Producer Price Index.

Changes begun before the Reagan era but continued under President Bush have also hurt. Deregulation of some industries, like airlines, and a cut in required paperwork for business reduced the amount and variety of data collected. Because of a changing attitude about government and the restraint on pay, there has also been a general decline in the quality of the people attracted to the statistical agencies.

In the budget process this year, the Bush Administration has lost its effort to make improvements. The $20 million extra the Administration asked for to increase quality has been rejected in Congress.

This loss will mean the setting aside of plans for the revision of the Current Population Survey used for employment data, and improvements in figures for manufacturers' orders, retail sales and trade.

"We're looking for core program cuts at the Bureau of Economic Affairs and for options for cutting the frequency with which we gather data or even eliminating some data," said Michael R. Darby, the Under Secretary of Commerce for economic affairs, who oversees two agencies.

Paying for the $3.18 billion anti-drug and anti-crime bill now in Congress will require an additional 0.43 percent cut in military and domestic programs, including statistics.

And the across-the-board cuts under the budget-balancing law will force even more damaging restraint if they are not revoked. This will depend on Congress and the White House agreeing on their own deficit reduction package.

Michael J. Boskin, chairman of the Council of Economic Advisers, will release a review of the economic statistics system soon. He said improvements could be achieved without major new financing but acknowledged that the budget restraint hurts.

Mr. Boskin would not say directly that the quality of Government statistics had declined, but he agreed that "improvements need to be made to give the same degree of accuracy in the more complex economy of today that we had in a much less complex economy years ago."

The problem has been dramatized recently by sharp revisions in the reports for retail sales, non-farm employment and G.N.P.

Revisions, in themselves, are not bad; they are part of the system. Initial reports based on preliminary information are revised in later months as more data are gathered.

DEPENDABILITY QUESTIONED

Many professionals may well put too much weight on the monthly figures, although they are clearly warned that they will be revised. But recent wide swings call into question the dependability of the reports.

In retail sales, initial reports this summer gave some the picture of an economy slowing sharply, even heading for a recession. But later revisions showed a much stronger economy. The main reason for the G.N.P. change was the record revision in the retail figures for May, which went from an increase of one-tenth of 1 percent to a decline of one-tenth of 1 percent, and then to an increase of eight-tenths of 1 percent.

Mr. Darby of the Commerce Department said retail sales figures were based on a sample that was steadily shrinking in comparison with the number of retail establishments, helping cause sharp revisions.

As the initial figures were released, the Federal Reserve began to ease interest rates. But after the revisions changed the view of the economy, the decline was halted. "Would policy makers have decided policy differently?" Mr. Darby asked. "I don't know but they could have." (The Fed has eased rates since the stock market drop of 190 points on Oct. 13.)

IS PROBLEM WORSENING?

Beyond revisions, the deep-seated problem is that the quality of the data could well be getting worse. The G.N.P., for example, is slowly losing its relevance. It is better designed to measure the output of goods and services in the 1950's, when manufacturing was king. The service sector—areas like banking, retailing, insurance and legal services—now makes up 75 percent of output. But much of the service economy is small, and new businesses are often missed. And many businesses that used to provide data voluntarily have stopped as a way to reduce costs.

One problem with the G.N.P., as noted in a recent report by the Office of Technology Assessment, is in measuring price changes and quality improvements, especially of computers and other high-technology products. The measures affect the calculation of input and therefore change the total measured output.

Mr. Darby said that for the current G.N.P. report just using computer prices for 1988, instead of the 1982 prices now used, would lower this year's first-half growth by half a percentage point.

"It is easy to conclude that the quality has slipped as the service sector has grown," said Ben E. Laden, a Washington consultant who worked on a report on statistics by the National Association of Business Economists. "But whether the G.N.P. growth is higher or lower one really doesn't know. But I would think that we underestimate the economic activity over time."

Problems plague other data, too. Productivity, which is crucial to future standard of living, and savings, which is important for investment, are both poorly measured, economists say.

Despite the advent of computers, automatic teller machines and other changes in the last decade, there has been no measured increase in productivity in financial services. There are no measures for the value of a college education or the training paid for by an employer, both of which should affect productivity and, therefore, the measure of workers' output.

Data considered less troubled, like unemployment, could also be affected just by the change in living situations. The growth of two-income families and other extended unrelated groupings could make gathering accurate data more difficult.

Janet L. Norwood, the commissioner of the Bureau of Labor Statistics, said the Consumer Price Index needs, but does not have, an adequate measure of medical costs, which now make up 12 percent of the G.N.P.

"We have to have the resources to keep up with the changes," she said. "Because these are tight times we don't. And that's what is scary."●

BUDGET HONESTY

● Mr. RIEGLE. Mr. President, I recommend to serious readers of the RECORD the following important editorial from U.S. News & World Report on the Federal budget issue. I ask that the article be printed in the RECORD.

The article follows:

[From the U.S. News & World Report, Oct. 9, 1989]

DEJA VOODOO ALL OVER AGAIN

(By Mortimer B. Zuckerman)

You can fool all of the people all of the time. That is clearly what they believe in Washington. They got away with fiscal deceit in the last administration and now they are cynically casual about it. How could a conservative President like Ronald Reagan triple the national debt and transform America from the world's largest creditor nation to the largest debtor? When this magazine asked him, he said, "Don't believe the statistics. The answer was right, but not in the way Reagan meant. The statistics were wrong not because they overstated the debt but because they understated it; not because some bureaucrat was manipulating figures to embarrass the administration but because the administration was manipulating them to mislead the public.

The current director of the Office of Management and Budget is Richard Darman. He as a lot of skill with figures and no apparent scruples when it comes to playing with them—a lethal combination. His office is charged with forecasting federal deficits to the best of its professional abilities, and it is on the forecasts that the Gramm-Rudman law is activated to ensure that we get progressively reduced deficits. Under Darman, these forecasts are political, not professional. The figures are twisted to produce the smallest possible deficit forecast, thus escaping activation of Gramm-Rudman. Assumptions of growth and interest rates bear no relation to reality. Predictions on the rate at which appropriations will be spent are adjusted at will. Government pay dates that fall at the end of the fiscal year are shunted back and forth so that they fall in whatever fiscal year suits Darman's willing suspension of Gramm-Rudman reality. Expenses such as the savings and loan bailout are put "off budget," even though their funding comes from the federal treasury. More than $100 billion a year is being expropriated from surplus trust funds intended for other purposes.

The trickery does not end there. Even so, the financial finagling shows up in the actual deficits. Over the past three years the target has been overshot by an average of no less than $25 billion. Expect much the same in 1990. When you read the President's lips, what he has been saying through his budget director is the U.S. budget will remain a fraud, but a kinder, gentler fraud.

Does it matter? It is an outrage. Whether you are a Democrat or a Republican, a conservative or a liberal, you must find it shocking that more money will be spent on interest on the deficit than on the environment, health, or any of the other pressing needs. Since 1980, interest costs have increased over $100 billion, to $180 billion. If you add interest the government owes for borrowing from the trust funds, the real interest figure for 1990 is about $265 billion, and in two years will climb to about $300 billion—roughly what America now spends on defense. Interest buys nothing but the right to continue the borrowing game.

How can anyone, least of all self-proclaimed fiscal conservatives, tolerate such a travesty? Tolerate? They revel in it. We now have a proposed cut in the tax on capital gains that may bring a short-term revenue gain, $3.3 billion in 1990, as people rush to sell assets, but which the Joint Committee on Taxation says will add $24.4 billion to the deficit over five years. If the argument is that we need lower taxes to stimulate growth, how is it that we are still growing more slowly and investing less than the prosperous nations of Western Europe and Japan even though we average a combined U.S. federal, state and local tax rate of 28 percent and they average 40 percent? The real reason we fall behind is that the deficit uses up savings and forces up the cost of capital. This deters investment and curbs growth and productivity gains. Reducing the deficit is not a matter of arcane bookkeeping. It would free up capital, lower interest rates and stimulate an investment boom.

Bush administration officials put forth new ideas for schools, for drugs, for space exploration, for the environment. Then, in the small print, you find they do not have the money. Being a successful President means more than being kind and gentle, more than reaching out to people in both parties. Popularity must have a purpose. The question now is: George Bush may be a good guy, but has he the guts and vision to build a better nation? Or is he just a talker?●

REMOVAL OF INJUNCTION OF SECRECY

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Tax Convention with the Republic of India, treaty document number 101-5, transmitted to the Senate today by the President.

I also ask that the treaty be considered as having been read the first time, that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention between the Government of the United States of America and the Government of the Republic of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol, signed at New Delhi on September 12, 1989. I also transmit the report of the Department of State on the convention.

The convention would be the first tax treaty between the United States and India. It includes special provisions that take into account India's status as a developing nation and that reflect changes in U.S. tax treaty policy resulting from the Tax Reform Act of 1986.

Of particular importance are the provisions limiting the withholding tax rates on various categories of investment income, as well as those designed to prevent third-country residents from taking unwarranted advantage of the convention by routing income from one Contracting State through an entity created in the other. The convention also provides for the exchange of information by the competent authorities of the Contracting States.

I recommend the Senate give early and favorable consideration to the convention, together with a related protocol, and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *October 31, 1989.*

COMMENDING THE COURAGE OF WALTER SUSKIND

Mr. MITCHELL. Mr. President, on behalf of Senator KERRY, I send a resolution to the desk commending the courage of Walter Suskind, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The bill clerk read as follows:

A resolution (S. Res. 201) to commend the courage and heroism of Walter Suskind, an unrecognized hero of World War II.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. KERRY. Mr. President, I rise today to submit a resolution which, in commending Walter Suskind posthumously for his extraordinary heroism and humanitarianism during World War II in Holland, will formally recognize his outstanding contribution to all of us who value our freedoms.

The secret nature of Walter Suskind's efforts to save hundreds of his fellow Dutch citizens from being sent to concentration camps has kept from him the grateful acknowledgment he so greatly deserved. After the war, the example set by Walter Suskind went largely unrecognized, and it is believed he died shortly after being liberated from Auschwitz. Few people outside of Holland have heard of this heroic man's success in saving the lives of almost 1,200 children and their parents.

In 1942, Walter Suskind, himself a recent Jewish immigrant to Holland, was appointed by Amsterdam's Jewish Council to assist the German SS in processing Dutch Jews through the Dutch Theater, a makeshift deportation center. Working from this unenviable position, Suskind and his associates Felix Halverstad and Dr. Bert de

Vries Robles maintained contact with several resistance movement organizations and worked to oppose the Nazi occupation force in its efforts to deport the persons held at the Dutch Theater. Suskind and his associates designed a clever system to conceal their efforts to free the deportees and their children held in the day nursery across the street.

Besides risking his life in defying the Nazi SS each day, Walter Suskind subjected himself to the hatred of his fellow Dutchmen in Amsterdam, who were unaware of his secret rescue activities. To most of these people, Suskind appeared to be a collaborator who used his polished manners and excellent command of German to fraternize with the SS. In spite of the animosity of his fellow citizens, and the inherent dangers of his manipulation of the Nazis' deportation system, Walter Suskind continued his brave resistance activities until 1945, when he was sent to Auschwitz along with his wife, mother, mother-in-law, and his young daughter.

Walter Suskind was able to save almost 1,200 children and their parents. This type of heroism, in the face of unfathomable evil, represents a selflessness which all free peoples should recognize and honor. It is these heroes who stand up and often die for the freedom which many take for granted.

In recognition of the great humanitarian Walter Suskind, many special guests from the Netherlands and from this country will come together on November 4, 1989, at the Wang Center for the Performing Arts in Boston to pay tribute to his memory. One very special guest who will be present is the mayor of Amsterdam, who as a child, was rescued by Walter Suskind from deportation and certain death at the hands of the Nazi SS.

I believe it is fitting that we in the U.S. Senate recognize and honor Walter Suskind for the bravery he exhibited and the sacrifice he made. From this day forward, the example set by his compassion, courage, and defiance will be remembered and honored.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 201) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 201

Whereas during the occupation of the Netherlands by German Nazi forces in World War II, Walter Suskind saved hundreds of lives, especially the lives of children;

Whereas Walter Suskind continually lived with the risk of the loss of his life as he saved the lives of others in De Hollandse Schouwburg, The Dutch Theater, which was used as a holding station by the Nazi forces for persons waiting to be deported;

Whereas with a great amount of courage, Walter Suskind worked in secrecy and disguised his efforts to save others;

Whereas Walter Suskind used charm and fluency in the German language to gain access to and destroy important files of the German SS Troops and rescue hundreds of families awaiting deportation to concentration camps;

Whereas wrongly, Walter Suskind was believed to be collaborating with the Germans because of associations that he maintained in conducting such secret activities;

Whereas along with other individuals, Walter Suskind saved the lives of 1,200 children, and there is no greater gift to humanity than to save and protect children;

Whereas ultimately, Walter Suskind was sent to the Nazi concentration camp in Auschwitz, where he perished along with his wife and young daughter;

Whereas Dr. and Mrs. Maurice Vanderpol, two former citizens of the Netherlands, who have been Americans for 40 years, have had the dream of sharing the memory of Walter Suskind and his great charm, wit, humor, and courage; and

Whereas on November 4, 1989, many special guests from the Netherlands and from this Nation will come together in Boston at the Wang Center for the Performing Arts to pay tribute to Walter Suskind: Now, therefore, be it

Resolved, That the Senate of the United States recognizes the courage and exemplary heroism of Walter Suskind in saving hundreds of lives, especially the lives of children, during the German occupation of the Netherlands in World War II and commends Walter Suskind posthumously for such acts of humanitarianism and heroism.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LOCATION OF THE WOMEN'S VIETNAM VETERANS MEMORIAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 312, Senate Joint Resolution 207, a joint resolution approving the location of the Women's Vietnam Veterans Memorial.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A joint resolution (S.J. Res. 207) approving the location of the memorial to the women who served in Vietnam.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 207

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal Lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (100 Stat. 3650, 3651), provides that the location of a commemorative work in the area described therein as area I shall be deemed disapproved unless, not later than one hundred and fifty days after the Secretary of the Interior or the Administrator of General Services notifies the Congress of his determination that the commemorative work should be located in area I, the location is approved by law;

Whereas the Act approved November 15, 1988 (102 Stat. 3922), authorizes the Vietnam Women's Memorial Project, Incorporated, to establish a memorial on Federal land in the District of Columbia or its environs to honor women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era;

Whereas section 3 of the said Act of November 15, 1988, states the sense of the Congress that it would be most fitting and appropriate to place the memorial within the two and two-tenths acre site of the Vietnam Veterans Memorial in the District of Columbia which is within area I; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial authorized by the said Act of November 15, 1988, should be located in area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of a commemorative work to honor women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era, authorized by the Act approved November 15, 1988 (102 Stat. 3922), in the area described in the Act approved November 14, 1986 (100 Stat. 3650), as area I, is hereby approved.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE HELD AT THE DESK—S. 1816

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1816 be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, does the distinguished Republican leader have any further business?

Mr. DOLE. Could I just take a moment?

I would indicate to the majority leader I have just handed the majority leader a slight modification of the proposal he handed to me earlier today. He has indicated very properly he needs time to look at it. We hope to discuss it again tomorrow, because I have told the majority leader and my colleagues, we need to expedite the business of the Senate. That is our intent.

If we can find some way to do that, certainly we want to be helpful.

Secondly, I wish to commend the President, the Secretary of Labor, members of both parties who have been working for some time to compromise the matter on minimum wage. That was agreed to today. The announcement has been made. I hope we can dispose of that matter very quickly on a totally bipartisan basis in the House and the Senate.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A COMPROMISE ON MINIMUM WAGE

Mr. MITCHELL. Mr. President, I applaud the announcement today of an agreement that has been reached in principle with the White House concerning an increase in minimum wage. A short time ago I joined with Speaker FOLEY, Senator KENNEDY, and other Members of the Senate and House Democratic leadership to announce the outline of the compromise. It provides for an increase of the Federal minimum wage to $4.25 over 2 years. It also provides for a training wage for teenagers. That will apply for 90 days and for an additional 90-day period if an employer provides a formal certified training program. I appreciate the President's decision to compromise on this very important issue.

Mr. President, it should be understood that both sides have compromised.

The original bill enacted by majorities of both the House and Senate provided for an increase in the minimum wage to $4.55 an hour over 3 years. The President said that he would agree only to an increase to $4.25 over 3 years. The compromise provides an increase to $4.25 but over 2 years. In fact, since it will take full effect on April 1, 1991, it takes effect 17 months from now. So this is a compromise. We have accepted a lesser amount than what we wanted. The President has accepted a shorter period of time than what he wanted.

It is a compromise that is a victory for America's working men and women, those at the bottom of the economic scale who need a boost and who need it as soon as possible.

Mr. President, approximately 65 percent of workers earning the minimum wage are 20 years old or older. Women comprise 70 percent of the minimum wage work force. That is why the limitation of the training wage to those who are teenagers is an important concession that the President has made and for which we are grateful. But these workers, especially those, that is, who are 20 years old or older and for the women who comprise 70 percent of the work force, this compromise is a victory, saving them from the indefinite frustration of wage levels far below the national average.

The minimum wage has been a top priority since the beginning of this conference. The compromise does not increase the wage as high as we might have hoped. It is less than what I believe necessary and appropriate, but it is still a clear improvement. It is a step forward that will benefit those Americans who struggle on the margin of our national prosperity.

I extend my thanks to Senator KENNEDY, the chairman of the Senate Labor Committee, and all the others who have been involved in negotiations leading to this compromise ever since the President's veto earlier this year.

I understand that Senator DOMENICI on the Republican side played a key role in these negotiations, and all Senators are grateful to him.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.—MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow, Wednesday, November 1, and that following the time for the two leaders, there be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, at 10:30 the Senate will resume consideration of the conference report on the State-Justice-Commerce appropriations bill.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 10 a.m. tomorrow, Wednesday, November 1.

There being no objection, the Senate, at 6:51 p.m., recessed until Wednesday, November 1, 1989, at 10 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate October 30, 1989, under authority of the order of the Senate of January 3, 1989:

THE JUDICIARY

CLARENCE THOMAS, OF VIRGINIA, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT VICE ROBERT H. BORK, RESIGNED.

EDWARD J. LODGE, OF IDAHO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF IDAHO VICE MARION J. CALLISTER, RETIRED.

DEPARTMENT OF STATE

EDMUND DEJARNETTE, JR., OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED REPUBLIC OF TANZANIA.

INTERNATIONAL ATOMIC ENERGY AGENCY

MICHAEL H. NEWLIN, OF MARYLAND, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 33D SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

INTER-AMERICAN DEVELOPMENT BANK

LARRY K. MELLINGER, OF CALIFORNIA, TO BE U.S. EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF 3 YEARS, VICE JOSE MANUEL CASANOVA, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM OCTOBER 22, 1988, TO JANUARY 3, 1989.

ALBERT W. ANGULO, OF TEXAS, TO BE U.S. ALTERNATE EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK, VICE LARRY K. MELLINGER, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE U.S. INFORMATION AGENCY FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

CHARLES E. COURTNEY, OF CALIFORNIA
STANLEY A. ZUCKERMAN, OF TEXAS

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

PHILIP C. BROWN, OF MARYLAND
ROBERT LEE EARLE, OF PENNSYLVANIA
J. DANIEL HOWARD, OF TENNESSEE
WILLIAM LUDWIG JACOBSEN, JR., OF WASHINGTON
IVAN T. KLECKA, OF MARYLAND
FRANK W. SCOTTON, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE U.S. INFORMATION AGENCY FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

ALEXANDER ALMASOV, OF CONNECTICUT
CHARLES MILLER CROUCH, OF CONNECTICUT
JAMES T. L. DANDRIDGE II, OF ALABAMA
PETER CHARLES DESHAZO, OF FLORIDA
DAVID P. GOOD, OF NEW YORK
PHILIP C. HARLEY, OF NORTH CAROLINA
MORRIS E. JACOBS, OF FLORIDA
TERRENCE H. KNEEBONE, OF UTAH
JEFFREY H. LITE, OF ILLINOIS
KARL FREDRICK OLSSON, OF MARYLAND
DAVID P. WAGNER, OF FLORIDA
NYOKA WHITE, OF VIRGINIA

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HERBERT R. TEMPLE, JR., [redacted] U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER.)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. DAVID C. BROWN, [redacted] 7/9/89
MAJ. JERRY R. CABLE, [redacted] 6/22/89
MAJ. JOHN T. CARLSON, [redacted] 7/15/89

MAJ. BENNIE G. COX, xxx-xx-xxxx 6/9/89
MAJ. JOHN P. FLOR, xxx-xx-xxxx 6/24/89
MAJ. NORMAN G. FRANK, xxx-xx-xxxx 5/23/89
MAJ. JOHN W. GOODALE, xxx-xx-xxxx 5/20/89
MAJ. WILLIAM P. HICKEY, JR., xxx-xx-xxxx 7/17/89
MAJ. PHILIP C. KOCH, xxx-xx-xxxx 6/3/89
MAJ. LONNIE J. LEE, xxx-xx-xxxx 7/8/89
MAJ. JOHN V. LYCZKOWSKI, xxx-xx-xxxx 8/7/89
MAJ. LAWRENCE J. MASTNY, xxx-xx-xxxx 5/21/89
MAJ. RODNEY A. MATHISEN, xxx-xx-xxxx, 7/8/89
MAJ. FRANKLIN J. MCVEIGH, JR., xxx-xx-xxxx 7/19/89
MAJ. JEFFREY A. METUIS, xxx-xx-xxxx 8/7/89
MAJ. JOHN C. MOSBEY, xxx-xx-xxxx 8/7/89
MAJ. RALPH L. MOSER, xxx-xx-xxxx 7/11/89
MAJ. RONALD J. RIEDEL, xxx-xx-xxxx 7/8/89
MAJ. LARRY L. ROWE, xxx-xx-xxxx 6/23/89
MAJ. JOHN K. SCOTT, xxx-xx-xxxx 7/15/89
MAJ. MICHAEL F. SEYMOUR, xxx-xx-xxxx 7/8/89
MAJ. DANNY, R. SMITH, xxx-xx-xxxx 5/6/89
MAJ. LEE V. STUBSTEN, xxx-xx-xxxx 7/8/89
MAJ. JUDY L. TROYER, xxx-xx-xxxx 8/7/89
MAJ. DAVID A. WEST, xxx-xx-xxxx 7/15/89
MAJ. LARRY V. ZETTWOCH, 407-62-7095, 7/8/89

CHAPLAIN CORPS

MAJ. GEORGE C. ALLEN II, xxx-xx-xxxx 7/24/89

LEGAL CORPS

MAJ. JOHN E. ANDERSON, xxx-xx-xxxx, 7/15/89
MAJ. ANTHONY CEFALOGLI, xxx-xx-xxxx 7/9/89

BIOMEDICAL SERVICES CORPS

MAJ. JAMES B. CORNELIUS IV, xxx-xx-xxxx 7/15/89

WITHDRAWAL

Executive message received October 30, 1989, withdrawing from further Senate consideration the following nomination:

INTER-AMERICAN DEVELOPMENT BANK

Larry K. Mellinger, of California, to be U.S. Executive Director of the Inter-American Development Bank for a term of 3 years, Vice Jose Manuel Casanova, resigned, which was sent to the Senate on January 3, 1989.

EXTENSIONS OF REMARKS

CONFLICT IN CAMBODIA

HON. BOB McEWEN
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. McEWEN. Mr. Speaker, I rise today to discuss the conflict in Cambodia, which in the wake of the withdrawal of Vietnamese troops, presents the free world with a foreign policy dilemma. The Vietnamese occupation forces had been engaged in a guerrilla war for years with a coalition of Cambodian factions, which included forces supplied in part by the United States. Unfortunately, the Khmer Rouge, one of the most detestable and genocidal regimes the world has every known, provided a significant portion of the military impetus to the Vietnamese withdrawal. Allowing the Khmer Rouge to take part in the post-Vietnamese Government of Cambodia is a mistake that the world cannot afford to make. This betrayal of the memories of the 2 million Cambodians murdered by the cold-blooded followers of Pol Pot must be avoided.

The following articles, the first which was printed in the Los Angeles Times of October 23, 1989, and the second from the Federation of American Scientists, shed light on the proper course of American policy in post-Vietnamese Cambodia:

[From the Los Angeles Times, Oct. 23, 1989]

THAILAND CAN BECOME THE KEY TO RESTRAINING KHMER ROUGE

(By William E. Colby and Jeremy J. Stone)

In the wake of the Vietnamese withdrawal from Cambodia, civil war is moving from simmer to boil between the genocidal Khmer Rouge, still led by Pol Pot, and the government of Hun Sen, who has administered the country for 10 years.

But all that the outside powers can bring themselves to say is that the "best solution" would be negotiation and power-sharing. Especially after the failure of the Paris negotiations, this is a wholly irrelevant observation, akin to asking Mikhail S. Gorbachev to negotiate with Josef Stalin over the future of Russia and to work with him for free elections.

These two groups of Cambodians hate each other. From the point of view of Hun Sen and his colleagues, the Pol Pot-ists behaved like monsters while, from the point of view of Pol Pot, the Hun Sen group is a traitor to his movement.

There is proof that these former Khmer Rouge of Hun Sen do have a different ideology. No visitor to Cambodia today can mistake the present government of Hun Sen for the concentration-camp government of Pol Pot. It may be a one-party state, as are many others we deal with, but it is a normal government with money, music, religion, time off for relaxation, family life, and, indeed, a considerable amount of free enterprise. None of this could be said about Pol Pot's government.

While the Hun Sen government was certainly established by the Vietnamese, the Cambodian population is clearly more concerned over the reappearance of the Khmer Rouge. And the willingness of Hun Sen to arm a popular militia is evidence of his confidence in the population's attitude.

There is no other choice, today, except that between Hun Sen and Pol Pot. The two other aspirants, represented by Prince Sihanouk and Son Sann, are by all estimates too weak to determine the outcome, much less to prevail. At most, they can provide legitimacy to whoever wins.

In this regard, history may be repeating itself. Just as Prince Sihanouk is fronting for the Khmer Rouge today, as leader of their so-called Coalition Government of Democratic Kampuchea, so also was he their putative leader from 1970 to 1975.

Many young Khmer joined the Khmer Rouge in 1970 precisely because their prince, Sihanouk, issued a call for them to join with the Khmer Rouge to overthrow Lon Nol, with a view to putting Sihanouk back in power. Among these patriotic young Khmer who rallied to the prince's call was an 18 year-old schoolboy named Hun Sen. According to credible reports, he defected from the Khmer Rouge seven years later to avoid an order from Pol Pot to destroy a Vietnamese village. Sihanouk's and Son Sann's factions are also filled with former Khmer Rouge who defected in either fear or revulsion.

What can be done? The key may lie with the Thais. Not long ago, Hun Sen's defense minister said, "If the Thais gradually reduce their support to the Khmer Rouge, we can prevail easily. If they continue the support, it will be difficult for us though we still think we can win."

This is a plausible assessment. It is no secret that the Thais have, for the last 10 years, helped the Khmer Rouge. They have provided them with sanctuaries on Thai territory, funneled weapons supplied by China, given the Khmer Rouge information and advice and permitted them to maintain unsupervised refugee camps.

In sum, in the Thai effort to persuade the Vietnamese to leave Cambodia, they have worked with the devil.

But new ideas are arising in Thailand. Prime Minister Chatchal Choonhawan now has friendly relations with Hun Sen, whom he has brought to Bangkok several times in his laudable effort to turn Indochina into a marketplace rather than a battlefield. He is trying to slow the pace of the civil war and to substitute commercial forces for military ones. He is trying, in the wake of Vietnam's withdrawal, to move the Assn. of Southeast Asian Nations from policies opposing Vietnam's invasion to policies opposing a Khmer Rouge return to power.

Prime Minister Chatchal needs and deserves help. In particular the Thais should not be required to confront alone the hardline Chinese determination to keep supporting their proxy, Pol Pot. We should be standing with our ally, Thailand, and urging China to cease and desist.

For Americans who detest Pol Pot, the alternatives are few. If we are currently too mired in past policies to support Hun Sen and if we cannot help the Thais to restrain the Khmer Rouge, will we not be morally obliged, in the end, to encourage the Vietnamese to return?

A DOZEN ANOMALIES IN U.S. POLICY TOWARD CAMBODIA

(By Jeremy J. Stone)

(1). Grandstanding: The U.S. announces at Paris that it is adamantly opposed to having the Khmer Rouge in any future Cambodian Government and will even decrease its support to any such future Government in such proportion as the Khmer Rouge are, indeed, represented in such future Government.

It makes these statements knowing full well that the Chinese Government wants the Khmer Rouge represented and that Prince Sihanouk—as he advised Vice President Quayle at Jakarta—will insist on Khmer Rouge representation if the Chinese do.

So when the U.S. Government adds that it will reluctantly support Prince Sihanouk in his desire to have the Khmer Rouge involved in the future Government if he insists on it, how can such statements be understood except as grandstanding?

(2). Reneging: Not much more than a year ago, the Department of State was explaining that it would normalize relations with the Vietnamese Government if only that Government would remove its forest from Cambodia. U.S. intelligence reports confirm that this was done in late September. But the U.S. now says that it is no longer planning to normalize relation with Vietnam without a full settlement in Cambodia.

(3). Scapegoating: In the interim, the Department has changed its line to insisting that the Vietnamese withdraw "in the context of an acceptable settlement". And in light of our reluctant support of Sihanouk in 1), what this really means is that Hanoi has failed to insist that Phnom Penh accept the Khmer Rouge in an interim Government—Something which we declare at Paris we did not really want! So Hanoi is to be blamed, and an embargo maintained on Vietnam (and the Cambodian population) for Hanoi's not pressing its ally in Cambodia to accept an outcome which we say we don't want. This seems to reflect anti-Vietnamese feelings more than it does any plausible use of political power to achieve desired goals.

4). *Double-standard:* The U.S. Secretary of State says that he is just following the ASEAN line in justifying many attitudes which are anti-Hun Sen. But, in fact, Thailand—the front-line ASEAN state—has been much friendlier to Hun Sen than the U.S. For example, Hun Sen has been invited to Thailand three times, and by the Thai Prime Minister, while the U.S.—a second line state in this matter—does not permit Hun Sen's chief foreign policy assistant, Ambassador Hor Namhong, to speak to private groups in America on a private visit.

(This double standard is kept in place through the double-talk of ASEAN which maintains a far more hawkish declaratory policy than it follows. And this, in turn, reflects the fact that the Thai Prime Minister cannot fire his super conservative Foreign

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Minister, or even permit him to resign, lest the Prime Minister's coalition government collapse. The Foreign Minister is the head of one of the ruling coalition's key parties.)

5). *Follow or Lead ASEAN?:* In fact, some members of the Department, and U.S. officials in Bangkok, have been trying to get the Thai Prime Minister to follow the line of the Thai Foreign Minister, i.e., the U.S. has become the enforcer of the ASEAN line rather than a follower of it and has tried to toughen the Thai line.

6). *Congressional Double-talk and Violations of Law:* U.S. law prohibits any aid to the Khmer Rouge directly or "indirectly". Yet the U.S. gives military aid (military equipment and advice) to two anti-Hun Sen factions allied to the Khmer Rouge—the Sihanouk forces and the Son Sann forces. But this is indirect help to the Khmer Rouge since all three factions are all fighting against a common enemy and the successes of one help the other.

In addition, although often denied by the State Department, the newspapers repeatedly show informal coordination in fighting at the same time against Hun Sen forces. The U.S. is trying to have it both ways. Unfortunately, if the three factions overwhelm Hun Sen, the Khmer Rouge will certainly prevail since they are stronger, by all estimates, than the so-called "non-communist" resistance of Sihanouk and Son San put together.

7). *See No Evil:* The U.S. has condemned the Khmer Rouge for its genocidal policies for many years. Yet it refuses officially to assert that the Khmer Rouge were, in fact, guilty of genocide lest it be required to cite them under the genocide convention, or admit the Vietnamese invasion to have some justification, or prohibit the Khmer Rouge from holding the U.N. seat.

8). *Former vs. Actual Khmer Rouge:* While refusing to cite the Khmer Rouge for genocidal practices, U.S. officials have no hesitation in condemning the Hun Sen Government as "former Khmer Rouge." Thus it lumps together those who continue to follow the Khmer Rouge line with those who quit in revulsion or fear and proceeded to construct a Government that does not follow Khmer Rouge practices!

Ironically, U.S. officials also try, sometimes, to claim that those who are still Khmer Rouge might be acceptable in a new Government. Thus it follows a naive line on current Khmer Rouge members while following an absurdly hard line on former Khmer Rouge members.

9). *Prince Sihanouk Now And Then:* In fact, these former Khmer Rouge, like most Khmer Rouge of all kinds current or former, joined the Khmer Rouge at the request of Prince Sihanouk in 1970.

After all, the Khmer Rouge had a few supporters until the CIA overthrew Prince Sihanouk in 1970. It was then the Prince Sihanouk appealed to all patriotic Khmer schoolboys and farmers to join the Khmer Rouge to put the Prince back in power. Accordingly, almost all Khmer Rouge recruits joined at Sihanouk's request. Yet we condemn those who quit for being "former Khmer Rouge" communists while supporting Prince Sihanouk, the former leader of the Khmer Rouge as "non-communist."

10). *Prince Sihanouk pro- or anti-Khmer Rouge?:* While the "former Khmer Rouge" such as Hun Sen left the Khmer Rouge in 1978 or thereafter, the Prince remained the head of the Pol Pot state of democratic Kampuchea and still signs letters in this way. He supported the Khmer Rouge at the Paris Peace Conference even on such niceties as whether to use the word "genocide" in referring to their past practices. And he consistently gives interviews saying that the Vietnamese are more dangerous—even after their withdrawal—than the Khmer Rouge. All this is after—long after—the world had full knowledge of the 2,000,000 Cambodians killed by the Khmer Rouge.

It is hard for the West to understand but, in the Prince's thinking, the Khmer Rouge can be forgiven for their past genocide but the Vietnamese cannot be forgiven for having overthrown the Khmer Rouge—even though the Khmer Rouge would, otherwise, have completed the destruction of the Cambodian people. The U.S. has hitched its policy to a person of extraordinarily warped judgment.

11). *Musical Chairs on Verification:* Originally, the U.S. insisted that the Vietnamese military withdrawal be adequately verified. Now that the Vietnamese are, in fact, withdrawn, we insist that it not be verified unless the verification is in the context of a comprehensive settlement.

Meanwhile, at the Paris peace conference and thereafter, Hun Sen agreed to U.N. verification of the withdrawal. In other words, the U.S. is part of a coalition against Hun Sen that does not want to take "yes" for an answer lest it give credibility to the Vietnamese withdrawal, the Hun Sen Government, and its new openness.

12). *U.S. Real Interests Are With Hun Sen:* The practical effect of the U.S. policy is to try to maintain pressure on the Hun Sen Government: denying its officials visa, denying it recognition, denying its 6,000,000 people reconstruction aid from the U.N., maintaining an economic embargo on its people, giving military aid and advice to its enemies, and so on.

Yet the goals of the two Governments, ours and Hun Sen's are quite similar. Both agree on little or no Khmer Rouge involvement in the future Government. Both agree that Hun Sen and Sihanouk should get together. Both want to prevent a Khmer Rouge takeover. And both realize that only the Hun Sen Government can prevent this. Why are we so against this Government.

Meanwhile, it is Prince Sihanouk who is resisting agreement with Hun Sen sans Khmer Rouge involvement. It is Sihanouk who is allied with the Khmer Rouge. It is Sihanouk who wants the Khmer Rouge to be part of the interim Government. This anomaly can only be accepted on the assumption that Sihanouk knows best how to deal with the Khmer Rouge. But since they have duped him so often over the last 20 years, it is hard to see why we should believe this.

THE SOURCE OF THE ANOMALIES

Although the Vietnamese overthrow of the Khmer Rouge was devoutly welcomed by Cambodians and all who care about them, it horrified the regional antagonists of Vietnam.

The Thais were afraid they had lost the Cambodian buffer between them and the Vietnamese, and the Chinese feared Vietnamese hegemony in Indochina. Accordingly, Vietnam's neighbors declared the invasion illegal—despite the fact that the Khmer Rouge had attacked not only Vietnam but also Thailand. Most countries were ready to go along. All states have an interest in denouncing invasions lest they be invaded. The U.S. went along with its regional allies then and later as the crisis developed.

During the ten years of Vietnamese occupation, the policy-makers in the Governments involved came really to dislike Vietnam—if, indeed, they had not already which, in many cases, they had. And the policy became driven not by concern over the poor Cambodians or by fears of a Khmer Rouge return but by a desire to teach Vietnam a lesson.

The Chinese consider that the Vietnamese would not have been taught a lesson if the Hun Sen Government the Vietnamese left behind is still in place. They feel the Vietnamese will still be "cocky" despite the fact that the embargo on Vietnam bled the Vietnamese white. The Thais are divided on whether to terminate the "lesson". The small state of Singapore, which is mostly ethnic Chinese, agrees with China. But the Indonesians and the Malaysians would just as soon change the policy if this could be done without rupturing the declaratory policy and declared unity of ASEAN.

America is also divided; its policy makers consider the Chinese and relations with them the key issue in the area and relations with ASEAN second only to those with China. So long as both of these actors seem to be against accepting Hun Sen, the State Department finds it hard to break with the policy of supporting regional allies—even after Tiananmen and after peaceful overtures from the Thai Prime Minister to Hun Sen.

Meanwhile, on Capitol Hill, few Congressmen care about the issue and fewer have the time to follow it. None want to say the obvious: that the Hun Sen Government is better than the Khmer Rouge and that, accordingly, we should help the former fight over the latter.

Instead, fearing to take a "lesser evil" position, which might require explanations, they put forward suitably hawkish bargaining maneuvers ("lethal aid", etc) or international panaceas ("U.N. peackeeping forces and U.N. trusteeships) that do not require explanations from the public (but only from the experts who do not take the proposals seriously but who do not have to be taken seriously, in turn, by the Congressmen.)

The immobilization of the State Department reflects a decision at the top to subordinate moral concerns to felt U.S. political interests. But it also reflects an uncertainty as to what to do. And part of this uncertainty is uncertainty as to whether the Khmer Rouge can be bought off by being put in the Government.

It is ironic and absurd, but true, that self-styled hawks testify on this situation and conclude that we should "test the sincerity" of the Khmer Rouge. The notion that the Khmer Rouge have changed or have sincerity that can be tested is an illusion so absurd that a dove would be destroyed forever for entertaining it publicly. But, somehow, the Administration is trying, under diplomatic pressure, to countenance this possibility.

And the diplomatic pressure comes, of course, from countries who could not care less about the Cambodians but are interested only in further defeats and humiliations, if possible, of the Vietnamese. (Some in the State Department are so anti-Vietnamese that they believe everyone concerned for the Cambodian people are, somehow, trying to "give the Vietnamese a win". This is the kind of grudge fight between neighbors into which the Cambodians have, somehow, been trapped.)

The peoples of Southeast Asia, and China, are highly political, skilled in diplomatic manipulation, and have populations that are largely disinterested in the specifics. As a result, these Governments maneuver with

considerable freedom to maintain contradictions and shifts.

The U.S. is plagued with anomalies that arise, in part, from following the circuitous line of regional "allies". But part of the problem is the simple failure to be willing to take a lead in an area so far from us on which the regional actors were, at least recently, quite unified.

CONCLUSION

The President of the United States and the Secretary of State must decide whether they are willing to confront China over the issue of the Cambodian people suffering a second holocaust. They must decide whether the moral element in our policy outweighs the politico-strategic tendency just to do nothing lest we offend a major Asian country which is backing genocidal killers to pursue a regional feud even after the capitulation of its adversary and the consequent withdrawal of the Vietnamese army.

SIXTY-FIVE YEARS OF EXCELLENCE, THE CUSHMAN SCHOOL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, tucked in a corner off Biscayne Boulevard, one of Dade County's first private schools has endured historic eras—the Roaring 20's, the Great Depression, World War II. It is with great pleasure that I rise today to pay tribute to one of the truly outstanding elementary schools offered to Miami's young people—Cushman School.

Founder Laura Cushman began teaching children on the screened-in porch of her home in 1922. She formally established Cushman School in 1924. Sixty-five years later, the school attracts second and third generations of the same families.

When many people think of Cushman School and its success, the first thing that comes to mind is tradition. The tradition where every student performs in a monthly assembly; the tradition where each morning the flag is saluted in the courtyard; the tradition where students greet teachers with a handshake, and say goodbye the same way. But not only is it tradition that attracts parents, but also it is the philosophy of the school that continues superiority in education—small classes, emphasis on basic skills and the teaching of respect and moral values. At Cushman School, the focus is to develop each individual child.

This year, Cushman School is celebrating their 65th anniversary. I have no doubt that the Cushman excellence in education will continue another 65 years. Happy Birthday, Cushman.

AIDS EDUCATION MONTH

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. GREEN. Mr. Speaker, because the month of October has been designated AIDS Education Month by the Department of Health and Human Services I should like to bring to my colleagues' attention the work that the Social Security Administration is doing in conjunction with local providers of social services to help people with AIDS and AIDS related complex [ARC].

Specifically, I should like to refer briefly to the cooperative effort between the SSA and the New York City Human Resources Administration that is featured in a pamphlet series issued by the Social Security Administration entitled "Best Practices Projects." The SSA/NYC Program is included in that brochure as an example of a project that is working well and has the potential for easy transfer to another location or provider.

Since 1987 the Social Security Administration has worked with the division of AIDS services [DAS] of the New York City Human Resources Administration to develop procedures and educational efforts to help New York City residents with AIDS/ARC obtain the Social Security and Supplemental Security Income benefits to which they may be entitled.

The DAS provides case management services for clients who have a physician's confirmed diagnosis of AIDS or ARC and are: First, Medicaid eligible and need home care and/or homemaking services or second, eligible for public assistance, supplemental security income or Medicaid and need housing assistance or third, not eligible under the abovementioned criteria but may have an exceptional or complex situation that would enable them to receive assistance. The case manager's primary functions are to visit the client, assist with financial management and help obtain Social Security and other benefits and services.

Case managers complete "lead" forms for potential applicants for Social Security benefits and mail them to the local field office. The lead form is transferred to the office that serves the claimant. Where possible, the claimant is contacted by phone to complete the application and it is mailed for signature. For homeless persons, the case managers assist in completing the forms and use the DAS as the mailing address.

The Social Security Administration's role in the cooperative effort has been to provide information to DAS case managers on general claims policy, the roles of the field office and the disability determination service in decisionmaking and teleclaims procedures. Social Security has also displayed prominently in its New York City field offices informational posters donated by DAS which explain the various services offered under DAS' auspices.

Perhaps the best explanation of the DAS/SSA cooperative effort is that provided by SSA field representative, Arthur Feldman. His description not only explains the case management process but it provides a glimpse of the human side of working with people with AIDS. I ask that his statement be reprinted here in its entirely so that, even after AIDS Education Month is over, we can remember the efforts of the SSA and DAS personnel who work everyday to help people with AIDS.

The statement follows:

A FIELD REPRESENTATIVE'S PERSPECTIVE

(By Arthur Feldman)

It all starts with a "lead" form, used for many years by our field unit in the Downtown (NYC) District Office. However, until the onset of AIDS, it had never been used so frequently, nor with such young claimants.

The Downtown District Office has been active in outreach efforts with organizations involved with AIDS such as the Gay Men's Health Crisis and the Division of AIDS Services, New York Medical Assistance Program. It also originated a teleclaims procedure for claimants with AIDS, and was instrumental in facilitating special Medicaid and Foodstamp procedures for these claimants.

The field unit takes many of the AIDS applications at area hospitals. The Downtown DO services five major metropolitan hospitals, all of which have large AIDS populations. Unfortunately, the social workers change so frequently that education about our programs never seems to take hold. Therefore we usually visit the patients armed with little more than computer printouts.

The most devastating feature of the hospital visit is confronting the patient who has just been told about his illness. By the time we are called, he or she has been told of the severity of the disease, and it is usually terminal. We never know what emotion is waiting for us; it could be anything from anger to acceptance. We try extra hard to make the visit as pleasant and easy as possible. Patients are often surprised that the government will send representatives to them.

Patients rarely enter the hospital with life insurance policies, bank accounts, passports, birth records, etc. We must painstakingly piece the evidence together or track down friends and relatives for their assistance. Often we must coax the patient to respond to the battery of questions, even though their energy levels are low and many are in a great deal of pain. Many times the patient will thank us for simplifying what could be an overwhelming experience. A little compassion goes a long way. The appreciation shown is the best reward we could receive for servicing this ever growing population of disabled individuals.

TRIBUTE TO NEIL PAPIANO

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. BERMAN. Mr. Speaker, I rise today to honor a distinguished member of our community, Neil Papiano. He is this year's recipient of the Juvenile Justice Connection Project's [JJCP] presitigious "Founders' Award." He is being honored for his outstanding work on behalf of at-risk children in Los Angeles.

Neil has had a long and distinguished involvement with the civic life of Los Angeles. He is currently chairman of the Civic Light Opera Association and is a board member of organizations that include Orthopaedic Hospital, American University, and Stanford Athletic Board.

Neil believes deeply in the work of the Juvenile Justice Connection Project and its work with troubled youth. JJCP distinguishes itself

by working directly with children at risk of delinquency as well as those who have been abused and connecting them with the agencies and professionals who can prevent problems before they occur. Neil was instrumental in helping the JJCP reach its 1989 fundraising goal. He helped secure a $25,000 grant and through his activities the organization raised over $120,000 this year.

In addition to his charitable work, Neil is a distinguished lawyer and senior partner in the firm of Iverson, Yoakum, Papiano & Hatch.

Mr. Speaker, I ask my colleagues to join me in saluting Neil Papiano—a leader, role model, and exemplary citizen.

CLAUDIA McCORMICK: WOMAN OF THE YEAR AWARD

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. STARK. Mr. Speaker, I ask my colleagues in the House of Representatives to join me in congratulating Claudia McCormick, an outstanding citizen of the 9th Congressional District, who on Tuesday, October 24, 1989, was recognized by the Livermore Business and Professional Women as their 1989 Woman of the Year for her efforts to improve the status of women in the Tri-Valley area.

This award, I can tell you, is most well-deserved.

Claudia, who has served as an aide to California State Senator Bill Lockyer for many years, has inspired many of the women who are now in local nonpartisan offices to become involved in public service as a career. She has always been there with words of encouragement and counsel to young women in the community who wish to make a difference. Furthermore, she has worked hard to preserve the heritage of Dublin, CA, by serving on the Historic Preservation Society, which recently joined as host to a delegation from their sister-city, Brae, Ireland.

I know that you will join me in thanking Claudia for her efforts on behalf of all women everywhere.

HONORING JUDGE GEORGE N. HURD, JR.

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. DONNELLY. Mr. Speaker, I rise today to pay tribute to my constituent, the Honorable George N. Hurd, of Milton, who is retiring as a Massachusetts Superior Court justice on November 10, 1989.

Judge Hurd leaves the superior court after 9 years as an associated justice. Prior to that, he served for 6 years as an associate justice in the appellate division of district courts, southern division. He also spent 1 year as a justice in the Brockton District Court.

George received his undergraduate degree from Harvard University, and his law degree from Boston University School of Law. He was admitted to the Massachusetts Bar in 1949, and was in private practice for 24 years until his appointment to the bench in Brockton District Court in 1973.

Judge Hurd is a member of the American, Massachusetts, Norfolk County, Boston, and Quincy Bar Associations. He has held a number of positions in the Massachusetts Bar Association, including those of secretary and vice president. He has also served as president of the Norfolk County Bar Association.

In addition to his work as an attorney and a judge, George has served the town of Milton in other ways. He was an elected member of the Milton Planning Board for 15 years, and chaired the board for 4 years. He was a town meeting member for over 20 years, and was appointed to a number of town commissions and committees.

George has also been active in numerous civic organizations, including the Rotary Club, of which he served as both director and president. Both these organizations support many local groups and charities, including Milton Hospital, and the Milton High School Scholarship Program. George has served a number of other groups in various capacities, including the Agassiz Village and Burroughs Newsboys' Foundation, the Thompson Academy Advisory Board, and the Onaway Camp Trust.

In recognition of Judge Hurd's many years of public service there will be a testimonial dinner in his honor on November 15, 1989, in Randolph. I would like to take this opportunity to join the many friends and colleagues of George Hurd in thanking him for his dedication and his tireless efforts.

THE JOB CORPS—A RECORD OF SUCCESS

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. PICKLE. Mr. Speaker, I want to call my collegues' attention to a success story—just one of thousands across the country which illustrates how much the Job Corps can mean to young people.

Two years ago, the Gary Job Corps Center in San Marcos initiated a nonresident training program that permits 16- to 21-year-old students to attend classes during the day while continuing to live at home. This program has enabled young married couples to complete their training and enter into the work force without requiring them to disrupt their family life by living on campus.

Mr. Speaker, I ask unanimous consent that the story of James and Bertha Prado, as reported in the San Marcos Daily Record, be inserted in the RECORD following my remarks. I think their success is eloquent testimony to the great good the Job Corps Program is doing.

[From the San Marcos Daily Record, Oct. 25, 1989]

JOB CORPS—NONRESIDENTIAL TRAINING WORKING

Bertha and James Prado both graduated from San Marcos High School with good basic educations.

When they tried to enter the job market, however, they found they had no marketable skills. There just weren't jobs for bright, well educated high school graduates without vocational training.

Now, thanks to the non-residential training program at the Gary Job Corps Center, the Prados have fulltime jobs in San Marcos and intend to remain in the community the rest of their lives.

Until two years ago the Gary Center could only accept residential students who lived on campus. Now training is available to 16 to 21-year-old students who attend classes during the day and return to their homes and families at night.

Sixty-four area men and women are currently enrolled at Gary as daytime only students. They come from San Marcos, Kyle, Luling, Lockhart, Uhland, Prarie Lea and Seguin.

Like the Prados, most non-residential students are married. About 75 percent have one or two children, according to nonresidential counselor Pat Tingle.

Tingle said the Prados "are an example of how beneficial it is to have one's immediate family in the area, giving love and support to the students while they are in studying.

Bertha, who was born at Hays Memorial Hospital, is the daughter of Mr. and Mrs. Alvarez, Sr. of 1000 Barbara Dr. James is the son of Mr. and Mrs. Adolfo Prado, Sr., of 519 Lockwood St.

The Prados first enrolled at Gary in August of 1987 and in six months had completed training, she was a clerk-typist, he as an electrician. The couple returned a few months later and completed advanced studies in the Data Entry and Air Conditioning trades.

Bertha is now an accountant at McCoy's Building Supply corporate office where, she said "I handle all the plastic (credit card purchases) for twelve stores."

James, who can handle either electrical or air conditioning problems is employed by the San Marcos Consolidated Independent School District and works at Goodnight Junior High School.

Other San Marcans who are recent Gary graduates now employed include Regino Romo, a computer operator with the Internal Revenue Serice; Mary Billings, who works at the state Railroad Commission and Kimberley Hall, who handles insurance claims at the Center Texas Medical Center.

Non-residential students all live within 25 miles of the campus. Although they return to their homes each evening, they follow the same programs, rules and regulations and have the same benefits as Gary's other 2,130 students.

Those benefits include medical and dental care, personal and vocational counseling, a monthly living allowance.

THE ENDLESS DAYS OF VANDERBILT MEDICAL CENTER HEART SURGEON WILLIAM FRIST

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. CLEMENT. Mr. Speaker, we in Middle Tennessee are fortunate to have a number of fine medical centers and doctors. Among them is Dr. William Frist, a chief surgeon at the Vanderbilt Medical Center.

Dr. Frist is a 1974 alumnus of Princeton University. The Princeton Alumni Weekly recently profiled Dr. Frist and the long days he spends caring for his patients. I commend this article to my colleagues as a story about one of many fine doctors serving the communities of our Nation.

[From the Princeton Alumni Weekly, Oct. 25, 1989]

CHEST CUTTER—THE ENDLESS DAYS OF HEART SURGEON WILLIAM FRIST

(By David Williamson)

Four hours after Vincent Morris shot himself in the chest, he lay on an operating table in the Vanderbilt Medical Center in Nashville, bleeding to death.

The hospital's trauma team of fourteen doctors and nurses had managed to repair the nicks in Morris's heart muscle and pericardium, but they were unable to control the hemorrhaging in his badly lacerated left lung. For a while, it was touch and go, and then around two in the morning, Dr. William Frist '74, the chief surgeon, ran out of options.

Morris's blood pressure suddenly began to drop, and as it slipped below sixty systolic, one of the machines monitoring his vital signs emitted a high-pitched squawk. His heart began to flutter wildy as it labored to circulate his greatly depleted blood supply. Another mechanical squawk. Frist looked at me over the edge of his surgical mask. "This guy might die on us," he said.

Frist glanced at the monitors. "Get some more lines into him," he told the chief anesthesiologist. "He needs all the blood he can get." Then armed with a pair of surgical scissors, Frist plunged decisively into Morris's chest. There was an audible snip, and a moment later, he was holding Morris's left lung in one hand. With his other hand, he gripped a clamp that was locked on the fragmentary remains of Morris's pulmonary artery. The clamp was leaking, but Frist's two assistants, both residents in thoracic surgery at Vanderbilt quickly suctioned away the blood. Frist dropped the lung into a blue Rubbermaid bowl, which the scrub nurse then hurriedly tossed on top of a pile of bloody sponges. This procedure, a pneumonectomy, took about twenty seconds.

I walked over and peered down at the lung, reflecting that Bill Frist's specialty was putting organs into people, not just taking them out. The director of Vanderbilt's heart and heart-lung transplantation program, Frist has transplanted more than one hundred hearts, an even fifty of them at Vanderbilt. He has given new hearts to an eight-month-old baby and to a sixty-two-year-old man, and to one man twice. Almost all the patients whom Frist has transplanted at Vanderbilt are still alive.

It was beginning to look as if Vincent Morris might live as well. Frist had succeeded in stemming the flow of blood from the pulmonary artery, and a bustling crew of interns and residents was forcing blood into the patient through at least five intravenous lines, including one in his big toe. (By the time the operation was over, Morris would be transfused with twenty-two pints of blood, enough to replace his own blood supply twice.) His blood pressure stabilized, and the machines stopped squawking.

"Time to clean this up a bit," Frist said. He picked up a two-liter bucket of warm saline solution and emptied it into Morris's chest cavity. The residents suctioned up the mix of water and blood, and Frist slopped another bucket in. Then he closely examined the quiltwork of sutures on the artery and, detecting no seepage, began to patch a number of less-threatening wounds. "Anybody know how old he is?" Frist asked, more conversational now that the crisis had passed. "Twenty-four," said one of the anesthesiology residents, looking up through the tangle of ventilator apparatus and I.V. lines at the head of the table. "So why did he do it?" Frist asked. "A girl," said the resident.

By now it was three in the morning, and the surgical team had dwindled to seven. Even so, it would be two more hours before Morris left the operating room. Frist and the surgical residents still had to clean up the stump of a broken rib and to repair the entry and exit wounds, which they patched with pieces of the chest wall. Then they began the laborious job of inserting a drainage tube and stitching together layers of skin and muscle. Just after 5 a.m., Frist stepped away from the table and took off his mask. Morris had made it.

I trailed Frist out of the operating room and into the doctor's lounge. He poured two cups of coffee, stifled a yawn, and sat down at a tape recorder. With the clipped staccato of people who give a lot of dictation, he described the operation: the condition of the patient, the names of the surgeons, the procedures followed. Ten minutes later, we walked down to the lobby to meet Morris's family.

Five people were sitting in the otherwise deserted lobby of the hospital. A young woman in red shorts and a tank top sobbed quietly in one corner—The Girl, I thought. As Frist approached, the patriarch of the family, a rough-hewn man wearing overalls, stood up, fear on his face. "I'm Dr. Frist, and I'm the surgeon who operated on Vincent," Frist said. "He's a very sick young man, but he should live." I noticed that Frist's soft Tennessee accent had thickened between the lounge and the lobby. He spoke to the family for a few more minutes and then went upstairs to change out of his scrubs.

"Did you ask them why he did it?" I said. "We'll let the staff psychologist deal with that," he answered. "In a trauma case like this, my first responsibility is to fix the damage and worry later." It was after six when we left the Medical Center.

The weekly meeting of Vanderbilt's transplant team began promptly at seven that morning. The team comprised specialists from all areas of transplantation—cardiologists, immunologists, pharmacologists, social workers, and administrators. Freshly showered and shaved, and seemingly unaffected by his long night's work, Frist called the meeting to order and began to run through Vanderbilt's list of "active" transplant patients. This list includes the fifty patients who have received hearts and those who still await a donor. Vanderbilt has five people on its waiting list (ranked in order of the gravity of their conditions), with forty more under consideration.

Every year, about one-quarter of the patients on heart-transplant waiting lists around the country die before a donor heart becomes available. But according to Frist, this figure severely understates the shortage of organs. Just getting on a waiting list at one of the nation's 141 transplant centers, he says, requires "a lot of jumping through bureaucratic hoops." As a result, many prospective transplant patients never even make it into the system. Indeed, Frist estimates that ten thousand Americans a year die because they don't receive new hearts. He contrasts this number with the 1,647 heart transplants that were performed in 1988—a record, but less than a fifth of those needed.

"What we have here is a critical shortage of donors," Frist says. "And what makes it so frustrating for a transplant surgeon is that there's not a shortage of potential donors." The donor pool is actually quite large; about twenty-five thousand Americans are declared brain-dead each year as the result of automobile or other accidents, but only a fraction of their organs enter the transplantation network. "Either they haven't signed an organ-donor card or they haven't told their loved ones that they want to donate," Frist says. "Also, the hospital or physicians don't always ask. When we do ask, about 80 percent respond positively. People can obtain great consolation from the knowledge that out of a tragedy, other people can go forward and live better lives."

Faced with this grim arithmetic, Frist has made a crusade out of the organ-donor shortage. He has enlisted celebrities to publicize the shortage and has appeared on the *Today* show to promote donor awareness. His recently published book, *Transplant,* even has a legally binding organ-donor card printed on the dust jacket, so that readers can clip it out, sign it, and carry it in their wallets. In lectures on transplantation, he emphasizes that anyone under sixty-five can donate organs, as long as they don't have active infections or cancer.

At the early-morning meeting of the transplant team, Frist unleashed a battery of statistics to underscore this problem of supply. Not only are there too few donors, he said, but also too many hospitals perform transplants. "Some cities have five or six transplant centers and could do just as well with one," Frist told me later. "But because transplantation is a hot field right now, hospitals that want to be on the cutting edge like to offer it. It's a good marketing tool, for both doctors and patients." Frist's statistics also illustrate the danger of the glut of transplant centers: the three-year survival rate for patients whose transplants took place in hospitals that perform relatively few of them is only 70 percent, a full 10 percent lower than for patients who are treated at centers that do many transplants.

Frist's final batch of statistics dealt with "ischemic time," or how long an organ can survive outside the body and still be transplanted successfully. (In general, hearts can survive for up to four hours outside the body, but the mortality rate for transplant patients rises as this time passes.) These tight ischemic limits impart a tremendous sense of urgency to transplant surgery. Because most donors die in accidents, it is impossible to predict where or when a donor heart might become available. When one does, speed becomes essential. Frist himself has on many occasions spent the night flying across the country in a chartered Lear jet, carrying a donor heart in an Igloo cooler on his lap and sweating as ischemic time passes. Doctors at Stanford once even recruited an Air National Guard F-4 Phantom jet to transport a heart at supersonic speed from North Dakota to California.

In the corner of the conference room, the two surgical residents who had helped Frist operate on Vincent Morris had fallen asleep. The man sitting next to me, a social worker, leaned over and whispered, "It's amazing how Bill does it. He hasn't slept for two days, but there he is, looking like he just stepped out of GQ."

At 8:15 a.m., the residents were roused and the meeting broke up. Residents in tow, Frist set off to make his regular rounds,

starting with the intensive-care unit. Vincent Morris was there, a ventilator down his throat and tubes snaking all over his body. Frist read the chart at the foot of the bed and then spoke loudly: "Vincent? Vincent?" he asked. Morris stirred, and opened his eyes. "I'm Dr. Frist, and I operated on you," he said, more softly. "You're going to be okay. Just take it easy."

In the next bed lay an unconscious man whose body was completely swathed in bandages. "This guy got caught in a conveyor belt down at the Coke factory," Frist told me. "When he came in, he was in real bad shape—his right arm was all torn up, and his chest had been crushed." One team of surgeons had amputated the arm, he said, and then he's been called in to treat the chest injuries. it had taken him more than five hours to repair all the damage. "When did this happen?" I asked. "Oh, I finished with him about a half hour before I started on that pneumonectomy you saw," Frist said.

We made several more stops before arriving in front of a small isolation room. Frist reached into a box of masks, pulled out two, and handed one to me. "This is Brittany Riddle, one of my star patients," he said. "She had cardiomyopathy—too big a heart. We transplanted her three weeks ago." We put on the masks and entered the room. Ten-month-old Brittany was sitting up in a crib, playing with some brightly colored plastic toys. She seemed undisturbed by the six-inch scar on her chest or by a pair of discreetly placed electrodes. Her mother arose from a nearby cot and conferred with Frist about Brittany's condition (which was excellent). Meanwhile, I waggled my ears at the child. She giggled.

Back in the hall, we disposed of our masks, and Frist stepped inside a phone booth to call his wife, Karyn. They were married when Frist was a surgical resident at Massachusetts General Hospital, in Boston, and they've been trying to spend time together ever since. The demands of Frist's profession, however, have shown no signs of diminishing. After stints at Mass. General and in Southampton, England, he worked for two grueling years as the senior fellow in transplantation at Stanford, the country's leading transplant center. Even now, Frist is often away from home for thirty-six hours at a stretch, or else he is summoned to the hospital in the middle of the night to perform emergency surgery. To keep up with his wife and three young sons, he calls home frequently.

I kept looking for signs that Frist was flagging (as I was), but with unabated vigor he led me through a maze of corridors to his laboratory, up on the top floor of the Medical Center. As an assistant professor of surgery at Vanderbilt, Frist must contend with the pressures of tenure as well as transplantation, and he directs a large experimental enterprise in addition to his other activities. Today, his lab team of doctors and technicians was testing a new centrifugal heart-lung bypass machine on a two-hundred-pound pig. Draped in sheets and with its chest cavity exposed, the pig looked scarcely different from Vincent Morris the night before. "Pigs are the best test subjects for cardiac experiments," Frist said. "A human heart and a pig's heart are nearly identical."

Most of the time, however, Frist and his lab team work on the Novacor LVAD, an acronym for "left ventricular assist device." Designed to ride piggyback on a diseased heart, the LVAD basically replicates the pumping action of the heart's left ventrical. Novacor, a venture-capital firm, and the National Institutes of Health have devoted more than fifteen years and $30 million to the device, and it was recently approved for limited testing on human beings. Frist, a principal investigator on the project, hastens to contrast the Novacor LVAD with the better-known but highly experimental Jarvik-7 artificial heart, which dominated the headlines when it was introduced several years ago.

"I look at the LVAD as a bridge, not a replacement," Frist says. "It's something you can take off the shelf and use to keep people alive until an appropriate donated heart comes along." Frist believes that mechanical hearts are the wave of the future, but he notes that many problems with their design remain to be solved. "You want a totally implantable device, both to reduce the chances of infection and to improve mobility and the quality of life," he says. (These problems plagued patients implanted with the Jarvik-7, which is powered through hoses that penetrate the patient's chest; infection is common, and mobility severely restricted.) "The question that remains is how to generate enough power to run it."

That afternoon, I had a long talk with a transplant patient named Roy Chaney. A tall, powerful man from Milwaukee, Roy had suffered two heart attacks (which he attributes to high blood pressure and his "Type-A" personality) and had developed arteriosclerosis, a hardening of the arteries leading to his heart. His cardiologist advised him that he had six months to live without a transplant. So Chaney turned the obsessive part of his Type-A personality to the task of finding an appropriate transplant center. He looked in California, Utah, and Minnesota before settling on Frist and the team at Vanderbilt. "Every place I went, it became a political decision," Chaney said. "Here, there's no politics. And Bill is a real guy—everything you see is real."

Chaney was itching to leave Nashville and return to Milwaukee and to his wife, whom he'd married only days before his donor heart had become available. The transplant had taken place in early April, and by mid-July, when I met him, he was out of the hospital but still in Nashville under observation.

A decade ago, the odds were that Chaney wouldn't have survived his transplant. Because the body correctly interprets transplanted organs as foreign objects, the immune system often attempts to reject an implant. Physicians can prescribe immunosuppressant drugs to lessen the effects of rejection, but these drugs also increase the body's susceptibility to infection. Then, in 1983, a drug called cyclosporine was approved for general use. "Ever since the late sixties, we've had the technology to do heart transplants," Frist says, "but it wasn't until cyclosporine that immunology caught up with surgical technique." Thanks to drugs like cyclosporine, the number of successful transplants has increased dramatically in the last six years. Now 85 percent of transplant patients survive for at least one year, a figure that compares favorably to most cancer therapies.

Looking at Chaney, I saw a vigorous, fifty-two-year-old man. But because I knew that he'd had a heart transplant, I wanted to treat him as if he were stamped "Fragile—Do Not Touch" in big, red stencilled letters. I became especially concerned when Chaney began to demonstrate, with vivid detail, what it feels like to have a heart attack. He was fine, of course, and he laughed when I expressed concern over his well-being. "I'm not made out of glass. Transplant patients are just like everybody else, except that we've got a different heart from the original model," he said.

Chaney was called away to an examining room, and I didn't find Frist until a half-hour later, at four in the afternoon. He was snatching a quick call home between office visits. In addition to transplant patients like Brittany Riddle and Roy Chaney, Frist attends to a large number of heart-bypass cases. The majority of these patients are older men with arteriosclerosis, their once supple arteries as rigid as pencils from a lifetime of smoking, poor diet, stress, or a combination of all three. They are prime candidates for fatal heart attacks.

To correct this problem, surgeons graft one end of a piece of vein to an artery above a blockage and the other end below it, thus bypassing the clogged portion and restoring the proper flow of blood. (You can detect postoperative bypass patients by the long scars on the insides of their legs, where the veins were removed.) Although it's still considered a major surgical procedure, bypass surgery has become relatively routine in recent years, and most of Frist's patients are satisfied customers. "You're doing great," Frist said, complimenting an elderly gentleman on his progress. "Hell, I just lay still," the man said. "You did great."

I left the Medical Center a little after five. Frist told me that he was going to go home soon, too. He had to make another set of rounds, but after that, he only had to churn through some paperwork and read a few articles in the medical journals. Unless, of course, someone like Vincent Morris decided to shoot himself in the chest that evening, or unless a perfectly matched donor heart became available for someone on Vanderbilt's transplant waiting list, or—the list went on and on.

That night, I drove past the hospital and saw Frist's old blue BMW still in its parking space. I wondered if someone else was bleeding to death on the operating table. I also remembered what one old man, a by-pass patient from rural Tennessee, had told me earlier in the day. "If you need cutting," he had said, "get Bill Frist to cut you."

NUTRITION LABELING

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. WAXMAN. Mr. Speaker, I am pleased to join with Mr. MADIGAN and many of our distinguished colleagues in introducing the "Nutrition Labeling and Education Act of 1989" as amended by the Subcommittee on Health and the Environment. This legislation was originally introduced as H.R. 3028.

The bill we are introducing today contains all the amendments passed by the subcommittee in our deliberations last week. I expect that this bill will be considered by the Energy and Commerce Committee in the near future.

PUBLIC HOUSING ONE-STEP PERINATAL SERVICES ACT OF 1989

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Ms. PELOSI. Mr. Speaker, today I am introducing the Public Housing One-Stop Perinatal Services Act of 1989. This bill is included in the Economic Equity Act of 1989.

The Public Housing One-Step Perinatal Services Act would create demonstration projects to provide space in public housing facilities for one-stop perinatal services. It would require the Secretary of Housing and Urban Development [HUD] to provide grants to public housing facilities for maintenance of the space. The perinatal services themselves would not be provided by HUD, but by other public or private organizations. Services that could be performed in a housing facility include: Nutritional counseling, weight measurements, blood testing, referral services and Medicaid assistance.

More than one-third of pregnant women in America, 1.3 million a year, receive insufficient prenatal care due to various reasons: Lack of financial resources, fear, disillusionment with the health care system, lack of transportation and many others. Much work has been done to remove financial barriers; availability, access and proximity remain problems. My bill would assist mothers in obtaining care by placing basic services directly in the public housing facilities in which they reside.

It is reported that every low birth weight averted by earlier or more frequent prenatal care saves $14,000 to $30,000 in first-year hospital and long-term health care costs. Nearly 80 percent of the women at risk of having a low birth weight baby can be identified in the first prenatal visit. My bill would help these women and babies by helping to provide accessible services to them.

I believe it is necessary that our Federal Agencies work together to provide basic service, including various informational and referral services needed during a pregnancy, to our homeless and low-income families. A basic onsite service would help women better understand the importance of prenatal care and all aspects of their pregnancy and encourage them to seek further medical assistance. The One-Step Perinatal Services Act would also provide a safe place for various agencies to come in and work in public housing facilities.

In my district of San Francisco, Mayor Art Agnos formed a task force to develop a program to provide educational and drug rehabilitation services in public housing facilities. The Department of Social Services, Department of Public Health, Department of Public Housing and many others are working together to provide important services for our citizens. I hope this trend can be followed throughout the State and country.

I hope my colleagues will join me in sponsoring this bill which would help provide proper and adequate health care for mothers and newborns in need.

RECYCLED PAPER

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. JACOBS. Mr. Speaker, the following is a letter to President Bush, written by Dr. David R. Cundiff of Indianapolis, IN.

It speaks and speaks eloquently for itself.

INDIANAPOLIS, IN,
October 21, 1989.

President GEORGE BUSH,
The White House,
Washington, DC.

DEAR PRESIDENT BUSH: Today I took my newspapers and old telephone books to our local recycling truck, which is sponsored by the city of Indianapolis. I was told that they cannot accept paper any more, because it can't be sold and there's no place to put it. I can't keep it forever either, so I'll put it out in the trash.

I've also been reading that the U.S. Forest Service builds logging roads and sells timber from the national forests, even if the roads cost more than the trees are worth! This certainly doesn't seem to be smart business for the Federal government. It could be partly responsible for the city's inability to increase paper recycling.

This may be a manageable-size environmental problem, if the following commonsense program is adopted:

(1) Stop all new timber sales for paper manufacture, until the percentage of paper actually recycled reaches an appropriate national goal;

(2) Issue an Executive Order that Forest Service timber sales contracts must always cover the government's cost of supporting the sale; and

(3) Establish goals for each federal, state, and local agency to reduce consumption of non-recycled paper and increase the use of recycled paper.

I've recently received a catalog from a recycled paper sales company. Recycled paper can be quite attractive, and it can certainly help our environment. Prices appear competitive, especially for a "natural" unbleached ivory color. Is there any reason not to encourage widespread use of recycled paper, instead of environmentally costly timber sales?

Sincerely,

DAVID R. CUNDIFF, M.D.

CHALLENGES FACING VETERANS HEALTH CARE

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. SYNAR. Mr. Speaker, the Department of Veterans Affairs runs the largest health care system in the free world. Across the land are 172 VA hospitals, 200 outpatient clinics, and 137 counseling outreach centers. In that setting, thousands of devoted medical employees, administrative staff, and support personnel are challenged to carry out that arduous task within severe budget restraints which result in a burdensome shortage of staff and supplies.

In testimony submitted to the House Committee on Veterans Affairs earlier this year, I expressed my concern about the understaffing at our VA Medical Center in Muskogee, OK, and the urgent need to provide adequate resources for the personnel who do such a fine job there under such difficult circumstances.

Clearly, the DVA medical system now faces serious problems in its ability to maintain quality care and to provide timely access to care for all eligible veterans. No one knows that better than the nurses who work in our DVA Medical Centers, such as Ruby M. McDaniel, RN, and the 31 other RN's, LPN's and NA's who wrote an open letter which I respectfully request be included in the RECORD.

[From the Bartlesville (OK) Examiner-Enterprise, Oct. 5, 1989]

VETERANS HOSPITALS UNDERSTAFFED

Dear Editor: We the undersigned nursing staff from the VA Medical Center would like to make an appeal to the American people concerning our Veterans. We feel they are getting less than quality care, because of the continuous short staffing. The majority of our veterans are in the older age groups and when hospitalized they require a lot more care.

We want to explain so that you can really understand. Picture a ward, or floor, with 38 to 40 beds. All rooms are two or four beds each, except for a couple of rooms that are used for isolation. Crowded working conditions to start with, over half of our patients are total care patients, they need constant care, such as bathing, feeding, turning, treatments, medications, giving a drink of water or just some comfort and love.

Our patients could be one of your loved ones, but a nurse can just spread themselves so far. You go home at night exhausted wondering if there was something critical that you forgot or you just did not have time to do. Many of our shifts are staffed with only three or four nursing personnel. These three or four people we are talking about are not three nurses with five or six nursing assistants, these numbers include nursing assistants. Stop and think how much work needs to be done to care for that many sick people and how many are assigned to do the work. It's ludicrous and utterly impossible.

We have gone into detail, wanting you the public to realize we are taking care of people, the same group of people that America claims to be so proud. Now many of them are sick and old. Where are the banners waving and flags flying? We have been without war too long. People have forgotten, or maybe just don't realize what is going on, hence the reason for this letter.

The government has seen fit to cut funding for the VA hospitals year after year, and when you cut funding you have to decrease the number of employees and it is hurting us in a big way. We realized that the cost of government must be cut, but for God's sake not in a hospital. We work with people, sick people. They are alive and breathing here. This is not a factory of inanimate objects.

We live in one of the richest countries in the world. Money for foreign aid is given away in amounts that we as individuals cannot even comprehend, billions of dollars in loans are forgiven. Vet money to provide care for the veterans who fought to keep this country free is denied. We feel before another dollar leaves this country for foreign aid, that every politician in the country, from the mayor to the president, re-

ceive a letter or call from the American people that really run this country. They are the people that are too busy working to rabble-rouse, they are the quiet, strong ones that keep the money in the Federal coffers. Politicians forget this sometimes, listening mostly to individual groups, thinking they have the feel of the country, when in truth they do not.

Veterans of America represent every class and color. Almost every family can boast of at least one. This is a lot of power and persuasion.

Next year word has it that more positions will not be filled, and who will suffer? The veterans. When will these games cease? The people in Washington must realize that we are dealing with human lives and not numbers on paper.

If you as individuals, or families that have spent hours praying for the safe return of your loved ones, remember or care, please act on what we have asked.

We, the group of undersigned nursing staff, appreciate our Veterans and the fact that other than the Veterans, we have never seen or lived in a war torn country and that our children have never suffered the horrors of war.

It could happen.

Ruby M. McDaniel, RN (and 31 other RN's, LPNs, and NA's).

Mr. Speaker, I am grateful to Ms. McDaniels and her colleagues for reminding us of our responsibility, as the people's representatives, to provide an adequate level of funding for veterans health care. Meeting the needs of aging veterans and maintaining access to quality care for all eligible veterans are the major challenges confronting the DVA's medical care program. Ms. McDaniels is counting on us to enable the Department of Veterans Affairs to rise up to that challenge.

MR. CHESTER J. KOCH—AN AMERICAN PATRIOT

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. APPLEGATE. Mr. Speaker, it is with great sadness that I inform my colleagues of the passing of Mr. Chester J. Koch of Cleveland, OH, a veteran of World War I and one of the preeminent patriots of our Nation.

Mr. Koch served for over a half century with the city of Cleveland as the coordiantor of patriotic affairs and the organizer of programs and events heralding the achievements and sacrifices of America's veterans. It's been estimated that Mr. Koch marched in more than 100 Memorial Day and Veterans Day parades.

I had the pleasure of meeting and working with Mr. Koch on several occasions, and would always look forward to seeing him each year as he traveled to Washington during the annual dinner and convention of the Veterans of Foreign Wars. His unyielding strength and courage were always remarkable and admirable. We will miss Mr. Chester J. Koch, but we will always remember his dedication and true commitment to his fellow veterans and his devotion to the country that he loved.

Mr. Speaker, I wish to share with my colleagues the following obituary on Mr. Koch, as it appeared in the Plain Dealer newspaper of Cleveland. I'm sure all Americans could benefit from this brief biography about one of America's true patriots.

CHESTER KOCH, 97, PATRIOT, CITY'S PUBLIC AFFAIRS DIRECTOR

Chester J. Koch was Cleveland's No. 1 patriot.

As Cleveland's first and only coordinator of public affairs, he was the marshal or marched in more than 100 Memorial Day and Veterans Day parades.

He aided war veterans, decorated servicemen's graves planted and tended the flags on Public Square and loved America.

Mr. Koch never lost his resolve or loyalty.

He was 97 when he died yesterday at Brecksville Veterans Hospital of pneumonia. He was admitted to the hospital on July 6 with the condition, a few days after he became ill during a ceremony at North Coast Harbor.

Last week, Mayor George V. Voinovich visited Mr. Koch at the hospital and last week, Chester Koch told his family that he was heading for his last parade.

He died at 11 a.m.—the Veterans Day parade starting time, said his son, Raymond J.

In life, Mr. Koch walked in cadence as if listening to the beat of a John Philip Sousa march.

His mission began on a dreary winter day in early 1941 when a lunch-time errand routed Mr. Koch, then a clerk in the city's water department, through Public Square.

At the time, he was a member of several veterans organizations and had been organizing parades for seven years for the Fourth of July and at least five other holidays.

Mr. Koch, who had been a mess sergeant with the Army's 308th Motor Supply Train in France in World War I, was disgusted because there was no send-off committee for a group of men who walked down the sidewalk toward the old Union Terminal in Terminal Tower where a train waited to take them to Fort Knox, Ky., on their way to World War II.

He arranged to have bands send the next group of draftees off to camp. He got his old sergeant's brass whistle and personally led the men from draft headquarters in the Standard Building to the terminal.

Former Mayor Edward C. Blythin approved of Mr. Koch's efforts and ordered him freed from clerical duties so he could devote all his city time to the draftees. City Council named him coordinator of patriotic activities on April 2, 1941.

During an economy move in 1972, the city tried to dispense with his post. Mr. Koch reported for work without pay and in two months was restored to the payroll at $10,000 a year.

He was again dismissed in 1978 when Dennis Kucinich was mayor but was reinstated once more when veterans' groups protested.

When Mr. Koch celebrated his 95th birthday in 1987, the city threw a party and a reception for him in the rotunda of City Hall.

He was born in Louisville, Ky., the son of a saloon keeper.

After high school, he worked in the saloon and at 16 went on the road selling photographs to farmers.

He came to Cleveland when he was 21 and got a job in an E. 105th St. haberdashery selling straw hats and men's clothes.

He later worked for the old W.B. Davis Co. at E. 9th St. and Euclid Ave. and one day sold a black bow tie to a man in a hurry. The man was Mayor Harry L. Davis, who took a liking to Mr. Koch and got him the job in the water department.

His first wife, Mary, died in 1952. His second wife, Anne, a Gold Star mother who Mr. Koch met at a veterans' organization, died in 1987.

Besides his son, he is survived by a daughter, Mary E. Hutter; six grandchildren and a great-grandchild.

According to Mr. Koch's wishes, his casket will be carried through Public Square. Mounted police and a military color guard will join the funeral procession in front of City Hall en route to St. John Cathedral, where services will be at 10 a.m. Saturday.

HYMAN H. BOOKBINDER—A TRIBUTE

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. YATES. Mr. Speaker, on October 13, 1989, the Franklin Delano Roosevelt Freedom Medal was awarded to my good friend, Hyman H. Bookbinder. No award was ever more fully deserved. "Bookie," as he is affectionately known to his friends, has been an active force for good in the Nation's Capital for many years in many capacities. His life, devoted to the service of his fellow man, is an inspiration to all who know him—and to those who follow. The award recounts his many outstanding activities, a glowing tribute to the person who will be remembered as one who made his mark for humanity's best interests.

Mr. Speaker, I attach a copy of the award:

AWARD OF THE FRANKLIN DELANO ROOSEVELT FREEDOM MEDAL TO HYMAN H. BOOKBINDER

"The freedom of every person to worship God in his own way . . . everywhere in the world"—with those words Franklin Delano Roosevelt described the second essential element of human freedom.

Today, we honor the living and the dead. We honor the memory of Raphael Lemkin today and remember him with infinite gratitude for his courage and his tenacity of purpose. More than any other person, he was responsible for the Convention on the Prevention and Punishment of the Crime of Genocide which was adopted by the United Nations on December 9, 1948.

The ratification of the Genocide Treaty became another generation's work. And so, this 13th day of October, 1989, the Franklin Delano Roosevelt Freedom Medal is given to Hyman H. Bookbinder whose leadership symbolizes the efforts of those who worked for forty years to cause the United States to ratify the Genocide Treaty.

Born of Polish immigrant parents, you have devoted your life to the causes of social justice. The common denominator of your many careers is public service. Emerging from the union movements, you became one of the most effective legislative representatives that American labor has ever had. President Kennedy used your talents in many assignments. Adlai Stevenson chose you as the first director of the Eleanor Roosevelt Memorial Foundation where you organized a continuing effort on behalf of universal human rights. You became a general in Lyndon Johnson's war against poverty, reaching out to communities and giving the

poor an effective voice in programs affecting their lives.

The searing memory of the Holocaust is a constant part of your existence. You became the representative of the American Jewish Committee in our nation's capital, determined that the sin of silence which permitted the Holocaust to happen would never be suffered again. You travelled the nation, urging that America ratify the Genocide Treaty and take the leadership in its enforcement. You chaired a coalition of 60 national civic, religious, labor, and human rights organizations which worked for fifteen years until the treaty was ratified and the enabling legislation was signed by the President.

Vice President, Walter Mondale, reflecting on your long career in national politics, said: "I have seen them all; and there is no one, representing any group or organization, in any aspect of American life, who has done it with more brilliance and more decency and who deserves our respect more than that remarkable human being, Hyman Bookbinder."

The dream of Raphael Lemkin has been fulfilled because of your efforts; barbarians who pursue the oppression of ethnic and religious minorities now have to confront the law and an awakened international community; the commitment to freedom which Franklin Delano Roosevelt defined for our world has been your creed; the achievements of your life have helped make possible a world where justice is possible, where peace is essential, and where hope is not an illusion.

THE ELOQUENCE OF ROE L. GREEN

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. McEWEN. Mr. Speaker, today I want to share with you and our colleagues the thoughts of a fine American, Roe L. Green of Lebanon, OH, reflecting the appropriateness of remembering those U.S. service personnel who have been either prisoners of war or who remain missing in action.

Roe's wisdom is instructive to us all. His remarks were prepared for delivery on September 15 at the Dayton Veterans Medical Center in Dayton, OH, in conjunction with the Nation's observance of "National POW/MIA Recognition Day." He appeared as my delegated representative, and did me a great honor through his presence that day.

The emotions and insights Roe Green articulates are entirely his own, but they reflect, accurately and poignantly, my own thoughts on those Americans who were once prisoners of war, or who were lost in action, fate unknown. These reflections also convey the enormity of the sacrifice of these heroes' families, whose pain endures. Mr. Speaker, once you have read these words, I am certain you and other Members of this body will be proud to be associated with the thoughts of my friend, Roe Green:

I am very honored to represent Congressman Bob McEwen at this ceremony in recognition of our Armed Forces personnel who became prisoners of war, or missing in action, while honorably serving their country.

Many uncertain situations arise daily in the lives of our military personnel serving in combat areas. But as a prisoner of war, that uncertainty remains with you every minute of the day, I believe.

Those who are missing in action also leave certain situations for their loved ones at home, and for their military comrades.

Knowing Congressman Bob McEwen, I believe these are his thoughts for this day: Lest We Forget, God Bless America, and thanks to our Armed Forces on the battle front. And thanks to our loyal citizens on the home front, who provided the Tools of Victory and Loving Care, so that we might retain and protect our Freedom.

Mr. Speaker, it is a blest Nation that can count people like Lebanon, OH's Roe Green among its citizens.

TRIBUTE TO MARIO BEOVIDES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, I rise today to pay tribute to Dr. Mario Beovides, a man who has dedicated his life to the honorable learned profession of teaching.

Born May 20, 1922, in Mantanzas, Cuba, Mario always had a passion for the learning arts. Upon graduation at the age of 20, he began his work in education as a math instructor at a multigrade rural public school.

In 1957, he founded his own private school which he called Escuela Muni. While at Escuela Muni, he served as president of the Teachers Association of Mantanzas, secretary of the National Teachers Association in Cuba, and as a delegate to the Board of Private School Directors.

Although Fidel Castro's tyranny forced him to abandon his homeland in 1962, he did not forsake his career as an educator, as he taught Spanish when he arrived in the United States at a YMCA in Boston.

He transferred to Miami in 1966, and in 4 short years founded his own school, the Little Shaver Nursery School. This small school steadily grew in size till in 1972, Mr. Beovides renamed it to the Jose Marti School, in honor of the father of Cuban independence.

As the president of the Bilingual Private School Association, it is clear that the spirit of learning continues to burn bright in Mario Beovides. His love for learning has inspired his students to seek wisdom not solely for its power, but for its enlightenment. Mr. Speaker, I ask all my colleagues to join me in applauding Dr. Beovides' accomplishments and wish him and his lovely wife Nydia more success in the future.

TRIBUTE TO DR. DAVID H. READ

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. GREEN. Mr. Speaker, it is with great pleasure that I rise today to honor my constituent, Dr. David, H.C. Read, upon his retirement as minister of the Madison Avenue Presbyterian Church.

Dr. Read began his ministry in Scotland, served during World War II as chaplain in the British Army, and endured 5 years as a prisoner of war. He then became both chaplain of the University of Edinburgh and chaplain—Scotland—to Queen Elizabeth II. In 1956, David Read was called to Madison Avenue Presbyterian Church and has been minister of that church ever since. When he retires at the end of 1989, he will have completed over 50 years in active ministry. Thus he is widely recognized as elder statesman in the Presbyterian Church USA.

During his 33 years of service in New York City, Dr. Read has enlivened both this congregation and his community by forthrightly proclaiming a living faith. In addition, both as leader and participant in interfaith dialog, he has become widely respected by those of other religious persuasions. New York City is the richer because he has worked among us.

Throughout his tenure as minister of the Madison Avenue Presbyterian Church, Dr. Read has also been active in radio and television. He hosted the "Pulpit and the People," a national radio program which aired for several years. Additionally, Dr. Read has written 25 books. He has been an integral member of the interfaith group, the Appeal of Conscience Foundation, chaired by Rabbi Arthur Schneier, also of New York City. Under the auspices of the foundation, Dr. Read and Rabbi Schneier traveled to 12 countries, many of which are under communist regimes. In those countries, they visited religious leaders in order to discuss concerns about religious freedom.

Upon his retirement, Dr. Read will continue to be active in the church by delivering occasional lectures and sermons to his congregation. He is also looking forward to devoting more of his time toward travel. I ask all my colleagues to join me in paying recognition to Dr. David H.C. Read, an inspiring and selfless individual, for the dedication and leadership he has provided to our community.

TRIBUTE TO IRWIN ROSENBERG

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. BERMAN. Mr. Speaker, it gives me particular pleasure to rise today to honor an outstanding citizen and an individual I am proud to call my friend, Irwin Rosenberg. For the last 4 years, Irwin has been president of the Darrell McDaniel Independent Living Center in the San Fernando Valley. He is being honored for his sterling contribution to the provision and promotion of alternative accommodation and community rehabilitation for those with special needs.

Irwin is not just a committed activist, he uses his considerable professional expertise to make major contributions to the community. His extensive knowledge of transportation issues has enabled Irwin to provide support for the organizations that he cares about. He recently chaired both the Los Angeles County

Transportation Commission's Paratransit Operation's Subcommittee and the Southern California Association of Government's Paratransit Advisory Council. He was president of the California Association for the Physically Handicapped, San Fernando Valley Chapter, and chairman of the Los Angeles City Council for the Disabled Transportation Committee. In these offices, Irwin has been instrumental in creating and implementing effective transportation solutions for the elderly and disabled in Los Angeles.

Professionally, Irwin is vice president of Medi-Ride and throughout his 9-year tenure with the company has played a key role in its successful operation. He is its representative to Valtrans—the innovative San Fernando Valley Community Transit Program—where once again his expertise and commitment is helping enhance the lives of our citizens.

Mr. Speaker, I ask my colleagues to join with me in acclaiming Irwin Rosenberg, a young man of vision, commitment, and leadership.

FEDERAL DISASTER LOSS LEGISLATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. STARK. Mr. Speaker, the Loma Prieta earthquake in California is a graphic example of the devastation that natural disasters can create. The earthquake damage confirmed at this time to businesses and individuals amounts to $4.7 billion and the cost mounts as property continues to be inspected for structural damage. The potential loss to individuals and businesses due to the earthquake could exceed $7 billion.

The loss to California is not unique. South Carolina has portions that are severely damaged by Hurricane Hugo. In the U.S. Virgin Islands and Puerto Rico, many are homeless and some businesses will need months to repair damaged property before they will be able to resume normal operations.

Natural disasters are not limited to any one region. What with earthquakes, hurricanes, tornadoes, and floods, no State is immune from a natural disaster. When a disaster occurs, we need to have mechanisms in place to provide assistance, both direct Federal aid and tax benefits, so that communities can rebuild.

We do have some types of assistance in place but it is not sufficient. For individuals, FEMA gives grant money of up to $10,400 per family for losses of clothing, cars, appliances, and general household goods, but this direct aid is available only to those with little or no income. SBA gives low-interest loans of up to $100,000 for repair or replacement of homes and loans of up to $20,000 for personal property loss. Lastly, the current law gives taxpayers a casualty loss deduction for any unreimbursed losses which exceed 10 percent of the taxpayers adjusted gross income.

Representatives MATSUI, BOXER, DELLUMS, PELOSI, LANTOS, DERRICK, THOMAS of California, TALLON, FUSTER, DE LUGO, MILLER of California, CAMPBELL, and I are introducing today a bill which will expand the relief that taxpayers can receive through the Tax Code. For individuals, the disaster loss bill expands the casualty loss deduction available under current law by getting rid of the 10-percent floor and creates a new refundable tax credit at the 28-percent rate for uncompensated losses resulting from a Federal disaster. The credit allows a taxpayer to get a tax credit of up to $50,000 for losses which are in excess of their tax liability.

As an example, an individual with an unreimbursed loss of $300,000 and taxable income of $75,000 would get a casualty loss deduction of $75,000 by deducting the loss amount up to his or her taxable income. For losses in excess of taxable income, this taxpayer could claim a refundable tax credit of $50,000. The normal loss carryforward rules would apply in cases such as this where the loss exceeds that taxable income plus the maximum credit.

This disaster loss bill provides tax relief for businesses as well, because communities will not be able to help themselves until their economic foundations are restored.

Current benefits for businesses include low interest loans of up to $500,000 for economic injury and $500,000 for physical disaster but actual losses of a business in the path of a natural disaster can far exceed this amount.

The disaster loss bill creates a new category of private purpose bonds to provide disaster loans to small and moderate size business so that they can repair or replace property damaged by a Federal disaster area.

Bonds could be issued up to the amount of actual damage minus other Federal relief. A business would have to satisfy the issuing entity regarding the amount of loss suffered due to the Federal disaster similar to the way one has to document a casualty loss for tax purposes. A double dipping rule in the bill states that the amount of loans any one company could receive from the bond proceeds would be the amount of the casualty loss minus any SBA loans and tax benefits.

There would also be a maximum amount of loan per company similar to the per business limit for small issue IDBs. The bonds would be targeted to small and midsized companies with a maximum average annual sales of $10 million.

The constraints above will ensure that only businesses whose damages exceed all other assistance can receive bond proceeds. This new category of bonds will be outside of the State volume cap as a way of making sure that the Federal subsidy is adequate relative to the amount of otherwise uncompensated damage.

My bill is as follows:

H.R. —

A bill to amend the Internal Revenue Code of 1986 to provide tax relief for certain disaster losses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFUNDABLE TAX CREDIT FOR UNUSED PORTION OF CERTAIN DISASTER LOSSES.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CREDIT FOR CERTAIN DISASTER LOSSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 28 percent of the taxpayer's unused disaster loss for the taxable year.

"(b) LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall not exceed $50,000 ($25,000 in the case of a married individual (as defined in section 7703) filing a separate return).

"(c) UNUSED DISASTER LOSS.—For purposes of this section—

"(1) IN GENERAL.—The term 'unused disaster loss' means the excess (if any) of—

"(A) the amount allowable as a deduction under section 165 for the taxable year (determined without regard to subsection (d)(1)) with respect to any loss which is described in section 165(c)(3) and is attributable to a federally declared disaster, over

"(B) the taxable income of the taxpayer for such taxable year determined without regard to the amount so allowable.

"(2) FEDERALLY DECLARED DISASTER.—The term 'federally declared disaster' means any disaster referred to in section 165(i)(1).

"(d) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under section 165 for any disaster loss to the extent such loss is taken into account under subsection (a).

"(2) SECTION NOT TO APPLY TO TRUSTS OR ESTATES.—This section shall not apply to any trust or estate.

"(3) ELECTION TO HAVE SECTION NOT APPLY.—A taxpayer may elect for any taxable year to have this section not apply to such taxable year.

"(e) TERMINATION.—This section shall not apply to any loss attributable to a disaster occurring after December 31, 1991.

"(f) CROSS REFERENCE.—

"For provision permitting disaster losses to be taken in account for the preceding year, see section 165(i)."

(b) DISASTER LOSSES NOT SUBJECT TO 10-PERCENT FLOOR.—Paragraph (3) of section 165(h) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN DISASTER LOSSES.—The term 'personal casualty loss' shall not include any loss attributable to a disaster referred to in subsection (i) which occurs before January 1, 1992."

(c) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Credit for certain disaster losses.

"Sec. 36. Overpayments of tax."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after July 31, 1989.

SEC. 2. SPECIAL RULES FOR DISASTER LOSSES INVOLVING RESIDENCES.

(a) CASUALTY LOSS DEDUCTION NOT LIMITED TO BASIS.—Subsection (i) of section 165 of the Internal Revenue Code of 1986 (relating to disaster loss) is amended by adding at the end thereof the following new paragraph:

"(4) DEDUCTION FOR CERTAIN CASUALTY LOSSES NOT LIMITED TO ADJUSTED BASIS.—

"(A) IN GENERAL.—In the case of any loss to which this paragraph applies—

"(i) subsection (b) shall not apply, and

"(ii) the amount of the loss shall be determined on the basis of the reduction in the value of the property resulting from the disaster.

"(B) LOSSES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any loss described in subsection (c)(3) of an individual if—

"(i) such loss is with respect to any dwelling unit of the individual, and

"(ii) such loss is attributable to a disaster referred to in paragraph (1) which occurs before January 1, 1992."

(b) PENALTY-FREE WITHDRAWAL FROM RETIREMENT PLANS.—Paragraph (2) of section 72(t) of such Code (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTIONS WITH RESPECT TO CERTAIN DISASTER LOSSES.—

"(i) IN GENERAL.—Any payment or distribution under an individual retirement plan to any individual to the extent used by such individual before the close of the 60th day after the day on which such payment or distribution is received to repair, rehabilitate, or replace any property which is described in clause (ii) and which was damaged or destroyed by reason of any disaster referred to in section 165(i) which occurs after July 31, 1989, and before January 1, 1992.

"(ii) DESCRIPTION OF PROPERTY.—The property described in this clause is—

"(I) the principal residence of the individual, and

"(II) any personal effects of the individual located at the principal residence of the individual.

For purposes of the preceding sentence, the term 'principal residence' has the same meaning as when used in section 1034, except that no ownership requirement shall be imposed."

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to losses attributable to disasters occurring after July 31, 1989.

(2) The amendment made by subsection (b) shall apply to amounts paid or distributed after the date of the enactment of this Act.

SEC. 3. TAX EXEMPTION FOR STATE AND LOCAL BONDS USED TO PROVIDE DISASTER LOANS TO SMALL AND MODERATE BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 141(e) of the Internal Revenue Code of 1986 (defining qualified bond) is amended by striking "or" at the end of subparagraph (F), by redesignating subparagraph (G) as subparagraph (H), and by inserting after subparagraph (F) the following new subparagraph:

"(G) a qualified disaster relief bond, or".

(b) EXEMPTION FROM VOLUME CAP.—Subsection (g) of section 146 of such Code is amended by inserting after paragraph (2) the following new paragraph (and redesignating the following paragraphs accordingly):

"(3) any qualified disaster relief bond,".

(c) DEFINITION OF QUALIFIED DISASTER RELIEF BOND.—Section 144 of such Code is amended by adding at the end thereof the following new subsection:

"(d) QUALIFIED DISASTER RELIEF BOND.—

"(1) IN GENERAL.—For purposes of this part, the term 'qualified disaster relief bond' means any bond issued as part of an issue 95 percent or more of the net proceeds of which is to be used to make qualified disaster relief loans. Such term shall not include any bond issued after December 31, 1991.

"(2) QUALIFIED DISASTER RELIEF LOANS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified disaster relief loan' means any loan to a qualified business for use by such business in repairing, rehabilitating, or replacing property destroyed or damaged by reason of a federally declared disaster occurring after July 31, 1989.

"(B) REQUIREMENT THAT FUNDS NOT BE AVAILABLE FROM OTHER SOURCES.—A loan to any qualified business for use in repairing, rehabilitating, or replacing any destroyed or damaged property shall not be treated as a qualified disaster relief loan to the extent that the amount of such loan exceeds—

"(i) the reasonably expected cost of such repair, rehabilitation, or replacement, reduced by

"(ii) the sum of—

"(I) any reduction in tax imposed by this subtitle which has (or may be) realized by reason of any loss resulting from such destruction or damage,

"(II) any loan made or guaranteed by any agency or instrumentality of the United States with respect to such destruction or damage (or which would have been so made or guaranteed if the business had applied therefor), and

"(III) any financing with respect to such destruction or damage provided from the proceeds of a qualified small issue bond (or which would have been so provided if the business had applied therefor).

"(C) LIMIT ON AMOUNT OF LOAN.—Any loan which (but for this subparagraph) would be treated as a qualified disaster relief loan shall not be treated as a qualified disaster relief loan to the extent that such loan (when increased by the amount of any outstanding prior qualified disaster loans to such business) exceeds $10,000,000.

"(3) QUALIFIED BUSINESS.—For purposes of this subsection, the term 'qualified business' means any trade or business if the average annual gross receipts of such trade or business for the 3-taxable-year period ending with the taxable year preceding the taxable year in which the federally declared disaster occurs does not exceed $10,000,000.

"(4) CERTAIN RULES MADE APPLICABLE.—For purposes of this subsection, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(5) FEDERALLY DECLARED DISASTER.—For purposes of this subsection, the term 'federally declared disaster' means any disaster referred to in section 165(i).

"(6) SPECIAL RULE FOR APPLYING SECTION 147(B).—If any property repaired, rehabilitated, or replaced with the proceeds of any disaster relief loan is property described in section 1221(1), such property shall be disregarded in determining the average reasonably expected economic life of the facilities being financed with the net proceeds of the issue."

(d) CLERICAL AMENDMENTS.—

(1) The section heading for section 144 of such Code is amended by inserting before the period at the end thereof the following: "; QUALIFIED DISASTER RELIEF BOND".

(2) The table of sections for subpart A of part IV of subchapter B of chapter 1 is amended by inserting before the period at the end of the item relating to section 144 the following: "; qualified disaster relief bond".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

A TRIBUTE TO MURIEL DOUGLASS, A COMMUNITY LEADER EMBODYING AMERICAN IDEALS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. DONNELLY. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a very special woman who has been serving the people of Massachusetts for the last 20 years. Her leadership was essential to providing services and representation for the mentally ill and the homeless in the Brockton, MA community.

Muriel Douglass has served the people of the Commonwealth through her work as a legislative aide and her involvement in community drug rehabilitation programs. Her leadership role, as director of community relations, has been crucial to the success of the Brockton Multi-Service Center.

Muriel served as the Department of Mental Health [DHM] representative to the homeless. Muriel's committed efforts have come to the rescue of the many needy families in the Brockton area. She has been very effective in defending the needs of the poor and the mentally ill through her participation at community meetings and official recognition events.

By generating community support for the less fortunate, Muriel has established an understanding among the citizenry about mental illness and the importance of recognizing, accepting and working to correct the problems associated with this illness. She has been successful showing citizen boards the significance of maintaining a wide-based mental health program.

Muriel has been the champion of the homeless and the mentally ill whenever and wherever their services were in jeopardy or when the needs of these people were not met. I extend congratulations and thanks to Muriel Douglass for her determined battles to elevate social awareness to the needs of the mentally ill, while effectively reducing the traditional stigmas associated with the underprivileged.

IN MEMORY OF ADA SIMOND

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. PICKLE. Mr. Speaker, the State of Texas and the Nation recently lost a valued friend and a irreplaceable role model and teacher with the passing of 85-year-old Ada LeBlanc Simond, of Austin, TX. She leaves behind a rich and impressive legacy, including numerous books and articles. She was a founder of the George Washington Carver Museum and the W.H. Passon Historical Society, and she was involved in many social, cultural, and civic organizations.

Ada Simonds was recognized for her contributions to the community by groups including the National Association for the Advancement of Colored People and the Texas Association for the Study of Afro-American Life. Her achievements earned her induction into the Texas Women's Hall of Fame.

And yet, Mr. Speaker, all these accolades and honors fail to capture what Ada Simond meant to her community. She was a role model, an instructor, and an inspiration for all ages and ethnic backgrounds. As a longtime friend, Robyn Turner, said, "She's someone who can say something to you and change your life."

Mr. Speaker, I ask unanimous consent that the Austin American-Stateman article in memory of Ada Simond be reprinted immediately following my remarks. The comments of her friends are eloquent tribute to a woman who will be sorely missed, but whose rich contributions to her community will never be forgotten.

BLACK WRITER ADA SIMOND DIES AT 85

(By Meredith McKittrick)

Local Black historian, writer and educator Ada Simond, 85, died Sunday of a heart attack.

Simond suffered the attack Sunday evening at her home and was taken to Brackenridge Hospital, where she died, said her daughter, Grace King. Simond was hospitalized in September after a mild stroke.

Funeral arrangements with Phillip-Upshaw & Richard Funeral Home were incomplete Sunday.

Simond was the author of several books on Black heritage, and wrote a column on Black heritage that appeared in the Austin American-Statesman from 1983-84.

Robyn Turner, a longtime friend, said, "She was certainly a role model for everyone—for all of the ethnic groups, all ages, and both genders."

Turner is a former free-lance writer who wrote about Simond in a book, Austin Originals, and interviewed here for numerous magazine articles.

Simond chronicled life in East Austin in books such as the "Mae Dee" series and Looking Back: A Black Focus on Austin's Heritage. She wove into the fabric of her stories not only civic leaders but also everyday people—the midwives, porters and custodians.

"I have a feeling that everybody is important, every individual is valuable," Simond said.

She was one of the founders of the W.H. Passon Historical Society. She was inducted into the Texas Women's Hall of Fame in 1986, and was recognized for her written contributions to Black society by groups such as the Texas House Black Caucus, the Texas Historical Commission and the Texas Association for the Study of Afro-American Life. She also was honored by the National Association for the Advancement of Colored People for her commitment to human rights.

"She had so many careers in her lifetime and created each one for herself . . . and then had such success at each one of them," Turner said. But at the same time, "she was always there for everyone else.

"She's been a real friend. She's someone who can say something to you and change your life," Turner said.

One of eight children, Simond was born, Nov. 16, 1903, near New Iberia, La., to parents who lacked schooling but, were determined to give their children an education. She moved to Austin when she was 11.

After she married and had three children in School, Simond returned to school and received a bachelor's degree in home and family life education from Huston-Tillotson College and a master's degree in science at Iowa State University. She taught at Huston-Tillotson, then accepted a job at the Texas Tuberculosis Association, where she worked for 25 years before moving to the Texas Department of Health.

Survivors include her husband Luther C. Simond; daughters, Grace King of Gardina, Calif., Jo Hoosy of Oakland, Calif., and Gilbert Askee of Melbourne, Australia; seven grandchildren; 10 great-grandchildren; and one great-great-grandchild.

In lieu of flowers, the family requests that contributions be made to the Ada DeBlanc Simond Scholarship Fund at Huston-Tillotson College.

BOBBY GREGORY: THE CIRCLE IS STILL UNBROKEN

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. CLEMENT. Mr. Speaker, this is Country Music Month, as officially proclaimed by Congress in House Joint Resolution 401 signed into public law by President George Bush.

During Country Music Month, we recognize the contribution the country music industry makes to our Nation, salute a musical style which reflects our culture and heritage and pay homage to the thousands of men and women who have contributed to the history of country music since its birth.

Today, I rise to recognize and honor Bobby Gregory, one of the great songwriters and performers of yesteryear, who is a classic illustration of the talent and dedication countless individuals displayed during the formative years of the country music industry.

Bobby Gregory died in 1970 at the age of 70, but many of the songs he wrote live on today. One of them, "Will the Circle Be Unbroken," was the title of this year's Country Music Association's Album of the Year released by the Nitty Gritty Dirt Band.

Shortly after this year's 23d Annual Country Music Association Awards Show was broadcast, I received a phone call from Mrs. Catherine Gregory, Bobby Gregory's widow, who recounted many stories of the formative years of broadcast entertainment.

Mrs. Gregory is a walking historical record, happy to relate tales of the travels she and her husband shared during their collective careers. Those stories encompass the early days of radio and television broadcasting and the roots of the modern recording industry. They also offer information about the origins of the industry which reveal the contrasts between the modern music business and the infant industry of 60 years ago.

I believe my colleagues will find a first-person account of Bobby Gregory's early years very interesting, and I ask that it be included as part of the RECORD.

I also ask my colleagues in the U.S. House of Representatives to join Bobby Gregory's wife Catherine, and me, in honoring him for his significant contributions to country music.

His entry into the annals of country music history was along a route markedly different than country stars of more recent vintage. It included a touch of Vaudeville experience and a repetoire of various musical forms. Nonetheless, his contributions are significant and will last for generations.

Although Bobby Gregory never realized a U.S. Congressman might someday use the title to one of his songs to describe his contribution to country music, I take that liberty today. Because Bobby Gregory proves, that when it comes to writing a great song which survives through the ages, the circle truly is unbroken.

THE LIFE OF BOBBY GREGORY

Born Robert Calvin Gregory, Staunton, Va., April 24, 1900 (former cowboy, lumberjack, deep-water sailor).

Wife: Catherine Elizabeth Black.

Studied accordion and music with Frank Peranzi, Portland, Oregon, 1921 to 1924.

First broadcast over the new station KPOJ Portland Oregon, in 1923. I still remember the odd setup they had in the studio. I would sit on a high stool and play into a large phonograph-shaped horn, which would feed the sound into the crude microphone, long before they had magnetic microphones to pick up the sound. In those days they only had small Crystal sets, and the music sounded muffled coming through such a small set, but as soon as better microphones were invented, then all radio equipment advanced. I also broadcast over KGW Portland which had the old circle microphones, the type that were suspended on four wire springs, and that was some advancement. I later broadcast over KJR and KOL in Seattle, Washington, about 1925, then played vaudeville up and down the west coast for Pantages and Orpheum circuits.

While in San Francisco I broadcast a couple times a week over KPO; this was a powerful station, and I used to get fan mail from as far away as Dallas, Texas and from Canada. There was no pay for broadcasting in those days, just the pleasure of reading fan mail from far away places, and the chance to advertise my theatrical dates. I also played over KFRC in San Francisco.

While in vaudeville, I joined Little Jackie Ray, (the red-headed freckled face kid) of Our Gang Comedies, with his mother and father also doing an act. I played Accordion Solos and accompanied Jackie in his songs and dances. We appeared together on many radio stations along the route east, such as KOY, Phoenix, Arizona, etc. I also broadcast a couple of months over KTHS, Hot Springs, Arkansas, while appearing at the Fountain Lake Inn there, then went on to New York, playing more theatres for Keith-Albee, Loews, etc. Soon after arriving in New York about 1926, I broadcast over WJZ which was in the Aolian Building at that time, and Norman Brokenshire was the announcer. In fact he was man of all jobs around the studio. He swept the studio, answered the phone, answered the mail, etc. I would go into the studio to do about 15 minutes, and would wind up playing from 45 minutes to an hour. Norm would come into the studio and whisper that the scheduled singers had not shown up yet, and to keep playing until they showed up, and I would do so. WJZ was heard direct as far away as Chicago and all up and down the east coast.

I used to get hundreds of request letters to play certain songs for listeners. I also broadcast over WPCH (now WMCA) where I met Walter Neff, the pioneer announcer, who later went over to WOR, where I also made more broadcasts. I also broadcast over WHN with my good friend FNT (Fred N. Tracy). In those days the announcers just used their initials instead of their full names as identification. Later I broadcast over WMSG (Madison Square Garden). This station was open to most song pluggers to feature their latest songs over the air. I met many of the famous writers while on that station. Soon after, I got my first broadcasting job that paid money. It was for White Owl Cigars, over station WABC when they had their studio on West 57th Street in the Steinway Building. The announcer was Ted Husing, who later became one of the great sports announcers. Then I got other paying jobs such as for the K.J. Fox fur company over WMCA and WOR and others.

In 1927 I was the first accordionist to broadcast over television. It was from the Deforest Experimental Station in New York. At that time there were only two outlets where you could see the program. One receiving set was in the Macy's Department store on 34th Street, and the other was set up in a department store on 125th Street. I remember the announcer saying, Ladies and Gentlemen, you will now see and hear the first Accordion Player to appear on Television. In those days they used a spinning wheel with slits in the wheel which would pick up the television image and send it out over the air waves. The bright lights shining through those slits in the spinning wheel would about blind you, and left you with a spinning sensation in your head for minutes after the broadcast. The TV camera was stationary and could only pick up images in a space about 2 feet square, so to keep you in position with the camera, the announcer would stand behind you with his hand on your shoulder, and push you back into position should you move a few inches either to the right or left, because one step sideways could throw you out of focus with the camera. After about five minutes before those spinning lights you had to adjust your eyes to the natural daylight again. It was a good thing they quickly invented a substitute for those spinning lights, because many of the singers and actors refused to broadcast over TV until that light situation was remedied. In those days almost everybody thought that television was a big joke or somebody's plaything, and it would never amount to anything, just some crazy inventor playing around with a bunch of dancing shadows, but if some of those old time critics could see the beautiful color television of today, and it being broadcast around the world, they couldn't believe their eyes from their old ways of thinking.

The old time radio programs helped make a songwriter out of me, because I needed new songs every few days to keep my programs going. I couldn't play the same songs over and over, and I found I could write new songs in less time than it took me to search for new songs and learn them well enough to broadcast, so I kept on writing new songs for my radio programs. I used to play lots of polkas and marches, with songs in between, and not knowing just how long I would be on the air, when I walked into the studio. (This was before they played phonograph records.) I would make up a list of about 25 songs, and play them in rotation until the announcer would give me a signal that someone else was ready to take over. In those days I had to announce my own programs; I would announce such as "and next, ladies and gentlemen, will be that great western favorite 'Home on the Range'," etc. I would keep right on playing until at times my left arm felt like it was ready to fall off from pumping the accordion, for in the early days they didn't time the programs to 15 minutes, they just let the act broadcast until he got tired or ran out of songs, then they had a staff pianist who would take over, or the announcer would read poetry with piano accompaniment, or would tell jokes, anything to keep the radio time filled.

Radio and television has come a long ways since those early days, and has bloomed into a beautiful field of entertainment, and when I think back to the days when the announcer would beg me to stick around and do an extra program, sometimes between 7 and 9 p.m., giving me all that free air time. Today you couldn't buy that prime time with a fortune, although I never earned a lot of money in Radio and TV, I am glad that I played a part as a pioneer in the business, for I met a lot of wonderful people who later helped me in getting my songs published and performed. I am glad to have known such greats as The Happiness Boys, Billy Jones and Ernest Hare; Al Bernard, and to have written songs and recorded with the famous Vernon Dalhart.

To date I have 10,000 songs published (and over 1,000 unpublished songs). About 160 songs are recorded on commercial records, and I have recorded 172 songs on Keystone Radio Transcriptions, with my Cactus Cowboy Band. I have made 18 Soundie Motion Pictures, and worked in other pictures with other performers. I played Accordion in the Motion Picture *The Vikings*, starring Charles Starret, completed in the old Edison Studios in the Bronx, N.Y. I also worked in a picture with Fatty Arbuckle at the Vitagrap Studios in Brooklyn. Bobby Gregory and his Cactus Cowboys accompanied Roy Rogers, Gene Autry, Smiley Burnette, The Lone Ranger, and Big Slim "The Lone Cowboy" on Rodeo dates in the U.S. and Canada, as well as starring The Cactus Cowboys.

Name: Robert Calvin Gregory.

Stage Name: Bobby Gregory.

Address: 1010 16th Ave., So., Nashville, Tennessee 37212.

Born: Staunton, VA, April 24, 1900.

Father: Charles Nicholas Gregory. Occupation, Blacksmith.

Mother: Mary Ella Allman. Occupation, Housewife.

Wife: Catherine Elizabeth Black.

Children: No children, but a poodle called John Henry.

Work Experience: Leader of The Cactus Cowboys, who accompanied Roy Rogers, Gene Autry, Smiley Burnette, The Lone Ranger, and Big Slim "The Lone Cowboy" on Rodeos.

First recorded for Okeh Records in 1929, also recorded with the great Vernon Dalhart, also wrote 22 published songs with Vernon Dalhart. Bobby has recorded about 160 songs on commercial records, such as Okeh, MGM, Hi-Tone, Continental Gregorian, Hillbilly, and about 10 other labels. He also recorded 172 songs on Keystone Radio Transcription, also made 18 Soundie Motion Pictures, worked in pictures with other artists, played Accordion in the feature picture "The Vikings," also with Fatty Arbuckle in a movie, as well as extra parts in other pictures.

Wrote over 10,000 published songs (with over 1000 still unpublished). Owner of American Music Publishing Co. (ASCAP), member of Local 257 Nashville, NARAS, CMA, has block in Music Hall of Fame, Walkway of the Stars.

Art collector with over 50 old master paintings in his collection, Bobby also paints Indian History paintings, and has painted over 200 scenes and portraits of famous Indian warriors who lived in the 1830's and after.

Compositions: Sunny Side of the Mountain; Patanio (the Pride of the Plain); Little Darlin' (theme for network show "21" for several years); Am I dreaming, (recorded by Tommy Dorsey and others); Riding on the Old Ferris Wheel, (on many labels); She's Only a Moonshiner's Daughter (on MGM); Maggie Get the Hammer, There's a Fly on Baby's Head (Bill Carlisle on King).

Early songs: Who Threw the Mush in Grandpa's Whiskers, Hoopee Scoopee, She's Somebody's Darlin' Once More (Shelton Brothers on Decca). ASCAP Award winning song in 1965, Sunny Side of the Mountain, (on Decca by Jimmy Martin), The Little Wooden Whistle Wouldn't Whistle, (in a musical short by The Kidoodlers).

(All published song are on file in the Country Music Hall of Fame Museum).

Records: Recorded about 160 songs on various labels. (All listed in the ASCAP Country and Western Booklet). Album by Bobby Gregory, released on BANFF label in Canada, also released in Australia, Tasmania, and New Zealand.

Any other information you wish to give: My wife Cathy and I plan to open a Fine Arts Museum in Nashville so the people of Tennessee can enjoy our 50 old master paintings for many years to come. Some of these paintings were exhibited at the New York World's Fair during the 1965 season, and in 1966 at the Peabody Museum in Nashville.

The following three songs were written about our pet poodle Prince BooBoo. "Fifteen Pounds of Love," "My Dog BooBoo," and "Poodle Dog Waltz." These songs are on file in the music library.

CONGRESSMAN DOUG WALGREN TESTIFIES ON PREEXISTING MEDICAL CONDITIONS AND PRIVATE HEALTH INSURANCE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. WAXMAN. Mr. Speaker, last week, Congressman DOUG WALGREN, a member of the Subcommittee on Health and the Environment, appeared before the "Pepper Commission"—the U.S. Bipartisan Commission on Comprehensive Health Care—to present testimony on the important issue of preexisting medical conditions and the availability of private health insurance. As a member of the Pepper Commission and as chairman of the Health Subcommittee, I found his comments to be clear, comprehensive, and thoughtful. In order that all Members may benefit from Congressman WALGREN'S knowledge and expertise on this issue, I am inserting his statement in today's RECORD:

TESTIMONY OF CONGRESSMAN DOUG WALGREN

I greatly appreciate the opportunity to appear before you today and commend you

for the attention you are bringing to the problems many Americans have in getting adequate health care.

I want to specifically focus on the area of "pre-existing conditions" and the problems people with pre-existing conditions have in getting private insurance.

I have introduced a bill, H.R. 2649, which would prevent private providers of health insurance from denying health insurance to, or otherwise discriminating against, persons with pre-existing medical conditions. This, of course, is a very controversial proposal in the insurance field, but one that deserves our attention because the result of these practices mean that those who need health insurance the most—the sick and the disabled—are often denied insurance protection.

Although there is little specific information on the number of people who are denied health insurance because of pre-existing conditions, there is every reason to believe this is an important problem. The Office of Technology Assessment estimates that 20 percent of those applying for commercial health insurance receive a substandard risk classification that produces an above-average premium or a pre-existing condition exclusion. The National Commission on Orphan Diseases estimated that 16 percent of those with rare diseases were unable to acquire adequate insurance.

These denials take several forms: Individuals may not be able to purchase any health insurance of any kind; they may be able to purchase health insurance coverage for everything except the pre-existing condition; they may be offered coverage at rates much higher than "normal" people; or they may be offered coverage only after a lengthy waiting period.

By excluding or in some way limiting coverage for people with pre-existing conditions, commercial insurers cover only the "healthy," leaving those who are ill without the ability to use insurance to spread their risks or medical costs beyond themselves.

Denying access to insurance because of pre-existing conditions creates several problems. First, leaving people without adequate insurance, quite simply, leaves them sick. Without substantial resources, they cannot get care. And as illness is neglected, it is only exacerbated, making whatever care they eventually get more expensive than it otherwise would have been.

Second, persons with pre-existing conditions often must pay extremely high premiums, costs that are out of reach of most families. A family in Tennessee saw the cost of their health insurance grow from $170 per month to $600 per month after the birth of a daughter with a severe genetic defect.

Third, people with pre-existing conditions may be denied employment. It is commonly asserted that individuals who become seriously ill are often not willingly brought back to work by their employer because a company health plan would be adversely affected. In other instances, insurers have pressured employers to drop persons from a benefits plan because the employee or a member of the employee's family has a serious illness.

Fourth, oftentimes individuals who have full insurance through their work are trapped in one job because they may be unable to get similar coverage if they change jobs.

Fifth, denying insurance to people means they end up in hospital emergency rooms, where we all pay for their care through higher premiums or government programs after they prejudice their health by failing to get care when they first need it, and only after they impoverish themselves, their families, and the hospitals we all must turn to. That's no way to organize health care.

Finally, many people with a pre-existing condition—something as common as high blood pressure—are afraid to use what coverage they have for fear that the condition will be discovered and used to deny their coverage. The fear of being denied health insurance because of the jeopardy to one's insurability is a disincentive to getting health care, which only exacerbates the illness. Health insurance, public or private, should be designed to help people prevent illness and cure illness, not contribute to continued illness.

HISTORY

It is helpful to look back on the evolution of health insurance in this country. In the early 1930s, the Depression years, Blue Cross/Blue Shield programs were developed by hospitals and doctors who wanted to "guarantee" a form of payment for their services. These early plans offered "service benefits," paying in full for covered services. They used "community rating," under which premium amounts were based on expected costs for all policyholders; the cost burdens were shared over a broad base. And third, most of the Blues had a policy of "open enrollment," permitting any individual or group to purchase coverage.

Over the years, the nature of private coverage changed as the insurance industry grew. Instead of paying in full, plans offered "indemnity" coverage, paying a fixed amount for each service and leaving the enrollee to pay the balance. Commercial insurers began to use "experience rating," under which the rate for each employer group was based on historic costs for that specific group. And commercial insurers began to use underwriting practices similar to those traditionally used in other lines of insurance, such as life insurance. Insurers began to charge high-risk applicants higher rates or deny coverage for serious or chronic health problems.

According to a Congressional Research Service study, "The differences between the practices of the Blues and commercial insurers have diminished over time. Indemnity coverage is increasingly rare, especially in employment-based plans. Most of the Blues now use experience rating for large employer groups and many—though not all—have modified their enrollment policies, using underwriting to limit their risks." According to the World Institute on Disability in a recent study, "Medical underwriting for individual and small group coverage is becoming more restrictive as competition increases among insurers under the pressure of cost containment."

EXAMPLES

Since the introduction of my bill, many individuals have written me to share their difficulties in getting health insurance. I would like to submit some of these letters to you and will summarize several of them.

A woman from Pittsburgh wrote that her insurance company terminated her policy because she has multiple sclerosis.

One mother wrote that her daughter, Becky, was born with a birth defect which "left her with only 10% of her small intestine. Becky requires daily intravenous feedings which have caused liver disease. When Becky was born, the family's premiums were $200 per month with a $500 deductible. In July 1989, the premiums jumped to $800 per month.

Another woman wrote that after her husband's kidney transplant their insurance went to $5,000 per month.

A Tennessee woman underwent bone marrow transplant surgery for leukemia, believing she had a good insurance policy. She believes that her employer refused to allow her to return to work because her experience would increase the group health insurance rates. Under the terms of the group policy, if she does not return to work in the current calendar year, she will be treated as a new hire and her pre-existing condition will be excluded from coverage. This, then, would not affect the employer's experience rating or premiums. But it effectively terminates her coverage and her ability to use the insurance system to spread the burden.

The daughter of one of my constituents, who has a rare disease, moved to Canada and lives with relatives because she is not insurable in this country.

An Oregon family wrote that their insurance coverage was "approved" for the parents and two children, but denied for their third son, Michael, because of "mild cerebral palsy"—this despite the fact that this is only a mild condition. According to his physician, "This child is in school, his general health has been good, he has not had hospitalizations, and no one anticipates that his condition create significant long-term medical complications."

An Oklahoma man with acute intermitten porphyria, a hereditary enzyme deficiency, wrote that he has been totally denied health and life insurance for ten years. He wrote, "The conclusions by underwriters at insurance companies when confronted with genetic problems leads one to believe they do not intend to make an effort to understand. It is much simpler to categorize and deny health or life insurance to the applicant. This is not just a problem of genetic discrimination. All insurance companies insure the healthy. They do not insure persons with questionable health."

It seems to me that access to health care is so important, and the cost so clearly beyond each of us alone, that everyone should at least have access to health insurance. And, if insurance is to be meaningful, every individual should be able to join a large enough group that they are put on an equal footing with regard to cost that any other insured person enjoys.

In short, all must have access to insurance spread across a large number of policy holders which represent a fair cross-section of the healthy needs of the public at large. Although we may not be able to provide universal health care in our country at this time, we ought to provide universal access to health insurance in the private sector regardless of the risk present because of medical circumstances beyond our control.

Our ethics should dictate that, as long as we are going to depend on private health insurance in this country, government has an obligation that people at risk are able to participate in the insurance system. Discriminating against people based on their health condition violates the premise of insurance that we should all share the risk and spread the cost broadly.

H.R. 2649

The Federal Health Insurance Equity Act of 1989 has three prohibitions: (1) It would prohibit insurers from excluding, terminating, or otherwise limiting any individual from coverage based on a preexisting condi-

tion; (2) It would prohibit the sponsor of a health benefit plan from determining coverage rates for an individual or group on the basis of claims, a practice known as experience rating; (3) It would establish benefit standards for the provision of basic health benefit plan services at a reasonable cost.

The bill would require the states to enact benefit standards that are comparable to minimum federal standards established by the Secretary of Health and Human Services. States and plans would be given forty-two months to comply. Health benefit plans found out of compliance would be subject to civil penalties. The bill would also require the establishment of state offices to investigate allegations of abuse.

Opponents of this bill say that forcing industry to assume coverage of persons known to require significant amounts of care will increase premiums or expose insurance companies to unanticipated costs of those who would only seek insurance when they are sick. The bill seeks to address this by requiring the Secretary to determine the fair costs for coverage for those with pre-existing conditions and by recognizing waiting periods and minimum enrollment periods to prevent subscribers from "hopping in and out" of plans or buying coverage only when illness strikes. Waiting periods and minimum enrollment periods would, however, have to be uniformly applied to all applicants and could not discriminate against persons with pre-existing conditions.

Others say that high-risk individuals should be insured by state-run risk pools with the excess costs covered by general revenues. Perhaps so, but those who would argue that government should fill this gap certainly should be supportive of any proposal that would fill this need as long as there is a fair distribution among a broad enough base.

Addressing pre-existing conditions does not represent the total solution to the problem of inadequate access to health care in this country. We are all struggling with the difficulty of developing a truly comprehensive health care system. We know that a public program will be expensive: Long-term care for the elderly alone will cost $50 billion. And we have traditionally had a pluralistic health care system.

Illness and disability can strike any of us at any time. Our public health is vital to our productivity, our children's future, and utlimately our national strength. The United States remains the only industrialized nation without a system of comprehensive health insurance. By bringing in those now excluded by pre-existing conditions, this bill could provide coverage for a significant unprotected segment of our society.

A TRIBUTE TO EDWARD L. PEET

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Ms. PELOSI. Mr. Speaker, I would like to share with my colleagues a special event occurring in San Francisco.

Today, October 27, 1989, the California Association for Older Americans, California Legislative Council for Older Americans, and San Francisco Legislative Forum for Older Americans join together to honor Edward L. Peet for his 60 years of ministry and the opening of their new office at 805 Howard Street.

The California Association for Older Americans and its affiliated programs, including Senior Power, have moved from their 20-year home at Glide Memorial United Methodist Church to a new, enlivened community of older Americans in San Francisco's downtown Yerba Buena Center.

In 1929, Reverend Peet graduated from the Union Theological Seminary in New York. He continues to advocate through actions his theory that good will triumph over evil. His advice to others, "Don't agonize—organize," helps to motivate others and himself.

Once ordained into the Methodist ministry, he served a career as the pastor of churches in New England and in California. He became interested in politics and social issues and served as chaplain of the California Senate in 1961. In 1967, he retired as pastor of a Methodist Church in the city of Hayward and started a second career as minister to Older Persons at Glide Memorial.

Rev. Edward Peet recently retired after a 22-year career as minister to the elderly at Glide Church. He is now prepared to devote full-time attention to the 50,000 member California Legislative Conference for Older Americans, which he founded in 1970.

Reverend Peet, who is 87 years young and launching his third career, inspires us to continue to be active and to participate in activities geared toward assisting older persons.

CARL PEARLSTEIN, HONORED AS SAN MATEO COUNTY FARM BUREAU'S FARMER OF THE YEAR

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. LANTOS. Mr. Speaker, I would like to bring an American success story to the attention of my colleagues in the House of Representatives by paying tribute to Carl Pearlstein, San Mateo County Farm Bureau's "Farmer of the Year." Carl Pearlstein's story is heartening to all of us, reaffirming our faith in the value of education, hard work, and a love for one's calling.

Carl Pearlstein's interest in horticulture got its start on the fire escape garden of his parent's apartment, which is as far from Half Moon Bay as one can imagine. He earned a degree in horticulture from Delaware Valley College of Agriculture and moved west, like so many of us, to sow the seeds of commerce in California's fertile economy.

In the beginning, things were tough. He and his wife Virginia sold flower seeds and bulbs from their San Francisco apartment. Almost 50 years later, with time and lots of hard work, the Pearlsteins' business—Nurserymen's Exchange—has blossomed into a famous producer, importer, and distributor of plants and bulbs.

Nurserymen's Exchange sells plants and bulbs to other greenhouses, producers, and wholesale nurseries. Their business carries a wide variety of products; yet the Pearlsteins have gained special acclaim for their decorated miniature Christmas trees, which are especially popular with restaurants and apartment dwellers, who like to decorate for the holidays yet are cramped for space.

In addition to the miniature trees, the Pearlsteins have also made horticulture history with their patented red-wing azaleas.

Carl and Virginia Pearlstein travel the world to stay ahead of an increasingly global market. Their journeys, like the early expeditions of Marco Polo and Christopher Columbus, bring a wealth of new ideas and products back to the Bay area and keep them and San Mateo County in the forefront of the world's horticultural marketplace.

Mr. Speaker, I am touched to hear that three generations of Pearlsteins are working at Nurserymen's Exchange. Carl and Virginia's son Jack, and his two daughters are carrying on the family business, with the same love and devotion invested by his parents and grandparents.

Mr. Speaker, the San Mateo County Farm Bureau's "Farmer of the Year" award highlights the achievements of some of our Nation's most successful and innovative entrepreneurs. As this year's recipient, Carl Pearlstein is to be commended for his commitment to fulfilling the American dream for himself, his children and our Nation.

A TRIBUTE TO HELEN EDWARDS

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. SCHUETTE. Mr. Speaker, it is with admiration and respect that I rise today to pay tribute to Helen Edwards, who will celebrate her 104th birthday on October 31, 1989.

Ruth Schwanz Edwards was born October 31, 1885, in Chesaning, MI. She and her husband Ernest Edwards raised five children, two sons and three daughters. They were blessed with 7 grandchildren, 16 great grandchildren and 17 great-great grandchildren.

I am proud to honor one of Michigan's oldest residents. I know my colleagues join me in extending best wishes and happiness to Mrs. Edwards on her 104th birthday.

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. GILMAN. Mr. Speaker, I was pleased to be one of the original cosponsors of legislation back in 1984 which called for the erection of a National Law Enforcement Officers Memorial here in our Nation's Capital—a memorial long overdue. Approximately every 37 hours, a policeman, policewoman, sheriff, or other law enforcement officer is killed in the line of duty—a total of 1,500 over the past decade alone, and an estimated 30,000 officers since the founding of our republic.

Mr. Speaker, this law officers memorial is being constructed not from taxpayers moneys,

but from private donations made by American citizens from every segment of our society—over 400,000 individuals have contributed so far.

In great part the success of this memorial is due to the hard work and diligence of Craig W. Floyd, the memorial chairman. He and his staff and their volunteers have performed a yeoman's service over the past 5 years of working to make this memorial a success. In many ways, the memorial is a tribute to their dream: the dream of a place where the widows, orphans, and loved ones of our fallen police heroes can come and be consoled with the knowledge that their supreme sacrifice was not in vain, and is appreciated by the entire nation.

Mr. Speaker, the ground-breaking ceremonies were honored with the presence of the President of the United States in order to share his thoughts with my colleagues, at this point in the RECORD I request that the President's remarks be inserted in their entirety:

REMARKS BY THE PRESIDENT AT NATIONAL LAW ENFORCEMENT OFFICERS' MEMORIAL GROUNDBREAKING, OCTOBER 30, 1989

The PRESIDENT. Thank you all very much for that—Sarah, Jim—for that very warm welcome, Jim, and the kind words and for the hard work that you and Craig Floyd here and so many others have contributed to making this spectacular day reality. Craig leaned over to me and said, "This beats May 15th." [Laughter.] And some of you may remember the event that we had, drenched in front of the Capitol up there. And the Lord is looking down on this one with a little more favor, I think.

I want to salute our able Attorney General, Dick Thornburgh, that rode over here with me, doing an outstanding job. And I might say, I'm very pleased to see his predecessor, Ed Meese with us. He stood strong and tall for law enforcement, and I think we still all appreciate that very, very much. [Applause.] I'm delighted to see Chief Fulwood here and of course my friend, Al D'Amato. Senator Pell has been detained, but there are other—several other members of Congress, and I'd like to ask them to stand. I see Connie and Ben Gilman, but there may be others there, and I want to salute them. Because we're getting—[Applause.]—there's Senator Domenici back there, also. [Applause.] And, of course, I'm delighted to see my friend Dewey Stokes and Lee Greenwood with us. And so many other—Phil Caruso—so many others that are supporting all of this. It's a pleasure to be here.

All these leaders deserve our thanks. But I really also want to say, "Thank you, America." More than 400,000 individuals have stepped forward to donate the funds for this memorial—a gift from a caring people and a grateful nation. And the sacrifices that we honor today began on a cold winter's day in January, 1794. Robert Forsythe, a veteran of the Revolutionary War and one of George Washington's new federal marshals enlisted two deputies and went to serve some routine court papers on the Allen brothers of Augusta, Georgia. But then as now, every cop knows there's no such thing as a routine assignment. And when the marshal found the brothers, they fled upstairs and fired a single shot right through the door and Robert Forsythe became the first casualty in an undeclared war that continues to this day.

Routine assignments continue to hold special danger for law enforcement. In 1988, Chicago police officer Irma Ruiz was a mother of four and a beloved mother figure to dozens of elementary students in the hallways she patrolled. But when a drug-crazed gunman attacked the school, Irma died—protecting nearly 200 children and teachers.

Two cops, two sacrifices, two centuries apart. But, both part of one tradition—the thin blue line that protects our nation from the evil within. The story to be carved on these walls is the story of America—of a continuing quest to preserve both democracy and decency and to protect a national treasure that we call the American Dream.

You know the numbers—an estimated 30,000 officers have died defending law and order in America. And added to this are the wounded. A toll of disability and pain that rivals those of America's overseas wars. And each loss represents a hometown hero; a city of flags at half-mast; a somber procession of white gloves and black arm bands; the bagpipe strains of Amazing Grace rising in the wind.

And with each casualty is told the tale of a family, so often forgotten. The brave spouses and parents and children who pay a terrible price in loneliness and loss. And many of you are here today. And many of you have played a critical role in bringing this memorial to life.

The Law Enforcement Memorial ensures that what is so real to you today will never become a statistic. Each loss has a name. And each name has a story to tell. The polished granite walls of America's Police Memorial will bear witness to the sacrifice of frontier lawmen like Frank Dalton of Fort Smith, Arkansas—one of more than a hundred deputies gunned down by outlaws in the American West. And prohibition detectives like Harry McGinnis, killed in 1933 in a shoot-out with Bonnie and Clyde. Federal agents like Secret Serviceman Leslie Coffelt—mortally wounded while preventing two terrorists from assassinating President Harry Truman. And ordinary—extraordinary policemen like Philadelphia's Albert Valentino, shot down last week—just last week investigating a burglary.

For all who lost their lives protecting the public, this memorial will stand as a tribute to their courage and their sacrifice. They will always be remembered here in the Oval Border of the Pathway of remembrance. And they will always be remembered down the street in the Oval Office, where since the day I took office, I've kept the badge of a rookie cop martyred last year in New York.

This memorial is also a tribute to the living—to the partners and the teammates of the fallen—to their families and to all of you who are foot soldiers in the battle against lawlessness.

In an age of indifference, you took a stand. You made a choice. You made your lives count for something and your service matters—not only because it saves lives and families and neighborhoods; it matters because it is the right thing to do.

And on May 13th, many of you—I said 15th, maybe it was the 13th—you gathered here in this same square to hold a candlelight vigil for your fellow officers. The night sky was pierced by one of the most appropriate and imaginative memorials ever brought to Washington—a single crystal blue beam of light—a laser—representing the thin blue line.

I'm right—two days later on the 15th, a dismal, drizzly Washington afternoon, I stood shoulder-to-shoulder with many of you up there on Capitol Hill, armed with new proposals to help protect the pure blue light of law enforcement. And we invited Congress to join us in a new partnership with America's cities and states—a new national strategy to take back the streets by taking criminals off the streets. [Applause.]

The states need to do their part as well. We need mandatory prison terms for those using firearms for crime and an end to plea bargaining for violent firearms offenders. [Applause.]

And for cop killers, for those who commit the ultimate crime, I feel strongly that they should pay the ultimate price. (Applause.) Congress has had our crime package since May. It is time to act, because these improvements are a vital part of our National Drug Strategy. And because, before any more names are added to that wall, the protection you deserve should be added to the books. And so it is with that hope and with great personal pride in America's police, and in all who have contributed to this historic effort, that I will now join in the groundbreaking for the National Law Enforcement Officers Memorial.

Thank you for coming. And thank you all, and God bless you. And especially, God bless those we honor here today. Thank you all very, very much. [Applause.]

CELEBRATING THE 20TH ANNIVERSARY OF CHEZ JOSEF

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to one of the great businesses in western Massachusetts, Chez Josef of Agawam. It is a family owned and operated state-of-the-art banquet hall and dining facility that has proudly served customers attending functions ranging from proms to weddings to charity events to fundraisers to anniversaries for more than 20 years.

On November 2, Allan and Anita Skole, the facility's proprietors, will host a belated 20th anniversary party for Chez Josef commemorating the founding of Chez Josef. The reason the Skole family did not have the celebration last May, when the anniversary should have taken place, is because the banquet hall was serving the customers that have helped Chez Josef become one of the most successful family-owned businesses in the State.

The facility can handle anywhere from 75 to 1,800 people. For this gala event nearly 1,500 invitations have been sent out and the response has been tremendous. But I am not surprised by this, Mr. Speaker, because I know how much the Skole family are respected by their patrons. Allan and Anita Skole, along with their children, Ron and Linda, have developed Chez Josef through hard work and dedication into a great family tradition. While Allan is the CEO, Anita serves as hostess, Ron is in charge of sales, and Linda supervises the dining room. The restaurant employs 225 people full time and is the largest year-round employer in Agawam.

But this anniversary is not only a tribute to Chez Josef or the Skole family but also to

those many individuals, schools, and public and private organizations that have returned to Chez Josef time and time again to receive the best in dining and service. Those invited are the patrons who have made Chez Josef a wonderful place to celebrate the best moments in life. The Skole's have asked CEO's, superintendents, principals, and community leaders to attend and to thank them for making Chez Josef such a success.

This, Mr. Speaker, is typical of my friend Allan Skole. He wants to thank those who have helped Chez Josef become a success and at the same time donate resources to others. I am speaking of the great and noble charity work with which he is involved. Each year Chez Josef is the sight of a Christmas party hosted by the Skole's for the clients of Sunshine Village in Chicopee, MA. Allan has also played an important part in the Work Opportunity Center, a vocational training facility for the mentally and physically handicapped. Allan is a member of their board of directors and has given tirelessly to this cause.

Family, Mr. Speaker, is a great part of what life is about. While Allan grooms his children to assume control of the business Ron is already preparing his 13-month-old son, Zachary Taylor, to start washing dishes. From these humble beginnings perhaps young Zachary, if he so chooses, will rise to the top of the hill. But for now let us all be thankful that western Massachusetts has such forthright and giving business leaders in Allan Skole and such fine establishments like Chez Josef.

TRIBUTE TO LEE HAMER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. BERMAN. Mr. Speaker, I rise today to salute one of Los Angeles' outstanding civic leaders, Lee Hamer. He has served the people of the San Fernando Valley for 50 years and he is the 1989 recipient of the prestigious Fernando Award.

Lee exemplifies the spirit of voluntarism and community commitment. He has personally raised several hundred thousand dollars for the Holy Cross Medical Center. He initiated a program to purchase the first Los Angeles Fire Department helicopter and was instrumental in donating automobiles to the Los Angeles Police Department's vice and cobra squads. These vehicles have been used in numerous operations and have directly saved lives and contributed to public safety and an anticrime efforts in the valley.

Lee has always made a special commitment to young people. He was a founding member of the Matador Athletic Club at what is now Cal State University, Northridge, and the facility has benefited students from all over the world.

Lee is a charter member of the Mission Hills Chamber of Commerce. He is a two-term president and is currently an executive officer and director of the chamber. He is an active member of the Kiwanis and is a past president of the organization.

Lee is a successful and popular businessman. He has been a valley auto dealer for over 50 years and currently owns and operates Hamer Toyota.

In Lee's honor, the Mission Hills Chamber of Commerce recently inaugurated the "Lee Hamer—Citizen of the Year Award." The chamber intends to present the award to individuals who best exemplify Lee's outstanding level of commitment and voluntarism.

Mr. Speaker, it is my privilege and pleasure to ask my colleagues to join with me in acclamation and Lee Hamer, an outstanding citizen and role model for all.

A TOAST TO TEXAS WINES

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. PICKLE. Mr. Speaker, I want to call my colleagues' attention to the continuing development of an important new industry for the State of Texas. From humble beginnings a few years ago, a robust wine industry has taken root in Texas and is beginning to bear fruit.

This progress was apparent at the recent Lone Star State Wine Competition, at which a number of Texas vintages were honored. I am proud to say that a winery in my district took the top honors, with Wimberley Valley's Texas Brut Champagne 1986 winning the Star of Texas Grand Award and a gold medal. Other gold medals were awarded to Fall Creek Vinyards of Tow and Llano Estacado Winery of Lubbock.

A total of 101 wines were presented for the 1989 competition, and a total of 64 wines received awards. Judge Marvin Overton, who judged a similar competition several years ago, stated "unequivocally" that Texas wines have come a long way, adding "I can't wait to see what five more years will bring." Another judge, Judy Peterson-Nedry, editor of the Northwest Palate in Portland, OR, said "Texas wines are really coming along. I encourage Texas winemakers to continue on their present course."

Mr. Speaker, the development of a quality wine industry is a great asset for Texas, creating new jobs and bringing in new revenue to a State rebounding from a prolonged economic slump. Our industry is not yet in the class of States like California and New York, but I hope one day soon that Texas wines will earn a place in the world's finest wine cellars.

INAUGURATION OF REV. DONALD J. HARRINGTON, C.M., AS 15TH PRESIDENT OF ST. JOHN'S UNIVERSITY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. LAFALCE. Mr. Speaker, I rise today to pay tribute to the Reverend Donald J. Harrington, C.M., the newly inaugurated president of St. John's University. Having known Father Harrington for many years while he served as president of Niagara University in Niagara Falls, I applaud this excellent appointment. At Niagara, Father Harrington was outstanding both as an academic leader and as a proponent of the idea that the university has a special obligation to serve the needs of the community in which it is located.

At his inauguration on October 5, 1989, Father Harrington gave a superb address on the role of a Catholic, and specifically a Vincentian, university in today's problem-filled world. His address reasserts once again that the university owes to the community a special obligation toward addressing all the needs of a human person. I, therefore, include his outstanding remarks in the CONGRESSIONAL RECORD:

INAUGURAL ADDRESS OF REV. DONALD J. HARRINGTON, C.M., OCTOBER 5, 1989

Several years ago on a relatively typical, cold winter day in western New York, an alumnus of both St. John's University and Niagara University met me on the Niagara campus to drive to a meeting in downtown Niagara Falls. As we drove down the main street of the city, thoroughly engrossed in conversation, suddenly the alumnus, without explanation pulled into the curb and got out of the car. He had spied an elderly, obviously poor, gentleman lying in the street between the curb and a bus. People were stepping over this man in order to get off and on the bus. The alumnus, very quietly and very kindly, gave the man the assistance he needed. A short while later, back in the car continuing to our appointment, I commented that relatively few people in similar situations would stop to assist with such genuine concern, and I asked why he had done so. His response was a simple one. He said, and I quote: "I'm a Vincentian product. I was trained by the Vincentians in high school, in college and in law school. It's just part of me."

It goes without saying, my friends, that I am very proud to relate an experience such as that. I am proud because for sixteen years my professional efforts have centered on Vincentian education and the fostering of values such as those which were embodied and manifested in this experience. My purpose in relating this story, however, goes far beyond pride. For I recognize that colleges and universities are quick to accept credit for the achievements and the success of their graduates, as I did in relating this experience. Most institutions are proud to list those graduates who have achieved prominent positions or serve well in government, in the church, education, or industry. Indeed, colleges and universities recognize that theirs is a significant role in shaping the lives and even the values of their graduates. To be consistent, therefore, my friends and colleagues, educational institutions must also, therefore, recognize that they play a critical role in determining the quality of the society in which we live.

As we look at the world around us, we look in particular at this great city of New York which St. John's University serves, we recognize with staggering clarity the challenges which confront this city and our Nation. Homelessness and poverty, drug and alcohol abuse, crime and violence, ethical malaise—at times in high places—these problems constitute but a very limited list of those challenges which face us as a society. My friends, if educational institutions wish to accept credit for the success of their graduates—and rightly we should—then we must also be willing to accept some responsi-

bility for failures and for the partial deterioration of the society in which we live. I suggest that educational institutions on all levels must ask basic questions about those aspects of society which need reshaping and the elimination or lessening of many of these problems. In higher education we must look at the curricula of our colleges and universities; we must look at the atmosphere for learning which is fostered on our campuses; we must look at the role models which we hold up to our students; we must look at the accessibility of our institutions to those who are most in need—financially and academically; and we must then revise those curricula, that atmosphere, those role models, that access—so as to better the society in which we live.

If we had the capacity, my friends, to begin from scratch, to shape anew the educational experience of our young people, what form would that education take? I ask very simply, if we hope ever to realize the world and the society of which we dream—what shall we teach our young people?

Shall we teach them career skills and the great advances in science and technology? Of course, we shall, but that will not be enough to reshape our world.

Shall we teach them the wonders of art and literature—probe with them the mysteries of history, psychology and sociology? Of course, we shall, but that will not be enough to reshape our society.

Shall we teach them the foundations of our laws and the philosophy of our legal system? Of course, we shall, but that too will not be enough to reshape our world.

Shall we teach them communication skills and computer literacy? Of course, we shall, but again that will not be enough. There are many, many things, my friends, which we shall and should teach our young people; so often they will not be enough to reverse the problems which confront us.

It is my conviction that if we wish to impact positively the world in which we live, if we wish to have a serious effect on those problems which confront us in this city and in our world, we must teach our young people to probe the mysteries of the human person. To shape a society which truly understands and respects the role and the nature of the human person is to lessen the intensity of the problems which confront us today.

The miracle of the human person is wondrous indeed. Ponder the freedom which is ours—the freedom to shape our lives and to influence the world around us. Ponder our capacity to love, to reach out, and to affect and change the lives of others through our caring and our concern. Ponder the great mystery of God's love for us, manifested in creation and in His sharing of Himself with us. Pope John Paul II, in his encyclical, *Redemptor Hominis,* reflects upon these mysteries and defines the Christian redemption story—the Gospel—as, and I quote, "amazement at the worth and dignity of the human person." Indeed Pope John Paul sees the Gospel story which serves as the basis of the Christian faith as being summed up in those simple words, "amazement at the worth and dignity of the human person." And, my friends, that amazement leads us beyond ourselves and others to our God—the source of our dignity, our worth, our very selves.

If indeed, my friends, we can succeed in teaching our young people in theology, in philosophy, and in other disciplines respect for the human person and amazement at the very nature which is ours, our world and our society can indeed be altered. For with such awareness, how can we allow people to be homeless or to be impoverished? How can we allow people to be rejected or to be victimized? How can we depart from solid ethical norms in industry or in government if we fully comprehend and stand in awe of the great dignity which is ours and theirs as human persons?

Vincent De Paul, the founder of the Vincentian community in the 17th century, spent his entire life in service of the neglected and the outcast of his society. He did this because of his own conviction of the great dignity of every human person. As Father Maloney has said so well, we, as a Vincentian institution and as a Catholic university, are called to manifest and to foster that same repect in so many ways day after day in the life of this institution. I encourage the faculty, the staff, the students and the administration of St. John's to continue to manifest its respect for the human person not only in our words but also in our actions—for those words will be credible only if we live as individuals and as an institution vitally concerned about and invested in the society in which we live. Yes, we must accept responsibility for the environment, both physical and interpersonal, in which we live and work. And we must teach others to do the same.

In 1870 St. John's University was founded in response to a request by John Loughlin, the first bishop of Brooklyn, that the Vincentians educate those for whom education was not a possibility—first and second generation Americans. We have continued that tradition for almost 120 years. Today, we recommit ourselves to that vision and to that fundamental principle of respect for the human person, upon which this institution was founded. Faithful to that vision, I pledge to the faculty and administration of St. John's University that I will dedicate my efforts to preserving an atmosphere for such learning and to providing the resources necessary to ensure that atmosphere. I pledge to the students of St. John's University a deep, personal concern for each of you and the constant challenge to you to grow in your respect for the dignity of all. I pledge to the alumni of St. John's University fidelity to the mission and to the solid traditions of this institution, ever-conscious of those challenges which await us as we approach the 21st century. I pledge to my colleagues in higher education, my fellow presidents and their representatives who are with us here today, that St. John's University will continue to take its place in the educational community of our city and of our Nation, conscious of its special mission and support for the education of our young people. I pledge to the religious sponsors of this institution, the Vincentian priests and brothers, as well as to our sister community, the Daughters of Charity, institutional fidelity to the vision of Vincent De Paul, which gives special meaning to the mission of St. John's University. I pledge to His Eminence, Cardinal O'Connor, to Bishop Mugavero, to their fellow bishops and to the clergy and members of the Catholic community who are present here today, that St. John's Unviersity will continue to reflect upon and to act upon its special nature as a Catholic university.

My friends, we stand on the threshold of a new decade, and soon, a new century. We celebrate today my inauguration as the 15th president of St. John's University. I am confident that in the coming decades, many individuals will follow me in this office. With the exception of a presidential portrait and a small plaque beneath it, little will be remembered of me or my predecessors or my successors, and that is as it should be. All that need be remembered is that St. John's University stands as a quality academic institution committed to the preservation and advancement of the dignity of the human person. If I succeed in preserving this during my presidency, I will have been faithful to the responsibilities entrusted to me today. Respect for the human person, founded in our love of God, will provide our continuity as an academic institution, and hopefully our students and later our alumni will find themselves unable to pass the person in need without stopping to assist. Then St. John's will continue to be truly Vincentian, and we will have been faithful to the trust which is ours. I thank you all for sharing this day with us.

WILL THERE BE FREE ELECTIONS IN NICARAGUA?

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, in the words of Ronald Reagan, there he goes again. Nicaraguan Dictator Daniel Ortega has said he may abrogate the cease-fire with the freedom fighters that has been in place for the past 18 months. He said he based this decision on the fact that skirmishes have been occurring in the Nicaraguan jungle.

I have a very difficult time believing that this is truly the case. Ortega is once again finding excuses to keep the Nicaraguan people from freely choosing their own government in a democratic way. Recent press reports indicate that the Marxist Sandinistas are restricting voter registration of Miskito Indians to no more than 100 per day. Their regime is also using its army to intimidate opponents in outlying areas where no foreign monitors are present. Recent reports from election observers also indicate that the Marxist regime is also harassing independent election workers as they attempt to carry out door-to-door registration drives. A worker was reportedly beaten up for distributing literature. This is hardly a promotion of the democratic process.

Mr. Speaker, it is ironic that Ortega made this announcement the day a Gallup organization poll found that the Sandinistas were behind by 11 points and would lose the election to UNO and his opponent, Violetta Chamorro. As my colleagues know, Mrs. Chamorro is the publisher of La Prensa and a strong advocate of a free Nicaragua. She represents the antithesis of Marxist rule in that country. It is no coincidence that Ortega sees the writings of freedom on the wall and will do anything he can to keep his country from breaking the chains of Communist rule.

We have a moral obligation to see that Nicaragua has free and fair elections. We cannot abandon the Nicaraguan people. This Congress should take immediate and decisive action if the Sandinistas do not live up to the promises they made in early August.

DONALD SWEITZER ON DEMOCRACY IN NICARAGUA

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. ECKART. Mr. Speaker, today I am submitting, for the RECORD, a statement by Mr. Donald Sweitzer, who recently returned from a trip to Nicaragua sponsored by the Center for Democracy. In his statement, he describes his observations of the progress of the electoral process in Nicaragua. These firsthand observations should be beneficial in any upcoming debate on this issue.

STATMENT BY DONALD SWEITZER ON DEMOCRACY IN NICARAGUA

Last Sunday, while most of my neighbors watched the Giants beat the Redskins, I was roaming the countryside in Nicaragua watching long lines of people waiting patiently to register to vote. Many were dressed in their best church-going clothes, plainly anxious to exercise a right that most Americans take for granted and many fail to use.

As someone who has worked in numerous political campaigns from local precinct to the national level, I was asked to go to Nicaragua with an observation team sponsored by the Center for Democracy. Like others in this country who pay some attention to foreign affairs, I had been aware that an agreement had been reached in the long and violent struggle in Nicaragua between government and opposition to register voters and conduct a national campaign culminating in elections on February 25, 1990. Recent events in countries as widely removed as Poland, South Africa and Nicaragua seem to suggest that peace and the democratic process is on the ascendant, I thought, throughout the world.

Not quite.

Our group saw enough cases of voter intimidation to make one wonder whether this process in Nicaragua is a genuine free and fair one at this point.

Sunday was the third of four registration days this month where all Nicaraguan citizens 16 years or older are supposedly able to present themselves to their local Juntas Receptores de Votos (JRV), present identification or two witnesses who will verify their identity and register to vote. This process is a result of an election plan in which the opposition received major concessions from the Sandinistas at an August 3 "National Dialogue" in Managua.

The ruling Sandinista government led by President Daniel Ortega has touted the process as free and open. They hope to parlay an electoral victory on February 25 into the lifting of American economic sanctions that among other things, has added to an out of control inflation in the country that causes a light breakfast to cost 250,000 cordoba ($10.00).

Fourteen opposition parties spent several months organizing to oppose Ortega, forming a coalition called the United Opposition of Nicaragua or UNO. Their candidate for President is Violetta Chamorro, the widow of the slain publisher of the opposition newspaper La Prensa, a figure easily as well known and popular among Nicaraguans as Daniel Ortega himself.

We met with representatives of both the Sandinista government and the UNO opposition, including a brief meeting with Mrs. Chamorro. Surprisingly, both sides are confident of victory. I say surprisingly because my reaction after spending a weekend observing the election process as a veteran of scores of election days and hundreds of voter registration drives, is that the deck is already stacked against UNO.

We visited almost twenty registration locations, some in heavily populated towns and some in small rural locations. The overwhelming majority of them were manned at polling entrances and exits by "Electoral Police" who turned out not to be civilians but uniformed soldiers or Ministry of the Interior policemen in uniform. At least a half dozen of the soldiers I saw were armed with AK-47's, hardly a reassuring scene to a peasant about to exercise his rights as a citizen or to an opposition anxious to assert civilian authority on the Sandinista army after the election if UNO wins.

At one location, a soldier sat in the doorway with his AK-47 laying in his lap and his foot up on the door opening, blocking the entrance. Although we all had official photo ID observer cards, he actually frisked one of our party. (Later, when we brought this to the attention of the Sandinista officials, we were told that there is still Contra activity in some of these villages thus necessitating the tight security. The middle-aged, neatly dressed gringo observer who was searched, however, was hardly your garden variety Contra type.) At one location, I was refused entry to a polling place because I had a camera while at another, I was told that I could not take pictures. We did, however, get many pictures of armed soldiers.

The registration procedures were slow, ranging from five to fifteen minutes to register each person and the number of registration locations is obviously inadequate. At one location, where we arrived in the scorching late morning heat, 80 people were waiting in line, many for several hours by then. We heard many complaints of people being turned away and sent to other precincts, only then to be sent to others. We saw Sandinista poll watchers delay the registration of peasants with nit-picking questions. Whatever the government's actual figures for registration, plainly a more efficient procedure would have substantially increased the numbers, something which would appear to favor the opposition.

I have worked in political campaigns in some of the roughest political bastions in this country—Hudson County, New Jersey; Mahoning County, Ohio; Albany County, New York; and the king of them all, Cook County, Illinois. I have watched entrenched political machines instinctively use all available resources to enhance their influence at the polls and the Sandinistas cannot be faulted for attempting to protect their incumbency. But uniformed soldiers, machine guns and frisking have no place in the voter registration process anywhere on this planet.

What I witnessed last weekend suggests that this process may already be rigged in favor of the Sandinistas. Nevertheless, to my amazement, the NO representatives still are convinced that they can win.

Presumably the U.S. support approved by the Congress this week will help fund a more adequate and balanced campaign which can mobilize Nicaraguan voter dissatisfaction with a decade of economic failures and repressive political behavior by the Sandinistas. What I saw last weekend, however, suggests that one should not discount the willingness of the Sandinistas to quietly flex their military muscles away from the eye of the international media and most observers unless the democratic world continues to agitate for a fair and balanced campaign from now until Election Day.

THE GOVERNMENT GUARANTEE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report on Govenment Guarantees into the CONGRESSIONAL RECORD. The article originally appeared in the Journal of Commerce on October 30, 1989.

THE GOVERNMENT GUARANTEE

Later this year, the Congress will consider legislation to raise the debt limit for the federal government to $3 trillion. To most Americans, this huge sum of money represents a ceiling on the amount of money the government is permitted to borrow, and a full measure of the government's liability. However, as the recent losses in the thrift industry and in federal housing programs have shown, government liabilities can extend beyond the national debt. These so-called "contingent liabilities," which amount to more than $4 trillion, involve not a direct government debt, but rather a government guarantee to make good on the deposit and loan commitments of others should they sour.

TYPES OF GUARANTEES

Government guarantees come principally in three forms. The most easily recognizable is the government guarantee on insured deposits at banks, thrifts, and credit unions. Currently, the federal government is committed to repay depositors' losses up to a maximum of $100,000 per account whenever an insured depository institution fails. Designed to lend stability to the nation's financial system, this insurance coverage creates enormous potential exposure for the government. It is estimated that insured deposits at banks, thrifts, and credit unions totalled $2.7 trillion at the end of 1988. In contrast, the recent failures in the thrift industry, which is expected to cost taxpayers $166 billion over the next 10 years, represent only a small fraction of the total number of insured deposits in the country.

Government loan guarantees constitute a second type of guarantee. Most involve a government pledge to guarantee a loan made by private lenders to high-risk borrowers. In the event that the loan sours, the government agrees to pay the lender the guaranteed portion of the loan. For example, Farmers Home Administration agrees to reimburse the private lender for up to 90% of lost principal and interest if the borrower defaults on a guaranteed farm loan. Similar programs are in place to underwrite education loans, and home mortgages administered by the Department of Housing and Urban Development and the Department of Veterans Affairs. In total, outstanding guaranteed loans currently exceed $550 billion.

The third, and least understood, type of guarantee involves government sponsored enterprises. A government sponsored enterprise is a privately owned, but federally chartered financial institution designed to borrow money in the private markets and channel it to certain uses. For example, Fannie Mae improves the marketability of

home mortgages, and Sallie Mae improves student access to loans. As private institutions, the enterprises borrow money without the approval of Congress or the Executive Branch, and their debt does not count against the federal budget deficit. However, the enterprises are generally perceived as enjoying a special relationship with the federal government because of their unique federal charters. The implicit federal government backing of their loans enables enterprises to borrow cheaply and pass along the savings to potential borrowers. The implicit guarantee also creates a large contigent liability for the government. If an enterprise should experience severe losses, the government is expected to pick up the tab, as occurred with the Farm Credit System in the mid-1980s. Presently, such enterprises hold over $720 billion in loans on their books.

BENEFITS AND PITFALLS

The government guarantee has grown substantially over the last decade as the Congress has looked for ways to meet certain public policy objectives without spending very much money. The guarantee offers several important advantages in an era of tight federal budgets. First, the guarantee involves virtually no direct government outlays or program expenses, provided of course that the guaranteed loan or deposit does not go bad. Second, government backing of a program immediately attracts large amounts of private investment, as witnessed by the huge growth in the number of and size of government sponsored enterprises over the last decade. Third, the guarantee lowers the costs of funds to borrowers.

However, the guarantee puts the government at risk of covering an enormous portfolio of deposits and loans, in many cases to high-risk borrowers. The recent failures in the thrift industry and in the Farm Credit System point up some dangers associated with the guarantee. Poor or inadequate regulation can mean huge costs for the taxpayer. Government guarantees also can create incentives for abuse and poor fiscal management, especially in the absence of strong government regulation and congressional oversight. As the thrift scandal shows, there is every incentive for management to take big risks so long as the federal government underwrites most of its activities. In addition, government guarantees often encourage specialized lending which poses additional risks for the federal government. Fannie Mae and Freddie Mac, the two largest enterprises, have a combined $500 billion wrapped up in mortgage loans and guarantees. A severe downturn in the national housing market could create serious problems for these huge enterprises.

WHAT SHOULD BE DONE

My view is that the government guarantee is an important policy tool which has benefitted numerous sectors of the economy, including agriculture, housing, veterans, and education. However, I think it is beyond time for the Congress to take a hard look at the full extent of the government's risk. The potential danger is enormous, all the more so because we keep expanding the guarantees. The risks associated with government guarantee are not well understood or documented. They also are not included in federal budget calculations, which tends to obscure problems in credit programs and enterprises. Study of the government guarantee would allow for public debate on possible ways to restrict potential exposures to the federal government and the average taxpayer, including regulatory improvements and reforms in deposit insurance. Whatever changes are actually considerd or adopted, it is clear that more should be done to ensure that the guarantee does not saddle the federal government with future bailouts.

MARKING THE DIAMOND JUBILEE OF THE CHATSWORTH CHAMBER OF COMMERCE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. GALLEGLY. Mr. Speaker, I rise today to honor the Chatsworth Chamber of Commerce, which is marking its 75th anniversary this year. Chatsworth and its chamber of commerce have both come a long way since 1914, and the members of the chamber deserve to be recognized for the important role they have played in the community's development.

As is the case in many important events in the arid West, the chamber was formed over the issue of water. The San Fernando Valley was a fertile agricultural region at the time, and the farmers in the far northwest corner of the valley knew they needed to work together to ensure that they received Owens River water from the then-distant city of Los Angeles.

Over the years, the chamber's emphasis changed as farming gradually gave way to suburbanization. Particularly during the post-World War II boom, the chamber became more influential and took on such matters as planning for future growth, zoning, and setting aside an industrial area.

That foresight paid off as the community grew and flourished in the 1960's and 1970's. Chatsworth today is a jewel of the valley thanks in no small part to the work of the chamber of commerce.

Today, as we approach the 1990's, the chamber is working to meet the needs of Chatsworth's second century. The chamber's staff receives inquiries from around the world concerning the community and the opportunities offered to residents, businesses, and industry. And the organization remains as a vital force for community involvement.

Mr. Speaker, Virginia Watson, the curator of the Chatsworth Historical Society, may have best summed it up when she wrote:

"From a small diamond-in-the-rough beginning, the Chatsworth Chamber is now ready to look back with pride and to look forward with promise."

LINE-ITEM VETO NEEDED BY THE PRESIDENT

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. DUNCAN. Mr. Speaker, the President needs what almost all Governors have—the line-item veto power. This has been made clear many times—most recently when the President felt forced to veto the appropriations bill for the Departments of Labor, Education, and Health and Human Services—all because of probably the smallest item in the bill: Abortion funding.

I voted to override the President's veto because I did not believe this was—or should have been—an abortion vote. I realize this was the spin or slant the national news media put on it. But this, at least for me, was not a vote on abortion. Abortion funding was a minuscule portion of this entire bill.

I have voted with President Bush on almost every major issue. I admired his courage in handing down this veto. The media have made it the fashionable in-thing, the politically popular thing, today to be prochoice.

Yet many of the leaders of the so-called prochoice movement have been antichoice about every other issue with which the Federal Government deals. They have almost always voted the liberal, big-government line, favoring power to and control by the bureaucrats rather than the people themselves every time.

Abortion is not the only issue facing this Nation today. It is not even our greatest problem. Obviously, it is a very important issue. It is a national tragedy that over 1.5 million infants are aborted each year. Yet most unbiased observers admit that not even one-tenth of 1 percent of these abortions are of pregnancies due to rape and incest, where all the attention has very wrongly been focused.

We need more understanding and compassion on both sides of this issue. Some on the proabortion side, who claim very loudly their compassion for victims of rape and incest, have no compassion whatever for those who honestly and sincerely disagree with them on this issue.

I am strongly antiabortion, except in very rare circumstances. Yet I admit that some on the prolife side, who say they have great love for unborn children, have shown that they have little love left for those who favor abortion at will.

I believe the proabortion people should put their money where their mouths are. If their first concern really is for those unfortunate few poor women who shockingly defy all odds and become pregnant due to rape or incest, then let them set up a fund to pay for these abortions. Everyone would admit the Federal Government cannot pay for every single bad thing that happens in this world.

Instead, they spend their money buying ads attacking those who do not believe they should be forced by their own government to fund abortions—which they morally believe to be a form of murder.

And the prolife forces should spend less of their resources in waging political warfare and more in support of children who are born without the parental support necessary to lead a good and decent life.

Many people who disagree on the issue of abortion agree on most other major issues. Even husbands and wives disagree sometimes. Men and women are not enemies. We are all human beings. In this country, we are all Americans. We need more understanding.

Sure, we will have disagreements. But let us do it without so much bitterness and rancor.

Let us emphasize all the things we agree on. We need to unify this Nation and work together if we are going to make real progress toward solving all the problems we face as a nation. Abortion is not our only problem.

Once again, I say that the vote on the bill last week should not have been on abortion. That bill had $1.6 billion for cancer research. It had many hundreds of millions for meals for poor elderly citizens and education and Medicaid grants to the States and student loans and Alzheimer's research, and on and on.

We need more understanding and simple human kindness on both sides of the abortion issue. And we need to give the President—whether he is Democrat or Republican—the line-item veto so that he can veto the bad parts of a bill but move forward and ahead on all that is good.

TRIBUTE TO RHODE ISLAND AIR NATIONAL GUARD

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. MACHTLEY. Mr. Speaker, I rise today in tribute to the Rhode Island Air National Guard, which celebrated its 50th birthday on October 13. This distinguished group of citizens was formally recognized by the Federal Government on October 13, 1939. At that time, it had 11 commissioned officers and 138 enlisted men. Today, the Air Guard has grown to nearly 1,500 enlisted men and women.

In World War II, Rhode Island Air Guard squadrons hunted enemy submarines off the east coast and flew bombers and fighters in Europe. Most recently, members assisted in the cleanup of the world prodigy oilspill, worked during a strike at the Institute of Mental Health and assisted police during sniper attacks in north Smithfield. The Air Guard has also flown supplies to Florida for shipment to victims of the Armenian earthquakes and aided rescue efforts after the Sioux City plane crash.

This record of accomplishment is most impressive, and deserves recognition. I look forward to the continued success of this valuable part of our national defense.

COMMEMORATING 25TH ANNIVERSARY OF TEXAS A&M CLASS OF 1964

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. LAUGHLIN. Mr. Speaker, it is a special pleasure to come before the House today to draw attention to the 25th reunion of the Texas A&M University class of 1964 that will be gathering on the College Station campus this weekend.

Let me say right up front that the class of 1964 is my class, and I am proud to be a member, as I am proud to say that I am an Aggie. Looking back at our association together 25 years ago at Texas A&M University, I think I speak for all of my classmates when I say that we drew on each other's talents and strengths of character and became better people because of the friendships forged during those years.

In many respects the year 1964 was a simpler time. It was also the beginning of a new, sometimes uncertain, but always challenging period for the Nation. The class of 1964 accepted that challenge with enthusiasm and went forth from graduation to serve the Nation, to build families, and careers.

Many in the class of 1964 traded the uniform of the Aggie corps of cadets for the uniform of the United States Armed Forces, but none gave a greater sacrifice than our classmates who died in combat in Vietnam.

To use Gen. George Patton's words, those classmates are "American heroes," to whom the Nation owes an eternal debt of love and gratitude. The seven members of the class of 1964 who gave their lives in Vietnam were all officers, leading their men in the line of duty, and their names are:

Capt. George L. Hubler, U.S. Marine Corps; Lt. James R. Hottenroth, U.S. Air Force; Lt. Colin E. Lamb, U.S. Army; Capt. Thomas A. McAdams, U.S. Army; Capt. Henry G. Mundt, II, U.S. Air Force; Lt. John B. Price, U.S. Air Force; and Lt. Victor H. Thompson III, U.S. Air Force.

The Texas A&M University class of 1964 also produced its share of solid citizens, including a U.S. Ambassador and Chief of Protocol at the White House, Abelardo L. Valdez; Brig. Gen. Ronald "Ronny" Gray, U.S. Air Force; Brig. Gen. James "Terry" Scott, U.S. Army; a host of colonels, several ministers and professors, a standout in the world of sports in New York Mets manager Davey Johnson, an associate athletic director, and many others who have achieved success in their chosen careers all across the country.

The 25th anniversary gives us the opportunity to reflect on where we've been and how far we've come, and to celebrate that within us that we drew from each other.

And finally, Mr. Speaker, my own presence in the 101st Congress is due in part to the support and confidence I received from members of the class of 1964.

WHY LOOK AT FELA?

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. WHITTAKER. Mr. Speaker, as the senior Republican member of the Subcommittee on Transportation and Hazardous Materials, which is responsible for railroad issues, I have become increasingly concerned about the system by which rail workers must seek compensation for work-related injuries. Because this system, the Federal Employers' Liability Act, is not well known outside the rail industry and a small segment of the legal profession, I thought it might be appropriate to explain the system and some of the problems that make congressional oversight of this issue long overdue.

FELA, which predates all State workers' compensation laws, was enacted by Congress in 1908. The theory behind FELA is simple, albeit controversial. Unlike the no-fault State workers' compensation laws that cover virtually all other workers in this country, FELA is fault-based. In other words, for an employee to receive any compensation for a work-related injury, he or she must be able to prove to a jury that the railroad was at fault.

This is a dangerous game of chance for railroad workers, and it can result in great disparities in compensation. For example, a Grand Trunk & Western employee lost both legs in a train accident. A jury in Detroit awarded him $7 million in compensation. Then consider the case of Bobby Wade Holland, of Albany, GA. In trying to couple a train, he also lost both legs. After 2 years a jury decided that the railroad was not negligent. Bobby Wade Holland received nothing. The former brakeman will be in a wheelchair for the rest of his life, and yet, under the FELA system, he received no compensation for his injuries. Bobby Wade Holland is not alone. Of the small percentage of FELA cases that actually go to trial, nearly one-third result in the injured worker receiving nothing. That's not fair, and it's not right.

A second negative consequence flowing from the fault-based nature of FELA is the ever-escalating costs of the system in the face of both declining employment levels and a dramatic reduction in the number of employee injuries. From 1981 through 1988, while employment on major railroads dropped 43.5 percent and employee injuries on those railroads dropped 53 percent, FELA costs more than doubled to $811 million. With FELA costs draining away nearly half of the industry's annual earnings, the ability of the railroads to remain competitive in the transportation industry is clearly at risk. Just as clearly, it does not bode well for either the short- or the long-range prospects for job opportunities in the industry. As FELA continues to drain more and more millions from railroad revenues, the railroads will be forced to abandon marginal lines and eliminate numerous jobs.

It appears to me that this is a lose-lose situation. Workers are forced to play a dangerous game of Russian roulette to see what compensation they will receive, if any. The rail industry spends almost a billion dollars a year—much more than it would pay under any reasonable no-fault State workers' compensation system. So who wins?

The more I look at the facts, the more obvious it becomes, it is the FELA lawyers who win. A small group of lawyers who specialize in FELA cases collected between $148 million and $237 million in fees! I am concerned about any system where lawyers collect 5 to 40 percent in contingency fees while people like Bobby Wade Holland don't get a dime.

Most experts on workers' compensation programs suggest that the essential element of a well-run program is that it provides prompt, fair, and reliable awards to compensate workers when they are injured in the workplace—without regard to fault. These programs should also promote the rehabilitation of the injured worker so that he or she can return to the workplace as quickly as possible. Now, compare this to FELA. Lawyers encourage people to stay off the job, lest their lawsuit lose credibility. Employees are discour-

aged from discussing the causes of the accident with the company for the same reason.

Further, under workers' compensation, injured employees begin receiving monthly benefit checks almost immediately. With FELA, the resolution of a lawsuit can literally take years. In 1987, three railroads examined the average length of time it took from injury to settlement in cases going to court. The first reported an average of 34 months; the second, an average of 36 months; and the third, 38 months. With legal advice that often discourages rehabilitation for that length of time, one can easily see the detrimental effects on employee rehabilitation.

As we evaluate the Federal Employers' Liability Act to determine whether it meets the needs of railroad workers, we should focus our inquiry on some fundamental questions: Is FELA providing all injured rail workers with prompt, fair, and consistent compensation? Is FELA promoting rehabilitation? Is the current system one which promotes the interests of lawyers over workers?

To allow our analysis and oversight of this program to be distorted by those who would argue that FELA must remain unchanged because it serves as a safety statute would be a mistake. That argument is simply not accurate. Beyond that, it is a disservice to those rail workers who must rely on FELA as a workers' compensation statute. As we begin our hearings, I want to know whether this system really benefits this country's 250,000 railroad workers.

It's because of these concerns that I am pleased that the chairman of the subcommittee, Mr. LUKEN of Ohio, has agreed to hold a hearing on FELA on November 1. I look forward to working with the chairman and other members of the committee on this very important rail issue.

TRIBUTE TO FRANK LESSER, RECIPIENT OF THE FIRST MARTIN L. MELLMAN COMMUNITY SERVICE AWARD

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. SCHEUER. Mr. Speaker, it is a great pleasure to rise today in tribute to Mr. Frank Lesser, a truly distinguished man who has dedicated himself to serving his neighbors in the Great Neck community where he has resided with his family for over 25 years. In recognition of his tremendous achievements, the Democratic Committee of the 16th Assembly District in Great Neck has selected Frank Lesser as the first recipient of the Martin L. Mellman Community Service Award, named after the former Nassau County Democratic Chairman who was a friend of the Lesser family and also hailed from Great Neck. This award will be presented to Frank Lesser on Sunday, November 7 at a special brunch held in his honor.

The son of Sylvia and Norman Lesser, Frank Lesser was born and raised in Brooklyn, NY, where he attended and graduated from the historic James Madison High School. During the Second World War, Frank served his country with distinction in Europe as a combat infantryman and was awarded the Bronze Star, Purple Heart, and two Battle Stars for his heroic duty. Upon returning home, Frank continued his educational pursuits, earning degrees from both New York University and Adelphi University.

Frank and his lovely wife Deena moved their family to Great Neck in 1963, and Frank immediately became involved in all political, charitable, and civic affairs in his community. He was subsequently elected mayor of Thomaston and later served as chairman of the board of appeals. In 1976, Frank Lesser was elected president of the Great Neck Village Officials Association. It was his deep concern for our environment that led him to seek and win election as a commissioner of the Great Neck Water Pollution Control District in 1977, a position in which he continues to serve with distinction today.

A lifelong Democrat, Frank Lesser became a Democratic committeeman in 1965, and joined the Reform Democratic Association of Great Neck in 1975. He later served as a zone leader for the Great Neck South community, and in 1981 was elected Democratic State committeeman and coleader of the 16th Assembly District, a post once held by Martin L. Mellman. Frank Lesser continues to serve the Great Neck Democrats today, along with his coleader, Lee Seeman.

Mr. Speaker, in addition to his long string of political successes, Frank Lesser is executive vice president of the United Community Fund of Great Neck, and has served as a member of its board of directors for 10 years. Frank Lesser, a charitable human being, regards this organization as epitomizing the spirit of Great Neck—neighbors helping neighbors.

Furthermore, since 1966, Frank Lesser has been a member of the Thomaston Drive Steering Committee for the United Jewish Appeal Federation. Frank was chairman of this committee for 2 years and was their honoree in 1973. He is also a member of the Reconstructionist Synagogue of the North Shore.

Frank Lesser currently owns and operates a real estate agnecy in Great Neck, which bears his name. Married to his wife Deena for 38 years, the Lessers raised three children: Laura, Julie, and Steven, of whom they are extremely proud, and they also have two young grandchildren: Nicole Lane and Emma Lesser.

Mr. Speaker, I urge my colleagues to join me today in extending sincerest congratulations to Frank Lesser and his wonderful family on this special occasion. Frank has earned an honored place as a most valued member of the Great Neck community, to whom he has given so much, and we shall forever be indebted to him for his kindness and generosity of spirit.

TRIBUTE TO INVENTOR WILLIAM GRAY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mrs. KENNELLY. Mr. Speaker, Clark Kent would have been in trouble if it weren't for William Gray. It's a bird, it's a plane, it's a man changing his clothes in the middle of a downtown street? Yes, the world would have looked different without the invention of the pay telephone.

It began in the early spring of 1888 in Hartford, CT; a man ran into a nearby factory and asked to use the phone. He needed to call a doctor for his critically ill wife. The people there told him that the phone was not available for public use. He offered to pay for the service, but still he was denied. Only after pleading the urgency of his need to the manager was he finally allowed to make the call.

That man in need was inventor William Gray, a mechanic at Pratt and Whitney's machine tool company. The incident convinced him that it was time to put his creative talents to work in developing a system that would let everyone gain access to the communication network.

In 1889, William Gray received a patent for the world's first coin-operated telephone, and later that year, the first pay phone was installed by Southern New England Telephone in the basement of the Hartford National Bank on the corner of State and Wall streets in Hartford, CT.

Today, over 2 million pay phones are currently in operation throughout the Nation. They are owned and operated by small, entrepreneurial companies and large telecommunications corporations. They are located at the gas station on the edge of desolation to the busiest metropolitan airport, serving individuals in cases of emergency and in everyday life—proving time and again that they are much more than a simple convenience. Since the installation of the first pay phone the pay telephone has evolved from a simple coin-operated instrument—requiring a 5 cent deposit—to the extraordinary devices of today, some accepting credit cards, sending and receiving FAX transmissions, recording and delivering delayed messages and even incorporating computer terminals with video enhancements. Additionally, many offer special services to the hard of hearing and handicapped.

The year of 1989 marks the centennial celebration of the pay telephone—100 years of technological history that keeps changing, progressing, and remains ever responsive to the needs of the time.

SUPPORT OF MINIMUM WAGE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. PAYNE of New Jersey. Mr. Speaker, today, I stand once again in support of an increase in the minimum wage.

As the Representative of New Jersey's 10th District, it is my obligation to speak out on behalf of the millions of Americans who work at the lowest paying jobs. When I voted in support of H.R. 2 earlier this year, I was voting for fair compensation for work done and an improved standard of living for a large segment of American society.

The bill we have before us will begin to end a trend of worker exploitation and send a message to the working poor that we are not turning our backs on them. This is a bill to improve the welfare of those who work at the lowest level jobs in our economy. It is a step in the right direction, although in my opinion much more needs to be done.

Soon we will have an opportunity to remedy the injustice which has been going on for too long. When H.R. 2710 comes to the floor, support the increase of the minimum wage.

TEACHER TRAINING

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. HAWKINS. Mr. Speaker, today I have introduced two separate bills which are counterparts to what my Senate colleagues introduced last month. Both of the measures involve teacher recruitment and training and have a goal strengthening the teaching profession. Over the last few years, we have seen numerous national and State reports focussing on this subject, and rarely does a day go by without a story appearing in our major newspapers calling for increased professionalism of our teaching force.

Last Congress, each of our respective Chambers reauthorized the legislation which impacts on our Nation's preschool through adult programs. However, the programs are incomplete. We did not focus sufficiently on those which provide the professional expertise necessary for our students to succeed. These measures that I introduce today take us in that direction.

Although there may not be unanimity across the major national reports as to which fields or disciplines are reflecting actual or potential shortages, there does exist a concurrence that minorities and women are underrepresented in the pipeline, as well as in the labor force. I commend these bills to my House colleagues, and invite their comments when our hearings are scheduled by the Education and Labor Committee.

EXPLANATION OF MISSED VOTES ON HOUSE JOINT RESOLUTION 257 AND H.R. 2095

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. BUECHNER. Mr. Speaker, because of urgent business in my home district on October 23 I unavoidably missed Rollcall 296 on House Resolution 257—Denouncing the European Community Broadcast—and Rollcall 297 on H.R. 2095 on the Abandoned Mine Reclamation Act of 1989. Had I been present I would have voted aye on Rollcall 296 and voted nay on Rollcall 297.

Regarding my nay vote on the Abandoned Mine Reclamation Act: Although my own State of Missouri is actively involved in the Abandoned Mine Reclamation [AML] Program and will receive substantial benefit from the passage of this legislation, I do not believe that this bill should have been placed on the suspension calendar. The administration, although in favor of an active mine reclamation program, was opposed to this bill, objecting to it as premature. I agree with this characterization.

The authorization for the AML Program will not expire until the end of fiscal year 1992 and funds will be available for the AML Program through fiscal year 1995. Moreover, studies are currently underway to determine the overall effectiveness of this program and to develop recommendations for the future of the program. At the least, this legislation should have been delayed until such time as the results of these studies can be objectively assessed.

Moreover, H.R. 2095 widely expands the obligations of the AML fund beyond the original law and will cost the national public-at-large approximatey $200 million annually. As it now stands, H.R. 2095 takes a law designed to address a problem of narrow scoop, the reclamation of abandoned coal mine sites, and expands it to become a funding source for various public works projects.

FEDERAL OIL AND GAS LEASING PROGRAM NEEDS FINE-TUNING

HON. NICK JOE RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. RAHALL. Mr. Speaker, today I am introducing legislation to address an issue left outstanding during our consideration and enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987.

The major thrust of the Reform Act was to increase the number of Federal oil and gas leases issued on a competitive basis. Prior to the implementation of the act, the vast majority of Federal oil and gas leases were issued under a noncompetitive system known as the lottery. In fact, only about 9 percent of pre-Reform Act leases were sold competitively.

Under the Reform Act, all tracts of land available for leasing must first be offered competitively. Those tracts which do not receive a bid during the competitive leasing stage would then be made available under what was intended to be a first-come-first-serve noncompetitive system.

By all accounts, the Reform Act has been successful in increasing the number of Federal leases issued on a competitive basis. According to the Bureau of Land Management, since the promulgation of final implementing regulations in June 1988 through October 3, 1989, of the 9,953 leases issued, 5,653 or 57 percent received competitive bids. This has resulted in increased revenues to both Federal and State Governments due to the bonus bids received during competitive lease offerings.

However, it appears that the competitive leasing provisions of the law have a weakness. While it was our intention that by making all tracts first available under a competitive leasing system, where there was a demand for those tracts they would in fact be sold competitively, this has not entirely been the case. Of the 9,953 leases issued, 4,300 or 43 percent were sold noncompetitively after having been first made available for competitive leasing because no offers were made during the competitive lease auction. Yet, 65 percent of these tracts subsequently received multiple filings when made available for noncompetitive leasing. In fact, an average of 7.5 filings were offered on these tracts.

In my view, one of the major reasons why these leases are not receiving competitive bids, and are instead subject to such great interest during the noncompetitive leasing stage, is because Congress did not modify the lease term provisions of the Mineral Leasing Act when we enacted the Reform Act in 1987. Simply put, while competitive leases have a 5-year primary term, noncompetitive leases have a 10-year primary term. Naturally, people seeking these leases would rather obtain them with the longer term and evidently, are avoiding making bids on them during the competitive lease auction.

The bill I am introducing today would quite simply equalize the lease terms of both competitive and noncompetitive leases to a 5-year primary term. I believe this modification will further increase competition, and subsequently, revenues received under the program.

JOINT RESOLUTION TO DESIGNATE THE WEEK DECEMBER 10 THROUGH 16, 1989, AS "NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK"

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. MINETA. Mr. Speaker, drunk driving fatalities in the United States have been decreasing in recent years. The decline—from 56 percent in 1982 to just over 40 percent of all traffic fatalities in 1988—has been due to a combination of factors.

Tougher drunk driving laws, increased enforcement efforts, and an enhanced public

awareness of the scope of the problem have reduced the carnage on our highways. That's the good news. The bad news is that there were still more than 20,000 alcohol-related highway fatalities last year. Worse still, accidents involving drivers who have used marijuana or other illegal drugs are increasing.

Today, I'm introducing a joint resolution to designate the week of December 10 through December 16, 1989, as "National Drunk and Drugged Driving Awareness Week." Similar resolutions in past years have encouraged programs aimed at reducing alcohol-related fatalities on our highways during the holiday season. It is my hope that this resolution will serve to persuade Americans that drinking or using drugs and driving just don't mix during the holidays, or anytime.

Mr. Speaker, I urge all Members to cosponsor this resolution.

A TRIBUTE TO JOSEPH S. MALONE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. HORTON. Mr. Speaker, on October 5, 1989, one of my closest friends whom I knew for over 40 years passed away. Joseph S. Malone was one of a kind. He was born in Rochester, served in the U.S. Air Force during World War II, joined the Rochester Police Force, and worked at the public market for many years. He was loved by all who knew him.

The Rochester Public Market is an institution located on North Union Street near downtown Rochester. Farmers and others, for many years, have brought their produce, fruits, vegetables, apples, and many other items to the market and people from all over Rochester and Monroe County have come, particularly on Saturday mornings, to the market to purchase from the vendors, to visit friends and, in general, take part in the gathering of many people. Literally thousands of people can be found at the market. Joe Malone was stationed by the Rochester Police Department at the market and served there for over 17 years. During that time, he was admired and respected by patrons and vendors alike and, as far as I knew, he never gave a ticket except the one time when he was directed by a superior officer to issue one. I was told that the ticket was outdated and therefore not effective, thus he preserved his record.

Joe was born in Rochester on August 20, 1921, was graduated from Washington Senior High School, and then on August 24, 1942, he was inducted into the U.S. Air Force. He was honorably discharged with the rank of staff sergeant. While in the U.S. Air Force, he was stationed in Borinquen Field, PR. He met his wife Ligia while he served in the Air Force and they were married in Puerto Rico. Joe was discharged from the Air Force in March 1952, returned to Rochester and joined the Rochester Police Force in 1952, and retired in January 1977.

After serving at the public market, he was appointed by then-Police Chief Bill Lombard as liaison officer between the Rochester Police Department and the Spanish-speaking community of Rochester at the Ibero American Action League.

I am personally familiar with that part of Joe's life because I had worked with Police Chief Lombard and others in the police department in connection with my concern, that the Spanish-speaking community, which was a growing community, and which for the most part was Spanish speaking only, was not able to communicate with the police. As a result of my suggestion and others, Police Chief Lombard appointed Joe Malone liaison to the community. Joe Malone was very effective in that he spoke Spanish fluently and most of the Puerto Rican community knew him by name and by personal acquaintance. His work, until he retired, with the Spanish-speaking community was extremely helpful and made countless achievements possible. He is revered by the Spanish-speaking community.

Former Chief of Police William Lombard stated recently, "Joe Malone was a gentleman cop and a very caring person, particularly about the Hispanic community. I was pleased to have appointed him in our Police Community Relations Unit, as a liaison between the Hispanic community and our Police Department."

Domingo Garcia of the Ibero-American Action League also praised Joe Malone when he stated, "Joe Malone did more to enhance relations between Hispanic community and the general community than anyone else in the recent past. He was a friend of the Hispanic community and we will remember him dearly."

I was graduated from Cornell Law School in 1947 and moved to Rochester. One of the first places I visited was the public market. It was there that I first met Joe Malone and a friendship began which lasted over 40 years. While Joe was assigned to the public market by the Rochester Police Department, I served on the Rochester City Council from 1955 to 1962 and was chairman of the Public Utilities Committee which was responsible for the public market. I came to know Joe Malone in his official capacity as the officer assigned to the market, but I have known him over these 40 years as friend, humanitarian, and a person admired and respected by all with whom he came in contact.

The present sheriff of Monroe County, Andrew Meloni stated, "Joe Malone made the Rochester Public Market an institution. He made it one of the most popular Saturday meeting settings in Monroe County. He was a marvelous human being who cared about people and was loved by all."

I lost a friend but I am glad that I had the opportunity to know and work with Joe Malone for over 40 years. He was an inspiration to all who knew him and he will be sorely missed in the Monroe County, Rochester, and public market communities. My wife Nancy joins with me in expressing our sympathy and love to his wife Ligia.

LEADERS OUGHT TO LEAD

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. GALLO. Mr. Speaker, Harry Truman was always known for "giving them hell," if he felt they deserved it. He once said, "A leader has to lead, otherwise he has no business in politics." The Democratic leadership of the Congress needs to hear these words of the plain-speaking Mr. Truman.

As we face the the 15th day under sequestration, we are in serious need of real leadership from those who have worked so hard to preserve their status as the majority party in the House.

Under Gramm-Rudman-Hollings, the majority leader had the authority to introduce a joint resolution to modify the sequester to lessen the impact on sensitive areas of the Government. But yesterday, Mr. Speaker, was the deadline for that resolution. Where is it?

The failure to introduce such a measure suggests that no one in the Democratic leadership of the House is taking this process very seriously. In short, it's business as usual.

Harry Truman—like the distinguished majority leader—was from Missouri, the Show Me State. The Democratic leadership has been long on rhetoric about the deficit, but short on action. I call upon them to show me—and the American people—that they are serious about our deficit problem. Let's start making the tough decisions.

LEGISLATION TO FIND WAYS TO PREVENT FUTURE AIRLINE CATASTROPHIC ACCIDENTS

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. LEWIS of Florida. Mr. Speaker, today I introduced legislation that would mandate that the Federal Aviation Administration establish a mechanism to improve communication between the agency and the industry with the goal of detecting problems before they become accidents. The crash of flight 232 in Sioux City, IA was preventable.

The American flying public is tired of tombstone technology—instant programs, task forces, studies and other after the fact actions to prevent another accident like the July 19 crash landing of flight 232. It is reassuring that such an accident will not happen again, but it is not reassuring to know that there may be other types of preventable catastrophic accidents that are still flying.

The Federal Aviation Administration has the mandate, under existing law, to undertake a program to detect and correct problems before they become accidents, but they do not have a workable mechanism or a plan in place to do so. For the first time ever, I am introducing legislation to eliminate the "flying experiment" mentality—wait until an accident

occurs before effectively addressing the problem.

The American flying public has a fear that "I may be on that flying experiment" be it an Aloha airlines that loses the top or flight 232. In each case, the experts never expected the accident to happen. People want a research program to detect problems before they become catastrophic accidents.

The following is a copy of the legislation and an analysis. I urge my colleagues to cosponsor this important legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESEARCH, DEVELOPMENT, AND IMPLEMENTATION OF MANAGEMENT PLAN ON IMPROVING COMMUNICATIONS RELATING TO ACCIDENT PREVENTION.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end the following new subsection:

"(g) COMMUNICATIONS MANAGEMENT PLAN.—Not later than 180 days after the date of the enactment of this subsection, the Administrator, in consultation with technical experts from the aviation industry, universities, and other interested persons (including Federal agencies), shall develop, including an appropriate long-term research program and implement, a management plan to facilitate effective and continuous communications with agency experts and other scientific and technical experts on the state-of-the-art for prevention of defects, failures, and malfunctions in products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances which could result in a catastrophic failure of an aircraft.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents in the first section of the Federal Aviation Act of 1958 relating to section 312 is amended by adding at the end the following new item:

"(g) Communications management plan.".

SECTION ANALYSIS

Section 1. The Administrator of the Federal Aviation Administration is directed to undertake or supervise research to develop a management plan that would provide details on ways of enhancing effective communications, over the long-term, between Agency experts and those in the aviation community.

The purpose of the enhanced communication process would be to keep all parties advised on the state-of-the-art for the prevention of defects, failures or malfunctions in any product, part, process or article manufactured and used in aircraft, aircraft engines, propellers and appliances, that could result in catastrophic failure.

The goal is to prevent accidents, such as the April 1988 Aloha Airlines aircraft that lost part of the roof during flight, due to corrosion and fatigue and the July 19, 1989 crash of United Flight 232, due to defects in the engine. The technology existed at the time of these and other accidents that could have detected the problem before the catastrophic failure.

The management plan is to include, but is not limited to, the following:

(1) probalistic risk assessments, based on scientific data, of the likelihood of defects, failures or malfunctions in any product, part, process or article manufactured that could lead to catastrophic failure,

(2) a mechanism to prevent or eliminate, using research programs or existing technologies or techniques, the defect, failure or malfunction,

(3) a time table for the Agency to acquire the technical expertise to allow scientific assessments that would allow the information to be relayed to the industry or business community involved, without divulging proprietary information or trade secrets,

(4) a schedule for regular meeting times,

(5) makeup of the various technical meeting groups, including Agency technical and scientific representatives, necessary to discuss each defect, failure or malfunction,

(6) rules of procedure for the technical meeting groups,

(7) assessment of the necessity of teardown inspections of aircraft, aircraft engines, propellers and appliances and other data collecting techniques, and

(8) the funding necessary to carry out the provisions of the plan both on an annual basis and over the long-term.

A TRIBUTE TO TOM NATCHURAS

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. NOWAK. Mr. Speaker, one of western New York's most outstanding labor leaders, Tom Natchuras, retired this summer.

At his retirement, he served as director of region 9 for the United Auto Workers. Region 9 has more than 100,000 active and retired members from more than 300 plants and offices in New Jersey, eastern Pennsylvania and upstate New York. Most of the members are in the auto, aerospace, electronic, and metalworking industries.

A native of Buffalo, Tom began more than three decades in the labor movement by joining UAW Local 846 in 1956 at the Chevrolet Forge Plant in Tonawanda, NY, where he worked as a skilled trades maintenance welder.

He was elected skilled trade representative for the Local 2 years later and in 1959 was elected Local 846's president. In 1963, he joined the region 9 staff as an international representative and became regional area director for western New York in 1975.

He became assistant director for region 9 in 1977. In May 1983, he was elected director of region 9 at the UAW's 27th Constitutional Convention in Dallas, TX.

As one who worked his way up through the rank and file to the top rungs of the UAW leadership ladder, Tom Natchuras truly understood the needs and aspirations of his union brothers and sisters.

Throughout his leadership career, he retired that understanding and compassion and was an articulate spokesman striving for decent wages, safe working conditions, job security, and an elevated quality of life.

I would like to join his many friends and those who benefited from his dedicated leadership in congratulating him on an exemplary career and wishing him well.

WORLD AIDS DAY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1989

Mr. WEISS. Mr. Speaker, the World Health Organization [WHO] estimates that there are now 600,000 cases of AIDS in 150 countries around the world. The number of persons infected with the human immunodeficiency virus and likely to develop AIDS has reached between 5 and 10 million persons.

In response to the urgent need for worldwide action to stop this pandemic, the World Health Organization has crafted a global program on AIDS, which has achieved impressive results in stimulating and establishing programs against HIV/AIDS throughout the world.

It is essential that these efforts continue in order to prevent the continuing transmission of HIV and meet the challenges of AIDS. This is especially important in light of the absence of a cure, and the scarcity of effective treatment. In this situation, education is without a doubt our best weapon.

On December 1, 1988, the World Health Organization organized a "World AIDS Day" to focus international attention on the need for action, compassion, and understanding about AIDS in every country in the world. This year, WHO has again designated December 1 as "World AIDS Day" and has chosen to focus on young people because they are so critical to HIV/AIDS prevention and control.

Today, my distinguished colleague JIM LEACH and I will introduce a resolution to recognize and support this important effort. Our resolution will designate December 1, 1989 as "World AIDS Day" and will call on the people of the United States to join the global effort in response to this tragic disease.

I urge my colleagues to join Congressman LEACH and myself in supporting "World AIDS Day."

H.J. RES. —

Whereas infection with the Human Immunodeficiency Virus and the incidence of Acquired Immunodeficiency Syndrome has become a global problem of urgent proportions, with an estimated 600,000 cases of AIDS in over 150 countries and between five and 10 million persons already infected with HIV;

Whereas, the worldwide action necessary to stop this global epidemic must continue without compromising the medical, ethical, socioeconomic, cultural, and psychological well being of HIV-infected persons or people living with AIDS, while maintaining the momentum that has allowed those engaged in the struggle to close in on the challenges posed by HIV/AIDS;

Whereas the World Health Organization Global AIDS Strategy, undertaken by the WHO Global Program on AIDS, and forged in the light of this worsening pandemic, has achieved impressive results in establishing and stimulating the urgent, worldwide response that has led to the establishment of programs or activities against HIV/AIDS in every country in the world;

Whereas the 166 Member States of the World Health Organization, in concert with intergovernmental and nongovernmental organizations around the world have accepted

the responsibility to safeguard the heatlh of everyone and control the spread of HIV infection through national policies and programs, and in conformity with the WHO Global Strategy;

Whereas these efforts must continue to strive to prevent the transmission of HIV and meet the challenges of AIDS because of the lengthy process that will be required to develop and utlimately distribute widely an effective treatment;

Whereas the World Summit of Ministers of Health on AIDS Prevention in London in 1988, recognizing that, the widest possible dissemination and exchange of information and educational messages is vital to the success of AIDS prevention programs and campaigns and thus pledged to open fully channels of communication in each society, by creating the basis for the declaration of a World AIDS Day as a day of information, education, action, and compassion on AIDS;

Whereas the first World AIDS Day on December 1, 1988, brought messages about the need for action, compassion, and understanding about AIDS to every country in the world;

Whereas the World Health Organization has on World AIDS Day this year chosen to focus on young people because they are critical to HIV/AIDS prevention and control;

Whereas youth should be given encouragement and the means to organize World AIDS Day activities so that they can talk between themselves and others about the risk of AIDS, caring for people with AIDS, and the global mobilization underway against AIDS;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 1, 1989, is designated "World AIDS Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities, with a special focus on youth.

SENATE—*Wednesday, November 1, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

O praise the Lord, all ye nations; praise him, all ye people. For his merciful kindness is great toward us; and the truth of the Lord endureth for ever. Praise ye the Lord.—Psalm 117.

We praise Thee O Lord, not because Thou dost need our praise, but we need to praise Thee. We were made to praise Thee; our humanness demands it. Our souls require that we praise Thee lest they dry up and shrivel away. Forgive us for satiating the physical and starving the spiritual within us. We diminish ourselves when we ignore Thee. We enlarge ourselves—our minds, our hearts, our vision when we honor Thee, glorify Thee, love Thee, serve Thee. Praise the Lord, all that is in the Heaven above and all that is in the Earth beneath. Praise the Lord, hallelujah! Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 1, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the distinguished majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business until 10:30 a.m. with Senators permitted to speak therein for up to 5 minutes each.

At 10:30 the Senate will resume consideration of the conference report accompanying H.R. 2991, the Commerce, State, Justice appropriations bill for fiscal year 1990 with the Helms China sanctions amendment pending to the amendment No. 182 in disagreement. Upon the completion of the Commerce, State, Justice conference report it is my intention to proceed to the legislative appropriations conference report and hopefully, if we can get to them this week, or as soon as possible, the Transportation appropriations conference report and the Agriculture appropriations conference report.

I remind my colleagues that at 1:45 p.m. today there will be a live quorum, and at 2 p.m. we will begin with the presentation of statements by the opposing sides in the matter of the impeachment proceedings against Judge Walter L. Nixon, Jr.

As with the practice followed on the Hastings impeachment, today will be devoted solely to presentation of arguments by counsel for the two sides.

Tomorrow we will go back to the subject at the same time, a live quorum at 1:45, a session at 2, for the closed Senate debate on the proceedings, and, if that debate is concluded by close of business tomorrow, then we will vote on the various motions and articles on Friday morning.

Mr. President, I ask unanimous consent that the Senate stand in recess today from 1:30 to 1:45 p.m. so that the Chamber may be prepared for the impeachment proceedings.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my time. I yield to the distinguished Republican leader.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the distinguished Republican leader is recognized.

Mr. DOLE. Mr. President, I thank the Chair.

FLAG BURNING ON CAPITOL STEPS

Mr. DOLE. Mr. President, the four publicity seekers who recently burned the flag on the Capitol steps were arraigned yesterday. At their arraignment, the flag burners boldly announced their intention to challenge the Flag Protection Act all the way to the Supreme Court.

Although the case has not yet been assigned to a Federal district court judge, it is my understanding that an assignment will be made within the next 30 days—and possibly within the next 2 weeks. At that time, the flag burners will probably file a pretrial motion urging the dismissal of their charges. Once the district court rules on the motion, the Supreme Court itself should then have an opportunity to review the flag statute's alleged constitutionality.

As I said yesterday, the American people should not be kept in the dark. They have a right to know whether the flag statute works as advertised. And they have the right to know that the flag statute was not some gimmick—a gimmick cooked up by lawyers to fool the American public into believing that the flag was now protected.

But the burden of proof does not rest with me—or with the eight other Senators who voted against the statute. No—the burden of proof rests with the flag statute's sponsors. They are the ones who claim that the statute will be the great savior of the flag and the Bill of Rights. And they are the ones who have heaped praise upon the statute's so-called expedited review provision.

So, to the statute's sponsors, I simply say this: Here is your test case. Let us go to work. Let us have expedited review. And let us see if the flag statute lives up to its star billing.

MINIMUM WAGE COMPROMISE

Mr. DOLE. Mr. President, yesterday I made some brief remarks on the minimum wage compromise package approved by the White House, the Department of Labor, and the leadership here in Congress. I would like to take a few moments now to make some additional comments on this important development.

THE PRESIDENT'S ORIGINAL MINIMUM WAGE PACKAGE

Last March—when President Bush introduced his own minimum wage package—he decided that he did not want to play politics. He introduced—right off the bat—what he believed was a fair and responsible compromise—a compromise that increased the minimum wage significantly, but one that also preserved jobs with a 6-month training wage.

Initially, not every one in Congress saw eye-to-eye with the President. Some thought $4.25 an hour was not enough. Some even failed to see the wisdom of a 6-month training wage for new hires. Some even failed to see the wisdom of any training wage at all. And so the working poor of this country were denied a well-deserved minimum wage increase—all because of a dispute over 30 cents an hour and over the need to give employers some flexibility to train new employees.

THE NEW COMPROMISE

Fortunately, level heads prevailed. The administration and Congress realized that it did not make much sense to pack up all their marbles and walk away from the bargaining table. And so a responsible and fair compromise package was finally worked out: A minimum wage increase to $4.25 an hour over the next year and a half. And a training wage that will give teenage employees the opportunity to learn the skills that are so needed to become productive members of the Nation's work force.

Now, I am not going to stand here and say that "the President won a great victory over the Democrats." For the simple truth is that everybody won. The President won. Congress won. But, most importantly, the working poor of this country won. And that is good news for all Americans.

I know there are some people in business, some small businesses, who probably do not consider themselves the winners, but I think based on what the demands were and what the final compromise was, they are winners also.

So there is plenty of credit to go around. As I said last night, I would congratulate all those who have been involved, including the President, the Secretary of Labor, and Senator DOMENICI who did a lot of work back and forth on our side in an effort to bring about some accommodation.

I think the hard part is over. I hope we will pass the minimum wage bill very quickly and get on with other business.

Finally, Mr. President, the distinguished chairman of the Finance Committee has criticized Treasury Secretary Brady for acting to forestall a default by the U.S. Government which would have occurred had the Congress failed to enact a debt limit increase by November 3, when the Social Security checks must be mailed to America's senior citizens.

I think today we can stand here and everybody can congratulate Secretary Brady, because last night nothing happened on the debt ceiling.

If that had been the case, today the Government would be in default and all those people criticizing Secretary Brady yesterday would rush to the floor today to say: Why did he not do something? Why did he not use his borrowing authority? Why did he not prevent this?

I want to congratulate Secretary Brady and commend him for his concern about getting out the Social Security checks, using the borrowing authority he has perfected legitimately, and doing what he thought right, doing it because he did not think Congress would act in time and Congress did not act in time. So he was right; no question about it.

Senator BENTSEN's outrage is based upon the assertion that Congress has acted responsibly every time that a debt limit increase has been before us in the past.

If that is the case, and having been chairman of the Finance Committee, my recollection is a bit different than that of Senator BENTSEN. In fact, I can cite many instances where Democratic leaders have prevented passage of a rise in debt ceiling for political advantage, when trying to get it passed on the Senate floor, always trying to keep it clean, always making the argument we have to keep it clean. That is the way it goes.

This August 1, in fact, $1.7 billion of NTT funds was left uninvested pending action on a debt limit increase which finally occurred on August 7. In 1987, three separate temporary debt increases expired, causing Treasury to cancel a dozen scheduled securities actions.

It is precisely such disruptions in the orderly functioning of these markets that the Finance Committee chairman is now deploring as unprecedented. In fact, I think today there is a wire story which I ask unanimous consent to have printed in the RECORD that there was another Treasury matter canceled because we did not act on the debt ceiling.

There being no objection, the wire story was ordered to be printed in the RECORD, as follows:

SALE OF SAVINGS BONDS HALTED BECAUSE OF DEBT LIMIT DROP

WASHINGTON.—Sales of U.S. Savings Bonds were suspended indefinitely Wednesday because of failure to enact legislation raising the Federal debt limit, the Treasury Department reported.

"Without new legislation to increase the debt limit, the Government lacks authority to issue any new debt obligations," a Treasury statement said.

Without the legislation, the Government's borrowing authority at midnight dropped from $2.87 trillion to $2.80 trillion.

The House has voted to raise the debt ceiling to $3.1 trillion for the current fiscal year, but Senate legislation has been blocked by a squabble over whether to cut the capital gains tax.

Mr. DOLE. Mr. President, in 1984, the Social Security trust funds alone lost $373 million in interest on funds which were disinvested once the debt limit had been exceeded.

Mr. President, this Senator applauds the action of Secretary Brady. He recognized in advance that Congress probably was not going to act in time. He was looking ahead, as he should. That is his responsibility.

I would say that finally, I would like to point out to my colleagues that this debt limit increase has been on the Senate Calendar since July 25; July, August, September, October, and now it is November. So it has not been over here just a day or two. We had it over 3 months, plenty of time to act. So there was no reason to wait until the last minute and try to maneuver Republicans who have amendments into the crack where they could not offer amendments.

That is the way it was; strategy. I tried that myself; it never worked for me. I doubt it will work for the other side as well, unless we work out some overall agreement.

So it seems to me that we just ought to get down to the facts here and let us just have a vote of some kind on capital gains. We presented the majority leader, I think, a very reasonable package to clean up all of our work. We can do it in a matter of days if, in fact, we want to cooperate, and I hope we can.

But it seems to me that we should move ahead with that, and I hope we can work out some arrangement.

Moreover, if capital gains is the stumbling block, its supporters are ready to vote right now and proceed expeditiously with this vital legislation. All that we want, all that we have ever wanted is a fair vote up or down on capital gains.

In justifying his use of the Senate rules to prevent a vote on the merits on capital gains, the majority leader has cited several instances in which the President's veto of legislation has been sustained by a minority of Senators. The Constitution, not the Senate rules, gives the President the power to block legislation with the concurrence of more than one-third of either House. Moreover, in every veto override case, the majority had its vote on the merits. This vote is being denied the majority in support of capital gains.

Mr. President, last week on the Senate floor, the majority leader accused President Bush and many Republican Senators of waffling because we supported the 1986 Tax Reform Act which eliminated the favorable tax treatment of capital gains.

In fact, the Reagan administration proposed to allow investors to elect either a 50-percent tax exclusion for capital gain income or indexing—a proposal which is remarkably similar to the Packwood-Roth amendment. Like many Members of this body, the President later supported tax reform as a package, in spite of its treatment of capital gains.

Mr. President, the United States is unique among its trading partners in imposing a full second tax on equity investments. Corporate earnings are taxed at the corporate level. Distributed earnings are taxed again as dividends, and retained earnings are taxed again as capital gains.

By contrast, every one of our trading partners taxes long-term securities gains at a lower rate than the United States. Several do not tax these gains at all. In addition, most countries, including Japan, West Germany, France, and the United Kingdom, integrate their corporate and individual tax regimes by allowing dividends paid deductions or shareholder credits. Thus, they treat equity investors as favorably as we treat debtors. No wonder equity financing is rapidly being replaced by debt in the United States, and our corporations are becoming dangerously overleveraged.

Mr. President, in 1988, Japanese corporations raised $110 billion in new equity capital, as opposed to $20 billion by U.S. corporations. This turnaround occurred in just 2 years. In 1986, the last year that capital gains enjoyed favorable treatment under our Tax Code, U.S. corporations raised over $68 billion in equity—more than double the amount raised by Japanese corporations.

Equity financing is essential to corporate productivity because, unlike debt, it is permanent—it does not have to be repaid. Thus, equity is so-called patient capital which allows managements to plan for the long term.

The advantage that Japanese companies have in raising equity has particularly severe competitive consequences in industries, such as banking, where capital itself is the commodity. Japanese banks can raise equity much more cheaply than American banks and, thus, can lend at rates which American banks cannot afford to match.

Japanese bank shares sell at earnings multiples more than five times as high as comparable U.S. banks. Thus, it takes proportionately fewer shares to raise a given amount of equity, causing less dilution of existing holdings. The high level of the Japanese stock market can be attributed in part to the relatively favorable taxation of securities gains in Japan.

For these reasons, the President, the Secretary of the Treasury and a bipartisan majority of Senators believe that a reduction in capital gains tax rates will enhance productivity, and therefore tax revenues, over the next decade. In other words, we believe that providing incentives for long-term savings and investment in America will also help to reduce our budget deficit.

Statistics show that revenues have increased every time that capital gains tax rates have been reduced. While every prior rate reduction occurred in an economic context which can be distinguished from our own, the consistency of the results cannot be ignored.

Capital gains tax reductions do more than encourage investors to accelerate gains and, therefore, prepay a tax. They unlock unproductive investments, allowing investors to reallocate resources which would otherwise remain in place. Without the incentive, these revenues would never be realized—or taxed.

REMARKS BY FORMER PRESIDENT REAGAN

Mr. DOLE. Mr. President, last Saturday, former President Reagan addressed a group of Japanese businessmen in Osaka. His remarks focus on the United States-Japanese relationship, in terms of the perceptions of each people as well as of the economic realities. I believe that President Reagan's speech offers important insights which he is uniquely able to provide. I commend it to my colleagues.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY PRESIDENT RONALD REAGAN AT LUNCH WITH BUSINESS LEADERS AT OSAKA ROYAL HOTEL, OSAKA, OCTOBER 28, 1989

As usual, the people of Japan have been warm and hospitable. We've seen old friends and made new ones. In the substantive areas, the discussions have been fruitful as the diplomats like to say. So it will come as no surprise to you that I'm more convinced than ever of the important ties between our peoples.

On a clear day I can see the Pacific Ocean from my office window; those of us who live in California naturally turn our eyes to Asia. In recent years the entire United States has come to do the same.

The economic and military security of both the United States and Japan are bound together. I have no doubt whatever that our relationship is fundamentally sound and strong. We both share deep commitments to democracy, to capitalist enterprise, to the betterment of our peoples and their future.

And yet on the surface at least, the relationship seems to chafe both countries, Americans think Japan is a nation of trade barriers. The Japanese think America is a nation that makes products that nobody wants to buy. The sweep of history will show such differences to be very small indeed.

As you know, I've come to Japan as a friend, as someone who wants to see us get through the friction of our relationship so that it does not rub the relationship raw. It's clear to me that there's something bigger than the trade gap that separates our two countries—that something is a communications gap. And I'd like to discuss it with you today.

Today I want to talk about both sides of the story—the Japanese side and the American side. Let me begin with the United States understanding of Japan.

A recent business week/Harris poll found that a high majority of Americans, 80 percent, admire the Japanese people. In fact, a third of all Americans admire the Japanese people "a great deal." A large majority of Americans also admire Japan as a nation, not to mention Japan's economic success.

Yet the one undeniable area of tension is the U.S. trade deficit. This has led to the disturbing situation where 68 percent of Americans find the economic threat from Japan to be a more serious threat to America's future than the military threat from the Soviet Union.

The notion is wrong, of course, but still we must ask ourselves how a basically strong relationship could come to such a point.

The American people buy Japanese products because they believe them to be of high quality at reasonable cost. Americans like your products. What bothers Americans is not that the U.S. buys billions upon billions of dollars of Japanese exports; what bothers Americans is that they don't believe U.S. products are being given fair access over here.

Fairness is a very strong strain in the American people. It all started in 1773 when we thought the British weren't being fair, so we threw their tea into the Boston Harbor. That episode in our history is called the Boston Tea Party. We don't want a Japanese tea party.

Yet fairness is a real issue when it comes to trade between the United States and Japan. According to that poll I just mentioned, 68 percent of my countrymen believe Japan imposes unfair barriers on imports from the United States. I would guess that a very small percentage also know that trade barriers account for only 15-20 percent of our current trade deficit. I would also guess that a very small percentage know that the United States has its own trade barriers it needs to work on.

I'm aware of the arguments you rightfully make about corporate America's short term perspectives, our lower levels of research and development, and so forth. And the calls for Japan to change culturally and structurally the ways in which it does business must be grating. But the fact of the matter is that until Japan's trade barriers—whether they're regulatory, cultural, structural, whatever—until they're lowered, the focus in the United States is not going to be on whether American companies have the quality products Japanese consumers want to buy, but that the Japanese system won't let Japanese consumers buy them.

Now, as many of you know, I have fought against protectionism my entire political life. Yet as Ambassador Armacost has pragmatically pointed out, a fifty billion dollar bilateral deficit is simply not politically sustainable in the United States, particularly when our overall trade accounts have been improving dramatically with nearly every other trading partner. As a friend, I tell you that Americans are not as patient as the Japanese.

As long as we're talking frankly about American perceptions, let me add that American attitudes toward Japan are dependent on more than economic issues. The other night in Tokyo I mentioned your commitments to democracy around the world. Your help in this regard is much appreciat-

ed and valued. But there's an emotional issue that has the potential to harm Japan greatly—the issue of the environment. There is growing news coverage in the United States of Japan's role in the loss of endangered species, in the practices of driftnet fishing and tropical logging. No country is without blame when it comes to the environment, but Japan will come under increasing pressure, perhaps even the boycott of Japanese products.

Now, I'm sure the Japanese people are tired of the world telling them, you should do this and you should do that. We in America know the feeling well but this is one of the prices that great nations pay for their power and success. Which brings me to Japan's understanding of the United States. I'm told there are those in Japan who believe the United States is a declining superpower propped up with Japanese money and technology, that the United States is lazy, soft, and simply living off past glory. Well, I say to those voices of demise the same thing I said to the voices of demise in my own country a few years back—you don't understand America. You don't understand our strength and potential.

The United States is a natural athlete. No nation can claim all the advantages of America—population size, national resources, political stability, productive capacity, military strength, technological genius, cultural influence. We are a nation that finds change and innovation to be a tonic.

We do have problems, such as the budget deficit. And it is essential that we get it under control. I don't believe the way to correct the problem is through raising taxes, cut one foreign observer has put our budget problem in perspective quite insightfully. He said, "it's hard to take seriously that a nation has deep problems if they can be fixed with a 50-cent-a-gallon gasoline tax."

America's blood, bones and muscle are healthy and strong. We get new energy every year from the waves of immigrants who seek to make their lives and fortunes in our country. Nothing makes me prouder than these citizens of the world who want to be citizens of the United States. Try convincing them that America's best days are behind her.

What I'm saying is that there are those in both Japan and the United States who don't understand the basic strength of our two nations individually, and especially the strengths and possibilities of our two nations together. We have made the nations around the rim of the Pacific basin a region of great economic potential.

I wish every American could know the Japanese as I know you. Americans need to know you other than just by your products.

You have wonderful qualities Americans admire, like a capacity for hard work. The American inventor Thomas Edison once said that opportunity is missed by most people because it is dressed in overalls and looks like work. The Japanese understand this instinctively, so do Americans, whose hard work built an entire nation from wilderness.

Americans also admire the way you look after your families. They admire the way employers look after employees. Japanese corporations in America are becoming esteemed members of the community, not only because of the jobs they provide our citizens, but because of their charitable contributions.

Let me tell you of a dream I have for our two countries. I would love to see the United States and Japan put this step-by-step bickering we're going through behind us and embrace a trade vision that is encompassing. The United States and Canada have done just that—we've created a free trade zone that will provide greater growth for generations. I would like to see not only a North American free trade zone but a Pacific one. We are the two greatest economic powers in the world. Let us leap beyond no-win squabbling by undertaking a breathtaking plan. Let us make our goal a free trade zone between the United States and Japan. Increasingly we are not two economies, but one. Let us recognize that fact and recognize the great combined future of our two nations.

And I'm delighted to salute the Keidanren for all its efforts in encouraging Japanese companies to become involved in charitable activities like United Way. Executives from Japanese companies are bringing leadership to United Way boards in a growing number of United States communities and we welcome Japanese companies to our communities and we especially welcome them when they are such good corporate citizens.

Our two nations share so much. We have such potential together.

Everyone has probably heard Rudyard Kipling's quote that, "East is East, and West is West, and never the Twain shall meet." But the quote is taken out of context from a rhyming poem. It should read:

"Oh, East is East, and West is West, and never the Twain shall meet, till Earth and Sky stand presently at God's great judgment seat, but there is neither East nor West, border, nor breed, nor birth, when two strong men stand face to face. Though they come from the ends of the Earth."

Let the two strong nations of Japan and America stand face to face in friendship and understanding. Let us work together, build together. My Japanese friends, let us flourish in the future together.

Thank you and God bless you all.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. KERREY). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Chair recognizes the Senator from Rhode Island.

ACTION BY SECRETARY BRADY

Mr. CHAFEE. Mr. President, I noticed the presence on the floor of the Republican leader, and I would like to just share with him some thoughts, if I might, in connection with what I believe to be the very wise action of our Secretary of the Treasury, and I do not want to lose him. He disappeared.

My points are these, Mr. President. The Secretary of the Treasury took some action in order to forestall the necessity of cutting off Social Security payments due to failure of the passage of the increase in debt ceiling.

I think that is extremely wise on the part of the Secretary of the Treasury, as those who have been here before in other years know that we continually get up to this deadline on the failure to pass the increase in the debt ceiling and indeed, in some instances, have had to postpone the payment of those checks, the sending out of those checks.

Now, we have already passed that deadline, but because of the forethought of the Secretary of the Treasury, Mr. Brady, we now have an adequate sum in the Treasury that will permit us to send out those checks, and as I understand it, relieve this crisis of the failure to increase the debt ceiling until the end of the month. That is, the end of this month.

So I think we all owe a debt of gratitude to the Secretary for his wise action in anticipating the failure of this Congress to act.

Now we get right back to it. Why have we not done anything on the debt ceiling increase? Frankly, it has not even come before us. We have not even had a vote on it. There is all kinds of talk: Is it to be a clean debt ceiling, or do we have to forestall loading it up with other items, whether it is catastrophic or capital gains, or whatever it is. It has not even come before us. So I think the Secretary of the Treasury took very wise action in anticipating the failure of this Senate to act.

And therefore, I want it to go on public record, the admiration I have, not just because of this—he has been an excellent Secretary of the Treasury—but because of this particular action, I think we all owe him a debt of gratitude.

I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

WE MUST TELL THE TRUTH ABOUT DEBT AND DEFICITS

Mr. SANFORD. Mr. President, as it has just been pointed out, we must once again raise the debt ceiling. But this time we must begin to be honest about why such a large increase is required. We have many reasons to face forthrightly the mounting Federal debt. Those who have written recently that deficits do not matter are looking at the wrong figures, the wrong history, and the wrong national priorities.

They are looking at the wrong figures because we have drifted into the terrible—criminal would not be the wrong word if this were a private listed corporation's budget—practice of covering up our real deficits.

The interest we will pay in fiscal year 1990 is not $160 billion, as is shown in the budget. It is $264 billion. The deficit we will accrue in fiscal year 1990 is not $100 billion or $110 billion; it is $270 billion, at least.

We have become very skillful at covering up our annual deficits. We are ingenious, in fact. We use the annual surpluses of Social Security and other retirement funds to hide part of the

deficit. We count money in the highway and the airport trust funds as though it were available for general spending. We list assets for sale, but never make the sale. We slide payrolls across fiscal year boundaries.

The most outrageous fraud, Mr. President, is that we count interest paid out to Social Security as if it were a receipt to the Government. It is clear fraud to continue using net interest as the commonly used figure in calculating our deficits.

The insidious result of all this trickery is the rapidly mounting debt, growing like a hidden cancer, which ultimately will squeeze the life out of our competitiveness and take down our economy.

We now owe about 60 percent of GNP, and we are adding more than a quarter of a trillion dollars a year to our debt. We have to face the truth.

The truth required is honest bookkeeping and honest budgets. We require corporations to meet this minimum standard of honesty. We should require it of our Government.

The first step to deficit and debt reduction is to have an honest budget and an honest deficit reduction schedule. Our present schedule is pure sham.

To get rid of the sham, we need simply call a deficit what any accountant would call it—the increase in our debt at the end of the year; and that is the decisive way to abolish all the little tricks of cooking the books to which we have become addicted.

Once we face the honest figure, we can apply an honest schedule of deficit reduction. Until we do, we will continue down the fateful path of building deadly hidden debt.

Amendment No. 1069 lies at the desk, germane, relevant, and ready to be attached to the debt ceiling legislation. It would define "deficit" as the annual increase in that debt subject to the ceiling. It would amend Gramm-Rudman-Hollings so that it will be this true deficit that we will start reducing. We need to focus on a true goal, not a fictious one that can be so easily manipulated and moved.

I hope my colleagues will support this simple step toward honest budgeting.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 1825 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

PRESIDENT RICHARD NIXON'S VISIT TO CHINA

Mr. BYRD. Mr. President, it was reported over the weekend that President Richard Nixon had begun a 6-day visit to the People's Republic of China. His visit comes at a very difficult and delicate time in United States-Chinese relations, and I commend him for taking this trip. If there is any single man who is appropriate to take on a quiet exercise in diplomacy with the Chinese leadership at this juncture, I can think of no one more qualified than Mr. Nixon.

We are all aware of, and indebted to, Mr. Nixon for his historic role in opening America's relations with China and in ending the international isolation that China had experienced since her revolution in 1949 until his visit in 1972, some 23 years later. Recently we have experienced a severe setback in our relations with China because of the shockingly excessive and violent manner in which the Chinese leadership suppressed the peaceful demonstrations of her students this past summer. As well, the unwillingness of that leadership to honestly acknowledge those events, and to continue to take retribution against those who would seek an open debate or dialogue over the question of democracy in China, has led us to withdraw from what had been a promising closeness in our overall relationship. We reluctantly expressed our displeasure over those developments through economic sanctions, a blunt instrument which hurts everyone, including the innocent, but the United States, as the beacon of liberty and democracy in the world, could not just blithely and hypocritically go about business as usual in the face of the atrocities committed. I believe we acted correctly, as well, in offering to extend the stay of thousands of Chinese students residing temporarily in the United States, for those who felt that it would be personally dangerous to return to China over the last few months.

Have our actions had any beneficial effect? The results are certainly not clear. Has there been any effect on the policies of the Chinese leadership? It is too early to tell. At this juncture, Mr. Nixon is someone who certainly can be viewed correctly as a friend of United States-Chinese relations, and one who should be listened to. I do hope that the Chinese leadership will listen carefully to the views and counsel President Nixon offers them. I hope he will have an impact on the Chinese leaders, and that they will begin to take the kind of actions that will help ease our relations and put them back onto a constructive track.

I note from the reports of Mr. Nixon's trip several salutary aspects. First, in deference to the incumbent President, he coordinated the timing of this visit with the White House, and is reported to be carrying a message from President Bush. He has indicated that he will provide the White House with a written assessment of the Chinese leaders, their policies and prospects for our overall relationship. Second, he has sought to strike the right tone in his visit. He has indicated that he is personally paying for his trip, and there are no business connections with his visit. There will be no donations to his private coffers. Third, he will have no official U.S. Government security or bodyguards, and brings only one security man with him, paid for by Mr. Nixon himself. There will be no flashy press events, no pontificating, no rhetorical flourishes. This is not an ego trip, and we can be grateful when our ex-Presidents take on missions of this kind that are intended for the good of our country. Mr. Nixon does not need a big show of security forces to validate his ego.

Mr. Nixon's visit is a welcome contrast to the ostentatious spectacle of phalanxes of security men, overreaching extravagance and pandering for favors we have just witnessed by another former President in another Asian nation which I believe demeans the office of the American Presidency. I commend Mr. Nixon for taking on the kind of mission that finds him in China today and for the personal style he has exhibited in the manner in which he is conducting this visit. I hope that he will be able to help bring United States-Chinese relations back onto a more settled course and, in that effort, will advance the cause of open dialogue and the development of democracy in that ancient empire.

Mr. President, I ask unanimous consent that an October 29, 1989 Washington Post article be printed following my remarks in the RECORD, as well as an October 29, 1989, article from the international edition of the New York Times.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 29, 1989]

NIXON RETURNS TO CHINA FOR KEY TALKS—TRIP AIMED AT IMPROVING STRAINED SINO-UNITED STATES TIES

(By Daniel Southerland)

BEIJING, October 28.—Former president Richard Nixon arrived in Beijing today on a mission aimed at reversing the recent deterioration in U.S.-China relations that has resulted form the government's suppression of a student-led democracy movement.

Nixon will meet with top Chinese leaders during this trip, his sixth here since his first momentous journey in 1972.

At that time, both the American and Chinese sides, after decades of hostility, were full of hope for a new relationship. Sino-U.S. ties developed steadily over the following 17 years until the Chinese army killed hundreds of demonstrators in its handling of democracy movement in mid-June.

Since then, the Bush administration has limited high-level exchanges of official visitors with China. Nixon is on an unofficial visit to Beijing, but he reportedly consulted closely with President Bush and with National Security Adviser Brent Scowcroft before he undertook his first China trip in four years. It is understood that the former president is carrying a message from Bush.

Foreign Minister Qian Qichen hosted a banquet for Nixon tonight and praised the former president for his "political foresight and courage" in visiting China again.

"The present difficulties in Sino-U.S. relations are not what we would like to see nor what we have created," said Qian, according to an official New China News Agency report. The news agency quoted Nixon as saying that he is a "friend of China" and that Sino-U.S. ties are "essential" and should be "strengthened."

Nixon, 76, is highly respected in China because of the role he played in initiating the process of normalization of relations and in helping China to break out of its international isolation in the early 1970s.

Today, the Chinese government faces a degree of externally imposed isolation as the international community distances itself from China in the wake of the Beijing massacre of demonstrators.

Some U.S. congressmen, including Rep. Stephen Solarz (D-N.Y.), chairman of the House Foreign Affairs subcommittee on Asia, have critized the Bush administration for backing the Nixon trip, saying it will encourage the Chinese to believe thay can go back to business as usual with the United States without an improvement in the human rights situation here.

Nixon is expected to discuss with Chinese leaders the impact their suppression of the democracy movement had in the United States.

"Nixon's in a position to tell the Chinese what's really going on in the United States," said a Western diplomat, adding that the Chinese will listen carefully to Nixon because they hold him in high regard.

The United States, with other Western nations and Japan, imposed limited sanctions, including a ban on deliveries of military equipment, against China following the June army assault. Bush has been reluctant to broaden the sanctions, fearing that such a step would damage what administration officials describe as an important "geostrategic relationship" with China.

Nixon is expected to say in meetings with the Chinese that it is in the interests of both countries to preserve the U.S.-China relationship, but that recent hard-line Chinese actions and statements have created a strongly negative impact in the United States.

He is also expected to make clear that the Chinese will no longer be able to use the threat of improved Sino-Soviet relations as a means of pressuring the United States into being more accommodating with Beijing.

It was the fear of Soviet military power and expansionism that brought the United States and China together in 1972, but the rise of Mikhail Gorbachev in Moscow has diminished that fear in the United States. The United States and Soviet Union are improving their relationship and the Soviets do not appear to be attempting to benefit from the current strain in Sino-U.S. relations.

But Chinese leaders continue to think in terms of a strategic triangular relationship among China, the United States and the Soviet Union, as evidenced by an account of a closed meeting that top leader Deng Xiaoping held with other leaders in mid-June. According to a well-informed Chinese source, Deng told the others that China has become a major player in this relationship because it made itself strong through socialism.

Nixon is expected to meet with Deng, Communist Party chief Jiang Zemin, Premier Li Peng and other officials. Nixon's schedule has not yet been disclosed but he is likely to stay in Beijing for about six days.

It is believed that Nixon was reluctant to meet with Li, the most unpopular of the Chinese leaders and the official most closely associated by many Chinese with the May imposition of martial law and the June military crackdown. But the Chinese apparently insisted that if Nixon was to visit Beijing, he would have to meet Li.

A page of background notes released today by an aide to Nixon said the former president is solely on a "fact-finding trip" to China and will give his assesment of Chinese leaders, their policies and Chinese-American relations in writing to Bush upon his return.

Perhaps mindful of the sort of criticism Ronald Reagan encountered during his just completed, highly paid visit to Japan, Nixon made clear in the background notes released by his aide that he has no business clients in China and will be paying his own travel expenses. Nixon voluntarily gave up his Secret Service protection five years ago and is traveling with only one security aide, whom he pays personally, the notes said.

[From the New York Times, Oct. 29, 1989]

NIXON BEGINS VISIT TO CHINA AMID HOPES FOR SMOOTHING OF RELATIONS

(By Nicholas D. Kristof)

BEIJING, October 28.—Former President Richard M. Nixon arrived today for a visit of about six days in which he will meet with top Chinese leaders and although it is billed as an unofficial fact-finding trip, both the United States and China seem to hope that it will help smooth relations.

Mr. Nixon is regarded here as an "old friend" of China because his trip in 1972 led to the normalization of Chinese-American relations. He is by far the most prominent American to visit since Beijing's violent suppression of the democracy movement in June, and officials here say they hope that the trip will reduce the antagonisms that have roiled relations since then.

Mr. Nixon's staff said the former President had discussed his plans with President Bush. It said that after Mr. Nixon returns to the United States, he will give the White House a written assessment of the Chinese leaders, their policies and prospects for Chinese-American relations.

Sanctions imposed shortly after the crackdown prevent most high-level contacts between American officials and their Chinese counterparts, and for political reasons few American office-holders would be willing to be photographed shaking hands with those who planned the repression.

During the summer, some Americans said they hoped that Mr. Nixon's visit would lead to some breakthrough, such as an arrangement for the emigration of the dissident couple Fang Lizhi and Li Shuxian. Mr. Fang and Miss Li have taken refuge in the American Embassy here, and are certain to be arrested if they step outside.

Now, however, diplomats and Chinese officials doubt that Mr. Nixon will be able to resolve that problem. They say that the value of the visit lies in opening a new channel of communication between the two Governments, and in the possibility that Chinese officials will listen to his counsel.

Mr. Nixon is expected to meet with Deng Xiaoping, the senior leader; Jiang Zemin, the Communist Party leader; Prime Minister Li Peng, and other top officials.

"Sino-U.S. relations are at a crossroads," Foreign Minister Qian Qichen said tonight at a banquet for Mr. Nicon, according to the official New China News Agency. "We sincerely hope that the U.S. Government will weigh the pros and cons and take a forward-looking approach so that Sino-U.S. relations may return to the track of normal development at an early date."

The agency said that during the banquest, Mr. Nixon described himself as a "friend of China."

Mr. Nixon's former Secretary of State, Henry A. Kissinger, is expected to visit China beginning Nov. 7, shortly after Mr. Nixon has left.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

The Chair will advise the period for morning business has expired.

Mr. CHAFEE. Mr. President, I ask unanimous consent I might be permitted to speak for not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NORTH AMERICAN WETLANDS CONSERVATION ACT

Mr. CHAFEE. Mr. President, we expect later today we will have before the Senate some wetlands legislation, which legislation establishes a system and provides inventives to protect wetlands throughout our country. Furthermore, this legislation allows the Nation to make good its commitment to protect wetland habitats under the North American Waterfowl Management Plan.

President Bush has announced his support for timely implementation of the North American plan. He has asked Congress to send him this legislation, this calendar year. I hope we are successful in achieving that.

Wetlands, as I think most of us know, provide a wide range of benefits to our society. They provide an essential habitat for innumerable species of plants and animals. Indeed, one-third of all the species in our continent that are listed as threatened or endangered, rely on wetlands.

Furthermore, and this is less well known, wetlands play an important role in purifying and replenishing ground water systems, where the bulk of our country gets its drinking water. It is through ground water. Wetlands absorb floodwaters and they buffer our costs from destructive storms. We see that particularly, of course, in the Atlantic and the gulf coasts, where we have the wetlands behind the coastal beaches and barriers.

Unfortunately, due to an historic view of our country that the best way to deal with wetlands is to either fill them up or to drain them, more than 50 percent of our country's wetlands have been destroyed. Over 100 million acres have disappeared since colonial times. The extent of wetland pollution and destruction is so vast that any successful restoration strategy requires input from not only governments at all levels, the Federal, the State, the local, but also it requires the help of private organizations.

This legislation, which will be before us later today, the North American Wetlands Conservation Act, provides the authority and the mechanism to support the Federal portion of this joint attack, this joint venture between the Federal Government, State and local governments, and the private sector. These joint ventures are wetlands conservation projects which are supported in part by the Federal Government and by State government and by nongovernmental organizations. Often they involve Canadian governmental entities, either the Federal Government of Canada or the provincial governments, and we are hoping to step up cooperative efforts with Mexico.

Mr. President, along the Atlantic coast, which, of course the Presiding Officer and I are most familiar with, the North American plan calls for preservation of over 60,000 acres of coastal and intercoastal wetlands from Nova Scotia to South Carolina. Over 3,000 wetland acres from my home State of Rhode Island are among those identified as priorities under the plan. The Atlantic coast, as we know, contains essential breeding grounds and habitat for black ducks and other species of migratory birds, waterfowl, for innumerable species of fish and shellfish, and for several endangered species, such as sea turtles and the piping plover.

Other joint ventures are proposed along the gulf coast and Mississippi Valley, in central California, in the United States and Canadian prairie potholes, and in the Great Lakes and St. Lawrence Basin. These projects are the crux of our efforts to restore populations of waterfowl to levels of the 1970's.

In the 1970's, we had twice as many waterfowl as we currently do, 62 million in those days. Now it is down into the 30 millions, less than half the size of what it was just 10 or 15 years ago.

Mr. President, S. 804 is supported by the International Association of Fish and Wildlife Agencies and by a wide array of private groups, including Ducks Unlimited, for example, and Nature Conservancy, which have spent literally millions of dollars in order to protect threatened wetland environments. This legislation encourages and indeed requires that non-Federal groups match Federal funds spent on conservation efforts. The enactment of this bill is essential to the success of wetlands restoration efforts under the North American Waterfowl Management Plan.

I urge my colleagues to vote in favor of this important environmental legislation. It is called the North American Wetlands Conservation Act, S. 804.

IMPEACHMENT OF ALCEE HASTINGS

Mr. SIMPSON. Mr. President, at the outset, I want to thoroughly commend my colleagues for the outstanding service they rendered on this Senate Impeachment Trial Committee. I am pleased you did it. I do not believe I would have had the patience to do it. I am relieved that the leader did not put me on the committee. The last good deal I received like that was when our leader, Howard Baker, placed me on the Select Commission on Immigration and Refugee Policy. I would not want one like that again. But you fine colleagues did a great deal of tough, anguishing work.

All of you also did an excellent job in summarizing your views and observations. It was especially helpful to me in trying to pull all of this into perspective. I am always so proud to be a Member of the Senate. There are some occasions that generate an even richer feeling than normal of my pride for this unique Chamber. The other evening, when the President pro tempore spoke of the reconciliation process, was one of those occasions. The way this proceeding has been conducted also gives me a surge of great pride.

Although I fully understand and appreciate the need for the public to know the business that their representatives are conducting—it is an unfortunate fact that we cannot seem to do our business or say the same things in public that we say or do in private. If we ever get to the point where we can, it will be an even better place to work and a better thing for the American people to know that it does work. We often meet together in little groups and when we leave—and there is a camera out there in front of us—all of a sudden some colleague has changed completely, one who just 20 minutes before was on your side. Suddenly, the mike was stuck in his face and he is now a wizard, except he is also on the other side from where he was. That is such a tedious process to watch. It happens too much. No wonder people do not always take too much truck in what we do.

I have heard some of the finest legal minds in this body speak today in a rich way. It has been an education. But today we are assembled as a jury—a jury of peers. The jury system was never designed to see who could offer the best legal argument during deliberations. It was designed to determine through common sense and life's experiences what was a lie and what was truth.

One of the things that makes us uniquely qualified to decide this case is our ability—every one of us—to know when someone is shooting straight or trying to sell us a bill of goods. We do it for a living. We have to know people in our line of work. Of course, we cannot know anyone else until we know ourselves. But because of the normal routine of our daily lives, each of us should be able to divine what is authentic and what is not.

It does not take much sense at all—common sense or horse sense—to know what this guy was doing. When you read about how he left Washington for Miami, his conduct with pay phones, the codes, and the relationship between his conduct and critical junctures in the Romano case, it is clear that he was a clever and duplicitous man. That is what you find when you go through all the stuff. The facts are not in dispute. Let me tell you, he really knows how to—let me put it delicately—shovel it out. He is magnificent at it, and all of us ought to be able to see that so clearly.

We are not talking about some guy who did not know the system. Hastings and Borders were a couple of real big leaguers. They knew exactly what they had to do to make the scheme work and how to avoid surveillance and how to hide their conversations with code. The short of it is, he got off on the criminal case because he phonied it all up. He gave fabricated testimony. Nor is this a case of double jeopardy. It has nothing to do with double jeopardy.

The judicial panel who brought this proceeding examined 108 additional people who were not examined at trial. Their determination was that Judge Hastings had fabricated his testimony, and they thus initiated this matter in order to protect themselves from a cancer in their midst. The House, by a vote of 413 to 3, voted to impeach Judge Hastings on 17 articles. They adopted a report that stated: "The evidence, considered in its totality, clearly and convincingly establishes that Judge Hastings was engaged in a plan designed to obtain a payment of money from defendants facing jail sentences." That he "sought to conceal his participation in the bribery scheme and to explain away evidence connecting him with the sale of justice and he pursued those objectives through concocting and presenting fabricated documents and false testimony."

That finding was determined by the House based on a comprehensive review of the transcripts of the jury trial and an examination of additional

witnesses. They reached the sound and, I think, inescapable conclusion that Judge Hastings perjured himself.

In another life I did a bit of criminal defense work. I also handled prosecutions. I hated defense work because I did not like to be responsible for the freedom of another person, and I finally got out of that. I will never forget one client whom I was defending—pro bono. After giving him the whole load one day, I said: "You've got to tell me the truth. I am on your side. The only way you will win is to tell the truth." After about a day of trial, he turned to me and he said: "Wait a minute. I think I got it figured out. You mean all I have to do to keep from going to the pen is to lie?" I said, "Well, you have put it in a crisp way." And that is what all this is. If all you have to do to keep from getting impeached is lie, he did it. If all you have to do to keep from drawing your salary for life is lie, he did it.

Simply put, he fabricated the testimony that sprung him, and I think in our gut—we all know that. And now it is time to follow our head and our gut and defrock this fraud on the Federal judicial system. He fully deserves the fate of impeachment.

NICARAGUA RESOLUTION

Mr. BIDEN. Mr. President, last night I missed the rollcall vote on the resolution urging the Sandinista government in Nicaragua to renew the current cease-fire with the Contras. Had I been present, I would have voted for the resolution. However, I had a long-standing family commitment in Delaware, and thus I was not present for the vote.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, it is now 1,691 days that Terry Anderson has been held captive in Beirut.

As we know, this past Friday marked Terry Anderson's 42d birthday—his fifth in captivity. As of this day, his struggle still continues.

I ask unanimous consent that a recent article on this subject entitled "The Guest of Honor Won't Be There" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Times Union, Oct. 27, 1989]

THE GUEST OF HONOR WON'T BE THERE

(By Linda Kanamine)

It will be a birthday party with all the trimmings—and then some. Presents include a large sculpture, two videotapes set to an original tune written for him and a large birthday cake.

Missing from today's 7 p.m. gathering at Genesee County Mall in Bolivia will be the 42-year-old guest of honor Terry A. Anderson. Anderson spends his fifth birthday in captivity, held hostage in Lebanon.

It is the chains that bind Anderson that are so prominent in the sculpture being dedicated at the mall in his boyhood town.

Sculptor Louis Dlugosz of Lackawanna stretched a heavy chain between two disembodied hands just below the large bust of the Associated Press Middle East correspondent.

"The visual impression is so strong," said Anne Zickl, the Batavia coordinator for Peggy Say and the Anderson family, who have been among the most outspoken people in the campaigns to get all American hostages freed.

"It's a very powerful sculpture," Zickl said. "The chains move. It certainly is a pictorial representation of captivity."

Dlugosz, who is now in Poland doing biochemical research, presented the uncommissioned sculpture to the city of Batavia for display until Anderson comes home—at which time the chain will be removed and the statue given to him, Zickl said.

Batavia officials decided more people would be able to see it in the mall than in City Hall, so mall merchants chipped in and had the pedestal constructed at the main concourse.

Today, Anderson's fifth birthday in captivity, also has been declared "National Hostage Awareness Day" by the U.S. Congress. The day will be commemorated with a religious service at Georgetown University Chapel, Washington, D.C. This is the 20th commemorative service that No Greater Love has organized for Anderson since his capture March 16, 1985.

At the mall ceremony tonight the hostage's ex-sister-in-law, Penny Anderson, was to read the same speech that Anderson's sister, Peggy Say, read at the commemorative service this morning.

Among those expected at the statue unveiling include Batavia and Lackawanna officials, Genesee County Legislator and Anderson's schoolmate Stephen M. Hawley, and a representative for Gov. Marie M. Cuomo, Zickl said.

And as the birthday cake is cut, two videotapes, made by Buffalo TV stations and set to an original song, will be played.

"The Dooleys, a music group in Buffalo, wrote a song for the hostages and especially Terry, called Compassion. It's remarkably wonderful," Zickl said. "One of the videos includes tape of Terry running along a beach in Lebanon before his capture. It goes on for a while, and it reminds us that he hasn't been able to run at all in 4½ years."

A TRIBUTE TO ROBERT VAN FOSSAN

Mr. BRADLEY. Mr. President, with the passing of Robert Van Fossan, New Jersey has lost a business and civic leader who worked tirelessly for the public interest. I have also lost a friend whose counsel and advice I deeply valued.

As chairman and chief operating officer of Mutual Benefit Life Insurance Co., Bob helped his company to thrive. Under his leadership, Mutual Benefit Life diversified and grew nearly fivefold. As the former board chairman of the New Jersey Chamber of Commerce, he worked to strengthen the business environment throughout the State.

But Bob was far more than just a leader of the business community. He was also a man who believed in helping others: in giving something back to our society. Luckily for the people of New Jersey, he focused his attention on improving the quality of life in our State.

Bob believed that businesses have a responsibility to address the issues that affect their communities. He founded the Partnership for New Jersey, which enables business and nonprofit organizations to work together to improve the quality of life for the people of New Jersey. Bob was also active in the United Way, the Boy Scouts of America, the New Jersey Historical Society, and the Essex County Advisory Board. But this is only a partial list of his activities.

Much of his considerable energy went toward improving the economic, social and cultural life of the city of Newark. He was one of the driving forces behind Renaissance Newark, which drew upon the communities many resources to revitalize this important city. As chairman of the Newark Performing Arts Corp., he helped to strengthen the cultural life of the city, providing free public concerts and restoring Newark's Symphony Hall. Bob also worked with the Greater Newark Urban Coalition and the Newark Hospital Development Fund.

Bob Van Fossan answered the question: "What do I owe another human being?" with the most generous response. We have lost an important business leader, whose compassion, dedication, hard work, and unbending pride in New Jersey has made our State a better place to live.

ANATOLY AND GALYA GENIS

Mr. KENNEDY. Mr. President, today in Moscow, Galya Genis celebrates her 45th birthday. It is appropriate that we in the United States pause on this occasion to remember her family's continuing struggle to emigrate from the Soviet Union.

The Genis family submitted their first application to emigrate in 1976. At that time and ever since, they have been consistently denied exit visas because of a research position that Anatoly held until 1976.

Anatoly and Galya are mathematicians, and Anatoly holds a doctorate degree from Moscow State University. Since submitting his first application to emigrate, Anatoly has been unable to find employment in his field, and he has had to take other jobs to support his family. Despite Anatoly's determined efforts, the Genis family lives in virtual poverty.

For many years, Galya has been plagued by a chronic nervous condition which confines her to bed and prevents her from working and caring for her family.

In 1988, frustrated by years of hardship and misfortune, Anatoly joined other refuseniks in public demonstrations to express his dissatisfaction to Soviet authorities. The police arrested Anatoly at a demonstration in September 1988, and he served 10 days in prison.

The Genis family's 13-year struggle is especially urgent now that their son, Seva, has reached draft age. If Seva is conscripted into the Armed Forces, the Genis family's application may face even further denials and delays.

While I welcome the recent rise in emigration from the Soviet Union and the progress toward glasnost and perestroika, the plight of Anatoly and Galya Genis reminds us that many Soviet citizens still do not enjoy the right to free emigration. Let us hope that the Genis family will celebrate Galya's next birthday in Israel.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROBB). The time for morning business has closed.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1990—CONFERENCE REPORT

The PRESIDING OFFICER. The Senate will now resume consideration of the conference report on H.R. 2991, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2991) to make appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

The Senate resumed consideration of the conference report.

Pending:

Helms amendment No. 1076, to establish a policy toward additional sanctions against the People's Republic of China, to Senate amendment number 182.

Mr. HOLLINGS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the Helms amendment that was carried over from last evening.

Mr. HOLLINGS. Awaiting his arrival, Mr. President, I think the Senator from New Hampshire has some comments.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I just want to comment very briefly on a vote we had in the Senate yesterday on the Pell amendment, the Pell-Helms amendment, I believe it was referred to, in which the Senate, in its wisdom, reinstated what this committee had tried to waive, and that is section 15 of the State Department Basic Authorities Act.

What we essentially find ourselves doing now is that, irrespective of when we pass this bill and the other body does the same, the State Department will be operating in a situation where it is very possible that it will shut down on the 30th of November because of section 15. It states that the State Department cannot spend funds until there is an authorization bill—the only such section of any act in law.

I am not sure why the Senate voted the way it did yesterday. I have the impression, from talking to some of our colleagues, that they thought this was a classic battle between the Appropriations Committee and an authorization committee. That, of course, Mr. President, was not the case. There was nothing in this appropriations bill that members of the Foreign Relations Committee did not essentially authorize in terms of funding levels.

The problem, of course, is that this is a marvelous bit of leverage, if you will, to work with when attempting to leverage the other body or the administration. The net result is that we have a bill which is a very clean bill, a bill which reflects all of the requests of the Department in a reasonable way, that has been worked out very carefully by the chairman, the ranking member, and members of the Appropriations Committee. This is not a turf battle. We have no argument with the Foreign Relations Committee. We just believe that after the fiscal year has started, it is time to pass an appropriations bill, and we intend to do that today. As to the State Department portion of that bill, it will, unfortunately, stay in a state of limbo unless there is an authorization, and there have not been authorizations in years gone by.

All that is by way of preface to a comment I will make, after some consideration, about the Department itself. I would say on the record that I am not pleased, nor do I believe is the chairman of the committee pleased, with the lack of forthrightness and plain courage of the Department. The Department opposed the Pell amendment. It did not want it to pass the Senate for very important reasons which that Department can articulate far better than anybody else. Yet the Department was unwilling to go on record to state that. Had the Department gone on record to state that, I daresay, certainly on this side of the aisle, there would have been the requisite number of votes to defeat that amendment.

The question then arises, why was the Department unwilling to go on record? My understanding is the Department was unwilling to go on record because they were fearful of in some way offending the authorizing committees. Mr. President, I do not think that speaks well of the Department. I hope the Department will have more courage in the conduct of its other affairs than it does in this one. The job was left to the chairman and ranking member of this subcommittee, knowing full well the Department vigorously opposed the amendment and yet they were not willing to stand up and be counted. I will give the State Department a message here on the floor of the U.S. Senate. I have stood up and been counted for that Department in the last 9 years. I shall not do that again. I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from North Carolina [Mr. HELMS].

AMENDMENT NO. 1076 TO AMENDMENT IN DISAGREEMENT NO. 182

Mr. HELMS. I thank the Chair. I inquire what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from North Carolina, No. 1076.

Mr. HELMS. Relating to China sanctions.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair again.

Mr. President, yesterday we learned that the Chinese Communist police in Beijing are terrorizing the chairman of United States diplomats. According to the official protest filed by the United States Ambassador to Communist China, the police pointed their rifles at the children and pulled the triggers. The guns were not loaded, but the children and their parents had no way of knowing that. In any case, that is a rather cruel thing to do to children by anyone who represents himself as a policeman. The protest also complained of slashed tires and other harassment of American-owned vehicles in Beijing.

What happens today? What are we learning today from Beijing? For one thing, the Honorable Martin Lee, an elected member of Hong Kong's Legislative Council, has lost his position as a member of the joint Hong Kong-Communist China committee drafting the colony's post-1997 constitution. This constitution is known as the basic law. It is supposed to govern Hong Kong affairs until after the Commu-

nists take over Hong Kong on July 1, 1997.

The point is this: Mr. Lee is well known in both Hong Kong and to those who follow the events there. He is known here. He has called for full democracy for Hong Kong. He has been doing this, and he wants full democracy in Hong Kong before 1997. He has denounced the massacre in Tiananmen Square. He called on the free world to put sanctions on Communist China. He has severely questioned the so-called basic law drafts, and he has called for a bill of rights for Hong Kong. Finally, he has been the only Hong Kong politician with the courage to stand up for the Vietnamese boat people and to oppose the forcible return of these pathetic people to Communist Vietnam.

Mr. Lee's courage and determination make him very popular in Hong Kong. There was a recent newspaper poll that I looked at today showing him to be by far the most likely person to win any free election for chief executive of Hong Kong. Not surprisingly, he is very, very unpopular with the dictators in Beijing. It is not surprising, then, that the Chinese rubberstamp legislature threw him off the basic law drafting committee. "Out," they said, "you are through. What do you mean talking about all this freedom and Bill of Rights stuff?" This is what we are dealing with. If we blind ourselves to what is going on and who is doing it in Communist China, then we are doing damage to the cause of freedom around the world and specifically to the United States.

Beijing does not want anyone who will press for real liberties and freedom, and Mr. Lee is more than just a little inconvenient obstacle to them. He is a threat to their power.

So, Mr. President, the Communist Chinese rulers in Beijing and their foreign mouthpieces would tell us that the massacre in Beijing was just an unfortunate tragedy and that we should get back to business as usual.

The trouble with that is that the horrors are not over. They are not over for the Chinese people or the people of Hong Kong or even the little children of American diplomats stationed in Beijing.

The amendment that is pending to the underlying legislation, the State-Justice-Commerce appropriations bill, is really the leadership language. It was approved by this Senate under the sponsorship of the distinguished majority leader, Mr. MITCHELL, and the distinguished Republican leader, Mr. DOLE. It is a package of sanctions on China, sending word to them clearly that they better watch their step with this business of tyranny and murder, oppression and intimidation.

With one exception, I should point out, these sanctions are entirely identical to the leadership package to which I have just referred, and that passed this Senate 81 to 10 on July 14 as part of the State Department authorization bill. It is also very similar to the House China sanctions package attached to their foreign aid bill.

The one exception I spoke of is the Appropriations Committee version of satellite launch restrictions. The committee's version adds the Soviets while the leadership package did not. This kind of thing bothers me, frankly, because how do we profess to be opposed to oppression and tyranny in general but we leave out certain countries? Is it a matter of our being intimidated? Are we trying to accomplish something that we know we are not going to accomplish?

The committee's amendment on satellite launches is the correct one.

Mr. President, we need this sanctions package, and we need it on this legislation. Almost 5 months have elapsed since that disaster on Tiananmen Square and we already have people going over there and saying, "Well, boys will be boys. We ought to find out what we agree on and forget this other little stuff that happened."

What are you talking about, "little stuff"? Can anyone forget that courageous young Chinese student who climbed up on that tank? Can anyone forget the students who were deliberately flattened by these tanks? Are we going to do that in this Senate? I pray that we will not.

The Chinese Communists are getting the idea, frankly, that the Congress is not really serious, and it may be that the distinguished Senator from New Hampshire will want to add one more provision to his criticism of the State Department, and that is, why do we have double standards? Why do we put things aside and pretend they never happen?

We run the risk of being unfaithful to the principles we declare every day if we do not begin to act quickly in cases like this. The hard line Stalinists in Eastern Europe are going to draw the same conclusion. They are watching our timidity with respect to Beijing, and they will figure that they can get by with what the Communists in Beijing are getting by with, and that will be a catastrophe for Solidarity, for example, and for everybody else in Eastern Europe who yearns for the freedom that is the heritage of every American.

I hope that the managers of this bill will accept this amendment. I see no need for a rollcall vote although I am perfectly willing for there to be one.

I yield the floor, Mr. President.

Mr. RUDMAN. Will the Senator from North Carolina yield just for a question?

Mr. HELMS. Yes.

Mr. RUDMAN. The Senator from North Carolina has just made a very eloquent statement. I agree with a great deal of it but on a procedural matter yesterday the Senator from North Carolina made a very eloquent statement on the Pell amendment. The Senator from North Carolina said, "So, Madam President, the issue before the Senate is whether there is any role for authorizing committees in the legislative process, or to be a little bit blunt about it, whether we ought to sit back and be steamrolled? Senator PELL and I say no to the latter."

Well, in light of that statement, I find it odd that the Senator from North Carolina would now further exacerbate the steamrolling of the authorizing committee by offering language to this appropriations bill which has no relevance to an appropriations bill, which is already in the Foreign Relations Committee bill in conference, which I am assured is going to be concluded.

Is it not inconsistent to offer it to this legislation? The Senator is the ranking member of the Foreign Relations Committee, and I would think he would never want to have the committee adopt authorizing language in our legislative bill.

Mr. HELMS. Let me tell the Senator something in response to his question. This Senator has always and will always take every opportunity to close every rat hole. I am going to use every legislative remedy I can.

My concern in offering this amendment is that the Commerce-State-Justice appropriations conference report contains, in amendment No. 182, a limited sanction against the Communist Chinese Government related to use of Chinese missiles to launch United States satellites.

Now, I concur wholeheartedly with the provision contained in amendment No. 182. My concern, I reiterate, is this is only a part of a more comprehensive sanction that the Senate had voted more than 3 months ago.

I say further to my friend from New Hampshire—and he likes to tweak a little bit and I can see the prosecutor coming out in him. He is good at it, but he is not going to get by with it because I anticipated what he was going to say.

The comprehensive sanctions proposed by the leadership in July would also suspend U.S. programs of OPIC, the trade and development program, munitions export licenses, crime control and detection instruments and equipment, nuclear cooperation and liberal export control policy toward the PRC.

Let me say this. I have no argument with WARREN RUDMAN and certainly not with FRITZ HOLLINGS. They are doing their job. I do not know that I would not have reacted the same way yesterday as they did.

I commend the appropriations conference of the House and Senate for

the provision they have included, but I do not want to see the rest of the train leave the station without all sanctions attached. That is the reason. The suspension of the satellite launches—as provided in amendment 182—is certainly appropriate, but no more appropriate than the other remedies provided in the leadership provision offered by Senator MITCHELL and Senator DOLE in July.

In sum, in further response to my friend, I feel the Senate should adopt the full comprehensive package and I, as one Senator, would prefer even a tougher approach.

I hope I have made clear the way I feel about the Communist Chinese. I am willing to abide by the package that passed the Senate 81 to 10 on July 14. My proposal is that the balance of the Senate-passed sanctions be added to the one sanction already included in amendment 182.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire [Mr. RUDMAN].

Mr. RUDMAN. Mr. President, I point out to my friend from North Carolina that the provision that he referred to on the satellites of course is a Commerce Committee provision that was agreed to within the authorization of the Commerce Committee, and agreed to in conference. That is why it is in this bill. I understand the Senator from North Carolina wanting to take advantage of every legislative opportunity to express his view.

It is the view certainly of this Senator, and I expect shared by my chairman, that the reason the Foreign Relations Committee authorization bills are in such a state of flux right now is by the very nature of the kind of amendment that the Senator has now offered. He, I am sure, would agree to that.

As a matter of fact, the reason it is now November 1 and we still do not have an authorization bill from that committee is because there is so much, I will try to find a polite word, surplus legislative language—that is a very polite word—in that bill that they are having a terrible time coming to an agreement. That is fine. Authorizers like to do that.

The Senate authorizing committee does one thing, the House does something else, they get into gridlock, and they do not even appoint conferees until months after the deed is done. They are now just starting into a conference. We hope they finish and produce a bill. And I guess that is normal in authorizing committees.

But this is not an authorizing committee. This is an Appropriations Committee. Our job is to furnish funds for the Government to run. It is up to the authorizers to make the laws upon which we appropriate.

Although I sympathize with the language of what was originally the Mitchell-Dole amendment which the Senator from North Carolina has referred to, and is now his, I will oppose this vigorously because I want to keep that surplus legislative language—that is a euphenism—off of our bill. Let the authorizers fight all day and all night about it. I do not want to go to the conference with the House of Representatives fighting this battle. In addition, Senator MOYNIHAN is about to offer his illegal solicitation of contributions amendment as a response to Senator HELMS, and pretty soon the Appropriations Committee will be in the same horrible mess that the authorizing committee is in. Frankly, that is a pleasure I would rather not endure.

So I will oppose the Senator's amendment for those reasons.

Mr. HELMS. Mr. President, that reminds me of when I was on the city council many years ago. I offered a little proposition to my colleagues on the council. I remember the statement by one of my dear friends on the council, now gone to other spheres. He said, "Well, I certainly agree with Jesse on principle. But I cannot agree with him in practice."

I guess that is what we are talking about. We either use every opportunity we can to try to stand up to what we all agree is tyranny and ought not be allowed or we do not. I happen to think it is more important to try to do something on an appropriations bill that surely under normal processes should be done in an authorizing bill. But it does not work that easily. And if you do not speak one place, you may not get a chance to speak the other.

Part of the reason that the amendment is necessary, I say to my friend—and he is my friend, and we enjoy bantering at the luncheon table and everywhere else. He is a bright Senator. He has made quite an addition to the Senate. But the reason the amendment is necessary is the position of the House conferees on the State Department authorization bill.

Mr. RUDMAN. Will the Senator yield for a quick question?

Mr. HELMS. Let me finish. I do not mean to be abrupt, but I want to finish my train of thought.

The House conferees are flatly refusing even to consider about 50 Senate provisions including this one, referring to the Chinese sanctions. They want to have it all their way. They are nice fellows. But they are unrelenting. We may be able to work something out and we may not. If we are not able to work anything out, and if Jesse Helms had declined to get up on this floor and offer this amendment, then that would be improper. That is the way I feel about it. That is the way I operate. If offends people every once in awhile. That is the way it goes. You win some, lose some, and some are rained out. But we need to get this done just as soon as possible.

If we do not do anything—under whatever pretext, this is an appropriations bill, it does not have any place in the appropriations bill, or whatever and it does not get done—what have we done for the cause of freedom in the process?

I am violating no rule. It has not been suggested that I have. I have had a lot of growls through the years from people who did not like this amendment or that amendment that I offered. I do not know how much longer I will be here, but I will probably hear some more growls. I will do the best I can.

I hope, I even pray that the House will relent on it intransigent position. But until the House conferees relent, and work out something—and incidentally, I made a proposition to them, a proposition I do not think they can refuse. But they may refuse it. But I think we should get the best possible and earliest consideration of comprehensive sanctions, and that is the reason I have offered the amendment. I regret the Senator is going to object to it. But that is his privilege, and I understand that.

I yield the floor.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire, Mr. RUDMAN, is recognized.

Mr. RUDMAN. Mr. President, just a very brief response to my friend from North Carolina, Senator HELMS. I say to my friend that he had just stated exactly the reason why we do not want this on this bill. The Senator states with great accuracy there is intransigence on the part of the House. I regret that, and that they cannot come together and even consider these issues. Senator HOLLINGS and I have gone through this year after year. If we bring this kind of matter on our bill into the conference with the House Appropriations Subcommittee they will tell us unequivocally that the authorizing committee has told them under no circumstances shall they consider it, and they will not. So then we will be in the same gridlock as the Senator from North Carolina finds himself in; which I guess brings me to the final statement. What the Senator from North Carolina is really saying is misery loves company, and we are all going to have a lot of misery if this gets on this bill.

Mr. HELMS. Mr. President, I find myself wishing that FRITZ HOLLINGS and WARREN RUDMAN were on the Foreign Relations Committee. I could just hear FRITZ taking on the conferees. DANTE FASCELL and all the rest of them are good guys. I like them. They are absolutely intransigent.

I say to Senator RUDMAN, who is my good friend, if he thinks he has been a little bit undercut by the State Department, the Senator should sit on the Foreign Relations Committee sometime and experience what I have experienced. They go around and they talk to this one, and they undermine this, and so forth.

So I have great sympathy for the Senator's remarks this morning. But the point is that either we are going to try to do something toward comprehensive sanctions on this, or it is not going to be done at all. We may fail, but at least we can pull up the sheet at night and say we tried. That is the point.

I yield the floor, and I will not inhibit the Senator.

Mr. HOLLINGS. I want the Senator to complete his statement. I have a motion to make here in a little while.

Mr. HELMS. I beg the Senator's pardon.

Mr. HOLLINGS. I have a motion to make in a little while. Has the Senator completed his statement?

Mr. HELMS. Is the Senator going to make a motion to table?

Mr. HOLLINGS. I would like to.

Mr. HELMS. That is down the road. So everyone understands——

Mr. HOLLINGS. We do not want to be rude; we still have southern courtesy.

Mr. HELMS. The Senator has never been rude. If he has, he has never been rude to me.

Mr. HOLLINGS. Mr. President, as the distinguished Senator from North Carolina said, he is going to use every rat hole, and I am going to use every rat hole. Because as frustrated as he is about freedom in China, I am even more frustrated about the freedom for us here in this Senate Chamber on procedure.

We worked hard all year long. Our distinguished chairman—the former leader, Senator BYRD—and I commend him for it—brought a sense of discipline to the Appropriations Committee that I have never seen in my 20 years that I have been on the committee. He has brought discipline and we have all sort of given into a lot of little petty individual desires in order to get our appropriations bills out.

Necessarily, this particular bill was sidetracked on drugs. We forswore that and let it happen, and everything else of that kind. We took our turn. We waited on the authorizing committee.

As the newspaper article noted, the Committee on Foreign Relations took eight meetings to even get a quorum to report out the authorization bill. That does not sound like intransigence on the House side, or by the House conferees. I am talking about the Senate side, and the Senate committee.

They took numerous meetings to get anybody there. The fact is that the House conferees and the House Members sent their bill over on April 12, and the Committee on Foreign Relations did not report it until June 12. The bill then passed the Senate in July and did not even get the House conferees appointed until a couple weeks ago, in October. They had a meeting for the first time, right after the beginning of the fiscal year in 1990, and another one yesterday.

I know in the State legislature, and the distinguished Senator from North Carolina and I are used to local practice, we do not override but we do not delay and we just do not dilly.

And in this particular instance, while he says we need this legislation—and I am in hearty agreement with him; I voted with him when it was added to the authorization bill—we do not need it on this particular bill.

There has to be some kind of order out of this chaos around here. You cannot take a bill through three readings in the House, and work day and night getting the subcommittee, and the full committee markup, and have three readings in the Senate and then start a new bill. On what? On what, Mr. President? On the foreign relations authorization.

I get mixed up over foreign affairs and foreign relations. I think it was Lyndon Johnson who told me years back they call it foreign affairs over on the House side. They call it foreign relations on the Senate side because they are too old to have any affairs.

I never have gotten used to that difference.

Right to the point here, the part of the sanction we put on was cleared through Commerce, and it was part of the NASA authorization bill that was reported out. We cannot get it from the Foreign Relations Committee and the authorizing committee, and they taught me a lesson—I learned it yesterday—do not fool around with the authorizing committee, even though you do everything in conformance thereto.

So, I guess the Senator from North Carolina is saying: Look if you cannot beat them, have them join you. No way. No. He is going to have to beat them over there, and I hope he does because I favor what he is trying to do, but not on this bill.

We have to have some kind of discipline and some kind of orderly procedure, and I think we ought to adhere to something around here so that when you do decide after all of the considerations and readings and conferences, and you get to a conference report of appropriations, you do not then start all over again on an authorization bill.

With that in mind, Mr. President, I move to table the amendment.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. HELMS. We do not have a sufficient second, and I will not object, but let me have a couple minutes.

Mr. HOLLINGS. By all means.

Mr. HELMS. The Senator is right about foreign affairs and foreign relations. Age does have a lot to do with it.

Seriously, Mr. President, the nitty-gritty of this is that the State Department once again was too cute. They wanted to beat this amendment, the leadership amendment. But they figured they could not, because of the overwhelming vote.

So they felt they could use this as a wedge to pull in the foreign aid bill.

The House attached its sanctions to the foreign aid authorization unanimously, 415 to nothing.

Then the State Department figured these old recalcitrant guys like FRITZ HOLLINGS, JESSE HELMS, and others, will have to come along and vote for this foreign aid. That is where the body is buried over there.

The Senate attached its sanctions to the State Department authorization bill, and that is precisely the dispute between the House conferees and the Senate conferees. It is a flying wedge, trying to get approval of the foreign aid bill. I happen to be a Senator who never voted for a dime of foreign aid. I am like Sam Ervin. I think we ought to keep it here and certainly not send it around the world to dictatorships. It is all in this web. We just need to get this amendment, contrary to the wishes of the State Department, on a bill that the House cannot refuse.

I hope Senators will not vote to table. On the other hand, I understand why the managers of the bill do want to move to table, and the Senator may proceed.

Mr. HOLLINGS. I thank the distinguished Senator from North Carolina.

We see now, Mr. President, that the confusion is not just with our State appropriations and State authorizations, but now it is foreign aid authorization in the State Department appropriation. Therein, I think this motion has tremendous merit. If we get order out of this chaos with a good motion to table, then we will not have open sesame with the Moynihan amendment and everything else. Apparently everybody wants to stay here for Christmas, and that is verified by the Broder column in today's Washington Post.

Mr. LEVIN. Mr. President, I support the substance of the amendment of the Senator from North Carolina. I believe that it is essential that the United States make clear its opposition to the crushing of the budding of democracy in China. The Helms amendment was passed earlier as part of the State Department authoriza-

tion bill, and I supported it at that time. I hope that the final version of the State Department authorization bill will be brought before the Senate soon and that it will contain the Helms language.

I voted to table the Helms amendment today only because the conference report to the Commerce-Justice-State appropriations bill is not the proper vehicle for it.

Mr. HOLLINGS. I move to table the amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina to lay on the table the amendment of the Senator from North Carolina to the House amendment to the Senate amendment No. 182.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. LAUTENBERG] is attending funeral.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER. (Mr. REID). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 280 Leg.]

YEAS—53

Adams	Dole	Metzenbaum
Baucus	Durenberger	Mikulski
Bentsen	Exon	Mitchell
Biden	Fowler	Moynihan
Bingaman	Gore	Nunn
Bond	Hatfield	Pell
Boren	Heinz	Riegle
Breaux	Hollings	Robb
Burdick	Inouye	Rockefeller
Byrd	Johnston	Rudman
Chafee	Kennedy	Sanford
Cochran	Kerrey	Sarbanes
Cohen	Kerry	Sasser
Conrad	Kohl	Simpson
Cranston	Leahy	Specter
D'Amato	Levin	Stevens
Daschle	Lugar	Wirth
Dodd	Matsunaga	

NAYS—45

Armstrong	Graham	McClure
Boschwitz	Gramm	McConnell
Bradley	Grassley	Murkowski
Bryan	Harkin	Nickles
Bumpers	Hatch	Packwood
Burns	Heflin	Pressler
Coats	Helms	Pryor
Danforth	Humphrey	Reid
DeConcini	Jeffords	Roth
Dixon	Kassebaum	Shelby
Domenici	Kasten	Simon
Ford	Lieberman	Symms
Garn	Lott	Thurmond
Glenn	Mack	Warner
Gorton	McCain	Wilson

NOT VOTING—2

Lautenberg Wallop

So the motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I move that the Senate concur in the amendment of the House to Senate amendment No. 182.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the amendment of the House to Senate amendment No. 182.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise just briefly to express my appreciation to the managers of this legislation, the distinguished chairman from South Carolina and his formidable partner, the Senator from New Hampshire.

Mr. President, I ask order because I wish to make a simple point.

The PRESIDING OFFICER. The Senator from New York is correct. The Senate is not in order. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I simply wish to state that had the previous amendment by the Senator from North Carolina prevailed—that is, had it not been tabled—it would have been necessary for me to offer another amendment also included in the State Department authorization bill. That measure is referred to in shorthand as the soliciting and diverting amendment which imposes criminal penalties for activities taking place in the executive branch with the intent of contravening prohibitions imposed by statutes originating here in the legislative branch.

The managers could not have been more accommodating. The most able and learned Senator from New Hampshire, who has been working with us in a bipartisan way to find the best possible language for this measure, agreed that we would have to go ahead. I am sure he is as relieved as I that it did not prove necessary. We will pass the matter with energy in the conference committee with the House, which is even now convened. I hope the day is not far when we will return to the floor reporting that we have succeeded in a matter of very large consequence to the Senate and, I believe, to the country. I thank the Chair.

Mrs. KASSEBAUM. Mr. President, the conference on the Commerce-Justice-State appropriations bill has significantly cut contributions to international organizations and peacekeeping. The cuts totaling $125 million have been made despite the fact that both the House and the Senate voted full funding for our assessments, partial payment of arrearages, and the full amount requested by the administration for peacekeeping.

Mr. President, I do not speak in opposition to the conference report. I well understand the urgent requirements of the Justice Department's war on drugs and the other strains on funds in the Commerce, Justice, State bill. However, I am concerned about these cuts. They come at a very inopportune time.

We encouraged the United Nations and its specialized agencies to implement budgetary reforms. They are doing so. Yet, we are paying nothing on our arrearages and not even our full assessment, despite the authorization of full funding.

We encouraged the United Nations to be more active in peacekeeping and peacemaking. They are doing so. Just last year, they won the Nobel Peace Prize for these efforts. Yet, under this bill, we are cutting funding for peacekeeping operations.

Our inability to pay what we owe does not reflect support of budgetary reforms and peacekeeping. Nor does it signal support of the increasing contributions of the U.N. system in areas of worldwide importance—such as terrorism, narcotics, AIDS, and the environment.

Mr. President, it is clearly our responsibility, at the least, to pay our annual assessments in full. I regret that we cannot send a better message than the one in this bill to international organizations funded through this Department of State account.

Mr. KERRY. Mr. President, I would just like to take a moment to commend Chairman HOLLINGS and Senator RUDMAN for the effective way in which they have managed this very complex and important legislation. I also want to commend the subcommittee staff, particulary Warren Kane and John Shank, for the highly professional way in which they have dealt with the endless questions and requests that legislation like this generates.

Mr. President, this legislation includes funding for several items that are very important to me and the people of my State.

As a member of the drug task force I am particularly pleased to see that $186 million have been added above the administration request to fund critical activities to combat drug related violent crime and to implement our national drug control strategy. I look forward to Senate consideration of the remainder of the funding for the accelerated past intensified war on drugs that Congress has directed the administration to wage. I again commend Chairman BYRD for his leadership in

this area and his prompt fulfillment of his States intent during debate of the Harkin-Kerry amendment earlier this year to find the funds we need to do a better job in combating drug abuse.

I would also note that this legislation provides a number of very important programs to assist in the environmentally sound use of our Nation's oceans and marine resources. It is not surprising that this is the case since the subcommittee chairman is also chairman of the National Ocean Policy Study (NOPS] and has been a leader on these issues for decades. As vice-chairman of NOPS I am particulary aware of the importance of many of the items included in this measure.

I am also pleased that this legislation includes $35 million for coastal zone management grants to States. In addition, $6.4 million in new money will be allocated to launch NOAA's coastal ocean initiative. This money will go to improve efforts to assess, monitor, and manage coastal waters. Our oceans coastal waters and estuaries have come under extreme stress, from a combination of human activities such as population growth, the dumping of toxic chemicals, and global warming. This effort is clearly a step in the right direction, but clearly, efforts must continue to be stepped up in this critical area. New money was also allocated for research on global warming and to implement the Marine Mammal Protection Act.

In addition to these national programs, I am happy to see funding of many important New England programs. In particular the bill contains $1.4 million for the Northeast Fisheries Center in Gloucester and $2 million for much needed repair for the pier at the National Marine Fisheries Service Lab at Woods Hole.

Moreover, the NOAA budget includes funds to enhance New England fisheries research and assessment programs, such as $471,000 for stock depletion studies for New England fisheries, $500,000 for Atlantic salmon research, $235,000 for right whale research conducted at the New England Aquarium, and up to $200,000 interjurisdictional fisheries grants to the State of Massachusetts.

Mr. President, one of the most serious problems facing our country is the difficulty we have competing in foreign markets. What is particulary galling, however, is that so often we find that major impediment to our exporters is our own governmental apparatus. We often find that as the comic strip character Pogo so memorably expressed it, "we have met the enemy and it is us."

The export licensing process for high technology products has clearly been a case where we were our own worst enemy. The result of cumbersome, rigid, and often excessive regulation has been the loss of sales, income and jobs for many of our companies and their workers, in Massachusetts, we are very aware of this loss and have worked hard over the last several years to make improvements.

The legislation before us makes one more significant contribution to the effort to speed the export licensing process of our exporters. It implements a strong recommendation that I discussed with Commerce Secretary Mosbacher during his confirmation hearing. It provides the funding and directs the Secretary to open an export licensing office in the Boston/Nashua area to serve exporting firms located in New England. I am delighted with this important provision and commend Senator RUDMAN for his continued leadership on this matter.

I am also pleased that the committee has made it clear that the Boston Office of the Minority Business Development Agency will continue to serve our regions minority business needs.

Mr. President in the wake of recent Supreme Court decisions effecting minority business, it is critical that we at least maintain the positive efforts underway to help these new, small companies survive and expand. Frankly, we have a responsibility to assess the impact of these decisions on minority small business, evaluate the effectiveness of existing minority business development activities, and devise, if needed, better ways to help minority businesses to begin, to grow and to thrive in our economy. As chairman of the Senate Subcommittee on Minority and Urban Small Business, I intend to focus on this important challenge to our free-enterprise system.

In the foreign policy area I am also pleased with this legislation. The Senate Foreign Relations Committee in its deliberation on the USIA authorization bill make it clear that the spirit of freedom and democracy breaking out throughout the world offered an unprecedented opportunity for cultural exchanges. In no case is this more true than in the relationship between the United States and the Soviet Union. I am delighted, therefore, that the conferences have directed the USIA to provide $1 million of Federal participation in "making music together" an exchange to occur in 1990 that is expected to be the most significant of its kind ever. The opportunities for building up the consciousness of this shared values of the American and Russian people have never been greater. I am pleased that the conferees agreed that "making music together" will make a major contribution to that process.

Mr. President, again I commend my colleagues from South Carolina and New Hampshire and their staffs, for a different job well done.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

Mr. RUDMAN. Will the majority leader withhold?

Mr. MITCHELL. Yes, certainly.

Mr. RUDMAN. Mr. President, let me again express my appreciation to my distinguished chairman, Senator HOLLINGS. This is a very complicated bill. It covers many important agencies. It fully funds those agencies to carry out the mission that the authorizing committees have charged them with. It is always a pleasure to work with my friend from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me express my gratitude to Senator RUDMAN. I also want to thank the staff for their outstanding work in getting us this far. Warren Kane, the clerk of the subcommittee, and I have worked on this bill together since 1977, and before that we had the legislative bill together. Working with Warren is Dorothy Seder who was of tremendous assistance to us and the full committee with the drug amendment. Liz Blevins, the subcommittee secretary joined us this year and has quickly mastered the detailed work of the Committee on Appropriations.

Senator RUDMAN and I have maintained the bipartisan spirit of the subcommittee that has prevailed over the last 13 years. I appreciate the helpful assistance of John Shank and Judee Klepec of the minority staff, as well as the help of Tom Polgar, Santal Manos, and Rachel Sotsky of Senator RUDMAN's office staff.

Let me also thank the Senator from New York for his very generous remarks, and our majority leader.

Mr. BOSCHWITZ. Mr. President, before us today is the conference report on H.R. 2991, making fiscal year 1990 appropriations for Commerce, Justice, State, the judiciary and related agencies. The bill appropriates funds for the Small Business Administration [SBA] and as ranking minority member of the Small Business Committee, I am most interested in the funding levels for SBA programs.

In particular, I am pleased to see the 7(a) guaranteed loan program has been appropriated $3.2 billion. This is the level suggested by the Senate; the House appropriated only $2.45 billion despite the fact that the estimate of demand for fiscal year 1990 is $3.4 billion. I am hopeful there will be no shortfall such as what occurred in fiscal year 1989 when, for a period of time, loans could not be made and $200 million had to be taken from other SBA programs and transferred to 7(a).

In August, I initiated a letter to Senator RUDMAN, ranking minority member of our Appropriations Subcommittee, requesting full funding of the 7(a) program. This letter was also

signed by the other Republican members of the Small Business Committee.

Since 1981 there have been a number of changes in the 7(a) loan program. The default rate and the repurchase rate have both declined. Part of the reason for this improvement lies with better program administration by the agency and part is due to a more equitable sharing of risk in the program by lenders.

Lenders are taking a greater part of the risk and are paying increased fees for the privilege of attaching the SBA guarantee to their loans. This results in better quality loans and fewer losses to the Government. In 1980, the average guarantee was 87.5 percent compared with 77.7 percent today. In addition, guarantee fees, and therefore program income, have doubled during that period of time.

Some 8,000 lenders have made at least one SBA loan in the past 5 years. However, lenders in the special certified and preferred lender programs now account for more than 60 percent of all guaranteed loans. In the certified lenders program [CLP], SBA places greater reliance on a group of selected lenders to analyze a loan applicant's creditworthiness and then present to the SBA a complete and fully documented loan submission. The loan package is then reviewed and processed by SBA in 3 working days or less. Regular loan processes take between 2 and 3 weeks.

Participants in the preferred lenders program [PLP] are chosen from among the best-performing CLP participants. In effect, PLP lenders are extensions of SBA: They have full authority and responsibility for handling almost all aspects of making business loans, determining a loan applicant's eligibility and creditworthiness, closing the loan, and servicing the loan. The bill before us would also establish a maximum guarantee of 80 percent for PLP's.

Mr. President, the use of PLP's and CLP's has improved this loan program which I believe is most beneficial to small businesses. I am pleased the 7(a) program has received this level of funding, and I urge my colleagues' support.

Thank you, Mr. President. I yield the floor.

Mr. KENNEDY. Mr. President, it is ironic and regrettable that at a time when the United Nations is more active, more successful, and more essential to U.S. foreign policy objectives than at perhaps any other time in history, the United States is once again withholding funds from the organization.

The United Nations is involved in resolving many conflicts around the world. In Central America, the United Nations is monitoring and verifying the Nicaraguan electoral process and a distinguished American, Elliot Richardson, heads that effort. The Central American governments have committed themselves to the nonuse of territory against their neighbors and cessation of assistance to insurgents and the U.N. Security Council will soon consider participating in verifying that commitment. In Central America the Secretaries General of the United Nations and the OAS have established the International Verification Commission to assist in the voluntary demobilization, repatriation, and relocation of the Contras as envisioned in the Tela agreements.

In Africa, one of the largest operations in the history of the United Nations is underway to help Namibians finally achieve their independence. The United Nations is also verifying the departure of Cuban troops from Angola.

In Cyprus, United Nations troops have served for 19 years as a buffer between Greek and Turkish Cypriots, and the Secretary General has been actively pursuing a resolution to the continuing conflict there.

In the Middle East, the U.N. Iran-Iraq Observer Group maintains peace in the Persian Gulf, and U.N. forces are working to keep the peace in the Golan Heights.

I also want to mention briefly the importance of continued U.N. leadership in two international health agencies included in the current bill—the Pan American Health Organization and the World Health Organization.

I know that the distinguished chairman of the State-Justice-Commerce Appropriations Subcommittee, Senator HOLLINGS, and our colleague, the ranking minority member, Senator RUDMAN, share my high regard for the work of these two institutions. As chairman of the Senate Labor and Human Resources Committee, I can assure them these two agencies continue to be vital to the saving of lives around the world.

Their medical and public health innovations have prevented hundreds of thousands of deaths in Latin America, in Asia and in Africa—as well as here in the United States. They have advanced low-cost methods for halting dehydration and death from diarrheal disease, for controlling malaria, and for hemispheric and global coverage of diseases that needlessly threaten newborns around the world.

In Latin America alone, if the mortality rates today were the same as they were in 1980, nearly 800,000 more individuals would have died. Yet, if the nations of the region were able to extend the coverage of immunization, oral rehydration, clean drinking water, and other inexpensive but effective remedies to disease, we could save the lives of nearly 700,000 children under the age of 5 each year.

Globally, WHO estimates that 20 percent of the world's population suffer from diseases which we have the technology to prevent or treat. Vaccine-preventable diseases, diarrheal diseases, acute respiratory infections, tuberculosis, malaria, and schistosomiasis head the list of illnesses which we have low-cost remedies to prevent.

Five years ago, I joined the leaders of the Pan American Health Organization in the inauguration of a 5-year campaign to rid the Western Hemisphere of polio. Senator HOLLINGS has been an essential ally in that effort. I understand from the U.S. Centers for Disease Control that PAHO has coordinated a multidonor public/private strike force to achieve that goal. Only a few hundred communities reported cases of polio in the hemisphere last year, and PAHO is confident that by next year, the transmission of polio will be halted.

The World Health Organization has called for global eradication of polio by the year 2000. WHO recently announced it is well on the way toward that goal. Immunization coverage for the world has reached 67 percent for a third dose of polio vaccine for children in their first year of life.

PAHO, as the regional arm of WHO, also has been leading the fight in the Americas against AIDS. Similarly, they have pressed hard with other countries in the region to recognize that victims of the narcotics war are not found only in the United States. Rising numbers of young people In Latin American and the Caribbean also are the targets of drug dealers. By helping other nations to recognize that they, too, have a growing public health threat from drugs, our overall antinarcotics goals are advanced.

Unfortunately, the funding levels in this bill do not reflect the important achievements made by the United Nations nor do they reflect American support and commitment for the work yet to be undertaken by the organization. These funding levels fail to meet our assessment obligation, ignore our commitment to repay our debt, which now stands at more than a half billion dollars, and reduces our peacekeeping assistance by $30 million.

As a result of past budgetary constraints and other legislation, the United States remains in serious arrears to both WHO and PAHO in our treaty obligations. If a full quarterly payment is made this quarter, we still will be some $14 million in arrears to PAHO, about 37 percent of the U.S. annual payment.

To WHO, the United States owes its current year contribution and $27.8 million for prior years. The arrears represent about 39 percent of the U.S. annual payment.

I know that my Senate appropriations colleagues had made every effort to provide full funding of the fiscal

year 1990 budget request for all U.S. mandatory contributions to international organizations, including these two organizations.

I appreciate that as a result of our determination to provide the resources needed to challenge drug abuse and narcotics trafficking, the conference committee found it necessary to reduce the previously approved Senate-passed amount for international organizations.

Although a substantial portion of the amount will come out of foreign exchange gains, some reductions will be required in the 1990 level of U.S. mandatory assessments to some or all of the international organizations covered in this bill.

I would strongly urge the chairman and ranking member of the Appropriations Subcommittee that in reviewing the State Department proposals of how to spread the shortfall, they should ensure that these two important organizations do not suffer a percentage reduction in their funding greater than any other organizations covered by this measure.

I urge that for several reasons. First, our support for the humanitarian work they do to promote health is a symbol of U.S. commitment to international development. Second, much of the work they do, especially in AIDS research, prevention and treatment, in malaria control, in environmental health and in immunization research, directly benefits the health of our own citizens. Finally, these organizations are among the best managed and administered. I would also note that their funding requests always have been among the lowest in the entire panorama of U.N. and Inter-American agencies.

There is a great deal of talk these days about the historic changes taking place around the world and about the movement from totalitarian to democratic systems. Our ability to participate successfully in the new world order of the 1990's will depend heavily on our ability to participate effectively in the United Nations and other international organizations. It is time to fund our commitments to and recognize the importance of these institutions to our foreign policy goals.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I thank the distinguished managers for their excellent work in getting this conference report acted on. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

LEGISLATIVE BRANCH APPROPRIATIONS, 1990—CONFERENCE REPORT

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the conference report on H.R. 3014, the legislative appropriations bill, and that no call for the regular order serve to displace the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3014) making appropriations for the legislative branch for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 25, 1989.)

Mr. REID. Mr. President, I am pleased to recommend to the Senate the conference report on H.R. 3014, making appropriations for the legislative branch for fiscal year 1990, and for other purposes.

This bill, as I tried to emphasize when it was before the Senate in early September, is small but significant. It is small because it contains only about $1.9 billion. By most standards that is a lot of money. But compared with a trillion dollar Federal budget, a national debt of almost $3 trillion, or an external debt of more than $590 billion, it is a drop in the bucket. In fact, relative to the amounts in most of the other 12 appropriations bills, $1.9 billion could be said by some to be small change.

This is not to say that we are excused from our responsibilities as members of the Appropriations Committee. Far from it. We have a duty to the committee, to the Senate, and to the American taxpayer to stretch every dollar at our disposal as far as it will go. I believe it is fair to say that we have done that. This bill is below our 302(b) budget allocation by almost $50 million in budget authority and is at the limit for outlays.

But the fact is, Mr. President, that whatever we do in this bill is not going to solve this country's fiscal problems. We could eliminate every dime for the legislative branch and still not make a dent in the $100 billion deficit projected for fiscal 1990.

Nonetheless, this bill is still an important piece of legislation, Mr. President, because it funds the people's branch of the Government. It provides the resources to give practical effect to the ideals of representative Government that are embodied in our Constitution and traditions. Noble precepts are inspiring but it takes money, time, people, and professional dedication to make them work in actual practice. This bill provides the wherewithal for these practical requirements.

That is why it is important to understand, Mr. President, that this bill contains much more than just funding for Members of Congress and their immediate staffs. It also supports an array of agencies that make a vital contribution to our national cultural, political, and intellectual life.

The Library of Congress, for example, as I pointed out before, is the premiere facility of its kind in the entire world. The Library, though, is playing catchup in many areas of its collections because of previous funding shortfalls. We have been able to provide some modest increases to cut into those backlogs in this conference report.

This bill also provides the funding for the General Accounting Office. The GAO is often called the watchdog of the Congress—and for good reason, Mr. President. If it were not for the auditors and program analysts in GAO, mismanagement, fraud, and abuse in Federal agencies would be even worse than they are. Fortunately, we in the Congress can call on the GAO to ferret out incompetence, dishonesty, and malfeasance in the agencies that fall within our oversight responsibilities.

The scandals at the Department of Housing and Urban Affairs, the mismanagement at the Department of Energy's nuclear programs, and the savings and loan morass all attest to the need for the sort of independent investigatory capacity that the GAO provides.

The bill also provides funding for many other agencies, such as the Office of Technology Assessment, Congressional Budget Office, and the Government Printing Office that have vital but underappreciated roles in our system of government. But I have discussed these in some detail before here on the Senate floor and there is no need to belabor the point.

Suffice it to say that the Capitol complex, the Library, and the organizations we fund in this bill are national assets beyond monetary value, Mr. President. And I believe that the American people have a right to judge us for our stewardship of this invaluable investment.

The conference committee completed action on Monday, September 25. The conference report appeared in the

RECORD on Tuesday, the 26th of September, and a printed version has been available since the 27th. So I will not take the Senate's time here to describe in any detail the agreements with respect to every specific agency and account. Let me just say that the bill we have brought back is balanced and responsible. It does not include sufficient funding for every requirement, but it maintains essential functions at close to current program levels. And this is about the best we could do given our budget allocation.

We had a hard conference. It was not easy to resolve all of the issues between the two Houses. It was contentious. For the most part, it was possible to find some middle ground on funding levels for the various agencies and programs in the bill. But this took a lot of work, and a lot of time.

The toughest problems, as everyone knows, were the provisions relating to franked mail. There the differences amounted to a chasm. And let me hasten to add that the divisions were not just between the two Houses or the two parties. There were also substantial conflicts among members of the respective bodies and within the same party.

But even here, I believe, we were able to achieve a reasonable and constructive compromise. Chairman FAZIO and I spent many hours over the several weeks trying to find a way to bridge the gaps and discover some areas where it was possible to move forward with needed reforms.

There is no doubt in my mind that we have been successful in that effort overall. Chairman FAZIO and I worked out a compromise package which the conference finally adopted on a bipartisan vote.

Mr. President, an indication that this was a good compromise, I think, goes back to what I did before I came here. I was a trial attorney and I always knew when I had a good agreement, a good compromise, because everyone was unhappy, both sides were unhappy. That is what we had here. The House was unhappy. The Senate was unhappy. The Democrats were unhappy. The Republicans were unhappy, and all combinations thereof.

The agreement, to be sure, does less in some areas than perhaps it should. In fact, since we completed conference, another problem has come to light which I believe requires attention. Under current law and regulation, House and Senate Members are prohibited from using the frank for postal patron mailings beyond their districts or States. This leaves a loophole for targeted mass mailings to specific addresses on mailing lists outside a Representative's district or a Senator's State. I may offer an amendment later which will close this loophole with respect to campaigns for the Senate.

Mr. President, irrespective of this amendment, there can be no question that this conference agreement makes historic changes in the funding and use of franked mail by the Congress. If the reforms already in this bill are adopted, things are never going to be the same again with respect to congressional mailings. To be sure, both Houses still have a ways to go, in my judgment. But there is no denying the fact that we already have in this package real reforms—real changes that—in and of themselves—make real and significant differences.

Last year, the total appropriated for official mail costs was approximately $54 million. The bill before us provides a total of $100,229,000 for this account. Thirty-two million of this amount, however, will go to pay arrearages for fiscal 1989. This leaves a total of $68.5 million for mail costs in fiscal 1990.

The reforms included in the conference agreement should encourage the two Houses to exercise more effective control over mail costs.

First, for the first time we have established separate mail accounts for the House and Senate. And both the volume and costs of franked mail will be charged against these separate accounts. It will no longer be possible for one body to hide behind the other body. They are separate accounts. We will be judged on how much money we spend in the House or in the Senate.

This will ensure a degree of public accountability for both Houses that was never possible under the old single account structure. If the House spends more than its allotment on mail, the press and the public are going to know about it. And the same goes for the Senate. What is more, neither House will be able to make up its deficit by raiding the other's share of the mail appropriation. Now, Mr. President, that is real reform by any standard.

Second, we cut the number of allowable postal patron mailings in half—from six to three. Mr. President, this is also a real substantive change.

Recognizing that these ceilings are just that, these are how much we are allowed if the money is available, each House may find there is not enough money available to allow everyone who wants to to mail 3 times to postal patrons.

Third, we set up a procedure which puts the responsibility for controlling mail costs where it belongs—on the committees of jurisdiction in the respective Houses. The way this would work is that the Postal Service will report quarterly on House and Senate franking costs to the relevant committees in both Houses as well as to the Clerk of the House and the Secretary of the Senate. Then at the end of the second quarter, that is, 6 months, the Postal Service will provide an estimate of these costs for the entire year. At that point, under the provisions in this bill, the committees in both bodies are directed to consider whatever regulations may be necessary to ensure that the amounts appropriated are not exceeded. Now, Mr. President, this, too, is real reform; not pie in the sky, not something we will do someday, but real reform.

Once this procedure is put in place, the heat as well as the spotlight will be on both Houses of the Congress to constrain their mail appetities. How that is done, we leave to the proper authorizing committees. But it will get done because the pressure will be too intense to ignore.

Senator FORD and the ranking member, Senator STEVENS, have been watchdogs and have done an excellent job in determining procedures for mailing. But it will get done because the pressure will be too intense to ignore in both bodies.

Fourth, as seen on the chart that I have here, listed as No. 2 on the chart, we impose a limit of two sheets of paper on any mass mailing sent by any Member of the House and Senate under the frank. This is an amendment that was offered by Senator HUMPHREY. This is also a bona fide change, Mr. President, and a real cost-saving measure. Again, not pie in the sky, not something we will do in the future, but a real limitation.

Fifth, we close a big loophole in the rule prohibiting mass mailings within the 60-day period before elections. Under current law, mass mailings delivered to the House folding room before the beginning of the 60-day moratorium are considered delivered to a postal authority and may be mailed throughout the moratorium. It goes without saying that is unfair.

The conference agreement amends the franking statute to make it clear that mass mail cannot be mailed during this period.

Now, Mr. President, I know that there are some who think that there should be no mass mailing at all under the frank. Others think we should have forced the House to adopt a number of restrictions identical to those the Senate has or has had in the past. Let me warn the Senate that any attempt to reopen these issues at this point will be counterproductive to franking reform.

We have, Mr. President, real reform, as indicated with this visual aid that I brought to the Senate. We have separate mail accounts. We have a limitation on the size of newsletters. We have procedure for keeping mail costs within the appropriation. We have closed the loophole for election year mailings during the 60-day period, and we have reduced postal patrons by 50 percent, from 6 to 3.

I, again, say for the third time any attempt to reopen these issues at this

point will be counterproductive to franking reform. We will lose what we have.

The result would be stalemate, no bill, and no franking reforms. We would be back to business as usual and mail costs will skyrocket. And we will have no choice but to pay them—either with a 1990 supplemental over our budget allocation or with 1991 funds taken from the other agencies and activities in the bill.

There may be some who think this would be a desirable outcome. Politically, it has its advantages. By voting against the conference agreements or for what pretend to be "good government" amendments "you could have your cake and eat it, too." You could be on record in favor of some abstract concept of pure reform. But, by that very act, you assure that no meaningful reform takes place so you can continue to send out as much mass mail as you and your staff can dream up.

Let there be no mistake. That is what the real issue here is going to be. Are we going to vote for real, achievable reforms? Or are we going to engage in political posturing and hypocrisy? Will it be real progress in getting the mail monster under control? Or will it be business as usual? I hope and believe that the Senate will choose the responsible course and adopt the conference agreement.

Mr. President, before I yield the floor for other statements, I want to again thank my friend and distinguished ranking member, Senator NICKLES, for his help and cooperation in moving this legislation to this point. I say that because during this year's period of time, I have gotten to know him and I know that he believes strongly in the things that he advocates. I truly enjoyed getting to know him and working on this bill.

I also want to recognize the assistance of the other conferees—Senators BYRD, MIKULSKI, and ADAMS on our side and Senators HATFIELD and STEVENS on the Republican side. We may not always have been in perfect agreement on every point, but I believe we did a good job advocating the position of the Senate.

A special word of thanks is also due Senators BYRD and HATFIELD in their capacities as chairman and ranking member of the full committee. Their support and guidance have been both unwavering and indispensable.

I would also like to record my appreciation and esteem for Chairman FAZIO of the House subcommittee and his ranking member, Mr. LEWIS, who is a neighbor of mine in the State of California. They are invariably fair and forthright and always willing to try to find a constructive resolution to our differences.

The same can be said of all the House conferees. They are tenacious in representing their point of view. But they are also willing to find some reasonable and fair accommodation of the respective interests involved. So I would like to express my gratitude to Messrs. YATES, OBEY, MURTHA, TRAXLER, and Mrs. BOGGS for the majority and Messrs. CONTE, MYERS, and PORTER, for the minority.

Finally, Mr. President, I wish to recognize the contributions of the committee staff. Keith Kennedy, Mark Walker, and Juanita Rilling assist the minority. Jerry Bonham and Lula Joyce support the majority.

I have called upon Republican members of the subcommittee staff seeking their help and guidance which they have been willing to give. I appreciate that.

All of them are conscientious, mature professionals. Their hard work and impartial expertise have been an integral part of the development of this legislation. They have served the committee and the Senate well.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES. Mr. President, one, I wish to congratulate Senator REID, and I express my appreciation for the job he has done in managing this bill. It has not been an easy bill. Senator REID was certainly correct when he said the conference was contentious. It was a difficult conference. I have been in several. This is one of the more difficult conferences because we dealt with different types of issues, particularly the issue of mail. Senator REID discussed that at length. There are a lot of other things in this bill besides mail. We are appropriating $1.9 billion in outlays for the legislative branch for 1990. That is $31 million below the subcommittee 302(b) allocation for discretionary budget authority and right at the outlay ceiling. In addition, the House-passed conference report is $241,711,000 in budget authority below the budget request.

The following are a few of the conference report's major provisions: Official mail costs, a total of $100,229,000; that is $23,978,000 for the Senate, $44,530,000 for the House and $31,721,000 as a repayment for the 1989 cost overruns. This represents an actual reduction of about $17,139,000 over the total amount obligated and overcharged in fiscal year 1989.

The official mail accounts: The conference report establishes separate appropriations accounts for the House and the Senate to facilitate the tracking of mail expenditures.

In newsletters, the number of postal patron newsletters is reduced from six to three, which is a 50-percent reduction. However, town meeting notices and other notices relating to public appearance will not count as a newsletter. Also, we have agreed to limit mass mailings to two sheets of paper, four sides.

Mail cost overruns: There is included a provision to encourage the promulgation of rules to ensure that total postage costs will not exceed the amounts appropriated for the fiscal year.

Mail postmark prior to elections: We have stipulated that no mass mailing can be mailed if it is postmarked fewer than 60 days before an election.

Other provisions not mail related, and I will come back and discuss mail as it is a very contentious issue: The Capitol Police board, we have a total appropriation of $48,137,000 and the conferees have agreed to further investigate the possibility of consolidating the House and Senate police operations. I believe this should be done.

To this end, we have directed the General Accounting Office to conduct a study of the administrative organization and mission of the Capitol Police.

The Office of Technology Assessment: The conferees have agreed to appropriate $18,900,000 for OTA. The additional amount over the House recommendation is for general assessment activities as approved by the OTA board and is not earmarked for any specific study.

The Architect of the Capitol: There is a general provision requiring Senate confirmation of the Architect and limiting the term to 10 years. This provision is applicable to vacancies occurring on or after the date of enactment. If no such vacancy occurs within 6 years after enactment, then the incumbent is made subject to confirmation under the term limitation.

Special Services Office: The conference report includes $230,000 for the establishment of a new joint congressional office of special services. The office will provide assistance and services to handicapped visitors and employees.

Closed captioning: Language is included to provide for the closed captioning of telecasts of Senate floor proceedings.

Congressional Research Service: We have appropriated $46,895,000, for salaries and expenses, with $225,000 going toward the filling of vacant expenses. CRS is directed to develop recommendations for the Japan task force that will integrate its own capabilities and capabilities and needs of other sources of expertise and resources throughout the Library of Congress.

In the Library of Congress, the conference report includes $164,186,000 for the Library of Congress.

Mr. President, to make just a couple general comments, as I stated earlier, this was a very difficult conference and mostly because it dealt with the contentious issue, and the issue being mail reform. This Senator believed

very strongly and does believe that we need mail reform. The cost of mail has grown. As my colleague, Senator REID, said, it has been a mail monster. The mail has been growing out of control. It needed control. I compliment Senator REID because he showed initiative and courage and I know he has taken flak from both sides, as I have and other Members have who have dealt with this sensitive issue because we are touching close to home.

A lot of people use mail. Some people abuse mail. Some people have abused mail. Some people have used a lot of mail for campaign purposes, and the taxpayers, of course, are picking up the expenses. If you look at the expense amounts, the total amount that comes from the House and the Senate—and I am not segregating the two right now—you will see that the total amount for mail comes up dramatically in election years.

I will include a couple of charts for the record so people can have this to analyze if they so desire. But looking at 1981 as a nonelection year, the total cost was $53.8 million. In 1982, an election year, we spent $100 million. That is a big increase, almost twice as much.

In 1983, a nonelection year, we spent $72 million. In 1984, an election year, we spent over $110 million, and on and on. In 1987, a nonelection year, we spent—when I say "we," I am talking about Congress, the House and the Senate—$63.6 million. In 1988, an election year, we spent $113 million. Again, you see the mail costs rising and rising rather dramatically. In 1989, the year just completed, it is estimated that the expenses will be $85 million, and who knows how much the expenses will be in fiscal year 1990 if Congress does not make some reform.

So I think there is at least some agreement with Senator REID and myself and others who have worked on the issue that we need to make some reform. There is probably some disagreement on how far we should go. Some people want to totally ban mass mailings and newsletters. We may have an amendment on the floor shortly, and we will have to see how that works out. Others take a more moderate approach and say let us restrict it.

Again, I compliment Senator REID, because we do have some restrictions—we reduce the number of postal patron mailings, unsolicited mass mailings per constituent from six to three. So that is an improvement, although I thought it was a big step backward when earlier last year we increased it to six. That made us comparable to the House. To this Senator, that was two evils, but at least we are on an equal basis, but the House had it in their rules to where they could make up to six postal patron mailings and then we equaled the House number. Now we are saying we go to three.

I do not know that that is really a significant enough reform. I hope we would do more. In the Senate bill we reduced it to two. We were not successful in holding that in conference. I wish we did.

But that is not this Senator's primary concern with mail cost. The primary concern deals with a couple of issues. One is disclosure. We have disclosure in the Senate. I think, likewise, it makes good sense to have disclosure in the House of Representatives. I think Senator REID agrees with me. I believe there was strong agreement in the Senate.

We passed this provision in the Senate bill overwhelmingly. However, the House conferees were unwilling to accept this provision. I think we should insist on that provision. I would like to see it maintained. We may not be successful.

Senator REID may be 100 percent correct in saying it might be fruitless to send it back to the House because they will reject it again. That may be the case. We may well find out. I do not know. But I still think disclosure is first and foremost if we are going to talk about mail reform.

The taxpayers of this country are entitled to know how much money we spend, how much money we make, how much money we spend in our offices, because they are paying the bill. They also are entitled to know how much money we spend in our mail expense. We just started doing that several years ago in the Senate. I do not think it has hurt any Senator. I think, likewise, we should have included all Members of Congress, House and Senate.

Then there is one other major piece of reform that we had in the Senate bill that we were not successful in including in the conference report. That was a provision which said you could not mail more than your appropriated amount. In other words, once the appropriation ran out, your mailings would have to stop.

I am willing to modify that to some extent and say you could not do mass unsolicited mailings after the appropriated amount ran out. You could still answer your mail. You could still respond to constituent requests even if we did not appropriate enough, but you could not do unlimited mass mailings. We have done that in the past.

As I mentioned earlier, we include in this bill $31 million to make up for what we underfunded last year. I tell my colleagues right now that although we have in this bill $100 million for mail expense, we have underappropriated for mail this year as well, unless we have some kind of a provision which says that once the appropriation runs out, you cannot mail more. We have to have that provision or really the amounts that we have, the breakdowns, at least in my opinion, between the House and the Senate, will be violated—maybe not in the Senate.

I congratulate the Rules Committee. They have some pretty stringent rules, and maybe we will discuss those later today. They have a very stringent rule, an allocation, a serious breakdown, amongst Members. If we strictly adhere to that amount, maybe the Senate would comply with the figures that are set forth in this bill.

But it is still my contention that you need a statutory change, and that change basically being that you cannot mail more than you appropriate, or at least you cannot mail unsolicited mass mailings. Once the appropriation runs out, then the House and maybe the Senate will continue to mail more than the appropriated amount. That to me is where this conference report falls short.

Again, I have wrested with the dilemma: How can we come out with a better bill? This bill is better than nothing but not quite enough if we do not really have these two reforms.

Will the House agree to those reforms? I do not know. They were very reluctant to do so. They do not want to do so. Right now they do not have to disclose what their mail costs and they have basically unlimited mailings.

Right now, under this proposal, they can mail three mailings to each consituent. They also have the right to unlimited number of town meeting notices, so it is almost no real cap, no real check, no real containment on the growth of mail expense.

So I expect that the mail curve would continue to escalate. That is the reason why I voted against the conference report, reluctantly so, and again without any negative connotations on my colleague, Senator REID, because he has worked hard to come up with viable, positive reform. I compliment him. I wish the House would have been a little more cooperative and would have agreed to at least disclosure and to some type of cap that said we could not mail more than the appropriated amount.

Mr. President, this has not been an easy bill. It has been a fairly contentious bill primarily because of mail costs.

I have several tables that I will include in the RECORD. I ask unanimous consent to include these in the RECORD. They show two or three things: One, our mail expense compared to the appropriated amount. I think, again, my colleagues will see that Congress year after year has mailed more than the appropriated amount. I am afraid we will be doing the same thing this year.

Also, Mr. President, I have a table that compares the House and the Senate official mail costs. Frankly,

you will find, if you read this report and the accompanying table, that the House Members' mail was in 1988 about 4.4 times as much per constituent as Senators'. I am not knocking the House. I am just stating the facts. In 1987, it was 4.6 times as much as a Senator on a per constituent basis. So I include that in the RECORD as well.

And also, Mr. President, I have two tables that I will include in the RECORD. They are the total of the House of Representatives and also the Senate of incoming and outgoing mail. I think it will be of interest for Members as well.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

An examination of the actual total mail costs of the House of Representatives and the Senate for fiscal years 1972 to 1988 demonstrates that House members, on average, have spent more than senators by the factor listed below:

1972	7.7
1973	4.9
1974	4.6
1975	4.3
1976	5.2
1977	4.1
1978	5.1
1979	3.7
1980	4.7
1981	4.7
1982	3.0
1983	2.5
1984	3.1
1985	2.3
1986	3.4
1987	4.6
1988	4.4

Source: Statistics derived from *"U.S. Congress Official Mail Costs: Fiscal Year 1972 to Present,"* by John Pontius, Congressional Research Service, June 13, 1989.

CONGRESS' OFFICIAL MAIL ORIGINAL APPROPRIATIONS COMPARED TO ACTUAL COST

Fiscal year	Original appropriation	Total cost	Cost compared to regular appropriation
1972	14,594,000	23,206,337	8,612,337
1973	21,226,480	26,285,410	5,058,930
1974	30,500,000	31,302,243	802,243
1975	38,756,015	35,976,325	(2,779,690)
1976	46,101,000	52,973,703	6,872,703
Transition Quarter [1]	11,525,000	19,174,774	7,649,774
1977	46,904,000	41,419,599	(5,484,401)
1978	48,926,000	48,926,000	0
1979	64,944,000	42,942,642	22,001,358
1980	50,707,000	61,905,902	11,198,902
1981	36,633,000	53,862,013	17,229,013
1982	75,095,000	100,038,226	24,943,225
1983	55,196,000	72,432,960	17,236,960
1984	107,077,000	110,957,336	3,880,336
1985	73,944,000	85,160,794	11,216,794
1986	100,000,000	95,938,635	(4,061,365)
1987	91,423,000	63,624,912	(27,798,088)
1988	82,163,000	113,359,647	31,196,647
1989 [2]	53,926,000	85,626,000	31,700,000

[1] Transition quarter when fiscal year shifted from July to October.
[2] Fiscal year 1989 actual cost is based on the Postal Service's arrearage estimate.

Source: 1972–88 figures and 1989 regular appropriation figure from "U.S. Congress Official Mail Costs: Fiscal year 1972 to Present," by John Pontius, Congressional Research Service, June 13, 1989.

TABLE 3.—HOUSE OF REPRESENTATIVES, INCOMING AND OUTGOING MAIL, ACTUAL COST OF OUTGOING OFFICIAL MAIL, FISCAL YEARS 1972–89 (ESTIMATE)

Fiscal year	Incoming mail (number of pieces received)	Outgoing official mail	
		Number of pieces sent	Cost
1972	14,600,000	230,282,524	$18,422,602
1973	40,600,000	207,001,419	18,709,109
1974	41,905,750	223,617,840	21,781,570
1975	41,718,903	212,890,050	24,508,846
1976	51,560,000	294,869,543	38,340,515
Transition quarter	NA	129,721,529	14,924,536
1977	52,700,000	223,754,223	27,860,414
1978	100,000,000	334,965,000	35,109,000
1979	113,000,000	239,734,399	27,729,087
1980	120,000,000	400,129,816	43,421,682
1981	161,000,000	262,281,213	29,686,213
1982	145,000,000	508,156,638	59,894,236
1983	153,000,000	335,650,314	40,306,625
1984	200,000,000	586,203,143	67,348,392
1985	225,000,000	354,291,751	45,308,146
1986	180,000,000	461,091,864	60,400,595
1987	157,000,000	338,540,364	44,200,958
1988	156,600,000	548,465,538	77,852,082
1989E	NA	246,558,000	37,748,000
Total	1,959,684,653	6,137,305,168	733,552,608

TABLE 4.—SENATE, INCOMING AND OUTGOING MAIL, ACTUAL COST OF OUTGOING OFFICIAL MAIL, FISCAL YEARS 1972–89 (ESTIMATE)

Fiscal year	Incoming mail (number of pieces received)	Outgoing official mail	
		Number of pieces sent	Cost
1972	NA	59,796,687	$4,483,735
1973	NA	86,187,506	7,576,301
1974	NA	97,357,698	9,520,673
1975	NA	99,492,733	11,467,479
1976	NA	106,558,729	14,633,188
Transition quarter	NA	30,194,561	4,250,238
1977	32,500,000	86,346,092	13,559,185
1978	37,500,000	96,097,000	13,817,000
1979	34,200,000	86,526,101	15,213,555
1980	36,700,000	111,172,349	18,484,220
1981	35,800,000	133,300,675	24,175,800
1982	42,000,000	263,608,855	40,143,989
1983	41,500,000	221,190,032	32,126,335
1984	42,500,000	338,399,231	43,608,944
1985	46,200,000	321,982,710	39,852,648
1986	38,100,000	297,649,018	35,538,040
1987	50,000,000	156,193,086	19,423,954
1988	53,800,000	256,532,131	35,507,565
1989E	53,800,000	107,287,000	16,178,000
Total	545,300,000	2,955,872,194	399,860,849

Mr. NICKLES. Again, I thank my colleague for his cooperation. It is a pleasure working with Senator REID. This has not been an easy conference.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I move that the Senate adopt the conference report.

The PRESIDING OFFICER. Is there further debate on the conference report?

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California [Mr. WILSON].

Mr. WILSON. Mr. President, first, let me give credit where it is due to my two friends, the distinguished managers of this conference report, for the legislation that they took from the Senate into the conference. Senator REID and Senator NICKLES I think have tried valiantly to improve what we all concede is a very bad situation.

I think that the plain fact is that they were frustrated in their effort. There is some reform in terms of minor improvements, nothing like what would be required in order to reflect the effort that both have put into trying to not just make sense, but to make equitable the use of taxpayer funds for congressional mailings. But the fact of the matter is, as you have heard from Senator NICKELS this morning, there is no real curb on the appetite of the House of Representatives. We have no application of the antideficiency statute. There is the single exemption for congressional mail. Other Federal agencies cannot write bad checks. But the Congress can simply run a tab to the post office and never get around to paying for it. We occasionally have augmented what we owe or we have made some payment on what we owe supplemental appropriations. But there is no real curb on the virtually unlimited appetite of Members of Congress to send these mailings.

There is no requirement either in the law or contained in the conference report that would impose upon the House the same discipline, political discipline, that is imposed upon the Senate because there is not the same accounting. Individual Members of the Senate are required to disclose what each one spends on his congressional mail account.

Mr. REID. Will the Senator from California yield?

Mr. WILSON. I am happy to yield to my friend from Nevada for a question without yielding the floor.

Mr. REID. I wonder if the Senator would consider allowing adoption of the conference report. We have a number of amendment that are in disagreement which will allow the Senator from California to offer whatever amendment or amendments he desires. I have conferred with my colleague from Oklahoma and he has no disagreement to that procedure.

Mr. WILSON. Mr. President, let me assure my friend from Nevada that this particular speech will be brief. I have no illusions about being able to stop this measure. I am not going to require a rollcall vote. I will oppose it. I am going to make remarks that relate to that, and then allow the adoption to go forward and then the adoption of other amendments. We can get on to the more controversial amendments including my own.

Mr. REID. I appreciate that.

Mr. WILSON. Mr. President, true to my word, let me not linger. I certainly do not linger lovingly on any of this because it is not fun.

Let me just say that there is the absence of the antideficiency requirements to keep the process honest in terms of making Congress pay for the postal costs that we insure. There is also the absence of the accounting requirement in the House to allow the Members of Congress to expose to

their constituents the amount which each spends. That is also absent.

There are a number of other criticisms that could be made of the conference report. The fact is it allows town meeting notices virtually without limit. I am told that often districtwide notices are sent out to over 100,000 homes while the meeting place that is designated can accommodate only a few hundred people. These are valuable for one purpose. They achieve name indentity for the Senator. I am told that at least one House Member sends out 100 different town meeting notices a year. That is pure sham.

I am also advised that in this conference report we have reined in the appetite to the extent that now postal patron mails are limited to three but, as the distinguished managers have quite commendably and truthfull indicated today, they have since discovered there is no great impediment to those who are determined to send these congressional newsletters because if they cannot send the postal patrons they will send the more expensive addressed newsletter.

That has resulted in the halls outside the post office in the Dirksen Building being almost blocked by trays of mail that has been returned. This is addressed mail that comes back because the addressee has moved or cannot be located. The costs for that obviously are very great. So that effort at reform it seems may prove not only countervailing but counterproductive.

The conference report and associated amendments do improve the present scandalous situation. I want to give credit where it is due. And incidentally, several times today the managers have mentioned that the conference was a contentious one. If reports, both published and spoken, are accurate, it was bitterly contentious. They were subjected, I understand, to almost personal attack. That is what happens when one seeks to disturb what some Members evidently feel is their sacred right to have tax-supported perquisites of a kind that enable them to seek reelection at taxpayer expense.

I am sorry they were exposed to that. Again, they have my gratitude for attempting reform in that setting. But, Mr. President, for all of the good-faith efforts which the Senator from Nevada and the Senator from Oklahoma have made, they were not permitted to succeed in those efforts. What they have brought back to us in this conference report falls far short of the reforms which they have undertaken.

So they can argue that it is progress. It seems to me that it is very dubious progress, particularly as it relates to the simple fact that addressed mail can be sent without limit, if not in the Senate then certainly in the House, and perhaps at an even greater cost than before.

It seems to me there is ample reason to reject this amendment. I hope some reforms can come about. At the present moment it is easier to find out how much Congress is spending to build the B-2 bomber that it is to find out how much your Congressman is spending to send you junk mail.

Perhaps the only way we will ever find out how much the House is spending on junk mail is to get someone to classify it top secret and then wait for the numbers to be leaked.

The conferees dropped the Humphrey amendment requiring that each mass mailing bear the words "Prepared, published and mailed at taxpayer expense." That, it seems to me, was simple truth in packaging. But that is not contained in the conference report.

The conferees dropped another proposal from my bill, S. 990, that had been in the committee-reported bill. That proposal would prevent Congress from spending more on the mail than has been appropriated. It is in effect applicable to us as to every other Federal agency of the antideficiency statute. But as it is, that remains in the law an exemption without justification. Is there a legitimate reason why our frank account alone is granted a blank check? The answer is no. I will not go on at length because already I fear I have violated the comment I made to my friend from Nevada.

So, Mr. President, I oppose the adoption of this report and urge others to do so. But that is not going to happen. So I will not take more time, and allow the managers to get on with the amendments.

WHERE IS THE REFORM?

Mr. DOLE. Mr. President, despite lopsided votes in the House and Senate on the franking provisions in the fiscal year 1990 legislative branch appropriations bill, the conferees decided to alter these provisions and provide $54.5 million to Congress for franked mail in fiscal year 1990. The conferees claim that this is a major reform because the appropriation is much lower than the amount of money earmarked for franked mail in 1988—$80 million. But the bottom line is that this number is virtually meaningless.

The conference report ought to be stamped "return to sender." Because when it comes to the issue of congressional mail, the policy is still c.o.d—cash on delivery. The Post Office does the delivery—the taxpayers provide the cash.

The conference agreement reduced the number of unsolicited mass mailings from six to three per year and establishes separate appropriation accounts for House and Senate mail. A bipartisan group of Senators representing the Senate Appropriations Committee and the Senate Rules Committee wrote a letter stating, and I quote, "a vote against the conference agreement is a vote against real reform." I disagree with their assessment.

THE REAL STORY

The conference report that the House has sent over continues the accounting gimmicks that hide the real cost of franked mail, a privilege that we all know is abused by incumbents in election years. It's time that the American taxpayers learned what this privilege really costs.

Take last year for example. In the 1989 fiscal year, Congress appropriated $53.9 million for franked mail, but that wasn't enough. This conference report earmarks $31.7 million to pay the Postal Service for franked mail that Members of Congress sent out last year above and beyond the appropriation for 1989.

Under the conference agreement, individual Members in the House will not be required to report their mailing expenses, and the Postal Service will be forced to deliver all franked mail even if the mail costs exceed appropriation for a given fiscal year.

FURTHER CHANGES ARE NEEDED

In my view, there are at least three modifications which are needed to produce real reform. Without them the so-called reforms in the conference report are virtually meaningless.

Each of these provisions was part of Senate Joint Resolution 98—a measure introduced by Senator FORD, the distinguished chairman of the Senate Rules Committee, and each was part of the Senate-passed version of the fiscal year 1990 legislative branch appropriations bill. But, the conferees dropped all three provisions from the conference report.

HONEST ACCOUNTING

The first essential provision would prevent the U.S. Postal Service from absorbing the cost of franked mail in excess of the amount appropriated for a given fiscal year. The U.S. Congress has given itself an open-ended line of credit with the Postal Service. It's time that account was closed.

Members abuse this privilege year in and year out, but accounting gimmicks like this loophole hide the real costs of franked mail. It's time we settled our accounts with the Postal Service and the American taxpayers on this issue.

DISCLOSURE

Another ingredient of real reform would be a requirement that each Member of Congress disclose what he or she spends on franked mail each year. Disclosure requirements have been a fact of life for Senators for more than 4 years. They went into effect as part of the Rules Committee

regulations back in July 1985, when I was majority leader.

The taxpayers foot the bill for our junk mail habit. They have a right to know the facts about how their money is being spent. Without this change, House Members can sidestep the lower limits in the conference agreement without penalty.

A MEANINGFUL LIMIT

And to make sure that this situation does not resurface, I support a requirement that would charge a Member's official office expense account for the costs of official mail in excess of his or her individual allocation. This provision serves two purposes. It makes the appropriation for congressional mail a meaningful number, and it gives Members the option of spending money for additional mailings if they are willing to pay for it out of their individual office accounts.

CONCLUSION

Mr. President, without these provisions, the so-called reforms in the conference report are nothing more than empty gestures. Unless these changes are made, I will vote against the conference agreement and urge my colleagues on both sides of the aisle to do the same.

I ask unanimous consent that an editorial by William Safire which appeared in the October 16 edition of the New York Times be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 16, 1989]

PRINCE OF PERKS

(By William Safire)

'Twas a famous victory for the taxpayers—or so it seemed.

The Senate had voted, 83 to 8, for an amendment to end the abuse of the franking privilege. Mass mailings of campaign literature disguised as "newsletters" were to be sharply cut back; the secrecy around how much each incumbent spent on free mailings would end; and each junk-frank flier would have to be marked "mailed at taxpayers' expense."

The House had voted, 245 to 137, to instruct its representatives in a joint House-Senate conference to accept the Senate amendment. The will of the majority of both houses of Congress was unmistakable; reform of the rip-off was finally at hand.

But a funny thing happened on the way to passage. At the start of the conference committee meeting, the leader of the House delegation announced that a "compromise" had been reached with the Senate. Mass mailings would continue; individual member secrecy would prevail; no disclosure required that the junk-mailer's cost came out of the voter's pocket. That was it: no reform.

Thus did California Democrat Vic Fazio, chairman of a House appropriations subcommittee and undisputed Prince of Perks, strike again.

How can this happen? How can the recorded will of both houses of Congress be reversed by a single Congressman from California? Answer: Never underestimate the power of an incumbent in a safe seat willing to do dirty work on behalf of colleagues too ashamed to do it themselves.

Mr. Fazio is the solon who first gained his colleagues' favor by coming up with the trickery allowing Congressmen to grant themselves a whopping raise without appearing to vote for it; only an unexpected public outcry shot that down. Non-accountability is his specialty; accordingly, when some hypocritical House members wanted to vote for junk-frank reform safe in the knowledge it would be scuttled in conference, they turned to Vic to do the trick.

His Senate counterpart in conference turned out to be a weak reed—Nevada Senator Harry Reid—who was probably predisposed to abandon the position voted by nine-tenths of his Senate because he knows their hearts weren't in it. Besides, the Senate was susceptible to blackmail.

Representative Fazio threatened Senator Reid with a move that hit home: unless the Senate side dropped this reform, the House would vote to stop senators from their current practice of using excess campaign funds to supplement office expense accounts. In the face of such massive retaliation, Senator Reid caved. He watched Mr. Fazio announce the "compromise" of the two votes that were in accord—and which needed no compromise.

Can they really get away with this sort of stuff? Is Speaker Foley so weak, and is Senate Majority Leader Mitchell so callous, to permit a runaway conference to obstruct and reverse the votes of the majority?

Yes, they can—because the Democratic leadership knows that the members secretly hope that their taxpayer-pleasing votes will not prevail. Junk-frank mail promotes and insulates officeholders, putting challengers at a disadvantage; as Senator Pete Wilson, whose amendment was scuttled in the dark, says: "That's why the incumbency rate in our Congress is higher than the Supreme Soviet."

More is at stake than saving fifty million bucks a year; nor is this a House-Senate comity matter. Thanks to the arrogation of power by a conference chairman, the value of a public vote in Congress has plummeted; the private deal is obviously more significant than the public vote. Representative Silvio Conte, Democrat of Massachusetts, properly called the so-called compromise in conference "a sham."

The sham, tacitly approved by the Foley-Mitchell leadership, brings shame on Congress. If this corruption of the conference system continues—if the Prince of Perks triumphs—the taxpayers will find a way to get even, as they did on the pay-raise maneuver.

This week, look for a House motion to "recede and concur"—a recorded, binding vote on this amendment to reject the Fazio trick and accept the Wilson amendment. In the Senate, too, look for a move to refuse to accept a faithless conference compromise.

The issue of the abuse of the franking privilege has been settled; the majority in both houses has spoken. The issue before us now is the abuse of the conference system in Congress.

Both houses must speak again, sending a message to the arrogant conferees who think they can do their friends a favor by making a mockery of the democratic process.

On a relatively minor matter, Congress has put its integrity on trial; an expression of outrage from constituents might stiffen some backbones.

Mr. REID. Mr. President, I urge adoption of the conference report.

The PRESIDING OFFICER. Is there further debate on the conference report? If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. REID. Mr. President, I ask the Chair to lay before the Senate certain amendments in disagreement. I ask unanimous consent that the Senate concur with the amendments of the House to the amendments of the Senate en bloc, with the exceptions of amendments numbered 1, 6, 35, and 36.

Mr. President, to expedite the business of the Senate, I further ask unanimous consent that the amendments be considered in the following order: 36, 35, 6, and 1.

I would state to Senator NICKLES and those other Senators concerned that this should allow sufficient room for everyone to offer the amendments that need to be offered.

I would suggest that we dispose of those amendments for which I have asked unanimous consent, those that have not been enumerated.

Mr. NICKLES. Mr. President, reserving the right to object, will the Senator please enumerate those numbers again?

Mr. REID. 1, 6, 35, and 36.

Mr. NICKLES. Will the Senator explain what those amendments are?

Mr. REID. Yes, I will.

Those amendments basically deal with the mail provisions. One is the catchall that has all the Senate provisions. The reason we have done it this way, it is my understanding with the amendments that will be offered, we want to make certain there are no problems.

For example, we talked to the Senator from California. We have a general idea from his amendment. We talked to the Senator from New Hampshire. We want to make sure we reserved amendments that would not be objected to on the basis of germaneness, and they could offer their amendments.

Mr. NICKLES. The Senator from Alaska talked about an amendment.

Mr. REID. We are going to do that in 36. We will dispose of that very quickly and allow him to proceed.

Mr. NICKLES. Mr. President, reserving the right to object again, this would be on the order. The order was what?

Mr. REID. The order would be 36, 35, 6, and 1. We would go to 36 first.

Mr. NICKLES. It would be Senator STEVENS' amendment?

Mr. REID. Yes. I would offer that on his behalf.

Mr. NICKLES. Reserving the right to object again, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SHELBY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I would further ask unanimous consent that the amendments at this time not be dealt with pursuant to the unanimous consent request that I asked previously, and that was not accepted, not agreed to, but that we go immediately to amendment in disagreement No. 35 and that the Senator from California [Mr. WILSON] would offer his amendment at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT IN DISAGREEMENT NO. 35

The PRESIDING OFFICER. The clerk will report the amendment, No. 35, in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 316. (a)(A) Effective January 1, 1990, the total number of pieces of mail which may be mailed as franked mail under section 3210(d) of title 39, United States Code, during any calendar year by a Senator entitled to mail franked mail may not exceed an amount equal to three multiplied by the number of addresses to which such mail may be delivered in the State from which the Senator was elected (as determined on the basis of the most recent statistics, from the United States Postal Service, available prior to such calendar year). Any mail matter which relates solely to a notice of appearance or a scheduled itinerary of a Senator in the State from which such Senator was elected shall not count against the limitation set forth in the preceding sentence.

(B) Effective January 1, 1990, the total number of pieces of mail which may be mailed as franked mail under section 3210(d) of title 39, United States Code, during any calendar year by a Member of the House of Representatives entitled to mail franked mail may not exceed an amount equal to three multiplied by the number of addresses to which such mail may be delivered in the area from which the Member was elected (as determined on the basis of the most recent statistics, from the United States Postal Service, available prior to such calendar year). Any mail matter which relates solely to a notice of appearance or a scheduled itinerary of a Member in the area from which such Member was elected shall not count against the limitation set forth in the preceding sentence.

(b) Effective January 1, 1990, a mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code) by a Senator or a Member of the House of Representatives shall be limited to 2 sheets of paper (or their equivalent), including any enclosure that—

(i) is prepared by or for the Senator or Member who makes the mailing; or

(ii) contains information concerning, expresses the views of, or otherwise relates to the Senator or Member who makes the mailing.

(c) Effective October 1, 1989, section 3216 of title 39, United States Code, is amended by striking out "by a lump sum appropriation to the legislative branch" and inserting in lieu thereof "by appropriations for the official mail costs of the Senate and the House of Representatives".

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NICARAGUA

Mr. McCAIN. Mr. President, yesterday I noted the irony attending the relationship between the Sandinistas and their critics in the U.S. Congress. I spoke of how I and other Members have come to rely on Daniel Ortega's actions to persuade Congress that the United States must remain steadfast in its support of those who resist Sandinista tyranny. Today, Mr. President, Daniel Ortega has once again made our argument for us.

Today, Mr. President, Daniel Ortega formally abrogated the cease-fire that has been in effect in Nicaragua for 19 months. Ortega has used the alleged actions of the poorly armed and undermanned Nicaraguan resistance inside Nicaragua as the false pretext for this Sandinista threat to regional peace and stability. Ortega blames this latest insult to Nicaragua's peace-seeking, democratic neighbors on their reluctance to force the demobilization of Contras who are encamped inside the Honduran border. In order to disguise the true purpose of his actions today Ortega has accused the Contras of assassinating Nicaraguans—apparently only the Sandinistas are allowed to carry out assassinations in Nicaragua today.

Mr. President, let us be clear about what the Sandinistas have done today. After attempting to restrict voter registration through intimidation and harassment, the Sandinistas have taken the next step to avoid competing in free and fair elections. Like the rest of the world, Mr. President, the Sandinistas recognize that after 10 years of the misery they have brought to Nicaragua they cannot possibly hope to be elected in a fair contest. No, Mr. President, this has nothing to do with the recent actions of the Nicaraguan resistance. This is the consequence of the growing strength of the united political opposition in Nicaragua.

The Sandinistas have clearly indicated that they are prepared to do whatever is necessary to counter the threat they face from Violeta Chamorro in free elections. Mr. President, the abrogation of the cease-fire is the prelude to the reimposition of the state of emergency. Under cover of martial law, the Sandinistas will steal this election and once again make a mockery of Central America's aspirations for peace and freedom. And in their effort to subvert the electoral process, the Sandinistas will try to slaughter what remains of the resistance in Nicaragua.

Mr. President, the United States has an obligation to the Nicaraguan resistance. We are honor bound to prevent their wholesale slaughter by the superior forces of the FSLN. The United States has an obligation to the Nicaraguan political opposition. We must make the theft of these elections expensive for the Sandinistas. The United States has an obligation to the Central American democracies as they seek to promote peace and democracy in the region. We must safeguard the region from the instability created by Sandinista bellicosity. And obviously, Mr. President, the United States is obligated to defend our interests and promote our values. We are the world's leading democracy and its protector in this hemisphere.

Yesterday, Mr. President, President Bush declared that if the Sandinistas violated this cease-fire he would reconsider "in a minute" military assistance to the Nicaraguan resistance. Mr. President, that minute has arrived for the President and the Congress. The Senate recognizes that our commitment to peace and democracy in Central America which has provided only for humanitarian assistance to the Contras now may need to be reevaluated in light of this latest Sandinista threat. In the resolution we passed yesterday by 95–0, we affirmed that the policy articulated in the bipartisan accord on Nicaragua is contingent on the Sandinistas fulfilling the commitments they have undertaken as part of the Central American peace process. Now that the Sandinistas have proved their infidelity to their commitments, the United States is free to consider other means to defend against the threat they pose to regional peace and stability. We are free, Mr. President, to consider resuming military assistance to the Nicaraguan resistance. Or shall we await another Sandinistas invasion of Honduras?

No, Mr. President, let us make clear to the Sandinistas that this time their broken promises, their gross infidelity, their brazen lies will cost them severely. The rest of the hemisphere will look to us for leadership. Let us not turn away from the challenge.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 1:45.

Thereupon, at 1:30 p.m., the Senate recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the President pro tempore.

IMPEACHMENT OF JUDGE WALTER L. NIXON, JR.

CALL OF THE ROLL

The PRESIDENT pro tempore. The Chair, in his capacity as a Senator from West Virginia, suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 9]

Burdick	Grassley	Sarbanes
Byrd	Inouye	
Graham	Mitchell	

The PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of the absentees.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Cochran	Ford	Riegle

The PRESIDENT pro tempore. A quorum is not present. The clerk will continue to call the names of the absent Senators.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Adams	Exon	McClure
Armstrong	Fowler	McConnell
Baucus	Garn	Metzenbaum
Bentsen	Glenn	Mikulski
Biden	Gore	Moynihan
Bingaman	Gorton	Murkowski
Bond	Gramm	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Robb
Burns	Humphrey	Rockefeller
Byrd	Jeffords	Roth
Chafee	Johnston	Rudman
Coats	Kassebaum	Sanford
Cohen	Kasten	Sasser
Conrad	Kennedy	Shelby
Cranston	Kerrey	Simon
D'Amato	Kerry	Simpson
Danforth	Kohl	Specter
Daschle	Leahy	Stevens
DeConcini	Levin	Symms
Dixon	Lieberman	Thurmond
Dodd	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	Wilson
Durenberger	McCain	Wirth

The PRESIDENT pro tempore. A quorum is present.

COURT OF IMPEACHMENT

The PRESIDENT pro tempore. The Senate will please be in order.

Under the previous order, the hour of 2 o'clock p.m. having arrived and a quorum having been established, the Senate will resume its consideration of the articles of impeachment against Judge Walter L. Nixon, Jr.

The House managers and the respondents will please take their places in the well of the Chamber.

The deputy Sergeant at Arms will make the proclamation.

The DEPUTY SERGEANT AT ARMS. Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against Walter L. Nixon, Jr., U.S. district judge for the Southern District of Mississippi.

The PRESIDENT pro tempore. The majority leader is recognized.

PRIVILEGE OF THE FLOOR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the floor privileges during today's impeachment proceedings of Judge Walter L. Nixon, Jr., be granted to the individuals listed on the document I now send to the desk.

MANAGERS OF THE HOUSE OF REPRESENTATIVES

Representative Don Edwards, Representative F. James Sensenbrenner, Jr. Representative Benjamin L. Cardin, Representative William Dannemeyer.

HOUSE MANAGERS STAFF

Alan I. Baron, Special Counsel, William M. Jones, General Counsel; Daniel M. Freeman, Counsel; Peter Keith; Colleen Kiko; Katie Urban; Kathleen Leroy; Shelley Hettleman.

JUDGE NIXON AND REPRESENTATIVES

Judge Walter L. Nixon, Jr., David O. Stewart, Peter M. Brody.

SENATE

Martha Pope, Chief of Staff, Majority Leader.

Charles Kinney, Democratic Policy Committee.

George Carrenbauer, Democratic Policy Committee.

Anita Jensen, Senator Mitchell.

Rebecca Roberts, Office of President pro tempore.

Roy Greenway, Senator Cranston.

Alan Thomas, Senator Cranston.

Sheila Burke, Chief of Staff, Republican Leader.

Robert Dove, Republican Leader's Staff.

Dennis Shea, Republican Leader's Staff.

Jim Whittinghill, Republican Leader's Staff.

Richard Quinn, Republican Leader's Staff.

Mike Tongour, Assistant Republican Leader's Staff.

Michael Davidson, Senate Legal Counsel,

Morgan Frankel, Assistant Senate Legal Counsel & Committee Counsel.

Claire M. Sylvia, Assistant Senate Legal Counsel.

Jack Sousa, Rules Committee.

Jeff Peck, Judiciary Committee, Majority.

Terry Wooten, Judiciary Committee, Minority.

Thad Strom, Judiciary Committee, Minority.

IMPEACHMENT COMMITTEE

Donald A. Purdy, Jr., Counsel.

Anthony L. Harvey, Administrator.

P. Casey McGannon, Staff Assistant and Exhibits Clerk.

Isabel T. McVeigh, Staff Assistant and Journal Clerk.

MEMBER'S STAFF REPRESENTATIVES

Bob Redding, Senator Fowler.
Scott Williams, Senator Heflin.
Ellen Marshall, Senator Wirth.
David Chartier, Senator Reid.
Kerry Walsh Skelly, Senator Robb.
Keenan Peck, Senator Kohl.
Kevin Dempsey, Senator Danforth.
Amy Dunathan, Senator Chafee.
John H. Moseman, Senator Murkowski.
Reginald E. Jones, Senator Jeffords.
Mary Beth Savary, Senator Mack.
Taylor Bowlden, Senator Symms.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, the records of the Senate indicate that 11 Senators remain to be sworn for this impeachment. They are Senators ARMSTRONG, BOND, CRANSTON, DECONCINI, GRAHAM, HEINZ, HELMS, HUMPHREY, KENNEDY, MCCAIN, and ROTH. The Secretary will note the names of the Senators who are sworn today and will present to them for signing the book which is the Senate's permanent record of the administration of the oath.

The PRESIDENT pro tempore. Any Senator who has not taken the oath will please now rise and raise your right hands and be sworn.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of Walter L. Nixon, Jr., judge of the U.S. District Court for the Southern District of Mississippi, now pending, you will do impartial justice according to the Constitution and laws: So help you God?

SENATORS. I do.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, under the leadership of its chairman, the Senator from Georgia [Mr. FOWLER] and its vice chairman, the Senator from Missouri [Mr. DANFORTH], the committee appointed under Senate Resolution 128, whose membership also includes Senators HEFLIN, CHAFEE, WIRTH, MURKOWSKI, REID, JEFFORDS, ROBB, MACK, KOHL, and SYMMS, has performed the duties provided for by rule XI of the Senate's impeachment rules. The committee report, which was received as Senate Report 101-164, was filed on October 16, 1989. In accordance with impeachment rule XI, the committee report certified that Senate Hearing Report 101-247, which reprints the commit-

tees proceedings, is a transcript of the proceedings and testimony had and given before the committee.

Before proceeding further I would like to verify with the Presiding Officer, as was done in the impeachment trials of Judge Claiborne and Judge Hastings, that the evidence and testimony received by the Senate from the committee shall, as prescribed in rule XI, "be considered for all intents and purposes, subject to the right of the Senate to determine competency, relevancy, and materiality as having been received and taken before the Senate * * *." Will the Presiding Officer adivse the Senate whether this is correct?

The PRESIDENT pro tempore. The majority leader is correct. The testimony and other evidence reported by the committee will be considered in accordance with impeachment rule XI as having been received and taken before the Senate.

The majority leader is recognized.

Mr. MITCHELL. Rule XI provides that the Senate's receipt of evidence reported by the committee is subject to the Senate's right to determine competency, relevancy, and materiality. Further, rule XI provides that nothing in it prevents the Senate from sending for any witness and hearing that witness' testimony in open Senate, or by order of the Senate having the entire trial before the full Senate. Judge Nixon is, in fact, renewing before the full Senate a motion that he made originally before the Impeachment Trial Committee to have the witnesses in this impeachment summoned to testify before the full Senate.

Judge Nixon is also renewing before the full Senate a motion to dismiss article III of the articles of impeachment against him. The two motions, Judge Nixon's memoranda in support of them, and the responses of the House, together with the order entered by the Impeachment Trial Committee, are before each Senator in a white-covered pamphlet entitled "Judge Nixon's Motions Originally Presented to the Senate Impeachment Trial Committee and Renewed Before the Full Senate."

Neither party has asked to present oral argument on Judge Nixon's two motions at a time separate from the argument of the parties on the merits.

In accordance with the unanimous-consent agreement of last week, each side will be permitted no more than 1½ hours for its argument, which will include argument on the motions and argument on the final merits.

Under impeachment rule XXII, final argument will be opened and closed by the House.

Mr. President, as we have done in the past, we have provided that counsel may face the full Senate during their presentations. They should remain mindful, nevertheless, that the proceedings are under the direction of the Presiding Officer.

On their part, Senators should recall that any questions they have should, pursuant to impeachment rule XIX, be reduced to writing and be put by the Presiding Officer.

There is secretarial assistance available in the cloakroom to aid Members in the drafting of questions. Questions may be sent to the Chair during the argument for a reading by the Chair at the appropriate times.

Managers on behalf of the House of Representatives, Representative DON EDWARDS, Representative BENJAMIN CARDIN, Representative JAMES SENSENBRENNER, and Representative WILLIAM DANNEMEYER, and special counsel to the House, Alan Baron, and assistant special counsel, Peter Keith, are present at the managers' table.

David Overlock Stewart and Peter Brody are counsel to Judge Nixon and are present with him.

The PRESIDENT pro tempore. The Chair understands that argument on the pending motions and final argument for the House will be presented by Representative EDWARDS, Representative SENSENBRENNER, and Representative CARDIN. Mr. EDWARDS has asked to speak first.

Mr. EDWARDS, do you desire to reserve a period of time for closing, and if so how much?

Mr. MITCHELL. Mr. President, before Representative EDWARDS begins, I have just been advised that the House has just begun a rollcall vote and so as to accommodate the Members of the House, and since the proceedings have not yet begun, I would suggest for their convenience, unless they wish to act otherwise, that they be permitted to vote and then return to begin the proceedings.

Is that the desire of House Manager EDWARDS?

Mr. Manager EDWARDS. Yes, please.

The PRESIDENT pro tempore. Very well, Mr. EDWARDS.

We will suspend until the House managers have returned.

Mr. MITCHELL. Mr. President, I understand that Senator HEINZ has not previously been sworn and is available to be sworn. May I suggest that to the Presiding Officer?

Mr. COCHRAN. Neither was I present.

Mr. MITCHELL. Apparently, there are also Senator COCHRAN and Senator MCCONNELL.

May I suggest that the Presiding Officer swear in the Senators that have not previously been sworn?

The PRESIDENT pro tempore. The Senate will please be in order.

Those Senators who remain to be sworn will please stand, raise their right hand, and be sworn.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of Walter L. Nixon, Jr., judge of the U.S. District Court for the Southern District of Mississippi, now pending, you will do impartial justice according to the Constitution and laws: So help you God?

SENATORS. I do.

Mr. MITCHELL. Mr. President, may we have order?

Mr. President, this may be an appropriate time for me to restate for the benefit of Senators the proposed schedule with respect to these proceedings.

Mr. SARBANES. Mr. President, will the majority leader yield for a question?

Mr. MITCHELL. Yes, certainly.

Mr. SARBANES. It is my understanding that most Members of the Senate were sworn in at the time the articles of impeachment against Judge Nixon were exhibited, and that all that was left to be done today was to swear in those few Members who had not been sworn in on this occasion; is that correct?

Mr. MITCHELL. That is correct.

Mr. SARBANES. I thank the majority leader.

Mr. MITCHELL. Mr. President, as with the procedure followed in the prior impeachment proceedings, following consultation with the distinguished Republican leader, it is my intention that we will hear the arguments of counsel today and then discontinue this proceeding until 2 p.m. tomorrow, when we will go into closed session for the purpose of deliberating on the articles.

I encourage all Senators to remain present during the presentation of arguments today and to review the material, the record and briefs, for those who have not already done so, prior to deliberation tomorrow.

The deliberation tomorrow will continue for so long as any Senator wishes to address the subject. If deliberation is completed tomorrow prior to the close of business tomorrow, then we will vote on the two motions made by Judge Nixon and the three articles on Friday morning.

If the deliberation is not completed tomorrow, why then, of course, we will simply continue the deliberations until such time as they are completed and schedule the votes appropriately thereafter.

That is the plan and the scheduling, and as with the previous impeachment proceeding, there will be no waiver for committees to meet during the session today and tomorrow. Senators' constitutional requires them to be present in fairness to all parties to these proceedings, and Senators are not expected to be attending to other business during the time in which these proceedings are underway.

Accordingly, I hope that all Senators will cooperate and be present, and if we do complete deliberation tomorrow, we should be able to complete the voting on the motions and articles sometime during the day on Friday.

Mr. President, may I suggest to the House managers that in the event votes occur during these proceedings today or tomorrow, rather than discontinuing the proceedings, the House Members go to vote one at a time so that we can keep the proceedings going.

Is that agreeable to the House managers?

Mr. Manager EDWARDS. That is agreeable.

Mr. MITCHELL. Is that agreeable to counsel for Judge Nixon?

Mr. STEWART. Yes, sir.

Mr. MITCHELL. Mr. President, I thank my colleagues for their attention, and I yield the floor to Representative EDWARDS.

The PRESIDENT pro tempore. The Chair will inquire of the majority leader as to whether or not there is any Senator who remains to be sworn.

Mr. MITCHELL. Mr. President, I am advised that Senator ARMSTRONG has not been sworn.

Mr. ARMSTRONG. I apologize, Mr. President.

The PRESIDENT pro tempore. The Senator will please raise his right hand and be sworn.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of Walter L. Nixon, Jr., judge of the U.S. District Court for the Southern District of Mississippi, now pending, you will do impartial justice according to the Constitution and laws: So help you God?

Mr. ARMSTRONG. I do.

The PRESIDENT Pro tempore. Representative EDWARDS, do you wish to reserve a period of time for closing, and if so, how much?

Mr. Manager EDWARDS. Mr. President, the House Members desire to reserve any time remaining after they have made their initial statements for the purposes of rebuttal.

The PRESIDENT pro tempore. Very well.

Mr. Manager EDWARDS. Thank you, Mr. President. On behalf of the House of Representatives, I thank the Senate for the opportunity to appear today and present closing argument. The House greatly appreciates the time and effort the Senate has taken in his important matter.

The members of the Impeachment Trial Committee, so ably chaired by Senator FOWLER and vice-chaired by Senator DANFORTH, deserve special commendation. The committee was most diligent in studying the record, questioning witnesses during the trial, and summarizing the evidence for the full Senate.

Impeachment of a public official is always a very serious and tragic matter. This has been my fourth impeachment, and each has been a troubling experience. It is disturbing to discover that a high official has violated the public trust.

It is unfortunate that this impeachment comes before you today. But when a Federal judge shows himself unfit to hold his prestigious office, the Congress must act to protect the Public interest and preserve the integrity of the judiciary.

We deal here with a Federal judge who committed perjury. A man who lied to law enforcement officials in an interview, and then lied again in sworn testimony before a grand jury. A man who was properly convicted of perjury by a jury of his peers. A man who was sentenced to prison and who has exhausted his appellate rights, all the way to the Supreme Court. A man who, despite his crimes, demands the high privilege of remaining on the Federal bench.

From the beginning, we in the House recognized the gravity of impeachment proceedings. As chairman of the subcommittee assigned to investigate this matter, I felt that a felony conviction, in and of itself, is not enough to remove a judge from office.

Even in this day and age, a prominent official might be unfairly convicted because of race, politics, or overreaching by prosecutors. In part because of my subcommittee's hearings on such matters as Abscam, Cointelpro, and our general oversight of the Department of Justice and FBI, we wanted to make sure that Judge Nixon had been treated fairly.

We chose to investigate this matter thoroughly, no matter how long it took. Our counsel spent weeks in Mississippi tracking down every possible lead that might exonerate the Judge. We held the equivalent of a trial in the House. We required all the key witnesses to come forward and testify under oath, subject to unlimited cross-examination. We gave Judge Nixon every possible opportunity to present evidence and argue his cause. Notwithstanding the perjury convictions, we had to be convinced that very serious misconduct had taken place.

We discovered that the jury verdict was fully justified. The evidence against Judge Nixon is overwhelming. Sadly, the evidence shows that Judge Nixon lied to a Federal grand jury under oath, and to Federal investigators during an interview.

After carefully investigating the facts and hearing all the evidence, the House voted 417 to 0 in favor of three articles of impeachment. Accordingly, you must now grapple with the same question we faced in the House. Is a man who repeatedly lied fit to hold the high office of Federal judge? I hope you agree that the answer is obvious. To preserve the integrity of the judiciary, to maintain public respect for law and order, Judge Nixon must be removed from the bench.

You have learned that following a divorce and remarriage, and with a growing family, Judge Nixon felt strapped by his judicial salary. Believing himself to be in need of supplemental income, he met with Carroll Ingram. Mr. Ingram is a friend of Judge Nixon and an attorney who regularly practiced before him. Mr. Ingram represented Wiley Fairchild, an oil and construction millionaire. Even though he did not know Mr. Fairchild personally, Judge Nixon solicited an investment. Judge Nixon asked Ingram to ask Wiley Fairchild to put him in an oil deal.

Mr. Ingram approached his client, and Wiley Fairchild did as Judge Nixon requested. Fairchild gave Judge Nixon a lucrative oil investment that was not available to the general public, on very favorable terms.

Wiley Fairchild financed the investment completely. Fairchild gave Judge Nixon a $9,500 loan at an interest rate 5 points below the market rate, so that Judge Nixon was never out of pocket any money at all. Judge Nixon's other outside investments either barely were profitable or lost money. But the Fairchild investment was different. The $9,500 Fairchild investment paid off handsomely, generating more than $73,000 in income to Judge Nixon.

Judge Nixon was grateful for the investment. He knew he owed Wiley Fairchild a favor and told him, "If I can ever help you I will, and if I can't I'll just tell you I can't." Those were Judge Nixon's exact words. And with large royalty checks coming in, Judge Nixon was eager for other investments with Fairchild, to obtain even more income.

The time came when Judge Nixon had an opportunity to return the favor. As fate would have it, Wiley Fairchild's son, Drew, committed a crime. Drew was one of the managers at the Hattiesburg airport. Drew became involved in a conspiracy to smuggle a planeload of marijuana into the United States.

But the plot failed. The airplane was seized and Drew was ultimately indicted on State drug charges. The local prosecutor who handled Drew's drug smuggling case—this is the local district attorney—was Bud Holmes. Holmes has been a very close friend of Judge Nixon for 30 years. They hunt, and fish, together.

Wiley Fairchild did not like the way State prosecutor Holmes was handling his son's drug case. Even though Drew had agreed to plead guilty in return for a sentence of no jail time, a fine and 5 years probation, the case was dragging on with no resolution.

Worse, Wiley Fairchild thought his son was the victim of unequal justice. Robert Royals, Drew's partner at the airport, was also guilty but had never been prosecuted. Wiley thought Holmes was blackmailing him, that Drew had been prosecuted only because his father was wealthy.

Wiley Fairchild knew Holmes was a close friend of Judge Nixon. He also believed Judge Nixon owed him a favor because of the investment. So Wiley Fairchild complained to Judge Nixon about how Holmes was handling the drug case.

Mr. Fairchild told Judge Nixon that his son Drew was guilty, but that Royals was guilty too and should be prosecuted. Fairchild did not beg the judge for help. He did not need to ask. Even Judge Nixon admits the message was loud and clear. Fairchild was calling in the favor, and wanted Judge Nixon to talk with Bud Holmes, the local district attorney, about Drew's drug case.

Grateful for the investment and hopeful for other deals, Judge Nixon did exactly what Wiley Fairchild wanted. The very same afternoon after meeting with Fairchild, Judge Nixon spoke with Bud Holmes about the drug case. Judge Nixon told Holmes he was happy with the investment and was thinking of doing some more deals with Fairchild. And he told Bud Holmes that Wiley Fairchild had asked him to put in a good word for Drew in the drug case.

Holmes was willing to help his old friend Judge Nixon solidify the financial relationship and pick up some brownie points with Fairchild. So Holmes told Judge Nixon he would pass the drug smuggling case to the file.

What does it mean in Mississippi procedure to pass a case to the file? It means that the case becomes inactive, notwithstanding Drew's guilty plea. With his case passed to the file, Drew Fairchild would suffer no fine, no probation, no adverse consequences of any kind. The case goes nowhere, as if there had never been a prosecution.

After Holmes told him that the Drew Fairchild case would be passed to the file, Judge Nixon telephoned Wiley Fairchild. The judge told Wiley that he had talked with Holmes, and that the case would be taken care of to Wiley's satisfaction. Fairchild thanked Judge Nixon for speaking with Holmes about the handling of the drug case and told Judge Nixon, "I'm satisfied." Bud Holmes then took the telephone from Judge Nixon and told Fairchild, "when this man—Judge Nixon—asks me to do something, I don't ask questions. I just go ahead and do it."

Shortly thereafter, in a continuing effort to score points with Wiley Fairchild, Judge Nixon told Fairchild's attorney, Carroll Ingram, about his involvement in the drug case. After discussing the possibility of more investments, Judge Nixon took credit for helping Drew. Judge Nixon's telephone conversation with Ingram is important evidence.

Judge Nixon told Ingram he had spoken with Bud Holmes, the district attorney, about the Drew Fairchild drug case, with "positive"—that is his words—results. That telephone conversation was a confession by Judge Nixon; a confession that he had talked with Holmes about the case; a confession that he had influenced the case, by achieving positive results with Holmes.

In December 1982, the Drew Fairchild drug smuggling case was passed to the file upon motion by District Attorney Holmes. This was unprecedented. Everyone agrees that never before had there been a case passed to the file, when the defendant had already pled guilty like Drew.

Wiley Fairchild and Bud Holmes have both testified that but for Judge Nixon's involvement, the Drew Fairchild case would not have been passed to the file. Carroll Ingram also associates the passing of the case to the file with Judge Nixon's involvement.

Fortunately, a new local judge assumed the bench, noticed that the case has been passed to the files, and complained publicly about the handling of the case. In January 1983, Holmes, the district attorney, reinstated the case to the active docket.

Acting upon information supplied by one of Wiley Fairchild's employees, in late 1983 Federal law enforcement authorities began to investigate the Nixon-Fairchild drug case. Early in the investigation, in April 1984, the FBI and the Department of Justice interviewed Judge Nixon to find out if he knew anything about the drug case.

But during the interview Judge Nixon did not disclose his contacts with Holmes, Fairchild, and Ingram about the drug case. Judge Nixon was given every chance in this interview to be truthful and forthcoming. Instead, Judge Nixon categorically denied any involvement in the case, over and over again.

Three months later, in July 1984, a Federal grand jury was empaneled to investigate the handling of the Drew Fairchild drug smuggling case. Again, during his testimony before the grand jury, Judge Nixon did not disclose his involvement, but instead swore that he never discussed the case with Holmes. Judge Nixon swore that he never talked to anyone about the case.

This false grand jury testimony led to his conviction on two counts of perjury following a lengthy criminal trial in February 1986.

The three articles of impeachment brought to you by the House are simple and straightforward.

Article I deals with Judge Nixon's statement under oath to the grand jury that District Attorney Bud Holmes never discussed the Drew Fairchild case with Judge Nixon. This specific statement was found by the jury to be false, and led to Judge Nixon's first perjury conviction.

This sworn statement by Judge Nixon was obviously false or misleading as charged. The evidence shows that Judge Nixon in fact discussed the Drew Fairchild case with Holmes. Even in Judge Nixon's own version of the events, he talked with Holmes about the case.

Article II deals with part of Judge Nixon's answer in the grand jury to the simple question, "All right, Judge. Do you have anything you want to add?"

The jury found the following part of Judge Nixon's answer to be false:

> Now I have had nothing whatsoever officially or unofficially to do with the Drew Fairchild criminal case in Federal court or State court. . . . I never handled any part of it, never had a thing to do with it at all, and never talked to anyone, State or Federal, prosecutor or judge, that in any way influenced anybody with respect to this case.

This quoted testimony led to Judge Nixon's second perjury conviction, and is the basis for article II.

This statement in article II was clearly false, as proven by the collective testimony of Bud Holmes, Wiley Fairchild and Carroll Ingram. Judge Nixon did have unofficial involvement in the drug case. He did talk with Wiley Fairchild, the defendant's father, about the case. He did talk with Bud Holmes, the State prosecutor, about the case.

And four witnesses prove that Judge Nixon influenced the matter. Bud Holmes and Wiley Fairchild have both testified that the drug case was passed to the file because of Judge Nixon's involvement. Carroll Ingram described Judge Nixon's admission to him that he had spoken to Holmes about the case, with positive results. And Judge Nixon himself has stipulated that in the telephone conversation from the farm, Fairchild thanked him for speaking with Holmes about the case and told Judge Nixon, "I'm satisfied."

That brings us to article III. Some of you may wonder, why a third article of impeachment? Judge Nixon was found guilty on only two counts of perjury. Why expand the charges beyond the criminal conviction?

The answer is simple. Judge Nixon made many more false statements beyond those that put him in prison.

Judge Nixon committed a serious crime by lying to law enforcement officials during the interview. In our system of justice, a citizen has a constitutional right to remain silent when Federal investigators ask questions. You don't have to cooperate. But if you agree to an interview, you have to tell the truth. That is the law. If you

conceal information or lie, you violate 18 U.S.C. 1001. You commit a felony.

We listened closely to the tape of his interview. I urge you to do the same. Judge Nixon was repeatedly asked during the interview whether he knew anything about the Drew Fairchild drug case. His interview answers were riddled with falsehoods. Judge Nixon told the interviewers that he never discussed with Wiley Fairchild anything about Wiley's sons case; that Wiley Fairchild never brought up his son's case; that he had no knowledge of the case and didn't even know Drew Fairchild existed, except what he read in the newspaper; that nothing was ever mentioned about Wiley Fairchild's son; that he never heard about the case; that he had nothing to do with the case; and that Bud Holmes never talked to him about the case.

These interview statements are just as false as the grand jury testimony in articles I and II, that led to his perjury convictions. We could not ignore these false interview answers. These lies were the start of a long pattern of deceit and coverup by Judge Nixon.

The testimony of Wiley Fairchild, Bud Holmes and Carroll Ingram proves these interview statements are false. Even Judge Nixon has grudgingly conceded that many of his interview answers were false. He admits that Drew was mentioned. He admits that he knew Drew existed, from his conversation with Fairchild and Holmes. He admits Wiley brought up his son's case. He admits he heard about the case from Wiley Fairchild and Bud Holmes. In his own current version of the events, Judge Nixon proves that his inteview answers are false.

The deceit and concealment continued when Judge Nixon appeared before the grand jury. Article III again goes beyond the jury verdict, because there were additional sworn statements by Judge Nixon in his grand jury testimony that are just as false as the testimony that put him in prison. We could not ignore these lies, either.

For example, Judge Nixon swore to the grand jury that he did not know of any reason he would have met with Wiley Fairchild after the investment was finalized in February 1981. Yet, Judge Nixon has admitted that at the time he made this statement, he specifically recalled his meeting when Fairchild complained about the handling of the drug deal. You simply can not reconcile Judge Nixon's own testimony.

Judge Nixon swore to the grand jury that he had given them all the information that he had, and had withheld nothing. Yet Judge Nixon told us last year in the House that he deliberately withheld his conversations with Holmes and Fairchild, because he thought it would be "irresponsible" to "blabber" about "rumors" that had "been resolved." Again, Judge Nixon proves himself to be a liar.

Judge Nixon swore to the grand jury, without qualification, that he never talked to anyone about the drug case. This statement was patently false.

We could not ignore these additional false statements. We had conclusive evidence of a continuing pattern of deceit and falsehood. So, in article III we allege that Judge Nixon concealed the truth. First, by one or more false or misleading statements in his interview, then by one or more false or misleading statements in his grand jury testimony.

Judge Nixon has broken the law, tainted the integrity of the judiciary and brought disrepute on the courts. By his misconduct, he has forfeited his privilege of serving on the Federal bench.

Mr. President, when you look at the evidence carefully, I believe you will agree that Judge Nixon must be removed from office.

Thank you, Mr. President, I yield now to my colleague from Wisconsin, Mr. SENSENBRENNER.

The PRESIDENT pro tempore. Thank you, Representative EDWARDS.

Representative SENSENBRENNER will now continue the argument for the House.

Mr. Manager SENSENBRENNER. Thank you, Mr. President.

It is a great privilege to appear before you today on behalf of the House of Representatives. I join with Mr. EDWARDS in thanking the Senate for your careful attention to this matter. Your diligence is a tribute to the impeachment process required by the Constitution of the United States.

There are basically two questions before you in connection with this impeachment. First, does the conduct alleged in the three articles of impeachment state an impeachable offense? There is really no debate on this point. The articles allege misconduct that is criminal and wholly inconsistent with judicial integrity and the judicial oath. Everyone agrees that a judge who lies under oath, or who deceives Federal investigators by lying in an interview, is not fit to remain on the bench.

The second question is, did the conduct occur? The 14 statements are not figments of the imagination of the managers of the House of Representatives. Judge Nixon made the statements. Are the statements false or misleading, as charged? And were they intentionally made, or simply a series of unfortunate but honest mistakes? Fourteen honest mistakes.

As shown by the evidence presented to the Impeachment Trial Committee, there are two versions of the events here. Judge Nixon paints one picture. Wiley Fairchild, Bud Holmes, and Carroll Ingram paint something quite different. Judge Nixon's version of his meeting with Fairchild concerning the drug case, his conversation with Holmes about the drug case, and his phone call back to Fairchild is far more benign than the collective picture painted by the other witnesses. The collective testimony of Fairchild, Holmes, and Ingram is very damning to Judge Nixon. The testimony of these three witnesses proves that the Drew Fairchild case was fixed, as a result of Judge Nixon's involvement. Drew Fairchild's case was passed to the file as a result of Judge Nixon's participation.

Wiley Fairchild, Bud Holmes, and Carroll Ingram are all friends of Judge Nixon. They express their high regard for him at every opportunity. They would like to help Judge Nixon stay on the bench, if they can.

But when asked under oath about the specific facts at issue, Holmes, Fairchild, and Ingram describe Judge Nixon's active and knowing involvement in very serious misconduct. Through the good work of Judge Nixon, the Drew Fairchild drug smuggling case is passed to the file with no fine, no probation, no adverse consequences to Drew Fairchild of any kind, even though he has plead guilty to smuggling a planeload of marijuana into the United States. Passed to the file, because Judge Nixon is a friend of Wiley Fairchild and put in a good word for his son with the local prosecutor.

Why does Judge Nixon become involved? Because he had received a very lucrative investment from Wiley Fairchild and wanted additional investments. How do we know? Because after his contacts with Holmes and Fairchild, Judge Nixon took credit for helping Drew when he spoke with Ingram about other investments. In order to enhance his financial relationship with Wiley Fairchild, Judge Nixon became involved in the drug case behind the scenes. He spoke with Holmes as Fairchild wanted and put in a good word for Drew.

In considering articles of impeachment, we bent over backwards to be fair to Judge Nixon. Federal judges are not supposed to solicit investments. Federal judges are not supposed to get sweetheart deals not available to the general public, with loans 5 points below what they paid to a bank that very same week. Federal judges are not supposed to handle litigation involving a party that puts them in a favorable deal and pays them thousands of dollars in royalties. Federal judges are not supposed to help out drug smugglers. But impeachment is serious business, with only one sanction. Even though this is far from model conduct for a Federal judge, we do not seek Judge Nixon's removal from office for these acts.

But Judge Nixon committed far more serious offenses. Offenses which I urge you not to ignore. Even if you accept Judge Nixon's version of his involvement in the drug case, rather than the version described by Ingram, Fairchild, and Holmes, you should vote to remove him from his bench. For when Judge Nixon was confronted and given full opportunity to describe his version of what occurred, he repeatedly lied. First in his FBI interview, then later in the grand jury. Not once, not twice, but over and over again.

There is no question that the statements charged in the articles of impeachment are false.

Federal investigators, and later a Federal grand jury, were trying to find out what Judge Nixon knew about the Drew Fairchild drug case. And even under his own, stilted version of the events, Judge Nixon knew plenty. He had talked with the defendant's father. He learned that Drew was guilty, and that another man was too. He heard Fairchild complain about unequal justice. Then Judge Nixon talked with the prosecutor about the case. He heard about Drew's plea bargain. He then spoke on the phone with Fairchild again. Fairchild thanked him for speaking with Holmes about the handling of the case. Judge Nixon admits all this occurred.

Judge Nixon's conversations with Wiley Fairchild and Bud Holmes, even if they occurred just as Judge Nixon described them to the Impeachment Trial Committee, were about the Drew Fairchild case. Everybody agrees.

Wiley Fairchild emphasized that he talked with Judge Nixon about the drug case. In his Senate testimony, Fairchild firmly put to rest any notion that the judge talked about blackmail without mentioning the drug case. Bud Holmes stated that he and the judge talked about the case. Judge Nixon in his own testimony conceded that Fairchild's complaint of blackmail was about the handling of the drug case. Judge Nixon conceded that the case was the subject of his conversation with Holmes. By stipulation, the judge conceded that Fairchild thanked him for speaking with Holmes about the handling of the case.

Given the obvious, that Judge Nixon indeed had contact with Holmes and Fairchild about the Drew Fairchild case, what are we to make of the 14 statements at issue in the articles of impeachment? I urge you to consider the statements carefully.

Judge Nixon told the interviewers and the grand jury that he never discussed with Wiley Fairchild anything about his son's case.

Wiley never brought up his son's case. He did not even know Drew existed, except what he had read in the newspaper. Nothing was ever mentioned about Wiley's son. He never heard about the case. Holmes never talked with him about the case. He never discussed the case with Holmes. He knew of no reason he would have met with Wiley after the transaction was finalized. He had nothing whatsoever unofficially to do with the case. He never had a thing to do with the case at all. And he never talked to anyone, including the State prosecutor, about the case.

Everyone agrees that Judge Nixon is a cautious man who chooses his words carefully. These statements are totally false. But were they deliberately false or simply a series of unfortunate but honest blunders?

The question is one of intent. Questions of intent are never easy to answer. We cannot give Judge Nixon truth serum or peer into his mind to find out what he was thinking at the time he gave those statements. Instead, we have to look at the objective evidence.

Did Judge Nixon remember the events at the time of his interview and grand jury testimony? That is the critical question. If he remembered, there is no way to justify his interview answers and grand jury testimony, even under his own version of the events. If he was aware of his contacts with Holmes and Fairchild at the time of his interview and grand jury testimony, he must have intended to deceive. Even his diluted version of the events is completely at odds with what he told the interviewers and the grand jury.

Mr. President, in the House proceedings and at his criminal trial, Judge Nixon admitted that he was aware of his contacts with Fairchild and Holmes at the time of the interview and at the time of his grand jury testimony. Judge Nixon admitted that he remembered. Mr. CARDIN will be going over Judge Nixon's prior testimony in much more detail. But I cannot stress this point enough.

Up until the Senate trial, Judge Nixon took the position that he remembered the events. He remembered the events but did not disclose them. Why? Because he thought it did not rise to a level of a "discussion," because he thought his conversations were about blackmail and not about the drug smuggling case, because he thought it would have been irresponsible to blab about a rumor. That was his position. He remembered, but he chose not to disclose.

Then before the Senate committee, Mr. President, Judge Nixon completely reversed his position. He now claims that he would have spoken up about his contacts with Holmes and Fairchild but he simply forgot about the events at the time of his interview and grand jury testimony. This reversal of position is astounding. I sincerely hope you appreciate what occurred during the Senate trial. The convicted perjurer lied again in an effort to duck the impeachment charges before the Senate today.

When you think about it, Judge Nixon's claim that he forgot the facts when he was in the interview and in the grand jury room makes no sense. Put yourself in Judge Nixon's shoes. You are interviewed for over an hour by law enforcement officials; questioned repeatedly about your contacts with Holmes and Fairchild. You deny any knowledge about the drug case over and over again. After the interview, you immediately call up Holmes and Ingram. Over the next 3 months, the investigation is constantly in the press and constantly on your mind. You search your files for documents and meet with counsel. You read the interview transcript. You see all of your denials in writing. You want the investigation to go away, so you carefully prepare a written closing statement in anticipation of your grand jury testimony. And then you testify before the grand jury. Again you are questioned about the drug case. Again you deny talking with anybody about the case.

Judge Nixon's position defies the imagination. Can we really believe that over this entire 3-month period, from his first denial in the interview, to the end of his closing grand jury statement, Judge Nixon completely forgot about these events? Would Judge Nixon forget about his meetings with Holmes and Fairchild? Would he forget what he learned about the drug smuggling case? Would he forget about a claim of blackmail against one of his best friends? Would he forget events that he admits gave him feelings of shock, embarrassment, and discomfort? Of course not.

Mr. President, Judge Nixon claims he did not remember the events until he and Bud Holmes discussed the investigation in the judge's car after dark in a parking lot, one of those interesting little meetings between Judge Nixon and Holmes that led the fifth circuit, in its appellate opinion, to conclude that Judge Nixon intended to cover up his involvement in the drug case. Once Judge Nixon had his memory refreshed by Holmes, did he come forward to clear the record? The answer is "no." And why did he not? Why did he not step forward once the truth dawned on him? Well, Judge Nixon has an answer. It is not a very good one. He told you that his courthouse had been turned into a KGB or Gestapo headquarters. We know that is not true. The foreman of the grand jury, David Ward, testified at Judge Nixon's trial and said that the grand jury would have been very happy to hear from Judge Nixon. The Department of Justice issued a public statement, exhibit N-15 from the House

proceedings. The Department of Justice assured the public that Judge Nixon was not yet accused of any wrongdoing, even after Wiley Fairchild admitted giving Judge Nixon a gratuity. Please read this press statement. This was no witchhunt.

More than 6 months passed from that curious meeting after dark between Holmes and Judge Nixon in the parking lot to the day that Judge Nixon was indicted—6 months, ample opportunity to step forward and clear the record, if Judge Nixon wanted to.

But Judge Nixon did not come forward to tell the truth because he never intended to. His clear intent, from the day of the interview until the day he was indicted, was to hide the truth, to hide his unseemly involvement in helping to fix a drug smuggling case because he was, to use his own words, embarrassed and disgusted by what had occurred. Again using his own words, no wonder Judge Nixon felt caught in the middle and wanted to get out of the situation as fast as he could, because he knew a Federal judge had no business being involved in such a matter.

Once he was indicted, of course, Judge Nixon could no longer give the same denials he had given during the interview and to the grand jury. At his criminal trial, he listened to all the witnesses testify and then Judge Nixon took the stand. He could no longer deny any knowledge of the drug case. Three witnesses said he was involved in the drug case, so he concocted a cream-of-wheat version of the events for the jury and called his friends Holmes and Fairchild liars. He could not call Ingram a liar because Ingram exonerated him on the gratuity charge, so he just hoped that the jury would forget Ingram's description of that important telephone conversation when Judge Nixon confessed to influencing Holmes in the drug case.

Mr. President, a word about Bud Holmes and Wiley Fairchild. Judge Nixon would like to have you believe that the House's case lives or dies with Holmes and Fairchild. That is simply untrue.

Certainly Holmes and Fairchild are no paradigms of virtue. They are convicted felons. They are men that Judge Nixon chose as his friends.

After indictment, both Fairchild and Holmes admitted their crimes and pled guilty. Both men agreed to cooperate with the Government and testify truthfully. In their testimony before the impeachment trial committee, both men told the same story they told the House during its proceedings and that they told the jury.

Judge Nixon claims that Fairchild and Holmes are both lying but who has a greater motive to lie—Holmes and Fairchild, who are friends of Judge Nixon, who have nothing at stake in these impeachment proceedings and nothing to gain by lying now, or Judge Nixon, who wants to remain on the bench and continue to collect his salary?

And what are these men supposedly lying about? Wiley Fairchild's version of his meeting with the Judge and the telephone call is almost identical to Judge Nixon's, except for who placed the call and the date when the events took place. Why lie only about these details? And when you step back, Judge Nixon and Bud Holmes agree that their conversations took place. They only disagree on the details. Are these two men really trying to frame their friend, Judge Nixon?

You should be cautious about Fairchild and Holmes. You should look for corroboration. That is why Carroll Ingram is important. Review his House and Senate testimony carefully. When he finishes praising his friend Judge Nixon, Ingram confirms that Judge Nixon put in a good word for Drew, just like Holmes said. Ingram confirms that Judge Nixon's involvement took place before Drew's drug case was passed to the file, just like Fairchild and Holmes said. Ingram confirms that Judge Nixon talked with Holmes about the drug case, just like Holmes said. He confirms that Judge Nixon influenced the case and took credit for helping Drew. Judge Nixon never attacks Ingram's credibility. Ingram's testimony is unchallenged.

So I have to emphasize that this is not a case of one witness against Judge Nixon. Or two. Or even three. There are four key witnesses that prove Judge Nixon is a liar. Fairchild, Holmes, Ingram, and the judge himself. For Judge Nixon, by his own testimony proves the falsity of his interview and grand jury statements. It is simply impossible to reconcile Judge Nixon's version of the events with his interview and grand jury statements. His explanations and defenses are contradictory, and make no sense.

In his brief, Judge Nixon complains that we are holding him to a standard of testimonial perfection. This argument is almost comical. Is it too much to ask that a judge tell the truth? Is it unfair to require a judge to respond truthfully in an interview with law enforcement officials when he is asked whether he knows anything about a drug case? Is it too much to expect a Federal judge to tell the truth in sworn testimony before a grand jury?

In his brief, Judge Nixon says he had no motive to lie. He says there was no good reason for a Federal judge to lie. But, of course, there is never a legitimate reason to lie. A lie never makes sense, when viewed in retrospect. No crime ever does.

But there is ample evidence of motive here. It does not take a genius to understand what was going on in Judge Nixon's mind, when he denied ever talking to anybody about the drug case, over and over again, often voluntarily when the question did not call for a denial. Judge Nixon did not want to reveal what he had done for Fairchild, in return for the investment and the hope of further deals. If you believe Judge Nixon, he was embarrassed and disgusted about being a messenger in the drug case. If you believe Holmes, Fairchild, and Ingram, Judge Nixon helped to fix the drug case. Under either scenario, Judge Nixon wanted to get the investigation off his back, and did not want the public to know what had happened.

Our judicial system rests upon the notion of truth. A Federal judge must decide the credibility of witnesses, and find the truth in cases that come before him. The evidence before you is clear. Judge Nixon has no idea what truth is. He does not deserve the high privilege of sitting on the Federal bench.

I believe that when you carefully review the evidence, you will agree that Judge Nixon must be removed from office. The people of Mississippi and the Federal judiciary deserve far better.

Mr. President, the gentleman from Maryland [Mr. CARDIN], will conclude this part of the House managers' presentation.

The PRESIDENT pro tempore. Thank you, Representative SENSENBRENNER.

Representative CARDIN will now conclude the opening arguments of the House.

Mr. Manager CARDIN. Mr. President, on behalf of all the House members and our counsel, we want to thank you for the courtesies that have been extended to us during these entire proceedings as the House of Representatives and the Senate of the United States carry out the awesome responsibility of impeachment under the Constitution of the United States.

Mr. President, I also want to thank you for the privilege of appearing before you today.

I intend to supplement the comments that have been made by Mr. EDWARDS and Mr. SENSENBRENNER by covering three points. First, I want to answer the renewed motion that has been filed by Judge Nixon in regards to dismissing article III of impeachment. I intend to answer the mischaracterization of our recent amendments to articles II and III of impeachment. Neither of these two items, quite frankly, are particularly troubling. But then I intend to focus on something that is very troubling indeed.

My third point: That is Judge Nixon's complete flip-flop on the critical question of whether, at the time of his interview with Federal investigators and 3 months later during a grand jury testimony Judge Nixon was aware of his conversations with Wiley Fair-

child and Bud Holmes concerning the Drew Fairchild drug smuggling case.

Let me first turn to the motion to dismiss article III. Judge Nixon does not like article III. It is easy to understand why. Article III demonstrates how Judge Nixon has lied. It is important to point out that during the criminal trial Judge Nixon crafted a narrow, semantic distinction in the vain effort to defend the first-degree charges that are now before you in articles I and II.

He lied to the grand jury. He argued that his conversations with Holmes was a "discussion," that a conversation is not a "discussion," and tries to bring out the semantic difference. He claimed that a dialog with Holmes and Fairchild was about blackmail in connection with the drug case, not about the case itself—in other words, semantic defenses, trying to say he did not understand that when he was talking about blackmail it was the same thing as talking about the case.

The jury saw all the transparency of these neat little distinctions. But Judge Nixon hoped that he could persuade Congress to buy what the jury would not.

So he came before us in the House well rehearsed after the criminal trial, and he again argued semantic defenses. But we took a fresh look at the evidence during the House proceedings. We were not bound by the jury verdict or by the criminal charges that were brought by the Department of Justice. We looked closely at the evidence. We were struck by the ominous contradiction between Judge Nixon's own version of the events and so many of his interviews and grand jury statements.

We noticed that even as Judge Nixon so carefully missed words to avoid admitting perjury in the statements which put him in prison by his own testimony he proved a falsity of other statements he made during the interview and before the grand jury, statements like Wiley Fairchild never brought up his son's case, nothing was ever mentioned about Wiley Fairchild's son, that Judge Nixon had never heard about the drug case, that he did not even know Drew existed except what he read in the newspaper.

Judge Nixon wants you to dismiss article III, so he does not have to defend all of these additional statements that by his own testimony have been proven false. Article III is perfectly proper and worthy of your careful attention. Judge Nixon argues that article III is unfair, that we have taken the statements out of context. We encourage you to review all the transcripts, to look at all the statements, and to listen to the tapes.

We believe that after a careful reviewing you will find that his claim has no merit. The House has not dreamed up Judge Nixon's lies. He made the statements at issue. Read and hear for yourself.

Judge Nixon argues, in his brief, that you must find all 14 statements to be false to vote guilty on article III. But that is untrue. Read the article closely. The question posed by article III is, did Judge Nixon conceal information? Did he conceal information, first by one or more false or misleading statements in his interview, and then by one or more false or misleading statements in his grand jury testimony?

You need not find all 14 statements to be false. The House is unanimously convinced that all 14 are complete and utter lies. We hope you will agree. But after considering the evidence, perhaps you will conclude that only 12 of the statements are false. It really does not matter. Just one intentionally false or misleading statement in the interview, or one in the grand jury, should be enough. Because if you conclude that Judge Nixon concealed information, whether by 1 false statement or by 14, he should be removed from the bench. You should vote guilty on article III.

And you need not necessarily agree on which statements are false, if you reach the conclusion that he concealed information. If two-thirds of the Senators present believe Judge Nixon lied, regardless of how each individual Senator reached that conclusion, he will properly be removed from office. Article III charges Judge Nixon with one offense; he lied and concealed information through false and misleading statements in an interview in his grand jury testimony. That article takes the totality of his conduct so that you may judge him.

This is by no means unfair to Judge Nixon, for even if you might differ on which particular statements are lies, the bottom line is that two-thirds of you will have agreed that he concealed information, rendering him unfit for office. That is what the Constitution requires.

There are other points that Judge Nixon has raised in his motion that we have responded to in our brief and we will let the brief speak for itself.

Let me now turn to my second point, and that is Judge Nixon's mischaracterization of the amendments to articles II and III. Judge Nixon's brief gives you the impression that the amendment is both unfair, and a change of monumental proportions. Nothing could be further from the truth.

Let me return for a moment if I might to the criminal trial where Judge Nixon was convicted of the second count of perjury, in part for the following statement to the grand jury about the Drew Fairchild drug case. That statement was as follows:

I never handled any part of it, never had a thing to do with it at all, and never talked to anyone, state or federal, prosecutor or judge, in any way influence anybody with respect to this case.

At his criminal trial, Judge Nixon stipulated that he used the words "in any way influence." However, during the trial before your committee, Judge Nixon retracted his prior stipulation. His lawyers claimed, in fact, he used other words.

We wanted to be fair. We listened to the tape, and quite frankly we could not tell. So we sent the tape to a linguistics professor at Georgetown who had sophisticated sound equipment. We discovered that Judge Nixon really used the words "that in any way influenced anybody." instead of "in any way influence anybody." A minor change. A meaningless change. But a change nevertheless.

So the House stipulated to this change before your committee. Then we amended articles II and III and wanted to make sure that the changes conformed exactly to the evidence presented at trial. But it makes no difference whether Judge Nixon said he "never talked to anyone, in any way influence anybody," or whether he said, "he never talked to anyone, that in any way influenced anybody."

The fact is Judge Nixon talked to Fairchild and Holmes about the case and influenced both men.

Judge Nixon's grand jury statement was false. It was an effort to coverup, pure and simple.

I want to turn now to the third issue that has become a very important issue in this case and that is whether Judge Nixon was aware of his contacts with Bud Holmes and Wiley Fairchild at the time of his interview before Federal investigators and the time of his grand jury testimony.

As Mr. SENSENBRENNER pointed out, it is hard to believe that over a 3-month period from the start of the interview to the time of his grand jury testimony, Judge Nixon forgot about events that many described as embarrassing and shocking. That is a key question. Did he remember the 20-minute meeting with Fairchild when Fairchild complained of unequal justice in the drug case, when Fairchild complained that Judge Nixon's old friend Bud Holmes was blackmailing him in connection with the case? Did he remember his meeting with Bud Holmes, when he and Holmes talked about the case? Did he remember the telephone call to Fairchild from the farm, when he told Fairchild the case would be taken care of to Fairchild's satisfaction and Fairchild thanked him for speaking with Holmes about the drug case? Was he aware of any of these events during the interview or during his grand jury testimony?

If you find that Judge Nixon did remember, if you find that he was aware

of these events, then you must remove him from office.

This is painfully true, even if you believe Judge Nixon's version of the events instead of Fairchild, Holmes, and Ingram, for no honest man would answer as Judge Nixon did in the interview if he remembered those events. No honest man would testify as Judge Nixon did before the grand jury, if he remembered those events and no honest man would change his recollection after trial and after his hearing before the House and his hearing before the Senate.

Did he remember?

Mr. President, let me refer to Judge Nixon's own testimony. What does Judge Nixon say? During his criminal trial, Judge Nixon repeatedly testified that he was in fact aware of his contacts with Fairchild and Holmes, both at the time of his interview and during his grant jury appearance. Let me read from the trial transcript.

A question by Judge Nixon's counsel:

While you were in there [testifying before the grand jury], did you in fact were you aware of the fact that there had been a discussion between you, excuse me, there was a meeting where you were over at Wiley's office and then you had been at Bud's farm that evening and the phone call. Were you aware of that when you were in the grand jury?

Answer by Judge Nixon, "Yes."

A few minutes later, Judge Nixon said it again:

Q. "(By Judge Nixon's Counsel). I want to ask you another question. You told us that you went to that grand jury or when you were at the grand jury you were aware that you had seen Wiley on a night several years before or I should say an afternoon that you were at the farm and passed on the blackmail complaint of Wiley's to Bud Holmes, right?

A. (By Judge Nixon). Right.

Q. And that Bud then made a phone call to Wiley which surprised you but it did occur, correct?

A. Yes.

Q. And you're in the grand jury. Were you aware at that time did you remember those events?

A. Yes.

What could be clearer? His own statement that he recalled these events when he was before the grand jury and during the interview.

What about the interview? Did Judge Nixon also remember the events at the time of the interview? Again let me go back to his testimony at trial.

Q. "(By Mr. Weingarten). Did we not discuss the Drew Fairchild case in great detail [during the April 1984 interview]?

A. (By Judge Nixon). You discussed all 3 matters.

Q. Including Drew's case?

A. Yes.

Q. In your mind at that moment did you recall the allegation by Wiley Fairchild?

A. What allegation?

Q. About Bud Holmes blackmail.

A. Complaint?

Q. Yes.

A. Yes.

Again, Judge Nixon states that he did recall when the question was specifically asked him at trial the conversations during his interview with Federal investigators. The question was clear as a bell: "In your mind, at that moment in the interview, did you recall the blackmail allegation?" And the answer was "yes."

During his criminal trial, Judge Nixon was also asked whether he recalled meeting with Fairchild at the time he told the grand jury he did not know any reason why he had met with Fairchild after the investment was finalized in early 1980. That specific statement is at issue in article III(2)(B).

Judge Nixon answered, "I knew that, yes."

Of course, he remembered the meeting with Fairchild when he gave the grand jury testimony.

At the close of the criminal trial, the jury was given the following instructions by the court to summarize Judge Nixon's defense. This is the trial court judge's comments in his instructions to the jury:

With respect to the perjury charges contained in Counts Two, Three and Four, Judge Nixon contends that at the time he appeared before the grand jury and gave the answers which form the basis of the perjury charges that * * *. He was aware that he had had a conversation with Wiley Fairchild in which Fairchild complained that he was being blackmailed by Bud Holmes, and possibly Carroll Ingram, due to the publicity coming out of his son's case; and

He remembered mentioning Fairchild's blackmail allegation to Bud Holmes, but they did not discuss the Drew Fairchild case.

There is no doubt about Judge Nixon's position at trial. He remembered. Then Judge Nixon testified before the House. In his House testimony, Judge Nixon never once suggested he forgot about his contacts with Fairchild and Holmes at the time of his interview and grand jury testimony. Instead, he expanded on his prior defense. Judge Nixon told us that he deliberately did not volunteer this information, because he thought it would be quote "irresponsible" to "go around blabbing" about Fairchild's blackmail complaint to the grand jury. He never said it slipped his mind. He never said he forgot about the events. He said he deliberately chose not to volunteer the information.

Up to the time that he appeared before the Senate, he remembered when he was before the grand jury and when he was before the interview. But then he changed his story when he appeared before the Senate, completely changed his story. Now he claims he forgot; almost no recall of the events during his interview and grand jury appearance. And it is his only defense now, for he told the impeachment trial committee that if he had remembered, he surely would have revealed the facts, if he remembered, he would never have made the 14 statements. Unfortunately, he just plain forgot. Yet, he told the trial court and told the House that he did remember.

How could he have volunteered information if he had forgotten? How can you possibly reconcile Judge Nixon's own contradictory testimony? He tells you he has completely forgotten. At the trial, he told the jury, in my mind at that moment in the interview, I remembered. When I was in the grand jury, I was aware of the events. I remembered.

Oh, Judge Nixon's lawyer tries to be very crafty. In his brief, he says it is outrageous for the House to point out this glaring change in testimony. He tries to create a distinction between being aware of something at a particular moment and remembering it, but also at the same moment forgetting it. He has to argue something. He knows his client has been caught redhanded.

Quite frankly, when I first heard of the change during the Senate hearing, I was surprised. But then, reflecting upon the types of defenses that the judge has raised during the proceedings, it should be no surprise at all.

Judge Nixon's argument on this point is like so many of the defenses he has raised in this case. Hollow and, frankly, quite sad. He was aware and remembered, but forgot. His contact with Holmes was not a discussion, only a conversation. His contacts with Holmes and Fairchild were about blackmail in connection with the drug case, not about the drug case.

Then he grasped for bigger straws. I am the victim of vindictive prosecution because of my ruling in a condemnation case, he says in his first defense of the impeachment charges. But there is not a shred of evidence supporting this claim. Then he completely abandons the defense. He says John Baltar will tell the Senate how the Department of Justice manipulated witnesses to lie to get him. But Baltar, a man who would not even admit under oath during postconviction proceedings that he is Judge Nixon's good friend, is never called to testify before your committee.

Judge Nixon tries to defend his action by saying, "My involvement in the drug case was not material to the grand jury investigation," a defense so thin he abandoned it during the court proceedings after it failed at trial; a defense he destroys by admitting, in answer to article I, that his conversation with Holmes was, in fact, relevant. Another defense he used was, "I was trapped by prosecutors into committing perjury," even though he was convicted because of his answer to a simple question, and that question

was, "All right, Judge. Do you have anything you want to add?" Being trapped by that type of question?

He knows how weak these defenses are. He has to come up with some more.

Why did the prosecutors not use the magic word "blackmail?" If they only asked me about blackmail, suddenly the facts would have dawned on me and I would have rejected the 14 denials.

But why should the prosecutors use the word? They did not know Fairchild had complained to Judge Nixon about anything, much less blackmail in connection with the drug case. Fairchild did not tell them. Judge Nixon certainly did not tell them. And, of course, what really ruins his defense is the single fact that even when Judge Nixon supposedly remembered the events, he still did not come forward to correct the record.

Why not? He has to invent another defense. "I couldn't tell the truth once I remembered," he said, "because the courthouse was like Gestapo headquarters."

So many defenses—the last of which, "I forgot"—all of them so hollow.

Members of the Senate, the evidence before you is overwhelming. Judge Nixon helped a drug smuggler. Judge Nixon lied about his involvement in the drug case during the investigative interview. Then he lied again in sworn testimony before a grand jury. After lying, he tried to cover up his involvement in the drug case, but was unsuccessful. In an effort to escape the further charges, he concocted a version of events that is simply untrue. Most recently, in his testimony before your committee, he lied again.

The House has established and proved the validity of each of the three articles of impeachment. We thank you for your careful attention to the case and for your patience during our argument today. To maintain public respect for the law and preserve the integrity of the Federal judiciary, we urge you to remove this man from the bench.

Mr. President, we reserve the remainder of our time.

The PRESIDENT pro tempore. Thank you, Representative CARDIN.

The House managers have 22 minutes and 19 seconds remaining.

The Senate will now hear argument on the pending motion and final argument on behalf of Judge Nixon by both Judge Nixon and Mr. Stewart. Judge Nixon asked to be first.

Judge Nixon, please proceed.

Judge NIXON. Mr. President, Members of the Senate, it is with mixed emotions that I stand before you, my judges and jurors, to seek your careful and objective consideration of the evidence and your vote based upon that evidence or lack of evidence.

By mixed emotions, I mean on the one hand, frustration and outrage, which flow from my knowlege that I am innocent of the charges of which I stand wrongfully convicted, and, on the other hand, the hope of vindication afforded by the constitutional safeguard and privilege of a de novo or new trial.

I believe that the framers of the Constitution foresaw exactly the very events which are involved here. They, therefore, devised and instituted this impeachment procedure, both to protect the individual rights of those who are selectively prosecuted after having been targeted by overzealous prosecutors, and to protect the independence of the judiciary and ensure the separation of powers, the very touchstone of our democracy.

I am certainly mindful of the fact that I have served and am still serving time in incarceration as a result of a conviction. However, we are assured that, by your oath, you have sworn to decide my innocence or guilt independently of the result of the criminal trial, based solely on the evidence or lack of it.

We all know that a criminal conviction does not remove a Federal judge or certain other Federal officials from office, but that this is the sole prerogative of you, the U.S. Senate, following a new and independent impeachment trial.

Despite this constitutional guarantee, some of you may say or think that something is wrong; that is, that a man convicted and serving time should not be a Federal judge. There is something wrong with this situation, but what is wrong is that I am paying a debt that is not owed. I have committed no crime.

I have been unjustly and wrongfully convicted. Otherwise, I assure you that I would have long ago resigned and not subjected my wife and children to this emotionally, physically and financially draining ordeal.

I very much value the integrity of the Federal judiciary. I have done nothing to impugn the integrity of this great branch of Government and would do nothing to impugn it.

Your grave and important responsibility is unique, and one which you are rarely called upon to exercise. It is not a political or legislative duty, but, rather, a judicial one. You are called upon to put aside political considerations and to impartially consider all the evidence before you, independently of any other proceeding that has previously taken place, and decide my innocence or guilt based solely on this evidence. And that is what we ask you to do.

If you find that the prosecution has clearly met its heavy burden of proof, whether it be proof beyond all reasonable doubt or by clear and convincing evidence, then you may vote to convict. If you have a reasonable doubt of my guilt, applying whichever standard you apply, then you are obligated to acquit. And this relates to each of the three articles of impeachment considered separately.

But, whatever the standard of proof, the heavy burden is on the prosecution, as it should be, when, as here, we are concerned with very precious constitutional rights. The investigation of my case was begun on false premises, and pursued for the wrong reasons. From the very beginning, the goal of the Federal prosecutors was to get the Federal judge no matter what it took. And it took plenty—threats of indictments of some, and indictments of others on charges which the prosecutor later admitted before the House subcommittee that he probably could not have proved. Then, following these indictments came promises, threats and deals with the witnesses. The basis for the investigation was the charge that I received some illegal benefit in return for my actions as a judge.

There never was any basis for that charge and I was acquitted of it. In fact, during my trial the prosecutor told two newspaper reporters covering the trial that he probably could not prove the illegal gratuity charge and, after the trial, he admitted to another reporter that he had not proved that charge.

By including that false allegation, however, the prosecutor was able to taint the trial, to taint my character before the jury and secure the compromise verdict of conviction on two of the four charges against me.

You may well wonder what our basis is for saying that I was not afforded a fair trial. First, I would not have been convicted had the jury not been prejudiced against me by the prosecution of the unfounded, and unsupported, illegal gratuity charge of corruption.

Second, I would not have been convicted if the jury had known that one of the two principal prosecution witnesses, Wiley Fairchild, gave false testimony against me at my trial in order to please the prosecutor and benefit himself, as he later admitted in the postconviction hearing before the U.S. district court in Jackson, MS, last year. He now tells the Senate committee he does not remember that testimony. He does not remember anything that took place during the postconviction hearing last year.

I stand before you as a man convicted of perjury on the basis of admittedly perjured testimony.

Third, while testifying before the House subcommittee and also here before your trial committee, Bud Holmes, the State district attorney, the second of the two principal prosecution witnesses, finally acknowledged that when he tried to discuss

the Drew Fairchild case with me at his farm on the night of March 11, 1983, the night in question, that I prevented him from discussing that case with me when he attempted to tell me about it that night. Those are his words. Twice he testified to that before the House subcommittee and before your trial committee. That goes directly to count 1.

Of course, he has always admitted that he moved to pass the case to the files, that is place it on the inactive docket, and that is all it did, of his own volition; that I told him I did not want him to do anything to help Drew Fairchild. Those are his words. And that the passing to the files was a meaningless act that did not affect the disposition of that case. And it did not, as Mr. Stewart will tell you and show you.

In fact, the only person who helped the drug smuggler was Drew Fairchild, the Federal prosecutor, in order to get me. And Mr. Stewart will cover that.

In addition, since my criminal trial other facts have been discovered that we did not know at trial. First, scripts were prepared for Wiley Fairchild by the Federal prosecutor and John Baltar, Mr. Fairchild's employee, so that he could learn his false testimony against me at trial, which he later, at the postconviction hearing in Jackson, admitted was false. Second, promises of favorable treatment that we have since discovered were made to Wiley Fairchild, which will be covered in detail by Mr. Stewart. And, third, a telephone message record from Bud Holmes to me on March 11, 1983, at my chambers in Hattiesburg, MS, confirming my statement and my testimony that the blackmail conversations occurred on that particular date. See exhibit 17.

We did not have any of this evidence at trial nor did we have Wiley Fairchild's admission under oath that he had perjured himself in testifying against me at trial to please the Federal prosecutor.

It is also important for you to know and understand what I am not accused of here. And, believe me, if they could have accused me of it they would have done it, if they could have proved any of it.

I am not accused of any corruption. I am not accused of any malfeasance. I am not accused of any substantive crime. I am not accused of giving any false testimony at my trial or before the House subcommittee. I am not accused of any ethical violation.

What I was wrongfully convicted of, and am charged with and accused of here, is lying to cover up my innocence—perfectly innocent acts, which certainly would be nonsensical and stupid, to say the least.

You would not know this by listening to the House managers' argument today, and reading their briefs. It is important that you recognize their strategy of trying to make me look like a corrupt judge, which I am not. They do so to bolster what they must recognize as weak and unfounded impeachment charges. Please, do not let them get away with this. If they could prove any of these matters, they would have charged them in the articles of impeachment. And I think you know that as well as I do.

Time constraints do not permit me to state to you in as much detail as I would like all that I wish to say. But I do want to address you concerning how these charges against me were created. On the 19th of April, 1986, I freely gave the recorded interview, without any prior notice, to Mr. Weingarten of the Public Integrity Division of the Justice Department, and Mr. White-Spunner, of the FBI; and thereafter requested the right to appear before the grand jury without subpoena, without being asked to come. I requested that right, which was granted.

I did so because I had nothing to hide. I had not engaged in any illegal act. And that has been proved to be true here because I am not charged with any illegal act prior to that time, and was acquitted of the illegal gratuity charge which they admitted they could not have proved but they went forward with.

It is undisputed that at the inception of this interview before the tape player was turned on, the prosecutor told me the interview and the investigation which prompted the interview was to determine, one, the handling of Mr. Fairchild's 50-year-old son's, Drew Fairchild, drug smuggling case on the Federal level; that is why it was not prosecuted in Federal court by the U.S. attorney but, instead, was transferred to Bud Holmes, the local district attorney, to prosecute in State court and, two, the relationship, if any, between the drug case and the oil interests which I purchased from Mr. Fairchild. That information framed my understanding of the investigation throughout my grand jury testimony as well.

Between the time of my interview in April and the convening of the grand jury in July 1984, based upon leaks from informed sources, the news media had a field day at the expense of me, my family, and the Federal judiciary. Every time one turned on the television, listened to the radio, or picked up the newspaper, there was the big news of me, a U.S. district judge, being investigated for bribery in connection with a drug smuggling case. There were pictures and descriptions of the mineral conveyance deeds, the compilation of royalties received, descriptions of the drug case, and interviews with Weldon Kennedy, the FBI agent-in-charge in Mississippi, concerning the parallel investigation before this same grand jury of my handling of the Petit Bois Island condemnation case, which the Government was displeased with. I was indicted and convicted by the news media before I testified in the grand jury, and actually before it was ever convened.

Never was there ever any mention in the news media at any time of the blackmail complaint made by Wiley Fairchild which really related to the dragging of the Fairchild name through the news media. That is what he meant by blackmail. Apparently the authorities felt it was without substance and not worth exploring or pursuing. They did not ever ask me one question about it. If it was material or of any significance, why did the prosecutors not question me about it in my interview or before the grand jury when the charge and allegation had been made to the FBI by Wiley Fairchild just 8 days before my interview? Why did they not ever question the accuser, Wiley Fairchild, or the accused, Bud Holmes, about it at any time when they testified before the grand jury or at any other time?

During the interview and my grand jury testimony, I did not think of these blackmail conversations, probably because I remembered them as relating to blackmail and not Drew's case. Of course, there was some tie between blackmail allegations and Drew's case, but that is not how I remembered the conversation. Indeed, I did not even think to mention blackmail conversations to my own lawyer, as I so testified at trial, and I surely told him anything that was material to the investigation. I was focused on answering the corruption charges that were all over the news media, and there never has been any credible evidence to support those corruption charges.

I need to speak here to you about the one aspect of these Senate proceedings that has angered me and disappointed me greatly. I cannot understand and will not let go unchallenged the misrepresentation of my testimony that has occurred. I have always testified that during the interview and before the grand jury I did not think of the blackmail conversations that consumed probably no more than 30 minutes of my life in March of 1983. I did not ever say, and I could not ever say, that I forgot these blackmail conversations entirely. After all, when I was reminded of them in 1985 by Holmes, I remembered them immediately. I do not know why, but those blackmail conversations, though somewhere in my mind, did not occur to me during the interview and grand jury appearance. That was my testimony at trial; that was my testimony before the House subcommittee; that was my testimony before the Senate committee. Please look at our brief with re-

spect to this at pages 18 through 25 that is before you where we made that crystal clear by pointing out portions of my prior testimony that are left out of the House manager's brief and are left out of their argument made to you here today.

Let me read you some of what they omitted. At trial, at page 1576 of the transcript, I was asked:

At the time of this interview [in April 1984], at the time you were on the phone with Ingram, Phillips, Holmes, was the telephone call anything that you even thought of at that point in time? Answer: No.

And before the House subcommittee at page 443 of the printed volume:

Question: Now at the time you gave that interview with Mr. Weingarten—and this is April of 1984—were you aware, at some level, that you had this previous conservation you have described in March of 1983 with Mr. Fairchild concerning his blackmail allegation? Answer: Well, of course I knew it had occurred. It was, I am sure, in my recollection, but it wasn't foremost, of course, in my mind.

Again at page 506 of the House hearings:

You admitted, didn't you, Judge, at the time of this interview, that you did recall, or had it in your mind—you had not forgotten about the conversation with Wiley Fairchild and the subsequent phone call from the farm back to Wiley that evening? Answer: Well, of course it was in my recollect, my mind. I knew it happened is what I mean, but it wasn't foremost in my mind, at all, because of the reasons I've already stated. I thought it was nonsense. I thought it was a misunderstanding. It was apparently cleared up, and over with that evening, and I heard nothing more about it after that time.

That is, has always been, and always will be my testimony and it is there in black and white. It has been mischaracterized by the House managers in their brief and in their argument here. They almost admit to you the credibility of Holmes and Wiley Fairchild is nil, but they ask you to convict me because my testimony has changed. It has not changed one iota from the time of trial or from the time of the House subcommittee hearings, although Holmes and Fairchild's testimony changed every time they appeared before the grand jury and every time they have appeared since then.

You may ask, as Senator CHAFEE did, and as the House managers alluded to, why I did not volunteer to go back before the grand jury when I was reminded of the blackmail conversations in February 1985. First, of course, I was not subpoenaed back; I was not asked to come back. I did not go back voluntarily on advice of counsel because at that time, we knew that I was the target. I was the big prize as the confidential informant had written to the FBI. I had voluntarily appeared before the grand jury once to explain my innocence of the corruption charge, but still was being investigated despite the lack of evidence of that.

Also by that time, Wiley Fairchild had been induced somehow to plead guilty to giving me an illegal gratuity which I knew he had not done. Indeed, Mr. Fairchild told your trial committee when he testified that he is now suing his own lawyers for malpractice for influencing him and causing him to enter a plea of guilty to that gratuity charge of which he has never been guilty.

In those circumstances, we can see no good reason to voluntarily go back to the grand jury after February 1985, and I think that is a judgment that almost anyone in my position would certainly have made under the circumstances.

You must determine whether I am a witness worthy of your belief. In judging my credibility and in part and criteria as my character and reputation generally and more specifically as it relates to truthfulness and veracity. Every witness who was asked, whether called by the prosecution or defense, testified without equivocation that my reputation for truthfulness and veracity is excellent.

Mr. EDWARDS in his summation and argument to your committee stated—and I think I could almost quote it:

Judge Nixon is not a paper shredder. Judge Nixon did not run for telephone booths or leave town. Judge Nixon is a Federal judge with over 21 years on the bench, of excellent reputation.

We could have produced many more character witnesses, but because of time constraints explained to us very clearly by your very patient and capable chairman, Senator FOWLER, we called only five representative witnesses. Not a single character witness, rebuttal witness was called and questioned by the House managers.

Senators, my wife, children, and I have suffered and lost so much over the past 5½ years—our peace of mind, damage to reputation, our ability to be together, and my freedom, but we have not lost faith and trust in God or in our system of justice. We ascribe the wrong that has been done to those who administer the system. We hope and pray that justice and right will now prevail.

We know that it is difficult to look beyond the fact of my conviction to the underlying true facts of this case. We know that it may be politically more difficult to vote not guilty. Many have said that these problems cannot be overcome, but we have disagreed, and we do so now, very strongly. We have great faith that each of you will have the insight and the courage to vote your conscience based upon the evidence.

I have served honorably and faithfully as a U.S. district judge for over 21 years and have always adhered to the advice given to me by my good friend, Senator John C. Stennis: "Judge, keep the courtroom floor level for all who appear therein." I have done that.

I am and have always been mindful of the fact that I was appointed and not anointed. Throughout my life I have tried to serve my country and my community. It causes me great pain to think that my record of public service has been marred and my personal honor and integrity have been questioned.

As a judge I know and respect how important it is that the oath be honored by witnesses. I have tried fairly and honestly and truthfully to answer every question asked of me throughout this entire proceeding. I know in my heart and honestly tell each of you at this time that at no time have I intentionally made a false statement or given a false answer. I hope and pray that you will realize this from the evidence before you. I have persisted and persevered in this fight for justice because I know that I have done nothing wrong. I have committed no crime or misdemeanor.

In closing, I wish to thank you for the opportunity to speak to you today. I have paid a debt that I did not owe by serving 20 months in prison. I ask you now to right this wrong, and I can assure each of you that if rightfully given the privilege of continuing to serve my country as a Federal judge, I absolutely can and will do so in the same fair and dedicated way that I have in the past.

May Almighty God give you the courage to vote your conscience and may your conscience guide each of you in your deliberations and vote this week.

Thank you.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, in the course of Judge Nixon's remarks, he stated that time constraints prevented him from addressing some aspect of this subject in sufficient detail. It is my understanding that the time was agreed upon by counsel, but I wish to make it clear that in the event the judge or his counsel wish additional time to address this subject, I would strongly urge and he prepared to ask that such additional time be granted today equally to both sides.

I want to make it clear that so far as the Senate is concerned, we wish no party to feel that there has been insufficient time to address any subject before us. And so I merely suggest that at an appropriate time counsel and the judge may consult, and if they wish additional time to address the subject, which the judge has indicated he did not feel he had time to do so, then we are prepared to make such additional time available equally to both sides.

Judge NIXON. May I reply to Senator MITCHELL, Mr. President?

The PRESIDENT pro tempore. Judge Nixon.

Judge NIXON. The distinguished majority leader probably misunderstood what I said. I said with respect to some things that I would have liked to have said, I just did not have enough time to say them, I did not think. But I assure you my attorney will cover them, Senator. We had to divide our time. We appreciate very much your offer, and we hope that it will not take any additional time. But certainly we do appreciate the majority leader's offer.

Mr. MITCHELL. I just wish to make that clear if, when you get to the end of your time, you believe that you need additional time to make your case fairly and appropriately, we are prepared to make certain that such additional time is available as you require.

Judge NIXON. Thank you, Senator.

The PRESIDENT pro tempore. The respondent has 61 minutes and 39 seconds remaining.

Mr. Stewart will now conclude the argument for Judge Nixon.

Mr. STEWART. Thank you, Mr. President.

I want to stress two points at the outset that are going to come up throughout my remarks, and they are critical to the case. First, these impeachment charges present a seriously incomplete view of the evidence. You can vote to convict on these charges only if you do not take the trouble to learn the facts. You can vote to convict on these charges only if you pay no attention to what Judge Nixon and I say here today. And you can vote to convict on these charges only if you listen to but one side of the story.

We plead with you not to let this strategy, this prosecution by omission succeed. Look at all of Judge Nixon's testimony, look at all of the facts. The most obvious and the worst symptom of this strategy is the impeachment articles themselves. And during the House managers' presentation today they did it over and over again. They do not present his testimony fairly and fully. They drop off the key words that explain what he was really saying, they take things wildly out of context. There are only three articles of impeachment here. Two of them had to be rewritten.

They would like you to think that that was just a trivial matter. It was not a trivial matter as I am sure you understand. Four hundred and seventeen Members of the House of Representatives impeached Judge Nixon for statements he did not make. There are other impeachment articles still there for statements he did not make which we have not been able to persuade them to change. But that is a big concession.

They tell you of their excruciating care in preparing this case. Where was that care before? We had to complain on every day of the Senate trial that those articles were wrong before we could get them to go and actually listen to them and make sure that we were right. This should be a big red warning sign to you. You are going to have to read Judge Nixon's testimony. You cannot trust those impeachment articles. They are wrong.

A second introductory point. We have made this point and I will come back to it. The House managers do seek to apply a standard of testimonial perfection. The three fact witnesses that they called—Bud Holmes, Wiley Fairchild, Carroll Ingram—all three of them knew about the blackmail conversations.

All three of them were interviewed by the FBI in April and May 1984; all three of them went to the grand jury in July 1984 and none of them mentioned the blackmail conversation; none of them. It did not seem important to them. It did not come to their minds, just like it did not come to Judge Nixon's mind.

They are asking you to incorporate an unfair double standard. I want to do some quick background. The two basic groups of facts that are relevant: First is the oil and gas properties purchased by Judge Nixon and Wiley Fairchild. He bought those properties at the same time he made three other investments through other people he knew. He got lucky on the Fairchild investment. Two of the properties paid off well, the other did not pay off well, and his three other investments did not pay off well. That is what happens with oil investments. Some pay off real well, and some do not pay off at all.

Judge Nixon paid fair value for that investment. Everything was documented. There were deeds executed, every payment was by check, there was no cash anywhere in the case, the transfers were entered in the land records of the State of Alabama, and the land records of the State of Mississippi. He reported them on his financial disclosure form. There was no secret here. There is absolutely a regular transaction. It had nothing to do with Drew Fairchild's case. The testimony is unanimous on that point.

When the Federal investigation started, Judge Nixon had no embarrassment or uncertainty or he did not try to cover up anything about these investments. It was a straight-up business deal from the start. After 6 years of investigation, the complete innocence of the transaction has been established. No charges have been brought in this proceeding, and I urge you do not let yourself be distracted by that. That is what it is. It is a distraction. It is not the charge before you in any way.

The other area of factual background is Drew Fairchild's case. There sure are some serious questions about the handling of the Drew Fairchild case. Some questionable things happened, but none of them involved Walter Nixon. One of the questionable things, and stated right over it, in the House presentation, was that Drew's lawyer, Bill Porter, was upset because he had gotten a good deal for Drew with the Federal prosecutors on this drug case. But he had not been paid.

So he sued Drew and Wiley Fairchild, though his father paid part of the fee. But Bill Porter was still upset. So he went through his friend, Bud Holmes, and he complained to Drew he had not paid. So Mr. Holmes got this strange idea that he could take over the case, Mr. Holmes, the local prosecutor, and he could indict Drew in the State court. The Federal prosecutors for some reason had not indicted him yet for 7 months. They had not done anything. Maybe that would have helped Drew pay the fee. This is extraordinary. You prosecute a man, indict him to help a friend collect a fee, but that is what Mr. Holmes did.

So he called up the U.S. attorney and said this is what I am going to do. Let me take over the case, we will help Bill collect his fee. According to Mr. Holmes, the U.S. attorney said great. That is what happened. He indicted him. And Wiley Fairchild is a funny witness in a lot of ways; if you watched the videotape, he is a hard man to understand. Sometimes he acts like he does not understand anything and sometimes you think he is fooling you. But Mr. Fairchild understood this message and he paid Bill Porter's fee within 6 days of the indictment.

He got that message because Bud Holmes called him to tell him Drew will be indicted. That is a pretty strange thing to do, too. Why do you indict a 50-year-old man and then call his father to tell him you have indicted him, and do not call the defendant. But that is what Mr. Holmes did. That is one of the reasons why Wiley Fairchild thought he was being blackmailed by Bud Holmes.

This episode is a complete perverted injustice. Anybody in this room will recognize it as such. Walter Nixon is nowhere connected to it. There is Bud Holmes. This is their witness.

In January 1982, Bud Holmes cut a deal with Drew Fairchild—no jail time, pay a fine. Mr. Fairchild pled guilty. He went for a back operation in New Orleans, had a lengthy recuperation; nothing happened in the case all through 1982. At the end of the year, though, there is a change in factors. Judge Dickie McKenzie is elected circuit court judge for Forrest County. Bill Porter has a problem now. He supported Judge McKenzie's opponent. Judge McKenzie has been elected on a

get-tough program, and Mr. Porter is afraid Judge McKenzie is not going to respect his plea bargain.

We learn a few years later that he was right to suspect that because when the plea bargain came before him in 1985, he did not respect it. He said he would not follow it. So Mr. Porter went to Bud Holmes, his friend, and asked for more help in Drew's case. Mr. Holmes said—this is in December 1982—OK, I will pass it through the files and he passed it through the files. That is what happened. Walter Nixon is nowhere to be found. It is only after all this investigation, it is only after Bud Holmes is under the thumb of the prosecutors that he starts trying to put Judge Nixon in the picture here.

Passing the case to the files is not a defensible action by Mr. Holmes. It is meant for a minor offense. It is not meant for somebody who assisted in the smuggling of marijuana. But he did it for Bill Porter. Again, Mr. Holmes sent the message about this, not to Drew Fairchild. He sent it to Wiley Fairchild. He took the order passing the case to the files and he asked Ingram to deliver it to Wiley. Why is he doing that? That is very strange. That is another reason why Wiley Fairchild thought Bud Holmes was blackmailing him.

At that point everybody thinks the case is closed. This is December 1982, Christmas of 1982. In early 1983, just a few weeks later, Judge McKenzie comes upon this order passing the case to the files. He makes a public comment. The press has a field day. The roof falls in. Bud Holmes is all over the press, as having done a favor for a rich man. Wiley Fairchild testified that what really bothered him is it looked like he was caught with his hand in the cookie jar, that he had been caught pulling strings to help his boss. He said he had not done that. So in late January, only 33 days after the case went to the inactive files, Drew's case is reactivated. Where is Nixon? He is nowhere in this picture.

We get to the Federal investigation. I have to introduce one person, a man named Skip Jarvis, a young man who married into Wiley Fairchild's family. Wiley paid for Mr. Jarvis' education, gave him a job. Jarvis showed his gratitude by deciding Mr. Fairchild had bribed Judge Nixon and fixed Drew Fairchild's case. He called up the FBI and told them that. He called in an anonymous phone call from a pay phone. He said he feared for his life. He made it seem like it was the worse cesspool of corruption you can imagine down in Mississippi, and the FBI fell for it hook, line, and sinker. They started an investigation. He had no evidence of corruption. The prosecutor told the jury at Judge Nixon's trial that Skip Jarvis never had any evidence of corruption. It was a fantasy.

Then in April 1984, the FBI is trying to figure out the first move, how do they start on this big case. Wiley Fairchild dropped out of the sky on them. He reached out to the FBI, right at that point, and he complained to the FBI that he was being blackmailed about Bud Holmes and Drew Fairchild's case. Please remember this. Wiley Fairchild's first statement to the FBI is "They are blackmailing me, Bud Holmes is blackmailing me." The FBI agent who testified at the Senate committee hearing agreed Wiley Fairchild had blackmail on the brain. That is what he thought was going on all the time.

His allegation was never very precise. I have to tell you it never made a whole lot of sense, but he was convinced of it and he even told the House subcommittee last year, and he still thinks maybe Bud Holmes was trying to blackmail him.

On April 19, 1984, 8 days after Wiley Fairchild made his blackmail allegations to the FBI, the FBI agent and the prosecutor unexpectedly dropped in on Judge Nixon in his chambers. They asked to interview him and to record him.

The critical point I need to make about this interview is Judge Nixon had no warning whatever that the interview was going to happen. He got a phone call from the head agent and they showed up. But he voluntarily agreed to the interview. He did not head for the airport or the pay telephone booth. He did not stall until some later date. He just said, "sure," and he agreed to have the interview tape recorded. He acted like just what he was, a man with nothing to hide.

The interviewers did not ask about the blackmail allegation. Even though Wiley Fairchild made it 8 days ago, even though Wiley had blackmail on the brain, and even though they recorded the conversation between Fairchild and Holmes the day before, during which Mr. Fairchild made the blackmail allegation on six separate occasions, they still did not ask Judge Nixon about it.

At the committee hearing, Senator MACK asked the FBI agent: Why did not you ask that question? And I did not hear the answer come back.

Investigators did ask Judge Nixon about two things. They asked about the oil and gas transaction. Eighty percent of the transcript relates to that issue. The FBI was convinced, based upon Jarvis' fantasies, that the date of the transaction had been manipulated to cover up a payoff to Judge Nixon. It was not true, but that is really what they were asking about.

They also asked some questions about Drew's case, how the case got from Federal hands, from the U.S. attorney, to Bud Holmes. The FBI had told Fairchild a few days after that, that was one of the crucial questions because they thought that was the quid pro quo. The payoff had been to get the case out of the Federal prosecutor's hands.

Judge Nixon told him he had no idea that there had ever been a Federal case involving Drew Fairchild. He was interested in this news, and he asked about it, and the FBI agent agreed when he testified that Judge Nixon was very interested in it.

And then there is a final point about the interview. Judge Nixon did not mention the blackmail conversation he had with Wiley Fairchild and Bud Holmes many months before. He did not think of those events. That is exactly what he said at trial.

He has read you the testimony where he said at the trial it is the first testimony he ever gave on this subject. Why did you not remember? The question is, did you even have a thought of it, and his answer was "no."

That was his testimony the first time he testified on the subject, and that is exactly his testimony now. And it is noted as the measure of the weakness of the case against him that they have to go to these lengths to not tell you about that testimony.

Then after the interview, this is April 1984, after that interview comes the gushing leaks from the FBI, the screaming headlines. Even though the investigation was supposed to be secret, it was in the press that Wiley Fairchild had paid off Judge Nixon. It was on the TV news, and it drove Judge Nixon crazy, and he demanded the right to go before the grand jury.

Stop here again. Look what he is doing. He is still not heading for the airport; still not heading for the pay phone booth. He wanted to go to the grand jury and take the oath and tell them what the true facts are.

On July 18, 1984, he was the first witness to appear before the grand jury. It was voluntary in every sense. He had not even been asked informally to appear before the grand jury.

Once again, he was asked about the oil and gas property at great length and dating of that transaction at great length. The first 45 pages of the transcript relate to that, and there is some light questioning about Drew Fairchild.

Judge Nixon started to lecture the prosecutor. You can tell from the transcript he is angry, and he explained that the Federal Courts do not get involved in prosecutorial decisions. He is clearly thinking what they told him was the subject of the investigation, which was, how did the case get from the Federal prosecutor to the State prosecutor?

And then at the end of his testimony, he volunteers: "If any grand jurors have any questions, go ahead and ask me. I want you to ask any questions you have." And one more time the

prosecutors did not ask him about the blackmail allegations by Wiley Fairchild. They asked Carroll Ingram about it the next day, but they did not ask Judge Nixon. That is it.

That is what is supposed to be the crime. That is why all of this majestic constitutional machinery has been invoked here, and there are four basic defenses that we have.

The House managers have not proved and they cannot prove any of these four matters.

First, that any misstatement by Judge Nixon involved a material matter. Materiality will come back to all these.

Second, the misstatement was made with any intent to deceive or mislead.

Third, there was any misstatement at all. All of his statements were actually true. You have to actually look at the statements themselves, though you cannot look at the articles of impeachment to figure that out.

And fourth, you cannot base a conviction of anybody, and certainly not an impeachment case, on the testimony of Bud Holmes and Wiley Fairchild. They are witnesses without credibility. In fact, the House managers do not even attempt to defend them.

If you conclude that the House managers have failed to confirm any of these four defenses, you must vote for acquittal. But you also must vote to acquit if you conclude that the House managers simply have not carried their own heavy burden of proof to show their own facts, and I would state that burden simply: You must be sure, you must be sure that they have proved their case. If you do not have certainty on that subject, you must acquit.

And because the credibility of witnesses is important here, if you are not sure which witness to believe, you must vote to acquit because they have not proved their case.

One more key point at this level: Every Senator here who voted to convict Judge Hastings 12 days ago has announced and embraced the principles that a jury verdict, that a prior criminal judgment does not control an impeachment determination. That is the unavoidable meaning of the Hastings conviction.

We demand, as a matter of right, that you accord to Judge Nixon every benefit of that principle. You may not vote to remove Judge Nixon from office because he endured a criminal conviction. You may not even let that criminal conviction influence your deliberation. If you do so, you will be betraying the constitutional principle that was announced by the Hastings conviction.

A first offense materiality: The House managers must prove that each alleged false statement is material. That is an irreducible requirement in a false statement case. It cannot be proved here.

We know from the events in this case that if Judge Nixon had immediately thought of blackmail conversations and told the FBI agent and the prosecutor in the interview, if he told the grand jury, nothing would have happened, nothing would have been different. No charges ever were brought based on those events. There was nothing wrong with those events.

His failure to think of them at the time was literally immaterial.

Indeed, we put it in a question that he raised at the hearing. Judge Nixon is accused of lying about something that had no bearing on anything. And in the Hastings deliberations, at least two Senators, Senator DURENBERGER and Senator LIEBERMAN, have explained not guilty votes on false statement charges on precisely this ground, materiality. You have to believe that the charges matter, that the statements matter, and when you get into article III, there are going to be some statements there that you cannot believe anybody ever thought matters.

He obviously knew about the case, from what I read in the newspapers and what they told him. That is an impeachable offense? That is a very innocuous statement. They are straining at every level, and you cannot buy it.

Second offense, lack of intent: Judge Nixon testified at trial before the House subcommittee and before the Senate committee, and he had told you here today, that the blackmail conversation did not come to his mind. It did not come to his mind when he was interviewed, and it did not come to his mind when he was before the grand jury.

If he did not think of them, he did not intentionally conceal them. It is a simple point. I think you will find most of our defenses, most of our points, are really pretty simpleminded.

The House managers ask you to disbelieve Judge Nixon on this. They claim his testimony is inconsistent. He pointed out to you in passages of our brief, pages 18 to 25, where we give citations to the text, and we show it is inconsistent.

He had the opportunity on a number of occasions to explain why they did not come to mind. He suggested that they were insignificant. He suggested that the whole blackmail allegation was so peculiar and it is so unfounded that it did not come to mind. And those are the other statements they take out of context. But he has always insisted that he just did not think of them.

And there is a distinction he is making here, and it is a lawyer distinction. It is not necessarily a distinction everybody would make, but it shows the kind of cautious, careful witness he is. He remembers the blackmail conversations now. He does remember them. He has an independent recollection of them. So he is not willing to say he forgot them completely.

Lots of people probably would say that. He will not say that because otherwise why does he remember them now? When he was reminded of the blackmail conversations, they came back to his mind. He remembered then, and that is why he describes it the way he does.

But that is the everyday experience of every human being on this planet. Somebody asks you about something and you answer as best you can, and then some time later you think, "Oh, I probably should have told them about that. I left something out, or it did not occur to me to mention it at the time." It is not a horribly sinister thing to have happened.

The House managers suggest here today, though, that you cannot reconcile his testimony at various points of time. Well, you cannot reconcile it if you do not try to, if you do not even admit the other testimony happened. You can reconcile it by understanding this distinction.

But there is powerful circumstantial evidence here which corroborates Judge Nixon. And I want to make clear we embrace circumstantial evidence in this case. It uniformally refutes the impeachment articles. Three other witnesses knew about the blackmail conversations: Wiley Fairchild, Bud Holmes, and Carroll Ingram. They are all witnesses for the House managers, and have already been through this. All three were interviewed just when Judge Nixon was interviewed. All three went before the grand jury when Judge Nixon went before the grand jury, and none of them mentioned the blackmail conversations.

Let us look at why they say they did not mention them. Wiley Fairchild says, "I did not remember them." And he did not remember them until several months later when he was involved in plea bargaining negotiations. He was told that he had to produce a smoking gun on Judge Nixon. So he lay awake nights—that was his phrase, and it is an awful phrase—he said he lay awake nights trying to think of something to tell the prosecutor on Judge Nixon. And then he remembered the blackmail conversations.

Carroll Ingram, I will agree with the House managers on this. I think Carroll Ingram is a witness of absolute unimpeachable integrity. He did not think of the blackmail conversations. It was not until 6 months after the grand jury when Wiley's lawyer tells Mr. Ingram's lawyer, "You know, they are interested in these conversations that happened." Mr. Ingram says, "Oh, I know about those; I can tell them about that." He did not think of it.

What is going on here? The prosecutor's witnesses committed exactly the same supposedly heinous sin that Judge Nixon has committed. But none of the prosecution witnesses has ever been accused of wrongdoing, of any offense in that sequence of events because they failed to mention the blackmail conversation.

This is a point that makes the House managers squirm, and it should. They seek to apply a double standard here. Judge Nixon must remember everything perfectly. That is the standard of testimonial perfection. But their witnesses are not to be held to the same standard. Again, our point is simpleminded. You cannot adopt this double standard.

In fact, even Judge Nixon's prosecutor, a man named Reid Weingarten, testified before the House subcommittee, and he flunked the standard of testimonial perfection. He was asked about the investigation of Petit Boise Island that was conducted in a preliminary manner before the same grand jury. He was asked if he had any part in interviewing any witnesses about it, if he questioned any witnesses before the grand jury.

He flatly denied he had anything to do with it. He specifically denied that he questioned any witnesses about it before the grand jury. He gave false testimony about this. He did question Bud Holmes about that twice, two separate occasions. It is in the grand jury transcripts in our exhibits.

Where is the House managers' outrage over this false testimony by the prosecutor? They do not think he committed perjury there. I do not think he committed perjury there. He did not think of it. He messed up. His testimony was not perfect.

Let me cover a couple more points of circumstantial evidence that establish, nail down, this intent to question. First, he was a complete volunteer. I mentioned it. You had to listen real hard to get that out of the facts that were described here today by the House managers. He volunteered, asked for permission to go before the grand jury. That is a critical point, and you have to give that great weight in your deliberations when you are trying to figure out what was his intent.

A second piece of circumstantial evidence. What was he lying to cover up? What great crime would have been revealed if the curtain would have been ripped aside and the true facts laid bare? Just these dumb blackmail conversations. When the prosecutors found out about them, there were no charges brought about them. There is nothing wrong with them.

You do not even have to take our word for it, though, because we went to the leading judicial ethics expert in the country. We went to Prof. Geoffrey Hazard, of the Yale Law School. You cannot pick up a legal publication without finding some book by him these days. We gave him the facts testified to by Bud Holmes. We do not think you can accept those facts, but we said, "OK, we will pretend Bud Holmes is a credible witness. Take the facts he described, and you tell us, is that a violation, is that an offense?" And in his letter, exhibit 68-A, he says, it is not even an ethical violation. It is not—without even asking if it is a crime—it is not even an ethical violation to have had those blackmail conversations.

Judge Nixon has said it best. He is accused here of having lied to conceal his innocence. He would not have done such a dumb thing, and he did not.

Another piece of circumstantial evidence: Why would he lie to cover up these blackmail conversations when three other witnesses knew about them—Bud Holmes, Wiley Fairchild, and Carroll Ingram. They all knew about it. He knew they were being subpoenaed. There is no testimony anywhere that he told any of them to hush up the blackmail conversation; let us keep this under wraps; we do not want anyone to know about that. In fact, there is no evidence he had any contact at all with Mr. Ingram or Mr. Fairchild about the testimony concerning this case.

Mr. Holmes makes some fairly farfetched allegations that he inferred from Judge Nixon's silence that he was supposed to lie about the blackmail conversation, and I am going to talk about Bud Holmes' credibility.

But another piece of circumstantial evidence, the character witness. We called the leader of the Mississippi bar, the head of the State police, a brother Federal judge, the former supervising agent of the FBI. They were unanimous in their testimony that Judge Nixon has an outstanding reputation for truthfulness.

Part of what you have to do here is to take the measure of Walter Nixon, the man. What has he done with his life? What has he made of his life? A very successful private attorney, had a very profitable practice that he left in his late thirties as a relative young man to serve his country as a Federal judge. He has served on the bench with distinction for more than 20 years. No kind of impropriety or blemish until this event. Although he was appointed by a Democratic President, Lyndon Johnson, in 1968, a Republican administration, the Reagan administration, proposed to elevate him to the Fifth Circuit Court of Appeals in 1982. He declined. He prefers the trial courtroom.

He served on supervisory bodies of the Federal judiciary. He was president of the Fifth Circuit District Judges Association. He has earned the respect of his peers. And every witness before the Senate committee who was asked about him testified without qualification about his ability and integrity and about his veracity.

You must ask why did this lifelong public servant and respected judge suddenly begin intentionally lying to a grand jury to conceal his innocence in July 1984?

A third defense concerns the credibility of the House mangers' star witnesses. You cannot believe Bud Holmes and Wiley Fairchild, and you cannot convict based on their testimony.

I take no pleasure in making this argument. I am sure Mr. Holmes and Mr. Fairchild have contributed to their communities in some ways. But in this case they were placed under extraordinary pressures by the Federal prosecutors and by the judicial system itself. And they lied.

They have lied so often and they have lied for so many different reasons that I could not possibly review them here today. Instead, I want to just review quickly only the lies they have admitted to or the lies that they have been formally charged with.

Mr. Fairchild: He testified at trial he lied when he was interviewed by the FBI. Our exhibit 22. He said he lied during this interview.

He testified at his second grand jury appearance. This is after he made his plea deal. He testified that he lied during his first grand jury appearance. This is our exhibit 30. He said he lied here.

He testified at the postconviction hearing last August, in Jackson, and he testified that he had lied at Judge Nixon's trial. This is his trial testimony. He said he lied.

Then he testified—and excuse me, his testimony there was exactly the same as it was before the second grand jury testimony. That is in November of 1984. That is our exhibit 41-A; he said he lied here, too.

Then he testified, and this is extraordinary evidence and it gives you a flavor for Mr. Fairchild as a witness, he testified before the Senate committee that he has always told the truth in this case. That means a lot of things, I think, but we know it must mean he lied at the postconviction hearing when he said he lied at trial.

We also know what it really means, which is that Mr. Fairchild does not have a clue what the truth is. He does not have much regard for what the truth is.

Bud Holmes: Mr. Holmes is really their key witness. He testified before the House subcommittee that he lied to the FBI, in May of 1984. That is our exhibit 29. He was indicted for testimony before the grand jury in July of 1984. That is our exhibit 32.

This is important. He was indicted here for testimony that did not relate to Judge Nixon, because he tries to say

now and again, well I was just protecting Judge Nixon. But he admitted in this testimony, these lies he got indicted for were not to protect Judge Nixon.

He went to the grand jury in September of 1984, that is our exhibit 33. He got indicted for lying here, again. And he admitted that that testimony he got indicted for was not given to protect Judge Nixon, it has nothing to do with Judge Nixon.

He went to the grand jury in February of 1985. This is an important trip to the grand jury. I am going to come back to it real soon. He got indicted for lying then and he pled guilty to lying on this trip. And here is where he tried to claim that he was protecting Judge Nixon. That is a tough claim to follow because he says, I went to see Judge Nixon and he denied that the phone call ever happened. But then I went in the grand jury and I lied and I said that he remembered that the phone call happened but he really did not, so I lied then and I am telling the truth now.

Boy, that is tough to put much faith in.

But, when we cross-examined him about it he admitted that the testimony he really did give here, in this February 1985 grand jury, that that testimony did not actually protect Judge Nixon.

In the House subcommittee we confronted Mr. Holmes with the civil deposition he gave on these matters in 1987. He said his testimony was not accurate there, either.

Then there is his written affidavit, and I have to take a second on this one. Maybe it is just a point of personal privilege here. I interviewed him to prepare this affidavit. It is in the materials. It is an exhibit. And we told him, Mr. Holmes, we just need the truth. He has testified to this. That is what we said. Do not tell us anything that is not true. We have enough trouble without more lies.

Based on the interview we prepared an affidavit and we read it to him over the phone, with his lawyer on the phone, and we said: Is this true, Mr. Holmes? Do not sign it if it is not true.

He said, it is true.

His lawyer said, oh, it is true.

We sent it to him, we sent it to his lawyer. He signed it. He tells us he read it before he signed it.

And then he told the House subcommittee it was false. He said it was a lie.

But Mr. Holmes gets extra credit. He did not just lie himself. That is how extraordinary a witness he is. He tried to get other people to lie and they have never mentioned that. They have never told you even one word about that.

In February of 1985, Bud Holmes got subpoenaed to the grand jury again. He knew the prosecutors were going to question him about the blackmail conversations. So he went to Carroll Ingram and he asked Mr. Ingram to change his testimony. There is no pretty way to describe this. He suborned perjury. And Mr. Ingram showed him the door.

Then he went to Katie Matison. Katie Matison had worked for him, she had been the assistant district attorney and she had some responsibility for Drew Fairchild's case. And he said, Katie, you know, you did everything in that case. You were the person that made the decisions. I did not have anything to do with it. He tried to get her to lie for him. He suborned perjury again. She showed him the door.

Then he went to see Walter Nixon and he reminded him of the blackmail conversations and he said, those really did not happen, did they? And Judge Nixon said, you know they happened and there was nothing wrong with them and if I am asked about them I am going to tell them about them. And then Bud Holmes went to the grand jury and he told them that was what he said, except now he says he was lying when he said that.

This credibility problem, this credibility issue, is a big problem for the impeachment articles because Bud Holmes' credibility is essential for their case. He is the only witness who claims that Judge Nixon said Wiley Fairchild had asked him to put in a good word for Drew. I wish I had a nickel for every time I heard that phrase. It comes from no one but Bud Holmes.

Wiley Fairchild says, I never asked him to do that. Judge Nixon says he never asked me to do that and I never said it to Bud Holmes.

The circumstantial evidence flatly contradicts him about the entire conversation. Carroll Ingram says he was not even at Bud Holmes' office at the time Bud Holmes claims he was. Only Bud Holmes claims that and you have to believe Holmes to buy their case.

A second point. Bud Holmes is the only witness who claims he told Wiley Fairchild and Judge Nixon that he would pass Drew's case to the files. They have hung a lot on that. Bud Holmes promised to pass the case to the files. He is the only guy who says he said it. Wiley Fairchild never heard it. He is the guy on the other end of the phone. He says, no, Bud Holmes never told me that.

Judge Nixon never heard him say that. The circumstantial evidence flatly contradicts Mr. Holmes. Only Bud Holmes claims that. They need you to believe Bud Holmes. And he is the only witness who says that he passed the case to the files because of those blackmail conversations.

The circumstantial evidence that I outlined here clearly shows that he did it because Bill Porter came to him. Judge Nixon refutes that there was any conversation about passing the case to the files. Wiley Fairchild does, too. He says there was no such conversation. They need you to believe Bud Holmes on that.

And he says the blackmail conversations happened in May of 1982. No other witness says that, not Carroll Ingram, not Wiley Fairchild, not Rodney Fairchild—who is Wiley's brother—not Judge Nixon.

I want to take a second on the date of the phone call. Mr. Majority Leader, I may blow it on time so I am going as fast as I can.

Mr. MITCHELL. Take your time.

Mr. STEWART. This was the key issue at Judge Nixon's trial. The prosecutor states his case that the phone call happened before Mr. Drew's case went to the files. It is really not the key to the whole case, but through the alchemy of the trial process, it became the key, then.

There is some awfully strange testimony about that. Wiley Fairchild—this was amazing stuff—in the Senate committee, he marched into that Senate committee 7 years after the event. He had testified on five occasions, twice before the grand jury, twice in court, and once before the House subcommittee, on exactly this subject. And for the first time in his life Mr. Fairchild testified that those conversations happened on December 1, 1982.

It came to him out of the ether. All of a sudden, he has had this epiphany, it happened on December 1, 1982. They do not even mention it in their briefs, it is so embarrassing to them. They do not even mention it here, it is so embarrassing to them. It raises some big questions.

What kind of witness is Wiley Fairchild that he has to keep making up new stories? Does he not have any idea what the truth is? What kind of case do they have, relying on this man? But there is another question here. How can you convict when their two witnesses, their two star witnesses, Bud Holmes and Wiley Fairchild, have directly opposite testimony on this?

Bud Holmes has said over and over it happened in May of 1982. Wiley Fairchild said it was in December. That is a big difference. It does not fit.

But the key point here is that neither date makes any sense. This is testimony that they have all cooked up at different times.

Let us go back to the circumstantial evidence. When you have conflicting testimony, when you have witnesses you cannot make any sense out of, you have to go back to the circumstantial testimony, something you can get your hands on. Mr. Fairchild, for all his confusion every time he testified, has said that he wanted to talk to Judge Nixon because he was upset about the publicity about Drew's case. Judge

Nixon has testified that when he had the conversation with Wiley Fairchild, he remembered he had read something about Drew's case in the newspaper. Rodney Fairchild, also associates the blackmail conversation which Wiley told him about at the time, he remembered them happening about the time of publicity.

So we went to look for publicity, and we presented the evidence we found. The House managers never went to look for it, and they never presented any evidence on it. It is undisputed there was no publicity for months before May 1982 when Bud Holmes said those conversations happened. None. It is undisputed that there was no publicity for months before December 1982. In all of 1982, there was no publicity about Drew Fairchild's case.

The publicity came in January 1983, after the case was passed to the files. The publicity was about the case being passed to the files. That was the only newsworthy thing that ever happened.

Think about it. He pleads guilty in January 1982 and nothing happened for a year. How could there have been any publicity? There was nothing to write about. It is consistent with Judge Nixon's recollection that it happened in March 1983, this circumstantial evidence. It is consistent with Carroll Ingram's recollection it happened within 3 or 4 months of late 1982. In fact, it is consistent with Wiley Fairchild's testimony last August.

With Mr. Fairchild, you have to identify which time you are relying on, which piece of testimony. In last August, his testimony now says he cannot remember. The transcript shows he said the conversations happened after the case was passed to the files and then he lied about it at trial in order to curry favor with the prosecutors.

But there is another piece of circumstantial evidence here, another piece you can grab on to with both hands. Both Judge Nixon and Wiley Fairchild remember and have always testified that Mr. Fairchild told him Bud Holmes is blackmailing me. I think maybe Carroll Ingram is in on it, too. OK, there is a fact; there is something we can grab on to.

How do we get Carroll Ingram into the picture? Mr. Fairchild has said always Carroll had nothing to do with the case until he brought the order to him on Christmas 1982 passing the case to the files. That is when Carroll is involved. That is when he started to suspect that Carroll was involved in this case and involved in the blackmail.

Here is a firm anchor, another one. Since the date when he received the order passing the files is when he began to suspect Carroll Ingram, he could not have had the conversations before that date. That is precisely as Judge Nixon has testified.

While I am on credibility, I do want to spend a minute on Mr. Ingram. He is a witness of solid credibility, but I want to stress one more time, if you believe his testimony and the House managers try to grab shreds of his testimony and say that he really supports them. Look at his videotape, if you are even tempted for an instant to believe that. I wish I could show it here today because he supported us.

If you believe Carroll Ingram, you acquit Judge Nixon because Carroll Ingram said, I knew about those blackmail conversations and I did not think of it. And Carroll Ingram says, I did not really have a discussion. This was not a discussion; it just came up. If you believe Carroll Ingram, you have to acquit.

I have been pretty harsh about Mr. Fairchild, and about Mr. Holmes. So I owe you an explanation of what their motive is for all of this lying. I cannot claim I can explain it all. But look at the pressure they were under. Mr. Fairchild was told he had to come up with a smoking gun to get a plea bargain. We have documented through the testimony of John Baltar, his assistant, and his lawyer, Karl Kepper, that Wiley changed his story. He changed his story on three facts to satisfy the prosecutors and get his plea bargain: On the date of the blackmail conversation, on the date of the investment, and who placed the telephone call from Bud Holmes' farm.

When I say them out loud in this august body they sound so trivial, but at trial, read the closing statements, we took the strange step, we made the prosecutor's closing statement an exhibit in our behalf because he hung the whole case on those three dumb facts. He was a very, very good prosecutor, but you have to understand that he got Mr. Fairchild to change his testimony on those facts.

Mr. Fairchild had trouble remembering those facts so they prepared scripts for him, Exhibits 37 and 38 and 39. The originals had yellow highlighting for the really important facts he had to remember, the ones he was changing. There are arrows all through it. We even have a couple in the prosecutor's own handwriting. They are skeletal. They are to give Mr. Baltar the idea of how he is supposed to coach Wiley Fairchild to give his new testimony.

Mr. Fairchild got value for his new testimony. He got a plea with a sentencing recommendation of no jail time, a free walk. That is pretty good. He got a promise that the prosecutors would help him get an executive pardon. He got a promise that he would help with Drew's case, and you know, they did, they made good on this promise because a couple years later, actually it was only 6 months later, excuse me, Judge McKenzie—and I am jumping around but stay with me—Judge McKenzie, a State court judge, says, I am not going to respect that plea bargain. This guy is a drug smuggler. What does the prosecutor do? He races into court, races into his grand jury, and indicts Fairchild to preempt the prosecution.

He is moving heaven and Earth to make some kind of case against Judge Nixon, and he is trying to save the drug smuggler from going to prison for too long, and he did it. Judge McKenzie was going to give him 5 years. A Federal prosecutor made sure Drew Fairchild only got 6 months. He is the guy who helped the drug smuggler, not Walter Nixon.

They also promised to help him retain his eligibility for contracting with the Department of Housing and Urban Development. I could not have made that up for this timing right now. That is what it was. He wanted to be eligible for HUD contracts, and they promised to help him with it. He traded his testimony for a very good deal.

But Holmes, he was told right before he was going to be indicted in March 1985, that if he could fill in a few gaps in the investigation, then he would not even have to be indicted. The prosecutor said to Mr. Holmes, you are a savvy guy, you know what I mean. And he knew what he meant. We all know what he meant. Give me Walter Nixon.

I will say this for Mr. Holmes, he did try to hold out. He would not make a deal there. He got indicted, but during jury selection, his nerve failed him. He cut a deal. It was another sweet deal. He pled guilty to a nonfelony, contempt of court. He was standing trial on five felony counts. He got a nonfelony, contempt of court, and he did not spend a day in prison.

You ought to know that Federal prosecutors tried exactly these same tactics with two other men in the Petit Bois Island case, that parallel grand jury investigation. John Stocks and Eugene Lewis were two men from Florida. The prosecutor said you do not have to be indicted either; give me Walter Nixon. They said we do not have anything on Walter Nixon, so they got indicted and they went to trial. They did not cook up any stories, and they got acquitted.

You know that Bud Holmes and Wiley Fairchild have lied. They told you that. You know that Bud Holmes has asked others to lie for him. You know that both men bought sweet plea bargains with their testimony, and you also know they now face a perjury prosecution of their own if they try to go back on what they told the prosecutors after they made the plea deal. They are now hostages to their own lies. Mr. Fairchild is just such a strange witness that he goes back and forth anyway, but Holmes

knows that, so he has to stick to his new lies. And you cannot convict on their testimony.

Our final defense—and I am not sure I am going to make the deadline, literal truthfulness—it makes no difference what was in Judge Nixon's mind. I am being a lawyer here, 100-percent lawyer. If he wanted to lie up, down, and sideways, you cannot convict him if what he said was true.

If he spoke true statements by mistake, you cannot convict him. And when you look at the actual statements, when you look at what he really said in the transcript, do not look at the way they molded it and they chopped it up and they paraphrased. Do not look at that. Look at his testimony. You will discover that they are entirely true.

Article I, Judge Nixon told the grand jury that he did not recall Bud Holmes discussing the Drew Fairchild case with him. There are at least four aspects of this testimony that establish its truthfulness.

First, it is clear from Fairchild's testimony and Judge Nixon's testimony, both of these concerning blackmail. They did not concern Drew's case. Mr. Fairchild said he was not seeking favors for Drew; he was trying to get Bud Holmes off his back. If Bud Holmes had wanted to prosecute Drew, that was fine. He should prosecute Bob Royals, too, and he should stay off Wiley's back.

Judge Nixon thought exactly as he should have, this is blackmail conversation, and his statement that Mr. Holmes did not discuss Drew's case with him was absolutely true.

There is a second point here, though, and this is critical. This is one of the things they never tell you about. Judge nixon mentioned it, though. We do have one piece of evidence, one piece of testimony that is now uncontradicted, and in this case, it is tough to find uncontradicted testimony. So again grab on to it with both hands. Bud Holmes and Judge Nixon agree that when Mr. Holmes said, let me tell you about Drew's case, Judge Nixon said, no, I don't want to hear about it. He stopped him. He prevented him from telling him about it.

This is important. If he had stopped him from telling him about the case, it has got to be true when he says Mr. Holmes did not discuss the case with him.

Put it in your own terms. Someone walks up to you when you are talking on the street. Senator, I want to talk about bill No. 642. You say I do not have time now. I do not want to talk about it.

When you are asked about it 2 years later, did you discuss bill No. 642 with Mr. X, assuming that you would remember this conversation, which, of course, I really do not think you would, of course you can say, no, there was no discussion.

This is not a sophisticated argument. It is not a clever argument. It is just common sense.

You also have to look, though, at the way the question was asked because there are two clear ambiguities there. First is the term "discuss." There were two witnesses who were asked this question in some sharp questioning by the Senate committee members. Carroll Ingram was asked about it and one of our character witnesses, Will Denton, who was a lawyer. They both answered like a lawyer would answer and like a judge would answer. They said discuss means more than just a passing mention and, in fact, they even suggested that discuss might mean suggesting about influencing the case. It has another meaning, another layer of meaning. This sort of glancing exchange that occurred between Judge Nixon and Bud Holmes was not a discussion.

There is the further ambiguity of the Drew Fairchild case. The investigators had told him they were investigating how the case went from Federal hands to State hands. That is what he thought they were asking about Drew Fairchild's case. He had no knowledge of that. He had no involvement. There was no evidence that anyone ever discussed that with him, even raised the issue. And when he answers no, he does not recall any such discussion, that is what he is answering.

Article I, you cannot convict on.

Article II, here the impeachment article parts company with Judge Nixon's actual testimony. You have to be very careful. You know exactly what his testimony was. Even after they amended it a few weeks ago, article II still distorts that testimony and takes it totally out of context. It compresses 24 lines of transcript into 6 lines of paraphrase and little bits of quotes. That is another red warning signal. They are playing with the facts.

Let me deal with the testimony charge in article II in three parts.

First, the allegation that Judge Nixon supposedly falsely stated that he had nothing to do with Drew's case in Federal court or State court. Of course, that was true. To the extent he could think about those conversations, he thought of them as blackmail conversations, not about Drew's case. That is what Wiley testified and that is what Judge Nixon testified to. But, moreover, Judge Nixon had no role in Drew's case. He played no role in it, had no involvement in it. All the witnesses agree that he was not asked to play any kind of role in it.

Mr. Fairchild says he made a blackmail complaint and he sought no advantages for Drew. Bud Holmes agrees that Judge Nixon did not ask for anything, he did not ask him to do anything, and when Mr. Holmes claims that he volunteered to pass the case to the files, Judge Nixon said I am not asking you to do anything.

But look at his grand jury testimony, too. The testimony is that he had nothing to do with the case in State court or Federal court. They want you to read right over that when they tell you about that here today. You lose all those words. They are really trying this case against 6 words and then they leave out 5 words and then want to try it against the next 6 and leave out the next 12. You cannot let them do that.

He had no involvement in the case in Federal court or in State court under any construction of the evidence. His statement was true.

Then article II moves from mere distortion to gross distortion. It accuses Judge Nixon of falsely testifying that he never handled any part of Drew's case, never had a thing to do with it at all. They have not told you his full statement again.

His testimony was—and I am going to maybe bore you with it—and I am quoting: "I never handled any aspect of this case in Federal court. As you said"—this is the part they left out. "As you said, Judge Cox handled it. I don't know. Somebody told me maybe Judge Russell handled one of the other defendants also, but I never handled any part of it, never had a thing to do with it at all."

He was saying I was not the judge in the case. You would not know that from the impeachment article. You would not even have a hint of it. They took out all those words in the middle. You have got to look at the whole testimony. It is true he was not the judge in the case. He never had a thing to do with it at all as the judge in the case. His statement was true.

Finally, we come to the part of article II that even the House managers have admitted was wrong. This is the part they had to amend. Before the allegation was that he did not attempt to influence anybody. Now the allegation is that he said he had not influenced anybody.

It was absolutely true because the blackmail conversations occurred in March 1983, and I have gone through all of that. After Drew's case was passed to the files, they cannot point to a single event that indicates that he influenced the case. Mr. Holmes and his tired old testimony says it was somewhere in the back of my mind 7 months later when Bill Porter came to me and said please help Drew's case, one of the reasons I did it was because I talked to Judge Nixon 7 months ago and told about Wiley Fairchild.

Nobody says it happened months ago. It does not make any sense he waited 7 months before he did it. It is absolutely incredible.

But let me take Mr. Holmes' testimony, all of his testimony, on this point, because when you look at it hard, it supports us. He claims that he told Judge Nixon that he could pass the case to the files and the judge said, I do not want you to do anything. And he says that after that one of them said—he does not remember—one of them said, let us call Wiley and tell him about Drew's plea bargain, the preexisting plea bargain, not that the case be passed to the files but the plea bargain that was from months ago.

Stop and think about it. Mr. Holmes says they——

The PRESIDENT pro tempore. The time of the respondents has expired.

Mr. MITCHELL. Mr. President, I ask unanimous consent that counsel be permitted to continue for such time as he needs to complete his argument, and that an equal amount of time be added to the closing argument of the House managers, if they choose to use it.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. Stewart will proceed for such time as is required for him to complete his argument.

Mr. STEWART. I appreciate the Chamber's courtesy, and I apologize for my long windedness. I have worked on this case a long time and I have a lot on my mind about it.

All right, we are at the point where they are making the phone call and they are making a phone call for only the reason of telling Wiley about the preexisting plea agreement and they tell him, according to Bud Holmes, about that. And then Judge Nixon hands him the phone and walks away, and this is where Mr. Holmes says I volunteered, told Wiley I could pass it to the files. Wiley did not hear him say that. Judge Nixon did not hear him say that.

So what we know is that when Judge Nixon walks away from that telephone all he knows, even according to Bud Holmes, is that he was told there is a preexisting plea agreement, that it was told to Wiley Fairchild that it was going to be respected.

He did not influence the case even one instant. There was a suggestion made here, which I do not understand, earlier today, that somehow Judge Nixon's testimony here also is false because he somehow influenced Wiley Fairchild. I am not sure I heard that right because I do not understand it. If that is explained to you in the rebuttal, maybe I will understand it better. It does not make any sense. Wiley Fairchild was a bystander. He was not a defendant, and he was not a public official. I do not understand what they are talking about.

Article III—we have been forthright in our condemnation of article III. It is a prosecutor's trick bag. It is designed to make it easy to convict. You heard them tell you today we have given you 14 charges; you only need to find 2, just 2—pick from our list, 1 from column A and B. You do not need a two-thirds majority on any of those. Just pick two. They want you to gut the Constitution.

They have also introduced it with a lot of rhetoric, empty rhetoric, I think, about doing embarrassing things, bringing on the Federal judiciary. That is not what the Constitution says. It says high crimes and misdemeanors. If they cannot prove them, they should not allege all this other stuff.

The House managers defend article III. They call it an omnibus impeachment article, and they say there have been omnibus impeachment articles before. They are right. There have been. We also used to cut off people's ears for punishment, and used to brand them with hot irons. We outgrew those barbaric customs. I hope someday soon, real soon, we will outgrow omnibus impeachment articles.

The first instance of an omnibus impeachment article that I can find was article XI, and impeachment articles against President Andrew Johnson in 1868. That impeachment effort still stands as one of the most shameful chapters in Congress' history, in our Nation's history.

A Member of this Senate, John Kennedy, wrote about the Johnson impeachment in his book "Profiles in Courage." President Kennedy described the omnibus clause against President Johnson. He described it, and I am quoting: "as the deliberately obscure conglomeration of all the charges in the preceding articles." That is pretty good. I cannot do as well. President Kennedy pointed out that the House managers in the Johnson case called for the first vote in that case to be on that deliberately obscure impeachment article because it was thought to be the easiest way to get a conviction.

Omnibus impeachment articles are no less hateful now than they were in 1868 when President Johnson stood before this body, or when they were in 1954 when President Kennedy wrote his book. We must insist that the House managers prove each and every one of those 14 alleged false statements. There are no shortcuts in the impeachment. You must insist that you will not vote for impeachment if you are in doubt as to even one of those.

The framers of the Constitution intended impeachment to be a solemn and grave proceeding with the Senate carefully weighing evidence on specific and carefully drawn charges. They did not intend for Federal judges to be removed from office based on a deliberately obscure conglomeration of charges. The framers would cry out in anger to see the abuse of the impeachment procees that is involved.

I take some heart, perhaps foolishly, in the Senate's recent rejection of the omnibus impeachment article against Judge Hastings. That was article XVII in his case. You have an opportunity in this case to send a second and unmistakable message that you will no longer permit the trivialization of the impeachment process by such gamesmanship.

I am over on my time. I want to make a few specific points about article III, the specific allegation.

They charge seven supposed false statements in the interview. We insist that there was no proof of Judge Nixon's intent to deceive anywhere, but for the interview the proof of intent is even less. He was caught cold. They walked in, he had no warning. He had no time to prevaricate. He had nothing. He just answered cold. There is no basis for an inference of intent here. Those charges cannot be supported on that circumstantial evidence.

Six of the fourteen statements simply repeat the charges from articles I and II. In each of the other allegations, though we insist that Judge Nixon's testimony was true, there was talk here about how somehow we concede it was not true. I do not understand that. Read our brief, page 92-101. We take on every one of those allegations. They were all true statements.

But I want to highlight two of them to give a flavor of what we find so wrong in this impeachment article and these impeachment articles. Article XXXI(a), the claim is Judge Nixon falsely denied during the interview that Wiley Fairchild had discussed Drew's case with him. Wiley Fairchild testified that he did not discuss Drew's case with Judge Nixon. Judge Nixon testified that they did not discuss the case. That is the entire evidence in the matter. Two witnesses, two parties to the conversation, they did not discuss the blackmail conversation, talked about blackmail allegations. There is no evidence to support the allegation. The allegation was made at Judge Hastings' trial with respect to his grand jury testimony, identical to grand jury testimony. He was acquitted on that.

The House managers, evidently, did not have the courage to take on that jury acquittal. So what they did is they did not charge the grand jury testimony was false; they charged that his interview testimony was false. That is very clever. That is very subtle. The Constitution and the impeachment process in this body should not be about such subtle and clever games. His testimony was true, the jury found it was true, he must acquit on that charge.

Article XXXII(c), this was grand jury testimony. The alleged false statement is that Judge Nixon gave the grand jury all the information that he had and that he could and had withheld nothing during this grand jury testimony. That is not what he said. He said "I came here voluntarily and I am very happy to cooperate with this grand jury and give them all the information that I have and that I could. I had nothing to withhold, and I brought everything that you asked me to bring." He said he was happy to cooperate.

That is not what they charged him with. They made up something for him to say that they could charge him with. He said he had nothing to withhold. That is not what they charged him with saying; they made up something for him to charge him with saying. That he did not withhold. He did not withhold anything. I do not have any problem defending even the statement they charge but it gives you a terrific insight into this process. They are charging him with having lied about statements he did not make. They are asking you to send him to dishonor in history for lying in statements he did not make.

In closing, I want to admit that I am not so subtle or clever at these impeachment articles. I recognize that perhaps I have been speaking more bluntly than is wise, and I am sure I have spoken longer than is wise. I can think of no subtle way to make these points.

The impeachment articles in this case presume that you are going to be lazy. The impeachment articles presume that you are not going to know the facts well enough to catch the facts that have been omitted. The impeachment articles presume that you will not actually look at the transcripts of Judge Nixon's testimony, that you will not catch where the attorneys twist his words or leave key phrases out or take them out of context, fundamentally transforming the testimony.

The impeachment articles presume that you will not know enough about the facts of the case to realize that nobody could be convicted on the testimony of Bud Holmes and Wiley Fairchild. They presume that you will not know enough about Judge Nixon's testimony to realize he also testified consistently about state of mind in an interview in July grand jury testimony.

We rely on the opposite. We are relying on your love of country and the Constitution, and your duty, and that it will be so strong that you will be willing to burrow into this horrible stack of materials, and that you will not be blinded by a conviction that should never have happened, and that you will do impartial justice as you have sworn to do.

If you read nothing else, we beg you to review carefully two passages in our brief, packages 17 through 57 of our brief. It is 40 ages where we talk about the intent issue and talk about the facts that they omit.

The second passage is pages 74 through 100. That is where we take each article and show the literal truthfulness of what he said.

We are confident that when you know the facts, you will resolve to vote not guilty, and you will resolve to return this excellent judge to the service of his country.

Thank you.

The PRESIDENT pro tempore. Thank you, Mr. Stewart.

The Chair is in receipt of the following questions by Senators. First, a question to Mr. Stewart or to Judge Nixon.

Mr. MITCHELL. Mr. President, I do not know whether the House managers wish to have their rebuttal now, prior to questions, or whether the Chair wishes to have the questions prior to the rebuttal.

The PRESIDENT pro tempore. The Chair thinks it best in this instance to profound the questions first.

First, to Judge Nixon or his counsel, and then to the House managers. They may answer during their rebuttal, or they may answer specifically prior thereto.

The following question has been submitted by Mr. KOHL of Wisconsin, to Mr. Nixon's counsel. I am reading the question now.

This question concerns Judge Nixon's motion to dismiss article III. That article accuses Judge Nixon of making one or more of 14 false statements.

The House says that a Senator should vote to convict if he or she believes that Judge Nixon is guilty of some but not all of the 14 specific actions described in article III, but does that not mean that Judge Nixon and the American people will never know which particular acts in article III we believe he committed?

Mr. STEWART. I find that a very pungent question. I think that is precisely one of the real flaws of article III, because if each Senator has the right to say, "Well, I am going to vote for impeachment based on articles III(1)(a) and III(2)(g)," and the guy next to you says "I am going to vote to impeach on articles III(1)(c) and III(2)(a)," we do not know what happened. We do not know and your constituents do not know and history does not know what was found to be false. And we do not have a two-thirds majority.

I cannot think of much more to say. I think that is exactly one of the fatal problems with impeachment article III.

The PRESIDENT pro tempore. The second question is by Mr. BINGAMAN. Excuse me. This question is addressed to the House managers.

This question is addressed to both parties, so the Chair will inquire of Judge Nixon's party. The question is submitted by Senators HARRY REID and STEVE SYMMS.

Question No. 1: Since Federal Prosecutor Weingarten and Agent White-Spunner clearly knew about the Wiley Fairchild blackmail allegations at the time of the Nixon interview but did not ask Judge Nixon about these allegations, would you conclude that the interview was set up to trap Judge Nixon?

Mr. STEWART. I do not know; it is possible. Things like that happen. It has been done. I think there is a pattern when you are dealing with a target in a grand jury investigation to try to get them spread on the record. Every lawyer knows how to do that.

I tell you candidly I did that with Reid Weingarten before the subcommittee. I pointed out where he testified falsely. You get him spread on the record and then you poke at him.

They knew about the blackmail allegations, and they never asked about them.

I cannot explain it. I think they need to explain it. I think you need to insist on an explanation, because I do not think there was an explanation.

If I could have 1 second.

The PRESIDENT pro tempore. This question is to Mr. Stewart.

Judge NIXON. May I add something to that, please?

The PRESIDENT pro tempore. Yes, you may proceed.

Judge NIXON. I cannot say definitively, but either it was designed to trap me or they felt it was so immaterial and of no consequence they did not ask me, immaterial to the investigation.

The PRESIDENT pro tempore. The following question is asked of Mr. Stewart by Senator COHEN.

Is it the defense's position that there can be no impeachable offense that is not based upon a criminal act or offense?

In other words, does the phrase "high crimes and misdemeanors" mean that a judge cannot be removed from office for anything but a criminal act?

Mr. STEWART. There is a lot of scholarship on this issue. We think the scholarship that makes sense is it either has to be an illegal act or else it has to be an abuse of office.

When you look at the debates before the Constitutional Convention, there were other formulations of the impeachment clause that were proposed, removable by address, which was the old English system. You did not have to have a reason for removing a judge if you had a majority vote, removal of formal administration. And the framers said, "No, that is too easy."

They used the phrase "high crimes and misdemeanors," and I am not competent to deal with the scholarships, what precisely that meant in 18th century England, but the people

who make sense about this say it is either a very serious offense, which we believe to be a criminal offense, or it has to involve some misuse of office, and of course that is not charged here. There is no misuse of office.

But we do agree that if there was misuse of office, that it was not criminal. And I guess my best analogy—it may not be a great one—would be President Nixon. That was a charge of misuse of office, and some of those articles may not have been criminal. Those would be impeachable offenses.

The PRESIDENT pro tempore. The Chair submits the following question to Mr. Stewart, and it will be asked of the House manager. The question is from Senators REID and SYMMS:

Is there evidence that informer Skip Jarvis' characterization of Judge Nixon in his letter to Agent White-Spunner of the FBI was an attitude held by the prosecution in Judge Nixon's trial?

Mr. STEWART. You bet. What is referred to there is Skip Jarvis is the guy who made the first anonymous allegation against Judge Nixon.

He wrote a letter to the FBI after Bud Holmes was convicted after plea bargaining, and said, "Three down or four down"—I do not remember the number—"one to go. I am very eager to go after the big prize," and that is what happened here. They were going after the big prize from day 1.

We have all seen it. It is not a pretty thing. It is a disturbing thing when it happens, especially when you get a case like this where you peel away everything that happened and cannot fit anything illegal under there.

But, yes, that was the attitude of the case. That is where they leaned on Bud Holmes and Wiley Fairchild and John Stocks and Eugene Lewis. They were leaning on anybody they could to get that big prize.

The PRESIDENT pro tempore. The third question is by Senators REID and SYMMS. The first is to Mr. Stewart:

We received some evidence that Reid Weingarten, the Federal prosecutor, was involved in preparing a script for Wiley Fairchild's testimony at Judge Nixon's trial.

Are you satisfied that Wiley Fairchild, despite the script, was telling the truth about Judge Nixon?

Mr. STEWART. It is hard to be satisfied about anything, of Mr. Fairchild telling the truth. Now, at trial I think he did lie, and it is clear from the evidence.

The script, John Baltar's testimony is very important about this. We did not present Mr. Baltar as a live witness because we were trying to respect the Senator's concern that we keep moving.

He is a very specific witness on one point. But his testimony about this is pretty disturbing. He describes this process by which two scripts were prepared: one for the grand jury testimony, and one for the trial.

And he said I did not know if it was true or not, but I sure knew Walter Fairchild was changing his story. And that is why we needed the scripts because he could not remember the new story. I think that is really important here. It also gives you some insight into the prosecutor's mindset—what were they willing to do to create these scripts? I held them up before. I have never seen scripts like that in a criminal case before with a key witness. It is pretty extraordinary.

The PRESIDENT pro tempore. The following questions are submitted to the House managers. These are questions by Senators REID and SYMMS. Question No. 1:

Since Federal Prosecutor Weingarten and Agent White-Spunner clearly knew about the Wiley Fairchild blackmail allegations at the time of Nixon interview but did not ask Judge Nixon about these allegations, would you conclude that the interview was set up to trap Judge Nixon?

Mr. Manager EDWARDS. Mr. President, in answer to that question, the prosecutors had no reason to ask Judge Nixon about blackmail. Wiley Fairchild had complained about blackmail, but he did not say that he had talked to Nixon about it. At the time of the interview, there was no reason at all to ask Judge Nixon about blackmail because the prosecutors, the interviewers, would not know anything about blackmail at that time.

The PRESIDENT pro tempore. A question, again to the House managers, by Senators REID and SYMMS.

Is there evidence that informer Skip Jarvis' characterization of Judge Nixon in his letter to agent White-Spunner as "the big prize" was an attitude held by the prosecution in Judge Nixon's trial?

Mr. Manager EDWARDS. Mr. President, this question is about the alleged prosecutorial misbehavior that Mr. Stewart, a very able lawyer, mentioned in some detail. We were greatly concerned about prosecutorial misconduct, and we investigated it and are comfortable that there was none.

I might also add, Mr. President, that the courts looked at it in great depth. There is no evidence, Mr. President, that Skip Jarvis, in his statement that they were going to go after the big prize, was shared by the Federal Government. Not at all. It was Skip Jarvis', that was his allegation. You do not find the Government, the United States, saying anything like that and no evidence to that effect.

Now, about the script. We urge you to look at the evidence. There are no false statements in the scripts. They are truthful, prepared at Wiley Fairchild's request. The courts looked at this conduct and said there was no problem. There was an extensive hearing, almost a full trial, with Judge Nangle, as a result of Judge Nixon's position in habeas corpus. And prosecutorial misconduct was very much a part of the petition in habeas corpus. In a lengthy opinion, 59 pages, Judge Nangle, found no prosecutorial misconduct whatsoever, and it was looked into in great detail, and that was confirmed by the court of appeals.

Mr. STEWART. Is it possible that I could make a comment on that?

The PRESIDENT pro tempore. Senators REID and SYMMS have the following question for the House managers:

We received some evidence that Reid Weingarten, the Federal prosecutor, was involved in preparing a script for Wiley Fairchild's testimony at Judge Nixon's trial. Are you satisfied that Wiley Fairchild, despite the script, was telling the truth about Judge Nixon?

Mr. Manager EDWARDS. Mr. President, I believe I addressed that in my last response. Yes, there was a script requested by Wiley Fairchild, an entirely appropriate request under the rules.

The PRESIDENT pro tempore. The following question by Mr. KOHL, of Wisconsin, for the House managers.

This question concerns Judge Nixon's motion to dismiss article III. That article accuses Nixon of making "one or more" of 14 false statements. The House says that Senators should vote to convict if he or she believes that Judge Nixon is guilty of some but not all of the 14 specific actions described in article III. But doesn't that mean that Judge Nixon and the American people will never know which particular acts in article III we believe he committed?

Mr. Manager EDWARDS. Mr. President, the response of the managers is that each Senator must decide if there is a pattern of falsity which rises to the level of an impeachable offense. A Senator can state his reasons for his vote.

The PRESIDENT pro tempore. The following question by Mr. BINGAMAN addressed to both the House managers:

Question No. 1:

How do the House managers explain why Fairchild, Holmes, and Ingram didn't remember the "blackmail conversations" when they testified before the grand jury?

Mr. Manager EDWARDS. Mr. President, at that time they were trying to protect Judge Nixon, and that was done quite often by them at the beginning.

I might add, Mr. President, if I may, that Mr. Stewart is suggesting that the House of Representatives solely based its case on two witnesses who were not credible: Bud Holmes and Wiley Fairchild.

Mr. SENSENBRENNER made the point, and I would make it again, that you have to look at the testimony of Carroll Ingram, who Mr. Stewart certifies is a reliable witness. Mr. Ingram confirms the testimony of both Wiley Fairchild and Bud Holmes. And I refer you to the record, in instance after instance the judge confirmed it himself. We are perfectly comfortable with the articles of impeachment.

Mr. President, I refer you to pages 49 and 55 of our brief that responds to this allegation.

The PRESIDENT pro tempore. The second question by Senator BINGAMAN to the House managers:

In the view of the House managers, when did the blackmail conversations occur, before the case was passed to the files or after?

Mr. Manager EDWARDS. Mr. President, the blackmail matter occurred before the case was passed to the file. And all three witnesses so testified. And I refer you to the record, Mr. President.

The PRESIDENT pro tempore. The Chair submits the following question to the House managers. The question is propounded by Senator RUDMAN.

Does the House dispute the post-trial discovery of the inducements offered to Wiley Fairchild prior to his trial testimony?

Mr. Manager EDWARDS. Mr. President, the trial court in the habeas corpus proceeding rejected all allegations of inducement. And I refer you, Mr. President, to page 101 of our brief.

The PRESIDENT pro tempore. Was the answer no or yes, to this question by Mr. RUDMAN?

Mr. Manager EDWARDS. The answer, Mr. President, is no, there were no inducements.

The PRESIDENT pro tempore. Then this question by Mr. RUDMAN:

Why should the Senate, then, give his testimony substantial weight?

Mr. Manager EDWARDS. Mr. President, the testimony of the three principal witnesses, Wiley Fairchild, Bud Holmes, and Carroll Ingram, is basically consistent all the way through.

The testimony of Wiley Fairchild referred to in the question presented by the Senator is confirmed by Carroll Ingram and all of the testimony of all of these key witnesses is generally consistent, all the way through, and is ratified and confirmed by Carroll Ingram, who Mr. Stewart certifies is a reliable witness.

The PRESIDENT pro tempore. Senator LEVIN has the following question addressed to the House managers:

Do you agree with Judge Nixon's counsel that his criminal conviction is irrelevant to these impeachment proceedings?

Mr. Manager EDWARDS. Mr. President, I said in my opening remarks that at the beginning of the impeachment inquiry by the subcommittee I chair in the House of Representatives we agreed that the facts surrounding the conviction would be examined, but the fact of the conviction is not persuasive. Certainly there have been many convictions based on false evidence on all kinds of other causes in the history of our country. So conviction alone cannot be persuasive to impeach anybody.

The PRESIDENT pro tempore. The Chair submits the following question to both parties, first to the managers on the part of the House: Question by Mr. COCHRAN, first to the House managers.

Was any evidence obtained during this impeachment proceeding that Federal prosecutors considered Judge Nixon a "big prize" because the Department of Justice was irritated and embarrassed by Judge Nixon's decision against the government in the Petit Bois Island case?

Mr. Manager EDWARDS. Mr. President, no such evidence was received. We knew about the Petit Bois matter. We have looked into it to some degree.

Skip Jarvis, referred to by Mr. Stewart, was the only evidence, if it could be called evidence, in his letter, that Judge Nixon was the big prize. He was not considered the big prize, to our knowlege, by the Federal investigators or the Federal prosecutors.

The PRESIDENT pro tempore. The same question is addressed to Judge Nixon:

Would the judge prefer that the Chair repeat the question?

Judge NIXON. Senator COCHRAN, I think the evidence shows that Mr. Stocks and Mr. Lewis made statements to the effects, to the news media, and other statements, that the Federal prosecutors stated that if they would give me to them, they did not have to be indicted. And I think that shows one of the things that was brought out, how relevant it was.

A parallel investigation was going on before the same, very same grand jury at the same time as this investigation, using the same grand jury. And that case was transferred to Birmingham for trial and they were both acquitted by the judge when they would not make the deal, when the prosecution went forth, because they would not—they stated they could not and would not give them the answers, give the Federal prosecutors the answers they wanted because it was simply not true. I was given nothing. There was no bribe, bribery; no improper action whatsoever.

The PRESIDENT pro tempore. The Chair is in receipt of only one remaining question that is addressed to Judge Nixon by Senator MACK. There is a lengthy premise.

At the criminal trial Judge Nixon testified as follows:

Question. You told us that you went to that grand jury or when you were at the grand jury you were aware that you had seen Wiley on a night several years before, or I should say an afternoon, that you were at the farm and passed on the blackmail complaint of Wiley's to Bud Holmes, right?

Answer. Right.

Question. And that Bud then made a phone call to Wiley, which surprised you but it did occur; right?

Answer. Yes.

Question. And you're in the grand jury. Were you aware at that time, did you remember those events?

Answer. Yes.

At the Senate proceedings Judge Nixon testified as follows:

The CHAIRMAN. You told the grand jury that you never talked with anyone about the case; is that true or not?

Judge NIXON. Mr. Chairman in my judgment that is true, because I didn't talk about the case, I talked about the—going back and looking at it now, it was the blackmail matter. But, as I told you, I did not even recall that. I didn't recall March 11th events. It was nothing then, one little day in my life involving a few minutes that amounted to nothing, resulted in nothing, and apparently cleared up something, and I guess that is why I didn't recall it. But I did not recall it. I wish I had. I wish they had asked me a question concerning blackmail.

Now the question by Mr. MACK:

Could you reconcile your statements for the record?

Judge NIXON. Senator MACK, I think it is appropriate that I personally answer that question because I am the one who can answer it, the only one who can honestly say what was in my mind, what I meant by it.

I certainly had recollection. That is, I did not ever deny that these conversations took place. As I stated, they did. But I was aware of them, in other words. But as I stated it, they did not come to mind. They did not come to mind for several reasons. The primary reason was, I assume—and I have to go back and try to figure out why. No one can say why he did not remember something or it did not come to his mind, although it was in his recollection, because if it had, he would have said something about it.

But Weingarten, Mr. Weingarten told me before the interview that what he was investigating—and this is without dispute, no dispute—he was investigating whether my friend's oil and gas royalty purchase from Mr. Fairchild was imbalanced; the handling of the Drew Fairchild case on the Federal level. That is why it was not prosecuted by the Federal prosecutor and why it was steered or how it was steered and why, to State court, and whether there was a connection between these two events.

And that, in my mind, is what was being investigated. He told me that is what the focus was and, of course, all of the news media stories zeroed in on that. There was never any question about the blackmail; there was never any mention about the blackmail conversations; there was never anything in the news media about blackmail. So, consequently, my attention was focused and channeled in that direction by the prosecutor.

There is one more matter that I want to mention in answer to that question without going into too much detail. I knew they were investigating me on the charge of illegal gratuity. I knew as a lawyer and a judge that in order for there to be a crime of illegal gratuity there had to be an official act by a Federal judge, and certainly any conversation that I had with a State prosecutor or somebody else about a

State court case could not and would not constitute an official act.

I guess for those reasons it did not come to mind. When it did come to mind when Holmes mentioned it in February, as Mr. Stewart said, I told him that certainly the call was made to Bud, despite the fact he was insinuating it was not, it was perfectly proper, unless you said something to Mr. Fairchild on the phone that I did not hear and I did not hear that conversation, if you read the testimony, because of the records being played, et cetera. Since there was no official act involved, and this took place in March of 1983, long after the oil and gas transaction was concluded in 1981, certainly it could not have pertained to what they told me they were investigating.

That is why it was in my recollect, of course, and I never denied that at all, but it did not come to mind at all in answer to those questions asked of me. If they had, certainly I would have answered because I had nothing to hide, for one thing; I had no motive. What motive would I have? I had done nothing wrong. That is proved by the evidence. I had not committed any corrupt act or any criminal act, whatsoever. The conversations with reference to blackmail were perfectly innocent conversations. So why would I lie to cover up my innocence? Why would I tell something intentionally false to cover up something I had not done?

The PRESIDENT pro tempore. Senator EXON submits the following question addressed to the House managers:

The defense maintains that the prosecutors overreached to gain criminal conviction. Was this considered by the House in their action, and what is your answer to this allegation?

Mr. Manager EDWARDS. Mr. President, the defense never offered any proof or any evidence to the effect that Judge Nixon had not received a fair trial. When we got around to that, that was in the petition for habeas corpus to Judge Nangle, and a very thorough review of all of the allegations of prosecutorial misconduct, improper influencing of witnesses and so forth was examined in detail. All of the allegations were found to be false. Judge Nangle found against Judge Nixon, and his decision was affirmed by the appeals court.

The PRESIDENT pro tempore. This question is submitted by Senator KOHL. It is addressed to the House counsel.

Assuming Judge Nixon concealed information from the grand jury, is this the same as perjury?

Mr. Manager EDWARDS. Mr. President, the managers firmly believe that if you make an affirmative statement to a grand jury and purposely leave material facts out, that would constitute perjury.

The PRESIDENT pro tempore. Senator MURKOWSKI asks the following question of Judge Nixon:

When you became aware of the conflict in your testimony, why did you not attempt to correct your testimony before the grand jury?

Judge NIXON. Senator MURKOWSKI, first, there was no conflict in my testimony. Second, I think I have answered that.

At that time, we learned that I certainly was a target. I had gone before this grand jury at my request. The prosecutors knew they had no sufficient evidence of the illegal gratuity and pursued it. They had me indicted for it. They had me tried on the corruption charge, although they knew they could not sustain it.

By that time, my attorney and I, after discussing it, knew that no matter what I did by going back before the grand jury that I was marked, I was targeted and anything that I went back in there and said would not make any difference. I knew that I never intentionally lied about anything. I gave true answers based upon what I thought was the focus of the investigation at that time. I think anyone here would have done the same under the circumstances. The news media never, ever said anything about a blackmail allegation. There was never any question asked of me about a blackmail allegation. I knew that nothing with respect to that would constitute any kind of official act or crime on my part, and so there was no need to go back.

I would like to ask a question. If they thought it was improper, if they thought it was important, why did they not subpoena me or ask me to come back? I submit the reason was they did not want to pursue that, they did not want a clarification. They wanted an indictment, and they got a big prize, indictment.

Mr. STEWART. Mr. President, may I add one point on that?

The PRESIDENT pro tempore. Very well.

Mr. STEWART. I will be brief because this asked a question what I do for a living, which sometimes deals with targets of grand jury investigations and grand jury subpoenaes. If you are the target, you do not go before the grand jury without immunity, and you do not get immunity if you are the target or the big prize.

Judge Nixon's decision not to go before the grand jury in 1985 would not be second-guessed by any lawyer in this country who handles grand jury cases. In fact, what they would second-guess is the fact he went before the grand jury the first time. That is the action when he talked to a lawyer, they all said, "Oh, my God you mean he went in front of the grand jury?" You do not do that. They trap you. You get stuck. You make a mistake and they have you. His not going back in 1985 is absolutely something you cannot second-guess. Thank you, Mr. President.

The PRESIDENT pro tempore. The House managers will respond to this question by Mr. BUMPERS.

If Judge Nixon had been a next door neighbor and good friend and not a business partner from whom he had received a lucrative deal, would Judge Nixon's conduct have been improper?

Mr. Manager EDWARDS. Mr. President, that is a helpful question because it gets us back to the essence of the case. The House brings to the Senate charges of not telling the truth, the three impeachment counts. The three are all evidence of lies by a Federal judge. In each case, the lie is a felony, and that is what we are talking about in this case and that is all: lies to the interviewing officers, an FBI agent, an agent of the Internal Security Division of the Department of Justice, and lies under oath to a grand jury, all of which are confirmed by three witnesses and, in some instances, by Judge Nixon himself.

And each of the three witnesses support the other, and each of the three witnesses' testimony is basically consistent in every appearance.

The PRESIDENT pro tempore. Senator THURMOND has this question addressed to Judge Nixon and to the House managers.

Judge Nixon first.

Judge Nixon claims the conversation between him and Holmes occurred after the Fairchild case had been passed to file.

Was Fairchild still concerned with the blackmail matter after the case was passed to file? What was the purpose of Judge Nixon's mentioning this matter to Holmes at his farm if it had already been passed to file in December 1982 and Wiley Fairchild was aware of this?

Mr. STEWART. That is a very good question. Wiley Fairchild was still convinced he was blackmailed because the case came back out from the files. You see, what happened was in Christmas of 1982 Carroll Ingram showed up at the doorstep with this order passing the case to the files. Wiley thinks the case is over. Then 3 weeks later he got all the publicity; Judge McKenzie let's it slip that this order is passed to the files. The publicity hits and then Bud Holmes takes the case back out of files and puts it back on the active docket, and Wiley thinks he is getting jerked around, he thinks he is getting blackmailed. Yes, he did think he was getting blackmailed in March 1983 and in fact 13 months later, in April 1984, when he goes to the FBI, he still thinks he is being blackmailed. It is an excellent question and the answer is he thought he was being blackmailed throughout the case. Yes, sir.

The PRESIDENT pro tempore. Mr. THURMOND addressed the same question to the House managers.

Would the House managers like the question repeated?

Mr. Manager EDWARDS. No, I think not, Mr. President.

We believe that the evidence is overwhelming that the Drew Fairchild case was passed to the file after the meeting at the farm. It was discussed on the telephone call from the farm to Wiley Fairchild. And I think we ought to add, Mr. President, about the blackmail and the attempt by Mr. Stewart to confuse the matter by implying and stating that blackmail conversations had nothing to do with the Drew Fairchild case. Every time blackmail was brought up, it had to do only with the Drew Fairchild marijuana case.

In the committee, here in the Senate, the vice chairman asked Wiley Fairchild, "Mr. Stewart makes a very sharp distinction between discussions about blackmail, on the one hand, and discussions about your son's case, on the other hand. When you talked to Judge Nixon about blackmail, were you talking about something other than your son's case?" And Wiley Fairchild says, "no."

Along comes Senator HEFLIN. Senator HEFLIN says, "All right. So, was there any way that you could discuss the blackmail without mentioning your son's case?" This is a question again to Wiley Fairchild.

WILEY: I don't see how I could have and got the point over.

Last, Mr. President, Judge Nixon draws a series of distinctions here which are fundamentally untenable. He talks about that we had a conversation but not a discussion. The facts are in his recollection but not in his memory. He described blackmail but not the Drew Fairchild case. You cannot discuss blackmail without discussing the Drew Fairchild case.

The PRESIDENT pro tempore. This question——

Mr. STEWART. I failed to answer part of Senator THURMOND's question.

The PRESIDENT pro tempore. The Chair will entertain additional comment.

Mr. STEWART. Thank you.

You asked why did Mr. Fairchild want to talk to Judge Nixon about blackmail, and I sat down too quickly. He wanted to talk to Judge Nixon because he knew he was a friend of Bud Holmes. He hoped Judge Nixon would pass on the message that Wiley didn't appreciate being blackmailed. That was it. That was the whole thing.

And in our brief, at page 79, is the testimony we have cited where Wiley Fairchild distinguished very clearly between blackmail conversation and talking about Drew's case.

The PRESIDENT pro tempore. Senator COHEN asks this question of Judge Nixon:

When did you make the investments with Fairchild and why did you backdate the documents?

Judge NIXON. Whose question is that, Mr. President?

The PRESIDENT pro tempore. Let me repeat it.

Judge NIXON. Whose question? I remember the question. Who asked the question?

The PRESIDENT pro tempore. Senator COHEN.

Judge NIXON. Senator COHEN, my answer to that is this: I am aware of the fact that you—we have voluminous materials. You haven't had a chance to really look into them.

First of all, it is undisputed that the royalty transaction was agreed upon many months before the drug bust, to begin with. It was formalized after in writing, and they knew that Carroll Ingram was the person who told them. I had nothing to do with dating the instrument back. That is undisputed. It was brought to me in that fashion.

I asked Carroll Ingram why that was the case. And he stated that was customary in the oil and gas business so that was valid for several reasons. One is to establish the value of the purchase at the time that it was actually agreed upon because many things happened between that time and the time it was formalized. Every witness who testified, every witness, Wiley Fairchild, even Jarvis testified that that was customary in the oil and gas business. There was nothing wrong with it and, consequently, I was never, I was acquitted for that and many other reasons of the corruption charge.

The PRESIDENT pro tempore. The Chair is in possession of no additional questions.

Under the rule, the House closes the argument. The House has 33 minutes and 30 seconds remaining.

The House managers will please proceed.

Mr. Manager EDWARDS. Mr. President, the managers believe that the rebuttal was adequately covered in the questions and answers.

The House managers thank you, Mr. President, and Members for their courtesy and hospitality today, and we yield back the remainder of our time.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, pursuant to impeachment rule XX, I move that upon the establishment of a quorum tomorrow, pursuant to the live quorum call starting at 1:45 p.m., the doors of the Senate be closed while the Senate is deliberating upon its decisions.

The PRESIDENT pro tempore. Without objection, the motion is agreed to.

Pursuant to the previous order, this concludes the Senate's consideration today of the articles of impeachment.

The Senate will begin its closed door deliberations on the pending motions and on the articles of impeachment tomorrow at 2 p.m. following the live quorum call that shall begin at 1:45 p.m.

Mr. MITCHELL. Mr. President, if we may have order, there will be no further rollcall votes this evening. The Senate will resume consideration of the legislative appropriations conference report tomorrow morning.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

PAKISTANI DEMOCRACY SURVIVES KEY TEST

Mr. CRANSTON. Mr. President, this morning brought the good news from Pakistan that the government of Prime Minister Benazir Bhutto received a clear vote of confidence from the National Assembly, decisively defeating efforts to provoke a political crisis by forces indentified with the previous military dictatorship of General Zia. For those of us who remember the 11 long years of military rule before Prime Minister Bhutto restored democracy to her country, this is truly an important day.

Not only has Benazir Bhutto, a reliable friend of the United States, emerged from this challenge strengthened, but democracy in Pakistan has also been proven to work. Despite the calls from some in the Pakistani opposition for intervention by the military, despite the attempts of some opposition figures to bribe their way to power, and despite a host of other undemocratic tactics used against it, the Government of Pakistan has won an unmistakable victory. The government of Prime Minister Bhutto has reinforced its mandate to remain in office, and the military in Pakistan has reasserted its intention to remain in the barracks.

Pakistan's history has been a sad story of civilian governments busted by military dictators. Military government often has deprived Pakistan of the opportunity to develop democratic institutions, and under General Zia, it actively sought to destroy them. During the Zia years, the opposition was jailed, exiled or executed. The press was censored. Political parties, as well as labor unions and students organizations were banned. In its wake, the Zia government left a nation with a crippling deficit, escalating inflation, rampant disease and widespread illiteracy.

Given this legacy, Prime Minister Bhutto has nonetheless succeeded in

shepherding her nation through its first year of democracy and through a troubled and unsettled political period. The Bhutto government moved in its first days to make dramatic improvements in both the human rights situation and the economy of Pakistan. The press and the political prisoners were freed. Political parties and other organizations now flourish. Industry is being privatized and encouraged. Deficit spending is being reduced even while record expenditures are made in the areas of health, education and housing.

Mr. President, Pakistan is moving forward as a free and democratic nation, I congratulate the people of Pakistan and Prime Minister Benazir Bhutto on their courage and commitment to this process.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. PELL] is recognized.

A VOTE OF CONFIDENCE IN PAKISTAN

Mr. PELL. Mr. President, I congratulate the Senator from California on his statement concerning the Bhutto government because early today Pakistan's new democracy was put to test. The parliamentary opposition filed a motion of no confidence against the government of Benazir Bhutto. As it turned out, the Bhutto government won by a comfortable margin.

I am, of course, delighted with her victory. The young Prime Minister is an impressive leader who has restored democracy in her own country, has worked assiduously to improve relations with Pakistan's neighbors and has moved to address the enormous economic and social problems confronting Pakistan.

There is, however, something more important to this vote than an expression of confidence in a fine leader who is a good friend of the United States. The vote is also an affirmation of the democratic process. For the first time in Pakistani history, an opposition tried to change a government not on the streets or through a military coup but through the proper workings of the parliamentary process. That Pakistan has arrived at this state of affairs is itself a credit to the very democracy that Benazir Bhutto struggled so hard to bring to that country.

Since the restoration of democracy, Pakistan has had a flowering of political life. This is healthy in a democracy. But having recently returned from Pakistan, I can say there is some risk of too much of a good thing. The Pakistani people gave their verdict in elections last November, having chosen the Pakistan People's Party to head the Federal Government. Today's vote is a reaffirmation of that decision. I would hope all parties in Pakistan will now settle down to the business of government. Certainly, I wish the Government and the opposition well in this endeavor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAJ. GEN. VERNON E. JAMES

Mr. SPECTER. Mr. President, on November 5, 1989, Maj. Gen. Vernon E. James, commanding general, 28th Infantry (Keystone) Division, Pennsylvania Army National Guard will retire.

For more than 42 years, Major General James has served his country with honor and ability, performing meritorious service in the defense of the United States of America. From his initial enlistment in the Pennsylvania Army National Guard before graduation from high school until his last assignment as commander of the famed Keystone Division, he has characteristically performed his duties in an energetic, patriotic, and selfless manner.

Major General James' rise through the ranks from private first class to major general is the classic success story, achievement earned through hard work, dedication, and ability. Throughout his career and despite all his success, he has always exhibited personal humility and concern for the individual soldier. Fair but firm, compassionate but consistent, he has earned the respect of all with whom he has come in contact.

The 29th commander of the oldest division in the U.S. Army, Major General James' achievements over the past 4 years would make his predecessors proud. Under his guidance, the 28th Infantry Division continues to strengthen its role as a key component in the total structure force.

With emphasis on intense and realistic training, General James has molded a fighting force which has significantly improved operational readiness. He embodies the best which the Pennsylvania Army National Guard and the Army National Reserve Component have to offer.

General James has helped to raise the Army National Guard to a new level of positive public awareness in Pennsylvania. His long, untiring, and singularly outstanding service are the true marks of this fine professional soldier.

It is altogether fitting, then, that the U.S. Senate take note of the accomplishments of General James, who has earned the respect, approbation, and thanks of his country, congratulate him on an exceptional career and wish him well in all future endeavors.

VOTE OF CONFIDENCE IN THE GOVERNMENT OF PRIME MINISTER BENAZIR BHUTTO, OF PAKISTAN

Mr. KENNEDY. Mr. President, today, the new democracy in Pakistan has withstood one of its most important tests. The Parliament's vote of confidence in the government of Prime Minister Benazir Bhutto represents strong support not only for her own vision and leadership but also for the democratic reforms and institutions that she is developing in Pakistan.

Many challenges face the Pakistani people as they strive to improve their daily lives. Only through peace, reconciliation and the strengthening of democratic institutions can that goal be achieved. No one understands that fundamental fact better than the Prime Minister herself and I call to the attention of my colleagues her eloquent and wise statement made after her victory:

> We must now all work together to strengthen the institutions of democracy, and we hold out our hand to all those in Pakistan, especially those in the Opposition, to work with us to fortify our nation and our new freedom. The Government and the opposition, the federal government and the provincial governments must now strive together, in a spirit of cooperation, civility and good will, to build a new, democratic, modern Pakistan.

Throughout the world, the forces of democracy are sweeping down the walls of oppression and tyranny. Pakistan stands as a beacon of hope to the millions of individuals—in Eastern Europe, in China, in Chile and in many other lands—to whom democracy remains only a dream. The United States and other free and democratic nations have a responsibility to lend their strong support to these struggling movements for liberty, wherever they may be.

I commend Prime Minister Bhutto for her victory and for her many impressive achievements. I have no doubt that many more will follow.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 12:38 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 73. Joint resolution to designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week."

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

At 6 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 73, Joint resolution to designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week";

S.J. Res. 131. Joint resolution to designate November 1989 as "National Diabetes Month";

S.J. Res. 194. Joint resolution designating November 12 through 18, 1989, as "National Glaucoma Awareness Week";

S.J. Res. 198. Joint resolution designating November 1989, as "An End To Hunger Education Month"; and

S.J. Res. 209. Joint resolution to designate November 11, 1989, as "Washington Centennial Day."

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 6, 7, 15, 24, 65, 67, 68, 69, 70, 71, 80, 85, 92, 94, 95, 111, 112, 117, and 122 to the bill, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 1, 5, 8, 9, 13, 27, 32, 38, 42, 66, 72, 79, 90, 101, 105, 110, 113, 115, 116, 118, 119, 120, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, and 136 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2742) to extend and amend the Library Services and Construction Act, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. HAWKINS, Mr. WILLIAMS, Mr. FORD of Michigan, Mr. OWENS of New York, Mr. HAYES of Illinois, Mr. PERKINS, Mr. GAYDOS, Mr. MILLER of California, Mrs. LOWEY of New York, Mr. POSHARD, Mr. GOODLING, Mr. COLEMAN of Missouri, Mrs. ROUKEMA, Mr. TAUKE, Mr. GUNDERSON, and Mr. HENRY as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3072) making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. AUCOIN, Mr. SABO, Mr. DIXON, Mr. WHITTEN, Mr. MCDADE, Mr. YOUNG of Florida, Mr. MILLER of Ohio, Mr. LIVINGSTON, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House recedes from its amendment to the amendment of the Senate numbered 25 to the bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes, and agrees thereto.

The message further announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 35. Joint resolution designating November 5 through 11, 1989, as "National Women Veterans Recognition Week"; and

H.J. Res. 425. Joint resolution designating November 12 through 18, 1989, as "Community Foundation Week."

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The ACTING PRESIDENT pro tempore (Mr. LEAHY) announced that he had signed the following enrolled bills and joint resolution previously signed by the Speaker of the House:

H.R. 24. An act to amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such act, and for other purposes;

H.R. 3012. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes; and

H.J. Res. 131. Joint resolution to designate May 25, 1989, as "National Tap Dance Day."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 371. A bill to designate certain National Forest System lands in the State of Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain management formulae for certain National Forest System lands, and to release other forest lands for multiple-use management, and for other purposes (Rept. 101-179).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Carroll A. Campbell, Jr., of South Carolina, to be a member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of 4 years;

Mary Sterling, of Missouri, to be an Assistant Secretary of Labor;

Patrick J. Cleary, of Virginia, to be a member of the National Mediation Board for the term expiring July 1, 1991;

Joshua M. Javits, of the District of Columbia, to be a member of the National Mediation Board for the term expiring July 1, 1992;

Thomas E. Anfinson, of California, to be Deputy Under Secretary for Management, Department of Education; and

Betsy Brand, of Virginia, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself and Mr. DECONCINI):

S. 1825. A bill to restore the recordkeeping requirement of the Child Protection and Obscenity Enforcement Act of 1988, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAHAM:

S. 1826. A bill to amend the National Housing Act to expand the demonstration program of insurance of home equity conversion mortagages for elderly homeowners; to the Committee on Banking, Housing, and Urban Afairs.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1827. A bill to revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York; considered and passed.

By Mr. SIMON (for himself and Mr. DIXON):

S. 1828. A bill to provide an additional judgeship for the Northern District of Illinois, to make the temporary judgeship for the Northern District of Illinois permanent, and to provide an additional temporary judgeship for each of the Central and Southern Districts of Illinois; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. SIMON, and Mr. LEVIN):

S. 1829. A bill to amend the Controlled Substances Act to further restrict the use of steroids and human growth hormones; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NUNN:

S. Res. 202. Resolution authorizing the printing of additional copies of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs hearing entitled "Organized Crime: 25 Years After Valachi"; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. DECONCINI):

S. 1825. A bill to restore the recordkeeping requirement of the Child Protection and Obscenity Enforcement Act of 1988, and for other purposes; to the Committee on the Judiciary.

CHILD PROTECTION RESTORATION AND PENALTIES ENHANCEMENT ACT

Mr. THURMOND. Mr. President, today I am introducing legislation which will enhance the current criminal penalties for certain crimes against children and amend key provisions of the Child Protection and Obscenity Enforcement Act of 1988, so that the constitutionality of the act can be insured. I am pleased that the distinguished senior Senator from Arizona, Senator DECONCINI, has joined me as a cosponsor of this bill.

In the 100th Congress, the Senate passed the Child Protection and Obscenity Enforcement Act of 1988 by a unanimous vote of 97 to 0. Shortly thereafter, it was enacted into law. This important legislation, which I introduced, was carefully drafted to give Government a strong weapon for fighting child pornography and obscenity. Although pleased that this vital act was signed into law, I do not believe Congress can afford to rest on our past legislative successes. Additional legislative initiatives must be put in place.

Mr. President, protecting our children from heinous crimes and abuse is the duty of everyone because there are no assets more precious than the youth of our country. Yet, our children remain constant victims of serious crimes. We, as a Nation, must do more to protect our youth. When children are kidnaped, sexually abused, or used for illicit pornography, no stone should be left unturned to ensure these acts do not recur and that those who commit these acts are seriously punished. We cannot ignore the cries of these innocent victims because the harm to them and loss to their families is immeasurable.

Congress, in order to insure that our children are protected from further harm, must continue to strengthen our Nation's criminal laws. This bill meets this responsibility by enhancing the criminal penalties for various crimes against children. The legislation provides a mandatory minimum prison sentence of 30 years for any person, other than a family member, who kidnaps a child. If that person sexually abuses, exploits, starves, sells, or intentionally causes life-threatening harm to the victim, he or she shall be sentenced to a mandatory term of life imprisonment. Any individual who chooses to commit such a vicious, inhuman act deserves to be punished to the fullest extent of the law.

Mr. President, this bill also enhances the current penalties for other crimes against children. For example, anyone who commits aggravated sexual abuse against a child under the age of 12, shall be sentenced to a mandatory minimum sentence of 30 years. In addition, any individual who sexually exploits a minor, any parent who knowingly permits such exploitation, or any person who knowingly distributes child pornography shall be sentenced to a mandatory minimum of 30 years imprisonment. Finally, the current mandatory minimum for the buying or selling of children is increased from 20 to 30 years. Second convictions for any of these offenses results in life imprisonment.

Additionally, the bill includes a provision identical to a bill Senator DECONCINI and I recently introduced which amends the recordkeeping provisions of the Child Protection and Obscenity Enforcement Act so that it will comply with a U.S. District Court's decision in the case of American Library Association versus Thornburgh. It would require producers of pornographic material to maintain individually identifiable records of every performer's name and age to insure that those performers are not minors. Anyone who fails to keep such records, falsifies such records, or knowingly transfers pornography which does not contain a statement describing where such records can be found, will be subject to up to 2 years imprisonment. In keeping with the district court's opinion, the legislation insures that the information contained in these records, or the failure to keep such records, cannot be used as evidence of child pornography or related offenses. Such information can be used as evidence only to prosecute individuals for a violation of the record-keeping requirements.

Mr. President, there are some who will criticize this bill's penalties as being too tough. I disagree. These crimes are some of the most heinous crimes any person can commit and must be treated as such. Frankly, I am at a loss to find acts which are more despicable, heinous, and deserving of such serious penalties than the kidnaping, sexual abuse, and sexual exploitation of our young people. This measure is crucial to stemming the flow of vicious crimes against children. Tough penalties which will be a deterrent, and which will appropriately punish those who steal the innocence away from our children, are essential. Strong steps must be taken to prevent the Commission of these terrible crimes.

In closing, we, as a nation, must take every reasonable step necessary to ensure the protection of our most precious resource—our children. Unless we continue to strengthen our laws, the progress we have made in recent years could be easily eroded. The interests of our children and those who are the victims of kidnapings, child pornography, obscenity, and abuse, demand our sincere attention and endless efforts.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Protection Restoration and Penalties Enhancement Act of 1989".

TITLE I—RESTORATION OF RECORDKEEPING REQUIREMENT

SECTION 1. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this section or for a violation of any applicable provision of law with respect to the furnishing of false information.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) I the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(f) It shall be unlawful—

"(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

"(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) of this section or any regulation promulgated under this section;

"(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; and

"(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produce in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which—

"(A) contains one or more visual depictions made after the effective date of this subsection of actual sexually explicit conduct; and

"(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

"(g) The Attorney General shall issue appropriate regulations to carry out this section.

"(h) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in section 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish any book, magazine, periodical, film, video tape or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

"(i) Whoever violates this section shall be imprisoned for not more than 2 years, and fined in accordance with the provisions of this title, or both. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 5 years but not less than 2 years, and fined in accordance with the provisions of this title, or both.".

SEC. 2. EFFECTIVE DATE.

Subsections (d), (f), (g), (h), and (i) of section 2257 of title 18, United States Code, as added by this section shall take effect 90 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by subsections (d), (f), (g), (h), and (i) of section 2257 within 60 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 and of any regulation issued pursuant thereto shall take effect 90 days after the date of the enactment of this Act.

TITLE II—PENALTIES FOR KIDNAPPING CHILDREN

SEC. 201. SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

"(1) TO WHOM APPLICABLE.—If—

"(A) the victim of an offense under this section has not attained the age of eighteen years; and

"(B) the offender—

"(i) has attained such age; and

"(ii) is not—

"(I) a parent;

"(II) a grandparent;

"(III) a brother;

"(IV) a sister;

"(V) an aunt;

"(VI) an uncle; or

"(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

"(2) MINIMUM SENTENCES.—The sentence shall be imprisonment for life if the offender engages in any conduct described in paragraph (3) of this subsection, and imprisonment for not less than 30 years in any other case. If the offender engages in any conduct described in paragraph (3) of this subsection after a prior conviction under such paragraph has become final, such offender shall be sentenced to mandatory life imprisonment without release.

"(3) AGGRAVATING CONDUCT.—The conduct referred to in paragraph (2) of this subsection is—

"(A) selling the victim of such offense;

"(B) sexually abusing such victim;

"(C) using such victim for pornography;

"(D) intentionally denying such victim food or medical care to a life-threatening extent;

"(E) intentionally harming such victim physically to a life-threatening extent; or

"(F) causing such victim to be subjected to conduct by another which is conduct described in any of subparagraphs (A) through (E) of this paragraph.".

TITLE III—SEXUAL ABUSE PENALTIES

SEC. 301. AGGRAVATED SEXUAL ABUSE OF CHILDREN.

Section 2241(c) of title 18, United States Code, is amended by—

(1) striking "any term of years" and inserting 'not less than 30 years";

(2) inserting "(1)" before "Whoever"; and

(3) adding at the end thereof the following: "(2) Whoever—

"(A) engages in any conduct which violates the provisions of paragraph (1) after a prior conviction under such paragraph has become final; or

"(B) violates the provisions of paragraph (1)—

"(i) by using force against the other person; or

"(ii) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping,

shall be sentenced to mandatory life imprisonment without release.".

SEC. 302. SEXUAL ABUSE OF A MINOR.

Section 2243(a) of title 18, United States Code, is amended by striking "five years" and inserting "15 years".

SEC. 303. ABUSIVE SEXUAL CONDUCT.

Section 2244(a) of title 18, United States Code, is amended by—

(1) redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively; and

(2) inserting after paragraph (1) the following:

"(2) section 2241(c) of this title had the sexual contact been a sexual act shall be fined under this title, imprisoned not more than 30 years, or both;".

SEC. 304. SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended to read as follows:

"(d) Any individual who violates this section shall be fined not more than $250,000, shall be imprisoned for not less than 30 years and not more than life, or both. If such individual has a prior conviction under this section, such individual shall be sentenced to life imprisonment without release and fined not more than $500,000.".

SEC. 305. SELLING OR BUYING OF CHILDREN.

Section 2251A of title 18, United States Code, is amended—

(1) in subsection (a) after paragraph (2) by striking "20 years" and inserting "30 years"; and

(2) in subsection (b) after paragraph (2) by striking "20 years" and inserting "30 years".

SEC. 306. CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING SEXUAL EXPLOITATION OF MINORS.

Section 2252(b) of title 18, United States Code, is amended to read as follows:

"(b) Any individual who violates this section shall be fined not more than $250,000, shall be imprisoned for not less than 30 years and not more than life, or both. If such individual has a prior conviction under this section, such individual shall be sentenced to life imprisonment without release and fined not more than $500,000.".

Mr. DECONCINI. Mr. President, I rise today to offer my support as an original cosponsor of the Child Protection Restoration and Penalties Enhancement Act of 1989 introduced by my distinguished colleague from South Carolina [Mr. THURMOND]. I have worked closely with Senator

THURMOND on similar legislation in the past, and I commend him for his continued leadership in this area.

Last year, in the 100th Congress, Senator THURMOND introduced the Child Protection and Obscenity Enforcement Act of 1988 to protect young children from sexual exploitation by pornographers. That legislation, which I also cosponsored, required that pornographers maintain records of the ages and identities of those depicted in sexually explicit material. This recordkeeping provision was designed to help prosecutors prove that those who engaged in the lucrative child pornography business knew that they were exploiting young children. The legislation was passed as part of the Anti-Drug Abuse Act of 1989 by an overwhelming majority of this body.

Unfortunately, this protection was recently stripped out of the law by a Federal district court in the District of Columbia. That court ruled the recordkeeping provision to be too great a burden on first amendment rights.

The first amendment right of expression is the cornerstone of American freedom. No one cherishes the right of expression more than I. Yet, at the same time, we must remember that this freedom must be balanced against the harm done by child pornographers. Sexual exploitation of young children is known to do serious physical, emotional, and psychological harm to its victims. Often the harm done can never be fully overcome. I know that Senator THURMOND and his staff have worked closely with the Department of Justice to craft a bill that is responsive to the first amendment concerns expressed by the court, while still extending much needed protection to our Nation's next generation. I call upon my colleagues to act quickly and affirmatively on this legislation. Let's end the scourge of child pornography now.

By Mr. GRAHAM:

S. 1826. A bill to amend the National Housing Act to expand the demonstration program of insurance of home equity conversion mortgages for elderly homeowners; to the Committee on Banking, Housing and Urban Affairs.

REVERSE MORTGAGE INSURANCE FOR OLDER AMERICANS ACT OF 1989

● Mr. GRAHAM. Mr. President, I am pleased to introduce legislation today which will permit more senior citizens to convert their home equity into spendable dollars. This legislation is similar to H.R. 3006, introduced in the House by Congressman FLORIO.

The Reverse Mortgage Insurance for Older Americans Act of 1989 would increase to 25,000 the number of mortgages available under the 5-year HUD home equity conversion demonstration program that Congress authorized in the Housing and Community Development Act of 1987.

Reverse mortgages are the opposite of traditional mortgages in that the borrower receives monthly payments from the lender instead of making such payments to the lender. Many senior citizens live on fixed incomes and have all or most of their equity tied up in their home. These mortgages are designed to enable elderly homeowners to use the equity in their homes as a form of monthly income for health care costs, home improvement, family emergencies and other necessities.

The HUD demonstration program provides 2,500 reverse mortgages for elderly homeowners—age 62 or older—who own and occupy one-family homes. The Federal Housing Administration [FHA] insures the reverse mortgages and protects both the lenders and the homeowners against risks such as default and eviction.

As the demonstration was originally authorized, the 2,500 reverse mortgages were allocated over the 10 HUD regions in proportion to each region's share of elderly homeowners. HUD, on January 24, 1989, published a notice in the Federal Register which informed interested lenders how to apply. The application deadline was February 23, 1989. Once the deadline was reached, HUD held lotteries in the regional offices. From a pool of 258 lenders, 50 were selected by HUD. Each of the 50 lenders was given authority to offer 50 reverse equity mortgages.

The interest in this program has been unexpected and overwhelming. To date, HUD has received over 200 additional applications from lenders interested in participating in the program. In Florida alone, the two authorized lenders—Kislak National Bank in Miami Lakes and IDL Mortgage in Fort Myers—have between them approximately 700 interested borrowers on waiting lists.

In addition, both lenders are receiving scores of calls daily from seniors interested in obtaining a reverse equity mortgage. This interest has been generated solely by word of mouth, as this program has not been advertised. Expansion of the demonstration program is supported by Secretary Kemp, as well as the National Center for Home Equity Conversion and the American Association of Retired Persons.

Mr. President, I supported the demonstration program when it was authorized in 1987, and believe that because of the popularity of the program and the demand outlined above, it makes sense to expand the program at this time. I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reverse Mortgage Insurance for Older Americans Act of 1989".

SEC. 2. LIMITATION ON INSURANCE AUTHORITY AND MAXIMUM AMOUNT INSURED.

Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking the second sentence and inserting the following: "The total number of mortgages insured under this section may not exceed 25,000.

SEC. 3. TYPES OF LOANS.

Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

"(A) based upon a line of credit;

"(B) on a monthly basis over a term specified by the mortgagor;

"(C) on a monthly basis over a term specified by the mortgagor and based upon a line-of-credit;

"(D) on a monthly basis over the tenure of the mortgagor;

"(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

"(F) on any other basis that the Secretary considers appropriate; and

"(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage.".

SEC. 4. LIMITATION ON LIABILITY OF MORTGAGOR.

Section 255(d)(7) of the National Housing Act (12 U.S.C. 1715z-20(d)(7)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or".

SEC. 5. DISCLOSURES BY MORTGAGEE REGARDING LIABILITY OF MORTGAGOR.

Section 255(e) of the National Housing Act (12 U.S.C. 1715z-20(e)) is amended—

(1) in paragraph (2)—

(A) by inserting after "statement" the following: "informing the homeowner that the liability of the homeowner under the mortgage is limited and"; and

(B) by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) prior to loan closing, a statement of the projected total cost of the mortgage to the homeowner based on the projected total future loan balance (such cost expressed as a single average annual interest rate for at least 2 different appreciation rates for the

term of the mortgage) for not less than 2 projected loan terms, as the Secretary, shall determine, which shall include—

"(A) the cost for a short-term mortgage; and

"(B) the cost for a loan term equaling the actuarial life expectancy of the mortgagor.".●

By Mr. SIMON (for himself and Mr. DIXON):

S. 1828. A bill to provide an additional judgeship for the Northern District of Illinois, to make the temporary judgeship for the Northern District of Illinois permanent, and to provide an additional temporary judgeship for each of the Central and Southern Districts of Illinois; to the Committee on the Judiciary.

ADDITIONAL FEDERAL JUDGESHIP FOR ILLINOIS ACT OF 1989

● Mr. SIMON. Mr. President, I rise today to introduce, along with my very good friend and senior colleague, ALAN DIXON, the Additional Federal Judgeships for Illinois Act of 1989. This bill would help relieve the overburdened Federal courts in our State by adding four judgeships, as recommended by the Judicial Conference of the United States and the Administrative Office of U.S. Courts.

Our bill, a companion to one introduced in the other body by the distinguished minority leader, would create a new judgeship in the northern district, make permanent a temporary judgeship in the northern district, and would create two temporary judgeships, one each in the central and southern districts of Illinois.

The need for these judgeships has been more than amply demonstrated. In the northern district, Federal judges currently must respond to filing 50 percent over the recommended maximum. Central district filings are also above the recommended limit, and the number of criminal filings per judge is 12th highest in the Nation. The problem is also great in the southern district, with pending cases more than 50 percent over the recommended capacity per judge.

Clearly, the delivery of justice suffers under such an overload. The war against drugs has added to the judicial burden, but we cannot retreat. We must have additional judges to handle the increased caseload.

I will work with my colleagues on the Committee on the Judiciary to report the bill favorably so the Senate can act.

I ask unanimous consent that the full text of the bill be printed in the RECORD.●

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL JUDGESHIP FOR NORTHERN DISTRICT OF ILLINOIS.

The President shall appoint, by and with the advice and consent of the Senate, one additional judgeship for the Northern District of Illinois.

SEC. 2. CONVERSION OF TEMPORARY JUDGESHIP.

The existing district judgeship for the Northern District of Illinois which was authorized by section 202(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (98 Stat. 346, 28 U.S.C. 133 note) shall, as of the effective date of this Act, be authorized under section 133 of title 28 of the United States Code and the incumbent of such office shall henceforth hold the office under section 133 as amended by this Act.

SEC. 3. TEMPORARY JUDGESHIPS.

The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the Central District of Illinois, and one additional district judge for the Southern District of Illinois. The first vacancy in the office of district judge in each of the judicial districts described in the preceding sentence that occurs 5 years or more after the position for that district authorized by the preceding sentence is first filled, shall not be filled.

SEC. 4. CONFORMING AMENDMENT.

In order that the table contained in section 133 of title 28, United States Code, will reflect the changes in the total number of permanent district judgeships authorized as a result of sections 2 and 3 of this Act, such table is amended to read as follows:

"Districts	Number of Judges
Illinois; Northern	22

● Mr. DIXON. Mr. President, I rise today to introduce with my distinguished colleague and good friend, PAUL SIMON, legislation which would create an additional permanent Federal judgeship for the Northern District of Illinois, make permanent a temporary judgeship in the northern district, and add a temporary judgeship for the Central and Southern District of Illinois.

The Administrative Office of the United States Courts recommended just these additions to the Federal judicial districts of Illinois, Mr. President, in its 1989 report on Federal court management. The Administrative Office, which tracks cases loads, and gathers statistical data on the performance of our Federal judicial system, found that our Federal judicial system is swamped. Judges are overworked and undermanned. When we talk about fighting crime, Mr. President, we must also talk about relieving judicial fatigue. This legislation is one small way we can improve the cause of justice in my State.

Illinois Federal judicial districts are some of the most overburdened districts in the country, Mr. President. In a ranking of the 94 Federal judicial districts, according to the Administrative Office of the United States Court, the Northern District of Illinois, which comprises all of northern Illinois, including the Chicago area, ranked 7th in terms of weighted filings per authorized Federal judgeship. A lower number connotes a higher burden on the judges of a particular district.

According to the 1989 Federal court management statistics report, the central district has one of the top 15 criminal felony filings per judgeship ratios in the country. The southern district ranks 13th in the country on the basis of pending cases per authorized judgeship.

Clearly, the judicial districts of Illinois need our help, Mr. President. It is time for action. Justice should be swift, not slow. More judges will help reduce the backlogs in these districts and help speed the process of justice along.

I urge my colleagues to work expeditiously on this legislation. The Federal judicial districts of Illinois need our immediate attention. This legislation will help them to provide swift, effective, and fair justice.

I thank my colleagues.●

By Mr. BIDEN (for himself, Mr. SIMON, and Mr. LEVIN):

S. 1829. A bill to amend the Controlled Substances Act to further restrict the use of steroids and human growth hormones; to the Committee on the Judiciary.

STEROID TRAFFICKING ACT OF 1989

● Mr. BIDEN. Mr. President, today, I am introducing the Steroid Trafficking Act of 1989 that would make steroids a schedule II controlled substance, the same category as cocaine. This bill recognizes that steroids are dangerous, addictive drugs that pose the same threat to millions of Americans as do other so-called hard drugs.

The tragic irony is that steroids threaten our brightest and healthiest young people—our Nation's young athletes. And the threat is real—steroids have become a major drug problem in the United States:

Approximately 1 million Americans use steroids for nonmedical purposes. Up to 50 percent of these illegal users are high school students; and

Steroids have become a $300 to $400 million illegal industry, with major drug traffickers—lured by high profits, and relatively minor risks—playing a more active role in steroid smuggling.

But the steroids problem is not simply a public health problem—it's a problem of values.

Millions of kids learn about the values of hard work and fair play when they play on a little league team, or watch their favorite college and pro athletes on TV. But athletes who use steroids teach all the wrong values—that it's OK to cheat, that it's OK to take short cuts to achieve success.

Young people are especially vulnerable. Not only do high school students take steroids to gain an "edge" in ath-

letic performance, they also take steroids to improve their looks and their image. And every parent knows how closely these concerns are associated with their children's sense of self-worth and success.

Now, parents have to worry not only about their kids going to parties to use cocaine, they have to worry about their children using needles to inject steroids when they play high school football or work out at the gym.

I have chaired two Judiciary Committee hearings on this growing problem of steroid abuse. The testimony from these hearings should cause serious concern:

Steroid use in the Olympics is allegedly rampant; two-time gold-medalist Evelyn Ashford estimated that 50 percent of the female medalists in the 1988 summer games used steroids;

Steroid use in college and pro football is also widespread; all-pro guard Bill Fralic said half of the linemen in the NFL use steroids. Even with preannounced tests, the NFL had to suspend 13 players for using steroids this year.

Steroids can lead to serious health problems, including liver cancer and heart disease. They also lead to severe psychological problems—including violence and addiction. According to one national study, 40 percent of young steroid users are heavy or hard core users, a clear indicator of addiction.

The bill that I am introducing today would address these problems by making steroids a schedule II controlled substance. This change will crack down on illegal steroid use in three ways:

First, it would sharply increase steroids trafficking penalties to match the penalties for selling cocaine, heroin, and other dangerous drugs.

Second, the Drug Enforcement Administration would be charged with attacking the $300 to $400 million steroid black market. The Food and Drug Administration, the lead antisteroids agency, has neither the manpower nor the expertise to investigate the major steroid rings that operate in this country.

Third, and perhaps most important, this bill would require U.S. agencies to incorporate steroids in our general drug abuse prevention, education, and treatment programs.

Government alone, however, cannot solve the steroid problem. Solving this problem will require a fundamental change in attitudes:

Athletes have to say that taking drugs to win is wrong.

Coaches have to get out the message that kids who use steroids can't play on their teams; and

College and professional sports organizations have to make clear that any athlete who uses steroids will be suspended or expelled from their leagues.

Progress has been made on this front. For example, the NFL has taken the lead to implement an antisteroid program. And the National Collegiate Athletic Association has recently announced a year-round steroid testing program that has great promise.

These steps, backed by a tough law enforcement as proposed in this bill, are important steps toward making drug use in sports unacceptable.

I ask unanimous consent that a copy of the bill and the summary from the recently released General Accounting Office report on steroid abuse be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Steroid Trafficking Act of 1989".

TITLE I—ANABOLIC STEROIDS

SEC. 101. STEROIDS LISTED AS CONTROLLED SUBSTANCES.

(a) ADDING STEROIDS TO SCHEDULE II OF THE CONTROLLED SUBSTANCES ACT.—Subdivision (b) of schedule II of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by inserting at the end thereof the following:

"(22) Anabolic steroids.".

(b) DEFINITION.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(41) The term 'anabolic steroids' means—

"(A) any drug that is chemically related to the male hormone testosterone or any other hormonal substance which promotes or purports to promote muscle growth, including any amount of the following chemical designations and their salts, esters, and isomers:

"(i) bodenone,
"(ii) chlorotestosterone,
"(iii) clostebol,
"(iv) dehydrochlormethyltestosterone,
"(v) dihydrotestosterone,
"(vi) drostanolone,
"(vii) ethylestrenol,
"(viii) fluoxymesterone,
"(ix) mesterolone,
"(x) methandienone,
"(xi) methandranone,
"(xii) methandriol,
"(xiii) methandrostenolone,
"(xiv) methyltestosterone,
"(xv) mibolerone,
"(xvi) nandrolone,
"(xvii) norethandrolone,
"(xviii) oxandrolone,
"(xix) oxymesterone,
"(xx) oxymetholone,
"(xxi) stanolone,
"(xxii) stanozolol,
"(xxiii) testolactone,
"(xxiv) testosterone,
"(xxv) trenbolone, and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in subparagraph (A), or any substance labeled as being or containing any such drug.".

TITLE II—HUMAN GROWTH HORMONE

SEC. 201. AMENDMENT TO THE FOOD, DRUG AND COSMETIC ACT.

Section 303 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 333) is amended by inserting a new subsection (e) as follows:

"(e)(1) Except as provided in paragraph (2), whoever knowingly distributes, or possesses with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition pursuant to the order of a physician is guilty of an offense punishable by not more than 5 years in prison, such fines as are authorized by title 18, United States code, or both.

"(2) Whoever commits any offense set forth in paragraph (1) and such offense involves an individual under 18 years of age is punishable by not more than 10 years imprisonment, such fines as are authorized by title 18, United States Code, or both.

"(3) Any conviction for a violation of paragraphs (1) and (2) of this subsection shall be considered a felony violation of the Controlled Substances Act for the purposes of forfeiture under section 413 of such act.

"(2) As used in this subsection the term 'human growth hormone' means—

"(A) somatrem, sonatropin, and any of their analogs; and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in clause (i), or any substance labeled as being or containing any such drug; and

"(3) The Drug Enforcement Administration is authorized to investigate offenses punishable by this subsection.".

SEC. 202. CONVICTION OF SECTION 303(e) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 2401 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181) is repealed.●

GENERAL ACCOUNTING OFFICE,
HUMAN RESOURCES DIVISION,
Washington, DC, August 18, 1989.

Hon. JOSEPH BIDEN,
Chairman, Committee on the Judiciary, U.S. Senate.

DEAR MR. CHAIRMAN: This report is in response to your November 22, 1988, request for information on the use, distribution, production, and health risks associated with anabolic steroids and human growth hormone. In accordance with your request, which parallels the requirements of the Anti-Drug Abuse Act of 1988, we obtained information on the estimated use of anabolic steroids among high school and college students and the adult population. We developed information on the (1) legal and illegal distribution of anabolic steroids and (2) health consequences associated with their use. We also obtained comparable data, when available, on human growth hormone.

BACKGROUND

The Food and Drug Administration (FDA) has approved anabolic steroids, synthetic derivatives of the male hormone testosterone, as prescription drugs, which may be prescribed only by a licensed physician. Like the hormone testosterone, anabolic steroids have both androgenic and anabolic properties. The androgenic properties are responsible for the development of masculine characteristics, such as the growth of body and facial hair, deepening of the voice, and genital growth during puberty. The anabolic properties of testosterone promote the re-

tention of dietary protein and muscle growth.

Anabolic steroids have been approved for the treatment of a small number of diseases, such as certain anemias, hereditary angioedema,[1] and breast cancer. These steroids, however, have also been used for nontherapeutic purposes. The first such use was reported during World War II, when anabolic steroids were given to German troops to increase aggressiveness. Based on anecdotal reports, their first use in athletics was by the Russians in 1954.

Since then, the use of these drugs has increased significantly among athletes. Initially, the use of anabolic steroids was believed to be largely confined to world class athletes participating in power sports, such as weightlifting and shotputting. Over the years, however, anabolic steroid use has spread to professional, college, and high school sports. Anabolic steroids are taken to enhance performance or body image. Because of the possible competitive advantage and the health risks associated with their use, concerns have been raised about the inappropriate use of these drugs.

Human growth hormone, or somatotropin, is a hormone secreted by the pituitary gland. Body organs depend on growth hormone for proper growth and development. The most apparent effects of growth hormone during puberty are an increase in linear bone growth and in skeletal mass. Overproduction of this hormone in adults results in acromegaly, a disease that almost always shortens the life span of those it afflicts and that is marked by the progressive enlargement of the hands, feet, and face and may affect the major organs of the body, particularly the heart. Athletes use growth hormone because they perceive that it might affect athletic performance. It is suspected that the administration of high dosage levels of synthetic human growth hormone to normal adults, such as athletes, could result in acromegaly.

OBJECTIVES, SCOPE, AND METHODOLOGY

On the basis of discussions with Committee staff, we focused our work on obtaining to the extent available, information on the (1) use of anabolic steroids among students, both high school and college, and athletes; (2) health consequences resulting from anabolic steroid use; (3) policies and regulations developed by sports associations to monitor athletes' use of anabolic steroids; and (4) quantity of legal and illegal anabolic steroids that are produced and distributed both domestically and internationally. We obtained similar information for human growth hormone. Additionally, we obtained information from FDA on state laws and regulations to control the misuse of anabolic steroids and human growth hormone.

We reviewed current scientific literature to obtain information on (1) the prevalence of the use of anabolic steroids and human growth hormone and (2) medical consequences resulting from their use. We identified only 15 studies on the prevalence of use of anabolic steroids in the U.S. population; of these studies, 8 focused on use among high school students and 7 on college students and athletes. We did not identify any prevalence studies for human growth hormone use.

We also interviewed FDA and National Institute of Drug Abuse officials, leading researchers in the area, and representatives of medical societies and manufacturers of these drugs to obtain (1) a perspective on the prevalence of steroid and growth hormone misuse and (2) the associated adverse medical consequences.

We interviewed officials of several of the U.S. Olympic Committee's National Governing Bodies, the National Collegiate Athletic Association and the National Football League to obtain information on monitoring policies and regulations of sports associations for steroid and growth hormone use, such as (1) drug-testing policies and testing results and (2) the prevalence of drug use among athletes.

From FDA, we obtained information on (1) the legal distribution of anabolic steroids and (2) federal and state laws developed to control drug misuse. From the Department of Commerce, we gathered information on the quantity of anabolic steroids imported into the United States. To the extent available, we obtained data on illegal production and distribution of steroids and growth hormone from the Department of Justice.

RESULTS IN BRIEF

Public studies and other information we obtained indicate that anabolic steroids are being misused primarily by high school, college, and professional athletes to enhance their performance and, to a lesser extent, by others participating in sports. A national study found that more than 6 percent of male high school seniors, mostly participants in sports, use or have used anabolic steroids. A more limited study covering five colleges found that about 20 percent of athletes used steroids. Misuse of human growth hormone appears to be a lesser problem.

In view of suspected health risks associated with the misuse of anabolic steroids and indications from the Department of Justice that their misuse is a growing problem, we support federal and state efforts to exercise greater control over their distribution and use.

The information we obtained is summarized below and presented in more detail in appendixes I-VII.

ANABOLIC STEROID USE AMONG HIGH SCHOOL AND COLLEGE STUDENTS AND ATHLETES

We identified 15 studies that address the prevalence of anabolic steroid use (see app. VIII); most of these studies were carried out on high school and college students. One study purported to provide results representative of a national sample. Most studies limited the sampling universe to schools from a specific geographic locality, high school, or sex group. These studies showed that male athletes were the primary users of anabolic steroids.

The national study, conducted in 1987, indicates that as many as 6.6 percent of the 12th grade males in the United States use or have used anabolic steroids.[2] According to this and other studies, athletes are the most common users of anabolic steroids among high school and college students. One high school study found that 84 percent of anabolic steroid users participated in sports.[3] According to a 15-year study of college students at five universities, between 15 and 20 percent of the college athletes reported using anabolic steroids.[4]

Less information is available on the prevalence of anabolic steroid use outside of high school and college. The two studies we identified addressed use in relatively small samples of weighlifters. The results show that a high percentage of weightlifters studied use steroids. However, the results cannot be projected beyond the weightlifters included in the studies.

MISUSE OF ANABOLIC STEROIDS ASSOCIATED WITH HEALTH RISKS

Athletes are reported to consume high dosage levels of anabolic steroids or several steroids at one time. These levels are believed to be greater than those commonly used during medical treatment.[5] Much media attention has been given to the health risks of anabolic steroids among athletes and bodybuilders. No systematic studies of the health risks to athletes have been conducted, however. Thus, information on health risk is lacking.

Studies do exist, however, on the health risks of anabolic steroids in (1) medical use—for example, in the treatment of some rare diseases—and (2) athletes in a limited number of case reports. These studies suggest that anabolic steroids may increase the risk of heart disease; produce liver toxicities; affect sex characteristics and reproductive capacity; cause possible psychological disorders and tendon and ligament injury; and, in children and youth, result in stunted growth.

Although some adverse effects are reversible when drug use is discontinued, they can be serious. For example, anabolic steroids may cause changes in the cardiovascular system, such as upsetting the balance of high density and low density lipoprotein (HDL/LDL), an increase in total serum cholesterol levels and blood pressure, increasing the risk of arteriosclerotic disease and possible heart failure. Children's use of steroids may prematurely close the growth centers of the long bones, stunting growth.

USE OF ANABOLIC STEROIDS PROHIBITED BY SPORTS ASSOCIATIONS

Several sports associations have adopted drug policies that condemn and prohibit the use of anabolic steroids by athletes because of the combination of (1) potential health and safety risks with (2) the potential competitive advantage. Many of the sports associations have implemented drug-testing programs to monitor the use of anabolic steroids among their athletes.

Most of these programs have an announced policy to test athletes competing at scheduled events. According to some experts, the results of such announced tests for anabolic steroid use are poor indicators of true use. Given advance notice, athletes can abstain from the use of these drugs before the test to avoid detection.[6] Al-

[1] Recurring attacks of swelling appearing in areas of the skin or mucus membrane.

[2] William E. Buckley and others, "Estimated Prevalence of Anabolic Steroid Use Among Male High School Seniors," *Journal of the American Medical Association*, Vol. 260 (Dec. 16, 1988), p. 3441.

[3] Mini D. Johnson and others, "Anabolic Steroid Use by Male Adolescents," *Pediatrics*, Vol. 83 (June 1989), p. 922.

[4] T. L. Dezelsky and others, "Non-Medical Drug Use Behaviour at Five United States Universities: A 15-Year Study," *Bulletin on Narcotics* (United Nations publication), Vol. 37 (1985).

[5] Anecdotal reports suggest athletes take doses that are from 4 to more than 100 times greater than the manufacturer-recommended guidelines for approved purposes.

[6] According to one expert, detectable traces of oral anabolic steroids are apparent in the urine for 1 to 2 weeks after discontinuing use. Injectable steroids may be present from 1 week to 1 month after use.

though the use of human growth hormone cannot be detected in drug-testing procedures, the sports associations we spoke with—the U.S. Olympic Committee, the National Collegiate Athletic Association, and the National Football League—have also included this drug among their list of banned substances.

ANABOLIC STEROID DISTRIBUTION BY MANUFACTURERS

Data on the quantity of anabolic steroids produced are not publicly available. From FDA, however, we obtained data on the legitimate distribution of anabolic steroids manufactured in the United States. These data indicate that (1) during the 10-year period 1979 through 1988, U.S. manufacturers distributed 53.2 million grams of anabolic steroids in the United States and abroad; and (2) during 1984 through 1988, hospitals and retail pharmacies in the United States purchased an estimated 26.1 million grams of anabolic steroids. According to Department of Commerce data, 26.2 million grams of anabolic steroids, in bulk rather than dosage form, were imported into the country during 1979 through 1988. Of the total distributed, 92 percent were accounted for by five drugs: Danazol, Testosterone Cypionate, Methyltestosterone, Testosterone Enanthate, and Fluoxymesterone.

In addition to the legitimate distribution, the Department of Justice estimates that on the black market, the annual sales of these drugs are about $300 to $400 million. Justice believes that the source of black market steroids is divided evenly between clandestinely manufactured goods, smuggled products, and diverted legally manufactured products.

HUMAN GROWTH HORMONE

We did not find any studies that document the use of human growth hormone by high school students, college students, or athletes. Reports of its use among athletes are anecdotal and suggest that athletes use growth hormone because (1) they perceive it to increase body growth and strength potential (however, these perceptions have not been confirmed scientifically) and (2) no drug-testing procedure has been developed for its detection in the urine. According to the Council on Scientific Affairs of the American Medical Association, the abuse of human growth hormone, to the extent that it exists, is a recent phenomenon.

The health risks of an oversecretion of human growth hormone in children include abnormal bone growth and dysfunction of the thyroid gland. In adults, oversecretion results in acromegaly, which almost always shortens the person's life span. At this time, there are no reported cases of acromegaly among athletes associated with the use of synthetic human growth hormone.[7]

Between 1985 and 1988 approximately 7,768 grams of synthetic growth hormone were legally distributed for medical purposes in the United States; we were not able to obtain data on the amount produced in this time period. Human growth hormone is much less available on the black market than steroids.

FEDERAL AND STATE LAWS ON ANABOLIC STEROIDS AND HUMAN GROWTH HORMONE

Because of the increased interest in the use of anabolic steroids and the potential health risks associated with the use of these drugs, there has been considerable legislative and administrative activity in this area. For example, in 1988, the Congress passed the Anti-Drug Abuse Act of 1988 (P.L. 100-690), which includes several provisions to control the use of anabolic steroids and human growth hormone. FDA data show that as of June 16, 1989, 25 states have enacted laws or promulgated regulations to control the use of anabolic steroids. Five of these states have enacted laws or promulgated regulations to control the use of human growth hormone.

The Anti-Drug Abuse Act of 1988 provides for the forfeiture of specified property of an individual convicted of a violation of the Federal Food, Drug, and Cosmetic Act[8] involving anabolic steroids or human growth hormone, if the violation is punishable by imprisonment for more than 1 year. The Anti-Drug Abuse Act of 1988 also specifies that violators are subject to imprisonment for up to 3 years or a fine or both if they (1) distribute or (2) possess anabolic steroids with the intent to distribute for any use in humans other than the treatment of disease based on the order of a physician.

Information provided by FDA shows that some states have classified anabolic steroids as controlled substances, and at least one state has promulgated rules regarding the medical profession's responsibility in prescribing, dispensing, or delivering these drugs. Anabolic steroids are regulated as controlled substances under state law in nine states; in addition, six states have legislation pending that would classify anabolic steroids as controlled substances. One state has classified human growth hormone as a controlled substance.

According to FDA, state controlled substances acts are either identical or similar to the federal Controlled Substances Act. The federal act classifies drugs that can be physically or psychologically harmful into categories or schedules based on their potential for abuse, accepted medical use, and whether abuse of the drug may lead to physical or psychological dependence. The schedule under which a drug is placed determines the nature and degree of control exercised to prevent its abuse and diversion. Anabolic steroids and human growth hormone are not classified under the federal Controlled Substances Act.[9]

Arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 15 days from its issue date. At that time, copies will be sent to the appropriate Senate and House committees and subcommittees; the Attorney General; the Secretary of Health and Human Services; the Secretary of the Treasury; the Commissioner of FDA; and the Director, Office of Management and Budget, and we will make copies available to other interested parties upon request.

The major contributors to this report are listed in appendix IX.

Sincerely yours,

JANET L. SHIKLES,
Director of National and Public Health Issues.

[7] Before 1985, human growth hormone was commercially derived through the extraction of the hormone from the pituitary gland of cadavers. In 1985, pituitary extracted human growth hormone was withdrawn from the U.S. market. Synthetic human growth hormone has been marketed since 1985.

[8] The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) prohibits specified acts relating to the sale and distribution of misbranded or adulterated articles.

[9] The Attorney General has delegated to the Drug Enforcement Administration the authority for scheduling drugs under the federal Controlled Substances Act.

ADDITIONAL COSPONSORS

S. 32

At the request of Mr. THURMOND, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 32, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

S. 219

At the request of Mr. MOYNIHAN, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 219, a bill to exclude the Social Security Trust Funds from the deficit calculation and to extend the target date for Gramm-Rudman-Hollings until fiscal year 1997.

S. 478

At the request of Mr. DODD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 478, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

S. 511

At the request of Mr. INOUYE, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 619

At the request of Mr. SARBANES, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 619, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr. in the District of Columbia.

S. 1006

At the request of Mr. LEAHY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1006, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

S. 1212

At the request of Mr. SANFORD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1212, a bill to amend title II of the Social Security Act to provide for a more gradual period of transition—and a new alternative formula with respect to such transition—to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927—and related beneficiaries—and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 1560

At the request of Mr. BURNS, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1560, a bill to suspend the enforcement of certain regulations relating to underground storage tanks, and for other purposes.

S. 1606

At the request of Mr. KENNEDY, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Utah [Mr. HATCH], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 1606, a bill to amend the Public Health Service Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds, and for other purposes.

S. 1627

At the request of Mr. MOYNIHAN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1627, a bill to amend the Internal Revenue Code of 1986 to generally treat bonds issued for section 501(c)(3) organizations in a manner similar to governmental bonds.

S. 1653

At the request of Mr. BAUCUS, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from South Dakota [Mr. DASCHLE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1653, a bill to preserve the solvency of the railroad retirement system.

S. 1690

At the request of Mr. DODD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1690, a bill to establish programs to improve foreign language instruction, and for other purposes.

S. 1692

At the request of Mr. NUNN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1692, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities under passive loss rules.

S. 1703

At the request of Mr. BOSCHWITZ, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1703, a bill to amend title 38, United States Code, to permit Department of Veterans Affairs medical centers to retain a portion of the amounts collected from third parties as reimbursement for the cost of health care and services furnished by such medical centers.

S. 1774

At the request of Mr. KASTEN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1774, a bill to amend the Internal Revenue Code of 1986 to repeal section 89 nondiscrimination rules.

S. 1782

At the request of Mr. KENNEDY, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 1782, a bill to amend the Public Health Service Act to provide for the establishment of an AIDS treatment assistance program for low-income individuals, and for other purposes.

S. 1787

At the request of Mr. DECONCINI, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1787, a bill to restore the record-keeping requirement of the Child Protection and Obscenity Enforcement Act of 1988.

SENATE JOINT RESOLUTION 77

At the request of Mr. SARBANES, the names of the Senator from Delaware [Mr. BIDEN] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 77, a joint resolution recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty.

SENATE JOINT RESOLUTION 221

At the request of Mr. CRANSTON, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from New York [Mr. D'AMATO], the Senator from Indiana [Mr. COATS], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 221.

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. KASTEN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Concurrent Resolution 69, a concurrent resolution relating to the right of self-determination of the peoples of Latvia, Estonia, and Lithuania, and for other purposes.

SENATE RESOLUTION 202—AUTHORIZING PRINTING OF ADDITIONAL COPIES OF A COMMITTEE DOCUMENT

Mr. NUNN submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 202

Resolved, That there be printed for the use of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs three hundred additional copies of its hearing of the 100th Congress entitled "Organized Crime: 25 Years After Valachi"; and that there be printed for the use of the Committee such additional copies not to exceed the cost of $1,200.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOUCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that the second in a series of hearings has been scheduled before the Senate Committee on Energy and Natural Resources to receive testimony on amendment No. 267 to S. 406, the Competitive Wholesale Electric Generation Act of 1989.

The second hearing will take place on November 16, 1989, beginning at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the committee, SD-306, Washington, DC 20510.

For further information, please contact William B. Conway, Jr., senior counsel at (202) 224-7149.

Mr. JOHNSTON. Mr. President, I would like to announce for the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, December 5, 1989, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the Department of Energy's implementation of the civilian nuclear waste program.

For further information, please contact Mary Louise Wagner or Teri Curtin at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. REID. Mr. President, I ask unanimous consent that the Foreign Commerce and Tourism Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 1, 1989, at 11 a.m. to hold an oversight hearing on the United States and Foreign Commercial Service until 1:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, November 1, 1989, at 11 a.m. for a hearing on strengthening the food safety laws until 1:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Consumer and Regulatory Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, November 1, 1989, at 9:30 a.m. to conduct an oversight hearing on drug money laundering control efforts until 1:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL DOWN SYNDROME AWARENESS MONTH

● Mr. PRYOR. Mr. President, I would like to take a few moments to recognize October 1989 as "National Down Syndrome Awareness Month."

In our country, Down syndrome is the leading cause of mental retardation. One out of every 900 babies is born with Down syndrome. And an estimated 360,000 Americans live with this condition. That means that Down syndrome touches the lives of millions of Americans who have family members or friends with Downs syndrome.

A single extra chromosome causes Down syndrome. And as tiny as that chromosome is, that little extra can cause mild to serious mental retardation and a number of physical problems.

But awareness does not stop at knowing that people with Down syndrome have an extra chromosome. Awareness means recognizing that, while people with Down syndrome share a common condition, first and foremost, they are individuals—individuals with unique personalities, strengths, and abilities.

Awareness, too, means dispelling old and incorrect stereotypes. It means knowing that given appropriate opportunities, the vast majority of persons with Down syndrome can not only learn, and can maintain jobs, but can excel in all facets of life beyond our imaginations.

Awareness does not mean pity. Nor does it mean charity or sympathy. It does mean an open mind to accept people with differences into our workplaces and into our lives, as our friends.

Christopher Burke is a young actor who in real life was born with Down syndrome and who plays a young man with Down syndrome in the new television series, "Life Goes On." Christopher says that he likes to think of himself as having "Up" syndrome. Christopher's positive attitude is truly heartening. If we share his spirit, we will have achieved an awareness of what Down syndrome can mean.

To my friends in my home State of Arkansas who support their Down syndrome association, I would like to congratulate your efforts at bettering the lives of your children and friends with "Up" syndrome. Keep up the wonderful work.●

HANNA BOYS CENTER

● Mr. WILSON. Mr. President, I rise today with great admiration and pride for a wonderful residential treatment program for boys in northern California. The Hanna Boys Center has served as a temporary home and counseling center for more than 2,000 boys over the past 40 years. December 3, 1989, marks its auspicious anniversary celebration.

With a strong foundation built upon the visions and hopes of two Catholic priests, Msgr. William O'Connor and Msgr. William Flanagan, the Hanna Boys Center has developed into a highly effective treatment center where troubled boys are given the opportunity to live with adults and peers in an environment which is caring, consistent, and disciplined. The boys are exposed to individualized school programs, full sports and recreational activities, and an overall environment conducive to discovering themselves and learning to interact with peers and society.

Programs such as the Hanna Boys Center help to alleviate the troubles, problems and worries common to children and teenagers in our society. The Hanna Boys Center has operated as a nonprofit organization open to any troubled boy regardless of his ability to pay tuition. We must commend all of the people who have worked so hard to accommodate the needs of these individual boys, and who have collaborated their efforts so that these boys may receive the education, care, and attention they so desperately seek.

I am proud to salute the enormous contributions the Hanna Boys Center has made, and know that they will continue to successfully serve the needs of our northern California youth.●

THE IMPEACHMENT OF JUDGE ALCEE HASTINGS

● Mr. KOHL. Mr. President, I want to begin by commending the Hastings Impeachment Committee for its diligence in listening to weeks of testimony and poring over literally hundreds of documents to bring the full Senate an objective assessment of this case. In particular, the chairman and vice chairman of the committee, JEFF BINGAMAN and ARLEN SPECTER, deserve special praise.

This was an extremely difficult case, and it was a historic case. For the first time, the Congress removed a Federal judge who was previously acquitted by a jury. Judge Hastings argued that the Constitution's double jeopardy clause barred a second trial in the Senate. But while double jeopardy can clearly attach in criminal proceedings, I believe that it does not apply to impeachments. The 1974 House Judiciary Committee Report entitled "Constitutional Grounds for Presidential Impeachment" explains, "The purpose of impeachment is not personal punishment; its function is primarily to maintain constitutional government." In other words, impeachment remedies a weakness in government; as such, it is not punitive.

After extensive review of all the evidence, I came to the difficult decision to vote to convict Judge Hastings on eight of the articles of impeachment. On articles I through V and VI through IX, the House demonstrated by clear and convincing evidence that Judge Hastings and William Borders conspired to solicit a bribe in exchange for reducing the sentence against the Romano brothers. I also believe that Judge Hastings perjured himself at his criminal trial, by denying this bribery conspiracy, in order to ensure his acquittal.

However, I voted "not guilty" on articles VI and XVI, and I would have voted "not guilty" on articles X through XIII had they come to a vote as well. The House failed to meet its burden of proof in these articles, and for that reason I could not vote to convict.

Mr. President, many of my colleagues feel the impeachment process is far from ideal. I agree. Nevertheless, as difficult as the task was under the circumstances, we did not shirk our constitutional obligation. I believe that my colleagues and I examined the facts and came to a decision—the right decision. All the Members of this body should be commended for their thoughtfulness and hard work.●

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

● Mr. COATS. Mr. President, October 30 marked the groundbreaking ceremony of the National Law Enforcement Officers Memorial on Judiciary Square here in the Nation's Capital. This memorial was authorized by Congress in 1984 to honor those Federal, State and local law enforcement officers who have served their country and their communities and those who have died in the line of duty.

As we all realize, every day police officers put their lives on the line to protect our neighborhoods and our families and to answer our urgent calls for help. Somehow we expect these gallant men and women to be there, serving our law enforcement needs tirelessly, vigilantly and without com-

plaint. Today we call on our police to make even greater efforts as the battle against drugs rages in our streets and communities. The men and women in law enforcement need and deserve our support and our encouragement now, more than ever. This national memorial provides us the opportunity to show our appreciation for their steadfast service and sacrifice.

Since 1979, 31 law enforcement officers have been killed in the line of duty throughout my home State of Indiana. Mr. President, I ask that the names of these brave Hoosiers in uniform and their local police and sheriff's departments be printed in the CONGRESSIONAL RECORD. I salute them and the National Law Enforcement Officers Memorial as a fitting tribute to their honor, courage and sacrifice in America's war against crime.

The list of officers follows:

LAW ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY IN INDIANA 1979-1988

Artz, Walter K., Vigo County Sheriff's Department, 07/01/87.

Baker, Terry L., Marion County Sheriff's Department, 01/02/81.

Bossen, James D., Indianapolis Airport Police, 02/05/82.

Faber, Matt J., Indianapolis Police Department, 08/23/88.

Flamion, Earl W., Perry County Sheriff's Department, 09/21/80.

Graham, Omega, Fort Wayne Police Department, 12/10/87.

Grass, Malcolm E., Hancock County Sheriff's Department, 05/08/86.

Griffin, Gerald F., Indianapolis Police Department, 11/06/79.

Grove, Robert S.B., Munster Police Department, 09/06/83.

Hatfull, John E., Indiana State Patrol, 04/13/87.

Jones, Roy E., Indiana State Police, 07/03/79.

Kistner, Clarence M., Sullivan County Sheriff's Office, 02/10/79.

Kortepeter, Paul A., Indianapolis Police Department, 01/19/83.

Lampe, Ronald L., Henry County Sheriff's Department, 01/09/80.

Lather, John R., Indiana State Police, 07/06/82.

Malatinka, Ernest, Hammond Police Department, 12/29/84.

Miner, William D., Avilla Police Department, 05/28/83.

Morris, Gerald L., Marion County Sheriff's Department, 01/02/81.

Nine, Brant Allen, Nappanee Police Department, 11/03/88.

Oaks, Leslie D., Montgomery County Sheriff's, 05/03/82.

Ohrberg, Jack R., Indianapolis Police Department, 12/11/80.

Osborne, Jack W., Seymour Police Department, 08/15/81.

Prater, Paul H., Jay County Sheriff's Office, 01/04/83.

Pucalik, Lawrence J., Hammond Police Department, 11/14/80.

Rogers, Harold L., Terre Haute Police Department, 06/16/84.

Sandler, David L., Indianapolis Police Department, 06/04/86.

Sharp, Thurman, Marion County Sheriff's Department, 12/25/88.

Swartzlander, Tony E., Bremen Police Department, 02/22/81.

Thompson, Neil G., La Porte County Sheriff's Department, 09/21/80.

Utz, James W., Terre Haute Police Department, 09/14/81.

Yaros, George, Gary Police Department, 08/11/81.●

WHO IS RUNNING OUR GOVERNMENT?

● Mr. PRYOR. Mr. President, I ask permission to place in the RECORD an excellent article in today's Washington Post by David Broder. That article makes points of profound relevance to the continued well-being of our democracy.

Mr. Broader observed that our friends in the press, like many of us, pay much attention to scandal, "but the question of whether government is working well—or working at all—is not one that usually draws our interest." As a result, he said, while there is abundant evidence that Government is working very badly, the press and political leadership appear to be engaged in a "conspiracy of silence" when it comes to examining the causes.

Mr. President, I believe that before we address the issue of how our Government is working, we must first discuss who is running it. Instead of the Congress and the executive branches openly debating these matters, both sides have helped create a "Hollow Government" which itself relies on a "Shadow Government." This Shadow Government is the huge but largely invisible contractor work force to which agencies turn to do their most sensitive work.

Mr. President, as most of you know, I have been working on the issue of who is running our Government for the past decade. In 1980 I held hearings on the Department of Energy's reliance on contractors to do the basic work of Government. We found that this reliance was so pervasive, yet invisible, that the very maintenance of an official intelligence was at stake. Sadly, this prophecy has proved correct. In June, Secretary of Energy Watkins candidly announced that the Department he was bequeathed lacked the skills needed to run our nuclear weapons complex.

In February of this year, our hearings found that Superfund, one of this Nation's most important environmental programs, is essentially being turned over to private contractors, from rule writing to rule enforcement. In June our hearings found that the independent office Congress created to test our weapons systems has been turned over to a private work force as well. It now appears, as I discussed at a hearing with OMB Director Darman last month, that EPA routinely employs private contractors to interpret our laws and rules to the public, and that the Department of Energy relies on a private contractor to prepare the congressional testimony of its highest level officials.

This coming Monday my Federal Services Subcommittee will consider these matters in a public hearing. We will be asking the big questions that, as Mr. Broder writes, demand attention: "Do we know who is running our Government?"; "How much of the basic work of Government is being performed by a private work force?"; "Are we losing, or have we already lost, the official capability needed to control this work force, and, by extension, the work of Government?" And, most importantly, "What steps must be taken to assure that the country has an official work force with the competence, resources and morale needed to address our public problems?"

The article follows:

[From the Washington Post, Nov. 1, 1989]

FUMBLE, PUNT, FUMBLE

(By David S. Broder)

The Redskins, the only professional team to play its games in the city of Washington, have a quarterback, Mark Rypien, of whom it is said, with fatal accuracy, "Every time he gets hit, he fumbles." The same, sadly, can be said of government in Washington.

Sports reporters notice things like Rypien's tendency to give up the ball when sacked. Political reporters, unfortunately, tend to be less attentive to a pattern of failure on our beat, especially when it involves a whole institution rather than the individual. A few years back, one New Yorker remarked that for 25 years, "The New York Times had reported everything that happened in New York City schools except that they were collapsing." The same thing can be said of most of the Washington press corps and the national government today.

Truth is, few Washington reporters know much, or care much, about what goes on inside government. We write about scandals, when they are gamy enough, and about the handful of policy fights that pit the White House against Congress, like the battle over capital-gains taxes. But the question whether government is working well—or working at all—is not one that usually draws our interest.

Today, by almost any measure, government is working very badly, so badly in fact that even journalists are beginning to notice it. When Stanley W. Cloud, a veteran Washington reporter and editor, took over recently as Washington bureau chief of Time magazine, he persuaded his editors to do a cover story, headlined, "Is Government Dead?"

The answer, Cloud's story said, is that if government is not dead, it increasingly "looks like a costly irrelevancy today. * * * Under the shadow of a massive federal deficit that neither political party is willing to confront, a kind of neurosis of accepted limits has taken hold from one end of Pennsylvania Avenue to the other." Whether the challenge is an oil spill in Alaska or a hurricane in South Carolina, an abortive coup in Panama or a democratic revolution in Eastern Europe, the government's response is slow, grudging and massively inadequate.

When confronted by a crisis or even an unexpected opening, it fumbles. And on the larger, long-term challenges—things such as the decline of the schools, the deterioration of our transporation system, the scourge of

drugs and the steady accumulation of unpaid debt—its tendency is to postpone hard choices and posture rather than produce.

The explanation is two-fold. What we choose to call a government is no such thing. In our era of debilitated political parties, Washington is run by 536 individual political entrepreneurs—one president, 100 senators and 435 members of the House—each of whom got here essentially on his own. Each chooses the office he seeks, raises his own money, hires his own pollster and ad-maker and recruits his own volunteers.

Each of them is scrambling to remain in office, no matter what. And each of them has commitments and objectives he considers paramount. When George Bush says, "Read my lips," each member of Congress replies, "I want mine." And the result is the paralysis of which Time wrote.

The second part of the story is laid out in the October issue of a magazine called Government Executive, a sort of trade paper for the bureaucracy. In a piece called "Hollow Government," writer Mark L. Goodstein cites example after example of how the budget cuts of the 1980s have left "federal agencies increasingly unable to perform the missions for which they were created."

His story is a compendium of examples of government struggling with outmoded equipment and inadequate staffing. A former Internal Revenue Service commissioner says the IRS computer system "is somewhere in the Ice Age." At a time when the nation is aging and new programs for the elderly are being enacted, the Social Security Administration has had a 20 percent cutback in personnel.

The root of this problem is that presidents and Congresses in this decade have lacked the courage to ask people to pay for the government services they receive. This year's budget fiasco compounds the hypocrisy. When the political cowards in the Bush administration and on Capitol Hill decided last month it was easier to admit failure than to reach agreement on a budget, that triggered automatic, across-the-board cuts in hundreds of domestic and military programs.

No one seems to know or care what those $16 billion cuts will do to the people who depend on those services. The president and Congress are engaged in a conspiracy of silence to keep the public from putting the blame where it belongs.

But those cuts guarantee that a "hollow government" will be further drained of the talent, the energy and the equipment it needs to do its job. When the complaints come in, the politicians will do what they always do: blame the bureaucrats. "Is government dead?" The answer is that it might as well be, so debilitated and demoralized has it become.●

EC 1992 POLICY RECOMMENDATIONS SENATE TASK FORCE ON EC 1992

● Mr. BAUCUS. Mr. President, I rise today to announce the Senate Task Force on EC 1992 policy recommendations. The Senate Task Force on EC 1992 was established to promote an ongoing and constructive dialog on the economic integration of the European Community. The task force's purpose is to ensure that EC 1992 is mutually beneficial to the United States and Europe.

The integration of the European Community by 1992 provides a potentially unified market of 320 million customers. If the EC goes forward with integration this emerging market could offer tremendous opportunities. We welcome any market opening trade agreement, and hope that EC 92 will be market opening.

But, while the United States welcomes EC 92, we have some specific concerns about its impact upon U.S. interests. The EC 92 process is likely to simplify the trading process with Europe in many ways. Unfortunately, it also provides European protectionists with an opportunity to raise new barriers. Some of the EC directives impose new trade barriers against U.S. exports to Europe.

We cannot stand idly by if Europe uses EC 92 to exclude U.S. exports. EC 92 can and should be mutually open and beneficial to both the United States and Europe. The U.S. Government must closely follow EC 92 developments and directives to ensure that they are not protectionist.

Senator ROTH and I, together with our colleagues from the task force, have studied EC 92 administration. These policy recommendations summarize specific issues regarding EC 1992 that concern us most and suggest policies that the United States should be pursuing. I ask that the EC policy recommendations appear directly following my statement in the RECORD.

The material follows:

SENATE TASK FORCE ON EC 1992 POLICY RECOMMENDATIONS [1]

(Senators Max Baucus and William Roth announced today the following policy recommendations as cochairmen of the Senate Task Force on the European Community 1992:)

The European Community's initiative to unify and integrate its market of 12 community members by 1992 is progressing on schedule. The emerging new single market will have 320 million customers. This is like creating another U.S. market with an extra California, New York, Texas, and Pennsylvania thrown in. If the EC continues to evolve as scheduled, new doors will be opened to this vast market as the EC is integrated. This unified market is likely to provide many opportunities. It is likely to simplify the trading process with Europe. Under the integrated system, requirements, standards and regulations will be harmonized to become community wide regulations. This could benefit those who trade with Europe by reducing the number of steps required to sell a product in Europe. Further, if EC 1992 does spur economic expansion in Europe, it will make Europe a more lucrative market for U.S. exports.

But there is also the potential that de facto, EC integration could result in tougher requirements for non-EC members while simplifying and increasing intra-EC trading. This could create the so called "fortress Europe" that we must guard against. While protectionist pressures may not be emanating from the commission itself, there are clearly political pressures within Europe and within many industries to build higher protectionist walls against the outside world to help blunt the impact of increased intra-European competition. Many EC businesses under pressure from new European competition will undoubtedly clamor for increased protection from U.S. and Japanese exports.

It is too early to tell how the EC 92 directives will develop and eventually impact U.S. traders. This is precisely why the U.S. government must keep a close watch on the directives and rules emerging in the European Community. We must be alerted to any developments that may discriminate against non-EC producers. If such problems develop, the U.S. government must be prepared to defend U.S. interests at the highest levels.

Specific issues of concern to the Senate Task Force on EC 92 are as follows:

1. U.S. OBJECTIVES IN THE URUGUAY ROUND SHOULD PROMOTE THE POSITIVE EVOLUTION OF EC 1992

We must use the Uruguay round to promote the most constructive outcome of EC 92.

The world trading system is now governed by disciplines in the General Agreement on Tariffs and Trade (GATT). While the Uruguay round of GATT negotiations are scheduled for completion in 1990, the European integration process will not be completed until 1992. Integration of the European Community by 1992 has not pushed back the deadline for the multilateral negotiations.

It is important that the EC 1992 process be reconciled with the GATT and foster greater trade expansion in the GATT. Some of the EC directives may not be consistent with the Uruguay Round negotiations. The EC will implement regulations in some areas that are already covered by the GATT such as government procurement, product standards, and antidumping/countervailing duties. For example, a GATT Government Procurement Code was concluded in the Tokyo Round of the GATT in 1980. Ongoing negotiations in the GATT are focusing on improving and extending the scope of the Code. Meanwhile the EC is trying to liberalize government procurement through EC 1992. The GATT negotiations on government procurement can be used to set limits on the EC's government procurement directives.

A conflict between the Uruguay Round and EC 1992 developed earlier this year. One of the primary U.S. Objectives in the GATT Round is extending the principles governing trade in goods to services. This would almost certainly include extending the principle of Most Favored Nation treatment—treating all GATT members equally—to services. The EC issued a directive on banking that was inconsistent with the MFN principle and could have been used to exclude U.S. banks from Europe. The EC did eventually agree to revise the banking directive to make it consistent with the GATT principles, but the potential for conflict remains on other issues.

In light of the potential overlap, the U.S. objectives in the Uruguay round should take into account developments in EC-92. We further encourage the EC to move in line with the GATT wherever they cover

[1] The Following Senate Task Force on EC 1992 Members have endorsed the policy recommendations: Senators Baucus, Roth, Bingaman, Bradley, Breaux, Cranston, Daschle, DeConcini, Garn, Grassley, Heinz, Jeffords, Lieberman, Mack, McConnell, Mikulski, Murkowski, Pell, Reid, Riegle, Rockefeller, and Warner.

common areas and believe it is essential to the future of the world trading system that its members follow the intent and spirit of the GATT.

2. WE RECOMMEND THAT THE EC NOT ADOPT POLICIES THAT FORCE FIRMS TO ABANDON SALES TO EUROPE IN FAVOR OF INVESTMENT IN EUROPE

American manufacturers fear a new set of European-wide trade barriers will discriminate against products that are not made in Europe. Many U.S. businesses feel the only way to avoid this discrimination is to invest in Europe rather than export to Europe. U.S. semiconductor manufacturers have argued that the EC is using this uncertainty to extort investment. We urge the EC to clarify early on that this is not their intention.

3. THE ADMINISTRATION MUST ADDRESS CONCERNS OF SMALL AND MEDIUM SIZED BUSINESSES

While many large business interests are generally prepared to protect and promote their interests in the EC, smaller businesses may have different concerns and may not be well positioned to protect themselves. The U.S. government must take action to address the special concerns of small and medium sized businesses with regard to EC 92. The Administration must set forth a clear procedure to address these needs. For example, the U.S. and Foreign Commercial Service could play a greater and more active role in facilitating the process for the small and medium sized U.S. exporter interested in doing business in the EC.

Small and medium sized business often lack the resources to evaluate and deal with some of the directives and rules that are emerging in the European integration process. Some EC 92 directives, such as local content and rules of origin, may potentially keep smaller companies out of Europe. If the new EC rules require that a majority of a product be produced within the EC, the smaller company that cannot afford to open a factory in Europe may be closed out of the EC market.

4. CAREFUL ATTENTION TO STANDARD SETTING

U.S. businesses have expressed concern about the EC 1992 standard process. They are concerned that standard testing procedures will be slanted to favor European products. For example, if certification is available only in Europe in EC approved laboratories, the added expenses of obtaining certification might make U.S. producers non-competitive in Europe. Further, arbitrary standard requirements, barely hidden under the guise of health and safety concerns, could keep American products from the EC markets. The U.S. government should carefully monitor the standard harmonizing process in the EC to ensure that it is not used to erect new trade barriers. We applaud the efforts of Ambassador Hills and Secretary Mosbacher to make the standard setting process more transparent.

5. INCREASED BURDEN SHARING WITHIN THE EC

As the economic strength of the European Community increases, we expect that their share of the western security burden will also increase.

6. COOPERATION OF U.S. AND EUROPE ON ENVIRONMENTAL ISSUES

We encourage coordinated environmental policy within the EC and between the U.S. and Europe.

The EC has increased its participation in environmental matters including the development and ratification of broader international agreements. There is an effort emerging to coordinate environmental policy as seen in the development of product standards such as vehicle emission standards.

7. INCREASE STAFF COMMITMENT TO BRUSSELS

We are concerned that the U.S. government staff's presence in Brussels is not adequate to deal with EC 1992 developments.

Currently the U.S. Government has a total of only 6 officers in Brussels working on EC 1992 issues. The USTR office has only 1 full-time person working on EC 92. These people are highly qualified, but the creation of a potential market of 320 million consumers deserves high level U.S. attention. We urge the Administration to increase Brussels staffing levels to ensure that the U.S. mission to the EC has adequate technical support and a strong capacity to facilitate U.S. private sector contact with the Commission.

8. IMPROVE THE ADMINISTRATION'S INTERNAL COORDINATION

The U.S. Administration must ensure an organized and coordinated response to EC 1992 to effectively represent American interests in a clear and timely manner. Leadership on EC 92 issues should be clearly defined. This need was reflected by the Administration during Secretary of State James Baker's confirmation hearing when he agreed that a single point of contact for the EC 92 would be helpful.

U.S. Trade Representative Carla Hills has named Deputy USTR Ambassador Jules Katz to coordinate the inter-agency task force on Europe 1992. We applaud this step and encourage further steps.

Specifically, we recommend the appointment of a specific official to take the lead in monitoring EC 1992 developments. This official will report to Congress and the public every 3 months on these developments and on their potential impact on American business.

9. THE ADMINISTRATION SHOULD ESTABLISH AN INTERGOVERNMENTAL GROUP TO REPRESENT U.S. CONCERNS REGARDING EC 1992 DEVELOPMENTS

We strongly urge the President to accept the proposal by Jacques Delors, the President of the European Community, to establish a regular process for consultations at the highest levels between the United States and the EC on the EC's single market program. Periodic meetings between U.S. Cabinet Members and EC Commissioners would help resolve issues on a timely basis and would likely improve the initial drafts of the Commission directives from the U.S. perspective. This type of forum would eliminate some problems emerging in the early phases of drafting the directives. Certainly, the meetings already held by Ambassador Hills and Commerce Secretary Mosbacher and their EC counterparts have yielded positive results.

The U.S. must be ready and able to respond quickly to signs of protectionism in Europe. The EC Television Without Frontiers directive is an example of a protectionist measure which could adversely impact the U.S. We commend Ambassador Hills for her quick and decisive response to the Television directive.

10. THE U.S. SHOULD BEGIN TO LOOK AT IMPLICATIONS OF EUROPEAN ECONOMIC AND MONETARY UNION (EMU)

As the EC moves towards EMU, the logical next step after the 1992 program, the United States needs to assess how such a program will impact its own interests. While EC member states continue to hold divergent views on the eventual form of EMU, any sort of progress toward full-scale integration will undoubtedly have an impact on world economic and monetary systems. Thus the U.S. government needs to establish a framework in which it will be able to monitor and respond to developments in intra-European financial cooperation. The results of this monitoring and any subsequent responses should be an integral part of any Administration report to Congress on the 1992 program.

As a first step, the United States government should undertake a review of the effect of the ten-year old European Monetary System on American business and monetary policymaking.●

SENATE TASK FORCE ON EC 92

● Mr. GARN. Mr. President, I rise today to support the policy recommendations issued today by the Senate task force on EC 92. The changes occurring in the European Community will have major consequences for the competitiveness of U.S. firms both overseas and at home. These developments hold great opportunities for the United States, as well as some potential risks. We must work closely with European governments and the European Commission to encourage the creation of a single market, but also to ensure that the United States shares fully in the opportunities presented by a single market of 320 million consumers.

One issue that was not addressed by the task force recommendations is the critical area of controls on the export of militarily critical technology to the East bloc. Leakage of such technology to our potential adversaries is a matter critical to U.S. national security. To limit such leakage, the United States participates in a cooperative arrangement with governments of other major producers of advanced technology, known as the Coordinating Committee on Export Control, or Cocom. Cooperation is essential in this effort since we have no monopoly or even necessarily a leading position in these technologies. All members of Cocom, except Japan, are European allies who are members of NATO.

Since Cocom, like a chain, is only as strong as its weakest link, our technology security depends on the active cooperation of our European allies. We provide preferential licensing of high-technology exports to Cocom allies, and trade within the system is relatively free while trade outside Cocom, especially to the East bloc, is subject to more substantial licensing and control.

A single European market, effectively without internal borders, presents a major challenge to our export control system since its implies unregulated trade between Cocom and non-Cocom members. While it is not an issue easily raised with the EC, but more ap-

propriately discussed within Cocom itself, we must place the issue of multilateral export control policy on our EC 92 agenda. I am hopeful that the members of the Senate task force will recognize the importance of this issue and will add it to the agenda for future consideration.●

THE OUTBREAK OF URBAN VIOLENCE IN EL SALVADOR

● Mr. DURENBERGER. Mr. President, as we have read and heard yesterday and today, there has been yet another outbreak of urban violence in El Salvador. The bombings of the antigovernment Fenastras labor union building and the Comadres [Mothers of the Disappeared] offices yesterday represent a deplorable and deeply regrettable continuation of the war between the leftist FMLN rebels and the democratically elected Government of El Salvador.

The Government of El Salvador has energetically condemned and repudiated these terrorist attacks. It has ordered an immediate and thorough investigation into the assault. Much to its credit, I believe the Government of El Salvador is committed to continuing the peace talks with the rebels, with the hope and intention of arriving at a mutually satisfactory agreement to cease the conflict that has raged for 10 years.

Some observers contend that these two most recent attacks were in retaliation for the mortar launchings by the Marxist rebels 2 days ago against the Military High Command center in the capital. Even though most of the mortars fell inaccurately away from the building, one civilian was reported killed and many others wounded.

And on October 17, in a heinous criminal act, the 23-year-old daughter of a Salvadoran Army colonel was murdered outside her home. In an apparent response to that murder, 2 days later, the home of opposition politician Ruben Zamora Rivas was damaged by a small bomb assault.

Mr. President, I must condemn and urge my colleagues to condemn these irrational acts of violence, regardless of who's responsible. Each of these acts of violence represents a deplorable and offensive disregard for human life. There must be an end to this apparent retaliatory cycle.

These acts serve only to distract attention from the important talks that are scheduled to resume later this month between the government and the rebels. We call on all parties in the conflict to focus their energies not on escalating and perpetuating the cycle of violence, but rather on pursuing in good faith the peace process in the country. The war has gone on for too long.

We must also recognize regarding these assaults that it is often very difficult to determine who has perpetrated any of these crimes, be they against a labor union, the Army Headquarters, or innocent civilians. This task is clearly hampered by the fact that there are extremist factions within the FMLN group, the Armed Forces, and the ARENA party. Despite any difficulty that this circumstance generates, the Government of El Salvador must maintain its commitment to investigating all terrorist acts within the country. I continue to urge the government to do just that. I am confident of the government's commitment to this objective, and join those who express hope that peace will soon come to El Salvador.●

DEMOCRACY IN PAKISTAN

● Mr. BOSCHWITZ. Last night the National Assembly of Pakistan gave the young government of Prime Minister Benazir Bhutto a clear vote of confidence, defying predictions that the government would fall or its margin of support in Parliament would be very narrow.

Those of us who have worked with the people of Pakistan over the years as they moved through a difficult transitional process from dictatorship to democracy are not only encouraged by the strong vote of support for the government, but more importantly, that the young political institutions of that nation were able to function as they were designed to do. Both the government and the opposition worked through the constitutionally provided mechanisms and are abiding by their results. We are also encouraged that the military of Pakistan, true to its public commitment, stayed out of this political battle and let the constitutional processes work.

Pakistan is a new democracy, and like all new democracies, it needs time and support to fully develop. The United States, the world's greatest democracy, will stand with Pakistan through this critical time. It is important that Pakistan now proceed to consolidate the forces of democracy in the government and opposition and structure a new economic and social order for a people who too long suffered under military rule. Democracy demands national consensus, and we urge the Prime Minister, consistent with her conciliatory and generous statement of yesterday, to work with members of the opposition so that Pakistan may continue to develop as a democratic, modern State.

On this important day, we send our good wishes to the people of Pakistan and look forward to the continuing flowering of its democracy.●

GROWING CONCERN RE JUDICIAL TAXATION

● Mr. HUMPHREY. Mr. President, I am pleased to note that another influential voice has been raised in support of an idea that is the subject of important legislation I introduced at the outset of this Congress.

On October 31, the Washington Post published an editorial entitled "Can Courts Order Tax Increases?" The Post editorial outlines the shocking exercise of judicial activism that occurred in the case of Jenkins versus Missouri, which is now pending before the U.S. Supreme Court. In that case, a Federal district judge in Kansas City, MO, ordered the expenditure of some $400 million to finance lavish school facilities improvements which the court considered desirable to achieve more perfect racial balancing in the Kansas City area public schools.

Not content with usurping the State legislature's ability to make educational policy, the court proceeded to usurp an even more fundamental legislative power in our democratic system. The court seized the taxing power as well, by ordering a massive increase in the local property tax and the imposition of a new State income tax surcharge.

When unelected Federal judges exercise the taxing power, we are faced with the same unacceptable form of tyranny that precipitated the American Revolution. Taxation without representation is still tyranny, whether it is imposed by kings or judges.

The Post's editorial properly criticizes "the judge's authority unilaterally to raise taxes," and accurately warns that the Kansas City case is an "alarming precedent." The Post goes on to stress that, if courts are allowed to order tax increases, the ability of democratic government to function "will be further jeopardized and the role and authority of elected officials severely diminished."

The Post is exactly right on this issue. Fortunately, legislation is now pending in the Senate which would quickly solve this grave problem. The Judicial Taxation Prohibition Act (S. 34), which I introduced at the beginning of this Congress, has the strong support of 10 distinguished cosponsors and such reputable groups as the National Taxpayers Union. S. 34 would prohibit Federal courts from ordering any new taxes or tax increases. The constitutionality and validity of such congressional limitations on the remedial powers of Federal courts is well settled. Clearly, it would be an abdication of the most fundamental duties of Congress to allow courts to continue to usurp the taxing power which belongs to the legislatures alone.

I therefore urge all my colleagues to join me in supporting the Judicial Taxation Prohibition Act, and I call on the leadership of the Senate Judiciary

Committee to give this legislation the prompt attention it deserves.

I ask that a copy of an editorial entitled "Can Courts Order Tax Increases?" published in the October 31, 1989, edition of the Washington Post, be included in the RECORD.

The editorial follows:

CAN COURTS ORDER TAX INCREASES?

Suppose a federal court in this city, shocked by conditions at Lorton and the government's slow pace in doing anything about them, issued an order that the prison not only be brought up to constitutional standards but that it be made into a model facility with every amenity from gourmet meals to color TVs in each cell. Then suppose that in order to pay for these improvements, the court—on its own initiative and without even telling, let alone asking, the mayor, the city council or the voters—doubled the real estate tax in the city, ordered the issuance of $150 million in bonds for construction and imposed a surcharge on the city income tax. Calm down—it hasn't happened here; but that, in essence, is what a federal judge in Kansas City has done in a school desegregation case argued Monday in the Supreme Court.

In devising a way to combat segregation in the schools of the Missouri city, U.S. District Court Judge Russell Clark decided it was necessary to make schools so attractive that whites who had fled the city would return. To that end, every high school, every junior high and half the elementary schools were turned into magnets. Hundreds of new teachers were hired. Every school was extensively renovated, and an ambitious construction plan was mandated. Attorneys representing the state of Missouri estimate that the total cost of the plan—about $400 million—is larger, by a factor of 10, than any other desegregation plan in the country. The Supreme Court refused to hear argument on the question of whether such a wide-ranging and ambitious move would ever be in order, but it may consider whether the order was warranted in this particular case.

The main question on appeal, however, is the judge's authority unilaterally to raise taxes. This is a pretty alarming precedent. The District Court's order was modified somewhat by the Eight Circuit Court of Appeals, which affirmed the lower court's right to impose the tax, but held that prospectively the order should only authorize the school district to raise the tax. The end result of either course is the same. Courts must have authority to enforce their orders, but traditionally that has been done by using the contempt and fine powers. Clearly, courts can't raise armies to enforce their orders, as Justice Scalia reminded lawyers Monday. Can they impose taxes? If so, the sorting out of the government's priorities—money for welfare or education, for the homeless or for medical care—not very orderly to begin with, will be further jeopardized and the role and authority of elected officials severely diminished.●

MIKHAIL AND NATASHA KOZANEVICH

● Mr. ARMSTRONG. Mr. President, a number of incidents emphasized the value our Nation places on freedom. Terrorism suddenly reunited our citizens in concern for those Americans held against their will in the Middle East. Student protests in Tiananmen Square further opened our eyes to the struggle for freedom just beginning in the Communist world. And though the Gorbachev era promises to bring ideological change to the Soviet Union, Jewish refuseniks continue to appeal to the United States for help acquiring the freedom to emigrate.

Mikhail and Natasha Kozanevich are such a family. Since their initial application for emigration in 1973, the Kozanevichs have tried repeatedly to obtain exit visas from the Soviet authorities. Their attempts, however, have been met with persecution. As with other Jewish refuseniks, their guaranteed rights under the Helsinki accords have been ignored.

Immediately after he applied for an exit visa, Mikhail Kozanevich lost his job as a radio engineer. Both he and his wife, formerly a chemist, have not been able to find employment as professional scientists since. In fact, Mikhail has even had trouble finding menial employment.

In a letter to an Israeli friend, Mikhail commented:

All my attempts to get a job have been in vain—even where professionals were needed—for obvious reasons. Since 1973 * * * I worked a total of only 2 years, at unskilled, low-paying jobs. And whenever I am unemployed, I am accused of living a parasitic way of life. My wife, Natasha, has also been employed as an unskilled worker with a very low salary.

Despite his efforts to stay employed, Mikhail has been threatened with prosecution a number of times, on the charges of parasitism. In 1977, the KGB tried to arrest him 7 times at 2 a.m. However, each time Mikhail resisted on the grounds that early morning arrests were illegal without a specific warrant.

Though he was never detained, Mikhail's continual contact with the KGB caused him to lose his job. He then applied for 20 different positions, but did not receive a single reply. With such a scar on his record, Mikhail fears he will not be able to support his wife and two children. He wrote to a friend in Israel: "You can imagine what kind of material difficulties we face, besides all the other suffering." Though Mikhail now works as a telegraph errand boy, he cannot be sure he can even keep this job.

Soviet authorities have refused the Kozanevich's emigration application more than 7 times because of Mikhail's former job classification, which authorities say may have put him in contact with "scientific state secrets." Clearly after more than 15 years he could not possibly have any knowledge of current State secrets. Furthermore, a friend of Mikhail's, who worked for the same organization was granted an exit visa.

The Kozanevichs are obviously being punished for faithfully pursuing their Jewish beliefs in the midst of constant persecution. As Mikhail wrote in 1977:

Although our troubles started some time ago, they got worse after our Chanukah party last year. Celebrations had been planned for the eight nights at our house. The first four went successfully but on the Saturday celebration, there were men checking identity cards of every person coming near my flat * * *."

Mikhail Kozanevich and his family continue attempts to join their friends in the United States. They remain active in the Jewish Cultural Club, helping other Soviet Jews in their self-help efforts by drafting and appealing petitions and translating documents. His family is now the only one of this "self help" group to remain in the Soviet Union.

Mr. President, out of respect for freedom and human dignity, I call on the Soviet authorities to release this persecuted family and allow them to join their supportive friends in the United States. The events in the news have proven the value of freedom to those of us who maintain and cherish that basic human right. However, until the Soviet Union allows its citizens that same right, we must maintain our voice of protest against the continued oppression in that nation.●

BHUTTO GOVERNMENT—VOTE OF CONFIDENCE

● Ms. MIKULSKI. Mr. President, in recent times we have witnessed an irresistible demand for freedom ranging from Eastern Europe to the Phillippines. One of the most satisfying of the democratic movements took place 1 year ago in Pakistan, where, after 11 years without elections, the country carried out free and fair elections and a smooth transition to a new government headed by Benazir Bhutto.

Yesterday, Prime Minister Benazir Bhutto won the first major challenge to her leadership of the Government of Pakistan, beating back a vote of no confidence in the national assembly by a comfortable margin. What is extraordinary is that this is the first time in the 40-year history of Pakistan that a government was ever put to this constitutional test. It is a measure of the strength of this new democracy that it was able to withstand the pressures of the vote and that the government has emerged stronger for the effort.

In this critical moment for Pakistan I hope that all the forces of the nation will join with the Prime Minister in her gracious and generous statement of national unity and national consensus.

The new regime in Islamabad will have a very real and immediate impact on all people of Pakistan. For 11 years of dictatorship it appears that many of the basic needs of the people were neglected. Infant mortality shot up, il-

literacy—especially among women—is very high, and all the indicators of development turned dramatically down. Now is the time in Pakistan for new priorities to be addressed, in the context of conciliation and consensus. Now that this constitutional test is over, I hope that all Pakistanis, especially members of the opposition, will work with the elected Government of Pakistan over the next critical years to nurture the democratic institutions of the nation and to address neglected social priorities.

In the first 11 months of her tenure, Prime Minister Benazir Bhutto has accomplished more than most leaders do in their whole career. She has released all political prisoners. She has legalized the trade union movement. She has removed the ban on student organizations. She has remanded those thousands convicted under martial law. She has freed the press and opened the state news media to the opposition. She has increased expenditures on education, housing, and health care by over 50 percent.

During the Zia regime, the United States and Pakistan remained allies with common interests in the region. That alliance, however, was never a completely comfortable one for the United States in the absence of a democratically elected Pakistani Government, and there was often resistence to full cooperation with the Zia government.

I urge the Bush administration to work closely and wholeheartedly with the Bhutto government so that the United States and Pakistan, as true democratic partners, can serve as a model of bilateral cooperation to the developing world.

Pakistan deserves generous support from the United States. On this historic day, we send our special thoughts and prayers to the 110 million people of Pakistan and to the Prime Minister, who is developing into one of the world's most respected leaders.●

● Mr. LEVIN. Mr. President, the announcement by the Sandinista government of the suspension of the ceasefire in Nicaragua is disturbing news.

President Ortega's move deserves the universal scorn and condemnation it is receiving as a threat to the peace process and progress toward democracy. In the end it will prove to be, as so much of what the Sandinistas have done, self-defeating and detrimental to the interests of the Nicaraguan people and the interests of democracy and peace throughout the region.

President Ortega stated Monday that the February elections will take place, no matter what. The world should hold him to that promise, Mr. President. In any case, the suspension of the cease-fire by President Ortega is a foolish and shortsighted mistake, which will lead to further suffering by the Nicaraguan people.●

CLARIFICATON OF THE AUTHORITY OF THE ADMINISTRATOR OF GENERAL SERVICES

Mr. MITCHELL. Mr. President, I ask unaimous consent that the Senate proceed to S. 1827, a bill introduced earlier today by Senators MOYNIHAN and D'AMATO, to expedite the construction of a new courthouse and municipal building in the Foley Square section of New York City.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1827) to revise and clarify the authority of the administrator of General Services relating to the acquisition and management of certain property in the City of New York.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

There being no objection, the Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, nearly 2 years ago, on December 22, 1987, the construction of a new courthouse annex for the southern district of New York and a Federal and municipal office building, both to be in the Foley Square section of New York City, were authorized.

These buildings are no small matter. We have a $1 billion project without a penny of tax money. Over 1.5 million square feet of additional space, space that is desperately needed by our courts and criminal justice system. And Foley Square to be redesigned in the process.

Mr. President, the Supreme Court has declared New York City's board of estimate to be unconstitutional. As a result, the city's land use review procedures are in a state of flux and confusion. This situation could unduly delay completion of these projects. The courts simply cannot wait.

This legislation will authorize the Federal Government to condemn the property now owned by New York City on which the buildings will be constructed. The city fully supports condemnation, which will save over 1 year on the project and millions of dollars. Condemnation will not affect the need for thorough environmental reviews and full community participation in the development process. It will, however, give the judges the courthouse they need, much sooner than otherwise.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) there is a dire and immediate need for increased space for the criminal justice system and for Federal agencies to operate in the City of New York;

(2) the action of condemnation of certain lands would speed the process of providing additional space for such needs;

(3) condemnation procedures authorized in this Act are required to address a specific dire and immediate need, and should not be precedents for action by the Congress or other Federal agencies;

(4) community input is essential to the successful completion of construction projects such as those authorized in the Independent Agencies Appropriations Act, 1988;

(5) before and during construction of buildings referred to in the first sentence of section 8(a) of the Independent Agencies Appropriations Act, 1988, the Administrator of General Services should consult on an ongoing basis with the community board for such building to solicit its input;

(6) environmental reviews are essential to the successful completion of construction projects such as those authorized in the Independent Agencies Appropriations Act, 1988; and

(7) in the construction of buildings referred to in the first sentence of section 8(a) of the Independent Agencies Appropriations Act, 1988, all federally mandated environmental reviews, as required by environmental laws, should be conducted and closely monitored.

SEC. 2. CONDEMNATION AND LEASE AUTHORITY.

The Independent Agencies Appropriations Act, 1988 (as contained in title IV of Public Law 100-202; 101 Stat. 1329-401), is amended in section 8 of the matter under the heading GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS—

(1) by inserting "(a)" after "Sec. 8."; and

(2) by adding at the end of such section the following new subsections:

"(b) The lease entered into between the Administrator of General Services and the city of New York (hereinafter in this subsection and subsection (c) referred to as the 'City') pursuant to the fifth sentence of subsection (a) shall provide for an initial lease period of 30 years and shall provide options for the City to renew the lease for up to three successive lease periods of 30 years each.

"(c) The total rent paid by the City to the General Services Administration for each such renewal period shall not exceed the City's pro rata share of the cost of the capital replacement, repair, maintenance, and operation of the building in which such office space used by the City is located and any associated parking facility.

"(d) Notwithstanding any other provision of law, the Administrator of General Services may—

"(1) acquire from the City by condemnation under judicial process the real property necessary for the construction of the buildings referred to in the first sentence of subsection (a) and for the additional parking space referred to in such sentence;

"(2) for the purpose of acquiring such real property, establish the value of the just compensation of such real property by agreement with the City;

"(3) provide for the contractor responsible for financing the construction of such buildings, instead of the United States, to—

"(A) pay the City the just compensation payable by the United States for the acquisition of the real property; or

"(B) if all parties otherwise agree, compensate the City in an alternative negotiated agreement.

"(4) take title to the property for the United States after payment of such amount to the City by the contractor;

"(5) reimburse the contractor for the payment of that amount, and pay the contractor reasonable interest on that amount, over a period not to exceed 30 years and make such reimbursement and interest payments out of funds available in the Federal Building Fund for the rental of space; and

"(6) in the case of any real property referred to in clause (1) that is acquired by condemnation, establish rental rates for the lease to the City provided for in the fifth sentence of subsection (a) without applying a credit reflecting the value of the land acquired.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL FALLEN FIREFIGHTERS' MEMORIAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Item 69, Senate Joint Resolution 77, a joint resolution recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 77) recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty.

The PRESIDING OFFICER. Is there objecion to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. SARBANES. Mr. President, I am pleased that the Senate has approved passage of legislation that recognizes the National Fallen Firefighters' Memorial in Emmitsburg, MD, as the official national memorial for career and volunteer firefighters who have been killed in the line of duty.

The Fallen Firefighters' Memorial, located on the campus of the National Fire Academy in Emmitsburg, MD, has become a national symbol of honor and hope for members of the fire service and their families. It is dedicated not only to the memory of those who have made the ultimate sacrifice in service to their fellow citizens, but also salutes current and future firefighters who carry on this noble tradition of protecting life and property.

The Emmitsburg monument serves as a constant reminder to the thousands of firefighters attending the academy and the emergency management institute of the need to improve methods for handling fire and emergency disaster situations in an effort to prevent future deaths and reduce destruction due to fire.

The monument, a sculptured bronze Maltese Cross on a 7-foot pyramid of limestone, is surrounded by plaques listing those who have died in service to their communities. Each year more than 100 career and volunteer firefighters lose their lives in service to their communities. The National Fallen Firefighters' Memorial in Emmitsburg, MD, will serve to remind us of the great sacrifice these brave men and women and their families have made.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the resolution.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The joint resolution, having been read the third time, the question is, Shall it pass?

The joint resolution (S.J. Res. 77) was passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 77

Whereas the National Fallen Firefighters' Memorial, located on the campus of the National Fire Academy in Emmitsburg, Maryland, honors the approximately one-hundred and sixty volunteer and career firefighters who die each year in the line of duty; and

Whereas such Memorial serves as a symbol of the courage and dedication of past, present, and future firefighters in their efforts to protect life and property: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the memorial known as the National Fallen Firefighters' Memorial, located on the campus of the National Fire Academy in Emmitsburg, Maryland, is recognized as the official national memorial to volunteer and career firefighters who die in the line of duty.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORTEGA'S ANSWER

Mr. DOLE. Mr. President, yesterday the Senate—by a vote of 95–0—agreed to a concurrent resolution on Nicaragua submitted by the majority leader and me. The concurrent resolution ended with this statement:

The Congress reminds Ortega, the Sandinista regime and the other leaders of the hemisphere, that United States policy articulated in the bipartisan accord on Nicaragua, and Public Law 101-134, is contingent on the Sandinistas fulfilling the commitments they have undertaken as part of the Central American peace process.

This morning, Ortega announced he is unilaterally trashing the cease-fire which has prevailed in Nicaragua for 18 months.

Mr. President, Ortega has made his decision. He has thrown another one of his commitments into the trash can. He has thumbed his nose at his own people, at his democratic neighbors, and at us. Even his most ardent apologists in the Congress are running for cover—as our vote yesterday indicates.

What does Ortega have in mind next? New emergency laws? An even more blatant crackdown on his democratic opponents? The postponement or cancellation of the election?

Only Ortega know.

But let him know this, too: This Senator, at least, takes seriously the words we voted on yesterday.

I do believe it is time to start reassessing our policy options in Central America—with every option on the table for consideration. Perhaps it is time for the President to again convene the joint leadership, to discuss new actions we might take.

Perhaps it is time, too, for the Congress to take at least one small additional step to signal our feelings about what is going on in Nicaragua. We have already, and very rightly, invited Lech Walesa to address a joint session.

Next week, we will have here another distinguished visitor and heroine of the global struggle for freedom—Violeta Chamorro. I am sure the Congress would be interested in hearing what she has to say, too.

I might indicate under the leadership of the distinguished Senator from Wyoming [Mr. WALLOP] and the distinguished Senator from Florida [Mr. MACK] we are circulating a letter on both sides of the aisle which would go to the leadership, Senator MITCHELL, Congressman MICHEL, Speaker FOLEY, and myself, urging the leaders to invite Mrs. Chamorro to appear at a joint meeting of Congress.

I hope my colleagues on both sides, if not tonight, sometime tomorrow morning, would sign that request.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 1991 MOUNT RUSHMORE COMMEMORATIVE COIN ACT

Mr. PRESSLER. Mr. President, I rise today as the author and sponsor of S. 148, the 1991 Mount Rushmore Commemorative Coin Act. This bill has widespread bipartisan support. I am joined by 47 cosponsors, including my good friend and colleague from South Dakota [Mr. DASCHLE], in support of this legislation. In addition, I am pleased that our House colleague, Representative JOHNSON, agreed to introduce our bill in the House, where it has bipartisan support, as well,

The bill instructs the U.S. Mint to strike a series of gold, silver, and clad coins in honor of Mount Rushmore's golden anniversary in 1991. Sales of these coins could raise $20 million to protect and preserve the memorial, and $20 million to reduce the deficit.

Everyone is familiar with the four 60-foot-tall Presidential faces carved in South Dakota granite. What began as the dream of South Dakota historian Doane Robinson is now a national memorial that attracts over 2 million tourists a year.

Sculptor Gutzon Borglum began work on the Shrine of Democracy in 1927. Over the next 14 years, until his death in 1941, Borglum worked feverishly to complete this piece of what he called "colossal art."

In 2 years, we will be celebrating Mount Rushmore's golden anniversary. Plans are already underway for an event of national significance to commemorate this milestone.

As planning for this celebration continues, considerable attention is being given to necessary improvements and expansions at Mount Rushmore. There have been no substantial improvements at this National Park Service memorial since 1964. Since that time, the number of visitors to Mount Rushmore has doubled. Today, the national memorial is inaccessible to the handicapped. There is also great concern about the structural stability of the monument itself.

The funds generated by the sale of the Mount Rushmore coins, combined with the private Mount Rushmore Society drive, will bring badly needed changes to the memorial. The plans for expansion include improved visitor facilities. The park will be made accessible to the handicapped. Further study and action will be taken to assure the structural integrity of Mount Rushmore for centuries to come.

As I mentioned earlier, 47 of my colleagues have cosponsored this coin bill. This support demonstrates the universal appeal and meaning of Mount Rushmore. As the author of this legislation, I am pleased that S. 148 will bring additional recognition to this national treasure.

Mr. President, I urge the Senate to pass this important legislation, and thank the majority leader, the minority leader, Senate Banking Committee chairman, Senator RIEGLE, and ranking member, Senator GARN, for their assistance and cooperation in moving the bill toward final Senate action. As I mentioned, an identical bill, introduced by Congressman TIM JOHNSON, awaits consideration in the House Consumer Affairs and Coinage Subcommittee.

Mr. President, this coin, combined with the private relief effort headed by Allen Neuharth, the former head of USA Today, will raise significant funds to improve Mount Rushmore. This fundraising drive is similar to the one for the Statute of Liberty. This effort will improve Mount Rushmore and its facilities for future generations. It also will enhance this national monument.

I want to say how proud I am of the private efforts that have been made in my State and throughout our Nation by former South Dakotans and others to raise private money. This coin will raise additional money not only for the monument but also for the U.S. Treasury to reduce the Federal deficit.

Mr. President, it is my understanding that this bill will be acted on tomorrow. I wanted to give this explanation to the Senate and thank them very much for their consideration. The passage of this legislation is an important step in raising money to improve Mount Rushmore, which will affect all Americans.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.; MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow, Thursday, November 2, and that following the time for the two leaders, there be a period for morning business until 10:30 a.m. with Senators permitted to speak therein for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUMPTION OF CONFERENCE REPORT ON H.R. 3014

Mr. MITCHELL. At 10:30 a.m. the Senate will resume the consideration of the legislative branch appropriations conference report on H.R. 3014.

RECESS FROM 1:30 P.M. UNTIL 1:45 P.M.

Mr. MITCHELL. I now ask unanimous consent that on tomorrow, Thursday, November 2, the Senate recess from 1:30 p.m. to 1:45 p.m. in order to permit the Chamber to be prepared for the closed session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. FOWLER. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator has any further business, and since no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 10 a.m., Thursday, November 2, 1989.

There being no objective, the Senate, at 6:36 p.m., recessed until Thursday, November 2, 1989, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 1, 1989:

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

HILARY PATERSON CLEVELAND, OF NEW HAMPSHIRE, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA, VICE L. KEITH BULEN, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICE FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. CHARLES G. BOYD, xxx-xx-xxxx, USAF

HOUSE OF REPRESENTATIVES—*Wednesday, November 1, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we meditate on all the circumstances that have touched our lives and attempt to measure the values that have been our heritage, we are grateful, O God, for our families that have given us life and nurtured us along the way. Make us aware of the spiritual gifts of those who have cared for us and whose patience and love has been our support. In gratefulness and praise, O God, we offer this prayer of thanksgiving. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. UPTON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. UPTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. UPTON. Mr. Speaker, what is the result if the "no" vote stands?

The SPEAKER. A motion that the Journal be read would be in order.

Mr. UPTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 292, nays 106, not voting 35, as follows:

[Roll No. 322]

YEAS—292

Ackerman	Bartlett	Bosco
Akaka	Bateman	Boucher
Alexander	Bates	Boxer
Anderson	Beilenson	Brennan
Andrews	Bennett	Broomfield
Annunzio	Bereuter	Browder
Anthony	Berman	Brown (CA)
Applegate	Bevill	Bruce
Archer	Bilbray	Bustamante
Aspin	Boggs	Byron
Barnard	Borski	Callahan
Campbell (CA)	Hyde	Porter
Campbell (CO)	Jenkins	Poshard
Cardin	Johnson (CT)	Price
Carper	Johnson (SD)	Rahall
Carr	Johnston	Rangel
Chapman	Jones (GA)	Ravenel
Clarke	Jones (NC)	Ray
Clement	Jontz	Richardson
Clinger	Kanjorski	Rinaldo
Coleman (TX)	Kaptur	Ritter
Collins	Kasich	Robinson
Combest	Kastenmeier	Roe
Conte	Kennedy	Rose
Cooper	Kennelly	Rostenkowski
Costello	Kildee	Rowland (CT)
Coyne	Kleczka	Rowland (GA)
Crockett	Kolter	Roybal
Darden	Kostmayer	Russo
de la Garza	LaFalce	Sabo
DeFazio	Lancaster	Saiki
Dellums	Lantos	Sangmeister
Derrick	Laughlin	Sarpalius
Dicks	Leath (TX)	Savage
Dingell	Lehman (CA)	Sawyer
Dixon	Lehman (FL)	Saxton
Donnelly	Lent	Scheuer
Dorgan (ND)	Levin (MI)	Schiff
Downey	Levine (CA)	Schneider
Duncan	Lewis (GA)	Schulze
Durbin	Lipinski	Schumer
Dwyer	Livingston	Sharp
Dymally	Lloyd	Shaw
Early	Long	Shuster
Eckart	Lowey (NY)	Sisisky
Edwards (CA)	Luken, Thomas	Skaggs
Edwards (OK)	Manton	Skelton
Emerson	Markey	Slattery
Engel	Martinez	Slaughter (NY)
English	Matsui	Smith (FL)
Erdreich	Mavroules	Smith (IA)
Espy	Mazzoli	Smith (NE)
Evans	McCloskey	Smith (NJ)
Fascell	McCollum	Smith (VT)
Fazio	McCurdy	Snowe
Feighan	McDermott	Solarz
Fish	McHugh	Spence
Flake	McMillan (NC)	Spratt
Flippo	McMillen (MD)	Staggers
Foglietta	McNulty	Stallings
Frank	Meyers	Stark
Frost	Mfume	Stearns
Gallo	Miller (WA)	Stenholm
Gaydos	Mineta	Studds
Gejdenson	Mollohan	Swift
Gephardt	Montgomery	Synar
Geren	Moody	Tallon
Gibbons	Morella	Tanner
Gillmor	Morrison (CT)	Tauzin
Gilman	Morrison (WA)	Taylor
Glickman	Mrazek	Thomas (GA)
Gonzalez	Murtha	Torres
Goodling	Myers	Torricelli
Gordon	Nagle	Towns
Gradison	Natcher	Traficant
Grant	Neal (MA)	Traxler
Gray	Nelson	Udall
Green	Nowak	Unsoeld
Guarini	Oakar	Valentine
Gunderson	Oberstar	Vander Jagt
Hall (OH)	Obey	Vento
Hall (TX)	Olin	Visclosky
Hamilton	Ortiz	Volkmer
Hammerschmidt	Owens (NY)	Walgren
Harris	Owens (UT)	Walsh
Hatcher	Packard	Watkins
Hayes (IL)	Pallone	Waxman
Hayes (LA)	Panetta	Weiss
Hefner	Patterson	Wheat
Hoagland	Payne (NJ)	Whitten
Hochbrueckner	Payne (VA)	Williams
Horton	Pease	Wilson
Houghton	Pelosi	Wise
Hoyer	Penny	Wolpe
Hubbard	Perkins	Wyden
Huckaby	Petri	Wylie
Hughes	Pickett	
Hutto	Pickle	

NAYS—106

Armey	Hiler	Rohrabacher
Baker	Holloway	Ros-Lehtinen
Ballenger	Hopkins	Roth
Barton	Hunter	Roukema
Bentley	Inhofe	Schaefer
Bilirakis	Ireland	Schroeder
Bliley	Jacobs	Schuette
Boehlert	James	Sensenbrenner
Brown (CO)	Kolbe	Shays
Buechner	Kyl	Sikorski
Bunning	Lagomarsino	Skeen
Burton	Leach (IA)	Slaughter (VA)
Chandler	Lewis (CA)	Smith (TX)
Clay	Lewis (FL)	Smith, Denny (OR)
Coble	Lightfoot	
Coleman (MO)	Lukens, Donald	Smith, Robert (NH)
Coughlin	Machtley	
Craig	Madigan	Smith, Robert (OR)
Crane	Marlenee	
Dannemeyer	Martin (IL)	Solomon
DeLay	McCandless	Stangeland
DeWine	McCrery	Stump
Dickinson	McGrath	Sundquist
Dornan (CA)	Michel	Tauke
Douglas	Miller (OH)	Thomas (CA)
Dreier	Moorhead	Thomas (WY)
Fawell	Murphy	Upton
Fields	Oxley	Vucanovich
Frenzel	Pashayan	Walker
Gallegly	Paxon	Weber
Gekas	Pursell	Weldon
Goss	Quillen	Whittaker
Grandy	Regula	Wolf
Hancock	Rhodes	Young (AK)
Hansen	Ridge	Young (FL)
Henry	Roberts	
Herger	Rogers	

NOT VOTING—35

Atkins	Ford (MI)	Miller (CA)
AuCoin	Ford (TN)	Moakley
Bonior	Garcia	Molinari
Brooks	Gingrich	Neal (NC)
Bryant	Hastert	Nielson
Condit	Hawkins	Parker
Conyers	Hefley	Parris
Courter	Hertel	Shumway
Cox	Lowery (CA)	Stokes
Davis	Martin (NY)	Yates
Dyson	McDade	Yatron
Florio	McEwen	

□ 1023

Mr. UDALL changed his vote from "nay" to "yea".

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PARKER. Mr. Speaker, due to previously scheduled activities in my district, I was unable to vote to approve the Journal of October 31, 1989, taken this morning, November 1, 1989, my vote would have been recorded as "yea."

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the Delegate from American Samoa [Mr. FALEOMAVAEGA] please come forward and lead the House in the Pledge of Allegiance?

Mr. FALEOMAVAEGA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a joint resolution and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S.J. Res. 207. Joint resolution approving the location of the memorial to the women who served in Vietnam; and

S. Con. Res. 79. Concurrent resolution to deplore the unilateral Sandinista abrogation of the Nicaraguan cease-fire.

PERMISSION FOR SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS OF COMMITTEE ON THE JUDICIARY AND SUBCOMMITTEE ON CIVIL SERVICE OF COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO SIT DURING 5-MINUTE RULE ON TOMORROW

Mr. EDWARDS of California. Mr. Speaker, I ask that the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary and the Subcommittee on Civil Service of the Committee on Post Office and Civil Service may be permitted to sit while the House is reading for amendments under the 5-minute rule on Thursday, November 2, 1989.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2742, LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS OF 1989

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2742) to extend and amend the Library Services and Construction Act, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

Mr. LEWIS of California. Mr. Speaker, reserving the right to object, the minority has not been informed of this request. Would the gentleman explain that?

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, H.R. 2742 involves a request of this Member and the minority to ask for a conference with the Senate on the Library Services and Construction Act. This has been cleared with our ranking member in both the full and the Subcommittee on Post Secondary Education.

Mr. LEWIS of California. Mr. Speaker, if the gentleman says it is cleared, that is all right by the minority.

Mr. WILLIAMS. Mr. Speaker, I appreciate that and I renew my request.

Mr. LEWIS of California. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Montana? The Chair hears none, and appoints the following conferees, and, without objection, the Chair reserves the right to appoint additional conferees: Messrs. HAWKINS, WILLIAMS, FORD of Michigan, OWENS of New York, HAYES of Illinois, PERKINS, GAYDOS, and MILLER of California, Mrs. LOWEY of New York, Messrs. POSHARD, GOODLING and COLEMAN of Missouri, Mrs. ROUKEMA, and Messrs. TAUKE, GUNDERSON, and HENRY.

There was no objection.

PRESIDENT VETOES WAR ON DRUGS

(Mr. CHAPMAN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. CHAPMAN. Mr. Speaker, this past weekend the District of Columbia broke a rather dubious record. The record was 369 murders committed in the District in 1988.

There are 60 days left to go in 1989, and it appears that perhaps there will be additional murders daily.

We read that 80 percent of these murders are drug related. Last January our President said that this scourge of drugs will stop in America and declared war on drugs. The District of Columbia, through our newly appointed drug czar, became the test bed to fight this war.

Congress has responded in our appropriations bill with $32 million for antidrug emergency initiatives, 700 new police officers for the District, prison facilities to hold the dealers and the murders, $1.8 million for drug prevention programs in our public schools in the District, and $1.3 million for after school activities for our children in the District.

Now the President has vetoed the District Appropriations bill. Mr. President, did you really mean to veto the war on drugs?

ORTEGA, A MENACE TO PEACE

(Mrs. ROS-LEHTINEN asked and was given permission to address the House for 1 minute.)

Mrs. ROS-LEHTINEN. Mr. Speaker, to the surprise of no one except the easily duped liberals, Daniel Ortega has suspended the cease-fire in Nicaragua.

He is afraid of open and fair democratic elections and is laying the groundwork to take the next step, which is to suspend the election. The time has come to renew military aid to the Contras fighting for a free Nicaragua.

□ 1030

Mr. Speaker, Ortega has not fulfilled the agreements of the accord which called for a cease-fire. He disrupted a peaceful and fruitful summit of Presidents from many countries this weekend in Costa Rica. His was the only sour note, as symbolized by the military fatigues which he wore there.

Mr. Speaker, this little man is a menace to peace in our hemisphere. How many more accords must he ignore? How many more promises must he break? How many more meetings can he disrupt before we wake up to the fact that Daniel Ortega's forces must be met at the battlefield if the polling places close?

BUSH'S VETO MAKES MOCKERY OF DISTRICT OF COLUMBIA AS A MODEL FOR THE ANTIDRUG EFFORT

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, President Bush and his drug czar, William Bennett, claim they want to make the Nation's Capital a model for the national antidrug effort. The Bush veto makes a mockery of this model. The Bush veto puts the bag of crack the President held up on his TV speech back on the streets of Washington, DC. The Bush veto strikes out $32 million for the drug emergency initiative for our Nation's Capital. The Bush veto strikes 700 new police officers on the streets of our Nation's Capital. In addition, the Bush veto strikes hiring eight additional judges plus support staff to alleviate a terrible backlog in the court system in our Nation's Capital. The Bush veto delays two new prisons needed to house as many as 1,800 criminals behind bars.

Mr. Speaker, this is the second veto in 2 weeks because Mr. Bush wants to intercede in people's lives.

THE SEQUESTRATION TIME BOMB IS TICKING

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, while we while away the time in this historic Bicentennial Congress, a time bomb is ticking. Sequestration, that automatic across-the-board cut in spending, has

been in effect since October 16, diverting funds from the war on drugs that we will debate today, diverting funds from the air traffic controllers we debated yesterday, from the earthquake relief we debated last week. Sequestration is ticking away because Congress has yet to move on deficit reduction legislation that was called for last April.

That legislation, known as reconciliation, holds the key to the future. If we cannot pass a reconciliation bill, then our budget process is not just sick; it is mortally wounded. Reconciliation was meant to bring automatic entitlement spending under control. If we cannot pass a bill to make $14 billion of sham savings and gimmicks, agreed to as part of a "see-no-evil, hear-no-evil" budget resolution, how will we ever get real, uncontrollable spending under control?

Mr. Speaker, the time bomb of sequestration is ticking away—tick, tick, tick. Vital human needs are going unmet, while we wallow in inactivity on reconciliation. Let's get moving.

Tick, tick, tick, tick.

PRESIDENT BUSH IS HUNG UP ON ABORTION

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, the President seems to be hung up, and what he is hung up on is abortion. Because of that hangup he is now not only going back against what he has pronounced before as his raison d'être, as his philosophical approach to government, but he is also going against what he said he wanted to do most this year.

Mr. Speaker, President Bush vetoed the D.C. appropriations bill because they, with their money, collected in the District of Columbia, wanted to fund, under Medicaid, abortions for young women who have been victims of rape or incest, or in the case of the life of the mother being threatened. The President says, "Huh uh." Now before he said, "local control," folks. "I believe in States' rights and local rights." Now he says, "you can't spend your own money," and now he says to them, "the 700 policemen I told you you could have, you're not getting them."

Mr. Speaker, the crime rate; let it go up. The murders; let them continue. Is that what we want from a President of the United States? I think not.

LET US PUT OUR MONEY WHERE OUR MOUTH IS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I find it perversely amusing that some of my colleagues are surprised that Daniel Ortega has started the shooting war in Nicaragua again. What did you expect? He is a Communist dictator who continues to receive massive supplies of Soviet military equipment. He has seen the United States has no resolve in dealing with Noriega of Panama—and we have cut off military aid to the Nicaraguan freedom fighters. He doesn't think we will do anything but pass resolutions condemning him—and he is probably right. We'll show him! We'll kill him with paper. But help the Contras fight the war machine the Soviets supply? Never. We talk freedom and democracy. But if we really mean it, we must put our money where our mouth is.

THE D.C. APPROPRIATIONS BILL

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, I rise today with a serious question. What is President Bush waiting for? The homicide rate in the District of Columbia, primarily as a result of drug trafficking, has already surpassed last year's deadly total. Schoolyards are poisoned with dealers peddling to children. Parents are selling crack cocaine from their bedrooms. Babies are born drug-addicted before they take their first breath.

Is President Bush waiting for it to get worse? If so, how bad must it get? How many more must die? How many more families will be destroyed? Our streets in the District are not safe in broad daylight anymore.

And yet President Bush has vetoed the D.C. appropriations bill. He is preoccupied with the abortion issue, and meanwhile his veto has canceled the 700 officers that would increase police visibility on the streets and provide the extra manpower to close down open-air drug markets. Doesn't the President want security for the families of the District of Columbia?

His veto tells us he doesn't. He has proven that he really is not committed to drug war. These funds are not a luxury for the District of Columbia. They are a necessity.

ORTEGA IS AFRAID OF FREE ELECTIONS

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute.)

Mr. DOUGLAS. Mr. Speaker, the inspirational leader of the Nicaraguan Government is Mao Tse Tung. Mao Tse Tung said that all political power grows out of the barrel of a gun, and Daniel Ortega this morning made that very clear. He is afraid of free elections in his own dictatorship. He knows the polls show him at 28 percent, and Violetta Chamorro, at 40 percent. She is a woman whose husband was killed by Somoza, whose newspaper was part of the original Sandino coalition and who is now running against that little punk dictator down in Nicaragua. And the wimp wing of the Democratic Party is going to sell out the resistance once again. The white flag wing of the Democrats will not vote for aid to the Contras. They know his game. Wipe out the Contras now. Steal the election in February.

RAISE THE MINIMUM WAGE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute.)

Mr. GLICKMAN. Mr. Speaker, I want to talk about the minimum wage, but, before I start, I say to the gentleman from New Hampshire [Mr. DOUGLAS], "before you start talking about the wimp wing of any party, you might ask the Chief Executive of this country about this issue that you just talked about. I don't see him calling for military aid to the Contras at all."

Mr. Speaker, my message today has to do with the compromise on minimum wage. That is the message that I would like to give. Today we take up that compromise, which is $4.25 over 2 years. While the bill is not perfect, I believe that the American people are grateful to Speaker FOLEY for his tenaciousness and his persistence in making sure that the minimum wage is raised to levels which are compassionate and which are fair. Working for a living and living in poverty are no longer mutually exclusive conditions. More than 1.1 million families cannot escape poverty, and most of those are on the minimum wage. More than 45 percent of minimum wage workers are heads of households or working women. Many others are college students who need those jobs just to pay tuition.

Mr. Speaker, the last time the minimum wage was raised was in 1981, when it was raised to its present level of $3.35 an hour. Had it kept up with inflation, it would now stand at $4.68. We are raising it to $4.25 over 2 years. Over 85 percent of the American people, according to a Washington Post poll, support an increase in the minimum wage. This is not an abstract issue to make political gain. It is a life and death issue for millions of Americans so that they can survive economically.

□ 1040

THERE HE GOES AGAIN

(Mr. BALLENGER asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, well, there he goes again, the Marxist dictator Daniel Ortega is showing his true colors by unilaterally halting the cease-fire in place since the signing of the Sapoa accords in March 1988. Daniel Ortega has signed agreement after agreement and made countless promises to the Nicaraguan people, yet he doesn't believe he is bound to uphold his oath. Another day, another lie.

As if calling a halt to the cease-fire isn't enough, now, Daniel Ortega is threatening to cancel the February elections. A remarkable 1.8 million Nicaraguans have registered to vote in the upcoming elections, and polls show Daniel Ortega's support may not be there. Now, if you were a military dictator and threatened with your own defeat, would you want to hold those elections? I think it is time this country stopped trusting habitual lying military dictators.

MINIMUM WAGE INCREASE

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, the minimum wage bill before us today is the best we can do given the Bush administration's indifference to the working poor.

This bill will raise the minimum wage to $4.25. Because the current minimum has not been increased since 1981, this raise is but a pittance. Could we in this Congress maintain our sense of worth and our hope for a better life if, after 10 years, we were given a raise of only 90 cents an hour?

Granted, this modest hike will make life a little better for America's working poor, but it ignores the greater need: The need to be able to feed and clothe a family, to pay the rent. Worse, this stingy increase ignores the respect for the dignity of the working poor.

This House has voted many times to help our more fortunate members of society, most recently with a capital gains tax cut for the wealthy. And what is really bizarre is that, with all the problems we have in America—drugs, the deficit, nuclear plant cleanup, our faltering education system—the top priority of the Bush administration is to give a tax break to the superrich.

I will support this minimal minimum wage increase today. It is better than nothing.

DANIEL ORTEGA HAS BLUNDERED AGAIN

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, it should be no surprise that Daniel Ortega has blundered again. Just when you might think he has finally learned how to project the image of a statesman, he shows himself to be nothing more than what he is: a Communist military dictator leading his band of Sandinista incompetents.

What Ortega needs is some good advice on how to conduct public relations. On occasion, in the past, there have been any number of my colleagues who have counseled Ortega on what he should do to help influence the outcome of the debate in Congress on United States policy toward Nicaragua.

I would urge those same Members now to use their influence on Ortega to reverse his decision to cancel the cease-fire with the Contras. If they truly want a political solution to the crisis in Nicaragua, canceling the cease-fire is not the way to accomplish it.

EXPRESSING GRATITUDE TO DAVID A. BRODY

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, I am pleased to pay tribute to David A. Brody for his many years of service to the Anti-Defamation League of the B'nai B'rith and to his country.

Mr. Speaker, my wife, Mary, and I in August had the pleasure of traveling to Israel with David and his wife, Bea. I can attest to David's value as a resource for information. David's participation in the trip helped enormously to better our understanding of the fascinating history and complex politics of this strategically vital area of the world.

The trip also allowed me to become a friend to the Brodys. And let me confirm what many of my colleagues already know—both David and Bea are warm, friendly, and unpretentious individuals. It is clear that their relationship with Members of Congress is based on the strong personal friendship that develops as much as it is based on philosophy or political ideology.

David Brody's commitment to civil rights and civil liberties is evident when one talks with him. While he has earned a fine reputation for working hard on behalf of issues of concern to our Nation's Jewish-American community, it is his unyielding commitment to the rights of all Americans for which he is best known and most widely respected.

The Anti-Defamation League of the B'nai B'rith has been well-served during David's stewardship as executive director. Although he retired last February, David continues to be actively involved in public affairs.

Mr. Speaker, many of us here in this institution have come to rely on David Brody's considered judgment and counsel. I know that David's contribution to the public debate of policy is great. For more than 40 years, he has participated in the deliberations of many of our Nation's greatest civil rights policies. I hope that his participation continues for the foreseeable future. His insight and wisdom, as well as his warmth and friendship, make him an invaluable guide over the treacherous path that is often before us.

Accordingly, it is with great pleasure that I join my colleagues in expressing gratitude to such a distinguished individual—David A. Brody.

THE NEED FOR QUICK FINAL ACTION ON MEDICARE CATASTROPHIC COVERAGE ACT

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, I rise today calling for quick final action on the Medicare Catastrophic Health Care Act. We have voted to repeal catastrophic health care, and now we need to end it once and for all. We need to end this unpleasant chapter in our history.

I realize that Congress has many important and difficult issues before it, but the elderly in my district are constantly asking, "When will you end this process? When will you put an end to this unfair taxation?"

Mr. Speaker, I ask the leadership that controls the agenda to make sure that we complete this action and end catastrophic health care before we recess this year.

A NEW PLEDGE OF ALLEGIANCE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, over the past 10 years the working poor had a pledge that goes like this:

I pledge allegiance to the minimum wage and all the hardships and misery for which it stands; no raises under Reagan, with food stamps and welfare for all.

And that is about how it has really gone. Think about it, 37 million without health insurance, marriages that end up on the rocks, they cannot own a home. Today they are saying to Congress, "We don't want a handout. We want a hand-up," and it is time for a new pledge that goes like this:

I pledge allegiance to a new minimum wage and the hope for which it stands, an

increase under Bush and Hawkins, with dignity and opportunity for all.

Think about it.

DANIEL ORTEGA'S FEAR OF FREE ELECTIONS

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, the prospect of seeing Violeta Chamorro and Virgilio Godoy, representatives of the 14-member union of Nicaraguan opposition, an opposition which ranges from the Communist party all the way to the most conservative, the threat of their victory has led Daniel Ortega to some of the most incredible statements this morning imaginable. Listen to what he said, Mr. Speaker. He said that George Bush is supporting terrorism in Nicaragua.

Now, last June I stood over the largest cache of weapons that Ortega has sent into El Salvador, and he is now accusing George Bush of supporting terrorism in Nicaragua.

He said, "The United States of America is attempting to put another star on our flag with Nicaragua."

And he said when looking at the prospect of an election next February 25, he had not decided whether or not it will take place. He said, "It is up to the Yankee President and the Yankee Congress."

Well, this kind of rhetoric cannot go unchecked, Mr. Speaker. We have got to recognize that we are the ones who are supporting democracy. We have got to hold Ortega to the fire.

THE ARMY'S "QUICK LOOK PROGRAM"

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to bring to the attention of my colleagues some information about a special orientation program provided for Members by the Department of the Army. It is the Army's Quicklook Program which is sponsored by the Secretary of the Army to have Members of Congress see firsthand the capabilities of our Army to meet a threat and better understand the needs of our Army in Germany and throughout Europe. It was a great experience for me and I encourage my colleagues to participate if they have not done so already.

Our officers, noncommissioned officers, and soldiers are doing a great job meeting many of the challenges posed by serving overseas. The training I saw in Grafenwohr was exciting, realistic, and effective. In the border town of Hof, cavalry soldiers were doing a great job executing their border surveillance mission. The maintenance of equipment and facilities is being better managed and accomplished through the use of up-to-date computer equipment and sound management principles. I saw this in Germersheim where our storage facilities and military equipment are stored. I also visited our military community of Hanau which supports a population of over 30,000 soldiers and their dependents.

Today I would also like to say a special thanks to those who had a major role in making my trip such an informative one and I would like to share their names with my colleagues:

Lt. Gen. John M. Shalikashvili, Deputy Commander in Chief, U.S. Army Europe and 7th Army.

Brig. Gen. John H. Tilelli, Jr., Commanding General, 7th Army Training Command.

Brig. Gen. James R. Harding, Assistant Division Commander, 3rd Armored Division.

Brig. Gen. Johnnie E. Wilson, Deputy Commanding General, 21st Theater Army Area Command.

Col. John E. Counts, Chief of Staff, U.S. Army Berlin.

Col. Leonard D. Holder, Commander, 2d Armored Cavalry Regiment.

Lt. Col. Thomas A. Dunn, Headquarters, Combat Equipment Group Europe.

Lt. Col. Larry E. Fuege, Commander, General Support Center Germershelm.

1st. Lt. Bjorn Anderson, Headquarters, U.S. Army Berlin.

Mr. Speaker, this was an excellent trip that has certainly given me a better understanding of our Army's European mission, our soldiers, and the difficult challenges they face especially when serving overseas.

THE NICARAGUAN ELECTIONS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, this morning's news about Daniel Ortega and his plans to scuttle both the cease-fire in Nicaragua and the upcoming elections does not surprise me, and I doubt it surprises many of my colleagues.

Now we have heard that the recent election polls show UNO candidate Violeta Chamorro leading, and Daniel Ortega is worried. He is playing high stake games. He is now pulling out his wild cards to forestall democracy's chances.

Several months ago I introduced in this House and this House passed the Goss amendment to the foreign aid bill, which talked about standards for free and fair elections in Nicaragua. Many of our colleagues have traveled to Nicaragua these past few months to observe the process, and I think were encouraged by the progress being made. Democratic activities were beginning to flourish, but now the whole world can observe clearly how untrustworthy Ortega really is. He is a totalitarian dictator. He is a self-proclaimed Marxist, and none of us should forget that.

If the spots on the leopard cannot be changed, then perhaps it is time to change the leopard.

□ 1050

HEARINGS ON WORKPLACE LITERACY

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, yesterday the Science Committee's Science, Research and Technology Subcommittee, chaired by Representative DOUG WALGREN, conducted a hearing on science and mathematics education and workplace literacy. The hearing focused on H.R. 3122, the Science and Technological Literacy Act of 1989, legislation I introduced with bipartisan cosponsorship last summer.

A key strength of the American economy is its work force. Unfortunately, there is clear evidence that the technical abilities of the work force are falling below the technical needs of the economy. This shortage of skilled workers is emerging as a critical barrier to economic progress and our competitiveness in the global economy.

The economic health of this country depends on our ability to train our people for the offices, factories, and laboratories of tomorrow. In order to meet this need for a skilled work force that can read, write, analyze, operate a computer or read a technical manual, the U.S. education system must be retooled.

Our hearing was effectively opened with a forceful and insightful statement by our former North Carolina Governor, Jim Hunt. Federal agency representatives described programs already underway to improve science and math education and work force training, but I believe that their testimony left most of us convinced of the need for intensified efforts and for improved coordination and collaboration among agencies. We also heard from people on the cutting edge of science education and workplace literacy training, and discussed the importance of disseminating more widely the approaches and materials developed in programs like theirs. Business leaders from across the country spoke of their own training needs, the steps they had taken to fill them, and the need to improve the capacities of our community colleges for technical training.

This bipartisan effort in the Science, Space, and Technology Committee is

complemented by the work underway in the Education and Labor Committee led by Representative TOM SAWYER, who participated in our hearing yesterday. The initiatives taken by these committees are highly encouraging, suggesting a widely felt need in this body to close the ominous gap between what the workplace requires and the skills and training our people are bringing to the workplace. I very much hope that we can continue to progress toward enacting legislation that will upgrade and improve the Federal contribution to this effort.

TRIBUTE TO THE HONORABLE JAMIE WHITTEN

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, on Saturday, Congress will have been the beneficiary of 48 full years of the vigor and vision of one of its finest Members.

JAMIE WHITTEN, the dean of the Mississippi delegation, the dean of the U.S. House of Representatives, and the dean of the entire U.S. Congress, will celebrate 48 years of distinguished service.

JAMIE has contributed to the flesh and blood struggles that have produced almost a half-century of legislation. Without the kind of institutional experience that men and women like JAMIE offer, we simply couldn't cope with the vast array of issues that come before us.

JAMIE has been a real leader. He has gained the respect of his fellow Members through his hard work, his penetrating mind, and his gracious personality. This great House has been fortunate to have him. I wish him many more years of service and good health.

TEAR DOWN THE BERLIN WALL

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, I want to applaud President Bush and Secretary Gorbachev for meeting in December, and I think this is good. But no summit? Just to get to know each other a little bit better? That is nuts.

I think they ought to get together and talk about substance. They have already met several times, so they know each other.

Secretary Gorbachev knows that the Soviet Union's economic structure is on the brink of disaster, and he needs the United States' help, and he wants support, but not to the degree that they should be talking that we are going to give away the store as happened over the last 8 years with the Japanese.

If Mr. Gorbachev wants to show good faith, wants to talk about perestroika and glasnost, talk about freedom for his people, then let him tear down the Berlin Wall. That is the thing that he ought to be talking about. That is the substance of this meeting. Show good faith: tear down the Berlin Wall.

OILSPILL BILL STRIPS AWAY FUNDAMENTAL STATES RIGHTS

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, I come from the State of Vermont, where for as many years as I can remember the environment has been our most precious national trust. For that reason alone, under other circumstances I would be standing here applauding the oilspill bill we have before us today. It is badly needed, and it is long overdue.

What is not needed, however, is Federal legislation that takes away the rights of individual States to set their own stricter standards. What is good for Vermont is not necessarily good for any other State, and the Federal Government should not stand in the way of States to make judgments about whether stricter environmental protections are in order.

Mr. Speaker, this legislation is very similar to a bill which I introduced earlier this year, but I cannot support the preemption position in the bill before us. It strips away the fundamental rights of States to establish standards that may be far better and more badly needed, and not unincidentally it also strips away an avenue of action which many States have begun to take to band together for stronger environmental standards, and in so doing move this Congress to long-overdue and badly needed action.

THE MINIMUM WAGE

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, although the President vetoed the minimum wage package passed by Congress, he thought a pay raise was urgent for high-level Government officials. He said the pay of senior Government officials has eroded significantly.

Mr. Speaker, I ask that the President be reminded that since January 1981 the minimum wage has remained frozen, contributing to the scandalous neglect of hard-working Americans, the working poor, and the working homeless.

In 1987, 8.4 million Americans worked for a living, but lived in poverty. The U.S. Conference of Mayors estimated that last year 22 percent of the homeless people actually held full-time or part-time jobs.

I support the minimum wage compromise before us today although it will not even bring the working poor up to that level that inflation has robbed them. The President's appreciation for working America unfortunately extends no further.

DO NOT LET ORTEGA MAKE FOOLS OF AMERICA

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, Daniel Ortega and his gang of thugs are again thumbing their nose at the cause of democracy and peace in this hemisphere. He has made fools out of the left wing of the Democratic Party, and we should not let him make fools out of America.

Whether there is peace in Central America or freedom in Nicaragua should not be based on the good will of a man who is willing to give up peace as he has done and to attack his enemies with military might as he has proclaimed he will do. What progress has been made toward democracy in Nicaragua has been won by those who have been willing to fight for their freedom; namely, the Contras, the freedom fighters, and with Daniel Ortega's announcement, the United States should seriously consider resuming military aid to those freedom fighters if we are to have peace and freedom in Central America and this hemisphere.

Let us not let Daniel Ortega make fools out of America.

THE 1990's ARE A WINDOW OF OPPORTUNITY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, it is November 1. There are only 2 months left in calendar year 1989, which means we are almost to the 1990's, and fiscally we are already there.

I think the 1980's all swirled around the window of vulnerability. The administration said there was a window of vulnerability, we must run out and procure every kind of weapon, do anything, ask no questions, pay any price, this is what we must do.

I think the 1990's are whirling around a window of opportunity. It appears to be open. I am very pleased that President Bush and Secretary Gorbachev will be meeting this December, but I hope it is more than a

getting-to-know-you meeting. I hope it is something of where we go in the 1990's, to really lower the level of nuclear terror on the planet, to lower the level of weapons and confrontation, to figure out how we get our economies back on course.

Let us look at this new window that is open and let us hope that the President is much more creative with many more ideas than we have seen in the past.

ORTEGA: FOUL SUBSTANCE FLOATING IN THE PUNCHBOWL OF LIBERTY

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, there he is, Ortega, a foul substance floating in the punchbowl of liberty.

One of my Democratic colleagues said that this man must be a secret Republican, because every time his Democratic friends try to help him out he kicks them in the face. I can assure the Members he is no Republican.

To paraphrase our courageous President, he is a foul odor at the garden party of freedom. He is the Noriega of Nicaragua. There he is, Ortega, el Noriega y Nicaragua.

When are we going to do something to squish this ugly substance in our hemisphere, Boy Scout uniform notwithstanding?

D.C. APPROPRIATIONS VETO

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, I am very puzzled by President Bush's recent veto of the D.C. appropriations bill. President Bush and his appointed drug czar, William Bennett, told us they wanted to free our streets of the scourge of drugs. And that they wanted to start right here in the Nation's Capital. President Bush said he wanted Lafayette Park drug free.

Why would he veto a bill which includes $32 million for the war on drugs in the Nation's Capital? Why did he veto 700 additional police officers, additional judges, and support staff? President Bush says he wants the rapists and drug pushers in jail, but he vetoed legislation which would build two new prisons to put as many as 1,800 criminals behind bars.

President Bush, the education President, vetoed $1.8 million for drug prevention programs and $1.3 million for a far reaching program to enhance and expand after school activities for school children growing up in our Nation's Capital. Is this what an education President does?

Does the President know that the infant mortality rate has increased over 50 percent in the first half of the year because of drug abuse amongst pregnant girls and women? Why then, would a President who says he values human life above all else veto funds for a program to treat pregnant addicts and provide for their unborn children.

I ask, is the war on drugs for real, or will the President let politics rule?

□ 1100

D.C. APPROPRIATIONS VETO—THE PRESIDENT ACTED ON PRINCIPLE

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, the gentleman from Florida [Mr. SMITH] misspoke this morning when he suggested that taxpayers' funds are used in the District of Columbia to pay for abortion only in cases of rape, incest, or life of the mother. The fact of the matter is D.C. funds, which are appropriated by Congress, pay for abortion on demand; that is a fact. I would also say to my friend from Florida, President Bush is not hung up, as he put it, on the issue of abortion. The President is deeply committed to protecting and preserving human life. He is acting on principle, and I respect that.

Mr. Speaker, the President is committed to saving the lives of children from the abortionist's scalpel. As more Americans discover the gruesome methods of abortion, including literal dismemberment and chemical poisoning, they will applaud the President. Abortion on demand, Mr. Speaker, is child abuse; it kills children.

The President was correct to veto the D.C. appropriations bill.

JAPANESE ACQUISITIONS—THE FAULT LIES WITH THE CONGRESS

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, yesterday during these opening remarks another Member, whom I like very much, blamed former President Reagan for the fact that the Japanese bought Rockefeller Center and many other United States businesses and property.

Mr. Speaker, I respectfully disagree. The fault lies with the Congress. It is the Congress that has become too liberal, that has run up our huge deficits and national debt.

It is the Congress that has refused to balance the budget and even come close to holding the line on Federal spending. We have recently passed appropriation bills giving various departments 13, 15, 18 percent increases. Federal spending has run three or four times the rate of inflation over the last 8 years because the Congress has tried to be all things to all people.

Really we have ended up hurting the very people we are trying to help.

Our deficits and the huge national debt have kept our interest rates 5 or 6 percent higher than any other developed nation. When you give someone a 5 or 6 percent head start in business, you have given them the whole ball game.

Really it is a wonder to me that foreign companies have not bought more American businesses and properties.

I hope that we will try to bring down our interest rates so that we can level the playing field and allow our people to compete on equal terms with those from foreign countries.

END OF THE CEASE-FIRE IN NICARAGUA

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, I thought Halloween was over, but it sure looks like the trick is on us, again.

Once again, Daniel Ortega has introduced us to his brand of commitment to peace in Central America by declaring the Sandinista truce with the Contras ended.

I don't like to think what this means for the elections scheduled for February, but it must surely be plain to everyone now how little faith can be placed in the word of Daniel Ortega.

By outrageously announcing his planned end of the cease-fire at last week's peace summit, he unmistakably showed the world his arrogant disregard for the long-sought peace in the region—a peace desperately desired not only by the United States, but by his neighbors: Costa Rica, El Salvador, Honduras.

Mr. Speaker, Daniel Ortega has played yet another card from his deck of deceit and this time if another election is stolen from the people in Central America, the United States will have missed its golden opportunity to roll back communism in our hemisphere.

Yes, the trick most certainly is on us.

ORTEGA'S UNILATERAL DECISION TO RESTART WAR AGAINST NICARAGUAN PEOPLE

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, this morning at 6 a.m. in Managua, left-wing dictator Ortega shocked the world when he announced that he will enforce his rule upon the Nicaraguan people by literally murdering the opposition.

Ortega's unilateral decision to restart his war against the Nicaraguan people flies in the face of the Sapoa accord that he signed only last year.

Obviously Commandante Ortega has become jealous that nearby narco-dictator Manuel Noriega has become the most hated figure in Latin America. He is bidding, himself, for this title. And I think this morning's outrageous action probably is sufficient to win it for him.

Ortega's blatant disdain for the peace process was evident last week when he ruined the hemispheric summit hosted by Nobel Peace Prize winner Oscar Arias. The Arias peace plan now is in a shambles.

Ortega obviously has been reading the Gallup polls which show him losing badly to Violeta Chamorra. Just like Noriega, Ortega has decided to call off democracy.

In his inaugural address last year, President Bush said that the day of the dictator is over. That should be the case, that Danny Ortega's day is over.

DANIEL ORTEGA HAS DOUBLE-CROSSED US AGAIN

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, Members of the House, yes, Daniel Ortega has double-crossed us. Not just the American people, not just the Congress of the United States, not just the world community, but he has double-crossed the people of Nicaragua, themselves. And they soon will realize what has happened.

But what is worse in this whole scene of betrayal on the part of Daniel Ortega is the fact that he gains encouragement for his acts from the well of this very House, from the House of Representatives, from the Congress of the United States. Why?

Because speaker after speaker over a period of 7 or 8 years now has encouraged Ortega by saying that the Congress will not support his political opposition in the country of Nicaragua, will not allow us to support the contras who want to resist the kind of dicatorship which these very same speakers say that the President was wrong in defying in Panama.

These very same proponents, supporters of Ortega on the floor of the House.

RECEDING AND CONCURRING IN SENATE AMENDMENT 136 TO H.R. 3015, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1990, WITH AN AMENDMENT

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 276 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 276

Resolved, That upon the adoption of this resolution it shall be in order to consider a motion, if offered by Representative Whitten of Mississippi, or his designee, to recede and concur in Senate amendment numbered 136 to the bill (H.R. 3015) making appropriations for the Department of Transportation and Related Agencies, for the fiscal year ending September 30, 1990, and for other purposes, with the amendment printed in the joint statement of the managers accompanying the conference report on H.R. 3015, and all points of order against said motion for failure to comply with the provisions of section 302(f) of the Congressional Budget Act of 1984, as amended (Public Law 93-344, as amended by Public Law 99-177) are hereby waived.

The SPEAKER pro tempore (Mr. DERRICK). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. PASHAYAN] pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 276 makes it in order for the chairman of the Committee on Appropriations, Representative WHITTEN, or his designee to move to recede and concur with an amendment to Senate amendment No. 136 to H.R. 3015—the Department of Transportation Appropriations bill for fiscal year 1990. The rule waives section 302(f) of the Congressional Budget Act against the motion.

Mr. Speaker, the motion to be offered under the provisions of this rule will permit the House to vote on recommendations of the conferees to provide for additional funding for the war on drugs. The drug package contained in the motion to be offered by the chairman of the Appropriations Committee would add nearly $3.2 billion in additional funding for the war on drugs for fiscal year 1990. Additional funds under the package are to be available for programs under the Departments of Justice, Interior, Health and Human Services, Treasury, and Veterans' Affairs to fight the scourge of the illicit drug trade. Because a number of the programs funded under the bill are not in the jurisdiction of the Subcommittee on Transportation and were not anticipated in the allocation given to the subcommittee, the motion would cause the subcommittee's section 302(b) allocation of budget authority to be exceeded for fiscal year 1990. Section 302(f) of the Budget Act would prohibit the consideration of Chairman WHITTEN's motion because it does not comply with the subcommittee's allocation of budget authority and therefore the waiver contained in this rule is required.

Mr. Speaker, the emergency drug funding package recommended by the conferees is deficit neutral. All new budget authority contained in the package is offset by reductions in other categories of spending.

Mr. Speaker, the package has widespread bipartisan support. The rule is necessary to permit the drug funding package and the Transportation Appropriations bill to move forward. I urge adoption of the rule and of Chairman WHITTEN's motion.

□ 1110

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 276 is a rule that makes in order a motion under which the House can complete action on $3.2 billion in budget authority for emergency antidrug funding.

The rule makes in order a motion to recede and concur in Senate amendment 136 to the Department of Transportation Appropriations Act, H.R. 3015.

The rule provides a waiver of section 302(f) of the Budget Act against consideration of the motion, which will be offered by the chairman of the Committee on Appropriations, the gentleman from Mississippi, Representative WHITTEN or his designee.

Mr. Speaker, this rule will be necessary if the House shall complete action on the pending conference report and send it to the Senate for final action.

Mr. Speaker, the House agreed yesterday to the conference report on H.R. 3015. When the time came for a motion to concur in Senate amendment 136.

The gentleman from Minnesota, the ranking Republican member of the Committee on the Budget, Mr. FRENZEL, then made a point of order, which the chair sustained, that the funds provided in the emergency drug supplemental appropriations caused the Transportation Subcommittee to exceed its section 302(b) allocation for discretionary budget authority.

Mr. Speaker, no one disputes the fact that providing new budget authority for antidrug spending within the Department of Transportation Appropriations Act is a highly unusual way for the Congress to react to an emergency situation.

No one disputes the fact that section 302(f) of the Budget Act is a mecha-

nism whereby the House can enforce the budget priorities it has set in the budget resolution, by holding the various Appropriations Subcommittees to discretionary spending limits set in accordance with section 302(b) of the Budget Act.

Mr. Speaker, this rule is yet another recognition that the Budget Act is not flexible enough to accommodate timely action by the Congress on urgently needed spending for national priorities.

Mr. Speaker, this rule will permit House consideration of the conferees recommendation for $3.2 in emergency drug funding. This level is $900 million more than the President's request, and increases this year's annual outlays for antidrug efforts by $1.2 billion.

The conferees recommendation increases funding for education, prevention, and treatment by $800 million and law enforcement by $100 million above the President's request.

Mr. Speaker, the conferees also recommend specific reductions in each of the regular appropriations bills in order to offset the $3.4 billion increase in budget authority for antidrug funding.

Mr. Speaker, the conferees have developed a responsible funding package for antidrug spending, and the House deserves the opportunity to vote on the package.

Adoption of the rule is the necessary first step.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, yesterday the House adopted the conference report on the bill H.R. 3015, providing funds for the Department of Transportation and related agencies. Additionally, a point of order was sustained against consideration of amendment No. 136 which provides emergency drug funding, with some offsets, of $3,012 million in budget authority and $1,073 million in outlays. The point of order on section 302(f) of the Budget Act was sustained because with adoption of emergency drug funding the Transportation Subcommittee would exceed its 302(b) subdivision by $2,113 million in budget authority and $293 million in outlays.

The Appropriations Committee has since received a rule waiving this Budget Act point of order. I believe this was the proper procedure to take and I support the waiver.

Mr. Speaker, although adoption in emergency drug funding under amendment No. 136 would cause the subcommittee to exceed its subdivision, there are several legitimate reasons for this. First, the Transportation Subcommittee was scored for $1 billion in disaster assistance provided in the second continuing resolution. I supported allowing these additional funds because of their emergency nature.

It is also my understanding and expectation that appropriation conference reports already enacted, coupled with emergency drug funding as part of this conference report, and the discretionary spending contained in other appropriation conference reports not yet considered; namely, Defense, Agriculture, and Foreign Operations, excluding disaster assistance, will result in the House Appropriations Committee's overall allocation for discretionary budget authority and outlays to be met. In making this determination, I have compared the current 302(b) subdivisions with the status of conference reports already adopted, this conference report with the adoption of the emergency drug funding amendment, the expected amounts for remaining conference reports, and the disaster assistance provided in the second continuing resolution. The result of this calculation shows the House Appropriations Committee will be well under its section 302(a) allocation for discretionary budget authority and exactly on target for discretionary outlays.

In light of these considerations, I urge my colleagues to support the necessary Budget Act waiver for this amendment.

Mr. Speaker, let me just conclude by saying, as I have said time and time again, we are going to face these priorities, if not now, in the future, whether it is drugs, whether it is disaster assistance, whether it is defense, whether it is education, whether it is health care, we are a Nation that is starving for resources right now. Until we confront the principal issue of how we restore those resources, whether it be through revenues, whether it be through additional cuts in spending, until we face those tough choices, we have very little alternative but to continue to provide these kinds of waivers.

[In millions of dollars]

		Current House status over (+) under (−) 302(b) subdivisions
Current House status	+2,158	+2,157
Disaster assistance	−2,850	−1,510
Subtotal	−692	+647
Anticipated Defense appropriation	−309	−738
Anticipated Foreign Operations appropriation	+359	−68
Anticipated Agriculture appropriation	+22	+23
Total	−620	

Mr. PASHAYAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, pursuant to House Resolution 276, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numberd 136 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

TITLE IV—EMERGENCY DRUG FUNDING

CHAPTER I

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $10,261,000 to enhance drug and criminal law enforcement efforts with special emphasis on improving drug law enforcement efforts among the various Justice Department agencies and on expedited deportation proceedings of convicted criminal aliens.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $41,476,000 to remain available until expended, to improve the effectiveness of the Department's legal activities, to improve coordination between law enforcement programs in this country and other countries, to improve efforts in extradition of drug cartel kingpins and to improve Criminal Division efforts in Federal/State task forces.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

To continue efforts begun in fiscal year 1989 to improve the ability of the United States Attorneys to prosecute drug and other crime related offenses, $80,699,000, for new assistant United States Attorneys, for annualization of new attorney positions funded in fiscal year 1989, and for automation enhancements necessary to improve productivity and case management in the various United States Attorneys offices.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For carrying out efforts at National Drug Control and the President's initiative to combat violence crime, $23,819,000 to improve the ability of the United States Marshals Service to pursue and apprehend alleged major drug and organized crime figures, and to improve the security required for anti-drug and organized crime judicial proceedings.

SUPPORT OF UNITED STATES PRISONERS

To fight the war on drugs, $23,000,000, to remain available until expended for enhancing the availability of jail space for unsentenced Federal prisoners in the custody of the United States Marshals Service; of which not to exceed $10,000,000 shall be available under the Cooperative Agreement Program to obtain guaranteed housing for Federal prisoners in State and local detention facilities.

ASSETS FORFEITURE FUND

To fight the war on drugs, $25,000,000 for awards for information in drug cases, purchase of evidence for drug violations, equipping conveyances for drug law enforcement, and other expenses as authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F) and (G), as amended, to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For carrying out efforts at National Drug Control, $46,361,000 to strengthen the ability of the Federal Government to attack drug cartels and other organized crime groups through the eleven cooperating Federal agencies which participate in the organized crime drug enforcement task forces.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control, $97,045,000 to strengthen Federal domestic law enforcement at the local level to include additional agents, support personnel and equipment, improvements in automation and telecommunications, and enhancements in field equipment and training.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control, $64,301,000, for additional agents, support personnel and equipment for improved domestic drug law enforcement; for expanded cleanup and disposal of toxic chemicals from clandestine laboratories; to expand State and local task forces; to complete the nationwide placement of asset removal teams; and to improve intelligence programs.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $16,891,000, for additional Border Patrol agents to improve drug interdiction efforts and for additional investigators and other staff needed to increase the apprehension and detention of criminal aliens.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $54,923,000, for additional staff to activate new prisons, to improve staffing at existing institutions, and to fund additional support costs associated with the projected increases in Federal prison populations.

BUILDINGS AND FACILITIES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $1,000,000,000, to remain available until expended, for acquisition and construction of new Federal prison facilities in order to handle the projected growth in prisoner populations resulting from the increased number of drug-related convictions.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

To fight the war on drugs, $308,821,000, to remain available until expended; of which $300,000,000 is for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs for State and local agencies to improve efforts in street-level and community-based drug law enforcement efforts; and of which $8,821,000 is for the Juvenile Justice and Delinquency Prevention Program in order to improve programs for the prevention, intervention and treatment of juvenile crime, especially where it relates to youth gangs and drugs.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $59,550,000 for additional clerks office personnel, probation and pretrial services personnel, magistrates and related support personnel, and drug aftercare treatment services necessary to handle the growth in drug and crime related caseloads in the Federal courts.

DEFENDER SERVICES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $41,373,000, to remain available until expended, for the increased expenses associated with Federal public defender and community defender organizations and private panel attorneys necessary to handle the growing drug and crime related caseload of the federal courts.

FEES OF JURORS AND COMMISSIONERS

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $4,000,000, to remain available until expended, for the increased cost of grand and petit juries resulting from the growth in the drug and crime related caseload of the Federal courts.

COURT SECURITY

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $15,400,000, to provide for expanded security and protective services for the Federal courts to handle the increase in drug and crime related judicial proceedings which require a higher level of security.

RELATED AGENCY

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For carrying out the provisions of section 7321 of the Anti-Drug Abuse Act of 1988 (P.L. 100-690), $4,020,000, to remain available until expended, to allow the State Justice Insititute to expand its programs to assist States in improving their court systems to allow them to handle the growing drug and crime related caseload.

CHAPTER II

DEPARTMENT OF THE INTEROR

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

To fight the war on drugs, $4,000,000, to remain available until expended, for the provision of additional emergency shelters for Indian youth and for the construction of Juvenile detention facilities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

To fight the war on drugs, $7,250,000, for the Indian Health Service to increase after care services and provide for family outpatient care, expand community education and training efforts with a focus on prevention and training of program staff, expand alcoholism and drug abuse prevention efforts for adolescents through urban Indian health programs, and provide contract health services for substance abuse treatment and rehabilitation of Indian youth and their families.

INDIAN HEALTH FACILITIES

To fight the war on drugs, $1,500,000, to remain available until expended, to allow the Indian Health Service to complete the construction or renovation of facilities to provide detoxification and rehabilitation services in youth regional treatment centers.

CHAPTER III

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for substance abuse employee assistance programs in the workplace, $2,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG AND ABUSE, AND MENTAL HEALTH

For carrying out activities to fight the war on drugs including substance abuse research, treatment, and prevention, $727,000,000: *Provided*, That of this amount, $415,000,000 shall be provided for block grants to States under title XIX of the Public Health Service Act to be used exclusively for substance abuse activities and shall remain available for obligation by the States until March 31, 1991 and such obligated funds shall remain available for expenditure by the States until March 31, 1992: Provided further, That of this amount, $40,000,000 shall be available for treatment waiting period reduction grants, if authorized in law.

FAMILY SUPPORT ADMINISTRATION

COMMUNITY SERVICES BLOCK GRANT

For an additional amount for anti-drug abuse activities under the Community Services Block Grant Act, $2,000,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

To fight the war on drugs and by providing assistance to runaway and homeless youth, by providing drug prevention activities related to youth gangs, and by providing temporary child care, crisis nurseries and abandoned infants assistance to children impacted by drugs, $23,750,000.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

To ensure a drug free learning environment for American students by carrying out the Drug-Free Schools and Communities Act of 1986, as amended, part F of title IV

of the Elementary and Secondary Education Act, as amended, and the Department of Education Organization Act, $183,500,000: *Provided,* That of this amount $170,000,000 shall be for State grants under part B, which shall become available on July 1, 1990 and remain available until September 30, 1991; $2,000,000 shall be for innovative alcohol abuse programs under section 4607; $7,500,000 shall be for teacher training under part C; $2,000,000 shall be for national programs under part D; and $2,000,000 shall be transferred to "Departmental Management, Program Administration" for administrative costs: *Provided further,* That of the amounts available for part B, not less than $25,000,000 shall be for section 5121(a) for urban and rural emergency grants: *Provided further,* That funds available under the "Department of Education Appropriations Act, 1990" for "Rehabilitation Services and Handicapped Research" shall also be available for activities under title II of Public Law 100-407; funds available for "School Improvement Programs" shall also be available for activities under title IX of the Education for Economic Security Act, as amended; and funds available for "Student Financial Assistance" shall be administered without regard to section 411F(1) of the Higher Education Act of 1965 (20 U.S.C. 1001 et. seq.), and the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary of Education, mean the sum received in the first calendar year of the award year from the sources described in that section.

RELATED AGENCY

ACTION

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities under Part C of title I of the Domestic Volunteer Service Act of 1973 as amended, $1,500,000, of which not more than $150,000 may be used for administrative expenses.

CHAPTER IV

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

SALARIES AND EXPENSES

To fight the war against armed career criminals, an additional amount of $10,000,000 for the hiring, training and equipping of additional agents and inspectors to enhance the arrest and conviction of armed career criminals who violate Federal firearms statutes.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

To fight the war on drugs, an additional amount of $18,000,000, of which $15,000,000 shall be available to undertake investigations to counter drug-related money laundering or other law enforcement activities, and of which $3,000,000 shall be available to increase the air interdiction program staffing level to 960 permanent full-time equivalent positions: *Provided,* That none of the additional funds shall be made available for the establishment of the Financial Crimes Enforcement Network without the advance approval of the House and Senate Committees on Appropriations.

OPERATIONS AND MAINTENANCE, AIR INTERDICTION PROGRAM

To fight the war on drugs, an additional $35,800,000, to remain available until expended, for the procurement of interceptor and support aircraft, and to provide for the operation and maintenance expenses of these assets to more effectively interdict the illegal importation of drugs into the United States.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

To fight the war on drugs, an additional amount of $5,000,000, to be derived from deposits in the Fund, for authorized law enforcement purposes.

INTERNAL REVENUE SERVICE

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

To fight the war on drugs, an additional amount of $5,000,000 for criminal investigative activities to support a vigilant enforcement of Federal tax law violations and money laundering related to illegal narcotics activity.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

To fight the war on drugs, an additional amount of $25,000,000 for drug control activities related to the designation of high intensity drug trafficking areas: *Provided,* That from within available funds, the Office of National Drug Control Policy, in conjunction with other departments and agencies, shall undertake assessments of program effectiveness of all federally funded anti-drug programs for the purposes of determining their impact in reducing the illegal drug problem, including their impact on the production, importation, cost, availability, and use of drugs, as well as on the successful treatment and rehabilitation of users and addicts: *Provided further,* That said assessments shall contain comparative cost-benefit and cost-effectiveness data to aid in determination of the absolute and relative value of each program in reducing the illegal drug problem.

SPECIAL FORFEITURE FUND

For Federal prison construction purposes to incarcerate drug traffickers and others who violate Federal statutes, an amount not to exceed $115,000,000, to be derived from deposits in the Fund, and to remain available until expended.

CHAPTER V

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For providing necessary medical care and treatment to eligible veterans with alcohol or drug dependence or abuse disabilities, an additional $50,000,000, which shall be available only for programs and activities described in section 2502(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), and as authorized under chapter 17 of title 38 United States Code.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

To fight the war on drugs and eliminate drug-related crime in public housing projects, without regard to section 9(d) of the United States Housing Act of 1937 (42 U.S.C. 1437), an additional $50,000,000, which shall be available only for grants authorized under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.) and subject only to the requirements of such Act for project security, physical improvements, enforcement activities, support for voluntary organizations, and innovative programs designed to reduce drug use in and around public housing projects: *Provided,* That $1,000,000 shall be available for contracts, including the provision of technical assistance to public housing officials and resident groups to better prepare and educate them to confront the widespread abuse of controlled substances in public housing projects, pursuant to the Drug-Free Public Housing Act of 1988 (42 U.S.C. 11922, 11923).

CHAPTER VI

DEPARTMENT OF ENERGY

NUCLEAR WASTE DISPOSAL FUND

In order to provide funds for the war on drugs, funds appropriated by the Energy and Water Development Appropriations Act for Fiscal Year 1990 (Public Law 101-101) for the "Nuclear Waste Disposal Fund" are reduced by $46,000,000.

CLEAN COAL TECHNOLOGY

The second paragraph under this head contained in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990 is amended by striking "$450,000,000" and inserting "$419,000,000" and by striking "$125,000,000" and inserting "$156,000,000".

SPR PETROLEUM ACCOUNT

Outlays in fiscal year 1990 resulting from the use of funds appropriated to this account in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990 shall not exceed $147,125,000: *Provided,* That for purposes of section 202 of Public Law 100-119 (2 U.S.C. 909) this action is a necessary (but secondary) result of a significant policy change.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

LAND ACQUISITION AND DEVELOPMENT FUND

The authority to borrow from the Treasury of the United States provided under this heading in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990, is hereby reduced to $100,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

Notwithstanding the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990, the amount available for Health Care Financing Administration Program Management shall include not to exceed $1,885,172,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance, the Federal Supplementary Medical Insurance, the Federal Catastrophic Drug Insurance, and the Federal Hospital Insurance Catastrophic Coverage Reserve Trust Funds.

LEGISLATIVE BRANCH

In order to provide funds for the war on drugs, each discretionary appropriation for fiscal year 1990 provided in the Legislative Branch Appropriations Act, 1990, (H.R. 3014), shall be reduced by 0.43 percent: *Provided,* That $3,578,000 representing excess receipts from the sale of publications shall be transferred from the Government Print-

ing Office revolving fund to the Salaries and Expenses Appropriation of the Office of the Superintendent of Documents, Government Printing Office.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

Notwithstanding any other provision of this Act, each discretionary appropriation account, loan program, and obligation limitation in Titles I and II of this Act is hereby reduced by 0.3 percent: *Provided*, That the reductions made pursuant to this paragraph shall not apply to "Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)", the obligation limitation under "Grants-in-Aid for Airports", and to any appropriation account applicable to salaries and expenses in an amount less than $45,000,000: *Provided further*, That this paragraph shall not reduce the minimum amount specifically designated for drug enforcement activities under "Coast Guard, Operating Expenses": *Provided further*, That, notwithstanding any other provisions of this paragraph, the obligation limitation under the head "Grants-in-Aid for Airports" is hereby reduced to $1,425,000,000 and the obligation limitation under the head "Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)" is hereby reduced to $12,210,000,000: *Provided further*, That $25,000,000 of unobligated contract authority available for airport planning and development under section 505(a) of the Airport and Airway Improvement Act of 1982, as amended, is rescinded.

DEPARTMENT OF THE TREASURY

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $14,000,000 are rescinded.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $141,000 are rescinded.

PROCESSING TAX RETURNS

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $1,499,000 are rescinded.

EXAMINATION AND APPEALS

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $3,488,000 are rescinded.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $2,299,000 are rescinded.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The limitation established under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, for the rental of space, as well as the aggregate limitation established thereunder, are reduced by $14,400,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $945,000 are rescinded.

CHAPTER VII

OFFICE OF NATIONAL DRUG CONTROL POLICY

Not later than 30 days after the enactment of this Act, the Director of National Drug Control Policy shall report on how funds made available under Title IV of this Act have been allocated and shall, for each quarter of the fiscal year thereafter, within 45 days following the close of the quarter, report on how these funds have been obligated. Reports made under this section shall be filed with the House of Representatives and the Senate and made available to the Committees on Appropriations and other committees, as appropriate.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

For the text of Senate amendment No. 136, see proceedings of the House of Tuesday, October 31, 1989, at page H 7790, H 7791, and H 7792.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the disposition of Senate amendment No. 136 to H.R. 3015, and that I be permitted to include tabular and extraneous material.

The SPEAKER pro tempore (Mr. DERRICK). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, amendment No. 136 now before Members is deficit neutral. We provided, in order to conform to the budget agreement before the leadership and the executive and to not violate the deficit target for fiscal 1990 that sufficient cuts are made elsewhere to offset expenditure provided here.

I say this, advising my good friend, the chairman of the Committee on the Budget, and he is a friend, his statement reminds me of an old story I read in the "New England Journal of Medicine" in which it said, "So let your life be ordered by each documented fact and die of malnutrition but with arteries intact." So we can have a balanced budget and a whole lot of other things, but if this is at the expense of destroying our own country and our economy, what have we accomplished? I point out since 1974 when we passed the Budget Act and started trying to deal with appropriations and not dealing with the income and other things, entitlements and back door spending has increased 4.7 times.

We on Appropriations have tried to live within what is left. We have been below the budget. I have pointed out repeatedly that since 1945 our appropriation bills have been $187 billion below the recommendations of the Presidents. Not only that, but under President Reagan we were $16 billion below.

□ 1120

We are reaching the point now, where it is being insisted that we stop things that are vital to our country in order to have a balanced budget and all the other things demanded under present rules.

May I say again, we have lived with that in this bill, because it is deficit neutral. We have provided for sufficient cuts it is deficit neutral. We have provided for sufficient cuts to cover the outlays that will result from the anti-drug funds provided in this bill.

Mr. Speaker, this drug business is far more dangerous, in my mind, than anything we have ever faced in our country. It is destroying our country.

Everyday we read in the papers about murders in the city of Washington. We read about it all over the country. It reaches every crossroad.

As a prosecuting attorney with a district attorney background, I have insisted from the start that we cannot handle this matter until we go to work on the cause, the origin of it.

NEED FOR A PLAN AND A COORDINATOR WITH AUTHORITY

I pointed out in 1986 we appropriated a $1.6 billion supplemental before there was any authority. Of course, in the appropriation of it we provided the authority. But that was also before we had any recommendation from the President and before we had any change in law. In fact in section 107 of Public Law 99-464 we had directed them to use $100,000 to come up with a plan and to provide that plan no later than January 1, 1987. We are still waiting for that plan.

That language follows:

DRUG COORDINATION PLAN

SEC. 107. Pending the enactment of the Omnibus Drug Supplemental Appropriations Act of 1987, contained as Title II of the fiscal year 1987 Continuing Appropriations Act of 1987 (H.J. Res. 738), the President or his designee shall, out of the $1,200,000,000 made available for drug abuse prevention programs by House Joint Resolution 738 and continued by this resolution and in the regular appropriations bills for

the fiscal year 1987, with the cooperation of those presently engaged in this effort in the executive departments, Members of Congress and others experienced in the field of law enforcement, use $100,000 to develop an overall drug abuse prevention plan that coordinates the government's efforts in combating the widespread use of illegal drugs: *Provided*, That this plan shall be presented to the Congress no later than January 1, 1987.

Last year, in support of the funding for the drug plan I pointed out:

* * * In fiscal years 1986, 1987, and 1988, we provided a total of $9.5 billion to meet what perhaps is the greatest danger to happen to this country. Not only that, but the first $1.6 billion that we appropriated as a supplemental in fiscal year 1987, we did before we had an authorization and in the process made it authorized. At that time we called on the President to use $100,000 of available funds to come up with a plan.

Mr. Speaker, I say again that we owe a lot to all the people that got together to bring this about, but it does point out that we have to have a plan of procedure because 41 different Government agencies are in on the money that we have appropriated, and it took a great effort on the part of those who authorize those programs to get together on this bill.

NEED FOR COORDINATION PLAN

The problem is not simply lack of money or organizations dealing with the problem. Increased funding has been appropriated to 41 Federal departments and agencies and their respective components since fiscal year 1980 when just under $1 billion was available. In fiscal years 1986, 1987, and 1988, the Committee and Congress provided a total of over $9.5 billion in funding Government wide to address the drug problem.

But this is war, and to fight a war effectively, we must have an overall plan which includes organizing the available programs and resources to meet an overall goal. The departments and agencies responsible for those multiple programs have done as well as they can, but the overlapping Federal, State, and local jurisdictions need to effectively coordinate activities to reduce the supply of, and the demand for, drugs in this country.

NEED FOR A COORDINATOR WITH AUTHORITY

An overall coordinator is necessary to deal with this national emergency. The investigative staff report describes how there is no single person or organization to insure that a coherent, coordinated Federal plan is developed and carried out. The National Drug Policy Board has developed its nine implementation plans, but it does not have the authority to cut across jurisdictional lines to ensure that these, or any other plans are carried out.

* * * Without an overall plan and a coordinator to make sure the plan is carried out, we have no guarantee that all the programs that can contribute to an agreed upon national policy are in place and working together to best satisfy that policy goal. For example, increases in law enforcement funding for the FBI, DEA, and the Customs Service have resulted in greater numbers of cases for prosecution. Yet, we have shortages of U.S. attorneys to prosecute those cases and significant shortages of prison space to house those convicted. As a short-term fix, we see the recent proposal to fine those guilty of possession without criminal prosecution, * * *.

Earlier this year, in the dire emergency supplemental (Public Law 101-45) in order to strengthen Federal domestic drug law enforcement at the local level, $71,000,000 was appropriated for:

* * * Additional assistant United States attorneys, deputy United States marshals and other agents, including necessary equipment and supplies; initiate plans to acquire available military facilities for use as prisons or Civilian Conservation Corps type use for drug offenders, speed up planning for not less than three prisons in areas where most needed; and to expedite the purchase of automatic data processing equipment to improve the exchange of information, * * *.

And $4,000,000 for fees of jurors and commissioners.

Mr. Speaker, may I say this: The money that we have here, that is so essential, if we are to do anything about the problem.

NUMBER OF ORGANIZATIONS INVOLVED

We have 41 departments and agencies that have a share of the jurisdiction. Not only that, but we have 50 States that want to get in on the money, and may I say every bit of it is needed. It will be well used.

But this money here does nothing that would in any way stop and correct the causes and get us to where we want to be. We need to give our attention to establishing a detailed plan and carrying out that plan if we want to get anything done about the problem.

Mr. Speaker, our committee had the hearing where we had the so-called crime czar, who calls himself a director testify. Not only that, but we also had the Attorney General and the Budget Director present at that hearing.

We do not have a czar. He calls himself a director. He can issue statements and he can make a wonderful contribution, but is without any experience or background in the area of enforcing the law. Until we have someone in charge, who can cut across lines, we will continue to be slow in making progress.

SENATE AMENDMENT NO. 136

Mr. Speaker, this deficit neutral amendment provides $3,183,240,000 for emergency drug funding, which, when added to the $6.5 billion that has been or will be provided in the regular appropriations bills, provides a total of $9.8 billion in fiscal year 1990 to try to get a handle on one of the greatest problems that our Nation or any nation in the history has ever faced—the scourge of drug abuse.

The country is faced with a breakdown in law and order. We are up against what I think is one of the most dangerous situations in the history of the world. Illegal drug use has reached every crossroad in the country. It has gone beyond the cities. There is no way to satisfy those who are requesting funds to fight the problem. Granted, they use it well, and the need is there, but until there is a detailed plan, it may do nothing toward correcting the cause or the source of the problem.

The problem is not simply lack of money or organizations dealing with the problem. It is lack of a plan, as we have tried to point out in 1986, 1987, 1988, and in 1989.

May I digress a little bit and say that in order to deal with the damages caused by the earthquake that we had in California and the hurricane in the Carolinas, we stepped in and realized that we had to pull together or else we would have any efforts to take care of those disasters divided between so many committees and jurisdictions that we would be 2 or 3 years getting authorized to take care of it.

But this is war, and to fight this war effectively we must implement an overall plan. The 41 Federal departments and agencies responsible for those multiple programs have done as well as they can, but the overlapping Federal, State, and local programs to reduce the supply of and the demand for drugs in this country requires a central control, with authority to cross jurisdictions.

We need more than coordination. We need operational ability in law enforcement, though education must follow with strong leadership and central authority to carry out the plan. We must guarantee that all the programs that can contribute to an agreed upon national drug policy are under a central control if we are to reach our goal.

In addition, it is important to stress, and they have not done it despite the fact that we provided for it and directed it in our supplemental appropriation bill, the use of available military facilities for use as provisions, or, as proposed in H.R. 1591 and Public Law 101-45, the 1989 dire supplemental, for use as Civilian Conservation Corps-type camps for drug offenders. I point out again, that is the one place before this where we provided for paying jurors, assistant prosecuting attorneys, specifically for drug related law enforcement at the local level, and all those other things that are essential if we are going to handle this problem.

Mr. Speaker, let me repeat, in my opinion, with my background, and I have pointed this out 3 or 4 straight years, we are going to have to look where the source comes from, which means the big money in it.

We saw in the paper and on television that $10 million was found in California. They could look to see when that left the Bureau of Engraving and Printing. They could see where it was sent. They could see what Federal Reserve Bank asked for it. They could trace that money all the way to where it was finally distributed.

Unless we persuade the executive branch and the Congress to come up with a plan, as we have tried for 3 or 4 years, we will continue to dish out money trying to deal with the end results. And, we must continue doing that. This money will be well spent, but it does not do anything toward stopping what is going on.

Mr. Speaker, I repeat, this amendment is deficit neutral. We are required under our rules to cut sufficient things to take care of it, and that is peanuts, compared to the danger that this country faces. This problem is destroying our morals. It is destroying life in Washington, DC, and setting an all-time record for murders. We see it on television here, and they do not show one-tenth of it.

Mr. Speaker, I say again, we are doing our very best to meet this, but I call again, as I have for 4 years, on the executive branch to come up with a detailed plan.

We had before us the Attorney General of the United States. We had the Budget Director. We had Mr. Bennett. Mr. Bennett in his testimony says he is not a czar, he is a director, and is doing a good job within the limits of his authority. But anyone that has to deal with 41 departments and agencies has got to have authority to cut across jurisdictions, or 4 years from now we will be in the same fix we are in now, trying to deal with it after it happens.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, the House considers a most topical and critical piece of legislation addressing the scourge of drugs that lays waste to our Nation. This legislation, contained in title IV of this appropriations bill, is Congress' first, but hopefully not last, response to the President's national drug control strategy, announced on September 5.

Let it be clear that this first congressional response to the first national drug control strategy is not about what we should be doing, but about how much more to spend. And spend we will do. This is no paltry, penny-pinching response.

This legislation takes the President's proposed $1.8 billion increase for drugs and $400 million for the crime initiative, and ups it by $1 billion. When combined with the antidrug money in the 13 regular appropriations bills, not all concluded as of yet, our total spending for fiscal year 1990 will fall between $9 and $10 billion. That is compared with $6.6 billion in fiscal 1989, and $1.1 billion a mere 9 years ago at the outset of the Reagan administration in 1981.

But let me also say, particularly for Members on my side of the aisle, that we have also won the battle to insure at least a measure of fiscal responsibility. Of the $3.2 billion in this bill, about $1.2 billion will be spent in fiscal 1990, and that $1.2 billion has been offset by reducing spending in the 13 regular appropriations bills by a like amount. So, for this year it is deficit neutral. And future year spending will have to conform to future budget resolutions and targets. We are reprioritizing Federal spending for the war on drugs, let there be no mistake about it. And I, for one, am proud that the battle on offsets for additional spending, which has been ongoing throughout this Congress, has been won on this battlefield.

Since we are talking money, and not strategy, let's look at where this additional spending is taking our drug control policy.

The $3.2 billion in this bill includes $1.9 billion for law enforcement. There is $1 billion for building new Federal prisons, $1 billion. Think of it. There is $300 million additional for State and local law enforcement grants, bringing the appropriation to $470 million, compared with $180 million last year. A huge increase.

Additional funding for treatment, prevention, and education amounts to $940 million, about $550 million more than requested. It includes: A large increase, $415 million, for the block grant; at least $25 million for treatment for pregnant addicts; $40 million in funding for a new HHS division on improving treatment services; $7 million additional for salaries for all of ADAMHA, and $1 million for national youth sports, which I might say is a very good program, for which we get a tremendous bang for our buck.

A lot of money is going out very fast for these programs, but I think even these large numbers underestimate the extent of our commitment to this war on drugs. I think that a hard look at the Federal budget would show we spend hundreds of millions, maybe billions, more. In HHS, the "official" drug spending totals include none of the money spent for medical treatment. In the Health Care Financing Administration, it is estimated we spend $277 million under Medicare and Medicaid for antidrug abuse activities, not counted.

In the Defense Department, as much as $118 million in demand reduction is not counted for drug screening, testing, and treatment of service members.

Throughout the Government, some 20 agencies and subagencies have begun drug testing. That is not accounted for. Nor is treatment, employee assistance plans, health insurance costs.

In Justice, we estimate how much is spent on drug prosecution, interdiction, and incarceration. What about all the crimes committed by people on drugs?

We need to get a better handle on exactly what we are spending on the war on drugs. And I have put that requirement into this bill.

Furthermore, we are spending these funds without having a good idea of what works and what doesn't. We have built an armada of plans, balloons, radar, you name it, to block air shipments, spending billions of dollars with unconfirmed results. In fact, the GAO has recommended that we spend no further money until we figure out what we're getting. Yet there's more money in here.

Mr. Skeen and I discovered an entire complex that was being planned and built without consulting Congress. We got on top of that one fast. With all this money going out so fast, there is a great danger of spending inefficiently, if not abusively.

Therefore, I sponsored bill language requiring the drug czar to assess each program that we fund, and make a determination of what each of them accomplishes. We need to know what we get when we spend a dollar, and where a dollar is best spent.

That is my biggest disappointment in the evolution of the debate over this first national drug contol strategy. We haven't debated strategy, we've debated dollars. Not what should we be doing, but how much are we spending.

If spending money will win the war on drugs, then we're doing it. But money alone can't win a war. It takes determination, commitment, participation, and, yes, strategy. There is a commitment on the part of the leadership to bring out the separate drug authorization legislation. I trust that will occur with speed.

Let me finish by saying that I hope, against hope, that this legislation will make a dent in the tragedy of our national drug problem, which destroys lives, futures, families, innocent children, neighborhoods. Say yes to this bill. Say no to drugs.

□ 1130

Mr. WHITTEN. Madam Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER], a member of the Committee on Appropriations.

Mr. ALEXANDER. Madam Speaker, I rise in enthusiastic support of the drug provisions of this conference report.

We have been losing our children, control of our streets, schools and workplaces to the drug lords.

Simply put, we have been losing the war on drugs.

Today, however, we have the chance to bring more ammunition to the front by approving $3.2 billion in funding for antidrug abuse programs.

This amount, when added to amounts already provided in fiscal year 1990 appropriations bills, brings

the total antidrug funding to $8.8 billion—$900 million more than requested by President Bush.

In order to make a dent in the flood of mind-destroying drugs, we must attack both the supply and demand side of the problem—and attack it with the full force and might of the Nation.

As long as there is demand, there will be supply. We only need to remember our history—to recall the days of prohibition to prove this case.

In order to reduce demand, we must better educate our population to the dangers of drug abuse.

For those who insist on continuing to supply this death dealing merchandise, we must have police to apprehend them, prosecutors to prosecute them and jails in which they can be thrown to do their time.

Let the word go forth to the drug subculture in our country—we in Congress are serious about the war on drugs and you are in our sights.

Congress recognizes that in the war on drugs we are dealing with a serious question of national security, addressing a plague which threatens our Nation more seriously than any external enemy.

I also view the funding called for in the report as an investment in the future—the future of our young people.

Madam Speaker, I agree with the gentleman from Massachusetts [Mr. CONTE] that, while there is need for improvement to be made in the President's plan and policies, that on balance we are making progress. When the President comes forward with a plan, with a national strategy. For the first time we are seeing one in this fight against drugs, and it is certainly necessary to implement that plan with real money to provide additional enforcement, additional prosecution, additional prisons, additional treatment and additional education.

Ms. SCHNEIDER. Madam Speaker, I rise in strong support of title IV of the conference report on H.R. 3015, the Department of Transportation appropriations for fiscal year 1990. Congress is finally acting to address the most pressing social problem in this country: drugs and drug-related crime. Title IV provides an additional $3.2 billion in funding for anti-drug abuse programs.

The funding increase includes an additional $752.8 million for drug abuse prevention and treatment programs within the Department of Health and Human Services. The majority of this new funding goes to the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA). With this addition, total ADAMHA anti-drug funding is more than $2 billion. This almost 50 percent increase over 1989 funding will provide States like Rhode Island greater opportunity to implement proven treatment programs, such as in patient rehabilitation services for teenagers as well as adults. The increased ADAMHA funding will help proven institutions like Talbot House in Providence, Caritas House in Pawtucket and Tri-Hab in Woonsocket to expand and improve their services.

This bill will also provide for $183.5 million in additional fiscal year 1990 funding for drug abuse prevention and education programs within the Department of Education. $170 million of this money will go to the Drug Free Schools program, which has proven to be an effective program to help States, local education agencies, and schools in developing local projects to reduce student drug use. A few weeks ago, I saw firsthand some successful local initiatives such as the Brown University Drug Free Schools and Community Program. I visited the Fox Point Elementary School in Providence, which is a participant in this program and was very pleased to see a dedicated staff working with concerned parents and enthusiastic students. It is clear that the very best way to fight drug use is to stop it before it starts.

Title IV also satisfies President Bush's request for additional funding for law enforcement and the judiciary. H.R. 3015 represents prompt action from the legislative branch in response to Presidential leadership. This bill provides well-balanced funding for treatment, education, and law enforcement. I urge my colleagues to support this timely funding bill.

□ 1140

Mr. CONTE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Madam Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mrs. BOXER). The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN] to recede and concur the amendment of the Senate numbered 136, with an amendment.

The motion was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO SENATE AMENDMENT NO. 136 TO H.R. 3015, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. WHITTEN. Madam Speaker, I ask unanimous consent that in the engrossment of the House amendment to the Senate amendment numbered 136 to the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes, the Clerk shall be authorized to make any necessary technical corrections in spelling, punctuation, cross referencing, and section numbering, and to correct a typographical error in the amendment as printed by changing the amount under the heading SPR Petroleum Account from $145,125,000 to $147,125,000.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. FRENZEL. Reserving the right to object, Madam Speaker, it is not my intention to ultimately object to the unanimous-consent request. I did want to have a chance to say following the point of order made yesterday that I was well-aware that the bill was going to go to the Rules Committee and come back.

I made my point yesterday, so I saw no need to request a vote on the rule, nor a vote on the bill today, because we had one yesterday. The House had a chance to express its will.

I do, however, for a moment wish to reiterate some of the statements I made yesterday. The first is that in this appropriation, we have paid for the outlays of the drug war by assessing other accounts a small percentage, I believe .43. That took care of only the outlays and that is part of the reason, about $1.1 billion, why we are over in budget authority over the 302 allocation in this particular bill. So the committee, in my judgment, cheated on the numbers by taking care of the outlays and not the B.A.

The other billion dollars that they are over the 302 occurs by reason of the Highway Aid Account on account of the earthquake. That is a billion dollars.

My statement, Madam Speaker, is that these are going to be passed, but at some date the piper has to be paid. My guess is that there will be strong efforts to have to pay the piper in the reconciliation bill, and every place the Appropriations Committee and this House carries us over the 302's and carries us over the bipartisan budget agreement and our own budget resolution, we are going to have to make it up in another way.

I simply want House Members to understand that.

Madam Speaker, I had intended to offer an amendment to H.R. 1465 which would require that all amounts spent from the new oilspill liability trust fund created in this act, be subject to annual appropriations action. This amendment was presented to the Rules Committee and its consideration has not been precluded since the bill was granted an open rule.

However, it is my understanding that the chairman of the Merchant Marine Committee will be offering an amendment to H.R. 1465 which provides that amounts spent from the oilspill liability trust fund will be subject to annual appropriations except for emergency removal costs which are capped at $30 million. Natural resource damage and civil penalty payments will also be available without further appropriations for Federal response and removal actions in this amendment—at a cost of approximately $1 million according to an informal CBO estimate. Since the committees

with jurisdiction over these matters have decided to limit direct spending to truly emergency situations where an oilspill has occurred and must be cleaned up, I have decided not to offer my amendment and to support the compromise approach.

Although I would prefer to remain true to the budget process and not allow any new direct spending which was not provided in the fiscal year 1990 budget resolution, I recognize the need to have some funds available immediately to the Federal Government if an oilspill occurs.

Mr. WHITTEN. Madam Speaker, will the gentleman yield to me?

Mr. FRENZEL. I yield to the distinguished gentleman from Mississippi.

Mr. WHITTEN. May I say to my colleague, Madam Speaker, that I did not oppose his point of order yesterday, but I would call attention to the fact that another point of order, in my judgment, would have applied; that is, our colleagues on the other side of the Capitol put a new appropriation bill into an appropriation bill that had already passed the House and, in violation, in my judgment, of the old rule that all appropriation bills originate in the House. In this instance, they added a drug package—appropriations and legislation—to the Transportation appropriations bill which, as I say, in effect, avoids the general rule that money bills originate in the House. So, there was another ground on which a point of order could well have been made, in my judgment.

I think the gentleman has rendered a service in making his point of order.

Mr FRENZEL. Further reserving the right to object, Madam Speaker, I agree with the gentleman. Often his committee is put in an impossible catch-22 situation by actions of the other body.

I think the gentleman and I would both prefer to follow the regular order at all times, and I appreciate the gentleman's contribution.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1990—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC NO. 101-105)

The SPEAKER pro tempore. The unfinished business is the further consideration of the veto message of the President on the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes.

Mr. DIXON. Madam Speaker, I ask unanimous consent that the veto message of the President together with the accompanying bill (H.R. 3026) be referred to the Committee on Appropriations.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. DIXON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the veto of the bill, H.R. 3026.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3072, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1990

Mr. MURTHA. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3072) making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The Speaker will appoint conferees on his return to the chair.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 3072, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1990 WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. MURTHA. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. MURTHA moves, pursuant to rule XXVIII, clause 6(a) of the House rules, that the conference committee meetings between the House and the Senate on the bill (H.R. 3072 making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes, be closed to the public at such times as classified national security information is under consideration; provided, however, that any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. MURTHA].

On this motion, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 413, nays 2, not voting 18, as follows:

[Roll No. 323]

YEAS—413

Ackerman	Dingell	Hubbard
Akaka	Dixon	Huckaby
Alexander	Donnelly	Hughes
Anderson	Dorgan (ND)	Hunter
Andrews	Dornan (CA)	Hutto
Annunzio	Douglas	Hyde
Anthony	Downey	Inhofe
Applegate	Dreier	Ireland
Archer	Duncan	Jacobs
Armey	Durbin	James
Aspin	Dwyer	Jenkins
Atkins	Dymally	Johnson (CT)
AuCoin	Dyson	Johnson (SD)
Baker	Early	Johnston
Ballenger	Eckart	Jones (GA)
Barnard	Edwards (CA)	Jones (NC)
Bartlett	Edwards (OK)	Jontz
Barton	Emerson	Kanjorski
Bates	Engel	Kaptur
Beilenson	English	Kasich
Bennett	Erdreich	Kastenmeier
Bentley	Espy	Kennedy
Bereuter	Evans	Kennelly
Berman	Fascell	Kildee
Bevill	Fawell	Kleczka
Bilbray	Fazio	Kolbe
Bilirakis	Feighan	Kolter
Bliley	Fields	Kostmayer
Boehlert	Fish	Kyl
Boggs	Flake	LaFalce
Bonior	Flippo	Lagomarsino
Borski	Foglietta	Lancaster
Bosco	Ford (MI)	Lantos
Boucher	Frank	Laughlin
Boxer	Frenzel	Leach (IA)
Brennan	Frost	Leath (TX)
Broomfield	Gallegly	Lehman (CA)
Browder	Gallo	Lehman (FL)
Brown (CA)	Gaydos	Lent
Brown (CO)	Gejdenson	Levin (MI)
Bruce	Gekas	Levine (CA)
Bryant	Gephardt	Lewis (CA)
Buechner	Geren	Lewis (FL)
Bunning	Gibbons	Lewis (GA)
Burton	Gillmor	Lightfoot
Bustamante	Gilman	Lipinski
Byron	Gingrich	Livingston
Callahan	Glickman	Lloyd
Campbell (CA)	Gonzalez	Long
Campbell (CO)	Goodling	Lowery (CA)
Cardin	Gordon	Lowey (NY)
Carper	Goss	Luken, Thomas
Carr	Gradison	Lukens, Donald
Chandler	Grandy	Machtley
Chapman	Grant	Madigan
Clarke	Gray	Manton
Clay	Green	Marlenee
Clement	Guarini	Martin (IL)
Clinger	Gunderson	Martin (NY)
Coble	Hall (OH)	Martinez
Coleman (MO)	Hall (TX)	Matsui
Coleman (TX)	Hamilton	Mavroules
Collins	Hammerschmidt	Mazzoli
Combest	Hancock	McCandless
Condit	Hansen	McCollum
Conte	Harris	McCrery
Cooper	Hastert	McCurdy
Costello	Hatcher	McDade
Coughlin	Hawkins	McDermott
Cox	Hayes (IL)	McGrath
Coyne	Hayes (LA)	McHugh
Craig	Hefley	McMillan (NC)
Crane	Hefner	McMillen (MD)
Crockett	Henry	McNulty
Dannemeyer	Herger	Meyers
Darden	Hiler	Mfume
de la Garza	Hoagland	Michel
DeLay	Hochbrueckner	Miller (CA)
Dellums	Holloway	Miller (OH)
Derrick	Hopkins	Miller (WA)
DeWine	Horton	Mineta
Dickinson	Houghton	Mollohan
Dicks	Hoyer	Montgomery

Moody	Roberts	Solomon
Moorhead	Robinson	Spence
Morella	Roe	Spratt
Morrison (CT)	Rogers	Staggers
Morrison (WA)	Rohrabacher	Stallings
Mrazek	Ros-Lehtinen	Stangeland
Murphy	Rose	Stark
Murtha	Rostenkowski	Stearns
Myers	Roth	Stenholm
Nagle	Roukema	Studds
Natcher	Rowland (CT)	Stump
Neal (MA)	Rowland (GA)	Sundquist
Neal (NC)	Roybal	Swift
Nelson	Russo	Synar
Nielson	Sabo	Tallon
Nowak	Saiki	Tanner
Oakar	Sangmeister	Tauke
Oberstar	Sarpalius	Tauzin
Obey	Savage	Taylor
Olin	Sawyer	Thomas (CA)
Ortiz	Saxton	Thomas (GA)
Owens (NY)	Schaefer	Thomas (WY)
Owens (UT)	Scheuer	Torres
Oxley	Schiff	Torricelli
Packard	Schneider	Towns
Pallone	Schroeder	Traficant
Panetta	Schuette	Traxler
Parker	Schulze	Udall
Parris	Schumer	Unsoeld
Pashayan	Sensenbrenner	Upton
Patterson	Sharp	Valentine
Paxon	Shaw	Vander Jagt
Payne (NJ)	Shays	Vento
Payne (VA)	Shuster	Visclosky
Pease	Sikorski	Volkmer
Pelosi	Sisisky	Vucanovich
Penny	Skaggs	Walgren
Perkins	Skeen	Walker
Petri	Skelton	Walsh
Pickett	Slattery	Watkins
Pickle	Slaughter (NY)	Weber
Porter	Slaughter (VA)	Weldon
Poshard	Smith (FL)	Wheat
Price	Smith (IA)	Whittaker
Pursell	Smith (NE)	Whitten
Quillen	Smith (NJ)	Williams
Rahall	Smith (TX)	Wilson
Rangel	Smith (VT)	Wise
Ravenel	Smith, Denny (OR)	Wolf
Ray	Smith, Robert (NH)	Wolpe
Regula	Smith, Robert (OR)	Wyden
Rhodes	Snowe	Wylie
Richardson	Solarz	Yates
Ridge		Young (AK)
Rinaldo		Young (FL)
Ritter		

NAYS—2

DeFazio	Weiss

NOT VOTING—18

Bateman	Ford (TN)	Moakley
Brooks	Garcia	Molinari
Conyers	Hertel	Shumway
Courter	Markey	Stokes
Davis	McCloskey	Waxman
Florio	McEwen	Yatron

□ 1208

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Without objection, the Chair appoints the following conferees and reserves the right to appoint additional conferees: Messrs. MURTHA, DICKS, WILSON, HEFNER, AUCOIN, SABO, DIXON, WHITTEN, MCDADE, YOUNG of Florida, MILLER of Ohio, LIVINGSTON, and CONTE.

There was no objection.

FAIR LABOR STANDARDS AMENDMENTS OF 1989

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 278 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 278

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2710) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute, consisting of the text printed in the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be considered as having been read. No amendment to said substitute shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions, if offered by Representative Michel of Illinois, or his designee.

□ 1210

The SPEAKER. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 278 is a closed rule providing for the consideration of H.R. 2710, a bill amending the Fair Labor Standards Act of 1938. The resolution provides for 2 hours of debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

The rule makes in order an amendment in the nature of a substitute printed in the report of the Rules Committee accompanying this resolution, as an original bill for the purpose of amendment. The substitute shall be considered for amendment under the 5-minute rule and the substitute shall be considered as having been read. Under the rule, no amendments to the substitute are in order.

At the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill with such amendments as may have been adopted to the House. The previous question shall be considered as ordered on the bill and any amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions, by and if offered by Representative MICHEL of Illinois.

Mr. Speaker, we are all aware of the importance of this legislation. It has been 12 years since Congress and the President last approved an increase in the minimum wage. The last adjustment, made 9 years ago, brought the minimum wage to $3.35 an hour. Since that adjustment, the real value of that wage has declined by 30 percent.

Earlier this year, the members of this body supported the adoption of H.R. 2 which would have raised the minimum to $4.55 over the next 3 years. Unfortunately, the President vetoed that measure. Since that veto, members of both sides of the aisle have worked assiduously to come up with minimum wage adjustments that all interested parties could agree to.

H.R. 2710 is the product of that bipartisan effort. It provides for a more modest increase in the minimum wage and establishes a subminimum wage for 16- to 19-year-olds.

H.R. 2710 is a measure of vital importance to workers all over this country, but particularly to the 4 million who labor for the current minimum wage of $3.35 an hour. This bill represents this body's commitment to an honest day's pay for an honest day of work. I urge that the Members adopt this resolution so that we may proceed to consideration of this measure.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we all share the goal of a fair minimum wage. Finding that fair rate is not always easy. If the rate is set too high, then unemployment is increased because those people whose labor is not worth the minimum wage lose their jobs. If the rate is set too low it does not provide adequate protection for those least able to bargain for themselves. The issue is further complicated because it costs more to live in some parts of the country than it does in others.

The best way to try to solve such a difficult problem is to include representatives of the Congress and the administration in the negotiating process from the beginning. The majority in Congress passed a minimum wage bill earlier this year, but the President vetoed it because he felt it would increase the unemployment rate by too much, among other reasons. This time the administration has been included in the negotiations. In the Rules Committee last night, a representative of the administration assured me that the minimum wage bill made in order by this rule is satisfactory to the administration.

Now Mr. Speaker, I understand that not everyone is happy with the com-

promise, and that is true of any compromise. Each one of us does not get everything he or she wants. But on balance, I think this is about the best we can do at this point. In the Rules Committee yesterday, we were told that both organized labor and the administration had signed off on this particular package. It requires a delicate balance to achieve that result.

Even though I would ordinarily fight for an open rule, in this particular case I think it is better to give the House an up or down vote on this carefully balanced package, because this is one that can be signed into law.

Mr. Speaker, with one exception I think the text is satisfactory. There is a difficulty on section 10 of the measure, and I understand that negotiations are now underway to eliminate section 10 altogether by unanimous consent or at least have a motion to recommit which will achieve that result.

I hope it can be worked out before final passage of this measure so that there will be no disagreement.

I call the attention of every Member to section 10. Read it; it is not right and should be stricken.

I will note that the rule does provide for a motion to recommit with or without instructions, if offered by the gentleman from Illinois [Mr. MICHEL]. I am confident any motion he might offer would not jeopardize the chances of this bill becoming law.

Mr. Speaker, I support the rule and I hope that the negotiators will solve the difficulty on section 10 without further delay.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Mr. MURPHY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the chairman of the subcommittee.

Mr. MURPHY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I first want to say that the Committee on Education and Labor, and Chairman HAWKINS has worked extremely hard to bring us to this point. We therefore are in support of the rule.

However, I would like to make a unanimous-consent request that section 10 of the proposed bill, now the substitute for the bill, be totally stricken from the consideration of the measure when we go into the Committee of the Whole.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. MURPHY] wish the gentleman from Missouri [Mr. WHEAT] to yield to him now for the purpose of making a unanimous-consent request?

Mr. MURPHY. Yes, I do, Mr. Speaker.

The SPEAKER. Will the gentleman from Missouri [Mr. WHEAT] yield to the gentleman from Pennsylvania [Mr. MURPHY] for that purpose?

Mr. WHEAT. Yes, Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee for purposes of proposing a unanimous-consent request.

Mr. MURPHY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I reiterate my unanimous-consent request that section 10 be stricken from the amendment in the nature of a substitute submitted by the Rules Committee for consideration before the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SOLOMON. I thank the Speaker.

Mr. Speaker, I thank my ranking member for yielding me this time.

Let me say that what just happened here vastly improves this bill so that many of us can support a raise in the minimum wage, which in my opinion is long overdue.

I think there is one other area which does concern me and, I think, concerns many Members of Congress who represent rural districts that have small dairy farms in their districts.

□ 1220

Mr. Speaker, I wonder if the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. MURPHY], would engage in a short colloquy with me?

Mr. MURPHY. If the gentleman will yield, I will be happy to engage in a colloquy.

Mr. SOLOMON. The gentleman knows that we, on both sides of the aisle, have some concern about small dairy farms and how they are affected by this legislation. I would like to know whether or not, if the gentleman could explain to me, how 16- to 19-year-old teenagers are affected by this bill, if they work on family dairy farms.

Mr. MURPHY. If the gentleman will continue yielding, it is my understanding that a person has to be a full-time farm employee to be covered by the Fair Labor Standards Act in the first place, and a person has to have 500 employment hours in any given farm, so it means an equivalent of about 7 employees. That, of course, does not apply to any members of the family who are employed in a farm. They are already exempted from the minimum wage section of the Fair Labor Standards Act.

It is my understanding that the question of the gentleman is whether or not a teenager, 16 to 19, may be paid the subminimum wage under the youth subminimum clause that has been worked out, am I correct?

Mr. SOLOMON. Yes, in this legislation, the gentleman is saying that they would qualify for the subminimum wage, if they meet all the criteria laid out in the legislation?

Mr. MURPHY. If the gentleman will continue yielding, so long as they are not a migrant worker, and so long as they are not a seasonable worker under the seasonable and migrant workers' law.

Mr. SOLOMON. Mr. Speaker, let me just say further, then, under the existing law, and it does not seem to spell it out in this legislation, there is presently an exemption for agricultural employees 16 years of age and under who work on hand harvest labors alongside their parents on the same farm, and would receive the same piece rate as other employees over the age of 16 on that same farm, your legislation does not change that?

Mr. MURPHY. If the gentleman will continue yielding, that section is not affected, no.

Mr. SOLOMON. Mr. Speaker, I would say that we still have somewhat of a problem as far as the seasonable worker is concerned. I think legislative intent is spelled out here so that the American farm boy is protected.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, the last time around I voted in favor of the increase in the minimum wage according to the proposal advanced by President Bush. It was one that was noninflationary, one that would cost a minimum of new jobs because a minimum wage rise always costs jobs, and it would have, in balance, been appropriate for the time. It still is.

Under the framing of this particular rule, we will never have a chance to vote on that same proposal for the increase in the minimum wage as proposed by President Bush originally. What we now have before Members is a closed rule that prohibits any debate except on the compromise reached by these very same individuals and entities that were in opposite extremes the last time we voted on this.

I want to vote for the increase of minimum wage as originally outlined over a 3-year period. It is the best way to mix in with the present economy and to cause the least possible inflationary impact on this present economy. The other part that bothers me is notwithstanding the colloquy that was just now conducted between the gentleman from New York and the gentleman from Pennsylvania, the word "seasonal" as now in the language means to me that that 16- to 20-year-old youngster who can be hired by a farmer cannot be hired under the training wage.

Now, notwithstanding the legal intents that the gentleman from Pennsylvania has tried to outline here, a clear reading of the language makes that individual, 16 to 19, hireable only at the minimum wage. I think that that is such an important facet of this debate that we need to defeat the rule, vote against the previous question on this rule, so that we can clear up that language. We will not have another opportunity to do so if we allow this rule to stand.

The farm community is in dire straits if this passes, and our economy as now constituted will suffer a blow, which will make Members all reconsider an action that they contemplated today.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, it is good to get differences resolved. It is good to get the business of the House completed.

This legislation, of course, contains an increase in the minimum wage, and that whole concept where some people get more money, more dollars, but others get a pink slip in order to pay for it, which is really government-created unemployment, is a concept that has been, from the very beginning, bankrupt. While it may make good politics, it makes for bad economics.

On the other hand, the bill contains a provision for a teenage training wage, and perhaps to get this provision adopted, it may be worth supporting the entire legislation. Many teenagers in America drop out of school, they go on welfare. They never have, Mr. Speaker, a work experience of any type. They never learn to earn their way in our economy. Some advance, in the face of organized labor's opposition to it, would come through having the teenage training wage that the legislation contains.

The young people of this country need the work experience, they need the job training that this would provide, and this legislation would give something to them even in the face of hostility by organized labor to this provision.

Having the provision in the bill, is in my judgment, enough to secure my support for it. I will support the legislation, but only because it contains a very good provision on a teenage training wage.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, if the gentleman has no further requests for time, I think I should point out at this time that the compromise that has been reached that we will consider today is a compromise not only of both sides of the aisle in this body, it is a compromise with the other body, and it is also a compromise that I understand has been reached with representatives of the executive branch; that, in fact, the President now supports the compromise bill that we are going to consider.

The rule that we are considering at this time allows for fair and expeditious consideration of the bill that all sides have now agreed to, with thorough debate and time for examination of all the issues. It is not a perfect bill in the sense that any one side won all of the points that we wanted to win in putting together this bill. However, it should be remembered, Mr. Speaker, that the real winners will be the 4 million people who now work for minimum wage at $3.35 an hour, who will receive a modest increase over the next 2 years if the bill passes.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to House Resolution 278 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2710.

□ 1229

The SPEAKER pro tempore. The Chair designates the gentleman from Washington [Mr. SWIFT] as chairman of the Committee of the Whole and requests the gentleman from Michigan [Mr. TRAXLER] to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2710) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes, with Mr. TRAXLER (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. HAWKINS] will be recognized for 1 hour, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 1 hour.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield 6 minutes to the gentleman from Pennsylvania [Mr. MURPHY], the chairman of the subcommittee, who has done a magnificent job of keeping the issue of a minimum wage alive and bringing it to this point.

Mr. MURPHY. Mr. Chairman, first I want to thank my chairman, the gentleman from California [Mr. HAWKINS] for his tenacity in keeping the minimum wage issue alive, and particularly for his willingness to compromise some items that a year or two ago seemed as though there was no compromise in sight. For that I think all Members owe a great debt to the gentleman for being willing to be big enough to back off some of the positions that he felt so strongly about that brought us to this point.

Mr. Chairman, may I also commend the Speaker of the House, Mr. FOLEY, and the people on the White House staff who met last Friday and again on Monday of this week, that brought us to this point today where instead of controversy on something that is so important to the lower income American workers, that it has brought us to the point where I am sure we will pass this measure today and it will be sent to the White House before Thanksgiving.

Mr. Chairman, it has been 9 years, 1981, since the last increase in the minimum wage to the poor working class of our country. We talk about them as the working poor, because when you are working for $3.35 an hour, you are among the working poor. It is to those people that we must address our attention. During those 9 years there has been no increase.

The measure that was put together in the last few days by our committee, by the White House, by the House leadership will provide that as of April 1 next year, the rate will go from $3.35 an hour to $3.80 per hour, a 45-cent-per-hour increase.

It will provide that 1 year hence, April 1991, it will go from $3.80 to $4.25 per hour, only a 2-step increase, 45 cents, in those 2 years.

Basically what we can say to the workers that we have been struggling to meet the needs of is that it will be a period of 17 months from today that we will have that two-step increase. So we consider that a victory, and we thank the President for his willingness to sign that two-step increase in the span of 17 months.

What we had to relinquish was that there will be a subminimum training wage paid, but only to teenagers. Those persons under the age of 20 who are first entering the work field may be paid at 85 percent of the minmum wage.

We have already established that in the law part-time workers who are full-time students can now be paid 85 percent of the minumum wage. So we are carrying that one step over into the first time employed who are teenagers, to encourage teenage employment.

We go one step farther to please the requests of the White House in that we allow an additional 3 months training for teenagers, persons under 20 for

an additional 3 months, providing they are in an actual training program, a program that is set up by an employer to train those young people who have had no schooling beyond where they dropped out either in junior high or in high school. This will not apply to any worker over the age of 20.

To answer those Members, and I include myself, who are concerned with small farms, I would like to say, and I know that the gentleman from Pennsylvania knows this as well, if not better than I, small farms are exempt. If you have fewer than seven full-time employees you are not covered under the Fair Labor Standards Act. Some say they should be, but they are not.

So no matter what they pay, whether to a student or to an adult on a small farm, they are not covered under the minimum wage law. They may pay them what the going rate will demand.

If they are a member of the family of that farm, they are exempt from the minimum wage law and may be paid at whatever rate they can negotiate with the farmer.

If you have more than seven full-time employees on a farm and you are therefore covered under the minimum wage law, the training wage may be paid to any new hire, first hire, for the period of 3 months, and a program is put into place for an additional 3 months, as, say, an equipment operator, a hay baler, whatever he may want to do.

However, this does not apply as the gentleman well knows, to seasonal and migrant workers. It does apply if you are on a regular farm basis employment for the teenager entering his first employment.

All in all, we believe that by striking section 10, which was rather controversial and was not recognized as that until about 24 hours ago, by striking that section, by meeting the needs of the White House for a training wage for the youth, by meeting our request for a raise in 17 months of 90 cents an hour, we have met what we believe are the concerns of all sides, at least for the time being.

I urge all of my colleagues in the House to support this very important measure for America's working poor.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, a year and a half ago I offered in subcommittee and full committee a compromise approach to the minimum wage issue. That compromise approach combined a large increase in the earned income tax credit [EITC] with a modest increase in the minimum wage. That kind of compromise was stoutly resisted all through last year. However, 4 weeks ago, under the leadership of DAN ROSTENKOWSKI and TOM DOWNEY, this House passed the first part of that compromise—a substantial EITC increase adjusted for family size. Today we will pass the second part—an increase in the minimum wage.

The EITC increase that we've actually passed is somewhat smaller than I originally proposed, and the minimum wage increase that we will pass today is somewhat larger. But we're moving in the right direction. And our combination of EITC and minimum wage, if enacted into law, will provide more help to working poor people who need help than any minimum wage bill alone.

Under our combination approach, by 1991 a low skilled worker with three children capable of earning only the minimum wage, will receive a wage of $4.25 per hour plus EITC equivalent to an additional $1.19 per hour, for a total of $5.44 per hour. A worker with two children will receive a combination worth $5.28 per hour. In my own State of Wisconsin, which adopted a State EITC just last summer, those two workers will receive extra State EITC amounts that will bring their total effective wages to $6.34 per hour and $5.58 per hour, respectively.

Now of course market forces are perfectly capable of raising wages, including entry level wages, as the productivity of our economy increases. That is happening today, to the extent that right now there are almost no non-tipped family heads earning as little as the current minimum wage. And by 1991, as these forces continue to operate there will probably be few non-tipped families heads earning as little as the new minimum wage. That is, the minimum wage increase will be irrelevant to them.

But the EITC increase that we have passed will not be irrelevant to them. It helps family heads all the way up to the income scale to $10.50 per hour. In fact, the EITC part of the combination approach we are passing is the far more powerful tool for really helping the working poor. Unlike a minimum wage, it has no bad economic side effects in the form of inflation and lost jobs. And it is extremely efficient. It is targeted precisely and only to those who need help, and in proportion to their level of need.

So, Mr. Chairman, I hope that the kind of debate we have had on this issue over the past 2 years is the last of its kind. I hope that the next time we talk about how to help the working poor we focus from the beginning on how best really to achieve the objective, and use the modern and efficient tool—the EITC. Next time let's put to rest the time-honored and well-meaning, but crude and counterproductive attempts to help people by fixing prices in an otherwise competitive market. All over the world, even in Russia, China, and Eastern Europe, politicians are discovering that that kind of approach simply does not work. It's goals may be wonderful, but it just doesn't work.

Therefore as we look beyond today's actions, as we look to the future, let us take the advice of the chief economic policy advisor to the Dukakis-Bentsen Presidential campaign, Robert J. Shapiro. He said:

> Over time, EITC benefits should be further increased . . . in order to finally lift the families of all full time workers out of poverty. At that point, the minimum wage can be allowed to fade into history.

So, with due deference to hoary political tradition, let us go ahead today and pass this half of the compromise approach to helping the working poor.

But as we do so, let's recognize that while we all agree on the goal, we are using yesterday's discredited tool. Let's move beyond this futile exercise in the future.

□ 1240

Mr. HAWKINS. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I rise today to again express my support for an increase in the minimum wage. I rise today on behalf of the American worker—the hard-working, low-wage earners across America.

Since the beginning of the 101st Congress, and before, strong efforts have been put forth to bring about a viable minimum wage increase bill—an attempt to give the working poor their first pay raise in more than 8 years.

Our efforts have been undermined each time by the Reagan and Bush administrations, standing as the only obstacle to a minimum wage increase. I understand that the President, in keeping with his "kinder and gentler" message, today offers a compromise measure which raises the minimum wage to $4.25 an hour over the next 2 years which allows employers to pay new teenage workers just 85 percent of the minimum wage for the first 3 months of employment.

While I certainly feel compelled to support this compromise measure so that our Nation's workers can finally receive an increase in their pay, I would however be less than honest if I did not express my dismay and concern about the alleged training wage provisions in the bill. I have some very real concerns about the precedent that will be set because of the subminimum training wage. We have come a long way over the last 50 years in terms of fair wages for our Nation's work force, and I am fearful that we will be taking a giant step backward when we adopt provisions which will pay a new subminimum wage.

So, while I support the bill before us, H.R. 2710 and the compromise agreement, it disturbs me in that these measures do not go far enough. We should be providing even more of an

increase in minimum wage, and we should not implement a so-called training wage which merely short-changes workers.

An increase of 90 cents an hour still leaves minimum wage earners with a purchasing power that does not bring their families out of poverty. It will still be impossible for them to give their children a decent quality of life. However, we have waited too long to address the needs of working men and women and that is why today I must support these measures.

In closing I would like to commend my chairmen, GUS HAWKINS and AUSTIN MURPHY, for their continued perseverance concerning a minimum wage increase. I know that sincere efforts have been made to work with the Bush administration to bring about a workable minimum wage bill.

I encourage my colleagues to support this modest, but very much needed minimum wage increase.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I want the RECORD to show that I almost missed my chance to speak because I was consulting with the Democratic staff, for whatever that is worth.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I have been working for 15 years to get this corrected. It is a Democrat staff, a Democrat Party; a Republican Party, not a Republicanic Party. Get it right. It is a Democrat Party, a Democrat staff.

Mr. GUNDERSON. Mr. Chairman, I want the RECORD to show I stand corrected.

Mr. Chairman and Members, whenever we deal with a compromise, we come to a situation where no one is happy, and anyone who will talk to the players in the minimum wage debate will find it quickly evident that no one is happy with the compromise that is here today. Many on the other side of the aisle have objected strenuously for the last 8 to 9 years during the decade of the eighties to any kind of a training wage, and it is fair to say that Members on my side of the aisle are not very happy with the dynamics of the training wage that is before us today.

Yet, Mr. Chairman, I have said for some time that we can agree on the concept of the numbers involved in this minimum wage dispute, and we have done that. We made an April implementation rather than a January 1, and we have worked it out over a 2-year, rather than a 3-year, period, as many on my side, myself included, suggested.

The real debate over the last year has focused on whether we would or would not include an opportunity for training wages for those people who otherwise, because they are at the margins, would not get a job. It is my conclusion that, albeit not a good compromise, this is the best chance we have to try the concept of a training wage.

□ 1250

The reality is that 85 percent of the people at the minimum wage in today's society are covered by the language which says, "Up to age 20."

I have pointed out so often in discussions throughout my district that let us understand the minimum wage in 1989 is not typically talking about the head of a family. It is talking about that single part-time student who happens to be working part time in addition to their studies. We are not talking of the head of a household; and yet as I think as I talk to my colleagues on the Republican side of the aisle and as I talk to those small business people who are concerned about whether we should or should not make any kind of an increase in the minimum wage, the reality is that when you have the full implementation of the bill in front of us, $4.25 times 40 hours a week, you get a weekly pay of $170. Multiply that times 52 weeks a year, and this person will have a gross pay of $8,840.

Today the poverty line for a family of four in America society is $12,100. We do not solve that problem yet today, but we make a step in the right direction on the minimum wage. We make a real commitment to see whether a youth opportunity is or is not a good concept.

So albeit none of us are happy about it, this is an effort worth trying.

Mr. HAWKINS. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GAYDOS], a member of the Committee on Education and Labor.

Mr. GAYDOS. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to commend the gentleman from Pennsylvania [Mr. MURPHY], my colleague from the adjacent congressional district, for the work he and his committee on both sides of the aisle have put into this very essential legislation.

Mr. Chairman, I rise in support of H.R. 2710, The Fair Labor Standards Amendments of 1989.

President Calvin Coolidge, one of our most conservative Presidents, once said, "Work is honorable; it is entitled to an honorable recompense."

Unfortunately, some do not agree and, as a result, the American worker working at the minimum wage in 1989 is not being compensated fairly or honorably for his or her efforts.

This was not always the case. During the 1960's and 1970's, a person who worked full time at a minimum wage job could earn slightly more than the amount required to keep a family of three out of poverty.

Today, however, the earnings of that same full-time minimum wage worker is more than 29 percent below the poverty line for a three-person family—a mere $134 per week, a net income of $6,968 a year. The only type of family that minimum wage barely keeps out of poverty is a single individual living alone. Even two people living on a minimum wage salary would be at 10 percent below the estimated poverty level for 1988.

Most minimum wage workers do not support only themselves. Almost half are 25 years or older, and one in four is the head of a household.

It has been more than 8 years—in 1981—since we last raised the minimum wage, to $3.35 per hour. Since then, the purchasing power of the minimum wage has decreased by 36 percent. Everyone knows that $3.35 today buys a whole lot less than it did 8 years ago. It buys about $2.40 in 1981 dollars of groceries, medicine, or housing.

Mr. Chairman, we have been fiddling around with this issue for too long. We waited 12 years to introduce and pass legislation. We passed H.R. 2 back in March of this year, and President Bush vetoed it. In May, this body came back with a compromise—the conference report—and met the President part way. That too, unfortunately, was vetoed by Mr. Bush's kinder and gentler pen.

H.R. 2710 is as far as this body can afford to budge. This bill would increase the minimum wage from the current $3.35 per hour by a mere 45 cents to $3.80 on April 1, 1990. Another modest increase of 45 cents on April 1, 1991, would increase the minimum hourly wage to $4.25.

With this legislation, I believe that we have met the President more than halfway. We have caved in to his demand for a submininum training wage. H.R. 2710 provides for such a wage for all first-time teenage employees whose total work experience equals 90 days or less until 1993. We have also expanded the current small business exemption to include even more American businesses and workers.

So, this will have to be our best, a pitiful best because we are still going to hurt too many people at the bottom of the earnings ladder. Even with the passage of H.R. 2710, we are not really being fair to those 8 million Americans who work at the minimum wage.

Had we kept the minimum wage at pace with inflation since the 1981 increase, it would be a whopping $4.68 per hour. We cannot guess when mini-

mum wage workers will be seeing that kind of money, because in 1992, even if this legislation is passed and signed, they still will be making only $4.25 per hour.

So for now, those workers will have to be satisfied with earning less than enough to get them above the poverty level. They will have to forget about honorable compensation. They will have to be content with surviving from paycheck to paycheck.

This is a bitter pill to swallow, Mr. Chairman, but I urge my colleagues to join me in passing this bill.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, many people deserve very special recognition today, and at the risk of offending those who I do not identify, I would like to point out the particular contribution of the chairman and the vice chairman of this committee.

The gentleman from California [Mr. HAWKINS] and the gentleman from Pennsylvania [Mr. GOODLING] have helped keep our focus on the ultimate resolution of a very difficult political issue. The gentleman from California [Mr. HAWKINS] and the gentleman from Pennsylvania [Mr. GOODLING] have reminded us that if we are truly interested in reaching out and affecting in a positive way the lives of the 3 or 4 million people who live and work on the minimum wage, that somewhere along the line we are going to have to put the political posturing aside and work toward a final solution, even if it means compromising things that for a long time and very good reasons individual members may have held dear to themselves. So I congratulate them for keeping the Chamber and our colleagues' eyes on the target to do something in a significant way with the minimum wage.

Mr. Chairman, today we have the opportunity to do the right thing. We could have let politics override our effort to reach an agreement on the minimum wage. I am sure that there are colleagues among us on both sides of the aisle who would have preferred no compromise. I am sure there are some who thought they could have used the failure to reach a compromise, to reach an accommodation, to their political advantage.

Fortunately, once the political rhetoric and the charges and accusations and proposals and counterproposals were put aside, both sides decided to do something real about increasing the minimum wage, to submerge those political differences, and to work toward a common goal. We have certainly done that.

Mr. Chairman, I know there is some resistance on both sides of the aisle in supporting this particular measure. I know some of my colleagues on the Democratic side find particular fault with it because the increase is not great enough. The $4.25 does not keep pace with inflation. The $4.25 is not a figure they think is appropriate. They think that the minimum wage should be raised substantially more than the compromise provides.

To my friends who feel strongly and use that as an excuse to vote no, I would remind them that in spite of their good intentions, their wish, hope or preference for a higher minimum wage will not buy another loaf of bread, will not buy another pair of shoes.

The fact of the matter is that $4.25 is an increase, a modest increase and one that these people need and deserve. I would encourage them to sublimate that feeling that the House should have done more. I implore them not to go back home and say, "Well, I wanted to give you $4.50 or I wanted to give you $5, or I wanted to give you $5.25." That is simply not the package we have before us. We are not going to see this issue again in the near future. If those who prefer a higher minimum wage are interested in doing something to help these people, then $4.25 is it. Remember, the people you seek to help cannot buy more bread or put another pair of shoes on their young ones with your good intentions.

To my colleagues on the Republican side of the aisle, I know that many of them just do not want to raise the minimum wage ever. My remarks directed to them will not be terribly meaningful. There may be some of my colleagues who are still somewhat undecided, and I would like to share a couple of thoughts with you.

We can all remember when we were very much involved in the campaign when George Bush said he was going to raise the minimum wage. Earlier this year he said he would raise it to $4.25. Today we have an opportunity to help our President deliver on that campaign promise. He made the promise and we want to give him the opportunity to deliver on that promise, and I think it is incumbent upon Republicans to do so.

As I said before, I think there are probably some of my colleagues who just could not vote for a minimum wage increase regardless of the level, but to them I would say that I prefer George Bush's kinder-and-gentler world. This is the level our President said he could support, and I think it is incumbent upon us to support him.

I think what we see, Mr. Chairman, is the welcome conclusion of the political debate over dollars, over subminimum wages, over commissions; that political debate is behind us. We have resolved those issues. That debate is over.

What I think we need to do today as Republicans and Democrats is make a statement, not about dollars and cents and subminimums, but a statement to those men and women who work on minimum wage or supplement their meager incomes on minimum wage, that Republicans and Democrats alike unite on this issue.

□ 1300

Republicans and Democrats today must make a joint statement that we, as their elected Representatives, appreciate the contribution that these men and women are making to our country. They are working. They are working very hard in many instances, and once we peel away the political debate, what Republicans and Democrats should join together today in saying is that there is considerable value in their work. We must be certain that these men and women understand that it is important to us as a country that they do work, that we appreciate their contribution to this economy and to this country by working at the minimum wage, that there is true value in their work no matter what they do and in the absence of any increase over the past 8 years, we, as Republicans and Democrats, say, "Thank you," and raise that minimum wage.

Mr. Chairman, I would encourage both sides of the aisle to support it.

Mr. HAWKINS. Mr. Chairman, I yield 4 minutes to the gentleman from Kentucky [Mr. PERKINS], a member of the committee.

Mr. PERKINS. Mr. Chairman, distinguished colleagues, it is with difficulty that I stand before the Members today addressing a topic in a fashion that I wish I did not have to, and certainly in a fashion that I am sure a number of others feel similar feelings toward.

It is a real problem, the bill we have before us today.

It is anathema to me not to be able to vote for a minimum wage increase. The pain, the suffering that people across this country have gone through in the last 8 years without having any value added to what their work product was, indeed, more than they should have undertaken in this country during that time period, but I want to say, despite the fact that we are getting an increase, and it is desperately needed, of any sort for the working people of this country with this legislation, let there be no doubt about it that what we are doing here today is the creation of a two-tier system whereby workers can be employed in a fashion at wages that undercut any increase in the minimum wage for the workers of this country. What we are doing here today is putting in place a system that bodes ill for the future of the American workers and the American workplace. What we are doing here today, let there be no doubt about it from those who support the

laborers and the workers of this country, is a travesty for the future that we have here in America.

There is no way that I, as an individual, despite what my leadership may say, despite what the labor movement may say, can in conscience support the legislation that we have in front of us today. Indeed, what we are talking about from my perspective can be described in no less terms than a sellout to the President of the United States, who has, indeed, gotten his victory. There is no victory for the American working people by this legislation. Let there be no doubt that this is a defeat. They are suffering.

Mr. Chairman, my friends, my colleagues, this, I know, was done with good intentions, but what we have before us today is not going to solve the problem in the short term and much more so in the long term. We are presenting a system that is going to create problems for the American worker as long as the labor laws of this country are in place, because we are seeing the door open; the cracks in the labor field are showing to all who are looking there. I think this is wrong.

I would ask that people consider closely their vote on this legislation, because what we are talking about today is a step backward for the American worker and for all those who believe that work should be rewarded in America.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. COLEMAN], a distinguished member of the committee.

Mr. COLEMAN of Missouri. Mr. Chairman, the debate here today seems that the compromise that we are going to be voting on shortly satisfies few people that are purists.

We have to recognize that we, as members of the legislative branch, are involved with the art of the possible, and this compromise that is before us, I think, is a true compromise, where there are many winners and, frankly, not as many losers as might be brought forth here in the speechifying, a compromise in the sense of the number of years it takes to phase in the increase, a compromise over the training wage, and I want to point out that the training wage is very important to employers who are being asked to increase their minimum wage payments to people in many cases who do not have experience or the training to fulfill a position. This gives them an incentive to hire these, especially young people and sometimes older people, in order to provide a minimum wage for them.

I think that in many parts of the country, frankly, the increases in the minimum wage are a moot point. There are signs all over every fast-food franchise and many businesses of help wanted. Young people are being hired at $5 and $6 an hour in many cases, not in all parts of the country, and I think this bill will help establish those other parts of the country to provide that opportunity. I see this as not the best bill, but I see it as a true compromise. I think it deserves the support here of our House.

It keeps the President's promise. I want to remind my colleagues on this side of the aisle that the President has agreed to this compromise. He campaigned on increasing the minimum wage. I believe he has gotten a fairly good bill, and we ought to provide support in a bipartisan fashion for this compromise.

Mr. HAWKINS. Mr. Chairman, I yield 5 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, there are not very many people who are embracing this piece of legislation, certainly not minimum wage workers who have now waited longer for an increase in the minimum wage than any other minimum wage workers in the history of the United States, certainly not the Republicans in the White House who really would rather have had much more compromise than is in this bill.

Mr. Chairman, this bill is not being embraced by a majority of Democrats, including myself, although I will be among the majority who vote for it. We believe that the compromises are far too great, and that we really are not doing enough for workers who labor at the minimum wage. The results of this bill certainly are not going to be embraced by America's 17-, 18-, and 19-year-old workers. These are not kids, these 18- and 19-year-olds. They are young adults. They are trying to get together enough money to make that new marriage of theirs work or they are trying to earn enough money to meet the extraordinarily rapid rise in the cost of tuition and books and board and room at America's colleges. They are not going to be happy with this bill, because we are putting them, for the first time in American history, on a subminimum wage. They are going to make less than their counterparts who are 20, 21, 22 years old.

Mr. Chairman, there are not very many smiles about this legislation today. But a fellow out my way in Montana once wrote a book. The title of the book was, "I May Not Be Much, Baby, But I'm All I Got." So I guess that is where we are with this legislation today.

Let me share with the Members a couple of problems I have with this bill, but because it is all we got, I am going to vote for it: When Jerry Ford was in office, the minimum wage was $2.30 an hour. Since former President Ford left office, inflation has gone up 110 percent. That means that the minimum wage today ought to be $4.85 an hour if it just kept up with inflation, which means no increase, just kept up with inflation. This bill is $1.50 below that. It does not even keep up with inflation.

The standard for minimum wage in this country has always been that it should be set at about one-half the average salary in America, that is, the salary for people who work but are not managers, are not supervisors. It should be half of that average annual salary in the United States. In the 1950's and the 1960's, it was half, and more, than the average annual wage.

□ 1310

In the late 1970's it fell to about 44 percent of the average annual wage, and today it is less than 35 percent of the average annual wage.

It would have to be not $4.25 2 years from now, as this bill accomplishes. Rather the minimum wage would today have to be $4.87 an hour to meet that 50 percent target that has been set.

This bill represents a major compromise, too great for some of us, on the wage, and too great a compromise on a two-tiered system, the subminimum. We are now going to say to young people in this country they are in a different class and they have to work at a subminimum wage for perhaps as long as 120 days. Breaking that down into summer employment, Members can see that for 2 or 3 years these young people are going to be required to work at less than the minimum wage.

No, no one is embracing this legislation. There are no smiles about this bill.

Probably nothing in this decade has more symbolized the stagnant nature of the ability of the White House and the Congress to work together to pass dramatic, meaningful legislation for working, low-income Americans than this bill. For some reason, I suppose due in part to a divided government, a Republican White House, a Democratically controlled Congress, those two branches are simply not pulling the oars together and setting sail in a dramatic way to make a real difference in the lives of low-income workers.

This bill will help some, but not much.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA], who has worked hard on this issue for a long time.

Mrs. ROUKEMA. Mr. Chairman, in my view the biggest policy question we have faced in the debate over the increase in the minimum wage has not been the wage rate itself, but the duration and scope of a training wage. I for one am happy to endorse this compromise—finally we are getting beyond

nickel and diming the level of the hourly wage and directs our attention to a policy breakthrough; namely, the training wage. The compromise we are presented with today represents the acknowledgment of two fundamental precepts I have consistently advocated: that a training wage is sound public policy and that in order to be effective, such a training wage must not unfairly penalize those who work at the minimum wage.

My training wage proposal, the basics of which are incorporated in this compromise, takes into account the fact that we are facing critical shortages in skilled labor that can be met, in part, by providing new entrants into the work force and inexperienced workers a chance for genuine on-the-job training. My proposal placed a reasonable limit on the time period during which an employee may be paid a training wage. Simply stated, new entrants into the job market could be paid a training wage for 90 days. If, and only if an employee did not have 90 days experience in an occupation, an employer could pay the training wage for one additional 90 day period. In no case would any employee be paid a lower rate for more than 180 days. Contrary to the training wage provision in the compromise, my proposal did not call for Department of Labor certification or paperwork. Instead, the initiative laid with the employer to inquire as to an employee's previous work experience in order to pay the additional 90 day training wage for inexperienced employees. Perhaps most importantly, the employer had to provide on-the-job training for the period of time the employee is paid the training wage.

I believe it is time we on both sides of the aisle exercise some intellectual honesty and admit that an increase in the minimum wage is long overdue. With a fair and workable training wage, we are taking an important opportunity to use the Fair Labor Standards Act not merely as a wage floor, but as a tool to improve the quality and prospects of the American work force.

This "new hire" provision for teenagers is not a complete or even nearly perfect provision but does represent a realistic first step toward creating on-the-job training at an apprentice wage.

Between 1988 and 2000, nearly 43 million workers will enter the labor force. Service-producing industries will account for almost all the 18.1 million growth in jobs. Three service-producing industries—retail trade, health services, and business services—will account for half of this growth. Workers with low educational attainment are likely to continue to be at a disadvantage in competing for better paying jobs. For this reason it is essential that we retain the entry level jobs that provide many workers their first exposure to the workplace. I need not remind my colleagues that minority and youth unemployment are directly related to a lack of training and educational opportunity. It truly stretches the outer boundaries of common sense to argue against a realistic training wage that would mitigate some of the effects of educational disadvantage.

We recently appropriated $4 billion for the financing of the Job Training Partnership Act in the coming fiscal year. We included $2 million for the Bureau of Apprenticeship and Training to begin a series of pilot projects to test the feasibility of applying the apprenticeship concept of training to a disadvantaged and discouraged youth population. While I will not contest that this is money well spent, I would like to remind my colleagues that all over this country, in thousands of small businesses and large, the concept of apprenticeship is being applied to young people who are getting their first jobs, or taking part-time jobs while in school. What I am advocating here is nothing less than what already exists—all I am saying is, a training wage will retain these first job opportunities while giving employers additional encouragement to hire and train workers. And it doesn't require Federal revenues—it simply acknowledges and encourages what is already going on in the workplace.

And we have a long way to go: The youth unemployment rate this past July was 10.7 percent. The rate of joblessness for black youths for July was 22.8 percent. Now, we can be more certain that young people will not be cut out of jobs when the minimum wage increases. Indeed, we have saved jobs because of the enactment of a fair and sensible training wage.

The current wage rate includes an 85 percent wage for full-time students. This comprise proposal has ample precedent in terms of how we have approached the training wage issue in the past. Let's face it, there is a limit to how much employers can afford to pay those with only limited job skills and work experience. As a worker's skills and experience increase—so does the value of their labor which translates into increased compensation. An increase in the basic wage rate alone will not address the problems of poverty and the need for improved education and job training. Neither will a training wage. But this is not a problem that has a single unifying solution. Instead, we must use all the tools at our disposal to create Federal policies which assist job growth and retention, and the training and development of our work force. While this compromise will not save as many entry-level jobs as my proposal would have because it limits the training wage to teenagers, I believe that unemployed young people will ultimately reap the benefit of seeing job opportunities increase, and not diminish along with the increase in the basic wage rate.

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge Members to support the bipartisan compromise version of the Fair Labor Standards Amendments of 1989 (H.R. 2710) to increase the minimum wage to $4.25 in 2 years. I recognize that this measure represents only a partial victory. I hope that the next administration will work with Congress to increase the minimum wage rate to more equitable levels, and that we will never again allow a decade to elapse with no action. This bill does not fully restore the eroded purchasing power of the minimum wage, which would be at least $4.90 in 1990 if adjusted for inflation. However, this bill deserves our vote not only because it provides a long overdue increase to low-wage workers and accommodates the concerns of business and the administration, but also because it will benefit the economy and enhance our nation's competitiveness.

This minimum wage increase is good for the economy because it provides consumers with increased earning and purchasing power. These workers will be able to buy more goods, and those extra dollars will flow back into our economy. An adequate minimum wage is good for the economy because it serves as the wage stabilizer in our Nation's free market system. Except for the wage floor established by the Federal minimum wage law, all other wage rates in our national economy are set by the free market system. The minimum wage serves as an anchor to steady wage levels in this free market system with its inevitable periods of economic downturns and upswings.

Also, you should support H.R. 2710 in order to increase our international competitiveness. By not allowing the minimum wage rate to even partially keep pace with inflation, this Nation has been subsidizing the low-wage employers and inefficient businesses by encouraging these firms to remain competitive solely at the expense of their employees. Businesses can save money through depressed labor costs and have less incentive to improve their management, products, or services in order to better compete in the world economy. It is the responsibility of businesses to pay decent wages for work performed by their employees—not the responsibility of Government to play an even greater role in "making up the difference" between an individuals' earned income and a basic standard of living through increased transfer payments and other programs. This long overdue and moderate increase will not only help workers but will also benefit our economy

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and our international competitiveness. I urge you to support H.R. 2710.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. SMITH].

□ 1320

Mr. SMITH of Vermont. Mr. Chairman, I would first like to thank the chairman and the vice chairman of the Committee on Education and Labor, on which I have the privilege of serving, for the long and hard work they have done over the life of this legislation in this session of Congress.

It has not always been easy or enjoyable, but they have persisted and as a result we have today clearly a compromise but still a strong piece of legislation for the working men and women of the United States of America. It constitutes a victory for working men and women, I believe, for a number of reasons.

First, though some would wish it had happened not at all and others would wish it had happened sooner with more money, we can now admit that for 8, 9, 10 years waiting for an increase in the base wage rate of this country has simply been a wait that is too long and too hurtful and too painful for too many people.

I voted for the first increase in the minimum wage to pass this House, and I intend to support this one also.

I think beyond an agreement and an increase in the base wage rate of this country this debate has brought two additional and important ideas to the floor of the Congress as legitimate policy items.

First is the idea of the refundable earned income tax credit or, as I would call it, a living wage policy for Americans who earn less than $10.50 an hour.

The fact of the matter is that first introduced in the minimum wage context, now that living wage proposal has life in the child care proposal that currently rests before the two bodies of this Congress, and I hope that before we go home for Christmas we will also have been able to tie a bow on another Christmas present for American parents and American families and American children, and that is the child care package with the living wage or earned income tax credit involved.

Second is the subminimum wage provision: Controversial as it is and as great as my concerns are about potential abuses, I take some confidence from the statement of Mr. Lane Kirkland of the AFL-CIO, who says that he thinks the abuses can be controlled.

And I also remember over the last 8 to 10 years the pleas of several big-city mayors in the United States of America who have an employment problem or an employability problem with many teenagers in their cities, simply saying that a subminimum wage, done well, free of abuse could in fact very likely open the doors to opportunity to young men and women which have been closed for too long.

For these and for the simple fact that it is high time that we got to $4.25 in the minimum wage, I intend to support this bill.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, all through the Reagan years we asked the working poor to bite the bullet. It was not just that, they had to later on eat part of that bullet because many times they did not have much else in the house to eat.

I think it is a sad day in America when people work 8 hours a day and still qualify for food stamps and housing vouchers. Today we have working poor families that number about 37 million people with no health insurance. What a crime.

Today $3.35 an hour does not even buy the food that was priced in 1955.

Now I hear Members all the time really complaining about the cost of living down here in the District of Columbia, talking about the need for more money or more per diem. How could a family of four buy a home or even rent a place to live, provide decent food and shelter and clothing for their children on that meager wage?

What we are doing here today is not the best, but it is the only thing we can do, and it is right for us to do it. By not doing it, we subsidize American industry by allowing full-time workers for certain companies to go out and get taxpayer subsidies. That is foolish.

So I want to rise here today and say to Chairman HAWKINS, Mr. MURPHY, Mr. GOODLING, Mrs. ROUKEMA, especially Chairman HAWKINS: "You deserve an awful lot of credit. You hung in there against a couple of Presidents. You have done the job."

Hopefully we will not have to override any vetoes, that Republicans and Democrats alike will do what is right, period, because it is a crime for people to work 8 hours a day and then qualify for food stamps.

Think about it.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, with all the compromise bills being thrown around to increase the minimum wage, joined today with this so-called bipartisan bill, I think we in Congress seemed to have convinced ourselves that we are giving these raises, spending our own money. I believe it is worth stating from the outset that whether or not you are for an increase, we are not giving away money from the Federal Government. It is the business payrolls of America that once again will finance this congressional mandate we design today.

It does not matter who supports or writes the bill. A rapid increase in the minimum wage will hurt those who need help the most, those seeking entry-level jobs, not the working poor.

All economists, the CBO, the Department of Labor, almost all editorialists of our major newspapers, regardless of political bent, agree on two things that are certain to occur with an increase in the minimum wage. You have heard it before, but it bears repeating.

Guaranteed job loss and increases in inflation. The estimates range from 125,000 lost jobs to 800,000; with a 2-year phase-in we will simply see those job losses sooner that we would with a 3-year phase-in.

Of course, there will be, and this is not mentioned very ofter, the ripple effect, boosting union wages and increasing inflation even more.

When positions change on the minimum wage legislation, it does not change the people who will be affected by an increase to $4.25. It is not the working poor who are affected, because we know that relatively few minimum wage earners are under the poverty line.

When one subtracts the 1 million workers who earn tips that put them considerably over the minimum wage, when one subtracts all of those earning commissions, when one subtracts 90 percent of minimum wage workers who earn minimum wage because they have chosen to only work part-time, when one subtracts all of those students who work at minimum wage jobs who still live at home, one has to ask who is left out of roughly 3 million on minimum wage today? Who are we talking about?

The minimum wage increase is supposed to help the working poor. Mr. Chairman, why is it then that Puerto Rico, American Samoa, and the U.S. Virgin Islands all resist a mandated increase in the minimum wage or at least advocate restrictions so that the increases will not have the full effect upon the island economies? The argument is that their economies are too poor to support such a wage increase.

Is that not the same thing as saying that this minimum wage increase will hurt the poor? Mr. Chairman, this compromise, which was written overnight, contains a minimum wage that is supposed to mitigate the job losses.

I do not know of anybody here, and anybody who has read this bill raises their hand. I do not think anyone has. It is one of those bills that has been put on us all of a sudden.

We have a subminimum wage that is supposed to mitigate job losses faced by young workers who need those first job experiences. However, the training wage, for all practical purposes, is only

3 months in length. It is a lifetime limit of only 6 months. If anybody wants to get through all the bureaucratic jungle to get to the next 3 months, that is.

It vanishes completely, it is gone in 3 years. An unskilled worker who happens to be over 20 years old would not get the same opportunity to gain experience while receiving a training wage.

In addition, the criteria in the bill that must be met in order to pay their training wage are once again complicated, bureaucratic, and as unworkable as the current subminimum wage already in place, seldom used by employers.

□ 1330

Mr. Chairman, let Members not fool ourselves that the face of this legislation will change the bottom line. Hundreds of thousands of jobs lost, inflation, and not helping the people who need the help the most.

The CHAIRMAN. The Chair announces that the gentleman from California [Mr. HAWKINS] has 33 minutes remaining, and the gentleman from Pennsylvania [Mr. GOODLING] has 33½ minutes remaining.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise today in support of H.R. 2710. The bill is not as strong as I would like, but I am pleased that we have arrived at a compromise which will provide at least some relief to the working poor in this Nation.

Ours is a country which believes in the work ethic. We have said that "he who does not work shall not eat." There is some justice in that, but the flip side of the old adage should be true as well. "He—or she—who does work must be assured of a decent standard of living."

We are told that very few of those who work at minimum wage are from poor families. Opponents of an increase would paint a picture of teenagers working after school to earn money for superfluous items like stereos and clothes.

In reality that is a very small part of the picture. When it gets right down to it, the minimum wage is an issue of equity between men and women. Seventy percent of minimum wage workers who are over 25 years old are women. Eighty percent of those over 25 who make less than minimum wage are women. Almost half of these women are not married, which means they are not merely earning a second income to supplement that of their husbands. Instead they are desperately trying to feed their families and themselves on a completely inadequate income.

And even those who are bringing in a second income are not doing it for kicks, but because their families desperately need that added income. There can be no excuse for paying an unfair wage to these workers.

This desperately needed increase in the minimum wage is a compromise. It is a compromise which works within the boundaries of what President Bush has claimed to be an acceptable wage. I urge my colleagues to join me in strong support of this long-overdue measure.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise in support of the legislation that is being offered this afternoon. I note that neither side, neither the Republicans nor the Democrats are necessarily jumping up and down about this bill. My Democratic colleague and friend from Kentucky a few minutes ago called it a sellout to President Bush.

Let me tell Members, some of my Republican colleagues are saying the same thing, except not to President Bush, but to big labor, as well.

I have always supported a modest increase in the minimum wage if it was tied to a training wage, particularly to help those that are entering the job market for the first time so that they can get their job skills and work ethics developed particularly at an early age. That is exactly what this bill does.

Last spring, I joined with a number of my colleagues to sustain President Bush's veto on the minimum wage bill because it was too high, and it was not the $4.25 raise that we see this afternoon. Instead, it was a much higher rate, $4.55. To President Bush's credit, he came down from the 6-month training wage he was insisting on last spring. He came down, in essence, to the 3-month training wage. He also came down from a 3-year to April 1991 when this will kick in fully. I think that was a major compromise.

I applaud the President for what he did, and I support the action this afternoon.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Chairman, I rise in support of this bill, but with some reservations. There are no winners in this. It is a modest raise of 90 cents per hour over 2 years. The working people, the working poor of the country are still going to be very poor.

Those who oppose, and I have heard this argument before, say there is going to be a loss of jobs, there is going to be more drugs, there is going to be more inflation. That is baloney. Let those people struggle to exist on $3.35, let alone $4.25. It is very difficult to be able to sustain a quality of life, to be able to buy the food, the clothing, and shelter, to be able to have health insurance. A person will not get it on that. If a person has a family, it makes it even more difficult.

In 1981 $3.35 was too low. Inflation—let me tell Members about inflation. If this will cause inflation, there has been inflation since 1981, and there has not been any increase. Inflation has eroded the dollar bill by 40 percent. That makes the 1981 wage on today's market only worth $2. Try living on that. Well, 15 million people are, and the taxpayers are subsidizing them. Yes, at best it is modest.

However, in the subminimum wage, 16- to 19-year-olds, actually reduces the minimum wage to below the minimum wage of $3.35. They will only get $3.25 an hour. They say there will be more unemployment. Well, if this logic stands, why do we not just reduce it to $1 an hour, then we can eliminate all of the unemployment possibilities. That is just as ridiculous.

More drugs? Well, let me tell Members this: Most parents, in making $4.25, both parents have to work, and in some instances they have to work more than one job, which means there is less time at home. The kids are at home by themselves. They are watching TV. They are listening to all the violence. They are out on the streets committing crimes. They are getting more drugs. There is more sex, more pregnancies. Then who ends up paying for that? The taxpayers pay for that, too.

I think this is a very modest bill, but these low-income people, they only want to earn a decent living, and they are not going to get it with this, a quality of life that they have not had. They would like to have just a piece of it. They will get less than that. There are 25 million people working who do not have any health insurance at all. The rich are getting richer and the rest are getting less. Let Members give them just a little bit more.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I have from the very beginning been against the idea of a minimum wage, and if it were not for the training wage in this bill and the fact that EITC has been at least brought forward with the possibility of being used this time, I probably would have voted against it. However, what I love about this bill, and nobody has talked about it yet, is the fact that Congress is finally going to get under the Fair Labor Standards Act, in operation of their body here. For those Members who have never been on the outside world with workers and so forth to apply, I want Members to recognize that Members will have to start keeping time on their employees, and will have to decide which ones are clerical, secretarial, computer, case workers, and all others not excluded, under the executive, administrative, or professional exemption, and those people

the Members will have to keep time on because if a person works them over 40 hours a week, we are going to have to pay time and a half.

I can see where the midnight oil and the nights over in our office buildings may be not burning as late in the future because we have finally sacrificed ourselves on the benefits we force on our fellow man that produce in the country.

Let me say we will have to have verifiable time sheets. I think it would be nice if we had timeclocks at the door of every office in the legislature so that we will then be able to keep records and be honest in paying our employees what they truly deserve.

If Congress actually employs this law the way that business has to do outside of this body, there will be a lot of people that will find out they run very sloppy offices, and if some of their employees would like to sue them, I will be glad to help them any way I can, since I have been sued by my employees. I would like to see where the money will come in every Member's budget to pay the time and a half that will have to be paid.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, one of the first bills I introduced as a new Member of Congress was an increase in the minimum wage.

Now, some 4 years later we are finally going to see that dream I had sometime ago finally come true.

It would behoove Members to bestow extreme gratitude on the chairman, the gentleman from California [Mr. HAWKINS], and also the subcommittee chairman, the gentleman from Pennsylvania [Mr. MURPHY], who have stuck by their guns and fought long and hard for this compromise, even though I join the litany of my Democratic colleagues and indicate that I will today hold my nose and vote for this bill, which has a lot of shortcomings.

□ 1340

We are told that the minimum wage will now be applied to a lot of people who are not heads of households. I say that is not really accurate for many people who have a minimum wage job are the head of a household. However, we also have to recognize that there are many two-family earners, the second of which, the spouse, has a minimum wage job.

I guess if we leave it to the same people who say this bill is more than adequate, they will tell us that the second spouse is working for either pocket money or vacation money, and clearly that is not the case. They are working to pay the mortgage, to pay utility bills, to send their children to college.

The teenage wage contained in this bill I believe is a very sad proposal. Again, the opponents of the bill would have us believe that these children are just working a couple of hours a day for some spending money, whereas, when you are 18, 19, and 20 years old, these are the dollars that are going to put you through college or pay for your room and board at school. By the time the training wage period is over, the teens are back to school and have not raised sufficient funds to pay for even a small part of their education.

Another item that has not been talked about much in the bill is the increase in the tip credit.

I assume that most people believe that tipped employees, be they bartenders, waiters, or waitresses, make $3.35 an hour. However, that is not the case.

Under current minimum wage law, this individual makes $2.01 an hour. Because of the changes in this legislation, the total increase for a tipped employee will go from $2.01 an hour to $2.09 an hour in 1 year. This is one penny a year since the last minimum wage increase. When fully phased in, that employee will get $2.13 an hour.

So when Members leave the session today, and for those who happen to go to a restaurant, do not wait with baited breath for that tipped employee to say thank you for supporting this bill, because initially it is going to have the effect of raising their wages from $2.01 to $2.09.

However, we do finally increase the base minimum wage. That increase takes us to $4.25 an hour. So, Mr. Chairman, I will vote for this piece of legislation, because it is better than nothing.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, let me simply say that sometimes life within the four walls of this Chamber gets a bit bizarre. It is a little interesting to hear debate where the right criticizes the bill because it goes too far, the left criticizes the bill because it does not go far enough, and yet each side comes in and says they reluctantly support it.

I may be the odd man out, and I think this is a healthy compromise. I believe our chairman, even though he has concerns with this bill and would like to see it go further, and I know the gentleman from Pennsylvania [Mr. GOODLING] has some concerns, wishing we could have refined to greater perfection some of the training wage initiatives, I happen to think it really finally moves us forward.

We have been at loggerheads at this for several years and have made no progress. I really believe we should be celebrating the fact that at least we are off our duffs, as it were, and have done something which first of all addresses the problem of reflecting changes in the wage base, while at the same time not doing so in such a way which drives inflation up in the wage base, that becomes counterproductive by creating job elimination to those most vulnerable to job loss because of lack of employability.

I believe this is a defensible compromise. It is not only honorable, but I believe it is good for the working people of this country and also something which is not in the least adverse to the business interests of this country.

Mr. Chairman, I am here relatively without qualification, and not upset with the compromise. I would give credit to the President, who got both sides down to the bargaining table to reach an agreement that would strike the proper balance in the Congress.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I have been listening to the debate on this bill and listening to the rhetoric about minimum wage. I have gotten some literature out from back when the last minimum wage was brought up for a vote on this House floor, and that the debate went something like this: If you pass this minimum wage, it is going to cause massive unemployment; it is going to drive inflation right out of the ceiling; it does not help that many people.

Mr. Chairman, let me tell Members some of the people it does help. If Members go to their district office, I am assuming that a lot of them are not unlike mine all over this country. We have people coming in where maybe the husband has got a terminal illness and has had to leave his job, and the wife has no job skills and has to go into the market to try to make enough money to buy the medicine to fill these prescriptions working on minimum wage. These people have got a little Social Security check coming in and she has to work on a minimum wage.

This is who it is going to help.

Members say it is not going to help a lot of people. Do we make all of our determinations on the numbers of people that get help? I do not believe that is the way we should operate around here.

The argument has been made it is only going to help a lot of youngsters who are not heads of households, that are just part of families, not having to support a wife or child.

What is wrong with that? Maybe they are going to take this money to help pay their way through school. Maybe they are going to help these parents that are just barely getting by, maybe to buy them that automobile that they want. What is wrong with that?

Mr. Chairman, we are long overdue on this.

There are Members on this side that talked about this training wage. I always have supported a training wage. But for 6 months they talk about this as too short.

This is too long. Let me tell Members what can be done in 6 months. I was watching a documentary the other night. Our FBI agents do not get 6 months training. That is a pretty specialized job. You can learn to drive an M-1 tank and be sent overseas in less than 6 months. You can learn to fly an F-16 in less than 6 months.

So we have a bill that I am going to support, but I think we would have been much better off to have had a shorter training period. It is going to help a lot of people. For those that say it does not help the right people, I would challenge them, and I would ask Members to do this: Members that are critical of this bill, go to their district offices. Spend some time there and talk to these people that are coming in, that are trying to make a living and stay on the work roles on minimum wage. You just cannot make it.

I want to congratulate the chairman for hanging to his guns. This is not as much as we would like. I come from a district that has a lot of textile workers that are trying to keep their jobs. This minimum wage is going to be some help to the people in my district.

Let me just finish with this: The only people that I have had calls from urging me to vote against the minimum wage are people that are making salaries in excess of six digit figures.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I would like to clear up a couple of misconceptions that I thought I heard being offered during the debate.

First of all, the youth training wage cannot be below $3.35. It was mentioned this could be $3.21 or something of that nature. It cannot be. It must be at least $3.35.

Second, I think it is important to understand this is new hire we are talking about, not a first hire. A couple of times I heard that interchanged. It is new hire when we are talking about a training wage, not a first hire.

The third thing I would like to correct, I think it was mentioned that if an employee happens to be a tipped employee he might make as low as $2.01. You cannot make below $3.35 in present law, because if you do not get the tip to get that far, you must be paid the $3.35. So I think it is important to clarify those three.

Let me now just talk about a couple of other issues very briefly.

I plead with those Members who seem to believe that the sky is going to fall in if we have a youth opportunity wage. Folks, stop living in the past. The past is gone. We have 25 million illiterates in this country today, illiterate adults. We have another 50 million functional illiterate adults in this country today.

Fifteen years ago these people could have gotten a job and you would have never known the difference. That is gone forever. Somebody has to help them.

Just having a subminimum wage to help train those who have no available skills, very little education, is not going to get us there totally. We are going to have to have some kind of tax credits, et cetera, I am sure to get industry to help us to do that job.

□ 1350

However, Mr. Chairman, my colleagues live in today's world and tomorrow's world, and we are telling 75 million Americans that we do not care about them, we are not going to do anything to help them get an employable skill, to help them get some additional education. It is today we are talking about, and tomorrow, so that the sky is not going to fall, but in fact we are going to help those people join many of us who enjoy the privilege of working and the income that comes from it because we are going to help train them, and we are going to help educate them.

Mr. Chairman, I am sorry that we are only talking about those who are less than 20 years of age because, my colleagues, millions of those people fall in that 20-to-30-age bracket, that 20-to-40-age bracket, no salable skill, very little education and no one out there to help them become trained so that they can be part of the work force, and, if my colleagues want to think selfishly, how are we going to be competitive if we do not do something about those 75 million people? No one is there to do the job.

Mr. Chairman, I do have one other concern. I have discussed this with the subcommittee chairman on several occasions, and that is that concern that we have left the word "seasonal" in this bill in relationship to any subminimum wage for those who are age 16 to 20, not seasonal, migrant workers. We are talking about neighbors who come to someone and ask, "Would you give me a job for the summer on this farm?", and then we are saying to the farmer, "You are different than any other employer. You don't have an opportunity to give them, a youth, the opportunity wage because you're a farmer."

Now, as I calculate it, one could very quickly with four employees on a farm, a fruit farm particularly, very quickly use up their 500 man-days in a previous quarter and, therefore, they could not offer a subminimum wage to that 16-year-old kid who lives down the street from them or down the lane from them if they are a farmer. It is discrimination, it seems to me, to the farmers in this country.

Mr. Chairman, as many others have said, no one got what everyone wanted, and I have never seen a bill pass the House of Representatives where that is true. It seems to me by the unanimous consent today that was taken care of, the most unbelievable thing that no one caught until last night when we questioned it, and apparently just opposite of what the gentlemen from the other body wanted to include, but the way it was written it would have included those of us here in the Congress of the United States in relationship to computer operations. Everyone in my office operates the computer, and I would assume the way the gentlemen had it written that it would have meant that everyone in my office had to be at least $59,000 or 6½ times the minimum wage. Mr. Chairman, that would have created havoc here, but think what it would have done throughout this entire country in an industry that is trying to be very, very, very competitive, and it is very difficult for them to be with the rest of the world.

My colleagues, no one got exactly what they wanted. I think we have the best we can get at this particular time. I would hope that we could continue to talk about that seasonal youngster out there, as far as farm work is concerned, and I would hope again that those who think the sky is falling come into this century and realize that we have a big job to do with at least 75 million functionally illiterate adults in this country.

So, Mr. Chairman, I would encourage all to support what we now have. It is the best we could do. No one is a winner. That must mean that everyone out there that we are writing the bill for is a winner since no one thinks they are a winner here in the Congress of the United States.

Mr. Chairman, I reserve the balance of my time.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I want to begin my remarks by complimenting the chairmen of the committee and subcommittee, the ranking Republicans and each of those who have worked to draft this compromise before us today. It is a long overdue compromise. I think for the most part it is one worth waiting for.

Mr. Chairman, the price of few things in our country have remained unchanged during the course of the last 8 years. The price that we pay for our food, the price that we pay for our clothing, the price that we pay for transportation, the price that we pay for health care, all have risen. For the

most part, they have risen appreciably.

In this body, our salaries have been raised over the last 8 years. In the executive branch, cabinet officials have seen their salaries raised over the last 8 years as well. The salaries we pay our Federal judges, in fact, the wages of most people in this country, have gone up over the last 8 years. Meanwhile, the minimun wage has remained $3.35 per hour.

The disparity could have been even greater. During the last year alone we have had a President who recommended that our salaries and those of cabinet officials and Federal judges rise by another 51 percent. During the past year, we have seen a majority of our colleagues in this body support a capital gains tax break adding tens of thousands of dollars in new income to some of the wealthiest people of our Nation.

Before us today we have a delicately crafted compromise that seems to give a modest boost to the lowest paid in this country. It is delicate because on the one hand we need to raise the minimum wage high enough to encourage those who do not now work to work, high enough to encourage people who may be on welfare to exchange that welfare check for a pay check and high enough to enable adults with families to support to begin to climb out of poverty.

However, Mr. Chairman, while we want to raise the minimum wage high enough to make a difference for those people, we do not want to raise it so high that we further undermine our Nation's competitive position, and we do not want to raise the minimum wage so high that we cause employers to lay people off in large numbers.

Mr. Chairman, I especially want to commend those who have worked on this compromise for addressing what I thought was a major deficiency in the President's proposal. That proposal stipulated that a person of any age who would take a minimum wage job could work at a subminimum wage for 6 months, move to work for a different employer at a subminimum wage for another 6 months, still another employer for another 6 months, and on and on. That was neither fair nor equitable, and I particularly commend those who have worked this compromise out on that score.

Let me finally say that, when we couple this modest increase in the minimum wage with the increase in the earned income tax credit, the combined effect for the working poor is significant. I want to commend my colleague, the gentleman from Wisconsin [Mr. PETRI] for the work he and the gentleman from New York [Mr. DOWNEY] have done in this regard. When we combine this modest increase in the minimum wage with the increase we have approved earlier in this body in the earned income tax credit, we have in the aggregate done something that will make a difference for, not just for tens of thousands of adults and teenagers in this country, but for hundreds of thousands, even millions, of workers and their families.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, after months, in fact years of bickering, today we finally agree to increase the minimum wage in a way that reflects concerns for the working poor as well as the concerns expressed by small business owners. Under the provisions of the compromise agreed to by President Bush and the democratic leadership, the minimum wage will be increased in two yearly steps to $4.25, beginning April 1, 1990.

The agreement also provides that employers could pay a subminimum—or "training"—wage for 90 days to workers under age 20. Further, upon certification by the Department of Labor, an employee could be paid this training wage for an additional 90 days, provided the teenage worker is engaged in an on-the-job training program. During the "training" period, an employer would be authorized to pay 85 percent of the applicable minimum wage, and under the compromise, the training wage expires on April 1, 1993, unless reauthorized by law.

In addition to the minimum wage increase and the compromise training wage, the agreement reached dropped the provision in the original bill providing for a Minimum Wage Review Board, provides for an increase in the small business exemption from $362,500 to $500,000, extends the rights and protections of the Fair Labor Standards Act to employees of the House of Representatives, and increases the "tip-credit" in two-steps from the current 40 percent to 50 percent effective April 1, 1991.

Mr. Chairman, this compromise, like all compromises, is not perfect. I would have preferred smaller increments of increase in the basic minimum wage spread over 3 years. But we compromised.

I would have preferred a larger small business exception. But we compromised.

I would have preferred no subminimum wage at all, but we compromised.

In the best spirit of bipartisanship and concern for America's working poor, we all compromised.

No one on this floor today got all they wanted in this agreement. But we did the right thing in this agreement by addressing the legitimate concern for working Americans as well as the concerns of America's small employer community.

I want to congratulate Speaker TOM FOLEY, Chairmen GUS HAWKINS and AUSTIN MURPHY of the Education and Labor Committee, and all the other parties involved in putting this compromise together. As a result of your efforts, we will take the first step in 10 years to increase the minimum wage. You have the gratitude of American workers for your diligence.

I urge a yes vote.

□ 1400

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Chairman, I rise in support of the minimum wage increase, and I commend the chairman of the committee for his hard work.

Mr. Chairman, when our constituents tune in the news this evening, I believe that they will hear Dan Rather and his colleagues report that the Congress asserted its moral courage today and voted a few nickels for the hardest working Americans, while still deadlocked over the President's proposal to give a capital gains tax cut to the wealthiest Americans.

A few nickels for the men and women who sweep the floors of the Stock Exchange; a few billions for those who speculate there. We stand here day in and day out, encouraging people to work hard and save more, and then we pass laws that say, "You worked hard today, here's a nice shiny nickel for your troubles."

Mr. Chairman, when we do things like this, real working people laugh, but their laughter comes through the tears that well in their eyes because they know its going to be another year of struggle.

I appreciate the long, hard work my colleagues have put into getting even the nickels, and I thank them for it. Something is always better than nothing.

But to our tough talking President, who likes catchy phrases and will soon ask to be reelected, I have a few slogans that I offer to you free of charge. When you campaign to American working families, try one of these: Tell them: "No new school clothes." Or try, "No new braces." Or the ever popular, "No new chances."

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Chairman let me start by thanking the gentleman from California for yielding me some time so I can address the House on this issue.

Let me say that it is clearly time for us in this Nation to raise the minimum wage. It has been since January 1981, as others have indicated, way back then the minimum wage went to $3.35 an hour, and there has been substantial depreciation since.

I think the facts speak for themselves in terms of the need to take this action. Let me just recite some of those facts, if I can. If the minimum wage had kept pace with the rate of inflation since January 1981, it would not be at $4.57 an hour. This bill, of course, provides an increase of only

$4.25 an hour, not to go into effect for a year and a half.

I think quite a few of us were disappointed at that relatively low figure.

The minimum wage traditionally has run at about one-half of the average wage for non-supervisory workers in the private sector. Recently it has depreciated to about 34 percent of that wage.

Finally, in the sixties and seventies, the minimum wage would barely keep a family of three above the poverty line. Now the minimum wage of $3.35 an hour is 29 percent below the poverty line for a three-person family. So there is really no question that it needs to be raised. I think a lot of us would like to see it raised to a higher amount, that in fact would have kept pace with inflation. But due to remarkable resistance, resistance that I cannot fathom from the White House, we are having to settle now for a figure which I do not think really is adequate, but at least it is something.

There is one saving grace in this bill, and that is that this training wage, which has some merits maybe, not a whole lot, at least has a sunset in 4 years.

Let me just make this final point, and that is that one saving grace of this bill which does not go high enough, in my opinion, does not even keep pace with inflation, and it is at least this crazy training wage concept sunsets after 4 years. The fact that it sunsets after 4 years might mean to our working men and women friends out in the audience, it might mean that we will be back in 4 years from now instead of 12 years from now to address this issue again, because you will recall that it was 12 years ago when we last passed a minimum wage bill, the last increment of which went into effect 9 years ago.

Now at least maybe with this 4-year sunset provision we are going to see an ability by this House to readdress this issue sooner, rather than later.

So I will reluctantly support this bill. I think a lot of us feel it should be higher than it is, but at least it is something for the working men and women of this Nation as we approach the Thanksgiving season.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I support the bill before us. It is a good compromise.

It is about time the House got around to fighting poverty with good policy rather than bad politics. The workers of America should have had a 27-percent raise in their hourly wages months ago when the President first offered to raise the minimum wage to $4.25 hour. That's almost an extra $150 a month that laborers working for the minimum wage could have been bringing home. What kept that extra money out of workers' pockets? Congress rejected the President's proposal and instead sent him a bill that would have cost 100,000 to 200,000 more lost jobs and job opportunities than the President's proposal. How does that bad politics help the American worker?

Legislation that would raise the minimum wage should be aimed at helping low-income workers bring home more money, not helping politicians bring home more votes. In June I cosponsored the "Living Wage Act." This bill, again, attempted to raise the minimum wage to $4.25 an hour. It also included an increase in the earned income tax credit. This proposal would give aid to those who are most in need of aid. For a family with four pre-school children, the credit would be equivalent to an extra $2.08 in hourly wages. A minimum wage worker getting the maximum credit would be bringing home more than $6.25 per hour. That is good policy that helps the American working poor break the poverty cycle.

During the last 8 years, over 19 million new jobs have been created, and the number of workers earning the minimum wage has been almost cut in half. Americans have more jobs and are earning more in those jobs than they did at the beginning of this decade. We cannot afford to stop this growth with a minimum wage bill that does not give employers adequate flexibility to recruit and train new employees. Almost 60 percent of those individuals earning the minimum wage are between the ages of 16 and 24 years old. Over one-third are teenagers! Should the low-income working adult suffer the loss of jobs and job opportunities so that this majority of minimum wage earners can get a raise? For this reason, it is clear that any minimum wage legislation proposal does include a reasonable training period in which an employer can pay a sub-minimum wage.

I urge my colleagues to consider these points in our debate on the minimum wage. We need good policy that will help those who most need help, the working poor. Further, we cannot pass a minimum wage bill without a reasonable training wage to minimize the loss of job opportunities for young Americans just entering the work force. A responsible minimum wage bill can help those in need without slowing our current economic growth.

Mr. GOODLING. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of the measure before us. Quite frankly, I was disappointed when a better measure that we approved earlier in the year was vetoed by my President, but a compromise has been worked out. We cannot always get everything we want. This, I think, is a good solid compromise.

I think in the final analysis, we all end up winners. It is going to be the first time in nearly a decade that the wage earners, who are the lowest paid in our society, will have an increase. Who else can say that? It has been nearly a decade. It is long overdue.

The increase on April 1, 1990, from $3.35 to $3.80 and then a further increase on April 1, 1991 up to $4.25 is long overdue.

Mr. Chairman, I want to commend the leadership on both sides of the aisle, and I want to commend our President, because he first indicated in the campaign of 1988 that we needed an increase, and we do. He has fulfilled a commitment, and so have we.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MURPHY].

(Mr. MURPHY asked and was given permission to revise and extend his remarks.)

Mr. MURPHY. Mr. Chairman, I would like to bring to the attention of my colleagues the impact that a minimum wage increase will have on the Medicaid Program. Almost one half of Medicaid dollars are spent on long-term care, mostly for the elderly. However, an increase in minimum wage will affect all health care providers.

Nursing homes, in particular, employ a large number of minimum wage workers, most of whom are nurses' aides who provide direct, hands-on care to nursing home patients. These salaries are the largest component of Medicaid reimbursement—in fact, all labor costs account for about 72 percent of all nursing home costs. A federally mandated increase in labor costs must be accompanied by a corresponding increase in Medicaid payment rates for these labor costs.

As a member of the Education and Labor Committee which has jurisdiction over the Fair Labor Standards Act [FLSA], I have a strong interest in the impact of a minimum wage increase on the nursing home industry. Under the Medicaid Program, individual States have rate-making authority for nursing home care with limited supervision from the Health Care Financing Administration [HCFA] of the Department of Health and Human Services. Congress must ensure that States increase Medicaid nursing home reimbursement rates to take into account changes in the FLSA that will increase labor costs.

The Education and Labor Committee recognized in its committee report on H.R. 2710 that a minimum wage increase will have an impact on Medicaid rates paid to long-term care providers. The report language clarified that under title XIX, States are required to provide assurances to the Secretary of Health and Human Services that their rates are "reasonable and adequate." Section 1902(a)(13) of the Social Security Act requires that States take into account the costs that nursing homes must incur to provide care and services in conformity with all applicable State and Federal laws. Although the FLSA is not referred to specifically in that section, the committee wishes to emphasize that the wage levels required by the FLSA are among provisions of Federal law which must be taken into account by the States in setting their Medicaid rates. The committee also believes any adjustment made to State Medicaid rates reflect this statutory change and must be done in a timely manner to insure these facilities are receiving the increased rate at the same time they are incurring the increased costs.

The nursing home industry is on record as supporting an increase in the minimum wage,

but they have requested that we recognize the special cost burden imposed by such increases in this industry, where reimbursable costs are extensively regulated. Major nursing home reform was passed by Congress in 1987 as a part of the Omnibus Budget Reconciliation Act [OBRA], Public Law 100-203. This act required significant changes in staffing and training requirements, quality of care, patient services, and enforcement of new nursing home standards, at an estimated cost of $1.73 billion over 5 years. Because Congress was concerned about the ability of the nursing home industry to absorb costs of this magnitude, special language was included to ensure that the Medicaid reimbursement system adequately accommodated the OBRA 1987 cost increases.

The special language adopted in OBRA served to emphasize continuing congressional concern with adequate nursing home reimbursement. The payment standard mandating an increase in Medicaid nursing home rates to take account of the new costs that will result from this legislation is already contained in section 1902(a)(13) of the Social Security Act.

These cost increases are costs which must be incurred by facilities in the provision of care and services to Medicaid beneficiaries. Consequently, each State's nursing home reimbursement rates must be appropriately increased to take account of these costs.

I would hope that congressional oversight will ensure that States adequately and appropriately adjust their Medicaid reimbursement rates to reflect higher minimum wage levels mandated in our compromise.

Mr. Chairman, I include the following correspondence:

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, November 1, 1989.

Hon. AUSTIN MURPHY,
Chairman, Subcommittee on Labor Standards, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN MURPHY: The AFL-CIO wishes to convey to you our support for the long-overdue agreement on the minimum wage issue between the Bush administration and the Congress that will be offered today as a substitute to H.R. 2710, the Fair Labor Standards Amendments of 1989.

After nearly nine years without an adjustment, America's minimum wage workers, so often women, minorities and single heads of households, have suffered economic stagnation far too long.

The prompt enactment into public law of this modest increase for America's lowest-paid workers is essential, along with the drafting and implementation of regulations to strictly govern the training wage component for 16- through 19-year-old workers, which will expire in April 1993. The AFL-CIO believes the provision for a training wage contains adequate safeguards so the youth are not exploited and older workers are not displaced.

We urge your colleagues to join you in the passage of H.R. 2710, as amended by the agreement's language.

Sincerely,

ROBERT M. MCGLOTTEN,
Director, Department of Legislation.

Mr. GOODLING. Mr. Chairman, I yield myself 30 seconds.

I do that because I would certainly be remiss if I did not say "thank you" to the gentleman from Wisconsin [Mr. PETRI], who probably has done more in the last couple years to help the working poor than any hundred people in the Congress of the United States. It was he who carried the EITC battle. It is that particular part in the child care bill that is really going to help the working poor, and I want to pay tribute to the gentleman from Wisconsin [Mr. PETRI] at this time.

Mr. DREIER of California. Mr. Chairman, I rise in opposition to the Murphy substitute amendment to the bill (H.R. 2710) before us today to increase the Federal minimum wage.

I was pleased to vote to sustain President Bush's earlier veto of a minimum wage increase, and I will vote against the Murphy substitute amendment and against final passage of H.R. 2710 for the same reasons which I opposed the previous minimum wage proposal. Mr. Chairman, instead of creating new jobs and greater opportunity for our Nation's 3.9 million minimum wage earners, this legislation will destroy jobs and job-producing activities.

Like H.R. 2, this so-called minimum wage compromise calls for an increase in the Federal minimum wage to $4.25 per hour effective April 1, 1991. This increase amounts to a nearly 29-percent rise over the next 2 years. Although opponents of a mandated Federal increase in the minimum wage gained some ground with the inclusion of a training wage, this new wage will only apply to workers under age 20 and for just 90 days under a single employer.

Since California's minimum wage is currently $4.25 per hour, the increase in the Federal minimum wage is not expected to effect California minimum wage earners directly. However, this increase would have a significant negative impact on workers in those States with weak labor markets or strong service-oriented economies.

Instead of increasing the Federal minimum wage, Congress should give States the flexibility to tailor their minimum wage laws to meet distinct dynamics of the Nation's regional economic markets and work force. An additional increase in the Federal minimum wage will obviously distort those markets, and its negative effects will fail disproportionately on workers in depressed areas.

The Murphy substitute amendment does not make sufficient changes in H.R. 2710 to negate the loss of hundreds of thousands of American jobs expected to be realized by its enactment. As amended by Murphy or as reported by the House Education and Labor Committee, H.R. 2710 will hurt the working poor we purportedly are trying to assist by increasing the Federal minimum wage.

Mr. Chairman, Congress is saying to these Americans that, despite the evidence to the contrary, an increase in the Federal minimum wage will benefit them. However, many of these Americans understand that we are really costing them the opportunity to gain or secure a better job.

Mrs. COLLINS. Mr. Chairman, I rise today in support of H.R. 2710, the Fair Labor Standards Amendments of 1989.

Once again we stand in this chamber to debate the issue of raising the minimum wage, and over such minute changes from the first bill.

The current proposal calls for the Federal minimum to be raised from its current level of $3.35 per hour to $4.25 over the next 2 years and allows employers to pay certain employees a subminimum wage for up to 2 months.

Since the establishment of the current minimum wage in 1981, its purchasing power has decreased by 36 percent. The earnings of a full-time minimum wage worker for a 3-person family has dropped to 29 percent below the poverty level.

Two thirds of the 600,000 American women who maintain a family and work at minimum wage are in poverty. Of this group, three quarters of the black female-headed households live in poverty. Why do we continue to ignore statistics. Let us not forget that there are real people behind these numbers that need our help.

I must ask my colleagues: Do we remember the purpose of a minimum wage? Historically, the goal is to give workers the opportunity to earn money to support themselves and their family. An effective minimum wage allows new people to join the workforce at a sufficient income to survive and moves them toward assuming a positive role in a complex inflationary society. By setting an adequate pay scale for entry level positions, we convey ideas that encourage the public to join the workforce and realize that benefits do result from hard work.

Or—we can continue to subject them to insufficient pay and an introduction to the world of poverty, crime and despair. Today, as a result of consistently rising inflation and a minimum wage that has not changed, we are pointing them toward the latter course. How long can we allow this declining situation to exist?

I find it disturbing that the President, who advocates a "kinder and gentler America" vetoed past minimum wage legislation for those who need this compassion the most. And why? For a mere 30 cents discrepancy. Then Mr. Bush adamantly advocates the passage of a capital gains tax cut, which benefits those with incomes of over $100,000. Do we realize that an income of $100,000 a year is at least 14 times the salary of a minimum wage earner?

Tax cuts as the capital gains are supposed to trickle down to the poor, yet for all of America's economic good fortune over the past 8 years not one cent has gone for a minimum wage increase. But inflation continues to flow down the ladder.

America, the land of opportunity: How do we expect hard working Americans to realize these opportunities when they cannot afford the basic necessities of food, clothing and shelter if we do not pay them enough?

A below-poverty level pay scale will never allow them to satisfy basic needs and introduce them to the productive side of our economy. They will never enjoy quality medical care and child care if we do not act.

The earlier, progressive version of minimum wage legislation passed by the House would have done more for the working poor than what we discuss today. We were forced by the President to consider this weaker compromise version, which will not be a panacea for the ills that effect the lower class. There are those who still must live in homeless shelters and accept welfare for survival. Are we offering too little too late?

We were elected to represent all facets of American society. Let us not neglect those who need our help.

I urge my colleagues and the President to support this measure.

Mr. MFUME. Mr. Chairman, today we are here to discuss the Fair Labor Standards Act H.R. 2710, or the minimum wage bill. It has been 12 years since Congress last enacted revisions for a minimum wage increase. Eight whole years have gone by since the hard working men and women of America had an increase beyond $3.35.

Individuals and families earning minimum have had to survive off of $3.35 while their overall purchasing power decreased by 36 percent. Had the minimum wage kept pace with inflation, the wage rate would be $4.57 per hour. For the 4 million American workers who earn the minimum wage and the other 8 million who will be effected by this legislation, I believe that it is time to provide the economic relief that will help enable these individuals to better realize their dreams and aspirations.

Opponents of the minimum wage bill are quick to point out that teenagers are the persons who primarily work at entry level, unskilled minimum wage jobs. However, the statistics produced by the Federal Minimum Wage Commission indicates that approximately 69 percent of all minimum wage workers are adults over the age of 20 with women dominating the largest demographic category. Eighteen- and nineteen-year-olds make up the remaining 31 percent of minimum wage earners.

Mr. Chairman, when we look at the cost of living expenses in the greater Baltimore area, I am truly amazed that anyone can survive on $3.35. The President realizes this fact as well, which may be what prompted him to compromise yesterday on an increase to $3.80 over one year and $4.25 by the year 1991.

Mr. Chairman, I call upon our colleagues today to vote in favor of the minimum wage bill to increase the earnings of those households who depend on minimum wage salaries for their daily bread.

Mr. ESPY. Mr. Chairman, I rise today in support of the Federal minimum wage increase agreed upon by the Congress and administration.

This is the first and long overdue minimum wage increase for the working men and women of America in almost 10 years. This bill essentially seeks to offset the devastation inflation has had on the purchasing power of the minimum wage for the past 7 years. The measure has been carefully crafted to incorporate the needs and concerns of small businesses, the provisions which exempts small businesses with gross sales under $500,000, allows a subminimum wage for teenagers, and increases the tip credit from its present 40 percent to 50 percent clearly indicate a commitment to the continued enhancement of small businesses. I strongly support these measures.

In reference to the concerns of farmers that the legislation outrageously and unfairly excludes agriculture from the training wage provisions: this applies to seasonal employees who work approximately four months, thus failing to qualify for the 6 months subminimum wage requirement.

Mr. Chairman, I ask that my colleagues join me in support of this non-partisan legislation. It is both compassionate and common sense.

Mr. DELAY. Mr. Chairman, we've heard an awful lot of rhetoric here on the floor today about how this bill is going to help the poor and lift them out of poverty. We've heard rhetoric about how this bill is the best way to ensure that low skilled and unskilled can receive a dignified, respectable wage.

However, we should remember that the last time Congress enacted a minimum wage increase which was phased in between 1977 and 1981, we destroyed 644,000 jobs according to the Minimum Wage Study Commission.

Mr. Chairman, I sincerely doubt that those workers who were thrown out of their jobs appreciated their new dignified wage.

Congress needs to closely look at the facts. According to a study by the American Enterprise Institute, 93 percent of minimum wage workers are not heads of households. Eighty percent of families with a minimum wage earner live above the poverty line, according to estimates by the Council of Economic Advisors. In fact, over 70 percent of the families live above 150 percent of the poverty line.

Keep in mind that the history has demonstrated that a competitive and flourishing economy provides the best help to all workers. Since we have held the line on minimum wage increases, our economy has generated over 19 million new jobs. Yet during that same period of time we have actually cut the number of minimum wage workers in half. Competitiveness creates good jobs.

According to the U.S. Chamber of Commerce, it has been estimated that 53,715 jobs would be lost in the State of Texas alone out of the more than three-quarters of 1 million people who will be thrown out of work by this bill. An estimated 4,059 jobs would be lost in my district alone.

The majority of workers who will lose their jobs are youths who will be turned out onto the street to idle the hours away. I suspect that soon after this increase takes effect next year, Members of the House will be calling for more funding to fight the drug problem plaguing our Nation. And what's more, is that they'll be blaming youth and minority unemployment as one of the leading causes.

No, Mr. Chairman, I'm not ready to throw these people out of work. No, Mr. Chairman, I'm not ready to tell my constituents they must face a new round of inflationary price increases.

Don't tell the people that you're here to help the working poor. Don't tell the people that you're here to help the minorities. Because this bill just won't do that.

Be honest with your constituents. Tell them you support increasing unemployment, especially among the poor and minorities because they will be hurt the most by this legislation.

Mr. HOUGHTON. Mr. Chairman, President Bush has fulfilled his commitment to the American people by working with the Congress to reach a compromise so that the minimum wage will at long last be raised.

This action, together with the increase in the earned income tax credit which we approved as part of the budget reconciliation act, will help deprived Americans who have suffered from the delays in approving these changes.

Speaking from my prior life, there are not too many people here who have been in business—had to meet a payroll—look into the face of a wage increase. One can usually handle such a move unless of course there is an economic disaster. But it can only be done gradually. The average profit margin of business in this country is less than 5 percent this is not a lot to play with. The compromise here gives time, permits the job producers to adjust their cost structure. It is a good bill.

Mr. WAXMAN. Mr. Chairman, I wish to expess both my support for H.R. 2710, the Fair Labor Standards Amendments of 1989, and my understanding of the implications this legislation would have on nursing homes reimbursement under the Medicaid Program.

Medicaid is the Federal-State entitlement program that buys basic health care services for certain categories of poor people, including the low-income elderly. About 30 percent of all Medicaid spending goes toward the purchase of nursing home services. Nursing homes, in turn, employ large numbers of minimum wage workers; most of these are nurse aides, who provide the bulk of the hands-on care to nursing home residents. H.R. 2710 will increase the salaries of these workers.

Current Medicaid law requires that the rates which States pay to nursing homes for services to Medicaid-eligible residents be "reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards."

Clearly, the Fair Labor Standards Act is an "applicable Federal law," and the wages of nursing home workers are costs "which must be incurred by efficiently and economically operated facilities in order to provide care and services." As chairman of the Subcommittee on Health and the Environment, with legislative and oversight jurisdiction over the Medicaid Program, I want to affirm the obvious: Current Medicaid law requires States to adjust their nursing home reimbursement rates to accommodate the increased costs that nursing homes incur in complying with the increase in the minimum wage. Of course, the Federal Government, through Medicaid matching payments, will participate in payments for these increased costs.

Ms. PELOSI. Mr. Chairman, I rise today in strong support of H.R. 2710, the Fair Labor Standards Act. I urge my colleagues to support this measure to provide working families in the United States legitimate economic opportunities to fully support their families by accepting a long overdue increase in the minimum wage.

The minimum wage has not been increased since 1981, the longest duration the wage has remained at the same level. In that time, the actual buying power of the wage has decreased by 38 percent.

In that same period, we have documented the largest increase in our homeless population among the working poor, and an increase in the number of single-parent families. These are people who are striving to earn a living for basic survival—to house and feed themselves. How can we expect these families, struggling to make ends meet, to pay rent, clothe and feed themselves when the current minimum wage will put a family of three 29 percent below the recognized poverty level?

Nearly 4 million Americans work at jobs that pay the minimum wage or less. Close to another 4 million earn slightly above the current minimum wage. According to the Department of Labor, 70 percent of these individuals are adults. At least 25 percent of those earning the minimum wage are heads of households and two-thirds of them are women.

The large majority of these women are primary wage earners for their families. Ten million American households are headed by women today, an increase of 80 percent since 1980. We must recognize the significance of this situation. Working women must be given the legitimate economic means to fully support their families. The minimum wage must reflect a livable standard for an American family.

I oppose the training wage and would prefer a bill which has no provision for such a consideration.

I urge my colleagues to support a more equitable rate of pay, critically important to our Nation's working women and working poor. Action is urgently needed to restore the purchasing power of the minimum wage.

Mr. FAZIO. Mr. Chairman, I am pleased that after several years, we have been able to forge a bill to raise the minimum wage.

This Nation's work ethic has centered on the belief that hard work deserves adequate compensation and that every American warrants a wage high enough to achieve a decent standard of living. Unfortunately, we have failed to live up to that commitment.

The last time the minimum wage was increased was in 1981, when it was raised to $3.35 an hour. Today it remains at that level, yet its purchasing power has decreased by 36 percent. In 1981 dollars, it is worth only $2.46.

The minimum wage provides a real boost to the working poor, many of whom are single mothers. An adequate minimum wage is also vital to the many students who must put themselves through college and depend on minimum wage jobs. These individuals are not looking for handouts, just a decent wage for the work that they do.

An increase in the minimum wage is long overdue. It will benefit almost 8 million hourly minimum wage workers and 2 million salaried workers who pay per hour is near the minimum wage. As a matter of economic justice and as a signal that we value these workers, it is time we raise the minimum wage.

Ms. SNOWE. Mr. Chairman, I rise today in support of the bipartisan substitute to H.R. 2710. I believe this substitute provides a reasonable compromise between the need to increase the minimum wage and the fears that such an increase would ultimately result in job loss, inflation, and hurt small businesses.

I am pleased that the House was able to work out its differences with the administration on this issue. This substitute provides an effective way to meet the goal we all hold—that of improving the lives of American workers.

I believe that the $4.25 wage will provide assistance to the minimum wage workers without the large job loss associated with a more sizable increase. The Department of Labor has estimated that increasing the wage to $4.25 instead of $4.65 would save 400,000 jobs.

Also, the buying power for a minimum wage worker has fallen 36 percent since 1981. This 90-cent increase will help close that gap.

Since the minimum wage was enacted in 1938, it has consistently been half the average wage for nonsupervisory workers in the private sector. It is currently 34 percent below this average. The increase to $4.25 provided by the substitute would place the wage back in its historic range.

Today we have the opportunity to return the minimum wage to its intended place in our economy. I believe this substitute provides a substantial yet responsible increase in the minimum wage, one which improves the earning power of workers while not hampering small businesses from job creation. I urge my colleagues to join me in supporting the measure.

Mr. WEISS. Mr. Chairman, I am pleased to express my support of this bill raising the minimum wage.

While I plan to support today's proposal, I do so with great reluctance. We are in the unfortunate position of choosing between a very small increase, $0.90, in the minimum wage or nothing. President Bush has vowed to veto an increase above this $4.25 level.

We are told that the President has agreed to support today's proposed increase in the minimum wage. This is hardly grounds for joy.

While this is certainly a welcome development, I must admit, I have some trouble understanding the President's logic.

A few months back, the President vetoed a 3-year increase in the minimum wage to $4.55. He said the proposal would raise unemployment, particularly among young people, and cause inflation. Interestingly, today's bill would raise the minimum wage at the same rate as the previous bill, but for only 2 years, not 3.

I don't remember the President telling us in his veto statement that the minimum wage could be increased for 2 years, not 3. He didn't say that he thought businesses could afford the first two yearly increases in the minimum wage. It was just that third year that was going to wreak economic havoc.

Obviously, the President was playing politics. The President's objections to our last bill were not, in fact, substantive. His principled stand against the minimum wage was nothing more than an effort to act aggressively with Congress. At least now we know that President Bush understands that, yes, our economy can afford to pay the least well-off workers a little more. Welcome aboard, Mr. President. It's good to have you along.

In the past, I have supported much more substantial increases in the minimum wage. Over the past 10 years, the real value of the minimum wage has decreased dramatically. In fact, if the minimum wage had merely kept pace with inflation over this period we would be raising it this year to over $4.60.

The original version of minimum wage legislation, which I supported, included a provision which would have increased the wage to $4.65 over 3 years, giving businesses a chance to adjust to the increase, and thereafter index the minimum wage to increases in the average wage. Unfortunately, this provision was dropped in the effort to accommodate the President's objections to the legislation. However, I still believe that the only way to avoid the type of deterioration that has occurred over the past decade in the value of the minimum wage is to enact an indexing provision.

In addition, this legislation includes a subminimum wage for certain classes of teenaged workers for the first time. I have always opposed this type of wage scale and I continue to do so. However, the legislation allows for the expiration of the subminimum wage in 1993, unless Congress votes to continue it. I hope that we will learn in the next few years that a subminimum wage is unfair, unnecessary, and discriminatory and will choose to discontinue it when the opportunity arises.

Further, I believe that today's bill, while called a compromise, reflects the concerns of the Bush administration to a far greater extent than it does those of the labor movement and low-income workers in general. This is an unfortunate political circumstance. The real losers are people who try to work their way out of poverty, but due to the political calculations of the Bush administration, will be unable to do so.

Finally, this legislation expires in 1991. I sincerely hope that Congress will revisit this issue as soon as possible. Only then will we be able to give the lowest paid workers a fair, indeed reasonable minimum wage.

Mr. FRENZEL. Mr. Chairman, this matter is a foregone conclusion. The President and the Congress and the chief interest group backers of the bill have come to a compromise agreement. The bill will be promptly passed, signed, and enacted.

I have no desire to prolong the debate, nor to fall on my sword for no good result. Nevertheless, I shall vote against this compromise juggernaut.

The arguments against raising the minimum wage, or against having a minimum wage, have not changed. Raising the minimum will cause the least skilled and unskilled employees, and new entrants to the labor market to lose jobs or opportunities to get jobs. At a higher wage employers will employ slightly more skilled workers. With higher wage costs, employers will pare payrolls.

In my district, the State minimum is higher and the entry level wage is even higher still. The increased minimum will not make any difference there. My vote is simply a mild protest against well-intentioned, make-believe economics.

The minimum wage makes those who vote for it feel good, but its effects on the economy

are negative overall. It will happen but it won't help.

Mr. POSHARD. Mr. Chairman, by taking favorable action on the minimum wage, we're living up to a commitment we have to an untold number of hard-working Americans who are trying to make a go of it under very difficult circumstances.

We can draw a lot from their daily example of courage, perseverance, and pride. We're giving them a very well-deserved salute for their efforts.

We're saying to the working poor of America that their contribution to our economy and our community is worth something.

It's valued, it's important, and we appreciate their desire to work for a living, support their families, and send their kids to school.

I know a lot of this debate over the wage increase deals with newly hired employees, teenagers, and other specific categories of workers.

Those groups are important. But I want us to really consider what we are and are not doing for the men and women who are trying to make a living on the minimum wage.

I have to say it's disappointing we could not do more. The compromise we have been forced to reach, in truth, does not go far enough. We've come up 30 cents short of what we wanted for the top end wage. That's a big difference when you add it up over the long, long period of time these workers will be obligated to work under for years to come.

If our success this time at raising the wage, an act of fairness and compassion if ever there was one, is any indication of the attitude toward people who want to work in this country, then we have a real ways to go. I have to tell my colleagues I wish we could have done more. We should have done more. And we cannot shrink from our obligation. And this does not get us off the hook for good.

The original bill that would have raised the wage to $4.55 an hour at the top end would have made a big difference in our ability to help the working underclass of this Nation. This compromise makes up some of the ground, but leaves a lot of road for those workers to walk on their own.

We've also slowed down the process under which we're providing this increase. That too is part of a compromise, better than nothing, but waiting for the increase to begin in April instead of at the new year means more precious time lost.

The best thing I can say about the training wage is that at least it's scheduled to expire after 3 years. But even on this issue we've lengthened the time limit on how long that wage can be paid.

I see help wanted signs in abundance out here—and read about how many employers have to pay well above the minimum wage to attract workers. That's not the case in my district.

Because of a downturn in the agriculture, coal, and oil industries, my district has taken a real economic hit. We're doing everything we can, believe me, to turn that around, but our area needs jobs, and our workers need a better wage for the jobs they already hold.

Despite all of the drawbacks, in the final analysis we have at least taken some action to assist working America. We're saying to the minimum wage breadwinners we care enough to raise your standard of living at least somewhat, and appreciate your dedication to staying off welfare and in the work force.

We must not be complacent and suggest we have done all we can for this sector of American society. Please let us commit ourselves to developing this vast and wonderful resource for all of us.

And let me thank my chairman, the great gentleman from California [Mr. HAWKINS], for his unswerving leadership on this issue. The families living on the minimum wage in southern Illinois know they have a great leader on their side.

Mr. SYNAR. Mr. Chairman, today I rise in support of the new minimum wage compromise bill, but I do so with a great deal of hesitation.

As we all know, the Fair Labor Standards Act was enacted in order to codify the ideal that a good day of work deserved adequate payment. The real value of the minimum wage has dropped so much since 1977 that it now buys only $2.56 worth of goods and services in the marketplace.

Unfortunately, this legislation does little to restore the value of the minimum wage, and sends the wrong signal to our country about the value we in Congress place on our minimum wage earners. While I have come to expect the implacable opposition of the Bush administration to a meaningful increase in the minimum wage, I am also disappointed by the opposition of small businesses, who would benefit as minimum wage earners spent their new earnings on main street.

I am most troubled by the training wage provisions included in the compromise. These provisions, which cover all workers under the age of 20, will make access to higher education even more difficult for our children. At the same time, these provisions give incentives to businesses to replace older workers with workers whom they can pay at the lower, subminimum training wage. These are only two examples of the discriminatory nature of the training wage provisions.

I support this legislation because it is the least we can do for those who must work in jobs at or near the minimum wage. However, we can and should do better for those Americans, and I am afraid we will have missed our chance with this, another compromise of our commitment to raise the minimum wage.

Mr. RAHALL. Mr. Chairman, I am in strong support of H.R. 2710, the fair labor standards amendments—the bill authorizing an increase in the minimum wage.

Mr. Chairman, I believe the Committee on Education and Labor has more than engaged the spirit of compromise which is necessary between the Congress and the White House when a bill has been vetoed and is then brought to the floor of this body for the second time.

The President objected to raising the minimum wage to $4.55 which was authorized in H.R. 2. The President vetoed H.R. 2 for that reason. He also wanted a lesser amount, $4.25 as the maximum minimum wage, but he wanted to spread this slight increase over a 3-year period, instead of 2 years. The committee's new bill, H.R. 2710, bows to the President's wish for the lesser amount of $4.25 per hour—but would still allow those minimum wage workers to receive the maximum amount in 2 years time, rather than 3 years time. That is a fair compromise and one the President finally acknowledged.

Mr. Chairman, the subminimum training wage for youths, which the committee bill once again would have kept at 60 days, and only for new hires, has been changed as well—again in a spirit of compromise.

The change, as agreed to, would permit a subminimum training wage for youths between the ages of 16 and 19 years of age, for a 90-day period. An extension of an additional 90 days can be granted, provided the job is truly a training ground for future employment, and provided the Secretary of Labor so certifies.

The subminimum training wage for youths would still sunset, but would do so in 1993 rather than 1992.

The effective date for the increase in the minimum wage is April 1, 1990, rather than in January of next year.

Other provisions in the bill, concerning the small business exemption and the "tip credit" are in agreement with the Presidents wishes.

Mr. Chairman, in 1938 the first minimum wage law was enacted, and would begin to pay workers for the first time in our history a minimum of 25 cents per hour. In the 50 years since, the minimum wage, if enacted at the recommended level of $4.25 per hour, will have risen by only $4 in a half century.

If that statistic isn't sad enough—consider then that the rise in the minimum wage over the past 50 years has amounted to only 8 cents per year. If you consider this hard to believe, or impossible to imagine in the richest country on Earth—you have only to stop a moment and look around you and let it dawn on you, if it hasn't already, that we are here again today solely because the President vetoed a bill that would have allowed workers to earn the vast sum of $4.5 an hour over the next 2 years.

And finally, if those statistics—those facts—aren't enough to tax your imagination—then consider that we are back again today, giving the President what he demanded—a measley $4.25 per hour as the maximum wage that hourly workers can earn—workers who are heads of households, raising children who need food, shelter, medical care, and education in today's world of ever-increasing living costs.

And lest we forget—nearly two-thirds of today's minimum wage earners are women who are also, in many cases, heads of households.

The last time the minimum wage was raised was in 1977—when Congress increased it from $2.30 to $2.65 per hour beginning in 1978, eventually reaching the current $3.35 per hour in 1981.

Since 1981—9 long years ago—hourly workers earning minimum wages have lost purchasing power amounting to 36 percent compared to other workers. Had the minimum wage kept pace with inflation, it would today stand at $4.57 per hour—or 2 cents more than our original legislation, which the President vetoed, and which we failed to override.

Today, a person working full time at minimum wages is earning 29 percent below the official poverty line for a three-person family

Mr. Chairman, I hope the bill, H.R. 2710, is passed today by an overwhelming majority of the Members of the House.

Today, we send a signal to the nearly 8 million Americans who work for an hourly wage, and who could potentially benefit from an increase in the minimum wage, that this is our modest beginning toward a reversal of the neglect they have suffered over the past 8 years, indeed over the last half century.

Let us all pray that this modest increase will enable those minimum wage earners who are teetering on the brink of homelessness to remain sheltered for yet a while longer; will enable them to provide adequate nourishment for their families; will permit them to seek health care when necessary; will grant that they may clothe themselves against the cold winds of winter; and, God willing, obtain at least a modicum of the necessities of life that so many of us take for granted.

This bill before is indeed a minimum wage bill—and it is the least we can do in every sense of the word.

Mr. STOKES. Mr. Chairman, I rise today to lend my support, with some reservations, to passage of the compromise version of H.R. 2710, the fair labor standards amendments.

I support this bill to raise the minimum wage to $4.25 per hour over a 2-year period, partially restoring the purchasing power of the minimum wage lost since the last increase in 1981. However, the increase is simply not enough. It does not even restore the minimum wage to its 1981 value after inflation. Had the minimum wage kept pace with inflation, it would now stand at $4.68 an hour. Therefore, if we were to vote to increase the minimum wage to $4.25 an hour immediately, we would in effect be approving a cut of 43 cents an hour in the minimum wage. In other words, despite the fact that we vote to increase the minimum wage today, we are still endorsing a cut in the minimum wage from the 1981 level. I think this is disgraceful.

The overall cost of living has risen 39.8 percent since 1981; the cost of shelter has risen 46.6 percent; cost of food up 27.5 percent; cost of medical care up 64.2 percent; and personal and educational costs up 77.2 percent. In the 1970's, a full-time worker, paid the minimum wage, earned enough to keep a family of three above the poverty line. Today that worker's earnings fall 30 percent below the poverty line for a three-member family. Working families living near or below the poverty line need an incentive to keep working rather than seek public assistance.

Mr. Chairman, this compromise proposal has other serious problems, primarily a training wage provision that would allow an employer to pay a subminimum wage for 90 days to employees under the age of 20, and provides for an additional 90-day period in which a second employer can pay the subminimum wage if he certifies that the workers are receiving actual job training. This would permit teenage employees to be paid at less than the minimum wage for a full 6 months. It is shameful to treat our young people in this way, as second-class citizens.

While I strongly object to these provisions, I believe that raising the minimum wage is so important that I will still vote for passage of this bill.

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

Mr. HAWKINS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute, printed in House Report 101-324, and as modified by the deletion of section 10 thereof, shall be considered as an original bill for the purpose of amendment and shall be considered as having been read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

H.R. 2710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Fair Labor Standards Amendments of 1989".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et. seq.).

SEC. 2. MINIMUM WAGE INCREASE.

Paragraph (1) of section 6(a) (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1989, not less than $3.80 an hour during the year beginning April 1, 1990, and not less than $4.25 an hour after March 31, 1991;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Subsection (s) of section 3 (29 U.S.C. 203(s)) is amended to read as follows:

"(s)(1) 'Enterprise engaged in commerce in the production of goods for commerce' means an enterprise that—

"(A)(i) has employees engaged in commerce or in the production of goods for commerce, or that has employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person; and

"(ii) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);

"(B) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit); or

"(C) is an activity of a public agency.

"(2) Any establishment that has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise. The sales of such an establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection.".

(b) PRESERVATION OF COVERAGE.—

(1) IN GENERAL.—Any enterprise that on March 31, 1990, was subject to section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) and that because of the amendment made by subsection (a) is not subject to such section shall—

(A) pay its employees not less than the minimum wage in effect under such section on March 31, 1990;

(B) pay its employees in accordance with section 7 of such Act (29 U.S.C. 207); and

(C) remain subject to section 12 of such Act (29 U.S.C. 212).

(2) VIOLATIONS.—A violation of paragraph (1) shall be considered a violation of section 6, 7, or 12 of the Fair Labor Standards Act of 1938, as the case may be.

(c) CONFORMING AMENDMENTS.—

(1) SECTION 13(a).—Section 13(a) (29 U.S.C. 213(a)) is amended by striking out paragraphs (2) and (4).

(2) SECTION 13(g).—Section 13(g) is amended—

(A) by striking out "paragraphs (2) and" and inserting in lieu thereof "paragraph"; and

(B) by striking out ", except that" and all that follows in such subsection and inserting in lieu thereof a period.

(d) TECHNICAL AMENDMENTS.—Section 3(r) (29 U.S.C. 203(r)) is amended—

(1) by inserting "(1)" after "(r)";

(2) by striking out ": Provided, That, within" and inserting in lieu thereof a period and "Within";

(3) by redesignating clauses (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(4) by striking out "For purposes of this subsection" and inserting in lieu thereof the following:

"(2) For purposes of paragraph (1)";

(5) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(6) by striking out "public or private or" in subparagraph (A) (as so redesignated).

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on April 1, 1990.

SEC. 4. PUERTO RICO, VIRGIN ISLANDS, AND AMERICAN SAMOA.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 (29 U.S.C. 205) is amended—

(1) in the first sentence of subsection (a), by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands," and inserting in lieu thereof "American Samoa";

(2) in the second sentence of subsection (a)—

(A) by striking out "such island or islands" and inserting in lieu thereof "American Samoa"; and

(B) by striking out "Puerto Rico and Virgin Islands" and inserting in lieu thereof "American Samoa";

(3) by striking out subsection (e); and

(4) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS" and inserting in lieu thereof "AMERICAN SAMOA".

(b) MINIMUM WAGE.—Section 6 (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) in the first sentence, by striking out all that follows "appoint" through the period at the end of the sentence and insert-

ing in lieu thereof "pursuant to sections 5 and 8."; and

(B) by striking out the second sentence; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico who is employed by—

"(A) the United States,

"(B) an establishment that is a hotel, motel or restaurant,

"(C) any other retail or service establishment that employs such employee primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs, or

"(D) any other industry in which the average hourly wage is greater than or equal to $4.65 an hour.

"(2) In the case of any employee in Puerto Rico who is employed in an industry in which the average hourly wage is not less than $4.00 but not more than $4.64, the minimum wage rate applicable to such employee shall be increased on April 1, 1990, and each April 1 thereafter through April 1, 1994, by equal amounts (rounded to the nearest 5 cents) so that the highest minimum wage rate prescribed in subsection (a)(1) shall apply on April 1, 1994.

"(3) In the case of an employee in Puerto Rico who is employed in an industry in which the average hourly wage is less than $4.00, except as provided in paragraph (4), the minimum wage rate applicable to such employee shall be increased on April 1, 1990, and each April 1 thereafter through April 1, 1995, by equal amounts (rounded to the nearest 5 cents) so that the highest minimum wage rate prescribed in subsection (a)(1) shall apply on April 1, 1995.

"(4) In the case of any employee of the Commonwealth of Puerto Rico, or a municipality or other governmental entity of the Commonwealth, in which the average hourly wage is less than $4.00 an hour and who was brought under the coverage of this section pursuant to an amendment made by the Fair Labor Standards Amendments of 1985 (Public Law 99-150), the minimum wage rate applicable to such employee shall be increased on April 1, 1990, and each April 1 thereafter through April 1, 1996, by equal amounts (rounded to the nearest 5 cents) so that the highest minimum wage rate prescribed in subsection (a)(1) shall apply on April 1, 1996.".

(c) WAGE ORDERS.—Section 8 (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "American Samoa";

(2) by striking out the second sentence of subsection (a);

(3) in the third sentence of subsection (a)—

(A) by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands," and inserting in lieu thereof "American Samoa"; and

(B) by inserting before the period at the end of the sentence ", and who but for section 6(a)(3) would be subject to the minimum wage requirements of section 6(a)(1)";

(4) in the third sentence of subsection (b)—

(A) by striking out "Puerto Rico or in the Virgin Islands" and inserting in lieu thereof "American Samoa";

(B) by striking out "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "American Samoa"; and

(C) by striking out "section 6(c)" and inserting in lieu thereof "section 6(a)(3)"; and

(5) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS" and inserting in lieu thereof "AMERICAN SAMOA".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 14(b) (29 U.S.C. 214(b)) is amended by striking out "(or in" and all that follows through "section 6(c))" each place it appears in paragraphs (1)(A), and (2), and (3).

SEC. 5. TIP CREDIT.

Effective April 1, 1990, the third sentence of section 3(m) (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate," and inserting in lieu thereof "in excess of (1) 45 percent of the applicable minimum wage rate during the year beginning April 1, 1990, and (2) 50 percent of the applicable minimum wage rate after March 31, 1991,".

SEC. 6. TRAINING WAGE.

(a) IN GENERAL.—

(1) AUTHORITY.—Any employer may, in lieu of the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206), pay an eligible employee the wage prescribed by paragraph (2)—

(A) while such employee is employed for the period authorized by subsection (g)(1)(B)(i), or

(B) while such employee is engaged in on-the-job training for the period authorized by subsection (g)(1)(B)(ii), or

(2) WAGE RATE.—The wage referred to in paragraph (1) shall be a wage—

(A) of not less than $3.35 an hour during the year beginning April 1, 1990; and

(B) beginning April 1, 1991, of not less than $3.35 an hour or 85 percent of the wage prescribed by section 6 of such Act, whichever is greater.

(b) WAGE PERIOD.—An employer may pay an eligible employee the wage authorized by subsection (a) for a period that—

(1) begin on or after April 1, 1990;

(2) does not exceed the maximum period during which an employee may be paid such wage as determined under subsection (g)(1)(B); and

(3) ends before April 1, 1993.

(c) WAGE CONDITIONS.—No eligible employee may be paid the wage authorized by subsection (a) by an employer if—

(1) any other individual has been laid off by such employer from the position to be filled by such eligible employee or from any substantially equivalent position; or

(2) such employer has terminated the employment of any regular employee or otherwise reduced the number of employees with the intention of filling the vacancy so created by hiring an employee to be paid such wage.

(d) LIMITATIONS.—

(1) EMPLOYEE HOURS.—During any month in which employees are to be employed in an establishment under this section, the proportion of employee hours of employment to the total hours of employment of all employees in such establishment may not exceed a proportion equal to one-fourth of the total hours of employment of all employees in such establishment.

(2) DISPLACEMENT.—

(A) PROHIBITION.—No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in subsection (a).

(B) DISQUALIFICATION.—If the Secretary determines that an employer has taken an action in violation of subparagraph (A), the Secretary shall issue an order disqualifying such employer from employing any individual at such wage.

(e) NOTICE.—Each employer shall provide to any eligible employee who is to be paid the wage authorized by subsection (a) a written notice before the employee begins employment stating the requirements of this section and the remedies provided by subsection (f) for violations of this section. The Secretary shall provide to employers the text of the notice to be provided under this subsection.

(f) ENFORCEMENT.—Any employer who violates this section shall be considered to have violated section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)). Sections 16 and 17 of such Act (29 U.S.C. 216 and 217) shall apply with respect to the violation.

(g) DEFINITIONS.—For purposes of this section:

(1) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means with respect to an employer an individual who—

(i) is not a migrant agricultural worker or a seasonal agricultural worker (as defined in paragraphs (8) and (10) of section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802 (8) and (10) without regard to subparagraph (B) of such paragraphs and is not a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a));

(ii) is not more than 19 years of age; and

(iii) is eligible to be paid the wage authorized by subsection (a) as determined under subparagraph (B).

(B) DURATION.—

(i) An employee shall initially be eligible to be paid the wage authorized by subsection (a) until the employee has been employed a cumulative total of 90 days.

(ii) An employee who has been employed by an employer at the wage authorized by subsection (a) for the period authorized by clause (i) may be employed by another employer for an additional 90 days if a certificate is issued under subsection (h) by the Secretary for the employment of such employee.

(iii) For purposes of this subparagraph, the term "employer" means with respect to an employee an employer who is required to withhold payroll taxes for such employee.

(C) PROOF.—

(i) IN GENERAL.—An individual is responsible for providing the requisite proof of previous period or periods of employment with other employers. An employer's good faith reliance on the proof presented to the employer by an individual shall constitute a complete defense to a charge that the employer has violated subsection (b)(2) with respect to such individual.

(ii) REGULATIONS.—The Secretary of Labor shall issue regulations defining the requisite proof required of an individual. Such regulations shall establish minimal requirements for requisite proof and may prescribe that an accurate list of the individual's employers and a statement of the dates and duration of employment with each employer constitute requisite proof.

(2) ON-THE-JOB TRAINING.—The term "on-the-job training" means training that is offered to an individual while employed in productive work that provides training, technical and other related skills, and personal skills that are essential to the full and adequate performance of such employment.

(h) CERTIFICATE.—An employer who wants to employ an employee at the wage authorized by subsection (a) for the period authorized by subsection (g)(1)(B)(ii) shall apply to the Secretary of Labor for the issuance of a certificate for the employment of such employee. The Secretary may issue such a certificate for an employee only—

(1) in accordance with regulations of the Secretary, and

(2) if the employer for whom the certificate is to be issued—

(A) provides, during the period covered by the certificate, on-the-job training to such employee which meets standards of the Secretary issued after consultation with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives and other interested persons,

(B) keeps on file a copy of the training program which the employer will provide such employee,

(C) provides a copy of the training program to the employee,

(D) posts in a conspicuous place in places of employment a notice of the types of jobs for which the employer is providing on-the-job training, and

(E) sends to the Secretary on an annual basis a copy of such notice.

The Secretary shall make available to the public upon request notices provided to the Secretary by employers in accordance with paragraph (2)(E).

(i) REPORT.—The Secretary of Labor shall report to Congress not later than March 1, 1993, on the effectiveness of the wage authorized by subsection (a). The report shall include—

(1) an analysis of the impact of such wage on employment opportunities for inexperienced workers;

(2) any reduction in employment opportunities for experienced workers resulting from the employment of employees under such wage;

(3) the nature and duration of the training provided under such wage; and

(4) the degree to which employers used the authority to pay such wage.

SEC. 7. MAXIMUM HOUR EXEMPTION FOR EMPLOYEES RECEIVING REMEDIAL EDUCATION.

Section 7 (29 U.S.C. 207) is amended by adding at the end thereof the following new subsection:

"(q) Any employer may employ any employee for a period or periods of not more than 10 hours in the aggregate in any workweek in excess of the maximum workweek specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if during such period or periods the employee is receiving remedial education that is—

"(1) provided to employees who lack a high school diploma or educational attainment at the eighth grade level;

"(2) designed to provide reading and other basic skills at an eighth grade level or below; and

"(3) does not include job specific training.".

SEC. 8. APPLICATION OF RIGHTS AND PROTECTIONS OF FAIR LABOR STANDARDS ACT OF 1938 TO CONGRESSIONAL AND ARCHITECT OF THE CAPITOL EMPLOYEES.

(a) HOUSE EMPLOYEES.—

(1) IN GENERAL.—Not later than 180 days after the date the minimum wage rate prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is increased pursuant to the amendment made by section 2(a), the rights and protections under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) shall apply with respect to any employee in an employment position in the House of Representatives and to any employing authority of the House of Representatives.

(2) ADMINISTRATION.—In the administration of this subsection, the remedies and procedures under the Fair Employment Practices Resolution shall be applied. As used in this paragraph, the term "Fair Employment Practices Resolution" means House Resolution 558, One Hundredth Congress, agreed to October 4, 1988, as continued in effect by House Resolution 15, One Hundred First Congress, agreed to January 3, 1989.

(b) ARCHITECT OF THE CAPITOL EMPLOYEES.—Not later than 180 days after the date the minimum wage rate prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is increased pursuant to the amendment made by section 2(a), the rights and protections under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) shall apply with respect to individuals employed under the Office of the Architect of the Capitol.

SEC. 9. CIVIL PENALTIES FOR VIOLATIONS.

Section 16(e) (29 U.S.C. 216(e)) is amended—

(1) in the first sentence, insert after "or any regulation issued under that section," the following: "or any person who repeatedly or willfully violates section 6 or 7"; and

(2) in paragraph (3), by adding after "section 15(a)(4)" the following: "or a repeated or willful violation of section 15(a)(2)".

The CHAIRMAN. No amendments to said substitute are in order.

The question is on the amendment in the nature of a substitute, as modified.

The amendment in the nature of a substitute, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GEPHARDT] having assumed the Chair, Mr. SWIFT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2710) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes, pursuant to House Resolution 278, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PETRI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 37, not voting 14, as follows:

[Roll No. 324]

YEAS—382

Ackerman	DeFazio	Hastert
Akaka	Dellums	Hatcher
Alexander	Derrick	Hawkins
Anderson	DeWine	Hayes (IL)
Andrews	Dickinson	Hayes (LA)
Annunzio	Dicks	Hefner
Anthony	Dingell	Henry
Applegate	Dixon	Herger
Aspin	Donnelly	Hiler
Atkins	Dorgan (ND)	Hoagland
AuCoin	Douglas	Hochbrueckner
Ballenger	Downey	Holloway
Barnard	Duncan	Hopkins
Bateman	Durbin	Horton
Bates	Dwyer	Houghton
Beilenson	Dymally	Hoyer
Bennett	Dyson	Hubbard
Bereuter	Early	Huckaby
Berman	Eckart	Hughes
Bevill	Edwards (CA)	Hutto
Bilbray	Edwards (OK)	Hyde
Bilirakis	Emerson	Inhofe
Bliley	Engel	Jacobs
Boehlert	English	James
Boggs	Erdreich	Jenkins
Bonior	Espy	Johnson (CT)
Borski	Evans	Johnson (SD)
Bosco	Fascell	Johnston
Boucher	Fazio	Jones (GA)
Boxer	Feighan	Jones (NC)
Brennan	Fields	Jontz
Broomfield	Fish	Kanjorski
Browder	Flake	Kaptur
Brown (CA)	Flippo	Kasich
Brown (CO)	Foglietta	Kastenmeier
Bruce	Ford (MI)	Kennedy
Bryant	Frank	Kennelly
Buechner	Frost	Kildee
Bustamante	Gallo	Kleczka
Byron	Gaydos	Kolbe
Campbell (CO)	Gejdenson	Kolter
Cardin	Gekas	Kostmayer
Carper	Gephardt	LaFalce
Carr	Geren	Lagomarsino
Chandler	Gibbons	Lancaster
Chapman	Gillmor	Lantos
Clarke	Gilman	Laughlin
Clay	Gingrich	Leach (IA)
Clement	Glickman	Leath (TX)
Clinger	Gonzalez	Lehman (CA)
Coble	Goodling	Lehman (FL)
Coleman (MO)	Gordon	Lent
Coleman (TX)	Gradison	Levin (MI)
Collins	Grandy	Levine (CA)
Condit	Grant	Lewis (CA)
Conte	Gray	Lewis (FL)
Cooper	Green	Lewis (GA)
Costello	Guarini	Lightfoot
Coughlin	Gunderson	Lipinski
Coyne	Hall (OH)	Lloyd
Craig	Hall (TX)	Long
Crockett	Hamilton	Lowery (CA)
Darden	Hammerschmidt	Lowey (NY)
de la Garza	Harris	Luken, Thomas

Machtley	Petri	Smith (VT)
Madigan	Pickett	Smith, Denny (OR)
Manton	Pickle	
Markey	Porter	Smith, Robert (OR)
Martin (IL)	Poshard	
Martin (NY)	Price	Snowe
Martinez	Pursell	Solarz
Matsui	Quillen	Solomon
Mavroules	Rahall	Spence
Mazzoli	Rangel	Spratt
McCandless	Ravenel	Staggers
McCloskey	Ray	Stallings
McCrery	Regula	Stangeland
McCurdy	Rhodes	Stark
McDade	Richardson	Stearns
McDermott	Ridge	Stenholm
McGrath	Rinaldo	Stokes
McHugh	Ritter	Studds
McMillan (NC)	Roberts	Sundquist
McMillen (MD)	Robinson	Swift
McNulty	Roe	Synar
Meyers	Rogers	Tallon
Mfume	Ros-Lehtinen	Tanner
Michel	Rose	Tauke
Miller (OH)	Rostenkowski	Tauzin
Miller (WA)	Roth	Taylor
Mineta	Roukema	Thomas (CA)
Mollohan	Rowland (CT)	Thomas (GA)
Montgomery	Rowland (GA)	Thomas (WY)
Moody	Roybal	Torres
Moorhead	Russo	Torricelli
Morella	Sabo	Towns
Morrison (CT)	Saiki	Traficant
Morrison (WA)	Sangmeister	Traxler
Mrazek	Sarpalius	Udall
Murphy	Savage	Unsoeld
Murtha	Sawyer	Upton
Myers	Saxton	Valentine
Nagle	Schaefer	Vander Jagt
Natcher	Scheuer	Vento
Neal (MA)	Schiff	Visclosky
Neal (NC)	Schneider	Volkmer
Nelson	Schroeder	Vucanovich
Nielson	Schuette	Walgren
Nowak	Schulze	Walker
Oakar	Schumer	Walsh
Oberstar	Sensenbrenner	Watkins
Obey	Sharp	Waxman
Olin	Shaw	Weber
Ortiz	Shays	Weiss
Owens (NY)	Shuster	Weldon
Owens (UT)	Sikorski	Wheat
Packard	Sisisky	Whittaker
Pallone	Skaggs	Whitten
Panetta	Skeen	Williams
Parker	Skelton	Wilson
Parris	Slattery	Wise
Pashayan	Slaughter (NY)	Wolf
Patterson	Slaughter (VA)	Wolpe
Payne (NJ)	Smith (FL)	Wyden
Payne (VA)	Smith (IA)	Wylie
Pease	Smith (NE)	Yates
Pelosi	Smith (NJ)	Young (AK)
Penny	Smith (TX)	Young (FL)

NAYS—37

Archer	DeLay	Livingston
Armey	Dornan (CA)	Lukens, Donald
Baker	Dreier	Marlenee
Bartlett	Fawell	McCollum
Barton	Frenzel	Miller (CA)
Bunning	Gallegly	Oxley
Burton	Goss	Paxon
Callahan	Hancock	Perkins
Campbell (CA)	Hansen	Rohrabacher
Combest	Hefley	Smith, Robert (NH)
Cox	Hunter	
Crane	Ireland	Stump
Dannemeyer	Kyl	

NOT VOTING—14

Bentley	Florio	Moakley
Brooks	Ford (TN)	Molinari
Conyers	Garcia	Shumway
Courter	Hertel	Yatron
Davis	McEwen	

□ 1431

Mr. BRUCE and Mr. YOUNG of Alaska changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FORD of Tennessee. Mr. Speaker, earlier today the House voted on H.R. 2710. I was detained in getting back to the Hosue.

Mr. Speaker, it is a bill I have supported in the past. Had I been present, I would have voted "yes" on the Fair Labor Standards Act today.

PERSONAL EXPLANATION

Mrs. BENTLEY. Mr. Speaker, earlier today on rollcall No. 324, final passage of the minimum wage bill I missed the vote by 30 seconds while returning from a funeral. Had I been able to be present I would have voted "aye."

PERSONAL EXPLANATION

Mr. DAVIS. Mr. Speaker, I was not able to be present for votes due to illness. If I had been present I would have voted "aye" on H.R. 2710, legislation to raise the minimum wage.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2991) entitled "An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 2, 7, 8, 9, 12, 13, 14, 19, 27, 28, 30, 31, 38, 40, 41, 43, 44, 47, 54, 56, 57, 61, 64, 67, 74, 80, 82, 86, 87, 95, 96, 106, 110, 115, 117, 119, 122, 124, 128, 129, 131, 132, 136, 137, 140, 144, 148, 150, 152, 154, 156, 158, 164, 165, 168, 170, 174, 176, 177, 181, 186, 187, and 189, to the above-entitled bill.

The message also announced that the Senate recedes from its amendment numbered 83, to the above-entitled bill.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 53 with an amendment.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 171 with an amendment.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 191.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 182.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2710, FAIR LABOR STANDARDS AMENDMENTS OF 1989

Mr. MURPHY. Mr. Speaker, I offer a unanimous consent request.

The Clerk read as follows:

Mr. MURPHY asks unanimous consent that the following technical changes be made by the Clerk in the engrossment of the bill (H.R. 2710).

(1) In section 6(a)(1)(B), strike out ", or" and insert in lieu thereof a period.

(2) In section 6(g)(1)(B)(ii), strike out "another employer" and insert in lieu thereof "any other employer".

(3) In section 6(g)(1)(B), redesignate clause (iii) as clause (iv) and insert after clause (ii) the following:

(iii) The total period, as authorized by clauses (i) and (ii), that an employee may be paid the wage authorized by subsection (a) may not exceed 180 days.

Mr. MURPHY (during the reading). Mr. Speaker, I ask unanimous consent that the unanimous-consent request be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. GEPHARDT). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. MURPHY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 2710, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REVIEW OF CERTAIN ACQUISITIONS OF VOTING SECURITIES OF AIR CARRIERS

The SPEAKER pro tempore. Pursuant to House Resolution 275 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3443.

□ 1435

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3443) to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes, with Mr. ECKART (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, October 31, 1989, the amendment offered by the gentleman from California [Mr. Bosco] had been disposed of and the bill was open for amendment at any point.

Are there further amendments to the bill?

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as debate proceeded yesterday on the Airline Financial Securities Acquisition Act, it became quite apparent just from discussions with Members on both sides of the aisle that Members are fed up with the reduction of numbers of air carriers, the restricting of competition, the serious concerns raised for airline travelers by the buyouts that load up air carriers with heavy amounts of debt, and that they want something done that is substantive, real, effective. This legislation, this fine tuning of the fitness authority by the Secretary of Transportation paralleling the actions he has already taken in the Northwest Airlines case is the kind of legislation we ought to have in place.

We have a good bill. We want to keep it a good bill.

My purpose in bringing this legislation to the floor is not to make a statement but to put something into law that will benefit air travel, that will benefit competition in the airline industry, that will benefit air travelers and the communities served by these airlines.

I think if we keep this bill clean, we are going to have a bill the President can sign into law. I say that because I want to explain in advance that I am opposed to all the other pending amendments as I was to the single amendment yesterday that was adopted in the Committee of the Whole.

The only thing that amendment proved is that Frank Lorenzo is probably the most unloved person in the airline business and it was a statement on Mr. Lorenzo, not upon the bill.

So as we begin the debate this afternoon, I hope to set a tone for all those who participate and for all the subsequent amendments that are going to be offered: They are well intentioned, they seek to address a particular issue of concern to the Members who will be offering those amendments, but in each instance I think we can say we have already covered, in this legislation, the concerns addressed by these amendments. If yesterday's amendment had never been adopted, the Secretary of Transportation would still have had adequate authority to deal with the issue covered by that amendment.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman on his statement and wish to associate myself with his remarks. I think our objective in a very bipartisan way is to enact a bill here that can be signed into law. I think we have the prospect of being able to do that. We have a good bill as it is. I think it does take into account the various conflicting views. It is a well-balanced bill.

I think it is important that we keep it that way, and therefore, I join with the gentleman in indicating up front that I think it is going to be necessary for us to oppose all amendments, as the gentleman says, as well intentioned as they may be, in the interest of getting a bill that I think is really going to address a serious problem in this country, we need to keep it the way it is.

Mr. OBERSTAR. I thank the gentleman.

Mr. Chairman, there will be amendments, we will have a lively debate, a useful, constructive debate, and I look forward to it, on those several amendments. And I hope that at the end of the day we will have a good bill to send on to the Senate.

□ 1440

AMENDMENT OFFERED BY MR. DE FAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DEFAZIO: Page 5, line 3, strike "or".

Page 5, after line 3, insert the following:

"(4) that the acquisition would result in a major reduction in wages, benefits, or number of employees of the air carrier which is not agreed to by the employees and is required primarily as a result of added costs arising out of the acquisition; or

Page 5, line 4, strike "(4)" and insert "(5)".

Mr. DEFAZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DEFAZIO. Mr. Chairman, last July 13, I introduced the first bill in the House dealing specifically with the leveraged buyouts of airlines, because of my concern about the future of this industry and the competitiveness and the productivity and the safety of this industry in America.

Several weeks ago we began hearings in a markup of the Subcommittee on Aviation from the Committee on Public Works and Transportation. It became clear as we worked through and rewrote the bill that it could be improved from the version I introduced, and it was.

Unfortunately, there is one improvement that we neglected to add in the committee, and I would ask my colleagues to join me in adding this section in the House. The glaring omission is one that would extend the same coverage that this bill extends. The bill requires the Secretary of Transportation to review these takeover deals and determine whether or not they would jeopardize the future safety of productivity or competitiveness of the airline because it would require massive shedding or sale of gates, airplanes, hangers, and other assets.

Unfortunately, what we do is we leave naked the one last major expense that our airlines have, and that is of the 480,000 people who work for airlines in America. These people are the ones that determine whether or not our airlines fly safely. These people are the ones who determines whether or not the airline will be productive, competitive, and profitable into the future. These people certainly have a vested interest, and should have some consideration during these takeovers.

It was Mr. Crandall, the chief executive officer of American, who was commenting on the United deal when he said:

> Imposing extraordinary levels of debt on a airline, particularly without the active cooperation of both management and employees will not serve the long-term interests of anyone.

We need the cooperation of the employees in the deal, and they should be given some attention in a takeover process. The Secretary is now going to have to review the business plans which lay out whether or not assets will be sold, and determine whether that should be allowed.

The same criteria should be applied to labor, to human capital in this interest.

We have heard that this amendment or other amendments would cause a veto. Well, we have in hand three letters from the administration stating unequivocally they will veto this bill without any amendments. Then yesterday we were told that if we adopted the Bosco amendment the President will veto the bill twice, and we will be here today, if we adopt my amendment, that that bill bring a third veto down on this bill, perhaps the one that finally does it in. The point is, we are legislators, and we are here to legislate

and send forward the best bill possible to conference with the Senate, and that bill should include some modicum of consideration for those 480,000 employees, and whether or not they are going to be the ones who are made to suffer in future buyouts.

This is an important amendment. I urge my colleagues to support it.

Mr. ANDERSON. Mr. Chairman, I rise in opposition to the amendment.

I reluctantly oppose this amendment. I am sympathetic to the need to prevent acquisitions which would so weaken a carrier financially that the carrier would be required to make major reductions in wages, benefits, or numbers of employees. However, I believe that these acquisitions would generally fall within one of the other grounds for disapproval in our bill. In the interest of gaining widespread support for the bill, which may be necessary in view of administration opposition and the possible need to override a veto, I am urging my colleagues to keep this provision and other controversial provisions out of the bill.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

This bill is intended to protect the public from potential adverse effects of airline leveraged buyots. It is designed to ensure that public safety is not undermined by huge debt levels that may be incurred to purchase an airline. We should be careful about expanding its scope beyond that.

I recognize that employees can be adversely affected by a leveraged buyout. But I believe that their interest can be adequately protected by other provisions in this bill. Provisions in the bill designed to block a breakup of the carrier should minimize the impact of the acquisition on employees.

Moreover, a provision that would regulate the wages, benefits, and number of employees goes too far. That intrudes into areas that should clearly be left to labor-management negotiations.

Any additions to the bill such as this one are bound to cause problems for this bill in the Senate and with the executive branch. It would be unfortunate if we were to go to all this trouble to develop a good bill only to see it die because of the addition of this amendment.

I recognize that the administration has stated its intention to veto this bill. However, I remain hopeful that if we present the President with a good bill, he can be convinced that it should be signed into law. But if we add controversial provisions such as this one, all hope for the eventual enactment of the bill would be lost.

This amendment goes beyond the purpose of this bill, is overly intrusive, and is likely to add unnecessary controversy to the bill. Therefore, I oppose it.

Mr. BOSCO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a rather interesting phenomenon has occurred in the discussion of this bill, despite the very good intentions of all who have worked on it, and it is a fine piece of legislation. However, we have gone into the realm now of fortune telling, and most of that having to do with the President's veto.

The White House has made it clear that the President is against this piece of legislation. Yesterday, the House passed an amendment that I offered, presumably that will not only make the President veto the bill but perhaps lift it up, as well. Now we are being told that the gentlemen from Oregon, Mr. DEFAZIO's amendment is in the same category. So perhaps that President will veto the bill, rip it up, and burn it, but let Members get down to the best thing is our responsibility to do for Members and that is, I think, to protect the American traveling public. Today in the Wall Street Journal Secretary of Transportation Skinner said that he does not need any of the powers that this bill will grant him, to protect the public from the financial disasters that will happen. He says he already has that power. Well, the question is, why has the Secretary of Transportation not, in the past, used that power? The fact is, because we have not been specific enough in giving him a direction on what criteria to use.

The gentleman from Oregon, Mr. DEFAZIO's amendment is simple, and that is that we treat people in the same categories in the bill that we do assets, that we make as one criteria for the Secretary of Transportation to use in determining whether or not to approve these major transactions. The one criteria should be the effect that it has on working men and women.

Now, when we go to get into an airplane and when everybody else buys his or her tickets and gets on the plane, one of the major considerations that a person makes, in addition to the safety of the aircraft, is about the personnel on that airplane, from the pilot to the flight attendants to the mechanics who have worked on it. If those people are confident, if they have a sense of purpose in their work, then it only stands to reason that the public will be treated better and that the safety of these aircraft will be improved.

I do not think we should separate the value of assets versus the value of people. All are important in this industry. I think it is perfectly appropriate for the Secretary of Transportation to take both into account in making his determination.

One of the sad aspects to this takeover mania we have had in the airline industry is the effect that it has had on people who work for the airlines and their families. In fact, I would be willing to venture a guess that that is the reason so many Members of Congress are interested in this legislation is because they have workers in their district that are being displaced by these takeovers.

□ 1450

We have had Members from all over the country who have heard from their constituents on the proposed American Airlines takeover. We have had many, many hundreds of pilots and flight attendants from Eastern Airlines who have been displaced, who have lost their health plans, their pension benefits, because of that takeover. If it is not because of these people that this legislation is offered, then I would like to know why it is.

So I think it is perfectly appropriate that Mr. DEFAZIO should offer this amendment. I support this amendment, and I commend it to the Members's attention and hope they will support it.

Mr. PACKARD. Mr. Chairman, I move to strike the requisite number of words, and rise in opposition to the amendment.

All this amendment does is require, in an area in which I have very deep concerns about in the bill, the Secretary of Transportation to do certain things, that he has no options. We say we are giving him more power and more leverage, but at the same time we are saying what he has got to do.

This will require the Secretary of Transportation to disapprove of an acquisition if in fact to salvage the company they have got to dismiss personnel.

We are making it so that a company that is in trouble cannot dismiss personnel under this amendment. We are making it so the company cannot sell off its assets to salvage itself.

This amendment would insure bankruptcy as the only alternative. If that is what we want to do, then we should pass this amendment.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not really know whether to be for this amendment or against this amendment. If we pass this amendment, then I think this bill will be so loaded down that the President will have to veto it. That being the case, and, since I am against the bill, maybe I should be for Mr. DEFAZIO's amendment. But in real conscience, I have to stand up and oppose it.

Members already know what this bill is all about. The bill is to protect large airlines, in particular, any takeovers of United and American. That is what generated this bill in the first place.

Today we bring to the floor an amendment to protect big labor unions from any sort of hit in the acquisition of airlines. That is what this amendment is designed for.

Have we forgotten that quality is not a function of whether you belong to a labor union or not? Quality of work is not a function of being a labor union.

Just recently, if Members will remember, our own Members' dining room became privitized, which I thought was a good move, but in privitizing we protected the employees and said you could not fire any employees. You could not alter or discuss their wages. You could not do anything.

Members, did service improve in the Members dining room? Not at all.

That same thing will happen here. We will not get better quality, nor safer airlines. the end result will be no acquisition, no efficiencies of scale. Nothing will happen, and we will shut down the airline industry. We might as well nationalize the airlines and let the Secretary of Transportation run them by passing this amendment.

Mr. DEFAZIO. Mr. Chairman, would the gentleman yield?

Mr. DELAY. I will be glad to yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, if the gentleman read the amendment, he is familiar that it is going to do the same in terms of disposition of aircraft and other items of the airline. It says, "major reduction in wages, benefits, or number of employees." It says because of the acquisition of additional debt, not a mere efficiency move, not to continue operation of an airline attempting to make itself profitable.

When you are talking about a leveraged buyout situation, someone going out and acquiring massive new debt and acquiring an airline with it. If the only people left to make the debt payments are the employees, yes, it is directed at that. It is not directed at efficiencies. It would not tie the airline's hands.

Mr. DELAY. Mr. Chairman, reclaiming my time, the gentleman did not read the original bill. The bill does not just address leveraged buyouts. It addresses all acquisitions, all streamlining, that amount to 15 percent or more in affecting the assets of an airline. Plus the gentleman's amendment does not define what "major" is. What is major? Major could be to the Member maybe lowering wages by 15 percent. Maybe that is a major move as far as he is concerned. To me that is not major.

But in the bill, and in this amendment, major is ill-defined.

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, if we look at the others, we are leaving in this bill a great deal of discretion to the Secretary of Transportation, and my amendment purposely leaves the same amount of discretion that is left in the other section. He is to look at the selling of the assets and gates, only if it would have a major impact on the airline.

Mr. DELAY. Mr. Chairman, reclaiming my time, we saw the same sort of thing in the deregulation of trucking. In trying to protect the workers, employees and benefits of employees and their jobs, many companies went bankrupt. Many of those trucking companies that were held to certain standards in maintaining wage, benefits and jobs went bankrupt.

I remember serving on the Committee on Public Works. We had an oversight hearing on deregulation of trucking. The Teamsters Union fellow testified before the committee and talked about all the bankruptcies in the trucking industry.

I asked him, out of all those bankrupt companies, how many were union? Everyone of them was a union company, because there was no give or take in wages, benefits or positions in those particular companies to allow them to compete.

What we are doing is putting it in law and saying there will not be any. Therefore, there will not be any, and not only do we have bankrupt airlines, we have no acquisition of airlines, good or bad.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words, and rise in support of the amendment.

Mr. Chairman, the important legislation which we are considering today addresses many of my concerns about the leveraged buyouts of airlines and the Federal role in such LBO's. One area, however, which this fine bill does not address is the treatment of airline employees in the event of a leveraged buyout.

The legislation before us requires that the Secretary of Transportation, when reviewing a proposed LBO, consider many conditions, including competitiveness, foreign control, treatment of assets, debt, and safety. But it does not require the Secretary to consider the most important factor in safety—the human factor.

As we all know, many airline employees have been hit especially hard by the sweeping changes in the air travel industry. The impact on employees and their ability to do their jobs must be considered.

In too many cases, buyers of airlines have treated airline employees as a commodity; some raiders have even squeezed employees as a resource toward paying off debts, and employees at that time are vulnerable with the potential threat of no job or having to settle for a job at a reduced rate of pay.

I am extremely concerned about the unfairness these employees endure, and I worry about the resulting impact on the smooth operation and safety of air carriers.

Safety can be compromised not just by disgruntled workers, but by fatigued employees, over-worked employees, worried employees. Workplace stress and harassment have no place in the air travel industry.

It is not only fair but good common sense for the Secretary, in reviewing a proposed leveraged buyout, to consider the personnel component in judging the proposal.

And so, I urge my colleagues to join me in support of the amendment of the gentleman from Oregon.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

I come from an area that has lost an awful lot of jobs. As a member of the Committee on Public Works I have great respect for the chairman of the committee, the ranking minority member, the subcommittee chairman. But let me tell Members something: If part of a legislation that is good for the American worker is going to cause a bill to be vetoed, then veto this sucker. And if we are not going to stand here, and I mean this, and make sure that all precautions are taken to protect the interests of the American worker, what are we doing here?

□ 1500

Mr. Chairman, my district is a microcosm of Congress' policies in this regard. This calls for any major reduction. It gives tremendous discretion.

Mr. Chairman, let me tell my colleagues that a lot of these people come in, and they are buying these companies out, making paper transactions, and they do not care what happens to the American worker, and let me tell my colleagues what. The American worker, who is an endangered species anymore, happens to be the American consumer. And what we have right now is people working an 8-hour-a-day jobs, busting their humps for people who are selling the company out for paper profits, losing their benefits, and they end up working for some foreign interest. Man, we have got some problems.

Mr. Chairman, I cannot understand how in God's name Congress would stand by on the threat of a veto and not look at this type of broad, vague language that at least tells the American worker, "Look, we know that you're going through some rough times; we're at least going to give you some token consideration," because we are not giving them any meat and potatoes. Man, we are not giving them any meat and potatoes, and we are still laughing about this.

Rockefeller Center. Today Boeing is in trouble. They want to build the largest airliner in the world. They are looking for Japanese investors, and I heard Mitsubishi is coming in. What about the men and women who work at those airlines?

Mr. Chairman, I am fed up with this deregulation. I ask my colleagues, "If deregulation is so great, how come they can't find our luggage?"

Mr. Chairman, we have got the American business world in chaos. We have got management preying upon workers. We have got workers looking for politicians to bail them out.

Do my colleagues know what we have in this country? We have the chapter 11 ringing its bell in the Capitol so loud that the bubble is going to burst right here.

Look. The gentleman from Oregon [Mr. DEFAZIO] has come with a very modest amendment that says, "This ain't going to do a whole lot. We give the secretary all this discretion."

This is an insult to Congress that this will be called for a vote. It should be accepted, and that is not to denigrate the intentions, the integrity or abilities of our chairman and ranking people.

Mr. Chairman, I am for the amendment of the gentleman from Oregon [Mr. DEFAZIO], and I am urging Congress to vote for it. At least let the American worker know that we consider him occasionally.

My colleagues, the rice paddy on the east lawn of the White House is not too far off.

Mr. OBERSTAR. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Oregon [Mr. DEFAZIO] is a very valuable member of our subcommittee. He is diligent in attending the hearings and is a very thoughtful member of our subcommittee. He has devoted considerable time and attention to aviation issues. Indeed he did introduce legislation early this summer to deal with the airline financing issue and buyouts of airlines, and I want to compliment the gentleman from Oregon [Mr. DEFAZIO], and I fully sympathize with his deep concern for working people.

Mr. Chairman, it is not hard to speak on behalf of an amendment of this kind. This is easy to do. Equity for American workers, that is where I have stood all my life.

However, Mr. Chairman, this bill is not the National Labor Relations Act Amendments of 1989. This bill is not the National Railway Labor Act Amendments of 1989. This legislation is to deal with a very specific, narrowly focused concern that we have in aviation, to deal with the buyout, the acquisitions of air carriers.

Mr. Chairman, we cannot cover, I think, in legislation every specific concern in a direct and precise way. We did try to deal in a generic way with broad issues of public concern, of public policy concern, in a bill that was very carefully crafted.

Mr. Chairman, the amendment of the gentleman from Oregon [Mr. DEFAZIO] proposes to protect wages, benefits and numbers of employees in an airline buyout situation, and it would require the secretary to turn down, to reject, the buyouts if any of those would be reduced for the purpose of a buyout. Now the secretary would have that authority, should he choose to use it, under the broad generic language of our bill.

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, it is qualified in that it only applies to major reductions and only in such a case when they are required primarily as a result of adding costs arising from the acquisition.

Mr. OBERSTAR. Mr. Chairman, the gentleman from Oregon [Mr. DEFAZIO] is correct. There is that qualification, but just in the same vein is the legislation crafted to require turndown of a buyout if the secretary finds that the carrier will have to dispose of a substantial portion of aviation-related assets in order to meet its financial obligations.

There are a number of provisions in the bill under which the secretary can and will take into consideration the impact of the buyout on the people affected in that airline. That is what we are trying to get at. We are trying to see that there is a carrier in place.

Now, if the secretary reviews the transaction and finds that this thing is so heavily loaded with debt that the carrier is not going to be able to continue to buy aircraft, meet its safety obligations, compete in this highly cutthroat business, he is going to have to turn it down. That will inure to the benefit of the workers because, if they cannot buy aircraft, if they cannot meet their safety obligations, if they cannot do all those other things because they are so heavily loaded with debt that they are going to have to consider asking employees to reduce wages and benefits and to take cuts in numbers of employees, that is not going to be a good airline. The Secretary is going to have to turn that deal down, ask them to restructure it.

Mr. Chairman, that is what we want to get at, this broad issue of how well-financed the resulting carrier is. Is it going to be able to compete?

Mr. Chairman, if we have strong, competitive carriers, they will have strong employee work forces, they will have well-paid employees, they will have good benefits for their workers, and what we are trying to do is to make sure that the marketplace is adequate in numbers of airlines and in terms of competition in the air carrier industry and financing of those carriers.

Mr. Chairman, this amendment is not needed in this bill. We have addressed this issue in the broad terms of the language of the bill itself, and the bill can stand on its own, and the Secretary can protect workers' wages, benefits, and numbers of employees under the authority of this legislation, and I urge defeat of this amendment.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the gentleman's amendment which would add labor protection provisions to the leveraged buyout bill. The language which the gentleman has offered would mandate an airline acquisition to be disapproved if the Secretary found there would be a major reduction in wages, benefits, or the number of employees.

There are those who would argue that this legislation intrudes too heavily into the internal affairs of the corporation. The gentleman's amendment would force the Secretary of Transportation to involve himself in the decisionmaking of a company which clearly should be part of labor/management relations.

The proposal by the gentleman gets the Government into the business of trying to decide a very subjective kind of question as to what constitutes a major reduction in wages, benefits, or employees. It would put the Government in the position of being a referee between labor and management. Clearly the Government is not qualified to fill nor should it fill such a position.

Further, there may be instances where a reduction in wages or employment might very well be in the public interest. The amendment as presently structured would prevent that reduction occurring at all. Of course, we can envision situations where a company may be unable to operate under its current structure necessitating a reorganization in employment. This amendment may, in fact, encourage inefficiency in an airline.

The amendment also may have the unintended effect of jeopardizing employee supported acquisitions, such as the United buyout proposal which recently fell apart. In the United situation, one employee group endorsed wage and benefit reductions while another employee group opposed reductions. This certainly would place the Secretary in the untenable position of disapproving a deal supported by a substantial number of employees.

□ 1510

Unquestionably, this type of decision should be left for labor and manage-

ment in the collective bargaining context.

Finally, it has been alluded to that the fact is this will invite a veto, but more importantly, in my view, it will get a veto which will not be able to be overridden, so I urge all my colleagues, certainly my colleagues on this side of the aisle, to vote against this amendment.

Mr. LEWIS of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a member of the committee, I am in strong support of this amendment. This is a good, appropriate and necessary amendment. There is nothing radical or extreme about this amendment. With this amendment, my colleague is calling on the Secretary of Transportation to consider the effect that leveraged buyouts will have on airline employees.

This amendment would help humanize leveraged buyouts. Our concern for the welfare of airline employees should be just as strong as our concern for the security of airplanes, gates, and computer reservation systems. If we are going to maintain a viable airline industry, we must agree that human capital is the most important capital of any airline.

We have an opportunity with this amendment to demonstrate to our Nation's airline employees that we care about them as much as we care about their companies.

Mr. Chairman, I strongly urge my colleagues to support this amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would hope that we would support the DeFazio amendment. I think it is very important that as we take into consideration the conditions under which airlines are allowed to be transferred from one party or another or to be merged, that we also take into consideration the people who are working for those airlines. We have got to come to understand that the corporate body in this country is more than just management and shareholders. It is also the workers.

One of the things that very often makes these airlines attractive is the fact that people believe they have great potential for profit because of their workforce, because of their pilots, because of their flight attendants, because of the machinists, the baggage handlers.

Now for people to come along and decide they want to buy this airline from Mr. Trump or Mr. Goldsmith or Mr. Icahn or Mr. Lorenzo, if they want to buy the airline, let them pay for it, but do not let them give away somebody else's vacation, somebody else's sick pay, somebody else's wages, somebody else's pay raise. If they are so rich, let them pay for it.

Why should they be able to decimate the hours and the wages and the conditions that workers have built up over many years when those workers are not even at the table to be able to accept that or to reject that?

This is not a notion of where workers are going to be unreasonable, to throw their jobs away.

The gentleman from Oregon [Mr. DEFAZIO] has in his amendment that if the workers agree to these reductions, they are fine, but this prevents one party from just overwhelming the workers and throwing them out.

A lot of lipservice has been given today on this floor on the debate on the minimum wage of the value of American workers. Well, we have already screwed the low wage earner in this country with the minimum wage a few minutes ago. Now we are talking about highly skilled people with many years of seniority, that because of battles between airlines that have not proven out to give us better service, to give us better competition, to give us cheaper fares, but because of the battles so that people can put their names on the tails of airplanes, we are now telling these people that they simply have to be victims of that economic cannibalism. That cannot be the policy of this country. That cannot be the policy of this Congress.

We have got to protect these people. These people are part of the corporation that made up this airline, whichever airline it is. They are the ones who are promoting the passenger service. They are the ones who brought the passengers there.

Fortunately, we still have a little time left where we can pick and choose between airlines, so if the workforce is not cooperative, you can take airline B. When these people get done, you will not be able to do that, and at the same time they get to decimate the workers.

You know, for Members of Congress who almost every weekend go out and get on an airplane and fly across this country or to the middle of this country or up and down the east coast, for us to suggest that we can do this to the American workers, the people who we rely on to keep these planes safe, to keep them in working order, to keep them on time, to make our little accommodations when we are running a little late to National Airport or we are running a little behind, coming from a town meeting and we pick up the phone and say, "This is Congressman so-and-so. I'm on my way. Could you hold the plane?"

All those things we ask.

Now you are telling the very same people that they do not count. You cannot be that hypocritical in this body. At least put them in the equation so that they can be considered and their rights can be protected.

Mr. JONES of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support of the DeFazio amendment. I commend my colleague for his work in crafting this amendment and in bringing this amendment to the floor. I would also like to commend the distinguished chairman of the Aviation Subcommittee, Mr. OBERSTAR, for bringing this important legislation to the forefront of our legislative agenda. But I believe that this amendment strengthens the bill by requiring the Secretary of Transportation to look at the impact a takeover will have on the human capital of an airline. As we heard in committee hearings, the record is clear that, when acquisitions are highly leveraged, two things are most likely to occur to offset the increased debt—the disposal of physical assets and a reduction in the workforce and/or in wages and benefits. Employment policies regarding working conditions and compensation have a tremendous effect on that carrier's ability to maintain established safety standards. This bill already includes provisions to protect aviation-related assets from sale by quick-buck artists. This bill should also reflect our understanding that employment policies can impact safety by destroying morale and failing to provide sound working conditions. This amendment regards the employee as an essential component in maintaining a safe, competitive airline.

Besides the safety considerations, should we not also safeguard the airlines most valuable resource, its people, from raiders who consider a man's contribution to the success of an airline as nothing more than numbers on a page in a bottom-line analysis? There are more than 480,000 people who work in the U.S. airline industry, and their input is worth as much consideration as the planes, gates, and maintenance facilities. Taking control of an airline is not the same thing as spinning the Wheel of Fortune. It is certainly not a game to the people who work in the industry.

Mr. Chairman, I strongly support this amendment, and I urge my colleagues to support it and pass it.

□ 1520

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, distinguished colleagues, my good friends, the chairman, subcommittee chairman on the Committee on Public Works and Transportation and, of course, on the other side, I commend everyone on the piece of legislation that they brought for this body. I certainly think they have done some wonderful things with

what they are dealing with in moving this in the right direction.

I would like to comment briefly upon the amendment that is before us today that the gentleman from Oregon [Mr. DEFAZIO] has presented to us. Certainly I think that the gentleman from Oregon [Mr. DEFAZIO] has attempted to equate what we are dealing with in terms of the issues to the human side as well.

The people we are having in the airline industry are certainly as important as those physical things that we have to deal with. I think it is terribly important that if we are going to pass this legislation that we try to make sure that the people who are affected at the airlines are not going to lose their jobs, are not going to take all sorts of negative revisions in pay scale that are disadvantageous to them.

When one reads this amendment language, it is really relatively simple, that the acquisition would result in a major reduction in wages, benefits, or number of employees of the air carrier which is not agreed to by the employees and is required primarily as a result of the added cost arising out of the acquisition.

All we are asking in this particular legislation and this particular amendment is that if the employees do not agree to a takeover in a leveraged buyout, simply that the Secretary consider what will happen to them as something of importance. I think it is important that we take the employees into consideration when this type of situation comes up.

It is not right for the leveraged buyouts that occur to occur on the backs of the employees of this country. I think that is wrong. Indeed, if we are going to have leveraged buyouts, let us try to take the employee out of that equation. Let us try to say that we are going to give them a certain measure of protection from all the buyouts that go across this country.

It is all right if they want to do the buyout, but do not make the employees suffer. That is all this amendment says. That is all this amendment does. I think we should stand and support this amendment, because it is an aid to the American laborer. It does something that is positive. It helps people and, indeed, it humanizes a system that could sorely use some humanity.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. DEFAZIO].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DEFAZIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 147, answered "present" 1, not voting 14, as follows:

[Roll No. 325]

AYES—271

Ackerman	Gray	Pallone
Akaka	Guarini	Panetta
Alexander	Hall (OH)	Patterson
Andrews	Hall (TX)	Payne (NJ)
Annunzio	Hamilton	Payne (VA)
Applegate	Harris	Pease
Aspin	Hatcher	Penny
Atkins	Hawkins	Perkins
AuCoin	Hayes (IL)	Pickle
Barnard	Hayes (LA)	Poshard
Bates	Hefner	Price
Bennett	Hoagland	Quillen
Bentley	Hochbrueckner	Rahall
Bereuter	Horton	Rangel
Berman	Houghton	Ravenel
Bevill	Hoyer	Richardson
Bilbray	Hubbard	Ridge
Boehlert	Hughes	Rinaldo
Boggs	Hutto	Robinson
Bonior	Jacobs	Roe
Borski	Jenkins	Ros-Lehtinen
Bosco	Johnson (SD)	Rose
Boucher	Johnston	Rostenkowski
Boxer	Jones (GA)	Roukema
Brennan	Jones (NC)	Rowland (CT)
Browder	Jontz	Rowland (GA)
Brown (CA)	Kanjorski	Roybal
Bruce	Kaptur	Russo
Bryant	Kastenmeier	Sabo
Buechner	Kennedy	Saiki
Bustamante	Kennelly	Sangmeister
Byron	Kildee	Sarpalius
Campbell (CO)	Kleczka	Savage
Cardin	Kolter	Sawyer
Carper	Kostmayer	Saxton
Carr	LaFalce	Scheuer
Chapman	Lancaster	Schiff
Clarke	Lantos	Schneider
Clay	Laughlin	Schroeder
Coleman (MO)	Leach (IA)	Schumer
Coleman (TX)	Leath (TX)	Sharp
Collins	Lehman (CA)	Sikorski
Condit	Lehman (FL)	Sisisky
Conte	Lent	Skaggs
Costello	Levin (MI)	Skelton
Coughlin	Levine (CA)	Slaughter (NY)
Coyne	Lewis (GA)	Smith (FL)
Crockett	Lipinski	Smith (IA)
Darden	Lloyd	Smith (NJ)
de la Garza	Long	Snowe
DeFazio	Lowey (NY)	Solarz
Dellums	Luken, Thomas	Solomon
Derrick	Machtley	Spence
Dicks	Manton	Spratt
Dingell	Markey	Staggers
Dixon	Martin (NY)	Stallings
Donnelly	Martinez	Stark
Dorgan (ND)	Matsui	Stenholm
Downey	Mavroules	Stokes
Durbin	Mazzoli	Studds
Dwyer	McCloskey	Swift
Dymally	McDade	Tallon
Dyson	McDermott	Tanner
Early	McGrath	Tauzin
Eckart	McHugh	Taylor
Edwards (CA)	McMillen (MD)	Torres
Engel	McNulty	Torricelli
English	Meyers	Towns
Erdreich	Mfume	Traficant
Espy	Miller (CA)	Traxler
Evans	Mineta	Udall
Fascell	Mollohan	Unsoeld
Fazio	Montgomery	Vento
Feighan	Moody	Visclosky
Fish	Morella	Walgren
Flake	Morrison (CT)	Walsh
Flippo	Mrazek	Watkins
Foglietta	Murphy	Waxman
Ford (MI)	Murtha	Weiss
Ford (TN)	Nagle	Weldon
Frank	Natcher	Wheat
Frost	Neal (MA)	Whitten
Gallo	Neal (NC)	Williams
Gaydos	Nelson	Wilson
Gejdenson	Nowak	Wise
Gephardt	Oakar	Wolpe
Geren	Obey	Wyden
Gillmor	Olin	Yates
Gilman	Ortiz	Young (FL)
Gonzalez	Owens (NY)	
Gordon	Owens (UT)	

NOES—147

Anderson	Gunderson	Pickett
Anthony	Hammerschmidt	Porter
Archer	Hancock	Pursell
Armey	Hansen	Ray
Baker	Hastert	Regula
Ballenger	Hefley	Rhodes
Bartlett	Henry	Ritter
Barton	Herger	Roberts
Bateman	Hiler	Rogers
Beilenson	Holloway	Rohrabacher
Bilirakis	Hopkins	Roth
Bliley	Huckaby	Schaefer
Broomfield	Hunter	Schuette
Brown (CO)	Hyde	Schulze
Bunning	Inhofe	Sensenbrenner
Burton	Ireland	Shaw
Callahan	James	Shays
Campbell (CA)	Johnson (CT)	Shuster
Chandler	Kasich	Skeen
Clement	Kolbe	Slattery
Clinger	Kyl	Slaughter (VA)
Coble	Lagomarsino	Smith (NE)
Combest	Lewis (CA)	Smith (TX)
Cooper	Lewis (FL)	Smith (VT)
Cox	Lightfoot	Smith, Denny (OR)
Craig	Livingston	
Crane	Lowery (CA)	Smith, Robert (NH)
Dannemeyer	Lukens, Donald	
DeLay	Madigan	Smith, Robert (OR)
DeWine	Marlenee	
Dickinson	Martin (IL)	Stangeland
Dornan (CA)	McCandless	Stearns
Douglas	McCollum	Stump
Dreier	McCrery	Sundquist
Duncan	McCurdy	Synar
Edwards (OK)	McMillan (NC)	Tauke
Emerson	Miller (OH)	Thomas (CA)
Fawell	Miller (WA)	Thomas (GA)
Fields	Moorhead	Thomas (WY)
Frenzel	Morrison (WA)	Upton
Gallegly	Myers	Valentine
Gekas	Nielson	Vander Jagt
Gibbons	Oberstar	Volkmer
Gingrich	Oxley	Vucanovich
Glickman	Packard	Walker
Goodling	Parker	Weber
Goss	Parris	Whittaker
Gradison	Pashayan	Wolf
Grandy	Paxon	Wylie
Grant	Petri	Young (AK)

ANSWERED "PRESENT"—1

Green

NOT VOTING—14

Brooks	Garcia	Molinari
Conyers	Hertel	Pelosi
Courter	McEwen	Shumway
Davis	Michel	Yatron
Florio	Moakley	

□ 1543

Mr. ROBERT F. (BOB) SMITH of Oregon and Mr. SMITH of Vermont changed their vote from "aye" to "no."

Messrs. LENT, DE LA GARZA, SOLOMON, HALL of Texas, MONTGOMERY, MARTIN of New York, and BEREUTER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mrs. COLLINS. Mr. Chairman, I rise in support of the DeFazio amendment. Yesterday, I declared my support for another amendment to this bill, an amendment which if adopted and passed, would require the Transportation Secretary Skinner to refuse any acquisition when a would-be buyer, who already controls one airline, has shown a history of filing more than one chapter 11 bankruptcy.

What we are all concerned about here is the health and fitness of our Nation's airlines. Thus far, however, we have talked only about

the physical and the fiscal aspects of our airlines.

In our discussion we have not, however, focused on the most valuable asset of our airlines—the thousands of devoted and hard working men and women who work for the airlines. We must consider the impact of these leveraged buyouts or acquisitions on the industry's labor force in addition to the impact on the physical assets. This amendment considers those folks who so rightly deserve our concern.

Surely we all are aware of the number of mergers and acquisitions that have taken place in the airline industry in recent years. The acquisition of Eastern Air Lines by the Texas Air Corp., and the subsequent chapter 11 filing, should provide us with ample illustration of the need for heightened scrutiny of buyouts. Eastern's labor force has been decimated.

Allow me to illustrate my point. Since Texas Air Corp. purchased Eastern in 1986, the adversarial position of labor and management has worsened, causing an atmosphere of anxiety among many Eastern employees. During hearings my subcommittee held in 1987 and 1988, I heard from a score of pilots, flight attendants, mechanics, and other Eastern personnel who were legitimately concerned about their futures with the company. For example, in October 1987, the IAM and Eastern began negotiations on the renewal terms of their collective bargaining agreement. Management asked for pay cuts of 30 to 40 percent in return for a job retraining program which would enable baggage handlers to become mechanics whom Eastern subsequently might hire at the then prevailing mechanic pay scale. Eastern later moderated its demand, offering a 20 to 28 percent wage cut, coupled with a 4-year wage freeze. The IAM voted overwhelmingly to reject this offer.

Meanwhile, Texas Air Corp. was devising a rather cynical strike contingency plan, which would essentially create a scab airline. In oversight hearings held on this matter, my subcommittee learned that Eastern contracted with a little-known cargo carrier called Orion Air to lease and fly some of its airplanes should Eastern's pilots support the IAM in a future strike. Rather than delaying operations until replacement flight crews were trained, this arrangement would have permitted the carrier to operate without interruption.

Ultimately, the situation was resolved by a preliminary injunction issued by District Court Judge Barrington Parker who ruled that Eastern airplanes could not be flown by Orion pilots or any pilots not in the Eastern seniority list. Judge Parker also ruled that Eastern had to maintain the status quo until a hearing was held to address the complaints of the Airline Pilots Association [ALPA]

ALPA has other cases before Judge Parker regarding the transfer of Eastern assets. They claim these transfers are intended to undermine Eastern's unions as well as Eastern by taking away from the union operation and giving it to a nonunion entity.

That argument may indeed have merit. At the same time Eastern was attempting to cut wages, it was selling its computer reservation system—an airlines' most valuable asset—to its parent company, Texas Air. Eastern must now pay about $120 million a year plus a $1.85 per passenger booking fee to the new subsidiary.

The point here is that the wheeling and dealing of the "big boys" (e.g., Frank Lorenzo and Carl Icahn) creates an uneven playing field, that puts hundreds of jobs in peril. To expect that these situations can be fairly resolved at the bargaining table is, I think, naive. We must protect the workers.

Mr. Chairman, there was a time when airline industry employees could work in a relatively secure, regulated environment that they once enjoyed. It would appear that the passage of the Airline Deregulation Act of 1978 put an end to that. I seriously doubt that we anticipated that effect. Deregulation fostered a competitive environment. It created a Pac Man syndrome of larger carriers devouring their smaller competitors. In that atmosphere of the restructuring of the airline industry employees have been left exposed and unprotected. In an environment in which carriers have felt the necessity to trim down to a leaner operating condition, downsizing has become a necessity. Too often we have witnessed layoffs, demotions, and transfers, as well as the integration of seniority rosters, work-rule practices, and wage schedules.

Before its demise, the Civil Aeronautics Board routinely imposed labor protective provisions to deal with these side effects/byproducts of mergers, route sales, asset transfers, and similar transactions. These labor protective provisions would typically include displacement, dismissal, relocation allowances; severance pay; continuation of benefits, the integration of seniority lists, and wage schedules.

Passage of the Airline Dregulation Act marked the beginning of the end for these labor protection practices. The Government has played a more limited role in the airline industry, preferring instead to protect airline employees from the effect of mergers via the collective bargaining conducted by the concerned parties. Since adopting this position, the Department of Transportation has not conditioned approval of any merger or similar transaction on the acceptance of Government-imposed labor protective provisions.

Perhaps some will view the amendment as an attempt to regulate the industry. I do not view it in that way. Rather, I urge you to think of it as the least we can do to protect and show our support for the thousands of men and women who have dedicated many years of service to building and ensuring a safe, secure, comfortable, and reliable airline industry.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Chairman, on roll call 325 I was unavoidably detained. Had I been present I would have voted "aye" in favor of the DeFazio amendment.

AMENDMENT OFFERED BY MR. PACKARD

Mr. PACKARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PACKARD: Page 3, line 20, strike "shall" and insert "may".

Mr. PACKARD. Mr. Chairman, we have discussed this matter at some length before as we have debated this bill. One of the major flaws of this piece of legislation, in my judgment, is that it mandates the Secretary of Transportation as to what he must do.

Yesterday in our debate on this piece of legislation the author of the legislation, the chairman of the subcommittee, whom I am privileged to work with and certainly respect, made the comment and statement that it is important for the Secretary to have an opportunity to see and to review a buyout proposal before it takes effect. I agree with that. That would be very good. But it does not give the Secretary, then, the latitude and the opportunity to make a decision as to whether the buyout is a worthy buyout or not. He is mandated under the terms of this legislation to make a decision if certain findings are found.

The chairman also indicated and stated today that he wants a bill that will keep the few airlines that we now have, which incidentally is eight, eight American airlines, to keep them in existence, and certainly this bill will do that. It will truly protect those that are now in existence. But it will, at the same time, prevent any new airlines from being formed. Thus, in my judgment, it will significantly stifle competition in the future.

It will protect those that exist because it will not permit anyone to sell off or create new airlines and certainly no new airlines, without spinning off existing airlines, will be able to come in and begin.

So to me it is re-regulation, even though we do not regulate routes, we do not regulate rates, and we do not regulate hubs. But it does regulate who can continue to operate as an airline and who cannot.

Essentially it closes out all future competition, and the eight that now exist will be without competition. They have already worked out an agreement where they each have their own hub, where they each have their own routes, and they pretty well work on the rates. So regulation is the end result whether it be by government regulation or by the private sector.

We in this legislation are simply locking those eight into existence in perpetuity and not allowing any new airlines to form.

That is an anticompetitive bill, in my judgment.

The thing I object to the most and what my amendment does is that the bill, in the bill itself, I read, "The Secretary of Transportation shall disapprove of an acquisition." Then it lists four findings. Two of them relate to safety, which I have little problem with except that safety is not the purpose of this bill. We have existing law that protects safety of airlines. Therefore they are redundant and unnecessary.

But it does require the Secretary of Transportation to reject a takeover or a buyout if it would require the airline, or if it is the intent of an airline, the purchasing airline, to sell off assets.

With the amendment that just passed, where you cannot reduce personnel, you cannot reduce personnel's benefits or wages, and you cannot sell off assets, how does a troubled airline survive, where can it go to be able to remain in business?

We have guaranteed by the amendments that have now passed and by the language of this bill, we have guaranteed bankruptcy for a troubled airline with no opportunity to work themselves out of it through a buyout process.

This amendment would simply give the Secretary of Transportation, truly give him discretion rather than token discretion, by saying, "You must review the case," the buyout proposals, "but if you find certain things, you must deny the buyout proposal."

That is not discretion. I would suggest this would allow this bill to survive. There is no way it will survive the process and get the President's signature with the amendments as they are now existent unless we are able to give the Secretary of Transportation some discretion in determining whether a buyout is a good proposal or a poor proposal.

□ 1550

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, the gentleman said, where does a troubled airline go for financial help if it cannot reduce wages, benefits, and number of employees, and certainly, the Secretary would have the authority under our bill without the last amendment that the Committee of the Whole just approved, to look at those issues. However, I want to say to the gentleman that it is not the troubled airlines that are the subject of acquisition. An existing carrier can reduce the wages and benefits without having Secretarial approval. Under the amendment just adopted, which I opposed, the only condition for a situation in which wages, benefits, and number of employees would be the subject of review of the Secretary would be in an acquisition. If an existing carrier wanted, or the management of an existing carrier felt that it is necessary to reduce wages and benefits and number of employees, they could negotiate that with their workers or take whatever other action is necessary without Secretarial review.

Does the gentleman understand that?

Mr. PACKARD. Mr. Chairman, our experience has been however, that the reduction of personnel and the reduction of the selling off of assets is almost always incorporated in a buyout or in a takeover.

(On request of Mr. OBERSTAR and by unanimous consent, Mr. PACKARD was allowed to proceed for 1 additional minute.)

Mr. PACKARD. I yield to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I ask the gentleman to complete his statement for Members.

Mr. PACKARD. My point is that virtually all of the reduction in assets and the reductions in personnel and benefits has been as a part of a buyout proposal.

Mr. OBERSTAR. If the gentleman will continue to yield, there have been a number of circumstances where carriers have had to go to their employees and ask them to freeze wages and reduce, and the Secretary has not intervened and would not intervene under the provisions of our bill.

I just want to make it clear it is only in the case of acquisition we are talking about the amendment that just passed. It is not the troubled airlines that are the subject of acquisitions. It is the healthy airlines.

Mr. PACKARD. Mr. Chairman, my point certainly is that it would be far more appropriate for Members to give true discretion to the Secretary by simply changing the word "shall" to the word "may".

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the purpose of the bill before us now is to put the brakes on those airline acquisitions that would load the carrier up with so much debt that they would lead to a deterioration in safety or in the carrier's ability to compete. It is also designed to stop transactions that would result in a foreigner taking control of the airline. In such situations, the DOT Secretary would be required to disapprove the transaction.

This amendment would undermine the purposes of this bill by allowing the Secretary to approve transactions that would have the sort of negative effects I just described. Under this amendment, a transaction that would lead to a deterioration in safety could be approved. The Secretary would have the discretion to do that.

Now I do not believe that a Secretary of Transportation would allow such a safety problem. But I see no reason to give him such discretion here. It is important that this bill reassure the public that we will not allow leveraged buyouts that will lead to a deterioration in safety in any case.

To the extent that the Secretary needs additional discretion, it has already been provided by the amendment that I offered, and that was approved, in committee. My provision allows the Secretary to approve certain acquisitions if it would be in the public interest.

This public interest exception gives the Secretary all the discretion he or she needs to deal with special situations. Going further than that and providing the sort of blanket discretion proposed by this amendment would go too far and potentially harm passenger safety.

Therefore, I oppose this amendment and urge a "no" vote on it.

Mr. ANDERSON. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

I am opposed to the amendment. By making all the authority we are providing to the Secretary in this bill discretionary instead of mandatory, we would be undermining the bill.

Why would we want a Secretary to have the option of approving a transaction which would financially weaken a carrier and harm its ability to operate safely, or to compete effectively, or would result in a breakup of the company? I find it difficult to see grounds for not requiring disapproval by the Secretary in such circumstances. However, I can certainly see the circumstance where a Secretary with a particular ideological bent would not wish to exercise the disapproval authority granted by this legislation.

The purpose of the bill is to have uniform, standard rules which apply to all carriers. This amendment would open the possibility that carriers would be treated differently in similar circumstances.

I urge a "no" vote.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the gentleman's amendment which would make the Secretary's authority to disapprove an airline acquisition discretionary rather than mandatory.

The gentleman has argued that the Secretary does not have sufficient discretion in deciding whether or not to permit an airline acquisition to go forward. I disagree with the gentleman's analysis of the legislation.

According to the provisions in the bill, the Secretary is directed to disapprove a buyout if the Secretary finds that it would weaken the carrier financially so as to substantially impair its ability to operate safely or its ability to compete effectively. Also, in certain cases in the downsizing of a carrier's size could trigger a disapproval.

If the Secretary makes the finding that there is no adverse effect on the carrier then the acquisition could take place. This process provides ample discretion to permit these buyouts to go forward if they are in the public interest. There is no requirement in the

legislation that all buyouts be disapproved.

As I have mentioned, one factor triggering disapproval involves the inability of a carrier to operate safely. In my opinion it would be ill advised for Congress to provide discretionary authority to the Secretary to approve an acquisition if he made the finding that safety would be adversely effected. It seems to me that the best approach is to prohibit the transaction from occurring if safety is at risk.

Mr. Chairman, this amendment would eliminate an important protection from the bill and I urge my colleagues to vote against it.

□ 1600

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words. I join in expressing respect and admiration for the gentleman from California [Mr. PACKARD], my colleague on this committee and the author of this amendment, who has contributed greatly to the work of this committee, and is a very thoughtful and constructive member. But in the gentleman's former profession, before being elected to Congress, the gentleman was a dentist. He knows how to pull teeth.

What the gentleman would do with this amendment is to pull the teeth of the bill. I would hope that we would not have a dental operation here this afternoon, because we need some specific, targeted, directive authority to the Secretary as we have put in this bill to require certain actions at certain times.

I think as Chairman ANDERSON said earlier in debate, maybe some Secretaries would come along and not use the discretionary authority. I think as the gentleman from Pennsylvania said, to substitute "may" for "shall" provides too much discretion.

We are trying to narrow down, and fine tune the authority of the Secretary to remove the mandatory feature of this legislation would make it virtually worthless. We would not be protecting anything.

Mr. Chairman, for that reason I oppose the amendment and urge Members to vote against the amendment, which strikes at the heart of this bill.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words. I rise in strong opposition to H.R. 3443.

Does Government tinkering in the marketplace, does bureaucratic regulation or Federal intervention bolster enterprise, growth, and expansion in America? No way. Do congressional attempts to stablize Wall Street and protect the corporate establishment hurt our economy? Absolutely. In fact, it is probably true to say that most of the stock market's recent erratic behavior stems from fear of Government action and not from the economic condition of the country.

Mr. Chairman, the 1980's have been the decade of marketpower over state power. As a result, our people have enjoyed unprecedented economic growth and prosperity. The message of the 1980's is simple—government regulation and interference, whether in the U.S.A. or the U.S.S.R., does not work. Freedom and competition work.

Yes, some do not fare well in an environment of enterprise and competition. Management teams that cannot manage, corporate executives who cannot lead or make decisions are left behind—as they should be. Companies that overdiverify or work nowhere near their potential come under increasing pressure—as they should.

Contrary to all the whining from complacent management, the pressure on corporate owners and managers has been a boon to our economy. As economist Robert J. Samuelson recently wrote, "Even the distant threat of an unwanted takeover prompts companies to streamline." Why is Congress afraid of that? Why are we trying to protect incompetent management, overbloated executives, and poor investment decisions. Let's quit listening to the whining and start hearing the hum of competitive industry, and new investment—which is the byproduct of investment freedom in this country.

The fact is that the appropriate management structure for an airline or any business is best determined in the marketplace and not in the Halls of Congress or the office of the Secretary of Transportation.

Mr. Chairman, H.R. 3443 would give the Department of Transportation new authority to disapprove transactions involving air carriers, would provide new bases for rejecting transactions, and would require carriers to wait as long as 50 days before consumating transactions. And this legislation goes even further.

H.R. 3443 would in effect stop all airline acquisitions—whether leveraged buyouts, straight cash purchases, or any other kind—good and bad alike. Allegedly designed to protect the safety of air carriers, the bill will, in time, bring down a premier American industry—protecting it into stagnation, mediocrity, and complacency. Nothing could be worse for the airlines than isolating their management from the marketplace. Nothing could be worse for our economy with this kind of precedent.

Mr. Chairman, this bill is more appropriate for the Soviet airline, Aeroflot—not the American airline industry.

Why are we here today sending this kind of signal to the investment world.

Why are we considering legislation that will turn a gleaming competitive American industry into a rusting hulk?

This bill is nothing more than protection for special interests and the privileged, protection of entrenched management and inefficiency. As a recent article from Policy Review magazine concluded, "Public policy should not be in the business of protecting corporate executives at the expense of their companies' shareholders and customers."

For example, during a Science, Space, and Technology Committee hearing: Japanese management puts new technology to work more efficiently.

Mr. Chairman, this bill is opposed by the Secretary of Transportation. It is opposed by the President of the United States. It is also opposed by the financial community. I urge my colleagues to defeat this economy destroying legislation. Let us continue the free enterprise policies of the 1980's so we can have economic growth in the 1990's.

I insert the following article for the RECORD.

[From Policy Review magazine]

IN PRAISE OF CORPORATE RAIDERS—JUNKING THREE FALLACIES ABOUT HOSTILE TAKEOVERS

(By Amar Bhide)

Many leading businessmen would agree with Peter Drucker that corporate raiders threaten the legitimacy of free enterprise and that "hostile takeovers are exceedingly bad for the economy."

A study I conducted of all 47 contested tender offers of over $100 million in 1985 and 1986 suggests otherwise. Hostile takeovers are in fact an example of capitalism at its best. The typical raider breaks up unwieldy conglomerates into their more sensible constituent businesses—without sacrificing the long term, firing good managers, or inflicting great pain on rank-and-file employees.

DISMANTLING CONGLOMERATES

Acquiring large diversified companies and selling off their constituent units has enabled corporate raiders to accomplish what must be any reasonable entrepreneur's goal—to make a large profit in a short time with little risk.

Consider Ronald Perelman's acquisition of Revlon. Once the undisputed leader in the cosmetics industry, Revlon had, since the death of its founder in 1975, used the cash flow from its core business to fund acquisitions in health care. Following a contested tender offer, Perelman acquired the firm for $1.8 billion in 1985, and within six months sold off five health care units for nearly $2 billion. The raider gained a $200 million cash profit as well as ownership of Revlon's core cosmetics business, worth about $700 million. He thus proved that the company was more valuable broken into its constituent parts.

Irwin Jacobs pulled off much the same trick in his hostile takeover of AMF, a conglomerate whose holdings ranged from bowling alleys to electric relays and tire equipment to liquid filtration products. Jacobs won control in the fall of 1985 and by May of the following year recovered his entire purchase price of $560 million by selling off eight of AMF's units, keeping the company's boat, sporting goods and energy operations as a reward for his pains.

This pattern of buying diversified companies and selling off constituent businesses is found in a majority of hostile takeovers. Three-fifths of all contested tender offers undertaken in 1985 and 1986 were followed by significant divestitures. In those offers made by independent raiders, excluding hostile attempts by mainstream companies, the proportion of bust-ups rises to over 80 percent.

The attractions of a bust-up takeover from a raider's point of view are obvious: The enterprise can attract capital as a result of the raider's deal-making abilities, but does not require operating skills and experience, which is usually not his strongest suit. The payback to raiders is quick, and the economics of a bust-up can be estimated without recourse to the target's internal data, which are unavailable in an unfriendly transaction.

But what of the public interest? Critics' claims that bust-ups destroy valuable synergies do not appear consistent with the facts.

In the overwhelming majority of divestitures that followed the hostile takeovers of 1985-1986, the units separated served distinct markets with distinct products, making the loss of economies of scope or scale unlikely.

Indeed, the speed with which most divestitures were accomplished—usually within 18 months of the takeover—suggests that the linkages between the separated businesses were probably not great. It seems unlikely that the units could have been acceptably parceled off to buyers if there were extensive sharing of facilities or coordination of sales.

Further, the overwhelming majority of businesses put on the block after a contested takeover had themselves been acquired by the raider's target. As Michael Porter and other researchers have shown, corporations generally do such a poor job of integrating the businesses they acquire into their existing operations that most are eventually divested. Raiders do not destroy synergies. They merely telescope into a short period the divestitures that would have taken place in the normal course of events.

In addition, my research shows that raiders bring much greater focus to the enterprises they split up.

In 31 percent of the spin-offs that followed the 1985-1986 hostile takeovers, the buyers were investment groups or the unit's managers who intended to operate the business as a stand-alone entity.

In 41 percent of the divestitures, the buyers were single-business companies in the same (or closely related) industry as the divested unit.

In the remaining 28 percent of the cases, the buyers were companies that were following diversification strategies similar to those undertaken by the targets being split up. And, it is interesting to note, within the next year and a half, a third of these buyers—including Goodyear, Bell and Howell, and Harcourt, Brace, and Jovanovich—were themselves being courted by unwelcome suitors.

We need not belabor the advantages of focused, single-business firms here—the inefficiencies of unrelated diversification is as close to a settled issue there is in the field of management. Almost every known analysis—from Tom Peters and Robert Warterman's case studies of "excellent companies," to D. Ravenscraft and Frederick Scherer's statistics on the post-merger performance of 5,000 acquisitions, to Michael Porter's survey of the acquisition record of blue-chip companies over a 36-year period—points to the general superiority of firms that stick to their knitting over those that diversify through acquisitions.

THE ROLE OF JUNK BONDS

The importance of junk-bond financing in helping raiders dismantle overly diversified corporations should not be underestimated.

Until junk-bond financing became available for takeovers in 1984, significant acquisitions could be undertaken only by professional managers of established companies that could raise debt or equity financing in their own names. Consequently, diversification into unrelated businesses was an important objective in most takeovers, as it expanded the size of the managerial empire while reducing its vulnerability to the misfortunes of any one business. Corporate etiquette discouraged bust-up takeovers, however, so professional managers had little incentive to reduce the size of their peers' corporations.

Around 1984, the junk-bond market allowed entrepreneurs and deal-makers to play the takeover game. A Ronald Perelman or an Irwin Jacobs could finance takeovers through thinly capitalized partnerships or shell companies because junk-bond investors were willing to provide funds backed by the *targets'* assets.

MYTH OF UNDERVALUATION

Junk-bond financing has not only made the bust-up takeover possible, it has also restrained raiders from undertaking acquisitions, out of hubris or recklessness, that do not have demonstrable economic merit. Consequently, hostile takeovers have not produced the dire consequences that critics claim they do.

One common myth is that hostile takeovers displace managers of well-run companies whose stocks happen to be temporarily misvalued by an irrational stock market. In actuality, the targets of hostile takeovers are not particularly cheap.

On average, contested tender offers in 1985-86 were made at nearly three times the targets' long-run price-earnings ratio, over two times book value, and at a 40 percent premium to the lowest price reached in the year before the bid was made. Value Line, one of the rare stock-picking services that appears to consistently outperform the market, had deemed only 7 percent of all target stocks to be an attractive purchase shortly before takeover bids were made.

Nor were most of the targets stellar performers—70 percent of them had significantly lower five-year returns on equity than comparable firms. According to respondents in a Fortune survey, four-fifths had below-average management.

There is a good reason why raiders don't pick on good companies with temporarily depressed stocks. Junk-bond investors wouldn't finance raiders just to pick undervalued stocks for them; besides, it is unreasonable to expect to buy an entire company at throwaway price after paying an acquisition premium and incurring considerable legal expenses.

MYTH OF INVESTMENT CUTBACKS

A second myth about hostile takeovers is that the long term is sacrificed for short-term profits—raiders have to cut back spending on capital equipment, research and development, and new product development in order to meet onerous interest payments. This criticism, to, has little basis in logic or fact.

Only a fifth of the firms that were targets of hostile takeovers in 1985 and 1986 showed any investment cutback—in capital outlays, R&D, or advertising.

Furthermore, in only three cases did the evidence suggest that investment cutbacks were induced by takeover attempts; in all other cases, the cuts were consistent with industry experience and would probably have occurred with or without a tender offer. For example, Unocal and Phillips Petroleum did reduce exploration expenditures after they were attacked by T. Boone Pickens and Carl Icahn, but their cuts were of the same magnitude as those implemented by other firms in the oil industry.

Significant investment cuts due to hostile takeovers are unlikely because raiders pick on mature, low-growth firms. More than four-fifths of all targets in 1985 and 1986, for example, had chronically reinvested fewer funds in their operations than they generated. Only a fifth reported any R&D spending at all.

Raiders could not easily make a case to their investors for acquiring high-growth, high-investment businesses even if they wanted to. Growth firms are difficult to value because their stock prices are heavily weighted by profits that may be realized in the very distant future. Besides, the value of such firms is often tied to the motivation of a few key employees, which may be jeopardized in a hostile takeover. In fact, high-growth firms are much more likely to be swallowed by corporations that wish to diversify into a fashionable industry and for whom price is no object.

Nor can one sustain the argument that raiders are forced to slash investment because of the heavy debt burden they incur. Junk-bond financing in hostile takeovers is used as short-term bridge financing that is paid off as quickly as the individual businesses of the target are sold off—a course followed in all but three junk-financed takeovers in 1985 and 1986. Unlike investors in a leveraged buyout, investors in a takeover need to be convinced they will be paid off quickly; they usually have been.

ON WORKERS' BACKS?

A third myth that raiders' profits are achieved at the expense of the targets' employees, appears on the surface to have some basis. I did find evidence of layoffs, plant closings, and other "redistributive" effects following about two-thirds of hostile takeovers in 1985 and 1986.

And altogether different picture emerges, however, when the circumstances and extent of the apparent penalties imposed on target employees are examined.

First, large companies in the United States began reducing jobs about two to three years before raiders became a serious threat. Thanks to a severe recession in 1982 and a rising dollar, employment in Fortune 500 companies fell by 6 percent from 1981 to 1986. Companies such as AT&T, Exxon, and General Electric shed tens of thousands of jobs in the absence of any takeover threat. Like other large firms, targets had been shrinking their payrolls—on average by 7 percent between 1981 and 1985—before they came under attack.

Second, in about half of the cases where layoffs followed the takeover attempt, the evidence suggests that employment would have continued to decline with or without a change in control, because the targets and the industries they belonged to were facing severe profitability problems that bore no relation to the activities of the raiders.

CBS, for example, was being squeezed (along with ABC and NBC) between rising costs and declining viewership and revenues. Uniroyal was suffering, along with other U.S. manufacturers, from excess capacity and foreign competition. The breakdown of pricing discipline within OPEC was hurting Unocal and Phillips and everbody else in the oil industry.

Targets and non-targets alike in these industries were responding to adversity by cutting employment and capacity in 1986 and 1987. Exxon, for example, which has never faced the hint of a takeover threat, instituted a sweeping early-retirement program, while many private wildcatters shut down operations altogether. The link between hostile takeover attempts and job losses in companies like Unocal, Phillips Petroleum, Crown Zellerbach, and Uniroyal therefore seems tenuous.

In nine targets, an argument may be made that job losses arose out of (rather than followed) takeovers, but their magnitude borders on the trivial. In almost every case, the terminations involved a relatively small number—about a few hundred per target—of corporate and administrative staffs rather than the more numerous line or production employees.

The absence of extensive job cuts, too, is not a happenstance. Raiders are not in the rescue business, and do not seek to turn around troubled companies by cutting costs or wages. Assessing the probability of success of rescuing distressed firms is a risky proposition under any circumstances—rescuers usually find problems they had not initially anticipated. Attempting a turnaround through a hostile transaction, where the raider does not have access to the target's books, would be an extraordinary gamble. Furthermore, the average raider does not have the operating experience necessary to convince investors of his ability to pull off a rescue.

POLICY IMPLICATIONS

Although raiders have completely restructured several targets, their overall impact has not been great. The bust-up takeover remains a perilous, expensive exercise that only a handful of raiders have the competence and credibility to undertake. And while some diversified corporations have sold unrelated businesses in order to preempt hostile takeovers, the much-heralded divestiture wave is not significant in historic terms. Meanwhile, the flood of friendly diversifying mergers proceeds unabated—the Kodaks continue swallowing the Sterling Drugs and the Philip Morrises continue acquiring the Krafts.

Whatever small influence raiders have had on managers may well decline in the future if current trends in public policy on takeovers persist. Astute lobbying by corporate-level executives—the only group adversely affected by raiders—is putting the squeeze on bust-ups.

The state of New Jersey, for example, has passed a law that prohibits raiders from selling assets to pay back debt incurred in takeovers. Critics of hostile takeovers, for example Lloyd Cutler, have also called for federal legislation to limit the interest deduction for debt used in takeovers. And there have been suggestions that the ownership rights of "new" shareholders be restricted so that raiders would find it difficult to gain control of target companies.

This trend, the record shows, runs counter to the needs of a healthy and dynamic industry structure. Public policy should not be in the business of protecting corporate executives at the expense of their companies' shareholders and customers.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. PACKARD].

The amendment was rejected.

AMENDMENT OFFERED BY MR. PACKARD

Mr. PACKARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PACKARD: Page 4, strike lines 14 through 24.

Page 5, line 1, strike "(3)" and insert "(2)".

Page 5, line 4, strike "(4)" and insert "(3)".

Mr. PACKARD. Mr. Chairman, the argument was given on the last amendment that giving the Secretary of Transportation discretion would weaken the safety features of this piece of legislation. That is a very difficult argument to debate against, because none of us are interested in weakening the safety of our airlines.

I am persuaded, however, that the Secretary of Transportation would never approve of an acquisition, even having the discretion to do so, that would compromise safety in our airlines.

Be that as it may, in an effort to protect the safety mandates of this piece of legislation, which brought about most of the arguments against the last amendment, this second amendment is to allow those provisions to remain intact within the piece of legislation, but to strike those provisions that would mandate the Secretary from disapproving an acquisition if an airline were to down size or sell off assets.

This is all this amendment would do, is keep the safety features in this piece of legislation, delete those features where the Secretary would be under requirement and shall disapprove of an acquisition based upon the desires of an acquired airline to down size or to sell off assets. That is all this does.

I believe this is a good amendment. I did not call for a record vote on the last amendment. I intend to do so here because I believe this will clean it up, but still preserve the safety features, of which we heard a great deal about on the last amendment.

Mr. ANDERSON. Mr. Chairman, I rise in opposition to the amendment.

I oppose the amendment. The provision which this amendment would strike requires diapproval of an acquisition if the intent of the acquiring party is to make a major reduction in the size of the air carrier. The reported bill would permit the Secretary to approve an acquisition of this nature if there would be overriding public benefits. However, if there are no overriding public benefits, there is no reason to allow a corporate raider to come in and dismantle an air carrier. Accordingly, I urge defeat of this amendment.

□ 1610

Mr. CLINGER. Mr. Chairman, I rise in opposition to the gentleman's amendment which would strike from the legislation authority to disapprove an acquisition if such acquisition would lead to a major reduction in the size of a carrier. I agree with the gentleman that there may be situations where a reduction in the size of a carrier could improve competition or the company's economic health.

However, an amendment which we adopted in committee eliminates any potential problems by providing the Secretary with sufficient flexibility to permit downsizing to occur if the Secretary finds that it would be in the public interest. This is a very broad exception to the general rule and gives the Secretary ample flexibility to approve the reduction in size which may be necessary for safety or efficiency.

The gentleman's amendment would strip away one of the important protections in this legislation. The purpose of this bill is to give the Secretary authority to review airline acquisitions which may result in the dismantlement of companies purely for profit reasons. Given the small number of remaining air carriers, we should not foster continued concentration of the industry by permitting corporate raiders to sell off assets of companies which provide important public benefits.

I urge my colleagues to vote against this amendment.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, the provisions that we are striking from the bill in this amendment would be those that are not hostile takeovers, those that are the reputable airlines that are operating without normal buyout opportunities and proposals and would generally not fall in the category of the distressed or the troubled airlines.

It is not true that normal selling off and buying of assets is a natural and normal process within the business in the corporate world today?

Mr. CLINGER. Mr. Chairman, I would certainly agree. The only addition I would make is, as we have argued for the whole purpose of this bill, is that we have other considerations that come in when we are talking about in effect the public carrier. We do have safety involved in this, but I think the point is that I think the gentleman's amendment is unnecessary because the Secretary now has the authority to allow that normal process which he alludes to to go forward.

Mr. PACKARD. Mr. Chairman, if the gentleman from Pennsylvania [Mr. CLINGER] will continue to yield,

under much more strict regulations, I think, under the provision of this bill.

Mr. CLINGER. Mr. Chairman, I would grant that it is a stricter regulation, but I would urge the Members to vote against this amendment which I think adds unnecessary limitations on the Secretary's flexibility.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the point that the gentleman from California [Mr. PACKARD], the offerer of the amendment, made both in subcommittee and full committee and here on the floor in support of his amendment was one of genuine concern. It was a genuine concern for various conditions under which airline acquisition transactions may take place. There were concerns similarly expressed and perhaps even first expressed by the other gentleman from California [Mr. COX] who said in the course of our committee debate that there may well be circumstances where we have a carrier that may be subject to being split in two to provide more competition rather than less. Good point, valid point.

The gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the gentleman from Pennsylvania [Mr. CLINGER], and I thought this over, and we agreed that there could be a way in which this could be addressed in the bill, and so we agreed on language which now is in the bill that provides for a condition under which probable downsizing of a carrier can be approved where such disposal of assets would be in the public interest. It is clear in our committee report that we intend this very type of situation where such downsizing would increase competition. We have accommodated the concern of the amendment of the gentleman from California [Mr. PACKARD] in the bill already. We need not further refine, and define and deal with it in the way that the gentleman's amendment would do because it is already accommodated in the legislation.

Mr. Chairman, I urge a no vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. PACKARD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PACKARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 107, noes 306, answered "present" 1, not voting 19, as follows:

[Roll No. 326]

AYES—107

Archer	Ballenger	Bateman
Armey	Bartlett	Bliley
Baker	Barton	Broomfield
Brown (CO)	Holloway	Roth
Bunning	Hopkins	Schaefer
Burton	Hunter	Schiff
Callahan	Hyde	Schulze
Campbell (CA)	Ireland	Sensenbrenner
Chandler	James	Shuster
Coble	Kasich	Skeen
Combest	Kolbe	Slaughter (VA)
Cox	Kyl	Smith (NE)
Craig	Lagomarsino	Smith (TX)
Crane	Lewis (CA)	Smith (VT)
Dannemeyer	Lewis (FL)	Smith, Denny (OR)
DeLay	Livingston	Smith, Robert (NH)
DeWine	Lowery (CA)	Smith, Robert (OR)
Dickinson	Lukens, Donald	Solomon
Dornan (CA)	Madigan	Stangeland
Douglas	Marlenee	Stearns
Dreier	Martin (NY)	Stump
Emerson	McCrery	Tauzin
Fawell	McMillan (NC)	Thomas (CA)
Fields	Michel	Thomas (WY)
Frenzel	Miller (WA)	Udall
Gallegly	Moorhead	Upton
Gekas	Morrison (WA)	Vander Jagt
Goodling	Nielson	Vucanovich
Goss	Oxley	Walker
Gradison	Packard	Weber
Grandy	Paxon	Whittaker
Grant	Petri	Wylie
Hancock	Porter	Young (FL)
Hansen	Pursell	
Hastert	Rhodes	
Herger	Rogers	
Hiler	Rohrabacher	

NOES—306

Ackerman	Dicks	Hochbrueckner
Akaka	Dingell	Horton
Alexander	Dixon	Houghton
Anderson	Donnelly	Hoyer
Andrews	Dorgan (ND)	Hubbard
Annunzio	Downey	Huckaby
Anthony	Duncan	Hughes
Applegate	Durbin	Hutto
Aspin	Dwyer	Inhofe
Atkins	Dymally	Jacobs
AuCoin	Dyson	Jenkins
Barnard	Early	Johnson (CT)
Bates	Eckart	Johnson (SD)
Beilenson	Edwards (CA)	Johnston
Bennett	Edwards (OK)	Jones (GA)
Bentley	Engel	Jones (NC)
Bereuter	English	Jontz
Bevill	Erdreich	Kanjorski
Bilbray	Espy	Kaptur
Bilirakis	Evans	Kastenmeier
Boehlert	Fascell	Kennedy
Boggs	Fazio	Kennelly
Bonior	Feighan	Kildee
Borski	Fish	Kleczka
Bosco	Flake	Kolter
Boucher	Flippo	Kostmayer
Boxer	Foglietta	Lancaster
Brennan	Ford (MI)	Lantos
Browder	Ford (TN)	Laughlin
Brown (CA)	Frank	Leach (IA)
Bruce	Frost	Leath (TX)
Bryant	Gallo	Lehman (CA)
Buechner	Gaydos	Lehman (FL)
Bustamante	Gejdenson	Lent
Byron	Gephardt	Levin (MI)
Campbell (CO)	Geren	Levine (CA)
Cardin	Gibbons	Lewis (GA)
Carper	Gillmor	Lightfoot
Carr	Gilman	Lipinski
Chapman	Gingrich	Lloyd
Clarke	Glickman	Long
Clay	Gonzalez	Lowey (NY)
Clement	Gordon	Luken, Thomas
Clinger	Gray	Machtley
Coleman (MO)	Guarini	Manton
Coleman (TX)	Gunderson	Martin (IL)
Collins	Hall (OH)	Martinez
Condit	Hall (TX)	Matsui
Conte	Hamilton	Mazzoli
Cooper	Hammerschmidt	McCandless
Costello	Harris	McCloskey
Coughlin	Hatcher	McCollum
Coyne	Hawkins	McCurdy
Crockett	Hayes (IL)	McDade
Darden	Hayes (LA)	McDermott
de la Garza	Hefley	McGrath
DeFazio	Hefner	McHugh
Dellums	Henry	McMillen (MD)
Derrick	Hoagland	McNulty
Meyers	Quillen	Smith (NJ)
Mfume	Rahall	Snowe
Miller (CA)	Rangel	Solarz
Miller (OH)	Ravenel	Spence
Mineta	Ray	Spratt
Mollohan	Regula	Staggers
Montgomery	Richardson	Stallings
Moody	Ridge	Stark
Morella	Rinaldo	Stenholm
Morrison (CT)	Ritter	Stokes
Mrazek	Robinson	Studds
Murphy	Roe	Sundquist
Murtha	Ros-Lehtinen	Swift
Myers	Rose	Synar
Nagle	Rostenkowski	Tallon
Natcher	Roukema	Tanner
Neal (MA)	Rowland (CT)	Tauke
Neal (NC)	Rowland (GA)	Taylor
Nelson	Roybal	Thomas (GA)
Nowak	Russo	Torres
Oakar	Sabo	Torricelli
Oberstar	Saiki	Traficant
Obey	Sangmeister	Traxler
Olin	Sarpalius	Unsoeld
Ortiz	Savage	Valentine
Owens (NY)	Sawyer	Vento
Owens (UT)	Saxton	Visclosky
Pallone	Scheuer	Volkmer
Panetta	Schneider	Walgren
Parker	Schroeder	Walsh
Parris	Schuette	Watkins
Pashayan	Schumer	Waxman
Patterson	Sharp	Weiss
Payne (NJ)	Shaw	Weldon
Payne (VA)	Shays	Wheat
Pease	Sikorski	Whitten
Pelosi	Sisisky	Wilson
Penny	Skaggs	Wise
Perkins	Skelton	Wolf
Pickett	Slattery	Wolpe
Pickle	Slaughter (NY)	Wyden
Poshard	Smith (FL)	Yates
Price	Smith (IA)	Young (AK)

ANSWERED "PRESENT"—1

Green

NOT VOTING—19

Berman	Hertel	Roberts
Brooks	LaFalce	Shumway
Conyers	Markey	Towns
Courter	Mavroules	Williams
Davis	McEwen	Yatron
Florio	Moakley	
Garcia	Molinari	

□ 1634

Mr. HEFLEY, Mrs. ROS-LEHTINEN, Mr. DUNCAN, Mrs. MARTIN of Illinois, and Messrs. GIBBONS, PAYNE of New Jersey, LEWIS of Georgia, and COUGHLIN changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. COX

Mr. COX. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Cox: Strike out all after the enacting clause and insert the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE FEDERAL AVIATION ACT OF 1958.

(a) REVIEW PROCESS.—Title IV of the Federal Aviation Act of 1958 (49 U.S.C. App. 1371-1389) is amended by adding at the end thereof the following new section:

"SEC. 420. REVIEW OF CERTAIN ACQUISITIONS OF VOTING SECURITIES OF AIR CARRIERS.

"(a) GENERAL RULE.—No person shall, directly or indirectly, consummate the acquisition of any voting securities of a major air carrier or person who controls a major air carrier, unless the acquiring person has filed timely notification pursuant to the rules under subsection (c), and the Secretary has not entered a stop order covering such acquisition under subsection (b)—

"(1) if such acquisition is of 15 percent or more of the voting securities of the acquired person; or

"(2) if, before such acquisition, the acquiring person holds less than 15 percent of the voting securities of the acquired person and, as a result of such acquisition, the acquiring person would hold 15 percent or more of the voting securities of the acquired person.

"(b) STOP ORDER OR DISAPPROVAL.—The Secretary may enter a stop order against the consummation of a proposed acquisition of voting securities subject to this section pending further review for a period of up to 20 days, or may enter a final order of disapproval of such acquisition, if the Secretary finds—

"(1) that the acquisition is likely to weaken the acquired person financially to such an extent—

"(A) that a deterioration in the ability of the air carrier to comply with its established safety procedures would occur;

"(B) that the air carrier would be unable to take the steps necessary to continue to operate with the highest degree of safety; or

"(C) that the air carrier would be required to dispose of a substantial portion of its aviation-related assets in order to meet its financial obligations;

"(2) that the acquisition would result in a person who is not a citizen of the United States having power to exercise control over the air carrier; or

"(3) that the acquiring person has not provided or is not providing, in a timely manner, the documentary material and information required by the Secretary under subsection (c).

"(c) FORM OF NOTIFICATION.—Any person who seeks to acquire, any voting securities of a major air carrier shall file with the Secretary, at the same time such materials are required to be filed with the Securities and Exchange Commission and/or the Department of Justice, such disclosure documents as are presently required by the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, and the Hart-Scott-Rodino Antitrust Improvement Acts of 1976, as amended, in connection with such acquisition.

"(d) PROTECTION OF INFORMATION.—Any information or documentary material filed with the Secretary pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to Congress or to any duly authorized committee or subcommittee of Congress.

"(e) COMPUTATION OF VOTING SECURITIES.—For purposes of this section, the amount or percentage of voting securities of a person which are acquired or held by another person shall be determined by aggregating the amount of percentage of such voting securities held or acquired by such other person and each affiliate thereof.

"(f) DEFINITIONS.—As used in this section—

"(1) MAJOR AIR CARRIER.—The term 'major air carrier' means an air carrier with annual revenues of more than $750,000,000.

"(2) VOTING SECURITIES.—The term 'voting securities' means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 relating to Title IV of such Act is amended by adding at the end thereof the following new item:

"Sec. 420. Review of certain acquisitions of voting securities of air carriers.".

Mr. COX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. COX. Mr. Chairman, the amendment that I have offered is in the nature of a substitute.

The current bill, despite its good intentions, is overboard. It applies to all transactions. It applies to good transactions, to bad transactions, debt-financed transactions, cash-financed transactions. Thus, the bill throws out the baby with the bath water.

Moveover, the bill's purpose is to protect airline safety and guard against excessive foreign ownership, but, in fact, H.R. 3443 would require the Secretary of Transportation to disapproved for a number of reasons other transactions. The bill under consideration would require the Secretary of Transportation to disapprove transactions for a number of other reasons unrelated to safety or foreign ownership, including a rather vague standard of competitiveness. Frankly, government bureaucrats probably will not be very good judges of competitiveness.

My amendment would do the following two things: First, it would give the Department of Transportation stop order authority comparable to that already possessed by the SEC, and that stop order authority would empower the Secretary of Transportation in advance to stop transactions that would concern safety or foreign ownership. Other prefectly sound transactions, however, would not automatically be impeded for up to 50 days as is the case under the present bill.

Second, the Secretary of Transportation would judge transactions in advance on the basis of their effects on airline safety and current laws against foreign ownerhsip.

In short, my amendment accomplishes those things that the sponsors of H.R. 3443 say that we must do, halt unsound leveraged buyouts, protect airline safety, and prevent excessive foreign ownership. The amendment accomplishes these goals, however, without the needless disruption of our free and efficient capital markets that will be caused by the bill in its current form.

Mr. Chairman, I ask, therefore, that the House, please, join me in supporting this more workable substitute to H.R. 3443.

□ 1640

Mr. ANDERSON. Mr. Chairman, I rise in opposition to the amendment.

The amendment would weaken the procedures established by the committee's bill and would also weaken the substantive authority which we have given the Secretary.

With respect to substantive authority, the amendment eliminates several of the grounds established in the bill for the Secretary to disapprove an acquisition. The committee bill permits acquisitions to be disapproved if they would financially weaken a carrier to such an extent that there would be a substantial deterioration in the carrier's ability to compete in providing air transportation. The committee bill also requires disapproval when there would be a major reduction in the size of an air carrier and there are no overriding public benefits. The amendment now before us would eliminate these grounds for disapproval. I believe that there are sound public policy reasons for disapproving an acquisition which would substantially weaken one of the few major carriers now remaining in the industry. For this reason alone the amendment should be defeated.

The amendment also weakens the procedures established by the committee bill. Under the committee bill, the Secretary of Transportation may require an acquiring party to file whatever information the Secretary needs to evaluate an acquisition and see whether it meets the tests established by this bill. The amendment would apparently limit the Secretary to information filed for other purposes with the Securities and Exchange Commission and the Department of Justice. The amendment is also confusing about whether the acquisition can be carried out before the Secretary has had a reasonable opportunity to review it.

In short, Mr. Chairman, the amendment would weaken the bill, and I can't see any advantages to the new procedures established by the amendment. Accordingly, I urge defeat of the amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman is to be commended for his efforts to im-

prove this bill. However, I must oppose this amendment.

Currently, the bill lists several factors that the Secretary must consider in deciding whether to disapprove an airline acquisition. This amendment would eliminate several of those factors.

For example, the bill now requires disapproval if the debt load will lead to a substantial deterioration in the airline's ability to compete. This amendment would eliminate that provision.

In my view, this provision should not be eliminated. Recent hearings before our Aviation Subcommittee raised concerns about the state of competition in the airline industry. Given the high degree of concentration that already exists in the airline industry, it is important that DOT do all it can to ensure that healthy competition continues. This should include turning down acquisitions that could lead to the loss of a competitor in the event of a recession.

In addition, this amendment would eliminate the provision that protects against the breakup of a carrier. The elimination of this provision is also a mistake. There are cases where the parts of an airline may actually be worth more than the whole. This amendment would allow a corporate raider to take advantage of that and buy an airline simply to sell off its assets. Breaking up a carrier should be permitted only when that is in the public interest, as is now provided for in this bill.

Another problem with this amendment is that it changes the information that must be submitted by the acquiring person. The current bill gives DOT the authority to decide what information it needs to evaluate a proposed acquisition. This amendment would require DOT to use the information now submitted to the SEC and Justice Department under different laws. However, the analysis that DOT must make is different than the analysis required of SEC and Justice. Therefore, the information DOT would receive under this amendment may not be relevant. The current bill, which allows DOT to establish its own information requirements, is the better approach.

For these reasons, Mr. Chairman, I must oppose this amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from California, the offeror of the amendment, has considerable experience in the business world, and in the field of law, and in the area of financial transactions of the nature covered by this bill, and I respect the very honest effort the gentleman has made throughout our subcommittee hearing and through markup to propose some constructive, thoughtful amendments.

This one, however, does shift the focus of the bill. We provide for prior review, which Secretary Skinner said he needed, to deal with such transactions before they are consummated in this legislation, which in effect says stop, look and listen for a definitive period of time, very limited in the bill. It gives the Secretary certain grounds under which transactions must be reviewed, and if necessary rejected, whereas this amendment does go forward with the transaction unless DOT then raises some yield signs, caution signs, or halt flags. The deal could be consummated, all wrapped up, as the gentleman from Arkansas said, before the Department has time to act, and I do not think that is wise. The Secretary of Transportation did not think that it was wise and thought that we needed some advance warning, and in fact what our bill does is put the burden on the parties, whereas the gentleman's amendment puts the burden of action on the Secretary.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from California.

Mr. COX. Just a point of clarification, Mr. Chairman. The amendment does make it clear, and in fact it is the purpose of the amendment that the Secretary of Transportation will have authority in advance to look at these transactions. That is one purpose of the amendment.

Mr. OBERSTAR. I recognize that, but what I am concerned about is the way in which it provides this authority and shifts the responsibility for action.

I think the bill as reported and as pending before the Committee of the Whole provides the Secretary with exactly the authority that is needed, not more, not less. This amendment would undermine that authority, and I urge a "no" vote.

Mr. CAMPBELL of California. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I would like to draw the attention of my colleagues to the fact that this bill and this amendment will not be written on a blank slate, but rather on the background of the Hart-Scott-Rodino Act.

The Hart-Scott-Rodino Act already gives to the Department of Justice and the FTC 40 days and then followed by 30 days to spend in evaluation of the competitiveness of any merger of this size and any effect on competition, and that is the standard that would be applied in such evaluations, is to stop a merger with advance notice if there is any substantial lessening of competition. The 40 and 30 is more than adequate, more than is provided for in the bill itself, so the only additional element necessary would be for the safety considerations, which would not perhaps otherwise be picked up by Hart-Scott-Rodino, which is essentially devoted to competition and antitrust.

For the safety considerations, while that same 40- and 30-day clock is running, the amendment of my colleague from California provides adequate opportunity for the Secretary of Transportation to evaluate if the acquisition would cause a problem from the safety point of view. So I believe the problem that was identified by the last gentleman is indeed accurate, but is already taken care of by the Hart-Scott-Rodino Act and its provisions for a time period for waiting during which an injunction can be sought.

Let me also emphasize that this entire approach is quite unique in setting up mergers in the airline industry for a different standard of treatment than is accorded any other industry. We can have mergers in cement, in steel, in vital industries, indeed in industries of importance for national security, without an advanced time period in addition to the Hart-Scott-Rodino Act. Only in this one area does this bill provide for an additional time period.

Truly I believe the burden of proof has not been met that this area requires that special treatment if we adopt the admendment offered by my colleague from California.

So in conclusion, I rise in favor of this amendment. I believe it provides the additional waiting period necessary for the safety considerations, whereas we already have adequate waiting periods for the competitive situation.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words and to speak in favor of the amendment.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from California.

Mr. COX. Mr. Chairman, I note in conclusion the following: The bill before us, H.R. 3443, while it seeks to give additional authorities to the Secretary of Transportation, is in fact opposed strongly by the Secretary of Transportation.

□ 1650

It is opposed by the Secretary of the Treasury. It is also opposed by the President's Economic Policy Council.

The bill in its current form will, to a certainty, be vetoed.

While there is no certainty that this amendment, if adopted, will be approved by the President, will be signed into law, it has a much better chance.

If it is our effort here to seek to protect airline safety, to seek to give the Secretary of Transportation advance authority to look at transactions

which because of their finances might threaten airline safety or violate rules concerning foreign ownership, then we ought seriously to consider doing it this way, with stop-order authority that parallels what the SEC has, advance authority for the Secretary that does not interfere with all deals but strikes out only at those which are financially shaky. It gives him the tools that he needs to attack leveraged buyouts, if leveraged buyouts in fact threaten airline safety.

Mr. Chairman, I urge my colleagues to vote in support of this amendment.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. Cox].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COX. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 115, noes 300, answered "present" 1, not voting 17, as follows:

[Roll No. 327]

AYES—115

Archer	Hancock	Paxon
Armey	Hansen	Petri
Baker	Hastert	Porter
Ballenger	Hefley	Ravenel
Bartlett	Herger	Rhodes
Barton	Hiler	Roberts
Bateman	Holloway	Rogers
Bilirakis	Hopkins	Rohrabacher
Bliley	Hunter	Ros-Lehtinen
Broomfield	Hyde	Roth
Brown (CO)	Ireland	Schiff
Bunning	James	Schuette
Burton	Kasich	Schulze
Callahan	Kolbe	Sensenbrenner
Campbell (CA)	Kyl	Shaw
Carr	Lagomarsino	Shuster
Chandler	Leach (IA)	Skeen
Coble	Lewis (CA)	Slaughter (VA)
Combest	Lewis (FL)	Smith (TX)
Cox	Livingston	Smith (VT)
Craig	Lowery (CA)	Smith, Denny (OR)
Crane	Lukens, Donald	Smith, Robert (NH)
Dannemeyer	Machtley	Solomon
DeLay	Madigan	Stangeland
Dickinson	Marlenee	Stearns
Dornan (CA)	Martin (IL)	Stump
Douglas	Martin (NY)	Sundquist
Dreier	McCandless	Thomas (CA)
Duncan	McCollum	Thomas (WY)
Edwards (OK)	McCrery	Upton
Emerson	McMillan (NC)	Vento
Fawell	Michel	Vucanovich
Fields	Moorhead	Walker
Frenzel	Morrison (WA)	Weber
Gallegly	Myers	Whittaker
Gekas	Nielson	Wilson
Goodling	Oxley	Young (FL)
Goss	Packard	
Gradison	Parris	

NOES—300

Ackerman	Beilenson	Boxer
Akaka	Bennett	Brennan
Alexander	Bentley	Browder
Anderson	Bereuter	Brown (CA)
Andrews	Bevill	Bruce
Annunzio	Bilbray	Bryant
Anthony	Boehlert	Buechner
Applegate	Boggs	Bustamante
Aspin	Bonior	Byron
Atkins	Borski	Campbell (CO)
AuCoin	Bosco	Cardin
Bates	Boucher	Carper
Chapman	Johnson (CT)	Rahall
Clarke	Johnson (SD)	Rangel
Clay	Johnston	Ray
Clement	Jones (GA)	Regula
Clinger	Jones (NC)	Richardson
Coleman (MO)	Jontz	Ridge
Coleman (TX)	Kanjorski	Rinaldo
Collins	Kaptur	Ritter
Condit	Kastenmeier	Robinson
Conte	Kennedy	Roe
Cooper	Kennelly	Rose
Costello	Kildee	Rostenkowski
Coughlin	Kleczka	Roukema
Coyne	Kolter	Rowland (CT)
Crockett	Kostmayer	Rowland (GA)
Darden	LaFalce	Roybal
de la Garza	Lancaster	Russo
DeFazio	Lantos	Sabo
Dellums	Laughlin	Saiki
Derrick	Leath (TX)	Sangmeister
DeWine	Lehman (CA)	Sarpalius
Dicks	Lehman (FL)	Savage
Dingell	Lent	Sawyer
Dixon	Levin (MI)	Saxton
Donnelly	Levine (CA)	Schaefer
Dorgan (ND)	Lewis (GA)	Scheuer
Downey	Lightfoot	Schneider
Durbin	Lipinski	Schroeder
Dwyer	Lloyd	Schumer
Dymally	Long	Sharp
Dyson	Lowey (NY)	Shays
Eckart	Luken, Thomas	Sikorski
Edwards (CA)	Manton	Sisisky
Engel	Markey	Skaggs
English	Martinez	Skelton
Erdreich	Matsui	Slattery
Espy	Mazzoli	Slaughter (NY)
Evans	McCloskey	Smith (FL)
Fascell	McCurdy	Smith (IA)
Fazio	McDade	Smith (NE)
Feighan	McDermott	Smith (NJ)
Fish	McGrath	Smith, Robert (OR)
Flake	McHugh	Snowe
Flippo	McMillen (MD)	Solarz
Foglietta	McNulty	Spence
Ford (MI)	Meyers	Spratt
Ford (TN)	Mfume	Staggers
Frank	Miller (CA)	Stallings
Frost	Miller (OH)	Stark
Gallo	Miller (WA)	Stenholm
Gaydos	Mineta	Stokes
Gejdenson	Mollohan	Studds
Gephardt	Montgomery	Swift
Geren	Moody	Synar
Gibbons	Morella	Tallon
Gillmor	Morrison (CT)	Tanner
Gilman	Mrazek	Tauke
Gingrich	Murphy	Tauzin
Glickman	Murtha	Taylor
Gonzalez	Nagle	Thomas (GA)
Gordon	Natcher	Torres
Grandy	Neal (MA)	Torricelli
Grant	Neal (NC)	Traficant
Gray	Nelson	Traxler
Guarini	Nowak	Udall
Gunderson	Oakar	Unsoeld
Hall (OH)	Oberstar	Valentine
Hall (TX)	Obey	Vander Jagt
Hamilton	Olin	Visclosky
Hammerschmidt	Ortiz	Volkmer
Harris	Owens (NY)	Walgren
Hatcher	Owens (UT)	Walsh
Hawkins	Pallone	Watkins
Hayes (IL)	Panetta	Waxman
Hayes (LA)	Parker	Weiss
Hefner	Pashayan	Weldon
Henry	Patterson	Wheat
Hoagland	Payne (NJ)	Whitten
Hochbrueckner	Payne (VA)	Williams
Horton	Pease	Wise
Houghton	Pelosi	Wolf
Hoyer	Penny	Wolpe
Hubbard	Perkins	Wyden
Huckaby	Pickett	Wylie
Hughes	Pickle	Yates
Hutto	Poshard	Young (AK)
Inhofe	Price	
Jacobs	Pursell	
Jenkins	Quillen	

ANSWERED "PRESENT"—1

Green

NOT VOTING—17

Barnard	Berman	Brooks
Conyers	Garcia	Molinari
Courter	Hertel	Shumway
Davis	Mavroules	Towns
Early	McEwen	Yatron
Florio	Moakley	

□ 1710

The Clerk announced the following pair:

On this vote:

Mr. McEwen for, with Mr. Moakley against.

Messrs. CONDIT, HOCHBRUECKNER, and DARDEN changed their vote from "aye" to "no."

Mrs. MARTIN of Illinois changed her vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

□ 1710

The CHAIRMAN. Are there any further amendments?

Mr. PICKLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Subcommittee on Oversight of the Committee on Ways and Means, which I chair, held a hearing last week to look at mergers, acquisitions, and leveraged buyouts in the air transportation industry. This hearing was in followup to hearings held by the full committee earlier this year on LBO's.

During the subcommittee's hearing there were pension issues raised which are appropriate to share with the House at this time. We received testimony from the Pension Benefit Guaranty Corporation, the PBGC, which insures the defined benefit pension plans of over 40 million American workers. Any financial restructuring, including mergers, acquisitions, and leveraged buyouts, can effect the PBGC's exposure to claims. The PBGC testified that a number of large firms in the air transportation industry have underfunded pension plans, totaling approximately $2 billion. PBGC has filed a claim in Eastern's bankruptcy proceeding for $1.1 billion, and SEC filings indicate that Pan Am's pension plans are underfunded by over $550 million.

We have learned from experience that financially strained companies—not just airlines—have funded their defined benefit pension plans at a minimum level or not at all. During a merger, acquisition, or leveraged buyout, a company exchanges equity for debt, which may increase the chance that an airline will fail and increase the PBGC's risk of loss. Now, not all corporate restructuring is bad, some are beneficial to the Government's pension insurance system. But, PBGC's testimony before the subcommittee clearly indicates that, at this time, there is $2 billion in underfunded pension liability in the airline in-

dustry which may need to be assumed by the Federal Government. The Congress needs to be aware of this fact during deliberation of the amendment and H.R. 3443.

There were other tax issues discussed at the subcommittee's hearings on airline buyout activity which I would like to submit for the RECORD at this time.

The subcommittee looked at whether the tax treatment of debt versus equity, and the tax rules governing leasing expenses, net operating loss carryforwards, investment tax credit carryforwards, employee stock ownership plans, and depreciation, are contributing to the volume of takeover activity in the airline industry. The Department of the Treasury testified that the Tax Code provides no greater impetus for a takeover in the airline industry than it does in other industries. Therefore, it may be that the ways and means provisions in the reconciliation bill which deal with overall leveraged buyout activity could have a positive effect on the growth of buyout activity in the airline industry.

Now, the contention is made that the Tax Code is not primarily being used to finance mergers, acquisitions, and leveraged buyouts. That may or may not be the case. But I am certain that airlines would be less attractive to LBO's if we did not allow net operating losses and investment tax credits to be carried forward for 15 years, or if we did not allow 7 years, double declining, depreciation on airplanes. In addition, companies in general would be less attractive if we did not allow the deduction of interest on junk bonds; or if we did not allow the deduction up front of certain transaction and loan fees, which are enormous; and, if we did not allow the deduction as interest of the discount on certain original issue discount bonds. Further, I think something should be done about foreign ownership of our airlines and it may be that changing the taxation of these investments is one answer.

These are some of the things Congress could do, in some measure or to some extent. To not do anything and let the marketplace run its course is unrealistic, and not practical. Hopefully the administration will provide some leadership on these matters. And, I hope that our committee could produce some bill which has a positive bearing on the buyout activity. I truly believe that we cannot sit back while airlines and other transportation companies, our national assets, take on billions of dollars in debt. The risks are too great.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, because of the commitments I have made in my role as ranking Republican member of the Public Works Committee, I am going to vote in favor of the bill.

However, I do so without great enthusiasm. I am very disappointed that we have loaded the bill up with extraneous and special interest provisions and am very pessimistic about its future.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Minnesota, the distinguished ranking member and chairman of the Subcommittee on Aviation.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding. I share the gentleman's dismay that the two amendments adopted in the Committee of the Whole found such a large vote. They were unnecessary and address issues already provided for in the bill. There is adequate authority for the Secretary to do all those things.

But the bill is basically a good vehicle to address the issue of leveraged buyouts and adequacy of competition in the airline industry. I think those matters will undoubtedly be addressed and revised in conference with the Senate, and we will await another day to deal with them.

I do urge a strong vote in favor of this legislation.

Mr. Chairman, I want to thank the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for his participation and cooperation in every step of the way in this legislation and for the very valuable contributions the gentleman has made in every detail of this legislation, as well as the gentleman from Pennsylvania [Mr. CLINGER]. This has been a truly constructive bipartisan effort to reach a bill that is not just a statement, but a bill that is signable and workable and effective. I want to thank the gentlemen for their participation.

Mr. STANGELAND. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in very strong opposition to this bill.

Mr. Chairman, with great reluctance, I must oppose H.R. 3443 in its current form. The bill thrusts the Secretary of Transportation into the inappropriate role of second-guessing business decisions, sends the wrong signal to the marketplace, and gets us closer to reregulating the airline industry.

I appreciate the hard work and sincere efforts of my colleagues. The committee leadership is responding to a growing concern about leveraged buyouts and their potentially adverse impact on safety and industry competition. I have no problem with their intent to ensure airline safety. That is one of this committee's fundamental purposes and obligations to the public. However, I do have a problem with legislating in areas that in my view are best left to the private sector.

As recently stated by the Secretary of Transportation, H.R. 3443 would send the wrong message to the investment community, carriers, foreign governments, and the public. In many ways, our bill signals a retreat from deregulation, which has benefited consumers significantly over the years. Current law already provides the Secretary with authority to review safety, competition, financial fitness and citizenship requirements.

I also have concerns about some of the bases for the Secretary to veto proposed acquisitions. We may be straying too far from our traditional areas of concern when we address the sale of aviation-related assets. Like the administration, I believe we should as a general rule encourage the free flow of capital among countries and allow marketplace dynamics to determine the financial structure of airlines.

While opposing the bill, I do recognize some legitimate safety concerns may be involved in selected transactions. As H.R. 3443 moves through the legislative process, I will work with my colleagues to increase the Secretary's flexibility and provide a better balance between intervention into the marketplace and continued passenger safety.

Mr. MINETA. Mr. Chairman, I rise in support of the bill offered by my good friend and esteemed colleague, the chair of the Committee on Public Works and Transportation's Subcommittee on Aviation, the gentleman from Minnesota [Mr. OBERSTAR]. I commend him for his prompt action and leadership in bringing this bill before us today. I would also like to congratulate Mr. ANDERSON, Mr. HAMMERSCHMIDT, and Mr. CLINGER for their role.

This bill is most timely. The shape of the air travel industry in the United States is changing day by day. If you don't believe me, read the business section of your local newspaper from just about every day these last few months.

Most of the changes are occurring on Wall Street—not in technology, or services, or even in route structure. Make no mistake about it: The financial wheeling and dealing surrounding the ownership of air carriers will have a far greater impact on air travelers than any other factor we will face in the next decade.

A phrase often heard in the Aviation Subcommittee is that when we deregulated the airlines, we did not deregulate safety. Our intent was to strengthen our air travel industry. I am certain that other proponents of deregulation would agree with me that we would not have supported deregulation if we thought the changes it might cause would include decreased safety, fewer air travelers, or a weakening of the airline industry.

So far, we have not seen such deterioration.

However, as we watch the changes taking place in the air travel industry, we have a responsibility to review the impact of deregulation, and its interaction with other factors in the industry. We have a responsibility to review and a responsibility to act, when necessary, to keep this key economic and strategic component strong.

The hearings we held in LBO's of airlines proved that we had cause to be concerned about this phenomenon.

My strongest interests are in assuring that the DOT has the appropriate tools needed to do the job, that the decisions made in reviewing a proposed LBO are consistent, and that

they are not reliant upon the philosophy or interpretation of the Secretary of Transportation, whoever that may be.

The hearings also made apparent that it is both good policy and in the interest of fairness that any determination to approve or disapprove an LBO should be made before the deal is final. Yet prior approval is not required under current law.

H.R. 3443 mandates prior approval and creates consistent standards by which proposed LBO's will be judged. This legislation will strengthen our air carriers and serve our Nation's air travelers.

I urge my colleagues to vote yes for H.R. 3443.

Mr. COSTELLO. Mr. Chairman, the issue before us today is one of basic fairness to the airline workers of this country. The 1980's have become the years of huge, leveraged buyouts, where profits are the bottom line and other considerations are secondary.

In this game, American workers and their skills are traded like playing cards, assets to be bought or sold. The human considerations—meeting family needs, health insurance, paying for food and an education for their kids—fall by the wayside as superprofits and possession of companies take priority. But in the end, it is the workers who are laid off, their ranks diminished, their benefits cut, their salaries slashed, while the top executives sit back in their leather chairs and count the profits.

The DeFazio amendment will force those buying and selling companies to take into consideration the human side of a takeover. It would require the Transportation Department to take into account during a proposed stock acquisition the effects that the takeover would have on the wages, benefits, and number of airline employees. Too infrequently the consideration of the workers comes last, and it is their skill and training that ensures that American flights are safe for the flying public.

This amendment is a much-needed part of this legislation. There is no end in sight to these huge leveraged buyouts and junk bond takeovers, but with this amendment, there will at least be greater consideration given to those whose lives depend on the health and viability of their company. I urge my colleagues to strongly support the DeFazio amendment.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 1720

Accordingly the Committee rose; and the Speaker pro tempore [Mr. NAGLE] having assumed the chair, Mr. LEATH of Texas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3443) to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes, pursuant to House Resolution 275, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 301, noes 113, answered "present" 1, not voting 18, as follows:

[Roll No. 328]

AYES—301

Ackerman	Conte	Gonzalez
Akaka	Cooper	Gordon
Alexander	Costello	Grandy
Anderson	Coyne	Grant
Andrews	Craig	Gray
Annunzio	Darden	Guarini
Anthony	de la Garza	Gunderson
Applegate	DeFazio	Hall (OH)
Armey	Dellums	Hall (TX)
Aspin	Derrick	Hammerschmidt
Atkins	Dickinson	Harris
AuCoin	Dicks	Hatcher
Barnard	Dingell	Hawkins
Bates	Dixon	Hayes (IL)
Beilenson	Donnelly	Hayes (LA)
Bennett	Dorgan (ND)	Hefner
Bentley	Downey	Hoagland
Bereuter	Duncan	Hochbrueckner
Bevill	Durbin	Horton
Bilbray	Dwyer	Houghton
Bilirakis	Dymally	Hoyer
Boehlert	Dyson	Hubbard
Boggs	Eckart	Huckaby
Bonior	Engel	Hughes
Borski	English	Hutto
Bosco	Erdreich	Inhofe
Boucher	Espy	Jacobs
Boxer	Evans	Jenkins
Brennan	Fascell	Johnson (CT)
Browder	Fazio	Johnson (SD)
Brown (CA)	Feighan	Johnston
Bruce	Fish	Jones (GA)
Bryant	Flake	Jones (NC)
Buechner	Flippo	Jontz
Bustamante	Foglietta	Kanjorski
Byron	Ford (MI)	Kaptur
Campbell (CO)	Ford (TN)	Kastenmeier
Cardin	Frank	Kennedy
Carper	Frost	Kennelly
Chapman	Gallo	Kildee
Clarke	Gaydos	Kleczka
Clay	Gejdenson	Kolter
Clement	Gephardt	Kostmayer
Clinger	Geren	LaFalce
Coleman (MO)	Gillmor	Lancaster
Coleman (TX)	Gilman	Lantos
Collins	Gingrich	Laughlin
Condit	Glickman	Leach (IA)
Leath (TX)	Owens (UT)	Skelton
Lehman (CA)	Pallone	Slattery
Lehman (FL)	Panetta	Slaughter (NY)
Lent	Parker	Smith (FL)
Levin (MI)	Pashayan	Smith (IA)
Levine (CA)	Patterson	Smith (NE)
Lewis (GA)	Payne (NJ)	Smith (NJ)
Lightfoot	Payne (VA)	Smith (VT)
Lipinski	Pease	Snowe
Lloyd	Pelosi	Solarz
Long	Penny	Spratt
Lowey (NY)	Perkins	Staggers
Luken, Thomas	Pickett	Stallings
Machtley	Pickle	Stark
Manton	Poshard	Stenholm
Markey	Price	Stokes
Martinez	Quillen	Studds
Matsui	Rahall	Swift
Mazzoli	Rangel	Synar
McCloskey	Ray	Tallon
McCurdy	Regula	Tanner
McDade	Richardson	Tauke
McDermott	Ridge	Tauzin
McGrath	Rinaldo	Taylor
McHugh	Ritter	Thomas (GA)
McMillan (NC)	Robinson	Torres
McMillen (MD)	Roe	Torricelli
McNulty	Ros-Lehtinen	Traficant
Meyers	Rose	Traxler
Mfume	Rostenkowski	Udall
Miller (CA)	Roukema	Unsoeld
Miller (OH)	Rowland (CT)	Valentine
Mineta	Rowland (GA)	Vento
Mollohan	Roybal	Visclosky
Montgomery	Russo	Volkmer
Moody	Sabo	Walgren
Morella	Saiki	Walsh
Morrison (CT)	Sangmeister	Watkins
Mrazek	Sarpalius	Waxman
Murphy	Savage	Weiss
Murtha	Sawyer	Weldon
Nagle	Saxton	Wheat
Natcher	Schaefer	Whitten
Neal (MA)	Scheuer	Williams
Neal (NC)	Schneider	Wilson
Nelson	Schroeder	Wise
Nowak	Schumer	Wolf
Oakar	Sharp	Wolpe
Oberstar	Shaw	Wyden
Obey	Shays	Yates
Olin	Sikorski	Young (AK)
Ortiz	Sisisky	
Owens (NY)	Skaggs	

NOES—113

Archer	Hansen	Porter
Baker	Hastert	Pursell
Ballenger	Hefley	Ravenel
Bartlett	Henry	Rhodes
Barton	Herger	Roberts
Bateman	Hiler	Rogers
Bliley	Holloway	Rohrabacher
Broomfield	Hopkins	Roth
Brown (CO)	Hunter	Schiff
Bunning	Hyde	Schuette
Burton	Ireland	Schulze
Callahan	James	Sensenbrenner
Campbell (CA)	Kasich	Shuster
Carr	Kolbe	Skeen
Chandler	Kyl	Slaughter (VA)
Coble	Lagomarsino	Smith (TX)
Combest	Lewis (CA)	Smith, Denny (OR)
Coughlin	Lewis (FL)	Smith, Robert (NH)
Cox	Livingston	Smith, Robert (OR)
Crane	Lowery (CA)	Solomon
Dannemeyer	Lukens, Donald	Spence
DeLay	Madigan	Stangeland
DeWine	Marlenee	Stearns
Dornan (CA)	Martin (IL)	Stump
Douglas	Martin (NY)	Sundquist
Dreier	McCandless	Thomas (CA)
Edwards (OK)	McCollum	Thomas (WY)
Emerson	McCrery	Upton
Fawell	Michel	Vander Jagt
Fields	Miller (WA)	Vucanovich
Frenzel	Moorhead	Walker
Gallegly	Morrison (WA)	Weber
Gekas	Myers	Whittaker
Gibbons	Nielson	Wylie
Goodling	Oxley	Young (FL)
Goss	Packard	
Gradison	Parris	
Hamilton	Paxon	
Hancock	Petri	

ANSWERED "PRESENT"—1

Green

NOT VOTING—18

Berman	Early	McEwen
Brooks	Edwards (CA)	Moakley
Conyers	Florio	Molinari
Courter	Garcia	Shumway
Crockett	Hertel	Towns
Davis	Mavroules	Yatron

□ 1742

The Clerk announced the following pair:

On this vote:

Mr. Moakley for, with Mr. McEwen against.

Mrs. MARTIN of Illinois changed her vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3443, the bill just passed.

The SPEAKER pro tempore (Mr. NAGLE). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

(Mr. VENTO asked and was given permission to address the House for 1 minute.)

Mr. VENTO. Mr. Speaker, on rollcall No. 327, the Cox amendment to H.R. 3443, a bill relating to the review of the leveraged buyouts of airline companies, I am recorded as having voted "aye."

I intended to vote "no" on the Cox amendment and wish the RECORD to reflect this fact.

AUTHORIZING THE CLERK TO CORRECT ENROLLMENT OF H.R. 3443, REVIEW OF CERTAIN ACQUISITIONS OF VOTING SECURITIES OF AIR CARRIERS

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to correct section numbers and cross-references in the engrossment of H.R. 3443, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, with Senate amendments No. 53, 171, and 191 thereto, disagree to the Senate amendments, and request a further conference with the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. WALKER. Mr. Speaker, reserving the right to object, could I ask the gentleman from Iowa what the three issues are that we are going back to conference on?

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, amendment No. 53 had to do with the formula for distribution of State and local assistance grants; amendment No. 191 had to do with not appropriating funds to the State Department and the U.S. Information Agency before the conference is completed on the authorization bill; and amendment No. 171 had to do with repealing economic sanctions on Argentina.

Mr. WALKER. Further reserving the right to object, there will be some concern in this House given the fairly large vote we had the other day on the formula change. Can the gentleman advise us where we are?

Mr. SMITH of Iowa. If the gentleman will yield further, I am advised everybody is satisfied with the compromise that the Senate made.

Mr. WALKER. The authorizing committee in the House is satisfied with that particular provision?

Mr. SMITH of Iowa. I have been advised that is so.

Mr. WALKER. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The Speaker will appoint conferees upon his return.

PROVIDING FOR CONSIDERATION OF H.R. 1465, OIL POLLUTION PREVENTION, RESPONSE, LIABILITY, AND COMPENSATION ACT OF 1989

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 277 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 277

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two and one-half hours, with forty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, with forty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, with forty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space and Technology, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill (H.R. 3394), as modified by the amendments printed in section 1 of the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered for amendment by title instead of by section and each title shall be considered as having been read, and all points of order against said substitute, as modified, for failure to comply with the provisions of sections 302(c) and 302(f) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177) and with the provisions of clause 7 of rule XVI and clause 5(a) of rule XXI are hereby waived. It shall be in order to consider en bloc the amendments printed in section 2 of the report of the Committee on Rules, if offered by Representatives Studds of Massachusetts or Miller of California, and said amendments en bloc shall be debatable for not to exceed one hour, equally divided and controlled by the proponent and a Member opposed thereto, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, 7 months ago, on March 24, the supertanker *Exxon Valdez* ran aground in Alaska's Prince William Sound, dumping over 10 mil-

lion gallons of crude oil into one of America's most pristine waterways.

It was the largest oilspill in U.S. history.

After the first few days, the horror of the devastation began to sink in. Thousands of dead fish, sea otters, and fowl washed ashore in toxic muck.

By anyone's standards, the cleanup effort was a complete disaster. Indecision, slow response, and inadequate equipment plagued the operation from the beginning.

To date, Exxon has spent more than $1.3 billion—and the amount is still climbing.

We were told safe oil drilling was compatible with protection of the environment. We were told an oilspill wouldn't happen—and if it did, an elaborate contingency plan was in place to handle the mess.

We were not told the truth.

Exxon cared more about profits than protecting the environment.

But the days of corporate insensitivity to the environment are numbered.

Today, after 15 years of deadlock, we have an opportunity to finally pass comprehensive oilspill legislation that makes polluters pay.

Alaska's beaches are still black; wildlife continues to die. I hope this vote will show that the lessons learned are enduring. We will pass this legislation with overwhelming bipartisan support, greatly enhancing our ability to protect the environment in future spills.

H.R. 3394, together with the amendment by Congressmen MILLER and STUDDS which protects the right of States to enforce their own oilspill laws, will be an even better bill than the one passed by the Senate, 99-0.

Mr. Speaker, I feel a strong personal commitment to passage of this legislation. My district in Michigan borders Lake St. Clair and Lake Huron, and their connecting waterways. The beauty and fragile balance of nature's waters are evident in our daily lives.

The Great Lakes serve as a vital freshwater resource for communities and commerce, and are especially vulnerable to toxic spills.

After witnessing the tragedy and destruction in Alaska, it doesn't take much imagination to see what an oilspill would do to our way of life in the Great Lakes.

In Alaska, the casualties were wildlife and soiled beaches. In the Great Lakes region, whole communities would be devastated.

The contamination of drinking water, the threat to a dense population, and the huge economic costs caused by a major spill on the Great Lakes would make the Alaska disaster pale by comparison. The tides and currents that helped disperse Alaskan oil are not present on the Great Lakes. As a result, effective response time would be sharply reduced.

H.R. 3394 would establish an unlimited oilspill fund financed through a tax on oil companies. Damages covered include harm to natural resources, injury to real and personal property, as well as profits and earning capacity. Liability limits would be raised on tankers and facilities, and penalties for oil discharge would be increased.

H.R. 3394 would expand Federal authority in the event of a major spill, and require the President to ensure effective and immediate removal. Most importantly, seven regional strike teams to remove oil would be placed around the country—including one in the busy Great Lakes.

Pilot error was responsible for the wreck of the *Exxon Valdez.* Over the last 2 years, there have been 10 reported shipping accidents on the Great Lakes traced to pilot error.

All it takes is a moment of carelessness to ruin our environment for generations. As a further safeguard, this legislation toughens standards for pilots on the Great Lakes and stiffens penalties for violators.

I thank the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Michigan [Mr. DAVIS] for their help on this matter.

Today represents a victory for the American people—a victory against the incompetence and insensitivity of corporations who choose short-term profits over the priceless heritage of America's lands and waters.

The polluter must pay and the environment must be protected. Exxon's mistakes cannot be repeated.

Mr. Speaker, House Resolution 277 provides for consideration of H.R. 3394 to improve oilspill prevention and response.

The rule is an open rule providing for 2½ hours of general debate.

Forty minutes are to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries; 40 minutes by the Public Works Committee; and 40 minutes by the Committee on Science, Space and Technology. An additional 30 minutes of debate will be controlled by the Interior Committee.

The bill shall be considered under the 5-minute rule.

The rule makes in order H.R. 3394 as original text to be considered by titles. H.R. 3394 includes an amendment by Congressman MILLER of California printed in section 1 of the report accompanying this resolution. It provides special safeguards against spills of Alaskan oil.

Section 302(c) of the Congressional Budget Act, which prohibits consideration of legislation from a committee that has not filed its 302(b) budget allocations, is waived. And section 302(f), prohibiting subcommittee levels from being exceeded, is also waived.

In addition, the rule waives clause 7 of rule XVI prohibiting nongermane amendments, and clause 5(a) of rule XXI prohibiting appropriations in a legislative bill.

The rule makes in order en bloc amendments printed in section 2 of the report, if offered by Representative STUDDS or MILLER of California. The en bloc amendments are not subject to a demand for a division of the question. Debate on the en bloc amendments shall be limited to 1 hour, equally divided and controlled by a proponent and a Member opposed.

Finally, the rule provides for one motion to recommit with or without instructions.

House Resolution 277 is an open rule and imminently fair. I urge the adoption of this rule so we may proceed to consideration of this important matter.

□ 1750

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, I would like to commend the majority and minority leadership of each of the five committees that worked on this complex legislation.

We all share the common goal of preventing oil pollution and ensuring prompt and adequate cleanup of any spills which do occur. As is often the case, it is easier to agree on the general goal than on the specific measures to be employed. And when we get down to discussing the procedure under which the legislation will be considered the problem can become even more difficult.

In this case the Rules Committee has provided an open rule, but under this rule one amendment turns out to be more equal than the others. The amendment which received special treatment is one to be offered by the gentleman from California [Mr. MILLER]. The rule provides that the Miller amendment will be considered en bloc, even though it consists of four distinct amendments to four different sections of the bill. During the Rules Committee meeting on this bill, Mr. Speaker, I offered a motion to strike the language providing for en bloc consideration of the amendments. Unfortunately, the effort was rejected by a vote of 3 yeas to 6 nays. The vote was split along party lines. So as a result, the Miller amendment enjoys a slightly more advantageous position than other amendments. I am aware that amendments may be offered to strike individual parts of the Miller amendment, but I still think that amendment should not have been given any advantage. It should have

been treated just like any other amendment.

For my colleagues who are concerned about waivers of the Budget Act, I should also note that there are two waivers of the Budget Act included in this rule.

The Miller amendment which is given special treatment under this rule is designed to eliminate the State liability preemption provision from the bill.

Mr. Speaker, elimination of the State liability preemption provision from the legislation we are considering would be a major setback to our efforts to combat oilspills and would make it extremely difficult to achieve the goals of the bill.

This much needed comprehensive oilspill bill would replace the present crazy quilt of State laws with a single Federal regime for liability and compensation.

This will be a very strong, very effective piece of legislation—if we pass it in its present form without crippling amendments. The public would be protected by a Federal compensation fund providing full, fair, and swift compensation for everyone injured by oilspills. And the States would have an important, positive role in oilspill response.

It establishes, for the first time, an unlimited Federal compensation fund—involving no Government moneys, but funded entirely by the companies that receive oil by water. The fund ensures that every claim—for cleanup costs, environmental damage, or for economic injuries—will be paid in full down to the last dollar.

This is a tough bill—tough on the oil spillers and especially tough on the grossly negligent. The bill doubles and, in some cases, quadruples oilspill liability from the highest levels previously considered by the House. These increased limits provide plenty of motivation to operators to take extra care to prevent spills.

But there's no liability limit at all for those who are grossly negligent. And that includes operators who failed to report a spill or who did not comply with a Clean Water Act abatement order.

The bill also addresses the concerns of the States to protect their shores, to clean up spills and to compensate citizens for any economic damage. For one thing, it ensures that residents of States will be fully compensated for all economic damages much faster than is possible through State courts. That's true even if the spiller cannot be found, denies liability or is financially unable to pay damages. In addition, the Federal fund will compensate States for all taxes and royalties lost due to an oilspill.

Nevertheless, the Miller amendment would subject oil transport companies and other oil handling facilities to unlimited liability under State laws as well. If the proponents believe that will prevent oilspills and protect the environment, they've got another think coming.

The amendment could be a death sentence to many responsible operators—companies that may never have had an oilspill—literally forcing them out of business to be replaced by less responsible firms with fewer assets.

Sky's the limit liability under a multitude of inconsistent State laws could make the risks of waterborne oil transportation unmanageable and uninsurable.

Granted shipping operations have been going on under State liability laws for a number of years. But after the *Valdez* spill, it's another ball game. In the past, the costliest spill on record was less than $150 million and insurance was readily available to cover damages. But now firms are faced with multibillion dollar costs and no readily available insurance. Even the largest companeis would be betting the farm every time one of its tankers goes to sea.

Another potentially devastating result of the Miller amendment is that it would also expose oilspill response organizations to unlimited liability—disregarding the tradition of good samaritan laws in this country that protect those who respond to accidents.

Consider the consequences, without reasonable, reliable limits on liability, such organizations would have to weigh the economic risks of responding quickly and effectivley to a spill. As a parallel, what community would be able to maintain its volunteer fire department, without reasonable liability protection?

Let's hold the spillers responsible for the damage they cause and compensate those who suffer economically from a spill. But let's not sacrifice the Nation's ability to respond quickly and effectively to oilspills with unreasonable and counterproductive liability provisions.

By facing up to the need for preemption of redundant State liability laws, Congress can provide the Nation with a comprehensive, effective and environmentally sound oilspill law.

□ 1800

Mr. Speaker, since the rule provides en bloc consideration for the Miller amendment, I feel that gives the Miller amendment an unfair advantage.

Mr. Speaker, I request a "no" vote on the rule.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only I yield 2 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in reluctant support of the rule.

It does not include everything we on the Public Works Committee wanted. On balance, however, it does provide the opportunity to address a very important issue facing the Nation.

We need to move ahead on oilspill legislation. It is long overdue and this rule affords us that opportunity.

I strongly urge support for the rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. I thank the gentlman for yielding time to me.

Mr. Speaker, I rise today in opposition to the rule provided for H.R. 1465, the Oil Pollution Act of 1989.

As ranking Republican on the Committee on Public Works and Transportation, I feel that the Committee on Rules was unjust in making in order a package of en bloc amendments to this bill.

The leadership of all the committees having original jurisdiction over this bill—Merchant Marine and Fisheries; and my own committee, Public Works and Transportation—testified before the Rules Committee stating our opposition to waiving the points of order against en bloc amendments. Yet, the Committee on Rules ignored our testimony, and went ahead and specifically made in order a package of en bloc amendments to be offered on preemption and other issues.

The reason the entire leadership of the involved committees opposed waiving the points of order against en bloc amendments that include the preemption issue, was that we believe that this issue was so important, that it should be voted on, on its own merits, independent of the other issues contained in the en bloc amendments.

We felt that including the preemption issue with other issues en bloc, might simply complicate the issue.

This rule reduces the importance of the preemption issue.

In addition, I might point out that the rule is also a self-enacting rule. It incorporates an amendment from the gentleman from California [Mr. MILLER] as original text even though this amendment was never reported by the Interior Committee. In my view, this is inappropriate. The bills that come to the floor should be bills that are reported by committees. With this self-enacting rule, the House leadership and the Rules Committee are getting into the bill-writing process. This is wrong. It severely undermines the authorizing process.

Mr. Speaker, I strongly urge my colleagues to oppose this rule.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. I thank the gentleman for yielding time to me.

Mr. Speaker, I too join in support of the rule, but I do so with some reservation.

The time provided by the rule for general debate may not be adequate and its distribution could be different. In addition, I am concerned that some very important issues are to be handled in the form of one en bloc amendment.

However, this rule does make it possible to move this important piece of legislation. We must act quickly so we can resolve differences with the Senate, and have the bill become law this year.

The last thing we need is another disaster without a comprehensive oil-spill liability program in place.

Mr. Speaker, this rule is not what everyone wants, but I urge its passage so we can move on to an expeditious resolution of this longstanding issue.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I guess we should be grateful this is an open rule, and I guess I should be grateful for the fact that I got some time under it as the ranking member of the Committee on Science, Space, and Technology.

But I have got to tell you there are some things in this rule that anybody who serves on a committee of jurisdiction in this House has to be very concerned about.

First of all, if you are on the Budget Committee, you had better be very, very concerned about the fact that this waives the Budget Act. It does not waive the Budget Act in mere technical areas; it waives section 302(b) and section 302(f) and then throws out the germaneness rules of the House with regard to prohibiting appropriations in a legislative bill.

Those are fairly serious violations of the process around here by which we spend money.

Second, and I think this is a very serious issue, the Rules Committee has said that there is an amendment that ought to be included in the bill that was not passed out of any of the committees of jurisdiction. The Rules Committee just took it upon themselves to include it in the bill. It is not a minor amendment.

In fact, if you look in their report, it is 10 pages of legislative language that all of a sudden are slipped into the bill at the Rules Committee regardless of the fact that the committees of jurisdiction had not done any work in this regard.

Now, is that the kind of legislating we are supposed to do around here? It is an open rule. That is an amendment that could have been brought to the House floor and could have properly been debated on the House floor. But, no, what we did, we just slipped it into the rule.

Under the aegis of the Rules Committee, we now have a brandnew bill on the floor that did not come out of any of the authorizing committees.

That is wrong. That is not a process that we should be countenancing on the floor of the House of Representatives.

Finally, I agree with the gentleman from Tennessee who pointed out that yet another amendment was given special and preferred treatment under the bill. The Miller amendment that will be offered en bloc was singled out for preferential treatment despite the fact that it is an amendment that the committees of jurisdiction find very, very troublesome.

For that reason I would suggest to all Members who are concerned about the status of committees in this House anyhow and the way in which the power of committee chairmen and those who work daily in committees is being usurped by various powerful committees around the House, you should take a very good look at what is going on here. You are being done in with this rule, and I would suggest that you vote "no."

I thank the gentleman for yielding.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. I thank the gentleman for yielding.

Let me first say that I think we have got a good product for the House to debate tomorrow. I wish that the rule were just a little bit fairer on the procedures by which we are going to debate this important bill.

The committee which I chair, the Subcommittee on Coast Guard and Navigation, and the full Committee on Merchant Marine and Fisheries have spent many long hours on the bill. I think we have produced a good product for you together with the Committee on Public Works and Transportation and input of other Members of this body.

I think we are going to produce a bill stronger than the Senate bill, which in fact puts in place an extraordinary, I think, regime for the protection of the American waterways and harbors, inlets and bays and sounds to which and through which oil products are transmitted.

□ 1810

However, let me complain a bit about the rule. Unfortunately, I think the rule does something that Members ought to be aware of when they cast this vote. I intended to cast a no vote on the rule for this particular reason: The en bloc amendments that are permitted under this open rule, otherwise open rule, do, in fact, give preferential treatment to the so-called Miller amendment.

Now, the Miller amendment deals primarily with the issue of preemption, not the old preemption we used to debate on this floor, but a new kind of preemption. We do not preempt the State funds at all. They can decide how to spend their own money in the State funds, and decide to spend their money on prevention or cleanup or on paying claims, if it wants. We do not preempt the funds, but simply in the bill provide for a single liability regime. A single set of liability laws, so that all claim amounts will be working under the same set of rules so that the Federal fund we collect which could be well over a billion dollars would be paid out under the same set of rules for all the citizens of this country.

That makes sense. However, there are people who debate that, and would like to change that. I recognize and sympathize with the fact that there are differences of opinion on that. Unfortunately, as we debate this preemption issue, the Miller en bloc amendment will carry with it three other amendments, which the Committee on Rules has not allowed Members separate votes on, three other amendments which when we vote on preemption, Members will also be swallowing the fact that one amendment will be saying, for example, that the State courts, not the Federal courts, will determine these issues of Federal liability under the Federal regime. One of these amendments will say that there can be an additional local fund collected, presumably in a municipality around the coast, and additional cleanup funds that municipalities will have. That will not be preempted under the bill. A third amendment will allow something I think Members really ought to think about. Under the bill we will present to Members tomorrow, it says that the Coast Guard, in consultation with the State, will determine when the funds are finally used up to complete the cleanup. Under this amendment, it will say the State has the joint authority to say when the Federal funds have been used up sufficiently to provide cleanup.

Now, that is a pretty serious change in our procedures. All I am saying to Members is the fact that the rule does not give Members a right to vote individually on these issues, and that is wrong. I simply wish the Committee on Rules gave Members that right. Without that right I am obliged to cast a "no" vote.

Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, let me point out to the gentleman that he is correct. The rule allows the offering of that en bloc, and deals with four separate aspects, whether or not to pre-

empt States in various fields related to this.

However, let me say to the gentleman that the amendment, although offered en bloc, is amendable under the rule, and if a Member objects to one or more parts, an amendment to strike that part would be in order.

Mr. TAUZIN. Mr. Speaker, I understand, but there is no other amendment that is protected in this manner in the rule, only the Miller amendment. It does not just deal with preemption. The last part of this amendment, en bloc, which we will have to vote on altogether, the last part of it does not deal with preemption at all. It deals with the decision of whether or not we will have a Coast Guard in charge of the spill cleanup, making a decision in consultation with the States as to whether the Federal funds have been used efficiently to clean the products up, or whether the States are going to make that decision for the Federal funds.

That is a pretty different issue than preemption, of whether or not a State can have its own funds and its own liability system. My point to the gentleman is that we have included in the Miller en bloc amendment a number of issues, other than the simple issue of whether or not the State liability system ought to or ought not to be preempted. Whether we ought to have one system of liability or multiple system of liabilities.

Let me point out the only reason we have a bill is to end the system of all the separate funds and separate liabilities, all the separate controls that produce the product we had in Valdez when no one was in charge of the spill. The reason we have a bill is to put one fund out there, with one liability system. If Members do not like that and want to change that with a preemption vote, I understand that, but lumping all the other things together I think is unfair. I think for that reason I oppose the rule.

Mr. STUDDS. If the gentleman will continue to yield, this is the time to argue the merits of the substance, but if the gentleman is unhappy, as it sounds as if he is, with the fourth part of the en bloc amendment; namely, the subject on the section on the rules of standards, the gentleman is perfectly free to move to strike that.

Procedurally, the gentleman's rights are protected. Substantively, we can argue the merits tomorrow.

Mr. TAUZIN. It is not the same procedural rights as guaranteed other amendments on the floor. What the gentleman has done in the Committee on Rules is presented an en bloc situation where we vote for all those at one time. All we can do is move to strike one or the other, but we do not have the right on the floor to guarantee Members to have a separate vote on each. We have to win that right on the floor. The Committee on Rules could not give Members that right. The Committee on Rules treated every other amendment separately, in giving preferential status to the Miller amendment and the committee finds it objectionable, and asked the Committee on Rules not to do it. But nevertheless, the Committee on Rules decided this single amendment, combining four issues, State jurisdiction as well as others, would be lumped together. I find that objectionable.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Speaker, I think from a point of timeliness, I think this bill is warranted. The disasters such as Valdez, was something that made Members historically look at the fact that we have not worked with the coordination of the oil companies to do preventive medicine in terms of the next spill, whether it be in the Great Lakes or anywhere else in our continental boundaries.

Having said, that, the rule, be that as it may, as crafted, is an open rule. However, I would like to suggest also, we have a financial disaster in terms of the budget here, and I parallel it to this disaster. We have jumped on this issue. I think the jurisdictional committees have appropriately looked at some strong provisions in this bill and will debate the amendments—the Miller amendment and others independently. However, generally, the bill is well timed. It is appropriate for this Nation to address the oil disaster, and I think it is appropriate, that hopefully, we can get some coordination by developing a single account or trust fund with so much per barrel, whether it be 1.3 or 1.5, as is determined by the reconciliation committee to work out a resolution, to set aside some funds by the companies so that the polluters and those causing these accidents, can clean up and have an environmentally sound country.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Speaker, I will be very brief and rise in strong opposition to the rule. I support the bill.

I rise in opposition to the rule for the reasons stated by the gentleman from Tennessee, the gentleman from Arkansas, and the gentleman from Louisiana. I want to make the point that the title VIII that is added to this bill has not passed an authorizing committee of this House. It also is protected from a point of order against germaneness, which I think is unfair. I question whether or not it is germane, but is protected.

For those reasons, I urge a no vote on this bill.

Mr. Speaker, I support the bill which is the subject of the rule in question. I also note that the rule is basically an open rule as I and the other members of the leadership of the Public Works Committee and the Merchant Marine Committee requested. However, the rule also specifically rejects the express wishes of our two committees by providing for an en bloc amendment to be offered by the gentleman from Massachusetts [Mr. STUDDS].

Our committees realized that the preemption issue would be a very controversial issue that the Members of the House would need to carefully consider and address. We had hoped that this body would be given the opportunity to debate this very complicated issue without a lot of excess baggage. Unfortunately, the Rules Committee has elected to disregard our wishes and allow a complex amendment which unnecessarily complicates the preemption issue.

For these reasons, I urge my colleagues to defeat the rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I rise to oppose the rule for H.R. 1465, the Oil Pollution, Prevention, Response, Liability, and Compensation Act of 1989. It is an open rule that by its nature allows consideration of several important amendments. But for reasons cited by the gentleman from Tennessee, I must oppose its adoption.

Tomorrow, I will be offering two amendments to help ensure that all large oil tankers entering Puget Sound and heading north to Vancouver, British Columbia have a tugboat escort.

Under Washington State law, tugboat escorts are currently required for tankers heading to Washington ports. But when they are bound for Vancouver, BC, and travel between Vancouver Island and the San Juan Islands—Haro Strait—no such requirement exists—even though U.S. shoreline is endangered in the event of a spill.

The waters of this area and the San Juan Islands comprise one of the most beautiful and precious resources in the United States. It is unthinkable that we would do anything less than absolutely minimize the risk of damage by an oilspill.

I also would like to express my strong support for the Miller-Studds amendment which would strike provisions in the current bill preempting State oilspill laws.

Vital national environmental legislation has traditionally recognized the principle of allowing States to set their own laws, and govern themselves without Federal instrusion. This was the case in the Clean Air Act, the superfund bill, and Clean Water Act. State laws should not be preempted in this legislation.

I also want to express my support for a mechanism to ensure that oil tankers in the future will have double-bottom hulls.

The Coast Guard estimates that 25 to 60 percent less oil would have spilled in Prince William Sound if

there has been a double bottom on the *Exxon Valdez.*

In a previous study of vessel grounding incidents in U.S. waters, the Coast Guard concluded that double bottoms would have prevented penetration of the inner bottom—thereby preventing a spill—in 96 percent of the cases studied.

With the appropriate changes, this bill can do much toward limiting damage from future spills and preventing countless others.

□ 1820

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I rise in support of the rule. I would just like to say that I understand the objections of those who have spoken against the rule, and I understand the issue of fairness, and sometimes the lack of it. Sometimes it seems to those Members on the minority side of the aisle that there is a good deal of unfairness that happens around here.

But in this case, tonight, we are on the eve of a vote that we have been waiting for for years. I have served in the House now for 5 years, and for 5 years the Committee on Merchant Marine and Fisheries almost unanimously has stood together in favor of an oilspill liability bill.

Tonight we have the opportunity to put in place the rule that will permit us to hopefully adopt a bill to provide for that tommorrow.

On the issue of unfairness in terms of the en bloc amendment, let me just point out, as the gentleman from Massachusetts [Mr. STUDDS] did a few minutes ago, that this four part amendment which provides for the striking of the preemption language, the striking of the preemption language that has to do with State courts, the establishment of financial responsibility, that Members may feel one way or another about, and the determination as to who determines when the cleanup is finished, are all very valid issues.

The fact of the matter is if Members want a vote on any of those issues separately, they can have it. All they have to do is when we have the debate on the en bloc amendment, is rise to amend the amendment any way they want to.

So far as any unfairness is concerned, I believe that while Members may not like the way it is written exactly, given the alternatives that we have tonight, we certainly ought to move forward and adopt the amendment.

Mr. Speaker, let me talk to my Republican friends for just a minute. Shortly after the Valdez incident a group of Republicans got together and drafted an oilspill cleanup bill.

This bill has almost every provision that we wanted. We were interested in regional strike forces to beef up the oilspill cleanup capacity. It is in this bill.

We wanted federally approved training. That was a Republican idea. It is in this bill.

We wanted the equipment on hand to be subject to periodic tests. It is in this bill.

We wanted periodic drills, unannounced, supervised. We proposed that periodic drills be made available, be mandated, and it is in this bill.

We asked that all this be funded, not by the taxpayers, but by the industry, and it is in this bill.

Finally, we asked that there be a computerized network of equipment, personnel, and expertise made available so that when an oilspill occurs, we can get into that computerized inventory and get equipment that is necessary immediately to perform the cleanup, and it is in this bill.

So while Members may feel offended because there is an en bloc amendment here that we do not like, or at least some Members do not like parts of it, it seems to me that on balance, we ought to move forward and vote in support of this rule tonight and end up adopting sometime tomorrow the provisions that are in the bill that we proposed, that I believe go a long way toward improving the situation with regard to incidents such as that that occurred in Valdez, AK.

The SPEAKER, pro tempore (Mr. NAGLE). The Chair informs the gentleman from Tennessee [Mr. QUILLEN] he has 6 minutes remaining, and the gentleman from California [Mr. BEILENSON] has 15 minutes remaining.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to urge Members to vote no on this rule because of the unfair advantage given to the Miller amendments and also because of the Budget Act waivers. In conclusion I believe we should defeat the rule, and I urge the membership to vote no on the Miller amendment.

Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. Speaker, I thank the gentleman for yielding. I would urge my colleagues to support the rule. I think that the authorizing committees have a legitimate complaint. I sympathize with this complaint.

Mr. Speaker, we have been debating oilspill compensation and liabilities since I arrived in Congress almost 15 years ago. We still have not put the ball across the goal line. This is an important piece of legislation.

The gentleman from Louisiana [Mr.TAUZIN] has done a remarkably good job in improving the legislation over the years. We have a product now that all Members can be proud of. We do not have in place the protections we need. Not just the Valdez, but just this summer on the Delaware we found that we did not have the technology, we did not have the leadership. Nobody was in charge. We were using pitchforks to try to clean up heavy oil in the Delaware River that threatened the lower Delaware Bay because we did not have the mechanisms, the equipment. We did not have an inventory of what vessels were available. We did not have the know-how.

Mr. Speaker, this legislation is going to enable us to respond to spills of the magnitude of Valdez and the spill in the Delaware and enable us to do a far better job than we have done in years past.

I would say to my colleagues, we can complain about the rule, but the rule is not that bad. It is not that unfair. If Members have complaints about the four amendments en bloc, they can move to strike the three provisions in there. I do not know how we can be any more fair than that.

Mr. Speaker, I support the rule.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time, and move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. NAGLE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 154, not voting 41, as follows:

[Roll No. 329]

YEAS—238

Akaka	Byron	Durbin
Alexander	Campbell (CO)	Dwyer
Anderson	Cardin	Dyson
Andrews	Carper	Eckart
Annunzio	Carr	Edwards (CA)
Applegate	Clarke	Engel
Aspin	Clement	English
Atkins	Coleman (TX)	Erdreich
AuCoin	Collins	Espy
Barnard	Condit	Evans
Bates	Conte	Fascell
Beilenson	Cooper	Fazio
Bennett	Costello	Feighan
Bevill	Coyne	Flake
Bilbray	Crockett	Flippo
Borski	Darden	Foglietta
Bosco	de la Garza	Ford (MI)
Boucher	DeFazio	Gallo
Boxer	Dellums	Gaydos
Brennan	Derrick	Gejdenson
Browder	Dicks	Gephardt
Brown (CA)	Dingell	Geren
Bruce	Dixon	Gibbons
Bryant	Donnelly	Gilman
Bustamante	Downey	Glickman

Gonzalez	McCloskey	Sabo
Gordon	McCurdy	Saiki
Gray	McDermott	Sangmeister
Green	McHugh	Sarpalius
Guarini	McMillen (MD)	Savage
Hall (OH)	McNulty	Sawyer
Harris	Mfume	Saxton
Hatcher	Miller (CA)	Scheuer
Hayes (IL)	Miller (WA)	Schneider
Hefner	Mineta	Schroeder
Henry	Mollohan	Schuette
Hoagland	Montgomery	Sharp
Hochbrueckner	Morella	Shays
Hoyer	Morrison (CT)	Sikorski
Hubbard	Murphy	Skaggs
Hughes	Murtha	Skelton
Hutto	Nagle	Slattery
Jacobs	Natcher	Slaughter (NY)
Jenkins	Neal (MA)	Smith (FL)
Johnson (SD)	Neal (NC)	Smith (IA)
Johnston	Nelson	Smith (NJ)
Jones (GA)	Nowak	Smith (VT)
Jones (NC)	Oakar	Solarz
Jontz	Oberstar	Spratt
Kanjorski	Obey	Staggers
Kaptur	Olin	Stallings
Kastenmeier	Owens (NY)	Stark
Kennedy	Owens (UT)	Stokes
Kennelly	Pallone	Studds
Kildee	Panetta	Swift
Kolter	Patterson	Synar
Kostmayer	Payne (NJ)	Tanner
LaFalce	Payne (VA)	Taylor
Lagomarsino	Pease	Thomas (GA)
Lancaster	Pelosi	Torres
Lantos	Penny	Torricelli
Laughlin	Perkins	Traficant
Lehman (CA)	Pickett	Traxler
Lehman (FL)	Pickle	Udall
Levin (MI)	Poshard	Unsoeld
Levine (CA)	Price	Valentine
Lewis (GA)	Pursell	Vento
Lipinski	Rahall	Visclosky
Lloyd	Rangel	Volkmer
Long	Ravenel	Walgren
Lowery (CA)	Richardson	Watkins
Lowey (NY)	Rinaldo	Weiss
Luken, Thomas	Roe	Wheat
Machtley	Rose	Williams
Manton	Rostenkowski	Wise
Markey	Roukema	Wyden
Martin (NY)	Rowland (CT)	Yates
Martinez	Rowland (GA)	Young (AK)
Matsui	Roybal	
Mazzoli	Russo	

NAYS—154

Anthony	Edwards (OK)	Lent
Archer	Emerson	Lewis (CA)
Armey	Fawell	Lewis (FL)
Baker	Fields	Lightfoot
Ballenger	Fish	Livingston
Bartlett	Gekas	Lukens, Donald
Barton	Gillmor	Madigan
Bateman	Gingrich	Marlenee
Bentley	Goodling	Martin (IL)
Bereuter	Goss	McCandless
Bilirakis	Gradison	McCollum
Bliley	Grandy	McCrery
Boehlert	Grant	McGrath
Boggs	Gunderson	McMillan (NC)
Broomfield	Hall (TX)	Meyers
Brown (CO)	Hamilton	Michel
Buechner	Hammerschmidt	Miller (OH)
Bunning	Hancock	Moorhead
Burton	Hansen	Morrison (WA)
Callahan	Hastert	Myers
Campbell (CA)	Hayes (LA)	Nielson
Chandler	Hefley	Ortiz
Clinger	Herger	Oxley
Coble	Hiler	Parker
Coleman (MO)	Holloway	Parris
Combest	Hopkins	Pashayan
Coughlin	Houghton	Paxon
Cox	Huckaby	Petri
Craig	Hunter	Porter
Crane	Hyde	Quillen
Dannemeyer	Inhofe	Ray
DeLay	Ireland	Regula
DeWine	James	Rhodes
Dickinson	Johnson (CT)	Ridge
Dornan (CA)	Kasich	Ritter
Douglas	Kolbe	Roberts
Dreier	Kyl	Robinson
Duncan	Leach (IA)	Rogers
Rohrabacher	Smith, Robert (NH)	Thomas (WY)
Ros-Lehtinen	Smith, Robert (OR)	Upton
Roth	Snowe	Vander Jagt
Schaefer	Solomon	Vucanovich
Schiff	Spence	Walker
Sensenbrenner	Stangeland	Walsh
Shaw	Stearns	Weber
Shuster	Stenholm	Weldon
Sisisky	Stump	Whittaker
Skeen	Sundquist	Wolf
Slaughter (VA)	Tallon	Wolpe
Smith (NE)	Tauzin	Wylie
Smith (TX)	Thomas (CA)	Young (FL)
Smith, Denny (OR)		

NOT VOTING—41

Ackerman	Frank	Molinari
Berman	Frenzel	Moody
Bonior	Frost	Mrazek
Brooks	Gallegly	Packard
Chapman	Garcia	Schulze
Clay	Hawkins	Schumer
Conyers	Hertel	Shumway
Courter	Horton	Tauke
Davis	Kleczka	Towns
Dorgan (ND)	Leath (TX)	Waxman
Dymally	Mavroules	Whitten
Early	McDade	Wilson
Florio	McEwen	Yatron
Ford (TN)	Moakley	

□ 1851

The Clerk announced the following pair on the vote:

Mr. Moakley for, with Mr. McEwen against.

Mrs. BOGGS changed her vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BONIOR. Mr. Speaker, I was unavoidably absent for rollcall No. 329, the vote on House Resolution 277, providing for the consideration of H.R. 1465. Had I been present, I would have voted "aye."

NOTICE OF PROPOSED MOTION TO INSTRUCT CONFEREES ON H.R. 2712

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Madam Speaker, I would like to serve notice that I am going to propose a motion to instruct conferees on H.R. 2712, the conference committee having been constituted over 20 days.

My motion will be to instruct the conferees to agree to the provisions of the Senate amendment relating to Chinese fleeing coercive population control policies.

OIL POLLUTION ACT OF 1989

(Mr. JONES of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. JONES of North Carolina. Madam Speaker, tomorrow the House will consider the Oil Pollution Act of 1989. The rule will make in order as original text the provisions of the bill, H.R. 3394, a composite bill which is the combined product of three House committees. In addition, the rule contains language proposed by Mr. MILLER of California as a new title 8 to H.R. 3394.

I am placing in the CONGRESSIONAL RECORD at this point a section-by-section analysis of H.R. 3394 as introduced:

SECTION-BY-SECTION ANALYSIS, H.R. 3394, THE OIL POLLUTION ACT OF 1989

Sec. 1—Short title and table of contents.

This section provides the short title of the bill, the Oil Pollution Act of 1989, and a table of contents.

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

Sec. 1001—Definitions.

(1) "Act of God" is defined as an unanticipated grave natural disaster or other natural phenomenon, the effects of which could not have been prevented or avoided through due care or foresight.

(2) "Claim" is the description of a demand for compensation brought directly against a responsible party, a guarantor, or against the Fund. It is distinguished from a cause of action, which is a demand for compensation pursued through the judicial system.

(3) "Claimant" refers to any person, as defined in section 1001(23) who represents a claim for compensation under this Act.

(4) "Damages" is defined as injury to, destruction of, or loss of natural resources including the reasonable cost of assessment of those damages, and also damages for certain economic losses specified under section 1002(b) of the Act. The Committee believes, however, that using the commercial value of these resources to determine damages may be inappropriate and could therefore result in an underestimate of the extent of the damages.

(5) "Discharge" is intended to describe any type of release of oil, other than natural seepage. It is used in connection with the definition of "incident" in paragraph (11).

(6) "Exclusive economic zone" refers to the zone established by Presidential Proclamation number 5030, which extends 200 nautical miles from the baseline from which the territorial sea is measured.

(7) "Facility" is broadly defined to include any structure or group of structures, equipment or device used to explore, drill, produce, store, handle, transfer, process, or transport oil. Facilities include motor vehicles, rolling stock, or pipelines, but do not include vessels.

(8) "Foreign offshore unit" is defined as a structure or group of structures located in whole or in part in the territorial sea or on or over the continental shelf of a foreign country. The definition includes all types of units used for exploring for, producing, or transporting oil from the seabed beneath the foreign country's territorial sea or from the country's continental shelf.

(9) "Fund" refers to the Oil Spill Liability Trust Fund, established by section 9509 of the Internal Revenue Code of 1954.

(10) "Gross ton" means tonnage measured in accordance with the provisions of the International Convention on Tonnage Measurements of Ships, 1969.

(11) "Guarantor" describes any person who provides evidence of financial responsibility required for vessels, offshore facilities,

and oil carried in bulk as cargo on a vessel under section 1016. This evidence is to be provided in the form of insurance, surety bonds, guarantees, letters of credit, qualifications as a self-insurer, or in other forms acceptable to the Secretary.

(12) "Incident" includes any occurrence or series of occurrences involving vessels or facilities which result in the discharge or substantial threat of discharge of oil. "Incident" includes events which directly threaten, as well as those which result in, oil pollution. An incident is the event which triggers the designation and advertisement provisions of section 1014. Depending upon the event involved, an incident will also trigger the appropriate procedural requirements of section 1014, as well as removal action under other laws such as the Federal Water Pollution Control Act, the Intervention on the High Seas Act, or the Deepwater Port Act of 1974.

(13) "Indian tribe" means any tribe, band, or other organized group or community recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. The term does not include Alaska Native corporations.

(14) "Lessee" is defined as a person holding a leasehold interest in an oil or gas lease on lands beneath the navigable waters or on submerged lands of the Outer Continental Shelf, granted or maintained under the Outer Continental Shelf Lands Act.

(15) "Mobile offshore drilling unit" (MODU) is defined as a vessel other than a self-elevating lift vessel that is capable of use as an offshore facility. The definition is important for the purpose of allocating liability between the responsible party for a MODU and a lessee. This becomes significant in the event of an oil pollution incident involving the operation of a MODU on an area leased under the Outer Continental Shelf Lands Act. The allocation of liability in these circumstances is described in section 1004(b)(2).

(16) "National contingency plan" refers to the plan published under section 311(c) of the Federal Water Pollution Control Act or revised pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act. This plan provides for action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances and describes the manner in which Federal officials will respond to releases of oil or hazardous substances into the environment.

(17) "Natural resources" refers to living and nonliving resources, whether or not possessing commercial value, which are within the jurisdiction of the United States Government, including the resources of the exclusive economic zone, or any State, local, or foreign government.

(18) "Navigable waters" means the waters of the United States extending seaward to the limits of the territorial sea, as defined in (31) below.

(19) "Offshore facility" includes oil handling or exploration structures or groups of structures, located on lands beneath the navigable waters, as defined in section 2(a) of the Submerged Lands Act, 43 U.S.C 1301, on the Outer Continental Shelf, or licensed under the Deepwater Port Act. The definition includes all types of units for exploring for, drilling for, producing, or transporting oil from areas leased under the Outer Continental Shelf Lands Act, including pipelines. The definition does not include self-elevating lift vessels.

(20) "Oil" encompasses all petroleum, including fractions and residues of crude oil. It does include nonpetroleum oil or products such as whale or vegetable oil, nor does it include gases such a butane or propane, which do not pose any threat of causing oil pollution.

(21) "Onshore facility" means any facility, any portion of which is located in, on, or under any land within the United States, other than submerged lands.

(22) "Owner" is defined to include those persons who hold title to a vessel, facility, or oil carried in bulk as cargo on a vessel and those who, in the absence of holding a title, possess some equivalent evidence of ownership. It does not include certain persons possessing indica of ownership (such as a financial institution) who, without participating in the management or operation of a vessel or facility, or the transportation of oil, hold title either to secure a loan or in connection with a lease financing arrangement under the appropriate laws, rules, or regulations. For example, a financial institution which holds title primarily to secure a loan but also received tax benefits as the result of holding title would not be an "owner." For purposes of assessing liability under this Act, the owner, along with the operator, is considered to be the responsible party for oil discharges from any vessel or facility.

(23) "Person" includes individual and business associations and groups, as well as all other commercial, legal, or governmental entities.

(24) "Permittee" means a person entitled pursuant to the Outer Continental Shelf Lands Act to conduct geological exploration on the Outer Continental Shelf.

(25) "Public vessel" is a subclass of vessel that performs governmental functions for Federal, State, or local units of government. It is a significant definition for purposes of ascertaining liability. Public vessels are exempted from the liability provisions in section 1002 and preexisting law continues to apply. A vessel owned and operated by a governmental entity, however, is not necessarily a public vessel under this definition. A government-owned or operated vessel engaged in commercial service is not included in the definition and would be subject to the provisions of this Act. "Commercial service" means all types of trade or business involving the transportation of goods or persons but excludes those vessels performing service as combatant vessels.

(26) "Remove" or "removal" refers to removal of the oil from the water and shorelines, or taking such other actions as necessary to minimize damage to the public health or welfare, including damage to fish, shellfish, wildlife, and public and private property, shorelines and beaches. The term encompasses "response" type actions to contain, disperse, or dispose of spilled oil. If the injury to, or destruction of, fish and wildlife resources can be averted or reduced by a coordinated mitigation effort, the Committee intends for such an effort to be undertaken as part of the removal to minimize or avoid the environmental damage that ultimately results from the discharge.

(27) "Removal costs" are those costs incurred in cleaning up or arresting substantial threats of oil pollution. These include the costs of all reasonable measures taken to remove the discharged oil and prevent oil pollution from occurring, including those costs incurred by the Federal government under the Federal Water Pollution Control Act, the Intervention on the High Seas Act, or the Deepwater Port Act. Removal costs are recoverable under section 1002(b). The Committee intends that this provision be interpreted liberally, and that only measures which are clearly extravagant, clearly and predictably ineffectual, frivolous, or grossly out of proportion to the actual or threatened pollution should be excluded. Costs incurred by a State or local government seeking to ameliorate pollution damage caused by tar balls washing up on a beach used for recreational purposes, for example, would ordinarily be included within this defintion.

(28) "Responsible party" is the term used to identify the person or persons who themselves, or whose guarantors, may be held liable for damages caused by oil pollution. It is a term which may include more than one person. For example, it encompasses both the owner and operator of a vessel or a pipeline. With respect to a deepwater port, the responsible party will be the licensee. With respect to an onshore facility, a distinction is made for those which are located on lands owned by a Federal agency, State, municipality, commission, or political subdivision of a State, or any interstate body. In those instances, when the owner has transferred possession and right to use the property to another person by means of a lease, assignment, permit, or other similar agreement, the responsible party is that person or persons to whom such property has been transferred by agreement. In other instances, the responsible party for an onshore facility is any person owning or operating the facility. With respect to an offshore facility (other than a deepwater port), the responsible party normally will be the lessee or permittee of the area in which the facility is located. However, the holder of a right of use or easement granted pursuant to the Outer Continental Shelf Lands Act for the construction or maintenance of a facility will be the responsible party for oil pollution damage when such holder is a different party from the lessee or permittee of the area in which the facility is located. Where more than one party holds an interest, other than a security interest, in a lease, permit, or right of use or easement, all such parties will, as a unit, be considered the responsible party and under section 1002 of this Act and be considered strictly, jointly, and severally liable. Where the vessel or facility has been abandoned, the responsible party is the person who would have been responsible immediately prior to the abandonment.

(29) "Secretary" refers to the Secretary of the department in which the Coast Guard is operating.

(30) "Tank vessel" has the same meaning as the term has in section 2101 of title 46, United States Code.

(31) "Territorial sea" means the belt of sea measured from the line or ordinary low water along that portion of the coast in direct contact with the open sea and extending seaward a distance of 12 nautical miles. this provision describes the territorial sea of the United States and does not define the territorial sea of a foreign country. This definition is consistent with the proclamation issued by President Reagan on December 27, 1988, and its major effect under this Act is to expand the geographic area in which a spill occurs in the U.S. for which a foreign country may file claims.

(32) "United States" and "State" are used in a broad sense to cover government jurisdictions, including other territories and possessions over which the United States has jurisdiction.

(33) "Vessel" has the same meaning given that term in title 1 of the United States Code.

Sec. 1002—Elements of liability.

Subsection (a) establishes the basic statutory liability and cause of action for removal costs and damages. The responsible party for a vessel or facility from which oil is discharged, or which poses a substantial threat of discharge, is jointly, severally, and strictly liable for removal costs and damages specified in subsection (b). In addition, the owner of oil carried in bulk as cargo on a vessel is secondarily liable for these removal costs and damages.

The responsible party and the owner of the oil are liable only for removal costs and damages which directly result from a discharge, or the substantial threat of a discharge, of oil. Thus liability may exist if a vessel were aground and actions were taken to prevent the vessel from breaking up and spilling oil. No liability would result, however, from the presence of tanker traffic alongside waterfront property resulting in reduced property values because of a perceived potential for an oil spill.

Subsection (b) identifies the removal costs and damages which are compensable under the Act, and the claimants who may recover. The Committees intend that this subsection will be interpreted so that speculative costs and damages will not be permitted.

Subsection (b)(1) provides that removal costs incurred by the United States, a State, or an Indian tribe must be not inconsistent with the national contingency plan to be recovered. Costs incurred by others must be consistent with the national contingency plan. This distinction affects the burden of proof for demonstrating which costs are compensable under the Act. For government agencies, the burden lies on the responsible party (or the Fund) to demonstrate that a cost is not consistent with the national contingency plan. However, other claimants must demonstrate that the costs are consistent with the national contingency plan.

Compensable damages are addressed in subsection (b)(2). Damages are defined as injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing those damages. This category of damages may be recovered only by a named trustee for the resource. Subsection (b)(2)(B) allows recovery for injury to or economic losses resulting from harm to real or personal property by a person who owns or leases the property. A separate recovery for loss of subsistence use of natural resources is provided under subsection (b)(2)(C) for those claimants who are unable to use natural resources for subsistence as a result of a discharge of oil.

When injury to real or personal property occurs and the injury causes a reduction in tax revenues, royalties, rents, fees, net profit shares, or other means of income derived from that property, the Federal government or a State or local government may assert a claim for that lost revenue. Finally, subsection (b)(2)(E) allows recovery for loss of earnings due to injury to property or natural resources. The claimant need not be the owner of the property or resources to bring the claim for lost earnings, as required by common law. This means, for example, that an employee at a coastal motel may have standing to make a claim for damages even though the employee owns no property which has been injured as a result of an oil spill.

There is concern about the recovery of unjustified "speculative" damages, particularly with regard to lost profits and earning capacity. Some documentation of prior profits and earnings should be evidenced to support a claim. Of course, the Committees recognize that for new businesses such information will not be available; therefore, a basis other than prior profits and earnings must be used.

Subsection (c) specifically excludes from coverage by this Act discharges of oil which are authorized by a permit issued under Federal, State, or local law and discharges from a public vessel.

Subsection (d) provides that if a responsible party or the owner of oil can establish that a discharge of oil and the resulting removal costs and damages were caused solely by an act or omission of a third party, the third party is treated as a responsible party for the removal costs and damages. This section is used in conjunction with section 1003(a)(2), which provides a third-party defense to liability for responsible parties. However, third parties are not liable for removal costs and damages resulting from simple negligence, when the party acted at the direction of or under contract to the President in a removal action. In this case, the responsible party would be charged for those removal costs and damages attributed to the third party.

Subsection (d)(2) provides for a limitation on the liability of third parties. If the third party is the owner or operator of a vessel or facility, the third party's liability is subject to the limitations of liability under section 1004 of the Act. In other cases, the limit of liability for the third party is the limit which would have applied to the responsible party of the vessel or facility from which the discharge actually occurred.

Sec. 1003—Defenses to liability.

Subsection (a) exonerates the responsible party or owner of oil from liability imposed under section 1002 if the responsible party or owner can prove that the oil pollution incident resulted from an act of God, an act of war, hostilities, civil war, or insurrection. This defense is not available to a responsible party who failed or refused to report the incident where required by law in cases where he or she had reason to know of the incident.

A responsible party or the owner of oil may also escape liability if the responsible party can prove that the incident was caused solely by an act or omission of a person other than a responsible party, an employee or agent of a responsible party, or one whose act or omission occurs in connection with a contractual relationship with a responsible party. Again, failure or refusal to report the incident where required to do so will prevent a responsible party or owner from invoking this defense.

Subsection (b) partially exonerates a responsible party as to a particular claimant where the claimant has been negligent. This will encourage claimants to mitigate damages.

Sec. 1004—Limits on liability.

In certain instances, the liability of the responsible party or owner of oil is limited to specified levels under this section. The limitations apply to liability for removal costs and damages under section 1002, and any removal costs incurred by or on behalf of the responsible party. This provision will provide an incentive for the responsible party to immediately begin cleanup activities, which should result in a reduction of other potential damages.

For tank vessels, the liability for each incident is limited to: $1200 per gross ton, but not less than $10 million for vessels larger than 3000 gross tons, or $2 million for vessels of 3000 gross tons or less. For other types of vessels, the limits of liability are $600 per gross ton, but not less than $500,000. For offshore facilities (except deepwater ports), liability is limited to all removal costs plus $75 million. Finally, for other facilities (including a deepwater port), the limit is $350 million.

For tank vessels, a special rule applies which imposes secondary liability on the owner of the oil carried in bulk on the vessel as cargo. The Committees intend to ensure greater care in the selection of the transporter of, and greater interest in the safe transportation of, oil by owners of oil. For oil carried on tank vessels, liability is split between the owner or operator of the tank vessel and the owner of the oil, with the owner or operator of the vessel liable for the first 50 percent of the applicable amount of liability, and the oil owner liable for the remainder. It must be noted that the vessel or facility must expend an amount equal to their limit of liability before the owner of the oil is required to commence contribution. When the owner or operator of the vessel is not entitled to a limit of liability under subsection (a), and thus liable for the full amount of removal costs and damages under section 1002, the owner of oil is liable for all uncompensated removal costs and damages, if any. However, this liability is still limited to 50 percent of the amount of liability which would have applied to the tank vessel, as calculated under section (a)(1).

Subsection (b)(2) contains provisions which apportion liability for discharges of oil on or above the water among the various parties engaged in activities pursuant to the Outer Continental Shelf Lands Act. Subparagraph (A) contains the general rule that the owner or operator of a mobile offshore drilling unit (MODU) is liable for oil pollution incidents where the source of the pollution is above the surface of the water. Under these circumstances, a MODU used as an offshore facility is treated as a tank vessel. Under subparagraph (B), if the removal costs and damages from any incident described in subparagraph (A) exceed the responsible party's limit of liability, the MODU shall be treated as an offshore facility for the excess liability. The limitation on liability is reduced by the amount for which the responsible party is liable under subparagraph (A).

The limits on liability in this section do not apply if the incident was proximately caused by gross negligence or the willful misconduct of the responsible party, or if the responsible party (or an agent or employee) violates an applicable Federal safety, construction, or operating regulation. The "proximate cause" requirement is particularly important regarding the applicable Federal safety, construction, or operating regulations. For example, the fact that a shipboard fire extinguisher did not bear a current inspection certificate or if one of the life preservers on board was of a design which no longer met inspection requirements would not be sufficient cause to breach a responsible party's limit of liability if neither of the examples could have been the proximate cause of a spill.

In addition, the limits of liability do not apply if the responsible party fails or refuses to report an incident when required by law, when the responsible party knows or has reason to know of the incident. The limits also do not apply if the responsible

party fails or refuses to provide reasonable cooperation and assistance as requested by a responsible official in connection with cleanup activities. A final "break" for a limit of liability is a failure to comply, without sufficient cause, with an oil pollution abatement order issued under section 311(e) of the Federal Water Pollution Control Act.

Under subsection (d), the Secretary is authorized to adjust the limits of liability for onshore facilities by regulation, from a maximum of $350 million to a floor of $8 million, taking into account the factors specified. The Secretary is also directed to study the relative risks to the environment of oil transported to deepwater ports, and submit a report to Congress on these findings within a year. If the Secretary concludes from this study that the use of deepwater ports poses a lower risk of oil pollution than the use of other ports, the Secretary is directed to lower liability limits for both the deepwater ports and the vessels associated with the ports, as the Secretary determines appropriate. Liability limits for deepwater ports may be reduced from a maximum of $350 million to a floor of $50 million.

In addition, the Secretary must report to Congress on the general advisability of reducing liability limits within six months of the date of enactment of this Act.

Sec. 1005—Interest.

This section imposes liability on responsible parties for interest on amounts paid in satisfaction of claims under this Act over and above the limitation of liability involved under section 1004. Under section 1005, the responsible party or guarantor is liable for interest on the amount paid in settlement of a claim starting 30 days after the claim was presented, and running to the time when the claim is paid. However, when the responsible party or guarantor offers an amount equal to, or in excess of, the amount finally settled upon, and the offer is made within 60 days of the date upon which the claim was presented, there is no liability for any interest other than for the period between the time that the offer was accepted and the time the claim was paid. For a similar offer made after the pertinent 60-day period, the responsible party or guarantor will, in addition, be liable for interest for the period between the time the claim was asserted and the time the offer was made. Paragraph (3) provides for an exclusion of liability for interest for any period during which a claimant is not paid due to reasons beyond the control of the responsible party, if it would not serve the interests of justice to include that period. The interest involved under this section is to be calculated at the commercial rates specified in paragraph (4).

Sec. 1006—Natural resources.

This section concerns liability for injury to, destruction of, or loss of natural resources. Damages for injury to and destruction or loss of natural resources may be claimed by Federal, State, or foreign governments and Indian tribes for natural resources within the their respective jurisdictions. The jurisdiction of the Federal government specifically includes resources over which it has exclusive management authority, such as those covered by the Magnuson Fishery Conservation and Management Act of 1976.

The President shall designate the Federal officials who shall act as public trustees for natural resources under the Act. The Committees intend that the Federal trustees of natural resources designated in the national contingency plan (issued pursuant to section 311(c) of the Federal Water Pollution Control Act and section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980) or any subsequent revision also shall act as Federal trustees for natural resources under this Act. The Governor of each State shall designate State and local officials who may act as public trustees for natural resources under the Act, and shall notify the President of those designations. Indian tribes shall also designate trustees and inform the President of the designation. Foreign governments may also exercise this authority.

Trustees shall assess damages to natural resources under their trusteeship, and shall develop and implement plans for the restoration, rehabilitation, replacement, or acquisition of equivalent natural resources under their trusteeship. Federal trustees may also assess damages to natural resources under a State's trusteeship, upon request and reimbursement from the State. Plans must be developed and implemented after public notice, opportunity for a hearing, and consideration of all public comment. The Committees recognize that in designating Federal trustees, the President may also choose to have the Environmental Protection Agency act as an advisor to the trustees and as a coordinator of long-term restoration efforts.

Subsection (d) establishes the measure of damages for natural resources. The fundamental measure is the cost of restoration, replacement, or acquiring the equivalent of the damaged natural resource and the diminution in value of those resources pending restoration. This standard is the one reflected in the recent D.C. Circuit Court decision, Ohio versus Department of the Interior, No. 86-1526 (July 14, 1989). The basic goal is to restore the resources damaged by an oil spill. However, restoration may take several years to complete, and in the meantime, society has lost the use of those natural resources. By pending restoration, the Committees intend to encompass the time between the date the damage occurs and ending on the date the resources are fully restored. Where full restoration is not possible, the measure of damages shall be the lost value of the natural resources, discounted to present value.

Subsection (e) authorizes the President to issue regulations for the assessment of damages to natural resources. The President has two years from the date of enactment of the Act to promulgate these rules, and should consult specifically with Federal natural resource trustees on the content of these regulations. Other interested persons and State trustees should have an opportunity to participate in the rulemaking as well, as would be expected under the Administrative Procedure Act. This provision is intended to supersede, to the extent of its inconsistency and with respect to a discharge or substantial threat of a discharge of oil, section 301(c) of the Comprehensive Environmental Response, Compensation and Liability Act. Under this provision, the President delegated to the Secretary of the Interior the task of preparing regulations to assess damages to natural resources for both oil spills and releases of hazardous substances. A successful challenge to these regulations was recently sustained, and the regulations remanded in part in *Ohio v. Department of the Interior.* The measure of damages reflected in H.R. 3394 mirrors the holding of the court in that case.

In accordance with paragraph (2) of this subsection, any assessment of damages to natural resources made by a trustee in accordance with the new regulations issued by the President is entitled to have the evidentiary effect of a rebuttable presumption on behalf of that trustee in any administrative or judicial proceeding to recover damages under this Act.

Subsection (f) provides for the use of sums recovered by a trustee for damages to natural resources. The sums are to be retained by the trustee, are available to be expended without further appropriation, and are to be expended only to pay the costs of conducting damage assessments or restoring damaged resources in accordance with subsection (c). Amounts in excess of these purposes are to be deposited in the Fund. The concept that recovered monies should be directly available to the trustees is one enumerated in section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended in 1986 by the Superfund Amendments and Reauthorization Act. The purposes for which the trustees are able to retain the funds are limited to those which they are otherwise authorized to conduct under this Act. The Committees expect these monies to be retained by the trustees in separate accounts and not, in the case of Federal trustees, deposited into the U.S. Treasury as general receipts or into the Fund, unless they are clearly excess. Unless the recovered money is made available to the trustees, they cannot implement their responsibilities to conduct damage assessments and perform restoration. This has been a particular problem for the trustees in implementing similar responsibilities under CERCLA and one that the Committees do not expect to be repeated in implementing this Act.

Subsection (g) authorizes the assessment of a civil penalty in those cases in which the damaged natural resource cannot be fully restored, replaced, or rehabilitated and for which no equivalent can be acquired. This approach is consistent with that recommended by the Administration and reflects the Committees' view that responsible parties should be penalized for lost or injured natural resources in those cases in which restoration is not possible. The civil penalty authorized by subsection (g) is intended to be separate from the measure of damages for loss of natural resources and not to duplicate these damages.

The maximum amount of a civil penalty is the greater of one-half of the amount for which the person otherwise may be held liable under section 1002 of this Act of $1 million.

The penalty shall be assessed by the President in consultation with the appropriate trustees. The bill enumerates those factors which the President must take into account in determining the amount of the penalty, including the person's culpability and the extent of efforts taken to prevent the spill or mitigate damages. The President is authorized to compromise, modify, or remit any civil penalty and, if necessary, to refer the penalty to the Attorney General for collection. State and Indian tribe trustees may also request collection assistance through the Attorney General.

The limitation of liability under section 1004 is waived for the assessment of a civil penalty under this title.

The sums received from the assessment of civil penalties under this subsection are to be deposited in the Fund and made available for the general enhancement of the ecosystem of which the destroyed natural resource was a part.

Sec. 1007—Recovery by foreign claimants.

Under section 1007, foreign claimants are given rights comparable to United States claimants, provided they meet certain conditions. A foreign claimant is a person who resides in a foreign country, the government of a foreign country, or any agency or political subdivision of a foreign country. To be eligible to recover under this section, a foreign claimant must first seek compensation for damages from the International Fund, when available; the claimant must not have compensated through some other means for his or her loss; and recovery must be authorized by treaty or executive agreement, or the country involved must provide a comparable remedy for United States claimants in similar situations. In the case of oil being transported from the Trans-Alaska pipeline to a port in the United States, a Canadian resident may assert a claim under specified, less stringent conditions. This provision substitutes for a similar provision in section 204(c) of the Trans-Alaska Pipeline Authorization Act, which is repealed by this Act.

Foreign claimants may recover only if the discharge of oil was from a facility, a vessel in the navigable waters of the United States (which includes the 12-mile territorial sea), or from a tank vessel that carried oil originally received at the Trans-Alaska pipeline terminal and the incident occurred prior to delivery to a U.S. port, resulting in the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline of a foreign country.

Sec. 1008—Recovery by a responsible party or a cargo owner.

Section 1008 allows a responsible party or the owner of oil carried on a tank vessel to assert a claim for removal costs and damages if the responsible party can show a defense to liability under section 1003, or if he or she has reached a limit of liability under section 1004. In the latter case, the responsible party's or owner's right to compensation is restricted to the excess cost incurred above the limit to which he or she is entitled.

The purpose of this provision is two-fold. First, it removes any disincentive to undertake the cleanup of an oil spill based on concerns of potential liability; and, second, it serves as an encouragement to continue cleanup activities, even after the limitation of liability has been reached, by affording a basis for compensation of the cost of cleanup in excess of the limitation. A guarantor would have the same rights as subrogee to the responsible party or owner of the oil.

Sec. 1009—Contribution.

This section authorizes causes of action for contribution for any removal costs or damages against any person who is liable or potentially liable under the Act. An action for contribution under this subsection must be brought within three years after the date a court judgment is entered for recovery of removal costs or damages, or within three years of the date of entry of a judicially approved settlement with respect to removal costs or damages.

Sec. 1010—Indemnification agreements.

Section 1010 provides that a party may not transfer the liability imposed under this section to any person from serving as an insurer or guarantor, pursuant to this Act, nor would it prevent a party who is held liable from taking appropriate legal action against any person whose negligence caused or contributed to the incident which resulted in that liability. This subsection also makes it clear that the prohibition against transferring liability by agreement does not preclude agreements in which another person may agree to pay for all or part of the liability to which a party may be subject.

Subsection (a) preserves to parties subject to liability under this Act all rights which they may have, under any other law, to proceed against any third party. This provision insures that a party will not be barred from recovering against a third party whose negligence actually caused the incident which resulted in liability being imposed under this Act. When a guarantor is involved, the guarantor would succeed, through subrogation, to the rights of the party for whom he or she has provided evidence of financial responsibility. Third parties under the direction of the President, or under contract to the Federal government, who are involved in cleaning up a spill, may not be sued by a responsible party unless the third party was grossly negligent or engaged in willful misconduct.

Sec. 1011—Consultation on removal actions.

Section 1011 ensures that the appropriate trustees will be consulted on removal actions to be taken in connection with an oil pollution incident. Removal actions shall be considered complete when so determined by the Secretary in consultation with the governors of affected States.

Sec. 1012—Uses of the fund.

Subsection (a) enumerates the purposes for which money can be expended from the Oil Spill Liability Trust Fund (Fund) established by section 9509 of the Internal Revenue Code. The Fund is directly available to the President for seven categories of activities. By "directly available," the Committees intend only that these uses can be paid from the Fund prior to the presentment and payment of a claim under section 1013 of this Act. Appropriations from the Fund must still be made for these uses.

The seven categories include: (1) the payment of removal costs (and monitoring) incurred by Federal authorities; (2) the costs incurred by Federal, State (or Indian) trustees in assessing damages to natural resources and for developing restoration plans; (3) the payment of State officials for their removal costs up to the limits established in subsection (c); (4) the payment of removal costs and damages from oil discharged by a foreign offshore unit; (5) the payment of administration, personnel, and enforcement expenses, including several reports and studies authorized by the Act, and the research program in title VII of the Act; (6) payments to the International Fund; and (7) all otherwise uncompensated removal costs and damages. This last category must necessarily involve the claims procedures found in section 1013 of the Act.

In providing that the Fund can be used for the payment of removal costs, a term defined in the bill to include costs incurred under subsection (c), (d), (e), or (1) of section 311 of the Federal Water Pollution Control Act, the Committees specifically intend to permit the Fund to be used to pay for: the establishment and maintenance of at least seven Coast Guard strike teams, including the reestablishment of the Atlantic Strike Team at Elizabeth City, North Carolina, and one in the Great Lakes; systems designed to help prevent spills such as the Coast Guard's Vessel Traffic Service Systems; and government-sponsored research and development to improve upon existing spill prevention and cleanup technology. The Committees intend, by paragraph (2), to provide Federal, State, and Indian trustees ready access to Fund for the reasonable costs of assessing natural resource damages and for the development of restoration plans. A major impediment to trustees carrying out their responsibilities under the existing Clean Water Act as well as the Comprehensive Environmental Response, Compensation and Liability Act has been the lack of up-front funding for damage assessments. This provision is intended to remedy that problem, at least with respect to oil spills.

Subsection (a)(7) provides that the Fund is otherwise available for the payment of claims for removal costs and damages which have not been paid through the claims procedures of section 1013. Thus, if a spiller or owner or oil refuses or is unable to pay a cost for which it is otherwise liable under the Act, the Fund is the back-up remedy. In this way, claimants will be made whole.

Subsection (b) recognizes a defense to liability for the Fund. The liability of the Fund is reduced to the extent that the incident or loss is caused by the negligence of the claimant.

Under subsection (c), the President may promulgate regulations designating Federal officials who may obligate the Fund for authorized purposes. Under subsection (d), the President may also delegate the authority to obligate the Fund or to settle claims to State officials operating under a cooperative agreement with the Federal government. Subsection (d) directs the President to publish proposed regulations within six months of enactment of this Act outlining procedures to be used in obligating the Fund. Final regulations must be published within three months after the close of the regulatory comment period. In accordance with these regulations, the Governor of each State, or the Governor's designee, is authorized to obligate the Fund for up to $250,000 for removal costs not inconsistent with the national contingency plan, which are required for the immediate removal of oil pollution. The Governor must notify the President within 24 hours of obligating the Fund.

Pursuant to subsection (e), the United States Government acquires, by subrogation, all rights of claimants who receive payment from the Fund to recover the payment from the responsible party.

Subsection (f) requires the Comptroller General to submit to Congress a complete audit report on the Fund one year after the enactment of the Act, and later as appropriate.

Subsection (g) provides that claims against the Fund for removal costs must be presented within three years of the completion of removal action. Claims against the Fund for damages must be presented within three years of the date the loss and its connection with the discharge were reasonably discoverable, or in the case of natural resource damages, the date (if later) on which final regulations are promulgated under section 1006(e) of the Act.

Subsection (h) prohibits double payment from the Fund for any removal costs or damages paid from the Fund.

Finally, subsection (i) requires that any obligation of the Fund be in accordance with the plans for natural resource restoration, rehabilitation, replacement, or acquisition required to be developed by trustees under section 1006. This requirement does not apply in situations requiring immediate action to preserve natural resources.

Sec. 1013—Claims procedure.

Removal costs and damages may be compensated by payment from a responsible party or guarantor, or from the Fund. Subsection (a) provides that claims shall be pre-

sented first to the responsible party, the owner of the oil (where appropriate), or their guarantors; except in those situations described in subsection (b).

In accordance with subsection (b), claims may be presented directly to the Fund when the Secretary has advertised the claims procedure under section 1014(c). This would occur under three circumstances: (1) when the responsible party and guarantor deny the source designation made by the Secretary; (2) when the discharge was from a public vessel; or (3) when the source of the discharge is unknown. Claims may also be asserted directly against the Fund by the responsible party qualified under section 1008. This means a responsible party may assert a claim for removal costs directly against the Fund, either when he or she has successfully asserted a defense to liability or when claiming removal costs which, taken with other claims, are in excess of the responsible party's limitation of liability. Claims for removal costs incurred by a State may also be presented first to the Fund, as well as claims for removal costs and damages incurred by a U.S. claimant resulting from a discharge from a foreign offshore unit.

Subsections (c) and (d) provide for a second means of obtaining compensation. Subsection (c) allows for claims against the Fund when attempts to reach a settlement with the responsible party were unsuccessful. The preconditions for this second means of compensation are: (1) the denial of all liability for the claims by the person to whom the claim was presented; or (2) the passage of 90 days after presentation of the claim or advertisement by the Secretary, whichever occurs later. At this point, the claimant may elect to commence an action in court, but once having decided to pursue the claim in court, the claimant cannot come back and assert a claim against the Fund while the legal action is pending.

Subsection (d) also permits a claim against the Fund when claimants are not adequately compensated by the responsible party, the owner of oil carried in bulk as cargo on a vessel, or their guarantors. Failure to receive full compensation could occur for a number of reasons. First, the responsible party or owner of oil may have successfully invoked a limit of liability under section 1004 and the claim exceeds that limit. The balance would be recoverable against the Fund. Second, for some other reason, such as insolvency, the responsible party, the owner of the oil, or their guarantors may not be able to satisfy all claims. Uncompensated claims could, therefore, be brought against the Fund, which serves as a backup for such situations.

Subsection (e) directs the President to promulgate regulations to govern the presentation, processing, settlement, and adjudication of claims against the Fund. These regulations should prescribe documents to be transmitted to the Fund in support of a claim first presented to a responsible party and subsequently to the Fund. These regulations should also establish procedures and standards for the prompt appraisal and settlement of claims against the Fund. Since the primary purpose of this Act is to guarantee that claimants will receive rapid and equitable compensation for economic losses suffered as the result of an oil spill, the Committees expect that the claims settlement procedures established by the President will be formulated with this purpose in mind. Particular care should be taken to avoid unnecessary procedural delays or overly complicated bureaucratic processes. Claimants should be afforded from the beginning a clear idea of their rights and obligations, and the administrative process established should recognize that severe hardships may result for some claimants if there are delays in the settlement of claims.

Sec. 1014—Designation and advertisement.

This section sets out the procedure for claims that arise from an oil pollution incident. The first step in the process is the dissemination of information about the incident. The first person likely to have knowledge of an oil pollution incident is the person immediately responsible for the operation of the vessel or facility. Thus, the person in charge, or employer of the person in charge, must under existing provisions of the Federal Water Pollution Control Act immediately notify the Secretary of an oil pollution incident. Failure to give that notice subjects the person to the criminal penalty provided for in that law.

Upon receiving information from the person in charge or from any other source, the Secretary, under subsection (a), initiates the claims process by designating the source of the discharge and by notifying the responsible party and guarantor involved of the designation. The source designation is important, because the responsible party and guarantor of the designated source will incur certain responsibilities under subsection (b) if, within five days, he or she does not deny the Secretary's designation.

The Secretary is required to designate the source of the discharge "where possible and appropriate". This means that there may be some instances where it would not be appropriate for the Secretary to designate a discharge source and, by so doing, to set in motion the advertising requirements of this section. Those instances would occur when the nature of the discharge is such that, in the judgment of the Secretary, there is no possibility that any damages from the discharge will be sustained by any potential claimant.

If the responsible party does not deny the designation made under subsection (a) by the Secretary, subsection (b) requires the responsible party or guarantor of a designated source to initiate advertisement of the designation and the procedures by which claims may be asserted. The failure to deny a designation does not preclude a later denial of liability. It merely makes the responsible party or guarantor of the designated source responsible for setting into motion the applicable claims procedure.

Failure to carry out the advertisement properly may result in the Secretary undertaking that task at the expense of the reponsible party or guarantor.

Where there has been no denial of designation and the responsible party or guarantor advertises properly, claims may be asserted against them under this Act. The purpose of subsection (c) is to provide for those instances when the Secretary must notify potential claimants of the procedures by which claims may be brought directly against the Fund. Those instances are situations when the responsible party and the guarantor have denied a designation, when the Secretary has determined the source of the incident was a public vessel, or when the source of the incident is unknown.

Sec. 1015—Subrogation.

Subsection (a) provides a right of subrogation for anyone who compensates a claimant for costs or damages compensable under section 1002. If the Fund pays a claimant for damages asserted under section 1002, then the Fund will stand in the shoes of that claimant and may assert any rights that the claimant has under the Act. Very often, this will mean that the Fund will pay off a claim that is asserted against a responsible party and it will then be up to the Fund to recover from the responsible party. The result is to relieve a private claimant from protracted negotiations and litigation with the responsible party, and thereby expedite the compensation of an injured claimant.

Subsection (b) directs the Attorney General, at the Secretary's request, to pursue a cause of action on behalf of the Fund to recover compensation paid from the Fund, including costs incurred by the Fund in connection with the claim, interest, and attorney's fees. Actions may be brought against any responsible party, owner of oil carried in bulk as cargo in a vessel, guarantor, or any other person who may be liable for the costs and damages paid from the Fund. In the case of discharges from foreign offshore units, the cause of action shall be initiated against the responsible foreign government or other responsible party.

Sec. 1016—Financial responsibility.

Another major feature of the Act is the requirement that there be adequate funds immediately available to compensate injured parties. Since the primary responsibility to compensate victims of oil pollution rests with the person responsible for a pollution source, that person is required to establish his or her capability to meet potential liability.

Subsection (a) imposes on the parties responsible for tank vessels over 300 gross tons using U.S. waters or ports, or for tank vessels using the waters of the exclusive economic zone to transship or lighter oil destined for a port or place subject to U.S. jurisdiction, the requirement that they have insurance, surety bonds, qualify as self insurers or have other evidence of financial responsibility sufficient to meet their liability up to the level of the limitation available under section 1004. This requirement to maintain evidence of financial responsibility is imposed on all vessels (except a public vessel or non-self-propelled vessel that does not carry oil as cargo or fuel), including foreign vessels using navigable waters of the United States or calling at offshore facilities subject to the jurisdiction of the United States, as covered by the Act. Each vessel must carry on board at all times a certificate, issued by the appropriate U.S government agency, evidencing financial responsibility. If a responsible party owns or operates more than one vessel, evidence of financial responsibility need to be established only to meet the maximum liability limit of the largest of the vessels.

Subsection (b) requires the owner of oil carried in bulk as cargo on a vessel also to establish evidence of financial responsibility sufficient to meet the maximum level of liability the owner may be subject to under section 1004. This requirement is necessary to ensure that the owner of oil, even though secondarily liable after the owner or operator of the vessel on which the oil is shared, will have the funds to pay the owner's share of the claimed removal costs and damages.

Subsection (c) provides the necessary sanctions for enforcing the financial responsibility requirements. Failure to comply with subsections (a) and (b) will result in a termination of the right to engage in trade by triggering a refusal of necessary clearances by the Secretary of the Treasury under customs laws, and may result in the denial of entry or detention of noncomply-

ing vessels by the Secretary of Transportation. In addition, paragraph (3) subjects any vessel and any oil carried as cargo on the vessel to seizure, if the vessel is found in the navigable waters without evidence of financial responsibility.

Comparable requirements to maintain evidence of financial responsibility are placed on the responsible parties for offshore facilities. All offshore facilities, except deepwater ports, must establish necessary evidence of financial responsibility of $150 million. This figure represents the Committee's best estimate of liability based on a limit of $75 million plus all removal costs, as provided in section 1004(a)(3). When the responsible party is responsible for more than one offshore facility, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of those facilities.

In the case of deepwater ports, whose limits of liability may be reduced by the Secretary based on the study required under section 1004(d)(2), financial responsibility must be established to meet the maximum of liability under section 1004(a)(4), or if reduced, under 1004(d)(2)(C).

To provide claimants with a full range of options for pursuing their claims, subsection (f) authorizes direct action against anyone providing financial responsibility, as required by this section, for a responsible party. The defenses provided to persons providing financial responsibility are limited to facilitate prompt recovery by claimants. The person providing financial responsibility can assert rights and defenses that the responsible party could have asserted, and can invoke the defense that the responsible party caused the incident through gross negligence or willful misconduct. In addition, the Secretary may authorize other policy terms and defenses which are found to be necessary or unacceptable in establishing evidence of financial responsibility to foster a continuing market for providers of financial responsibility. No guarantor shall be liable in excess of the amount of financial responsibility which the guarantor has provided.

Subsection (g) modifies the preceding subsection to make it clear that the liability of the guarantor under this Act is limited to the amount that guarantor has provided as evidence of financial responsibility.

Subsection (h) provides for a civil penalty not to exceed $25,000 per day of violation for failure to comply with the requirements of this section or with any orders or regulations issued under this section. The Secretary may request the Attorney General to proceed in district court to secure compliance with the requirements of this section.

To avoid undue administrative burdens, the Committees expect that wherever possible the regulations for financial responsibility for vessels will be consolidated with those under other Federal statutes. In this manner, only one certificate would be required for vessels to meet the requirements for financial responsibility for the statutes consolidated by this Act, and other pollution laws such as the Comprehensive Environmental Response, Compensation and Liability Act of 1980. This unified certificate is intended to simplify administrative procedures only. Certification under one statute by a guarantor would not necessarily result in certification under another statute.

Sec. 1017—Litigation, jurisdiction, and venue.

This section provides that judicial review of any regulation promulgated under this Act may be had only if the action is filed within 90 days of promulgation in the Circuit Court of Appeals for the District of Columbia.

The United States District Courts have original and exclusive jurisdiction over controversies arising under the Act. Claimants need not assert any particular amount in controversy for Federal jurisdiction to attach, nor do they have to assert diversity of citizenship to obtain Federal jurisdiction. Under subsection (c), venue lies in the district either where the incident, injury, or damages occurred or where the defendant resides or is found, has his or her principal office, or has appointed an agent for service of process. The Fund and the International Fund, for purposes of this section, shall reside in the District of Columbia.

Subsection (d) states that nothing in the Act shall affect an action commenced prior to the Act's enactment.

Subsection (e) sets forth the periods of limitations under the Act. Actions for damages must be commenced within three years after the date on which the loss and its connection with the discharge in question were reasonably discoverable with due care, or in the case of damages to natural resources, if later, the date on which regulations are promulgated under section 1006(e) of the Act. Actions for recovery of removal costs must be commenced within three years of completion of the removal action. However, an action under section 1002 may be commenced at any time after costs have been incurred.

Actions for contribution for removal costs or damages must be brought within three years of either the date of judgment under this Act for recovery of such costs or damages, or the date of entry of a judicially approved settlement with respect to the costs or damages. Similarly, subrogation actions under this Act must be commenced within three years after the payment of the claim.

Sec. 1018—Relationship to other law.

Subsection (a)(1) provides that, except as provided in this Act and the Solid Waste Disposal Act (including the leaking underground storge tank provision), action arising out of a discharge, or substantial threat of a discharge, of oil from a vessel or facility may be brought in any court of the United States or of a State. Accordingly, lawsuits to recover damages for either removal costs or damages can only be brought under this Act in Federal court. However, actions for wrongful death and personal injury are exempt from this restriction and may be brought in any court under applicable State law. The exception for personal injury or wrongful death includes the preservation of State workers' compensation laws. There is no intent to affect the rights or obligations established under workers' compensation statutes.

Subsection (a)(2) provides that nothing in this Act or in sections 4611 or 9509 of the Internal Revenue Code of 1986, affects the ability or authority of any State to either establish or continue in effect an oil spill fund or account, or to require any person to contribute to that fund or account.

Subsection (b) provides for the continued authority of the United States or any State or political subdivision to exact fines or penalties for any violation of law relating to an oil spill incident. Subsection (c) indicates that the Act of March 3, 1851, also known as the Limitation of Liability Act, does not apply to incidents covered by this Act.

Sec. 1019—Financial responsibility.

This section provides that any responsible party or owner of oil who establishes and maintains evidence of financial responsibility in accordance with this Act, is not required to maintain or establish any other evidence of financial responsibility under State or local law, rule, or regulation. Furthermore, States must accept evidence of compliance with the financial responsibility requirements of this Act in lieu of any other requirement of financial responsibility which may be imposed by the State in connection with liability for the release of oil. A State may, however, enforce on the navigable waters subject to the jurisdiction of that State the requirements for evidence of financial responsibility as set forth under section 1016 of the Act.

Sec. 1020—Effective date.

Provisions set forth in title I apply with respect to an incident occurring only after the date of enactment of this Act, but no payment shall be made from the Fund before the commencement date, as defined in section 4611(f)(2) of the Internal Revenue Code of 1986.

TITLE II—CONFORMING AMENDMENTS

Sec. 2001—Intervention on the High Seas Act.

This section amends the Intervention on the High Seas Act to make the Fund available to the Secretary for intervention procedures authorized by that Act.

Sec. 2002—Federal Water Pollution Control Act.

This section amends section 311 of the Federal Water Pollution Control Act. The amendments serve numerous purposes.

The first two amendments are to section 311(c)(2) of the Federal Water Pollution Control Act. Their effect is to modify the national contingency plan for removal of oil and hazardous substances reflecting the continued operation and further enhancement of a system of surveillance and notice designed not only to provide notice of spills but also to help safeguard against the likelihood of spills. This system is similar to the Vessel Traffic Service System currently operated by the United States Coast Guard at only four sites in the U.S., a number which is inadequate in comparison to the need for improved vessel traffic monitoring. The amendments also authorize reimbursement from the Fund for reasonable costs in removing discharges of oil under the national contingency plan.

Subsection (d) of section 311 is amended to delete a clause made unnecessary by this Act.

Subsection (e) of section 311 is amended to confer upon the President the authority to issue orders or seek injunctive relief to compel persons to clean up oil spills. This authority is to complement the two other ways that the Act authorizes cleanup activities: voluntary cleanup activities financed by the responsible party and Fund-financed cleanups. The Act also provides that the Attorney General may bring an action to enforce a cleanup order against a responsible party, may assess a civil penalty of no more than $25,000 per day for each violation, and may assess treble damages if the responsible party refuses without sufficient cause to comply with an order. Lastly, the district courts of the United States are given jurisdiction to grant relief under this authority.

Subsections (f), (g), (h), and (i) of section 311 are clarified to be inapplicable to any incident for which liability is established under this Act.

Subsection (j) of section 311 is amended to delete clauses made unnecessary by this Act.

Subsection (k) of section 311 is repealed and any amounts remaining in the fund created under section 311(k) are deposited in the general account of the Treasury. The newly established Oil Spill Liability Trust Fund shall assume all liability incurred by the section 311(k) fund.

Subsection (l) of section 311 is repealed because it sets out liability standards for vessels that are superseded by this Act.

A new subsection (s) is added to section 311 of the Federal Water Pollution Control Act to provide that the Oil Spill Liability Trust Fund shall be available to carry out the provisions of section 311 (c), (d), (i), and (l), as those subsections relate to discharges of oil.

It is important to note that following enactment of this Act, liability and compensation for petroleum oil pollution damages caused by a discharge from a vessel or facility will be determined in accordance with this Act. The Fund implemented by this Act, however, will be available to Coast Guard and other government agencies for immediate removal of spills of all types of oil from all sources in the same manner as the fund established by section 311(k) is presently available to respond to those spills.

Sec. 2003—Deepwater Port Act.

This section amends the Deepwater Port Act of 1974 by repealing various subsections pertaining to oil pollution liability and compensation which are superseded by this Act. This subsection also provides that amounts remaining in the Deepwater Port Liability Fund shall be deposited in the Fund implemented by this Act. The Fund will assume all liabilities of the Deepwater Port Liability Fund.

Finally, this section makes it clear that civil penalties for discharges from a deepwater port or from a vessel in a deepwater port safety zone can be assessed only under section 18 of the Deepwater Port Act, thereby eliminating overlapping and conflicting coverage of deepwater ports for civil penalties.

Sec. 2004—Outer Continental Shelf Lands Act.

This section makes similar provisions for the assets and liabilities of the Offshore Oil Pollution Compensation Fund established under the Outer Continental Shelf Lands Act Amendments of 1978. Title III of that law which established the Offshore Oil Pollution Compensation Fund, is repealed in its entirety.

Sec. 2005—Effective Date.

This section establishes the effective date of various provisions in this title as the commencement date provided in section 4611(f)(2) of the Internal Revenue Code of 1986.

TITLE III—IMPLEMENTATION OF INTERNATIONAL CONVENTIONS

Sec. 3001—Definitions.

This section provides that the terms defined in this title have the same meaning as defined in the International Convention on Civil Liability, 1984. Further, the section defines "Civil Liability Convention", "financial responsibility", "Fund Convention", and "Intenational Fund".

Sec. 3002—Applicability of Convention.

This section states that when the Civil Liability Convention and the Fund Convention are ratified, liability shall be determined in accord with those Conventions. Subsection (b) provides that the Oil Spill Liability Trust Fund must indemnify and defend the responsible party in actions brought under any law (including State law) for any incident covered by the Civil Liability Convention. In this case, the Fund acts as the defendant, and, after payment to the claimants, may collect reimbursable costs from the shipowner and the International Fund, as provided under the Conventions.

Sec. 3003—Recognition of International Fund.

This section provides that the International Fund is recognized as a person under U.S. law and that the Fund Director is the legal representative of the International Fund. The Secretary of State is the Fund's agent for service of process. Lastly, the Fund and its agents are exempt from all direct taxation or assessment of duties in the United States. These exemptions have their basis in paragraphs 1 and 4 of Article 34 of the International Fund Convention.

This section requires that the International Fund be served a copy of any complaint and any subsequent pleading filed in any action brought in the U.S. under the Civil Liability Convention. It also entitles the Fund to intervene as a party in any such actions.

Sec. 3005—Contribution to International Fund.

This section provides that the Fund shall be responsible for the payment of annual contributions to the International Fund. The Secretary is granted the authority to require persons making contributions to the Fund to furnish all necessary information regarding oil received by a U.S. port or place.

Sec. 3006—Recognition of foreign judgments.

This section requires United States courts to recognize decisions made under one of the International Conventions by a court of any nation which is a party to that Convention.

Sec. 3007—Convention financial responsibility.

This section provides the financial responsibility requirements needed to implement the Civil Liability Convention and provides sanctions for failure to observe those requirements. This section also establishes a civil penalty to up to $25,000 per day for violation of the requirements of this section. Lastly, the section provides for the waiver of United States sovereign immunity with respect to any controversy arising under the Civil Liability Convention and relating to a ship owned by the United States and used for commercial purposes.

Sec. 3008—Regulations.

This section provides the Secretary with authority to issue rules and regulations necessary to implement the two International Conventions.

TITLE IV—PREVENTION AND REMOVAL

Sec. 4001—Definitions.

(1) "Tank barge" is defined as a non-self propelled vessel constructed or adapted to carry oil in bulk as cargo.

(2) "Tanker" is defined as having the same meaning the term has in section 2101 of title 46, United States Code; that is, a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous substances in bulk in the cargo spaces.

Subtitle A—Prevention

Sec. 4101—Review of alcohol and drug abuse and other matters in issuing licenses, certificates of registry, and merchant mariners' documents.

This section is intended to give the Secretary additional information on the background of applicants for licenses, certificates of registry, and merchant mariners' documents. The purpose of this section and sections 4102, 4103, and 4105 is to ensure that the Coast Guard has a greater ability to identify vessel personnel with vehicle offenses related to the use of alcohol and drugs. Abuse of these substances may have an unsafe effect on vessel operations, leading to additional accidents and oil spills.

This section is intended to provide an additional tool in the effort to promote a drug- and alcohol-free workplace in the maritime industry. The voluntary efforts that the industry has undertaken to improve the safety of marine transportation through testing and rehabilitation of the work force are recognized and encouraged.

Subsection (a) of this section amends section 7101 of title 46, United States Code, to require applicants for licenses or certificates of registry to provide access to information contained in the National Driver Register (NDR). Subsection (b) extends this requirement to applicants for a merchant mariner's document or endorsement under section 7302 of title 46, United States Code.

The NDR is a national compilation of vehicle offenses voluntarily reported by States and maintained by the Secretary of Transportation under 23 U.S.C. 401 note. Under current law, locomotive operators or those seeking a position may provide access to the NDR to a prospective employer. This bill is intended to expand and strengthen this practice for vessel personnel, given the relevancy of alcohol or drug infractions involving a motor vehicle to safe vessel navigation and the need for drug- and alcohol-free vessel operation.

Subsection (a) also requires the Secretary to conduct a review of the criminal record of an applicant for a license. The Coast Guard currently checks Federal Bureau of Investigation records. This amendment to section 7101 of title 46, United States Code, codifies existing procedure. There is no intent that the Coast Guard unnecessarily delay issuing a license.

Sec. 4102—Term of certificates of registry and merchant mariners' documents.

Subsection (a) amends section 7107 of title 46 to provide a five-year term for certificates of registry, with a five-year renewal period. Subsection (b) amends section 7303 of title 46 to provide a five-year term for merchant mariner's documents with a five-year renewal period. Subsection (a) and (b). Subsection (d) provides termination dates for existing certificates of registry and merchant mariner's documents, calculated as though the amendments made by this section were in effect on the date the certificate or document was issued. This will provide for a staggered renewal period. Providing an automatic five-year renewal period will allow the Secretary to ensure that vessel personnel are continually qualified to operate a vessel safely. Subsection (e) requires the Secretary to review the criminal records of an individual who weeks to renew a license.

Sec. 4103—Suspension and revocation of licenses, certificates of registry, and merchant mariners' documents for alcohol and drug abuse.

Subsection (a) authorizes the Secretary to request a person holding a license, certificate of registry, or merchant mariner's documents to provide all relevant information contained in the National Driver Register to the Secretary. This subsection also gives the Secretary new authority to temporarily suspend a license, certificate, or document if the individual performs a sensitive function on a vessel and there is probable cause to believe there are grounds for suspension.

The grounds for temporary suspension are: (1) that a holder has performed the sensitive function while under the influence of, or while using alcohol or a dangerous drug; (2) has been denied a driver's license for cause within the five-year period immediately before the temporary suspension; and (3) has been convicted of an offense for which a license, certificate, or document can be suspended or revoked under sections 7703(2) or 7703(3) of title 46. This subsection also requires an expedited hearing within 15 days of the temporary suspension.

Subsection (b) expands the bases for suspending or revoking a license, certificate, or document by adding two new grounds: (1) the holder is convicted of an offense that would prevent the issuance of the license, certificate, or document; or (2) if the holder is convicted of an offense described in section 205(a)(3)(A) and (B) of the National Driver Register Act, such as driving under the influence of alcohol or dangerous drugs, reckless driving, or leaving the scene of an accident, within the five-year period immediately before the suspension or revocation.

Subsection (c) adds a new requirement to existing law for reissuance of a license, certificate, or document that has been revoked. Under subsection (c) the former holder must provide satisfactory proof that the bases for revocation are no longer valid. For example, if the basis for revocation concerns abuse of a dangerous drug, the former holder might show that the holder has successfully completed a drug treatment program and is involved in a substance abusers support group.

Sec. 4104—Removal of master or individual in charge.

This section requires the two most senior licensed officers on a vessel to relieve temporarily the master or individual in charge of a vessel when the master or individual in charge is under the influence of alcohol or a dangerous drug and is incapable of commanding the vessel. Once the master or individual in charge is relieved, the next most senior officer shall take command of the vessel, make a detailed entry in the vessel log, and report the incident by the most expeditious means available in writing after reaching port.

Sec. 4105—Access to National Driver Register.

This section amends the National Driver Register Act to authorize any person holding or applying for a license, certificate of registry, or merchant mariner's document to request the chief driver licensing official of a State to send to the Secretary current information on that person's driving record contained in the National Driver Register. It also requires the Secretary to make that information available to the individual for comment before the information can be used as a basis for denying or otherwise affecting that person's license, certificate, or document. Information more than five years old, unless relating to sanctions still imposed, may not be transmitted.

Sec. 4106—Manning standards for foreign tank vessels.

This section requires the Secretary to evaluate the manning, training, qualification, and watchkeeping standards for tank vessels of foreign countries on a periodic basis and after a casualty involving a foreign tank vessel to ensure that those standards are equivalent to those of the United States or customary international law and that the standards are being enforced. The Secretary must deny entry to the United States for any foreign tank vessel that does not meet the equivalency and enforcement requirement, except that provisional entry for these vessels may be authorized if the vessel's owner or operator satisfies the Secretary that the vessel is not unsafe or a threat to the environment or that entry is necessary for the safety of the vessel or individuals on the vessel.

The United States has not ratified the International Convention on Manning, Training, Qualification and Watchkeeping Standards. Standards under current United States law are more stringent than those contained in the Convention and those of many other nations. Enforcement of standards equivalent to those of the convention should be considered as the minimum standard for meeting the requirement of this section, so long as customary international law recognizes standards less stringent than those of the United States.

According to a study recently completed for the Coast Guard, the number of foreign tankers calling at United States ports has increased by more than 50 percent in the last three years. As the United States grows more dependent on foreign sources of oil and petroleum products, increased scrutiny of the growing foreign tank vessel traffic is necessary to protest the safety and the environment of United States ports.

Sec. 4107—Vessel traffic service system.

Subsection (a) amends the Ports and Waterway Safety Act to require mandatory participation in vessel traffic service (VTS) systems by appropriate vessels. It provides that no appropriation is to be made for a project to construct, operate, maintain, improve, or expand a VTS system unless it is approved by a resolution adopted by the House Committee on Merchant Marine and Fisheries and the Senate Committee on Commerce, Science, and Transportation. This subsection also requires the Secretary to transmit to Congress a report on proposals concerning any VTS system.

Subsection (c) requires the Secretary to study whether the Secretary should be given additional authority to direct the movement of vessels and to determine and prioritize the United States ports and channels that are in need of new, expanded, or improved VTS systems. This subsection also requires the Secretary to submit a report to Congress within one year on the results of this study, along with recommendations for implementation.

Sec. 4108—State authority to require state pilotage for tankers.

The section amends subsections 8501(d) and 8502(d) of title 46, United States Code, to clarify the general prohibition against States requiring State pilots and levying pilot charges on coastwise vessels. This exemption applies only to coastwise tankers whose Federal pilot's license is not endorsed for that State's waters; it does not include other coastwise vessels, such as barges.

Current law permits tankers and other vessels in coastwise trade, unlike foreign vessels, to operate without State pilots. These vessels instead may rely upon Federal pilots to control the vessel in and out of ports of call. This section authorizes the States to require State pilots on coastwise tankers whose Federal pilot's license is not endorsed by the Secretary for that State's waters, and to levy charges for this service. This is a restatement of the status quo.

Sec. 4109—Great Lakes pilotage.

Section 4109 of the Act corrects a gap in existing pilotage laws for the Great Lakes to improve operational safety on the largest source of fresh water in the world.

Under current law, pilots are required on all U.S. vessels operating on register and on all foreign vessels in the Great Lakes. However, the Canadian government will grant "B certificates" to operate on undesignated Great Lakes waters to masters who have only traversed the the Lakes three times in a two-year period. This is a much lower standard than the United States imposes on its licensed pilots under sections 7101(c)(2) and 9303 of title 46. In addition, the "B certificate" is not consistent with the requirement of equivalency in section 9302(b) in title 46, United States Code. Section 4109(a) of the Act will establish the U.S. standard as the minimum for any pilot on the undesignated waters of the Great Lakes. The United States has been working with Canada to eliminate the use of these "B certificates", but progress has been extremely slow.

In addition, subsection (b) excludes tank vessels carrying oil or hazardous substances from the class of vessels for which a pilotage exemption may be granted, except when the vessel or its cargo is in distress or jeopardy. Subsection (c) provides that a vessel can be liable in rem for the costs associated with Great Lakes pilotage service. Finally, subsection (d) increases the penalties for violations of the Great Lakes pilotage requirements, consistent with other penalties under title 46, United States Code.

Sec. 4110—Study on tanker navigation safety standards.

A comprehensive assessment of tanker navigation safety standards is needed. This section sets out a detailed scope of review for a study of these standards due one year after enactment of this legislation.

Subsection (a) requires the Secretary to review existing laws and regulations to determine if they are adequate to ensure safe navigation of vessels transporting oil and hazardous substances on the navigable waters and the exclusive economic zone.

Subsections (b)(1) through (b)(3) require specific examination of issues related to tanker crews. Areas to be examined include: appropriate crew sizes, qualification and training of crewmembers, and the emergency response capabilities of crews in the event of a spill. There are concerns that the size of the crew and fatigue of the crew following cargo loading may have contributed to the *Exxon Valdez* and *Presidente Rivera* groundings. These concerns and many others including the *Exxon Valdez* oil spill are under investigation by the U.S. Coast Guard and the National Transportation Safety Board. Without making a judgment on these specific points, a thorough, industry-wide examination of crew and manning standards must be undertaken. The resulting findings will greatly contribute to Congressional consideration of international conventions and agreements, as well as legislative and regulatory actions that may be needed to improve the safety of tanker navigation.

Subsection (b)(4) and (b)(5) require specific examination of issues related to navigation. Areas to be examined include the adequacy of navigation equipment on tankers (including sonar, electronic chart display, and satellite technology) and the adequacy of navigation procedures (including those relating to speed, daylight, presence of ice, tides, weather, and other conditions). Satellite technology offers great potential for improving both tanker navigation and tracking of tanker movements. In the examination of navigation equipment, these technological innovations should be considered. On the

other hand, existing tanker navigation equipment have been cited as potential contributing factors to tanker accidents; therefore, potential hazards of existing equipment should be examined. For example, the Coast Guard should evaluate whether alarms for automatic pilots would be desirable. Navigation procedures have also been cited as potential contributing factors to unsafe tanker operations. The Coast Guard should undertake a broad assessment of navigation procedures, including an analysis of existing requirements for personnel on the bridge, in engineering compartments, and at watch stations during pilotage transits. In addition, this study should review traffic separation schemes, tug escorts, and vessel speeds, among other things.

Subsection (b)(6) requires an evaluation of whether certain areas of the navigable waters and exclusive economic zone should be declared "tanker free zones," areas where tanker movement should be limited or prohibited. Precedent for such zones exist now. Canada, for instance, has established tanker free zones to minimize the exposure of its sensitive shoreline areas to potential contamination from discharges of oil or hazardous substances. The Coast Guard should act expeditiously to consider prohibiting tankers from the channel between Montauk Point, New York and Block Island, Rhode Island. The channel is extremely narrow and shallow and has been the site of numerous accidents. In this instance, the Coast Guard should evaluate the advisability of declaring the Santa Barbara Channel off the coast of Southern California a tanker free zone, given the location of a national marine sanctuary in the area.

The Secretary should give the particular attention to areas where oil and gas leasing, exploration, or development are prohibited by legislative action.

Subsection (b)(7) requires an evaluation of vessel design and construction criteria to reduce the likelihood of a discharge. This element of the study should consider tank capacity, tanker tonnage, barge tonnage, double hulls and double bottoms on tankers and barges, the vacuum method of tanker design or similar technology, overfill and tank pressure monitoring devices, and other vessel features. The Coast Guard should consider other factors, such as vessel hull plating thickness to deal with ice hazards in colder climates in light of the fact that the *Exxon Valdez* veered off course to avoid ice hazards in shipping lanes.

There is considerable interest in a thorough evaluation of the safety benefits and cost effectiveness of requiring double hulls or double bottoms on tankers and barges. Subsection (b)(7) requires consultation with naval architects, tanker operators, salvors, environmental protection organizations, economists, States and communities along tanker routes, and other appropriate persons. The Coast Guard already has a study underway; its scope could be broadened to make it consistent with the requirements of this subsection.

Subsection (b)(8) requires an evaluation of the adequacy of tanker inspection requirements, including standards for vessel hull plate gauging. Adequate inspection of tankers could be the most effective element in preventing spills. Unfortunately, the Coast Guard does not have the resources to inspect on an annual basis every vessel entering certain harbors. For instance, the Coast Guard was able to inspect only 58 percent of foreign vessels entering New York Harbor in one recent year. Of those vessels inspected, a significant percentage had defects that warranted remediation.

The Coast Guard should report to Congress on its ability to conduct annual vessel inspections, the resources required to conduct those annual inspections, and the oil spill prevention and removal benefits of the inspections. The Coast Guard should also review inspection standards in general and determine if the frequency of inspections should be increased.

Subsection (b)(9) requires that the Secretary review and incorporate the findings of past studies, including those by the Coast Guard and the Office of Technology Assessment.

Subsection (b)(10) directs the Coast Guard to evaluate computerized simulators for training bridge officers and vessel pilots. These simulators are already in limited use now, and the Coast Guard should consider the potential benefits of greater use of these simulators.

Subsection (b)(11) requires the Secretary to evaluate and test a program of remote alcohol testing for masters and pilots aboard tankers carrying significant quantities of oil.

Subsection (c) requires the study findings, together with implementation recommendations, be transmitted to the Congress not later than one year after the date of enactment of this Act.

Sec. 4111—Dredge modification study.

The Committees are aware that modified dredges have been used successfully in oil recovery operations both in the United States and in Europe. This section requires the Secretary of the Army to study the feasibility of modifying dredges operated by the U.S. Army Corps of Engineers to make them usable in moving discharges of oil and hazardous substances. Subsection (b) requires the study findings, together with implementation recommendations, be transmitted to the Congress within one year of enactment of this Act.

Sec. 4112—Use of liners.

This provision requires the President to report to Congress on the utility of liners or other secondary containment means to prevent leaks, leaching, or spills from on-land oil storage tanks. The need for secondary containment was well illustrated by the Ashland Oil Co. tank, which ruptured and spilled 700,000 gallons of diesel oil into the Monongahela and Ohio Rivers in January, 1988. Following the completion of the study, the President must implement any study recommendations.

Subtitle B—Removal

Sec. 4201—Federal removal authority.

This section amends section 311(c) of the Clean Water Act to require the President to ensure an effective and immediate removal of oil or hazardous substances from U.S. navigable waters, adjoining shorelines, and the exclusive economic zone in accordance with the national contingency plan and other contingency plans. This section clarifies the President's responsibilities, and expands the President's options in responding to a spill of oil or hazardous substances.

Amended section 311(c)(1)(A) requires the President to ensure an effective and immediate removal of discharged oil or hazardous substances on the navigable waters, adjoining shorelines, the exclusive economic zone, or if the discharge affects natural resources of the United States. This section makes it clear that the President has an affirmative duty to make certain that a spill is cleaned up promptly, whether it is accomplished by the Federal government or the responsible party. In addition, the section requires the President to make sure that cleanup activities are accomplished in accordance with the National Contingency Plan, and other contingency plans required by law, such as local, vessel, and facility plans under section 311(j) of the Federal Water Pollution Control Act.

Section 311(c)(1)(B) continues the President's authority to remove or arrange for the removal of a discharge. The first option that is available is for the President to take charge of cleanup activities using the Oil Spill Liability Trust Fund to pay expenses. Under this option, the President need not first wait to determine that the responsible party is conducting inadequate cleanup, but may initiate action immediately. This responds to the concerns expressed by several members of the Committees that precious time could be lost while waiting for the spiller to marshal its cleanup forces. In addition, because the full resources of the Fund would be available to finance Federal cleanups, the President should not be reticent about using this option.

Section 311(c)(1)(B) also authorizes the President to direct all Federal, State, and private actions to remove a discharge. The Committees recognize that there may be instances when complete Federal control is not necessary, but it is necessary for the Federal government to play a more significant role than merely monitoring cleanup activities. In this case, the Federal government would assume command of some or all of the cleanup activities and would direct and coordinate removal activities carried out by responsible parties and others. This authority could be used in a more limited way.

This section also recognizes a final option that the President may simply monitor removal activities.

Section 311(a)(1)(C) allocates the primary risk of liability arising from removal and cleanup activities to the responsible party rather than to those persons cleaning up the spill under the direction of or as retained by the Federal government. The Committees intend to ensure immediate response to oil and hazardous substance spills and believe this provision is necessary in light of the substantial financial risks and liability exposure that would otherwise deter vessel operators, spill cooperatives, and spill contractors from providing active assistance.

To avoid paralysis of remedial actions, this paragraph provides that those persons—other than responsible parties—who are retained or directed by the President to participate in a cleanup action will not be liable for removal costs or damages as defined in this legislation, except in the case of gross negligence or willful misconduct. This limitation of liability does not affect liability for wrongful death or personal injury. It does not diminish the liability of those responsible for the spill nor the amount of compensation available to claimants. This limited protection is intended to encourage individuals to assist in cleanup operations.

Section 311(c)(1)(D) requires the responsible party to act in accordance with the national contingency plan, other applicable contingency plans, and as otherwise directed by the President. This provision is also intended to underscore the fundamental obligation that the responsible party has to be prepared at all times and to take immediate and effective action in the event of a discharge.

Section 311(c)(1)(E) provides that the liability of the responsible party is not affected by the Federal authorities delineated in this section. When the President directs cleanup actions under new section 311(c)(1), the responsible party is not excused from payment of removal costs and damages.

Section 4201(b) amends the definitions in section 311 of the Clean Water Act. The definition of "'remove' or 'removal'" in the Clean Water Act is expanded to include containment, dispersal, disposal, and other response actions. Definitions of "exclusive economic zone" as well as "responsible party" are added.

Sec. 4202—Contingency plans.

Section 4202 amends section 311(j) of the Clean Water Act. New section 311(j) codifies and expands requirements presently existing for local contingency plans and facility contingency plans, and institutes a new requirement for vessel contingency plans. The Committees intend that contingency plans be prepared under the Clean Water Act, beginning with the national contingency plan, and leading down to local plans and then individual vessel and facility plans. All plans must be coordinated to ensure an immediate and effective removal of a discharge of oil or a hazardous substance. The level of detail will increase as the plans move from the general national plan to the specific vessel and facility plans. The Committee intends that the existing plans be examined and modified if necessary to comport with the new requirements of the Act, to save time and avoid unnecessary duplication of effort.

Section 311(j)(3)(A) mandates the President, within six months of enactment of this Act, to designate areas for which new or improved local oil and hazardous substance contingency plans must be prepared, and to specify the Federal, State and local officials required to prepare the plans, in consultation with affected parties. The Committees note that numerous spills have occurred in the Long Island Sound, New York Harbor, and Hudson River regions. In light of the number of spills, and environmental and economic damage these spills have caused, the President shall designate the Long Island Sound, New York Harbor, and Hudson River region as one of the areas for which a new or improved local contingency plan must be prepared. The Committees also recognize that preparation of these plans, especially in areas where no earlier plan existed, will require time and money from all levels of government. The Committees do not intend that local governments, whose resources are often the most limited, be required to spend unduly large amounts of money in preparing these plans. The financial burden should be shared.

Section 311(j)(3)(B) requires the President to consult with appropriate State and local officials and the public in determining the areas to be designated. The President must consider certain factors in determining designated areas, including the likelihood of a discharge, the likelihood that the discharge would result in severe economic or environmental damage, and the adequacy of existing local plans. Because State and local officials will be implementing the plans under this section, it is imperative that their input and cooperation be obtained.

Section 311(j)(3)(C) requires local plans under this section to include a description of the area, including areas of special economic or environmental importance that might be damaged; a description of the responsibilities of Federal, State, and local agencies, and the responsible party for responding to a discharge or threat of discharge; a list of equipment and personnel available to ensure an immediate and effective removal of a discharge; and any other information the President requires.

Section 311(j)(3)(D) requires that local plans mandated under this section be submitted to the President within six months after the local areas requiring plans are designated. The President is required to promptly review each plan and require amendments to a plan that does not meet the necessary requirements. There is no requirement that the President approve each plan.

Section 311(j)(3)(E) requires periodic review of plans by the President and updates, if necessary.

Section 311(j)(3)(F) authorizes the President to provide technical assistance in the preparation of local contingency plans.

Section 311(j)(4)(A) requires owners or operators of certain vessels and facilities to prepare contingency plans not later than eighteen months after the enactment of this Act. A plan is required for a vessel operating on the navigable waters or exclusive economic zone and carrying oil or a hazardous substance in bulk as cargo. A plan is also required for an offshore or onshore facility that could reasonably discharge into or on the navigable waters, the adjoining shorelines, or the exclusive economic zone.

Section 311(j)(4)(B) requires that vessel and facility plans be consistent, and ensure compliance by the owner or operator, with the national contingency plan, and any local contingency plan. The effective dates in subsections (j)(3)(A), (j)(3)(D), and (j)(4)(A) are staggered to insure that there will be an opportunity for orderly preparation and coordination of the various plans.

Section 311(j)(4)(B) also requires that contingency plans for vessel and facilities meet other important requirements. Plans must be timely submitted; be available for review by State and local officials, and the public; identify the individual having authority to implement a removal action, and to require immediate communications between that individual and the appropriate Federal official and cleanup personnel; describe the specific actions that will be taken to remove a discharge; identify and ensure the availability of personnel and equipment that will be necessary to remove a discharge; include a program of personnel training, equipment testing, and periodic unannounced drills; describe the conditions under which dispersants may be used; include provisions for the safe disposal of recovered materials and waste; and be updated periodically.

The Committees recognize that vessels will face challenges in complying with this section given the fact of their mobility. Since vessels transit through various ports, the Committees envision that the owner or operator of a vessel will make available to the master or other person in charge of the vessel the necessary information concerning the resources in specific ports that can assist the vessel in complying with the requirements of this subparagraph in the event of a discharge. Therefore, it will not be necessary for the vessel to have on board all the personnel and equipment required to respond to a discharge, but the personnel aboard the vessel must immediately contact persons on shore who can respond rapidly. Private contractors will play an important part in enabling vessels to meet their responsibilities under this Act.

Section 311(j)(4)(C) prohibits a vessel or facility from handling, storing, or transporting oil unless a contingency plan has been submitted, has not been rejected, and the vessel or facility is operating in compliance with the plan.

Section 311(j)(4)(D) requires the President to review the plans and reject or require amendments to them as appropriate. There is no requirement for the plans to be approved.

Section 311(j)(4)(E) authorizes the President to exclude a class of vessels or facilities from preparation of a contingency plan if the requirements have been met under other law, such as the Comprehensive Environmental Response, Compensation, and Liability Act.

Section 311(j)(5) requires the President, not later than one year after enactment of the Act, to insure periodic inspection of containment booms, skimmers, vessels, and other major equipment used to remove discharges. The President must also ensure that vessels operating on the navigable waters carry appropriate removal equipment that employs the best technology compatible with the safe operation of the vessel. The Committees are particularly interested in an evaluation of whether oil containment booms should be carried abroad vessels and if they can be safely deployed by the crew in the event of a discharge.

Section 311(j)(5) also requires the President, through the Secretary, to conduct periodic drills of removal capability in major ports under local contingency plans and vessel and facility contingency plans. The drills must be coordinated with Federal, State, and local agencies, the owners and operators of vessels and facilities in the area, and private industry. The Secretary is required to publish reports assessing these drills and detailing the changes made to remedy any shortcomings.

Sec. 4203—Strike teams.

This section requires establishment of at least seven continuously staffed oil and hazardous substance regional strike teams under the National Contingency Plan. The President should consider siting strike teams in Alaska, Hawaii, the Pacific coast, the Gulf of Mexico, the South Atlantic coast, the North Atlantic coast, and the Great Lakes. This will provide complete and timely response capacity to all areas of the United States.

In setting up the teams, consideration is to be given to existing Federal, State, local, and provide response resources that are available. For instance, there is the possibility that the Regional Response Centers, which have been proposed to be established by the Petroleum Industry Response Organization (PIRO), may be able to provide sufficient equipment and personnel to respond immediately and effectively to spills. If these centers are established, the Coast Guard strike team could be colocated with the PIRO center and not require a full scale Federal contingent of personnel and equipment.

Sec. 4204—Coast Guard vessel design.

The Coast Guard is preparing vessel designs for a much-needed buoy tender replacement program. The existing buoy tender fleet is 45 to 50 years old, expensive to operate and maintain, and inadequate for the multi-mission responsibilities they are expected to perform. Buoy tenders are stationed at strategic port and channel locations around the country. If properly outfitted, the replacement buoy tenders can be readily available to remove oil and hazardous substance from U.S. waters. This section requires replacement Coast Guard buoy

tenders be equipped with oil skimming systems.

Sec. 4205—Removal resource inventory.

This section requires a computerized inventory of all public and private oil and hazardous substances removal resources, including equipment and personnel. Such an inventory was operated by the Federal Government prior to 1985, but fell victim to budget cuts. Funding for this critical tool would come from the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code, as an administrative expense. The information in the inventory would be available to Federal, State, and local governments, private organizations, and responsible parties. The Secretary should use the vessel identification system under chapter 125 of title 46, United States Code, to keep track of information on vessels for this purpose.

The President is also directed to encourage appropriate international organizations, such as the International Joint Commission, to establish an international inventory of emergency removal resources.

Subtitle C—Miscellaneous

Sec. 4301—Increased penalties.

Section 4301(a)(1) amends section 311(b) of the Clean Water Act by expanding its notice requirements. If the Coast Guard or other appropriate Federal agency is notified of a discharge of oil or a hazardous substance into the navigable waters, the agency must immediately report the discharge to a State reasonably expected to be affected by the discharge.

The section also increases the existing maximum penalties for violation of the notice requirement from $10,000 and one year imprisonment to $250,000 ($500,000 for an organization) and three years imprisonment, with an increase to five years imprisonment for multiple convictions.

Section 4301(b) increases the maximum penalties for the illegal discharge of oil or a hazardous substance under the Clean Water Act. The Coast Guard presently has the authority to assess a civil penalty of $5,000 for each offense. This authority is extended to the Administrator of the Environmental Protection Agency, and the penalties are increased to $25,000 for each day of the offense.

The Administrator is currently authorized to commence a civil action against a person who discharges oil or hazardous substances. Section 4301(c) extends this authority to the Coast Guard as well. In addition, the new penalties are $1,000 per barrel of oil or hazardous substance discharged, or $5,000,000, whichever is less. In the case of willful negligence or willful misconduct, the penalty would be $5,000 per barrel spilled with no cap, instead of the existing penalty of $250,000. All penalties recovered by the United States would be deposited in the Oil Spill Liability Trust Fund.

Penalties for violations of section 311(j), relating to removal of discharged oil or hazardous substances, local contingency plans, discharge prevention requirements, and vessel inspections, are increased from $5,000 to $25,000.

Subsection (e) through (r) amend various sections of the United States Code to make the criminal penalty provisions consistent with the sentencing classification of offenses found in title 18 of the United States Code, and to generally increase the criminal penalties for violations of several Federal laws which affect the operation of vessels and facilities in U.S. waters.

Subsection (e) increases the penalties for gross negligence in operating a vessel, including operating the vessel while intoxicated, from $5,000 to $100,000 ($200,000 for an organization). Subsection (f) increases criminal fines for infractions involving various inspection requirements for vessels found in chapter 33 of title 46, United States Code. Subsection (g) increases fivefold the criminal penalty for willfully violating requirements imposed on vessels carrying liquid bulk dangerous cargoes to $250,000 ($500,000 for an organization). Load line requirement violations are increased from $10,000 to $100,000 ($200,000 for organizations) in subsection (h). Criminal fines relating to complements of inspected vessels, watches, coastwise pilotage, and crew requirements are increased from $500 to $10,000 in subsections (i), (j), (k), (l), and (m), respectively. Finally, subsection (1) increases criminal fines to $250,000 for violations of foreign commerce pilotage requirements.

Penalties for criminal violations under the Ports and Waterways Safety Act are strengthened in subsection (n) by increasing both the maximum term or imprisonment and the fine payable. Subsection (o) increases fines for vessel navigation requirements relating to safety in marine regattas, marine parades, use of public and volunteer private vessels. The Intervention on the High Seas Act is amended by subsection (p) to increase fines from $10,000 to $100,000 Fines under the Deepwater Port Act are increased to $100,000 ($200,000 in the case of an organization). Finally, subsection (r) amends the Act to Prevent Pollution from Ships, which governs the implementation of the International Convention for the Prevention of Pollution from Ships (MARPOL) Protocol, by increasing the maximum probable prison term to 10 years and the maximum fine to $250,000.

Sec. 4302—Deposit of certain penalties into oil spill liability trust fund.

This section provides that the amounts recovered by the Federal government for penalties assessed under section 311(b)(6) of the Clean Water Act are to be deposited in the Oil Spill Liability Trust Fund.

Sec. 4303. Hazardous substances

This section clarifies that this title is not intended to affect or modify the obligations or liabilities of a person under any other law for the discharge or release of hazardous substances, or pollutants, or contaminants, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act.

TITLE V—PRINCE WILLIAM SOUND OIL SPILL REMOVAL

Sec. 5001—Short title.

This section indicates that this title may be cited as the "Prince William Sound Oil Spill Removal Act of 1989."

Sec. 5002—Definitions.

This section defines the terms "arctic waters", "Prince William Sound", and "tank vessel", used in this title.

Sec. 5003—Tank vessel requirements.

Section 5003 requires the Secretary within six months after the date of enactment of this Act, to issue regulations addressing escort vessels for tank vessels traveling within designated areas of Prince William Sound, and the use of Alaska State pilots on those tank vessels.

The Committees note that, while reasonable discretion is given to the Secretary, the Committees intend that the Secretary should issue regulations requiring the use of at least one towing vessel or other escort vessel while a tank vessel is in Prince William Sound. The Committees note that representatives of the oil industry are now using oil supply vessels as escort vessels, with a crew trained in oil spill removal and with spill removal equipment on board. The Committees believe that the Secretary should investigate this option.

When requiring the use of pilots licensed by the state of Alaska, the bill requires that those pilots operate under their Federal licenses. This is the current situation in Prince William Sound. The Committees support this approach because the local knowledge and expertise of State-licensed pilots would be utilized. At the same time, the Committee intends that those pilots be responsible to a Federal authority.

Sec. 5004—Vessel traffic service system.

Section 5004 requires the Secretary to prepare and implement a plan modifying surveillance coverage of vessels in Prince William Sound. The Committees note that there is a history of concern over the extent of radar coverage in the Sound, in terms of both the areas of the Sound that are covered by existing radar installations and the reliability and operational readiness of the radar units. The Committees expect the Secretary to address these problems. The plan under this section must be prepared within four months of the date of enactment of this Act, and implemented within one year. This section fulfills the Vessel Traffic Service System authorization requirement of section 4107 of this Act.

Sec. 5005—Equipment and personnel requirements.

Section 5005 requires that within 18 months of enactment of this Act, the Secretary must require specific removal equipment and personnel as part of a local contingency plan prepared for Prince William Sound under section 311(j) of the Clean Water Act. As noted above, the Committees have found the existing contingency plans to be wholly inadequate, especially in light of the nearly complete breakdown of removal capability during the first few days of the *Exxon Valdez* spill. These requirements include: prepositioning of oil spill removal equipment; establishing an oil spill removal team in Prince William Sound; requiring tank vessels operating in the Sound to have appropriate equipment to remove a discharge of oil and minimize damage to the environment; training in oil spill containment for local residents and the local fishing industry; and requiring practice exercises to test the effectiveness of the equipment and personnel under the contingency plan.

The Committees expect the contingency plan to address matters such as ensuring that equipment is prepositioned at the most critical points of need, as addressed in contingency plans; that equipment must be ready for deployment at all times; and that the equipment be periodically inspected and tested in conjunction with oil spill removal team exercises.

In addition, the Committees recognize the concerns expressed by tank vessel operators that deployment of oil spill removal equipment from a tank vessel by that vessel's crew is a dangerous undertaking. Therefore, while the Committees intend that for oil spill removal equipment carried on board tank vessels operating in Prince William Sound, that equipment should be used by an appropriate oil spill removal team.

Sec. 5006—Use of local services.

Section 5006 requires the Secretary to consult with local residents and local land-

owners of the Prince William Sound area, and to the maximum extent feasible, use local expertise, services, equipment, and facilities in carrying out the provisions of this title. As is often the case, local residents have intimate knowledge of the geography and ecology of Prince William Sound. Unfortunately, little attention often is paid to local knowledge because it does not comport with scientific theories or with the way oil spill removal operations are conducted in other areas. The Secretary should take advantage of this body of local knowledge to avoid exacerbating existing problems and to increase public support for the Secretary's activities. This is especially true in the case of Alaska Native corporations, which are the significant local landowners in the Prince William Sound area.

Sec. 5007—Authority of State of Alaska.

Section 5007 clarifies that this title does not change, diminish, or preempt any authority that the State of Alaska may have to regulate tank vessels or provide for oil spill contingency plans in State waters. This section does not provide any new authority to the State of Alaska or any of its political subdivisions; it merely emphasizes that existing authority is not affected consistent with legal precedent and court decisions.

Further, the Committees recognize that the State of Alaska has imposed regulations on vessel operators in State waters that are similar to the requirements of this Act. In exercising responsibility under title V, the Secretary should examine those State regulations to ensure that, when possible, a single standard is imposed on vessel owners and operators.

Sec. 5008—Environmental assessments.

Section 5008 requires the Under Secretary for Oceans and Atmosphere of the Department of Commerce to spend no less than $5 million per year during fiscal years 1990 through 1992 to assess and monitor the effects of the *Exxon Valdez* spill on the living marine resources of Prince William Sound. This section further requires the Secretary of Commerce, when possible, to recover the amounts expended from the owner or operator of the *Exxon Valdez.* Any amounts recovered are to be credited to the appropriations of the National Oceanic and Atmospheric Administration. In carrying out activities under this section, the Under Secretary is expected to consult with local residents and significant local landowners of the Prince William Sound area; to coordinate monitoring and assessment work with the State of Alaska and the Prince William Sound Science and Technology Institute in Cordova, Alaska; and to utilize local services and expertise. As noted above, local knowledge, especially that of Alaska Native corporations who are significant local landowners, is often invaluable and should be used to the maximum extent practicable.

Sec. 5009—Report.

Section 5009 requires the Secretary to report on all oil pollution exercises in the Port of Valdez and Prince William Sound during the operation of the Trans-Alaska pipeline, and any other matters the Secretary may deem appropriate. As a general matter, the Committee recognize that several of the provisions of this title are much more specific than those in other portions of the Act. Should a conflict exist, the Committees intend that these provisions should control for Prince William Sound.

TITLE VI—MISCELLANEOUS

Sec. 6001—Statutory waivers.

This section narrows the existing authority to waive navigation and safety laws. The waiver authority would be limited to part B, which deals with inspection and regulation of vessels; part C, which deals with load lines of vessels; part F (except section 8103), which deals with manning of vessels; and part H, which deals with documentation of vessels.

The amendment further clarifies that crises warranting waivers are limited to those involving national defense or discharges, or threats of discharges, of oil or hazardous substances into or on the navigable waters or exclusive economic zone of the United States.

This section authorizes the Secretary to grant a waiver on the Secretary's initiative, or at the request of the head of another department, agency, or instrumentality of the United States Government.

A waiver granted under this section must state the reason for the waiver and state which requirements of law are being waived. In addition, the waiver must be for a specified period of time, not to exceed one year, may not be renewed, and must terminate when qualified individuals or vessels are available.

Subsection (b) is a conforming amendment that repeals the existing authority for waivers contained in the chapter 1 note of title 46, United States Code.

Sec. 6002—Savings clause.

This section clarifies that this Act does not affect admiralty and maritime law or the jurisdiction of the district courts of the United States with respect to civil actions under admiralty and maritime jurisdiction, preserving to suitors in all cases other remedies to which they are otherwise entitled. This section is intended to clarify that this Act cannot supersede that provision, nor does it change the jurisdiction of the district courts under section 1333 of title 28, United States Code (the codified section of the Judiciary Act of 1789).

Sec. 6003—Qualified authorizing legislation.

This section provides that this Act meets the requirements of section 4611(f)(2)(B) of the Internal Revenue Code of 1986, as qualified legislation authorizing the collection of a tax on oil.

TITLE VII—RESEARCH AND DEVELOPMENT

Sec. 7001—Oil pollution research and development program.

(a) Interagency Coordinating Committee on oil pollution research.

This subsection establishes an Interagency Coordinating Committee on oil pollution research to coordinate research, development, and demonstration among the Federal agencies, industry, research institutions, and other nations. The Interagency Committee is established to bring together the capabilities and expertise of the Federal agencies involved with oil spill research, and to ensure that each agency's activities are coordinated with an overall national research program and plan. The Chairman of the Interagency Committee would be appointed by the President. A research plan would be submitted by the Interagency Committee within 120 days that would identify agency roles and responsibilities, and research priorities.

To provide an independent review of the adequacy of the research plan, section 7001(a)(4)(B) directs that the research plan be prepared with the advice and guidance of the National Academy of Science and the National Institute of Standards and Technology.

(b) Oil pollution research and development program.

(1) Establishment. The Interagency Committee would coordinate the program established in this subsection for conducting oil pollution research and development.

(2) Innovative oil pollution technology. New or improved technologies that would be effective in preventing or mitigating oil discharges and would protect the environment would be researched, developed, and demonstrated. The environmental effects of the use of these technologies to prevent or mitigate oil discharges would be researched. The research would be done in consultation with the National Response Team to enhance government and industry ability to respond quickly to oil discharges.

(3) Oil pollution technology evaluation. Technologies developed for the purposes of prevention or mitigation would be evaluated for their efficacy. The use of controlled field testing (where appropriate) to evaluate real-world application of oil discharge prevention or mitigation would also be supported through this program.

(4) Oil pollution effects research. Research on the short-term and long-term environmental effects of oil discharges would be performed. Improved models for predicting the fate, transport, and effects of oil discharges would be developed. Areas that are particularly sensitive and at risk to oil discharges would be identified and mapped. Baseline data would be gathered in areas sensitive and at risk to oil discharges to assist determination of effects following an oil discharge. Plans for long-term monitoring of areas sensitive and at risk would be developed for implementation in the event of a major spill.

(5) Special studies. This subsection requires the Secretary of Commerce to establish a 10-year comprehensive monitoring and research program to determine the long-term effects of the oil discharged by the *Exxon Valdez* spill in Alaska, and to investigate the way to protect arctic and subarctic environment from the risk of oil transportation. This subsection also includes a five-year research program to determine the environmental effects of recent oil spills in Rhode Island, Delaware, and Texas.

(6) Marine simulation research. This subsection provides for research on the greater use and application of geographic and ship simulation models. This research would benefit contingency planning, especially for specific geographic areas; removal and strike team training; and tanker vessel personnel training.

(c) Grants. This subsection allows the agencies represented on the Interagency Committee to enter into contracts and cooperative agreements and make grants to universities, research institutions, and other persons.

(d) International cooperation. This subsection directs the Interagency Committee to coordinate and cooperate with other nations and foreign research entities in conducting oil pollution research and development and demonstration activities, including controlled field tests of oil discharges.

(e) Annual reports. The Chairman of the Interagency Committee is to submit to Congress at the close of each fiscal year a report on the activities carried out under this section in the preceding fiscal year, and on activities proposed to be carried out under this section in the current fiscal year.

(f) Regional research centers. A minimum of six regional oil pollution research and development centers would be established in each of six regions: tropical and subtropical

coastal environments of Florida and coastal environments of the Gulf Coast, Atlantic temperate coastal environments, Pacific temperate coastal environments, the Alaskan coastline and other arctic and subarctic environments, the Great Lakes, and inland waters. The regional centers would design and implement a research program and strategy for dealing with major oil spills, taking into account the various regional elements that may affect oil spill effects and response.

(g) Funding. There would be authorized $28 million from the Oil Spill Liability Trust Fund to be appropriated annually without fiscal year limitation to carry out section 7001. The bill authorizes $1 million from the Fund for each regional research center, for each of the five fiscal years beginning in 1990.

TITLE VIII—PROVISIONS RELATING TO ALASKA OIL

Sec. 8001—Trans-Alaska pipeline fund.

Subsections (a) and (b) make clarifying amendments to section 204 of the Trans-Alaska Pipeline Authorization Act (TAPA, 43 U.S.C. 1653). Section 204(b) of TAPA is amended to clarify the liability of pipeline right-of-way holders for oil pollution. Section 204(b) currently provides that permit holders who cause oil pollution "within or without the right-of-way or permit area" shall be liable for the total cost of removal for a spill occurring anywhere in the world. That clearly was not the intention of this section. Rather, it was intended to cover oil pollution in the vicinity of the pipeline right-of-way or permit areas in Alaska. Subsection (b)(2) will clarify that the removal liability of the permit holder extends only to activities relating directly to the Trans-Alaska pipeline. Subsection (b)(3) extends payment of removal costs to those incurred by State officials. Finally, subsection (b)(4) makes the TAPA removal liability provisions inapplicable to those situations where this Act applies. In all other instances, the provisions in TAPA relating to removal costs and liability remain in effect.

Section (c) repeals that subsection of TAPA which established a liability and compensation fund for damages caused by oil spills from vessels transporting oil from the pipeline terminus to ports elsewhere in the United States. This repeal does not affect the ability of the Trans-Alaska Pipeline Liability Fund (TAPLF) to pay any claims outstanding at the date of enactment of this Act. However, after enactment of the Oil Pollution Act of 1989, any discharges of Trans-Alaska pipeline oil into the navigable waters of the U.S., the adjoining shorelines, or the exclusive economic zone after the date of enactment of this Act will be covered by this Act and claims paid through the Fund implemented by this Act.

Subsection (c)(2)(A) defines the term "damages" compensable under TAPA, with retroactive application to January 1, 1989. Subparagraph (B) provides that TAPLF will pay a valid claim within 90 days of presentment of the claim, including the first $14 million otherwise compensable from the responsible party for the spill. After payment of the claim, TAPLF is subrogated to all rights of any person entitled to recover under TAPA, subject to applicable limits of liability. This provision will provide prompt compensation to those who have been damaged by spills of trans-Alaska pipeline oil, such as those from the *Exxon Valdez* and *Glacier Bay*.

Subsection (d) directs the President to conduct a study and make recommendations for the disposition of any amounts remaining in TAPLF, after payment of all claims.

Subsection (e) preserves all Tucker Act claims for contributors to TAPLF. The Tucker Act gives the U.S. Court of Claims jurisdiction to adjudicate any questions of an unconstitutional taking of property associated with the disposition of the TAPLF.

Subsection (f) provides that all TAPLF officers and trustees, both private and public as well as present and former, will not be subject to liability in those capacities except for gross negligence or willful misconduct. In addition, TAPLF will indemnify those officers or trustees for all claims and liabilities, including legal costs associated with any claim or liability.

Sec. 8002—Effective date.

This section provides that title VIII is effective on the commencement date, as that term is defined by section 4611(f)(2) of the Internal Revenue Code of 1986.

COMMUNICATION FROM HON. BILL SCHUETTE, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable BILL SCHUETTE, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 31, 1989.

MR. SPEAKER: On August 3, 1989, I notified you pursuant to Rule L (50) of the Rules of the House that I had been served with a subpoena duces tecum issued by the Superior Court for the State of New Jersey.

After consultation with the General Counsel to the clerk, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

BILL SCHUETTE,
Member of Congress.

THE PRICE OF IMMIGRATION: IS AMERICA FOR SALE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Madam Speaker, for over a century the Statue of Liberty has stood as a symbol of the United States of America and an expression of freedom to people throughout the world. At the base of the Lady Liberty are the famous lines of Emma Lazarus. These words have come to symbolize America's status as a generous land where those who have suffered from oppression and injustice can come and begin life anew. According to Emma Lazarus:

"Keep, ancient lands, your storied pomp!" cries she
With silent lips, "Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me.
I lift my lamp beside the golden door."

Madam Speaker, this Member has carefully examined Emma Lazarus' poem, and nowhere can I find the words "Give me a million bucks." But that is precisely what is being proposed in the other body of Congress. According to Senate bill 358, foreign nationals with $1 million will be entitled to their piece of the American dream. If the other body has its way, 4,800 foreign "fat cats" would be permitted to buy their way into American citizenship, contingent upon their employment of 10 American workers for at least 2 years.

As a consolation prize for those who don't quite qualify for "Lifestyles of the Rich and Famous," 2,000 special visas would be granted for those able to plop down one-half million dollars in farming or ranching.

If the other body has its way, this Nation will clearly be forced to reconsider its status as leader of the free world.

In her poem, Emma Lazarus rejected the pretensions and corruption of the Old World with the cry, "Keep your storied pomp!" In Senate bill 358 the other body would seem to be saying "Give us your storied pomp!"—if they bring plenty of money.

Madam Speaker, this is not a trivial matter. This Member believes the issue goes to the heart of what we, as Americans, and our Nation are all about. This Member would deeply regret to learn that our principles, our values, and indeed American citizenship itself, is for sale to the highest bidder.

One day soon this body may be asked to make that decision. It is the sincere hope of this Member that we reject the practice of examining an applicant's wallet size when considering requests for permanent residency.

Madam Speaker, I am including an article in the September 4 edition of Business Week. I commend this essay to my colleagues, and urge them to fully consider the implications of the other body's proposal.

GIVE ME YOUR RICH, YOUR VERY RICH—A SENATE IMMIGRATION BILL WOULD GRANT SPECIAL PREFERENCE TO MILLIONAIRES

(By Douglas A. Harbrecht)

Americans have a special reverence for the Statue of Liberty. She has symbolized a fresh start and unbounded opportunity to generations of immigrants, from the waves of Germans and Irish in the 19th century to the millions of illegal aliens granted amnesty by the sweeping 1986 immigration reform bill. Not surprisingly, a U.S. immigration visa possesses a similar talismanic power—a power no one ever thought to put a price on. Until now.

If the Senate has its way, getting a U.S. visa could depend on the size of a would-be immigrant's bank account. When Congress returns from its August recess, the House will take up a Senate-passed measure that, for the first time, would let wealthy foreigners buy their way into the U.S. as permanent residents. The price for a chunk of the American dream: a cool $1 million.

RURAL REBATE

The bill, crafted by Senators Edward M. Kennedy (D-Mass.) and Alan K. Simpson (R-Wyo.), would create "special preferences" for 4,800 well-heeled immigrants. They would have to prove that they have the money and promise to invest it in a new business that would employ at least 10 American workers for two years.

A discount would be granted to those who would move to a hard-pressed rural area, courtesy of an amendment by Senator Phil Gramm (R-Tex.). It carves out an additional 2,000 special visas for rich immigrants who bring $500,000 with them and promise to put it into raising cattle, growing soybeans, or some other business in a sparsely populated locale.

This curious sort of "Buy America" provision is a little-noted aspect of the first major overhaul of immigration quotas in 24 years. And it stands a good chance of becoming law, since the overall measure has broad support. The Senate approved it 81-17 in July. House passage seems likely sometime next year.

While they disagree widely on specifics, most business and labor groups welcome changes in the quota system, an issue not addressed by the 1986 law. The basic goal is tilting preferences away from the current emphasis on reuniting families toward ensuring a pool of immigrants with needed skills. The measure creates 150,000 visas over three years, to be awarded under a point system that gives the highest priority to the young, the well-educated, and those trained in such high-demand occupations as science and engineering (table).

That's not controversial. But the new special visas for millionaires have set off an emotional debate over the trade-off between economic incentives and American values. "It's disgusting," says Garry Turner of the Federation for American Immigration Reform, which wants to lower immigration ceilings. Adds Senator Dale Bumpers (D-Ark.), who led an unsuccessful, 43-56 attempt to kill the provision on the Senate floor: "We are putting the crassest commercial value on American citizenship I have ever seen."

But this revulsion isn't shared by the American Immigration Lawyers Assn. and the international business groups that are among the bill's most enthusiastic backers. They see the visa-for-investment swap as a way to enhance U.S. competitiveness at no cost to the taxpayer. "Hey, we're talking about providing jobs for our country," says Polly A. Webber, a San Jose (Calif.) immigration lawyer who is president of the AILA. "The [newcomers] pledge their allegiance to the country, and we give them a stake in their investment. Many states are really desperate for this injection of additional income."

MIXED FEELING

The Senate action hasn't escaped world attention. American banks are hawking the measure in hopes of luring Hong Kong investors skittish about the coming Chinese takeover of the colony. But the measure's appeal isn't limited to legitimate capitalists. Despite vehement denials by backers of the measure, critics worry that it will attract drug lords and shadowy pre'er-do-wells to U.S. visa offices.

The controversy will soon be taken up in the House, where immigration subcommittee Chairman Bruce A. Morrison (D-Conn.) confesses to mixed feelings. The idea of buying your way into America while the rest of the world waits in line "leaves a bad taste in my mouth," says Morrison. But, he adds, "there is a lot of foreign investing going on right now. Who do you want, someone who puts down roots or just puts down his money?"

It used to be that penniless immigrants came to America to make their fortunes. Now, the rich may soon be invited to invest them. So much for wretched refuse and huddled masses yearning to breathe free.

NEW THINKING ON IMMIGRATION

The bill moving through Congress would:

Expand the number of visas to 630,000, up from 406,000.

Set aside 4,800 visas for immigrants who bring at least $1 million into the country and create new jobs.

Reserve 150,000 residency visas for immigrants who posses PhDs, will provide rural medical services, or offer other special skills.

Grant preference to Chinese students in the U.S. who could face persecution at home.

Increase visas allotted to Hong Kong residents.

Ban deportation of immediate relatives of aliens granted amnesty.

Guarantee 480,000 visas for immediate relatives of U.S. citizens and residents with permanent visas.

□ 1900

INTRODUCTION OF ADMINISTRATION'S HUD REFORM

The SPEAKER pro tempore (Mrs. KENNELLY). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Madam Speaker, today I have introduced by request, together with our distinguished ranking minority member, the gentleman from Ohio [Mr. WYLIE], and the ranking minority member of the Subcommittee on Housing and Community Development, the gentlewoman from New Jersey [Mrs. ROUKEMA], the administration's legislative proposals to reform the Department of Housing and Urban Development; that is, the Secretary of HUD's reform proposals. It is now known as H.R. 3570.

During the past year we have been witnesses to the unfolding of one scandal after another relating to the administration of HUD during the 8 years that Secretary Samuel Pierce was the Secretary of HUD. Numerous hearings, investigations, and oversight of HUD have occurred this year.

A new HUD Secretary has come into the office intent on reforming the manner in which the Department has been run. Secretary Jack Kemp has appeared before our Housing and Community Development Subcommittee on three occasions thus far this year since taking office in early February, and has been forthright and honest in his assessment of what has gone wrong at HUD.

The legislation that I am introducing today with my Republican colleagues embodies Secretary Kemp's recommendations to change the way in which HUD has been operating in the last 8 years. I am introducing this administration's legislative proposal in the same spirit that I introduced President Bush's savings and loan reform package in January of this year. While I am not committed to all of the proposals in Secretary Kemp's package, I am pleased to introduce this administration's proposal so that we on the Committee on Banking, Finance and Urban Affairs can give it the careful consideration that we gave the savings and loan legislation that the administration submitted actually in February.

I believe that all of the members of the Committee on Banking, Finance and Urban Affairs and on its Subcommittee on Housing and Community Development share my intention to see that HUD is run by honest and dedicated people. However, legislatively there is not a thing we can do about compelling honesty among administrators. Those portions of the Secretary's reform package that have to do with specific legislative recommendations are what are encompassed in the bill we introduced today. Over 65 percent of the Secretary's recommendations are in areas that he and his administration supporting him can bring about administratively without the need for any legislative enactments or bills.

I believe that Secretary Kemp's proposal is going to be substantially enacted. Some of the members of the Subcommittee on Housing and Community Development have introduced reform bills. The gentleman from New York [Mr. SCHUMER], the gentlewoman from New Jersey [Mrs. ROUKEMA], and the gentleman from Ohio [Mr. WYLIE], have introduced reform packages. But we were waiting to have the specific recommendations from Secretary Kemp so that we could evaluate and add to, or in the amendatory processes of what we call markup of the subcommittee bring about the will of the substantive committee, the legislative committee, the Subcommittee on Housing and Community Development. There will be additions, there will be deletions. That is part of our process.

Madam Speaker, the Subcommittee on Housing and Community Development has already commenced its markup consideration of this year's housing authorization proposals that will include recommendations to reform HUD.

Madam Speaker, I yield back the balance of my time.

REMARKS BY ARNOLD I. BURNS TO BOYS' CLUB OF AMERICA'S CONGRESSIONAL BREAKFAST

The SPEAKER pro tempore (Mrs. KENNELLY). Under a previous order of

the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Madam Speaker, Arnold I. Burns, former Deputy Attorney General of the United States, recently spoke on the subject of the importance of Boys Club. I recommend his incisive and touching speech to my colleagues.

At this point, I insert in the RECORD a speech by Arnold I. Burns, delivered at Boys Club of America's Congressional Breakfast, Washington, DC, September 27, 1989, as follows:

REMARKS BY ARNOLD I. BURNS

Good morning. We are gathered here this morning to celebrate and honor five "Youth of the Year" finalists. These outstanding young leaders have performed a wide array of valuable services in their Clubs and communities.

Anthony, James, John, Felix and Brent—I salute you for giving generously of your time, talents and energy to help family, friends and neighbors. I applaud you for your exceptional dedication to high moral principles. You have distinguished yourselves among your peers by exhibiting a strong and healthy attitude toward life and work, and your good deeds have made a vital contribution to the improvement of our society.

How I wish that all young people had such strong and healthy attitudes! And how I wish that good physical and mental health were characteristic of all American society. Unfortunately, this is not the case.

No, I cannot, in good conscience, give a clean bill of health to America. Disease runs rampant in our inner cities. It is a disease of the spirit that cripples and kills.

Our inner cities are plagued by crime, drugs and violence. There is an epidemic of illiteracy, illegitimacy, filth and poverty. And poverty spawns hunger, homelessness, frustration, anger and despair.

Kids growing up in our cities don't know how to break the cycle of poverty, failure and more poverty. They don't know where to turn for help. They need emergency treatment. But who will cure their ills?

Today, I would like to examine the health of America's young people and check their vital signs. As the examination proceeds, I will discuss the symptomology, diagnosis, treatment and prognosis of our inner city boys and girls. So, if you will bear with me while I put on my doctor's uniform, we'll begin this important examination.

Good morning. I'm Dr. Burns, Chief Internist and Director of Emergency Medicine at D.C. General Hospital.

At 2:03 a.m., a 16-year-old boy was admitted to the hospital by a police officer. The officer found the patient wounded on the street after being caught in cross-fire during a drug deal gone sour.

The patient spoke mostly in Spanish, and Dr. Carmen Rodriguez, a resident here at the hospital, helped me take a brief history.

In taking the history, I learned that the patient has no father and that his immediate family consists of four brothers and sisters who are being raised by his mother. The patient ran away from home when he was 14. He has spent most of the last two years on the streets and is a member of a street gang.

I first examined the puncture wound to the right thigh that the patient received during the gun fight. Bone fragments and tearing of tendons were evident, along with resultant weakness beyond the injury to the lower extremity.

As the examination proceeded, I observed needle marks in both ante-cubital fossa and inflammation and excoriation in the nasal passages, indicating heroine and cocaine use. There was also questionable jaundice in the eyes and a fine tremor in the hands.

The patient had old scarring on his back and was missing several teeth. Hospital records obtained when the patient was admitted to the emergency room four years ago indicate that he had been physically abused during childhood. The case had been referred to a social worker at the time, but was never pursued.

The patient weighs 103 pounds and is short of stature—only 5 feet, 2 inches tall. He is thin, and loose musculature of the abdomen raises the possibility of malnutrition.

Hematologic studies indicate an increased MCV (mean corpuscular volume) raising the possibility of ethanol abuse. Chemistries indicate elevated liver enzymes which support this indication and which also strongly suggest hepatitis. I ordered further hematologic studies to rule out the possibility of AIDS.

The patient was then examined by Dr. Greenberg, head of the psychiatric unit, who filed a report indicating severe depression with suicidal tendencies, extreme anxiety, fear and feelings of inferiority. In Dr. Greenberg's opinion, the patient tried to stifle these feelings by using illegal drugs and alcohol. Use of illegal drugs, in turn, explains why the patient was shot in cross-fire during a drug deal and, consequently, why the patient has an injury to the right thigh.

What, then, is the clinical diagnosis of the various symptoms exhibited by the patient? In summary, the diagnosis I believe to be most inclusive and accurate is acute and abject neglect by family and society.

I would like to point out that this diagnosis is not unusual among inner city teenagers. This case is not at all atypical. Today almost two-thirds of all high school seniors have tried illegal drugs. By the 12th grade, 80 percent of all boys and girls are periodic drinkers. Each year, more than 1 million teenagers become pregnant. Remember, more than 14 million youngsters live in poverty.

Acute neglect is a condition that hampers and cripples millions of girls and boys each year. What is my prescription for the ailments afflicting our youngsters? The most successful way to treat them, in my opinion, is memberhip in a Boys & Girls Club. Clubs provide a secure environment for young people at-risk of drug and alcohol abuse, premature sexual involvement and juvenile crime. By providing a safe place for young people to do, Clubs help disadvantaged boys and girls "beat the streets." Clubs give young people a chance to develop self-esteem and the social skills they need to become productive members of society.

Most clubs are located in neighborhoods where drugs, crime and poverty are everyday facts of life. Who belongs to Boys & Girls Clubs? Sixty-six percent of our members come from families earning $15,000 per year or less; 77 percent are from families with three or more children; 51 percent are from minority families; 47 percent are from single-parent families, and 29 percent are from families receiving public assistance. The Club frequently is the only place in the neighborhood where kids can play and learn under the supervision of a trained, professional adult.

Clubs help their members stay out of trouble with the law, and Club staff become "second parents" to many boys and girls who often turn to them for advice and guidance. Boys & Girls Clubs serve over 1 million boys and 300,000 girls in over 1,100 Club units operated by nearly 600 locally-governed organizations. A total of 56,434 Board and program volunteers help to make the Boys & Girls Club Movement work, and 15,525 full- and part-time staff members enable Clubs to provide youth development services on a daily basis. The care, concern and understanding that young people receive from the Club staff foster trust and the development of sound values.

Research supports this mode of treatment. A 1986 survey conducted by Louis Harris and Associates for Boys Clubs of America revealed that nearly 70 percent of all alumni believe they were kept away from drugs and alcohol due to involvement in their Clubs. Three out of four alumni believe their experience at the Club helped them to avoid difficulty with the law. And nine out of 10 alumni feel that being in a Club had a positive effect on their lives, gave them skills for leadership, helped them get along with others, and influenced their success in later life.

Former Club members who felt they had started life with the most obstacles to overcome—blacks, Hispanics, the economically disadvantaged and those from tough neighborhoods—gave their Club the most credit for their success as adults.

Yes, the care, concern and understanding that young people find at the Boys & Girls Club cure many ills of our inner cities. These positive qualities lead boys and girls to the threshold of health and strength of character.

What, then, is the prognosis for millions of children suffering from abandonment and neglect? This, my friends, will depend largely upon what we as a nation and as a society choose to do about the situation. The prognosis can be very good if we make the concerns of our young people a national priority. Boys & Girls Clubs already look after 1,300,000 youngsters. By 1991, at the conclusion of our Outreach '91 program, we will be caring for an additional 700,000 boys and girls, bringing the total number of youth served to 2 million.

A good prognosis also requires that we practice preventive and holistic medicine. It is truly said that an ounce of prevention is worth a pound of cure. Our top priority is to expand drug prevention education. Some people foolishly think that the drug problem is a Colombian problem or a Burmese problem or a Laotian problem. It is not. It is an American problem. So long as our citizens are willing to buy and use drugs, we will have drugs reaching our markets. We must—we must—dry up the market. We have got to change our peoples' attitudes about drugs—the way we have about alcohol. We've got to take casual users out of the marketplace by arresting and publicly ostracizing them. And we must instill in our children a full understanding of drugs and offer them a viable, exciting, fufilling substitute for idleness, drugs and then crime.

Making our young people healthy again is going to take a massive, collaborative effort on the part of many youth service organizations, private enterprise, and government at the city, state and federal levels. Some federal agencies have stepped up to the plate and joined with us in our war on drugs: Terry Donahue of the Office of Juvenile Justice and Delinquency Prevention, Dr. Elaine Johnson of the Office of Substance

Abuse Prevention, and Jane Kenney of the Action Agency.

These individuals and agencies have joined and financially supported our efforts in public housing. They have helped provide alternatives, as we convince kids to say No to drugs.

The FBI's demand reduction unit has joined forces with Boys Clubs of America to develop after-school initiatives focusing on high-risk youth. We all know this war cannot be won until the demand for drugs decreases. The FBI working with local Boys & Girls Clubs will make a difference.

We need a determined effort to stem the epidemic of despair that plagues America's young people. Happily, Americans know how to come to the aid of each other, and we know how to fight disease when it attacks the health and well-being of our children. If we band together, we can win the war on drugs, we can win the war on poverty, and we can win the war on crime!

Ladies and gentlemen, let me close by reminding you that there is more to medicine than just needles, pills and incisions. Love needs to be a fundamental part of the healing process.

How great it would be if every disadvantaged boy and girl could receive enough love and affection to restore his or her health and vitality. Remember, our children need us. When just one child suffers, the pain is felt by many people. But when millions of children are hurting, our whole nation is at-risk.

Let us not be afraid to show our love and concern, and let us resolve here and now to give more of our time, our talents and our treasure to help our children recuperate and get back on the road to good health. Believe me, your kindness will be repaid many times over. In this way, you, too, can experience some of the same satisfaction that doctors and nurses feel. For when people help others who are injured and who are in need, they also help themselves and all humanity.

Thank you.

U.S.S. "LEXINGTON" ACCIDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Madam Speaker, it is with great sorrow that I address Congress and the Nation regarding the tragedy which occurred aboard the aircraft carrier U.S.S. *Lexington* on Sunday, October 29, 1989. Words cannot properly express the sympathy we all extend to the loved ones of the five people who lost their lives. Our thoughts and prayers go out to their families, and I wish a speedy recovery to those who received injuries in that unfortunate incident.

The tragic accident occurred when a young pilot based out of the Navy's air station near Meridian, MS, approached at a wrong angle while attempting his first touch-and-go landing. The training jet, a two-seater T-2 Buckeye, crashed into the ship's superstructure, cartwheeled and then collided with several planes on the flight deck as it burst into flames. At the time, the *Lexington* was conducting a training mission in the Gulf of Mexico about 30 miles south of Pensacola.

Capt. Flack Logan, skipper of the *Lady Lex*, and his crew are to be commended for their professionalism in handling the accident. The fire ignited by aviation fuel was quickly contained, and the crew acted promptly and with precision to prevent more extensive damage to the ship. We should all be proud of their exemplary action in the face of adversity.

This tragedy occurred aboard a ship which has served her country well for many years. The *Lexington* was commissioned on February 17, 1943, and was responsible for destroying over 1 million tons of shipping and more than 1,000 enemy planes during World War II. Tokyo Rose called the *Lady Lex* the "Blue Ghost" because of numerous reports of her sinking only to return to battle painted a blue-grey color which was different from the camouflage coloring of other naval vessels. Now, it is the Navy's only aircraft carrier used exclusively for training. It has been homeported in Pensacola since 1962.

During my 11 years in Congress, I cannot recall a serious accident of any kind aboard the *Lex* until this one. Despite thousands of takeoffs and landings every year, the ship maintains an excellent safety record which is a tribute to her crew and the Navy.

The five who died in the *Lexington* accident will be remembered as brave and patriotic individuals. In addition to the pilot, Esn. Steven Pontell of Columbia, MD, they were Airman Lisa Mayo of Oklahoma City, Aviation Boatswain's Mate Burnett Kilgore of Holly Springs, MS, and Timmy Garroutte of Memphis. The fifth was a civilian maintenance worker, Byron Courvelle, from Meridian, MS.

Since damages were not severe, the *Lexington* is expected to be back in operation in the near future. Although the sorrow of this recent tragedy will linger for some time to come, we look forward to this proud lady, the *Lady Lex*, returning to the seas and continuing her service to our country as young pilots are trained for the U.S. Navy.

ANNEXATION CENTENNIAL CELEBRATION OF THE RAVENSWOOD-LAKE VIEW HISTORICAL ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Madam Speaker, I rise to call to the attention of my colleagues that on October 21, 1989, the communities of Ravenswood and Lake View, in the 11th Congressional District of Illinois, which I am honored to represent, celebrated their 100th year of annexation to the city of Chicago. To mark this occasion, a successful parade was held on Lincoln Avenue in Chicago, and Richard C. Bjorklund, cochairman of the annexation centennial committee, addressed the crowd in attendance.

I would like to take this opportunity to share Cochairman Bjorklund's remarks regarding this annexation centennial celebration. The text of his timely and cogent remarks follows:

CHICAGO AND LAKE VIEW: A CENTURY TOGETHER

One hundred years ago we became dual citizens, citizens of the City of Chicago as well as of our own neighborhoods.

It was in October, 1889, that the Illinois Supreme Court finally confirmed annexation to Chicago of the City of Lake View, the Village of Hyde Park, the Town of Lake and Jefferson Township, now the vast Northwest Side of Chicago.

For residents of Lake View and the other areas, annexation meant improved water facilities and sewerage, better police and fire protection, consolidated schools and fewer governmental agencies to bicker about.

For the City of Chicago, annexation meant taking its place as the nation's second city after New York as well as the opportunity to grow finally into the greatest city in mid-America.

Annexation put the city in closer touch with the workforce that would build its commerce and industry. And not incidentally, annexation provided Chicago with a greater tax base. Annexation gave Chicago a larger, brighter image to present for the World's Columbian Exposition that was to come in 1893, an exposition that lifted the city to world-class status.

Scholars call Annexation Day one of the most important events in Chicago's history. We who are here to celebrate the centennial of annexation must agree. There have been great beneficial effects from annexation for the city and for the communities that joined it 100 years ago.

Consider that we now have a working, integrated transportation system that connects all parts of the metropolitan area. Consider that we have an unbroken lakefront more than 20 miles in length. Consider, too, that we enjoy numerous cultural and recreational advantages of big-city life.

We live today in one of the richest residential and commercial areas in the world. Property values in Lake View, Ravenswood, Uptown and Edgewater (the communities of Lake View Township) are among the highest in the nation, thanks in large part to nature and to efforts of good people who lived here before us.

In the next century we must make city life work all over again. We must make it work despite daunting challenges. We have an aging infrastructure that must be rebuilt. Our housing stock must be improved and maintained. Rusting industries must be replaced by new technology. Our healthcare system must be constantly updated, and it must be extended to all who need it. Schools must be made adequate for the demands of the 21st Century. Social services must be expanded and modified, especially to meet the needs of newcomers among us. And, yes, we have a continuing crime problem that must be controlled.

We can make city life continue to work for us only if we meet the responsibilities of our dual citizenship. We must act in the bold "I will" spirit of Chicago to meet problems of the future, and we must do our duty with the sense of compassion that is the heritage of Lake View and all true neighborhoods.

PAUL GUERRERO, JR., DAY IN DALLAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BRYANT] is recognized for 5 minutes.

Mr. BRYANT. Madam Speaker, Sunday, November 5, 1989, has been designated "Paul Guerrero, Jr., Day" in the city of Dallas and Dallas County, TX.

It is an honor that Paul Guerrero, Jr., who would have been 58 on Sunday, richly deserved. His contributions as a professional musician and educator enriched his audiences in ballrooms, concert halls, living rooms, and classrooms throughout the country.

Paul Guerrero, Jr., who died on March 3, 1989, will be honored at a reception, dedication, and performance at Dallas' new Morton H. Meyerson Symphony Center, where the west dress circle stairway will bear his name.

He was born in New Braunfels, TX, on November 5, 1931, grew up in Dallas, and graduated from Sunset High School in 1953. As a young man he performed with the family band headed by his father and began playing professionally at the age of 14 on live radio broadcasts with recording star Judy Canova.

After his military service during which he was a member of the Army Band at Fort Sam Houston, he earned his bachelor of arts, master's, and doctorate degrees in music from the University of North Texas.

In the early 1960's, Paul Guerrero, Jr., was a founding member of the now-famous One O'Clock Lab Band at the University of North Texas, from which he was selected for an unprecedented 2 consecutive years as first collegiate jazz drummer at the prestigious Notre Dame Jazz Festival.

Music and teaching and family were Paul Guerrero's life.

He was a nationally renowned jazz drummer. And he played with the best—Woody Herman, Stan Kenton, Henry Mancini, the Fifth Dimension, Vicki Carr, and Dean Martin.

The World's Greatest Music was what he called his own band, which lived up to its name in numerous jazz festivals and various Dallas area jazz clubs, including an 8-year stint at the Bagatelle.

Paul Guerrero, Jr., was the first jazz drummer to play with the Dallas Symphony Orchestra, figuring prominently in its recording of "The Dallas Sound," and served on the symphony's board of directors from 1980 through 1984.

In 1975, Paul Guerrero, Jr., joined the staff of Richland College, where he taught percussion and music theory and directed the Richland Jazz Band and the Percussion Ensemble. He served on the Arts Magnet High School Advisory Board and designed its highly regarded jazz curriculum.

Paul Guerrero, Jr.'s contribution to our Nation's musical heritage and to the education of generations of American musicians is incalculable.

His family, friends, and community will celebrate his life and his music with the music he loved, performed by Galen Jester and the Dallas Jazz Orchestra, the Richland Early Brass, and the University of North Texas One O'Clock Lab Band.

It is fitting that someone who gave so much of himself and his talents to his community and his country will be honored with a very special observance on a very special day—Paul Guerrero, Jr., Day in Dallas.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. DORNAN of California. Madam Speaker, I ask unanimous consent to vacate my 60-minute special order for later on tonight, and ask for a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Madam Speaker, last week on the evening of the vote on abortion, where the President's veto of the Health and Human Services appropriations bill was sustained, I had an hour special order. An acquaintance, a news media friend, called and asked if I would cut short my special order so that C-Span cameras that cover this House could divert to coverage of a dinner. I did not know it was a roast, but it was a dinner, a so-called roast of Bob Novak. And although I would have graciously even gone to that dinner, let alone tried to be courteous, I was told it was for spina bifida, which is a terrible birth defect for young children, and it is certainly a worthy cause, so I cut my special order from 60 minutes down to about 10 minutes or so. But I had not bothered to check with the Members who followed me, and they went ahead with their special orders. So my giving up 50 minutes or so of time was all to no avail.

□ 1910

Well, I said I would take out a special order this week. I have had a lot of pro-life-interested people across the country call and ask me to please finish out that other 50 minutes on a postmortem of what really took place in that vote where 191 Members of this House, far more than was needed—we only needed 146 or one-third of the House plus 1—to sustain a Presidential veto, or a third of the Senator plus 1, 34. We easily got that in this House, but the debate rages on because the next day, the Friday, the President vetoed the District of Columbia appropriations bill because my language, the Dornan pro-life language, had been taken out of the bill.

I came down to this very lectern the day we debated that some weeks ago and read the letter from the President saying that he would veto the District of Columbia appropriations if it ended current law which has been in effect since midyear of 1988, and opened the floodgates to 9 months of abortion on demand in this beautiful Federal city.

It was very clear to everybody, to the chairman and all the Members of this Chamber who voted, that the President would keep his word, and he did.

Now it is being characterized as somehow or other a vote against poor women or young women who find themselves pregnant. What the President is doing is respecting the viewpoint of those in this country who feel that abortion is the killing of innocent human life, the murdering of innocent human life if the conscience is formed in such a way that they personally believe it is a human being in there but say "go ahead and kill it, anyway."

But I always try to use the word "killing," which is a more generic word, because it does not involve conscience. But it certainly involves medical fact. Killing an embryo, killing a fetus, killing a near-full-term-delivery child is killing a living person, a living human being.

So that if you leave it alone and the continuum takes place, you have a person, an entity, an existing human being. More than, or almost half, the time it is of a different gender from the mother, a different physical structure.

The tiniest of women can be giving birth to a 6-foot-7 potential linebacker or a concert pianist or a lady who is going to become a great research doctor like Madam Curie, and instead of developing radium, could conquer cancer, find a cure for AIDS. We never know what we are doing when we snuff out the potential of that human life in the womb.

Well, the President kept his word on the health and human services appropriation bill, he kept his word on the D.C. appropriations bill. Now we are meeting in this House trying to figure out where we go from here.

Well, may I propose to the rest of my liberal colleagues in the House the following analogy: When you say the initials NRA, which mean National Rifle Association, most liberals are like a bull seeing a red matador's cape. It drives them up the wall.

You ask them what they dislike about the NRA, it is not Charlton Heston's excellent commercials about all the good that the NRA does in teaching gun safety, sponsoring events leading up to winning gold, silver, and bronze medals in the Olympics. What they see is a group that sometimes, as they see it, and as many conservatives see it, is unreasonable about personal ownership of bazookas, heavy mortars, you name it.

Actually, the NRA is amenable to law controlling the grossest of firepower weapons. But sometimes they dig in their heels under the theory that any law at all in the area of gun control is a foot in the door.

Well, what is it about liberals when they see that so clearly that they think any law restricting wide-open abortion on demand for 9 months, why is it that they see that as a foot in the door?

So what I will do, Madam Speaker, is continue my special order for 60 minutes tomorrow night. I believe I am signed up on the record, so I will continue then.

COMMEMORATIVE INACTIVITY

The SPEAKER pro tempore (Mrs. KENNELLY). Under a previous order of the House, the gentleman from Michigan [Mr. UPTON] is recognized for 60 minutes.

Mr. UPTON. Madam Speaker, this is Wednesday evening, and a number of us on the congressional reform task force have taken this time every Wednesday since the beginning of September to talk about some of the rules changes that certainly a majority of us on the Republican side would like to see changed.

We have talked about things like the balanced budget amendment, constitutional amendment, we have talked about the line item veto, something that both Mike Dukakis and George Bush support; we have talked about the Committee on Rules and how there are nine Democrats and four Republicans and how that is not exactly the same ratio here in the House.

But this evening our topic, and I think we will have a couple of Members here this evening, we are going to talk about commemoratives. I guess maybe you could call this evening commemorative inactivity.

This year more than 400 different commemorative bills have been proposed.

I have a chart here, I do not know if the camera will pick this up or not, but it is interesting to note that this year in the 101st Congress, through really the end of July, of all the bills that have been enacted by the 101st Congress, 62 percent of them have been commemorative legislation, 62 percent, almost 2-to-1.

Now I have my own rule. Maybe I should call it the Fred Upton Rule, in terms of the commemorative bills that I have cosponsored. That rule is that if a Member of Congress personally comes up to me on the House floor or gives me a call in my office and says, "Will you consponsor National Neighborhood Crime Watch Day?" count me in, I am a "yes," if the Member personally grabs me.

Or if a constituent sends me a letter or talks to me at a town meeting and says, "Will you cosponsor National Diabetes Month," absolutely, I am delighted to, no problem.

But I do not ask my staff nor do I do this myself, thumb through as many as 400 dear-colleagues that we have seen this year looking for things that I feel that are worthwhile so that I can cosponsor them so that we can pass them, often by voice, in this Chamber.

It would be a waste of my time. There are many more important things that I need to spend my time on.

Some of these commemoratives, and I have rattled off a couple, are very important. I think anyone in their right mind would be delighted to cosponsor them.

Things like National Neighborhood Crime Watch Day, National Women Veterans Recognition Week, National Diabetes Month, National Glaucoma Awareness Week, End Hunger Education Month, National Child Care Week, National Organ and Issue Donor Awareness Week.

Last week, of course, my good friend and colleague, PAUL HENRY from Michigan, introduced and was able to pass "Hostage Awareness Week." Many of us wore a little yellow ribbon in our lapels all week to remember the hostages in the Middle East.

All those are very worthwhile groups. Many of the organizations in fact trying to fight these diseases, rely on the help that commemorative days, weeks, months often give them.

But 400.

There are a number of commemoratives that just sound silly or at least it does not make sense that Congress should be spending time, valuable time, on these, whether it be ourselves twisting arms, getting Members if they follow the "Fred Upton Rule" in terms of cosponsorship or calling Members up on the floor. National Tap Dance Day, National Barbershop Quartet Month, and I hope I do not get those folks mad at me, National Duckling Month, National Weight Loss Month, National Ceramic Tile Industry Recognition Week, Karate Kid Just Say No to Drugs Month, National Headache and Jaw Joint Injuries Week.

In fact, when National Dairy Goat Week, a bill I was a proud sponsor of, following the "Fred Upton Rule," I had more letters from my constituents on National Dairy Goat Week than I did on raising the speed limit from 55 to 65 miles an hour.

Where are our priorities?

In fact, there is a new bill just proposed called "Interstitial Awareness Day." I think it might make the national spelling contest, i-n-t-e-r-s-t-i-t-i-a-l. I am not sure anyone really knows what it means. In fact I grabbed my Webster's dictionary before I came over here this evening and looked up interstitial, and it says, pertaining to, containing or existing in interstices. And when you look that word up, after the proper pronunciation, which I probably butchered here, it says, "a narrow place between things closely set, or crevice."

□ 1920

That is what that is, Crevice Awareness Day. Guess what? I am a cosponsor, because the Member of Congress that offered that happened to grab me on the House floor and I followed, using the FRED UPTON rule "No problem." If it counts to a Member of Congress, to physically ask me, I am honored. Hopefully, maybe I will have some constituents that will write, too. That is not something that I do not think any Member here in the Chamber this evening or back in their offices would actually go through and say, "Gosh, that will be for me." No, it will take a Member of Congress to grab another Member.

The work we have done this year, 62 percent of the work we have done has been with commemoratives such as these. Working Mother's Day. Well, why not Working Parents' Day? In fact earlier this year the L.A. Dodgers, and I am a Cub fan, but we gave congratulations on a World Series victory when we passed on April 5, 1989, that was 7 months late. The Dodgers won last year, in 1988. What are we doing with this in 1989? Well, some might say we cannot pass a budget on time, so maybe we could not congratulate the Dodgers any sooner than we can pass a budget reconciliation.

Now, there has been a bill that has been introduced, and I must say there is light at the end of the tunnel, I hope. It has been a bill that has been introduced by my good friend and colleague, the gentlewoman from Rhode Island [Ms. SCHNEIDER]. Let me tell Members what that bill does. It says that only those proposals with national appeal and significance which shall be demonstrated by cosponsorship of a resolution or written endorsement, et cetera, may be reported. The following types of proposals shall not be reported: any proposal concerning a commercial enterprise, specific project, or fraternal, political or sectarian organization; any proposal concerning a particular State or political subdivision thereof; any proposal concerning a living person; any proposal which designates a commemorative day or other period already passed; any proposal providing for recurring commemoratives, notwithstanding a proposal providing for an annual commenorative in each of 2 consecutive years may be reported.

Basically what it does is this: It sets up a committee of, hopefully, only a couple of Members, that can make that decision for Members so we do not have to see 435 different Members of Congress supporting their Intersti-

tial Awareness Day, or National Diary Goat Week, or Tap Dance, Barbershop Quartet, or whatever, taking their valuable time on this floor, getting 218 cosponsors. That is, by the way, for those who are listening this evening back in your homes, that is the way that a commemorative gets passed. If someone at home is a C-SPAN junkie, as they say, who does remember some of those bills coming up for debate on the House floor, we did not have a vote, and it did not show up in the CONGRESSIONAL RECORD. When did we have time to do all the bills? The rule is this: We get 218 cosponsors. That is a magic number, 218 votes on anything wins. It is automatically passed in the House by voice. I suppose someone who takes the time to take the debate and it has been done from time to time, but it is automatically done, so it is sort of a silent process that we go through here.

On this bill that I talked about, the gentlewoman from Rhode Island, Ms. SCHNEIDER's bill setting up a separate committee, it has to go through the committee, and the committee in essence decides what projects are worthwhile, what days are worthwhile, and which ones are not. If a person deals with it that way, I have good news. We already have 238 cosponsors, which means if we brought this up for a vote, it has more than enough today, tonight, to pass. I think that is very important.

Now, this bill has been referred to the Committee on Post Office and Civil Service, and in discussion with the subcommittee chairman just this afternoon, my good friend the gentleman from Ohio [Mr. SAWYER], he indicated that they are going to start some movement on this bill. In fact, they will have some hearings very soon, and that is important, I think, because all Members, at least 237, have been willing to cosponsor this legislation, have provided some impetus, and perhaps for a catalyst for getting this bill passed.

Now, I want to cite a little story that was in the Washington Post the other day, by Dale Russakoff, and I will read just a couple of passages from the story because I think it will take out some of the frustrations that many Members on both sides of the aisle have with the commemorative issue.

> This is a story about a harmless, public-spirited gesture of Congress that almost everyone agrees has gotten out of hand. Unlike other Washington excesses, it won't bankrupt the Treasury, it doesn't threaten public morality, it doesn't even burden small businesses.
>
> But if there is a larger point—and many think there is—it is about discipline and how hard it is to summon it in the nation's capital.
>
> The House and Senate require that such bills be cosponsored by more than half the chamber—apparently in an effort to enforce discipline. It hasn't worked.
>
> "The most phone calls I get are from other offices asking, 'Do you want to sponsor my week?' "
>
> We say no.
>
> said an aide to a freshman Democrat, "When the interns come, that's all they do. You rarely get a call saying, 'We really want you guys to go on the minimum wage bill,' or something substantive."

Let me deviate from the story for a little bit here. I can remember just 2 weeks ago, I got a letter from one of my constituents asking me why I could not cosponsor a particular week for their parochial interests, and obviously they were asking me to sponsor such legislation, and my response to the constituent was that I would be glad to sponsor that if someone else offered it, but I'll be damned if I'm going to offer that myself and take the time from the duties that we have to go and grab 218-plus Members to cosponsor such a bill. It is ridiculous. It is not why we came here to Congress. We came, all Members I would imagine, came to make a difference in terms of what we do, and these bills which are rather plentiful, we can deal with in a much more efficient manner.

I think it is long overdue. Now, the bottom line is that we should not need a Presidential commission to decide these things for Members. We should not have to have tightly restricted rules to govern the process. We, Members of Congress, simply must be more responsible and sensible about some of the things that we propose.

Now, 2 weeks ago, I was able to say no. However, 400 of the Members here said yes. I think that is ridiculous, especially when we cannot pass a budget on time, that we take time to do some of the things that we otherwise probably should not.

THE NEED FOR THE NUCLEAR FACILITIES OCCUPATIONAL SAFETY IMPROVEMENT ACT OF 1989

The SPEAKER pro tempore (Mrs. KENNELLY). Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Madam Speaker, virtually every 3 or 4 days over the past 6 months or so, the American public has been bombarded with news reports concerning the poisoning of our environment or possibility of safety hazards arising from problems at Government-owned, contractor-operated plants that produce nuclear materials for our Government's needs.

These plants, located in Ohio, South Carolina, Texas, Tennessee, Washington, Colorado, and several other States, are either owned or under the control of the U.S. Department of Energy, which has responsibility for both production of the nuclear materials at those plants and for ensuring environmental and occupational safety and health at them.

The news reports I have been reading are not encouraging and they lead me to believe that the DOE either can't or doesn't want to do the job that we believe is its responsibility.

Let me just read some headlines. "Poisoning Workers, Safe From Suits," an article in the Wall Street Journal last August, notes that "nuclear weapons makers must have a financial interest in the safe operations of their facilities;" that "negligence could have consequences," but that "today, there are none."

Here is another headline. "Energy Department Is Faulted on Enforcing Contracts," in the Washington Post last month notes that the DOE's own inspector general says the agency has allowed civilian contractors to improperly bill the Government for millions of dollars in costs that could and should have been disallowed.

"Bomb Plants Breaking Law, Report Says," is a headline that appeared in the New York Times in July, noting that a preliminary survey by the DOE's field managers revealed 174 violations and 233 potential violations of various Federal law at the various nuclear production plants.

Just last week, the New York Times ran a story headlined, "Chemicals in Hanford A-Plant Create Risk of Explosion, Study Says," which reported that a 1984 study done for DOE by Battelle Pacific Northwest Laboratory found about 140 tons of ferrocyanide are contained in 149 aged waste tanks at DOE's Hanford, WA, nuclear reservation. The study noted that explosive reactions could occur if the ferrocyanide was combined with some other substances stored in those tanks.

What's most frightening to me is the secrecy surrounding this report. The report was completed in 1984, 5 years ago, but until now, no one outside of the DOE and DOE contractors has been able to read its ominous findings. There's no telling what those 5 years have cost us in terms of human and environmental health.

I could go on, Madam Speaker, and I can't help but wonder what else is happening at these DOE nuclear facilities and what grim tidings the next 5 years will bring. I'll bet that the picture won't be any brighter.

Most of the articles I have cited focus on the environmental hazards arising from poor oversight at the DOE plants, but if the people living around the plants are at risk, just consider the impact on the health and safety of the men and women actually working in those facilities.

Those workers—tax-paying, law-abiding citizens—are at risk every day, and no one seems to be paying attention to their well-being. These men and women are employees of the con-

tractors at the nuclear production facilities and are being short-changed. They are not covered by the Occupational Safety and Health Administration [OSHA] and cannot count on anyone to enforce health and safety rules and regulations on an impartial basis.

As set forth in the Occupational Safety and Health Act, OSHA cannot enforce its health and safety standards, rules, and regulations in facilities owned and/or operated by other Federal agencies, including and especially, the Department of Energy.

So, Madam Speaker, in effect, we have the fox in charge of the hen house. We have the Department of Energy, which is primarily concerned with production of nuclear materials, also responsible for the health and safety of workers in those production facilities, and we all know that this kind of system rarely works to the benefit of the workers.

This spring, the Subcommittee on Health and Safety, which I chair, conducted two oversight hearings on the extent and quality of the worker health and safety programs provided by the Department of Energy to employees at those DOE nuclear facilities, the so-called GOCO's—Government-owned, contractor-operated plants.

One fact continues to appear throughout the hearing record: DOE can't really do what has to be done because its primary function is production.

This isn't something that just sprang to light, however. Ten years ago, in 1979, an investigation by the General Accounting Office [GAO] concluded that DOE was not adequately monitoring and enforcing its health and safety standards for workers at the facilities it managed. And, things haven't gotten any better.

Just this month, a study released by the DOE reports that inadequate safety measures at Colorado's Rocky Flats nuclear weapons plant have led to conditions where workers could be exposed to potentially lethal doses of radiation.

During the 10 years between these alarming reports have been various GAO studies that have indicated that conditions are comparable to what they were before that first GAO report.

My concern is that conditions and programs to ensure worker health and safety will not improve at these plants unless we take action—right now, today. That is why I have introduced H.R. 3521—the Nuclear Facilities Occupational Safety Improvement Act of 1989.

The principal aim of this legislation is to put the responsibility for worker health and safety where it belongs—with OSHA, not the Department of Energy. It will make the system more workable and reliable by transferring DOE staff and dollars to OSHA. Thus, OSHA gets more than just the responsibility. It gets the resources so that it may do the job right.

As of July 20, 1989, the Office of Safety, Health, and Quality Assurance in the Department of Energy had a staff of 125—99 professionals, 21 secretaries and clerks, and 5 interns. Of the total professional staff, 34 are directly involved in worker health and safety activities and have several years of experience. Ten, in fact, are on-site residents permanently assigned to the following facilities: Savannah River, SC; Oak Ridge, TN; Rocky Flats, CO; Idaho; and Richland, WA; and, in all candor, would continue in those locations.

Further, the recently approved conference report on appropriations for the Department of Energy provides $114.6 million for Office of Environment, Safety and Health. And under the provisions of my bill, that the portion allotted for worker health and safety would also be shifted from DOE to OSHA.

This is not the first time we have faced this issue. In 1977, the Congress created the Mine Safety and Health Administration in the Department of Labor. This new agency was born by transferring then existing mine safety activities in the Department of Interior to the Department of Labor. That transfer was made simply because it was clear the Department of Interior was primarily concerned with production and, therefore, was unable to put worker health and safety first.

We have the exact same thing happening at these nuclear plants. DOE has been negligent and reckless in operating its facilities and has let production push health and safety out of the picture. Just one example is that DOE operated its reactors at Savannah River for almost 7 years, from 1979 to 1986, at 26 percent higher power than the emergency core cooling system could handle in case of an accident. What this means is we would have had an uncontrolled meltdown—worker safety finished a poor second to production.

Now, I'm not suggesting that Secretary of Energy James Watkins and the personnel of the Department of Energy don't care about worker health and safety. All I'm saying is that no agency can serve two masters effectively—one or the other must suffer and history shows that worker health and safety usually comes in behind production.

We have pointed out in the past that such conflicts can and do occur. DOE's objectivity suffers when the choice is between production and safety procedures. During the 1970's, for example, DOE considered closing its Fernald plant in Ohio and, as a result, it did not make necessary capital improvements. In the early 1980's, as equipment became obsolete and production goals increased, a strain was put on the plant's resources. This forced management to chose between production needs and worker health and safety concerns. DOE's own documents show that Fernald's management chose production.

More recently, we have seen policy statements that on their face appear to contradict other recent policy decisions.

On May 17, Peter Brush, the acting Assistant Secretary of Energy for Environment, Safety and Health, appeared before the Subcommittee on Health and Safety and testified to the Department's commitment to comprehensive inspections to assure workers that DOE nuclear production facilities were safe.

Documents provided by the Department show that since the creation of the Office of Environment, Safety and Health in 1986, numerous inspections had been conducted at facilities throughout the country.

Just 2 days after Mr. Brush's appearance, Secretary Watkins announced a plan that would reduce the authority of that cental health and safety office and return authority for DOE area managers who work most closely with the contractors and whose principal concerns focus on production.

Keep this sequence of events in mind. On May 17, the subcommittee is told that the Department of Energy is committed to assuring the health and safety of workers at DOE nuclear production facilities. But on May 19, the authority for overseeing that health and safety is transferred to the area managers whose primary responsibility is to ensure that production levels are maintained and increased.

Somehow the logic of this decision escapes me—except that I know the real aim of the policy switch has to arrange for the reopening of the Savannah River plant—notwithstanding the seriousness of the environmental and occupational safety and health problems there.

On June 9, just a couple of weeks later, the FBI charged that senior DOE officials knew for years about illegal and dangerous toxic waste disposal activities at the Rocky Flats nuclear weapons facility near Denver.

One week later, DOE declared a new policy—a fundamental change of priorities at all 18 nuclear weapons production plants, assuring that safety and health was no longer just a factor but the first priority and that weapons production is second unto that.

I'll believe it when I see it.

There is another system that DOE says it has used as a means of encouraging contractors to make health and

safety improvements and that focuses on the awared-fee system.

Under the award-fee structure, the arrangement, the contractor's fee is based on after-the-fact subjective evaluations of the contractor's performance in several predesignated areas, including health and safety.

In theory, it sounds great. In practice, it is fairly spotty. DOE has 52 management and operating contracts, of which 19 involve nuclear weapons production facilities and 18 others are nuclear related. Of the 52 contracts, 28 operate under an award-fee system, but there is some question as to whether occupational and/or environmental health and safety are among the factors to be considered in each of those 28 contracts.

Just last Thursday, for example, the New York Times ran an article headlined, "Atomic Plant Bonuses Stir Second Thoughts" about some of these awards to the contractors at Rocky Flats and Savannah River.

And I quote:

> The Energy Department acknowledged Tuesday that it might have erred in rewarding the private operators of some its nuclear weapons plants with millions of dollars in bonuses despite serious failings to protect the health and safety of workers and nearby residents.

One can see worker health and safety are have not been factors in the older contracts, and most have been in place for several years.

We will have to wait to learn if the contracts to be negotiated over the next 2 or 3 years will include health and safety as a factor.

Secretary Watkins noted on June 27 that "not less than 51 percent of the available award will be based on compliance with environmental, safety, and health requirements," but, as I just noted, that will ultimately depend on the structure of the individual contracts.

Presently, if the provision isn't in the contract, there doesn't seem to be any way to write it in until new contracts are drawn—and signed.

Another persistent problem has been getting health data on workers and former workers at DOE nuclear facilities. For years, DOE has classified these health records, preventing not only the workers, but their physicians from learning the truth.

Yes, Secretary Watkins indicated a few months ago that the DOE's policy on releasing that data is going to change, but we have not seen any action yet.

So, my bill also would require the Secretary of Energy and the contractors operating DOE nuclear facilities to cooperate with the Secretaries of Labor and Health and Human Services during inspections or investigations. DOE would be required to provide full access to all records of injury and illnesses, as well as data on exposures to toxic and hazardous substances, and medical records of current and former employees.

For those claiming that outside access to these facilities would threaten national security, the bill has a provision that protects the confidentiality of information at DOE plants. Access may be denied to any person who has not been granted a security clearance or access authorization by the Secretary of Energy.

Because of the discoveries and improvements in occupational medicine, we know that the risks of occupational diseases and deaths among these workers are real. The threats, however, aren't usually in the form of onsite injuries. Rather, the menace is a hidden one and isn't only limited to radiation exposure. Workers at these DOE facilities are exposed to a wide range of other toxic and hazardous substances.

Nuclear workers who develop beryllliosis—usually found in the lungs from the inhalation of beryllium fumes or particles—don't get sick right away. The latency periods of nerve disease, kidney disease, and cancer, just to name a few, are in the decades of years—the diseases not arising for as long as 10, 20, or even 40 years after the last exposures.

Sometimes, doctors aren't aware of the hazards patients have been exposed to, and therefore, are unable to make the link between the disease and the exposure.

In Tennessee, for example, DOE facility workers were concerned about the possible effects from their exposures to mercury in the 1950's and 1960's. Only through an extensive medical evaluation conducted by the University of Michigan was it discovered that there was neurological damage from mercury exposure among some of these exposed workers some 30 years after they were last exposed.

The Nuclear Facilities Occupational Safety Act of 1989 establishes a seven-member health advisory committee to accurately and fully estimate the extent of the health and safety problems at DOE facilities. This committee, chaired by the Secretary of Labor, will be made up of two representatives from NIOSH, two from DOE, and two from the occupational health and safety community.

This committee will issue guidlines for baseline health examinations for employees and family members, and for lifetime medical surveillance for current and former employees and their families.

The bill also will make sure that employees are aware of the hazards they deal with on their jobs and receive training in health and safety topics such as personal protective equipment, radiation exposure, decontamination requirements, facility and site safety and health plans, health effects, and hazard communications.

As a local supplement to the health advisory committee, every DOE nuclear facility will have a labor-management health and safety committee, made up of the senior DOE official, the Government contractor facility manager, and an employee-appointed or elected representative for each labor organization at that site. This committee will meet monthly to review the health and safety policy of that facility. If a committee determines that the facility's operation is a health and safety hazard to its personnel, it has the authority to stop operations until such time as the hazard is corrected.

It's time that we do more than just pay lipservice to the health and safety needs of workers at DOE facilities. The very least that this legislation would do is guarantee these workers the information that all workers deserve—a peace of mind about the safety conditions of their workplace. These workers could then be assured their health and their safety would not get second billing to production levels.

I know some will point to a recent cooperative agreement between OSHA and the Department of Energy whereby several safety and health experts in OSHA have been assigned to the Department of Energy to assist in inspections of nuclear production facilities, as a reason for saying this bill is unnecessary.

In a recent public comment, Secretary Watkins suggested that any laws Congress might pass could "wreck" the progress he is making in DOE. He says patience and his current managerial changes will result in better and improving worker health and safety.

Based on my own experiences of following the different twists and turns of the Secretary's policies, I cannot agree.

The cooperative agreement between DOE and OSHA and the so-called Tiger Teams that have been created are just more icing on a cake that isn't very tasty to begin with.

The cooperative agreement does not give OSHA's personnel the authority to act. In this arrangement, they are still subservient to the DOE staff and can be assigned as the DOE determines.

OSHA needs the freedom to assign its personnel in order to determine the necessary actions to protect workers in nuclear production facilities from health and safety hazards.

And the workers in those nuclear production facilities deserve the kinds of health and safety protections that can only be provided by an impartial agency that has health and safety not only as its priority goal, but as its only goal—and that agency is OSHA, as it

determines the needs of workers in nuclear production facilities.

I urge my colleagues to join me in saying that worker health and safety should never be secondary to production. By cosponsoring this legislation, the Members of this House will show that they want to elevate worker health and safety to a higher level and that it should never be an afterthought.

□ 1950

DEALING WITH THE PHILLIPS CHEMICAL CORP.'S PASADENA, TX, PLANT EXPLOSION

Madam Speaker, I want to deviate from these special orders and take up a few remarks dealing with the Phillips Chemical Corp.'s Pasadena, TX, plant explosion, along these same lines.

Madam Speaker, roughly a week ago, an explosion and fire at the Phillips Chemical Corp.'s processing plant in Pasadena, TX, took the lives of 14 workers and injured more than 100 others. There are eight workers whose bodies are still buried—somewhere under the rubble.

I know that there are those who would like holding hearings while the ruins are still smoldering, but that is not my style.

As chairman of the Subcommittee on Health and Safety, I have tried to function somewhat differently. I have tried to operate, first, to examine those tragedies that have occurred so as to assist the Occupational Safety and Health Administration in the Department of Labor in developing better standards and regulations for the protection of the lives of America's working men and women, and second, by focusing on future problems that will face American workers.

The Subcommittee on Health and Safety was the first congressional body to draw attention to the potential problems arising from extended use of video display terminals. Just recently, we conducted hearings on potential and real problems in the semiconductor industry and the problems arising from the use of diesel-powered equipment in underground coal mines and closed workplaces above ground.

As to the focus of tragedies, after having served as chairman of the subcommittee for some 12 years, I am no stranger to the tears of survivors and families of victims as they try to recover their friends and loved ones.

In 1984, a terrible fire in the Wilberg Mine in Orangeville, UT, resulted in the deaths of 27 miners. We could have rushed out and had hearings immediately, but to what purpose? It took several months until the fire was extinguished and the bodies recovered. And this required that the original entrance to the mine be sealed and that a new tunnel be dug.

The investigations into this tragedy took months. But when we held our subcommittee hearings, we were able to really understand what had happened and, because of that, we were able to make some strong recommendations in the subcommittee's staff report on that tragedy. Some of those recommendations already have been adopted, and others will be.

In April of 1987, 28 construction workers were killed when the building in Bridgeport, CT, collapsed. Yes, there was an immediate cry for subcommittee hearings there, but I resisted. Six months later, when we held our hearings, we not only learned what had happened in Bridgeport, but we also were given some concrete answers as to what was being and was going to be done.

Now, we are ready to again address ourselves to the issue of health and safety in the construction industry and, perhaps as early as next year, we will have more hearings to determine whether OSHA's actions thus far have been effective enough or whether we need to do more, whether administratively or legislatively.

I could easily go on. I could talk about the tragedy at Willow Island in St. Mary's, WV, when a cooling tower under construction collapsed killing 51 workers. I could cite the rash of grain elevator explosions that ripped through this country, killing many workers and injuring more.

When we held subcommittee hearings on the grain elevator explosions we learned a lot and were able to convince others that something needed to be done. The result was OSHA's grain elevator standard.

This is not the time for hearings on the tragedy in Pasadena, TX. Right now we need to let OSHA under its new leadership and the Department of Labor take charge of the investigation, to determine as best as possible what the causes of it were, and then to seek actions to preclude such tragedies from recurring.

The time for hearings is later, when we have the kinds of information we need to make thoughtful decisions that will lead to the prevention of needless deaths and injuries among America's workers.

REPORT FROM LEBANON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. OAKAR] is recognized for 60 minutes.

Ms. OAKAR. Madam Speaker, this evening in the few minutes that we have, I would like to discuss, among other things, the trip that the gentleman from West Virginia [Mr. RAHALL] and I took to Lebanon last weekend.

I want to say at the outset, Madam Speaker, that we did not go on that trip in any way to embarrass the State Department, or certainly not to try to embarrass any individuals in the administration. We went on that trip because we felt that the country of Lebanon is at a crossroad, that indeed there has been great tragedy in that country and there is a certain movement toward unification, territorial integrity.

Frankly, there is a peace plan on the table that the people of Lebanon will soon be called upon or perhaps be called upon to ratify.

We felt that there was a perception, however unreal it may be, that our country has sort of given up on that country. That is why we decided that we would attempt to meet with varieties of individuals who are leaders in that country. We did meet with the two rather outstanding leaders, Gen. Michel 'Aoun, who is the Acting President and leader of the Lebanese Armed Forces, and Dr. Huss. General 'Aoun happens to be a Christian. Dr. Huss is not only an outstanding leader and former Prime Minister, but happens to be a Muslim in background.

□ 2000

Before I say a few words about what specifically we did, I would like to just reminisce for a moment about what the country of Lebanon once was and what we hope it soon may become. The country of Lebanon was once known as the Pearl of the Middle East. Beirut was known as the Paris of the Mediterranean. The Government was a type of democracy where they had a form of elections, and in the 1960's and 1970's, Lebanon was called upon to house thousands of Palestinian refugees from the neighboring areas of the Middle East and, indeed, they did, because they were known as a democracy, and they felt that these people had to have somewhere to go, and so they housed the people. Soon the refugees became about a third of the population.

Shortly thereafter in the 1970's various countries, one of which was called upon to come into the country to try to settle an internal dispute, but various countries and various cults became present in Lebanon and, unfortunately, in my judgment, this country is probably one of the most exploited countries in the world. Yes, it is also true that internally the country was undergoing problems as well. There were different factions that arose and had conflicts, and there was a lack of unity among the Lebanese themselves for a period, but perhaps if there were no other foreign sources or infiltrating of various cults, one of which, of course, is a dramatic Iranian radical influence, not that I think all the Iranian people are radicals, not at all, but I think that sort of radical influence the fundamental influence that the Ayatollah had perpetuated, became a real force in that area.

Prior to this, Lebanon was always one of the most pro-West countries in that region, so much so that General Eisenhower in the 1950's thought enough to come to their aid in 1958 and, indeed, stopped the promotion of an uprising that could have meant the disintegration of what was a very pro-American, pro-West country. Unfortunately, recently, and I will not go into all the other invasions and so on tonight, and I will skip through that. But from March to September 1989, recently, there has been a tremendous amount of violence in that area, and there have been almost 1,000 people killed and almost 3,000 individuals who have been wounded. The people themselves are really tired.

I think what is interesting about the trip that my dear friend, the gentleman form West Virginia [Mr. RAHALL] and I experienced was that we saw the people undergoing something that I think is a phenomenon going on throughout the world. The people in that country, it seemed to me from the nonviolent picketing, from the very young to the very old families, common, ordinary, people, not the politicians, not members of the armed forces and so on, but common, ordinary people holding up signs saying, "We want our country back," and I think that turf reclamation is going on, that reclaiming of your own land, if you will, your own quest for freedom, your own quest for democracy is really going on throughout the world. It is kind of a world revolution, is it not? It is going on in China; it certainly has gone on and is going on in Poland, is going on in Latvia and Estonia and those wonderful countries that have been captivated against their will by the Soviet Union; the Ukraine; it is going on in East Germany; and it is also going on in Lebanon. So here we are in a situation where the Arab League has, led by the Saudis and other Arab countries, put together a program of political reforms including the promotion of a security committee, a restructuring of internal security forces, disbandment of all the militia, reduction of powers for the office of the President, increase in power for the office of the Prime Minister, an enlargement of the Parliament from 99 to 108 seats that will be equally split among the Christians and the Moslems, and they were able to achieve a kind of agreement of the parliamentarians who went to Saudi Arabia and formed this treaty very often known as the Taif treaty.

With that backdrop, the gentleman from West Virginia [Mr. RAHALL] and I, realizing that one of the things that people need throughout the world is hope, and they look to our country, I mean, and the great thing is that we live in the greatest country in the world. Our country is heralded for its democracy, its freedom of expression; indeed, irrespective of our problems, the fact is that we really are the freest society in the world, and if there is a kind of near perfect society in terms of a government structure, even though we do not always get things done in Congress as expeditiously as we would like, it happens to be our Government that, in my judgment, provides this wonderful opportunity for our citizens in terms of their quest for freedom. We are not only a free society, but we are a superpower, and the fact is the people throughout the world look to us for hope, and they hope that our country will lend a hand and will, at least diplomatically, become involved when they are seeking their own identity and their own democracy.

Unfortunately what has happened in Lebanon at the most critical time is, because there is this opportunity, we are in Lebanon, at least at a crossroads of opportunity, and at the most critical time the United States Embassy is not present, and that has, to my knowledge, never happened before. I think there are fairly good reasons that the Embassy and the American personnel, most of whom are career diplomats whom I respect enormously, and there are fairly good reasons for their leaving. Much of it, I believe, however, is based on a lack of communication and a real misunderstanding, a misunderstanding between our Embassy personnel and General 'Aoun, and I think one of the things about General 'Aoun is that while he is not a politician at all; he is respected as a leader of integrity; and I think sometimes because he does not couch his words and is not as sophisticated in political savvy and finesse, he is misinterpreted by the press. That is my impression whenever I read articles, particularly about him here in the American press, particularly having gone there and met the man and been with him a number of hours and having seen him, as it were, in action with his people.

Madam Speaker, we went to Lebanon because we thought, at least I thought, and I know my colleague thought that it was important to show that we cared about those people and that America really values its pro-West mentality and really does care.

We passed a resolution last year indicating that we believed wholeheartedly in the sovereign integrity of that country and that we wanted it to succeed and be able to have free elections.

Madam Speaker, we went there to show our concern as a separate but equal branch of government, as Members of Congress who vote on foreign issues every day of the week, who have an obligation, it seems to me, to care about what is in the best interests of our country. It is in the best interest of our country that a pro-West democracy in the Middle East survive.

□ 2010

We met with General 'Aoun who is the leader, as I mentioned, and headquartered in East Beirut. We talked to him. He indicated to us that he was very disturbed and saddened by the Embassy's departure, and that he was sorry that there have been these misunderstandings, and that he would like to see an American presence back in Lebanon, and would like to see American involvement in what has been some negotiations.

The gentleman from West Virginia [Mr. RAHALL] and I also experienced a very moving event for me, and that was the event where we saw hundreds and hundreds of people, men, women and children, meeting in the courtyard outside of the Presidential palace. People had come from miles to hold up signs indicating that they wanted their land back and they wanted their freedom, and yes, they were supporting the general in his quest for freedom. So that was very, very moving.

I felt, and I was not prepared to feel as strongly as I do today, but I felt that the general was a very fine, decent person who has a lot of integrity. He has that reputation. He is not as politically polished at times, but the fact is he has a career of service to that country, and has never exploited it for his own personal gain. That is the kind of person we want in leadership positions anywhere in the world, it seems to me. And there was, I felt, a great desire on his part to unify his people of all religions under one government and to have peace and serenity.

There is one area of this Arab League peace plan that he feels has been omitted, and that is the area that relates to Syrian forces. He knows that they cannot leave or will not leave wholesale from that country, but he feels very strongly that in the document there ought to be something that says that the Syrian Army will move outside of the city of Beirut. But he accepts every other provision, according to the general and his aides, that is in the Arab League peace plan and he accepts the reforms. In fact, he thought, as he told us, that they were not even progressive enough, and I thought that was positive because there is some room for dialog there, it seems to me.

Later on in the evening we met with him in East Beirut, which happens to be the Christian area of Beirut, although there are Muslims who live there as well. It is a very large and beautiful city, even though it has been wracked by war over the years.

Later on Congressman RAHALL and I went to meet with Dr. Salim al Huss, who is the Moslem leader and also has had a very distinguished career of government service. He said that he accepted a qualified support for the

Arab League peace plan, that he did not like all parts of it, but that he could accept it, and then ultimately decide on some of the reforms after this acceptance of the document took place.

So it seemed to me, unlike what I was reading in the American press, and to be honest we really have a lot of freelance writers in the Middle East and that part of the world, but we really do not have full-time members of the press, for good reason, I suppose, because of the problems of safety, but it seemed to me that the individuals involved, with some assistance and some diplomacy from the superpowers, in particular our own country, may provide for reconciliation. It seemed to me that if General 'Aoun was accepting nine-tenths of the document with some provisions of transition relative to the Syrians, and Dr. al Huss was giving it qualified support, and the two men individually talked about their respect for each other, then indeed they were a lot closer than we are made to believe.

But I really feel that they need some assistance, some more verbalization from our country. I would hope that within the framework of what we are able to do, that we restore our Embassy in Lebanon, that we at least send some form of an envoy there. It does not have to be public, but show the interest that we have in this country. I think I would like to see the President speak out more, to be honest. I know he cares about that country. He told me that personally. So I do not doubt that there is an affection there. But I do think that the administration could be much stronger in its appeal to various sides to come together for the sake of that nation's integrity and so that it survives.

Lebanon, Madam Speaker, could disintegrate and become a radicalized state, or it could, it has the potential to once again become a democracy. We are at the crossroads, and hopefully it will choose the path that Robert Frost described as the road less traveled in its quest for peace.

Madam Speaker, there are a few more points I would like to make, but before I do I would like to yield to my distinguished colleague and friend, the gentleman from West Virginia [Mr. RAHALL] someone whom I have had the pleasure of going at various times to that wonderful area with, and troubled area of the world. I want to thank him for going and for his kindness to me during the course of the trip. I yield to my friend, the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Madam Speaker, I thank my colleague for yielding and appreciate her taking this special order so that we may discuss our trip to Beirut over the past weekend.

Many of our colleagues have come to us since we have come back and wanted to know how the trip was, what Beirut was like and expressed their concern for our safety, and were relieved that we did return back to them, and we certainly want to express our appreciation for their concern.

Lebanon has been wracked by 15 years of war, needless to say. The whole world is aware of that.

In the beginning, the description that it was a civil war may have been accurate. Christians fought Muslims to begin with. As time went on, Christians fought Christians, Muslims fought Muslims, and it became more than just a civil war. Outside powers, Arabs fighting Arabs, Arabs fighting Israelis, Arabs fighting Palestinians, Palestinians fighting Arabs, the whole outside world looks at Lebanon as a place in which they could seek revenge against their bitter enemies.

It is unfortunate that Lebanon was already wracked by the internal fighting, but to those outside powers they saw a ground, they saw a chessboard, if you will, that was ripe for them to move in and pick out their various proxies in order to wage a war that they cannot do face to face with their enemies, but rather could do it through the proxy battlefield of Lebanon. That has been the situation in recent years in which foreign forces have occupied Lebanon. If they had not occupied Lebanon, they have supplied various militias within that country, and have fueled the fire that has gone on for so long.

Within the country there is a tribal kinship quality to the people that says I will do whatever is necessary to protect my particular block where my family lives and the surrounding blocks. That comes first to me, in their mentality, and sometimes, sometimes unfortunately above what may come first for the country of Lebanon and its sovereignty.

There has been enough corruption over the years in that country. There have been enough militia leaders that make money off of war. There is no doubt about it. But I think that what my colleague, MARY ROSE OAKAR, and myself detected this past weekend was that finally, finally the people are tired of fighting and realize that nobody can win, and to keep playing these games in which their children are dying, and in which the country continues to be devastated is just sheer folly.

That was the sense that I got from this trip, and I think it was very important that MARY ROSE OAKAR and myself made this sojourn at this particular time. Of course, to listen to some in the administration, there is no good time to go to Lebanon. We realize that they are legitimately concerned for our safety, legitimately concerned for every American's safety in that country. But we saw this as an opportunity to express to the Lebanese people, Muslims, Christians, all Lebanese, that despite the fact that this administration did close down the United States Embassy in Beirut, that we did withdraw our physical commitment, that the United States, and particularly the United States Congress, has not withdrawn its commitment to secure a peace in the country of Lebanon.

We have seen, for example, Madam Speaker, many of our colleagues over the past 6 to 8 months, a growing number of our colleagues take to the floor of the House of Representatives and discuss their concern for what is going on in Lebanon.

□ 2020

That is all very appreciative, and the remarks have been right on target. But what we wanted to do on our trip was to talk to both sides, both rival governments, which we did, General 'Aoun in the east and Dr. Salim al Huss in the west.

And we said to both men that we saw this as a historic opportunity for Lebanon to achieve peace, for Lebanon to once again bring together the people of that country to determine their own destiny. The Lebanese are like any individuals, they want to control their own destiny. They have a love for their families and they just want to be free to control their own affairs.

We said to General 'Aoun in our close-to-4-hour meeting with him that in the United States media, often today, he is coming across as saying "no" to peace because of his rejection of the Taif agreement, as my colleague explained.

We said to him that oftentimes, as we in American politics know, there comes a time when you cannot expect to win 100 percent what you set out to achieve, that perhaps some majority above 50 percent is a victory, that there comes a time when military means has to be set aside in favor of political compromise for peace.

Yes, we said to General 'Aoun:

You have achieved remarkable successes over the last 8 months, you have stood up the Syrians longer than anybody expected; you have focused world attention on the problems of Lebanon and the presence of Syrian troops therein. You have been very eloquent in your desire to preserve Lebanese sovereignty and to maintain every inch of Lebanese soil for Lebanese people. We commend you for that.

We want to see that also. That is official policy. It has been for a number of years. It does not become cheapened by continuing to repeat that policy. It is our policy. It is one that we are working toward on a daily basis.

But we said to General 'Aoun, who we did find to be a very inspiring individual, a man respected by his people,

respected for his honesty and respected for his beliefs, but we said that with all of the various segments in Lebanon, all the various Arab states, indeed world opinion and today the five members of the U.N. Security Council endorsing this Taif agreement, that perhaps it is time for him to look at the positive aspects of it, to talk about what he does agree to do. Let us set aside the negative for right now, for this historic opportunity. Time is getting short. The elections are called for by next Tuesday, presidential elections in the country of Lebanon.

The next few days are going to be crucial for the future of that country.

As we pleaded with General 'Aoun then, we say to him again in this colloquy on the floor of the House, that sometimes compromises are necessary for the future of his country. Sometimes, as I said to him in our concluding phone call right before we left the airport, that:

> You have to do, General, as we in American politics have to do, and that is bite your tongue and just hope that someday perhaps the follies of your enemies catch up with them. But for now, set aside the military advantage that you seek and seek the political route for peace in Lebanon.

And I take this moment to issue a plea once again to General 'Aoun as we enter these crucial next several days to take a hard look at what you want for the country of Lebanon. Give peace a chance in that country, and perhaps there can be some improvement upon this agreement in the months and years ahead.

I hope that will happen. But these next few days will be crucial as the parliament decides. They are meeting in various cities around the world, not returning to Lebanon because of General 'Aoun's stance on the agreement that they reached, but rather trying to decide whether they will return to hold a presidential election that is called for in the agreements.

And I hope that if they return, that they will return with their security guaranteed, that they will return not to threats of arrest or assassination but indeed to put the country of Lebanon back together and institute the reforms that are so widely agreed upon even by General 'Aoun himself as called for by the Arab peace plan.

Ms. OAKAR. I thank the gentleman for his eloquent statement.

Madam Speaker, briefly, one area that I thought was noticeably different on this trip as compared to other trips was the absence of all the minimilitias at various checkpoints. It seems to me that the families have put down their guns and there seemed to be one central army, which is very, very important that that happen. And I thought there was more of law and order than I had certainly seen in the past, and that was refreshing because I expected to see a country very militarized with all kinds of little miniarmies. But I did not see that.

I wanted to make mention of the fact that Members of Congress, of whom NICK and I are a part, have sent a letter to President Bush relative to the United States diplomatic support for peace in Lebanon. More than 53 Members have signed that letter, and we were able to round up those signatures in a matter of minutes. Basically what they call upon the President to do is to pursue the issue of Lebanon vigorously with all the parties interested in Lebanon, including the Soviet Union, to place Lebanon on the list of regional conflicts discussed during the United States-Soviet meetings and summits and to send a top-level State Department official as a special envoy to the Middle East to meet with the parties in this conflict.

I wanted to say that I did not find, personally, General 'Aoun's element of disagreement that radical. I thought what he was asking for was a movement of the Syrians outside of the city of Beirut as a symbol that ultimately all foreign forces would leave that country. I thought that that was something that, hopefully, could be worked out prior to the forcing of an election and the parliamentarians coming home.

I certainly hope that General 'Aoun and Dr. Salim al Huss can see if there isn't a little bit of movement that could take place.

It seems to me they are so close to getting toward reconciliation that they ought to, as my colleague said, give peace a chance.

One other element that I wanted to mention was that Congressman RAHALL and I did raise the issue of the hostages publicly during our press conference. It happened, ironically, when we got there, to be the birthday of Terry Anderson, who is the longest-held hostage.

Here in Washington, throughout the country, and certainly in northern Ohio, where Terry is from, which is the region from which I come, the people are praying for him and the other hostages on a daily basis. Our Congress passed a Hostage Awareness Day on that Friday, Terry's birthday.

So we mentioned that at our press conference. We also mentioned that point of the release of the hostages as a kind of a humanitarian human rights issue that would be a wonderful gesture for those captors to put forward, particularly at this wonderful period of hope, hopefully, and both leaders certainly endorsed the idea of releasing those hostages.

I think it should be clear to the American people that it is not all the Lebanese who are into captivating individuals against their will. As a matter of fact, it is a very small segment that are supposedly Iranian-controlled, the radical Iranian-controlled group, not even the mainstream individuals that happen to share the same religion as the Iranians do.

□ 2030

The radical element, a small minority, that have chosen to deal with this issue, and deal with their complaints, whatever they may be, in a very cowardly way by keeping people against their will.

Terry has a 4-year-old daughter that he has never seen. It seems to me that this fine AP correspondent whose mission is to tell the truth about what is going on, and the mission of other individuals who are held in captivity should be looked at again. We made a real appeal to those holding them to release the hostages.

I yield to my friend, the gentleman from West Virginia.

Mr. RAHALL. Madam Speaker, I just want to stress what the gentlewoman has just mentioned. That is, that the taking of hostages in the country of Lebanon does not mean, contrary to the perception that may exist in America media accounts, does not mean that the Lebanese are responsible for these outrageous acts. Indeed, many of the Lebanese will say they themselves are being held hostage by the foreign forces that occupy their land.

I was asked by a reporter upon my return, "Does General 'Aoun care about the hostages?" And I was taken back by the question. He cares about the hostages, and he condemned those hostage takers at our meeting, as strongly as any Member on the floor has. Dr. Huss of West Beirut condemned them with the same ferociousness as we in the House of Representatives would do.

So the Lebanese are not responsible for these acts of hostage taking. As my colleague said, groups claiming allegiance to one of the many foreign elements in Lebanon, in this particular case, the Iranian Hezbollah, a very real problem in that country, and one that we do not want to see grow.

I think just to conclude on this point, the Lebanese should not be perceived as those responsible for taking of hostages. If, indeed, those that are responsible are Iranians, then it should also be remembered that Iranians are not Arabs. I think that is another perception that exists so often in our media when we speak of hostage taking, and when we speak of hijacking, and we speak of terrorisms. As much as we all condemn every such act of that nature, that we have to look at who the real culprits are, and not stereotype all Arabs or all Lebanese as terrorists in that same sense.

Ms. OAKAR. Madam Speaker, I thank my colleagues for his words, and let me just conclude by saying

that we are happy to be home. It was a marvelous experience for both of these Members. We certainly felt that we met two men of great integrity who are fine leaders.

I myself think if I had to vote, I would try to vote for them to form a coalition government. I really would. I think they have a great deal of respect for each other, and there is no reason why if they can tone down some of the rhetoric, get together for the sake of that country, and ultimately have all foreign countries removed and all cults and all the other people who have preyed upon them all these years, leave the country to let the Lebanese themselves settle their own disputes.

Madam Speaker, we pray that our country, also, will become involved diplomatically and will see that this country ought to be a priority for the administration, and ought to be talked about more, and dealt with more forthrightly, and not put on the back burner, because that certainly is the impression that the people have. Frankly, it has been the impression that I myself have had with all due respect to the outstanding diplomats and people at the State Department who have devoted their youth to the service of this country. So as the Lebanese say at times, "In Shallah." That means, If God wills it, it will pass. But it will take will power, as well. We will hope that whatever we did accomplish or try to accomplish as a gesture, a symbol of caring and manifestation of peace, played, hopefully, a positive role in that country's formation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS (at the request of Mr. MICHEL) for today, on account of illness.

Mr. YATRON (at the request of Mr. GEPHARDT) for today through November 8, on account of medical reasons.

Mr. SHUMWAY (at the request of Mr. MICHEL) for October 31 and November 1, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous remarks:)

Mr. BEREUTER, for 5 minutes, today.

Mr. MICHEL, for 5 minutes, today.

Mr. EMERSON, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. HUTTO, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BRYANT, for 5 minutes, today.

Mr. LIPINSKI, for 60 minutes, today and on November 8, 15, 22, and 29, and for 5 minutes on November 7, 14, 21, and 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. KOLBE.

Mr. LIVINGSTON.

Mr. BROOMFIELD.

Mr. CLINGER.

Mrs. ROS-LEHTINEN in two instances.

Ms. SNOWE.

Mr. TAUKE.

Mr. CONTE in one instance.

Mr. WHITTAKER.

Mr. DORNAN of California.

Mr. HOUGHTON.

Mr. ROWLAND of Connecticut.

Mr. GREEN.

Mr. BEREUTER.

The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:

Mrs. LLOYD in five instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. BERMAN.

Mr. APPLEGATE in two instances.

Mr. PAYNE of Virginia.

Mr. NEAL of Massachusetts.

Mr. ROE.

Mr. HAMILTON.

Mr. HOYER.

Mr. BONIOR in two instances.

Mr. ACKERMAN.

Mr. SOLARZ in five instances.

Mr. STARK in two instances.

Mr. TOWNS.

Mr. WAXMAN.

Mr. FORD of Michigan.

Mr. KILDEE.

Mr. RICHARDSON.

Mr. OWENS of New York.

Ms. PELOSI.

Mr. FEIGHAN.

Mr. ENGEL in three instances.

Mr. MOAKLEY.

SENATE JOINT RESOLUTION AND CONCURRENT RESOLUTION REFERRED

A joint resolution and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 207. Joint resolution approving the location of the memorial to the women who served in Vietnam; to the Committees on House Administration and Interior and Insular Affairs.

S. Con. Res. 79. Concurrent resolution to deplore the unilateral Sandinista abrogation of the Nicaraguan cease-fire; to the Committee on Foreign Affairs.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 73. Joint resolution to designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week;"

S.J. Res. 131. Joint resolution to designate November 1989 as "National Diabetes Month;"

S.J. Res. 194. Joint resolution designating November 12 through 18, 1989 as "National Glaucoma Awareness Week;" and

S.J. Res. 209. Joint resolution to designate November 11, 1989 as "Washington Centennial Day."

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following title:

H.J. Res. 131. Joint resolution to designate May 25, 1989, as "National Tap Dance Day;"

H.R. 3012. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes; and

H.R. 24. An act to amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such Act, and for other purposes.

ADJOURNMENT

Ms. OAKAR. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8'clock and 35 minutes p.m.), the House adjourned until tomorrow, Thursday, November 2, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1930. A letter from the Secretary of Housing and Urban Development, transmitting the report "Providing Supportive Services to the Frail Elderly in Federally Assisted Housing," pursuant to Public Law 100-242, section 163(c) (101 Stat. 1860; to the Committee on Banking, Finance and Urban Affairs.

1931. A letter from the Secretary of Housing and Urban Development, transmitting the Department's sixth report on the Rental Rehabilitation Program, pursuant to 42 U.S.C. 1437o(n); to the Committee on Banking, Finance and Urban Affairs.

1932. A letter from the Acting Administrator, General Services Administration, trans-

mitting the agency's ninth report on its administration of the Personal Property Donation Program and the identification and use of Federal real property to assist the homeless, pursuant to Public Law 100-77, section 501(e) (101 Stat. 510); to the Committee on Banking, Finance and Urban Affairs.

1933. A letter from the Secretary of Education, transmitting a report on Indian Education Act part A formula grant projects for fiscal year 1986, pursuant to 20 U.S.C. 241aa nt.; to the Committee on Education and Labor.

1934. A letter from the Secretary, Department of Health and Human Service, transmitting a report, "FDA Pesticide Analytical Methodology Research," 5-year plan and timetable, fiscal year 1990 through fiscal year 1994, pursuant to Public Law 100-418, section 4704 (102 Stat. 1414); to the Committee on Energy and Commerce.

1935. A letter from the Director, Institute of Museum Services, transmitting a report on the related activities of the Institute; to the Committee on Government Operations.

1936. A letter from the Chairman, Board of Directors, Panama Canal Commission, transmitting a report on its establishment of an independent Office of Inspector General, effective April 16, 1989, pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee on Government Operations.

1937. A letter from the U.S. Trade Representative, transmitting the report on the operation of the International Coffee Agreement for the period October 1, 1988, to September 30, 1989, pursuant to 19 U.S.C. 1356n.; to the Committee on Ways and Means.

1938. A letter from the Secretary, Department of Housing and Urban Development, transmitting drafts of proposed legislation to amend Federal laws to reform housing, community, and neighborhood development, and related programs, and for other purposes; to amend provisions of the Bankruptcy Code governing the powers of a bankruptcy court and the effect of automatic stays as they relate to certain multifamily liens insured or held by the Secretary of Housing and Urban Development or the Secretary of Agriculture, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

1939. A letter from the Acting Chairman, National Transportation Safety Board, transmitting a copy of the Board's letter to the OMB regarding the President's October 16, 1989, sequester order, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 2890. A bill to redesignate the Federal buildings and court house located in East St. Louis, IL, as the "Melvin Price Federal Courthouse"; with amendments (Rept. 101-326). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 1805. A bill to amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings; to eliminate the reinsurance requirement under the Federal employees' life insurance program; and to make a technical correction relating to the life insurance program; with amendments (Rept. 101-327). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. NATCHER.

H.R. 3566. A bill making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes; to the Committee on Appropriations.

By Mr. AKAKA:

H.R. 3567. A bill to maintain grade, size, and quality standards for fresh papaya; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. BERMAN:

H.R. 3568. A bill to amend title 17, United States Code, to assure the protection of motion picture copyrights, and for other purposes; to the Committee on the Judiciary.

By Mr. BILIRAKIS:

H.R. 3569. A bill to amend the Internal Revenue Code of 1986 to allow employers a tax credit for hiring displaced homemakers; to the Committee on Ways and Means.

By Mr. GONZALEZ (for himself (by request), Mr. WYLIE, and Mrs. ROUKEMA):

H.R. 3570. A bill to amend the Federal laws to reform housing, community, and neighborhood development, and related programs, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. COURTER:

H.R. 3571. A bill to establish the Morris and Delaware and Raritan Navigation Canal National Heritage Corridor in the State of New Jersey; to the Committee on Interior and Insular Affairs.

By Mr. DOUGLAS (for himself, Mr. HANCOCK, Mrs. ROS-LEHTINEN, Mr. BEREUTER, Mr. KYL, Mr. DONALD E. LUKENS, Mr. FUSTER, Mr. LIPINSKI, Mr. HYDE, Mr. WALKER, Mr. GINGRICH, Mr. ARMEY, Mr. SMITH of New Hampshire, Mr. HUNTER, Mr. BALLENGER, Mr. CRAIG, Mr. ROTH, Mr. ROHRABACHER, Mr. IRELAND, Mr. COX, and Mr. DELAY):

H.R. 3572. A bill to amend the Higher Education Act of 1965 to require each college and university to adopt and implement a drug-free campus program; to the Committee on Education and Labor.

By Mr. FRENZEL (for himself, Mr. MICHEL, Mr. GINGRICH, and Mr. KASICH):

H.R. 3573. A bill to take the Social Security trust fund receipts and disbursements out of the deficit calculations required by the Balanced Budget and Emergency Deficit Control Act of 1985 beginning with fiscal year 1994, to preserve these funds, and to provide for additional budget process reforms; jointly, to the Committees on Government Operations, Rules, and Ways and Means.

By Mr. GRANDY (for himself, Mr. BROWN of California, Mr. ROBERTS, Mr. STENHOLM, Mr. COLEMAN of Missouri, Mr. GLICKMAN, Mr. MORRISON of Washington, Mr. OLIN, and Mr. WALSH):

H.R. 3574. A bill to provide for the coordination of ground water policy within the Department of Agriculture, and for other purposes; to the Committee on Agriculture.

By Mr. YOUNG of Florida (for himself, Mr. LENT, Mr. JONES of Georgia, Mr. HUBBARD, Mr. VENTO, and Mr. STANGELAND):

H.R. 3575. A bill to amend title II of the Social Security Act to provide that regular payment of monthly insurance benefits thereunder will be made so as to ensure receipt of such payments not later than the first day following the month for which they are paid; to the Committee on Ways and Means.

By Mr. DORNAN of California (for himself, Mr. ARMEY, Mr. BALLENGER, Mr. BENNETT, Mr. BILIRAKIS, Mr. BURTON of Indiana, Mr. CRANE, Mr. HILER, Mr. HUCKABY, Mr. HYDE, Mr. MCEWEN, Mr. MONTGOMERY, Mr. SKELTON, Mr. SOLOMON, and Mr. STENHOLM):

H. Con. Res. 219. Concurrent resolution expressing the sense of the Congress that the United States should recognize Guillermo Endara, Ricardo Arias Calderon, and Guillermo Ford as the President, 1st Vice President, and 2d Vice President, respectively, of Panama; to the Committee on Foreign Affairs.

By Mr. WHITTAKER (for himself, Mr. THOMAS A. LUKEN, Mr. LENT, Mr. FLORIO, Mr. RINALDO, Mr. SLATTERY, Mr. TAUKE, Mr. SIKORSKI, Mr. SCHAEFER, Mr. MANTON, Mr. CALLAHAN, and Mr. MCMILLAN of North Carolina):

H. Con. Res. 220. Concurrent resolution expressing the sense of the Congress that all railroad retirement benefits are exempt from sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 and that any such benefits sequestered under the Presidential order of October 16, 1989, should be restored; jointly, to the Committees on Government Operations and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 17: Mr. HOAGLAND.

H.R. 37: Ms. SLAUGHTER of New York, Mr. FUSTER, Mr. CROCKETT, Mr. ROWLAND of Connecticut, Mr. OWENS of Utah, and Mr. PEASE.

H.R. 82: Mr. BUNNING, Mr. SAWYER, and Mr. CRAIG.

H.R. 150: Mr. BLAZ and Mr. GEREN.

H.R. 500: Mr. WHEAT and Mr. KANJORSKI.

H.R. 572: Mr. NIELSON of Utah and Mr. DANNEMEYER.

H.R. 578: Mrs. LOWEY of New York.

H.R. 623: Mr. TAUZIN.

H.R. 675: Mr. ENGEL.

H.R. 683: Mr. WEISS.

H.R. 1068: Mr. MCMILLAN of North Carolina, Mr. TRAFICANT, and Mr. WELDON.

H.R. 1069: Mr. ROE.

H.R. 1095: Mr. BILBRAY, Mr. JACOBS, Mr. MCCLOSKEY, Mr. ROBINSON, Mr. ROSE, and Mr. DENNY SMITH.

H.R. 1167: Mr. RANGEL, Mr. DYMALLY, and Mr. DELLUMS.

H.R. 1173: Mr. JAMES.

H.R. 1180: Mr. JOHNSON of South Dakota.

H.R. 1227: Mr. HUTTO, Mr. DENNY SMITH, Mr. GOSS, Mr. PACKARD, Mr. BOSCO, Mr. NIELSON of Utah, and Mr. MILLER of Washington.

H.R. 1249: Mr. BERMAN.

H.R. 1268: Mr. SAXTON, Mr. MCDADE, Mr. JONES of Georgia, and Ms. LONG.

H.R. 1351: Mr. PACKARD.

H.R. 1461: Mr. OWENS of New York.

H.R. 1515: Mr. HILER, Mrs. SMITH of Nebraska, and Mrs. MARTIN of Illinois.

H.R. 1676: Mr. NELSON of Florida and Mr. JOHNSON of South Dakota.

H.R. 2174: Mr. CLEMENT and Mr. FAZIO.

H.R. 2181: Mr. FLAKE and Mr. MORRISON of Connecticut.

H.R. 2277: Mr. NIELSON of Utah and Mr. DANNEMEYER.

H.R. 2300: Mr. NIELSON of Utah and Mr. DANNEMEYER.

H.R. 2584: Mr. ANDREWS.

H.R. 2853: Mr. OWENS of Utah.

H.R. 2909: Mr. COSTELLO.

H.R. 2926: Mr. OWENS of Utah, Mr. HAYES of Illinois, Mr. MCGRATH, Mr. SOLARZ, Mr. SMITH of Vermont, Mr. MCEWEN, Ms. LONG, Mr. FROST, and Mr. ACKERMAN.

H.R. 2984: Mr. SMITH of New Jersey.

H.R. 3101: Mr. BEREUTER.

H.R. 3205: Mr. BONIOR.

H.R. 3211: Mr. COSTELLO.

H.R. 3271: Mr. EMERSON, Mr. BLILEY, Mr. SUNDQUIST, and Mrs. VUCANOVICH.

H.R. 3289: Mr. COX and Mr. HANCOCK.

H.R. 3323: Mr. CHAPMAN and Mr. CONDIT.

H.R. 3325: Mr. HUTTO, Mr. DONALD E. LUKENS, Mr. LAFALCE, Mr. MCEWEN, Mr. YOUNG of Alaska, and Mr. ROWLAND of Connecticut.

H.R. 3333: Mr. BUSTAMANTE, Mr. GILMAN, Mr. LOWERY of California, Mr. LIPINSKI, Mr. SHAW, Mr. SCHIFF, Mr. HANSEN, Mr. GALLEGLY, and Mr. WATKINS.

H.R. 3359: Mr. EVANS, Mr. LIPINSKI, and Mr. DERRICK.

H.R. 3362: Mr. SABO, Mr. NEAL of North Carolina, Mr. DELLUMS, Mrs. COLLINS, Mr. MRAZEK, Mr. OWNENS of Utah, and Mr. EVANS.

H.R. 3430: Mr. VENTO.

H.R. 3475: Mr. ANNUNZIO, Mr. WEISS, Mr. RHODES, Mrs. VUCANOVICH, Mr. SMITH of Vermont, Mr. STAGGERS, Mr. SKEEN, Mr. LEWIS of California, Mr. WALKER, and Mr. FAZIO.

H.R. 3485: Mr. HUNTER, Mr. DANNEMEYER, Mr. PACKARD, Mrs. VUCANOVICH, Mr. FLAKE, Mrs. BENTLEY, Mr. PASHAYAN, Mr. YOUNG of Alaska, Mr. SHUMWAY, Mr. RAY, Mr. MCNULTY, Mr. CLINGER, Mr. EMERSON, Mr. LEWIS of California, Mr. FUSTER, Mr. BENNETT, Mr. STUMP, Mr. MARTIN of New York, Mrs. PATTERSON, Mr. WILSON, Mr. TAUKE, Mr. WOLPE, Mrs. COLLINS, Mr. DE LUGO, Mr. SCHULZE, Mr. BARNARD, Mr. ROBERT F. SMITH, Mr. HORTON, and Mr. MARLENEE.

H.R. 3500: Mr. STALLINGS, Mr. JAMES, Mr. ATKINS, Mr. COX, Mr. LANCASTER, Mr. SUNDQUIST, Mrs. COLLINS, Mr. PURSELL, Mr. PARRIS, Mr. TRAFICANT, Mr. CLEMENT, Mr. FLAKE, Mr. HILER, Mr. HAYES of Illinois, Mr. FRENZEL, and Mr. SAWYER.

H.R. 3503: Mr. MACHTLEY.

H.J. Res. 185: Mr. CHAPMAN, Mr. THOMAS of Georgia, Mr. PICKETT, Mr. BENNETT, Mr. NAGLE, Mr. MCEWEN, Mr. CONTE, Mr. GOODLING, Mr. COX, Mr. THOMAS of California, Mr. EDWARDS of Oklahoma, Mr. GEPHARDT, Mr. KOLBE, Mr. STANGLELAND, Mr. GALLO, Mr. HASTERT, Mr. HEFLEY, Mr. HUNTER, Mr. DELAY, Mr. INHOFE, Mr. MONTGOMERY, Mr. MILLER of Ohio, Mr. SLAUGHTER of Virginia, Mr. HANCOCK, Mr. VALENTINE, Mr. ROHRABACHER, Mr. PARRIS, Mr. RITTER, Mr. RIDGE, Mr. ROBERTS, Mr. PAXON, Mr. CHANDLER, Mr. BARTLETT, Mr. PURSELL, Mr. UPTON, Mr. MILLER of California, Mr. DOWNEY, Mr. FLIPPO, Mr. IRELAND, and Mr. LEVINE of California.

H.J. Res. 248: Mrs. KENNELLY, Mrs. MEYERS of Kansas, Mr. STUMP, and Mr. VENTO.

H.J. Res. 385: Mr. GEREN, Mr. VUCANOVICH, Mr. WAXMAN, Mr. PACKARD, Mr. DELLUMS, Mr. BORSKI, Mr. CLAY, Mr. LIPINSKI, Mr. LEWIS of California, Mr. DENNY SMITH, Mr. ROSE, Mr. CLARKE, Mr. ASPIN, Mr. ATKINS, Mr. CAMPBELL of Colorado, Mr. CARPER, Mr. CLEMENT, Mr. COLEMAN of Missouri, Mr. COLEMAN of Texas, Mr. MAVROULES, Mr. MCMILLAN of Maryland, Mr. MATSUI, Mr. MOODY, Mr. NEAL of North Carolina, Mr. ORTIZ, Mr. ROBINSON, Mr. ROWLAND of Georgia, Mr. SKELTON, Mr. SOLARZ, Mr. STOKES, and Mr. TAUKE.

H.J. Res. 397: Mr. RICHARDSON, Mr. CHAPMAN, Mr. THOMAS of Georgia, Mr. SLATTERY, Mr. FISH, Mr. SYNAR, Mr. PAXON, Mr. MCDADE, Mr. SCHUETTE, Mr. BLAZ, Mr LEACH of Iowa, Mr. SCHAEFER, Mr. GRANDY, Mr. BUECHNER, Mr. CLAY, Mr. BATES, Mr. SAXTON, Mr. GRAY, Mr. FRENZEL, Mr. LANTOS, Mr. SKELTON, Mr. KILDEE, Mr. LEWIS of California, Mr. EDWARDS of Oklahoma, Mr. WATKINS, Mr. KANJORSKI, Mr. APPLEGATE, Mrs. BENTLEY, Mr. IRELAND, Mr. TANNER, Mr. OXLEY, Mr. MILLER of Ohio, Mr. FOGLIETTA, Mr. JONTZ, Mr. STARK, Mr. DIXON, Mr. PAYNE of Virginia, Mr. LAGOMARSINO, Mr. FEIGHAN, Mr. BOEHLERT, Ms. SLAUGHTER of New York, Mr. HENRY, Mr. INHOFE, Mr. TRAFICANT, Mr. LEWIS of Florida, Mr. OWENS of New York, Mr. WOLPE, Mr. NELSON of Florida, Mr. NOWAK, Mr. HAYES of Louisiana, Mr. SMITH of New Hampshire, Mrs. SAIKI, Mr. MRAZEK, Mr. HAWKINS, Mr. LEWIS of Georgia, Mr. HOYER, Mr. REGULA, Mr. MOORHEAD, Mrs. LLOYD, Mr. KASICH, Mr. CALLAHAN, Mr. CLARKE, Mr. PICKETT, Mr. ENGEL, Mr. GREEN, Mr. ANNUNZIO, Mr. BATEMAN, Mr. CLINGER, Mr. GILMAN, Mr. LEVIN of Michigan, Mr. LOWERY of California, Mr. THOMAS A. LUKEN, Mr. PACKARD, Mr. PICKLE, Mr. RIDGE, Mr. SCHEUER, Mr. PERKINS, Mrs. MORELLA, Mr. DE LA GARZA, and Mr. FIELDS.

H.J. Res. 409: Mr. RHODES.

H. Con. Res. 69: Mr. MACHTLEY, Mr. WOLPE, and Mr. HORTON.

H. Con. Res. 149: Mrs. SCHROEDER and Mr. GRAY.

H. Con. Res. 200: Mr. KOLTER and Mr. PAYNE of New Jersey.

H. Con. Res. 214: Mr. SMITH of New Jersey, Mr. FROST, Mr. GEREN, Mr. FASCELL, Mr. RAVENEL, Mr. BUNNING, Mrs. COLLINS, Mr. TAYLOR, and Mr. HAMILTON.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1465

By Mr. SIKORSKI:

—Page 92, line 14, insert "in the case of vessels and beginning 2 years after the issuance of such regulations in the case of facilities" after "paragraph".

—Page 92, lines 21 and 22, strike "has not been rejected" and insert "has been approved".

—Page 93, strike lines 3 through 5 and insert the following:

"shall approve any plan which meets the requirements of subparagraph (B) of this paragraph or require amendments to any plan which does meet the requirements of such subparagraph.

"(E) Approval of a contingency plan under this paragraph shall not be construed as a defense to liability under title I of the Oil Pollution Act of 1989.

—Page 93, line 6, strike "(E)" and insert "(F)".

By Mr. GALLO:

—Add at the end of subtitle A of title IV of the bill the following:

SEC. 41 . ESTABLISHMENT OF DOUBLE HULL REQUIREMENT FOR TANK VESSELS.

(a) IN GENERAL.—Section 3708 of title 46, United States Code, relating to self-propelled tank vessel minimum standards, is amended—

(1) in the heading by striking "Self-propelled tank vessel" and inserting in lieu thereof "Tank vessel";

(2) by designating the existing text of such section as subsection (b); and

(3) by inserting before subsection (b) (as designated by paragraph (2)) the following:

"(A) A tank vessel of at least 10,000 gross tons shall be equipped with a double hull which satisfies the criteria for a segregated ballast tank set forth in Appendix C to part 157 of title 33, Code of Federal Regulations (as in effect on June 1, 1989).".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 37 of title 46, United States Code, is amended by striking the item relating to section 3708 and inserting in lieu thereof the following:

"3708. Tank vessel minimum standards.".

(c) APPLICATION.—Section 3708(a) of title 46, United States Code, as added by this section, shall apply—

(1) after the the date of the enactment of this Act to all tank vessels for which construction is begun after that date of enactment; and

(2) after the date which is 15 years after date of the enactment of this Act to all other tank vessels.

Amend the table of contents in section 1(b) of the bill by inserting after the item relating to section 41 the following:

"Sec. 41 . Establishment of double hull requirement for tank vessels.".

EXTENSIONS OF REMARKS

CELEBRATING 48 YEARS OF VISION AND VIGOR

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. BROOMFIELD. Mr. Speaker, on Saturday, November 4, we will recognize another milestone in a remarkable public service career which spans over half a century.

My distinguished colleague from Mississippi, JAMIE L. WHITTEN, celebrates 48 years as a Congressman. According to the records, he was elected to the Mississippi Legislature at 21, and elected district attorney of the 17th District, a circuit of eight counties, at the age of 23.

When JAMIE WHITTEN first came to Congress, Franklin D. Roosevelt was still in the White House. We were finally emerging from the Great Depression which tore at the will and the very heart of America. In less than 2 months America would enter the Second World War. Those were incredible times.

It is Mr. WHITTEN who possesses our most complete institutional memory, extending back to 1941. As the senior Republican in Congress, I have seen a great deal of history unfold. Yet, I look back to my freshman term, that was in 1957, and JAMIE WHITTEN was already a leading light on the Appropriations Committee.

Respect is something which is hard to acquire in the world of partisan politics, but once it is achieved there can be no more effective form of leadership. JAMIE WHITTEN'S leadership rests on this respect. He has built up a great amount of good will for close to five decades. His old-fashioned hard work has served this institution well. Again and again his leadership has produced appropriations bills on time and under budget. As someone who shares the ideals of cooperation, perseverance, and fiscal responsibility, I count myself lucky to have served alongside JAMIE WHITTEN for more than 30 years. During some very hard economic times, the American farm has had a needed champion in JAMIE WHITTEN. The environment and public works projects have also received strong encouragement under his chairmanship. He represents the positive things our Federal dollars can achieve through jobs, infrastructure improvements, and economic safeguards. JAMIE WHITTEN reminds us that the needs of a Member's district and the needs of the country as a whole often go hand in hand.

There are few instances where history touches our lives in a truly remarkable way. JAMIE WHITTEN'S career is one of those instances. As a Congressman, he has grappled with great issues during the administrations of 10 Presidents. He has seen this Nation and the Federal Government experience profound change, change which often was painful, but at the same time necessary. And he has done his part to insure that the United States remained strong throughout a demanding time in our history.

JAMIE WHITTEN' vision has encompassed and elevated this whole Nation. This anniversary and this commemoration will not be the last. He will continue to play a dynamic part in the workings of this institution for many years to come.

CONSUMERS ON HOLD

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. TAUKE. Mr. Speaker, I have long been concerned that the restrictions imposed on the seven Bell companies by the court presiding over the AT&T divestiture case disserve U.S. economic and technology interests. As our economy transitions into the information age, virtually every sector will become increasingly information-based. We will rely far more heavily on telecommunications to be the engine of economic growth and productivity. And, since telecommunications equipment and services markets are becoming much more global in scope, it will be our ability to innovate superior technology in telecommunications and related fields that will determine, to a large extent, our future competitiveness. The restrictions on the Bell companies essentially warehouse over 60 percent of the U.S. telecommunications industry's capital resources that could otherwise be used to further our long term economic and technology interests.

For this reason, the judicial policy enforcing them is in need of comprehensive review by the Congress. The court policy is based on antitrust concerns alone. These concerns, however, were always highly theoretical in nature and are even less relevant today because of regulatory checks and balances in place at the FCC and the various State public utility commissions.

To help my colleagues sort through the antitrust considerations that have served as the basis for imposing the restrictions on the Bell companies, I submit for the RECORD an article by Jerome Ellig of citizens for a sound economy entitled "Consumers on Hold: The Future Could Be Today if the Baby Bells Were Allowed to Grow Up." Legislation I have cosponsored, which would conditionally free the Bell companies from these restrictions, is now pending before the Telecommunications and Finance Subcommittee, on which I serve. I am hopeful some version of the bill dealing with these most important policy issues will be reported out soon to the full Energy and Commerce Committee.

CONSUMERS ON HOLD: THE FUTURE COULD BE TODAY IF THE BABY BELLS WERE ALLOWED TO GROW UP

(By Jerome Ellig)

In the not-so-distant future, nearly every household with telephone service could reach out and touch, and be touched by, thousands of new consumer services through an inexpensive screen and keyboard plugged right into the phone outlet. Unfortunately, U.S. antitrust laws stand in the way.

The federal court supervising the 1984 breakup of AT&T effectively banned the local phone company from providing a variety of services made possible by advances in computer and telecommunications technology:

Consumers who now fumble through thousand-page telephone books could view the yellow pages on-screen and find business listings cross-indexed by dozens of different criteria. New businesses would not have to wait for new phone books to be published before they could be listed. Big-city residents would be spared the hassle of dealing with multivolume phone directories.

Deaf people could use a screen and keyboard to carry on private phone conversations.

Elderly people, shut-ins, two-career families, and others with limited mobility or time could compare prices for groceries and other goods, place orders, and have the goods delivered without leaving home.

Both businesses and labor unions could carry on detailed and regular communications with employees who choose to work at home.

Families buying homes could shop for the best mortgage rates and apply instantly without relying on a real estate agent.

Students, scientists, and other researchers could use an electronic screen to read books located in libraries thousands of miles away.

Many of these services, such as electronic directions and shopping, are already available in other countries. Some are also available in the United States—to anyone who wants to invest a few thousand dollars or so in a personal computer, modem, and software, then spend aggravating hours figuring out how to use all three. The National Telecommunications and Information Administration reports that approximately 1 million individuals and businesses subscribed to such services in 1987. But the average person who cannot afford a personal computer has little hope of obtaining these services unless Congress or the courts lifts restrictions that prevent local phone companies from getting into this business.

Companies currently offering "videotex" services (information services involving telephone lines and video screens) include Lockheed, Mead, IBM, Sears, J.C. Penney, Dow Jones, and several major airlines. Many videotex customers are large businesses, which have little trouble buying computers and other necessary equipment. Households that subscribe have a median annual income of $50,000, according to the Videotex Industry Association.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

For most Americans, videotex remains only a dream, because District Court Judge Harold H. Greene, in his continuing control of AT&T's breakup, is stymying development of a market information services.

The 1984 breakup of AT&T radically restructured the nation's telecommunications industry. To settle an antitrust suit by the federal government 10 years earlier, the monolithic Bell System was separated into AT&T and 22 local telephone companies, most of which were organized into seven regional Bell operating companies. Each of the seven is a major corporation in its own right, with revenues ranging last year from $8.5 billion to $13.7 billion. The settlement opened long-distance phone service to competition, but the Federal Communications Commission (FCC) continued to regulate long-distance phone rates. AT&T also received permission to enter many unregulated businesses, such as computer sales.

The 22 local phone companies, often called the "Baby Bells," were supposed to concentrate on offering local phone service, which is regulated by the states. To this day, most states largely prohibit competition with these established companies. As Jack High, an antitrust economist and director of George Mason University's Center for the Study of Market Processes, notes: "The government was concerned with monopoly, but the real source of any monopoly power that AT&T had was its local phone monopolies. Instead of pressing the states to promote competition locally, the federal government broke up AT&T."

Also as part of the breakup agreement, the Baby Bells were forbidden from manufacturing telephone equipment, offering long-distance service, or providing information services such as videotex. In 1987 when it came time to review these three-year restrictions in the context of current circumstances in the industry, both the Justice Department and the FCC urged the court to free the Baby Bells to make equipment and provide information services. They based their recommendations in part on a massive, 3½-pound report, The Geodesic Network, compiled in 1987 by engineer and lawyer Peter Huber for the Justice Department.

Judge Greene refused to go that far, but he did permit the Baby Bells to develop "gateways," which let callers locate and use a variety of information services by dialing a single phone number. As part of a one-year trial program in Pennsylvania, for example, customers of Bell Atlantic can call one number and then select on their computer screens from a list of companies offering airline flight schedules, stock quotations, news, publications, legislative updates, and other information. Even though subscribers may use services offered by several different companies, they will generally receive only one monthly bill. The catch is that they must have personal computers and modems.

To create a mass market for information services, the number of potential consumers must be expanded beyond those who now own computers. Someone must widely distribute simple, low-cost terminals—video screens and keyboards—that plug into the phone lines. In other countries, this someone is the government. In France, which has the most widespread consumer videotex system, the government has given away 3.7 million terminals. Thirteen percent of French households are on-line.

The idea of the U.S. government spending millions of taxpayer dollars on a videotex-in-every-home program, which basically would help generate business for the telephone companies, is not politically feasible. Fortunately, neither is it necessary. For the same reason that cellular telephone carriers have been reducing the costs of telephones, the Baby Bells would be eager to provide videotex hardware if they could offer their own information services. In addition to the profits they would get from selling these services, they would save the huge costs of printing telephone books. Indeed, the Baby Bells are lobbying in Washington these days not for subsidies but simply for permission to compete.

Judge Greene continues to bar the Baby Bells from offering information services because he fears that they would engage in three types of anticompetitive behavior: predatory pricing, cross-subsidization, and discrimination against competitors. These are all more theory than reality.

"Predatory pricing" is antitrust lingo for a company selling its product below cost until it drives its competitors out of business, and then recouping its losses by charging monopoly prices. Under this theory, for example, the Baby Bells might sell stock quotations below cost and force Dow Jones' stock-quotation service to go out of business. Then the Baby Bells could jack up their own prices to make up for earlier losses—and then some.

There are a lot of problems with this theory. The Baby Bells would have to be willing to take large losses on the gamble that this predatory strategy would succeed, during which time consumers enjoy fabulously low prices. And even if they could drive out Dow Jones, they would have to figure out how to keep it and other competitors from reentering a profitable market.

It's no wonder that in more than two decades of economic research in a wide variety of industries, predatory pricing has been found highly unlikely because it is generally unprofitable. In a 1982 University of Chicago Law Review survey of economic studies of alleged cases, including the famous Standard Oil case of 1911, Judge Frank Easterbrook concluded that "the antitrust offense of predation should be forgotten." Similarly, when asked in 1986 if the Federal Trade Commission should issue an annual report on predatory pricing, one commissioner replied the FTC might just as well issue an annual report on unicorn sighting.

At first glance, "cross-subsidization" sounds similar to predatory pricing. Both involve selling below cost. Under the theory of cross-subsidization, however, the Baby Bells would be content to sell stock quotations at a loss forever and would make up their losses by charging higher prices for ordinary local phone service.

Why would the Baby Bells ever want to cross-subsidize? It has to do with the way local phone rates are regulated. In most cases, governments limit phone companies' return on their investment instead of the prices they charge.

Economists have long recognized that a company thus regulated can sometimes make a greater profit by artificially inflating the amount of capital it uses—the more capital the company employs, the larger will be the total revenue generated by a given rate of return. One way to boost the capital base is to buy equipment to use in unregulated businesses, such as information services, while claiming to use it in providing local telephone service. Local telephone customers then end up subsidizing information services, and the Baby Bells are permitted by misled regulators to skim greater profits.

The FCC claims that with detailed standards and requirements, including cross-checks by independent auditors, it can prevent such fraudulent accounting. But even this intense scrutiny would not be needed if state regulators would change the way they regulate the Baby Bells. If cross-subsidization is the worry, regulators could put caps on telephone rates, rather than picking some acceptable percentage of profit. This would give the companies an incentive to cut costs to increase their return, rather than to pad their expenses.

Price caps are used extensively in England, and the FCC recently switched from rate-of-return regulation to price caps for AT&T's long-distance service. Already 18 states have initiated price caps or other flexible-rate experiments for long-distance service within their borders. Critics of this approach believe that any benefits from lower costs will never be passed along to consumers. Neither regulator scheme—price caps or rate-of-return—is perfect, but price caps could remove the threat of cross-subsidization.

Like cross-subsidization, the third potential problem, discrimination, stems directly from the Baby Bells' local monopolies. Information-service providers must use the local phone lines to reach most households and many businesses. But if the Baby Bells are the only ones in the local telephone business, and are also allowed to enter the information business, they may use their control over local lines to keep competing information providers from reaching customers.

Here too the FCC believes that it can solve the problem. Through an elaborate set of rules, it prevents the Baby Bells from using muscle tactics: denying competitors access to the local phone lines, charging them a higher price than they charge themselves, or giving competitors inferior service.

Regulation of the Baby Bells would perhaps become more difficult if they were allowed to enter the information business, but certainly not impossible. Allowing the Baby Bells to develop this market, accompanied by regulation, is surely better for consumers than a blanket prohibition.

The problem with regulation, of course, is that in an imperfect world it can always be too much or too little. Fortunately, technological developments may one day make many local telephone monopolies—and thus the need for regulation—obsolete. Peter Huber's 1987 report for the Justice Department points clearly in that direction.

To see how, it's important to realize that in the old days of integrated AT&T, most callers reached out and touched Ma Bell the minute they grabbed the phone. Local calls were routed through local switchboards operated by AT&T-owned local phone companies. Even a call transferred by an employee on one floor of an office building to a coworker on another floor would be routed through AT&T equipment. Long-distance calls went through the local AT&T-owned switchboard to AT&T's long-distance division, which sent them to another AT&T-owned local switchboard in the destination city.

Nowadays, however, many business calls pass through "private branch exchanges." Businesses have established their own phone networks to transfer calls among offices, different buildings, and even groups of buildings. In Baby Bell regions, the number of phone lines served by private branch exchanges has more than doubled since 1982. More business phone lines are served by private branch exchanges than by the conventional local phone companies (though most

calls from one private exchange to another are still handled by the local phone company).

Other technologies are also carving out small but growing markets. Although not yet an economical substitute for conventional wire transmission, cellular phone systems have doubled in size since 1982. Microwave, fiber optic, and satellite systems capable of competing with the Baby Bells are also expanding.

Callers on these alternative networks still must use the Baby Bells for local calls to telephones not connected to the same network. But for long-distance calls, they can bypass the local phone company entirely. Private branch exchanges connected directly with AT&T, for example, now account for as many phone lines as any one of the seven Baby Bells. In short, the monopolistic part of the nation's telephone network is shrinking to a collection of local telephone loops, and even callers in many of these loops have the alternative of building their own local network.

In the future the Baby Bells may also have to deal with a giant intruding on their turf: cable television companies. Some day regulators may realize that two companies engaged in the business of running wires into people's houses might also be able to compete with one another in offering both telephone and television service.

Already, a political battle over this issue is simmering. FCC regulations, along with narrower legislation passed in 1984, combine with the AT&T breakup agreement to keep telephone companies out of the cable television business. But the Baby Bells are preparing to fight the $14 billion cable industry for a piece of this market. They have the support of cable programming producers such as the Motion Picture Association of America. Likewise, cable companies are well-suited to offering phone service, especially since the fiber-optic cable that may help transmit a new generation of "high definition" television signals would give cable companies the ability to transmit voice and data as well.

These developments suggest that the most economical telecommunications system of the future will consist of a variety of competitors in both local and long-distance service. Telecommunications companies capable of adapting to this new environment will grow and prosper. Those artificially restricted to offering only certain types of services will lose markets to more-nimble competitors. Huber suggests that if the Baby Bells are prohibited from entering new markets. "it remains quite possible that [they] will become the U.S. Post Office of electronic telecommunications, absolutely essential to many, with steady or even growing traffic, but moribund nonetheless." No doubt such a realization explains why the Baby Bells, whose positive financial performance after the breakup surprised many investment analysts, are nevertheless scrambling to offer more than local phone service.

While the Baby Bells, federal agencies and consumer groups appeal Judge Green's 1987 decision, Congress seems ready to take matters into its own hands. Last year, Rep. John Dingell (D-Mich.), powerful chairman of the House Energy and Commerce Committee, introduced a concurrent resolution endorsing the idea of allowing the Baby Bells to offer information services and manufacture telephone equipment. It had 205 cosponsors. In April of this year, Reps. Al Swift (D-Wash.) and Tom Tauke (R-Iowa) introduced legislation to remove the restrictions.

The regulatory reform movement faces a tougher challenge in the Senate. Feuds with the FCC over the Fairness Doctrine and other issues unrelated to the Baby Bells have prompted Sen. Ernest Hollings (D-S.C.), chairman of the Senate Commerce Committee, to view most proposed reforms suspiciously. Nevertheless, Sens. John Breaux (D-La.) and Ted Stevens (R-Alaska) have pushed Congress to take up the issue, introducing a concurrent resolution similar to Dingell's last year, and Hollings may be mollified somewhat by the impending resignation of his chief nemesis at the FCC, Chairman Dennis Patrick.

No doubt many legislators are prompted to action by the immense consumer benefits promised by a less-regulated, high-tech telecommunications industry. Rep. Swift commented last year: "The question we must ask ourselves is whether existing government policy provides adequate incentives to U.S. industry to invest in this nation's economic and technological future. The restrictions imposed in the aftermath of the AT&T divestiture provide a negative answer to this question. We believe we can do better."

As long as legislators fail to act, they must realize that federal courts and an independent regulatory agency, rather than Congress, are shaping the course of telecommunications policy. Congressional fear of losing control could well be the strongest force in making a wealth of information services available to every consumer.

TRIBUTE TO DICK SULLIVAN

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. APPLEGATE. Mr. Speaker, it is with a deep sense of regret that I rise today to speak of the retirement of Dick Sullivan. As a member of the Public Works and Transportation Committee, I have seen first-hand the expertise, and dedication that Dick has always given the committee. Dick's well-earned retirement is not only a personal loss for me, but for the entire House of Representatives.

Dick has been at the helm of the committee throughout my tenure in the House. He has diligently worked to secure final passage of major infrastructure legislation, highway bills, water resources development legislation, and environmental protection legislation. His institutional knowledge will be difficult, if not impossible, to replace. The reauthorization of the highway bill, Superfund, Motor Carrier Safety Act, and Hazardous Materials Transportation Act will be made that much more difficult without the involvement of Dick Sullivan.

I have great respect for Dick's efforts on behalf of the members of the committee. He always worked with all members in order to build the kind of bipartisan effort that our committee is well known for. He respected the position of the members and was diligent about helping the members who came to him. He has been of tremendous assistance to me as well as my district in the past, and I will certainly miss his first-hand knowledge of the issues and his leadership abilities. Not only did he work with the members, but he made every effort to work with outside parties who had an interest in the legislation before the committee. He understood the importance toward building a consensus. Many of the conflicting issues that he resolved would have had to be debated, at great length, within the committee, delaying the passage of key legislaton. I just hope that he recognizes the positive impact that he has had on so many important legislative victories and realizes that he will be missed.

Betty and I offer our sincere gratitude to him and wish him a healthy and successful retirement, that he so deserves.

DANIEL ORTEGA'S TRUE COLORS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, during the recent summit of inter-American Presidents at San Jose, Costa Rica, Mr. Daniel Ortega, President of Nicaragua unveiled his true colors by threatening to suspend the unilateral cease-fire that had previously been agreed upon as a must for the normal development of the electoral process in that country. This morning he did stop the cease-fire.

The Sandinista government has not responded satisfactorily to the just demands of the opposition political parties requesting the restructure of the Supreme Board of Elections, a general amnesty, the right to vote of Nicaraguan citizens abroad and other demands.

I would like to denounce, Mr. Speaker, the decision of Mr. Ortega to suspend the cease-fire and the lack of definite answers to the demands of the opposition as a clear intention to violate the electoral process and to derail the celebration of a clean and honest election in Nicaragua.

CONEY ISLAND HOSPITAL: 80 YEARS OF CARING

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. SOLARZ. Mr. Speaker, it is with great pleasure that I stand before you today to commemorate the 80th anniversary of Coney Island Hospital, located in my congressional district, and to pay tribute to the institution's long record of impressive performance in health care and community service.

A facility of the New York City Health and Hospitals Corp., Coney Island Hospital is committed to providing the highest quality medical care to all who need it, regardless of a patient's ability to pay for services. Equipped with 445 inpatient beds, the hospital provides primary care, emergency services, and a broad range of inpatient services to a diverse population representative of a wide range of incomes and ethnic groups including concentrations of the elderly, lower-income residents, immigrants, and young middle-income families.

In keeping with the times, the hospital has acquired the best and most advanced medical equipment available to meet the health needs of the large number of people it serves. A state-of-the-art emergency room, now under construction and scheduled to be completed in January, 1990, will be one of the most sophisticated and advanced in the country and will better enable the hospital staff to deal with the over 80,000 patients it receives a year, not to mention one of the highest rates of ambulance arrivals in New York City. The new emergency room was planned with an eye toward someday having the hospital a trauma center in the HHC system, a cause championed by the hospital's current executive director—and my good friend—Howard Cohen.

Not only is Coney Island's professional staff highly trained on the most up-to-date treatments and research, the hospital's compassionate personnel strive to devote as much attention to personalized care as to technical skill and have a particular interest in seeing that patients are treated as humanely and as courteously as possible.

Every member of the Coney Island Hospital family has long held the philosophy that community service is as vital to the community as health care, and I have witnessed with pride the initiative the hospital's administration and staff have shown in recognizing and solving community problems and providing vital resources for preventive care and health education. Not content with merely providing excellent health care, they have reached out to a diverse, growing community and addressed the needs of its residents as few public institutions have done.

The Ida G. Israel Coney Island Community Health Center is just one example of the hospital's commitment to meet all of the health care needs of the community. The clinic, established in 1985, has enabled the hospital to provide comprehensive care—close to home—to people unable to attain adequate services elsewhere. Through enterprises such as this and the Coney Island Hospital Community Advisory Board, composed of residents of the community, not only has the hospital been able to benefit internally from the insights and suggestions of representatives of the constituency it serves, it has made it possible for Coney Island's administrative and medical staff to turn their efforts outward and serve community residents beyond the hospital's doors.

Mr. Speaker, I am sure you can tell from the examples I have cited that Coney Island Hospital's record is indeed impressive, but I can think of no better example of its spectacular work than one that is very close to my heart. I would certainly be remiss if I did not take this opportunity to convey my personal thanks, and those of my entire family, to Howard Cohen and all of the employees of Coney Island Hospital for the care they provided to my mother-in-law, Theresa Koldin, when she became ill close to 5 years ago. The outstanding emergency medical attention that Mom received was instrumental in enabling her to walk again, and the outpatient rehabilitative care given to her by the folks at Coney Island Hospital helped her to live independently in Brooklyn since her hospitalization. Moreover, the hospital staff's sympathetic treatment to the whole family was a great comfort to us all in our time of distress, and for that we will always be grateful.

This milestone anniversary is confirmation that the hospital has made a significant and enduring impact on the communities of southern Brooklyn, and it is a mandate for the hospital to continue its innovative approach to health care and community service well into the future.

Coney Island Hospital has stood as a model of successful and effective health care management and community service for 80 years, and on November 9, at a dinner commemorating this momentous occasion, I will accept the hospital's Community Health Services Award with my colleague, the Honorable CHARLES SCHUMER. When I take the podium at that time, I will do so proudly knowing that I have contributed, even in a small way, to the exceptional and humanitarian work of this fine institution.0

THE 100TH ANNIVERSARY OF THE BRONX YMCA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. ENGEL. Mr. Speaker, on November 17, the residents of the Bronx are taking part in a very special event. The Bronx YMCA is marking 100 years of faithful service to the community in a celebration being dubbed "A Century of Commitment to the Bronx."

Commitment is truly the appropriate word to describe the work of the Bronx YMCA over the years. From its humble beginnings in a rented building on Willis Avenue through the myriad of programs offered at various locations today, the YMCA has continued to provide essential and innovative programs to the public.

The list of programs offered by the YMCA touches on every aspect of modern life, and new programs are continually added as the YMCA grows and matures along with the community. The YMCA has been an innovator of child care and sports programs for our youth. The Bronx YMCA runs child care programs in eight public schools, as well as a preschool day care center. Its many youth and teen activities stress proper education, recreation, and community values. Senior citizens in the Bronx are also served by health services and recreational programs at two senior citizen centers.

On this special occasion, I thank and congratulate all of the people who have been active in the Bronx YMCA over the years. Their dedication has been a positive influence in so many lives. Their commitment is a tribute to their community spirit and an immeasurable asset to the Bronx community.

IMPACT II—THE TEACHERS NETWORK

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. MOAKLEY. Mr. Speaker, over the next 5 years, the United States will need more than a million new teachers. And if we continue on our current path, we will only be training 625,000 people to teach during that time—and all of those may not choose to do so.

The situation is even worse for science and mathematics teachers. Only 1,500 education majors qualified to teach math and science are graduating annually. That amounts to 1 for every 10 school districts in the country.

The National Science Teachers Association estimates that 300,000 new mathematics and science teachers will be needed by 1995. That is more than the total number of math and science teachers currently teaching.

Teacher salaries have increased in some areas but they still aren't keeping pace with the cost of living. And while those who choose teaching don't do it for the money, other working conditions are bad as well. Teachers work long hours, are viewed with little respect, and usually operate without an office, telephone, typewriter, or secretarial help. And in many areas, schools are lacking in teaching materials, books, and laboratory supplies.

So we need to find ways to encourage and reward those who—in spite of these difficulties—make the decision to teach.

IMPACT II is a program that does just that.

IMPACT II is a unique nationwide, educational nonprofit organization that recognizes and rewards innovative teachers. IMPACT II provides teachers with grant money for the dissemination of fresh and creative in-school programs developed by teachers and then networks the programs to other interested teachers.

IMPACT II began in 1979 as an experimental pilot program codeveloped by the Exxon Education Foundation with the New York City Board of Education. Today IMPACT II is a national program with 30 sites and 15,000 participating teachers.

In Boston some of the many exciting programs being taught include "The Constitution Wins an Emmy," developed by Lambros Alex Pappas at the Eliot Elementary School; "Book in at the Constitution Hotel," developed by Beth Tedoldi at the Farragut Elementary School; and "Keepers of the Earth," developed by Barbara Ernst-DiGennaro at the Blackstone Elementary School. My congratulations to all of these hardworking and talented individuals.

THE MOTION PICTURE PROTECTION ACT

HON. HOWARD L. BERMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. BERMAN. Mr. Speaker, today Representative CARLOS MOORHEAD and I are introducing the Motion Picture Copy Protection Act, legislation which would amend the copyright laws by establishing that it is copyright infringement to manufacture, import, sell or distribute equipment dedicated to defeating copyright protection.

I am pleased to report that this effort has the support of the Register of Copyrights, who has stated that "the fundamental approach of the bill is compatible with U.S. copyright policies." I ask that the Register's letter to me concerning the Motion Picture Copy Protection Act be entered into the RECORD at the conclusion of my remarks.

This bill would outlaw only equipment whose overriding purpose is to disable copyright protection that has been applied to copies of motion pictures, principally to videocassettes. I want to emphasize that this legislation in no way proscribes the current or future technologies of VCR's, sound recorders, copiers or any other equipment with legitimate primary uses.

The Motion Picture Copy Protection Act responds to the threat posed to the video retail business by unauthorized duplication of copyrighted motion pictures. The rental and sale of videocassettes of motion pictures has evolved into an enormous business. In recent years, revenues for motion picture companies from the rental of cassettes—approaching $7 billion for 1989—actually surpassed traditional revenues from theatrical showings and sales to television. The success of the video retail business has benefited consumers, who can rent and buy a wide choice of movies at their convenience and at moderate prices, and thousands of small business people who have obtained the opportunity to manage video rental outlets around the country.

This success is jeopardized, however, by large-scale violations of the copyrights of the motion pictures involved. Sometimes, this occurs when consumers who own two VCR's rent a movie and decide to make a copy of it for their own library. A more serious problem is the existence of certain video retail dealers who decide to buy one copy of a popular title, and then use it to make multiple copies. Worst of all, wholesale piracy takes place in major counterfeiting outfits, which turn out thousands of knockoffs of legitimate motion picture rentals. It has been estimated that roughly 10 percent of U.S. video outlets engage in illegal copying of new titles, and large-scale counterfeiting outfits are on the rise. "Variety, August 23–29, 1989."

There have been some highly publicized raids and arrests in the effort to combat piracy by unscrupulous dealers and counterfeiters. However, this kind of policing will reach only the tip of the iceberg. Given other pressing priorities, significant law enforcement resources will never be devoted to policing bootlegged copies of rental movies.

During the past few years, the motion picture industry has sought to protect its copyrights by resorting to a process that is applied to videocassettes as they are manufactured. It adds a series of electronic pulses between the frames of the video that do not affect the visible video picture, but do significantly degrade any unauthorized copies.

The benefits of such an anticopy system are obvious. By encoding videocassettes at the time of manufacture, motion picture companies can protect their copyright without resorting to enforcement efforts destined to be ineffective or draconian. Virtually all the major motion picture companies have turned to such a process; close to 80 percent of the new videocassette rentals released to the market are so protected.

Unfortunately, the success of this anticopy system has created a cottage industry dedicated to manufacturing black boxes which can defeat it. The purposes of these black boxes are not hidden; the advertisement for one begins with the question "Problems copying Movies?" Another notes that "neither the manufacturer nor our dealers encourage people to use the macroliminator and two VCR's to make superb copies of rental movies for their own personal use in the privacy of their own homes."

If Congress is serious about protecting copyright, we should not stand by and allow the manufacture and marketing of devices which have no other real purpose than to infringe copyright.

The most obvious victims of unauthorized copying made possible by black boxes are the motion picture companies, who hold the copyrights being violated. The loss to the industry from domestic piracy is estimated to be $600 million per year. But the vast majority of the video retailers who play by the rules suffer as well, because the dealer who makes the unlawful copies can attract more business by offering a wider selection without paying for it. Video dealers also suffer lost revenue because they sell or rent fewer copies when customers copy rented cassettes for their libraries or their friends. The Video Software Dealers Association [VSDA], has stated that "piracy is responsible for an average loss of $36,000 for every law abiding video dealer." "Video Store, August 1989."

Nor do most customers benefit from unauthorized copying. Frequently, they find themselves stuck with copies of inferior quality. In a letter which appeared in the May 1987 issue of Video magazine, the writer observed:

> I have found that a third of the tapes I rent are not original copies but second or third generation copies. The picture is always inferior and the HI-FI tracks are usually recorded in mono or absent. It seems that many renters are removing the shells from the cassettes and switching cheap copies for $80 originals.

The legislation that I propose today would amend the Copyright Act to provide that the manufacture, sale, importation, or distribution of equipment whose primary use is to defeat anticopy protection constitutes copyright infringement. Such equipment would then be subject to the penalties currently included in the Copyright Act.

The case for this legislation rests on three points.

First. Congress has not hesitated in recent years to adapt the copyright laws to deal with the challenges and opportunities presented by changing technology. To take the most recent example, last year's Satellite Home Viewer Act addressed an analogous situation in which an anticopy system had been developed to protect copyright, but was being thwarted by resort to descrambling devices. In an infinitely more complex situation, with a variety of competing interests, Congress intervened to ensure that the copyright holder's rights would be preserved against the pressure of changing technology.

Congress is not obligated to stay neutral between technologies which protect copyright and those which violate it. As the House Judiciary Committee noted in its report on the Satellite Act, "as has been the case for other new technologies, it is appropriate for Congress to intercede and delineate this Nation's intellectual property laws."

The Register of Copyrights has stated that the legislation I am introducing today "links more closely to copyright law protection of a particular medium of communication which rightsholders use to exploit their works. We protect cable and pay television delivery systems against misappropriation through the concept of theft of telecommunications services. We protect the right to encrypt telecommunications distributions to prevent their unauthorized reception. Congress will soon be considering the DAT copying question. The Motion Picture Copy Protection Act is in the mainstream of these sorts of measures to make secure new channels of copyright commerce."

Second. Until this legislaiton goes forward, those who manufacture and market black boxes whose purpose and function it is to violate copyright can do so with virtual impunity. It is extremely difficult for a copyright holder to meet the burden showing that a manufacturer or distributor of equipment is guilty of contributory copyright infringement. In the Supreme Court's decision in *Sony Corporation* v. *Universal City Studios,* 464 U.S. 417 (1984), the Betamax case, the Court spelled out very strict standards for defining circumstances in which equipment that could be used to duplicate copyright materials infringed copyright. In Betamax, the VCR was at issue; this equipment had many genuine noninfringing uses. But the breadth of the language makes it difficult for courts to find any equipment per se to be infringing. See also, *Vault Corp.* v. *Quaid, Software,* 847 F. 2d 255 (5th Cir. 1988).

The Court's interpretation of the Copyright Act creates an anomolous situation where black boxes are concerned. Under the copyright law as written, a video dealer who is found using a black box and two VCR's to make illegal copies would be an infringer of copyright. A company that manufactures, imports, sells, distributes, or advertises 10,000 black boxes which will be used to infringe copyright would likely not be an infringer. That result is neither logical nor good law. It is also a formula for large-scale copyright violations, which should be changed.

Third. This legislation would add credibility to the U.S. argument that our intellectual property must be respected around the world. In

the past 2 years, there has been a surge of recognition that protecting U.S. intellectual property abroad is fundamentally important to our Nation's economic health and competitive future. Increasingly, as other nations have matched and surpassed our capacity for manufacturing in many sectors, our Nation's competitive advantage has evolved toward the export and trade of copyrighted films and television programming, computer software, and patended products like pharmaceuticals. Domestic producers of films and videos, for example, had $2.7 billion in foreign billings in 1988, constituting one of the few U.S. exports with a consistent and growing surplus.

At the same time, however, accumulating evidence demonstrates enormous losses around the world from piracy of U.S. intellectual property. The nine largest motion picture studios are losing $1.2 billion annually to foreign pirates. Losses for the computer software industry have been estimated at more than $4 billion per year. Infringement of U.S. patents on prescription drugs has been even more costly. A Government study cited in the New York Times on November 21, 1988, estimated the annual loss for all U.S. companies at between $43 billion and $61 billion—a sum as staggering as it is unacceptable.

Prompted by a new recognition of the magnitude and urgency of the problem, the U.S. Government has begun to press intellectual property issues as a prominent part of its trade agenda. Under the "Special 301" provisions of the Trade Act, Ambassador Carla Hills recently placed eight countries on a "Priority Watch List" as particular violators of U.S. intellectual property. Intellectual property issues are among the highest priorities for the United States at the Uruguay round. The United States is presently negotiating bilaterally with countries on issues as diverse as motion pictures in Korea and Taiwan, pharmaceutical patents in Brazil and India, computer software in Italy and Spain, trademarks in the Soviet Union, and TV programming in Great Britain and West Germany. Congress has voted to condemn, on both trade and intellectual property grounds, the European broadcasting directive, which would require that a majority of entertainment programming in Europe be of European origin.

Under the circumstances, the legislation I introduce today is particularly timely and important. It is by no means lost on our trading partners when we press them to respect U.S. intellectual property, while turning a blind eye to large-scale and blatant copyright violations at home. Clearly, we strengthen both our negotiating position and our international credibility if we take meaningful action to combat copyright infringement at home.

THE REGISTER OF COPYRIGHTS OF THE UNITED STATES OF AMERICA,
October 16, 1989.

Hon. HOWARD L. BERMAN,
Cannon House Office Building, Washington, DC.

DEAR MR. BERMAN: Thank you for requesting my views on your draft legislation to protect technical processes by which videocassette copies of motion pictures may be made uncopyable by ordinary videocassette recorders.

The bill does three things. It creates a new exclusive right under copyright in a motion picture: to treat or authorize the treatment of copies of the work to prevent or inhibit the making of reproductions from such copies. Second, it would constitute an infringement to import, manufacture, sell, or distribute any kind of equipment the "primary use" of which is to permit copying a motion picture by defeating the process which inhibits copying. Also infringing is the intentional or knowing dealing in equipment to defeat copy-controls imbedded in copies of motion pictures, even where the primary purpose of such equipment is not related to defeating copy-control processes.

Finally, "equipment" is defined to include tangible technologies as well as intangible techniques: any circuitry, process, technology, or service. The effect of the definition is to include all means by which copy controlling processes or treatments may be defeated.

This legislation points a significant new direction for copyright systems. While it concerns processes and treatments of motion pictures which have been used commercially for some time, the legal step you propose is innovative. Industry figures suggest upwards of 60% of legitimate theatrical releases currently available in videocassette format have been treated with a copy-inhibiting process. The draft of a model copyright law now being studied in the World Intellectual Property Organization proposes protection of such "self-help" measures, but only one country, the United Kingdom, protects such processes under copyright law.

This bill poses several major policy questions: is the creation of this kind of exclusive right and its associated remedies compatible with the basic principles underlying U.S. copyright law? Is the concept of the bill an appropriate and balanced response to the tensions between private copying technologies and the legitimate economic interests of copyright owners and authors?

I believe the fundamental approach of the bill *is* compatible with U.S. copyright policies. Although the new right would extend to copy-inhibiting technologies incorporated into any motion picture format, the principal focus is videocassette formats. And the problem it relates to is unauthorized reproduction in the home video marketplace. The bill would address principally two kinds of unauthorized copying of motion pictures: for commercial purposes and private, "back to back" copying of protected motion pictures.

Notwithstanding the popular attention given to personal or private copying, unauthorized commercial copying of motion pictures in the video marketplace is an endemic problem for which effective copy control technologies can be a partial solution. Motion picture copyright owners do not enjoy the right to control the commercial lending of copies of their works after the first sale of such copies. Remuneration for the home video market is therefore principally at the point of first sale of videocassettes to retail renters. It is important for motion picture copyright holders to be able to prevent unauthorized reproduction of videocassettes in rental markets.

Obviously, the enforcement of criminal anti-piracy laws is central to combatting larger scale motion picture copyright violations. But, the resources of government to be devoted to copyright piracy are hardly unlimited. Individually smaller, but cumulatively significant, local piracies may go undetected. Technical controls on the unauthorized copying of videocassette materials provide a further constraint upon such piratical activities. Protecting such controls against disablement can be an appropriate complementary step in the Federal effort against the commercial infringement of copyright in motion pictures.

With regard to private copying, the approach of the draft bill seems also compatible with basic U.S. copyright policies. Private copying of protected works—particularly motion pictures and sound recordings—is a practice which contemporary American copyright policy makers have nervously tolerated. They are aware of the potential dangers to the legitimate commercial interests of authors, proprietors, and commercial users of works, but have been unable to agree on an acceptable comprehensive statutory solution.

The exclusive right of reproduction of protected works under the 1976 Copyright Act is broadly stated. It is not limited to circumstances where an unauthorized copy of a work is exploited commercially or otherwise distributed to the public. It comes into play at every point or reproduction, wherever it takes place. Indeed, all unauthorized reproductions are proscribed, except insofar as they are authorized by specific exception. Additionally, the courts have created limited exceptions including the "time-shifting" user of broadcast programs involved in the *Betamax* case.

In today's environment, where technologies of performance and reproduction of all sorts of works are owned by all kinds of ultimate consumers, the integrity of reproduction right is crucial both to authors' rights and entrepreneurial investment. The U.S. copyright law has therefore drawn short of creating broad exceptions to exclusive rights of reproduction, particularly in favor of what is thought of as private (or more broadly) personal copying, except for the uses involved in the *Betamax* case.

That the making of an unauthorized copy of a protected work is done in the privacy of one's home, for the personal use of the copier and his or her family, has not generally been the sole basis for an exemption to exclusive rights under our law. The personal or private nature of copying is, instead, only one of a number of factors which underlie specific exceptions to reproduction rights.

The basic limitation on exclusive rights in our law is the well-known defense of fair use. The non-commercial purpose of copying is a factor to be weighed in considering the availability of the fair use defense to copyright liability. It is, however, only one of several factors. Other considerations in the fair use equation include the substantiality of the copying, the nature of the work copied (and the nature of allegedly infringing work), and the impact on actual or potential markets for the work weigh. These factors weigh equally heavily in the fair use equation.

Unlike the time-shifting of conventional broadcasts, which was sanctioned as a fair use in the *Betamax* decision, the problem your bill seeks to deal with is back-to-back, complete, copying of videocassettes, probably for purposes of retention of the copy. This is precisely the focus of similar legislation in the U.K., enacted as part of the comprehensive revision of the British copyright law.

In another light, your bill links more closely to copyright law protection of a particular medium of communication which rightsholders use to exploit their works. We protect cable and pay television delivery systems against misappropriation through the concept of theft of telecommunications

services. We protect the right to encrypt telecommunications distributions to prevent their unauthorized reception. You will soon be considering the DAT copying question. Your proposal is in the mainstream of these sorts of measures to make secure new channels of copyright commerce.

There is, I believe, a significant difference between your bill and these other measures. It is a technical, but important distinction. Your bill would create, in effect, a new exclusive right under copyright. Authors would have the power to have copies of their works treated to prevent copying and, conversely, would have the power to prevent commercial users from so treating copies without their authority. I believe this is not only sound practice, but the most flexible approach in respect to future development of technical controls or of possible private licensing systems authorizing otherwise inhibited copying.

There are a number of policy questions which may require further drafting. I look forward to working with you and the Subcommittee on Courts, Intellectual Property and the Administration of Justice in dealing with these questions and prefer only to suggest some of them for consideration.

First, there is the question of whether special provisions are necessary and feasible to deal with the matter of copy-controls on public domain motion pictures. This may not be a practical problem. By making the right to copy control an exclusive right of the author or other copyright owner, that right will fall into the public domain. It would thereafter be possible for anyone to bring out a videocassette edition of a public domain work without copy-controls—even if commercial public domain distributors continue to use such processes.

Second, there are aspects of fair use of audiovisual materials—principally in classroom applications—which would have to be assessed in order to determine whether they would be unduly curtailed by copy-control processes. I do not know whether this is a practical problem, considering the kinds of materials which are now being processed for copy-control purposes (essentially mass entertainment, theatrical films on videocassette).

I hope these comments prove useful to you. In the event that you have any further questions, please feel free to call me at any time.

Sincerely,

RALPH OMAN,
Register of Copyrights.

TRIBUTE TO DOTTIE BEAM

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. APPLEGATE. Mr. Speaker, the Public Works Committee has lost a team that simply cannot be replaced. The retirement of Dick Sullivan and now Dottie Beam represents a deep sense of loss to me and the committee. Dottie Beam set an example on the virtues of loyalty, and dedication that few of us could ever hope to match.

How can you describe an individual who devoted 31 years of her life to the committee and the vital issues that confronted it during her tenure? The devotion and dedication of Dottie Beam is, in itself, an institution and I am deeply saddened by her recent plans to retire. I have watched in admiration her loyalty and commitment. It is difficult to find the words to adequately convey my deep appreciation and gratitude to her. I have worked with Dottie for many years and cannot imagine a hearing or markup without her presence. The committee has truly lost a good friend and trusted ally. I sincerely hope that Dottie's retirement will be one filled with happiness and health as she has earned this reward.

Both Betty and I extend our blessings and best wishes to Dottie and hope that she never forgets her many friends on Capitol Hill. The mark that she has left on all of us will ensure that we could never forget her.

EDISON PRIVATE SCHOOL: A LEGACY OF EDUCATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, there are many fine schools across this great Nation of ours that have held fast to a high standard of excellence in education. I would like to recognize the efforts of one such institution, the Edison Private School, which has distinguished itself over the years as a center of learning in the city of Hialeah, FL.

Founded in 1969, the Edison Private School has been instrumental in providing quality education to many children. The school is capable of following children from their formative years, of preschool and elementary through high school.

Edison has a versatile curriculum and is able to offer its students courses in ballet, judo and karate, rhythmical and musical band, optional religion, laboratory science, typewriting, and computers.

As communication skills are highly valued in our society, Edison Private School stresses the importance of English fluency, but also recognizes the interdependent world in which we live, and offers language classes in Spanish, French, and Italian.

Mr. Speaker, I would like to congratulate the principal of the school, Dr. Caridad Perez, and the faculty of Edison Private School for the fine work they have done in teaching our children. As you can see Edison Private School has been able to form a partnership with the community to provide the best legacy available, a good education.

TRIBUTE TO JIM GLYNN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. SOLARZ. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to my constituent, Jim Glynn, the developer and producer of the local television show, "Neighborhoods Today," which airs back home in my congressional district in Brooklyn.

A visual artist, Jim Glynn documents for television events in the lives of the residents of the special Brooklyn communities of Greenpoint and Williamsburg. Through the vehicle of "Neighborhoods Today," which appears four times a year on UHF station WNYE-25 in New York, Jim has captured the unique character each of these wonderful neighborhoods, while highlighting the special relationships that exist between them.

A jack-of-all-trades, Jim has been producer, director, cameraman, and set designer on "Neighborhoods Today" since the show premiered in September 1983. Since then, Jim and his colleagues have strived to capture the spirit of Greenpoint and Williamsburg by recording annual events such as the Manhattan Avenue Christmas Parade, the Greenpoint Flag Day festivities, and the Feast of Our Lady of Mount Carmel, as well as smaller events like Model Block Program Award ceremonies.

Jim Glynn has always gone out of his way to feature stories on his show directly relating to events in Greenpoint and Williamsburg, making the show more specialized than any other program of its kind. Working on a shoestring budget derived solely from private contributions, his stories have always displayed his keen eye for identifying what is most interesting and unique about his surroundings.

As the area changes to keep pace with the tempo of time and attitudes of the people, past and future residents of Greenpoint and Williamsburg will be able to look back with pride at the events of today, thanks largely to the efforts of Jim Glynn. I am delighted to salute Jim Glynn for his ability to continually extract interesting and compelling stories from these two unique neighborhoods, and I wish him continued success in the future.

TEMPLE BETH-EL OF CO-OP CITY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. ENGEL. Mr. Speaker, on November 4, 1989, one of the oldest religious institutions in Co-op City, Temple Beth-El will be celebrating its 20th anniversary.

Temple Beth-El not only plays an important role in the religious needs of its congregrants, but also involves itself in the general needs of the community.

Working with the Jewish Community Council of Co-op City, the umbrella body for Jewish organizations in the community, members of Temple Beth-El have worked on numerous community service outreach programs directed at groups ranging from young people to senior citizens.

In addition, Temple Beth-El works with other Co-op City organizations on holiday projects for the betterment of the entire community.

I join the members, friends, and the rest of the Co-op City community in congratulating Temple Beth-El, its rabbi, Lester Scharnberg, its cantor, Dennis Tobin and its president, Eric Weiner on the Temple's 20th anniversary.

SUPPORT FUNDS FOR DRUG WAR

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. BONIOR. Mr. Speaker, I rise today in support of the antidrug provisions in the Transportation Department appropriations bill. We must help the children who learn the meaning of crack, ice, and dope before they ever learn the meaning of love, life, and hope. We must help the elderly of this country who are afraid to walk out of their front doors. We must help the neighborhoods that are overridden by drug turf wars, and we must help the families who are being split apart because loved ones become victims of drugs and alcohol. I urge my colleagues to join me in supporting this bill.

Our children and youth are the first priority in the war on drugs. We must protect them from the horrors of life as a drug addict. We must educate them and support them. To do this, the bill would provide increased funding for drug education efforts. This funding would continue such important programs as the Drug Awareness Resistance Education [DARE] Program which has been very effective in Michigan. The program delivers the message to youth that drugs kill. More important, though, are the positive messages DARE delivers in our schools. DARE seeks to teach youth that they are valuable and that they can make a contribution if they live a drug-free life. Countless organizations across the United States need this funding to rid their schools and communities of drug abuse.

Protecting innocent people from drug pushers and their merciless tactics must also be a priority. Last year, 20,000 Americans were murdered—one every 26 minutes—and the majority of these deaths were drug related. This is outrageous. Taking back the streets will require more arrests, more convictions, and more time behind bars for these murderers and their accomplices. The bill provides $2.2 billion for grants to State and local law enforcement agencies. It also provides funding for the construction of Federal prisons and State and local juvenile justice programs. The criminal justice system needs this money to get drug dealers off of the streets and into jails.

We must also stop drugs before they reach our children. Removing temptation is one of the best ways to reduce the demand for drugs in our society. For this reason, the bill provides increased funding for the Federal agencies that provide our first line of defense in fighting the drug war: the Drug Enforcement Agency, the FBI, the Customs Service, the Office of Drug Control Policy, U.S. Marshals, and the Immigration and Naturalization Service. These agencies are responsible for the deterrence and interdiction of drugs coming into the United States from other countries.

Finally, we must realize that treatment and support for the recovering drug addict is essential to winning the war against drugs. The drug epidemic kills our youth, destroys our families, and fills our prisons and mental hospitals. Still there is only one spot available for every seven addicts seeking help at treatment centers. We must change this. That is why I strongly support the bill's increase in funding for drug abuse prevention and treatment programs. These programs rescue drug addicts, rehabilitate them and return them to society. Some programs intervene with students who may be on the road to drug or alcohol dependency. Prevention and treatment programs are the most compassionate and challenging response to the scourge of drug and alcohol abuse. Reformed addicts can become productive citizens who contribute to their community rather than drain it of its resources.

The transportation appropriations bill contains funding for all of our important antidrug endeavors. It will ensure that Federal, State, and local enforcement and education agencies can continue to fight drug traffickers and drug abuse. It will continue the policies of compassion, justice and interdiction that we began with the 1986 and 1988 omnibus drug bills. It will stop drugs from ruining the lives of many Americans.

Mr. Speaker, as expensive as it is, it is far less costly than the human and economic costs of drug abuse: increasing crime rates, the growing number of prison inmates and mentally ill, the destruction of the family, the ruin of youth, and the growing number of children born as addicts. I urge my colleagues to support the passage of this bill.

IMPROVING WASTE MANAGEMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, November 1, 1989, into the CONGRESSIONAL RECORD:

IMPROVING WASTE MANAGEMENT

Almost everywhere I go in southern Indiana, local officials talk to me about trash. Every county is wrestling with the problem of how to dispose of its solid waste. As landfills fill up and close across the country, garbage disposal poses an increasingly acute and costly challenge for local, state, and federal governments.

Americans generate nearly 160 million tons of solid waste a year—enough to fill a line of 10-ton garbage trucks stretched halfway to the moon. Each year, Americans throw away 16 billion disposable diapers, 1.6 billion pens, 2 billion razors and blades, and 220 million tires. And we discard enough aluminum to rebuild the entire U.S. commercial airfleet every three months. On average, each of us throws away over three pounds of garbage a day—the highest in the world and expected to nearly double by the year 2000.

We depend on three methods of trash disposal—landfill, incineration, and recycling. Landfilling, usually the cheapest way, accounts for about 70 percent of our nation's trash disposal. Yet of the 20,000 landfills estimated to have been operating in 1979, more than 13,000 had closed by 1986 and as few as 3,500 could remain by 1991. Even Indiana, which had 150 landfills in 1980, is expected to be down to 53 landfills in three years. One southern Indiana town sends its garbage 67 miles to be landfilled. Fewer landfills means higher costs for hauling away trash. Ten years ago, trash haulers paid $5-10 per ton to unload; today, fees of $50 per ton are common. Community efforts to site new landfills are increasingly stymied, as public concerns about environmental contamination rises. Few landfills have installed safety features such as liners and water monitoring, and even facilities meeting federal standards are often viewed as potential environmental threats.

The share of solid waste incinerated has increased from 6 percent in 1986 to about 15 percent in 1989. Most of these plants burn garbage to produce energy for other uses. However, construction costs and environmental concerns limit the appeal of incineration. As federal and several state governments consider tightening emissions and ash disposal rules, costs could increase significantly. Even if all waste were incinerated, 60 million tons per year of ash and non-combustibles (such as bricks and appliances) would still have to be landfilled.

Forced into action by landfill shortages, states, municipalities, and businesses are improving traditional recycling programs—with nine states and Washington, DC mandating some form of recycling. Recyling saves energy and conserves natural resources. For example, turning used aluminum cans into new ones takes one-twentieth the energy needed to refine new metal. Today's programs outpace earlier efforts—with advances in sorting wastes, composting yard wastes into fertilizer, improving reuse of plastics, and even converting fish wastes to animal feed and pesticides. In southern Indiana, two counties are working to produce fuels and chemicals from solid waste. Yet even as U.S. recycling grows to acccount for 15 percent of water disposal, Japan recycles 50 percent of its trash and Western Europe around 30 percent. Many U.S. experts fear, however, that markets for recycable materials are not expanding fast enough to support increased recycling.

My sense is that our nation manages trash from the bottom up. The federal government has failed to articulate a national policy on trash disposal, while federal funds to develop disposal methods and state waste plans were cut off in 1981. Most states have let waste issues revert to local control. In Indiana, counties or groups of counties are responsible for managing their waste. Yet there are limits to the ability of municipalities to manage waste on their own. Some communities cannot afford rising disposal costs, others are unable to limit waste coming from other states, and siting of new facilities is usually difficult. Further, communities generally cannot by themselves create stable markets for recycled materials or influence manufacturers to revamp product packaging and produce less waste in the first place.

The federal government cannot solve the waste disposal crisis, but it can provide cru-

cial guidance to the naton's waste producers, disposers, and managers. One of the Congress' top environmental priorities after completing new clean air legislation is an overhaul of federal solid waste laws. Under review by the Congress are measures to set a national waste prevention and management policy—giving highest priority to reducing the production of waste and to increasing recycling, with targets set for each goal. Incineration and landfilling would come last in that hierarchy. States would be required to develop waste plans consistent with national policy. Other options include boosting of federal procurement of recycled materials, creating interstate compacts to provide for regional waste controls, and reviewing tax policies which may favor the use of raw materials over recycled ones. Some suggest that fees reflecting a product's waste disposal costs be imposed on manufacturers to encourage them to produce less waste. A local option, now practiced by some communities, is charging households according to the amount of garbage they put out, with exceptions for recyclable materials which have been separated. Some communities also sell compost made from yard wastes, while others export waste paper for processing into paper products.

Several steps also need to be taken by federal and state officials to make landfills and incinerators safer disposal options. Communities need to know the risks and benefits of proposed facilities to make informed decisions about siting them. Various studies indicate that if the public is involved early and substantively in the process, the chance of successful siting increases significantly. Finalizing state and federal rules on incinerator emissions and ash disposal could also help to make facilities safer, boosting public confidence in them.

Tackling waste disposal will involve no less than changing the way we think about garbage. We need to find ways to generate less waste in the first place and to boost the mining of the resource we normally think of as trash. It is a difficult challenge not only for the public and private sectors, but for each of us individually as well.

CHIEFS OF POLICE ASSOCIATION OF VERMONT—RESOLUTION

HON. PETER SMITH

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. SMITH of Vermont. Mr. Speaker, the call for a Federal ban on assault-style semiautomatic weapons has now reached the ranks of our professional law enforcement organizations. For the first time, the Chiefs of Police Association of Vermont has unanimously endorsed a proposal for controlling the proliferation of dangerous, military-style guns, H.R. 1190. I am submitting their resolution, passed on a 24 to 0 vote, for inclusion in the RECORD. I hope that their and their colleagues' stand on this issue will convince more of my colleagues that a sensibly written ban on these weapons is necessary. If we are serious in our war on crime, we will listen to those on the frontlines.

Text of resolution follows:

CHIEFS OF POLICE ASSOCIATION OF VERMONT—RESOLUTION

Title, the Chiefs of Police Association of Vermont support H.R. 1190, the so-called Stark bill.

Whereas, there is a continuing problem in this country with the criminal use of semiautomatic assault weapons.

Whereas, the criminal use of these weapons created a significant threat to police officers and the general public.

Whereas, the Stark bill is aimed at curbing the increasing number of certain semiautomatic weapons being made available.

Whereas, the Stark bill is very careful in defining precisely what constitutes an assault weapon to be sure that guns designed for legitimate purposes are not affected.

Resolved, the Chiefs of Police Association of Vermont shall support and aid in the passage of H.R. 1190 which, in part, bans the importation and domestic manufacture of 11 semi-automatic assault weapons and bans the importation and domestic manufacture of ammunition feeding devices with a capacity of more than 10 rounds.

Be it further resolved, that copies of this resolution and a letter stating the associations position be sent to Congressman Peter Smith and any other member of the United States House or Senate who will be hearing testimony on this bill.

NEW YORK HEARING INVESTIGATES ASBESTOS-RELATED EXPLOSIONS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. GREEN. Mr. Speaker, on Monday, October 23, 1989, I convened a hearing in New York to address incidents involving the sudden spread of asbestos in Manhattan. Recent ruptures of steampipes, one at Gramercy Park and the other at the IND 8th Avenue Subway, resulted in asbestos contamination of both public and private areas, causing tragedy and great concern over the future danger to the health of New Yorkers. Although New York utilizes one of the largest steam systems in the world, it is not unique. Similar systems also exist in Boston, Detroit, and Philadelphia. Because asbestos contamination in one form or another confronts every community in the Nation, I want to share with my colleagues the issues raised at this hearing.

Since 1973, 17 steampipe explosions involving asbestos have occurred. What makes these recent incidents significant, however, is the number of people who have been affected. Three lives were lost, 24 were injured, and over 200 families were displaced in an explosion at the Gramercy Park. An incident in the IND 8th Avenue Subway resulted in the rerouting of 500,000 commuters every day for nearly 3 weeks.

The issues of prevention and control of such incidents are, for the most part, under the jurisdiction of city agencies. Because of the magnitude and complexity of these asbestos-related explosions, I wanted to trace the events leading to and immediately following these emergencies, with the purpose of determining if there can be a greater role for the Federal Government in dealing with such situations in the future.

In order to provide a description of what happened from the perspective of the city agencies involved, I asked Eugene R. McGrath, president of Consolidated Edison Co. of New York, Inc.; Richard Mendes, deputy commissioner of the New York Department of Environmental Protection; and Al Dzingelis, assistant in charge of safety for the Metropolitan Transit Authority to outline how they addressed the emergencies.

Next, two residents, Sheldon Adler, resident of 32 Gramercy Park, and Deedee Moore, resident of 36 Gramercy Park and a representative of the Gramercy Park Neighborhood Asbestos Disaster Coalition, explained how they were affected by the explosions. Eugene T. Briody, business manager for the Utility Workers Union of America, addressed worker safety issues involved with the cleanup of asbestos.

We concluded the hearing with William Muszynski, Acting Regional Director for the U.S. Environmental Protection Agency, and Dr. Phyllis Marino, of Mt. Sinai Hospital's Division of Environmental and Occupational Medicine.

Eugene R. McGrath, president and chief operating officer of Consolidated Edison Co. of New York, Inc., began his testimony by explaining how the steam system benefits the approximately 2,000 customers it serves. Mr. McGrath cited the system's low energy costs, high replacement costs, positive environmental impact, and space-saving capability.

After describing the water hammer phenomenon that triggered the Gramercy Park explosion, Mr. McGrath designated three ways in which he felt Con Ed could better address such emergencies in the future—improved procedures and training of Con Ed employees, improved customer education and operating procedures, and improved procedures to ensure that outside contractors working in the streets are aware of the location of Con Ed facilities and how to avoid them. Of the 1,700 manholes containing asbestos, Con Ed has removed the asbestos from 1,000 of them and plans to remove the remainder by 1990.

Although Mr. McGrath felt that there are already sufficient Federal, State, and city laws in place to protect the public health in situations such as these, he advised that further studies be conducted to determine the health risks of short-term exposure to asbestos, and that the EPA consider adopting clean-up standards that reflect any lower level of risk which might be found. In response to queries regarding the utility's failure to fully identify asbestos contamination in the Gramercy Park explosion, Mr. McGrath stated that initial testing for asbestos did not cover a wide enough area.

Richard Mendes, deputy commissioner for the New York Department of Environmental Protection, identified the various ways asbestos contamination may occur. Asbestos may contaminate the environment through fires, through the structural collapse of a building, through illegal dumping, and through its removal from structures such as schools. Although Mr. Mendes felt that "New York City has perhaps the most rigorous and detailed

asbestos abatement laws and regulations in the country," he stated that the recent type of accidental and uncontrollable releases of asbestos "exceeded the scope of our rules, or indeed any Federal or State rules we could find."

Mr. Mendes had three suggestions for ways in which the Federal EPA could help State and local governments in emergency asbestos-related situations. First, the development of abatement techniques, testing methodologies, and clean-up standards for dealing with asbestos released in uncontrolled circumstances is needed. Second, the EPA might develop emergency response training for State and local staff. Third, the EPA could formulate a risk assessment model. He felt that determining and then communicating a realistic sense of the health risk of various exposures to asbestos has been one of the most difficult problems in these emergency situations.

Even though the emergency response plan of the New York DEP involving steam pipe accidents assumes that asbestos is involved, when testing by the city and the DEP proved negative at the Gramercy Park explosion residents were told they could return to their homes, when, in fact, asbestos contamination had occurred. When asked what went wrong with the original sampling, Mr. Mendes stated that the limited amount of testing was the problem, and in the future much more thorough testing must be done.

Al Dzingelis, assistant in charge of safety for the Metropolitan Transport Authority, provided testimony regarding the IND 8th Avenue subway, which was contaminated with 50 pounds of insulation containing asbestos when a water main burst, spewing the insulation into the subway system. Working closely with the DEP, the MTA cleaned up the asbestos, which clung to walls, floors tracks, and rail ties, in 21 days and at a cost of $5 million.

The greatest impediment to the clean-up was the huge size of the area involved. The MTA has no problem getting qualified crews, which were monitored by the DEP. Mr. Dzingelis felt that there was good communication among the DEP, Con Ed, the Department of Labor, the Department of Health, and other local agencies and community boards. Although there were 10 violations of EPA laws, Mr. Dzingelis felt that they were not gross violations and that there was generally widespread compliance with the laws.

In response to questions regarding what the EPA might do to facilitate cleanup in the future, Mr. Dzingelis stated that the EPA might: First, establish a standard for risk assessment; second, create new means for swifter cleanup; and third, develop new technology for more accurate and faster determination of asbestos contamination.

Sheldon Adler, a resident of 32 Gramercy Park, the building most severely affected by the explosion, stated that the impact of the explosion has been devastating to the residents. He reported that the asbestos contamination was discovered only after independent tests were conducted by contractors hired by the Co-Op Corp. of 32 Gramercy Park. He felt that the response of the New York DEP was disorganized and inadequate and that the DEP was not prepared to deal with emergencies such as this. He expressed great concern over the fact that residents lived in asbestos-contamined areas for 4 days before they were evacuated, and that when they return to their homes the removal of asbestos be fully completed. He also felt that many support systems for residents who were evacuated from their homes for 4 months or longer were not being provided for by Con Ed or by the New York DEP. He expressed the sentiment of many residents who felt private industry cannot be trusted to adequately compensate for the trauma and loss in incidents such as this.

Mr. Adler identified three areas of concern which need to be addressed: First, the absence of Government regulations to ensure a toxic-free environment; second, the lack of emergency support to assist residents; and third, the lack of an adequate civil remedy at law which would address the trauma of dislocation for victims of disasters of this type.

Deedee Moore, a resident of 36 Gramercy Park, focused attention through her testimony on the entire neighborhood, including more than 35 buildings affected by the explosion. Although she recognized the need for planning for better handling of these emergencies in the future, she clearly wanted to stress the importance of dealing with the current situation.

The examples Ms. Moore gave of the problems residents were having made the case for a much better communication system following these emergencies. She felt that the New York DEP was understaffed and overworked, and that often the DEP and Con Ed would give residents contradictory information. Ms. Moore expressed the fear of residents regarding their exposure to asbestos, and whether their homes are really safe. She felt residents were treated as if they were "incidental to the disaster."

Eugene T. Briody, business manager for local 1-2 of the Utility Workers Union of America, stressed the importance of worker safety when dealing with asbestos contamination. One way to safeguard the public's health is to make certain that workers are protected, because, as Mr. Briody points out, "men and women at work are not separate from the public. They are the public."

Mr. Briody had four suggestions for how the Federal Government could better protect the public from asbestos. He would first, expand the enforcement by the EPA of its standards for indoor demolition and renovation of asbestos-containing structures; second, greatly expand OSHA; third, create a superfund to assist with the enormous cost of the clean-up of asbestos; and fourth, expand criminal prosecution of companies that intentionally expose employees to toxic substances.

Mr. William Muszynski, Acting Regional Administrator for the Environmental Protection Agency, explained how the EPA functions as a regulatory agency under section 112 of the Clean Air Act to prevent the exposure of asbestos. Through the National Emissions Standards for Hazardous Air Pollutants Program [NESHAP], EPA regulates emissions from asbestos mills and from various manufacturing and fabricating operations, regulates the use of asbestos in roadway surfacing and in insulation materials, and bans most uses of sprayed asbestos materials. These standards also require specific work practices to be used during demolition and renovation operations involving asbestos materials and regulate asbestos waste disposal to prevent visible emissions. The EPA also has a program to help abate asbestos exposure in schools.

Regarding the emergency at Gramercy Park, the EPA offered technical assistance and guidance as well as weekly onsite visits. Although satisfied with the clean-up efforts by the DEP and Con Ed, Mr. Muszynski did say that Con Ed was in violation of the 24-hour notification rule. Last year the EPA received over 9,000 notices of asbestos clean-up work. Although most large State governments, unlike New York, assume the responsibility for clean-up, the EPA could always use more resources, according to Mr. Muszynski.

Dr. Phyllis Marino, M.D., of Mt. Sinai's Division of Environmental and Occupational Medicine, estimated that the increased health risk of short-term exposure to asbestos such as that experienced by the Gramercy Park residents to be at most 1 in 200,000. She did express concern, however, over the increased health risk that workers may face as they are exposed repeatedly to asbestos in cleanup efforts. She felt that it was essential that the cleanup efforts of the residents' homes be thorough, although removing 100 percent of the asbestos from the environment is probably not possible.

Dr. Marino did not think that a long-term study of the residents exposed to asbestos in the Gramercy Park area would be helpful in the future because their exposure was very low, and the actual number of residents affected was small, and, therefore, a study would not give useful results. Workers, however, should be monitored, and a baseline exam is crucial as serious health effects often do not show up for many years. Dr. Marino testified that most of the information on the health effects of asbestos exposure concerns people exposed to high levels in the workplace. Those workers have increased chances of getting cancer of the lung tissue itself, and mesothelioma, a cancer of the thin membrane that surrounds the lung. She also felt that testing procedures for determining asbestos contamination of clothing should be reevaluated. When clothing is tested with an airblower, it may test negative, when, in fact, asbestos fibers could remain in the fabric.

I should like to conclude this summary with an explanation of why the Federal Emergency Management Agency [FEMA] did not provide aid to those affected by the recent asbestos-related steam pipe explosions in Manhattan. FEMA is a Federal program which authorizes Federal disaster assistance to individuals and State and local governments following Presidentially declared emergencies and major disasters. Such declarations are made only on request of the Governor of the State involved. To be eligible for FEMA aid, a disaster must be declared a major disaster, and be the result of a natural disaster, such as an earthquake. FEMA will provide emergency relief by first, coordinating aid efforts; second, removing debris; third, providing temporary housing; and fourth, providing technological assistance. For this emergency relief to be made avail-

able, Governor Cuomo would have had to have requested it, but because Con Ed assumed responsibility for the cleanup, he chose not to request the disaster designation.

THE DESTRUCTION OF 1,200 ACRES OF THE MOUNT CARMEL FOREST

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, I rise today to bring to the attention of the American public a destruction that took place in Israel's northern Galilee. September 19–20, 1989 marks the worst forest fire experienced by Israel in 1989. Nearly 1,200 acres of woodlands in the nature reserve on Mount Carmel were devastated by arsonists. Six Arabs have been arrested on the suspicion of simultaneously igniting five fires in the area.

After 30 hours of intense effort by hundreds of firefighters, backed by volunteers from nearby settlements and students from Haifa University, the fire was finally contained. However, thousands of trees, animals and rare species of wildlife were tragically lost. It will take 30 to 50 years to restore the reserve, some of Israel's most beautiful parks and forests, to its former state.

Today, there is a worldwide effort to raise $30 million in order to restore this forest. In Miami the Jewish National Fund, the Greater Miami Jewish Federation, the Rabbinical Association of Greater Miami, and the Consul General of Israel's office have officially launched a campaign to replant Mount Carmel Forest. I rise to appeal to all Americans to contribute to the campaign.

The loss of this land and its life does not only anguish every Israeli, but also every pioneer who has worked to redeem the Jewish homeland.

AN ENDURING PARTNERSHIP

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. SOLARZ. Mr. Speaker, during the August recess I traveled to South Korea in order to make a personal assessment of the current state of United States-South Korean relations, as well as to get a first-hand look at the extent to which South Koreans have progressed along the path from dictatorship to democracy.

While in Seoul, I delivered an address before the Korean-American Association, in which I set forth some of the conclusions I had reached during my trip. Because of our continuing interest in seeing the South Korea political system evolve into a full-fledged democracy, and because of the importance of the South Korean-American bilateral relationship, I include my speech in the RECORD:

UNITED STATES-KOREAN RELATIONS: TOWARD THE 21ST CENTURY

(Address by Congressman Stephen J. Solarz)

In the early 1950s, more than a million Americans spent months, and in many cases years, slogging up and down the Korean Peninsula.

Included among that number were Senator JOHN GLENN, Congressman CHARLIE RANGEL, and several of my other colleagues in the United States Congress.

Since I was only a young boy at the time, I missed out on that visit.

But I've been trying to make up for my late start ever since.

This is my ninth trip to South Korea.

Apart from Sen. GLENN, Congressman RANGEL, and the few other Korean War Veterans in the Congress, I suspect I have spent more time on the Korean Peninsula, trying to obtain a better understanding of the people, politics, and problems of South Korea, than perhaps any other Member of the House of Representatives.

And while I did not personally share in the suffering and sacrifices of those brave Americans who put their lives on the line to defend freedom in South Korea, I am not at all unmindful of the courage and the constancy they displayed during the course of that bitter and bloody conflict.

Of course, the 54,000 Americans who lost their lives during the Korean War constitute only a small number compared to the one million South Koreans—men, women, and children—who perished during the struggle to preserve South Korea's independence and the right of the South Korean people to determine their own destiny.

As a result of that war and those sacrifices, we were able to demonstrate that aggression does not pay, and that the free peoples of the world are prepared to resist force with force.

Another positive outcome of that otherwise tragic war was the creation of a strong partnership between South Korea and the United States.

And I am here today to tell you that the Korean-American partnership has been a real success story for both our countries.

For almost four decades it has preserved the peace and promoted stability on the Korean Peninsula, and we Americans are proud to have shared the sacrifices and the triumps of nearly forty years with our South Korean allies.

I have returned to South Korea at a particularly auspicious moment in your history.

Having earlier wrought an economic miracle out of the devastation of a bitter war, South Korea has, over the past two years, engineered a stunning political miracle that has gone a long way toward bringing genuine democracy to your country.

The long and continuing march on the road from dictatorship to democracy in South Korea has many heroes.

There is, first and foremost, the South Korean people, whose courageous willingness to put their careers and even their lives on the line for democracy was—and remains—a reflection of their commitment to those fundamental values on which my own country was funded over two centuries ago.

The progress which has been made in the effort to establish a genuine democracy in South Korea is also a reflection of the efforts on the part of Korean leaders such as Roh Tae Woo, who was prepared to put the interests of his nation ahead of his personal political interests, and Kim Dae Jung and Kim Young Sam, who for one dark year after another held aloft the torch of liberty in South Korea.

And, I would like to think, it is at least partially a result of American diplomacy, made effective by a bipartisan consensus in the United States that the best way to maintain peace and prosperity in South Korea was through the establishment of democracy, rather than by a continuation of repression.

But the progress which has been made in establishing a system of real political pluralism must not obscure the continuing obstacles to the establishment of a truly genuine democracy that must be overcome.

So long as people are imprisoned not for what they have done but for what they have said, and so long as people can be convicted of being an enemy of the state on the basis of national security legislation that does more to impair the faith of the citizenry in the fairness of the government than it does to protect the country from the real threat of subversion, it will not be possible to say that the people of South Korea are fully free.

Still, the hard and undeniable fact is that the South Korean people have gone a long way toward laying the groundwork for what we hope will be an enduring political stability and continued economic prosperity.

These conditions are as much in the American as in the Korean interest, and their achievement amply testifies to the vigor and vitality of U.S.-Korean ties.

This is not to say that there aren't potential problems that could destabilize relations between our two countries.

It does seem to be the case, however, that those in each nation who are most apt to criticize the U.S.-South Korean relationship are those who do not appreciate the extent to which this partnership has succeeded in preserving peace and promoting prosperity for almost four decades.

There are some Americans, for instance, who have called for the unilateral withdrawal of all American forces from the Korean Peninsula.

There are others who have suggested a more modest but still significant withdrawal, presumably in the hope that by so doing, significant cost savings can be achieved.

Yet upon examination this argument fails to withstand close scrutiny.

Unless the withdrawn troops are actually demobilized, there will be no budgetary savings; troops simply redeployed elsewhere would cost at least as much as if they were maintained in Korea.

And if they were fully demobilized, this would still save only modest sums, while at the same time diminishing the credibility of the American defense commitment to South Korea.

The presence of 43,000 American troops in South Korea serves as a trangible manifestation of the U.S. commitment to the security of South Korea.

As long as a significant indigenous military imbalance continues to exist on the Korean Peninsula, the United States should not withdraw any of its forces from South Korea, unless the ROK has taken steps to increase its own forces so as to offset the U.S. cuts and ensure that there is no loss in deterrent capability.

A unilateral American troop withdrawal, without any compensatory increases in ROK forces, would significantly diminish the deterrent value of our mutual security treaty, thereby threatening the preservation of peace on the peninsula.

Unless we are willing to move South Korea outside the U.S. defense perimeter—which we tried once with regretable results, and which we are emphatically not prepared to do again—it would be exceedingly unwise to take a step that might well be extremely costly in terms of the blood and treasure that would be required to repel a North Korean attack if deterrence failed, simply to save a marginal sum of money.

We must keep reminding those Americans who push for the unilateral withdrawal of U.S. forces that, across the border, barely 30 miles from Seoul, lies a hostile North Korea run by one of the most repressive regimes in the world, a regime which has never renounced its ambition of reunifying the Korean Peninsula under Communist control.

As South Koreans hardly need to be told, North Korea currently enjoys significant military advantages in men and material.

With a trained army of one million troops, it has 56 percent more men under arms than the south.

It also has a two or three to one advantage in armor and artillery, including tanks, armored personnel carriers, and self-propelled artillery.

Fortunately, since the south's economy is five times the size of the north's, it should be possible to establish an indigenous balance on the peninsula over the course of the next decade.

In the meantime, as South Korea continues to increase its military capabilities, we shouldn't preclude the possibility of partial reductions of U.S. forces.

There is nothing immutable about the figure of 43,000 men.

Not all that long ago, there were 80,000 American troops in South Korea.

More recently, there have been as few as 40,000.

Indeed, what was truly impressive about this drawdown a few years ago was the manner in which it was done without in any way diminishing the American commitment to South Korea or the value of the American deterrent.

So one can easily imagine the possibility of some reductions in the future.

But even in the context of the achievement of an acceptable balance of power, I strongly believe that the United States shouldn't totally withdraw its forces from South Korea unless there has been a dramatic reduction of North-South tensions that has eliminated the threat of war on the Korean Peninsula.

So long as the threat of war remains, the requirements of deterrence remain with it.

If recent press reports that North Korea has taken the first incipient steps to achieve an indigenous nuclear weapons capability are correct, it would constitute a deeply disturbing development which should concern everyone who cares about the survival of the Korean people.

Considering this new factor in the security equation, it may make sense to explore the possibility of negotiating an agreement between the two Koreas, as well as the people's Republic of China, the Soviet Union, and the United States, designed to preclude both the development and deployment of nuclear weapons on the Korean Peninsula, thereby allaying both the south's fears of the north's capability and the north's fear of the alleged presence of U.S. nuclear weapons in the south.

Such an agreement, which clearly would have to be accompanied by comprehensive and effective verification procedures, would go a long way towards preventing a nuclear arms race on the Korean Peninsula.

In addition to those Americans concerned about security issues, there are many other Americans who are more concerned about the existence of an almost $10 billion trade deficit between our two countries.

Of course, with a bilateral trade balance very much in South Korea's favor, and at a time when the U.S. has a global trade deficit of $137 billion, it is incumbent upon Seoul to respond creatively to American concerns if ways to contain protectionist pressures in the United States are going to be found.

But at the same time, it is equally important that Americans remember that for all the economic progress that South Korea has achieved over the past quarter century, South Koreans still do not enjoy anything approaching the standard of living of our European and Japanese friends.

West Germany's per capita income is over $10,000; France's, $9,200; Britain's $7,800; and Japan's over $16,000.

South Korea's per capita income, on the other hand, has only recently surpassed $4,000.

So while Americans have ample reason to be concerned about their trade deficit with South Korea, one would hope that we don't over exaggerate its significance.

It is also true that South Korea has taken a number of constructive steps to address specific U.S. complaints about unfair Korean practices.

Your currency revaluation over the past two and a half years has had the effect of reducing what had been an artificial exchange rate advantage.

Last May representatives of our governments reached agreements that avoided the legal necessity, under the Super 301 requirements of last year's Omnibus Trade Act, of considering retaliatory measures against South Korea.

Significant progress is being made on "local content" issues.

Korean investment regulations are being amended so as to afford more equitable treatment to foreign businesses that wish to operate in South Korea.

Finally, Americans would do well to recall that, according to the U.S. trade representative, even if South Korea eliminated all its trade barriers, a bilateral trade deficit would still remain as a result of structural and other factors.

Under these circumstances, Americans and Koreans need to be cautious about pushing trade disputes to the point where they could jeopardize important political ties betweer. our countries.

In addition to being more sensitive to the military imbalance and to economic realities on the Korean Peninsula, the United States also needs to pay attention to the understandable and legitimate nationalistic concerns of the South Korean people.

I would hope, for instance, that we would be prepared to press ahead with plans to relocate U.S. Army headquarters out of Seoul into a less-populated part of the country.

We have to understand that for many South Koreans, the presence of the headquarters complex, complete with an extensive golf course, in the midst of some of Seoul's priciest real estate constitutes a running political and nationalistic affront.

The United States has agreed in principle to relocation.

We now need to move forward with the implementation of this agreement, and one way to do this is for the Korean Government, given the opportunity to reclaim this choice land, to agree to assume all reasonable costs associated with the relocation.

Finally, we should accelerate the current discussions on shifting command of the combined U.S.-Korean forces in South Korea from an American to a South Korean general.

Such a move is long overdue.

Today there are approximately 640,000 South Korean troops under U.N. command, compared to 43,000 American troops.

Given this disparity, it is easy to understand why many South Koreans resent having a foreigner in seemingly perpetual command of their armed forces.

Moreover, many South Koreans are fully aware of the World War II practice where British and American troops served under the command of whichever nation contributed the larger force in that particular theater.

There seems no reason why we can't abandon these anachronistic arrangements so as to be responsive to South Korean sensitivities without in any way diminishing the credibility of America's defense commitment to South Korea or undermining the legal fiction that U.S. forces are here as part of the U.N. command.

But just as there are people in the United States who, through misinformation or malevolence, create problems for the bilateral relationship, so too are there those in South Korea whose actions and arguments threaten to poison the well of Korean-American relations.

And just as there are steps the United States might take to ward off potential problems before they become major difficulties, so too are there comparable actions the South Korean Government might take as well.

While recognizing that a substantial majority of the Korean people appreciate the role the U.S. continues to play in the defense and development of South Korea, the American people have been deeply disturbed by the spread of anti-American sentiment in South Korea beyond the small group of radical students where it has festered for a number of years.

Ironically, this new anti-Americanism has been facilitated by the growth of democracy, since it is now far easier to voice such sentiments than it was when the government tightly controlled political expression.

There are those, for instance, who persist in condemning the United States for its alleged role in the 1980 Kwangju massacre.

At this late date it should hardly be necessary to say again that the two battalions of the special warfare command initially involved in the atrocitites at Kwangju—those troops responsible for most of the civilian casualties—were not under the operational control of the American commander.

In fact, American authorities had no prior knowledge that these units were being sent to Kwangju and were not even aware of their presence there.

Nor were the 20th Division troops that subsequently entered Kwangju under U.S. operational control since they had been removed from the combined forces command earlier, which under the agreement the South Korean Government was entitled to do.

Now it is true that American officials were consulted prior to the dispatch of the 20th Division forces.

By this time, however, news of the violence in Kwangju had leaked out, and the American authorities concluded that if ne-

gotiations to bring about a peaceful resolution of the crisis failed, it would be desirable to have the 20th Division, which had received riot-control training, replace far more brutal special warfare troops as a way of averting further bloodshed.

The crucial point, however, is that we had no legal authority to block the dispatch of the 20th Division, even if we had wanted to, and honestly believed, in any case, that sending these units to Kwangju would diminish the likelihood of continued violence.

So in reality, rather than approving or encouraging the events at Kwangju, American authorities remained largely ignorant of them until after most of the blood had already been shed, and at no time were in a position to have taken decisive action to prevent the bloodletting which took place there.

None of this is to condone what happened at Kwangju.

The events there were tragic and terrible.

They deserve to be denounced and deplored.

But this constant condemnation of the United States, as distinguished from legitimate criticism of those Korean officials who were actually responsible for the affair, hardly constitutes a constructive contribution to good relations between our two countries.

Then there are a handful of South Koreans who throw Molotov cocktails and demand the immediate withdrawal from South Korea of all U.S. troops.

Let me assure you that the American people will not wish to support the presence of American troops where they are not welcome.

If South Korea wants to terminate the mutual security treaty and desires that American forces withdraw from the peninsula, we would immediately and undoubtedtly comply with its wishes, however, unwise and unwelcome such a request would be.

Yet my very strong impression is that the bomb-throwers represent only an irresponsible minority of the Korean people.

But if this is in fact the case, then it is incumbent upon the Korean Government to let the U.S. Government and the American people know clearly and unmistakably that the majority of South Koreans want the United States to remain in South Korea.

Otherwise, the American people will draw an erroneous conclusion about Korean desires, and domestic support for maintaining the American presence in South Korea will evaporate.

Some Koreans have seized upon the trade disputes between our two countries to question the value of the entire South Korean-American relationship.

Yet, even many Koreans who do not challenge and underlying premises binding our two peoples together frequently fail to understand the intensity of American feelings on these economic matters.

With a substantial surplus in their favor, it is important that South Koreans understand that, for Americans, fair trade is a precondition for free trade.

And in the eyes of many Americans, a number of South Korean trade practices have been neither fair nor free.

Take agricultural goods, for instance.

South Korea continues to exclude all imports of many American farm goods, while strict quotas limit trade in numerous other agricultural items.

Beef is one example, but hardly the only one.

If our two governments can't resolve their differences on Korean treatment of American beef exports by the end of September, President Bush is required by law to make a determination on unfair trade practices and whether retaliatory measures should be taken.

It hardly needs to be said that an escalatory spiral of retaliation will be in neither your interest nor ours.

We have similar problems with telecommunication equipment and services, disputes which must be resolved by next February if legally-mandated U.S. action, possibly including retaliation, is to be avoided.

South Korea is also on a special watch list for intellectual property rights violations.

You now have good, tough laws on the books protecting intellectual property rights.

Unfortunately, they are not enforced very vigorously.

Here, too, progress is needed if we are to avoid the sort of acrimonious commercial disputes that serve only to undermine our confidence in each other.

Finally, there are South Koreans who seek to blame the United States for the continued division of the Korean Peninsula.

Let me make it clear that the United States fully supports the peaceful reunification of the Korean Peninsula under conditions compatible with the ability of the Korean people to determine their own destiny.

We endorse the goal of reunification because we understand that this reflects the deepest aspirations of the Korean people.

But the United States also supports the objective of eventual reunification because we believe that the peaceful reunification of the two Koreas would be very much in the American interest.

Reunification would significantly decrease the threat of another war on the peninsula, which in turn would remove a potential flashpoint for a Soviet-American confrontation.

And at a time when regional conflicts are being resolved around the world—in southern Africa, in the Persian Gulf, in Afghanistan, and in Southeast Asia—Americans would applaud similar progress towards the peaceful and political resolution of the differences between the two Koreas.

So make no mistake about it: The United States fully sympathizes with any supports the hopes and aspirations of virtually all Koreans for the eventual reunification of Korea.

Pending the reestablishment of a reunified Korea, the United States would also strongly back any and all efforts to facilitate the reunification of divided families, the elimination of barriers to the exchange of mail and other forms of communication, and the developement of mutually rewarding economic relations between the two Koreas.

Indeed, the initiation of such humanitarian and economic arrangements would go a long way toward creating the kind of trust and confidence which will be necessary to facilitate progress on the broader and more difficult political issue of reunification.

The Korean-American partnership is one of the great success stories of the postwar period.

For over a third of a century it has contributed to peace on the Korean Peninsula and stability in the region.

But changes have taken place on the Peninsula, and especially in South Korea, that ought to be reflected in that relationship.

We do not need dramatic policy shifts.

We should avoid abrupt, let alone unilateral, changes.

But with wise leadership in both Seoul and Washington, from people who understand how helpful this partnership has been in preserving peace and prosperity in northeast Asia, we ought to be able to fine-tune the relationship in a way that will carry Korean-American relations on a smooth course into the 21st century.

As a member of the United States Congress, I am convinced that only in this fashion will American interests be adequately safeguarded.

And as a friend and admirer of the Korean people, I am equally convinced that such a prescription would serve the interests of South Korea as well.

TRADITIONAL SYNAGOGUE OF CO-OP CITY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. ENGEL. Mr. Speaker, on Sunday, November 5, the Young Israel of Baychester, Traditional Synagogue of Co-op City will be celebrating its 18th year of providing to the religious needs of its congregants.

Eighteen years ago, when it was first founded, members of the Traditional Synagogue met and worshipped in a garage. Today, they have their own space which was obtained not only through hard work, but more importantly through dedicated and devotion to an idea.

The Traditional Synagogue is an activist institution. Its members have raised significant funds for both the United Jewish Appeal as well as Israel Bonds. The synagogue is also a member of the Jewish Community Council of Co-op City.

In the Jewish religion, the number 18 is very significant. Eighteen symbolizes life. Its been 18 years of life for the Young Israel of Baychester, Traditional Synagogue of Co-op City.

I join the members, friends, and the rest of the Co-op City community in congratulating the Young Israel of Baychester, Traditional Synagogue of Co-op City, its Rabbi Kenneth Stein, and its president, Al Abel, on its 18th anniversary.

VOTE FOR THE MINIMUM WAGE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. BONIOR. Mr. Speaker, for too long, workers in my district and across the country have been struggling to make ends meet while this administration refused to accept a higher minimum wage. While the President has fought hard to reward the wealthy with a tax break, he has—until now—ignored our call to help wage earners with a minimum wage increase.

As cochairman of the whip task force on the minimum wage, which was charged with building a coalition of support on this issue, I

am pleased that the President has finally raised the white flag in his "last stand" battle against American workers. The final compromise only increases the wage to $4.25, as the President requested, but workers will get this wage over the next 2 years rather than spread out over 4 or 5 years.

I'm not satisfied with this package. But it's the best bill the President will sign. The capital gains tax break that the President has pushed so doggedly would, add $13 million to the coffers of the 100 wealthiest Americans in 1 year. He would not even consider giving minimum wage workers a dollar more an hour over 2 years.

Lowering the capital gains tax is yet another trickle down theory. Raising the minimum wage, on the other hand, puts money in the hands of workers who don't have time to wait for money to make the theoretical trickle down. I assure you that the 90 cent raise will mean more to workers than all of the imaginary jobs that a capital gains cut might create.

Nothing else we have done so far this year could have such a direct affect on working people. The working poor work all of the time—often at more than one job if they can find it—to make ends meet. They either have inadequate or nonexistent health insurance and pension plans. Most do not make enough to have savings accounts. In fact, they cannot provide for themselves much less their families on $3.35 an hour. That's only $536 a month before taxes, and in many areas that won't even pay for an apartment. Many workers today are homeless. Jobs that once paid well enough to take care of a person's needs now don't even pay enough to keep workers and their families off of the streets. We have the opportunity today to improve this situation.

A 90 cent raise will give workers more money to cover the essentials in life. The raise is small, but it amounts to $36 per week and $1,700 per year for a 40-hour work week. This amount is tremendous to workers who this year can expect to make only $6,500. The raise is not enough, but it is more than most workers can expect without action by Congress.

Minimum wage workers have not gotten a raise since 1981. The compromise raising the wage to $4.25 cannot compensate them for the last 8 years, but it does promise average workers and their children a better future. As I have stated, the minimum wage package is inadequate but it is a start. Raising the minimum wage will—and there's no doubt about it—put more money in the pockets of the working man and woman. And that's no trickle down theory. That is fact.

The President has stalled all year. Now at the 11th hour he has finally conceded to compromise. We must act now to raise the minimum wage. I hope my colleagues will join me in voting for this minimum wage package.

OIL POLLUTION ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. RICHARDSON. Mr. Speaker, tomorrow the House is due to consider H.R. 1465, the Oil Pollution, Prevention, Response, Liability, and Compensation Act of 1989. It is my intent to offer four amendments to this legislation. My amendments, each of which addresses title VII of the bill, will assure that the research and development program will be geared toward innovative technologies which are efficient in an open ocean environment.

For the benefit of my colleagues, I would like to take this opportunity to include these amendments in the RECORD for review:

AMENDMENTS TO H.R. 1465 OFFERED BY MR. RICHARDSON OF NEW MEXICO

[Note: The amendment is stated in terms of the page and line numbers of H.R. 3394, as introduced October 3, 1989.]

Page 114, line 4, insert "and goals for technology development" after "research priorities".

Page 115, line 15, insert "under normal and harsh environmental conditions including strong winds and water currents," after "oil discharges".

Page 116, line 1, insert "prevent discharges through the use of vacuums in tanks," after "deck of a vessel,".

Page 117, line 10, strike "and".

Page 117, line 13, strike the period and insert in lieu thereof "; and".

Page 117, after line 13 insert the following new subparagraph:

(J) research and development of technologies capable of providing temporary storage of oil that would otherwise have to be discharged into the environment.

GUNSMOKE '89

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. DORNAN of California. Mr. Speaker, I would like to call my colleagues' attention to the Air National Guard's 169th Tactical Fighter Group of McEntire Air National Guard Base at Eastover, SC. This exemplary unit of F-16A pilots recently captured the Overall Top Team Award at "Gunsmoke '89," the Air Force's worldwide air-to-ground gunnery competition.

Held at Nellis Air Force Base, NV, Gunsmoke includes both unit and individual competition in such areas as bombing, strafing, navigation, refueling, maintenance, and weapons loading. The 169th TFG captured the overall competition flying the oldest "A" model F-16 fighter in the U.S. arsenal. This award is a credit not only to the fine flyers of the Air National Guard, but to the entire F-16 Program, which represents a truly remarkable success of our military procurement system.

However, this year's impressive performance turned in by the 169th should surprise no one familiar with the F-16's performance record in past competitions. For over a decade, the F-16 has remained an example to be emulated in USAF flying competitions, and more importantly, has also proven itself as a fearsome asset of American air power in combat.

In peacetime, the F-16 continues to be the most reliable aircraft in our arsenal, setting the Air Force's rigid standards for maintenance, safety, and readliness. This plane has consistently been produced both on time and within budget. It is consistent performance reliability like this that makes the F-16 the most eagerly sought-after fighter plane on the international market.

The continued success of the F-16 Program must be ascribed to the hard work and dedication of all those in Congress, the Department of Defense, and the individuals of the F-16 Program itself, who remain committed to our Nation's defense. The F-16 is a shining example of what is right with our military procurement system.

I would also like to commend Capt. Patrick Shay, an Air Force Reservist with the 944th Tactical Fighter Group from Luke AFB, AZ, for winning this year's individual "Top Gun" honor, and the runner-up to Captain Shay, Maj. Waymond Nutt with the 169th TFG.

Congratulations to all participants on a job well done.

The top finishers in other categories included:

INDIVIDUAL EVENT TOP GUN WINNERS

Dive Bomb: Lt. Col. Gail Jones, 388th TFW, Hill AFB, Utah.

Low Angle Drag Bomb: Maj. Lawrence Wells, 432nd TFW, Misawa AB, Japan.

Low Angle Drag Bomb: Maj. Waymond Nutt, 169th TFG, McEntire ANGB, S.C.

Level Bomb: Maj. Waymond Nutt, 169th TFG, McEntire ANGB, S.C.

Low Angle Strafe: Capt. Angus Simpson, 363rd TFW, Eielson AFB, Alaska.

Navigation Attack: Capt. Michael France, 388th TFW, Will AFB, Utah.

CATEGORY BEST TEAM WINNERS

F-16 Top Team: 169th TFG, McEntire ANGB, S.C.

A-10 Top Team: 23rd TFW, England AFB, La.

F-4 Top Team: 3rd TFW, Clark AFB, Philippines.

CATEGORY BEST AIRCREW

F-16 Top Gun: Capt. Patrick Shay, 944th TFG, Luke AFB, Ariz.

A-10 Top Gun: Capt. Michael Mangus, 81st TFW, FAR Bentwaters, U.K.

F-4 Top Gun: Capt. Jeff Thompson and Mark Houlzer, 3rd TFW, Clark AFB, Philippines.

A-7 Top Gun: Col. Thomas Wittman, 150th TFG, Kirkland AFB, N.M.

CATEGORY BEST MAINTENANCE WINNERS

Top F-16 Maintenance Team: 944th TFG, Luke AFB, Ariz.

Top A-10 Maintenance Team: 930th TFG, Grissom AFB, Ind.

Top F-4 Maintenance Team: 3rd TFW, Clark AFB, Philippines.

Top A-7 Maintenance Team: 185th TFG, Sioux City, Iowa.

CATEGORY BEST LOAD TEAM WINNERS

Top F-16 Munitions Team: 944th TFG, Luke AFB, Ariz.

Top A-10 Munitions Team: 81st TFW, RAF Bentwaters, U.K.

Top F-4 Munitions Team: 3rd TFW, Clark AB, Philippines.

Top A-7 Munitions Team: 150th TFG, Kirkland AFB, N.M.

TIME OF ARRIVAL WINNER

347th TFW, Moody AFB, Ga.

TRIBUTE TO THE LATE GUIDO R. ROCCO, A GREAT MAN AND OUTSTANDING COMMUNITY LEADER

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. ROE. Mr. Speaker, it is with the greatest admiration and pride that I rise today to pay tribute to a man who truly gave the full measure of his life to his community, and who showed us all in the conduct of his daily life that one person can, indeed, make our Nation and our world a better place to live.

I am speaking of the late Guido R. Rocco, whose unceasing and tireless efforts on behalf of his native city of Paterson, NJ, for more than a half century have truly become legend in the greater northern New Jersey area. In honor of the incalculable number of contributions he made to his city and his community, the memory of Guido R. Rocco will be honored at the Fourth Annual Dinner Dance of the Paterson Community Civic Organization, Inc., on November 11, 1989, at the Brownstone House in Paterson, NJ.

Mr. Speaker, I know that this will be an important event in the lives of Guido Rocco's loving family; his devoted widow, Mae; his son, Gabe, and his brother, Bill. I know, too, that the dinner committee—Jerry M. Bello, Lucy Angele, Robert Brigliadoro, Betty Shabazz, Nellie Pou, Lillian Rodriguez, Mary Otten, Ann Marie Vancheri, and Eileen Martino—has been working tirelessly to ensure that this event will be a great success. I also want to take this opportunity to salute the Hon. Frank X. Graves, Jr., the standard bearer of the Paterson Community Civic Organization, Inc.; the organization's president, Nellie Pou, and its vice president, Fettie Coleman, for all they have contributed to this great event.

Mr. Speaker, Guido R. Rocco was born on April 12, 1913, in the city of Paterson, NJ, where he spent his entire life. He graduated from Paterson Central High School in 1933 where his printing teacher, Mr. Charles E. Temple, recognized the tremendous aptitude Guido had for printing and encouraged him to become involved in the printing trade. Guido Rocco bought his first press, a six-by-nine hand-fed machine from Sears Roebuck Co. With the help of his father, Luigi, and his brother, Bill, they converted the basement of their home into a printing shop where the name Rocco Press was established.

Mr. Speaker, along with being an outstanding community servant, Guido Rocco was also a patriot, and fought in the U.S. Army during World War II. During this time, Guido's brother Bill forged ahead with Rocco Press and the company grew rapidly. In 1946 it moved into larger quarters at 327 Totowa Avenue, Paterson, where a modern plant employing 20 people was established. In 1966 the present home of Rocco Press at 171 Walnut Street in Paterson was established. Today the Rocco Press plant, with newer and more modern equipment, is owned and operated by Guido's dedicated nephew, Louis, and his wife, Gloria.

Mr. Speaker, while the business that Guido Rocco helped establish has been a vital part of the Paterson scene for more than a half century, it is the countless number of community endeavors in which Guido Rocco was involved that brought him the highest respect from those who knew him.

Among his many contributions and accomplishments that were of benefit to his community, Guido Rocco served as fire and police commissioner of the city of Paterson; as tax receiver for the city and on its Department of Economic Development. He also served on the Paterson Board of Education, as president of the board of Passaic County Vocational and Technical High School; on the Paterson Boys' Club; UNICO International; the Lions Club, and Fidelians of America.

Mr. Speaker, Guido R. Rocco was also founder and president of the Paterson Community Civic Organization and was vigorously active in the Italian Circle of Paterson, the American Legion, the Alfano Association, the Mother Cabrini Society, the Saint Francis DePaul Society, the Passaic County Democratic Committee, and the Federation of Italian Societies. Of course, this list gives only a partial glimpse of innumerable ways in which Guido R. Rocco helped to make life better for all those with whom he came in contact. And I know that if we follow the great example that he set, then we can all learn to make the world a better place to live.

Mr. Speaker, I appreciate the opportunity to present a brief profile of a truly outstanding citizen and a great American who made his community, State, and our Nation a far better place to live, the late Guido R. Rocco, an outstanding Patersonian.

TRIBUTE TO ROBERT VAN FOSSAN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. PAYNE of New Jersey. Mr. Speaker, the city of Newark and the entire State of New Jersey lost a good friend this week with the passing of Mr. Robert V. Van Fossan, an outstanding community activist whose work touched countless lives.

The chairman and chief executive officer of the Newark-based Mutual Benefit Life Insurance Co., Mr. Van Fossan was a highly successful businessman as well as a tireless advocate for social, cultural, and economic progress in New Jersey.

Van, as he was known by his many friends, worked diligently to enhance the quality of life for all of Newark's citizens. To help implement the positive changes he envisioned, he organized a coalition of business and community organizations called the "Partnership for New Jersey."

One of Mr. Van Fossan's projects was a free, 6-week performing arts series, "Outdoors at Noon III," offering music, dance, theater, and dance in a park near Newark's Symphony Hall.

As chairman of Renaissance Newark, Mr. Van Fossan used his talents to help revitalize our city. He cared deeply about Newark's children and was determined to make the future brighter for them.

To list only a few of his many accomplishments, Mr. Van Fossan served on the advisory board of the Community Foundation of New Jersey; he was a trustee of the Newark Museum and a member of the board of governors of the New Jersey State Opera and of Governor Kean's management improvement plan; he was chairman of the supreme court committee on efficiency in the operation of the courts of New Jersey; director of Volunteer, the national center in Washington, DC; a trustee of the Greater Newark Hospital Development Fund, the New Jersey Historical Society, the Two Hundred Club of Essex County; the Greater Newark Urban Coalition, the United Way of Essex and West Hudson; and the National Conference of Christians and Jews.

Mr. Van Fossan was honored as the "Outstanding Citizen of the Year" in 1981, and later received the New Jersey Giraffe Award, presented to citizens who "stick their necks out for the common good."

I feel very honored to have had the privilege of calling Mr. Van Fossan my friend. He will be greatly missed, but his life will continue to serve as a source of inspiration to our community. The citizens of New Jersey will reap the benefits of his good deeds for many years to come.

It was Mr. Van Fossan who was personally responsible for challenging the corporate community in Newark to help rebuild the city. In his honest and forthright manner, he called upon both businesses and individuals to accept responsibility and to rekindle pride in their community.

Mr. Speaker, I know my colleagues here in Congress will join me in offering our sincere sympathy to Mr. Van Fossan's widow, Mary Jane; to his three children, Deborah Greer, Robert Craig, and Stephen Mark, and to his mother, Mrs. Virgil Van Fossan.

A SALUTE TO PAKISTANI DEMOCRACY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. SOLARZ. Mr. Speaker, earlier today the 11-month-old democratic Government of Pakistan survived its first major challenge when the Pakistani National Assembly voted to defeat a motion of no confidence. By this action the National Assembly, and through it the Pakistani people, have issued a ringing endorsement of the government of Prime Minister Bhutto.

Over the past year Americans have watched with awe and fascination as Pakistan has made the difficult transition from dictatorship to democracy. They have been especially stirred by the story of Pakistan's young prime minister, who has overcome imprisonment, persecution, and exile to win not simply political power, but the hearts of her countrymen as well. I congratulate Ms. Bhutto on this latest triumph, and look forward to working with her to strengthen further the close rela-

tions the United States has enjoyed with her government over the past 11 months.

Transitional democracies require time and outside assistance to nurture their new institutions. But bold and dynamic leaderhip, backed by a broad national consensus and buttressed by solid support from all who love their country and cherish democracy, can produce miracles in Pakistan.

On this day of reaffirmation of both the democratic process and the leadership of Prime Minister Bhutto, I call upon President Bush to work with this extraordinary woman to build the kind of Pakistan that can serve as a model of democracy and development for the entire Third World.

CAMPAIGN FUNDS SHOULD BE RAISED WITH THE DISTRICT

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. SMITH of Texas. Mr. Speaker, I want to commend to the attention of the House an article written by our colleague BILL THOMAS which appeared in the County Telegram-Tribune of San Luis Obispo, CA.

Representative THOMAS has authored an insightful analysis of a key problem that is causing citizens to lose confidence in Congress—the large and growing influx of special interest dollars into the campaigns of House incumbents.

The article also points out the difficulties inherent in two often-mentioned proposals for responding to this problem—public financing of elections and a cap on campaign spending.

Resolution of these issues, as Representative THOMAS points out, will require a return to the fundamentals of representative democracy. We must find a way to return the campaign playing field back to the citizens whom candidates seek to represent. I hope that all Members will carefully consider Representative THOMAS' remarks.

The article follows:

[From the San Luis Obispo (CA) County Telegram-Tribune, Sept. 15, 1989]

CAMPAIGN FUNDS SHOULD BE RAISED WITHIN THE DISTRICT

(By William M. Thomas)

In the many years I've been involved with politics, both as an office holder and professor of government, I have never seen an issue arouse more jawboning, hand-wringing and disillusionment than campaign finance.

The problem is painfully obvious: Congressional elections are awash with money—money which has all but killed political competition.

And one reason the House of Representatives has become the House of Perpetual Incumbents is because of the increasingly large amounts of campaign donations flowing from Washington, D.C.-based special interests.

There is nothing so disenchanting to reformers as the fact that last year, 98 percent of House incumbents who ran won reelection.

As the accompanying chart dramatically illustrates, incumbent members also buried their opponents under an avalanche of campaign funds.

Where is the money coming from? Washington is home to thousands of political action committees (PACs) and a multitude of special interest lobbyists, all of whom readily give millions of dollars to incumbent congressmen to try to buy their favor.

In the last election, for example, 50 percent of the House winners raised more than half of their money from PACs, and dozens received more than three-fourths of their money from PACs.

Can an average citizen who wants to run for Congress seriously challenge a sitting Congressman? No way.

While the hometown candidate is knocking on doors and asking friends to attend a $25 per person event, the incumbent, practically without lifting a finger, can collect tens of thousands of dollars at a fundraiser.

To correct this totally unfair system of campaign financing, most suggestions include public financing and spending limits. Although these "solutions" appear attractive at first glance, they fall short for several reasons because they fail to address the real problem, which is how campaign money is raised.

First, public financing is unacceptable to millions of citizens. With a budget deficit of $150 billion, where will we find the millions of dollars to pay for hundreds and hundreds of campaigns?

Others argue for a campaign spending limit. But that does not address the fundamental flaw of the current system. No matter what the limit, the incumbent congressman will still collect huge amounts with relative ease from the Washington PACs and lobbyists.

The key to reform is to go back to the fundamentals of representative democracy. If we believe that a member of Congress should be elected by a majority of the voters in his district, why shouldn't we require that a congressional candidate raise at least a majority of his or her campaign money from individuals in the district they seek to represent?

Hard-working candidates, with local support and volunteers, will once again have a chance to defeat an incumbent. Winning candidates will have grassroots campaigns that emphasize hands-on voter contact rather than expensive media blitzes.

Spending on congressional elections will most likely be reduced by the people back home and not by some straitjacket limit imposed by Congress.

Election spending will be determined by how much individuals in each district are willing to give to each candidate.

A majority-in-district funding requirement will restore competition to congressional elections and return power where it should be: to the people who live in the district which the candidate seeks to represent.

The real change that is needed in campaign financing is to bring the campaign, including the financing, back home to the people. Local control of campaign finance is the answer not only to contribution limits but the complaints about a distant and nonresponsive Congress as well.

A WORD OF CAUTION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. BEREUTER. Mr. Speaker, House committees have begun their work on the markup of H.R. 2273, the Americans With Disabilities Act. Most Members are cheered by the fact that serious attention is finally accorded a legitimate national problem—the abrogation of the civil rights of some 43 million disabled Americans.

This sort of sweeping legislation is inherently complex. In attempting to provide enough latitude for entities that must comply with the bill's provisions, opportunities for extraordinary numbers of lawsuits are unintentionally created because of potentially broad or ambigious provisions. Other provisions may prove to be unenforceable because of exceptions designed to generate greater support from skeptical groups. However well-intended, the bill is moving too swiftly. This makes it all the more important for the four committees that are marking up the legislation to do their jobs and not ignore or minimize the costs of the bill's requirements as they will affect each sector of American life. Congress cannot responsibly pass legislation blithely without considering and measuring the anticipated costs and how such costs will be distributed outside the Federal Government.

Just exactly how much will the bill cost purveyors of public transportation who must make their conveyance accessible to handicapped individuals? How will the bill's mandates affect the owners of small businesses who must make reasonable accommodations to handicapped employees? How much will it cost telephone companies to provide the special services under which hearing- and speech-impaired individuals can communicate? These and other important questions should be addressed in a cost/benefit analysis, especially given this body's propensity to grossly underestimate costs in the interests of political expediency. Let this Member emphasize that he is not suggesting that such costs are not outweighed by benefits and necessary moral or social responsibilities to our citizens. This is a plea for care and for due consideration of the costs and upon whom and upon what sectors such costs will fall.

These remarks, Mr. Speaker, are intended as a caution. We certainly do not want to repeat a situation where we passed a measure with very laudable goals only to find, a year or two later, that actual costs of the legislation were seriously underestimated or glossed over in the heat of legislative passion. If we are going to ask Americans to bear the costs of this action, we should assure that the real costs are clearly identified and fairly allocated between the public and private sectors. Only then can we vote intelligently on this major civil rights proposal.

INTRODUCTION OF HOUSE CONCURRENT RESOLUTION 220 REGARDING THE IMPROPER SEQUESTRATION OF CERTAIN RAILROAD RETIREMENT BENEFITS

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. WHITTAKER. Mr. Speaker, we are all hopeful that the current sequestration of various Federal budgetary items mandated by the Gramm-Rudman-Hollings Deficit Reduction Act will be only a temporary measure prior to resolution of current appropriation issues. The short-term hardships and uncertainty of a sequestration are unfortunate, but expected, because they were consciously designed into Gramm-Rudman procedures by Congress. Also explicitly provided for in that law were clear and unequivocal exemptions for certain priority items, such as Social Security benefits and railroad retirement benefits.

Unfortunately, for the second time in 2 years, the Office of Mangement and Budget has chosen to flagrantly disregard this exemption with respect to one part of railroad retirement, the so-called supplement benefit in tier II payments. When this was tried in 1987, I introduced a concurrent resolution calling on the Reagan administration to rescind its groundless sequestration of these benefits. Fortunately, Congress was able to restore the reduced benefits retroactively. Shortly afterward, my position was upheld by the Comptroller General of the United States in a specific ruling, where he determined that supplemental benefits are clearly exempt from Gramm-Rudman sequestration.

Now, Mr. Speaker, a second administration has chosen to take the same approach toward railroad retirees—over the objection of the Railroad Retirement Board. Despite the clear and authoritative ruling of the Comptroller General on this precise point, this administration has ordered the sequestration of supplemental benefits normally paid under the railroad retirement system. The first reductions in retirees' checks are being reflected in the October 1989 payments being disbursed today.

I find this absolutely unconscionable. There is not a shadow of a doubt that OMB's position is meritless and plainly illegal, as well as contravening the express intent of the Congress. Perhaps the courts will be asked to halt this sequestration. Even if they are not, we in the Congress owe it to railroad retirees—as well as the integrity of the Gramm-Rudman system—to express our outrage as this fiscal sleight-of-hand. Last time, sequestration rested only on the thin reed of OMB's reassignment of budget account numbers for supplemental benefits. But in 1988, the Comptroller General specifically ruled that this was of no legal effect regarding the exempt status of the benefits under Gramm-Rudman. I find it shocking and reprehensible that my own administration has chosen to ignore the law and withhold part of the retirement benefits our citizens rely on, all to achieve a short-term and illusory gain in budgetary accounting. I call on the administration to cease and desist at once.

TRIBUTE TO JOHN H. BURTON

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. FORD of Michigan. Mr. Speaker, I rise today to salute one of the most active and enlightened leaders of my State, John H. Burton of Ypsilanti.

John Burton will be remembered in the history books primarily because he was the first black mayor of any city in Michigan. After 18 years on the Ypsilanti City Council, John was elected mayor in 1967. His hard-won, long-overdue success was an immediate inspiration to thousands of blacks in Ypsilanti and throughout Michigan.

His election was all the more remarkable because it came at a time of intense racial conflict—Detroit exploded in race riots during the summer of 1967, and the conflict spread to Ypsilanti. Mayor Burton handled those tensions and conflicts with the unique experience of a man who had been a labor leader, church leader, and community leader for more than two decades and who understood the fears, frustration, and anger of the black community.

John Burton was a good mayor and an active mayor, who did a great deal to improve the city's housing, parks, youth programs, and police-community relations. But he deserves to be honored for his whole life's work, not just for his years as mayor.

When I first met John almost 30 years ago, he was a UAW activist, the political coordinator for Michigan's 1st and 13th Congressional Districts. His support and friendship, and that of Regional Director Bard Young, were crucial when I ran for Congress in 1964. I will never forget his help. The job of transforming the hopes and votes of factory workers into political power is as important and challenging as any job, in the land. John had a gift for that kind of work, and his efforts—combined with those of his colleagues—helped make the UAW the preeminent political influence in our State.

John's most recent reincarnation involves education—another mission that he and I have shared for many years. In his 4 years as a member and chairman of Eastern Michigan University's Board of Regents, he has overseen the most important institution of higher education in his community and, in my estimate, the most dynamic educational institution in the State.

At age 79, when others might be satisfied to dwell in the past, John Burton is still looking toward the future as he always has, helping build the institutions that will improve life for everyone in his community. He richly deserves the respect and honors that have come to him.

IMPACT II

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. SOLARZ. Mr. Speaker, over the next 5 years the United States will need more than a million new teachers. And if we continue on our current path, we will only be training 625,000 people to teach during that time—and all of those may not choose to do so.

The National Science Teachers Association estimates that 300,000 new mathematics and science teachers will be needed by 1995. That is more than the total number of math and science teachers currently teaching.

In order to fight this critical problem, we need to find ways to recruit new teachers and to retain the teachers we already have.

IMPACT II is a unique nationwide, educational nonprofit organization that addresses both of these issues. IMPACT II first provides teachers with grant money for the dissemination of fresh and creative inschool programs developed by teachers and then networks the programs to other interested teachers. IMPACT II also conducts workshops, arranges interschool teacher visits, produces publications for teachers, and disseminates program information and material.

IMPACT II began in 1979 as an experimental pilot program codeveloped by the Exxon Educational Foundation with the New York City Board of Education. Today IMPACT II is a national program with 30 sites ranging in size from a single school district to an entire State and 15,000 participating teachers.

In my congressional district IMPACT II has awarded close to 300 grants since 1989 to teachers in the 13th, 14th, 15th, 20th, and 21st school districts. I am pleased and proud that IMPACT II has been helping both the teachers and the students in Brooklyn, and I congratulate the program on its most successful 10th anniversary year.

I hope that all of my colleagues will join me in recognizing the important work of IMPACT II and the 15,000 teachers who develop and implement these exciting programs.

ENTERPRISE FOR HIGH SCHOOL STUDENTS

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Ms. PELOSI. Mr. Speaker, I would like to share with my colleagues a special event occurring in San Francisco.

Today, November 2, 1989, Enterprise for High School Students, a nonprofit job referral and career development agency for San Francisco high school students, will officially open its second office at 4667 Mission Street.

The goal of Enterprise is to help young people develop employment skills and good work habits by referring them to jobs and apprenticeships in which they can be successful and gain experience. The new location was

selected to conveniently serve students, merchants, and homeowners in the southwestern part of the city.

Participating students reflect the ethnic diversity of San Francisco. Enterprise is a no-fee, teenage employment agency that annually refers over 1,200 students to 5,000 employers offering temporary and ongoing part-time jobs. Five bus lines bring students from all over San Francisco who come to find after-school or summer jobs and or to explore a professional or business career.

A staff of 5, along with 100 volunteers, interview and counsel students, match students with jobs, and recruit jobs in the private sector. Since its establishment in 1969, Enterprise for High School Students continues to successfully place students in challenging positions and apprenticeships.

I am proud of Enterprise and believe it serves as a model for the country.

CONGRESSMAN KILDEE CONGRATULATES VFW POST 3243 OF FENTON, MI, UPON THE VISIT OF VFW NATIONAL COMMANDER WALTER HOGAN ON VETERANS DAY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. KILDEE. Mr. Speaker, it gives me great pleasure to congratulate the men and women of the Veterans of Foreign Wars post and the VFW ladies auxiliary in Fenton, MI upon the occasion of Veterans Day. This year's Veterans Day is particularly special for VFW Post 3242 because the National Commander-in-Chief of the VFW, Mr. Walter Hogan, will be attending the Veterans Day dinner at the post on November 11, 1989. I am pleased to have the opportunity to celebrate our national day in honor of all American veterans with the men and women of VFW Post 3243 and with Commander-in-Chief Walter Hogan.

Having served as a combat infantryman during the Korean War, Commander-in-Chief Hogan knows the horrors of war from the ground up. As a squad leader in the 7th Infantry Division in Korea, Mr. Hogan was awarded the Purple Heart, the Combat Infantryman's Badge, and the Korean Service Medal with two battle stars. In December 1952, his active military career was ended by a Chinese mortar barrage in which Hogan lost a leg, another man was wounded and three others were killed. Following his discharge from the Army, Mr. Hogan completed his college education and began a 32-year career with Rexnord Corp. In addition to his involvement with the VFW, Mr. Hogan has been active with the Boy Scouts of America, Little League baseball, and the Junior Achievement Program.

Mr. Speaker, it is particularly fitting that National Commander-in-Chief Hogan has chosen the Fenton VFW Post in which to commemorate Veterans Day. The men and women of VFW Post 3242 have been active in the community of Fenton since 1935. The 850 members of the post and the ladies auxiliary have donated not only the use of their post hall, but also their time and energy to many important community activities in the Fenton area, including community blood drives and seminars for schoolchildren on bicycle safety and drug awareness. The post also recognizes the service and contributions to the community by local law enforcement officers.

The Fenton VFW Post is deeply involved in the national VFW's Voice of Democracy Program. Under this excellent program, junior high school students submit essays on topics related to patriotism. The post hosts the competition at their hall, with VFW members as the judges. I believe that it is very important that we remind our young people, not only of their good fortune to live in a free and democratic country, but also of the duties that make our freedom possible.

In these times, when it seems that democracy is sweeping the globe, we must never forget that freedom does not come cheap. Hundreds of thousands of those who have served in our Nation's Armed Forces in this century have paid for our freedom with their lives. Millions more, like Commander-in-Chief Hogan, who have been wounded in the line of duty, forever carry with them their own personal reminder of the price of freedom.

It is particularly fitting, on this national day of remembrance for the sacrifices of America's veterans, that we express our appreciation to the brave men and women who have served in our Nation's Armed Forces. Their sacrifices have preserved our Nation's independence, their sacrifices have protected our freedom, and their sacrifices have made our Nation a better place in which to live. We thank you all.

MARKING GALYA GENIS' BIRTHDAY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. CONTE. Mr. Speaker, today is Galya Genis' birthday. It should be a happy occasion for her; but it is not. Mrs. Genis, along with her husband Anatoly Lazarevich and their sons Peter, Seva, and Steven, are still waiting for their permission to emigrate from the Soviet Union. On this day, I offer Mrs. Genis my sincere congratulations on her birthday; and I ask the leaders of the Soviet Union one more time to show some mercy to her family and let them leave.

The family applied for permits to emigrate to Israel in 1976. The authorities denied them on the grounds of "state secrets" to which Anatoly Lazarevich supposedly had access during his work at an engineering institute from 1970 to 1973. This charge was unfounded on its merits at that time; and now, more than 15 years later, it is simply absurd and offensive.

Anatoly, Galya, Seva, Peter, and Steven Genis have filled out forms. They have made polite appeals to every conceivable authority. They have protested. They have suffered. They have prayed. They have asked for help from abroad. Most recently, more than 200 Members of Congress joined in a letter to Soviet President Mikhail Gorbachev last summer. We are still waiting for a reply.

None of the Genis family's efforts, so far, have prevailed—but they remain firm in their hope and faith that they will soon be granted their natural rights and allowed to leave the Soviet Union. I join them and their many friends around the world in that conviction, and in the prayer that Galya Genis will celebrate her next birthday in freedom.

A TRIBUTE TO FRANK MASON

HON. LEWIS F. PAYNE, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. PAYNE of Virginia. Mr. Speaker, one of the reasons for the success of American democracy is the outstanding job done on a daily basis by individuals in communities all across this country. Many of these people are unknown outside their own areas; some are names which are not household words in the places where their influence is felt.

But they go about their tasks, day by day, and make a real impact on the way things are done where they live.

In my district, there are many such individuals, but one who comes to mind in this context is Mr. Frank Mason, who lives in Evington, located in Campbell County, VA. Frank might be characterized by some as "an average man," one who holds down a job, cares for his family, supports civic and community programs and does his best to improve the quality of life in the area where he lives. He is interested in good government; does his part in supporting the candidates of his choice; and encourages others to exercise their franchise.

He is a veteran, believes in a strong national defense and supports the thesis that patriotic Americans have an obligation to help their country hold high the flag and to strengthen the cause of freedom.

He is a strong believer in the first amendment—freedom of speech, the press, the right of assembly and of religion. He feels that citizens should not look to the government for support or handouts but has a strong conviction that the government should be responsive to the needs of its people, when this is required.

Mr. Speaker, such characteristics are important and cannot be taken for granted. All of us could cite the same traits relating to men and women in the districts from which we come. This is because the strength of America is not in the favored few but in the basic qualities and unheralded deeds of many.

I hail Frank Mason and others like him in America because they mean much to our country. I am convinced that they are the heart of America—and because of them, much is accomplished of which we may seldom be aware. Often it is the inventors, the business tycoons, the political leaders, who lead the way, but not much would be achieved if those who do the daily jobs were not there to play their roles.

A CONGRESSIONAL SALUTE TO RICHARD P. GOLICK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. ANDERSON. Mr. Speaker, it gives me great pleasure today to rise in tribute to Richard P. Golick to mark the occasion of his retirement from years of exceptional service. This occasion gives me the opportunity to express my deepest gratitude to the untiring efforts of a dedicated worker, a distinguished individual, and a model citizen.

Born 72 years ago in Sheboygan, WI, Dick Golick attended the University of Wisconsin. The call of World War II came and Mr. Golick responded. As a private, and subsequently as a commissioned officer, he served from Normandy to Czechoslavakia with the 90th Infantry Division. His distinguished battle record includes five battle stars, the Purple Heart and Bronze Star Medals, and the Presidential Unit Citation.

Following the war, Dick used his knowledge of several languages as an official for the United Nations Relief and Rehabilitation Administration, for refugee programs in Germany and Austria, and as an industrial rehabilitation specialist in the Balkans.

Returning home, Dick became editor of the National Purple Heart magazine in 1949. That job would lead to a 40-year effort for this organization of wounded veterans.

During Mr. Golick's tenure as national commander, the U.S. Congress granted a charter to the Military Order of the Purple Heart or MOPH. Within this organization, Dick has served as the MOPH Wisconsin State commander and as the MOPH national adjutant general. In 1957, he was the principal organizer and officer of the MOPH National Service Foundation, a philanthropic group which has raised and spent millions on programs related to the service and welfare, especially in terms of hospital and rehabilitation programs, of veterans and their dependents.

Dick has also been an officer of the World Veterans Federation for several terms, a member of the President's Committee on the Employment of the Handicapped, the All American Conference to Combat Communism and Freedom's Foundation at Valley Forge. In 1974, Mr. Golick was awarded the prestigious Gold George Washington Medalion of Merit, an honor bestowed on only seven recipients in the history of the award.

Following his retirement from the position of MOPH adjutant general in 1977, Dick moved to Long Beach, CA where he soon became involved in the activities of the California Purple Heart Veterans Rehabilitation Services. He was elected president of the corporation and subsequently became its executive director. He turned this nearly-bankrupt organization into a multimillion dollar corporation that has supported programs for veterans, the handicapped, the disadvantaged, the unemployed, the Boy Scouts, Big Brothers, and the California Pools for the Handicapped.

Commenting on Dick as an individual and a leader, the Purple Heart Magazine wrote:

He is the one person who above all others has made the Foundation so successful without whom the Order would have been much different . . . and we thank you for these 40 years of service and leadership as a concerned citizen to all veterans as a group, and to the members of the MOPH and its Auxiliary specifically.

In war and peace, for the betterment of his fellow man, Richard P. Golick has served untiringly. His dedication and devotion can only be described as remarkable. Few men can show such a track record of unending commitment to enriching the lives of those around them. My wife Lee joins me in thanking Dick for all he has done for this community and for veterans everywhere. We wish him the very best in the years to come.

TEMPLE BETH AM HONOREE WILLIAM STRICK

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. WAXMAN. Mr. President, William Strick has served for 10 years as the diligent and competent executive director of Temple Beth Am. Mr. Strick has worked assiduously as both a staff member and congregant to ensure that all of Temple Beth Am's programs function smoothly. In his efforts on behalf of Temple Beth Am, Mr. Strick has been faithfully assisted by his lovely wife, Anita.

A Chicago native, Bill became active with Temple Beth Am upon moving to Los Angeles. In 1980, after years of retail merchandise management, Bill decided to leave the business world and devote himself full time to his primary interest—serving the Jewish community. He has served tirelessly ever since as executive director of Temple Beth Am.

The Stricks have three children, Bernard, Stephen, and Susan. Bill is also active on behalf of the University of Judaism, the Los Angeles Jewish Federation Council, the United Synagogue, Meals for the Elderly, Save-a-Life, and is affiliated with the National Association of Synagogue Administrators and the Pacific Association of Temple Administrators.

Mr. Speaker, I would like to take this opportunity to congratulate Bill Strick on a job well done.

MINIMUM WAGE—WAY TOO LITTLE, WAY TOO LATE

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. OWENS of New York. Mr. Speaker, I rise in very reluctant support for the compromise substitute for H.R. 2710, the Fair Labor Standards Act Amendments of 1989. I will vote for it, but under strong protest.

Not a week has gone by this year that I have not been challenged by my constituents to explain and justify the actions of the national leadership of the Democratic Party. Much of what has been going on here makes no sense to them. They want to know how our leadership in Congress can support a $166 billion bailout of the savings and loan industry but cannot find the $6 billion it would take to provide Head Start to every poor child who is eligible. They do not understand how it is that the Congress cannot find the $2 billion it would cost to provide WIC nutritional supplements to all poor pregnant women and infants who are eligible. They want to know why we can afford billions of dollars to rescue the people made homeless by Hurricane Hugo and the California earthquake, but do so little to build the permanent low-income housing we need to rescue the homeless families on New York City's streets.

They do not understand it. It makes no sense. They ask me if the party leadership has taken their support for granted. They ask me why they should continue to vote for a party which seems to deliver so little in return.

Sometimes I can explain the decisions made by our leadership. Sometimes I can point out actions they've taken which have gone unnoticed which do provide real help to our community.

But sometimes—like today—I can't make excuses. I can't explain.

For 50 years, the minimum wage has been the foundation of the Democratic Party platform. For 50 years, the Democratic Party has stood for justice for American workers. For 50 years we have been committed to guaranteeing a living wage to the men and women at the bottom of our economy. For 50 years we have fought to assure that no American who works for a living will earn less than what is necessary to lead a modest but decent life in this country.

That is no longer true.

Minimum-wage workers have not had a raise in 8 years—the longest period in history. Inflation has gone up more than 30 percent in that period. Rents have gone up more than 40 percent. The cost of public transportation has gone up 36 percent. Health care costs have risen more than 60 percent. All together the minimum wage is worth more than $1 less than what it was in 1981. Had the minimum wage kept pace with inflation since 1981 each minimum-wage worker would have earned more than $11,000 more over the last 8 years.

But despite all this, we have had to fight hard to get increasing the minimum wage a place on the agenda of our party. And though it did eventually find a place on the agenda, it has never been a priority for our leadership. Bills reported by the Education and Labor Committee to raise the wage were given the cold shoulder; their consideration in the House was continually postponed. Bit by bit, penny by penny, the size of the wage increase was slowly chipped away by compromise after compromise. Finally they surrendered altogether, today giving President Bush the paltry 90-cent increase he insisted on.

If the minimum wage had kept pace with inflation, the wage would have been about $5.23 by 1992. The bill first reported by the Education and Labor Committee last year would have increased the wage to just $5.05 by 1992—some 18 cents short of what mini-

mum-wage workers needed just to stay even. The final compromise before us today would increase the wage to only $4.25 in 1992—almost $1 short of what the wage was really worth 8 years ago.

We are encouraged to accept this 90-cent increase because it is better than nothing. That might be true if that was all that was included in the compromise. Unfortunately, however, the bill also creates a subminimum wage for workers under age 20 which will dramatically undermine the economic well-being of all minimum wage workers, both young and old alike.

The argument for a youth subminimum wage has never been very persuasive. If, as its proponents claimed, a subminimum wage would result in more jobs for teenagers, we should have seen the youth unemployment rate steadily decline as the real value of the wage was falling due to inflation over the last 8 years. Instead, the youth unemployment rate has remained essentially unchanged. What's more, there are already several effective programs in place which provide employers with ample subsidies for hiring teenagers and disadvantaged adults. The Targeted Jobs Tax Credit provides a subsidy to employers of 40 percent of their wage costs up to $3,000 a year to employ disadvantaged individuals and an 85-percent wage subsidy for hiring disadvantaged youth during the summer. The Welfare Reform Act allows States to divert AFDC grant payments to subsidize the wage costs of welfare recipients who are hired by private sector employers. The Job Training Partnership Act provides similar wage subsidies to employers through on-the-job training contracts. And the Veterans Job Training Program provides a subsidy to employers who hire veterans of up to $10,000 for 9 months.

Instead of helping minimum wage workers, the 6-month youth subminimum wage included in this compromise will do much to harm them. It will mean that many adults now working in minimum wage jobs will be laid off and replaced by teenagers. It will mean that young people working at minimum wage jobs—many of them struggling to support themselves or to save up money to pay for their education—will not receive a penny more in wages than they are receiving now. And it will mean that many unscrupulous employers will be constantly churning their work force every 6 months, hiring youths for only so long as they can pay them a subminimum wage and firing them the day they would have to pay the full minimum wage.

Twenty years ago Martin Luther King dramatized the moral imperative of acting against poverty by retelling the parable of Dives. His remarks seem particularly appropriate today and I commend them to all who would hail this compromise as anything but the travesty it plainly is:

Jesus told a parable one day, and he reminded us that a man went to hell because he didn't see the poor. His name was Dives. He was a rich man. And there was a man by the name of Lazarus who was a poor man, but not only was he poor, he was sick. Sores were all over his body, and he was so weak that he could hardly move. But he managed to get to the gate of Dives every day, wanting just to have the crumbs that would fall from his table. And Dives did nothing about it. And the parable ends saying, "Dives went to hell, and there was a fixed gulf now between Lazarus and Dives."

There is nothing in that parable that said Dives went to hell because he was rich. Jesus never made a universal indictment against all wealth . . . Dives didn't go to hell because he was rich; Dives didn't realize that his wealth was his opportunity. It was his opportunity to bridge the gulf that separated him from his brother, Lazarus. Dives went to hell because he was passed by Lazarus every day and he never really saw him. He went to hell because he allowed his brother to become invisible. . . . Indeed, Dives went to hell because he sought to be a conscientious objector in the war against poverty.

Today the Democratic Party cannot even claim conscientious objector status in the war against poverty. It never showed up for the fight.

TEAM INC.

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. ROWLAND of Connecticut. Mr. Speaker, I would like to take this moment to salute a special organization from my home State of Connecticut. Training Education and Manpower Inc. of Derby, CT, is to be commended for their dedication to the disadvantaged of the Naugatuck Valley and Milford, CT.

This organization, better known as TEAM, Inc., has been selflessly serving thousands of underprivileged people in Connecticut for 25 years. Whether providing day care and Head Start programs for our children or nutrition and home care for our elderly, this group exemplifies the highest degree of commitment to many families in Connecticut. The people who make up TEAM, Inc. are to be applauded for their extraordinary level of caring and compassion which makes this organization work.

On November 19, TEAM, Inc. will be dedicating a new office from which their special services will continue. I am proud to be able to honor this organization on this occasion.

TREATING SOCIAL SECURITY RECIPIENTS FAIRLY

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. YOUNG of Florida. Mr. Speaker, today is the first day of the month—the day most Americans pay their rent or make their mortgage payment.

Many older Americans, however, don't receive their monthly Social Security check until the third day of the month and therefore can't pay their rent or buy groceries until the third. For many Social Security recipients, this presents a major problem. They want to pay their rent and other bills on time, not 3 days late.

According to the Social Security Administration, Social Security checks used to be paid on the first day of the month until the 1940's when the Postal Service requested that Social Security checks be issued on the third day of each month because they simply did not have the resources to distribute all Government checks on the first day.

We are now in an age of electronic mail and direct deposits and this delay is no longer necessary. Railroad retirees, civil service retirees, postal retirees, and foreign service retirees all receive their benefit checks on the first day of the month. Social Security recipients should be added to this list. Outdated postal requirements should not continue to penalize Social Security beneficiaries.

Mr. Speaker, legislation I have introduced today would require the Social Security Administration to once again issue Social Security checks on the first day of the month and I would urge my colleagues to join me in sponsoring this important legislation to treat our Nation's Social Security recipients fairly.

TRIBUTE TO JULIA LEONARD

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. CLINGER. Mr. Speaker, I rise today to join my friends in Clearfield County, PA, in saying "thank you" to Julia Leonard of Frenchville. This Sunday, November 5, the Clearfield County Republican Committee will be holding a rally in honor of Julia Leonard, to thank her for her years of work on behalf of all the residents of Clearfield County.

I've known Julia for many years and have always found her to be a helpful, caring, and thinking public servant. Throughout her terms as Clearfield County controller, she set high standards for her office and consistently met them. She was a topnotch watchdog for her constituents and an outstanding public servant.

Besides being an outstanding controller, Julia is extremely active in other community affairs and philanthropic events. She is an active member of the Clearfield Pomona Grange and has served as a deputy of the Pennsylvania State Grange. She has always been actively involved in her church and over the years has accepted leading roles with the Salvation Army and numerous other charitable groups; in short, Julia Leonard has been the type of person that every community needs, and she has truly been one of God's gifts to her county, her family , and her Nation.

It is with great pleasure that I thank Julia Leonard for her contributions and wish her the best in coming years.

TRIBUTE TO JOHN D. SINNOCK

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. DURBIN. Mr. Speaker, few individuals in this country possess the will and talent to achieve some of the highest goals we can set in American society. Even fewer persons

achieve those goals with a desire to share their success with those around them.

It has been my distinct privilege to represent in Congress an individual who was outstanding in this way. John D. Sinnock, of Springfield, IL, lived a life that was truly an example to others. His death on October 19, 1989, deprived Springfield and its residents of a caring young man, but he leaves behind for those he touched an energy and zest for life that will live on forever.

J.D. was born in Springfield in 1964 to Henry and Susan Sinnock. He attended Owen Marsh Grade School, Lawrence School, Grant Middle School, and Springfield High School. In fact, he finished first in his SHS Class of 1982, in addition to serving as vice president of the student council and as a member of the varsity tennis team.

Attending the University of Illinois, he graduated with high honors with a bachelor's degree in accounting. At the U of I, he served as president of the Alpha Tau Omega fraternity, and demonstrated his leadership in that group by winning several fraternity awards of great distinction. In addition, he was a member of the dean's list, the Senior 100 Honorary, Torch Activities Honorary, Mortar Board, and Beta Gamma Sigma Honor Society. He also took and passed the CPA exam.

After his graduation from the University of Illinois, J.D. attended law school at the University of Michigan, serving as chairman of the student government. During is studies at Michigan, J.D. shared his knowledge with others, serving as a tutor at the graduate school of business. He graduated cum laude in 1989.

His pursuits after graduation led to employment at the law firm of Latham and Watkins in Los Angeles, CA. Before his death, he sat for the California bar exam.

My colleagues, I have known of few young people that had such an positive impact on his peers. J.D. made friends and acquaintances all over the country and all over Springfield, crossing geographical, ethnic and financial backgrounds.

J.D. spent his summers making life better for Springfield's youth. He worked for the Springfield Park District for several years, at Washington and Lincoln Parks, teaching children from all parts of the city how to enjoy the game of tennis.

In addition, he worked for the State of Illinois, serving at the department of registration and education under the Governor's Internship Program. J.D. was also a member of Christ Episcopal Church in Springfield.

It is difficult when anyone as bright and talented as J.D. Sinnock leaves us. However, those he touched will never forget his achievements, his desire and energy for life, and his compassion.

DR. ISRAEL SHAHAK ON THE DRUG TRIANGLE

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. CROCKETT. Mr. Speaker, in my capacity as chairman of the Western Hemisphere Subcommittee, I have been sharing with my colleagues articles on a variety of topics, including narcotics, concerning Western Hemisphere countries. Today, I would like to call to my colleagues attention a most thoughtful and revealing article written by a man whom I hold in high regard, Dr. Israel Shahak, a retired professor of chemistry at the Hebrew University in Jerusalem, a survivor of the Bergen-Belsen concentration camp, and now chairman of the Israeli League for Human and Civil Rights. It was my good fortune to first meet and converse with Dr. Shahak a few years ago at the U.S. Consulate in East Jerusalem.

The article, entitled "What Israelis Know and Americans Don't About the Drug Triangle: Colombia, the US and Israel," appears in the current issue of Washington Report on Middle East Affairs. In it, Dr. Shahak describes the role that former Israeli military officers and others are playing in drug trafficking in Colombia and Panama. While I cannot vouch for every word that appears in the article, I believe that it raises important enough questions to want to bring it to the attention of Members of Congress.

I, therefore, ask that Dr. Shahak's article be included in today's CONGRESSIONAL RECORD.

WHAT ISRAELIS KNOW AND AMERICANS DON'T ABOUT THE DRUG TRIANGLE: COLOMBIA, THE UNITED STATES AND ISRAEL

(By Israel Shahak)

It is well-known in the United States, indeed both the Administration and the media proclaim it from the housetops, that Colombia and Panama supply, direct and indirectly, a hefty part of the illegal drugs which have become the scourge of American society. What is still largely unknown to the US public—because most negative affairs concerning Israel tend to be covered up by the American media—is the extent of Israeli influence in those two Latin American states.

An example is the involvement of Israelis, who may have some Israeli government backing, in an important aspect of this hellish business, namely the laundering of US drug money back to the drug bosses of Colombia and Panama, despite all the well-publicized efforts of US authorities to intercept it.

Oddly, citizens of Israel are better informed about this because of two advantages they enjoy over citizens of the US: the Hebrew press, in spite of some recent decline in standards, remains far more open and free to describe disgraceful affairs in which Israel, Israelis, and American Jews are involved. Such peculiarly American institutions as the American Israel Public Affairs Committee (AIPAC) and its allies do not enjoy in Israel the power that they wield in the US. The consequence is that much more of the truth about Israeli roles in the drug affairs of the United States, and the role of those American affairs in the Israeli economy, is known to Israelis than to Americans.

After direct US government financial support of about $3 billion a year to Israel, the single most important source of Israeli income derives from the export of weapons and so called "security knowledge" (including, for example, the efficient training of death squads). The value of such exports amounted officially to $1.5 billion in 1988. In reality, the sum is probably even larger. In 1988, fully one third of this Israeli "security support," worth half a billion dollars, went to one country only, namely Colombia.

With such quantities involved, Israeli "security exports" had achieved a near monopoly in Colombia by 1988, and this has continued in 1989. Nearly all of the weapons and "security knowledge" imported during the past few years into Colombia, from airplanes to uzis, were made in Israel. During the same time Israeli influence was growing in Colombia, exports of Colombian drugs to the United States grew as well. One cannot avoid at least a suspicion that both phenomena are connected.

NORIEGA'S RIGHT-HAND MAN

A similar situation exists with regard to Panama. The right-hand man of Panamanian dictator Manuel Noriega, and a person who apparently had a hand in putting Noriega in power, is a senior ex-Mossad man, Mike Harari, who has filled Panama with Israeli connections. Noriega has been accused by American authorities of drug trade on a large scale. One can assume that in a dictatorial regime like Noriega's, Harari is as involved in drugs as the dictator himself. But who stands behind Harari?

Since this is a case of a former senior operative of Mossad, it would have been reasonable to expect at least a verbal condemnation of Harari from at least one of the many Israeli ministers who make such frequent speeches about "the danger of the international terrorism" to American audiences. Yet none have ever found the time to condemn Harari, or discuss his alliance with Noriega, or Israeli involvement in Colombia, with their tame American interlocutors.

What is more, it has been reported in Israel, but not in the United States, that Harari, who often visits Israel and meets with many of the most important Israeli leaders, recently received, after US opposition to Noriega was well-known, the honorary rank of colonel from the Israeli army.

Recently, reports broke in Israel and the US about a whole group of well-connected former Israeli officers who had provided "security advice" to one group of Colombian drug lords, whom the group described as farmers of right-wing opinions.

The head of the Israeli group, kibbutz-born Colonel Yair Klein, serves, in addition to his Colombian capacity, as the active commander of the war room of the Israeli chief of staff.

I can predict that Mainstream American media will not rush to print this, although it clearly would be of intense interest to the American public! It also is interesting to learn that Col. Klein was paid in the United States for his services in Colombia. He also was paid in cash. Although the sums involved were large (one report claimed it was $800,000), he did not put the money in a bank—one assumes that he had his reasons—nor did he contravene US laws by taking the cash out of the United States. Instead, he left the money with a member of a well-known network of ultra-pious Jews in New York, who transferred the money to Israel. The Hebrew press has voiced the natural suspicion that Yair Klein was paid with money obtained through the sale of drugs in the US by his employers. Was his the only such case?

Another network in the United States, headed by two Israelis, Adi Tal and Dov Feldman, was recently exposed in Edison, NJ, apparently more by chance than by design. It engaged in large-scale laundering of Colombian drug money on both the East

and West coasts, routing it back to Colombia via Israel.

In this case as well, several members escaped to Israel. The trial of the remainder, according to the Hebrew newspaper Hadashot, presented some curious features.

USING AMERICAN JEWS

First, it became apparent that the Israelis who headed the gang secured the help of many otherwise respectable American Jews by telling them the money was intended for the work of Mossad in Panama and Colombia.

As a result, a rabbi in Seattle was convicted of receiving some of the money, depositing it in small amounts in many different accounts in Seattle, and then transferring it to a bank in a very small Israeli town, Kiryat Ono. From there, it was transferred to a well-known Colombian drug trader through a Panamanian bank.

When the gang was brought to trial, the New Jersey court permitted a lawyer from Tel Aviv to represent the accused. He did his job very well. Those of the accused who had not escaped to Israel received very light sentences. The rabbi from Seattle got off with one month of detention. The sum which he was convicted of transferring personally to Israel was $18,300,000, of which $13,600,000 found its way to Panama. The US media, apparently, was too busy covering "international terror" to report this case to Israeli laundering of drug money from the US to Colombia.

This is attributable to the fact that American Political life is terrorized to such an extent by AIPAC and similar bodies, and to the continuous attacks by American Jewish organizations on the American media. Presumably readers of Washington Report are familiar with the tremendous harm that this state of affairs does to all human beings (including Israelis) in the middle east, as well as American interests there.

Because the Israeli connection with Colombia and Panama, and the drug industry based in those countries, has such dire effects on the United States, it is not only the Middle East, but American society itself that is jeopardized by activities of the "pro-Israeli lobby" in the United States.

DOT REVIEW OF AIRLINE STOCK ACQUISITIONS

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. SYNAR. Mr. Speaker, today I voted for H.R. 3443, a bill to provide for the Department of Transportation to review the acquisition of 15 percent or more of the voting stock of a major air carrier.

I supported H.R. 3443 because I am concerned about maintaining both the safety of all Americans who fly and the level of competition in the airline industry.

The last few years have been marked by an increasing interest in the use of the leveraged buy-out to acquire airlines and other large corporations. These acquisitions saddle a carrier with a huge amount of debt, which requires a substantial cash flow to service. During an economic downturn, pressures to cut corners to finance the debt could have a detrimental effect on the safety of the flying public. Such pressures could also result in a decreased amount of competition in the airline industry, as carriers are prevented from acquiring new aircraft, or worse yet, forced to sell off assets.

I do want to express my concern about the scope of H.R. 3443, which covers not only leveraged buy-outs but all acquisitions of 15 percent or more of an airline's stock. I do believe that the Department of Transportation should have some control over debt-leveraged purchases, but I hope that the 30-day review required in the bill does not effectively kill otherwise viable transactions in the carrier industry.

I also voted against the amendments to H.R. 3443 which Congressman DEFAZIO and Congressman BOSCO offered. I have always been a strong supporter of the security and working conditions of airline employees. I am concerned, however, that the additional criteria that Representative DEFAZIO's amendment adds would make it very difficult for any acquisition of a major carrier in an era of increasing international competition.

While I certainly do not support Frank Lorenzo's management practices at Eastern Airlines, I do not believe his case merits passage of the two-time loser amendment offered by Congressman BOSCO. Our bankruptcy code was set up to give Americans a chance to start anew, and one man's example should not dictate new rules which all others must follow in this industry. I therefore did not support the amendment.

A MULTISPECIES HABITAT PRESERVE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. BROWN of California. Mr. Speaker, last week President Bush signed into law the Interior appropriations bill for fiscal year 1990, which includes funding for a multispecies habitat plan for Riverside County, CA, where the risk posed to a variety of endangered species is threatening to bring some economic development to a standstill. Since others in this body face similar situations in their districts, I think they should be aware of this innovative approach to the complex issue of balancing the need to protect the environment and endangered species, with the importance of economic development.

Riverside County is the home of many endangered species—including the Stephen's kangaroo rat. As the county continues to develop rapidly, more and more species are being listed as endangered as their habitats are encroached upon or eliminated entirely. I share the frustration of many of my constituents about the kangaroo rat situation. The kangaroo rat has prevented new, affordable homes from being built in a number of areas. Southern California desperately needs this housing.

Although it may be difficult to understand why one species—expecially a rat—should be protected from extinction, it is important to realize how each species is part of a larger ecological system. When one species is destroyed, it can disrupt a natural balance. As we continue to develop new areas in Riverside County, we risk destroying the natural habitat of other endangered species, and radically disturbing a natural balance in the ecological system.

Local governments are working closely with the U.S. Fish and Wildlife Service to find a reasonable solution to this problem. In the meantime, however, it is important that local developers plan for similar problems in the future. According to the U.S. Fish and Wildlife Service, some 37 species in this region are listed as "threatened" or "endangered." If development restrictions are invoked to protect all of these different species, the result will be a patchwork of restrictions that will make new construction and economic expansion nearly impossible. This patchwork plan would not be suitable for endangered species either: The best habitat management plan is an integrated plan serving all species.

Earlier this month, Congress passed the final version of the Interior appropriations bill for 1990, which included funding for wildlife habitat management in San Diego, Kern, and Riverside Counties in California. At least $200,000 is expected to be used to plan a multispecies habitat preserve in the Riverside area. Additional funding will come from local governments and the building industry. I wholeheartedly support the multispecies habitat idea, and hope that planning will begin soon. I believe that could provide a reasonable, long-term solution to the problem of endangered species management.

A TRIBUTE TO SEVERIO J. MEDIATI

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Mr. Severio J. Mediati for his 12 years of service to the Castro Valley community as a member of the Castro Valley Unified School District Board of Education in California's Ninth Congressional District.

Mr. Mediati has been a resident of Castro Valley for 27 years. Before becoming involved with the Castro Valley Board of Education, he retired from an administrative position with Pacific Gas and Electric after 25 years of service.

Mr. Mediati joined the board of education in 1977. During his 12 years on the board, he served as president twice, in 1980 and 1984. He also served as the Castro Valley Unified School District's representative to the Alameda County School Board Association.

Mr. Mediati is active in a number of other community organizations including the Castro Valley High School Parents Club, the 4-H Club and Little League. He has served as president of the Proctor Elementary School PTA and, as a board member of the Boy Scouts.

Mr. Mediati is married with five children who have attended Castro Valley Schools.

Mr. Speaker, I would like to congratulate Mr. Mediati on his retirement and to commend

him for his dedication and service to the Castro Valley community.

THE "GOOD SHIP ESTHER": SOLARING ACROSS LAKE MICHIGAN

FREDERICK S. UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. UPTON. Mr. Speaker, the *Good Ship Esther* is a boat whose home port is South Haven, a town in my district in southwestern Michigan on the shores of Lake Michigan. The *Good Ship Esther* is planning to make a trip across Lake Michigan from South Haven to Chicago. Thousands of boats have made that exact trip from South Haven to Chicago through the years, but the *Good Ship Esther*'s voyage is certainly noteworthy. The *Good Ship Esther* will attempt the first crossing on a major body of water by sailing under solar power—"solaring."

The Good Ship Esther Foundation is a nonprofit organization created by Bruce Herron of Ganges, MI, and Richard Orawiec of Pullman, MI. By solaring the *Good Ship Esther* across Lake Michigan, the foundation is attempting to demonstrate to the world that solar power can be a viable energy source and a preferable environmental alternative to other, pollution-causing energy sources. The trip from South Haven to Chicago, scheduled for June of 1990, will be the maiden voyage for the vessel, which will then continue on a 6-year trip to New York City, stopping in many ports along the way to educate people about the potential of solar power.

The 36-foot wooden boat was built in 1896. It was originally used as a battery-powered captain's launch on a warship in the Great White Fleet which was sent around the world by Theodore Roosevelt. The boat was subsequently fitted with steam and gasoline engines and finally retired after many years of service. Herron and Orawiec decided to recommission the old vessel by fully renovating it and equipping it with 300 square feet of photovoltaic solar panels which, at full power, will propel the *Good Ship Esther* at 6 knots.

The aspirations of the Good Ship Esther Foundation are most laudable—especially as our world stands poised on the edge of the 21st century, in which energy and environmental concerns will continue to be critical issues to us all. Hopefully, through the insight and education we gain from the endeavors of the *Good Ship Esther,* we will be better able to solve the energy and environmental problems that face us.

TRIBUTE TO RICHARD J. SULLIVAN

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. STANGELAND. Mr. Speaker, rarely has one man been absolutely crucial to the legislative successes achieved by a single committee over a three-decade period. Dick Sullivan, who today ends his 33-year career with the Public Works and Transportation Committee, is just such a man.

Those of us who have been privileged to serve with Dick know that our effectiveness as a committee has been due in large measure to his vast experience, sound advice, and forthright direction.

I have benefited from his close and loyal friendship, his wise counsel, and his helping hand on more occasions than I can recite. He has always eagerly assisted me in my efforts to better serve the people of my district and State, and in a very real sense, we are all in his debt.

Dick and his dependable right hand for the past 31 years, Dorothy Beam, have been an unbeatable team, serving members on both sides of our committee with a sense of duty and genuine concern that has rarely been seen, and I dare say, will be seen again anytime soon.

Dick's love and concern for those with whom he has served on Capitol Hill mirrors his concern for all humanity. As an example, for their work with the Candlelighters Childhood Cancer Foundation and the Ronald McDonald House, Dick and his wonderful wife, Julie, were awarded the 1987 Lombardi Humanitarian Award.

Dick and Julie lost a daughter to leukemia at age 8, and rather than turn inward with their grief, they reached out and helped others who had suffered the same kind of tragic loss to this dread disease. I know that Dick has spent many hours counseling those on the Hill who have had children stricken with cancer.

For a man who has suffered tragedy in his private life and endured the shifting winds of political change on Capitol Hill, including service under no less than seven chairmen of the Public Works Committee, Dick Sullivan could sing a happy song, sing it well and sing it often. No matter which city our Public Works business took us, Dick would know the best eating establishments, the best watering holes.

I will miss the songs, the expert advice, and the daily association I have enjoyed with Dick Sullivan, and I wish him good health and every success in the months and years ahead.

A TRIBUTE TO ARCHBISHOP IAKOVOS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. FEIGHAN. Mr. Speaker, I would like to take this opportunity to pay tribute to Archbishop Iakovos, the spiritual leader of over 2 million Greek Orthodox Christians in North and South America. On November 11, 1989, the United Hellenic American Congress will honor his eminence at a banquet to be held in Chicago, IL.

I had the pleasure of hosting the archbishop when he came to Cleveland a couple of years ago. At that time, I joined in commemorating his three decades of leadership within the Greek Orthodox Church. Archbishop Iakovos had devoted himself to the cause of human rights. He was at the forefront of the struggle for civil rights in this country, lobbying for the Civil Rights Act and marching beside the Reverend Martin Luther King in Selma.

Archbishop Iakovos has received honorary degrees from 35 universities and various honors from church and local organizations. In 1980, President Carter presented him with the Presidential Medal of Freedom, our country's highest civilian award. In 1986, President Reagan awarded him the Ellis Island Medal of Honor.

Archbishop Iakovos continues to be a driving force in the church for reaching out to other faiths. He was the first Greek Orthodox archbishop to visit the Pope in 350 years when he was received by Pope John XXIII in 1959. He was the first Greek Orthodox archbishop to preach in St. Patrick's Cathedral. And as copresident of the World Council of Churches, he initiated Orthodox dialogs with Roman Catholics, Anglicans, Lutherans, Southern Baptists, and black church leaders.

I want to offer my congratulations to the archbishop, to thank him for all he continues to do for the Greek American community and for the religious community as a whole. I also want to congratulate the United Hellenic American Congress for making this event possible.

RICHARD J. SULLIVAN—LEGENDARY BUILDER OF A BETTER AMERICA

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. SHUSTER. Mr. Speaker, Dick Sullivan has been more than the chief counsel for the Public Works and Transportation Committee for the past 33 years—which in itself is a unique, historic record in the U.S. Congress—Dick Sullivan is one of the principal architects of building a better America. Millions of Americans have and will continue to feel, well into the next century, his positive impact on our Nation's transportation systems, on our critical water resources, and on the economic development of our country.

After winning eight Battle Stars as a World War II infantryman fighting through North Africa, Sicily, and the European Theater, and getting his law degree, Dick joined our committee.

As the chief counsel to the Public Works and Transportation Committee he has been constructively involved in virtually every major policy decision affecting the development of our Nation's public works projects for the past 33 years. Dottie Beam has served as Dick Sullivan's able assistant for over 30 years, and her retirement today creates a double irreparable loss for the committee. Dottie symbolizes the best there is in government service, and we shall all miss her sorely.

Roll Call, the newspaper of Capital Hill has described Dick as a "Hill legend." Jim Howard, our revered late chairman of the Public Works and Transportation Committee,

has said: "In his three decades on the committee, Dick has become a master at getting things done. Without Dick's wise political and legal counsel, the Public Works and Transportation Committee would move forward much less surely."

Dick has on his office wall a poster of the great Babe Ruth. In many ways, Babe Ruth symbolized the power of the Public Works Committee: hitting home runs again and again for the betterment of America, from the interstate highway system to the most advanced aviation system in the world. But many people forgot that hitting behind Babe Ruth was the immortal Lou Gerhig. Without Gerhig in the cleanup spot, Ruth could not have achieved his greatness. And so it is with the Public Works and Committee, without Dick Sullivan in the cleanup spot, the committee could not have achieved many of its successes. As Gerhig became the iron man of the Yankees, playing in 2,130 consecutive games, Dick Sullivan, over his 33 consective years, became the iron man of the Public Works Committee, serving under seven chairman, counseling scores of Members on both sides of the aisle, contributing to our successes and, often, guiding us around potential failures. I am one of those Congressmen who came onto the committee as a freshman, with no legislative experience, and it was Dick Sullivan to whom I could turn for honest, wise, expert advice. He never—never once—injected partisanship into our deliberations. His interest always was only what was best for the committee, the Congress, and the country.

It often has been said that the Public Works Committee is the all-American committee because our business is building a better America. We cannot forget that one of the reasons it is an all-American committee is because we have been blessed for 33 years with an all-American chief counsel—Richard J. Sullivan.

25TH ANNIVERSARY OF THE U.S. ARMY INFORMATION SYSTEMS COMMAND

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. KOLBE. Mr. Speaker, 1989 marks the 25th anniversary of the U.S. Army Information Systems Command [ISC].

Sometimes described as the "AT&T of the Army", in view of its enormous and sophisticated network of telecommunications and automation operations worldwide, the ISC today is the backbone of this Nation's defense communications system.

Global in scope, with activities throughout the U.S. and 14 nations abroad, the ISC is responsible for engineering, developing and managing command and control information systems that are unmatched in military history. Its assigned resources, activities, facilities and services to the Army and a host of other government agencies—including the White House—involve some 40,000 dedicated military and civilian technicians, truly performing around the world, around the clock.

The ISC, commanded by Lt. Gen. Thurman D. Rodgers and headquartered at Ft. Huachuca, AZ, acquires, transmits, uses, integrates, retains, retrieves and manages information with a speed and efficiency that boggles the mind.

Formed as a major Army command in Washington, DC, in March 1964, the ISC today is recognized as the major force in modernizing and expanding Army communications and automation to degrees of reliability and responsiveness never yet achieved. Its worldwide complex which stretches from Seoul to Saudi Arabia, from Alaska to Berlin, and from Washington to Panama, Heidelberg and Tokyo—to name just a few key links—processes several hundred million messages a year.

It should be added that an impressive number of these are relayed to Washington and Moscow through ISC's world famous "hotline" facility which is roughly 45 miles from the House Chamber at Ft. Detrick, MD.

The ISC operates and maintains literally thousands of facilities on a global basis. It has standardized the Army's widely dispersed computerized equipment, impressively streamlined the military's telephone, microwave, satellite, cable and audiovisual functions thereby making it possible for commanders to communicate virtually anywhere in the world in a matter of seconds.

The Army—through the 25-year-old ISC—has truly entered the information age, communicating in a most remarkable, sophisticated and effective manner. I am very proud of ISC—its people, progress and leadership—and wish them another 25 years of success.

THE FLUSHING COUNCIL ON CULTURE AND THE ARTS

HON. GARY L. ACKERMAN

OF NEW YORK

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. ACKERMAN. Mr. Speaker, we rise today to bring to the attention of our colleagues an organization that has been a vibrant force in our districts, indeed the whole county within which our districts are located, the Flushing Council on Culture and the Arts.

The Flushing Council on Culture and the Arts began in July 1979 as an outgrowth of the economic revitalization of the Flushing area. The polygot community with its multicultural influences was a fertile setting in which to sow its organizational seeds.

Immediately, the group began to take root. Drawing on the diverse Asian community, the Asian Festival brought together longtime area residents as well as the newer arrivals in an exchange of art, music, and traditions that promotes understanding and acceptance. That festival has continued annually, growing to be one of the largest components of Queens' Festival.

The musical notes of the hundreds of vocal, orchestral, and band performances sponsored through the council still reverberate through the county. Musical variety from opera to jazz, Beethoven to Sousa, koto to African drum have all found a home in the Flushing Council on Culture and the Arts.

Recognizing the value of this organization to the Queens arts community, 51 arts organizations have become members of the Flushing Council of Culture and the Arts, where they are able to avail themselves of program, technical, and management support. Individual membership continues to grow, as Queens residents show their support of the arts in Queens County.

Helping to place Queens on the map of cultural institutions in New York, the council operates a professional exhibition space that has featured artists of international renown such as Isamu Noguchi and Romare Bearden as well as hosting shows for artists on the verge of greatness.

Reaching out to our younger population, the Flushing Council has developed a curriculum for educating children about jazz as a musical form that roots itself deep in the social and historical development of America, and chamber music, with live musicians, that many children rarely get the chance to hear. These arts in schools programs reach over 20,000 children a year, exposing them to other cultural influences that helped shape the popular music of today.

Summer concerts throughout the borough in the quiet greenery of Queens' parks is another example of the council's presentations. Keeping everyone informed of council events and performances by other member organizations, the Flushing Council on Culture and the Arts publishes a quarterly calendar that bursts with free and low cost events.

Mr. Speaker, in just 10 short years, the Flushing Council on Culture and the Arts has grown into a premier arts council, and their future looks bright as they begin their second decade. We call on our colleagues in the House of Representatives to congratulate the Flushing Council on Culture and the Arts on their 10th anniversary and begin their second decade of service to the people of Queens and all of New York.

THE GENIS FAMILY ENDURES UNKEPT PROMISES FROM THE SOVIETS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. HOYER. Mr. Speaker, today marks the 45th birthday of Galia Genis, a Soviet refusenik. Galia, along with her husband, Anatoly, and her three sons, Peter, Seva, and Steven, have been attempting to leave the Soviet Union for the past 14 years. Each of their requests to emigrate have been denied because of Anatoly's access to state secrets, which allegedly resulted from work he did more than 16 years ago. The family's most recent refusal came in June of this year.

In a further twist of fate, the Genis' second oldest son, Seva, recently turned 18 and, is now eligible to be drafted into the Soviet military. It is feared that if Seva is drafted, the family will be subject to further refusals to

leave on the ground of possessing military secrets.

Mr. Speaker, in January of this year the Vienna Concluding Document of the Conference on Security and Cooperation in Europe was signed by the representatives of the 35 Conference on Security and Cooperations in Europe signatory nations. The politically binding Vienna Concluding Document committed each of the 35 states to "respect fully the rights of everyone to leave any country, including his own, and to return to his country." A much more telling test of intentions was the provision in the document that called for "finding solutions as expeditiously as possible, but in any case within 6 months," to all outstanding human contact cases at the conclusion of the Vienna meeting.

It has been almost 9 months since the signing of the Vienna Concluding Document, Mr. Speaker. Yet the Genis family as well as many others, still wait for the fulfillment of the commitments made by the Soviet Union in signing that document, still wait for that right to leave their country.

In closing, Mr. Speaker, I extend my heartiest birthday wishes to Galia Genis and, in view of the upcoming meeting between Presidents Bush and Gorbachev, urge the Soviet Government to give Galia Genis her greatest birthday present—her freedom.

ATTORNEY ROBERT M. SANTANIELLO NAMED "MOST PROGRESSIVE ATTORNEY" IN GREATER PIONEER VALLEY

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1989

Mr. NEAL of Massachusetts. Mr. Speaker, I want to call the attention of my colleagues to an honor recently accorded to one of my constituents, attorney Robert M. Santaniello.

Mr. Santaniello, who began his practice in 1959, has dedicated his life to the legal profession and to the people whom he has served. During his career he has earned a reputation for honesty and excellence with his colleagues and clients, which is evident through his generous dedication of time to pro bono work.

His efforts have not gone unnoticed. Robert Santaniello was recently chosen as the Most Progressive Attorney and his firm the Most Progressive Law Firm in western Massachusetts by the readers of the Valley Advocate. It is an honor of which Mr. Santaniello is most deserving.

Mr. Speaker, I want to congratulate Mr. Santaniello on his outstanding career and this well-deserved recognition, and wish him the best of luck in all his future endeavors.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, November 2, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 3

8:00 a.m.
Conferees
On H.R. 2939, making appropriations for fiscal year 1990 for Foreign Assistance and related programs.
S-128, Capitol

9:30 a.m.
Energy and Natural Resources
To hold hearings on the nominations of Martin L. Allday, of Texas, to be a Member of the Federal Energy Regulatory Commission, Melva G. Wray, of Connecticut, to be Director of the Office of Minority Economic Impact, and William H. Young, of New Jersey, to be Assistant Secretary for Nuclear Energy, all of the Department of Energy.
SD-366

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold oversight hearings on the public buildings program of the General Services Administration.
SD-406

Joint Economic
To hold hearings on the employment-unemployment situation for October.
2359 Rayburn Building

10:00 a.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation to extend international trading rules to agriculture in the Uruguay Round of General Agreement on Tariffs and Trade (GATT) negotiations.
SD-215

NOVEMBER 6

9:30 a.m.
Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings to examine contracting practices and the use of consultants by the Environmental Protection Agency and the Department of Energy.
SD-342

10:00 a.m.
Judiciary
To hold hearings in conjunction with the International Narcotics Control Caucus, on multi-national strike forces.
SD-226

2:00 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings on S. 1610, to develop a program to determine potential impacts of climate on agriculture and forestry, and to provide for the development of policies designed to address issues of global warming.
SR-332

Finance
International Trade Subcommittee
To hold hearings on the U.S.-Japan Structural Impediments Initiative (SII).
SD-215

NOVEMBER 7

9:30 a.m.
Energy and Natural Resources
To resume hearings on S. 324, to establish a national energy policy to reduce global warming, focusing on provisions relating to the Public Utility Regulatory Policy Act contained in Subtitle B of Title III.
SD-366

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
Business meeting, to markup Title II provisions, relating to mobile sources, of S. 1630, to provide for attainment and maintenance of health protective national ambient air quality standards.
SD-406

Labor and Human Resources
To resume hearings on S. 722, to revise the authority under the Federal Food, Drug, and Cosmetic Act to regulate pesticide chemical residues in food, and other related issues.
SD-430

Conferees
On H.R. 1487, authorizing appropriations for fiscal years 1990 and 1991 for the Department of State.
2172 Rayburn Building

10:30 a.m.
Select on Intelligence
Closed business meeting, to consider pending committee business.
SH-219

2:00 p.m.
Finance
International Trade Subcommittee
To resume hearings on the U.S.-Japan Structural Impediment Initiative (SII).
SD-215

Judiciary
To hold hearings on the nominations of Edwin L. Nelson, to be United States District Judge for the Northern District of Alabama, G. Thomas Van Bebber, to be United States District Judge for the District of Kansas, and Susan W. Wright, to be United States District Judge for the Eastern and Western Districts of Arkansas.
SD-226

2:30 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on reform of P.L. 480, food for peace programs.
SR-332

NOVEMBER 8

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 1741, to increase competition among commercial air carriers at the Nation's major airports.
SR-301

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 891, to provide for the modernization of testing of consumer products which contain hazardous or toxic substances.
SR-253

10:00 a.m.
Judiciary
To hold hearings on S. 88, to reform procedures for collateral review of criminal judgments, and S. 1757, and S. 1760, to provide special habeas corpus procedures in capital cases.
SD-226

NOVEMBER 9

9:30 a.m.
Energy and Natural Resources
To holding hearings on a proposed committee amendment to S. 406, Competitive Wholesale Electric Generation Act.
SD-366

Governmental Affairs
To hold hearings to examine the current status of science and math education.
SD-342

Judiciary
To hold hearings on the nomination of Vaughn R. Walker, to be United States District Judge for the Northern District of California.
SD-138

10:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the human genome initiative and the future of biotechnology.
SR-253

Judiciary
To hold joint hearings with the Committee on Labor and Human Resources to examine the impact of drugs on families and children.
SD-430

Labor and Human Resources
To hold joint hearings with the Committee on the Judiciary to examine the impact of drugs on families and children.
SD-430

10:30 a.m.
Veterans' Affairs
To hold hearings on the nomination of David E. Lewis, of Florida, to be Assistant Secretary for Acquisition and Facilities, Ronald E. Ray, of Florida, to be Assistant Secretary for Human Resources and Administration, and Edward G. Lewis, of Virginia, to be Assistant Secretary for Information Resources Management, each for the Department of Veterans Affairs.
SR-418

NOVEMBER 13

2:00 p.m.
Energy and Natural Resources
To resume hearings on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and other related measures with respect to the environment, safety, and health aspects of operation of the Department of Energy's nuclear facilities.
SD-366

NOVEMBER 14

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on potential alternative energy sources for transportation, focusing on compressed natural gas, reformulated gasoline, ethanol, and electricity (electric vehicles).
SD-366

NOVEMBER 15

9:30 a.m.
Veterans' Affairs
To hold hearings on health care for rural veterans.
SR-418

NOVEMBER 16

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

NOVEMBER 17

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

NOVEMBER 21

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 1236, to provide for a waiting period before the sale, delivery, or transfer of a handgun.
SD-226

CANCELLATIONS

NOVEMBER 3

10:00 a.m.
Governmental Affairs
General Services, Federalism, and the District of Columbia Subcommittee
To hold oversight hearings to review the activities of the General Services Administration.
SD-342

POSTPONEMENTS

NOVEMBER 2

9:45 a.m.
Environment and Public Works
Business meeting, to consider the nominations of Forrest J. Remick, of Pennsylvania, to be a Member, and David C. Williams, of Illinois, to be Inspector General, each of the Nuclear Regulatory Commission.
SD-406

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat production.
SR-332

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on Indian health facilities.
SR-485

HOUSE OF REPRESENTATIVES—*Thursday, November 2, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Help us, O Gracious God, to live as we know we should live, to show courage as we ought to show courage, to express mercy as we are able to show mercy, and to love as You have given the power to love. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. KYL. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. KYL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 285, nays 111, not voting 37, as follows:

[Roll No. 330]

YEAS—285

Ackerman	Bustamante	Durbin
Akaka	Campbell (CA)	Dwyer
Alexander	Campbell (CO)	Dymally
Anderson	Cardin	Dyson
Andrews	Carper	Eckart
Annunzio	Carr	Edwards (CA)
Anthony	Chapman	Emerson
Applegate	Clarke	Engel
Archer	Clement	English
Aspin	Clinger	Erdreich
Atkins	Coleman (TX)	Espy
AuCoin	Collins	Evans
Barnard	Combest	Fascell
Bartlett	Condit	Fawell
Bateman	Conte	Fazio
Bates	Cooper	Feighan
Bennett	Costello	Fish
Bereuter	Cox	Flake
Berman	Coyne	Flippo
Bevill	Crockett	Foglietta
Bilbray	Darden	Ford (MI)
Boggs	Davis	Ford (TN)
Bonior	de la Garza	Frank
Borski	DeFazio	Frost
Bosco	Dellums	Gallo
Boucher	Derrick	Gejdenson
Boxer	Dicks	Gephardt
Brennan	Dingell	Geren
Broomfield	Donnelly	Gibbons
Browder	Dorgan (ND)	Gillmor
Bruce	Duncan	Gilman
Gingrich	Mazzoli	Sangmeister
Glickman	McCloskey	Sarpalius
Gonzalez	McCurdy	Savage
Gordon	McDermott	Sawyer
Gradison	McHugh	Saxton
Grant	McMillen (MD)	Schaefer
Gray	McNulty	Scheuer
Green	Meyers	Schiff
Guarini	Miller (CA)	Schneider
Gunderson	Miller (WA)	Schumer
Hall (OH)	Mineta	Sharp
Hall (TX)	Mollohan	Shaw
Hamilton	Montgomery	Shumway
Hammerschmidt	Moody	Shuster
Harris	Morrison (CT)	Sisisky
Hastert	Morrison (WA)	Skaggs
Hatcher	Mrazek	Skelton
Hayes (IL)	Murtha	Slattery
Hayes (LA)	Myers	Slaughter (NY)
Hefner	Nagle	Smith (FL)
Hoagland	Natcher	Smith (IA)
Hochbrueckner	Neal (MA)	Smith (NE)
Horton	Nelson	Smith (NJ)
Houghton	Nowak	Snowe
Hoyer	Oakar	Solarz
Hubbard	Oberstar	Spence
Huckaby	Obey	Spratt
Hughes	Olin	Staggers
Hutto	Ortiz	Stallings
Ireland	Owens (NY)	Stenholm
Johnson (SD)	Owens (UT)	Stokes
Johnston	Packard	Studds
Jones (GA)	Pallone	Swift
Jones (NC)	Panetta	Synar
Jontz	Parker	Tallon
Kanjorski	Patterson	Tanner
Kaptur	Payne (NJ)	Tauzin
Kasich	Payne (VA)	Taylor
Kastenmeier	Pease	Thomas (GA)
Kennedy	Pelosi	Torres
Kennelly	Penny	Torricelli
Kildee	Perkins	Traficant
Kolter	Petri	Traxler
Kostmayer	Pickett	Udall
LaFalce	Pickle	Unsoeld
Lancaster	Porter	Valentine
Lantos	Poshard	Vander Jagt
Laughlin	Price	Vento
Leath (TX)	Rahall	Visclosky
Lehman (CA)	Ravenel	Volkmer
Lehman (FL)	Ray	Walsh
Lent	Richardson	Watkins
Levin (MI)	Rinaldo	Waxman
Levine (CA)	Robinson	Weiss
Lewis (GA)	Roe	Weldon
Lipinski	Rose	Wheat
Livingston	Rostenkowski	Whitten
Lloyd	Roth	Williams
Long	Rowland (CT)	Wilson
Lowey (NY)	Rowland (GA)	Wise
Luken, Thomas	Roybal	Wolpe
Martinez	Russo	Wyden
Matsui	Sabo	Wylie
Mavroules	Saiki	Yates

NAYS—111

Armey	Dannemeyer	Herger
Baker	DeLay	Hiler
Ballenger	DeWine	Holloway
Barton	Dickinson	Hopkins
Bentley	Dornan (CA)	Hunter
Bilirakis	Douglas	Hyde
Bliley	Dreier	Inhofe
Boehlert	Edwards (OK)	Jacobs
Brown (CO)	Fields	James
Buechner	Frenzel	Kolbe
Bunning	Gallegly	Kyl
Burton	Gekas	Lagomarsino
Chandler	Goodling	Leach (IA)
Clay	Goss	Lewis (CA)
Coble	Grandy	Lewis (FL)
Coleman (MO)	Hancock	Lightfoot
Coughlin	Hansen	Lukens, Donald
Craig	Hefley	Machtley
Crane	Henry	Madigan
Marlenee	Rhodes	Smith, Robert (OR)
Martin (NY)	Ridge	Solomon
McCandless	Roberts	Stangeland
McCollum	Rogers	Stearns
McCrery	Rohrabacher	Stump
McGrath	Ros-Lehtinen	Sundquist
Mfume	Roukema	Tauke
Michel	Schroeder	Thomas (CA)
Miller (OH)	Schuette	Thomas (WY)
Moorhead	Sensenbrenner	Upton
Murphy	Shays	Vucanovich
Nielson	Sikorski	Walker
Oxley	Skeen	Weber
Parris	Slaughter (VA)	Whittaker
Pashayan	Smith (TX)	Wolf
Paxon	Smith (VT)	Young (AK)
Pursell	Smith, Denny (OR)	Young (FL)
Quillen	Smith, Robert (NH)	
Regula		

NOT VOTING—37

Beilenson	Gaydos	Moakley
Brooks	Hawkins	Molinari
Brown (CA)	Hertel	Morella
Bryant	Jenkins	Neal (NC)
Byron	Johnson (CT)	Rangel
Callahan	Kleczka	Ritter
Conyers	Lowery (CA)	Schulze
Courter	Manton	Stark
Dixon	Markey	Towns
Downey	Martin (IL)	Walgren
Early	McDade	Yatron
Florio	McEwen	
Garcia	McMillan (NC)	

□ 1022

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Tennessee [Mr. DUNCAN] please lead the House in the Pledge of Allegiance?

Mr. DUNCAN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF CONFEREES ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

The SPEAKER. The Chair appoints the following conferees: Messrs. SMITH of Iowa, ALEXANDER, EARLY, DWYER of New Jersey, CARR, MOLLOHAN, WHITTEN, ROGERS, REGULA, KOLBE, and CONTE; and without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

PERSONAL EXPLANATION

Mr. CRAIG. Mr. Speaker, yesterday's Journal has me recorded as voting aye on final passage of H.R. 3443, to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes. I intended to vote no. Clearly my actions throughout the amendment process demonstrated that.

THE PRESIDENT LOOKS THE OTHER WAY

(Mr. HOYER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, last week the President looked the other way. On September 5 in his address to the Nation on drugs, the President said about the drug crisis, and I quote, "Who's responsible? Everyone who uses drugs. Everyone who sells drugs. Everyone who looks the other way."

But last week, on his way to contend for democracy in Costa Rica, the President looked the other way when he vetoed the D.C. appropriations bill. That bill, Mr. Speaker, appropriated an extra $32 million to fight the war against drugs in our own front yard, in the city with the highest murder rate per capita in the Nation.

Last week the number of murders in the Nation's Capital passed last year's record mark.

What is the President's answer? He vetoes the bill that would provide 700 new police officers and more drug treatment programs for this crisis. Seven hundred new police officers. New drug treatment programs. Thirty-two million dollars extra for the war on drugs. All vetoed for the far right.

Tragically, the President looked the other way.

SEQUESTRATION IS FATAL ATTRACTION FOR ADMINISTRATION

(Mr. GRAY asked and was given permission to address the House for 1 minute.)

Mr. GRAY. Mr. Speaker, it is reported that the President, the administration, and some leaders of the Republican party are attracted to the notion of sequestration as an option in dealing with our fiscal problems. Why? Because there is no capital gains cut in the current negotiations that may get through the Congress, and second, because it will make fiscal year 1991 a little bit easier to do in terms of reaching the Gramm-Rudman-Hollings targets.

Mr. Speaker, I hope this is not true and this report and attraction is wrong, because I think it would be a fatal attraction.

Why? Because defense will suffer a reduction of $30 billion over 3 years, $55 billion over 5 years, and in the domestic area such programs as education would suffer a reduction of over $1 billion, and the newly declared war on drugs by the administration would lose at least half a billion dollars.

This is not the way to conduct our business. Let it be known, ladies and gentlemen, that the trigger is in the President's hand, not that of the Congress.

CONTINUATION OF CERTAIN CATASTROPHIC HEALTH BENEFITS

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, today, I join my distinguished colleague, Mr. SCHULZE, in introducing legislation to provide for the continuation of certain catastrophic health benefits based on the McCain bill which passed the other body by a vote of 99 to 0.

Both the need for repeal of the onerous surtax and a recognition that many elderly, particularly the poor, will lose care by total repeal are reconciled in this compromise legislation.

Our proposal will provide for long-term hospitalization protection, limited home health and respite care, mammograms, hospice care, and a restricted prescription drug benefit. Because of the low costs of the package there is no need for any surtax or supplemental premium. Financing is provided completely through the existing flat part B premium.

Provisions of the original act most objectionable to seniors, such as the surtax, are removed without striking needed benefits. I supported initial efforts to repeal the catastrophic law. But any repeal must be based on the assumption of establishing a new benefit plan directed toward the legitimate needs of the elderly.

I hope you will support this important proposal in the upcoming conference negotiations on budget reconciliation.

□ 1030

THE 371 REASONS WHY IT WAS WRONG TO VETO D.C. APPROPRIATIONS BILL

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, last week President Bush vetoed the appropriation bill for the District of Columbia.

I am holding up yesterday's issue of the Washington Times that lists 371 reasons why it was wrong to veto this bill.

Mr. Speaker, the 371 people murdered this year in Washington were mainly killed because of drugs. This bill would have put 700 new police officers on the streets. The veto stopped this. The bill would have built two new prisons for D.C. criminals. Not now, Mr. Speaker.

Remember the President holding up a bag of crack cocaine seized from across the street of the White House? He just vetoed the $32 million for a drug emergency initiative.

We are all proud of our Nation's Capital, however the veto makes it that much harder to stop it from continuing as a crime, drug, and murder capital.

DANIEL ORTEGA REMOVES HIS MASK

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, over the years, I have seen Daniel Ortega described as a simple agrarian reformer and a true Third World statesman. But yesterday, the day after Halloween, he took off his mask and revealed that he is nothing but a Marxist dictator.

He is afraid of an election because he is afraid of his people. He is afraid of his people because he has brutalized them for a decade.

Now that he is being called to account, he needs an alibi. I hope this Congress will make it clear that it does not intend to be cowed by his threats. And I hope we make it clear to Ortega that we would unanimously oppose any pretext he invented for canceling the election.

Ortega's bankers are in Moscow. If Mr. Gorbachev's promises to extend perestroika to the foreign policy area are to be believed, this is a good time to put it to the test. We should make it clear to Gorbachev that now is the time to put his pitbull in Nicaragua on a short leash.

PRESIDENT BUSH CANCELS WAR ON DRUGS IN THE DISTRICT OF COLUMBIA

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, the streets of our Nation's Capital are running with blood. The grand city that should be the source of our pride is a source of international shame. Four hundred young Americans have lost their lives to the knives and the guns of the drug lords in Washington.

Mr. Speaker, to his credit the President recognized this loss of life, this source of shame, in his speech declar-

ing war on drugs in America. He promised us 700 more police officers, $1 billion to fight this war against drugs, and now what has he done?

Mr. Speaker, the President has vetoed the very legislation that offers us hope because his commitment against a woman's right to choose is so great that he canceled the war on drugs in our Nation's Capital.

Mr. Speaker, this is wrong, and what does it really mean? What is the message to the drug lords? To those who would brutalize our citizens in our Nation's Capital? That the war on drugs is just another hollow promise, just another speech.

STREAMLINING THE DRUG WAR MAZE IN CONGRESS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, I rise today to support further the late Larkin Smith's goal of streamlining the drug war maze in Congress in order to effectively and efficiently combat our Nation's drug problem. President Bush has offered us a plan to successfully fight the war on drugs, and it is up to Congress to turn this proposal into a workable program.

We have already spent billions of dollars in this fight and are scheduled to spend billions more. It is no secret that the Federal agencies, with their overlapping jurisdictions, will have problems managing the war, and effectively directing the appropriated funds to areas in need. Yet more importantly, we, the Congress, will not be able to oversee the program, and correct its problems if our current system continues.

Granted, commendable attempts by Congress have been made to quickly pass strong antidrug legislation. Yet, due to our current system in which over 80 committees and subcommittees have jurisdiction on the drug issue, legislation has become bogged down in redtape, overlapping committee jurisdictions and miscommunication.

It is time to consolidate our program into a single, effective committee designed to handle all antidrug legislation. Only then will we be able to fully and effectively address our national drug problem.

U.S. ARMY CORPS OF ENGINEERS RESPONSE TO HURRICANE HUGO AND THE LOMA PRIETA EARTHQUAKE

(Mr. BEVILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEVILL. Mr. Speaker, I rise today to commend the U.S. Army Corps of Engineers for their outstanding recovery efforts following Hurricane Hugo and the California earthquake.

During these tragic natural disasters, the corps again proved its ability to support the needs of this Nation in time of crisis. I am very proud of the corps' quick response, leadership, and professionalism. They have set a very fine example of good government at work.

Before the hurricane hit, the corps dispatched personnel to potential disaster sites to work with the Federal Emergency Management Administration in the recovery effort. The corps has had over 500 personnel fully committed to response and recovery activities in the Virgin Island, Puerto Rico, North Carolina, and South Carolina.

The corps again demonstrated its flexibility to respond to multiple disasters when Hurricane Jerry posed a threat to Galveston. The corps moved in quickly as it did for Hurricane Hugo. Fortunately, this storm was not as destructive and did not require a long-term effort.

The corps itself was a victim of the California earthquake with the initial shut down of the San Francisco District and the South Pacific Division offices. However, the Sacramento District effectively took over the command and provided immediate response while the two other offices quickly recovered their forces and were operational in less than 24 hours.

The corps presently has over 700 personnel directly involved in response and recovery efforts. This includes their traditional role in preparation of damage survey reports for damaged public facilities.

In addition, they have received requests to undertake FEMA missions which have not been assigned historically to the corps.

The corps showed they could mobilize quickly to meet special needs by providing 300 additional personnel from across the country in less than 72 hours to assist in the earthquake recovery.

These disasters caused a great deal of destruction, grief, and suffering. I want to thank the dedicated people of the U.S. Army Corps of Engineers for the outstanding job they have done in the wake of these disasters.

BENJAMIN FRANKLIN MEMORIAL FIRE SERVICE BILL OF RIGHTS

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I rise today to announce the introduction of the Benjamin Franklin Memorial Fire Service Bill of Rights. I do so in conjunction with the other three original cosponsors, the gentleman from Pennsylvania [Mr. GRAY], the gentleman from Pennsylvania [Mr. WALGREN], and the gentleman from New York [Mr. BOEHLERT], as well as 68 of my colleagues who joined with us as original cosponsors of this very important piece of legislation.

This legislation in honor of the 200th anniversary of Ben Franklin's death established 10 basic rights for the fire and emergency service professionals of this country. It allocates $80 million of one-shot programs and grants to assist them in their ongoing efforts, and it does all of this with not one dime of taxpayers' money. It allows for the minting of a special coin series next year in honor of Ben Franklin, the one dollar piece which will be dedicated to those dedicated professionals from around this country.

Mr. Speaker, I ask all my colleagues to join with us in cosponsoring this important piece of legislation and moving to help those professionals who are out there across America dealing with our emergencies and our disasters on a day-to-day basis.

CAPT. KYLE EDMONDS WOULD HAVE BEEN 32 TODAY

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, today would have been the 32d birthday of Capt. Kyle Edmonds of the Army 101st Airborne Division. Captain Edmonds perished along with 247 of his comrades in the awful Gander, Newfoundland, crash on December 12, 1985.

We lost Captain Edmonds too early. He was born in Aiken, SC, and grew up in Hartsville, in my district. He graduated from Hartsville High School in 1975 and from the Citadel with top honors in 1979.

In only 3 years he had reached the rank of captain and he was up for another promotion when he died.

He chose a career in the Army because he was dedicated to serving his country. Now its time for the country he died for to serve him by making the commitment to find out the truth about the crash he died in.

On the fourth anniversary of the crash in December, there will be a memorial service in Arlington Cemetery for these fallen soldiers who died in the most tragic of peacetime disasters and I urge all Members to attend.

HAPPY BIRTHDAY TO MRS. LAURA SCALES—110 YEARS OLD

(Mr. CONTE asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I would like to take this opportunity to extend a warm and very special birthday wish to Mrs. Laura Scales. On November 13, Mrs. Scales will be a remarkable 110 years old.

To live for a full 11 decades is more than any of us can even begin to imagine, and is quite a feat in and of itself. But when reflecting upon her many outstanding accomplishments, Mrs. Scales has reason for great pride. It is no wonder that all who know Laura hold her in high esteem and admiration for a life filled with impressive achievements.

Mrs. Scales dedicated her life to the education of children and women and excelled in this field. At a time when opportunities for women to become leaders in any area were scant, Mrs. Scales rose to the very top in her career as an educator. She was an instructor of children at the Boston Museum of Fine Arts and the dean of women at the Carnegie Institute of Technology. At the pinnacle of her career, Mrs. Scales devoted 22 years of exceptional service as the first dean of women at Smith College, one of the finest institutions in the Nation for the higher education of women.

Now, on the occasion of celebrating 110 rich and full years of life, Mrs. Scales resides at the Laurel Park Retirement Home in Northampton, MA. She still enjoys good health and is blessed with an abundance of love from both family and friends. It is heart-warming to know that such a special person is surrounded by loved ones and a staff who care very deeply for her, and who will be there to share with her all the wonderful moments in her days and years to come.

Mr. Speaker, please join me in extending all our best wishes to Laura Scales. I can think of no one more deserving of the accolades that will be bestowed on this fine woman on this great day in her long life. I know I speak for many in wishing all her tomorrows to be filled with good health, good friends, good times, and all the happiness and joy 110 years of life can bring.

□ 1040

THE NEW "BYE-BYE AMERICAN" PROGRAM

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan keeps on buying America. Tuesday it was Rockefeller Center. Wednesday, into Boeing Airlines. Today the Fort Oaks complex in Houston, TX. Perhaps next week the Japanese will buy the New York Yankees.

Meanwhile, Congress keeps practicing the same old program. It is now known on the streets of America as "Bye-bye America."

While everybody is laughing about all this, let me make one little point. When you buy something and you own something, you control it. Japan buys, Japan owns, Japan controls. When you have economic power, you have political power.

What Harry Truman said years ago, "The buck stops here," is not enough. It is time for Congress to say, "The yen stops here."

PROTECT THIS CHAMBER

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I hope all my colleagues will listen to what I am about to say today, because I think it affects each and every one of us.

When you drive into the parking lot of the Capitol, you notice we have all kinds of flower pots out there and we have got those devices that are raised and lowered to protect us, and that is to keep terrorists from coming into the parking lot to bomb this place.

But I want you to look around the Chamber right now. The one place where we assemble all together is right here. Plastic explosives can go through any device that we have to bring spectators into this gallery. One pound of plastic explosives, Semtex, with a small detonating device can be tossed from the gallery into the middle of this Chamber and kill half of us, and yet for 2 years the Sergeant at Arms has suggested that we enclose this place to protect our Members, and nobody is listening to him.

Now, I submit to my colleagues, the prudent thing for all of us to do is to ask the leadership of this body to enclose this Chamber in Plexiglas. The sound system will be better for the people in the gallery, and it will protect the Members of this body. It is the right thing to do and I hope you will all talk to the leadership about it.

REAL DEFICIT REMAINS HIDDEN FROM VIEW

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, despite all our efforts to achieve targets under the Gramm-Rudman guidelines, the real deficit remains mostly hidden from view.

The fact is that the increase in the debt from year to year measures the Federal Government's true annual deficit. The Gramm-Rudman deficit figure is largely a sham.

For example, more than 200 of us are members of a conference committee currently struggling to get the Gramm-Rudman deficit down to $110 billion—to meet the $100 billion target plus the $10 billion cushion. The real deficit—the amount that will be added to the national debt in 1990—is likely to be about $200 billion.

For the past 4 fiscal years, the total of Gramm-Rudman target deficits was $596 billion. The actual 4-year deficit total—as measured by national debt increase—was $1.05 trillion.

The truth is that it is simply dishonest to congratulate ourselves for coming to grips with the country's fiscal problems just because we achieve the Gramm-Rudman targets. The Gramm-Rudman figures can be—and all too often are—manipulated through such techniques as accounting tricks, placing items off budget, and exempting programs from Gramm-Rudman. But when the Treasury issues a debt instrument, the amount of that obligation gets added to the total Federal debt then and there.

So when Congress acts on the debt limit increase sometime soon, it will not be some arcane bookkeeping technicality. Rather, it will be an opportunity to expose the public for a brief moment to the true dimensions of our long-term fiscal crisis.

THE COWARDICE OF SEQUESTRATION

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I read with deep regret that the President and some Republicans are preferring sequestration to reconciliation, the blind across-the-board cuts that were designed to implement Gramm-Rudman, because they do not and cannot have their way on capital gains. That is one alternative, but the public and the victims of this kind of irresponsibility need to understand what the consequences are.

According to the OMB itself in their August report, the impact of sequestration is on the very programs that the President of the United States says are important to the country. Education, for example, would be cut by $1 billion. One million students who otherwise would get a Pell grant are going to be cut off. Children who would qualify for low-income education programs are prohibited from going on those programs. Housing, AIDS research, the homeless, military, are all cut.

Gramm-Rudman was designed to be a coward's approach to deficit reduction. Let us not take that approach.

29-059 O-90-18 (Pt. 19)

DISTRESSING NEWS ON AMERICA'S ALREADY WEAK TRADE POSITION

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, the recent edition of World Financial Markets, published by Morgan Guaranty Trust Co., gives us more distressing news on America's already weak trade position. The report states that there is ample reason to suspect that the U.S. trade deficit reduction will stall out before long. The significant reduction in export that we have seen in the past 2 months indicates this analysis may not be far off the mark.

Trade deficit reduction requires new thinking and more energy, and a fundamental part of that approach must be the aggressive promotion and development of American exports. Seventy-five percent of our small manufacturers have products or services they could be selling overseas, yet only 10 percent of them export. For these businesses, we need better educational efforts and an end to the disincentives that discourage them from even trying to export.

In addition, the overwhelming majority of present exporters are infrequent exporters, who export merely a few shipments each month. We need to move these exporters up the frequency ladder.

Mr. Speaker, we have an export infrastructure that has the potential to do all this, and more, but it's effectiveness is hobbled by a host of problems, not the least of which are a lack of coordination, duplication of effort, and counterproductive turf disputes.

Mr. Speaker, the time has come to put our export House in order and take the offensive on trade. The time has come to become a trading nation.

□ 1050

DEBT CEILING LEGISLATION NEEDED TO AVOID DEFAULT

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Speaker, there is a growing probability that our Government will fall off the edge of the financial cliff next Thursday and default on its debts for the first time in our Nation's history. This will be the first event involving the Bush administration that is guaranteed to win at least a footnote in our history books because it has never happened before. It will be a sad day for the Government and a sad day for Americans everywhere.

The precise impact of default cannot be predicted, but we do have some hints of what will happen. Interest rates on everything, including home mortgages and car loans, will soar. Financial investors who have come to rely on the stability of the United States will be afflicted with doubts that will never be fully erased.

These unfortunate consequences can be avoided. It is time for the administration to stop playing politics and start governing responsibly. I again call on our President to work for a clean debt ceiling in the Senate and our colleagues in the other body to approve one.

Threatening the financial free fall of default is playing with fire. If the President allows it to happen, it will be a black day for the country and a black mark on the administration's record.

MORE OF THE SAME IN CHINA

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, China has sacked Hong Kong's two leading democratic leaders from the committee deciding the colony's post-1997 constitution. The reason? Because they condemned the ruthless killing of peaceful demonstrators in Beijing last June.

The two are Martin Lee and Szeto Wah—elected Hong Kong government officials, who want nothing more than human rights and democracy for Hong Kong and China. But the firings should come as no surprise. The People's Republic of China has recently blamed the June 4 massacre on the United States, and said that improved United States-China relations depend on us not them.

That, of course, is nonsense Mr. Speaker. We have an obligation to support the truth of June and the democratic aspirations of the Martin Lees in Hong Kong.

While economic sanctions might not be prudent, our strong moral outrage and pressure must continue until the crackdown stops and China lives up to its guarantees for Hong Kong's future.

The firings of Martin Lee and Szeto Wah have increased fears in Hong Kong. The people there need some good news. Words of support from our Government would be a good place to start.

GO BUFFALOES, GO COLORADO UNIVERSITY

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, I hope we can take a brief diversion from matters of state to matters of stakes.

Mr. Speaker, on Saturday, November 4, at Folsom Field in Boulder, CO, the 8 and 0 University of Colorado Buffaloes, ranked No. 2 in the country, will host the 8 and 0 University of Nebraska Cornhuskers, ranked third. It is the game of the week, and probably will decide who represents the Big Eight Conference in the Orange Bowl.

It has been a wonderful and exceptional year for the Buffaloes. They bounced back from the tragic loss of their starting quarterback, Sal Annese, to cancer, and the team has been galvanized under Coach Bill McCartney's leadership. We may be on our way to our first national championship.

Still, a modest hurdle remains ahead on Saturday, and my colleague, the gentleman from Nebraska [Mr. HOAGLAND], and I wish to add a bit of a challenge. So we are pledging today to donate a couple of hundred dollars of groceries to help the homeless in the area of the winning team, and symbolic of the stakes, to deliver to the winner a crate of oranges at next week's Democratic whip meeting.

Go Buffaloes, go CU.

GO BIG RED ON SATURDAY

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, we have a slogan above the Nebraska stadium, and it reads, "Not the victory but the action, not the goal but the game in the deeds of glory."

We, of course, intend to take the sentiment of that slogan with us to Boulder this Saturday for what is clearly going to be the Big Eight game of the year, because the winner of that game is very likely to go to the Orange Bowl.

One little known fact is that the University of Nebraska Cornhuskers have won more football games this decade than any other team in the Nation, and my friend, the gentleman from Colorado [Mr. SKAGGS], we are going to add one more scalp this Saturday. It is not going to be decided on the size of the banner. Let me show the Members our banner here. It is going to be decided on the quality of the play.

We, of course, have pledged to donate food to the poor, and an important ingredient of that donation is going to be a crate of oranges to go to the team that is probably going to go to the Orange Bowl.

Go Big Red on Saturday.

GET PRESIDENT'S DRUG PACKAGE ON THE FLOOR OF THE HOUSE

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, we have had a number of folks get up here this week and talk about the President's veto of the D.C. appropriation bill. This is typical of the Beltway mentality.

Two hundred and forty million Americans do not live in Washington, DC. They are waiting for action on the drug package the President proposed 2 months ago.

In Colombia, a congressman got killed this week because Colombia is fighting the drug war. No one in this body needs to worry about the drug lords. We will not even get a spitball thrown at us, because we have yet to vote on the President's drug package.

We are going to get out of here on November 20, according to the Speaker, but we have to vote on drug kingpin legislation; drug-free campuses; we have to vote on whether we are going to have one committee fight this war, we have to vote on violent drug crime; and all of that is going to happen in the next 18 days.

All I can say to everyone who is whinning about the D.C. appropriations, "get your Speaker to get the President's package on this floor in the next 18 days, or we do not have to worry about anything but a spitball from the drug lords."

GALILEO LAUNCHES PLANETARY SCIENTISTS TOWARD LONG-HELD GOALS

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELSON of Florida. Mr. Speaker, the 1990's are destined to be the golden age of planetary space science. The spacecraft Galileo leads the way into the coming decade of intense research activity, at a level never before performed. Galileo is joining Magellan, to be followed by Mars Observer and CFAF Cassini. We will have a planetary mission doing its prime exploration, essentially continuously from 1990 to 2006. The information returned from this armada of spacecraft will fuel scientific research and student interest in science well into the next century. The launch of Galileo represents a reaffirmation by the people of the United States of our preeminence in planetary exploration.

On October 18 space shuttle *Atlantis* executed a flawless launch and sent Galileo on its way. After years of waiting in clean rooms and holding facilities, after years of anxious work by project scientists and managers, Galileo is now speeding outward on a series of ever widening elliptical orbits that will eventually take it to Jupiter.

Instruments on board Galileo will extend our human senses, allowing us to see, feel, and touch objects that would otherwise be far beyond the reach of our laboratories. It will be with great excitement and pride that we will watch our scientists make use of this new knowledge. We have shared in the effort to get it under way. We will share in the new knowledge that it passes on to us.

Unlike Voyager which tantalized us with a quick glimpse as it sailed into the Jovian system, Galileo will spend 20 months systematically answering questions about Jupiter. Scientists are going to be collecting data for dozens of experiments and learning about the composition of its atmosphere and the processes that energize it. The Jovian system is a solar system in miniature and holds the keys to greater understanding of the evolution and origin of our solar system. The data from Galileo will help scientists develop models of atmospheric dynamics and planetary evolution, which may reveal as much about our own planet Earth, as it does about Jupiter.

Therefore it is with great pleasure and anticipation that we commend Galileo on its way and look forward to the coming golden age of planetary space science.

JAPANESE BUYING OUR FUTURE

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the Japanese juggernaut is gaining momentum.

Today, four skyscrapers in downtown Houston.

Yesterday, Rockefeller Center.

Last month, Columbia Pictures.

Mori Taikichiro, the second richest man in the world, today bought four of the choicest properties in Houston.

This should come as no surprise. They had to sell. Just like the Rockefeller Group. Too much money was offered. They could not resist.

And the repository of much of America's visual, cultural heritage of the 20th century, Columbia Pictures, could not resist. Too many yen.

Over and over again, the story is the same. Stockholders sell—overwhelmed by the prospect of easy profits.

But where do the profits go?

We buy their cars—they buy Firestone; we buy their radios—they buy CBS Records; we buy their TV's—they buy Columbia Pictures.

We buy goods that are transitory—things that have short lifespans; while the Japanese turn around the use of our dollars to buy assets of real, lasting value.

We buy their products, but they buy our past and our future. Is the day coming when the 50 stars will revolve around the rising sun?

CONGRESS SHOULD COME UP WITH RESPONSIBLE BUDGET BILL

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I have been a little incredulous this morning when members of the Democratic leadership got up here and blamed the President for sequestration and for not extending the debt limit. It is the Democratic leadership of this Congress that has failed to meet the targets under the budget. It is the Democratic leadership of this Congress that has failed to meet the deadlines under the budget. It is the Democratic leadership of this Congress that failed to do the motion that was available to them to solve the reconciliation process.

Mr. Speaker, within just the last few days the majority leader himself could have come to the floor with a solution. Did he do it? No. They failed to do that.

They now turn around and what they want to do is blame the President who says that the only option available to him is sequestration. I think it is a little deafening to hear people come to the floor and suggest the President is to blame for the failures of this Congress. If Congress is really determined to do something to end sequestration, come up with a responsible budget bill, do what is necessary in order to make certain that we leave here having done the right things.

The Democratic leadership has not shown the capacity to do that. They ought not be blaming the President.

DISTRICT OF COLUMBIA POLICE AUTHORIZATION AND EXPANSION ACT OF 1989

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1502) to authorize the appropriation of funds to the District of Columbia for additional officers and members of the Metropolitan Police Department of the District of Columbia, and to provide for the implementation in the District of Columbia of a community-oriented policing system with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the House amendments to the Senate amendment, as follows:

House Amendments to Senate Amendment: In lieu of the matter proposed to be inserted by the Senate amendment to the bill, H.R. 1502, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Police Authorization and Expansion Act of 1989".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL OFFICERS AND MEMBERS FOR THE METROPOLITAN POLICE DEPARTMENT OF THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Section 502 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end thereof the following new subsection:

"(c)(1) In addition to the amounts authorized to be appropriated under subsection (a) and subject to paragraphs (2) and (3), there are authorized to be appropriated to the District of Columbia, for salaries and expenses (including benefits) of 700 additional officers and members of the Metropolitan Police Department of the District of Columbia $23,149,000 for fiscal year 1990, $23,338,000 for fiscal year 1991, $25,199,000 for fiscal year 1992, $27,252,000 for fiscal year 1993, and $28,367,000 for fiscal year 1994.

"(2) Amounts appropriated under paragraph (1) shall be available only for salaries and expenses (including benefits) of officers and members of the Metropolitan Police Department of the District of Columbia in excess of 4,355 officers and members (and supplies, equipment, and protective vests for reserve officers of the Metropolitan Police Department).

(3)(A) For fiscal year 1990, no funds authorized to be appropriated under paragraph (1) may be obligated or expended until 120 days after the Mayor develops and submits a plan for the implementation in the District of Columbia of a community-oriented policing system (modeled after, though not limited to, such a system in Houston, Texas) to the Committee on the District of Columbia of the House of Representatives and the Subcommittee on General Services, Federalism and the District of Columbia of the Committee on Governmental Affairs of the United States Senate.

"(B) For fiscal years after 1990, no funds authorized to be appropriated under paragraph (1) may be obligated or expended until the Mayor submits a notification to the Committee on the District of Columbia of the House of Representatives and the Subcommittee on General Services. Federalism and the District of Columbia of the Committee on Governmental Affairs of the United States Senate that the District of Columbia has implemented for such fiscal year a community-oriented policing system in the District of Columbia.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1989.

SEC. 3. STUDY OF DISTRICT OF COLUMBIA COURT RESOURCES.

Not later than 60 days after the date of the enactment of this Act, the Joint Committee on Judicial Administration in the District of Columbia shall prepare and submit to Congress a report—

(1) analyzing resources available to District of Columbia courts;

(2) analyzing the feasibility of, and the costs associated with, an increase in the number of support personnel and judges assigned to District of Columbia courts; and

(3) evaluating the need for changes in the District of Columbia Pre-Trial Detention Act, the proposed felony sentencing guidelines for the District of Columbia Superior Court, and the social services program managed by and under the direction of the District of Columbia courts.

SEC. 4. REPORTS ON EFFECTS OF INCREASED DISTRICT OF COLUMBIA LAW ENFORCEMENT EFFORTS ON CRIME IN METROPOLTIAN AREA.

Not later than 60 days after the date of the enactment of this Act, the Attorney General shall prepare and submit to Congress a report analyzing the potential effects of increased efforts to eliminate drug-related criminal activity in the District of Columbia on crime and law enforcement in the metropolitan area surrounding the District, including the effects of such efforts on the caseload of prosecuting attorneys (including United States Attorneys) in such area.

SEC. 5. DEVELOPMENT OF CLASSIFICATION SYSTEM FOR INDIVIDUALS CONVICTED OF CRIMES IN DISTRICT.

(a) ASSISTANCE FROM BUREAU OF PRISONS AND NATIONAL INSTITUTE OF CORRECTIONS.—Not later than 180 days after the date of the enactment of this Act, the District of Columbia shall request the Director of the Bureau of Prisons and the Director of the National Institute of Corrections to provide the Distict of Columbia with technical assistance and training in the development of a criminal recordkeeping and classification system, which will provide basis for a uniform strategy for managing and evaluating the processing in the District of Columbia's criminal justice system of individuals convicted of crimes in the District of Columbia.

(b) INFORMATION INCLUDED IN SYSTEM DATA BASE.—The recordkeeping and classification system described in subsection (a) shall include a data base continuously updated to provide current information on the prison population of the District of Columbia, including, but not limited to, the following:

(1) Aggregate inmate profiles and classifications based on individual records and files.

(2) Escape and other risk assessments for individual inmates.

(3) Ongoing counts of the number of persons at various stages of processing in the criminal justice system.

(4) Projections for future prison populations.

SEC. 6. USE OF PROCEEDS OF FORFEITED PROPERTY FOR LAW ENFORCEMENT ACTIVITIES.

(a) IN GENERAL.—Section 502(d)(3)(B) of the District of Columbia Uniform Controlled Substances Act of 1981 (section 33-552(d)(3)(B), D.C. Code) is amended by striking "shall be used to finance programs" and inserting "shall be used, and shall remain available until expended regardless of the expiration of the fiscal year in which they were collected, to finance law enforcement activities of the Metropolitan Police Department of the District of Columbia, with any remaining balance used to finance programs".

(b) CLERICAL AMENDMENT.—Paragraphs (3) and (3a) of section 502(d) of the District of Columbia Uniform Controlled Substance Act of 1981 (sections 33-552(d) (3) and (3a), D.C. Code) are amended by—

(1) redesignating paragraph (3) as paragraph (4);

(2) redesignating paragraph (3a) as paragraph (3); and

(3) reordering the paragraphs so that paragraph (3), as redesignated, precedes paragraph (4), as redesignated.

SEC. 7. PARTICIPATION OF DISTRICT OF COLUMBIA METROPOLITAN POLICE DEPARTMENT IN THE NATIONAL CRIME INFORMATION SYSTEM.

(a) DISSEMINATION OF ADULT ARREST RECORDS TO LAW ENFORCEMENT AGENTS.—(1) Notwithstanding any other provision of law, the Metropolitan Police Department of the District of Columbia shall disseminate its unexpurgated adult arrest records to members of the court and law enforcement agents, including the Identification Division of the Federal Bureau of Investigation. Such dissemination shall be done without cost and without the authorization of the persons to whom such records relate.

(2) Any records disseminated under this section shall be used in a manner that complies with applicable Federal law and regulations.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "member of the court' shall include judges, prosecutors, defense attorneys (with respect to the records of their client defendants), clerks of the court, and penal and probation officers;

(2) the term "law enforcement agent" shall include police officers and Federal agents having the power to arrest; and

(3) the term "unexpurgated adult arrest records" shall include arrest fingerprint cards.

SEC. 8. ESTABLISHMENT OF DISTRICT OF COLUMBIA POLICE CORPS PROGRAM.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Mayor of the District of Columbia, in consultation with the Chief of the Metropolitan Police Department of the District of Columbia, shall establish a pilot program under which the District shall agree to assist not more than 25 eligible college students or graduates in paying loans or other financial obligations incurred in obtaining a baccalaureate or graduate degree if such a student or graduate agrees to serve not less than 4 years as a member of the Metropolitan Police Department.

(b) APPROVAL OF PROGRAM.—Not later than 60 days after the date of the enactment of this Act, the Mayor of the District of Columbia shall submit a description of the program described in subsection (a), including any regulations proposed to implement such program, to the Committee on the District of Columbia of the United States House of Representatives and the Subcommittee on General Services, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the United States Senate for the committees' approval.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorzed to be appropriated such sums as may be necessary to carry out this section.

SEC. 9. ESTABLISHMENT OF WEST VIRGINIA POLICE CORPS PROGRAM.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Governor of West Virginia, in consultation with the West Virginia Superintendent of Police, shall establish a pilot program under which West Virginia shall agree to assist not more than 25 eligible college students or graduates in paying loans or other financial obligations incurred in obtaining a baccalaureate or graduate degree if such a student or graduate agrees to serve not less than 4 years as a law enforcement officer in West Virginia.

(b) APPROVAL OF PROGRAM.—Not later than 60 days after the date of the enactment of this Act, the Governor of West Virginia shall submit a description of the program described in subsection (a), including any regulations proposed to implement such program, to the Subcommittee on General Services, Federalism, and the District of Columbia of the Committee on Governmental

Affairs of the United States Senate for the committees' approval.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Amend the title so as to read: "An Act to authorize the appropriation of funds to the District of Columbia for additional officers and members of the Metropolitan Police Department of the District of Columbia, to provide for the implementation in the District of Columbia of a community-oriented policing system, and for other purposes.".

Mr. DELLUMS (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

Mr. PARRIS. Mr. Speaker, reserving the right to object, I do not intend to object, but I yield to the gentleman from California for an explanation of the amendments to the Senate amendment.

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Speaker, H.R. 1502 as amended is the vital first step toward confronting the most serious problem we face in the District of Columbia. The President has called the spread of drug use and drug-related violence an epidemic. H.R. 1502 as amended authorizes the appropriaton of funds to the Metropolitan Police Department of the Distirct of Columbia for 700 additional officers and provides for the implementation in the District of Columbia of a community-oriented policing system.

Section 2 of H.R. 1502 as amended authorizes an appropriation for 700 additional police officers for the Metropolitan Police Department the following funds: for fiscal year 1990, $23,149,000.00; for fiscal year 1991, $23,338,000.00; for fiscal year 1992, $25,199,000.00; for fiscal year 1993, $27,252,000.00; for fiscal year 1994, $28,367,000.00. A total of $127,305,000.00 over 5 years.

The appropriated funds shall be available only for salaries and expenses—including benefits—of officers and members of the Metropolitan Police Department after the employed level exceeds 4,355.

Mr. Speaker, the House passed version stipulated that no funds would be available for the 700 officers until the Metropolitan Police Department reached the authorized level of 4,055. The Senate version set the level at 4,355, which is in the bill before us today.

In addition, section 2 stipulates that no appropriated funds may be obligated or expended until 120 days after the Mayor develops a plan for a community-oriented policing system in the District of Columbia. The plan is to be modeled after, though not limited to the system in Houston, TX, and is to be submitted to the House Committee on the District of Columbia; and the Subcommittee on General Services, Federalism, and the District of Columbia of the Committee on Governmental Affairs in the U.S. Senate.

Mr. Speaker, section 3 calls for a study of the District of Columbia court resources and requires that not later than 60 days after the date of enactment, the Joint Committee on Judicial Administration in the District of Columbia shall prepare and submit to Congress reports analyzing the following:

First, the resources available to District of Columbia courts.

Second, the feasibility of, and the costs associated with, an increase in the number of support personnel and judges assigned to District of Columbia courts.

Third, a report evaluating the need for changes in the District of Columbia Pre-Trial Detention Act, the proposed felony sentencing guidelines for the D.C. Superior Court, and the social services program managed by and under the direction of the D.C. courts.

Mr. Speaker, section 4 of H.R. 1502 as amended calls for a report detailing the effects of the increased D.C. law enforcement activity on crime in the metropolitan area. Not later than 60 days after the enactment of this act, the Attorney General of the United States shall prepare and submit to Congress a report analyzing the effects of the increased efforts to eliminate drug-related criminal activity in the District of Columbia; the effects on crime and law enforcement in the metropolitan area surrounding the District, and the effects the efforts are having on the caseload of prosecuting attorneys—including U.S. attorneys.

Section 5(a) calls for the development of a classification system for individuals convicted of crimes in the District.

Not later than 180 days after the enactment of this act, the District of Columbia shall request the Directors of the National Bureau of Prisons and the National Institute of Corrections to provide technical assistance and training in the development of a criminal recordkeeping and classification system. The system is to provide the basis for a uniform strategy for managing and evaluating the processing of individuals convicted of crimes in the District of Columbia.

Section 5(b) specifies the information to be included in the system data base. The recordkeeping and classification system required by subsection 5(a) shall be continuously updated with current information on the prison population of the District of Columbia, including, but not limited to, the following:

First, aggregate inmate profiles and classifications based on individual records and files.

Second, escape and other risk assessments for individual inmates.

Third, ongoing counts of the number of persons at various stages of processing in the criminal justice system.

Fourth, projections for future prison populations.

Mr. Speaker, sections 4 and 5 of the House passed version of H.R. 1502 were deleted initially the the Senate. By mutual agreement, sections 4 and 5 were rewritten and included in H.R. 1502 as amended.

Section 6 of H.R. 1502 as amended amends section 502(d)(3)(B) of the D.C. Uniformed Controlled Substance Act of 1981, to ensure that the proceeds of forfeited property from law enforcement activities shall be used and remain available to finance law enforcement activities by the Metropolitan Police Department regardless of the fiscal year in which they were collected. Any remaining balance is to be used to finance programs.

Section 7 allows participation of D.C. Metropolitan Police in the National Crime Information Systems. This section was in the Senate version of the bill and was agreed to by this gentleman for two reasons. First, the time has come when the Metropolitan Police need every available crime information system at their disposal in order to assist them in the war on drugs. And second, I made a personal commitment to our late colleague Larkin Smith of Mississippi that this section would be a part of H.R. 1502. During the floor debate on H.R. 1502, Larkin Smith made his way across the floor to where I was sitting, to personally inform me that he was about to offer an amendment with language very similar to that found in section 7. I assured him of the Senate's intention to add section 7 to the bill and that I would support its inclusion in the legislation before us today. He accepted my assurance and withdrew his House amendment.

Mr. Speaker, sections 8 and 9 of H.R. 1502 as amended were adopted from the Senate bill.

Section 8 authorizes the establishment of a D.C. Police Corps Program. It directs that not later than 1 year after the enactment of H.R. 1502, the Mayor of the District of Columbia in consultation with the Chief of the Metropolitan Police Department, shall establish a pilot program under which the District shall agree to assist up to 25 eligible students and/or graduates in paying loans or other financial obligations incurred in obtaining a baccalaureate or graduate degree, if such a graduate agrees to serve not less than 4 years as a member of the Metropolitan Police Department.

In addition, section 8 states that not later than 60 days after the enactment of the act, the Mayor of the District of Columbia is to submit to the House District of Columbia Committee and the Subcommittee on General Services, Federalism, and the District of Columbia of the Senate Committee on Governmental Affairs, a description of the police corps program including any regulations proposed to implement the program.

Section 9 authorizes the establishment of the West Virginia Police Corps. This section states that not later than 1 year after the enactment of this act, the Governor of West Virginia in consultation with the West Virginia superintendent of police, shall establish a program under which West Virginia shall agree to assist up to 25 eligible college students and/or graduates in paying loans or other financial obligations incurred in obtaining a baccalaureate or graduate degree if such a graduate agrees to serve not less than 4 years as a law enforcement officer in West Virginia.

Not later than 60 days after enactment of this act the Governor of West Virginia shall submit a description of the Corps program, including any regulations proposed to implement the program to the Subcommittee on General Services, Federalism, and the District of Columbia of the Senate Governmental Affairs Committee.

Mr. Speaker, there was a requirement for construction in both the House and Senate bill of an 800-bed prison facility to be located in southeast Washington. Subsequent court action removed the obstacle which was the basis of the relevant section 3 of H.R. 1502, rendering it moot. It is therefore not included in H.R. 1502 as amended.

Mr. Speaker, the D.C. Committee processed and this body passed H.R. 1502 with dispatch, et cetera.

I am pleased that H.R. 1502 as amended has the full support of myself; Mr. FAUNTROY, fiscal affairs and health subcommittee chair; Mr. STAN PARRIS, the ranking minority member on the D.C. Committee, and Mr. TOM BLILEY the ranking minority member on the fiscal affairs and health subcommittee. I understand that the other body will concur in the action of the House and send H.R. 1502 as amended to the President for signature.

Mr. PARRIS. I thank the gentleman from California [Mr. DELLUMS] for his explanation of these provisions. Particularly as it relates to asset seizures in section 6 of the bill before us, I would ask unanimous consent to include extraneous material having to do with asset seizures in the District of Columbia.

The SPEAKER pro tempore. Is there objection to the gentleman from Virginia?

There was no objection.

Mr. PARRIS. Further reserving the right to object, Mr. Speaker, and at his request, I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman from Virginia for yielding.

I would like to conclude my remarks by asking a question of the gentleman from California [Mr. DELLUMS] as well as of the gentleman from Virginia [Mr. PARRIS].

Mr. Speaker a few months ago I became concerned about the law enforcement practices and requirements, hiring requirements for the D.C. police because a member of my staff was attacked in her apartment about three blocks from the Capitol, and the fellow ran a 4-inch knife through her hand and she was almost killed.

The police took 45 minutes to get there, the ambulance was there in 3 minutes, but the police took 45 minutes. The officer who did the investigation did a very poor job. I was informed he could not read very well.

Now one of the things that concerns me is, first of all, a person who lives in the District of Columbia can get on the D.C. police force with a test score of 38. I thought it was 40, but it is 38 out of 100. In college and high school, if you get below a 70 you flunk. But here a test score of almost half that amount, 38, can qualify a person to be on the police force.

That means they may have reading skill problems. When they fill out those reports, that is going to be a serious problem.

Also I understand that you can get on the D.C. police force even if you have admitted to using drugs 15 times, 15 times.

Now I think that is something that should be of concern to all of us who live in the District of Columbia.

Finally, I understand that you can get on the D.C. police force even if you have a criminal record.

Now we are going to, with this legislation, allow the hiring of 700 new police officers, and I would just like to ask the gentleman from Virginia [Mr. PARRIS] and the gentleman from California [Mr. DELLUMS] if you would do everything in your power to upgrade the qualifications of the policemen that are being hired, especially since we are using Federal tax dollars to help in this endeavor.

Mr. PARRIS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman from Virginia for yielding briefly to me. I would first say to my colleague that the gentleman has raised a matter of concern. Clearly it is an issue that we wish to look into.

My distinguished colleague from Virginia, as my distinguished colleague [Mr. BURTON of Indiana] is well aware, is very vitally interested in this matter, and I would appreciate it if the gentleman would be permitted to give us a more substantive response.

Mr. PARRIS. Mr. Speaker, further reserving the right to object, if the gentleman would permit me, you will recall there has been some continuing discussion and much opposition to the imposition of a residency requirement for the hiring of public service officers, police, firemen and others, including ambulance people, in the District of Columbia. That matter was addressed in the D.C. appropriation bill and, in my view, improved. Unfortunately, when that measure went to the White House, for extraneous reasons the bill was vetoed by the President and will be returned to this House in the near term for consideration.

It is my hope that we can accommodate some understanding of compromise on the matter in controversy and get on with the adoption of the D.C. appropriation bill, which obviously must be done in order to provide important public services in the District of Columbia.

I would say to the gentleman, however, that all of that having been said, and hopefully soon to be accomplished, there are still some problems in the police department in the District of Columbia, particularly as it relates to the qualifications of qualified applicants.

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Those Members who feel very strongly about the residency requirement do not object to a preference system where there are two equally qualified persons, one of whom lives in this city. However, when there is a difference in qualifications of applicants for employment and they are substantially reduced so that the quality of the applicants is significantly reduced thereby, then we take some exception to that, and we think that there is, by virtue of the necessity for the fulfilling of these 700 additional positions, as well as the normal curtailment by retirement and otherwise, that it is necessary for this city to open up their personnel pool from which to draw qualified applicants.

With the cooperation of the chairman of the committee we have been addressing that problem, I think now, hopefully, we will soon, in this appropriation bill, act in a responsible way.

I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I have been informed by some members of the police union, their governing body, the Fraternal Order of Police in the District of Columbia, that there are a number of officers who have been on the department for many, many years who are very concerned about going out on

patrol with a person who is an admitted drug user. I have been told some policemen have gone out on patrol with other officers who they believed were under the influence of drugs. For the sake of those people out in the field defending citizens, the citizens of Washington, DC, against the criminals and the drug users who are using weapons to get money to get more drugs, I think in deference to those people, we should make sure that the people that they are riding with in those cars will not be under the influence of drugs or have a criminal record.

I appreciate the gentleman taking this under his advisement and hope he will do everything in his power to upgrade the requirements of the D.C. police.

Mr. PARRIS. Mr. Speaker, I will take that under advisement. At 1 o'clock this afternoon I have a meeting in my office with Ms. Thompson, the administrator of the District of Columbia, the chief of staff person for the Mayor, to review the current police examination. It is attempting to determine why the percentage of those who are taking the test has changed. For instance, in 1986, of the 3,000 people or thereabouts that took the test, roughly 50 percent of them passed; in 1987, 1,500 took the test and 85 percent of them passed. Now, there is something that is happening to the tests. We are attempting to determine what and how we can, in hopefully a responsible way, increase and improve the caliber of those persons who desire to be employed in the public services of the city.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I would say to the gentleman from Indiana that the latter comment is a very grave matter, and I say to my colleague that this gentleman is more than willing to pass that information on to the appropriate persons in the local government of the District of Columbia.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for that statement.

Mr. PARRIS. Mr. Speaker, I thank the gentleman for his consideration as always.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to consider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the action just taken on this bill, H.R. 1502.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REAFFIRMING U.S. SUPPORT FOR PEACE AND DEMOCRACY IN CENTRAL AMERICA

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 221) reaffirming United States support for peace and democracy in Central America, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the concurrent resolution, as follows;

H. CON. RES. 221

Whereas the governments of the countries of Central America have entered into a series of accords to promote peace and democracy in the region, most recently the Tela Accord of August 7, 1989;

Whereas in those accords the Government of Nicaragua has made commitments to promote democracy and pluralism, foster the process of national reconciliation, and respect human, civil social, economic, religious, and cultural rights;

Whereas on February 14, 1989, in Costa del Sol, El Salvador, President Ortega committed the government of Nicaragua to hold free and fair elections no later than February 25, 1990;

Whereas the electoral process in Nicaragua is well underway with candidate selection and voter registration completed;

Whereas the Bipartisan Accord on Central America of March 24, 1989, led to strong expression of bipartisan support for United States policy in Central America and specifically encourages the government of Nicaragua and the Nicaraguan Resistance to continue the cessation of hostilities currently in effect;

Whereas there have been incidents in which forces of the Government of Nicaragua and of the Nicaraguan Resistance have violated the cease-fire, but such incidents do not justify the termination of the ceasefire; and

Whereas on November 1, 1989, President Ortega announced his decision to end the cease-fire between the Government of Nicaragua and the Nicaraguan Resistance that has been in place for the last 19 months, and to commence offensive military operations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) reaffirms its support for the goals of democracy, peace, freedom, and security in Central America and the terms of the Bipartisan Accord on March 24, 1989;

(2) strongly supports the progress that has been made toward holding free and fair elections in Nicaragua on February 25, 1989;

(3) condemns the action by President Ortega to end the cease-fire with the Nicaraguan Resistance and to begin offensive military operations, calls on him to reverse that decision, and calls on both the Government of Nicaragua and the Nicaraguan Resistance to abide by the cease-fire; and

(4) would deplore any effort by the Government of Nicaragua to curtail, postpone, or cancel free and fair elections on February 25, 1990, or to cause any pretense to impose emergency laws during the period leading up to the election, and would equally deplore any action by the Nicaraguan Resistance intended to disrupt those elections.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House today a concurrent resolution which reaffirms U.S. support for peace and democracy in Central America and condemns the decision yesterday by Daniel Ortega to end the cease-fire in Nicaragua. That decision, which was accompanied by a renewed offensive by the Sandinista army, jeopardizes the peace and democracy which the other countries of the region have been striving so hard to bring about.

This resolution was approved yesterday by an overwhelming vote of the Committee on Foreign Affairs. I would like to thank and commend the gentleman from Michigan [Mr. CROCKETT], and the gentleman from California [Mr. LAGOMARSINO] for crafting this bipartisan resolution.

I find the decision by President Ortega unconscionable. In the midst of an election process which has widespread international support, the head of the Nicaraguan Government takes an action which threatens to derail the slow, tedious progress toward democracy which has been made. He has decided to take isolated incidents of violation of the cease-fire—which from what we know is the fault of both the Contras and the Sandinistas—as a pretext to recommence the internal war.

The only rational explanation for Ortega's action is that he is not finding the beginning of the semblance of democracy to his liking. He is finding that the opposition, even on an uneven playing field, is rising in public popularity and threatening the continuance of Sandinista rule.

I can only hope that the unanimous international condemnation of his ac-

tions will succeed in reversing this decision and prevent the Sandinistas from taking follow-on action to interfere with the elections.

Mr. Speaker, I urge all Members of the House to join in support of this resolution and to confirm the broad-based support for the bipartisan policy in support of the cease-fire and free and democratic elections in Nicaragua. We have had enough violence and repression in this country and should all stand together behind peace and democracy.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all I want to compliment the chairman of the committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL] for his expeditious handling of this resolution to the floor.

This resolution condemns the decision by President Ortega to terminate the 19-month cease-fire and threaten the people of Nicaragua with renewed war and aggression.

The Senate majority leader, Mr. MITCHELL, and the Senate minority leader, Mr. DOLE, introduced legislation that was even stronger in their criticism of Mr. Ortega, and it passed the Senate the other day 95 to 0. I want to indicate that I certainly support the initiative by the Senators.

Passing this resolution is the very least the House must do to express our strong condemnation of the commandante's outrageous actions. The House cannot stand by and watch Daniel Ortega make a total mockery of Sandinista commitments to democratization. His actions should thoroughly disgust each and every one of us.

It is clear that President Ortega's decision to end the cease-fire is designed to intimidate the voters of Nicaragua and lay the foundation for postponing or calling off the February elections. His tactics of intimidation will have a chilling effect on the forces of democracy.

As President Truman once said, "The buck stops here." It is up to Congress to make Ortega understand that what he cannot win at the polls, he will not be allowed to take by brute force.

I want to note that this resolution reaffirms the terms of the bipartisan accord on Central America, which, as an integral aspect of that agreement, calls for the continued provision of humanitarian assistance to the Nicaraguan resistance through February 28, 1990.

Daniel Ortega is singing to the wrong tune and marching to the wrong drummer. His conductor seems to be Fidel Castro, and the orchestra is paid by Gorbachev.

It is time for Gorbachev to make good on his commitment to glasnost and perestroika, and tell Fidel Castro and Danny Ortega that the show is over. The fat lady has sung.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. CROCKETT], chairman of the Subcommittee on Western Hemisphere Affairs.

Mr. CROCKETT. Mr. Speaker, I rise in support of the resolution condemning the decision by the Nicaraguan Government to terminate the unilateral cease-fire that has been in effect in Nicaragua for the last 19 months. This resolution is the product of cooperation between the majority and the minority on the Foreign Affairs Committee, and was overwhelmingly adopted yesterday by the committee.

In joining in this condemnation, however, I think it is important to get some facts on the table and to make clear my views about the circumstances leading up to this regrettable decision by the Nicaraguan Government.

First, the five Central American Presidents signed an agreement on August 7, 1989, outlining a plan for the demobilization of the Contras, with the understanding that the Nicaraguan Government would commit to carry out free and fair elections in February 1990. These two processes are directly linked.

Since August, the Nicaraguan Government has reached agreement with its internal opposition on procedures to carry out the election, and has invited international observers to monitor the process both before and during the vote. Candidate selection and the registration process have been completed on schedule, and the campaign is to begin on December 4. International election monitors, and even the administration, agree that while not perfect, the Nicaraguan election process is proceeding in a positive manner.

On the other side, however, no progress has been made with respect to the demobilization of the Contras. In fact, it appears that the process is heading away from demobilization and back toward war. The following are facts provided to this committee by the Agency for International Development, which is implementing the Contra humanitarian aid program:

Many Contras have left the camps and infiltrated Nicaragua in the last several weeks. Many more have left for the border area without any explanation. The actual numbers are classified, but we know what they are.

The Contras have asked AID to significantly increase the cash-for-food assistance that is being provided within Nicaragua in Nicaraguan currency. Much to its credit, AID refused the request.

The Contras have also requested that the food provided to them in the camps in Honduras be repackaged in one-pound packs in order to be carried into Nicaragua. Again, to its credit, AID refused.

These incidents, in addition to the numerous reports of offensive military attacks carried out by the Contras, make it quite clear that the Contras do not have demobilization plans. Conversely, they appear to have mobilization plans.

Mr. Speaker, we can debate ad nauseum who broke the cease-fire first and who is guilty of more violations of human rights—and in fact, we have already done that in this Congress—but that won't accomplish anything. What we need to do is to get the peace process back on track and ensure that the Nicaraguan election proceeds as planned.

The United States must make it clear to the Contras that we support the Tela agreement, both the holding of elections and the process of demobilization agreed to by the Central American Presidents and that we are committed to help implement both.

I hope there will be support for the proposal for talks between the Nicaraguan and Honduran Governments, the Contras, and the verification commission at the United Nations next week, that was made in President Ortega's communique. Direct talks could produce the necessary agreements to get the demobilization on track. But this will not happen without pressure from the administration on the Contras.

So, while we unite in condemnation of the decision by the Nicaraguan Government to break the cease-fire, I hope we can also unite in strong support of the Tela agreement and work toward its full and immediate implementation.

□ 1130

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in full support of the resolution before us encouraging peace and democracy in Central America. The recent outrageous decision of Nicaragua's President Daniel Ortega in ending a 19-month cease-fire has endangered and set back the peace process in that country.

I commend the distinguished Chairman of the House Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], the distinguished chairman of the subcommittee Mr. CROCKETT, and the ranking member, the gentleman from California [Mr. LAGOMARSINO] for expeditiously bringing this to the floor.

President Ortega's unwise decision of ending the cease-fire in Nicaragua will have a chilling, negative impact on the future prospects for democracy in that country.

While all of us want to help bring an end to the bloodshed in Nicaragua, we also want to give future generations of Nicaraguans the fruits of life in a free and open society.

President Ortega's action in using the recent incidents in that country as an excuse for ending the cease-fire and renewing military operations against the Nicaraguan resistance, raises legitimate questions about his commitment to peace, to free elections, and to democracy in his country.

The Ortega decision reaffirms the belief by many of us in the Congress that our Government must continue assistance to the Nicaraguan resistance until free and fair elections are held in Nicaragua. Accordingly, I urge my colleagues to support this resolution reaffirming our support for the progress that has been made in holding free and fair elections in Nicaragua on February 25, 1990.

Mr. FASCELL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, President Ortega's lifting of the cease-fire, I believe, was, No. 1, unwise. It certainly was untimely, and it was uncalled for.

Mr. Speaker, Contra attacks indeed have occurred over particularly the last few months, and innocent civilians have been killed, injured, and kidnaped.

However, Mr. Speaker, President Ortega indeed, I believe, has overreached, and I think it is important for all of us here to stand together to send a strong, united signal to him that we do not condone the resumption of hostilities.

Mr. Speaker, the peace process has clearly had its ups and downs over the last 8 years. It is never easy to end a war, particularly a civil war, one that has raged with such emotion and such ferocity for the past 8 years. Tensions run very high. It would be attempting to engage in a full emotional debate on the atrocities on each siege, but I think it wise at this point to try to lower the temperature, concentrate on the process itself that has come so very, very far, particularly in the last year and a half.

Mr. Speaker, in the past, if someone was willing to stand up for peace and progress, then indeed peace and progress were made whether it was President Arias, or the OAS, or the United Nations, or this new administration we have in our government.

There are hopeful signs. The Bush administration has shown, I believe, restraint by calling for a return to the peace process, the Tela Accords and the election campaign. The Contras have said that they will not initiate any further hostilities. In addition, President Ortega has called for a meeting, as the gentleman from Michigan [Mr. CROCKETT] has indicated, with the Contras in New York on November 6 and 7 to discuss this crisis, and it would be the first time, my colleagues, since September of 1988, over a year ago, that there would be direct, face-to-face discussions between the government of Nicaragua and the resistance forces.

Mr. Speaker, I want to commend the gentleman from Florida [Mr. FASCELL] and the gentleman from Michigan [Mr. CROCKETT] for this resolution and my colleagues on the other side of the aisle. It recognizes and supports the tremendous progress that has been made in the election. It acknowledges that both sides have violated the cease-fire and calls for both sides to cease hostilities, and it reaffirms support for the bipartisan accord that we all worked so very hard to achieve at the beginning of this Congress.

Mr. Speaker, military aid has never been the solution in Nicaragua. We have got to get back to the peace process and the election process. The U.N., the OAS, Presidents Carter and Ford have been monitoring the elections, and they have been monitoring them since September. Elliott Richardson, the head of the observer team from the U.N., has really basically given a clean bill of health to the process so far.

□ 1140

In the four Sundays of registration in October, over 90 percent of eligible voters have registered. There have been four or five polls in Nicaragua, most of them indicate that the government slate is leading. Some indicate that the race is too close to call and another poll shows Violeta Chamorro leading; but I think it is important that the Nicaraguans make the decision who they want to have to lead their country.

We have come a long way. It is analogous, I think, if you will forgive another sports analogy to a team that starts on its own 10-yard line, marches down the field to the opposition's ten yard line, and everybody knows in football we are trying to punch it in, and we are trying to punch it in. I think it is important before we score that all of us concentrate on really what the task is all about here, and that is cessation of hostilities, free and fair elections to give the people of Nicaragua the right to decide what their destiny is.

So, Mr. Speaker, it is not an easy time for any of us, but if we focus on the need to move forward in this electoral process, if we do so with compassion, with understanding, but with firmness for those who violate the promises that were made, I think we can make progress, and peace and democracy that is on the march around the world will indeed with the courage and commitment of our colleagues and our government be present in all of Central America, including Nicaragua.

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. LAGOMARSINO], the ranking member on the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Affairs.

Mr. LAGOMARSINO. Mr. Speaker, as an original sponsor of this resolution with the chairman of the subcommittee, Mr. CROCKETT, I want to commend my colleagues for expediting consideration of this measure condemning the decision of Sandinista leader Daniel Ortega to end the cease-fire in Nicaragua.

Given the accusations of attacks and violations of the cease-fire by both sides over the past 19 months, it is insupportable that supposed violations should now be used as a pretext for cancelling the cease-fire. We have credible reports that throughout the period of the cease-fire, the Sandinista Government has pursued a policy of search and destroy against those Nicaraguan resistance members inside of Nicaragua. Instead of trying to build a climate to encourage the Contras to voluntarily demobilize, the Sandinistas have pursued, persecuted, harassed and killed Nicaraguan resistance members and their supporters in Nicaragua. If Sandinista military have died as the result of Contra actions, those actions have been only for self-preservation.

At the time of Ortega's announcement that he was ending the cease-fire, there were some reports that he was also threatening to cancel the elections. AP quotes Ortega as saying: "Now it will depend on the Yankee Congress and the Yankee President that these elections take place on February 25." Since those early reports, the Nicaraguan Government has tried to back-track on what Ortega really said, or really meant. The fact of the matter is no matter what he said or didn't say, his actions to call off the cease-fire do threaten the elections. It is imperative that this body send a clear and unambiguous message to Ortega that we would deplore any action that would be used as an excuse for cancelling or postponing the electoral process in Nicaragua.

For the past 9 years, we in the Congress have been urging the Sandinistas to fulfill their commitments to holding free and fair elections. We have supported on-again, off-again military aid as a means of pressuring the Sandinistas to carry out democratic reforms and to hold free elections. Now that there has been progress in implementing the electoral process in Nica-

ragua, it would be unconscionable to allow it to be derailed.

I believe it is safe to interpret the timing of Ortega's decision as a reflection of the Sandinistas' fear that their continued hold on the reins of power in Nicaragua is being threatened by the Democratic process. We in the Congress, and especially those Members who have been inclined to give the Sandinistas the benefit of the doubt, must exert every pressure possible to ensure that the electoral process continues. We must make it clear to the Sandinistas that it is their responsibility to promote a political solution to the crisis in Nicaragua.

If the Sandinistas resort to applying greater military force instead of seeking internal reconciliation, then they must understand it is their responsibility for escalating the violence and shattering the hope for peace.

While not as tough on Ortega as the Senate resolution I prefer, this resolution does restate our strong commitment to support the goals of democracy, peace, freedom, and security in Central America, and it appropriately reaffirms the terms of the bipartisan accord which calls for continued humanitarian support for the Nicaraguan resistance through the February elections next year. It is absolutely vital that we make clear to the Sandinistas that our support for the democratic process is unwavering and that our support for the resistance is to ensure that the Sandinistas carry out their commitment for free and fair elections next February.

I join my colleagues in condemning in the strongest possible terms Ortega's action to end the cease-fire, and I urge my colleagues to send a unanimous message to the Sandinistas that the U.S. Congress is united and firm in its belief that his actions are a threat to peace and democracy in Central America.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I rise in support of the legislation before us, but it is incomplete legisation. I support the bipartisan accords. I support and applaud the progress toward peace. I support the progress toward democracy that has been made in Nicaragua, but this legislation before us is incomplete because it does not equally condemn the continuing atrocities that are being committed by the Contras.

The gentleman who preceded me in the well said that the Contras have only acted in self-defense. Are you acting in self-defense when you attack a truck full of 18 reservists on their way to register to vote? Perhaps, if they are afraid of the electoral process, but not if your objective is peace.

The San Francisco Chronicle notes:

> A recent series of bloody Contra ambushes of Sandinista troops in remote hill regions of Nicaragua has raised fears that the long-dormant civil war will slip back into high gear and endanger the progress made toward a free election in February.
>
> The seriousness of the attacks indicates that the Contras may have decided on a risky new strategy—openly breaking the cease-fire in the apparent hope of provoking an overreaction from the government.

Well, they succeeded. President Ortega took the bait.

We should rise in opposition to President Ortega's actions to escalate the hostilities in Nicaragua, but equally, we should rise in opposition to the continuing atrocities and the continuing actions of the Contras, toward which it seems some in this body want to turn a blind eye.

We have to condemn violence on both sides so that we can make real progress toward democracy in Nicaragua.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I find it again perversely amusing that my colleagues on the other side of the aisle, many of them are coming up here today and defending the Communist dictator of Nicaragua, Daniel Ortega. Everybody in the free world knows he has violated the cease-fire. He has been sending out search and destroy missions before now, killing innocent campesinos and people who have been alleged to be supporting the freedom fighters down there.

But my colleagues on the committee yesterday made me kind of ill by saying things like, "Mr. Ortega made a misstep." He made a misstep. They forget that he continues to be supplied very heavily by the Soviet Union. Thousands of tons of war materiel are going into that country, more than last year, even though Shevardnadze and Gorbachev told our leaders they were cutting back. They forget to point out that just recently a truckload of munitions and weapons was found going into El Salvador to help the Communist guerrillas in that country right next door, in violation of what the Communists in Nicaragua have told us.

And yet my colleagues on the Foreign Affairs Committee today have come here and said we must lower the rhetoric, a pox on both of the Houses, and we must not overly condemn Mr. Ortega, that good old Communist dictator in Nicaragua.

You have done yourselves proud, those of you who are leftists in this body; but the fact of the matter is you are supporting a Communist regime that endangers the entire Central American area and Mexico as well.

Now, I would just like to comment on this resolution.

The resolution was sponsored in the Senate by Senator MITCHELL, the majority leader, and Senator KENNEDY, and they are not considered to be conservatives, yet the leftists on the Committee on Foreign Affairs made it even weaker. I submit to my colleagues that we ought to support the Senate version, because the version that came out of the Committee on Foreign Affairs is nothing but hogwash in my view.

□ 1150

Let me just say that I think we need to take stronger action. Central America is in jeopardy. The Soviet Union continues to export thousands, millions of dollars of weaponry down there, thousands of tons of Soviet weapons at the very same time that we are not giving the Contras any support except humanitarian aid. We have not given them bullets or guns for 18 months, and yet the Soviet Union continues to send millions of dollars of weapons in there.

I say to my colleagues today, what are we going to do about it? We are going to pass another resolution. We passed a resolution condemning China for Tiananmen Square. That did a lot of good. Then we passed a resolution condemning Noriega. That did a lot of good. He is still down there.

What are we going to do today? We are going to pass another resolution condemning Ortega, the Communist dictator. We might just as well go down there and hit him with this purse for all the good it will do.

Mr. MILLER of Washington. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, let me start off by expressing my appreciation to my colleagues on the committee, the chairman and others who brought this resolution to the floor.

However, listening to the remarks of my colleague from Oregon and my colleague from Indiana, it seems to me that the resolution before us clearly does not go as far as the resolution passed by the other body. It pains me to say that the resolution passed by the other body appears to be much clearer.

If we look at the resolution before the House, it is full of equivalence. It asks both the Sandinistas and the resistance to abide by the cease-fire. It calls on both of them not to disrupt elections. This equivalence so often goes on among the liberal politicians in this country. If we have a dispute between the Stalinist Russia and the capitalist democracy in the United States, well, we must both be equally at fault.

There is no equivalence here. Who has called off the cease-fire? It was not the resistance. It was the Sandinista Government. Who has talked, hinted at suspending the elections? It

was not the resistance. It is the Sandinista Government.

The Senate resolution is very clear on this. In addition, the Senate calls for extending the registration period for voters, and it makes a clear statement in support of humanitarian aid. By contrast, our resolution in the House, while better than nothing, I am reluctant to say, comes across as very soft and muddled. We need some straight talk. We need some straight messages to the Government of Nicaragua, to the world, that we support a cease-fire, and we want free and fair elections.

Mr. SAXTON. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to join with my colleagues condemning the decision by President Ortega to renew the civil war on Nicaragua, a move which would seriously cast doubt on the Sandinista's commitment to free elections in February of next year.

Ortega's decision to cancel the ceasefire is based upon his own legitimate fear of the electoral process, fearing that he will loose to Mrs. Chamorro in a democratically held election. Mr. Speaker, it is no coincidence that Ortega's decision was made as a poll was released showing the opposition's solid lead over the Sandinistas.

Ortega's decision smacks of a Noriega mindset. Like Noriega in Panama, Mr. Ortega is attempting to apply a violent solution to a political problem. This serves as a further example of totalitarian governments' fear of democracy and the electoral process.

This ill-advised decision by Mr. Ortega is designed to deny the Nicaraguan people of a free election, and to make the decision to disband the Nicaraguan resistance all the more difficult in the United States Congress.

Ortega's attempt to hold the elections hostage in exchange for dismantling the freedom fighters cannot be allowed to succeed. At a minimum, Congress should reaffirm its commitment to support the resistance through February. Beyond February, all decisions must be made in contingent Sandinista compliance with their obligations in the Central American peace process.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I do appreciate what the committee is attempting to do here in terms of bringing condemnation upon Daniel Ortega for what he is doing in Nicaragua. However, when we read the resolution that has come forward from the committee, it is a little ambivalent about whether or not we are condemning the Sandinistas or condemning the Contras. One could interpret it either way, or at least hold them coequal.

The fact is the U.S. Senate has passed a resolution that makes very clear where we stand with regard to Ortega's decision to cancel the ceasefire. We are opposed to it, no ifs, ands, or buts. We are opposed to what Ortega did in Nicaragua. That particular resolution passed the Senate 95 to 0. It is the resolution that we ought to sent out as the single statement on behalf of this Congress. It is a resolution which we can all support, I think. It says very clearly that we have had it now with the process in Nicaragua that is moving away from the elections and moving toward more and more violence in that country.

This little dictator down here, Daniel Ortega, is a murderer. He is sending gunships out now to blow up villages and harm innocent civilians. We ought to be condemning that, not trying to come to this floor, as a few people have done this morning, and in my opinion defend him. What he has done is indefensible. We ought to have a resolution that is saying that what he has done is indefensible. The Senate resolution says it is indefensible.

One has to wonder whether the Witness for Peace people and some of these folks who for years have defended Daniel Ortega are now riding in the attack helicopters watching liberation theology at work.

I would say that it is high time that what we do on this floor is say that this Congress now will not countenance any further violence on behalf of the Sandinistas against their own people. Let us do a resolution right here and now that says that. The Senate resolution gives us that chance.

In a motion to recommit that will be offered here in a few minutes by the gentleman from Oklahoma, we will have a chance to vote on the Senate resolution. Make no mistake about it, when we vote on the Senate resolution, what we have before us is a resolution that passed the U.S. Senate 95 to nothing. It is a resolution that should be able to be supported by us all.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DREIER].

□ 1200

Mr. DREIER of California. Mr. Speaker, I would like to congratulate the distinguished chairman of the full committee, and the chairman of the subcommittee, and of course the ranking member, the gentleman from Michigan, of the full committee, and the ranking member of the subcommittee, my California colleague, Mr. LAGOMARSINO, for bringing this forward. I have to say this has obviously been an issue which has been hotly debated for this entire decade, and we have seen, unfortunately, Mr. Speaker, the prospects of a free and fair election on February 25 of next year very seriously jeopardized.

Daniel Ortega has said it is up to the Yankee President and the Yankee Congress to determine whether or not this election takes place. What he wants is to see us cut off humanitarian aid. Mr. Speaker, that would be one of the worst things we could possibly do, and I am happy that we are not even considering it.

I congratulate the committee for bringing this resolution forward but, Mr. Speaker, I had the chance to observe on the first day of registration the process in Nicaragua. Mr. Speaker, unfortunately that first day was really a very, very sad day. Let me tell my colleagues why.

I talked to a number of people who went to register on that first day. One of the individuals who went to register said that an armed guard said to her: "Why are you here? What are you doing here?" She obviously said that was a very inappropriate question to be asked.

I went to seven registration sites. Out of seven there were only two spots that had the opposition poll watchers there. Mr. Speaker, that is the reason that I believe that it is imperative that we support the Senate language here.

Why? Because the Senate language, which we are going to have an opportunity to vote on in just a few minutes, calls for something which every Member of this House would like to see, and that is an expansion of the process of registering voters. Only four Sundays in October were allowed for registration. It is imperative that we expand that and it is imperative that we support the Senate language.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I am only able to support this resolution with very serious reservations. The resolution does contain several important provisions which deserve the support of Congress: For example, it reasserts our long-term goal of democracy and peace in Central America; it reaffirms our support for a free and fair election in Nicaragua next February; and it rightly called on President Ortega to reverse his unwise and badly timed decision to end the cease-fire which has existed in Nicaragua for the last 19 months.

And, as a result of several important changes approved by the Foreign Affairs Committee yesterday, the resolution now contains a more even-handed acknowledgement that both sides—the Nicaraguan Government and the Contras—have violated the ceasefire and may threaten the up-coming elections.

Dozens of attacks by Contra forces in Nicaragua have been documented during the last year—attacks which

clearly violate the terms of the bipartisan Contra aid agreement of last March. The Nicaraguan Government has legitimate and quite understandable concerns about these attacks, and there can be no doubt that such guerrilla activities have the effect of disrupting the electoral process.

Yesterday, the Foreign Affairs Committee approved two amendments which address this issue of Contra violations. The first amendment, offered by our distinguished colleague Mr. KOSTMAYER, calls on the Contras, as well as the Government, to abide by the cease-fire. The second amendment, which I offered, states that the Congress would equally deplore any actions by the Nicaraguan resistance and the Nicaraguan Government intended to disrupt the February elections. These two amendments help to correct the one-sided original version of the resolution—which condemned the Nicaraguan Government's actions, but failed to equally condemn violations by the Contras.

But this resolution is not without problems. It fails to address the important issue of U.S. support for the Tela accords between our Central American allies. On August 7, 1989, the leaders of the Central American democracies reached an agreement to encourage the Contras to disband by December 5.

It is clear, however, that the Bush administration is not encouraging the Contras to abide by this agreement and return to peaceful pursuits. In fact, the administration is openly recommending that the Contras ignore this accord and remain in their camps in Honduras until next February.

The resolution we are considering today ought to include a clear statement of our support for the Tela accord. Our regional allies have agreed that the Contras should be demobilized by December 5, and we ought to be supporting that agreement—not thwarting it.

But in light of the fact that the resolution includes an even-handed call for a continuation of the cease-fire by both sides, and indicates congressional concern about any Contra effort to disrupt the February elections, I intend to support the resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Speaker, first let me say that like my colleagues, I strongly condemn the decision of President Ortega to renew the civil war in Nicaragua. We have now found out how much Mr. Ortega's promise of freedom and democracy are worth.

He has tried to make the world believe that 10,000 or 12,000 peasants who have not received a penny of military aid in nearly 2 years pose a threat to an 80,000-man army, resupplied with more than $400 million in Soviet bloc military aid this year alone.

Last week, just before Mr. Ortega's announcement, a poll was released showing that Violetta Chamorro and the UNO ticket have an excellent chance of winning an election in Nicaragua. Nearly 2 million Nicaraguans have registered to vote. UNO rallies have been very well attended. All of the signs of a dictatorship losing to the will of the people are present, as we have seen before in the Philippines, in Panama, in Poland, and in Chile.

So the Sandinistas have decided to use an old trick: running against Washington. President Ortega is trying to cast the election as a fight against Washington. But the real issue is whether Nicaragua will be condemned to Sandinista tyranny forever. No pretenses are going to obscure that fact, and no excuses are acceptable to cancel the election.

The Congress has an obligation to speak out in opposition to the Sandinista affront to democracy and in support of the electoral process in Nicaragua, and in support of keeping the resistance to tyranny intact.

Mr. Speaker, in a few moments I will offer a motion to recommit this resolution back to the committee with instructions to substitute the resolution that was adopted by the Senate by a vote of 95 to 0. The language I will be offering will call on President Ortega to not only uphold his promise for free and fair elections, but also to end aggression in the region. It will make clear that there is no acceptable excuse to postpone or cancel the elections. It reaffirms our commitment to the bipartisan accord, and points out that U.S. commitment to that accord is contingent upon Sandinista compliance with the agreements they have signed.

I repeat, the language in my motion to recommit is not my own language. It was passed unanimously by the Senate as the Mitchell resolution. It was supported by such longtime opponents of Contra aid as Senators KENNEDY, DODD, CRANSTON, and LEAHY, and introduced by the Senate majority leader, Senator MITCHELL.

Surely my Democratic colleagues in the House do not want to slow this important measure down by going to conference. Surely my Democratic colleagues in the House can support language that unanimously passed the Senate.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as the House debates the resolution regarding the recent ending of the cease-fire in Nicaragua, it is important to keep the reality of the facts in Central America in mind. I base my approach to this issue on two principles, self-determination and symmetry.

The Tela accords, signed by the five Central American presidents, called for the demobilization of the Contras by December 8, 1989. Unfortunately, this decision by the presidents of the countries in the region immediately and directly affected by the war in Nicaragua, has not been effectively implemented.

Nicaragua announced a unilateral cease-fire in March 1988. The agreement was extended for 16 consecutive months, even though the Contras walked away from the negotiating table in June 1988. Since the initial announcement of the cease-fire, the Contras have steadily increased their attacks in Nicaragua. Not only have the attacks on Nicaraguan civilian and soldiers increased, but there are also documented cases in which Contras ambushed and killed Nicaraguan civilians who were working to help other Nicaraguans register for the upcoming elections.

I would like to commend my colleagues Congressmen KOSTMAYER and WEISS for their efforts to make the House resolution balanced in its acknowledgment that violations of the cease-fire have been committed by both sides in the Nicaraguan war.

I abhor violence. I think we should work in this body to end it in Central America and throughout the world. I would like to see it end in this body as well, that in our debate on these issues we could be a little less violent in our charges against each other.

As they say in church on Sunday, and I know there are many churchgoers in this body because I keep hearing about it in almost every debate, let there be peace on Earth and let it begin with us.

Mr. BROOMFIELD. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE].

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman from Illinois [Mr. HYDE] is recognized for 4 minutes.

Mr. HYDE. Mr. Speaker, the distinguished chairman of the Foreign Affairs Committee feels that there has been an agreement, and there may have been one. I certainly was unaware of any agreement, and I was not a party to it, and I do not feel bound by it.

□ 1210

I understand what is going on here. We have a consensus document and the chairman with great diplomacy, wants to get a document that everybody can support. I do not object to our resolution. It is an adequate resolution, but it lacks substance. It is more cotton candy than T-bone steak.

The Senate, on the other hand, the other body, passed a real resolution that is awfully tough. I would like the opportunity to vote for the Senate language rather than our rather pastel, pallid, accurate-as-far-as-it-goes but mild resolution.

Now first of all I would be interested to see how the gentleman on the other side could not vote for something because it is too abrasive when it is supported by both of the distinguished Senators from California, both of the distinguished Senators from Ohio, both of the distinguished Senators from Connecticut, the majority leader, the chairman of the Foreign Relations Committee in the other body. It would seem to me that would qualify it, having their imprimature, to get the support from everybody in this Chamber.

POINT OF ORDER

Mr. WEISS. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman will state it.

Mr. WEISS. Mr. Speaker, is it in order discussing what went on in the Senate and what the motivations were of the people in the Senate?

Mr. HYDE. Are you asking me or are you asking the Chair?

Mr. WEISS. I am raising a point of order about the discussion.

Mr. HYDE. If you are asking me, I would say yes.

Mr. WEISS. Well, I think you are wrong, though.

The SPEAKER pro tempore. The gentleman may report the general collective action taken by the other body, but may not characterize the votes of individual Senators as good or bad.

Mr. HYDE. I thank the Senator.

So we have that situation.

Now first of all some of the speakers from the other party have been very harsh on the Contras. I would like to point out that the Contras have not received a bullet, do you hear me, a bullet from us, the only suppliers of the Contras, since February of 1988. Whereas the Sandinistas have made agreement after agreement after agreement to stop receiving foreign weaponry. We lived up to it. We stopped supplying the Contras.

Today as we speak they are getting weapons and ammunition from the East bloc, they are getting them at a higher rate than last year, which was $500 million last year. They absolutely shred any agreements at Esquipulas, Sapoa, Tela, on and on and on.

Now to suggest that 2,500 or 3,000 unarmed, or barely armed, hungry campesinos are going to take on 90,000 Sandinistas with Hind helicopters and tanks is ludicrous. You might kid yourselves, but I do not think you kid anybody else.

Now the Senate resolution urges extension of the grace period during which Nicaraguans can register. That is not a bad idea. It reaffirms our intention to supply humanitarian assistance to the contras until the election. That was explicit as well as implicit in our agreement last time.

But most importantly it points out that our policy is contingent on the Sandinistas fulfilling the commitments they have undertaken as part of the Central American peace process.

I salute the gentleman from the other body for recognizing what we are loath to recognize. Now as between consensus of the majority party in this Chamber and the other Chamber, I unfortunately am with the other Chamber.

Mr. FASCELL. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, it gets curiouser and curioser, but I think I would try to restrict my remarks on a more logical plane if I can control myself.

The Committee on Foreign Affairs brought the present resolution to the floor in the best of a bipartisan effort supported by and sponsored by the ranking Republican member of both the full committee and the Subcommittee on Western Hemisphere Affairs, and many others.

Republican amendments were offered and accepted. Democratic amendments were offered and accepted. I never heard the first suggestion by anybody on the committee, and some who have spoken eloquently here on the floor, about substituting the Senate language or taking any part of the Senate language. It was never offered as an amendment.

We proceeded in good faith on a draft resolution which was put together to the best of our ability by members of the full committee with both parties fully involved.

We had some of the same debate that has occured here but not with the same amount of rancor, I might add.

To say that I am disappointed is an understatement because what I see happening is politics as usual. If we are really going to have bipartisan effort with regard to foreign policy, we have to make an effort to recognize that we are not going to be unanimous with respect to what the lanugage is.

Now the reason we drafted the new language in the Committee on Foreign Affairs after the other body acted was because that body passed a resolution before the actual announcement was made. Most of us thought, therefore, that the Senate resolution was outdated and therefore we worked together to draft new language.

Now all of the other additional language that is in the Senate resolution might be good. We have never considered it. But let me say that action of the House on the pending resolution would take us to conference, and if there is something in there that we think should be added, why certainly that is what a conference is all about.

But I just find it unconscionable at this point, although everybody has a right to offer a motion to recommit, offer amendments, take whatever position they want, all I am pointing out is it makes it extremely difficult if every time we work something out with the leadership of the other party in the Committee on Foreign Affairs, we come out here and find it does not meet the requirements some people have.

Mr. Speaker, I urge a vote for the resolution and against the motion to recommit.

Mr. Speaker, I move the previous question on the concurrent resolution.

MOTION TO RECOMMIT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the concurrent resolution?

Mr. EDWARDS of Oklahoma. In its present form, I am, yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. EDWARDS of Oklahoma moves to recommit H. Con. Res. 221 to the Committee on Foreign Affairs with instructions to report the resolution back to the House forthwith with the following amendment:

Strike all after the resolving clause and insert in lieu thereof the following:

That the Congress—

(1) Condemns Daniel Ortega's announced intention to abrogate the cease-fire they originally declared in Nicaragua as totally unjustified, a major breach of the Sandinista regime's commitments to its democratic neighbors and its own people, and a serious threat to regional peace and stability;

(2) Calls on Daniel Ortega to cease his reckless rhetoric, and to begin to fulfill the many commitments he and his regime have made to end their aggression in the region, end their tyranny over their own people, and permit the establishment of democracy inside Nicaragua;

(3) Urges the Sandinistas to renew their commitment to continuing the cease-fire now in effect;

(4) Insists that Ortega and the Sandinistas reaffirm their pledge to hold elections on February 25, 1990, and to begin to carry out in good faith their commitment to a free and fair election process leading up to those elections;

(5) Deplores any effort by the Sandinista regime to terminate, postpone or curtail the limited progress they have made to date in fulfilling their commitment to a free and fair electoral process, or to impose emergency laws, under the phony pretext of a major Contra-initiated breakdown of the cease-fire;

(6) Strongly urges the extension of the grace period during which Nicaraguans are permitted to register to vote for at least 60 days;

(7) Reaffirms its intention to abide by the provisions of the Bipartisan Accord on Nicaragua and Public Law 101-14 to include con-

tinuing to provide humanitarian assistance to the contras until February 28, 1990; and

(8) Reminds Ortega, the Sandinista regime, and the other leaders of the hemisphere that U.S. policy articulated in the Bipartisan Accord on Nicaragua and Public Law 101-14, is contingent on the Sandinistas fulfilling the commitments they have undertaken as part of the Central American peace process.

Mr. EDWARDS of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. DREIER of California. Mr. Speaker, reserving the right to object, I take this opportunity simply to ask the author of the recommittal motion if this is in fact the Mitchell-Dodd-Kennedy bipartisan language which passed unanimously 95 to 0 in the U.S. Senate?

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. Further reserving the right to object, I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Speaker, there have been no changes; this is the same bipartisan language that passed the Senate unanimously by a vote of 95 to 0.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the concurrent resolution.

The vote was taken by electronic devices and there were—yeas 262, nays 152, not voting 19, as follows:

[Roll No. 331]

YEAS—262

Andrews	Hastert	Porter
Applegate	Hatcher	Price
Archer	Hayes (LA)	Pursell
Armey	Hefley	Quillen
Baker	Hefner	Ravenel
Ballenger	Henry	Ray
Barnard	Herger	Regula
Bartlett	Hiler	Rhodes
Barton	Hoagland	Richardson
Bateman	Holloway	Ridge
Bennett	Hopkins	Rinaldo
Bentley	Horton	Ritter
Bereuter	Houghton	Roberts
Bilbray	Hubbard	Robinson
Bilirakis	Huckaby	Roe
Bliley	Hughes	Rogers
Boehlert	Hunter	Rohrabacher
Boggs	Hutto	Ros-Lehtinen
Broomfield	Hyde	Roth
Browder	Inhofe	Roukema
Brown (CO)	Ireland	Rowland (CT)
Buechner	James	Rowland (GA)
Bunning	Jenkins	Saiki
Burton	Johnson (CT)	Sarpalius
Byron	Jones (GA)	Saxton
Callahan	Kasich	Schaefer
Campbell (CA)	Kolbe	Schiff
Cardin	Kolter	Schneider
Carper	Kyl	Schuette
Carr	Lagomarsino	Schulze
Chandler	Lancaster	Sensenbrenner
Chapman	Laughlin	Shaw
Clarke	Leach (IA)	Shays
Clinger	Lent	Shumway
Coble	Lewis (CA)	Shuster
Coleman (MO)	Lewis (FL)	Sisisky
Combest	Lightfoot	Skeen
Conte	Lipinski	Skelton
Coughlin	Livingston	Slaughter (VA)
Cox	Lloyd	Smith (IA)
Craig	Lowery (CA)	Smith (NE)
Crane	Lukens, Donald	Smith (NJ)
Dannemeyer	Machtley	Smith (TX)
Darden	Madigan	Smith (VT)
Davis	Marlenee	Smith, Denny (OR)
DeLay	Martin (IL)	
Derrick	Martin (NY)	Smith, Robert (NH)
DeWine	Mavroules	
Dickinson	Mazzoli	Smith, Robert (OR)
Dicks	McCandless	
Dornan (CA)	McCollum	Snowe
Douglas	McCrery	Solomon
Dreier	McCurdy	Spence
Duncan	McEwen	Spratt
Dyson	McGrath	Stallings
Eckart	McMillan (NC)	Stangeland
Edwards (OK)	McMillen (MD)	Stearns
Emerson	McNulty	Stenholm
English	Meyers	Stump
Erdreich	Mfume	Sundquist
Espy	Michel	Tallon
Fawell	Miller (OH)	Tanner
Fields	Miller (WA)	Tauke
Fish	Mollohan	Tauzin
Flippo	Montgomery	Taylor
Frenzel	Moorhead	Thomas (CA)
Gallegly	Morella	Thomas (GA)
Gallo	Morrison (WA)	Thomas (WY)
Gaydos	Murphy	Traficant
Gekas	Murtha	Upton
Geren	Myers	Valentine
Gibbons	Nagle	Vander Jagt
Gillmor	Natcher	Volkmer
Gilman	Neal (NC)	Vucanovich
Glickman	Nelson	Walker
Goodling	Nielson	Walsh
Gordon	Ortiz	Watkins
Goss	Oxley	Weber
Gradison	Packard	Weldon
Grandy	Pallone	Whittaker
Grant	Parker	Whitten
Green	Parris	Williams
Guarini	Pashayan	Wilson
Gunderson	Patterson	Wolf
Hall (TX)	Paxon	Wylie
Hammerschmidt	Payne (VA)	Young (AK)
Hancock	Petri	Young (FL)
Hansen	Pickett	
Harris	Pickle	

NAYS—152

Ackerman	Akaka	Alexander
Anderson	Gejdenson	Olin
Annunzio	Gephardt	Owens (NY)
Aspin	Gonzalez	Owens (UT)
Atkins	Gray	Panetta
Bates	Hall (OH)	Payne (NJ)
Beilenson	Hamilton	Pease
Berman	Hayes (IL)	Pelosi
Bevill	Hochbrueckner	Penny
Bonior	Hoyer	Perkins
Borski	Jacobs	Poshard
Bosco	Johnson (SD)	Rahall
Boucher	Johnston	Rangel
Boxer	Jones (NC)	Rose
Brennan	Jontz	Roybal
Brown (CA)	Kanjorski	Russo
Bruce	Kaptur	Sabo
Bustamante	Kastenmeier	Sangmeister
Campbell (CO)	Kennedy	Savage
Clay	Kennelly	Sawyer
Clement	Kildee	Scheuer
Coleman (TX)	Kleczka	Schroeder
Collins	Kostmayer	Schumer
Condit	LaFalce	Sharp
Cooper	Lantos	Sikorski
Costello	Leath (TX)	Skaggs
Coyne	Lehman (CA)	Slattery
Crockett	Lehman (FL)	Slaughter (NY)
de la Garza	Levin (MI)	Smith (FL)
DeFazio	Levine (CA)	Solarz
Dellums	Lewis (GA)	Staggers
Dingell	Long	Stokes
Dixon	Lowey (NY)	Studds
Donnelly	Luken, Thomas	Swift
Dorgan (ND)	Manton	Synar
Downey	Markey	Torres
Durbin	Martinez	Torricelli
Dwyer	Matsui	Towns
Dymally	McCloskey	Traxler
Edwards (CA)	McDermott	Unsoeld
Engel	McHugh	Vento
Evans	Miller (CA)	Visclosky
Fascell	Mineta	Walgren
Fazio	Moody	Waxman
Feighan	Morrison (CT)	Weiss
Flake	Mrazek	Wheat
Foglietta	Neal (MA)	Wise
Ford (MI)	Nowak	Wolpe
Ford (TN)	Oakar	Wyden
Frank	Oberstar	Yates
Frost	Obey	

NOT VOTING—19

Anthony	Florio	Molinari
AuCoin	Garcia	Rostenkowski
Brooks	Gingrich	Stark
Bryant	Hawkins	Udall
Conyers	Hertel	Yatron
Courter	McDade	
Early	Moakley	

□ 1240

Messrs. JONES of North Carolina, SWIFT, SMITH of Florida, and WALGREN changed their vote from "yea" to "nay."

Messrs. DERRICK, HUGHES, VOLKMER, McMILLEN of Maryland, GLICKMAN, PALLONE, RICHARDSON, ANDREWS, and NAGLE changed their vote from "nay" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Mr. FASCELL. Mr. Speaker, pursuant to the instructions of the House, I report the concurrent resolution, House Concurrent Resolution 221, back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Strike all after the resolving clause and insert in lieu thereof the following:

That the Congress—

(1) Condemns Daniel Ortega's announced intention to abrogate the cease-fire they originally declared in Nicaragua as totally unjustified, a major breach of the Sandinista regime's commitments to its democratic neighbors and its own people, and a serious threat to regional peace and stability;

(2) Calls on Daniel Ortega to cease his reckless rhetoric, and to begin to fulfill the many commitments he and his regime have made to end their aggression in the region, end their tyranny over their own people, and permit the establishment of democracy inside Nicaragua;

(3) Urges the Sandinistas to renew their commitment to continuing the cease-fire now in effect;

(4) Insists that Ortega and the Sandinistas reaffirm their pledge to hold elections on February 25, 1990, and to begin to carry out in good faith their commitment to a free and fair election process leading up to those elections;

(5) Deplores any effort by the Sandinista regime to terminate, postpone or curtail the limited progress they have made to date in fulfilling their commitment to a free and fair electoral process, or to impose emergency laws, under the phony pretext of a major Contra-initiated breakdown of the cease-fire;

(6) Strongly urges the extension of the grace period during which Nicaraguans are permitted to register to vote for at least 60 days;

(7) Reaffirms its intention to abide by the provisions of the Bipartisan Accord on Nicaragua and Public Law 101-14 to include continuing to provide humanitarian assistance to the contras until February 28, 1990; and

(8) Reminds Ortega, the Sandinista regime, and the other leaders of the hemisphere that U.S. policy articulated in the Bipartisan Accord on Nicaragua and Public Law 101-14, is contingent on the Sandinistas fulfilling the commitments they have undertaken as part of the Central American peace process.

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

Mr. FASCELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 379, nays 29, not voting 25, as follows:

[Roll No. 332]

YEAS—379

Ackerman	Atkins	Bereuter
Akaka	Baker	Berman
Alexander	Ballenger	Bevill
Anderson	Barnard	Bilbray
Andrews	Bartlett	Bilirakis
Annunzio	Barton	Billey
Applegate	Bateman	Boehlert
Archer	Beilenson	Boggs
Armey	Bennett	Bonior
Aspin	Bentley	Borski
Bosco	Gunderson	Miller (CA)
Boucher	Hall (OH)	Miller (OH)
Brennan	Hall (TX)	Miller (WA)
Broomfield	Hamilton	Mineta
Browder	Hammerschmidt	Mollohan
Brown (CA)	Hancock	Montgomery
Brown (CO)	Hansen	Moody
Bruce	Harris	Moorhead
Buechner	Hastert	Morella
Bunning	Hatcher	Morrison (CT)
Burton	Hefley	Morrison (WA)
Bustamante	Hefner	Mrazek
Byron	Henry	Murphy
Callahan	Herger	Murtha
Campbell (CA)	Hiler	Myers
Campbell (CO)	Hoagland	Nagle
Cardin	Hochbrueckner	Natcher
Carper	Holloway	Neal (MA)
Carr	Hopkins	Neal (NC)
Chandler	Horton	Nelson
Chapman	Houghton	Nielson
Clarke	Hoyer	Nowak
Clement	Hubbard	Oakar
Clinger	Huckaby	Oberstar
Coble	Hughes	Obey
Coleman (MO)	Hunter	Olin
Coleman (TX)	Hutto	Ortiz
Combest	Hyde	Owens (UT)
Condit	Inhofe	Oxley
Conte	Ireland	Packard
Cooper	Jacobs	Pallone
Costello	James	Panetta
Coughlin	Jenkins	Parker
Cox	Johnson (CT)	Parris
Coyne	Johnson (SD)	Pashayan
Craig	Johnston	Patterson
Crane	Jones (GA)	Paxon
Dannemeyer	Jones (NC)	Payne (NJ)
Darden	Jontz	Payne (VA)
Davis	Kanjorski	Pease
de la Garza	Kaptur	Penny
DeLay	Kasich	Perkins
Derrick	Kennelly	Petri
DeWine	Kildee	Pickett
Dickinson	Kleczka	Pickle
Dicks	Kolbe	Porter
Dingell	Kolter	Poshard
Dixon	Kyl	Price
Donnelly	LaFalce	Pursell
Dorgan (ND)	Lagomarsino	Quillen
Dornan (CA)	Lancaster	Rahall
Douglas	Lantos	Ravenel
Downey	Laughlin	Ray
Dreier	Leach (IA)	Regula
Duncan	Lehman (CA)	Rhodes
Durbin	Lehman (FL)	Richardson
Dwyer	Lent	Ridge
Dyson	Levin (MI)	Rinaldo
Eckart	Levine (CA)	Ritter
Edwards (OK)	Lewis (CA)	Roberts
Emerson	Lewis (FL)	Robinson
Engel	Lightfoot	Rogers
English	Lipinski	Rohrabacher
Erdreich	Livingston	Ros-Lehtinen
Espy	Lloyd	Rose
Fascell	Long	Roth
Fawell	Lowery (CA)	Roukema
Fazio	Lowey (NY)	Rowland (CT)
Feighan	Luken, Thomas	Rowland (GA)
Fields	Lukens, Donald	Roybal
Fish	Machtley	Russo
Flippo	Madigan	Sabo
Foglietta	Manton	Saiki
Ford (MI)	Markey	Sangmeister
Ford (TN)	Marlenee	Sarpalius
Frank	Martin (IL)	Sawyer
Frost	Martin (NY)	Saxton
Gallegly	Martinez	Schaefer
Gallo	Matsui	Scheuer
Gaydos	Mavroules	Schiff
Gejdenson	Mazzoli	Schneider
Gekas	McCandless	Schroeder
Gephardt	McCloskey	Schuette
Geren	McCollum	Schulze
Gibbons	McCrery	Schumer
Gillmor	McCurdy	Sensenbrenner
Gilman	McDermott	Sharp
Glickman	McEwen	Shaw
Goodling	McGrath	Shays
Gordon	McHugh	Shumway
Goss	McMillan (NC)	Shuster
Gradison	McMillen (MD)	Sikorski
Grandy	McNulty	Sisisky
Grant	Meyers	Skaggs
Gray	Mfume	Skeen
Green	Michel	Skelton
Slattery	Stangeland	Volkmer
Slaughter (NY)	Stearns	Vucanovich
Slaughter (VA)	Stenholm	Walgren
Smith (FL)	Stump	Walker
Smith (IA)	Sundquist	Walsh
Smith (NE)	Swift	Watkins
Smith (NJ)	Synar	Waxman
Smith (TX)	Tallon	Weber
Smith (VT)	Tanner	Weldon
Smith, Denny (OR)	Tauke	Whittaker
	Tauzin	Whitten
Smith, Robert (NH)	Taylor	Williams
	Thomas (CA)	Wilson
Smith, Robert (OR)	Thomas (GA)	Wise
	Thomas (WY)	Wolf
Snowe	Torricelli	Wolpe
Solarz	Traficant	Wylie
Solomon	Traxler	Yates
Spence	Upton	Young (AK)
Spratt	Valentine	Young (FL)
Staggers	Vento	
Stallings	Visclosky	

NAYS—29

Bates	Flake	Savage
Boxer	Gonzalez	Stokes
Clay	Hayes (IL)	Studds
Collins	Kastenmeier	Torres
Crockett	Kennedy	Towns
DeFazio	Kostmayer	Unsoeld
Dellums	Lewis (GA)	Weiss
Dymally	Owens (NY)	Wheat
Edwards (CA)	Pelosi	Wyden
Evans	Rangel	

NOT VOTING—25

Anthony	Garcia	Molinari
AuCoin	Gingrich	Roe
Brooks	Guarini	Rostenkowski
Bryant	Hawkins	Stark
Conyers	Hayes (LA)	Udall
Courter	Hertel	Vander Jagt
Early	Leath (TX)	Yatron
Florio	McDade	
Frenzel	Moakley	

□ 1251

Mrs. COLLINS of Illinois, Mrs. BOXER, Mr. EVANS, and Mr. KENNEDY changed their vote from "yea" to "nay."

Mr. SIKORSKI changed his vote from "nay" to "yea."

So the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 79) to deplore the unilateral Sandinista abrogation of the Nicaragua cease-fire.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Reserving the right to object, Mr. Speaker, I do so to ask the chairman of the committee, is it his intention to send a clean bill to the White House?

Mr. FASCELL. Mr. Speaker, if the gentleman will yield, this is the Senate concurrent resolution, which I understand was the intent of the motion to recommit, I will say to the gentleman from Michigan, and the easiest way I know of to get conformity between the House bill and the Senate bill is just to take up the Senate bill.

Mr. GALLO. Mr. Speaker, I strongly condemn Daniel Ortega's suspension of the 19-month-old cease-fire in Nicaragua. His actions cast a dark cloud over the hope of establishing rule through the ballot box and pose a serious threat to peace and regional stability in Central America.

Ortega's unwillingness to negotiate with the democratic opposition and his unilateral breaking of the cease-fire confirms his desire to maintain power at any cost.

The polls show that the opposition parties are gaining momentum and support throughout Nicaragua. Political rallies have been well attended and election registration is well over 90 percent. I believe and fear, however, that as the polls shift in favor of the opposition party, so does Ortega's commitment to free and fair elections.

Abrogating the cease-fire is a blatant attempt by Daniel Ortega to provoke the White House. I strongly support President Bush for being able to see through Ortega's scheme to provoke a war with Washington thereby giving him an excuse to postpone the elections.

Mr. Speaker, the Sandinistas party must recognize that this regrettable decision raises serious questions about their commitment to the election process.

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 79

Whereas, a cease-fire has been in effect in Nicaragua for eighteen months;

Whereas, although there have been periodic violent incidents, and accusations of violations of the cease-fire by each side against the other, there has been no major, widespread breakdown in the cease-fire to date;

Whereas, United States policy has been to discourage the Contras from undertaking any offensive military actions, and we have withheld American aid from Contra units which have initiated such actions;

Whereas, on October 28, Daniel Ortega announced the Sandinista regime's intention to unilaterally end the cease-fire;

Whereas, Ortega's announcement was made at a hemispheric meeting held in Costa Rica to celebrate democracy in the region—another instance in which Ortega and other Sandista leaders have shown disregard for their democratic neighbors and their own commitments;

Whereas, many of the democratic leaders of the hemisphere, including Costa Rican President Oscar Arias, have already denounced Ortega's announcement;

Whereas, many observers are concerned that Ortega's announcement could be the prelude to a Sandinista effort to cancel or postpone elections scheduled to be held in February 1990;

Whereas, despite incidents of Sandinista intimidation and harassment, and the fact that the voter registration period was limited to four Sundays in October, nearly two million Nicaraguans registered to vote in the February 1990 elections; and

Whereas, in the Bipartisan Accord on Nicaragua and Public Law 101-14, the Congress indicated its intention to provide humanitarian assistance to the Contras until after the February 1990 elections: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) condemns Daniel Ortega's announced intention to abrogate the cease-fire they originally declared in Nicaragua as totally unjustified, a major breach of the Sandinista regime's commitments to its democratic neighbors and its own people, and a serious threat to regional peace and stability;

(2) calls on Daniel Ortega to cease his reckless rhetoric, and to begin to fulfill the many commitments he and his regime have made to end their aggression in the region, end their tyranny over their own people, and permit the establishment of democracy inside Nicaragua,

(3) urges the Sandinistas to renew their commitment to continuing the cease-fire now in effect;

(4) insists that Ortega and the Sandinistas reaffirm their pledge to hold elections on February 25, 1990, and to begin to carry out in good faith their commitment to a free and fair electoral process leading up to those elections;

(5) deplores any effort by the Sandinista regime to terminate, postpone or curtail the limited progress they have made to date in fulfilling their commitment to a free and fair electoral process, or to impose emergency laws, under the phony pretext of a major Contra-initiated breakdown of the cease-fire;

(6) strongly urges the extension of the period during which Nicaraguans are permitted to register to vote for at least sixty days;

(7) reaffirms its intention to abide by the provision of the Bipartisan Accord on Nicaragua and Public Law 101-14, to include continuing to provide humanitarian assistance to the Contras until February 28, 1990; and

(8) reminds Ortega, the Sandinista regime, and the other leaders of the hemisphere that United States policy articulated in the Bipartisan Accord on Nicaragua and Public Law 101-14 is contingent on the Sandinistas fulfilling the commitments they have undertaken as part of the Central American peace process.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

A similar House concurrent resolution (H. Con. Res. 221) was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1827. An act to revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York; and

S.J. Res. 77. Joint resolution recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty.

PERSONAL EXPLANATION

Mr. GUARINI. Mr. Speaker, I was inadvertently detained and unable to make the vote on House Concurrent Resolution 221 condemning the Nicaraguan President, Daniel Ortega, for ending the cease-fire with the Contras. Had I been present, I would have voted "yea."

WELCOMING DELEGATES OF FOREIGN POSTAL ADMINISTRATIONS TO 20TH UNIVERSAL POSTAL CONGRESS

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the concurrent resolution (H. Con. Res. 222) to welcome the delegates of foreign postal administration to the 20th Universal Postal Congress to be held in Washington, DC, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. GILMAN. Reserving the right to object, and I do not intend to object, Mr. Speaker, but as an original cosponsor of this resolution along with the chairman of our Postal Committee, Mr. FORD, I am pleased to rise in support of House Concurrent Resolution 222 and I commend the gentleman from Indiana [Mr. McCLOSKEY], the chairman of the Subcommittee of Postal Operations and Services, for expediting consideration of this resolution. Our House Postal Committee welcomes the 20th Universal Postal Congress and its nearly 1,700 delegates. This is an important conference and this is only the second time in nearly a century that the United States is honored to be the host. The Universal Postal Congress will be conducted for a 5-week period, between November 13 and December 14, 1989, at the Washington, DC, Convention Center.

Situated in Bern, Switzerland, the Universal Postal Union is one of the oldest intergovernmental organiza-

tions, in existence. It was established in 1874 by the Bern Treaty, which was the forerunner of the modern multilateral convention governing the international postal service. The latest convention is the Hamburg Convention of 1984 which entered into effect in 1986. Under an agreement concluded between the United Nations and the UPU in 1947, the UPU became a specialized agency of the United Nations.

Helsinki Final Act signatories agreed to abide by international law and international agreements to which they are party, including, by inference, the Universal Postal Convention and the constitution of the Universal Postal Union.

Mr. Speaker, I know my colleagues will join with me in welcoming the delegates to Washington and we look forward to working with them in facilitating the free flow of international mail.

Accordingly, I urge my colleagues to support House Concurrent Resolution 222.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana.

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 222

Whereas the Universal Postal Union advances the goals of the world postal system by developing and improving international postal services, establishing global standards, assuring freedom of transit throughout the territories of the member nations of the Union, providing assistance to postal administrations of developing countries, and disseminating information on technical developments to member nations;

Whereas the Congress of the Universal Postal Union convenes every 5 years in a different member country to study and revise the acts of the Universal Postal Union, and the decisions of the Congress of the Universal Postal Union, which govern the actions of the global postal system for the next 5-year period;

Whereas for only the second time in nearly a century, the United States Postal Service will host the world's postal administrations during an international business meeting known as the Universal Postal Congress;

Whereas the Universal Postal Congress will be conducted for a 5-week period, between November 13, and December 14, 1989, at the Washington, D.C. Convention Center; and

Whereas nearly 1,700 individuals representing 170 member administrations of the Universal Postal Union are expected to participant in the business sessions: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States—

(1) welcomes to the Nation's Capital the foreign postal representatives participating in the Twentieth Congress of the Universal Postal Union; and

(2) expresses its hope that the efforts of the Twentieth Congress of the Universal Postal Union will result in improved global communications as we approach the challenges of the 21st century.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 222, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERSONAL EXPLANATION

Mr. KASTENMEIER. Mr. Speaker, due to a swearing-in session honoring Senator HEFLIN, Attorney General Thornbury, Justice Scalia, and myself as honorary members of the U.S. Claims Court, I barely missed rollcall No. 321, the Bosco amendment to H.R. 3443, to amend the Federal Aviation Act of 1958. Had I been present, I would have voted "aye."

MOTION TO INSTRUCT CONFEREES ON H.R. 2712, EMERGENCY CHINESE ADJUSTMENT OF STATUS FACILITATION ACT OF 1989

Mr. HEFLEY. Mr. Speaker, pusuant to rule XVIII, clause 1(c), I offer a privileged motion to instruct conferees on H.R. 2712.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. HEFLEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the house amendment to the Senate amendment to the bill H.R. 2712, be instructed to agree to the provisions of the Senate amendment relating to Chinese fleeing coercive population control policies.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. HEFLEY] will be recognized for 30 minutes, and the gentleman from Connecticut [Mr. MORRISON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, what this would do is to codify and expand existing Department of Justice policy to require asylum and refugee adjudicators to give the same consideration to Chinese fleeing China's population control measures, that is, forced abortions and sterilization, as is given to those fleeing religious and other types of political persecution.

Although the Attorney General has issued policy guidelines requiring careful consideration for those fleeing China's brutal population control measures, the INS has failed to properly implement those guidelines. As recently as May 12, the Board of Immigration Appeals said it was not bound by the Department of Justice guidelines and decided to deport a People's Republic of China national who had fled China and its population control policies and requested asylum in the United States.

I do not think, Mr. Speaker, that this should be a controversial issue. In the other body, they passed it in July by 95 to zero on a recorded vote. We have checked with the administration, both with the Congressional Affairs Office and the Immigration and Naturalization Service and also with the Department of Justice, and they are not opposed to it.

The question may arise as to whether or not this is germane to the bill that we are instructing on. I think certainly it is germane to that particular bill.

H.R. 2712 addresses Chinese students who are seeking waivers to their J-visa for fear of political persecution should they return to China. The Population Control Refugee Amendment addresses those Chinese who might face political persecution because of their family size, and many of those affected are students seeking waivers of their J-visas.

The two measures are complimentary and overlapping.

Again, the question may arise as to whether or not this is an anti-abortion amendment. I think it is the ultimate pro-choice amendment, in fact, because it is in the most fundamental support, in the most fundamental sense it is supported by people on both sides of that issue. Rather than an abortion amendment, it is really an anti-sterilization amendment, a pro-civil rights amendment and an anti-persecution amendment.

□ 1300

Will the amendment open the floodgates to Chinese refugees pouring into the country? No, it will not. It does nothing to change the number of slots allocated to refugees coming into the country. This level is set by the President in consultation with Congress each year, and this will not change that. To make sure that this is not the case, we have put a cap of 1,000 on this, not that we think there will be 1,000. There probably will not. At the present time we have about 50 cases that we know of, but we have put a cap of 1,000 on it.

Mr. Speaker, I am offering a motion to instruct conferees on H.R. 2712, the Emergency Chinese Immigration Relief Act of 1989, to agree to the provisions of Senator ARMSTRONG's amendment to the bill.

This amendment codifies and expands the Department of Justice's policy to require

asylum and refugee adjudicators to give the fullest consideration to applications from Chinese nationals who express a fear of persecution because they resist abortion or sterilization in violation of Chinese Communist Party population control directives. The amendment simply clarifies a "well-founded fear of persecution" and establishes refugee status to those PRC nationals who seek this type of asylum.

China today exercises one of the world's most repugnant population control programs ever enacted by any civilized nation. Forced sterilization and forced abortion are common under China's one couple, one child policy.

Although we cannot change China's barbaric practices, we can end United States assistance to this practice.

Until 1988, the U.S. Immigration and Naturalization Service [INS] routinely deported Chinese nationals requesting asylum because of their fear of reprisal for their decision to have more than one child.

However, in August 1988 Edwin Meese, then Attorney general, issued a series of policy guidelines directing the Commissioner of INS to give careful consideration to applicants who seek asylum because they fear persecution for their failure to comply with China's population control policy. Attorney General Thornburgh reissued them in July of this year.

I am outraged to report that earlier this year, regardless of these guidelines, the INS appealed a U.S. Immigration Court decision to grant asylum to a victim of China's coercive population control measures. It was not until after pressure from numerous public officials, that the INS withdrew its appeal.

The fact remains, however, that the Board of Immigration Appeals says these policy guidelines are directed only at the INS and are not binding upon the Board of Appeals. Hence, the next Chinese national fearing persecution on the basis of China's coercive population control policies may easily be deported.

The amendment enjoys particularly strong support in the Senate, and also the House. The Senate is on record 95 to 0 in support. The House passed it on a voice vote in a motion to instruct on the State Department Authorization bill.

This amendment is about fairness and human rights, not just forced abortion and sterilization. The plain fact of the matter is that the U.S. Government should not be in the position of "aiding and abetting" the Chinese Government in its attempt to force the Chinese people to undergo mandatory sterilization. Indeed, while the 95 Senators who went on record in support of this amendment include partisans on both sides of the abortion issue, they are all champions of human rights.

The Armstrong language does nothing to change the number of slots allocated to refugees coming into the U.S. each year. The total number of refugees allowed into the United States is annually set by separate actions of the President in consultation with the Congress. The language puts Chinese couples fearing China's coercive population control policies on equal footing for U.S. refugee asylum with those suffering from religious or political persecution.

There are safeguards that solve the question of immigration control. A cap of 1,000 asylees per year was added during discussion on the Senate floor. Those seeking political asylum must be in the United States before they can request it. So far, these numbers are less than 50.

I do not believe the merits of the Armstrong amendment are arguable. Indeed, it overwhelmingly passed the Senate and the House.

The issue before us today is whether we can stand by and let the Immigration and Naturalization Service deport Chinese nationals who have a well-founded fear of persecution.

I urge my colleagues to vote yea in strong support of my motion.

Mr. Speaker, I reserve the balance of my time.

Mr. MORRISON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I really wish that the case were as put by the gentleman from Colorado on his motion, but unfortunately his explanation of what this amendment does and does not do, the amendment that his instruction seeks to require the conferees to accept in its complete form.

First, let me say that I think it is unfortunate that this motion has been made here today. When this bill went to conference approximately 20 days ago, the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], respectfully asked that this amendment, this motion to instruct, not be offered, and the gentleman who at that time intended to offer the amendment acceded to the request of the gentleman from Texas, the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], and agreed not to offer the amendment in deference to moving this legislation as quickly as possible.

We have gone to conference on this bill. We have reached a tentative agreement with the conferees on behalf of the Senate, and we are in a position that we would be able to file a conference report, and this opportunity after 20 days would never arise. But we have had a problem. The problem is that, unfortunately, our chairman, the gentleman from Texas [Mr. BROOKS], has fallen ill and is in the hospital and has not been in a position to participate in finalizing that conference agreement.

The agreement that was made with him, the deference that was shown, is all of a sudden thrown aside, and now we are going to debate this motion. I think it is unfortunate. The gentleman has every right to raise the motion if he chooses to, but I think it is unfortunate, because I think the chairman had asked that this bill not be used as a vehicle, and, in fact, no objection was raised when this particular instruction was lodged with respect to the State Department authorization bill.

In fact, we have been discussing with representatives of the Senate ways in which the State Department authorization bill could accommodate the goals that the gentleman from Colorado has articulated.

Let me say that there is no disagreement of which I am aware on the goal of allowing refugee or asylum status to Chinese nationals who are fleeing forced abortions or forced sterilization. I think that everyone involved in formulating immigration policy would be unanimous in the view that people who are faced with that kind of persecution are entitled to refugee or asylum status here in the United States.

The problem with the Armstrong amendment which the gentleman from Colorado seeks to instruct this gentleman and others in the conference to adopt is that it does not do that job. It does not do that job at all. In fact, all that we are doing here is introducing into the conference on the Pelosi bill interference with helping the Chinese students who are here now who ought to be relieved of their 2-year residency requirement. We have been trying to move that legislation, and when we sought to negotiate the language on the Armstrong amendment, we could not move this bill, and I hope that the House will not choose to instruct us in this way.

Of course, this is not germane. The amendment in the Senate was offered; it is under Senate rules germane. This does not apply. It would not have been germane if offered in the House. But more important than any issue of germaneness is the issue that this amendment does not require that individuals who are fleeing forced abortions or forced sterilization be granted asylum or refugee status, not at all. It merely says that these things should be considered, and the fact is that mere consideration is not enough.

In addition to that, the Armstrong amendment introduces into our asylum laws a 1,000 cap. There is no cap in our current law. As many people as would be able to make this claim currently would get this status, so we are limiting for no apparent reason, limiting the rights of people under our asylum laws rather than expanding them.

It also does not create a refugee program. There is no refugee program with respect to Chinese nationals. Therefore, refugee program with respect to Chinese nationals. Therefore, refugees, people outside the United States, are given no benefit and no protection under this legislation.

The fact is that this problem is one that the Attorney General could easily solve. The Attorney General merely needs to issue a regulation, a regulation not a memo, a regulation which directs everyone under his jurisdiction

including the immigration judges as to the fact that this is persecution under the Refugee Act. He has not done so and, frankly, if we pass this legislation, there is no guarantee that he will not provide that kind of protection.

Finally, the vote in the Senate was not on this bill. This 95 to nothing vote was on another bill. It does not really apply to this bill, and it is being used as an argument for this particular amendment which is really not appropriate.

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. MORRISON of Connecticut. I am happy to yield to the gentleman fron New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, as the gentleman knows, in asylum cases, we do not provide an automatic grant of asylum to anyone. They still must prove a well-grounded fear of persecution, and that is what this legislation seeks to do. I think the gentleman perhaps misspoke, and I hope he would correct that. We do not want to provide an automatic grant of asylum to anybody, but we do want to provide that ability for it to be adjudicated properly.

Mr. MORRISON of Connecticut. Mr. Speaker, reclaiming my time, the gentleman is correct, and no one should grant an automatic status, but where the gentleman is mistaken is that the terms of this statute do not require that fleeing this persecution be taken as covered by the Refugee Act. All that this does is say that the factfinder should give strong consideration. It is not enough; it does not solve the problem. It really takes the language out of the memo that has not solved the problem. It is unfortunate.

If the gentlemen on that side of the aisle who are interested in solving this problem would only work with the subcommittee to do it rather than introducing this instruction, we would not be having this debate but, frankly, we have not been able to achieve that kind of comity on this point. Maybe that would be the best way to resolve it. The gentleman could withdraw his motion, and we could move forward. It is not a symbolic vote. This is bad immigration law, and it does not solve the problem that we all agree should be solved.

I do not think that passing this does anything but try to make something into an issue that it is not.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. MORRISON of Connecticut. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am pleased to rise in support of the gentleman's remarks.

Mr. Speaker, I would like to address an inquiry to the gentleman from Colorado with regard to his motion. How many students are there in the United States who are in this situation at the present time?

Mr. HEFLEY. Mr. Speaker, will the gentleman yield?

Mr. MORRISON of Connecticut. I am happy to yield to the gentleman from Colorado.

Mr. HEFLEY. Mr. Speaker, we know of only 50 cases at this time that are being processed, or around 50 cases that are being processed at this time. The 1,000 limitation that was put on it was just to take care of the fears that this would be a wide-open loophole to circumvent immigration policy. There is no chance in anyone's mind that it will ever go to 1,000, but for everyone, even though we are just talking about 50, if you are 1 of the 50 that know when you go home you are going to be sterilized, then that is very important to you as one of the 50.

Mr. GILMAN. Mr. Speaker, if the gentleman will yield further, I have a further inquiry of the gentleman sponsoring the resolution. Is it not true that this Armstrong amendment was not applied to H.R. 2712 but to another measure?

Mr. HEFLEY. Mr. Speaker, no; that is not true. The sequence of events was that on July 20 on the State Department authorization bill, this exact amendment was voted on in the Senate and passed 95 to nothing, this exact amendment to the State Department authorization bill. There is every chance that the State Department authorization bill will be vetoed. Let me just finish. Because this was, again, by voice vote in a package of amendments added to this bill that we are talking about on August 4, so, yes, this was applied to this bill.

Mr. MORRISON of Connecticut. Mr. Speaker, reclaiming my time, if the gentleman wants to explain his amendment, we ought to let him do it on his time, or we are going to run out over here.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

□ 1310

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me and I rise in opposition.

I am pleased to rise in support of the remarks of the gentleman from Connecticut in opposition to the proposed motion. I think we should bear in mind what the underlying purpose of the Pelosi bill, H.R. 2712, and that is to provide a basis for the thousands of Chinese students who are here in this country to be able to stay in our Nation. I think we are unduly cluttering it with this motion, and we are creating a serious problem to this underlying objective of providing a significant basis for the students to stay.

Most of us agree to opposition to the sterilization program and to the abortion program conducted by the Chinese, but this is not the vehicle to make that determination, and that should be properly done after a full hearing on a separate measure.

I would urge my colleagues to defeat the motion.

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, just so those watching this debate clearly understand, and I thank my friend for yielding, this motion, even if adopted, and even if it were attached to the underlying legislation, does not change by a comma or does not change by semicolon the intent or the language of the Pelosi bill. It adds to it, it does not detract from it, and I think that point needs to be understood.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Speaker, I thank the gentleman for yielding the time, and I would just share briefly with my colleagues this is not something we ought to argue about. There are a lot of things to fuss about, there are a lot of things to disagree about. This is not one of them.

The toughest criticism we have heard thus far is that this motion is not strong enough. That comes from a colleague that I have deep respect for and I know has brought this with the best of intentions, yet it may well be the case. Indeed this may not be strong enough.

The language, as I understand it, involves this: The Armstrong amendment would require the Secretary of State and the Attorney Geneal to promulgate regulations and guidelines that would required asylum and refugee adjudicators to give the fullest possible consideration to applications from nationals of the People's Republic of China who express fear of persecution upon return to that country because they refuse to abort a pregnancy or resist sterilization in violation of Chinese Communist Party directives on population.

Ladies and gentlemen of the Congress, to vote against this instruction would be very foolish. No Member surely can come before this body and say that we cannot give consideration to people who find themselves in danger of sterilization because of that unbelievable policy by the People's Republic of China. It is so alien to everybody's thought that we have as a pluralistic society that there is not a Member of this body that I think condones that policy by the Chinese Government. To say that we ought to give full consideration to people asking for

asylum as relief from facing sterilization is a minimum. This is simple common sense.

Mr. Speaker, I urge your support for the motion to instruct conferees to agree to the Armstrong amendment to H.R. 2712, the Emergency Chinese Immigration Relief Act, that would allow nationals of the People's Republic of China who fear persecution under China's population control policy to apply for refugee status and asylum in the United States.

Under the 1980 Refugee Act, foreigners are entitled to sanctuary in the United States if they can demonstrate "a well-founded fear of persecution" based on race, religion, nationality, membership in particular social group, or political opinion.

China's population control policy barring families from having more than one child is strictly enforced, often by forced abortions and sterilizations. The PRC views defiance of this policy as an act of political dissent. The United States Justice Department has noted that pursuant to our law's definition of "refugee," a finding of the requisite "well-founded fear of persecution" under China's population control policy is reasonable and constitutes persecution for "political opinion."

The Armstrong amendment would require the Secretary of State and the Attorney General to promulgate regulations and guidelines that would require asylum and refugee to give the adjudicators

Fullest possible consideration to applications from nationals of the PRC who express fear of persecution upon return to that country because they refuse to abort a pregnancy or resist sterilization in violation of Chinese Communist Party directives on population * * *.

As originally passed by the House, the bill's provisions seek to protect from persecution Chinese nationals studying in the United States who support the prodemocracy movement in the People's Republic of China which call for greater freedoms in that country.

It is appropriate that Chinese nationals who defy the People's Republic of China coercive, antidemocratic family planning controls be allowed to apply for asylum in the United States.

Mr. MORRISON of Connecticut. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I am glad to yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Speaker, I agree with the gentleman that we should not be arguing over this, and the unfortunate fact is that instead of crafting a motion to instruct which went to the substance of what we all agree upon, we have a motion to instruct which I assume, when we ask Members to vote for it, we take seriously the language which says accept the Armstrong amendment. The Armstrong amendment is not a good amendment.

The SPEAKER pro tempore (Mr. MCDERMOTT). The time of the gentleman from Colorado [Mr. BROWN] has expired.

Mr. MORRISON of Connecticut. Mr. Speaker, I yield the gentleman from Colorado [Mr. BROWN] 1 minute.

Mr. BROWN of Colorado. Mr. Speaker, I thank the gentleman for yielding the time, and I am happy to yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Speaker, the Armstrong amendment is a bad amendment, not badly motivated, it is badly crafted. We have a motion to instruct on which we tried to work with Members on the gentleman's side to change, and we got nothing but "take the Armstrong amendment or leave it," and on a take-it-or-leave-it basis, we have to leave it. On the purposes of the Armstrong amendment there is complete agreement. I think it is unfortunate we are arguing, but we are arguing because of the inflexibility of Members offering the motion to instruct. I regret that that is the case.

Mr. BROWN of Colorado. Let me thank the gentleman for his comments.

Let me just add that as the gentleman knows, the conferees have flexibility when they try and work these things out. I am optimistic that with the gentleman's positive thoughts, if there are improvements to this language, that he can and indeed will bring them forth in the conference.

Again I thank the gentleman for yielding.

Mr. HEFLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH].

My. HYDE. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, very briefly, I am an interested spectator in this because I serve on the Judiciary Committee. But I do not have the honor of serving on the Immigration Subcommittee, and I know the gentleman from Connecticut is very knowledgeable, and I am sure there is merit to what he says.

On the other hand, I hate to see us get bogged down in turf battles, not that this is one, but there are aspects of it here, and technicalities. I say that because the purpose of the motion to instruct offered by the gentleman from Colorado is to recognize an embattled group of people who are in every sense of the word refugees, who are being persecuted. It is not religious persecution, and we are very sensitive as well and we should be to religious persecution, but this is physical persecution. They stand in fear of being coerced into abortions and sterilization, and this country ought to be big enough, and strong enough, and compassionate enough to find a way to grant asylum to those people.

I suggest to the gentleman from Connecticut, who is compassionate and is resourceful, that there ought to be a way to do this and not burden the excellent Pelosi bill down. It seems to me another thousand Chinese who are not students, but who are going to be persecuted, and who are in reasonable fear of persecution ought to get under that umbrella, the generic umbrella of persecution, as qualifying as refugees.

So open our hearts, open our minds and solve this problem, and not look for ways to shoot it down. That would be my thought, and again I thank the gentleman for yielding.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend for his excellent comments.

Mr. Speaker, the Hefley motion is a humanitarian motion that instructs our conferees to accept a very simple Senate amendment to H.R. 2712, an amendment that had no opposition in the U.S. Senate. It provides that all adjudicators of asylum or refugee status cases give the fullest possible consideration to applications from nationals of the People's Republic of China who express a well-founded fear of persecution if they were to return to that country because they refused Government orders to either abort their child or they refused Government orders for forced sterilization, or they refused Government orders for a forced IUD insertion.

The Senate amendment, as I indicated, offered by Senator ARMSTRONG and Senator DECONCINI, as the gentleman from Colorado, Mr. HEFLEY pointed out, passed 95 to 0.

Mr. Speaker, there are approximately, as far as we know, 50 People's Republic of China nationals who have sought asylum in the United States pursuant to Department of Justice regulations issued in August 1988. The problem is, Mr. Speaker, those guidelines are not being followed by INS; hence the need for this codification of policy.

Mr. Speaker, the Armstrong amendment establishes a ceiling of 1,000 persons per year. I would have preferred no ceiling, but it is a start, and absent this legislation these people will continue to be subject to deportation.

Members of this House, Mr. Speaker, as we all know, have been very well aware since 1979 that China has aggressively imposed what they call the one-child-per-couple policy on its people, relying heavily on forced abortion, relying heavily on forced sterilization and forced IUD insertion to enforce compliance. This House of Representatives repeatedly has gone on record condemning these crimes as crimes against humanity. We did it in 1985, and we have been doing it year after year, calling these abuses what they are, calling these actions what they were called back at the Nurem-

burg war trials, crimes against humanity.

Minimally I would think we should at least be providing asylum in the way we provide asylum for those trying to escape religious persecution, and this modest motion, and the underlying amendment that we seek to make part of the Pelosi bill would at least take another step in helping these people who are suffering this persecution.

Mr. Speaker, contrary to some of the wishful thinking we have been hearing lately, the situation in China is actually getting more coercive, not less. Leading Chinese scholars, including Dr. John Aird, who is a former senior research specialist on China for the United States Census Bureau said that the situation has not been abating but getting worse since 1988, and even worse since 1989 began, and decisively worse since Tiananmen Square. In correspondence dated September 27, 1989, Dr. Aird writes:

The evidence is quite clear that despite the denials of the Beijing regime and its foreign apologists, coercion is a central and intentional feature of the Chinese family planning program.

He goes on to write there has been "marked escalation"; within the last year and a half. The situation had clearly gone from bad to worse.

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In their exhaustive 1988 study on population trends in the PRC, China experts Judith Banister and Karen Hardee-Cleaveland, of the United States Census Bureau, conclude:

Today Chinese couples still are not given a choice about whether they practice family planning, how many children they have, when they have the allowed birth or births, whether or not to sign family planning contracts or what form of birth control they will use. It is forced on them.

Mr. Speaker, this outrageous persecution of women, this outrageous persecution of the family cries out for compassion and a multiresponse from those committed to human rights. Asylum for those fleeing this tyranny, in my view, is the minimum that we can provide. Again we say, "Wait until another bill comes along," or another way of trying to craft a response. When, Mr. Speaker? This is the only vehicle in hand. This legislation will at least be a modest step and to miss this opportunity means that more Chinese nationals seeking to escape this tyranny will be put into a situation where they can be deported and then punitive action taken against them when they return.

Finally, Mr. Speaker, one of the things that brought this issue so close to my heart was a couple—and Congressman JOHN KYL worked hard on solving the case, as a matter of fact took the lead in this case a couple of years ago, of Ping Hong, a woman who was told she had to abort her child.

She conceived the child here in the United States. Then she was told that she had to abort the child—or else. Or else serious repercussions against her and her family would result.

I would put in the RECORD some of the letters she received from a factory, but one of them, I think, highlights the kind of policy we are talking about. I will read this letter from the Chinese Government:

When you left for America 3 years ago the birth control policy in our country was already very strict. The 1-child policy is now even stricter. If you come back at the end of this year pregnant, even if you are 8 or 9 months along, you will absolutely not be allowed to have your child.

Mr. Speaker, the Hefley motion is a humanitarian motion. I cannot conceive of any Member of this body voting against it.

At this point, I would like to insert an article by anthropologist Steven Mosher that graphically describes the circumstances that Chinese women face because of their government's coercive policy.

The article follows:

[From the Washington Post, Apr. 10, 1988]

THE LONG ARM OF "ONE-CHILD" CHINA

(By Steven W. Mosher)

The man on the phone was nervous, as if afraid of being overheard. "I am calling you only as a last resort," he said in a heavy Chinese accent. "I don't know where else to turn * * *. It concerns China's one-child policy."

I was not surprised he would contact me. During my lengthy stay in a Chinese village in 1980, I had seen women in the third trimester of pregnancy forced to undergo abortions. I had written extensively about this and other aspects of China's coercive population-control program and had interviewed many Chinese about their experiences. But Dr. Quan B. Li's story was different.

"My wife is seven months pregnant," Li told me. "Even though we are living in the United States, the Chinese government has been trying to force us to return to China for an abortion. We hope that you can help us to stay in the United States, at least until our baby is born."

As I listened, he told a shocking tale of how Chinese birth-control officials were trying to enforce Beijing's one-child policy on this couple living in Phoenix, pursuing them long distance with a series of brutal warnings that threatened sanctions not only against Li's wife but also her coworkers back in China.

Q.B., as his American friends call him, was selected by the Chinese government seven years ago to come to the United States to pursue a doctorate in mechanical engineering at the University of Arizona. Like most Chinese scientists sent abroad to study, Q.B. was not allowed to take his family. His wife, a nurse, and his three-year-old son had to remain in China, helping to ensure that the family head would return to the motherland upon the conclusion of his studies. In short, his wife and son were hostages.

Q.B's wife, Ping Hong, chafed at this forced separation from her husband and four years ago applied herself to study in America. Such requests are seldom granted. Ping Hong, however, was a Communist Party member in good standing and her unit, the Walfantia Bearing Factory, vigorously endorsed her application. She and her son were given exit visas and arrived in Phoenix three years ago.

Q.B. completed his Ph.D. in March 1986, and was given permission to stay on for an additional 18 months of practical training in his field. He and his wife were looking forward to returning to China. Q.B. had been promised a full professorship at his university while Ping Hong was given to understand that an important post awaited her at the Walfantia Bearing Factory.

Then in late May 1987, Ping Hong became pregnant with her second child. They still can't understand how it happened. Q.B. said Ping had an IUD inserted after the birth of their son, as mandated by the birth-control regulations. "As a nurse, she was very responsible about going in for the required pelvic examination each quarter. The IUD was always in place," Q.B. said.

The couple had considered only to reject, the idea of an abortion. "At one time my wife had assisted doctors in performing abortions in China, even late-term and forced abortions," Q.B. recalled. Now that experience came back to her in nightmares, and she felt she must protect the child she was carrying.

After hesitating for a number of weeks, they wrote Ping Hong's factory, asking the population control official there if they could be granted an exemption from the one-child policy. They had conceived their second child in the United States, they argued. Surely China's one-child limitation did not apply to them here. Couldn't they be allowed to keep it?

The birth-control officer at Ping Hong's factory quickly set them straight. "When you left for American three years ago, the birth-control policy in our country was already very strict. The 'one-child' policy is now even stricter. . . . If you come back at the end of this year pregnant, even if you are eight or nine months along, you will absolutely not be allowed to have your baby."

Last year, Communist Party General Secretary Zhao Ziyang reaffirmed the "technical policy of birth control" and officials were ordered to redouble their efforts to enforce this policy, which calls for IUD insertion after one child, sterilization after two and abortion for women like Ping Hong who were pregnant outside the plan.

In the last few months, I have been hearing persistent reports that women pregnant with "illegal" second children were being forced to have abortions, even as late as the final months of pregnancy. There were also alarming reports of infanticide of "illegal" newborns. In my view, Li was right to believe the official's threat.

While Q.B. and his wife were debating what to do—should they return to China and run the risk of losing their unborn child, or should they attempt to stay in the United States until after the child was born—Ping Hong received another letter. This one was more threatening than the last.

"Second children are absolutely banned," the letter read. "If a woman insists on having a second child, all the staff and line workers of her factory will be punished. No salary increases will be allowed, and the factory will be disqualified from production contests. She herself will be placed on probation, and receive only minimum living expenses. You absolutely cannot afford these political and financial losses * * *. Do not

lose any more time. Fix this problem as soon as possible."

Without any further delay, the Lis secretly applied to stay in the United States. They also moved away from their apartment near the university campus to a house in the suburbs, so that the Chinese government would not know of Ping Hong's whereabouts. "Ping was afraid that even in the United States we were being watched by agents of our government," Q.B. recalled.

Unable to pressure Ping Hong and her husband directly, Chinese population control officials turned instead to their next of kin. Ping Hong's elderly mother was a favorite target. The old woman was paid nightly visits and repeatedly warned of the terrible consequences for the entire family if Ping Hong did not abort the "illegal" child she was carrying.

Q.B. and Ping Hong agonized over what to do. They knew that Ping Hong's mother was in poor health and was distraught over the nightly propaganda sessions.

In desperation, Q.B. wrote his mother-in-law and told her that Ping Hong had obeyed her superiors: She had gone in for an abortion. Ping Hong's mother showed this letter to the population-control officials the next time they came, and the nightly visits ended for a time.

But Q.B. then made a serious tactical error. Not knowing if he and his wife would be allowed to stay in this country, he tried one last time to obtain permission to have a second child. Hoping that his university, the Dalian Institute of Technology, might be more forgiving of their situation than Ping Hong's factory, he wrote them a letter. He put the matter in the hypothetical ("What if my wife became pregnant in America?"), but the Walfantia Bearing Factory found out about the letter—and the pressure was on again.

"Before they had been trying to talk us into having an abortion," Q.B. recalled. "Now they began ordering us to. We received what was called an 'extremely urgent letter of warning' " This letter follows:

SEPTEMBER 25, 1987.

COMRADE PING HONG: How are you? After explaining the birth control policy to you in our last letter, we were sure that you would fix your problem right away. But from your husband's recent letter to the Dalian Institute of Technology asking about the policy, we know that your pregnancy continues. You must already be at least four months along. (She was actually five months pregnant at this time.)

"We have been severely criticized by both the municipal and the prefectural birth control departments and ordered to send you this extremely urgent letter of warning.

"Birth control is one of our nation's basic policies. The "one-couple, one-child" policy is known to every family and every individual throughout the land. You are an official as well as a medical worker. It is hardly necessary to repeat this slogan to you. You have not been out of the country that many years.

"Let me give you an example that deserves your serious attention: Recently, a woman at the Chuangliu Grain Store ignored official warnings and had a second child. As punishment, both the woman and her husband were fired from their jobs and put on probation for one year. During this period they are receiving only $5 a month for living expenses. They have been ordered to pay back the subsidy they received for the health and nursery school care of their first child. The officials in charge of both the husband's and the wife's place of employment and their superiors had their bonuses withheld for several months.

"The Walfantia Bearing Factory is now working on a major, government-sponsored expansion. We have successfully passed all the necessary evaluations and reviews. But if our birth control program allows even a single second birth, our factory will not be permitted to advance. All of the strenuous efforts of our 20,000 employees towards this goal will have been in vain. Moreover, our whole factory will be disqualified from any production contests, and the bonuses and benefits of all employees will be negatively affected. From the factory director, to the department heads, to the cadres in charge of the birth control program, all of us will be punished.

"The consequences for you are unthinkable. You would be condemned by all the staff and line employees of the factory. How could you bear the losses that you would cause and suffer?

"You should seriously reflect on these consequences, and come to a speedy decision to fix your problem any way you can. You must not delay! If you have real difficulties [getting an abortion in the U.S.], return to China immediately for an abortion. We expect you to report your actions to factory officials as soon as you receive this letter, so that we may report them to higher authorities. There is not time to waste.

"To your health!

Population Control Office,
Walfantia Bearing
Factory,
Dalian Subdivision,
Dalian, Manchuria,
People's Republic of
China."

The last letter Ping Hong received, approximately two weeks before Q.B. called me, was the bluntest of them all.

"COMRADE PING HONG: Have you received our last express mail letter? Have you taken any action as a result?

"The factory officials are anxious to know whether or not you have done as ordered, since your actions affect the benefits of all employees in the factory as well as the factory's future. The punishment for this kind of violation [having a second child] is very severe, and we strongly advise you not to risk it.

"If you cannot have this abortion done abroad, then the factory director orders you to return to China immediately. Any further delays, and you will be punished according to the law.

"There is nothing ambiguous about our order! Make up your mind immediately!

"To your health!"

On Feb. 29, the application of Dr. Q.B. Li and his wife Ping Hong to remain in the United States was turned down by the U.S. State Department. They now face deportation proceedings.

The news that month was not all bad, however. On Feb. 1 Ping Hong gave birth to a healthy, 7½ pound baby girl. The Lis have named their daughter Mei, which in Chinese means beautiful but also stands for America, land of her birth.

Mr. MORRISON of Connecticut. Mr. Speaker, I yield 5 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman for his leadership in helping to bring this bill to protect the Chinese students, to the floor when he did. I rise in opposition to the motion to instruct.

I recognize the good intentions of our colleague, Mr. HEFLEY, in this motion. It reminds me of when I was in college, and perhaps you got this on one of your papers when you were there, it said:

This paper is both good and original. The part that is good is not original. The part that is original is not good.

The part of Mr. HEFLEY's motion that is good is that, of course, as Mr. SMITH said and as Mr. MORRISON has said over and over, we abhor the policy that calls for forced abortion and sterilization. That is not the issue here.

The issue here is that the Pelosi bill is a very narrow bill.

So let me get back to my original point. What Mr. HEFLEY proposes is good in its intent; it is not necessary, however, and not original because it already exists in Immigration and Naturalization, the opportunity for the Attorney General to make this possible.

So the need for it is already recognized, the good part of it is already recognized.

As far as the part that is original, attaching it to this bill, it is not good. This bill has a very narrow scope. We are talking about a very particular visa, a J-1 visa. In order to have our colleagues understand, I know many here do because we have nearly 300 cosponsors to this legislation for a very narrow mandate, that says this: That those students who came to the United States under a J-1 visa would have waived the 2-year requirement that they are, under the law, now required to go back to China. A J-1 visa is a visa by which the Chinese Government is supposed to participate in the care, feeding, sustenance, tuition, et cetera, of the students when they are in the United States.

This was the intent of the bill, that in return the students would commit to come back for 2 years before whatever else was going on with the rest of their lives.

So this is all it is dealing with.

I had a very difficult time finding a germane bill to apply it to. That is why this very narrow issue stands alone in the bill. It was not germane to any refugee bill which had come before the House and where a joint of order was called on it when I tried to apply it in that other legislation.

So let us not talk about all the good things that exist and whether they are necessary and whether it is appropriate to attach them to any other bill that looks like it has some measure of success.

Over 270, 280, nearly 300 Members of this body signed on as cosponsors to

protect the Chinese students following the massacre at Tiananmen Square.

Very quickly before the recess, it passed the House of Representatives. Now we are faced with going into the conference under the leadership of JACK BROOKS, who cannot be with us today, and our chairman, Mr. MORRISON, working with the minority side. With their cooperation we came to an agreement.

Only because Mr. BROOKS is sick is there the opportunity to bring this motion to the floor because the 20 days have expired.

But let our colleagues know what they are voting on: They are voting to amend in a very general way, a very general way, legislation that would never have been considered germane at the time of the introduction of this bill when it was debated on the floor.

So I say as I began, I abhor the policy of sterilization and abortion. That is not the issue here. I would hope in this body we would not have to visit that issue in all of our policy-making over and over again. That part of the gentleman's bill is good; it is not original. The part that is original is not good.

As far as the number of people who are involved in this, as has been mentioned, there are only 50 people of all the people who are here now who have come forward for this kind of relief. I ask my colleagues on account of the J-1 visa piece of legislation where you are expanding its mandate, as I say, in repetition of what the attorney general is already able to do, our colleague says the administration supports his motion. If they did, all they had to do was instruct the attorney general to do what the essence of his motion would do anyway.

But when we are talking about this, how on earth are you going to enforce this? How are you going to say, "Well, I don't know whether you got pregnant in order to stay here," and the rest.

These are issues that should be addressed. I would probably come down on the same side as the maker of this motion on that issue.

But I think a bill of this broad a mandate should have hearings, it should be taken into consideration in its impact on the rest of our immigration policy.

Vote "no" on the motion to instruct.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise today to support the Hefley motion to instruct conferees to agree to the Senate-passed Armstrong-DeConcini amendment.

This amendment would provide asylum to the nationals of the People's Republic of China who fear persecution because of their courageous stand to refuse to abort a pregnancy or undergo sterilization as required by the Chinese Government.

As has been mentioned, there is a ceiling which would limit the number of refugees to 1,000 people per year, only about 50 People's Republic of China nationals have sought asylum in the United States.

My colleagues, Orwell's "1984" is a living reality in China and a living hell which these refugees would surely face. I urge a "yes" vote on the Hefley motion.

Mr. SMITH of New Jersey. Mr. Speaker, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. I thank the gentlewoman for yielding.

I just wanted to make a few observations in the time allotted here.

My friend, Ms. PELOSI, keeps talking about how this is a narrow bill.

Again, acceptance of the Hefley motion, if that were to become law, does not change that law or the Pelosi legislation one bit. We should not hide behind the, "Well, this is a narrow bill. Therefore, it should not be added to it." I think that is a dodge that has no compelling interest.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker and Members, the need for this motion to instruct is readily apparent when we reflect on the fact that in August 1988 the Attorney General issued guidelines instructing asylum adjudicators to give careful consideration to applications from nationals of the People's Republic of China.

Now, the unfortunate thing is the INS has not implemented those guidelines.

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On May 12, the Board of Immigration Appeals ruled that it was not bound by those guidelines. Now, I understand the sentiment of our colleague from San Francisco that this bill should not be used as a vehicle for expressing the need for this legislative relief. However, we all know that in the legislative process, if Members want to put a train on the track, Members have to attach one that is going through. This car belongs on this train. The motion to instruct makes sense.

I commend the gentleman from Colorado [Mr. HEFLEY] for adding to this motion to instruct the language the Senate has adopted without dissent. We cannot get much better than 95 to zip. I just want to relate to my colleagues an editorial in the April 1989 New York Times discussing the plight of Lee Yuan Pan, who fled Communist China after Chinese officials harassed his family after the birth of their second child and forced his wife to abort a third child in the fifth month of her pregnancy. He was arrested by immigration authorities in San Francisco for trying to enter the United States with a forged passport. His case is currently under appeal.

The Washington Post on April 10, 1989, reported a desperate phone call by Dr. Quan B. Li, who is living with his family in Phoenix, pursuing a doctorate in mechanical engineering at the University of Arizona in which he said:

> My wife is seven months pregnant. Even though we are living in the United States, the Chinese government has been trying to force us to return to China for an abortion. We hope that you can help us stay * * * at least until our baby is born.

Mr. MORRISON of Connecticut. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I thank the gentleman from Connecticut and commend him for his statement, and also the gentlewoman from California.

I rise in opposition to the motion to instruct conferees on the bill, H.R. 2712. It is clear that this is the wrong time and the wrong legislative procedure for the House to be considering as an amendment that which results, principally, in the population control policies of the Chinese Government.

The bill under consideration, as the gentlewoman from California has suggested, has a limited purpose, and that is to adjust the status of certain Chinese nationals who are in the United States, and to permit them to stay in the United States until the political turmoil in China has abated.

At no time during the consideration of this measure by the Subcommittee on Immigration, Refugees, and International Law, or the full committee of the Committee on the Judiciary, was the matter of population control policies of the Chinese Government raised in any fashion. Accordingly, we have no legislative record on which to base this policy.

It would be a mistake for the House to take a position in such a matter without having had the opportunity for the appropriate committee of jurisdiction to do a thorough and careful review of the issue. There are, after all, scores of issues about which Members of this body, individual or collectively, differ with the People's Republic of China, which theoretically, I suppose, could be made the subject of virtually any bill, including this one.

However, I hope that we would remember that the House is committed to supporting the Pelosi bill, as we passed it, and that is what the conferees are dedicated to. I urge my colleagues to oppose the motion to instruct.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I thank the gentleman for yielding time to me.

It was not too long ago I began receiving correspondence and visits and communications from two constituents of mine, Yaun Lee and his wife, the young man and lady from China who had one child, but who had been informed by officials of the Chinese Government that since his wife was pregnant, that she had to come back to China to have an abortion.

Mr. Speaker, the INS officials had been as nice as they could be to this young couple, but could not find the reasons for permitting them to stay in the United States, and they were going to have to go back to China and engage both in the abortion process that the Chinese Government demanded, as well as suffer the abuses of the fellow workers and cohorts of this young couple in their community.

I support the motion to instruct, and support the unanimous action that the Senate has taken here, because our Government does not have a clear enough policy to recognize the legitimate, the legitimate well-founded fear of persecution of people in China who suffered the same fate as Yuan Lee and his wife.

I want my colleagues to know this young couple, who visited me and how strongly they believed and felt the right to have a second child, and how much persecution they would suffer if they went back to China.

I believe the reason they finally won their freedom was because they were able to prove all the things that would occur to them should they return to China.

We read volumes and letters and documents and other things that indicated what would happen to them should they return. All this motion to instruct does is to concur with the unanimous action of the Senate to provide the legislative authority that our officials should give, and I am quoting, "the fullest possible consideration to applications from China who have this well-founded fear of persecution based upon the Chinese abortion policy."

The gentlewoman from California said we can have an instruction from the Attorney General to do this, but that is the problem. We need legislative authority so our officials will abide by the law, will provide this kind of support, and therefore, will permit people from China to stay here when they do suffer that well-founded fear of persecution.

I urge my colleagues to support the motion to instruct.

Mr. MORRISON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

As I said earlier, I think it is unfortunate that we are having a debate when we agree on the substance, the substance being that our immigration laws should protect people who are fleeing persecution, including the persecution of being forced or threatened with abortions or sterilization or other kind of involuntary birth control methods. It is absolutely wrong, and no one disagrees about that.

Of course, what the gentleman who made the motion, and those who support him have said, "Well, do not read what the motion to instruct says, even though it may be true that the gentleman from Connecticut knows what he is talking about, when he says that this is badly drafted legislation, the Armstrong amendment will not do what the supporters of this motion say."

Mr. SMITH of New Jersey. The gentleman is mischaracterizing what the gentleman has said. The gentleman is mischaracterizing what the gentleman if saying.

The SPEAKER pro tempore (Mr. MCDERMOTT). Regular order. The gentleman from Connecticut has not yielded.

Mr. MORRISON of Connecticut. Even though that may be true, we should pass this motion.

Now, what does this motion say? The motion says that when we go to conference on this bill, we should take this language, the Armstrong language, exactly as it is meant. Well, then the argument is, we all know that the chairman can ignore the motion to instruct, and the vote of the House, and just go ahead and do whatever he or she deems to be appropriate. That is OK. We understand that. However, the fact is that is the kind of motion to instruct that this House should be subjected to, if the idea of the maker of the motion is to say that we should grant asylum to people who are fleeing this kind of persecution, why does not the motion to instruct say that? Then we would have the unanimous vote, and we would be fine, and all Members would go ahead and support that, because we all agree about that. That would be a unanimous vote.

Now, am I just making a procedural technical point? No, I am not. Do Members know why not? Because when this motion was proposed the last time and then withdrawn in deference to the chairman, the gentleman from Texas [Mr. BROOKS], we made that precise proposal. We suggested that that kind of language be used, and we were told to forget it, that the only motion that was going to be offered was the Armstrong amendment—take it or leave it.

In conference, on the Armstrong amendment, we are going to leave it. We are going to leave it because it is bad immigration law, and it does not protect these individuals who are fleeing persecution. People who want Members to take it, even though it is bad immigration law, they could vote for the motion to instruct. However, those who would like Members to actually do the job of crafting protective immigration law, they should vote against it.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. MORRISON of Connecticut. Mr. Speaker, I yield to the gentleman from New York.

□ 1340

Mr. SCHUMER. I would just like to underscore two points made by the gentleman from Connecticut. One is that this amendment is not essential nor even necessary. It is conceded by all Members, including many speakers from the other side, that this could be done administratively. If it were essential, if it were extremely necessary, if we had a clock ticking, I could understand the urgency.

Let me bring up the second point in light of that, and that is that the chairman of our committee, the gentleman from Texas, is not here. He could not be here. He would want to be here.

Agreements were made with him about what should and what should not be in this legislation. The only reason that there has been delay in concluding the conference is that Mr. BROOKS is in the hospital, and while he is in the hospital, unbeknownst to him, for the gentleman from Colorado or any other Member to try and add this amendment, which really is not an essential amendment, which is not needed, which is not in the basis of policy, is unfair to Chairman BROOKS.

So I would ask my colleagues on both sides of the aisle to remember that there was an agreement, to remember that our chairman is in the hospital, and to remember that this issue, at least in this guise, is symbolic alone.

Mr. Speaker, I thank the gentleman for yielding, and would be happy to engage in a dialog with the gentleman from Colorado [Mr. HEFLEY] on his time.

Mr. MORRISON of Connecticut. Mr. Speaker, I would like to remind my colleagues that no Chinese national is at risk of being returned to China at this time. The President has granted through next June deferred departure to every Chinese national in the United States. So no one is at this time at risk of being returned to any kind of persecution, this persecution of forced abortion, or any other kind of persecution.

In addition to that, this House has passed H.R. 45, which would extend that protection for 3 years. Under that legislation, which ought to be taken

up in the Senate, we have protection for 3 years to every Chinese national.

Tomorrow the Attorney General could issue a regulation which made clear under the refugee act that individuals who were threatened with abortions or forced sterilizations should be treated as refugees. He has not chosen to do so.

I wish that the Members who are pressing this motion were pressing the Attorney General, because he has the power to solve this problem.

I wish that the gentleman who is making this motion had been willing to talk about more appropriate language, then we would not be wasting the House's time with this debate. These motions to instruct ought to say what they mean, and if they do not mean what they say, they ought to be debated.

Mr. Speaker, I reserve the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume. There are two or three points that I want to address. One that comes up repeatedly is that the administration could do this simply by the Attorney General making the decision.

The Attorney General did make the decision when the Attorney General was named Meese and the Attorney General made the decision when the Attorney General was named Thornburgh. But it is not happening.

The reason it is not happening is because the Board of Immigration Appeals and the immigration judges do not feel this applies to them.

Let me read the ruling on this:

> The respondent initially submits that the board should apply to this case certain policy guidelines announced by Attorney General Meese on August 5, 1988.

That is what we are talking about. These guidelines, however, were directed to the Immigration and Naturalization Service, rather than the immigration judges and the board.

In other words, they do not feel this applies to them and they are not applying the rule as if it did apply to them.

It has been suggested that this would better fit on House bill 45. House bill 45 probably will not get through the Senate and probably will be vetoed by the President. So we have not resolved this problem.

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. HEFLEY. I yield 1 minute to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, a comment was made a moment ago that the Attorney General could solve this. What about Congress? Since when do we shuffle off all of our responsibility and say let the Attorney General, let the administration, do it?

We have a responsibility. We now have the vehicle. I would suggest to my colleagues we ought to vote for the Hefley motion.

We keep hearing there is no disagreement on the problem. I think there ought to be a unanimous vote for this motion.

Mr. MORRISON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Colorado [Mr. HEFLEY] quite understandably does not know the details of how immigration law is administered in this country. The reason that the action by Attorney General Meese has been ineffective is that it was not done in an effective fashion.

It is a memo to the Commissioner of INS. The Commissioner of INS is not the immigration judge. Therefore, a memo to the Commissioner does not bind the immigration judges.

The problem is that the Attorney General did not issue a regulation. The Attorney General is superior to the immigration judges. He appoints them. Anything they do can be reviewed by him. He can review every one of these cases. He has shown in the case of John Dougherty, who has been held in New York for years and years, that he can review any case. He has reviewed that twice on his own motion. He can review an immigration judge decision denying asylum and he can take it in his own jurisdiction and grant asylum.

So there will not be one case of someone who is going to be denied asylum if the Attorney General wants to prevent it. He has the authority.

Second, the Attorney General can issue a regulation and solve this problem. The gentleman says well, just because he can solve the problem, we should not pass legislation. Fine. This legislation will depend on the Attorney General issuing regulations to implement it. It is not self-executing. So we get absolutely no farther down the road by passing this motion than we are today. We rely on the Attorney General to do his job.

The Attorney General is the one that ire of the gentleman should be directed to.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield 1 minute to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding.

As the author of the legislation which the instruction would address, I really urge all Members in the House of Representatives, especially those who gave me the honor of cosponsoring the legislation, to vote against this motion to instruct.

With the guidance and under the leadership of the chairman of the full Committee on the Judiciary, Mr. BROOKS, we were able to bring this bill to the floor of the House of Representatives and secure its passage in record time, because of his interest in shaping the legislation. He was very much opposed to having the legislation be anything but the simple bill that it is, and that it would not be incumbered.

This gives us an opportunity to give some action to the rhetoric we have all expressed about helping the Chinese students and supporting their fight for democracy.

I urge my colleagues to resist and vote against this motion to instruct. Let us go forward in an uncomplicated way and not embroil the students in further controversy.

We hope to help them. Let us be part of that solution. Let us be part of their fight for democracy. Please, as I said, under the guidance of the chairman, this bill was shaped and guided through the subcommittee and full committee. Let us take his lead today and vote against the motion to instruct.

Mr. MORRISON of Connecticut. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HEFLEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this presents a bit of a dilemma. It seems like what all Members are saying is that we agree with the principle of this. We agree that a person should not be made to have an abortion if they do not want one. We agree that a person should not be made to be sterilized if they do not make that choice themselves.

Yet we are hung up on some kind of jurisdictional kind of thing. We have the gentlewoman from California saying she wants a clean bill. I can understand the gentlewoman's pride of authorship about this bill, and it is a good bill.

But when in the House of Representatives have we ever had a clean bill? Constantly our bills are multiple decisions that have to be made, all wrapped together into a single bill. At least this is all part of the same subject, which often is not the case at all.

Some say we should let the Attorney General do it. He has tried to do it, he has not done it. Maybe it is his fault, maybe it is not his fault. I do not know whose fault it is.

The point is today in the House of Representatives we have the ability to correct this situation with this simple amendment and go to conference and agree upon it. This simple thing will correct this and we will not be sending these people back to China to face this kind of absolute outrageousness that occurs there.

□ 1350

Madam Speaker, I would like to share with my colleagues in closing a

little item from the February 26, 1989, Washington Post:

* * * The villagers were informed that all women had to report to the tent for abortions or sterilizations or there would be grave consequences. * * * The women who refused were taken by force, operated on, and no medical care was given. Women nine months pregnant had their babies taken out. * * * We saw many girls crying, heard their screams as they waited for their turn to go into the tent, and saw the growing pile of fetuses build outside the tent, which smelled horrible. * * * Since 1987 there has been a tremendous increase in the number and frequency of the teams that move from town to town, and to nomad area. "Witness to China's Shame", Washington Post, Blake Kerr, February 26, 1989, p. C1.

Madam Speaker, I mean this is what we are talking about here. We are not talking about jurisdiction. We are not talking about the details of whether this was done correctly or not.

As my colleagues know, many of us, every time we get up to try to present something here, there is somebody that will say, "Oh, you're not on the committee, so you shouldn't have any say in this issue because you're not on the right committee."

As my colleagues know, this is the place that we have to deal with some of the areas that we are interested in on the floor of the House of Representatives.

Madam Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Ms. SLAUGHTER of New York). The question is on the motion to instruct offered by the gentleman from Colorado [Mr. HEFLEY].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HEFLEY. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 300, nays 115, not voting 18, as follows:

[Roll No. 333]

YEAS—300

Andrews	Bonior	Clarke
Applegate	Borski	Clement
Archer	Bosco	Clinger
Armey	Brennan	Coble
Baker	Broomfield	Coleman (MO)
Ballenger	Browder	Combest
Barnard	Brown (CO)	Condit
Bartlett	Bruce	Conte
Barton	Buechner	Cooper
Bateman	Bunning	Costello
Bennett	Burton	Coughlin
Bentley	Byron	Cox
Bereuter	Callahan	Coyne
Bevill	Campbell (CA)	Craig
Bilbray	Campbell (CO)	Crane
Bilirakis	Carper	Dannemeyer
Billey	Chandler	Darden
Boggs	Chapman	Davis
de la Garza	Kyl	Roberts
DeLay	LaFalce	Robinson
Derrick	Lagomarsino	Rogers
DeWine	Lancaster	Rohrabacher
Dickinson	Laughlin	Ros-Lehtinen
Dicks	Leach (IA)	Rose
Dingell	Leath (TX)	Roth
Donnelly	Lent	Rowland (CT)
Dorgan (ND)	Lewis (CA)	Rowland (GA)
Dornan (CA)	Lewis (FL)	Russo
Douglas	Lightfoot	Saiki
Dreier	Lipinski	Sangmeister
Duncan	Livingston	Sarpalius
Durbin	Lloyd	Sawyer
Dyson	Long	Saxton
Eckart	Lowery (CA)	Schaefer
Edwards (OK)	Luken, Thomas	Schiff
Emerson	Lukens, Donald	Schuette
English	Madigan	Schulze
Erdreich	Manton	Sensenbrenner
Fawell	Martin (IL)	Sharp
Fazio	Martin (NY)	Shaw
Feighan	Mavroules	Shumway
Fields	Mazzoli	Shuster
Flippo	McCandless	Sikorski
Foglietta	McCloskey	Sisisky
Gallegly	McCollum	Skeen
Gaydos	McCrery	Skelton
Gejdenson	McCurdy	Slattery
Gekas	McEwen	Slaughter (VA)
Geren	McGrath	Smith (NE)
Gillmor	McHugh	Smith (NJ)
Gingrich	McMillan (NC)	Smith (TX)
Glickman	McMillen (MD)	Smith (VT)
Goodling	McNulty	Smith, Denny (OR)
Gordon	Meyers	Smith, Robert (NH)
Goss	Michel	Smith, Robert (OR)
Gradison	Miller (OH)	Snowe
Grandy	Miller (WA)	Solomon
Grant	Mollohan	Spence
Guarini	Montgomery	Spratt
Hall (OH)	Moorhead	Staggers
Hall (TX)	Morrison (WA)	Stallings
Hamilton	Murphy	Stangeland
Hammerschmidt	Myers	Stearns
Hancock	Nagle	Stenholm
Hansen	Natcher	Stump
Harris	Neal (MA)	Sundquist
Hastert	Neal (NC)	Swift
Hatcher	Nelson	Tallon
Hayes (LA)	Nielson	Tanner
Hefley	Nowak	Tauke
Hefner	Oberstar	Tauzin
Henry	Obey	Taylor
Herger	Olin	Thomas (CA)
Hiler	Owens (UT)	Thomas (GA)
Hoagland	Oxley	Thomas (WY)
Hochbrueckner	Packard	Traficant
Holloway	Pallone	Traxler
Hopkins	Parker	Unsoeld
Horton	Parris	Upton
Houghton	Pashayan	Valentine
Hoyer	Patterson	Vander Jagt
Hubbard	Paxon	Vento
Huckaby	Payne (VA)	Visclosky
Hughes	Penny	Volkmer
Hunter	Perkins	Vucanovich
Hutto	Petri	Walgren
Hyde	Pickett	Walker
Inhofe	Pickle	Walsh
Ireland	Porter	Watkins
Jacobs	Poshard	Weber
James	Price	Weldon
Jenkins	Pursell	Whittaker
Johnson (SD)	Rahall	Whitten
Kanjorski	Ravenel	Wise
Kaptur	Ray	Wolf
Kasich	Regula	Wylie
Kennedy	Rhodes	Young (AK)
Kildee	Richardson	Young (FL)
Kleczka	Ridge	
Kolbe	Rinaldo	
Kolter	Ritter	

NAYS—115

Ackerman	Boehlert	DeFazio
Akaka	Boucher	Dellums
Alexander	Boxer	Dixon
Anderson	Brown (CA)	Downey
Annunzio	Cardin	Dwyer
Aspin	Carr	Dymally
Atkins	Clay	Edwards (CA)
Bates	Coleman (TX)	Engel
Beilenson	Collins	Espy
Berman	Crockett	Evans
Fascell	Levine (CA)	Savage
Fish	Lewis (GA)	Scheuer
Flake	Lowey (NY)	Schneider
Ford (MI)	Machtley	Schroeder
Ford (TN)	Markey	Schumer
Frank	Marlenee	Shays
Frenzel	Martinez	Skaggs
Frost	Matsui	Slaughter (NY)
Gallo	McDermott	Smith (FL)
Gephardt	Mfume	Smith (IA)
Gibbons	Miller (CA)	Solarz
Gilman	Mineta	Stark
Gonzalez	Moody	Stokes
Gray	Morella	Studds
Green	Morrison (CT)	Synar
Gunderson	Mrazek	Torres
Hayes (IL)	Murtha	Torricelli
Johnson (CT)	Oakar	Towns
Johnston	Ortiz	Udall
Jones (GA)	Owens (NY)	Waxman
Jones (NC)	Panetta	Weiss
Jontz	Payne (NJ)	Wheat
Kastenmeier	Pease	Williams
Kennelly	Pelosi	Wilson
Kostmayer	Rangel	Wolpe
Lantos	Roe	Wyden
Lehman (CA)	Roukema	Yates
Lehman (FL)	Roybal	
Levin (MI)	Sabo	

NOT VOTING—18

Anthony	Courter	McDade
AuCoin	Early	Moakley
Brooks	Florio	Molinari
Bryant	Garcia	Quillen
Bustamante	Hawkins	Rostenkowski
Conyers	Hertel	Yatron

□ 1414

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. AuCoin against.

Mrs. ROUKEMA, Mr. DIXON, and Mr. GALLO changed their vote from "yea" to "nay."

Messrs. ROSE, BONIOR, OBERSTAR, DERRICK, McMILLEN of Maryland, SAWYER, FAZIO, and CONDIT, Mrs. UNSOELD, Mrs. BENTLEY, Mr. GEJDENSON, Mr. COYNE, and Mrs. MEYERS of Kansas changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. KENNELLY. Mr. Speaker, last Thursday on Rollcall No. 333 I voted no. I intended to vote aye, and I ask unanimous consent that my statement appear in the permanent RECORD immediately following Rollcall 333.

The SPEAKER. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute).

Mr. GINGRICH. Madam Speaker, I ask for this time for the purpose of receiving the schedule from the distinguished majority leader. Madam Speaker, I understand this is to be for the rest of the day.

Mr. GEPHARDT. Madam Speaker, will the distinguished Republican whip yield?

Mr. GINGRICH. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Madam Speaker, I thank the gentleman for yielding, and I beg the indulgence of the House. I have a raspy throat today. I am sorry for that.

I just wanted to announce to the Members that there will be no more votes today. We will be taking up the oilspill legislation. We will have general debate. We will not have votes, and there will be no votes tomorrow.

On Monday we will have votes starting at 4:30 on suspensions. We still are scheduling votes for Tuesday. We realize many Members have election that day. We will try to give Members information on Monday as to our final plans on Tuesday.

The reason we are scheduling votes on both days is because we have a debt ceiling that we have to deal with next week.

OIL POLLUTION PREVENTION, RESPONSE, LIABILITY, AND COMPENSATION ACT OF 1989

The SPEAKER pro tempore. (Mrs. KENNELLY). Pursuant to House Resolution 277 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1465.

□ 1418

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes, with Mr. PEASE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

The gentleman from North Carolina [Mr. JONES] will be recognized for 30 minutes; the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes; the gentleman from California [Mr. ANDERSON] will be recognized for 30 minutes; the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes; the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes; the gentlewoman from Rhode Island [Ms. SCHNEIDER] will be recognized for 30 minutes; the gentleman from California [Mr. MILLER] will be recognized for 15 minutes; and the gentleman from Alaska [Mr. YOUNG] will be recognized for 15 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

□ 1420

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we bring to the floor the Oil Pollution Act of 1989. It is a comprehensive and tough bill, and I am proud to be its lead sponsor and proud of the work all of its supporters have put in to get to this day.

Our bill says that the first defense against oilspills must be prevention. We should keep oil out of the water to begin with. To do this, our bill toughens standards for those who operate oil tankers. It beefs up the Coast Guard's vessel traffic systems to help prevent collisions. And it establishes the means by which oil tankers will be built with the best designs and operated in the safest ways possible.

Try as we might, we cannot eliminate every possibility of human error. Therefore, our bill greatly enhances the ability of Government and the private sector to respond quickly to contain and clean up an oilspill. We call for a simplified chain of command, with clear authority and ultimate responsibility resting with the President. We establish state-of-the-art strike teams that will be ready to respond instantly to an oilspill. We mandate that vessels, facilities, and localities have in place ahead of time, contingency plans describing how they will respond to spills and that they demonstrate that these plans work, not only on paper, but in real life.

Our bill also lays out the legal liabilities of those who cause oilspills, not the least of which is the responsibility to cover cleanup costs and damages. In some instances, if these costs exceed thresholds set out in the bill, an oil industry financed fund will cover the remaining expenses. However, if the spiller is guilty of gross negligence, willful misconduct, or violates Federal safety, construction, and operating standards, he will have unlimited liability. In all cases, it is the spiller and the oil industry which will pay the costs, not the taxpayer.

Finally, we insist that those injured by oilspills must be fully and swiftly compensated for their loss, including property damage, lost income, damage to natural resources, and lost taxes. We do not want claimants to have to wait years upon years to recover their losses while lawsuits drag on in the courts. Instead, if they are unable to reach a statement with the spiller within 90 days, they can be compensated from the oil industry financed fund, and the fund will go after the spiller for reimbursement.

This is the strongest oilspill bill ever presented to Congress. It is the result of 14 years of effort in the House, and the Merchant Marine and Fisheries Committee has been involved every step of the way. More than once during these years of frustration, it was said that it would take a major oilspill disaster to achieve enactment of this bill. Unfortunately, this has proved true. The catastrophe of the *Exxon Valdez* and the tragedies of the other oilspills this summer have made this bill an exceedingly popular cause. Those who for years ignored our pleas to become involved with, and concerned about, the oilspill bill have finally heeded the call and our wishes have now been granted in spades.

This is a superior piece of legislation. It is highly protective of the environment. It is vastly stronger than current Federal laws, which are woefully inadequate. It is tougher than the oilspill bills approved by the House in previous Congresses. And, it is equal to or stronger in virtually every respect to the bill sponsored by Senate Majority Leader MITCHELL—a bill hailed by environmentalists and passed in that body by a vote of 99 to 0.

As long as our country runs on oil, we will have crude oil and refined product transported through our waters. This being the case, it is incumbent upon the Congress to make sure that our laws promote the environmentally safe transport of oil. Our bill, we present to you today, achieves this goal and it deserves the support of every Member of this House.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I rise today in strong support of H.R. 3394, the omnibus oilspill bill. We have spent 14 years now trying to get comprehensive oilspill legislation signed into law. Unfortunately, the tragic events surrounding the *Exxon Valdez* brought home with a vengeance the urgent need for substantial improvement of all aspects of our oilspill response system.

This bill significantly improves our oil transportation system in three areas. First, it makes substantial improvements in the tanker safety system. The best way to deal with an oilspill is not to have one. This bill provides for vessel traffic control systems around the Nation to be funded from a fee on all oil coming across our shores. It provides the Coast Guard with the authority to assure that people with histories of alcohol abuse are not at the helm of supertankers. This language was originally contained in my Prince William Sound Oil-spill Response Act.

Second, it provides for significant improvements in the response capability in the unfortunate event of a spill. It clarifies that the Coast Guard is in charge. This confusion about who was

in charge was a major problem in the *Exxon Valdez* incident. This simple but critical change originated in my Prince William Sound bill. The bill also requires comprehensive oilspill contingency plans for all oil terminals, ships, and other facilities. It funds seven regional strike teams for the Coast Guard out of the national oilspill fund to assure that there will be additional Federal response capability.

The third area where this bill makes improvements is in the area of compensation. While it may not be perfect, and some amendments may be necessary, it does provide an unlimited amount of recovery from the Federal fund for all those who are injured by an oilspill. While we debate the merits of the Miller-Studds preemption amendments, let's not lose sight of how strong this bill already is in our attempts to make it stronger.

While this is national legislation, in scope there are several provisions that apply specifically to Alaska, where 25 percent of America's oil comes from. First, I want to thank my good friends Chairman JONES of the Merchant Marine and Fisheries Committee, Chairman ANDERSON of the Public Works Committee, and Chairman TAUZIN of the Coast Guard and Navigation Subcommittee for their assistance in including those Alaska specific sections of H.R. 2158, the Prince William Sound bill, into the legislation we are debating today. Those provisions include:

Requirements for a two-tug escort in and out of the Prince William Sound.

That a qualified pilot be at the helm to a point in the sound where a tanker would be well past Bligh Reef.

Requirements that a spill response capability be set up to deal with a spill of at least 200,000 barrels anywhere in Prince William Sound.

It provides training for local residents that would allow them to assist in responding to future spills.

It provides for the prepositioning of oilspill response equipment throughout the sound in order to facilitate a better and faster response to future spills.

It provides for the Coast Guard to upgrade the vessel traffic safety system at Valdez to include the entire sound.

Aside from the sections that were originally included as part of my bill, H.R. 2158, there are several other sections of this legislation that directly benefit the people of Alaska. They include:

The removal of a legal impediment for those injured by the *Glacier Bay* spill in Cook Inlet to be able to recover for damages that they suffered as a result of a fly-by-night tanker operator spilling oil in the height of the salmon season, and then declaring bankruptcy before paying more than a handful of the claims or cleanup costs.

This bill also allows for communities in Alaska to recover the full measure of their damages from the TAPS liability fund.

The research and development title of the bill provides money for Alaska to do cold water oilspill research and provides for long term monitoring of the areas affected by the *Exxon Valdez* spill.

Mr. Speaker, while this bill is far from perfect and might benefit from several well thought out amendments, it does represent the best efforts of several committees who took volumes of testimony and spent thousands of man-hours in crafting this balanced legislation. It deserves our support.

Let's not give in to cheap grandstanding tactics that harm the Nation's energy security while doing little to improve our oilspill liability, prevention, and response capability. Let's move forward as expeditiously as possible to pass this bill, go to conference with the Senate, and get it enacted this year.

□ 1430

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would announce that inasmuch as we have four different committees participating in general debate today, it is the preference of the Chair that the committees go in serial order, that is to say each committee complete its portion of the debate before we move on to the next committee.

Mr. JONES of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I have been working to enact a comprehensive oil pollution liability and compensation bill for 14 years. This year—thanks to Exxon—I believe we will finally succeed.

The bill before us reflects the work and concerns of several House committees, of Members from both sides of the aisle, of State and local officials, and of citizens from across this country.

As a result, this bill is stronger, in almost every important respect, than the companion legislation approved by the Senate last August. It quadruples the Federal limit on liability for oil spills; it guarantees that our fishermen and beachfront property owners will be compensated promptly and in full for any oil spill damages they might suffer; it will accelerate oil spill cleanup efforts; and, above all, it will help prevent future spills.

As I said, many Members, from both parties, deserve credit for their work on this legislation. But in my mind, four stand out.

Chairman WALTER JONES has fought for this bill for almost a decade; Mr. YOUNG of Alaska has effectively championed the interests of his State and its oil spill-scarred citizens; Mr. NOWAK, of the Committee on Public Works, battled to strengthen this bill both during and after its formal consideration in committee; and Mr. MILLER of California has worked closely with me on amendments designed to make this good bill even better.

Because this good bill can be even better.

Later today, I will be offering an amendment to protect the right of State governments to maintain their own oil pollution liability and compensation laws.

I will do so because it simply makes no sense, especially now, with Prince William Sound still contaminated by oil, to preempt the right of State governors and State legislatures to protect their own people; to protect their own property and their own environment in the way that they feel is best.

As Representative YOUNG can attest, no one has spoken out more forcefully than the State of Alaska in responding to the *Exxon Valdez* spill, in serving as an advocate for the fishermen who lost income and for the fish and wildlife that were contaminated, and in trying to make Exxon live up to its promises and its responsibilities under the law.

President Bush and Secretary Skinner have been willing to accept at face value the assurances of Exxon. But the State of Alaska—and the American people—have not.

States have the right to protect their own citizens. They have a right to pass laws and issue regulations to protect their natural resources; they have a right to a voice in oil spill cleanup operations; they have a right to tell a company like Exxon that "what you have done is not enough, you must do more."

The bill before us would take away those rights. The amendment I will offer would preserve them: for Alaska, for California, for Florida, for every State in this Union.

It is my hope that we will approve a bill today that is strong, but fair; that we will, with the blessings of the leadership, begin work immediately in conference; and that we will—before this year is out—send a comprehensive oil pollution liability bill, 14 years in the making, to the President to be signed into law.

Although this legislation has been in the works for 14 years, it derives much of its urgency, as Members know, from that night in Alaska 7 months ago. The night—Good Friday eve—when 11 million gallons of crude oil spilled into one of the richest and most beautiful bodies of water on Earth. Not as a result of a storm or natural disaster, but because of inexcusable human error. Error on the part not of some fly-by-night foreign flag ship operator,

but by Exxon, one of the largest and richest corporations in the world. Error compounded by sins of complacency and greed that spanned more than a decade on the part of Exxon, on the part of Alyeska, and on the part of the Federal Government.

When Congress was asked to authorize the Alaska pipeline, we were told that only double-hulled tankers would carry Alaska pipeline oil. That promise was broken in 1975.

We were told that the Alyeska pipeline company would maintain an around the clock oilspill strike team. That promise was broken in 1981.

We assumed that Alyeska would be required to meet Federal pollution laws. But for years, they discharged sludge into Valdez Harbor and got away with it.

We assumed that Exxon would be required to meet Federal shipping laws. But for years, they ignored those laws and got away with it.

We were assured that Alyeska had an oilspill contingency plan that worked. But on that Good Friday last, we found out that the barge they needed was in drydock; the people they needed were asleep; the emergency lights they needed were being used in the Valdez winter carnival; and, this time, they did not get away with it.

Nor have they learned from these past mistakes. For since the spill, the false promises have continued.

Exxon promised to clean up the spill completely. But it hasn't and now it wants to stop.

The President promised in photo opportunity after photo opportunity that Prince William Sound would be fully restored. But now he says that a halfway cleanup is good enough, let nature do the rest.

Exxon's president said in public testimony before Congress that his company would accept full responsibility for the spill. Now he is blaming the Coast Guard, suing the State of Alaska and complaining about mistreatment from national wildlife organizations.

Exxon wants our sympathy, but our job is to ensure justice.

Our job in this legislation is to establish certain legal principles that cannot be evaded by false promises or empty assurances.

Our job is to make certain that, when a spill occurs, the polluter—not the taxpayer—will pay.

Our job is to make certain that oilspills will be cleaned up, not partially, but fully, to the satisfaction not only of the Federal Government, but of State officials, as well.

Our job is to make certain that the victims of oilspills will be compensated—fully and quickly.

Our job is to make certain that national resources damaged by a spill are completely restored, and that if that is not possible, equivalent resources are acquired.

Our job is to make certain that we do everything possible to see that future tragedies such as the *Exxon Valdez* spill do not occur. That means higher penalties; tougher tanker construction and operating safety standards—for foreign, as well as U.S. tankers; better navigation control systems; and additional protection for areas of special environmental importance.

Our job is to make certain that we are better prepared to respond to oilspills that do occur; that we have better planning; better equipment; and a better scientific understanding of what happens to oil in water.

Our job, in short, is to pass a comprehensive oil pollution bill that guarantees effective prevention; full restoration; fair compensation; and rapid response.

The *Exxon Valdez* spill is all the evidence we need of how important our task is, and of how urgent it is we live up to our responsibilities.

I am confident that we, in this House, will meet this test. The bill before us brings us close; the amendments that will be offered today will bring us all the way.

Before I close, there are a few sections of the bill that I had a particular hand in and the intent behind which I would like to make clear.

First, section 4202 of the bill amends the Federal Water Pollution Control Act to create a new paragraph 311(j)(4) that requires the owners of oil storage facilities and tank vessels to develop oilspill response contingency plans to be filed with the Secretary of Transportation. No facility or vessel may operate if they fail to file such a plan or if they fail to operate in compliance with a plan once it has been submitted.

I believe it is important to note that the failure, without good cause, of a responsible party to act in compliance with an applicable contingency plan may constitute a failure "to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities" for the purposes of section 1004(c)(2). In that instance, the responsible party shall not be permitted to a limitation of liability for the incident under section 1004(a).

Second, I want to clarify our intent with respect to section 1006, pertaining to natural resource damages. The overriding purpose of this section is to guarantee that the public will be compensated fully and fairly for damages to natural resources resulting from oil pollution.

This section requires the Department of Commerce to develop regulations for assessing those damages and for specifying what the measure of damages shall be. It requires that sums recovered by trustees be used to restore or repair the natural resources that were damaged. And it would establish a civil penalty for cases where a discharge of oil results in harm to natural resources that is so severe the resources cannot be fully restored or repaired.

Perhaps the most controversial issue addressed by this section of the bill is the question of what the appropriate measure of damages should be in the event that natural resources are damaged by an oilspill. The language in the bill that speaks to this point was added, at my request, following formal consideration by the two committees of principal jurisdiction and reflects an important part of the effort to resolve differences between the leadership of the two committees and myself and Representative MILLER of California.

Under the bill, the measure of damages for injury to natural resources shall be, first, the cost of restoring, rehabilitating, replacing or acquiring the equivalent of, the damaged natural resources; plus second, the diminution in value of those resources pending restoration.

This language is intended to reflect no more nor less than the measure of damages cited by the U.S. Court of Appeals when it recently overturned natural resource damage assessment regulations issued by the Department of the Interior under the Superfund Act—*State of Ohio et al.* v. *Department of the Interior,* No. 86-1529 July 14, 1989. Thus, the measure of damages shall include, to quote the court, "restoration costs" and compensation for "reliably calculated use values," and "other factors in addition to use values."

A third provision of the bill that I would like to emphasize pertains to the adequate manning of both U.S. and foreign flag oil tankers operating in U.S. waters.

Twelve years ago, the Liberian flag tanker *Argo Merchant* ran aground off Nantucket, because in the eloquent, but understated words of then Coast Guard Admiral Mike Benkert, "the master and the navigator screwed up."

Largely in response to that incident, the International Maritime Organization developed, with U.S. support, an international agreement on standards of training and watchkeeping. Although the United States has never ratified that agreement, the standards embodied in it can fairly be said to constitute customary international law.

Unfortunately, last June, the Greek-flag tanker *World Prodigy* ran aground off Newport, RI, and spilled almost 300,000 barrels of oil. The captian of the vessel has blamed the incident on the fact that he was so shorthanded that, at the time it occurred, he had gone 36 hours without sleep,

and was acting not only as the captain on the bridge, but as lookout, radio operator and navigator, as well.

That same month, the Uruguayan flag *Presidente Rivera* struck a reef in the Delaware River after its captain, who was on his first voyage in that position, and his chief mate, who was on his second, decided to drop anchor while the vessel was fully underway.

More than 90 percent of the oil we import enters the United States on foreign flag tankers. And the number of foreign flag tankers entering U.S. ports has risen by 57 percent during the last 3 years. How do we make certain that the people who operate those tankers are qualified to do so? Clearly, the development of the international agreement on standards of training and watchkeeping is not enough.

The issue raised in both the *World Prodigy* case and the *Presidente Rivera* case is not whether the legal standards of the flag state were sufficient but whether those standards were being effectively enforced by the flag state. In each of these cases, the obvious answer was no.

Section 4106 requires the Secretary of Transportation to evaluate the manning, training, qualification and watchkeeping standards of any nation whose vessel is involved in a significant maritime casualty in U.S. waters. If the Secretary determines that the nation has failed to maintain and enforce standards that are at least equivalent to customary international law, the Secretary shall prohibit vessels issued documentation by that country from entering the United States.

The purpose of this section is to demonstrate our determination to protect U.S. citizens and U.S. resources from substandard, fly-by-night foreign flag operations such as the *Argo Merchant, the World Prodigy* and *The Presidente Rivera.* The language in H.R. 4106 gives the Secretary all the authority needed to provide that protection. It is our intent that this authority be used aggressively and firmly in behalf of U.S. interests.

It is equally important that U.S.-flag tankers be adequately manned and operated. In its excellent report on the *Exxon Valdez* spill, the State of Alaska questioned the Coast Guard's decision in May 1988 to authorize reduced manning levels and unattended operating rooms in the *Exxon Valdez* and its sister vessels. The State also criticized Exxon for first failing to comply with the certificate of inspection for the *Exxon Valdez*; Second, failing to plan for crew rest and alertness on trips from Valdez; third, failing to tell the Coast Guard the truth about the extent of overtime work needed on its vessels; and fourth, for flatly and continually failing to obey the legal requirement that watch officers have at least six hours of rest within the 12 hours prior to getting underway.

Section 4110 of the bill requires the Secretary of Transportation to study and report back to Congress within 1 year on the adequacy of existing laws and regulations, including those governing manning and watchkeeping standards, to ensure the safe navigation of vessels transporting oil and hazardous substances in U.S. waters.

I believe it is essential for the Secretary and for the Coast Guard to understand that we in Congress do not view this requirement as "just another" study. There is growing concern, stemming only in part from the *Exxon Valdez* incident, that the executive branch may have grown lax in its regulation of the U.S.-flag tanker fleet. It is especially important that the Secretary address the question of the enforceability of safety standards, because it does little good to set standards and then ignore them.

Mr. Chairman, the time for talking about oil pollution is past. The time for strong legislative action has come. Let us proceed. Today in the House. Beginning, tomorrow, in negotiations with the Senate. And before this year is out, a new law, a landmark law.

That is our job. Let's get it done.

Mr. SAXTON. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, 7 months ago an 11-million-gallon oilspill in Alaska created a silent spring in Prince William Sound. But that was only one incident in a series of spills to follow. And as we stand here today, there should be no question in anyone's mind that our Federal laws have been too lax when it comes to the prevention and cleanup of oilspills.

Just like California has continued to suffer the aftershocks of a destructive earthquake, the disastrous 11-million-gallon oilspill in Alaska 8 months ago has seemingly touched off a series of aftershocks as well.

States like New Jersey, Pennsylvania, Rhode Island, and Texas have all had a chance this year to experience the damaging effects and problems of oilspill, and learn firsthand just how lax our current Federal law has been.

Today, we have an opportunity to change all that. Today, we have an opportunity to demonstrate to the American people that we intend to protect the environment. And today, we have an opportunity to support a readiness plan.

Mr. Chairman, I want to thank and congratulate our chairman, Mr. JONES, and our ranking minority member, Mr. DAVIS, for the fine job they have done in keeping this legislation moving forward and in bringing it to the floor. What we have before us is legislation built through bipartisan cooperation, and genuine concern.

It was on May 9 of this year that a number of us who represent coastal States came together, and introduced oilspill response legislation. The key elements of that initiative have been incorporated in the omnibus bill before us today.

We proposed regional response teams—Coast Guard certified, and equipped to handle the types and sizes of spills which are possible in their particular locales. Mr. Chairman, it's in the bill.

We proposed that these response teams to submit to federally approved training, and for their equipment to be tested and inspected. It's in the bill.

We proposed periodic drills, without prior notification, to ensure that response teams are capable of providing the immediate remedial action that is needed. It's in the bill.

And we proposed that the industry—not the American taxpayer—foot the bill for these response teams. For all sakes and purposes, this provision is in the bill as well.

This omnibus bill was borne from the long-sought oilspill liability fund—an idea which was conceived 10 years before I was elected to Congress. In that sense this is not just a corrective measure, but landmark legislation.

□ 1440

Mr. JONES of North Carolina. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I first want to thank the chairman, the gentleman from North Carolina [Mr. JONES] and the entire membership of the Subcommittee on Coast Guard and Navigation, and the full Committee on Merchant Marine and Fisheries that have done such a Herculean job in putting a good bill together. This is one tough bill. Make no mistake about it. This bill is tougher than the Senate version, and it says to the people of America, "We will not put up with the conditions that we saw in Alaska any more, anywhere in America."

This bill focuses on both prevention of oilspills in America and prevention of the awful contamination that occurs when an oilspill unfortunately reaches the point of disaster as we saw in Alaska. This bill focuses on strike teams and contingency planning. For the first time, it sets up a reliable guaranteed source of compensation for victims of oilspills in America to replace a patchwork of laws and systems that already have been proven to be so inadequate. This bill has not justified $500 million or a $1 billion fund, it has been an open-ended fund, and it says that the industry keeps contributing to that fund until all claims are paid, until all recovery is complete, until the natural resources damages are completely paid for. This is one tough bill.

I want to highlight several features of it insofar as illustrating how much

improvement we have seen in the laws that have been offered to this body over the last 12 years. In the area of liability limits, this House bill goes beyond the Senate bill, and does it in what I believe to be a neat way. The Senate bill says the spillers, that before the Nation's master fund or big billion-dollar-plus fund will be tapped, spillers have a personal liability. If spillers are grossly negligent, they have a complete liability. However, in all cases they have some liability, so they better act responsibly, and not create spills. On the Senate side, that liability is $1,000 per-gross-ton. In our bill, it is $600 per-gross-ton to the transporter, but we added a $600 per-gross-ton additional liability on the owner of the oil.

Let me tell Members how it works: It accumulates to $1,200 per-gross-ton liability, better than the Senate; and it says to the owner of the oil, "You have a liability, too, so you better pick a good transporter, a responsible one, before you bring the oil into America's harbors, bays, waterways and rivers." It says our liability limits are stronger, and the owner of the oil has a responsibility to act prudently in selecting a good transporter.

Second, the control of the cleanup is placed in the hands of our Coast Guard, and our Coast Guard can step in immediately and run that cleanup. It raises the fines for spillers to the level of fines in our Clean Water Act. Finally, it centers its attention on R&D, on bringing up an archaic and obsolete system of research and development up to modern standards to better address spills in the future. Finally, it protects States' rights.

When I have more time, as we will next week, I will read the way we protect States, including the right of a State to establish and maintain its own fund; the right of a State to levey civil penalties against spillers; the right of the State to participate in a contingency planning; for immediate and unquestioned access, up to $250 million of the Federal fund; for State liability laws; for personal injury and wrongful death; for State and natural resources restoration at no cost to the State; for State and local governments to promptly and fully recover the taxes from royalties that they lose in the case of a spill; and finally, to citizens that will be fully compensated for cleanup costs and damages. This is a good, tough bill.

Mr. SAXTON. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Chairman, I join in the remarks of the gentleman who just spoke in the well, the gentleman from Louisiana [Mr. TAUZIN], in characterizing this bill as a tough bill, and one which is very necessary for our shipping industry. I strongly support it. However, I support it in the form as it was reported out of the Committee on Merchant Marine and Fisheries. I say that because I think it is important for Members to recognize that there are some amendments that will be offered to this bill which I think will gut the very purpose of it. They will undermine the entire reform which the bill is designed to accomplish.

Those amendments, specifically, are the Studds-Miller amendment, and the Miller simple-negligence amendment. They must be defeated if this bill is to represent a fair, balanced, comprehensive system that actually works.

The most critical part of this new legislation will be a new $1 billion trust fund—which can go higher if needed—that will be paid for by the entire oil and gas industry—not the taxpayer.

The fund will be used to finance oil response strike teams, cleanup activities and to pay for natural resource or economic damages to both public and private parties.

As a tradeoff for requiring the oil and gas industry to pay for this $1 billion cleanup and compensation fund, the bill also includes a limitation on an individual spiller's liability, provided he or she is not guilty of gross negligence or willful misconduct.

In the case where a spiller is grossly negligent or guilty of willful misconduct—as surely would have been the case in the *Exxon Valdez* spill—the limit on liability is removed and the responsible party is fully liable.

This provision limiting liability is one of the keys on which H.R. 1465 is based—and it must be preserved if the new system is to actually work.

The Miller-Studds amendment eliminating preemption and the Miller simple-negligence amendment completely eliminate the balance which the bill is based on.

The bill has always been set up as a type of insurance fund for the oil and gas industry. The industry pays into the fund to ensure that the resources are available for immediate and complete response and cleanup, and to ensure that all victims are fully compensated.

That is why there have always been limits on liability included in the measure—just as anyone who pays auto insurance has a limit of liability—the deductible. The insurance fund which a driver pays into is there to pay for the remainder of the damages beyond the deductible.

The idea now by some to do away with limits on liability is counter to the whole idea behind the new system.

We have dramatically raised the limits of liability from previous versions of the bill. Our limits are higher than the Senate-passed bill. Clearly the spiller pays a stiff price for an accident under our bill.

As far as Federal preemption of State laws, the House has passed this provision on at least five occasions in the past and in fact has previously defeated efforts on the floor to do away with preemption.

Preemption is needed to ensure that there is one unified, simple comprehensive system available to finance full cleanup and pay fully for damages.

Without preemption, we are left with the existing patchwork of confusing and sometimes competing Federal and State laws which cause delays in cleanup and further damage to the environment. No preemption, in my mind, will result in more litigation and it will actually be worse for the environment.

The Miller-Studds amendment eliminating preemption is actually bad for the environment since it will result in foreign-based, single-vessel operators as the only oil transporters operating off our coast.

Miller-Studds will also result in more litigation and delays in both cleanup and compensation to oilspill victims. It must be defeated if we are to have an effective comprehensive oilspill response, liability and compensation system.

State oilspill liability laws are not needed because States are already very well protected under the bill—probably the single largest beneficiary in the bill.

States participate fully in cleanup decisions, including a say in when cleanup is actually completed; States can make claims against the $1 billion fund or the responsible party for their cleanup costs; they are designated as natural resource trustees; and they even have direct draw authority on the $1 billion fund.

Support the bill as reported by the committees of jurisdiction. Oppose amendments such as Miller-Studds which may sound good on the surface but which weaken the bill, and which in fact shatter the foundations it is built upon.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2½ minutes to the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Chairman, I wish to express my gratitude to the distinguished Chairman of the Committee on Merchant Marine and Fisheries for his cooperation with the Committee on Energy and Commerce in accommodating our concerns with several provisions of H.R. 1465 which affected matters within the jurisdiction of the Committee on Energy and Commerce.

Briefly, I would like to identify these changes to the Oil Pollution Act of 1989.

The preemption language of section 1018 as originally reported would have

seriously impaired the Environmental Protection Agency [EPA] and the States' ability to carry out and enforce the underground storage tank program established by the Solid Waste Disposal Act. This program authorizes EPA and the States to require corrective action with respect to releases of petroleum from underground storage tanks.

Section 1018 now addresses this problem by excuding the Solid Waste Disposal Act from actions preempted. The amendment to be offered by the gentleman from Massachusetts also addresses this problem and we are grateful to him for his cooperation.

Under the Federal removal authority of title IV, when the President retains or directs a cleanup contractor to engage in the removal of a discharge of oil, such person is only liable for gross negligence or willful misconduct. Originally this provision was broader and covered hazardous substances as well as oil. In doing so, it conflicted with the contractor liability standard established by the Superfund Amendments and Reauthorization Act of 1986. Under that act, which relates to releases of hazardous substances, a negligence standard was provided for cleanup contractors. H.R. 1465 has addressed this conflict by limiting the liability exclusion in section 4201 only to removal of discharges of oil.

Further, the prohibitions imposed in section 4202(4)(c) relating to vessel or facility contingency plans are restricted to the handling, storing, or transporting of oil and do not cover hazardous substances.

We also appreciate the committee's willingness to add section 4303 to ensure that the provisions of title IV do not affect or modify the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances or pollutants or contaminants as those terms are defined by the Comprehensive Environmental Response, Compensation, and Liability Act. The Committee on Energy and Commerce has jurisdiction over response or removal actions pertaining to hazardous substances pursuant to its jurisdiction over the Comprehensive Environmental Response, Compensation, and Liability Act.

□ 1450

Mr. SAXTON. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MIILLER of Washington. Mr. Chairman, on March 24, the *Exxon Valdez* ran aground in Prince William Sound. That accident marked the beginning of one of the worst oilspills in history. Today, we are taking up a bill which in hindsight should have been passed into law years ago.

The *Exxon Valdez* caught the attention of the Nation and brought the tragedy of oilspills into the homes of Americans from coast to coast. But, Mr. Chairman, we know that other oilspills have happened. In my State, there have been three major oilspills in recent years. We have learned that existing Federal law is not clear enough and does not work well enough to insure that all the damage will be cleaned up.

Mr. Chairman, I have worked on this bill for the past 5 years and I've toured oilspill sites in my State. The bill we take up today is based on practical experience, tragic lessons, and much hard work. It is not perfect. We need to preserve the rights of States like my own State of Washington, to have their own cleanup laws. We need to insure that tankers entering Puget Sound are escorted so that we don't have an accident like Prince William Sound in Puget Sound. I will support amendments to insure that these provisions are in the bill.

Mr. Chairman, the $1 billion cleanup fund in this bill will be paid for by the oil companies. The fund will help preposition equipment and help us plan for a major oilspill. We can and should be prepared to clean up a spill. But, Mr. Chairman, more important, we must prevent spills from happening. A dollars worth of prevention is worth a billion dollars of cure.

Mr. Chairman, I urge support of this legislation.

Mr. JONES of North Carolina. Mr. Chairman, how much time does this side have left?

The CHAIRMAN. The gentleman from North Carolina [Mr. JONES] has 4½ minutes remaining, and the gentleman from New Jersey [Mr. SAXTON] has 4 minutes remaining.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. NOWAK], the chairman of the Subcommittee on Water Resources.

Mr. NOWAK. Mr. Chairman, I am pleased to rise in support of H.R. 1465, the Oil Pollution Act of 1989. I urge each of my colleagues to join me in support of this legislation.

The Congress has had the issues of oilspill liability and compensation pending before it for more than a decade. Unfortunately, the House and Senate have been unable to resolve the differences so as to have the legislation enacted.

Each year, over ten thousand oilspills are reported which either pollute, or threaten to pollute, the United States' waters. Although the majority of these spills are minor and are routinely removed, or require no removal, questions have remained whether the current system of Federal and State laws could provide adequate response to a major spill.

Unfortunately, on March 24, 1989, the *Exxon Valdez* ran aground in Prince William Sound, AK, and clearly demonstrated that current levels of preparedness were not adequate to respond to a major spill.

Current legislation to address oilspill cleanup is contained primarily in the Federal Water Pollution Control Act. That law provides that a person who discharges into or upon the navigable waters of the United States, adjoining shorelines, or the waters of the contiguous zone is strictly liable—that is, liable without reference to fault—to the United States for the removal costs incurred, including the restoration or replacement of natural resources damaged or destroyed as the result of the spill. The liability limits in that law, however, are far too low, placing the financial responsibility for cleanup too often upon the taxpayer, and not the spiller of the oil. The spill in Prince William Sound, AK, clearly demonstrated the need to rewrite our national program for oil pollution prevention, response, liability, and compensation.

The Oil Pollution Act of 1989 is based upon previous bills which this House has approved concerning the assessment of oilspill liability and compensation to those parties who have been injured by an oilspill. The bill retains many of the concepts from its predecessors.

The bill imposes strict, joint and several liability on a responsible party who discharges oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone of the United States. This liability includes removal costs as well as damages to natural resources, damage to real or personal property, loss of subsistence use of natural resources, lost revenues to governments, and lost profits or impairment of earning capacity. It also provides that uncompensated claims will be paid out of an oilspill liability trust fund to be financed by a tax on the oil industry.

However, beyond these concepts with which I believe most Members are familiar, several new and expanded concepts have been added to the bill.

When the Committee on Public Works and Transportation considered the oilspill liability and compensation bill pending before it, it was decided that merely addressing liability and compensation issues was insufficient in view of the overwhelming evidence arising from the *Exxon Valdez* incident that much greater emphasis needed to be placed upon the prevention of oilspills in the first instance. For that reason, several sections were added to the bill emphasizing prevention.

The bill before the House today authorizes the Secretary of Transporta-

tion to construct, operate, maintain, improve, or expand vessel traffic service systems in any port or channel of the United States, and to require appropriate vessels in the area of vessel traffic service systems to use or comply with that system. Additionally, the Secretary is required to study whether he needs additional authority to direct the movement of vessels upon the navigable waters in certain areas similar to the authority exercised by the Federal Aviation Administration in the control of airline traffic. The bill expands the authority of the Secretary to obtain access to information concerning alcohol and drug abuse contained in the National Driver Registry in making determinations concerning the issuance of licenses, certificates, or merchant mariner's documents. This information also is available for use in renewal applications, and as the basis for the revocation of a license, certificate, or document.

The bill also calls for the Secretary of Transportation to conduct a comprehensive study on existing laws and regulations and whether they are adequate to ensure the safe navigation of vessels transporting oil and hazardous substances. This study will include all aspects of navigational safety including such items as crew size, navigation equipment, and navigation procedures such as speed, daylight, presence of ice, tides, weather, and other conditions. I strongly believe that we must have a complete and thorough review of navigational safety without the type of complacency that appears to have accompanied the transportation of oil through Prince William Sound.

To aid in both the prevention of oilspills and in responding to oilspills should they occur, the bill includes a new research and development title to develop a comprehensive program of oil pollution research, development, and demonstration among the Federal agencies, in cooperation and coordination with industry, universities, research institutions, State governments, and other nations. This broad-based research program will examine improved designs for vessels and facilities to prevent or mitigate oil discharges and research on methods to improve the ability to quickly and effectively remove an oil discharge when one occurs.

While everyone hopes that oil discharges can be greatly reduced or eliminated, it is likely that as long as oil is transported upon or near our Nation's waters that discharges will occur. For that reason, the bill includes several provisions designed to improve response capabilities so that damages may be kept at a minimum.

The Alaska spill indicated shortcomings in determining responsibility for and who was in charge of cleanup activities. H.R. 1465 specifically provides that the President is to ensure an effective and immediate removal of a discharge of oil or hazardous substance. In exercising this responsibility, the President is given broad authorities to remove or arrange for the removal of a discharge, and to direct all Federal, State, responsible party, and private actions to remove a discharge, and to monitor all removal actions. There should no longer be any question about who is in charge of oilspill cleanup activities. It is the President's clear responsibility and the bill gives him full authority to fulfill that responsibility.

Provisions in the bill designed to improve response to oilspills include new requirements for new or improved local contingency plans which would be required to include descriptions of the area, the responsibilities of all affected parties, and a list of equipment and personnel available to ensure an effective and immediate removal of a discharge or threat of a discharge. The bill also provides for contingency plans to be prepared for tank vessels and facilities.

Following enactment of this legislation, the law will require that at least seven strike teams be established on a regional basis with personnel who are trained, equipped, and available on a continual basis to provide necessary services to carry out the contingency plans. While the bill does not specify where these regional strike teams should be located, I strongly encourage the Secretary to designate a site in the Great Lakes as the base for one of the response teams. The need for a prompt and effective response to an oilspill is particularly urgent in the Great Lakes, both because of environmental concerns and because the Great Lakes provide drinking water to over 24 million people in the Great Lakes basin. The bill recognizes the importance and the uniqueness of the Great Lakes as a resource in the research and development title, by specifying that one of the regional research centers is to be established in the Great Lakes region. I urge the Secretary to also recognize these values.

Finally, the bill that is before the Members is considerably tougher on parties responsible for the spilling of oil and fairer to those individuals who have been damaged as a result of an oilspill. The bill as introduced provided for liability limits for tank vessels at $500 per gross ton of the vessel with a maximum of $60 million. The bill now before the Members provides for liability limits of $1,200 per gross ton with no maximum liability per vessel. In addition, to dissuade the major oil companies from divesting themselves of tank vessels, the bill provides that the first $600 per gross ton is to be paid by the owner of the oil being shipped.

The liability limits for other categories were also increased. The liability limit for a deepwater port facility was increased from $75 to $350 million. The liability for an outer continental shelf facility was increased from $75 million to the costs of all cleanup plus $75 million. The liability limits for other onshore or offshore facilities was increased from $75 to $350 million. I believe that these new higher limits of liability are consistent with our national concept of making polluters pay for the damages which they cause, and sufficiently strong to provide adequate incentive to the handlers and shippers of oil to undertake their maximum efforts to assure that oil is not discharged into our Nation's waters.

The bill as introduced included a $500-million cap on amounts that could be paid from the oilspill liability trust fund. The experience in Alaska, where cleanup costs could exceed $2 billion, clearly indicates that such a level is inadequate. Therefore, the bill before the Members contains no per incident limit on the payment of cleanup costs or damages from the oilspill liability trust fund. Hopefully we will never have another incident similar to the one in Prince William Sound, but if such a catastrophe should reoccur, these increases in liability imposed on the spiller of oil coupled with an oilspill liability trust fund financed by a tax on the oil industry, would assure adequate resources for the cleanup of oil and compensation of those damaged by the oil.

Mr. Chairman, H.R. 1465 represents the culmination of the efforts of 4 House committees. If any good is possible to come out of the tragic incident in Prince William Sound, AK, on March 24, 1989, I hope that it can be the swift passage and enactment of this legislation to prevent, respond to, and assess liability for the discharge of oil into our Nation's waters. I urge its passage. It will be a vast improvement!

Mr. JONES of North Carolina. Mr. Chairman, I yield 1½ minutes to the gentleman from Delaware [Mr. CARPER].

Mr. SCHEUER. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

The CHAIRMAN. The gentleman from Delaware is recognized for 3½ minutes.

Mr. CARPER. Mr. Chairman, we have been reflecting back over the last several years on the times this legislation has come to the floor. One of my early remembrances as a freshman here, some 7 years ago, was the opportunity to work on oilspill legislation. During the 7 years I have been here I recall the House taking up this legislation no fewer than four times, passing it, and sending it to the Senate, where it has died an untimely death.

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□ 1500

Mr. Chairman, each of those bills that we passed over those last 7 years represented a pretty good effort. One of the things we tried to do is make some sense of the patchwork quilt of 4 Federal laws and 24 different State laws dealing with oilspill cleanup and liability. Each of those four bills that we passed in the last 7 years preempted State funds, State cleanup funds essentially, after a couple of years, maybe 3 years, to say that, well, we would like to have just a single, solitary Federal trust fund for cleanup purposes.

Each of the bills we passed over the last 4 years also preempted State liability laws in favor of a uniform set of Federal provisions, and each of those laws that we have passed over the past 4 years attempts to streamline the process for those businesses or individuals seeking to recover their damages by providing one court; that is, the Federal court, in each State where they might apply for relief.

Again, we have passed no fewer than four times in the last 7 years legislation to try to do all of those things, and meanwhile the other body did not act.

Mr. Chairman, if there is a silver lining in the tragedy at Valdez, it is that the Senate has moved off the dime at last and has passed what I think is a reasonably good piece of legislation. We now have today, and apparently next week, the opportunity to do better.

The bill before us today differs in several key respects from the one that we have passed in the House in the time that I have been here, and while this measure does not allow States to maintain their own liability regime, rather asking that they defer to the liability regime that we would establish for the Federal Government, it does not, for the first time, preempt States from having their own cleanup fund.

Mr. Chairman, I am pleased to note that an amendment adopted in our committee, an amendment that I offered, says that States can keep their own cleanup fund, and to the extent that they are not satisfied with the cleanliness of the job done with Federal funds, that the State may use its own funds for that purpose or funds collected from the oil industry.

In addition, the bill before us today differs from some of our previous efforts in the House by creating a much larger Federal fund. As I recall, our earlier efforts called for a Federal fund that would be capped at $500 million. This fund would be fed by a larger user fee collected from oil interests I think four times larger than what we contemplated earlier, and the fund itself will grow well beyond $500 million to exceed $1 billion, perhaps even $2 billion. The cap has in essence been lifted.

Mr. Chairman, the third difference is that our bill today requires the kinds of contingency plans and regular drills, unscheduled drills, unrehearsed drills in some cases, but regular drills to ensure that the contingency plans that must be adopted are complied with.

Mr. Chairman, would the gentleman from New York [Mr. SCHEUER] yield 1 additional minute?

Mr. SCHEUER. I yield 1 additional minute to the gentleman from Delaware.

Mr. CARPER. Mr. Chairman, the other difference is in terms of strike teams that we can establish under this legislation a much quicker response to spills that might occur using the trust fund funds for research and development, tougher fitness standards for crews and ships.

Let me just conclude, if I can, by saying that those of us who live along the Delaware River know too well what it is like to have oil spilled on our shores. We do not like it and want it stopped. The bill before us today is important. I think it will reduce the incidence of oilspills. I believe it will reduce the response time that is required to meet those emergencies. I believe this bill will hasten the cleanup efforts once they have begun. I believe this bill will better protect our environment.

I commend all who have had an opportunity to craft this bill, and I appreciate the time that has been yielded to me today to speak.

Mr. SAXTON. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, it is a pleasure for me to rise in strong support of H.R. 1465, the comprehensive oilspill compensation program of which I am a cosponsor.

For nearly 14 years the Congress of the United States has wrestled with legislation to create a system for compensation for damages caused by oil pollution. The moment is now upon us to approve a bill that will finally put in place the necessary program.

During 1989 this Nation has seen dramatic evidence of the need for comprehensive oilspill legislation, beginning with the terrible oilspill in Alaska on March 24, 1989. That spill was followed by the three spills in Rhode Island, the Houston Ship Channel, and the Delaware River, on the weekend of June 24, 1989. Up until now we have been operating under a patchwork of Federal, State, and local laws and regulations to clean up oilspills and to pay for damages. Clearly the existing prevention measures and removal capabilities of the combined authorities are inadequate to clean up spills and to respond to the liability and compensation problems.

H.R. 1465 addresses both the issues of liability and compensation for damages, as well as the prevention of spills and the response to spills in our Nation's waters.

One of the most important features in the legislation before us is the establishment of the first guaranteed compensation regime for victims of an environmental disaster. Currently, there is no certainty that persons suffering damage from a spill will be fully compensated for their losses. The thrust of this legislation is to eliminate, to the extent possible, the need for an injured person to seek recourse through the litigation process, which—as we all know—can take years.

H.R. 1465 will provide a system and a fund to compensate for damages including—harm to natural resources; injury to property; loss of subsistence use of resources; lost revenue from taxes or other income for governmental entities; and lost profits or earning capacity for individuals. It also sets up a good system of determining the liability of those persons causing oilspills to make sure that they are not allowed to shirk their responsibility.

This legislation will also increase protection for the precious natural resources of our country by creating a new system of contingency plans for responding to spills and for replacing lost resources. It calls for a study of new safety standards for vessels, traffic control systems, crew sizes, and training of personnel. It also sets new controls and testing systems for drug and alcohol abuse by people operating vessels.

Mr. Chairman, I understand that later in our consideration of this bill an amendment will be offered to strike the provisions in H.R. 1465 which provides for limited preemption of State liability laws. I will address that issue specifically at the appropriate time, but I believe my colleagues should be thinking about the significance of that amendment while we are in this period of general debate. Allowing all the separate State liability regimes to exist along with the new Federal system would be terribly disruptive to interstate and foreign commerce in oil and petroleum products and may result in operators being unable to obtain insurance. Most importantly, it would not eliminate the legal uncertainty of obtaining compensation for losses.

I urge all of the Members of this body to pay close attention to the discussion today because this bill is certainly the most important water pollution legislation that this Congress will consider. We need to protect our environment and, at the same time, establish programs to help our citizens who may suffer damage from an oilspill. This legislation will do both. It is an excellent bill that deserves the support of all Members of this body.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from

North Carolina [Mr. JONES] and ask unanimous consent that he may yield further.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

This was no objeciton.

The CHAIRMAN. The gentleman from North Carolina [Mr. JONES] now has 3 minutes available.

Mr. JONES of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I rise in support of the bill H.R. 1465. I commend my colleagues on the Merchant Marine and Fisheries Committee as well as the Public Works and Transportation Committee and Science, Space, and Technology Committee that have shared jurisdiction on this important bill and as the gentleman from Louisiana [Mr. TAUZIN] said, "This bill is tough," and because this bill is tough, it's good.

I am happy that we will finally be passing a bill that strengthens and clarifies our national policy regarding those responsible for transporting oil and those who may be adversely affected by an oilspill.

I support the bill reported out of the Merchant Marine and Fisheries Committee and am confident that it will serve the needs of our country in a fair and comprehensive way.

I support the preemption measure included in this legislation and feel that by setting up a single Federal liability and compensation system we can best serve those directly impacted by an oilspill in a prompt and efficient way.

For many individuals and business owners along the coast, time is money.

By establishing this Federal fund, we can better ensure that those who are the most directly impacted will have direct and quicker access to available funds to compensate for damages.

The committee was careful to ensure that States would not be preempted from assessing their current fees on the oil industry and using these funds for purchasing equipment to enhance cleanup and removal and other purposes.

States funds would be restricted only from compensating damage claims out of State funds.

Again, I support this bill as it was reported out of committee and urge my colleagues to retain the Federal preemption language out of State funds.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I rise in support of H.R. 1465, the Oil Spill Pollution Act of 1989. Since 1975, legislators, States, environmental groups, the oil industry, and the international community have supported legislation to address oil pollution liability and compensation. This comprehensive bill meets the legitimate concerns of these parties, and develops a uniform approach to replace the existing patchwork of Federal statutes, State laws, and international agreements.

This legislation offers a comprehensive, workable plan that emphasizes oilspill prevention and research, contingency planning, and improved response capabilities.

Most importantly, H.R. 1465 establishes an unlimited fund, financed through a tax on oil companies, to provide adequate compensation for those who are damaged by the spill.

In my own State of New Jersey, the fishing and the tourist industry would be devastated by a major oilspill. Damage to the ecosystem would be severe. But just as severe will be the economic impact on those who rely on the ocean for their livelihoods. Under current law, years of litigation would ensue before these claimants received compensation. The establishment of a fund such as that proposed in H.R. 1465 would help ensure prompt cleanup and restitution.

The fund is also intended for use by the Coast Guard and the oil industry to ensure better preparedness in the future with adequate spill containment, cleanup equipment, and a trained crew ready to respond immediately.

Mr. Chairman, it is clear that so long as we continue to rely on so much oil for our energy needs, oilspills will occur and damage to the ecosystem, waterfowl, wildlife, and fishery resources will result. This reality makes the enactment of H.R. 1465 vital to the future protection of our rivers and the welfare of our coastal areas.

I believe we are long overdue in enacting a national policy addressing oilspill prevention, response, liability, and compensation. H.R. 1465 is a thoughtful, well-crafted bill, and I urge my colleagues' support.

□ 1510

Mr. JONES of North Carolina. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired for the Committee on Merchant Marine and Fisheries.

The Chair will now turn to the Committee on Public Works and Transportation.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to bring to the floor H.R. 1465, the Oil Pollution Act of 1989.

Many Members have played an important role in the development of this legislation. I especially thank the efforts of JOHN PAUL HAMMERSCHMIDT, our ranking Republican member on the committee; HENRY NOWAK, the chairman of the Subcommittee on Water Resources; ARLAN STANGELAND, the ranking minority member on the subcommittee; WALTER JONES, the chairman of the Committee on Merchant Marine and Fisheries; BOB DAVIS, the ranking Republican member of the Merchant Marine and Fisheries Committee; BOB ROE, the chairman of the Science, Space, and Technology Committee; and ROBERT WALKER, the ranking Republican member of that committee.

Mr. Chairman, the House of Representatives has had the issue of oilspill liability and compensation pending before it for more than a decade. This House has passed oilspill legislation as recently as 1986 but has been unable to resolve differences with the Senate. Current legislation to address oilspill cleanup is contained primarily in section 311 of the Federal Water Pollution Control Act plus three other laws which are limited in their coverage.

Section 311 imposes strict, joint, and severe liability upon a person who discharges oil into or upon the navigable waters of the United States, adjoining shorelines or the waters of the contiguous zone. It does not, however, impose liability for economic losses, and its cleanup fund is authorized at only $35 million and is funded primarily through appropriations. On March 24, 1989, when the 987-foot tank vessel *Exxon Valdez* struck Bligh Reef in Prince William Sound, AK, and spilled nearly 11 million gallons of oil into one of the most pristine and magnificent areas of our country, it quickly became apparent that a much larger fund is necessary and that it should be funded by the oil industry and not by general revenues. What also became apparent was that current levels of oilspill prevention, preparedness, and response were not adequate for such a major spill.

H.R. 1465, as currently before the Members, provides a comprehensive framework to prevent the spilling of oil into the waters of the United States and to improve our preparedness and ability to respond to an oilspill should one occur. It establishes new authorities and responsibilities for the prevention of oilspills, establishes a comprehensive response capability, and assesses significant liability upon the spiller of oil and the oil industry. It also provides for compensation to individuals and entities which suffer economic damage due to a spill.

The first line of defense in any oilspill response program must be prevention of a spill. For that reason, when the Committee on Public Works

and Transportation considered oilspill legislation, it included several provisions designed to improve vessel safety, both in the design of the vessels themselves and in vessel traffic. The bill requires the examination of establishing tanker free zones, expanding vessel traffic service systems, and encouraging methods to avoid the risk of spilling oil into the water. In addition, the bill requires that chronic alcohol abuse be considered as a factor in the suspension, revocation, or the refusal to issue a license, merchant mariner's document, or certificate of registry.

The committee's review of oilspill preparedness following the *Exxon Valdez* incident found a lack of preparedness on the part of industry and Government. The bill includes provisions to improve contingency planning and training of oilspill response personnel. This planning would include realistic worse case scenarios as a regular part of the contingency plan to be assured that capabilities outlined on paper actually can be met. The committee's review also revealed that there is a need for increased research concerning oilspill prevention and response and for the development of new technologies for prevention and response. Unfortunately, oilspill cleanup technology has been a low priority of the U.S. Government in recent years. The bill, therefore, establishes a new research and development program, to be paid for out of the fund, to improve the status of our knowledge on oilspill prevention and response.

Mr. Chairman, I believe that H.R. 1465 is a proper and balanced response to our Nation's needs both to increase preventive measures against oilspills and to respond to a spill should one occur. In addition, adequate incentives exist to prevent spills on the part of industry through the imposition of strict liability and the enormous economic and ecological damages which could occur because of an oilspill. Finally, the bill addresses the issue of compensation for individuals injured by an oilspill by providing for an assured source of recovery and clearly delineated causes of action for economic damages.

Mr. Chairman, although this House has considered oilspill legislation several times, I believe that this is the best legislative package to come before it. This bill is tougher on parties responsible for the spilling of oil and fairer to parties damaged by the spilling of oil. I urge my colleagues to give this bill their strong support.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I rise today in strong support of H.R. 1465, the Oil Pollution, Prevention, Response Liability, and Compensation Act of 1989. The Prince William Sound oilspill has taught us many lessons. Most importantly perhaps being the need for a comprehensive Federal liability compensation system and fund to assist in paying for damages caused by oilspills.

For as long as I have been a public servant, I have been concerned about oilspills and the problems associated with them. Having the Santa Barbara Channel and the Channel Islands National Park in my district, I am keenly aware of the need to protect our waterways and our pristine and scenic places from the damages an oilspill may cause.

Many in the House of Representatives and in the Nation will recall one of the most noted oil-related accidents to occur in U.S. waters prior to the *Exxon Valdez* spill. I am referring, of course, to the Santa Barbara offshore oil blowout of 1969. Some say it was this accident which heightened environmental awareness and action regarding the hazards of oil exploration. Immediately after this accident, I authorized legislation which created a 400,000-acre oil-free sanctuary around the Channel Islands. For most of this decade, I have been fighting to get oil tankers to pass outside the Santa Barbara Channel. Although my efforts were met with opposition, last May I was successful in convincing most of the oil companies to send their through tankers outside the channel.

Although these measures have enhanced the safety of the area, past experience has shown us that an uncontained oilspill may damage even the most protected regions. For that and for other important reasons, I support H.R. 1465. I look forward to passage of this important legislation.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of H.R. 1465, the Oil Pollution Act of 1989.

By my unofficial count, this is the eighth Congress to grapple with the question of whether or not we need to establish a new comprehensive oilspill law. My view is that this will be the last.

I believe the events of this spring in Alaska clearly indicate that there is a need for a new and comprehensive Federal oilspill law. The overriding need is for new higher limits of liability for the spiller and the creation of an adequate industry-financed fund to cover all of the costs of a spill, including the costs of cleanup, and compensation for any natural resources or economic damages which exceed the spiller's liability. We need a Federal law that ensures that those engaged in the business of oil, including companies responsible for transportation and production, are held accountable for all justifiable and reasonable costs incurred in responding to any spill. Finally, we need a bill that ensures that we take whatever steps possible to prevent oilspills and respond to them whenever and wherever they occur.

Mr. Chairman, I am pleased that the bill we bring to the floor today, H.R. 1465, answers this need and that it does so in an effective and responsible manner. I want to extend my thanks to the entire leadership of the Committee on Public Works and Transportation, as well as the Committees on Merchant Marine and Fisheries and Science, Space, and Technology, for working together to develop a bill that is balanced, yet is fully protective of the environment.

In the many years that this issue has been debated by the Congress, this is the first bill that ensures that, no matter how large the spill, the resources needed to respond will be there. It is the first bill that brings together a truly comprehensive compensation and liability regime with an unquestioned commitment to preventing future spills and improving response capability.

In sum, Mr. Chairman, it is a bill well worthy of support from all of the Members of this body.

Today's action will bring to a close another chapter in the decade and a half history of oilspill legislation. The need for a new comprehensive oilspill regime has been the subject of debate since shortly after the establishment in 1972 of a Federal oilspill response authority in section 311 of the Clean Water Act. That section provides the President with the authorities available to respond to spills of oil and hazardous substances. It also establishes a program of strict, joint, and several liability for cleanup costs and damages to natural resources from such spills, subject to specific limits of liability which are available absent gross negligence or willful misconduct.

Section 311 has remained basically unchanged since 1972. However, a number of other laws have been enacted to address specific oilspill issues related to particular activities posing increased risks. These other laws are: the Outer Continental Shelf Lands Act, the Deepwater Port Act, and the Trans-Alaska Pipeline Act all of which contain provisions to establish additional liability and funding for oilspills arising as a result of activities authorized under those statutes. In addition, over 20 States have enacted laws dealing with liability for cleanup costs and damages resulting from oilspills within their jurisdictions.

Over the years, this patchwork of legislation has worked reasonably well. The various Federal and State laws have been adequate, although perhaps marginally so, in dealing with the many spills that have occurred over the years. All of that changed drastically on Good Friday of this year when the *Exxon Valdez* ran aground in Prince William Sound, AK. The resulting loss of over 11 million gallons of oil occurred in one of the most environmentally fragile ecosystems in a remote and inhospitable location. We

are indeed fortunate that the spiller in that case was a major American corporation with substantial assets which made a commitment to try to clean up the spill as quickly and effectively as possible. Had the spill involved a single vessel foreign corporation with limited assets, the situation would have been truly disastrous. The spill made clear, however, that we need a stronger Federal program with better funding and improved capability to respond to future spills.

The Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries have been working for years toward enactment of such legislation. Although we have come close on a few occasions, final passage of a bill acceptable to the House and Senate has escaped our grasp. It is my hope and belief that we will achieve that in this Congress. It is my regret, however, that we have had to endure the tragedy of the Alaskan spill in order to do so.

Mr. Chairman, the bill before us represents perhaps the most sweeping and environmentally protective oilspill bill that this Chamber has ever considered. It gives the President new and expanded powers to improve contingency planning, ensures that the Federal Government has adequate authority and capability to respond to future spills, and provides for recovery of all justified cleanup costs and damages resulting for such a spill. It calls for the creation of a new $1 billion industry-financed trust fund which would provide funding for improved planning and added response capability and would ensure that all justified claims for compensation are satisfied.

The bill ensures that the owner/operator of the vessel or facility from which the spill originates has the primary responsibility to respond and is liable for cleanup cost and damages. The vessel owner/operator's liability would be subject to reasonable limitations set at levels which are four times higher than the limits in section 311 of the Clean Water Act. The bill further provides that the owner of the spilled oil, and ultimately the oil industry as a whole, are responsible for costs and damages that exceed those limits.

In developing this bill, we have attempted to provide a system of liability that ensures payment for all justifiable costs and damages. If a spill directly causes a quantifiable injury, the person injured will be entitled to compensation. Furthermore, where natural resources are damaged, the trustee for the damaged resource would be eligible for compensation for restoring, rehabilitating, replacing, or acquiring equivalent resources. In addition, the bill allows recovery for the loss in value of those resources pending their restoration.

The bill's provisions on damage to natural resources are drafted so as to be compatible with the recent opinion of the U.S. Court of Appeals for the District of Columbia, Ohio versus U.S. Department of the Interior, July 1989, reviewing Federal regulations implementing the natural resources damage regulations under Superfund. That case upheld key aspects of those regulations, including provisions dealing with the measurement of lost public uses. The language in the bill is intended to be consistent with and not expansive of the recent court opinion.

Where damage to natural resources is irreparable, the spiller would be subject to a civil penalty of up to the greater of $1 million or one-half of the spiller's liability under the act.

The system of liability and compensation provided for in the bill is intended to be comprehensive and definitive. It is intended to allow for quick and complete payment of reasonable claims without resort to cumbersome litigation. Industry has supported the bill based on the understanding that the new Federal regime would replace the crazy-quilt of Federal and State laws. A key feature in this approach is that the new Federal approach preempt State laws on liability. Without such preemption, we would return to a patchwork of overlapping and conflicting laws which may actually impede prompt payment of justifiable claims.

It is important to keep in mind that the bill, nevertheless, provides for a strong State role in dealing with oilspills. States would participate in the development of contingency plans which establish the basic framework for responding to any spills. The States rights to establish safety or environmental requirements that go beyond the Federal requirements are preserved. States are entitled to direct access of up to $250,000 from the Federal fund to pay for State cleanup costs in the event of a spill. State authority to legislate on personal injury, wrongful death and workman's compensation is preserved, as well as the authority to impose civil and criminal penalties in the event of a spill. State trust funds, even those financed through taxes on the same industries that pay into the new Federal fund, are protected. Finally, the Coast Guard would be required to consult with the State concerning the adequacy of any cleanup effort.

Therefore, anyone who says that the bill takes away the right of the State to ensure that its citizens are fully protected is engaging in a gross mischaracterization of the bill. The only thing a State is not entitled to do is to undermine the shared system for complete liability for all cleanup costs and damages that is established under the bill. This is not too much to give up in order to receive the considerable benefits that an effective and unlimited Federal fund would provide.

Mr. Chairman, I want to draw the House's attention to language in section 1008 of the compromise bill. In particular, I want to address language in subsection 1008(b) which allows a responsible party or owner of the oil spilled to seek recovery from the fund for any costs borne by such party which exceed any applicable limit of liability under the Federal law. This language was intended to address those situations where actual costs and damages under the Federal law exceed the limits of liability. This provision, however, would take on added significance in the event the preemption language in the bill is deleted. It is my interpretation of the language that in such a situation, the responsible party or the owner of the oil spilled could seek reimbursement from the Federal fund even for those costs and damages for which such party would be liable for solely by operation of State liability laws which provide for unlimited liability—at least for those costs and damages which would be compensable under the Federal law.

Mr. Chairman, this is a balanced and responsible bill. It is fully protective of the environment and the rights of citizens who may suffer damages as a result of a spill. It provides for the right balance of prevention and cure in a way that ensures the health of the patient. While no legislation can guarantee that we will not have damaging oilspills in the future, this bill will minimize that risk and allow for a prompt and effective response when spills do occur. I urge my colleagues to give their strong support to the bill and to resist efforts to tamper with its well-crafted and responsible provisions.

□ 1520

Mr. ANDERSON. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I would like to extend my deepest appreciation to my chairmen, WALTER JONES and GLENN ANDERSON, to my subcommittee chairman, BILLY TAUZIN, and to the ranking members, BOB DAVIS and JOHN PAUL HAMMERSCHMIDT for bringing H.R. 1465 to the floor of the House for consideration.

Their expeditious handling of this measure will help restore public confidence in our Nation's ability to prevent oilspills and to respond effectively when they do occur.

The *Exxon Valdez* spill is a tragic monument to our Government's unpreparedness and an indictment of industries' ineptitude, despite the best of intentions of both.

Yet, the spill has been the precipitating factor in bringing together a wide variety of interests who have pro-

posed an equally divergent list of approaches to this spill and in preventing future spills. The bill before us takes the best from that list, implements some and requires more extensive study of others.

The bill takes strong action in assuring that ship crews are well-trained and drug- and alcohol-free. I am pleased to have been able to play a role in amending the bill and to clarify the type of response the Secretary of Transportation can take when presented with evidence that a crewmember has performed his or her job under the influence of drugs or alcohol.

The bill also clarifies the lines of authority in directing oilspill cleanup and ensures that contingency plans are thoroughly evaluated and fully implemented. In particular, the bill ensures that the role of the Coast Guard is not merely regulatory. Under the legislation, the Coast Guard is the lead agency and has the authority to ensure a strong Federal role in preventing an oilspill and in cleaning one up. H.R. 1465 provides not only authority for the Coast Guard to direct the removal of a spill, but also the authority to actually perform or directly arrange for the removal of oil. A critical feature of this legislation is the establishment, with substantial Coast Guard responsibility, of a Federal cleanup capability.

Most importantly, the bill also requires several studies of crew size and qualifications, navigational aids and vessel design and construction criteria that may prove valuable in the future.

What the bill cannot do, what Congress cannot mandate, is the type of corporate and personal attitude that will minimize sloppiness, indifference, or just plain irresponsibility. Self-worth, pride of workmanship, and professionalism cannot be legislated, yet they are indispensible to achieving the goals of this bill.

Whether one attributes the spill to the intoxication of a tanker captain, the cavalier attitude of an industry, or the indifference of a government, the lessons we have learned since the *Exxon Valdez* spill have been expensive ones. The bill before us builds on those lessons, but we have much more to learn.

Chairman JONES and Chairman ANDERSON, thank you, again, for your leadership in bringing the bill before us. I know you will continue to shape future policy in this area critical to our Nation's energy independence and quality of life.

As a member of both the Public Works and the Merchant Marine Committees, I look forward to working with you and my committee colleagues.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 6 minutes to the gentleman from Minnesota [Mr. STANGELAND], the distinguished ranking member of the Water Resources Subcommittee.

Mr. STANGELAND. Mr. Chairman, I rise in support of H.R. 1465, the Oil Pollution Act of 1989. Since the Alaskan oilspill, we have endured a media blitz of political posturing and rhetoric. Finally, the time has come to take constructive steps in preventing and cleaning up oilspills and making the polluters pay. Our bill translates the rhetoric into responsible action and recognizes the realities regarding our Nation's energy needs and oil transportation risks.

This consensus legislation responds to the *Exxon Valdez* and other oilspills. It will help prevent future catastrophes. H.R. 1465 also recognizes this country's economic and energy development and transportation needs. It is a broadbased, balanced environmental bill we can all endorse.

First, let me briefly thank the key players and committee leaders who have made this widely supported package possible. Public Works Committee Chairman GLENN ANDERSON, ranking minority member JOHN PAUL HAMMERSCHMIDT, and subcommittee chairman HENRY NOWAK are to be commended. I would also be remiss in not thanking and congratulating the leaders of the Merchant Marine and Fisheries Committee and the Science, Space, and Technology Committee for their efforts. Also, staff of both Public Works and Merchant Marine for their tireless efforts in our behalf to bring this bill forward. Members of the Interior Committee and the Ways and Means Committee have also participated significantly throughout the process.

The Public Works and Transportation Committee reported H.R. 3027, its comprehensive oilspill bill, in August. This included basically all of the liability and compensation provisions contained in H.R. 1465, the bill introduced earlier by the Merchant Marine and Fisheries Committee. We expanded on H.R. 1465, however, by adding a new title on prevention and response, addressing such issues as alcohol abuse, spill contingency plans, and federalization of cleanups.

Both the Public Works and Merchant Marine Committees' reported bills contained strong provisions on Federal preemption of State liability laws and trust funds based on industry taxes. We also had very similar provisions on liability limits, natural resource damages, and other controversial issues.

We then resolved all our differences, added provisions to address newly discovered or emerging concerns, and incorporated provisions from numerous other bills involving Prince William Sound, the trans-Alaskan pipeline, and other issues. We also worked in close cooperation with members of the Ways and Means Committee to ensure responsible and consistent financing provisions would be forthcoming. The result is a comprehensive compromise, H.R. 3394, containing eight titles ranging from liability and compensation, to prevention and response, to international protocols, to Prince William Sound and the trans-Alaska pipeline.

Mr. Chairman, the Oil Pollution Act of 1989 is tough on oilspillers and provides broad compensation for damaged natural resources. In addition to increasing liability for spillers, it leaves intact authority of States to establish oil cleanup and compensation funds and impose civil and criminal penalties. It contemplates a $1 billion Federal fund (based on oil industry taxes) to guarantee full compensation and cleanup.

The Oil Pollution Act contains other provisions on oilspill prevention and response, addressing issues such as improved contingency plans and response teams, vessel traffic systems, tug escorts, and Coast Guard authorities to federalize cleanups. The bill also establishes a major research and development program. Focus would be given to, among other things, double bottoms and hulls, cleanup technologies, health risks to response workers, and improved methods to restore damaged natural resources.

The Nation should focus first on oilspill prevention and cleanup, but we must not lose sight of liability and compensation issues either. The polluter should pay and the victim should receive full compensation for direct, proven damages. This includes governmental cleanup costs, natural resource damages, and economic damages to third parties such as fishermen and beachfront property owners. And when the polluter cannot or will not pay, a Federal fund should be available for prompt, adequate compensation to oilspill victims without having to endure endless and costly litigation. Our bill follows these important principles.

Some may argue that our bill should not preempt State oilspill laws. As a strong supporter of States rights, I certainly understand these concerns. But in the case of oilspill legislation, benefits or preemption far outweigh theoretical detriments. This is true whether the beneficiary is the Federal Government, a State and its citizens, or interstate commerce generally.

Actually, the bill is only partially preemptive of State laws. And this is an important point for those like myself who are very concerned about States rights. Nothing in our bill affects State laws regarding personal injury, wrongful death, or workers' compensation. Nothing in our bill preempts a State from enforcing oilspill laws through the assessment of civil or criminal penalties or from enforcing the new Federal financial responsibil-

ity requirements. And nothing in our bill prevents a State from having a trust fund for responding to spills or for paying cleanup costs or damages.

In recent weeks, various interests have engaged in major campaigns to criticize our bill, particularly along the lines of environmental protection and States rights. Mr. Chairman, a lot of these criticisms are unfair characterizations.

However, we agreed to address many of these concerns in order to ensure that no one could legitimately critici the bill as being weak on environmental protection or States rights. We wanted a package that was a consensus document—not only between the two primary committees but also among the various interest groups, officials, and other key players such as members of the Interior Committee and the environmental community. We have done that.

Our new and improved floor vehicle contains major changes. On preemption, we have agreed to allow States to keep their own oilspill funds even where double taxation or duplication with the Federal fund might result. I have concerns about this approach but realize it's part of a compromise to keep the oilspill bill on track and to retain the provisions preempting State liability laws. We need some preemption in order to consolidate and reform the existing patchwork of Federal and State laws—otherwise we create a situation that may benefit no one but the lawyers.

Our floor vehicle also dramatically increases liability. The liability limits are, in effect, more than twice as high as those in the committee-reported bill. In some cases, the limits may unnecessarily restrict opportunities for obtaining affordable insurance. We strongly encourage the Secretary to exercise his authority to lower the liability limit for deepwater port facilities. The Government should provide incentives for increased use of deepwater port facilities, such as the Louisiana offshore oil port. We would expect environmental benefits to result from greater reliance on deepwater ports as opposed to offshore lightering practices with their inherent dangers and increased vessel traffic risks.

We have also broadened the scope of liability to include the owners of oil and not just the carriers. While I have concerns about its implementation, the concept of secondary liability could provide incentives for cargo owners to use only the safest transporters. However, it may have problems of its own. I am not aware of any meaningful study of its application to the oil transport industry. It is also important to note the Committee on Public Works and Transportation does not intend to set any precedent for extending such an expansive liability regime to other transportation modes and industries. This is merely on a trial basis.

Another change broadens the scope of recovery for natural resource damages. Some, perhaps incorrectly, believed our bill was inconsistent with a recent Federal court case (*State of Ohio* v. *Dept. of the Interior,* D.C. Circuit, July 14, 1989) on the value of damaged natural resources. The compromise addresses this by allowing for recovery of the diminution of the value of natural resources pending their restoration. This measure is consistent with, but not more expansive than, that in the case.

The bill no longer contains different definitions for oil tankers and inland oil barges. Instead, both are included in the term "tank vessel" as defined in section 2101 of title 46, United States Code. The committees recognize important distinctions are to be made between large tankers and inland barges—typically less than 3,000 gross tons.

We have also incorporated many new provisions relating to Prince William Sound and the Trans-Alaska Pipeline System. I have serious concerns about creating separate authorities and penalties for one geographic region and not another. This approach can only perpetuate the legal patchwork our bill is meant to resolve. In particular, I question the need for additional provisions establishing excessive civil penalties for trans-Alaska pipeline spills, a Presidential task force, and payments from the trust fund for the State of Alaska's environmental enforcement costs. Like others on the committees with jurisdiction over H.R. 1465 and H.R. 3394, I hope we can modify these provisions at some point in the legislative process.

Mr. Chairman, the country needs improved oilspill legislation now. We cannot afford to settle for the status quo or, even worse, enact radical legislation that effectively bans oil exploration or transportation. The Oil Pollution Act of 1989 does neither and therefore signals real progress.

With a few exceptions, including the committee-sponsored technical changes, we should strive to reject amendments. H.R. 1465, containing the substitute text of H.R. 3394, may collapse from its own weight if we load it up too much. And so, I urge my colleagues to show restraint by not offering counterproductive amendments and to adopt the committee-sponsored bill.

□ 1530

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Chairman, I rise in support of timely action by this body to address the concerns that we have with an issue that is at the top of our environmental agenda along with clean air legislation.

It has been many months since the oilspill in Prince William Sound focused our attention on the devastation that can occur when a tanker spills its contents in or near our coastal waters.

I would like to think that we have learned something from this spill and its aftermath.

I believe that the legislation being debated today and the amendments that are being offered for our consideration reflect our commitment to take every reasonable step possible to prevent spills from occurring and to respond to spills that do occur quickly and effectively based on clear procedures and tested methods.

Because of the *Valdez* accident, the media has continued to report other smaller spills that have occurred since that time.

The fact is, our problem goes beyond one single incident.

As a cosponsor of H.R. 2291, introduced by my colleague from New Jersey [Mr. SAXTON] on behalf of a great many Members who care deeply about this issue, I am pleased that provisions of his bill creating Coast Guard certified rapid response teams has been included in the bill that we are concerned with today.

A great deal of time and energy has gone into this legislation. I think the committees involved have made an honest effort to act in a timely fashion to bring us a bill for consideration.

There are a number of amendments, including one that I plan to offer requiring double hulls on all newly constructed tankers, that deserve the full and open consideration of the Members of this body.

In particular, the issue of preemption of State government controls over liability and related powers currently held by the States is one that concerns me a great deal. In New Jersey, we have had an oilspill compensation fund that has been in place for a great many years. In fact, this innovative program was expanded to include hazardous materials and formed the basis for congressional consideration of the Superfund law. As with Superfund, blanket preemption in this case serves neither State nor Federal interests.

Other issues remain that deserve debate and consideration as we proceed through the amendment process.

Many of these are technical issues which deserve our careful consideration, but they should not cause us to lose sight of our ultimate goal—the protection of our irreplaceable shorelines from the devastation that has already occurred in Alaska.

I think that goal is summarized in one thought that I would like to share with my colleagues.

A spill the size of the Alaskan disaster along the east coast of the United

States would cause a spill that would reach from Boston Harbor to the Outer Banks of North Carolina.

Members of Congress representing the California coast and the gulf coast and the Florida coast and from States near the Great Lakes and the island State of Hawaii should consider the equally negative implications of inaction.

Mr. Chairman, I support the need for effective oilspill prevention and protection legislation and am hopeful that our deliberations today will produce the best possible measure to meet that goal.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Chairman, recent hearings before the Public Works Subcommittee on Investigations and Oversight, revealed that our approach to cleaning up oilspills contains several noticeable flaws.

Thanks to the leadership of the Public Works and Transportation Committee and the Merchant Marine and Fisheries Committee and their outstanding chairmen Mr. ANDERSON and Mr. JONES and the ranking members, Mr. HAMMERSCHMIDT and Mr. DAVIS, H.R. 1465 has reformed the system and mended those flaws.

Mr. Chairman, this legislation gives the Federal Government the power, which we do not have right now to require adequate oilspill cleanup plans.

It gives us the authority and funding, which we do not have right now, to purchase sufficient equipment and to ensure that equipment can be properly deployed while oil slicks spread in our waters.

But most importantly, Mr. Chairman, this legislation, in language which I am proud to have helped draft with my distinguished colleagues, the chairman of the Subcommittee on Water Resources, Mr. NOWAK, and the ranking minority member, Mr. STANGELAND, gives the Government the absolute and ultimate responsibility to take charge of oilspills.

The Congress intends, and this legislation ensures, that the Coast Guard access every potentially threatening situation, determine the proper response and monitor that response, as the agency in charge.

Because no matter how thorough our preparations may be, or how much money we raise to fight oilspills, we cannot ensure national preparedness without a national plan, we can't prevent and fight oilspills until we know where the buck stops.

Today, Mr. Chairman, the buck, and I hope the oil slick stops here.

Mr. Chairman, H.R. 1465 follows the longstanding tradition of this House, which anticipated the need for legislation of this kind for several years. On several occasions in the past decade, the committee leadership of Public Works and Merchant Marine have passed legislation through the House which would have improved the cleanup of oilspills. It's a shame, Mr. Chairman, that we could not persuade the other body and the administration to act upon legislation which this House passed in previous Congresses, until oilspills were fouling our coastline and threatening our waterways.

Now the Nation demands that we take the action that these committees and this House have been ready to take for several years. And I am proud as a member of the Public Works and Merchant Marine Committees, of the steps we are about to take.

This legislation will create a Federal fund to pay for the equipment we need to clean up oilspills before we need to deploy that equipment in a crisis situation. That equipment would either be provided by industry directly, or purchased by the Secretary of Transportation, using funds raised by a proposed tax on every barrel of oil sold.

This fund will allow a cleanup effort to begin immediately, and not wait for resources to be approved or a private company to elect to take charge while spilled oil poisons our rivers and coasts. This legislation will also increase the liability of spillers of oil, which is their surest incentive to take every precaution against accidents.

Many of these provisions have been a part of previous legislation, passed by the House, which was not approved by the other body. Recent history in Prince William Sound, in Narragansett Bay, and in the Delaware River, not far from where I have lived my whole life, has clearly demonstrated that we need to enact this legislation in this session.

But this legislation goes beyond previous proposals, in one crucial area; it gives the Federal Government the responsibility to take charge of preventing, planning, reducing, and cleaning up oilspills. H.R. 1465 calls for the Federal Government to require contingency plans, personnel training, and sufficient response equipment in each region that is considered to require it.

Under current law, the Secretary of Transportation may take charge of oilspill cleanup efforts. H.R. 1465 would change that "may" to "the President shall ensure" that appropriate and sufficient personnel and equipment are deployed immediately in the event of an oilspill.

Current law allows for Coast Guard input, and Coast Guard assistance. This legislation reflects our newfound wisdom, which tells us that the one Federal agency with the experience and the ability to take charge of these crises, should assume control in the event of an oilspill.

Many Members are aware that under previous liability laws, it was feared that if the Government took control of an oilspill, the companies liability situation would be changed. This legislation removes that fear in its sections on liability, and lays the groundwork for giving the Coast Guard this authority.

I want to be very clear on this: The Congress does not intend that the Coast Guard necessarily engage its personnel and equipment in every discharge, or threatened discharge. This bill would make them the representatives of the Government, and of the American people, charged with ensuring that everything that should have been prepared, was prepared; that everything that could be done, will be done, as swiftly and efficiently as possible.

Mr. Chairman, this legislation gives real power to the Federal Government in the event of an oilspill; it gives us the power to fully prepare for an oilspill. It gives us the authority and funding to purchase sufficient equipment and to ensure that equipment can be properly deployed while oil slicks spread in our waters.

Most importantly, Mr. Chairman, this legislation gives the Government the absolute and ultimate responsibility to take charge. Because no matter how much research we authorize, or how many good plans we create in each region, or how much money we raise to fight the dangerous effects of these spills, we have to establish lines of authority which will stand the test of the economic and environmental crises which occur when oil fouls our waters.

Mr. Chairman, I rise in favor of H.R. 1465 and I urge my colleagues to join me in supporting this legislation, which revolutionizes the way we protect our waters from oilspills.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield such time as he may require to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I ask unanimous consent that the time that I use be charged to the Committee on Science, Space, and Technology.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, I rise in support of the bill and particularly want to commend to the House the Committee on Science, Space, and Technology section that sets up a research and development program to address the critical problems that come from industrial growth and thus begin the process that leads to oilspills, and do so by having research and development programs that act in an effective and responsive manner.

Under this particular bill we would authorize $28 million out of the compensation fund, which is supported by an oil industry per-barrel fee established in this legislation. This would mean that the taxpayer would not be responsible for this research money, but that we would have research and development on new technology to prevent and clean up spills. The research and development, coordinated by an interagency committee, will encourage a combination of public and private efforts as well as focus on bioremediation technologies which were so successful in the Prince William Sound spill as one of the experiments that was done. Those kinds of techniques, I would say, are something that we are looking at very closely at the present time.

I have an article from a Texas newspaper about oil-eating microbes that were recently tested in Texas and were shown to be very, very effective in

helping to clean up. These are biotechnology techniques that appear to have great promise where we have massive spills by degrading the oil into protein that can then be consumed by marine life, and that would certainly be the kind of thing that we would want to have to respond with in the future. We think that R&D money will continue to move us in that direction. That is in many ways a better solution than having very expensive regulation and extensive new technologies developed. This is something that can be done that would assure a quick response and a quick cleanup.

□ 1540

I especially want to commend the Republican vice chairwoman of our Environment Subcommittee, CLAUDINE SCHNEIDER. She successfully crafted a compromise whereby six competitively awarded rather than earmarked regional research centers will be established, including one that is aimed explicitly for inland waterways. As the committee originally considered this bill, we looked at only having centers that, first of all, were earmarked centers and, secondly, only seemed to deal with coastal areas.

Some of us who have experienced near our States, such as in the Delaware River recently, problems with oilspills in the inland waterways, recognize that the research has to include not only the high seas but also has to include inland waterways.

We will have that research specifically as a result of some of the work that CLAUDINE SCHNEIDER did.

I might also say that I commend the chairman of that subcommittee, the gentleman from New York [Mr. SCHEUER], who has worked very cooperatively with the minority as we have crafted this legislation, and also with the distinguished chairman of the full committee, Mr. ROE.

This consensus section, the Science Committee section, strikes a good balance between the needed guarantee of compensation and an investment in prevention techniques that can ultimately make compensation unnecessary.

However, even more critical to the final success of this legislation is the tradeoff of federally limited liability in turn for industry bankrolling the comprehensive compensation fund.

I endorse the approach in the bill, I commend the bipartisan cooperation that has characterized the crafting of this bill and I urge passage of the bill without substantive amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time of the Committee on Public Works and Transportation has been consumed.

The Chair now turns to the Committee on Science, Space, and Technology.

The gentleman from New York [Mr. SCHEUER] will be recognized for 20 minutes, and the gentlewoman from Rhode Island [Ms. SCHNEIDER] will be recognized for 16 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. DYSON].

Mr. DYSON. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this bill. Three committees, one of which I am on, had jurisdiction over this. It was a difficult issue to wrestle with. Those of us who represent areas along the coast and inland waterways such as the Chesapeake Bay became very concerned about this, especially in light of the *Exxon Valdez* incident.

Mr. Chairman, I applaud those, in particular, the chairman of our committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES], for the fine job he has done on this. I appreciate it.

Mr. Chairman, after more than a decade of trying, and 7 months after 11 million gallons of crude oil poured out of the ripped hull of the *Exxon Valdez* into Alaska's Prince William Sound, the House of Representatives is ready to adopt comprehensive oilspill legislation.

I support this bill, Mr. Chairman. It is a fair effort to meet several pressing national needs. And though it is a fair effort, I believe it could be strengthened.

Oilspills are arguably as bad for the oil industry as they are for the waters they pollute. Cleaning miles of beach and restoring oil-damaged natural resources can run into millions of dollars. Paying compensation for income lost due to oilspill damages, including tax revenues lost to State and local governments, can add millions more.

The *Exxon Valdez* disaster has already cost Exxon Corp. over $2 billion, and claims are still coming in.

But the consequences of a spill, for the States, local communities and private citizens that have to live with the oil-fouled waters, can't be so easily measured. A major spill can devastate the lives and the livelihoods of those who must live with the consequences of such a disaster.

That is why, in the wake of the *Exxon Valdez* disaster, the public is demanding assurances that an oilspill won't provoke time-wasting finger pointing on the part of the petroleum shippers and producers.

The public is demanding assurances that the enormous financial resources needed to launch a full-scale cleanup, and the plans that are necessary to guide a cleanup, are readily available. They want spills to be contained, cleaned up. And they want assurances that damages arising from spills will be completely compensated.

The bill before us now, and which we will continue discussing next week, goes far to grant these assurances. It does not, however, go far enough.

One major flaw in this bill, I believe, is that it would, as it is now written, exclude States—and thereby local citizens—from having a practical voice in determining the true extent of the damages an oilspill has created. It would preempt State laws, nullify State environmental standards, and greatly limit a private citizen's ability to recover damages from either the private company responsible for a spill or the Federal Government that will bear ultimate responsibility for the consequences of a spill.

We can improve this legislation, Mr. Chairman, by stripping from it those provisions that preempt State laws retating to natural resource damages and liability. We can strengthen the rights of States with respect to protecting their resources and their citizens. We can make State governments a partner in the program this bill establishes to prevent oilspills, to respond to those accidents that do occur, and to fully compensate injured parties who suffer as a result of those accidents.

The congressional district I represent, Mr. Chairman, surrounds the Chesapeake Bay. We have worked for years to restore that bay's waters, its wetlands, and fisheries. We are just now beginning to see the results of our efforts, and we have far to go. A major spill in the Chesapeake Bay, Mr. Chairman, would set the bay cleanup program back by years. This bill, as it stands now, would not fully protect the Chesapeake, nor the countless communities that line the bay's shores and which draw their livelihoods from its waters.

But we can offer them that protection, and I intend to do what I can to see that they get it.

With that said, I would like to commend the leadership of the Merchant Marine and Fisheries Committee and my fellow members of that committee for the excellent work they have done in bringing this bill this far. Their efforts will make it possible for this body to enact strong legislation, and they deserve our commendation.

Ms. SCHNEIDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1465. After considering this legislation for 14 years it is long overdue for Congress to take action now.

I have been an ardent supporter of oilspill legislation since becoming a Member of Congress. It is unfortunate, however, that it has taken the environmental disaster in Prince William Sound, and the subsequent spills in Rhode Island, the Delaware River, and Texas to spur Congress to action. Although we have been in a reactive mode, this bill goes a long way toward preventing future disasters.

Oilspills have become all too commonplace. Last year the Coast Guard responded to 7,500 spills of oil and hazardous materials. This assault on our coastal waters is simply unacceptable.

The Committee on Science, Space, and Technology was responsible for writing title VII, the research and development title, of the substitute text

for H.R. 1454. As ranking minority member of the authorizing subcommittee, I am proud to give my wholehearted support to this title, which is the product of close bipartisan cooperation.

I want to commend both Chairman BOB ROE and the Vice Chairman BOB WALKER for their outstanding display of leadership in moving this legislation so quickly through the committee. I would also like to give special thanks to my subcommittee chairman, JIM SCHEUER, for crafting a program that will be of particular benefit to States that have actually suffered a major oilspill.

The Science Committee portion of this bill would make $28 million a year available from the oilspill liability trust fund for research and development. This money would support many valuable activities.

A Federal R&D program would be established to develop and evaluate technologies to prevent and clean up oilspills. In recent years, Federal research on oilspill technology has dwindled to almost nothing. This effort needs to be revitalized with a much greater emphasis being given to spill prevention than has been done in the past.

Furthermore, this title undergirds the Federal R&D effort on oilspills with grants to universities, a national network of competitively selected regional centers, and the promotion of improved training for pilots through the use of computer simulation facilities.

Finally, this title includes several provisions which I wrote. First, it creates a program to assess the long-term environmental effects of major oilspills in the future. Hearings before our committee clearly indicated an inadequate commitment to these assessments in the past.

Second, it commissions special studies of the environmental effects of the major spills that occurred earlier this year, in Rhode Island, the Houston ship channel, and the Delaware River. This provision was added to a major assessment of the long-term effects of the Prince William Sound spill in Alaska.

Third, it would direct the development of technologies, methods, and standards to protect public health and safety, including that of cleanup workers. The need for this language became clear to me during a hearing on the spill in Narragansett Bay that was held at the request of Rhode Island.

Therefore, I believe that the research and development program under title VII will make an important contribution to our ability to prevent and respond to oilspills, and I urge my colleagues to support it.

In addition to work on the research and development title of this bill, I have been actively involved in other parts of this legislation. A number of provisions in title IV, the prevention and removal title, were taken from H.R. 2872, the Narragansett Bay Protection Act, which I introduced, and H.R. 3124, the Clean Ocean Act, which I coauthored. Other provisions which I proposed were also approved by the committee. Altogether, provisions of title IV based on this work include: First, significant penalty increases for violating Federal pilotage laws; second, a process to enable the Coast Guard to more easily "federalize" a spill, which was lacking in Alaska; third, the creation of seven regional "strike teams"; fourth, the training, testing, and inspection of cleanup personnel and equipment by the Coast Guard, including periodic unannounced drills and inspections; fifth, a study to consider whether to designate the waters between Block Island and Montauk Point a "tanker free zone"; and sixth, an evaluation of the adequacy of using satellite technology for tracking vessels in coastal waters.

In respect to this final point regarding satellite technology, I want to urge the Coast Guard to designate a portion of its research and development money to fund a demonstration project for the state-of-the-art differential global positioning system [DGPS]. The DGPS would utilize existing Department of Defense satellites and can be easily integrated with the Coast Guard's navigational systems. A recent Coast Guard study indicates that the DGPS is a technology that is ready to be deployed, and the study recommended that it be implemented.

I would like to further recommend the waters of Narragansett Bay and the transit areas in Block Island Sound and Rhode Island Sound as a perfect demonstration site. This area is transited by a significant number of tankers—approximately 175 annually transiting the area to the Port of Providence. This number of vessels is significant enough to warrant a navigational system, yet is a manageable number for demonstration purposes. The area has also shown a need for such a system, as indicated by the major oilspill caused this summer by the world prodigy accident.

Mr. Chairman, I would also like to take a moment to put this bill, including the R&D title, into a broader context. This bill comprehensively addresses not only the prevention of oilspills, but also response, liability, compensation, and the restoration of natural resources. It is time to enact just such a comprehensive approach to oilspills.

As with most omnibus bills, I have reservations about some aspects of this bill. When the Committee on Merchant Marine and Fisheries reported out H.R. 1465 in September, I submitted additional views to the committee report. I am pleased that most of my concerns expressed in that statement have already been addressed in the bill that we are voting on today. Most of the provisions of this bill are stronger than the version by the other body.

I am, however, still concerned about the section of this bill which preempts State law, and I will be strongly supporting the amendments offered by my colleague, GARRY STUDDS, to rectify this situation. I would then strongly support the final passage of this bill, an event that is long overdue.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHEUER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the spectre of the *Exxon Valdez* aground on the reefs of Prince William Sound, leaking more than 11 million gallons of oil into the once-pristine Alaskan environment will haunt us for decades.

The clock set at 12:04 a.m. on the morning of March 24 will be riveted in our minds, in our memories, and in our consciences for generations to come.

The known toll of damages is absolutely staggering. Wildlife workers have already recovered the carcasses of more than 33,000 seabirds, over a hundred bald eagles, and a thousand sea otters. These recorded death tolls are believed to be but a small fraction of the wildlife actually killed by the spill.

Hundreds of miles of wilderness beaches have been fouled beyond our ability to clean them up, Mr. Chairman. These repugnant sights have deeply offended the American people, and have assaulted our sensibilities as well as those of the television audience around the globe.

To date, Exxon has spent $1.5 billion attempting to clean up the awful damage that they have wrought. Yet even these astonishing damage estimates are likely to pale into insignificance in comparison to the long-range costs and effects of the *Exxon Valdez* spill.

Birds and other wildlife are still dying as a result of exposure to the toxic residues of the oilspill.

In August, nearly 6 months after the spill, Mr. Chairman, more than 3,000 freshly killed carcasses of shorebirds were found, some of them up to 500 miles from the disaster site.

Oil that has been forced deep into the beach sediments by inadequate cleanup efforts will be gradually rereleased into the environment, ensuring continuing contamination for decades to come.

Damages to Alaska's economy and its valuable natural resources, including its vital fishing grounds, have yet to be assessed. The inevitable chain of

lawsuits has begun, lawsuits which will not contribute in any substantial way to the restoration of Prince William Sound or to the compensation of those injured by the *Exxon Valdez* spill and Exxon's negligence.

While Exxon, must ultimately bear the responsibility for the cost of the *Valdez* spill, both industry and Government, all of us, share the blame for indulging in complacency over these many years.

During the 1970's and the 1980's the number of tanker accidents and oilspills was declining in the United States. Ten years of safe operation at the Valdez terminal led the industry and, admittedly, government to relax environmental safeguards. It was assumed that oilspills could be prevented or could be controlled and cleaned up when and if they occurred.

So as a result government and industry spending on oilspill cleanup research and development was slashed to the bone in the early 1980's. EPA shut down the only oilspill technology testing facility in 1986.

With the wisdom of hindsight, we now know the awful consequences of our failure to invest adequately in oilspill prevention and cleanup research. We do not have, or we have not applied, an adequate array of scientific technologies to prevent oilspills. As the *Exxon Valdez* oilspill vividly demonstrated, we do not have effective technologies to contain, to mitigate, to remove or to clean up oilspills when they occur, particularly large-scale oilspills in open-ocean conditions.

The inadequate cleanup technologies we have today were all developed over a decade ago and no significant research investments have survived the parched budgets of the 1980's.

□ 1550

The controversy over dispersements in the *Valdez* spill illustrates this point vividly. Early after the spill, we know that Exxon wanted to use chemical dispersants, which must be used immediately after the spill to be effective. However, the Environmental Protection Agency, the National Oceanographic and Atmospheric Agency, and the State of Alaska raised scientific concerns about the use of dispersants. By the time the scientific debate was over, it was too late for dispersants to be of any use.

Now we learn that Exxon has sued the State of Alaska, claiming that Alaska's refusal to permit Exxon to use chemical dispersants right after the spill significantly increased the total cost of the cleanup operation. This ironic turn of events ilustrates brilliantly the folly of trying to conduct research, such as field testing of dispersants, after a spill has occurred.

It is perfectly obvious now, Mr. Chairman, that the research must be done in a competent and objective way, in the field, under varying field conditions, before the time comes to apply it. Certainly, this is a glaring and outstanding example of a penny-wise and pound-foolish policy of conducting research and development on how to prevent and remediate major oilspills.

The bill before Members today contains a title developed by the Committee on Science, Space, and Technology which responds to this lack of adequate oilspill prevention and cleanup technology.

Title VII creates a $22 million comprehensive Federal oil pollution research and development program to be planned and coordinated by an interagency coordinating committee. The committee is charged with coordinating Federal R&D efforts, and will bring together the research and response capabilities of the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Coast Guard, and other key Federal agencies, as well as encouraging the participation of the private sector and university scientific committees.

Title VII also establishes six regional research centers which will address oil pollution, prevention, response, mitigation, and environmental effects of oilspills from regional perspectives, such as those of Alaska or the gulf coast region. Likewise, it will help to consolidate currently fragmented research efforts.

The bill also provides funding for long-term research on the environmental impact of the *Valdez* spill. Distinguished scientists told our committee that we know little about the long-term environmental effects of oilspills, particularly in the Arctic region where oil will be slow to degrade naturally.

The provision of title VII are intended to ensure that we will do everything possible to prevent an oilspill like the *Exxon Valdez*. And if accidents do occur, despite our best efforts at prevention, this bill will help ensure that we have the scientific technological capacity to respond quickly and effectively to mitigate and minimize environmental damage.

Mr. Chairman, this has been an incredibly complicated bill to craft. It could be an historical example of an unprecedented level of cooperation between three major committees of this Congress, and I wish to congratulate for their leadership the gentleman from New Jersey [Mr. ROE], chairman of the Committee on Science, Space, and Technology; the chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. ANDERSON]; the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES]; and the chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL]. I wish to thank their ranking members, especially the gentleman from Pennsylvania [Mr. WALKER] and the gentlewoman from Rhode Island [Ms. SCHNEIDER] of the Committee on Science, Space, and Technology, for their splendid cooperation and support.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, as an original cosponsor of H.R. 1465, the Comprehensive Oil Pollution Prevention, Response, Liability, and Compensation Act, I strongly believe that the Congress needs to enact oilspill legislation this session. Never has the need for such legislation been so great as it is today, in the aftermath of the *Exxon Valdez* disaster.

I have worked for years, as have other members of the Merchant Marine and Fisheries Committee, to see Congress enact comprehensive oilspill legislation. This comprehensive bill before us today is in the best interests of our Nation with its many provisions especially designed to ensure that our precious environment is protected to the best of our ability.

As a Representative of the State of Florida I have many serious concerns for oilspill prevention and cleanup. The economy of the State of Florida depends heavily on the tourism industry. Aside from the obvious environmental devastation which would result from an oilspill off our coast, tourism is also directly tied to the world's most beautiful beaches. Therefore, the cleanup and removal process following any oilspill off our coast is of paramount importance to the State of Florida.

I will later support what I believe are strengthening amendments dealing with preemption issue. It is my goal to see that the States are allowed the authority to fully protect their coastline. Florida has had a good oilspill law for a number of years. To this end, I urge all my colleagues to support the long overdue Oil Pollution Prevention, Response, Liability, and Compensation Act.

Mr. SCHEUER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for the Committee on Science, Space, and Technology has expired.

The Chair now turns to the Committee on Interior and Insular Affairs. The gentleman from California [Mr. MILLER] will be recognized for 15 minutes, and the gentleman from Alaska [Mr. YOUNG], will be recognized for 15 minutes.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the oilspill bill which we now have under consideration in

the House of Representatives is designed to respond to the tragedy of the *Exxon Valdez* and to prevent similar tragedies from happening in the future. I believe that this legislation does that.

This committee and all of the committees involved in this legislation have worked hard to respond to that disaster and to report out a strong bill. As good as this bill is, I happen to think that it can be made better. I think that it can be made better with respect to the rights and responsibilities of the various parties. It can be made better to strengthen the rights of the people and to strengthen responsibilities of the oil companies.

What we found out after the *Exxon Valdez* was that the oil industry essentially had no ability to respond to oil spills on a timely and effective basis. We found that no person was in charge, that the technology was not available, the preparedness was not what they thought it would be. In fact, when an oilspill takes place, it is already too late.

This bill responds to those concerns. Yet I think at the same time this bill relieves the companies of responsibilities to operate in a safe manner so that we can prevent the need for oilspill cleanup. It does so because it protects the companies from their own negligence. It limits their liability. In the case of the *Exxon Valdez,* if it was to happen after this law was passed as written by the committees, we would find that their liability would be limited to something in the nature of $100 million. Yet, as we know today, the cost of the *Exxon Valdez* oilspill in Alaska is more than $2 billion. So what happens? What happens, folks, is that we are about $1,900,000,000 short in liability, and the fact will be that the money will come from companies that do not operate in negligent fashion, and finally, that money will come from the consumers who will pay at the gas pump, or they will pay as taxpayers.

□ 1600

Finally, I think this bill fails to protect the rights of the people of the coastal States and other areas that may be inundated by oilspills. It does that in the sense that this bill seeks to preempt the citizens of coastal States and other States from the rights of the acts of their legislatures, from the protection of acts they have taken, whether by initiative or by acts of their legislature to protect their coasts from these kinds of spills, these kinds of disasters.

I would suggest to Members that it ought not be the role of the Federal Government to preempt the States in these cases. There is a long history of environment laws where we do not do that.

I think we ought to understand that as we seek to do that, we preempt them in a number of ways. For that reason, Congressman STUDDS and myself will be offering an amendment to strengthen the rights of the States in the event of an oilspill disaster, but also to strengthen the rights of those states to protect themselves from those.

The amendment protects the rights of States to set higher levels of financial responsibility. It leaves the State court jurisdiction in tact. It makes State standards apply to cleanups, and gives the Governors an equal say with Federal authorities as to when that cleanup is in fact really complete.

These are hardly radical proposals. The Senate oil bill legislation which passed by a vote of 99 to nothing has virtually identical provisions. The preemption of state laws and rights was not even challenged during the consideration of the Senate bill.

In fact, Mr. Chairman, the only one lobbying to get rid of the State laws and rights of potential polluters are the polluters themselves. It is the oil companies and the shipping industry, not the potential victims of the spill who support H.R. 1465's preemption language.

While a few special interests favor preemption of State laws and rights, the overwhelming public interest is served by protecting those State laws.

Consider the point made in a bipartisan letter of support for this amendment from the National Governors' Association:

> Congress has traditionally passed environmental laws but established minimum standards that States are free to exceed in order to meet their particular needs. We see no reason to depart from this successful practice.

Consider what the National Association of Attorneys General have said in support of Studds-Miller amendment:

> States are often the first line of defense in reacting to oilspills and often have interests both different from and greater than the Federal Government in cleaning up the oil and restoring the environment. States should not be discouraged from responding and forced to rely on the Federal agencies and Federal courts to ensure that their is a complete response to, and compensation for, an oilspill.

Mr. Chairman, consider what the California attorney general said in a letter to you about an oilspill last year in my home town of Martinez, CA:

> Among the reasons that negotiations on damages have progressed as far as they have was Shell's knowledge of our ability to use State courts to assess liability under California law. Under California law there is no limit on the liability on a party responsible for an oilspill. Under H.R. 1465, we could neither use the State courts nor enforce State liability laws.

If you still have any doubts about why the oil companies want so badly to defeat this amendment, consider what would have happened if H.R. 1465 were in effect when the *Exxon Valdez* spilled 11 million gallons of oil into Prince William Sound last March.

First, Alaska's State law, which provides for unlimited liability and which extend liability to the owner of the oil in addition to the shipper, would be wiped out by H.R. 1465. Alaska's tough liability law is a major reason why Exxon spent nearly $2 billion in this year's cleanup effort.

Second, H.R. 1465 would eliminate State court jurisdiction. The State of Alaska has filed suit in Anchorage. Yet H.R. 1454 would limit jurisdiction to Federal courts, with no guarantee that the case would be considered in the State where the spill occurred.

Third, under H.R. 1465, the State of Alaska's standards concerning how the cleanup should be conducted would be eliminated.

Fourth, the State of Alaska would be helpless if the Federal authorities determined that Exxon had completed the cleanup.

Let me say at this point that we now have almost a national moritorium on oil drilling off the coasts of this Nation. One of the primary reasons that we have a national moritorium is because the Federal Government has refused to consider the views of the Governors of the coastal States, has refused to consider the views of communities of the coastal States, has refused to consider the views of the State legislatures. Oh, they have consulted with them, but then they have gone ahead and issued those leases willy-nilly.

What they are telling them is if you have an oilspill off the coast of your State, you have no say in how it will be cleaned up, when it is cleaned up, and whether or not it is completed.

I do not think that that can be the policy of the House of Representatives. It is not the policy of the U.S. Senate, and it cannot be the policy of this government, because should that happen, I suggest to Members that we will continue to see the harassment by State government of this industry because they do not feel protected under this law as it is currently written.

I believe that the public expects us to respond to the *Exxon Valdez* by making laws that respect the rights of those States, and not to make laws that are more favorable to the Exxon's.

We should keep in mind the point made by the Speaker of the Alaska House of Representatives in a letter dated September 15. He says:

> As Exxon pulls up stakes in Valdez, leaving behind hundreds of miles of oiled beaches with no promise to return, it is ironic to note that an attempt by Alaska to charge Exxon for continued cleanup and compensation would be barred under the premption provisions of H.R. 1465, were they in effect today.

I urge all of my colleagues to give very serious consideration to and hopefully pass the Miller-Studds amendment to deal with this issue of State preemption.

Finally, let me just quickly turn to title VIII, which is designed to address and is made an original text of this legislation. I want to thank the committees for agreeing to have that happen, and to the Rules Committee and the majority leader for his help in making sure that these provisions would be put in.

Mr. Chairman, the Committee on Interior and Insular Affairs has a substantial interest in H.R. 1465, the Oil Pollution Act of 1989. Public concern about the oil industries' ability to produce and transport oil in a safe and environmentally sound fashion—or effectively cleanup spills when they do occur—has dramatically affected the Interior Department's programs for leasing the Outer Continental Shelf and onshore public lands.

Issues related to Alaska oil and gas development have long been central to Interior Committee deliberations and jurisdiction. The controversy over whether to bring North Slope oil by pipeline to Valdez was one of the most heavily debated environmental issues of the 1970's.

Congress chose in 1973 to build the pipeline to Valdez despite serious concerns about the harsh Alaska conditions, the safety of tankers and the threat of oil spills to Prince William Sound and areas all along the west coast.

The Interior Committee represented the House in the conference on the Trans-Alaska Pipeline Authorization Act of 1973. The TAPS Act was a recognition of the reality that "Alaska is different." Stricter liability standards than anywhere else in the country were imposed and a $100 million oilspill compensation fund was created by means of a 5-cent-per-barrel fee on pipeline oil.

Tragically, the *Exxon Valdez* oilspill has demonstrated that, despite good intentions, the system is flawed.

As the subcommittee chairman with jurisdiction, I have chaired an extensive series of hearings on Alaska oil and gas matters in the context of the debate over whether to develop the Arctic National Wildlife Refuge or protect the area as wilderness. I have some distinction in this body as one of the few Members to have visited Prudhoe Bay in the winter. After the *Exxon Valdex* oilspill last March, I have chaired a series of hearings, both here and in Alaska and my subcommittee is engaged in an ongoing investigation.

Based on this experience, I introduced H.R. 3277, the Trans-Alaska Pipeline System Reform Act of 1989. I am especially pleased, Mr. Chairman, that title VIII related to the Trans-Alaska Pipeline System has been made in order as original text as part of the rule for H.R. 1465. The language of this title was modified in consultation with the Merchant Marine and Public Works Committees. I am especially appreciative of the support of the majority leader for the Alaska provisions.

The most important lesson from *Exxon Valdez* is that once oil is spilled, it's too late. The Alaska Department of Environmental Conservation estimates that, even after Exxon's summer cleanup efforts, only 32,500 of the 260,000 barrels of oil spilled have actually been recovered.

Accordingly, the major features of title VIII are aimed at giving the oil industry greater incentives to operate safely in Alaska and at increasing environmental enforcement.

In brief, the Alaska title has the following provisions:

First, unlimited liability is imposed for cleaning up oil spilled during transit through the pipeline or at the terminal in Valdez;

Second, the Trans-Alaska Liability Fund—$280 million—is amended to encourage resolution of claims from a 1987 spill in Cook Inlet and the *Exxon Valdez* accident. No transfer of fund moneys or rebate to the oil companies is provided;

Third, no claims can be filed against the TAPS liability fund for an incident occurring after date of enactment of H.R. 1465;

Fourth, for purposes directly related to improving TAPS operations, up to $5 million annually is authorized to be spent on Federal environmental enforcement, up to $2 million—on a dollar-for-dollar-matching basis—for State enforcement, and up to $5 million for a Presidential Task Force on TAPS;

Fifth, the task force is directed to conduct a comprehensive audit of TAPS and to prepare a report for Congress on necessary improvements in the system;

Sixth, a pipeline terminal advisory council is authorized, funded by Alyeska;

Seventh, MMS authority to impose civil penalties for OCS facilities is clarified and the penalty limit increased to $20,000 per violation per day—applies nationally;

Eighth, interior is directed to impose a minimum $1,000 per barrel penalty for spills of Alaska oil during transit to, or through, the pipeline and at the terminal in Valdez;

Ninth, Alaska Natives may bring oilspill claims even though full land title has not been conveyed; and,

Tenth, a special Interior Department study of problems related to oilspills in the Arctic Ocean is ordered.

Mr. Chairman, the Alaska title represents a series of reasonable and needed reforms in the operation of the Trans-Alaska Pipeline System. These reforms are essential if we are to operate the pipeline safely and prevent future spills.

I urge my colleagues to support this title and to vote against any weakening amendments.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I would like to remind the body why we are here today, and it is primarily because of the *Exxon Valdez* spill in our great State of Alaska, the only State today that is exporting oil to the lower 48, not to foreign countries. In fact, it is exporting approximately 25 percent of our domestic production.

We had a tragedy in 1964 on Good Friday. It was an earthquake, similar to the one the gentleman from California just went through.

□ 1610

Mr. Chairman, we lost cities, and we lost lives, and, 25 years later, we had another tragedy, same day, Good Friday. That was the *Exxon Valdez* collision with a rock because of the malfunctioning of a captain, and, very frankly, much of what has been said today is true. We became very negligent. We became a State and a nation that thought nothing could happen. We did not do the research.

Mr. Chairman, I was interested in the comments of the chairman about the research that is needed to be done. Much of the equipment which we used was imported from France, and from Norway and from England because we had not done the research. In fact, unfortunately, when we went to do some of the research, we were told by BEC, or by EPA, or by someone else, that we could not do it because they were not sure what it would do to the environment. Yet we do know what 11 million gallons will do. We do know that human error can occur now. We do know that it did happen on Good Friday, and this tragedy has brought this bill to the floor.

However, Mr. Chairman, I have to say, and I hope people take this in good faith, thank God it was Exxon because they have spent and will have spent approximately $2 billion, and, yes, they will recover some of that. But they have spent $2 billion trying to collect and to contain what remaining oil is left on the beaches.

My colleagues, think for a moment what might have happened in your port, and your cities, and on our coast and the beautiful beaches of Florida, wherever they may be. Mr. Chairman, I am not going to argue what is the prettiest beach, however, if it had been a foreign tanker owned by a single company, which many times happens, as happened in Philadelphia where they lost 300,000 barrels of oil

and walked away from it in 1976; that could happen today because today we are importing 52 percent of our oil for our cars, and our airplanes and everything else that we have this desire for.

Mr. Chairman, right now, today, right now if we had a tragedy such as happened in Alaska off the coast of New York, or Florida, or North Carolina or South Carolina, any of those areas, California, we could not recover 1 red cent if they decided to walk away from it. Now what this bill does, hopefully, before it is finally done, is see to it that we will have an ability to raise the moneys from, not only domestic oil, but from oil which we import, because the one thing we do not want to do is to be punitive to our domestic industry because our industry today is producing 7.5 million barrels a day, the lowest since 1963. The lowest.

Mr. Chairman, that is not because they are not trying. It is because it is not there, and we are not allowed, and we should not be allowed and are not allowed to go into these areas that are restricted.

So, whatever we do in this legislation, we must also make sure that it applies to that oil which is imported because we do need that fund available so that, if there is a tragedy with an oilspill, that we can quickly contain it with a strike team, that we will recover it before it reaches the beaches, that, more than that, that we have the navigational ability to make sure it does not happen that pilots are on board that cannot even speak English. Some of them do not today. And we must have the ability, the most modern technology, to bring that ship to port, be it a supertanker or a smaller tanker, without the possibility of any damage.

Mr. Chairman, I can assure this body that this legislation, as it came out of the committee, is good legislation. There are some amendments that would make it better, and hopefully they will be debated thoroughly when the full body is here next Wednesday, but I do not want this legislation to get bogged down to a point that this Nation is faced with a tragedy such as we are faced with in Alaska.

When we finally pass this legislation, if it is not burdened down too much, and it is and has become law, then I think we ought to address the issue of opening up the domestic oil production so we are not at the mercy of the OPEC nations.

Mr. Chairman, not many of my colleagues were here in 1973, and I was, and through that period of time until 1976 I saw the panic and the economic disaster to this Nation when oil went from $3.74 a barrel, to about $12, to about $38, and this Congress unfortunately is still waddling along like a fat duck not thinking of the need for energy.

Mr. Chairman, I will be the first one to admit that ANWR in Alaska is not the final solution for our shortage of energy, but it is a part of that solution to keep us from falling into that terrible disastrous trap that we did in the 1970's. We have not advanced with the nuclear power, nor have we advanced with the solution to acid rain, nor have we developed our natural gasses and the other sources of power. We have not done that. We are buying our power from Venezuela, Canada, Mexico, and the OPEC countries, and the American public is unaware. We should be the ones to say we have got a problem. We are not producing the energy that this Nation needs, and that affects our future economic growth.

As my colleagues know, it is ironic to me that I sit on this floor and hear people talk about the need for education. I will agree, as a teacher, that this is vitally needed, but, if there are no job opportunities, we are just spinning in the wind.

So, Mr. Chairman, I would like to say that this legislation we have here today is part of a puzzle that is needed to be set forth by this body to achieve another goal: protect our coasts, give us the finest transportation system in the world for our domestic fleet, make sure that the foreign rust buckets that come into our waters have the same responsibilities as we do. But then let us go forth and produce the energy, and look for the energy and use imagination because right now we are leading this country into a very precarious position of being so dependent that we will be dictated to from the OPEC countries in how we shall construct our international affairs, let alone our domestic affairs.

So, Mr. Chairman, again I urge this body, as we come forth in the coming week to look at the amendments very carefully, study them, and, if my colleagues' consciences direct them to vote yes, they should vote yes. If their conscience directs them to vote no, they should vote no. But let us not burden this bill with so much that we do not have this safety net in place because tomorrow that oilspill could happen off of any one of our importing States of that 52 percent of the foreign oils which we are using today, and nothing would happen. This is going to be a responsibility we must face up to, and I urge this body and the committees, and I compliment the committees on this legislation, to show the same enthusiasm the Committee on Merchant Marine and Fisheries showed in the development and exploration of the oil that is available on our domestic soils. That is also a charge we cannot neglect.

Mr. Chairman, after the spill on March 24 I heard a lot of people say that we cannot develop any more oil. Doomsday has arrived, and we must not do anything. We must buy it from abroad. If we do that, we become more dependent, but, more than that, we threaten our coasts, we threaten our port cities, by those ships that are bringing it into us because they are inadequate. This is a band-aid that is needed at this time in case they start hemorrhaging so that we can contain, prevent and, if necessary, condemn those ships that come into our harbors.

In closing, Mr. Chairman, I must say our domestic fleet, the *Exxon Valdez*, was a brand-new vessel which cost $127 million.

□ 1620

But 52 percent of the oil that comes into our country comes in on ships that neither you nor I nor anyone in this room would ever set foot on, bringing it to us because we have got an appetite that you cannot believe, much worse than it was in 1973. It was 33 percent in 1973 that we were dependent on. It is 52 percent today.

This body has a responsibility, not only in this legislation, but for an energy plan that produces energy for the people of this great Nation.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I thank the gentleman for yielding this time to me.

I was not here 14 years ago when this legislation began, but we heard it said today that this piece of legislation that is coming before us today gives us the opportunity to leave something better in the world after us. This is a better bill than it was in 1975. I would say, Mr. Chairman, that it is going to be a better bill when we are through with it on this floor than it is today. We will pass legislation that will both improve the tanker safety and response capability and provide fair compensation to those who are harmed by these environmental disasters.

This legislation before us improves current law in many important ways, and particularly it vastly improves our Nation's ability to prevent and respond effectively to oilspills. Nevertheless, the bill can and must be improved.

First, Federal oilspill legislation should articulate clear goals and standards for cleanup and restoration, but it must require that those cleanup standards meet the more stringent standards applicable under affected States' environmental laws, as well as minimum Federal standards. The bill before us today does not meet that requirement. As it came out of our committee it did, and I hope that on this floor we will be adding that additional requirement.

Also, I would like to comment on someone who began work on oilspill prevention many, many years ago, the senior Senator from Washington State, Warren Magnuson, who is no longer with us. However, about 10 days before he died last summer, he was speaking out about improved tanker safety and the need to consider double hulls. I believe it is important that as we consider this legislation we take advantage of the wisdom and experience that those who have gone before us have had.

This is a fine piece of legislation. I am deeply indebted to our chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES], deeply indebted to the others who have worked on this, and when we pass this legislation next week it is going to be even better.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of this legislation.

I would like to point out to my colleagues that more often then not this representative democracy works the way it should work with citizens providing council and some valuable input that guides our action. Let me give you a classic example. Right after the *Exxon Valdez* tragedy, I received a telephone call from one of my constituents a Dr. Joseph Ryerson of Holland Patent, NY. He is a retired Federal employee. He is a radar expert who worked at the Griffiss Air Force Base in Rome, NY. He said to me:

Why don't oil tankers which carry millions of gallons of oil have sonar on board so their navigators can be forewarned of underwater obstacles in shallow waters?

I said, "Well, that makes a lot of sense. Why don't they?"

So I got on the telephone. I called the Navy. I called the Coast Guard, and to my dismay, I discovered that they do not. I discovered that we have this great technology used by the military, financed at taxpayers' expense with millions of dollars that is not transferred to the commercial civilian sector.

So I said to myself, "Why not change that?" To the eternal gratitude of all my colleagues on the Committee on Science, Space, and Technology, they adopted an amendment that I offered that asked the Coast Guard, directs the Coast Guard to conduct a study to see what kind of military navigational aids we have that could be transferred, the technology could be transferred to the civilian sector so that they have this navigational system to forewarn them so that perhaps in the future we will not have another *Exxon Valdez.*

So I say that the Congress listens to the people when they talk. We do pay attention out there in America when you call us or write us, and we translate your good ideas into action here in the Congress. As a result, we all benefit. So the system does work.

I want to congratulate all my colleagues who have worked so hard on this very important legislation. Hopefully in the future we will not have any more *Exxon Valdez* spills.

Mr. Chairman, I want to thank Dr. Joseph Ryerson of Holland Patent, NY, a concerned interested citizen, for sharing with us his expertise.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of this legislation. I want to commend the committees for working hard on this. I know we have been down this track a number of times. It is, I think, an indication that this year finally we will act to provide for a uniform and comprehensive policy to deal with this. It has been an effort of almost 15 years. The bill today coming from three different committees and with the input of a fourth committee, my own committee, the Committee on Interior and Insular Affairs, is not yet perfect. I will be supporting some amendments next week. I know there has been an effort to come together to try to agree to certain precepts in this that would be helpful in terms with dealing with it, but I am glad the House is finally considering legislation to provide for cleanup and compensating the oilspills, and more importantly to preventing oilspills occurring.

Mr. Chairman, the legislation before us today is long overdue. Congress has wrestled with oilspill compensation and liability legislation for nearly 15 years without coming to an agreement. The bill before us today is not perfect, and I will be supporting several amendments to strengthen the bill to better protect the environment. But I am glad that the House is finally considering legislation to provide a framework for cleaning up and compensating for oilspills and, more importantly, for preventing oilspills from occurring in the future.

It is unfortunate that it took the terrible events of March 24 to stimulate us to action. The *Exxon Valdez* spill, which dumped over 10 million gallons of oil into Prince William Sound, was the largest in America's history. Following the spill, I traveled to Alaska to examine the damage first hand and held a hearing in my Subcommittee on National Parks and Public Lands on the oilspill's immediate and long-term effects on National Park and National Forest lands bordering the Gulf of Alaska. Almost all of the lands affected by the spill are in the public domain under the stewardship of the Departments of the Interior and Agriculture and the State of Alaska. These unique lands may never be fully restored to their natural pristine state. The spill and related toxics have affected generations of migrating fish and endangered species that thrive in Prince William Sound and the nearby Gulf of Alaska.

More than 7 months have passed since this tragic accident, yet remnants of its destruction are all around and still tarnish Alaska's environment. The catastrophic size of the spill and its effects on the pristine qualities of Alaska's environment captured national attention and outraged the American public. It was a vivid reminder that no place on Earth is immune from pollution—not even an area as remote as Alaska.

While my district in Minnesota is far from away the coastal waterways where oil supertankers are found, it is not immune from toxic spills. In August, a small liquid asphalt spill in the Minnesota River threatened the Minnesota River Valley National Wildlife Refuge. Fortunately, the spill was stopped early and a cooperative cleanup effort by neighboring businesses, national and State government agencies, the Coast Guard, and others prevented the spill from causing more harm to the environment.

These spills are a disturbing reminder of the conflict between the necessity to use our waterways for transportation and the need to preserve our Nation's dwindling natural resources. It is an undeniable fact that as long as our waterways serve as important arteries of trade, they will be susceptible to contamination. In recognition of this fact, we must ensure that strong safeguards are in place to preserve these vital resources, improve planning, and develop effective technology to make sure that spills are cleaned up properly and promptly.

The legislation before us today will establish a uniform Federal system of liability and compensation for damages caused by oilspills. In addition, it establishes an Oil Spill Liability Trust Fund to pay for Federal and State oil cleanup costs and to pay for damages and compensate affected parties. I am gratified that the bill deals satisfactorily with claims pending against the current Trans-Alaska Pipeline Liability Fund and hope that passage of this bill will resolve a situation which has been subject for too long to legal maneuvering.

Mr. Chairman, I urge my colleagues to support strengthening amendments which will be offered later.

Mr. YOUNG of Alaska. Mr. Chairman, in what little remaining time I have I would like to remind my colleagues that we are also addressing another issue on this floor and that is the Clean Air Act which I strongly support, but I hope those who are here and listening to this debate under-

stand one thing. For some reason methanol has become the magic word. It is going to solve the problem on the road in L.A. and methanol is going to be the solution to everything.

□ 1630

I would like to suggest to my colleagues that what scientific information has been given to me, if the *Exxon Valdez* had been carrying methanol, we would have had a desert, and all fish and wildlife would have been killed, in that area because of the methanol toxicity. Think about that a moment, because the methanol is not going to be coming necessarily from Alaska. It will be coming into your ports from the Persian Gulf supposedly for clean air, and if we have a spill of that magnitude as we had in Alaska, we will not have that harbor in which we have people around.

Mr. Speaker, it has nothing to do with this bill other than the fact I want to bring to the attention of my colleagues that the methanol buzzword is not the solution to all of our problems.

I do urge my colleagues to pass this legislation. Listen to the amendments very closely.

Mr. FRENZEL. Mr. Chairman, I had intended to offer an amendment to H.R. 1465 which would require that all amounts spent from the new oilspill liability trust fund created in this act, be subject to annual appropriations action. This amendment was presented to the Rules Committee and its consideration has not been precluded since the bill was granted an open rule.

However, it is my understanding that the distinguished chairman of the Merchant Marine Committee will be offering an amendment to H.R. 1465 which provides that amounts spent from the oilspill liability trust fund will be subject to annual appropriations except for emergency removal costs which are capped at $30 million. Natural resource damage and civil penalty payments will also be available without further appropriations for Federal response and removal actions in this amendment—at a cost of approximately $1 million according to an informal CBO estimate. Since the committees with jurisdiction over these matters have decided to limit direct spending to truly emergency situations where an oilspill has occurred and must be cleaned up, I have decided not to offer my amendment and to support the compromise approach.

Although I would prefer to remain true to the budget process and not allow any new direct spending which was not provided in the fiscal year 1990 budget resolution, I recognize the need to have some funds available immediately to the Federal Government if an oilspill occurs.

Mr. CONTE. Mr. Chairman, the oilspill response bill is a very comprehensive piece of legislation. It's got more than an ounce of prevention, it's got an enormous domestic fund supported by oil company taxes to pay for cleanup and damages, it's got high liability limits, it's got strike teams and contingency plans, and it's got specific provisions for Prince William Sound.

It's got a lot, Mr. Chairman, and the Coast Guard is getting the responsibility to make it work. The Coast Guard is a can-do organization, and they'll do a good job, but the added responsibility for strike teams and administering contingency plans is going to mean one of two things: either more people and resources for the Coast Guard, or else shifting priorities from other Coast Guard missions.

I am going to work to ensure that the Coast Guard has the resources it needs to perform all its many missions, oilspill response included. I hope my colleagues understand, however, that what we do on this bill will need strong followup through next year's budget process. The buck doesn't stop here.

Mr. Chairman, I'd also like to note part of my contribution to this bill. In the wake of the *Valdez* oilspill, I realized that there was a need to examine and respond to the problems of alcohol abuse in the merchant marine. That's why I introduced the Coast Guard License Verification Act, to allow the Coast Guard to check the driving records of merchant mariners prior to issuing licenses. That idea has blossomed into the language contained in title IV of the oilspill bill before us today.

Just as there are motorists who drink then drive, there are sailors who drink then sail. Right now, the Coast Guard has no way of knowing which mariners have a history of alcohol abuse. The language in the oilspill response bill will permit the Coast Guard to check the National Driver Register and determine whether mariners have had any drunk driving offenses. If the Coast Guard determines that a mariner has an alcohol abuse problem, then the mariner's license or certificate can be suspended or revoked.

Mr. Chairman, the vast majority of merchant mariners are responsible, hard-working sailors with no alcohol problems. But those few with problems do pose a risk. The oilspill response bill will lower the risk of alcohol related accidents at sea. For the first time, the Coast Guard will have the authority to keep drunken sailors off the water and in the port.

I appreciate the support my idea received from members of the Merchant Marine and the Public Works Committees, particularly the chairman of the Coast Guard Subcommittee, BILLY TAUZIN, ranking member BOB DAVIS, and my friend from Alaska, DON YOUNG.

Mrs. MORELLA. Mr. Chairman, I would like to add my support for amending H.R. 1465 to eliminate preemption of State liability laws. Maryland is one of the States that has been in the forefront in State legislation, and the bill, as presently written, could adversely affect our citizens.

The *Exxon Valez* case provides an excellent example of how this preemption provision could operate to prevent individuals from being compensated for their damages. This bill would cap the liability of large tankers at about $500 million. The rest of the costs for damages could be recovered from the oilspill fund. That fund appears to total about $1 billion, but the cleanup costs for the *Valez* spill are estimated to be at least twice that amount.

Because of the Federal preemption provision, if the costs of cleanup exceed the liability cap and the amount in the fund, an individual or State has no way to recover the full costs of a cleanup. This bill prevents the injured party from suing for the full cleanup costs in State court.

For example, if an oysterman on the Chesapeake Bay spent funds to clean up an oyster bed after the oilspill, he could not recover the costs of that cleanup effort once the liability cap was reached and the oilspill fund had been depleted. In other words, the preemption provision would deny him the option of seeking compensation in State court.

Common sense dictates that the amount that can be collected for damages—not punitive—should be linked directly to the severity of the damage. There is no way to determine in advance the amount of damage an oilspill may cause. Therefore, the Federal Government should not preempt the ability of the States to apply their own liability laws on a case-by-case basis.

In addition, past environmental legislation approved by Congress has given the States the flexibility to impose stricter standards and penalties than established by Federal law. For example, the Superfund legislation, which created a cleanup fund for hazardous wastes, contains a provision explicitly stating that State laws are not preempted. I see no reason why we should depart from this practice now.

Mr. Chairman, I would also like to take this opportunity to express my support for the amendment proposed by my colleague from Maryland, Representative BEN CARDIN. I believe that these congressional directives to the Coast Guard will greatly improve the safety of shipping on our waterways. Through the regulatory process, we will establish minimum standards and testing that should be welcomed by all responsible citizens.

I look forward to passage of this historic piece of legislation, and I urge the support of my colleagues for these important amendments.

Mr. DAVIS. Mr. Chairman, I rise in support of this bill, which has a long history before the Congress. For 14 years, the Merchant Marine and Fisheries Committee has been telling the world that we needed comprehensive oilspills liability and compensation legislation, but every Congress, an obstacle was thrown in our path. How unfortunate that it has taken a tragedy of the magnitude of the *Exxon Valdez* to draw us into a consensus position today.

The bill before the House is a strong one, and furthers our committee's philosophy that the coastal environment must be protected consistent with the reality that oil must be transported at a reasonable cost. The bill also implements the international oilspill protocols, a vital piece in the oilspill compensation puzzle which will strengthen our grip on foreign oil tankers which pollute U.S. waters.

The bill creates a generous Federal fund to help prevent oilspills from occurring again. It makes it clear that if a spill occurs, the spiller is responsible for the resulting cleanup costs and damages. If the spiller cannot pay, the Federal fund will make those harmed by the spill whole. This is a situation which does not exist under the current Federal laws which govern oilspills. The bill puts the President in

charge of the cleanup, and authorizes him to direct the responsible party's actions. The bill revitalizes a weak research and development program to improve our ability to prevent, cleanup, and recover from oilspills.

Although this is a national bill, nowhere is the threat of an oilspill more potentially devastating than in the Great Lakes. Unlike our saltwater areas, the lakes serve as a source of drinking water, and there is no flushing tidal action to clear the oil from the waters. Couple this with unpredictable storms and the dangers of ice, and it becomes clear that the lakes are in need of special protection. Fortunately, H.R. 3394 goes far in providing this security.

First, the bill mandates the creation of at least seven regional cleanup forces; one of these is to be located in the Great Lakes. Second, the bill corrects a loophole in current pilotage laws which allows inexperienced navigators on tankers in certain waters of the Great Lakes. The need for qualified pilots is critical, given the often treacherous waters and powerful storms. Third, the bill authorizes a computerized inventory of oilspill cleanup equipment and personnel and directs the Secretary of Transportation to pursue the development of an international inventory. The United States and Canada have begun a dialog in this area recently, and I hope that they will continue. Fourth, the bill authorizes the creation of regional research centers for oilspill work, with one located in the Great Lakes. The research and development program will also focus on freshwater removal techniques and problems with ice. At the appropriate time, I will be offering an amendment which adds another layer of protection for Great Lakes waters, consistent with a bill I introduced last summer, the Great Lakes Oilspill Protection Act.

We have several other Members who are anxious to speak, so I will close now. I urge my colleagues to ensure that we give the President, whose environmental feelings are well known, legislation to protect our coastal environment from oil pollution before another *Exxon Valdez* occurs.

Mr. NELSON of Florida. Mr. Chairman, I rise in support of H.R. 1465. We are all too familiar with the *Exxon Valdez* oil tanker which ran aground in Alaska's Prince William Sound on March 24 dumping more than 11 million gallons of oil—making it the largest spill in U.S. history. Three other spills have occurred in June of this year and just 3 days ago, a Yugoslavian cargo ship laden with fuel oil and phosphates ran aground at the tip of the Florida Keys. The Coast Guard fears that rough weather will further damage the ship leading to a possible oilspill.

Mr. Chairman, there is no time like the present to address this crucial issue. The future of our environment is in danger of irreversible damage if we do not act now ot protect our natural resources from the ravages of an oilspill. All of us here today will have the opportunity to make a difference. We can ensure strong regulations on liability by supporting those efforts to allow States to have the ability to set stricter standards than Federal law currently allows for.

First and foremost, it is this Nation's responsibility to work as hard as we can to prevent oilspills from occurring. However, as recent history has shown us, we cannot always prevent these spills. Fast and effective cleanup is necessary. The lessons we have been taught by Valdez show the reality of disorganization and lack of effective leadership when a catastrophe of this nature occurs. This bill will help us to quickly respond to a spill with the best technology and training that can be developed. We also must make sure that those responsible be held accountable for their actions and pay the price of their mistakes.

Mr. Chairman, we need oil and we also need to maintain our precious natural resources so that our children can inherit a safe, clean and longlasting environment. When we have finished with the legislation before us today, we will have taken a giant step toward safeguarding our ecosystem both now and in the future.

Mr. WALGREN. Mr. Chairman, the bill before us today, the comprehensive oilspill bill, would greatly improve this country's antiquated and inadequate oilspill prevention, response, compensation, and liability system.

While the Nation's attention has been focused in recent months on calamities like the *Exxon Valdez* in Alaska and coastal spills near Newport, RI, and Delaware, we cannot forget that spills also can happen on waterways right in our own backyard. My district was jolted on January 2, 1988 by the rupture of an Ashland oil above-ground tank that released 3.8 million gallons of No. 2 diesel oil, 1 million of which went into the Monongahela River: 1,200 people were evacuated because of the potential of fire. Drinking water supplies of 1 million people were affected with some communities having no water for 8 days. Businesses were forced to shut down for lack of water. And environmentally, the riverbed and riverbanks were loaded with oil. While above-ground tank accidents of this magnitude are unusual, they can happen and the results are devastating.

The legislation before us today includes two provisions which I suggested in response to the Ashland tank collapse in Pittsburgh. One would restore a nationwide inventory of emergency spill response equipment and the second makes sure that Federal research examines spills occurring in all types of settings.

A national inventory of response equipment was previously administered by the Coast Guard, but eliminated because of budget pressures several years ago. An inventory is critical to determine the location and capability of equipment and other resources which can contain a spill and prevent further environmental damage. No company and no level of Government can house enough equipment for responding to catastrophic spills. But it should be a relative easy task to establish a computerized listing of equipment available nationwide so response personnel can at least find out what is potentially available. In Pittsburgh, response officials were actually searching manufacturers' old sales receipts for fluorometers to determine who might have such devices. While the search was underway, thousands of gallons of diesel fuel slipped under booms which were misplaced because of faulty data.

Obviously, no amount of preparation for a spill can be effective without the technology needed to contain and remove the oil. For nearly 20 years, the research necessary to develop effective oil pollution technology has been poorly coordinated and underfunded. The research and development section of this bill, as reported by the Committee on Science, Space, and Technology, would establish a well-defined program with clear direction for coordinating and focusing the Federal oil pollution research effort. I appreciate the committee's support of my amendment to require the interagency research committee to study the actual incidence of oilspills, including the setting in which they occurred, over the last 20 years to determine what research gaps exist and what research priorities we need to set.

By looking at all past spills in all locations, we can better determine our research needs and fill those technology gaps that make containment and response so difficult. We should not be told, as we were in Pittsburgh, that research had developed some techniques to contain spills—but only in open water—but not in running river currents.

I want to express my appreciation to the Public Works and the Science Committees, especially Congressmen NOWAK and SCHEUER, who accepted my suggestions. I hope this bill will give the public some comfort that we can prevent accidents and respond to them effectively.

Mrs. LOWEY of New York, Mr. Chairman, I rise in support of H.R. 3394, the Oil Pollution Act. As a member of the Committee on Merchant Marine and Fisheries, I am pleased to have been active in the development of comprehensive oilspill legislation—legislation that is of crucial importance to Long Island Sound, the Hudson River, New York Harbor and the Nation. Enactment of H.R. 3394 will be a major step forward in the fight against environmental catastrophe in our coastal waters.

This bill makes major strides forward in the fight to prevent future oilspills and to improve our ability to respond to spills that do occur.

Spills should not happen, but when they do, we must be ready. That is particularly critical in heavily used, yet environmentally sensitive areas such as the Long Island Sound, New York Harbor, and Hudson River region. To insure that we have an effective oilspill response plan in place to serve this region, I secured report language in the oilspill prevention bill to require the President to prepare an improved local oilspill contingency plan for the Long Island Sound, New York Harbor, and Hudson River region.

The threat of a spill in the Long Island Sound, the Hudson River or New York Harbor region is very real. Let me share with you some facts which should put into perspective the importance of oilspill prevention to the New York metropolitan region:

There is more bulk oil shipped through New York Harbor in 1 day than in any comparable area in our Nation;

Last year, 1,669 tankers came into New York Harbor. That is more than four tankers each day. Each one carries, on average, over 13 million gallons of oil;

Each day approximately 1 million barrels—42 million gallons—of oil traverse New York Harbor; and

Each year 18 billion gallons of oil are transported through New York Harbor.

Mr. Chairman, this bill will do a great deal to help to prevent oilspills in the New York region. And it also helps ensure that we are prepared to respond fully and immediately, should a tragedy occur.

This bill also addresses a very specific threat currently faced by Long Island Sound. Oil tankers in Long Island Sound currently utilize a treacherous channel between Montauk Point, New York, and Block Island, RI. Until recently, this channel was not used for commercial vessel traffic because of its very dangerous conditions—and because it was the site of a major oilspill.

In 1970, the tanker *Esso Gettysburg* ran aground in this channel, spilling 385,000 gallons of fuel oil into the sound. The 65-mile slick spread from eastern Long Island to the Port of New Haven.

Recently, vessels have begun using this channel as a short cut route to Connecticut ports. At times, more than a dozen vessels travel through the channel in a given week, many of which carry oil and dangerous chemicals. They do so at considerable risk.

The channel is extremely shallow. Recent estimates indicate depths of only 33 to 35 feet at some points. If one considers that fully loaded tanker vessels may have drafts of over 30 feet, the risk is very clear. Further, the channel is only 1½ miles wide, dangerously restricting the maneuverability of large tanker vessels.

The risk of another *Esso Gettysburg* accident will remain so long as this channel is used. Moreover, there is also the risk that a larger vessel, with greater capacity, will run aground, creating a disaster that could devastate the entire sound.

Along with several of my colleagues from the region, in June, I wrote to the U.S. Coast Guard encouraging restrictions on the use of this dangerous channel. I raised this issue at a hearing of the Coast Guard Subcommittee and was told that a resolution could be more than a year away.

This long delay leaves too many opportunities for an accident of tragic proportions. Therefore, I added language to the committee report on the oilspill prevention bill, instructing the Coast Guard to act expeditiously to review the safety of this channel. In my view, the Coast Guard should act immediately to restrict use of the Montauk Point—Block Island Channel.

This legislation includes many crucial provisions that will help us prevent and respond to oilspills around the Nation. I am particularly pleased to say that it includes essential language that I initiated which will insure that applicants for Merchant Mariner's documents and vessel licenses do not have an alcohol abuse problem. With this language, the Coast Guard will be allowed to suspend or revoke a license or document of a crew member in cases where the crew member has such a problem.

As we all know, on the *Exxon Valdez,* a mariner with a history of alcohol abuse was authorized to pilot a supertanker through dangerous waters. In New York Harbor, a full 36 percent of all accidents involve human error of some kind. This amendment will help prevent a similar disaster resulting from alcohol abuse.

Unfortunately, in the New York Harbor/Long Island Sound region, many small, but environmentally significant, spills occur on a routine basis. Last year, 198 spills, most of this type, left 178,000 gallons of oil spilled into New York Harbor.

Clearly, these spills, no matter how small, accumulate and impact the overall health and safety of our waters. Many of these spills occur during oil transfer procedures from vessels to shoreside facilities or from vessel to vessel.

To address this problem, I joined with my colleague, FRANK PALLONE, in support of an amendment which will require the development of methods to prevent or minimize the discharge of oil during oil transfer procedures.

I am also very pleased that this legislation contains desperately needed spill prevention research particularly in the area of vessel design and construction. One of my constituents who has a longstanding interest in protecting the sound, David Oestreich, recently sent me a very interesting article from the Economist magazine about a new method of vessel construction currently being studied in Sweden. This method, called the vacuum method, involves pressurizing the oil cargo holds. This method of design definitely deserves examination; and I would note that the bill includes a provision instructing the Secretary of Transportation to study the vacuum method of tanker design.

We should not wait until we experience a tragic disaster—with lasting consequences not only for our environment, but our long term economic prospects, before we act. We must do everything we can to prevent oilspills now. I urge my colleagues to support this important legislation.

Mr. FRENZEL. Mr. Chairman, I rise in support of H.R. 3394, the Oil Pollution, Prevention, Response, Liability, and Compensation Act of 1989. This bill is a bipartisan effort and the product of several committees' diligent work.

Congress has debated but failed to pass oilspill legislation for the last 14 years. Today we are faced with 4 Federal statutes and a patchwork of 24 State laws affecting liability and compensation for oil pollution. As was apparent after the recent *Valdez* oilspill in Alaska this situation is not efficient or effective.

Under H.R. 3394, vessels and facilities that spill oil into U.S. water would be liable for cleanup costs and damages. There are specific liability limits, factoring in the size of the vessel. If full compensation is not available for the spiller, additional compensation will be provided from the Federal Oil Spill Liability Trust Fund financed by a per barrel tax on producers and importers of oil.

Other sections of the bill are aimed at improving spill prevention, contingency planning, and cleanup technologies. In addition, the bill proposes to increase penalties for spills, creates an oilspill R&D Program and establish new requirements to prevent licensing of mariners with drug or alcohol abuse problems.

Further, H.R. 3394 encourages spill prevention by holding vessel operators liable for large portions of oilspill claims. This is intended to motivate operators to take all possible steps to prevent spills yet still make it possible for them to obtain liability coverage.

I am opposed to the Miller amendment that proposes to remove the preemption of State oilspill liability laws. This would discourage responsible shipping as it would expose shippers to unlimited liability. It also has the potential of causing complicated and slow payment of claims because of the wide difference among State laws and between State and Federal laws.

The Miller amendment would damage the environment, not protect it, by radically changing the standard of liability. In the end, responsible operators could be forced out of the business. Operators with nothing at stake beyond a single asset, would be unlikely to take great care in reducing the risk of the spill.

Multiple and inconsistent State liability laws—typically involving strict unlimited liability—will make the risk of waterborne oil transportation less manageable and perhaps uninsurable. H.R. 3394 already provides a mechanism for full compensation. The unlimited Federal fund would assure that every State and every citizen with a payable claim for cleanup costs for economic damages and natural resources damages will be compensated.

The whole idea of a Federal oilspill legislation is to have one coordinated and comprehensive legislation, not a patchwork of State and Federal laws which have turned out to be inadequate. H.R. 3394 will encourage responsible prevention and contingency planning as well as guarantee quick and effective cleanup. I urge my colleagues to vote for the compromise bill, H.R. 3394, and against any unnecessary and weakening amendments.

Mr. JONES of North Carolina. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MCNULTY] having assumed the chair, Mr. SCHEUER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL MIDNIGHT, SATURDAY, NOVEMBER 4, 1989, TO FILE REPORT ON H.R. 2461; NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services have until midnight, Saturday, November 4, 1989, to file a report on H.R. 2461, the National Defense Authorization Act for fiscal years 1990 and 1991.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CLARIFYING AUTHORITY OF ADMINISTRATOR OF GSA RELATING TO ACQUISITION AND MANAGEMENT OF PROPERTY IN NEW YORK CITY

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1827) to revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, under my reservation of objection, I yield to the distinguished chairman of the Committee on Public Works and Transportation to explain his request.

Mr. ANDERSON. Mr. Speaker, S. 1827 is a noncontroversial bill that seeks to help construct a Federal office building and a Federal courthouse in New York City. This project was authorized by Congress 2 years ago but has run into a small problem. Because the city's board of estimates has been declared unconstitutional, the procedures for acquiring the land for the project are uncertain and are likely to result in a substantial delay in the project until the city's charter is revised.

S. 1827 will allow GSA to take the land by judicial condemnation. The condemnation compensation will be paid to the city under the existing lease-purchase financing arrangement for the project.

This is called a "friendly condemnation." Both the city and GSA have agreed that this is the best way to get the building constructed. This is a very important project that will provide desperately needed space for our courts and criminal justice system and will save millions of dollars in delayed construction costs. I urge the Members to support S. 1827.

Incidentally, Senator DANIEL "PAT" MOYNIHAN earlier today asked me to do what I am doing now and is very, very much in favor of this; and, of course, the gentleman from New York [Mr. GREEN], the Congressman who represents the district, earlier today told me how happy he was we were doing it and told me he was very much in support of it.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, passage of S. 1827 will serve to avoid delays in a previously approved project to provide needed court and Federal office space in New York City. These buildings will be constructed on land which is currently owned by the city but, as provided for in S. 1827, will be acquired by the Federal Government through a friendly condemnation. Like the development costs of the project, the compensation costs will be amortized over 30 years. This legislation has the support of the General Services Administration and the city of New York. Our colleague, BILL GREEN, has been in touch also to support this action. I urge adoption by the House so that this important project may continue to move forward.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) there is a dire and immediate need for increased space for the criminal justice system and for Federal agencies to operate in the City of New York;

(2) the action of condemnation of certain lands would speed the process of providing additional space for such needs;

(3) condemnation procedures authorized in this Act are required to address a specific dire and immediate need, and should not be precedents for action by the Congress or other Federal agencies;

(4) community input is essential to the successful completion of construction projects such as those authorized in the Independent Agencies Appropriations Act, 1988;

(5) before and during construction of buildings referred to in the first sentence of section 8(a) of the Independent Agencies Appropriations Act, 1988, the Administrator of General Services should consult on an ongoing basis with the community board for such building to solicit its input;

(6) environmental reviews are essential to the successful completion of construction projects such as those authorized in the Independent Agencies Appropriations Act, 1988; and

(7) in the construction of buildings referred to in the first sentence of section 8(a) of the Independent Agencies Appropriations Act, 1988, all federally mandated environmental reviews, as required by environmental laws, should be conducted and closely monitored.

SEC. 2. CONDEMNATION AND LEASE AUTHORITY.

The Independent Agencies Appropriations Act, 1988 (as contained in title IV of Public Law 100-202; 101 Stat. 1329-401), is amended in section 8 of the matter under the heading GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS—

(1) by inserting "(a)" after "SEC. 8."; and

(2) by adding at the end of such section the following new subsections:

"(b) The lease entered into between the Administrator of General Services and the city of New York (hereinafter in this subsection and subsection (c) referred to as the 'City') pursuant to the fifth sentence of subsection (a) shall provide for an initial lease period of 30 years and shall provide options for the City to renew the lease for up to three successive lease periods of 30 years each.

"(c) The total rent paid by the city to the General Services Administration for each such renewal period shall not exceed the City's pro rata share of the cost of the capital replacement, repair, maintenance, and operation of the building in which such office space used by the City is located and any associated parking facility.

"(d) Notwithstanding any other provision of law, the Administrator of General Services may—

"(1) acquire from the City by condemnation under judicial process the real property necessary for the construction of the buildings referred to in the first sentence of subsection (a) and for the additional parking space referred to in such sentence;

"(2) for the purpose of acquiring such real property, establish the value of the just compensation of such real property by agreement with the City;

"(3) provide for the contractor responsible for financing the construction of such buildings, instead of the United States, to—

"(A) pay the City the just compensation payable by the United States for the acquisition of the real property; or

"(B) if all parties otherwise agree, compensate the City in an alternative negotiated agreement.

"(4) take title to the property for the United States after payment of such amount to the City by the contractor;

"(5) reimburse the contractor for the payment of that amount, and pay the contractor reasonable interest on that amount, over a period not to exceed 30 years and make such reimbursement and interest payments out of funds available in the Federal Building Fund for the rental of space; and

"(6) in the case of any real property referred to in clause (1) that is acquired by condemnation, establish rental rates for the lease to the City provided for in the fifth sentence of subsection (a) without applying a credit reflecting the value of the land acquired.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, NOVEMBER 8, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT FROM FRIDAY, NOVEMBER 3, 1989, MONDAY, NOVEMBER 6, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, November 3, 1989, it adjourn to meet at noon on Monday, November 6, 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON MONDAY, NOVEMBER 6, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it be in order for the Speaker to declare recesses on Monday, November 6, 1989, subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

NEED FOR INCLUDING POSTEMPLOYMENT REFORM IN ETHICS LAW REFORM BILL

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr Speaker, as the sponsor of the President's governmentwide Ethics Act of 1989, I rise to emphasize the importance of the Congress including postemployment restriction reforms in its ethics bill.

Citizens need to know that when they appear before a court or when they address a concern to their elected representatives, that their concerns are being heard, that a former employee representing a conflicting interest does not have special access to individuals handling their matter.

The concern is both an appearance and a substantive problem.

A common-sense standard needs to be adopted for all three branches of Government, but implementation in each branch will necessarily vary.

For the RECORD, I am submitting today the first in a series of statements on differences in the legislative branch that require distinct rules for adoption of postemployment restrictions to the Congress:

ISSUES IN THE EQUAL APPLICATION OF "REVOLVING DOOR" STATUTES TO THE LEGISLATIVE BRANCH

Guideline: Extension of "revolving door" statutes to the legislative branch should be for the purpose of protecting the government from use against it by former legislative branch officials and employees of particular knowledge gained while in the employ of the legislative branch.

A. PURPOSE OF THE LAW

1. Current law

The Section 207 "revolving door" statutes are narrowly crafted exceptions to the general policy that the public's interests are best served by encouraging citizens to serve temporarily in government positions of high responsibility.

The assumptions underlying this policy are summarized in a 1979 House Report (No. 96-115):

"Individuals who are serving Government for limited periods of time have greater freedom to exercise their individual judgment, to challenge conventional wisdom, and to disagree with superiors on important public issues than do career civil servants. They are more likely to speak their own minds, knowing that they can readily find private employment if necessary, than are those whose security depends on continuous Government employment and who thus may be reluctant to make waves. Moreover, a law which discourages movement between the private and public sector would further isolate dedicated career civil servants from other citizens at a time when alienation between Government and the tax-paying public is eroding faith in our national institutions."

The "revolving door" statutory exceptions to general public policy have the specific purpose". . . of protecting the government, which can act only through agents, from the use against it by former agents of information gained in the course of their agency, . . ." (*United States* v. *Nasser* 476 F2d 1111, 1116).

Thus, these exceptions have been crafted to restrict activities of former government employees where there is a likelihood that they could compromise the integrity of public decision-making.

Other purposes for Section 207 are sometimes suggested. For instance, that the restrictions are intended to limit the potential influence that a private arrangement, or prospect of an arrangement, may have on a current federal official when dealing with prospective clients or future employers while still with the government. But a close look at Section 207 restrictions demonstrates they logically cannot serve such ends.

Further, it is sometimes asserted that subsection (c) "cooling-off" provisions are intended primarily to address appearances of impropriety. In fact, it is more accurate to state that subsection (c) is targeted to address defined, potential opportunties for former employee's to exercise undue influence on government decision-making.

The single demonstrable rationale for Section 207 postemployment restrictions is to insure the integrity of public decision-making.

PROTECTION AND PRESERVATION OF AMAZON RAIN FOREST

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous material.)

Mr. WOLF. Mr. Speaker, I would like to call to the attention of my colleagues today an issue of vital importance to our global environment: The protection and preservation of the majestic and lifegiving Amazon rain forest.

Representing nearly one-third of all the world's tropical forest, the 2.7-million square mile Amazon forest and river system is suffering from severe environmental abuse which potentially could have a devastating impact on our planet.

Home to more types of fish than all the European rivers, and more bird species than in all the forests of North America, the Amazon rain forest has a unique and critical role in the stability of the Earth's ecostructure. I would like to submit for the record the recent cover article from the Economist as an excellent outline of the potential crisis we face if the Amazon continues to burn.

The disturbing loss of precious rain forest in the Brazilian Amazon will not be recent news to my colleagues in the House. Many of us have long wondered how best to approach, from a U.S. policy standpoint, this problem.

The potential effectiveness of a United States foreign policy approach which would recognize Brazil's sovereign authority and domestic needs, while stressing the global importance of preserving the Amazon rain forest was clearly demonstrated by Senator JOHN CHAFEE's well-received trip to Brazil last April.

Senator CHAFEE's trip, on which he was accompanied by Senators STEVE SYMMS, DALE BUMPERS, and ARLEN SPECTER, can be looked at as the first step toward greater cooperation between the United States and Brazil on the tropical deforestation problem.

Based on the conclusions drawn from his trip, Senator CHAFEE introduced a joint resolution which sets forth U.S. policy proposals with respect to our traditionally strong and friendly relationship with Brazil and the tropical deforestation problem.

Senator CHAFEE's Senate Joint Resolution 101, and its House companion bill which I am pleased to introduce today, would establish that it is United States policy to encourage and support conservation efforts initiated by Brazil to protect the Amazon forest, and that the United States should redouble its efforts to reduce its pollution of the global environment.

I strongly urge my colleagues to lend their support to this bill which will promote and foster the spirit of cooperation between the United States and Brazil to help conquer what is truly an issue of global importance.

Mr. Speaker, I include the following material:

[From the Economist, Sept. 9, 1989]

THE MONTH AMAZONIA BURNS

On the feast of St Bartholomew, Brazilian farmers consider it lucky to start burning the scrub off their land. Some of their fires, and others lit to clear virgin soil, spread into the wondrous rain forest of the Amazon, raging through the month of September. As they blaze, some of nature's miracles vanish for ever. Brazil contains nearly one-third of all the world's tropical forest—and a greater variety of plants than any other country. The Amazon has more types of fish than in

all the rivers of Europe; the trees are home to more species of bird than in all the forests of North America. Somewhere in the Brazilian jungle may grow cures for cancer, or AIDS, or malaria. By allowing the destruction of this cornucopia, Brazil has acquired a reputation—especially among the young—as the world's environmental thug.

Some of the indignation directed against Brazil has been deeply hypocritical. No government can say, hand on heart, that it has not encouraged a bit of environmental thuggery in its time. America is still subsidizing logging in the Alaskan Tongass, the last great temperate rain forest; Britain—conversely, but just as wrongly—is subsidizing tree-farming in the Scottish Flow country, the last great water-logged wilderness of northern Europe. The roads into the Amazon, which have often opened it to damaging settlement, have generally been built with the help of first-world donors; the timber taken out has found its way into first-world sitting rooms.

Viewed from Brasilia, some of the demands made of Brazil by western greens seem ludicrously unrealistic. Amazonia, after all, covers more than half of the country's land area. It contains the world's richest deposit of iron ore, and other mineral resources that have barely begun to be explored. Some of it could undoubtedly be turned into productive farm land. Should it be left unexploited? Its Indians have (in theory, at least) a tenth of the country's territory laid aside for them—an average of 1,000 acres for every man, woman and child. Should they complain, when 10m rural families in Brazil have no land to call their own? Exaggeration abroad fosters paranoia in Brazil, which has always suspected that other countries want to get their hands on the Amazon, as the largest under-inhabited but habitable territory. Such fantasies feed on calls to internationalise the Amazon.

Whether Brazil likes it or not, though, the rest of the world has a legitimate interest in what happens in Amazonia. The medical secrets locked in its wild plants may reinvigorate crops that feed billions of people. Besides, as growing trees lock up carbon and burning or rotting trees release it, the destruction of the Amazon has a double impact on the carbon accumulating in the earth's atmosphere. Brazil's own climatologists reckon that the burning Amazon accounts for up to 25% of global carbon-dioxide emissions. Many scientists think that atmospheric carbon dioxide is disastrously causing the earth to warm up. If so, Brazil's tree-burning will be blamed as much as America's cheap-energy policies or China's determination to burn its vast stocks of coal.

But Brazil, as its press and even its government have begun to realise, has a powerful interest of its own in preserving its treasure. A growing body of evidence, much of it collected by Brazilian scientists, suggests that forests feed rainfall, as well as absorbing it. Cut trees down, and nearby regions suffer higher temperatures and more drought. The destruction of Africa's jungles may well have caused the Sahara to advance; destroy the Amazon, and large tracts of central and northern Brazil might suffer the same fate.

Mammon, as much as nature, should persuade Brazil to conserve the Amazon. Much deforestation results from activities fostered by bad fiscal policies: from cattle ranching designed to mop up tax losses, from unprofitable hydro-electric schemes built to provide under-priced electricity, from iron smelting built with lavish state aid, from small farmers displaced by the subsidized mechanisation of big farming in the south. President Sarney has begun to put a stop to cattle-ranching subsidies. A strong, sensible government would save itself money, and ultimately create more jobs, by ending all such fiscal folly. Many of the schemes that spring up where the trees come down are intrinsically uneconomic.

OUT OF THE TREES AND INTO THE SUPERMARKET

Brazil could make a better living from keeping its forest and exploiting it sensibly than from destroying it. Botanists-turned-economists, studying the value of forest products in local markets, reckon that fruit, nuts and rubber may be worth more than twice as much as the same land logged or turned into cattle pasture.

The best way the rest of mankind could help to save the Amazon would be to show Brazilians that this is true. Up to now, commercial companies from the rich world have done virtually nothing to support research into the marketable products of the rain forest. The job of identifying new medicines, aromatic oils and timber, and of showing how they might be sustainably exploited, has been left almost entirely to an underfinanced handful of Brazilian research institutes. By strengthening these institutes, and by turning the Amazon into a vast research laboratory, willing governments could help to internationalise the rain forest by the back door. Pack it with botanists, climatologists, hydrologists and pharmacists who will bring in spending power and bring out new ideas; scientists are likely to be more successful conservationists than innocent Indians or under-equipped forest guards.

But identifying rain-forest products is just part of what needs to be done. Marketing them is ultimately still more important. Only commercial companies can make the vital link between the growing plants and the supermarket shelves. One factory making, say, rain-forest perfumes or fruits-of-the-forest ice cream (as a few are now starting to do: see page 81) would be worth many furious letters of protest to the World Bank. If the rain forest standing really has a greater value than the rain forest destroyed, the world's consumers have the money to prove it.

[From the Economist, Sept. 9, 1989]

GROWING PROFITS

When Professor Ghillean Prance flew back to London early this month from Brazil, he brought with him a suitcase of plants, roots and curious tropical powders for Mrs. Anita Roddick, managing director of Body Shop, a British cosmetics firm. "It's easier to get these things through customs when you're the director of Kew," he says cheerfully. Mr. Prance, who has spent much of his life teaching economic botany to Brazil's foresters, is using his job at the Royal Botanic Gardens to persuade firms to sell the products of the rain forest, culled from sustainably managed sources.

Big companies are intrigued, but still sceptical. Some rain-forest products that sell in local markets for more money than the crops or cattle raised on the same acreage of deforested land are unknown outside Brazil. Nobody has yet tried to sell them abroad. But now a few small British and American companies are introducing these forest plants to western shops.

These green entrepreneurs combine two parts altruism with one part materialism. Cultural Survival, a charity in Massachusetts, has set up a firm to buy and market rain-forest products. Mr. Jason Clay, the charity's research director, has scoured Brazil for products and found two eager customers: Ben & Jerry's, a Vermont ice-cream manufacturer, and Britain's Body Shop. Ben & Jerry's has just launched "rain-forest crunch", made with brazil nuts (only from the wild forest) and cashews (used for reforesting degraded areas).

At Body Shop, the senior staff have been jetting back and forth to Brazil to set up two projects, one to persuade the university at Belem, at the mouth of the Amazon, to look at seeds and plants for pot pourris and aromatic oils, and one to persuade an Indian tribe to harvest brazil nuts. But processing the nets and transporting them out of the forest is costly. It will, Mrs. Roddick reckons, be at least five years before Body Shop makes a profit on either venture.

Finding reliable sources of supply is easily the biggest obstacle facing companies wanting to sell rain-forest products. Despite this concern, hardly any tropical forests are sustainably managed. One small British firm, the Ecological Trading Company, was set up six months ago to buy teak and mahogany from Peru and Ecuador and has been inundated with orders. Such timbers take up to 40 years to grow.

Plenty of other rain-forest products already find their way into western shops. Sometimes the product could be sustainably managed, but is not: chicle, the latex that makes chewing gum stretchy, is occasionally extracted by tapping trees but more often, especially in Brazil, by cutting them down. Companies could make sure that such products are grown in a way that helps preserve the rain forest, and then advertise the fact. That could win green-minded customers, and make Brazil keener to exploit its great forest, not destroy it.

H.J. RES. 431

Whereas the Federal Republic of Brazil is a longstanding friend of the United States, being our most populous neighbor in the Western Hemisphere, and a trading partner with whom we have conducted over $10,000,000,000 of trade per year;

Whereas Brazil possesses within its borders over six hundred million acres of one of the greatest natural resources on Earth, the vast forest of the Amazon, comprising 30 percent of the world's tropical forests, 18 percent of the world's fresh river water, and the habitat of approximately 30 percent of all life species, including more species of primates, flowering plants, and psittacine birds than are found in any other nation;

Whereas this great resource is indisputably under the sovereign authority of Brazil, and any suggestion to subject the Amazon to international control or in any way diminish Brazil's sovereign authority over it should be condemned as inappropriate;

Whereas the conservation and preservation of its Amazon forest is ultimately the responsibility of Brazil and it is developing a body of environmental law and has included in its new constitution a strong commitment to environment protection;

Whereas the environmental degradation of Amazonia includes an estimated 7 percent contribution to the greenhouse effect, loss of genetic resources found in its rich biological diversity, degradation of soil quality, erosion, and accelerated siltation of waterways;

Whereas such environmental degradation jeopardizes the renewable nature of Amazonia natural resources;

Whereas the United States has a stake in the sustainable economic development of all tropical nations, including Brazil, for humanitarian, political, economic, and environmental reasons, and, to a great extent, the development of these nations depends on increasing production from their potentially renewable soil, forest, and water resources in an environmentally sound manner; and

Whereas the United States has historically faced, and continues to face, many environmental problems of its own, resulting in a wealth of technology and experience useful to sustainable development and environmental protection: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the United States to unequivocally recognize Brazil's sovereign authority in the Amazon, condemning any suggestion of international control or foreign domination over the area. This policy should be reflected in all United States-Brazilian relations and should be conveyed through all appropriate diplomatic channels to Brazil.

SEC. 2. Where appropriate, the United States should adopt a policy to encourage and support conservation efforts initiated by Brazil to protect the Amazon forest and should be open and willing to respond positively, through means such as technical assistance, international financing coupled with environmental assessments, and various mechanisms to reduce unsound development of the Amazon forest which is a result of Brazil's external debt burden and other economic and social factors.

SEC. 3. The United States should redouble its efforts to address development within its own borders in an environmentally sound and sustainable manner.

WARSAW PACT THREAT CRUMBLING; U.S. SHOULD RESPOND BY FREEZING NATO INFRASTRUCTURE SPENDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, old habits are hard to break for powerful nations as well as individuals. For over the past 40 years we have increased defense budgets for NATO to fight the evils of communism. Our uniformed personnel in NATO Europe today number 325,000 and the United States continues to devote more of its GNP to alliance defense than any of its NATO allies. All this has continued for too long. The threat of communism is at its weakest since the cold war began. Our NATO allies once too weak to defend themselves from attack are now quite capable. It's time that the U.S. re-evaluate its global strategy and change some bad habits.

Ending World War II as the economically dominant nation, the United States accepted the responsibility to defend our European allies from Communist threats. Into the Defense Department we have for 40 years continued to pour our money, brains and technology in the name of democracy, the defeat of communism and the maintenance of world peace.

Today a different scenario exists. The United States is no longer the dominant nation. Not economically. Not in strategic weapons. Yet we continue to pour our limited funds into NATO costing us billions each year. It's time to take another look at the need for our level of armed forces in Europe. Many of the European nations in which we maintain military facilities are financially capable and technologically able to build and maintain their own deterrence.

Now more than ever before, it seems most unlikely that a Warsaw Pact country would attempt to invade our NATO allies while in the midst of their own severe economic and political struggles.

Repeatedly we have asked our NATO allies to increase their share of financing to maintain deterrence, but to no avail.

Now, with the decreased threat of Soviet and Warsaw Pact invasion we should freeze further funding of NATO military facilities.

Warsaw pact countries opposite our NATO military structures are one by one breaking the tie with communism in favor of democracy. General Secretary Gorbachev is addressing the issues of arms reduction, arms control and defensive alliances instead of the traditional Red Army offensive defense.

Until we can see better the implications of these new United States-Soviet relations, we should hold off further spending on NATO infrastructure. This money, $424,714,000 appropriated in fiscal year 1990, would be better invested in Western economic aid to the nations struggling to transform 40 years of Communist-controlled cultures into free societies.

This bad habit is certainly worth the extra effort needed to break it.

Mr. Speaker, in the fiscal year 1991 budget, I urge that we not provide any new construction funds for NATO military bases.

ANNUNZIO SUPPORTS IRA TAX DEDUCTIONS FOR LITTLE TAXPAYER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, individual retirement accounts, better known as IRA's, were created without fanfare some 15 years ago, but grew beyond expectations as an inducement to personal saving. IRA rules have changed over the years. One in 1981 raised to $2,000 a year from $1,500 the amount a person could put, tax deductible, into a tax-deferred account, and widened coverage to people under employer retirement plans.

In its brief unfettered lifetime, from 1982 to 1986, the IRA was a tremendously popular retirement savings vehicles as well as the only true tax shelter available to the middle class. But in 1986, Congress sharply reduced the number of people who could qualify for its benefits, and IRA tax deductions slowed their roaring growth.

IRA account assets have grown to about $400 billion from $393 billion last year, and just $26 billion in 1981.

Mr. Speaker, Congress needs to help the little taxpayer by bringing back the IRA benefits.

A recent study by the Joint Economic Committee of Congress indicated that the Nation's savings rate fell sharply after Congress slashed tax deductions for most IRA's in 1986. The study, prepared for Senator LLOYD BENTSEN of Texas, chairman of the Senate Finance Committee, shows the IRA's effectiveness in promoting savings.

Senator BENTSEN found that after IRA's were severely curtailed by cutting back on tax deductions, savings rates dropped substantially in this country—and they were already low—and that in addition the IRA's themselves were cut almost in half. The study said the personal savings rate averaged 5.3 percent of disposable income from 1982 to 1986 and has averaged 3.7 percent in 1987 and 1988, the lowest in 40 years. Savers contributed $38 billion to IRA's in 1986, but the amount fell to almost half that the following year.

As Majority Leader RICHARD A. GEPHARDT of Missouri said recently in an article in the Washington Post:

If we're serious about encouraging investment, then the IRA is a better way. While the wealthy will use tax savings to consume, the middle class will use a restored tax advantage to save.

The IRA's conception is murky. In 1972, then Treasury Secretary George Shultz, with the key support of Senator Carl Curtis of Nebraska, sought some form of pensions for the uncovered. That year, a four-man group headed by William Lieber in the Legislation and Regulations Division of the Office of the Chief Counsel for the Internal Revenue Service, was assigned the task of designing a plan.

The Wall Street Journal reported that they used the 1962 Keogh Plan, a pension plan created by a New York Congressman for the self-employed, as a partial model. They named it IRA after Ira Cohen, a brilliant IRS actuary who helped them.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCDADE (at the request of Mr. MICHEL), for today, on account of illness.

Mr. MCEWEN (at the request of Mr. MICHEL), for November 1, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HAMMERSCHMIDT) to revise and extend their remarks and to include extraneous material:)

Mr. CRANE, for 60 minutes each day, on November 7 and 8.

Mr. DANNEMEYER, for 60 minutes each day, on November 3, 6, 7, 8, and 9.

Mr. BURTON of Indiana, for 60 minutes each day, on November 6, 7, 8, and 9.

Mrs. BENTLEY, for 60 minutes, on November 6.

(The following members (at the request of Mrs. UNSOELD) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. STAGGERS, for 5 minutes, on November 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HAMMERSCHMIDT) and to include extraneous matter:)

Mr. BROOMFIELD.
Mr. PORTER.
Mr. SCHULZE.
Mr. ROHRABACHER.
Mr. GILMAN in two instances.
Mr. COLEMAN of Missouri.
Mrs. ROS-LEHTINEN.
Mr. SOLOMON.
Mr. KOLBE.
Mrs. MORELLA.
Mr. LAGOMARSINO.
Mr. DAVIS.
Mr. CONTE.
Mr. COUGHLIN.
Mr. GALLO.
Mr. DUNCAN.

(The following Members (at the request of Mrs. UNSOELD) and to include extraneous matter:)

Mr. LANTOS in two instances.
Mr. FASCELL in two instances.
Mr. STOKES.
Mr. ACKERMAN.
Mr. GUARINI.
Mr. DELLUMS.
Mr. MILLER of California.
Mr. SOLARZ.
Mr. THOMAS A. LUKEN.
Mr. TALLON.
Mr. FOGLIETTA.
Mr. RAHALL.
Mr. STARK.
Mr. SANGMEISTER.
Mr. KILDEE.
Mr. BONIOR.
Mr. DORGAN of North Dakota.
Mr. CLAY.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 77. Joint resolution recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty; to the Committee on House Administration.

ADJOURNMENT

Mrs. UNSOELD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 40 minutes p.m.) the House adjourned until tomorrow, Friday, November 3, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1940. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Korea for defense articles estimated to cost $50 million or more (transmittal No. 90-08), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

1941. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-07), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

1942. A letter from the Chairman, Council of the District of Columbia, transmitting a copy D.C. Act 8-98, "Guardianship and Protective Proceedings Amendment Temporary Act of 1989," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1943. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-101, "Closing of a Public Alley in Square 248, S.O. 88-138, Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1944. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-103, "Medicare Supplement Insurance Minimum Standards Temporary Act of 1988," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1945. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-99, "Closing of a Public Alley in Square 285, S.O. 88-151, Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1946. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-102, "D.C. Public Assistance Act of 1982 Conforming Amendments Amendment Temporary Act of 1989," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1947. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-100, "Closing of G Street, N.E., and Establishment of an Easement Adjacent to Square 677, S.O. 88-116, Act of 1988," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1948. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting notification of the intent to continue assistance for El Salvador under the Anti-Terrorism Assistance Program, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

1949. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting notification of the intent to continue assistance to El Salvador under the Anti-Terrorism Assistance Program, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

1950. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting on behalf of the President, the report on progress toward negotiating the international convention to protect biological diversity, pursuant to 22 U.S.C. 2151q nt.; to the Committee on Foreign Affairs.

1951. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of the price and availability report for the quarter ending September 30, 1989, pursuant to 22 U.S.C. 2768; to the Committee on Foreign Affairs.

1952. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Pakistan for defense articles and services estimated to cost $29 million (Transmittal No. 90-10), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1953. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Pakistan for defense articles and services estimated to cost $65 million (Transmittal No. 90-09), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1954. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Korea for defense articles and services estimated to cost $115 million (Transmittal No. 90-08), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1955. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services estimated to cost $3.1 million (Transmittal No. 90-07), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1956. A letter from the Chairman, Board of Directors, Corporation for Public Broadcasting, transmitting a report of the Commission's implementation of the requirements of the IG Act; the Office of Inspector General is functioning properly and effectively, pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee on Government Operations.

1957. A letter from the Acting Director, ACTION Agency, transmitting a report, "Implementation of the Inspector General Act," pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee Government Operations.

1958. A letter from the Chairman, Commodity Futures Trading Commission, transmitting a report, "Status of Implementation of the 1988 Amendments of the Inspector General Act of 1978," pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee Government Operations.

1959. A letter from the Chairman, National Endowment for the Arts, transmitting a report, "Status of Implementation of the 1988 Amendments of the Inspector General Act of 1978," pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee Government Operations.

1960. A letter from the Director, Peace Corps, transmitting a report, "Status of Implementation of the 1988 Amendments of

the Inspector General Act of 1978," pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee Government Operations.

1961. A letter from the Chairman, U.S. Sentencing Commission, transmitting the Commission's initial report on statutory penalties, pursuant to 28 U.S.C. 994(r); to the Committee on the Judiciary.

1962. A letter from the Chairman, Merit Systems Protection Board, transmitting a copy of the study, "Delegation and Decentralization: Personnel Management Simplification Efforts in the Federal Government," pursuant to 5 U.S.C. 1205(a)(3); to the Committee on Post Office and Civil Service.

1963. A letter from the Deputy Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Fort Gibson Lake, OK, powerhouse extension, together with other pertinent reports, pursuant to Public Law 91-611, section 216 (84 Stat. 1930); to the Committee on Public Works and Transportation.

1964. A letter from the Acting Administrator, General Services Administration, transmitting a copy of a building project survey for Nashville, TN, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1965. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of a lease prospectus for Anchorage, AK, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1966. A letter from the Acting Administrator, General Services Administration, transmitting informational copies of prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1967. A letter from the Comptroller General, transmitting a report on the financial statements of the Federal Savings and Loan Insurance Corporation for the fiscal years ended December 31, 1988 and 1987; reports on internal accounting controls and compliance with laws and regulations (GAO/AFMD-90-34), pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Banking, Finance and Urban Affairs and Government Operations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. OWENS of New York (for himself, Mr. BARTLETT, and Mr. MILLER of California):

H.R. 3576. A bill to amend the Child Abuse Prevention and Treatment Act to provide services to children whose parents are substance abusers; to the Committee on Education and Labor.

By Mr. BURTON of Indiana:

H.R. 3577. A bill to prohibit the disposal of solid and liquid waste in any State other than the State in which the waste was generated; to the Committee on Energy and Commerce.

By Mr. CLAY:

H.R. 3578. A bill to amend the National Labor Relations Act with respect to agreements concerning theatrical productions; to the Committee on Education and Labor.

By Mr. COURTER:

H.R. 3579. A bill to express the sense of Congress with respect to the use of certain facilities at Earle Naval Weapons Center, Leonardo, NJ; to the Committee on Armed Services.

By Mr. DURBIN (for himself and Mr. GEPHARDT):

H.R. 3580. A bill to amend the Internal Revenue Code of 1986 to assist in the recruitment and retention of mathematics and science teachers; to the Committee on Ways and Means.

By Mr. ENGLISH (for himself, Mr. COLEMAN of Missouri, and Mr. GUNDERSON):

H.R. 3581. A bill entitled, "the Rural Economic Development Act of 1989"; to the Committee on Agriculture.

By Mr. GILLMOR:

H.R. 3582. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Ways and Means.

By Mr. McEWEN:

H.R. 3583. A bill to grant the power of the President to reduce budget authority; jointly, to the Committees on Government Operations and Rules.

By Mr. NELSON of Florida:

H.R. 3584. A bill to reform procedures for collateral review of criminal judgments and for other purposes; to the Committee on the Judiciary.

By Mr. SCHULZE (for himself and Mr. REGULA):

H.R. 3585. A bill to repeal Medicare catastrophic coverage provisions effective in years after 1989 and the supplemental Medicare premium, and for other purposes; jointly, to the Committee on Energy and Commerce and Ways and Means.

By Mr. STARK:

H.R. 3586. A bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to increase the accountability of certain contractors, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WELDON (for himself, Mr. GRAY, Mr. WALGREN, Mr. BOEHLERT, Mr. AKAKA, Mr. APPLEGATE, Mr. BAKER, Mr. BALLENGER, Mrs. BENTLEY, Mr. BROWN of California, Mr. BRYANT, Mr. BUECHNER, Mr. BUNNING, Mr. BURTON of Indiana, Mr. CARPER, Mr. COBLE, Mr. CONTE, Mr. COUGHLIN, Mr. DAVIS, Mr. DERRICK, Mr. DOUGLAS, Mr. DYSON, Mr. EMERSON, Mr. FAUNTROY, Mr. FAZIO, Mr. FROST, Mr. GALLEGLY, Mr. GEJDENSON, Mr. GEKAS, Mr. GEREN, Mr. GILMAN, Mr. GRANDY, Mr. GRANT, Mr. GUNDERSON, Mr. HASTERT, Mr. HARRIS, Mr. HEFLEY, Mr. HERGER, Mr. HOCHBRUECKNER, Mr. HOLLOWAY, Mr. HOPKINS, Mr. HOYER, Mr. HUGHES, Mr. JONES of Georgia, Mr. JONTZ, Mr. KANJORSKI, Mr. KILDEE, Mr. KOLBE, Mr. KOSTMAYER, Mr. LANCASTER, Mr. LEWIS of Georgia, Mr. DONALD E. "BUZ" LUKENS, Mr. McCRERY, Mr. McDADE, Mr. McGRATH, Mrs. MEYERS of Kansas, Mr. MOLLOHAN, Mrs. MORELLA, Mr. MURPHY, Mr. NAGLE, Mr. RAVENEL, Mr. RHODES, Mr. RIDGE, Ms. SLAUGHTER of New York, Mr. SOLOMON, Mr. SMITH of Vermont, Mr. SMITH of New Hampshire, Mr. STEARNS, Mr. STUDDS, Mr. TOWNS, Mr. UPTON, Mr. WHITTAKER, and Mr. WOLPE):

H.R. 3587. A bill to provide for the minting of coins in commemoration of the bicentennial of the death of Benjamin Franklin and to enact a fire service bill of rights and programs to fulfill those rights; jointly, to the Committees on Banking, Finance and Urban Affairs and Science, Space, and Technology.

By Mr. WOLF:

H.J. Res. 431. Joint resolution to establish that it is the policy of the United States to encourage and support conservation efforts initiated by Brazil to protect the Amazon forest, and that the United States should redouble its efforts to reduce its pollution of the global environment; to the Committee on Foreign Affairs.

By Mr. CROCKETT (for himself, Mr. LAGOMARSINO, Mr. FASCELL, Mr. BROOMFIELD, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. WOLPE, Mr. GEJDENSON, Mr. DYMALLY, Mr. LANTOS, Mr. KOSTMAYER, Mr. TORRICELLI, Mr. SMITH of Florida, Mr. BERMAN, Mr. FUSTER, Mr. OWENS of Utah, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. PAYNE of New Jersey, Mr. GILMAN, Mr. HOUGHTON, and Mr. GOSS):

H. Con. Res. 221. Concurrent resolution reaffirming United States support for peace and democracy in Central America; to the Committee on Foreign Affairs.

By Mr. GILMAN (for himself, Mr. FORD of Michigan, Mr. MYERS of Indiana, Mr. HORTON, Mr. McCLOSKEY, Mr. CLAY, Mr. BURTON of Indiana, and Mrs. MORELLA):

H. Con. Res. 222. Concurrent resolution to welcome the delegates of foreign postal administrations to the 20th Universal Postal Congress to be held in Washington, DC; to the Committee on Post Office and Civil Service.

By Mr. ROHRABACHER (for himself, Mr. KYL, Mr. BALLENGER, Mr. HUNTER, Mr. COBLE, Mr. DOUGLAS, Mr. CRAIG, Mr. HANCOCK, Mr. COX, Mr. PAXON, Mr. GILLMOR, Mr. WALSH, Mr. GINGRICH, Mr. DANNEMEYER, Mr. JAMES, and Mrs. ROS-LEHTINEN):

H. Res. 280. Resolution making the official expenses allowance of Members of the House of Representatives available for testing of such Members and their clerk hire employees for abuse of controlled substances; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. PALLONE, Mr. BOUCHER, Mr. SANGMEISTER, and Mr. BRUCE.

H.R. 101: Mr. GILMAN.

H.R. 589: Mr. LEWIS of Georgia, Mr. ATKINS, Mr. MILLER of Ohio, Ms. KAPTUR, and Mr. CLINGER.

H.R. 706: Mr. YATES.

H.R. 764: Mr. ROBINSON.

H.R. 779: Mr. BATES.

H.R. 1025: Mr. HYDE.

H.R. 1043: Mrs. PATTERSON.

H.R. 1122: Mr. TOWNS and Mr. RANGEL.

H.R. 1167: Mr. THOMAS A. LUKEN and Mr. JONES of North Carolina.

H.R. 1216: Mr. WALKER and Ms. SLAUGHTER of New York.

H.R. 1237: Mrs. PATTERSON.

H.R. 1515: Mrs. ROUKEMA and Mr. PAXON.

H.R. 1530: Mr. ROE, Mr. PALLONE, Mr. BROWN of California, and Mr. NAGLE.

H.R. 1730: Mr. DIXON, Mr. MRAZEK, Mrs. BOXER, Mr. MCCLOSKEY, Mr. GEREN, and Mr. SIKORSKI.

H.R. 2123: Mr. HAYES of Illinois.

H.R. 2202: Mr. ERDREICH, Mr. GORDON, Mr. HARRIS, Mr. HUCKABY, Mr. RAY, and Mr. WILSON.

H.R. 2213: Mr. MILLER of Ohio, Mr. EDWARDS of California, Mr. OWENS of Utah, Mr. KOLTER, Mr. BONIOR, Mr. NAGLE, and Mr. LEWIS of Georgia.

H.R. 2264: Mr. HYDE and Mr. MOORHEAD.

H.R. 2285: Mr. KOLTER, Mr. PACKARD, Mr. BORSKI, Mr. BLILEY, and Mr. GAYDOS.

H.R. 2437: Mr. RAHALL and Mr. CLINGER.

H.R. 2529: Mr. BEREUTER and Mr. TAUKE.

H.R. 2551: Mr. EDWARDS of California.

H.R. 2584: Mr. HUBBARD and Mr. DYSON.

H.R. 2600: Mr. SMITH of New Hampshire.

H.R. 2674: Mr. CLEMENT and Mr. FAWELL.

H.R. 2700: Ms. KAPTUR, Mr. SUNDQUIST, and Mr. BARNARD.

H.R. 2723: Mr. DELLUMS, Mr. DYMALLY, and Mr. FALEOMAVAEGA.

H.R. 2789: Mrs. COLLINS, Mr. KLECZKA, and Mr. UPTON.

H.R. 3050: Mr. YATES, Ms. SLAUGHTER of New York, Mr. DEFAZIO, and Mr. ENGEL.

H.R. 3053: Mr. EVANS.

H.R. 3137: Mr. SISISKY, Mr. SWIFT, Mr. COYNE, Mr. GONZALEZ, Mr. SHAW, Mr. GORDON, Mr. DONNELLY, Mr. JOHNSON of South Dakota, Mr. NIELSON of Utah, and Mr. HUGHES.

H.R. 3138: Mr. SISISKY, Mr. SWIFT, Mr. COYNE, Mr. GONZALEZ, Mr. SHAW, Mr. GORDON, Mr. DONNELLY, Mr. JOHNSON of South Dakota, Mr. NIELSON of Utah, and Mr. HUGHES.

H.R. 3147: Mr. KOSTMAYER.

H.R. 3148: Mr. JONTZ.

H.R. 3171: Mr. SIKORSKI, Mr. DELLUMS, and Mr. PETRI.

H.R. 3208: Mr. SIKORSKI and Mrs. LOWEY of New York.

H.R. 3256: Mr. SMITH of Florida, Mr. ECKART, and Mr. TORRICELLI.

H.R. 3297: Mr. BILBRAY.

H.R. 3321: Mr. LIGHTFOOT.

H.R. 3343: Mrs. MEYERS of Kansas, Mr. WAXMAN, Mr. GEJDENSON, Mrs. SCHROEDER, Mr. LENT, Mr. CLEMENT, Mrs. MARTIN of Illinois, Mr. HUGHES, Mr. VENTO, Mr. GOSS, and Mr. AUCOIN.

H.R. 3372: Mr. ECKART.

H.R. 3397: Mr. RANGEL.

H.R. 3401: Mr. LAGOMARSINO, Mr. HILER, Mr. PRICE, Mr. MRAZEK, and Mr. HASTERT.

H.R. 3413: Mr. BRUCE, Mr. SANGMEISTER, Mr. LIPINSKI, Mr. HAYES of Illinois, and Mr. PASHAYAN.

H.R. 3432: Mr. TOWNS, Mr. FALEOMAVAEGA, Mrs. COLLINS, Mr. FUSTER, and Mr. JONTZ.

H.R. 3452: Mr. PENNY.

H.R. 3469: Mr. DORGAN of North Dakota.

H.R. 3487: Mr. BATES, Mr. BILBRAY, Mr. BEILENSON, Ms. PELOSI, Mr. JACOBS, Mr. CAMPBELL of Colorado, Mr. NEAL of North Carolina, Mr. HOCHBRUECKNER, Mrs. COLLINS, Mr. VISCLOSKY, Mrs. BOXER, Mr. JOHNSON of South Dakota, Mr. LIPINSKI, Mr. EMERSON, and Mr. GLICKMAN.

H.R. 3500: Mr. WOLPE, Mr. SCHULZE, Mr. TAUKE, Mr. AKAKA, Mr. BILBRAY, Mr. SAXTON, Mr. ROGERS, Mr. ESPY, Mr. VALENTINE, Mr. HALL of Texas, and Mr. CAMPBELL of Colorado.

H.R. 3512: Mr. PENNY, Mr. JACOBS, and Mr. TOWNS.

H.R. 3517: Mr. RANGEL, Mrs. COLLINS, Mr. DIXON, Mr. LANTOS, Mr. FOGLIETTA, Mr. MARKEY, and Mr. GONZALEZ.

H.R. 3568: Mr. MOORHEAD.

H.J. Res. 206: Mr. LEACH of Iowa, Mr. RITTER, Mr. MILLER of Washington, Mrs. COLLINS, Mr. FRENZEL, Mr. BRUCE, Mr. PAYNE of New Jersey, Mr. OWENS of Utah, Mr. STALLINGS, and Mr. LAFALCE.

H.J. Res. 367: Mr. FUSTER, Mr. STENHOLM, Mr. HASTERT, Mr. UPTON, Mr. CHANDLER, Mr. HENRY, and Mr. SHUSTER.

H.J. Res. 389: Mr. CLINGER.

H.Con. Res. 149: Mr. LEWIS of California, Mr. GEPHARDT, and Mr. MICHEL.

H. Con. Res. 155: Mr. BEILENSON, Mr. DYMALLY, Mr. OLIN, Mr. LIPINSKI, Mr. WOLPE, Mr. GLICKMAN, Mr. SHARP, Mr. PALLONE, Mr. CONDIT, and Mr. MILLER of California.

H. Con. Res. 176: Mr. GILMAN and Mrs. Ros-Lehtinen.

H. Con. Res. 195: Mr. FAWELL and Mr. BEREUTER.

PETITIONS, ETC.

Under clause 1 of rule XXII,

120. The SPEAKER presented a petition of the Council of New York City, NY, relative to the Federal Government providing hurricane disaster relief to the people of Puerto Rico; which was referred to the Committee on Public Works and Transportation.

SENATE—*Thursday, November 2, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

** * * whosoever will be great among you, let him be your minister; And whosoever will be chief among you, let him be your servant.*—Matthew 20:26, 27.

Gracious God our loving Father in Heaven, we offer our gratitude for all who labor behind the scenes: without whose dedicated service the Senate could not function. Thank Thee for those who maintain buildings and grounds, who prepare and serve food, who operate subways and elevators. Thank Thee for security who protect life and property and who must maintain the delicate balance between protection and the importance of allowing American citizens to feel these buildings are theirs. We are grateful for receptionists, secretaries, clerks, legislative and administrative assistants, for members and directors of committee staffs. We thank Thee for those who record so precisely and labor so tirelessly in the CONGRESSIONAL RECORD office and for officers of the Senate and those who labor in the Cloakrooms. Thank Thee, Lord, for those who are kept in the Chamber from gavel to gavel. Thank Thee for the press and media corps. Mighty God, let Thy blessing rest upon all these and all their loved ones. In Jesus' name, who is love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 2, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders, there will be a period for morning business until 10:30 this morning, with Senators permitted to speak therein for up to 5 minutes each. At 10:30, the Senate will resume consideration of the conference report accompanying H.R. 3014, the legislative appropriations bill for fiscal year 1990, with the possibility of votes occurring this morning relative to various amendments in disagreement.

At 1:30 today, the Senate will stand in recess until 1:45 to permit the Chamber to be prepared for the resumption of the impeachment proceedings against Judge Walter Nixon. At 1:45, there will be a live quorum, and at 2 p.m., the Senate will go into closed session to deliberate on the impeachment articles against Judge Nixon with no time limitations on the length of these deliberations. I urge my colleagues to be prompt in arriving to respond to the live quorum so that the Senate may proceed promptly with these proceedings.

I repeat, Mr. President, what I said on several previous occasions, that it is an important part of each Senator's constitutional responsibility to consider these impeachment proceedings seriously and thoroughly. Every Senator should be present for the deliberations beginning this afternoon at 2 o'clock.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve the time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Chair recognizes the Senator from North Carolina.

THE DEBT INCREASE IS THE DEFICIT

Mr. SANFORD. Mr. President, the annual increase in the national debt is the deficit. All else is coverup. It is necessary, I think, to remove Social Security from budget calculations because this prevents our knowing the true amount of the deficits. Deficits have not been going down. The amount of Social Security reserves have been going up and going up each year and giving us the illusion of debt and deficit reduction.

Social Security also needs to have the added protection of separation because right now we are spending reserves from Social Security for general purposes as fast as they come in, jeopardizing future payments to Social Security beneficiaries. So it is imperative to remove Social Security from our budget calculations.

Taking Social Security off-budget, however, is not enough. We will still not reveal the full size of the deficit. Adjusting the Gramm-Rudman-Hollings reduction goals by the amount of Social Security removed will still leave a sizable amount of the deficit covered up and will not get us to a zero deficit—not ever. If we want to eliminate the deficits, we must have the backbone to chip away at the full deficit figure.

We must stop the funny business we have used to cover up the deficit. It is

not deficits we are trying to remove or reduce as such. It is the piling up of the debt, the secret debt that we are trying to stop and then to reduce.

The only way to do this is to reveal to the public the full debt increases each year. The debt increase is the deficit. Let us call it that. When we insist on this honest accounting principle, we will have eliminated all the trickery we have been using to pretend we are reducing deficits when all the while we have been increasing deficits.

In a year or two, we will be paying more for interest to service the debt than we pay for national defense. I do not know how we will get the debt under control, but I do know that the first step is an honest report of how much it is.

Amendment No. 1069, which has been filed and has been prepared to be added to the debt limit legislation, will strip all of the deceit from our budget process. It will define deficit as the annual increase in the debt, subject to the limit on which we will vote.

In fiscal year 1990, we project a deficit of about $110 billion. We are dancing around a figure of maybe $116 billion, but whatever we are dancing around, whatever pretend deficit we are dealing with, it is not the truth. If we had this honest accounting measure of deficit right now, we would show in the fiscal year 1990 budget the true deficit of some $270 billion. It is time, Mr. President, for an honest budget.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from North Carolina has suggested the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE TRANS-ANTARCTICA EXPEDITION

Mr. DURENBERGER. Mr. President, today is day 99 for the six-man trans-Antarctica expedition. They have traveled now over 1,100 miles of a total 4,000-mile trek across the frozen Antarctic Continent, and have just passed their ninth food cache, which is located on the Newcomer Glacier.

When I did last week's update, the team was nearly 4 weeks behind schedule, but the recent good weather, the easier terrain now that they have come off of the more mountainous area of the peninsula, and a reduced load has allowed them to capture several of the lost weeks. At this pace, they will reach the South Pole by early December.

So you can see that in a matter of about a month, they will have covered almost as much territory as they did in the first 99 days of their trip to the South Pole at the center of the continent.

Communications with the team have been difficult and at times impossible. We first thought that their antennae broke, but it turns out that the communications throughout the Antarctic are being disrupted, possibly due to recent solar flares. No matter what the cause, communicating and tracking with the team is never easy as they move across the bottom of the Earth.

As a result, a regular routine of communications has been established. At 7 p.m. each evening, the team radios the expedition's base camp in Punta Arenas, Chile. They use very brief sentences, often repeated several times for accuracy, and they relay basic information regarding the temperature, the wind, and the number of miles that they have traveled. If a clear connection permits, they will also add anecdotes about the men or the dogs, all of which I have tried to share with you.

Last week the message was, "Weather, morale, dogs, and terrain good."

However, even this is not as easy as it seems. Because Frenchman Jean-Louis Etienne is the radioman, all the messages are relayed in French, and they have to be translated into English before they are sent to the expedition's headquarters in St. Paul, MN. From there the reports are faxed all over the world.

The team uses a portable, battery-powered 20-watt radio with an antenna that is draped across two skis. Although the team tries to navigate using a sextant, weather often blocks out the Sun, making surface navigating impossible. So as a backup, the team carries a satellite tracking beacon that tells the base camp in Chile where the team is. Then, on their evening radio conversation, the base camp in Chile tells the team where it is located.

Mr. President, as I have indicated, the expedition is international in nature. Six men from six different countries: The United States, the Soviet Union, France, Japan, Great Britain, and China.

China is represented by a 43-year-old scientist from Lanzhou City, whose name is Qin Dahe. Qin is an expert on glaciers, having spent many years in the mountains of Tibet and China, as well as in the Antarctic, with both the Chinese and Australian research stations.

Qin works with the Soviet representative, Victor Boyarsky, doing scientific tests. When they first met, Qin and Victor liked each other immediately. One of the reasons is Qin understands Russian, the only member of the team that does.

So to conclude, Mr. President, I am continually amazed by the endurance of these six men and the hardships they have overcome. Their example is an inspiration to all of us.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

A NEED FOR A NATIONAL CHEMICAL SAFETY BOARD

Mr. LIEBERMAN. Mr. President, last week there was a tragic explosion at the Pasadena, TX, Phillips petroleum plant. Naturally, our sympathy goes to those families who lost loved ones in the fiery explosion, and our respect goes to those unsung heroes of this tragedy, emergency crews, whose prompt response contained the deadly chemical fire, and the Phillips employees themselves, whose quick reaction spared the lives of so many of their coworkers.

Mr. President, to those who earn their living along the Houston shipping channel or in the many other places in our country, including Connecticut, which support a high concentration of chemical companies or refineries, the threat of such an explosion is all too real.

Unfortunately, this accident in Texas is not an isolated one. EPA statistics showed that between 1980 and 1985 there were 6,928 accidents releasing 400 million pounds of toxic chemicals into the air causing 138 deaths, 4,714 serious injuries, and the evacuation of 217,000 people. There is a real problem. The public has a right to know about it, particularly those who live around chemical plants and refineries.

The public has a right to believe that the Government will adequately investigate such accidents when they occur and act to make them less common in the future. Next month we will actually be observing the fifth anniversary of that terrible chemical accident in Bhopal, India. We should not wait for another tragedy, a Bhopal on American soil, to happen before we act to prevent it.

Catastrophic industrial accidents such as this do not have to be taken as an inescapable fact of modern life. This recent incident highlights the need for a national chemical safety board which can examine chemical ac-

cidents and help us make sure that they are less likely in the future.

Mr. President, the Environment and Public Works Committee, on which I am honored to serve, is currently drafting clean air legislation, a truly remarkable opportunity unchallenged in this area of increased environmental awareness. Our work on S. 816, the Toxic Release Prevention Act, has led the committee to include an amendment which would create an independent safety board to examine chemical accidents. I am hopeful that an independent board appointed by the President would provide a more thorough investigation of chemical-petrochemical plants and oil refineries than has occurred in the past. The independence of that board is essential. It would be patterned after the National Transportation Safety Board which is, as you know, an independent board which investigates accidents involving the transportation industry.

I believe that the chemical safety board, if properly constituted, would inspire the same public confidence when it investigates industrial accidents as the National Transportation Safety Board does when it investigates transportation accidents, particularly airline accidents. This new board would be dispatched immediately to the scene to investigate a catastrophic chemical accident to determine the cause, assess the blame, and ultimately make recommendations to the Environmental Protection Agency on measures that might be adopted to reduce accident risks throughout the chemical industry.

Mr. President, this task is obviously complex, but it is imperative. If a new board prevents even one accident, one death, which I am sure it will, then its mission will be successful.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MIKE MANSFIELD RECEIVES 1989 HUMANITARIAN AWARD

Mr. BAUCUS. Mr. President, earlier this year, my colleague from Montana [Mr. BURNS] and I submitted a resolution honoring one of Montana's greatest statesmen. That resolution, which was cosponsored by the entire Senate, was agreed to unanimously in tribute to a great man: Mike Mansfield. I am pleased to report he was recently honored once again. On October 17, Mike received the 1989 Humanitarian Award from the Variety Club of Greater Washington.

We are all familiar with the career of our distinguished former colleague. He began his public service as a soldier in World War I. In subsequent years, he was a professor, Congressman, Senator, and Ambassador. His tenure as Senate majority leader kept this body together through a very difficult time. And his work as Ambassador to Japan has advanced United States trade opportunities with that country.

As a fellow Montanan, I am indebted to Mike for his service and will always look to him as an example of a truly great man. I know I speak for the entire Senate when I wish Mike and his wife Maureen well.

I ask unanimous consent that a tribute from the Variety Club newsletter, the Barker Speaks, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MONTANAN MIKE MANSFIELD TO GET HUMANITARIAN AWARD

Tent 11's 1989 Humanitarian Award will be presented to Mike Mansfield, former Ambassador to Japan and noted national leader, at a gala affair on Tuesday, October 17, at the J.W. Marriott Hotel in Washington, DC. Mansfield has been selected to receive this honor due to his outstanding commitment and service to his country and for his unequivocable leadership abilities.

Throughout his career, Mike Mansfield—with his wife Maureen by his side—has been respected by both Democrats and Republicans. He served in both houses of Congress for 34 years, spending over 16 years as the Senate Majority Leader. As Ambassador Extraordinary and Plenipotentiary to Japan, he presided over the U.S.'s largest embassy under both Democratic and Republican presidents.

Mike Mansfield has always viewed the United States as the land of opportunity. His father, an Irish immigrant, died when Mike was young. After being sent to live with his aunt in Montana, Mansfield ran away from home at age 14 to join the Navy. He has the distinction also of having served in the Army and the Marines. He later returned to Butte, became a miner, and met Maureen Hayes (his wife and partner of over 40 years), who insisted he get an education before she would marry him. He simultaneously enrolled in high school and college, eventually earning a Masters degree. He then began a career in education as a teacher at Montana State University.

This year's Humanitarian Award will be presented to the now retired Mansfield as a tribute to his distinguished career. Former Vice President Walter F. Mondale is the Chairman and the Honorable George Shultz will act as Co-Chair. Ambassador Nobuo Matsunaga, Mel Laird, Zbigniew Brezezinski, Clark M. Clifford, Howard Baker, Senator J. William Fulbright, Senator Edward Muskie, Dean Rusk, Robert Strauss, Stuart E. Eizenstat, Henry Kissinger, and others have signed on as Vice Chairman. Additional dinner committee participants are former Presidents Gerald R. Ford and Jimmy Carter. The non-partisan event will be emceed by Variety Clubs International Chairman Monty Hall.

The Humanitarian Award Dinner, a Washington tradition dating to the 1930s and 1940s, was reinstated under the leadership of Variety Vice President John Kramer Shlaes. Last year's dinner honored House Minority Leader Bob Michel raised over $100,000.

Proceeds from this year's fete will benefit the Variety Myoelectric Limb Bank on the grounds of D.C. General Hospital and the Sunshine Coach project, which provides transportation for disabled and underprivileged children in the Washington area.

CELEBRATING NORTH DAKOTA STATEHOOD

Mr. BURDICK. Mr. President, today is North Dakota's 100th birthday. It was on November 2, 1889, that President Benjamin Harrison signed the document admitting North Dakota and South Dakota to the Union.

As Helen Graham Rezatto said in her book, "The Making of the Two Dakotas," Harrison "tactfully shuffled the two proclamations in such a way that observers could not tell which was signed first. 'They were born together; they are one, and I will make them twins,' announced President Harrison. Based on alphabetical order, North Dakota is the 39th State and South Dakota the 40th."

Since Lewis and Clark explored North Dakota, guided by a Shoshone woman named Sakakawea, the prairie has been changed to fertile fields of grain. North Dakota leads the Nation in production of spring wheat, durum and sunflowers, and is a major producer of barley, rye, soybeans, sugar beets, and potatoes, as well as livestock. Energy resources such as oil and lignite coal have been tapped in the western part of the State, which has now produced more than 1 billion barrels of oil.

North Dakota has a special beauty, hospitality, and spirit. We like to say that 40 below zero keeps out the riff-raff, but we bristle when others attack our State. There was a loud outcry when Rand McNally decided to exclude the Dakotas from a recent atlas, when Newsweek called the area "America's Outback," and when Rutgers Prof. Frank Popper suggested that most of North Dakota and neighboring States should become a Buffalo Commons. North Dakota has the same problems as other rural States, but we are ready, willing and able to take on the challenges facing us.

Just like the pioneers who came by covered wagon to establish a homestead, today's North Dakotans are working together to improve the future of the State. A project called Vision 2000 has sparked discussions across the State on how we can revitalize our economy. We have a wealth of resources, including good people, a clean environment, and rich soil, and I am confident that North Dakota will prosper in its second century.

The pioneer spirit has never been more evident in North Dakota than in the last year. The word "Dakota" means friend, and for the last year, friends of North Dakota have been celebrating the State centennial through community celebrations, wagon trains, three plantings and a giant centennial quilt.

November 2 Statehood Day activities are centering on the citizens of the second century, the young people of North Dakota. Here at the U.S. Capitol, Senator KENT CONRAD, Congressman BYRON DORGAN and I are planting a tree at 2:40 eastern time this afternoon to honor North Dakota's second century of statehood.

I would like to commend everyone involved with our Centennial celebration for their fine efforts. Former Gov. Art Link chaired the North Dakota Centennial Commission. Serving on the commission were: Vern Neff, Jim Fuglie, Larry Schneider, William Kelsch, Mary Louise Defender Wilson, Woody Gagnon, James Sperry, Larry Erickson, Sher Quaday, Harold Gershman, Shirley Simmons, Peter Kelly McKenzie, Lt. Gov. Lloyd Omdahl, Senators Corliss Mushik, and Ray Holmberg, and Representatives Cathy Rydell and John Hokana.

I would also like to recognize the fine work of Executive Director S.F. "Buckshot" Hoffner and the members of his staff: Jim Hewitson, Stacie Greff, Anne Rathke, Dennis Neumann, Renae Dockter, Patrick Brown, and Laura Anhalt.

The West Fargo High School Governor's Centennial Chorus directed by John Loy and the North Dakota High School Centennial Band directed by John Warren of Mandan and Dale Koppelman of Grand Forks provided inspirational music for many Centennial events.

In Buckshot Hoffner's words, "We've talked a lot about the past, and now it's time to look to the future." Happy birthday, North Dakota.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to once again remind my colleagues of Terry Anderson's continuing captivity. Today is the 1,692d day that he has been held in Beirut.

TRIBUTE TO ALBERT J. DREWES

Mr. WARNER. Mr. President, as Al Drewes ends a Government career which covered over half a century, the Department of the Army is losing a true public servant.

Al's Government career began in 1938 at the age of 17 when he joined the U.S. Marine Corps Reserve. His unit, commanded by his father, was called to active duty in November 1940. Following basic training at Parris Island, SC, Al was assigned to Guantanamo Bay, Cuba, and from there to Camp Lejeune, NC.

While he was there, Pearl Harbor was attacked and Al's worldwide tour began. During the summer and winter of 1942, Al served on the Solomon Islands and was in the assault on Guadalcanal, where he served as a forward observer for the Marine's 105mm howitzers. Soon after, his father was killed on Tarawa during an amphibious assault. Through July 1943, Al was stationed in Australia at Melbourne and Brisbane. He returned to the United States where he trained female marines at Camp Lejeune, NC, and later gave marksmanship training to FBI agents and female marines at Quantico Marine Base, VA. In 1944, he was sent to Guam to prepare the new recruits for the challenges of war.

When the war ended there was a critical need for civilian Federal workers. So on February 15, 1946, Al, by then a platoon sergeant, separated from the Marines, and began a distinguished career at Headquarters, Marine Corps, which continued until November 1965.

During the last 5 of those years, Al served as the legal assistant to the U.S. Marine Corps member on the Department of Defense Military Pay and Allowance Committee. In that position he interpreted laws, implemented regulations and decisions of the Comptroller General which related to military pay and allowances and advised the Marine Corps representative on all pay matters.

After a brief sabbatical from Government service to work as a reporter for the Northern Virginia Star, in March 1966, Al started working in the legislative field. His previous education as a legal clerk and at Georgetown Law School became valuable assets for the many years he was to spend working in legislative liaison.

After several years with the Department of the Air Force as a congressional research analyst, he transferred to the Department of the Army as a legislative research specialist in 1972 and remained there until his recent retirement.

During his career as a civil servant, Al and his wife, Kathleen, have raised a fine family. Their son, Henry, is a biologist for Minnesota Fisheries in Minnesota, and daughter, Kati, works for Fairfax County Parks and Recreation. They have one grandchild, Laure.

Mr. President, the Office of Legislative Liaison in the Army Secretariat, has benefited from Al's many years of dedication and hard work. His judgment and knowledge based on many years of working in legislative research earned him great respect from the Army leadership. He takes with him a unique knowledge of legislative research and the workings of Congress.

As Al ends over 50 years of dedicated public service, I am sure that my distinguished colleagues join me in expressing deep appreciation and wishing him and his family the very best in all future endeavors.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

LEGISLATIVE BRANCH APPROPRIATIONS, 1990—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the conference report on H.R. 3014, which the clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3014) making appropriations for the legislative branch for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

Pending is the House amendment to Senate amendment numbered 35, relating to franked mailing and official mail costs of Senators and Members of the House of Representatives.

The ACTING PRESIDING pro tempore. The pending question is the House amendment to Senate amendment No. 35 reported in disagreement.

AMENDMENT NO. 1077 TO AMENDMENT IN DISAGREEMENT NO. 35

(Purpose. To restore the provision for detailed statements to Members of Congress and publication of summary statistics in the Congressional Record concerning the use of the franking privilege by Members of Congress and the provision requiring that mass mailings clearly state that they are mailed at taxpayer expense)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY] proposes an amendment numbered 1077 to amendment in disagreement No. 35.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following new subsections:

(d)(A) Two weeks after the close of each calendar quarter, or as soon as practicable

thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Senate Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate. Such summary tabulation shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the State from which the Senator was elected.

(B) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the House Commission on Congressional Mailing Standards shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings: The statement shall also include the total cost per capita in the area from which such Member was elected. A compilation of all such statements shall be sent to the House of Representatives Committee on House Administration. A summary tabulation of such information shall be published quarterly in the Report of the Clerk of the House of Representatives. Such summary tabulations shall set forth for each Member the following information: the Member's name, the total number of pieces of mass mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the area from which the Member was elected.

(e) A mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code) by a Senator or a Member of the House of Representatives shall contain the following notice in a prominent place on the cover page of the document: "PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSE".

Mr. HUMPHREY. Mr. President, this is an amendment which has been discussed with the floor managers. I believe it is an outstanding amendment, obviously.

Mr. President, everyone knows and I think virtually everyone acknowledges that the franking privilege is abused routinely, aggressively, openly. We all know it. I think all of us have acknowledged it.

But the abuse is more pernicious than perhaps it seems at first glance. It is not only an abuse of the funds, often a waste of the funds, but the franking privilege is being used to perpetuate incumbency.

Let us face it. It is used aggressively in election cycles. You can see it in the statistics to help Members get themselves reelected. The temptation to use it that way is irresistable, virtually. So I think the solution, the remedy for the problem, the reform is to adopt measures that reduce the temptation.

Accountability is almost a magic cure in public policy, and it is the lack of accountability, in my view, which has given rise to this massive abuse of the frank privilege. Members can mail and mail and mail and the taxpayers never know who the offenders are. There is no accountability. There is zero accountability.

So the amendment which I offer has as its fundamental purpose to create accountability in the matter of the use of the frank. The amendment essentially has two parts. First, very simply it would require on the first page of every mass mailing the legend, "Mailed at Taxpayer Expense." That is part A, the first part.

The second part is to cause or to require the publication quarterly in the CONGRESSIONAL RECORD of the mailing expenses engendered or incurred by each Member of Congress, each Member of the two Houses. Then the American people and the news media will have ready access to statistics which show who is using the frank reasonably and who is abusing it. Those figures are virtually not available today. They are very difficult to come by. I think in the case of the House they are impossible to come by.

So the proposal that I lay before the Senate is to require these statistics to be broken down Member by Member by Member and published quarterly in the CONGRESSIONAL RECORD, which as we know is widely distributed and carefully read by many of our citizens but especially by the news media whose members will, we can be sure, use that information to good advantage. There is the accountability that we need, in my view.

Mr. President, the question is of far greater import than it might appear on first glance. A week or so ago we had the privilege—and I say that with sincerity given the changes in the Soviet Union—the privilege of greeting our fellow legislators from the Soviet Union on the floor of the Senate, the newly elected members of the Supreme Soviet.

We members of the Foreign Relations Committee had the opportunity to get to know the members of that delegation, the dozen or so members of that delegation, at a luncheon held by the Senate Foreign Relations Committee. It was very interesting indeed to hear an account presented at our request by each member of that delegation of the Supreme Soviet, an account of their experience in the process of getting elected to this new Soviet legislature.

It turns out that most of these members had very rigorous opposition; that they ran in races where there were a dozen candidates for the office, and in races which required two and three sets of runoff elections to narrow down the field.

One cannot help but make the observation, if this delegation is in any way representative, that the members of the Supreme Soviet, in getting themselves elected, undergo a more rigorous election campaign than do, let us face it, most Members of Congress. That is an interesting and I think an accurate observation. In getting themselves elected to the Supreme Soviet our Soviet counterparts undergo a more rigorous electoral process than we do. That says something about the Congress, I think.

In my view, the Congress increasingly falls far short of what is expected of it in its role of stewardship, managing public affairs. It seems like it is going downhill. Perhaps that is overstating the case, but that is my observation in the last 11 years. It has gotten worse and worse and worse. And the reason for this decline in quality of workmanship and decline in the quality of our stewardship is that most Members are so darn secure in their seats that they do not have to worry too much about what the public thinks.

One of the reasons they are so secure is this wonderful franking privilege that we can use to dump torrents of mail into our States or congressional districts just prior to election to get that name recognition up. That is an enormous advantage for incumbents. That, in large measure, explains why incumbents are reelected overwhelmingly all out of proportion to what you might expect, and certainly vastly out of proportion to the performance of those Members if you take it collectively. The temptation is overwhelming to abuse the frank, and it is used to try to hang on to these seats in Congress forever.

It is, literally and quite easily, possible to make a career of serving in Congress. And that is unfortunate. I believe we ought to limit the terms that anyone can serve, but that is a different speech for a different day.

I think it is clear that the powers of incumbency are being used to the disadvantage of the Nation, and here is one concrete example. Here is one area that needs reform to ensure not only the saving of money, which is important, but to ensure a more regular turnover in the membership of Congress by evening out the odds in these contests for seats.

Mr. President, this is not the amendment offered by the Senator from California. The last time we went through this process some months ago. That amendment, I understand, will follow my amendment. That amendment, as I recall—I do not speak for the Senator from California—takes

the funds appropriated in this fiscal year for mass mailings, or nearly all of them, and appropriates them for some other purpose. In other words, it eliminates the appropriations for mass mailings.

That is not the amendment, although I approve of that and intend to support it, and I hope the Senator from California intends to offer it.

That is a 1-year amendment and affects only appropriations for this year. The amendment I am offering is substantially different. It is not a 1-year provision. It is a permanent change, and the change is to require a disclaimer on the first page of all mass mailings to the effect that the cost of the mailing is being borne by the taxpayer; and, second, to require on a quarterly basis publication in the CONGRESSIONAL RECORD of the mass mailing cost of each Member of Congress.

Mr. President, I believe these are excellent provisions. They should not be subject to any controversy. I hope the Senate will adopt them.

I have, Mr. President, some additional remarks which focus on what happened in conference which give rise to the need to offer these amendments once again. The Senate has already spoken on these matters overwhelmingly. Yet, in conference, the will of the Senate in this area was completely overridden, indeed, ignored, it would appear, on a very cynical basis.

Mr. President, I propose to reinsert language eliminated in conference to reform the franking privilege.

Senators will recall that during initial consideration of this bill in early September, the Senate adopted reforms which this Senator and others had proposed. These reforms, which would have placed reasonable requirements on the use of the frank, included disclosure of spending practices and truth-in-advertising statements for all mass mailed pieces, were unanimously passed by the Senate.

The Senate also took two other important steps. First, it voted to limit the total number of allowable mass mailings to two per year per Member, and second, it voted to eliminate all mass mailings this coming year in favor of spending that money on the war on drugs. And the House instructed its conferees by a vote of 245 to 137 to accept the Senate amendment eliminating mass mailings.

Just when it looked like the congressional franking monster was on its last leg, the conference committee set up shop. Ignoring the wishes of both bodies, the conferees agreed to eliminate the Wilson amendment and, at the same time, they also eliminated all but one of the Senate amendments pertaining to the use of the frank.

I call the Senate's attention to an October 16 piece by William Safire in the New York Times. With all due respect to Members involved, Mr. Safire lays it on the line in detailing what happened during "ambush at conference gap."

"'Twas a famous victory for the taxpayers—or so it seemed," Mr. Safire begins.

* * * But a funny thing happened on the way to passage. At the start of the conference committee meeting, the leader of the House delegation (Vic Fazio of California) announced that a "compromise" had been reached with the Senate. Mass mailings would continue; individual Member secrecy would prevail; no disclosure required that the junkmailer's cost came out of the voter's pocket. That was it: no reform.

How did this happen? How can the recorded will of both Houses of Congress be reversed by a single Congressman from California? Answer: Never underestimate the power of an incumbent in a safe seat willing to do the dirty work on behalf of colleagues too ashamed to do it themselves.

Indeed, the stakes were high. Congressman MORRIS UDALL was quoted as saying, franking "is second only to salaries as a sacred cow."

A sacred cow may be spared, but at what costs? Congress' reservoir of credibility, already at an all time low, has been drained even further. In an editorial, the New York Times recommended that:

Both Houses could begin to rescue their sagging reputations by sending their conferees back to the drawing board. In any case, the measure ought not to be ratified without a rollcall. That way, at least, the public will have a way to tell the reformers from the hypocrites.

The Senate ought to insist on the package of reforms it sent to the House in September. That is the purpose of my amendment.

The amendment which I am offering will simply reinstate the language that had been eliminated by the conferees, with the exception of the Wilson amendment. The amendment I am now offering will require that the Clerk of the House and the Secretary of the Senate shall submit for publication in the CONGRESSIONAL RECORD a quarterly tabulation of the mail costs for each Member. This tabulation shall include the Member's name, the total number of pieces of mass mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the area from which the Member was elected.

The amendment would also require that all mass mailings sent by Members of the House and Senate include a statement on the cover page of the document stating that the document was "prepared, published, and mailed at taxpayer expense."

To quote William Safire once more:

The issue of the abuse of the franking privilege has been settled; the majority of both Houses has spoken. The issue before us now is the abuse of the conference system in Congress. Both Houses must speak again sending a message to the arrogant conferees who think they can do their friends a favor by making a mockery of the democratic process.

The Senate has unanimously supported this language in the past. I urge this support for my amendment once again.

I do not know the will of the managers, Mr. President. I do not think there is any opposition to the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from New Hampshire is seeking to reinsert language requiring publication of the costs and volumes of mass mailings for individual Members of the Congress, along with a notice on mass mailings to the effect that the mailing is prepared and mailed at public expense. I support disclosure of these costs, and the Senate now requires disclosure of these costs. It was in our bill.

Whether the requirement should be expanded to include the publication in the CONGRESSIONAL RECORD, and a label saying "at taxpayers' expense" in effect, are relatively unimportant matters. The real question is whether we should reinsert the broader disclosure requirements with respect to the House.

We had disclosure language in the bill we brought out of committee, and the Senator from New Hampshire proposed and we accepted three additional provisions. We took his lanaguage and ours to conference. The agreement before the Senate is the best deal we can get. Anything further at this point, as I pointed out before, will only serve to endanger the reforms we have already achieved.

Surely, for example, separate accounts for the House and the Senate is a change worth having. I believe it will encourage the kind of accountability the Senator is seeking with his proposal here.

I also point out we were able to get the House to agree to one of the Senator's items, and it was not easy to get the House to agree to that item. I felt it was important we hang in, so to speak, to get the Senator from New Hampshire part of what he brought before the Senate. We did that, and it was not easy; but we got the House to agree to a two-page limitation on mass mailings.

So, although I agree, in general, with the aim of the Senator's amendments, I think at the right time it will be appropriate to move to table that amendment.

I want to talk for just a minute, here, Mr. President, about the reforms we have been able to obtain. These changes are significant and they are important.

Separate accounts for the House and for the Senate. For the first time in

the history of this Congress, we were able to obtain in our conference with the House, the establishment of separate accounts. The purpose of this, of course, is to establish accountability. And I think it is important that we do that.

Again, that was not easy because, in the past, as the Senator from New Hampshire knows, we had a joint account. And at the end of the year, when there had been money spent in excessive fashion, the Senate would end up paying the House's bill. This will stop that. We will now have separate accounts established.

Again, the battle in that conference with those long-time House Members was not easy, it was not an easy thing to accomplish.

No. 2 on the list, and I think a very important reform, is one suggested by the Senator from New Hampshire; that is, to limit the size of the newsletters. In the past, as we know, there were potential abuses relating to the sheer size of newsletters and other mass mailings. We were able to limit that, too. Again, that did not come easy. In fact, that was the last thing they agreed upon, the amendment of the Senator from New Hampshire.

In addition to establishing separate accounts, we were able to set up a procedure to focus a spotlight on how much money is spent. We not only have separate accounts but the Postmaster must report every quarter as to how much money is being spent against each account.

At the end of the second quarter, a report is given to the House Franking Commission and also to the Senate Rules Committee. At that time, if, in fact, the two bodies are overspending, then those two bodies have the opportunity to set standards. That is being talked about here in the Senate now.

In the past, Senator STEVENS, the ranking member of the Rules Committee and Chairman FORD, the chairman of that committee, have set up an allocation procedure, and it has worked quite well in the Senate. Costs have been held down. We hope the establishment of a separate mail account and the procedure for keeping these costs within the appropriation will encourage additional reforms. I am confident they will.

These are certainly reforms, and they are not pie-in-the-sky reforms. They are not something we are going to do in the future. They are actual reforms that are in this conference report.

Loophole closed for election year mailings during the 60-day blackout. Also, one of the abuses this bill addresses is the provision that prohibits mass mail 60 days prior to an election, there was a way around that. The way around that is, as the Senator from New Hampshire himself has pointed out on a number of occasions, that House members would have everything printed and taken down to the folding room and it would be considered "mailed." Then it could be sent out any time during the 60-day blackout. This stops that.

Under this agreement, there is an actual blackout. If a mailing is not actually mailed before the 60 days, it is not mailed. That is real reform.

The reduction in postal patron mailings is real reform. It is a 50-percent reduction. But also the important thing is, with the reporting requirements we have, we are going to have to get the approval, in effect, of the Rules Committee to be able to mail three because there is not that much money. Everybody cannot mail three. In fact, the truth of the matter is with the money we have in the bill, each Senator could mail only 0.85, of a statewide postal patron mailing.

So we have some real, meaningful reforms in this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. HUMPHREY. Will the Senator withhold for just a moment?.

Mr. REID. Certainly, just so I do not lose the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Before the Senator from Nevada offers the amendment, so we have a chance to discuss the amendment I offered with the Senator from Oklahoma who is standing ready to address that amendment, I have some things I want to say further about it.

Mr. REID. I say to the Senator from New Hampshire we will have time to talk about that. I have just a few remarks, and it will take just a few minutes. It, of course, takes into consideration some of the things the Senator has already talked about.

AMENDMENT NO. 1078 TO AMENDMENT NO. 1077

(Purpose: To require disclosure of sources of funds other than appropriated funds for office expenses of Members of Congress)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1078 to amendment No. 1077.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following new subsection:

( ) (1) Effective January 1, 1990, none of the funds made available in this Act shall be obligated or expended to or on behalf of a Member of Congress for a calendar month unless the Member has submitted to the Clerk of the House of Representatives (with respect to Members of the House of Representatives) or to the Secretary of the Senate (with respect to Senators) a report disclosing each receipt during the previous calendar month of funds other than funds made available by this Act that are used or intended to be used for—

(A) the acquisition of mailing lists;

(B) the preparation, printing, or payment of postage on official mail; or

(C) other official office expenses,

together with a specification of the goods and services obtained or intended to be obtained with such funds.

(2) The reports required by paragraph (1) shall set forth the names and addresses of all persons from whom such funds were received, the amounts received, the dates such funds were received, and a detailed description of the goods or services acquired with the funds received from each such person.

(3) The Clerk of the House of Representatives shall set forth in the quarterly Report of the Clerk of the House of Representatives described in subsection ( ) an itemized listing of all information submitted to the Clerk pursuant to paragraph (1).

(4) The Secretary of the Senate shall set forth in the semiannual Report of the Secretary of the Senate described in subsection ( ) an itemized listing of all information submitted to the Secretary pursuant to paragraph (1).

Mr. REID. Mr. President, the Senator from New Hampshire proposes that the Senate impose a disclosure requirement on the House of Representatives. What I have said here for 2 days is that we have gotten from the House all we are going to get. The conference that we were in with the House was brutal. There were statements made, recriminations, because the House had the feeling that we should clean up our house before we start telling them what they should do. In spite of that general feeling, we were able to achieve some reforms affecting the House.

I would agree with the Senator from New Hampshire that there are more reforms needed, and I have supported him in his efforts to get these reforms. I accepted his amendments when the bill was before the Senate on the part of the majority saying the Senator from New Hampshire is right on line. I think that what he is talking about is appropriate.

I feel, as the manager of this bill, however, that we have gotten from the House the last inch that we can wring from them. By taking more back to them, we are going to do away with

the reforms that we have already achieved. We are going to go back into more recriminations, more name-calling, and, in the end, lose a bill that is meaningful, that is important to this body and important to the other body and important to the people of this country,

The language of the amendment of the Senator from New Hampshire addresses the publication of franking costs and mail volumes by individual Members of both bodies. But the Senate by regulation already has a disclosure requirement. So the real effect of his amendment is to impose such a requirement on the House.

I have pointed out numerous times that any change of this sort will doom this conference report and the bill for this fiscal year. That would be bad for the country. We have already had a long conference with the House on this subject and on other subjects. The provisions in this conference agreement are the best we are going to get.

I say parenthetically it is an open question whether the House, given its current mailing system, could comply with such a requirement. But be that as it may, Mr. President, public disclosure is an unassailable moral idea. I think it is desirable to disclose the cost of the frank and other costs as well by individual Members and individual Member offices.

In fact, we require all agencies under our jurisdiction to observe more or less full disclosure policies. That is the essence of congressional oversight. So I believe that if we are going to have a disclosure policy, that it ought to be as comprehensive as possible.

This amendment is a modest step in that direction. It would require Members of both bodies to disclose to public scrutiny the sources of funding for their official office expenses. We have to realistically understand that the House is not going to be affected by this requirement. They are not going to disclose anything about sources of nonappropriated funds because they have a rule that prohibits the things that we allow.

The House has a rule that prohibits using honorariums in official expense accounts; it prohibits using personal campaign moneys in official expense accounts. The House has a rule that prevents using House Campaign Committee moneys in their official expense account. They have a rule that prevents using PAC moneys in official expense accounts. We do not. We do not have such a rule.

It seems strange to those unfamiliar with the Senate practices in this respect; after all, this subcommittee has provided $161,124,000 for Senate office and official expenses. We ought to know how that money is going to be spent as part of our oversight responsibilities, and we do. The expenses of House Members are published quarterly in the report of the Clerk of the House and, with the Senate, in the report of the Secretary of the Senate. As anyone knows who looks at these reports, they are in very fine detail. One might suppose $161 million would be enough to operate a Senator's office. But one would be mistaken in that assumption. The fact is Senators' official and office expenses are funded not only from the money we appropriate in this bill, but from three other sources as well under Senate rule XXXVIII.

These are, first, the personal private funds, as I have mentioned, of the Senator; Second, honoraria; and third—and I urge everyone to pay particular attention—contributions from political committees.

Now, Mr. President, we all know that he who pays the piper calls the tune. It is about time that the public and the taxpayers have a better idea who is calling the tunes around here.

So the amendment I have sent to the desk strikes a modest blow in the interest of fuller disclosure of the public's business. It is a simple restriction on the use of funds which says that none of the appropriated funds in this act can be used for any Senator or Representative's office expenses until the Senator or Member of the House has filed a report disclosing both the sources and the uses of these nonappropriated funds commingled with his office account.

Mr. President, I believe that if we as representatives of the public are running organizations with nonappropriated funds, the public has a right to know about it and they have a right to know who is giving us those funds. They can make a judgment as to what these contributors may be getting in return, if anything.

The voters, the people who elect us to protect their interests, can properly weigh then whether we are really independent in the approach we take to the issues that affect them. Real accountability for the discharge of our obligations as Members of Congress demands at least this much.

Mr. President, we have in this bill real, real reforms. Whether I agree with the Senator from New Hampshire or not does not take away from the fact that this is a good bill. Let us not lose the reforms that we have because you do not have printed on a piece of paper "printed at Government expense," or you do not have printed on a piece of paper in the CONGRESSIONAL RECORD how much is spent.

We have disclosure. That is in our rules right now. The Senate discloses that. We cannot impose any more on the House. We have done all we can to encourage them to clean up their House.

Senator NICKLES, the ranking member, and I, I think, have a tremendous bill. I am proud of the bill we took to that conference. We were not able to get everything we wanted, but we got a lot. Now I am asking the Senators not to make us go back again and go through the harangue and the hassle that we had to go through once before, because we are going to wind up losing. We are not going to win that one.

I hope, at the right time, we could have someone approach this matter in a way that would be meaningful and fair to the House.

The second-degree amendment that I have offered, frankly, matters little to the House, it does not matter, because they already are restricted in what they can use in their official expense account. We are not. We are not going to the House with clean hands.

We have done a lot to clean up our own act. We have done a very good job. I am proud of the work that Senator NICKLES and I have done in this body.

I suggest and hope that the underlying amendment of the Senator from New Hampshire could be tabled, along with the second-degree amendment, because I think we have done just about all that can be reasonably expected within the bounds of comity to the process in the House of Representatives. Fairness dictates that we cannot go back and beat on them anymore. They are responsible for their rules. What we have to do is a better job ourselves.

I think Senator FORD and Senator STEVENS, as the chairman and ranking member of the Rules Committee, have done an outstanding job.

The Senator from New Hampshire, I understand, wants the floor, or the Senator from Oklahoma.

This Senator yields the floor.

Mr. NICKLES. Mr. President, I have not had time to analyze—and I will do that shortly—the second-degree amendment by my friend and colleague, Senator REID. So I will make my comments in reference to the underlying amendment, the amendment of Senator HUMPHREY, which I think is a good amendment.

It is an amendment that requires disclosure. It is an amendment that we took with us to conference. It is an amendment that we did not bring back. That is one of the reasons why I voted against the conference report.

Frankly, I was disgusted in the fact we could not get more significant, more substantial mail reform. Everyone stood on this floor and said we want to reform the mail process; the costs are growing, they are growing astronomically; we need reform.

The No. 1 reform that is needed is disclosure. We need that public pressure. The public needs to know how much money Members of the House and Members of the Senate are spend-

ing in their offices, whether it be for salaries, whether it be for office accounts, or whether it be for congressional mail. All of those are paid for by taxpayers' funds and should be disclosed.

We are public servants. We serve at the pleasure of the public. We serve at the expense of the public. Therefore, they have the right to know how much we cost, how much we are spending. It just so happens that mail is one of the biggest variables. It is abused by some, not by all. Not everybody who uses mass mailings or even a postal patron is abusing the mail.

I do not think too many people have said that; maybe some. But I do not think so. I do think the public has a right, to know and they will with the amendment of the Senator from New Hampshire. I do not care if it is published in the CONGRESSIONAL RECORD or if it is published in the report by the Secretary of the Senate or the Clerk of the House. That does not make a lot of difference. It does not really make a lot of difference if it has the addition on it that says "prepared, published, and mailed at taxpayer expense." I think that is fine. We might as well. People have a right; they should know.

So I think the Senator has a good amendment. We tried to get this accepted in the conference. The conferees on the House side would not accept it.

I tell my friend and colleague from New Hampshire, if we pass it today, they probably will not accept it again, and we may play ping-pong with the bill. Or maybe they will reject it, or maybe they will do something else; I do not know. But in all likelihood, they will not accept it.

I wish they would. I doubt they will accept it unless there is enough public pressure from constituents in their district, pressure not from the Senate but public pressure, stating that they should disclose what mail costs are.

I tell my friend and colleague from New Hampshire, I think it will pass. It may not pass this year; it is not real probable it will pass this year. I know my friend from Alaska has worked on mail reform for years. I compliment him. He has told me, because I have worked on this for years too, you will not be successful. They are very difficult to deal with. They do not want disclosure on the House side.

But I think we will see disclosure sometime. It may not be this year, but it will happen because it is right. It will happen because there will be enough public pressure generated from within their districts to require disclosure. So it will happen.

The Senator from New Hampshire has a good amendment. I wish we would have been successful, because it was in our original bill when we went to the House conference. We were unsuccessful in retaining it.

The Senator wants to add it at this point. We can take it back over there and see what happens. I am not that optimistic, but it does not mean we should not try.

I compliment my friend from New Hampshire, at least as far as his courage.

Concerning the second-degree amendment, again I want to spend a little more time to understand the essence of the amendment. I heard a couple of comments that were made regarding disclosure of campaign committees, and so on.

I do happen to know something about at least one of the campaign committees, the Republican Senatorial Campaign Committee. We disclose. We disclose contributors. We disclose expenditures.

I think, again, disclosure is healthy, but let us be careful and let us make sure what we are trying to do. Maybe the Senator, my friend from Nevada, has come up with a good second-degree amendment. Maybe this enhances the amendment of the Senator from New Hampshire, or maybe it is an effort to defeat the amendment of the Senator from New Hampshire. That remains to be seen.

I want to review the amendment a little further before I give my thoughts on the second-degree amendment. But, again, I compliment my colleague from New Hampshire for the first-degree amendment.

Mr. HUMPHREY. Mr. President, I thank the Senator from Oklahoma for his remarks.

I want to begin by acknowledging the real gains made by the conference. The reforms which the Senator from Nevada cited are real. I did not mean to slight those in the least.

The Senator goes on to argue, if we insist on these further important and self-evidently necessary amendments, somehow that will kill reform completely for the year.

If that is so, let the onus be on the House. These proceedings are not going unnoticed, I say to my colleagues. For example, the eminent observer, William Safire, political writer and observer, had this to say about the shenanigans that went on in this conference. I will read a few passages here to underscore my point that what is going on is not going unnoticed—that there is going to be increasing pressure on the conferees to do what is right to end these shameful shenanigans.

Mr. President, quoting from Mr. Safire:

> It was a famous victory for the taxpayers, or so it seems, but a funny thing happened on the way to passage. At the start of the conference committee meeting, the leader of the House delegation—

I shall omit the Congressman's name, but it is here in the citation—

> the leader of the House delegation announced that a "compromise" had been reached with the Senate.

Here is the compromise that was reached, notwithstanding the language the Senate adopted overwhelmingly: Mass mailings would continue, individual Members' secrecy would prevail, and no disclosure required that the junk mailers' costs came out of the voters' pockets. That was it. The compromise was not reform.

Mr. President, who could object? Which conferee, House or Senate, could object to the simple provision that every mass mailing bear on its first page the legend "Prepared, published and mailed at taxpayers' expense"? How is that so obnoxious? How is that so threatening to the conferees that, if the Senate sends this report back thus amended, it kills all possibility for reform? If that is so, then shame on every conferee and shame on both Houses.

How can anybody object to disclosing the abusers of the frank? How can anyone object to printing in the CONGRESSIONAL RECORD, which we fill every day with all kinds of extraneous matters, the name of each Member of Congress and how much that Member of Congress spent on mass mailings in the preceding quarter? How can anyone object to something so simple, so straightforward, so eminently of good sense which will restore the accountability—which will create the accountability; there has never been any, that is the problem—which will create the accountability that will bring largely an end to the abuse?

As the Senator from Oklahoma said, not all Members do. Frankly, those do because the temptation is so great you can get away with it, you have this enormous advantage over your political opponent, who is out there struggling to raise nickels and dimes so he has some chance in the race. Here we are spending, some of us, millions of dollars in what is, in effect, a political campaign tactic.

We need reform. The only way to get reform is accountability. The Senator from New Hampshire is offering that opportunity to the Senate. If the House conferees refuse this kind of reform, let the onus be on them. We can be sure that Mr. Safire and his colleagues across this Nation will be watching, and that their observations and their comments will have good effect in time.

I am a little puzzled, frankly, by the amendment offered by the Senator from Nevada. I have only now just looked at it. But it appears to me, in fact, it improves the amendment which I have offered. It does not substitute or replace any of the amendment which I have offered. It is in ad-

dition to the amendment which I have offered. In effect, if I understand it correctly, it would require the Senate to disclose in the same way that House Members are now required to disclose information about funds used in the operation of their offices funds which do not come out of the Treasury. That is a good idea.

Mr. REID. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. REID. To respond to the question which was in effect asked, the House Members are not allowed, by their own rules, to put these moneys into their accounts. So they would have nothing to disclose. That is the difference, even though their second-degree amendment applies to the House and Senate—frankly, I hate to use that word around here——

Mr. HUMPHREY. It is free. Go ahead.

Mr. REID. Frankly, the rule would only apply to the Senate. The disclosure requirements would only apply to the Senate.

Mr. HUMPHREY. I thank the Senator for clarifying that point. But, nonetheless, I believe the Senator has improved my amendment. I thank him for it. I think that kind of disclosure is a good idea. Here in the Senate, unlike the House, we are allowed to augment our official funds—that is funds coming out of the Treasury—with political contributions. I should think, up to a point anyway, as long as there is disclosure, the taxpayers would welcome that part of our office expenses being borne by private contributors. As long as the names are disclosed, and the amounts and purposes to which those funds are used are disclosed, I should think the taxpayers would welcome it. I could be wrong on that point. But the Senator from Nevada is right in requiring that we disclose more fully than we now do what funds of that nature we receive and how they are expended. I think that is a good idea. If I understand the amendment correctly, I believe it improves the amendment I have offered. I will support it.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes Senator REID.

Mr. REID. I have just a brief statement. Then I would be happy to yield to the Senator from New Hampshire.

Mr. RUDMAN. I wanted to ask the chairman a couple of questions. I will wait.

Mr. REID. I am happy to do that now.

Mr. RUDMAN. I have been listening to this debate with some interest in my office. I fully support my colleague's position. I understand tactically what the chairman is saying, and there is no question the chairman and the ranking member have done an extraordinary job on this. I support what they have done. I think my senior colleague is correct. Let the onus be where it belongs. It is unconstitutional in this day of ethics in government to take a position, which you are not taking, but which the other side is, that somehow millions of dollars that are expended cannot be disclosed. That is almost unheard of in the ethical atmosphere in which we are operating. We ought to disclose everything, including how much of the frank we use, which we do here in the Senate.

So I agree. I support that. However, that is not the primary reason I came to the floor. As the chairman knows, I have been on the Senate Ethics Committee for some time. I know something about rule XXXVIII. I just want to make sure that the record is set straight because I listened with great interest to the comments of the Senator from Nevada a few moments ago.

I would direct his attention to page 2 of his pending second-degree amendment. I believe the essence of that amendment is contained in paragraph 2, on line 10, which says the report required by paragraph 1 shall set forth the names and addresses of all persons from whom such funds were received, the amounts received, the dates such funds were received, and a detailed description of the goods and services required by the sums received from each person.

I assume that is directed to the Senator's position, which I believe he stated. That is presently, in his view, not disclosed. Am I correct?

Mr. REID. That is right.

Mr. RUDMAN. It is not disclosed. I wanted to make sure our constituents did not think something was going on around here that would be totally uncalled for. Let me explain to you why the Ethics Committee does not require it to be disclosed.

First, let me go over the rule XXXVIII so it is understood. Under rule XXXVIII, there are three sources of funds, and only three, that can be used here in the Senate to supplement official office accounts. They are, one, your personal funds. So, if you want to write a check for $5,000 to supplant your office account, you may do that. That can come from your own private sources, from honoraria, which is disclosed, from anything that is your own personally. You can do that. That has been the rule for some time.

Two, you may take money from your official campaign committee, be it a regular REID for Senate committee or a REID PAC if you have a PAC, and some of us do. The Senator from New Hampshire has not done it. I do not know if the Senator from Nevada does that. That is a fine distinction. It is a personal campaign committee. You can accept money from that.

However, let me point out to the Senator from Nevada that every dime that is paid into that office account by your personal campaign committee or PAC is fully disclosed in your FEC report. As a matter of fact, the press has a field day sometimes getting these reports and pointing out that Senator X used $18.23 to buy spare pieces for a Scrabble game for the office. That is type of sensational reporting. It is not quite that outlandish, but close to it.

Third, you may receive funds in your official office account from your campaign committee of your party. The Democrats do not do that, it is my understanding. On the Republican side, the Republican Senatorial Campaign Committee does, in fact, use something called a combo account to supplement those office accounts for certain specified reasons.

However, that committee files a report with the FEC and lists the expenditures and who they were given to and what they were for.

So I am not disputing that the Senator may want to have it consolidated in some way.

Let me point out, and let us not leave the record unclear, that all of those funds are reported by line item for all Senators irrespective of party, so long as the only thing that might not be disclosed would be personal funds. I daresay that he who pays the piper calls the tune. I do not know too many Senators around here, unless they are of great personal wealth, that supplant their own office accounts with their own personal funds. I certainly do not. I daresay if I did, that ought not to be anyone's business, if I wish to do that out of my own pocket.

I do not disagree with what the Senator is trying to do. It should be disclosed. We should not leave the impression it is not.

Mr. REID. Mr. President, the Senator from Nevada has the floor.

I respond to my friend from New Hampshire. Certainly I mentioned the three categories. The point is that even though someone could look at a PAC and find out where the money went, it is more difficult to tie that up with how it is spent in an office amount.

The same would apply to moneys that come from so-called combo accounts. It can be done, but it is more difficult to do. This certainly would ease the burden of anyone wanting to know what went into the account and what it was spent to obtain.

I also say to the Senator from New Hampshire who, with Senators on both sides of the aisle, is deemed to be one of the leading experts. If someone gave me a quiz and asked me to name the two individuals in the Senate who were the experts on congressional ethics, I would say HOWELL HEFLIN and WARREN RUDMAN.

Senator RUDMAN has that reputation, and I appreciate his coming over here.

I would say this, however, about the personal moneys put into the account or any other money—but let us talk about the personal account. Certainly, the money that is placed into a Senator's account by us, by the Senate itself, sets various standards. It would be totally unfair, it would seem to me, if someone were extremely wealthy to load up that account and do a lot of things that the other Senator from the State could not do. So even though certainly I would agree there is nothing illegal about it, I am not too sure that it does not raise an ethical problem if in fact a Senator is able to load up that account with personal moneys and have twice as much money as his fellow Senator has.

Mr. RUDMAN. Mr. President, if the Senator will yield for one last comment, I would make a point on his observations.

First, I do not know what the press is like in Nevada but I can assure that my campaign fund report when it is filed—I guess it is quarterly—is scrutinized and we get calls on all sorts of items that the campaign committee paid. And there is no question in my mind that that is very easy to track. The only other one they have to track is the one from the Republican Senatorial Campaign Committee. They do that.

As to the Senator's second point, I disagree with it totally. If Members of this body are so fortunate as to have great personal wealth that has been acquired either through their own hard work or inherited or any other legitimate way and they wish to take some of that personal wealth and use it to hire staff to make them more effective to serve their constituents and this country—and there are Members of this body who do that, for instance, to hire people in the health care area that are extraordinary experts to develop major legislation, or the defense area—and they are willing to pay for that, then I do not think that is an ethics problem at all.

I wish I could do that. I could use probably five more staff people in some of the areas I work in that would be much better for our country and my constituents.

It certainly is not an ethical problem and we allow that in rule 38. One of the reasons we allow it is that over the years when the amount of money that was allocated to these accounts was quite modest, many Senators found they could not fulfill their responsibilities with the money that was allocated. So I do not think it is an ethical problem.

I do not think it is a disclosure problem. I do not have a problem with the amendment. I did support my senior colleague's amendment but I want to make the record clear that everything that we spend is disclosed here in the Senate.

I thank the Senator for his great courtesy in yielding to me.

Mr. REID. Mr. President, I would state a couple of things in response to my friend from New Hampshire.

First of all, there are a number of problems that do develop. Yes, you could, and without a great deal of ingenuity, trace the money to an official expense account. Once you do that, for what is the money spent?

One of the real problems that a number of people have is when you get a letter at home from your friendly Senator and it has the frank on it. Was that in fact paid for by the Government or was it paid for by funds of the individual Senator, or some political action committee? Under standing rule XXXVIII, it permits funds from a political committee—as defined in section 301(d) of the Federal Election Campaign Act of 1971—to be used to defray official expenses. Now the definition of these political committees is that statute reads as follows:

> The term "political committee" means any committee, club, association or other group of persons which receives contributions aggregating in excess of $1,000, any separate segregated fund established under these provisions, any local committee of a political party.

The point I am making to my friend from New Hampshire, the junior Senator, is that it is really not as clear as the Senator and I might think it is, as two lawyers. Because of the language here may in fact apply to other political committees then the Senatorial Campaign Committee or the primary committee of the Senator, which brings me to the point at hand, and that is I favor campaign reform. In fact I, with Senator MCCONNELL, from Kentucky, held a press conference and we sponsored the first bipartisan campaign reform bill in a number of years. In that we address a number of things.

One of the things that we address is the millionaire's loophole. We address a number of other things.

I say to my friend from New Hampshire, I supported Senator HUMPHREY'S amendments when they came up. I went to the House of Representatives and beat my brains out to come up with the conference report that we have. It is a good one.

We had here standing on the Senate floor a few minutes ago, the chairman, my counterpart from the House. Senator NICKLES, and I talked to him as Senator HUMPHREY was talking. And in fact he said, and I am paraphrasing, but he said the same thing that his conference told us as we left. "We are not giving any more. You have no right to tell us what do do. Clean up your own house first."

What I am saying to my two friends from New Hampshire, and the entire Senate delegation from New Hampshire, is let us keep what we have. If we go back to the House, we are not going to do as well as we have. I agree that what we are doing is the right thing.

But what I am also saying is that this is not the place to do campaign reform, Senator MCCONNELL'S bill and my bill. We should not work on the millionaire loophole here. We should not get in the intricacies that should be handled by Senator STEVENS and Senator FORD in the Rules Committee. Or maybe the Ethics Committee should be looking into these things.

We have honest, realistic, confirmed reform in this bill, for the first time many people have said. And, in fact, it has been written in the national media that this is the first real reform that we have ever had. Senator NICKLES and I are proud of that.

It is not all that we wanted. It is not what I thought that we could get. I thought we could do better. But I ran into a buzz saw over there. But we wound up getting out of that buzz saw with real honest to goodness reform. That is why I think we should not be trying to reform the world here. I am saying let us get rid of this amendment of Senator HUMPHREY.

Mr. RUDMAN. Mr. President, will the Senator yield for one more question on that point?

Mr. REID. I yield.

Mr. RUDMAN. And I am sure the two Senators from New Hampshire are enough in the same morning. I will make it brief.

Do I understand the parliamentary situation at the present time being this—and I would like to be corrected if I am incorrect—that the legislative appropriation is now embedded in the 1990 rate, at the fiscal 1990 rate in the continuing resolution. Am I correct?

Mr. REID. No.

Mr. RUDMAN. It is not?

Mr. REID. The 1989 rate.

Mr. RUDMAN. At the 1989 rate.

Mr. NICKLES. I think it is the lower of the House and Senate. I think it is 1990.

Mr. RUDMAN. I believe it may be the 1990 rate.

Mr. REID. There is some dispute. Senator NICKLES and I talked about that before. It could be the lower of the two amounts the House had and the Senate had in conference.

Mr. RUDMAN. Is it the position of the Senator from Nevada that, if the Humphrey amendment were to be again accepted, rather than take the matter up, the House would simply go by the continuing resolution, not even take up the fiscal year 1990 appropriations bill and thus lose those reforms? Is that the Senator's position?

Mr. REID. Yes, because it is my understanding that we may have the 1990 amount that we negotiated but I

guarantee you that we are going to have 1989 terms and conditions, including the provisions on congressional franking. And that is my point. We have done a good job on the dollars, but we have achieved real, solid and honest to goodness reforms. We stand to lose those. That is why I want this stuff tabled. All the work that we have done goes to naught.

Mr. RUDMAN. Is the Senator from Nevada indicating that if, in fact, we were to take this action affirmatively, the Senator's motion to table would fail, is he asserting to the Senate that it is his understanding that the House will not deal then with this legislative conference, they will not bring it up and vote on it, but rather this will go on the continuing resolution but of course will be devoid of the legislative reform thus contained? Is that his position?

Mr. REID. That is true. And not only that, we have been—I do not want to use the word threatened, because that is really not true—but there has been a suggestion made that the whole thing would be opened again.

Now I had the distinction of voting with the Republicans last year on the D.C. Subcommittee, the D.C. conference. That I thought was about as tough a duty as I ever wanted. But, boy, I am about ready to see if I can switch back and take the D.C. bill again and vote with the Republicans on that rather than go through this again. The point I am making is that we have real reforms and I would like to keep them.

Mr. RUDMAN. The Senator is telling the Senate, so we understand what we are doing, that we are apt to have a continuing resolution here for the entire year on legislative appropriations at somewhere between the 1989 and 1990 rate and the House is unwilling to put this to a vote. Is that what the Senator is saying.

Mr. REID. That is right. It will not have the reforms we have in this legislation. The Senator used the word apt, I think it should be a stronger term than that.

Mr. STEVENS. Will the Senator yield?

Mr. REID. I am happy to yield to the Senator from Alaska without losing my right to the floor.

Mr. STEVENS. Mr. President, as one who is on the Rules Committee trying to work out this problem, it is my understanding that if the Senate votes for the Humphrey amendment, we face the prospect of continuing through the year on the continuing resolution with no authorization for the rule that Senator FORD and I intend to offer to change the Senate practice and with no limitations on mailings at all. Is that the Senator's understanding?

Mr. REID. Yes. But even worse than that, we are back to the commingled mail account. We are back to business, as usual, where we have one account. The House can spend to their heart's content and then we come back at the end of this fiscal year and say, well, how much do we owe you. And that is, in fact, what has happened in the past.

What we have been able to do is establish two separate accounts where they are responsible for their mailing, and the press, the world, can find out what they are mailing. In the past it has not been that way. We had one big lump sum account. Not only that, we have a procedure here. All we have to do is accept this agreement and we have procedures that direct the Postal Department to tell your committee and the Franking Commission in the House how much is being spent. It focuses a spotlight on that. We are going to lose all that if we adopt the Humphrey amendment.

Mr. HUMPHREY. If the Senator would yield for a question?

Mr. STEVENS. I thought I had the floor to ask the Senator some questions, if I may.

Mr. REID. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I want to follow up on that question. It is my understanding that with the report that is here on the floor, the conference committee report and the rule contrived in a Rules Committee Resolution, that we will achieve within the Senate what the Senator from New Hampshire wants to achieve for Congress as whole. We have individual reports. We set up individual limitations. We provided that one cannot exceed that amount.

The Senator is correct, this is a real reform now in the sense that the Senate has cleaned up its own house with regard to franking and disclosure of all mail. Is that the Senator's understanding?

Mr. REID. The Senator from Alaska is right. Not only have we gone a significant distance to clean up our own house, we have got even the House of Representatives to begin real reform over there.

Mr. STEVENS. Let me ask the Senator, Mr. President, a key question. Has the Senator been approached, as I have, by Senators who are disturbed with the prospect of limitations and disturbed with this conference report, who think we have gone too far in limiting their mailing?

Mr. REID. The Senator from Alaska is wrong, and he is wrong because the word he used, "disturbed" is not strong enough. The Senators are concerned. They have been belligerent. Each time I go to the conference on Tuesday, it is roast Harry Reid Tuesday.

Mr. STEVENS. I understand, Mr. President. I wanted to pursue this with the Senator because I am disturbed that my good friend from New Hampshire, and he is my good friend, does not understand the vehicle he has given to the people who are upset with this reform. All they have to do is vote for the Humphrey amendment and there would be no limitation on mailing, there would be no reform, and we will still be back to where we were as far as any changes are concerned in the procedures of the Senate; is that not correct?

Mr. REID. Absolutely true. What this amendment of the senior Senator from New Hampshire does is require printing on the letterhead of a notice that it is printed at Government expense and requires the House and the Senate to print in the CONGRESSIONAL RECORD the money that has been spent by each Member. And so I would say, and the Senator has said it as well if not better than I could say it, that if you vote for the Humphrey amendment, you are voting against reform. You are not voting for reform. You are voting against reform. That is the point that I have been harping on for 2 days. We need to table this mess and get on with some real reform and send back to the House a clean bill. That is just what we have to do or, if you are talking about progress, reform, it is gone.

Mr. STEVENS. Mr. President, anyone that goes to a conference with the House on behalf of the Senate on the legislative appropriations bill should be awarded a coat of mail, because the feelings in the House today about the decision of some Senators—and I say this respectfully—to pursue the legislative process to impose on the House rules that they have rejected is probably the cause of this great disruption now between the two great Houses of our national Congress. I think the Senator from Nevada and the Senator from Oklahoma have faced the same type of opposition that I did year after year and as others have done.

But I ask the Senator, is it not true now that we face the situation that in order to preserve and approve the conference report to defeat the Humphrey amendment, we now face the problem that those who do not want the reform can vote for the Humphrey amendment and defeat the conference report and have no limitation on mailings at all for another year?

Mr. REID. The Senator from Alaska is absolutely correct. Anyone voting not to table, when that time arrives, is voting against actual, real, honest-to-goodness reform that is right here in our hands now.

Mr. STEVENS. The Rules Committee provided to the manager of the bill, I believe, the Rules Committee's determination of what will happen under the rule that we proposed, the limitation on mailing. That is very

real. Every Senator will be notified as to the limit of the total mailings the Senator can make and the limitation is in the bill in terms of the number of mass mailings that can be made.

Incidentally, there is not enough money in the bill for some people to make those mass mailings. We know that and that is part of the cause of the controversy over the bill itself.

We have also provided to the members of the Appropriations Subcommittee the impact of what is going to happen as far as the total distribution of this money throughout the Senate. It would be a total limitation under the rule and full disclosure of mailing, as per the amendment of Senator HUMPHREY——

Mr. HUMPHREY. Wrong, wrong.

Mr. STEVENS. No, no. Every Senator, under the rule that would be passed pursuant to this conference report, will be notified as to the limitation, and there will be report filed as to who exceeded the limitation.

Mr. REID. That is right. The only thing that will not be on the franked mail sent out is what Senator HUMPHREY requested, that is "Printed at Government Expense," and there would not be a printing in the CONGRESSIONAL RECORD. I am saying we do not need that.

Mr. STEVENS. Mr. President, this Senator—I would have to check with Senator FORD—would have no objection to doing what the Senator from New Hampshire wants as far as the Senate rule is concerned. Put on the letterhead that it is mailed at Government expense. I have no objection to that.

My objection is the Senate continues to insist on writing rules for House of Representatives. I have never served in the House of Representatives. The Senator from Nevada has and others here have. I have not. But I dealt with them long enough to know they want the right the Constitution gives them to make the rules for the conduct of their own House. We have that same right here by virtue of law. Now the Senate is trying to dominate the House rules procedure.

It may be that the Senator from New Hampshire is right for the Senate. As far as I am concerned he is right. I will vote for what Senator HUMPHREY wants, for the Senate. But I do not think we ought to invade the constitutional right of the House of Representatives, to write rules for House of Representatives. That is the effect of the amendment of the Senator from New Hampshire, in my opinion. But the worst effect is we will leave us with no limitation on mailing.

I have given the managers of the bill another tabulation and that is the tabulation that shows that currently, since the first of October, many Members have exceeded the limitation under the role.

The delay of getting this bill up, partly because of the Humphrey amendment, has led to Members mailing in excess of what they would have a right to mail if we had just passed this bill. That is why I would like to see the bill passed without the Humphrey amendment.

I thank the Senator.

Mr. REID. I will respond to the Senator from Alaska—before yielding to my friend from New Hampshire—that there is a limited amount we can do to the House. We have already jammed down their throat so much that they are not going to take any more. We have already jammed all we are going to.

I recognize comity. Leave them alone. But we did not accept that. Senator NICKLES and I frankly did not accept that. We went over and we worked and we got an agreement that took away some of their ability to, in effect, run their own House. That is all we are going to get and we should let well enough alone.

The Senator from Nevada yields the floor.

Mr. HUMPHREY. Before the Senator yields the floor—I would like it in my own right but before he yields the floor—I want to try to clarify and important point has become obscured or confused in this debate.

Let us back up. Let us examine the language of the conference record unamended, that is to say, unamended by either Humphrey or Reid. Let us back up to that point.

The Senator is telling his colleagues——

Mr. REID. Will the Senator repeat that, please?

Mr. HUMPHREY. Yes. I want to clarify a point which I think has become confused here about the real extent of reform as required by the conference report, unamended by the amendment which I have offered; prior to my amendment.

Is the Senator telling the Senate that the conference report requires, in both Houses, disclosure of the mailing costs of each Member of each House?

Mr. REID. No. The Senator is incorrect. I have made it very clear and, in fact, it is in my written remarks.

Mr. HUMPHREY. That is not the case.

Mr. REID. The reform we have, the real reform I have talked about, sets up separate accounts and calls——

Mr. HUMPHREY. Yes. But before the Senator continues, that is as far as the accounting is broken down? There is no requirement for the disclosure of the costs of each individual Member of each House?

Mr. REID. It does go further than that. What it does do is require the Postmaster at the end of every quarter to report the spending of that particular body.

Mr. HUMPHREY. Body, body, but not Member.

Mr. REID. That is right.

Mr. HUMPHREY. So the expenditure of 435 Members of the House will be lumped together and there will be no individual account?

Mr. REID. That is true. Then at the end of 6 months, if they are overspending as a body, then the Franking Commission would do something about it.

But I do say, before I again yield to my friend from New Hampshire, the Senator I think would have to acknowledge that this is real reform. I have used that term a lot, and I think he would have to acknowledge, since Senator NICKLES and I were able to come out with setting up separate accounts and reporting standards as I have just discussed, that is real reform. Will the Senator acknowledge that?

Mr. HUMPHREY. I have acknowledged that.

Mr. REID. I appreciate it.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. HUMPHREY. What we have here, Mr. President, is a classic case of blackmail. The House blackmailing the Senate. The House is blackmailing the taxpayers. The House is blackmailing the country. The question is, are we going to knuckle under to this blackmail or not?

I suggest the time has come to call the hand of the House, to put the onus where it belongs, and to end this nasty business of blackmailing the taxpayers. That is what I say. Let us call them.

The reforms the Senator has cited are an improvement over the nasty status quo. Let us face it. The status quo is abysmal. This is a meager, modest improvement.

What I am suggesting is that we insist upon that which we decided to do some weeks ago when we adopted the language of the Humphrey amendment offered earlier which requires the legend printed at public expense—taxpayers' expense, and more important, requires the cost to be broken down not by body, not by conglomerate but by individual Member. And published not in this tome called The Report of the Secretary of the Senate or The Report of the Clerk of the House, which numbers in the thousands of pages, which requires practically a magnifying glass to enable anyone to read it. I am middle aged so I need glasses anyway, but I think someone of normal vision could not read this without help.

It is published in the smallest possible print. In the case of the Senate, it is published on page 1563 of a multithousand-page report which not 1 citizen in 100 million—that is an over-

statement—which not 1 citizen in 10 million ever lays his eyes on.

What I am saying is, let us put it out in the CONGRESSIONAL RECORD where people can see it. Let us break it down in both Houses, Member by Member. Let us expose the abusers. To do that, we have to call the House. We have to say we are not going to be blackmailed. What is the Senator suggesting, if we amend this with Humphrey and Reid, which is a good amendment to my thinking, that the House leadership will refuse to appoint conferees? Is that what the Senator is saying?

Mr. REID. I cannot respond technically as to what the House will do, but I have received the word on a number of occasions that the House is going to accept no more than we have already jammed down their throat. That was a hard pill for them to swallow.

If the Senator would extend to me, which I know he would, the courtesy of my just responding briefly to a statment or two that he made, this progress that has been made also opens the door realistically to giving the House the tools and incentive to set up better controls for the use of franked mail. I have been gone from the House for 3 years, so I am not here fighting for the House. As has been indicated, I guess I am like the German Prime Minister, Otto von Bismarck who once said politics is the art of the possible. That is what I am faced with here, of doing just the best I can. I would hate to lose what we already have, and I think we have a chance of doing that.

Mr. HUMPHREY. Mr. President, I suggest we will not lose it. I suggest we have the guts to stand up to the blackmail of the House. I suggest we adopt once again that which we adopted overwhelmingly some weeks ago and insist that the House leadership appoint the conferees, insist that the conferees meet, insist that they confer in good faith on behalf not only of these bodies but of the citizens of the United States and, if they do not, if the leadership does not, if the conferees do not, then the onus is on them, and we can be sure that our friends in the news media, ever watchful for scandalous conduct, will expose those guilty of it.

Mr. President, I want to dwell at some greater length on what really is at stake here. It is accountability. You cannot have accountability if you lump 435 Members together so that their total expenditures is all that is published and no one has any way whatever, not the most skilled sleuth or detective has any way of finding out who the abusers are. It is impossible, by design, cynical design.

What we require in this amendment is that these expenses be published quarterly, not twice a year, as they are now presently, quarterly in the CONGRESSIONAL RECORD, which has a circulation of around 21,000 copies almost daily. Do you know how many copies of this report of the Secretary of the Senate are circulated typically? Two thousand eight hundred, and with a very substantial time delay twice a year. We are requiring quarterly reports, timely reports.

The most recent report available in this body is the report of the Secretary of the Senate dated the end of March, first quarter. This is how much lag there is—three quarters.

Mr. President, it is a question of whether we want the real thing or if we are going to continue to play games. The question is if we are going to continue to play games in concert with the game players in the House at the expense of the people of this country. It is really a question of intellectual honesty and courage, political courage.

It is not true that if the Humphrey amendment is adopted we get no reforms. If the Humphrey amendment is adopted, the conference report goes back either to the House or to another conference, and if the House fails to deal in good faith, I have no question that those responsible will pay the price. That is another form of accountability which keeps Government honest.

I regret that the amendment which I have offered has been painted as somehow defeating real reform. It is the real reform. Let us insist on it, and let us insist on it with our House colleagues.

One last point, for the moment at least. The Senator raises the objection of the House Members. He says in the conference they said clean up your own house. The Senator's amendment does precisely that. The amendment of the Senator from Nevada, which I have commended, precisely does that, does it not, may I ask the question of the Senator from Nevada? Does it not clean up our own house in the way the House conferees asked us to do so?

Mr. REID. I would respond to the Senator from New Hampshire that this is one of a number of reforms that I have spoken to Senators FORD and STEVENS about. I think there are a number of things we need to address. Senator NICKLES and I have spoken about this. I think there are a lot of things we can do with rules that need not be done with legislation.

So the answer is, yes, this is one of those things that should be done, but I frankly think that it should be done with a little more legislative foundation than is provided by offering an amendment here on the floor with no hearings, with nothing done. It is really not the right way to legislate.

Senator RUDMAN, who is an expert on the things that are going on around here legally—I think there is a real question as to the implications of the three funds in rule XXXVIII that can be placed in the official expense account.

Mr. HUMPHREY. Mr. President, the Senator said yes that this, in fact, cleans up this house, the Senate, in the way the House conferees suggested we ought to first clean it up before we address problems on the House side.

It is my understanding that the House Members are not only concerned about the use of what we call combo accounts over here, but have actually used the threat of disclosure of the source and the use of such funds, use that as a club over the House and Senate conferees. Fine, let us call their bluff in that respect, too. Let us not only disclose as we now do, but let us consolidate these disclosures, to borrow a phrase used by my colleague, let us consolidate these disclosures. The more consolidation, the more effective the disclosures.

Mr. President, the Humphrey amendment, improved by the Reid amendment, is the real reform, the real reform of abuses that have gone on too long in both Houses. I urge my colleagues to support it. Let us call the bluff of the House. Let us not yield, let us not knuckle under to blackmail.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, who has the floor?

The PRESIDING OFFICER. Does the Senator from New Hampshire yield the floor?

Mr. HUMPHREY. Yes.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Kentucky.

Mr. FORD. Mr. President, I listened to my distinguished friend from New Hampshire. I am very supportive of his position. But the Senate established a policy in 1986 to limit mass mail. Allocations were made. Nobody liked them, but we allocated based on our part of the appropriations to all Senators based on population. With the exception of the Senator's State and a few others, which we gave a minimum to help the smaller States. So the allocation was made. Mass mailings were publicly reported. That is the Senate. They were publicly reported by the Secretary of the Senate through his biennial report.

In essence, I say to my good friend, we acted responsibly. I do not think anyone can say we did not. Our problem was while this body underspent, the other body overspent. With a single account, that body overspent by more than the Senate underspent. They spent more than we saved. Thus, the account spent more than was appropriated for the fiscal year.

My goal from the beginning was a separate account for each House. That is what we got, a separate account for

each House. Then each House would have to stand on its own bottom, as we would say down in west Kentucky. You have an account, you have so much money, and that is the end of it.

Let me say to my friends who would get a little too strung out on this issue, the resolution of the Senate requires the Rules Committee to notify all offices when they exhaust their allocation.

So if at some point you overspend your allocation, you will not even be able to answer your constituency mail. Think about that. We never think about that. It sounds good to do all these things, but we should look at all the rules and regulations. How would each of us feel if other Senators spent all the money, you did not spend any, and suddenly you were told you could not even answer your constituency mail? Those are the regulations. That is what I am told to do by my colleagues, what Senator STEVENS is told to do as ranking member of the Rules Committee. When we spend it all, we are through unless relief is granted. Technically, a Member could be denied the opportunity to answer constituents.

So here we go trying to make things go good, look good, a holier-than-thou attitude. All of a sudden, we cannot answer those constituents who pick up a ballpoint pen and write us a letter on lined stationary.

So the legislative branch appropriations bill accomplishes the goal of two separate accounts. Each House will have to account for its own expenditures. That is a constitutional provision, too. We are supposed to look after our own rules. We are not supposed to tell the House what to do, and they basically are not supposed to tell the Senate what to do.

I want to address the question of whether either body should dictate the rule of the others. The Senator feels a sensitivity around here, but he is already gone. He has already announced he is not going to be here after the end of his current term. The Senator can stir up something but we have to stay here and live with it.

We have to work with the other body after the Senator is gone. I would like to work harmoniously with the other body. I have a lot of friends in the House. I do not like the friction that is beginning to irritate a lot of people because we are trying to tell the House what to do when they are constitutionally responsible for their own body, not us. And we would not want them telling us what to do. So in essence this amendment is imposing our will upon them.

While it is tempting, I guess, to point fingers, I do not think it is good policy. Each House sets its own rules, and thus I believe that the Senate can best become holy, if I can use that term, by setting its standards and leaving it to the House to be responsible for setting its own standards.

Mr. President, I want to respond to the critics who say that the conference report does not do anything. Let me assure everyone that the legislative branch appropriations bill does do something. It established a separate account for the Senate and the House. That is what we are talking about. This makes each House responsible for the expenditure of funds.

We gave the House 65 percent of the money appropriated in this bill for franking. We get 35 percent, yet we have the same constituents to mail to that they do. And we are going to do it on 35 percent of the whole. The House Members are going to get 65 percent of the whole. I think we have been very generous by giving them more than we get.

It provides for the Senate to get due credit for acting fiscally responsible. Equally important, it reduces the appropriations for official mail. We could cut off mailings when the allocation is exhausted. When we spend our 35 percent, the rules and regulations say, I have to tell the Senators they must stop mailing or find more funds.

Maybe you want to call on the telephone and say, "I cannot answer your mail because I introduced a resolution and they passed it, and therefore I cannot mail any more to you." Maybe that is what you want.

There are those who would oppose the bill——

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. FORD. Because it does not sufficiently curtail—sir?

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. FORD. I will be delighted to.

Mr. HUMPRHEY. The Senator is not criticizing anything which this Senator offered. Nothing in the amendment which I offered would bring about the kind of cutoff which you cited.

Mr. FORD. Oh, yes; it will.

Mr. HUMPHREY. It is the conference report that would do that; the earlier legislation, as I understand it.

Mr. FORD. What you are saying, though, you are trying to impose something on the House that the House does not now do.

Mr. HUMPHREY. That is not the point about which I sought your attention. The Senator from Kentucky a moment ago was lamenting the fact that it is at least theoretically possible that some Senators will be left without any funds, and other Senators will overspend.

Mr. FORD. You miss the point, my friend. The House will have a separate account under the conference report. When funds run out, they are responsible for saying, "Mr. Representative, Mr. Congressman, we have no more money." They will have a separate account for the first time, and the public will know about any overspending.

Mr. HUMPHREY. Fine. If the Senator will yield further, I just wanted to make the point for those who are concerned about the warning which the Senator from Kentucky is issuing about the theoretical possibility of running out of money——

Mr. FORD. If the Senator wants to ask me a question, fine. If he wants to seek the floor to make a statement, that is another question.

Mr. HUMPHREY. I will rephrase it as a question.

Mr. FORD. All right, rephrase it.

Mr. HUMPHREY. Is there anything in the Humphrey amendment that will bring about the kind of cutoff that the Senator has referred to?

Mr. FORD. I am not sure that it will, but one thing I am saying to the Senator is that under the circumstances, the Senator is imposing rules on the House.

Mr. HUMPHREY. That is completely unrelated to the matter the Senator and I were just discussing. I will repeat the question.

Is there anything in the language of the Humphrey amendment that would bring about the kind of cutoff of funds, the exhaustion of funds, to the detriment of some Members, that the Senator cites?

Mr. FORD. Basically not, but what the Senator is doing here is imposing a Senate policy on our House colleagues.

Mr. HUMPRHEY. That is a wholly unrelated matter.

Mr. FORD. No, it is not, because with the Senator's amendment, it goes back to conference. The bill goes back to conference. We do not keep it here.

If the Senator thinks it is unrelated, he can go over and ask his House colleagues, ask the Congressmen that represent his State, see how they feel about it. If it is unrelated, I would not be standing here. The Senator's colleagues would not be worried about it. It has to go back to conference, and then we get back into the problem of imposing our will on the House, and they will not accept it.

I will guarantee that the Senator has created deep and sincere concern, making a conference agreement difficult. He would not want to sit on the conference with the House to try to work it out.

Now, the Senator may say it is indirect, but it directly sends us back to conference.

Now, let me ask the Senator about the combo account, that is the second degree to his amendment. What does that do to a lot of Senators? That takes political money and puts it into our official accounts? Is the Senator for that? Why, of course he is not.

Mr. HUMPHREY. If that is the Senator's question, I would be happy to respond.

Mr. FORD. Fine.

Mr. HUMPHREY. I think it is fine, as long as it is actually disclosed in a consolidated fashion.

Mr. FORD. The Senator thinks he can raise all the money he wants and put it into his office funds, from political PAC's and his campaign fund, put it into his office account and mix it with the taxpayers' money that he is allocated?

That means he cannot operate his office within the amount of money allocated to him by the Senate.

Mr. HUMPHREY. Does the Senator want me to respond.

Mr. FORD. Sure.

Mr. HUMPHREY. In the first place, I would not do that.

Mr. FORD. Wait a minute. The Senator would not do that.

Mr. HUMPHREY. I have a hunch.

Mr. FORD. I asked the Senator a question: What would happen to him? He says he would not do it. Well, that is fine. How many others will not do that?

Mr. HUMPHREY. Does the Senator want me to respond?

Mr. FORD. Sure.

Mr. HUMPHREY. I have a hunch that most taxpayers would not object to the costs, official costs of office being somewhat offset by private contributions, as long as those contributions were fully disclosed in a consolidated fashion, listing the donor, the amount, the date, and the way in which those funds were spent.

I could be wrong. But I should think the taxpayers would welcome the reduction of the burden which today rests solely on them.

Mr. FORD. But you see, they are not reducing any burden. That is where the Senator is wrong; they are not reducing any burden. They are spending all the taxpayers' money they can get, and then they are going out to get political money on top of that. That is what the combo account is for. You are not reducing the taxpayers' costs by one thin dime.

Mr. REID. Will the Senator from Kentucky yield for a question?

Mr. FORD. Mr. President, I will be happy to yield to my friend from Nevada.

Mr. REID. Will the Senator from Kentucky agree that the statements that have been made by the Senator from New Hampshire are that this franking, if not used properly, is a campaign ploy, or words to that effect?

Well, if that is the case, then mixing these combo funds with the official expense account is directly a campaign——

Mr. FORD. That is double jeopardy, in my opinion, absolutely double jeopardy. We are camouflaging the taxpayers' funds by the use of the frank.

How many of our constituents are going to read the disclosure? I do not know. Maybe all of them. But the Senator is camouflaging political contributions by PAC's, by political organizations, the Republican Senatorial Campaign Committee, the Democratic Senatorial Campaign Committee, the Republican National Committee, and the Democratic National Committee.

By the use of political committee funds, we are dumping money on top of official funds. If that is reducing taxpayers' payments, then this Senator does not know how to add and subtract.

So I remind our colleagues that the appropriation for official mail remains a joint appropriation with separate accounts for the House and Senate, respectively.

If the other body overspends its account, a supplemental appropriation, directly or indirectly, will be necessary. These additional funds will require Senate concurrence. If the two accounts do not bring the overspending to a halt, this Senator does not understand legislative procedure.

When an appropriations is expended, you have to have additional funds to cover excess expenses. Now that you have two accounts, which we have not had before, we indirectly are in control. I believe the House will recognize the importance, under these circumstances, of living within the ceiling of the appropriated amount.

While we need to enact a Senate policy on managing the Senate official mail account to ensure fairness, I underscore "fairness"—allocations of appropriation among Members, officers, and committees and to avoid overspending, we should leave to the other body responsibility for its rules and policies. The Senate conferees made great progress, and I compliment the Senator from Nevada and the Senator from Oklahoma for what they were able to do. The Senate can now act responsibly and finally get some credit for it. So when the House account runs out of money, it will require supplemental appropriations, directly or indirectly, and that will require concurrence of the Senate.

So, Mr. President, I urge my colleagues to support the positions of the two managers of the bill. Sure, we have some problems. I want to tell you, if you do not adopt it, you have more problems than we now have.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I would like to make a couple of comments. I appreciate the lively debate, a good debate. I also compliment again my friend and colleague from New Hampshire for his amendment, because it says we need disclosure.

I understand what my friends from Kentucky and Nevada have said. The reason I did not sign the conference report was not because I was not pleased we received some reforms, but because we did not get the real reforms we needed. We did not get disclosure. That is what my colleague from New Hampshire is trying to get. We need disclosure. I am not sure we will get disclosure just because the Senate says we will get disclosure. My guess is we will get disclosure when people speak to enough House Members. I think there are enough House Members who want disclosure.

Maybe that message has not been communicated all the way through the leadership for whatever reason. I expect eventually disclosure will happen. I think it will happen. Maybe it will happen because the Senate is doing it and it has been proven as a reform. It has not eliminated any Senators. Disclosure is a good, positive reform.

I would like to make one other comment. What happens once these separate amounts are exceeded? My colleague from Kentucky [Mr. FORD], my good friend, said they will need a supplemental appropriation. In the Senate bill, we had a position that said once you exceeded your appropriated amount, you could not mail any more. We had that in the Senate position. We did not come back from conference with it. We lost it. So we still have on the books, in the statutes under code 39, section 3216, paragraph (c), a provision which states "Payment under subsection (a) or (b) under this section shall be deemed payment for all matter mailed under the frank, and for all fees and charges due the Postal Service in connection therewith." In other words, no matter what we appropriate, if we have an appropriated amount, it is deemed to be payment in full. To me that is a serious error.

Mr. FORD. Mr. President, will the Senator yield?

Mr. NICKLES. The amendment of the Senator from New Hampshire does not address that. That is not really at issue right now.

We may or may not be debating an amendment later on that will deal with that subsection (c). But I stated all along those were the two amendments I really thought were important that were left out of the package. One was disclosure, which the Senator from New Hampshire is addressing. The other is this subsection (c) that says the Post Office has to continue mailing basically when the appropriation runs out. That is what we have been under for the last several years. That is the reason why we find ourselves, even when we appropriate amounts, sometimes not appropriating enough. As a matter of fact, the last 2 years have been short on appropriated

amounts by about $31 million. The appropriated amount was not enough to cover the total cost of the mail by an amount of about $31 million for the last 2 years. If we eliminated this subparagraph (c), that would change. Then you would be in a situation, once the appropriated amount ran out, where mail would stop. Then we would really have to come up with a supplemental and/or reform.

Mr. FORD. Mr. President, will the Senator yield?

Mr. NICKLES. I am happy to yield.

Mr. FORD. The Senator made a statement that we have to come up with $31 or $32 million not cover last year's overspending of the appropriated amount. Am I correct?

Mr. NICKLES. That is correct.

Mr. FORD. In the legislation we have here, we are making up that difference.

Mr. NICKLES. That is correct.

Mr. FORD. Does the Senate not have to concur in the overrun?

Mr. NICKLES. The Senator is correct.

Mr. FORD. If the Senate fails to concur in the overrun, of the $31 or $32 million, does that not mean these funds will not be available?

Mr. NICKLES. No. I think the result would be that the post office would have to eat the $31 million. That means the rest of the Postal Service patrons who are buying postage would have to absorb it.

Mr. FORD. I do not want to get into the basic argument with the Senator, but it is my judgment that this cost is a legitimate bill to the Congress for the expenditure of funds through their agency. The Congress has never failed to appropriate additional funds to cover excess spending for franked mail.

Mr. NICKLES. The Senator is correct but the law remains unchanged.

Mr. FORD. They are now off budget. They are out there on their own. They are an independent. They are required to break even, and therefore we would owe them that much money.

So I would say to the Senator, under those circumstances, they would not have to eat it. I think we would owe them that amount of money. We would eventually have to pay it. The Senate would have to participate in the decision as to whether it comes from a special appropriation, or it comes out of the House legislative appropriations.

So I still think regardless of the option chosen, the Senate would have an opportunity to have some say in overrun expenditures for franking.

Mr. NICKLES. The Senator is correct. It might be a year later, or it might be 6 months later, or it might be whatever period of time. But the Senator is correct. That is a bill that the Congress has incurred, the House and or Senate, and would have to be addressed, or should be addressed.

It would be highly irresponsible, at least in this Senator's opinion, for the Congress to incur mail expenses, charge it off on the Post Office and then not eventually appropriate it. We have spent more than the original appropriation in the past.

As a matter of fact, yesterday I submitted for the RECORD a listing of the year by year figures for the last 15 or so years that showed the amount of money appropriated and the amount of money actually spent.

And the pattern that it showed is that we always spent more money than we originally appropriated; the last couple of years, as I mentioned $31 million. However not to confuse anybody, that it not what we are voting on now. What we are voting on now is the amendment of the Senator from New Hampshire that requires disclosure by both Houses.

I think my colleague from Nevada stated, and he may well be right, we may not get the House to concur. We may this over to the House and they may send it right back. That remains to be seen. We do not know until we try.

Again I compliment my colleague from New Hampshire because I do think that the disclosure is the No. 1 reform that needs to be made. I hope we will concur with this amendment today.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Alaska [Mr. STEVENS].

Mr. STEVENS. Mr. President, previously I mentioned a constitutional provision that pertains to the rules. I would hope that the Senate would take into account that section 5 of article 1 of the Constitution specifically says each House may determine the rules of its proceedings, punish its Members for disorderly behavior and with the concurrence of two-thirds expel a Member.

I have, as I have indicated before, great respect for the Senator from New Hampshire and what he is trying to do. We would be happy to debate this as to what the Senate should do at any time he wants to do it. But I disagree with this concept of sending material back to the House, after they have said in simple terms these matters are to be determined by the rules of the House under the Constitution of the United States. And we would be wrong, as Members of the Senate, to insist that we use a law to change the rules of the House.

Again, I do not agree necessarily with what the House wants to do. But I agree that the Constitution gives them that right. The Senator from New Hampshire mentions quite often the fact that he thinks it is scandalous conduct. If it is, it is within the province
of the House to determine what is scandalous conduct for a Member of the House and to punish for disorderly behavior. That is a constitutional right. And we are now tilting with the constitutional rights of Members of the House to determine by rule what they shall do.

We have here a law which will divide the money that is available to the Congress for mailing and make each House responsible pursuant to its own rules how it handles that money. I congratulate the members of this conference committee in achieving that objective which has been an objective for many years. And it is not something that is a rule.

Since we are appropriating money, we have a right to say how that money is divided into the two Houses. In my opinion we have no right as Members of the Senate to decide how the House will use funds that are provided to it by law. That is to be determined by the rules of the House. And I still maintain that it is wrong for us to attempt to impose a standard of conduct on the House by law which they have already set by rule in the House.

There are great national pressure groups that are lobbying the Senate to try and set rules of conduct for the House. In my opinion they have no cognizance of all of the provisions of the Constitution. We in the Senate, above all Americans, should try to protect this Constitution.

Let me just pose the question to the Senate: Suppose the House were to send over a rule saying no Member of Congress shall be permitted to speak more than 10 minutes a day. Would we ever allow the House to determine the rules of the Senate in terms of limitation of debate?

We have had significant changes in our rules. We have departed from some of the traditions of parliamentary procedure in the United States. The Senate has independent rules. And here we have Members of the Senate telling the House, change your rules because we do not like them.

I firmly believe that the rules of each House are constitutionally protected. I actually believe that the Humphrey amendment is unconstitutional and have said so before.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. STEVENS. I will in a minute. I have waited a significant amount of time to get this off my chest. I think it is time to get it off.

We should stop this trying to disturb the Members of the House in their exercise of their constitutional right to determine their own rules and to setup procedures for punishing those who they believe are guilty of some sort of disorderly behavior. That is what this amendment tries to do. It tries to say that this is scandalous conduct on behalf of the House to mail in excess

of their allowances. I happen to agree it is scandalous conduct, but it is to be determined by the rules of the House. If the people of the United States do not like it, they can change the Members of the House. That is the ultimate sanction. But we do not have the constitutional right to change the rules of the House.

I urge the Members of the Senate to consider what they are doing. Year after year we come back from these conferences on the legislative appropriations bill and inform the Senate that the Members of the House raised the question as to whether the proposals of the Senate do not in fact invade the province of their rules? In this instance, it is a direct invasion. It is an intended invasion. That is what the Senator from New Hampshire says he wants to do. He wants to set rules for the conduct of the Members of the House.

We are perfectly willing. We have a rule coming up here now, if the Senator from New Hampshire wants to offer this, that says you have to print on every envelope mailed by Members of the Senate, "mailed at taxpayers' expense," I will support it. But he has no right to tell Members of the House they must do that. They set the rules for their House and the sooner we learn that the shorter will be the debates on legislative appropriations bills.

If the Senator wishes to ask me a question, I will respond. If he wants the floor I will yield the floor.

Mr. HUMPHREY. I will take the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from New Hampshire.

AMENDMENT NO. 1077 (AS MODIFIED)

Mr. HUMPHREY. Mr. President, I send a modified amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The modification will be accepted.

The modification is as follows:

At the end of the amendment, add the following new subsections:

(d)(A) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Senate Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate. Such summary tabulation shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the State from which the Senator was elected.

(B) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the House Commission on Congressional Mailing Standards shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the area from which such Member was elected. A compilation of all such statements shall be sent to the House of Representatives Committee on House Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the quarterly Report of the Clerk of the House of Representatives. Such summary tabulations shall set forth for each Member the following information: the Member's name, the total number of pieces of mass mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the area from which the Member was elected.

(e) A mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code) by a Senator or a Member of the House of Representatives shall contain the following notice in a prominent place on the cover page of the document: "PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSE".

( )(1) Effective January 1, 1990, none of the funds made available in this Act shall be obligated or expended to or on behalf of a Member of Congress for a calendar month unless the Member has submitted to the Clerk of the House of Representatives (with respect to Members of the House of Representatives) or to the Secretary of the Senate (with respect to Senators) a report disclosing each receipt during the previous calendar month of funds other than funds made available by this Act that are used or intended to be used for—

(A) the acquisition of mailing lists;

(B) the preparation, printing, or payment of postage on official mail; or

(C) other official office expenses,

together with a specification of the goods and services obtained or intended to be obtained with such funds.

(2) The reports required by paragraph (1) shall set forth the names and addresses of all persons from whom such funds were received, the amounts received, the dates such funds were received, and a detailed description of the goods or services acquired with the funds received from each such person.

(3) The Clerk of the House of Representatives shall set forth in the quarterly Report of the Clerk of the House of Representatives described in subsection ( ) an itemized listing of all information submitted to the Clerk pursuant to paragraph (1).

(4) The Secretary of the Senate shall set forth in the semiannual Report of the Secretary of the Senate described in subsection ( ) an itemized listing of all information submitted to the Secretary pursuant to paragraph (1).

Mr. HUMPHREY. Mr. President, just for the information of Senators, as I earlier stated I wholeheartedly agree with the purpose of the amendment offered by the Senator from Nevada. I have now incorporated that amendment into my modified amendment as an addendum. It in no way affects the thrust or even the language of the earlier Humphrey amendment. It simply adds to it verbatim the wording of the Reid amendment.

I think the Reid amendment is excellent. It addresses concerns voiced by Members of the House. It involves some overdue reforms. Now it is part of the pending Humphrey amendment on which I hope we can have a vote shortly.

Let me just address this issue of constitutionality, Mr. President. It is, of course, perfectly impossible procedurally literally for the Senate by statute to change the rules of the House. Only the House under the Constitution can make its rules or change its rules. So it is preposterous to suggest that by voting for this amendment we are somehow changing the House rules. It is true, of course, to comply with this statute the House would have to change its rules. But the Senate cannot change the rules on its own volition.

The House is free to refuse to change its own rules. Let me repeat that twice. The House is free to refuse to change its own rules, one; second, the House is free to refuse to change its rules.

The House can tell us to go jump off a cliff but in so doing it is going to be telling the American people, who are sick and tired of these abuses, likewise to go jump off a cliff. If the House leadership or Members want to do this let them do it.

I close with this, Mr. President, again from William Safire: "Both Houses could begin to rescue their sagging reputations by sending their conferees back to the drawing board." This will do it. If you want to send the conferees back to the drawing board, support the Humphrey amendment; oppose the Reid tabling moton.

If you want reform, real reform, you want accountability, you want to publish the cost of each Member in the CONGRESSIONAL RECORD, quarterly, visibly, prominently, support the Humphrey amendment; oppose the Reid amendment. We are not changing the House rules. That is up to the House to do. If they do not want to do it they can tell the Senate and the American people to take a walk.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada [Mr. REID].

Mr. REID. Mr. President, in just a short time I am going to move to

table, but prior to doing that I want to talk about a couple of things, prior to this tabling motion.

First of all, I appreciate the statement of Senator STEVENS because we are talking about the Constitution here. Also I want to talk about Senator HUMPHREY using the term "blackmail."

The House was very difficult, very tenacious during the deliberation process of the conference but certainly there never has been any indication by any Member of the House that would deserve the term "blackmail."

We simply must recognize that we are doing a number of things here that are simply untoward. The underlying amendment by virtue of the last procedural maneuver by Senator HUMPHREY has combined my amendment with his. We are doing a lot here that should, as I indicated before, require some hearings.

Also, Mr. President, I think that we have to recognize that while we are berating the House, we have to understand that the agreement that we wound up with took the agreement of the House. We did not do this alone. We had to get the House concurrence before we got this done. So I know the House has taken plenty of guff today and a lot of it they deserved, but we have to give them credit where credit is due. I think we have to recognize this is not a partisan issue. I hope that the tabling motion that will be made would be one that would be approached on a nonpartisan basis, a bipartisan basis, because certainly this is not a partisan issue.

Again, let me state very briefly that we have real reform. We have real reform in this bill, as indicated by the chairman of the Rules Committee, the ranking member of the Rules Committee and Senator RUDMAN, from the Ethics Committee. We have real reform in this bill. Anyone voting against the tabling motion is voting against real reform. We have real reform.

Mr. President, I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I agree that we have a real reform. I also believe this is a matter that is within the province of the Administrative Committee of each House to go further than this reform. We are prepared to offer the rule to carry this out as soon as this conference report is agreed to.

On that basis, I have asked for the privilege of making the motion to table and I do move to table the Senator's amendment.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER (Mr. CONRAD). The question is on agreeing to the motion of the Senator from Alaska [Mr. STEVENS] to table the amendment of the Senator from New Hampshire [Mr. HUMPHREY]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—64

Adams	Dodd	McClure
Baucus	Domenici	Metzenbaum
Bentsen	Durenberger	Mikulski
Biden	Ford	Mitchell
Bingaman	Glenn	Moynihan
Boschwitz	Gore	Murkowski
Bradley	Gorton	Packwood
Breaux	Graham	Pell
Bryan	Harkin	Pryor
Bumpers	Hatch	Reid
Burdick	Hatfield	Riegle
Burns	Inouye	Rockefeller
Byrd	Jeffords	Sanford
Chafee	Johnston	Sarbanes
Coats	Kassebaum	Sasser
Cochran	Kennedy	Shelby
Conrad	Kerry	Simon
Cranston	Kohl	Stevens
D'Amato	Leahy	Wallop
Daschle	Lieberman	Wirth
DeConcini	Lott	
Dixon	Lugar	

NAYS—35

Armstrong	Heinz	Nunn
Bond	Helms	Pressler
Boren	Hollings	Robb
Cohen	Humphrey	Roth
Danforth	Kasten	Rudman
Dole	Kerrey	Simpson
Exon	Lautenberg	Specter
Fowler	Levin	Symms
Garn	Mack	Thurmond
Gramm	McCain	Warner
Grassley	McConnell	Wilson
Heflin	Nickles	

NOT VOTING—1

Matsunaga

So, the motion to lay on the table amendment No. 1077, as modified, was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VISIT TO THE SENATE BY MR. JOHN TURNER, LEADER OF THE LIBERAL PARTY IN CANADA

Mr. MITCHELL. Mr. President, I wish to recognize the presence on the Senate floor of Mr. John Turner, the former Prime Minister of Canada, now the leader of the Liberal Party in Canada, a close friend of the United States, a longstanding ally. I would ask if Senators who are present, or Senators who are perhaps on their way to the floor, would greet Mr. Turner, who is here visiting with us in this country over these few days.

Could we give Mr. Turner a round of applause.

[Applause, Senators rising.]

Mr. MITCHELL. I thank my colleagues.

Mr. STEVENS. Mr. President, I wish to state that I am always pleased to see a southern neighbor come to visit the Congress.

SCHEDULE

Mr. MITCHELL. Mr. President, I have discussed with the distinguished Republican leader the legislative schedule for the remainder of this day. As we all know, on just this week, the President and the Congress reached a historic agreement to provide an increase in minimum wage, an agreement for which I commend the President and the Members of Congress who participated in the effort to reach a compromise. It is, above all, a victory for the working people of this country.

The House has acted upon it, and I am about to propound a unanimous-consent request which would enable us to proceed to the minimum wage bill immediately with a vote at 2 o'clock, and then we would immediately after that vote go into closed session to consider the impeachment matter.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that the recess previously ordered to occur at 1:30 p.m. be vitiated and that the Senate now turn to the consideration of H.R. 2710, the minimum wage increase bill; that no amendments or motions, other than a motion to reconsider passage of the bill, be in order; that a vote on final passage of the bill take place at 2 p.m., with the time between now and 2 p.m. to be equally divided and controlled between Senators KENNEDY and HATCH; and that following the disposition of H.R. 2710, the Senate resume consideration of the impeachment proceedings against Walter L. Nixon, Jr., under the previous order.

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Reserving the right to object, Mr. President, I do not like to be in the position to lodge an objection as to what the two leaders worked out. As one Senator, I think we have a whole agenda here. What is going to happen to section 89? What is going to happen to catastrophic health care? What is going to be on the debt limit? What is going to happen to the rate of transaction taxes in this Congress? What is this whole agenda? Until I get that answered, I am constrained to object, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, we do have a lot of matters to be resolved in this Congress. The Senator from Idaho has identified some of them, but I say to the Senator that the minimum wage in this country has not been increased since 1981. The people at the bottom of the economic scale in our society are the only persons in our society who have not participated in the general prosperity which has occurred during much of this decade.

We are trying to resolve these other matters. We do not have a final agreement on all of them, and I must say that I cannot understand why anyone would want to hold up the minimum wage increase, which I think we all acknowledge has now broad support, given a compromise has been reached. It is likely to be enacted once it is presented. Why would we want to entangle that in these other matters and delay it further? What would occur if we could not reach agreement on all these other matters and they were put off until next year? Does the Senator suggest we wait until next year for the minimum wage?

Mr. SYMMS. If the leader will yield, this Senator has been preoccupied with other matters this morning and will be preoccupied this afternoon with the case of Walter Nixon. If there is that much support, whether this passes today, tomorrow or the next day, in my opinion, is irrelevant.

Many very good economists say if this bill passes, there will be 200,000 of the least-privileged people in this country who will become unemployed once the new rate goes into effect. I happen to believe those economists. I do not buy the theory that this is going to do all those things to those people at the lower income. Many Senators here do share that. If it were that easy, as we said on the floor before, if it is going to help those underprivileged, low-income people, we should be raising this to $7, $8, or $9 an hour. Everyone knows that would create a calamity and depression. By raising it a few cents an hour, 60 cents, whatever it is, 90 cents an hour, it probably will not have a large impact on the economy but will have a very negative impact on those people who are disenfranchised from the work force because of being priced out of the market by Government edict.

I am not saying I am going to keep my objection lodged indefinitely, and I am sorry, I say to the two leaders, but I am just not ready to let this pass by UC at this point. I intend to keep my objection in place right now.

Mr. MITCHELL. May I inquire of the Senator through the Chair, and I respect the Senator's point of view on the substance of the issue. He does not have to agree with it, but surely there are respectable economists who take the view that the Senator indicated he holds that minimum wage is not a good thing. I think if the Senator wishes to debate that issue and have a discussion of it and a vote on it, that I think would be fine.

Is the Senator's objection to the time limit, or is he objecting to bringing it up at all? What I would like to propose, if the Senator wants to express objection and debate it and oppose it, I say certainly the Senator should have every right to do so, if that is his wish. I suggest then that we bring it up and permit the Senator to engage in that debate.

Mr. SYMMS. If the leader will yield, Mr. President, the answer to that question is this: Obviously, you have a bill that will pass here. Why not put the reduction of the capital gains rate, a transaction tax, on this bill? Why not put section 89 on this bill? Why not put the fix on catastrophic insurance on this bill, all things President Bush has said he is for, and send it to the White House for signature, get our work done and go home by Thanksgiving? Why should we give up this vehicle when the majority leader continually publicly said we will not vote on the capital gains rate reduction; we will not vote on these other issues?

Maybe by this afternoon I will be willing to do this. I have not had the opportunity to discuss this with the Republican leader. I am just not at this point ready to agree to anything. The leadership has worked out a different strategy, but I would like to know from the leader of my own party why it is we are giving up this vehicle for an agenda that has been before the American people for some 2 years now and it has been denied by the Democratic majority in the Congress; that is, to reduce the transaction tax on the capital gains. That is something, incidentally, which would help these underprivileged people because there would be more business, more activity, more generated business going on, more money for capital investment in the United States, which would get more people working.

We are talking about passing a bill here that has been agreed upon by the President and the Democratic leadership in the Congress. I can see that it will pass. Whether Senators vote against it on a matter of principle or not is rather irrelevant, but yet this is an opportunity to get our work done and I am just not willing to agree to anything at the present time.

I am sorry, I say to my good friend from Maine, but I do object.

Mr. MITCHELL. Mr. President, we have had a lot of things held up because of the effort to get a capital gains tax cut in the Senate. I hope that we do not reach the point where a 90-cents-an-hour minimum wage increase over 2 years for the poorest, most vulnerable members of our society, would also become held up for that purpose.

I think it is a most unfortunate juxtaposition, regrettable from all points of view——

Mr. SYMMS. Will my good friend yield for one more comment?

Mr. MITCHELL. May I merely complete the sentence I am engaged in, and then I will be pleased to yield to the Senator—most unfortunate for all concerned, Mr. President.

And I think it does not reflect well upon the Senate, on what our Nation's priorities are, that a very modest increase in the minumum wage for the poorest working Americans when there has been so such increase for 8 years should now be further delayed because of an effort to obtain a capital gains tax cut, the overwhelming benefit of which will go to those at the very top of the income scale. It is deeply regrettable that we have reached that circumstance.

I respect the right of the Senator from Idaho to object. I respect his conviction on the issue, but I hope that he will on reflection consider the implications of the position which he has taken here now.

Several Senators addressed the Chair.

Mr. SYMMS. I thank the Senator for yielding. I just want to repeat, Mr. President, that in my State it is estimated that some 12 to 15 percent of the working people of the State are going to lose their health insurance benefits if this Congress, which is under a Democratic majority, does not fix the mistakes that were made in the 1986 tax bill addressing section 89.

We have already passed a fix, a partial fix in the Senate, that I think will save most of those people from losing their health insurance benefits. If we stand around here and do not take these opportunities to fix section 89, to fix catastrophic insurance—it is not just a 90-cents-an-hour wage for a small group, for the working people, when most people are already employed at a much higher wage than the minumum wage currently. Just go to any McDonald's in this area, and you will find that they are averaging $5 an hour, not $3.35, for people to go to work there.

There is another issue, that is, people are going to lose their health insurance benefits. I am as interested in that as I am the rest of the agenda.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, I first want to yield to the Senator from South Carolina. He has a question on minumum wage.

Mr. THURMOND. Mr. President, the Farm Bureau contacted me yesterday and said that the farmers are the

only ones that do not get that exemption for training for the first 3 or 6 months.

Was there some intent to leave that out, or why was that left out? I think it is probably an oversight; it could be an oversight.

In other words, they just feel that the farmers ought to have the same opportunities as other people on that particular subject.

Mr. KENNEDY. I regret that I did not hear the early part of the Senator's question. I was hopeful that we were going to have an opportunity to debate this issue.

Mr. DOLE. Let me respond to the Senator from South Carolina. I have indicated to the Senator from South Carolina that I would check it to see precisely what the problem is. It deals with agricultural workers and whether or not they would be included in the training wage provisions, and I can check that with the appropriate people and get back to the Senator from South Carolina.

Mr. THURMOND. I am in a position to support the bill, but I want to see the farmers protected the same as other people for their training period. That is important. There is no segment of the population of this country that is harder hit today than the farmers. The farmers have suffered tremendously, and certainly they ought to have the same exemption of a training period as industrial workers and others.

If that can be straightened out, that is the only point I have to be raised. I do not think anybody will object to that. I think it was just an oversight.

Mr. DOLE. I thank the Senator from South Carolina. I will check it.

Mr. President, I wanted in leaders' time to indicate that I will be happy to talk with the Senator from Idaho [Mr. SYMMS] on bringing up this minimum wage. Certainly, he has a right to take a look at it.

I do not think it is any undue delay. It has only been here a few hours, but there is one matter that has been here since July 25, and that is the debt limit. It has been here since July 25, and we have not brought it up yet. I think we ought to bring it up, and we ought to put catastrophic coverage and section 89 on it, and send it back to the House because Chairman ROSTENKOWSKI has just indicated he wants to put that in reconciliation.

I must say I was stunned when I heard this morning that the distinguished chairman of the Finance Committee, Senator BENTSEN, after all these great speeches we had here at midnight on October 1—we canonized in effect the distinguished President pro tempore for all his great work in getting us to the rule of extraneity, all these things we talked about, keeping all this stuff off of reconciliation. And this morning, by a straight party-line vote, the Democratic conferees said let us take back section 89; let us take back catastrophic.

We made an agreement on October 12 and 13 that we were going to keep all that off. I felt duty-bound by the agreement. I hope my Democratic colleagues feel duty-bound by the agreement.

It seems to me one way to avoid this conflict is to put catastrophic coverage and section 89 repeal on the debt ceiling; nothing else goes on, no capital gains, nothing else, just those two items, and send it back to Mr. ROSTENKOWSKI. He is the one who keeps pushing that on reconciliation. I think the House would take it very quickly.

So I am prepared to indicate I hope we can do that, do it today, do it tomorrow. No capital gains amendment will be offered. I will help the majority leader in keeping off other amendments, but we would add catastrophic, the Senate version, and repeal of section 89.

I think it is important that we do act on the debt ceiling. Secretary Brady tells me we are losing money daily because of cancellation of certain auctions because of the uncertainty, and I would certainly be prepared to do it yet today or sometime tomorrow. If we cannot get an agreement, I would advise the majority leader that I would be willing to help him table any amendments other than these two.

And again, I will not start reading everyone's speeches now, but I will be glad to make the speeches made by the distinguished chairman of the Finance Committee, by the majority leader, by the President pro tempore, by the Republican leader, by the ranking Republican on the Finance Committee.

We were all out here patting ourselves on the back, saying well, we are really statesmen; we are taking all this out of reconciliation. And then this morning, in a matter of 15 or 20 minutes, we start putting everything back in. Either we meant it on October 13 or we did not. I thought we had made an agreement we were going to keep this off of reconciliation.

So I hope that my colleagues on the other side, particularly those who led this effort on October 13 to make what I thought was a substantive change in the right direction to keep all the extraneous material off of reconciliation, would not be willing to indicate that we are going to stick with that. That was an agreement.

I asked the distinguished Senator from Oregon this morning about the agreement. He said, well, he was notified by the Senator from Texas [Mr. BENTSEN] that the agreement was off. Nobody notified us the agreement was off.

If the agreement is off, and we cannot make some agreement here with our colleagues and make it stick, then we do not make any agreements. So it is my hope we can bring up the debt ceiling, get it out of here this week, attach to it the Senate catastrophic package and repeal section 89, and send it back to the House.

I also just reread the statement that the chairman of the Ways and Means Committee made about that same time, which was included in the RECORD by the distinguished chairman of the Finance Committee, Senator BENTSEN, praising the Senate for all the great work we were doing to keep reconciliation clean. So what do we do today? We add back to it the largest extraneous provisions on a party line vote.

So I hope we can go to debt limit very quickly so we are not up against a deadline—and, again, as I said, no capital gains amendment. I will cooperate in keeping off other amendments, but let us put these two amendments on that we passed two or three times around here by almost unanimous votes, send it back to the distinguished Ways and Means Committee and Members of the House so they can conclude action by adopting the debt ceiling with those two amendments.

I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

CHANGE OF VOTE

Mr. GARN. Mr. President, on the last vote I was unaware there was a tabling motion. I ask unanimous consent that my vote be switched from yes to no. It does not change the outcome of the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GARN. I thank the Senator from Massachusetts.

(The foregoing tally has been changed to reflect the above order.)

Mr. KENNEDY. Mr. President, I, first of all, want to extend my congratulations to the majority leader and also to the minority leader for all of their efforts in attempting to bring an issue which is well understood in this body and, most importantly, well understood by 14 million low-wage workers; the fact that there has been no increase in the minimum wage for a period now of some 9 years.

I am really appalled, Mr. President, that a Member could hold this legislation hostage because that Member feels this should be a vehicle on which to add the capital gains tax.

We are prepared at this time to address the issues that are posed by the Senator from Idaho about the 200,000 jobs evidently lost, which is probably less than 1 month's increase in the total employment of this country.

We are quite prepared to deal with any of these factual issues, but I think we saw the real reason for their objection; that there are Members who feel this legislation, increasing the minimum wage, should be held hostage, so that the interests of the neediest families in this country, Americans who want to work for a living, who work 40 hours a week, 52 weeks of the year, are ignored until we have some increase of resources for the very wealthiest, less than 1 percent of the top taxpayers in this country.

I believe, Mr. President, that this would be a really shameful action if it were to continue. The House of Representatives passed this bill 382 to 37, in a bipartisan effort, as is the proposal that is offered today. I can point out very clearly, as someone who has been on the floor 11 different days debating this issue, that unless we were going to get the support of the administration on this proposal, it was not going to be achieved until perhaps as late as 1993 when we may, hopefully, have a change of national leadership.

Their proposal is a compromise carefully worked out by those who have been strongly committed and those who have expressed their reservations about this proposal for, in many instances, bonafide reasons. Nonetheless, we have accommodated. I thought we would have an opportunity to try to explain what that accommodation would really mean.

But, Mr. President, to now have an objection to this measure and refusal to even permit us to debate this unless there is going to be some kind of an agreement on the capital gains is an enormous disservice to those individuals in the country who have been for the most part, left out and left behind, people who want to work. They are people who deserve this opportunity for a higher minimum wage.

Let me just point out, during the course of the debate when we were talking about the $4.55, the best estimate is that it would probably move 200,000 people out of poverty. The savings to the Federal deficit and to the States, would be billions, let alone the issue of justice, Mr. President.

So here we have a proposal, quite frankly, that saves the taxpayers money, yet is being objected to. It deals with the broad issues of fairness, decency, and equity; that is, a commitment that was made some 50 years ago, which has been kept by Republican and Democratic Presidents for 40 of those 50 years. But now in the last years there has been a change in view and atmosphere by this administration, by President Bush. This is not what I would have liked. It is not what would have been provided when we offered $4.55, which still would have covered only 90 percent of the lost purchasing power. But, nonetheless, Mr. President, this still is an important downpayment for those individuals who would benefit from it. We would later have the opportunity to revisit the issue.

Mr. President, I am torn between anger and sadness by this objection. I want at the outset to say I know that the minority leader has been cooperating with the majority leader and has been working with the President on this issue. I know that was the case in the House of Representatives. We are all very much aware of the timeframe. In fact, this issue has been before us long before these remaining weeks of this session.

We have spent 11 days debating this issue over the last 3 years when there was no talk about a capital gains tax. But now evidently, the economic forces of the wealthiest and most powerful in our society are expressing a veto on this legislation if we are not prepared to accede to the forces of greed.

I just think it is a sad day, Mr. President. I am very hopeful that our leadership, the Senator from Maine and the Senator from Kansas, will be able to work out an appropriate time schedule so that we can permit this body to consider minimum wage legislation which I believe will have overwhelming support.

I want to just take another moment, because I see others on the floor who would like to speak. I am glad. I will wait until we have a chance to debate in detail with regard to the farm workers. I was quite prepared to get into a discussion of exactly what we did and did not do in this legislation. But since the Senator from South Carolina is not here at the present time, I will withhold until he is before I lay out the record and address those issues which have been misrepresented by some.

ORDER OF PROCEDURE

VITIATION OF ORDER FOR RECESS; MORNING BUSINESS; LIVE QUORUM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the previous order establishing a recess at 1:30 p.m. be vitiated; that there now be a period for morning business until 1:45 p.m. with the time therein being equally divided, 7½ minutes to the Senator from Texas and 7½ minutes to the Senator from Ohio; that at 1:45 p.m. there be a live quorum with the commencement of the session on impeachment to occur at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Texas is recognized.

THE PUBLIC INTEREST

Mr. GRAMM. Mr. President, I will be brief. I do not try to challenge the language about the wealthy and most powerful and greedy. The sad reality is no minimum wage in history ever created a job. In fact, the minimum wage tends to cut off the bottom rung of the economic ladder and make it difficult for people with no skills to get in.

If, in fact, we end up debating capital gains, the capital gains debate is really about jobs. It is about creating incentives for people to invest to create more jobs, more growth, more opportunity for our people.

Mr. President, there are a lot of other issues besides capital gains. I do not know whether capital gains would be offered or would not be offered but the distinguished Senator from South Carolina has raised the point that this bill does not offer a training wage for agriculture. Let me assure my colleagues that training to be able to engage in modern agriculture is just as necessary as it is to be engaged in modern industry or the modern service industry. So I think that is an issue that ought to be debated. I think we ought to have a right to vote on an amendment and decide whether our farmers and ranches ought to be treated the same as anybody else.

Finally Mr. President, there are two additional issues I want to address. One is, I suspect things are going to break down around here if we continue this thing of saying we are not going to do anything unless one side of the debate agrees that they are not going to try to debate their agenda. It seems to me that we have rules around here to dictate how we run our business. If somebody wants to offer an amendment to cut the capital gains tax rate, the whole structure of the Senate is aimed at allowing them to have that opportunity. Then if they cannot close the debate if the other side wants to filibuster, then they can move for cloture; if they cannot get cloture, the debate goes on.

But, Mr. President, I am a little bit frustrated by all these words that are circulating back and forth on both sides of the Capitol where the House, in essence, says that in order to pass reconciliation they want to guarantee, we are not going to try to vote on capital gains tax reduction on any other bill.

Mr. President, the Senate passed a clean reconciliation bill. We have a sequester order in effect at this moment because the House has not passed that bill.

Now to come along and say that unless you agree that you are not going to debate your agenda, that you are not going to bring it up on other bills, that the House is not going to do its work, I just submit is the worst

thing that you can possibly do in this business.

My view is we ought to go ahead and debate the minimum wage, let the agriculture training wage be offered and let other people offer amendments. If someone wants to offer to cut the capital gains tax rate we will make history because it will be the first minimum wage law in history that has ever created jobs.

But again the purpose of this great deliberative body is debate and it just makes me frustrated here hopefully in the last 10 days or so of the session that every one seems so determined that we are not going to debate issues.

I submit if we went ahead and had the debate and had the votes we would all get home sooner and hopefully we would do a better job in promoting the public interest.

I yield the floor.

Mr. SYMMS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yield time?

Mr. GRAMM. I am happy to yield.

Mr. SYMMS. Mr. President, I compliment the Senator from Texas for his excellent statement with respect to the President's capital gains reduction which is really a transfer tax. It is not an income tax. It is not an income tax on the poor, or income tax on the wealthy. It is simply a tax on transfer of assets from one party to another in this country.

Some people have more income, and some people who only own the old family house and sell it, they will benefit from it.

BLOWING PUTRID GREEN SMOKE

Mr. President, I saw a column by economist Warren Brookes in the Washington Times on Wednesday that I want to call to my colleagues' attention. The Senate is presently deadlocked in a debate over whether or not the proceeds from the sale and exchange of capital assets should be taxed at a marginal rate of 28 to 33 percent, or whether they should be indexed for inflation or otherwise given a lower tax rate if the seller has held them for several years.

The column by Warren Brookes makes two very important points, and I ask unanimous consent that it be printed in its entirety at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. First, Deputy Commerce Secretary Michael Darby points out that the proceeds from the sale of an asset are not really income to the seller at all. Anyone who owns an asset is by definition a wealthy person. The asset doesn't have to be even a tangible asset—it can be embodied in your personality. Zsa Zsa Gabor would be wealthy even if she didn't have a big home in Hollywood.

My point is that when anyone sells an asset, all they are doing is exchaning one form of wealth for another, with no real gain in their total wealth. The increase in wealth had to have occurred earlier than the sale—sometimes years and years earlier. I am often reminded of the situation with timber. It takes decades for a stand of timber to grow, and yet the people who harvest and sell it have to declare all of that increase in wealth—all of the years of growing for those trees—as if they had all been planted in January and cut down in December of 1 year.

It is simply a wrong system to tax the proceeds of the sale of assets the same way we tax income from wages and salaries. We should have a tax system that would let a person who sells an asset calculate the average rate of increase, and pay a tax only on 1 year's increase during the year of sale. We would have to have a different way to file income tax forms, of course, and I am not suggesting here any particular amendment that I would propose. My point is simply that our concepts of income from wages and salaries and from the sale and exchange of assets are confused.

The second point that Mr. Brookes makes is equally important, and that is the effect of the tax rate on the market value of the assets. Everybody knows that if the Treasury Department sells a bond for $1,000 and the interest rates go down, the market value of the bond will go up. Conversely, if the interest rates go above the rates when the bond was sold, the market price of the bond will go down.

It is the same with the taxation of the interest or dividends from assets. If we want to cause a stock and bond market boom, all we need to do is lower the tax rate on income from capital. Dividends and interest are good examples of income, whereas the change in sales price that would result from the tax cut would not be part of income logically. It would be a windfall gain, but not actually an income.

The new economic study cited by Warren Brookes, issued by the National Center for Policy Analysis, demonstrates how much the working people of America would be helped by fixing the mistake in the 1986 tax bill that the President has campaigned on. We need to fix the way we levy income taxes on the proceeds from the sale and exchange of assets.

The President's proposal is a "win-win" proposal, because the Treasury will gain more money in the long run as well as in the short run. The people who currently own assets will gain, of course, because they will be able to move their wealth into new places—they will be able to create more new wealth when they make their current wealth more useful. The gain they make, however, has already built up inside their assets. Simply allowing them to sell them and take cash and send less of the cash to the Treasury is not a "giveaway to the rich," it is an act of mercy: to let people keep a little bit more of the wealth they have accumulated over their lifetimes, slowly.

Indeed, Mr. President, I am strongly in favor of indexing for capital assets. This single feature is probably the most important thing in the capital gains proposal we are debating. Most sales of capital assets are made by elderly people—people whose other income, not counting the proceeds of the sales of their assets, are in fact quite modest. Most people who take capital gains are not wealthy in the same way that an executive of a major corporation is wealthy, with current earnings.

Most people who invest in assets, which they certainly hope will go up in value, do not actually perform much better than inflation. Therefore, when we tax their nominal gains as if these were real gains, we perform a double injustice—we rob them of their principal.

I believe the reason why our national savings rate is so low is because our tax laws and our inflationary, unstable monetary system, actually set up people who save and invest for a fall—and everybody knows it works that way. Why should anyone save and invest for the long run when they suspect the game is rigged by inflation and the tax collector to discriminate against the long-run investor?

In conclusion, Mr. President, let me just add that I want every Senator to know that the so-called Holy Grail that is being worshipped around here is the doctrinaire idea that some people are inferior—morally inferior—and I strongly object to the idea that anyone is inferior. People who happen to possess wealth are not morally inferior to those who do not; indeed, if they have gotten it through the grace of God, they are certainly not morally inferior in His eyes.

Therefore, I concur with Warren Brookes it is just "putrid green smoke" to make the argument that fixing the capital taxation mistake in the 1986 tax bill is some kind of wrong or mean-spirited "giveaway to the rich."

EXHIBIT 1

GAINS TAX BALONEY

(By Warren Brookes)

Senate Majority Leader George Mitchell is furious because President George Bush is hanging tough again on the capital gains tax.

After temporarily selling out to Mr. Mitchell on this issue on Friday, Oct. 13, and watching the stock market plummet by 191 points, the administration is now finally playing hardball.

As Missouri Republican Rep. Jack Buechner of the House Budget Committee told us "I don't think they realized how

many bullets they had left in their holster." Nor did they realize how quickly the market would react.

Not only is Budget Director Richard G. Darman suggesting that the administration will live with the $16 billion Gramm-Rudman-Hollings sequester, but Treasury Secretary Nicholas F. Brady let it be known they would be willing to engage in some borrowing legerdemain to put off the vote on the debt limit, at a cost of $20 million to the taxpayers, to keep that vote open for capital gains.

Mr. Mitchell was so outraged at that maneuver he took off the political gloves to warn that Mr. Bush was hurting taxpayers in his pursuit of "the Holy Grail" of a capital gains tax cut as a payoff for the rich.

The American taxpayers should not be fooled by this green baloney. The plain truth is, as economist and Deputy Commerce Secretary Michael Darby told us, "the capital gains tax is not a tax on income, at all. It is strictly a transactions tax on the sale of assets. The higher the tax rate the fewer the transactions. The lower the rate the more transactions take place."

This is why every reduction in capital gains tax rates has permanently raised the level of revenues to the Treasury (especially from the rich) not only in the immediate year following the cut, but from then on.

Conversely, every rise in capital gains tax rates has reduced the level of revenues collected on this tax permanently (and has cut the rich's share of the tax burden, too). From 1969 through 1973, the rate was raised in stages from 28 percent to 49 percent, and real revenues by 1976 were 37 percent lower than in 1969.

By contrast, following the rate cuts of 1978 and 1981, revenues soared from $9.1 billion to their pre-tax-reform level of $24.5 billion in 1985.

There are two good reasons for this. Not only does the lower rate speed up the number of transactions, it also increases the value of the assets themselves (and, as we saw on Oct. 13, a higher rate can lower them, too). While tax analysts concede the feedback effect of the former (see No. 2 in table below) they do not accept the expansion of the tax base value. (See No. 4 in table).

An asset's value is the result of the net income it can produce, both current, and at sale. If you raise any tax on assets, you immediately lower the asset value base of the country. Conversely if you lower the rate, you raise capital stock value of the entire country. That is why in the period from 1968 to 1977, while capital gains tax rates were raised by 75 percent, the Dow Jones average fell in constant dollars by about 40 percent.

On the other hand, from 1978 to 1987, when the capital gains tax rate was cut from 49 percent to 20 percent, and then re-raised to 28 percent, the Dow Jones soared about 65 percent real.

This is why Mr. Darby argues "The capital gains tax reduction is the ideal approach to deficit reduction. Every study of the Office of Tax Analysis shows that lowering the rate raises revenues, both short- and long-term. This satisfies the need to raise money and shrink the deficit, while helping the economy."

Sadly, the Democratic-controlled Joint Committee on Taxation, and the Congressional Budget Office, while admitting the tax rate cut would produce up to $5 billion in immediate revenue "feedback," have tried to paint this reduction as a long-term revenue loser by ignoring the effect on the asset base.

But economist Gary Robbins of the National Center for Policy Analysis, using Treasury studies and formulae, and factoring in the vital component of capital stock values, shows that the House-passed two-year rate cut to 19.6 percent, plus inflation-indexing of gains thereafter (Jenkins/Archer bill) would:

Increase federal revenues $61 billion over 10 years.

Increase gross national product by $40 billion over 10 years.

Create 400,000 new jobs by 1992 and 750,000 jobs by 1995.

The NCPA study points out in some careful detail the obvious fact—illustrated in reverse by the Oct. 13 stock market rundown—that cutting that rate will increase both asset values and transaction gains realized. Those "feedback" effects (No. 2) not only overwhelm the revenue losses by the rate cut (No. 1) but the expanded capital stock values (No. 4) more than offset the conversion by taxpayers of regular income to capital gains income (No. 3).

Perhaps NCPA's most important discovery is that "indexing may be more important than a cut in the tax rate. With a 4 percent rate of inflation, "indexing is twice as valuable to investors as reduction in the maximum rate to 19.6 percent. At a 2 per cent rate of inflation, indexing is 7 percent more valuable."

It's more valuable to the Treasury too. Jenkins-Archer generates twice as much additional revenue ($61 billion) as the 10-year effect of a permanent rate cut ($31 billion).

In either case though, the economy and the Treasury (and thus the taxpayer) are much better off. That is why Mr. Bush is right to fight hard (finally) for the Jenkins/Archer bill and Mr. Mitchell is simply blowing some putrid green smoke.

Mr. GRAMM. Mr. President, I yield back the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 7½ minutes.

Mr. METZENBAUM. Mr. President, I have been around here about 14 years. I have seen the difference between the Republican Party and the Democratic Party. I have seen a Republican Party that day in and day out stands up and fights for the rich of the country and is totally indifferent to the problems of those who earn far less, those who earn $3.35 an hour.

I must confess it is with a sense of shock and dismay that I heard this objection made today by the Senator who made the objection, shock and dismay. I am frank to stand before you and say that when this agreement was reached I did not think it was a great agreement. I did not think it was fair agreement, but I recognized that under the circumstances it was the best that could be achieved. I applauded it and said, "Fine; we resolved it."

The legislative process is a process of give and take. Although I do not think it is enough to go up 45 cents in one year and then 45 cents again, and I do not think it is right to impose a training wage—a subminimum wage—for young people in this country, teenagers. I was prepared to go along with it.

But to stand here on the floor and hear someone say that it is important that we first reduce the capital gains tax, it is unbelievable—a $30,000 reduction of taxes for those who need it the least. One percent, less than one percent of the people of this country, would gain from it.

What kind of a party is it that sits across the aisle and is concerned only about those who make the most money in this country and does not have enough compassion to concern itself about the people working for the lowest wages in this country?

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. METZENBAUM. I do not yield. I say this: I am not going to yield because he is unyielding in his lack of concern about the poorest working people in this country, working at the McDonalds and all the other hamburger places in this country at $3.35 an hour. To resist raising the minimum wage 45 cents an hour, how cruel can you be?

Oh, we have to worry about the rich people. They are only changing assets. Why should they be paying a tax? Come on, who are you kidding? They are wheeling and dealing in the stock market and wheeling and dealing in the real estate market. Why should they not pay the same tax the other people pay?

As a matter of fact, it behooves me at this moment to mention the fact that if you make over a certain amount of money in this country—a couple making over $209,000 a year even under the present law—your taxes go down. What an absurdity. Taxes go down when you make more money.

But, no, they are not satisfied with that. They are calling me and saying, "I just sold out my business. I have this many millions of dollars. Can you not reduce the capital gains tax?"

I said, "How much can you spend? How much do you really think you need for the few years you have left ahead of you?"

Now we have an agreement made on the minimum wage, an agreement made with the President of the United States, an agreement made with parties on both sides. Leadership is not walking away from the issue that I am aware of.

But the fact is that one Senator stands up and says we have to protect the rich. We are not willing to move forward on this agreement to help those who are making the least amount of money in this country.

I cannot believe it. I cannot believe that this measure to raise the minimum wage 45 cents and then a second jump, another 45 cents is being held up so that we can take care of the

wealthiest people in this Nation. What an unbelievable situation we are experiencing.

I am disappointed.

I would hope that the Senator from Idaho would see fit to withdraw his objection. I do not think it reflects the views of the overwhelming majority of the Members of this Senate. If his position is right, let him make the issue on the floor of the Senate but not prevent us from going forward.

Mr. President, I reserve the remainder of my time.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. METZENBAUM. How much time does the Senator have remaining?

The PRESIDING OFFICER. Two minutes and forty seconds.

Mr. SARBANES. Will the Senator yield for a comment?

Mr. METZENBAUM. I yield.

Mr. SARBANES. I want to say to the Senator I believe it. I believe what is happening. What is clear is there are some people who are so determined to get this big tax cut for the very wealthy that they are prepared to try to attach it or hold up any piece of legislation, be it aid to Poland and Hungary.

That was one of the most critical foreign policy matters that has come before this body, an opportunity to help achieve what our whole policy has been directed to for four decades. They want to slap capital gains on in an effort to try to get this tax break for the wealthiest of the wealthy.

Is it the minimum wage to give the people at the very bottom of the income scale some chance to provide for their families, to give their children something approaching a decent standard of living? Put the capital gains on it to give this tax break to the wealthiest of the wealthy.

There is this obsession, this fixation with providing this economic benefit to those at the very top of the income scale, regardless of what the issue is, how important it may be.

And here on this issue, you have the direct contrast. Here we are trying to lift up those that are the working poor, and people come along and insist that the benefit be given to the wealthiest of the wealthy. I understand it, I say to the Senator. That is what is happening.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. METZENBAUM. I suggest the absence of a quorum, Mr. President.

Mr. DOMENICI. Will the Senator withhold?

Mr. METZENBAUM. Yes.

Mr. DOMENICI. Do we have any time on this side?

The PRESIDING OFFICER. No; the Senator from Texas yielded back all time.

Mr. DOMENICI. Mr. President, not on this issue, I wonder if I might have 3 minutes on another issue.

Mr. METZENBAUM. I think in fairness to the leadership I would have to object. I think the unanimous-consent request was until 1:45.

The PRESIDING OFFICER. The Senator has requested an additional 3 minutes.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection the Senator may proceed.

Mr. DOMENICI. I thank the Chair and I thank Senator METZENBAUM.

THE DEBT LIMIT

Mr. DOMENICI. Mr. President, I just heard the distinguished Republican leader, Senator DOLE, address the issue of the debt limit and meeting our mandates under the budget this year and, I might add, in avoiding sequester. I think he made a very good proposal to the majority.

I cannot recall, having been in the Senate now for 17 years, when this Senate responded more favorably to a speech than we did to a speech by the distinguished chairman of the Appropriations Committee, Senator BYRD, when he talked about the reconciliation, the deficit reduction package, and praised the Senate for doing what it did. We produced a deficit reduction package in reconciliation, and we took out all matters that were unrelated. And I think we were rather proud of ourselves. I note the distinguished Presiding Officer concurring.

So I think the distinguished minority leader offered today a very good solution to the problem we have. If we were for good Government 3½ weeks ago, what is wrong with good Government today? We have two issues—catastrophic and section 89. We could put those on the debt limit. The House has passed them by large margins and they are out of the way. And then we only have one job left to do.

Sequester is in the air. Mr. President, that need not be. If we follow what we said here on the floor, good Government, and pass a clean reconciliation bill, no expenditures in the outyears, meet the targets of the budget resolution, some $14 billion in deficit reduction, that is all we have to do to do our job.

There does not have to be any sequester. Put a few words in to make sure we know what we are talking about and pass a clean reconciliation bill. That rids the air of all these other issues. We have taken care of the catastrophic coverage. We have taken care of section 9, taken care of the debt limit, and taken care of the deficit reduction package. And we have done our job provided the appropriations bills are completed and come in as planned.

Mr. President I think the American people do not understand reconciliation and sequester, but they ask us to do our job and they understand we can make it simple if we want to. And that is a simple prescription. Get our job done; get it done right. The leadership here ought to insist that the U.S. House produce a reconciliation bill deficit reduction that is that, not an omnibus bill for all the laws that have to be changed. I think the minority leader offered a very good suggestion. I hope we do it. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The hour of 1:45 having arrived, under the previous unanimous-consent agreement, we are now to go to a quorum call for the purposes of bringing Senators to the floor precedent to the Walter Nixon impeachment matter.

Mr. KENNEDY. I ask unanimous consent to be able to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILD CARE

Mr. KENNEDY. Mr. President, I listened to my good friend from New Mexico outline what he considered to be a fair agenda. There is one item that has passed the House and passed the Senate and was not on it. And that was child care. So I hope that this body is going to meet its responsibilities in dealing with that issue beyond the particulars of catastrophic and the debt limit in 1989.

I yield back the remainder of my time.

IMPEACHMENT OF JUDGE WALTER L. NIXON, JR.

CALL OF THE ROLL

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

[Quorum No. 10]

Byrd	Jeffords	Robb
Conrad	Kasten	Sarbanes
Daschle	Kennedy	Shelby
Garn	Kohl	Simpson
Graham	Metzenbaum	Thurmond

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Cochran	Grassley	Pell

The PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of the absent Senators.

The legislative clerk resumed the call of the roll and the following Sena-

tors entered the Chamber and answered to their names:

Adams	Exon	McCain
Armstrong	Ford	McClure
Baucus	Fowler	McConnell
Bentsen	Glenn	Mikulski
Biden	Gore	Mitchell
Bingaman	Gorton	Moynihan
Bond	Gramm	Murkowski
Boren	Harkin	Nickles
Boschwitz	Hatch	Nunn
Bradley	Hatfield	Packwood
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Rockefeller
Chafee	Inouye	Roth
Coats	Johnston	Rudman
Cohen	Kassebaum	Sanford
Cranston	Kerrey	Sasser
D'Amato	Kerry	Simon
Danforth	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Wallop
Dole	Lott	Warner
Domenici	Lugar	Wilson
Durenberger	Mack	Wirth

The PRESIDENT pro tempore. A quorum is present.

The majority leader is recognized.

PRIVILEGE OF THE FLOOR

Mr. MITCHELL. Mr. President, I ask unanimous consent that floor privileges during today's closed impeachment proceedings of Judge Walter L. Nixon, Jr., be granted to the individuals listed on the document I now send to the desk.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The document follows:

SENATE

Martha Pope, Chief of Staff, Majority Leader.
Charles Kinney, Democratic Policy Committee.
George Carenbauer, Democratic Policy Committee.
Anita Jensen, Senator Mitchell.
Rebecca Roberts, Office of President pro tempore.
Roy Greenaway, Senator Cranston.
Alan Thomas, Senator Cranston.
Duke Short, Senator Thurmond.
Robert A. Bean, Assistant Secretary for Majority.
Jeanine Drysdale Lowe, Deputy Sergeant at Arms.
Loretta Fuller, Sergeant at Arms.
Sheila Burke, Chief of Staff, Republican Leader.
Robert Dove, Republican Leader's Staff.
Dennis Shea, Republican Leader's Staff.
Jim Whittinghill, Republican Leader's Staff.
Richard Quinn, Republican Leader's Staff.
Mike Tongour, Assistant Republican Leader's Staff.
John Doney, Assistant Secretary for the Minority.
Elizabeth Greene, Floor Assistant, Secretary for the Minority.
Michael Davidson, Senate Legal Counsel.
Morgan Frankel, Assistant Senate Legal Counsel & Committee Counsel.
Claire M. Sylvia, Assistance Senate Legal Counsel.
Jack Sousa, Rules Committee.
Jeff Peck, Judiciary Committee, Majority.
Jeff Nuechterlein, Judiciary Committee, Majority.
Terry Wooten, Judiciary Committee, Minority.
Thad Strom, Judiciary Committee, Minority.
Kevin Kayes, Assistant Parliamentarian.
Jim Weber, 2nd Assistant Parliamentarian.
Jennifer Smith, 3rd Parliamentarian.
David Tinsley, Assistant Journal Clerk.
Scott Bates, Assistant Legislation Clerk.
Scott Sanborn, Assistant Chief Reporter.
Frank A. Smonskey, Official Reporter.
Ronald Kavulick, Official Reporter.
Jerald D. Linnell, Official Reporter.
Raleigh Milton, Official Reporter.
Joel Breitner, Official Reporter.
Mary Jane McCarthy, Official Reporter.
Paul A. Nelson, Official Reporter.
Mark Lacovara, Staff Assistant, Official Reporter.
Kathy Drummond, Staff Assistant, Official Reporter.
Vince Del Balzo, Bill Clerk.

IMPEACHMENT COMMITTEE

Donald A. Purdy, Jr., Counsel.
Anthony L. Harvey, Administrator.
P. Casey McGannon, Staff Assistant and Exhibits Clerk.
Isabel T. McVeigh, Staff Assistant and Journal Clerk.

MEMBER'S STAFF REPRESENTATIVES

Bob Redding, Senator Fowler.
Scott Williams, Senator Heflin.
Ellen Marshall, Senator Wirth.
David Chartier, Senator Reid.
Kerry Walsh Skelly, Senator Robb.
Keenan Peck, Senator Kohl.
Kevin Dempsey, Senator Danforth.
Amy Dunathan, Senator Chafee.
John H. Moseman, Senator Murkowski.
Reginald E. Jones, Senator Jeffords.
Mary Beth Savary, Senator Mack.
Taylor Bowlden, Senator Symms.

CLOSED SESSION

The PRESIDENT pro tempore. Under the order, the Senate will now go into closed session, and the Chair, pursuant to rule XXI, now directs the Sergeant at Arms to clear all galleries, close all doors to the Senate Chamber, and exclude from the Chamber and its immediate corridors all employees and officials of the Senate who, under the rule, are not eligible to attend a closed session and who are not sworn to secrecy.

(At 2:03 p.m., the doors of the Chamber were closed. The proceedings of the Senate were held in closed session until 8 p.m., at which time, the following occurred.)

OPEN SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to open session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business until the hour of 8:15 p.m., with Senators permitted to speak therein.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senate returns to legislative session and, under the order, there will be a period for the transaction of routine morning business until 8:15 p.m. today, with Senators permitted to speak therein for not to exceed 5 minutes each.

ORDER OF PROCEDURE

Mr. MITCHELL. For the information of Senators, it remains my hope that we will be able to proceed to the disposition of the Helms bill dealing with the North pension matter this evening. That remains my hope. And then, of course, we will have a series of votes tomorrow on the Nixon impeachment matter. Mr. President, I yield the floor.

Mr. INOUYE. What time does the majority leader expect to call for the votes on impeachment?

Mr. MITCHELL. I have not yet had the opportunity to discuss that with the Republican leader, as is my practice, before making a final decision, but consulting with several other Senators as to the various schedules, I would expect that to be at or around 10 o'clock in the morning; sometime during that period.

Mr. INOUYE. I thank the leader.

Mr. MITCHELL. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). Who seeks recognition?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASE SENIOR CITIZEN EARNINGS LIMIT

Mr. DOLE. Mr. President, I am pleased to have joined with the distinguished chairman of the Finance Committee in introducing S. 1823 which reflects the action taken by the Finance Committee on the issue of the Social Security earnings limitation. This provision received our unanimous support as part of the reconciliation bill.

However, while recognizing that this provision was supported by both Republicans and Democrats, in our efforts to strip the reconciliation bill this worthy provision along with many others was dropped. By introducing a separate bill, we are reconfirming our support.

In January of this year, together with Senator ARMSTRONG, I introduced legislation to phase out Social Securi-

ty earnings limit for those over age 65. Our proposal was substantially similar to the one adopted by the Senate in 1983 as part of the Social Security solvency amendments. Regrettably, the final 1983 bill included only a partial rollback of the earnings limit. The reasons for our action was simple. We believed the law to be unfair and counterproductive. The law penalizes senior citizens who want to continue working. By forcing those Americans out of the job market, we are effectively reducing our Nation's wealth.

Under current law, Social Security beneficiaries under age 70 face sharp reductions in their monthly benefit if their earnings exceed a specified amount. These seniors will lose $1 of benefits for every $2 of income they receive above $8,880. Next year, a modest change will allow elderly workers to lose only $1 for every $3 they earn above $9,240. I report this change in the law with a mixture of pride and regret. I am proud to have achieved this modest change as part of the 1983 bill; I regret the House of Representatives refused further reform.

It is rather ironic that we want our senior citizens to remain active, but present them with incentives to do exactly the opposite. Indeed, we explicitly recognize that senior citizens possess great stores of wisdom, the kind of knowledge and experience our Nation needs. Certainly it is neither justified nor just that we punish these worthy citizens. And that, my colleagues, is precisely what we do.

America's elderly have already borne the burden of decades of hard work. They have paid Social Security taxes throughout their working lives. Is it fair that they lose some of those benefits simply because they choose to continue offering their abilities to America?

The earnings limit effectively denies benefits to those retirees making more than a certain amount of money per year. It does not matter that these retirees contributed a significant portion of their income throughout their careers in order to enjoy these benefits.

The marginal tax rates imposed by the earnings limit is beyond reason. By its own terms, the test establishes a 50-percent marginal tax rate on individuals who earn in excess of the trigger amount. With other Federal and State tax liabilities figured in, this marginal tax rate may approach 73 percent. The situation will improve next year, but not enough. There is no justification for any extra tax on elderly workers. How many of us would choose to continue our efforts faced with that kind of disincentive?

If the earnings test is such a bad idea, some may ask, why was it part of earlier legislation? The answer to this question lies in the economic climate of our Nation at that point in history. Social Security was started in the wake of the Great Depression—a time when Government wanted to make it more attractive for the elderly to leave the work force, thereby opening jobs to others. Toward that end, the earnings test was an important step.

The bill introduced by this Senator in January would have fully repealed the benefit for those over the age of 65. While S. 1823 does not go quite that far, it does substantially increase the amount a Social Security beneficiary may earn before their benefits are reduced.

Mr. President, this bill provides a long overdue step toward righting a wrong. I urge my colleagues to support this measure.

HONORING THE RETIREMENT OF COMMISSIONER DONALD J. QUIGG

Mr. DECONCINI. Mr. President, I rise today to recognize the many accomplishments of the Honorable Donald J. Quigg, Assistant Secretary of Commerce and Commissioner of the U.S. Patent and Trademark Office. Mr. Quigg retires this week from 8 years of distinguished service to the Patent and Trademark Office and to the Nation. He has spent the last 4 years as Commissioner of the Patent and Trademark Office. During Mr. Quigg's tenure as Commissioner, the intellectual property laws of our Nation have experienced a vitally needed renaissance, key to fostering a competitive and creative America.

As chairman of the Patent, Copyright, and Trademark Subcommittee of the Senate Judiciary Committee, it has been my privilege to work with Commissioner Quigg and his office in shaping many of these recent improvements in this country's intellectual property law. Last year, with the assistance of the Patent and Trademark Office, the Congress enacted the Trademark Law Revision Act of 1988, an act which I introduced in the Senate. This act is the first substantial revision of Federal trademark law since the adoption of the Lanham Act in 1946. During the 100th Congress, major revisions to the law of process patents, introduced by Senator HATCH and myself, were enacted as part of the Omnibus Trade and Competitiveness Act of 1988. These important advancements in American patent and trademark law have been accomplished with the help and expertise of the Patent and Trademark Office while under the direction of Commissioner Quigg.

Perhaps the most significant accomplishment of Commissioner Quigg's administration has been the realization of the Patent and Trademark Office's 18-month average patent pendency goal. The importance of such an achievement cannot be overstated. Shorter patent pendency means that technology will be available sooner and that capital investment decisions can be made in an environment promoting success. This significant advancement, which was celebrated earlier this week, is the result of 9 years of dedicated effort by all the staff at the Patent and Trademark Office. That effort began under Commissioner Quigg's precedessors and has been brought to fruition because of his leadership.

On the occasion of Commissioner Quigg's retirement, I applaud him for these and many other accomplishments. During the next year, as we celebrate the 200th anniversary of America's Patent and Copyright laws, we should remember the role these laws play in fostering American creativity and innovation. Commissioner Quigg has made a significant contribution to that legacy. He has helped to lay a stable foundation upon which those of us who are responsible for America's intellectual property policies can continue to build.

Thank you, Mr. President.

FLAG BURNING ON CAPITOL STEPS

Mr. DOLE. Mr. President, Gregory Johnson—the publicity-seeker who burned the flag in Dallas 5 years ago—got off the hook again yesterday. He was not charged with violating the Flag Protection Act even though he had a starring role in the recent flag-burning orgy on the Capitol steps.

The U.S. attorney's office concluded that the evidence was too thin to charge Johnson. Apparently, Johnson wanted to torch Old Glory but his lighter could not quite do the trick. According to the press, Johnson called the U.S. attorney's failure to prosecute him an "outrage" and a "miscarriage of justice." His attorney also claimed that the Government deliberately decided not to prosecute him because it feared that a Johnson trial would be a great "organizing tool" for the flag-burners in this country.

I will tell you the truth. At first, I was disappointed by the U.S. attorney's failure to charge Johnson. I wish Johnson were prosecuted. I wish he were put behind bars. And his lawyer is right: Johnson would be a great organizing tool—his prosecution would organize the millions of Americans who are outraged by his utter contempt for the American people and for the cherished symbol of our country.

But, on second thought, the U.S. attorney's decision may not have been such a bad idea after all. The U.S. attorney has denied Johnson his day in the Sun, his 15 seconds of fame, and Johnson sure is furious.

But let us face it: He will undoubtedly find another camera crew, another opportunity to make his sick point.

For Greg Johnson, and people like him, desperately want attention. And they desperately want to test the constitutionality of the flag statute.

Mr. President, so far, the Flag Protection Act of 1989 has not protected a single flag. In fact, it has encouraged the flagburners to commit their outrages, to show their contempt for Congress and its handiwork. That is why it is so important to get an expedited decision on the statute's constitutionality. And that is why I continue to urge the flag statute's sponsors to ensure that expedited review does indeed become a reality.

PROTECTING THE RETIRED PAY OF CERTAIN MEMBERS OF THE ARMED FORCES

Mr. MITCHELL. Mr. President, pursuant to the order of August 4, 1989, I now call up S. 1816, Senator HELMS' legislation.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1816, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1816) to protect the retired pay of certain members of the Armed Forces convicted of an offense under section 2071(b) of title 18, United States Code.

The Senate proceeded to consider the bill.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order of August 4, 1989 be modified in the following respect: That instead of the 4 hours of debate set forth in the order, there be 2½ hours of debate with 2 hours to be controlled by the Senator from North Carolina, Mr. HELMS, and one-half hour to be controlled by Senator BIDEN as my designee to manage the bill on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina. Does the Senator have objection?

Mr. HELMS. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I was further going to ask unanimous consent that Senator HELMS be recognized first in connection with consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. HELMS. Absolutely.

Mr. MITCHELL. I need to mention that, for the information of Senators, we will now consider this matter this evening and vote on it this evening. So the maximum time that could be used is 2½ hours.

A vote will occur not later than 2½ hours from now and possibly earlier, if not all the time is used and is yielded back. That will be the only remaining rollcall vote this evening.

At that time, I will have an announcement as to the schedule for tomorrow and Monday, following consultations which I will have shortly with the distinguished Republican leader.

I thank the Senator from North Carolina for his courtesy.

Mr. HELMS. I thank the Senator from Maine.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, we are now considering legislation that will clarify an ambiguous provision in the law that has caused an unfair and unwarranted hardship on Col. Oliver North and his family.

I am honored to be joined in the sponsorship of this bill by Senator SYMMS, who has been so active in the matter, Senator THURMOND, Senator WALLOP, Senator NICKLES, Senator HEFLIN, Senator MCCLURE, Senator COCHRAN, Senator HOLLINGS, Senator GARN, Senator HATCH, Senator STEVENS, Senator LOTT, Senator SHELBY, and Senator GRAMM.

Mr. President, from the very beginning, Ollie North acknowledged publicly and forthrightly that he had, indeed, violated section 2071(b) of title 18 of the U.S. Code by shredding certain Government documents. He said that from the beginning, and that was one of the three charges on which he was convicted.

Title 18, section 2071(b) reads as follows:

Whoever, having the custody of any (government) record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, destroys the same, shall be fined not more than $2,000 or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office of the United States.

Now, after the conviction of Colonel North on this and two other charges, including his having accepted a security fence at his home after his family had been threatened by terrorists, the court sentenced Ollie to perform 1,200 hours of community service and pay a $150,000 fine. Some may think that sentence was too severe; others may think it was too lenient.

But if you read this legislation, we are not proposing that Congress should or could alter the sentence handed down by the court. What we are proposing is that Congress act promptly to clarify the effect of section 2071(b), because section 2071(b) requires that a person "forfeit his office."

The Navy had to determine whether Colonel North was in fact holding an office of the United States, inasmuch as he was retired from active duty.

On June 30, 1989, the Judge Advocate General of the Navy, Rear Adm. E.D. Stumbaugh, submitted to the Secretary of the Navy a memorandum in which he stated:

In my opinion, the type of office held by a retired naval officer is not the same as that contemplated by the forfeiture portion of 18 U.S.C. 2071(b). Accordingly, a retired naval officer convicted of such an offense does not forfeit his commission, nor does he lose his retired pay as a consequence thereof.

Mr. President, Admiral Stumbaugh concluded that Colonel North does not hold an office within the meaning of subsection 2071(b) and therefore should not forfeit his retirement pay. In his Memorandum of Law, Admiral Stumbaugh makes a compelling case that the Navy should not withhold the retirement pay of Colonel North.

Let me reiterate two of the most compelling arguments made by the Navy Judge Advocate General:

First, he emphasized that forfeiture provisions, such as the one in section 2071(b), are not intended to be punitive. Rather, the provisions are intended to ensure that one who has violated the statute will no longer have access to government documents. Since Colonel North had left active military service, he no longer had access to government documents.

Second, Admiral Stumbaugh pointed out that if an officer in the Marine Corps Reserves or a retired civilian official had been convicted of the exact same offense, neither would have to forfeit his or her retirement pay.

This question was one of first impression for the Navy, and Admiral Stumbaugh was clear in his conclusion that Colonel North retained his status as a retired military officer—specifically a Marine officer. However, in order to protect the Marine disbursing officer, who is personally liable for any incorrect payments, the admiral recommended that the Secretary seek a ruling from the Comptroller General, who determines questions involving the expenditure of appropriated funds.

Despite Admiral Stumbaugh's analysis, the general counsel at GAO concluded that

There is serious doubt that a retired regular officer convicted of violating subsection 2071(b) continues to be entitled to retired pay.

Mr. President, with all due respect to the general counsel at GAO, I do not think many people agree with his resolution of this issue.

The general counsel acknowledges that the statute in question is ambiguous in its application to retired military officers and that there is insufficient legislative history to resolve that ambiguity. He did not dispute Admiral Stumbaugh's point that ambiguities in criminal statues are construed in favor of defendants. Nevertheless, based on the historical treatment of retired military officers in other contexts, he concluded that Colonel North is con-

sidered to be holding an office and must forfeit his retirement pay.

That conclusion is any thing but convincing—especially when one considers how Colonel North earned his retirement pay.

Hear this: During his 20 years of military service, Oliver North was in more than 70 combat actions. He earned the Silver Star, the Bronze Star, two Purple Hearts, Navy Commendation medals, the Vietnamese Cross of Gallantry with Silver Stars, and many others.

The citations that accompanied his awards are compelling. For example, words like these were used in various citations; "conspicuous gallantry in action," "with complete disregard for his own safety," "seemingly oblivious to the intense machinegun fire impacting around him," "calmly braving the intense fire of the tenacious hostile soldiers," "his heroic actions and vigorous efforts inspired all," "heroic achievement in connection with combat operations" "his patrol came under intense automatic weapons and machinegun fire from a numerically superior force." "North boldly remained in his dangerously exposed position on top of a tank to deploy the men," "fearlessly moved across the fireswept terrain," "courage, leadership." And so on.

For those who argue that Colonel North was convicted of a felony and therefore does not deserve a Federal pension, I suggest a look at the drug bill Congress passed last year. In that legislation, there was a provision—which is now law—that allows convicted drug dealers, even those convicted of repeated offenses, to continue to receive "any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit."

Those who argue that Colonel North does not deserve a Federal pension, a pension that he fought and shed his blood for, I would ask: Do you really believe that this man, who demonstrably was willing to lay down his life for his country, should be denied the benefits he earned for his family, while convicted drug dealers are allowed to keep theirs? Do we believe that? I think the answer is "no."

Let me acknowledge right now that Ollie North and his family are personal friends of Mrs. Helms and myself. I confess a personal interest in the wellbeing of Colonel North and his family. I am convinced that whatever errors of judgment he may have made, Ollie North made them consistent with what he perceived to be in the best interests of his country—which he has served undeniably and unquestionably with valor and courage.

I feel that it would be a gross injustice for Colonel North to have to lose his military retirement pay as a result of a nonpunitive statutory forfeiture provision that would not even apply to a retired military Reserve officer or a retired civilian official of the U.S. Government.

Mr. President, Ollie North has been punished enough. Let the persecution end. Let the vendetta end. Restore Ollie North's pension so that his family can have the benefit of that which he earned.

There has been a great deal of discussion about the language of the pending bill, which is identical to the text of an amendment I offered back in the summer, and which was delayed until this time for consideration by the Senate. We did that by unanimous consent.

I want the Senate to know that my purpose is to restore Ollie North's pension. I do not care about the wording. I do not care about who gets the credit. I just want that pension restored.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. How much time does the Senator from Delaware control?

The PRESIDING OFFICER. Twenty-nine minutes and fifty-one seconds.

Mr. BIDEN. Mr. President, before I get into the merits of this issue, I want to alert my colleagues as to an alternative proposal that Senator MITCHELL and I are prepared to offer.

As everyone knows, Senator HELMS' bill is specific: The only person it helps is Oliver North. The Judiciary Committee report on this matter noted this problem, and said:

> The issue of equity should be addressed by general legislation. If Congress were to determine that it is unfair to subject retired military officers to the provisions of section 2071(b), a private bill would not remedy that situation. An ambiguity in the statute, recognized to produce inequitable treatment, can be corrected only by revising that statute categorically.

Both of the constitutional scholars who testified before the committee—one liberal and one conservative; one offered by the Democrats and one by the Republicans—both agreed with this view.

If we feel that section 2071(b) is inequitable, we should fix it for all retired military officers, and not just one man.

Mr. President, there is—as the committee's report acknowledges—a substantial argument that section 2071(b) creates an inequity. Under that provision, retired military officers—unique among all Federal retirees—stand to lose their retirement pay as a penalty for a conviction.

This is unfair. Most members of the Judiciary Committee believed that this inequity should be corrected. Working with the leadership, I have developed a proposal to act on this recommendation. This proposal will simply state that a retired military officer if not considered to be an officer of the United States for purposes of section 2071(b). The proposal would be retroactive.

This proposal would restore Oliver North's retirement pay—not because of any view on whether Mr. North does or does not deserve that pay—but because the general rule that applies here would be changed for everyone.

Like many of my colleagues, I feel it inequitable that: A retired Congressman, or executive branch employee, or even a retired reservist, would not lose his or her pension if convicted of violating the document shredding law, but a retired military officer would lose his retirement pay; I also consider it odd that a retired officer loses his retirement pay for shredding documents, even though he does not lose this pay for far more heinous offenses, such as rape or murder.

These inequities should be corrected. That is why I intend, with the support of the leadership, to do the following: First, if the Helms bill is voted down, I will immediately introduce a bill, of which I have copies available, to correct the inequity for all Federal employees; I will, with the support of the leadership, then seek consent to have this bill immediately considered in the Senate, read a third time, and passed.

Thus, if the Helms bill is voted down, we will immediately proceed to this alternative bill which will do what is right—correcting the inequity for all members of the Armed Forces, and not just for a single man.

With this proposal on the table, there is no reason to vote for the Helms bill.

There are, however, many reasons to vote against it. Let me just detail a few.

The Helms bill violates the most basic principles of separation of powers. It intervenes in a specific case: Before the Secretary of the Navy has ruled in that case; before the Attorney General has ruled; before the courts have ruled.

This is not Congress' role. We cannot be asked to muddle in this way.

Worse still, the Helms bill takes these unprecedented measures for the benefit of a single person only. That is what I find most offensive about the Helms approach, and what the Judiciary Committee report criticized the most sharply.

In truth, the Helms bill does not correct an inequity in the law, it exacerbates it.

Let me explain.

This bill exempts from punishment the following class of individuals convicted of violating the law:

> Any retired officer who has "graduated from the U.S. Naval Academy, who has served in Vietnam, and who has been awarded the Silver Star, the Bronze Star, and two Purple Hearts."

What does this mean? It means that if we pass this bill to fix the inequity, and another case exactly like this one comes along in the future, and the person in question is of the same stature and achievement as Mr. North; that officer would not get his retirement pay if he went to West Point, instead of the Naval Academy or if he served in Korea instead of Vietnam.

This is not equity, it's the most unfair thing I have ever heard of. Why treat Vietnam vets differently from veterans of other wars, or Navy officers differently from Army or Air Force Academy graduates?

The Helms bill does not right inequities, it exacerbates them. It does not cure unfairness, it creates it. It does not settle this matter, it only confounds it.

In closing, Mr. President, let me summarize these two points:

First, the Helms bill offends constitutional principles, and it fails to correct the problem that exists for anyone other than Oliver North. For these reasons, we ought to vote it down.

Second, if it is defeated, there is an alternative. Under this plan, the Senate will proceed immediately, by consent, to a compromise proposal that does correct the inequity, and that assures that all Federal retirees are treated alike under section 2071(b).

That is the constitutional approach; that's the fair approach; and I urge my colleagues to join me in pursuing it tonight.

Let me make something very clear at the outset. I have great respect for my friend from North Carolina. But I could not disagree with him more with regard to Ollie North. I might want Ollie North protecting my son or me if I were in a foxhole. I sure would not want Ollie North teaching my children ethics.

I have strong disagreement. As a matter of fact, this is one of the circumstances the Senator from Delaware, because of being chairman of Judiciary Committee and asked by the Senate as a whole to answer a series of questions relative to this issue, finds himself in the position of having to "do justice" when it does not feel good. When it does not feel good, quite frankly, is what I am about to propose so the Senator from North Carolina will get Ollie North his pension. I am not real anxious to help Ollie North in any way at all. I think Ollie North should be in jail.

So without debating that issue much beyond that, I want my, as I say, true colors to show here. I do not want anyone to misunderstand my motivation. I spent a lot of time on the details of the law, 18 United States Code, section 2071, sections A and B. That is what we are talking about here. And the law which was first passed in the mid 1800's and again in the early 1900's and then again in the late 1940's, the law is as the Senator from North Carolina suggests. And I believe that Admiral Stumbaugh of the Navy is correct, that it was intended to be not punitive as much as it was to deny access.

So we have the anomaly in the law now where if a general tomorrow walks in his office and in a premediated way blows his CO's head off and kills him and has committed murder and is convicted, he will still get his retirement pay. If Judge Nixon tomorrow is impeached, he will get his pension. If a Senator is convicted of a felony and put into jail, he will get his pension.

There are a couple facts we should all know. No. 1, to the best of our knowledge, to the best of the knowledge of the Navy, to the best of the knowledge of GAO, there has never been a case in the history of the United States brought under this section where a retired military officer has been denied his or her retirement. That is No. 1.

No. 2, we have never, to the best of the research that I could do and my staff, the entire judiciary staff could do, had a private relief bill that had the effect of lifting criminal sanctions from an individual.

Sentences have been commuted by Presidents. We have given back people's land, money, and bridges in private relief bills.

So, I find myself in agreement ultimately with the Senator from North Carolina for totally different reasons than he arrives at the same conclusion. Equity dictates that we change the law. Equity dictates, in this Senator's view, that we change this precise and particular title and section, 2071 of 18 United States Code so that it applies equally to everyone.

Most of our colleagues may not have had a chance to focus on this nor the press. The anomaly here is that the issue is what constitutes an officer under the United States. That is the language. And the sort of esoteric debate that goes on here, legalistic debate is, is a retired regular military officer, that is, Ollie North, still an officer under the United States?

There has been no answer to that question and the best place to resolve that would be in the courts. But, it is clear if you are a retired Reserve military officer you will still get your pension. It is clear, for example, Fawn Hall shredded documents. If she has a Government pension she is still going to get it, but Ollie North would not.

I yield myself 2 more minutes.

I suggested to my gracious friend from North Carolina prior to us starting this that I thought it more appropriate, and Senator MITCHELL, I, Senator NUNN, and others, thought it more appropriate, that this bill be generic and not case specific; that we change the entire law so that now and forever we define what "an officer under the United States" means as it relates to retired regular military officers.

So I asked my friend from North Carolina whether he would be willing to seek unanimous consent to change his amendment so that it had the effect of reading, for purposes of this section, that is section 2071, a retired regular military officer shall not be considered a person holding office under the United States and further that this amendment take effect January 1, 1989, which means straightforwardly that Ollie North would get his retirement.

So I ask my friend from North Carolina whether he would be willing to do that.

Mr. HELMS. Mr. President, as a matter of fact I have it drawn, as the Senator knows, and I will be glad to send it to the desk. I ask unanimous consent first that I be allowed to modify the bill.

The PRESIDING OFFICER. The Senator's 2 additional minutes have expired.

Several Senators addressed the Chair.

Mr. SYMMS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Senator BIDEN has the floor.

Mr. BIDEN. Mr. President, I thought I yielded the floor to the Senator from North Carolina who sought permission to modify his amendment.

The PRESIDING OFFICER. Does the Senator from Delaware yield the floor?

Mr. BIDEN. Yes.

The PRESIDING OFFICER. The Senator from North Carolina seeks recognition. He is recognized.

Mr. HELMS. I ask permission to modify my amendment.

Mr. SYMMS. Mr. President, reserving the right to object, Mr. President, and I certainly will not object if that is the wishes of the floor manager or the Senator from North Carolina, but it is this Senator's opinion they would be entirely appropriate.

My major criticism of the Helms bill of which I am an original sponsor, is it does not name Ollie North by name. I think it would be entirely appropriate for this Senate to pass a resolution and name Oliver North, because if there has ever been a travesty of justice it is the fact that Oliver North was left to dangle in the wind when we all now concede what happened. Oliver North's goal was to help overthrow Daniel Ortega, who now our President is calling a skunk at a lawn party.

The law was repealed that he was in violation of by Congress when they realized the error of their way. Yet, the feet of clay of the last administration

would not take the responsibility and pardon those people for what they thought was carrying out the wishes of the Commander in Chief, President Reagan.

It is entirely appropriate as far as I am concerned that this bill name Oliver North, and I hate to see the Senator's bill weakened in the sense it does not speak specifically.

As long as we all understand, and I think the Senator from Delaware made it very clear that if the amendment is accepted by the Senate and everyone understands in America that the Senate is going to address the issue of Oliver North and take care of his pension.

We have spent at least $40 million-plus to convict Oliver North. I have yet to figure out how my colleagues in the administration or the Justice Department think that was a worthy cause. I am disappointed, as one Senator.

I will withdraw my objection in just a moment, Mr. President. I do not want to delay this. But I do think that the RECORD ought to be unmistakably clear that on November 2, 1989, the U.S. Senate is going to pass a resolution because we consider it to be an injustice to an American hero, Oliver North.

I withdraw my objection.

The PRESIDING OFFICER. The Senator is withdrawing his objection.

Mr. HATCH. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from North Carolina has asked unanimous consent to modify the bill that is currently pending before the Senate. Is there objection to the unanimous-consent request?

Mr. HATCH. Reserving the right to object, I will not object, but I just want to observe if the distinguished Senator from North Carolina wants to do that, that is fine. His original amendment did not name Oliver North either, as I recall.

Everyone here knows that the reason we are going through this exercise is because there has been a lot of delay and a lot of complaint about Oliver North getting his pension. So everyone knows that is why we are doing this here tonight. I do not care what the language says just so the result of that language gets Ollie North his well-deserved pension, this American hero.

Frankly, everyone who is watching this knows that is what we are doing. But I appreciate what the distinguished Senator from Delaware has recommended here and what the distinguished Senator from North Carolina is willing to do, because if there are others similarly situated, who will be as mistreated as Oliver North has been in this process, then they will get their pensions, too. I think that is only right.

So I really encourage the distinguished Senator from North Carolina to do this. But I hope that our colleagues on the other side will see that it gets through both Houses of Congress so there is no question about it.

The PRESIDING OFFICER. Are there further objections?

Mr. NUNN. Mr. President, I do not have an objection. I just wanted recognition after the unanimous consent goes through.

The PRESIDING OFFICER. Is there objection?

Mr. SIMON. Reserving the right to object.

The PRESIDING OFFICER. Will the Senator from Illinois suspend?

The time that is being taken is being removed from the time of the Senator from North Carolina. Is the Senator from North Carolina aware of that and does he agree to that?

Mr. HELMS. As long as they are speaking in favor of what I am trying to do, that is all right. If not, it will be charged to the other side.

Mr. SIMON. I would ask, in fairness to the Senator from North Carolina, that my 1 minute will not be taken from his time.

Mr. BIDEN. I object. The Senator from Delaware only has about 23 minutes and we have several speakers on this side. Accept his generosity.

Mr. SIMON. Mr. President, reserving the right to object, and I shall not object, but let me just make clear that I think we are setting a very bad precedent, both with the amendment and with the original bill.

Let me use an illustration. There has just been a 45-year sentence for Jim Bakker. There has been all kinds of editorial criticism about that sentence. We should not on this floor change that sentence any more than we should for Zsa Zsa Gabor if we do not think she should get 72 hours, or anyone else.

The separation of powers is something fundamental. I think we are violating the spirit of the Constitution. We have just gone through lengthy discussions on impeachment. However you vote on it, we have followed the process and respected the process.

I think this violates that process and the spirit of the Constitution of the separation of powers. I shall oppose whatever amendment is offered here.

I will not object at this point.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BOREN. Mr. President, reserving the right to object, and I shall not object. I want to commend my colleague from North Carolina, first, for bringing to the attention of the Senate what I think would have been an injustice were this legislation and this legislative process to fail.

I think we are here dealing with a situation where an individual has been brought to our attention, Colonel North. He has served with valor in the military. The distinguished Senator from North Carolina has read part of the citation testifying to that valor that he has demonstrated. He has earned his pension because of that service as a combat officer of the United States in the military for that purpose.

I think it would have been unfair, especially when no other officer so situated in terms of a civilian position of this Government of the United States, a Senator, a U.S. Congressman, a retired officer of the military, civilian employees of other agencies of the Government would have been so treated.

So I commend the Senator from North Carolina for bringing this to the attention of the entire Congress and bringing to this forum the discussion of this matter.

I believe that the modification that has now been suggested is a good one because, if we had others, as the Senator from Utah has just said, so situated, others who have served this country and worn the uniform of this country who for any reason might find themselves in similar circumstances, it would be wrong to discriminate against them as compared to any other official of the Government because they had worn the uniform as an active duty officer. And that is what the law would do unless we make a generic change in it.

So I think what we are doing is really taking a step forward. We have an injustice in this individual which is corrected by this proposal. We now have the potential of removing that kind of unjust treatment for other individuals if they should find themselves in similar circumstances in the future.

So I think this is a better way to approach it. It is a better precedent to set. For that reason, not only will I not object, I heartedly endorse what the Senator from North Carolina is trying to do and endorse the modification of his proposal and would ask that when it is modified that I be added as a cosponsor of the proposal.

The PRESIDING OFFICER. Are there objections?

Without objection, the bill is so modified.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. Mr. President, I will yield to the Senator from Georgia in just 1 minute. I just want to thank my friend from Oklahoma, whom I admire so much and enjoy working with.

I ask unanimous consent that he be added as a principal cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The bill is modified to read as follows:

SECTION 1. MEANING OF THE TERM "OFFICE" IN THE CASE OF CERTAIN MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Notwithstanding any other provision of law, no person who is a retired regular officer of the Armed Forces of the United States shall be considered as holding an office of the United States for purposes of section 2071(b) of title 18, United States Code.

(b) EFFECTIVE DATE.—This Act shall take effect as of January 1, 1989.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from North Carolina yield the floor?

Mr. HELMS. Yes.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina has 97 minutes remaining, and the Senator from Delaware has 22 minutes and 13 seconds remaining.

Mr. BIDEN. Mr. President, I yield 5 minutes to the Senator from Georgia.

Mr. NUNN. Mr. President, I thank both of my colleagues, the Senator from North Carolina and the Senator from Delaware, because I think we are coming to exactly the right conclusion here, assuming that the modified bill passes. I do believe that there is a real injustice here if Col. Oliver North is denied his pension in this case because he has been convicted under a statute that others convicted under would not be in any way required to give up their pension.

As has already been said, if a Federal judge was convicted under this particular statute he would not give up his pension. A Congressman would not give up his pension. A member of the Cabinet would not give up his pension.

So this would be a fundamental unfairness that has nothing whatsoever to do with whether or not Oliver North should or should not have been convicted. That is a separate question. There are differing views on this, and we have heard some expressed here tonight.

I happen to be one who believes that Colonel North made some serious mistakes, and the court has dealt with those. I also believe that Colonel North served his country with great distinction before he made those mistakes. So there are differing views on that.

But I believe we can be virtually unanimous—I know the Senator from Illinois has differing views—that this would be a fundamental unfairness. I believe if there had been no conviction of Oliver North that this statute, as it applies to regular military officers who are retired, would need correcting anyway.

This statute is having a perverse purpose that was not intended by the statute, when it says they will lose their office. It was not visualized then that a regular officer, retired, is deemed to be an officer in the U.S. Government. So this is working in the right direction even if there had been no conviction of Oliver North. So for those two reasons I will support it.

I do believe, and I will just take a moment, that we all ought to put in perspective this treatment of military officers because it is a little bit more complicated than we have heard here tonight. If a military officer or an enlisted individual is court-martialed, found guilty of an offense, for instance this offense, and sent to prison in the military under the military code of justice, then they do not lose their pension. If, however, a military enlisted person or military officer is convicted and removed from the military, they do lose their pension.

We have a number of cases where that has happened since 1986. We have had 10 military officers who had served over 20 years who were dismissed from the service under court-martial procedures who have lost their military retirement.

So even heroes who go off and serve their country well, under the Uniform Code of Military Justice, when they are dismissed from the military because of offenses, they lose their pension.

That does not in any way change my view on this statute but it does, I believe, cast a light on it that everyone needs to understand.

We also have 261 enlisted personnel since 1980 who have lost their pensions. We had, in 1989 alone, 38 enlisted people who were court-martialed and dismissed and lost their pensions from the military.

So there is such a thing, and it has been for many years, as being a hero, getting convicted of a crime, and losing your pension.

We have another example in the statute that this case has nothing to do with, but I think everyone should understand it. There is a penalty of losing your pension if you are a civilian or if you are military if you are convicted of certain espionage crimes in the United States under the Hiss Act.

So there are precedents for losing one's pension. This has nothing whatsoever to do with espionage, and I do not in any way want to connect that with this case, but I did want to put it in perspective.

I do think this is the right move to make. I think it would be fundamentally unfair to Colonel North to have him treated differently than others who would be in a similar situation, and I think the Senate should approve the Helms amendment as amended by Senator BIDEN, or modified by the Senator.

I hope the Senator would add me as a cosponsor of his modified amendment. I would not favor the original Helms amendment, and I think I want the record to be clear because it would be putting an individual in a situation where he would be treated different from all others who might be convicted under the same statute. So I think this is the better approach.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina.

Mr. HELMS. Mr. President, first of all, I ask unanimous consent that Senator NUNN be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Let me say to him that his figures are exactly right. But I would point out, just to make the record clear, that under a court-martial, if an officer loses his or her commission, it is because it is part of a sentence of the court. In Ollie North's case, it was not a part of the sentence of the court, and I would make that distinction.

Mr. NUNN. The Senator is precisely right, and I hope my remarks are clear on that also, because the sentence of the court, when they sentenced them, would have anticipated they would lose that pension. So it would have been an intentional sentence and would have been the sentence of the court, in this case of Oliver North, who had probably not even heard of the statute. He may or may not have, but I do not think it was something he intended.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina controls them.

Mr. HELMS. I yield 5 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. HEFLIN. Mr. President, on August 1, 1989, the Senate directed the Judiciary Committee to make certain determinations. There were six questions that were asked and there were differences in regards to that by various Senators.

The hearing was held on October 18, and report filed October 31.

I did not, at the time, state a position because I had not had time to do the research and the review that I wanted to. But I have now. And I wish to join the views, the position of Senators THURMOND, HATCH, SIMPSON, GRASSLEY, SPECTER, and HUMPHREY, relative to the determinations of the questions that the Judiciary Committee was instructed to report back on to the Senate.

Since that is an unusual situation, it would appear to me that the report

ought to be made a part of the RECORD, and I ask unanimous consent that the excerpted report be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. POSITION OF SENATORS BIDEN, KENNEDY, METZENBAUM, DECONCINI, LEAHY, SIMON, AND KOHL

A. SUMMARY

At the present time, Congress should not enact legislation concerning Colonel North's retirement pay. The current status of this matter in the executive and judicial branches indicates that congressional action would be premature.

A final determination on the status and pay issues raised by Colonel North's pension has not yet been reached by the Department of the Navy. The judiciary has yet to engage in its constitutional role of interpreting and applying the law in question. Because the ultimate resolution of this matter by the executive and judicial branches remains uncertain, congressional intervention may prove unnecessary.

The proper role for Congress is to study the equitable concerns raised by the termination of Colonel North's pension. The General Accounting Office has suggested that the courts may view retired military officers as a special class for purposes of the forfeiture provision of section 2071(b). Whether or not this is the case, the larger issue of equity in the laws governing pension forfeiture should be addressed by Congress. Should Congress determine, after further review, that application of the forfeiture provision of section 2071(b) to retired military officers is inequitable, this problem can best be addressed through general legislation.

B. LEGISLATIVE HISTORY

On May 4, 1989, a jury found Lt. Col. Oliver North, United States Marine Corps (Retired) guilty of violating 18 U.S.C. 2071(b), a statute prohibiting the destruction of government documents. The final clause of Section 2071(b) requires that whoever is convicted "shall forfeit his office and be disqualified from holding any office under the United States."

In deciding whether to continue paying Colonel North's retirement pay, the Judge Advocate General of the Department of the Navy concluded that this forfeiture provision was not intended to apply to retired military officers. The General Counsel of the Navy, however, decided to withhold Colonel North's retirement pay pending receipt of the opinion of GAO on the proper interpretation of section 2071(b).

On July 31, 1989, the GAO General Counsel recommended that the Department of the Navy continue to withhold Colonel North's retirement pay. He concluded that, although interpretation of Section 2071(b) presented a question of first impression that ultimately would have to be decided in court, there was "serious doubt" that Colonel North continued to be entitled to his retirement pay.

On August 1, 1989, the Senate responded to the decision to withhold Colonol North's retirement pay by instructing the Judiciary Committee to make the following determinations:

1. Whether the legislative intent of 18 U.S.C. 2071(b) was to require the forfeiture and disqualification from "office under the United States" to apply to officers, both active and retired, in the armed forces;

2. Whether the legislative intent of 18 U.S.C. 2071(b) was to deprive persons convicted under this section from receipt of their Federal pensions;

3. Whether 18 U.S.C. 2071(b) applies to other retired government employees, and if not, whether such is equitable;

4. Whether action on any remedial legislation for Lt. Col. Oliver North, relating to the denial of his pension as a result of his conviction under 18 U.S.C. 2071(b) is appropriate in lieu of litigation, or whether it is preferable for this issue to be determined in the courts;

5. Whether remedial legislation for Lt. Col. Oliver North is warranted under the application of 18 U.S.C. 2071(b), considering the opinion of the General Counsel of the General Accounting Office dated July 31, 1989;

6. Whether any other legislation relating to the application of 18 U.S.C. 2071(b) is appropriate.

In accordance with these instructions, on October 18, 1989, the committee held a hearing on the legal issues raised by the termination of Colonel North's retirement pay. The committee heard testimony from constitutional law scholars, as well as the attorneys who provided the initial legal analysis regarding this matter. The witnesses were: Prof. Peter Shane, University of Iowa; Prof. Eugene Hickok, Dickinson College; James Hinchman, General Counsel, General Accounting Office; Lawrence Lamade, General Counsel, Department of the Navy; Admiral E. D. Stumbaugh, Judge Advocate General, Department of the Navy; and Larry Rivers, Executive Director, Veterans of Foreign Wars.

C. DISCUSSION

1. Passage of a private bill to restore Colonel North's retirement pay is premature when the issue has not yet been addressed by the executive and judicial branches

a. The Department of the Navy has not yet resolved Colonel North's status

In a July 5, 1989 letter to GAO, the General Counsel of the Navy requested a decision as to "whether [Colonel North] may continue to receive pay and other benefits as a retired regular officer." The recommendation of the General Counsel of GAO that Colonel North's retirement pay continue to be withheld rested on the legal conclusion that, despite his retired status, Colonel North continued to hold an office under the United States, at least for some purposes. For this reason, the General Counsel advised that a court would be likely to find that section 2071(b) applies to Colonel North and requires the forfeiture of his office and retirement pay.

In accordance with this opinion, the Department of the Navy has continued to withhold Colonel North's retirement pay. However, the authority of the General Accounting Office extends only to matters concerning pay. The question of Colonel North's status and whether he should remain on the Navy's roles as a retired officer is within the jurisdiction of the Department of the Navy. In the absence of a more authoritative judgment, the Navy has abided by the opinion of the Judge Advocate General and continues to consider Oliver North to be a retired officer of the Marine Corps.

There is a need for a ruling in this matter that will unify the initial decisions regarding pay and status. At present, the executive branch's response to Colonel North's conviction under section 2071(b) is incomplete. Legislation ordering the Navy to pay Colonel North's pension is thus premature. In his testimony, Admiral Stumbaugh, Judge Advocate General of the Navy, suggested the need for further clarification from the executive branch:

"I am not sure the executive department has made any determination, other than the status. I think the Secretary of the Navy can make the determination of the status. . . . The Comptroller General makes the determination as to pay. Now, obviously, he has to look at the status issue in determining whether the pay should be made. If those two gentlemen disagree, I do not think one necessarily overrides the other. . . . So I am not sure that we have a final determination." (Testimony of Admiral Stumbaugh, October 18, 1989, at 68.)

Congress should not intervene in this matter until the Department of the Navy has had sufficient opportunity to formulate a comprehensive response to the difficult issues raised by Colonel North's pension. The Navy is in the best position to anticipate the consequences of a particular ruling on the status of retired officers and to select a course of action that is consistent with the needs of the military.

If possible, congressional interference in the daily operations of the Navy should be avoided. Since the Navy has not yet reached a final determination in this matter, it is inappropriate for Congress to intervene.

b. The Federal courts have not yet interpreted the law

Once the Navy makes a final ruling, a judicial determination is the most appropriate means, and the next logical step, for resolution of the legal issues surrounding Colonel North's pension. The GAO General Counsel reflected this opinion in the following statement:

"The denial of payment gives Colonel North the right to sue for it. Should he do so, he and the government will obtain from the federal courts a conclusive determination of whether he is entitled to continue to be paid as a retired regular officer of the Marine Corps." (Letter of July 31, 1989, from James Hinchman to Lawrence Lamade, at 3.)

The formal legal opinions regarding Colonel North's retirement pay disagree as to the intent of section 2071(b); obviously, there are serious difficulties involved in interpreting the statute. First, Colonel North's entitlement to his retirement pay presents a legal question of first impression; no prior case has been decided that explains the proper application of the forfeiture clause in section 2071(b) to retired military officers. Second, the

"[l]egislative history of the original statute and its successors is sparse, and no Congressional guidance has been found concerning the definition of the term 'office,' or the intended breadth of the forfeiture provision." (Letter of July 5, 1989, from Lawrence Lamade to the Honorable Charles Bowsher, at 1.)

Third, in terms of the penalties it imposes, the text of section 2071(b) is vague; the statute fails to specify the intended impact of the forfeiture provision upon retired military officers.

Without precedent, legislative history or clear statutory language—the typical guideposts of statutory interpretation—the task of applying section 2071(b) to Colonel North is made exceptionally difficult. The judiciary alone has the expertise to resolve issues

of this nature. Without first receiving guidance as to the meaning of the statute from the courts, congressional action will be taking place in a vacuum.

A judicial ruling on the meaning of section 2071(b) should be obtained before the Congress decides what changes, if any, should be made to the statute.

c. It is inappropriate for this committee to speculate as to the intended application of 18 U.S.C. 2071(b)

This committee has been asked for its view on whether section 2071(b) was intended to apply in this circumstance. We believe that it would be inappropriate for this committee to speculate as to the intended application of section 2071(b). Chief Justice John Marshall, defining the independent roles of the federal branches, wrote:

"It is, emphatically, the province and duty of the judicial department, to say what the law is." *Marbury* v. *Madison*, 5 U.S. (1 Branch) 137, 176 (1803).

Congress enacts legislation. In the realm of criminal law, this includes defining offenses and setting forth the penalties for their violation. Under our constitutional scheme, the judiciary is charged with interpreting the law, as enacted by Congress, and applying it in particular cases. This task of determining the case-specific meaning of previously enacted legislation is the essence of "say[ing] what the law is." The substantive precedent and procedural rules governing courts make the judiciary uniquely qualified for this task.

This committee has been requested to determine whether section 2071(b) was intended to apply to retired military officers like Colonel North. Congress and its committees are, however, poorly equipped to interpret the meaning of statutes. The judicial machinery employed by courts in deciphering legislative intent is not available to the legislative branch. Congress long ago defined the crime of destroying government documents and described the penalties for its violation. That was the extent of Congress' legislative function. What is now required is the interpretation of the statute and its proper application to Colonel North. Congress should not attempt to speculate as to how the courts will answer this question.

Arguments that Congress has some special insight into the intended application of section 2071(b) are without merit. The present version of this law was enacted in 1948. As Professor Shane succinctly stated in his testimony:

"[T]his Congress is not better situated than a court to speak to the intent of the original law, which of course, was not enacted by this Congress." (Testimony of Peter Shane, October 18, 1989, at 24.)

During the hearing, Senators Hatch and Specter stressed the importance of honoring the long-established rule of statutory construction that penal statutes should be strictly construed against the government and in favor of the persons against whom penalties are to be imposed. The goal of interpreting section 2071(b) consistent with this rule of construction can best be accomplished by obtaining a judicial ruling prior to congressional action. Without an authoritative decision from the courts, there is no final application of the statute for Congress to critique.

Section 2071(b), enacted in 1948 by Congress, has not yet been applied to retired military officers. According to our constitutional scheme, the appropriate sequence of events is for the judiciary to first determine "what the law is"; and then, for Congress to amend the law if it believes such action is necessary.

2. The equitable concerns raised by the termination of a retired officer's pay under 18 U.S.C. 2071(b) are best addressed through general legislation

a. All persons subject to the forfeiture provision of 18 U.S.C. 2071(b) should be treated in an equitable manner

Colonel North's conviction under section 2071(b) is unique and presents a number of questions of first impression: first, whether a retired military officer holds an office within the meaning of section 2071(b); second, whether the public interest served by the forfeiture provision of section 2071(b) would be advanced by terminating the retirement pay of military officers; and third, whether the continuing responsibilities and obligations of retired military officers legitimately distinguish them as a separate class under the statute.

Chief among these questions, however, is the overall issue of equity: Is it fair to apply the forfeiture provision of section 2071(b) to retired military officers, resulting in the loss of retirement pay, even though that forfeiture provision has no application to other retired government employees? At the hearing, Senator Grassley spoke against the creation of a double standard under section 2071(b): one rule for retired military officers and another for all other persons in violation of the law.

The question of equitable treatment under section 2071(b) must be addressed. Whether or not there are valid reasons for treating retired military officers as a special class, it is clear that Congress must examine the fairness of construing the forfeiture provision in the manner proposed by GAO. In doing so, it will be important to balance Senator Grassley's concern about a double standard against the special status attributed to retired military officers under other forfeiture provisions.

Arriving at an equitable rule, or set of rules, for the forfeiture of retirement pay requires the consideration of a variety of diverse issues: To what extent does the expectation of a pension serve as an incentive for military service or civilian government employment? If the forfeiture provision of section 2071(b) were interpreted to apply to retired military officers, what impact, if any, would there be on the morale of our military personnel? Are the military services in favor of maintaining the common-law distinction between retired military officers and other retired officers? Should there be a single rule on pension forfeiture covering all civilian and military officers? If so, should disqualification from office result in pension forfeiture for all officers, or for none?

If a rule, both equitable and practical, is to be arrived at, then the appropriate congressional committees—Armed Services, Governmental Affairs and Government Operations—must apply their expertise to a study of these issues.

Once the best general rule is determined, the question of retroactivity can be decided. If a new general rule mandated the payment of pensions regardless of disqualification from office, a decision would have to be made as to whether it applied to those who have already been denied pensions because of their removal from office. Conversely, if pension forfeiture were to be imposed in all cases of disqualification, would it apply to those who have been removed from office but have retained their pensions? These questions must be resolved in a manner that will produce an equitable result for all those affected.

b. A private bill is not the best way to remedy inequities in the application of 18 U.S.C. 2071(b)

The issue of equity should be addressed by general legislation. If Congress were to determine that it is unfair to subject retired military officers to the forfeiture provision of section 2071(b), a private bill would not remedy that situation. An ambiguity in a statute, recognized to produce inequitable treatment, can be corrected only by revising that statute categorically.

Each of the constitutional scholars testifying before the committee subscribed to this view. In response to a question from Senator Grassley, Professor Shane stated:

"The concern that you raise for equity is an important consideration for Congress in passing legislation, and to my mind I would simply urge you to consider whether that isn't the strongest argument against private relief as opposed to a categorical response. If Congress enacts [a private law] and we have the misfortune of another military officer violating the exact same statute who is a graduate of West Point [as opposed to the Naval Academy] but who served in Vietnam and won the same decorations, that person would be dependent on the goodwill of Congress again to come forward and give him equal treatment by passing yet another bill. That is the problem that private legislation always poses." (Testimony of Peter Shane, October 18, 1989, at 36.)

A private law restoring Colonel North's retirement pay would not revise section 2071(b) and would do nothing to clarify whether retired military officers are covered by the forfeiture provision of the statute. Other individuals, finding themselves in identical circumstances to those now confronting Colonel North, would not be affected by a private bill.

Under the bill before the Senate now, a retired officer with a service record identical to Colonel North's would be denied his pension merely because he attended West Point instead of the Naval Academy. This would only exacerbate the existing inequity in the law—not rectify it.

In his opening remarks, Professor Hickok also indicated his preference for general legislation:

"The option of Congress expressing its own understanding of the statute strikes me as the more appropriate strategy to pursue. . . . [I]t requires the members of this committee and Congress to move beyond specific concerns of the fate of Lieutenant Colonel North so that the larger issues may be addressed, bearing in mind, of course, that Lieutenant Colonel North's future is implied by how those issues are addressed." (Testimony of Eugene Hickok, October 18, 1989, at 20.)

Should Congress determine, after further review, that application of the forfeiture provision of section 2071(b) to retired military officers is inequitable, the proper course of action lies in general legislation aimed at revising the statute as Congress deems appropriate. A private bill, in contrast, would fail to remedy any discovered flaws in the existing statute.

II. Position of Senators Thurmond, Hatch, Simpson, Grassley, Specter, and Humphrey

A. SUMMARY

It must be made clear that the Judiciary Committee had one hearing and issued a

report. There was no committee discussion and no vote on these issues.

After having held a hearing, and after having considered the legal and equitable issues raised, Congress should enact legislation to restore Colonel North's retirement pay. Members of the Senate Judiciary Committee find that the forfeiture provision of 18 U.S.C. 2071(b) was never intended to deny retired military officers their retirement pay. Therefore, the forfeiture provision of section 2071(b) does not apply to Lt. Col. Oliver North and it would be appropriate for the Senate to consider legislation to restore the retirement pay of Lieutenant Colonel North.

Because the statute in question is arguably ambiguous, as reflected by the testimony of witnesses who appeared before the committee, it is appropriate for Congress to enact remedial legislation to clarify the scope of application of the statute.

Regarding the equitable issues this case raises, regardless of how one may choose to interpret the statute, Lieutenant Colonel North served his Country honorably for over 20 years. It is simply unfair and unjust to deprive this man of the retirement pay he earned after such a brilliant and dedicated military career. Congress, if it so chooses, may, by enacting remedial legislation, clarify a statute's scope of application. However, pending enactment of any such remedial legislation in this particular case, the retirement pay of Lt. Col. Oliver North should be immediately reinstated and legislation to restore the retirement pay of Lt. Col. Oliver North should be enacted.

1. It is the opinion of members of the Senate Judiciary Committee that the type of office held by a retired military officer is not the same as that contemplated by the forfeiture provision of 18 U.S.C. 2071(b)

There is a lack of legislative history concerning the scope of application with regards to section 2071(b). The purpose of the statute is to "preserve the public records and papers from all kinds of spoliation, mutilation or destruction". The public interest served by the forfeiture provision of the statute is to ensure the security of documents by denying those convicted under the statute access to such records and papers. However, since a retired military officer is relieved of all duties upon retirement, the public purpose underlying this statute would not be served by forfeiture of the officer's commission. A retired military officer arguably holds an office with no responsibilities. In this capacity he receives a salary which is reduced to reflect his lack of responsibilities. Being an officer with reduced responsibilities, he cannot gain access to the sorts of documents protected under section 2071(b); therefore, his forfeiture of office is not necessary to securing public documents. Moreover, if a retired military officer is convicted under section 2071(b), it is unlikely that he would be called back to active military duty. Therefore, no useful purpose would be served by applying the forfeiture provision of section 2071(b) to retired military officers.

The common meaning of the term "office" connotes one who exercises significant authority under the laws of the United States. *Buckley* v. *Valeo*, 424 U.S. 1, 125–6 (1976). In determining the meaning of any act of Congress, unless the context indicates otherwise, "officer includes any person authorized by law to perform the duties of the office". 1 U.S.C. 1 (1982). According to U.S. Navy regulations, a retired military officer exercises no authority pursuant to the laws of the United States. Therefore, they should be treated similar to retired civilian officers or employees of the Federal Government, both of which, it has been determined, do not hold office for purposes of 2071(b), and, therefore are not subject to forfeiture of retirement pay based upon a conviction under 2071(b).

Based upon the above analysis, it is the opinion of members of the Senate Judiciary Committee that a retired military officer does not forfeit his retirement pay as a consequence of a conviction under 18 U.S.C. Sec. 2071(b).

2. It is the opinion of members of the Senate Judiciary Committee that the legislative intent of 18 U.S.C. 2071(b) was to apply to "officers of the United States", but that no definition of officers was provided, so that application of the forfeiture provision of this statute is ambiguous and uncertain, and analogous forfeiture provisions do not contemplate the forfeiture of a retired military officer's retirement pay

For at least the last 30 years, Congress has protected the retirement pay, once earned, of all former Federal employees, including retired military officers, from forfeiture unless they are convicted of offenses for which forfeiture of pay is expressly provided. As originally drafted, the analogous "Hiss Act", 5 U.S.C. 8311 (1954), mandated the forfeiture of retirement pay for Federal civilian employees and military officers upon the conviction of any felony. In 1961, Congress, clarified its intention that retired pay only be lost by those who commit specified offenses. Activity that would result in a conviction under section 2071(b) is not one of the offenses for which the "Hiss Act" requires a forfeiture of retired pay. Additionally, forfeiture under any of the enumerated offenses of the "Hiss Act" is self executing based upon the clear intention of Congress. Those convicted under the statute "may not be paid annuity or retired pay". Thus, a plain reading of the "Hiss Act" makes clear its scope of application. A far different conclusion would have to be reached upon examining the language of section 2071(b). Everyone agrees that section 2071(b) is ambiguous on its face. Therefore, by examining an analogous statute, it is possible to conclude that application of the forfeiture provision to retired military officers was specifically deleted by an affirmative act of Congress.

It is the opinion of members of the Senate Judiciary Committee that the legislative intent as to the scope of application of the forfeiture provision 2071(b) is arguably ambiguous. However, by reviewing an analogous statute, it can readily be determined that Congress has already spoken on this issue and, therefore, the forfeiture provision of section 2071(b) should not apply to a retired military officer. Thus, Lieutenant Colonel North should have his retirement pay reinstated. Congress, if it chooses, may seek to clarify the scope of application of secton 2071(b), however pending such an inquiry, it is the judgment of members of the Senate Judiciary Committee that the retirement pay of Lieutenant Colonel North should be immediately reinstated.

3. It is the opinion of members of the Senate Judiciary Committee that it is clearly inequitable for the forfeiture provision of section 2071(b) to be construed to apply to retired military officers when retired civilian officers and retired employees of the Federal Government are not subject to this statute because they have been deemed to no longer hold "office"

One issue discussed in committee was whether a retired military officer holds "office" for purposes of the forfeiture provision of 18 U.S.C. 2071(b). Although the statute provides no definition of "office", we can look to general legislative definitions to develop an understanding of what was most likely contemplated when 18 U.S.C. 2071(b) was drafted. Title 5 of the U.S. Code defines "officer" as one who is "engaged in the peformance of a Federal function under authority of law or an executive act". Once retired, Federal civilian office holders no longer perform any Federal function, and by definition, no longer hold "office", 5 U.S.C. 2104 (1982). Retired military officers are currently deemed to retain their status as commissioned officers. However, there is a significant difference between commissioning status and duty status. The Comptroller General defined elements of holding civil office, "the specific position must be created by law; there must be certain definitive duties imposed by law on the incumbent, and they must involve the exercise of some portion of the sovereign power", 29 Comp. Gen. 363, 366 (1950). Retired military officers exercise no authority pursuant to the laws of the United States. They are distinguished from active-duty officers and from civil office holders by the absence of duties. Therefore it is questionable, based upon the above definitions, that retired military officers would hold "office" for purposes of sec. 2071(b).

By far, the most inequitable result of construing the forfeiture provision of sec. 2071(b) to deprive retired military officers from rece[illegible]g their retirement pay, concerns the treatment of other categories of convicted felons. It is disgraceful that in accordance with a special provision of the 1988 Anti-Drug Abuse Act, convicted drug dealers who were ever employed by the Federal Government, remain eligible for retirement pay, welfare, Social Security payments, veterans benefits, public housing and other similar benefits. In addition, former members of Congress who have been convicted of felonies or ethical misconduct remain eligible to receive their retirement pensions.

As members of the Senate Judiciary Committee we believe it is an outrage and completely inequitable for a decorated combat veteran who served his country honorably for 20 years to be denied the retirement pay he earned, and yet at the same time, allow convicted drug dealers to receive Federal benefits in the form of retirement pay.

Because retired military officers have no duties, it is inequitable to single them out for unique treatment when applying the forfeiture provision of 2071(b), especially when retired civilian officers, former Federal employees, and former Congressmen are exempt from this same forfeiture provision.

4. It is the opinion of members of the Senate Judiciary Committee that while we strongly believe that the appropriate interpretation of section 2071(b) should not deny Lt. Col. Oliver North his retirement pay, it is entirely appropriate for Congress to clarify any arguably ambiguous statute with remedial legislation

The constitutional scholars who testified at the committee hearing unanimously supported the idea of Congress simply enacting remedial legislation to clarify the current ambiguity that exists regarding the scope of application of sec. 2071(b). When asked by Chairman Biden if there was any dispute as to Congress' ability to enact remedial legislation, the constitutional scholars replied:

Mr. HICKOK. Not as far as I'm concerned. I think you have that authority.

The CHAIRMAN. Professor Shane?

Mr. SHANE. I wouldn't see any problem with that sort of categorical legislation.

It is our recommendation that if Congress chooses to clarify section 2071(b), that it explicitly state that the retirement pay of retired regular officers of the armed forces of the United States shall not be forfeited under section 2071(b). Again quoting Professor Shane:

"It is one thing for this Congress to express its intent. I mean, if this Congress intends that retired military officers not lose their pay under 2071, it is, of course, perfectly entitled to express that intent through a statute. There is no disagreement between us on that."

There is a need to determine the intent of Congress with regard to the treatment retired military officers under this statute. Law making is the responsibility of this institution. Although the judicial branch has authority to interpret the law, how could a judge be better qualified to determine the will of Congress than Congress itself? It is important for the Congress to settle this issue, not just because of Lieutenant Colonel North, but because it is Congress' duty to write the laws, establish policy, and clarify any ambiguity in the law.

5. It is the opinion of members of the Judiciary Committee that regardless of the opinion reached by the general counsel of the General Accounting Office it is appropriate for Congress to enact remedial legislation to clarify an ambiguous statute

The General Counsel of the General Accounting Office reviewed section 2071(b) and takes the position that if retired military officers were not intended to be included within the forfeiture provision, that Congress would have specifically exempted them. This conclusion was adopted from a statement made in a preliminary memo drafted by the General Counsel of the Navy. The General Counsel of the Navy never took a position in this memo, but simply requested a decision from the General Accounting Office and discussed some of the possible legal conclusions either side could draw. At the October 18th hearing, the General Counsel of the Navy supported the conclusions of the Judge Advocate General of the Navy who without qualification asserted that a conviction under 2071(b) does not operate to deny a retired military officer his retirement pay. Therefore, the G.A.O. is left with the dilemma of having adopted a position that has since been refuted by its author.

An examination of the position paper of the G.A.O. reveals acknowledgements that "retired officers have no official duties and therefore there is no reason to include them within the scope of the forfeiture provision of section 2071(b) and similar statutes". The General Counsel of the G.A.O. then further admits: "A reading of subsection 2071(b) that requires retired regular officers who violate it to forfeit their retired pay but imposes no such requirement on retired reservists or civilians is sufficiently anomalous to raise doubts as to whether Congress intended that result".

The General Counsel of the G.A.O. concedes that at the very least the statute in question is ambiguous. It is a long established rule of statutory construction that penal statutes should be strictly construed against the government and in favor of the persons on whom the penalties are sought to be imposed. The rule rests on the concern that expansive interpretation of the statutes might lead to penalties not intended by the authors of the legislation. It is a means of ensuring fairness to all persons subjected to the laws of the United States by requiring statutes to give a clear and unequivocal warning to all persons concerning actions that would expose them to liability for penalties. Employing such a strict standard, in our opinion, would mean that retired regular officers of the military would not be subject to forfeiture of their retirement pay absent clear language to that effect in the statute.

In light of the fact that the G.A.O. in its own position paper readily admits its unsure as to whether section 2071(b) applies to retired military officers, it is the opinion of members of the Judiciary Committee that remedial legislation to clarify the scope of application of section 2071(b) is certainly warranted.

6. It is the opinion of members of the Judiciary Committee that pending the enactment of remedial legislation to clarify the ambiguity contained within section 2071(b), it is appropriate for Congress to immediately enact legislation to restore Lt. Col. North's retirement pay

If Congress so chooses, it may pass special legislation that would exempt Lt. Col. Oliver North from that aspect of section 2071(b) that has been implied by some to require him to forfeit a retirement pay which he earned. There is much precedent for this kind of legislation. According to Professor Hickok:

"There is a rich history of Congress reacting to previous decisions either by courts or Congress itself in trying to provide compensation for the victims of bad laws.

"In the early 1800s Congress looked at the alien and sedition laws which it had passed which limited severely freedom of speech; looked at those laws, realized they were a mistake, and passed legislation compensating specific individuals who had been found guilty and had been punished based on those laws.

"So Congress has the power to do it, the authority to do it. It doesn't exercise it frequently primarily because I think Congress does a pretty decent job of writing statutes that aren't that vague. But at times it needs to, and this might be one of those times."

As previously stated, although it is our position that section 2071(b) does not apply to retired military officers and therefore would not apply to Lt. Col. Oliver North, pending the enactment of remedial legislation to clarify the statute, it is entirely appropriate for Congress to enact legislation to restore Lieutenant Colonel North's retirement pay.

III. ADDITIONAL VIEWS OF SENATOR STROM THURMOND

On May 4, 1989, Lt. Col. Oliver North was convicted of destroying government documents. On July 5, 1989, Lieutenant Colonel North was sentenced to perform 1,200 hours of community service and pay a fine of $150,000. The statute under which Lieutenant Colonel North was convicted contains a provision that some argue should operate to deny a retired military officer his pension. The Senate recently passed legislation which requires the Judiciary Committee to hold a hearing and report back its findings as to whether the statute in question was intended to apply to retired military officers and whether Lieutenant Colonel North is deserving of his retirement pay.

Regarding the specific statute in question, section 2071(b) of Title 18 of the U.S. Code, provides in part that "whoever willfully and unlawfully destroys a government document . . . shall forfeit his office and be disqualified from holding any office under the United States". Some conclude that based upon the language of this statute, Lt. Col. Oliver North and his family should be denied his retirement pay and medical benefits. I disagree with this conclusion. However, this is a case of first impression as to whether Lieutenant Colonel North "holds office" as originally contemplated by this particular statute.

I have carefully reviewed the statute in question along with interpretations of it by appropriate government attorneys. The report issued by the Judge Advocate General of the United States Navy concludes that the type of office held by a retired naval officer, such as that held by Lieutenant Colonel North, is not the same as that contemplated by the forfeiture provision of section 2071(b). The Judge Advocate General went on to affirmatively rule that a retired officer convicted of an offense under this statute does not forfeit his commission, nor does he lose his retirement pay as a consequence of a conviction under this statute. After a review of the statute in question, I support the opinion of the Judge Advocate General of the Navy, an opinion shared by the General Counsel of the Navy, that section 2071(b) does not apply to retired military officers and therefore does not apply to Lt. Col. Oliver North.

As drafted, some take the position that section 2071(b) is ambiguous on its face. The legislative history does not indicate what Congress intended by the phrase "office under the United States". While I strongly believe that the appropriate interpretation should not deny Lieutenant Colonel North his pension, it is appropriate for Congress to clarify any ambiguous statute with remedial legislation. However, pending clarification of this statute, it is clearly unfair to deny this man his retirement—a retirement he earned after 20 years of dedicated service to this country.

In closing, regardless of how one chooses to interpret the statute, the bottom line is that Lt. Col. Oliver North served his country honorably for over 20 years. Lieutenant Colonel North was an outstanding member of our Armed Forces. He participated in over 70 combat actions earning the Silver Star, the Bronze Star for bravery, and two Purple Heart commendations for injuries sustained in combat, various Navy commendation medals, and the Vietnamese Cross of Gallantry with Silver Stars. It is simply unfair and unjust to deprive this man of the

retirement pay he earned after such a brilliant military career.

IV. ADDITIONAL VIEWS OF SENATOR ORRIN G. HATCH

I believe it is clear, as a matter of law, that Lt. Col. Oliver North (ret.) should receive the pension to which his 20 years of service to our Nation entitle him. After reviewing the reports in this matter and hearing the testimony of witnesses at the hearing of October 18, I am convinced that the basis on which the General Accounting Office has determined that Colonel North was not entitled to his pension is plainly insufficient. The better view, and only logically defensible position under the applicable law, is that initially reached by the Department of the Navy: Colonel North's pension should be reinstated.

No Federal statute exists saying that a military pension is to be forfeited upon conviction of any crime for which North has been found guilty. However, some have argued that 18 U.S.C. sec. 2071(b), which provides that anyone convicted of destroying government documents in his possession shall be prohibited from holding "any office under the United States," is a lawful basis for denying him his pension. Colonel North does stand convicted of violating that statute, but there is nothing in the phrase "office under the United States" which implies that forfeiture of an earned pension, or retirement pay of any kind, is a penalty for violating section 2071(b).

If Congress had intended to require forfeiture of a pension as a penalty for violating section 2071, it is logical to ask why Congress did not use language relating to "retired pay," "pension," or, perhaps, "retirement benefits." That has been the custom of Congress whenever it has statutorily enacted a forfeiture of a government pension in the past.

There are nearly 40 offenses under the Federal code for conviction of which it is clear that the defendant will forfeit his pension. Those offenses are listed in section 8312 of title 5—the so-called Hiss Act. Oliver North was convicted of none of those offenses. It is possible to state that persons convicted of the offenses enumerated in section 8312 will lose their pensions because that section states that the convicted individuals "may not be paid annuity or retired pay." The Hiss Act does not say that those persons shall forfeit their "office."

When Congress wants to deny someone his or her pension, it knows how to do it. It passes a statute that says don't pay this category of individual his or her retirement pay. It doesn't deny someone a well-earned pension by the circuitous route of saying this person shall forfeit his or her "office" and hope that those administering the law can somehow read between the lines and decide that when Congress said "office" it actually meant to say "retirement pay."

No witness cited any case in which section 2071's prohibition on retention of Federal "office" has ever been interpreted to require a forfeiture of retirement pay. Nor has the committee's attention been drawn to any other provision of Federal law in which Congress has established a pension forfeiture provision through use of the phrase "office under the United States." It is clear, instead, that a special rule designed for the sole purpose of denying Oliver North his pension was applied in this case without a single past precedent for such application.

The basic legal principles involved in this case are straightforward and point to only one conclusion:

First, all agree that the plain language of section 2071(b) is insufficient, without additional interpretation, to resolve this issue.

Second, all the witnesses agreed that no case interpreting 18 U.S.C. section 2071(b) has ever said that the word "office" does or does not include pension or retirement pay of any sort.

Third, the well-established rule of statutory construction that criminal statutes and laws imposing fines or penalties have to be strictly construed—with all ambiguities resolved in favor of the defendant and against punishment—must be applied in this case, because 18 U.S.C. sec. 2071(b) imposes criminal penalties. (See e.g., *Dowling* v. *United States*, 473 U.S. 207, 214 (1985).)

From these principles, the conclusion ineluctably follows that Oliver North is entitled to his pension until some case or other positive statement of law says that he is not. It should not be his duty to go to court to resolve this controversy, especially where the law is so clearly in his favor. He is entitled, as are all criminal defendants, to have the laws setting the punishment for his offense strictly construed in his favor. Any ambiguity—and everyone arguing for withholding the pension concedes ambiguity—must be resolved in his favor.

The bill referred to this committee, originally introduced on August 4, 1989, as Amendment No. 694 (Cong. Rec. S10118) by Senator Helms, would effectively restore Colonel North's pension. The arguments heard in committee questioning not the wisdom but the constitutional power of the Senate to pass such a bill were based on no authority and are clearly contradicted by the congressional tradition of passing private relief bills, or other bills of a limited nature, where it is necessary to do justice. This is such a case.

Even if the law were not so clearly in Colonel North's favor, I believe that Congress would want seriously to consider righting the wrong that would result from denying this soldier his well-earned pension. Colonel North is a graduate of the U.S. Naval Academy. In 1968, he was commissioned a Second Lieutenant in the U.S. Marine Corps. He was immediately sent with the Third Marine Division to Vietnam, where he saw combat in more than 70 actions. While serving in Vietnam, and during the next 20 years of his distinguished service in the Marines, he was awarded numerous citations, including the Purple Heart Medal (twice), the Navy Commendation Medal with Combat "V" (three times), and the Silver Star—the second highest medal which our Nation can bestow.

Can there be any doubt that this soldier has earned his pension?

V. ADDITIONAL VIEWS OF SENATOR CHARLES E. GRASSLEY, COMMITTEE ON THE JUDICIARY, ON 18 U.S.C. 2071(b)

On October 18, 1989, the Senate Judiciary Committee conducted a hearing concerning title 18 U.S.C. section 2071(b). The committee was ordered to report[1] back to the Senate by November 1.

This report was directed to contain the following determinations:

1. Whether the legislative intent of 18 U.S.C. 2071(b) was to require the forfeiture and disqualification from "office under the United States" to apply to officers, both active and retired, in the Armed Forces;

2. Whether the legislative intent of 18 U.S.C. 2071(b) was to deprive persons convicted under this section from receipt of their Federal pensions;

3. Whether 18 U.S.C. 2071(b) applies to other retired Government employees, and if not, whether such is equitable;

4. Whether action on any remedial legislation for Lt. Col. Oliver North, relating to the denial of his pension as a result of his conviction under 18 U.S.C. 2071(b) is appropriate in lieu of litigation, or whether it is preferable for this issue to be determined in the courts;

5. Whether remedial legislation for Lt. Col. Oliver North is warranted under the application of 18 U.S.C. 2071(b), considering the opinion of the General Counsel of the General Accounting Office dated July 31, 1989;

6. Whether any other legislation relating to the application of 18 U.S.C. 2071(b) is appropriate.

It is important to understand that our hearing was not held to relitigate the case against Colonel North. Similarly, the purpose of this inquiry was not to debate political issues or foreign policy.

Rather, this issue addresses questions of legislative history and statutory intent. Further, we also must decide whether the statute is ambiguous and if so, whether Congress should clarify the statute's ambiguous language.

I appreciate the sentiment against awarding a pension to one convicted of a Federal crime, but again, the issue is what the statute intends, not that Oliver North was convicted and must pay for his crime. North has been convicted and sentenced. However, if 18 U.S.C. 2071(b) is not in fact a pension forfeiture provision, then to interpret it to take away Colonel North's pension just because some believe he deserves a harsher punishment is entirely inappropriate.

Title 18 U.S.C. 2071(b) provides:

"Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined not more than $2,000 or imprisoned not more than three years, or both; and *shall forfeit his office and be disqualified from holding any office under the United States.*" (emphasis added)

The fact is that there is little legislative history on this provision. There are no cases on point; this is a case of first impression. Furthermore, analysis of this statute reveals it is ambiguous and needs clarification. In my judgment, Congress should—while it has the opportunity—clarify the law.

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[1] The so-called "majority report" devotes nearly its entire discussion to a criticism of a "private relief" bill for Lt. Col. Oliver North. Of course, private relief is one of a range of possible options.

First, I note that inasmuch as the committee never has publicly taken a position on this matter, it is presumptuous for any report to be styled as "majority" views. The committee's business ought to be done in public, yet no votes on private relief or any other bills were taken before this report was issued.

Second, the report is of only marginal utility to the full Senate because of its evasive treatment of the critical issue facing us: How to resolve the acknowledged ambiguity of 18 U.S.C. 2071(b). Indeed, the "majority report" makes the unusual suggestion that Congress—when faced with an ambiguous statute—should stand aside and allow the judiciary to speculate on legislative intent from the laws barren history. I strain to imagine another instance where this committee has so willfully abdicated its legislative responsibility in favor of deferring to a court's redrafting of the law.

I. THE FORFEITURE PROVISION OF 18 U.S.C. 2071(b) IS UNCLEAR

This matter turns upon the definition of the term "office" as used in the statute. The statute does not affect the "office" status of those who commit the same crime under 2071(b) but are either retired reserve or retired civilian officers. This is true because, according to the Navy Judge Advocate General, neither retired reserve nor retired civilian officers are considered to hold office under the United States when they retire; they canot be involuntarily recalled to serve as can retired regular officers.

The Attorney General formally expressed the opinion that the purpose of forfeiture provisions like the one in 2071(b) is not punishment, but rather protection of the public from any further misconduct. 38 Op. Atty. Gen. (1936). According to the Attorney General, the statute is designed to ensure that a person who violates the statute no longer will have access to Government documents and information.

Accordingly, the statute serves the important public policy of protecting Government information. Retired regular officers are dissimilar to retired reserve and civilian officers because only retired officers may be recalled to service (and thus exposed to Government information), while retired reservists and civilians cannot. This is why retired regular officers may be treated differently under the law.

However, there is no public policy reason to explain why retired regular and retired reserve officers would not be similarly situated for purposes of entitlement to Federal pensions. There is no reasonable explanation to justify forfeiture of pensions for retired regular officers, but not retired reserve and civilian officers. Even the General Accounting Office, in a letter dated July 31, 1989, from James Hinchman, GAO General Counsel, to Lawrence Lamade, General Counsel, Department of the Navy, concedes that "a reading of subsection 2071(b) that requires retired regular officers who violate [the section] to forefeit their retired pay but imposes no such requirement on retired reservists or civilians is sufficiently anomalous to raise doubts as to whether Congress intended that result."

The GAO concludes in their letter of July 31, that Colonel North, holds an office "at least for some purposes." Significantly, however, GAO states that this conclusion "does not answer the question of whether a retired regular officer holds an office within the meaning of subsection 2071(b)."

Nonetheless, GAO states that retired regular officers are still considered to be in military service. The pension they receive is not for prior service, but is reduced pay in return for reduction responsibilities and obligations, including possible recall. For this reason, GAO finds it unlikely that a retired regular officer convicted under section 2071(b) could thereafter exercise any responsibilities as an officer of the United States and "certainly the officer could not be recalled to active duty." Because GAO claims that a retired regular officer's pay cannot be separated from these responsibilities and obligations it recommended that the Department of the Navy suspend Colonel North's earned pension pending litigation of this case.

GAO's view, however, is problematic. Accepting GAO's literal interpretation of 2071(b), (that when regular military officers retire they take their "office" with them), may create constitutional problems, because a retired regular officer could not hold a congressional office without violating Article I, section 6 of the United States Constitution. Article I, section 6 states in part:

"* * * no Person holding any Office under the United States, shall be a Member of either House during his continuance in Office."

There are a number of current members of Congress, from both parties, who are retired regular officers. If the GAO's interpretation is followed, will we next consider a private relief bill for some of our colleagues who have served this Congress? Such unanswered questions underscore the ambiguity of the statute.

II. FAIRNESS WEIGHS IN FAVOR OF REMEDIAL LEGISLATION

At the hearing, we heard testimony from Professors Peter M. Shane and Eugene W. Hickok, Jr., both of whom agreed that a constitutionally sound statute could be enacted that amends section 2071(b) and applies retroactively to reinstate Colonel North's pension.

For example, Professor Shane testified:

"That Congress was alerted to the issue by the North case is not itself constitutionally objectionable . . . If Congress amended section 2071(b) in a general way, Lieutenant Colonel North would not be the beneficiary of private legislation in a thin disguise; he would instead be one of a possible class of beneficiaries created by a categorical change in the laws of the United States."

Professor Hickok spoke to the unfairness of a change in the accepted rules of statutory construction in this case:

"It has long been an established rule that penal statutes should be strictly construed against the government and in favor of the persons on whom the penalties are sought to be imposed. This rule rests on the concern that expansive interpretation of the statutes might lead to penalties not intended by the authors of the legislation."

To strictly construe an ambiguous statute against a criminal defendant would be doubly unfair.

Moreover, in our public law, this case serves to illustrate yet another double-standard. At this moment there are former members of Congress convicted of such felonies as bribery and conspiracy, but still receiving pensions. The Washington Post reported in December 1980, that former Representative Frank Thompson, convicted of bribery in the ABSCAM investigation, receives an estimated $48,530-a-year government pension.

Former Representative Charles Diggs, convicted in 1978 for payroll kickbacks, was awarded his $38,232-a-year pension even though at the time he owed the United States treasury $40,000. Former Representative John Jenrette, also convicted of a felony, will receive his pension for the 6 years he spent in office during which he committed bribery. There are other examples.

These members of Congress, and others, have violated the public trust yet still receive their Federal pensions. In addition, these convicted former members enjoy such benefits as floor privileges, and use of the members' gym, barber shop, library, dining room, and parking lot.

III. RECOMMENDATION: CONGRESS SHOULD CLARIFY 2071(b) SO THAT RETIREMENT PAY NOT BE SUBJECT TO FORFEITURE

Because Congress has created an ambiguous statute, it is obliged to clarify the terms. It is Congress' role to legislate and it is therefore wholly improper to pass the buck to the judicary to imagine congressional intent. To abdicate our duty is not prudent as a constitutional matter or as a policy matter.

Professor Hickok recommends that Congress explicitly state that the retirement pay of retired regular officers of the armed forces of the United States shall not be forfeited [by operation of] section 2071(b). This amendment would in his words "clarify the law by moving it in the direction I think was probably intended by those who supported it initially."

For all of the above reasons, I agree with Professor Hickok and urge my colleagues to clarify the meaning of 18 U.S.C. 2071(b), and to apply it to the case currently before us.

VI. ADDITIONAL VIEWS OF SENATOR HUMPHREY

While I agree with many of the points raised in the views of Senator Thurmond, I would stress the following key points in assessing the issues raised by the termination of Lt. Col. Oliver North's retirement pay.

It is not at all clear that the applicable provisions of 18 U.S.C. Section 2071(b) require the termination of retirement-pay in the case of a retired military officer. Nothing in the language of the statute or the legislative history dictates that result, and the Judge Advocate General of the Navy has expressed the view that the statute does not operate to deny a retired military officer his retirement pay. The forfeiture provision of section 2071 is mainly concerned with excluding persons convicted under that statute from positions of government responsibility, to assure against recurrence of the practices covered by the statute. Its purpose is remedial, not punitive.

Accordingly, it seems inequitable and arbitrary to apply this ambiguous provision to deprive Colonel North of retirement pay he earned by virtue of his long years of dedicated and courageous service in the U.S. Marine Corps. Such a result is unnecessary and irrelevant to the statute's objective. Moreover, it results in disparate treatment in the case of retired military officers—since retired civilian government officers are not subject to section 2071 and would not forfeit their retirement pay under these very circumstances.

It is also significant that section 2071 is a criminal provision, and it is a well-stated principle of law that such provisions must be strictly construed—i.e., ambiguous provisions should be construed in favor of the defendant. Since all concede that section 2071 is at best ambiguous, and since there is no legislative history indicating that Congress intended it to result in forfeiture of retirement pay in the case of a retired military officer, the most basic legal principles indicate that section 2071 does not require the forfeiture of Colonel North's retirement pay.

However, Colonel North's retirement pay has been officially withheld and there is no indication that it is likely to be restored by executive or administrative action at this time. Consequently, the Judiciary Committee has been asked for its opinion as to whether the matter would be better resolved by clarifying legislation or by having the matter resolved by the courts. Under the circumstances, the prospect of protracted and costly litigation appears to be a questionable method of resolving the matter. Since the courts would be presented with an ambiguous statute which lacks any significant clarifying legislative history on the issue in question, the courts would ultimate-

ly be faced with the same policy questions which Congress would address in considering clarifying legislation. Such policy questions are better resolved by Congress.

Mr. HEFLIN. Mr. President, I am an original cosponsor of Senator HELMS' original bill, and I ask unanimous consent I be made an original cosponsor of the modified bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. I would suggest we look at this from the viewpoint of Colonel North's case. There were 12 counts in the indictment. He was found not guilty of nine and was convicted on three. The only one in which the question of forfeiture of office applies is the matter dealing with the shredding of documents.

None of the 11 others that he was indicted on had that language. It was rather an unusual situation. It was not that the court ordered that he would lose his pension, but it was because of certain language.

The language does not say that you lose your pension. The Judge Advocate of the Navy, in an original preliminary determination, held that that language did not mean that he lost his pension. There was a GAO study of this that came back saying it would apply and that the matter was largely for the courts.

But I think, in this particular instance, we ought to act and we ought to act as the Senator from North Carolina [Senator HELMS] has modified his agreement, make it apply across the board. During the hearings I made that suggestion and asked questions pertaining to that, of some of the law professors who were there and testified.

So, I think we are on the right track. I think it should be done on a generic basis. I certainly have no objection to it being labeled the Oliver North resolution, or any other language like that, that might be applied.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina.

Mr. HELMS. I will yield 1 minute to the distinguished Senator from Hawaii, and longer than that if he needs it.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 1 minute.

Mr. INOUYE. I thank my dear friend from North Carolina.

I will support this measure. I will vote for this measure because equity dictates that this U.S. Senate support this collective bill. And I thank the Senator for this time.

May I be added as a cosponsor?

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from Hawaii be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield 15 minutes to the distinguished Senator from Utah [Mr. HATCH].

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my friend from North Carolina, and I want to compliment him for bringing this issue to a head. I am happy to see that a lot of people are moving toward doing what is just and equitable, especially the leading people in the Senate who actually were on the Iran-Contra Committee.

I have to take issue with the chairman of the Judiciary Committee in his legal research on this matter. He said the Congress has never acted to rescind criminal penalties in specific cases, if I heard him right.

I would draw his attention to the laws which Congress passed under President Jefferson to repeal the infamous Alien and Sedition Acts. In so doing, Congress also, by specific, private legislation, rescinded the convictions that had already been entered under the Alien and Sedition Acts.

So, just as Congress did justice then by private relief, it may do so today. I do, however, agree with the general nature of the approach that the distinguished Senator from Delaware has suggested and that the distinguished Senator from North Carolina has gone along with, making it a generic bill so that everybody similarly situated will be treated fairly in this matter. I would point out, however, that the proviso we enact today to clarify that 18 U.S.C. 2071(b) does not require the forfeiture of any serviceman's pension should not be construed as implying that nonmilitary personnel do lose their pension upon conviction of 18 U.S.C. § 2071(b). I will later in remarks demonstrate conclusively that there is no legal basis for withholding anyone's pension on the basis of section 2071(b) alone.

I think it is also appropriate, Mr. President, to consider the circumstances of Oliver North's case. He is a graduate of the U.S. Naval Academy. In 1968, he was commissioned a second lieutenant in the U.S. Marine Corps. He was immediately sent with the Third Marine Division to Vietnam, where he saw combat in more than 70 actions, as has been mentioned. While serving in Vietnam, and during the next 20 years of his distinguished service in the Marines, Colonel North was awarded the following citations:

The Republic of Vietnam Campaign Medal;

The Vietnamese Gallantry Cross Unit Citation with Palm;

The Vietnamese Cross of Gallantry with Silver Star;

The Sea Service Deployment Ribbon;

The Vietnam Service Medal with Silver Star;

The National Defense Service Medal;

The Meritorious Unit Citation;

The Navy Unit Citation;

The Combat Action Ribbon;

The Meritorious Service Medal;

The Navy Achievement Medal (twice);

The Purple Heart Medal (twice);

The Navy Commendation Medal with Combat "V" (three times);

The Defense Meritorious Service Medal, and

The Silver Star—the second highest medal which our Nation can bestow upon any hero.

Is there any doubt that this soldier has earned his pension? Mr. President, I think it is important that we take time not only to speak on behalf of Oliver North, but to make it clear how wrong the GAO and others who have argued against this pension have been in their legal assumptions.

Like millions of Americans, Mr. President, I was surprised and, frankly, angered last summer when the first reports came out that Col. Oliver North might not receive the pension to which his 20 years of service to our Nation entitles him. How, I asked, was it possible for such an inflexible and unjust law to be on our books? When, however, I heard the testimony presented in the Judiciary Committee on this subject, and had a chance to examine the basis on which the General Accounting Office had determined that Colonel North was not entitled to his pension, my surprise turned to indignation.

No Federal statute exists saying a military pension is to be forfeited upon conviction of any crime for which North has been found guilty. By now, many are familiar with 18 U.S.C. 2071(b), which provides that anyone convicted of destroying Government documents in his possession shall be prohibited from holding "any office under the United States." That statute was much talked about in the media in the early summer when the outlandish claim was made that Colonel North could never serve in the U.S. Congress—as if a statute could alter the constitutional requirements for service in Congress. What was the basis for that preposterous claim? The sole basis was the groundless argument that the phrase "any office under the United States" included service in Congress. It does not, and I do not hear anyone advancing that argument anymore. They know it is a false argument.

But now we see that simple phrase "any office under the United States" being wielded against Oliver North again. This time we are told that

"office" means "retired pay." Why, one wonders, wasn't the phrase "retired pay" or "pension" used to signify pension? That has been the custom of Congress whenever we have statutorily enacted a forfeiture of a government pension in the past.

There are nearly 40 offenses under the Federal code for conviction of which it is clear that the defendant will forfeit his pension.

The distinguished Senator from Georgia enumerated some of the instances where real heroes can forfeit their pension, one of which is espionage. None of these apply to Oliver North.

Those offenses are listed in section 8312 of title 5—the so-called Hiss Act. Oliver North was convicted of none of those offenses. We know that persons convicted of the offenses enumerated in section 8312 will lose their pensions because that section states that the convicted individuals "may not be paid annuity or retired pay." It specifically says that. It does not say that those persons shall forfeit their "office."

The Hiss Act is extremely instructive for another reason. That act required that persons convicted under title 18, United States Code, sections 2381 and 2383 shall forfeit their "retired pay." But persons convicted of those two offenses have already forfeited their "offices" under the United States under the terms of those two statutes. So, clearly, forfeiture of office does not necessarily include forfeiture of retired pay or else these provisions of the Hiss Act would be either meaningless or redundant. Forfeiture of office alone is not enough to require forfeiture of pension. A statute specifically requiring forfeiture of pension is required. There is none that applies to Oliver North. So the distinguished Senator from Delaware is correct.

Thus, it is clear that when Congress wants to deny someone his or her pension, we know how to do it. We pass a statute that says do not pay this category of individual his or her retirement pay. We do not deny someone their well-earned pension by the circuitous route of saying this person shall forfeit his or her office and hope that those administering the law can somehow read between the lines and divine that when we said office we actually meant to say retirement pay.

When I heard that two Government law departments had reached different conclusions on the issue before us, I thought that the committee would therefore have the benefit of two thorough, well-reasoned legal analyses of this issue. Tht did not happen. Instead, the record developed at our hearings includes an extremely thorough, comprehensive treatment of the subject by the Navy's Judge Advocate General, which, conclusively demonstrates, through 20 pages of legal analysis, that North's pension should not be withheld in the first place.

What was there on the other side of the issue? When the general counsel of the General Accounting Office testified before the Judiciary Committee, he admitted that the question was extremely ambiguous. He expressed little confidence—and no certainty—in the correctness of his decision to deny Colonel North his pension. Instead, the principal reason cited for deciding the issue in the manner chosen was GAO's desire to err on the side of caution; specifically, to err on the side of not incurring liability for paying out a pension that might under some theory be properly withheld.

I think that a soldier, any soldier, who has served his country in the heroic manner of Oliver North deserves to have his pension paid—if there is any ambiguity about the statutory requirements, let GAO go to court and sort it out, but do not make the individual soldier fight his own Government at his expense.

The legal arguments of the Department of the Navy are extensive and detailed. I will not repeat them here. I will simply lay out what I consider to be the basic principles involved, in what seems like an open and shut case:

First, I take it as established that no case interpreting title 18, United States Code, section 2071(b) has ever said that the word "office" does or does not include pension or retirement pay of any sort. It does not appear that any other individual, except Oliver North, has had his or her pension withheld on the basis of this law.

Second, I note the well-established rule of statutory construction that criminal statutes and laws imposing fines or penalties have to be strictly construed—any ambiguity in these laws have to be resolved in favor of the defendant and against punishment. This is the so-called rule of lenity. Because 18 U.S.C. 2071(b) is part of our Nation's criminal code, this rule clearly applies here, and several witnesses at the hearings conceded its relevance.

From these two principles, I think the conclusion inevitably follows that Oliver North is entitled to his pension until some case or other positive statement of law says that he is not. It is not his duty to go to court to resolve this controversy. He is entitled, as are all criminal defendants, to have the laws setting the punishment for his offense strictly construed in his favor. Any ambiguity—and everyone arguing for withholding the pension concedes ambiguity—must be resolved in his favor.

The rule of lenity provides that "an ambiguity concerning the ambit of a criminal statute should be resolved in favor of lenity." *Huddleston* v. *United States,* 415 U.S. 814 (1974). A three-prong test for the rule's applicability is employed in the Federal courts:

> The interpretation urged by the Government must be supported by common usage, historical definition, or court decision to be upheld.

Torti v. *United States,* 249 F.2d 623, 625 (7th Cir. 1957); *U.S.* v. *Was,* 684 F.Supp. 350 (D.Conn. 1988).

That test clearly cannot be met in this case. First, no one can claim that it is common usage to speak of a pension, or retirement pay, as being included in the concept of an "office" under the United States. Common usage is, in fact, just the opposite. Article I, section 6 of the Constitution provides that:

> No person holding any office under the United States, shall be a member of either house during his continuance in office.

But it is well-known that many Members of this body are entitled to receive a military pension, and no one would suggest that this entitlement means they are holding an office under the United States.

Second, there is no dictionary definition of office that supports the conclusion drawn by the General Accounting Office. If there were, we can safely assume that such would have been cited by now.

Third, there is no court decision interpreting 18 U.S.C. 2071(b) in the manner urged by the GAO. This point was specifically conceded by James F. Hinchman, GAO general counsel, in his response to a supplemental written question of mine.

Thus, the GAO position fails all three prongs of the test for applying the rule of lenity. It is supported neither by common usage, by dictionary definition, nor by court decision. It is simply the opinion of lawyers making a guess as to the intent of the Congress.

That is, I submit, an inappropriate exercise on the part of the GAO, and it ought to be condemned. As the Supreme Court has unambiguously stated, the policy of lenity means that a Federal criminal statute will not be interpreted "so as to increase the penalty that it places on an individual when such an interpretation is based on no more than a guess as to what Congress really intended." *Bifulco* v. *United States,* 477 U.S. 381, 387 (1980).

The GAO role in a criminal matter is to enforce the specific, unambiguous penalties established by Congress. They have no greater authority to exact penalties not clearly required by law than a prosecutor, judge, or other Federal official would have.

In civil matters, the intent of Congress should be enforced, but in the application of ambiguous criminal statutes, that intent is completely irrelevant.

The GAO can only apply the plain language of the statute and must re-

solve all ambiguities in favor of leniency and against punishment.

There was no dispute as to the applicability or reach of the rule of lenity at the hearings. However, the subsequent answers of the GAO to the written questions of certain Senators have denied the rule's applicability in this case. Specifically, the attempt has been made to draw a distinction between statutory language defining criminal conduct and statutory language proscribing criminal penalties. GAO concedes that the rule of strict construction applies to the fo*** BAD MAG TAPE ***rmer, while it implies that the rule does not apply to the latter.

The rule of lenity does not turn on this distinction. The rule has always been applied to the penalties for criminal conduct as well as to the definition of that conduct. When giving the rule its classic formulation over 150 years ago, Chief Justice John Marshall specifically noted the rule's applicability to both the definition of a crime and to the penalties for its violation:

> The rule that penal laws are to be constructed strictly, is perhaps not much less old than construction itself. It is founded on the tenderness of the law for the rights of individuals; and on the plain principle that the power of punishment is vested in the legislative, not in the judicial department. It is the legislature, not the Court, which is to define a crime, and ordain its punishment. (*U.S.* v. *Wiltberger*, 17 U.S. (5 Wheat.) 76, 95 (1820)). [Reaffirmed in *Dowling* v. *U.S.*, 473 U.S. 214 (1985)]

Many other more recent cases could be cited. In 1980, the Supreme Court said it as succinctly as possible:

> [T]his principle of statutory construction applies not only to interpretations of the substantive ambit of criminal prohibitions, but also to the penalties they impose. (*Bifulco* v. *U.S.*, 447 U.S. 381, 387 (1980)).

GAO's argument has been rejected by the Supreme Court time and again.

Not surprisingly, no case cite is given, and I believe that none can be found, to support GAO's last-minute, novel claim that the rule of lenity does not apply to criminal penalties. The magnitude of GAO's error on this extremely easy legal point is somewhat disturbing, Mr. President. There are literally dozens of Supreme Court cases on point, and the Court has never varied in its consistent view on this issue.

See, for example, *Whalen* v. *United States*, 445 U.S. 684, 695, n. 10 (1980); *Ladner* v. *United States*, 358 U.S. 169, 178 (1958); *United States* v. *Batchelder*, 442 U.S. 114, 121 (1979); *Simpson* v. *Ujited States*, 435 U.S. 6, 14 (1978); *Busic* v. *United States*, 446 U.S. 398 (1980); *Adamo Wrecking Co.* v. *United States*, 434 U.S. 275 (1978); *Russello* v. *United States*, 464 U.S. 16 (1983); *United States* v. *Colbert*, 435 U.S. 371 (1978).

What are we to make of GAO's legal conclusion on the ultimate issue in this matter, when an essential premise of their argument is shown to be wholly incorrect?

Obviously, if you don't think that the rule of lenity applies, as GAO now states, then you will reach a different conclusion. But the reason why GAO believes the rule does not apply is erroneous—any law student can see that. Every witness who addressed the issue at our hearings conceded its applicability. The Supreme Court requires that the rule be applied in this case—GAO has admitted that they did not. Their legal conclusion, founded as it is on this admission of a failure to follow relevant Supreme Court holdings, must be rejected. The only permissible conclusion is that which the Judge Advocate General of the Navy reached: That no statute requires the forfeiture of Oliver North's pension.

Even if the law were not so clearly in Colonel North's favor, I believe that we should seriously consider righting the wrong that would result from denying this fine soldier his well-earned pension. Even if there were some statute that said that conviction for destruction of Government documents does require the forfeiture of a military pension, I would still say that we should consider changing that law.

But there is no such law. There is no statute that needs amending. There is simply no language anywhere in the United States Code that can reasonably be construed as requiring the forfeiture of Oliver North's pension. What purpose would be served by requiring this soldier to go to court to obtain an opinion saying no more than what we already know: That no statute clearly requires the forfeiture of the pension which North's 20 years of military service have earned for him?

The principal argument for withholding North's pension was GAO's claim that military retirement pay is not really a pension—that it is only reduced salary paid in return for the limited duties which a retired officer performs. That argument is insufficient for two reasons.

First, it is clearly contrary, I believe, to the reasonable expectations of the average serviceman. Do our soldiers in the field know that they have no pension? That their years of service will never—under the GAO's theory—result in their obtaining the same sort of pension, as of right, that persons in the private sector enjoy? I think not. In fact, the liberal pension benefits of the military have traditionally provided a strong inducement to recruitment and reenlistment.

But even if the GAO is correct that retired pay under the military is not equivalent to a pension, that fact does not dictate the conclusion that GAO draws. Even if North's retirement pay is, in part, compensation for his duties as a retired soldier, it is also, undeniably, compensation for his years of service. One doesn't receive retirement pay, after all, until a certain level of service has been completed.

So there are two aspects to the status of a retired military officer: The duties required and the pay to which he is entitled. Clearly, forfeiture of the soldier's "office under the United States" requires the termination of his duties as a retired officer, but does it require forfeiture of his retirement pay? Not necessarily, and therein lies the key to this legal question. Because it is possible to separate a retired officer's duties from the pay which is received, in part, for those duties, it is necessary, under the rule of strict construction, to do so. The GAO simply has no choice in the matter. Because it is possible to interpret this penal statute consistently with GAO's view that military retirement pay is not a pension and still permit Oliver North to keep his pay, GAO is required to do so. It matters not what they think the better interpretation of the statute is. Because GAO concedes that there are two possible interpretations, a strict construction of the statute requires that the less onerous one be followed until the law is changed.

Mr. President, we should never have had to come to this point. There should not have been any question under the rule of lenity or under the laws that exist. The distinguished Senator from North Carolina is absolutely right, as is the distinguished Senator from Delaware, although they both come from a different position with regard to Oliver North.

Let me just say that this has been a terrible injustice. GAO has done a lousy job of legal analysis. They have not looked at the law at all the way it should be looked at. And the Navy has. I think that case just had to be made here tonight, even though we seem to be coming to an accord, an agreement that Colonel North's pension just simply has to be reinstated.

Let me just conclude my remarks in this way. We will have people come on this floor tonight criticizing Oliver North. He made some serious mistakes. After 90 hours of testimony before the Senate Select Committee on Intelligence, I walked out of there saying that he made some serious mistakes. I listed five things that I felt were the broad-brush mistakes he had made. They later proved to be the mistakes that he did make. Everybody has pretty well agreed about that. I have condemned the mistakes just like everybody else.

But what I really have a problem with is the continual piling on on Oliver North, who sincerely made these mistakes and did them in what he thought was the best interests of our country.

Now, he happened to have been wrong in some of those mistakes that

he made, but his heart was right. That does not justify him, and he has paid a price for it. He has had to spend millions of dollars defending himself against a $40 million to $50 million onslaught by this special counsel run amok, who is still running wild here in this town, spending money like it is going out of style——

May I have 1 more minute?

Mr. HELMS. One more.

Mr. HATCH. Spending money like it is going out of style, continuing to oppress all of these people, when in fact they made mistakes, they have been condemned for them, and I do not see any reason to continue this.

Well, some are going to continue it, I suppose, tonight if they can. The fact is we are not here to say he did not make mistakes. We are not here to say that he has not suffered. We are not here to say that the jury was wrong.

What we are here to do is say that there is a wrong here that has to be righted, and I hope that all of my colleagues will get behind righting that wrong. It is about time we did. I hope that there will not be any more piling on tonight.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself 30 seconds, and I will do that within the short amount of time I have left, just to sort of keep the focus here, if I may.

The phrase was used "a terrible injustice." I want to make it clear the Senator from Delaware believes Oliver North has done a terrible injustice to this country, and that the soldier is not a hero; he is a felon. The soldier is a felon.

But even felons warrant equal treatment under the law, as distasteful as it may be for me and others. That is what this is about, giving a felon fair and equal treatment. That is what this issue is about.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I agree, even though Senator METZENBAUM does not agree with me, I will yield him 5 minutes, and I understand Senator BIDEN is going to yield 5 minutes.

Mr. BIDEN. That is correct, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes, chargeable to the Senator from North Carolina.

Mr. BIDEN. Mr. President, the Senator from Delaware is also prepared to yield 5 minutes as well.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes, 5 minutes to be charged against each side.

Mr. WARNER addressed the Chair.

Mr. METZENBAUM. I express my appreciation——

Mr. WARNER. Mr. President will the Senator yield for a minute? I wonder if the managers of the time might indicate the sequence of the speakers to be recognized and granted time, so that we might more properly use our time this evening in waiting.

Mr. President, I ask if the distinguished Senator from North Carolina might indicate how many Senators are waiting and what order he desires to have them speak.

The PRESIDING OFFICER. Does the Senator from North Carolina yield?

Mr. HELMS. Mr. President, I suggest the Senator and I speak formally and not take up the time of the Senator. We will work him in shortly.

Mr. METZENBAUM. I assume that that time is not charged against me.

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. I would like to express my appreciation to the managers on both sides, Sentor HELMS and Senator BIDEN, for their graciousness in making available 10 minutes.

Mr. President, last July, when Lieutenant Colonel North, after being found guilty on three felony counts, was sentenced to a 3-year suspended—suspended—sentence and 1,200 hours of community service and a fine, I said that I found the sentence remarkably lenient, and indeed it was—1,200 hours of community service and a fine for commiting a felony. Hard to believe, hard to understand.

I said I thought a tougher sentence for Colonel North would have served as a deterrent to other Government officials who might put themselves above the law.

I still feel that way. But Colonel North had his day in court, and no one can deny that he received a fair trial. The statute that Colonel North violated when he shredded public documents provides that any person so convicted "shall forfeit his office and be disqualified from holding any office under the United States."

It has long been held that a retired regular officer holds an office under the United States. Since he forfeited that office upon conviction for destroying Government documents, it follows that North would not be entitled to the pay that goes with the office of retired regular officer.

As has been stated, the Judge Advocate General for the Navy concluded that the forfeiture provision did not apply to retired regular officers, but the general counsel of the Navy decided to suspend North's retirement pay, and the general counsel for the GAO recommended the Navy continue to withhold North's retirement pay. I believe that is and was the correct decision.

Now, Colonel North can sue the Government, challenging its interpretation of the statute and then the courts can decide the issue. That is how the process should work. But now we have before us a proposal that we pass a bill that generally changes the law, that generically changes the law to make it applicable to all others in a similar position.

But let us not kid ourselves. What we are voting on tonight is the Oliver North pension bill. Call it generic, call it general, call it anything you want, but this bill has to do with Oliver North's pension.

I ask my colleagues, is this how we should treat a man who has been found guilty and convicted of lying to Congress? Should we say: That is OK. We do not mind that you lied to us and subverted our democratic process. Here is your retirement pay anyway.

I arrive at a different conclusion than the managers of the bill. I think we should not provide him with a pension. I think we can let the judicial branch resolve the question. What kind of a message do we send the American people if we pass this bill? I will guarantee you that every report that is made by the news media concerning our passage of the bill, if indeed we pass it, will talk about it as the Oliver North pension bill. It will not be considered a generic measure. It will be the Oliver North pension bill.

We send a simple message when we pass it, that the Senate has taken care of Oliver North. It has been said that Colonel North served his country with honor in wartime. I certainly do not dispute that. The record is clear. Oliver North was a hero in Vietnam, but it is equally clear that he was a felon in the White House. We may claim that there is general legislation to correct an inequity in a 40-year-old statute. But we all know what it really is. The American people know what it really is. It is the Oliver North Protection Act, as if Oliver North needed our protection.

I do not think we need to be standing here tonight and worrying about Oliver North starving if we do not take this action. The man is hardly a pauper. He has been out on the lecture circuit and continues to be out on the lecture circuit getting $25,000 an appearance. I believe we could find more pressing issues to occupy our time, issues of importance to people who cannot earn $25,000 an appearance.

Oliver North's problems are best left to the courts. The Oliver North relief measure can be called a generic measure. We can call it a general bill. But tonight we are really voting on the question of whether or not Oliver North should receive his pension. I will vote "no."

Mr. President, I yield.

Mr. WARNER. Mr. President, will the Senator from Ohio yield for a question?

Mr. METZENBAUM. I do.

Mr. BIDEN. On whose time, Mr. President, are we yielding?

The PRESIDING OFFICER. The time would be yielded on the time originally yielded to the Senator from Ohio.

Mr. WARNER. Thank you, Mr. President. I thank the managers.

Momentarily, I will discuss my views, which basically are in support of this legislation. But the Senator from Ohio categorized the service of Oliver North in the Marine Corps on active duty, particularly in Vietnam, as that of a hero; categorized or characterized his conduct in the service of the President of the United States at the White House as that of being a felon. Where in that spectre does the Senator from Ohio place his wife and children? Because tonight I think we are not addressing guilt or innocence. We are addressing a law which applies to a military family.

Mr. METZENBAUM. I have to respond to the Senator from Virginia. I have a concern about his wife and children just as I have a concern about the wives and children of every felon convicted in this country. But I believe that this man is earning $25,000 an appearance, according to published reports. I do not know anybody who paid him that, but I am certain those published reports are accurate. I do not think there is any question that there is a matter of need. I think someone will certainly argue it is a question of fairness. I respect that argument.

But I do not agree with the implication of the question from my good friend from Virginia that we need to pass this measure because otherwise Oliver North's wife and children would be impoverished. I do not think that is in accord with the facts.

Mr. WARNER. Mr. President, I thank my good friend and colleague. I shall address my answer to the question on my time.

Mr. President, each Senator tonight views his obligation, I think, in a different way. I view mine as to participate in clarifying this law, one which I had some extensive familiarity with as a former Secretary of the Navy and also to protect the families of men and women in the Service that fall within the purview of this statute.

My participation on this particular case began on the morning of May 5, 1989. As I was driving to work, I heard over the radio the following: "The Marine Corps has canceled Colonel North's retirement pension." Immediately upon arriving at my office I then dictated a letter to the Secretary of Defense stating my views as to how this was an inequity under the vague law and also would impose a penalty upon the family which I felt was unjust in a family which did not bear any of the guilt ascribed to Colonel North.

I am not here to try and judge the guilt or innocence. It seems to me that the courts have done that and the matter is still pending review by higher courts at this time.

Mr. President, I ask unanimous consent to put this printed letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ARMED SERVICES,
Washington, DC, May 5, 1989.

Hon. RICHARD B. CHENEY,
Secretary of Defense, Washington, DC.

DEAR MR. SECRETARY: This morning there were media reports that "the Marine Corps had canceled Colonel North's retirement pension."

Having followed the judicial proceedings throughout, having carefully studied the findings of the jury, and having had considerable experience as Secretary of the Navy with criminal proceedings which could impact upon retirement benefits, I questioned the accuracy of this news report.

My calls to appropriate officials in your Department and to Justice confirmed that the reports were inaccurate and that no decision has been made.

Therefore, I ask you to consider my views, which are directed only to the issue of Lieutenant Colonel North's retirement benefits. I express no opinion on the judicial proceedings as that matter is to be appealed.

The conviction of Lt. Col. North of a violation of section 2071 of title 18, United States Code, does raise a question of whether or not the "forfeiture of office" provision of that section requires-mandatorily-a termination of Lt. Col. North's military retired pay. Such a termination would also have the effect of removing Lt. Col. North's family from future contingent coverage under the Survivor Benefit Program.

During my tenure in the Navy Secretariat, I had occasion to review several cases which involved issues of whether a criminal case fell within the purview of the retirement and annuity forfeiture provisions of section 8312 of title 5, United States Code. In those cases, I took the general view that Congress had not intended that the families of convicted persons should suffer the substantial financial penalties resulting from the statute except in the most clear cut serious cases. It is rare that a wife or children bear any responsibility for the criminal culpability of the husband. There interests, I believe, must be considered.

In the case of Lt. Col. North, I hope this equitable view will be taken into consideration in determining the meaning of the "forfeiture of office" provision of 18 U.S.C. 2071. It seems to me that if Congress had intended to reach the retired pay of employees of the United States upon a conviction for violation of that statute, it would have done so directly by inclusion of section 2071 of title 18 in the list of offenses triggering the pay forfeiture provisions of 5 U.S.C. 8312. Furthermore, it seems to me a determination that the "forfeiture of office" provisions of 18 U.S.C. 2071 reach military retired pay, under some theory that receipt of retired pay is contingent upon the retiree continuing to hold an "office", would lead to the clearly unfair result of reaching military retired pay while not reaching the retired pay of a former civilian officer or employee convicted of the identical offense. In clear contrast, section 8312 of title 5 applies equally to military and civilian retirees.

Finally, I have some doubt that the Congress intended to indirectly impose upon a retiree and his family a financial penalty, which could amount to hundreds of thousands of dollars over the lifetime of the retiree and the retiree's family, when the maximum financial penalty authorized directly for conviction of the crime described by section 2071 of title 18 is $2,000.

I hope that these thoughts, arising out of my prior experiences with similar issues and with the effects such decisions can have on innocent family members, will be considered in reaching any final determination concerning the meaning of the forfeiture of office provisions of 18 U.S.C. 2071.

Sincerely,

JOHN W. WARNER.

Mr. WARNER. Mr. President, I ask unanimous consent to print in the RECORD a letter from the Comptroller General of the United States.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ARMED SERVICES,
Washington, DC, July 18, 1989.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR GENERAL BOWSHER: The General Counsel of the Navy asked for your decision under 31 U.S.C. 3529, as to whether Lieutenant Colonel Oliver North, USMC (Ret.) may continue to receive military retired pay in light of his conviction for violating 18 U.S.C. 2071(b). That title 18 section contains an automatic "forfeiture of office" provision which is triggered by conviction. The question of whether that provision encompasses the status of a retired regular military officer is apparently one of first impression.

Inasmuch as your function under 31 U.S.C. 3529 is quasi-judicial in nature, I am writing you about this issue as an *amicus curiae* in hopes that my comments may be of assistance to you in reaching your decision.

On May 5, 1989, shortly after the jury returned its verdict in the trial of Lt. Col. North, I wrote to the Secretary of Defense concerning my views about whether the "forfeiture of office" provision of 18 U.S.C. 2071(b) was designed or intended to reach the status of retired regular military officer. A copy of that letter is attached. As I indicated in that letter to Secretary Cheney, if this "forfeiture of office" provision does reach that status, it would appear to have the effect of denying Lt. Col. North military retired pay and other benefits, as well as removing Lt. Col. North's family from contingent coverage under the Survivor Benefit Program.

While serving first as Under Secretary and then as Secretary of the Navy, I had occasion to review several cases for determination of whether certain criminal convictions fell within the retirement forfeiture provisions of the so-called Hiss Act (5 U.S.C. 8312). In those cases, I took the general view that Congress had not intended for retirees and their families to suffer the substantial financial penalties resulting from that statute, except in those cases in which the criminal conviction clearly fell within the terms of the Hiss Act and in which the pur-

pose of that Act would be served. In short, except in the most clear-cut cases, equity dictated that the forfeiture provisions not be applied so as to deprive a retiree and, perhaps more importantly, the retiree's family, of earned retirement pay.

It seems to me that this equitable approach should also apply in determining the meaning of 18 U.S.C. 2071(b). Unless it is clear that Congress intended to deprive a retired military officer, such as Lt. Col. North, of all rights flowing from that status as the result of a conviction of that section of law, fairness would seem to require that the statute not be given such an interpretation. I am aware of no direct evidence that Congress had such an intent.

In fact, two other factors lead me to believe Congress did not have such an intent. First, a retired federal civilian employee clearly would not lose retired pay if convicted under 18 U.S.C. 2071(b). I do not believe Congress would seek to deny a retired military officer of retired pay while permitting a retired civilian to continue to receive such pay, when convicted of identical misconduct. Second, I do not believe Congress would have attempted to impose an incidental punishment which could amount to several hundred thousand dollars over a retiree's lifetime for violation of 18 U.S.C. 2071(b), when the maximum direct financial penalty which Congress authorized for such a violation is $2,000.

I am aware of reports that Lt. Col. North is receiving substantial income from other than military retired pay. Some might view these reports, if true, as a basis for believing that the equities do not favor the approach I suggest with respect to Lt. Col. North. However, the decision in this case will be controlling for all retired military officers and their families. I therefore do not believe that Lt. Col. North's present financial situation should be of any consequence to the question you are considering.

I hope that these thoughts, arising out of my prior experiences with similar issues, will be of assistance to you in reaching your decision in this matter.

Sincerely,

JOHN W. WARNER,
Ranking Minority Member.

Mr. WARNER. I note it was on the morning of May 5, when this news broke, that I wrote the letter. I am not going to put in the RECORD the response I got from the Department of Defense. It was not the Secretary of Defense. It was a very subordinate and junior member of the Department of Defense that replied to the letter and rather than put it in the RECORD I will save the Department of Defense the embarrassment because I was in total disagreement with the content of the reply.

I, therefore, on July 18, 1989, wrote Charles A. Bowsher, the Comptroller General of the United States, and in a fairly lengthy dissertation laid out my interpretation of the law, the congressional intent and asked that he review the matter.

As other Senators have stated now, and the RECORD reflects, the Comptroller took his views, and again I think he is incorrect. So therefore I join with others tonight to correct this inequity to clarify the law, and to provide a basis for future situations where the family will not suffer the penalties that may be visited upon the officers who are brought to justice pursuant to this particular statute. I thank the Chair and I thank the Senators. I shall vote in favor of this measure and ask to be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, the Senator's name will be added as a cosponsor.

The Chair recognizes the Senator from South Carolina for 15 minutes chargeable to the Senator from North Carolina.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. Momentarily I will yield to the distinguished Senator.

Let me say to Senator METZENBAUM that Oliver North does receive honoraria, but he is paying for his lawyers. The taxpayers of the United States put up millions of dollars, I think it was something like 50 lawyers they had on the staff and a support staff of some 75 or 80 people. The taxpayers paid for that. But Ollie North must pay for his defense. I hope the Senator from Ohio does not begrudge Ollie North his opportunity to try to pay the legal fees that he has to pay while his persecutors and prosecutors fell all over themselves with taxpayers' money.

How much time does the Senator from Iowa need?

Mr. GRASSLEY. I think 10 or 15 minutes.

Mr. HELMS. Let us go with 10. If the Senator needs more, he will get it.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 10 minutes.

Mr. GRASSLEY. Mr. President, if this issue were as simple and clear cut as the Senator from Ohio wanted us to believe, then the Senate should have voted on this issue on August 1. This issue would have been behind us. Obviously, leaders in the Senate at that time did not feel it was that clear cut. They directed the Senate Judiciary Committee to hold a hearing concerning title 18 United States Code 2071(b), which we did on October 18. It must be made clear from the very beginning that our hearing was not held, as some people in this body are trying to have us believe, to relitigate the case against Oliver North. Oliver North was convicted and sentenced. The Senator from Illinois may have left the impression that we are attempting to modify that sentence. We are not modifying that sentence. The pension was withheld as a consequence of one interpretation of the law, not as a sentence handed down by a judge.

This issue involves questions of legislative history and statutory intent. Now Congress must do its job, and not turn it over to the courts.

We have to determine whether the statute is ambiguous, and, if it is, whether Congress should clarify the statute's ambiguous language. If it is ambiguous, and it is, then we should clarify it, and not just sit back, as the Senator from Ohio implied, and let the courts clarify it or, as the committee majority report said, wait until the courts act.

There are those who say Colonel North was convicted and should not receive this pension. They say North did not receive a harsh enough sentence. But the issue is what the statute intends. If section 2071(b) is not in fact a pension forfeiture provision, then to take away Colonel North's pension, just because some believe that he deserves a harsher punishment, is unjust.

The fact is that there is little legislative history on the statute. There are no cases on point. This is a case of first impression. The entire case turns on the interpretation of the term "office."

The Attorney General formally expressed the opinion that the purpose of the forfeiture provisions, like the one in 2071(b), is not punishment, but rather, protection of the public from any further misconduct.

This public policy reason may explain why retired regular officers and retired reserve and civilian officers, are treated differently under this statute for committing the same crime. Retired regular officers are considered to take their "offices" with them when they retire. They may be recalled for involuntary service and thus become exposed to Government information and documents. Retired reserve and civilian officers do not take their offices with them.

However, there is no public policy reason to explain why retired regular and retired Reserve and civilian officers should be treated differently for pension purposes.

Further, no one can define what "office" means for purposes of this section.

We do know that there is no express language or legislative history to support the notion that 2071(b) was intended to be a pension forfeiture statute.

The General Accounting Office claims that a retired regular officer's pay cannot be separated from the responsibilities and obligations that are retained upon retirement.

However, accepting GAO's literal interpretation of 2071(b), may create constitutional problems. A retired regular officer could not hold a congressional office without violating article 1, section 6. Article 1 states:

No person holding any office under the United States, shall be a Member

of either House during his continuance in office.

There are several current Members of Congress, from both parties, who are retired regular officers. If GAO's interpretation is followed, then next we may be considering private relief bills*** BAD MAG TAPE *** for some of our colleagues.

Absent express language, penal statutes should be strictly construed against the Government and in favor of the person on whom the penalties are sought to be imposed. To strictly construe an ambiguous statute against a criminal defendant would be doubly unfair.

Moreover, this case serves to illustrate yet another doublestandard. Currently, there are former Members of Congress, convicted of such felonies as bribery and conspiracy, receiving their pensions.

The Washington Post repkrted in 1980, that former Representative Frank Thompson, convicted of conspiracy and bribery in the Abscam investigation, receives an estimated $48,530-a-year pejsion.

Fkrmer Representative Charles Diggs, convicted in 1978 for payroll kickbacks(was awarded his $38,232-a-year pejsion evej though at the same time he owed the United States treasury $40,000.

Former Representative John Jenrette, also cnnvicted of a felony(will recehve his pension, accrued durhng the 6 years he spent hn office durhng which he comiitted brhbery.

During the hearhng(the kne issue the the Department of Navy, the Judge Advocate General, the General Accounting Kffice(and Prof. Peter Shane and Eugene Hickok, could agree upon is: That title 18, U.S*C. section 2071(b) is ujclear.

Another issue of agreement was that constitutionally sound legislation could be proposed that would both clarify the amendment and retroactively reinstate Colonel North's pension.

The statute is unanimously acknowledged to be anything but clear. Nonetheless, some favored standing aside and allowing the judiciary to speculate on legislative intent from the law's barren history.

We have heard it argued at least twice by our colleagues that we ought to let the court decide this issue. I strain to imagine another instance where the Judiciary Committee has so willfully abdicated its legislative responsibility in favor of deferring to a court's redrafting of the law.

I applaud this bipartisan agreement to clarify section 2071(b), and I compliment the people who were involved in that.

Because Congress has created an ambiguous statute, Congress is obliged to clarify it. I ask unanimous consent that I be added as a cosponsor to the legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in support of legislation offered by Senator HELMS, of which I am an original cosponsor, that would restore and protect the retirement pay of Lt. Col. Oliver North.

On May 4, 1989, Lt. Col. Oliver North was convicted of destroying government documents. On July 5, 1989, Lieutenant Colonel North was sentenced to perform 1,200 hours of community service and pay a fine of $150,000. The statute under which Lieutenant Colonel North was convicted contains a provision that some argue should operate to deny a retired military officer his pension. The Senate recently passed legislation which required the Judiciary Committee to hold a hearing and report back its findings as to whether the statute in question was intended to apply to retired military officers and whether Lieutenant Colonel North is deserving of his retirement pay.

On October 18, 1989, the Judiciary Committee held a hearing on this issue. A report was then filed for full Senate consideration which expresses a divided view regarding whether Lieutenant Colonel North should be denied his retirement pay. I would like to remind all Senators there was no committee discussion of this matter and there was never a vote on this issue. Rather, all Senators on the Judiciary Committee had the opportunity to express their particular views. These views are contained in the committee report printed on October 31, 1989.

Regarding the specific statute in question, section 2071(b) of title 18 of the United States Code, provides in part that "whoever willfully and unlawfully destroys a government document * * * shall forfeit his office and be disqualified from holding any office under the United States." Some conclude that based upon the language of this statute, Lt. Col. Oliver North and his family should be denied his retirement pay and medical benefits. I strongly disagree with this conclusion.

I have carefully reviewed section 2071(b) of title 18, along with interpretations of it by appropriate government attorneys. The report issued by the Judge Advocate General of the U.S. Navy concludes that the type of office held by a retired naval officer, such as that held by Lieutenant Colonel North, is not the same as that contemplated by the forfeiture provision of section 2071(b). The Judge Advocate General went on to affirmatively rule that a retired officer convicted of an offense under this statute does not forfeit his commission, nor does he lose his retirement pay as a consequence of a conviction under this statute. After a review of the statute in question, I support the position of the Judge Advocate General of the Navy, an opinion shared by the general counsel of the Navy, that section 2071(b) does not apply to retired military officers and therefore should not deny Lt. Col. Oliver North his pension.

As drafted, some take the position that section 2071(b) is ambiguous on its face. The legislative history does not conclusively indicate what Congress intended by the phrase "office under the United States." While I strongly believe that the correct interpretation should not deny Lieutenant Colonel North his pension, it is appropriate for Congress to clarify any arguably ambiguous statute with remedial legislation. However, pending clarification of this statute, it is clearly unfair to deny this man his retirement—a retirement he earned after 20 years of dedicated service to this country.

In closing, regardless of how one chooses to interpret the statute, the bottom line is that Lieutenant Colonel North served his country honorably for over 20 years. Lieutenant Colonel North was an outstanding member of our Armed Forces. He participated in over 70 combat actions earning the Silver Star, the Bronze Star for bravery, two Purple Heart commendations for injuries sustained in combat, various Navy commendation medals, and the Vietnamese Cross of Gallantry with Silver Stars. It is simply unfair and unjust to deprive this man of the retirement pay he earned after such a brilliant military career.

He may have made some mistakes. We all do at times. But that should not deny him this retirement which he has justly earned. He met the requirements. He served over 20 years. He served in combat. He wore the uniform. He subjected his life to the enemy in time of war. In other words, he was a true patriotic citizen who served his country well, the kind of soldier who has helped to preserve freedom in this country, preserve justice for our people, and preserve the opportunities we have in this Nation.

It is my opinion that if this statute is ambiguous—and that is the only way it could be construed, if it is ambiguous to us—that we should give him the benefit of the doubt. Why not give him the benefit of the doubt? Who are you going to give the benefit of the doubt other than a soldier who spent 20 years, served in a war, subjected his life for serving his country and won all these combat ribbons and honors that he did in time of war?

It is my opinion he ought to have the benefit of any doubt, if there is any doubt. The Judge Advocate General feels he deserves it anyway. The attorney for the Navy feels that way. I say again if there is any doubt, give him the benefit of the doubt.

Mr. President, I strongly support this legislation and urge Members of the Senate to vote to restore the retirement pay of that patriotic marine, Lt. Col. Oliver North.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

Mr. HELMS. Mr. President, I yield 15 minutes to the distinguished Senator from Idaho [Mr. SYMMS].

The PRESIDING OFFICER. The Senator from Idaho is recognized for 15 minutes.

Mr. SYMMS. Mr. President, I first want to say that I think that all Senators and millions of Americans owe a debt of thanks to Senator JESSE HELMS. It took Senator HELMS and Oliver North to correct this inequity in our law. I have to say that I am quite surprised that if this law is so out of order, why it was not corrected until now?

Mr. President, my good friend from Ohio, who I see has left the floor, said a few things today that I did not agree with. But he said one thing that I did agree with him on tonight, and I want to compliment him for it. If I can quote him correctly, I believe Senator METZENBAUM said, "Make no mistake about it, this is the Ollie North pension bill."

I agree with the Senator from Ohio. This is what it is. He then went on to say he was a felon in the White House and a lot of other things and he should not have a pension.

I do not know whether the Senator from Ohio is offended because Ollie North is able to receive big speaking fees or what. I also want to comment briefly on what Senator WARNER has said. He mentioned the letter he sent to the comptroller general of the GAO. I also sent a letter to Charles Bowsher with respect to Ollie North's pension, signed by 32 Senators, both Democrats and Republicans. I am going to ask unanimous consent that it be placed in the RECORD, but I want to read one paragraph of it.

> Moreover, we believe a ruling against Lieutenant Colonel North's ability to receive his benefits would set a negative precedent for the future. Such a precedent would require other members of our military service to question whether following orders could result in the loss of their retirement benefits.

I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 19, 1989.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: We are writing with regard to the potential suspension of Lt. Colonel Oliver L. North's retirement pay pursuant to 18 U.S.C. Section 2071(b).

Recently, you received a memorandum prepared by the Judge Advocate General of the Navy attached to a letter from the Navy's General Counsel on this very matter. We understand this memorandum supported the retention of Lt. Colonel North's retirement benefits. We endorse strongly this conclusion.

Though you maintain broad discretionary authority in these matters, we believe the most important consideration is his devotion and excellent service to this country and the principles it embodies.

Moreover, we believe a ruling against Lt. Colonel North's ability to receive his benefits would set a negative precedent for the future. Such a precedent would require other members of our military service to question whether following orders could result in the loss of their retirement benefits.

We appreciate your taking our views in mind while you deliberate this important matter.

Sincerely,

Orrin G. Hatch, Strom Thurmond, Jesse Helms, Steve Symms, Malcolm Wallop, Bob Dole, Howell Heflin, Thad Cochran, Connie Mack, Phil Gramm, Richard Shelby, Pete Wilson, Al Simpson, Christopher Bond, Nancy Landon Kassebaum, Bill Roth, Jake Garn, Bob Kasten, James A. McClure, Alfonse D'Amato, Mitch McConnell, Trent Lott, Don Nickles, Fritz Hollings, Conrad Burns, Dan Coats, Jack Danforth, John McCain, John H. Chafee, Ted Stevens, John Warner, Richard G. Lugar.

Mr. SYMMS. I also would like to compliment those Senators and the Senator from Ohio who says he will vote against this because he has those strong feelings. I think that is an appropriate vote for those who think Ollie North is not deserving of a pension. They should vote their conscience.

I will be happy to yield to my friend for a question.

Mr. ARMSTRONG. I was just hoping the Senator from Idaho would yield to me for a few seconds for an observation that seems to me to fit at this point.

I do not wish to interrupt his train of thought. And I really do not wish to address the substance of the legislation.

It is clear to me others have done that well and we are going to, in a few minutes, pass this legislation as we should.

The thing I do want to echo is what he said a moment ago about complimenting the Senator from North Carolina. The fact of the matter is, this is a case where a great injustice is being done to an individual American, an American who has served our country faithfully and well. But more than that, it is a very ambiguous statute that needs to be corrected, and that is only being brought to correction because of the leadership of the Senator from North Carolina.

I just wanted to associate myself with the Senator's remarks in that respect.

Mr. SYMMS. I thank the Senator from Colorado for his observation. I might say the Senator from Idaho made an attempt to do this a few days previous to the Senator from North Carolina. With his knowledge of the rules, he was successful and I compliment him for it. My heart was with him. I was trying to do it earlier, but the Senator from North Carolina accomplished the mission. He is helping right a wrong.

However, in reading the Judiciary Committee's report, I am shocked by what seven members on the majority side concluded. As Senator GRASSLEY points out in his additional views, I quote:

> The so-called majority report devotes nearly its entire discussion to a criticism of a private relief bill for Lieutenant Colonel North.

I want to point out that this Senate, if I remember correctly, less than 2 months ago passed a bill designed specifically to benefit Dr. Elizabeth Morgan. It was specifically limited to civil contempt in child custody cases.

Moreover, the bill was made effective for convictions after January 1, 1987, over 2½ years ago, just so it would apply to Dr. Elizabeth Morgan.

So it is not wrong for this Senate to have a private relief bill, or to have specific legislation that addresses a certain person. And I compliment Senator HELMS and others, and Senator GRASSLEY, for his very ably presented minority views, and the other members of the Judiciary Committee that presented the additional views—Senator THURMOND, Senator HUMPHREY, and Senator HATCH—that I had a chance to review.

But I do think we would be remiss if we did not pass this legislation.

Mr. President, it is also appropriate that we mention the fact that Ollie North was prosecuted at the tune of over $40 million. This could have been avoided. But somehow, something has happened in this country that it is OK to leave someone dangling out in the wind.

I find it very difficult. I find it very hard to justify, in my mind, why it was that Ollie North ended up being the scapegoat along with Admiral Poindexter and others, in a case where people were doing what they believed was what the Commander in Chief wanted done. Yet they were left to hang in the wind.

It is interesting that only yesterday, and now tonight, we are hearing this case for Ollie North; that what he was trying to do was help preserve peace and freedom in Central America.

One of our colleagues mentioned earlier the spirit of the Constitution. That it was not within the spirit of the

Constitution to have a private relief bill or to have a bill that changed what it was the courts happened to decide in this case.

I believe this Senator's interpretation of the spirit of the Constitution is that the Constitution, and the Founding Fathers, and our first President, General Washington, made it very clear that we were supposed to take care of those people who defended peace and freedom and liberty and preserved the Constitution for this country.

I think this bill goes a long way toward helping take care of what has been a very clear miscarriage of justice.

Mr. President, the pertinent part of subsection 2071 states that, "A party upon conviction shall forfeit his office and be disqualified from holding any office under the United States."

What office is Oliver North holding after retirement? I think Senator HATCH spoke very eloquently on that and answered the question along with Senator GRASSLEY and Senator HELMS.

I say to my colleagues I am sorry we are not voting on the bill that our colleague, Congressman DICKINSON introduced, where it says, "Ollie North," unmistakably. But my good friend from Ohio set the record clear on this: This is a bill aimed to restore Oliver North's pension. That is the way it is going to be interpreted by the American people. There are Senators here who are going to vote for this that have made it very clear they would not vote for it if it just said it was for Oliver North.

To that, I am disappointed we cannot have a clear vote on that. Because I think the American people think that somehow down in Washington people have lost their sense of direction in the country. Why do they make such mountains out of all of these little issues that come along?

We repealed, I might say, Mr. President, the law that Ollie North was accused of violating in the first place, the so-called Boland amendment. Congress finally realized it was a bad law, and we repealed it. Yet we are still spending money to pay lawyers to try this man who was trying to carry out a mission which would have been to restore a free and democratic-elected process in Nicaragua.

The chickens are coming home to roost. I believe it was Congress, if we want to be technical about it who passed these crazy regulations that caused the whole problem in the first place. If the Congress would appropriate the money but allow the President to run the foreign policy, we probably could have avoided a lot of this.

Why the President did not make a case and veto the Boland amendment, that is another matter. But I think it is pertinent to this. And I thank you, Senator HELMS, for your efforts in what has been done here. I am glad the Senate is finally going to vote on this.

Mr. President, in addition to my letter of July 19, I would like to, just for the RECORD, have printed a statement by Brendan Sullivan, in his closing arguments before the court.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. Mr. President, I reserve the remainder of my time for Senator HELMS.

Mr. HELMS. Will the Senator yield?

Mr. SYMMS. I am happy to yield.

Mr. HELMS. First, I thank him for his comment and the statements he made.

Would the Senator consider it a fair statement that the frustration that developed with respect to Nicaragua and the Communist takeover of that country was the specific result of Congress micromanaging the constitutional function of the President of the United States; that is, to run foreign policy?

Mr. SYMMS. In my opinion, Senator, my colleague states it very well. There is no question there has been micromanagement. We even had the former Speaker of the House going down and acting as a de facto Secretary of State to make agreements. I mean, it is an absolute absurdity. It is incredible. We would not plan to manage our foreign affairs worse than the way they have been managed, with respect to Central America.

I think President Reagan had the right idea. It never got accomplished, and the case was never made to the American people. If the case were made to the American people, and if Ollie North had been allowed to go out and make the case, and if the President would have made the case the way Ollie North made it, the American people, I believe, would have understood what the real issue was.

Now what we have is an ensconced Communist government being funded by our new partners in peace, the Soviet Union, and they are now killing the people who this Congress would not support. That is exactly what is happening to the people Ollie North was trying to support and they are attacking them today with Hind helicopters and other means and weapons coming out of the Soviet camp.

Mr. HELMS. If the Senator will yield for a question, does the Senator recall the occasion on which the Congress of the United States gave the Communists in Nicaragua $75 million of the American taxpayers' money for seed money to get started? Does the Senator remember that?

Mr. SYMMS. I remember that well. As a matter of fact, the distinguished Senator from North Carolina was at that time opposed to that. I was in the other body and voted against it, as a matter of fact. That was back in 1979 or 1980, as I recall. It is true, this Congress voted $75 million for the new Communist government of Nicaragua. That is how much a bunch of saps we have been, and we are still trying to somehow engrace Daniel Ortega. I hear my colleagues trying to say, "give peace a chance," Daniel Ortega is going to be all right. There is one group of people in this world you can always trust and count on and that is Communists to be Communist. Being a Communist means you think it is OK to lie in order to accomplish a mission. If your mission is to keep a dictatorship in Nicaragua and make the United States and freedom the enemy, the best thing to do is to say to these saps from the United States, get the agreements, rearm your people, disarm the Contras, finally call out the Hind helicopters and go kill the remaining people down there who are wondering if the United States is going to help them. After while, you run out of people who are going to stand up with you.

It is so incredible. Where people get the chance, they want freedom. They want freedom because freedom works and communism brings poverty, failure, and misery to so many people. Yet our system brin*** BAD MAG TAPE ***gs an opportunity for so many people. But you get an Ollie North up there who stands up fkr it(there is no end to the vultures who will go after him and persecute him forever.

EXHIBIT 1

STATEMENT

(The following text is excerpted from Brendan V. Sullivan's final argument at the sentencing of Lt. Col. Oliver L. North, USMC (ret.) on July 5, 1989. U.S. District Court Washington, D.C.)

Oliver North stands before you today with his freedom hanging in the balance. But he arrives at this moment by traveling a very different route than most defendants. His life, unlike most defendants, has been dedicated to preserving freedom. For 20 years as a military officer he served in order to preserve our freedom, mine, yours, my kids, everyone in the room. He fought for the freedom of the Vietnamese people. He worked for the freedom of the Nicaraguan people. He worked to set hostages free. He worked in the fight against terrorism so that Americans could remain free. And as the court makes the decision about Oliver North's freedom, we ask that you give full and fair consideration to all those positive aspects of Colonel North's life, his service, the good done, the hardship, the suffering, and add to that the proper dosage of mercy and leniency which is something in our tradition judges take into consideration.

Sentencing, it seems to me, is the act of balancing, balancing the good in a man's life against the bad and I don't think there could be any better symbol of that balancing than that of the blindfolded lady holding the scales of justice. On one side is weighed the positive and on the other side is weighed the wrong, the need for punishment, the need for deterrence.

To me it all comes down to one question in this case, Your Honor, one single question on which it all turns. What is Oliver North's good life worth? What's it worth as a judge balances, using the scales of justice?

There are very powerful factors in this case which mitigate against a prison term. And if the court determines that additional punishment is necessary we ask that instead of prison a well chosen form of community service be the vehicle used, for in that way at least society can get some concrete benefit as the punishment is executed.

We start with our analysis of who is Colonel North and an understanding of him has to start with the fact that to the core he's a Marine Corps officer. It's a bizarre and strange quirk of fate that it was 26 years ago today, July 5, 1989, that he first attended the naval academy and began his education. He was later commissioned a second lieutenant and sent to the war in Vietnam.

One thing is very certain, Oliver North is a true military hero. It's undisputed by any one's definition. His heroism, his courage, the accomplishments as a Marine in battle are all well documented. I will say to the court that he himself recoils from the word hero. He rejects the concept. He never thought of himself as a hero. That he lived through the kinds of battles that a Marine officer lived through was always, according to him simply the grace of God and the fact that there were good Marines beside him.

As I got to know Ollie better and better over the years I was struck by his extreme reluctance to talk about Vietnam. I had always thought that soldiers talked about war stories, but they don't. He simply never spoke about it. In two and a half years I never heard him once mention any of his awards. I even remember being annoyed at least a dozen times during my representation when I asked him to please gather together and bring to me at my office his awards. Each request was met with unresponsiveness until I finally got annoyed at having to ask him, actually angry, and said bring them in. When they came in they were green with mildew, having been found in the basement.

The list of those awards is long and impressive: the silver star, the bronze star, the purple hearts, Navy commendation medals, Vietnamese cross of gallantry, with silver star, and on and on and on. The awards were the result of terrible battles, and the descriptions are long in detail but a few words snatched from those awards tell us an awful lot about Ollie North.

For example, "conspicuous gallantry in action . . . with complete disregard for his own safety . . . seemingly oblivious to the intense machine gunfire impacting around him . . . calmly braving the intense fire of the tenacious hostile soldiers . . . his heroic actions and vigorous efforts inspired all." Words like "heroic achievement in connection with combat operations . . . his patrol came under intense automatic weapons and machine gunfire from a numerically superior force. North boldly remained in his dangerously exposed position on top of a tank to deploy the men . . . fearlessly moved across the fireswept terrain . . . courage, leadership." Those kinds of words. Clearly he was a courageous Marine.

But an examination of his career, his awards and the letters that have been submitted to the courts show us another Ollie North, a man with something more than just mere courage. They show something not readily apparent. They show an extraordinary care and concern for others. He won his medals caring for other Marines. He always put them and his men, ahead of himself. He valued their lives more than his own. He valued their safety more than his own. This too is seen in the awards. Snatching words again. "North rapidly maneuvered his second platoon through the lines of a beleaguered unit then pinned down. He personally initiated an aggressive assault which stunned the hostile soldiers, causing them to withdraw to another hill and enabled the treatment and evacuation of Marine casualties: He resolutely refused medical attention and ignored his own painful injuries as he skillfully directed the actions of the Marines insuring that all casualties were cared for and every man in his patrol accounted for."

Among the awards I found one that indicated he had been in more than 70 combat actions. He never told me about these matters. I had to read about them in the records. He never told me about a man named William Haskell, one of the characters in the overall facts of the case. He saved Bill Haskell's life in Vietnam. I had to learn about that from Haskell. Haskell wrote to the court and told the court about that day when he was pinned down and severely wounded. And in his words, "Ollie came to the rescue in the face of an almost unbelievable barrage of enemy fire. He led the counterattack with his platoon, driving the enemy back so that the Marines could medevac their wounded." He says, "I think I know Ollie North well enough to say that his primary motivation for such heroic action was the desire to save his fellow Marines rather than just to achieve victory over the enemy," and he closes by saying "Ollie North saved my life that day."

From his company commander whom I never met until very late in the case, and who wrote to the court as well, he described North as the model Marine officer. He called him aggressive but not foolish. He wrote to you saying "foremost in North's thoughts was the welfare of his men and the accomplishment of his mission." He said that "It was North's continued willingness to set the example and place himself in harm's way that inspired his men to such loyalty, devotion and extreme courage in the face of often deadly enemy fire."

It was from that same man I had known from the records that Ollie North had received two purple hearts and therefore through the conclusion he had been wounded twice. He told the court—Ollie was wounded five times but he wouldn't report it because he was concerned that Ollie North would be sent to the United States after having been wounded three times.

After Vietnam Ollie continued to perform exceptionally well in the demanding assignments that he was given. His lifelong career goal was, as you know, to be a Marine. He was good at it. He liked it.

Interestingly, Lieutenant General Bronars wrote to the court and gave the court some further background of what we caught a glimpse of during the trial itself and that was that simply Ollie North wanted no part of the National Security Council. He wanted to be a Marine. Bronars described the Marine Corps policy that an officer spend no more than three years in any such assignment. Yet when the term was up General Bronars indicated that "an exception of the policy was reluctantly and repeatedly made at the urging and insistence of highly placed White House officials." And no doubt the court remembers the testimony of General Kelly, a man who said he was importuned by three cabinet officers to keep Ollie North at the NSC. Even though he didn't want to be at the NSC, when he got there he made extraordinary contributions.

The nature of a trial is such that we tend to look at certain steps in a man's life. We focus on them and the whole world becomes those steps or those allegations. But obviously, there's a lot more to life than what comes out of the trial. I know the court has heard me say to the jury that Ollie North's duties were divided into three segments. We always left out one mysterious segment because we couldn't talk about it, but there were two letters sent to the court which I think are important for the court to consider. Even though we can't know the details, this is one of Ollie North's significant contributions about which no allegation of wrongdoing is made and unfortunately it cannot be described. But the project, in very briefest form, was highly classified and still is today. It provided great benefit to the United States. North was responsible for the coordination of this project that began in August of 1981. The initiative required new direction and leadership. It was something that had been started in the Carter administration but had never been brought to fruition. Many were even skeptical that it could even be completed. Without North's customary energy and dedication, the project would have never gotten off the ground.

Charlie Allen, a high ranking CIA official, wrote to the court that a major vulnerability in U.S. strategic strategy has been "eliminated" by this project. He told the court that much had been written about Colonel North and his activities but nothing about this project. He said this is a project which most public officials don't know about and certainly the American people don't know about but in his opinion it was one of North's greatest contributions to his government. Mr. Allen's views were confirmed by a retired Army Lieutenant General who indicated that he, of all people in the government, was at a point where he could measure Colonel North's effectiveness regarding that very special program and he called North the architect of the project who could be credited with its success. He went so far as to say that "the project put in place in record time key mechanisms that were essential to meaningful negotiation with our allies and the Soviet Union on reducing the size of nuclear forces." Powerful benefits to society. According to General Lewis the contributions were unparalleled.

Another important contribution Ollie North made was in the area of combating terrorism. Unfortunately he's paid a severe penalty for his work in this area—the threat of assassination. Colonel North was given the NSC counterterrorist portfolio. It was his duty to develop and coordinate the plans for the whole government in the counterterrorist program. Terrorist incidents had increased in the early 1980's. There were literally hundreds of them. One in four involved Americans or American property overseas. Several created international crises. There was widespread fear on the part of Americans and government officials that they could not travel abroad without risk. Mr. Allen wrote to the court saying that "North did more than any other U.S. official to reverse the image of U.S. weakness in the face of terrorism and to develop and facilitate implementation of strong U.S. government counterterrorist policies." He chaired an interagency working group. Mr. Allen worked with Colonel North maybe more than any other official during many

months, day to day, not once in a while. He told the court that North was the central figure in coordinating government responses during major terrorist incidents.

During the TWA 847 hijacking in Beirut in 1985 North played a key role in arranging for the freeing of 39 Americans who were held by Lebanese Shi'ites. During the Achille Lauro incident in October, 1985 Colonel North was, according to Mr. Allen, indisputably the architect of the plan that led to the capture of the four terrorists who brutally murdered Leon Klinghoffer in his wheelchair aboard that ship. Allen told of supporting North directly throughout that week and can personally testify to his role in developing and implementing the plan that led to the capture of those murderers.

In April, 1989 North as a key official in developing options to respond to the Libyan sponsored bombing of the La Belle Disco in West Berlin where two American servicemen were killed. Once the presidential decision had been made to retaliate against Libya, North worked, according to Allen, at a herculean pace to assure effective coordination of the plan to strike at Colonel Quaddafi's terrorist infrastructure. Allen said that we worked day to day with North for over 22 months and there was no American official that did more to implement these policies than did Colonel North. He believes that major progress was made. For a time terrorism seemed to abate. There were fewer incidents. In his opinion as an expert on terrorism Americans felt safer and they were safer.

North was effective in his work at the NSC in the counterterrorism area and apparently his enemies thought so too. According to Mr. Allen, Colonel North's role in developing terrorist policies became known by terrorist elements throughout the world. He said it was well known before the Iran Contra hearings made Colonel North a familiar name and face.

The problem is that Colonel North paid a terrible price for his work in the counterterrorism area. He was targeted for assassination by the Abu Nidal group known as the ANO, which Mr. Allen, the expert, called the most dangerous, most capable terrorist group in the Middle East and one of the most dangerous in the world.

As you know from the trial, on April 14th 1986, the president ordered an attack on Libya. On April 15th, the very next day, North was informed about a classified operation to monitor certain elements in this country where there were thought to be plans for assassinating U.S. officials. In the immediate aftermath one U.S. official overseas was killed. And then, 11 days later, North himself was named as an assassination target by the Abu Nidal group.

You remember too, that he sought security for his family but the man who supposedly could order planes to attack and has all this power couldn't get his own security and his request was rejected by the government because he was too low in rank.

Based on his expertise, Mr. Allen also informed the court about the threat against Colonel North. He talked about who the ANO is and who its leaders are and that they've killed more than 400 people and wounded more than 500 and that they're among the most effective, and well organized, well funded organizations in the world. Its technique has been to target people and follow through effectively on their threats.

Mr. Allen also indicated that the group has the ability to strike in the United States and we know that Libya has a relationship with the ANO and has been known to support it financially.

And so the man who worked to strike back at terrorists became their target. The man who developed a plan to hurt the terrorists became hunted.

It was interesting in a strange quirk of fate that right here in courtroom number six, while Ollie North was being tried, upstairs in this very courthouse a man by the name of Fawaz Yunis, a terrorist, was being tried at the same time. Unknown to most people is the fact that he was captured as a direct result of Colonel North's intervention.

A former high ranking official of the CIA also wrote to the court and explained the danger that North still faces today. He said that when Abu Nidal's group goes after a target it does not care who or what gets in the way. In the case of a threat from Abu Nidal I can assure you that Colonel North's family was seriously in danger." Most strikingly, he says "that the danger lasts, as the Arabs do not labor under the same time consideration that we entertain. Colonel North will remain under a threat for the rest of his life. We're dealing with an Islamic principle known as Quasas, which is very similar to the idea of a vendetta.

Danger to Colonel North persisted even after he was out of the NSC. In 1987 he was again notified by the FBI of another serious threat. Libyan agents inside the United States, including some residing within 20 miles from his home, were collecting intelligence information about his travel and work habits and location. These Libyans were arrested but were released on bond and one of them disappeared and remains at large today.

North carries a terrible burden because of his work to fight terrorism. It may be that as Charlie Allen says the world is safer as a result of Colonel North's efforts but Colonel North lives with the threat and his family lives under the cloud.

We ask the court to give this factor, among others, considerable weight when determining whether Colonel North should be further punished. We ask the court to recognize that Colonel North has already sustained extraordinary and unusual punishment and that it's sufficient to balance the scale when making the balancing test. We ask the court not to require him to bear any further burden.

The last two and a half years have been torture for him and his family. Certainly no one of sound mind would choose to step into his shoes. It hasn't been a glamorous existence. Even the most casual observer would be deterred based upon Oliver North's life since November 1986. The extraordinary events of the last two and a half years have punished him enough. The litany, some of which is known to the court, starts on the day he was fired by the Attorney General of the United States on national TV. Thereafter for months when he had to remain silent to preserve his defense, he was characterized by anonymous sources as being a loose cannon on the deck of the ship of state. Everything was linked to everything that happened in government that any publisher might dare to print.

In December, 1986, he was named the primary target in the request for an independent counsel. He became the target of the longest, largest, independent counsel grand jury investigation in the history of our country. Everything he did or wrote or said was investigated. Every person he met was talked to. Since his indictment 15 months ago 26 separate independent counsel lawyers have signed pleadings in his case.

In the midst of the grand jury investigation he was compelled to testify before Congress. He fought hard to avoid that but nonetheless was compelled under the threat of jail to testify on national TV. In 1987, he was warned by the FBI about further threats against his life. He was indicted in March of 1988 destroying any chance of resuscitating his Marine Corps career. He then had to resign from the Marine Corps after 20 years of service, 40 percent disabled as a result of his service.

As he prepared to go to trial he was selected to go to trial first, not the more senior people. On the day of his conviction, like magic, the Pentagon announced that he'd be stripped of his retirement that he had earned over that 20 years. Since then they apparently have given the matter further study, and I can represent to the court that though the future is uncertain, no action one way or another has been taken as of this time.

Throughout this two an a half year period he and his family have been subjected to the grossest and most intrusive media interest perhaps of any citizen except a sitting president. The media generated literally tens of thousands of articles and pieces to which he cannot respond. News stories, magazine articles across the country and internationally. For months at a time the press camped outside his home and followed him to work and to the store and to church and the city dump. At no time has he given an interview about the case, respecting Counsel's advice that that's not the proper way in litigation. He and his family have been plagued by the unauthorized books that purport to tell in intimate detail the story of his and his wife's life, his children's lives. They've been subjected to an offensive, fictionalized TV mini-series without authority, without interviews, without permission. Just like he's some commodity that people use. Two Senators, members of the Iran Contra committee, wrote and published a book for their own benefit about North. One of the Senators within the last six months even has used Ollie North's picture on the front of his fund raising literature, showing the Senator driving him out of Washington, D.C.

North has been likened to Adolf Hitler, the worst criminal and mass murderer who ever lived. He's been compared to Tammany Hall.

His family has felt the extraordinary impact. The assassination threat has not abated. It's been exacerbated by the worldwide publicity caused by one branch of our government.

Colonel North didn't ask to become known throughout America. He was thrust upon the TV of every person in the country.

The threat eats away at a person like a cancer. It's always there. It's always haunting. You don't know whether it will ever happen or whether something will happen tomorrow or next month.

What is his loss as a result of all of this? It's loss of peace of mind. When we go out to our car and go to work, we don't think for a minute that we'll be assaulted on the way, much less killed. The loss of peace of mind. What a burden. This is an extraodinary punishment which he'll carry with him today and into the foreseeable future. It should be weighed when the court determines today what the appropriate sentence is.

What must it be like to wonder about these things? To wonder whether some group that doesn't think logically wants to even the score with America by getting Ollie North or just some deranged person who wants to get on the front page of the newspaper by attacking North.

He's suffered enough. His family has suffered enough. He's been punished enough. A prison term on the top of that would be fundamentally too harsh, too wrong. It's a time for forgiveness. It's a time to say it's over.

When the court weighs the appropriateness of its sentence certainly one of the most important things to consider is the fact that Ollie North is a good and caring person who has contributed a great deal to society and is deserving of leniency.

One of the greatest things a judge has, is the ability to be lenient, to be merciful, to balance, and to understand the circumstances.

He's really a man whose life has been focused on four traditional values.

"God." He's deeply religious, and always has been. He's active in his church. He's run out of more meetings with me so he could attend Wednesday night Bible study than anybody I know.

"His Family." He's a family man with four children, and his wife of 21 years.

"Country." We already know enough about Ollie North's relationship to his country. He's proven that he's willing to die for it.

"Service is the fourth thing." I think service to his fellow man. He's a man of extraordinary energy and intensity. He is the man who most people would choose to be with in that one life threatening time that one might encounter in life because with him there you might have a chance of surviving it. And you'd certainly know that he'd lay down his life in the effort.

The court heard many trial witnesses speak about his dedication, his unending effort to accomplish things. No one, no one could have a stronger work ethic. If anything, Ollie North took on too much and worked too hard.

Charlie Allen, who worked with him so much, characterizes him as a decent man of good will, always with the best of intentions. Always a man who loved his country. A man who worked at a breakneck pace with such intensity that all who knew him worried about his health.

Based on the trial testimony and the letters to the court could anyone dispute that in the 20 years Ollie North served the Government that in fact he worked 40 years? Didn't he at least double the normal workload by what he did. And if we're balancing today, shouldn't that be put on the scale?

George Cave, the CIA official who worked close at hand, said that "he worked tirelessly to free the hostages and to take actions which made clear to the terrorists that the U.S. would do all in its power to thwart their plans and to bring them to justice, if at all possible. His willingness to take on risky assignments bespeaks a man willing to sacrifice himself for the nation's good."

From others who have dealt with Colonel North we learn about the care and concern he has had for other people. Not just Marines on the battlefield—other people. The court received a letter from a clergyman who said that over time he had received many promises from others but never any real help. "That, I received," he says, "only from Oliver North." Adolfo Calero described North as "selfless, courageous, worked well beyond the call of duty to help the Nicaraguan freedom fighters in the most critical days when their survival was in doubt." General Bronars speaking for three former commandants of the Marine Corps said of North, "he always tried to do what was right in terms of his God, his country, his job, his family, his neighbors." His company commander in Vietnam now 20 years later told the court about his professionalism and his ability to lead Marines in combat which he said was instrumental in saving young Marines. William Haskell, whom you've heard from, 20 years later says well, what I remember best about Ollie North 20 years ago was how well he took care of the men in his platoon. And he said to the court, and I quote, "it was as though he cared more about others than he did about himself."

Some have said Ollie North cared too much. That when told to keep the freedom fighters together body and soul he cared too much. That when told to seek the release of hostages he cared too much. Maybe those are the kinds of assignments you don't give to Ollie North.

Nonetheless, caring for others is a character trait which should be weighed on this day. It's a sign of a strong and good person. You see this trait arise so many times when he comes in contact with different people.

The court heard from Peggy Say, the sister of the hostage Terry Anderson still held prisoner today. You saw how she described the many times she sat across from Oliver North's desk crying and pleading that he do something, do anything to get her brother out of captivity. She told how North could have easily turned down her requests for appointments but he never did. Sometimes pleading even reduced Ollie North to tears. She acknowledged that in all her very active work on behalf of her brother and other hostages that she can say without reservation that Ollie North cared more about the hostages than any official in Washington.

David Jacobson, the hostage who was released in November, 1986 and appeared in court told about Ollie's concern for others. On the very joyous day when Jacobson is flying home and Ollie North is in the plane, his joy is matched by North's sadness at the fact that North hasn't been able to obtain the release of the others. And Jacobson wrote to the court recently, "I am alive and free today because of Colonel North's initiative and creativity. If he had not acted, I would either be dead like Alec Collett, Peter Kilborn, or beginning my fifth year, held like a blind rabbit in a basement dungeon in Beirut. My grandchildren know me because Ollie cared, cared enough to do something while others p*** BAD MAG TAPE ***rocrastinated or were preoccupied with their careers."

Even during the last two and a half years besieged by troubles of his own and the world seemed turned upside-down he still had time to care and to help. In the Fall of 1987 after the congressional hearings but well before any indictment was returned against him, he received a call from a woman in Arkansas. The woman ran an organization which enables terminally ill children to have a dream come true before they die, and when asked for help Ollie North is incapable of refusing it. He was told by that woman of a 16 year old boy dying from cancer, having lost half his weight. She said that the boy had seen in Ollie North, on the TV at the hearings, some special strength. The dying boy wanted to meet Colonel North. Ollie, then still a Marine on active duty, took a day of leave. He flew to Arkansas. He met with the boy for an hour and a half. They talked, they prayed, they read the Bible and exchanged notes. Ollie did his best to encourage the youngster. He told him not to give up. By all reports it was a time of great joy. The boy died a week and a half later. In that situation Ollie North had the ability to help and he willingly gave of himself. He's always giving of himself.

In conclusion, I ask the court again to balance the good against the wrong. I acknowledge that on one side of the scale the court may place the wrong done, the need for pujishment and the need for deterrence* To place on North's side the positive, the 20 years of intense hard work for his country, the heroic service as a Marine, the saving of Marine hives, the work to release hostages and the risks he took. The fight against terrorism and the ever present threat of his own assassination. Also place on that side of the scale, on North's side of the scale—the pain and suffering for him and his family during what anyone has to acknowledge is an extraordinary two and a half year saga which few men in our history have had to endure. And put on Oliver North's side the fact that he's been convicted. Conviction is a punishment. It is a strong punishment. It may be the strongest punishment. Also consider the loss of his Marine Corps career which meant so much to him.

What more should society fairly demand of Oliver North? There has been enough pain, enough turmoil, enough uncertainty, and enough punishment.

Your honor, Ollie North has paid his debt to society. He's paid it in advance. Few defendants can say that. Most come before the court with a long history of trouble perhaps and they've done little or nothing for society. I suggest to the court that this may be the one in a thousand cases where a man has paid his debt to society in advance. And if the court determines that some form of additional punishment is necessary then please consider an appropriate community service.

Ollie North is far from a perfect man. He made serious mistakes. But I ask again in closing going back to the question that I think is so key here, what is a good life worth if not given full measure at this hour of need? You have before you a man who is worthy of the court's mercy, compassion, understanding and leniency. And so Oliver North, the man who fought to preserve freedom, stands here today with his freedom in jeopardy. I say to you, Your honor, he is a good man, he's brave, he's caring, he's self-sacrificing. He is a truly good man. Please do not take away his freedom. Thank you.

Mr. HARKIN. Will the Senator from Idaho yield?

Mr. SYMMS. If I have any time, and I do not know that I do.

The PRESIDING OFFICER. The time of the Senator from Idaho has expired. Who yields time?

Mr. HELMS. I yield such time as the distinguished Senator, JOHN MCCAIN, a war hero himself, may desire.

The PRESIDING OFFICER. The Senator from Arizona is recognized for up to 30 minutes.

Mr. McCAIN. The President should have no fear that I will use anywhere near that length of time. Mr. President, I would like to say at the outset, I believe honorable men and women

can disagree on this issue. I think for many of us here, and many Americans, this is a very difficult decision and one which we can honorably agree or disagree on.

I think that it might be relevant in making what for some is a very difficult decision to ask two questions. The first question is: Has Oliver North been punished? Mr. President, I believe a strong case can be made that Oliver North has already been punished to a far larger degree. I believe that the punishment, the agony, the trial, the public condemnation by his fellow citizens and sentence of guilt has been a punishment that would far exceed any deprivation or awarding of a pension. Those who spend their lives, as Oliver North had, in the service of his country, are far more concerned about, frankly, the only thing that we take into this world and we leave this world with, and that is our reputations.

There is nothing more agonizing for a person than to have his character and his integrity and his motives not only impugned but, in Oliver North's case, destroyed in a jury trial and in the months of the Iran-Contra hearings.

So I suggest to those who ask the question, has Ollie North been punished for the misdeeds or misconduct for which he was judged guilty, that clearly he has been punished in a fashion that he will carry that burden of guilt with him for the rest of his days.

The second question and only other question that I would like my colleagues to contemplate is a question of whether Oliver North deserves a pension for his service of over 20 years, as does any other military person who serves honorably for a period of 20 years or more.

I always had a belief that to some, not all, and maybe not many, that service in the Vietnam war, particularly in the kind of combat in which Oliver North and those in the infantry in the Marine Corps were engaged, was probably a very disillusioning and probably bitter experience because these young men, and the majority of them were young men, served in a conflict in which they thought they were going to defend freedom and democracy in a small nation. Over the years they found out that they had been fighting in a conflict in which there was no way we could win. There was no possibility of gaining victory because of failed policies and strategies that originated in the civilian leadership. Yet these young men and some women served with bravery, courage, and dedication, and 55,000 of them made the ultimate sacrifice in a conflict which clearly in retrospect we recognize there was no means of victory.

That defeat was suffered not because of any lack of courage, not of any lack of sacrifice, but because they were victims of a set of circumstances which condemned that small nation to conditions of oppression and repression which still thousands every year vote with their feet in describing their dismay and their disgust at their lack of freedom.

So does Oliver North deserve a pension for risking his life on the battlefield in a failed cause, for being honored and recognized for that service and dedication? I believe that the answer is probably yes. In the mind of some, the answer may be no.

About 38 years ago, Mr. President, another military man stood before the Congress of the United States. He also exceeded the boundaries of his authority, his responsibilities, and was correctly and promptly relieved by the Commander in Chief. That brave soldier stood before the Congress of the United States and in a very stirring speech finalized by saying that there is a ballad that says old soldiers never die, they just fade away.

I think it would be appropriate, Mr. President, to know that Oliver North would fade away. Our attention will be taken by different events and different people and different times and different crises. I think it would be appropriate to allow Oliver North to fade away with the knowledge that he was a credit to his service and a credit to the profession of bearing arms in the defense of freedom, the most honorable of all professions. I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 3 minutes to my distinguished colleague from Iowa [Mr. HARKIN].

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, Benedict Arnold was a hero of the Revolutionary War until he became a traitor. He fought bravely for this country until he became a traitor. I have listened to the recitals of Oliver North's medals and military campaigns which he was part of. Like Benedict Arnold, he threw it all away when he became a traitor to the Constitution. He lied to Congress.

I heard the distinguished Senator from Idaho say that Communists would use any means, including lying, to achieve their ends. Is that the definition he would want to apply to Oliver North? He shredded documents. He accepted illegal gratuities. He was convicted by a jury of committing three felonies. Now we are asked by the Senator from North Carolina to change existing law to give Oliver North his pension. Any way you describe it, it will be Congress giving approval to the illegal deeds of Oliver North.

We are asked to bend the law for someone who broke the law. Oliver North's defense was basically that he was just following orders. But we settled that issue at Nuremberg after World War II. German officer after German officer, many who were brave on the battlefield, pleaded before that tribunal at Nuremberg that they were just following orders. The collective conscience of the free world rejected this argument and said that officers must answer for their own actions regardless of the orders given.

Indeed, an officer in the U.S. military takes an oath to uphold and defend the Constitution and to obey all lawful orders of those in command above him or her. The orders that Oliver North was given, if in fact such orders were given, were illegal and should not have been obeyed.

Finally, is this the kind of example we want to set for our young people that we are now appointing to the various academies or that are graduating from the ROTC units?

What the bill by the Senator from North Carolina says to our young people in our officer corps is simply this: If you follow orders, regardless of the orders, you will be taken care of by the U.S. Congress.

Mr. SYMMS. Does the Senator have any time remaining? I would like to respond to his question.

The PRESIDING OFFICER. He has 10 seconds remaining.

Mr. HARKIN. I have 10 seconds remaining.

Mr. HELMS. Two minutes.

Mr. SYMMS. Mr. President, the Senator from North Carolina——

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I yield 2 minutes.

The PRESIDING OFFICER. I did not hear the Senator from North Carolina.

Mr. HELMS. I yield 2 minutes to the Senator from Idaho.

Mr. SYMMS. Mr. President, I thank the Senator. I do not think I will take 2 minutes. I will take just 1 minute.

If the Senator from Iowa wants to characterize Oliver North as a traitor, he is welcome to do it, and this Senator in no way made any implication that Oliver North was justified in his own admission of lying to the Congress.

Moreover, I think it is incredible the Senator would compare the Nuremberg trials and the symbol of being a traitor like Benedict Arnold, to Oliver North. It is a completely different situation. Oliver North, in my opinion, was doing what his Commander in Chief wanted him to do.

The risk here is that if you try to deny him his pension, you are sending a shiver down the spine of every military officer who is asked to go out and risk his life in taking orders from his commanding officer. That is the issue.

I think Senator HELMS and others have stated the case very clearly.

Mr. HARKIN. Mr. President, do I have 10 seconds left?

The PRESIDING OFFICER. The Senator has 10 seconds.

Mr. HARKIN. Mr. President, what I said was Oliver North was a traitor to the Constitution. That is what I said.

And second, we will not send shivers down the spines of officers. We will put some steel in their spines so that they will disobey the illegal orders given to them.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. How much time does the Senator want?

Mr. HATCH. Two minutes.

Mr. HELMS. I yield 2 minutes to the Senator from Utah, and 1 minute to the Senator from Iowa.

Mr. HATCH. The distinguished Senator from Iowa may have said that Colonel North was a traitor to the Constitution, but he compared him to Benedict Arnold. Now, come on. And to raise the Nuremberg trials is highly inappropriate.

I respect my dear friend from Iowa, but I think it is about time that everybody stop and realize that there is not any dispute among real attorneys on this matter. The GAO erred. They made a tremendous mistake. It is a lousy mistake. We should not even be here.

We are not giving Colonel North any special favors. The GAO is wrong, and the Navy is right. I do not know anybody who would disagree with that who really has looked at the law. I think we have made more than an adequate case about that.

So it is ridiculous to come in here and talk about Benedict Arnold and the Nuremberg trials when all we have here is somebody who has served 20 hours a day, was overworked, and was giving everything he had to our country. Hardly anybody doubts that except a few people. He was tired and made mistakes. I think this is the height of it, as far as I am concerned.

Look here, it is one thing to differ with Oliver North and what*** BAD MAG TAPE *** he did. It is another thing to come in here and malign him. I am not going to stand here and let anybody, not even a dear friend, on the floor malign him and compare him to Benedict Arnold. It is just that simple.

I can tell you this: Oliver North is a fine human being. He made some mistakes, and he has had to pay a price. But let us never forget there were 16 counts against him, and only three stuck.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. What is important is not what we say about Colonel North liability, it is what the court said.

If Colonel North had committed treason, as Benedict Arnold committed treason the Hiss Act, 5 U.S.C. section 8312, would have applied, and Colonel North would have lost his pension. But Colonel North was not convicted of treason. He was convicted of shredding documents. There is quite a difference between being convicted of treason, as Benedict Arnold was, and being convicted of shredding documents.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. How much time does the Senator from Delaware have?

The PRESIDING OFFICER. Eleven minutes, ten seconds.

Mr. BIDEN. I yield 2 minutes to the Senator from Nebraska.

Mr. KERREY. Mr. President, I would simply make two points. Before I do, let me respond to the distinguished Senator from North Carolina and the distinguished Senator from Idaho, who earlier were arguing and presenting the case fkr aid to the Contras earhier.

Part of the reason that an awful lot of us are provoked by the thought of taking special action for Lieutenant Colonel North is as a consequence of feeling as if our Government did not trust us enough to tell us the truth.

I observe that anytime you do not tell the American people the truth—I was not in Congress when this policy was being set, and I felt that lie. I felt that lie. The lie was not just delivered to Congress. It was delivered to the American people. We lost confidence in the policy as a consequence of not being told about the mining of harbors and not being told about all that was going on.

The enemy knew what was going on. It was the American people from whom we were withholding the information. We lost confidence.

The Representatives in Congress got the message. My objection, as the distinguished Senator from North Carolina knows from the last time we had this encounter, is as a consequence of feeling as if I am taking special care of one citizen who is being treated unfairly.

I listened to the rationale of the distinguished Senator from Utah for assisting, and I am persuaded. But I have hundreds of people who have been abused by government in a variety of different ways. What do I say to them when they say to me, "Can you give me the Oliver North treatment?"

So I objected originally to the first version of the bill, and the second version is awfully difficult for me to extract myself from the first argument, though I hear argued the other way, saying we are going to lower the standards for regular officers in the United States of America from a previously set standard—I ask unanimous consent for 30 more seconds.

Mr. BIDEN. One more minute.

Mr. KERREY. That we are lowering the standards for regular officers. We are now going to say to regular officers, "Do not worry about losing your pension if you shred paper." Oliver North shredded papers, we want to take care of him. Rather than taking care of him directly, we are going to lower the standards now for all regular officers.

I was a Reserve officer in the U.S. Navy. I remember time after time after time regular officers saying, "When we went to the academy, we were told we were to hold a higher standard than everyone else." Are we now to lower the standard and say, "Well, Congressmen and judges can get away with it"? Are we now going to lower the standard of regular commissioned officers in the Navy, Air Force, and the Army to the standards of Congressmen and judges because we might be able to get away with more? I do not think necessarily we should.

I might independently be able to argue that some reform should be undertaken. But it is difficult for me, with all due respect to the Senator from North Carolina and the Senator from Delaware, to separate the issue at this moment, particularly when I am being encouraged to see it as a relief measure for Lieutenant Colonel North.

Mr. BIDEN. I yield 2 minutes to the Senator from Ohio.

Mr. GLENN. Mr. President, I understand that the original proposal here has been amended by Senator BIDEN. That is fine. I think the time to change that law so military regular and Reserve officers, whatever the status is, are treated the same and are made the same as civil servants, Members of Congress, and any other Federal officer of whatever stripe and variety.

But I do not think it is the time to address that, because this is being looked at by the American people as a vote for or against Oliver North. He conducted a rogue operation out of the basement of the White House, sold arms. You paid for it, I paid for it, with taxpayer money. It is being looked at as a benefit for him quite apart from whether we are changing the law or not and making things fair for Regular and Reserve officers.

If this was going to correct everything in civilian courts where former military people or retired military officers had had a civilian court felony offense against them, if it was correcting a court-martial in the military and putting everybody on the same equal footing exactly, then I could be for

this. That is not the way this is going to be interpreted.

I associate myself with some of the remarks made just a moment ago. We do not want to lower the standards any, which this, in effect, is doing. We should be raising the standards for all, not lowering it to make it fair in a little narrow sense just to benefit Oliver North. I took the same oath of office Oliver North took. I resented it mightily, I can tell you that, when I saw the things that he did out of the White House basement. Was Reagan involved? I do not really know. Was Casey involved? I do not really know to this day, and I do not think those who sat on the Iran-Contra case can tell us for sure.

Is he taking the rap for someone else? I do not know that. But I know he sold arms. He denied it. It was illegal. He is a felon. They said he was convicted on only three, and that was looked at as an excuse. Well, he was convicted on those three.

I think there will be a time to correct the niceties of law, but this is being interpreted as for or against Oliver North.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield—this is the last time I yield, I only have 5 minutes—1 minute to the Senator from Georgia. I will reserve the remainder of time for myself.

Mr. NUNN. Mr. President, I do not know how this is going to be interpreted, but I do know many of us believe this statute should be corrected even if Oliver North had never been convicted of anything.

The interpretation basically says that Oliver North will lose his pension because he is deemed to be, as a retired regular officer, a continued officeholder in the United States. The shredding statute characterizes that particular category of people who are continued officeholders. It says you cannot be a continued officeholder if you have been convicted of shredding. That is not in the murder statute or the rape statute or any other statute.

So this would be an inequity toward Oliver North if it is not passed. That is what it amounts to. I think he did wrong. I am not here to exonerate Oliver North.

I will say one other thing. If this—will the Senator yield 1 minute?

Mr. HELMS. Sure.

Mr. NUNN. Mr. President, if this statute is interpreted as barring Oliver North from collecting his pension, then it means that the statute is interpreted in a way that says a regular officer who is retired is a continued officeholder in the U.S. Government. If that is the case, our good friend from Ohio, Senator GLENN, who is also a regular retired officer, would not be eligible, under the U.S. Constitution, to be a Member of the Senate. He would not be able to be a Member of the Senate. I do not know how this is going to be interpreted, but that is the case, because article I, section 6, of the U.S. Constitution says: "No person holding any office under the United States shall be a Member of either House during his continuance in office."

So, if we want to basically deny this, then we are basically saying, "Look, this whole business has become an absurdity."

I think the Senator from Ohio ought to remain a Member of the Senate. I believe that this statute should not be interpreted this way. I think it is up to us to correct it. We may have to go further and correct this broad interpretation of a regular officer being deemed to be a continued officeholder in the United States when they retire.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Three minutes, 59 seconds.

Mr. BIDEN. I will use the remainder of the time.

Let me be as brief and direct as I possibly can. This has nothing to do with what Oliver North deserves. For, if the Senator from Delaware were voting based on what he thinks Oliver North deserves, he would vote not only that he does not get his pension, he would vote that he go to jail. But even scoundrels deserve the protection of the law.

One of the things that worried me and bothered me the most when this assignment was given to the Judiciary Committee was when, to my dismay, I learned that the proper reading of the statute would require us to commit either an inequity against Oliver North and all like him, or it would be read in a way that it would not apply to Oliver North, and in either case Oliver North would get his pension.

I felt a little bit like I used to feel when I was a defense attorney and someone walked in and I found out the person sitting across from me committed the crime. But I also found out that the police made an egregious violation of the Constitution in arresting him. It sickened me to have to plead the case that the Constitution was violated thereby jeopardizing every free man, knowing full well when I did it, I might very well free a person who was guilty.

That is how I feel now. Do not take your eye off the ball here. I used to work for a guy, a lawyer. He always said to the jury, when he summed up, "Keep your eye on the ball." No matter what we say here, this is not about Oliver North. It is incidental what has happened to Oliver North. It is about justice. The fact of the matter is what we are dealing with is a very narrow statute that says "officer," it uses the phrase "officer of the United States," and it is concluded that if you violate that section of the law by destroying documents and you are an officer of the United States, you must forfeit that office. And it is in the forfeiting of the office that you forfeit your pension.

The issue here is, is a retired regular military officer an officer of the United States under the definition of this section? And if he is, then in fact it is the notable exception that anyone else can go out and do this, civilian or retired reserve military officer, and shred documents and they do not get treated that way.

As the Senator from Georgia pointed out, an officer of the United States holding an office of the United States cannot sit in the Congress. Are we going to say that Oliver North, because Joe Biden does not like what he did and does not like what he stands for should deny him what unfortunately equity dictates he get? That is what this is about. And it bothers me. I must admit I do not like it. I know darn well when I vote for this Oliver North will get a pension. I do not like that but as I said even scoundrels deserve the protection of the law.

The PRESIDING OFFICER (Mr. BRYAN). The Senator's time has expired.

The Senator from North Carolina has 17 minutes. The Senator from North Carolina is recognized.

Mr. HELMS. I think we should circle our wagons and retract and retreat what we said here. Ollie North a scoundrel, no way. A Benedict Arnold, no way. A fellow who made some mistakes, yes. He acknowledged that. As a matter of fact he was convicted on three charges that he acknowledged at the outset of the Iran-Contra hearing and he gave his reasons therefor. I will go to my grave thinking he was acting with the full knowledge of superiors. He was the fall guy.

He did it honorably and he is not complaining about it. I think we ought to put an end to these personal attacks and assaults on a man who was willing to lay down his life in Vietnam and who shed blood and who received all sorts of commendations, the Purple Heart and all the rest of it.

But I think the Senate is going a little far when they call him a scoundrel. I resent it and if Ollie North is listening I say to him that most Senators do not feel that way about him and certainly I do not believe the majority of the American people do.

Mr. HOLLINGS. If the distinguished Senator from North Carolina will yield, I heard somebody say he was sorry he did not get the pension.

Mr. HELMS. How much time does the Senator need? In just a minute I

will yield 2 minutes to the distinguished Senator from South Carolina.

Mr. HOLLINGS. I need more than 2 minutes to tell the truth.

Mr. HELMS. It usually takes the Senator only 30 seconds to tell the truth.

Mr. HOLLINGS. It takes a little longer because this crowd has been confused for several years now.

Mr. HELMS. Let me say again, there are convicted drug traffickers, the worst kind of fellows—and I do call them scoundrels and I think that is a proper definition for them because they have tried to profit and have profited on the misery of the American people.

I yield 5 minutes to the Senator.

Mr. HOLLINGS. Yes.

I do appreciate the information the Senator has given on that particular issue because it bothered me for quite sometime, the entire North case.

The fact of the matter is I served on the Defense Appropriations Subcommittee and watched this whole picture develop. If you go back to 1979 when Ortega came in, I resisted any kind of assistance. I was a Missourian, you had to show me. As best described by the Senator from Massachusetts down in Panama he talked about a brazen theft of democracy. If there ever was one it was by Ortega.

But my late friend Ed Zorinsky from Nebraska said, come up and listen to the junta, you are resisting things, this is democracy; they are for the same things we are.

I listened. I came down on the floor and I said I do not believe them; let us give them a chance.

So you are looking at the Senator that changed and moved with the first $75 million and then the next $75 million. We gave them $125 million, with all on the representation that they were going to have free elections and freedom of religion and freedom of the press and, of course, it was all out of the whole cloth.

Then we came each year, and you go back to 1980 right on through, 9 years including this year, including this minute—if you ask me on a political science exam what the policy of the U.S. Government is, it is to support the Contras.

But they had our good friend, the Speaker, over there with his roommate, Eddie Boland, who I had tremendous respect for. They got all mixed up with the Maryknoll nuns, and so we went in with the Defense Appropriation Subcommittee and they put these riders on an appropriation bill which, of course, any Governor knows is only for a year, and it is only a little restriction and only a restriction on that spending.

It did not change the policy.

The mistake is that the President should have vetoed the blooming thing. When I came in the conference I said the President is not going to do it. They said, do not worry about it. That President is not going to worry about that. You could not do lethal. You could do domestic, and then another time it was intelligence, but we do not consider the National Security Council on intelligence.

So we played a game. You knew it, I knew it, everybody in this Chamber knew it. The policy of Ronald Reagan, No. 1, was to help the Contras down in Nicaragua. And we acted like, wow, what a crime it was. That is absolute nonsense.

I came out from a trip as a member of the Intelligence Committee and went up the hearing on December 1, 1986, I think it was, and we had Bud McFarlane, and I said Colonel North—I never met Colonel North, tell me about him.

He said he is a very upright officer. I will not go into the heroism and everything else like that. He was a tiptop Marine. He did not want the job. He refused it twice, and after all kinds of pressure and persuasion he took it on.

I said but he will probably get a little overenthused. No, he did not get enthused. You tell me he had orders. He had orders. I say did he go a little bit beyond the orders? I was sort of cross-examining McFarlane. No, sir. I will show it to you in the RECORD. He said, you can trust him. He checked. He absolutely acted completely on orders and with authority. That is when I became his friend.

I believed McFarlane, and I believe him today. That is what North said to this committee that we had that I did not vote for. We were handling the case before the Intelligence Committee and yet they came in here. Everyone is going to be a Sam Ervin and Howard Baker. When did he do it, and when did he know it, all going to be on TV, all jockeying around to get on the blooming thing. It was a sorry charade if I ever saw one. I did not like it.

It turned into a partisan thing; the Republican friends trying to protect the Republicans and Democrats trying to possibly get him. They wanted to get him for the main and simple reason we already impeached one, practically, and you could not afford another. Nobody wanted to. It was not that serious a matter because we were all guilty and we knew what the policy was, to help the Contras down there and the President.

In any event, what happened was that nobody wanted to and you could not get Reagan to tell the truth. You could not get him to tell the truth. He knew it. You watch the Poindexter case. Poindexter told the President. In the North trial you could not get the President, you could not get the Vice President, you could not get McFarlane.

We are running around here talking about an outstanding officer who did everything he did. Look here. Do not tell me. That fellow made 200 talks in 1 year. I went to the White House annex and was going over with the leadership, going in to the people he talked to, into the Oval Office. He made 200 talks. The White House said they did not know anything about it and the Defense Department knew there were 12 shipments of 5,000 tons and the Secretary of Defense said he did not know anything about it. And at the Department of State, there were 6 Ambassadors, 2 Under Secretaries and the Sultan of Brunei and the Secretary of State said, I do not know anything about it.

Ollie North did not trust the phone. He called up the National Security Agency and said tap my line. What kind of crook is that? He said tap my line and listen to my conversations. He was not doing hanky panky. He was acting officially. And they did it, and the National Security Agency said they did not know anything about it.

He operated with Bill Casey of the CIA and the CIA said they did not know anything about it and the wonderful Senate crowd and House crowd out of all of it got one lieutenant colonel and arguing here going on 11 o'clock tonight about him being paid the thing he earned by his guts and own bravery, dedication, and his own patriotism.

It is a shame. It has been a disgrace around here for a long time, and everybody knows it, running around here talking about Ollie North. You know the man. You watched him.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. All right. Well, his classmates are the best testimony. I am voting for the thing. We do not want to continue the shame on this body, allowing all the crooks and thieves that have been through here getting their pensions and then denying his.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 7 minutes remaining.

Mr. HELMS. I yield 5 minutes to the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, when it comes to a point of view on S. 1816, it is wholly unnecessary to place on one side of the scale Oliver North's military service which, by all accounts, was valiant and meritorious and indeed brave, and on the other side of the scale the crimes for which he was convicted. It is not necessary to weigh those. It is not necessary to get into Iran-Contra. It is only necessary to read the law, try to understand it, try to understand the legislative history, and apply it to the case.

Mr. President, it is not at all clear when you do that that the applicable provisions of 18 U.S.C. 2071(b) require the termination of retirement pay in the case of a retired military officer. There is nothing in the language of the statute or the legislative history that dictates that result.

The Judge Advocate General of the Navy has expressed the view that the statute does not deny a retired military officer his pension.

Therefore, in my view, and I think in the view of a great many, the Comptroller General was mistaken in his reading of the law and in the application of the law and in his act in terminating Colonel North's pension. You do not have to like Colonel North to correctly apply the law.

Mr. President, if Senators do not like the result, then change the law. If you do not like the result, then change the law. But while the law stands as it is written—and, to be sure, it is not crystal clear; there is a good deal of ambiguity as the law is written—it does not apply in the way the Comptroller General applied it. We have an opportunity to correct the error.

Let me just add this, finally. It is significant that section 2071 is a criminal provision. It is well-settled principle of law that such provisions must be strictly construed; that is to say, ambiguous provisions should be construed in favor of the defendant.

The legislative history, moreover, Mr. President, indicates that the purpose of this statute is remedial, not punitive; remedial to remove from office someone who might repeat his crimes, to get him away from these sensitive materials. It is remedial, not punitive. It has been used by the Comptroller General in a punitive fashion. We should correct that error. What you think of Oliver North and what he did and how you balance his merits and demerits on the scale has absolutely nothing to do with the case. You do not have to get emotional about it, merely be logical and read the statute and apply it.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I would like to express my support for the bill introduced by my distinguished friend and colleague, Senator HELMS. Like Senator HELMS, I believe that Colonel North—and his young family—have suffered enough. And they will continue to suffer if Colonel North's retirement pay is permanently suspended.

LETTER TO THE COMPTROLLER GENERAL

Last July, I wrote a letter to the Comptroller General urging him not to tamper with Colonel North's military pension. In this letter, I noted that the statute giving the Comptroller General jurisdiction over this issue does not list any specific criteria that should guide his decision. Instead, it gives the Comptroller General complete and total discretion.

So—in my letter—I felt comfortable suggesting two criteria that I thought the Comptroller General should consider: Colonel North's past service to this country and simple, old-fashioned fairness. And I believe that we in the Senate should consider these criteria as well.

Mr. President, I ask unanimous consent that the full text of the letter be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

SERVICE TO OUR COUNTRY

Mr. DOLE. Mr. President, we all know Colonel North's record of service to this country. Senator HELMS has described it in great detail. It is a record of distinction. It is a record that spans more than 20 years—20 years of service in the jungles of Vietnam, as a marine instructor at Quantico, and as a staff officer in the White House.

And Colonel North's military service—and his brilliant military achievements—have been well-recognized. He has received the Silver Star, the Bronze Star, the Purple Heart, the Meritorious Service Medal, the Navy Commendation Medal, the Navy Achievement Medal, the Vietnamese Cross of Gallantry. And the list goes on.

Mr. President, is this a man who does not have a deep love for his country? Is this a man who has not served his country with distinction and with honor? Is this a man whose military retirement pay should be suspended—cut off—as if he were some common criminal? Even convicted drug dealers—who were formerly employed by the Federal Government—remain eligible for retirement pay and other benefits.

COMPTROLLER GENERAL'S DECISION

Unfortunately, the Comptroller General has recommended the suspension of Colonel North's retirement pay. That's why we are here tonight. I know that the Comptroller General thought long and hard before making this decision—and I respect him and I respect his judgment in this case.

But even the Comptroller General himself has admitted that this case is one of first impression—that his decision could have gone either way. In my view, the Comptroller General went the wrong way on this one—and Congress needs to correct the injustice that has been done to Oliver North.

When Congress wants to deny someone his pension, it says so. It does not beat around the Bush. It does not rely on a questionable interpretation of the word "office" in some statute.

So I believe that we in Congress have the right—and indeed, the obligation—to ensure that Colonel North is treated fairly—that he receives his retirement pay—and that he is not ripped off by the country he loves so dearly.

CONCLUSION

I commend Senator HELMS for introducing this legislation. It will save Colonel North and his family from further hardship. It will rectify an injustice. And I urge my Senate colleagues to support this important bill with their votes.

EXHIBIT 1

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, July 6, 1989.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: I am writing to express my views on an important matter that has recently come to your attention: the possible suspension of Lt. Col. Oliver North's retirement pay pursuant to 18 U.S.C. Section 2071(b).

Earlier today, I reviewed a memorandum on this subject, which was prepared by the Judge Advocate General of the Navy. It is my understanding that the memorandum has been sent to you as an attachment to a letter from the Navy's General Counsel.

Although I am not an expert on the meaning of 18 U.S.C. Section 2071(b), I would nonetheless like to express my full endorsement of the conclusions reached by the Judge Advocate General: It would strain the imagination to conclude that the type of "Office" held by a retired naval officer like Lt. Col. North is the type of office contemplated by Section 2071(b). As a result, Lt. Col. North should not forfeit his commission nor lose his retirement pay because of his conviction under this statute.

I have also reviewed 18 U.S.C. Section 3529, which gives the Comptroller General broad authority to respond to questions posed by the heads of the federal agencies. As far as I know, the statute granting you this authority, as well as the regulations promulgated under the statute, do not specify the criteria by which you are to make your decision. Let me suggest, therefore, simple, but important, criteria that I believe should guide your decision: Service to our country and old-fashioned fairness.

I know you will consider this important matter carefully. Thank you for your cooperation.

Sincerely,

BOB DOLE.

Mr. DECONCINI. I rise today to speak in opposition to the enactment of Federal legislation returning Oliver North's pension.

The issue facing us today is not a new one. Following the conclusion of the Iran-Contra hearings, Oliver North was tried in Federal court and convicted by a jury of his peers of three offenses, including violation of the statute that has resulted in the termination of his retirement pay. Now, the Senate is considering what is in essence a private relief bill to return that retirement pay.

I do not question Colonel North's patriotism, nor up until he joined the National Security Agency do I question his service to his country. Howev-

er, Colonel North remains an American citizen, and subject to our laws. I do not think that we should change the law for anybody convicted of a criminal felony, regardless of their past service to the country.

The fact is that this is a legal question which must be decided in a court of law. The Department of the Navy has not yet resolved Colonel North's status. In the event that the Navy concludes that Colonel North's pension should continue to be withheld, Colonel North retains the right to appeal the decision, and it is my understanding that he is doing so. It is not the duty of this body to intercede on Colonel North's behalf simply because certain Members of the Senate believe that Colonel North deserves relief. It may be true that after his administrative and judicial remedies are exhausted that Congress should examine this question, but now is certainly not the time. This issue should be first resolved by the courts. Then, if there are those who believe the law should be changed, we should consider such legislation.

Thank you, Mr. President.

Mr. HELMS. Mr. President, let me now address the arguments made by seven Democratic members of the Senate Judiciary Committee in their report.

Their first argument is that Congress should not act until the courts have determined the issue of whether the forfeiture provision of section 2071(b) applies to retired regular military personnel. However, a commonsense reading of that section of the report actually provides a compelling case that Congress should act, rather than throw the issue into the courts.

Let me quote from the first section of the report:

First, the formal legal opinions regarding Colonel North's retirement pay disagree as to the intent of Section 2071(b); obviously, there are serious difficulties involved in interpreting the statute.

Second, this presents a legal question of first impression;

The report continues:

Third, [Quoting Lawrence Lamade]: "[l]egislative history of the original statute and its successors is sparse, and no congressional guidance has been found concerning the definition of the term 'office,' ";

Fourth, in terms of the penalties it imposes, the text of section 2071(b) is vague;

Fifth, without precedent, legislative history or clear statutory language—the typical guideposts of statutory interpretation—the task of applying section 2071(b) to Col. North is made exceptionally difficult.

That is precisely the purpose of this legislation—to provide those "typical guideposts" so that there cannot hereafter be any doubt about the intent of Congress.

Mr. President, the report language is in fact an acknowledgement that there is no basis whatsoever on which the courts can make a valid interpretation of this statute. Nevertheless, the report concludes that we should wait until the courts decide it anyway. That means the courts will essentially have to make a decision based on what they would like the language to mean. That is exactly why Congress should act now on this question of policy rather than try to throw this decision into the courts.

The next argument in the report is that the executive department has not reached a conclusion on this issue; therefore, it would be premature for Congress to act.

Mr. President, that is simply incorrect. The Navy Judge Advocate General—who is the officer responsible for determining the status of persons within the naval service—was unequivocal in his conclusion that the forfeiture provision of section 2071(b) does not apply to a retired regular officer and therefore it does not affect the status of Colonel North as a retired Marine officer.

Both the Navy general counsel, and the Judge Advocate General made it perfectly clear at the October 18 hearing that the Navy has made its determination of Colonel North's status, which is in accordance with the opinion of the Judge Advocate General. For all other purposes, the Navy is treating Colonel North as any other retired regular military officer.

The only reason that Colonel North is not receiving his retirement pay is because of the opinion of the general counsel of the General Accounting Office—an arm of Congress—saying merely that there is serious doubt about whether Colonel North is entitled to his pay. Note that this was not even a ruling by the Comptroller General; it was only an opinion by the GAO general counsel. Nevertheless, in order to protect their disbursing officer from possible liability, the Navy is allowing the disbursing officer to withhold Ollie North's retirement pay until the question is clarified.

Mr. President, the final argument made in the report is that it would be inappropriate for Congress to pass a bill designed specifically to provide relief for Colonel North.

Mr. President, I can hardly believe my ears when I hear a Member of this body suggest that Congress should not pass legislation that is tailored for a specific case. Less than 2 months ago, this body passed a bill designed specifically to benefit Dr. Elizabeth Morgan. It was specifically limited to civil contempt in child custody cases. Furthermore, the bill was made effective for convictions after January 1, 1987, over 2½ years ago, just so that it would apply to her. In my nearly 17 years in this body, I can't recall legislation enacted that was retroactive for more than 2½ years before the date of introduction.

In fact, one Senator—a member of the Government Affairs Committee—argued that the Elizabeth Morgan bill was not specific enough—that if we think Dr. Morgan should be released, we should amend the bill to make absolutely sure that it will apply only to her. In fact, the Senate agreed to an amendment to sunset the bill after 18 months.

The distinguished majority leader commented on that provision on the floor just prior to passage of the bill:

That it is, in reality, a private bill for the relief of Dr. Morgan is demonstrated by the fact that the bill, as amended, contains a sunset provision, effectively terminating itself after 18 months.

He also pointed out that the Morgan case is "now pending in the courts and right in the middle of litigation." Yet there was not even a rollcall vote on the bill. So it is somewhat less than convincing for Members to argue that we can't pass this bill because it is designed to affect only one person.

Furthermore, to dispell any myth that this body never enacts legislation that is written to apply to a particular individual, let me read a couple of provisions of the Tax Reform Act of 1986:

[S]ection 201 [which modified the Accelerated Cost Recovery System] shall not apply to * * *. A project involving the development of a 490,000 square foot mixed-use building at 152 W. 57th Street and 7th Avenue, New York, New York, the estimated cost of which is $100,000, and with respect to which a building permit application was filed in May 1986.

[S]ection 201 shall not apply to any property which is part of an arena constructed for professional sports activities in a metropolitan area, provided that such arena is capable of seating no less than 18,000 spectators and a binding contract to incur significant expenditures for its construction was entered into before June 1, 1986.

[S]ection 201 shall not apply to * * * a project * * * if * * * the project is undertaken by a marine corporation and involves the modernization of pulp and paper mills in Millinocket and/or East Millinocket, Maine.* * *

"[S]ection 201 shall not apply to" a project "if it is the second phase of a project involving direct current transmission lines spanning approximately 190 miles from the United States-Canadian border to Ayer, Massachusetts, alternating current transmission lines in Massachusetts from Ayers to Millbury to West Medway, DC-AC converted terminals to Monroe, New Hampshire, and Ayer, Massachusetts, and other related equipment and facilities."

Finally, Mr. President, while I will not object to more general legislation, I don't think it is necessary. My original bill would not only serve to correct the unwarranted hardship that is being visited upon Colonel North, but it would also send a signal once and for all to the GAO that their general counsel was wrong and the Judge Advocate General was right in this interpretation of how this statute should be applied to a retired regular officer.

Even in the unlikely event that this same situation would arise in the future, I think it is clear how the service will rule. I seriously doubt that the GAO would venture a contrary opinion after Congress passes this bill. Nevertheless, the suggestions of the Senator from Utah and the Senator from Delaware are well taken, and I was perfectly willing to modify the bill accordingly.

Mr. President, I say again that the Navy has resolved this issue—they resolved it in favor of Colonel North. It is an arm of Congress, the GAO, that has raised some question that is causing the Navy to withhold Colonel North's retirement pay. Consequently, Congress has a duty to send a message to the GAO general counsel that he was wrong on this issue, thus clearing the way for Colonel North to receive his pension, just as he is receiving all of the other benefits afforded a retired regular member of the armed services.

Mr. HELMS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the following items be printed in the RECORD:

First, excerpts from Brendan Sullivan's final argument at the sentencing of Oliver North;

Second, a memorandum of law submitted by Rear Adm. E.D. Stumbaugh, the Judge Advocate General of the U.S. Navy;

Third, a letter from Larry Rivers, executive director, on behalf of the more than 2.7 million members of the Veterans of Foreign Wars of the United States;

Fourth, a letter from Beverly LaHaye, president, on behalf of the 600,000 members of Concerned Women for America;

Fifth, a letter from Phyllis Schlafly, president, on behalf of approximately 70,000 members of the Eagle Forum;

Sixth, a letter from Thomas Lizardo, executive director, on behalf of the 50,000 members of Young Americans for Freedom; and

Seventh, an executive memorandum from the Heritage Foundation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT

(The following text is excerpted from Brendan V. Sullivan's final argument at the sentencing of Lt. Col. Oliver L. North, USMC (ret.) on July 5, 1989. U.S. District Court Washington, D.C.)

Oliver North stands before you today with his freedom hanging in the balance. But he arrives at this moment by traveling a very different route than most defendants. His life, unlike most defendants, has been dedicated to preserving freedom. For 20 years as a military officer he served in order to preserve our freedom, mine, yours, my kids, everyone in the room. He fought for the freedom of the Vietnamese people. He worked for the freedom of the Nicaraguan people. He worked to set hostages free. He worked in the fight against terrorism so that Americans could remain free. And as the court makes the decision about Oliver North's freedom, we ask that you give full and fair consideration to all those positive aspects of Colonel North's life, his service, the good done, the hardship, the suffering, and add to that the proper dosage of mercy and leniency which is something in our tradition judges take into consideration.

Sentencing, it seems to me, is the act of balancing, balancing the good in a man's life against the bad and I don't think there could be any better symbol of that balancing than that of the blindfolded lady holding the scales of justice. On one side is weighed the positive and on the other side is weighed the wrong, the need for punishment, the need for deterrence.

To me it all comes down to one question in this case, Your Honor, one single question on which it all turns. What is Oliver North's good life worth? What's it worth as a judge balances, using the scales of justice?

There are very powerful factors in this case which mitigate against a prison term. And if the court determines that additional punishment is necessary we ask that instead of prison a well chosen form of community service be the vehicle used, for in that way at least society can get some concrete benefit as the punishment is executed.

We start with our analysis of who is Colonel North and an understanding of him has to start with the fact that to the core he's a Marine Corps officer. It's a bizarre and strange quirk of fate that it was 26 years ago today, July 5, 1989, that he first attended the naval academy and began his education. He was later commissioned a second lieutenant and sent to the war in Vietnam.

One thing is very certain, Oliver North is a true military hero. It's undisputed by any one's definition. His heroism, his courage, the accomplishments as a Marine in battle are all well documented. I will say to the court that he himself recoils from the word hero. He rejects the concept. He never thought of himself as a hero. That he lived through the kinds of battles that a Marine officer lived through was always, according to him simply the grace of God and the fact that there were good Marines beside him.

As I got to know Ollie better and better over the years I was struck by his extreme reluctance to talk about Vietnam. I had always thought that soldiers talked about war stories, but they don't. He simply never spoke about it. In two and a half years I never heard him once mention any of his awards. I even remember being annoyed at least a dozen times during my representation when I asked him to please gather together and bring to me at my office his awards. Each request was met with unresponsiveness until I finally got annoyed at having to ask him, actually angry, and said bring them in. When they came in they were green with mildew, having been found in the basement.

The list of those awards is long and impressive: the silver star, the bronze *** BAD MAG TAPE ***star, the purple hearts(Navy coimendation iedals(Vietjamese crkss of gahlajtrx(whth shlver star, and oj and nn and on. The awards were the result of terrible battles, and the descriptions are long in detail but a few words snatched from those awards tell us an awful lot about Ollie North.

For example, "conspicuous gallantry in action . . . with complete disregard for his own safety . . . seemingly oblivious to the intense machine gunfire impacting around him . . . calmly braving the intense fire of the tenacious hostile soldiers . . . his heroic actions and vigorous efforts inspired all." Words like "heroic achievement in connection with combat operations . . . his patrol came under intense automatic weapons and machine gunfire from a numerically superior force. North boldly remained in his dangerously exposed position on top of a tank to deploy the men . . . fearlessly moved across the fireswept terrain . . . courage, leadership." Those kinds of words. Clearly he was a courageous Marine.

But an examination of his career, his awards and the letters that have been submitted to the courts show us another Ollie North, a man with something more than just mere courage. They show something not readily apparent. They show an extraordinary care and concern for others. He won his medals caring for other Marines. He always put them and his men, ahead of himself. He valued their lives more than his own. He valued their safety more than his own. This too is seen in the awards. Snatching words again. "North rapidly maneuvered his second platoon through the lines of a beleaguered unit then pinned down. He personally initiated an aggressive assault which stunned the hostile soldiers, causing them to withdraw to another hill and enabled the treatment and evacuation of Marine casualties: He resolutely refused medical attention and ignored his own painful injuries as he skillfully directed the actions of the Marines insuring that all casualties were cared for and every man in his patrol accounted for."

Among the awards I found one that indicated he had been in more than 70 combat actions. He never told me about these matters. I had to read about them in the records. He never told me about a man named William Haskell, one of the characters in the overall facts of the case. He saved Bill Haskell's life in Vietnam. I had to learn about that from Haskell. Haskell wrote to the court and told the court about that day when he was pinned down and severely wounded. And in his words, "Ollie came to the rescue in the face of an almost unbelievable barrage of enemy fire. He led the counterattack with his platoon, driving the enemy back so that the Marines could medevac their wounded." He says, "I think I know Ollie North well enough to say that his primary motivation for such heroic action was the desire to save his fellow Marines rather than just to achieve victory over the enemy," and he closes by saying "Ollie North saved my life that day."

From his company commander whom I never met until very late in the case, and who wrote to the court as well, he described North as the model Marine officer. He called him aggressive but not foolish. He wrote to you saying "foremost in North's thoughts was the welfare of his men and the accomplishment of his mission." He said that "It was North's continued willingness to set the example and place himself in harm's way that inspired his men to such loyalty, devotion and extreme courage in the face of often deadly enemy fire."

It was from that same man I had known from the records that Ollie North had received two purple hearts and therefore through the conclusion he had been wounded twice. He told the court—Ollie was wounded five times but he wouldn't report it because he was concerned that Ollie North would be sent to the United States after having been wounded three times.

After Vietnam Ollie continued to perform exceptionally well in the demanding assignments that he was given. His lifelong career goal was, as you know, to be a Marine. He was good at it. He liked it.

Interestingly, Lieutenant General Bronars wrote to the court and gave the court some further background of what we caught a glimpse of during the trial itself and that was that simply Ollie North wanted no part of the National Security Council. He wanted to be a Marine. Bronars described the Marine Corps policy that an officer spend no more than three years in any such assignment. Yet when the term was up General Bronars indicated that "an exception of the policy was reluctantly and repeatedly made at the urging and insistence of highly placed White House officials." And no doubt the court remembers the testimony of General Kelly, a man who said he was importuned by three cabinet officers to keep Ollie North at the NSC. Even though he didn't want to be at the NSC, when he got there he made extraordinary contributions.

The nature of a trial is such that we tend to look at certain steps in a man's life. We focus on them and the whole world becomes those steps or those allegations. But obviously, there's a lot more to life than what comes out of the trial. I know the court has heard me say to the jury that Ollie North's duties were divided into three segments. We always left out one mysterious segment because we couldn't talk about it, but there were two letters sent to the court which I think are important for the court to consider. Even though we can't know the details, this is one of Ollie North's significant contributions about which no allegation of wrongdoing is made and unfortunately it cannot be described. But the project, in very briefest form, was highly classified and still is today. It provided great benefit to the United States. North was responsible for the coordination of this project that began in August of 1981. The initiative required new direction and leadership. It was something that had been started in the Carter administration but had never been brought to fruition. Many were even skeptical that it could even be completed. Without North's customary energy and dedication, the project would have never gotten off the ground.

Charlie Allen, a high ranking CIA official, wrote to the court that a major vulnerability in U.S. strategic strategy has been "eliminated" by this project. He told the court that much had been written about Colonel North and his activities but nothing about this project. He said this is a project which most public officials don't know about and certainly the American people don't know about but in his opinion it was one of North's greatest contributions to his government. Mr. Allen's views were confirmed by a retired Army Lieutenant General who indicated that he, of all people in the government, was at a point where he could measure Colonel North's effectiveness regarding that very special program and he called North the architect of the project who could be credited with its success. He went so far as to say that "the project put in place in record time key mechanisms that were essential to meaningful negotiation with our allies and the Soviet Union on reducing the size of nuclear forces." Powerful benefits to society. According to General Lewis the contributions were unparalleled.

Another important contribution Ollie North made was in the area of combating terrorism. Unfortunately he's paid a severe penalty for his work in this area—the threat of assassination. Colonel North was given the NSC counterrorist portfolio. It was his duty to develop and coordinate the plans for the whole government in the counterterrorist program. Terrorist incidents had increased in the early 1980's. There were literally hundreds of them. One in four involved Americans or American property overseas. Several created international crises. There was widespread fear on the part of Americans and government officials that they could not travel abroad without risk. Mr. Allen wrote to the court saying that "North did more than any other U.S. official to reverse the image of U.S. weakness in the face of terrorism and to develop and facilitate implementation of strong U.S. government counterterrorist policies." He chaired an interagency working group. Mr. Allen worked with Colonel North maybe more than any other official during many months, day to day, not once in a while. He told the court that North was the central figure in coordinating government responses during major terrorist incidents.

During the TWA 847 hijacking in Beirut in 1985 North played a key role in arranging for the freeing of 39 Americans who were held by Lebanese Shi'ites. During the Achille Lauro incident in October, 1985 Colonel North was, according to Mr. Allen, indisputably the architect of the plan that led to the capture of the four terrorists who brutally murdered Leon Klinghoffer in his wheelchair aboard that ship. Allen told of supporting North directly throughout that week and can personally testify to his role in developing and implementing the plan that led to the capture of those murderers.

In April, 1989 North was a key official in developing options to respond to the Libyan sponsored bombing of the La Belle Disco in West Berlin where two American servicemen were killed. Once the presidential decision had been made to retaliate against Libya, North worked, according to Allen, at a herculean pace to assure effective coordination of the plan to strike at Colonel Quaddafi's terrorist infrastructure. Allen said that we worked day to day with North for over 22 months and there was no American official that did more to implement these policies than did Colonel North. He believes that major progress was made. For a time terrorism seemed to abate. There were fewer incidents. In his opinion as an expert on terrorism Americans felt safer and they were safer.

North was effective in his work at the NSC in the counterterrorism area and apparently his enemies thought so too. According to Mr. Allen, Colonel North's role in developing terrorist policies became known by terrorist elements throughout the world. He said it was well known before the Iran Contra hearings made Colonel North a familiar name and face.

The problem is that Colonel North paid a terrible price for his work in the counterterrorism area. He was targeted for assassination by the Abu Nidal group known as the ANO, which Mr. Allen, the expert, called the most dangerous, most capable terrorist group in the Middle East and one of the most dangerous in the world.

As you know from the trial, on April 14th 1986, the president ordered an attack on Libya. On April 15th, the very next day, North was informed about a classified operation to monitor certain elements in this country where there were thought to be plans for assassinating U.S. officials. In the immediate aftermath one U.S. official overseas was killed. And then, 11 days later, North himself was named as an assassination target by the Abu Nidal group.

You remember too, that he sought security for his family but the man who supposedly could order planes to attack and has all this power couldn't get his own security and his request was rejected by the government because he was too low in rank.

Based on his expertise, Mr. Allen also informed the court about the threat against Colonel North. He talked about who the ANO is and who its leaders are and that they've killed more than 400 people and wounded more than 500 and that they're among the most effective, and well organized, well funded organizations in the world. Its technique has been to target people and follow through effectively on their threats.

Mr. Allen also indicated that the group has the ability to strike in the United States and we know that Libya has a relationship with the ANO and has been known to support it financially.

And so the man who worked to strike back at terrorists became their target. The man who developed a plan to hurt the terrorists became hunted.

It was interesting in a strange quirk of fate that right here in courtroom number six, while Ollie North was being tried, upstairs in this very courthouse a man by the name of Fawaz Yunis, a terrorist, was being tried at the same time. Unknown to most people is the fact that he was captured as a direct result of Colonel North's intervention.

A former high ranking official of the CIA also wrote to the court and explained the danger that North still faces today. He said that when Abu Nidal's group goes after a target it does not care who or what gets in the way. In the case of a threat from Abu Nidal I can assure you that Colonel North's family was seriously in danger. Most strikingly, he says that the danger lasts, as the Arabs do not labor under the same time consideration that we entertain. Colonel North will remain under a threat for the rest of his life. We're dealing with an Islamic principle known as Quasas, which is very similar to the idea of a vendetta.

Danger to Colonel North persisted even after he was out of the NSC. In 1987 he was again notified by the FBI of another serious threat. Libyan agents inside the United States, including some residing within 20 miles from his home, were collecting intelligence information about his travel and work habits and location. These Libyans were arrested but were released on bond and one of them disappeared and remains at large today.

North carries a terrible burden because of his work to fight terrorism. It may be that as Charlie Allen says the world is safer as a result of Colonel North's efforts but Colonel North lives with the threat and his family lives under the cloud.

We ask the court to give this factor, among others, considerable weight when determining whether Colonel North should be further punished. We ask the court to recognize that Colonel North has already sustained extraordinary and unusual punish-

ment and that it's sufficient to balance the scale when making the balancing test. We ask the court not to require him to bear any further burden.

The last two and a half years have been torture for him and his family. Certainly no one of sound mind would choose to step into his shoes. It hasn't been a glamorous existence. Even the most casual observer would be deterred based upon Oliver North's life since November 1986. The extraordinary events of the last two and a half years have punished him enough. The litany, some of which is known to the court, starts on the day he was fired by the Attorney General of the United St*** BAD MAG TAPE ***ates on national TV. Thereafter for months when he had to remain silent to preserve his defense, he was characterized by anonymous sources as being a loose cannon on the deck of the ship of state. Everything was linked to everything that happened in government that any publisher might dare to print.

In December, 1986, he was named the primary target in the request for an independent counsel. He became the target of the longest, largest, independent counsel grand jury investigation in the history of our country. Everything he did or wrote or said was investigated. Every person he met was talked to. Since his indictment 15 months ago 26 separate independent counsel lawyers have signed pleadings in his case.

In the midst of the grand jury investigation he was compelled to testify before Congress. He fought hard to avoid that but nonetheless was compelled under the threat of jail to testify on national TV. In 1987, he was warned by the FBI about further threats against his life. He was indicted in March of 1988 destroying any chance of resuscitating his Marine Corps career. He then had to resign from the Marine Corps after 20 years of service, 40 percent disabled as a result of his service.

As he prepared to go to trial he was selected to go to trial first, not the more senior people. On the day of his conviction, like magic, the Pentagon announced that he'd be stripped of his retirement that he had earned over that 20 years. Since then they apparently have given the matter further study, and I can represent to the court that though the future is uncertain, no action one way or another has been taken as of this time.

Throughout this two and a half year period he and his family have been subjected to the grossest and most intrusive media interest perhaps of any citizen except a sitting president. The media generated literally tens of thousands of articles and pieces to which he cannot respond. News stories, magazine articles across the country and internationally. For months at a time the press camped outside his home and followed him to work and to the store and to church and the city dump. At no time has he given an interview about the case, respecting Counsel's advice that that's not the proper way in litigation. He and his family have been plagued by the unauthorized books that purport to tell in intimate detail the story of his and his wife's life, his children's lives. They've been subjected to an offensive, fictionalized TV mini-series without authority, without interviews, without permission. Just like he's some commodity that people use. Two Senators, members of the Iran Contra committee, wrote and published a book for their own benefit about North. One of the Senators within the last six months even has used Ollie North's picture on the front of his fund raising literature, showing the Senator driving him out of Washington, D.C.

North has been likened to Adolf Hitler, the worst criminal and mass murderer who ever lived. He's been compared to Tammany Hall.

His family has felt the extraordinary impact. The assassination threat has not abated. It's been exacerbated by the worldwide publicity caused by one branch of our government.

Colonel North didn't ask to become known throughout America. He was thrust upon the TV of every person in the country.

The threat eats away at a person like a cancer. It's always there. It's always haunting. You don't know whether it will ever happen or whether something will happen tomorrow or next month.

What is his loss as a result of all of this? It's loss of peace of mind. When we go out to our car and go to work, we don't think for a minute that we'll be assaulted on the way, much less killed. The loss of peace of mind. What a burden. This is an extraodinary punishment which he'll carry with him today and into the foreseeable future. It should be weighed when the court determines today what the appropriate sentence is.

What must it be like to wonder about these things? To wonder whether some group that doesn't think logically wants to even the score with America by getting Ollie North or just some deranged person who wants to get on the front page of the newspaper by attacking North.

He's suffered enough. His family has suffered enough. He's been punished enough. A prison term on the top of that would be fundamentally too harsh, too wrong. It's a time for forgiveness. It's a time to say it's over.

When the court weights the appropriateness of its sentence certainly one of the most important things to consider is the fact that Ollie North is a good and caring person who has contributed a great deal to society and is deserving of leniency.

One of the greatest things a judge has, is the ability to be lenient, to be merciful, to balance, and to understand the circumstances.

He's really a man whose life has been focused on four traditional values.

"God." He's deeply religious, and always has been. He's active in his church. He's run out of more meetings with me so he could attend Wednesday night Bible study than anybody I know.

"His Family." He's a family man with four children, and his wife of 21 years.

"Country." We already know enough about Ollie North's relationship to his country. He's proven that he's willing to die for it.

"Service is the fourth thing." I think service to his fellow man. He's a man of extraordinary energy and intensity. He is the man who most people would choose to be with in that one life threatening time that one might encounter in life because with him there you might have a chance of surviving it. And you'd certainly know that he'd lay down his life in the effort.

The court heard many trial witnesses speak about his dedication, his unending effort to accomplish things. No one, no one could have a stronger work ethic. If anything, Ollie North took on too much and worked too hard.

Charlie Allen, who worked with him so much, characterizes him as a decent man of good will, always with the best of intentions. Always a man who loved his country. A man who worked at a breakneck pace with such intensity that all who knew him worried about his health.

Based on the trial testimony and the letters to the court could anyone dispute that in the 20 years Ollie North served the Government that in fact he worked 40 years? Didn't he at least double the normal workload by what he did. And if we're balancing today, shouldn't that be put on the scale?

George Cave, the CIA official who worked close at hand, said that "he worked tirelessly to free the hostages and to take actions which made clear to the terrorists that the U.S. would do all in its power to thwart their plans and to bring them to justice, if at all possible. His willingness to take on risky assignments bespeaks a man willing to sacrifice himself for the nation's good."

From others who have dealt with Colonel North we learn about the care and concern he has had for other people. Not just Marines on the battlefield—other people. The court received a letter from a clergyman who said that over time he had received many promises from others but never any real help. "That, I received," he says, "only from Oliver North." Adolfo Calero described North as "selfless, courageous, worked well beyond the call of duty to help the Nicaraguan freedom fighters in the most critical days when their survival was in doubt." General Bronars speaking for three former commandants of the Marine Corps said of North, "he always tried to do what was right in terms of his God, his country, his job, his family, his neighbors." His company commander in Vietnam now 20 years later told the court about his professionalism and his ability to lead Marines in combat which he said was instrumental in saving young Marines. William Haskell, whom you've heard from, 20 years later says well, what I remember best about Ollie North 20 years ago was how well he took care of the men in his platoon. And he said to the court, and I quote, "it was as though he cared more about others than he did about himself."

Some have said Ollie North cared too much. That when told to keep the freedom fighters together body and soul he cared too much. That when told to seek the release of hostages he cared too much. Maybe those are the kinds of assignments you don't give to Ollie North.

Nonetheless, caring for others is a character trait which should be weighed on this day. It's a sign of a strong and good person. You see this trait arise so many times when he comes in contact with different people.

The court heard from Peggy Say, the sister of the hostage Terry Anderson still held prisoner today. You saw how she described the many times she sat across from Oliver North's desk crying and pleading that he do something, do anything to get her brother out of captivity. She told how North could have easily turned down her requests for appointments but he never did. Sometimes pleading even reduced Ollie North to tears. She acknowledged that in all her very active work on behalf of her brother and other hostages that she can say without reservation that Ollie North cared more about the hostages than any official in Washington.

David Jacobson, the hostage who was released in November, 1986 and appeared in court told about Ollie's concern for others. On the very joyous day when Jacobson is flying home and Ollie North is in the plane, his joy is matched by North's sadness at the fact that North hasn't been able to obtain

the release of the others. And Jacobson wrote to the court recently, "I am alive and free today because of Colonel North's initiative and creativity. If he had not acted, I would either be dead like Alec Collett, Peter Kilborn, or beginning my fifth year, held like a blind rabbit in a basement dungeon in Beirut. My grandchildren know me because Ollie cared, cared enough to do something while others procrastinated or were preoccupied with their careers."

Even during the last two and a half years besieged by troubles of his own and the world seemed turned upside-down he still had time to care and to help. In the Fall of 1987 after the congressional hearings but well before any indictment was returned against him, he received a call from a woman in Arkansas. The woman ran an organization which enables terminally ill children to have a dream come true before they die, and when asked for help Ollie North is incapable of refusing it. He was told by that woman of a 16 year old boy dying from cancer, having lost half his weight. She said that the boy had seen in Ollie North, on the TV at the hearings, some special strength. The dying boy wanted to meet Colonel North. Ollie, then still a Marine on active duty, took a day of leave. He flew to Arkansas. He met with the boy for an hour and a half. They talked, they prayed, they read the Bible and exchanged notes. Ollie did his best to encourage the youngster. He told him not to give up. By all reports it was a time of great joy. The boy died a week and a half later. In that situation Ollie North had the ability to help and he willingly gave of himself. He's always giving of himself.

In conclusion, I ask the court again to balance the good against the wrong. I acknowledge that on one side of the scale the court may place the wrong done, the need for punishment and the need for deterrence. To place on North's side the positive, the 20 years of intense hard work for his country, the heroic service as a Marine, the saving of Marine lives, the work to release hostages and the risks he took. The fight against terrorism and the ever present threat of his own assassination. Also place on that side of the scale, on North's side of the scale—the pain and suffering for him and his family during what anyone has to acknowledge is an extraordinary two and a half year saga which few men in our history have had to endure. And put on Oliver North's side the fact that he's been convicted. Conviction is a punishment. It is a strong punishment. It may be the strongest punishment. Also consider the loss of his Marine Corps career which meant so much to him.

What more should society fairly demand of Oliver North? There has been enough pain, enough turmoil, enough uncertainty, and enough punishment.

Your honor, Ollie North has paid his debt to society. He's paid it in advance. Few defendants can say that. Most come before the court with a long history of trouble perhaps and they've done little or nothing for society. I suggest to the court that this may be the one in a thousand cases where a man has paid his debt to society in advance. And if the court determines that some form of additional punishment is necessary then please consider an appropriate community service.

Ollie North is far from a perfect man. He made serious mistakes. But I ask again in closing going back to the question that I think is so key here, what is a good life worth if not given full measure at this hour of need? You have before you a man who is worthy of the court's mercy, compassion, understanding and leniency. And so Oliver North, the man who fought to preserve freedom, stands here today with his freedom in jeopardy. I say to you, Your honor, he is a good man, he's brave, he's caring, he's self-sacrificing. He is a truly good man. Please do not take away his freedom. Thank you.

DEPARTMENT OF THE NAVY, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Alexandria, VA, June 30, 1989.

MEMORANDUM FOR THE SECRETARY OF THE NAVY

Subj: Status and entitlement to retired pay of a retired naval officer upon conviction of violating 18 U.S.C. § 2071(b) (1982)

1. You requested my opinion as to the legal status and pay entitlement of a retired naval officer convicted of a violation of 18 U.S.C § 2071(b) (1982). The two parts of this statute prohibit essentially the same acts and provide for identical penalties. Subsection (a) applies to any individual. Subsection (b), however, applies only to a custodian of public records and adds an office forfeiture and disqualification provision.

2. Forfeiture and disqualification provisions similar to section 2071(b) have existed since at least 1853. Similar provisions in other statutes are not punitive but remedial. The forfeiture is not part of the announced sentence but a consequence of conviction. The purpose is the protection of the public; the disqualification is an incidental consequence, and not a punishment or penalty. Such a forfeiture, if applied to a retired naval officer, would result in the loss of all retired pay as well as medical and other retirement benefits.

3. In my opinion, the type of office held by a retired naval officer is not the same as that contemplated by the forfeiture portion of 18 U.S.C. § 2071(b). Accordingly, a retired naval officer convicted of such an offense does not forfeit his commission, nor does he lose his retired pay as a consequence thereof. My analysis and relevant legal authority are contained in the attached memorandum.

4. Normally, a retired officer's status determines the question of entitlement to retired pay. The Comptroller General, however, finally decides questions involving expenditure of appropriated funds. As an agency head, you are entitled to an advance ruling regarding any proposed expenditure. Since this is a question of first impression, I recommend you ask the Comptroller General if he has any objection to continued payment of retired pay in these circumstances.

E.D. STUMBAUGH,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocate General.

DEPARTMENT OF THE NAVY, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Alexandria, VA.

MEMORANDUM OF LAW

Subj: Status and entitlement to retired pay of a retired naval officer upon conviction of violating 18 U.S.C. § 2071(b) (1982).

1. Question.—What effect does an 18 U.S.C. § 2071(b) conviction have on a retired naval officer's status and entitlement to retired pay?

2. Short answer.—The type of office held by a retired naval officer is not the same as that contemplated by the forfeiture portion of 18 U.S.C. § 2171(b). Accordingly, a retired naval officer convicted of such an offense does not forfeit his commission, nor does he lost his retired pay as a consequence thereof.

3. Discussion.

a. There have been several cases of active-duty military officers convicted of offenses involving forfeiture or disqualification provisions similar to those in section 2071(b).[1] In both the forfeiture and the disqualification situation, the officers were separated from the military service by operation of law. Secretarial action in such cases was limited to notifying the individual that as of the date of conviction he ceased to be a member of the service.[2]

b. There are no reported cases involving retired military officers convicted of civil offenses resulting in forfeiture of office. One case discusses, in dictum, the effect of a disqualification provision on a retired Army officer.[3] The officer had been convicted of an offense with such a provision, and, upon reversal of his conviction, sought restoration of active-daty and retired pay. The Court of Claims and the Attorney General found that the officer had been removed from the Army and was not entitled to pay. Both further opined that the effect of the statute would have been removal from the Army, even if he had been retired. Those opinions, however, were unsupported by any rationale or authority and were collateral to the issues raised. Thus, the question of forfeiture of office by a retired officer has never been squarely addressed.

c. Initial attempts to determine whether the forfeiture provision applied to a retired naval officer focused on the meaning of the term "office." Analysis based on the abstract meaning of this technical term, generally used only in the specialized area of military personnel law, results in, at best, an inconclusive answer. What must be determined is the meaning of the term "office" in the statutory context in which it is found.[4] Additional factors considered in this memorandum are the relevant legislative history, the purpose and intent of similar forfeiture provisions in other statutes, and later enactments that express congressional intent in a similar context.[5]

d. It should be recognized at the outset that this question would not even arise in the case of a retired civilian officer or employee of the Federal government, since they no longer hold an office to forfeit. Title 5, United States Code, defines "officer" for purposes of that title as one who is "engaged in the performance of a Federal function under authority of law or an Executive act." Once retired, Federal civilian office holders no longer perform any Federal function, and are, by definition, not officers.[6] Only the special status of a retired commissioned officer gives rise to the question.

e. That retired naval officers remain members of their respective services[7] and retain their office[8] in the sense that they retain their status as commissioned officers is well established. There is a significant difference, however, between retired military and civilian officers that must be taken into account. The common meaning of the term "office" connotes one who exercises significant authority under the laws of the United States.[9] In determining the meaning of any Act of Congress, unless the context indicates otherwise—"officer" includes any person authorized by law to perform the duties of the office.[10] The Comptroller Gen-

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Footnotes at end of article.

eral has defined the elements of civil office: "The specific position must be created by law; there must be certain definite duties imposed by law on the incumbent, and they must involve the exercise of some portion of the sovereign power." [11] Retired military officers exercise no authority pursuant to the laws of the United States.[12] They are thus distinguished from active-duty officers and from civil office holders by the absence of duties.

f. This office-without-duties status may be the basis for otherwise unexplained inconsistencies in the law. For example, retired military personnel are considered to hold an "office" for some purposes under the Constitution but not for others. Article I of the Constitution prohibits any person "holding any office under the United States" from being "a Member of either House during his Continuance in Office." [13] Both retired regular and Reserve officers, however, have been and are members of Congress.[14] On the other hand, retired service members, including enlisted personnel, are considered to hold an office of profit or trust within the meaning of section 9, article I of the Constitution, thus requiring the consent of Congress for foreign employment.[15]

g. Similarly, retired naval officers have an "office" for some statutory purposes, but for others, their officer statute is irrelevant.[16] That status is, therefore, not an authoritative or reliable basis for determining the intended effect of a specific forfeiture or disqualification provision. The history and purpose of each statute must be examined individually to determine the intended effect in a specific instance. Therefore, we must look beyond the four corners of the statute in question to determine its intended application.[17]

h. The legislative history of section 2071(b) is sparse. Antecedent statutes were enacted in 1853, 1909 and 1940.[18] The earliest statute involving tampering with public records was limited to court records.[19] From 1909 until 1948, the section was included in a chapter titled "offenses against public justice" that prohibited acts such as bribing a judge. In 1948, the statute was enacted in its present form. No legislative history regarding the intended application of the section has been found, but in the context of antecedent sections, it appears that it was originally intended only to protect court papers, and only later amended to include public records generally.[20]

1. The general purpose of the statute is "to preserve the public records and papers intact from all kinds of spoliation, mutilation, or destruction." [21] A public interest that would be served by the forfeiture provision of 18 U.S.C. § 2071(b) is the safeguarding of public documents through removal of the custodian's access. Both parts of section 2071 prohibit essentially the same acts [22] and provide for identical penalties. Subsection (a) applies to any individual. Subsection (b), however, applies only to a custodian of public records and contains the additional provision requiring forfeiture of, and disqualification from, office. Since a military officer is relieved of all duties upon retirement, the public purpose underlying this statute would not be served by forfeiture of such an officer's commission.[23]

j. No case law can be found directly addressing the application of the forfeiture and disqualification provisions of 18 U.S.C. § 2071(b). One case, however, involves its immediate predecessor 18 U.S.C. § 235.[24] In that case, the court of appeals concluded that an identical disqualification provision was not properly included as part of the sentence. The issue was whether the lower court, limited by statute to imposing only punishments of fine and imprisonment, had exceeded its authority by including office disqualification in the sentence. Citing *Burton* v. *United States*,[25] the court found it unnecessary to decide the question and simply ordered the office-disqualification language stricken from the sentence. That provision in the sentence did "nothing more than declare or recite what, in the opinion of the trial court, is the legal effect attending or following a conviction under the statute." [26] The Attorney General has stated that the purpose of such provisions "is the protection of the public; the disqualification is an incidental consequence, and not a punishment or penalty." [27]

k. If the forfeiture and disqualification provisions of this section are construed to apply to retired naval officers, not only would those officers' status be terminated, but also entitlement to retired pay and all other benefits provided in retirement. For at least the last thirty years, Congress has protected retired pay, once attained, of all former employees, including retired military members,[28] from forfeiture unless they are convicted of offenses for which forfeiture of retired pay is expressly provided. At one time, the "Hiss Act" mandated forfeiture of Federal retired pay upon conviction of *any* felony.[29] Congress, in 1961, clarified its intention that retired pay only be lost by those who commit specified offenses such as espionage. The rationale for the change in the law was that "[c]lear evidence has been developed . . . that the present law does not reflect our traditional sense of justice. A number of individuals have lost . . . valuable benefits because of offenses not only minor in nature but in no way related to security." [30] Section 2071(b) is not one of the offenses for which the "Hiss Act" requires a forfeiture of retired pay. A retired Federal civilian employee convicted of a section 2071(b) violation thus could not forfeit retired pay.

l. Retired military officers should not be subject to an even greater forfeiture merely because they continue to hold a commission, absent clear statutory language requiring such a result. This view is consistent with the long established rule of statutory construction that penal statutes should be strictly construed against the government and in favor of the persons on whom penalties are sought to be imposed.[31] This rule rests on the fear that expansive judicial interpretations will create penalties not originally intended by the legislature. Such laws will be given their common and ordinary meaning so that they may be understood by all. Such strict construction is a means of assuring fairness to persons subject to the law by requiring penal statutes to give clear and unequivocal warning, in language that people generally would understand, concerning actions that would expose them to liability for penalties and what the penalties will be.[32]

4. Conclusion.—The reasons stated above, it is the opinion of the Judge Advocate General that forfeiture by operation of law of a retired naval officer's commission is not a consequence that was intended by the legislature when 18 U.S.C. § 2071(b) was originally enacted. Thus, a conviction of violating that statute has no effect on the status or entitlement to retired pay of such an officer.

FOOTNOTES

[1] *See e.g., McMullen v. United States*, 100 Ct. Cl. 323 (1943), *cert. denied*. 321 U.S. 790 (1944) (active-duty officer ceased to be an officer due to disqualification from office provision. *U.S. v. Motto*, 348 F.2d 523 (Ct. Cl. 1965) (active-duty officer convicted and removed from service because of 18 U.S.C. § 202, containing both forfeiture of office and disqualification provisions).

[2] *U.S. v. Motto*, 348 F.2d 523 (Ct. Cl. 1965).

[3] *McMullen*, 100 Ct. Cl. at 340. *See also* 39 Op. Att'y Gen.

[4] *Cf. Riddle v. Warner*, 522 F.2d 882 (9th Cir. 1975) (determining that an officer did not forfeit his military office upon acceptance of the civil office of notary public because that office was not the type of office intended by the "purposes underlying the statute." *Id.* at 884).

[5] 3 N. Singer, Sutherland Statutory Construction, §§ 59.03, 59.08 (Sands 4th ed. 1986).

[6] 5 U.S.C. § 2104 (1982).

[7] *United States v. Tyler*, 105 U.S. 244 (1882); *McCarty v. McCarty*, 453 U.S. 210 (1981).

[8] *Wood v. United States*, 107 U.S. 414 (1882); *In re Winthrop*, 31 Ct. Cl. 35 (1895).

[9] *Buckley v. Valeo*, 424 U.S. 1, 125–6 (1976).

[10] 1 U.S.C. § 1 (1982).

[11] 29 Comp. Gen. 363, 366 (1950) (noting a distinction between "military office" and "civil office").

[12] *See* article 0811, *U.S. Navy Regulations, 1973.*

[13] U.S. Const., art. I, § 6, cl. 2.

[14] *See Schlesinger v. Reservists Committee to Stop the War*, 418 U.S. 208, 210 (1974).

[15] 37 U.S.C. § 908 (1982); 65 Comp. Gen. 382 (1986).

[16] For example, retired naval officers are subject to the Uniform Code of Military Justice, but are not prevented from holding civil office unless on active duty and are exempted from some standards of conduct provisions. 10 U.S.C. §§ 802, 973; 18 U.S.C. § 206 (1982).

[17] *Riddle v. Warner*, 522 F.2d 882 (9th Cir. 1975).

[18] An Act to prevent Frauds upon the Treasury of the United States, ch. 81, 10 Stat. 170 (1853); An Act To codify, revise, and amend the penal laws of the United States, ch. 321, 35 Stat. 1088 (1909).

[19] An Act for the Punishment of Certain Crimes against the United States, ch. 9, 1 Stat. 115 (1790) (parallels 18 U.S.C. § 2071(a) in its application to any person and absence of office forfeiture, but includes falsification).

[20] *See McInerney v. U.S.*, 143 F. 729 (1st Cir. 1906) (concluding that "by reason of its fixed connection with an actual investigation and judicial act, which in a judicial proceeding established a right, it was a record within the fair meaning of the statute [predecessor to 18 U.S.C. § 2071(b) enacted in 1853]." *Id.* at 732.).

[21] *U.S. v. De Groat*, 30 F. 764, 765 (E.D. Mich. 1887).

[22] Both prohibit concealing, removing, mutilating, obliterating, and destroying records. Subsection 2071(b) also prohibits falsifying records.

[23] A retired officer's commission alone does not allow the officer to place himself on duty. Article 0824, *U.S. Navy Regulations, 1973.* Retired officers may be ordered to active service, with their consent, in time of peace or in time of war or national emergency, by the Secretary of the Navy. Article 0834, *U.S. Navy Regulations, 1973.*

[24] *Husar v. U.S.*, 26 F.2d 847 (9th Cir. 1928), *cert. denied* 278 U.S. 625 (1928).

[25] 202 U.S. 344 (1905).

[26] *Id.* at 369.

[27] 38 Op. Att'y Gen. 468, 471 (1936) (citing *State v. Langer*, 256 N.D. 377). *See also Trop v. Dulles*, 356 U.S. 86, 95 (1958) (involving the loss of the right to vote upon conviction of a felony. The Supreme Court stated "[b]ecause the purpose of [such a forfeiture] is to designate a reasonable ground of eligibility for voting, this law is sustained as a nonpenal exercise of the power to regulate the franchise.").

[28] Retired officers can be dropped from the rolls only if they have forfeited retired pay under the "Hiss Act." DODDIR 1332.16 of 10 Mar 1970, Dropping Retired Military Personnel from the Rolls of the Armed Forces. Officers on *active-duty*, on the other hand, can be dropped from the rolls for conviction of any offense resulting in a sentence to confinement or administratively separated without their consent. Retired officers are not subject to administrative separation processing. Officers subject to removal from active duty for cause, if eligible for retirement, must be allowed to retire. Officers not

eligible to retire are simply discharged from the service.

[29] 5 U.S.C. § 2282 (repealed by Pub. L. No. 87-299, § 1, 75 Stat. 640 (1961) (codified as 5 U.S.C. §§ 8311-8322) (1982 Supp. V 1987)).

[30] S. Rep. No. 862, 87th Cong., 1st Sess. *reprinted in* 1961 U.S. Code Cong. & Admin. News 2928.

[31] *U.S. v. Wiltberger*, 18 U.S. 76 (1820).

[32] 3 N. Singer, Sutherland Statutory Construction, § 59.03, (Sands 4th ed. 1986).

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, October 16, 1989.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: On behalf of the more than 2.7 million men and women of the Veterans of Foreign Wars of the United States and its Ladies Auxiliary, I wish to commend you for your efforts to restore Lt. Col. Oliver North's retainer pay. The VFW strongly believes that Lt. Col. Oliver North has earned every penny of his retainer pay and regardless of his actions while assigned to the National Security Council is entitled to and should receive that pay. The forfeiture of Lt. Col. North's retainer pay, in our opinion, constitutes a further penalty which goes well beyond the intent of the court's verdict.

Again, Senator Helms, the VFW strongly supports your compassionate effort to restore Lt. Col. North's retainer pay and stands ready to assist you in any way we can. For use as you may deem appropriate, I am attaching copies of my anticipated testimony before the Senate Judiciary Committee and VFW Resolutions Nos. 431 and 461.

Sincerely,

LARRY W. RIVERS,
Executive Director.

RESOLUTION NO. 431—PARDON LTC. (RET.) OLIVER NORTH

Whereas, LTC (Ret.) Oliver North has spent most of his adult life in the distinguished and patriotic service of his country, both as a military officer and as a civilian with a record of many noteworthy and honorable accomplishments; and

Whereas, LTC (Ret.) Oliver North is presently undergoing a period of legal difficulty growing out of his most recent service to his country; and

Whereas, it is the desire of the Veterans of Foreign Wars that we give support to him during this period of difficulty and to further express the sense and feeling of this organization to the effect: (1) that Colonel North's actions were motivated by what he deemed to be in the best interest and welfare of this country and were done by him as would have been done by any military officer in the normal chain of command, following the dictates of superior orders and his own sense of loyalty and duty to country; and (2) that no willful criminal intent, as such, was ever intended on his part but rather only another step in the ongoing battle against the spread of communism and its aggression, which step was especially warranted at this time because of the continuing and increasing intensity of these problems in our country's own backyard; now, therefore

Be it resolved, by the 90th National Convention of the Veterans of Foreign Wars of the United States, that at such time as the judicial process so indicates or at any other appropriate or desired time, the President of the United States be urged to grant LTC (Ret.) Oliver North a full pardon and restore him to all of the rights and privileges of any other such loyal and patriotic citizen of our country.

Adopted by the 90th National Convention of the Veterans of Foreign Wars of the United States held at Las Vegas, Nevada, August 18-25, 1989.

RESOLUTION NO. 461—RESTORE LIEUTENANT COLONEL NORTH'S RETAINER PAY

Whereas, Lieutenant Colonel Oliver North already has been fined $150,000.00 as a result of his Iran-Contra conviction (now on appeal); and

Whereas, Lieutenant Colonel North, a decorated Vietnam veteran who was described by former President Ronald Reagan as an "American hero," has lost his military retainer pay as a result of an administrative decision by the General Accounting Office (GAO); and

Whereas, the GAO decision to revoke his retainer pay would further penalize him the $600,000.00 lifetime earnings of his military retainer pay, thus imposing on him a fine of $750,000,00; now, therefore

Be it resolved, by the 90th National Convention of the Veterans of Foreign Wars of the United States, that the Veterans of Foreign Wars of the U.S. endorses the current effort to restore his military retainer pay to Lieutenant Colonel North.

Adopted by the 90th National Convention of the Veterans of Foreign Wars of the United States held at Las Vegas, Nevada, August 18-25, 1989.

CONCERNED WOMEN FOR AMERICA,
Washington, DC, October 12, 1989.

Hon. JESSE A. HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: This letter is written on behalf of Lieutenant Colonel Oliver North, United States Marine Corps (Retired). As you know, Colonel North has been awarded Navy Commendation medals, the Vietnam Cross of Gallantry with Silver Stars, two Purple Hearts, a Bronze Star, and our nation's third-highest medal for valor—the Silver Star. Long before Oliver North was a household word, he was a true American hero.

As a United States Marine he carried out his duties in accordance with the orders handed down by his Commander-in-Chief! Even though he was expected to make decisions on a daily basis, he did so for the good of the Corps and for the good of his country.

Colonel North's pension was suspended after being convicted of defending the friends of his country and protecting his wife and children—for being a Marine! He was following the orders of his superiors. Judge Gesell stated that, in his opinion, Colonel North was a subordinate working to carry out initiatives of a few superiors. He performed his duties in accordance with his orders.

Please do whatever you can to undo the travesty of the suspension of Colonel North's pension. The more than one-half million Concerned Women for America believes that he was a "man under authority" acting for the good of America!

Very Sincerely,

BEVERLY LAHAYE,
President.

EAGLE FORUM,
Washington, DC, October 17, 1989.

DEAR SENATOR HELMS: I pledge Eagle Forum's complete support to your amendment to restore Colonel Oliver North's pension.

Colonel North has courageously earned his pension by supporting America and defending freedom.

Following 20 years active duty in the United States Marine Corps, North's retirement is well earned. It amazes me that someone who has served in Vietnam, who has been honored with the Silver Star, the Bronze Star, and two Purple Hearts, must now fight for his pension.

Sincerely,

PHYLLIS SCHLAFLY,
President.

YOUNG AMERICANS FOR FREEDOM,
Vienna, VA.

Senator JESSE HELMS,
U.S. Capitol,
Washington, DC.
Attention: Andy Hartsfield.

DEAR SENATOR: On behalf of the 50,000 members and supporters of Young Americans for Freedom, I write to express our deep support for the motion to restore the military pension of Oliver North.

North has fought to defend his country in Viet Nam and elsewhere. He has earned his pension after 20 years of service to America, some of it faced looking into loaded guns held by enemies of our nation.

Colonel North has not only served, but served with much distinction, and to deny him his pension, regardless of the rulings of courts or other federal agencies, is an error.

The American people understand that it is up to the United States Senate to take responsible action, and restore the pension of this decorated war veteran, and parenthetically, up to President Bush to do likewise by issuing a pardon.

Sincerely,

THOMAS LIZARDO,
Executive Director.

AMERICAN LEGION POST 206
High Point, NC, October 17, 1989.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

MY DEAR SENATOR HELMS; I was recently informed that your continuing efforts to represent the citizens of North Carolina, and the people of America, have included the defense of Col. Oliver North, and his right to receive retainer/retired pay for the years he dedicated his life to the military service.

This matter has been brought before the members of our post, as well as the members of the American Legion and VFW in Greensboro. It is unanimously agreed that Col. North has justifiably earned this remuneration, and we urge, and support you in your efforts to reinstate his retired pay, and your opposition to the bureaucracy which threatens the future of all military veterans and Americans who are committed to the preservation of peace and freedom of this great nation.

Col. Oliver North and Senator Jesse Helms are truly Americans who give meaning to the adage, ". . . that those who died have not died in vain".

For God and Country,

JACK M. AUSTIN,
Commander.

OCTOBER 19, 1989.

To Senator JESSE HELMS:

Concerning your proposal to amendment number 693, regarding the reinstatement of Lieutenant Colonel North's pension, VFW Post 619, High Point, North Carolina, has

voted unanimously to support your amendment number 694.

Please contact us if we may be of service.

Sincerely;

DWIGHT Y. UPTON,
Commander, VFW Post 619.

HIGH POINT, NC.

P.S.—Jesse, we want to help.

OCTOBER 19, 1989.

To Senator JESSE HELMS:

Concerning your proposal to amendment number 693, regarding the reinstatement of Lieutenant Colonel North's pension, Ladies Auxiliary To The VFW Post 619, High Point, North Carolina, has voted unanimously to support your amendment number 694.

Please contact us if we can be of service.

Sincerely;

FARRES H. UPTON,
President, Ladies Auxiliary to the VFW Post 619.

HIGH POINT, NC.

[From the Heritage Foundation, Sept. 14, 1989]

JUSTICE DENIED: RESTORE OLIVER NORTH'S PENSION

As a result of one of his recent controversial felony convictions, Lieutenant Colonel Oliver North has been stripped of his Marine Corps pension. In light of his years of outstanding service as a Marine, including combat leadership in Vietnam, this punishment is excessive and unjust. North's pension should be restored, and can be, by an act of Congress that would override other laws. This would not affect North's punishment or prejudice the process of appeals from the verdict against North. Nor would it weaken the deterrent power of the law in other cases. What it would accomplish is simple: justice.

The Automatic Forfeit. One of the three criminal counts of which Oliver North was recently convicted charged him with destroying federal documents. Title 18, Section 2071 (b) of the United States Code says that any federal officer who destroys, mutilates or falsifies federal documents shall be subject to fine and imprisonment, "and shall forfeit his office and be disqualified from holding any office under the United States." The pension of a retired Marine officer is deemed to be an "office" which is forfeited on conviction.

The policy embodied in the s*** BAD MAG TAPE ***tatute is, in principle, a wise one. Federal employees must be deterred from destroying or falsifying information for personal or partisan political purposes. However, Oliver North has testified that, in shredding documents and undertaking other acts of concealment, be believed that he was legally authorized by the administration he served.

Whether North was correct in believing that his activities were legally authorized or not is a question that will continue to engage not only constitutional lawyers and scholars but historians for years. In the meantime, however, North and his family must suffer a severe financial loss as the result of the automatic operation of a criminal law which in all likelihood was never intended to punish individual federal officers caught in struggles between Congress and their superiors over the direction of American foreign policy.

The Jury and the Judge. The automatic forfeiture of North's pension is particularly disturbing, because it prevents either judges or juries from varying the punishment to fit the crime. The jury in North's trial showed a capacity to make subtle moral distinctions that impressed all observers. Not only did the jury find North not guilty of the major counts of obstructing congressional and presidential inquiries, they acquitted him of charges that he had enriched himself by defrauding the Nicaraguan Democratic Resistance and the U.S. Internal Revenue Service. North was found innocent of almost all the charges brought against him.

North was deemed guilty only of destroying National Security Council documents, and of accepting an "illegal gratuity" in the form of a $13,800 security fence that he allowed to be built around his home to protect his family against possible terrorist attacks. The jury evidently believed North was following orders, and acting in what he believed to be the best interest of the Ujited States, in carrying out the other activities with which he was charged. The lenient sentence that the judge imposed suggests that he agreed with the jury.

Neither judge nor jury, however, is allowed to show understanding or leniency in the case of North's pension. Neither judge nor jury can alter the automatic forfeiture provision.

But Congress can pass a special act to restore the pension, notwithstanding any other federal law to the contrary. By making an exception to the law in the form of a special statute, Congress can signal its intent to any potentially criminal federal officers that the punishment shall otherwise stand as firm as the policy behind it.

Paying What Is Owed. The restoration of North's pension would not affect a possible reversal of one or more of North's convictions on appeal. Nor would restoration of the pension prevent George Bush from pardoning North after the final outcome of the appeals process. Even more important, Congress, which is at its lowest ebb of popularity in decades, can demonstrate that it is capable of the impartiality and statesmanship which it accused the administration which North served of lacking.

North is paying for his violations of the law by community service. The taxpayers have already paid their own price for the trial of North: more than $40 million dollars, spent by the government in investigating him. It is inhumane that North should be denied his reward for his many years of dedicated and honorable service to his country, in battlefields as well as in public office. To do so is for the nation to renege on its obligation to North as an American fighting man. In uniform and on battlefields under enemy fire, North—as millions of other Americans—earned his military pension. It should be paid to him.

MICHAEL E. LIND,
Visiting Fellow.

Mr. HELMS. Mr. President, I will just say to Ollie North: This one is for you.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announced that the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from South Dakota [Mr. DASCHLE], the Senator from California [Mr. FOWLER], and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 78, nays 17, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—78

Armstrong	Gore	Mitchell
Baucus	Gorton	Moynihan
Bentsen	Graham	Murkowski
Biden	Gramm	Nickles
Bond	Grassley	Nunn
Boren	Hatch	Packwood
Boschwitz	Heflin	Pell
Breaux	Heinz	Pressler
Bryan	Helms	Pryor
Bumpers	Hollings	Reid
Burdick	Humphrey	Riegle
Burns	Inouye	Robb
Chafee	Johnston	Rockefeller
Coats	Kassebaum	Roth
Cochran	Kasten	Rudman
Cohen	Kennedy	Sanford
Conrad	Kohl	Shelby
Cranston	Levin	Simpson
D'Amato	Lieberman	Specter
Danforth	Lott	Stevens
Dixon	Lugar	Symms
Dole	Mack	Thurmond
Domenici	McCain	Wallop
Exon	McClure	Warner
Ford	McConnell	Wilson
Garn	Mikulski	Wirth

NAYS—17

Adams	Harkin	Leahy
Byrd	Hatfield	Metzenbaum
DeConcini	Jeffords	Sarbanes
Dodd	Kerrey	Sasser
Durenberger	Kerry	Simon
Glenn	Lautenberg	

NOT VOTING—5

Bingaman	Daschle	Matsunaga
Bradley	Fowler	

So the bill (S. 1816), as modified, was passed, as follows:

S. 1816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEANING OF THE TERM "OFFICE" IN THE CASE OF CERTAIN MEMBERS OF THE ARMED FORCES

(a) IN GENERAL.—Notwithstanding any other provision of law, no person who is a retired regular officer of the Armed Forces of the United States shall be considered as holding an office of the United States for purposes of section 2071(b) of title 18, United States Code.

(b) EFFECTIVE DATE.—This Act shall take effect as of January 1, 1989.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the bill as modified, was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 30, 1989, the Secretary of the Senate, on November 2, 1989, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled joint resolutions:

S.J. Res. 131. Joint resolution to designate November 1989 as "National Diabetes Month";

S.J. Res. 194. Joint resolution designating November 12 through 18, 1989, as "National Glaucoma Awareness Week"; and

S.J. Res. 209. Joint resolution to designate November 11, 1989, as "Washington Centennial Day."

The enrolled bills were subsequently signed during the session of the Senate by the Acting President pro tempore [Mr. SANFORD].

MESSAGES FROM THE HOUSE

At 12:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the amendments of the House to the amendments of the Senate numbered 53, 171, and 191 to the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes; it asks a further conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. SMITH of Iowa, Mr. ALEXANDER, Mr. EARLY, Mr. DWYER of New Jersey, Mr. CARR, Mr. MOLLOHAN, Mr. WHITTEN, Mr. ROGERS, Mr. REGULA, Mr. KOLBE, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2710. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

At 4:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 79. Concurrent resolution to deplore the unilateral Sandinista abrogation of the Nicaraguan cease-fire.

MEASURES PLACED ON THE CALENDAR

The following joint resolution, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 425. Joint resolution designating November 12 through 18, 1989, as "Community Foundation Week."

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, November 2, 1989, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 73. Joint resolution to designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week";

S.J. Res. 131. Joint resolution to designate November 1989 as "National Diabetes Month";

S.J. Res. 194. Joint resolution designating November 12 through 18, 1989, as "National Glaucoma Awareness Week"; and

S.J. Res. 209. Joint resolution to designate November 11, 1989, as "Washington Centennial Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate together with accompanying papers, reports, and documents which were referred as indicated:

EC-1859. A communication from the Principal Deputy Comptroller of the Department of Defense, transmitting, pursuant to law, notice of the transfer of certain funds; to the Committee on Appropriations.

EC-1860. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on the Rental Rehabilitation Program for fiscal year 1989; to the Committee on Banking, Housing, and Urban Affairs.

EC-1861. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Managing the Cost of Government: Proposals for Reforming Federal Budgeting Practices"; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EC-1862. A communication from the President of the United States, transmitting, for the information of the Senate, notice that the President of Korea has signed the agreement on driftnet fishing between the United States and the Republic of Korea; to the Committee on Commerce, Science, and Transportation.

EC-1863. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend section 4 of the Vessel Bridge to Bridge Radiotelephone Act (Public Law 92-63; 85 stat. 164; 33 U.S.C. 1203) to require power driven vessels of 20 meters or more to be equipped with bridge-to-bridge radiotelephones; to the Committee on Commerce, Science, and Transportation.

EC-1864. A communication from the Commissioner of the Bureau of Reclamation Department of the Interior, transmitting, pursuant to law, a report stating that it is necessary to construct modifications to the Coolidge Dam, San Carlos project, Arizona; to the Committee on Energy and Natural Resources.

EC-1865. A communication from the Secretary of t*** BAD MAG TAPE ***he Interior, transmitting, pursuant to law, the 17th annual report on the operation of the Colorado River; to the Committee on Energy and Natural Resources.

EC-1866. A communication from the U.S. Trade Representative, transmitting, pursuant to law, the annual report on the operation of the International Coffee Agreement for coffee year 1988/1989; to the Committee on Finance.

EC-1867. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend the Trading With the Enemy Act; to the Committee on the Judiciary.

EC-1868. A communication from the Secretary of Education, transmitting, pursuant to law, a report on the findings of the audits of 373 projects funded in fiscal year 1986 under the authority of part A of the Indian Education Act of 1972; to the Committee on Labor and Human Resources.

EC-1869. A communication from the Director for Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, notice that the Department of the Navy intends to exercise the authority for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-1870. A communication from the Acting Chairman of the National Transportation Safety Board, transmitting, pursuant to law, a copy of the Board's letter to the Office of Management and Budget regarding the President's October 16, 1989 sequester; to the Committee on Commerce, Science, and Transportation.

EC-1871. A communication from the Deputy Secretary of State, transmitting, pursuant to law a report stating the findings and recommendations of an Accountability Review Board convened relative to the assassination of Col. James N. Rowe; to the Committee on Foreign Relations.

EC-1872. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law a report on international agreements other than treaties, entered into by the

United States in the 60-day period prior to October 26, 1989; to the Committee on Foreign Relations.

EC-1873. A communication from the Acting Chairman of the Federal Maritime Commission, transiitting, pursuant to law(a report on implementation of section 8E of the Inspector General Act of 1978; to the Comiittee on Governmental Affairs.

EC-1874. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-92 adopted by the Council on September 26, 1989; to the Committee on Governmental Affairs.

EC-1875. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-93 adopted by the Council on September 26, 1989; to the Committee on Governmental Affairs.

EC-1876. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-94 adopted by the Council on September 26, 1989; to the Committee on Governmental Affairs.

EC-1877. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-95 adopted by the Council on September 26, 1989; to the Committee on Governmental Affairs.

EC-1878. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Funding for Homeless Shelter Located at 425 2nd Street, NW."; to the Committee on Governmental Affairs.

EC-1879. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual report of the Agency on activities under the Program Fraud Civil Remedies Act for fiscal year 1989; to the Committee on Governmental Affairs.

EC-1880. A communication from the Secretary to the Postal Rate Commission, transmitting, for the information of the Senate, Commission order and notice initiating proceedings and setting dates for filing initial testimony in certain docket numbers; to the Committee on Governmental Affairs.

EC-1881. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Childhood Injuries in the United States"; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Special Report entitled "Activities of the Committee on Governmental Affairs" (Rept. No. 101-180).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1382. A bill to permit issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel the *Karlissa* (Rept. No. 101-181).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1512. A bill to authorize appropriations for the Coast Guard for fiscal years 1990 and 1991, and for other purposes (Rept. No. 101-182).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1576. A bill to authorize a certificate of documentation for the vessel Lazy Jack (Rept. No. 101-183).

S. 1615. A bill to authorize a certificate of documentation for the vessel *Da Warrior* (Rept. No. 101-184).

S. 1616. A bill to permit issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Crili* (Rept. No. 101-185).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without recommendation without amendment:

S. 1665. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the submersible vessel PC-1501 (Rept. No. 101-186).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 1668. A bill to authorize appropriations for certain ocean and coastal programs of the National Oceanic and Atmospheric Administration (Rept. No. 101-187).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without recommendation with an amendment:

H.R. 2151. A bill to amend the Federal Aviation Act of 1958 to establish a schedule for the installation in certain civil aircraft of the collision avoidance system known as TCAS-II, and for other purposes (Rept. No. 101-188).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

H.R. 3294. A bill to authorize distribution within the United States of the United States Information Agency film entitled "A Tribute to Mickey Leland."

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 200. A resolution expressing the support of the Senate for firm and decisive action by the United States at the upcoming meeting of environmental Ministers in the Netherlands on November 6 and 7 in support of a framework convention on climate change.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 82. A bill to recognize the organization known as the 82nd Airborne Division Association, Incorporated.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 84. A bill to amend title 28, United States Code, to provide Federal debt collection procedures.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1563. A bill granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 53. A concurrent resolution concerning Iranian persecution of the Baha'is.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

S. Jay Plager, of Indiana, to be U.S. Circuit Judge for the Federal Circuit;

George W. Lindberg, of Illinois, to be U.S. District Judge for the Northern District of Illinois; and

K. Michael Moore, of Florida, to be Director of the U.S. Marshals Service.

By Mr. BIDEN, from the Committee on the Judiciary:

Donald Belton Ayer, of Virginia, to be Deputy Attorney General.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Chas. W. Freeman, Jr., of Rhode Island, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse, Patricia T. Freeman, none.

3. Children and spouses, Carla Park Freeman (Jay Benkowski), none; Charles W. Freeman III (Amy Lessler), none; Nathaniel T. Freeman (unmarried), none.

4. Parents, Charles W. Freeman (deceased), Carla Park Freeman (deceased).

5. Grandparents, Hovey T. Freeman (deceased), Marjorie Wellman Freeman (deceased); Edward C. Park (deceased), Fentress Kerlin Park (deceased).

6. Brothers and spouses, Robert Parke Freeman, $100-8/86-C. Schneider (R-R.I.); $125-9/86-C. Schneider (R-R.I.); $500-4/85-J. Chafee (R-R.I.); $200-1/87-J. Chafee (R-R.I.); $200-10/87-J. Chafee (R-R.I.); $125-1/88-M. Dukakis (D-MA). Sandra R. Freeman (spouse), none. Paul R. Freeman, Diane Freeman (spouse), none.

7. Sisters and spouses, E. Hope F. Hunder, $500-3/7/88-A. Gore. Michael S. Hundner, (spouse), $500-10/14/88-J. Chafee (R-R.I.).

Luigi R. Einaudi, of Maryland, to be the Permanent Representative of the United States of America to the Organization of American States, with the rank of Ambassador.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee.

1. Self, none.

Spouse, Carol P. Einaudi, none.

3. Children (all unmarried), Maria E. Einaudi, none. Elisabeth M. Einaudi, none. Mario M. Einaudi, none. Peter F. S. Einaudi, none.

4. Parents, Mario (NMN) Einaudi, none. Manon M. Einaudi, none.

5. Grandparents, Luigi Einaudi (deceased), Ida Einaudi (deceased), Robert Michels (deceased), Gisela Michels (deceased).

6. Brothers and spouses, Robert M. and Karin Einaudi, none. Marco T. and Meredith Einaudi, $50-1988-Democratic National Committee.

7. I have no sisters.

William Clark, Jr., of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to India.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse, none.

3. Children and spouses, Jared R. Clark, none.

4. Parents, deceased.

5. Grandparents, deceased.

6. Brothers and spouses, no brothers.

7. Sisters and spouses, Deanna W. and Gene Wheat, none.

Smith Hempstone, Jr., of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee:

1. Self, $100, Oct. 29, 1989, Bush/Quayle Campaign Committee.

2. Spouse, none.

3. Children and spouses names, none.

4. Parents names, none (deceased).

5. Grandparents names, none (deceased).

6. Brothers and spouses names: John W. Thompson, Jr. (half brother), $50, Oct. 26, 1988, Bush for President Committee.

7. Sisters and spouses names: none.

Keith Leveret Wauchope, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names: Ian and Colin Wauchope, none.

4. Parents names: Helen J. Wauchope, none.

5. Grandparents names: Deceased.

6. Brothers and spouses names: Deceased.

7. Sisters and spouses names: Morley & Anne Smith, none.

Francis Terry McNamara, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse: Nhu De McNamara, none.

3. Children and spouses names: Catherine McNamara, $100, 1985, '86, '87, South Dakota Democratic Party Candidates; Ellin McNamara, none; Anne McNamara, none; Jane McNamara, none; Patricia McNamara, none.

4. Parents names: John F. McNamara, deceased; Ellin McNamara, none.

5. Grandparents names: John V. McNamara, deceased; Josephine McNamara, deceased; Patrick Fennelly, deceased.

6. Brothers and spouses names: John P. McNamara, none; Edward McNamara, none; Peter McNamara, none; John F. McNamara, none; Anthoney McNamara, none; Charles McNamara, none; Kevin McNamara, none.

R. James Woolsey, of Maryland, for the rank of Ambassador during his tenure of service as United States Representative to the Negotiation on Conventional Armed Forces in Europe (CFE).

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributors, amount, date, donee:

1. Self, $100, 12/16/85, Committee for Tim Wirth; $125, 12/17/85, Ed Markey for Congress Committee; $500, 12/17/85, Senator John Glen Committee; $100, 01/13/86, Mike Barnes for Senate, $500, 04/02/86, Committee for Tim Wirth; $50, 04/25/86, Friends of Jim Moody; $100, 08/05/86, Bob Edgar for U.S. Senate; $250, 08/07/86, Fairchild Political Action Committee; $500, 11/17/87, Gore for President, $100, 01/27/88, Peter Hoagland for Congress Committee; $50, 04/08/88, Friends of Les Aspin; $100, 09/02/88, Joe Lieberman for Senate; $100, 10/31/88, DNC Victory Fund '88.

2. Spouse, Suzanne H. Woolsey, $150, 12/87, Coopers & Lybrand Political Action Committee; $500, 03/17/88, Gore for President.

3. Children and Spouses: Robert Nathaniel Woolsey, none; Daniel James Woolsey, none; Benjamin Haley Woolsey, none.

4. Parents: Clyde Kirby Woolsey, deceased; Robert James Woolsey, deceased.

5. Grandparents: Jay Woolsey, deceased; Katherine Woolsey, deceased; Clyde Kirby, deceased; Emma Kirby, deceased.

6. Brothers and spouses, none.

7. Sisters and spouses, none.

The following-named career members of the Senior Foreign Services, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period:

Morton I. Abramowitz, of the District of Columbia; and

Terence A. Todman, of the Virgin Islands.

Reginald J. Brown, of Virginia, to be an Assistant Administrator of the Agency for International Development.

The following-named persons to be representatives of the United States of America to the 44th session of the General Assembly of the United Nations:

San Gejdenson, of Connecticut; and

Christopher H. Smith, of New Jersey.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably three nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORDS of October 4, 11, and 17, 1989, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORE (for himself and Mr. MCCAIN):

S. 1830. A bill to impose sanctions against persons who engage in the trade of, or assist others in the trade of, missile technology which could be used in the construction of certain ballistic missile systems, and for other purposes; to the Committee on Foreign Relations.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1831. A bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG (for himself and Mr. KERRY):

S. 1832. A bill to amend and reauthorize the Public Housing Drug Elimination Act of 1988; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH:

S. 1833. A bill to amend the Public Health Service Act to reinstate the authority of the Public Health Service to regulate trains, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LIEBERMAN (for himself and Mr. THURMOND):

S. 1834. A bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORE (for himself and Mr. MCCAIN):

S. 1830. A bill to impose sanctions against persons who engage in the trade of, missile technology which could be used in the construction of certain ballistic missile systems, and for other purposes; to the Committee on Foreign Relations.

GORE-MC CAIN MISSILE AND PROLIFERATION CONTROL ACT

● Mr. GORE. Mr. President, last July, Senator MCCAIN and I introduced the

Gore-McCain Missile and Proliferation Control Act, which is known as S. 1421. A week ago, we circulated copies of the revised bill to members of the Senate Foreign Relations Committee, in anticipation of testimony which we gave there on October 31, on the subject of ballistic missile proliferation.

It is at this time that I submit as a new bill, a revised form of S. 1421, and ask unanimous consent that it be given a new bill number, and that a copy of this new bill be reproduced in the RECORD, along with the prepared testimony given by Senator MCCAIN and myself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gore-McCain Missile and Proliferation Control Act".

SEC. 2. POLICY.

(a) IN GENERAL.—It should be the policy of the United States to take all appropriate measures—

(1) to discourage the proliferation, development, and production of the weapons, material, and technology necessary and intended to produce or acquire missiles that can deliver weapons of mass destruction;

(2) to discourage Communist-bloc countries from aiding and abetting any states from acquiring such weapons, material, and technology;

(3) to strengthen United States export controls to prohibit the flow of United States materials, equipment, and technology that would assist countries in acquiring the ability to produce or acquire missiles that can deliver weapons of mass destruction, including missiles, warheads and weaponization technology, targeting technology, test and evaluation technology, and range and weapons effect measurement technology;

(4) to discourage private persons in non-Communist countries from assisting any states in acquiring such material and technology; and

(5) to monitor closely the development, sale, acquisition, and deployment of missiles, destabilizing offensive aircraft, and other weapons delivery systems which can be used to deliver weapons of mass destruction, and to make every effort to discourage such activity when such delivery systems seem likely to be used for such purposes.

(b) MULTILATERAL DIPLOMACY.—The United States should seek to pursue the policy described in subsection (a) to the extent practicable and effective through bilateral and multilateral diplomacy.

(c) UNILATERAL ACTIONS.—The United States retains the right to and should take unilateral actions to pursue the objectives in subsection (a) until such bilateral and multilateral efforts prove effective and, at that time, to support and enhance the bilateral and multilateral efforts.

SEC. 12423. ENFORCEMENT OF INTERNATIONAL CONTROLS ON MISSILE TECHNOLOGY.

(a) DETERMINATION BY THE PRESIDENT.—Subject to subsection (c), the President shall impose not less than one of the applicable sanctions described in subsection (b) whenever there is reliable evidence, as determined by the President, of any of the following:

(1) That a United States person—

(A) is exporting, transferring, or otherwise engaged in the trade of any internationally controlled missile technology in violation of the provisions of section 38 of the Arms Export Control Act (22 U.S.C. 2778) or section 5 or 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404 or 2405), or any regulations issued under any such provisions,

(B) is conspiring to or attempting to engage in such export, transfer, or trade, or

(C) is knowingly facilitating such export, transfer, or trade by any other person.

(2) That a foreign person—

(A) is exporting, transferring, or otherwise engaged in the trade of any internationally controlled missile technology for which an export license would be denied if such export, transfer, or trade were subject to those provisions of law and regulations referred to in paragraph (1)(A),

(B) is conspiring to or attempting to engage in such export, transfer, or trade, or

(C) is knowingly facilitating such export, transfer, or trade by any other person.

(3) That a developing country—

(A) is importing internationally controlled missile technology, or

(B) is equipping its armed forces with new or additional missile systems or other weapons delivery systems configured to use weapons of mass destruction.

(b) SANCTIONS.—

(1) The sanctions which apply to a United States person under subsection (a) are the following:

(A) Denying such United States person all export licenses under section 38 of the Arms Export Control Act (22 U.S.C. 2778) and sections 5 and 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404 and 2405).

(B) Prohibiting all contracting with, or procurement of any products and or services from, such United States person by any department, agency, or instrumentality of the United States Government.

(C) In a case in which the President determines that the acts by the United States person under subsection (a) are not destabilizing and that the person has not committed acts under subsection (a) previously, the sanctions described in subparagraphs (A) and (B), but only with respect to internationally controlled missile technology.

(2) The sanctions which apply to a foreign person under subsection (a) are the following:

(A) Denying the issuance of any export license under section 38 of the Arms Export Control Act (22 U.S.C. 2778) or section 5 or section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404, 2405) if such foreign person is the designated consignee or end-user in the application for such export license or if the President has reason to believe that such foreign person will benefit from the issuance of such export license.

(B) Prohibiting all contracting with, or procurement of any products or services from, such foreign person by any department, agency, or instrumentality of the United States Government.

(C) In a case in which the President determines that the acts by the foreign person under subsection (a) are not destabilizing and that the person has not committed acts under subsection (a) previously, the sanctions described in subparagraphs (A) and (B), but only with respect to internationally controlled missile technology.

(3) The sanctions which apply to a developing country under subsection (a) are the following:

(A) Denying or reducing all technical assistance in aviation, electronics, missiles, or space systems or equipment under the control of the United States Government.

(B) Denying transfer of all or selected technology in aviation, electronics, missiles, or space systems or equipment under the control of the United States Government, except for items the export of which to a controlled country (within the meaning of the Export Administration Act of 1979) would require only notification of the participating governments of the Coordinating Committee on Export Controls.

(4) Paragraphs (1)(B) and (2)(B) do not apply with respect to any contract which would supply products or services valued at—

(A) $20,000 or less of the value of a finished good for which the contract is entered into, or

(B) 3 percent or less of the average unit cost of such finished good.

(4) Sanctions under this section shall be imposed for a period of not less than 2 years and not more than 5 years.

(c) WAIVER.—The President may waive the imposition of sanctions on a person under subsection (a) with respect to a product or service if the President submits to Congress a certification that—

(1) the product or service is essential to the national security of the United States;

(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments; and

(3) the end-user of such product or service is the United States Government.

(d) INAPPLICABILITY TO PERSONS COMPLYING WITH FOREIGN LAWS.—Subsection (a) does not apply with respect to any exporting, transferring, or other trading activity carried out in good faith in compliance with the laws of a country that controls the export of internationally controlled missile technology pursuant to an international agreement to which the United States is a party.

(e) SUSPENSION OF SANCTIONS.—The President may suspend the imposition of sanctions under this section against a person on account of acts described in subsection (a) if a country that controls the export of internationally controlled missile technology pursuant to an international agreement to which the United States is a party is taking judicial or other enforcement action against that person on account of those acts. The President may terminate such sanctions if the President determines that, pursuant to that country's enforcement action, that person has been found not to have committed those acts or has been severely punished on account of those acts under that country's laws.

SEC. 4. SEMI-ANNUAL REPORTS ON THE PROLIFERATION OF LONG-RANGE MISSILE AND DESTABILIZING OFFENSIVE AIRCRAFT.

(a) REPORTS.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to Congress a report described in subsection (b).

(b) CONTENTS OF REPORT.—(1) Each report under subsection (a)—

(A) shall describe in detail the efforts of all foreign countries to acquire long-range missiles and destabilizing offensive aircraft and to acquire the material and technology to produce and deliver such weapons, and

(B) shall include an assessment of the present and future capability of those countries to produce and deliver such weapons.

(2) Each report under subsection (a) shall include an assessment of whether and to what degree any Communist-bloc country has assisted any foreign country in its efforts to acquire weapons systems, material, and technology described under paragraph (1).

(3) Each such report shall also list—

(A) each person who in the past has assisted any foreign country in those efforts; and

(B) each person who continues to assist any foreign country in those efforts, as of the date of the report.

(4) Each such report shall also include an assessment as to whether any person listed under paragraph (3)(A) or (3)(B) was aware that the assistance provided was for the purpose of developing a long-range missile or offensive aircraft.

(5) Each such report shall also provide any confirmed or credible intelligence or other information that any non-Communist country has assisted any foreign country in those efforts, either directly by selling such missiles or aircraft or by facilitating the activities of the companies listed under paragraph (3)(A) or (3)(B), but took no action to halt or discourage such activities.

(c) PROTECTION OF CLASSIFIED AND INTELLIGENCE INFORMATION.—Classified portions of any report prepared under this section may be issued in a separate annex to the report. In addition, the President may, with respect to the matters addressed in any such report, limit the transmission of intelligence information to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives if the President determines that such information could disclose intelligence sources and methods.

(d) EXCLUDED INFORMATION.—If the President, consistent with subsection (c), decides not to list any company person or countries in that part of the report required under paragraphs (3) and (5) of subsection (b) which would have been listed otherwise, the President shall include that fact in that report, and his reasons therefor.

SEC. 5. ADVISORY OPINIONS.

The Secretary of State may, upon the request of any person, issue an advisory opinion to that person of whether a proposed activity by that person would subject that person to sanctions under section 3. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

SEC. 6. DEFINITIONS.

For purposes of this Act—

(1) the term "United States person" has the meaning given that term in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(2));

(2) the term "foreign person" means any person other than a United States person;

(3)(A) the term "person" means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

(B) in the case of Communist-bloc countries (where it may be impossible to identify a specific governmental entity) the term "person" means—

(i) all activities of that government relating to the development or production of any internationally controlled missile technology; and

(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment;

(4) the term "otherwise engaged in the trade of" means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred;

(5) The term "internationally controlled missile technology" means—

(A) any technology or equipment which—

(i) could be used in the construction of a ballistic missile weapons delivery system, other than manned aircraft, that can be used to deliver weapons of mass destruction, and

(ii) the United States has made subject to export controls because of its obligations under an international agreement entered into with one or more countries for the purpose of controlling the transfer of such technology or equipment; and

(B) includes any item listed in the Equipment and Technology Annex of the Missile Technology Control Regime which was adopted by the governments of Canada, France, the Federal Republic of Germany, Italy, Japan, the United Kingdom, and the United States on April 7, 1987, and in accordance with which the United States Government agreed to act beginning on April 16, 1987; and

(6) the term "developing country" does not include any member of the political organs of the North Atlantic Treaty Organization (NATO), any member of the Warsaw Treaty Organization, Austria, Australia, Israel, Japan, New Zealand, or Switzerland.

SEC. 7. REGULATORY AUTHORITY.

The President may issue such regulations, licenses, and orders as are necessary to carry out this Act.

SEC. 8. EFFECTIVE DATE.

Section 3(a) shall take effect at the end of the 6-month period beginning on the date of the enactment of this Act.

TESTIMONY OF SENATOR ALBERT GORE, JR. BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

Mr. Chairman, in a few moments, I will describe the Gore-McCain Missile and Proliferation Control Act. However, let me begin with some general observations on the need for Congressional involvement.

ON THE NEED FOR CONGRESSIONAL ACTION

The world's single great hope for avoiding nuclear war is for those few nations which are acknowledged nuclear weapons powers to keep those weapons under tight control, while they attempt to deal with the underlying political forces which might cause nuclear war to break out.

We are in a period of unprecedented hope for such progress. It would be a better irony if, during this period of hope, the ability to fabricate and deliver weapons of mass destruction were to proliferate first to a few, and then ultimately to many other nations. Such a development would probably eliminate any chance to abolish these weapons, and would greatly increase the odds of their eventual use. Moreover, the implications of such weapons are not restricted to the immediate regions where they proliferate.

The use of such weapons, or even the threat of their use, could bring the entire world to the edge of nuclear war.

Certain governments, however, have the notion that they are not only compelled to seek weapons of mass destruction and the means to deliver them, but that their sovereignty is somehow incomplete if they are denied access to these weapons. Such a point of view could be dismissed as ridiculous were it not for the risks involved. These weapons do not confer security. On the contrary, their acquisition begets an unceasing demand for more, such that soon the numbers and capacities of these weapons outstrip the requirements of any rational approach to war.

We are told that it is wrong for nations which already have such weapons to try to prevent their proliferation: that this amounts to a double standard that is blatantly hypocritical and unfair. Our government spends a great deal of time trying to rebut those charges, but we in Congress can speak more plainly then our diplomats. Of course, it is a double standard for nations already possessing nuclear weapons and the means for their delivery to try to prevent their future proliferation. As for fairness, that is simply not the primary consideration in such matters. The proliferation of weapons of mass destruction is absolutely contrary to the interests of the nations which have them.

The governments of these nations are entitled to take—in their own self-interest and self-defense—measures to block the proliferation of such weapons.

Ballistic missile delivery systems represent a particularly deadly new wrinkle. These systems, when coupled with chemical or biological warheads, immediately confer upon their possessors the means to deliver weapons of mass destruction. Coupled with nuclear warheads, the potential for disaster is much worse. That is why the governments of certain other countries now cooperating with the United States to block the spread of ballistic missile weapons, are to be congratulated for their far-sightedness.

These efforts, however, are far from perfected. Each country needs to tighten its own system of export control and may well require new legislation to have maximum effect. That is certainly true in our own country. And for this reason, Senator McCain, Congressman Berman and I introduced on July 27th, the first version of our bill, which in its Senate version was numbered S. 1421. In anticipation of this meeting, and of similar hearings which occurred yesterday in the House, we have made certain modifications in that bill, which I will describe. We have provided copies of the revised version to the Committee, and through the Committee, to members of the Executive Branch who will testify later.

DESCRIPTION OF THE GORE-MC CAIN MISSILE AND PROLIFERATION CONTROL ACT

The Gore-McCain Missile and Proliferation Control Act consists of two working parts: a punitive section and a reports section; both of which are intended to deter those who do important business with the US government from risking that business, by involving themselves in the spread of ballistic missiles and the technologies for their design and production. Essentially, this bill says to such persons that if they cannot resist trafficking in these technologies out

of moral concerns, or out of regard for the security of their countries, they must at least weigh the risk of losing their ability to do business with the government of the United States.

If the President determines that a US person has traded illicitly in missile technologies that are internationally controlled, he will apply, for between two and five years, any or all of the following sanctions: denial of US export licenses; and/or denial of contracts for the procurement of any products or services involving the US government. The same penalties apply to any foreign person in a developed country.

In the case of a developing country, the President is to act when he determines that a person in that country has imported internationally controlled missile technology, or that the government of that country is either equipping its armed forces with new or additional missile systems, or other weapons delivery systems configured to deliver weapons of mass destruction. In these cases, the President may deny that person or government all technical assistance in aviation, electronics, missiles, or space systems or equipment under the control of the US government.

Certain provisions in the bill allow the President to discriminate between major and minor infractions, and to modulate his response based on that determination. The President also can waive the operation of this bill entirely, in certain defined situations, whose common denominator is that the US government itself requires goods and services uniquely available from a vendor. We have not included a blanket waiver on grounds of "national security," because we are concerned that it will be used for reasons of political convenience, and that the expectation of such use will undermine the bill's deterrent effect.

As members of the Committee know, the United States is cooperating with a number of other governments in an effort to stop the spread of certain kinds of ballistic missiles and technology relating to them. These are the nations who are collectively responsible for what is called the Missile Technology Control Regime, or MTCR. The governments concerned are parties to this arrangement as a voluntary matter, and are in any event extremely sensitive to behavior on the part of the US government which looks to be extraterritorial. Therefore, in designing the second draft of our bill—which is the draft under discussion today—Senator McCain, Congressman Berman and I have made changes intended to underscore our intention that US law not make extraterritorial claims, and that full respect be rendered to the judicial processes of governments with whom we are cooperating.

For example, we have carried over and made even clearer, a provision which states that the Gore-McCain act would not apply in cases where governments that are cooperating with us in restricting the proliferation of ballistic missiles and related technologies, have issued valid licenses to corporations under their jurisdictions. Let me reemphasize that point. Even though the United States might disagree with the decision of such government, so long as that decision has been reached by that government's lawful processes, our proposed bill explicitly denies the possibility of any punitive response.

It is only in cases where a foreign person has violated the laws and regulations of his own government, in order to traffic in ballistic missile technologies that these governments are attempting to control, that the Gore-McCain bill calls for a response by the President. However, even in these instances, we wanted to walk the extra mile in respect of the legal processes of other governments that are cooperating with us in restricting these technologies. Therefore, in the new version of our bill, we provide that the President may suspend action, pending the outcome of the prosecution of a foreign person by that person's government. Finally, we have also provided that the President may permanently waive action under our bill if he deems that the foreign person has been dealt with severely under the laws of his own country.

The reporting section of the Gore-McCain bill requires that the President must inform Congress twice a year on the efforts of all foreign countries to acquire long-range missiles. Although our bill does not attempt to regulate the export of aircraft, we do require that the President report to Congress concerning the efforts of other countries to acquire types of offensive aircraft which the President may define as destabilizing. The report will also detail the efforts of each person who has assisted foreign governments in their efforts to obtain long range ballistic missiles or destabilizing offensive aircraft, including information on transfers from communist countries.

We recognize that in some instances the President may feel that divulging certain information to Congress will compromise intelligence sources and methods. Because of this, we have provided in our bill for limiting the scope of such information and the channels to be used for reporting it. However, we believe that open disclosure—even if occasionally circumscribed—is an important form of deterrent. In many cases of transfers already documented, the culprit is a subsidiary of a much larger corporation. We need to break down the buffer which the parent company places between itself and the actions of its subsidiaries. Publicity or the threat of publicity is potentially effective, even when prosecution or punitive action are not certain.

SUMMARY OF THE BILL

To summarize, the legislative intention of the Gore-McCain bill can be expressed as a set of simple, blunt messages:

First, if you are a U.S. firm, or a foreign firm operating in a country that cooperates with the United States in controlling ballistic missile proliferation, and you violate your own government's export laws and regulations in order to sell ballistic missile technologies, you may well find yourself banned from contracting with the US government for two to five years.

Second, if you are a foreign firm operating in any other country, and you export ballistic missile technologies of the sort which the United States' government and others are attempting to control, you may well find yourself banned from contracting with the US government for two to five years.

Third, if you are a Communist government and you transfer ballistic missiles or ballistic missile technology either directly or through some trading corporation, you will likely find yourself deprived of access to a broad range of US high technology, assuming that it would otherwise be accessible, for a period of two to five years.

ADMINISTRATION CONCERNS

Mr. Chairman, we know that the Administration is concerned that other governments who are now cooperating with us would take umbrage at any mention of the MTCR in US legislation. For that reason, our new bill eliminates such references, and arguably goes as far to meet the concerns of these governments about their sovereign rights, as it is possible to do without giving up those same rights for ourselves.

We also know that the Administration has been opposed to any kind of legislated, mandatory sanctions in these matters. However, so far as we know, the Administration is already compromising its views on this point, in the matter of pending legislation on chemical and biological weapons. Nevertheless, we anticipate that the same concerns will remain in the case of ballistic missiles. If so, it will be an honest difference of opinion as to what is needed to make headway under difficult circumstances.

But I would say to the Committee that Congress must act to make illegal traffic in these technologies very hazardous to the pocket books of certain kinds of corporations and their subsidiaries. If we do not, these corporations will give in to the temptations and blandishments to which they are subjected by nations bent upon acquiring weapons of mass destruction. Moreover, the track record of decisive action by Presidents in this area is not reassuring. There always seems to be a compelling reason at the White House as to why the United States should look the other way. But if we look the other way often enough, ballistic missile technologies will spread, and the world inherited by our children will be measurably more distant from peace and much closer to disaster as a result.

STATEMENT OF SENATOR JOHN MCCAIN BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS

Mr. Chairman, I appreciate the fact that you and the other members of this Committee are holding hearings on this important subject, and I thank you for the opportunity to testify.

I believe that the growth of proliferation in the Third World is the next great challenge in arms control and in achieving global security. The control of missile technology is only part of responding to that challenge. It is, however, an essential part.

Considered together, the control of missile technology, this Committee's previous legislation on the proliferation of chemical and biological weapons, and the existing nuclear proliferation treaties will provide a sturdy arms control framework that will impede the spread of weapons of mass destruction throughout the Third World.

Mr. Chairman, we are all alarmed by the dimensions of this problem. Every week we encounter a new incident in which some technology is transferred to a Third World state where it is destined to become part of weapon of mass destruction or a suitable delivery system.

Mr. Chairman, we have all heard the vehement public denials, the formal protests, the clever deceptions from senior officials of Third World nations, but the fact of proliferation in their countries is inescapable. Their denials notwithstanding, the number of countries with covert programs to develop and produce long range missiles, chemical weapons, biological weapons, and nuclear weapons grows alarmingly.

Yes, Mr. Chairman, we are all acutely aware of the need for action. What we must now begin to determine are the kinds of action we must take. That is the subject I intend to address today. However, Mr. Chairman, I do request that an article I

have recently published in the Strategic Review on the risks involved be included as part of the record of this hearing. It provides the detailed background and conceptual underpinning for many of the provisions in the improved version of the bill that Senator Gore and I have introduced in the Senate, and which Representative Berman has introduced in the House.

Mr. Chairman, there are five key issues that we in the Congress must come to grips with when devising legislation to help block the proliferation of long range missiles.

The Gore-McCain Missile Technology Control bill addresses all of these issues, and I would not like to address them in turn.

A. THE NEED TO DEAL WITH PROLIFERATION AS AN INTERACTIVE PROCESS

First, we need to recognize that proliferation is an interrelated and interactive process. Every country that acquires new major long range delivery systems acts as a stimulus for other potential proliferators throughout the world. The acquisition of missiles affects the acquisition of aircraft, and stimulates nations who are acquiring biological, chemical, or nuclear weapons. Proliferation may have regional or very specific causes, but it is a global process.

Further, every new country that buys or sells delivery systems and weapons, or related technologies, tends to set new proliferation benchmarks in the Third World. We are dealing with a rachet process. Anything we tolerate as a "grey area" today tends to become fully permissible tomorrow.

This is why we urgently require missile technology control legislation similar to existing laws concerning nuclear proliferation, and the legislation to control chemical and biological weapons proliferation that Senators Pell and Dole have presented in S. 195 and S. 8, and which I have cosponsored.

B. LEGISLATION STRONG ENOUGH TO HAVE MEANING

Second, we need legislation powerful enough to have a real impact on proliferation. Exhortation and quiet negotiations may be useful. But, exhortation cannot replace sanctions. Quiet negotiations cannot take the place of law. When we rely exclusively on exhortation and negotiation, we encourage the tendency to ignore or compromise the long term problem of proliferation and turn instead to more immediate, though less important problems.

We also have to be realistic. Legislation without teeth, and that does not irritate some foreign countries and some companies, will be so cosmetic as to be meaningless. There are countless ways to proliferate that can, and are, being used to get around the kind of legislation and agreements that already exist. We must act now or we will quickly lose control of the process. More and more merchants will emerge outside the West and East bloc eager to peddle the tools of mass destruction. We have a very narrow time window in which storng measures can still have a real effect.

This is why we need legislation that combines three basic features: Sanctions, embarrassment and certainty. We need sanctions that apply to both seller and buyer. We need to publically identify and embarrass the sellers and buyers of the tools of mass destruction. Only the force of law offers the certainty that we will use these sanctions and this process of embarrassment.

Mr. Chairman, these are not matters that can simply be left to bureaucrats. The Non-Proliferation Treaty is an excellent example of a treaty that had to be forced upon bureaucrats who lacked the vision to see the need for action. Iraq's use of chemical weapons is but another instance where bureaucrats slowly stumbled to the truth far too late to save thousands of innocent people who were slaughtered while the world looked in another direction. The Gore-McCain bill gives the President every flexibility he needs to moderate sanctions and protect the security of our intelligence. The alternative is litle more than our good intentions.

C. WE MUST LOOK FAR BEYOND THE MTCR

Third, I understand the pride that those officials involved in creating the Missile Technology Control Regime must feel. There is no doubt that this agreement marks a step forward towards a more general and meaningful approach to controlling the proliferation of missile technology. I also have worked with Senator Bingaman to try to strengthen the MTCR, and have cosponsored his legislation.

Yet the magnitude of the problem compels us to be frank about the MTCR. It is, Mr. Chairman, a nearly toothless agreement. Moreover, it is likely to remain nearly toothless until the United States forces the issue. I do not want to pick on individual nations like France, West Germany, or Italy. I do, however, feel that the MTCR threatens to be little more than a pious fraud unless we give it teeth. This is particularly true in a world where massive declines are already taking place in the domestic arms market of most Western countries. Unless we demonstrate to our allies that a largely cosmetic agreement is not enough, we may well end up with an agreement that simply encourages our allies to violate the spirt and letter of the agreement while it penalizes American firms.

Further, no agreement can be effective that does not affect the Eastern bloc, or states like the PRC and South Korea, or the sellers in the Third World. Nor can an agreement have meaning that does not affect buyers as well as sellers. The notion that the MTCR can be effective in its current form is ethnocentric to say the least. Iraq and Iran did not get their long range missile technology from the West. Neither did Afghanistan or Saudi Arabia.

D. THERE ARE NO GOOD PROLIFERATORS

Fourth, the Gore-McCain bill recognizes the fact that this problem occurs within the developing world and that there is no such thing as a good proliferator or a right to proliferate. I am deeply disturbed by the theory I have heard from several foreign ambassadors, and even some officials of the U.S. government, that we cannot single out developing countries for legislative action. Although they are the states doing the proliferating, we single out developed nations instead to establish controls on sales.

I am even more disturbed by the thesis we can concentrate on Iraq and Iran and ignore nations like India and Pakistan. Quite aside from the fact that today's friendly governments could acquire a very different character in the decades to come, the fact remains that every nation in the developing world that proliferates serves as an example to others. Proliferation is not a regional issue, or an issue that only affects regimes we do not like. Unless we want to create a massively armed world, stockpiled with weapons of mass destruction with the missiles to deliver them, we must treat proliferation as what it is: A extraordinary threat to global peace.

E. THE IMPACT OF PROLIFERATION CONTROLS ON INDUSTRY

Fifth, and finally, Mr. Chairman, I believe that some elements of U.S. and foreign industry have been remarkably short sighted in their attitudes towards this issue. Just as developing nations do not have the right to be centers of mass destruction, no industry has the right to be a merchant of mass destruction.

In the case of American industry, I would like to point out two aspects of the Gore-McCain Act. Our bill does not add any sanctions to existing export controls on U.S. exports. Nor does it add any new procedural problems and delays. In fact, we have dehiberately sought to protect U.S. industry from the reckless actions of irresponsible foreign firms. Our bill ensures that those firms will face sanctions in U.S. markets if they violate the standards set by their MTCR controls, if they are signatkrs, or by our MTCR control standards if they are not.

Let me add, any American firm is living in a fantasy world if it thinks that it can avkid suffering serious pejalties when it sells to any country "grey" area equipment for use in manufacturing weapons of mass destruction or delivery systems of mass destruction or delivery systems. In fact, whether the firm is U.S. or foreign, it is going to suffer severely from ajy such public disclosures. And let me assure those compajies, most will become public. This will be especially true if the final result of their greed is used against innocent civilians, friendly states, or American troops.

However, the world may suffer even more if companies are not convinced that the U.S. is implacably committed to the exposing and imposing sanctions on offending firms. Companies must be made aware that the long term cost of such action will be much greater than any short term profits.

As for foreign firms, and some foreign countries, unless we pass legislation like the Gore-McCain Act, I believe we will always suffer at the hands of rogue companies and rogue countries that only look at their narrow corner of the world, hard currency earnings, or short term profits.

At the risk of singling out given nations, we see grim proof of this in the way the French government and industry is treating the sale of ballistic missile technology to Brazil. We see it in the way the PRC is treating the sale of missile technology to Libya.

Without strong legislation, there will always be countries and firms that will deprive U.S. firms of legitimate markets. They will promise again and again to cease and end their irresponsible policies. Again and again they will break their word.

F. CONCLUSIONS

Mr. Chairman, let me conclude by saying that the Chairman, ranking Minority member, and other members of this Committee have already done a great deal to lead the U.S. towards effective action in limiting the proliferation of chemical and biological weapons.

I believe that the time has come to take equally effective action in the case of the proliferation of long range missiles. I urge the Committee to support both the Gore-McCain Act and the legislation introduced by Senator Bingaman. In concert with the NPT and your legislation on CBW, I believe this will create the mix of barriers we need to meet the next great challenge to world peace.

PROLIFERATION IN THE 1990s: IMPLICATIONS FOR U.S. POLICY AND FORCE PLANNING

(By John S. McCain III)

IN BRIEF

(The Iran-Iraq War has given only a modest preview of the magnitude of the problem that challenges the United States, and the international system more generally, in the proliferation of weapons of mass destruction among developing nations. Even at this stage, the problem can no longer be segmented into categories of weapons—chemical, biological, nuclear and "conventional"—or "good" and "bad" proliferators. Rather, it is driven by a synergistic process marked by ease and clandestine means of acquisition, expedience of choices and interplay of compelling incentives throughout the Third World. It urgently calls for an equally comprehensive U.S. counter-strategy entailing the integrated but flexible application of legislated sanctions and Executive policies, as well as the military force planning responsive to the emerging proliferation environment.)

It is not easy to predict America's future strategic priorities. Even the strongest trends can be upset by unexpected political, economic and military events. No one, for example, anticipated Gorbachev's glasnost or perestroika in the Soviet Union, or the recent events in China. Few, if anyone, could have predicted the intensity of the struggle for freedom in Afghanistan, or the length of the Iran-Iraq War.

Still, some trends and developments can be forecast with near-absolute confidence. One is that the United States will face major security problems attendant to a global proliferation of weapons of mass destruction in the 1990s, and that these problems will have a very different character from the proliferation problems of the past.

This clear forecast offers urgent warning that the United States needs to take a new approach to the phenomenon of proliferation. It needs to stop dealing with the spread of nuclear weapons, chemical and biological weapons and missiles on a piecemeal basis, and to deal with all the major causes of proliferation in an integrated way. It needs to take a long-term approach to proliferation, rather than one of short-term expediency. It needs to stop distinguishing between "good" proliferators and "bad" proliferators, and recognize that the problem affects the entire developing world. Finally, it needs to consider how to redesign its own force posture in an era when power projection is likely to become steadily more important, while the term "low-intensity combat" will become little more than a misnomer.

The Changing Nature of Proliferation

Proliferation cannot be dealt with in terms of whatever military development appears most threatening at a given moment. The two manifestations of proliferation that have attracted the most attention in the recent past are the use of chemical weapons in the Iran-Iraq War and the efforts of many developing countries to acquire long-range missiles. Both forms of proliferation represent very ominous developments as well as major changes in the capabilities of less developed states, but they are only part of a much broader process.

Notwithstanding the Nuclear Non-Proliferation Treaty, states like Argentina, Brazil, India and Pakistan are making major advances toward nuclear weapons capabilities. There also are strong indications that some of the most advanced developing nations are now fully familiar with the design and manufacture of enhanced radiation or neutron weapons, enhanced-yield fission weapons, and thermonuclear or fusion weapons. Furthermore, laser isotope separation and centrifuge methods of enrichment are becoming far more practical, as are various other methods of obtaining fissile materials.

Long-range surface-to-surface missiles hold a special technical glamor, but the proliferation of long-range offensive aircraft is equally important. Aircraft like the Tornado and Su-24, along with the spread of refueling capability are doubling and tripling the strike range of weapons in the growing inventories of developing countries. If those aircraft were used to deliver nuclear weapons in one-way missions, they could fly several thousand miles. Manned aircraft also offer the advantage of not requiring the advanced targeting and testing systems associated with missile development, and are likely to be far more accurate than missiles. Furthermore, most developing countries do not have air defense systems that offer more than a minimal capability against low-altitude penetrators.

Conventional weapons have repeatedly demonstrated since World War II that they can cumulatively wreak all damage inflicted by weapons of mass destruction. The most lethal single conflict in modern times has been the civil struggle in Cambodia, where the Pol Pot regime decimated the Cambodian people. The Afghan conflict has exacted massive casualties, laid waste to that nation's countryside and generated millions of refugees. Conventional arms transfers have imposed crippling burdens on many developing states, virtually halting their economic development or efforts to increase per capita income. Moreover, the basic character of conventional arms transfers is changing radically. The spread of precision-guided weapons is providing a growing number of countries with the ability to strike at key economic targets such as refineries, desalinization plants and power facilities.

Forces Driving Proliferation in the Third World

There can be no doubt that proliferation in the Third World is becoming a major challenge to world peace. While any list of the nations involved in the proliferation of nuclear, chemical and biological weapons, delivery systems, and "smart" conventional weapons is necessarily speculative, no region of the world seems free of states that are at least investigating new forms of weapons aquisition. Table 1 provides a rough indication of the seriousness of the problem, given the number of countries that are now reported or suspected either to be developing such weapons or to have actually deployed them.

Many of the nations listed in Table 1 are still in the doubtful category; others may be only investigating weapons of mass destruction for defensive or deterrent purposes. It is totally unrealistic, however, to rely on the hope that such efforts will remain limited to reseach, aimed strictly at a contingency capability, or simply conclude in some form of deterrence.

TABLE 1.—THE CURRENT STATE OF PROLIFERATION IN THE DEVELOPMENT WORLD

Country	Chemical weapons	Biological weapons	Nuclear weapons	Smart weapons	Long-range delivery systems	
					Air	Missle
Afghanistan	SD				WS	WS
Angola	SD				WS	
Argentina	SD	RD	RD	WS	WS	RD
Burma	WS					
Brazil	R	R	RD		WS	RD
Chad	SD					
Chile	R		R	WS	WS	
China (PRC)	WS	RD	WS	WS	WS	WS
Cuba	S			WS	WS	
Egypt	WS		R	WS	WS	WS/RD
El Salvador	SD					
India	R	R	WS/RD	WS	WS	RD
Indonesia	SD		R		WS	
Iran	WS	RD/WS	RD	WS	WS	RD
Iraq	WS	RD/WS	RD	WS	WS	WS
Israel	RD/WS	R	WS/RD	WS	WS	WS
Laos	SD					
Libya	WS	R	R	WS	WS	R
Mozambique	SD					
Nicaragua	SD				WS	
North Korea	WS	RD/WS	R	WS	WS	WS
Pakistan	RD	R	RD/WS	WS	WS	R
Peru	SD			WS	WS	
Philippines	SD					
South Africa	RD/WS	R	RD	WS	WS	RD
South Korea	RD/WS	R	R	WS	WS	R
Syria	WS	RD/WS	R	WS	WS	WS
Thailand	SD				WS	
Taiwan	RD/WS	R	R	WS	WS	R
Vietnam	RD/WS				WS	

R=Low-level research and/or procurement effort. RD=significant research and development and/or procurement effort. SD= suspected, but doubtful. S=Suspected. WS=weapons stocks.
Estimates are based on a variety of sources, including unclassified testimony by CIA Director William H. Webster, Seth Carus, David Goldberg, Elisa D. Harris and others and do not reflect the estimates of the U.S. Government.

Two world wars in this century have amply demonstrated how rapidly nations and their regimes can change from ostensibly peaceful defenders into ruthless aggressors exploiting virtually all available means of warfare, and that miscalculation can just as rapidly flare into global conflict. Nor is the history of international compacts undertaken to limit those means of warfare very encouraging. For example, there is still a widespread impression that the Geneva Convention was successful in blocking the use of chemical weapons until the Iran-Iraq War. Yet, there have been eighteen additional cases of reported or suspected use of lethal chemical weapons since the end of World War II.

The long list of warfare in the developing world since World War II offers testimony to both the durability of pre-colonial tensions and hatreds and the emergence of new and equally powerful seeds of conflict. Today no region in the developing world is free of some form of civil or national struggle. The armed conflicts in El Salvador, in Cambodia, in the Spanish Sahara, in Angola and Mozambique, and in Afghanistan are simply the most immediate and visible manifestations. Other arenas—the Arab-Israeli conflict, Iran-Iraq War and India-Pakistan confrontation—may be relatively quiescent for the time being, but it is precisely indicative of the problem that those arenas are also centers of conventional arms races and a new competition for weapons of mass destruction.

If proliferation becomes an institutionalized process in the Third World, no developing state will be able to stand aside if a rival acts, or to ignore any advance in the rival's capability. As in the arms competition between East and West, developing states will feel compelled to reach for ever broader inventories of weapons responsive to a wide variety of range and escalation requirements. The danger is all too real that developing states will repeat the mistakes committed in the U.S.-Soviet arms competition, but under conditions much more fraught with volatile risk.

Unlike the two superpowers, developing states have not been through the searing experience of two world wars. They are generally in closer geographical proximity to rivals, are subject to fewer constraining checks and balances within their leaderships, and cannot aspire to the levels of diversity and redundancy in their military postures that could remove incentives for first-strike or preemptive strategies. "Stability" will at best be the function of variants of "mutual assured destruction." but on far more f*** BAD MAG TAPE ***ragile foundations. Most developing states offer a small set of very lucrative targets; indeed, many are "one-bomb" countries in which a strike on the capital or key population center could cripple that state's administration and virtually decimate its ruling and technical elite.

There is the added contingency that many developing states will respond to the current loose and uncoordinated efforts at controlling proliferation with covert weapons programs, thereby triggering a process that may well put the problem beyond control. It is a truism that suspicion feeds suspicion. Even in peacetime, the perceived threat—whether or not validated by intelligence—that a rival nation has the ability rapidly to produce advanced nerve agents or biological weapons, or one or two "basement" nuclear bombs, can generate a compelling incentive, given the magnitude of the ultimate stakes involved, for a would-be threatened nation to undertake a clandestine effort of weapons-acquisition of its own, if only under the rationale of an "insurance policy." Once a crisis erupts, this covert competition in "threshold capabilities" is easily escalated into real and declared capabilities and their employment. Moreover, the attractiveness of clandestine weapons-acquisition is enhanced by their possible covert and "deniable" means of delivery. There have already been ominous reports of instances of chemical weapons having been made available to terrorists.

By and large, the path of proliferation points toward extreiist states with autocratic regimes, as contrasted with more moderate and democratic societies in the Third World. Still, this does not yield a categorical, let alone reliable, distinction between "good" and "bad" proliferators. There are, to be sure, special cases such as Israel—a stable democratic regime faced with vulnerabilities that can only be redressed with suitable strategies and means of deterrejce. Such exceptions notwithstanding, the rapids of internal politics—and external rivalries—in broad stretches of the developing world confound any confident projections regarding "stable and restrained," as contrasted with "unstable and potentially unrestrained," actors on the proliferation stage.

Nor can the developed nations hope to shield themselves effectively against the consequences of proliferation. The Iran-Iraq War, which featured weapons of mass destruction and long-range precision-guided weapons, drew the United States and other Western nations into its destructive wake. It thus replicated the briefer experience of the Falklands conflict. And little needs to be elaborated in the context of the war in Afghanistan, in which Soviet armies used both chemical weapons and long-range missiles before their departure, and left behind Scud missiles as their legacy to their Afghan regime.

Proliferation of Chemical Weapons

Today's problems with chemical weapons are but a faint preview of the magnitude of the proliferation problems we may face in the future. Chemical agents vary sharply in lethality, and their effectiveness is heavily dependent on how well they are weaponized, on targeting capabilities and on the ability to predict weather conditions.

Only several years ago, most developing countries evinced little or no interest in chemical agents of any kind. Those that did were largely content with a limited capability to produce such weapons as mustard gas. They had little knowledge of targeting, weather-prediction, detection and protection, and made no effort to organize the kind of specialized branches in their forces needed to deliver chemical weapons against static or maneuverable military targets.

The Iran-Iraq War, however, has signalled the start of an arms race in both chemical and biological weapons. The war provided the Third World with a case study in how to organize chemical forces, in the kind of chemical agents required, in the need to solve targeting and weather-prediction problems, and in the ways in which "conventional" weapons systems could be adapted to deliver chemical agents. Iraq demonstrated that chemical weapons could be used against static military targets, against the rear area of attacking forces, and even against forces near the front lines. It also showed that less developed countries can develop chemical weapons in binary form, and in forms deliverable by terrorists, artillery, multiple rocket launchers and aircraft.

As a consequence of the Iran-Iraq War many of the larger or more advanced developing countries, their public declarations to the contrary notwithstanding, feel that they have little choice but to develop a contingency capability to produce persistent and nonpersistent nerve gases, some of which are ten times more lethal per ounce than mustard gas. The war clearly demonstrated the dire penalties of allowing a rival state a substantial head-start in such manufacture.

Mustard gas probably will continue to be stockpiled, because it is relatively easy to manufacture and deploy, and has sufficient persistence to overcome most short-term defensive measures. But Third World states can be expected as well to manufacture blood agents such as hydrogen cyanide (AC) and cyanogen chloride (CK), and to go beyond nerve agents like Tabun (GA) and Sarin (GB) to produce advanced ones such as Soman (GD) and VX. Development of V agents is particularly tempting militarily because they kill through skin absorption as well as inhalation.

The current state of progress in improved chemical weapons development in the Third World is classified information, but unclassified testimony to Congress has made it obvious that many major developing countries have begun to investigate the technology both for producing nerve agents and for their weaponization. With time, such states are certain to examine the weather-monitoring and targeting capabilities necessary to use such weapons effectively. The basic technical literature relevant to effective military use of chemical and biological weapons is readily available. The USSR has provided such literature in the past as part of its technology transfer and training packages with respect to artillery and missiles, and the key U.S. Army field manuals on the subject, drafted in the 1960s, are unclassified. Targeting systems for improved use of conventional munitions can be readily adapted to delivering chemical, biological and nuclear weapons.

Many developing states already have the needed meteorological instruments for weather and wind prediction over the battlefield, and weather satellites can provide coverage over urban areas and rear area targets. Communications for providing more precise weather data are available both to Third World intelligence services and to terrorist organizations, and it is relatively easy to develop remote sensors that can be deployed in peacetime and triggered to convey real-time data in a crisis.

Iraq showed the way in the rapid development of relatively simple binary warheads and bombs that can be as rapidly filled, stored in rear areas and deployed with relative safety. It has demonstrated that long-range artillery weapons and multiple rocket launchers can deliver large amounts of chemical agents in relatively short periods of time, and at ranges up to 40 kilometers.

Iraq also displayed that a wide range of conventional bombs can be adapted for chemical use, and that it is relatively easy to produce new ones. This allows a single fight-

er to carry thousands of pounds of chemical weapons—versus the hundreds of pounds that can be fitted to a missile or artillery shell—and such weapons are almost ideally suited for the kind of low-altitude delivery that enhances aircraft survival. A fighter can penetrate air defenses and fly over the target at very low altitudes without having to maneuver to attack with any precision, and it can even lob such weapons into the target area at stand-off ranges from most short-range, ground-based air defenses. It is virtually certain that several developing states will soon acquire the technology to improve greatly on the Iraqi performance in terms of more precise fuzing and better mixing and dispersal for artillery warheads and bombs—changes that can easily double or triple the operational effectiveness of chemical weapons.

Missile warheads using chemicals agents already are in development—and indeed, may be in the Iraqi inventory. While today's missiles cannot carry a heavy payload of chemical agent, and most are not accurate enough for high lethality against even such large targets as air bases, nevertheless they can be used as effective terror weapons against population centers and key economic area targets. Moreover, any country can quickly adapt civilian cargo planes, particularly tanker-configurable aircraft, to spray chemical weapons over an urban target. The same applies to the adaptation of civilian airliners into covert delivery systems capable to carrying massive amounts of chemical weaponry.

The Threat of Biological Weapons

These problems will become far more serious once developing states acquire effective biological weapons. Even if one ignores the growing long-term threat of biological engineering and the manipulation of DNA, the facilities needed to produce today's biological weapons are substantially easier to conceal than those for the production of chemical weapons, although they call for considerable effort and sophistication. An effective weapon program requires hundreds of liters of agent. This entails special fermentation facilities for mass production, elaborate precautions in terms of sterility and personnel protection during manufacturing and weaponization, and specialized warheads or dispersal systems.

Unfortunately, however, much of the technology involved is dual-use with far fewer tracable antecedents than chemical or nuclear weapons—and the 1972 Biological and Toxic Weapons Convention, which is the key agreement affecting most developing states, has no provisions for inspection or verification. Developing states also face no difficulty in obtaining the cultures needed to produce the most commonly weaponized infectious agents: anthrax, cholera, plague, Q fever, tularemia and viral encephalomyeltides. The same is true of toxins such as blue-green algal toxins, botulinum toxins, exterotoxins, ricin, saxitoxin and tetrodotoxin.

The lethality of such weapons can be illustrated by comparing them to VX nerve gas, one of the most deadly of poison gases. Anthrax, which is one of the easiest biological weapons to produce, is nearly 100 percent fatal when a human being is exposed to as few as 8,000 spores. While the amount of material required for effective weaponization is classified, it seems likely that anthrax can be weaponized in a way that is at least one hundred times more lethal per kilogram of payload than VX gas. The lethal doses for botulinal toxins are even smaller: the estimated dose for 50 percent lethality in human beings is only 50 millionths of a gram, and it is 1,000 to 10,000 times more deadly than VX gas.

These technical data must be kept in perspective. Biological agents have never been tested in combat. It is difficult to attain operational effects from given agents anywhere near their maximum lethality, and developing states may have problems in achieving operational lethalities from the weight-volume of today's biological weapons, that are between two and ten times those of VX, without extensive experimentation with live animals. Optimal dispersal of biological agents is equally difficult, particularly at high speeds. Biological weapons require careful attention to temperature, humidity and amount of sunlight.

Moreover, biological agents do not offer less developed countries the capability of nonpersistent chemical agents in terms of support of offensives through attacks on opposing troops near or at the front line. Although such agents inflict diseases only on direct contact, nevertheless their spread cannot be controlled as precisely as that of chemical weapons. Biological agents do, however, offer a highly devastating means of attacking rear areas. Some of them, such as tularemia, can incapacitate rather than kill, with the potential of thus disrupting the entire rear area of an army or producing massive panic in a population center.

Biological weapons do augur to be far more effective than chemical agents when packaged into the comparatively small payloads of most surface-to-surface missiles. The one known case of contamination by biological weapons is scarcely reassuring. The accident at Sverdlovsk in the Soviet Union in April 1979 released only about 10 kilograms of dry anthrax spores into the air. Nevertheless, this contaminated an area with a 2- to 3-mile radius, and Soviet efforts at aerial spraying, disinfection with steam and hypochlorite, decontamination and immunization proved relatively ineffective. Even though the release was confined to the southwestern area of the city, and was scarcely comparable to an optimal weapons use, it claimed several hundred lives and at least 1,000 infections.

Biological weapons also lend themselves to single flights or sorties by fighters or heavy cruise missiles spraying small amounts of agent to affect a very wide area. They are ideally suited for covert or terrorist delivery. A U.S. Army experiment in the 1950s determined that chemical material similar in size and weight to anthrax spores could be scattered over New York City commuters moving to and from Grand Central Station during rush hour, thereby ultimately contaminating a large part of greater New York without those affected sensing anything unusual.

In one field trial, a harmless powder of cadmium sulfide was disseminated in particles of two microns in diameter from a ship traveling 16 kilometers offshore. About 200 kilogrms were thus released while the ship proceeded over a distance of 260 kilometers, and they covered an area of over 75,000 square kilometers. Even allowing for loss of virulence due to factors like wind and heat, had the same particles been a biological weapon, they would have been lethal over an area of 5,000 to 20,000 square kilometers. By comparison a highly lethal nerve agent would have covered "only" 50 to 150 square kilometers.

What makes biological warfare an all the more terrifying prospect is its inherent insidiousness, and the difficulty in identifying the attacker. Furthermore, the possibility cannot be dismissed that some nation will be irresponsible enough to develop and use a biological weapon that, once delivered, will continue to spread infection through human contact—in effect producing an epidemic. Already in the late 1960s U.N. studies found that ten tons of a bacteriological agent could cover an area as large as 100,000 square kilometers, with a death rate of up to 50 percent. In contrast, a one-megaton bomb affects an area of up to 300 square kilometers.

If the threat sounds exaggerated, it is worth pointing out that in 1957 a new strain of influenza struck Czechoslovakia, then a nation of 14 million. The consequent pandemic produced 1,500,000 reported cases and a total estimate of 2,500,000 contractions of the disease. Nearly 50 percent of this total consisted of members of the work force, and the average loss in work days was six days per individual. A lethal plague for which a given society was unprepared would be infinitely more devastating.

The Changing Threat of Nuclear Proliferation

The future risks of nuclear proliferation are less clear than those of the proliferation of chemical and biological weapons. U.S. policy has strongly opposed nuclear proliferation since President Ford's speech of October 1976, and the world has established a much stronger array of safeguards than those that apply to chemical and biological weapons. These include the Nuclear Non-Proliferation Act of 1978, the Limited Test Ban Treaty, the Treaty of Tlatelolco, IAEA safeguards, nuclear supplier guidelines and various bilateral cooperation agreements. The U.S. Congress has also legislated relatively strong sanctions against nuclear proliferation, including the Symington-Glenn amendments which mandate a cut-off of U.S. economic and military aid to an offending nation, and strong controls on technology transfer.

This mix of safeguards is scarcely "leak-proof," but it has certainly served to slow down the nuclear weapons efforts of many of the countries listed in Table 1, and forced others either to keep their devices hidden or preserve some degree of plausible denial. Notwithstanding India's explosion of a nuclear device in 1974, no developing nation has overtly laid claim to a nuclear weapons capability since the People's Republic of China became a nuclear power. Nuclear acquisition also remains far more costly and difficult than that of chemical biological weapons.

Still, there is no doubt that uranium ore is relatively easy to come by, and that many potential proliferators have nuclear reactors that can be used for weapons production. Advances in centrifuge technology and laser enrichment are easing access to fissile material, as are advances in plutonium-processing. These same enrichment methods, along with the spread of nuclear weapons technology, are also making it easier to develop a limited number of nuclear weapons in covert facilities.

This raises serious questions about what will eventuate in the nuclear dimension in an era marked by the progressive development and stockpiling of chemical and biological weapons. To the extent that restraints upon the acquisition of weapons of mass destruction give way in general, there will be less and less tendency to make distinctions between specific categories of such

weapons. To put it another way, nations will have the incentive to move toward mass destruction capabilities of whatever kind in the most expedient ways available to them.

Thus a number of the states listed in Table 1 may well move from nuclear weapons research to contingency capability. Others may covertly stockpile nuclear warheads. We already have a preview of that process in the Iran-Iraq War, in which both combatants attempted to revive their nuclear weapons development efforts. Elsewhere, the return of democracy to Argentina apparently has done little in applying the brake to that nation's program in weapons-capable nuclear development. Pakistan has pressed ahead with its own effort amid growing reports that India not only has mastered a weapons capability, but is exploring enhanced yield and radiation fission weapons and fusion weapons.

Similar pressures may revive interest in less advanced forms of radiation weapons. Radiological weapons have not been a subject of serious concern since the 1970s. Yet, they are practical as both military and terrorist weapons, and a comparatively large number of states have plutonium or other material that could be made into lethal particulates. Similarly, a developing state might be willing to risk creating a nuclear bomb using lower levels of enrichment, even if this entailed a much larger device and unpredictable yields.

It may be premature to sound warnings about a new rush toward nuclear proliferation. At the same time, it is Panglossian to assume that the barriers to such proliferation will be nearly as effective in the future as they have been in the past—especially if similar barriers are not erected to the spread of chemical and biological weapons. The motives that drive nations reach across-the-board of possible forms of proliferation, and competing national interests and incentives reinforce one another across that full spectrum. Absent suitable efforts at control, we may well witness a three-pronged arms race to acquire chemical, biological and nuclear weapons in many parts of the developing world.

Long-Range Missiles and Other Delivery Systems

Advanced delivery systems are yet another dimension of proliferation. A number of developing states already possess delivery systems applicable to weapons of mass destruction. As Table 2 shows, U.S. intelligence experts estimate that these include Afghanistan, Egypt, Iran, Iraq, Israel, Libya, North Korea, the People's Democratic Republic of Yemen, Saudi Arabia, South Korea and Syria.

Many current and former arms clients of the Soviet Union have Frog and Scud missiles. As Iraq has demonstrated, the Scud can be modified for use at ranges of up to 900 kilometers. While scarcely an advanced missile system, it is accurate enough to deliver chemical, biological or nuclear weapons against city-sized targets. Syria already has an advanced shortrange Soviet-made system, the SS-21, and the PRC is widely reported to be developing an "M" series of long-range missiles, at least in part for export purposes.

A number of developing nations, including Argentina, Brazil, Iran, Iraq, India, North Korea, Pakistan, South Africa and Taiwan, are working on more advanced missile systems, in some cases with ranges of over 1,000 kilometers. A few nations, such as Saudi Arabia and Libya, have either bought such advanced systems or are seeking to acquire them. What makes such acquisitions stand out in the Third World is that they can scarcely be justified in terms of conventional military requirements. The surface-to-surface missiles now in the inventories of developing states generally lack the accuracy and advanced conventional warheads to have any major military effect—that is, unless equipped with weapons of mass destruction.

TABLE 2.—THE GLOBAL SPREAD OF LONG-RANGE BALLISTIC MISSILES

Country/missile	Producer	Status
Asia		
India:		
Prithvi	India	Under development.
Agni	India	Under development.
Pakistan: HATF—2	Pakistan (with China)	Under development.
Taiwan: Sky Horse	Taiwan	Under development.
North Korea: Scud-B	North Korea/Egypt	In service.
South Korea: NHK (Mod.)	South Korea	In service.
Middle East and Africa		
Egypt:		
Scud-B	USSR	In service.
BADR-2000 (Condor II).	Egypt/Argentina	Under development.
Iran:		
Scud-B	USSR/N. Korea	In service.
Unnamed	Iran/China	Uncertain.
Iraq:		
Scud-B	USSR	In service.
Scud-B (AL Husayn)	Iraq-modified	In service.
Scud-B (Al Abbas)	Iraq-modified	In service.
SS-12	USSR	In service.
Condor II	Argentina/Egypt with Iraq funding.	Under development.
Syria: Scud-B	USSR	In service.
Libya: Scud-B	USSR	In service.
Saudi Arabia: CSS-2	China	In service.
Israel:		
Jericho	Israel	In service.
Jerricho II	Israel	Possibly in service.
South Yemen: Scud-BUSSR		In service.
Afghanistan: Scud-B	USSR	In service.
South America		
Argentina: Condor II	Egypt/Iraq/Argentina	Under development.
Brazil:		
MB/EE Series	Brazil	Under development.
SS Series	Brazil	Under development.

Source: Testimony of William H. Webster, Director, Central Intelligence Agency, before the Senate Committee on Government Affairs, May 18, 1989.

Long-range missiles thus must be addressed by any serious effort to control the proliferation of weapons of mass destruction. Indeed, they are the most visible symbols of proliferation, and as such a salient part of the complex of competitive fears and incentives that drives the proliferation process.

The relative ease with which aircraft can be adapted into carriers of weapons of mass destruction has already been discussed above. It is admittedly difficult to draw a definitive line between proliferation-supportive and non-supportive aircraft capabilities. Clearly, however, the former label can be applied to (1) advanced strike aircraft that (2) exceed the reasonable defense requirements of the state acquiring them, especially (3) when that state is ruled by a radical and demonstratively aggressive regime.

A case in point is the recent transfer of Soviet Su-24 aircraft to Libya. Combined with the transfer of refueling capability, it means that Libya has been provided with a delivery platform that can reach Israel, most moderate Arab states, most of Libya's potential adversaries in Africa, and even Italy and France. While Libya could not hope to achieve a significant military effect with the use of Su-24s to deliver conventional ordnance, their delivery of chemical weapons would be another matter.

Constraints need to be focussed as well on the technology necessary for chemical, biological and nuclear weaponization. It may be true that as far as many delivery systems are concerned—e.g., dual-capable aircraft, artillery and multiple rocket launchers—a great many "horses have left the barn." Between 1980 and 1987, some 22,000 modern artillery weapons and MRLs were transferred to the developing world. In the same period, an estimated 2,500 aircraft were supplied to Third World countries. While the transfer of more modernized such systems must be constrained, what is also needed is a more thoroughgoing identification of the subsystems and technology required for efficient weaponization of chemical and biological agents. This includes specialized fuzing, storage vessels, spray and dispersal systems, and other technologies. The exact effect of such controls on the weaponization process is difficult to determine without further research, but efforts to track and control the transfer of such technology will at a minimum help to expose proliferating countries and discourage proliferation.

"Smart Weapons" and "Low-Intensity Conflict"

A final thrust of proliferation is in the overall conventional capabilities of developing states. A great deal of Western literature regarding the Third World still refers to "low-intensity" combat. It is doubtful that the peoples of Afghanistan, Angola, Cambodia, Ethiopia, Iran and Iraq are impressed with that distinction. It also is difficult to see how the United States or any other Western nation can treat the prospect of engaging a developing state armed with hundreds of jet aircraft and other modern weapons as one of "low-intensity combat."

The plain truth is that the arms race in the developing world has reached a level in many cases where as much devastation can be generated as in any "high-intensity" conflict in the developed world. At the same time, however, this "conventional" arms race interacts with the competition for weapons of mass destruction in a number of alarming ways.

First, as the experience of East-West confrontation has amply demonstrated, imbalances in military capabilities inevitably spur incentives for the attainment of a "balancing weight" in the form of weapons of mass destruction. Developing states will be no less impelled by this incentive than were the NATO nations in the formative years of the Alliance.

Second, there is the economic motive. Developing states face substantially greater economic problems in acquiring, sustaining and modernizing large conventional forces than do developed nations. By and large, weapons of mass destruction are temptingly cheaper than conventional forces. This applies particularly to chemical and biological weapons.

Finally, as developing states acquire "smart" or highly lethal conventional ordnance, they thereby acquire the refined means to strike at vital economic and infrastructure targets—including water facilities, power plants, refineries, key factories, etc. Such targets often are considerably more critical to the continued functioning of a developing state than they tend to be in the more redundant infrastructure of an industrialized nation.

Among its many lessons, the Iran-Iraq War bared a clear interaction between conventional escalation and the escalation of weapons of mass destruction. The war also repeatedly demonstrated that efforts at establishing firebreaks and civilian sanctuaries broke down when either side came under military pressure.

In the future, this interactive escalation stands to be compounded with the introduction of longer-range missiles with more accurate and/or more lethal warheads. For example, modernized cruise missiles would make for effective long-range attacks on vital economic facilities with little or no warning. The proliferation of fuel-air-explosive weapons, "smart" mines and more lethal anti-ship missiles are similar cases in point. All have the potential of generating the extent of damage that will invite retaliatory use of weapons of mass destruction.

If these trends and their dangers are real, then no industrialized nation can take refuge in the hope that it will somehow be relatively immune to their effects—or that if conflagrations were to erupt in parts of the Third World, these could be locally contained until they expend themselves. History has documented the fallacy of this hope. The world is ever more interlocked, and not only through alliances and client relationships. The industrialized nations continue to rely on strategic raw materials, with Middle East oil as only one salient example. And increasingly destructive warfare respects no national or judicial boundaries. It is but a thin line that separates the use of weapons of mass destruction from the blowing up of an embassy, a Marine Corps barracks, or a passenger airline.

Implications for U.S. Policy

The United States cannot, on its own, hope to block the proliferation trends that have been described. In fact, no foreseeable concert of developed and developing states can aspire to a comnprehensive, let alone definitive, "solution" to the problem in all of its variegated and intricate forms. The United States can, however, take the lead in making the world aware of the problem's explosiveness, in setting an example for other nations, and in invoking its economic and technological power to stem proliferation. It also can adapt its force planning and strategy to the clear prospect that the character of power-projection will change radically over the next few decades.

If the United States is to accomplish these goals, it will have to adopt the following policies:

The United States must treat the risk of proliferation seriously, and not merely as the subject of rhetoric or exhortative legislation. It must devise an appropriate mixture of public exposure, diplomatic pressures and sanctions, and give priority to the proliferation danger over immediate regional and bilateral concerns. It must cease singling out specific offending countries in favor of a broad approach toward all of the states that are shaping the problem.

The United States must treat proliferation as a long-term problem of cumulative risk, and not on a case-by-case basis. It must deal flexibly in order to halt proliferation, but then be prepared to contain it when it becomes evitable.

The United States must respond to proliferation as a total and interrelated problem, and not simply to whatever aspect threatens an immediate crisis. This means an interlocking structure of policy and legislation that addresses chemical, biological and nuclear weapons, missiles and other relevant delivery systems. In the short term, this means that the legislation now pending before the U.S. Congress to strengthen sanctions against selling and acquiring chemical and biological weapons, as well as offensive missiles, be enacted as quickly as possible.

The United States must be willing to engage in a process in which it will often be at odds with friends and allies over individual issues and cases, and in which it must mix bilateral and multilateral diplomacy with efforts by international organizations. It is impossible to predict the precise course that this diplomatic effort will take, but it is already clear that unless the United States is willing to accept the potential cost of frictions with other nations over the issue, its policies and actions will be ineffective.

The United States must be willing to risk the charge that it is "discriminating" against less developed states, to the extent that it will be the efforts of particularly those states that will be the prime targets of its actions. As the previous debates over the Nuclear Non-Proliferation Treaty have shown, inevitably there will be charges that the United States is interfering in the sovereign rights of other states, and a host of similar complaints. U.S. policy must be based on the de facto principle that nations do not have the "sovereign right" to proliferate weapons of mass destruction which endanger the broader international community.

A more thorough effort is needed to identify the technologies of proliferation and their interaction in order to strengthen the lists of technologies that need to be controlled in the contexts of chemical, biological and nuclear weapons, as well as the technologies to be included in the Missile Technology Control Regime.

The United States must firmly come to grips with the issue of sanctions that extend beyond U.S. technology transfer, U.S. companies and U.S. exporters. Foreign exporters must face the potential penalties of clear barriers to any further technology transfer from the United States and access to American markets. Proliferating countries must face sanctions that threaten their ability to acquire advanced technology from the United States, and possibly even continued access to U.S. economic and military aid. Only such a broader array of stringent sanctions can be effective, given the inevitable lags and gaps in tracking given transfers and sales.

The United States must recognize that worldwide exposure of the sale of key technologies, and of efforts to proliferate, will often be as effective as sanctions. Within the limits of safeguarding sensitive intelligence sources, we must be willing to embarrass even friendly foreign governments, and to name names. U.S., European and Japanese firms must be under the threat that any action they take supportive of proliferation will become a matter of public knowledge.

At the same time, the United States must take preventive steps in terms of its own force planning and its aid to friendly states. It must equip its power-projection forces to enable them to deal with the growing risk of chemical and biological weapons and pay more attention to the risk of nuclear proliferation. It must be ready to provide defensive weapons and technology to such states, and to begin to shape its power-projection forces to the mission of helping friendly states deter the use of weapons of mass destruction against them.

Even with all these efforts, the United States has no assurance that proliferation can be contained to safe levels. However, it is very clear that, barring such comprehensive measures, we may well witness an accelerating arms race in the developing world that will both undercut and overshadow any progress in East-West arms control negotiations. It is also clear that unless the United States takes firm and comprehensive action, the world risks the turn from one arms race to a globe-threatening arms stampede. There could be no greater tragedy, and no greater failure of American policy and resolve.●

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1831. A bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, New Mexico; to the Committee on Energy and Natural Resources.

CONVEYANCE OF CERTAIN LANDS TO TAOS, NM

● Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to transfer certain lands and property to the town of Taos, NM. I am pleased that my colleague from New Mexico, Senator DOMENICI, is joining me as a cosponsor of this legislation.

The town of Taos is located in rural northern New Mexico. A town of about 5,000, Taos is experiencing the same economic problems that face many rural communities across the country. With a high unemployment rate and a sluggish economy, the town is struggling to maintain its service responsibilities. Known to Spanish explorers since 1540, and settled in 1617, Taos has been blessed with a rich history. With a strong influence from the Spanish and native American cultures, the town has strived to preserve its cultural identity.

Such influences are evident in the towns southwest adobe style architecture. In fact many of city hall's buildings have been placed on the historical preservation record. The old Forest Service district office and warehouse, located in the downtown area across from city hall, is one of those buildings.

In 1979 the Forest Service vacated the district office because of lack of space and moved their operations to the south end of town. Since then the building has been used as a warehouse and temporary office for Forest Service engineering personnel. Because of the buildings historical preservation designation, the Forest Service is unable to renovate the building to adequately suit its needs.

For several years town officials attempted to obtain the warehouse in hopes of converting it into a public library, but lack of resources have made acquisition of the building impossible. At present, the town is renting a building that is inadequate and impractical for use as a library. Unfortunately, the town cannot financially afford to rent this building and may have to close the library in the very near future. If this occurs, residents of the community would have to drive almost 70 miles to reach the nearest public library. This presents an even greater hardship to rural northern New Mexico

communities like Taos in the winter time when travel becomes extremely difficult.

Mr. President, this legislation would ensure that the people of Taos have a library facility in the future. My measure would simply direct the Secretary of Agriculture to transfer the old Taos ranger district office and warehouse to the town of Taos for the purposes of establishing a public library. This transfer ensures the historic preservation of the building, and more importantly, provides a facility to the town for continued use for the public good. Using this building as a public library will assure the historical preservation of the Spanish and native American influences in this area and serve as a resource to educate future generations.

As you might expect, in rural, economically depressed areas such as northern New Mexico, facilities for a public library are virtually nonexistent. The town of Taos cannot afford to raise the needed revenues to erect a new building, and thus finds itself searching for alternatives. This warehouse provides such an alternative. It would be a disservice to the people of Taos if this facility remains vacant and cannot be used for a greater purpose. I urge the Senate to approve this legislation.●

By Mr. LAUTENBERG (for himself and Senator KERRY):

S. 1832. A bill to amend and reauthorize the Public Housing Drug Elimination Act of 1988; to the Committee on Banking, Housing, and Urban Affairs.

AMENDING THE PUBLIC HOUSING DRUG ELIMINATION ACT OF 1988

● Mr. LAUTENBERG. Mr. President, today, along with Senator KERRY, I am introducing legislation to reauthorize the Public Housing Drug Elimination Act of 1988 [PHDEA].

Mr. President, the problem of drugs in public housing has reached crisis proportions. Increasingly, projects have become virtual war zones, controlled by armies of violent, heavily-armed drug dealers. Murders, muggings, extortion and other types of violence have become routine. Residents, all too often, are afraid even to leave their apartments.

Tenants aren't the only ones frightened. Often, so are local law enforcement authorities. And who could blame them? Drug dealers control their territory with automatic machineguns and other weapons of war. In some areas, local police can enter public housing projects only in multi-manned, heavily-armed platoons.

Local law enforcement agencies are being asked to handle an exploding drug problem at the very time that their resources are being trimmed back. Municipal governments are struggling. They've been hit hard by increasing costs and dramatic reductions in Federal aid. They thus are unable to give local police the resources they need to do the job.

Many local law enforcement authorities have simply surrendered public housing to the drug dealers. Constrained by the lack of resources, and overwhelmed by the numbers and brutality of these criminals, they've thrown up their hands in futility. Some won't even get near a housing project. Meanwhile, tenants are left virtually defenseless against the drug dealers.

The extent of the problem is striking. A recent HUD survey found that 52 percent of the public housing authorities [PHA's] in the Eastern half of the country reported problems with drug abuse. A similar study by the National Association of Housing and Redevelopment Officials found that 55.2 percent of surveyed PHA's around the country have a drug problem. In fact, according to the study, the actual level is probably higher since some PHA's appeared reluctant to admit that a problem exists.

To address this problem, Congress last year included my proposal to establish a public housing drug elimination program as part of the omnibus drug bill. The PHDEA establishes a competitive grant program under which public housing authorities and tenants are provided with funding to fight drug-related crime. Money can be used, for example, to hire security personnel, to make physical improvements specifically designed to enhance security—such as installing lighting systems or fences—to train and equip tenant patrols, and to fund innovative programs to reduce the use of illegal drugs in public housing.

Though the first grants have yet to be made, the PHDEA already enjoys strong support in the Congress and the administration. Earlier this year, Congress included $8.2 million for the program in the fiscal year 1989 Supplemental Appropriations bill, the full fiscal year 1989 authorization level. More recently, the conference committee on the fiscal year 1990 VA, HUD and Independent Agencies appropriations bill included nearly $50 million for the program. In ad*** BAD MAG TAPE ***dition, the conference committee on the fiscal year 1990 Transportation appropriations bill included another $50 million for the program.

The PHDEA is authorized only through fiscal year 1990. This bill would extend the program through fiscal year 1992. The bill also makes some adjustments in the language of the authorizing statute.

First, it clarifies that in selecting applications, the Secretary of HUD should consider the extent to which tenants are involved in the design and implementation of the PHA's anti-drug plan. This is important since the success of such plans generally depends heavily on tenant involvement.

The bill also spells out in detail the specific information that must be included in applications to HUD. This language is based on proposed regulations already prepared by HUD. It is included in the bill at the suggestion of the Senate Housing Subcommittee in order to help ensure accountability in the program.

Another new provision in the bill makes clear that all funding decisions must be based exclusively on the stated criteria included in the law. This is simply a clarification of existing law. It is included in response to proposed rules developed by HUD that sought to give the Secretary discretion to consider factors, such as geographical location and PHA size, other than those specifically enumerated. The Secretary does not have such discretion under current law, and I have written to Secretary KEMP to express my opposition to these regulations.

The bill also calls for a HUD study into the possibility of allowing private owners of federally assisted, low-income housing to apply for grants under the program. I believe this deserves consideration, though it would place significant new financial demands on the program, since the drug problem in federally assisted housing is often as severe as the problems facing public housing. I have discussed this with members of the Housing Subcommittee, in particular, my colleague from Massachusetts, Senator KERRY, and understand that there may be an effort to so expand the program in a planned subcommittee markup later this year.

The bill also clarifies that public housing authorities may use grants under the program to fund drug treatment and drug education programs.

Mr. President, I want to express my appreciation to several Senators and organizations that have supported the Public Housing Drug Elimination Act. First, Senator ALAN CRANSTON, Chairman of the Housing Subcommittee, and Senator JOHN KERRY, a member of the subcommittee, both of whom have offered helpful suggestions in the preparation of this legislation. Also, Senator BARBARA MIKUHSKI, Chair of the VA, HUD, and Indepejdent Agencies Subcomiittee, who has beej very suppkrtive of the program in the appropriations prkcess.

I ahso want to acknowledge the National Asskciation of Housing and Redevelopment Officials, the Public Housing Authorities Directkrs Association, and the Council of Large Public Housing Agencies, all of whom have provided useful input in the development of this program. And finally, the Department of Housing and Urban Development, which has put together the regulations for the program and

cooperated with my staff in the preparation of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1832

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF PUBLIC HOUSING DRUG ELIMINATION ACT.

(a) ELIGIBLE ACTIVITIES.—Section 5124 of the Public Housing Drug Elimination Act of 1988 (Public Law 100-690) is amended to read as follows:

"SEC. 5124. ELIGIBLE ACTIVITIES.

"A public housing agency may use a grant under this chapter for—

"(1) the employment of security personnel in public housing projects;

"(2) reimbursement of local law enforcement agencies for additional security and protective services for public housing projects;

"(3) physical improvements in public housing projects which are specifically designed to enhance security;

"(4) the employment of 1 or more individuals—

"(A) to investigate drug-related crime on or about the real property comprising any public housing project; and

"(B) to provide evidence relating to any such crime in any administrative or judicial proceeding;

"(5) the provision of training, communications equipment, and other related equipment for use by voluntary public housing tenant patrols acting in cooperation with local law enforcement officials;

"(6) programs designed to reduce the use of drugs in and around public housing projects, including drug treatment and drug education programs;

"(7) the provision of funding to nonprofit public housing resident management corporations and tenant councils to develop security and drug abuse prevention programs involving site residents; and

"(8) technical assistance and training by qualified personnel of officials of the public housing agency and affected tenants in methods of addressing the problem of drug abuse and drug-related crime in public housing.".

(b) APPLICATIONS.—Section 5125 of the Public Housing Drug Elimination Act of 1988 (Public Law 100-690) is amended to read as follows:

"SEC. 5125. APPLICATIONS.

"(a) IN GENERAL.—To receive a grant under this chapter, a public housing agency shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related crime on the premises of public housing projects administered by the public housing agency. The plan shall include the following:

"(1) An assessment of the nature and extent of the problem of drug-related crime and the problems associated with drug-related crime in the projects administered by the applicant that are proposed for funding under this chapter.

"(2) A description of the activities currently being undertaken and a listing of the resources being provided by the applicant, governmental entities, resident management corporations, and resident councils to address the problem of drug-related crime in the projects proposed for assistance under this chapter.

"(3) A description of the applicant's strategy for addressing the problem of drug-related crime in each of the projects proposed for assistance under this chapter, including—

"(A) a description of each component of the applicant's strategy to be undertaken with funding under this chapter and how these components interrelate;

"(B) the anticipated cost of each component of the strategy and the financial and other resources that may reasonably be expected to be available to carry out each component;

"(C) a timeframe for beginning and completing each component of the strategy;

"(D) an estimate of the results that the strategy is expected to achieve;

"(E) the role of affected tenants, resident management corporations, resident advisory boards, and resident councils in planning and implementing the strategy; and

"(F) the role of local government agencies and service providers, private community and business organizations, and State governments in planning and implementing the strategy.

"(b) CRITERIA.—The Secretary shall approve applications under this chapter based exclusively on—

"(1) the extent of the drug-related crime problem in the facilities of the public housing project;

"(2) the quality of the plan of the public housing agency to address crime in public housing projects, including the extent to which the plan contains innovative initiatives that could be usefully replicated at other housing sites;

"(3) the capability of the public housing agency to carry out the plan, as reflected by funding or other commitments of support for each aspect of the plan, its administrative capability to manage its projects, its record of previous efforts to eliminate drugs from its projects, and its degree of commitment to addressing the problem of drug-related crime; and

"(4) the extent to which affected tenants, the local government, and local community support and participate in the design and implementation of the anti-crime activities of the public housing agency.".

(c) REPORT TO CONGRESS.—Section 5128 of such Act is amended to read as follows:

"SEC. 5128. REPORT TO CONGRESS.

"Not later than June 30, 1990, the Secretary, in consultation with the Director of National Drug Control Policy, shall submit to the Congress a report on the possibility of allowing private owners of federally-assisted, low income housing to receive grants under this Act. The report shall include an evaluation of the problem of drug-related crime in federally-assisted, low income housing, and any recommendations the Secretary may have with respect to—

"(1) whether owners of federally-assisted, low income housing should be eligible for grants under this Act,

"(2) the proper procedures and criteria for selecting applications from such owners, and

"(3) the proper uses of such grants.".

(d) AUTHORIZATION.—Section 5129 of such Act is amended to read as follows:

"SEC. 5129. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter $8,200,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990, 1991, and 1992. Any amount appropriated under this section shall remain available until expended.".●

By Mr. HATCH:

S. 1833. A bill to amend the Public Health Service Act to reinstate the authority of the Public Health Service to regulate trains, and for other purposes; to the Committee on Labor and Human Resources.

DUMPING OF WASTE FROM AMTRAK TRAINS

Mr. HATCH. Mr. President, today I am introducing a bill to reinstate the Public Health Service's authority to regulate the dumping of human waste from trains in this country. The issue was brought to my attention by local health departments in Utah and the Brotherhood of Maintenance of Way Employees, a union representing those who maintain the rails and who are, unfortunately, sprayed with human waste as trains pass. The people of Utah, as well as citizens in 43 other States, are being exposed to the noxious dumping of human waste on the rail rights of way. These rights of way run through hundreds of thousands of America's backyards. And, in many of America's towns, trains travel down main streets, dumping as they go.

There are those who say that this is not a public health issue, but such assertions are based on studies done before the AIDS epidemic and before our universal knowledge of the spread of hepatitis. We do not know if this practice will result in the spread of AIDS. But, we do know that aerosoled body fluids increase the risk of infection from AIDS. That is why doctors and dentists are now wearing masks to decrease the risk of breathing aerosoled body fluids. Amtrak's current practice is to spread this material in a fine, aerosol spray along the rail right of way, spraying the ground and anyone standing along the right-of-way.

The dumping of untreated human waste is not allowed in our lakes, rivers, or parks. It should not be allowed to pollute the railways either. This legislation will return authority to the Secretary of Health and Human Services to regulate railroad waste disposal, authority that the Public Health Service currently inspects trains to ensure that the water and food service are safe; reinstating its responsibility for regulating the dumping of human waste would not add a significant burden on the Public Health Service.

In fact, Mr. President, regulations for addressing this problem are still contained in the Code of Federal Regulations [21 CFR 1250.51] and will be effective with the passage of this bill

again. I urge my colleagues to join me in support of this legislation.

By Mr. LIEBERMAN (for himself and Mr. THURMOND):

S. 1834. A bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society; to the Committee on the Judiciary.

FEDERAL CHARTER FOR THE SUPREME COURT HISTORICAL SOCIETY, INC.

● Mr. LIEBERMAN. Mr. President, I am introducing a bill today along with my distinguished, senior colleague from South Carolina, Senator THURMOND, that would extend a Federal charter to the Supreme Court Historical Society.

The Supreme Court Historical Society is a private, nonprofit educational organization which was incorporated as a 501(c)(3) in the District of Columbia in 1974. Like the Capitol Historical Society, it conducts historical research, publishes educational materials, and collects historically significant antiques and artifacts which are used for historical purposes. When the Society was founded, Chief Justice Warren Burger observed:

Much of the history of the Supreme Court can be found in memorabilia, art and documents that have gathered dust for too long in storerooms and attics. Some have been lost forever, because of carelessness, or neglect, or the failure to appreciate their worth or the absence of any plan to preserve them. I am confident that the Supreme Court Historical Society will reverse that trend and will acquire significant materials and preserve them for future generations. Equally important, it will encourage research on all aspects of the Court and on the rich and varied traditions and personalities that are part of its history.

Since 1974, the Society has consistently fulfilled Chief Justice Burger's expectations. One example of the Society's significant contributions to our Nation's history is its Documentary History Project, an ongoing effort to reconstruct the Court's early records which were destroyed when British troops burned the Capitol building in 1814.

The Society also routinely funds outside historical research. It publishes educational materials which are made available to libraries and schools at a nominal cost, or sometimes distributed free through programs funded by donors.

The Society commissions portraits and busts of the Justices, helping the Court maintain a complete collection which is on display for the benefit of the Court's 800,000 annual visitors. In addition, the Society pays interns to assist the Court Curator's staff in conducting tours, and provides insurance on exhibit items which enhance the educational experience of Court visitors. All this is done, at no cost to the Federal Government.

The Society was recently recognized by Chief Justice William Rehnquist for these and other worthwhile activities when the Chief Justice commented:

The enduring nature of an institution lies in the story of its past. The Supreme Court is no exception. We are fortunate to have the Supreme Court Historical Society to help us in the recording and preservation of the Court's history. The Society assists the Court as collector, preserver, and story teller of the Court's distinguished past. In this endeavor, the Society deserves recognition and support for its work.

I feel strongly that the Supreme Court Historical Society should be further encouraged in its work by being granted a federal charter and being relieved of the administrative and economic burden of collecting sales tax in the District of Columbia. We have already extended this helping hand to the Capitol Historical Society. We should do no less for a similar organization so ably assisting our nation's highest court.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The Supreme Court Historical Society, Incorporated, a nonprofit corporation organized under the laws of the District of Columbia, is recognized as such and is granted a Federal charter.

SEC. 2. POWERS.

The Supreme Court Historical Society, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its bylaws and article of incorporation.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Except as provided in section 8, eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

SEC. 6. BOARD OF TRUSTEES; COMPOSITION; RESPONSIBILITIES.

Except as provided in section 8, the composition of the board of trustees of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

Except as provided in section 8, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. NONDISCRIMINATION.

In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of the directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age or national origin.

SEC. 9. RESTRICTIONS.

(a) INCOME AND ASSETS.—No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) SHARES OF STOCK.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) CONGRESSIONAL APPROVAL.—The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this Act.

SEC. 10. LIABILITY.

The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

SEC. 11. BOOKS AND RECORDS; INSPECTION.

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 12. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(73) The Supreme Court Historical Society, Incorporated.".

SEC. 13. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 12 of this Act. The report shall not be printed as a public document.

SEC. 14. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 15. DEFINITION OF "STATE".

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 16. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

SEC. 17. SALES AND USE TAX EXEMPTION.

Notwithstanding the provisions of section 105 of title 4, United States Code, or chapter 20 of title 47 of the District of Columbia Code, or any other provision of the District of Columbia Code, the Corporation shall not be required to pay, collect, or account for any tax specified in such provisions applicable to taxable events occurring within the Supreme Court Historical building and grounds.

SEC. 18. EXCLUSIVE RIGHTS TO NAMES.

The corporation shall have the sole and exclusive right to use the names "The Supreme Court Historical Society, Incorporated," and "The Supreme Court Historical Society," and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section may be construed to conflict or interfere with established or vested rights.

SEC. 19. TERMINATION.

If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.●

ADDITIONAL COSPONSORS

S. 511

At the request of Mr. INOUYE, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 840

At the request of Mr. BOREN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 840, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for education loan interest incurred by doctors, nurses, and allied health professionals while serving in medically underserved areas.

S. 1001

At the request of Mr. GORE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1001, a bill to establish policies and procedures necessary to develop, as a domestically based industry in the United States, a high definition television enterprise in the United States, together with ancillary products and services.

S. 1277

At the request of Mr. FORD, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1651

At the request of Mr. MCCAIN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the U.S. organization.

S. 1664

At the request of Mr. HEINZ, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1664, a bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

S. 1698

At the request of Mr. GORE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1698, a bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications.

S. 1816

At the request of Mr. HELMS, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Georgia [Mr. NUNN], the Senator from Hawaii [Mr. INOUYE], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1816, a bill to protect the retired pay of certain members of the Armed Forces convicted of an offense under section 2071(b) of title 18, United States Code.

At the request of Mr. WARNER, his name was added as a cosponsor of S. 1816, supra.

AMENDMENTS SUBMITTED

LEGISLATIVE APPROPRIATIONS, FISCAL YEAR 1990

HUMPHREY AMENDMENT NO. 1077

Mr. HUMPHREY proposed an amendment to the amendment of the House to the amendment of the Senate numbered 35 to the bill (H.R. 3014) making appropriations for the legislative branch for the fiscal year ending September 30, 1990, and for other purposes, as follows:

At the end of the amendment, add the following new subsections:

(d)(A) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Senate Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate. Such summary tabulation shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the State from which the Senator was elected.

(B) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the House Commission on Congressional Mailings Standards shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the area from which such Member was elected. A compilation of all such statements shall be sent to the House of Representatives Committee on House Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the quarterly Report of the Clerk of the House of Representatives. Such summary tabulations shall set forth for each Member the following information: the Member's name, the total number of pieces of mass mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the area from which the Member was elected.

(e) A mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code) by a Senator or a Member of the House of Representatives shall contain the following notice in a prominent place on the cover page of the document: "PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSES".

( )(1) Effective January 1, 1990, none of the funds made available in this Act shall be obligated or expended to or on behalf of a Member of Congress for a calendar month unless the Member has submitted to the Clerk of the House of Representatives (with respect to Members of the House of Representatives) or to the Secretary of the Senate (with respect to Senators) a report disclosing each receipt during the previous calendar month of funds other than funds made available by this Act that are used or intended to be used for——

(A) the acquisition of mailing lists;

(B) the preparation, printing, or payment of postage on official mail; or

(C) other official office expenses,

together with a specification of the goods and services obtained or intended to be obtained with such funds.

(2) The reports required by paragraph (1) shall set forth the names and addresses of all persons from whom such funds were received, the amounts received, the dates such funds were received, and a detailed description of the goods or services required with the funds received from each such person.

(3) The Clerk of the House of Representatives shall set forth in the quarterly Report of the Clerk of the House of Representatives described in subsection ( ) an itemized listing of all information submitted to the Clerk pursuant to pargraph (1).

(4) The Secretary of the Senate shall set forth in the semiannual Report of the Secretary of the Senate described in subsection ( ) an itemized listing of all information submitted to the Secretary pursuant to paragraph (1).

REID AMENDMENT NO. 1078

Mr. REID proposed an amendment to amendment No. 1077 proposed by Mr. HUMPHREY to the amendment of the House to the amendment of the Senate numbered 35 to the bill H.R. 3014, supra, as follows:

At the end of the amendment, add the following new subsection:

( ) (1) Effective January 1, 1990, none of the funds made available in this Act shall be obligated or expended to or on behalf of a Member of Congress for a calendar month unless the Member has submitted to the Clerk of the House of Representatives (with respect to Members of the House of Representatives) or to the Secretary of the Senate (with respect to Senators) a report disclosing each receipt during the previous calendar month of funds other than funds made available by this Act that are used or intended to be used for—

(A) the acquisition of mailing lists;

(B) the preparation, printing, or payment of postage on official mail; or

(C) other official office expenses,

together with a specification of the goods and services obtained or intended to be obtained with such funds.

(2) The reports required by paragraph (1) shall set forth the names and addresses of all persons from whom such funds were received, the amounts received, the dates such funds were received, and a detailed description of the goods or services acquired with the funds received from each such person.

(3) The Clerk of the House of Representatives shall set forth in the quarterly Report of the Clerk of the House of Representatives described in subsection ( ) an itemized listing of all information submitted to the Clerk pursuant to paragraph (1).

(4) The Secretary of the Senate shall set forth in the semiannual Report of the Secretary of the Senate described in subsection ( ) an itemized listing of all information submitted to the Secretary pursuant to paragraph (1).

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Thursday, November 9, 1989, at 9:30 a.m. on the issue: Crisis in science and math education. For further information, please call Len Weiss, staff director, at 224-4751.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing to receive testimony on S. 712, the Puerto Rico Status Referendum Act, on Thursday, November 9, at 10 a.m., in SR332.

For further information, please contact Ed Barron of the Committee's staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, November 2, 1989; 9:30 a.m. for an oversight hearing to receive testimony on the findings of the study to be released on November 1, 1989, conducted by the Monitored Retrievable Storage [MRS] Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES POST OFFICE AND CIVIL SERVICE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, November 2, 1989, at 9:30 a.m., on S. 38, Federal Employees Long-Term Care Insurance Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, November 2, 1989, at 9:30 a.m., to mark up S. 1729, the bill to reauthorize the CFTC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on November 2, 1989, at 10 a.m.

SCHEDULE—SENATE JUDICIARY COMMITTEE BUSINESS MEETING, THURSDAY, NOVEMBER 2, 1989 AT 10 A.M. IN SD-226

I. NOMINEES

U.S. Circuit Court

S. Jay Plager, to be United States Circuit Judge for the Federal Circuit.

U.S. District Court

George Lindberg, to be United States District Court Judge for the Northern District of Illinois

U.S. Department of Justice

Donald Ayer, to be Deputy Attorney General, Department of Justice

U.S. Marshals Service

Kevin Michael Moore, to be Director of the United States Marshals Service

II. BILLS

S. 458—A bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes—DeConcini.

H.R. 45—A bill to provide for a General Accounting Office investigation and report on conditions of displaced Nicaraguans and Salvadorans, to provide certain rules of the House of Represenatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Nicaraguans and Salvadorans, and for other purposes—Moakley.

S. 438—To amend chapter 96 of title 18, United States Code—DeConcini.

S. 865—To amend the Sherman Act regarding retail competition—Metzenbaum.

S.J. Res. 14—A Joint Resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation—Thurmond.

S.J. Res. 23—A joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations—Dixon.

S. 1259—A bill to amend section 3143 of title 18, United States Code, to require the detention of any person found guilty of a violent offense pending sentence of appeal, and for other purposes—Simon.

S. 594—A bill to establish a specialized corps of judges necessary for certain federal proceedings required to be conducted, and for other purposes—Heflin.

S. 993—A bill to implement the convention on the prohibition of the development, production, and stockpiling of bacteriological (biological) and toxin weapons and their destruction, by prohibiting certain conduct relating to biological weapons—Kohl.

S. 185—A bill to amend title 18 of the United States Code to punish as a federal criminal offense the crimes of international parental child abduction—Dixon.

S. 198—A bill to amend title 17, United States Code, the Copyright Act to protect certain computer programs—Hatch.

S. 497—A bill entitled the "Copyright Remedy Clarification Act".—DeConcini.

H.R. 3045—A bill entitled the "Copyright Remedy Clarification Act"—Kastenmeier.

S. 1271—A bill to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments—DeConcini.

H.R. 1622—A bill to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments—Kastenmeier.

S. 1272—A bill to amend chapter 8 of title 17, United States Code, to reduce the number of Commissioners on the Copyright Royalty Tribunal, to provide for lapsed

terms of such Commissioners, and for other purposes—DeConcini.

S. 459—A bill to amend title 35, United States Code, and the National Aeronautics and Space Act of 1985, with respect to the use of inventions in outer space—Gore.

S. 1563—A bill granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact.

S.J. Res. 183—A joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget—Simon.

S. 396—A bill to amend title 11 of the United States Code, the bankruptcy code regarding swap agreements with an amendment in the nature of a substitute—DeConcini.

S. 995—A bill to amend the Clayton Sherman Acts regarding antitrust procedures—Metzenbaum.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on November 2, 1989, beginning at 9:30 a.m., in 485 Russell Senate Office Building, on Indian Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CSIS CONGRESSIONAL STUDY GROUP ON MEXICO

● Mr. WILSON. Mr. President, the Congressional Study Group, sponsored by the Center for Strategic and International Studies, was formed a few years ago to assist the legislative community in upgrading its preparedness and generating the type of realistic thinking that these issues deserve. The Congressional Study Group, cochaired by Senator LLOYD BENTSEN and me, as well as RONALD COLEMAN, is bipartisan in character, and made up of Members from both legislative Houses. The members of the group meet on a quarterly basis to discuss a wide range of issues, including trade and economic issues, immigration, drug traffic, foreign policy, and Mexico's internal political situation.

The group worked toward building a base of congressional expertise and consensus that would serve as the pillars of a stable policy. Toward this end, the group recently issued its report, entitled "The Congress and Mexico: Bordering on Change," which reflects our policy recommendations on a series of issues in bilateral relations.

I urge Members of the House and Senate to take advantage of the executive summary as a thought-provoking resource for the future agenda of United States-Mexican relations.

Mr. President, I ask that a copy of this executive summary be printed in the RECORD.

The summary follows:

EXECUTIVE SUMMARY

This Report is the product of the on-going CSIS Congressional Study Group on Mexico, co-chaired by Senator Lloyd Bentsen (D-TX), Senator Pete Wilson (R-CA), representative Ronald Coleman (D-TX) and Representative Jim Kolbe (R-AZ). The group has met on a regular basis since its establishment in 1986.

Although not a formal consensus document, this Report is being issued now to provide a framework for new bilateral achievements between the United States and Mexico. Forced to be selective, this volume addresses four key areas: Narcotics, Trade, Immigration, and Mexican Political Reform.

MAJOR CONCLUSIONS AND RECOMMENDATIONS

As Mexico embarks on a high stakes effort to restructure its economy and open its political system, a note of urgency underlies the bilateral relationship. Whether Mexico fails or succeeds in its efforts will have dramatic repercussions for the United States into the 1990s and its relations with the rest of the hemisphere. Congress will not escape the rigors of these new responsibilities and will, therefore, find itself called upon to conceptualize its activities along the following lines:

DEFINING THE PARAMETERS OF INTERDEPENDENCE

Congress is a crucial arbiter of what some have termed a "silent integration", a process in which the threads of mutual interpenetration are multiplying. Congress plays a critical role in defining the limits of interdependence, allocating its costs and benefits.

PROACTIVE LEGISLATION

There is a need to appreciate the interactive linkage between issues on the bilateral agenda. In advancing from a reactive to a proactive legislative stance, Congress can tackle either the forward end—for example, the debt crisis—or the terminal effects—immigration policy.

CONGRESSIONAL DIPLOMACY

U.S. legislators, by their very nature, have tools of statecraft distinct from those of the executive branch. They can and should communicate to our Mexican neighbors the interests and opinions of important U.S. constituencies.

SETTING THE NATIONAL POLICY AGENDA

U.S.-Mexican relations include not only border concerns but broader national issues with ramifications from the midwest to Wall Street. Th*** BAD MAG TAPE ***e Congress caj hehp boost U.S.-Mexican rehations to the forefront of national priorities.

THE DRUG WAR

The current narcotics crisis plagues both societies and can only be solved by cooperative efforts to tackle both the demand and supply sides of the policy equation.

LONG-TERM SOLUTION

U.S. responsibility entails immediate increased expenditures in educational efforts, health rehabilitation programs and improved law enforcement. Stiffer mandatory minimum penalties-including revocation of drivers' licenses and publication of offenders' identities-for the millions of recreational users would implement a national commitment to a zero tolerance policy. Promoting Mexican economic health and furthering a reduction in U.S. demand are the only long-term solutions to the drug war.

THE CERTIFICATION PROCESS

Congress must remain aware of the sweeping consequences of the certification process, and keep in mind several guidelines.

First, the range of probable Mexican responses to decertification or certification issued on less than a "full cooperation" basis should be determined. Does the value of sending a message in the form of decertification outweigh the threat of Mexican retaliation?

Second, the ramifications of decertification in the financial and trade communities must be assessed.

Third, is decertification most effective as an implied threat or as an implemented policy? It is a card that can be played only once, and ought to be reserved for extreme circumstances.

BINATIONAL OPTIONS

Government-to-government cooperation efforts can be extended and might take several forms:

First, a binational customs accord to support a training, equipment and information program.

Second, encouragement to state and municipal law enforcement bodies to create binational law enforcement associations and accords along the border.

Third, an effective relationship between the "Drug Czar" as mandated by the 1988 Anti-drug Abuse Act and his or her counterpart in Mexico.

INTERDICTION

It is far more economical to interdict the flow of large shipments of drugs along the border than it is to pursue massive law enforcement efforts against the more diffuse distribution networks within the United States.

The U.S. should continue to install and improve radar detection activities on the southwestern frontier.

Specially trained National Guard units, in particular helicopter and air assets, can complement current forces in finding and intercepting drug traffickers and transporting law enforcement units.

An aggressive policy of air interception with either hot pursuit overflight rights (non-military), jointly piloted missions or radio coordinated binational missions, offers the possibility of success.

Both the U.S. intelligence community and the military should be encouraged to share information, including satellite data, regarding clandestine drug operations.

ERADICATION

Mexico utilizes 60% of its federal Justice Department budget and employs one-quarter of its military in its war on drugs. The U.S. material contribution to this effort takes the form of annual appropriations of approximately $10-15 million for the maintenance of the helicopter fleet.

Additional cooperation might be obtained by providing sophisticated aircraft and more effective aircraft maintenance and parts procurement to the Mexican Attorney General's office.

Joint crewing could provide independent verification of Mexican efforts, stemming allegations of possible corruption.

The U.S. Congress should study the feasibility of a multinational force to conduct operations against international drug smugglers.

LAW ENFORCEMENT

The Mexican Government has signed and ratified a Mutual Legal Assistance Treaty

(MLAT) with the United States. The Senate should promptly consider the pending accord. The result should be closer Mexican cooperation in ongoing U.S. criminal investigations.

TRADE POLICY

Mexico is one of the United States' key trading partners. Both nations have an interest in stimulating mutual prosperity through enhanced trade and investment relations. The 1980s have been marked by a significant liberalization of Mexican economic policies. Mexico's membership in GATT and its actions to dismantle tariff barriers should be applauded. Protectionist temptations in both the U.S. and Mexico should be avoided through vigorous negotiations in the context of the 1986 U.S.-Mexican Trade and Investment Framework Agreement.

ENHANCEMENT OF RECIPROCAL TRADE LEGISLATION

The efforts of the 1987 Framework Agreement to devise permanent binational vehicles of trade consultation should be supported and enhanced.

The Framework process ought to direct its attention toward the question of protecting intellectual property rights and to explore sectoral and other avenues for enhanced trade and investment that might lead eventually to a comprehensive agreement.

The desirability of establishing sectoral or geographical (border region) free trade in areas such as the auto and computer industries should be studied.

The advantages of including Mexico in the Caribbean Basin Initiative (CBI) might be investigated.

DIVERSIFICATION OF MEXICAN EXPORT MARKETS

Nations with trade surpluses, such as Japan, must give way to greater market access to the products of not only the United States, but also goods of less developed countries (LDCs). The United States absorbs 67 percent of Mexico's exports, in contrast to Europe absorbing 15 percent and Japan absorbing 6 percent.

THE MEXICAN IN-BOND PROGRAM

Maquiladoras (in-bond plants), that have relocated close to the U.S.-Mexican border, permit U.S. firms to utilize Mexican labor and improve U.S. industrial competitiveness. Most compounds processed in Mexico are supplied by U.S. plants, generating employment for U.S. workers. The location of maquiladoras remains controversial, however. Some feel that manufacturers should be located near the border to take advantage of both the twin plant concept and to ensure job creation in the U.S.; others feel Mexican economic development is best served by scattering plants within the Mexican interior.

FOREIGN INVESTMENT

Mexico can better capture the benefits of foreign capital flows through the expanded waiver of Mexican equity requirements.

The relaxation of stringent export performance and domestic content requirements could also entice foreign investors.

The reprivatization of the Mexican economy can be facilitated via debt equity swaps.

Protection should be strengthened for intellectual property, making effective patent protection available for pharmaceutical, agricultural chemical, metal alloys and biotechnology.

THE IMMIGRATION QUESTION

Immigration is a long-term policy challenge with deep roots in the labor markets and demography of Mexico and the United States. These concerns led to the passage of the Simpson/Rodino Immigration Reform and Control Act (IRCA) of 1986. The passage of IRCA rejects the extremes, that is, sealing the U.S. frontier or, conversely, opening the floodgates. It demonstrates a commitment to continued immigration within the context of legal control.

LONG-RANGE POLICY

The United States might work with the Mexican government to channel foreign investment toward areas that are high exporters of labor, by striving to maintain open markets for Mexican goods, and by maintaining support for the Maquiladora program, an important generator of employment opportunity in Mexico.

EMPLOYER SANCTIONS

Employer sanctions remain the most powerful mechanism of IRCA. However, employer sanctions without strenuous enforcement are a hollow threat. Vigorous prosecution of offending industries sends a message throughout the land, and to potential immigrants in their home countries.

TEMPORARY LABOR PROGRAMS

The "Special Agricultural Workers" program (SAW) offers temporary legal status to agricultural workers who can prove that they have worked in the U.S. more than 90 days in perishable commodities between May 1985 and May 1986. One-third of those legalized under IRCA fall into the SAW category and some argue that the program is resulting in a permanent loss of employment opportunities for U.S. citizens.

Study of the SAW program's continuing effect on the domestic labor market is warranted.

It may be desirable to expand the SAW program definition of "perishable commodities" to adequately consider the needs of agricultural activities such as cotton and ranching.

THE VISA PREFERENCE SYSTEM

Mexico has more pending visa requests than any other nation, with family reunification applications backlogged for six years. It may be advisable to adjust visa allocations in such a way that would stress more joined legal families, without expending overall allocations.

BILATERAL SECURITY OPERATION

The United States should expand the sharing of information with Mexico regarding the international movement or potentially dangerous individuals at ports of entry.

CONTINGENCY PLANNING

The United States should be prepared to implement a humane border security policy in the event of disturbances in Mexico. Contingency planning should resolve jurisdictional issues at the federal and state level, establishing a phased series of responsibilities.

BILATERAL CONSULTATION

Common sense dictates that wherever possible the U.S. engage in consultation and prior notification with Mexico regarding immigration policy decisions. There will be cases when the U.S. will have to proceed with policies objectionable to Mexican public opinion, however.

ENHANCED BILATERAL COOPERATION

The U.S. and Mexico should explore enhanced cooperation regarding the deterrence, prevention and apprehension of Central American immigrants passing through Mexican territory on their way to the United States.

NATIONAL DOCUMENT VERIFICATION

Employer sanctions must rely on a system of employment verification without the invasion of citizen privacy. This might be accomplished through the creation of a social security toll-free hotline number, similar to the call-in networks established by credit companies. Such a pilot program is already in effect in parts of Texas and appears promising.

MEXICAN DEMOCRACY

No issue is more sensitive than Mexico's internal political stability. For reasons of Mexican history, sovereignty and national pride, U.S. policy in this regard must be circumspect if it is to avoid generating hostility in Mexico. At the same time, U.S. national security is predicated upon certain conditions—one of which is the stability of its southern border. Coupled with this strategic aim is our deeper commitment to supporting open and pluralistic political values around the world.

The overall objectives of U.S. policy with regard to the Mexican political system should be the maintenance of Mexican stability within a dynamic, change-sensitive context and the preservation of Mexican political independence from foreign interference.

There are at least three approaches which U.S. policymakers might pursue with regard to Mexican political change.

SUPPORTING THE STATUS QUO

Many believe that the continued single-party rule of the PRI is the most effective form of government for Mexico and a bulwark against a radical turn to the left. Special consideration of foreign debt, enhanced market access, a muting of public criticism of Mexican political institutions and declarations of congressional support would reinforce the present political structures in Mexico.

CHALLENGING THE STATUS QUO

Increasingly, critics are focusing on the flaws of and dysfunction in the Mexican political system. A hardened, activist U.S. stance that includes congressional condemnation of electoral fraud through observer visits, public statements, and joint resolutions; the linkage of human rights performance to trade and other economic benefits in the form of a certification process; and the linkage of political reform to U.S. financial treatment would exert significant pressure on the Mexican government.

RESPONDING PRAGMATICALLY TO CHANGE

Pragmatists acknowledge the forces of change in Mexico, but suggest that the pace of change and the U.S. response should be determined by sensitivity to the need for opportune conditions for a healthy transition. They opt for gradual reform, preferring to steer a flexible course between immobilism and precipitous withdrawal of support for an established government.

EDUCATIONAL EXCHANGES

The U.S. would be wise to support stepped up investment in educational exchange programs, particularly at a time when the presence of Mexican students at U.S. institutions of higher learning has fallen precipitously.

The creation of a permanent scholarship fund supported by government, business and foundations on both sides of the border may offer a creative long-term solution.

BUILDING DEMOCRATIC SOCIETIES

Exchanges between the U.S. and Mexican civic associations should be supported at every level. Members of Congress can encourage their own local civic associations to reach out to their Mexican counterparts.

CONGRESSIONAL DIPLOMACY

The U.S. Congress constitutes a pool of goodwill ambassadors.

The formation of a bilateral legislative study group might prove to be a useful forum to further enhance this process.●

NATIONAL WOMEN VETERANS RECOGNITION WEEK

● Mr. D'AMATO. Mr. President, I rise today to cosponsor Senate Joint Resolution 221, legislation designating November 5 to 11, 1989, as "National Women Veterans Recognition Week." I commend the distinguished chairman and ranking minority member of the Veterans' Affairs Committee for leading this effort to pay tribute to the women who have served, and who continue to serve so selflessly in the Armed Forces of the United States.

Too often in the past we have overlooked the role women have played in defending our Nation and our freedom. I think we owe it to our women veterans to make sure that the public is aware of their many contributions to our Nation's strength and security.

Women have played a role in our Nation's fight for freedom since the Revolutionary War. Throughout our Nation's history, they have served with dedication, steadfastness, and determination.

Today, there are more than 1,200,000 women veterans, representing 4.2 percent of the total veteran population. Their numbers will continued to increase as more and more women respond to the call to serve in the Armed Forces.●

MILLIKEN & CO. WINS BALDRIGE AWARD FOR QUALITY

● Mr. HOLLINGS. Mr. President, I share all South Carolinians' pride in the selection by President Bush and Commerce Secretary Mosbacher of Milliken & Co. of Spartanburg as one of two winners of this year's prestigous Baldrige Award. The award, now in its second year, was established as a kind of Nobel Prize for business, recognizing extraordinary achievements by American companies in the quest for quality.

Indeed, Mr. President, it is not only South Carolina that takes pride in this award, but the entire textile industry. Milliken & Co., which has been run by the Milliken family since its founding in 1865, has long enjoyed a reputation as the acknowledged leader in textile manufacturing innovation and quality improvement. Milliken is a star, a pacesetter. But the fact is that the American textile industry as a whole is not far behind Milliken's exacting standard; our domestic textile manufacturers are among the most technologically advanced, productive, and competitive in the world.

Quite frankly, it is exactly this point that I and other Senators have attempted to make during floor debate on the various textile bills of recent years. Ignoring predatory dumping in the United States by foreign textile manufacturers, opponents of those bills claimed that we were seeking protection for a failing, backward domestic textile industry that didn't know how to compete. This has always been a preposterous caricature.

And so, Mr. President, I renew my offer to my colleagues: If you want to see American industry on the cutting edge, American companies with workers and technology second to none, come to South Carolina, come to Milliken or any one of a number of topflight textile manufacturers in my State. You will see the same excellence and quality leadership that President Bush and Secretary Mosbacher will salute tomorrow as they announce the 1989 winner of the Baldrige Award.

Mr. President, I extend my congratulations to Roger Milliken and to all the men and women of Milliken & Co. They richly deserve this extraordinary award.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $8.7 billion in budget authority, and over the budget resolution by $10.2 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $120.8 billion, $20.8 billion above the maximum deficit amount for 1990 of $100 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 31, 1989.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1990 and is current through October 27, 1989. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my report dated October 4, 1989, the President has signed into law the following bills: Performance Management Reauthorization Act (Public Law 101-103); Interior appropriations (Public Law 101-121); an extension of certain veterans programs (Public Law 101-110); and further continuing appropriations for fiscal year 1990, which includes Section 108, the emergency supplemental to meet the needs of natural disasters (Public Law 101-130). In addition, Congress has cleared for the President's signature the Defense Production Act extension (H.R. 3281); the Child Nutrition and WIC Reauthorization Act (H.R. 24); and the Disaster Assistance Act (S. 1792). This report also includes an adjustment to make the net effect of our previous scoring of the Financial Institutions Reform, Recovery and Enforcement Act (Public Law 101-73) consistent with the budget resolution assumptions. These actions have the net effect of decreasing the current level estimates of budget authority and outlays.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 101ST CONG. 1ST SESS. AS OF OCT. 27, 1989

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 106	Current level +/− resolution
Fiscal year 1989			
Budget authority	1,320.7	1,329.4	−8.7
Outlays	1,175.4	1,165.2	10.2
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	2,849.2	[2] 3,122.7	−273.5
Direct loan obligations	17.9	19.3	−1.4
Guaranteed loan commitments	107.0	107.3	−.3
Deficit	120.8	[3] 100.0	[4] 20.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 268. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the approprpriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] The permanent statutory debt limit is $2,800,000,000,000. Public Law 101-72 temporarily raised the debt limit by an additional $70,000,000,000 to $2,870,000,000,000 ending on Oct. 31, 1989.

[3] Maximum deficit amount (MDA) in accordance with sec. 3(7)(E) of the Congressional Budget Act, as amended.

[4] Current level plus or minus MDA.

PARLIAMENTARIAN STATUS REPORT 101ST CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS OCT. 27, 1989

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues	—	—	1,068,600
Permanent appropriations and trust funds	958,654	789,367	—
Other appropriations	—	214,199	—
Offsetting receipts	−193,106	−193,106	—

PARLIAMENTARIAN STATUS REPORT 101ST CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS OCT. 27, 1989—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total enacted in previous sessions..	765,548	810,460	1,068,600
II. Enacted this session:			
Adjust Purchase Price for Certain Dairy Products (Public Law 101–7)	—	−25	—
Implementation of the Bipartisan Accord on Central America (Public Law 101–14)	13	7	—
Dire Emergency and Urgent Supplemental Appropriations (Public Law 101–45)	−21	802	—
Apex Project, Nevada Land and Water Transfer Act (Public Law 101–67)	−2	−2	—
Financial Institutions Reform, Recovery and Enforcement Act (Public Law 101–73)	2,200	1,400	594
Allow Planting of Alternative Crops on Permitted Acreage (Public Law 101–81)	−10	−10	—
Disaster Assistance Act of 1989 (Public Law 101–82)	502	504	—
Energy and Water Development Appropriations (Public Law 101–101)	18,625	11,254	—
Performance Management and Recognition Systems Reauthorization Act (Public Law 101–103)	—	−125	—
Extension of certain veterans programs (Public Law 101–110)	[1]	[1]	—
Interior Appropriations (Public Law 101–121)	11,018	7,352	—
Sec. 108: Emergency Supplemental to Meet the Needs of Natural Disasters (Public Law 101–130)	2,850	1,067	—
Total enacted this session	35,175	22,224	594
III. Continuing resolution authority: Further Continuing Appropriations (Public Law 101–130)	542,434	362,414	—
IV. Conference agreements ratified by both Houses:			
Child Nutrition and WIC Reauthorization Act (H.R. 24)	[1]	[1]	—
Defense Production Act Extension (H.R. 3281)	−3	−190	—
Disaster Assistance Act (S. 1792)	9	9	—
Total Conference Agreements	6	−181	—
V. Entitlement authority and other mandatory items requiring further appropriation action, continued:			
FEMA: Disaster relief	−1,100	−440	—
Firefighting adjustments	−624	−192	—
Administration of territories	−1	—	—
Compensation	457	412	—
Total entitlement authority	−1,269	−220	—
VI. Adjustment for Economic and Technical Assumptions	−21,185	−19,263	−8,900
Total current level as of Oct. 27, 1989	1,320,710	1,175,433	1,060,294
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution	—	10,233	—
Under budget resolution	8,690	—	5,206

[1] Extension of certain veterans programs (Public Law 101–110) decreases current law estimate for Loan Guaranty Revolving Fund; Child Nutrition-WIC (H.R. 24) increases current law for Child Nutrition Programs. Effects of both are reflected in Further Continuing Appropriations (Public Law 101–130).

Notes: Numbers may not add due to rounding. Amounts shown in parenthesis are interfund transactions that do not add to totals.

FINAL BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the final budget scorekeeping report for fiscal year 1989, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purpose of section 311 of the Budget Act.

This report shows that current level spending is over the budget resolution by $17.3 billion in budget authority, and over the budget resolution by $11.3 billion in outlays. Current level is over the revenue floor by $0.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $146.2 billion, $10.2 billion above the maximum deficit amount for 1988 of the $136 billion.

The final report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 2, 1989.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effect of Congressional action on the budget for fiscal year 1989 and is current through September 20, 1989. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the most recent budget resolution for fiscal year 1989, H. Con. Res. 268. This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, the President has signed into law the Continuing Appropriations bill for fiscal year 1990 (Public Law 101–100). This bill also provides an additional $1.1 billion in 1989 budget authority for the Federal Emergency Management Agency to be used for disaster relief.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 101ST CONG., 1ST SESS. AS OF SEPT. 29, 1989

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 268 [2]	Current level +/− resolution
FISCAL YEAR 1989			
Budget authority	1,249.4	1,232.1	17.3
Outlays	1,111.1	1,099.8	11.3
Revenues	964.9	964.7	.2
Debt subject to limit	2,814.5	[3] 2,824.7	−10.2
Direct loan obligations	24.4	28.3	−3.9
Guaranteed loan commitments	111.0	111.0	
Deficit	146.2	[4] 136.0	[5] 10.2

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 268. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] In accordance with sec. 5(a)(b) the levels of budget authority, outlays, and revenues have been revised for catastrophic health care (Public Law 100–360).

[3] The permanent statutory debt limit is $2,800,000,000,000. Public Law 101–72 temporarily raised the debt limit by an additional $70,000,000,000 to $2,870,000,000,000 ending on Oct. 31, 1989.

[4] Maximum deficit amount [MDA] in accordance with sec. 3(7)(D) of the Congressional Budget Act, as amended.

[5] Current level plus or minus MDA.

PARLIAMENTARIAN STATUS REPORT 101ST CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1989 AS OF CLOSE OF BUSINESS SEPT. 29, 1989

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			964,434
Permanent appropriations and trust funds	874,205	724,990	
Other appropriations	594,475	609,327	
Offsetting receipts	−218,335	−218,335	
Total enacted in previous sessions	1,250,345	1,115,982	964,434
II. Enacted this session:			
Adjust the Purchase Price for Non-Fat Dry Dairy Products (Public Law 101–7)		−10	
Implementation of the Bipartisan Accord on Central America (Public Law 101–14)	−11		
Dire Emergency and Urgent Supplemental Appropriations, (Public Law 101–45)	3,493	1,023	
Financial Institutions Reform, Recovery, and Enforcement Act (Public Law 101–73)	12,400	10,300	445
Disaster Assistance Act of 1989 (Public Law 101–82)	17	17	
Total enacted this session	15,899	11,330	445
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses: Continuing Appropriations for fiscal year 1990 (Public Law 101–100)	1,108		
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Dairy Indemnity Program	[1]	[1]	
Special Milk	4		
Food Stamp Program	29		
Federal Crop Insurance Corporation Fund	144		
Compact of Free Association	1	1	
Special Benefits	37	37	
Payments to the Farm Credit System	35	35	
Payment to the Civil Service Retirement and Disability Trust Fund	(85)	(85)	
Payment to Hazardous Substance Superfund	(99)	(99)	
Supplemental Security Income	201	201	
Special Benefits for Disabled Coal Miners	3		
Public Law 100–360	45	45	
Public Law 100–485	10	10	
Family Support Payments to States:			
Previous law	355	355	
Public Law 100–485	63	63	
Total entitlement authority	926	747	
VI. Adjustment for Economic and Technical Assumption	−18,925	−16,990	
Total current level as of Sept. 29, 1989	1,249,353	1,111,068	964,889
1989 budget resolution H. Con. Res. 268	1,232,050	1,099,750	964,700
Amount remaining:			
Over budget resolution	17,303	11,318	189
Under budget resolution			

[1] Less than $500,000.

Notes: Numbers may not add due to rounding. Amounts in parenthesis are interfund transactions that do not add to budget totals.●

AARP'S SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM CELEBRATES ITS 20TH ANNIVERSARY

● Mr. PRYOR. Mr. President, 1989 marks the 20th anniversary of the American Association of Retired Persons' Senior Community Service Employment Program [SCSEP].

AARP's SCSEP began modestly in 1969 with approximately 350 enrollees

at six sites. Currently, the AARP program has 8,262 senior employment positions for low-income persons 55 or older at 108 sites in 33 States and Puerto Rico.

These low-income seniors have helped themselves while helping others in their communities at the same time by providing a wide range of valuable services—at schools, hospitals, libraries, nutrition sites, and elsewhere. In short, the SCSEP has made significant contributions to our Nation, the aged participants, and the communities that they have served so efficiently.

AARP has been one of the leading title V—Older Americans Act—SCSEP national sponsors. Excellence and professionalism have been the hallmarks of the AARP program. Much of the credit goes to Glenn Northrup and his capable and dedicated staff. Glenn has served here in Washington as the director of SCSEP for 17 of the program's 20 years, and he has the responsibility of coordinating the program nationwide.

AARP's SCSEP has taken some of the most disadvantaged older Americans in our society and given them a new lease on life. The program has provided hope and opportunity as well as training and work experience for elderly persons whose skills have been outdistanced by technological advances in our society.

AARP has been the leading national sponsor in unsubsidized placements in the private sector. AARP has consistently had an unsubsidized placement rate in the 40 to 50 percent range. This is an extraordinary achievement because nearly all of these enrollees have poverty incomes, and many have very limited education.

Mr. President, I wish to salute AARP on its 20th anniversary in administering the SCSEP. I ask that a list of the sites where AARP SCSEP programs are active be inserted in the RECORD.

The information follows:

AARP/Senior Community Service Employment Programs are active at these locations:

Arkansas: Hot Springs, Little Rock.

California: Eureka, Richmond, Sacramento, Santa Cruz, Santa Maria, Santa Rosa, Visalia.

Colorado: Colorado Springs.

Florida: Clearwater, Cocoa, Fort Lauderdale, Gainesville, Jacksonville, Miami/Dade Co., Naples, New Port Richey, Orlando, Pensacola, Sarasota, St. Petersburg/Pinellas Co., Tallahassee, Tampa.

Georgia: Atlanta, Augusta, Columbus, Savannah.

Idaho: Boise.

Illinois: Edwardsville, Peoria, Springfield.

Indiana: Indianapolis, Merrillville, Terre Haute.

Iowa: Des Moines, Ottumwa, Waterloo.

Kentucky: Louisville, Owensboro.

Louisiana: New Orleans, Shreveport.

Maine: Portland.

Massachusetts: Danvers, Waltham.

Michigan: Battle Creek, Benton Harbor, Grand Rapids, Southgate.

Missouri: Kansas City, Springfield, St. Louis.

Montana: Billings.

Nebraska: Lincoln.

Nevada: Clark County, Ely, Sparks.

New Hampshire: North Conway.

New Mexico: Albuquerque.

New York: Bay Shore, Mt. Morris, Poughkeepsie, Riverhead, Utica, Watkins Glen.

North Dakota: Fargo.

Ohio: Cincinnati, Cleveland/Cuyahoga Co., Columbus, Martins Ferry, Portsmouth, Steubenville.

Oklahoma: Oklahoma City, Tulsa.

Oregon: Portland, Salem.

Pennsylvania: Bethlehem, Harrisburg, Johnstown.

Puerto Rico: Arecibo, Humacao, Ponce, San Juan.

Rhode Island: Providence.

South Carolina: Florence, Greenville.

South Dakota: Sioux Falls.

Texas: Brownsville, Dallas, Del Rio, El Paso, Houston/Harris Co., Laredo, Lubbock, McAllen, Waco.

Virginia: Norfolk, Richmond.

Washington: Bellingham, King County, Seattle, Spokane, Wenatchee.

Wyoming: Sheridan.●

A RESPONSIBLE PARTY

● Mr. KOHL. Mr. President, let me begin by admitting that I have no idea who The Who are—or what The Who is, if that is the right way to say it. I gather they are a rock and roll band; members of my staff, especially the older members of my staff, tell me they wrote something called a "Rock Opera" about a deaf, dumb, and blind kid who, I assume, suffered those problems as a result of listening to loud music.

In any event, despite my ignorance about The Who, I learned a great deal when I read about the way the Miller Brewing Co., a corporate constituent of mine, handled a 2-day party featuring The Who which was held in Texas over Labor Day weekend.

Billed as "the Biggest Party in History" the event entailed a combination of fairs, festivals and concerts—including two performances by The Who. In addition to giving a lot of people a lot of fun, the party also allowed the Texas Special Olympics, which cosponsored the event with Miller, to earn $1 million which had been guaranteed by Miller.

I was particularly struck as I read the press reports of this event, by the efforts made by Miller to assure that the party would serve to illustrate that it is possible to encourage the responsible consumption of alcoholic beverages—especially if a beer company takes steps to make sure that happens as Miller did in this case and as Miller has and will in other cases as well.

In this particular case, Miller worked out an elaborate system of safeguards to assure that their half million guests had a good time at the party and a safe trip home. Let me identify some of the steps they took. First, identification checkpoints were set up. Second, a wristband system was developed to assure that only those of legal age were drinking beer throughout the entire event; specifically, a yellow hospital-like band which, if removed, could not be used by anyone else was issued to those of legal age. Third, red wristbands were issued to designated drivers who were also given free soft drinks. Fourth, to encourage moderate consumption, only 2 cups of beer were sold to any person at one time. Fifth, all servers were trained in intervention methods developed by the Training for Intervention Procedures by Servers of Alcohol [TIPAS] Program; this training enables servers not only to recognize signs that a drinker is drinking too much but also teaches them how to best refuse service if that is necessary. Finally, free rides home were made available.

And this is not just a one-time concern by Miller. I am told that they are now packaging their plan so that hosts at other parties—whether they be for 4, 400, or 4,000 guests—can also check alcohol abuse.

And Mr. President, that plan can work. It did in Texas. The Houston Post said that Miller "deserved accolades" for their work. The Dallas Morning News reported that the crowds at the concert were "practically angelic."

Mr. President, I must say that I am proud of my constituent company and the people who created and mounted this party plan. Clearly it was a very visible demonstration that Miller in particular, and the beer industry in general, can help people learn how to drink responsibly. I may not know who The Who is, but I do know that Miller has done a good job of helping to promote responsibility. I commend them and I encourage the entire industry to continue this effort.●

ORDERS FOR TOMORROW

RECESS UNTIL 9:30 A.M AND MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow, Friday, November 3, and that following the time for the two leaders, there be a period for morning business until 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, at 10 o'clock tomorrow morning, the Senate will conduct a live quorum, and I will have a rollcall vote on a motion

to instruct the Sergeant at Arms to request the attendance of Senators.

Following the conclusion of that vote, with a quorum having been established, the Senate will resume the impeachment proceedings against Judge Walter L. Nixon, Jr.

Five rollcall votes will occur in succession on the two motions filed by Judge Nixon, and then on the three Articles of Impeachment.

Following the conclusion of the impeachment proceedings, I do not anticipate that the Senate will conduct any further legislative business that would require rollcall votes during tomorrow's session.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 9:30 a.m. tomorrow, Friday, November 3.

There being no objection, the Senate, at 11:13 p.m., recessed until Friday, November 3, 1989, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 2, 1989:

DEPARTMENT OF DEFENSE

SUSAN MORRISEY LIVINGSTONE, OF MONTANA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE JOHN W. SHANNON.

DEPARTMENT OF THE TREASURY

ABRAHAM N.M. SHASHY, JR., OF TEXAS, TO BE AN ASSISTANT GENERAL COUNSEL IN THE DEPARTMENT OF THE TREASURY (CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE), VICE WILLIAM F. NELSON, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 1, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

REGINALD HOWARD, OF CALIFORNIA
THOMAS R. TIFFT, OF FLORIDA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 2, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES

DEPARTMENT OF STATE

RALPH D. CHIOCCO, OF ALASKA

AGENCY FOR INTERNATIONAL DEVELOPMENT

BRUCE MARSHALL WATTS, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 3, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

ROSALIE FANALE, OF MARYLAND
RICHARD J. HOUGH, OF NEW YORK
MICHAEL JOHN NICHOLAS, OF NEW YORK

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

JOHN QUINCY ADAMS, JR., OF MARYLAND
RENEE NICHELE BROOKS, OF MARYLAND
BAINBRIDGE COWELL, JR., OF VIRGINIA
KIMBERLY J. DEBLAUW, OF MISSOURI
SILVIA EIRIZ, OF NEW YORK
ROBERT JOSEPH FAUCHER, OF CALIFORNIA
ROBERT STEPHEN FORD, OF MARYLAND
ANN VICNENT GORDON, OF WEST VIRGINIA
ALLEN STEWART GREENBERG, OF CALIFORNIA
RICHARD DALE HAYNES, OF WASHINGTON
DENNIS WALTER HEARNE, OF NORTH CAROLINA
THOMAS KEITH HUFFAKER, OF CALIFORNIA
PATRICIA WHITE JOHNSON, OF OREGON
HENRY EDWARD KELLEY, OF NEW HAMPSHIRE
DEBORAH L. KINGSLAND, OF NEW YORK
KIRK D. LINDLY, OF VIRGINIA
MARY KAY LOSS, OF ARKANSAS
BRUCE ALAN LOWRY, OF CALIFORNIA
CAROL MARKS, OF CALIFORNIA
ROBIN K. MCCLENNAN, OF KANSAS
NANCY BILOFF PETTIT, OF VIRGINIA
CHARISSE MELANIE SCHOLZ PHILLIPS, OF VIRGINIA
MARJORIE R. PHILLIPS, OF CALIFORNIA
ANDREA RICHHART, OF CALIFORNIA
EDMUND ROBERT SAUMS II, OF MISSOURI
KRISTEN BRUNEMEIER SKIPPER, OF CALIFORNIA
DONA RIDDICK TARPEY, OF OREGON
STEVEN JEROME WANGSNESS, OF WASHINGTON
JAMES B. WARLICK, OF CALIFORNIA
EVELYN WHEELER, OF VERMONT

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

BRUCE ANDREW, OF WISCONSIN
ANTHONY J. ARVISH, OF MONTANA
JOSEPH R. BEERMAN, OF NEW YORK
CHRISTIAN DYE BENDSEN, OF VIRGINIA
VINCENT KIRK BENNETT, OF THE DISTRICT OF COLUMBIA
MARY LYNN BLAKE, OF OKLAHOMA
HELENA ROBIN BORDIE, OF TEXAS
STEPHEN T. BRACKEN, OF VIRGINIA
THOMAS J. BRENNAN, OF COLORADO
PIPER ANNE-WIND CAMPBELL, OF NEW YORK
ANNE CARSON, OF NEW YORK
CLEVELAND LADD CHARLES, OF MASSACHUSETTS
JON F. DANILOWICZ, OF MASSACHUSETTS
CHRIS ANN DELMASTRO, OF VIRGINIA
SCOTT EDELMAN, OF CONNECTICUT
KATHERINE M. GREEN, OF VIRGINIA
SALLY T. GRINNELL, OF VIRGINIA
ERIC W. GROLL, OF MARYLAND
STEVEN F. HARPER, OF MARYLAND
RICHARD P. HART, OF WEST VIRGINIA
DAVID M. HOOVER, OF VIRGINIA
CATHY L. HURST, OF THE DISTRICT OF COLUMBIA
CHARLES J. JESS, OF COLORADO
ROBERT BYRON JONES, OF WASHINGTON
MICHALENE F. KACZMAREK, OF NEW YORK
MARY I. KERBER, OF MARYLAND
DEBORAH E. KLEPP, OF NEW YORK
RALPH S. KWONG, OF MARYLAND
GREGORY D. LEE, OF VIRGINIA
ERIC K. LUNDBERG, OF VIRGINIA
CHARLES LUOMA-OVERSTREET, OF CALIFORNIA
MARK J. MCBURNEY, OF RHODE ISLAND
RICHARD MARSHALL MCCRENSKY, OF VIRGINIA
MARK J. MONACO, OF NEW YORK
VIRGINIA E. MURRAY, OF NEW JERSEY
CHRISTINE M. OSAGE, OF VIRGINIA
DANIEL M. PERRONE, OF GEORGIA
MARK XAVIER PERRY, OF MARYLAND
RUSSELL A. POWELL, OF CALIFORNIA
WOODWARD CLARK PRICE, OF PENNSYLVANIA
GEOFFREY R. PYATT, OF CALIFORNIA
EVAN G. READE, OF CALIFORNIA
CHRISTOPHER E. RICH, OF MARYLAND
HENRY L. RONES, OF VIRGINIA
EDWIN CONNELL SAGURTON, JR., OF CALIFORNIA
UTAMLAL SHAH, OF ILLINOIS
BENJAMIN N. SMITH, OF VIRGINIA
GLENN WALTER SMITH, OF TEXAS
LINDA STUART SPECHT, OF PENNSYLVANIA
SHELLEY LEA STEPHENSON, OF VIRGINIA
CHARLES A. STONECIPHER, OF TEXAS
LAURIE JO TROST, OF CALIFORNIA
MATTHEW C. VICTOR, OF MARYLAND
SAU CHING YIP, OF COLORADO
MICHAEL YODER, OF INDIANA
ALAN K.L. YU, OF VIRGINIA

SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ALBERT L. BRYANT, OF VIRGINIA

IN THE NAVY

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. PAUL D. BUTCHER, [redacted]/1110, U.S. NAVY

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. FRANCIS R. DONOVAN, [redacted]/1110, U.S. NAVY

EXTENSIONS OF REMARKS

THE DECLARATION OF PURPOSES OF THE FEDERATION FOR A DEMOCRATIC CHINA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. LANTOS. Mr. Speaker, the image of brutal totalitarianism smashing the incipient democratic movement in the military crackdown aginst peaceloving demonstrators in Tiananmen Square in Beijing in early June is one that Americans and freedom-loving people throughout the world will long remember.

In September of this year in Paris, leaders of the Chinese democratic movement inside China who escaped from their homeland after the brutal events of Tiananmen Square joined with their compatriots studying at universities in the United States and other Western countries to establish the Federation for a Democratic China. The purpose of the federation is to establish a democratic system in China.

Mr. Speaker, I welcome the establishment of the Federation for a Democratic China and join with my colleagues in the Congress in support of its most worthy goals. The establishment of democracy in China is of historic importance, not only for the Chinese people, but for those who love liberty everywhere.

Mr. Speaker, the "Declaration of the Federation for a Democratic China," which was adopted at the founding session of the organization in Paris on September 24 of this year, is a noble statement of principles which I welcome and which Americans favor. I insert this declaration in the RECORD so that my colleagues in the Congress and all Americans can have the opportunity to read the principles that motivate the Chinese patriots who have joined together to establish the Federation for a Democratic China:

DECLARATION OF THE FEDERATION FOR A DEMOCRATIC CHINA

(Passed September 24, 1989, Paris; draft translation)

The Federation for a Democratic China (FDC) hereby announces its establishment in Paris today. The objective of the FDC is to build a democratic system in China.

I

The FDC represents an inevitability of the political development in China.

The destiny of our nation depends on the transition from a traditional to a modern society, a dominating trend in China's development during the recent century, which has found as its main theme the replacement of feudalism by republicanism, and substitution of dictatorship with democracy. This modernization process has been repeatedly suffocated by the decadent oriental totalitarianism, which is responsible for China's recurrent internal turmoils and foreign humiliations resulting from the national weakness during China's tragic history of the recent century. China's totalitarianism and the effects thereof remain strong today.

The Communist Party of China rose to power by appealing to "democracy and anti-dictatorship". Thereafter, however, it incorporated the oriental totalitarianism with Stalinist totalitarianism thus throwing China into a disastrous and never-ending state of backwardness and insulation. The reforms in the 1980's brought about some chance of recovery for this ancient nation. The growth of market economy and the tendency toward multiplicity and democracy in political life and ideology have shaken the very root of the one-party dictatorship. To perpetuate the dictatorial rule, the decaying elements in the Communist Party want to handcuff the reforms within the framework of the "Four Cardinal Principles", thus coming into direct conflict with the trend of our time and the thirst for change of our people. As a result the historic show-down between democracy and dictatorship becomes inevitable.

The great 1989 democratic movement provided a good opportunity for reforming China's political system, but the dictator confronted the movement with massacre and terror, the brutalest response of the totalitarianism toward China's modernization since the collapse of the Qing Dynasty. China is soaked in blood.

The Chinese people have run out of patience with the one-party dictatorship by the Communist Party of China.

History has indicated that defects inherent in a one-party dictatorship are not to be overcome unless such a system is overcome; and such a system is not to be overcome and yield to democracy absent of a democratic awakening of the various social strata, a political force independent of the Communist Party, and an unswerving and ever-growing democratic movement.

To undertake these historic tasks, the FDC has come into being.

II

The June 4th Massacre helped the great awakening of the Chinese people all over the world, and brought about a great coalition of the Chinese democratic force.

An independent political force, the FDC is a political organization of the Chinese compatriots in and outside China dedicated to the promotion of democracy in China.

The FDC aims at safeguarding basic human rights, upholding social justice, promoting a private economy, and terminating the one-party dictatorship in China.

The FDC insist that:

Men are born with some inalienable rights: the rights to life and development, to the pursuit of happiness, and to the inviolable personal dignity and safety. These rights are the basis of a civilized modern society and prerequisite for democratic politics.

All members of the society are equal and entitled to equal chance of participation in fair social competition, regardless of sex, nationality, profession, and family background. Healthy and stable social development is impossible unless and until privileges are eliminated and social justice upheld.

Citizens are entitled to owning and disposing their own means of production and fruits of production. Deprivation of citizens' property rights in the name of "state" constitutes an important explanation for the economic stagnation and political tyranny in the communist countries. To return the wealth to the people and a private economy represent the only solution to China's economic dilemma and only way to China's modernization.

The safeguarding of citizens' basic right, i.e., freedom of belief, speech, press and assembly, is prerequisite for the termination of dictatorship and realization of democracy. The armed forces must be nationalized and the judiciary independent. Schools should be free of government's political control so that academic and educational autonomy is guaranteed. Pre-conditions for democracy at the grass-root level are already existing in China, and local government officials and people's representatives should be chosen by direct election.

III

Adhering to the principle of peace, rationality and non-violence, the FDC strongly denounces the terrorist practices employed by the totalitarian regime against the people.

In order to rebuild the republic, a free and democratic China based on human rights and the rule of law, in order to promote world peace and progress, the FDC will stand, unite, and cooperate with the workers, peasants and soldiers who live at the bottom of Chinese society; with the intellectuals and young students who are dedicated to freedom and democracy; with the entrepreneurs and private businessmen who have grown up in the past decade of reforms; with the democratic and progressive forces within the People's Liberation Army, the Chinese Communist Party and any other party or association; and with peoples of all lands who love freedom and uphold justice.

The FDC is deeply concerned about the future of Hong Kong and Macau, believing that the stability and prosperity of HK and Macau depend not only on the development of their own democratic forces, but also on the establishment of a democratic system in mainland China.

The FDC is deeply concerned about the process of democratization in Taiwan, believing that this process has a profound impact on the democratic cause of the whole Chinese nation.

The FDC is in a deep remorse that the Chinese democratic forces have long ignored the Tibetan people's right of democracy and self-determination, believing that the solution to the Tibetan issue, like issues regarding any minority, can only be based on the principle of human rights, freedom, democracy, and rule of law.

The FDC is deeply grateful to the people, the institutions and the governments of various countries for their concern and support of China's democratic undertaking, and calls for their stronger and continued support based humanitarianism, their in-sight, and their long-sight.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IV

The FDC is firmly convinced that the days of China's dictator are numbered, the days of China's totalitarianism are numbered, and a real Chinese republic and a revitalized Chinese nation are not far on the horizon.

Ahead of us, we will have a difficult but glorious time.

Ahead of us, we are faced with oceans of tears, blood, and tyranny. On our shoulders, we will carry mountains of expectations and obligations.

But we have human justice on our side, the Chinese people's hearts on our side, the historical inevitabilty on our side, and the iron rule of time on our side—freedom never dies and democracy is to win.

The Chinese compatriots, our friends:
For a democratic China, stand up and fight.
The 21st century is destined to be a democratic China's Century.
Long live a democratic and free China.

HONORING THE PARKWAY HOSPITAL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. ACKERMAN. Mr. Speaker, I rise today to honor one of the foremost community hospitals in Flushing, Parkway Hospital. Tonight, Thursday, November 2, Parkway Hospital will celebrate over 25 years of service to the elderly in Queens at a banquet at Terrace on the Park in Flushing Meadows.

For over a quarter of a century the Parkway Hospital has been the largest provider of geriatric care in Queens. During that time it has offered its patients the finest care imaginable, utilizing the very latest technology to better serve its patients. One especially notable innovation has been its use of laser surgery.

In an effort to meet the needs of a growing number of patients, the hospital has undergone major renovations during the past year. It has not only expanded its bed capacity from 227 to 244 beds, but it has also constructed a new emergency room to serve patients on an outpatient basis.

Despite the tremendous advances Parkway Hospital has made in caring for the elderly in Queens, the staff at Parkway are concerned that still too many are unaware of the services the hospital has to offer. In order to promote these services, the hospital has recently embarked on an outreach program; working in conjunction with the Queens Chamber of Commerce, the hospital has held a number of health fairs in churches, synagogues, and apartment complexes in the Flushing area. The most recent fair in June was a great success attracting a crowd of over 1,500 people.

The many achievements of the hospital have been due to the hard work and dedication of many doctors and nurses at the hospital. However, one cannot stress too much the contribution made by its leadership, especially that of its former president and resident surgeon for the past 20 years, Dr. Rich Friedman. In his tenure as president and career as surgeon, Dr. Friedman worked strenuously to establish the hospital's fine reputation. Last month Dr. Friedman relinquished his position as president and was in turn succeeded by the new team of doctors, Michael Reich and J. Aaron Peres, who I am confident will lead the hospital to even greater heights in the future.

Mr. Speaker, in a society which seems to increasingly ignore its elderly, its poor, and its sick, it gives me great pleasure to congratulate an organization like Parkway Hospital for opening its arms to these neglected groups and caring for them. I am sure my colleagues would join me in thanking the Parkway Hospital for all its fine work and to wish it continued success in the future.

NO VALDEZ IN THE FLORIDA KEYS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. FASCELL. Mr. Speaker, I rise to inform our colleagues of two recent accidents which may cause irreparable damage to the only living coral reef in North America. Monday, the 475-foot Yugoslavian tanker, the *Mavro Vetranic*, ran aground atop a coral reef in the Fort Jefferson National Monument in the Dry Tortugas. On October 25, in good weather with 3-foot seas and 8 miles of visibility, the 155-foot freighter, *Alec Owen Maitland*, also ran aground on a reef in the Key Largo National Marine Sanctuary.

The blood-alcohol level of the acting pilot of the *Alec Owen Maitland* was .11 percent, well over the limit of .04 percent set by U.S. maritime regulations for anyone piloting a commercial motor vessel. The freighter that ran aground last week was carrying no cargo and only a small fraction of its 10,000 gallons of diesel fuel leaked into the water despite a gash in the ship's hull, but the damage to the reef in the area is still significant. Criminal charges have been filed against the *Maitland*'s unlicensed first mate, who was operating the ship when it ran aground, and the ship's captain for allowing an improperly licensed sailor to operate the vessel.

Monday's accident, however, is at a critical stage. Rough weather is expected later this week, and the vessel is expected to be grounded for at least another 6 days while its load is lightened. According to the Coast Guard, the ship is loaded with 14,300 tons of phosphate fertilizer, 120,000 gallons of heavy fuel oil and 23,000 gallons of diesel fuel. Twenty knot winds and rough seas are expected in the area on Friday. Coast Guard officials have stated there is a very real danger that the ship's hull could be opened and its cargo leaked into these sensitive waters as a result of these weather conditions. Even though cleanup crews are standing by, there is still a strong possibility that we could be reading about a "Valdez in the Florida Keys."

Boats running aground in this area are not uncommon. When the Subcommittee on Water, Power and Offshore Energy Resources conducted a field hearing on offshore oil drilling 2 weeks ago in Key West, a charter fishing boat ran aground in approximately the same area. These accidents are a clear indication of our failure to learn from past experience. In 1984, a 400-foot freighter ran aground and sat on Molasses Reef for 12 days. By the time the freighter was freed it had damaged 4 acres of coral reef, approximately 15 percent of the total area of Molasses Reef. Four-acre lots in a metropolitan area are expensive, but a 4-acre parcel of a living coral reef is priceless.

With all that is at stake, it is incomprehensible that we do not take the proper action to protect these resources. We should undertake a thorough review of our current policies and regulations to see if there are changes we can make to lessen the chances of repeated accidents of this nature. We ought to seriously consider whether commercial shipping lanes should be moved or whether the Florida Keys should be declared a tanker-free zone. I am pleased that the tanker-free zone proposal is recognized in the oilspill legislation we will consider later this week in the form of an authorization for a feasibility study. In addition, if captains and crews do not adhere to existing recognized maritime regulations, they should be subject to the full force of the law. Those commercial shipping vessels which want to cut corners should not be allowed to endanger the very lifeblood of the Keys in order to save a little time and money. Indeed, common sense dictates that all commercial shipping be discouraged from navigating a course so close to this reef system.

The southern tip of Florida is unique in that the Federal Government has set aside so much land because of its environmental sensitivity. We must follow through to ensure the utmost protection of these areas. A provision in the Maritime Protection, Research and Sanctuaries Reauthorization Act, which was enacted last year, provides that fines and penalties for damage within a national marine sanctuary be given back to those same marine sanctuaries for resource repair work.

The House has twice passed legislation which would provide the same relief to resources managed by the National Park Service; however, the Senate has not taken favorable action on such legislation. Presently, a measure is pending before the Senate which would provide such a benefit to the National Park Service. If Monday's accident proves to be catastrophic, we will have a real tragedy on our hands. Fort Jefferson National Monument and similar resources need such protection because by the time they would receive funding for repairs through the standard budget process it could be too late. Time is critical in the restoration of coral reefs.

Last week, the people of Florida all shared a collective sigh of relief when early reports showed that no extensive oil leakage had occurred. Today, Floridians are holding their breath and anxiously awaiting the latest details. However, it is still too early to assess the total damage which has occurred to the reefs as a result of the groundings. Whatever the outcome, these accidents will only strengthen the resolve of all Floridians to continue our fight for the protections that our coastal resources deserve. The message from the people in Florida is clear: Please, no Valdez in the Florida Keys.

IN HONOR OF KEY CLUB WEEK

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mrs. MORELLA. Mr. Speaker, Key Club International, a high school service organization sponsored by Kiwanis International, is observing the week of November 5–11, 1989, as Key Club Week.

I would like to congratulate Tony Deliberti, community service coordinator for Montgomery County Public Schools, and the members of the Key Clubs of Montgomery County, MD, who are part of an international organization of over 128,000 students dedicated to serving their school and community, seeking to give primacy to the human and spiritual rather than the material values of life. They promote the adoption of higher standards in scholastics, sportsmanship, and social contacts and the development of a more concerned citizenship. Through their purposeful service, they have helped to build better communities by making their motto, "Caring—Our Way of Life," more than just words, by making it a goal for living. The 1989–90 theme "Develop Within—Share Throughout," recognizes the positive achievements of students, encourages uninvolved teenagers to become active in their schools, and communities, and promotes a positive image of today's youth. The service provided by the Key Club continues to have a positive impact on our community and its citizens.

Mr. Speaker, I congratulate the members of the Key Club for their outstanding service to the Montgomery County community.

TRIBUTE TO HON. MOSES M. WEINSTEIN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to one of my constituents, Hon. Moses M. Weinstein who is being honored by the John F. Kennedy Regular Democratic Club in Queens, NY, on November 4, 1989.

Moses Weinstein was born in east New York, Brooklyn. He became aware of the plight of persons in less fortunate circumstances through his mother's work with orphans and children from broken homes, creating an influence which affected him for life.

For his actions during World War II, Moses Weinstein won a commendation for his role in the Battle of the Bulge. Upon his return to the United States, he settled in Kew Gardens Hills, immersing himself in community and political activities. In 1958, he was elected a state assemblyman, and two years later, also assumed the party post of district leader.

Always one to rise to the top, he made parallel ascents to be the speaker of the New York State Assembly, and Queens County Democratic leader.

In 1969, he began a new career, after being elected to the New York State Supreme Court. Again, his acumen and integrity propelled him upward through the judges' ranks, serving in the appellate term and later in the appellate division.

Although he has retired from the bench, he now seems more involved and busier than ever. Governor Cuomo has appointed him to the New York State Commission on the Bicentennial of the U.S. Constitution, and as trustee of the Interest on Lawyer Accounts Fund. He is of counsel to the law firm of Weinstein and Weinstein. He continues his involvement with the Queens County Multiple Sclerosis Society, Queens Children's Rehabilitation Service, and Mid-Queens Child Guidance Center.

His awards, legislative accomplishments, and additional community involvement is far too lengthy to include here. Those trying to keep pace with him will be left far behind, seeing only the remnants of this brilliance, like a comet's tail.

Mr. Speaker, I ask that all my colleagues in the House of Representatives join with me in recognizing the outstanding contributions that Judge Moses Weinstein has made to the State of New York and the Queens County in particular, and congratulate him for many jobs well done.

THE U.N. CONVENTION ON THE RIGHTS OF THE CHILD

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. MILLER of California. Mr. Speaker, I recently had the honor of delivering the keynote address at the Conference on the U.N. Convention on the Rights of the Child, held by the East Bay Chapter of the United Nations Association of the U.S.A.

I am submitting my remarks at the conference for the RECORD:

REMARKS OF CONGRESSMAN GEORGE MILLER

INTRODUCTION

Good morning. I am honored to be with you this morning, and I am pleased to be among so many activists who have dedicated your lives to improving the well-being of children.

THE U.N. CONVENTION AND THE STATUS OF CHILDREN

In November, the United Nations General Assembly will take up the proposed Convention on the Rights of the Child. This landmark treaty, if approved and ratified, would place many basic human rights for children in international law for the first time.

Much of the publicity surrounding the Convention has focused on the status of children across the globe, and especially on the status of children in the Third World. Whether it is the killing and maiming of children in Central America, the famine in Ethiopia and sub-Sahara Africa, or the tens of thousands of child soldiers killed in the Iran-Iraq war, the state of the world's children is shocking.

More than 38,000 children die every day due to a lack of food, shelter, or primary health care. Approximately 800,000 infants die each year of neonatal teranus alone, which can be prevented by immunizing the mother.

More than one billion people—the majority of them children—either have no home or live in inadequate housing.

Over 100 million children throughout the world are forced to work under hazardous and often fatal conditions, many for almost no pay.

In the last Congress, I introduced legislation to help stop the worldwide exploitation of child labor. As a result of this legislation, the Secretary of State must now report to the Congress on which countries abide by internationally recognized child labor rights. This law also directed the U.S. delegation to the U.N. to call further attention to the exploitation of child laborers.

This legislation is just a beginning. It is my hope that the Congress will vote to ban the importation of items produced in violation of child labor rights.

U.S. CHILDREN IN CRITICAL CONDITION

However, you don't have to go abroad to discover that we need a broader recognition of children's rights. The House of Representatives Select Committee on Children, Youth, and Families, which I chair, was created in 1983 to develop an accurate picture of American children, and to document their needs and their status. Our goal is to develop a comprehensive strategy for assuring that next generation of Americans comes to maturity as healthy, as well educated, as economically competitive, as mentally and physically developed, and as prepared to succeed as we can deliver them.

Now, after six years of studies, hearings and reports, we must confirm the sad finding that America's children are growing up in crisis—and it is a crisis that will afflict them for decades to come.

The much-heralded economic expansion of the 1980s seems to have left millions of our children behind:

Between 1979 and 1987, childhood poverty increased 24 percent. More than 13 million children are now living in poverty, making children America's poorest age group.

In 1985, more than one quarter of the nation's 1–4 year olds were not fully immunized against rubella, diphtheria, tetanus, and pertussis. Moreover, the percentage of children who received their immunizations in the first two years of life declined significantly between 1980 and 1985.

Increasing numbers of children and youth are suffering the effects of homelessness and sexual abuse.

The U.S. has the highest infant mortality rate in the industrialized world.

Drop-out rates in some urban high schools exceed 50 percent, pushing the number of drop-outs to over a million young people a year.

Drugs are slaughtering thousands of young people a year, turning many metropolitan areas into open prisons of desperation, crime, poverty, and unemployment, and destroying a generation of young men.

There isn't a single public institution that serves our children and families that is not in a state of full-blown crisis because of the combination of poverty, inadequate health care, drugs, AIDS, violence, and mental illness. And as these crises have been growing we have contributed to them by slashing housing programs, cutting student loans, reducing federal support for anti-drug programs, and leaving huge gaps in the social welfare safety net.

The United States is one of the richest countries in the world, yet compared to other industrialized countries, we are ex-

tremely tight-fisted when it comes to children and families.

Sixty-seven nations—but not the U.S.—provide a monthly or weekly cash benefit to families for every child regardless of income and work status of parents. Single mothers often receive additional assistance.

Many European nations—but not the U.S.—provide maternity grants at the time of childbearing to assist with the cost of supplies and equipment for the new baby.

The United States and South Africa are the only major industrialized nations that do not guarantee some form of job-protected maternity leave and national health care.

Nearly 15 million American women of childbearing age have no private or government health insurance covering maternity. In contrast, 10 European nations have set uniform national standards for perinatal care.

Not only does the U.S. lack the policies of other nations, but those programs that do exist are frequently funded at low levels that serve only a fraction of the eligible women and children. We, as a society, are already paying a terrible price for abandoning our neediest and most at-risk citizens. We are paying a price in crime, in unemployment, in developmentally disabled babies, in premature deaths, in lower productivity among workers, in the billions we spend on prisons, on courts, on intensive care units—on cleaning up for the indifference we have allowed to become national policy.

I have recently introduced legislation that would seek to end this indifference. It would ensure that by the end of the Bush Administration:

Every eligible woman could receive prenatal health care and nutritional assistance.

Every impoverished child would be immunized, would have access to routine health care, and could attend Head Start.

Yet it is far from clear that this legislation will become law.

THE NEED FOR THE CONVENTION AND WHAT IT PROVIDES

I am sure that many of us believe that children have the right to demand adequate housing, health care, nutrition, education, and protection. Sadly, American society has been slow to recognize these rights.

This is why the U.N. Convention on the Rights of the Child is so vitally important. If approved and ratified, it will represent an international consensus on what all nations owe their children and youth. The rights provided by the Convention include: the right to food, and shelter; the rights to education and basic health care; and the right to protection from sexual exploitation, family violence, illicit drugs, exploitative labor, and cruel or degrading punishment.

The Convention would also provide: a legal framework for the protection of children and their families; a monitoring system to hold governments accountable for their treatment of children; and a vehicle for mobilizing advocates and teaching children about peace and human rights.

The one area in which the Convention is lacking concerns the tragic practice of sending child soldiers into combat. Children are being recruited as soldiers in armed conflicts throughout the world. As many as 100,000 thousand child soldiers were killed in the Iran-Iraq war alone. Surprisingly, international law currently sanctions child soldiers as young as 15.

When final touches were being put on the treaty last year, several nations tried to raise the minimum combat age to 18, but the United States objected. Indeed, our government singlehandedly stymied efforts to get children off the world's battlefields. Thirty-five Members of Congress joined me in writing to the Administration to express our outrage. Sadly, we have seen no evidence of a change in the President's position.

Despite the absence of increase in the minimum combat age, however, the U.N. Convention deserves our unhesitating support. The treaty will serve as a moral lever for those in the Congress and around the world fighting to increase our government's commitment to children. By setting out a legal framework for protecting children and their families and establishing a monitoring system, we can hold governments throughout the world accountable for improving the lives of children.

Make no mistake about it: industrialized nations that agree to the Convention will not automatically invest in children nor will the Convention provide the essential resources to undeveloped countries. But like the Geneva Conventions, which have effectively set standards for conduct in war, the Convention on the Rights of the Child will set an international standard for the treatment of children.

Our tasks are clear. First, it is essential to ensure that the Convention receives approval by the U.N. General Assembly in November. Once approved, twenty of the U.N.'s member nations must ratify it before it becomes effective. Therefore, we must all strive to ensure first that the Convention is approved, then that it is ratified, and finally that it's contents are widely known. International private sector organizations have been intrumental in guiding the treaty to its current position. Now that we're onto the playing field, grassroots organizations, such as yours, need to step up their campaign.

This week, Members of Congress are joining me in urging President Bush to give strong U.S. approval to the treaty. Your help is needed, too, to rally support for the convention. I urge all of you to write the President and your representatives in the Congress to tell them that you support the treaty. Write your Senators and tell them to vote to ratify the treaty after it is approved. Moreover, after the Convention becomes international law, your efforts to ensure that the treaty is widely known will be central to its effectiveness.

PROCLAMATION HONORING ALEX A. ESCLAMADO

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. SOLARZ. Mr. Speaker, I rise today to commend a truly notable American, Alex A. Esclamado, who is both an invaluable contributor to this Nation, and a valued friend to land of his birth, the Philippines.

In his position as the editor of the Philippine News, the largest circulation Filipino-American newspaper in this country, Alex consistently sought to expose the brutal repression and rampant cronyism which characterized the dictatorship of the late Ferdinand Marcos. In the process, he put the well-being of both his family and himself at risk.

Alex also was one of the key organizers in the Filipino-American community in the wake of the February 1986 People's Power Revolution which brought President Cory Aquino to power and restored, after the long, dark night of Marcos, the light of democracy to the Philippines. He continues to be a voice to be reckoned with on all issues affecting Filipino-Americans.

In recognition of his meritorious actions, President Aquino recently conferred the Philippine Legion of Honor on Alex Esclamado. Clearly, champions of democracy in the Philippines owe Alex a debt of gratitude, so I would like to share with my colleagues in the Congress, and the American people as a whole, the text of President Aquino's proclamation honoring Alex.

THE PHILIPPINE LEGION OF HONOR (DEGREE OF OFFICER) IS HEREBY CONFERRED UPON ALEX A. ESCLAMADO, PUBLISHER AND EDITOR-IN-CHIEF, PHILIPPINE NEWS

CITATION

For his distinguished and outstanding service to the country during the past 20 years. Often a lone voice in the United States, he relentlessly championed Philippine freedom and democracy without regard for personal safety in the face of the threatening might of the dictatorship. Through his newspaper, the Philippine News, he continuously published the truth about the repressions of the dictatorial rule, suffering great financial loss and harassment of his family. His testimony before the U.S. Congress revealing facts about the assassination of Benigno S. Aquino, Jr., and the oppression of the Filipino people, helped change U.S. policy towards the Philippines. Immediately following the People's Revolution, he was one of the first, if not the first, to call for a "Mini-Marshall" plan to assist in rebuilding his native country, inspiring support for the current Multilateral Aid Initiative. Since the 1960's, he has led a galant battle for equal rights for Filipino immigrants in the U.S., benefitting not only Filipinos but all Asians. He was the prime mover in unifying more than 3,000 Filipino American associations into a single organization, with the goal of assisting Filipinos in the U.S. and contributing to the economic recovery of the Philippines. He was the only Filipino American selected to receive the prestigious "Ellis Island Medal of Honor" presented during the U.S. Bicentennial Celebration to America's most prominent immigrants. For the past two decades, Alex A. Esclamado has been the single most influential Filipino American, courageously fighting for the cause of justice for Filipinos everywhere and serving as an inspiration in the defense of freedom, a true benefactor of the underprivileged and an ardent advocate of a strong and lasting democracy in his native country.

By virtue of the powers vested in me by law, I, Coiuzon C. Aquino, President of the Republic of the Philippines, do hereby confer upon Alex A. Esclamado the Philippine Legion of Honor, Degree of Officer, this 9th day of May, in the year of our Lord nineteen hundred and eighty-nine, and the Republic's ninety-first.

CAMBODIANS' VISION LOSS LINKED TO WAR TRAUMA

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. ROHRABACHER. Mr. Speaker, I would like to bring to the attention of Members of Congress an article printed in the Los Angeles Times which describes the terrible psychological and physical disabilities suffered by Cambodian women who survived the genocidal rule of the Khmer Rouge. An estimated one to two million Cambodians were killed from 1975 to 1978, during Pol Pot's reign of terror. Many survivors of this genocide sustained grievous injuries, of which the women described in this article are but one example. This should serve as a strong reminder of the horrors wrought by the communist Khmer Rouge; they must never again be allowed to assume power in Cambodia, under any circumstances.

[The article follows:]

[From the Los Angeles Times, Oct. 15, 1989]

CAMBODIANS' VISION LOSS LINKED TO WAR TRAUMA

Scores of Cambodians complain they are blind or suffer blurry vision although their eyes are normal—a malady some experts blame on the horrors they witnessed in the killing fields of their native land.

"These women saw things that their minds just could not accept," said psychology professor Patricia Rozee-Koker of Cal State Long Beach, who studies vision complaints of the Khmer Rouge regime's refugees.

"Seventy percent of the women had their immediate family killed before their eyes," she said. "So their minds simply closed down, and they refused to see anymore—refused to see any more death, any more torture, any more rape, any more starvation."

The majority of the refugees with vision complaints are 40- to 70-year-old women who fled the Khmer Rouge regime, which was toppled a decade ago.

Experts believe that the refugees suffer hysterical, psychosomatic or functional blindness, in which psychological turmoil spurs people with normal eyes to believe that they are blind or see poorly.

Many of the Cambodians also show signs of severe depression and post-traumatic stress disorder, which afflicted many Vietnam War veterans, Rozee-Koker said.

Eye doctors said it is very difficult to distinguish patients with hysterical vision loss from malingerers who fake blindness to obtain disability benefits, attention or sympathy.

Some question whether psychological vision problems were triggered by sights of mass murder of Cambodia, or by trauma endured by Khmer-speaking Cambodian peasants adjusting to U.S. life.

"I think it's a real phenomenon," said Dr. Hector Sulit, a Long Beach eye doctor who examined dozens of Cambodians in recent years." It could be the trauma. . . . The other possibility is cultural shock. There might be a few looking for sympathy."

Dr. Michael F. Marmor, ophthalmology chairman at Stanford University School of Medicine, said Cambodians examined there "for the most part were not consciously malingering, although it's almost impossible to rule out."

Hundreds of thousands of Cambodians were killed from 1975 to 1978 by Pol Pot's fanatical communist Khmer Rouge, who tried to transform the nation into an agrarian commune until Vietnam invaded in late 1978. Nearly 200,000 Cambodians fled to the United States. Vietnam withdrew its troops in September.

Hysterical blindness has been reported among shellshocked soldiers during World War I, children of divorced parents and people involved in traffic accidents.

Five years ago, an unusual number of female Cambodian refugees with psychosomatic vision problems were noticed by Gretchen Van Boemel, an electrophysiologist at Doheny Eye Institute in Los Angeles.

She contacted Rozee-Koker, an old friend, and since then they identified about 150 Cambodian refugees in Long Beach who claim blindness or blurred vision, although brain wave and eye tests find nothing physically wrong.

"One woman saw her four children and husband killed in front of her, then lost her vision right after," Van Boemel said. "One woman watched her husband and three children taken away in 1975. They never returned. She reported she cried daily for four years, then she stopped crying and couldn't see."

About 15% of the women said they were blind—with no perception of light—and the rest claimed varying degrees of blurry vision, she added.

At Stanford, Marmor and Dr. Michael Drinnan examined a number of people with psychosomatic blindness during the last two years.

"There were more Southeast Asians with functional vision loss than other members of society, and almost all seem to be Cambodians," a majority of them women, Marmor said. "Most had some perception of light, but they ranged widely over what they could see. We speculated this may have to do with war trauma."

Rozee-Koker and Van Boemel initially interviewed 30 Cambodian women through an interpreter, and found that those with the worst vision spent the most time living under the Khmer Rouge or in refugee camps.

"The women's trauma history was extreme," Rozee-Koker said. "They had lost several to all of their relatives. They experienced beatings, starvation, forced labor, humiliations, separation from their families." She also suspects that the women may have been raped.

Dr. Eric Nelson, an ophthalmology fellow at UCLA's Jules Stein Eye Institute, said the women's psychosomatic vision problems "did seem to happen shortly after they saw some horrendous things, but they also went through horrendous changes of life" as refugees.

Marmor speculated that Cambodian refugees may be more prone to complain of vision trouble because they tend to be uneducated peasants who experience difficulty adapting to life in a new country.

"To know whether the Cambodian war was the cause of this would really take some scientific scrutiny, particularly when we have such a different social situation and culture to understand," said Dr. John Keltner, ophthalmology chairman at UC Davis.

Since 1977, Keltner and colleagues examined 137 patients who complained of vision problems but had healthy eyes. They included Laotian refugees but not Cambodians. Most were faking to obtain disability payments or awards in lawsuits, Keltner said.

Nelson studied eight Cambodians to determine if their vision complaints were sincere.

"Some had applied for disability, but some months before their vision loss," he said. "In five cases, the patients were given a diagnosis of major depression," and two more also probably suffered from it.

Van Boemel said most of the women she studied also had psychosomatic headaches, dizziness, general malaise and stomach cramps.

Rozee-Koker said the women sit isolated in their rooms and live over and over the trauma through horrible nightmares and intrusive thoughts," and their vision problems are worse when they feel depressed.

Two years ago, Van Boemel and Rozee-Koker placed five of the women in group psychotherapy, while five others participated in a group where they learned survival skills: how to call police, shop and ride buses.

After 10 weekly sessions, about three-fifths of the women reported improved vision and reduced depression, Rozee-Koker said.

CALIFORNIANS INVITE MEMBERS OF THE SUPREME SOVIET TO VISIT THE UNITED STATES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. LANTOS. Mr. Speaker, I would like to call to the attention of my colleagues an outstanding program to invite the 542 Members of the recently elected Soviet Parliament, the Supreme Soviet, and their families to be guests of private American families on a nonofficial visit to the United States.

As my colleagues know, earlier this year the first contested elections in 71 years were held for the Soviet Parliament. For the first time since 1917, Soviet citizens had a real choice between different candidates to represent them. These newly elected deputies are now engaging in free and open debate, and they are making sincere efforts to deal with their country's problems and to bring about necessary reforms.

A group of private citizens—headed by Mr. Bernard Hagen of Redwood City, CA, in my congressional district—have responded to the new developments in the Soviet Union in a most positive and innovative way. To show their support for the uncontested elections, for free and open debate, and for the trend toward a democratic society in the Soviet Union, they have extended an invitation to all 542 Members of the Supreme Soviet and their families to visit the United States as guests of various private sponsoring organizations. They will be invited to stay in private homes, to meet American families, to see our country, and to become acquainted with citizens of the United States. The visits will be unofficial and nongovernmental and will be under the sponsorship of private organizations. All details for these visits will be the responsibility of the private sponsoring organizations.

Mr. Speaker, I applaud Bernard Hagen and those working with him on this program. It is an excellent idea which we as Members of the U.S. Congress can fully support. The opportunity for Members of the Supreme Soviet to see our country, get to know the American people, and understand our ways can only help to form bridges of friendship that enhance future relations between our two Governments and peoples. I heartily endorse this program, and I urge my fellow Members of Congress to join me in welcoming these Soviet visitors to the United States.

HONORING THE 50TH ANNIVERSARY OF THE QUEENS REAL ESTATE BOARD

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to an organization, the Queens Real Estate Board, which, this year, is celebrating its 50th anniversary of outstanding service to the Queens community. On November 3, 1989, the Queens Real Estate Board will hold its 50th annual dinner dance to commemorate this golden anniversary.

The Queens Real Estate Board consists of dedicated professionals representing all aspects of the real estate field. Real estate brokers and sales representatives, banks, insurance and title companies, attorneys and builders in this organization work together as a cohesive unit to ensure the economic development and growth of Queens County. The real estate board can claim a half century of success due to the honesty and integrity of its members and officers in all of their dealings and a commitment to always improving services for their clients and community as a whole.

The core of the Queens Real Estate Board's services is its real estate information center. Through this service it provides valuable information and advice to both prospective real property buyers and sellers. Clients are able to ensure that specific needs are met in what can often be the most important and largest purchase or sale of their lifetime. Thus, the organization works to benefit all who are involved by working together to make Queens a better place to live.

It is such a pleasure to honor a group like the Queens Real Estate Board which remains committed to the basic principles and goals on which it was founded five decades ago. A special mention goes to Salvatore Crifasi, president of the Queens Real Estate Board, and to Armando De Marino, the chairman of the board. Through their leadership I know that the excellent work of the board is felt throughout Queens County. Mr. Speaker, I call on my colleagues in the House of Representatives to join me in paying tribute to the Queens Real Estate Board for 50 years of achievements and to convey our best wishes for future continued success.

BUSINESS AGAINST DRUGS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. FASCELL. Mr. Speaker, I rise today to commend the Greater Miami Chamber of Commerce for challenging the south Florida business community to get tough on drugs in the workplace. Already, 185 businesses—representing almost a third of Miami's work force—have implemented the chamber's program, Businesses Against Drugs [BAD]. Their efforts have boosted profits and morale, and breathed new life into the entire Miami community.

The results are worth noting. Kennicott Copper boasts a 50-percent increase in employee attendance and a 55-percent decrease in health costs after implementing BAD; General Motors reports similar decreases in job-related injuries and accidents. Several law firms have saved $14 for every $1 to implement BAD.

Workplace drug use is more expensive than ever, even as competition from foreign countries is growing tougher. Illegal drugs have become so pervasive in the U.S. workplace that they are used in almost every industry, by workers at every rung of the ladder, whether their collar is blue or white. The costs of drug abuse on the job are staggering—an estimated $100 billion annually due to accidents, injuries, thefts, and just plain bad decisions. This hefty price tag does not even begin to describe the tremendous toll drug abuse exacts daily in terms of undeveloped human potential.

Employers possess the ultimate weapon in fighting drug abuse—the power to provide or deny employment. While forbidding workers to snort cocaine at their desk may seem ludicrous—like forbidding workers to show up for work heavily armed—businesses can no longer take for granted that workers understand just how great the stakes are. They need a reason to stop using drugs, and cherished relationships with family and loved ones may not be enough. Businesses must send the clear, unambiguous message that only drug-free employees are welcome there.

Such a substance-abuse policy is a mandatory component of every BAD program. Employers may also choose to implement other programs, such as preemployment drug testing, testing of current employees whose behavior suggests substance abuse, and counseling and treatment services for those who have substance abuse problems. These programs are expensive, but far less costly than ignoring the problem until workers require comprehensive medical care.

Once again, I applaud the efforts of the Chamber of Commerce of Greater Miami, and all of the people involved in implementing BAD, from the assembly line to the corner office. I am hopeful that businesses across the country will find inspiration in their efforts to promote healthy, safe, and productive workers.

ESCALATING VIOLENCE IN EL SALVADOR

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mrs. MORELLA. Mr. Speaker, I commend my colleagues on both sides of the aisle for the proper and appropriate concern that they have expressed over termination of the cease-fire in Nicaragua. I am saddened, however, that in reviewing issues of the CONGRESSIONAL RECORD and listening to comments on the floor, no one, to my knowledge, has had anything to say this week about the terrible and costly escalation of violence in El Salvador in recent weeks.

DATELINE EL SALVADOR

October 17: A 21-year-old woman, the daughter of a colonel, was assassinated in a hail of bullets as peace talks began in Costa Rica that morning.

October 19: In the early morning, the homes of Ruben Zamora, of the Democratic Convergence, and Aronette Diaz, of the National Democratic Union, leftist politicians working nonviolently within El Salvador's democratic system, were bombed. The same night, three bombs exploded next door to the Lutheran Church in San Salvador. Rightwing elements are presumed responsible.

October 22: According to unconfirmed but highly disturbing reports, the FMLN kidnapped nine children, between the ages of 10 and 16, from a conflictive zone in Morazan Province. There are similar reports of the FMLN abducting as many as 80 children around this time from a conflictive zone in Usulatan Province.

October 30: The FMLN suspended its 8-month ban on mortar attacks in populated areas, attacking the defense ministry. Casualties: one 72-year-old man killed and 15 others, reportedly all civilians, injured.

October 31: Two popular organizations, comadres and fenastras, were bombed, presumably by rightwing elements. Casualties: 7 dead, including three women, one of them the mother of three children, and two girls aged 9 and 15 years. Among the approximately 35 wounded are at least 10 women, one of whom is 8½ months pregnant, and at least three children, including 6- and 7-year-old girls.

This morning, November 2: Two antitank rockets fired at the first brigade. One elderly man killed, none injured.

My colleagues, a little quick math indicates a total of 10 dead, including 3 women, 2 elderly men, and 2 little girls. Among the approximately 50 wounded are at least 12 women, 3 children, and a 4-month-old baby. In addition, as many as 90 children have been abducted.

And what stands out among these grisly and despicable acts by the most extreme factions on each side of the Salvadoran conflict? Apparently not one single guerrilla, not one single soldier, sustained even a minor injury. Elements opposed to a peaceful resolution of this conflict are actively working to destroy the huge consensus for peace in Salvadoran society, but they are not attacking each other in the field. The civilian population, largely inter-

ested not in either side winning on the battlefield but in reaching agreement to move the fighting from the battlefield to the ballot box, has become the enemy of implacable elements on both sides.

The State Department and Salvadoran politicians across the political spectrum, including President Cristiani and Dr. Zamora, have condemned these actions by the extreme right and the extreme left. I join them in their condemnation, and I call upon all parties to this conflict to respect the will of the people and cease their attacks against noncombatants. Furthermore, I hope that other governments, especially Latin American governments with access to and influence with either or both sides, will urge that they reign in their renegade-factions and respect the will of the Salvadoran people in favor of a negotiated settlement to this conflict which guarantees democracy and peace with justice.

OBSERVANCE OF NATIONAL MENTAL HEALTH WEEK

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. LAGOMARSINO. Mr. Speaker, I would like to share with my colleagues a recent interview which appeared in Healthweek magazine with Lewis Judd, M.D., Director, National Institute of Mental Health. Dr. Judd is a well-respected and renowned leader in the field of American psychiatry, particularly noted for his strong advocacy for more research as the key to understanding and finding the causes of mental illness, thereby, ensuring proper care with the ultimate goal of finding a cure. In an article entitled: "Mental Illness Deserves More Attention," Dr. Judd commented that "mental illnesses are separated from physical illnesses. They are not conceptualized, understood, responded to, reimbursed or studied with the same level of parity that are physical illnesses." This presents the mental health community with its biggest problem. Because mental illness is not given the same equality, the funding which is necessary to carry on vital research is often not available.

Since the President proclaimed October 1 to 7, 1989 as Mental Health Awareness Week, I feel it is appropriate that the groups which inspired the idea of having a Mental Health Awareness Week be given the recognition which they deserve. The American Psychiatric Association [APA] and the National Alliance of the Mentally Ill [NAMI] provide the treatment, support, education, and research which is needed to care for those suffering from mental illness. In an effort to further an understanding of mental health concerns, the APA and NAMI held a symposium on Capitol Hill which coincided with the President declaring the need to mark this observance with the appropriate ceremonies and activities. The symposium was certainly in accordance with the Presidential proclamation. Participants in this symposium included: Melvin Sabshin, M.D., medical director of the American Phychiatric Association; Herbert Pardes, M.D., former National Institute of Mental Health Director, president of the APA, and dean of Columbia University Medical College whose presentation involved the revolution in psychiatric research; Gene Cohen, Deputy Director of the National Institute on Aging whose presentation centered on the aging of the brain on the aging body; Nancy Andreason, M.D., professor, University of Iowa College of Medicine, presented current and future advances in schizophrenia research and treatment; Herbet Kleber, M.D., recently confirmed Deputy Director for Demand Reduction of National Drug Control Policy; Jack Gorman, M.D., associate professor of Clinical Psychiatry at Columbia University College of Physicians and Surgeons, whose presentation dealt with research and treatment of anxiety disorders; and Thomas Posey, president of the National Alliance for the Mentally Ill [NAMI], who gave a moving account of a family perspective on mental illness.

Mr. Speaker, I insert the full text of the Healthweek interview with Dr. Lewis Judd, the Healthweek editorial entitled: "Mental Health Deserves More Attention," and the Mental Illness Awareness Week, 1989 proclamation by the President of the United States, in the RECORD at this point:

DR. LEWIS JUDD—DIRECTOR, NATIONAL INSTITUTE OF MENTAL HEALTH

HEALTHWEEK: Why should mental illness be a priority on the national health agenda?

JUDD: First of all, it's very clear that mental disorders are among the most prevalent disorders that mankind experiences. A recent study we did found that 12.6 percent of adults have a diagnosable and potentially treatable mental disorder. With more than 10 percent of the population being afflicted in this way, this is one of the more common diseases that mankind experiences.

Secondly, these disorders are very real, they are very devastating, crippling and they are often among the most eroding of the quality of life of any disease. Because there are important new things we can do to manage and treat people with these disorders, mental illness has got to be included as a part of the health care responsibilities of the nation.

HW: How widespread is the stigma of a mental health disorder? Can we change it?

JUDD: The prejudice, misunderstanding and myth about mental illness have been historically present throughout all of civilization. People afflicted with mental illness centuries ago were regarded with fear and derision; people wanted to avoid them, exclude people with mental illnesses and put them someplace else. What resulted was an intense stigma as a part of a religious perception that someone was afflicted by an evil spirit, or that they had done something evil, and they were visited by evil spirits. That stigma has remained with us unto this day.

However, there is a glimmering of hope in an enlightened, modern society as we demonstrate through our science at the National Institute of Mental Health the realness of these disorders. We're also beginning to understand that these are brain disorders often related to genetic inheritance patterns and they're no fault of the individuals themselves. We have begun to make important inroads in convincing the American public and the decisionmakers that these disorders are like any other disorders or illnesses that mankind experiences and they ought to be dealt with in the same way.

HW: If part of the national mental health agenda is a public education effort, how will you counter the myths, misinformation and misunderstandings?

JUDD: We see the agenda in three steps. One is to include mental illnesses with the other issues of health in this nation. The second is the priority of mental illnesses commensurate to the level of affliction. The third is a national campaign to bring all the resources of the nation together to conquer mental illnesses within the forseeable future because we think science is ready to do this.

The vast amount of misunderstanding and myth that exists about mental illness has been the major impediment to achieving the agenda. For example, a survey by the National Alliance of the Mentally Ill found a great deal of misperception among citizens of this country about mental illness. Seventy-one percent thought it was an emotional weakness, 65 percent felt that it was bad parenting, a third felt it was probably due to sinful behavior and only 10 percent felt it had a biological basis in brain dysfunction.

With all the information available from NIMH science over the past 20 years, we will be able to counteract the misunderstandings and the myths about mental illness. We can diagnose the abnormalities in the brain that occur with these disorders reliably and validly, as much as we can any medical disorder. And we can treat them. If that information becomes available in a consistent, coordinated way, the logic of the national mental health agenda we are proposing very easily follows.

HW: What about the National Leadership Forum? Will it expedite including mental health benefits on the agenda?

JUDD: Yes. The National Leadership Forum is an attempt by the institute to bring together all the groups that are interested in the mentally ill—the scientific groups, the professional groups and all the advocacy patient and consumer groups. We want to meet together on a regular basis to find ways to work together in a coordinated, single effort on behalf of the mentally ill.

Right now the forum is made up of 17 diferent organizations, all the core organizations, and there are others that I am sure will join. It's an opportunity to develop, jell and function together that will make an extremely important force on behalf of the mentally ill.

HW: How will you fund the forum?

JUDD: The forum has met three times. The first time we provided a small conference grant to the National Mental Health Organization, which was the host. At the next meeting, which was in February, the host was the American Psychiatric Association, and, again, we provided the funding. The National Institute of Mental Health will continue to provide funding for the meetings as a part of the institute's leadership function for the mentally ill and the mental health field. We will continue to do that as long as the forum is galvanizing, developing and coordinating its efforts on behalf of the mentally ill.

The thrust of the forum in the immediate future will be a national public education program to increase understanding about mental illness. Much of the focus of the forum in its early going will be in that area; so that as long as it's doing that, the institute will provide funding.

HW: Is the reimbursement for mental health inadequate?

JUDD: Mental health and mental illnesses have been considered different from ordi-

nary physical illnesses—that is at the core of the problem with the mentally ill. What happens is the reimbursement for care and health coverage policies are distinctly different, and seriously disadvantaged, for individuals with mental disorders. While that is very chronic and extremely persistent, there are glimmerings of hope for change. However, it still remains a big problem.

In the past two years, we studied health coverage plans contrasting mental health with physical health coverage. Only 37 percent of the plans we looked at provided comparable coverage for mental and physical illnesses for inpatient services, and only 6 percent provided comparable coverage for mental and physical illnesses in outpatient services. It is a very serious problem and one that the entire nation has to take a very serious look at.

It is not only not fair, but it's not appropriate and in the long run it costs us enormously not to deal with mental disorders in a way that allows for whole treatments because the costs come out in other ways.

HW: Has AIDS funding detracted from NIMH funds, and if so, how are you alleviating this?

JUDD: The National Institute of Mental Health has a large and important AIDS research program. We have a unique niche in that our research focuses on the infection in the central nervous system of the brain and its relationship to acquired immune deficiency syndrome dementia. We also have a major investment in the study of changes of attitude and behavior to try and extinguish behaviors that can cause the spread of AIDS. That is our unique contribution to the AIDS epidemic and we believe we are doing it very well.

In the federal government, AIDS research money and AIDS treatment money is seggregated from that of other monies with the idea that you would not erode activities that a scientific institute such as ours might have. We have a large AIDS program that is integrated in the institute, but the funding for it is separate. It is not competing within our institute for other research.

However, some investigators who had been studying mental illnesses are now shifting their focus to the study of AIDS and its mental health and neuro-psychiatric effect. The research we're doing is basic. It will be useful in other issues regarding mental health as well. However, there could come a time, if there is a finite amount of money for biomedical research, in which the AIDS priority could erode other research. But in our institute that has not happened.

HW: What is the greatest problem in mental health today?

JUDD: The biggest challenge and problem faced by the mentally ill is that mental illnesses are separated from physical illneses. They're not conceptualized, understood, responded to, reimbursed or studied with the same level of parity that are physical illnesses. This indirect stigmatization of mental illnesses results in ignoring and disadvantaging the mentally ill compared to those with physical illnesses.

If we are able to achieve our agenda to include mental illnesses as part of the entire health spectrum, it would redress many of the problems that the mentally ill face and allow us to make a major move forward. The science of this field is comparable to any in the health care spectrum; we have begun to solve many mental illnesses and given the opportunity, we can make major and revolutionary advances in our understanding of mental illness and its treatment in the next decade.

MENTAL ILLNESS DESERVES MORE ATTENTION

Dr. Lewis Judd, director of the National Institute of Mental Health, made a telling observation in our last Insider Interview.

He said the biggest problem in mental health today is "that mental illnesses are separated from physical illnesses. They are not conceptualized, understood, responded to, reimbursed or studied with the same level of parity that are physical illnesses." He's right.

The biological basis for many mental illnesses is now firmly established. More than 10 percent of our population has a mental disorder that can be diagnosed and treated. These diseases can be devastating. The individual, the family and the community all suffer terribly because of poor access to care.

In the extreme, the homeless mentally ill are a deep reproach to our values as a civilized society. Nowhere in the country do we have a comprehensive mental-health system that meets the ideal; in most urban areas, the situation is a scandal.

Can there be any doubt about the reason for this neglect? Is it not a vestige of an age-old ignorance that falls readily into prejudice? We still stigmatize the mentally ill; we still harbor the suspicion that their aberrant behavior is entirely willful.

Or are we simply afraid, wanting to avoid the mentally ill altogether?

On a deeper level, we know there is only a thin line separating us from those afflicted with mental disorders. And so by ignoring them, we try to wish away their—and our—problems.

What a terrible price our society pays for this retrograde behavior! The loss of productivity alone takes an enormous toll on our economy. Even sadder, we are all diminished by a culture that spends vastly more on cosmetics than on rescuing people imprisoned by a chemical imbalance in their brains.

President Bush has committed this nation to go to Mars, a desolate planet but perhaps one worth exploring. There is another frontier—in the cities and small towns of America, where frightened and suffering mentally ill citizens dwell—that also is worthy of a national commitment.

The research, diagnosis and treatment of mental illness deserves no less.

[Public Law 101-84, 101st Cong.]

JOINT RESOLUTION TO DESIGNATE THE WEEK OF OCTOBER 1, 1989, THROUGH OCTOBER 7, 1989, AS "MENTAL ILLNESS AWARENESS WEEK"

Whereas mental illness is a problem of grave concern and consequence in American society, widely but unnecessarily feared and misunderstood;

Whereas thirty-one to forty-one million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas more than ten million Americans are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas between 30 and 50 percent of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 percent of American adults in any six-month period;

Whereas mental illness in at least twelve million children interferes with vital developmental and maturational processes;

Whereas mental disorder-related deaths are estimated to be thirty-three thousand, with suicide accounting for at least twenty-nine thousand, although the real number is thought to be at least three times higher;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas estimates indicate that one in ten AIDS patients will develop dementia or other psychiatric problems as the first sign of the disease and as many as two-thirds of AIDS patients will show neuropsychiatric symptoms before they die;

Whereas mental disorders result in staggering costs to society, estimated to be in excess of $249,000,000,000 in direct treatment and support and indirect costs to society, including lost productivity;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill persons and those persons themselves have begun to join self-help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate an adequate continuum of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (both somatic and psychosocial) for some of the most incapacitating forms of mental illness (including schizophrenia, major affective disorders, phobias, and phobic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergency of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the seven-day period beginning October 1, 1989, and ending October 7, 1989, is designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved August 14, 1989.

A VETERANS DAY DEDICATION TO THE MEN OF DARLINGTON COUNTY WHO DIED IN SERVICE TO THEIR COUNTRY DURING THE VIETNAM WAR

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. TALLON. Mr. Speaker, it is with great pleasure that I announce that the closing ceremony of the Silver Dollar Jamboree in

Hartsville, SC, on Veterans Day, November 11, 1989, will be dedicated to the young men of Darlington County who lost their lives during the Vietnam war.

We are a democratic society, but one that has begun to take for granted the belief that we are endowed by our creator with certain inalienable rights. We enjoy our freedom only because we have been willing to fight for it. Let us never forget all of the brave men and women who joined in that fight and made the ultimate sacrifice, and all who served honorably and are still serving.

The names of South Carolinians resound through stories of heroism in our Nation's history. While we mourn those who never returned from war, we must also celebrate the example of sacrifice and heroism which they set. The American people must never forget these individuals and their lasting contribution to our Nation's freedom and security.

Our obligation to repay the debt earned by our veterans is not over—and it never will be. Thanks to these brave men we are able to enjoy a freedom unequaled in any other nation in the world.

Darlington County lost 19 young men during the Vietnam war and their families, friends, and neighbors will gather to honor their memory and to ensure that they will never be forgotten. Listed below are the names of the men of Darlington County to whom we owe so much because they gave their lives in Vietnam:

James M. Bishop, Henry L. Burton, Levern Cosom, Emmitt R. George, Harley F. Griggs, Ernest C. Howle, Benjamin F. Jackson, Leroy Jefferson, James Joseph, Thomas P.B. King, Walter W. Lewis, Jesse W. Montague, Jr., Adger E. Moody, William A. Norwood, James Poston, Tommy L. Taylor, James P. Tyner, Lawrence Waiters, and James L. Wilks.

NEW ARMS CONTROL DICTIONARY A VALUABLE RESOURCE DICTIONARY

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. CLAY. Mr. Speaker, recently I had the opportunity to review a resource book entitled, "The Arms Control, Disarmament, and Military Security Dictionary" by Jeffrey M. Elliot and Robert Reginald. This book is the product of two dedicated scholars who have developed an invaluable resource guide to the terminologies used in today's military and political world.

As Members of Congress we constantly review material concerning arms control and military security. In performing our reviews we are faced with words and phrases developed by political and military leaders that are as everchanging as the world in which we live. These authors have gathered together all these terms and defined them in a clear, coherent, and enlightening manner.

This book can be utilized by Members and their staff as a reference tool to help guide them through the maze of what often seems like bureaucratic terminology. I would like to share an excerpt from the preface to this book with my colleagues and commend it to their attention in their dealings with the complex subject of arms control and military security.

The preface to "The Arms Control, Disarmament, and Military Security Dictionary" follows:

PREFACE

Americans believe themselves to be a moral people. Our history is spangled with the stories of conflicts entered—and won—not in pursuit of mere wealth or power, but in defense of a just cause. Still, when it comes to international relations, many Americans disagree about whether the United States should employ military force in defense of a particular regime, or movement, or nation. Some Americans claim that war is wrong, no matter what the reason; others insist that the United States has a moral obligation to intervene wherever freedom is threatened; and still others contend that while the United States cannot assume the role of world policeman, it cannot stand idly by in the face of armed aggression.

This volume is predicated on the belief that survival in today's world is a race between awareness and catastrophe. Our aim in writing this book is to be accurate, objective, and concise in explaining the lexicon of arms control, disarmament, and military security. In the process, we have tried to simplify, clarify, and express ourselves in a readable way. Realizing that students most often become involved in and learn something if the material can sustain their interest, we have attempted to organize the contents in a manner that will maintain interest and, at the same time, encourage in-depth discussion of some of the core questions in the study of peace and war.

Like most authors, we have found other texts on the subject lacking in one or more ways. Some books present issues from only one point of view, whereas others present a potpourri of ideas without drawing conclusions about the adequacy of the points of view they present. In this regard, we have tried to include discussions of the major arguments in the area while still arriving at some conclusions about the correctness of each.

MERCHANT SEAMEN'S WAR RECORDS DESERVE RECOGNITION

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. FOGLIETTA. Mr. Speaker, I rise today to bring to your attention an article written by Ray Smith, a former merchant seaman, published in the Daily News in Philadelphia, PA on November 1, 1989. This article emphasis is the commendable message that our Merchant Seamen, who sacrificed and often gave their lives for our country's freedom, deserve our recognition and gratitude.

MERCHANT SEAMEN'S WAR RECORDS DESERVE RECOGNITION

It's about time that merchant seamen who "shipped out" during World War II were given recognition for their services and sacrifice.

Please understand that they are not asking for a parade, a monument or pity. But they do ask you to remember, in your own way, the thousands of merchant sailors who were killed, listed missing after sinkings or were injured for life. Many others were captured.

Merchant seamen were often seen, for example, as "draft dodgers" who sought to avoid "real combat." In fact, draft boards were instructed to seek out enlistees with maritime experience and refer them to the understaffed merchant marine for duty.

Just to keep the record straight, the following is their actual role in World War II:

During the war, the merchant marines played much more than its traditional commercial role. President Franklin D. Roosevelt, in creating the War Shipping Administration, made most of the 250,000 merchant sailors into U.S. Government Employees and pressed them into combat duty.

And it should be remembered here that many seamen were highly skilled and were in combat long before the United States entered the war.

Venturing into some of the war's most dangerous waters (Murmansk Run, for example), the Merchant Marine were armed and trained in military manuevers. Their ships carried mostly fuel, ammunition and other supplies for the fighting troops—making them frequent and highly prized targets of enemy forces.

The merchant sailors' role in the war effort was hailed by presidents, generals and admirals alike. Roosevelt pushed vigorously for veteran's benefits for them.

Time and again, the seamen returned to face intense perils, Roosevelt stated, because "they realized that the lifelines to our battle fronts would be broken if they did not carry out their vital part in this global war." It was a hard task because ships were being sunk almost as fast as they were built.

Merchant seamen who served during the war have, belatedly, been officially recognized as war veterans by the Pentagon.

However, the American Legion, citing "high pay" and the fact that the seamen hadn't been sworn in, had consistently fought against the granting of veteran's status, though many seamen were wounded, killed or captured. Most seamen, in view of this, shrug it off as not important.

To sum it up, they did what they were asked to do and are proud of it.

And they also proudly say, there were no draftees in the Merchant Marine. All merchant seamen were volunteers.

THE DEMOCRATIC PROCESS CONTINUES IN PAKISTAN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. TORRICELLI. Mr. Speaker, Prime Minister Benazir Bhutto of Pakistan has weathered a no-confidence vote in the National Assembly of Pakistan. This is a testimony both to the Prime Minister and to the new democracy that has arisen in Pakistan.

The Pakistani political system has now experienced a standard feature of parliamentary democracy. Democracy can appear more disorderly than dictatorship; in the long run, though, it is more stable. It is important to note that Pakistanis are participating in the give and take of politics without the military

intervention that has marred the history of that country. It is in the interest of both the Pakistani people and the United States that a stable civilian government continue to function in Pakistan.

Last June, Members of this body were privileged to hear Prime Minister Benazir Bhutto address a joint meeting of the Congress. We shared her hopes and dreams for her country and for the further strengthening of relations between the United States and Pakistan. Confronted with numerous challenges, Prime Minister Benazir Bhutto has made a courageous and heroic beginning in overcoming the problems her country faces. At this juncture, Mr. Speaker, it is important that all those who value democracy in Pakistan work together to ensure the economic and political development necessary for that country and for thriving Pakistani-American relations.

DEDICATION OF THE NATIONAL CENTER FOR POST-TRAUMATIC STRESS DISORDER AT THE VETERANS MEDICAL CENTER IN MENLO PARK, CA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. LANTOS. Mr. Speaker, shortly after Veterans Day, the Secretary of Veterans Affairs, our former colleague Ed Derwinski, and I will dedicate the National Center for Post-Traumatic Stress Disorder at the Menlo Park Division of the Palo Alto Veterans Administration Medical Center.

As we prepare for this festive occasion, I want to express my gratitude to Secretary Derwinski for his support of the Center and his willingness to join us for this special event.

Mr. Speaker, I also want to pay special tribute to Mr. Fred Gusman, the Center's Director for over a decade, and to his dedicated professional medical staff. The Menlo Park medical facility has been a national leader in the treatment of post-traumatic stress disorder [PTSD]. The program has been recognized for its leadership, excellence in patient care, and innovative approach to therapy, including the use of art and community involvement. Nationally its expertise in the areas of education, training, and program development is well known.

Fred Gusman and his staff have provided assistance and advice to Veterans Health Service and Research Administration PTSD services nationwide. Fred has served as a member of the Chief Medical Director's Special Committee on PTSD as well as a number of other key Department of Veterans Affairs committees, providing expertise and assistance to all levels of veterans programs.

Mr. Speaker, the Vietnam War was one of America's longest wars. Over 3 million men and women served our Nation in that conflict, and more than one quarter of them have had to deal with post-traumatic stress disorders after returning to the United States. The war caused not only physical scars, but also many emotional scars, which have disrupted the lives of many of those who valiantly served our country.

In the mid-1970's Fred Gusman, without the existence of a specific program, began treating veterans suffering from PTSD through an outreach effort. Subsequently, a task force on the special needs of the Vietnam veteran population was established, and on the basis of its recommendations an inpatient program was established with Fred Gusman as its director.

The Vietnam Veterans Program, as it was initially called, began as a 30-bed inpatient unit. Through the years it has expanded to its current capacity of 120 beds. Though it initially began with a focus on Vietnam veterans, the program now helps men and women who served in World War II and the Korean conflict. The program is the first one of the Department of Veterans Affairs to provide treatment to veterans diagnosed with both PTSD and alcoholism.

In May of this year a National Center for PTSD under the Department of Veterans Affairs was established, with Matthew J. Friedman, M.D., Ph.D., as Executive Director; Fred D. Gusman, M.S.W., as Director of Clinical Laboratory and Education Division; Terrence Keane, Ph.D., as Director of Behavioral Sciences Division; and Dennis Charney, M.D., as Director of the Clinical Neuroscience Division.

Mr. Speaker, it gives me great pleasure to recognize and honor Fred Gusman and his dedicated associates for their service to our Nation's veterans who are suffering post-traumatic stress disorders. I congratulate them on the designation of the Menlo Park Division of the Palo Alto Veterans Medical Center as the Clinical Laboratory and Education Division of the National Center for PTSD.

AMNESTY INTERNATIONAL CRITICAL OF TURKEY'S HUMAN RIGHTS VIOLATIONS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. BROOMFIELD. Mr. Speaker, I want to call the attention of my colleagues to a recent Amnesty International Report which documents the tragic violations of human rights in Turkey. It is time for Turkish officials to honestly assess their human rights practices and quickly put an end to the ongoing abuses of fundamental human rights in that country. Turkish officials should also realize that their military occupation of northern Cyprus has violated the human rights of thousands of Greek Cypriots on that once united island. It is time for those Turkish forces to go back home.

In particular, the current Amnesty International Report on human rights practices around the world talks about the imprisonment of prisoners of conscience and the use of torture which has resulted in the deaths of some prisoners in Turkish jails. In addition, Iranians who tried to escape from the tyranny of the Ayatollah Khomeini by fleeing to Turkey were denied asylum and forcibly returned to Iran. These human rights practices are trully regrettable.

Over the years, I and other Members have been deeply concerned about the Turkish invasion of Cyprus and the impact which that military action had on the human rights of Greek Cypriots. That 1974 intervention resulted in the deaths of thousands of Greek Cypriots. Many are missing and unaccounted for. Among them is Andrew Kassapis, a young Michigan resident, who was visiting his family on Cyprus at that time. Nearly 200,000 Greek Cypriots were displaced from their homes in the north of that island. They lost their residences, and their land and are now forbidden from visiting their birthplace. They are strangers in their own country. Nearly 30,000 armed Turkish troops still occupy the northern half of Cyprus. On many occasions, I have called for the withdrawal of those troops and a return to normalcy on that island.

All around the world, there is a growing respect for human rights. Events in the Soviet Union and Eastern Europe reveal this trend. It is time for Turkey, a friend and close NATO ally, to participate in this international effort. Let us hope that Turkish authorities will join the family of nations who are ending human rights violations. Now is the time for Turkey to stop violating human rights both at home as well as Cyprus.

I commend the following 1989 Amnesty International Report to my colleagues in the Congress:

AMNESTY INTERNATIONAL REPORT 1989

TURKEY

Thousands of people were imprisoned for political reasons, including hundreds of prisoners of conscience. The use of torture continued to be widespread and systematic, in some cases resulting in death. Civilian and military courts passed at least 18 death sentences. In November 228 death sentences were awaiting ratification by parliament, all legal remedies having been exhausted. Iranian asylumseekers were returned to Iran without their claims for asylum having been assessed by the competent authorities. Recognized refugees awaiting resettlement in third countries were also forcibly returned to Iran, where some were reported to have been executed despite the Turkish Government's stated commitment to the principle of non-refoulement.

In November the government lifted emergency legislation in Istanbul. At the end of the year a state of emergency was in force in eight provinces in southeastern Turkey where the security forces had been engaged in counter-insurgency operations against Kurdish secessionist guerrillas. The guerrillas were reported to have carried out attacks on the civilian population and to have taken prisoners, some of whom they tortured and killed.

In February Turkey signed and ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and in August it ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Some prisoners of conscience were released but many others remained in prison and arrests and trials of prisoners of conscience continued throughout the year. Among several hundred prisoners of conscience were members of political organizations, trade unions and illegal Kurdish groups, journalists and religious activists.

A number of people were prosecuted during the year for membership of illegal political parties which did not espouse vio-

lence. They were tried on charges brought under Article 141 of the Turkish Penal Code prohibiting "membership of an organization trying to establish the domination of one social class over the others". Five alleged members of the Turkish Socialist Workers' Party (TSIP) who had been detained since July 1987 were released in March. In April Izmir State Security Court acquitted them, together with two other defendants who had also been released earlier (see Amnesty International Report 1988). Alleged members of the Turkish Communsit Party (TKP) were also prosecuted under Article 141. The trial of 13 alleged TKP members who had been detained in August and September 1987 ended in November at Izmir State Security Court. At that time six defendants were still in prison. Ali Ugur received a sentence of six years, eight months' imprisonment and remained in Buca Prison; the other five were each sentenced to four years', two months' imprisonment but were released pending appeal. Another defendant who had been released earlier received the same sentence. Six defendants were acquitted (see Amnesty International Report 1988).

The trial of Haydar Kutlu, the TKP's Secretary General, and Dr. Nihat Sargin, Secretary General of the Turkish Workers' Party (TIP), both imprisoned since November 1987, started in June in Ankara State Security Court and was still continuing at the end of the year.

Some TIP and TKP members who had been convicted by Istanbul and Ankara Military Courts but had been released pending appeal were reimprisoned after the Military Appeal Court confirmed their sentences. In June three of 46 TIP defendants in Istanbul facing reimprisonment were taken to high-security prisons for political prisoners in order to serve the remaining 22 to 24 months of their sentences. In Ankara, eight out of 75 TKP defendants facing reimprisonment were taken to various prisons to serve between seven and 24 months. Amnesty International adopted all these prisoners as prisoners of conscience.

Aziz Celik, educational director of Kristal-Is, the glass-workers' union, and Hüseyin Bas, a former official of Maden-Is, the banned mine-workers' union, were detained in the first week of May in Istanbul and charged with membership of the TKP. When their trial began in September in Istanbul State Security Court they were released from custody although their trial continued.

In November the Minister of the Interior announced that during the first nine months of the year 2,120 people had been detained in southeastern Turkey, where most of the population is of Kurdish origin. Of these, 593 had been charged and formally arrested. Most of the Kurdish activists known to Amnesty International were charged with violent offences but they included prisoners of conscience imprisoned on account of their non-violent political or cultural activities.

Mehmet (Sehmuz) Cibran had been detained in October 1986 on return from exile. In July 1987 Diyarbakir Military Court convicted him of membership of the Kurdistan Workers' Party (KIP) and sentenced him to 14 years' imprisonment under Article 171 of the penal code for membership of a "secret association formed in order to commit crimes". Three separate trials have reportedly since started in which he has faced charges such as making separatist propaganda in his oral and written defence and shouting in court. During one of the hearings in August he was expelled from the courtroom when he tried to defend himself in Kurdish.

Trials of religious activists charged under Article 163 with "attempting to change the secular nature of the state" continued. In May Hasan Damar, who had been in prison since October 1986, was sentenced by Ankara State Security Court to four years, two months' imprisonment under Article 163(4) for anti-secular propaganda. In September the same court sentenced him to another four years, two months' imprisonment under Article 163(2) for membership in the Federal Republic of Germany of an anti-secular organization, Milli Görüs, National View, which is legal there. He remained in Ankara Closed Prison as a prisoner of conscience (see Amnesty International Report 1988).

Writers, publishers and journalists were prosecuted or remained in prison under provisions of the penal code including Article 142, "making communist propaganda"; Article 159, "insulting the State authorities"; and Article 312, "incitement to commit a crime". In June five people were detained in Ankara and charged under Articles 142, 311 and 312 in connection with articles they had written for the political journal Toplumsal Kurtulus, Social Liberation. After 10 days in incommunicado detention one was released. Of the remaining four, Dr. Yalçin Küçük and Hüsnü Öndül—a defence lawyer in many political trials—were freed in August and the other two defendants in September. The trial of the five continued at Ankara State Security Court.

Political prisoners were sentenced to imprisonment or death after trials which did not meet internationally recognized minimum standards of fairness. Although martial law was lifted in 1987 trials before military courts have continued. In April the Ministry of Justice disclosed that 5,309 defendants—1,392 of whom were in prison—were being tried by such courts; some had been in pre-trial detention for more than seven years. A total of 61,220 people had been sentenced by military courts between December 1978 and April 1988. Since May 1984 political prisoners have been tried in state security courts established in eight Turkish cities. Both military and state security courts have failed to investigate allegations of torture and in some cases have permitted statements extracted under torture to be used as evidence. Most defendants have not been granted facilities for an adequate defence.

There were many new allegations of torture of political and criminal detainees and prisoners. In June Mustafa Dilmen, President of the Mersin branch of Kristal-Is, the glass-workers' union, was arrested and taken to Ankara. He alleged that he was tortured by being stripped and hosed with ice-cold water, suspended by his hands and given electric shocks. Even children were among the reported victims. In June Özgür Cem Tas, aged 13, was taken to Diyarbakir Police Headquarters and interrogated for two hours about the whereabouts of his cousins, who were suspected of supporting Kurdish guerrillas. He alleged that he was blindfolded and handcuffed, and then beaten on the soles of the feet. Later he was suspended from hooks and electric shocks were applied to his penis.

In most cases torture was said to have occurred while victims were held incommunicado in police stations but allegations of torture and ill-treatment also came from high-security prisons for political prisoners known as E- and L-type prisons. Some 60 political prisoners in Gaziantep L-type Prison and around 70 in Bursa E-type Prison were reported to have been injured in September following arbitrary beatings by prison guards and members of the security forces.

In some cases people were reported to have died in custody as a result of torture. Mustafa Gülmez was detained in June by Istanbul Political Police while doing his military service, suspected of being a TKP member. After two days he was taken to Edirne, where he was found dead in his cell. The official explanation was suicide by hanging with a bedsheet, an article not usually provided in detention centres. Relatives and lawyers claimed the death had been caused by torture and made an official complaint. Sadik Çelebi, who died in November, had been detained on 16 November and taken to Mardin Gendarmerie Station. When, after 19 days, his corpse was handed over to his family, they were told he had died in an armed encounter with guerrillas. His family claimed that the body had been bruised and that a hospital official had told them the corpse had been brought to the hospital one day before the clash with the guerrillas.

At least 18 people were sentenced to death by military and civilian courts. Other death sentences, among over 700 imposed during the previous nine years, were confirmed by appeal courts with the result that, by November, the number of people under sentence of death who had exhausted judicial appeals had reached 228.

Throughout the year Amnesty International continued to call for the release of prisoners of conscience, for fair and prompt trials for all political prisoners, and for an end to torture and the death penalty. In November Amnesty International published a report, Turkey Briefing: Human Rights Denied, detailing its concerns, launched an international campaign for an end to human rights violations in Turkey, and pressed the Turkish Government to take effective measures to protect human rights.

The campaign followed a long period during which Amnesty International had sought to raise its concerns with the Turkish authorities and to obtain effective action by the government to end torture, deaths in detention, the imprisonment of prisoners of conscience and other human rights abuses. In June an Amnesty International mission visited Turkey and met the Minister of Justice, the Minister of the Interior and other government officials. Before the mission Amnesty International submitted a list of 229 names of prisoners who had reportedly died in custody between September 1980 and April 1988. The organization asked to be informed of the cause of death in each case, as it appeared that some of the deaths might have been the result of torture. At the end of the year replies on 56 cases had been received, acknowledging torture in 13 cases.

The Turkish authorities also responded to a number of specific torture allegations raised by Amnesty International. In some cases they stated that investigations were still in progress, in others that there were no grounds for prosecution of police officers allegedly responsible for torture because medical reports had shown that torture had not been inflicted. In most cases no response was received. The number of responses increased after the publication of the Turkey Briefing and the launch of the campaign

calling on the Turkish Government to stop human rights abuses.

In June Amnesty International observers attended the trial of Dr. Nihat Sargin and Haydar Kutlu, and in December attended the trial before Ankara Criminal Court of 11 leading members of the Human Rights Association in Turkey who had been charged after their campaign in 1987 for a general amnesty and the abolition of the death penalty—the prosecutor had viewed this campaign as political activity proscribed by the Law on Association. All the defendants were acquitted.

Amnesty International appealed in a number of individual refugee cases and sought clarification from the government of a report published in the Turkish press that at least 40 of a group of 58 Iranians forcibly returned to Iranian border guards by Turkish police in July had been executed in Iran. No response was received. The organization was also concerned by the forcible return (refoulement) of refugees recognized by the United Nations High Commissioner for Refugees (UNHCR), some of whom had apparently been accepted for resettlement in countries other than Turkey. In July and December it issued reports which described shortcomings in procedures for Iranian asylum-seekers and the serious lack of protection from refoulement. In November Amnesty International also made an oral statement about these concerns to the Committee on Migration, Refugees and Demography of the Council of Europe. It called for improvements in the situation of refugees and asylum-seekers in Turkey faced with refoulement and urged the international community to assist in the resettlement of Iranian refugees in countries in which their protection from refoulement would be assured.

In April Amnesty International submitted information about its concerns in Turkey to the United Nations procedure (under Economic and Social Council Resolutions 728F/1503) for confidentially reviewing communications about human rights violations and also referred to torture in Turkey in one of its oral statements to the 44th session of the UN Commission on Human Rights.

BLACK AMERICANS IN GOVERNMENT SERVICE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. RANGEL. Mr. Speaker, too often the Government service sector is looked upon as a barrier to information rather than a vehicle to serve the public's interests. The fact is that not only does the civil service handle the overwhelming amount of work that Federal, State, and local governments hand down to it, it also has provided a decent living for black Americans at times when private industry was not as receptive. An article recently appeared in the Crisis magazine on this topic by Benjamin L. Hooks. It outlines the seldom heard positive aspects of the civil service, aspects that far outweigh the negative connotations attributed to Government work. I would like to share it with you.

PUBLISHER'S FOREWORD

(By Benjamin L. Hooks)

The civil service—often unfairly derided as the haven of bureaucratic bumblers—embodies a proud tradition. Moreover, it provides significant career opportunities, especially for black Americans.

Although there may be some few civil servants who take advantage of the job security offered by its protections, most of the men and women who work for governments—federal, state or local—are dedicated and conscientious employees who take their responsibilities most seriously. That this is so is easily seen when one considers that billions of pieces of mail are handled each year, Social Security and other government checks totaling billions of dollars are distributed, taxes are collected and laws are enforced. This could not be achieved by a civil service dominated by slackers and malingerers.

From my own past experience as a member of the Federal Communications Commission, I can bear personal testimony to the diligence and integrity of the career service.

Meet the dynamic woman who now heads the federal civil service. President George Bush named Constance Berry Newman as Director of the Office of Personnel Management, with responsibility for more than 2 million federal employees. Ms. Newman, who previously served in the Administration of Presidents Richard Nixon and Gerald Ford, has an extensive background in government service and the private sector.

Ms. Newman knows first-hand many of the concerns of civil servants. She began her government service as a clerk-typist. Hers is a story of the success that comes from doing a job steadily, diligently and in a manner that exceeds the ordinary and expected.

Through the years, government has played a major role in the entry of black Americans to middle-class economic status. Many of us recall the days when the black man who was a mailcarrier or a postal clerk headed one of the few middle-income households in the community. The large number of middle-income and upper-income black Americans in Washington, D.C., is, in large measure, a function of government employment.

So, a young man or woman would be well-advised to consider a career in government service. Try it, you might like it.

TRIBUTE TO JOHN BETTINGER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to an outstanding individual, Mr. John Bettinger, of Marine City, MI. Mr. Bettinger is retiring from city service after 15 years.

Born in Detroit, MI, on September 21, 1925, Mr. Bettinger found his home 50 miles to the northeast on the shores of the St. Clair River in Marine City. Mr. Bettinger, an electrician, began serving on the city commission in 1972. He has earned the respect of his colleagues and fellow citizens as a man of unselfish integrity. His dedicated perseverance will be missed as he retires from office.

Mr. Bettinger has been active in numerous community activities, ranging from the electrical board of the election committee to the city planning commission. Everywhere Mr. Bettinger has served, he has been a hard worker who gets the job done. Mr. Bettinger's contribution as a public servant will not be forgotten. I wish him the very best for a long and happy retirement.

CONGRATULATIONS TO JUDITH K. GRECO

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mrs. JOHNSON of Connecticut. Mr. Speaker, I would like to take this opportunity to recognize Mrs. Judith K. Greco, principal of Saint Thomas Aquinas High School in New Britain. This outstanding educator will be honored by her professional colleagues and friends tonight for her 26 years of service in New Britain Public Schools as a teacher, counselor, administrator, and friend.

Mrs. Greco is a graduate of East Hartford High School and Central Connecticut State University with a bachelor's degree in elementary education and psychology. She received a master's degree in guidance and counseling after completing graduate work at Central Connecticut State University, Northeastern University, and the University of Hartford. She is also a member of the CCSU chapter of Phi Delta Kappa Honor Society.

During her many years of service to the town of New Britain, Mrs. Greco was elected into the town chapter of Kiwanis International, she was then elected vice president of her chapter. She acted as interim principal at Smalley School and Roosevelt Junior High School. After Mrs. Greco served as housemaster of New Britain High School, she was appointed the first lay person principal of Saint Thomas Aquinas High School.

Mrs. Greco is respected among students as a worthy role model, disciplinarian, teacher, counselor, and administrator. She has influenced thousands of students through attainable, meaningful goals, instilling self respect and pride into all those whose lives she has touched.

I would like to thank Mrs. Greco for her many years of service and dedication to the students of New Britain, CT. It is a pleasure to have her working with and educating the students of the Sixth District.

Congratulations on your appointment, and I wish you great success as principal of Saint Thomas Aquinas High School.

BLACK APATHY UPSETS JIM BROWN, AMERICA'S FOOTBALL GREAT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. STOKES. Mr. Speaker, Jim Brown is one of the greatest athletes of our time. During his pro football career, he set a single season yards gained record that stood for 10 years, and a career rushing record that stood for nearly 20 years.

A former Clevelander, Jim recently visited our city to promote his new book, "Out of Bounds," which has rapidly climbed the best-seller list. During his stay, I had an opportunity to see and reminisce with Jim, a longtime friend.

Mr. Speaker, while in the city, Jim was interviewed by a reporter from the Cleveland Plain Dealer. He makes some observations which I think warrant the attention of my colleagues. I am pleased to share with them a copy of the Plain Dealer article.

BLACK APATHY UPSETS BROWN

(By Bob Kravitz)

Jim Brown, an American Original, was busy throttling society again. Shaking it. Dissecting it. Turning it upside down and considering all its charms, all its ills, breaking all the rules in a manner so thoughtful and well-considered as to leave one wondering what the rules were in the first place.

At a very basic level, the former Browns' star running back was in town this week to promote his new book, "Out of Bounds," which has rapidly ascended to the New York Times bestseller list.

For the most part, his drudgery would entail regaling interviewers with all the supermarket tabloid fodder: the women, the incidents, the celebrities, the lifestyle, and the career in football.

Inquiring minds want to know.

But stick around long enough, and listen hard enough, and there emerges another level, another dimension. Forget Racquel Welch and the balconies, just for a minute. How about the plight of black America? Racism in the NFL? Drugs? Issues that count.

Brown was not necessarily in town to do the Art Donovan shuffle, telling funny football stories that leave everyone in stitches. That's not his style, or his purpose. He was here to shake up society, shake up the black community, shake up black athletes in particular.

"This is the most embarrassing group of black athletes I've ever seen in my 53 years," Brown said, stretching out on a hotel couch. "It's so sad, it's embarrassing. These guys don't even know who Jackie Robinson was.

"Now, if you don't understand about Jackie Robinson, then you don't understand why you're making that money to buy that dope.

"My purpose isn't just to promote the book. I'm on a mission, always have been. I don't mind dealing with the women and the incidents, because that gives me the platform I need to talk about the heart of the matter, and that is, challenging black people, challenging black athletes. I say, 'Hey, don't attack me for calling you a miserable bunch of (expletives), making a bunch of money, forgetting all the dead bodies you got here over.' "

What Brown sees are athletes, black athletes, plagued by tunnel vision. No social consciousness. No sense of social, or racial responsibility. To a great degree, they are products of their time, though that still does not exempt them.

"Here they are with the funds and the media at their disposal, with this great opportunity to make a difference, and they're afraid to say two words about South Africa or the condition of their people," Brown said. "They don't remember the struggles of the '50's and '60's. All I'm saying to them is, "Stand up and be counted."

The target of his vitriol is not athletes alone. Brown, who lives in Los Angeles and maintains an acting career, views black performers like Eddie Murphy and Michael Jackson as "abominations," unconcerned with helping the cause of the black community. The real heroes are black filmmakers like Spike Lee, Robert Townsend and Keenan Ivory Wayans, who produce intelligent films about blacks, hire blacks, promote blacks, give something back.

"People talk about racism in the NFL, well, it's the black athletes who are perpetuating the bulk of the racism," said Brown. "If you're a person with money and power, and you're constantly getting caught with drugs, you're throwing away an opportunity.

"Then some black folks will say, 'Well they're just catching the black athletes but the white athletes are doing it, too.' Well, that's a reaction we have to get away from. If blacks are doing (drugs), that's it. Period. And they're misusing their power by becoming nothing more than a common criminal.

Can you imagine a Bill Russell looking at these (current athletes), a Jackie Robinson, a Paul Robeson, a Jim Short, guys who took chances? We must address ourselves."

That self-help ethic applies to drugs in the NFL, a problem, Brown says, more pervasive than anyone will admit.

"I've seen it with my own two eyes," said Brown, who admits to drinking and infrequent marijuana use. "I've seen entire teams doing it.

". . . See, the Players Association says it's against mandatory drug testing because they've got to protect the rights of the players. Look, if the owners and the players don't get together and deal with the problem, the problem is going to deal with them. Why can players be given 30 days rehab when found using substances? . . . If you're caught with it, you should go to jail."

But, he was asked, how about the constitutionality of drug testing? How about civil liberties?

Brown snorted: "Hey, you don't have constitutional rights when you play ball, anyway . . . And don't tell me about infringements on my rights. As a black man, my rights have been infringed all my life. Hell, I couldn't even use the same public places white folks were using, places my tax dollars paid for. So don't tell me about civil liberties."

He has seen drugs nearly kill his friend Richard Pryor, seen them as a factor in the death of his friend Marvin Gaye, seen it threaten to wipe out an entire generation of young, mostly black, children.

To that end, Brown can take pride in having put resources behind the grand pronouncements. This is not just another half-wit theoretician expounding at great length on life's inequities. He has worked. He has spent. He has created and helped create social programs that benefit the black community.

Brown gropes for answers:

First, he says, blacks must work through the courts to challenge the legal definition of blackness. Who is black? Someone with one-eighth African blood? Two-eighths? It is Brown's contention that by gaining a legal definition, blacks can better gain an identity, a positive self image, and a pride in the glory of their culture.

Second, economics. Other minority groups create their own self-generating economic enclaves, pump money back into their own communities. Blacks, he says, do not. "We must use our own funds properly," Brown said. "We must help ourselves. Blacks will-not integrate with whites as dependent factors."

It is hardly surprising that a conversation with Brown should take such a serious course. Clearly, he is a man with an unquenchable thirst for understanding. But the book is not a 248-page lecture on the American condition in 1989.

Nor is it the usual sport autobiography, full of heroic myth-making.

Brown is honest, consistent, even vulnerable—an unusual characteristic in a man who never, ever, wanted the opposition to know when he was hurting.

More, it is wide-ranging. Brown offered views on a number of different subjects the other day:

On Paul Brown: "A brilliant man. He created a tremendous franchise, got knocked down, came back, created another franchise and took that one to two Super Bowls. That's the epitome."

On Art Modell: "An outstanding businessman, a visionary. He did something I never thought possible, and that's move Paul Brown."

On Pete Rozelle: "Great for the owners, not necessarily great for the players."

On his well-documented sex life: "There's a little freak, a little fantasy, in everybody. Most people BS you when you ask them about their sex lives. I don't."

On the "incidents" with various women: "I've never been found guilty of anything, and that's that. Arsenio Hall wants to give me stuff about rumors with me and women and balconies, I'll give him (expletive) about rumors that he's a (homosexual)."

On the NFL going into the 1990's: "In trouble. Drugs. Peaking. Overexposure. Ownership problems. Overpriced franchises. Big trouble."

On Cleveland and its fans: Brown got up from the couch, stretched and smiled a beatific smile. A big, wide smile.

"They're the greatest in the country," he said. "Like Huey Newton said, 'Power to the people.' I owe my existence to them."

OUR LADY OF THE LAKE UNIVERSITY, 106 YEARS OF SERVICE

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. GONZALEZ. Mr. Speaker, today is Founder's Day for Our Lady of the Lake University, the oldest of six colleges and universities located within the boundaries of the 20th Congressional District in central San Antonio

which I am proud to have represented in Congress for 28 years.

Founded in 1883 by the Sisters of Divine Providence, OLLU is currently headed by its fourth president, Sister Elizabeth Anne Sueltenfuss. Sister Sueltenfuss, who holds a doctoral degree in microbiology, has had a long association with the university, having previously worked on the administrative staff and taught biology before becoming president 12 years ago.

Among institutions of higher education, Our Lady of the Lake University stands alone in its rich history of 106 years of offering opportunities to groups left out of the mainstream, including women of all ethnic groups, and adult students. The university which has been coeducational since 1969, offers degrees in over 30 fields of specialization, including service programs in social work, communication disorders, family counseling, and teacher training.

Many of its distinguished alumni have graduated from the Worden School of Social Services at OLLU. Among its graduates is Gloria Rodriguez, who is the founder and director of Avance Family Support and Education Programs, a San Antonio organization which helps disadvantaged families. First Lady Barbara Bush recently visited Avance and paid tribute to the operation's success.

Educator Rita Esquivel, who currently serves as director of the U.S. Education Department's Bilingual Education and Minority Language Affairs, received her undergraduate and graduate degrees from OLLU.

I am especially proud of two of OLLU graduates—my daughter, Rosemary Gonzalez Ramos, an elementary school teacher, and Cora Faye Dixon Clayton, a member of my staff for 28 years.

OLLU is the first university in South Texas—beginning in 1978—to offer a weekend college program—a premier program for the contemporary adult learners. Currently there are 322 undergraduate students and 111 master's degree—in business administration—in the weekend program at the OLLU campus on the West Side of San Antonio. OLLU also cosponsors with North Harris County College a weekend program at Houston which currently has 291 students at the undergraduate level.

OLLU's current archivist, Sister Frances Jerome Woods, is just one of the many distinguished faculty members, who have served at OLLU, but she is very speical! She has been a teacher of sociology at OLLU since 1948—but is now a professor emeritus—and she has previously done an outstanding evaluation of the affects of the Model Cities Program on San Antonio which was published by the House Banking, Finance and Urban Affairs Committee several years ago.

Sister Frances was honored here in Washington recently as one of the Catholic University of America's outstanding alumni. She has published several books and articles. Her most recent book published in "Value Retention Among Young Creoles."

As part of Founder's Day, one San Antonio corporation and two individuals will be honored for their distinguished support for the university. The Valero Energy Corp., of which William Greehey is the chief executive officer is one of the honorees. Valero provides their employees tuition reimbursement for their studies at OLLU. Also being honored is Betty Dielmann Breen, an alumna who has continued the longtime support by her family of OLLU, and Sister Elain Genteman of the Congregation of Divine Providence for 60 years of service.

In further recognition of the founders of the university, three other sisters from the Congregation of the Divine Providence will be singled out for their many years of service. They are Sister Suzanne Marie Cleaver, Sister Jule Adele Espy, and Sister Dorothy Ann Verba.

As well as Founder's Day on November 2, this is a Jubilee Year for Our Lady of the Lake University.

According to Scripture, a Jubilee Year came once every 50 years. During that year, captives were released from prison, slaves were set free, and land was returned to the poor. It is believed that Jesus the Christ started his ministry in conjunction with the start of a Jubilee Year. It was a time to celebrate the accomplishments of the past, and look to the vision of the future.

Today OLLU is celebrating the achievements of the past and looking forward to the next 50-year era of growth and service. Already during this Jubilee Year, OLLU has welcomed the largest freshman class in history—a 40-percent increase over last fall—and seen full-time enrollment grow by 22 percent. Construction started last month on the University Wellness and Activities Center. When completed in November 1990, it will be one of the finest student facilities in the Southwest.

Mr. Speaker, my fellow colleagues, as a holder of an honorary doctoral degree in the humanities from OLLU, I am pleased to be able to salute Our Lady of the Lake University on its Founder's Day and during its Jubilee Year. I look forward to the university's continuing to provide San Antonio and south Texas with high-quality education programs and services.

As OLLU's president, Sister Elizabeth Anne Sueltenfuss, has written, Our Lady of the Lake University is in a unique position to provide answers to some of the perplexing problems of our day. Its graduates will continue to use their talents and resources to help improve our society as we face new challenges and as the problems of our world become more pervasive.

HAPPY BIRTHDAY, NORTH DAKOTA

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. DORGAN of North Dakota. Mr. Speaker, church bells are ringing in North Dakota today. Sirens are wailing and bands are playing. With enormous justifiable pride, North Dakota marks its centennial. A hundred years ago today, President Harrison declared North Dakota a State.

Fifty years prior to that, one of the first Europeans to visit the State, explorer Joseph Nicollet, exulted over it. "The country is beautiful, the land excellent, the pasturage rich and thick," he said. "Our men cannot help exclaiming at the view of this magnificent countryside. One never tires of it."

Indeed, one never tires of the vastness, the epic sweep of the prairies and sky. Earth and the heavens are never closer than they are on the plains. Not only are people inexorably linked to the land, but also to the remarkable climatic drama that plays such a decisive role. Nature and humankind, as in few places elsewhere, are inescapably intertwined.

One never tires of the people—the Native Americans upon whose 20,000 years of civilization statehood is but a thin veneer, the Norwegians, the Germans, and those of a host of other lands. These are America's best; a people whose crime rate is the lowest, a citizenry which cares deeply about its government and whose voter turnout is bested by no other State, a people with the highest educational achievements, a people who have kept North Dakota's environment bright and healthy. These are a vigorous, hearty people with an unparalleled work ethic; a warm, unselfish, caring people, a people of immense dignity and endless loyalty to family and community.

And one never tires of the deeply felt sense of community that exists. Even when our sons and daughters have left North Dakota, even after absences of a half century, they still consider North Dakota home. On our farms, our small towns, our cities, we work, we love, we enjoy life together with a warmth, an enthusiasm, a camaraderie that generates a lifelong affection for that prairie land. Happy Birthday, North Dakota!

A TALE OF TWO DICTATORS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. SOLOMON. Mr. Speaker, the upheavals now shaking the Communist world are in part the aftershocks of a broader movement which began sweeping over many countries in the early 1980's. This wider shift in global public opinion represents nothing less than the rediscovery of freedom and democracy. In country after country, the people and their governments alike are rediscovering that freedom for the individual, pluralism in the body politic, and market forces in the economy are the true sources of human progress and development.

Nowhere has this rediscovery of freedom and democracy been more striking than in Latin America. As the governments of that vast and troubled region have grappled with staggering economic and social problems, they have learned something: That only those governments that are truly representative of their citizens—and which respect the essential human rights of their citizens—have any hope of getting a handle on their problems.

Gone are the days in which a government that lacks popular legitimacy can ask the sacrifices by citizens that are sometimes necessary when a nation's house is put in order. Gone are the days in which a government that holds itself unaccountable to the public trust can command the respect from international institutions and lenders whose support is so

often essential in dealing with national problems.

Impressive as these developments are however, there is much work still to be done. And, unfortunately, there are two governments in Central America which have not yet received the message. There are two governments—better described as regimes—that insist on brutalizing their citizens and consolidating their own power at the expense of the public good. I am speaking, of course, about Panama and Nicaragua.

Gen. Manuel Noreiga in Panama does not espouse any discernible political ideology. His real interest is little more than the exercise of naked power. During the 8 years in which he has been the de facto ruler of Panama, Noriega has done everything possible to subvert and destroy constitutional democracy in that country.

The Panamanian people are appalled at the violence which Noriega has introduced into their country's political system. Shocked and disgusted they may be, but intimidated they are not. The people of Panama know what democracy is, and they want it back. But Noriega is bent on remaining in absolute control, regardless of the cost.

He did sense the need earlier this year to at least change the window dressing on his regime by conducting an election. But, when opposition candidates favoring a restoration of freedom appeared headed for a landslide victory over Noriega's slate of handpicked stooges, the vote count was suspended and several opposition candidates were beaten up in pubic by Noriega's goon squads. A puppet regime was subsequently installed.

In the meantime, the nation of Panama continues to suffer. Before Noriega came to power, Panama had the highest standard of living, the most sophisticated economy, and the most well-developed infrastructure of any country in Central America. Today, Panama has a ruined economy, and the nation has become a safe haven for drug runners and international gangsters of every stripe.

It's no wonder that Noriega frequently enjoys the hospitality of Nicaraguan dictator Daniel Ortega. In fact, Ortega keeps a lavish hotel suite in Managua reserved at all times for Noriega's personal use. The way things are going, Noriega is about the only foreign leader who would even want to be seen in the company of Ortega.

The commandants who run Nicaragua traveled their own road to power by hijacking what had been a spontaneous popular uprising against a repressive regime. But all of the promises for freedom, pluralism, and economic opportunity that were made by Ortega and his henchmen have been violated. All of the hopes of the Nicaraguan people have been systematically crushed.

Unlike his pal Noriega, though, Ortega does espouse a political ideology: Communism. As if the Cuban example of Fidel Castro didn't provide a perfect demonstration of how not to bring about social change and a reorganization of government, Ortega plunged headlong into imitating his fellow Communist, military buildup and all, Ortega didn't skip a page in following Castro's script.

And he got the same results. All of the debates concerning United States support for the resistance forces in Nicaragua have tended to overlook the fact that Ortega had destroyed the Nicaraguan economy long before the Contras even took to the field. What is even more astonishing about Ortega's demolition job is the fact that he achieved it during a time when the international community was providing more than $1 billion in economic assistance to Nicaragua.

But all of the money in the world cannot make communism work. So Ortega then proceeded to build a full-employment economy by using the same tactic as every Communist thug who came before him: By recklessly expanding the size of his military and internal security forces and using his country as a launching pad for revolution. Ortega had not been in power long before a report authorized by the House Permanent Select Committee on Intelligence identified Nicaraguan support for the guerrillas in El Salvador as providing the lifeblood of that insurgency.

Ortega conducted a sham election in 1984 in order to splash a little perfume on his otherwise odorous regime. The net result of the whole exercise was to confer this dignified title of President on the notoriously undignified Ortega. Now we have been led to believe that international pressures on Ortega have prompted him to call another election.

I have serious doubts that whatever Ortega may be planning by way of an election will turn out to be the genuine article. It is no accident that his precipitous decision to cancel the cease-fire and to resume his war against the resistence forces was prompted by two things: The delivery of more than $1 billion worth of military equipment from the Soviet bloc since the cease-fire first, went into effect—thereby changing the military balance very dramatically—and the fact that recent public opinion polls in Nicaragua show the opposition party that favors freedom holding a substantial lead over Ortega's Communists.

Assuming the election scheduled for February is even held at all, Ortega will do everything he can to produce a preordained result in his favor. The chances that this election will represent a legitimate, fair, and open political exercise are very remote indeed. And those chances, however, remote, were placed in even greater jeopardy by the events of this week.

Noriega and Ortega, what a pair. At a time when the rest of Central America, and the vast bulk of Latin America as a whole, are struggling resolutely in the direction of freedom, democracy, and economic opportunity, these two dictators are resisting the tide. They deserve each other. And, I am convinced, they will eventually share a common destiny: The garbage pile of history.

HONORING ROBERT VAN FOSSAN

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. GUARINI. Mr. Speaker, I rise today to honor Robert Van Fossan, chairman and chief executive officer of Mutual Benefit Life Insurance Co., who passed away on Sunday, October 29, 1989.

With his death, New Jersey and the Nation has lost a dedicated man who devoted his life to helping others.

Before I speak about his seemingly endless accomplishments, however I want to take a moment to honor his family for sharing with us his energy, dedication, and friendship. His family was very important to him. And so to his mother who survives him, Mrs. Virgil (Marie) Van Fossan; his wonderful wife of 43 years, Mary Jane; his sisters Shirley Williams and Doris Quinn; his three children Deborah Green, Robert Craig, and Stephen Mark, and their spouses; and to his two grandchildren whom he adored, Noah and Kristen, please accept this as a tribute to what you have all given and shared with us.

Robert Van Fossan believed deeply in public service. He traveled and spoke widely on the need for private sector involvement in and support of education, job training, and in housing policy. He gave many years of service to the Port Authority of New York and New Jersey as commissioner, and served as a leading voice in our region on transportation and economic development.

He committed endless energies to the State of New Jersey, to Democratic and Republican Governors, whenever they asked him to serve, and to the entire New Jersey Congressional Delegation as a friend, supporter, counselor, and adviser on the many public policy issues affecting this Nation's tax policy, the insurance industry, and urban development.

Robert Van Fossan was the chairman of Renaissance Newark Inc., a public-private group; the chairman of the Newark Performing Arts Corp., and a trustee of the Newark Museum and of the Community Foundation of New Jersey, which aids nonprofit groups. He was the primary founder and former chairman of the Partnership for New Jersey, a group of business and community leaders that works to solve social and economic problems.

He was a former chairman of the New Jersey Supreme Court Committee on efficiency in the courts, of the Coalition of Northeastern Governors, and a member of the executive committee of the State's National Conference of Christians and Jews.

He was born in Breckenridge, MN, and served as a corporal in the Marines in the South Pacific in World War II.

Robert Van Fossan worked tirelessly to give something back to the communities of New Jersey. His devotion to community service was unmatched. He believed that the private sector has responsibility to help improve the quality of life for all citizens of New Jersey and worked every day to lead the way.

Bob was a good friend to me. I will miss his strong spirit, his single-minded devotion to preparing society for the future, and his generous nature. All of us, especially his family whose sacrifices helped to make his work possible, will feel deeply the loss of this friendship, leadership and support.

I know my colleagues here in the House of Representatives will join me in honoring one of New Jersey's greatest civic leaders, the late Robert Van Fossan.

THE DEPARTMENT OF ENERGY NUCLEAR FACILITY SAFETY ACT OF 1989

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. STARK. Mr. Speaker, I am introducing today the Department of Energy Nuclear Facility Safety Act of 1989 to amend the Price-Anderson provisions of the Atomic Energy Act to expand the liability of Department of Energy [DOE] contractors. Section 2 of the bill will remove the exception of nonprofit contractors from civil liability in the event of nuclear accidents. Section 3 increases penalties for those contractors and their employees who violate DOE regulations. Increasing civil and criminal penalties for all DOE contractors will extend the sense of accountability to all parties involved, and encourage greater oversight and compliance with environmental, health, and safety standards.

Throughout this decade, it has been revealed that horrifying environmental skeletons exist at DOE nuclear facilities across the country. Neglect of environmental, health, and safety standards at the Savannah River plant in South Carolina, the Hanford site in Washington, the Rocky Flats plant in Colorado, and Lawrence Livermore National Laboratory, in my home State of California, has created a legacy of nuclear waste for this country for millennia to come.

The cost of cleaning up and restoring health to the environment is enormous. Only last month, Energy Secretary James D. Watkins introduced DOE's energy and weapons facilities cleanup plan. This cost is estimated at $19.5 billion over the next 5 years alone. Responsibility for cleanup of our nuclear waste legacy will be passed on to future generations, costing $110 to $130 billion.

Congress, like the DOE, has acknowledged the severity of the radioactive and hazardous waste contamination in our soil, air, and ground water. In 1980, $1.6 billion was authorized to the Environmental Protection Agency's [EPA] 1980 Superfund Act. This national priority list was established for emergency cleanup of hazardous waste sites in environmentally sensitive areas. In 1986, the Superfund was reauthorized for another 5 years at $8.5 billion. I am both saddened and angered that Lawrence Livermore National Laboratory, located in my district, is on both DOE's and the EPA's national priority cleanup lists.

The shutdowns and scandals at DOE sites nationwide have proven that we cannot rely on DOE-contractor self-regulation and internal oversight. Existing civil and criminal penalties of the Price-Anderson Amendments Act of 1988 have also been inadequate deterrences.

In the future, we must make sure that DOE contractors do not compromise the environment in order to satisfy DOE nuclear energy and weapons material quotas. The recent Inspector General's report on the "Indemnification of DOE's Management and Operating [M&O] Contractors" found that the contractors running DOE's facilities, do not face substantial financial risks. Currently, the only incentive for compliance with environmental, health, and safety standards is the contractor's award-fee from DOE. Yet, with 23 of the 52 active contracts on fixed-fee or nonprofit status, even this system is unreliable.

Secretary Watkins and DOE's Inspector General, John C. Layton, agree that we must heighten contractor accountability. All DOE contractors and their employees must be held financially and personally responsible for deliberate actions or omissions resulting in violations of environmental regulations. This is the purpose of the bill I am introducing today. I hope that it can be considered in hearings during the coming months.

PRIVACY ASSURANCE ACT OF 1989

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. DELLUMS. Mr. Speaker, I have recently introduced H.R. 2551, the Privacy Assurance Act of 1989. This legislation is necessary because the tremendous scientific and technological developments during the last several decades has made possible today the widespread use and abuse of electronic surveillance techniques, rendering much of the current law governing individual privacy ineffective, and largely unenforceable.

For the RECORD I am inserting today an article by Robert Moore, Jr., and Rudolph W. Brewington entitled "Domestic Surveillance: America's Dirty Little Secret." This article illustrates the problem and the need for this legislation to become law. The article follows:

DOMESTIC SURVEILLANCE: AMERICA'S DIRTY LITTLE SECRET

In 1882 Alexander Graham Bell invented the telephone, and six years later Almon P. Strowger discovered a way to prevent secret taps of private phone lines.

Today, due to what critics call "loopholes and contradictions" in federal laws and lax enforcement of existing legislation, the sale of telephone intercepting equipment and dozens of other high-tech surveillance devices has grown into a multimillion dollar industry—with many of these "bugging" products increasingly being sold, advertised, mailed and used in violation of state and federal wiretap regulations. "Surveillance was in the hands of the professionals—law enforcement and governmental agencies, corporate spies," says Morton Bromfield, director of the Wellesley, Massachusetts-based American Privacy Foundation, "now, it's in the hands of amateurs."

Some twenty years after Title 18 of the U.S. Code was enacted to "protect the rights and expectations of privacy" of Americans by banning the manufacture, sale, advertisement, mailing and use of devices intended to secretly record phone and oral communications, legislators, their staff aides and privacy advocates are giving fresh attention to the sophisticated electronic spy equipment now widely available to the general public.

With public resentment rising about intrusion of privacy, many don't like what they see. For one, California (D) Congressman Ronald V. Dellums—surveillanced during the 1970's COINTELPRO "enemies list" of the Nixon Administration—has acted to stem the flood of devices on the marketplace. Dellums recently introduced H.R. 2551, "The Privacy Assurance Act of 1989" to amend Title 18. Pennsylvania (R) Senator Arlen Specter, also is concerned, noting, "restrictions on the use, availability and the advertisement of intercepting devices are [already] encoded in the Omnibus Crime Control and Safe Streets Act of 1968" (USC Title 18). Specter, and other lawmakers are considering whether to pursue further legislative remedies.

With alarmingly accessible listening and recording devices that make it relatively simple and inexpensive to eavesdrop on conversations up to miles away, privacy advocates say it is no longer the persons of wealth, power and influence whose words and movements are being monitored.

Using state-of-the-art spying equipment, a stranger can hear inside your home miles away from your front door; spouses can secretly track the movements of their husbands or wives in the family car or "bug" the couple's bedroom. Employers can now listen into the phone conversations of every worker on the job. In fact, the ability of average citizens to "bug" each other actually exceeds that of law enforcement officials who can conduct surveillance only under strict court procedures.

Federal and state wiretap laws are being violated, and the privacy rights of tens of thousands of Americans jeopardized by the use of electronic spying equipment that can easily be obtained at retail stores, in so-called "spy shops", and from mail-order companies that blatantly advertise in general market magazines, in slick, upscale catalogues and even in grocery store tabloids. While the number of "bugging victims" is hard to pinpoint—primarily because often individuals don't know they are being surveillanced, and violators aren't talking—it's estimated the numbers are substantial, and has even spawned another growth industry. Millions of dollars are spent by individuals and corporations on anti-bugging devices and services to electronically "sweep" homes and offices.

Federal legislation—which continues to lag behind the rapidly advancing technology of the surveillance field—is being circumvented with impunity by dozens of electronics companies, while the United States Postal Service and other express mail delivery firms were the unwitting accomplices.

Until apprised of the findings of this report, there were no provisions under Section 124 of the Postal Service's Domestic Mail Manual on non-mailable materials that prohibits the sending of electronic surveillance devices. The Domestic Mail Manual outlines federal postal regulations.

Yet, Section 2512 of Title 18 of the U.S. Code specifically prohibits the mailing of such devices:

"Any person who willfully sends through the mail or sends or carries any electronic, mechanical or other device, knowingly or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications; or knows or has reason to know that such advertisement will be sent through the mail or transferred interstate shall be fined no more than $10,000 or imprisoned not more than five years, or both".

Alerted, Congressman William Ford, Chairman of the House Post Office and Civil Service Committee directed an investigation of the availability of surveillance devices through the mails. Insisting that federal wiretap statutes prohibited individuals

from mailing devices and that a surveillance device was not in itself nonmailable matter, Postmaster General Anthony Frank nonetheless ordered the Domestic Mail Manual revised to conform with the twenty year old provisions of Section 2512. Effective September 17, 1989, customers at all post offices were notified that mailing surveillance devices is unlawful.

U.S. legislators and privacy rights advocates have expressed anger over this growing cloak-and-dagger industry—and a resultant proliferating anti-bugging devices industry—and have identified several sources for its spread. Some have blamed the variance between federal laws and postal codes for the mailing of surveillance equipment, while others say there are "loopholes and contradictions" in the outdated federal wiretap laws that retailers exploit when marketing their products.

One glaring contradiction is part of provisions of Section 2511 of Title 18, enacted primarily to authorize law enforcement officials to conduct "consensual monitoring", the placing of a listening device on a police informant, for example, to gather evidence during an investigation. Paragraph (2)(d) of Section 2511 [section on non-law enforcement recordings] allows secret recording when one person is a party to the conversation and gives prior consent—the doctrine of "one party consent"—without distinguishing who the party is (the "taper" or the "tapee"), even though the basic premise of the Wiretap Law is to outlaw secret recordings. [Some states have tighter restrictions. In California, Florida, Michigan, and Pennsylvania, for example, it is illegal to tape a telephone conversation unless all parties give consent]

The "loophole" is widely exploited. One advertisement in a recent publication, showing a man eavesdropping through a wall using a "Super Ear Mini-Stethoscope", contains a misleading disclaimer. It warns that voice "interception without the permission of at least one party [one party consent] is illegal." The ad cites Section 2511, Title 18, U.S. Code.

In fact, Section 2511, paragraph (2)(d), says only one party needs to know that a conversation is being recorded or monitored providing the recording "is not used to commit a criminal or tortious act."

By partially and misleadingly quoting that section of the law, critics say manufacturers effectively allow consumers to buy and use such equipment and cite Section 2511 as a defense: one can secretly record a conversation and claim he or she is the party who gave consent, although the other party had no knowledge or gave consent, which is a violation of the law's basic provisions against intercepting conversations.

But, critics say, the major contributing factor is lax enforcement by local-level prosecutors, who are often unaware of the specifics of the wiretap codes or consider it a low-priority offense, even when retailers blatantly advertise the purpose of their products. Example: A Phoenix, Arizona mail-order firm sells a Recording Briefcase for $599.000 with an ad reading, "This handsome all-leather briefcase permits the full use of the briefcase while simultaneously providing clandestine and surreptitious recording capabilities."

Recently, groups of "bugging victims" appeared on local radio and TV talk programs around the country and on the nationally televised "Oprah Winfrey Show", "USA Today on TV", and "Geraldo" revealing for the fist time the scope of surveillance activity among average citizens. One victim, Shirley Harris, a North Carolina school teacher, said she thought bugging and spying were confined to communist countries. That was until she and other teachers at her school discovered a listening device planted in an employee lounge. She claims it was placed there by the school principal.

"What kind of society do you end up with when everyone mistrusts everyone else?," asked Professor Gary Marx, a sociologist at the Massachusetts Institute of Technology. "Where does it stop?" He said the widespread use of surveillance equipment is a result of the "declining morals of the 1980s."

Rockville, Maryland private investigator Maureen Gawler, who is knowledgeable of both widespread spying by estranged mates and corporate surveillance, and advises clients against it, agrees. "I think it's a real sad commentary on American society. It's incredibly ironic that when Martin Luther King Jr. was harassed by J. Edgar Hoover—and my father was an FBI agent—for many years with legal wiretaps, we find it reprehensible and horrific. But what we're seeing here is that you can take the father of your child or your long-time mate and employ completely illegal and unethical practices, and people try to justify it."

In Pennsylvania, State Representative Ron Gamble is proposing to amend the state's stringent wiretap laws to require that all voice-activated recorders contain a label warning a user that it is illegal to tape someone without their knowledge, as well as the penalty for such a violation.

The Gamble bill would also require a beeping mechanism which would sound each time the device begins and finishes recording, as well as civil penalties against manufacturers. The legislation has numerous co-sponsors.

A Pennsylvania State Police source said divorce lawyers commonly advise clients to use voice-activated recorders or other devices against estranged mates to blackmail or to gain a larger divorce settlement. While "bedroom extortion" is not a new wrinkle, the sophisticated voice-activated recorders eliminate the haphazardness factor. Such a recorder can be concealed, according to electronics expert Robert Habercost, "and wait, triggering without the user having to reveal it's in the room, and in fact, not even having to be in the room when the recorder activates."

The increasing use of these devices to "get something" on spouses and partners is of increasing concern to sociologists, criminologists and prosecutors.

Allegheny County Pennsylvania Assistant District Attorney Paul Skirtich—one of the few activist prosecutors—says, "in my experience, the reason [for surveillance] is usually to gain some kind of leverage.

"No one likes to talk about it, though. This is America's dirty little secret."

Skirtich investigated Radio Shack for possible criminal violations over sales of a suction device, the Phone Pickup Coil—commonly called an induction coil—which is fastened to a telephone receiver and can be used to secretly record conversations. He also inquired into the sale of a telephone monitoring device, which he called, "clearly an intercepting device." In August 1989, as a result of the probe, Radio Shack voluntarily agreed to remove the products from 17 of its retail outlets in the county. Skirtich is now looking into the flow of apparently illegal advertisements for devices that commonly appear in publications.

The range of publications which either recently or currently advertise the devices—in apparent violation of Title 18, U.S. Code—is startiling:

Popular Science:

Miniature FM Transmitters. Easy to assemble kit. One-by-one and three inches. $19.95. Other transmitters and bugging equipment. Los Angeles, California.

Snooper Phone Infinity Transmitter. Amherst, N.H.

FM Transmitter

Ultra Sensitive Directional Sound Amplifier Picks up Signals 200 Feet Away! Overhear private conversations. It's light enough so the microphone can be mounted on your binoculars. $69.95. Barrington, New Jersey.

Telephone Taps or Room Monitors. Range Unlimited. Catalogue $3.00. Muskogee, Oklahoma.

Micro Bugs. Highly advanced bugging equipment. Ultra small transmitters, concrete mics, telephone, pen bugs and much more! Catalogue $2.00. Cleveland, Ohio.

Soldier of Fortune:

Spy on Your Enemies for $24.95. The FM-5 is a sensitive little electronic bug that transmits every sound and whisper up to ¼ mile to your FM radio. El Cajon, California.

The model WAT-50 miniature FM transmitter picks up a whisper 50 feet away. Simply snap the unit on top of a 9V battery and you can hear every sound in an entire house up to 1 mile away! Only $29.99 tax included. All orders shipped by U.S. Mail COD. Add $4.00. Bedford Hills, New York.

How to Get Anything on Anybody: Most Dangerous Book Ever Published-NBC. You can duplicate CIA tricks; save on surveillance gear; listen thru walls; chemically read thru envelopes. $33.00. Boulder, Colorado.

No radio transmitter, no matter how well hidden can escape detection by the Hound Dog, an advanced electronic instrument designed for the sole purpose of locating hidden transmitters. $195.00. Also, the Super Power FM-Transmitter. Operates up to quarter mile away on your radio. Melbourne, Florida.

Surveillance. Secret devices. Bug detectors. Restricted books. All are available. Salt Lake City, Utah.

Infinite Ear. Listen into your home or business from any phone in the world! $249.00.

Electronic Tracking Devices. From $1,995.00.

Audio Telescope. High quality long range listening device. Can be hooked to a recorder. Will hear "a whisper" over 100 yards. $349.00.

Body Microphone. Picks up sounds from 10–15 feet away. Small size makes it very comfortable to wear without noticeable bulk. Uses include monitoring rooms or buildings. $499.00 Napa, California.

Recording Briefcase. This handsome all-leather briefcase permits the full use of the briefcase while simultaneously providing clandestine and surreptitious recording capabilities. $599.00. Phoenix, Arizona.

Hands on Electronics:

Voice disguisers. FM-Bugs. Telephone Transmitters. Phone Snoops. More. Tempe. Arizona.

Strange stuff. Complete items. Plans, kits. Laser eavesdropping, Hidden Weapons, Bugging and Counter-measure sources. Lowell, North Carolina.

Detectives, experimenters. Exciting new plans. Hard to find micro and restricted devices. Large Catalogue. $5.00. Augusta, Georgia.

Popular Mechanics:

Electronics Kits! Voice Disguisers! FM Bugs! Phone Snoops! Telephone Transmitters! Catalogue $1.00. Tempe, Arizona

Detection-Surveillance, Debugging Kits. Latest High-Tech Catalogue $2.00. Phoeniz, Arizona.

Telephone Listening Device. Record telephone conversations in your office or home. Starts automatically when phone is answered. Records both sides of conversations. Stops recorder when phone is hung up. $19.95 each. Melbourne, Florida.

Room Surveillance Telephone. This is a normal functioning telephone except it has a secret built in room monitor. Only you can call and monitor all room conversation, using a secret code, and never be detected! $175.00 each. Muskogee, Oklahoma.

Life Force Technologies Ltd., Aspen, Colorado. (Catalogue)

Exposé if you've ever wanted to know what's inside before you've slit the envelope, package or wrapping, Exposé gives you clear vision. A liberal spray of Exposé turns opaque paper translucent for about 30 to 60 seconds for viewing. Read through one, usually two sheets of paper. Then, it returns to its original state with no markings, discoloration or odor. $25.00.

Super Ear Mini-Stethoscope. Think of the many ways you could use the Super Ear mini-stethoscope. We tested them all, and the results are excellent. For less conspicuous use (as shown) detach head set and snap in the single ear piece. $375.00.

Recording Briefcase. Designed for undercover communications. Exclusively ours, it's wired for use with either your own cassette tape recorder or our 5-hour-per-side recorder. Simply slide the initial-plate, the hidden microphone (in keylock) is activated to record conversations—covertly and silently. Recording and other functions including auto-stop are completely silent. The recorder won't get in the way of your important papers and other paraphernalia and—most importantly—it is hidden from view! $995.00.

Teletaf Remote Monitoring Device. This monitoring device lets you listen in through your regular line from any phone in the world—and the telephone dialed will not ring! The sensitive microphone will pick up a whisper 35 feet away. Switch off upon your return for normal telephone operation.

Audio Binoculars. Put on the lightweight highly sensitive stereo headphones, aim the binoculars, adjust the volume, and hear what you've put in focus! Hands free microphone wand amplifies even a whisper at 200 feet away. $130.00.

Telephone Recorder Patch. Adapts your tape recorder to either single or multiple line telephones. A simple plug-in installation between phone and recorder does the trick! $49.95.

Radio Electronics:

Anazing Electronics Products. FM Transmitter 3 mile Range. $49.50.

Snooper Phone Infinity Transmitter. $169.50.

Automatic Phone Recording Device. $24.50.

See in Total Darkness IR Viewer. $349.50. Amherst, New Hampshire.

FM Transmitter. Model WTT-20 is only the size of a dime, yet transmits both sides of a telephone conversation to any FM Radio with crystal clarity. Complete kit, $29.95 Bedford Hills, New York.

Also, Radio Shack, Crutchfield and others sell Telephone Answering Machines featuring room monitoring capabilities, allowing an individual to listen to activites in the room where the machine is located from any remote location.

The Sun (Tabloid):

Phone Recorder Adapter. Record calls automatically. Connects to your phone and recorder. Starts recording when phone is lifted. Stops when phone is hung up. Phoenix, Arizona.

Despite the sophistication of many of the devices, "this is kiddie stuff," according to Bromfield, regarded as one of the foremost experts on privacy and surveillance issues. Bromfield points to industrial espionage, "political tapping", and surveillance among private sector corporations who use "super high-tech equipment" as the most serious threat to global privacy.

"Americans have been lulled into thinking of surveillance as protection," said Bromfield, who has lectured world-wide as director for the past 18 years of the American Privacy Foundation. "There is an inseparable link between privacy and freedom. If you lose your privacy, you have lost your freedom."

Bromfield said he is particularly concerned about the emphasis placed on computer security above telephone privacy, noting that computers are often linked to telephones. "Computers store mostly historic records. But a wire [phone] tapped businessman or politician is explaining what he is doing, his reasons, his intentions", Bromfield said.

"Tapping into a computer lacking such vital information is like robbing a graveyard. The consequences of lost computer privacy cannot destroy one's freedom. Wiretapping the conversations of our leaders in government, manipulating our centralized bureaucracy, can simply lead to domination, the central warning of renowned futurist George Orwell."

The most sophisticated of spy devices now used by industrial and political spies will eventially "trickle down" and become available to the average citizen as technology advances, Bromfield warns.

If enacted, though, the Dellums' bill would render most of the devices on the market useless and unavailable by removing the loophole now exploited by manufacturers to market the devices, and also removing the impediment to enforcement of wiretap laws. Additionally, the Dellums' bill would—for the first time—provide consumers with the mechanism to bring civil actions against manufacturers, which will provide a chilling effect to marketing the devices.

Unless steps are taken immediately to curb this influence and the unchecked proliferation of eavesdropping equipment, sociologists like MIT's Gary Marx are concerned about the implications. Dr. Marx uses this story to illustrate his point. "This has to do with the creeping nature of surveillance. It's said, by cooks, that if you take a frog and you put it into hot water, it will immediately jump up. But what happens if you put the frog in cold water, and you slowly turn up the heat?

"I think that applies to the spread and justifications for these surveillance devices. Each one—standing alone, with a persuasive person's arguing—can be justified. But if you look at the big picture, the totality, you end up with a very different, a frightening situation".

29-059 O-90-23 (Pt. 19)

HONORING THE BERKSHIRE PUBLIC THEATRE

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. CONTE. Mr. Speaker, I would like to take this opportunity to speak on behalf of one of my First Congressional District's shining stars, the Berkshire Public Theatre. It is without a doubt one of the premier attractions for thousands of residents and visitors in beautiful Berkshire County.

Since 1976, when the Berkshire Public Theatre was founded, it has given over 75 performances. In 1983, the theater moved to downtown Pittsfield to the Union Square Theatre. Over 40 plays have been performed there and many more are expected to brighten the stage once the refurbishing at Union Square is completed. The Berkshire Public Theatre has always attracted extremely talented actors with a gift for the arts. Combine these actors with a well-written script and the audience is guaranteed a topnotch production. So successful are the plays that the Berkshire Eagle once wrote: "These skilled actors commit shameless acts of thespianism that are delightful, uncommon entertainment."

However, the Berkshire Public Theatre is more than just a theater, Mr. Speaker, it is a learning center for young students. Part of its program is a 10-week series of workshops for elementary school children. The elementary school workshop program was introduced into the North Adams, Lenox, Dalton, and Richmond Public School Systems during the 1986/1987 school year. These workshops are conducted in the schools allowing the children the opportunity to experience first hand acting exercises and incorporate them into fine stage performances.

On November 11, the Berkshire Public Theatre will present its fourth Annual Arts in Education Award. This year I am proud to inform you, Mr. Speaker, that the winner of the Arts in Education Award is Mr. Norman Najimy of Richmond, MA. Mr. Najimy, known for his creativity in bringing in outside arts organization for special presentations and employing acted-out scenes from history, science, and literature as a means of dramatizing this historical significance of our heritage, is truly deserving of this award.

Mr. Speaker, it has truly been an honor to have this opportunity to wish the Berkshire Public Theatre my very best. The patrons and participants of the theater have made it one of the brightest spots for Berkshire County and I thank everyone involved for that. The Berkshire Public Theatre is one of the great centers for the performing arts.

VETERANS DAY 1989

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. GILMAN. Mr. Speaker, as our Nation prepares to commemorate Veterans Day, it is appropriate that we duly reflect on the significance of this solemn national holiday and the contributions made by our Veterans.

This year, Veterans Day occurs on the seventy-first anniversary of the day that the guns fell silent in what was then called "the war to end all wars." The horrors of that war—the war called "The Great War"—were so terrible and inhumane that the world was convinced that, when the big guns fell silent at the eleventh hour of the eleventh day of the eleventh month of 1918, mankind would never again resort to force of arms.

Yet, within a generation, the entire world was plunged into an even more horrible war. No rational person could have foreseen the genocide and atrocities committed during World War II. It is a disgrace that such actions took place in modern times. Historians were forced to rename the earlier conflict "World War One" to differentiate that conflict from subsequent conflicts.

Since the allied victory in 1945, American veterans have had to sacrifice again and again. The Korean conflict, the Vietnamese war, our military actions in the Carribean region, in Lebanon, and in the Persian Gulf only underscore the valuable lesson that we Americans learned in 1941: peace is costly and must be paid for by eternal vigilance and strength.

On November 11, we honor all those who uprooted their lives and risked everything—in many cases making the supreme sacrifice—so that we can all remain free, enjoying the fruits of liberty. The American people are to be commended for honoring our Veterans on two separate days: Veterans Day on November 11, which commemorates all those who sacrificed a part of their lives to maintain our liberty, and Memorial Day in May, which honors those Veterans who made the ultimate, supreme sacrifice.

Veterans Day 1989 will be unique in the proud history of this holiday.

Veterans Day 1989 will be the first Veterans Day in which the celebration is led by a cabinet-level Secretary of Veterans Affairs [VA]. I was pleased to support raising the VA to cabinet-level rank and am convinced that this action was long overdue. It is important that the unique needs of today's veterans be afforded priority attention.

Veterans Day 1989 is also unique because this autumn marks the 50th anniversary of the outbreak of World War II, the most stupendous complex of events in our history. Between now and 1995, we will encounter the 50th anniversary of those events, and must be reminded of the needs of our World War II veterans. Our veterans from this conflict are now at an age where many are in dire need of home health care. Many others need domiciliary care or permanent hospitalization. It is imperative that the Congress adopt the legislation that will most effectively address those needs, including legislation to assure the best in medical and nursing care at our VA hospitals.

Veterans Day 1989 is also special because it is the first Veterans Day being celebrated under an administration that has publicly stated that the time has come to heal the wounds of the Vietnam war. It is time to stop the recriminations and self-analysis and to concentrate on the needs of our Vietnam veterans, especially those suffering from a post traumatic stress syndrome.

And, yes, Mr. Speaker, the time is here to stop the internal bickering and get behind our administration's efforts to obtain a full accounting of the more than 2,300 Americans still missing in Southeast Asia.

On Veteran's Day 1989, let us reflect on the uniqueness of our 1989 celebration. As we fly the flag and enjoy our veterans' parades, let us truly reflect on all that our veterans have sacrificed for all of us, and let us resolve as a nation that we will not forget them and their legitimate needs.

FEDERAL GOVERNMENT NEEDS TO LEARN LESSONS FROM THE STATES

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. DUNCAN. Mr. Speaker, the Federal Government has operated at a loss in each of the last 20 years. In fiscal 1990, we will spend over $200 billion just to pay interest on the national debt. The States, on the other hand, have finished with a cumulative surplus each year during this same period. Primarily this has been because 49 States have balanced budget laws, and 43 give their Governors the line-item-veto power. We need to do the same at the Federal level. I commend an insightful and accurate article by Stephen Moore, a Grover Herman Fellow in Federal Budgetary Affairs at the Heritage Foundation, which describes our current fiscal predicament.

WANT TO STIFLE GROWTH? HIKE TAXES

(By Stephen Moore)

The percentage of the American paycheck that is diverted to the coffers of government is back to the peak level of 1981.

Thirteen separate federal tax hikes have been enacted since 1982, while tax revenues at the state level have been growing for the last three years at roughly twice the rate of inflation.

As a result, tax receipts at all levels of government this year will exceed $1.5 trillion—or about one-third of gross national product (GNP).

According to the nonpartisan Tax Foundation, a moderate income ($45,000 a year) two-worker family this year will pay an estimated $14,000 in federal taxes. When state and local taxes are included, this family's total 1989 tax bill rises to about $20,000.

Yet some Washington lawmakers argue that American families are not paying enough and that we need even higher taxes. Bottom line: They say George Bush should abandon his "no new taxes" pledge.

While we still have much to learn about government, one thing we do know is that higher taxes—even if they result in increased revenues (about which there is some doubt)—do not result in smaller deficits.

Indeed, if Washington was really serious about trimming the deficit it would look at what's been going on at the state level—and learn from it.

For more than two decades, America's state governments have been achieving a goal that continues to elude the federal government—balancing their budgets.

In fact, while the federal government has run a budget deficit in each of the last 20 years, the states have always finished the fiscal year with a cumulative net surplus.

Despite this impressive record at the state level, federal policy-makers continue to ignore the lessons to be drawn from state budgeting practices. For instance, most states have adopted powerful tools to check spending. Forty-nine states have balanced budget requirements, 43 give line-item veto power to the governor, and 26 have tax and expenditure limitations.

Explains the Advisory Commission on Intergovernmental Relations, "* * * the states have long had a good record of fiscal discipline, in large part because of (these) constitutionally and statutorily imposed limits on legislative and executive behavior." Yet Congress refuses to enact similar restraints.

Of all the lessons to be learned by looking beyond the Capital Beltway, perhaps the most important is that raising taxes to balance the budget is rarely successful. And it undermines the economy. In Washington, the chorus for higher federal taxes simply presumes that hiking taxes somehow will improve the economy by reducing the deficit.

Yet the experience of the states over the last 20 years argues powerfully against raising taxes. Those states that have kept taxes down have achieved more rapid rates of income growth, job creation, and business investment than their high-tax neighbors. The economies of Arizona, California and, until recently, Massachusetts surged during the 1980s; each cut taxes sharply in the late 1970s or early 1980s. Conversely, three of the slowest growing states—Wyoming, Iowa, and West Virginia—substantially raised the tax burden on residents during the same period.

This should be sobering economic news for the pro-tax lobby. Just as high-tax states have lost jobs, businesses, and skilled labor to low-tax states, so the United States runs the risk of surrendering economic competitiveness to foreign rivals if Congress increases the tax burden. This danger is heightened by recent developments in Europe and the Pacific Rim, where many of America's competitors have cut tax rates to sharpen their competitive edge.

Lawmakers have sought to defuse public criticism of tax increase proposals by pledging to use any new revenues to reduce the federal deficit. But once again, the track record of the states demonstrates that such pledges mean little. During the past two decades, actions by states to raise taxes have resulted in higher spending, not lower levels of debt. States raising taxes have not improved their overall fiscal condition in the long run; rather, higher revenues simply have encouraged state legislators to vote for more government spending.

The highly publicized fiscal crisis now confronting the Northeastern states is a dramatic case in point: New York, New Jersey, Connecticut, Massachusetts and New Hampshire are struggling to avoid sinking deeper into debt. Yet the rise in tax col-

lections in the region has outpaced the rest of the states by almost 25 percent during the last four years.

It now appears that the availability of tax revenues is the only budget constraint limiting the size of government. With government now consuming more than one-third of gross national product, and taxes back up to their pre-tax revolt levels, the United States is at a critical point. The state experience shows not only that raising federal taxes further is likely to make the budget deficit picture worse, but also that it could derail nearly seven years of economic expansion.

COMMITTEE TO LOOK AT THOSE "FALLING THROUGH THE CRACKS"

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. HAWKINS. Mr. Speaker, on November 3, 1989, the Education and Labor Committee will continue its series of hearings on H.R. 2039, the Job Training Partnership Act Admendments of 1989. We are anxious to hear from expert witnesses about the best ways to better target the JTPA Program to the economically disadvantaged adults and youth with the greatest need for employment and training services.

As we begin the last decade of this century, there will be a shortage of over 23 million Americans willing and able to work. By the year 2000, the vast majority of new entrants to the work force will be women, minorities, and immigrants. It is these very individuals who are disproportionately poorly educated, or lack the employability skills needed for current and future job opportunities. They often find themselves stuck in marginally productive, low wage jobs, or have no job at all.

These workers represent America's future, yet our Nation is currently failing to adequately prepare them for the challenges of the labor market. These members of our society are the intended recipients of Federal education and training programs, yet experience has shown that they often do not receive the needed assistance, and end up "falling through the cracks" of our schools, training programs, and other support services.

Various reports have been issued which document underrepresentation of Hispanics and blacks in JTPA programs. For instance, the National Council of La Raza's Policy Analysis Center, in its report entitled, "Falling through the Cracks," found that Hispanics have been falling through the cracks of the JTPA system since its inception in 1983.

JTPA's intent was to address the persistently high rates of unemployment, functional illiteracy, high dropout rates, long-term welfare dependency, and limited job skills that typify hard-to-service groups. The report concluded that five factors have contributed to JTPA's underrepresentation of Hispanics.

First, the structure of the performance standards system that does not provide adequate incentives to train the hard-to-serve groups; second, the reduced role of community-based organizations in policy decisions and service delivery; third, the extensive influence of the business community in the Private Industry Councils [PIC's] in selecting and serving the more job ready clients instead of those most in need of employment and training services; fourth, the very limited availability of supportive services for participants; and fifth, the major role of the States in determining whether and to what extent the hard-to-serve will be targeted.

The report recommends that Congress change the national performance system to provide adequate incentives to reach hard-to-serve groups, encourages more funding for supportive services, and provides some other thoughtful suggestions for strengthening the current JTPA delivery system.

H.R. 2039 seeks to address these and other constructive criticisms that have been made over the last several years. We plan to hear from a broad representative group of witnesses this Friday and are optimistic that their testimony will help us to further refine proposed changes to JTPA.

FEMA FUNDS MUST BE SPENT WISELY IN VIRGIN ISLANDS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. COUGHLIN. Mr. Speaker, it has been over 6 weeks since Hurricane Hugo slammed into the U.S. Virgin Islands with its 200-mile-per-hour winds, leaving the islands utterly devastated. Though the cleanup and relief efforts continue daily, a return to normalcy on the islands is far from in sight. I would, however, like to commend the Federal Emergency Management Agency [FEMA] for its work in this uniquely difficult situation, despite the seemingly slow proceedings in the Virgin Islands.

It is a uniquely difficult situation not only because FEMA is also involved in relief efforts in the Carolinas and San Francisco, but because St. Croix, St. Thomas, and St. John are islands. In the case of St. Croix, it's an island virtually cut off from the rest of the world, save the efforts of the U.S. military.

Currently, FEMA is pouring nearly $185 million into the Virgin Islands in the form of public assistance grants, individual and family grants, and direct Federal assistance. Though I have been assured that FEMA is monitoring each application and is performing various spot checks, I feel that Congress must be certain that funds are not being siphoned off for personal gain or used in such a way as to create long-term dependence. FEMA must be held accountable for the funds that are distributed, or Congress will find itself time and again receiving requests for additional funds.

Why do I feel that Congress must scrutinize the work of FEMA so closely? Last month I led a congressional delegation to St. Croix and Puerto Rico to survey the storm damage from Hugo. We saw first-hand the lack of response from the local governments immediately following the storm and the result of abdication of responsibility by the local law enforcement authorities.

Just recently, I was reminded of what I had seen and heard when I read the following article by William Branigin which appeared in the Washington Post on October 31, 1989:

A SLOW RECOVERY FROM "12 HOURS OF TERROR"—6 WEEKS AFTER STRIKING, HURRICANE HUGO STILL HAUNTS VIRGIN ISLANDS

(By William Branigin)

CHRISTIANSTED, U.S. VIRGIN ISLANDS—Six weeks after Hurricane Hugo lashed the Caribbean, damage in the Virgin Islands—particularly St. Croix—is extensive. Debris is being cleared, and full electricity and telephone service are not expected for months. But the psychological scars from what happened when Hugo's winds stopped howling may take longer to heal.

Combined with lack of leadership from a territorial government widely denounced here as inept, the massive destruction, likened by some St. Crox residents to a nuclear holocaust, produced a sort of "day after" effect marked by a major breakdown of law and order.

Three days of near-anarchy followed Hugo's terrible passage during the night of Sept. 17-18 and prompted President Bush to dispatch about 1,100 Army military police and 170 federal law-enforcement officers, including 75 FBI agents and a "special operations group" of the U.S. Marshals Service.

Their deployment Sept. 21 quickly quelled what the Federal Bureau of Investigation called in court documents here "pervasive looting" on St. Croix, the worst hit of the territory's three main islands.

Most of the marshals have been withdrawn, but military police from the 18th Airborne Corps patrol in camouflage fatigues and purple berets, and many nervous residents said they want them to stay.

Although casualties on St. Croix were relatively light—two killed and about 80 hospitalized as a direct result of the storm—property damage was far worse than that suffered by Californians in the recent earthquake there, relief officials said.

As many as 90 percent of the island's buildings were damaged, communications and transportation were knocked out and for a time, St. Croix's 55,000 people were simply cut off from the world.

"If California had 15 seconds of terror, this was 123 hours of terror," schoolteacher Pat Oliver said. "As far as we knew, the rest of the world had disappeared."

Maj. Gen. Robert Moorehead, commander of the Virgin Islands National Guard, said of the scene on the morning after the storm, "in all my military experience, I had never seen anything like it. It appeared to me that we had been the victims of a nuclear blast."

Not only was Christiansted strewn with uprooted trees, broken utility poles, shattered cars and tons of debris from buildings that looked bombed, but the verdant tropical island suddenly had turned brown. So strong were Hugo's winds that most trees still standing were shorn of leaves.

This desolate, end-of-the-world landscape and sense of isolation contributed to the disorder that followed, authorities said.

However, some residents want the federal government to investigate the performance of the government and security forces of the Virgin Islands, a U.S. "unincorporated territory" with about 110,000 residents. Of the three main islands, all purchased from Denmark by the United States in 1917, St. Croix is the largest.

The breakdown in order after the hurricane also has prompted much soul-searching about the behavior of Crucians, as people of St. Croix are known, since the

looters included not only poor residents of public housing projects but also prominent citizens.

The U.S. attorney's office has charged 15 such persons with offenses ranging from grand larcency to possession of stolen goods. They include a former St. Croix senator and gubernatorial candidate who was police commander in Frederiksted at the time of his arrest, the vice president of a bank, a Christiansted civic leader and a restaurant owner.

FBI special agent Harry Brandon, who headed the federal law-enforcement team sent to help restore order, said the cases focused on alleged "major" looters, adding, "There was no way we could identify and prosecute thousands" who participated in looting.

Among Crucians calling for an investigation is Michael Yohn, a retired Foreign Service officer. "My impression is the Virgin Islands government will try to stick its head in the sand and forget about it," he said of the chaos. "What we had here was an absence of any kind of civil control and massive civil disorder under the American flag. It doesn't happen very often and when it does, it ought to be looked at."

The breakdown also precipitated a stream of angry letters to local newspapers criticizing Virgin Islands public officials, notably Gov. Alexander Farrelly and Moorehead, a Virgin Islands native who retired as an Army colonel in 1987 to take command of the 900-member Guard unit.

Another target of ire is Ron de Lugo, the islands' delegate in Congress, who attempted "to play down the devastation done by the looting," according to one writer of a letter to the editor of the St. Croix Avis.

Defenders of the territorial government, based on nearby St. Thomas, have contended that media reports of the looting overshadowed the extensive destruction.

Residents insist that Hugo's winds gusted at more than 200 mph and spawned highly destructive tornadoes. Moreover, the storm stalled over St. Croix, moving at about half of its previous speed and unleashing its fury over a longer period.

At the Hess oil refinery, the largest in the Western hemisphere, the wind crumpled huge storage tanks like paper cups and sucked out the oil. The crude was spewed over a wide area, contaminating beaches and water supplies. Damage to the refinery is estimated at $100 million.

As of last week, less than one-fourth of electric power had been restored, as crews from a half dozen states and Guam battled severe logistical problems. About 26 percent of a debris-clearing project on public roads had been completed, and efforts to clear private property had not begun.

"We face a massive dig-out operation before we start with the recovery phase," said Steve Singer, the Federal Emergency Management Agency coordinator for St. Croix. "We're just getting out of the emergency phase. Some of these projects are going to take months and years."

For many islanders, however, looting compounded the tragedy. "The economic impact . . . will be felt for years," said one recent letter to the Virgin Islands Daily News. "But more important, we have disgraced ourselves in the eyes of the world."

Although the history of racial friction on the island, where 85 percent of the populaton is black, inevitably intruded into the debate, officials and residents generally concurred that most of the looting was motivated by greed.

"I lay it to complete, rampant, hysterical materialism," real estate agent Bruce Wilson said of the looting.

The plunder started on the day after the Sunday night storm, as panicky islanders sought to stock up on food. It quickly degenerated into a free-for-all grab of all sorts of consumer goods that some witnesses likened to a "feeding frenzy." With no police or National Guard members attempting to restore order, many looters stole merchandise and trashed stores.

Although personal violence was rare, some occurred. An American dentist was struck on the head with a 2-by-4 while trying to photograph looting, and one alleged looter was fatally shot by a store owner in Frederiksted. The best-organized merchants proved to be Palestinian immigrants who took up arms and manned rooftops and barricades to defend their stores.

At times, looting took on what several residents described as a "carnival atmosphere." In one shoe store, looters were seen trying on shoes to make sure they took the right size. Others carrying stolen goods under their arms would stop in the street to chat, witnesses said.

Among those arrested is Capt. Adelbert Bryan, Frederiksted police commander and a prominent politician who won 35 percent of the vote in the last election for governor. The FBI charged him with looting building materials from a lumber and hardware store.

Albert Bryan Sr., a bank vice president not related to the police chief, was arrested with his wife on charges of looting various items, among them, according to an FBI inventory of property seized at his home, a riding lawn mower, a window air conditioner, a scuba mask, a video game and two rubber rafts.

Another family opened a business after the storm selling looted items, some with Woolworth's price tags still on them, court documents said.

Restaurateur Michael Harris was charged with taking jeep loads of food and beverages from two grocery stores to supply his Ritz Cafe, the target of an informal boycott since his arrest.

Most troubling for many people, however, was the apparent insouciance of the police and National Guard, some of whose members were looters, witnesses said.

"I watched people looting while Gen. Moorehead was standing right out there directing traffic" a couple of blocks away, one U.S. law-enforcement official said angrily. At one point, the official said, "a guy with a National Guard uniform told me to go into a store and 'take what you need.' Why? Because the National Guard was looting, too."

In any interview, Moorehead staunchly defended the Guard's preparedness and performance, insisting that "you've got to make priorities, and the first priority was protection of life." He said he "saw the beginnings of looting on Monday afternoon" and "witnessed rampant looting" the following day, but lacked manpower to stop it. He said about 85 guardsmen reported for duty after the storm out of an "available force" of 490.

Moorehead, 48, who described himself as a "crisis management" specialist at the Pentagon before Farrelly proposed he take over the National Guard, and he never saw guardsmen "involved in looting." However, he added, it was "reasonable to assume" that, since the force "is a reflection of the community," some "lesser disciplined" elements did participate.

Mr. Speaker, again, though I commend the efforts of the FEMA in the Virgin Islands, as a Member of the VA, HUD, and Independent Agencies Appropriations Subcommittee I must insist that Congress watch closely how Federal funds are spent, or we will be spending money on this recovery until the cows come home.

IN MEMORY OF ARNOLD PICKER

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. SCHUMER. Mr. Speaker, I call your attention to the death of a dear friend of mine, Arnold Picker. Mr. Picker, a former film industry executive and Golden Beach mayor, died on October 11, 1989.

Mr. Picker began his career by following in his father's footsteps. In 1935 he started with Columbia, where his father had been an executive, and worked his way up the company's ladder to become head of international distribution. He then joined United Artists where in the 1960's he was made an executive vice president. His motion picture career ended and political career began when, President Johnson named him to the International Commission on Education and Cultural Affairs.

In 1972, Arnold served as the finance chairman of Senator Muskie's Presidential campaign and in 1976 he worked as a top fundraiser for "Scoop" Jackson's campaign. Arnold Picker was so effective as a liberal advocate that he was singled out by President Nixon's reelection strategists as the top target of a list of 17 people chosen for political attacks or government investigations. This list came to light during the Watergate scandal. Mr. Picker was elected mayor of Golden Beach in 1979.

Although Arnold's career in the motion picture industry ended in the 1960's, he continued to be an active force in the field. He helped establish the Washington-based American Film Institute 25 years ago, of which his niece, Jean Picker Firstenberg, is now the director.

Finally, Mr. Picker was dedicated to the fight against prejudice and anti-Semitism. In his last years, he served as chairman of the board of the National Center for Jewish Film. The center at Brandeis University is dedicated to restoring Yiddish film classics. In May, the New York Museum of Modern Art honored Mr Picker and his wife Ruth at the premiere of the restored "Dybbuk," a 1937 Yiddish film made in Poland. He also helped found the Holocaust Documentation and Education Center based at Florida International University.

On a more personal note, I knew Arnold for almost 10 years. He was one of those rare people who enriched my life just through the experience of coming to know him. He was decent, kind, and compassionate. Whenever we spoke on the phone, his ability to focus on the big picture would often spark me out of day-to-day thinking, which it is so easy to fall into. He was a patriot in the truest sense of

the word, always coming up with new ways to better this country. I offer my deepest condolences to his wife and family whom he cared for greatly.

Mr. Speaker, please join me in paying tribute to Arnold Picker's diverse life and significant accomplishments. He never lost sight of his vision nor his beliefs.

XEROX CORP. RECEIVES BALDRIGE AWARD FOR MANUFACTURING EXCELLENCE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. LAFALCE. Mr. Speaker, it was announced earier today that the Xerox Corp. will receive the Baldrige Award, the Nation's top business award, in a ceremony tomorrow at the Commerce Department. The award, which is named in honor of the late Commerce Secretary Malcolm Baldrige, will be given this year to Xerox in recognition of its excellence in manufacturing.

Before being given its award, a team of five examiners closely reviewed Xerox's operations. The team, in fact, spent 2 days in Monroe County, NY, looking at Xerox Tower and the operations at the Webster complex.

As the team discovered, Xerox has made tremendous progress since launching its "Leadership Through Quality" Program 5 years ago. The rate of defects in Xerox machines has been reduced by 93 percent. Manufacturing costs have been cut in half and customer satisfaction, according to company surveys, has risen by 38 percent.

Tomorrow's award is, of course, a resounding vote of confidence in this record of achievement and in the workers and managers at Xerox. Further proof, however, can be seen in the company's sales performance. After its share of the U.S. copier market slid to 10 percent in 1984 from 18.5 percent in 1979, its sales last year accounted for 13.8 percent of the market. At a time of fierce international economic competition, Xerox has shown that American companies can effectively compete in domestic and world markets.

I would like to join the President and the Commerce Department in saluting this tremendous record of achievement and to extend special congratulations to the workers and managers of the Xerox operations in Monroe County, all of whom can be justly proud of their contribution.

SECRETARY LUJAN'S INPUT IS NEEDED ON ENERGY POLICY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. RAHALL. Mr. Speaker, I welcome and applaud Interior Secretary Manuel Lujan's announcement that he intends to set up working groups on oil and gas production, coal production, energy tax policies, and global climate changes within the context of the Bush administration's deliberations on a national energy policy.

Few would argue against the pressing need to implement and stick with such a policy in this country.

As it stands, Energy Secretary James Watkins has taken the lead within the administration to develop an official energy policy for the United States. To Secretary Watkins' credit, the Energy Department has sought to gain public input for a new national energy policy by holding several meetings across the country.

However, I strongly believe that the Interior Department should have a seat at the table when the administration hammers out the final policy. It is, after all, the Interior Department that, on a daily basis, deals with the regulation of the Nation's coal industry and is responsible for the management of energy resources on our public lands and offshore areas.

Frankly, and with all due respect, from what I can tell the word "coal" has never been spoken by Energy Secretary Watkins. It is my fear that the type of energy policy Secretary Watkins may envision entails using natural gas as a bridge fuel to a nuclear future. However, input from an agency with expertise in natural resource issues such as the Interior Department may assist getting coal on the energy policy agenda, and I would urge Secretary Lujan to do so.

RURAL ECONOMIC DEVELOPMENT ACT OF 1989 INTRODUCED

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. COLEMAN of Missouri. Mr. Speaker, today I am pleased to introduce, along with my colleague Congressman ENGLISH, the Rural Economic Development Act of 1989 which will serve as a blueprint ensuring the future of small-town America. In passing this bill, Congress will be taking the bold but necessary steps to focus the Federal role in the economic development of our Nation's rural areas.

This bill goes beyond just improving current programs. It will make available to rural communities the modern technology, current information and technical assistance they need to plan for a secure future. Our approach avoids the mistaken view that the Federal Government has all the answers while recognizing that it has an important role in providing local and State leaders the tools they need to create economic diversity in their communities. With this bill we make the Federal Government a willing partner, not a big brother, to local rural development leaders.

The Rural Economic Development Act of 1989 has a number of significant provisions but here I want to mention several of the most important ones.

First, the bill reorganizes the Department of Agriculture to improve the efficiency of both its traditional agricultural programs and its growing rural development functions. It will focus those functions by placing them in a Rural Development Administration designed to get the maximum benefit from every Federal dollar invested in rural community programs. The reorganization will benefit all rural Americans including the farmers and producers who will continue to have their strong voice in the Department while seeing improved assistance to their own rural communities.

Second, the bill makes important changes in the delivery of critical development-related programs that will be shifted to the new Rural Development Administration. The most important change will allow the Secretary of Agriculture to transfer funds from some existing programs into others so that local and State leaders can be more flexible in meeting local economic development priorities. The bill also promotes State and local cooperation to encourage regional planning so that neighboring communities are working together not competing for precious development dollars.

Third, the bill will make available competitive grants to nonprofit institutions such as land grant colleges and universities, to help finance Rural Technology Centers for development of new high-technology products, processes and marketing techniques tailored for production in rural communities. Just as waterways, railroads, and highways were critical to the growth of our Nation in the past, technology will fuel growth in the future. Through computer science, electronics and fiber optics, rural areas can be brought fully into the mainstreams of American business, commerce and education. Technology will greatly reduce or eliminate the barriers of distance and location that have handicapped rural communities in the past. I have often cited the example of Citicorp's moving its entire credit card operation from New York to South Dakota. This was made possible by the kind of applied technology this bill will promote in rural communities across America.

Mr. Speaker, a personal note in closing. For more than 3 years I have worked for a Federal rural development policy that will promote a sound economic future for the Nation's rural communities and the millions of Americans who call them home. With the Rural Economic Development Act of 1989 we have that policy and I urge my colleagues join me in supporting its quick passage.

TRIBUTE TO MR. WILLIAM TALBERT BRINGHAM, SR.

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. HYDE. Mr. Speaker, I want an opportunity today to express my heartfelt gratitude to Mr. William Talbert Bringham, Sr., an individual who has dedicated much of his career to developing the talents of young Americans.

In January, Bill will retire as chief operating officer and president of Sigma Chi Fraternity, an important social, educational, and charitable organization he has led for 35 years.

Under Bill's leadership, our fraternity has doubled in size and increased its philanthropic presence in a number of projects including the Cleo Wallace Center in Colorado, a nationally

recognized center for emotionally disturbed and behaviorally disordered children. Through the Sigma Chi Foundation, hundreds of college-age students annually receive education tuition financing and participate in leadership training programs.

Here in Congress, Bill has been instrumental in strengthening the fraternal bond of Sigma Chi members in both the House and Senate, for which I am personally grateful.

A resident of Wilmette, IL, Bill has been a most active member of this Chicagoland community. Among his many civic duties, Bill was a former chairman of the Wilmette Fire and Police Commission, and a former city trustee.

His presence, I'm sure, will be sorely missed in the halls of Sigma Chi's Evanston, IL, headquarters. I join thousands of my fraternity brothers to wish Bill all the best.

CATASTROPHIC BENEFITS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. SCHULZE. Mr. Speaker, something must be done to provide catastrophic benefits for the elderly without imposing heavy tax increases. Without catastrophic benefits, thousands of older Americans will accumulate massive debts to pass on to spouses and relatives, or worse yet, will go without appropriate health care. The Senate found an equitable solution to this problem. Today, I am introducing this same bill in the House.

My legislation retains core catastrophic benefits including long-term hospitalization protection, Medicaid expansions, and mammography screening. It, however, does not include any supplemental premium or tax. The benefits will be paid for by an increase in part B premiums, an increase which is smaller than the one called for by current law.

While this bill does not serve all the needs of the elderly such as long-term care, this proposal is far better than current law. I ask my colleagues to give serious consideration to this proposal for all older Americans and future generations to come.

CUBAN "PLANTADO" DECLARES LIQUID STRIKE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, long-term Cuban political prisoner Alfredo Mustelier, who last week, in a letter smuggled out of Cuba, declared a hunger strike, has released another letter to the international press announcing he will now abstain from liquids as well. The letter was received by a cousin in Florida, Mr. Rodolfo Mustelier of Tamarac.

Alfredo Mustelier was imprisoned in 1969 for his opposition to the Castro government. He began his hunger strike to protest his continued imprisonment, a violation of the current Cuban Penal Code, which limits prison terms to 20 years. Mr. Mustelier completed 20 years in prison October 27.

Last week, two other long-term political prisoners, Ernesto Diaz Rodriguez—21 years—and Mario Chanes—28 years—will follow Mustelier on consecutive hunger strikes when he is either released or dies.

In the letter, Mr. Mustelier stated the following:

I hereby denounce before the Press and World Public Opinion that after three days on hunger strike demanding my freedom, to the indifference of the Cuban government, today I shall start one of the most terrible and drastic strikes—a thirst strike.

I am aware of what this strike represents to my health and to my life, because it is not the first thirst strike I have suffered. I recall that on April 26, 1987, the top command of the Ministry of the Interior ordered that I be deprived of water for four days. Only the solidarity of my fellow inmates rescued me from death.

Today, all there's left for me is Liberty or Death, but I will live or die with my inifinite faith in man and his human solidarity.

God, fatherland and liberty.

We must do all we can, Mr. Speaker, to continue the pressure on Fidel Castro's regime so that Mr. Mustelier and all political prisoners can be released.

MARGARITA CALVO: AN EXEMPLARY TEACHER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. KILDEE. Mr. Speaker, I rise today to honor Mrs. Margarita Calvo, an exemplary teacher from my hometown of Flint, MI. Mrs. Calvo is being honored by the citywide bilingual migrant parent advisory council of the Flint School District for her many years of outstanding service to the Flint community.

Margarita Calvo came to the United States as a refugee in 1960 from her native Cuba. She received her bachelor of arts degree from the University of Oklahoma, and undertook graduate studies at the University of Oklahoma as well as Eastern Michigan University and the University of Michigan-Flint. Mrs. Calvo received her bilingual endorsement from Saginaw Valley State University. She has also received the State of Michigan permanent secondary teaching certificate.

Mrs. Calvo has spent virtually her entire professional career striving to improve the educational opportunities for migrant workers and their children. Her contributions to bilingual education include: assisting in the planning, development, and implementation of the bilingual program at Flint Central High School; participating as a member of the committee responsible for drafting the plan for bilingual/multicultural education in the Flint School District; assisting in the writing of the title VII proposal for Flint Central High School; and developing the English-as-a-Second-Language [ESL] Program for limited English proficient students. Mrs. Calvo has also involved herself in many charitable causes such as conducting a fundraising drive to assist the victims of the 1985 Mexican earthquake and organizing a clothing drive to assist Cuban refugees.

Her many activities to promote cultural awareness among the Flint Hispanic community have been recognized at both the local and State level. Her leadership in the bilingual program at Flint Central was recognized by Michigan State University, the Michigan Department of Education, and by Gov. James J. Blanchard. There is no doubt that Mrs. Margarita Calvo has left a lasting imprint on the educational system in Flint.

Mr. Speaker, it is indeed a honor and a pleasure to come before the U.S. House of Representatives to pay tribute to Mrs. Margarita Calvo—a teacher who has dedicated her life to improving the educational opportunities for migrant workers and their children. She has been, and continues to be, a positive role model and inspiration for those in our community striving to provide equal educational opportunities for all our children.

TRIBUTE TO MARY CHANGE CLANCY

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. SANGMEISTER. Mr. Speaker, I rise today to pay tribute to an unsung hero who through her unselfishness and dedication to helping others has touched the lives of many people over her 91 years of life. Mary Change Clancy is a lady that truly deserves recognition for her continuous efforts to assist others. She will be honored by the Village of Glenwood at a ceremony on Veterans Day.

Mary was born in Chicago on May 1, 1898, being one of nine children born to her Italian immigrant parents. She attended Bright Elementary School and Bowen High School where she completed the 2-year secretarial program. She was working at Ingersol-Rand Corp. when her desire to help in World War I caused her to enlist as a Navy Yeomenette. Mary left the comfortable and familiar life she had enjoyed in Chicago, and went to Washington, DC, to serve at the Navy Hospital during 1916 and 1917. After the war, she returned to Chicago continuing her career as a medical stenographer at Illinois Central Hospital.

Mary married Patrick Leo Clancy on November 27, 1930, in St. George's Church in Chicago. The couple had one daughter, Mary Ann. Mary was a loving and dedicated mother and she stayed home with Mary Ann until she entered high school. Mary then returned to the work force as a Chicago Police Department

crossing guard. She was assigned at the intersection of 88th and Ashland and became a part of the neighborhood community during the 10 years she was assigned that post. Everyone trusted Mary would be on the job rain or shine and parents enjoyed the confidence of knowing she was there to help their children safely across the busy street.

Mary currently resides at Glenwood Terrace Nursing Home. She can be proud of her life of service to her country and community. I am pleased to bring attention to the public service efforts of Mary Change Clancy. I am sure my colleagues will want to join me in commending such a special lady.

THE DURBIN/SANFORD SCIENCE AND MATH TEACHER BILL

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. DURBIN. Mr. Speaker, our Nation's approach to math and science education is failing us.

Ten years from now, the United States will need a million more chemists, biologists, physicists, and engineers than it will graduate. Half of new math and science teachers in America are not qualified to teach their subjects. The number of American college students majoring in math and science is shrinking, and the scientific performance of American high school students is falling behind our competitors around the world.

How have we responded to this critical shortage of math and science teachers? The educational community has lowered entry requirements. The Federal Government has invested our limited funds on generally ineffective student scholarships.

We need a new approach, which is why I have joined with Senator SANFORD in drafting the Science and Mathematics Teacher Retention and Recruitment Act. Our proposal would provide carefully targeted tax benefits to qualified educators and professionals, both to keep and attract math and science teachers in our elementary and secondary public school classrooms.

Mr. Speaker, given the shortage of direct Federal funding for education programs, I believe our bill represents an innovative and effective new way to protect our future. I urge my colleagues to consider and cosponsor our bill.

PRODUCT LIABILITY REFORM

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. THOMAS A. LUKEN. Mr. Speaker, I rise to commend to my colleagues an excellent piece of investigative journalism by Forbes magazine. It makes a compelling case for the urgency with which Congress must act upon product liability reform, as is proposed in H.R. 2700, and I especially wish to bring this article to the attention of those distinguished members serving on the Commerce Committee.

"Roll over, Wall Street. Meet the real champions of the great American greed game: the plaintiff attorneys—lawyers who specialize in suing," writes Forbes reporters Peter Brimelow and Leslie Spencer in the October 16 issue of Forbes magazine. In this article, entitled "The Plaintiff Attorneys' Great Honey Rush," Forbes identifies the best paid lawyers in America. Not surprisingly, at least 6 of the top 10 multi-million-dollar lawyers have made their money from bringing product liability lawsuits.

The Forbes investigation reveals that these product liability and other law, cases apparently have made these lawyers rich beyond reason. One expert estimates that plaintiff lawyers received total fees in excess of $10 billion. While these individual prosper, product liability legal actions cost all of us $80 billion a year directly and $300 billion indirectly, according to Peter Huber, an authority on product liability quoted by Forbes. This "tort law" is just one good reason reform is long overdue in the area of product liability law.

While H.R. 2700, the Product Liability Reform Act of 1989, would not limit the contingency fees collected by these lawyers, it will reduce inordinately high litigation costs by encouraging the prompt and fair settlement of claims, by discouraging frivolous actions, and by providing greater stability and predictability in the system. The need for predictability is recognized by the Forbes reporters in answering the question of why so few have become so rich. They conclude: "In one of those institutional accidents that occasionally happen in a structured but dynamic society, the checks and balances that normally restrain an organized interest group have failed, creating an opportunity to hold the rest of the economy to ransom.

Forbes points out that most of the lawyers have benefited from "the explosion of litigation and awards that has occurred during the last 30 years." In addition to the sharp rise in product liability filings, the article concludes: "Overall, plantiffs are winning more frequently and getting more."

What is the primary cause of what the magazine calls this "powerful emerging trend?" The authors blame "judges arbitrarily deciding to rewrite the law." There is "chaos" that is "highly profitable to the plaintiff bar." The reason is the existence of confusing, often inconsistent laws that allow hundreds of judges in 51 different legal jurisdictions—including the District of Columbia—to reach their own interpretations of liability. In short, the most important first step toward reform we in Congress could take is to make all cases conform to a Federal standard of liability and that is the primary intent of H.R. 2700.

What are the consequences if Congress does not pass H.R. 2700? It is more than the continued enrichment of lawyers outlined in this article, or the high economic cost to the rest of us. It is also the further loss of America's product leadership. As noted in the article, useful products are being kept off market because of the fear of litigation from even unforeseeable misuses of the products. Manufacturers are being forced to curtail research and development, and abandon U.S. markets to foreign manufacturers. As we face growing global competition, now is not the time for us to go slow on legislation, such as H.R. 2700, which promotes America's product leadership.

If you have felt that product liability reform did not deserve a place at the top of the agenda for this Congress, I hope your reading of this article will convince you otherwise. You will learn that: Not all lawyers are created equal—63 top plaintiff lawyers earned a total of $750 million while 71 top corporate lawyers earned only $110 million; 70 percent of every dollar that injured parties received in asbestos claims is estimated to go to lawyers by the Rand Corp.; there has been a proliferation of ever-more-ingenious damage claims; and, punitive damages in product liability cases, upheld only three times in the first 200 years of U.S. history, have become an epidemic; in one study, the average legal award was found to be up 9,100 percent between 1960 and 1984; the close association between consumer advocate Ralph Nader and the trial lawyers is documented by the trial lawyers themselves; and the American Trial Lawyers Association astonishingly disbursed at least $3.9 million during 1987–88 to political office holders.

Forbes points that trial lawyers who take contingency fee cases do perform a valuable public service on a risk/reward basis similar to entrepreneurs. But it notes an important difference—"by shrewdly influencing politics and public opinion, the plaintiff attorneys, in effect, provide for their own growing prosperity," and they further state that this will continue as long as reform moves at a "glacial pace."

In other words, the shame should not be on those who enrich themselves from a system they find, but rather upon those who find a system they have the power to change, and choose instead to delay reform.

THE PLAINTIFF ATTORNEYS' GREAT HONEY RUSH

(By Peter Brimelow and Leslie Spencer)

"We are freedom fighters. We all consider ourselves social engineers. . . . We are crusaders of good. None of us do it for the money, what we are paid is coincidental."—That's Ned Good speaking, Pasadena plaintiff attorney, member of the Inner Circle and on Forbes' list of the highest-earning attorney's in the nation. Good was reluctant to discuss how much money he coincidentally makes in the course of his crusade, but Forbes estimates it's almost certainly more than $3.5 million a year.

Rollover, Wall Street. Meet the real champions of the great American greed game: the plaintiff attorneys—lawyers who specialize in suing.

Top moneymaker in 1988, according to Forbes' count (p. 204), was Houston's Joe Jamail. He made most of his $450 million—our conservative estimate; it could be as high as $600 million—by inducing Texas courts to accept the questionable theory that Pennzoil had a binding contract to buy Getty Oil even though there was nothing on paper. His victim, Texaco, the country's third-largest oil company, was forced into bankruptcy. But Jamail received only a fraction of the publicity Mike Milken got for the $550 million he made with Drexel Burnham back in 1987.

Jamail is merely the most spectacular example to date of a powerful emerging trend. The 62 other plaintiff attorneys on Forbes'

list all made above $2 million in both 1987 and 1988. And Forbes has identified at least 15 more $2-million-a-year-plus suspects, with another 50 in the $1-million-to-$2-million range. Then there are the other 53,000 plaintiff attorney members of the Washington, D.C.-based Association of Trial Lawyers of America (despite its name a plaintiff attorneys' lobby: Defense lawyers are eligible only for nonvoting membership). Given the windfall nature of the attack-lawyers business, any of them might strike it rich with a single case.

One measure of the money flowing to plaintiff attorneys: Yeshiva University's Cardozo School of Law Professor Lester Brickman estimates that their total income from contingent fees—their share of the settlement, apart from their expenses—"exceeds $10 billion."

And their boodle is growing rapidly. The top moneymakers on Forbes' list typically said that they've been hitting the big numbers only for the last decade.

Unlike Wall Streeters, plaintiff attorneys don't have to worry about the stock market's swings. They mostly didn't bother with high-priced Ivy League law schools—in fact, they often say they "didn't learn a thing about practicing law in law school." Walter Umphrey (see list) even told Forbes that he had trouble graduating from Southern Methodist University, which he attended on a football scholarship, because of "a deficiency in English." But he has no deficiency in income: $14.5 million in 1988.

Why has a single, relatively obscure corner of U.S. legal practice created so many million-dollar incomes?

It's a "fearful concatenation of circumstances," to quote a famous early American trial lawyer, Daniel Webster. In one of those institutional accidents that occasionally happen in a structured but dynamic society, the checks and balances that normally restrain an organized interest group have failed, creating an opportunity to hold the rest of the economy to ransom. Other recent examples: stock brokers in the 1960s, who were able to make institutional investors pay full commission rates because stock exchange rules forbade volume discounts; airline pilots in the 1970s, whose powerful unions extorted stratospheric salaries out of an industry straitjacketed by regulation.

How has this happened?

The essential mechanism is simple. Two distinctively American phenomena have interacted: the contingent fee system and the "liability crisis," the explosion of litigation and awards that has occurred during the last 30 years in the previously sleepy area of tort law—the law of accidents and personal injury. Both have been historically unknown in other common-law jurisdictions, such as Britain. And plaintiff attorneys there are a lot poorer.

A startingly large part of the recent massive damage awards goes to the lawyers. Plaintiff attorneys commonly legislators from Dade County," boasts Miami's J.B. Spence ($2.5 million). Corpus Christi's William Edwards says that he and partner David Perry (each $2 million) have spent a total of seven months in the past two years with the state senate in Austin drafting legislation during tort reform battles.

The legislative influence of trial lawyers may extend far beyond such obvious causes as blocking tort reform and attempts to cap damages and restrict contingent fees. Some observers suspect it in the chronic vagueness of many recent statutes, whose meaning must be fought out in litigation. Two other legislative habits that make life nicer for plaintiff attorneys, particularly in the environmental, civil rights and regulatory areas: provision for paying fees of attorneys suing the government—not merely if they win but sometimes even if they just raise a "novel legal argument"—and the provision for private causes of action, so that private individuals can sue to ensure compliance with the law.

This species of forensic vigilantism has attracted Herb ("I'm the best damn lawyer in America—I take shit cases and turn them into gold") Hafif. Hafif (number 2, $40 million) says he has invested around $4 million to $5 million from his practice, primarily personal injury, in prosecuting whistleblower cases against defense companies as permitted by recent legislation. His aim: "to clean up the defense industry."

Plaintiff attorneys take lobbying seriously. ATLA has equipped itself with top professionals: Washington lawyer Tom Boggs ($1.6 million on Forbes' corporate lawyer list), son of former Democratic Majority leader Hale Boggs and Representative Lindy Boggs (D-La.); and Republican-linked consultants Timmons & Co.

Lobbying in a broader sense, the plaintiff attorneys also have a self-described "public interest arm": the three-lawyer, $650,000-a-year Trial Lawyers for Public Justice. TLPI's mandate is apparently to boldly go where no plaintiff attorney has gone before. It pursues both quixotic liberal causes, such as the Christic Institute's RICO suit alleging that a "secret team" of conservatives and ex-intelligence officials mixed drug-running with aid to the Nicaraguan contras; and also ingenious but marginal litigation theories, such as the claim that automakers are liable for crash injuries since the invention of airbags because they have not made them standard.

One student of plaintiff attorneys believes their most effective lobbying is done for them. "They're no-se-ums," complains Victor Schwartz, comparing plaintiff attorneys with the microscopic but painful Vermont bug. "What you see is Ralph Nader."

Nader, after eight years, is back on the inside," head-lined the New York Times this spring after Nader attended a White House signing ceremony for a bill that "tightened protections for federal whistle-blowers." By a remarkable coincidence, similar articles appeared around the same time in major business magazines.

Actually, Nader never went away. He is widely credited with inspiring many of Washington's alphabet-soup regulatory agencies. But perhaps more significant has been his role in encouraging the extension of liability and in suppressing the screams of insurance companies, who get the blame when rates go up but are, in effect, just collection agencies for the plaintiff attorneys. "The [insurance] industry is intimidated by him," says George K. Bernstein, a Washington insurance lawyer.

Nader and the plaintiff attorneys are clearly good friends who go back a long time. Even before he became famous with his 1965 book attacking the Corvair, Unsafe at Any Speed, he published an article on the theme in ATLA's Trial magazine. An ex-Nader-raider is now on Forbes' list—Richard Warren Mithoff (number 10, $7.4 million). Trial Lawyers for Public Justice was founded at Nader's suggestion. Recently Nader was the speaker at the Texas Trial Lawyers Association's annual banquet. "We had most of the Texas Supreme Court there; they were actually sitting up on the stage while Nader was at the podium," says Bob Gibbins ($3.7 million). "Nader supports all of our issues and we support all of his."

How? Do plaintiff attorneys contribute to Nader's organization? (one estimate of its budget: $5 million—raised 55% from individuals, 15% from foundations).

In the past Nader has violently resisted this suggestion, not surprisingly since he has regularly argued that contributions can mean conflict of interest. Former New Republic managing editor David Sanford, in his book Me and Ralph. Is Nader Unsafe for America? described Nader's "hysterical, personally abusive reaction" to a 1972 article in the magazine linking the fact that a Nader organization had accepted a $10,000 check from ATLA to Nader's opposition to no-fault insurance [which he still maintains, unlike other consumer organizations]. The check was later returned in what Sanford called a "cover-up." Sanford, today an editor with the Wall Street Journal, stands by his account. "Ralph believes in an aristocracy of trial lawyers," he says.

Some of the aristocrats are less shy. "We are what supports Nader. We all belong to his group. We contribute to him, and he fundraises through us," says Fred Levin [$7.5 million]. "I can get on the phone and raise $100,000 for Nader in one day," says Herb Hafif. "We support him overtly, covertly, in every way possible," says Pat Maloney. "He is our hero. We have supported him for decades. I don't know what the dollar amounts would be, but I would think it would be very large, because we have the money and he has our unabridged affection. I would think we give him a huge percentage of what he raises. What monied groups could he turn to other than trial lawyers?"

But Joan Claybrook, president of Public Citizen, Nader's core organization, says Public Citizen receives no money from ATLA. And she adds: "We have 50,000 members [contributors of $20 or more]. I would be surprised if there were 20 members of the plaintiff bar among them."

There are plenty of pointed questions that an alert consumer organization could ask the plaintiff attorneys.

Such as: Is there enough competition between them—research suggests their contingent fees tend to "clump" at one-third and 40% of the award—just the sort of suspicious "parallel behavior" that has caused plaintiff attorneys to sue other industries, alleging antitrust violations. Do plaintiff attorneys disclose enough to prospective clients—should they offer a choice of contingent fees or hourly billing? Indeed, why are plaintiff attorneys allowed to demand contingent fees at all in cases where there is plainly no contingency—such as aircrash cases, in which liability is not in doubt as a practical matter, with the result that some plaintiff attorneys have received fees equivalent to $10,000 an hour? Or with successful plaintiff attorneys regularly choosing their cases so carefuly that 95% settle out of court? Or in commercial cases, when the client is not indigent? Do clients have enough control over the expenses that plaintiff attorneys deduct from a settlement? What about practices like requiring all personal injury clients to reconfirm their hurts with particular doctors, at a high price that can be passed to the defendant? (Doctor allies are often defended by the plaintiff attorney in any malpractice suits.] What about allegations that plaintiff attorneys representing union clients sometimes pay kickbacks to the union business manager?

Public Citizen's Claybrook says she "doesn't know the answer" to fee-clumping and disclosure. "I am not a trial lawyer, and I've never gone into the issue." Public Citizen has said that contingency fees should not exceed one-third, and where the award is large "we would hope the lawyer would take less." Otherwise Claybrook defends contingency fees on the standard grounds tha some clients can't afford hourly rates and "a plaintiff lawyer gets paid only when he wins."

Claybrook will have an opportunity to "go into" these issues the next time Trial Lawyers for Public Justice and ATLA's Civil Justice Foundation have board meetings. She's on both.

I saw you earlier today, like sneak thieves in the night, slipping in her without nametags to snoop on our proceedings. A message to you, you medicine men of the oil slick, you fork-tongued serpents of the dollar. You have no need to sneak in here, 'cuz right after this meeting, we are coming after you. I'm, tired of playing defense. . . . All the plaintiff lawyers of America are coming after you, you insurance demagogues, because we owe you one!"

Southern oratory is not dead. New Orleans' Russell Herman (Forbes income estimate: $1.3 million) took time during his presidential address to July's ATLA Annual Convention to direct these fraternal words at another lobby, the National Conference of Insurance Legislators, convening by unhappy coincidence in the same Boston hotel.

About 3,000 plaintiff attorneys came buzzing from all over the country to the weeklong convention. They attended a vast selection of lectures on technical subjects. They honored friendly journalists and judges—Chief Justice Paul Liacos of Massachusetts, and Justice Pascal Calagero of Louisiana, who thanked ATLA President Herman for "helping me continue to win elections." They attended 35 separate "litigation groups" with names like "Silastic Gel Breast Implants" and "Bic Lighters," where they swapped information and strategies. Herman announced that a larger clearinghouse, the ALTA Exchange, is to accumulate "a cavalcade of horrors" for use by ATLA members in personal injury and other cases.

Notwithstanding a luncheon address by cool conservative columnist George Will, the convention's atmosphere was rather like a liberal version of a fundamentalist revival meeting: emotional, evangelical, moralistic. Bob Gibbins described his accepting ATLA's vice presidency as "taking on the cause for the injured and suffering, victimized, minorities and women."

Plaintiff attorneys are an anomaly, like journalists and academics: a professional group whose politics on average are decisively to the left of others of comparable income." There are a few Republican trial lawyers, but few in number," says Pat Maloney. "You can pick them out, because they wear peculiar clothes."

"Most of us are liberal Democrats," say Mike Gallagher ($2.5 million), recommended to Forbes as a token Republican. (But he says he supported Edward Kennedy and Lloyd Bentsen—and contributes to Ralph Nader.) Does he know any other Republican plaintiff lawyers? Gallagher chuckles: "I saw one other one, one time."

Among some plaintiff, attorneys, political alienation runs very deep indeed "I think it's a bitter shame about this society, the Russians have got a more responsive political system than we do," says Herb Hafif, would be cleanser of America's defense industry.

This hostility toward American institutions sometimes even includes Forbes. "Why would Forbes magazine want to be here? asked ATLA Secretary Roxanne Conlin (estimated income: $750,000). "I mean, we sue your readership regularly, and we enjoy doing it very much."

Plaintiff attorneys unquestionably believe their own rhetoric. At least ATLA's Civil Justice Foundation thinks so. Its fundraising leaflet at the convention began: "As a trial lawyer, you profit from your work in many ways—the sweet success of righting an egregious wrong, the triumph of empowering the powerless, the certain knowledge of your role in penalizing wrongdoers."

All this and $10 billion, too.

A specter is haunting the plaintiff attorneys—the specter to tort reform. After 30 years, the flies rocking the honey pot may finally have provoked America to replace the lid.

In 1985-86 insurance rates, forced ever upward and in good part because of raids by the plaintiff lawyers, threatened to close popular public services for want of insurance. The media is publicizing useful products allegedly kept off the market for fear of litigation, notably an asbestos substitute development by Monsanto. Peter Huber's book liability has focused attention on the total "tort tax" on the economy. Huber estimates that individuals, businesses and governments pay at least $80 billion a year directly, in such ways as litigation costs and higher insurance premiums, and a total of $300 billion indirectly, counting the cost of efforts to avoid liability.

Ultimately, this "tort tax" is paid by the consumer. For example, an estimated 55% of the average football helmet's $110 cost is now due to liability insurance costs. Helmetmakers on the margin have been squeezed out of business: In 1970 there were about 18, now there are 2. And sports on the margin are being squeezed out, too: A recent survey found that several hundred colleges and universities have eliminated sports such as flag football, noncompetitive diving, canoeing and hiking because of liability costs.

Partly as a result, sophisticated new tort reform lobbies are emerging—such as North Palm Beach; Fla.'s Coalition of Americans to Protect Sports and the defense bar's Washington, D.C.-based Lawyers for Civil Justice.

But the plaintiff's attorneys are fighting back fiercely. They blame the insurance industry, sometimes striking a public chord, as when California passed Proposition 103, rolling back auto rates. Their argument is made superficially appealing as the rates crunch eases, although this is probably a cyclical phenomenon.

The battle for tort reform is now raging across the states. But it's entirely possible that it could be lost, much as nofault automobile insurance was effectively blocked during the 1970s.

Still, some states have begun to allow courts to assess costs against frivolous actions. Perhaps this is the first step to some sort of "English rule" whereby either side must be prepared to pay the other's costs if their action is unsuccessful. Decisively altering the plaintiff's incentives to litigation, the "English rule" may be the ultimate tort reform.

Without it, the swarming plaintiff attorneys may do to the American economy what labor unions did to the British.

CONGRESS AND THE DEFICIT: STRANGE BEDFELLOWS INDEED

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 2, 1989

Mr. PORTER. Mr. Speaker, it is becoming apparent to me that somebody here in Congress doesn't think that reducing the deficit is a good idea.

OMB just released the official figures for fiscal year 1989 and it shows that Congress hasn't cut the deficit a penny in the last 3 years. In fact, the deficit was actually higher in 1989 than it was in 1987.

This is such dismal news that even Dick Darman couldn't find a silver lining in it.

Gramm-Rudman hasn't led to deficit reduction. Two major stock market adjustments haven't scared us enough to act. The American people know there is a problem, though. Even in the face of the terrible drug crisis, more Americans still cite the deficit as the most important problem facing our country.

Mr. Speaker, we are not doing what we were elected to do. We are not leading. We are not making tough choices. What we are doing is propagating an unacceptable status quo to the detriment to our country and especially to our children.

This is unconscionable and we should all be ashamed.

HOUSE OF REPRESENTATIVES—*Friday, November 3, 1989*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. HOYER].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 2, 1989.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore on Friday, November 3, 1989.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Deliver us, O Loving God, from all the perils that line the paths to health and wholeness and righteousness. Grant us, we pray, the fullness of Your spirit that our lives will show forth in word and deed the promises You have freely given. May we keep our eyes fixed on Your eternal word and the beauty of Your truth. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Washington [Mrs. UNSOELD] come forward for the purpose of leading the House in the Pledge of Allegiance.

Mrs. UNSOELD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT OF REPUBLICAN OBJECTORS FOR CONSENT AND PRIVATE CALENDARS

Mr. MICHEL. Mr. Speaker, I take this time to announce the official objectors from the Republican side for the Consent and Private Calendars.

The Republican official objectors for the 101st Congress for the Consent Calendar will be the gentleman from Pennsylvania [Mr. WALKER], the gentleman from California [Mr. MCCANDLESS], and the gentleman from Illinois [Mr. HASTERT].

For the Private Calendar, the Republican official objectors for the 101st Congress will be the gentleman from Wisconsin [Mr. SENSENBRENNER], the gentleman from Pennsylvania [Mr. GEKAS], and the gentleman from Missouri [Mr. BUECHNER].

ANNOUNCEMENT OF DEMOCRATIC OBJECTORS FOR CONSENT AND PRIVATE CALENDARS

Mr. KILDEE. Mr. Speaker, on behalf of the majority leaders, I take this time to announce the official objectors for the Democratic side for the 101st Congress.

For the Consent Calendar, our official representatives will be the gentleman from Tennessee [Mr. GORDON], the gentleman from Georgia [Mr. LEWIS], and the gentlewoman from South Carolina [Mrs. PATTERSON].

For the Private Calendar, our official representatives will be the gentleman from Maryland [Mr. MFUME], the gentleman from Virginia [Mr. BOUCHER], and the gentleman from Kentucky [Mr. HUBBARD].

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 281) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 281

Resolved, That the following named Members be, and they are hereby elected to the following standing committees of the House of Representatives: Committee on Armed Services: Representative SMITH of New Hampshire; and Committee on Government Operations: Representative ROS-LEHTINEN of Florida.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DOD SHOULD SELL OFF GO-CO'S

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, last year the Congress passed legislation to close obsolete and costly military bases. We must now follow this landmark legislation with an initiative to sell off inefficient Government-owned contractor-operator facilities, or GO-CO's.

The Department of Defense currently maintains over 60 GO-CO's. While originally created to ensure the presence of military production facilities during national emergencies, many GO-CO's today serve as Government-subsidized rental space for defense contractors. While the military services have expressed interest in selling these facilities, they are constrained by GSA regulations which make sell-offs unprofitable.

Mr. Speaker, it is a poor use of resources for our Government to be providing subsidized rent to private companies. I will be introducing legislation in the near future which gives the Secretary of each military department the independent authority to sell GO-CO's, with the revenues being used to reduce the Federal budget deficit. Through this measure, we will promote a stronger, most cost-effective national defense program.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2617 AND H.R. 2618

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bills, H.R. 2617 and H.R. 2618.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AGENDA FOR THE BALANCE OF THE 101ST CONGRESS

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker and my colleagues, there have been various accounts of what is the case with respect to our moving toward adjournment of the Congress and what will be considered and what will not.

The President's position as he laid it out yesterday expressing again his desire to see that his entire program be enacted, I think that may be a little bit unrealistic for one session of the Congress. He still feels strongly about the issue of capital gains. We in the House have done our job, frankly, with an overwhelming vote.

We do not control the flow of events around here. It is over in the other body where, again, by procedural

means the measure can be held up without attainment of a 60 vote to break cloture.

So we have done the best we could here in the House of Representatives.

We will be looking forward eagerly to what comes over to us from the other body by the way of the debt ceiling and those other issues that we have already expressed ourselves on, catastrophic health care, section 89 and several others. And of course, the renewed effort we would like to take on behalf of capital gains.

Frankly there are two sessions to each Congress and there may be a special one from time to time. If we do not get it in this session, I am quite sure we are going to be back next year asking for what we think is right to keep the economy stimulated and the right thing to do for the American people.

PRESIDENT'S SUPPORT FOR ETHICS REFORM

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the House leadership met with the President last Wednesday to enlist his support for a governmentwide pay raise and ethics law reform this year.

As sponsor of the President's "Governmentwide Ethics Act of 1989," I commend their initiative and the tireless work of the House bipartisan task forces this year.

Reform that responds to citizens' demands must include commonsense standards for all three branches of the Government. Conflict of interest laws, postemployment restrictions and gift, entertainment and travel rules need to be substantively addressed. If independent counsels are good for the executive branch, they should be looked at for the legislative branch.

Inclusion of such reforms in our legislative package will do much to restore citizens' confidence in public decisionmaking.

□ 1010

TRIBUTE TO RICHARD J. SULLIVAN, CHIEF COUNSEL OF THE HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE

The SPEAKER pro tempore (Mr. HOYER). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to pay tribute to Richard J. Sullivan, who retired earlier this week after 33 years of outstanding service as chief counsel of the House Public Works and Transportation Committee.

Over the 25 years I have served as a Member of the House of Representatives, Dick provided me with expert advice and guidance on many important transportation projects which directly affected my constituents in the Greater Chicagoland area, and in the State of Illinois. He was instrumental in supporting my efforts to provide funding for the first time from the highway trust fund for urban mass transportation. He also helped to draft legislation to supplement subsidies for the Chicago Transit Authority and to meet the critical transportation needs of the people of this country.

Dick's knowledge of transportation issues, his institutional expertise on the legislative process, and his bipartisan approach gained him the respect and trust of the seven committee chairmen he served under as chief counsel, and all the Members of the House of Representatives. His vision, his guidance, and his suggestions have left a lasting imprint on the resolution of infrastructure and transportation issues in our country.

Dick has dedicated his life to public service. He served with distinction in the U.S. Army during World War II, receiving eight battle stars in recognition of his service in North Africa. He is a graduate of Fordham College and Law School, and began his service with the House Public Works and Transportation Committee in 1957. As one of the founders of the Candlelight Childhood Cancer Foundation, he also worked on behalf of the Ronald McDonald House. In recognition of outstanding and tireless community service, in 1987 he and his wife received the Marie Lombardi Humanitarian Award.

Dick has had an exemplary record of achievement as the chief counsel of the House Public Works Committee, and he will be missed by all of us in the House of Representatives who have had the opportunity to know him and to work with him. I extend to Dick Sullivan my best wishes for a healthy and happy retirement.

THE EXPULSION OF BARNEY FRANK AND "BUZ" LUKENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, for approximately 10 years now I have been a member of the Subcommittee on Health and the Environment—almost as long as I have served in the House. I have enjoyed this assignment as much as any other work that I have been privileged to perform in representation of the 39th District of California.

Early in the 1980's, the subcommittee began to receive reports from various sources of a terrifying and fatal disease. The disease, largely isolated to homosexual men in large urban areas, was labeled by the centers for disease control as gay-related immunodeficiency syndrome, or grids.

Later, as the death toll began to mount, the subcommittee held hearings, began mark up sessions, and passed legislation regarding what is now known as AIDS. As the disease spread from male homosexuals to their bisexual and drug partners, and then into segments of mainstream society, its name changed to accommodate a more heterogenous identity. In an odd twist of reason it was deemed acquired, not gay-related—as if the latter behavior did not lead to the former.

Now I am not a medical doctor of any sort. I am not an epidemiologist. I am a lawyer, the old-fashioned kind that sees the law as the final arbiter of justice, not as a shield for the licentious. The perspective with which I approached the issue of AIDS was strictly founded on common sense as well as our historical experience with bloodborne communicable diseases. My approach was minus any political agenda or animosities toward anyone.

My baptism into this issue came in defense of the integrity of our Nation's blood supply. The CDC had issued a regulation in early 1985 that prohibited IV drug users from donating to the blood supply. IV drug users contributed about 17 percent of AIDS cases nationwide. On the other hand, the same regulation left the window open for "polygamous" homosexuals—I have always assumed the CDC meant "promiscuous"—who they deemed should not donate blood; and also monogamous homosexuals who were allowed free access to the blood supply.

After applying some direct pressure, the CDC altered their regulation. No, the CDC did not say to those who contribute over 70 percent of reported cases that they were barred from donating blood. No, that would have been an offense to homosexuals. Rather, the CDC knuckled down and demanded with the ferocity of a lap dog that all homosexuals should not donate to the blood supply. IV drug users could not. Homosexuals should not.

I immediately learned at the outset of my investigation into the public policy of AIDS that the Federal Government had established a double standard. Standards for one group of AIDS victims who innocently acquired the fatal disease. And another set of standards for a group of AIDS victims whose willful conduct led to the acquisition of the disease.

The more I delved into the issue of AIDS, the more I discovered this dissymmetry. I think I must have asked every witness to be paraded through an AIDS hearing in our subcommittee about this anomaly. I asked witnesses whether or not they felt that curable, communicable diseases such as syphilis and gonorrhea should be confidentially reported to local public health officials and followed-up with contact tracing.

Almost all agreed. All except the most rabid of ideologues who could see

where I was going with the line of questioning. The next question, of course, was whether or not these same procedures should apply to HIV infection. The orchestrated reply among a majority of witnesses was always a resounding no. When asked why, the chorus chimed "because it will drive the disease undergound!"

Once again: the traditional procedures of confidential reporting and contact tracing were sufficient and prudent for a curable communicable disease, but insufficient—even mean-spirited—when applied to an incurable, communicable disease.

Who have we been fooling all these years? My political opponents fail to understand that their reluctance to adopt these traditional public health measures does not hurt the Bill Dannemeyers of the world. This reluctance only hurts the Rock Hudsons and the Stuart McKinneys. Although we have found that the Paul Ganns of the world, decent people who acquired the virus innocently, are also made to suffer and die.

The issue of AIDS has led me to become a relative expert on the subject of the homosexual political movement—the group that has turned our public health care system on its head. I must say that I never dreamed this dubious distinction would be bestowed upon me in my service in the House nor is it an honor I have sought. Nonetheless, I know more about the subject than I desire to know. I have even written a book about it.

For all my concerns, concerns that I do not regret yet that I and the majority of American people could live without, I am told that I am preoccupied with the issue of homosexuality. It has even been suggested that I must be a homosexual myself not able to confront the hellish reality, and hence left to fight against my true feelings. At the very least, a chorus swells from the neighboring California city of Laguna Beach, an enclave for homosexuals, that Dannemeyer spends altogether too much time on the single issue of homosexuality.

Let me try to put my work on this issue into perspective. I am preoccupied with the issue of AIDS and its alter ego homosexuality like a family physician is preoccupied with a client family. No attention needs to be paid to a well family, except maybe for preventative check-ups now and then. But when disease rears its ugly head, the family physician is there to help battle the affliction.

The physician does not create disease. He administers to the afflicted and, in cases of communicable disease, attempts to break the chain of transmission. I have sought to do likewise in my capacity on the subcommittee regarding the issues of AIDS and the Federal promotion of homosexuality.

My involvement with these issues has been an educational experience. From the outset I encountered the antagonism of the political left in response to my pursuit of treating AIDS as a public health issue. Their tactic against me has remained consistent with their ideology: ignore the message and shoot the messenger.

When anyone recommends a public health response to the AIDS epidemic it inevitably impacts the homosexual community. They have been allowed to remain unaccountable to the public health system and so naturally they vehemently object to anyone attempting to correct this flawed policy.

Were the AIDS epidemic not primarily manifested among male homosexuals, this Nation would, at the very least, have an accurate picture of the disease in society. Federal AIDS policy has been held captive by militant homosexuals, an interested bureaucracy, left-wing ideologues in Congress, and a discrete network of homosexuals in both the Federal bureaucracy and Congress.

Now having said this, am I unnaturally preoccupied with homosexuality? That is, does the issue deserve the attention that I have paid it or the attention given it by any other Member of Congress? Let's think about it.

A whole political movement has been created and sustained on a single notion: homosexual sodomy. How clear do I need to be in a description of this behavior? I realize that some Members are nervous at the thought that I might, here, repeat my comments of June 29. I stand by those words. They were relevant then, they are relevant now, and they will be relevant as long as persons attempt to equate the homosexual lifestyle with heterosexuality.

However, I do need to correct any misperceptions that might have arisen due to the visit to Capitol Hill of a few advocates of homosexuality during staff briefings held on September 11. These briefings were not mild lobbying attempts by a few dedicated political novices. The meetings were arranged by the Human Rights Campaign Fund, the Nation's largest homosexual political action committee, and cosponsored by four liberal Members of the other body and six of our own liberal colleagues.

An information packet was handed out at each of the briefings on the importance of reinforcing homosexual behavior in school kids. That's right—reinforcing homosexual behavior in school kids. The relevance of the material in the packet is that the image of homosexuality offered by its proponents is about as benign an image that can be conjured. Reality is quite different.

One document in the packet, "and God loves each one," attempts to persuade the reader that Christian theology condones homosexuality. The document, therefore, serves to rid homosexuals of any moral guilt they may carry. A second document in the packet, part of the HHS "report of the Secretary's task force on youth suicide," serves as the Federal badge of approval for the homosexual lifestyle.

I might add a footnote here that Secretary Sullivan has written me and expressed his concern about this part of the task force report. He has stated unequivocally that the portion of the report dealing with approbation of the homosexual lifestyle does not reflect his personal opinion or the opinion of the Department. In fact, grand efforts were undertaken by some HHS bureaucrats to make sure the Secretary did not see the report before it was released.

Nevertheless, to read these publications included in the briefing packet is to enter a world where societal stigmatization is the root problem of kids confused about their sexual identity. Let's understand this point. Homosexuals say the problem of youth suicide among kids confused about their sexual identities is society saying that homosexuality is immoral.

The HHS report, written by Paul Gibson from San Francisco, leans heavily on the work of Alan Bell and Martin Weinberg, two researchers of homosexuality. I will contrast the claims of one report with the facts relied upon in the other.

In "and God loves each one" there is a subsection entitled "What Do Homosexual Couples Do Together?". Here we learn that homosexual couples sing together, play ball, sit in front of a fire, they shop, hike, garden, and worship. They also care for each other, nurture each other, fight, have fun, hold hands, have eye contact, and touch each other.

Those who remember my now infamous record insertion on June 29, in a section subtitled "What Homosexuals Do," will recall that Bell and Weinberg—the same Bell and Weinberg used as experts by the homosexuals—found that the average homosexual has one thousand or more sexual partners in a lifetime. And that the average homosexual has only one sexual encounter per partner and never sees the partner again after the encounter.

Clearly Bell and Weinberg found that homosexuals do much more than sing, shop, and hold hands. I will respect the sensitivities of some of my colleagues concerning the sexual activities of the average male homosexual. Let it suffice to say that a bit of reflection will lead a person to recognize that even the lowliest of animals do not wittingly conduct themselves in such a manner.

This is quite a different picture than that portrayed by the proponents of instructing school kids in homosexual-

ity. It is an important distinction to understand if Congress is to be asked to seriously consider homosexuality as Federal public policy.

All of what I have said so far is prelude in consideration of my primary reason for taking time on this special order. I just want to make clear my motives to my colleagues and other interested parties. My position has always been that only problems deserve solutions and that, unlike liberals who seek an ever-expanding government, I do not go out of my way to originate problems.

On a personal note in regard to the matter at hand, I have stated on many, many occasions that what two consenting adults do sexually in the privacy of their own domicile is nobody else's business. This would include homosexual sodomy even in States where the practice is outlawed—24 to date. Long ago, society achieved a delicate balance which protects personal privacy as well as the common good.

Unfortunately, as Congress witnesses with each passing session, the pathology of homosexuality will not allow itself to settle for personal privacy. It must seek approbation. Homosexuality seeks the neighborhood bathhouse, or "personals" as the case may be, just as a drunk seeks the neighborhood bar. It finds comfort in numbers of likeminded and behaviored people.

In fact, the guilt-ridden pathology proselytizes. Soon the bathhouse no longer suffices. Other public locations are required to soothe the pathology until the point in time when it demands the approval of all of society, not just the few who are tormented and political ideologues who seek to capitalize on inner suffering. The pathology is only satisfied when all in its path applaude its existence.

It is crystal clear that the public policy issue of homosexuality is not about personal privacy. Privacy is there if they want it. What is at issue here is public approbation and the common good—and not to be forgotten, the integrity of public institutions which still list Congress among them.

Public approbation of homosexuality comes in many forms. What has especially gained my attention has been the ongoing use of Federal tax dollars, directly and indirectly, to propagandize the behavior.

As early as 1969, the National Institute of Mental Health [NIMH] funded a task force on homosexuality with the mandate "to review carefully the current state of knowledge regarding homosexuality in its mental health aspects and to make recommendations for institute programming in this area."

The task force concluded that:

Many people believe that we are currently undergoing a revolution in sexual mores and behaviors. The interest on the part of NIMH in the study of sexual behavior is both timely and in the best tradition of its basic concern with improving the mental health of the Nation.

Recommendations included liberalization of anti-sodomy laws and anti-discrimination protections along with the creation of a center for the study of sexual behavior within NIMH.

I will remind my colleagues who today are so content with the sanctity of the opinions of organized medicine as a defense of current Federal aids policy, that the concensus of organized medicine in 1969 on the issue of homosexuality defined it as a mental illness. Evidently organized medicine was not then deified as it seems to be now in the minds of liberals.

Not to be outdone the Department of State honored the International Women's Year in 1977 by publishing a 60-page booklet entitled Sexual Preference and subtitled Why is Lesbianism a Woman's Issue.

The booklet is an exact reprint of A Lesbian Guide published by the National Gay Task Force, as they used to be called, and had been officially approved by the National Commission on the Observance of International Women's Year. In its pages are lists of lesbian and homosexual organizations in each State as well as community service organizations, homosexual publications and educational films. Lastly, the State Department's booklet concludes with a petition for sanity originally published in Ms. Magazine, February 1975. It asks for signatures and cites the following goals:

1. The repeal of all regulations and the elimination of institutional practices that limit access to employment, housing, public accommodations, credit, government or military service and child custody because of sexual orientation.

2. The repeal of all laws that make sexual acts between consenting adults criminal.

3. The passage of legislation that will guarantee each individual's rights, regardless of sexual orientation, so that those who suffer discrimination for that reason will have the same access to redress as do the victims of discrimination because of race, sex, religion, or national origin.

4. The creation of a social climate in which lifestyles may be freely chosen.

These suggestions were produced at taxpayer expense with the imprimatur of the Department of State.

Just this year alone, taxpayers have been asked to fund so many different items near and dear to the homosexual community that I can hardly wait to see what next year brings. Depending on the success of the Democratic Party to gerrymander the States, perhaps these requests will begin to grow exponentially after the 1992 elections.

We are all aware of the National Endowment for the Arts funding the raunch of the late Robert Mapplethorpe, who managed to contract AIDS in between his pursuit of child pornography and determining the distance certain objects can be inserted in the human body.

I can also point to a United States Postal Service cancellation celebrating civil disobedience at a homosexual bar back in 1969.

Or the $15 million sex study from the National Institutes of Health to determine the sex habits of Americans. This gem would have allowed a known homophile, with an intellectual approbation for pedophilia, to interpret the results of the study for the public.

Or how about the half a million dollars used by the National Research Council to instruct clergy, who believe homosexuality is a sin, to change their views.

Or, I can point to a recent Department of Defense report destigmatizing the security risks surrounding the service of homosexuals in the military. And last by not least, we have the youth suicide report from HHS that tells all who care to read that society is to blame for the deaths of kids who have been led into the pit of homosexual despair.

It is extremely hard not to be cynical about a government that would sponsor such antisocial proposals. Please—just take a moment to reflect on the cause that has given rise to these proposals. Ladies and gentleman, we are not talking about a political philosophy. We are talking about sodomy.

Contemplate the absurdity of the issue at hand. People routinely identify themselves based on their race, age, national origin, regional part of the country, and even their profession. But how many people identify themselves in public based on what they do in bed?

Of course, it is not hard to imagine a group of people who seek out others for specific sex acts. The commercialization of sex is the biggest of businesses these days.

However, it is very difficult to imagine people coming together because of a specific sexual act to establish a political movement, to raise money to promote their behavior, to seek to influence the political process to gain civil rights protections for their behavior, to lobby Congress, to create a legal network to defend a sex practice, to establish their own press, to organize public festivals and parades, to establish political action committees, and to infiltrate professional associations and governments to gain a favorable spin to relevant work products.

This is what has been done in the name of sodomy. Given such attention paid to a sex act, I can only ask "who is really preoccupied with homosexuality?" Surely any rational person would wonder about the judgment of an individual so consumed by a sexual prac-

tice that it would gain a dominant influence in his or her life.

Perhaps a more pertinent question would be why an elected public servant would risk his or her career to pursue a sex act with reckless abandon and regardless of the consequences? This is a fair question. Afterall, more than one political career has been smashed against the rocks of sexual obsession.

Maybe even a better question to ask is why, after a career becomes in jeopardy, is it that some politicians defend to the death their sexual misbehavior? Why would one Member of Congress, self-identified and known to his colleagues because of a preferred sex act, proudly denounce his accusers as unjust while another Member caught with his pants down contritely accepts a deserved punishment?

I am not sure I fully know the answer to those questions. But one thing I am sure of. The peer pressure within a political party correlates highly with a Member's response to guilt. There are other factors that will surely help determine a response, but knowing where your party stands on the transgression makes a world of difference.

The Democratic Party of the United States, the same party that has controlled the House of Representatives since 1954, has unabashedly become the party of overt homosexual political activism. Certainly most Democrats in the House do not ascribe to or condone this behavior. But the leadership of the Democratic Party certainly does, as to the ideologues that consistently draft their party platform.

The charter and bylaws of the National Democratic Party states unequivocally that the party, first, prohibits discrimination on the basis of sexual preference, and second, must institute aggressive outreach programs to homosexuals as part of the delegate selection process to national conventions and at all levels of party affairs—1984 National Convention, resolution E, amends rule 5C.

The leadership of the Democratic Party has lumped together people identified by sodomy, indeed all sexual persuasions, with other traditional political groupings such as ethnicity and the elderly. That is how high this behavior is held within the upper echelons of the Democratic Party.

Is it any wonder that Members of Congress affiliated with this party may feel no remorse about homosexual conduct in general and, specifically, homosexual conduct which leads to the violation of law? What is a person to think after breaking the law because of an obsession with homosexual sodomy and having his party leader state publicly that he is a fine man and a credit to public service?

The Democratic Party will find that the quest for the homosexual vote will be as gratifying as were the Dead Sea fruit. Known as the "apples of sodom," this delicious looking fruit in the eyes of weary travelers was most bitter to the taste and disappointingly inedible.

It is only fair at this point that I make clear that while the Democratic Party is the party of overt homosexual political activism, the Republican Party seems to be giving the Democrats a run for their money on the issue.

I do not need to mention that most of the programs emanating from the Federal Government advocating homosexuality were created in Republican administrations. And if recent events in California are any indication, Republican leaders are dangerously treading down the road to sodomy.

A group of people identified solely by sodomy, I guess Republican sodomy, calling themselves the Log Cabin Club, suggest courting homosexuals is just smart politics. This group would like California Republicans to believe that there are 600,000 homosexuals who are registered to vote in California, and that this bloc could turn any election.

Some Golden State Republicans have swallowed this bait hook, line, and sinker. It does not seem insignificant to them that the Log Cabin Club has a statewide membership of only 800 people. That's 800 out of a claimed 600,000. I can only imagine that there are at least 800 Democrats or independent voters willing to vote Republican were we to stand firm for traditional family values.

Nor does it seem to make any difference that the California Department of Health Services recently found that only 297,000 men in California have had sex with men since 1977. That is about 2 percent of California's population.

Evidently, perhaps conveniently, overlooked is an analysis of homosexual voting patterns published by the homosexuals themselves (Frontiers, December 14-28, 1988). This survey of homosexual voters found that only 16 percent voted for George Bush, and that 63 percent of homosexuals identifying themselves as Republican voted for Dukakis in the last Presidential election.

The great log cabin myth in Republican politics is that homosexuals vote Republican. The great log cabin deception is that "democratizing" the Republican Party on the issue of homosexuality will gain a strong new voting bloc of adherents. The great log cabin reality is to weaken Republican resolve to maintain traditional family values.

I hope the Republican Party does not follow the example of the Democrats. However, I do know that homosexuals who openly identify themselves as both homosexual and Republican have met with high-level White House officials to share their party aspirations.

Regrettably, some party leaders, both elected and nonelected, are being widely quoted by the homosexuals and some news reporters as favoring giving Republican Party charters to homosexual clubs. A good friend to many on my side of the aisle is quoted by the homosexuals as saying:

> We will have people in our majority coalition who may make us uncomfortable, whose agendas somewhat differ from ours * * * our [party] task is conflict management, not conflict resolution.

Lee Atwater, Chairman of the Republican National Committee, has been quoted in the same manner. A resolution was introduced at the California Republican Convention in Anaheim in September that would refuse to equate homosexuality on par with heterosexuality. It won with 59 percent of the vote and yet lost on procedural grounds requiring two thirds of the vote.

The report to Mr. Atwater, who was visiting southern California, was that the party had chosen not to consider the issue of not chartering homosexual Republican clubs. Mr. Atwater responded to the news media thus:

> I certainly support the party position. * * * I didn't come out here to pick a fight with anyone, but I think the party spoke on this matter and I would hope that everyone involved in the party would understand that.

Later, Mr. Atwater wrote to me that:

> The [national] party has chosen not to give special status to Republican organizations on the basis of sexual preference * * * rather, allegiance to our party is premised for all groups on their adherence to the [traditional] value system we have all worked so long and so hard to promote.

Still, the signals are mixed. The Republican Party is by no means immune to the political blasts of the homosexual movement. A California Republican in the other body, according to the homosexuals, has said:

> I don't know what produces differences in sexual orientation. I will tell you that I think members of the Log Cabin Clubs are perfectly good Republicans. They are of a different sexual persuasion. They are not violating any laws. It seems to me that they have the right to political participation. And the party that seeks to exclude them is making a mistake.

So, where does all of this leave us. One party, the Democrats, openly courts homosexual votes and defends the behavior as if homosexual sodomy is a fundamental civil right. The other party, the Republicans, while some of its members are kowtowing to homosexuals, still refuses to legitimize homosexual sodomy in the public arena.

The ramifications of this juxtaposition are stark. For instance, take one Democrat and one Republican both discovered in the course of homosex-

ual misdeeds. The former, we will say, is apologetic, but not contrite. The latter is both apologetic and contrite. Isn't it fair to say that the member whose party leadership condones homosexual behavior is more apt to come under less condemnation than the member whose party leadership has consistently renounced homosexual behavior?

In this hypothetical situation, the sword of Damocles hangs precariously over the head of the Republican. His political career is in deep jeopardy. Ironically, the Democrat, with similar circumstances, is allowed by party leaders to use the same sword of Damocles to carve out a lure for the Cretan Bull!

If you will remember from your school days, Greek mythology has it that as a punishment for his refusal to sacrifice a white bull given to him by Poseidon, the wife of King Minos was cursed with an unnatural obsession for the bull. As a result, the wife had the inventor Daedalus carve out a wooden cow into which she climbed and then waited to lure the Cretan bull into action.

In the same manner as this literary allusion, political cover is provided in this hypothetical situation so that the Member can fulfill sexual passions without the stigmatization of wrongdoing. As we know, however, the wife of the king gave birth to a monstrosity as a result of the unnatural union—a union which haunted the royal family for years. How very apropos is such an ending to our hypothetical member and his party.

A question still remains. How would the House police this hypothetical situation?

Article I, section 5, clause 2 of the United States Constitution provides that:

> Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a Member.

We should all be clear that at issue when the House takes disciplinary action of this latter sort is not whether a Member is guilty of any criminal wrongdoing. At issue is whether or not a Member is unfit for participation in House proceedings. Wrongdoing can be the basis for considering a punishment, but punishment does not depend on indictments or convictions.

This is what the House must decide in all issues relating to disciplinary actions: Is a Member, through his or her conduct, unfit for participation in House proceedings? To discuss these matters in the open is by no means a rush to judgment on any particular case. The Committee on Standards of Official Conduct was created to give all matters a fair hearing. I am quite sure that this type of discussion will not have a bearing on any decisions of the committee.

However, final judgments on disciplinary actions ultimately rest with the entire membership of the House. Because of this, I will give my colleagues two things to consider whenever they are asked by the ethics committee to judge a colleague.

The first is just what qualifies a Member as unfit to participate in the House. Only four Members have ever been expelled in the history of the House. Three for treason prior to 1862, a fourth in 1980 on corruption charges. Other Members have received a recommendation of expulsion from the committee but resigned before House action could be taken.

There really are not many precedents for Members to go on today if they are forced to consider a resolution of expulsion, at least for activities other than treason and political corruption. For instance, there is little to go on concerning cases of moral turpitude. We did have two cases back in 1983 that led to censures, but each case involved violations of standards within our own walls.

A precedent we do not have as yet concerns moral turpitude by a Member outside of this hallowed Chamber. Perhaps this scenario is something House Members should consider. Let me offer another hypothetical example of a Member under House consideration for questions of moral turpitude.

What would our response be to this particular question? Let me make it easy for Members. Let's say, hypothetically, that a Member has admitted to violating several laws, both felonies and misdemeanors, involving moral turpitude. And that the punishments accompanying these illegal violations combine to total nearly 15 years in prison. There are possible unsubstantiated allegations that may or may not be relevant.

Would these activities be sufficient to expel a Member? Could these activities—activities which could result in 15 years in prison—activities admitted to by a Member—could these felonious activities be considered sufficient reason to deem a member unfit to participate in House proceedings? That is one issue I would like Members to consider.

The second issue concerns the political environment in which such issues must be considered today. It is an unfortunate occurrence in this day and age that all of America has been politicized. I can unhesitatingly say, with all candor, that this politicization has been thrust upon all of us by the political left in America. No economic or social stone has been unturned.

By politicized I mean public issues and private actions that are forced through the strainer of politics, washing away objectivity and leaving us with the residual of pure partisanship.

For instance, is it possible for the average citizen to care about the environment today without giving tacit support to environmental political extremists?

Is it possible for the average citizen today to help the truly homeless without being channeled through the machinations of Marxist deadbeats capitalizing on the plight of the displaced?

Is it allowable today for someone to support the handicapped but simultaneously decline the political advances of the ADA lobby without being railed against as heartless?

Is it possible anymore for a consumer to go to the supermarket without worrying what liberal program he or she will be supporting by buying the product of some donor to left-wing causes?

Is it possible for a decent person to provide compassionate service to dying AIDS victims without first being accepted for an approved list of hospices compiled by the homosexual movement?

Good people can no longer be objective. Everything is political. The trivial has been entwined with the controversial. The politics of liberalism has seen to that. As Government extends its benevolent hand to every corner of America, to every subject that requires an opinion, objectivity becomes diminished. Good faith efforts are frustrated. And hearts are made hard and cold.

This is the new civil war: liberalism against America. This is nowhere clearer than in this body. Members cannot vote for good legislation without also approving lousy legislation tacked on by liberals. A perfect example is the congressional pay raise. No Member squabbles with the need to raise the pay of judges and top-level executive branch employees. But the liberals who control this institution will not allow a pay raise bill to come through here without raising their own pay.

Omnibus bills and continuing resolutions force us to approve of ludicrous spending measures for fear of gutting legitimate programs. Our bewildered President is barraged with appropriations bills that contain so many philosophical contradictions that to sign one would be to promote causes antithetical to his Presidency. This is the political legacy of the left.

Unfortunately, this politicization carries over into the environment that we must judge cases of ethics in the House. I can envision circumstances that will force us to vote on the politics of each case and not on the merit of a case. Liberals have left little room for objectivity.

Look at the examples of Ray Donavan, Ed Meese, Ollie North, not to mention former Governor of Arizona

Evan Mecham—a man impeached on allegations from which he was entirely acquitted. Did the liberals scream of a rush to judgment? Have they apologized for their errors?

Let me share with my colleagues the words of a distinguished liberal who once had an opportunity to castigate Ed Meese about his ethics. This gentleman said:

• • • We throw around the phrase ethical standards here, as if there is one immutable natural law written in the heavens defining what constitutes ethical conduct. But what I am going to pursue on some of these matters are . . . how other people might view actions you took which you believe to be perfectly ethical.

□ 1050

If this is the criteria for which a public servant must be judged—that is, how other people might view one's activities—then so be it. What is good for the goose is good for the gander. This is the environment we face in the house concerning future Ethics Committee recommendations.

In conclusion, let me remove myself from hypotheticals. We do not need to consider a hypothetical situation about a Member who has admitted to crimes that would commit him to prison for up to 15 years. There is no lion in the streets from which to keep us from acting on real cases of ethics. It is time for this House to regain its integrity and let the dead bury their dead.

I want to make clear to my colleagues that at the appropriate time in the near future, I will offer a resolution, in one form or another, to expel the gentleman from Massachusetts [Mr. FRANK], and—if his conviction is upheld on November 30—the gentleman from Ohio [Mr. LUKENS].

No Member can legitimately take issue that I have interfered in the jurisdiction of the Ethics Committee by my comments here today. My indirect or direct comments made about Mr. FRANK or Mr. LUKENS have only concerned activities the former has admitted to and the latter has been convicted on. Asking for these gentlemen to remove themselves or to be removed did not begin with me 60 minutes ago.

George Washington Law——

The SPEAKER pro tempore (Mrs. UNSOELD). The gentleman will pause. The gentleman is discussing a matter pending before the Ethics Committee. I would remind the gentleman from California that clause 1 of rule XIV prevents Members in debate from engaging in personalities. Clause 4 of that rule provides that if any Member transgresses the rules of the House, the Speaker shall, or any Member may, call him to order.

The gentleman may proceed within the rules of the House.

Mr. DANNEMEYER. Thank you, Madam Speaker.

George Washington Law Professor John Banzhaf has done extensive research on a case of Member "X." He concludes that Member "X" has publicly admitted to committing crimes, and a refusal to take any action would undermine the public's confidence in the mechanism set up to ensure that Members of Congress abide by ethical and moral standards at least as high as those to which we currently hold attorneys, cadets at the Nation's military academies, high military officials, and even school principals.

Indeed, since the prostitute was prosecuted and convicted for sodomy and his school principal lover was forced to resign, a failure to take any action against a Congressman who commits the same crimes would lead people to believe that lesser rather than stricter standards were being applied.

The Boston Globe wrote, "Were Member X's transgressions serious enough to warrant his departure from Congress? Yes. For his own good and for the good of his constituents, his causes and Congress"——

The SPEAKER pro tempore. The gentleman will cease. The Chair would remind the gentleman, and will repeat again, and will read the Speaker's full statement, clause 1 of rule XIV prevents Members in debate from engaging in personalities. Clause 4 of that rule provides that if any Member transgresses the rules of the House, the Speaker shall, or any Member may, call him to order. Members may recall that on December 18, 1987, the Chair enunciated the standard that debate would not be proper if it attempted to focus on the conduct of a Member about whom a report had been filed by the Committee on Standards of Official Conduct or whose conduct was not the subject of a privileged matter then pending before the House. Similarly, the Chair would suggest that debate is not proper which speculates on the motivations of a Member who may have filed a complaint before the Committee on Standards of Official Conduct against another Member.

Mr. DANNEMEYER. Madam Speaker, I have no longer made reference to a specific Member. I have merely made reference to "Member X."

The SPEAKER pro tempore. The gentleman is referring to newspaper stories which specifically named Members.

The gentleman may proceed within the rules of the House.

Mr. DANNEMEYER. Thank you, Madam Speaker. The conclusion of my comments this morning relates to the duty of the House to act upon the recommendation of the Ethics Committee which will be forthcoming in the not-too-distant future. I can only hope that when this recommendation is forthcoming that each of us in the House will have an opportunity to consider the recommendations of the Ethics Committee, because I am sure they will do their duty that the House directs them to perform, and that when each of the Members of the House has an opportunity to analyze the report of the Ethics Committee and its recommendations to the House, each of the Members in the House will at that time have an opportunity to debate what the investigation has disclosed, and in so doing to determine to what extent, if at all, this House should act as to whether or not an individual should be permitted to remain as a Member of this body.

And with that, Madam Speaker, I yield back the balance of my time.

IMPROVING THE HOUSE SCHEDULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. GUNDERSON] is recognized for 60 minutes.

Mr. GUNDERSON. Madam Speaker and Members, I am not one accustomed to taking time for special orders. As a matter of fact, I know this is the first one I have done this session, and I decided to do it for a couple of reasons.

No. 1, the reality is that this is Friday. This is a day when we should be in session, and other than a pro forma, no business is going to be done here on the floor of the House of Representatives.

It is, I believe, the fourth consecutive Friday where the leadership announced that we would have votes on Friday only to, on late Wednesday or Thursday, make the announcement that there would be no more votes after conclusion of business on Thursday, and so Members tried to the best of their ability to put a schedule together for Friday in their districts or elsewhere. Some succeeded, others did not.

But more importantly, we hear all of this talk in Washington about let us get done with our business and get out of town. Let us see when we can adjourn. I think the question of when we can adjourn, frankly, ought to be irrelevant. The question ought to be when are we going to get our business done, and the reality is that we are far from doing just that.

This Congress convened early in 1989. It convened with the institution of the Congress being at an all-time low in terms of credibility among the American public, something that I am afraid the events of the year have not necessarily contributed to in a positive fashion, but more importantly, we convened with the intent of doing a couple of different things, one of which was obviously working with the President, the new President, and his

agenda and, second, working on the overall issues facing us as a Congress, whether supported or opposed by the President himself.

I am very concerned about that, because if we look at what this Congress has done, we have to be very disappointed, and we have to ask, "Why are we not in session all day today, and why are we not talking about possibly being in session on Saturday, and why are we not focusing on the fact that whether adjournment comes before Thanksgiving or it comes before Christmas or, frankly, it never comes"; we were elected to be the people's body to do the people's work. That has not been done.

I thought I would take a little bit of time and just go down through the list of what this Congress ought to be doing and what this Congress has done. The fact is, first and foremost, every year, the budget. We have passed that original budget resolution, but I think we all are aware that we are supposed to pass a final one in late fall. That has not happened. Apparently it is not going to happen.

Second, we are supposed to deal with appropriation bills. That means the 13 separate funding bills before October 1 of this year, and you know and I know that only two of them have been signed into law. Eleven of them have not.

We are supposed to pass something called budget reconciliation where we reconcile each and every one of our programs to live within the budget arrangement that we have imposed upon ourselves. Obviously we are not even close to passing something called budget reconciliation.

We have dealt with an emergency supplemental. It was kind of a crotchety fashion in which we dealt with that issue, going through a couple of vetoes, going through a lot of big fights, failing to get the Veterans' Administration the funding that they needed for a long period of time, and finally getting an emergency supplemental passed.

□ 1100

We are supposed to deal with the debt limit. Some say we should have completed that work this week.

Obviously now we have a new crisis focusing in that area next week. Certainly the whole area of FSLIC and the crisis with the FSLIC insurance fund has been around and that has been one of the issues we have dealt with.

Catastrophic, the problems in the eyes of the senior citizens community in dealing with that issue; section 89, what it means for our small businesses; capital gains, probably the No. 1 economic priority of the President above and beyond a real, true honest budget.

Various authorizations, the Department of Defense being the highlight. Obviously Contra aid being one of those perspectives in the foreign policy area.

Poland and Hungary economic aid as we try to understand that now all of a sudden the best defense we have is not necessarily military but rather providing economic aid to people in other parts of the world who for the first time in decades want to experience freedom and democracy, who have made commitments by their government and are simply asking for the economic help from us to provide that transition.

Drugs, violent crime: We last year passed the comprehensive drug bill. We told the administration to appoint a drug czar and come up with a comprehensive drug strategy.

That occurred in September of this year. Congress has yet to deal with that issue.

We looked at ethics reform, at campaign reform, two of the major initiatives in January of the bipartisan leadership of the Congress establishing truly bipartisan task forces, one on ethics reform and one on campaign reform and asking us to try to complete those actions. We are not even close to action in either of those areas.

Obviously, clean air, a major domestic priority of the President, and oilspill legislation, in response to not only Valdez and the oilspill there but to a number of other similar issues around the country that have occurred and that have the potential of occurring not only on our coasts but obviously in our intercoastal waterways, the Mississippi River, which is important to my district.

You will look at such issues as child care and minimum wage, which have been priorities of both the Republican President and the Democratic Congress. Some people will suggest that parental leave should have been an issue that we dealt with, albeit a very controversial one.

Obviously the Americans With Disability Act, and obviously the approach to the burning of the flag.

Now I have listed there for you about 20-some different issues, not counting all of the individual appropriation bills.

Let me tell you what we have done so far. We passed two appropriation bills. We have passed the FSLIC reform. We passed an emergency supplemental the third or fourth time over. We passed Contra aid. We passed a statutory approach to the flag.

That means that this Congress thus far this year has completed work on six substantive or priority issues. And now we are talking about figuring out how we get out of here before Thanksgiving. Then we ask why the American public is frustrated with this Congress.

The Speaker announced last week in a discussion with the press what his agenda was for the remainder of this year. He said we had to pass budget reconciliation, we had to pass 11 remaining appropriation bills, we had to pass debt limit, we had to do ethics reform. If we were here after Thanksgiving, it would be a good idea to do clean air, child care, minimum wage and section 89.

I am struck by two things: I am, No. 1, struck by what is not on the Speaker's agenda. Apparently, repealing catastrophic is not a priority with the Speaker, apparently, repealing section 89 and its impact on health and benefit packages in every small business in this country is not a priority; obviously, capital gains tax reduction is not a priority. Apparently, and I am most saddened, I guess, by this, the comprehensive drug strategy that Mr. Bennett and the President have asked for is not a priority. Apparently, campaign reform is not a priority, and next year is an election year. If it is not passed this year, obviously it is not going to be passed.

Apparently, oilspill legislation is not a priority. Obviously, a constitutional amendment on the flag is certainly not a priority of the Speaker.

So you see a number of issues here that have not been brought up.

There has been a lot of talk in this town over the last week, there has been a lot of talk on Capitol Hill over the last week and certainly my press even back in Wisconsin has been focusing over the last couple of days on the issue of the pay raise.

Apparently, there is going to be a major focus in trying to get an ethics package with a pay raise passed by this Congress before we adjourn sine die before Thanksgiving.

I have got two problems with that idea. No. 1, I do not know how this Congress can ever expect to pass a pay raise for itself and then take the month of December off and expect the American people to be supportive of that kind of an increase in pay.

Second, I have found among the American public for some time that they would be willing to support a pay raise if we earned it. And as you go through the agenda of issues that we have not resolved, that we are going to put off, we certainly have not thus far earned a pay raise this year.

It becomes very difficult for people like me who, frankly, would like to vote for an ethics package, who believe that there is a absolute necessity that we have a COLA increase like everybody else, that we must deal with the judicial and the top executive rank pay and that there is real merit in eliminating honoraria and increasing the overall base pay of a Member of Congress.

But we are not creating the environment in which we can deal with that issue. I think that is a sad commentary on us as an institution.

I am extremely disappointed in the events of the last 2 days, and I make no bones about the fact that I think it is bad politics, I think it is bad domestic policy and I think it is bad economic policy and bad strategy to make a decision that we are somehow in this Congress and in this town going to work out some kind of a deal which gets us out of here by Thanksgiving and, unfortunately, that the President and the leadership is willing to give up the fight for capital gains tax reduction as a part of that.

At a town meeting in my district last Saturday morning a number of people said:

You know, how can the Congress of the United States focus on the problems of the homeless, on the problems with drugs, on the problems with health care, problems with education, problems with the infrastructure in dealing with the disasters we have seen and on down the list, and not advocate a tax increase?

I said:

You know, I learned something over the decade of the 1980's and that is that the absolute most important thing we can do to deal with the domestic agenda is to make sure we have a growth economy.

A growth economy becomes essential for two different reasons. No. 1, for the jobs it creates and the people it puts to work, but equally, by virtue of doing that, the revenue, the additional new revenue it brings in on an annual basis to the treasury of the United States.

On an annual basis, with economic growth, we have in the decade of the eighties taken in something like $80 billion in new revenue each year.

And why is capital gains tax reduction important? It is important because it helps every farmer, every small business person in this country who does not have, necessarily, wage or dollar gains but has a capital gain that they need to either use as a retirement or to convert into new capital for new production within their business or their farm.

But second, capital gains becomes absolutely essential to maintain and to guarantee a growth economy in 1990 to allow this Congress, in the most difficult budget years, for fiscal year 1991, to be able to deal with the Gramm-Rudman requirements that we have next year as we go to a $65-billion target in terms of our debt.

We start that process with someplace between $50 billion and $60 billion worth of necessary spending cuts or tax increases.

Now, if you have a slowdown in the economy, that quickly increases, it quickly doubles. What we are talking about is having the kind of economic environment around here which will bring in additional revenue that allows us to meet that goal and to maintain our commitment to domestic programs.

Is there any doubt that if we fail next year, as thus far we have failed this year to deal with budget reconciliation in a true and honest fashion, that we are going to have anything but sequestration? If you think this year's $16 billion sequestration is painful, wait until you get something like a $50-billion sequestration. What a devastating impact that would have on the domestic agenda in this country: Education, agriculture, health care, housing, infrastructure, environment, and all of the other issues.

Second, the reality is that if we create this kind of a bad economic environment but we go home before Thanksgiving, we then push off everything into next year and all of a sudden we will face all of the major issues in one of the worst economic environments, budgetwise, that we have seen in the decade of the 1980's, but we will also do so in a campaign year.

□ 1110

How would Members like to deal with clean air in an election year? How would Members like to deal with the farm bill in an election year? How would Members like to deal with housing issues and housing reform in an election year? How would Members like to deal with the whole issue of health care, health insurance, and access to health care in an election year? How would Members like to deal with education in an election year? How would Members like to deal with ethics reform in an election year? How would Members like to deal with the Americans with disabilities, that absolutely ought to be passed quickly in an election year?

The Congress of the United States is the people's body. The Congress of the United States is supposed to be responsive to the will of the American public. We saw a great display of that 3 or 4 weeks ago here in the House Chamber when, to the Speaker's credit, he allowed the House of Representatives to work its will on catastrophic, on section 89, on capital gains, and a number of other issues.

Now, all of a sudden working the people's will is not the priority. The priority is getting out of here so a few people can go on trips, and other people can go home. We were not elected to do that. We were elected to do the jobs of the Nation, and those jobs of the Nation, as I have indicated before, are long, are complex, many are costly, almost all of them are essential, and yet we face this desire to go home quickly, to abandon the agenda. For Members to try to suggest that somehow we will deal with compensation before we go home, when we do not deal with the rest of the agenda. If we fail to deal with that compensation issue this year, we set ourselves up for not dealing with that for at least 2 or 3 years down the road because we will not deal with compensation in an election year.

That may or may not have an impact on the Congress. However, I will guarantee Members it will have an impact on the top executive positions in this Government, the researchers trying to solve the problems with cancer and AIDS, and all of the other devastating illnesses confronting our public. I guarantee it will have an impact on the judicial system and the quality of the people we are able to bring in or to keep, within our judicial ranks, in the Federal court system.

So my challenge and my request to the Speaker, to the Democratic leadership of this House, to the Republican leadership, to the Democratic and Republican leadership of the Senate, and to the President, is to understand that all Members were elected about a year ago to come here, in a bipartisan fashion, and to do the people's work, and to do the people's work not in short-term crisis management, but to do it in a way which allowed Members to prepare for the future. Obviously, domestic and economic decisions made or not made this year have an impact on what crises do or do not exist next year. Most importantly, as we celebrate this Bicentennial of the Congress of the United States, let Members please understand that we have an obligation to deal with the credibility of the United States constitution of the Congress.

Our Republican whip, the gentleman from Georgia [Mr. GINGRICH], tells the story that a couple of weeks ago, to be exact on a Friday morning, he was visiting with a number of Soviet journalists. He brought those Soviet journalists in here on the House floor because that was another one of the Fridays we were only in pro forma session, and he was visiting with them. He was struck by the fact that every question they asked was not the typical Cold War philosophical bashes traded back and forth between the two super giants, but all technical questions about how do we run a parliament in a two-party or multiple party system? How do we run a Democratic or Republican conference? What is the role of leadership when we have more than one party? How do we establish an agenda? During that conversation with the Soviet journalists, he apparently took the journalist from Latvia and seated him in the Speaker's chair, and he took the journalist from Pravda, the official Soviet publication, and put him where the President stands when he addresses a joint session of the Congress. He was struck by the fact that the gentleman from Latvia, a 60-some-year-old gentleman who obviously had spent a career in

journalism, seemed visibly moved by sitting in the Speaker's chair in the House of Representatives, the greatest deliberative body in the world. That story tells Members a lot about a lot of things, one of which is the dramatic changes occurring in Eastern Europe today. It sends a real message to this Congress that we ought to sit down and get our work done regarding Poland and Hungary and economic aid. It sends a real message of keeping our vigilance about what is occurring in Nicaragua as they move to, hopefully, full, free, and fair elections. It also sends a real message that we are the light of the world in terms of deliberative bodies. The credibility of the institution of the Congress of the United States is not only important here at home, it is important around the world.

I cannot suggest enough to the leadership of this Congress how incumbent it is upon Members to set this rush in this paranoia to adjournment aside, sit down, and do the work of the People's House as people have asked Members to do. If we can get that work done, then go home. However, make work the priority, and adjournment the result; not adjournment the priority, and whatever work we get done as the result of the adjournment simply being a result.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 147

Mr. BROWN of California. Madam Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 147.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from California?

There was no objection.

EARTHQUAKE DISASTER ASSISTANCE ACT OF 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 10 minutes.

Mr. PANETTA Madam Speaker, today I am introducing legislation to provide much needed assistance to farmers and others in agriculture-related industries who have suffered severe losses to the recent California earthquake. The bill I am introducing, the Earthquake Disaster Assistance Act of 1989, will help to fill a void in Federal assistance programs currently helping those in need in California, and provide a means to help our farmers, their families, and their communities to get back on their feet.

Every American is well aware of the devastation brought to northern California by the Loma Prieta earthquake. While many of us here in the East were sitting down to enjoy the third game of the World Series, those in the San Francisco Bay area were confronted with the most terrifying experience of their lives.

Media coverage exposed the seriousness of the situation—the loss of lives and of property; the damage to roads, bridges, and buildings; and the suffering which too many must still endure. Fortunately, help was quickly on the way. The Red Cross, FEMA, and other government agencies and private interests responded quickly to aid those in immediate need. For this we are grateful.

National disaster assistance programs are now beginning to help many of those who have gotten past the first step and are ready to begin the long process of rebuilding. But as those who suffered losses turn to the Government for help, we have discovered that one large group falls between the cracks in our Nation's disaster assistance programs. This group is our Nation's farmers.

California is No. 1 in agriculture in the United States. We produce over $16 billion worth of crops for this Nation and abroad.

The central California coast, including the Salinas Valley, is renowned for its agricultural bounty. Many of the fruits and vegetables we enjoy in this country come from the rich soils of the valley. Unfortunately, however, much of this area has been devastated by the Loma Prieta earthquake.

Let me offer some examples of the types of damages that this area—my home—sustained.

The epicenter of the earthquake was in Santa Cruz County. This is in a county where agriculture is among the top revenue producers, grossing about $168 million annually. Agricultural losses there were estimated at $15 million. These losses were the result of damage to crops, storage and processing structures, farm and processing equipment, and business interruptions due to losses of supplies, labor, and transportation.

Watsonville, a small agricultural community of 30,000, suffered estimated losses of over $2 million. The quake leveled a 1-acre greenhouse containing miniature carnations. Apples were literally shaken off the trees. Fresh strawberries were lost in storage due to power outages.

Crops not directly damaged by the earthquake are having a difficult time making it to market. Many of the crops must go through markets or ports in the San Francisco area. But the usual 2-hour commute has turned into a 12-hour ordeal.

In San Mateo County, south of San Francisco, the county's brussels sprout harvest was at midpoint when the earthquake hit. The shutdown of several major processing firms forced curtailment of the harvest. Some of the crops affected by the quake have gone into the fresh market as a result. However, as fresh produce markets have been saturated, producers have suffered huge losses due to reductions in prices.

The San Francisco flower market was closed by the earthquake and growers brought their product back and dumped it. Growers expect the market to be slow in coming back.

In Santa Clara County, wineries reported loss of wine that spilled or leaked from storage tanks that shifted on their foundations. Delays in bottling have resulted because supplies cannot get through from Oakland.

In San Benito County fruit and vegetable cannery warehouses sustained heavy damage when plant walls collapsed during the quake. Bins of onions and walnuts at dehydrators were turned over by the force of the quake and processing interrupted due to electrical problems.

While we can get a rough assessment of the damages to crops and the products that were in storage or ready to go to market, much of the structural damage to farms in the region will not be revealed until next spring when pipelines and wells can be inspected. Heavy rain, which has also hit the area since the quake, has only made matters worse.

The agricultural industry in northern California, the fruit and vegetable basket for this Nation, has been hard hit. It is in need of help.

The Earthquake Disaster Assistance Act of 1989, would go a long way toward providing that help—help which is not now available from other government programs.

The bill I am introducing would simply amend the Disaster Assistance Act of 1989 (Public Law 101-82) to extend the benefits of this program to producers who suffered losses and damage due to the drought. The assistance would consist of both direct financial aid to farmers who suffered losses in production above a certain threshold, and eligibility for farm loans to reestablish farms and agriculture-related businesses that suffered due to the earthquake.

For production losses, farmers would receive a payment up to a certain percentage of the market value of their crop. The payment rate and the amount of loss covered would depend on what kind of crop they produced. Producers of farm program and nonprogram crops, including ornamental crops like roses and cut flowers, would qualify. The payments would not be great—in many cases only 50 percent of the market value of their losses in excess of 50 percent of normal yields. But, hopefully, it would be enough to tide them over.

In addition, to help farmers and related businesses rebuild, agricultural producers ineligible for current farm loan programs would be able to qualify for a loan guarantee program authorized by the 1989 Disaster Assistance Act. Agricultural industries such as packing houses and greenhouses, that were damaged by the quake might thus get a new start on life and the help that is needed to rebuild from the rubble that remains.

Mr. Speaker, most of the farmers in my district don't benefit from Federal price supports and subsidies. They have never asked for Government support in the past. And I sincerely doubt that they would seek it today if it were not really needed.

This legislation would simply provide to farmers and related industries that suffered from the earthquake, the same benefits that were given to others in agriculture who suffered from natural disasters both in 1988 and in 1989. I believe that it is only fair that we offer these producers the same helping hand that the Congress has already extended to the Nation's wheat farmers, and corn growers,

and others who help to feed this country and the world.

When, as in this case, the farmers of northern California have been devastated by a natural disaster beyond their control, the least we can do is to provide the same disaster aid to them as we do for others.

I urge my colleagues to join me in supporting the Earthquake Disaster Assistance Act of 1989. A copy of the legislation follows:

H.R. 3589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. ANNUAL CROPS.

(a) NONPROGRAM CROPS.—Section 104(d)(1) of the Disaster Assistance Act of 1989 is amended by inserting "and ornamentals" after "sweet potatoes".

(b) DEFINITIONS.—Section 112(1) of such Act is amended by inserting "earthquake," after "hurricane,".

SEC. 2. ORCHARDS.

(a) ELIGIBILITY.—Section 121(a) of the Disaster Assistance Act of 1989 is amended to read as follows:

"(a) LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 122, to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of freeze, earthquake, or related condition in 1989, as determined by the Secretary.".

(b) ASSISTANCE.—Section 122(1) of such Act is amended by inserting ", earthquake," after "freeze".

SEC. 3. FOREST CROPS.

(a) ELIGIBILITY.—Secton 131(a) of the Disaster Assistance Act of 1989 is amended to read as follows:

"(a) LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 132, to eligible tree farmers that planted tree seedlings in 1988 or 1989 for commercial purposes but lost such seedlings as a result of drought, earthquake, or related condition in 1989, as determined by the Secretary.".

(b) ASSISTANCE.—Section 132(1) of such Act is amended by inserting ", earthquake," after "drought".

SEC. 4. DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES.

Section 401 of the Disaster Assistance Act of 1989 is amended—

(1) in paragraph (a)(1), by inserting "earthquake," after "excessive moisture,"; and

(2) in paragraph (c)(2), by striking out "$200,000,000" and inserting "$300,000,000".

MALCOLM BALDRIGE NATIONAL QUALITY AWARDS

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Madam Speaker, yesterday President Bush presented the 1989 Malcolm Baldrige National Quality Awards to two outstanding U.S. companies, at ceremonies at the Department of Commerce. Accepting the awards for the winning companies were Milliken & Co. chairman and chief operating officer, Roger Milliken, and Xerox Business Products and Systems president, David T. Kearns.

I congratulate not only the winners, but every company that participated in the rigorous application process. By focusing their attention on instilling quality into every aspect of their businesses, these companies make an important contribution to improving our Nation's products and services. The award guidelines provides standards against which companies can measure their quality assurance programs, and goals for which they can strive. Applicants receive a written analysis of their strengths and areas where improvement can be made. In addition, the winners agree to share their strategies.

Thus, the Malcolm Baldrige National Quality Awards serve as a catalyst and a stimulus to improving the competitiveness of our Nation's products in the world marketplace.

I invite my colleagues to contact the National Institute of Standards and Technology about the 1990 application process, so they can share information about this important award with outstanding companies in their districts, and encourage them to participate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DOUGLAS) to revise and extend their remarks and include extraneous material:)

Mr. RITTER, for 60 minutes, on November 7.

Mr. GUNDERSON, for 60 minutes, today.

(The following Member (at the request of Mr. KILDEE) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. KILDEE) and to include extraneous matter:)

Mrs. KENNELLY.

ADJOURNMENT

Mr. BROWN of California. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 20 minutes a.m.), under its previous order, the House adjourned until Monday, November 6, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive commmunications were taken from the Speaker's table and referred as follows:

1968. A letter from the Secretary of Education, transmitting a copy of final regulations—Student Assistance General Provisions, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1969. A letter from the Assistant General Counsel, Department of Energy, transmitting notification of a meeting related to the International Energy Program to be held on October 30-31, 1989, at Paris, France; to the Committee on Energy and Commerce.

1970. A letter from the Inspector General, Environmental Protection Agency, transmitting the Agency's annual report of the mandated Superfund audit activities of the Inspector General for fiscal year 1988, pursuant to 31 U.S.C. 7501 nt; to the Committee on Energy and Commerce.

1971. A letter from the Chairman, Administrative Conference of the United States, transmitting its first annual report in compliance with the Inspector General Act Amendments of 1988; to the Committee on Government Operations.

1972. A letter from the Acting Chairman, Consumer Product Safety Commission, transmitting that the Commission has fully implemented section E of the Inspector General Act Amendments of 1988, pursuant to Public Law 100-504, section 111 (102) Stat. 2529); to the Committee on Government Operations.

1973. A letter from the Chairman, U.S. International Trade Commission, transmitting its report on the status of the Commission's implementation of the requirements contained in section 111 of the Inspector General Act Amendments of 1988, pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee on Government Operations.

1974. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting its first annual report in compliance with the Inspector General Act Amendments of 1988; to the Committee on Government Operations.

[Omitted from the Congressional Record of October 6, 1989]

1975. A letter from the Secretary of Energy, transmitting a comprehensive report on the Department's clean coal demonstration project "Innovative Coke Over Cleaning System for Retrofit Applications"; jointly, to the Committees on Appropriations; Energy and Commerce; and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 3086. A bill to amend title 5, United States Code, to grant appeal rights to members of the excepted service affected by adverse personnel actions, and for other purposes; with an amendment (Rept. 101-328). Referred to the

Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 3046. A bill to reduce the number of commissioners on the Copyright Royalty Tribunal, to change the salary classification rates for members of the Copyright Tribunal and the United States Parole Commission and for the Deputy and Assistant Commissioners of Patents and Trademarks, and for other purposes; with amendment (Rept. 101-329). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SIKORSKI:

H.R. 3588. A bill to improve the safety of rail transportation of hazardous materials, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PANETTA (for himself, Mr. LEWIS of California, Mr. HERGER, Mr. CONDIT, Mr. BROWN of California, and Mr. THOMAS of California):

H.R. 3589. A bill to amend the Disaster Assistance Act of 1989 to provide assistance to agricultural producers suffering from earthquakes; to the Committee on Agriculture.

By Mr. MICHEL:

H. Res. 281. A resolution designating minority membership on certain standing committees; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 50: Mr. ATKINS, Mr. AUCOIN, Mr. BATES, Mr. BERMAN, Mrs. COLLINS, Mr. CROCKETT, Mr. DELLUMS, Mr. DYMALLY, Mr. FAUNTROY, Mr. FAZIO, Mr. FRANK, Mr. FROST, Mr. FUSTER, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. MOODY, Mr. MORRISON of Connecticut, Mr. OWENS of New York, Ms. PELOSI, Mr. RANGEL, Mr. ROBINSON, Mr. SYNAR, Mr. TOWNS, Mr. VENTO, and Mr. VISCLOSKY.

H.R. 118: Mr. DAVIS.

H.R. 855: Mrs. JOHNSON of Connecticut, Mr. GEJDENSON, and Mrs. KENNELLY.

H.R. 1095: Ms. LONG.

H.R. 1375: Mr. SPRATT.

H.R. 2144: Mr. WALGREN, Mr. POSHARD, Mr. NEAL of North Carolina, and Mr. VALENTINE.

H.R. 2172: Mr. WALGREN, Mr. WILSON, Mrs. MARTIN of Illinois, Mr. DONALD E. LUKENS, Mr. WOLF, and Mr. FRANK.

H.R. 2715: Mr. SHAYS, Mr. DAVIS, Mr. EMERSON, Mr. GEJDENSON, Mr. RIDGE, Mr. TRAFICANT, and Mr. MILLER of Washington.

H.R. 3080: Mr. BUSTAMANTE, Mr. PASHAYAN, Mr. CRAIG, Mr. MOODY, Mr. STALLINGS, Mr. KYL, Mr. ATKINS, Mr. MARTIN of New York, Mrs. JOHNSON of Connecticut, Mr. CONDIT, Mr. SMITH of Florida, Mr. MAVROULES, Mr. BOEHLERT, and Mr. RHODES.

H.R. 3120: Mr. HUGHES and Mr. OWENS of Utah.

H.R. 3123: Mr. WALGREN, Mr. BATES, Mr. SABO, Mr. CARDIN, Mrs. LOWEY of New York, Mr. SMITH of Vermont, Mr. SPRATT, Mr. HEFNER, Mr. MCCLOSKEY, Mr. BORSKI, Mr. WEISS, Mr. ROSE, Mr. HARRIS, Mr. FOGLIETTA, Mr. OBERSTAR, and Ms. SLAUGHTER of New York.

H.R. 3182: Mr. BARNARD, Mr. BOEHLERT, Mr. CARPER, Mr. DEFAZIO, Mr. CONDIT, Mr. HENRY, Mr. HOAGLAND, Mr. JONES of North Carolina, Mr. KANJORSKI, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LEVIN of Michigan, Mr. MCDERMOTT, Mr. MOORHEAD, Mr. MURPHY, Mr. NEAL of North Carolina, Mr. NELSON of Florida, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PAXON, Mr. RICHARDSON, Mr. STENHOLM, Mr. KLECZKA, Mr. ERDREICH, Mr. MCMILLEN of Maryland, Mr. ROE, Mr. COSTELLO, Mr. THOMAS of Georgia, Mrs. BENTLEY, Mr. RAHALL, Mr. LEWIS of California, Mr. DONALD E. LUKENS, Mr. SARPALIUS, Mr. HYDE, and Mr. PALLONE.

H.R. 3466: Mr. KOLTER and Mrs. COLLINS.

H.R. 3479: Mr. COURTER, Mr. MANTON, Mr. HUBBARD, Mr. NEAL of Massachusetts, and Mrs. MARTIN of Illinois.

H.R. 3539: Mr. COSTELLO, Mr. MCGRATH, Mr. JAMES, Mr. WHITTAKER, and Mr. GALLEGLY.

H.R. 3555: Mr. GLICKMAN.

H.R. 3570: Mr. FAUNTROY, Mr. CARPER, Mr. TORRES, Mr. HUBBARD, Mr. KENNEDY, Mr. MFUME, Mr. LEACH of Iowa, Mr. PARRIS, Mr. SHUMWAY, Mr. MCCOLLUM, Mr. BEREUTER, Mr. DREIER of California, Mr. HILER, Mr. RIDGE, Mr. BARTLETT, Mr. ROTH, Mr. MCCANDLESS, Mr. SAXTON, Mrs. SAIKI, Mr. BUNNING, Mr. BAKER, Mr. STEARNS, Mr. GILLMOR, Mr. PAXON, Mr. LANTOS, Mr. DONALD E. LUKENS, Mr. KYL, and Mr. SHAYS.

H.R. 3575: Mrs. ROS-LEHTINEN, Mr. MCCANDLESS, Mr. DONALD E. LUKENS, and Mr. ESPY.

H.J. Res. 398: Mr. BARNARD, Mr. BOEHLERT, Mr. CARPER, Mr. DEFAZIO, Mr. CONDIT, Mr. HENRY, Mr. HOAGLAND, Mr. JONES of North Carolina, Mr. KANJORSKI, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LEVIN of Michigan, Mr. MCDERMOTT, Mr. MOORHEAD, Mr. MURPHY, Mr. NEAL of North Carolina, Mr. NELSON of Florida, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PAXON, Mr. RICHARDSON, Mr. STENHOLM, Mr. KLECZKA, Mr. ERDREICK, Mr. MCMILLEN of Maryland, Mr. ROE, Mr. COSTELLO, Mr. THOMAS of Georgia, Mrs. BENTLEY, Mr. RAHALL, Mr. LEWIS of California, Mr. DORNAN of California, Mr. DONALD E. LUKENS, Mr. SARPALIUS, Mr. HYDE, Mr. IRELAND, and Mr. PALLONE.

H. Con. Res. 123: Mr. BARNARD, Mr. SHAW, and Mr. ENGEL.

H. Con. Res. 149: Mr. GINGRICH.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2617: Mr. CLINGER.

H.R. 2618: Mr. CLINGER.

H. Con. Res. 147: Mr. BROWN of California.

PETITIONS, ETC.

Under clause 1 of rule XXII.

121. The SPEAKER presented a petition of the Howard University Student Association, Washington, DC, relative to a 50-percent tuition surcharge for international students; to the Committee on Appropriations.

SENATE—*Friday, November 3, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?—Micah 6:8.

God our Father, perfect in truth and justice, once again the Senators bear the onerous responsibility of standing alone to pronounce the word, guilty—not guilty. Cover this place with Your grace and Your wisdom, and grant to each of Your servants a clear mind, an unobstructed conscience, and "the peace of God that passeth understanding." In Jesus' name, who shall judge the world in righteousness. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 3, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT H. KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders this morning, there will be a period for morning business until 10 o'clock with Senators permitted to speak therein for up to 5 minutes each.

When morning business concludes at 10 I will request a rollcall vote on a motion to instruct the Sergeant at Arms to request the attendance of Senators.

After that vote, with a quorum having been established, the Senate will resume the impeachment proceedings against Judge Nixon with five rollcall votes occurring in succession.

Two motions filed by Judge Nixon will be the subject of the first two votes, and then there will be one vote each on the three articles of impeachment.

For the information of Senators, in planning their schedules for the day, once the Senate has concluded action on the impeachment proceedings, and the five rollcall votes are completed, I do not anticipate any further rollcall votes today.

I will, hopefully this morning, after discussing the schedule with the distinguished Republican leader, have an announcement with respect to the schedule for Monday, and the succeeding days next week.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the balance of my leader time. I reserve all of the leader time of the distinguished Republican leader.

I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators to speak therein for not to exceed 5 minutes each.

The Chair recognizes the Senator from North Carolina [Mr. SANFORD].

ELIMINATE BUDGET GIMMICKS

Mr. SANFORD. President Bush has asked us to reduce the budget by $14 billion in "real deficit reduction—without new taxes, without spending measures that increase the deficit in the future and without scoring gimmicks." I am in favor of that. But all that is purely a symbolic gesture, and will leave us with a real deficit of at least $270 billion in the budget. We can say we have cut the deficit to $110 billion, but we will know that we have left about $160 billion covered up by gimmicks and deceits and shifty accounting practices.

The point on which we must focus, if we are ever to get our debt and deficit under control, is that we must have an honest budget, telling the truth about our true deficit.

Last year many of my colleagues were saying the same things that have been said this year, that this is the worst year yet for budget foolery.

Well, we can end the foolery with amendment No. 1069, already filed, that accurately defines "deficit" as the "annual increase in the public debt" subject to the limit. This very straightforward amendment cuts out all of our tricks while requiring honest deficit numbers based on facts, not fiction.

It is easy to blame Gramm-Rudman-Hollings for all of our gimmickry. But the only fault we should find with Gramm-Rudman-Hollings is the contrived deficit figures it permits, figures that do not come close to the real number—the increase in our debt subject to the limit. Because of that we have built up a massive debt. Because of that we are now required to increase the debt limit to more than $3 trillion.

Gramm-Rudman-Hollings permits the Social Security trust funds to be used to coverup the size of our deficit problems. None of the trust funds would be used to calculate a phony deficit figure under amendment No. 1069. On budget or off, the deficit would be the same under my proposal.

I do not believe that Gramm-Rudman-Hollings planned for us to spend money after the final snapshot and then not account for that spending as we now do. That spending may not be reflected in the Gramm-Rudman deficit, but it is counted in the bottom-line, annual debt increase. My amendment would eliiminate this gimmick.

The use of net interest to mask the true size of our deficits was already in use before Gramm-Rudman-Hollings. The fiscal year 1990 budget resolution includes an interest coverup of about $65 billion, by counting interest paid to Social Security as income to the Government rather than an expenditure, which it clearly is. Amendment No. 1069 would not permit this deceit. The interest figure counted in the debt increase is gross interest, not net.

I invite all of my colleagues who are fed up with these budget games and gimmicks to join me in eliminating

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

them by supporting amendment No. 1069.

Mr. President, I am pleased to announce that Senator ROBB and Senator GRAHAM are cosponsors, and I ask unanimous consent that they be listed as cosponsors of this amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SANFORD. I yield the floor.

Mr. PRYOR addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Arkansas [Mr. PRYOR].

Mr. PRYOR. Mr. President, I thank the Chair.

LEE ATWATER AND THE MEDICARE CATASTROPHIC COVERAGE ACT

Mr. PRYOR. Surely Lee Atwater can be praised for his political ingenuity. Unfortunately, however, the same cannot be said for his commitment to accuracy and fairness.

Mr. Atwater's latest salvo from his command post at the Republican National Committee [RNC] is a fundraising letter that contains a statement in a questionnaire about the Medicare Catastrophic Coverage Act that is, at best, misleading, and, at worst, downright deceitful.

The letter states, and I quote, Mr. President:

> Before President Bush was elected, the Democrats in Congress passed legislation which just recently went into effect and placed a tax on senior citizens to pay for catastrophic health insurance.

Mr. President, I am going to read that statement one more time:

> Before President Bush was elected, the Democrats in Congress passed legislation which just recently went into effect and placed a tax on senior citizens to pay for catastrophic health insurance.

Obviously, Mr. President, such comments are intended to imply that Republicans had nothing to do with the unpopular surtax, which was to be used to pay for the ultimate benefits of the program. Unfortunately for Mr. Atwater, these Republican National Committee fundraising efforts do much more damage to the truth than to the Democratic Party. As anyone who has followed the development of the catastrophic health care legislation knows, this monumental but failed effort was truly a bipartisan effort.

Republican leaders from the White House to both Houses of Congress actively supported the Medicare Catastrophic Coverage Act. When the House passed its legislation in June 1988, House Republican leader, ROBERT MICHEL said, "Today I am happy to support the program that has long been desirable and requested by our President." When President Reagan signed the Medicare Catastrophic Coverage Act, and the surtax included, into law July 1988, President Reagan called it "An historic piece of legislation."

In September 1988, the first Presidential debate with Governor Dukakis, Vice President Bush proclaimed that, "I am proud to have been a part of an administration that passed the first catastrophic health bill." Seven months later, Mr. President, April 21, 1989, President Bush restated his support: "It would be imprudent to tinker with Medicare catastrophic insurance literally in its first few months of life." President Bush's own Secretary of HHS, Dr. Louis Sullivan stated September 20, 1989: "Our position, again, I want to repeat, is that we would rather not tamper with the legislation at all." In fact, well after it was clear that a good number of Democrats and Republicans alike were committed to reducing or eliminating the surtax, President Bush and his administration stood firm and opposed any such move.

In June 1989, President Bush's Secretary of HHS, again, Dr. Sullivan, said "It would be extremely injudicious to reduce the surtax before all of the catastrophic benefits are fully implemented."

Later in the year, when most in Congress felt that changes to the law were inevitable, Senator ROBERT DOLE, the distinguished Republican leader of this body, said, "We need to recognize that this is a Republican initiative that we are about to dismantle." Moreover, while the Democrats did control the Congress, when the catastrophic health legislation passed, 76 percent, or 34 of the 45 Republican Senators cast their vote in support. In the House of Representatives, 61 percent, 98 of the 161 Republican Representatives, voted in favor, Mr. President, of catastrophic health insurance. People now and into the future will argue about whether we made a mistake in passing the Medicare Catastrophic Coverage Act or in repealing the surtax and much of the laws and benefits. If we made a mistake, Mr. President, we made that mistake together.

We must always keep in mind that we will have to work together again if we are going to have any chance of meeting the overwhelming unmet health care needs of America. Instead of pointing our finger at one another for political gain, now let us work together to gain some protection for the 37 million Americans under the age of 65 who have none, and for the millions of chronically ill of all ages who have no long-term care insurance, little or no protection against accrual and relentless cost increases of prescription drugs.

Yes, Lee Atwater is a creative man. I just wish that he would not channel his creativity into distortions relating to the development of the Medicare Catastrophic Coverage Act. The battlefield of catastrophic insurance is covered with casualties. The simple truth, Mr. President, should not be added to its list of injured or missing in action.

Mr. President, I thank the chair and I yield the floor.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that following the establishment of a quorum, beginning at 10 o'clock a.m. and the proclamation of the Sergeant at Arms, and a brief statement that I will make, the Senate proceed to vote on the two motions proposed by Judge Nixon and the three articles of impeachment against Judge Nixon in sequence and without any intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations.

Calendar No. 452, Carroll A. Campbell, Jr., to be a member of the Trustees of the James Madison Memorial Fellowship Foundation;

Calendar No. 453, Mary Sterling, to be an Assistant Secretary of Labor;

Calendar No. 454, Patrick J. Cleary, to be a member of the National Mediation Board;

Calendar No. 455, Joshua M. Javits to be a member of the National Mediation Board;

Calendar No. 456, Thomas E. Anfinson, to be Deputy Under Secretary for Management, Department of Education; and

Calendar No. 457, Betsy Brand, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

Mr. President, I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Carroll A. Campbell, Jr., of South Carolina, to be a member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of 4 years.

DEPARTMENT OF LABOR

Mary Sterling, of Missouri, to be an Assistant Secretary of Labor.

NATIONAL MEDIATION BOARD

Patrick J. Cleary, of Virginia, to be a member of the National Mediation Board for the term expiring July 1, 1991.

Joshua M. Javits, of the District of Columbia, to be a member of the National Mediation Board for the term expiring July 1, 1992.

DEPARTMENT OF EDUCATION

Thomas E. Anfinson, of California, to be Deputy Under Secretary for Management, Department of Education.

Betsy Brand, of Virginia, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

NATIONAL WOMEN'S VETERANS RECOGNITION WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 35, a joint resolution to designate November 5-11 as National Women's Veterans Recognition Week.

The ACTING PRESIDENT pro tempore. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 35) designating November 5-11, 1989, as National Women's Veterans Recognition Week.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The ACTING PRESIDENT pro tempore. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 35) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF TIME LIMITATIONS ON CERTAIN PROJECTS

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 750.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 750) entitled "An Act extending time limitations on certain projects", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. EXTENSION OF DEADLINE.

Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensees for FERC Projects numbered 2833, 4204, 4586, 4587, 4659, and 4660 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of each of such projects for up to a maximum of three consecutive two-year periods. This section shall take effect with respect to each such project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

Amend the title so as to read: "An Act to extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington.".

Mr. BUMPERS. Mr. President, I urge the Senate to concur on the amendments of the House to S. 750, and hope that the bill can be presented to and signed by the President as soon as possible. I introduced S. 750 on April 11, 1989, at the request of Independence County and the city of Batesville. The legislation would authorize the Federal Energy Regulatory Commission to extend the time periods specified for certain actions in the FERC licenses (project Nos. 4204, 4659, and 4660) held by these entities for hydroelectric projects on existing dams on the White River in Arkansas. The need for these time extensions is detailed in my introductory statement. S. 750 passed the Senate on June 8 with an amendment by the Senators from Washington, adding a project in their State. The House of Representatives amended the legislation to add two additional projects in Washington State and to delete some language in the Senate bill that was deemed by all parties to be unnecessary. The House version passed October 30.

Mr. President, as a result of a previous FERC order the deadline for the commencement of construction for project No. 4660 is November 8, 1989. The other Arkansas projects have deadlines in 1990. It is my understanding that under the Federal Power Act—section 13—and FERC procedures, the license will not automatically expire on that date, but can only be terminated by affirmative action by the FERC, that is, by written order upon due notice to the licensee. Obviously, even with this leeway, we are passing legislation "just under the wire" for project No. 4660. Because of the imminent deadline, the House added the following language making the bill effective retroactively if necessary:

This section shall take effect with respect to each such project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

It is the intent of this legislation to authorize FERC to extend these licenses without regard to any interval of time that may occur after the expiration of the currently effective extension of time and prior to FERC's action on a request for extension under this legislation. This should obviate any necessity for FERC to commence a termination procedure prior to a request for an extension. This language will assure that congressional intent can be carried out even if S. 750 is not signed by the President before November 8, 1989.

I have no objections to the House amendments and again urge the concurrence of the Senate.

Mr. GORTON. Mr. President, today I speak in support of S. 750, as amended by the House of Representatives. This legislation allows the Federal Energy Regulatory Commission to extend the construction permits on three hydroelectric projects in Washington State and three in Arkansas. During previous Senate consideration of S. 750, I offered an amendment to legislation sponsored by Senator BUMPERS, which extended the deadline for the Cowlitz Falls project in Lewis County, WA. This amendment, sponsored by myself and Senator ADAMS, was included in S. 750, and with the commendable efforts of Congresswoman UNSOELD and Congressman SWIFT was acceptably modified and passed by the House of Representatives.

Specifically S. 750 as we consider it today, would, among other things, authorize the Federal Energy Regulatory Commission [FERC] to extend the deadline, under the Federal Power Act, for the commencement of construction of the Cowlitz Falls Hydroelectric project on the Cowlitz River in Lewis County, WA. The project has an authorized generating capacity of 70 megawatts and is expected to produce an average of 261,000 megawatt-hours of electric energy annually. At that rate the project would save the equivalent of about 428,600 barrels of oil or 120,800 tons of coal per year.

The FERC issued a license for the Cowlitz Falls project to Public Utility District No. 1 of Lewis County [PUD]

in June 1986. Prior to being licensed, the project underwent extensive analysis and was the subject of complete environmental impact statements at both the State and Federal levels. All pertinent fish, wildlife, and environmental resource agencies concurred in the licensing of the project. Indeed, the project is expected to benefit fishery resources, as it may represent the only feasible means of restoring anadromous fish runs in the upper Cowlitz River basin, runs that were destroyed years ago by the construction of dams downstream of Cowlitz Falls. As the result of an agreement reached with State fish and wildlife authorities and made a condition of the FERC license, the PUD has designed the dam to accommodate the future addition of facilities for collection and transportation of downstream migrant juvenile salmon.

Under the time strictures prescribed in section 13 of the Federal Power Act, the PUD must commence physical construction of project works by June 30, 1990, or the FERC must terminate the license. As the law presently stands, the Commission has no discretion to extend the construction deadline beyond June 1990, even for good cause.

Mr. President, it is our understanding that the PUD and its engineering contractor have proceeded diligently to implement the terms of the FERC license and to move forward with project development. To date, the PUD has spent approximately $10 million on the technical, environmental, and other planning necessary to bring the project to fruition. It recently has become clear, however, that the public interest would be best served if greater flexibility were allowed in timing the project's construction.

By the time FERC issued the license in 1986, the earlier forecasts of regional power shortages had changed to predictions of short-term surpluses. The Commission examined the proposed project in light of the Northwest conservation and electric power plan—regional power plan—prepared by the Northwest Power Planning Council [council]. FERC found Cowlitz Falls to be both economically sound and consistent with the regional power plan, which gives priority to renewable resources projects over other generation facilities. Although regional power surpluses were expected to remain until the early to mid-1990's, FERC observed that forecasting load growth is an inherently uncertain endeavor and concluded that there may well be a regional need for the project's output by the time it could be placed into service—then projected to be 1991 at the earliest. In addition, the Cowlitz Falls project would help the PUD meet its own load growth.

Earlier this year, the Northwest Power Planning Council reexamined the project in light of the 1989 supplement to the regional power plan and reconfirmed that the Cowlitz Falls project is a cost-effective resource. The council observed, however, that the project's value to the region would be enhanced if it could be brought on line sometime after the currently projected in-service date of 1993. The council also expressed concern over the potential for substantial rate impacts to Lewis County ratepayers if the project is developed solely by the PUD. The council noted that these rate impacts could be mitigated if the costs, risks, and benefits of the project were shared with other utilities, and urged the PUD to pursue that option.

Consistent with the council's observations, the PUD has been engaged in a good faith effort to address that concern. Besides taking steps to meet the council's concerns, the PUD has also worked to meet the concerns of the State Department of Ecology and other interested parties.

Despite the council's excellent work in load forecasting and power resources planning, fluctuating demand in the Pacific Northwest and changing regulatory requirements make it very difficult for utilities like the Lewis County PUD to plan, time, market and finance new power generation facilities. These difficulties are exacerbated in the case of hydroelectric facilities such as Cowlitz Falls by the time constraints for commencing construction under section 13 of the Federal Power Act. It would be a shame if the PUD and its ratepayers were forced to forfeit years of planning and millions of dollars in development costs due to conditions beyond its control. There is wide consensus that Cowlitz Falls is a clean, valuable and needed resource—the only questions remaining are when it will be most needed and how its costs and benefits should be shared.

Mr. President, as stated before, this legislation would give FERC the authority to extend the deadline for commencing construction of the Cowlitz Falls project, in addition to two other projects in Washington State and the three Arkansas projects, by a maximum of three additional 2-year periods beyond the time currently authorized, in accordance with the good faith, due diligence and public interest standards of the Federal Power Act. In determining whether extensions under this amendment are in the public interest, it is expected that FERC will take into account the regional power supply situation as reported by the Northwest Power Planning Council in its periodic updates of the regional power plan. Nothing in the amendment is intended to detract from any discretionary authority FERC may presently have to extend time periods for completion of project construction or for acquisition of necessary property rights.

In view of the special importance of regional power planning in the Pacific Northwest, it is my expectation that FERC, in considering future requests for extensions under this legislation for Cowlitz Falls project, will take into account not only the licensee's diligence toward developing and marketing the project, but also regional power planning objectives and marketing conditions. By optimizing the timing of the Cowlitz Falls project's construction from a regional perspective, the project's contribution to the Northwest's energy mix can be maximized and its rate impact on consumers minimized.

I would again like to express my appreciation to the Senate Energy and Natural Resources Committee Chairman, Senator JOHNSTON, and the Ranking Minority Member, Senator MCCLURE, for their assistance in this matter and particularly to Senator BUMPERS who has kindly agreed to allow the earlier amendment to his legislation. Additionally, I would express my appreciation to the Senate Energy and Natural Resources Committtee staff and Senator BUMPERS staff for their work.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendments.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ACQUISITION OF CERTAIN LANDS ADJACENT TO ROCKY MOUNTAIN NATIONAL PARK

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 737.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 737) entitled "An Act to authorized the Secretary of the Interior to acquire certain lands adjacent to the boundary of Rocky Mountain National Park in the State of Colorado", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire, by donation, purchase with donated or appropriated funds, or by exchange, lands or interests therein within the area generally depicted as "Proposed

Park Additions" on the map entitled "Proposed Park Additions, Rocky Mountain National Park", numbered 121-80, 106-A and dated May, 1989, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Upon acquisition of such lands, the Secretary shall revise the boundary of Rocky Mountain National Park to include such lands within the park boundary and shall administer such lands as part of the park subject to the laws and regulations applicable thereto.

(b) BOUNDARY ADJUSTMENT FOR ROOSEVELT NATIONAL FOREST.—Upon acquisition of such lands by the Secretary, the Secretary of Agriculture shall revise the boundary of the Roosevelt National Forest to exclude such lands from the national forest boundary.

Amend the title so as to read: "An Act to adjust the boundary of Rocky Mountain National Park.".

Mr. MITCHELL. Mr. President, I move that the Senate disagree to the House amendments.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMEMORATION OF THE GOLDEN ANNIVERSARY OF THE MOUNT RUSHMORE NATIONAL MEMORIAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar item No. 330, S. 148, the 1989 Mount Rushmore Commemorative Coin Act.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 148) to require the Secretary of the Treasury to mint coins in commemoration of the Mount Rushmore National Memorial.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DASCHLE. Mr. President, I am proud to join the senior Senator from South Dakota, Senator PRESSLER, in offering S. 148, The 1991 Mount Rushmore Commemorative Coin Act.

S. 148 as reported by the Senate Banking Committee would mandate the minting of gold, silver and clad coins to commemorate the Golden Anniversary of the completion of the colossal Mount Rushmore sculpture depicting four great American Presidents. The mountain has become a symbol of democracy for all Americans, as well as for those who cherish freedom around the world.

The proceeds from the sale of the commemorative coins would enhance the National Park Service's ability to share America's Mount Rushmore story. The last major improvement to the facilities at Mount Rushmore occurred in 1964. Today's visitors to the monument greatly exceed the facility's capability. Improvements are necessary to expand the visitors' center and improve the handicapped and elderly access to the facility. Most importantly, preventive maintenance on the granite faces is urgently needed to ensure their presence for generations to come. Without improvements, the monument will become a reflection of careless neglect.

It is only appropriate that the Senate act on this bill at this time. One hundred years ago yesterday, South Dakota was admitted to the Union. There could be no more fitting recognition of South Dakota by this U.S Senate than to commemorate one of South Dakota's greatest gifts to the country.

AMENDMENT NO. 1079

(Purpose: To make a series of technical amendments)

Mr. WILSON. Mr. President, I send an amendment to the desk on behalf of Senator PRESSLER and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON], for Mr. PRESSLER, proposes an amendment numbered 1079.

Mr. WILSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 25, strike "beginning on January 1, 1991" and insert "during the period beginning on January 1, 1991, and ending on December 31, 1991".

On page 5, beginning with "and" on line 3, strike all through "Mint" on line 4.

On page 7, lines 2 and 3, strike ", the Federal Savings and Loan Insurance Corporation".

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 1079) was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "1991 Mount Rushmore Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 500,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of such five dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such five dollar coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Mount Rushmore: Shrine of Democracy", "Golden Anniversary 1941-1991", "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 2.5 million one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Mount Rushmore: Shrine of Democracy", "Golden Anniversary 1941-1991", "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 2.5 million half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of such half dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Mount Rushmore: Shrine of Democracy", "Golden Anniversary 1941-1991", "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) The Secretary shall obtain silver for the coins minted under this Act from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

(b) The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Mount Rushmore National Memorial Society of Black Hills (hereafter in this Act referred to as the "Society").

SEC. 5. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of ma-

chinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

SEC. 6. ISSUANCE OF THE COINS.

(a) TIME FOR ISSUANCE.—The coins authorized under this Act shall be issued during the period beginning on January 1, 1991, and ending on December 31, 1991.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this Act shall be issued in uncirculated and proof qualities.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

Of the total surcharges received by the Secretary from the sale of the coins issued under this Act—

(1) 50 percent shall be returned to the Federal Treasury for purposes of reducing the national debt; and

(2) 50 percent shall be promptly paid by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Society as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund to the Mount Rushmore National Memorial Society of Black Hills; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the Federal Government.

(b) No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar item No. 251, S. 253, a bill to establish the national nutrition monitoring program.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 253) to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Maine?

There being no objection, the Senate proceeded to consider the bill.

Mr. BINGAMAN. Mr. President, I am pleased once again to present to the Senate S. 253, the National Nutrition Monitoring and Related Research Act of 1989. This measure, which is cosponsored by 29 of my distinguished colleagues, will greatly enhance the Federal Government's ability to collect and disseminate important information about the nutritional quality of our food supply. I believe this legislation is crucial to the health and well-being of all Americans, and I urge its swift passage.

A. THE NEED FOR LEGISLATION

I am pleased to say that during the past few years, some important improvements have been made in Federal efforts to coordinate nutrition-related research. I believe that much of the improvement is a direct result of this legislation and congressional concern. Yet despite this improvement, current Federal efforts remain largely inadequate and disjointed. We still do not have a comprehensive nutrition monitoring program in this country. We still do not know the current nutritional status of our citizens. And without knowledge of this fundamental component, how can we develop programs to encourage safer, more nutritious food consumption nationwide? How can we develop programs to deal with diseases associated with dietary habits?

I believe that we can lay the groundwork for a truly coordinated national data-gathering program only through a congressional mandate, such as S. 253. Fortunately, an overwhelming number of our colleagues agree. During the 100th Congress, both the House and the Senate overwhelmingly passed legislation nearly identical to this bill. Unfortunately, that measure was vetoed by President Reagan last November.

The President's veto, which is in direct contradiction to former Surgeon General C. Everett Koop's recent recommendation that a national nutrition surveillance system be created, does a serious disservice to the American people. I believe firmly that a national system capable of providing up-to-date information is essential to the formulation of sound public policies and the development of effective nutrition education, nutrition research, and nutrition intervention programs.

With his veto, Mr. Reagan sent a message that he disagrees. Instead, he said that the creation of a coordinated Federal nutrition monitoring system would hinder Federal nutrition related functions. Such a statement is difficult to support, however, in light of extensive House and Senate testimony which revealed, as I stated earlier, that many current Federal efforts lack adequate accountability, use imprecise or nonstandardized assessment methodologies, fail to give adequate attention to high-risk groups and geographic areas, and fail to use available resources effectively. Because of these deficiencies, we know little about the current nutritional and dietary needs of the people of this country.

B. S. 253 PROVISIONS

S. 253 recognizes that we must streamline the administrative functions of Federal nutrition monitoring programs if we are to better understand the relationship between diet, nutrition, and health.

Title I of the act establishes a 10-year coordinated nutrition monitoring and research program that is to be the joint responsibility of the Secretaries of the Departments of Agriculture and Health and Human Services. An interagency board will help the Secretaries to develop a comprehensive plan for nutrition monitoring and to implement the program. The bill also stipulates that an administrator may be appointed to serve as a coordinator for the plan and program activities.

The 10-year comprehensive plan will serve both as a focal point for nutrition monitoring activities and as a means to identify national nutrition monitoring priorities. The coordinated program will build upon the 1981 joint implementation plan for a comprehensive national nutrition monitoring system, and will include, among other components:

A grant program to encourage and assist State and local monitoring initiatives;

An annual interagency budget for each fiscal year of the program;

A means to stimulate academic-industry-government partnerships to accomplish national nutrition monitoring needs and foster productive interaction; and

A biennial report, through contract with a nationally-known scientific body, on the dietary, nutritional, and health related status of the American people and the nutritional quality of our food supply.

Title II establishes an Advisory Council, to be appointed by the President and the Congress, that will provide scientific and technical advice on the development and implementation of the national nutrition monitoring program established under title I. The Council will also evaluate the effectiveness of the program.

An amendment to this measure offered by the distinguished Senator from Kansas [Mr. DOLE] clarifies that the Council's membership will at all times be representative of various geographic areas, State and local governments, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest groups. I am pleased to accept the Senator's amendment; and I must say that I will never cease to marvel at the number of my colleagues who are interested in this legislation. Such enthusiasm for cost-effective, coordinated nutrition-related research should bode well for the American public.

Title III of the legislation stipulates that by January 1, 1991, the Secretaries are to publish a report, based on current scientific and medical knowledge, containing nutritional and dietary information and guidelines for the general public. Entitled "Dietary Guidelines for Americans," the report is to be updated at least every 5 years.

Title III also requires a public comment period before a Federal agency may issue certain dietary guidance if either Secretary finds the guidance inconsistent with the "Dietary Guidelines for Americans." Briefly, after a 60-day period during which the Secretaries are to review internally the proposed regulations, if either Secretary—or both Secretaries—objects to the proposal, the proposing agency must publish a "notice of comment" in the Federal Register. After the expiration of a 30-day comment period, either Secretary may approve the guidance for dissemination to the public. The guidance must be accompanied by an explanation of its basis and purpose which addresses any substantive comments received.

In summary, Mr. President, the restructuring mandated in S. 253 will ensure the effective use of Federal and State funds. It will help develop State and local initiatives to improve monitoring methods and standards. It will stimulate academic, industrial, and governmental partnerships. And, most importantly, it will help ensure that the American public receives the most up-to-date and comprehensive dietary guidance possible so that healthful dietary decisions may be made.

C. CONCLUSION

I am pleased to note that this legislation, which is the result of long and intensive negotiations spanning a number of years, has won the support of a strong bipartisan coalition in the Congress and a coalition of more than 70 organizations representing health, diet, agriculture, and commodity interests. These organizations include the American Heart Association, the American Dietetic Association, the National Grange, the National Cattlemen's Association, and the United Egg Producers. I request that a more complete list of supporters, and a letter expressing their views on the legislation, be included in the RECORD following my statement.

Mr. President, I would like to conclude by thanking my colleagues on the Governmental Affairs and Agriculture Committees for their assistance in the development and evolution of this legislation. Senator GLENN has provided tremendous leadership as the Governmental Affairs Committee has sought ways in which the Congress can help improve health care, reduce health-care costs, and generally promote good health. His enthusiastic support for health promotion and disease prevention is a testimony to his concern for the well-being of all Americans.

I would like to thank the distinguished chairman of the Agriculture Committee, Senator LEAHY, and the distinguished ranking member, Senator BOSCHWITZ, for their role in this legislation. We are indebted to them and all of the committee members for their efforts to ensure passage of this legislation. It has indeed been a pleasure to work with the chairman, Senator BOSCHWITZ, and other members of the Agriculture Committee.

Finally, I wish to acknowledge the tremendous staff contributions to this bill. Dr. Eileen Chofness and Gioia Bonmartini of the Governmental Affairs Committee, Ed Barron, David Johnson, and Laura Madden of the Agriculture Committee, and Donna Porter of the Congressional Research Service, all have provided valuable assistance to me and my staff.

I would also like to thank and acknowledge the tremendous contribution of the American Heart Association, and in particular, Mary Crane. Her tireless work and enthusiasm truly are admirable.

Without the diligence and hard work of these people, and many others who I have not listed, we would not be in a position to take this important step toward implementing a comprehensive national nutrition monitoring system. Many long hours of effort over the past decade have gone into developing a plan for such a system that all interested parties can support.

The entire Nutrition Monitoring Coalition, in the Senate and the private sector, has come together in the spirit of cooperation to support this legislation. I hope we will be joined by the rest of our colleagues today in passing this bill and sending it to the House.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I received from various organizations in support of this legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 13, 1989.

Hon. JEFF BINGAMAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: Our organizations and their members strongly urge you to support the passage of nutrition monitoring legislation reported by the Senate Committee on Governmental Affairs.

In the 100th Congress, such legislation passed the Senate twice via unanimous consent requests and passed the House in a 311 to 84 vote. These overwhelmingly favorable votes clearly point to the broad bi-partisan support that this proposed legislation enjoys.

This legislative mandate would require Federal agencies to develop and coordinate a comprehensive national nutrition monitoring system. It would provide for responsible government by requiring the Department of Health and Human Services, the Department of Agriculture, and others to "speak with one voice" on diet, nutrition and health.

Again, we stronly urge you to suport the passage of this important legislation.

Sincerely,

American Academy of Pediatrics, American Association of Retired Persons, American Baptist Churches, USA, American College of Preventive Medicine, The American Dietetic Association, American Farm Bureau Federation, American Federation of State, County, and Municipal Employees, American Heart Association, American Home Economics Association, The American Meat Institute, American Medical Student Association, American Public Health Association, Association of Schools of Public Health, Association of State and Territorial Health Officials, Association of Teachers of Preventive Medicine, Bread for the World.

Food and Research Action Center, Mennonite Central Committee, National Broiler Council, National Cattlemen's Association, National Consumer League, National Farmers Union, National Milk Producers Federation, National Osteoporosis Foundation, National Pork Producers Council, National Rural Health Association, National Rural Housing Coalition, National Student Campaign Against Hunger, Public Voice for Food and Health Policy, Second Harvest, Service Employees International Union, Society for Nutrition Education, United States Conference of Local Health Officers, World Hunger Education Service.

Mr. GORE. Mr. President, the bill we are considering today involves an issue with wide bipartisan support—food.

The more we find out about our diet, the more we recognize its monumental effect on our health and happiness. Nutrition research has produced major breakthroughs in many health fields.

So it is disturbing to find out how little coordinated date is available on American nutrition. If we are what we eat, our Nation should do a better job of keeping track.

The National Nutrition Monitoring and Related Research Act sets out to encourage more thorough nutritional monitoring in this country—and to coordinate the information already collected by various Federal agencies.

Much of the nutritional data we in Congress use to determine food and health policies is 6 to 10 years out of date. It astounds me that we have flash estimates of the economic health of our country, from the cost-of-living index to the GNP, yet our only reliable gauge of this Nation's nutritional health dates from the early seventies.

The Federal Government has a responsibility to gather information and share it with the American people. This bill is a simple, inexpensive, and effective way to monitor America's health.

I am delighted to see the Senate pass it. It has been debated a very long time, I happen to think too long, but now we can finally move forward with this critically important task.

Mr. BOSCHWITZ. Mr. President, as an original cosponsor of this bill, I am very pleased that we are able to complete Senate action on the National Nutrition Monitoring and Related Research Act (S. 253) today.

Certainly there have been improvements in the coordination of nutrition monitoring in the past few years. However, I remain concerned that our current system does not adequately address the nutrition and health needs of Americans.

This bill strengthens the cooperation that has been developing between the Federal agencies. A comprehensive and coordinated nutrition monitoring system will be established to continually assess the dietary and nutritional status of our Nation's population. The bill also better coordinates the efforts of Federal agencies regarding dietary guidance.

As the ranking Republican on the Senate Nutrition Subcommittee and a strong supporter of Federal nutrition programs, I realize that accurate, timely data is vital to help us determine how effective Federal hunger programs are.

This legislation has received broad bipartisan support in Congress. In addition, a wide range of organizations enthusiastically support this bill.

I urge my colleagues to support this vital legislation to monitor the nutritional health of Americans.

Mr. HEINZ. Mr. President, I rise today in support of S. 253, the National Nutrition Monitoring and Related Research Act of 1989.

As an original cosponsor, I am very pleased we are able to consider this vital legislation. We all know what an important role nutrition plays in our health and well-being. My personal interest in nutrition can be traced back through several generations to my grandfather who lobbied Congress very hard for the enactment of our Nation's first pure food and drug law.

The goal of this legislation is to assist in collecting nutritional data to better respond to the needs of the American public and improve the Nation's knowledge of diet and nutrition. In an era with greater dependence on data gathering and dissemination, it is rather shocking that our Federal agencies have little, if any, cooperative efforts in the collection of nutrition data. Our policy is also disjointed since any Federal agency may issue dietary guidelines without approval by either the Secretary of Health and Human Services [HHS] or Agriculture [USDA], and to date there is no regular publication of Federal dietary guidelines.

As a result, we do not have a true, comprehensive nutritional status of the Nation. We do know, however, that too many Americans go without a proper diet to meet their daily nutritional needs.

Annually, hundreds of independent reports and studies are issued discussing our dietary needs, trends and nutritional status. S. 253 fills the absence of a coordinated, accountable nutrition monitoring effort by establishing an interagency board for nutrition monitoring. HHS and USDA are charged with the task of coordinating their nutrition data-collection efforts, developing and implementing a national nutrition monitoring research plan, establishing a Nutrition Monitoring Advisory Council and preparing annual reports on the quality and effectiveness of nutrition monitoring efforts.

The need for accurate, coordinated, and consistent information on diet and nutrition has never been greater. Although consumers today are paying much closer attention to their diets and eating healthier, they are also easily confused by the health benefits claimed by the millions of products lining the shelves of grocery stores. The fiber-cancer connection, the right amount of fat in a diet, and healthy cholesterol levels must be balanced with other aspects of good nutrition including the recommended daily allowances of vitamins and minerals.

The establishment of a nutrition surveillance system as achieved in this legislation was strongly endorsed in the "1988 Surgeon General's Report on Nutrition and Health" and again this year in the National Research Council's report entitled "Diet and Health: Implications for Reducing Chronic Disease Risk." Both reports recognize the need for enhancing our Nation's nutrition standards.

By establishing a coordinated national nutrition monitoring system, Americans will be assured of receiving the most comprehensive and up-to-date information on nutrition and health on a regular basis. Congress and our Federal agencies, too, will be better informed to make fiscally and physically fit policy decisions relating to our Nation's feeding programs including School Lunch, WIC, nutrition activities for older Americans, and distribution of our surplus USDA commodities.

Mr. President, I urge our colleagues to support this important legislation.

AMENDMENT NO. 1080

(Purpose: To provide for a description for membership on the Council which may be used by the President and certain designated Members of Congress in making appointments)

Mr. WILSON. Mr. President, I send an amendment to the desk on behalf of Senator DOLE and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Califonia [Mr. WILSON], for Mr. DOLE, proposes an amendment numbered 1080.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 20, strike out lines 6 through 20.

On page 20, line 21, strike out "(d)" and insert in lieu thereof "(c)".

On page 20, line 25, insert before the period "and shall include a State or local government employee with a specialized interest in nutrition monitoring".

On page 21, line 1, strike out "(e)" and insert in lieu thereof "(d)".

On page 21, line 6, strike out "(f)" and insert in lieu thereof "(e)".

On page 21, line 16, strike out "(g)" and insert in lieu thereof "(f)"

On page 21, line 19, strike out "(h)" and insert in lieu thereof "(g)"

On page 21, line 23, strike out "(i)" and insert in lieu thereof "(h)"

On page 22, line 3, strike out "(j)" and insert in lieu thereof "(i)"

On page 22, line 6, strike out "(k)" and insert in lieu thereof "(j)"

Mr. DOLE. Mr. President, as someone who has long been involved in nutrition issues, I want to thank the junior Senator from New Mexico and the cosponsors of this bill for their efforts to improve our knowledge of the

nutritional status of Americans. Although I do not necessarily agree with every provision of this measure, I certainly agree with its objectives.

I would like to give a brief explanation of the amendment I am offering to S. 253. As introduced, title II of S. 253 provides for the creation of a nine-member Advisory Council of outside experts to provide scientific and technical advice on the development and implementation of the National Nutrition Monitoring Program established by the bill. Five of the Council members are to be appointed by the President, four by the Congress. Each Advisory Council member appointed by Congress is to be eminent in one of a range of fields that are relevant to nutrition monitoring. Four of the five appointees named by the President are to be chosen from specified Government-related entities.

My amendment would give the President the same flexibility in choosing his appointees to the Advisory Council that Congress would have; in other words, the President's appointees would each be required to be eminent in one of the fields listed in the bill. Second, the amendment requires that the Council at all times include a State or local government employee with a special interest in nutrition monitoring. Under S. 253 as introduced, the President would have been required to appoint a local and a State government employee with a special interest in nutrition monitoring.

The modification I am proposing in no way goes against the intent of the legislation; it simply allows for appropriate flexibility in the selection of members of the Advisory Council. I hope my colleagues will accept this amendment, and I thank the chairman and the junior Senator from New Mexico for their assistance.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 1080) was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Nutrition Monitoring and Related Research Act of 1989".

PURPOSES

SEC. 2. The purposes of this Act are to—

(1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutritional quality (including, but not limited to, nutrient and nonnutritive content) of food consumed in the United States;

(3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and the relevant policy implications;

(4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and

(7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including—

(A) dietary, nutritional, and health status measurements;

(B) food consumption measurements;

(C) food composition measurements and nutrient data banks;

(D) dietary knowledge and attitude measurements; and

(E) food supply and demand determinations;

(2) the term "coordinated program" means the National Nutrition Monitoring and Related Research Program established by section 101(a);

(3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 101(c);

(4) the term "comprehensive plan" means the comprehensive plan prepared under section 103;

(5) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title submitted to Congress in September 1981 by the Department of Agriculture and the Department of Health and Human Services, under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178);

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" mean the advisory body established under section 201;

(7) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly;

(8) the term "local government" means a local general unit of government or local educational unit; and

(9) the term "nutritional quality" means—

(A) the appropriate levels of individual nutrients in the diet;

(B) the appropriate levels between nutrients in the diet;

(C) the bioavailability of nutrients such as absorption, digestion, and utilization; and

(D) the nutritional importance of non-nutrient substances such as fiber, phytate, and such substances that are naturally found in the food supply.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

ESTABLISHMENT OF THE COORDINATED PROGRAM

SEC. 101. (a) There is established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purposes of this Act.

(b) The Secretaries shall be responsible for the implementation of the coordinated program.

(c) To assist in implementing the coordinated program, there is established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as determined appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months for the two-year period following the date of the enactment of this Act, and when appropriate thereafter.

(d) To establish a central focus and coordinator for the coordinated program, the Secretaries may appoint an Administrator of Nutrition Monitoring and Related Research. The Administrator shall—

(1) be an individual who is eminent in the field of nutrition monitoring and related areas, and be selected on the basis of the established record of expertise and distinguished service of such individual; and

(2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

FUNCTIONS OF THE SECRETARIES

SEC. 102. (a) The Secretaries, with the advice of the Board, shall—

(1) establish the goals of the coordinated program and identify the activities required to meet such goals, and identify the responsible agencies with respect to the coordinated program;

(2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;

(3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 103;

(4) include in the coordinated program and the comprehensive plan a competitive grants program, in accordance with the provisions of this Act, to encourage and assist the conduct, by Federal and non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in sections 103(a)(5) and 103(b)(9));

(6) include in the coordinated program each fiscal year an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction, with respect to nutrition monitoring and related research, among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses, and publish every two years, or more frequently if appropriate, a report, on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality (including, but not limited to, nutrient and nonnutritive content) of food consumed in the United States; and

(9)(A) foster cost recovery management techniques in the coordinated program; and

(B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization shall exceed the actual costs incurred by the coordinated program in providing the publications involved).

(b) The Secretaries shall submit to the President for transmittal to Congress by January 15 of each alternate year, beginning with January 15 following the date of the enactment of this Act, a biennial report that shall—

(1) evaluate the progress of the coordinated program;

(2) summarize the results of such coordinated program components as are developed under section 103;

(3) describe and evaluate any policy implications of the analytical findings in the scientific reports required under subsection (a)(8), and future priorities for nutrition monitoring and related research;

(4) include in full the annual reports of the Council provided for in section 202; and

(5) include an executive summary of the report most recently published by the scientific body, as provided for in subsection (a)(8).

DEVELOPMENT OF THE COMPREHENSIVE PLAN FOR THE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PROGRAM

SEC. 103. (a) The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed to—

(1) assess, collate data with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States, and the trends with respect to such status (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low income populations, blacks, Hispanics, and other groups, at the discretion of the Secretaries), the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;

(2) sample representative subsets of identifiable low income populations (such as Native Americans, Hispanics, or the homeless), and assess, analyze, and report, on a continuous basis, for a representative sample of the low income population, food and household expenditures, participation in food assistance programs, and periods experienced when nutrition benefits are not sufficient to provide an adequate diet;

(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) focus the activities of the Federal agencies.

(b) The comprehensive plan, at a minimum, shall include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide, by 1991, for the continuous collection, processing, and analysis of nutritional and dietary status data through stratified probability samples of the people of the United States designed to permit statistically reliable estimates of high-risk groups and geopolitical or geographic areas, and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of the data sets from the surveys described in paragraph (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of—

(A) obtaining dietary and nutrition status data;

(B) developing related data bases; and

(C) promoting the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

(c) The comprehensive plan shall—

(1) allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved;

(2) contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program; and

(3) constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research during the ten-year period of the program.

(d)(1) Within twelve months after the date of enactment of this Act, the Secretaries shall publish in the Federal Register a proposed comprehensive plan for public review for a comment period of no less than sixty days.

(2) Within sixty days after the comment period under paragraph (1) expires, and after considering any comments received, the Secretaries shall submit to the President, for submission to the Congress and for publication in the Federal Register, the final comprehensive plan.

(e) Nothing in this section may be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation

Act (or any other provision of law relating to the use of appropriated funds) that specifies—

(1) the department or agency to which funds are appropriated; or

(2) the obligations of such department or agency with respect to the use of such funds.

IMPLEMENTATION OF THE COMPREHENSIVE PLAN

SEC. 104. (a) The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(2), and shall be—

(1) carried out in accord with, and meet the program objectives specified in, section 103(a) and paragraphs (1) through (11) of section 103(b);

(2) managed in accord with paragraphs (12) through (14) of section 103(b);

(3) carried out, by the Federal agencies involved, in accord with the allocation of functions and activities under section 103(c); and

(4) funded by appropriations made to such agencies for each fiscal year of the program.

(b) Nothing in this title may be construed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF THE COORDINATED PROGRAM AND COMPREHENSIVE PLAN

SEC. 105. The Secretaries shall coordinate the conduct of, and may contract with the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and other suitable Federal agencies, for such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purposes and objectives of this Act.

ANNUAL BUDGET SUBMISSION

SEC. 106. (a) The President, at the same time as the submission of the annual budget to the Congress, shall submit a report to the Committees on Agriculture and Science, Space, and Technology of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Governmental Affairs of the Senate on expenditures required for carrying out the coordinated program and implementing the comprehensive plan. The report shall detail, for each of the agencies that are allocated responsibilities under the coordinated program—

(1) the amounts spent on the coordinated program during the fiscal year most recently ended;

(2) the amounts expected to be spent during the current fiscal year; and

(3) the amounts requested in the annual budget for the fiscal year for which the budget is being submitted.

(b) Nothing in this title is intended to either—

(1) authorize the appropriation or require the expenditure of any funds in excess of the amount of funds that would be authorized or expended for the same purposes in the absence of the coordinated program; or

(2) limit the authority of any of the participating agencies to request and receive funds for such purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

ESTABLISHMENT OF THE COUNCIL

SEC. 201. (a)(1) The President shall establish, within ninety days after the date of the enactment of this Act, a National Nutrition Monitoring Advisory Council. The Council shall assist in carrying out the purposes of this Act, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity to the Secretaries.

(2) The Council shall consist of nine voting members, of whom—

(A) five members shall be appointed by the President; and

(B) four members shall be appointed by Congress, of whom—

(i) one shall be appointed by the Speaker of the House of Representatives;

(ii) one shall be appointed by the minority leader of the House of Representatives;

(iii) one shall be appointed by the President pro tempore of the Senate; and

(iv) one shall be appointed by the minority leader of the Senate.

(3) The Council also shall include the joint chairpersons of the Board as ex officio nonvoting members.

(b) Each person appointed to the Council shall be—

(1) eminent in the field of administrative dietetics, clinical dietetics, community nutrition research, public health nutrition, nutrition monitoring and surveillance, nutritional biochemistry, food composition and nutrient analysis, health statistics, management, epidemiology, food technology, clinical medicine, public administration, health education, nutritional anthropology, food consumption patterns, food assistance programs, agriculture, or economics; and

(2) selected solely on the basis of an established record of distinguished service.

(c) The Council membership, at all times, shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations and shall include a State or local government employee with a specialized interest in nutrition monitoring.

(d) The Chairperson of the Council shall be elected from and by the Council membership. The term of office of the Chairperson shall not exceed five years. If a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(e) The term of office of each of the voting members of the Council shall be five years, except that of the five members first appointed by the President, two shall be appointed for a term of two years, two for terms of three years, and one for a term of four years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of such term. No member shall be eligible to serve continuously for more than two consecutive terms.

(f) The initial members of the Council shall be appointed or designated not later than ninety days after the date of the enactment of this Act.

(g) The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(h) Appointed members of the Council may not be employed by the Federal Government and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(i) The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d)) shall serve as the Executive Secretary of the Council.

(j) The Council shall terminate ten years after the final comprehensive plan is prepared under section 103.

FUNCTIONS OF THE COUNCIL

SEC. 202. The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

(4) submit to the Secretaries annual reports that—

(A) shall contain the components specified in paragraphs (2) and (3); and

(B) shall be included in full in the biennial reports of the Secretaries to the President for transmittal to Congress under section 102(b).

TITLE III—DIETARY GUIDANCE

ESTABLISHMENT OF DIETARY GUIDELINES

SEC. 301. (a)(1) By January 1, 1990, and at least every five years thereafter, the Secretaries shall publish a report entitled "Dietary Guidelines for Americans". Each such report shall contain nutritional and dietary information and guidelines for the general public, and shall be promoted by each Federal agency in carrying out any Federal food, nutrition, or health program.

(2) The information and guidelines contained in each report required under paragraph (1) shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared.

(b)(1) Any Federal agency which proposes to issue any dietary guidance for the general population or identified population subgroups, shall submit the text of such guidance to the Secretaries sixty days before the publication of the notice of availability for comment required to be published in the Federal Register under this section.

(2)(A) During the sixty-day review period established in paragraph (1), the Secretaries shall review and approve or disapprove such guidance to assure that the guidance either is consistent with the "Dietary Guidelines for Americans" or that the guidance is based on medical or new scientific knowledge which is determined to be valid by the Secretaries. If after such sixty-day period neither Secretary notifies the proposing agency that such guidance has been disapproved, then such guidance may be issued by the agency. If both Secretaries disapprove of such guidance, it shall be returned to the agency. If either Secretary finds that such guidance is inconsistent with the "Dietary Guidelines for Americans" and so notifies the proposing agency, such agency shall follow the procedures set forth in this subsection before disseminating such proposal to the public in final form. If after such sixty-day period, either Secretary disapproves such guidance as inconsistent with

the "Dietary Guidelines for Americans" the proposing agency shall—

(i) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which shall explain the basis and purpose for the proposed dietary guidance;

(ii) provide in such notice for a public comment period of thirty days; and

(iii) make available for public inspection and copying during normal business hours any comment received by the agency during such comment period.

(B) After review of comments received during the comment period either Secretary may approve for dissemination by the proposing agency a final version of such dietary guidance along with an explanation of the basis and purpose for the final guidance which addresses significant and substantive comments as determined by the proposing agency.

(C) Any such final dietary guidance to be disseminated under subparagraph (B) shall be announced in a notice published in the Federal Register, before public dissemination along with an address where copies may be obtained.

(D) If after the thirty-day period for comment as provided under subparagraph (A)(ii), both Secretaries disapprove a proposed dietary guidance, the Secretaries shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (E).

(E) If a proposed dietary guidance is disapproved by both Secretaries under subparagraph (D), the Federal agency proposing such guidance may, within fifteen days after receiving notification of such disapproval under subparagraph (D), request the Secretaries to review such disapproval. Within fifteen days after receiving a request for such a review, the Secretaries shall conduct such review. If, pursuant to such review, either Secretary approves such proposed dietary guidance, such guidance may be issued by the Federal agency.

(3) For purposes of this subsection, the term "dietary guidance for the general population" does not include any rule or regulation issued by a Federal agency.

(4) For purposes of this subsection, the term "identified population subgroups" shall include, but not be limited to, groups based on factors such as age, sex, or race.

(c) This section does not place any limitations on—

(1) the conduct or support of any scientific or medical research by any Federal agency;

(2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency; or

(3) the authority of the Food and Drug Administration under the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

NUTRITION TRAINING REPORT

SEC. 302. The Secretary of Health and Human Services, in consultation with the Secretaries of Agriculture, Education, and Defense, and the Director of the National Science Foundation, shall submit, within one year after the date of enactment of this Act, a report describing the appropriate Federal role in assuring that students enrolled in United States medical schools and physicians practicing in the United States have access to adequate training in the field of nutrition and its relationship to human health.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURES PLACED ON CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 3390, the Veterans Education Amendments Act of 1989, and H.R. 3199, the Veterans Health Professionals Education Amendments of 1989, be placed on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1990

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2991.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the amendments of the House to the amendments of the Senate numbered 53, 171, and 191 to the bill (H.R. 2991) entitled "An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes", and asks a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Smith of Iowa, Mr. Alexander, Mr. Early, Mr. Dwyer of New Jersey, Mr. Carr, Mr. Mollohan, Mr. Whitten, Mr. Rogers, Mr. Regula, Mr. Kolbe, and Mr. Conte be managers of the conference on the part of the House.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate insist on its amendments numbered 53, 171, and 191, and agree to a conference as requested by the House and that the Chair be authorized to appoint conferees with respect to the Commerce, Justice, State, Judiciary Appropriations Act for fiscal year 1990.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Maine?

There being no objection, the Presiding Officer (Mr. KOHL) appointed Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SASSER, Mr. ADAMS, Mr. BYRD, Mr. RUDMAN, Mr. STEVENS, Mr. HATFIELD, Mr. KASTEN, Mr. GRAMM, and Mr. MCCLURE conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I thank my colleague for his cooperation.

PRIVILEGE OF THE FLOOR

Mr. MITCHELL. Mr. President, one further request. I ask unanimous consent that floor privileges during today's impeachment proceedings of Judge Walter J. Nixon, Jr., be granted to the individuals listed on the document I now send to desk.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The names are as follows:

MANAGERS OF THE HOUSE OF REPRESENTATIVES

Representative Don Edwards.
Representative F. James Sensenbrenner, Jr.
Representative Benjamin L. Cardin.
Representative William Dannemeyer.

HOUSE MANAGERS STAFF

Alan I. Baron, Special Counsel.
William M. Jones, General Counsel.
Daniel M. Freeman, Counsel.
Peter Keith.
Colleen Kiko.
Katie Urban.
Kathleen Leroy.
Shelley Hettleman.

JUDGE NIXON AND REPRESENTATIVES

Judge Walter L. Nixon, Jr.
David O. Stewart.
Peter M. Brody.

SENATE

Martha Pope, Chief of Staff, Majority Leader.
Charles Kinney, Democratic Policy Committee.
George Carrenbauer, Democratic Policy Committee.
Anita Jensen, Senator Mitchell.
Rebecca Roberts, Office of President pro tempore.
Roy Greenway, Senator Cranston.
Alan Thomas, Senator Cranston.
Duke Short, Senator Thurmond.
Sheila Burke, Chief of Staff, Republican Leader.
Robert Dove, Republican Leader's Staff.
Dennis Shea, Republican Leader's Staff.
Jim Whittinghill, Republican Leader's Staff.
Richard Quinn, Republican Leader's Staff.
Mike Tongour, Assistant Republican Leader's Staff.
Michael Davidson, Senate Legal Counsel.
Morgan Frankel, Assistant Senate Legal Counsel & Committee Counsel.
Claire M. Sylvia, Assistant Senate Legal Counsel.
Jack Sousa, Rules Committee.
Jeff Peck, Judiciary Committee, Majority.
Jeff Nuechterlein, Judiciary Committee, Majority.
Terry Wooten, Judiciary Committee, Minority.
Thad Strom, Judiciary Committee, Minority.

IMPEACHMENT COMMITTEE

Donald A. Purdy, Jr., Counsel.
Anthony L. Harvey, Administrator.
P. Casey McGannon, Staff Assistant and Exhibits Clerk.
Isabel T. McVeigh, Staff Assistant and Journal Clerk.

MEMBER'S STAFF REPRESENTATIVES

Bob Redding, Senator Fowler.
Scott Williams, Senator Heflin.
Ellen Marshall, Senator Wirth.
David Chartier, Senator Reid.

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Kerry Walsh Skelly, Senator Robb.
Keenan Peck, Senator Kohl.
Kevin Dempsey, Senator Danforth.
Amy Dunathan, Senator Chafee.
John H. Moseman, Senator Murkowski.
Reginald E. Jones, Senator Jeffords.
Mary Beth Savary, Senator Mack.
Taylor Bowlden, Senator Symms.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mr. WILSON. I thank the Chair.

(The remarks of Mr. WILSON pertaining to the introduction of S. 1835 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader, Senator DOLE.

THE BUDGET PROCESS

Mr. DOLE. Mr. President, I will not delay the Senate. I know we have a number of votes and a number of Members have things to do after those votes. But I did want to include in the RECORD at this point a statement issued by the White House yesterday, a statement by the President with reference to the whole budget process and the reconciliation process, and to point out at least three things that the President points out.

He wants a truly clean reconciliation bill with real deficit reduction, which does not seem like it is too much to ask. There is not much deficit reduction in even the clean Senate bill and even less, as the President points out, in the House bill, where there could even be a minus instead of any savings. We could be going in the hole even further in the House bill.

Second, the President indicated that he did not want extraneous issues added to the reconciliation bill which is certainly in the agreement we made in the Senate, and I would hope the House would carry that out.

Third, the President indicated the Congress should pass a debt limit bill immediately to assure that the United States does not default. I think there has been some misinterpretation of the President's statement when he indicates, "If other issues—such as child care and capital gains—prove more difficult to resolve, we will continue to pursue them until satisfactory legislation is enacted." That, coupled with the fact that I have indicated we will not offer any capital gains amendment to the debt ceiling extension, I think has confused many people. It does not mean we have given up on the capital gains matter. We are still going to get some votes on the capital gains. Hopefully, we can have some vehicle and have a number of cloture votes to see if we can resolve our differences.

So I wanted to make it clear that the White House indicated at least 3 days ago they prefer not to get tied up in a debt ceiling battle with capital gains because of what it might do to the markets and the adverse impact it might have. But I think a careful reading of the President's statement will indicate what he is concerned about at this point. He has not given in on capital gains, but he is concerned about deficit reduction and keeping extraneous matters off the reconciliation bill.

Mr. President, I ask unanimous consent that the entire statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE PRESIDENT

On February 9th, after only twenty days in office, I submitted a budget that would have reduced the fiscal year 1990 deficit to $91.1 billion. On April 14th, we reached a Bipartisan Budget Agreement with the Congress. We were encouraged by the prospect that, if fully implemented, the Agreement promised to reduce the FY '90 deficit to $99.4 billion. Unfortunately, the Bipartisan Agreement has not yet been implemented. As a result, we find ourselves having to use the fail-safe deficit reduction measure that the law requires: across-the-board spending cuts, known as "sequester."

Clearly, this approach would not be a first choice for any of us. It is, however, a necessary discipline in the absence of more satisfactory action.

If the across-the-board cuts remain in effect, sequester would produce $16.1 billion in budgetary savings for fiscal year 1990 without any increase in taxes. These are more substantial savings than in either the pending Senate- or House-passed reconciliation bills.

By our scoring, the Senate and House bills would save only $8.3 billion and $1.9 billion, respectively, after adjustment for payment date shifts and accounting changes. (If the House bill were adjusted to drop capital gains—as the Democratic leadership wishes—it would actually increase the deficit, rather than decrease it.) If the Senate bill's savings were adjusted for the pending repeal of catastrophic health insurance, as in the House bill, total savings in the Senate bill would drop to slightly more than $2 billion. In the face of deficits of well over $100 billion, $2 billion in net savings is far from enough. We must—and we can—do better.

We have tried to work constructively and cooperatively with the Congress in a true spirit of bipartisanship. I deeply regret the tone of partisanship that has entered the economic policy debate. I would very much have preferred a fair and balanced debate—and vote—on the merits. But the Congressional process has bogged down. Now, the stalemate must be broken. So, having consulted with the Republican Congressional leadership, I am calling upon the Congress to do three things:

First, the Congress should pass a truly clean reconciliation bill that produces real deficit reduction—without new taxes, without spending measures that increase the deficit in the future, and without scoring gimmicks. Any such reconciliation bill should achieve at least the $14 billion in reconciled deficit reduction agreed to in the Bipartisan Budget Agreement, after adjusting to offset any new spending measures.

I will not accept a reconciliation bill that fails to do the job that should be done. If the Congress cannot agree upon a clean reconciliation bill that fully meets the test of fiscal responsibility, we are prepared to manage the government under sequester. That is, we will continue to impose $16 billion in across-the-board spending cuts—as the law requires—for as long as it takes to reach agreement on a fiscally responsible bill.

Second, consistent with the Senate's expressed interest in a "clean" reconciliation bill without what it terms "extraneous" issues, the Congress should separate from the pending reconciliation bill such issues as child care, catastrophic health insurance, section 89, and capital gains. It should do so without applying its standard arbitrarily in a way that discriminates selectively against such issues. Congress should present to me for signature such legislation as may be mutually agreed on these subjects.

If we can reach agreement quickly on any of these issues—such as repeal of section 89 or catastrophic health inusrance—I would be prepared to sign a bill dealing with these promptly, provided it is not a reconciliation bill. If other issues—such as child care and capital gains—prove more difficult to resolve, we will continue to pursue them until satisfactory legislation is enacted. I remain firmly committed to both capital gains and a child care bill consistent with the principles embodied in my proposed legislation. I am confident that there is a majority for capital gains in both the House and the Senate, and will continue to seek every opportunity for the majority to express its will.

Third, the Congress should pass a debt limit bill immediately—to assure that the United States does not default.

Fortunately, the economy continues to grow. It is now in its 83rd consecutive month of growth—the second longest such period of growth in all of America's history. But, there is as much reason as ever to seek to reduce the deficit, to pass a long-term debt limit bill, and to advance legislation that can keep the economy growing.

QUORUM CALL

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 11]

Armstrong	Byrd	Kerrey
Boschwitz	Dixon	Kohl
Bryan	Dole	Mitchell
Bumpers	Hatfield	

The PRESIDENT pro tempore. A quorum is not present. The clerk will call the roll of the absentees.

Mr. MITCHELL. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators and I ask for the yeas and nays.

The PRESIDENT pro tempore. Is the demand sustained? Obviously the demand is sustained.

The yeas and nays are ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—96

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boschwitz	Harkin	Nunn
Breaux	Hatch	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burdick	Heinz	Pryor
Burns	Helms	Reid
Byrd	Hollings	Riegle
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Rudman
Conrad	Kasten	Sanford
Cranston	Kennedy	Sarbanes
D'Amato	Kerrey	Sasser
Danforth	Kerry	Shelby
Daschle	Kohl	Simon
DeConcini	Lautenberg	Simpson
Dixon	Leahy	Specter
Dodd	Levin	Stevens
Dole	Lieberman	Symms
Domenici	Lott	Thurmond
Durenberger	Lugar	Wallop
Exon	Mack	Warner
Ford	Matsunaga	Wilson
Fowler	McClure	Wirth

NAYS—1

Humphrey

NOT VOTING—3

Boren	Bradley	McCain

So the motion was agreed to.

The PRESIDENT pro tempore. A quorum is present. There will be order in the Senate.

IMPEACHMENT OF JUDGE WALTER L. NIXON, JR.

The PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived and a quorum having been established, the Senate will resume its consideration of the articles of impeachment against Judge Walter L. Nixon, Jr. The managers on the part of the House and respondent and his party will now take their places in the well in the Chamber.

The Deputy Sergeant at Arms will make the proclamation.

The Deputy Sergeant at Arms, Jeanine Drysdale-Lowe, made the proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against Walter L. Nixon, Jr., U.S. district judge for the Southern District of Mississippi.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, if I may have the attention of my colleagues.

The PRESIDENT pro tempore. The Senate will be in order. The majority leader is recognized.

Mr. MITCHELL. Mr. President, we will this morning be voting on two motions and, depending upon the outcome of those motions, on three articles of impeachment. That means a maximum potential of five votes. In view of the importance of these proceedings, in the interest of fairness to all concerned and also in the interest of maintaining proper decorum in the Senate, I ask that Senators remain in their seats during the voting and respond when their name is called by the clerk. That will also have the added benefit of expediting the proceedings.

The first rollcall vote will, in accordance with our practices, be a 15-minute rollcall vote. The subsequent rollcall votes need only take such time as to permit each Senator to respond. Therefore, I urge Senators to remain in their seats and to respond when called by the clerk on each vote, as we did in the prior impeachment proceeding recently concluded.

Also, Mr. President, I ask unanimous consent that at any time in the proceeding which they choose, Judge Nixon and his counsel be permitted to excuse themselves.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. So counsel and the judge know that at any time they wish, following the completion of the vote, they may excuse themselves at any time.

Mr. President, the Senate deliberated yesterday for 6 hours on the articles of impeachment against Judge Walter L. Nixon, Jr. We meet this morning to vote on Judge Nixon's two pending motions and, depending upon the disposition of those motions, on the three articles of impeachment.

JUDGE NIXON'S MOTION FOR TRIAL BY THE SENATE

The PRESIDENT pro tempore. The Senate will now proceed to vote on Judge Nixon's first motion. The clerk will read Judge Nixon's motion for trial by the Senate.

The assistant legislative clerk read as follows:

JUDGE NIXON'S MOTION FOR TRIAL BY THE SENATE

Respondent Walter L. Nixon, Jr., through his undersigned attorneys, hereby moves that the Senate trial in this case be convened before and conducted in the presence of the entire body of the Senate, as required by article I, section 3, clause 6 of the Constitution, as set forth at greater length in the attached supporting Memorandum.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is the demand sustained? Obviously, the demand is sustained.

The yeas and nays were ordered.

VOTE ON JUDGE NIXON'S MOTION FOR TRIAL BY THE SENATE

The PRESIDENT pro tempore. A "yea" vote would be in favor of granting Judge Nixon's motion. A "nay" vote would be in opposition to granting Judge Nixon's motion. The clerk will call the roll and please repeat the responses.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey [Mr. BRADLEY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] is necessarily absent.

The PRESIDENT pro tempore. Are there any Senators who have not voted?

The result was announced—yeas 7, nays 90, as follows:

[Rollcall Vote 284]

(Judge Nixon's motion for trial by the Senate—Court of Impeachment—Judge Walter L. Nixon, Jr.)

YEAS—7

Heflin	Packwood	Wallop
Helms	Sanford	
Mack	Specter	

NAYS—90

Adams	Dole	Kerry
Armstrong	Domenici	Kohl
Baucus	Durenberger	Lautenberg
Bentsen	Exon	Leahy
Biden	Ford	Levin
Bingaman	Fowler	Lieberman
Bond	Garn	Lott
Boschwitz	Glenn	Lugar
Breaux	Gore	Matsunaga
Bryan	Gorton	McClure
Bumpers	Graham	McConnell
Burdick	Gramm	Metzenbaum
Burns	Grassley	Mikulski
Byrd	Harkin	Mitchell
Chafee	Hatch	Moynihan
Coats	Hatfield	Murkowski
Cochran	Heinz	Nickles
Cohen	Hollings	Nunn
Conrad	Humphrey	Pell
Cranston	Inouye	Pressler
D'Amato	Jeffords	Pryor
Danforth	Johnston	Reid
Daschle	Kassebaum	Riegle
DeConcini	Kasten	Robb
Dixon	Kennedy	Rockefeller
Dodd	Kerrey	Roth

Rudman	Simon	Thurmond
Sarbanes	Simpson	Warner
Sasser	Stevens	Wilson
Shelby	Symms	Wirth

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—3

Boren	Bradley	McCain

The PRESIDENT pro tempore. On this vote, there are 7 yeas, 90 nays. Judge Nixon's motion for trial by the Senate is denied.

JUDGE NIXON'S MOTION TO DISMISS IMPEACHMENT ARTICLE III

The PRESIDENT pro tempore. The clerk will now read Judge Nixon's motion to dismiss impeachment article III.

The legislative clerk read as follows:

Judge Walter L. Nixon, Jr. through his undersigned counsel, hereby moves for an order of the Senate dismissing Impeachment Article III on the grounds stated:

1. The allegations that an impeachable offense has been made out if "Judge Nixon has raised substantial doubt as to his judicial integrity, undermined confidence in the integrity and impartiality of the judiciary, betrayed the trust of the people of the United States, * * * and brought disrepute on the Federal courts and the administration of justice by the Federal courts. * * *"

These allegations do not make out an impeachable offense under Article II, sec. 4 of the Constitution.

2. Specifications III(2) (A), (D), (E), (F), and (G), which are redundant and multiplicious of allegations in Impeachment Article I and Article II.

3. The Article, which charges five different offenses for each of fourteen specific events, thus present seventy allegations. Such a complex and confusing Article is both unfair and completely unworkable.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is the demand for the yeas and nays sustained? Obviously, the demand is sustained.

The yeas and nays were ordered.

VOTE ON JUDGE NIXON'S MOTION TO DISMISS IMPEACHMENT ARTICLE III

The PRESIDENT pro tempore. A "yea" vote would be in favor of granting Judge Nixon's motion. A "nay" vote would be in opposition to granting Judge Nixon's motion. The clerk will call the roll, and please repeat the response.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey [Mr. BRADLEY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] is necessarily absent.

The PRESIDENT pro tempore. Are there any Senators in the Chamber who have not voted or who wish to change their vote?

The result was announced—yeas 34, nays 63, as follows:

[Rollcall Vote No. 285]

(Judge Nixon's motion to dismiss impeachment article III—Court of Impeachment—Judge Walter L. Nixon, Jr.)

YEAS—34

Adams	Hatch	Metzenbaum
Biden	Hatfield	Moynihan
Bingaman	Heflin	Murkowski
Bryan	Johnston	Pryor
Burdick	Kasten	Reid
Chafee	Kerrey	Sanford
Conrad	Kerry	Sasser
Dixon	Kohl	Simon
Dole	Levin	Symms
Domenici	Lieberman	Wallop
Exon	Mack	
Graham	McClure	

NAYS—63

Armstrong	Garn	Mikulski
Baucus	Glenn	Mitchell
Bentsen	Gore	Nickles
Bond	Gorton	Nunn
Boschwitz	Gramm	Packwood
Breaux	Grassley	Pell
Bumpers	Harkin	Pressler
Burns	Heinz	Riegle
Byrd	Helms	Robb
Coats	Hollings	Rockefeller
Cochran	Humphrey	Roth
Cohen	Inouye	Rudman
Cranston	Jeffords	Sarbanes
D'Amato	Kassebaum	Shelby
Danforth	Kennedy	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Lott	Thurmond
Durenberger	Lugar	Warner
Ford	Matsunaga	Wilson
Fowler	McConnell	Wirth

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—3

Boren	Bradley	McCain

The PRESIDENT pro tempore. On this vote, 34 Senators have voted in the affirmative, 63 Senators have voted in the negative. Therefore, Judge Nixon's motion to dismiss the impeachment article No. III is denied.

ARTICLE I

The PRESIDENT pro tempore. The clerk will now read the first article of impeachment.

The assistant legislative clerk read as follows:

ARTICLE I

On July 18, 1984, Judge Nixon testified before a Federal grand jury empaneled in the United States District Court for the Southern District of Mississippi (Hattiesburg Division) to investigate Judge Nixon's business relationship with Wiley Fairchild and the handling of the criminal prosecution of Fairchild's son, Drew Fairchild, for drug smuggling. In the course of his grand jury testimony and having duly taken an oath that he would tell the truth, the whole truth, and nothing but the truth, Judge Nixon did knowingly and contrary to his oath make a material false or misleading statement to the grand jury.

The false or misleading statement was, in substance, that Forrest County District Attorney Paul Holmes never discussed the Drew Fairchild case with Judge Nixon.

Wherefore, Judge Walter L. Nixon, Jr., is guilty of an impeachable offense and should be removed from office.

VOTE ON ARTICLE I

The PRESIDENT pro tempore. On this vote, the yeas and nays are automatic.

The Chair reminds the Senate that in voting on articles of impeachment, each Senator, when his or her name is called, would stand in his or her place and vote guilty or not guilty.

Senators how say you, is the respondent Walter L. Nixon, Jr., guilty or not guilty?

The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey [Mr. BRADLEY] would vote "guilty."

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] is necessarily absent.

The PRESIDENT pro tempore. Have all Senators voted?

The result was announced—guilty 89, not guilty 8, as follows:

[Rollcall Vote No. 286]

(Subject: Article I—Court of Impeachment—Judge Walter L. Nixon)

YEAS—89

Adams	Fowler	Matsunaga
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boschwitz	Grassley	Nickles
Breaux	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Heflin	Pressler
Burdick	Heinz	Pryor
Burns	Helms	Reid
Byrd	Hollings	Riegle
Coats	Humphrey	Robb
Cochran	Inouye	Rockefeller
Cohen	Jeffords	Roth
Conrad	Johnston	Rudman
Cranston	Kassebaum	Sarbanes
D'Amato	Kasten	Shelby
Danforth	Kennedy	Simon
Daschle	Kerrey	Simpson
DeConcini	Kerry	Specter
Dixon	Kohl	Stevens
Dodd	Lautenberg	Thurmond
Dole	Leahy	Wallop
Domenici	Levin	Warner
Durenberger	Lieberman	Wilson
Exon	Lott	Wirth
Ford	Lugar	

NAYS—8

Chafee	McClure	Sasser
Hatfield	Pell	Symms
Mack	Sanford	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—3

Boren	Bradley	McCain

The PRESIDENT pro tempore. On the first article of impeachment, 89 Senators have voted guilty, 8 Senators have voted not guilty. Two-thirds of the Members present having voted guilty, the Senate accordingly adjudges that the respondent, Walter L. Nixon, Jr., is guilty as charged in this first article.

ARTICLE II

The PRESIDENT pro tempore. The clerk will now read the second article of impeachment.

The legislative clerk read as follows:

ARTICLE II

On July 18, 1984, Judge Nixon testified before a Federal grand jury empaneled in the United States District Court for the Southern District to Mississippi to investigate Judge Nixon's business relationship with Wiley Fairchild and the handling of the prosecution of Fairchild's son, Drew Fairchild, for drug smuggling. In the course of his grand jury testimony and having duly taken an oath that he would tell the truth, the whole truth, and nothing but the truth, Judge Nixon did knowingly and contrary to his oath make a material false or misleading statement to the grand jury.

The false or misleading statement was, in substance, that Judge Nixon had nothing whatsoever officially or unofficially to do with the Drew Fairchild case in Federal court or State court; and that Judge Nixon "never handled any part of it, never had a thing to do with it at all, and never talked to anyone, State or Federal prosecutor or judge, that in any way influenced anybody" with respect to the Drew Fairchild case.

Wherefore, Judge Walter L. Nixon, Jr., is guilty of an impeachable offense and should be removed from office.

VOTE ON ARTICLE II

The PRESIDENT pro tempore. Senators how say you? Is the respondent, Walter L. Nixon, Jr., guilty or not guilty?

The clerk will call the roll, and please repeat the responses.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey [Mr. BRADLEY] would vote "guilty."

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] is necessarily absent.

The result was announced—guilty 78, not guilty 19, as follows:

[Rollcall Vote No. 287]

(Subject: Article II—Court of Impeachment—Judge Walter L. Nixon, Jr.)

GUILTY—78

Adams	Dixon	Kassebaum
Baucus	Dodd	Kasten
Bentsen	Exon	Kennedy
Biden	Ford	Kerrey
Bingaman	Fowler	Kerry
Bond	Garn	Kohl
Boschwitz	Glenn	Lautenberg
Breaux	Gore	Leahy
Bryan	Gorton	Levin
Bumpers	Graham	Lieberman
Burdick	Gramm	Lugar
Burns	Grassley	Matsunaga
Byrd	Harkin	McConnell
Coats	Hatch	Metzenbaum
Cohen	Heflin	Mikulski
Conrad	Heinz	Mitchell
Cranston	Helms	Moynihan
D'Amato	Hollings	Nickles
Danforth	Humphrey	Nunn
Daschle	Inouye	Pressler
DeConcini	Johnston	Pryor
Reid	Rudman	Specter
Riegle	Sarbanes	Stevens
Robb	Shelby	Warner
Rockefeller	Simon	Wilson
Roth	Simpson	Wirth

NOT GUILTY—19

Armstrong	Jeffords	Sanford
Chafee	Lott	Sasser
Cochran	Mack	Symms
Dole	McClure	Thurmond
Domenici	Murkowski	Wallop
Durenberger	Packwood	
Hatfield	Pell	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—3

Boren	Bradley	McCain

The PRESIDENT pro tempore. All Senators having voted, on the second article of impeachment, 78 Senators have voted guilty; 19 Senators have voted not guilty.

Two-thirds of the Members present having voted guilty, the Senate adjudges that the respondent, Walter L. Nixon, Jr., is guilty as charged in this article.

ARTICLE III

The PRESIDENT pro tempore. The clerk will now read the third article of impeachment.

The assistant legislative clerk read as follows:

ARTICLE III

By virtue of his office as a judge of the United States District Court for the Southern District of Mississippi, Judge Nixon is required to uphold the integrity of the judiciary, to avoid impropriety and the appearance of impropriety, and to obey the laws of the United States.

Judge Nixon has raised substantial doubt as to his judicial integrity, undermined confidence in the integrity and impartiality of the judiciary, betrayed the trust of the people of the United States, disobeyed the laws of the United States and brought disrepute on the Federal courts and the administration of justice by the Federal courts by the following:

After entering into an oil and gas investment with Wiley Fairchild, Judge Nixon conversed with Wiley Fairchild, Carroll Ingram, and Forrest County District Attorney Paul Holmes concerning the State criminal drug conspiracy prosecution of Drew Fairchild, the son of Wiley Fairchild, and thereafter concealed those conversations as follows:

(1) Judge Nixon concealed those conversations through one or more material false or misleading statements knowingly made to an attorney from the United States Department of Justice and a special agent of the Federal Bureau of Investigation during an interview of Judge Nixon conducted in Biloxi, Mississippi, on April 19, 1984. The substance of the false or misleading statements included the following:

(A) Judge Nixon never discussed with Wiley Fairchild anything about Wiley's son's case.

(B) Wiley Fairchild never brought up his son's case.

(C) At the time of the interview Judge Nixon had no knowledge of the Drew Fairchild case and did not even know Drew Fairchild existed, except for what the judge previously read in the newspaper and what he learned from the questioners in the interview.

(D) Nothing was done or nothing was ever mentioned about Wiley Fairchild's son.

(E) Judge Nixon had never heard about the Drew Fairchild case, except what he told the questioners in the interview, and certainly had nothing to do with the case.

(F) Judge Nixon had done nothing to influence the Drew Fairchild case.

(G) State prosecutor Paul Holmes never talked to Judge Nixon about the Drew Fairchild case.

(2) Judge Nixon further concealed his conversations with Wiley Fairchild, Paul Holmes, and Carroll Ingram concerning the Drew Fairchild case by knowingly giving one or more material false or misleading statements to a Federal grand jury during testimony under oath in Hattiesburg, Mississippi, on July 18, 1984. The substance of the false or misleading statements included the following:

(A) Paul Holmes never discussed the Drew Fairchild case with Judge Nixon.

(B) To the best of his knowledge and recollection, Judge Nixon did not know of any reason he would have met with Wiley Fairchild after the Nixon-Fairchild oil and gas investment was finalized in February 1981.

(C) Judge Nixon gave the grand jury all the information that he had and that he could and had withheld nothing during his grand jury testimony.

(D) Judge Nixon had nothing whatsoever unofficially to do with the Drew Fairchild criminal case in State court.

(E) Judge Nixon never talked to anyone, including the State prosecutor, about the Drew Fairchild case.

(F) Judge Nixon never had a thing to do with the Drew Fairchild case at all.

(G) Judge Nixon "never talked to anyone, State or Federal, prosecutor or judge, in any way influenced anybody" with respect to the Drew Fairchild case.

Wherefore, Judge Walter L. Nixon, Jr., is guilty of an impeachable offense and should be removed from office.

VOTE ON ARTICLE III

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Walter L. Nixon, Jr., guilty or not guilty?

The clerk will call the roll on the third article of impeachment, and please repeat the responses.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey [Mr. BRADLEY] would vote "guilty."

Mr. SIMPSON. I announce that the Senator fom Arizona [Mr. MCCAIN] is necessarily absent.

The result was announced—guilty 57, not guilty 40, as follows:

[Rollcall Vote No. 288]

(Subject: Article III—Court of Impeachment—Walter L. Nixon, Jr.)

GUILTY—57

Armstrong	Bumpers	D'Amato
Bentsen	Byrd	Danforth
Bond	Coats	Daschle
Boschwitz	Cochran	DeConcini
Breaux	Cohen	Dodd

Durenberger	Jeffords	Riegle
Ford	Kassebaum	Robb
Fowler	Kennedy	Rockefeller
Garn	Lautenberg	Roth
Glenn	Leahy	Rudman
Gore	Lott	Sarbanes
Gorton	Lugar	Shelby
Gramm	Matsunaga	Simpson
Grassley	McConnell	Specter
Heinz	Mikulski	Stevens
Helms	Mitchell	Thurmond
Hollings	Nickles	Warner
Humphrey	Pell	Wilson
Inouye	Pressler	Wirth

NOT GUILTY—40

Adams	Graham	Metzenbaum
Baucus	Harkin	Moynihan
Biden	Hatch	Murkowski
Bingaman	Hatfield	Nunn
Bryan	Heflin	Packwood
Burdick	Johnston	Pryor
Burns	Kasten	Reid
Chafee	Kerrey	Sanford
Conrad	Kerry	Sasser
Cranston	Kohl	Simon
Dixon	Levin	Symms
Dole	Lieberman	Wallop
Domenici	Mack	
Exon	McClure	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—3

Boren	Bradley	McCain

The PRESIDENT pro tempore. Have all Senators in the Chamber voted?

Upon this article of impeachment, 57 Senators having voted guilty, 40 Senators having voted not guilty, less than two-thirds of the Members present having voted guilty, the Senate adjudges that the respondent, Walter L. Nixon, Jr., is not guilty as charged in the third article of impeachment.

The Chair directs judgment to be entered in accordance with the vote of the Senate, as follows:

The Senate, having tried Walter L. Nixon, Jr., U.S. district judge for the Southern District of Mississippi, upon three articles of impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present having found him guilty of the charges contained in articles I and II of the articles of impeachment, it is, therefore, ordered and adjudged that the said Walter L. Nixon, Jr., be, and he is hereby, removed from office.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I send to the desk an order.

The PRESIDING pro tempore. The clerk will report the order.

The legislative clerk read as follows:

Ordered, That the Secretary be directed to communicate to the Secretary of State, as provided by rule XXIII of Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and also to the House of Representatives the judgment of the Senate in the case of Walter L. Nixon, Jr., and transmit a certified copy of the judgment to each.

The PRESIDENT pro tempore. Without objection, the order will be entered and adjudged.

The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senators may be permitted within 7 days from today to have printed in the RECORD opinions or statements explaining their votes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE IMPEACHMENT OF JUDGE NIXON

Mr. LEVIN. Mr. President, in the matter of the impeachment of Judge Walter Nixon, I decided to vote for conviction on the basis of articles I and II.

Articles I and II allege that Judge Nixon made false and misleading statements to a Federal grand jury. Both counts are based upon Federal criminal charges for which Judge Nixon was found guilty in 1986 after a trial by jury. His appeals of this conviction have been exhausted, and he is now serving a sentence of 5 years imprisonment for his crimes. I have reviewed the facts and record underlying the conviction and find that they support the jury's finding of wrongdoing. Thus, I accept the jury's finding of guilt as evidence of Judge Nixon's making false and misleading statements to the grand jury as set forth in articles I and II.

A criminal conviction is not conclusive, in and of itself, of a person's guilt in an impeachment proceeding. Nor does it relieve the Senate of its responsibility to determine whether a respondent has committed high crimes and misdeameanors which justify removal from office. At the same time, a guilty verdict reached in accordance with American principles of criminal justice, after due process, is not devoid of significance. It represents the unanimous, considered finding of an impartial panel of American citizens charged to reach this verdict only when the evidence of guilt is beyond a reasonable doubt. It demand our attention.

The level of proof required for a criminal conviction—beyond a reasonable doubt—is tougher than what is required for the Senate to remove an official from office. The due process requirements in a criminal matter—including the right to a jury trial—are tougher than those applicable in an impeachment proceeding. These extra safeguards are constitutional requirements to protect the presumption of innocence and permit criminal sanctions only when clearly deserved. It also means that when a finding of guilt occurs in a criminal proceeding and in accordance with our laws, we can view it as a prudent determination reached in the context of many protections for the defendant.

Some have suggested that, in deciding the matter of Judge Nixon's impeachment, we should not consider his criminal conviction. I disagree. Given the higher burden of proof and stronger due process protections that apply to a criminal trial, it is appropriate that we take note of the guilty verdict and consider the jury's finding of criminal wrongdoing as evidence of the high crimes and misdemeanors charged in the impeachment, provided that we are satisfied that the record supports the verdict, due process was accorded, and the wrongdoing at issue is sufficient to warrant removal from office.

The Constitution gives the Senate "the sole power to try all impeachments" and states that "the trial of all crimes except impeachment shall be by jury." (Article I, section 3; and article II, section 2.) These provisions require the Senate to act as the factfinder in each impeachment proceeding—since factfinding is at the heart of trying any case—and to determine, as individuals and as a body, whether the respondent is guilty of high crimes and misdemeanors so as to require removal from office.

While we cannot abdicate our responsibility as factfinders by deeming guilty verdicts to be conclusive evidence of high crimes and misdemeanors, neither are we required to ignore a guilty verdict in a criminal trial on the same charges that underlie an article of impeachment. Indeed, by framing articles which repeat criminal charges, the House invites us to make the connection between the two proceedings.

Would we be here but for Judge Nixon's conviction? I doubt it, since there is a reasonably supportable, benign explanation of his testimony before the grand jury. But what is clear and convincing—what is true beyond a reasonable doubt—what is true beyond any doubt—is that following a fair hearing Judge Nixon was convicted of perjury based on the very same statements before us in this impeachment proceeding.

In the impeachment involving Judge Harry Claiborne, one of the articles of impeachment asked the Senate to remove him from office because of his prior criminal conviction. The format of that article was and is the most forthright way to proceed in a case of impeachment following a criminal conviction. The Senate, however, by a vote of 46 guilty, 17 not guilty and 35 present, failed to adopt that article in the Claiborne matter, apparently because some felt its wording did not give enough recognition to the Senate's obligation to act as an independent factfinder and to go behind any criminal conviction. But I believe, if we examine a relevant guilty verdict, determine that the record supports it and that due process was provided, while we are not bound to follow it, we can, if we choose, rely on it to provide the factual determination needed to vote guilty on an article of impeachment. I choose to do so in this matter, because of my belief that the Federal judiciary should not include persons recently convicted of serious crimes after a fair trial, where the record sup-

ports the guilty verdict and the person's appeals have been exhausted.

The practice of factfinders relying on findings made in other legal proceedings is called collateral estoppel and is a long-standing, well-established principle of American law. I believe it is particularly appropriate for us to use that doctrine in the matter of Judge Nixon, because of the Senate's refusal to allow him to conduct an impeachment trial before the full Senate. Because most of us were not members of the Senate committee that heard the evidence in this matter and were not present to evaluate the demeanor of the witnesses, we are at a disadvantage in making the factual findings required by this proceeding. Under such circumstances, I believe it is even more appropriate to rely heavily on the criminal conviction of Judge Nixon, where the jury heard all of the evidence and reached a unanimous conclusion on the very issues before us, using the toughest standard of proof required in the American legal system.

A distinction should be made here between criminal trials which result in a finding of "guilty" versus a finding of "not guilty." A finding of guilt is made only when a jury unanimously agrees that the evidence demonstrates beyond a reasonable doubt that a crime was committed. A "not guilty" verdict results whenever a jury is not convinced that the evidence reaches this high level of proof. And because of that high level of proof in criminal trials, one cannot equate a finding of "not guilty" with a finding of innocence. That is why a verdict of "not guilty" in a criminal trial does not restrict the Senate's freedom to act on articles of impeachment, as in the case involving Judge Alcee Hastings. Evidence which may not sustain a finding of criminal guilt may yet be sufficient to satisfy us that a person should be removed from office.

I did not vote for conviction on article III, because much of that article depends upon statements made by Judge Nixon during an interview with the Department of Justice in April 1984. These statements were not part of the criminal charges for which Judge Nixon was convicted. The judge's statements to the grand jury took place almost 3 months after the interview, after he had time to recollect and think through his answers so as not to be misleading. The record amply supports the finding in the criminal trial that Judge Nixon's statements to the grand jury were false and misleading and constituted perjury. Those are the statements cited in articles I and II, and it is on those articles that I vote to convict Judge Nixon and remove him from office.

There is one last point. I voted no on Judge Nixon's motion for a full trial before the Senate, because I based my vote to remove Judge Nixon from office primarily on his criminal conviction following a fair trial and the exhaustion of his appeals. If there were no prior conviction, it would be my inclination, upon the request of a respondent, to grant a trial before the full Senate or for the respondent to testify under oath before the full Senate, unless either the witnesses' credibility were not a significant factor in the proceeding or unless I were on the impeachment committee which personally heard the testimony and no other Senator, who was not a committee member, sought such a hearing or testimony before the full Senate.

EXPLANATION OF IMPEACHMENT VOTE

Mr. SANFORD. Mr. President, it has been obvious since the first session that Judge Walter L. Nixon, Jr., was going to be impeached. Even if the Senate were to conclude that he had been unjustly convicted by the jury, it would be difficult to return to the Federal bench a judge with a cloud of conviction for perjury, a particularly odious offense for the judicial system.

Understanding he would indeed be impeached, I decided to vote to acquit Judge Walter L. Nixon, Jr., to protest this criminal investigative device of failing to establish a real crime, and then searching around in the ashes for bits of perjury. I also voted to acquit because: First, the false statements, if made, were of trivial matters not related to an actual crime; second, the case against Judge Nixon was contrived and manufactured by the Justice Department, and third, grounded, at least in part, on testimony written for a key witness by Justice Department employees.

It is more than regrettable that the Justice Department made a criminal of this judge.

THE IMPEACHMENT OF FEDERAL DISTRICT JUDGE WALTER L. NIXON, JR.

Mr. GRASSLEY. Mr. President, impeachment, as provided for in article II, section 4 of the Constitution, is not a criminal proceeding, even though the Constitution makes use of traditional criminal law terminology, such as:

Removal from office on "conviction of treason, bribery, or other high crimes and misdemeanors" (article II, section 4), or

"The Trial of all crimes, except in cases of impeachment, shall be by jury" (article III, section 2(3)), or

The President's power to grant "pardons for offenses against the United States, except in cases of impeachment" (article II, section 2(1)).

Nor is impeachment designed to further punish one already convicted of a felony and serving a sentence for that conviction, such as Walter L. Nixon.

Rather, impeachment—a solemn and grave exercise of granted power—is a remedial measure, entrusted to Congress by the Constitution.

The power of impeachment enables Congress—by removing from office those persons unfit to hold high positions of public trust—to protect the public.

Although the great power of removal from office is rarely employed, the Congress should not retreat from the proper exercise of its constitutional responsibilities—after the careful weighing of all evidence—when warranted.

A lifetime appointment to the Federal bench—as provided by article III of the Constitution—is a civil office of public trust (as described in article II) that is subject to the legislative branch's article I power of impeachment.

A Federal judge is not confirmed directly by the people through the electoral process. Rather, a Federal judge is confirmed by the appointment process, mandated by the Constitution to be exercised by the executive and legislative branches.

To be entrusted with a lifetime office that has the potential power of depriving individuals of their liberty and property, is, indeed, a very great responsibility.

Consequently, a Federal judge must subscribe to the highest ethical and moral standards. At a minimum, in their words and deeds, judges must be beyond reproach or suspicion in order for there to be integrity and impartiality in the administration of justice and independence in the operation of our judicial system.

Has Judge Nixon met the standard?

The judge became the subject of a Federal investigation due to his financial dealings with a Mississippi businessman, Wiley Fairchild, and his (Nixon's) involvement with the prosecutor, Paul "Bud" Holmes, in a State criminal case involving drug smuggling—the defendant in the case being Fairchild's son, Drew.

Based upon a 1984 FBI-Department of Justice interview and later sworn testimony before a Federal grand jury regarding his financial dealings with Wiley Fairchild and his alleged involvement with the State criminal case against Drew Fairchild, the judge was indicted on one count of accepting an unlawful gratuity and three counts of perjury in 1985.

He subsequently was convicted by a Federal jury in February 1986, of two counts of perjury and sentenced to 5 years in prison. He was aquitted of the other counts. He is currently serving that sentence.

The fifth circuit upheld his conviction, including his postconviction allegations of prosecutorial misconduct. That court also concluded the judge received a fair trial. His petition for certiorari has been denied by the Supreme Court.

In May 1989—after having exhausted all of his procedural remedies and based upon a recommendation of removal from office by the U.S. Judicial Conference—the House voted 417-0 in favor of three articles of impeachment against Judge Nixon.

Criminal conduct, prosecution, and conviction is not a prerequisite for impeachment. Office holders have been removed from office for conduct that was not a violation of the criminal law.

However, in order to find Judge Nixon not guilty, we must defer to the judge's defense against the articles of impeachment, by resolving every ambiguity in this case in his favor.

Among other points, the judge contends that:

His testimony has been completely consistent throughout his case. He literally never spoke with "Bud" Holmes about the Drew Fairchild case;

While testifying before the grand jury, he did not think of any conversation with Wiley Fairchild, either in person or over the telephone with "Bud" Holmes, but they were somewhere in his memory, they just never came to his mind;

The House managers have given no plausible basis for concluding that he purposefully concealed his conversations with Wiley Fairchild and "Bud" Holmes. In other words, we must find that it is plausible that he had the conversations in his memory, but they just never came to his mind;

Therefore, his testimony before the grand jury was literally true. He did have conversations, but they were of no significance to him, so they did not come to his mind;

The House managers are demanding testimonial perfection from him, when no prosecution witness originally thought of the Nixon-Fairchild-Holmes conversations during their testimony before the grand jury;

The date of the conversations is not before Drew Fairchild's case was "passed to the file," but sometime thereafter—meaning the judge could not have influenced the case;

The House's case relies on the testimony of Wiley Fairchild and "Bud" Holmes, whose eventual plea bargains cast doubts upon their credibility;

The information he supposedly withheld during his interview and grand jury testimony was of no particular significance, nor was it material. Therefore, the conversations in question constitute no offense;

He was targeted for prosecution because he ruled against the Government in an unrelated case and that the Department of Justice engaged in prosecutorial misconduct against him.

Whatever burden of proof individual Senators may utilize, common sense does not allow me to conclude that Judge Nixon's version of the facts squares with the case against him.

His conduct from the time of his initial aquaintance with Wiley Fairchild just doesn't make any sense to me.

Judge Nixon asks that the Senate believe the semantic and technical differences he employs to explain his testimony before the grand jury. At various stages of his arguments, these grand jury statements are either honest mistakes, or they were made with information he claims was somewhere in his memory, but just never came to his mind.

Could it be that Judge Nixon's statements before the grand jury were premediated?

It should be remembered that the jury at his criminal trial apparently determined that Judge Nixon's arguments regarding the nature of his statements were transparencies.

Judge Nixon is asking the Senate to do something the Fifth Circuit Court of Appeals would not do, and something the Supreme Court would not even consider doing. And, he is asking the Senate to do something it does not have the power to do.

In essence, Judge Nixon is asking the Senate to overturn the verdict of the jury empaneled to hear the case against him.

My colleagues must be mindful of the result if they find Judge Nixon not guilty of the articles of impeachment brought by the House of Representatives. Upon his release from Federal custody, the Senate would be sending a convicted felon to the Southern District of Mississippi to sit in judgment of others who may come before him.

Mr. President, the evidence belies Judge Nixon's version of the facts. His statements regarding this matter demonstrate that he doesn't deserve the high privilege of sitting on the Federal bench. He no longer should hold the office entrusted to him over 20 years ago by the people through this body.

I will, therefore, vote guilty on the articles of impeachment against Judge Walter Nixon.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, I move that the Senate, sitting as a court of impeachment of the articles of impeachment against Walter L. Nixon, Jr., adjourn sine die.

The PRESIDENT pro tempore. Without objection, it is so ordered, and the Senate, sitting as a court of impeachment on the articles against Walter L. Nixon, Jr., now adjourns sine die.

(Thereupon, at 11:29 a.m., the Senate, sitting as a court of impeachment, adjourned sine die.)

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, if Senators will permit me to hold their attention for a brief moment, I will explain the schedule for the remainder of the day and on Monday. I would like to permit the managers to depart the Chamber and then we will be pleased to do that.

SCHEDULE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes today. On Monday, the Senate will be in session. I intend to seek unanimous consent to proceed to the minimum wage legislation. If there is objection to that request, I will then move to proceed to the minimum wage legislation, so that we will be debating the minimum wage matter on Monday, either in the form of the bill itself or the motion to proceed.

It is also my hope that we will be able to take up the conference report on the transportation appropriations bill on Monday.

There will be no rollcall votes of those matters up on Monday, complete debate on them and then vote on them Tuesday morning. Senators should anticipate votes on Tuesday morning, either a vote on the minimum wage bill or on a motion to proceed to the minimum wage bill and hopefully and possibly to vote on the transportation appropriations conference report. Mr. President, I yield to the distinguished Republican leader.

The PRESIDING OFFICER (Mr. ROBB). The Republican leader.

Mr. DOLE. I hope we can get consent to go to the minimum wage bill. If not, I certainly join the distinguished majority leader in moving consideration of that bill. It is an agreement made by the President and the Congress. It is bipartisan. We ought to go ahead with it, get it done and move it down to the President of the United States. We will try to obtain consent. If not, I will cooperate in any way I can with the majority leader.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi [Mr. LOTT].

Mr. LOTT. Will the distinguished leader yield for a question with regard to the latter part of the week? There have been rumors and, in fact, there have been a couple of reports in the Roll Call newspaper, that we will not be in session on Friday, November 10 and some indication that we would not have votes on Monday, November 13. I realize that it is hard to project a week or 10 days in advance, but that is the Veterans Day weekend. For Members to make any plans whatsoever, it would be helpful if we can know if a decision has been made about November 10 and November 13.

Mr. MITCHELL. The Senate will not be in session on Friday, November 10. No decision has been made with re-

spect to Monday, November 13 because there is a great deal of uncertainty about the status of the budget reconciliation and a number of other items. I am hoping that we are going to be able to reach agreement soon in that regard and if agreement is reached and it appears we can proceed expeditiously, I will have an announcement early next week to make with respect to the 13th, hopefully adjournment sine die, and the schedule for the early months of next year.

Mr. LAUTENBERG. Will the majority leader yield?

Mr. MITCHELL. Yes, I will yield.

Mr. LAUTENBERG. I wonder if it is acceptable to the majority leader and the Republican leader to take up the transportation bill on Tuesday because there are some indications that people who want to speak to that will not be here on Monday. If that is not an inconvenience, I would appreciate that consideration. The majority leader and I have discussed this. This is not a surprise request.

I know he has a full agenda, as we all have. But as far as I know, there is little controversy about the DOT conference report and would, therefore, appreciate that consideration, if possible.

Mr. DOLE. If the Senator will yield, I have no objection to that. I point out, as the majority leader knows, we have one question on this that we are trying to resolve today. That is whether or not, since the drug provisions were stripped off the appropriations bill, whether they should be reoffered or whether we can work out some arrangement with the House. Second, I just say, as I indicated to the majority leader, hopefully we can reach some agreement on what we are going to do with the capital gains amendment. If not, we might offer that amendment to the conference report.

Mr. SYMMS. Will the majority leader yield?

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. SYMMS. I want to inquire of the two leaders to be sure what the understanding is with respect to going ahead on minimum wage; there is no time agreement and subject to any amendments starting on Monday if it is brought to the floor, but there will be no votes on those amendments until Tuesday, is that correct?

Mr. MITCHELL. That is correct. I did not plan anything beyond that.

Mr. SYMMS. I intend to have amendments to offer. I wanted to put the Senate on notice of that.

Mr. MITCHELL. I hope if that is the case, the Senator will be here Monday to offer them.

Mr. SYMMS. I will be here to offer them in relation to a rural health package, capital gains and others.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California [Mr. WILSON].

Mr. WILSON. Mr. President, I direct a question to the two leaders. To the distinguished majority leader, I understand it is his intention to try to take up the conference report on the Department of Transportation appropriations bill?

Mr. MITCHELL. Yes.

Mr. WILSON. My understanding is the House stripped that bill of the drug provisions that were inserted by the Senate?

Mr. MITCHELL. The Speaker of the House, to my understanding, provided assurances that the House is going to act on those matters separately. Those assurances, I have been advised, have been accepted by the President, the administration and the House Republican leadership.

Mr. WILSON. If any of my friends can tell me, has the leadership in the House indicated what specific vehicle or when we might anticipate action on that drug package?

Mr. MITCHELL. I believe a letter has been written, but I have not seen the letter. So I should defer the answer until I actually see the letter.

Mr. WILSON. Let me make a request of my friend, if he can pursue that inquiry because I am sure I am not by any means the only one on the floor, and the Republican leader has evidenced his interest on behalf of our side. I think it would be very useful to many of us, as well as to the leadership in their efforts to schedule business, to have as much advanced warning on that if possible.

Mr. MITCHELL. That is what I tried to do by making the announcement today that we are going to try to do that on Monday.

Mr. WILSON. Perhaps I misunderstood. I am not talking about the appropriations itself. I am talking about the drug provisions that I understand will not be part of it.

Mr. MITCHELL. I will direct the staff to obtain a copy of the letter which I understand the Speaker has written and provide a copy to the Senator from California and any other interested Senator, and also attempt to elicit, if it is not included in the letter, some indication of the schedule that is planned in that regard.

Mr. WILSON. I thank the distinguished majority leader, and I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. KERREY].

NEED FOR ACTION ON EDUCATION

Mr. KERREY. Mr. President, I rise today to talk again about America's schools.

Improving America's public primary and secondary schools is one of our country's greatest challenges. It is a challenge made more difficult by the distance between U.S. Senators and the classrooms of the 16,000 school districts. Quite simply, it is almost impossible for us to know what is happening.

It is almost impossible for us to feel the excitement in the moment a child makes the effort to discover something which had previously been inaccessible. It is almost impossible for us to feel the anguish when insurmountable barriers are placed in front of that child.

I do not rise to describe in great detail the conditions of America's schools. Suffice it to say they are inadequate. They could and need to be so much better than their current condition that I have reached the conclusion we need dramatic change.

The best challenge I have heard recently was made by President George Bush at the Education Summit in Charlottesville on September 28. He said:

> I do not counsel a naive nostalgia, some tame adherence to the past. Business as usual is not getting us where we need to go. So when hallowed tradition proves to be hollow convention, then we must shatter tradition. The polls show * * * [that] the American people are ready for radical reforms. We must not disappoint them.

Mr. President, we need to follow this strong challenge with action. Failure to do so will mean we are wasting the potential of our people. Failure to do so means we will be losing people: Students who are dropping out of school; students who do not drop out but whose full potential is not realized; and teachers who leave for better opportunities.

I regret to say, Mr. President, that since the wonderful words of Charlottesville, we have moved on to more current issues. Since those wonderful words there has been precious little action on the part of National leaders to shatter these traditions.

Secretary Cavazos has given a few speeches. He has conducted a much publicized and criticized trip to promote parental choice. There have been a couple of Rose Garden ceremonies. There were statements made by the administration which seemed to indicate President Bush was willing to let a sequester make significant cuts in

Federal aid to education. Gratefully, the President has since reversed himself.

In reality, what has happened in the 35 days since Charlottesville in this: 2,050 students have dropped out each day, that totals 71,770 since the conference room lights were shut off in Charlottesville; 350 teachers have left teaching each day, that totals 1,750 since the conference room lights were shut off in Charlottesville.

I believe we need a stronger Federal partner which joins with courageous and costly local efforts being made to shatter the status quo. We do not need a Federal partner which prescribes what will be done discouraging initiative and encouraging more bureaucratic waste.

I believe the best candidate for such a partnership may be one of America's worst school districts: Chicago. On October 11th and 12th the people of Chicago have moved to accept the President's challenge. Now, they deserve our help.

Under Chicago's radically new program, parents and neighbors have taken over the local schools. The 5,400 parents, neighbors and teachers who sit on these new decentralized school boards have embraced President Bush's challenge to shatter tradition. They realize that a crisis exists and they are willing to fully commit themselves to defining a new way.

The appeal of Chicago's plan lies in its joining of two important strands: community and parental involvement. In Chicago parents and neighborhood people have been given authority which has rarely been granted them before.

I understand that not everyone agrees with the thrust behind Chicago's plan.

Mr. President, I ask unanimous consent to print in the RECORD following my statement an editorial by Irving Kristol.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KERREY. Mr. President, in this piece he warns against harboring a romanticism about education. He urges us to question accepted convention and understand where it has failed. So far so good. Then Mr. Kristol specifically discusses New York's effort to improve schools through greater parental and community involvement. In his view, the New York City decentralization experiment was a failure, and he then dismisses the notion of parental and community involvement entirely.

In my view, Mr. Kristol is wrong. Parental participation and community involvement are precisely what we need. I trust democracy. I believe it works. I am aware of its weaknesses or its occasionally raucus ways. I am aware of the potential for corruption and abuse.

However, I believe corruption and abuse are inversely proportional to the distance between the people and their government. I believe the short distance between Chicago's schools and the parents, neighbors and teachers and will decrease the occurrance of political abuse.

Mr. President, we sometimes learn the most from the least likely source. Such is the case with the words I read the other day of the Indian opposition leader, Mr. Singh: "I find that most of democracy's problems can be solved with more democracy."

The challenge we face in our schools is unprecedented, and we must have the courage and vision to challenge our prejudices, our preconceived ideas about what is the right answer, the right program. We need new direction.

On October 13, I proposed the establishment of an Educational Trust Corporation that would with an ability to make 20 to 30 year performance-based commitments to help local parents, neighborhood leaders and teachers can help nurture innovative reforms and improvements in our Nation's schools. It would help the citizens of Chicago and other cities across the Nation to take the necessary steps to address the shortcomings of our schools.

But we need to act quickly. The clock is ticking. Time is wasting. This crisis is worse than the one we faced with the loss of deposits from savings and loans. We are compromising our future. We are facing the loss of our future.

Education deserves more. America's business leaders have recently been speaking in a unified voice: Our educational system is threatening our economic well-being. America's CEO's are warning us that the differential between the skill requirements of new jobs and the skill level of our workforce is growing to threatening proportions.

Mr. President, today an important report is being delivered to our President by an esteemed group of industry and high-level government leaders. This national advisory committee on semiconductors will be making recommendations to President Bush regarding consumer electronics. This group has put together an innovative financing proposal.

Here is how it works: A privately managed for-profit investment company called the Consumer Electronics Capital Corp. would be created. Government loan guarantees would enable the corporation to borrow money at low interest rates and invest in new consumer electronic technologies and companies. This corporation would serve as a source for "low-cost, very patient capital," Semiconductor Committee Report, for companies wishing to enter the consumer electronics business.

The report on consumer electronics highlights a element critical to the development of an international competitive consumer electronics industry: The availability of "very patient capital." Such patience nurtures innovative thinking and experimentation. Mr. President, if we are going to boldly embrace President Bush's challenge to break with tradition and risk radical reforms in education we are going to need an attitude that does not expect overnight victory, but combines a bold, long-term strategy with patience. A critical element will be the availability of "very patient capital."

I believe that an Educational Trust Corp. with an ability to make 20 to 30 year performance-based commitments to help local parents, neighborhood leaders and teachers can help nurture innovative reforms and improvements in our Nation's schools.

We need a Federal partner that is more innovative and active. We need a Federal partner which encourages and activates our people to pursue greater democratic participation at the local level. We need to demonstrate confidence in our own abilities to learn from past shortcomings and create new solutions. More than anything, we need to follow our words with action.

EXHIBIT 1

[From The Wall Street Journal, Oct. 24, 1989]

EDUCATION REFORMS THAT DO AND DON'T WORK

(By Irving Kristol)

Why can't we teach our children to read, write and reckon? It's not that we don't know how to, because we do. It's that we don't want to. And the reason we don't want to is that effective education would require us to relinquish some cherished metaphysical beliefs about human nature of young people in particular, as well as to violate some cherished vested interests. These beliefs so dominate our educational establishment, our media, our politicians, and even our parents that it seems almost blasphemous to challenge them.

Here is an example. If I were to ask a sample of American parents, "Do you wish the elementary schools to encourage creativity in your children?" the near-unanimous answer would be, "Yes, of course." But what do we mean, specifically, by "creativity"? No one can say. In practice, it ends up being equated with a "self-expression" that encourages the youngsters' "self-esteem." The result is a generation of young people whose ignorance and intellectual incompetence is matched only by their good opinion of themselves.

A ROMANTIC REBELLION

The whole notion of "creativity" in education was (and is) part and parcel of a romantic rebellion against disciplined instruction, which was (and is) regarded as "authoritarian," a repression and frustration of the latent talents and the wonderful, if as yet undefined, potentialities inherent in the souls of all our children. It is not surprising

that parents find this romantic extravagance so attractive.

Fortunately, these same parents do want their children to get a decent education as traditionally understood, and they have enough common sense to know what that demands. Their commitment to "creativity" cannot survive adolescent illiteracy. American education's future will be determined by the degree to which we—all of us—allow this common sense to prevail over the illusions that we also share.

The education establishment will fight against common sense every inch of the way. The reasons are complex, but one simple reason ought not to be underestimated. "Progressive education" (as it was once called) is far more interesting and agreeable to teachers than is disciplined instruction.

It is nice for teachers to think they are engaged in "personality development" and even nicer to minimize those irksome tests with often disappointing results. It also provides teachers with a superior self-definition as a "profession," since they will have passed courses in educational psychology and educational philosophy. I myself took such courses in college, thinking I might end up a schoolteacher. They could all fairly be described as "pap" courses.

But it is unfair to dump on teachers, as distinct from the educational establishment. I know many schoolteachers and, on the whole, they are seriously committed to conscientious teaching. They may not be among the "best and brightest" of their generation—there are very few such people, by definition. But they need not be to do their jobs well. Yes, we all can remember one or two truly inspiring teachers from our school days. But our education proceeded at the hands of those others, who were merely competent and conscientious. In this sense, a teacher can be compared to one's family doctor. If he were brilliant, he probably would not be a family doctor in the first place. If he is competent and conscientious, he serves as well.

Our teachers are not an important factor in our educational crisis. Whether they are or are not underpaid is a problem of equity; it is not an educational problem. It is silly libel on our teachers to think they would educate our children better if only they got a few thousand dollars a year more. It is the kind of libel the teachers' unions don't mind spreading, for their own narrow purposes. It is also the kind of libel politicians find useful, since it helps them strike a friendly posture on behalf of an important constituency. But there is not one shred of evidence that, other things being equal, salary differentials result in educational differentials. If there were such evidence, you can be sure you would have heard of it.

If we wish to be serious about American education, we know exactly what to do—and, just as important, what not to do. There are many successful schools scattered throughout this nation, some of them in the poorest of ghettos, and they are all sending us the same message. Conversely, there are the majority of unsuccessful schools, and we know which efforts at educational reform are doomed beforehand. We really do know all we need to know, if only we could assimilate this knowledge into our thinking.

In this respect, it would be helpful if our political leaders were mute, rather than eloquently "concerned." They are inevitably inclined to echo the conventional pap, since this is the least controversial option that is open to them. Thus at the recent governors' conference on education, Gov. Bill Clinton of Arkansas announced that "this country needs a comprehensive child-development policy for children under five." A comprehensive development policy for governors over 30 would seem to be a more pressing need. What Gov. Clinton is advocating, in effect, is extending the educational system down to the pre-kindergarten years. Whether desirable or not, this is a child-care program, not an educational program. We know that very early exposure to schooling improves performance in the first grade, but afterward the difference is quickly washed away.

Let us sum up what we do know about education and about those education reforms that do work and don't work:

"Parental involvement" is a bad idea. Parents are too likely to blame schools for the educational limitations of their children. Parents should be involved with their children's education at home, not in school. They should see to it that their kids don't play truant; they should make certain that the children spend enough time doing homework; they should scrutinize the report card. If parents are dissatisfied with a school, they should have the option of switching to another.

"Community involvement" is an even worse idea. Here, the experience of New York City is decisive. Locally elected school boards, especially in our larger cities, become the prey of ambitious, generally corrupt, and invariably demagogic local politicians or would be politicians. New York is in the process of trying to disengage itself from a 20-year-old commitment to this system of school governance, even as Chicago and other cities are moving to institute it.

In most states, increasing expenditures on education, in our current circumstances, will probably make things worse, not better. The reason is simple: Education takes place in the classroom, where the influence of money is minimal.

Decades of educational research tell us unequivocally that even smaller classes have zero effect on the academic performance of the pupils—through they may sometimes be desirable for other reasons. The new money flows into the already top-heavy administrative structure, which busies itself piling more and more paper work on the teachers. There is neither mystery nor paradox in the fact that as educational expenditures (in real terms) have increased sharply in the past quarter-of-a-century—we now spend more per pupil than any other country in the world—educational performance has declined. That is the way the system works.

Students should move up the educational ladder as their academic potential allows. No student should be permitted to be graduated from elementary school with out having mastered the 3 R's at the level that prevailed 20 years ago. This means "tracking," whose main purpose is less to permit the gifted youngsters to flourish (though that is clearly desirable) than to ensure that the less gifted get the necessary grounding for further study or for entering the modern world of work. The notion that tracking is somehow "undemocratic" is absurd. The purpose of education is to encourage young men and women to realize their full academic potential. No one in his right mind actually believes that we all have an equal academic potential.

It is generally desirable to use older textbooks—many of them, alas, out of print—rather than newer ones. The latter are modish, trendy, often downright silly, and at best insubstantial. They are based on dubious psychological and sociological theories rather than on educational experience. One of the reasons American students do so poorly in math tests, as compared with British, French, German or Japanese students, is the influence of the "New Math" on American textbooks and teaching methods.

PRINCIPALS WITH AUTHORITY

Anyone who wants to appreciate just how bizarre this situation is—with students who can't add or subtract "learning" the conceptual basis of mathematical theory—should read the article by Caleb Nelson (himself a recent math major at Harvard) in the November American Spectator.

Most important of all, schools should have principals with a large measure of authority over the faculty, the curriculum, and all matters of student discipline. Study after study—the most recent from the Brookings Institution—tells us that the best schools are those that are free of outside interference and are governed by a powerful head. With that authority, of course, goes an unambiguous accountability. Schools that are structured in this way produce students with higher morale and superior academic performance. This is a fact—though, in view of all the feathers that are ruffled by this fact, it is not surprising that one hears so little about it.

RURAL HEALTH

Mr. SYMMS. Mr. President, today I think it is very important that we all recognize as we come close to the end of the legislative year, the first session of this Congress, something be done about the rural health package that we already passed through the Senate once. It was not a perfect package, but I think it is time that we set-aside our differences and take that package we have already passed and put it on either the minimum wage bill, on the debt ceiling bill, or any piece of legislation which the leadership thinks is the correct measure.

I invite Senators who are interested. I have my staff working today to prepare this package as a free standing matter. As I said, I am not completely satisfied with the package, but I do think it is important that the rural health package that has passed the Senate once this year, with bipartisan support in the Senate Finance Committee, through reconciliation, needs to be passed on some vehicle and needs to be done as soon as possible or all Senators will find they will have continued severe problems in rural America with respect to health assistance.

NICARAGUA

Mr. SYMMS. Mr. President, the November 1 article in the Washington Times by Pat Buchanan hit the nail on the head with regard to our policy, or lack thereof, in Nicaragua. As you know, President Bush has called Daniel Ortega the unwanted animal at the garden party, and I think what we have to ask is, what are we going to do

about it? What are we going to do about it? I do not impugn the motives of my colleagues. In fact, I voted for and supported the legislation that passed this week condemning Daniel Ortega, but I am reminded when I hear that of a quote from John F. Kennedy which in part says:

Above all, words alone are not enough * * * where our strengths and determination are clear, our words need merely to convey conviction * * * If we are weak, words will be of no help.

Mr. President, I think that is the best way to sum up where we stand. We lack the political will and strength to help the Nicaraguan freedom fighters.

Words are simply not enough. How much longer are we going to continue down this road of weakness and pacifism? Because in the end, it can only lead to our very destruction.

Once, our Government offered the Nicaraguan people hope, the real opportunity, and, real freedom. Today, we are offering them virtually nothing.

We are telling the Nicaraguans yearning for freedom and democracy to go it alone. We have given up. We have decided to forego the Reagan doctrine and have opted for the write-off doctrine.

I do not believe that is what the U.S. Senate, President Bush, or the House of Representatives really wants, even though the votes would indicate otherwise.

I believe without a doubt, our foreign policy should be unequivocal, overt support for liberation of enslaved people everywhere. That should be the policy of the United States of America. We should be working openly for the overthrow of the Communist regimes in Nicaragua and in Cuba.

Because, as Pat Buchanan's article states, "A Policy of Hope Is No Policy."

Mr. President, I commend this article to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Nov. 1, 1989]

A POLICY OF HOPE IS NO POLICY

(By Patrick Buchanan)

You have to hand it to Daniel Ortega. The very day the leader of Nicaragua's junta told reporters he would end his country's 19-month cease-fire, he engineered a photograph of himself staring intently at the president. That photo, nestled beside the head-line about Nicaragua's new offensive, needed no caption: Danny Ortega had just taken the measure of President George Bush.

Contemptously ignoring the democratic leaders who had come to Costa Rica, Mr. Ortega, in army fatigues, announced his offensive to a group of students.

The stunned reaction of Secretary of State James A. Baker III: "It was a bit less than honest to sit in a meeting with the 16 and not tell them." Yes, wasn't it?

Said White House Press Secretary Marlin Fitzwater, "If it is true, it would be an incredible affront to the democratic principles that the Latin American countries are here to celebrate."

Deriding Mr. Ortega as "that little man," and an "unwanted animal at a garden party," Mr. Bush called Mr. Ortega's threat to break the cease-fire "a shameful blow to democracy."

Diplomatically, Mr. Ortega's threat backfired in his face; but how pathetic we look. Congress disarms the Contras in the name of peace, and, after a decent interval, Daniel Ortega decides to exterminate them in the name of peace. Teen-agers who volunteered to fight for their country, inspired by President Ronald Reagan, may yet learn the modern era's central lesson: While it is sometimes dangerous to be an enemy of the United States, to be a friend is fatal.

As all the tough talk on the Sunday shows only confirmed, south of the Rio Grande, the Colossus of the North is a pitiful, helpless giant.

Meanwhile, Mr. Baker moves through the bureaucracy, censoring speeches that suggest perestroika may not succeed.

You see, we have a vital interest in the success of the Soviet leader who sent the weapons the Sandinistas use to kill the kids we sent to fight. No wonder "America" has become an epithet to so many betrayed friends of freedom.

No, Mr. Bush is not responsible for selling out the Contra army. But, for nine months, he has conducted a courtship with the liberal Democrats who did sell them out; and it was Mr. Bush and Mr. Reagan who signed onto the Arias peace plan that may yet evolve into the Yalta of Central America.

U.S. policy in Nicaragua is now rooted in hope, the hope that Mr. Ortega will pull back from his threat to attack, the hope that he, who has broken every commitment he ever made to democracy, will honor his commitment to free and fair elections on Feb. 28, the hope that, if he loses, he will yield power.

But hope is a virtue, not a policy; and, as Teddy Roosevelt said: Where there is no force, diplomacy is utterly useless.

In mid-1987, we had "force" behind our policy to end communist rule in Nicaragua. After Ronald Reagan had extracted $100 million in military aid from a reluctant Congress, the Contras had the Sandinistas on the run. Between 15,000 and 20,000 rebels were inside Nicaragua, the largest guerrilla army Central America had ever seen. Mr. Ortega's men were desperate. Sensing that the Contras might win, Nicaraguans began standing up to the regime. Victory was two, three years away.

Then Congress rushed to the Sandinistas' rescue, cut off aid to the Contras, and prevailed on the president to collaborate with former House Speaker Jim Wright, and pursue peace through diplomacy alone.

With all the present focus on Central Europe, it is in these forgotten precincts of Central America that U.S. vital interests are disintegrating.

Mr. Bush should take a weekend off at Camp David to reflect there upon the intentions of the Soviet leader in whose success we are now said to have so large a stake.

Not since Woodrow Wilson arrived in Paris for the Versailles conference, to be hailed as the "Prince of Peace," has a world leader generated the excitement of Soviet President Mikhail Gorbachev. In West Europe, he is more popular than the president. In Leipzig, Dresden, East Berlin, hundreds of thousands chant, "Gorby, Gorby!" In Budapest, the day the nation declared itself a republic, and the hammer and sickle were torn out of the national flag, 100,000 chanted, "Gorby, Gorby!"

To the capitve peoples of Central Europe, Mikhail Gorbachev is the Czar Liberator, the man who will let them breathe free, the man who will hold back the tanks. But, if he is that man, then, Mr. Gorbachev is a traitor to the legacy of Lenin, a Marxist heretic who somehow managed to have himself elected Marxist pope.

Something is false here.

The same Mr. Gorbachev whose foreign minister calls the Afghan invasion illegal and immoral has sent his military advisers back to man SCUD rocket sites, and pilot MiG fighter-bombers.

The same Mr. Gorbachev who talks of denuclearizing the Baltic is modernizing, heavying up, his first-strike SS-18 ICBMs.

The same Mr. Gorbachev who cannot stop grinning at us presides over a propaganda apparatus that is still telling the vilest lies about the U.S.A.

The same Mr. Gorbachev who embraces glasnost fires editors, sends ultimatums to the Baltic states, and gathers dictatorial powers unseen since Stalin.

The same Mr. Gorbachev who wants to ease tension in Central America sent the military hardware for Mr. Ortega's new offensive.

Now, a man who takes you and the wife to dinner, picks up the tab, offers to stand everyone to a round of drinks at the country club later on—while his agents ransack your house—is not a friend. He is a clever, deceitful and dangerous adversary. And, before you toast his "success," be sure exactly what you are toasting.

Mr. SYMMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

THE GRAMM-RUDMAN SEQUESTER

Mr. EXON. Mr. President, my colleagues know that I have been one of the Senate's most strident opponents to the Gramm-Rudman law. I have repeatedly spoke and voted against this scheme of fiscal foolishness.

I believe that the Gramm-Rudman law is fatal in two key respects; first, it is a device which encourages the use of smoke, mirrors, and optimistic numbers to fake, rather than force serious action on the budget deficit, and second, the Gramm-Rudman sequester falls unfairly and unevenly across the budget.

I enthusiastically welcome the President's statement in support of a clean reconciliation bill to avert the effects of a sequester.

The President made the statement yesterday after earlier suggesting that he felt it would be best to leave the sequester in place. I am pleased that the President has changed his mind.

It is crucial that the reconciliation conference committee embrace the

President's challenge and work vigorously to find $14 billion in clean and honest savings. If the Congress and the President were to fail, the Nation will endure the two worst aspects of the Gramm-Rudman law. Namely, that the sequester will not have its promised effect because when finally calculated, at the end of the fiscal year the deficit will significantly exceed the $100 billion target in the neighborhood of $10 to $40 billion and that the modest total cut which is made by the sequester will be concentrated on a few select programs unfairly magnifying the pain of deficit reduction on those unfortunate programs.

Mr. President, the figures that I cite are for reference only. The Senate should be reminded that they are phony numbers under the Gramm-Rudman law that falsely portray the true deficit which is protected by those false numbers that are near $100 billion when in fact the correct figure is near the $300 billion figure. That is essentially true because of the misuse of the so-called trust fund and the manipulation that goes through the process in falsely reporting those.

Contrary to most descriptions of the sequester, it is not an across-the-board cut. Nearly 75 percent of Federal outlays are exempt from the Gramm-Rudman sequester ax. That means that those programs exposed to the sequester bear a heavy burden even under a modest sequester.

Agriculture is of key importance to Nebraska and some vocal supporters of the Gramm-Rudman law promised it would not hurt agriculture. At the time the law was considered, I predicted that it would seriously hurt agriculture somewhere down the line. Mr. President, I only wish that I had been proven wrong.

In the coming weeks, Nebraska farmers will see about a 5-percent reduction in most of their Federal farm checks. This comes at a time when farmers are just recovering from the ill effects of a difficult drought. In total dollars, the savings from sequester are somewhat similar to the savings from reconciliation, however, the impact is very different. Under reconciliation, reductions were targeted. Under sequester reductions are mindlessly applied by the President's computer.

To illustrate the effects of the Gramm-Rudman sequester, consider Mr. President, a 500-acre corn farm. Under the Senate reconciliation bill, deficiency payments would have been reduced by $1,090 from the payments generated by current law. Under the sequester that same farmer will lose $2,600. In other words, Sequester will take an additional $1,510 out of the pockets of that farmer.

On a 1,000-acre wheat farm, the sequester is also detrimental. Under the Senate reconciliation bill there would be a $664 reduction in deficiency payments. Under the sequester there will be a $1,133 reduction or an additional $469 out of the farmer's pocket.

These illustrations only describe the effect on deficiency payments. Under sequester virtually all agriculture checks are reduced. Sequester also effectively lowers the loan support level for all crops. The result is to indiscriminately cut farm prices and farm income. Where reconciliation represents a considered and targeted form of deficit reduction, sequester mindlessly and needlessly reeks havoc on all farm programs and especially hits Nebraska farmers right between the eyes.

To all those who said that the Gramm-Rudman law will not hurt agriculture, I ask them to take our their calculators and explain the sequester to Nebraska's wheat and corn farmers.

Mr. President, make no mistake about it, America's farmers recognize the need for deficit reduction and are willing to do their fair share. My point is that the Gramm-Rudman law takes an unfair share of pain out of farm programs.

In another key area, education, the Gramm-Rudman ax also cuts deep. The priorities which Congress agreed to only a few months ago will be abandoned and a $1 billion reduction will be implemented. The promises that Congress and the President made to education are turned upside down with the sequester. If left in place, the 2 percent of the budget which represents education bears 15 percent of the deficit reduction burden.

What is most tragic, for the pain unfairly leveled on a mere quarter of the budget, there will be little noticeable affect on the overall deficit. To paraphrase Winston Churchill, under a sequester, never have so few done so much for so little. This absurd circumstances only weakens public trust and support for meaningful budget action.

Mr. President, serious deficit reduction requires shared sacrifice from all Americans. It requires courage from leaders who will stand behind their votes rather than hide behind a computer.

Hobart Rowan, the respected financial columnist sees through this charade. He suggests that it is time that the Congress and the President "Let Their Conscience Be Their Guide" and abandon the Gramm-Rudman process. It is time that the Congress and the President examine their conscience and finally tell the truth to the American people about the serious need for austerity and deficit reduction. With small sacrifices from all Americans, such as the sacrifices requested by the freeze budget Senator HOLLINGS and I proposed earlier this year, our nation can go a lot further toward fiscal responsibility and fiscal sanity than under the Gramm-Rudman scheme.

I have faith in the American people. They will respond to fair action. it is time to close the curtain on this three act budget farce. The American people deserves better.

Mr. President, I ask unanimous consent the remarks by Hobart Rowan, respected columnist in the Washington Post, be printed in the RECORD; and also to be printed in the RECORD, the Washington Post article of Mr. James Rowe; and also my remarks on this subject of September 23, 1987; October 6, 1985; and December 11, 1985.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LET CONSCIENCE BE THEIR GUIDE

(By Hobart Rowen)

Let's abolish the Gramm-Rudman-Hollings Act and force the president and Congress to go back to work, fulfilling their proper responsibilties to manage the federal budget.

This is not a radical proposal, merely a plea that the president and Congress do the jobs the Constitution assigned them. It would, among other things, require Bush to consider raising taxes, because Congress would have to grapple with the real deficit, not the phony one publicized by Gramm-Rudman, which all three authors of the bill admit is not working the way they anticipated. Then, the voters could judge how the president and members of Congress perform.

Increasingly, the public is aware that it is being flimflammed. The real dimension of the budget deficit next year is nearer $250 billion than the $116.2 billion projected by the White House Office of Management and Budget. Even within the artificial definition of deficit as used by Gramm-Rudman, the needed cut is more like $50 billion, Sen. Ernest "Fritz" Hollings (D-S.C.) told me, than the $16 billion set by OMB.

So citizens ask: "Who's in charge in Washington?" The answer: "No one."

Control, instead, is in the hands of the OMB computer that figures out what the federal deficit will be for the next fiscal year, using its own rosy scenario. That projection is compared with preset Gramm-Rudman "targets" for the deficit, manipulated to push embarrassments such as the costs of a multibillion-dollar savings and loan bailout borrowing "off-budget." If Congress can't meet the Gramm-Rudman target, an automatic cut is ordered in spending programs.

I tried out my idea that now is as good as any time to go back to basics—the real world of making policy through responsible leadership—in conversations with all three authors of the Gramm-Rudman legislation. Sen. Warren Rudman (R-N.H.), who had said at the outset five years ago that Gramm-Rudman "is a bad idea whose time has come," said, "It's maybe even a bit worse than I thought, but in its own odd, eccentric way, it's the only discipline we've got."

He credits Gramm-Rudman with cutting back the skyrocketing defense program and making it impossible for other spending to grow without offsetting cuts. "I understand your suggestion that 'conscience' once again be our guide, but there's a pent-up demand

for spending for all programs," Rudman said. Therefore, Rudman thinks, so long as Bush holds to his "read my lips, no new taxes" pledge, we're stuck with Gramm-Rudman.

Sen. Phil Gramm (R-Tex.) readily conceded that "the criticisms you hear of it are all valid, except when you compare what we have to the alternative. The analogy I like to use is that if you judge the success of religion by the number of saints we have, then religion is clearly a failure. But if you judge its success on the basis of whether we are better off with it or without it, then it is clearly a success.

"I never viewed [Gramm-Rudman] as a four-sided fort. All I ever saw it was as a stonewall to your back in a gunfight. It's proved helpful. Still, you can get hurt in a gunfight."

Hollings said he thinks there's no conceptual problem with Gramm-Rudman but there is with the politicians "who've been using it as a shield instead of a sword to cut the deficit." He's disgusted because Gramm-Rudman has turned into "a fraud" and "dishonest budgeting," but he, too, would hesitate to dump the whole system.

Yet, it's a system that forces some (not necessarily wise) budget cuts in the short term with every prospect that most of the real bad news will surface in the future. Some of the phoniness is evident right away. Once the "target" for the coming fiscal year has been set, Congress has even brushed expenditures backward into the old fiscal year: The real deficit is increased, but the Gramm-Rudman target has already been satisfied.

The sham is further illustrated by the key role of the White House budget office in making the official deficit projection. Wearing standard-issue rose-colored glasses, OMB Director Richard Darman now predicts next year's deficit at only $116.2 billion, or a mere $6.2 billion over the $110 billion Gramm-Rudman threshold triggering automatic cuts. But the Congressional Budget Office—regarded by most as more objective—puts the probable deficit next year at $141.5 billion, or $31.5 billion over the Gramm-Rudman trigger.

I don't buy Gramm's and Rudman's and Holling's arguments, which essentially boil down to the claim that Gramm-Rudman, for all its warts, is the lesser evil—that the nation is better off with Gramm-Rudman than without it. Gramm gives as an example that when the president proposed increased spending to curb drug abuse, Congress found the money by cutting other programs. And when the catastrophic health surtax was repealed, Congress also repealed the benefits. Before Gramm-Rudman, Gramm insists, "we would have repealed the surtax and kept the benefits."

But the drug financing is also an example of how slavish addition to Gramm-Rudman targets can drive policy the wrong way. The cuts Gramm lauds were all in programs designed to assist the poor: immigration aid to the states, economic development and a juvenile justice program. Intelligent legislators might make the connection between poverty and drug use; but Gramm-Rudman's automatic pilot cannot.

Senate Budget Committee Chairman Jim Sasser (D-Tenn.)—one senator ready to dump Gramm-Rudman—points out that it in fact acts to boost deficits in the long run. Placing the S&L bailout partially off-budget to meet Gramm-Rudman targets is one example. That will force taxpayers to spend millions of dollars in higher interest payments.

Gramm concedes that having the president and Congress go back, as I suggest, to running the government, is "much to be preferred." But he doesn't think that Bush and members of Congress can be trusted to do it.

"I've been here 11 years under three presidents and six congresses. I'm saying that the pressure to spend money and run deficits is strong and all-encompassing. Unless there is some binding restraint, pressure for spending ultimately dominates," Gramm says.

Instead of scrapping Gramm-Rudman, he intends to try to plug loopholes "to make cheating more difficult. But knowing the nature of Congress, I can believe that if you close loopholes, Congress will eventually find new ones."

Congress needs to be gutsier. Right now, it's hooked on Gramm-Rudman, which provides an easy fix. What the nation needs is a clean break. If Congress drops Gramm-Rudman, the ball will be in Bush's court. So far, Democratic leaders are waiting for a signal that he will give top priority to deficit reduction. It could be a long wait. Take the initiative, Democrats! Gramm-Rudman is broke. Don't try to fix it. Deep-six it!

SEQUESTRATION AX IS ALREADY BEGINNING TO FALL ON PERSONNEL AND SERVICES

(By James L. Rowe, Jr.)

When $16.1 billion in budget cuts automatically went into effect on Oct. 16, federal agencies and members of Congress assumed they would be lifted when new deficit reduction legislation was approved. This week, however, the White House has made clear its willingness to live with the cuts all year, which could mean:

About 1 million needy college students will not receive federal assistance for which they qualify.

The Defense Department may reduce the number of active duty troops by 170,000.

The State Department could trim about $70 million of $1.2 billion in aid intended for Israel.

The Environmental Protection Agency will chop about $107 million from grants to states to build sewage treatment plants.

These automatic, across-the-board spending cuts, called a sequestration, were required by the Gramm-Rudman-Hollings law because Congress and the White House failed to agree on ways to reduce the fiscal 1990 budget deficit to $110 billion.

The law exempts some spending from the automatic ax, most notably Social Security benefits and food stamps. A few other programs, such as Medicare payments to physicians and hospitals, can be cut by no more than 2 percent.

But except for those exempt and shielded areas, agencies must reduce spending for most programs by the same amount: 5.3 percent for non-defense programs and 4.3 percent for defense programs. If an agency wants to shift funds around—for example, taking a bigger hit on a capital spending program in order to preserve jobs—it needs congressional approval.

Because they never expected sequestration for fiscal 1990 to be permanent, most federal agencies cannot yet say precisely how the cuts will affect them. What follows is a preliminary look at the effect of the $16.1 billion in spending cuts.

Defense: The Pentagon will absorb about $8 billion of the cuts. Military officials said they are still in the midst of deciding where the reductions will be imposed. To cut outlays in 1990 by $8 billion they might have to cut budget authority—commitments to spend this and in future years—by up to $15 billion.

Officials estimated that the Defense Department might have to cut more than 170,000 active duty troops to reach a $3.4 billion reduction in the personnel budget.

The operations budget would have to be trimmed $3.8 billion. Operations cutbacks could range from reduced flying hours for airplanes and steaming hours for ships to pared back maintenance operations and training programs. Procurement cutbacks totalling $3.6 billion might have to be authorized, a move leading to slower production schedules for weapons and equipment and smaller-sized purchases.

The Pentagon said it would have to trim $1.7 billion from its research and development budget, forcing renegotiation of major contracts and delays in such areas as the testing in development of the B-2 "stealth" bomber and the SSN-21 attack submarine.

Other areas that could be affected include military construction, from barracks to child-care centers.

Education: Budget authority for Pell grants to needy college students would be reduced to $4.4 billion, about $250 million less than the budget law baseline, but $1 billion less than the Education Department thinks is necessary. About 1 million students would not receive grants and 500,000 would get less than they needed. Federal subsidies to guaranteed student loans would be reduced.

Agriculture: The major nutrition programs, such as food stamps and the women, infants and children's (WIC) program, would not be affected. But agricultural support programs would be cut by more than $800 million, affecting millions of farmers producing most major crops and milk. Dennis Kaplan, chief of the Agriculture Department's office of budget and program analysis, said eventually the department might have to furlough food inspectors, leading to slowdowns in production lines at meat and poultry plants.

Health and Human Services: There will be no cuts in benefits under Social Security, aid to families with dependent children, Medicaid or Supplemental Security Income for the aged, blind and disabled. There is a 2 percent limit on cuts in Medicare payments as well as programs for foster care and adoption aid, community and migrant health centers and Indian health centers.

But administrative expenses in many programs might be affected, including a reduction of about 3,300 jobs in the Social Security Administration. Administrator Gwendolyn King has ordered a hiring freeze, restrictions on overtime and travel and no purchases of new computer equipment. The agency estimates that Medicare claims will take, on average, an additional 1.9 days to be processed.

Health research will be reduced. Last year 22,772 research projects were supported. In fiscal 1990 the number will be reduced to 21,798. The Office of Management and Budget estimated that spending on AIDS research, slated to grow 24 percent, will decline 5 percent.

Funds for Head Start for low-income children would be cut $70 million. Head Start was supposed to add 95,000 children to its program this year. Instead, only 16,750 more children will be accommodated. About 300,000 fewer children will be immunized against measles, mumps, rubella or polio.

Environment. Richard Brozen, the EPA acting budget director, said the biggest cuts

will be a $107 million reduction in grants to states building sewage treatment plants and an $80 million reduction in "Superfund" spending to clean up toxic waste dump sites and land polluted by underground tanks containing oil.

Commerce. The department conducts its once-a-decade census of the U.S. population in fiscal 1990. An official said that the Census Bureau, which has already faced budget cuts, could not "do an accurate census" if the sequestration remains in force. He said that the agency has not figured out exactly how most of its other programs would be affected, but said the effort to modernize weather forecasting would be set back and some weather stations might have to be closed.

Science. The National Science Foundation, which is the leading agency for funding basic nonmedical, non-military research, would make 700 fewer grants, affecting about 2,000 scientists and saving about $90 million, according to Joel Widder, head of congressional affairs at NSF. The agency had planned to make about 14,000 grants this year, he said. NSF's total budget is $2.1 billion.

Officials estimate the Internal Revenue Service would lose about 4,700 employees, reducing the number of audits and taxpayer assistance telephone calls. The Interior Department said areas from trail maintenance at parks to wildlife surveys would suffer.

Every other agency will have to cut back, including the White House and Congress. In many cases they are only beginning to look at how this would be done.

[From the Congressional Record, Sept. 23, 1987]

Mr. EXON. Mr. President, I have the greatest respect for the authors of the proposition before us and I applaud their efforts for reaching a compromise under some most extreme conditions. They have worked hard and it might be argued that this is the best than can be done under the circumstances. I do not slight the intentions of the authors, I simply disagree with the underlying premise of the Gramm-Rudman philosophy.

I fully share the authors' concerns regarding the growing Federal budget deficit. I have authored a constitutional amendment to require that the President submit and the Congress enact a balanced budget and legislation to reform debt ceiling approval. In my view, if the debt ceiling is to be increased, it should accompany actual deficit reduction and be tied directly to the Federal budget. I am also a cosponsor of legislation to give the President enhanced rescission authority which would allow the President to immediately send items contained in appropriations bills back to Congress for reconsideration. I have also long supported legislation to grant the President line-item veto authority.

Mr. President, I realize that all the process reform in the world alone will not solve the deficit crisis. There are only three ways to reduce the deficit; cut spending, improve receipts or pursue a combination of both. The real problem is not procedure, it is people. The deficit crisis will not be solved until the congressional leadership and the President sit down and work out a program of shared sacrifice. As a former Governor who put together eight balanced budgets, I can attest to the fact that there are no procedural magic wands, or painless ways to cut spending. Only hard work, tough negotiation, and good faith efforts to reach a consensus can produce meaningful deficit reduction.

I have been a consistent opponent of the Gramm-Rudman law. In spite of several positive factors, much of the Gramm-Rudman scheme is poor public policy. I have opposed the Gramm-Rudman law over the years because it is an abdication of congressional responsibility; it delays meaningful action on the deficit; the result it produces is grossly unfair; and after 2 years of operation it has not worked.

In this bicentennial year, the Gramm-Rudman automatic sequester is an idea which goes against the very foundations of congressional power and responsibility. The Constitution of the United States grants the Congress the power to lay and collect taxes, pay debts and provide for the national defense. Gramm-Rudman turns congressional responsibility over to the President's Office of Management and Budget. If the economic forecasters determine that the Congress has not reduced the deficit by a sufficient amount, the authority to cut a portion of the Federal budget is turned over to the head of the Office of Management and Budget. I do not believe that the American people elected the Congress to turn over its constitutional fiscal responsibilities to an unelected bureaucrat.

The entire Gramm-Rudman process actually delays serious action on the deficit. The budget reconciliation bill passed in 1986 is a prime example of the type of deficit reduction the Gramm-Rudman process inspires. The bill was loaded with spending shifts, one-time asset sales and accounting gimmicks which reduced the deficit projections, which technically met the Gramm-Rudman targets for the purposes of avoiding a sequester. The Congress did very little to reduce Federal borrowing or reduce the structural deficit. Rather than force action, the Gramm-Rudman process fakes action. I will concede that the latest incarnation of the Gramm-Rudman amendment goes a very long way to close the many known loop holes. However, in this environment, it is only a matter of time before new loopholes are discovered. One obvious weakness in this new incarnation is that it will likely encourage appropriators to "pad" accounts to cushion the effects of a sequester.

Most disturbing is the fact that if the Gramm-Rudman procedure were played out, it would produce a result which is grossly unfair. In its basic and theoretical form, there is great appeal to taking across-the-board action to reduce the deficit. I have worked over the years to formulate across-the-board freeze budgets. If the Congress is unable to reduce the deficit, it makes a good deal of sense to freeze or reduce each program by a uniform amount to deal with a budget shortfall. Such a procedure spreads the burden of deficit reduction and preserves the relative priority of each program. Unfortunately, Gramm-Rudman is not across-the-board deficit reduction. Over half of all Federal spending is exempt from the Gramm-Rudman formula reduction. Those nonexempt programs must absorb a disproportionate share of the deficit reduction burden. Agriculture, for example, takes an extremely heavy hit in a sequester scenario. Agriculture which accounts for about 3 percent of the budget would take a 10-percent reduction even under the limited sequester established for 1988. No one can say that Gramm-Rudman does not hurt farmers.

After 2 years of operation, by and large, Gramm-Rudman has not worked. The new version of the law does not bring with it a new promise of deficit reduction. If anything, it pushes difficult decisions away from this Congress and President Reagan onto the next Congress and the next President. In the first year of the Gramm-Rudman law's operation, the United States rolled up a $220 billion deficit; the largest ever! The Congressional Budget Office [CBO] just reported that in 1987 the deficit will likely exceed $160 billion, about $20 billion above the current Gramm-Rudman target. However, the acting director of CBO acknowledged that this slight improvement in the deficit picture is largely temporary and due to an unexpected windfall from tax reform, spending shifts, and one-time asset sales. After 1987, the deficit once again takes an upward path and hovers indefinitely in the $200 billion area. Today, the Congress is attempting to put off dealing with the long-term problems of debt and deficit.

Let's be honest with the American people. There were not sufficient votes to increase the debt ceiling, 2 years ago, to over $2 trillion and today to $2.8 trillion. The original Gramm-Rudman law and today's latest incarnation is basically a device to garner sufficient votes to extend the debt ceiling to a new and extraordinary level.

Mr. President, the Gramm-Rudman philosophy works to reduce deficit estimates, but time has proved it is a meager tool for actually reducing deficits. It is a way for Congress to congratulate itself for having fiscal courage without making a single decision on the spending and revenue issues which produce the debt and deficit. The future of deficit reduction does not hinge on the adoption of an automatic trigger for the Gramm-Rudman law. It hinges on political will and bipartisan cooperation. From the first day of Budget Committee hearings, the members of the majority called on the President to meet with the congressional leadership in a budget summit to really fix this problem. To date those requests have fallen on deaf ears. If the President can negotiate with the Soviets, certainly he can negotiate with the Congress.

The debt and deficit are the nuclear nightmare of the President's fiscal policy. It is time to stop hiding and start working toward deficit disarmament.

Thank you, Mr. President.

FLOOR STATEMENT BY SENATOR J. JAMES EXON, OCTOBER 6, 1985

Mr. President, there are few in this body who have had as much experience at Government balanced budgets as this Senator.

As a fiscal conservative of long standing and one who has offered and supported many well thought-out and necessary proposals to directly attack the most pressing economic problems of our country, one might presume I would fall in line with the proposal before us. It appears politically astute to do so at this tense moment. We are being maneuvered and herded unnecessarily to "ride the last train" out of the station headed toward the magical ride to Oz and the land of fiscal responsibility.

Be that as it may, I do not choose to ride because from what I understand of this hastily designed and advanced proposal, it may have serious flaws that will adversely affect the interests of the people of my State and my country. With some corrections I might board, but I question the stampede action that is being whipped up, and will not be a party to this measure as it stands. Cloture would all but eliminate possible constructive changes. After all, I

remind the Senate, this is supposed to be the most deliberative body in the world. Is it, under these conditions? I think not.

There is no legitimate reason for this highly unusual Sunday cloture session. It should be clear to all that we have been "over-coached" into this predicament by design. It's part of the "game plan." Not many successful coaches use a strategy that concentrates on a "Hail Mary" pass for sure victory.

It should also be clear to all that the debt ceiling measure was called up, complete with the principal "shifting sand" amendment conveniently timed and attached, as late as possible. It was all orchestrated well. On Wednesday the President called for a "clean" $2 trillion debt ceiling free of all amendments. On Friday, following a well publicized White House press conference, the game plan was reversed with a White House enthusiastic endorsement of the principal amendment that is being peddled on the floor as balancing the budget by not touching Social Security C.O.L.A.'s, ever or never, avoiding any hint of increased revenues even in the form of a minimum income tax on wealthy corporations, and with the President's specific assurances that notwithstanding anything else there would be no relenting on his defense build-up. Who is kidding whom and for what reason?

The only possible reason I can discover for all of this is to get through the President's request to bust through the $2 trillion debt ceiling limit by sugar-coating the bitter pill with a less than meaningful deficit reduction package.

I view the measure before us as a hastily and ill thought-out proposal and an exercise in "crisis management." It holds out a panacea when, in fact, it is political fantasy that delays rather than expedites meaningful action on the calamity of debt and deficits that face us.

If we are in serious financial difficulty, why not face the music now, rather than conveniently "putting it off" which this measure does in a devious fashion until after the 1986 elections?

There is no good answer to that question, and I urge my colleagues to think twice and oppose cloture.

[From the Congressional Record, Dec. 11, 1985]

Mr. EXON. Mr. President, I have been listening with keen interest to the versions of the basic bill before us by several of my colleagues, and I was somewhat encouraged at times by some of the comments that I heard. I anticipated that after the considerable recitations by several of my colleagues for reasons to oppose Gramm-Rudman that they had changed their mind but in the end I found that with hesitation they were supporting it.

There are no surprises in the speech that I am about to deliver. I am against Gramm-Rudman. I have been against it from the beginning and I remain opposed. So there will be no surprises. While I hope, like the rest, I think we have to have some reality along with hope.

Mr. President, the record of this Senator is clear as a determined fighter for fiscal sanity and against mushrooming deficits. Notwithstanding that, I cannot, in good conscience, buy a "pig in a poke."

This is the day of "The Great Escape." The headlines tomorrow will likely lead Americans to falsely believe a historic action, a happening, has magically taken place in Washington. Not 1 in 10 Americans now understand that this Gramm-Rudman fiasco is a carefully and clandestinely designed cover for busting through the $2 trillion debt ceiling limit. Mind you, Mr. President, that since 1981 this Nation has plunged into the depths of never-before-imagined deficit spending. We have doubled our national debt in 4 years. This administration, widely and falsely perceived as fiscally conservative, has created more debt than all the previous administrations combined.

When President Reagan assumed office with an explicit promise to balance the budget by 1984, every man, woman, and child in the United States owed as their per capita share of the then just under $1 trillion amassed debt, $5,000. Today, that figure has doubled to $10,000 each with the $2 trillion debt. Mr. President, my six grandchildren, plus two more on the way, object. They simply cannot afford it.

We have been sold a bill of goods with the so-called laughable curve, sometimes known as the laffer curve, and growing our way out of the deficit. We now recognize it as nonsense. We languish in the incredible belief that those who got us into this mess have the knowledge to get us out. "The day of the great escape" is here and it is December 11, 1985. They have concocted an escape from the political penalty of their actions by cleverly concealing their vote to bust through the historic $2 trillion debt ceiling by covering their tracks with an unworkable concoction known as Gramm-Rudman. This purports to balance the budget in the future in what I view as an unworkable straightjacket.

Mr. President, this is another December and it may be another day in infamy. The first was by a foreign power. This December we are doing it to ourselves. This is a day in infamy when the Senate, the supposedly most deliberative body in the world, is about ready to shoot itself not in the foot, but in the head.

No one can say this is not a hastily designed piece of legislation devoid of customary committee consideration, hearings, and approval. The only record established is that we have a problem in not having enough votes to pass President Reagan's request for a further increase in the debt ceiling to over $2 trillion. This concoction is a political way out of a political problem and as such is so suspect on its face as to not deserve consideration. Possible constitutional questions are brushed aside.

In another sense, Mr. President, this is "The Day of the Condor" in the Senate. This measure will surely set loose the vultures to plunder the basic readiness of our national security structure, while simultaneously launching the most expensive national defense system in history, the multibillion dollar SDI Program, on top of firm promises to not interrupt other multibillion dollar additions to other complicated and expensive defense initiatives, we can be assured the vultures will prey on readiness. They always have and they always will.

Since over half the budget, to satisfy basic constituencies, has essentially been exempted from meaningful cuts to reach the "pot of gold at the end of the 1991 rainbow," other programs including agriculture which is now in a desperate economic straightjacket, will have to be devastated. This mentions only one domestic program, and as we all know, there are many others.

What do we do? We act responsibly by defeating Gramm-Rudman on this day of days in the U.S. Senate. We return to our senses, pass a temporary debt extension, and return this ill-conceived legislation to a responsible committee for major overhaul, if not total rebuilding.

Mr. President, my grandchildren and I are concerned and want considered action, but not destruction. I will vote no and encourage my colleagues to do likewise and not get caught up in this pretext for progress on the deficit. Mr. President, I urge thought and not thoughtlessness. Let us not sell America short for the expendiency of covering up the vote on the $2 trillion debt ceiling increase. It will all come out sometime, although it is the best current kept secret in Washington and in the land.

Mr. EXON. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who wishes to be recognized?

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon [Mr. HATFIELD].

FORCIBLE REPATRIATION OF VIETNAM REFUGEES

Mr. HATFIELD. I would like to take a few moments of the Senate's time today to comment and to warn my colleagues of an impending tragedy in Southeast Asia. Some 40,000 Vietnamese boat people currently are warehoused in squalid refugee camps in Hong Kong, and they face the imminent prospect of forcible repatriation back to Vietnam.

Mr. President, Prime Minister Margaret Thatcher and other high-ranking British officials have made the position of the British Government quite clear. Unless these Vietnamese refugees return to Vietnam voluntarily, they will, in the near future, be returned involuntarily; in other words, forced repatriation.

The enmity Hong Kong citizens have for the Vietnamese is no secret, and Hong Kong officials have tried just about everything to deter the arrival of the Vietnamese boat people. Those not deterred by a highly arbitrary and unfair refugee screening program, instituted in June 1988, are forced to live in appalling conditions. In fact, beginning earlier this year, refugees were forced to live on a remote island with no shelter, no electricity, no running water or sanitary facilities, until a cholera outbreak required evaluation. Only a tiny number of refugees live in open camps with the right to move freely and the right to work in Hong Kong. Despite these conditions, freedom is a strong magnet. Thousands of refugees continue to seek asylum in Hong Kong.

We are now faced with the forcible return of helpless asylum-seekers back to one of the most repressive nations in the world. The refugees have made clear their opposition to returning and have threatened violence and suicide. Their attitude is understandable.

The British, however, claim that boat people are merely "economic immigrants," and, as such, are deportable as illegal aliens. Some may be, but determination of their status under the flawed Hong Kong screening policy is wholly unreliable. The evidence is that the vast majority of the boat people are true refugees.

Mr. President, we all should be outraged that forced repatriation of Vietnamese asylum-seekers is even being considered. Imagine, if Soviet or East German refugees were forcibly returned, Western nations would rise up in opposition. It appears, however, that the United States is virtually alone in opposing the forcible repatriation of Vietnamese refugees.

I am very grateful to President Bush, to Secretary Baker, to Deputy Secretary Eagleburger, and others in the administration, for their strong position against forced repatriation. I also urge them to hold the line and encourage my colleagues to do likewise.

Mr. President, the Senate recently voiced its opposition to forced repatriation of asylum-seekers back to Vietnam in a resolution that I sponsored, Senate Concurrent Resolution 26. It is time for the Members of this body to speak out again, and the only way repatriation can occur and should occur is when it is truly voluntary.

As stated in Senate Concurrent Resolution 26, "No repatriation of Vietnamese asylum-seekers should occur until a strong and effective internationally-approved mechanism is in place to guarantee that such asylum-seekers will be returned in conditions of safety and dignity and will not be subjected to persecution in any form." The British are proceeding bilaterally and have yet to assure the international community that such a mechanism is or even will be in place.

In order to promote truly voluntarily repatriation, I support and concur in the recommendations of the Indochina Resource Action Center. They have said in effect that there should be certain conditions, and those conditions are: One, ensure that Vietnam guarantees to returnees safety, dignity, reintegration assistance, return of property and freedom from persecution, prosecution or discrimination; two, to establish an effective monitoring system with full and confidential access to returnees by the United Nations High Commissioner for Refugees and cooperating nongovernmental organizations; three, prevent the use of coercive measures to induce voluntary repatriation; and, four, create humane conditions in all camps to ease eventual reintegration into their society; five, establish conditions to guarantee conditions of safety of volunteers waiting to return; six, institute a wide-reaching education campaign on voluntary repatriation.

Mr. President, only if these conditions for truly voluntary repatriation are met, can we sanction any return of the Vietnamese to Vietnam. Human decency demands no less. There are those who find the plight of these refugees unfortunate, but irrelevant. Because they do not have names and faces and families which are familiar to us, because television cameras are not in the camps bringing the refugees into our living rooms every night, the temptation is to forget that they even exist, but they do exist.

The commandment says to "do unto others as you would have them do unto you" seems terribly outdated in this age of selfish materialism, but it raises the question: If it were us instead of them, would anyone care?

I call upon my colleagues to insist upon such conditions and to speak out against any British plans for forcible repatriation. Asylum-seekers from Vietnam have risked everything they have, particularly their lives, in an effort to find freedom. It would be unconscionable if those nations which cherish freedom turned on them in their greatest hour of need and forgot them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, do I still have leader time?

The PRESIDING OFFICER. The Senator has all of his leader time remaining.

GENOCIDE, ARMENIA AND ISRAEL

Mr. DOLE. Mr. President, last month, the Judiciary Committee favorably reported out Senate Joint Resolution 212—the joint resolution I introduced to remember the victims of the Armenian genocide.

That action was taken in the face of one of the most extraordinary lobbying campaigns against the resolution that I have ever seen. Of course, I have no quarrel about any American's right to lobby for or against any piece of legislation. But I have been concerned about two aspects of the lobbying campaign.

One matter that troubled me were reports, which I think every Senator was aware of, that a foreign embassy—the Embassy of Israel—engaged in active lobbying against the joint resolution. In my view, any such activity would be highly inappropriate, at the least; and might well be illegal.

I wrote to the Israeli Ambassador on this matter. In his reply, the Ambassador assured my that "no member of the embassy staff has approached any Jewish organization asking them to act against Senate Joint Resolution 212." I ask unanimous consent that my letter to the Ambassador, and his reply, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, October 23, 1989.

His Excellency, MOSHE ARAD,
Ambassador of Israel,
Embassy of Israel, Washington, DC.

DEAR MR. AMBASSADOR: I have recently learned of press reports quoting a member of the Israeli parliament as saying that your Embassy encouraged members of the American Jewish community to work against Congressional passage of Senate Joint Resolution 212—legislation I recently introduced to mark April 24, 1990, as a Day of Remembrance for victims of the Armenian Genocide of 1915-23.

I would appreciate it if you could advise me as to whether such reports are correct or, more broadly, whether your Embassy—or any of your officers or staff—have taken any action of any kind, authorized or unauthorized, relevant to this legislation or its consideration by the Congress.

Sincerely yours,

BOB DOLE,
U.S. Senate.

EMBASSY OF ISRAEL,
Washington, DC, October 25, 1989.

Hon. BOB DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I acknowledge with thanks your letter of October 23 which I hasten to reply to.

As victims of Genocide and Holocaust, no other people in mankind's history can identify with the Armenian plight and suffering more than the Jewish People.

As for your inquiry I can assure you that no member of the Embassy staff has approached any Jewish organization asking them to act against Senate Joint Resolution 212. I am aware, however, as I assume you are, that in early October a meeting took place in New York between the Foreign Minister of Turkey and a group of Jewish Leaders. In that meeting an approach was made concerning the above mentioned legislation.

As you know, Turkey is the only non-Arab Moslem country in the world to maintain diplomatic relations with Israel. It is therefore only natural that issues concerning Turkey are the subject of our attention and we followed with interest the proceedings concerning Senate Joint Resolution 212.

Mr. DOLE. Subsequent to receipt of the Ambassador's reply, I learned of an article in the Jerusalem Post, quoting Israeli Foreign Ministry officials as saying, in effect, that the Israeli Embassy here had indeed been lobbying against the resolution; and that the Ministry had issued instructions to the Embassy to cease its lobbying activities.

I ask unanimous consent that the full text of the Jerusalem Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Jerusalem Post, Oct. 24, 1989]

EMBASSY WENT TOO FAR IN ARMENIAN AFFAIR

(By Menachem Shaley)

Officials at the Israeli Embassy in Washington went beyond their brief in lobbying against a State resolution commemorating the Turkish genocide of Armenians. Foreign Ministry officials charged yesterday.

The officials said that certain top officials at the embassy had been "overzealous" on the matter and had embroiled Jerusalem in an embarrassing affair.

The officials added that, in response to a request by Turkey, the embassy had been instructed only to "make inquiries" about the proposed Senate resolution, which would declare April 24, 1990 as a day commemorating the Armenian genocide. The officials said that they were "astounded" to learn that the embassy had engaged in active lobbying against the resolution, in consultation with several American Jewish organizations.

The Foreign Ministry this week instructed the embassy to cease its lobbying activities. The ministry spokesman said yesterday that "Israeli delegations will not intervene in questions related to this matter."

The spokesman said: "Israel, as the state of the Jewish people, who suffered more persecution and oppression than any other people, is very sensitive to the sufferings of the Armenian people."

Prime Minister Yitzhak Shamir said yesterday Israel was not seeking to block the controversial resolution.

"The Israeli government does not deal with this," Shamir told reporters when asked if the ambassador to Washington was trying to block the resolution. "It is not our business." He was speaking after briefing the Knesset's Foreign Affairs and Defence Committee yesterday.

Mr. DOLE. Because of that article, I have sent a second letter to the Israeli Ambassador, asking for further assurances and clarifications regarding the Embassy's actions on Senate Joint Resolution 212. I ask unanimous consent that the text of that letter, too, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, November 2, 1989.

His Excellency Moshe Arad,
Ambassador of Israel,
Embassy of Israel,
Washington, DC.

Dear Mr. Ambassador: Thank you for your letter of October 25, responding to my inquiry about Embassy activity related to Senate Joint Resolution 212—the Armenian genocide legislation that I have introduced. I appreciate the assurances it contains. I do have several additional questions.

Your letter states that "no member of the Embassy staff has approached any Jewish organization asking them to act against Senate Joint Resolution 212." Can you assure me, categorically, that no one with any official position at the Embassy—officer, staff, or otherwise—approach any American group or individual and offered any views on (as opposed to merely inquiring about the status of) the Resolution in question?

The enclosed article from the Jerusalem Post cites Israeli Foreign Ministry sources as saying that "certain top officials" of your Embassy had been "overzealous" in following Ministry instruction, to inquire about the status of the legislation, and that Ministry officials were " 'astounded' to learn that the Embassy had engaged in active lobbying against the resolution * * * [and] this week instructed the Embassy to cease its lobbying activities." Is the Jerusalem Post article in any of its essential elements? Has the Embassy been instructed by the Ministry to cease lobbying activities on this legislation? If no such lobbying activities took place, why did the Ministry issue any such instructions.

I look forward to hearing from you on these matters at your earliest convenience.

Sincerely yours,

BOB DOLE,
U.S. Senate.

Mr. DOLE. I look forward to hearing further from the Ambassador—hopefully, with a categorical assurance that the Jerusalem Post article is dead wrong, and that no one associated with the Embassy engaged in any inappropriate activity.

The other matter that bothered me, in a different way, was the obvious lobbying effort which some Jewish Americans and groups undertook against Senate Joint Resolution 212.

Again, I have no quarrel with the right of any American to lobby for or against any piece of legislation. But I am disappointed that members of the Jewish community—who have suffered such unspeakable horrors because of the Nazi genocide—should fail to be sensitive to the similar feelings which affect the Armenian-American community.

I do want to note that many, many Jewish Americans—and Jews elsewhere—have spoken out in sympathy with the Armenian community. I ask unanimous consent to have printed in the RECORD the text of items from three different papers—the Los Angeles Times, the Long Island Jewish World, and the Jerusalem Post.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Oct. 30, 1989]

ISRAEL DEMEANS ITSELF IN AN AFFRONT TO ARMENIANS

(By Gershom Gorenberg)

JERUSALEM.—At first glance, the article in the Tel Aviv daily looked like a bad mistake. "Despite Jewish protests," it said, a U.S. Senate committee had approved a resolution to declare a memorial day for Armenian victims of mass murder.

Israeli diplomats and American Jewish lobbyists, the article said, had opposed Senate Judiciary Committee approval of the resolution, which would declare next April 24 a memorial day for up to 1½ million Armenians killed by Turks in the last days of the Ottoman Empire.

Jews usually are outraged by attempts to cover up genocide. So when I saw that item, I assumed it was the kind of foul-up that newspeople have nightmares about. I figured that the reporter in Washington phoned in the story, and the poor slob taking dictation heard a burst of static as "oppose" instead of "support," and now a whole crew of journalists was looking for a place to hide.

But similar reports kept coming. Along with the Bush Administration, Israeli diplomats were asking senators to forget the massacre, so that a minor matter of genocide wouldn't upset relations with Turkey.

Now Israel's Foreign Ministry is looking for cover. The ministry spokesman says that Israel "is very sensitive to the sufferings of the Armenian people." Unnamed officials are quoted as saying that Israeli diplomats in Washington were "overzealous." They were only supposed to "make inquires" about the Senate resolution. Apparently we're to believe that diplomats, not journalists, were the victims of bad phone lines. A guy here must have said, "Find out about this Armenia thing," and someone in Washington heard, "Fight hard against this Armenia thing."

If that's the excuse, it isn't good enough.

This isn't the first time the Foreign Ministry has tried to help Turkey deny its past. In June, 1982, the Jerusalem Post reported that the ministry had made "persistent and comprehensive efforts" to block the holding of the International Conference on the Holocaust and Genocide in Tel Aviv. The ministry objected to workshops on the murder of the Armenians; Turkey would be upset, and ties with Ankara might suffer.

In 1985, the ministry reportedly tried to talk Jerusalem Mayor Teddy Kollek out of taking part in a memorial meeting by Armenians here. According to the daily Haaretz, Foreign Ministry officials were quick to claim a payoff for lobbying against the Senate resolution: Turkey voted against a move to reject Israel's credentials in the United Nations.

Even now, ministry officials admit that the envoys in Washington were instructed to "make inquiries" about the resolution in response to a Turkish request. If the diplomats goofed, it was by pushing too hard, by letting their efforts end up in the news.

What's behind the foul-up is not a faulty phone line, but a faulty understanding of the lessons of the Nazi destruction of European Jewry.

No Jew can treat the Holocaust simply as history. It's a powerful symbol that obligates us today. But there have always been two ways that Jews read the symbol.

For some, the Nazis' crime is essentially that they killed Jews. Its lesson is that we must make sure that no one ever poses a threat to Jews again. As victims of the ultimate crime, the Jews are owed a huge moral debt by the rest of the world, but our only obligation is to protect ourselves.

The second school also stresses that the Nazis singled out Jews. To forget that is to erase the victims' names from their tombstone. But on a moral level, what makes the Nazis' action a crime is not that the victims were Jews, but that they were people. It's that the criminals defined a part of humanity as less than human and proceeded to eliminate it by mass murder.

Read that way, our history tells Jews that we have a special duty to speak out against any act of genocide, whoever the victims may be. It doesn't matter whether the killers use guns, gas chambers or hydrogen bombs.

The difference between the two views is as clear as the line between egotism and ethics.

Sadly, Israel's diplomats took the path of egotism.

If something helps wash away the bad taste, it's the public reaction in Israel. Members of the Knesset from across the political spectrum have signed a statement denouncing "all efforts to consign mass murders of any kind to oblivion." Their message should guide Israel's response to any genocide, past or threatened.

[From the Long Island Jewish World, Oct. 27-Nov. 2, 1989]

MORALS, DIPLOMACY AND GENOCIDE IN ARMENIA

The Israeli newspaper *Ma'ariv* has expressed its outrage over reports that the Israeli government has been pushing the American Jewish community to lobby against a Congressional resolution commemorating the 75th anniversary of the massacre of Armenians by the Turks. We, too, find these reports extremely disturbing. We hope that the denials coming from the Israeli government and American Jewish organizations (reported elsewhere in this issue) are true.

Ma'ariv writes: "There are reports that the reason for this (lobbying) is a promise given by the Turkish Government to Israel to improve relations, and perhaps to raise the level of relations from the limbo they are in now.

"Someone in the Jewish community," the paper continues, "decided to wage this campaign . . . [someone who] does not want competition for the Holocaust, and therefore is not interested in commemorating the Armenian holocaust.

"In the eyes of the world, the Armenian sacrifice is no less important than the Jewish Holocaust. Those who very justifiably appeal to the conscience of the world not to forget or to downplay the Jewish Holocaust cannot demand that the genocide of another nation be played down, for any reasons whatsoever.

"Perhaps if the world had not remained silent about the murder of the Armenians, it would have been more difficult to murder 6 million Jews a quarter of a century later.

Ma'ariv concludes, "The very dubious gain of an improvement in relations with Turkey cannot justify a step that is so immoral, unconscionable and impractical as Israeli or Jewish aid to a Turkish effort to prevent the commemoration of the Armenian atrocity and its victims."

At the beginning of this century, first the Ottomans and then the Turks were determined to prevent the Armenians from gaining their independence and reestablishing their ancient and much-conquered kingdom—a kingdom which, legend has it, was founded by one of Noah's descendants. In 1915, the Armenians mounted a resistance campaign against a Turkish policy of forced transfer. By 1921, the Armenians had lost somewhere close to 1.5 million people and the last vestiges of independence. Armenia, by treaty, was parceled out in pieces to Turkey, the Soviet Union and Iran.

Turkey's claim is that it is wrong to characterize what happened as genocide. Instead, the Turks argue that it was a civil war that resulted in massive numbers of dead on both sides.

Historians continue to debate the facts of what happened to the Armenians. There seems little doubt, however, that Turkey was intent on eliminating Armenia, a rebellious entity, from the Turkish landscape. Whether its motives were genocidal or territorial, the results were the same. There is no Armenia and the remnants of the Armenian people are scattered around the world.

In addition to the Senate resolution, it is also reported that Turkey is concerned about the U.S. Memorial Holocaust Museum being built in Washington. There are plans to include material in the museum's library involving genocidal attacks against people other than the Jews. At the very least, the museum is likely to include a famous question asked by Hitler when he was making a case for his "final solution": "Who remembers the Armenians?"

It is time Turkey—a country that does much better than most of its neighbors in terms of respecting its minorities and the human rights of all of its citizens—stopped fighting a 75-year-old war. Turkey should express its sorrow for what happened, share in mourning the dead, and make peace, at last, with the Armenian people. Turkey could contribute greatly to the resolution of this issue by making all its archives available to historians, something that it may be prepared, at last, to do.

The members of the Jewish community who have taken Turkey's side in this sad battle contribute nothing to the process of healing that must take place between Turkey and the Armenian community. And they have done poor service to Jews everywhere. Turkey has a thousand times more to gain from good relations with its Jewish community and with Israel than the death of a Senate resolution or the deletion of a quote from a memorial library. But if we are so eager to trade our moral values for minor diplomatic gains, why should we expect anything more from Turkey?

[From the Jerusalem Post, Oct. 25, 1989]

BETWEEN ANKARA AND JERUSALEM

For years Israel has been under pressure from Turkey to deny support for allegations that a massacre of one million Turkish Armenians was perpetrated by the Ottoman army during World War I. Recently the pressure was appreciably scaled up. That was because the U.S. Senate has been considering a resolution, offensive to Turkish sentiment, that the 75th anniversary of the inauguration of the Armenian genocide be officially commemorated next April.

Turkey proposed to induce Israel to lean, both directly and through the organized American-Jewish community, on its friends in the Senate to spike the offensive resolution.

The reasoning must have been roughly like this: If Jews, the world's leading experts on genocide, were to testify that no massacre of Armenians had taken place, the testimony would be taken as proof. Especially since American Jewry's word, as dictated by Israel, carries much weight in Washington. The Turkish government did not, of course, neglect to advise the U.S. administration, too, of the damage that the Senate resolution might do to relations with America's Nato ally. President Bush was duly impressed, but the Senate was not.

A group of professional Jewish PR "consultants" were hired, who went on to uninhibitedly plug Ankara's case. Several major American-Jewish organizations were contacted, but their leaders turned out to be rather undecided. Being Jewish, they felt a natural sympathy for the American victims of an earlier genocide. But, again being Jewish, they also appreciated the legitimacy of Israel's own desire to improve, not injure, relations with Turkey, a Moslem country.

Most helpful, however, to the Turks appears to have been Israel's embassy in Washington.

Why? Presumably, the embassy was greatly worried that the Turks would retaliate against a refusal to cooperate on the Senate resolution by reducing the already low level of their diplomatic representation in Israel. According to one report, the embassy had also been apprised, indirectly, that in return for Israel's assistance Turkey would upgrade its legation in Tel Aviv to a fully fledged embassy.

News about the embassy's involvement in the Senate resolution imbroglio first broke last week. For several days no official comment was forthcoming from either Washington or Jerusalem. The question could not be answered whether the embassy's action, so singularly lacking in sensitivity to the moral aspect of the issue, was strictly partisan, or whether it reflected the Foreign Ministry's policy.

Finally, on Monday, the word was out that "overzealous" Washington embassy officials had exceeded their brief by lobbying against the Senate resolution; and that they had been ordered by the ministry to cease and desist. Israel, the ministry's spokesman said, is very sensitive to the sufferings of the Armenian people.

Turkey is a friendly land; and it should in the friendliest, and most diplomatic, of terms be advised that the attempt by the old Ottoman rules, back in 1915, to make the "traitorous" Armenians into authors of their own misfortune, does not serve well as the basis for contemporary relations.

Anything less could in the end only serve the cause of those who would deny the Holocaust and absolve the Nazis of their historic crime against the Jewish people.

Mr. DOLE. Mr. President, every one of these items—each from the pen of a Jewish writer—speaks eloquently on behalf of the Armenian community. Every one of them expresses the same kind of sorrow I feel—that not all Jews have seen fit to understand the suffering of the Armenian people.

Mr. President, there has been a lot of hysteria about this joint resolution. I hope, somehow, we can put it behind us, so that we can sensitively and soberly consider just what the joint resolution says—and what it does not say.

As that process goes forward, I hope that people of good will everywhere can come together in some expression of remembrance of the many hundreds of thousands of Armenians who died, and can achieve a better understanding of the still awful sorrow of Armenians around the world.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAILING TO TELL THE TRUTH

Mr. DASCHLE. Mr. President, this morning we impeached a judge from Mississippi for failing to tell the truth. Those decisions are always very difficult and certainly, in this case, it came after a great deal of concern and thoughtful analysis of the facts.

I could not help but notice, however, that prior to the consideration of these impeachment articles this morning, the distinguished Senator from Arkansas brought a case to the floor that had nothing to do with impeachment offenses, but, in my view, was just as wrong.

While Judge Nixon was impeached this morning for not telling the truth in order to help one or more of his friends, the distinguished Senator from Arkansas [Mr. PRYOR] called to the attention of all Members of the Senate another clear example of failing to tell the truth. He cited Lee Atwater's letter, a letter that went out to perhaps tens of thousands of American people, in which Mr. Atwater indicated that it was the Democrats in Congress who had passed legislation that placed a new tax on all senior citizens.

I would quote from the letter:

Before President Bush was elected, the Democrats in Congress passed legislation which just recently went into effect and placed a tax on senior citizens to pay for Catastrophic Health Insurance. Do you support this new tax on senior citizens?

That is not the truth. I am sure Mr. Atwater knows it is not the truth. Anytime anyone in the public trust, whether he is elected or not, distorts the truth to that extent, someone must call him on it. Someone must bring to the attention of everyone here as well as to the American people that Mr. Atwater is not right.

And so in just a couple of moments I would like to add to what the distinguished Senator from Arkansas already said this morning. It is important, in spite of all the debate—and there has been some good debate about this issue—that a fact like that be clarified so that there is no misunderstanding about how we got here in the first place.

The Reagan administration began this whole effort on Catastrophic Health Insurance when Dr. Otis Bowen, then the Secretary of Health and Human Services, proposed to the Congress an administration-backed catastrophic proposal that was financed solely by premiums on the elderly. President Reagan conditioned his support of catastrophic legislation on the criterion that the bill be financed by senior citizens with no outside revenue.

Republicans—and I must say Democrats—came to the conclusion, if we were to pass the bill, this was the price we would have to pay. Ultimately, the measure passed in the Senate by an overwhelming bipartisan majority of 86 Senators. The Reagan administration supported this bill, as does the current administration.

In fact, as recently as September 20 of this year, Dr. Sullivan came before the Finance Committee and said, "I am here to speak on behalf of the administration on this issue. I wish to emphasize that this legislation, we have continued to believe, meets a very real need in protecting our elderly citizens from the possibility of financial ruin at a vulnerable time in their lives. Our position is that we would prefer not to have this bill altered at all."

He did not say let us take out the tax. He did not say, in spite of Mr. Atwater's admonition to Democrats that this is an unfair tax, now is the time to eliminate it. He said, we the administration support this bill right down the line.

In case there is any misunderstanding, on June 8, 1988, then Vice President Bush said:

It means the elderly will not have to live in fear that their life savings will be wiped out by a prolonged hospitalization.

Then he said on September 25:

I am proud to have been part of an administration that passed the first catastrophic health bill.

Just this year, President Bush said:

As Vice President, I supported President Reagan's signing of H.R. 2470. It would be imprudent to tinker with Medicare catastrophic insurance literally in its first few months of life. We should not reopen the legislation.

Louis Sullivan, June 1, 1989:

Catastrophic health insurance represents the most comprehensive expansion of medicare since 1965. The concept of catastrophic health insurance was forwarded by the former administration and embraced by the Congress over two years ago.

It would be extremely injudicious to reduce the supplemental premium revenues before all of the catastrophic benefits are fully implemented.

I do not blame the American people if they are a little confused, Mr. President. On the one hand, you have the Presidents, both from the previous administration and this one, as well as the Secretary of Health and Human Services, both in the previous administration and this one, very strongly asserting their support for the catastrophic program that was passed 2 years ago.

On the other hand, you have the Chairman of the Republican National Committee going to the American people and saying, "Before President Bush was elected, the Democrats in the Congress passed legislation which just recently went into effect and placed a tax on senior citizens to pay for catastrophic health insurance."

I ask unanimous consent that a number of other quotes pertaining to the catastrophic bill be printed in the RECORD at this time.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENTS BY REPUBLICAN LEADERS ON CATASTROPHIC LEGISLATION

October 27, 1987. Senator Hatch: "I rise today to applaud this legislative initiative. . . . This initiative represents months of congressional oversight following President Reagan's challenge to Congress to enact such legislation. . . . I am concerned that some want to play partisan politics with the health care of our citizens. The issue should not be who receives the credit for developing this legislation. . . ." (*Congressional Record* statement at the time of Senate passage).

October 27, 1987, Senator Domenici: "I am glad that the Congress is tackling this important health care problem. . . . I commend President Reagan and Secretary Bowen for bringing this issue to the forefront, and for making important contributions to the final passage." (*Congressional Record* statement)

May 25, 1988, Secretary Bowen: "It has my personal support." (Statement he made following conclusion of conference. "Congressional Quarterly" quote)

June 2, 1988, Representative Michel: ". . . today, I am happy to support the program that has long been desirable and requested by our President." (*Congressional Record* statement)

June 8, 1988, Vice President Bush: "It means the elderly will "not have to live in fear that their life's savings would be wiped out by a prolonged hospitalization." (Associated Press report on Bush's support for the bill)

June, 1988, Senator Dole: "(T)here is a great deal that I believe we can be proud of with respect to the bill." (Quoted in "Congressional Quarterly")

June 8, 1988, Senator Durenberger: "Mr. President, it is with great pleasure and pride—even some emotion—that I urge my colleagues to join in overwhelming support of the conference agreement. . . . Everyone who knows the history of health policy in this country recognizes the importance of this landmark legislation." (*Congressional Record* statement)

June 8, 1988, Senator Thurmond: "I also wish to commend Secretary Bowen for the important contributions he has made in seeking solutions to this problem. Mr. President, I urge my colleagues to support this conference report." (*Congressional Record* statement)

July 1, 1988, President Reagan: "Well, that initiative (referring to his State of the Union Address and the Administration's catastrophic health care bill introduced by Senator Dole) has produced an historic piece of legislation, and in a moment, I will sign the Medicare Catastrophic Coverage Act of 1988." (Remarks on signing Medicare Catastrophic coverage Act 1988)

September 25, 1988, Candidate and V.P. Bush: "I am proud to have been part of an Administration that passed the first catastrophic health bill." (1st Presidential debate)

April 21, 1989, President George Bush: "As vice-president, I supported President

Reagan's signing H.R. 2470. . . . It would be imprudent to tinker with Medicare catastrophic insurance literally in its first few months of life. We should not reopen the legislation." (letter to Rostenkowski)

June 1, 1989; Louis Sullivan: "Catastrophic health insurance represents the most comprehensive expansion of Medicare since 1965. The concept of catastrophic health insurance was forwarded by the former Administration and embraced by Congress over two years ago." (Senate Finance hearing testimony)

June 1, 1989, Louis Sullivan: ". . . (E)veryone—Congress, the Reagan Administration, and beneficiary groups—supported, on balance, the legislation. . . . We remain committed to the continuing implementation of catastrophic health insurance under Medicare. . . . It would be extremely injudicious to reduce supplemental premium revenues before all of the catastrophic benefits are fully implemented." (Same as above.)

June 10, 1989, Senator Dole: "We need to recognize that this is a Republican initiative that we are about to dismantle here." ("Congressional Quarterly")

September 20, 1989, Louis Sullivan: "We believe that this legislation meets an important need for our elderly citizens. . . . Our position, again, I want to repeat, is that we would rather not tamper with the legislation at all." (Finance Committee Hearing)

Mr. DASCHLE. Mr. President, there is probably nothing illegal about what Mr. Atwater did, and I understand his political motivations. However, I hope this case will serve a useful purpose in calling attention to the fact that when someone distorts the truth as significantly as Mr. Atwater did in this case, he and everyone else ought to know a lie from the truth. It may not be an impeachable offense, it may not be illegal, but it is wrong.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today marks the 1,693d day that Terry Anderson has been held in captivity in Beirut. He is not alone. A recent report indicates that as many as 19 Westerners may currently be held as hostages in Lebanon.

I ask unanimous consent that this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From Reuters: Oct. 6, 1989]

NINETEEN WESTERNERS COULD BE HOSTAGES IN LEBANON

The abduction of two Swiss workers for the International Committee of the Red Cross (ICRC) on Friday raised the number of Westerners who could be hostages in Lebanon to 19.

Emmanuel Christen, 25, and Elio Erriquez, 23, ICRC orthopaedic technicians, were seized by three gunmen outside a centre for the handicapped in the southern port of Sidon.

The other Westerners kidnapped in Lebanon by various militant groups and believed held hostage are:

West Germans Heinrich Struebig, 48, and Thomas Kempner, aid workers caring for Palestinian refugees in south Lebanon, abducted by gunmen in Sidon on May 16 this year.

Briton Jack Mann, 75, retired airline pilot and nightclub manager, kidnapped in Moslem west Beirut on May 12 this year.

Americans Robert Polhill, 54, Jesse Turner, 40, and Alann Steen, 50, teachers at Beirut University College, taken from its west Beirut campus on January 24, 1987. Islamic Jihad for the Liberation of Palestine claimed responsibility.

Briton Terry Waite, 50, envoy of the Archbishop of Canterbury, disappeared in Moslem west Beirut on January 20, 1987, while on a mission to win the release of two Americans.

Americans Joseph Cicippio, 59, administrator at the American University of Beirut, seized on September 12, 1986, and Edward Tracy, 57, freelance writer and book salesman, seized on October 21, 1986. The Revolutionary Justice Organization says it holds them.

American Frank Herbert Reed, 58, director of the Lebanese International School, abducted in west Beirut on September 9, 1986. The Arab Revolutionary Cells claimed responsibility.

Briton John McCarthy, 31, journalist for Worldwide Television News, seized on April 17, 1986. The Revolutionary Commando Cells claimed it held him but provided no proof.

Brian Keenan, 36, university teacher with dual British-Irish nationality, kidnapped in west Beirut on April 11, 1986.

Alberto Molinari, 65, Italian businessman, missing since September 11, 1985.

Farik Wareh, 65, businessman of Syrian origin with U.S. nationality, missing since June 29, 1985. The United States does not include him on its list of American hostages in Lebanon.

Florence Raad, 35, journalist with joint Lebanese-French nationality, missing since May 1985.

Americans Terry Anderson, 41, Middle East bureau chief for The Associated Press, seized on March 16, 1985, and Thomas Sutherland, 58, dean of Agriculture at the American University of Beirut, taken on June 9, 1985. Islamic Jihad (Holy War) says it holds them.

"60 MINUTES"—PROFILE OF MARIAN WRIGHT EDELMAN

Mr. KENNEDY. Mr. President, on Sunday evening, October 22, the popular, widely respected CBS television program "60 Minutes" carried an eloquent and perceptive profile of Marian Wright Edelman, the founder and president of the Children's Defense Fund. All of us in the Senate on both sides of the aisle are well aware of her extraordinary leadership, commitment, and achievements on children's issues, and I ask unanimous consent that a transcript of the profile may be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

EXCERPT FROM "60 MINUTES" ON CBS, PROFILE OF MARIAN WRIGHT EDELMAN, OCTOBER 22, 1989

ED BRADLEY: Her name is Marian Wright Edelman. Yale Law School, Class of '63; the first Black woman admitted to the Bar in the State of Mississippi. Active in liberal Democratic politics, but admired by one of the Senate's most conservative Republicans, who says she fights more effectively for children than anybody else in our society. Marian Wright Edelman is the founder of the Children's Defense Fund. Her constituents are America's 63 million children. They may not vote and they may not have any money to contribute to election campaigns, but they have relatives who vote and contribute to campaigns. And she told Harry Reasoner she never lets the men and women she lobbies up on Capitol Hill forget that.

MARIAN WRIGHT EDELMAN: Everybody loves children. Everybody is for them in general. Everybody kisses them in elections. Everybody thinks it's like motherhood and apple pie. But when they get into the budget rooms, or behind closed doors—to really decide how they're going to carve up money—children get lost in the process because they are not powerful.

Now, one of the messages we've got to get across to people in South Carolina, and to the nation as a whole, is that you don't have to like these black and brown children, but we're going to need them economically. There are children that are either going to be invested in now and they're going to grow up and be strong workers and produce for us, or they're going to grow up and they're going to shoot at us because we have not taken the care.

And we're trying to pass the Act for Better Child Care Services, which we call the ABC Bill.

HARRY REASONER: Senator Orrin Hatch of Utah is one of the sponsors of the Act for Better Child Care. ABC for short. A comprehensive bill for federal aid to children's programs. Hatch, an ultra-conservative whose name on the bill has gotten him into trouble with a lot of his own supporters, says he got behind the bill because it makes sense for the country. And he is wryly amused at Marian Wright Edelman's effectiveness with her more natural allies among Democrats.

Senator ORRIN HATCH: I've seen people who are absolutely deathly afraid of her who sit here in Congress. I've had Senators come up to me and say, well, we've got to make sure that Marian goes along—'cause if she doesn't it isn't worth the pain.

HARRY REASONER: If she calls for an appointment, they see her.

Senator HATCH: That's right. If she calls for an appointment, I think they say how soon can you be here?

HARRY REASONER: A conservative Senator told us, speaking of you, that he knows dozens of liberal Senators who blanch and try to hide in the men's room when they hear you're in the building.

MARIAN WRIGHT EDELMAN: Oh, I don't believe it. That's terrific. I don't believe that. I can be tough as nails just as anybody who believes in anything has to be tough as nails. This is not an easy time to survive in.

HARRY REASONER: You have no objection to twisting arms.

MARIAN WRIGHT EDELMAN: I have no objection to twisting arms for kids. I have no objection doing anything that the law permits me to do for kids. I think that nothing is more important to have Senators vote on and do the right thing about.

HARRY REASONER: They think you're honest.

MARIAN WRIGHT EDELMAN: Well, I hope so. I don't want anything. I don't have any money. Children don't have any great votes. I think that what we're about is trying to get them to do what is right for the nation

and to do what is right for the nation's weakest citizens.

HARRY REASONER: Would she aspire to being in the government instead of outside pushing it?

SENATOR HATCH: Well, I don't know why she'd want to be a U.S. Senator or Congressperson or even President. She has more power where she is doesn't she? You know you've got to be pretty powerful to be more powerful than Marian Wright Edelman in my viewpoint.

HARRY REASONER: That power starts here at the office of the Children's Defense Fund, which now employs ninety people. But power is a vague word. What do they do? Well, Marian Wright Edelman will tell you they work on the Lord's side on every issue that affects children.

MARIAN WRIGHT EDELMAN: We spend a great deal of our time doing research and identifying the problems that affect millions of children—rich and poor, white and black—and then we say what ought to be done about those problems. And then we lobby. Each year we analyze the President's budget and how it affects children. We're doing that increasingly at the state level. We try to enforce the laws that are already on the books when children's rights are being violated or where a law that's there to protect their health care or to protect their rights to remain in their families or if they're abused in foster care—we will sue.

We have such a hard time getting people to understand we don't litigate all the time. And we don't lobby all the time. We lobby a lot. We do everything that the law permits us to do for children.

And so you have to stay there all the time on them. You have to watch every minute. You have to stand outside the door. And most of changing social policy is just dogged hard work and persistence. There's no great magic about it. You just have to stay on people and make it easier for them to do what you want them to do than not to do it. So we're a good pest—I'm a good pest is what I am.

CHILDREN SINGING: I am a great big bundle of potentiality.

HARRY REASONER: The young Marian Wright's possibilities and potential came from here—in the Baptist Church in her home town of Bennettsville, South Carolina. Her late father was the preacher. And she says this church was the hub of her existence as a child. Her parents, and a strong community of Black adults, were the buffers against the outside segregated world that told her as a Black child she wasn't worth much. Her father died when she was fourteen years old.

MARIAN WRIGHT EDELMAN: I went off with the ambulance with my daddy the night he died. And he, in that ambulance, made it very clear to me that I, as a Black girl, could be anything, do anything, and how important it was not to let anything get between me and my education and everything I could be.

HARRY REASONER: Becoming everything she could be eventually took her to Spellman, a classy Black women's college in Atlanta. She spent her third year at Spellman, studying in Switzerland and the Soviet Union. In 1959, she came back, wondering how she would fit back into this restricted, segregated world.

MARIAN WRIGHT EDELMAN: One day I went down to do volunteer work for the local NAACP, and my job was to look at all the complaints that had come before them. And I got so angry at the number of people—poor people, Black people, because many white lawyers back then wouldn't take civil rights cases—who had come to the local office needing legal help and couldn't get it.

HARRY REASONER: By 1964, she had turned that anger and desire to help poor Black people into a law degree from Yale and headed to the heart of the civil rights struggle, Jackson, Mississippi, where she became the first Black woman admitted to the bar in that state. When Robert Kennedy, in a Senate subcommittee on poverty, came to Jackson in April 1967, Marian Wright got the chance to testify at a public hearing. She told the Senators that people were starving and invited them to take a tour and see the hunger and poverty for themselves. Kennedy was one of the Senators who agreed to take that tour. But first he sent one of his legislative assistants, Peter Edelman, to meet Marian Wright.

PETER EDELMAN: What's burned in my mind is seeing children in the United States of America who had bloated bellies, and who had sores that wouldn't heal. That was what was shocking about Mississippi in 1967.

HARRY REASONER: Three days after the hearings, Marian Wright took Senator Kennedy on a tour of the Mississippi Delta.

MARIAN WRIGHT EDELMAN: We just went into individual houses of poor people, and knocked on their doors, sat down and talked to them, looked into their refrigerators, asked them what they had for breakfast, asked them what they had for supper. And Robert Kennedy was amazing to watch. He was a man who had great compassion. And my favorite incident, which made me a Robert Kennedy fan, was when he walked into a shack in Cleveland, Mississippi, away from TV cameras, walked through to a kind of a mud kitchen and saw a baby sitting over in a corner, a dark corner—with a bloated belly—and he got down with that baby and tried to get a response and couldn't. And he was just visibly moved and angry, as he should have been. But that was, I think, the beginning of his real commitment to ending hunger in this country.

HARRY REASONER: Is it all gone now?

MARIAN WRIGHT EDELMAN: I think in the late '70's we virtually eliminated serious hunger in America. And what makes me very angry is that it returned in the '80's. And I hope we can rediscover in the '90's the kind of commitment the nation had, to see that no child went hungry in the '70's.

ANNOUNCER: One year after that tour, and one month after Robert Kennedy was assassinated, Peter Edelman and Marian Wright were married. Apart from your mutual interest in civil rights and advancement of human kind, what attracted you?

PETER EDELMAN: What attracts two people to each other?

MARIAN WRIGHT EDELMAN: He's a nice man. He's a smart man, and I thought he'd be a terrific father, which is true. We shared values. But he's a kind man whom I thought would also be big enough to let me be me. And that's not easy for somebody, I suspect.

HARRY REASONER: I mean it's enough of a hazard to get married, but if it's an interracial marriage——

PETER EDELMAN: I don't think we thought a lot about it in a way of intellectualizing or articulating—I'm sure we were both aware of what we were doing, but I think we fell in love with each other and got married.

HARRY REASONER: Today, Peter Edelman is the Associate Dean of the Georgetown Law School in Washington, where the Edelmans live with their three sons, who they say pay less attention to the inter-racial marriage and more attention to their different religious backgrounds. Baptist in her case, Jewish in his.

MARIAN WRIGHT EDELMAN: We have ecumenical Bar Mitzvahs with my side of the family and his side of the family, with a Rabbi and with my Baptist preacher brother. And the important point about those Bar Mitzvahs is that we're saying that whatever divides us is far less strong than what unites us.

HARRY REASONER: If some night you were talking to your boys about how it was when the two of you got married, what would you tell them? How would you describe Mississippi in 1967?

MARIAN WRIGHT EDELMAN: It was tough. It was a struggle. Everything was segregated. I keep trying to remind them how their freedom today to go and do everything they want to do, or to go any place, was not a right that I had as a child growing up.

HARRY REASONER: Marian Wright Edelman is by nature an optimist. But in the late '80's she sometimes sounds—for her—a little down.

MARIAN WRIGHT EDELMAN: I think many kids in America really are terrified. And I think that many of them are hopeless. And I don't think that I have sensed the kind of despair that one feels in some inner cities and rural areas today—ever. Because even when it was bad in the old segregated days, we always had a sense that we could struggle and make things better. We had supports in our day. We had families and churches that cared about us and worked with us and struggled with us. And there was never a time when I was growing up that I didn't think I could change the world. I don't think young people today—enough of them—feel they can change the world.

HARRY REASONER: Have you changed the world, Marian? Have you made a difference?

MARIAN WRIGHT EDELMAN: I hope I've made a difference as one person. I haven't changed it as much as I still want to change it.

ED BRADLEY: Marian Wright Edelman's dogged hard work and persistence may be paying off as different versions of her ABC Child Care Bill have now passed the Senate and the House. A conference committee will try to iron out the differences.

ALOHA ISLAND-AIR FLIGHT 1712: ALL HAWAII MOURNS

Mr. MATSUNAGA. Mr. President, neither prophet nor philosopher, neither sage nor scholar, has ever satisfactorily explained why death is allowed to rob us of our young; why the laughter and shouts and cries of youth can so suddenly give way to a stillness and a heavy silence that descend upon our homes and cast a shadow over our lives; why man in all his reason, knowledge, and caution is powerless to stop death from entering our homes and taking away our children. And yet it happened again this past Saturday, on Molokai.

Death claimed the lives of 20 passengers aboard an Aloha Island-Air twin-engine airplane on a 20-minute commuter flight from Kahului, Maui, to Hoolehua, Molokai. The plane crashed

into a ridge in Molokai's Halawa Valley. And now all Hawaii mourns.

The tragedy has especially devastated the small, tight-knit community of Molokai Island, population 6,000, where the concept of ohana, or family, forms the basic bond of the community. Eight of the passengers—Lea Dunham, Leilani Ahina, Nancine "Kaipo" Mahiai, Natalie Helm, Aloma Spencer, Jared Keawepuahikinaokamalamalamaonalani Elia, Jovencio Ruiz, and Testa "Travis" Ku—were members of Molokai High School's girls' and boys' volleyball teams returning from a match on Maui. These young students were accompanied by the girls' coach, Odetta Reyes Rapanot, athletic director John Ino, and three other Molokai residents: Colette Loke Kekalia, Nancy Pierce, and Rodrigo Senica. Also on board were Hank Gabriel of Maui, Peter and Elizabeth Wiley of Pennsylvania, John and Christina Craig of Texas, and the flight crew: Captain Bruce Pollard and First Officer Phil Helfrich.

Mr. President, the healing in Molokai will require much time, patience, and a vast reservoir of aloha and ohana as the community draws together like never before. No doubt some will find painful irony in the fact that fate would have the victims die even as they celebrated life: Peter and Elizabeth Wiley had been married one week and were on their honeymoon; John Craig flew to Hawaii to celebrate his 32d birthday; the student athletes and their coach were reveling after successful matches in Maui; Colette Kekalia was returning home from routine dialysis treatment; and First Pilot Phil Helfrich, a competent and professional crewmate of 1½ years experience with Aloha Island-Air, had set his sights on becoming a full-fledged pilot.

I pray that the community will find renewed strength as it pulls together to begin the healing and to let the pain and grieving run their course. I pray that the families and friends of the 20 passengers will find solace in the good Lord's infinite comfort, strength in His abiding grace, and understanding in His eternal wisdom. But most of all, I pray that the sound of laughter and shouts of joy of Molokai's children will return; that neighbor will smile and nod at neighbor once again; and that life in this small island community will resume as it has for generations with warm remembrances of those who have gone before. Surely, we can give no higher honor to the 20 individuals whom we now mourn than by approaching our lives and remembering them in the very spirit in which they lived: To live our lives as a celebration and with thanksgiving and to embrace each day with joy.

RECESS UNTIL 2:30 P.M.

Mr. DASCHLE. I ask unanimous consent that the Senate stand in recess until 2:30.

There being no objection, the Senate, at 12:56 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ROBB].

RECESS UNTIL 3:30 P.M.

The PRESIDING OFFICER. In my capacity as a Senator from Virginia, I ask unanimous consent that the Senate stand in recess until 3:30 p.m. today.

There being no objection, the Senate, at 2:30 p.m., recessed until 3:37 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

The PRESIDING OFFICER. The Senate will come to order.

The Chair, in his capacity as a Senator from Kentucky, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Kentucky, asks unanimous consent that the quorum call be rescinded.

Without objection, it is so ordered.

The Chair asks unanimous consent that we stand in recess until the hour of 4:15 p.m.

Hearing no objection, the Senate stands in recess until 4:15 p.m.

There being no objection, the Senate, at 3:37 p.m., recessed until 4:17 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. PRYOR].

MESSAGES FROM THE HOUSE

At 2:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1827. An act to revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York.

MEASURES PLACED ON THE CALENDAR

The following bills, previously received from the House of Representatives for concurrence, were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2710. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes;

H.R. 3199. An act to amend title 38, United States Code, to establish a program to provide post-secondary educational assistance to students in health professions who are eligible for educational assistance under the Reserve GI Bill program in return for agreement for subsequent service with the Department of Veterans Affairs; and

H.R. 3390. An act to amend title 38, United States Code, with respect to certain veterans' education programs, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.J. Res. 175: Joint resolution to authorize entry into force of the Compact of Free Association between the United States and the Government of Palau, and for other purposes (Rept. No. 101-189).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WILSON (for himself, Mr. DECONCINI, Mr. D'AMATO, Mr. PACKWOOD, Mr. COATS, Mr. HEINZ, Mr. LEVIN, and Mr. BAUCUS):

S. 1835. A bill to amend the Drug-Free Schools and Communities Act of 1986 to provide for the awarding of grants for drug abuse resistance education instruction for students, and for other purposes; to the Committee on the Judiciary.

By Mr. SANFORD:

S. 1836. A bill to amend the Internal Revenue Code of 1986 to assist in the recruitment and retention of mathematics and science teachers; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1837. A bill to direct the Secretary of the Interior to establish a Desert Research Center; to the Committee on Energy and Natural Resources.

By Mr. FOWLER (for himself, Mr. COCHRAN, Mr. BOND, Mr. BOREN, Mr. DASCHLE, Mr. MCCONNELL, Mr. PRYOR, Mr. KERREY, Mr. WILSON, Mr. BOSCHWITZ, Mr. COHEN, Mr. GRAHAM, Mr. DECONCINI, Mr. MCCLURE, and Mr. DOMENICI):

S. 1838. A bill to establish or modify research, promotion, and consumer education programs for certain agricultural commodities, and for other purposes; placed on the calendar.

By Mr. INOUYE (for himself and Mr. HOLLINGS):

S. 1839. A bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. RIEGLE (for himself, Mr. GARN, Mr. CRANSTON, and Mr. D'AMATO) (by request):

S. 1840. A bill to amend provisions of the Bankruptcy Code governing the powers of a bankruptcy court and the effect of automatic stays as they relate to certain multifamily liens insured or held by the Secretary of Housing and Urban Development or the Secretary of Agriculture, and for other pur-

poses; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. RIEGLE (for himself, Mr. GARN, Mr. CRANSTON, and Mr. D'AMATO) (by request):

S. 1841. A bill to amend Federal laws to reform housing, community and neighborhood development, and related programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN:

S. 1842. A bill to temporarily suspend the duty on insulated winding wire cable and certain electrical apparatus; to the Committee on Finance.

By Mr. DOLE:

S.J. Res. 222. Joint resolution designating 1990 as the "Year of the Eagle Scout"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 203. Resolution authorizing Senate employee testimony and production of Senate documents in a grand jury investigation; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WILSON (for himself, Mr. DECONCINI, Mr. D'AMATO, Mr. PACKWOOD, Mr. COATS, Mr. HEINZ, Mr. LEVIN, and Mr. BAUCUS):

S. 1835. A bill to amend the Drug-Free Schools and Communities Act of 1986 to provide for the awarding of grants for drug abuse resistance education instruction for students, and for other purposes; to the Committee on the Judiciary.

GRANTS FOR DRUG RESISTANCE EDUCATION

Mr. WILSON. Mr. President, many of us on this floor have consumed a great deal of time in efforts to try to combat the problem of drugs. We have in latter days voted belatedly on the effort for the reduction of demand as opposed to efforts to interdict drugs both beyond the borders of the United States and those on our streets that have characterized so much of our early effort. Clearly, one of the most successful means available to us is successful, effective drug education.

Of the many good programs which I have become familiar with across the land perhaps the most celebrated is one that I am proud to say was developed by the Los Angeles Police Department and the Los Angeles Unified School District.

It is the DARE Program, DARE being the Drug Abuse Resistance Education Program. Simply stated, Mr. President, this program, which has been now employed in 49 States, is one that does not simply tell children to say no to drugs; it gives them the means whereby they can do it. It tells them how and why, not simply in the sense of reciting the ills of drug use, but it goes to very basic values and equips those childen for that all but inevitable day when, as fourth, fifth, sixth graders, they may encounter to them a rather glamorous figure, a 17- or 18-year-old pusher who comes onto their school grounds, finds them in a park on a playground and offers them free drugs in order to recruit them into their retail sales apparatus.

Mr. President, not long ago in Los Angeles, I went to the Placentia School in east Los Angeles in the heart of the neighborhood that is beset acutely with the traffic in drugs. I witnessed a young police woman, Mercedes Hernandez, conduct a sixth-grade class. I must say that I came away with renewed confidence that the youngsters that were participating with her in drug abuse resistance education would in fact know how and why to say no; that they would have learned from their techniques that will stand them in very good stead. I think they are a very good bet, Mr. President, a good risk to be stronger, stronger in all ways, because they have learned the values themselves and they know why it is that they should not engage in dangerous experimentation.

So, Mr. President, without taking more time, this legislation seeks to place in a freestanding bill what was earlier an amendment to S. 1711, the drug bill which was passed by the Senate, which, unfortunately, does not seem headed for enactment.

As a condition of being funded, grant applicants under this program must meet all program content criteria. Those are set out in the bill. And, indeed, in an effort to try to tell children how and why they must say no to drugs, the applicants need to spell out very clearly how it is in grades kindergarden through 6 they will instruct in drug use and misuse, in resistance techniques, quite specific resistance techniques, assertive response styles, how they can manage stress without drugs, how they can make and must make decisions, how they can evaluate risks, and how they can evaluate influences upon them, including those of the media, having to do with drug use.

They can be instructed that positive alternatives exist. They are instructed in interpersonal and communication skills, in activities that will build their self-esteem, that will allow them to resist the very considerable peer pressure for gang membership. And this classroom instruction will have as a feature the regular, persistent appearance by specially instructed and trained uniformed law enforcement officials.

The results of this through some 6 or 7 years of experience now is that there has been a very good experience, that the goals of this legislation has been met.

Mr. President, the purpose of this authorization is simply to allow districts and States where this is being employed, districts where they have not been able to find funding to do it, to have that additional assistance so that they, too, may instruct their children in self-esteem and in the resistance techniques in order to give them a fair break.

Mr. President, I ask unanimous consent that the text of the bill and certain other materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS FOR DRUG ABUSE RESISTANCE EDUCATION INSTRUCTION FOR STUDENTS.

Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 5136. GRANTS FOR DRUG ABUSE RESISTANCE EDUCATION INSTRUCTION FOR STUDENTS.

"(a) IN GENERAL.—The Secretary may award grants to local education agencies in consortium with entities (such as the Project Drug Abuse Resistance Education project) that meet the requirements of subsection (b), and that have experience in assisting school districts in providing instruction to students, in grades kindergarten through six, to assist such students in recognizing and resisting pressures that influence such students to use controlled substances (as defined in schedules I and II of section 202 of the Controlled Substances Act (21 U.S.C. 812)), the possession or distribution of which is unlawful, or beverage alcohol.

"(b) ELIGIBLE ENTITIES.—A local education agenda in consortium with an entity as described in subsection (a), shall be eligible for a grant under subsection (a) if such local education agency in consortium with an entity provides the Secretary with assurances that it will use the amounts made available under such grant to provide, or arrange for the provision of, services that shall include—

"(1) drug abuse resistance education instruction for students in grades kindergarten through six, to assist such students in recognizing and resisting pressures that influence such students to experiment with or use controlled substances (as defined under subsection (a)), or beverage alcohol, in the following areas—

"(A) drug use and misuse;

"(B) resistance techniques;

"(C) assertive response styles;

"(D) managing stress without taking drugs;

"(E) decision making and risk taking;

"(F) media influences on drug use;

"(G) positive alternatives to drug abuse behavior;

"(H) interpersonal and communication skills;

"(I) self-esteem building activities; and

"(J) resistance to gang pressure;

"(2) classroom instruction by uniformed law enforcement officials;

"(3) the use of positive student leaders to influence younger students not to use controlled substances; and

"(4) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations.

"(c) APPLICATION.—The Secretary shall not make a grant under subsection (a) unless—

"(1) an application for such grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application otherwise is in such form and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section; and

"(4) the application contains an assurance that the applicant will provide funds, from sources other than Federal sources, that are equal to at least 10 percent of the amount of the grant under subsection (a);

"(d) SUPPLEMENTAL FUNDS.—Amounts received under subsection (a) by the local education agency in consortium with an entity shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of projects of the type described in subsection (b).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991 through 1993.".

U.S. SENATE,
Washington, DC, October 31, 1989.

DEAR COLLEAGUE: With the recent explosion of crack use and the growing use of "ice," a potent form of methamphetamine (speed), the need to implement effective anti-drug use education programs in our schools has never been greater.

You may be aware of one tremendously successful program, the Drug Abuse Resistance Education (D.A.R.E.) program. D.A.R.E., now provided in forty-nine States, the District of Columbia, and several countries abroad, teaches students kindergarten through sixth grade necessary skills to resist the temptation to use drugs.

To the cue of "ready, set, action," D.A.R.E. students participate in a range of drug abuse resistance activities, including mini-skits to present effective methods to deal with real life situations in which they may be pressured to experiment with drugs.

Other important components of the D.A.R.E. program include encouraging student generated responses to problems, using student peers to deter drug use, and the active involvement of parents and the community. Perhaps the most unique aspect is the use of specially trained police officers to teach the students.

In short, D.A.R.E. provides students with effective ways to say "no."

To assist communities across the country in offering the D.A.R.E. program, I will introduce legislation this Friday to authorize $10 million in Federal funding. For your information, my bill has already passed the Senate as an amendment to S. 1711.

Our children are our most precious human resource. We cannot let the scourge of drug use destroy their dreams and hopes. We must teach them how to be courageous and resist the pressure to use drugs. I urge you to join me in cosponsoring the "Drug Abuse Resistance Education Act of 1989."

Should you wish to cosponsor my legislation, please have a member of your staff contact Karen Strickland at 224-5422.

Sincerely,

PETE WILSON.

D.A.R.E. To KEEP KIDS OFF DRUGS

D.A.R.E. BECAUSE WE CARE

They're our kids. Our future. Our legacy. And we all want the same thing for them—the best.

We want their futures to be bright, and secure, and healthy, and safe. And we want them to succeed. To join us in the worlds of business and commerce, law and medicine, manufacturing and selling, teaching and serving.

That's why we care. About their ability to cope with the challenges of life in contemporary America. About their capacity to resist the negative influences around them, to focus instead on their strengths and their potential.

And that's why we D.A.R.E..

D.A.R.E. TO BELIEVE IN THEMSELVES

D.A.R.E. A simple acronym with a big message. Drug Abuse Resistance Education. It's a crusade that works.

D.A.R.E. teaches our children—from kindergarten through high school—that popularity can be found in positive behavior, that belonging need not require them to abandon their values, that self-confidence and self-worth come from asserting themselves and resisting destructive temptations. D.A.R.E. teaches them not just that they should refuse drugs and alcohol, but how to do so.

D.A.R.E. gives our children the tools they need to build a better, fuller more satisfying life.

The program was created in 1983 as a joint venture of the Los Angeles Police Department and the Los Angeles Unified School District. D.A.R.E. sends a highly-trained police officer into fifth and sixth grade classrooms every week for 17 weeks to teach students how to refuse drugs and alcohol. Separate components have been developed to introduce kindergarten through fourth grade students to the D.A.R.E. program and to follow-up in junior high and high school classrooms, spreading the D.A.R.E. message throughout the schools.

Assigned a "beat" in which they visit each of five schools one day a week, D.A.R.E. officers reach thousands of students every year.

The program follows a carefully structured curriculum, focusing on topics such as personal safety, drug use and misuse, consequences of behavior, resisting peer pressure, building self-esteem, assertiveness training, managing stress without drugs, media images of drug use, role models, and support systems.

By getting the message from a street-wise police officer—one who's been out there, one who knows how drugs and alcohol can destroy lives—kids take that message seriously.

And, by getting to kids when they're most vulnerable to social pressure—when they're 9, 10, and 11 years old or sooner—D.A.R.E. helps them build the willpower and the belief in themselves that they'll need to stay on track as they forge their futures.

D.A.R.E. BECAUSE IT WORKS

D.A.R.E. has been doing its job for half a decade. And it's succeeding.

It's not a one-hour, once-a-year visit by a stranger. It's four-and-a-half months of straight talk and conversation, with someone who becomes a friend, a confidant, an ally. It leaves a lasting impression on kids and their families. And more.

In two studies,[1] one by the Evaluation and Training Institute and another funded by the National Institute of Justice, a sample of students who had completed the D.A.R.E. curriculum shows: significantly less substance abuse, including cigarettes and alcohol; a sharp decrease in school vandalism and truancy; improved student work habits; reduced tension between ethnic groups; reduced gang activity; a more positive attitude toward police; and better student rapport with teachers and school officials.

And now D.A.R.E. is working nationwide, even worldwide. For all our kids.

D.A.R.E. TO REACH AMERICA

Sparked by the extraordinary success of D.A.R.E. in Los Angeles, many law enforcement agencies and school districts sought to have D.A.R.E. in their communities.

The demand was overwhelming. So, in 1987, D.A.R.E. America was established to meet this new need.

D.A.R.E. America, a non-profit corporation, is a potent resource for communities across the country, helping them to establish D.A.R.E. programs—or to improve an existing one.

The specific functions of D.A.R.E. America are: financial support for instructor training, coordinating fund-raising and sponsorship opportunities, and regularly monitoring instruction standards and program results. It also helps provide participating communities with educational materials, program outlines, student workbooks, drug awareness information for parents, information pamphlets for citizens and community groups * * * everything needed to put D.A.R.E. to work.

And work it has.

President George Bush's endorsement underscores that: "I've been out there and witnessed the program in action. D.A.R.E. sends these police officers into the classroom to work with the kids, build their self-esteem, teach them that they can refuse when they're pressured to try drugs * * *."

In 1989, D.A.R.E. America will reach 3 million children in 50,000 classrooms.

D.A.R.E. is taught in communities across the face of our nation and in Australia, Canada, New Zealand, and American Samoa.

D.A.R.E. is the official program of the Department of Defense Dependent Schools worldwide.

But its continued growth depends on you.

As a leader in your community, you can make things happen—right now. Meet with your local law enforcement agencies, your school board, chamber of commerce, business and professional associations. Help establish D.A.R.E. in your city, your home town.

D.A.R.E. America is a non-profit program dependent on private and corporate donations for its success. But it's a Blue Chip investment. Contributions to D.A.R.E. head straight for the classroom, reaching our young people before they're captured by drugs and alcohol. Reaping benefits for generations to come.

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[1] Source: "A Short Term Evaluation of Project D.A.R.E." by Bill Dejung. Published in Journal of Drug Education, 1987.

D.A.R.E. BECAUSE YOU CARE

This nation's leading law enforcement officers agree on one thing. They aren't about to beat the drug problem from the supply side. Not in our lifetime * * * and maybe not even in our children's.

Only by attacking the drug problem from the demand side can we hope to halt the flow of drugs. And that's where our children are. Let's be there with them. Let's D.A.R.E. to win.

To join the crusade, call: D.A.R.E. America, 1-800-223-DARE or write us at: D.A.R.E. America, P.O. Box 2090, Los Angeles, CA 90051-0090.

By Mr. SANFORD:

S. 1836. A bill to amend the Internal Revenue Code of 1986 to assist in the recruitment and retention of mathematics and science teachers; to the Committee on Finance.

MATHEMATICS AND SCIENCE TEACHER RECRUITMENT AND RETENTION ACT

Mr. SANFORD. Mr. President, our Nation's approach to math and science education has not worked. According to a study recently released by the Educational Testing Service, American 13-year-olds performed at or near the bottom on a new six-nation international mathematics and science assessment.

Only 40 percent of the United States students tested could perform two-step math problems, the study showed, while 78 percent of South Korean pupils—the leaders in the assessment—demonstrated such skill.

Ten years from now, the United States will need a million more chemists, biologists, physicists, and engineers than it will graduate. Half of the new math and science teachers in America are unfortunately not trained to teach their subjects. The number of American college students majoring in math and science is shrinking, and the scientific performance of American high school students is abysmal.

Historically, the educational community has been forced to handle teacher shortages in such subjects as physics, mathematics, chemistry, and computer science by reducing or eliminating requirements for entry into the profession. The result, according to 1987 report by the National Science Teachers Association, is that nearly one-third of all high school students in the United States takes math or science courses from instructors not qualified to teach the subject.

The Federal Government typically has responded by providing loosely controlled and generally ineffective student scholarships designed to encourage math and science majors, and demonstration projects. This has proven to be a costly, scatter-shot, and generally ineffective approach.

We need a new approach, which is why I have joined with Congressman DURBIN in drafting the Science and Mathematics Teacher Retention and Recruitment Act. Our proposal would provide carefully targeted tax benefits to qualified educators and professionals, both to keep and attract math and science teachers in our elementary and secondary public school classrooms.

This legislation would:

Offer a $1,000-a-year Federal tax credit to any activity employed teacher who has at least 5 years' teaching experience, and who takes at least six college credits of science and/or math courses.

Allow a Federal income tax deduction for education expenses incurred by qualified professionals in math and science who take courses leading to teacher certification.

This approach would attain three goals: It would raise the level of mathematical and scientific literacy among all teachers; encourage experienced math and science teachers to continue teaching those subjects; and recruit math and science teachers from professionals in those fields.

North Carolina some 15 years ago created a high school for mathematics and science, a residential school drawing promising students from across the State. The results have been outstanding. We are creating scientists for the future. The faculty attracted to this kind of school is superb. Leaders from other States have toured this institution with great envy. This bill does not propose to support the creation of such schools across the Nation, but is designed to prompt consideration of such action by providing one-third of a modest planning grant for States with an interest in such a school.

Mr. President, given the shortage of direct Federal funding for education programs, I believe our bill represents an innovative and effective new way to protect our future. I urge my colleagues to consider and cosponsor our bill.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1837. A bill to direct the Secretary of the Interior to establish a Desert Research Center; to the Committee on Energy and Natural Resources.

DESERT RESEARCH CENTER ACT

● Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to establish a desert research center in New Mexico. Desert lands contribute significantly to the biodiversity of the world and are highly susceptible to climatic change. The significant contributions of desert lands to meet the Nation's energy needs, to the production of food and fiber, and their increasing importance as large population centers often go unrecognized. As a nation, we also treasure these lands for their rugged beauty, opportunities for recreation, and diversity of landform and lifeform.

Deserts comprise approximately one-third of the Earth's land area and about 10 percent of the continental United States. These lands produce approximately one-fifth of the world's food, one-half of the supply of precious/semiprecious minerals, plus they contain most of the world's oil and natural gas reserves. An understanding of the interrelationships of land, water, climate, vegetation, wildlife, and people is critical to the long term conservation and management of desert lands worldwide.

Historically, the settlement pattern of the United States proceeded from the humid regions of the east and south to the arid and semiarid regions of the west. Although rainfall decreased and ecological capabilities changed in the west, land use patterns and attitudes often did not.

A large proportion of the western lands of this Nation have remained in Federal ownership with mandates for balanced and biologically sound resource management. The demands on these desert lands are ever increasing: production of energy, food, fiber, water, living space, disposal sites for waste generated in other areas, recreation opportunities, wilderness—the list is long. It is important that we devise management solutions to resource problems in the arid desert lands of the west that are based on the ecological capabilities of those systems.

A preponderance of the Nation's desert lands are in public ownership, and the Bureau of Land Management is responsible for managing more of this acreage than any other Federal agency. The Bureau has a clear mandate to manage its public land resources in a wise and responsible manner. Increasing pressure on the resources of public desert lands because of economic changes and population growth make it imperative to provide more efficient management of these resources. These pressures, in light of the Bureau's responsibility to maintain healthy, diverse ecosystems presents difficult and challenging problems to resource managers.

Desert lands administered by the Bureau of Land Management provide a unique opportunity to study and develop management solutions. We must continue to search for long term, ecologically sound ways to meet these demands in light of growing understanding of the interdependence of all life on the planet and the global implications of human activities as evidenced by issues such as global climate change and diminishment of the ozone layer.

New Mexico is famous for the quiet beauty of its deserts. Three of the four major desert ecosystems of the western United States occur within my State, which makes it an ideal location from which to study the effects of human use and resource management strategies for desert lands. The Bureau of Land Management in New Mexico is poised to lead this effort as

manager of the majority of New Mexico's diverse desert systems. I anticipate that the desert research center will be located in southern New Mexico, possibly in Dona Ana County.

The desert research center will serve as a focal point for national and international research on desert ecosystems and their management. Research projects will address topics in desert ecology such as the evaluation of desert resources, assessment of trends and changes in physical and biological components of those systems, and recovery of threatened and endangered species. Federal lands in the west may be key to the conservation of populations of all kinds of organisms if predicted global warming trends actually occur by providing habitat diversity and space for daily movement and seasonal migration not permitted by extensive urbanization and agricultural development. Desert management research may examine sustainable agricultural practices, erosion control, water quality and water use efficiency, reclamation of desert lands, and other topics related to energy development, and applications of remote sensing and geographic information systems. Such applications would include development of predictive modeling for land use planning and implementation of resource management studies and decisions; change detection; and monitoring of species diversity and unauthorized activities. Many of these studies are pertinent to international environmental issues such as global climate change, desertification, and biodiversity.

A second major role of the desert research center would be production of educational and interpretive materials for use by school age children, college students, visitors to desert lands, and researchers. Research in to applied management issues of Federal land management agencies would provide national benefits and would also have applications of international importance, as many developing nations are under pressure from industrialized nations to proceed with national growth and development in an environmentally sound manner. The current problems of Ethiopia and Sudan are graphic examples of pressures on desert ecosystems. As a world leader in helping less developed nations and as a member of the world community with great interest in the ecological future of the planet, it is our responsibility to help devise solutions to resource management problems that we can share with other nations, that they may benefit from our experience and provide for the long term health of their own resources.

In this light, this bill provides for a specific international linkage. As New Mexico and Mexico have similar Chihuahuan desert environments and resource management issues, the research to be conducted at the Center will be of value to both nations. Therefore a committee, comprised of representatives from the United States and Mexico, is to be established to enhance international cooperation and exchange of information. The committee will serve in an advisory capacity to the desert research center reviewing priorities and projects, providing liasion between the two countries and facilitating technology transfer.

During the first year of operation, the desert research center would focus on detailed planning, including identification of specific research projects which would be undertaken immediately to address the most pressing resource and management issues. Also cooperative agreements would be developed with other agencies and institutions that have an interest in desert research.

It is critical that we devise management solutions to resource problems in arid desert lands that are based on the ecological capabilities of those systems. This is an exciting proposal which will advance our knowledge of desert environments and how they are best managed in the long term. I urge my colleagues to join me in supporting this legislation of national and international significance.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1837

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Desert Research Center Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) deserts comprise about one-third of the earth's land area and 10 percent of the land area of the continental United States;

(2) desert lands contribute significantly to the biological diversity of the world;

(3) desert lands are important for their unique and diverse flora and fauna, beautiful landscapes, recreation opportunities, natural resources and agricultural uses;

(4) desert lands must be studied, monitored, and protected because once they are damaged, the impact of human activities is often irreparable for many generations;

(5) it is necessary to understand the complex interrelationships of desert resources to ensure appropriate conservation and management of desert lands for present and future generations;

(6) the federally managed desert lands of New Mexico constitute an ideal setting in which to conduct studies of the ecology, environment, natural history, and management of desert resources because—

(A) 3 of the major deserts of the western United States are situated in New Mexico; and

(B) there would be wide applicability of such studies to other states and nations;

(7) desert researchers could use a research center as an operational base for the study of deserts in other regions and a repository for storage of data on desert ecology and management;

(8) New Mexico and Mexico share the unique Chihuahua Desert; and

(9) the understanding of natural processes, such as decertification, that would be gained from research efforts in the deserts of New Mexico could be applied to problems that other areas of the world are currently experiencing and that may become serious problems if they are not handled appropriately, especially in the southwestern United States and in Mexico.

SEC. 3. DESERT RESEARCH CENTER.

(a) ESTABLISHMENT.—The Secretary of the Interior, acting through the State Director of New Mexico of the Bureau of Land Management, shall establish and administer a Desert Research Center (referred to as the "Center") in New Mexico for research on desert lands and their management.

(b) FUNCTIONS.—(1) The Center shall—

(A) serve as a clearinghouse for the collection, analysis, and dissemination of research material related to desert lands managed by the Bureau of Land Management;

(B) produce educational and interpretive materials necessary to public understanding of desert ecology, desert management, and local, national and global environmental issues;

(C) assist students and researchers as an educational laboratory; and

(D) provide for a comprehensive evaluation of desert resources, protection needs, and efficient and environmentally sound long-term management strategies for desert resources.

(2) Research at the Center shall be directed primarily toward desert lands managed by the Bureau of Land Management, but the Secretary of the Interior may enter into cooperative agreements with other agencies or entities as appropriate to carry out the purposes of this Act.

SEC. 4. OPERATIONAL PLAN.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall transmit to Congress an operational plan for the Center.

(b) PLAN CONTENTS.—The plan described in subsection (a) snall include—

(1) a research plan;

(2) an assessment of staffing needs for the first 5 years of operation of the Center;

(3) proposed cooperative agreements with other agencies and institutions pursuant to existing authorities;

(4) an assessment of facility needs for the Center; and

(5) an analysis of operational costs, including cost of staffing for 5 years, cost of facilities, and other items.

SEC. 5. ADVISORY COMMITTEE.

(a) IN GENERAL.—The Secretary of the Interior shall form a Desert Research Center Advisory Committee (hereafter referred to as the "Advisory Committee") to advise the Desert Research Center and the Bureau of Land Management on desert land research and management.

(b) MEMBERSHIP.—(1) The Secretary of the Interior shall appoint members of the Advisory Committee whom the Secretary believes will be able to contribute to the work of the Advisory Committee by virtue of training or experience in disciplines relating to the management of desert resources.

(2) The Secretary of the Interior shall ensure that a majority of the Advisory Committee members are from the United States.

(3) The Secretary of the Interior shall invite the government of Mexico to appoint members of the Advisory Committee.

(c) FUNCTIONS.—The Advisory Committee shall advise the Desert Research Center with respect to such matters as—

(1) the setting of priorities for desert research;

(2) the coordination of desert research efforts in the United States, Mexico, and other countries by government agencies, universities, and private organizations; and

(3) the practical application of knowledge gained in desert research.

(d) COMPENSATION.—Members shall serve on the Advisory Committee without compensation.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.●

By Mr. INOUYE (for himself and Mr. HOLLINGS):

S. 1839. A bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION AUTHORIZATION ACT

● Mr. INOUYE. Mr. President, today I am introducing a bill to authorize appropriations for the National Telecommunications and Information Administration [NTIA] of the Department of Commerce for fiscal years 1990 and 1991.

The bill authorizes $14,554,000 for NTIA for fiscal year 1990 and $15,000,000 for fiscal year 1991, and allows for necessary nondiscretionary cost increases. The amount for 1990 is identical to the amount contained in the President's fiscal year 1990 budget request. These amounts represent slight increases from the $13.8 million appropriated to NTIA in fiscal year 1989. These increases are primarily intended to cover certain nondiscretionary cost hikes.

NTIA serves as the principal adviser to the executive branch on domestic and foreign telecommunications issues, develops plans and policies for submission before various regulatory bodies, manages the Federal use of the radio frequency spectrum, and conducts a variety of research activities.

The Nation faces a number of important telecommunications issues as we head into the 21st century. How are we going to take full advantage of the new mobile communications technologies that are coming on the scene? How are we going to improve the Nation's telecommunications trade deficit of over $2.5 billion per year? How are we going to ensure adequate media diversity in the face of increasing concentration in the media industry? And how are we going to coordinate the U.S. Government responses to these questions to ensure that the U.S. agencies are working with, and not against, each other?

NTIA needs to play an active role in developing answers to all these questions. NTIA's unique position as an unbiased spokesperson on telecommunications matters gives it a great deal of influence over these questions. It has the opportunity to play a leadership role in resolving policy disputes and pushing our regulatory agencies toward more long-term solutions to these issues. I believe that the new head of NTIA, Ms. Janice Obuchowski, brings to the agency a breadth of experience and good sense that bodes well for our future. I expect her to take full advantage of this opportunity.

In these circumstances, congressional oversight over the activities of NTIA is especially important. The time has come to renew our interest in and oversight of this important Government agency. The bill I am introducing today recognizes NTIA's increasingly important role and also provides the Congress with a mechanism for continuing our oversight over the long-term development of our Nation's telecommunications policy.

Mr. President, the NTIA authorization bill also contains language to reauthorize funding for the Pan-Pacific Educational and Cultural Experiments by Satellite Program. This program, commonly known as PEACESAT, provided essential telecommunications services to the inhabitants of several rural Pacific Islands for over 14 years.

The program allowed for the exchange of medical information—which helped to stem an outbreak of cholera a few years ago—provided educational programming for schoolchildren, and permitted the exchange of information about cultural events and traditions among the communities. Because of their low level of economic activity and limited infrastructure, PEACESAT often provided the inhabitants of these communities with their only contact with the rest of the world.

The PEACESAT Program also generated substantial goodwill toward the United States. This area of the world is becoming increasingly important to United States strategic interests, especially given the activities of Japan and the Soviet Union in the region.

In 1985, the satellite used to carry the PEACESAT Programs ran out of fuel and was decommissioned. Since then, Congress has been actively searching for means of reestablishing the PEACESAT network. In 1985, Congress authorized NASA to conduct a study of alternative satellites that could be used to continue the service. In the last Congress, we authorized $1.7 million for each of the fiscal years 1988 and 1989 to NTIA to acquire the necessary satellite facilities to reestablish the program. Although only about one-half of that amount has been appropriated, NTIA has made significant progress toward reestablishing the PEACESAT network. NTIA expects that the system will begin operations again over an old GOES satellite, acquired from the National Oceanographic and Atmospheric Administration, in the summer of 1990.

The bill I am introducing today authorizes $1 million in funding for fiscal year 1990 and such additional sums as may be necessary for fiscal year 1991 for PEACESAT. I believe that the $1 million for fiscal year 1990 is necessary to ensure that the program becomes operational next year and that the Earth terminals are properly installed. Funding for fiscal year 1991 may be necessary to begin the process of acquiring additional satellite capacity once the GOES satellite runs out of fuel in 1995. For this reason, the bill simply authorizes such funds as NTIA may require to begin this process. I would like to emphasize that, except for the acquisition of replacement satellite capacity, it is anticipated that the PEACESAT Program will not need additional Federal funding once the GOES satellite and the new Earth terminals have been acquired and installed.

I believe that both NTIA and the PEACESAT Programs deserve continued scrutiny and support by the Congress. I urge all my colleagues to join me in supporting this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated for activities of the National Telecommunications and Information Administration $14,554,000 for fiscal year 1990 and $15,000,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1990 and 1991.

SEC. 2. (a) The Congress finds that—

(1) the Pacific Ocean region is of strategic and economic importance to the United States;

(2) other nations, especially the Soviet Union and Japan, are seeking to increase their influence in this region;

(3) because the Pacific Basin communities are geographically isolated and because many are relatively poor, they are in great need of quality, low-cost communications services to maintain contact among themselves and with other countries;

(4) from 1971 until 1985, such communications needs were satisfied by the Pan-Pacific Educational and Cultural Experiments by Satellite Program (hereinafter referred to as the "PEACESAT Program") operating over the ATS-1 satellite of the National Aeronautics and Space Administration;

(5) the ATS-1 satellite ran out of station-keeping fuel in 1985 and has provided only intermittent service since then;

(6) the Act entitled "An Act to provide authorization of appropriations for activities of the National Telecommunications and Information Administration", approved November 3, 1988 (Public Law 100-584; 102 Stat. 2970), authorized $3,400,000 in funding during fiscal years 1988 and 1989 for re-establishing the communications network of the PEACESAT Program;

(7) Congress appropriated $1,700,000 for fiscal year 1988 and $200,000 for fiscal year 1989 for the purposes of re-establishing the communications network of the PEACESAT Program;

(8) since 1988, significant progress has been made to ensure resumption of this vital communications service by repairing earth terminals in the Pacific communities, by identifying the short-term and long-term needs of the residents of these communities, and by negotiating to acquire the use of the GOES-3 satellite owned by the National Oceanic and Atmospheric Administration, which is expected to provide service from 1990 to 1994;

(9) the National Telecommunications and Information Administration will issue a contract for the design and construction of earth terminals to work with the GOES-3 satellite by early 1990 that will exhaust the funds previously appropriated;

(10) additional funding will be necessary for fiscal years 1990 and 1991 to pay for the costs of operating the GOES-3 satellite, for installing the earth stations and training engineers to operate them, and for administering the program; and

(11) additional but undetermined funding may also be necessary in fiscal year 1991 to begin acquiring replacement satellite capacity for the GOES-3 satellite after it goes out of service.

(b) It is the purpose of this section to assist in the acquisition of satellite communications services until viable alternatives are available and to provide interim funding in order that the PEACESAT Program may again serve the educational, medical, and cultural needs of the Pacific Basin communities.

(c)(1) The Secretary of Commerce shall expeditiously negotiate for and acquire satellite space segment capacity and related ground segment equipment to provide communications services for former users of the ATS-1 satellite of the National Aeronautics and Space Administration.

(2) (A) The Secretary of Commerce shall provide to the manager of the PEACESAT Program such funds, from appropriations authorized under subsection (d) of this section, as the Secretary considers necessary to manage the operation of the satellite communications services provided with the capacity and equipment acquired under this subsection.

(B) The recipient of funds under subparagraph (A) of this paragraph shall keep such records as may reasonably be necessary to enable the Secretary of Commerce to conduct an effective audit of such funds.

(C) The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipient that are pertinent to the funds received under subparagraph (A) of this paragraph.

(d) There are authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for fiscal year 1991 for use by the Secretary of Commerce in the negotiation for and acquisition of capacity and equipment under subsection (c)(1) of this section and the management of the operation of satellite communications services under subsection (c)(2) of this section. Sums appropriated pursuant to this subsection may be used by the Secretary of Commerce to cover administrative costs associated with the provisions of this section.

(e) The Secretary of Commerce shall consult with appropriate departments and agencies of the Federal Government, representatives of the PEACESAT Program, and other affected parties regarding the development of a long-term solution to the communications needs of the Pacific Ocean region. Within one year after the date of enactment of this Act, the Secretary of Commerce shall report to the Congress regarding such consultation.●

By Mr. RIEGLE (for himself, Mr. GARN, Mr. CRANSTON, and Mr. D'AMATO) (by request):

S. 1840. A bill to amend provisions of the Bankruptcy Code governing the powers of a bankruptcy court and the effect of automatic stays as they relate to certain multifamily liens insured or held by the Secretary of Housing and Urban Development or the Secretary of Agriculture, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EXEMPTION OF CERTAIN LOANS FROM PROVISIONS OF THE BANKRUPTCY CODE

● Mr. RIEGLE. Mr. President, I am today introducing a bill to exempt certain multifamily loan foreclosures and related actions from the Bankruptcy Code. I ask unanimous consent that a section-by-section explanation and justification be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION EXPLANATION AND JUSTIFICATION

EXEMPTION OF HUD AND FMHA MULTIFAMILY LOAN FORECLOSURES AND RELATED ACTIONS FROM THE BANKRUPTCY CODE

This bill would amend sections 105 and 362 of the Bankruptcy Code (title 11 of the United States Code, as recodified by the Bankruptcy Reform Act of 1978 (Pub. L. 95-598; 92 Stat. 2549)). The changes to section 362 would exempt from the automatic stay provisions of the Bankruptcy Code those acts taken by the Secretary of HUD or Agriculture toward foreclosure (including acts to obtain possession or for the appointment of a receiver) on multifamily projects with liens that are insured or held by the Secretary of Housing and Urban Development, or by the Secretary of Agriculture pursuant to title V of the Housing Act of 1949. Other acts to protect the financial position or interest of the Secretaries in bankruptcy situations relating to these projects would also be excluded from the automatic stay where a right (for example, to offset funding otherwise due to a debtor) is provided for under contract, regulatory agreement, regulation, or statute. The amendments to section 105 would make clear that the acts covered by these changes to section 362 are not subject to a bankruptcy court's discretion to issue stay orders.

This proposal requests restoration of the HUD position under sections 663 and 917 of the old title 11 (repealed in 1978), which provided relief from the automatic stay for multifamily projects insured under the National Housing Act. In addition to this restoration, the proposal would accord relief from the automatic stay for projects under the section 312 rehabilitation loan multifamily program; for land development projects under title X of the National Housing Act, as it existed immediately before the effective date of the "Department of Housing and Urban Development Reform Act of 1989" (since the 1989 Reform Act would repeal title X); for multifamily projects under section 202 of the Housing Act of 1959; for hospitals and nursing homes under sections 242 and 232, respectively, of the National Housing Act; and for any other projects with mortgages held or insured by HUD under existing or now-dormant programs. It would also accord such relief for the Secretary of Agriculture under the multifamily program of the Farmers Home Administration (FmHA) in the Department of Agriculture.

Section 362(a) of the current Bankruptcy Code states the general rule that once a bankruptcy petition has been filed, there is an automatic stay imposed on the commencement or continuation of judicial, administrative, or other proceedings against a debtor. Section 326(b)(8) provides a narrow exception to the automatic stay rule, permitting the Secretary of HUD to commence foreclosure on a mortgage or deed of trust which is insured or was formerly insured under the National Housing Act, is held by the Secretary, and covers property or a combination of property consisting of five or more living units. The section 362(b)(8) exception, however, is considerably more restrictive than the analogous provision under the old Bankruptcy Act, and is too narrow to be fully effective in the protection of the FHA insurance fund and the tenants of HUD-insured or—assisted multifamily housing projects from the potentially adverse impact of mortgagor bankruptcies. An expansion in the terms of the exception would be desirable for the following reasons.

The great majority of mortgagor-participants in HUD-insured or HUD-assisted multifamily housing projects are limited partnerships formed for the purpose of providing investor tax shelters. Defaults on mortgage obligations frequently reflect the financial incapacity of the mortgagor properly to manage and maintain the insured property. Defaults often lead to foreclosure. If the mortgagor declares bankruptcy, however, this will delay the foreclosure. Once in bankruptcy, the delinquent mortgagor has the positive tax advantage of continuing to take depreciation deductions, as well as other permissible deductions under the accrual method, without making morgage payments. Under current law, HUD can commence foreclosure proceedings, but cannot prosecute them further. Moreover, in such situations, HUD may be stayed from protecting the Federal financial interests by taking such actions as off-setting with funds otherwise due a debtor. Prosecution of a foreclosure and other actions are thus delayed by the bankruptcy, to the detriment of the Federal government's financial interests and to the potential disadvantage of tenants—many of them low- and moderate-income persons—stemming from the physical deterioration of the affected projects.

To remedy this situation, the proposal would expand the existing exception to the

automatic stay provisions in two respects. First, since the existing exception applies only to the commencement of a foreclosure action, the automatic stay still applies to any other step in the prosecution of a foreclosure, once commenced, and owners and their investors continue to enjoy the tax advantages until the automatic stay is lifted and the government's foreclosure action is completed. Therefore, the proposal would permit prosecution of further steps, through the completion of foreclosure.

Second, because only the commencement of foreclosure actions is now exempt from the automatic stay provisions, actions to obtain possession as a mortgagee in possession or for the appointment of a receiver, or otherwise to protect the Federal financial interest, cannot be pursued. Pending a determination of whether foreclosure is necessary, it is highly desirable for the HUD Secretary to have these options, both for the protection of the FHA insurance funds and to protect tenants by assuring continued, satisfactory management and operation of multifamily housing projects in default. In this regard, the longer a property is tied up in bankruptcy, the more physical deterioration is likely and the greater is the need for intermediate remedies, such as receivership. Moreover, the longer the bankruptcy proceedings last, the more sharply reduced the proceeds of sale are likely to be, when finally permitted after foreclosure. (This problem is particularly serious for properties with section 312 rehabilitation loans, since these loans typically have a junior position among the liens on the property.)

In addition, the proposal would amend section 105 of the Bankruptcy Code, to prevent a bankruptcy court from invoking its other discretionary powers in a way that would frustrate the purposes of expanding the exemption from section 362's automatic stay. The central concern is that unless section 105 is amended, section 362(b)(8) (even as amended under the proposal) would not necessarily protect the Secretaries of HUD and Agriculture, since a bankruptcy court could make injunctive or other equitable relief available to mortgagors in the exercise of its discretion under section 105. The benefits of the proposed exception to the automatic stay in section 362(b)(8) could thus be negated, if the bankruptcy court is free to exercise its power under section 105. Accordingly, the amendment to section 105 would prevent imposition of a discretionary stay on HUD and Agriculture in situations where, under the amendments proposed to section 362(b)(8), an automatic stay may not be imposed.

As noted above, this proposal would also expand the current exception in a further respect—by extending the coverage that would be afforded to HUD's National Housing Act multifamily programs to hospital and nursing home programs under sections 242 and 232, respectively, of the National Housing Act; to Land Development programs under title X of the National Housing Act (as it existed immediately before the effective date of the Department of Housing and Urban Development Reform Act of 1989); to the section 312 multifamily Rehabilitation Loan program; to projects under section 202 of the Housing Act of 1959; and to any other projects with mortgages held or insured by HUD under existing or now-dormant programs; and to the Department of Agriculture's multifamily rural housing program. Thus, for these additional programs as well, the proposed amendments would ensure that the Secretaries of HUD and Agriculture have adequate and timely recourse against defaulting mortgagors, and would permit acts short of foreclosure (such as the Secretary of HUD or the Secretary of Agriculture taking possession or seeking appointment of a receiver). There seems to be no relevant basis upon which these additional programs should be distinguished from the National Housing Act multifamily programs for Bankruptcy Code purposes.

One technical item deserves mention. Under existing section 105, a bankruptcy court may not appoint a receiver, and that prohibition is carried into the proposed revision. Nonetheless, the proposal would permit the Secretary of HUD or Agriculture to appoint a receiver for the specific property involved. These provisions are not contradictory because of differences in who may appoint the receiver and the jurisdiction that the receiver may have, i.e., supervision of an affected property versus the estate of a bankrupt.●

By Mr. RIEGLE (for himself, Mr. GARN, Mr. CRANSTON, and Mr. D'AMATO) (by request):

S. 1841. A bill to amend Federal laws to reform housing, community and neighborhood development, and related programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT

Mr. RIEGLE. Mr. President, I am today introducing the Department of Housing and Urban Development Reform Act of 1989. I ask unanimous consent that a section-by-section explanation and justification be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows.

SECTION-BY-SECTION EXPLANATION AND JUSTIFICATION FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989

TITLE I—ETHICS

ALLOCATION OF HOUSING ASSISTANCE

Section 213(d) of the Housing and Community Development Act of 1974 requires the Department to allocate assistance under certain housing assistance programs on the basis of a needs-based formula—the so-called fair share formula. The active programs that are subject to this requirement include the section 8 Housing Assistance Payments programs, the section 202 Elderly and Handicapped Housing Loan program, and the public and Indian housing development program. Excluded from the formula's coverage are public housing operating assistance, Comprehensive Improvement Assistance, and grants under the Rental Rehabilitation program.

Under current practice, new assistance subject to "fair share" is generally allocated by the formula to the Field or Regional Office level; awards are then made to specific recipients on a purely discretionary or competitive basis. Discretionary loans and grants are also made for a number of categories in the "Headquarters Reserve"—a funding set-aside of up to 15% of the assistance made available for the programs subject to section 213.

In recent years, some of the programs covered by section 213 have experienced widespread waste and abuse arising from allocation decisions that involved undue political interference and "influence peddling." The most egregious examples involved the section 8 Moderate Rehabilitation program. For a number of years, the Moderate Rehabilitation program was operated without objective selection and other criteria. Another area—the Headquarters Reserve—has never had any regulatory or other publicly articulated funding rules. Without articulated rules, these programs were prime candidates for abuse.

Section 101 of the bill is designed to place the programs subject to section 213 of the 1974 Act of a sound programmatic footing, and to prevent these abuses from occurring in the future. It would state as the governing principle that all public and Indian housing development, and all section 8 and section 202 assistance, would first have to be allocated by the fair share formula and then awarded to the recipient pursuant to a competition. Put another way, no Federal dollar could fund an assisted project, unless that dollar was provided by the fair share formula and competition.

The non-discretionary categories in the Headquarters Reserve would be excepted from this rule. The Headquarters Reserve contains categories such as unforeseeable housing needs arising from natural and other disasters or the settlement of litigation. These categories involve essentially non-discretionary matters, and thus, do not share the vulnerability to abuse that would require their inclusion in the proposal. The treatment of the Headquarters Reserve is discussed more fully in section 104 of this bill.

Any competition to award housing assistance would have to be conducted pursuant to specific criteria for the selection of assistance recipients. The criteria must be contained in either a regulation promulgated by HUD after notice and public comment or to the extent authorized by law, in a notice published in the *Federal Register.*

This approach is designed to provide the Department with clear and articulated guidelines for awarding its housing assistance. In both cases, the guidelines would be made available to the public and the Congress, providing the "sunshine" necessary to ensure a fair process.

The Department intends to develop its selection criteria through notice and comment rule making to the greatest extent possible. The less formal Notice approach would generally be used in special circumstances, such as where the time involved in promulgating a rule would frustrate an important public purpose, where the Congress specifies a non-regulatory funding process (see section 485 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988), or where an existing regulation calls for less formal means of notifying the public of the rules for a funding competition.

The proposal would also require the Secretary to use the fair share formula to make, as determined by the Department, any assistance allocations to the smallest practicable area, consistent with the delivery of assistance through a meaningful competitive process designed to serve areas with greater needs. This part of the proposal recognizes the desirability of using both the fair share formula and competition. Under this language, the Secretary could continue the practice of conducting separate allocations of assistance for sub-programs, such as the section 8 Voucher, the section 202, and the section 8 Certificate programs. Allocations for each such sub-program would,

however, be subject to the requirement that the amounts be allocated by the fair share formula, consistent with delivery of assistance through a competition designed to serve areas with greater needs.

The proposal would attempt to provide funding cycle predictability for the assisted housing programs covered by section 213 of the 1974 Act. Specifically, the Secretary would be required to take appropriate steps to ensure that the allocation of housing assistance subject to section 213 would be made with similar frequency and at similar times for each fiscal year. This is designed to provide funding cycles that the public can rely upon, and to eliminate ad hoc, special-interest funding rounds.

The proposal recognizes that the availability of appropriations is central factor in the timing of funding cycles, and makes the new requirement specifically subject to appropriations-related timing considerations. The proposal would also require the Secretary to meet the new requirement, "to the maximum extent practicable." This recognizes that there may be special considerations that warrant changes in established funding cycles. Examples would include the enactment of Supplemental Appropriations Acts, amounts made available following a rescission message, or greater carryover than anticipated from a prior funding round.

The proposal would also make clear the type of assistance that is subject to the fair share formula. As noted earlier, section 213(d)(1) of the 1974 Act specifically excludes from the formula's coverage public housing operating assistance, Comprehensive Improvement Assistance, and grants under the Rental Rehabilitation program. Roughly two-fifths of the remaining housing assistance that is subject to the "fair share" is needed to provide funding for special purposes that are not capable of geographic targeting. These purposes include amendments of existing contracts; lease adjustments under section 23 of the United States Housing Act of 1937, as in effect before amendment by the 1974 Act; renewal of assistance contracts; assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract; assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public and Indian housing; and assistance in support of the property disposition and loan management functions of the Secretary. "Fair sharing" by the conventional, objective fair share formula criteria will not match with these geographically untargeted needs. Moreover, while loan management and property disposition functions are awarded on a needs basis, the process used does not meet traditional modes of competition open for all.

In addition, other assistance approved in appropriation Acts to be provided to target areas with greater needs, subject to competition requirements, would also not be subject to the fair share formula. Authority for the Department to target assistance to areas with greater need will give it flexibility to address otherwise unmet critical needs and priorities through a competition held on a national level. The competition would be subject to the same provisions governing competition for the award of housing assistance as for programs subject to the fair share formula (see proposed section 213(d)(5)(B)).

Finally, the proposal would specify that the provision requiring that between 20% and 25% of amounts be allocated to nonmetropolitan areas would apply only to funds allocated by formula. Contract amendments, renewal of assistance contracts, assistance in support of the property disposition and loan management functions, and the other categories not capable of distribution by formula are largely needed in metropolitan areas. It would significantly distort the allocation process if the 20%/25% requirement were to apply to the total amount of assistance available, since it would inappropriately require a significantly higher percentage of the incremental assistance to be allocated to nonmetropolitan areas.

PUBLIC ANNOUNCEMENT OF HUD FUNDING DECISIONS AND HOUSING ASSISTANCE ALLOCATIONS

Section 102 would require HUD to inform the public of all its funding decisions that involve competition among prospective recipients, as well as all its formula allocations of housing assistance under the so-called fair share formula provisions of section 213(d)(1) of the Housing and Community Development Act of 1974. With regard to the first element of the proposal, "funding decisions" would cover any grants, loans, or other form of financial assistance provided under any HUD program that provides by statute, regulation, or otherwise for the competitive distribution of the assistance.

The notification would include the following items:

The name and address of each funding recipient;

The name or other identifier for the project or activity funded;

The dollar amount awarded to each funding recipient;

The citation to the statutory, regulatory, or other criteria under which the funding decision was made; and

Such additional information as the Secretary deems appropriate for a clear and full understanding of the funding decision.

The notification would be accomplished by publication of a Notice in the *Federal Register* at least quarterly. The "at least" language is intended to permit the Secretary to publish Notices at shorter intervals, for example, where an important funding round occurs shortly after the last publication.

The proposal would also require the Secretary to publish a Notice in the *Federal Register* at least annually informing the public of the allocations of housing assistance under the fair share formula contained in section 213(d)(1) of the Housing and Community Development Act of 1974. The report would cover the entire fair share allocation, to the smallest area for which the formula operates. The annual publication requirement corresponds to the traditional cycle for making "fair share" allocations. The Secretary would be authorized, however, to publish allocations on a more frequent basis, if the Secretary determines that such action is appropriate.

These proposals are designed to ensure that the funding award process that HUD uses for each of its programs and the "fair share" allocation process that it uses for its housing assistance programs are fair and free from improper influence. It accomplishes this end by inviting the public to examine relevant information about those that "win" funding competitions and receive formula allocations of housing assistance.

The "fair share" allocation proposal, when taken together with the funding decision proposal described above and the requirement of section 101 of this Act that housing assistance be awarded to specific recipients by fair share formula and competition, comprises a comprehensive approach to ensuring the fairness of HUD's housing allocations. As noted earlier, the Department typically uses the fair share formula to allocate assistance to a certain level, and then awards assistance on a discretionary basis. Under these proposals, the public would be invited to peruse the entire housing allocation process: the formula allocations as well as the funding decisions reached in the competitive element of the allocations.

PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISIONS

Section 103 would prohibit disclosure of information concerning HUD funding decisions until the decision is final, except for information that is available to the public including program requirements and timing of the decision. Prohibiting the disclosure of this information would eliminate giving any unfair financial advantage derived from such information to any individual or entity with respect to a funding decision under consideration. Any HUD employee or any other employee of the executive branch who releases such information would be subject to a civil money penalty of up to $10,000 for each violation.

This restriction against disclosure of information on funding decisions would apply only to programs administered by the Department that provide, by statute, regulation, or otherwise, for the competitive distribution of financial assistance. The purpose of this section is to assure that individuals and entities outside of the executive branch do not obtain inside information about reviews of competing proposals that would give them an opportunity to attempt to influence the decision. Recent disclosures have indicated that some HUD funding decisions have been politically motivated.

The Inspector General's audit of the Moderate Rehabilitation program revealed that, in one instance, private consultants presented copies of HUD funding documents to officials of a public housing agency (PHA)—normally transmitted directly by HUD to the PHA—and indicated that the funds were theirs (the consultants) to distribute. These documents should not have been in the hands of these private consultants. At the very least, access to these funding notifications provide the developers with an unfair advantage with respect to the PHA's ultimate selections. In fact, the PHA simply selected these developers and ignored the required competitive procurement procedures.

The procedures for imposing a penalty are largely based on those for the civil money penalty authority proposed for FHA lenders and mortgagees. Where the Secretary determines that a penalty should be imposed, the employee would have an opportunity for a hearing by an Administrative Law Judge. (The reference to "Secretary" includes any other department official designated by the Secretary.) After exhausting all administrative remedies, the employee could file an appeal with the appropriate court of appeals of the United States. The Secretary would deposit civil money penalties collected under this section into miscellaneous receipts of the Treasury.

REFORM OF THE HEADQUARTERS RESERVE

Section 104 would make fundamental reforms to section 213(d)(4) of the Housing and Community Development Act of 1974, the so-called "Headquarters Reserve." The Headquarters Reserve has been a source of

significant programmatic waste and abuse. Currently, the Secretary is authorized to retain for use in the Reserve up to 15% of the amounts initially made available in any fiscal year under the United States Housing Act of 1937 and other housing assistance programs. This "set-aside" approach has resulted in significant amounts of funds in search of recipients.

In addition, several of the Reserve's statutory funding categories are excessively broad. The categories contained in sections 213(d)(4)(E) and (F), respectively, are among the worst offenders. They permit Reserve amounts to be used for—

Lower income housing needs described in housing assistance plans, and

Innovative housing programs or alternative methods for meeting lower income housing needs approved by the Secretary.

Finally, in practice, the Reserve has been used as a wholly discretionary funding vehicle. Projects were funded directly from the Central Office without competition and even without governing regulations to govern the selection of recipients.

These three aspects of the Reserve—the "loose" money occasioned by its set-aside structure, the breadth and width of some of its funding categories, and the "fast and loose" way in which amounts from the Reserve were awarded—have resulted in an authority that was ripe for exploitation.

The proposal would address these problems in two ways. First, it would eliminate the troublesome funding categories. Under the proposal, the reserve would only have four categories:

Unforeseen housing needs resulting from natural and other disasters;

Housing needs resulting from the settlement of litigation;

Housing for the support of public housing desegregation efforts carried out by the Secretary; and

Housing needs resulting from emergencies, as certified by the Secretary, other than disasters.

The first two categories are based upon the existing law governing use of the Reserve. The third represents an important use of housing assistance—to further efforts of desegregate public housing. The fourth provides needed flexibility to provide housing assistance to respond to actual emergencies. Each of these categories is directed toward specific, objective events that avoid the "catch-all" categories of the present Reserve.

Second, the proposal would replace the current "set-aside" approach with a requirement that amounts made available for the Reserve be approved in appropriation Acts. This is designed to focus the maximum "sunshine" on the Reserve. The Department would propose, and the Congress would appropriate, amounts for the Reserve. The process would be entirely aboveboard, with the ultimate funding levels understood by all parties: "free" money for broad categories would be replaced by specified amounts for specified purposes.

The proposal would take effect at the beginning of fiscal year 1991—October 1, 1990. This recognizes the fact that the appropriation process—needed to approve amounts under the revamped Reserve—will have been completed for FY 1990 before the proposal would receive congressional consideration.

During FY 1990, the Department intends voluntarily to limit use of the Reserve to those categories that do not involve the kinds of discretion noted above and to activities that have previous funding commitments.

Finally, the proposal would provide for the transition to the revised Reserve.

REFORM OF THE DISCRETION FUND; TECHNICAL ASSISTANCE

Section 105 would amend the so-called "Secretary's Discretionary Fund" under section 107 of the Housing and Community Development Act of 1974 to delete the Secretary's authority to make grants for technical assistance, special projects, and new communities.

The technical assistance and special purpose categories involve highly discretionary grants for excessively broad and undefined purposes. This has made them ready candidates for programmatic waste and abuse. In addition, Congress has frequently assumed the Secretary's "discretion" under these authorities, by earmarking funding for specific activities and projects.

The Department believes that the best way to ensure the integrity of the CDBG program is to eliminate the technical assistance and special projects categories, and to provide for the objective distribution of funds for these categories via the CDBG formula. Block grant recipients would be able to use their grant funds for the types of activities covered by these categories.

The elimination of the new communities category is a technical change. Activity under the various new communities authorities is phasing out, and there is no longer any need for authority to make grants for this purpose under section 107.

No grants could be made for technical assistance or special projects after the date of enactment of this Act, except where the grant was made pursuant to grant award notifications made before that date, or to the Park Central New Community Project from amounts that have already been appropriated for that project. Grants made before the effective date of this Act would continue to be governed by the relevant provisions of section 107 as they existed before that date.

Consistent with the proposed changes, section 107's caption would be changed from the "Discretionary Fund" to "Special Purpose Grants." Section 107 would be retained for grants to Indian Tribes and the Insular Areas, and for the purposes of assisting economically disadvantaged and minority college students participating in community development work-study programs, assisting historically Black colleges, and rectifying CDBG formula miscalculations. These purposes are narrowly drawn enough to avoid the vulnerability to waste and abuse that inheres in the funding categories purposed for elimination.

The proposal would replace the technical assistance category of the Discretionary Fund with a provision permitting the Secretary to set aside up to one-tenth of one percent of the amounts appropriated for any fiscal year for the United States Housing Act of 1937 (other than operating subsidies under section 9 of the Act); section 202(h) of the Housing Act of 1959; the Fair Housing Act; title I of the Housing and Community Development Act of 1974; section 810 of the Housing and Community Development Act of 1974; section 201 of the Housing and Community Development Amendments of 1978; the Congregate Services Act of 1983; section 561 of the Housing and Community Development Act of 1987; title IV of the Stewart B. McKinney Homeless Assistance Act; and counseling under section 106 of the Housing and Urban Development Act of 1968.

The Secretary would be authorized to use amounts set aside for any of these authorities for the purpose of providing technical assistance in connection with that authority. The Secretary could provide the technical assistance directly, or by grants, contracts, or interagency agreement.

This proposal recognizes the legitimate purposes that are served by technical assistance. It would ensure that a small, but constant, source of funds are available for technical assistance. Rather than using the overly broad technical assistance category of the Discretionary Fund, however, the proposal would tie the technical assistance to the authority for which the assistance is to be used. The Department believes that this approach would ensure that appropriate amounts are available for technical assistance, but without the difficulties that have afflicted the current authority in the Discretionary Fund.

The proposal would ensure that technical assistance is made available only under the new authority. This would provide a single source of accountability, and eliminate disparate technical assistance authorities throughout the Department's programs. Specifically, the proposal would provide that on and after the effective date of the Department of Housing and Urban Development Reform Act of 1989, no technical assistance could be made available under any of the covered authorities other than pursuant to the proposal, except pursuant to funds appropriated for technical assistance before such date.

Finally, to ensure that all amounts set aside are used expeditiously, the proposal would provide that any amount set aside that remain available for obligation at the end of the fiscal year after the fiscal year for which they were appropriated would be rescinded.

WAIVER OF HUD REGULATION REQUIREMENTS AND HANDBOOK PROVISIONS

Section 106 would add a new section 7(t) to the Department of Housing and Urban Development Act governing waivers of regulations and handbooks of the Department.

Waivers provide essential flexibility in the administration of the Department's programs. In an ideal world, regulations and handbooks of an Executive Branch agency would anticipate all situations and provide enough flexibility so waivers would never be needed. As a practical matter, there are times when it is necessary to waive a generally applicable requirement. For example, unique site features, unusual local zoning laws, or urgent need for low- and moderate-income assistance could require that HUD approve a waiver of its administrative, nonstatutory requirements in order to approve a high-quality project. However, in recent months, a number of circumstances have come to light indicating the need to assure that waivers are not approved on the basis of favoritism. Problems can occur, for example, when waiver authority is abused to assist luxury projects whose excessive costs endanger the project and the FHA insurance fund.

In particular, this section would require that approval of a regulation waiver be in writing and specify the grounds for approval. To assure that regulations are waived in limited circumstances, they would have to be approved personally by the Secretary or by the Assistant Secretary or individual of equivalent rank (including the General Counsel and the President of the Government National Mortgage Association) who is

authorized to issue the regulation to be waived.

Section 7(s) would also require the Department to publish a list of all approved regulation waivers as a Notice in the *Federal Register* on a quarterly basis. Each notification would (a) identify the project, activity, or undertaking; (b) describe the regulation to be waived; (c) identify the official approving the waiver; (d) briefly describe the grounds for approval; and (e) state how more information about the waiver and a copy of the approval may be obtained. Making regulation waiver approvals public should eliminate situations where waivers are approved for political purposes. The Department intends that waivers should be approved only where they are in the public interest or necessary to prevent undue hardship, and then only where they are consistent with the objectives of the program and the Secretary. By requiring public announcement of regulation waivers, the Department will assure that only waivers that can withstand public scrutiny under this "sunshine" initiative will be approved.

Waivers of HUD handbook provisions would also have to be in writing and specify the grounds for approving the waiver. Handbooks waivers would be maintained at the Department for at least three years, indexed, and made available for public inspection.

AUTHORITY FOR THE SECRETARY TO IMPOSE CIVIL MONEY PENALTIES ON MORTGAGEES AND LENDERS

Section 107 would amend the National Housing Act by adding a new section 536 to authorize the Mortgagee Review Board to impose civil money penalties on HUD-approved mortgagees and title I lenders for specified violation of FHA program requirements, including: (1) transfer of a mortgage to a mortgagee not approved by HUD; (2) transfer of a title I loan to a lender that does not have a valid insurance contract with the Department; (3) failure to properly segregate or deposit escrow funds or use of these funds for a purpose other than that for which they were received; (4) submission of false information, or falsely certifying, to HUD; and (5) knowingly hiring an individual suspended or debarred from HUD programs. The penalty under this proposal would be $5,000 per violation, with a $1 million cap per violator for any related series of violations occurring during any one-year period. In the case of a continuing violation, each day would constitute a separate violation. There would be an opportunity for a hearing before an Administrative Law Judge, and judicial review of the Department's decision.

This amendment would permit the Secretary to more effectively deter fraud and other violations by mortgagees and lenders, thus strengthening the sanctioning process. The possibility of civil money penalties should also help expedite execution of settlement agreements.

This proposal is similar to other proposals in the bill which would authorize the imposition of civil money penalties against developers who violate the Interstate Land Sales Full Disclosure Act; against section 202 and FHA multifamily program mortgagors; and against issuers of GNMA guaranteed mortgage-backed securities and GNMA custodians.

Mortgagee Review Board

This proposal would authorize the Secretary or an administrative entity, such as the Mortgagee Review Board, to make the determination to impose the civil money penalty. (The reference to "Secretary" includes another department official.) in 1975, HUD established the Mortgagee Review Board (the Board) to act for the Secretary in determining whether to withdraw approval from mortgagees to originate mortgages because they violated certain National Housing Act requirements. See 24 CFR Part 25. From time to time, HUD has changed the structure and authority of the Board. At present, the Board has the power to take a range of administrative actions against both mortgagees and lenders. Where the Board finds that the requirements of any of the programs administered under the Act have been violated, it may: issue a letter of reprimand; place the mortgagee or lender on probation; issue an order temporarily suspending a mortgagee's or lender's approval; issue an order withdrawing HUD's approval of a mortgagee or title I lender to enter into a contract of insurance; or approve the initiation of a suspension or debarment action. The Board also may enter into settlement agreements with mortgagees and lenders to resolve any outstanding grounds for administrative action. These agreements may provide for monetary reimbursement to HUD for claim losses on improperly originated mortgages or title I loans that pose a risk to the FHA insurance funds. In the case of a probation, suspension, or withdrawal action, the mortgagee or lender may request a hearing before an independent hearing officer to challenge the action, and, after the hearing, any party may request review by petitioning the Secretary. In accordance with 5 U.S.C. secs. 701-706 (1988), mortgagees and lenders may secure judicial review in a United States court after they have exhausted their administrative remedies.

Background

In the past two decades, the civil money penalty has assumed a place of paramount importance in the compliance arsenal of Federal regulations. In fact, a consultant to the Informal Action Committee of the Administrative Conference of the United States wrote in 1979, "it is today almost inconceivable that Congress would authorize a major administrative regulatory program without empowering the enforcing agency to impose civil monetary penalities as a sanction." Diver, *The Assessment and Mitigation of Civil Money Penalties by Federal Administrative Agencies,* 79 Colum. L. Rev. 1435, at 1436 (1979).

This article pointed out that in 1979 there were 348 statutory civil penalties, enforced by 27 Federal departments and independent agencies, authorized for the enforcement of a host of regulatory commands. Civil money penalties may be invoked for violating statutes, administrative regulations, or administrative orders; for failure to file reports, keep records, permit entry, or respond to agency inquiries; or for willful, negligent, repeated, or even unintended conduct. *Id.* at 1438.

This proposal is based on a 1972 recommendation of the Administrative Conference of the United States, *Civil Money Penalties as a Sanction,* 1 CFR 305.72-6, that agencies consider the use of civil money penalties to supplement other civil and criminal sanctions and that, in appropriate situations, civil money penalties be imposed as part of administrative proceedings. The Conference further recommended that agencies' determinations be subject to review if not supported by substantial evidence, but not to trial *de novo* or collateral attack in a collection proceeding. This was reaffirmed by the Conference in 1979 in *Agency Assessment and Mitigation of Civil Money Penalties,* 1 CFR 305.79-3, and remains the position of the Conference to date. This amendment follows the format of the sample statute recommended by the Administrative Conference, with variations. This is in line with the Conference's recommendation that the sample statute serve as a point of departure for individual agencies' own legislation.

Need for the Amendment

Gaps in existing legislation, primarily the Program Fraud Civil Remedies Act (PFCRA) and the False Claims Act, necessitate this amendment. No penalty can be secured under the PFCRA unless there is a false statement, in the form of a certification, or a false claim. The False Claims Act also requires a false claim. In many of HUD's mortgagee/title I lender cases, however, certified false statements and false claims have not been involved. For example, one of HUD's critical loan underwriting requirements is a face-to-face meeting between the borrower and a lender representative. In many fraudulent schemes, this requirement is violated, as is the case when a straw buyer is used. The mortgagee cannot be said to have made a false claim or false statement since it does not know that a straw buyer has been used. HUD's only current remedy in such situations is to threaten, or seek to secure, sanctions against the mortgagee, up to and including withdrawal of FHA approval. The mortgagee, however, has been able to defeat such threats by terminating the individual involved or transferring ownership of the company, without suffering any financial loss itself. Thus, HUD currently cannot impose monetary penalties for violations of its regulations although such violations may be critical to causing ultimate default and loss to HUD.

Furthermore, even where there is a false statement in the form of a certification with regard to a particular loan, there would only be one $5,000 penalty under the PFCRA (although a double damages remedy is available in the case of a false claim) because a mortgagee makes only one certification per loan to HUD. It is commonly the case, however, that mortgagees commit multiple violations with regard to a particular loan, and HUD's losses are often considerably above $5,000. For example, HUD estimates that the average loss on a single family property is $17,000. Under the PFCRA, HUD's recovery would be limited to $5,000; under this amendment, HUD would be able to impose a $5,000 penalty for each of the violations and be more apt to recover its actual losses.

Section-by-Section Explanation

Subsection (a)(1) [1] would give the Secretary discretionary authority to impose a civil money penalty against a mortgage or title I lender that violates the requirements set forth in subsection (b). It would make clear that the money penalty would be in addition to other available civil remedies or any available criminal penalties, and may be imposed whether or not other administrative sanctions are imposed.

Subsection (a)(2) would limit the amount of the civil money penalty to $5,000 for each violation, except that the maximum penalty

[1] All references to subsections refer to subsections of the new section 536 of the National Housing Act, except for the reference in the last paragraph, which refers to subsection (b) of this proposed section of the bill.

for all violations committed by a mortgagee or lender during any one-year period could not exceed $1 million. In the case of a continuing violation, each day would constitute a separate violation. These monetary standards are similar to many other civil money penalty provisions. On September 19, 1986, Senator William Cohen placed in the CONGRESSIONAL RECORD a table listing the 200 Federal statutes then on the books authorizing enforcement through the administrative imposition of civil money penalties. These statutes included maximum penalties per violation ranging from $5 to $100,000 (132 Cong. Rec. S13,009-11 (1986)). These 200 statutes differ from the 348 statutes referred to in the 1979 Diver article discussed in the second paragraph of the Background section above as the 348 figure included statutes which require court assessment of penalties as well as those which permit agency assessment.

Subsections (b)(1)(A)-(G) would list the violations (already prohibited by the programs under the National Housing Act) which may warrant the imposition of civil money penalties. These violations were selected from among the numerous violations which the Board may currently sanction. The Department considers these violations to be sufficiently egregious to warrant the imposition of civil money penalties in appropriate circumstances. Subsection (b)(1)(H) would cover violations of other statutory and administrative requirements.

Subsection (b)(1)(A) would provide for the imposition of a civil money penalty when a HUD-approved mortgagee transfers a HUD-insured mortgage to a mortgagee that is not approved by the Secretary, or when a lender transfers a loan to a transferee that is not holding a contract of insurance under title I of the Act, unless the transfer is expressly permitted by statute, regulation, or contract approved by the Secretary. The National Housing Act contemplates that HUD will provide insurance only with regard to mortgagees and lenders that meet the requirements of the Act. When a mortgage or loan is transferred to a mortgagee or lender that does not meet these requirements, the Department's funds are at risk.

Paragraph (1)(B) would provide for the imposition of a civil money penalty when a mortgagee that is not supervised by the appropriate Federal, State, or local agencies (and does not, therefore, qualify as a supervised mortgagee under HUD's regulations (see, for example, 24 CFR 203.3 and 203.4)) fails to segregate all escrow funds received from a mortgagor for ground rents, taxes, assessments, and insurance premiums, or fails to deposit these funds in a special account with a depository institution whose accounts are insured by the Federal Deposit Insurance Corporation through the Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations, or by the National Credit Union Administration. The failure to segregate escrow funds would make accounting for these amounts difficult and could encourage the improper diversion of escrowed amounts or other illegal activity. In any event, both diversion and failure to place escrow funds in insured accounts could result in a mortgagor having to make up for lost amounts, being unable to do so, and defaulting under the mortgage.

Paragraph (1)(C) would permit the imposition of a civil money penalty when a mortgagee or lender uses escrow funds for any purpose other than that for which they were received.

Paragraph (1)(D) would permit the imposition of a civil money penalty where the mortgagee or lender knew, or should have known, that information submitted to the Secretary was false. It is vital that mortgagees and lenders provide accurate information if the Department is to avoid costly insurance claims. In implementing this paragraph, it is the intention of the Department that a mortgagee or lender would be subject to a civil money penalty if any of its employees knew, or should have known, that the information was false.

Paragraph (1)(E) would permit the Secretary to impose a civil money penalty where the mortgagee or lender hires an officer, director, principal, or employee whose duties will involve, directly or indirectly, programs administered by the Secretary, when the mortgagee or lender knew, or should have known, that the person was under suspension or debarment by the Secretary. Penalties could also be enforced where the mortgagee or lender retains in employment an officer, director, principal, or employee who continues to be involved, directly or indirectly, in programs administered by the Secretary, when the mortgagee or lender knew, or should have known, that the person was under suspension or debarment by the Secretary.

Paragraph (1)(F) would permit the Secretary to impose a civil money penalty on a mortgagee or lender that falsely certifies. The Department requires mortgagees and lenders to certify that, to the best of their knowledge, the applicable rules and regulations of the Department have been met. If the certification is false, a costly claim could result. Since mortgagees and lenders may be submitting certifications made by others, such as contractors or suppliers, paragraph (1)(F) would also permit the Secretary to impose a civil money penalty on a mortgagee or lender who knowingly submits a false certification by another person or entity.

Paragraph (1)(G) would permit the Secretary to impose a civil money penalty where the mortgagee or lender fails to comply with an agreement, certification, or condition of approval set forth (A) on, or applicable to, the application of the mortgagee or lender for approval by the Secretary, or (B) on, or applicable to, the notification from the mortgagee or lender to the Secretary that it has established a branch office. The Department's approval is conditioned on commitments by the mortgagee or lender contained on the application or notification. The mortgagee or lender would, for example, agree to submit to such examination of its records and accounts as HUD may require. Failure to comply with this and the other commitments would put the Department's insurance funds at risk.

Paragraph (1)(H) would permit the Secretary to impose a civil money penalty for the violation of any National Housing Act provision of title I, II, or X (as it existed immediately before the effective date of the Department of Housing and Urban Development Reform Act of 1989) or any implementing regulation or mortgagee or title I lender letter that is issued under the National Housing Act. Since it is not possible in legislation to cover every conceivable violation on the part of mortgagees and lenders which may occur in the future, this paragraph would give the Secretary the flexibility to impose civil money penalties for violations of the Act's other program requirements.

Subsection (b)(2) would require the Secretary to inform the Attorney General before taking action to impose a fine for a violation under paragraph (1)(D) or (1)(F).

Subsection (c)(1) would require the Secretary establish standards and procedures governing HUD's imposition of civil money penalties under subsection (a). Under subsection (c)(1)(A), the Secretary would have the discretion to provide for the use of an administrative entity (such as the Mortgagee Review Board) to make the determination to impose a penalty. In accordance with subsection (c)(1)(B), the standards and procedures would provide that the civil money penalty could not be imposed before the mortgagee or lender had an opportunity for a hearing on the record by an Administrative Law Judge. This differs somewhat from the procedure the Board follows with respect to probation, suspension, or withdrawal actions. A probation or suspension action by the Board becomes effective before a hearing, and the Board has discretion to determine that a withdrawal action shall also become effective before a hearing. With regard to any of these three actions, the mortgagee or lender is then entitled to a hearing within 30 days after its request. The discretion to order pre-hearing sanctions is in line with court decisions that appropriate pre-hearing sanctions do not violate due process. The courts have permitted pre-hearing sanctions where the protection of the public justifies it. With regard to the imposition of a civil money penalty, however, there is no overriding public interest which would justify imposition of the sanction before an opportunity for a hearing.

Finally, subsection (c)(1)(C) would authorize HUD to establish standards and procedures providing for review of any determination or order, or interlocutory ruling, arising from a hearing. If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty would constitute a final and unappealable determination.

If the Secretary reviews the determination or order of the Administrative Law Judge, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order of the Administrative Law Judge, the determination or order would be the final determination or order of the Secretary.

In implementing the proposed civil money penalty authority, the Department contemplates using, to the maximum extent possible, the existing administrative sanction and review procedures in 24 CFR Parts 25 (Mortgagee Review Board) and 26 (Proceedings Before a Hearing Officer). Thus, the new authority would be coupled with a well-known, existing procedure that provides for the imposition and review of other administrative sanctions for the same types of violations.

Subsection (c)(2) would set forth the factors to be considered in determining the amount of the civil money penalty. These would consist of the gravity of the offense, any history of prior offenses (including those before enactment of this amendment), the ability of the mortgagee or lender to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary determines in regulations to be appropriate.

Subsection (d) would give mortgagees and lenders the right to judicial review in the U.S. Court of Appeals, as recommended by the Administrative Conference. The court also would have jurisdiction to consider any ancillary issues, such as administrative sanc-

tions, covered by the notice of determination to impose a penalty under subsection (c). Subsection (d) would also make it clear that the reviewing court has the authority to order payment of the civil money penalty. This would avoid the possibility of the court's upholding a determination or order imposing a civil money penalty without ordering payment, which could necessitate additional litigation to secure payment. As is the existing practice with respect to other civil monetary penalties, the findings and determinations of the Secretary in imposing money penalties would not be subject to trial de novo by the reviewing court.

Under subsection (e), the Department could request the Attorney General to institute an action in an appropriate U.S. district court against a mortgagee or lender that fails to pay a civil money penalty after it has become a final and unappealable order. The action would seek a money judgment against the mortgagee or lender, as well as any other relief that may be available. The money judgment could include attorneys' fees and other expenses of the United States in bringing the action. The validity and appropriateness of the final order imposing the civil money penalty would not be subject to review.

Subsection (f) would give the Secretary discretion to compromise, modify, or remit any civil money penalty before or after it has been imposed. Since it is the goal of this proposal to achieve compliance with the requirements of programs administered by the Depatment, subsection (f) would permit the Secretary to enter into settlements which would provide for compliance, including compromise, modification, or return of any civil money penalties.

Subsection (g) would require the Secretary to issue regulations to implement the new authority.

Subsection (h) would provide that the Secretary would deposit the civil money penalties collected under this proposal into miscellaneous receipts of the Treasury.

Section 107(b) would provide that the new authority would only cover mortgagee or lender violations that occur after the effective date of the amendment. In the case of a continuing violation (as determined by HUD), the new authority would apply to any portion of the violation occurring on or after that effective date.

AUTHORITY FOR THE SECRETARY TO IMPOSE CIVIL MONEY PENALTIES ON MULTIFAMILY MORTGAGORS

Section 108(a) would amend the National Housing Act by adding a new section 537 to authorize HUD to impose civil money penalties against mortgagors of property that (1) includes five or more living units and (2) has a mortgage insured, co-insured, or held pursuant to the National Housing Act. The proposal would authorize the imposition of civil money penalties for certain violations of (A) an agreement entered into as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a work-out agreement; or (B) the regulatory agreement executed by the mortgagor. The penalty for violation of the agreement described in (A) above could not exceed the amount of the loss the Secretary would experience at a foreclosure sale, or a sale after foreclosure. The penalty for violation of the regulatory agreement would be capped at $25,000 for each of the specified violations.

The violations for which civil money penalties may be imposed under section 108 were selected from among the numerous violations which the Department may currently sanction. The Department considers the violations that would be subject to a civil money penalty under this section to be sufficiently egregious to warrant the imposition of a civil money penalty in appropriate circumstances.

While the majority of mortgagors comply with their commitments, the limited sanctions presently available to the Secretary (such as declaring the mortgage in technical default for violations of the regulatory agreement, stopping subsidy payments, or foreclosing on the mortgage) have not been preventing a minority of recalcitrant mortgagors from disregarding their contractual obligations. These sanctions have a more adverse effect on the Department and the tenants than on the mortgagor. The results of the Department's declaration that a mortgage is in default are that: the Department discontinues subsidy payments, the mortgagee assigns the mortgage to the Department, the Department pays off the insurance claim, and the Department forecloses on the property at a loss. Due to these events, the project deteriorates physically and financially, with the consequent reduction in services to tenants. To avoid this, it is imperative that the Secretary have the ability to impose sanctions which are commensurate with the harm done by a recalcitrant mortgagor and which would deter mortgagors from disregarding their contractual obligations.

This amendment is similar to other civil money penalty proposals in this bill.

Need for the Legislation

Civil money penalties have proven to be an effective enforcement tool in Federal programs. Authority to impose civil money penalties for the violations involved here would provide an added incentive for mortgagors to comply with their agreements.

HUD lacks sufficient tools to assure that participants in its programs comply with program requirements. The applicable criminal penalties are often insufficient to ensure enforcement since problems of proof make criminal prosecution difficult. Authorizing the Secretary to impose civil money penalties for violations of specific program requirements will permit HUD more effectively to deter fraud and other violations under HUD programs. The possibility of civil money penalties should also help expedite execution of settlement agreements.

Gaps in existing legislation, primarily the Program Fraud Civil Remedies Act (PFCRA) and the False Claims Act, necessitate this amendment. No penalty can be secured under the PFCRA unless there is a false statement, in the form of a certification, or a false claim. The False Claims Act also requires a false claim. In many of HUD'd mortgagor cases, however, certified false statements and false claims have not been involved.

Section-by-Section Analysis

Subsection (a) of proposed section 537 [2] would make clear that the civil money penalty would be in addition to other available civil remedies or any available criminal penalties, and may be imposed whether or not other administrative sanctions are imposed.

Subsection (b)(1) would give the Secretary discretionary authority to impose a civil money penalty on any mortgagor of property that (A) has five or more living units and (B) has a mortgage insured, co-insured, or held pursuant to the National Housing Act where the mortgagor has (i) a written agreement, executed as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a work-out agreement, to use non-project income (ii) to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical conditions, or to pay other project liabilities, for failure to comply with any of these commitments. (The reference to "Secretary" includes another department official).

In most instances, where one of these agreements is executed, the Secretary agrees to provide additional subsidy resources or to forego mortgage payments for a period of time, and, in consideration of the Secretary's agreement, the mortgagor agrees to provide additional cash contributions to the project income stream to restore the project to acceptable financial and physical condition. If, after the Secretary has provided the additional resources, the owner fails to make the agreed upon cash contribution, the project will not be restored and the Department's insurance funds will be further jeopardized.

Subsection (b)(2) would limit the amount of the civil money penalty for a violation of subsection (b)(1) to the amount of the loss the Secretary would experience at a foreclosure sale, or a sale after foreclosure.

Subsection (c)(1) would give the Secretary discretionary authority to impose a civil money penalty against any mortgagor of property that (A) has five or more living units and (B) has a mortgage insured, co-insured, or held pursuant to the National Housing Act for violations of the regulatory agreement executed by the mortgagor, as specified in subparagraphs (A)-(L).

Paragraph (1)(A) would provide for the imposition of a civil money penalty for the conveyance, transfer, or encumbrance of any of the mortgaged property, or for permitting such action without the prior written approval of the Secretary.

Paragraph (1)(B) would provide for the imposition of a civil money penalty for the assignment, transfer, disposition, or encumbrance of any personal property of the project, including rents, or paying out any funds, except for reasonable operating expenses and necessary repairs, without the prior written approval of the Secretary.

Paragraph (1)(C) would provide for the imposition of a civil money penalty for the conveyance, assignment, or transfer of any beneficial interest in any trust holding title to the property, or the interest of any general partner in a partnership owning the property, or any right to manage or receive the rents and profits from the mortgaged property, without the prior written approval of the Secretary.

Paragraph (1)(D) would provide for the imposition of a civil money penalty for remodeling, adding to, reconstructing, or demolishing any part of the mortgaged property or subtracting from any real or personal property of the project, without the prior written approval of the Secretary.

Paragraph (1)(E) would provide for the imposition of a civil money penalty where the mortgagor, as a condition of the occupancy or leasing of any unit in the project, requires any consideration or deposit other than the prepayment of the first month's

[2] All future references to subsections refer to subsections of proposed section 537 of the National Housing Act, except for the reference in the last paragraph, which refers to subsection (b) of this proposed section of this bill.

rent, plus a security deposit in an amount not in excess of one month's rent, to guarantee the performance of the convenants of the lease. This paragraph is designed to protect low- and moderate-income tenants and assure equal access for all applicants.

Paragraph (1)(F) would provide for the imposition of a civil money penalty for the failure to keep any funds collected as security deposits separate and apart from all other funds of the project in a trust account, the amount of which at all times equals or exceeds the aggregate of all outstanding obligations under that account. This paragraph is designed to prevent use of the tenants' security deposits for project costs, and, thus, assure the availability of these moneys when the tenants vacate the premises, provided that the premises are returned to the mortgagor in good condition.

Paragraph (1)(G) would provide for the imposition of a civil money penalty for paying over $500 for services, supplies, or materials when such payment substantially exceeds the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished. While the majority of mortgagors are cost conscious, a minority do not adequately contain costs for reasons such as the lack of professional ability to do so; the receipt of kickbacks from the provider of the services, supplies, or materials; or an identity of interest with the firm supplying the services, supplies, or materials. This has an adverse impact on tenants whose rents are set at a level to pay for these costs. It can also have an adverse impact on the Department where it provides rent subsidies, or where the overpayment contributes to an insurance claim.

Paragraph (1)(H) would provide for the imposition of a civil money penalty for failure to maintain at any time the mortgaged property, equipment, buildings, plans, offices, and apparatus, devices, books, contracts, records, documents, and other related papers (including the failure to keep copies of all written contracts or other instruments which affect the mortgaged property) in reasonable condition for proper audit and for examination and inspection at any reasonable time by the Secretary or the Secretary's duly authorized agents. If the Secretary is to monitor and enforce mortgagor compliance with program requirements, it is imperative that these requirements be met.

Paragraph (1)(I) would provide for the imposition of a civil money penalty for failure to maintain the books and accounts of the operations of the mortgaged property and of the project in accordance with requirements prescribed by the Secretary. If the Secretary cannot impose sanctions to enforce compliance on the minority of recalcitrant mortgagors who fail to comply with this requirement, program enforcement is jeopardized since the project's cash flow is the cornerstone for maintaining the project in good fiscal and physical condition.

Paragraph (1)(J) would provide for the imposition of a civil money penalty for failure to furnish the Secretary, within 60 days following the end of each fiscal year, with a complete annual financial report based upon an examination of the books and records of the mortgagor, prepared and certified to by an independent public accountant or a certified public accountant and certified to by an officer of the mortgagor, unless the Secretary has approved an extension of the 60-day period in writing.

Paragraph (1)(K) would provide for the imposition of a civil money penalty when, at the request of the Secretary, the agents of the Secretary, the employees of the Secretary, or the attorneys of the Secretary, the mortgagor fails to furnish monthly occupancy reports or fails to provide specific answers to questions upon which information is sought relative to income, assets, liabilities, contracts, the operation and condition of the property, or the status of the insured mortgage.

Mortgagors of financially and physically solvent projects are not required to provide the Department with monthly accounting of cash income and outlays. When the Department becomes aware, however, that a mortgagor is having financial problems with regard to a particular project, it will require the mortgagor to provide monthly accounts of income and disbursements. This is necessary to assure the proper future maintenance of the project for the benefit of the tenants and to protect the Department from claims on the insurance funds.

Paragraph (1)(L) would provide for the imposition of a civil money penalty for failure to make promptly all payments due under the note and mortgage, including mortgage insurance premiums, tax and insurance escrow payments, and payments to the reserve for replacements when there is adequate project income available to make such payments. This provision is designed to avoid having the mortgage go into default when there is adequate project income available for the required payments.

Subsection (c)(2) would cap the amount of the civil money penalty for a violation of subparagraphs (A)–(L) at $25,000 for a violation of any of those subparagraphs. The monetary penalties that would be provided under subsection (c)(2) are similar to civil money penalties that are provided in many other Federal statutes which authorize the administrative imposition of such penalties. On September 19, 1986, Senator William Cohen placed in the Congressional Record a table listing the 200 Federal statutes then on the books authorizing enforcement through the administrative imposition of civil money penalties. These statutes included maximum penalties per violation ranging from $5 to $100,000 (132 Cong. Rec. S13,099-11 (1986)).

Subsection (d)(1) would require that the Secretary establish standards and procedures governing HUD's imposition of civil money penalties under subsections (b) and (c). In accordance with subparagraph (A), the Secretary or other department official (such as the Assistant Secretary for Housing) could make the determination to impose the penalty. In accordance with subparagraph (B), the standards and procedures would provide that the civil money penalty could not be imposed before the mortgagor had an opportunity for a hearing on the record by an Administrative Law Judge. Subparagraph (C) would authorize HUD to establish standards and procedures providing for review of any determination or order, or interlocutory ruling, arising from a hearing. If a hearing is not requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the civil money penalty would be a final and unappealable determination. If the Secretary reviews the determination or order of the Administrative Law Judge, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order of the Administrative Law Judge, the determination or order would be the final determination or order of the Secretary.

In implementing the proposed civil money penalty authority, the Department contemplates using, to the maximum extent possible, the existing review procedures in 24 CFR Part 26 (Proceedings Before a Hearing Officer). Thus, the new authority would be coupled with a well-known, existing procedure.

Subsections (d)(2) would set forth factors to be considered in determining the amount of the civil money penalty. These would consist of the gravity of the offense, any history of prior offenses (including those before enactment of this proposal), the ability of the developer to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary determines in regulations to be appropriate.

Subsection (e) would give mortgagors the right to judicial review in the U.S. Court of Appeals. The court also would have jurisdiction to consider any ancillary issues, such as administrative sanctions, covered by the notice of determination to impose a penalty under subsection (d). Subsection (e) would also make it clear that the reviewing court has the authority to order payment of the civil money penalty. This would avoid the possibility of the court's upholding a determination or order imposing a civil money penalty without ordering payment, which could necessitate additional litigation to secure payment. As is the existing practice with respect to other civil monetary penalties, the findings and determinations of the Secretary in imposing civil money penalties would not be subject to trial de novo by the reviewing court.

Under subsection (f) the Department could request the Attorney General to institute an action in an appropriate U.S. district court against a person that fails to pay a civil money penalty after it has become a final and unappealable order. The action would seek a money judgment against the person as well as any other relief that may be available. The money judgment could include attorneys' fees and other expenses of the United States in bringing the action. The validity and appropriateness of the final order imposing the civil money penalty would not be subject to the review.

Subsection (g) would give the Secretary discretion to compromise, modify, or remit any civil money penalty before or after it has been imposed. Since it is the goal of this proposal to achieve compliance with the requirements of programs administered by the Department, subsection (g) would permit the Secretary to enter into settlements which would provide for such compliance, including compromise, modification, or return of any civil money penalties.

Subsection (h) would require the Secretary to issue regulations to implement the new authority.

Subsection (i) would provide for the Secretary to deposit the civil money penalties collected under this proposal into the miscellaneous receipts of the Treasury.

Section 108(b) would provide that the new authority would only cover violations of the Act that occur after the effective date of the amendment. It is, however, intended that this legislation be applicable to existing mortgagors as well as those who enter the program in the future.

AUTHORITY FOR THE SECRETARY TO IMPOSE CIVIL MONEY PENALTIES ON SECTION 202 MORTGAGORS

Section 109(a) would amend the Housing Act of 1959 by adding a new section 202a to

authorize HUD to impose civil money penalties against mortgagors of property that (1) includes five or more living units and (2) has a mortgage or held pursuant to the Housing Act of 1959. The proposal would authorize the imposition of civil money penalties for certain violations of (A) an agreement entered into as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a work-out agreement; or (B) the regulatory agreement executed by the mortgagor. The penalty for violation of the agreement described in (A) above could not exceed the amount of the loss the Secretary would experience at a foreclosure sale, or a sale after foreclosure. The penalty for violation of the regulatory agreement would be capped at $25,000 for each of the specified violations.

The violations for which civil money penalties may be imposed under this section were selected from among the numerous violations which the Department may currently sanction. The Department considers the violations that would be subject to a civil money penalty under this section to be sufficiently egregious to warrant the imposition of a civil money penalty in appropriate circumstances.

While the majority of mortgagors comply with their commitments, the limited sanction presently available to the Secretary (such as declaring the mortgage in technical default for violation of the regulatory agreement, stopping subsidy payments, or foreclosing on the mortgage) have not been preventing a minority of recalcitrant mortgagors from disregarding their contractual obligations. These sanctions have a more adverse effect on the Department and the tenants than on the mortgagor. The results of the Department's declaration that a mortgage is in default are that the Department discontinues subsidy payments and the Department forecloses on the property at a loss. Due to these events, the project deteriorates physically and financially, with the consequent reduction in services to tenants. To avoid this, it is imperative that the Secretary have the ability to impose sanctions which are commensurate with the harm done by a recalcitrant mortgagor and which would deter mortgagors from disregarding their contractual obligations.

This amendment is similar to other civil money penalty proposals in this bill.

Need for the Legislation

Civil money penalties have proven to be an effective enforcement tool in Federal programs. Authority to impose civil money penalties for the violations involved here would provide an added incentive for mortgagors to comply with their agreements.

HUD lacks sufficient tools to assure that participants in its programs comply with program requirements. The applicable criminal penalties are often insufficient to ensure enforcement since problems of proof make criminal prosecution difficult. Authorizing the Secretary to impose civil money penalties for violations of specific program requirements will permit HUD more effectively to deter fraud and other violations under HUD programs. The possibility of civil money penalties should also help expedite execution of settlement agreements.

Gaps in existing legislation, primarily the Program Fraud Civil Remedies Act (PFCRA) and the False Claims Act, necessitate this amendment. No penalty can be secured under the PFCRA unless there is a false statement, in the form of a certification, or a false claim. The False Claims Act also requires a false claim. In many of HUD's mortgagor cases, however, certified false statements and false claims have not been involved.

Section-by-Section Analysis

Subsection (a) of proposed section 202a[3] would make clear that the civil money penalty would be in addition to other available civil remedies or any available criminal penalties, and may be imposed whether or not other administrative sanctions are imposed.

Subsection (b)(1) would give the Secretary discretionary authority to impose a civil money penalty on any mortgagor of property that (A) has five or more living units and (B) has a mortgage held pursuant to section 202 of the Housing Act of 1959 where the mortgagor has (i) a written agreement, executed as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a work-out agreement, to use non-project income (ii) to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities, for failure to comply with any of these commitments. (The reference to "Secretary" includes another department official.)

In most instances, where one of these agreements is executed, the Secretary agrees to provide additional subsidy resources or to forego mortgage payments for a period of time, and, in consideration of the Secretary's agreement, the mortgagor agrees to provide additional cash contributions to the project income stream to restore the project to acceptable financial and physical condition. If, after the Secretary has provided the additional resources, the owner fails to make the agreed upon cash contribution, the project will not be restored and the Department's section 202 loan fund will be further jeopardized.

Subsection (b)(2) would limit the amount of the civil money penalty for a violation of subsection (b)(1) to the amount of the loss the Secretary would experience at a foreclosure sale, or a sale after foreclosure.

Subsection (c)(1) would give the Secretary discretionary authority to impose a civil money penalty against any mortgagor of property that (A) has five or more living units and (B) has a mortgage held pursuant to section 202 of the Housing Act of 1959 for violations of the regulatory agreement executed by the mortgagor, as specified in subparagraphs (A)-(M).

Paragraph (1)(A) would provide for the imposition of a civil money penalty for the conveyance, transfer, or encumbrance of any of the mortgaged property, or for permitting such action without the prior written approval of the Secretary.

Paragraph (1)(B) would provide for the imposition of a civil money penalty for the assignment, transfer, disposition, or encumbrance of any personal property of the project, including rents, or paying out any funds, except for reasonable operating expenses and necessary repairs, without the prior written approval of the Secretary.

Paragraph (1)(C) would provide for the imposition of a civil money penalty for the conveyance, assignment, or transfer of any beneficial interest in any trust holding title to the property, or the interest of any general partner in a partnership owning the property, or any right to manage or receive the rents and profits from the mortgaged property, without the prior written approval of the Secretary.

Paragraph (1)(D) would provide for the imposition of a civil money penalty for remodeling, adding to, reconstructing, or demolishing any part of the mortgaged property or subtracting from any real or personal property of the project, without the prior written approval of the Secretary.

Paragraph (1)(E) would provide for the imposition of a civil money penalty where the mortgagor, as a condition of the occupancy or leasing of any unit in the project, requires any consideration or deposit other than the prepayment of the first month's rent, plus a security deposit in an amount not in excess of one month's rent, to guarantee the performance of the covenants of the lease. This paragraph is designed to protect low- and moderate-income tenants and assure equal access for all applicants.

Paragraph (1)(F) would provide for the imposition of a civil money penalty for the failure to keep any funds collected as security deposits separate and apart from all other funds of the project in a trust account, the amount of which at all times equals or exceeds the aggregate of all outstanding obligations under that account. This paragraph is designed to prevent use of the tenants' security deposits for project costs and, thus assure the availability of these moneys when the tenants vacate the premises, provided that the premises are returned to the mortgagor in good condition.

Paragraph (1)(G) would provide for the imposition of a civil money penalty for paying over $500 for services, supplies, or materials when such payment substantially exceeds the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished. While the majority of mortgagors are cost conscious, a minority do not adequately contain costs for reasons such as the lack of professional ability to do so; the receipt of kickbacks from the provider of the services, supplies, or materials; or an identity of interest with the firm supplying the services, supplies, or materials. This has an adverse impact on tenants whose rents are set at a level to pay for these costs. It can also have an adverse impact on the Department where it provides rent subsidies, or where the overpayment contributes to an insurance claim.

Paragraph (1)(H) would provide for the imposition of a civil money penalty for failure to maintain at any time the mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other related papers (including the failure to keep copies of all written contracts or other instruments which affect the mortgaged property) in reasonable condition for proper audit and for examination and inspection at any reasonable time by the Secretary or the Secretary's duly authorized agents. If the Secretary is to monitor and enforce mortgagor compliance with program requirements, it is imperative that these requirements be met.

Paragraph (1)(I) would provide for the imposition of a civil money penalty for failure to maintain the books and accounts of the operations of the mortgaged property and of the project in accordance with requirements prescribed by the Secretary. If the Secretary cannot impose sanctions to enforce compliance on the minority of recalci-

[3] All future references to subsections refer to subsections of proposed section 202a of the Housing Act of 1959, except for the reference in the last paragraph, which refers to subsection (b) of this proposed section of this bill.

trant mortgagors who fail to comply with this requirement, program enforcement is jeopardized since the project's cash flow is the cornerstone for maintaining the project in a good fiscal and physical condition.

Paragraph (1)(J) would provide for the imposition of a civil money penalty for failure to furnish the Secretary, within 60 days following the end of each fisal year, with a complete annual financial report based upon an examination of the books and records of the mortgagor, prepared and certified to by an independent public accountant or a certified public accountant and certified to by an officer of the mortgagor, unless the Secretary has approved an extension of the 60-day period in writing.

Paragraph (1)(K) would provide for the imposition of a civil money penalty when, at the request of the Secretary, the agents of the Secretary, the employees of the Secretary, or the attorneys of the Secretary, the mortgagor fails to furnish monthly occupancy reports or fails to provide specific answers to questions upon which information is sought relative to income, assets, liabilities, contracts, the operation and condition of the property, or the status of the insured mortgage.

Mortgagors of financially and physically solvent projects are not required to provide the Department with monthly accountings of cash income and outlays. When the Department becomes aware, however, that a mortgagor is having financial problems with regard to a particular project, it will require the mortgagor to provide monthly accounts of income and disbursements. This is necessary to assure the proper future maintenance of the project for the benefit of the tenants and to protect the Department from claims on the insurance funds.

Paragraph (1)(L) would provide for the imposition of a civil money penalty for failure to make promptly all payments due under the note and mortgage, including tax and insurance escrow payments, and payments to the reserve for replacements when there is adequate project income available to make such payments. This provision is designed to avoid having the mortgage go into default when there is adequate project income available for the required payments.

Paragraph (1)(M) would provide for the imposition of a civil money penalty for amendment of the mortgagor's articles of incorporation or by-laws, other than as permitted under the terms of the articles of incorporation approved by the Secretary, without the prior written approval of the Secretary. This paragraph is designed to assure the maintenance of the nonprofit status of the mortgagor and the regulatory controls imposed by HUD.

Subsection (c)(2) would cap the amount of the civil money penalty for a violation of subparagraphs (A)-(M) at $25,000 for a violation of any of those subparagraphs. The monetary penalties that would be provided under subsection (c)(2) are similar to civil money penalties that are provided in many other Federal statutes which authorize the administrative imposition of such penalties.

Subsection (d)(1) would require that the Secretary establish standards and procedures governing HUD's imposition of civil money penalties under subsections (b) and (c). In accordance with subparagraph (A), the Secretary or other department official (such as the Assistant Secretary for Housing) could make the determination to impose the penalty. In accordance with subparagraph (B), the standards and procedures would provide that the civil money penalty could not be imposed before the mortgagor had an opportunity for a hearing on the record by an Administrative Law Judge. Subparagraph (C) would authorize HUD to establish standards and procedures providing for review of any determination or order, or interlocutory ruling, arising from a hearing. If a hearing is not requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the civil money penalty would be a final and unappealable determination. If the Secretary reviews the determination or order of the Administrative Law Judge, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order of the Administrative Law Judge, the determination or order would be the final determination or order of the Secretary.

In implementing the proposed civil money penalty authority, the Department contemplates using, to the maximum extent possible, the existing review procedures in 24 CFR Part 26 (Proceedings Before a Hearing Officer). Thus, the new authority would be coupled with a well-known, existing procedure.

Subsection (d)(2) would set forth factors to be considered in determining the amount of the civil money penalty. These would consist of the gravity of the offense, any history of prior offenses (including those before enactment of this proposal, the ability of the borrower to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary determines in regulations to be appropriate.

Subsection (e) would give mortgagors the right to judicial review in the U.S. Court of Appeals. The court also would have jurisdiction to consider any ancillary issues, such as administrative sanctions, covered by the notice of determination to impose a penalty under subsection (d). Subsection (e) would also make it clear that the reviewing court has the authority to order payment of the civil money penalty. This would avoid the possibility of the court's upholding a determination or order imposing a civil money penalty without ordering payment, which could necessitate additional litigation to secure payment. As is the existing practice with respect to other civil monetary penalties, the findings and determinations of the Secretary in imposing civil money penalties would not be subject to trial *de novo* by the reviewing court.

Under subsection (f), the Department could request the Attorney General to institute an action in an appropriate U.S. district court against a person that fails to pay a civil money penalty after it has become a final and unappealable order. The action would seek a money judgment against the person as well as any other relief that may be available. The money judgment could include attorneys' fees and other expenses of the United States in bringing the action. The validity and appropriateness of the final order imposing the civil money penalty would not be subject to the review.

Subsection (g) would give the Secretary discretion to compromise, modify, or remit any civil money penalty before or after it has been imposed. Since it is the goal of this proposal to achieve compliance with the requirements of programs administered by the Department, subsection (g) would permit the Secretary to enter into settlements which would provide for such compliance, including compromise, modification, or return of any civil money penalties.

Subsection (h) would require the Secretary to issue regulations to implement the new authority.

Subsection (i) would provide for the Secretary to deposit the civil money penalties collected under this proposal into miscellaneous receipts of the Treasury.

Section 109(b) would provide that the new authority would only cover violations of the Act that occur after the effective date of the amendment. It is, however, intended that this legislation be applicable to existing mortgagors as well as those who enter the program in the future.

AUTHORITY FOR THE SECRETARY TO IMPOSE CIVIL MONEY PENALTIES ON GNMA ISSUERS

Section 110 would amend the National Housing Act by adding a new section 317, which would authorize the Secretary to impose civil money penalties on an issuer of GNMA mortgage-backed securities or a GNMA custodian for the specific violations of GNMA program requirements, as applicable, including:

(1) failure to make timely payments of principal and interest (P&I) to security holders;

(2) failure to properly segregate cash flow from mortgages;

(3) improper use of escrows;

(4) transfer of pool servicing to an issuer not approved by GNMA;

(5) failure to maintain GNMA's standards for minimum net worth;

(6) failure of an issuer to notify GNMA of a change in business status;

(7) submission of false information or a false certification to GNMA; and

(8) hiring an individual or retaining an employee when the issuer or custodian knew, or should have known, that the individual or employee was suspended or debarred from HUD programs.

The penalty under this proposal would be $5,000 per violation, with a $1 million cap per violator for any related series of violations occurring during any one-year period. In the case of a continuing violation, each day would constitute a separate violation. There would be an opportunity for a hearing before an Administrative Law Judge and judicial review of the decision by the Secretary.

HUD lacks sufficient tools to assure that participants in its programs comply with program requirements. The applicable criminal penalties are often insufficient to ensure enforcement since problems of proof make criminal prosecution difficult. Authorizing the Secretary to impose civil money penalties for violations of specific program requirements will permit HUD more effectively to deter fraud and other violations under HUD programs, thus strengthening the sanctioning process. The possibility of civil money penalties also should help expedite execution of settlement agreements.

This amendment is similar to other civil money penalty proposals in the bill.

Section-by-section explanation

Subsection (a)(1)[4] would give the Secretary discretionary authority to impose a civil money penalty against a GNMA issuer or custodian that violates the requirements set forth in subsection (b). (The reference to "Secretary" includes another department

[4] All references to subsections refer to subsections of proposed new section 317 of the National Housing Act, except for the reference in the last paragraph, which refers to subsection (b) of this proposed section of this bill.

official.) The civil money penalty would be in addition to other available civil remedies or any available criminal penalties, and may be imposed whether or not other administrative sanctions are imposed.

Subsection (a)(2) would limit the amount of the civil money penalty to $5,000 for each violation, except that the maximum penalty for all violations committed by a GNMA issuer or custodian during any one-year period could not exceed $1 million. In the case of a continuing violation, each day would constitute a separate violation. These monetary standards are similar to many other civil money penalty provisions.

Subsections (b)(1)(A)-(J) would list the violations which may warrant the imposition of civil money penalties. The Department considers these violations to be sufficiently egregious to warrant the imposition of civil money penalties in appropriate circumstances. Subparagraph (b)(1)(K) covers violations of other statutory and administrative requirements.

Subsection (b)(1)(A) would provide for the imposition of a civil money penalty when a GNMA issuer fails to make a timely pass-through of principal and interest (P&I) payments from pooled mortgages to holders of GNMA securities. Timely receipt of P&I by investors is the cornerstone of the GNMA mortgage-backed securities program, and failure by an issuer to comply with this GNMA program requirement reduces investor confidence and increases expenditures by GNMA under its guaranty of timely payment to investors.

Subsection (b)(1)(B) would provide for the imposition of a civil money penalty when a GNMA issuer (as a mortgage servicer) fails to segregate all funds received from a mortgagor, whether P&I funds or escrow funds, or fails to deposit these funds in special custodial accounts with a depository institution whose accounts are insured by the National Credit Union Administration or by the Federal Deposit Insurance Corporation through the Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations. A failure to segregate escrow funds would make accounting for these amounts difficult and could encourage the improper diversion of these funds or other illegal activity. Diversion or failure to place these funds in insured accounts could result in increased GNMA expenditures (for P&I pass-through payments to investors) or increased mortgagor expenditures and/or default (for payment of escrow items such as taxes and insurance).

Subsection (b)(1)(C) would provide for the imposition of a civil money penalty when a GNMA issuer or custodian uses escrow funds for any purpose other than that for which they were received.

Subsection (b)(1)(D) would provide for the imposition of a civil money penalty when a GNMA issuer transfers servicing of a pool of mortgages to a servicer that has not been approved by GNMA, unless the transfer is expressly permitted by statute, regulation, or contract approved by the Secretary. Title III of the National Housing Act, known as the "Charter Act," contemplates that GNMA will provide a guarantee to security holders only with regard to a pool of mortgages serviced by an issuer that meets the requirements of the Charter Act. GNMA funds are at risk when a pool of mortgages is transferred to an issuer that does not meet these requirements.

Subsection (b)(1)(E) would provide for the imposition of a civil money penalty when a GNMA issuer fails to maintain a minimum net worth. GNMA funds are at risk if an issuer has insufficient financial resources to make timely payment on GNMA-guaranteed securities from its own funds when payments on pooled mortgages are delinquent.

Subsection (b)(1)(F) would provide for the imposition of a civil money penalty if an issuer fails to notify GNMA of a substantial change in its business status. For example, GNMA funds could be at risk if ownership of an issuer (and responsibility for servicing of pooled mortgages) changes without approval from GNMA.

Subsection (b)(1)(G) would provide for the imposition of a civil money penalty when an issuer or a custodian knew, or should have known, that information submitted to the Secretary was false. Issuers must provide accurate information if GNMA is to avoid costly claims on its guaranty of mortgage-backed securities. Under this provision, an issuer or a custodian would be subject to a civil money penalty if any of its employees knew, or should have known, that information submitted to GNMA was false.

Subsection (b)(1)(H) would permit the Secretary to impose a civil money penalty when an issuer or custodian hires an officer, director, principal, or employee whose duties will involve GNMA programs, directly or indirectly, when the issuer or custodian knew, or should have known, that the person was under suspension or debarment by the Secretary. Penalties also could be imposed when an issuer or custodian employs an officer, director, principal, or employee who continues to be involved in GNMA programs, directly or indirectly, when the issuer or custodian knew, or should have known, that the person was under suspension or debarment by the Secretary.

Subsection (b)(1)(I) would permit the Secretary to impose a civil money penalty on an issuer or custodian that submits a false certification to GNMA. Costly claims against GNMA could result from false certifications. This subsection also would permit the Secretary to impose a civil money penalty on an issuer that knowingly submits a false certification by another person or entity.

Subsection (b)(1)(J) would permit the Secretary to impose a civil money penalty on an issuer that fails to comply with an agreement, certification, or condition of approval set forth on, or applicable to, the application for approval as an issuer by GNMA. Approval by GNMA is conditioned upon commitments made by the issuer in its issuer application as well in the process of forming a pool of mortgages backing GNMA-guaranteed securities. For example, an issuer agrees to permit an examination of its records and accounts by GNMA. Failure of an issuer to comply with this commitment could put GNMA funds at risk.

Subsection (b)(1)(K) would permit the Secretary to impose a civil money penalty for the violation of any provisions of the Charter Act or any implementing regulation, handbook, or GNMA participant letter that is issued under the Charter Act. Since legislation cannot provide for every conceivable violation, this subsection would give the Secretary the flexibility to impose civil money penalties for violations of any other requirements in the Charter Act.

Subsection (b)(2) would require the Secretary to inform the Attorney General of the United States before taking action to impose a civil money penalty for a violation described in subsection (b)(1)(G) or (b)(1)(I).

Subsection (c)(1) would require that the Secretary establish standards and procedures governing HUD's imposition of civil money penalties under subsection (a). Under subsection (c)(1)(A), the standards would provide for the Secretary to make the determination to impose the penalty. Under subsection (c)(1)(B), the standards and procedures would provide that the civil money penalty could not be imposed before the issuer or the custodian had an opportunity for a hearing on the record before an Administrative Law Judge. If a hearing is not requested within 15 days of receipt of a notice of opportunity for hearing, the imposition of the civil money penalty would constitute a final and unappealable determination. Subsection (c)(1)(C) would authorize HUD to establish standards and procedures providing for review of any determination or order, or interlocutory ruling, arising from a hearing.

Subsection (c)(1)(C) would also provide that if the Secretary reviews the determination or order of the Administrative Law Judge, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order of the Administrative Law Judge, the determination or order would be the final determination or order of the Secretary.

In implementing the proposed civil money penalty authority, the Department contemplates using, to the maximum extent possible, the existing review procedures in 24 CFR Part 26 (Proceedings Before a Hearing Officer). Thus, the new authority would be coupled with a well-known, existing procedure.

Subsection (c)(2) would set forth the factors to be considered in determining the amount of the civil money penalty. These factors would include the gravity of the offense, any history of prior offenses (including those before enactment of this amendment), the ability of the issuer or the custodian to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary determines through regulations.

Subsection (d) would give issuers and custodians the right to judicial review in a U.S. court of appeals. The court also would have jurisdiction to consider any ancillary issues covered by the notice of determination to impose a penalty under subsection (c). Subsection (d) would clarify that the reviewing court has the authority to order payment of the civil money penalty. This clarification would avoid the possibility of the court's upholding a determination or order imposing a civil money penalty without ordering payment, as is the practice with other civil monetary penalties, which could necessitate additional litigation to secure payment. The findings and determinations of the Secretary in imposing money penalties would not be subject to trial *de novo* by the reviewing court.

Under subsection (e), the Department could request the Attorney General to institute an action in an appropriate U.S. district court against an issuer or a custodian that fails to pay a civil money penalty after the penalty becomes a final and unappealable order. The action would seek a money judgment against the issuer or the custodian, as well as any other relief that may be available. The money judgment could include attorneys' fees and other expenses of the United States in bringing the action. The validity and appropriateness of the final

order imposing the civil money penalty would not be subject to review.

Subsection (f) would give the Secretary discretion to compromise, modify, or remit any civil money penalty before or after it has been imposed. The goal of this legislative proposal is to achieve compliance with the requirements of programs administered by the Department; consequently, subsection (f) would permit the Secretary to enter into settlements which would provide for such compliance, including compromise, modification, or return of any civil money penalties.

Subsection (g) would require the Secretary to issue regulations to implement the new authority.

Subsection (h) would provide for the Secretary to deposit all civil money penalties collected under this legislative amendment into miscellaneous receipts of the Treasury.

Section 110(b) would provide that the new authority would only cover issuer violations that occur after the effective date of the amendment. In the case of a continuing violation (as determined by the Secretary), the new authority would apply to any portion of the violation occurring on or after that effective date.

AUTHORITY FOR THE SECRETARY TO IMPOSE CIVIL MONEY PENALTIES FOR VIOLATIONS OF THE INTERSTATE LAND SALES FULL DISCLOSURE ACT

Section 111 would amend section 1423 of the Interstate Land Sales Full Disclosure Act to authorized HUD to impose civil money penalties against land developers for violations of the Act which relate to: the failure to register non-exempt subdivisions; the failure to provide full and accurate disclosure to consumers; and the use of deception, misrepresentation, or fraud in the promotion and sale of their properties. The penalties under this proposal would be $1,000 per violation, up to $1 million a year per violator for any related series of violations, after opportunity for a hearing. In the case of a continuing violation, each day would constitute a separate violation.

This amendment is similar to other civil money penalty proposals in the bill.

Civil money penalties have proven to be an effective enforcement tool in Federal programs. Authority to impose civil money penalties for the violations involved here would provide an added incentive for developers to comply with the Interstate Land Sales Act's requirements, thereby resulting in more accurate and complete disclosure to the public. The provision that, in the case of a continuing violation, each day will constitute a separate violation will also increase the incentive for developers to comply with the Act. One of the common violations of the Act, is the failure to register non-exempt subdivisions with HUD, which is a continuing violation.

HUD lacks sufficient tools to assure that participants in its programs comply with program requirements. The applicable criminal penalties are often insufficient to ensure enforcement since problems of proof make criminal prosecution difficult. Authorizing the Secretary to impose civil money penalties for violations of specific program requirements will permit HUD more effectively to deter fraud and other violations under HUD programs. The possibility of civil money penalties should also help expedite execution of settlement agreements.

Currently, the most serious civil sanction HUD can impose administratively for violations of the Interstate Land Sales Full Disclosure Act is the relatively mild one of requiring that developers offer refunds to affected purchasers. In order to secure a more severe civil penalty, the Department must file suit in Federal court seeking an injunction and ancillary relief. Because court action is lengthy and labor-intensive, HUD cannot file many suits, and even where it has filed and prevailed, sanctions have not been imposed quickly. Although the Act also provides for criminal suits, this is a limited enforcement tool since the violations must be willful. Accordingly, few criminal prosecutions have been brought. Where such actions have been brought and decisions rendered for the government, penalties have not been imposed quickly. As a result, a significant number of developers have chosen to take the risk of violating the Act. The potential imposition of a monetary fine, in addition to the existing penalties, would curtail, if not extinguish, this attitude.

The penalty provided by this proposal would be $1,000 per violation although it would be $5,000 under the proposal authorizing penalties against FHA mortgages and lenders. This proposal would provide for a lower penalty per violation because (1) the higher penalty would be unduly burdensome to companies in the land sales industry; and (2) there is apt to be a greater number of violations of the Interstate Land Sales Full Disclosure Act than of FHA program requirements, and, accordingly, a lower penalty per violation can serve as a deterrent.

Subsection (a)(1)[5] would give the Secretary discretionary authority to impose a civil money penalty against any person who violates any of the provisions of the Interstate Land Sales Full Disclosure Act, or any rule, regulation, or order issued under it. It would make clear that the money penalty would be in addition to other available civil remedies or any available criminal penalties, and may be imposed whether or not other administrative sanctions are imposed.

Subsection (a)(2) would limit the amount of the civil money penalty to $1,000 for each violation, except that the maximum penalty for all violations committed by a developer during any one-year period could not exceed $1 million. In the case of a continuing violation, each day would constitute a separate violation. These monetary standards are similar to many other civil money penalty provisions.

Subseciton (b)(1) would require that the Secretary establish standards and procedures governing HUD's imposition of civil money penalties under subsection (a). (The reference to "Secretary" includes another department official.) In accordance with subsection (b)(1)(A), the standards and procedures would provide that the civil money penalty could not be imposed by the Secretary before the developer had an opportunity for a hearing on the record by an Administrative Law Judge. If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty would constitute a final and unappealable determination. Subsection (b)(1)(B) would authorized HUD to establish standards and procedures providing for review of any determination or order, or interlocutory ruling, arising from a hearing. If the Secretary reviews the determination or order of the Administrative Law Judge, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order of the Administrative Law Judge, the determination of order would be the final determination or order of the Secretary.

In implementing the proposed money penalty authority, the Department contemplates using, to the maximum extent possible, the existing review procedures in 24 CFR Part 26 (Proceedings Before a Hearing Officer). Thus, the new authority would be coupled with a well-known, existing procedure.

Subsection (b)(2) would set forth factors to be considered in determining the amount of the civil money penalty. These would consist of the gravity of the offense, any history of prior offenses (including those before enactment of this proposal), the ability of the developer to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary determines in regulations to be appropriate.

Subsection (c) would provide for judicial review in a United States court of appeals, as provided currently in section 1411 of the Act. Subsection (c) would also make it clear that the reviewing court has the authority to order payment of the civil money penalty.

Under subsection (d), the Department could request the Attorney General to institute an action in an appropriate U.S. district court against a person that fails to pay a civil money penalty after it has become a final and unappealable order. The action would seek a money judgment against the person as well as any other relief that may be available. The money adjustment could include attorneys' fees and other expenses of the United States in bringing the action. The validity and appropriateness of the final order imposing the civil money penalty would not be subject to the review.

Subsection (e) would give the Secretary discretion to compromise, modify, or remit any civil money penalty before or after it has been imposed. Since it is the goal of this proposal to achieve compliance with the requirements of programs administered by the Department, subsection (e) would permit the Secretary to enter into settlements which would provide for such compliance, including compromise, modification, or return of any civil money penalties.

Subsection (f) would require the Secretary to issue regulations to implement the new authority.

Subsection (g) would provide for the Secretary to deposit the civil money penalties collected under this proposal into miscellaneous receipts of the Treasury.

Section 111(b) would provide that the new authority would only cover violations of the Act that occur after the effective date of the amendment. In the case of a continuing violation (as determined by HUD), the new authority would apply to any portion of the violation occurring on or after that effective date.

CONSULTANT REFORMS

Section 112 would establish a strict requirement that consultants, lobbyists, and lawyers who attempt to influence departmental decisions for clients attempting to obtain assistance from HUD or that are involved in a management action (including sanctions), must register with the Department. In addition, all those applying for as-

[5] All references to subsections refer to subsections of proposed revised section 1423 of the Interstate Land Sales Full Disclosure Act, except for the reference in the last paragraph, which refers to subsection (b) of this section of this bill.

sistance or involved in a management action would be required to disclose any fees paid to consultants, lobbyists, and lawyers to influence the Department's decision. The Secretary would have the authority to deduct any such fees from the amount of assistance, reduce the amount of insurance for which the applicant otherwise would have been eligible by the amount of the fees, or take the fees into account when taking the management action. The Secretary also would have the authority to impose civil money penalties of up to $10,000 for each failure to register or to provide information with respect to fees.

Persons who spend or receive less than $5,000 in any calendar quarter and less than $10,000 in any Federal fiscal year to influence a departmental decision would be exempt from the reporting and registration requirements of this section. This would allow, for example, PHA consultants to provide necessary technical and professional assistance to PHAs without subjecting either the PHAs or consultants to the requirements of this section.

Many of HUD's worst problems first came to light in the Inspector General's reports to Congress. Among the issues addressed in these reports were allegations that housing grants had been awarded to certain developers who paid huge fees to politically connected consultants and lobbyists who did little more than open doors and place phone calls. In the past, politically connected consultants have received as much as $1,500 per unit to arrange funding awards in advance of public notice. This section would help assure that influence peddlers who earn substantial sums of money for making a few phone calls would be put out of business. If such activities had been subject to the requirements of this section, they never would have happened.

This section would require each person who makes an expenditure (above the threshold) to influence a departmental decision with respect to any assistance within the jurisdiction of the Department or any management action with respect to such assistance to file annual reports with the Secretary. The term "assistance within the jurisdiction of the Department" would include any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages. The term "management action" would include any action involving any assistance within the jurisdiction of the Department that has been or is planned to be, taken, or is under consideration, including any administrative sanction, recovery or conditioning of assistance, abatement of rents in whole or in part, determination of default, or any other measure affecting any person. It also would require each person who receives payment to influence such departmental decisions to register with the Secretary and to file annual reports for as long as the activity continues. Both types of reports would be published in the Federal Register.

The reports would contain detailed information with respect to expenditures made or payments received to influence departmental decisions, including the persons, amounts, dates, and purposes involved. However, the reports would exclude payment or reasonable compensation made to regularly employed officers and employees of the person who requests or receives assistance within the jurisdiction of the Department, or who is involved in any management action with respect to such assistance.

This section also would authorize the Secretary to impose civil money penalties of up to $10,000 for each violation for failure to file the reports required under this section. (The reference to "Secretary" would include another department official or an administrative entity.) The authority to impose this penalty would be in addition to any other available civil remedy or any available criminal penalty, and could be imposed whether or not the Secretary imposes other administrative sanctions. The person against whom the Secretary assesses a penalty would have an opportunity for a hearing by an Administrative Law Judge. After exhausting all administrative remedies, the person could file an appeal with the appropriate court of appeals of the United States. HUD would deposit civil money penalties collection under this section into miscellaneous receipts of the Treasury.

The section would take effect on the date specified in regulations implementing this section that are issued by the Secretary after notice and public comment. The regulations would establish standards that include determinations of what types of activities constitute influence with respect to departmental assistance decisions and management actions.

The Department notes that this section would overlap with the consultant reform provision (Byrd Amendment) in the Department of Interior appropriations Act (P.L. 101-121), which was signed by the President on October 23, 1989. However, in light of the problems at HUD with respect to consultants that have recently been uncovered, the Department believes that it needs the unique features of this consultant reform provision to address these problems. This provision differs from the Byrd Amendment in several respects, including: (1) the requirement that consultants register with HUD or be subject to a penalty; (2) the extension of coverage to management actions, including sanctions; and (3) the authorization of the Secretary to deduct consultant fees from assistance. The Department will work with Congress to eliminate the overlap between these two provisions.

TITLE II—MANAGEMENT REFORM

APPOINTMENT OF CHIEF FINANCIAL OFFICER AND FHA COMPTROLLER

Section 210 would amend section 4 of the Department of Housing and Urban Development Act to require the Secretary to appoint a Chief Financial Officer (CFO) and an FHA Comptroller. The CFO would be selected on the basis of demonstrated ability in financial management and financial systems development and operations, and would serve as the principal advisor to the Secretary on financial management. The CFO would, among other things, be responsible for (1) developing and maintaining a financial management system for the Department, (2) supervising and coordinating all financial management activities and operations of the Department, and (3) assisting in the financial execution of HUD's budget. The Chief Financial Officer would report to the Secretary through the Under Secretary.

The FHA Comptroller would be designated by the Secretary and report directly to the Assistant Secretary for Housing/FHA Commissioner. The Comptroller would conduct activities within the overall financial management systems developed and operated by the CFO. Responsibilities of the FHA Comptroller would include preparation of comprehensive FHA internal financial statements, maintaining the FHA general ledger and subsidy ledgers, and other activities related to the financial operations of FHA.

The appointment of these two officials would greatly assist the Department in resolving current financial problems due to past financial mismanagement and fraud, and would ensure against future financial mismanagement and fraud. In recent testimony on FHA performance, a representative of the General Accounting Office stated that the appointment of a chief financial officer within HUD and a corresponding comptroller in FHA would be an important part of the solution to HUD/FHA financial problems.

For example, inadequate attention paid by HUD officials and employees to the reconciliation of accounts, management reports, and cash tracking contributed to the recent cases of embezzlement of FHA funds by closing agents. Essentially, no one person at HUD (below the Secretarial level) was responsible for making sure that the different housing program offices and housing computer systems were working together to prevent fraud. The Chief Financial Officer and FHA Comptroller could prevent a reoccurrence of these types of theft since they would be responsible for ensuring that cash management systems are tightly controlled.

Moreover, section 301 of this bill would require FHA to publish annual audited financial statements, prepared by an independent accounting firm. The FHA Comptroller would be responsible for ensuring that all accounting systems are well-managed and capable of being fully audited every year. Results would be consolidated with the HUD general ledger under the auspices of the Chief Financial Officer and then transmitted to the Congress and published each year.

PROGRAM EVALUATION AND MONITORING

Section 202 would authorize the Secretary to use up to 0.5% of the amounts appropriated for the programs noted below for evaluation and monitoring of these programs (including the entire public housing and section 202 programs). The specific amount that could be drawn from each program would be set forth in an appropriation Act. In addition to specifying the amount, the appropriation Act would also specify the account to which the specified amounts would be transferred, i.e., Salaries and Expenses, Research and Technology, or possibly others. The programs affected would be these:

Public and Indian housing development and modernization,
Section 202 rental handicapped assistance,
Counseling,
Fair Housing Assistance,
CDBG and Urban Homesteading,
Section 8 rental assistance,
Flexible subsidy,
Congregate housing,
Child care demonstration,
Fair Housing Initiatives,
McKinney Act homeless assistance, and
Rental Rehabilitation.

HUD spends between $17 and $18 billion per year in grants and assistance, but less than $25 million for evaluation, monitoring, and related research to detect flaws in program design and improve program operations. Funding for HUD's Office of Policy Development and Research has dropped from $50 million in 1980 to $17 million in 1989. Of this, less than $6 million is available for new activities; the rest is committed to continue the American Housing Survey and other Census-conducted surveys, as re-

quired by law. Accordingly, essential program evaluations and monitoring activities have been postponed.

The section 8 rental assistance program illustrates the need for better evaluation information. The Department lacks complete records for about the 2.4 million households that it assists at a cost of approximately $10 billion per year, as well as other information needed to evaluate where program improvements are needed. Increased expenditures for evaluation and monitoring will be more than offset by averting unnecessary payments, waste, and fraud in connection with the section 8 and other programs of the Department. The kinds of evaluation activities the Department would consider undertaking under this proposal include:

Homeownership and Affordable Housing. Evaluations of the effectiveness of various housing assistance programs in reaching the appropriate population, in improving the housing and general living conditions of recipients, and in increasing economic opportunities for recipients. These evaluations will assess how different assistance strategies work for different populations and in different economic conditions. Evaluations of techniques to prevent or cure default problems in multifamily projects.

Homelessness. Evaluations of the HUD McKinney Act programs to determine if funds are reaching the people who need help and are being used effectively, as well as evaluations of the impact of homeless assistance on recipients, including its effectiveness in keeping formerly homeless people from becoming homeless again.

Drug-Free Public Housing. Evaluations of the effectiveness of strategies to reduce the vulnerability of particular housing environments to drugs and evaluations of the impact of successful strategies on tenant living conditions and tenant economic status.

Resident Management and Homesteading. Evaluations of the effectiveness of resident management corporations (RMCs) in improving tenant living conditions; and evaluations of urban homesteading programs.

Economic Development and Enterprise Zones. New evaluations of the entitlement and State CDBG programs and the development of baseline data for determining the impact of enterprise zones.

Fair Housing. Evaluations to determine the effectiveness of HUD's implementation of the new fair housing law, and of activities funded by the Fair Housing Initiatives program, in combatting discrimination against minorities and other protected classes.

Only programs for which grant or other assistance funds are appropriated would be subject to the set-aside. The insurance and direct loan programs (other than Housing for the Elderly and Handicapped) do not receive such appropriations, and would not be covered by this proposal. The Research and Technology and Salaries and Expenses accounts, and in some circumstances the FHA Funds themselves, would normally be available to fund activities similar to those contemplated in this proposal. The amount appropriated for the Public Housing Operating Subsidy program also would not be affected, since the amount appropriated for that program is intended to be 100% of the amount necessary to provide for the operation of public housing. The amounts available for public housing, however, could be used to evaluate and monitor the entire program.

Finally, to assure that all amounts set aside are used expeditiously, the amount set aside would be centrally controlled and any amounts that remain available for obligation at the end of the fiscal year after the fiscal year for which they were appropriated would be rescinded.

EXPEDITING HUD RULEMAKING

Section 203 would make a small but significant change in the congressional review procedures that apply to the production of HUD rules. The change is designed to retain the existing machinery for congressional oversight of HUD rules, while avoiding the extended production delays that are an unintended, but sometimes severe, harmful side effect of the present law.

Current Section 7(o)

Section 7(o) of the Department of Housing and Urban Development Act—HUD's legislative review statute—was adopted in 1978 as a means of strengthening congressional oversight of the regulations development process at HUD. The statute has the following principal features:

Semiannual Agenda of Regulation. HUD is required twice annually to submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an agenda of all regulations that the Department has under development or review.

Rules to be published for comment. The Department may not publish for comment in the *Federal Register* any regulation on the Semiannual Agenda for 15 "congressional session days" after the Agenda's submission. If, within this period, either Banking Committee requests review of particular regulations on the Agenda that was to be published for comment, each requested regulation must be submitted to both Committees for a period of 15 "congressional session days" before it is published.

Rules published for effect. Any HUD rule published for effect must have its effectiveness delayed for 30 "congressional session days" after its date of publication. If, during that period, either Committee reports out, or is discharged from further consideration of, a joint resolution of disapproval or other legislation intended to modify or invalidate the regulation, the rule's effectiveness must be delayed for an additional 90 calendar days from the date of the Committee's action.

Calculation of "congressional session days." The 15- and 30-day clocks must begin anew if interrupted by an adjournment of Congress *sine die,* and the count of "congressional session days" is suspended during any recess of either House of more than three days.

Deficiencies in the Current Process

Section 7(o) suffers from a major defect. Use of "congressional session days" to calculate the 15- and 30-day waiting periods has seriously impeded the Department's ability to implement its regulatory priorities. The congressional calendar for each year is sprinkled with recesses, including an "August recess" of about a month. The longer the waiting period, the greater the delay in the Department's ability to promptly publish rules that either Committee has selected from the Agenda, or to make any published rule effective.

The delays have been particularly troublesome where Congress adjourns *sine die.* These adjournments typically occur in October or November and continue until Congress returns the following January. The "dead time" occasioned by adjournments *sine die* can delay the effectiveness of a published rule for five months or more.

The treatment of HUD rules at the end of the 100th Congress (last year) provides a good example of the excessive delays brought about by the present congressional review provisions. The Congress adjourned on October 21, 1988. In order to satisfy section 7(o)'s waiting periods in calendar year 1988, the following types of rules would have been required to reach the following stages:

Rule requested from the Agenda, to be published for comment: Rule must have been sent to the Banking Committees by October 7, 1988.

Published rule to take effect: Rule must have been *published* by September 22, 1988.

Interim rule requested from the Agenda, to be published for comment and for effect: Rule must have been published by September 7, 1988 (a total of 45 "session days:" 15—since the rule is to be published for public comment—and 30—since the rule is also to be published for effect).

A rule that failed to meet these dates, even by one day, would lose all its "review" days in the 100th Congress, and would have to begin again in the 101st Congress. Given the congressional schedule for the 101st Congress, the "review" periods would be satisfied as follows:

Rule requested from the Agenda, to be published for comment: Could be published after February 7, 1989.

Published rule to take effect: Could take effect on March 6, 1989.

Interim rule requested from the Agenda, to be published for comment and for effect: Could take effect on April 4, 1989.

Thus, for rules that failed to meet the applicable waiting periods in the 100th Congress by one day, the delays occasioned by operation of section 7(o) would be:

Four months for a requested rule to be published for comment.

Almost six months for a published rule to take effect.

Amost seven months for a requested interim rule to take effect.

Clearly, these delays are crippling to the Department's ability to implement rule priorities. It is also worth noting that this "all or nothing" feature of section 7(o) takes its toll on all HUD regulations—including those needed to implement policy initiatives that the Congress and HUD both consider priorities.

In addition, section 7(o)'s schedule forces the Department to take into account what should be a wholly irrelevant consideration in managing its regulatory program—the congressional calendar. Rules production often turns on whether there are enough "congressional session days" to accommodate a proposed or final rule, without regard to the relative priority of the task.

The Amendment

Based on the above analysis, the Department has sought repeal of section 7(o) several times in the past. It is clear, however, that the Banking Committees continue to believe that a special tool for regulatory oversight is needed. Section 203 is the Department's response to this impasse.

This proposal would retain the legislative review framework in its entirety. However, it would eliminate the "congressional session day" as the unit of measurement for determining the length of review time to which rules are made subject.

Rules requested from a HUD agenda for review by either Banking Committee would,

under the proposal, undergo review for 15 calendar days.

Any HUD rule published for effect would be required to await 30 calendar days after its publication before it could become effective. (Interim rules, as in the past, would be subject both to a 15-day prepublication review period and the 30-day waiting period following publication—but the periods would be measured in calendar days.)

Under current section 7(o), the 15- and 30-day waiting periods are suspended by extended congressional recesses and stopped entirely by adjournments sine die. As noted, this feature of section 7(o) has caused delays in the Department's regulatory efforts, and has distorted the Department's regulatory priorities.

The proposal would address these problems by permitting the 15- and 30-day clocks to continue running during periods of congressional absence.

The Department believes that this approach strikes a reasonable balance between the oversight needs of the Congress and the Department's rulemaking responsibilities. Congress would be provided an adequate period to review HUD rules, and the Department's rulemaking priorities would be delayed to permit this review, but would not be brought to a half for extended periods.

There have been virtually no instances in recent years when the Congress used the legislative review process for the purpose of attempting to stop a HUD rule by formal legislative means. Most often, congressional objections to rules submitted for prepublication review are expressed informally in communications to the Department, and HUD has reacted, in the rare instances where such communications have occurred, on a case-by-case basis, depending upon the nature of the objection. Neither 15 calendar days nor 15 session days will normally be an adequate time for more than such informal communications. However, 15 calendar days—even during a recess—is enough time for a member to communicate his or her displeasure about a policy choice to the Secretary.

Similarly, the Congress can always use its influence to alter the course of HUD rules—even those published for effect—during the 30-day waiting period that the amended law would provide. The proposed revision recognizes that, whether or not the Congress is in session, committee members and their staffs are at work and are in a position to communicate with HUD any concerns they may have about a rule.

RATIFICATION OF THE USE OF NATIONAL COMPARABILITY PROCEDURES FOR SECTION 8 RENTS

Section 204 would recognize that HUD is authorized to use comparability studies in the implementation of section 8(c)(2) of the United States Housing Act of 1937. It would also expressly ratify and declare valid the interpretation that HUD has accorded section 8(c)(2) of the 1937 Act in HUD's past and continuing use of comparability studies under section 8(c)(2)(C) of the 1937 Act as an independent limitation on the amount of rental adjustments that would otherwise result from application of the annual adjustment factors (AAF) under section 8(c)(2)(A) of the 1937 Act. This section would also provide that where litigation has resulted in a judgment before the date of enactment of this section that is final and not appealable (including an order of settlement) and that is inconsistent with HUD's interpretation of section 8(c)(2), the ratification could not be used as the basis for requiring the repayment of amounts paid by HUD in accordance with the judgment or for refusal by HUD to pay amounts required by the judgment.

This section would correct the recent decision in *Rainier View Associates* v. *U.S.* 848 F.2d 988 (9th Cir. 1988), cert. denied, —— U.S. ——, 109 S. Ct. 2065 (1989), which declared that HUD lacked authority to use comparability studies to limit adjustments under the AAF as a means of satisfying section 8(c)(2)(C)'s mandate that rents provided under section 8(c)(2) "not result in material differences between the rents charged for assisted and comparable unassisted units". The Ninth Circuit holding is contrary to the intent of the statute since it wrongfully deprives the Secretary of the discretion Congress gave the Department to determine how to implement the comparability limit in section 8(c)(2)(C) and frustrates that section's purpose by allowing project owners to receive unjustified windfall profits through rent adjustments which would raise rents above market rates. Congress has already recently reviewed section 8(c)(2)(C), and in section 142(c)(2)(B) of the Housing and Community Development Act of 1987 implicitly accepted the Department's use of comparability studies by amending the statute to allow them to be used to limit AAFs if done on a timely basis. HUD's construction of section 8(c)(2)(C) has also been a predicate for the amounts appropriated for the section 8 program.

The *Rainier View* judgment and related litigation have already obliged HUD to pay $12 million in retroactive rents, and may require an added amount up to about $3 million. HUD estimates that if the *Rainier View* ruling were to be applied to all affected section 8 projects within the Ninth Circuit's jurisdiction alone, the potential financial exposure for retroactive payments might amount to as much as $200 million, and the cost of prospective rent increases over the next 10 years on the same basis may be another $300 million. Moreover, HUD estimates that if the Ninth Circuit case were applied nationwide, the Federal government's potential cost would reach as much as $1 billion for retroactive payments; and if the rationale for the case is applied in the future, it could cost an additional $1.5 billion over the next 10 years.

This section would also statutorily provide for an appeals procedure for project owners who wish to contest the findings of a comparability study. The appeals procedure under this section is consistent with the process currently employed by HUD with the exception that project owners who have not previously appealed the findings of a past comparability study would be given a window of 30 days from date of enactment if they wish to contest the findings of that study. HUD would be required within 1 year of enactment to publish proposed regulations requesting public comment and final regulations implementing an appeals procedure for owners to contest the findings of future comparability studies.

TARGETING CDBG AMOUNTS TO PERSONS OF LOW AND MODERATE INCOME

Section 205 would amend the Community Development Block Grant (CDBG) Program under title I of the Housing and Community Development Act of 1974 to improve the targeting of CDBG assistance to persons of low and moderate income.

Existing law contains two distinct provisions dealing with the relationship between assisted activities and benefit to low- and moderate-income persons. First are the three national objectives. Each activity that a grantee funds through the CDBG program must meet one of the three national objectives: benefit to low- and moderate-income persons; elimination or prevention of slums and blight; or meeting an urgent need.

Second is the extent to which assisted activities are used to benefit low- and moderate-income persons. Within the national objectives, a grantee is required to use 60% of the aggregate amounts it expends under the program—both section 106 grants and section 108 loan guarantee proceeds—over a one-to three-year period, as designated by the grantee, for activities that benefit low- and moderate-income persons.

The second requirement conveys the impression that at least 60% of the CDBG program's beneficiaries must be of low and moderate income. For the reasons stated below, this is not the case.

As a general rule, once an activity meets the national objective of benefiting low- and moderate-income persons, all the CDBG dollars spent on the activity are counted for purposes of meeting the 60% aggregate benefit counting requirement. An activity may qualify as meeting the national objective of benefiting low- and moderate-income persons if at least 51% of the activity's beneficiaries are low- and moderate-income persons. Thus, if a grantee spends 60% of its CDBG funds for an activity that has 51% low- and moderate-income beneficiaries, it would be credited with 60% "low/mod" benefit, even though perhaps only as low as 31% of all its funds actually benefited low- and moderate-income persons.

In certain "exception" communities (see section 105(c)(2) of the 1974 Act), an activity can qualify under the national objective of benefit to low- and moderate-income persons even if the percentage of "low/mod" beneficiaries is substantially less than 51%. Since all CDBG dollars spent on activities meeting this objective "count" toward the 60% aggregate benefit requirement, these "exception" communities can have overall programs that benefit low- and moderate-income persons even lower than the 31% figure discussed above. The lack of overall CDBG targeting is underscored by the fact that these "exception" communities account for 25% to 30% of all CDBG entitlement grantees.

The Department believes that these "low/mod" benefit provisions are insufficiently targeted. Particularly in this time of scarce Federal resources, the Department believes that available amounts should be directed more fully to those who need them most—low- and moderate-income persons. The proposal seeks to accomplish this end in three ways.

First, the proposal would increase from 60% to 75% the percentage of CDBG amounts—section 106 grants and section 108 loan guarantee proceeds—that must be used to benefit low- and moderate-income persons. This increase would recognize the overall need to more tightly target CDBG amounts to benefit low- and moderate-income persons, while still providing a measure of discretion in selecting activities to be carried out for this purpose.

Second, the proposal would require that all activities carried out by more affluent units of general local government benefit low- and moderate-income persons. Thus, these communities could not carry out CDBG activities that are designed to prevent or eliminate slums or blight or to meet urgent needs. This element of the proposal recognizes the fact that more affluent com-

munities are in a better position to meet the community and economic development needs of their wealthier constituents: for these communities, all CDBG activities would have to meet the national objective of benefit to low- and moderate-income persons.

The second change would not affect "severely distressed communities. Activities carried out by these communities would continue to be directed to any of the three national objectives, subject, of course, to the 75% "low/mod" benefit requirement described above. This reflects the fact that severely distressed units of general local government do not have sufficient local resources to provide for their community and economic development needs, and require greater flexibility in developing their CDBG programs.

Two types of units of general local government could be considered severely distressed for purposes of this amendment:

Those for which a major disaster is declared, in accordance with 42 U.S.C. 5121 et seq., and that meet such other standards as the Secretary may determine; or

Those that meet the minimum standards established by the Secretary for measuring the capacity of units of general local government to meet the needs of low- and moderate-income persons with their own resources.

Both of these standards would be contained in a regulation promulgated by the Secretary after notice and opportunity to comment.

The proposal's third element would change how program funds spent by grantees are credited for purposes of meeting the requirements that a minimum percentage of funds must be spent for low- and moderate-income persons. The amount of CDBG funds expended on most activities would be discounted to reflect only the extent to which the beneficiaries of such activities are comprised of low- and moderate-income persons. With the exception of activities involving the acquisition, construction, or improvement of property for housing, for purposes of meeting the 75% overall benefit requirement, the amount of program funds spent on an activity that does not exclusively benefit low- and moderate-income persons would be discounted to the degree that the percentage of low- and moderate-income persons benefiting from the activity falls short of 100%.

For example, consider a grantee's expenditure of $100,000 on an economic development activity that creates 10 new jobs, seven of which are taken by low- and moderate-income persons. Under the current statute and regulations, all $100,000 would be credited towards meeting the grantee's 60% overall expenditure requirement. Under the proposed approach, only 70% of the $100,000 (based on seven out of 10 jobs), or $70,000, would be credited towards meeting the new 75% overall benefit requirement. In order to raise the overall spending level to a minimum of 75% this grantee would need to spend an amount at least equal to $100,000 on another activity benefiting persons 80% or more of whom are low- and moderate-income persons.

Because of the national policy of attempting to avoid the undue concentration of low- and moderate-income persons geographically, an exception would be made for housing activities that are assisted with CDBG funds. Full credit for such expenditures would be given in any case where the proportion of units in the assisted housing that will be occupied by low- and moderate-income persons is at least equal to the percentage of the total cost of the activity that is contributed by CDBG funds.

HUD expects that many entitlement communities and States will not have to make adjustments to their selection of activities or, for States, their method of distribution to comply with these new requirements. Others would need to make relatively minor changes. However, HUD recognizes that for some communities and States these requirements would necessitate quite substantial modification to meet these targeting requirements.

An example of a grantee's annual program of activities would help illustrate how the proposed system would operate, and how it would differ from the system currently in place:

Grantee "A's" Annual Program of Activities totalling $500,000

Rehabilitate a recreation center serving a neighborhood having 30 percent low/mod income residency. (This would qualify as benefiting low/mod income persons assuming this community qualifies for the area benefit exception discussed above.)	$100,000
Loans to low/mod income elderly homeowners for emergency home repairs	150,000
Acquisition of land to be donated to a nonprofit housing developer on which the nonprofit will develop a 20-unit structure for rental housing for large families, five units of which will be held for occupancy by low- and moderate-income households at affordable rents. Total development costs are expected to be $1,000,000	100,000
Loan to a for-profit business to enable expansion, creating 10 new jobs, six of which will be held for low/mod income persons	100,000
Facade improvements for blight removal in a small business district located in a residential area having 40 percent low/mod income residency	50,000

DETERMINING THE OVERALL BENEFIT PERCENTAGE

Activity	Overall benefit using current counting procedure		Overall benefit based on proposal	
	Amount	Percent	Amount	Percent
Recreation center	$100,000		$30,000	
Homeowner loans	150,000		150,000	
Rental housing land	100,000		100,000	
Business loan	100,000		60,000	
Blight removal	0		20,000	
Total low/mod income benefit	450,000		360,000	
Overall benefit	450,000		360,000	
Percent	500,000	90	500,000	72

Note that the land acquisition for large family rental housing receives full credit under both the existing and proposed approaches, even though the project will only have low/mod income occupancy of 25%. This is because the CDBG contribution of $100,000 represents only 10% of the total project development costs, well below the 25% expected occupancy level of low- and moderate-income persons. Through the use of this exception, we aim to encourage a balancing of income levels among occupants of multi-unit housing projects. It should also be noted that, under the proposal, credit can be given for an activity that is carried out under the slums/blight and urgent needs objective in certain circumstances. While the number of communities that would be eligible to carry out activities under those objectives would be limited to those that are distressed, this could still be an important consideration for helping them to meet the overall 75% low/mod benefit level requirement.

Finally, the proposal contains a transition provision. The amendments made by the proposal would take effect upon enactment of this Act. Some units of general local government will, as noted earlier, have one or more years remaining on the time periods they designated for fulfilling the 60% "low/mod" benefit requirement of current law. These communities would be given an option: they can forego the remaining time and immediately switch to a new time period for implementing the new system by designating a new time period, or they can choose to remain with the old time period. In either event, the grantees would be required to comply with all of the requirements of this proposal upon their enactment.

CDBG ANTIPOVERTY STRATEGY

Section 206 would require each Community Development Block Grant grantee to certify, as a condition of receiving a grant, that it is following an antipoverty strategy which has been approved by HUD. The antipoverty strategy would:

(a) embody a plan that would provide housing, economic development, and social service resources to persons who are living in poverty and that, to the greatest extent possible, would involve close cooperation with community-based organizations comprised of low-income persons and others who have a stake in the community and with agencies providing assistance to low-income persons;

(b) estimate the number of people in the community or the nonentitlement areas of the State who are living in poverty, identify the principal areas and conditions in which they live, and explain the basis for this information;

(c) identify existing facilities, resources, and public and private organizations that are or could be used to address the needs of those living in poverty, and funding that could be used; and

(d) set forth a strategy for coordinating CDBG activities (or the method of distribution by States) with facilities, resources, organizations, and funding identified under paragraph (C);

Grantees would adopt their antipoverty strategies only after giving citizens or, in the case of States, units of general local government an opportunity to comment on the proposed strategy. The actions that apply to the development of statements of projected use of funds (or state methods of distribution) would also apply to the development of antipoverty strategies.

HUD would approve the strategy unless it is incomplete, the needs or conditions identified are plainly inconsistent with generally available facts or data, or the strategy for the use of CDBG funds is plainly inappropriate to address the identified needs.

This proposal would bring CDBG grantees into partnership with HUD as it wages a new war on poverty and would require them to think through a CDBG strategy consistent with Federal goals.

SYNTHESIS OF BLOCK GRANT SANCTIONS

Section 207 would synthesize the statutory sanctions under the community development block grant legislation to conform explicitly to a recent judicial decision and to

facilitate the exercise of these sanctions by HUD in an effective and equitable manner.

HUD's longstanding implementation of section 104(e) (to be redesignated as section 104(f) by section 206) and section 111 of the block grant statute was challenged in *Kansas City* v. *HUD*, 861 F.2d 739 (D.C. Cir. 1988). The Department's administration of the CDBG program had utilized a method of conditioning contracts to obtain improved performance by grantees. The court held that at least in some instances the full-scale administrative hearing provided for in section 111 must be furnished before a grant can be conditioned.

From virtually the beginning of the block grant program, HUD had taken the position that section 104 constituted authority to make adjustments, including potential adjustments by means of conditioning annual grants, for grants yet to be approved. It considered section 111, with its more detailed procedural requirements, to be applicable to any attempt by the Department to impose mandatory sanctions against grants that had been unconditionally obligated by the Department.

The distinction drawn by HUD, and contained in its regulations for more than a dozen years, was itself a reflection of the ambivalence in the statute between these two provisions. Section 111 was the vestige of the hands-off special revenue sharing-type approach proposed by the Nixon Administration in 1973; section 104(e) was a more hands-on, post-audit enforcement tool added by the Congress. From the beginning, the two provisions had a substantial overlap in that both covered instances of noncompliance. But the Court in *Kansas City* v. *HUD* found HUD's implementation wanting. Rather than applying the sanction respectively to whether the grant was already made or yet to be made, the court ruled that section 111 applied to all cases involving past substantial noncompliance by the grantee. The Department is now following the ruling in Kansas City, as well as the corollary authority to continue to condition upcoming grants for cases in which the performance problem is ongoing.

This amendment would update the legislation by expressly typing section 111 remedies to cases of past substantial noncompliance and section 104(e) to cases in which the performance problem is continuing. Further, the amendment would make clear the range of the Department's administrative hearings under section 111 in cases of past substantial noncompliance. This amendment would state expressly that the Department could exercise the sanctions in section 111 under an administrative hearing with regard to grants already made or to be made. The independent authority under section 111 to refer cases of substantial noncompliance to the Attorney General would be retained. Moreover, under this authority the Attorney General may seek money damages (which are not limited to the previously provided grants), as well as mandatory or injunctive relief.

Correspondingly, section 104 would also be revised to recognize expressly that the Department can undertake funding sanctions with respect to grants already made or to be made, but limited exclusively to cases of continuing performance problems. Any such sanctions, including conditioning, could only be imposed after the Secretary provided the grantee a reasonable opportunity for informal consultation.

This proposal aims to integrate the Kansas City decision in a programmatically efficient manner within the context of the original block grant legislation's separate remedies at sections 104 and 111.

NULLIFICATION OF RIGHT OF REDEMPTION OF SINGLE FAMILY MORTGAGORS UNDER SECTION 312 REHABILITATION LOAN PROGRAM

Section 208 would preempt State laws giving section 312 single family mortgagors a right to redeem their properties after foreclosure. Under State redemption statutes, mortgagors have a specified period of time to make payment on the foreclosed property and regain title. Subsection (a) applies to situations in which HUD or its foreclosure agent forecloses on its Section 312 loan, and subsection (b) applies to situations in which HUD buys in a property at the foreclosure sale of a mortgagor having a lien senior to HUD's section 312 loan mortgage. Under subsection (a), the foreclosure sale to any purchaser nullifies the right of redemption of the mortgagor. In the subsection (b) situation, the mortgagor's right of redemption will be nullified by the sale to HUD, and HUD may subsequently sell the property free of this encumbrance.

Preempting State redemption laws for section 312 single family properties would permit the Department to sell these properties under this section at foreclosure sale, or following a buy in, in the same expeditious manner as HUD-held single family properties under the FHA single family mortgage insurance program.

There is considerable legislative precedent for this section. Section 569 of the 1987 Act added section 204(*l*) to the National Housing Act to provide that when HUD forecloses on a HUD-held mortgage secured by a single family property, the purchaser at the sale is entitled to receive immediate title to property, notwithstanding any State law granting redemption rights to the mortgagors. This provision is analogous to proposed subsection (a) cases where HUD forecloses. (A provision analogous to proposed subsection (b) that would apply to FHA single family mortgages is not necessary since FHA takes only first lien positions.) The right of redemption had earlier been nullified for all Secretary-held multifamily foreclosures (under both the National Housing Act and section 312), under the Multifamily Mortgage Foreclosure Act of 1981.

The various State laws which govern foreclosures pose several problems. During the lengthy periods of time required to foreclose (and provide redemption) under some State laws, the properties deteriorate and are subject to vandalism and fire loss, because they are vacant. The locations of section 312 properties tend to be in more urbanized, less affluent areas, where vacant properties tend to degrade faster, and where there may be a better opportunity for local government to use the property in an Urban Homesteading program. Vacant, deteriorating properties adversely affect the neighborhoods and communities in which they are located. Further, while the properties are in a "limbo" state due to redemption delays, they are being lost to the national stock of livable housing. Legislation preempting State redemption statutes can diminish these problems by reducing the amount of time it takes to foreclose, and then dispose of the property for reuse. The delay serves no purpose but to frustrate HUD's disposition efforts and the immediate occupancy of the building, since it is very rare that mortgagors redeem section 312 properties.

TITLE III—FEDERAL HOUSING ADMINISTRATION REFORM

ANNUAL FINANCIAL STATEMENTS

Section 301 would require the Secretary to make available to the public each year an audited financial statement of the insurance funds established under the National Housing Act beginning with fiscal year 1989. The statement would be required to present the financial condition of the funds on both a cash and accrual basis, consistent with generally accepted accounting principles (GAAP). Each financial statement would be audited by an independent accounting firm selected by the Secretary.

Annual audited financial statements are the most basic of all management requirements. In a financial operation, these comprehensive financial reports drive decisions that affect all lower level systems. The systems deteriorate without the discipline of rigorous annual review by senior management.

From 1974 to 1989, FHA's finances were not audited by an outside accounting firm. This meant that, for 15 years, public accountability was limited. The General Accounting Office (GAO) attempted audits in 1981 and 1984, but FHA's books were in such disarray that the preparation of financial statements was impossible. In 1987, GAO began again, this time spending two years working with Price Waterhouse and HUD's Office of Finance and Accounting to develop systems capable of measuring the agency's finances.

On September 27, 1989, GAO's Comptroller General reported to Congress that full financial statements for FHA had been completed. These statements showed a $4.2 billion accrual basis loss in FY 1988. FHA had reported a $856 million loss for the same period on a cash basis. The difference in these two amounts was due to the large number of defaults and delinquencies that occurred in 1988 but did not result in a claim paid by FHA. FHA's managers had an unrealistically rosy picture, because claims were only counted when they were paid, not when the default or delinquency occurred. FHA will have to pay these claims over the next several years.

Requiring annual audits of the funds on an accrual, as well as a cash, basis will, for the first time, give the Department, the public, and Congress a clear and unbiased picture of the financial status of FHA's programs. This will permit HUD to adjust its programs, inform Congress, and take other appropriate steps if serious imbalances in the funds develop.

ELIMINATION OF PRIVATE INVESTOR-OWNERS FROM THE FHA SINGLE FAMILY MORTGAGE INSURANCE PROGRAM

Section 302 would eliminate private investor-owners from participation in FHA's single family mortgage insurance programs. FHA's single family insurance programs should be designed to provide homeownership opportunities for families that will occupy their own homes. FHA should not exist to provide profit opportunities to private investors. Investors are much more likely to walk away from their homes in an economic downturn and are responsible for the majority of the fraudulent schemes in FHA programs.

Investors are only a small portion of FHA's business, but a significant source of its financial difficulties. In 1988, investors accounted for only 2.5% of FHA's newly insured mortgages, and roughly 15% of the claims. Most of the defaulting loans were

written in earlier years. One group of private investors in Denver owned 750 homes with insured mortgages, and defaulted on every one of the mortgages.

Under the proposal, private investors would be excluded from FHA insurance of single family homes that they do not occupy. Still accepted would be public purpose investors, such as nonprofit housing providers that intend to rent or sell the homes to low- and moderate-income persons and State and local housing finance agencies. Multi-unit, owner-occupied structures would continue to be permitted, as for example, a family occupying one unit of a duplex while renting out the other.

By this proposal, HUD is not seeking to discourage private investment in housing as a general matter. The reform is rather a recognition that the single family mortgage insurance program should not be exposed to the risks of private speculation.

The amendments made by this proposal are prospective only. They would apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program (24 CFR 200.163), if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to the amendments.

In addition, any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of this Act, would continue to be governed (to the extent applicable) by the current provisions of the National Housing Act, as they existed immediately before such date.

LIMITATION ON SECONDARY RESIDENCES IN THE FHA SINGLE FAMILY MORTGAGE INSURANCE PROGRAM

Section 303 would limit the use of secondary residences in the FHA single family mortgage insurance program. Under existing law, an FHA borrower can qualify as an "owner occupant" for more than one home. In addition to a "principal residence" that is the borrower's primary home, he or she can obtain an FHA loan for a "secondary residence" that is occupied for less than half the year. The Department has administratively set a 15% downpayment for "secondary residences."

The most common form of "secondary residence" is a vacation property. These properties are owned by individuals with sufficient wealth to afford an investment property that doubles as a weekend or summer retreat. Since these properties carry a greater likelihood of default and consequent loss to the Insurance Funds, the Department is in effect being asked to assume greater financial risk to support mortgagors' investment objectives and recreational interests. The Department believes that this is an inappropriate use of Federal credit authority, particularly in view of recent announcements concerning the condition of the FHA Insurance Funds.

Accordingly, this proposal would eliminate the Department's authority to insure mortgages covering vacation properties. The Department would continue to insure mortgages covering secondary residence, but only where failure to do so would impose undue hardship on the mortgagor. Examples of such hardship would include where a mortgagor is required to move, but is unable to sell the dwelling that he or she occupied as a principal residence, or where seasonal employment requires a secondary residence.

In section 406(c) of the Housing and Community Development Act of 1987, the Congress repealed section 203(m) of the National Housing Act, an authority that provided mortgage insurance for vacation and seasonal homes. This proposal would complete the policy enunciated in the 1987 Act.

The amendments made by this proposal are prospective only. They would apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program (24 CFR 200.163), if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to the amendments.

In addition, any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of this Act, would continue to be governed (to the extent applicable) by the current provisions of the National Housing Act, as they existed immediately before such date.

REQUIRE CREDIT REVIEWS OF PERSONS ACQUIRING FHA MORTGAGED PROPERTIES FOR LIFE OF MORTGAGE

Section 304 would amend section 203(r)(2) of the National Housing Act (NHA) to require lenders to review the creditworthiness, under standards prescribed by HUD, of at least one person seeking to acquire ownership of a one- to four-family residential property encumbered by an FHA mortgage at any time during the life of the mortgage, whether or not such person assumes personal liability under the mortgage (except that acquisitions by devise or descent shall not be subject to this requirement). Section 203(r)(2) currently requires reviews of the credit standing of persons seeking to acquire a property encumbered by an FHA mortgage (1) during the 12-month period following execution of the mortgage, or (2) in the case of an investor-originated loan, during the 24-month period following execution.

This proposal would also permit HUD to require each insured mortgage to contain a due-on-sale provision permitting the mortgage to accelerate the period of time in which a mortgage obligation is due and require repayment of that obligation. Under the proposal, the due-on-sale provision would not be subject to section 341(d)(6) of the Garn-St Germain Depository Institutions Act of 1982. Section 341(d)(6) prohibits the exercise of a due-on-sale provision upon a transfer where the spouse or children or a mortgagor become an owner of the property.

Before enactment of the Housing and Community Development Act of 1987, there was no statutory requirement to verify the creditworthiness of persons seeking to acquire properties encumbered by FHA mortgages. Consequently, defaults by unqualified homebuyers of properties encumbered by FHA mortgages were a costly drain on the FHA mortgage insurance fund. In particular, properties were often sold to investors who made few, if any, home improvements and who then sold the properties to unqualified homebuyers. Many of these buyers subsequently defaulted on the properties while the lenders received mortgage insurance benefits.

The 1987 Act partially remedied this situation by requiring credit checks of any persons seeking to acquire a property burdened by an FHA mortgage (1) during the 12-month period following execution, or (2) in the case of investor-originated loans, during the 24-month period following execution. Defaults by unqualified homebuyers, who purchase properties encumbered by FHA mortgages after the 12- and 24-month time periods, still expose the FHA mortgage insurance funds to unjustified losses. The amendment to section 203(r) would further reduce claims on the FHA insurance funds by ensuring that, at any time during the life of the mortgage, at least one person seeking to acquire property encumbered by an FHA mortgage is creditworthy.

By providing an exemption from section 341(d)(6) of the Garn-St Germain Depository Institutions Act of 1982 to section 203 of the NHA, non-creditworthy relatives would be prevented from acquiring properties encumbered by FHA mortgages. Such transfers are a major method of avoiding application of credit reviews, since the assumption restriction is implemented by including a due-on-sale provision in the mortgage which allows acceleration of the loan upon transfer to a noncreditworthy person. This proposal would also make explicit HUD's authority to require each insured mortgage to contain a due-on-sale provision.

This amendment would also amend the first sentence of section 203(r) to provide that the actions HUD takes under this section to reduce losses applies to all single family programs under title II of the NHA.

Section 203(r)(3) currently requires that the original mortgagor be advised of the procedures for release of liability only if the mortgage is assumed after the 12- and 24-month periods specified in section 203(r)(2). This section contains a technical amendment to section 203(r)(3) which removes the reference to the 12- and 24-month periods of time. Under this amendment, in any case where personal liability under a mortgage is assumed, the original mortgagor would have to be advised of the procedures by which he or she may be released from liability.

The amendments made by this proposal are prospective only. They would apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program (24 CFR 200.163), if the approved underwriter of the mortgage signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments.

In addition, any mortgage insurance provided under title II of the National Housing Act, as if existed immediately before the date of the enactment of this Act, would continue to be governed (to the extent applicable) by the current provisions of the National Housing Act, as they existed immediately before such date.

REPEAL OF TITLE X

Section 305 would repeal title X of the National Housing Act.

Prior Suspension and Proposed Termination of Title X Program

On June 29, 1989, Secretary Kemp announced HUD's suspension of the title X program. He announced that HUD would discontinue the processing of title X applications that had not received a legally binding commitment by June 29, 1989, and would return application fees. Projects with legally binding commitments issued before June 29, 1989 would be eligible for insurance, subject to a specific examination for evidence of fraud or misrepresentation. On August 11, 1989, HUD published a rule proposing to terminate the program (54 Fed. Reg. 33.039).

Background

Title X of the National Housing Act was added by the Housing and Urban Development Act of 1965. Under the program, HUD is given discretionary authority to insure mortgages for land purchase and development in connection with new subdivisions and new communities. The improvements that may be installed by the developer and financed with the mortgage proceeds include: installations for water lines; water supply; sewage disposal; complete water or sewage systems; and roads, streets, curbs, gutters, sidewalks, and storm drains. Title X projects must be designed for primarily residential use, although a reasonable amount of related nonresidential use is permitted.

Termination of the Title X program is being proposed on the basis of the following factors: the serious adverse financial condition of the program, its inability to meet its statutory goals, the Secretary's judgment that restructuring the program would not be an effective way of correcting these deficiencies, and the fact that its termination would have virtually no effect on the availability of financing for land development across the nation. The following discussion addresses each of the points.

1. Financial Condition of the Title X Program

Title X has proved to be a financial disaster to the Department and to the American people. The program has experienced exceptionally high claim rates, and it has already inflicted massive losses on the Department's insurance fund, with substantial additional losses anticipated. The program is actuarially unsound, a situation that is particularly troublesome since it involves a program that is intended to be self-supporting (see section 1008 of the National Housing Act).

An analysis of the operations of the program from 1977 to October 1988 reveals the following:

Fifty-eight loans were insured under the program (approximately five per year). These mortgages generated $12.5 million in insurance premiums and fees for the fund and were insured for a total of $505,148,309 (approximately $8.7 million per loan).

Claims have been paid on 25 of the 58 loans. This represents a claim rate of 43%. As a point of comparison, the claim rate for the section 221(d) multifamily mortgage insurance program for the period 1974 through 1988 was 9.87% for HUD-processed loans and 17.31% for the section 221(d) coinsurance program.

By October 1988, 13 of the 25 title X projects for which HUD has paid claims since 1977 have been sold, resulting in a total loss to the Federal government of more than $50 million and an average loss of almost $4 million per claim. Losses on the remaining 12 projects have not, as yet, been determined. However, assuming comparable losses upon the disposition of these projects, HUD anticipates a total loss on the 25 claims of approximately $90 million. The ultimate loss will exceed $90 million, since HUD has issued legally binding commitments for a number of projects that are still in the pipeline.

HUD has experienced no significant reduction in title X financial problems despite a number of changes that were instituted between 1983 and 1985 to improve the program.

The Federal government's future losses under the program can only be expected to increase if the program is allowed to continue, since the amounts sought to be insured under individual title X applications are increasing.

Consequently, HUD believes that title X projects will continue to subject the FHA insurance fund to unacceptable financial losses. The continuation of a program that involves such an unacceptably high insurance claim rate is inconsistent with the Department's obligation to manage the FHA insurance fund prudently.

2. Inability to Promote Statutory Purposes

The statute mandates the inclusion of a proper balance of housing for families of low and moderate income (section 1005). However, HUD has been unable to achieve this goal.

The HUD Inspector General draft audit report dated March 31, 1987 reviewed 17 title X projects in three HUD regions that produced 11,300 housing units. These projects collectively were insured for a total of $212 million. The review revealed that only a single project may have provided housing for moderate-income persons, and no project provided housing for families with low incomes.

Housing located on land developed under the program is typically new construction that is designed for sale to prospective homeowners. This type of housing generally costs more than low-income families, and even many moderate-income families, can afford to pay. In addition, undeveloped land suitable for use in the program is generally located in suburban areas, and involves an "upscale" emphasis that is often beyond the reach of even moderate-income families. Thus, the central thrust of title X is away from the very income groups the satute directs the Department to focus upon in administering the program.

3. Restructuring Title X Would Be Ineffective

The private sector currently finances virtually all land development projects without the need for Federal insurance. The Department estimates that between 4,000 and 6,000 subdivisions are developed annually in the United States. By comparison, activity under the title X program since 1977 has averaged only five applications per year. In other words, title X's share of the land development market has averaged only about 0.1% of the national total—an infinitesimal contribution to the total financing for land development.

The Department believes that restructuring the title X program would result in reducing the current five applications per year to zero. Any restructuring of the program would include more rigorous requirements to ensure the participation of small builders and a significant proportion of low- and moderate-income families in the housing ultimately developed. It also would involve stricter underwriting standards and other measures to ensure that insured projects represented a substantially improved mortgage insurance risk. Such changes would virtually end any developer interest in the program. Thus, the only viable approach is to terminate the program.

4. Effect on the Availability of Financing for Land Development

Finally, the termination of title X would have virtually no effect on the availability of financing for land development across the Nation. As indicated above, the private sector finances the overhwelming number of land developments, with title X's share of the market being negligible.

For these reasons, this proposal would terminate the title X program.

Effective Date and Conforming Amendments

No contract of insurance could be entered into under title X on or after the date of enactment, except pursuant to a commitment to insure made before enactment. Any contract of insurance entered into under title X would continue to be governed by title X as it existed before repeal. In view of the suspension of the title X program on June 29, 1989, it is not necessary to provide a transition period.

STREAMLINE PROPERTY DISPOSITION REQUIREMENTS FOR UNSUBSIDIZED MULTIFAMILY HOUSING PROJECTS

Section 306 would amend sections 203 (a) and (d) of the Housing and Community Development Amendments of 1978 to (1) permit HUD to use either tenant-based (vouchers or certificates) or project-based section 8 assistance for units in unsubsidized projects which are occupied by lower income families; and (2) remove the requirement that HUD provide section 8 assistance for the vacant units in such projects. To use tenant-based section 8 assistance, HUD would have to make a determination that there is available in the area an adequate supply of habitable, affordable housing for lower income families. Such a determination would be final and nonreviewable. This determination is the same standard used for similar purposes in connection with the CDBG antidisplacement plan under section 104(d) of the 1974 Act.

Section 203(d) of the 1978 Amendments currently requires HUD (1) to provide 15-year project-based section 8 assistance to multifamily projects that are acquired at a HUD foreclosure or after sale by HUD, or (2) to ensure that for at least 15 years eligible tenants will pay no more in rent than if section 8 were provided. The assistance is required for (1) all units in subsidized or formerly subsidized projects, (2) the units in other (unsubsidized) projects owned by HUD that are occupied by lower income families or are vacant, and (3) the units in all other (unsubsidized) projects that are occupied by lower income families.

This amendment would give HUD needed flexibility to use tenant-based assistance, instead of project-based assistance, in unsubsidized projects where local market conditions clearly indicate that the project is not needed to be maintained to provide lower income housing. HUD could make a determination in soft market areas that there is available an adequate supply of habitable affordable housing for lower income families. Therefore, if the project were not used for lower income purposes following the sale, the lower income tenants receiving the section 8 assistance would be able to find affordable housing in the area. Roughly half

of the projects owned by HUD or for which HUD is mortgagee in possession (53 projects and 8,000 units) are located in the soft market areas of Texas, Oklahoma, Louisiana, and Arkansas. HUD would still be required to provide project-based assistance to all units in subsidized projects or formerly subsidized projects.

This amendment would also remove the requirement that HUD provide section 8 assistance for vacant units in unsubsidized projects sold by HUD. This requirement exposes HUD to a significant obligation of budget authority. It is estimated that there are more than 3,000 vacant units potentially eligible for this assistance, which would represent between $300 to $400 million in budget authority. Obligation of this budget authority for vacant units alone is especially questionable since many of the units are in soft markets where, as discussed above, local market conditions indicate projects do not need to be maintained as lower income housing.

PROHIBIT DEALER AND LOAN BROKER PARTICIPATION IN ORIGINATION OF TITLE I PROPERTY IMPROVEMENT LOANS

Section 307 would amend section 2 of the National Housing Act to prevent certain abuses that have developed under the title I property improvement loan program involving loans originated with the participation of dealers and loan brokers.

Currently, some property improvement dealers or contractors assist their customers in completing and submitting title I property improvement loan applications for the work they do. This is done pursuant to agreements that the dealers have with the financial institutions which finance the loans. Under current statutory authority, financial institutions can purchase advances of credit (retail installment sales contracts with the borrowers) from the dealers.

Some dealers have abused this arrangement by encouraging borrowers to inflate their incomes and/or hide their debts, thereby giving the appearance that the borrowers are creditworthy and qualified for property improvement loans.

Section 2(b)(8), as added by this section, would remove the Secretary's authority to insure advances of credit under the property improvement loan program. The effect of this section is that a borrower would have to apply directly to a lender for his or her loan, and the dealer would have no role in the loan origination process. This would eliminate the dealer's inherent incentive to do what it can to have the financing approved so it can make the sale.

Another area of abuse involves loan brokers. A loan broker assists borrowers in obtaining title I financing for property improvements. A loan broker often works for more than one lender, and has no incentive to obtain the best deal for the borrower; in many cases the loan broker's commission is higher if the borrower pays a higher interest rate. Some loan brokers have advised borrowers that title I property improvement loan proceeds could be used for ineligible items, including swimming pools, and ineligible uses, such as paying for personal expenses and consolidating debts. One loan arranged through a loan broker was used to finance the borrower's divorce, even though the application stated that the loan proceeds would be used for home improvements. A loan broker has essentially the same incentive as dealer, to do what the broker can to have the financing approved, even for a borrower who is not creditworthy, so that the broker can earn a commission from the making of a loan.

Section 2(b)(7), as added by this section, would require financial institutions making title I property improvement loans to certify to the Secretary that no loan broker or other party having a financial interest in the making of the loan or advance of credit provided assistance to the borrower in preparing the loan application or otherwise assisted the borrower in obtaining the loan or advance of credit. Advances of credit are included in this provision, notwithstanding the revocation of the Secretary's authority to insure them contained in section 2(b)(8) because the certification would be required immediately upon enactment, whereas the revocation of the authority to insure advances of credit would become effective 90 days after enactment.

By Mr. DOLE:

S.J. Res. 222. Joint resolution designating 1990 as the "Year of the Eagle Scout"; to the Committee on the Judiciary.

YEAR OF THE EAGLE SCOUT

Mr. DOLE. Mr. President, I rise today to introduce a joint resolution to designate 1990 as the "Year of the Eagle Scout."

Since the founding of the Boy Scouts of America in 1910, the organization has been successful in achieving its purpose: "To promote the ability of boys to become self-sufficient and selfless, to train them in scoutcraft and to instill in them patriotism, courage, self-reliance, and kindred virtues." The rank of Eagle Scout is the highest youth achievement award a Boy Scout can receive. This rank has been conferred on almost 1,200,000 young men. In 1972, the National Eagle Scout Association was established as a means of maintaining contact with these individuals, so their involvement in Scouting and civil responsibility can continue.

I understand that throughout 1990, both the Boy Scouts of America and the National Eagle Scout Association will be involved in a nationwide effort to locate all Eagle Scouts, so the spirit of community leadership can be instilled again in these individuals.

Without a doubt, the values this organization helps to promote among young men are truly honorable. It's not easy in this day and age for young men—or women for that matter—to grow up and make their way in society. We all hear so much about the trouble that today's kids manage to get themselves into—drugs, crime, and dropping out of school. Unfortunately, the list goes on. I'm proud to see that the Boy Scouts of America are still going strong today. Clearly, this group plays an important role in nurturing patriotism, community spirit, and leadership qualities in our youth.

Mr. President, I am proud to introduce this joint resolution, as my counterpart in the other body has already done. I applaud this effort, and hope that my colleagues on both sides of the aisle will join me in supporting and encouraging this worthwhile effort.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 222

Whereas the Boy Scouts of America was granted a national charter on June 15, 1916;

Whereas since its founding in 1910, the Boy Scouts of America has served the people of the United States by fulfilling its purpose to promote, through organization, and cooperation with other entities, the ability of boys to become self-sufficient and selfless, to train them in scoutcraft, and to instill in them patriotism, courage, self reliance, and kindred virtues;

Whereas the Boy Scouts of America has conferred its highest youth achievement award, the Eagle Scout rank, upon nearly 1,200,000 boy scouts;

Whereas in 1972 the Boy Scouts of America established the National Eagle Scout Association as a means to maintain contact with its Eagle Scouts for the purpose of maintaining their involvement in scouting and civil responsibility; and

Whereas during 1990 the Boy Scouts of America and the National Eagle Scout Association will conduct a nationwide search to identify the current location of all Eagle Scouts for the purpose of rededicating them to the tenets of scouting and community leadership: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year 1990 is designated as the "Year of the Eagle Scout". The President is authorized and requested to issue a proclamation calling on the people of the United States to support the effort of the Boy Scouts of America to locate past Eagle Scouts and to participate in other ceremonies and activities that celebrate Eagle scouting in the United States.

ADDITIONAL COSPONSORS

S. 16

At the request of Mr. CRANSTON, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 16, a bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage-setting practices and discriminatory wage disparities which are based on sex, race, or national origin.

S. 667

At the request of Mr. MATSUNAGA, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 667, a bill to amend the Federal Unemployment Tax Act with respect to employment performed by certain employees of educational institutions.

S. 1109

At the request of Mr. PELL, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Illinois

[Mr. SIMON] were added as cosponsors of S. 1109, a bill to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such act through the fiscal year 1995.

S. 1207

At the request of Mr. PACKWOOD, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1207, a bill to amend the Communications Act of 1934 to reform the radio broadcast license renewal process and for other purposes.

S. 1703

At the request of Mr. BOSCHWITZ, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1703, a bill to amend title 38, United States Code, to permit Department of Veterans Affairs medical centers to retain a portion of the amounts collected from third parties as reimbursement for the cost of health care and services furnished by such medical centers.

S. 1753

At the request of Mr. BAUCUS, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1753, a bill to amend the Internal Revenue Code of 1986 to restore income averaging for qualified farmers.

SENATE JOINT RESOLUTION 205

At the request of Mr. BIDEN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Joint Resolution 205, a joint resolution designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week."

SENATE JOINT RESOLUTION 217

At the request of Mr. WILSON, the names of the Senator from Delaware [Mr. BIDEN] and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Joint Resolution 217, a joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, as "National Burn Awareness Week."

SENATE RESOLUTION 196

At the request of Mr. DECONCINI, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Resolution 196, a resolution expressing the sense of the Senate regarding the peace process in Angola.

SENATE RESOLUTION 200

At the request of Mr. PELL, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Resolution 200, a resolution expressing the support of the Senate for firm and decisive action by the United States at the upcoming meeting of environmental ministers in the Netherlands on November 6 and 7 in support of a framework convention on climate change.

AMENDMENT NO. 1069

At the request of Mr. SANFORD, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of amendment No. 1069.

SENATE RESOLUTION 203—AUTHORIZING SENATE EMPLOYEE TESTIMONY AND PRODUCTION OF DOCUMENTS

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 203

Whereas, in Grand Jury proceeding No. 89-198, pending in the United States District Court for the Eastern District of Pennsylvania, the United States Attorney has requested the testimony of Walter Irvine, special assistant in the Philadelphia office of Senator John Heinz;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of and production of documents by employees of the Senate may be needed in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That Walter Irvine and any other staff assistant of Senator Heinz who may be asked are authorized to testify and produce documents in Grand Jury proceeding No. 89-198 in the Eastern District of Pennsylvania, except concerning matters which are privileged.

AMENDMENTS SUBMITTED

MINTING OF COINS IN COMMEMORATION OF THE GOLDEN ANNIVERSARY OF MOUNT RUSHMORE NATIONAL MEMORIAL

PRESSLER AMENDMENT NO. 1079

Mr. WILSON (for Mr. PRESSLER) proposed an amendment to the bill (S. 148) to require the Secretary of the Treasury to mint coins in commemoration of the golden anniversary of the Mount Rushmore National Memorial, as follows:

On page 4, line 25, strike "beginning on January 1, 1991" and insert "during the period beginning on January 1, 1991, and ending on December 31, 1991".

On page 5, beginning with "and" on line 3, strike all through "Mint" on line 4.

On page 7, lines 2 and 3, strike ", the Federal Savings and Loan Insurance Corporation".

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PROGRAM

DOLE AMENDMENT NO. 1080

Mr. WILSON (for Mr. DOLE) proposed an amendment to the bill (S. 253) to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and to nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan, as follows:

On page 20, strike out lines 6 through 20.

On page 20, line 21, strike out "(d)" and insert in lieu thereof "(c)".

On page 20, line 25, insert before the period "and shall include a State or local government employee with a specialized interest in nutrition monitoring".

On page 21, line 1, strike out "(e)" and insert in lieu thereof "(d)".

On page 21, line 6, strike out "(f)" and insert in lieu thereof "(e)".

On page 21, line 16, strike out "(g)" and insert in lieu thereof "(f)".

On page 21, line 19, strike out "(h)" and insert in lieu thereof "(g)".

On page 21, line 23, strike out "(i)" and insert in lieu thereof "(h)".

On page 22, line 3, strike out "(j)" and insert in lieu thereof "(i)".

On page 22, line 6, strike out "(k)" and insert in lieu thereof "(j)".

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

Mr. PRYOR. Mr. President, I would like to announce for the public that the Senate Special Committee on Aging has scheduled a hearing for Wednesday, November 15, 1989, in room 628, Dirksen SOB beginning at 10 a.m.

The hearing will focus on how the drug crisis is affecting the elderly, particularly poor and minority elderly in both urban and rural settings.

For further information, please contact Portia Mittelman, staff director, at (202) 224-5364.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Thursday, November 9, 1989, beginning at 11 a.m., in 485 Russell Senate Office Building on S. 1096 (S. 1336), to provide for the use and distribution of funds awarded the Seminole Indians; S. 1270, to provide an Indian mental health demonstration grant program; S. 1526, to authorize the State of Oklahoma and the Kiowa, Comanche, and Apache Tribes to enter into an agreement regarding the exercise of State jurisdiction over a portion of Indian country located in Comanche County, OK; S. 1781, the

Native American Language Act; S. 1783, to regulate Indian child protection and prevent child abuse on Indian reservations and S. 1813, to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Tuesday, November 14, 1989, beginning at 9:30 a.m., in 485 Russell Senate Office Building on Indian veterans.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION AND INFRASTRUCTURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, November 3 to conduct a general oversight hearing regarding the public buildings program of the General Services Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on November 3, 1989, at 11:30 a.m. to hold a hearing on the administration's efforts to extend international trading rules to agriculture in the Uruguay round of GATT negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, November 3, 1989; 9:30 a.m. for a hearing to consider the following nominations: Martin Lewis Allday to be a member of the Federal Energy Regulatory Commission; Melva Anne Gibson Ray to be Director, Office of Minority Impact, Department of Energy; and William Harold Young to be Assistant Secretary for Nuclear Energy, Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HONORING MIDWAY AIRLINES' 10TH ANNIVERSARY

● Mr. DIXON. Mr. President, I rise today to honor Midway Airlines, a great American corporation based in the State of Illinois as they celebrate their 10th anniversary as one of America's premier airlines.

From its November 1, 1979, inaugural flight, Midway Airlines has played an integral part in the renaissance of Chicago's Midway Airport and has given the Windy City two fine airports. The airline's humble story began on that November day with only three airplanes and with service to only three cities operating out of a deserted airport considered by many to be a relic of the past with the rise of O'Hare Field. However, from that simple beginning, under the capable leadership of founding chairman Irving T. Tague and current chairman and CEO David Hinson, Midway Airlines has rapidly expanded its fleet and service to its current status of serving over 50 cities all over America while being chiefly responsible for the renaissance of one our Nation's most storied airports.

Midway Airlines has made a smooth transition from regional carrier to one of the Nation's most prominent airlines. It has established itself among the leaders in the airline industry with their stellar safety record over their first decade. Also, Midway Airlines' reputation as one of the Nation's most reliable airlines was confirmed with their No. 1 ranking by the Department of Transportation's July report on consumer complaints.

As Midway Airlines enters their second decade, the carrier is expanding in an unprecedented manner. This month will see the opening of a second hub located at Philadelphia International Airport. The Philadelphia opportunity will allow Midway to bring their unique brand of Chicagoan service and value to a whole new market of air travelers. The 1990's also promise to see Midway Airlines to reach out across the world as plans to make Midway Airlines a truly international airline takes place.

I expect the future to bring nothing but continued success for Chicago's homegrown airline. Their contributions to Chicago and the entire State of Illinois is immeasurable and is appreciated by all Illinoisans. I consider it an honor and a privilege to represent the home State of such a fine corporation and most importantly, the thousands of Illinoisans that comprise the outstanding work force at Midway Airlines.●

RETIREMENT PAY OF CERTAIN MEMBER OF THE ARMED FORCES

● Mr. DURENBERGER. Mr. President, last night, the U.S. Senate voted 78 to 17 to approve S. 1816 dealing with "pensions of certain retired military officers." As the record will show, I voted against the measure, and I would like to comment on that vote now.

First, let me state unequivocally that my vote against S. 1816 in no way contradicts my admiration of Lieutenant Colonel North's war record. He served with valor, courage, and extraordinary distinction in the Vietnam war. He is highly decorated for that service, including two Purple Hearts, the Silver Star, the Bronze Star, Navy Commendation Medals, and others. He served with distinction for 20 years in the U.S. Armed Forces.

Notwithstanding this laudable war record, Oliver North was convicted of three felony crimes—shredding Government documents, impeding a congressional investigation, and accepting an illegal gratuity. While on the National Security Council, Oliver North not only broke the law and was convicted for it, he violated the special trust and confidence of the American peopie in our system of government.

Much of the supporting argument for this bill has focused on correcting an inequity in the law concerning the pension payments of military and civilian personnel. I don't dispute at all that there is an inequity in the law. The law must be clarified as to what offenses require the penalty of denying penion. It is not fair that document shredding should carry the same penalty as treason or murder; or that civilian and military personnel should be treated differently. The point of the matter is, however, that if such a discrepancy exists, it should be resolved outside the emotionally charged atmosphere that surrounds Lieutenant Colonel North. It should be resolved only after careful and thoughtful deliberations considering the legal history and the implications for future cases any modifications would have.

If this measure is intended only to correct a problem with the law, one can reasonably ask why is it being discussed now? It seems that S. 1816 is a private bill for the relief of Oliver North, masquerading as an attempt to clarify an unclear law.

In closing, Mr. President, let me reiterate my belief that Oliver North served his country admirably and with uncommon valor in Vietnam. No matter what the resolution of his pension, no one can deny that. But his war record and his criminal conviction are separate matters. For that reason, I believe Lieutenant Colonel North should be subject to the law that re-

quires that his pension be withheld, and I voted as such last evening.●

CONTINUING ABUSE OF THE RECLAMATION PROGRAM

● Mr. BRADLEY. Mr. President, in December 1987, we enacted legislation to stop certain abuses of the Federal Reclamation Program. At that time, I stated my support for that legislation, but I advised this Chamber, the Department of the Interior, and certain water users that the issue was far from over. Mr. President, as I feared, the issue was not concluded; it is abundantly clear now that the abuse of the Reclamation Program has continued despite the 1987 legislation.

As chairman of the Subcommittee on Water and Power of the Committee on Energy and Natural Resources, I convened an oversight hearing in California this August on the Reclamation Program in that State. Testimony from several witnesses and other information provided to the subcommittee reveals that the Department of the Interior is failing to meet Congress' intent in implementation of the Reclamation Reform Act of 1982, as amended in 1987.

Congress established the Federal Reclamation Program at the turn of the century to provide inexpensive water to small farmers in the arid West. Congress hoped to promote settlement and support rural economies. For the most part, the Reclamation Program worked well, but over the years, it fell victim to abuses.

Mr. President, as my colleagues will recall, Congress amended the reclamation law twice this decade to stop abuses. Despite congressional reforms, the Department of the Interior this summer approved a project to deliver cheap, taxpayer-subsidized water to a 23,000-acre, 36-square-mile, multimillion-dollar agribusiness operation in California. It appears that the Interior Department approved other similar projects.

The Secretary of the Interior has ample discretion to stop these practices. He knows that the Congress did not intend to see the Reclamation Program used this way.

Mr. President, if the Secretary does not promptly investigate and eliminate these abuses, I will urge the Congress to act again to insure that the reclamation project is properly used.●

DRUG PARAPHERNALIA

● Mr. COATS. Mr. President, the drug paraphernalia business is a multimillion-dollar industry that is a spinoff from the billion-dollar drug trade. The drug paraphernalia business is a perverse means of profiting from the addictive despair of drug abuse and it should be stopped permanently.

In the 1986 Anti-Drug Abuse Act (section 1822, page 100 Stat. 3207.51), we took action against this perverse trade by outlawing the interstate sale, import and export of drug paraphernalia. We defined drug paraphernalia so as to not prohibit those who are selling genuine tobacco products from making their honest living. But we did not outlaw the trade in drug paraphernalia altogether. What I seek to do in this bill is outlaw the business completely. It is time to put this adjunct of the drug trade out of business.

I do not seek to put licensed tobacconists and tobacco distributors out of business. I simply seek to amend the 1986 Anti-Drug Abuse Act, to prohibit the sale of drug paraphernalia altogether. It should not be imported, exported, sold across State lines, or sold at all. The exceptions in existing law for legitimate dealers of tobacco products will remain as they are.

However, I also seek to move beyond this to subject those who traffic in drug paraphernalia to the same asset forfeiture proceedings that drug traffickers can face. Several States have enacted such laws and it's time that the Federal Government act in kind. My bill will force the forfeiture of any profits or proceeds that the court determines were acquired or maintained as a result of trafficking in drug paraphernalia.

Any such profits or proceeds that are forfeit will be transferred to the State government in which the offense was committed.

I urge adoption of this bill because it is time to stand up and say that we will not tolerate businesses that thrive on the trade of illicit drugs. Spinoff industries like the drug paraphernalia business are simply unacceptable.●

DEMOCRACY IN PAKISTAN

● Mr. DECONCINI. Mr. President, over the last week, the new democracy of Pakistan has been in the grips of a constitutional crisis, with the combined opposition challenging the government of Prime Minister Benazir Bhutto in a no-confidence motion before the National Assembly. As one who has worked hard for the restoration of democracy to Pakistan after 11 years of military dictatorship, I am pleased that the Prime Minister not only received a vote of confidence in Parliament, but that she and her government emerged from this test strengthened by the experience. This important test of the parliamentary system in Pakistan has also strengthened the respect for constitutional principles upon which democracies are based.

New democracies are emerging all over the world, and the United States has justifiable pride in the victory of freedom over autocracy and dictatorship. We also must be aware that new democracies going through the difficult transition from dictatorship need time, help, and assistance in the critical early years as their new political systems evolve and strengthen. Nowhere is this more true than in Pakistan. For over 40 years, Pakistan, has existed as an independent nation more often than not under dictatorships. In 1988, Benazir Bhutto, after a long and bruising struggle, led her Pakistan People's Party to a convincing election victory, demonstrating broad national strength across Pakistan's four provinces. Since that time, the opposition alliance, many of whom were associated with the previous regime, have made the new Prime Minister's task difficult. Despite the political situation in Parliament, Ms. Bhutto has accomplished a remarkable transformation of the Pakistani civil and political culture—opening up the country to democracy, self-expression, a free press, free labor unions, student associations, and an end to all vestiges of the martial law regime. She has simultaneously reordered the internal domestic priorities of her country by shifting badly needed resources to the social sectors while maintaining a strong national defense and a consistent policy of support for the Mujahidin in Afghanistan. During this year of political testing, Benazir Bhutto has also provided for the well-being of almost 4 million Afghan refugees living on her soil. In this first year, she has accomplished a great deal and and she has much of which to be proud.

With the constitutional test behind her, and with her clear victory in the National Assembly, the election results of 1988 have been reaffirmed. It is now time for all Pakistanis to rally to the side of a unified and confident Pakistan, and to work with the Prime Minister to address the long-neglected problems of the people. We hope the Bush administration will do everything within its power to support and assist the continuing transition to democracy in Pakistan.

Benazir Bhutto has been a strong friend of the United States. She has earned the support of our Nation as this fledgling democracy evolves and strengthens. I congratulate the Pakistani people for their commitment to this process, and I send my best wishes to Prime Minister Bhutto.●

OLLIE NORTH

● Mr. KERRY. Mr. President, in this period when the public is rightly demanding higher standards of accountability of those in public service, we should be toughening penalties for those who violate the public's trust, not relaxing them.

If the courts find the current law is ambiguous on the question of whether or not retired military officers convict-

ed of destroying public documents are entitled to their pensions, let us change it. Let us make it perfectly clear that they will not receive their pension. At the same time we should consider whether retired civilians and reserve officers, having committed the same crime should not also lose their pensions.

The question is not should we show compassion toward Oliver North. He is doing quite well financially, earning up to $25,000 per speaking appearance.

The issue is what is the responsible action for the Senate to take in carrying out its responsibility to protect the Constitution.

On this question, I believe what is required of us is clear. We must not permit a further eroding of the ethical standards and their legal underpinnings—in fact we must move to make them even higher. This is particularly true when we are dealing with a case and an individual that is so well known to the American people. If we change the rules or bend the rules to favor this convicted felon, the public can rightfully be expected to lose just a little bit more of its faith in the fairness and integrity of our constitutional democracy.

Mr. President, Ollie North was a hero in Vietnam and for that we owe him our respect and gratitude. But Ollie North became a felon in the White House who seriously undermined the foundations of democracy and freedom about which he always spoke so eloquently and for that he must be condemned.

The Senate should take no action that would suggest to the public that what Ollie North did was less serious and dangerous to our democracy than it was. And, the Senate should take no action that does not strengthen the incentives for honesty and integrity in government and increase the penalties.

The General Accounting Office review of the Ollie North pension issue concluded that the law while ambiguous appeared to prevent his eligibility for it. I can understand the sentiment of those who would amend the law and clarify it here on the floor. However, if we are to take that route we should strengthen and extend the loss of pension provision for all public officals who illegally shred public documents, not weaken the law by exempting one more class of public officials from this penalty.

But, I believe we should handle this entire matter in the normal constitutional prescribed manner. If Mr. North rejects the GAO decision, which he has every right to do, he has an obvious right to go to court to press his claim. I would support a sense of the Senate resolution urging the court to expedite its decision on this issue. If the court finds this law ambiguous, then it is incumbent upon us to clarify it. After due congressional consideration, including public hearings, we should then consider exactly whom and under what conditions convicted public document shredders should or should not lose their pensions. This is the normal process for dealing with such an issue and I believe that we make a serious mistake if we make an exception for Oliver North.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar item Nos. 458, 459, 460, 461, 462, 463, 464, 466, 467, 468, 469, 471, 472, 473, and all nominations placed on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Chas. W. Freeman, Jr., of Rhode Island, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

Luigi R. Einaudi, of Maryland, to be the permanent Representative of the United States of America to the Organization of American States, with the rank of Ambassador.

William Clark, Jr., of District of Columbia, a career member of the Senior Foreign Service, class of Minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to India.

Smith Hempstone, Jr., of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

Keith Leveret Wauchope, of Virginia, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

Francis Terry McNamara, of California, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

R. James Woolsey, of Maryland, for the rank of Ambassador during his tenture of service as United States Representative to the Negotiation on Conventional Armed Forces in Europe (CFE).

The following-named career member of the Senior Foreign Service, class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period: Terence A. Todman, of the Virgin Islands.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Reginald J. Brown, of Virginia, to be an Assistant Administrator of the Agency for International Development.

UNITED NATIONS

The following-named person to be a Representative of the United States of America to the 44th session of the General Assembly of the United Nations: Sam Gejdenson, of Connecticut.

The following-named person to be a Representative of the United States of America to the 44th session of the General Assembly of the United Nations: Christopher H. Smith, of New Jersey.

THE JUDICIARY

George W. Lindberg, of Illinois, to be U.S. district judge for the Northern District of Illinois.

DEPARTMENT OF JUSTICE

Donald Belton Ayer, of Virginia, to be Deputy Attorney General.

K. Michael Moore, of Florida, to be Director of the U.S. Marshals Service (new position).

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Peter G. Frederick, and ending James F. Bermingham, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 4, 1989.

Foreign Service nominations beginning Walter G. Bollinger, and ending Dennis C. Zvinakis, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 11, 1989.

Foreign Service nominations beginning Elinor Greer Constable, and ending H. Thomas Wiegert, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 17, 1989.

STATEMENT ON THE NOMINATION OF GEORGE W. LINDBERG

Mr. SIMON. Mr. President, I rise today to recommend to the Senate the nomination of George W. Lindberg to be U.S. district court judge for the Northern District of Illinois. I have known George Lindberg for 22 years and I have found him to be a person of ability and integrity, two important qualities in a judge.

George Lindberg has spent many years serving the people of Illinois: as a State representative, State comptroller, deputy attorney general in the Illinois Attorney General's office, and now as a justice in the Illinois Appellate Court. He has demonstrated his commitment to help the disadvantaged and his compassion for the less fortunate.

Justice Lindberg has received high praise from those acquainted with his work. I ask unanimous consent to print in the RECORD two letters of support for Justice Lindberg from U.S. District Judge Richard Mills and from

former Illinois Appellate Court Justice John J. Sullivan. These letters illustrate the support and praise Justice Lindberg has received.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DISTRICT COURT,
CENTRAL DISTRICT OF ILLINOIS,
Springfield, IL, October 11, 1989.

Hon. JOSEPH R. BIDEN,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The President recently nominated my good friend, Justice George W. Lindberg, to be a United States District Judge, Northern District of Illinois, and I understand that your committee will conduct a hearing on that nomination in the near future. If it is not inappropriate, I would simply like to relay my strong support for Judge Lindberg's confirmation.

George and I have been friends for 20 years, encompassing the entire time that he was State Representative, State Comptroller, Deputy Attorney General, and the over 10 years he has served on the Appellate Court of Illinois. George's integrity and ethics are simply above reproach.

Having served on the Illinois Appellate Court myself for nearly nine years before taking this bench, I had extensive contact with Judge Lindberg. It is in that particular context that I am directly acquainted with his high degree of professional and judicial competency and am familiar with the fact that he has revi wed several thousand trial court records in the course of his appellate service. He is highly regarded by the bar and bench in Illinois—trial and appellate—for solid and scholarly work.

I wish him well before your committee, which was so gracious to me in July 1985. And I will welcome Judge Lindberg as a superlative colleague on the federal trial court.

Thank you for the opportunity of conveying these thoughts, and with every best wish, I remain.

Respectively yours,
RICHARD MILLS,
U.S. District Judge.

CHICAGO IL,
October 10, 1989.

Re Justice George W. Lindberg.

Hon. JOSEPH BIDEN,
Chairman, Committee on Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: Justice George W. Lindberg of the Appellate Court of Illinois, who is under consideration for appointment to the U.S. District court for Northern Illinois and will soon appear before the Judiciary Committee is, in my opinion, eminently well qualified for service on that court.

I have taken the liberty of giving my opinion because of my belief that I may be the only person or, in any event, one of only a few persons, in this area having the professional background to evaluate fairly the qualifications of Justice Lindberg.

Licensed in 1937 I was an active trial lawyer until 1973 handling many hundreds of legal matters in the State and Federal Courts, both jury and non-jury, with considerable success, not only materially, but also in attaining the respect of my contemporaries as evidenced by my election to the presidencies of both the Chicago Bar Association and the Illinois Trial Lawyers Association, as well as to Fellowships in both the American College of Trial Lawyers and the International Academy of Trial Lawyers.

In 1973 two justices of the Illinois Supreme Court informed me that their court desired to appoint an experienced trial lawyer to the Appellate Court to fill a vacancy and I was asked to consider such an appointment. I accepted and was appointed in 1973. Then in 1974 I was slated by the Democratic Party and elected to that court, serving until my retirement in 1988.

Senator Biden, although Justice Lindberg is held in unquestioned high regard by the legal profession in Illinois, I have learned that while a "substantial majority" of the ABA Committee found him qualified, a minority expressed concern about his lack of trial experience. I believe that such concern is unjustified and indicates a lack of knowledge concerning the work of the Appellate Court.

In his 11 years on the Illinois Appellate Court Justice Lindberg authored hundreds of opinions and participated in the hundreds of opinions of the other members of their three-justice panel. This work entailed the examination and review of the trial records in those cases and, as you know, their decisions guide and control the work of the trial judges and the attorneys appearing before them. This is particularly so in Illinois where approximately 94% of the appeals end in the Appellate Court.

Senator Biden, I am the only person in this area who served as an Appellate justice and who is also a Fellow of the American College of Trial Lawyers and the International Academy of Trial Lawyers, and it would thus appear that I may be the person best qualified by experience to suggest to you that there is no person better trained to sit as a trial judge than one who for many years has reviewed the work of trial judges, such as Justice Lindberg has done these past 11 years.

Please accept my apology if this letter is an intrusion on your busy schedule, but my interest in the best possible judiciary compelled me to express my opinion in the hope that the District Court here will not be deprived of such an outstanding jurist as Justice Lindberg has been and will continue to be.

Thanks in advance for the courtesy of your consideration of my comments.

Sincerely,
JOHN J. SULLIVAN.

Mr. SIMON. Mr. President, in addition, Justice Lindberg has received the full support of the senior Senator from Illinois, ALAN DIXON and the minority leader of the other body, BOB MICHEL.

I hope that the Senate will act favorably on this nomination. I am confident that Justice Lindberg will quickly be an asset to the northern district of Illinois.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING TESTIMONY OF SENATE EMPLOYEE

Mr. MITCHELL. Mr. President, I send a resolution to the desk on behalf of myself and the distinguished Republican leader, Senator DOLE, on testimony by a Senate employee and production of Senate documents and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 203) authorizing a Senate employee's testimony and production of Senate documents in a grand jury investigation.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, a grand jury sitting in the U.S. District Court of the Eastern District of Pennsylvania is investigating allegations of fraud with respect to an individual, not a Senate employee, who held himself out to foreign nationals as able to obtain expedited visa status. In that regard, the U.S. attorney has requested the testimony of Skip Irvine, one of Senator HEINZ's staff assistants in the Senator's Philadelphia office, who has been cooperating with the investigation.

This resolution would authorize Mr. Irvine to appear before the grand jury and to provide a copy of a memorandum he wrote concerning the matter.

Mr. President, I urge adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 203) was agreed to.

The preamble was agreed to.

The resolution and its preamble are as follows:

S. RES. 203

Whereas, in Grand Jury proceeding No. 89-198, pending in the United States District Court for the Eastern District of Pennsylvania, the United States Attorney has requested the testimony of Walter Irvine, special assistant in the Philadelphia office of Senator John Heinz;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of and production of documents by employees of the Senate may be needed in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That Walter Irvine and any other staff assistant of Senator Heinz who may be asked are authorized to testify and produce documents in Grand Jury proceeding No. 89-198 in the Eastern District of Pennsylvania, except concerning matters which are privileged.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GEORGE THOMAS MICKEY LELAND FEDERAL BUILDING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3318, a bill to redesignate the Federal building at 1990 Smith Street, Houston, TX, as the George Thomas "Mickey" Leland Federal Building now at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3318) redesignating the Federal building in Houston, Texas, known as the Concorde Tower, as the "George Thomas Mickey Leland Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BENTSEN. Mr. President, I am pleased with the Senate's action today. When my colleague from Texas, Senator GRAMM, and I introduced this legislation to name a building in downtown Houston after the late Representative Mickey Leland, we asked the Senate to move it quickly. The Senate kept its word, and we now join with Mickey's House colleagues from Texas and the whole House in honoring his memory. This legislation, which will go directly to the President's desk because it has already passed the House, is simple. It names a building in downtown Houston, Mickey's district, after him. The building is owned by the Federal Government, but it had never been given a name. The action we take today is simple. It is easy to understand. But it has a far deeper meaning than what appearances provide. In naming this building after the late Congressman Leland, we honor his memory and we pay tribute to the fine work he did as a Represenative in the U.S. House of Representatives. In many ways, he represented the very finest of our country and what it stands for. He grew up in a poor section of Houston. Yet, he did not allow that slower start in life to dim his enthusiasm for achievement. In many of the eulogies of Mickey Leland, he was called a "long distance runner." I believe that is what he was, and he ran from the ghettos of Houston to the halls of Congress.

By taking this action today, we take a symbolic step. We posthumously award the long distance runner. Mr. President, I miss Mickey Leland. I miss his wit and humor, his strong voice against oppression, and his able leadership in the House on many issues of importance to Texas and the people of the 18th Congressional District. Of course, the most enduring tribute to Mickey will be if we as a nation redouble our efforts to eradicate hunger and homelessness here and abroad; that we as a nation come together to rid our communities of the scourge of drugs; that the cancer of hatred and intolerance no longer inflict us and poison the minds of our young. Then too, he would want the war-torn nation on whose soil he paid the ultimate price, in the words of the prophet Isaiah, "to turn its swords into plowshares" and study war no more. We can build a monument to his short, but well-lived life by remembering the purpose of the mission he was on when he left us through our deeds and acts of generosity. If we do that, we not only honor him and his memory, but we also pay tribute to our own capacity to appreciate others, to celebrate uncommon genius, and to reward public service.

In a few days, there will be an election in Houston to fill his remaining term of office. Whoever succeeds this man we called Mickey will surely have big shoes to fill and an important legacy to continue.

Mr. BURDICK. Mr. President, I am pleased to join in dedicating the Concorde Tower in Houston in honor of our late colleague, Mickey Leland. This is a most fitting tribute to a man who so selflessly dedicated his life to public service.

Congressman Leland was first elected to Congress in 1978 and remained for the entire 10 years he served here a maverick who steadfastly voted his conscience. He played an integral part in the formation of the House Select Committee on Hunger and served as its chair since its inception in February 1984. In 1985, at the height of the African famine, he secured over three-quarters of a billion dollars in relief funds. His humanitarian efforts focused on the domestic front also; he visited Indian reservations and Appalachian communities as well as African relief camps. Mickey Leland was born poor, and although he enjoyed success in his later years he maintained a deep compassion for those less fortunate.

Mickey Leland was a staunch supporter of Israel and sponsored an internship program under which American blacks and Hispanics were given the opportunity to study on an Israeli kibbutz.

Although the late Congressman was intractable in his commitment to combat hunger and unerringly loyal to his friends and family, he was willing to admit to making a mistake—an uncommon trait in a politician.

Those of us in Congress who had the opportunity to serve with Mickey Leland were indeed fortunate. The designation of this Federal building in honor of the late Congressman, who would have celebrated his 45th birthday later this month, will demonstrate the affection and respect with which he was regarded by his colleagues.

THE "MICKEY LELAND FEDERAL BUILDING"

Mr. MOYNIHAN. Mr. President, as chairman of the subcommittee that reviews such matters, I rise to express my strong support for H.R. 3318, to rename the Concord Building on Smith Street in Houston as the "Mickey Leland Federal Building." In so doing, Mickey Leland will be honored for being a true public servant. Indeed, he served those who very often needed help most—the poor, the hungry, the homeless.

Mickey Leland was a leader of compassion, strength and vision. He viewed his mission as a worldwide one and sought to be an advocate, in his own words, "in any part of the world where people are desperate and hungry for the freedoms and rights they deserve as human beings."

As chairman of the House Select Committee on Hunger, Congressman Leland worked tirelessly for the hungry. He did not forget the effects of famine in Africa when it stopped being reported in the national media. Quite the opposite. Furthermore, Mickey Leland saw the hunger and impoverishment that exist in our own Nation and made it his mission to combat these dark realities.

As was recently stated in the Congressional Quarterly, in Mickey Leland "the Nation discovered a Congressman sacrificing his time, and ultimately his life, for a personal mission of mercy."

Mr. President, it is with great admiration and deep respect, that I lend my unqualified support to the redesignation of the Concord Building in Houston, Mickey Leland's home, as the "Mickey Leland Federal Building."

If I may, I also send a message of affection and regard to Mickey's widow, Alison, and their young son Jarrett.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3318) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 334, 338, 339, and 340 en bloc; that the committee amendments, where appropriate, be agreed to; that the bills and resolution be deemed read a third time and passed; that the preamble be agreed to, and motions to reconsider the passage of the bills and resolution be laid upon the table.

I further ask unanimous consent that the consideration of these items appear individually in the RECORD.

I further ask unanimous consent that any statements in reference to these calendar items appear at the appropriate place in the RECORD, as if read.

The PRESIDING OFFICER. Without object, it is so ordered.

COMMUNITY FOUNDATION WEEK

The Senate proceeded to consider the joint resolution (H.J. Res. 425), designating November 12 through November 18, 1989, as "Community Foundation Week."

The joint resolution was ordered to a third reading, read the third time, and passed.

THE 82D AIRBORNE DIVISION ASSOCIATION, INC.

The Senate proceeded to consider the bill (S. 82) to recognize the organization known as the 82d Airborne Division Association, Inc.

Mr. THURMOND. Mr. President, I am pleased that the Senate is considering today, S. 82, a bill to grant a Federal charter to the 82nd Airborne Division Association. S. 82 currently has the bipartisan support of 52 cosponsors and the companion legislation on the House side has 224 cosponsors. On October 5, 1989, this legislation passed the Senate as an amendment to S. 1711, a bill to implement the President's 1989 national drug control strategy. Also, identical legislation which I introduced last Congress passed the Senate with 55 cosponsors.

The 82d Airborne Division was activated initially as an infantry division which participated in three of the major campaigns of World War I: Lorraine, St. Michiel, Meuse-Argonne. On May 27, 1919, the 82d Airborne was inactivated. The division was reactivated on March 25, 1942, under the command of Maj. Gen. Omar Bradley and became the Army's first airborne division under the command of Maj. Gen. Matthew B. Ridgway. Deployed to North Africa in 1943, the 82d made parachute and glider assaults on Sicily and Salerno. In a 2-year period during World War II, the regiments of the 82d saw action in Italy at Anzio, in France at Normandy, where I landed with them, and at the Battle of the Bulge.

Following the end of the war, the sky soldiers of the 82d were ordered to Berlin to serve as "America's Guard of Honor" for 5 months of 1945. Due to logistical problems associated with the servicing of an airborne division overseas, the division returned to the United States where it was greeted with a New York City tickertape reception as it marched triumphantly on Fifth Avenue, on January 12, 1946.

The division was assigned to Fort Bragg, NC, to become a leading element of the Nation's military reaction force as well as to participate in a number of peacekeeping missions. Elements of the division have valiantly served in Korea, the Dominican Republic, Vietnam, and Grenada. Peacekeeping units have served in Sinai.

Designed to move quickly to any part of the world and to be prepared to fight immediately upon arrival, the members of the 82d Airborne have served with distinction for over 45 years. They have demonstrated a tireless commitment to our Nation's defense and ideals. Therefore, I can think of no other military association more deserving of the recognition given by Congress in the granting of a Federal charter. I urge my colleagues to join me in supporting the passage of this measure to grant such a charter to the 82d Airborne Division Association.

The bill (S. 82) was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 82

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The 82nd Airborne Division Association, Incorporated, a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The 82nd Airborne Division Association, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82nd Airborne Division who fought and died for our Nation,

(2) furthering the common bond between retired and active members of the 82nd Airborne Division,

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members,

(4) promoting civic and patriotic activities, and

(5) promoting the indispensable role of airborne defense in our national security.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. (a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members,

the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(74) 82nd Airborne Division Association, Incorporated.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", aproved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER

SEC. 13. The right to amend, alter, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF STATE

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

FEDERAL DEBT COLLECTION PROCEDURES ACT

The Senate proceeded to consider the bill (S. 84) to amend title 28, United States Code, to provide Federal debt collection procedures, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause, and insert in lieu thereof, the following:

S. 84

That this Act may be cited as the "Federal Debt Collection Procedures Act of 1989".

TITLE I—DEBT COLLECTION PROCEDURES

SEC. 101. Title 28 of the United States Code is amended by inserting immediately after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter
"A. Definitions and General Provisions 3001
"B. Prejudgment Remedies 3101
"C. Judgments; Liens 3201
"D. Postjudgment Remedies 3301
"E. Exempt Property 3401
"F. Fraudulent Transfers 3501
"G. Partition 3601
"H. Foreclosure of Security Interests 3701

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.
"3001. Definitions.
"3002. Rules of construction.
"3003. Nationwide enforcement.
"3004. [Priority of claims of the United States.
"3005. Claims of United States not barred by State statute of limitations.
"3006. Right of set-off or recoupment.
"3007. Discovery.
"3008. Affidavit requirements.
"3009. Perishable property.
"3010. Immunity.
"3011. [Proceedings before United States magistrates.
"3012. United States marshals' authority to designate keeper.
"3013. Co-owned property.
"3014. Assessment of charges on a claim.
"3015. Funding.
"3016. Investigative authority.
"3017. Subrogation.
"3018. Effective Date.

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"§ 3001. Definitions

"As used in this chapter—

"(a) 'claim' means amounts owing on account of direct loans or loans insured or guaranteed by the United States and all other amounts due the United States from or on account of fees, duties, leases, rents, services, sales of real or personal property, overpayments, fines, assessments, penalties, restitution, damages, interest, taxes, bail bond forfeitures, reimbursements and recovery of costs incurred and other sources of indebtedness. This definition includes amounts due the United States for the benefit of an Indian tribe or individual Indian.

"(b) 'Counsel for the United States' shall include for the purposes of this chapter, a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, an attorney with the United States Department of Justice or other Federal agency having litigation authority and any private attorney authorized by contract to conduct litigation for collection of debts on behalf of the United States.

"(c) 'Court' means any court created by the Congress of the United States exclusive of the United States Tax Court.

"(d) 'Debt' means liability to the United States on a claim.

"(e) 'Debtor' means a person who is liable to the United States on a claim.

"(f) 'Debt collection personnel' means personnel employed by any agency of the Federal government whose primary duties are the collection of the debts owed to the United States.

"(g) 'Disposable earnings' means that part of the earnings remaining after all deductions required by law have been withheld and 'nonexempt disposable earnings' means 25 percent of disposable earnings.

"(h) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(i) 'Garnishee' means a person other than the debtor who has, or is thought to have, possession, custody or control of any property of the debtor, including obligations owed to the debtor whether such obligations are past due or have yet to become due, against whom a garnishment has been issued by the clerk of the court.

"(j) 'Judgment' means a judgment, order or decree entered in favor of the United States in any court whether arising from a civil or criminal proceeding regarding a claim.

"(k) 'Judgment creditor' means the United States in situations in which the United States has judgments in its favor, whenever referred to in this chapter.

"(l) 'Judgment debtor' means a person against whom the United States holds a judgment on a debt.

"(m) 'Person' includes a natural person, including individual Indians, a corporation, a partnership, an unincorporated association, a trust or an estate or other entity, public or private, including local governments and Indian tribes.

"(n) 'Prejudgment remedy' means the remedies of attachment, garnishment, replevin, receivership, sequestration, injunction or a combination of any of the foregoing that are sought prior to judgment.

"(o) 'Property' includes any present or future interest in real, personal (including, but not limited to, earnings, goods, or mixed property, whether legal or equitable, tangible or intangible, vested or contingent, and wherever located and however held, whether held as a tenancy in common, joint tenancy, tenancy by the entirety, community property, in partnership, or in trust (including spendthrift and pension trusts), and excludes any property held in trust by the United States for the benefit of any Indian tribe or individual Indian or any Indian lands subject to restrictions against alienation imposed by the United States.

"(p) 'Service' under the provisions of this chapter shall be in accordance with the Federal Rules of Civil Procedure.

"(q) 'State' includes the several states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Marianas and any of the territories and possessions of the United States.

"(r) 'United States' includes an officer or agency thereof, a Federal corporation, Federal instrumentality, department, commission, board or other Federal entity.

"(s) 'United States marshal' means the United States marshal, his designee or contractor.

"§ 3002. Rules of construction

"In this title—

"(a) 'includes' and 'including' are not limiting;

"(b) 'or' is not exclusive;

"(c) the singular includes the plural;

"(d) the provisions are general and intended as a unified coverage of the subject matter;

"(e) if any provision or amendment made by this chapter or application thereof to any person is held invalid, the provisions of every other part and their application shall not be affected thereby;

"(f) the cases arising under the provisions herein shall not affect cases arising under admiralty jurisdiction;

"(g) the provisions of this chapter do not and should not be construed to curtail or limit any rights the United States has to collect taxes under any other provision of Federal law;

"(h) the provisions of this chapter do not, and should not be construed to, curtail or limit any rights the United States has under any other provision of Federal law to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; and

"(i) the provisions of this chapter do not, and should not be construed to, curtail or limit the rights the United States has under any other provision of Federal law to appoint receivers.

"§ 3003. Nationwide enforcement

"Notwithstanding any other provision of law, any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State and may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"§ 3004. Priority of claims of the United States

"The priorities established by the various provisions of this chapter shall be superseded by the provisions of section 3713 of title 31, United States Code, when the debtor or, if deceased, his estate is insolvent as determined under that section and the priority of the United States shall be in accordance therewith.

"§ 3005. Claims of the United States not barred by State statute of limitations

"The United States shall not be barred by the statute of limitations of any State in the enforcement of any of its claims.

"§ 3006. Right of set-off or recoupment

"Except as specifically provided for in this chapter, nothing in this chapter shall be construed to affect the common law or statutory rights to set-off or recoupment.

"§ 3007. Discovery

"(a) The United States may have discovery from any person including the debtor regarding the financial condition of the debtor in any case in which the United States seeks to enforce a claim. Such discovery may be before judgment or after judgment is entered in the case and in the manner in which discovery is provided for in the Federal Rules of Civil Procedure.

"(b) After judgment, the United States may also subpoena the judgment debtor or a third party to appear before the court at a location consistent with the Federal Rules of Civil Procedure with all records, books and other documents and to answer under oath questions regarding the debtor's financial condition and ability to satisfy the judgment.

"(c) The court shall impose appropriate sanctions as provided by the Federal Rules of Civil Procedure or the court's contempt power, including arrest of the offending person or debtor, for failure to comply with these discovery procedures.

"§ 3008. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made upon information and belief, where reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3009. Perishable property

"At any time during any proceedings, other than those under section 3103(a), the court may determine on its own initiative or upon motion of any party, that any seized or detained property, or any portion thereof, is likely to perish, waste, or be destroyed, or otherwise depreciate in value during the pendency of the proceedings. The court shall order the sale of the property or portion thereof and require the proceeds to be deposited with the clerk of the court. For purposes of liability on the part of the United States, the price paid at any such sale shall be conclusively presumed to be the fair market value.

"§ 3010. Immunity

"Counsel for the United States, but excluding any private attorneys authorized by contract to conduct litigation for collection of debts on behalf of the United States, and non-attorney debt collection personnel shall have absolute immunity in their individual and official capacities from any liability arising from errors, omissions or negligence in performance of their official debt collection duties.

"§ 3011. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States. A district court may adopt appropriate rules to carry out any such assignment.

"§ 3012. United States marshals' authority to designate keeper

"Whenever the United States marshal is authorized to seize property pursuant to the provisions of this chapter, the United States marshal shall be authorized to designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3013. Co-owned property

"The remedies available to the United States under this chapter shall be enforced against property which is co-owned by a debtor and others to the extent allowed by the law of the State where the property is located.

"For the purposes of this section, 'property' does not include the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof. A 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or regulation pursuant to statutory authority.

"§ 3014. Assessment of charges on a claim

"The United States may assess on a claim a charge of 10 percent of the amount of the claim to cover the cost of processing and handling the litigation and judicial enforcement of the claim.

"§ 3015. Funding

"It is hereby authorized that such sums be appropriated as may be necessary to carry out the provisions of this chapter. Appropriations authorized under this section shall remain available for obligations necessary to implement this chapter for 1 year.

"§ 3016. Investigative authority

"When the United States has reason to believe that an activity in violation of legal standards threatens to deprive it of a claim, the appropriate United States Attorney may commence a proceeding against named or unknown parties for the purpose of determining whether a claim for relief should be asserted under applicable law, and all discovery proceedings available under the Federal Rules of Civil Procedures shall be available in such proceeding.

"§ 3017. Subrogation

"When the United States asserts a claim against a debtor for sums alleged to be due the United States, the United States may name as an additional defendant then or by way of amendment of its complaint, any party reasonably believed to owe sums to the debtor arising out of the transaction or occurrence giving rise to the obligation to the United States, including but not limited to obligations on account of requirements to provide goods or services pursuant to a loan or loan guarantee extended pursuant to Federal law. If such party pays or is found liable, any amounts paid to the United States shall be credited to the account of the debtor.

"§ 3018. Effective date

"This Act and the amendments made by this Act shall take effect 180 days after the date of enactment and shall apply to all claims and debts owed to the United States and judgments in favor of the United States.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies with prior notice.
"3102. Prejudgment remedies without prior notice.
"3103. Attachment.
"3104. Garnishment.
"3105. Injunctions.
"3106. Sequestration.
"3107. Replevin.
"3108. Receivership.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"§ 3101. Prejudgment remedies with prior notice

"(a) APPLICATION.—(1) The United States may in conjunction with the complaint or at any time after the filing of a civil action, make application, under oath, to the court to issue any prejudgment remedy allowed by law.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall state that the party against whom any prejudgment remedy is sought shall be afforded an opportunity for a hearing.

"(b) GROUNDS.—Any prejudgment remedy may be issued in favor of the United States by any court of the United States on application before judgment when—

"(1) the application sets forth with particularity, that all statutory requirements for the issuance of such prejudgment remedy sought under this chapter have been complied with by the United States; and

"(2) the court finds that the United States has shown the probable success of its claim.

"(c) NOTICE; FORM OF NOTICE.—Upon the filing of an application, the clerk of the court shall issue a notice directed to any person against whom any prejudgment remedy would operate, substantially in the following form—

"NOTICE

"You are hereby notified that your [property] may be taken away from you by the United States, which says that you owe the United States a debt of $[amount]. The United States wants to take your property so that it can be sure you will pay if the court decides that you owe this money.

"If you do not want to have your property taken away, you may ask for a hearing before this court. You may ask for the hearing anytime within 20 days from the date that this notice was mailed as indicated below. The hearing, if you so demand, will take place within five working days after you notify the court, or as soon thereafter as is practicable. You may ask for the hearing by checking the box at the bottom of this notice and filing it with the court at the following address: [address of court]. You must also send a copy to counsel for the United States at [address], so that the United States knows that you want the hearing.

"At the hearing, the court will decide whether the claim against you is probably valid and whether other legal requirements have been met. In addition, there are certain exemptions under Federal law which you may be entitled to claim with respect to the property.

"If you do not check the box requesting a date for a hearing and take this notice to the court within twenty days, the court will automatically assume you do not want a hearing and you will lose your right to a hearing before the United States may take your property with the court's permission.

"If you have any questions concerning your rights or this procedure, you should consult an attorney.

"DATE OF MAILING: _____

"(d) SERVICE OF NOTICE AND APPLICATION.—(1) A copy of the notice and a copy of the application for issuance of any prejudgment remedy shall be served by counsel for the United States by first class mail on each party against whom any remedy is sought. If such service is not possible, then service may be made under rule 4 of the Federal Rules of Civil Procedure, as appropriate.

"(2) Proof of service by mail may be made by affidavit or certification of mailing and shall set forth the actual date of mailing.

"(e) TIME TO REQUEST HEARING DATE; FORM OF REQUEST.—(1) Each person served with a copy of the notice set forth above and the application for any prejudgment remedy may request a date be set for the hearing on such application by filing with the clerk of the court within 20 days after service of the notice a written request for hearing date. The request for hearing shall be made by using the form provided or in some other writing. A copy of the request for hearing date shall be mailed by the person requesting the hearing to counsel for the United States.

"(2) The clerk of the court shall apprise counsel for the United States and the person requesting the hearing of the date of hearing.

"(f) WAIVER OF HEARING.—(1) If no request for hearing date is filed within the required time, counsel for the United States shall file an affidavit of default setting forth that service was made, that no request for hearing date was filed and that the party against whom any prejudgment remedy is sought has apparently waived any hearing. Counsel for the United States shall also file a proposed form of the written order requested. Upon filing of such affidavit, the clerk shall enter the order of waiver of record and any party so defaulted loses his right to a hearing prior to the issuance of the prejudgment remedy sought.

"(2) Upon entry of the order of waiver, the clerk shall immediately deliver the court file to the judge to whom the matter is assigned.

"(g) JUDICIAL REVIEW APPLICATION; ISSUANCE OF PREJUDGMENT REMEDIES WITH NOTICE.—(1) The court shall, within 5 days after hearing or the entry of the order of waiver, or as soon thereafter as is practical, review and examine all pleadings, evidence, affidavits and documents filed in the action to determine the following:

"(A) that evidence of service has been filed together with the original of the application and copy of notice;

"(B) where an order of waiver has been entered, that the affidavit of default has been filed and the order entered by the clerk;

"(C) that the claim or claims of the United States are based on facts established by the evidence or stated in the affidavit are sufficient to show that such claim or claims are probably valid; and

"(D) that any statutory requirement of this chapter for the issuance of any prejudgment remedy has been shown.

"(2) Upon the court's determination that the requirements of subsection (g)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Prejudgment remedies without prior notice

"(a) GROUNDS.—Any prejudgment remedy may be issued by any court without prior notice to the person against whom it will operate when the United States has a reasonable cause to believe that—

"(1) the person against whom the prejudgment remedy is sought is about to leave the jurisdiction of the United States with the intent to hinder, delay, or defraud the United States and has refused to secure that debt, or is a fugitive from justice;

"(2) such person has secreted or is about to secrete property;

"(3) such person has or is about to assign, dispose, remove, or secrete property, wholly or in part, or that such person is about to assign or dispose of property with the effect of hindering, delaying, or defrauding creditors;

"(4) the United States is the owner, lessor or otherwise is lawfully entitled to the immediate possession of the property claimed and is seeking a prejudgment remedy in the nature of replevin, receivership or sequestration;

"(5) a prejudgment remedy is required to obtain jurisdiction within the United States;

"(6) a constructive or resulting trust should be impressed on the property in favor of the United States if such person is likely to put the property beyond the reach of the United States;

"(7) the person against whom the prejudgment remedy is sought is converting, is about to convert or has converted his property of whatever kind, or some part thereof, into money, securities, or evidence of debt in a manner prejudicial to creditors;

"(8) the person against whom the prejudgment remedy is sought has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(9) the debt is due for property obtained illegally or by fraud.

"(b) APPLICATION; AFFIDAVIT; BOND; ISSUANCE OF WRIT.—(1) Contemporaneously with or at any time after the filing of a civil action, the United States shall file an application supported by an affidavit made upon information and belief, where reliable and reasonably necessary, establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim and the right of the United States to recover what is demanded in the application. The application shall state the amount of the debt owed the United States, including principal, interest, and costs, if any, and one or more of the grounds set forth in section 3102(a) and the specific requirements of the specific remedy sought.

"(2) No bond is required of the United States.

"(3) Upon the court's determination that the requirements of subsection (b)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(c) NOTICE AND HEARING; WAIVER OF HEARING.—(1) Upon filing of an application as provided in this section, the clerk shall issue notice in substantially the following form to the counsel for the United States for service upon the party against whom any prejudgment remedy is sought in accordance with subsection (3) of this section—

"NOTICE

"You are hereby notified that your [property] is being taken away from you by the United States, who says that you owe it a debt of $[amount]. The United States is taking your property because it says

[Insert one or more of the specific grounds set forth in section 3102(a).]

"In addition, you are hereby notified that there are certain exemptions under Federal law which you may be entitled to claim with respect to your property.

"If you disagree and think you do not owe the United States, or that you have not done what is stated above, then you can ask this court to hear your side of the story and give your property back to you. If you want such a hearing, it will be given to you within five working days if you so demand after you notify the court that you want one. To do so, check the box at the bottom of this notice or prepare your request in writing and mail it or take it to the clerk of the court at the following address: [address]. You must also send a copy to counsel for the United States at [address], so that the United States will know you want a hearing.

"If you do not request a hearing within thirty days from [date of issue] your property may be disposed of without further notice.

"You should consult a lawyer if you have any questions about your rights about this procedure.

"(2) When a prejudgment remedy is issued under this section, the person against whom it is sought may immediately move to quash such order and the court shall on the request of the debtor hear such motion within 5 days from the date the request was filed. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim or claims of the United States and any defenses and claims of exemptions of the party against whom such prejudgment remedy will operate; and

"(B) the existence of any statutory requirement for the issuance of any prejudgment remedy sought, plus the existence of any ground set forth in section 3102(a) of this chapter.

"(3) Counsel for the United States shall, at the time of the seizure, attachment or garnishment, or within 3 days thereafter, exercise reasonable diligence to serve the person against whom a prejudgment remedy is sought with an application, order and prescribed notice of the seizure, impoundment or such other act ordered by the court and of said person's right to an immediate hearing contesting the same.

"(4) If no request for a hearing is filed with the clerk within 30 days after the notice of seizure is issued by the clerk, the United States may dispose of the property as provided for in this subchapter.

"§ 3103. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) All property of the debtor or garnishee, except earnings and property exempt under the provisions of this chapter, may be attached pursuant to a writ of attachment in any action in which a debt or damages are recoverable and may be held as security to satisfy such judgment and costs as the United States may recover.

"(2) The amount to be secured by an attachment shall be determined as follows—

"(A) the amount of the debt owed to the United States by the defendant; and

"(B) the estimated amount of interest and costs likely to be taxed by the court.

"(3) In any action or suit for an amount which is liquidated or ascertainable by calculation, no attachment shall be made for a larger sum than the amount of the debt and such additional amount as is reasonably necessary to provide for interest thereon and costs likely to be taxed in the action.

"(b) AVAILABILITY OF ATTACHMENT.—The United States after complying with the provisions of section 3101 or 3102 may, in the following cases, have the property of the defendant attached as security for satisfaction of any judgment which may be recovered by the United States—

"(1) in an action upon a contract, express or implied, for payment of money which is not fully secured by real or personal property, or, if originally so secured, the value of such security may, without any act of the United States or the person to whom the security was given, be substantially diminished below the amount of the debt;

"(2) when an action is pending for damages in tort and the defendant is about to dispose of or remove his property beyond the jurisdiction of the United States;

"(3) in an action for damages or upon contract, express or implied, against a defendant not residing within the jurisdiction of the United States; or

"(4) in an action to recover fines, penalties, or taxes.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) A writ of attachment shall be issued by the court directing the United States marshal of the district where the property is located to attach so much of the defendant's property as will be sufficient or is available to satisfy the debt of the United States.

"(2) Several writs of attachment may, at the option of the United States, be issued at the same time, or in succession, and sent to different districts until sufficient property is attached to satisfy the debt.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the court title and the docket number and name of the cause of action;

"(C) the name and last known address of the defendant;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to the extent available.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the defendant found within his district, unless otherwise directed by counsel for the United States. The marshal shall not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the defendant. In cases where the writ is issued pursuant to section 3101, the marshal shall not enter into a residence or other building except upon specific order of the court.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the defendant in the same manner that a summons is served in a civil action and make his return thereof. If the United States marshal is unable to serve the writ upon the defendant, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the defendant in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with his action endorsed thereon or attached thereto and signed by him, to the court from which it was issued within 30 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it, state the location where it was attached, when it was attached and the disposition made of the property. If no property was attached, the return shall so state.

"(3) When personal property has been replevied as authorized by section 3103(j), the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(4) When the property levied on is claimed, replevied or sold after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment creates a lien on the property in favor of the United States.

"(2) The levy of the writ of attachment upon any property of defendant subject thereto is a lien from the date of the levy on the real property and on such personal property as remains in the custody of the attaching United States marshal and on the proceeds of such personal property as is sold.

"(3) The lien in favor of the United States marshal shall be ranked ahead of any other security interests perfected after the time of levy and filing of a copy of the notice of levy pursuant to subsection (d)(3) of this section.

"(4) The lien shall arise from the time of levy and continue until a judgment in the case is obtained or denied, or the action is otherwise dismissed. The death of the defendant whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(5) Upon entry of judgment for the United States, the court shall order the proceeds of the personal property, if any has been sold, to be applied to the satisfaction of the judgment, and also order the sale of any remaining personal property and the sale of any real property levied on to satisfy the judgment.

"(g) ATTACHMENT OF PERISHABLE PROPERTY; SALE; PROCEDURE.—(1) When personal property that has been attached is not replevied, the court may order it to be sold when it appears that the property is in danger of serious and immediate waste or decay, or that keeping it until trial will result in such expense or deterioration in value as substantially will lessen the amount likely to be realized therefrom.

"(2) In ascertaining whether the property is in danger of serious and immediate waste or decay or that keeping of the property until trial will result in such expense or deterioration in value as will substantially lessen the amount likely to be realized therefrom, the court may require or dispense with notice to the parties and may act upon such information provided by affidavit, certificate of the United States marshal or other proof, as appears sufficient to protect the interest of the parties.

"(h) DISPOSITION OF PROCEEDS OF SALE OF PERISHABLE PROPERTY; REPORT OF SALE.—Within 5 days after sale, the proceeds of the sale as provided in subsection 3103(g) after deduction of the United States marshal's expenses therefrom shall be paid by the United States marshal making the sale to the clerk of the court. The proceeds shall be accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser and the amount received with an itemized account of expenses.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed or sold, the court may make such order for its preservation or use as appears to be to the interest of the parties.

"(j) REPLEVIN OF ATTACHED PROPERTY BY DEFENDANT; BOND.—At any time before judgment, if the property has not previously been sold, defendant may replevy the property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the amount of the debt.

"(k) JUDGMENT WHERE PERSONAL PROPERTY REPLEVIED.—When personal property under attachment has been replevied, the judgment which may be entered shall be against defendant and also against the sureties on his replevin bond for the amount of the judgment, interest and costs.

"(l) RESTORATION OF PROPERTY OR EXONERATION OF BOND; LEVY ON EXEMPT PROPERTY.—(1) If the attachment is vacated or if the judgment is for defendant, the court shall order the property or proceeds thereof restored to defendant or exonerate the replevin bond. The court may determine under what circumstances the defendant is entitled to receive the proceeds rather than the attached property.

"(2) When any property claimed to be exempt is levied upon, defendant may, at any time after such levy, apply to the court for vacation of such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to defendant.

"(m) REDUCTION OR DISCHARGE OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the defendant or person whose property has been attached may submit a written motion to the court which issued the writ for a reduction of the amount of the attachment or its discharge. Notice of such motion shall be served upon the United States in accordance with the Federal Rules of Civil Procedure. The defendant may move for reduction or dissolution of attachment as appropriate.

"(2) The court shall order a part of the property to be released, if upon hearing the court finds that the amount of the attachment is excessive or unreasonable or where the attachment is for a sum larger than the liquidated or ascertainable amount of the debt plus an amount necessary to include interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"§ 3104. Garnishment

"(a) All prejudgment garnishments shall meet the requirements of sections 3101 and 3102.

"(b) All prejudgment garnishments as authorized by the court hereunder shall be issued and answered in the same manner and to the same extent as set forth in section 3306 with the following exceptions—

"(1) The writ shall specify the date that the order authorizing prejudgment garnishment was entered.

"(2) The writ shall specify the amount claimed by the United States.

"§ 3105. Injunctions

"Whether or not there are other remedies available to the United States under this chapter, nothing in this chapter shall be construed to preclude or otherwise limit the United States or any other party from obtaining injunctive relief under the Federal Rules of Civil Procedure in actions for debts owed the United States.

"§ 3106. Sequestration

"(a) APPLICATION FOR WRIT OF SEQUESTRATION AND ORDER.—If the United States claims in its complaint the right to title or possession of property or seeks to enforce a lien or security interest in such property, the United States may file an affidavit showing—

"(1) a description of the property sufficient to identify it;

"(2) the approximate value of the property;

"(3) the location of the real property, or in the case of personal property, the last known and likely locations of the property;

"(4) the availability of sequestration.

"(b) AVAILABILITY OF SEQUESTRATION.—The United States after complying with, or in addition to, the provisions of sections 3101 or 3102 may have property sequestered—

"(1) upon a showing that there exists an immediate danger that the debtor or garnishee of such property will ill treat, waste, destroy or convert to his own use the property, which includes, but is not limited to, crops, timber, rents, perishable goods, livestock or the revenues therefrom; or

"(2) upon a showing that title to or possession of such property has been secured by the debtor or other defendant or the party in possession by surreptitious means, trick, scheme, fraud, force, violence, claim of adverse possession or such other claims or any means adverse to the claim in title or possession, or both, of the United States.

"(c) ISSUANCE OF WRIT.—A writ of sequestration shall be issued by the court directing the debtor or other defendant or party in possession to sequester the property and deliver it to the United States.

"(d) Unless inconsistent, the provisions governing section 3103 (g) through (l) shall be applicable to this section.

"(e) These writs shall be served in accordance with the Federal Rules of Civil Procedure.

"§ 3107. Replevin

"(a) APPLICATION FOR WRIT.—If the United States claims in its complaint the right to possession of specific personal property, the United States may, at any time after complying with the provisions of section 3101 or 3102, file an affidavit showing—

"(1) that the United States is the owner of the property claimed, or is lawfully entitled to its immediate possession;

"(2) a description of the property;

"(3) that the property is wrongfully detained by the defendant;

"(4) the approximate value of the property.

"(b) SEIZURE.—If the court determines the United States has met the above requirements, it shall order that the United States marshal take possession of the specified property and deliver it to the United States.

"(c) REDELIVERY OF POSSESSION TO DEFENDANT.—The defendant may obtain redelivery of the property or any part thereof by giving bond as set forth in section 3103(j).

"§ 3108. Receivership

"(a) APPOINTMENT OF A RECEIVER.—The United States may apply for the appointment of a receiver for property in which it has an interest and which is or is to be the subject of an action in court. The application may be filed at any time prior to judgment or during the pendency of an appeal if there is a danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, mismanaged or the United States has otherwise established grounds for such relief under section 3101(a) or 3102(a). However when the security agreement so provides, a receiver shall be appointed without notice or without regard to adequacy of security. An application made by the United States when it is not already a party to the action constitutes an appearance in the action and the United States shall be joined as a party.

"(b) POWERS OF RECEIVER; EMPLOYMENT OF COUNSEL.—The court appointing a receiver may authorize him to take possession of real and personal property and sue for, collect and sell obligations upon such conditions and for such purposes as the court shall direct and to administer, collect, improve, lease, repair or sell such real and personal property, as the court shall direct. A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property. Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers or other professional persons. Upon motion of the receiver or a party, powers granted to a receiver may be expanded or limited. A receiver appointed under the terms of a security agreement shall be entitled to recover the rents and profits of the property covered by the security agreement as additional security and to pay them over to the United States in payment of any amount due arising from a default by the debtor.

"(c) UNITED STATES AS SECURED PARTY.—In the event of any default or defaults in paying the principal, interest, taxes, water, rents, or premiums of insurance required by the security instrument or in the event of a nonfinanced default or defaults, the United States in any action to foreclose the security interest shall be entitled, without notice and without regard to adequacy of any security for the debt, to the appointment of a receiver of the rents and profits of the premises covered by the security interest, and the rents and profits of the premises are assigned to the United States as further security for the payment of the debts.

"(d) DURATION OF RECEIVERSHIP.—In an action to foreclose a security interest, the receivership shall terminate when the purchaser at the foreclosure sale takes lawful possession of the property unless the court directs otherwise. In all other actions, the receivership shall not continue past the entry of judgment unless the court orders it continued under section 3302(b) or unless the court otherwise directs its continuation.

"(e) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds and his accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the United States with a copy thereof.

"(f) REMOVAL.—Upon motion of any party or upon its own initiative, the court which appointed the receiver may remove him at any time with or without cause.

"(g) PRIORITY.—If more than one court appoints a receiver, the receiver first qualifying under law shall be entitled to take possession, control or custody of the property.

"(h) COMMISSIONS OF RECEIVERS.—

"(1) GENERALLY.—A receiver is entitled to such commissions not exceeding 5 percent of the sums received and disbursed by him as the court allows unless the court otherwise directs.

"(2) ALLOWANCE WHERE FUNDS DEPLETED.—If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remained unpaid.

"(3) PROCEDURE.—At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by him.

"SUBCHAPTER C—JUDGMENTS; LIENS

"Sec.
"3201. Judgment by confession.
"3202. Judgment lien.
"3203. Sale of property subject to judgment lien.
"3204. Interest on judgments.

"SUBCHAPTER C—JUDGMENTS; LIENS

"§ 3201. Judgment by confession

"(a) GENERAL PROVISION.—On application, a court may enter a judgment by confession in favor of the United States without the

filing of a civil action for money due and owing.

"(b) VENUE.—The confession of judgment shall be filed in the district in which one or more of the defendants reside, can be found, are doing business at the time of the application, or in cases proceeding by in rem or quasi in rem jurisdiction where the property sought to be adjudicated is located.

"(c) STATEMENT BY DEFENDANT; CONTENTS.—Before a judgment by confession shall be entered, a sworn statement in writing shall be made and signed by the defendant after default and subsequent notice by the United States and filed with the court along with the application, stating—

"(1) the amount for which judgment may be entered and authorizing the entry of judgment;

"(2) the facts out of which the debt arose and that the amount confessed is justly due; and

"(3) that the person signing the statement understands that a judgment by confession allows the entry of judgment without further proceedings and authorizes enforced collection of the judgment.

"(d) ENTRY OF JUDGMENT.—The confession of judgment may be filed with the clerk of the court. The clerk shall enter a judgment for the amount confessed.

"(e) CONFESSION BY JOINT DEBTORS.—One or more joint debtors may confess a judgment for a joint debt due. Where all the joint debtors do not join in the confession, the judgment shall be entered and enforced against only those who confessed it. A confessed judgment against some of the joint debtors is not a bar to an action against the other joint debtors.

"(f) ENFORCEMENT OF JUDGMENT BY CONFESSION.—Judgments by confession shall be enforced in the same manner as other judgments.

"§ 3202. Judgment lien

"(a) CREATION OF LIEN GENERALLY.—A judgment shall be a lien upon all real property of a judgment debtor upon filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986.

"(b) IN CRIMINAL CASES.—A judgment obtained by the United States in a criminal case shall create a lien as provided in sections 3565 and 3613 of the Internal Revenue Code of 1986.

"(c) IN TAX CASES.—A judgment obtained by the United States in a tax case shall create a lien co-extensive with any lien created prior to judgment under section 6321 of the Internal Revenue Code of 1986; if no lien was so created prior to the judgment, then the procedure in subsection (a) shall be followed.

"(d) AMOUNT OF LIEN.—A lien created hereunder is for the amount necessary to satisfy the judgment, including costs and interest.

"(e) PRIORITY OF LIEN.—A lien created hereunder shall have priority over any other lien or encumbrance which is perfected later in time. However, liens created under sections 3565 and 3613 of the Internal Revenue Code of 1986, regarding criminal judgments or under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall have priority as otherwise provided by law.

"(f) DURATION OF LIEN; RENEWAL.—(1) A lien created hereunder is effective, unless satisfied, for a period of 20 years.

"(2) The lien may be renewed for one additional period of 20 years upon filing a notice of renewal in the same manner as the judgment was filed and shall relate back to the date the judgment was filed. The notice of renewal must be filed before the expiration of the first 20-year period to prevent the expiration of the lien.

"(3) The duration and renewal of a lien created under sections 3565 and 3613 of title 18, United States Code, regarding criminal judgments, or a lien created under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall be as otherwise provided by law.

"(g) RELEASE OF JUDGMENT LIEN.—A judgment lien shall be released upon the filing of a satisfaction of judgment or release of lien in the same manner as the judgment was filed to obtain the lien.

"(h) EFFECT OF LIEN UPON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—Any person who has a judgment lien against his property for any debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which such person is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants and loans.

"§ 3203. Sale of property subject to judgment lien

"Upon application to the court, the court may order the United States to sell pursuant to the provisions of sections 2001 and 2002 of title 28, United States Code, any real property subject to its judgment lien. This provision shall not preclude the United States from using an execution sale to sell real property subject to a judgment lien.

"§ 3204. Interest on judgments

"(a) Judgments for money, other than criminal or tax judgments, shall bear interest at the greater of—

"(1) the rate in an express contract or negotiable instrument, if the action was brought for the recovery of an amount due on the contract or negotiable instrument; or

"(2) the rate established by statute or regulation applicable to the debt owed;

"(3) the judgment interest rate established in accordance with this section.

"(b) The judgment interest rate, where applicable, shall be calculated from the date of the entry of the judgment, at a rate equal to 150 percent of the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United States Courts shall distribute notice of that rate and any changes in it to all Federal Courts.

"(c) Interest on judgments shall accrue daily from the date of entry of the judgment at the rate determined herein and shall be compounded annually to the date of payment.

"(d) Interest on tax judgments obtained under the Internal Revenue Code shall be allowed under section 6621 of such Code.

"(e) Interest on criminal judgments shall be allowed as provided in title 18, United States Code.

"(f) Nothing in this section shall preclude the assessment of prejudgment interest that is otherwise allowable by law.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"Sec.
"3301. Enforcement of judgments.
"3302. Orders in aid of execution.
"3303. Restraining notice.
"3304. Execution.
"3305. Installment payment order.
"3306. Garnishment.
"3307. Modification of protective order; supervision of enforcement.
"3308. Power of court to punish for contempt.
"3309. Arrest of judgment debtor.
"3310. Discharge.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"§ 3301. Enforcement of judgments.

"(a) A judgment may be enforced by any of the remedies set forth in this subchapter, and the court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to supplement these remedies, subject to the provision of rule 81(b) of the Federal Rules of Civil Procedure.

"(b) The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 of title 28, United States Code, or by execution sale pursuant to section 3304(g) of this subchapter.

"§ 3302. Orders in aid of execution.

"Where the judgment debtor has an ownership interest of any kind in property which is not exempt and cannot readily be attached or levied on by ordinary legal process, the United States is entitled to aid from the court by injunction or other appropriate order to reach the property to satisfy the judgment whether the property is located in the same district or other districts.

"(a) ORDER.—The court may order the property, together with all documents or records related to the property, that is in or subject to the possession or control of the judgment debtor or another person, to be turned over to the United States for execution or otherwise applied toward the satisfaction of the judgment. Where the judgment debtor or other person refuses to turn over the property, the court may enforce the order by proceedings for contempt or other appropriate order provided the judgment debtor or other person, as appropriate, is served with a copy of the order or has actual notice of the order.

"(b) RECEIVER.—The court may appoint a receiver of property where appropriate in accordance with section 3108 of this chapter.

"(c) SAME OR INDEPENDENT SUIT.—These proceedings may be brought by the United States in the same suit in which the judgment is rendered or in a new and independent suit.

"(d) COSTS.—Upon request, in a proceeding under this section, the United States shall recover from the judgment debtor 10 percent of the reasonable costs. This provision shall apply to the extent that recovery of costs by the United States is not provided for under other applicable provisions of Federal law.

"§ 3303. Restraining notice

"(a) ISSUANCE; ON WHOM SERVED; FORM; SERVICE.—A restraining notice may be issued by the clerk of the court or counsel for the United States as officer of the court. It may be served upon any person, except the employer of a judgment debtor where the property sought to be restrained consists of

earnings due or to become due to the judgment debtor. It shall be served personally in the same manner as a summons. It shall specify all of the parties to the action, the social security number of the judgment debtor, if known, the date the judgment was entered, the court in which it was entered, the amount of the judgment and the amount when due thereon, and the names of all parties against whom the judgment was entered. It shall set forth the requirements of subsection (b) below and shall state that disobedience is punishable as a contempt of court.

"(b) EFFECT OF RESTRAINT; PROHIBITION OF TRANSFER; DURATION.—(1) A judgment debtor who is served with a restraining notice shall not sell, assign, transfer or hypothecate any property, except as may be reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor and if the debtor is engaged in business, as may be reasonably necessary for the payment of expenditures for the continuation, preservation, and operation of such business.

"(2) A person other than the judgment debtor who is served with restraining notice shall not—

"(A) repay any obligation to the judgment debtor;

"(B) return any property to the judgment debtor; or

"(C) sell, assign, transfer or hypothecate any property—

"(i) specifically described in the restraining notice;

"(ii) that the other person knows to be owned by the judgment debtor; or

"(iii) in which the other person could have reason to believe by the exercise of due diligence that the judgment debtor has an ownership interest.

"(3) The restraining notice shall remain in effect for 1 year from the date the notice is served, or until the judgment is satisfied or the restraining notice is vacated by order of the court, whichever occurs first.

"(c) DISCLOSURE.—The person upon whom a restraining notice is served, other than the judgment debtor, shall disclose to the counsel for the United States, in writing under oath within 10 days after receipt of the restraining notice, the type or nature and value of such property of the judgment debtor as may be in his possession or custody. Upon such person receiving or acquiring property of the judgment debtor after receipt of a restraining notice, that person shall disclose to counsel for the United States, in writing under oath within 7 days of receipt of the property, the type or nature and value of such property of the judgment debtor as may be in his possession or custody.

"(d) DISCOVERY.—Any discovery request under the Federal Rules of Civil Procedure which accompanies this restraining notice and which seeks the disclosure of the type, nature and value of property of the judgment debtor must be responded to within 10 days of service of the notice and discovery request or within 10 days after property of the judgment debtor comes into the possession of the person served. Upon request, a reasonable extension may be granted.

"(e) SUBSEQUENT NOTICE.—Leave of court is required to serve more than one restraining notice upon the same person, other than the judgment debtor, with respect to the same judgment.

"(f) NOTICE TO JUDGMENT DEBTOR.—A copy of the restraining notice shall be mailed by first class mail by counsel for the United States to the judgment debtor within 4 days after the time of service of the restraining notice on a person other than the judgment debtor.

"§ 3304. Execution.

"(a) PROPERTY SUBJECT TO EXECUTION.—All property which the judgment debtor possesses and in which the judgment debtor has an interest shall be subject to levy pursuant to a writ of execution; co-owned property shall be subject to execution to the same extent as it is under the law of the State in which it is located. The judgment debtor must identify any property claimed to be exempt under the provisions of subchapter E.

"(b) EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied upon under a writ of execution and shall date from the time of the levy. This lien shall have priority over all subsequent liens and shall be for the amount due on the judgment. If the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) FORM OF WRIT OF EXECUTION.—

"(1) GENERAL REQUIREMENTS.—An execution writ shall specify the date that the judgment was entered, the court in which it was entered, the amount of the judgment if for money, the amount of the costs, and the sum actually due when the writ is issued, the amount of interest due, the rate of post-judgment interest, and the name of the party against whom the judgment was entered. The writ shall direct the United States marshal to satisfy the judgment out of all property, real and personal, of the judgment debtor not otherwise exempt pursuant to this chapter. An execution writ shall direct that only the property in which a named judgment debtor, who is not deceased, has an interest be levied upon or sold thereunder, and shall state the last known address of that judgment debtor.

"(2) EXCEPTION.—There shall be no requirement that personal property be levied upon and sold prior to levy and sale of real property of the judgment debtor.

"(3) EXECUTION FOR DELIVERY OF CERTAIN PROPERTY.—An execution issued upon a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(4) EXECUTION FOR POSSESSION OR VALUE OF PERSONAL PROPERTY.—If the judgment is for the recovery of personal property or its value, the writ shall command the marshal, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

"(d) ISSUANCE.—(1) The clerk of any court where a judgment is docketed, entered or registered, upon written application of counsel for the United States, shall, and without other or further order of a judge of that court, forthwith issue writs of execution. The writs shall be addressed to "Any United States Marshal," and may be served and executed in any judicial district of the United States, but shall be returnable to the issuing court. The writ shall be signed by the clerk of the court issuing the writ.

"(2) Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(e) RECORDS OF UNITED STATES MARSHAL.—(1) The United States marshal receiving the execution shall endorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person, he shall number them as received.

"(2) The United States marshal shall make a memorandum in writing of the date of every levy and specify the property upon which the levy has been made on the process or in an attached schedule. The memorandum or schedule shall also set forth the marshal's costs, expenses and fees.

"(f) LEVY OF EXECUTION.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the debtor found within his district, unless otherwise directed by counsel for the United States.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the debtor.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the debtor in the same manner that a summons is served in a civil action and so make his return thereof. If the United States marshal is unable to serve the writ upon the debtor, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and motion of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the debtor in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(5)(A) Real property subject to a security interest or conveyed in trust as security for any debt or contract may be levied upon and sold on execution against the interest of the judgment debtor, subject to such mortgage, and the terms and conditions thereof.

"(B) Personal property pledged, assigned or security for any debt or contract, may be levied upon and sold on complying with the conditions of the pledge, assignment or security interest.

"(g) EXECUTION SALE PROCEDURES.—

"(1) SALE OF REAL PROPERTY.—

"(A) Real property, or any interest therein, shall be sold for cash at public auction at the courthouse of the county, parish or city in which the greater part of the property is located or upon the premises or some parcel thereof.

"(B) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first of these publications shall appear not less than 25

days immediately preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, sufficient to identify the property, such as a street address the urban property, and the survey identification and location for rural property, but it shall not be necessary for it to contain field notes.

"(C) The United States marshal shall give written notice of public sale by personal delivery, or certified or registered mail, to persons and parties known to him to claim an interest in property under execution, including lienholders, co-owners and tenants, at least 25 days prior to the day of sale, to the last known address of such persons or parties.

"(2) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel must be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(3) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the debtor may divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court, furnish a survey of such prepared by a registered surveyor, and designate the order in which those lots shall be sold. When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(4) SALE OF PERSONAL PROPERTY.—

"(A) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located, or at some other place if, owing to the nature of the property, it is more convenient to exhibit it to purchasers at such place. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale, except shares of stock in corporations, and in cases, when by reason of the type or nature of the property, it is impractical to exhibit it, or where the debtor has merely an interest without the right to the exclusive possession, in which case the interest of the debtor may be sold and transferred without the presence of the property.

"(B) Notice of the time and place of the sales of personal property shall be given by posting notice thereof for 10 days successively immediately prior to the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made, and by mailing a copy by registered or certified mail to the judgment debtor at his last known address, or by personal delivery.

"(5) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time continuing the posting of notice and/or publication of the notice until the date to which the sale is postponed, and appending, at the foot of such notice of each successive postponement the following:

"The above sale is postponed until the _____ day of _____, 19___, at _____ o'clock ___ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.

"(6) BIDDING REQUIREMENTS; LIABILITY OF BIDDER; RESALE.—

"(A) The United States marshal may require of any bidder at any sale a cash deposit of as much as 20 percent of the sale price before the bid is received.

"(B) The cash deposit of any successful bidder at an execution sale shall be forfeited to the United States if he fails to comply with the terms of the sale; in addition, he shall be liable to the United States for all losses incurred by the United States at a subsequent sale of the same property. The liability for losses shall be limited to the difference between the amount of the deposit which was forfeited and the amount accepted by the United States as the highest bid by the defaulting bidder at the defaulted sale plus the costs of the defaulted sale. This liability shall be reduced by the amount the United States realizes from the subsequent sale, if any.

"(7) RESALE OF PROPERTY.—When the terms of the sale are not complied with by the bidder, the United States marshal shall proceed to sell the property again on the same day, if there is sufficient time; but if not, he shall readvertise and sell the property.

"(8) TRANSFER OF TITLE AFTER SALE.—

"(A) When the sale has been made and its terms complied with, the United States marshal shall execute and deliver any and all documents necessary to transfer ownership to the purchaser, without warranty, all the rights, titles, interest, and claims that the judgment debtor had in the property sold to the purchaser.

"(B) If the purchaser dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the estate of the purchaser, and it shall have the same effect as if accomplished during the lifetime of the purchaser.

"(9) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution is considered to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the defendant.

"(10) NO RIGHT OF REDEMPTION.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(11) DISTRIBUTION OF SALE PROCEEDS.—

"(A) The United States marshal shall first deliver to the judgment debtor, or his agent or attorney, such amounts to which he is entitled from the sale of partially exempt property as set forth in subchapter E of this chapter.

"(B) The United States marshal shall retain from the proceeds of a sale of property an amount equal to the reasonable expenses incurred in making the levy and keeping and maintaining the property.

"(C) The United States marshal shall deliver the balance of the money collected on execution to the counsel for the United States at the earliest opportunity.

"(D) If more money is received from the sale of the property than is sufficient to satisfy the executions held by the United States marshal, he shall pay forthwith the surplus to the judgment debtor or his agent or attorney.

"(h) REPLEVY.—(1) Any personal property taken in execution may be returned to the defendant by the United States marshal upon the delivery by the defendant to him of a bond or upon satisfaction of the judgment and any costs incurred in connection with scheduling the sale prior to the execution sale, payable to the United States, with two or more good and sufficient sureties, to be approved by the United States marshal, conditioned upon the delivery of the property to the United States marshal at the time and place named in the bond, to be sold according to law, or for the payment to the United States marshal of a fair value thereof, which shall be stated in the bond.

"(2) Where property has been replevied, as provided above, the judgment debtor may sell or dispose of the property paying the United States marshal the stipulated value thereof.

"(3) In the case of the non-delivery of the property according to the terms of the delivery bond, and non-payment of the value thereof, the United States marshal shall forthwith endorse the bond 'Forfeited' and return it to the clerk of the court from which the execution issued; whereupon, if the judgment remains unsatisfied in whole or in part, the clerk shall issue execution against the principal judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, upon which execution no delivery bond shall be taken, which instruction shall be endorsed by the clerk on the execution.

"(i) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ must be recognized and enforced by the court having jurisdiction over the estate of the deceased. The execution lien may be enforced against the executor, administrator, or personal representative of the estate of the deceased; or if there be none, against the heirs or devisees of the property of the deceased receiving same, but only to the extent of the value of the property coming to them.

"(j) WHEN EXECUTION NOT SATISFIED.—When the property levied upon does not sell for enough to satisfy the execution, the United States marshal shall proceed on the same writ of execution as to other property of the judgment debtor.

"(k) RETURN ON EXECUTION.—(1) The United States marshal shall make a written return on each writ of execution to the court from which the writ was issued and deliver a copy to counsel for the United States who requested the writ. It shall be returnable 90 days from the date of issuance unless counsel for the United States has specified an earlier date. The return shall be filed by the clerk of the court from which the writ was issued.

"(2) The United States marshal shall state concisely what was done in pursuance of the requirements of the writ.

"(3) The return shall be made forthwith if satisfied by the collection of the money, or if ordered by counsel for the United States, which order shall be noted on the return.

"§ 3305. Installment payment order

"Where it is shown that the judgment debtor is receiving or will receive money from any source or is attempting to impede the United States by rendering services without adequate compensation, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration the rea-

sonable requirements of the judgment debtor, any payments required to be made by the judgment debtor or deducted from the money he would otherwise receive in satisfaction of other judgments, the amount due on the judgment, and the amount being or to be received, or, if the judgment debtor is attempting to impede the United States by rendering services without adequate compensation, the reasonable value of the services rendered.

"Upon motion of the United States, and upon a showing that the debtor's financial circumstances have changed or that assets not previously disclosed by the debtor have been discovered, the court may increase the amount of payments or alter their frequency or require full payment.

"§ 3306. Garnishment

"(a) GENERAL.—A court may issue writs of garnishment, either prejudgment or postjudgment against the property of a debtor which is in the possession, custody or control of a third person in order to satisfy a judgment against the debtor; co-owned property shall be subject to garnishment to the same extent as it is under the law of the States in which it is located. The United States may request and a court shall issue simultaneous separate writs of garnishment to several garnishees. All writs of garnishment issued pursuant to these provisions shall be continuing and shall terminate only as provided herein.

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment, the following:

"(A) any matters required by section 3104 when seeking prejudgment garnishment;

"(B) the debtor's name, social security number, if known, and the debtor's last known address;

"(C) the nature and amount of the debt alleged to be owed and that demand on the debtor for payment of the debt has been made, but the debtor has not paid the amount due. A money judgment must be alleged for postjudgment garnishment; and

"(D) that the garnishee is believed to be indebted to the debtor or have possession of property of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) Where property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) Where property consists of a right to or interest in a decedent's estate or any other property or fund held or controlled by a personal representative or fiduciary, the personal representative or fiduciary shall be the garnishee.

"(C) Where property consists of an interest in a partnership, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(D) Where property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee; except that in the case of a security which is transferable in the manner set forth in State law, the firm or corporation which carries on its books an account in the name of the debtor in which is reflected such security, shall be the garnishee; *Provided, however*, That if such security has been pledged, the pledgee shall be the garnishee.

"(c) ISSUANCE OF WRIT.—

"(1) CLERK'S REVIEW.—The clerk or the court shall review the application for postjudgment writs of garnishment and if it meets the requirements set forth herein, shall issue an appropriate writ. The clerk shall issue prejudgment writs of garnishment as authorized by the court.

"(2) FORM OF WRIT.—

"(A) GENERAL PROVISIONS.—The writ shall state—

"(i) The nature and amount of the debt. If interest is accruing, the rate of accrual thereafter shall be stated. If a judgment is involved, the amount of any costs included in the judgment should be stated.

"(ii) The name and address of the garnishee.

"(iii) The name and address of counsel for the United States.

"(iv) The last known mailing address of the debtor.

"(v) That the garnishee shall answer the writ within 10 days of service of the writ.

"(B) EARNINGS GARNISHMENT.—The United States may apply for garnishment of the nonexempt disposable earnings of a natural person. The writ for the garnishment of earnings shall direct the garnishee to withhold and retain the nonexempt earnings for which the garnishee is indebted to the debtor at the time of receipt of the writ and may thereafter become indebted to the debtor pending further order of the court.

"(C) GARNISHMENT OF OTHER PROPERTY.—As to all non-earnings property of a debtor who is a natural person and all property of other debtors in the possession, custody and control of the garnishee at the time the writ is received by the garnishee and anytime thereafter, the writ shall direct the garnishee to retain possession, custody and control of and not to transfer or return the property pending further order of the court.

"(D) SERVICE OF WRIT.—The United States may serve the garnishee with a copy of the writ by first class mail or by delivery by the United States marshal as provided by rule 4 of the Federal Rules of Civil Procedure. The United States shall, at the same time, serve the debtor with a copy of the writ by first class mail to the debtor's last known address; counsel for the United States shall certify to the court that this service was made. The writ of garnishment shall be accompanied by instruction explaining the requirement that the garnishee submit a written answer to the writ of garnishment and instructions to the debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(E) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath whether it is indebted to the debtor or has custody, control or possession of the debtor's property; a description of the indebtedness or property; whether the indebtedness or property is subject to any prior garnishments or levies and a description of any such claim; and whether the indebtedness or property is subject to any exemptions from garnishment. In addition, if the writ of garnishment is against the earnings of the debtor, the garnishee shall state whether the debtor was employed at the time the writ was received, and, if so, how much was owed at the time; and whether the garnishee anticipates owing earnings to the debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period. In all cases, the garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States. Any garnishee, including a corporation, may file an answer without the representation of an attorney.

"(F) OBJECTIONS TO ANSWER.—Within 20 days after receipt of the answer, the debtor and the United States may file a written objection to the answer and request a hearing on the objection. The party objecting must state the grounds for the objection and bears the burden of proving them. A copy of the objection and request for hearing shall be served on the garnishee and the other party. The court shall set a hearing within 10 days after the date the request was received by the court, or as soon thereafter as is practicable, and give notice of the date to all parties.

"(G) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer or pay within the time specified, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ or pay by the appearance date. If the garnishee fails to appear or does appear and fails to show good cause why he failed to comply with the garnishment writ, the court shall enter judgment against the garnishee for the full amount of the past debt owed by the debtor. The court shall award reasonable attorney's fees to the United States and against the garnishee if the writ has not been answered within the time specified therein and a petition requiring the garnishee to appear was filed as provided in this section. Failure to answer or pay within the time specified in the writ may also be punished as a contempt of the court.

"(H) DISPOSITION ORDER.—After the garnishee files its answer and if no hearing is required, the court shall promptly enter an order directing the garnishee as to the disposition of the debtor's property. If a hearing is required, the order shall be entered within 5 days of the hearing, or as soon thereafter as is practicable.

"(I) PRIORITIES.—Court orders and garnishments for the support of a person shall have priority over a writ of garnishment issued pursuant to these provisions. As to any other garnishment or levy, a garnishment issued pursuant to these provisions shall have priority over those which are later in time and shall be satisfied in the order in which the writs are served upon the garnishee.

"(J) ACCOUNTING.—The debtor or garnishee may request an accounting on a garnishment within 10 days after the garnishment terminates. The United States shall give a written accounting to the debtor and garnishee of all earnings and property it receives under a writ of garnishment within 20 days after it receives the request of the debtor or garnishee. Within 10 days after the accounting is received, the debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting must state grounds for the objection. The court shall set a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(K) DISCHARGE OF GARNISHEE'S OBLIGATION.—A garnishee shall be discharged as set forth in section 3311 of this subchapter.

"(L) TERMINATION OF GARNISHMENT.—A garnishment proceeding hereunder can be terminated by—

"(i) the court quashing the writ of garnishment;

"(ii) exhaustion of earnings or property in the possession, custody or control of the garnishee, unless the garnishee reinstates or reemploys the debtor within 90 days of dismissal or resignation; or

"(iii) satisfaction of the debtor's obligation to the United States.

"§ 3307. Modification or protective order; supervision of enforcement

"Within the provisions of this chapter, the court may at any time on its own initiative or the motion of any interested person, and upon such notice as it may require, make an order denying, limiting, conditioning, regulating, extending or modifying the use of any enforcement procedure.

"§ 3308. Power of court to punish for contempt

"A court shall have power to punish a civil or criminal contempt committed with respect to an enforcement procedure or order under this chapter.

"§ 3309. Arrest of judgment debtor

"Upon motion of the judgment creditor without notice, where it is shown by affidavit or otherwise that the judgment debtor is about to depart from the jurisdiction of the United States, or keeps himself concealed therein with intent to hinder, delay or defraud the judgment creditor, and that there is reason to believe that the judgment debtor has in his possession or custody nonexempt property in which he has an interest, the court may issue a warrant directed to the United States marshal to arrest the judgment debtor forthwith and bring him before the court. The United States marshal shall serve upon the judgment debtor a copy of the warrant and supporting documents at the time of arrest. When the judgment debtor is brought before the court, the court may order that he give a bond or undertaking in a sum to be fixed by the court, that he will appear before the court for examination and that he will obey the terms of a restraining notice contained in the order.

"§ 3310. Discharge

"A person who pursuant to an execution or order pays or delivers to the United States, a United States marshal or receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt he owes the judgment debtor, is discharged from his obligation to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER E—EXEMPT PROPERTY

"Sec.
"3401. Exempt property.
"3402. Limitation on exempt property.

"SUBCHAPTER E—EXEMPT PROPERTY

"§ 3401. Exempt property

"Except as provided under section 3402, the following property of natural persons shall be exempted from the enforcement procedures under the provisions of this chapter as to debts owed the United States—

"(a) the debtor's aggregate interest, not to exceed $7,500 in value in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor;

"(b) the debtor's interest, not to exceed $1,200 in value, in one motor vehicle;

"(c) the debtor's interest, not to exceed $200 in value in any particular item or $4,000 in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(d) the debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(e) the debtor's aggregate interest in any property, not to exceed in value $400 plus up to $3,750 of any unused amount of the exemption provided under subsection (a) of this subsection;

"(f) any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract;

"(g) the debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of title 11, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent;

"(h) the debtor's aggregate interest, not to exceed $750 in value in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;

"(i) professionally prescribed health aids for the debtor or a dependent of the debtor;

"(j) the debtor's right to receive—

"(1) a social security benefit, unemployment compensation, or a local public assistance benefit;

"(2) a veterans' benefit;

"(3) a disability, illness including Medicaid, Medicare, or unemployment benefits, and AFDC benefits;

"(4) alimony, child and spousal support or separate maintenance paid or received, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(5) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

"(A) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(B) such payment is on account of age or length of service; and

"(C) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(k) the debtor's right to receive, or property that is traceable to—

"(1) an award under a crime victim's reparation law;

"(2) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(3) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(4) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

"(5) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

"§ 3402. Limitations on exempt property

"(a) Property upon which a judgment debtor has voluntarily granted a lien, shall not be exempt to the extent of the balance due on the debt secured thereby.

"(b) If, within 90 days prior to judgment or thereafter, the debtor has transferred non-exempt property and as a result acquires, improves or increases in value exempt property, his interest shall not be exempt to the extent of the increased value.

"(c) The United States may require the judgment debtor to file a statement with regard to each claimed exemption; the original shall be filed with the court in which the enforcement proceeding is pending, and a copy served upon counsel for the United States. The statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the judgment debtor's ownership interest.

"(d) The United States, by application to the court where an enforcement proceeding is pending, may request a hearing on the applicability of any exemption claimed by the judgment debtor. The court shall determine whether the judgment debtor is entitled to the exemption claimed and the value of the property with respect to which the exemption is claimed; unless the court finds that it is reasonably evident that the exemption applies, the judgment debtor shall bear the burden of going forward with evidence and of persuasion.

"(e) Assertion of an exemption shall not prevent seizure and sale of the property to which such exemption applies. However, where an exemption has been validly and properly asserted, the sale proceeds for that item of property must be applied first to satisfy the dollar value of the exemption and then to the balance of the judgment. Any excess remaining after payment of judgment shall be paid to the judgment debtor.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"Sec.
"3501. Definitions.
"3502. Insolvency.
"3503. Value.
"3504. Transfer fraudulent as to the United States on present and future claims.
"3505. Transfer fraudulent as to the United States on a present claim.
"3506. When transfer is made or obligation is incurred.
"3507. Remedies of the United States.
"3508. Defenses, liability and protection of transferee.
"3509. Supplementary provision.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"§ 3501. Definitions

"As used in this subchapter—

"(a) 'Affiliate' means—

"(1) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding

voting securities of the debtor other than a person who holds the securities—

"(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(B) solely to secure a debt, if the person has not exercised the power to vote;

"(2) a corporation 20 percent or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than the person who holds securities—

"(A) as a fiduciary or agent without sole power to vote the securities;

"(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(b) 'Asset' means property of a debtor, but does not include—

"(1) property to the extent it is encumbered by a valid lien; or

"(2) property to the extent it is exempt under subchapter E of this chapter.

"(c) 'Insider' includes—

"(1) if the debtor is an individual—

"(A) a relative of the debtor or of a general partner of the debtor;

"(B) a partnership in which the debtor is a general partner;

"(C) a general partner in a partnership described in subsection (c)(1)(B); or

"(D) a corporation of which the debtor is a director, officer, or person in control.

"(2) if the debtor is a corporation—

"(A) a director of the debtor;

"(B) an officer of the debtor;

"(C) a person in control of the debtor;

"(D) a partnership in which the debtor is a general partner;

"(E) a general partner in a partnership described in subsection (c)(2)(D); or

"(F) a relative of a general partner, director, officer, or person in control of the debtor.

"(3) if the debtor is a partnership—

"(A) a general partner in the debtor;

"(B) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(C) another partnership in which the debtor is a general partner;

"(D) a general partner in a partnership described in subsection (c)(3)(C); or

"(E) a person in control of the debtor.

"(4) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(5) a managing agent of the debtor.

"(d) 'Lien' means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, or a statutory lien.

"(e) 'Relative' means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

"(f) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(g) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

"§ 3502. Insolvency

"(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

"§ 3503. Value

"(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) For the purposes of sections 3504(a)(2) and 3507, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, non-collusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3504. Transfer fraudulent as to the United States on present and future claims

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States, whether its claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States or any other creditor of the debtor; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(b) In determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether—

"(1) the transfer or obligation was to an insider;

"(2) the debtor retained possession or control of the property transferred after the transfer;

"(3) the transfer or obligation was disclosed or concealed;

"(4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(5) the transfer was of substantially all of the debtor's assets;

"(6) the debtor absconded;

"(7) the debtor removed or concealed assets;

"(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3505. Transfer fraudulent as to the United States on a present claim

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States on its claims which arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.

"(b) A transfer made by a debtor is fraudulent as to the United States on its claim which arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time, and the insider had reasonable cause to believe that the debtor was insolvent.

"§ 3506. When transfer is made or obligation is incurred

"For the purposes of this subchapter—

"(a) a transfer is made—

"(1) with respect to an asset that is real property, other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(2) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire a judicial lien otherwise than under this subchapter that is superior to the interest of the transferee.

"(b) If applicable law permits the transfer to be perfected as approved in subsection (a) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(c) If applicable law does not permit the transfer to be perfected as provided in subsection (a), the transfer is made when it be-

comes effective between the debtor and the transferee.

"(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

"(e) An obligation is incurred—

"(1) if oral, when it becomes effective between the parties; or

"(2) if evidenced by a writing, when the writing was executed by the obligor is delivered to or for the benefit of the obligee.

"§ 3507. Remedies of the United States

"(a) In an action for relief against a transfer or obligation under this subchapter, the United States, subject to the limitations in section 3508, may obtain, subject to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the claim of the United States;

"(2) an attachment or other remedy against the asset transferred or other property of the transferee in accordance with the procedure described by this chapter.

"(b) If the United States has obtained a judgment on a claim against the debtor, if the court so orders, it may levy execution on the asset transferred or its proceeds.

"§ 3508. Defenses, liability and protection of transferee

"(a) A transfer or obligation is not voidable under section 3504(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

"(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by the United States under section 3507(a)(1), it may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy its claim, whichever is less. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

"(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) A transfer is not voidable under section 3504(a)(2) or section 3505 if the transfer results from—

"(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the jurisdiction where the property is located.

"(f) A transfer is not voidable under section 3505(b)—

"(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the debtor and the insider, or

"(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the debtor.

"§ 3509. Supplementary provision

"Unless displaced by the provisions of this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

"SUBCHAPTER G—PARTITION

"Sec.
"3601. Action by United States for partition.
"3602. Service of process in partition action.
"3603. Trial; commissioners; decree of partition.
"3604. Partition by sale.
"3605. Costs.

"SUBCHAPTER G—PARTITION

"§ 3601. Action by United States for partition

"(a) The United States, as co-owner or claimant of real or personal property, or an interest therein, may compel a partition of the property among the co-owners and tenants.

"(b) The district court shall have original jurisdiction of any civil action brought by the United States for the partition of property. The action for partition shall be filed in the judicial district in which the property, or a part thereof, is located. An action in a State court in which the United States is a defendant and in which the United States seeks partition may be removed to the district court.

"(c) The United States shall file a complaint stating—

"(1) the name and residence, if known, of each co-owner or claimant to such property;

"(2) the share of interest, if known, of each coowner or claimant in such property;

"(3) a description of the property sought to be partitioned; and

"(4) the estimated value of the property for which partition is sought.

"§ 3602. Service of process in partition action

"(a) Personal service of summonses and complaints and other process shall be made in accordance with rules 4 (c) and (d) of the Federal Rules of Civil Procedure upon a defendant who resides within the United States or its territories or insular possessions and whose residence is known.

"(b) Upon the filing of a certificate by counsel for the United States stating that it is believed that a defendant cannot be personally served, because after diligent inquiry within the State in which the complaint is filed his place of residence cannot be ascertained by the United States or, if ascertained, that it is beyond the territorial limits of personal service as provided in rules 4 (c) and (d) of the Federal Rules of Civil Procedure, service of Notice of Summons and Complaint shall be made on that defendant by publication in a newspaper published in the county where the property is located, or if there is no such newspaper, then in a newspaper having a general circulation in the State where the property is located, once a week for 3 successive weeks. Prior to the last publication, a copy of the notice shall also be mailed to a defendant who cannot be personally served as provided in this rule but whose place of residence is then known. Unknown owners may be served by publication in like manner by a notice addressed to 'Unknown Others.' Service by publication is complete upon the date of the last publication. Proof of publication and mailing shall be made by certificate of counsel for the United States, to which shall be attached a printed copy of the published notice with the name and dates of the newspaper marked thereon.

"§ 3603. Trial; commissioner; decree of partition

"(a) All questions of law or equity affecting the title of the property which may arise, and the determination of the share or interest of each of the co-owners or claimants shall be tried by the court without a jury.

"(b) The court shall determine whether the property, or any part thereof, is susceptible of partition. If the court determines that the whole, or any part of the property is susceptible of partition, then the court shall enter a decree directing the partition of the property which is held to be susceptible of partition, describing it and specifying the share or interest to which each party is entitled. The court shall then appoint three or more competent and disinterested persons as commissioners to make the partition in accordance with the court's decree, the majority of the commissioners may act.

"(c) The court may appoint a surveyor to assist the commissioners in making a partition of real estate. The commissioners may cause the real estate to be surveyed and partitioned into several tracts or parcels.

"(d) The court may appoint an appraiser or appraisers to value the property and file an appraisal report with the court and the commissioners, as the court directs.

"(e) The commissioners shall divide the property into as many shares as there are persons entitled thereto, as determined by the court, having due regard in the division of the property to the situation, quantity, and advantage of each share, so that the shares may be equal in value, as nearly as may be, in the proportion to the respective shares or interests of the parties entitled thereto.

"(f) The commissioners shall report in writing to the court; and the report shall be determined by a majority of the commissioners and the contents shall be governed by the provisions of rules 53(e) (1) and (2) of the Federal Rules of Civil Procedure. The report shall also contain the following—

"(1) The several tracts, units, or parcels into which the property was divided (describing each particularly);

"(2) the number of shares and the estimated value of each share;

"(3) the allotment of each share; and

"(4) field notes and maps as to each estate, as may be necessary.

"The findings and reports of the commissioners shall have the effect, and be dealt with by the court in accordance with the practice prescribed in rule 53(e)(2).

"(g) The decree of the court confirming the report of commissioners in a partition of property gives a recipient of an interest in the property a title equivalent to a conveyance of the interest by warranty deed as in the case of real property or by bill of sale as to personal property, from the other parties in the action.

"(h) All conditions, restrictive covenants, and encumbrances against the property that applied to the property prior to the partition shall remain against the property as partitioned unless those restrictions, covenants and encumbrances have been included and are subject to the partition action.

"§ 3604. Partition by sale

"Should the court determine that a fair and equitable division of the property, or any part thereof, cannot be made, the court shall order a sale of that part which is incapable of partition, which sale shall be for cash, or upon such other terms as the court may direct, and shall be made as provided by title 28, United States Code, chapter 127, or through a receiver, as the court so orders. The proceeds of such sale shall be paid into the court and partitioned among the persons and parties entitled thereto according to their respective interests.

"§ 3605. Costs

"Costs shall be taxed against each party to whom a share has been allotted in proportion to the value of such share.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"Sec.
"3701. United States foreclosures governed by Federal law.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"§ 3701. United States foreclosures governed by Federal law

"Unless the documents specifically adopt State law, any action by the United States to foreclose security interests in real property shall be governed by the Federal statutes and applicable regulations, provisions set forth in the transaction documents and by Federal common law where there is no governing statute, applicable regulation or provision, and not by the State law where the real property is located. This shall include, but not be limited to, questions regarding redemption rights and deficiency judgments.

"§ 3702. Deficiency rights on federally guaranteed or insured loans

"Unless the documents specifically adopt State law, the right of the United States to collect a deficiency following the foreclosure of a loan guaranteed or insured by the United States or any agency thereof shall be governed by Federal statutes, applicable regulations, and the provisions set forth in the transaction documents. The rights of the United States under this section shall apply notwithstanding the provisions of any State law and without regard to the method used by the loan holder to foreclose the loan.".

TITLE II—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 201. Section 505 of title 11, United States Code, is amended by adding at the end thereof the following subsection:

"(d) Payments of taxes under this title to a governmental unit may be applied by the governmental unit in a manner that preserves alternative sources of collection, if any.".

SEC. 202. Section 523(a) of title 11, United States Code, is amended as follows:

(a) by deleting the word "or" at the end of section 523(a)(9); and

(b) by deleting "." at the end of section 523(a)(10) and adding "; and" in lieu thereof; and

(c) by adding the following subsections at the end of section 523(a):

"(11) to the extent that such debt arises from a violation by the debtor of a civil or criminal statute, or a regulation rule, or order issued pursuant thereto, enforceable by an action by a governmental unit to recover restitution, damages, civil penalties, attorney fees, costs, or any other relief, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit of the United States Government; or

"(12) to the extent such debt arises from a criminal appearance bond.".

SEC. 203. Section 523(a) of title 11, United States Code, is amended to read as follows:

(a) subsection (8) is amended to read as follows:

"(8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless—".

(b) subsection (8)(A) is amended to read as follows:

"(A) such loan, benefit, scholarship or stipend overpayment or loan first became due 7 years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 204. (a) Section 1129(a)(9)(C) of title 11, United States Code, is amended to read as follows:

"(C) with respect to a claim of a kind specified in section 507(a)(7) of this title, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding 6 years after the date of assessment of such claim or 6 years after confirmation for such claims that have not been assessed, of a value as of the effective date of the plan, equal to the allowed amount of such claim.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) For purposes of determining the value of deferred cash payments under a plan with respect to a secured or unsecured tax claim, the appropriate interest rate shall be the statutory rate applicable to unpaid taxes owing to the governmental unit holding the claim.".

SEC. 205. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require.".

SEC. 206. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond.".

SEC. 207. Section 3142(g)(4) of title 18, United States Code, is amended by—

(a) striking out "(c)(2)(k)" and inserting in lieu thererof "(c)(1)(B)(xi)"; and

(b) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 208. (a) Section 3552(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

(b) The amendment made by subsection (a) shall take effect as if enacted on the date of the taking effect of section 3552(d) of title 18, United States Code.

SEC. 209. Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "by execution against the property of the defendant"; and

(2) in paragraph (1) by striking out "civil cases." and inserting in lieu thereof "accordance with chapter 176 of title 28. The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case."; and

(3) in paragraph (4), by deleting the word "Salaries" and inserting in lieu thereof the following:

"Notwithstanding any contrary provision in chapter 176 of title 28, United States Code, salaries."; and

(4) in paragraph (5), the second sentence should be deleted.

SEC. 210. Section 3579(f)(4) of title 18, United States Code, is amended by—

(a) striking out the "." at the end thereof; and

(b) adding at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 211. (a) Section 3613 of title 18, United States Code, is amended—

(1) in subsection (d), as added by section 212(a) of the Comprehensive Crime Control Act of 1984, by striking out the second sentence; and

(2) in subsection (e), as added by section 212(a) of the Comprehensive Crime Control Act of 1984 by—

(A) striking out "by execution against the property of the person fined";

(B) striking out "civil cases," and inserting in lieu thereof "accordance with chapter 176 of title 28,"; and

(C) adding at the end thereof "The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case.".

(b) The amendments made by this section shall take effect as if enacted on the date of the taking effect of such section 3613.

SEC. 212. Section 3663(f)(4) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 213. Section 524 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d)(1) There shall be established in the United States Treasury a special fund to be known as the Department of Justice Debt Collection Fund (hereinafter in this subsection referred to as 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriation Acts for the purposes set forth herein.

"(2) There shall be deposited in the fund 5 percent of all net amounts realized from the debts collected by the divisions of the Department of Justice and all United States attorney's offices. Deposits to the fund shall

begin the day after the date of enactment, from all amounts collected on and after that date.

"(3) The fund may be used for the following purposes of the Department of Justice:

"(A) the training of personnel of the Department of Justice in debt collection;

"(B) services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property; and

"(C) expenses of costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by the United States.

"(5) For fiscal years 1990, 1991, 1992, and 1993 there are authorized to be appropriated such sums as may be necessary for the purposes described in subsection (3). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated, shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and be available in the next fiscal year.

"(6) For the purposes of these subsections, amounts from debt collection efforts of the Department of Justice shall include amounts realized from actions brought by or judgments enforced by Department of Justice personnel, including those in all United States attorneys' offices, whether civil or criminal, and whether involving tax or non-tax debts owed to the United States, except as deposit of such amounts into other special funds is required by law.".

SEC. 214. Section 550 of title 28, United States Code, is amended by striking out "assistants and messengers" and inserting in lieu thereof "assistants, messengers, and private process servers.".

SEC. 215. Section 1961(c)(1) of title 28, United States Code, is amended to read as follows:

"(c)(1) The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 216. Section 1962 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 217. Section 1963 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "Such a judgment entered in favor of the United States may be registered as specified any time after judgment is entered.".

SEC. 218. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following section:

"§ 2044. Payment of fine with bond money

"Upon motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution or penalty imposed upon the defendants. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing, except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This does not apply to any third party sureties.".

(b) The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2044. Payment of fine with bond money.".

SEC. 219. Section 2410(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 220. Section 2413 of title 28, United States Code, and the item relating to section 2413 in the table of sections for chapter 161, are repealed.

Mr. LAUTENBERG. Mr. President, I rise in strong support of the Federal Debt Collection Procedures Act, of which I am an original cosponsor.

Mr. President, this is badly needed legislation. At a time when the Federal budget deficit threatens our economy and our ability to deal with significant unmet needs, it is simply intolerable that the Government is not collecting billions in outstanding debts.

This legislation addresses two major problems in the Federal Government's system of debt collection. First, the Federal Government must follow State enforcement procedures, which vary across the country and which often impede collection efforts. Second, the Department of Justice lacks adequate incentives to make debt collection a priority.

The bill addresses these problems by, first, establishing a uniform, national system of debt collection procedures. This will enhance the Federal Government's ability to collect debts in many States. It also will eliminate some of the inequities in the current system, under which similarly situated debters are treated differently in different States.

In addition, the bill would create incentives for the Department of Justice to pursue debt collection cases vigorously. Money collected by the Department and U.S. attorneys would be deposited into a debt collection fund, which could be used for future debt collection expenses. This should make it easier and more attractive for the Department to devote significant resources to debt collection efforts.

Mr. President, this bill was developed by U.S. attorneys who understand the problems created under the current system. They deserve credit for their work on the legislation.

I urge my colleagues to support the bill.

Mr. THURMOND. Mr. President, on January 25, 1989, I along with Senator BIDEN and Senator GRASSLEY, introduced S. 84, the Federal Debt Collection Procedures Act of 1989. Since then Senators LAUTENBERG, D'AMATO, COCHRAN, HELMS, WILSON, MCCAIN, PRESSLER, BRADLEY, LIEBERMAN, HATCH, and MIKULSKI have been added as cosponsors.

This legislation will enhance the remedies available to the United States for collection of debt owed to the Federal Government. Incredibly, it has been estimated by the General Accounting Office that the Federal Government has approximately $32 billion of outstanding, nontax, delinquent debt which is collectible.

Currently, the debts owed to the United States must be collected under the laws of the particular State where the debter resides. Those laws vary greatly from State to State, making enforcement of debt collection extremely difficult and cumbersome.

For example, in some States a debtor can exempt vast amounts of property from execution, whereas a similarly situated debtor in another State is granted no such exemption at all. It is unfair that Federal debtors who reside in States with strong collection laws are made to pay their debts while others use weak collection laws in debtors haven States to escape repayment of their debt.

In summary, S. 84 will correct the inequities that exist under the current system. This bill creates a firm, but fair, comprehensive statutory scheme for the collection of Federal debt. This legislation maintains State law, leaving State remedies unaffected in cases where the Federal government is not a party. This legislation will be used by Federal litigators in Federal courts to collect debts owed to the Federal Government.

Regarding the history of this act, a nearly identical bill was introduced in the 100th Congress. The Senate Judiciary Committee unanimously agreed to report the bill out of committee on October 5, 1988. On October 14, 1988, the U.S. Senate unanimously passed the Federal Debt Collection Procedures Act of 1988.

Finally, the Federal Debt Collection Procedures Act of 1989 represents a collaborative effort of the 93 U.S. attorneys across the country who perform the vast majority of debt collection litigation on behalf of the Federal Government. Such legislation reflects their broad legal expertise and practical experience. We must not ignore their collective wisdom.

Since introduction in the 101st congress, some technical and conforming changes have been made which improve the bill. The result was an amendment in the nature of a substitute which the Subcommittee on Courts and Administrative Practice reported on July 12, 1989. On October 5, 1989, the Senate approved the Federal Debt Collection Procedures Act as an amendment to S. 1711, a bill to implement the President's national drug

control strategy. Additionally, by unanimous consent on October 26, 1989, S. 84 was reported out of the Judiciary Committee.

This legislation is most important and I urge each Member of the Senate to support its passage.

Mr. BIDEN. Mr. President, today, I am pleased that the Senate is passing the Debt Collection Procedures Act of 1989, which I introduced with Senator THURMOND. This legislation was drafted by a committee of U.S. attorneys and is intended to facilitate the collection of all debts owed to the United States.

This bill is identical to the provision passed by the Senate as title V of S. 1711, the National Drug Control Strategy Act. It is also virtually the same as the bill passed in the 100th Congress that was not acted upon by the House. I am hopeful that the House of Representatives will act quickly on it this year.

The Justice Department is responsible for collecting debts owed to the United States by filing civil suits in Federal court. These debts include criminal fines and tax assessments, but mostly involve strictly civil matters, such as student loans and overpayments to veterans. In fiscal 1988, there were $32 billion in delinquent nontax debts, including 84,340 cases valued at $7.6 billion that had been referred to Justice for collection.

The Government Accounting Office has reported that the Justice Department has done a generally poor job of collecting these debts. The reasons: Justice must follow State enforcement procedures, which vary from State to State and may be inadequate to permit collection by the Government; and U.S. attorneys and the litigating sections of the Department have no incentive to make debt collection a high priority.

The bill addresses both problems. First, it would create a uniform, nationwide system of Federal debt collection procedures. Under the act, the Government would be able to collect civil, criminal, and tax judgments through such means as attachments, garnishments, judgment liens and sales, confessed judgments, and restraining orders in all judicial districts.

Second, the bill would create an incentive to give debt collection a higher priority by creating a debt collection fund. Five percent of the moneys collected by Justice and the U.S. attorneys would be placed in the fund for later collection-related expenses. This would make it possible for the Department to devote attention to debt collection without diverting resources from other functions.

I would also like to point out that this legislation would be cost-effective. The Department of Justice expects that the costs of implementing this proposal will be more than offset by the increased collections of money owed to the United States. In this time of tight budgets, we must take advantage of every opportunity to further reduce the deficit. Moreover, some of the collected money would be earmarked under existing law for certain priority items. For example, collection of unpaid criminal fines would not only contribute to reduction of the deficit, but would put more money into the victims fund, which is financed, in part, from such collections.

This bill was drafted by U.S. attorneys who, as the officials responsible for litigating debt collection cases in the Federal courts, have experienced firsthand the difficulties the Government has in collecting debts. This is the first time the U.S. attorneys have pooled their efforts to draft such an ambitious legislative product, and I applaud their efforts.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 84) was passed.

CONSENT OF CONGRESS TO AMENDMENTS TO THE SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT

The Senate proceeded to consider the bill (S. 1563) granting the consent of the Congress to amendments to the southeast interstate low-level radioactive waste management compact.

Mr. THURMOND. Mr. President, S. 1563 will give congressional consent to amendments to the southeast low-level radioactive waste management compact. This legislation will confer approval upon certain amendments adopted by the compact and ratified through legislation by each of the compact's member States. The southeast compact has eight member States: South Carolina, Alabama, Florida, Georgia, Mississippi, North Carolina, Tennessee, and Virginia. South Carolina's Barnwell facility is the region's current host facility for the disposal of low-level radioactive waste and North Carolina has been designated the next host State for the compact, with waste acceptance scheduled to begin in 1992.

This important legislation would amend the compact in two significant ways: First, by providing that no facility shall be required to operate more than 20 years or to accept more than 32,000,000 cubic feet of waste during its operating life; and second, by providing that no member State shall be allowed to withdraw from the compact unless all other member States and Congress consent to the withdrawal.

Mr. Chairman, these amendments will clearly prove to be of substantial benefit to the compact's member States and to our entire Nation since it furthers the important goals established by Congress when it passed the Low-Level Radioactive Waste Policy Act.

For these reasons, I urge my colleagues to support this bill.

The bill (S. 1563) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southeast Interstate Low-Level Radioactive Waste Compact Amendments Consent Act of 1989".

SEC. 2 CONSENT OF CONGRESS TO AMENDMENTS TO COMPACT.

Congress consent to the amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact made by party States to such Compact. Such amendments are substantially as follows:

At the end of article 5 add the following new section:

"(E) No party State shall be required to operate a regional facility for longer than a 20-year period, or to dispose of more than 32,000,000 cubic feet of low-level radioactive waste, whichever first occurs.".

Section (G), (H), and (I) of article 7 are amended to read as follows:

"(G) Subject to the provisions of article 7, section (H), any party State may withdraw from the compact by enacting a law repealing the compact, provided that if a regional facility is located within such State, such regional facility shall remain available to the region for four years after the date the Commission receives verification in writing from the Governor of such party State of the rescission of the Compact. The Commission, upon receipt of the verification, shall as soon as practicable provide copies of such verification to the Governor, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party States as well as the chairman of the appropriate committees of the Congress.

"(H) The right of a party State to withdraw pursuant to section (G), shall terminate thirty days following the commencement of operation of the second host State disposal facility. Thereafter a party State may withdraw only with the unanimous approval of the Commission and with the consent of Congress. For purposes of this section, the low-level radioactive waste disposal facility located in Barnwell County, South Carolina shall be considered the first host State disposal facility.

"(I) This compact may be terminated only by the affirmative action of the Congress or by rescission of all laws enacting the compact in each party State.".

DISTRICT OF COLUMBIA REVENUE BOND ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 313, H.R. 3287, the District of Columbia bonds bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3287) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3287) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

STAR PRINT OF REPORT NO. 101-176

Mr. Mitchell. Mr. President, I ask unanimous consent that report No. 101-176 to accompany S. 1430 be star printed to reflect the changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—S. 1838

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1838 introduced earlier today by Senator FOWLER, regarding certain agricultural products, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, before adjourning for the day, I would like to advise other Senators and all concerned of the continuing discussions that the distinguished Republican leader and I and others have had with respect to the budget process, the reconciliation bill, and other related matters.

Earlier today, Senator DOLE and I met and exchanged views in what I characterize as a good and productive meeting. Our respective staffs are now meeting, and the staffs of the Budget Committee on both sides, Appropriations Committee, Finance Committee, believe we are making good progress toward what we hope will be a resolution of these matters, that we may anticipate being able to reach agreement on and announce on Monday.

I would like now to ask the distinguished Republican leader if he has any comments in this regard.

Mr. DOLE. If the majority leader will yield, I think he stated it correctly, the Republicans met in my office, Senators PACKWOOD, HATFIELD, and DOMENICI, and other Representatives, along with the OMB Director, Richard Darman, and went over the proposal presented to me by the majority leader. There are matters that need to be addressed and need to be staffed out. We have asked staff to take a look, and they will be working not only among themselves, but with your staff, to see if there is an understanding on certain items.

I hope that we can come back on Monday and that information will be available. I am also hopeful that we can reach an agreement with reference to debt limit, appropriations bills, and other matters still pending, including child care, reconciliation and capital gains. I think it has been accurately stated. That is it. They are meeting as we speak, so hopefully we can work it out on Monday.

Mr. MITCHELL. Again, I thank the distinguished Republican leader, not only for his comments, but for his continuing cooperation and courtesy, as we attempt to resolve the differences on these issues in a good faith and fair way. I look forward to that on Monday.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the distinguished Republican leader be recognized for such time as he may wish to address the Senate, and upon the completion of his remarks, the Senator from Montana be recognized for as much time as he wishes to address the Senate, and that upon the conclusion of the remarks of the Senator from Montana, that the Senate then stand adjourned until 2:30 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished Republican leader is recognized.

FLAG BURNING

Mr. DOLE. Mr. President, several days ago, a Cook County circuit court judge ruled that a Chicago ordinance banning flag desecration violated the first amendment. Not surprisingly, the Cook County judge reached this tortured conclusion by relying almost exclusively on the Supreme Court's blunder in the Johnson case.

The Chicago ordinance was enacted in response to the so-called flag exhibit at Chicago's Institute of Art. As we all know, this exhibit was one of the more extreme examples of flag desecration: the exhibit placed the flag on the floor in a way that literally "invited" patrons of the institute to trample on Old Glory.

Apparently, flag desecration is a bad habit that the exhibit's creator just cannot seem to shake: He was arrested on Monday for burning the flag right here on the Capitol steps.

Mr. President, I applaud the city of Chicago. Its ordinance was an entirely legitimate expression of the outrage of its good citizens. And the ordinance deserved to be upheld by the Cook County circuit judge.

Today, the Capitol steps flag-burning case was assigned to a Federal judge here in Washington. In the next 2 weeks, the flag burners will probably file a pretrial motion urging the dismissal of their charges. Once the district court rules on the motion, the Supreme Court should then have the opportunity to review the flag statute's alleged constitutionality.

As I have said before, it is the obligation of the statute's sponsors to ensure that the Supreme Court reviews the statute on an expedited basis. They owe this much to Congress. They owe it to the American people. And they owe it to the good citizens of Chicago.

Mr. President, I ask unanimous consent that an article from the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 1, 1989]

JUDGE FINDS FLAG LAW UNCONSTITUTIONAL

(By William E. Schmidt)

CHICAGO, October 31.—A Cook County Circuit Court judge ruled today that a Chicago ordinance banning flag desecration violates the free speech provisions of the Constitution and cannot be used to prosecute artists whose works make use of the flag.

The judge, Kenneth L. Gillis, issued an injunction that blocks the city from using the ordinance to prosecute 10 local artists, who say they want to display 9 works that involve image or representations of the flag.

In an opinion that relied heavily on the Supreme Court's decision in the summer in a Texas case, which concluded that flag burning can be a form of political expression protected by the Constitution, Judge Gillis said that the Chicago ordinance was too broad and that it had a "deterrent effect on freedom of expression."

In his ruling, Judge Gillis wrote, "When the flag is displayed in a way to convey ideas, such display is protected by the First Amendment."

LIMIT ON ARTIST AND NEWSPAPERS

That way, he wrote, everyone is protected. "For every artist who paints our flag into a corner" by way of illustration, the judge said, "there are others who can paint it flying high." He said the ordinance could also have a chilling effect on the ability of artists to earn a living by prohibiting the exhibition of certain kinds of art work in a gallery or by barring it from being sold.

He referred to Supreme Court rulings protecting commercial speech and said this part of the ordinance could apply to a newspaper printing a representation of the flag on a page, as The Chicago Tribune does daily on Page 1, or a store selling clothing with a label depicting a flag.

The ordinance reads, "Any person who for exhibition or display places or causes to be placed any word, figure, mark, picture, design, drawing or any advertisement of any nature upon any flag shall be guilty of a misdemeanor." The statute also applies to anyone "who exposes or causes to be exposed to public view any such flag" that has been treated in this way, like a gallery owner or art dealer.

Judge Gillis said at least some of the nine works by the artists arguably violate the city ordinance because each of the works display or represent an image of the flag in a fashion that might be construed by the city, in the language of the ordinance, as defacing, misusing or trampling the flag.

STATE FLAG UNDER ORDINANCE

The Chicago ordinance applies to the flag of the United States, the state, the city or a foreign country. The ordinance was passed by the Chicago City Council March 16. Violation is a misdemeanor carrying fines and imprisonment of up to six months.

The various works which the artists want to display, most of them with a political content, consist of paintings, sculptures and collages. One, for example, represents the flag displayed on the feet of a mannequin whose upper torso is buried in the sand. Another shows in American flag transparent over a nude male.

Also among the works is the piece by Scott Tyler, the artist who provoked the current outcry over flag desecration when his piece was displayed among a group of student works at the School of the Institute of Arts here.

In Mr. Tyler's piece, an American flag is draped on the floor in a manner that invites patrons to walk on it.

Mr. Tyler was among four people who were arrested on the steps of the United States Capitol Monday for setting afire three American flags.

OFFICIALS STUDYING RULING

City officials said they were studying Judge Gillis' ruling, and had not yet decided whether they intended to appeal. Since Judge Gillis's ruling only affected the city, it is not clear whether the Cook County prosecutor might seek to enforce similar state statutes, passed last year, that also ban flag desecration.

A spokesman for Cecil Partee, the Cook County State's Attorney, said his office was also studying the ruling.

The legal challenge by the artists was the latest round in the debate here that touches not only on conflicting values and beliefs about the flag, but between iconoclasm and patriotism, and the rights of the artist versus the values of the community.

The City Council passed the flag desecration ordinance amid the public outcry that followed the display of Mr. Tyler's piece. That display provoked daily demonstrations outside the Chicago Institute of Arts by veterans groups and other organizations, caused the state legislature to cut off funds to the school, which is affiliated with the art museum, and inflamed political oratory in Washington.

Despite the ruling today, Harvey Grossman, legal director of the American Civil Liberties Union here, said the artists will not put their works on public display until they had received assurances from Mr. Partee that he would abide by Judge Gillis's ruling as well.

"What was struck down today is that the government can define what our symbols mean to us," said Mr. Grossman. "This sends a message to politicians that they may wrap themselves in the flag, but they may not ask us to do so."

The PRESIDING OFFICER. The Senator from Montana is recognized.

MONTANA'S CENTENNIAL: THE STATEHOOD DEBATE

Mr. BAUCUS. Mr. President, 200 years ago this year, the U.S. Congress met for the first time.

One hundred years ago this year, Congress had the wisdom to admit four States to the Union. One of those States was Montana.

This year Montanans are preparing for our centennial, which occurs November 8. It is a time to celebrate. It is also a time to reflect on the past; that is, how we got here, what were the conditions, why are we here today celebrating our centennial and preparing for the future.

Montana's past is rich and varied. Our Western heritage is the story of a long line of pioneers: Native americans, settlers, miners, and ranchers.

But an important part of our history was determined far from the plains and mountains of my home State: Montana's struggle for statehood was fought in large part right here in this building.

THE EARLY DAYS

It was a long struggle.

After the Louisiana Purchase, Montana was part of a series of ever-shrinking northwestern territories: First the Nebraska Territory, with the capital in Omaha; later Dakota Territory, with the capital in Yankton; finally Idaho Territory, with the capital in Lewiston.

Then, in 1863, gold was discovered in Alder Gulch. Montana's first economic boom began. And with it, wrote historian James McClellan Hamilton, came "[g]amblers, saloonkeepers, lewd women, and outlaws," who were in control "until banished or hanged by the vigilantes."

The Idaho territorial government was helpless, unable to impose law and order across the Bitterroot Mountains.

So a group of Virginia City leaders petitioned for separate territorial status. Congressman James Ashley, of Ohio, introduced legislation to do so. In May 1864, the Montana Organic Act became law. It established a territorial governor appointed by the President, a two-chamber legislature elected by the people, a series of Federal appointive offices, and a territorial Delegate to the Congress of the United States.

It did not take Montanans long to seek full citizenship. Within 2 years, acting Gov. Thomas Meagher called a Constitutional convention to seek statehood. His motivation, some say, was to create a Senate seat for himself. In any event, the convention deteriorated into bitter partisanship, and the delegates were not able to submit a constitution for public ratification.

THE SECOND CONVENTION

Over the next 15 years, the statehood movement gradually gathered momentum. Why? It was a problem all-too-familiar to those of us in the West. Montanans felt alienated. The Federal Government was all-powerful. But it seemed utterly unconcerned about Montanans and their problems.

What's more, Washington had unleashed scores of inept and corrupt bureaucrats. One Montana newspaper wrote that Federal offices had become "a sort of lying-in hospital for political tramps."

Montanans wanted control of their own destinies. The legislature called for another Constitutional Convention.

In January 1884, the delegates convened. They included many of Montana's most influential leaders: William Andrews Clark, Marcus Daly, Joseph Toole. Strong-willed men, from different political parties. But they worked together. And after 28 days of debate, they proposed a constitution which the people of Montana ratified overwhelmingly.

Montana's new territorial delegate, Joseph Toole, headed for Washington to make Montana's case. Toole was well-suited to the task. A contemporary biographer described him as "a plain man of the people." At the same time, he was a skilled statesman, a gifted orator, and firmly committed to Montana's future.

Early in the 49th Congress, Delegate Toole introduced legislation that would grant Montana statehood under the new constitution. The bill was referred to the House Committee on Territories.

GRIDLOCK

And there it sat, as Montana became a pawn in a political chessmatch.

Washington, DC, was gripped by political gridlock. Democrat Grover Cleveland had just been elected President, by a narrow margin. Democrats controlled the House. Republicans

controlled the Senate. Both parties were reluctant to upset the partisan balance by admitting States likely to elect Senators from the other party.

The Republicans proposed that Republican Dakota be divided and admitted as two States, creating four new Senate seats, and that Republican Washington be admitted. The Democrats were willing to consider this, but only so long as Democratic New Mexico and Montana also were admitted. The Republicans refused. The standoff persisted through the 49th Congress and the first and second sessions of the 50th.

THE COMPROMISE OF 1889

The election of 1888 changed the political landscape. Republican Senator Benjamin Harrison defeated President Cleveland. Republicans also captured the House and retained the Senate.

A lame duck session was scheduled for early 1889, and the Democrats, controlling the House for a short time longer, decided to strike the best deal that they could.

A Senate bill simply granting statehood to South Dakota had been languishing in the House for more than a year. On January 15, the Chairman of the House Committee on Territories, William Springer of Illinois, called the Senate bill up on the House floor. He then offered an amendment replacing the South Dakota bill with an omnibus statehood bill. It would permit the people of Dakota to decide whether to form one State or two. And it would establish a process for granting statehood to Montana, Washington, and New Mexico.

TOOLE'S ADDRESS

Shortly after the omnibus amendment was offered, Delegate Toole took the floor. He read a memorial, from the people of Montana, requesting statehood. Then he presented Montana's case for, as he said, "a place in the galaxy of States, a star on the flag."

"We are," he said "24 years old, out of debt, of sound integrity, and good citizens. * * * Like a child grown beyond the capacity of its garments * * * we are restive under the promise of more suitable habiliments."

Toole then described Montana's grievances. The Federal Government had maintained a court system that was "inherently wrong." It had reserved the right to invalidate the laws of the popularly elected legislature. It "had declared what we shall teach in our public schools." It had restricted exports. It had failed to properly administer public lands.

But Toole reserved his sharpest criticism for appointed Federal officials. "Tradition informs us that the wise men all came from the East," he said, "and so our Republican friends * * * determined that history should repeat itself, have proceeded to treat us in their own good time to a fine assortment of imported political dudes."

Toole then told his House colleagues why Montana was ready to govern itself. He began with some statistics. There were 176,000 people; there were 1.5 million cattle and 2.5 million sheep; there were 306 cities and towns receiving U.S. mail, 31 banks, and many profitable mines; there were streetcars in Butte and Helena and electric lights in the major cities; there were "hotels and churches of splendid proportions and magnificent designs, attesting to the liberality and progressive spirit of our people;" there were 33 newspapers, of which 11 were Republican, 6 were Democratic, 7 were independent, 1 was "Mugwump," and one was "on the fence."

As for the people of Montana, "they are faithful and prompt in the discharge of every public duty. * * * I know their stern integrity and rugged honesty, their capacity for local self-government, and their deep devotion to the principles of our institution."

In conclusion, Toole asked the House to approve the Springer omnibus amendment, granting statehood to Montana, South Dakota, Washington, and New Mexico. If it did so, he assured his colleagues, "the wisdom and patriotism of our course will be vindicated by the deliberate judgment of mankind." Toole sat down to what the House record notes was "[l]ong continued applause." It was, one report said, a speech of "remarkable force and eloquence."

THE HOUSE DEBATE

When the House convened the next morning, the debate intensified. The Republicans opposed the Springer omnibus amendment. They insisted, instead, that Dakota be divided into two states and New Mexico omitted.

Springer tried to force a vote. The Republicans raised procedural objections, and the Springer amendment was ruled out of order. The original Senate bill, granting statehood only to South Dakota, became the pending business.

The Democrats fought back. They began offering perfecting amendments—designed, in essence, to recreate the omnibus amendment one provision at a time.

On January 18, Delegate Toole offered a three-line amendment authorizing the President to issue a proclamation "declaring the State of Montana admitted as a State into the Union, from and after the date of such proclamation." It was adopted by voice vote. Similar amendments were adopted regarding Washington and New Mexico. Late that day, the House passed the bill by a vote of 145 to 98.

CONFERENCE

Time was running out; the lame-duck session was about to expire, and Montana's fate hung in the balance.

On January 19, the Senate referred the House-passed bill to the Committee on Territories. On February 1, the committee recommended that the Senate disagree with the House amendments and call for a conference.

The conference began the next day. The Republicans were in the drivers' seat. They insisted that New Mexico be omitted and that South Dakota be admitted under its previously ratified constitution, with the other States drafting new constitutions that would be reviewed by the President.

House Democrats eventually decided to put these questions to the full House, in the form of proposed instructions to the conferees. On February 14, the House instructed the conferees to delete New Mexico and establish a two-tier system: South Dakota would be admitted immediately, and Montana, North Dakota, and Washington would be admitted upon ratification of a new constitution and a Presidential proclamation. On February 20, the conference report was agreed to.

THE MONTANA CONVENTION

The enabling act required a new Montana convention to propose a new constitution.

Delegates were elected quickly and assembled in Helena on July 4, 1889. Thirty-nine were Democrats, 36 were Republicans; seven had attended the 1884 convention. Copper king William Andrews Clark was elected convention president.

As in 1884, the delegates worked cooperatively to resolve their disagreements. After 6 weeks' debate, the delegates then approved the constitution and submitted it to the people of Montana, who ratified it overwhelmingly on October 1.

STATEHOOD

Under the terms of the enabling act, the constitution was then sent to Washington for Presidential review. Republican Benjamin Harrison had taken office.

Once again, Mr. President, the Democrats had done all the work, but the Republicans took the credit.

On November 8, 1889, President Harrison issued a proclamation declaring that "the admission of Montana into the union is now complete."

Secretary of State James Blaine transmitted the news by telegraph. Newly elected Governor Toole received the message in Helena at 10:40 a.m. Celebrations rang out across the city and State. The long wait was over. The Helena Daily Herald put it this way:

This 8th day of November, A.D. 1889, will forever be a red-letter day in the history of Montana. It marks the beginning of our grand career as a sovereign State. * * * Today the people of Montana became endowed with the fullest measure of the rights of citizenship—the right and power to

choose our orwn rulers, make our own laws, subject only to the limitations of the constitution.

MONTANA'S STAR

One more step was needed to make Montana's status complete.

In 1889, the America flag contained only 38 stars. But on July 4, 1890, a new flag was unfurled. It contained 43 stars, reflecting the admission of Montana, North Dakota, South Dakota, Washington, and Idaho.

Joseph Toole's dream had been achieved: Montana had "a place in the galaxy of States; a star on the flag."

Mr. President, I yield the floor.

ORDERS FOR MONDAY

ADJOURNMENT UNTIL 2:30 P.M.; JOURNAL OF PROCEEDINGS DEEMED APPROVED TO DATE; CALLING OF CALENDAR WAIVED; NO MOTIONS OR RESOLUTIONS OVER UNDER THE RULE; MORNING HOUR DEEMED EXPIRED

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate adjourns today, it stand in adjournment until 2:30 p.m. on Monday, November 6, and that when the Senate reconvenes on Monday, the Journal of proceedings be deemed to have been approved to date, the call of the calendar be waived, and no motions or resolutions come over under the rule, and that the morning hour be deemed to have expired.

I further ask unanimous consent that there be a period for the transaction of morning business not to exceed 30 minutes with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 2:30 P.M., MONDAY, NOVEMBER 6, 1989

The PRESIDING OFFICER. Under the previous order, the Senate will now stand adjourned until 2:30 p.m., Monday, November 6, 1989.

Thereupon, the Senate, at 4:46 p.m., adjourned until Monday, November 6, 1989, at 2:30 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 3, 1989:

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

CARROLL A. CAMPBELL, JR., OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM OF 4 YEARS.

DEPARTMENT OF LABOR

MARY STERLING, OF MISSOURI, TO BE AN ASSISTANT SECRETARY OF LABOR.

NATIONAL MEDIATION BOARD

PATRICK J. CLEARY, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1991.

JOSHUA M. JAVITS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1992.

DEPARTMENT OF EDUCATION

THOMAS E. ANFINSON, OF CALIFORNIA, TO BE DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION.

BETSY BRAND, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION.

DEPARTMENT OF STATE

CHAS. W. FREEMAN, JR., OF RHODE ISLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SAUDI ARABIA.

LUIGI R. EINAUDID, OF MARYLAND, TO BE THE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION OF AMERICAN STATES, WITH THE RANK OF AMBASSADOR.

WILLIAM CLARK, JR., OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO INDIA.

SMITH HEMPSTONE, JR., OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KENYA.

KEITH LEVERET WAUCHOPE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE GABONESE REPUBLIC AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE.

FRANCIS TERRY MCNAMARA, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAPE VERDE.

R. JAMES WOOLSEY, OF MARYLAND, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS UNITED STATES REPRESENTATIVE TO THE NEGOTIATION ON CONVENTIONAL ARMED FORCES IN EUROPE (CFE).

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, FOR THE PERSONAL RANK OF CAREER AMBASSADOR IN RECOGNITION OF ESPECIALLY DISTINGUISHED SERVICE OVER A SUSTAINED PERIOD:

TERENCE A. TODMAN, OF THE VIRGIN ISLANDS

U.S. INTERNATIONAL DEVELOPMENT CORPORATION AGENCY

REGINALD J. BROWN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

UNITED NATIONS

THE FOLLOWING-NAMED PERSON TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 44TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

SAM GEJDENSON, OF CONNECTICUT.

THE FOLLOWING-NAMED PERSON TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 44TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

CHRISTOPHER H. SMITH, OF NEW JERSEY

DEPARTMENT OF JUSTICE

DONALD BELTON AYER, OF VIRGINIA, TO BE DEPUTY ATTORNEY GENERAL.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

GEORGE W. LINDBERG, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS VICE PRENTICE H. MARSHALL, RETIRED.

DEPARTMENT OF JUSTICE

K. MICHAEL MOORE, OF FLORIDA, TO BE DIRECTOR OF THE U.S. MARSHALS SERVICE.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING PETER G. FREDERICK, AND ENDING JAMES F. BERMINGHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 4, 1989.

FOREIGN SERVICE NOMINATIONS BEGINNING WALTER G. BOLLINGER, AND ENDING DENNIS C. ZVINAKIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 11, 1989.

FOREIGN SERVICE NOMINATIONS BEGINNING ELINOR GREER CONSTABLE, AND ENDING H. THOMAS WIEGERT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 17, 1989.

EXTENSIONS OF REMARKS

CAPITAL GAINS CUTS WILL NOT HELP SMALL BUSINESS

HON. JOHN J. LaFALCE
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. LAFALCE. Mr. Speaker, this week the Committee on Small Business held a hearing on the question of how proposed cuts in the tax rates for capital gains might impact on small businesses.

The hearing was illuminating in a number of ways. Of particular interest was testimony presented by Dr. Eugene Steuerle, presently a senior fellow at the Urban Institute and formerly with the Treasury Department under President Reagan.

Dr. Steuerle points out a number of ways in which the proposed cuts in capital gains taxes can adversely impact on smaller and newer businesses, contrary to the claims put forth by many of the proponents of the cuts, including President Bush.

In particular, he stressed the fact that by encouraging uneconomic investments in tax shelters, the overall supply of capital available for small businesses will be less. He also noted that those businesses with the greatest need—especially those in the startup phases—would benefit least from more favorable capital gains treatment. And finally, he noted that enactment of more favorable capital gains rates would have the effect of driving up interest rates, which will also impact adversely on smaller and newer businesses.

I concur with these conclusions. I believe that for these reasons, as well as the desirability of retaining the grand compromise made in the Tax Reform Act of 1986 where the overall rates for the highest income brackets were slashed in return for a substantial reduction of tax shelter opportunities, we should not go forward with capital gains cuts now or in the foreseeable future.

Rather, we should seriously address those major fiscal problems with which the Nation simply must come to grips if we are going to put a stop to the mortgaging of our future that has been the shameful heritage of the 1980's.

I believe that Dr. Steuerle's contribution to this debate warrants careful attention by our colleagues, and accordingly am inserting his statement in the RECORD so they can benefit from it while the issue remains before the Congress.

Dr. Steuerle's statement follows:

CAPITAL GAINS AND TAX REFORM

(Statement by C. Eugene Steuerle)

Mr. Chairman and Members of the Committee, when I had the honor of serving as Economic Coordinator of the Treasury's tax reform effort several years ago, I laid out a strategy to try to eliminate as many arbitrary differentials in the taxation of income as could be found. While many differentials were eliminated and many retained, among the most difficult issues, then and now, was capital gains. Let's be quite clear: the issue was not solved then, and almost all proposals on the table do not solve it now. In addition, these proposals do not get at the fundamental problems confronting new businesses in this country.

CAPITAL GAINS: SEVERAL ISSUES, NOT JUST ONE

The Washington tax policy game often involves finding a single differential and dealing with that issue by itself. With so many differentials remaining in the tax code, this presents innumerable opportunities for advocates on all sides. Why? Suppose A is treated preferentially to B which in turn is treated preferentially to C. Do you favor B? Point out how much worse B is treated than A. If you disfavor B, you make your comparison to C. This can go on indefinitely, especially when "reform" of B keeps A and C apart.

Thus proceeds the current debate on capital gains income. Should capital gains be preferred to other income? Or is other income currently preferred?

Opponents of a capital gains differential rightly point out that a new exclusion would reduce the tax on capital gains relative to a number of items of ordinary income. An obvious example: sales of corporate stock versus dividend payments. There is no doubt that a capital gains tax preference would induce taxable investors to receive more of their income as capital gains and less as dividends. Corporations would be encouraged to pay less dividends and distribute more cash through share repurchase. This is obviously inefficient and often inequitable in practice. Moreover, these behavioral reactions would tend to add to the revenue loss from the creation of a differential.

Another example might involve interest income and land appreciating in value. Suppose a piece of land is estimated to increase in value at the rate of interest. A taxpayer borrows, buys the land, and the net return is zero. A capital gains preference, however, results in negative taxable income and a significant tax reduction. These were the types of transactions that used to dominate the tax shelter market—hardly the best or most efficient way to channel the nation's flow of funds.

These arguments might convince one that capital gains should not be treated better than dividend or interest income. However, there's another side to the capital gains story.

A large portion of capital gains represents nothing more than inflationary gains. Many capital gains represent no real return at all. If we had a world of zero percent inflation, would we want to tax assets with zero real return? Suppose an owner of a small business maintains an equity interest in some land that increases in value at a rate of inflation of 5 percent a year. After twenty years, the land increases in value from $100,000 to $265,000. There is no tax policy grounds on which to justify a tax on this $165,000 of inflationary gain.

If all income should be taxed equally, moreover, then it is highly questionable whether income from corporate stock should be taxed more heavily than other types of income. Corporate types of investment are disfavored relative to, say, investments in durables. In addition, the double taxation of corporate income induces other inefficient tax avoidance behavior. Asset ownership shifts toward partnerships and other noncorporate businesses, rather than corporations. Increased reliance is placed upon debt rather than equity. Congress then holds hearings on selective types of erosion of the corporate base—witness the recent hearings on leveraged buyouts—and asks what is happening.

In some recent research with Dan Halperin of Georgetown University, we found that in aggregate almost all capital gains in the postwar era were either inflationary gains or gains resulting from retained earnings within corporations. Differences among individuals, however, remain significant.

THE IMPORTANCE OF DISTRIBUTIONAL CONSIDERATIONS

From what I have said so far, it is quite clear that a case can be made to do something about the current system of taxation of capital gains. The bargains made in tax reform, however, should also not be forgotten. I don't mean to imply that the tax reform process was without fault, nor that the current tax code should remain unchanged forever. The tax reform process, however, was one where principles of equity and efficiency were given precedence and where comprehensive approaches to problems were preferred to piecemeal action. If we wish to move beyond our past efforts, so be it. But we should maintain the standard that action continue to proceed from sets of principles and be based upon comprehensive and consistent attempts to deal with our nation's problems. Unfortunately, the rhetoric on both sides of the capital gains debate has made it difficult to try to recapture the high ground. And, in perhaps the greatest tragedy of the current affair, we have diverted attention from our more fundamental economic problems.

To achieve broad-based support, tax reform also adhered to the combined goals of revenue neutrality and distributional neutrality, which together carried one critical implication. Tax rate reduction had to be paid for by base broadening not only in aggregate, but within each income class as well. In particular, once corporate increases were taken into account, higher-income individuals were not to receive a greater percentage decrease in taxes than was the rest of the population. Since the greatest amount of rate reduction took place in the highest income classes, these classes simultaneously had to bear the greatest amount of base broadening.

Much of the entire reform process centered on adhering to this last distributional implication. At every step, either the Treasury or the Joint Committee on Taxation produced distributional tables, tables that insured that higher income individuals bore enough base broadening to justify the rate reduction that they received. After the initial Treasury proposals, each remaining

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

stage—the President's proposals, the House bill, the Senate bill, and the final tax reform act—involved, first, giveaways from some baseline set of proposals, second, the production of distributional tables that showed that such giveaways tended to favor higher income groups (and often lost revenues, as well), and, finally, the final redesign of a package that moved back toward recognition of original principles.

The original Treasury proposals provided for indexation of capital gains, a proposal required under a system that would provide for equal treatment of those with equal real income. In the President's proposals and the House bill, however, indexation of capital gains was dropped. Only near the end of the process, at the point of adoption of the Senate Finance bill, was a proposal made to provide for full taxation of capital gains (with no adjustment for inflation).

Here the distributional tables again had a significant impact on the final outcome. Following past tradition, the Joint Committee on Taxation presented tables that showed the distribution of tax burdens under the assumption that there was no feedback at all in terms of changed amounts of capital gains realizations. This was in contrast to their revenue estimates, which took into account reduced realizations due to higher capital gains tax rates. Under these assumptions, the distributional tables showed that the highest income class received no more than a proportionate share of total individual reduction. These assumptions, therefore, helped to justify tax rate for the highest income taxpayers of 28 percent, a rate which was significantly lower than the rate of 33 percent imposed on the next-to-highest income groups.

If the distributional table had shown the effects of decreased realizations, or if full taxation of capital gains had not been proposed, then the tax reform bill would have shown a greater amount of tax reduction for the highest income groups. A higher tax rate may well have been required for the highest income taxpayers.

The implication for today is that the simple granting of an exclusion to recipients of capital gains throws out one of the bargains made in tax reform. Perhaps, given the inadequacy of the way we tax capital gains today, that bargain should be reconsidered. But it needs to be done in a way that does not abandon the basic goals of tax reform and in a way that would be considered fair to individuals in all parts of the income distribution.

THE CASE FOR INDEXING CAPITAL GAINS

Indexing capital gains for inflation would be very much in the spirit of the Tax Reform Act of 1986. The basic principle behind the 1986 Act was that all real income should be taxed on an equal basis, regardless of source. Relative to an exclusion, the equity argument for indexing is strong.

As noted, the existing treatment of capital gains in the tax code suffers from at least two major defects. First, retained earnings within the corporation are taxed at the corporate level and then are taxed again when recognized as a source of increase in value of corporate shares. Second, most gains in the economy are simply inflationary gains, yet these gains are also arbitrarily subject to income taxation.

A proposal to exclude a portion of gains from taxation might be seen as a backdoor way to deal with the first defect. One difficulty is that an exclusion by itself provides relief to those with gains, but not to those with dividends. In addition, stock with higher-than-average dividend yields, including preferred stock, is likely to comprise a significant percentage of the portfolios of middle-income taxpayers. Higher-income individuals, who are more likely to receive returns in the form of capital gains, already have the advantage of being able to receive significant benefits from deferral and may avoid the second layer of tax altogether if assets are held until death. Because of these differences among taxpayers, an exclusion is at best an uneven way of getting at the problems caused by the double taxation of corporate income.

Indexing of assets for inflation would get at the other major source of disparity in the treatment of capital gains. The tax system should tax real income similarly regardless of source.

A COMPARISON OF WHO BENEFITS FROM AN EXCLUSION AND WHO BENEFITS FROM INDEXING

Treasury Department data imply that real gains relative to total gains are significantly greater at higher-income levels, even after adjusting for gains received, than at lower-income levels. In 1981, for example, individuals with $20,000 to $50,000 of income before capital gains had $3.5 billion of realized gains, but −$4.4 billion of gains when inflation was taken into account. On the other hand, those with $200,000 or more in income had $4.2 billion in realized gains, of which $2.4 billion was real.

Say each group was given an exclusion of 50 percent. Then the middle-income group with −$4.4 billion in real gains would pay tax on $1.8 billion in gains, while higher-income individuals with $2.4 billion in real gains would pay tax on $2.1 billion in real gains. An exclusion, therefore, would provide the most tax reduction, per dollar of real gains, to those with the most real gains, while providing the greatest penalty to those with purely inflationary gains.

These data support strongly the equity argument in favor of indexing relative to the granting of an exclusion. If equity is of less concern, or if revenues are the major constraint on action, then the case for indexing is weaker. My belief is that a tax system cannot long survive unless the public believes in its fairness. Consequently, there is a strong, yet uneasy, case to favor indexing over an exclusion.

SPECIAL CONCERNS FOR SMALL BUSINESSES

This Committee, of course, is especially interested in the impact of a capital gains proposal on small businesses and new businesses. There are three issues with which I believe it ought to be especially concerned.

First, the potential expansion of the tax shelter market would take funds away from those small businesses seeking funds for economic investment. The previous tax shelter market was generated largely by the ability of taxpayers to take deductions while correspondingly avoiding or reducing the amount of tax paid on income received. In effect, once certain types of tax benefits are offered, financial planners will not simply attempt to sell individuals the preferred assets. They will additionally pull together packages of investments that will allow the taxpayer to leverage the tax benefits. These tax benefits will then be sold not only to individuals who save and invest, but to those who undertake no new saving at all.

Let's take a simple example. A person borrows $100 to buy an asset. This combination of borrowing and purchasing implies net new saving of zero. Suppose the interest rate is 10 percent and the expected growth rate in value of the asset is only 8.75 percent. Obviously the investment is uneconomic. That is, there are better uses of society's scarce savings. An interest rate of 10 percent already tells us that there are assets that would provide a yield of 10 percent or more. If the 8.75 percent asset is purchased, society loses out on potential production by an amount equal to the difference between these two rates or return.

If the society is an inflationary one, the relative inefficiency of this investment is even greater than it first appears. In the above example, say that the inflation rate is 7.5 percent. Then the real economic return from the purchased asset is actually only 1.25 percent, less than half of the productive return offered by alternative investments that would yield at least 2.50 percent, the real rate of interest.

In a market-based system without taxes, the less productive asset would never be purchased or built. Why would the taxpayer borrow at a rate in excess of expected return, or, alternatively, why would anyone invest in an asset producing a lower return than could be obtained on an interest-bearing asset? Suppose, however, that the government provides for an exclusion or indexing on the sale of the asset, but does nothing about interest. Let the exclusion or the indexing effectively provide that 30 percent of gross capital gains from the asset will not be taxed. Thus, only 70 percent of the 8.75 percent return will be subject to taxation, whereas all of the 10 percent interest will be deductible. Going through all of the calculations, one finds that net tax liability will be slightly in excess of a MINUS 1.25 percent of the value of the original asset. The tax subsidy compensates for the economic loss. What otherwise would be a poor investment has now become viable because of the tax system.

Many recognize this type of tax arbitrage in the form of tax shelters. Tax arbitrage was a major contributor to the growth of tax shelters throughout the late 1970s and early 1980s. Unfortunately, the economic distortions extend far beyond assets that are traditionally known as tax shelters. Thus, tax arbitrage was a major reason that significant funds went to purchase vacation homes that were often left empty most of the year. When these borrowed funds went to purchase vacation homes that would never had been purchased absent the tax system, there was at the same time a decrease in the amount of saving available for productive business investment by small businesses and others.

Second, capital gains proposals are poor mechanisms for getting at the fundamental tax problems facing new businesses. One very legitimate concern of new firms has come up somewhat erroneously in the context of capital gains. The current tax system displays considerable prejudice against new firms, even though such firms comprise only a small part of total capital or investment in the economy. When individuals wish to engage in highly risky activity, or wish to sell stock in a public market, the corporate form of organization remains the preferred vehicle even though there is a heavy tax penalty. The 1987 debate over master limited partnerships made clear that neither IRS nor Congress likely would allow partnerships to acquire all of the characteristics of corporation, yet be taxed only as partnerships.

While there is a debate among economists as to whether the corporate tax deters ventures by existing corporations who already have assets tied up within the corporation,

there is no doubt that the corporate tax serves very much as a barrier to new, risky, business. The extent to which investment is made by new firms, morever, does not fully indicate their importance to the economy. It is the threat of entry by new firms that forces established firms to be competitive. When the deck is stacked against new firms, it affects the competitiveness, and, hence, the productivity of all firms.

Now capital gains tax relief is one way to reduce these two levels of taxation. This committee should be aware, however, that by concentrating relief on capital gains Congress would provide the most relief to those individuals who have been the most successful. Dividend relief, or relief from the first level of corporate tax, is equally justified. Morever, this latter type of relief is less concentrated on the most successful ventures.

Perhaps one of the most convincing letters I received at Treasury was from the owner of a small firm that had distributed shares to its workers over the years. Modest success in its business activities, as well as an increase in the number of former and current workers, had made it difficult for the firm to retain Subchapter S status—essentially corporate status without liability for an additional layer of corporate tax. Yet the firm apparently did not want to become a partnership. Allowing some mechanism to allow this type of firm to avoid a second layer to tax is a goal worth pursuing.

There is little doubt that new firms, especially those that undertake risky business, as well as many smaller businesses, need the limited liability associated with the corporate form of organization. At least the smaller of these firms might be ideal candidates for some special treatment that avoids two layers of taxation.

Third, capital gains by itself would add slightly to the pressure on interest rates. This is a consequence of the new tax arbitrage and tax shelter opportunities already discussed.

In my research, I have argued that much of the stagnation in the late 1970's and early 1980's was due to the interaction of inflation with the tax code. Monetary authorities responded to that stagflation by allowing interest rates to rise to offset inflationary demand. With a capital gains exclusion, and with no limits on tax arbitrage possibilities, this committee should be aware that monetary authorities might need to allow interest rates to rise. That is, an exclusion raises the interest rate that can be paid by an individual undertaking no new economic investment, but simply playing games with the tax code. To dampen leveraged shelter investments relative to, say, equity investments in economically productive assets, monetary authorities could be pushed to allow interest rates to rise somewhat further.

I don't wish to overstate nor to understate this danger. Proposed differentials in tax rates are not nearly as great as in the pretax reform era. Still, it should not be forgotten that tax arbitrage possibilities were partly responsible for some of the havoc in the farm sector in the early 1980's and in the real estate sector in many regions in the mid- to late-1980's.

Now many firms that call themselves small businesses were involved in leveraged purchases that were encouraged in part by the capital gains exclusion. Some obviously were able to profit. Over the long-run, however, many other small businesses were hurt by this process. They became subject to economic vicissitudes that were often little understood and over which they had no responsibility. As I indicated, many business failures were due to a process that was allowed to get out of control. When finally brought back under control, it was only at great personal cost to many owners of small businesses and farms.

Finally, it should be noted that higher interest rates ony serve to place new firms at a further competitive disadvantage. Established firms may be able to offset higher interest rates with the advantages provided by a capital gains preference. New firms typically cannot use all deductions in the early years, so they will find that their costs have risen relative to established firms.

STRONGLY OPPOSES GUN CONTROLS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. HUBBARD. Mr. Speaker, I have received an excellent letter from one of my constituents, Mr. Jerry Ballard of Henderson, KY, in opposition to H.R. 1190.

Mr. Ballard disagrees with my being a cosponsor of H.R. 1190. His letter reflects the thinking of many of my constituents regarding gun controls.

I would like to share it now with my colleagues. The letter follows in its entirety:

HENDERSON, KY,
October 10, 1989.

Hon. CARROL HUBBARD, Jr.
U.S. Congressman, Rayburn HON, Room 2267, Washington, DC.

DEAR CONGRESSMAN HUBBARD: Recently I received your letter dated June 5 responding to my letter concerning my opposition to H.R. 1190. I was relieved to read that you were a supporter of our constitutional right to bear arms. That in itself was not surprising to me or a particular heroic action as it has always been my "naive" understanding that it was the duty of all U.S. citizens to uphold the Constitution of the United States of America to the fullest extent.

I was shocked to learn that you have added your name as a cosponsor to H.R. 1190. In your letter to me you wrote "I have been a staunch opponent of any measure that seeks to deprive an individual of their constitutional right to bear arms. I will continue to protest gun control legislation as it restricts this constitutional right, and you may count on my opposition to all such bills when I have the opportunity to take action on the house floor."

The line between legitimate hunting rifles and an AK-47 can be just about every firearm possessed in this country if left up to fanatical interpretation or the interpretation of the Bureau of Alcohol, Tobacco, and Firearms. This is also true in the interpretation of "assault weapons". When it comes to our Constitution there are no lines to rewrite. It's that simple. If H.R. 1190 passes it is a desecration of our Constitution and a precedent to tear other pieces of our beloved rights from the paper it is written on.

Sincerely,

JERRY BALLARD.

SALUTE TO NOVA UNIVERSITY'S 25TH ANNIVERSARY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. SMITH of Florida. Mr. Speaker, I would like to bring to your attention a university whose outstanding instructional and research programs address many critical educational, economic and social issues confronting our nation—Nova University of Fort Lauderdale, FL.

It is my privilege to announce that Nova University is celebrating its silver anniversary this year. During the preceding 25 years, Nova University has matured into a sophisticated independent educational institution whose unique and substantive educational programs have enriched the lives of more than 25,000 graduates.

Nova University's underlying philosophy is to provide new and applicable educational experiences for its students. Consequently, many Nova graduates have become positive and influential agents of change in education, business and government while improving their quality of life.

For example, one of Nova University's graduates, Joseph Fernandez, was recently appointed chancellor of the New York City school system—the largest in the Nation—after implementing innovative improvements to the Dade County, FL, school system. Many other important Nova University education graduates include Evie Dennis, Denver school district superintendent; Tom Guigni, who heads the Long Beach, CA, school system; Franklin Smith, superintendent of the Dayton, OH, school system; and Andrew Jenkins, head of the Washington, DC, school system—all involved in the 45-member Council of the Great City Schools.

Graduates of Nova's Friedt School of Business and Entrepreneurship are or have become executives in 25 of the Nation's Fortune 500 companies, leaders of financial institutions, and small business founders and owners.

Presently, Nova's 10,500 full- and part-time students attend classes on its main campus, as well as at corporate and educational sites in 26 States and two foreign countries. Until 1977, Nova University offered only masters and doctoral degrees. Since then, the University has introduced and expanded an undergraduate degree program.

For most of its history, Nova University has sent professors to off-campus sites to teach students. During the past decade, the university has successfully utilized computer telecommunications to bring the classroom to its students, rather than the students to the classroom. This is important because computers open up a range of opportunities for individualized learning that take into account the fact that human beings acquire and process information at different rates. Other universities are only now beginning to follow Nova's example.

Nova also is expanding its main campus. Recently, two major donations totaling $4 mil-

lion have become the cornerstones of $12.5 capital campaigns to construct buildings for business and law schools. Both buildings will break ground in early 1990.

From its main campus and under the direction of its president, Abraham S. Fischler, Nova University faculty and students address and seek solutions to complex and inter-related national problems.

During the past decade, Nova University has received about $11 million in Federal, State and local grants for research and development of projects to measure environmental changes and improve our quality of life.

Some highlights of Nova University's ongoing educational and community service programs include helping or developing:

The disabled: The Ralph J. Baudhiun Oral School provides an individualized learning environment for pre-school through fifth graders who have hearing impairments, speech and language impairments, or attention deficit disorders but who have above average intellectual potential.

The University's School of Psychology, which is accredited by the American Psychology Association, has conducted extensive research on the use of biofeedback which has enabled many people recovering from heart attacks, strokes, and spinal injuries to regain the use of their limbs.

The University's Shepard Broad Law Center, which is accredited by the American Bar Association and is a member of the American Association of Law Schools, has a counseling/advocacy program for disabled persons.

At-risk children and families: The Family Center's Family Connections Program is working with teenage parents, some of whom are drug addicts, in an economically depressed area in Fort Lauderdale to identify at-risk children, and to develop programs to prevent the children from having future intellectual and social developmental problems. The center has also applied for a 5-year research grant to study 125 families who are at severe risk, and to work with abused and neglected children in a therapeutic daycare center.

The elderly: The university's school of social sciences opened a 64-bed geriatric residential treatment center in Fort Lauderdale in 1989. The center is open to people who are over the age of 55, require hospitalization and supervised psychiatric care. The program gradually improves the patients' conditions, self-esteem and sense of independence so that they can eventually leave the center, or be treated on an outpatient basis.

The environment: The Oceanographic Center is working with farmers in the United States and developing countries to develop ocean aquaculture. The center also is actively involved in a sea turtle conservation program; studying the effects of beach renourishment projects and oil pollution on coral reefs; and developing an environmental plan for Port Everglades.

Small technology companies: The Center for Computer and Information Sciences works with a local junior college to develop an undergraduate technology and business degree. The 4-year program will offer a curriculum of engineering, computer science and business that will enable graduates to work for, manage and raise capital for fast-growing small technology companies.

Future entrepreneurs: The Friedt School of Business and Entrepreneurship is seeding this Nation with future business leaders through its work with the Enterprise Ambassadors Program. Through seminars, business mentors and projects, the students are inspired to develop a better understanding of the Nation's economic system, gain practical knowledge of business operations, and undertake to develop leadership abilities and business skills.

Future educational leaders: More than 12,000 doctoral graduates from the Center for the Advancement of Education have, during the past 25 years, written and implemented practicums that examine and solve problems such as school-based management, dropout prevention, using computers in classrooms, State funding, school- and system-wide curriculum problems.

Future society: The first baby boomers will turn 65 in 2010. Nova University's Social Sciences Center has started the 2010 project—a research and community service project developed to understand the cultural and social dynamics of aging in American society. The demographics of Broward County, FL, Nova's home, today approximate those of the United States in 2010. Some of the issues that will be addressed include drug abuse by the elderly, catastrophic health insurance, family relationships, and the quality of senior living.

Nova University, which is accredited by the Southern Association of Schools and Colleges, has always strived to provide a personalized and unstructured education for students, as well as focus on and address issues of local and national importance. But the road Nova has taken to achieve its present status has been long and difficult.

In its early years, the founders of Nova University, which was chartered on Dec. 4, 1964, planned to make the university the MIT of the South—a new kind of graduate, research campus for a small cadre of senior professors and their doctoral students. It was to become the capstone of an educational park in Broward County.

But expectations and promised funding were not realized and the university experienced financial problems 5½ years after it was chartered. Nova federated with the New York Institute of Technology in June 1970 and saved itself financially.

During the 15 years of that federation, Nova defined its mission of pursuing the new, expanded beyond its campus and greater Fort Lauderdale, and pioneered the delivery of national off-campus programs.

Although the NYIT-Nova federation eventually proved unworkable and was dissolved in 1985, Nova derived some positive benefits from the relationship. Nova's mission gained focus and momentum, enabling it to provide a complete educational curriculum for people from preschool through retirement years. Nova established the Family Center, began offering undergraduate degrees, expanded and increased the sophistication of its master's and doctoral degree programs, and opened the Institute for Retired Professionals—a continuing education program for retirees.

Since then, Nova University has drawn leading South Florida business executives to its board of governors, continued to expand its educational programs, and enhanced its national and local image as a multifaceted and effective educational institution.

I believe that during the next 25 years, Nova University will continue to grow and create innovative programs to deliver education to students. Increasingly affordable technology, such as satellite and computer telecommunications, will enable Nova to make many beneficial advancements in the delivery of education to students. This and other technology will enable Nova University to continue and expand its mission—personalize the educational curriculum so that each student can be the class.

TRIBUTE TO "HELPING HANDS" AND THE GOOD WORK OF LA SALLE HIGH SCHOOL STUDENTS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. WYDEN. Mr. Speaker, on my recent visit home to the Third District of Oregon I was honored to participate in the kickoff of a program that exemplifies the best efforts of young citizen involvement and assistance to those in need.

In a day and age when newspaper headlines focus on young people involved in self-destructive absorptions with drugs, gangs, and crime, La Salle High School students will be donating their time and energy to a program appropriately named "Helping Hands." This program shines as a beacon of hope and idealism as young citizens seek creative alternatives to the pressing needs of their communities.

Today, La Salle High School students are donating a day of service to over 30 social services agencies in Multnomah, Clackamas, and Washington Counties. The students spend the day assisting social service agencies with activities ranging from yard work and cleaning projects to friendly visits with individuals that often feel neglected and alone in overcrowded care centers. The work students perform is the repair and cleaning projects that are often overlooked as precious staff time is focused on more pressing matters.

Exemplifying the spirit of Oregon and our tradition of helping those in need, the students extend the reach of their Helping Hands beyond this one day of labor by mailing contribution requests to members of the community, friends, and family. In this manner the beneficial effects of one day of assistance are felt throughout the year in a "Help-A-Thon" of financial and moral support to Portland metropolitan social service agencies.

For 1989, La Salle High School has established a fundraising goal of $40,000, a sum that helps meet the local funding needs of such worthy organizations as the Red Cross, the American Cancer Society, Ronald McDonald House, the Volunteers of America, Loaves and Fishes, and Hospice House.

By blending the skilled guidance of faculty members, administrators, and parent volun-

teers with the youthful energy and idealism of high school students, this project is more than just Helping Hands: It is a joining of hands and hope across geographic and generational barriers in a manner that strengthens the fabrics that bind our communities together.

THE SILENT MAJORITY IS BEGINNING TO BE HEARD

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. HUBBARD. Mr. Speaker, I have received numerous letters and telephone calls regarding my recent stand on semiautomatic assault weapons and Medicaid funding of abortions for poor women who are the victims of rape or incest.

At this time, I would like to share with my colleagues an October 26 letter from my friend and constituent Dennis A. Roof of Paducah, KY. Mr. Roof agrees with my recent decision to cosponsor H.R. 1190. Regarding abortion, Mr. Roof shares his feeling that it "would be a form of discrimination" not to allow women the right to an abortion "regardless of their financial condition."

I urge my colleagues to read the letter from Dennis A. Roof. The letter follows in its entirety:

PADUCAH, KY,
October 26, 1989.

HON. CARROLL HUBBARD, JR.,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSIONAL: I want to commend you on your recent decisions concerning two very important matters facing the Country today, those being gun control and abortion rights.

Your stance on the gun control issue, to ban the sale of semi-automatic machine guns was, I feel, a very level headed view to take. I applaud your decision in this matter. The time has come for Congress and the American public in general to stand up to the tactics of the NRA. To wit: a recent headline in The Paducah Sun concerning this matter: "NRA seeks to correct Hubbard's mistake." Baloney! Any organization that would support the sale of this type of weapon, along with the sale of "cop killer" bullets that were in the spotlight a few years back, cannot be looking out for the best interests of the people it claims as members. In recent years this organization has swung so far to the left it is literally out of touch with the goals of a modern society.

On the abortion issue, I feel women have the right to seek a legal abortion if they so desire regardless of financial condition. Not to allow this would be a form of discrimination. I am sure you will hear from the so-called pro-lifers trying to change your mind about this issue, but I urge you to stand still. In my opinion, the pro-life organization should be concentrating on finding solutions to the problems that the kids already born face, and leave the women who may have an unwanted pregnancy alone to make their own decision.

Congressman, I know your decisions on these matters were not easy ones to make. Some have said they were political suicide. I don't believe that. I believe that your views are shared with the majority of your constituents, and the nation as a whole. As has been said many times in the past, the silent majority is beginning to be heard.

Sincerely,

DENNIS A. ROOF.

TRIBUTE TO DAVID R. HOGG

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. SMITH of Florida. Mr. Speaker, I rise today to pay tribute to David R. Hogg, principal of McArthur High School in my district in Hollywood, FL, who recently was selected as the 1989 Florida Secondary School Principal of the Year. David Hogg's outstanding leadership and involvement in education on both the local and State level has earned him this prestigious recognition.

"In Honor of Excellence" is a national program which annually honors outstanding teachers and secondary school principals who represent the best of their profession in the Nation. Outstanding educators are selected from each of the 50 States, the District of Columbia, and Puerto Rico. This unique program is funded by Burger King Corp. and cosponsored by the National Association of Secondary School Principals [NASSP] and the Council of Chief State School Officers [CCSSO].

David Hogg began his career as a teacher at South Broward High School where he worked 9 years and moved up to dean. He then served as assistant principal for 1 year and principal for 2 years at Henry Middle School. After 6 years as principal of Hallandale High School, he moved to his present position as principal of McArthur High School, where he has been for the past 11 years.

During his years at Hallandale High, David Hogg initiated a peer counseling program that is now available at every middle school and high school in Broward County. Last year, through his efforts at McArthur High, the school garnered recognition from the U.S. Department of Education for its National Secondary School Recognition Program.

David Hogg's achievements on the State level are equally impressive. A former president of the Florida Association of Secondary School Principals, he currently serves on the board of directors of the Florida Association of School Administrators and is a charter member of Project Lead, a project to develop administrative leadership in the State. In recognition of his years of service to Florida, David Hogg was recently selected to Education Commissioner Betty Castor's Principals Hall of Fame.

Upon his return from the 5-day "In Honor of Excellence" conference in Washington, DC, David Hogg received a jubilant reception from the students and faculty of McArthur High. A giant helium balloon bearing the words "Florida Principal of the Year David Hogg" floated above the school's roof and at lunch time, students cheered as their principal rode by in a decorated golf cart.

I am very proud that the 1989 Florida Secondary School Principal of the Year hails from my district. David Hogg is a leader who exemplifies the dedication to quality education that is essential toward moving our Nation into the future. Please join me in congratulating this outstanding educator.

COMMEMORATING INACTIVITY

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. BALLENGER. Mr. Speaker, in the 100th Congress, a total of 715 laws were enacted, and of these 715, 36 percent of them were commemorative bills. To date, 118 laws have been enacted during the 101st Congress, and 56 percent of these have been commemorative bills. I understand that special days and weeks have significance to many of our constituents. In fact, symbolic resolutions provide us with the opportunity to make the public aware of important issues, such as fire safety, or allow us to remember our hostages or servicemen missing in action. However, I believe that Congress spends too much staff time, and taxpayer money to enact this legislation.

I have cosponsored a bill introduced by Representative CLAUDINE SCHNEIDER that would remove this responsibility from the Congress. H.R. 746 would set up an independent commission to review commemorative resolutions and advise the President on designating commemorative events. This would allow for the fair consideration of each proposal without demands on the time of Members or staff, or taxpayer money.

I support this legislation because it allows us to recognize meritorious events without interfering with the more important issues before the Congress. There are various proposals to change the current system. I urge my colleagues to review each.

TRADITIONAL VALUES

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. RAY. Mr. Speaker, I would like to bring to the attention of my colleagues a resolution submitted by my hometown, the city of Perry. This resolution reminds us of the traditional family values we hold so dear.

The resolution follows:

RESOLUTION OF THE CITY OF PERRY

Whereas a significant number of citizens of the City of Perry, Georgia have indicated concern that through the years many of our traditional values, such as prayer in public schools and respect for the American Flag, have been weakened due to decisions of the American Judicial System; and,

Whereas these traditional values hve been responsible in the past for helping to build the greatness of America; and,

Whereas it appears that our nation and its many communities now face major problems as a result of the breakdown of our value system: Now, therefore, be it

Resolved, That the Mayor, City Manager, and Councilmen of Perry, Georgia, encourage United States Senators Sam Nunn and Wyche Fowler, Congressman Richard Ray, Governor Joe Frank Harris, and all local po-

litical and civic leaders to use their influence to help restore the foundation on which the United States of America was built.

So enacted this 3d day of October 1989.

TRIBUTE TO REV. GRADY WILLIAMS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. TRAFICANT. Mr. Speaker, I rise to pay tribute to Rev. Grady Williams, who will be honored at a luncheon on November 18, 1989. Reverend Williams is celebrating his silver anniversary as pastor for the Trinity Baptist Church in Warren, OH. He not only has a long and distinguished history of service to the Trinity Baptist Church but also to his community.

Pastor Williams is a native of Ramer, AL. He received his formal education in the Ramer, AL public school, and attended Central Bible College and the American Baptist Theological Extension Unit in Youngstown, OH. Reverend Williams moved to Youngstown in 1948 and began preaching in 1961. He was ordained a Baptist preacher on March 17, 1963. Today Reverend Williams lives in Warren, OH, with his wife Nannie Ellis Williams and is the father of two daughters, Nanette and Twyla.

Reverend Williams began preaching at the Trinity Baptist Church on October 6, 1964, and has been their pastor ever since. He is the senior pastor among the Afro-American Baptist Churches in Warren, OH. Besides serving his own congregation, Rev. Williams does work for several religious and civil organizations. Presently, he is the president of the Eastern Ohio Baptist Association Congress of Christian Education, and the treasurer of the Trumbull County Ministerial Alliance. Past offices include dean of the Eastern Ohio Baptist Association Congress of Christian Education, president of the Trumbull County Ministerial Alliance, and a board member of family services and of the Warren-Trumbull Urban League.

Mr. Speaker, I would like to take this opportunity to congratulate Reverend Grady Williams for his 25 years of impeccable service to Trinity Baptist Church and to his community. He is an understanding and compassionate person who is greatly admired by all. We are deeply indebted to him for his contributions both to his community and to his State. I am honored to represent this outstanding individual.

A RESOLUTION GONE AWRY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. KOSTMAYER. Mr. Speaker, yesterday the House approved House Concurrent Resolution 221 condemning Nicaraguan President Daniel Ortega's decision to end the cease-fire in Nicaragua.

The resolution passed by a vote of 379 to 29, and while it condemned Ortega for ending the cease-fire—an action on his part which is harmful to the peace process and counterproductive—it did something else as well, something, Mr. Speaker, almost as harmful and counterproductive. It called for the continuation of American assistance to the Contras, an action directly contrary to the wishes of the Presidents of the five Central American countries as expressed in Tela, Honduras, last August 7.

The day before the House vote, the House Foreign Affairs Committee took up a resolution which, while it condemned Ortega, also urged the Contras to comply with the cease-fire and did not call for the continuation of assistance to the Contras. I voted for that resolution in the committee, Mr. Speaker. In fact, I was a cosponsor of the resolution, and my amendment calling on both sides to honor the cease-fire was supported by Democrats and Republicans alike and included in the resolution.

The text of the resolution passed by the Foreign Affairs Committee is as follows:

H. CON. RES. 221

Whereas the governments of the countries of Central America have entered into a series of accords to promote peace and democracy in the region, most recently the Tela Accord of August 7, 1989:

Whereas in those accords the Government of Nicaragua has made commitments to promote democracy and pluralism, foster the process of national reconciliation, and respect human, civil, social, economic, religious, and cultural rights;

Whereas on February 14, 1989, in Costa del Sol, El Salvador, President Ortega committed the government of Nicaragua to hold free and fair elections no later than February 25, 1990;

Whereas the electoral process in Nicaragua is well underway with candidate selection and voter registration completed;

Whereas the Bipartisan Accord on Central America of March 24, 1989, led to strong expression of bipartisan support for United States policy in Central America and specifically encourages the government of Nicaragua and the Nicaraguan Resistance to continue the cessation of hostilities currently in effect;

Whereas there have been incidents in which forces of the Government of Nicaragua and of the Nicaraguan Resistance have violated the cease-fire, but such incidents do not justify the termination of the cease-fire; and

Whereas on November 1, 1989, President Ortega announced his decision to end the cease-fire between the Government of Nicaragua and the Nicaraguan Resistance that has been in place for the last 19 months, and to commence offensive military operations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) reaffirms its support for the goals of democracy, peace, freedom, and security in Central America and the terms of the Bipartisan Accord on March 24, 1989;

(2) strongly supports the progress that has been made toward holding free and fair elections in Nicaragua on February 25, 1989;

(3) condemns the action by President Ortega to end the cease-fire with the Nicaraguan Resistance and to begin offensive military operations, calls on him to reverse that decision, and calls on both the Government of Nicaragua and the Nicaraguan Resistance to abide by the cease-fire; and

(4) would deplore any effort by the Government of Nicaragua to curtail, postpone, or cancel free and fair elections on February 25, 1990, or to cause any pretense to impose emergency laws during the period leading up to the election, and would equally deplore any action by the Nicaraguan Resistance intended to disrupt those elections.

When the resolution which I supported was brought to the floor, a majority of my colleagues decided to substitute in place of the original House resolution Senate language which I find offensive.

Despite the fact that the Central American Presidents of Costa Rica, Honduras, Nicaragua, El Salvador, and Guatemala met on August 7 in Tela, Honduras and determined that demobilization of the Contras by December 5 of this year was essential to the peace process, the resolution approved by the House supports the opposite position. In section 7 of the resolution, the Congress resolves to continue to provide assistance to the Contras until February 28, 1990, the day of the Nicaraguan election.

Unfortunately, the resolution approved in the House evidenced the general hysteria of the moment and was based on facts that even the administration now admits are questionable. Importantly, the administration now admits—after the House and Senate votes—that in fact approximately 2,000 Contras have recently infiltrated Nicaragua from neighboring Honduras. Furthermore, church groups monitoring the regional peace process have documented with eyewitnesses 51 attacks against Nicaraguan civilians or people participating in the election process which resulted in 45 people killed, 31 wounded, 2 raped, and 66 kidnapped or disappeared from April 13 through October 14 of this year.

Moreover, the Contras have asked that the current assistance be given to them in a form that will allow them to carry out guerrilla activity in Nicaragua. They have asked that their food be provided to them in 1-pound packages that can be easily carried in knapsacks, and they have asked for Nicaraguan currency that will allow them to infiltrate back into that country. To its credit, the Agency for International Development, which is administering the assistance, has refused these requests, but the Contras' intentions are clear.

We have a moral obligation to help resettle the Contras, but we also have an obligation to support the peace process and stop the war. According to Robert A. Pastor, a professor of political science at Emery University who is working with former President Jimmy Carter on a plan to monitor the Nicaraguan election, Daniel Ortega made a serious error in ending the cease-fire, but, Professor Pastor went on to say, "the Sandinistas, in my view, have legitimate concerns about the increase in Contra activities. Some of the Contras may be stepping up their attacks to disrupt the electoral process."

Many of my colleagues may be willing to overlook the facts in Nicaragua, but I am not.

In fact, many of my colleagues may be willing to overlook the language in the resolution so many of them voted for. I am not because I read it. That is why I voted against it.

We must do what we can to see that both sides honor the cease-fire and move toward free and fair elections on February 25, 1990.

TEACHER OF THE YEAR

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. McMILLEN of Maryland. Mr. Speaker, on October 25, 1989, the Maryland Department of Education presented Anne Patricia Neidhardt of Anne Arundel County with Maryland's Teacher of the Year Award. It is with considerable pride that I call your attention to the achievements of Ms. Neidhardt, who was honored for her commitment and dedication to the education of her students.

Ms. Neidhardt is a teacher at Broadneck Senior High School and has taught in Anne Arundel County for 9 years. Her efforts to educate her students and inspire them with the desire to learn extends beyond the confines of the classroom. She has organized woodland camping expeditions, and white water rafting and canoeing trips for her students, and has led creative on-site studies of the Cheapeake Bay area ecosystems. She strives to imbue her students with a sense of appreciation for the environment, and encourages them to respect its fragility.

To this end, Ms. Neidhardt urges her students to become involved in the democratic process through letter-writing campaigns to their elected representatives. They have written to express their concerns about such issues as hazardous waste, auto emissions and the declining oyster harvests in the Chesapeake Bay.

Through her creative approach to education, and her efforts to inspire a sense of civic responsibility in each of her pupils, Ms. Neidhardt performs an invaluable service in our community. I ask my colleagues to join me in congratulating Anne Patricia Neidhardt for winning Maryland's Teacher of the Year Award, and salute her for her consistent leadership and dedication to our Nation's children.

U.S. INDUSTRIAL BASE AND CRITICAL TECHNOLOGIES

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, November 3, 1989

Mr. BUECHNER. Mr. Speaker, as a member of the Science, Space, and Technology Committee, I have been very concerned with the U.S. defense industrial base and the development of critical technologies. As a nation, we have not established priorities, nor devoted sufficient resources toward science and technology.

In order to develop those technologies critical to our national defense and to bolster our international economic competitiveness, the United States must develop a comprehensive science and technology policy.

The Department of Defense has taken a step in the right direction by proposing several provisions contained in the Senate's defense authorization bill for fiscal year 1990. Title VIII of this measure would establish three means of bostering the U.S. defense industrial base:

First, OSTP panel—this provision requires the Director of the Office of Science and Technology Policy [OSTP] to establish a panel of three experts to prepare and submit a biennial national critical technologies report on the 30 or less product and process technologies considered to be most essential to U.S. national security and economic prosperity.

Second, R&D reviews—this provision would establish a mechanism to permit the National Academy of Sciences, the National Academy of Engineering, and the National Institute of Medicine to perform in-depth reviews of selected fields of research and development which make up the development of the national critical technologies selected by the OSTP panel.

Third, annual plan—the section would also direct the Secretary of Defense, in consultation with the Secretary of Energy, to submit an annual defense critical technologies plan. The plan will address the overall science and technology programs as they relate to the long-term qualitative superiority of U.S. weapons systems.

I am lending my support to these provisions based, in part, on comments made during seminars I sponsored on the U.S. defense industrial base and a shrinking defense budget and, high technology and the future of the American economy. The conferences explored global economic trends and the ability of the United States to "measure up" and compete in the global economy.

These seminars discussed the fact that our continued failure to devote additional resources to critical technologies could lead toward serious problems. In this regard, I want to share with my colleagues a recent article published by Dr. Sal Monaco and Mr. Greg Farrell of DRI/McGraw-Hill, a nationally known and highly regarded management consulting firm with a focus on defense economics based in Massachusetts. The article discusses future defense spending cuts and their impact on high technology industries and the defense industrial base.

This report brings to light some of the problems we face concerning the future of defense expenditures, and more, importantly our defense industrial base. The issue is one of my top priorities because my district of suburban St. Louis has a large concentration of high-technology and defense related industries. In fact, the St. Louis area has been awarded more than $20 billion in defense related contracts over the last 3 years and Missouri ranked forth in the high-technology area of aircraft procurement and output with over $1.007 billion in 1988.

To compensate for reductions in real defense spending, it is my hope that Congress will seek to encourage policies which foster and encourage linkages among the Department of Defense, industry, and universities. Further, it is important to bolster the defense industrial base and provide greater opportunity to integrate the spin-off technology into the civilian sector for commercial application. Many of these recommendations are contained in the report prepared by Dr. Monaco and Mr. Farrell as well.

Mr. Speaker, I urge my colleagues to review this important subject and insert the report entitled "Impact of Declining Defense Spending on High Technology Industries" in the RECORD:

IMPACT OF DECLINING DEFENSE SPENDING ON HIGH TECHNOLOGY INDUSTRIES

(By Dr. Sal Monaco and Greg Farrell, National Defense Practice, DRI/McGraw-Hill)

The decline in Defense spending in the 90s will result in less rapid growth in high technology industries, particularly those most closely associated with defense production. High Technology Industries enjoyed a growth rate of 79% between 1979–1987 while DOD Procurement and RDT&E Outlays grew by 86%. The outlook for Procurement and RDT&E through 1991 is a decline of 3.8%. This will result in a reduction in the output of these high tech industries of 1.2% or over $12 billion. Table 1 shows DRI/McGraw-Hill's forecast for declining production in the high technology industries most closely affected by defense spending.

TABLE 1.—INDUSTRY IMPACTS OF DECLINING DEFENSE SPENDING

[In millions of dollars]

Industry	Fiscal year—	
	1990	1991
Guided missiles	−643	−1,278
Aircraft	−679	−1,715
Ammunition	−723	−949
Aircraft parts	−529	−1,258
Aircraft engines	−366	−910
Management consulting	−362	−842
Computer/data process	−174	−418
Semiconductors	−112	−258
Tanks and components	−101	−217
Electronic components	−71	−173
Electric measuring	−40	−94
Engineering/architect	−35	−82
Total	−3,835	−8,194

The decline in R&D spending has received particular attention recently due to concerns about U.S. competitiveness and the erosion of the U.S. Defense Industrial Base. Table 2 shows the House Armed Services Committee's recommendation for RDT&E and Procurement funding for FY90 and 91.

The Research Development Test & Evaluation (RDT&E) and Procurement portion of the DOD budget is a leading indicator of resources expended on high tech programs. DOD's procurement budget can be broken down into two areas; production and services. Spending in these areas tend to mimic overall defense spending.

TABLE 2.—BUDGET OUTLAYS

[In millions of dollars]

Function	Fiscal year—		
	1989	1990	1991
RDT&E	38,338	38,700	38,844
6.1 Basic Research	954	928	960
6.2 Exploratory Dev	2,520	2,360	2,449
6.3 Advanced Dev	10,383	12,388	12,653
6.4 Engineering Dev	11,527	12,278	12,222
6.5 Management Sup	2,458	2,656	2,733
Other RDT&E	10,488	7,590	7,083
Procurement	83,675	78,711	78,521
Total RDT&E and Proc	122,013	117,411	117,365

TABLE 2.—BUDGET OUTLAYS—Continued

[In millions of dollars]

Function	Fiscal year—		
	1989	1990	1991
DOD total	300,800	298,820	295,160

Table 3 highlights the impact of lower defense spending on high technology firms. In the next two years (FY90-91), high technology output will decline by over $12 billion.

TABLE 3.—IMPACT ON HIGH TECHNOLOGY DEFENSE FIRMS REAL GROWTH IN OUTPUT

[In million of 1989 dollars]

Year	Nonadjusted	Adjusted
1979	234,017	234,017
1980	261,166	261,166
1981	274,353	274,353
1982	292,254	292,254
1983	300,378	300,378
1984	333,270	333,270
1985	355,322	355,322
1986	373,082	373,082
1987	399,039	399,039
1988	427,176	427,176
1989	457,976	457,976
1990	480,930	477,930
1991	508,931	500,738

Proc./RDT&E funding and output growth

	Percent
1979-87:	
Proc./RDTE funding	86.0
High-tech industrial output	79.0
1989-91:	
DOD RDTE/Proc. funding	3.8
Defense related high-tech industry projected output	1.2

It is important to point out that DOD's technology base measured in terms of available, stable and consistent funding has been on a downward trend; losing about 6 percent in the past two years. Furthermore, DOD continues to fund more development at the expense of the technology base.

In order to address this problem and remain competitive in the world market, the House and Senate Armed Services Committees recently recommended a major initiative intended both to correct the downward trends and redirect research efforts in the defense technology base program. Specifically, Congressional leaders recommended a real growth rate of two percent each year for the next five years. The programs intended to foster and encourage linkages among the Department of Defense, industry, and universities; and to bolster the defense industrial base and provide greater opportunity to trade the information or "spin-off" technology into the civilian sector for commercial applications will receive increased priority. These include additional authorization for high temperature superconductively, high definition television, digital gallium arsenide microelectronics, neural networks, x-ray lithography, university research, defense sciences and exploratory development.

It is likely that Congress will support the Committees recommendation of 2 percent real growth because the focus will be on critical technologies, dual-use or "spin-off" technologies that can be used in the civilian sector, plus consideration for fostering growth of the scientific community in government.

ACTIONS BY THE U.S. CONGRESS REGARDING RDT&E SPENDING

Recently the House and Senate Armed Services Committees recommended the following actions to advance on-going RDT&E programs:

Antisubmarine warfare.—The Committee requested an additional authorization of $95 million for advanced submarine technology and $90 million for antisubmarine warfare technology.

High definition television.—The Committee recommends an additional $50 million to DARPA for High Definition Television (HDTV) development. The Committee believes HDTV offers a forum for advanced electronic components, architectures, and domestic and international standards as well as dual use in civil development.

National aerospace plane [NASP].—The Committee requested $285 million for the NASP and recommended that the program continue as a joint effort between DOD and NASA.

Strategic defense initiative [SDI].—The Senate Armed Services Committee approved legislation that requested $4.5 billion in R&D funds for SDI.

Satellite survivability.—The Committee increased satellite survivability funding by $25 million. It further recommended that the Administration perform an extensive analysis of options for countering Soviet antisatellite (ASAT) and military satellite capabilities. It also recommended an additional $35 million for rapid replenishment programs and $2 million for additional verification capability.

NATO cooperative R&D.—Committee recommended a $103 million increase in NATO R&D money from $97 to $200 million. The funds are used to encourage technology research sharing among NATO members.

X-ray lithography.—Committee recommended that $50 million be authorized to continue X-ray lithography technology to produce memory and microprocessor circuits.

Balanced technology initiative [BTI].—Committee recommended an additional $90 million for BTI research in 1990.

In conclusion, there is direct correlation between high technology industries and DOD spending for RDT&E and procurement. These industries rely on DOD for a substantial percent of their market. Cuts in RDT&E and Procurement funding are usually followed by similar reductions in output of high tech industries.

HOUSE OF REPRESENTATIVES—*Monday, November 6, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May we be responsive, O God, to the gifts of life that we receive. We are aware of all we do through our own efforts to be good and to do good, and yet, at our best moments, we know that we have been recipients of the gifts of many people. From our families and colleagues and friends, we have received more blessings than we ever realize. Open our hearts, gracious God, so we can receive these good gifts with gratitude and grace and so express our thanksgiving. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. GILLMOR] please come forward and lead the House in the Pledge of Allegiance.

Mr. GILLMOR led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Secretary be directed to communicate to the Secretary of State, as provided by rule XXIII of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and also to the House of Representatives the judgment of the Senate in the case of Walter L. Nixon, Jr., and transmit a certified copy of the judgment to each.

JUDGMENT

The Senate having tried Walter L. Nixon, Jr., United States District Judge for the Southern District of Mississippi, upon three Articles of Impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present having found him guilty of the Charges contained in Articles I and II of the Articles of Impeachment: it is therefore,

Ordered and adjudged, That the said Walter L. Nixon, Jr. be, and he is hereby, removed from office.

The message also announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 3287. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds;

H.R. 3318. An act to redesignate the Federal building in Houston, Texas, known as the Concorde Tower, as the "George Thomas "Mickey" Leland Federal Building";

H.J. Res. 35. Joint resolution designating November 5-11, 1989, as "National Women Veterans Recognition Week"; and

H.J. Res. 425. Joint resolution designating November 12 through 18, 1989, as "Community Foundation Week."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 750) entitled "An act extending time limitations on certain projects."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 737) "An act to authorize the Secretary of the Interior to acquire certain lands adjacent to the boundary of Rocky Mountain National Park in the State of Colorado."

The message also announced that the Senate insists upon its amendments to the amendments of the House to the amendments of the Senate numbered 53, 171, and 191 to the bill (H.R. 2991) "An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes," disagreed to by the House and agree to the further conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SASSER, Mr. ADAMS, Mr. BYRD, Mr. RUDMAN, Mr. STEVENS, Mr. HATFIELD, Mr. KASTEN, Mr. GRAMM, and Mr. MCCLURE, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1816. An act to protect the retired pay of certain members of the Armed Forces convicted of an offense under section 2071(b) of title 18, United States Code.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar.

The Clerk will call the eligible bill on the Consent Calendar.

MELVIN PRICE FEDERAL COURTHOUSE

The Clerk called the bill (H.R. 2890) to redesignate the Federal buildings and courthouse located in East St. Louis, IL, as the "Melvin Price Federal Courthouse."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. GORDON. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

LEGISLATION TO PHASE OUT OZONE DEPLETERS

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, I would like to take my time here today to emphasize the affects that ozone depletion could have on us as well as steps that we need to take to prevent it.

The ozone hole, which was discovered in 1985, is now as big as the continental United States. This depletion of the ozone layer in the Earth's stratosphere, if it continues, will kill all of the plankton in the ocean. This will disrupt the entire food chain in the ocean. It will harm the shrimp industry. Skin cancer cases will rise for fishermen, construction men and other outdoor working activities which will severely curtail those industries recruiting and functioning abilities. In short, the human and economic ramifications of inaction are enormous.

It is time for the U.S. Congress to take an active leadership role in protecting the ozone layer. I have offered legislation that would require a phaseout of potent ozone depleters and require the EPA administrator to review safe alternative chemicals and manufacturing processes as a substitute for chloroflourocarbons [CFC's]. The evidence is convincingly clear that we need to accelerate the phaseout of CFC's.

POSTEMPLOYMENT RESTRICTIONS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. SMITH of Texas. Mr. Speaker, revision of postemployment restrictions in ethics law reform this year continues to prompt concerns among employees in all three branches of the Government.

To support consideration of the reforms requested by the President, I am inserting in the RECORD today additional analysis of current law and issues that arise in applying the law to the legislative branch.

This is offered to supplement findings of the House bipartisan task force on ethics, whose efforts will be the basis for legislative action.

Certainly, an extension of revolving-door statutes to the legislative branch should not undermine or replace the public accountability of individual members and elected officers of the House for the conduct of their appointees.

The material referred to follows:

COVERED OFFICALS AND EMPLOYEES

GUIDELINES

An extension of "revolving door" statutes to the legislative branch should not undermine or replace the public accountability of individual members and elected officers of the House and Senate for the conduct of their appointees.

Former elected officials could be included under expanded "revolving door" statutes if restrictions on their post-government service activities do not effectively constitute a qualification for office beyond those provided by the Constitution.

Restrictions on the post-government service activities of any former government officer or employee should not impede the ability of sitting, elected officials to carry out their constitutionally mandated duties and responsibilities.

1. Current law

Current law (Section 207) applies variously to former officers and employees of the executive branch, independent agencies, General Accounting Office, District of Columbia, certain special government employees and the partners of all of the above listed employees.

The Department of Justice has rendered an advisory opinion on the statute's meaning of ". . . officer or employee of the executive branch" in the conflict-of-interest statutes (Sections 202-209 of Title 18 of the United States Code).

"* * * Congress in speaking of an 'officer or employee of the executive branch' in section 208 meant to include only those 'officers of the United States' who receive their appointment from the President under Article II, section 3, of the Constitution and those subordinate officials who are employed by departments and agencies in the executive branch."

The language of Section 208 parallels that of Section 207.

The Justice Department notes that the statutory language, the legislative history of Sections 202-209 and canons of statutory construction support this interpretation.

A related opinion of the Office of Government Ethics is supportive.

Former appointed—not elected—officers and employees of the executive branch are covered by the "revolving door" statutes.

Note: the law's restrictions also are applicable to activities of non-government employees—the partners of government employees.

2. Issues in equal application to the legislative branch

Whether the authority to make appointments of "officers and employees" in the legislative branch differs substantially from that of the President's under Article II, Section 3, of the Constitution.

The President is the elected official in the executive branch with the primary constitutional authority to make appointments. He must entrust management of executive branch departments, many with a worldwide operating presence, to his top appointees. His ability to delegate authority is unequaled.

Legislative branch appointment authority is widely distributed and is exercised by members and elected officers of the House and Senate. The appointees of the 535 members and the officers of the House and Senate are accountable to the appointing member or officer. Any single member or officer has relatively few top appointees reporting directly to him or her and all are physically located together.

A second issue then arises.

Whether the distribution of constitutional appointment authority in the legislative branch and the relatively narrow span of management control of each member and officer obviates the need to protect legislative branch decision-making from undue influence by former employees.

As a practical matter, the President cannot be expected to supervise and personally hold accountable the day-to-day work of even his top appointees which number in the thousands. The conflict-of-interest statutes, including Section 207, are a partial response to this impossibility.

In the legislative branch, however, top appointees generally report directly and regularly to the member or officer that appointed them. Of those legislative branch appointees and employees at the pay grades specifically covered in the executive branch by Section 207 only a relatively few usually report at any one time to a single member or officer.

Because of this difference in the appointment authority between executive and legislative branches, members and officers of the Congress reasonably should be expected to exercise control over their appointees to the end of protecting the integrity of the legislative process. Elected officials are in turn accountable to the electorate.

A final and troubling issue.

Whether former elected officials could be subject to Section 207 restrictions.

Our representative form of government places elected representatives and officials in charge of setting basic policy and overseeing the running of the government by career civil servants.

Conflict-of-interest statutes including Section 207 currently apply to political and career appointees—officers and employees of the executive branch that are not directly accountable to citizens and who often exercise substantial amounts of discretionary authority on behalf of the public.

Applying the Section 207 restrictions to the people's former elected representatives assumes their post-employment activities pose threats to public policy making so grievous that the electorate can no longer be trusted to exercise their civic responsibility to hold their elected officials accountable.

Nevertheless, the issue here is not "should" but "could" the restrictions be extended to former elected officials.

The conflict-of-interest statutes (Sections 202-209) have been ruled not applicable to the President and Vice President in part because to apply them would be to effectively establish qualifications beyond those contained in the Constitution for those two offices.

Qualifications for election to the House of Representatives and the Senate are set forth in Article I, Section 2, Clause 2, and Article I, Section 3, Clause 3, respectively. Nothing in the Constitution authorizes legislative enhancement—or liberalization—of these qualifications. Extension of post-employment restrictions to members could be viewed as imposing an additional qualification for holding office.

Beyond these considerations, the conflict-of-interest statutes generally are not applied to the President and Vice President because of their potential for disabling them from performing their constitutionally mandated duties.

Nevertheless, the question persists as to whether a special exception to these general rules may be possible for Section 207 of the conflict-of-interest statutes.

The possibility, if it exists, must rest on the fact that Section 207 covers post-government service activities and thus, that it may be possible to draft restrictions that would not directly impact either qualifications for office or the performance of constitutional functions. To do this, at least the following conditions likely would have to be met.

The first: that it be demonstrable that any Section 207 restrictions on former elected officials would be narrowly constructed for the purpose of protecting against a clear threat to the integrity of governmental decision-making.

Secondly: that the restrictions on former elected official's activities could not limit post-government service employment opportunities. Such restrictions likely would be viewed as an attempt to legislate a further qualification for holding office.

An expansion of Section 207 to elected officials that meets at least these two tests could conceivably be held to be constitutional.

A final issue.

Whether third party, non-government employee partners of officers and employees of the legislative branch could be covered by an extension of Section 207(g).

The Section 207 (g) bar is to knowingly represent anyone to the federal government (except Congress) and the District of Columbia on a particular matter in which the United States or the District of Columbia is a party or has direct and substantial interest if the employee participates or has participated personally and substantially in the matter or the matter was under the employee's official responsibility.

Extension of this coverage to partners of officers and employees of the legislative branch—the precedent of the General Accounting Office not withstanding—is difficult at best. Problems arise in the law's definitions of "particular matter", "participated personally and substantially" and "official responsibility". The terms are not widely accepted as being applicable to legislative branch activity. (See Appendix "B"—The Law.)

JAPAN'S CONTINUING BEHAVIOR

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan has been caught with their pants down. Two Japanese companies bid 1 yen for Japanese contracts in a ploy to drive out American competition. That is right, they bid 1 yen.

The Japanese evidently will do anything to keep America out while we keep the door wide open. Why not? Why not 1 yen? Japan has all the cash, they have the banks, and they have the staying power. One other thing, they also know that no one in America will do anything about it. In fact, in a new book just being released, Japanese officials refer to the American Congress as suckers.

What is next, folks? Are they going to buy the Statue of Liberty, and Congress, coming in rationalizing and saying, "Well, my God, it was a gift from France, why be so concerned?"

I am saying, any person in this body who thinks Japan's behavior will change better think straighter, because I would not bet 1 wooden yen on it.

BRINGING DEMOCRACY TO NICARAGUA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I have just returned from Panama and Nicaragua, accompanying Congressman LIVINGSTON and others on a congressional delegation this past weekend. I wish to commend Congressman LIVINGSTON for leading such a productive and informative study mission.

In Panama, we met with a number of officials who described the serious problems the United States faces with the continued presence of General Noriega. Political opposition leaders in Panama concur that the problems for their country are the result of the intransigence of Noriega and his strangle-hold on the Government and that he must go.

I also am convinced based on both unclassified and classified information that the Bush administration under the conditions as they existed on October 3 correctly acted in the attempted coup in Panama. In a meeting with our Ambassador to Colombia we were assured of that Government's strong continued commitment to the war on drugs.

In Nicaragua, our meetings with the opposition leaders made clear for us the determination of those opposing the Sandinistas their commitment to bringing democracy to Nicaragua. They are prepared to wage a vigorous campaign to change the destiny of their country, and it is imperative that we in the Congress continue to exert whatever pressure necessary to ensure the Sandinistas fulfill their commitment to free and fair elections next February 25.

BUSH CAMPAIGNS AGAINST HIS PRINCIPLES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute.)

Mrs. SCHROEDER. Mr. Speaker, the depth of President Bush's personal convictions on abortion is confused.

The President vetoed two appropriation bills solely because they would have funded, via Federal or local revenues, abortions in cases of rape and incest.

But the same President Bush merrily campaigned for Republican candidates for Governor in Virginia and New Jersey and for mayor in New York who are, by the President's definition, proabortion. All three favor abortion in cases of rape or incest.

President Bush might have well announced: "Read my lips: No clear principles."

In this morning's Washington Times, copresident John Sununu indicated Mr. Bush is prepared to let the Government come to a halt rather than accept a compromise on the rape and incest issue.

Yet President Bush is perfectly happy to campaign for candidates who support, to use the President's own words, "the taking of an unborn life."

RECONSIDER CONDITIONS UNDER WHICH FORMER PRESIDENTS CAN BE EMPLOYED

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Calvin Coolidge once said:

> These people are trying to hire not Calvin Coolidge, but a former President of the United States. I cannot do anything that might take away from the Presidency any of its dignity, or any of the faith the people have in it.

Calvin Coolidge's high principles were reinforced by Congress with passage of the Presidential Pension Act in 1958. During consideration of this legislation the House and Senate conferees said:

> We expect a former President to engage in no business or occupation which would demean this office he has held or capitalize upon it in any improper way. There are many ways in which a former President can earn a large income, but ought not to.

Mr. Speaker, when President Reagan went to Japan and took $2 million for two 20-minute speeches, he crossed that line of propriety. It is time to reconsider the conditions under which former Presidents can be gainfully employed and still receive their full pension.

Ten million retired Americans depend on Social Security for their entire retirement income. Yet if they seek outside work, they are subject to an earnings test and their benefits are reduced.

The same principles should apply to former Presidents. We should ask no less.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate is concluded on all motions to suspend the rules, but not earlier than 4:30 p.m.

AUTHORIZING TRANSFER OF A SPECIFIED SHIP TO BRAZIL

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3544) to authorize the transfer of a specified naval landing ship dock to the Government of Brazil under the leasing authority of chapter 6 of the Arms Export Control Act, as amended.

The Clerk read as follows:

H.R. 3544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO LEASE.

(a) IN GENERAL.—The Secretary of the Navy is authorized to lease the naval landing ship dock Hermitage (LSD 34) to the Government of Brazil. A lease under this Act may be renewed.

(b) APPLICABLE LAW.—Such leasing shall be in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following), except that section 62 of that Act (22 U.S.C. 2796a; relating to reports to Congress) shall only apply to renewals of the lease.

SEC. 2. COSTS OF LEASING.

Any expense of the United States in connection with the lease authorized by section 1 shall be charged to the Government of Brazil.

SEC. 3. CONSIDERATION FOR LEASE.

Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of the ship described in section 1(a) may provide, as part or all of the consideration for the lease, for the maintenance, protection, repair, or restoration of the ship by the Government of Brazil.

SEC. 4. EXPIRATION OF AUTHORITY.

The authority granted by section 1(a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act unless the lease authorized by that section is entered into during that period.

The SPEAKER. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3544, a bill to authorize the transfer of a specified naval landing ship dock, the U.S.S. *Hermitage,* to the Government of Brazil under the leasing authority of chapter 6 of the Arms Export Control Act. This is a noncontroversial measure which was introduced by myself and the ranking minority member of the Committee on Foreign Affairs, Mr. BROOMFIELD, at the request of the executive branch.

The Department of Defense formally notified the Congress of the proposed lease of an LSD 34, landing ship dock, to Brazil on June 8, 1989. However, the Congress must specifically authorize such a transfer since the naval vessel is in excess of 3,000 tons. This is similar to lease legislation which the Congress considered last session with respect to the lease of naval vessels to the Governments of Pakistan and the Philippines.

The U.S.S. *Hermitage* is over 30 years old, and will be leased for a period of 5 years. All costs associated with this lease will be incurred by the Government of Brazil. On the policy side, we have important mutual interests in the South Atlantic region which will be served by the transfer of this vessel. Particularly, Brazil's strategic location on the Atlantic Narrows through which 46 percent of the world's daily oil consumption passes during peacetime requires an effective Brazilian maritime capability. The lease of this vessel will serve to enhance that capability and to preserve our mutual interests.

Mr. Speaker, I urge adoption of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no objections to this legislation. The administration has assured me that this vessel is no longer needed in the U.S. active inventory and that this lease will not diminish our military capabilities in any way. I also understand the Brazilian Government will pay all the costs associated with the lease.

I support this technical legislation.

Mr. BENNETT. Mr. Speaker, I rise in strong support of the bill, H.R. 3544, which would authorize the transfer by lease of the decommissioned dock landing ship *Hermitage* to the Government of Brazil.

The requirement for authorization of such leases is contained in section 7307 of title 10, United States Code. This requirement permits the Congress the opportunity to review such proposals for their military and foreign policy implications.

The *Hermitage* is one of eight ships of this type that were built in the mid-1950's by Ingalls Shipbuilding Corp. They have served our country well over the years as part of our amphibious forces, carrying Marines and their equipment to all parts of the world. Each of them is now well over 30 years of age, and one by one the Navy has been decommissioning them as replacements of the new *Whidbey Island* class are completed.

Rather than putting this ship into mothballs, however, we have an opportunity to keep the ship operating as part of an allied navy through a lease arrangement that appears to be in our best interest. According to the Department of Defense, should the *Hermitage* ever be required by our own Navy at any time during the lease period, an option could be exercised to return the ship immediately to U.S. Navy custody.

I believe that the common bond that will be forged with our friends in Brazil through this transfer will be mutually advantageous to our respective navies. Accordingly, I strongly support the authorization that would be provided by this bill for the Secretary of the Navy to enter into the lease of the *Hermitage* to the Government of Brazil.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. JONTZ). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 3544, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNIVERSARY OF THE INDEPENDENCE OF MALTA

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 71) congratulating Malta on the 25th anniversary of its independence.

The Clerk read as follows:

S. CON. RES. 71

Whereas September 21, 1989, marks the twenty-fifth anniversary of the independence of Malta;

Whereas the people of Malta have historically cherished the values of democracy;

Whereas the Maltese, by successfully resisting challenges to democratic rule on Malta, have protected and preserved their heritage for generations to come;

Whereas the Maltese endured tremendous suffering during their heroic struggle against Nazi and other fascist aggression during World War II, and were cited by President Franklin Roosevelt for their bravery and courage;

Whereas a free and democratic Malta is important to peace and stability in the central Mediterranean, a region of particular importance for the interests of the United States;

Whereas the Government of Malta has actively participated in, and made positive contributions to, environmental issues of global concern; and

Whereas relations between the Republic of Malta and the United States, which have been traditionally friendly, have become even closer and stronger in recent years: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress congratulates the people of Malta on the occasion of the twenty-fifth anniversary of the independence of Malta.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 71, congratulating the Republic of Malta on the 25th anniversary of its independence, which passed the other body on October 11. I would like to commend my good friend the gentleman from Ohio [Mr. FEIGHAN] the original sponsor of the House companion to the resolution we are considering today for his diligent efforts to bring this resolution to the attention of the House.

Mr. Speaker, Malta is a small parliamentary democracy approximately twice the size of the District of Columbia. While small, Malta occupies a strategic position in the Central Mediterranean, a region of significant importance to the United States. The Maltese people, ethnically diverse, ranging from Arabic to Italian to Spanish to English, have long protected and preserved democracy. During World War II, the Maltese endured tremendous suffering in the fight for democracy against Nazi and other fascist aggression.

It is fitting, therefore, that the Congress adopted this resolution celebrating the September 21, 1964, independence of Malta and I urge my colleagues to support this resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on September 21, 1989, the people of Malta celebrated the 25th anniversary of their independence. I encourage our colleagues to support Senate Concurrent Resolution

71—which expresses the belated though very sincere congratulations of the Congress to the people of Malta on their anniversary.

During the dark days of World War II, President Franklin Roosevelt characterized Malta's historic struggle against the forces of Nazism and Facism, as "one tiny bright flame in the darkness." As we did in World War II, the United States and Malta have continued to share common interests in a variety of areas from regional economic and security matters to environmental concerns.

Mr. Speaker, the people of the United States and the people of Malta have been friends for many years. As friends, it is most appropriate that on the 25th anniversary of both their independence from Great Britain, and the United States recognition of Malta as a sovereign nation, the House of Representatives approve Senate Concurrent Resolution 71 and join the Senate in extending our congratulations to Malta on their silver anniversary.

Mr. FEIGHAN. Mr. Speaker, I want to thank the distinguished chairman of the Foreign Affairs Committee, Mr. FASCELL, along with the chairman of the Subcommittee on Europe and the Middle East, for their help in moving this resolution to the floor.

On September 21, 1964, Great Britain handed sovereignty back to the people of Malta. In 1989, the Maltese are now celebrating the 25th anniversary of their independence.

Senator PELL and I introduced concurrent resolutions congratulating the Republic of Malta on the 25th anniversary of its independence. This is also a notable date for the United States and Malta because it marks the establishment of diplomatic relations between our two countries. Most Americans would be surprised to learn that links between Malta and the United States go back to the earliest days of America's independence.

A Maltese craftsman named John Pass recast the Liberty Bell that proclaimed American independence in 1776.

During the American Revolutionary War, more than 1,800 Maltese seamen fought with the French Navy and the Colonials against the British.

Malta also served as temporary headquarters for Gen. Dwight D. Eisenhower before the invasion of Sicily in World War II and President Franklin D. Roosevelt praised the people of Malta for their courage and valor against the Axis Powers during World War II.

Mr. Speaker, it is estimated that there are more than 100,000 Maltese-Americans in the United States. This is a considerable number when one considers that Malta's population today is a little over 340,000. Beside the contribution of its people, Malta is vital to the strategic interests of the United States and Europe. Historically, the people of Malta have cherished political freedom and democratic values. Former President Reagan and President Bush have stated that a free and democratic Malta is essential to peace and stability in the central Mediterranean.

By its actions since taking office in May 1987, the current Maltese Government has taken several steps to help consolidate the warm relationship between our two countries. Malta is committed to democracy, its foreign policy is distinctively pro-Western, and welcomes strengthened commercial ties with the United States and Western Europe. Malta is an active participant in international forums such as the United Nations and the Conference on Security and Cooperation in Europe [CSCE]. And Malta has taken a frequent and active interest in regional and economic security matters, and has been a world leader in the international fight against environmental problems.

Mr. Speaker, I believe it is appropriate for us to reaffirm our commitment to United States-Maltese relations and to commend the people of Malta for their respect for freedom, democracy, and independence. I urge my colleagues to support Senate Concurrent Resolution 71 and congratulate Malta on its 25 years of independence.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 71.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 3544, and Senate Concurrent Resolution 71 the bill and the Senate concurrent resolution just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CIVIL SERVICE DUE PROCESS AMENDMENTS

Mr. SIKORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3086) to amend title 5, United States Code, to grant appeal rights to members of the excepted service affected by adverse personnel actions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Service Due Process Amendments".

SEC. 2. EXCEPTED SERVICE APPEAL RIGHTS.

(a) IN GENERAL.—Section 7511 of title 5, United States Code, is amended to read as follows:

§ 7511. Definitions; application

"(a) For the purpose of this subchapter—

"(1) 'employee' means—

"(A) an individual in the competitive service—

"(i) who is not serving a probationary or trial period under an initial appointment; or

"(ii) who has completed 1 year of current continuous service under other than a temporary appointment limited to 1 year or less;

"(B) a preference eligible in the excepted service who has completed 1 year of current continuous service in the same or similar positions—

"(i) in an Executive agency; or

"(ii) in the United States Postal Service or the Postal Rate Commission; and

"(C) an individual in the expected service (other than a preference eligible) who has completed 1 year of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to 1 year or less;

"(2) 'suspension' has the same meaning as set forth in section 7501(2) of this title;

"(3) 'grade' means a level of classification under a position classification system;

"(4) 'pay' means the rate of basic pay fixed by law or administrative action for the position held by an employee; and

"(5) 'furlough' means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

"(b) This subchapter does not apply to an employee—

"(1) whose appointment is made by and with the advice and consent of the Senate;

"(2) whose position has been determined to be of a confidential, policy-determining, policy-making or policy-advocating character by—

"(A) the President for a position that the President has excepted from the competitive service;

"(B) the Office of Personnel Management for a position that the Office has excepted from the competitive service; or

"(C) the President or the head of an agency for a position excepted from the competitive service by statute;

"(3) whose appointment is made by the President;

"(4) who is receiving an annuity from the Civil Service Retirement and Disability Fund, or the Foreign Service Retirement and Disability Fund, based on the service of such employee;

"(5) who is described in section 8337(h)(1), relating to technicians in the National Guard;

"(6) who is a member of the Foreign Service, as described in section 103 of the Foreign Service Act of 1980;

"(7) whose position is within the Central Intelligence Agency, the General Accounting Office, or the Veterans Health Services and Research Administration;

"(8) whose position is within the United States Postal Service, the Postal Rate Commission, the Tennessee Valley Authority, the Federal Bureau of Investigation, or the National Security Agency, unless subsection (a)(1)(B) of this section or section 1005(a) of title 39 is the basis for this subchapter's applicability; or

"(9) who is described in section 5102(c)(11) of this title.

"(c) The Office may provide for the application of this subchapter to any position or group of positions excepted from the competitive service by regulation of the Office which is not otherwise covered by this subchapter.".

(b) ACTIONS BASED ON UNACCEPTABLE PERFORMANCE.—Section 4303(e) of title 5, United States Code, is amended by striking "who is a preference eligible or is in the competitive service and".

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to any personnel action taking effect on or after the effective date of this Act.

SEC. 3. ANNUITANT STATUS NOT A BAR TO APPEALING ONE'S REMOVAL.

Section 7701 of title 5, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following:

"(j) In determining the appealability under this section of any case involving a removal from the service (other than the removal of a reemployed annuitant), neither an individual's status under any retirement system established by or under Federal statute nor any election made by such individual under any such system may be taken into account.".

SEC. 4. LOCATION OF MSPB HEARINGS.

Section 1204(e)(1) of title 5, United States Code, is amended by adding at the end the following:

"(C) Whenever it considers alternative places for conducting a hearing or other proceeding brought by or on behalf of an employee, former employee, or applicant for employment, the Board shall, to the extent practicable, select the place closest to the location of the position held, formerly held, or sought by the individual involved, unless the total administrative costs to the Government in conducting such proceeding would be lesser elsewhere.".

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on the date of enactment of this Act, and, except as provided in section 2(c), shall apply with respect to any appeal or other proceeding brought on or after such date.

The SPEAKER pro tempore. Is a second demanded?

Mrs. MORELLA. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. SIKORSKI] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SIKORSKI].

GENERAL LEAVE

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 3086, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SIKORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3086 extends administrative due process rights to certain Federal employees in the excepted service. Who are these so-called excepted service employees? Most Federal employees are "competitive service" hired only after examination and ranking by the Office of Personnel Management. Others, however, are "excepted" from the competitive service either because there is no practical way to test people entering these positions or because certain occupations already require a minimum proficiency as a prerequisite to licensing. Examples of excepted service employees include attorneys, teachers, chaplains, scientists, and other specialists. There are between a quarter and a half million of the excepted service civil servants working for us.

The fact that an employee is not in the competitive service does not mean that the employee did not go through extensive competition. Any attorney who has tried to get a job at the Department of Justice will tell you hiring is extremely competitive. And it certainly shouldn't mean that public employees should be fired at whim and without recourse.

Nor can employees in excepted service positions be fired without notice. The requirements of constitutional due process and numerous agency grievance procedures usually require that excepted service employees be given notice and the opportunity to defend themselves before removal.

The key difference between the protections available to competitive service employees and veterans preference employees, on the one hand, and nonveterans, excepted service employees, on the other, is the right to appeal an adverse action to the Merit Systems Protection Board for independent review. H.R. 2086 eliminates that difference.

As amended, H.R. 3086 extends procedural protections to most excepted service employees who have completed 1 year of service in an executive agency, but specifically excludes the following groups: First, Presidential appointees; second, certain reemployed annuitants; third, National Guard technicians; fourth, members of the Foreign Service; fifth, employees of the Central Intelligence Agency, the General Accounting Office, and the Veterans Health Services and Research Administration; sixth, employees, other than preference eligible, of the U.S. Postal Service, the Postal Rate Commission; and seventh, the Tennessee Valley Authority, the Federal Bureau of Investigation, and the National Security Agency.

What rights are we talking about? Specifically, the procedural protections provided by this legislation are spelled out in chapters 43 and 75 of title 5, United States Code. They are no big deal—unless you're one of the employees affected. In cases involving removal, suspension for more than 14 days, reductions in grade or pay, or furlough for 30 days or less, the employee must be given 30 days advance written notice of the proposed action, an opportunity to respond in writing, a written decision containing specific reasons for the adverse action or the specific instances of unacceptable performance, and an appeal to the Merit Systems Protection Board—basic rights.

Why are we proposing this? Besides being the right and proper thing to do, last year's Supreme Court decision in United States versus Fausto makes this legislation all the more urgent. In that decision, the Supreme Court cutoff an alternative method of judicial review for excepted service employees, saying that Congress, in passing the Civil Service Reform Act of 1978, had intended to deprive excepted service employees, other than those who were veterans preference eligible, of the right to challenge adverse actions. This bill explicitly provides those rights.

This bill simply provides that over a quarter million hard working Americans working for the Federal Government as loyal employees will be assured basic due process rights. They work right next to other civil servants, sometimes with the same title, same pay, same grade, on the same project, in the same office but without the same rights of notice and appeal if their boss comes down on them. That's not fair and that's why similar measures passed the House under suspension of the rules during both the 99th and 100th Congresses and I urge my colleagues to once again support this measure.

I would also like to commend Representatives SCHROEDER, DYMALLY, HORTON, and MORELLA for their hard work on this legislation and a host of legislation affecting the civil servants who work for the taxpayers of America.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC., November 6, 1989.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3086, the Civil Service Due Process Amendments, as ordered reported by the House Committee on Post Office and Civil Service, October 25, 1989. We estimate that implementation of this bill would cost about $2 million annually, beginning in 1991, assuming appropriation of the necessary sums.

According to information for the Office of Personal Management, the bill would increase by about 200,000 to 300,000 the number of Executive Branch employees eligible to appeal adverse actions to the Merit Systems Protection Board (MSPB). Under current law, most veterans' preference eligibles and employees in the competitive service can appeal adverse actions to the MSPB, which handles an average of 4,500 initial appeals and petitions for review annually. Assuming the same proportion of excepted service employees would appeal to the MSPB as competitive service employees, enactment of this bill would require the MSPB to make an additional 500 to 900 decisions per year. The increased workload would result in additional costs of about $1 million in 1991, the first full year of implementation, gradually rising to about $1.1 million in 1994.

Extending appeal rights also would result in federal agencies having to ward back pay to excepted service personnel who are successful in their appeals. Based on experience with the appeals of Postal Service employees, we estimate that back pay for employees affected by this bill is likely to be about $1 million per year. Other costs associated with defending agencies' actions during MSPB appeals are not expected to be significant.

No costs would be incurred by state or local governments as a result of enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is James Hearn, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

□ 1220

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3086, a bill to amend title 5 of the United States Code, to grant appeal rights to members of the excepted service affected by adverse personnel actions, and for other purposes.

This is a bipartisan bill sponsored by members of the Post Office and Civil Service Committee and passed unanimously by the committee. I want to thank the sponsor of the bill and chairman of the Subcommittee on Civil Service, the gentleman from Minnesota [Mr. SIKORSKI] for his active role in the swift passage of the bill which will affect about 500,000 professional employees of the Federal Government.

Mr. Speaker, presently, those who are in the excepted service, that is, those who are not in the competitive service—such as attorneys, doctors, scientists, teachers, chaplains—are not given the right to appeal adverse personnel actions. This bill would not be applicable to those enumerated in section 2 of the bill, such as political appointees, foreign service, and intelligence agency personnel. Appeal rights are given to those Federal employees in the competitive service. It is my firm belief that every employee in the Federal Government should have the same protection.

Mr. Speaker, we are at a period when the Federal Government is finding it difficult to attract promising, top-flight employees because the private sector is able to compensate these men and women at a much higher salary level. The very minimum we should be able to offer attorneys, doctors, scientists, chaplains, and others in the excepted service is a certain amount of fairness in appeal rights. Due process is one of our inalienable rights. Attorneys throughout our country plead due process even for the most heinous of criminals but our own attorneys in Federal Government cannot avail themselves of this right when it involves adverse action or assessment of their jobs.

I am pleased to have been one of the original cosponsors of this measure and I recommend unanimous passage of H.R. 3086.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 3086 and I commend the chairman of the Civil Service Subcommittee, Mr. SIKORSKI and the ranking minority member Mrs. MORELLA for crafting this important legislation. I also want to thank the chairman of the full committee, Mr. FORD, for helping to bring this bill to the floor.

H.R. 3086 grants appeal rights based on adverse actions as well as appeal and procedural rights for excepted service employees before the Merit Systems Protection Board [MSPB] for actions based on unacceptable performance.

Currently, only members of the competitive service and preference eligible employees in the excepted service have appeal rights. However, such groups as doctors, teachers, attorneys, chaplains, scientists and others do not. H.R. 3086 corrects this mistake.

Accordingly, I urge my colleagues to support H.R. 3086.

Mrs. SCHROEDER. Mr. Speaker, I want to congratulate the gentleman from Minnesota [Mr. SIKORSKI] for his hard work on H.R. 3086, the civil service due process amendments. In the last 10 months not only has he guided this bill through Congress, but he also engineered the passage of the Whistleblower Protection Act, the Hatch Act, and many other bills. Since becoming chairman of the Civil Service Subcommittee, he has presided over more hearings than Judge Wapner.

I also want to commend the gentleman from California [Mr. DYMALLY]. He is the true leader in the fight to give excepted service employees the right to appeal adverse actions. We are passing this bill today because of his commitment to fairness and due process.

H.R. 3086 extends administrative notice and appeal rights to excepted service employees. Excepted service employees work beside competitive service employees but are denied due process rights because they are hired through a different process.

H.R. 3086 gives excepted service employees—attorneys, teachers, scientists, and chaplains—the right to appeal to the Merit Systems Protection Board [MSPB] adverse actions and adverse performance based appraisals. This right is enjoyed by members of the competitive service and preference eligible employees.

We passed this same measure in the 99th and 100th Congress. Every year we go through this and every year it makes as much sense as it did the year before the extend coverage to excepted service employees. This right exists for Federal employees in the competitive service and there is no reason why excepted service employees should be excluded.

Excepted service employees work alongside competitive service employees, contribute to the same retirement system, and face the same insecurity when there is a reduction in force. But they have no recourse or due process rights when charged with misconduct. It is time we provide them with this necessary protection. I urge my colleagues to support H.R. 3086, the Civil Service Due Process Amendments Act of 1989.

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

Mr. SIKORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. JONTZ). The question is on the motion offered by the gentleman from Minnesota [Mr. SIKORSKI] that the House suspend the rules and pass the bill, H.R. 3086, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORITY TO MAKE DIRECT PAYMENTS TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1805) to amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings; to eliminate the reinsurance requirement under the Federal employees' life insurance program; and to make a technical correction relating to the life insurance program, as amended.

The Clerk read as follows:

H.R. 1805

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HEALTH BENEFITS.

(a) AUTHORITY FOR DIRECT PAYMENTS.—Section 8906 of title 5, United States Code, is amended by adding at the end the following:

"(i) An annuitant whose annuity is insufficient to cover the withholdings required for enrollment in a particular health benefits

plan may enroll (or remain enrolled) in such plan, notwithstanding any other provision of this section, if the annuitant elects, under conditions prescribed by regulations of the Office, to pay currently into the Employees Health Benefits Fund, through the retirement system that administers the annuitant's health benefits enrollment, an amount equal to the withholdings that would otherwise be required under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 8906 of title 5, United States Code, is further amended—

(1) in subsection (c), by inserting "(except as provided in subsection (i) of this section)" before "the annuity"; and

(2) in subsection (d), by inserting "(except as provided in subsection (i) of this section)" before "from the annuity".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act. Any annuitant whose enrollment was terminated at any time before such date on account of such annuitant's annuity being insufficient to cover the amount of the required withholdings may, under regulations prescribed by the Office of Personnel Management, be prospectively reinstated in any available health benefits plan upon application of the annuitant.

SEC. 2. TECHNICAL CORRECTION IN LIFE INSURANCE PROVISIONS.

Section 8708 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Except as otherwise provided in this subsection, for each period in which an employee continues life insurance after retirement or while in receipt of compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee, as provided under section 8706(b) of this title, a sum equal to one-half of the amount which is withheld from the employee's annuity or compensation under section 8707 of this title shall be contributed by the Office from annual appropriations which are authorized to be made for that purpose and which may be made available until expended.

"(2) Contributions under this subsection—

"(A) shall not be made other than with respect to individuals who retire, or commence receiving compensation, after December 31, 1989;

"(B) shall not be made with respect to any individual for months after the calendar month in which such individual becomes 65 years of age; and

"(C) shall, in the case of any individual who elects coverage under subparagraph (B) of section 8706(b)(3) of this title, be equal to the amount which would apply under this subsection if such individual had instead elected coverage under subparagraph (A) of such section.

"(3) The United States Postal Service shall pay the contributions required under this subsection with respect to any individual who——

"(A) first becomes an annuitant by reason of retirement from employment with the United States Postal Service after December 31, 1989; or

"(B) commences receiving compensation under subchapter I of chapter 81 of this title (because of disease or injury to the individual) after December 31, 1989, if the position last held by the individual before commencing to receive such compensation was within the United States Postal Service.".

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 1805, as amended, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1805 would make certain minor and technical changes to the Federal Employees Health Benefits Program and the Federal Employees Group Life Insurance Program.

Under current law, if an individual's Federal annuity is insufficient to cover his and her health insurance premium, the annuitant must change to a less expensive health plan, or drop FEHBP coverage. H.R. 1805 remedies this situation by permitting an enrollee whose annuity is insufficient to cover his or her portion of the FEHBP premium, the opportunity to pay the premium directly to the Employees Health Benefits Fund through the retirement system that administers the annuitant's health benefits enrollment.

In addition, H.R. 1805 amends the Federal Employees Group Life Insurance statute. The present statute does not authorize the Government to make an employer contribution toward the premium of Federal employees who retire after 1989 and who are not yet 65 years of age.

H.R. 1805 corrects this oversight by authorizing the Government to contribute its one-third employer share of the cost of the basic life insurance for those individuals.

According to the Congressional Budget Office, enactment of H.R. 1805 would have no budgetary impact. In addition, the administration supports enactment of the bill.

I urge my colleagues to support H.R. 1805, and reserve the balance of my time.

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1805, a bill which amends chapter 89 of title 5, United States Code, to permit Federal annuitants to make direct payments for health benefits when there is insufficient money in their annuity to cover the required amount.

When the annuity is less than the amount required to withhold the amount for a particular health plan which an annuitant would like to participate in, the only alternatives are to choose a less expensive plan or not participate in the health benefits program. This bill would give more flexibility to the annuitant who would then be able to choose a plan which would cover his or her health needs.

H.R. 1805 also makes a technical amendment and clarifies provisions in the Federal Employees Group Life Insurance Program. The bill authorizes the Government to pay its one-third employer share of the FEGLI premium for those employees who retire after December 1989 and who are not 65 years of age.

Mr. Speaker, I want to take this opportunity to thank the gentleman from New York [Mr. ACKERMAN], who is also the chairman of the Subcommittee on Compensation and Employee Benefits and to the ranking member of the subcommittee, the gentleman from Indiana [Mr. MYERS], for their efforts to correct existing legislation and for their interest in assisting our Federal annuitants.

The administration is supporting this measure and I encourage all our colleagues to do the same.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 1805, legislation authorizing the direct payments to the Federal Employee Health Benefits Program. This bill will go a long way to solving one of the more annoying problems facing some of our Federal annuitants. I commend the gentlelady from Maryland [Mrs. MORELLA]; the gentleman from Indiana [Mr. MYERS] and the distinguished chairman of the Subcommittee on Compensation and Employee Benefits, Mr. ACKERMAN, for their work in bringing this measure to the floor.

This legislation allows Federal annuitants to make a direct contribution to the Federal Employee Health Benefits Program for their health insurance rather than strictly through withholding as the present statutes require. This change is necessary because in numerous cases we have found that a retiree's annuity check is not sufficient to cover their premiums. Thus, they either drop their health insurance coverage completely, drop the family coverage to self only or switch to cheaper plans that offer less coverage.

It is sad that medical expenses have risen in such a fashion since the FEHB Program was initiated that we are now faced with premiums out-pacing many monthly annuity checks. Therefore, since we have not been able to decrease these costs in the short term, we must enable those confronted with this situation to pay their premiums directly from another source of income and not strictly through withholding. The bill also allows for reinstatement to the FEHB Program anyone that was forced to drop their coverage be-

cause their withholding outpaced their monthly annuity.

This legislation also goes a step further correcting a problem with the Federal Employees' Group Life Insurance Program. The original legislation, as passed in 1980, required those employees, who retired or began to receive workers' compensation after 1989, and who elected to retain basic life insurance coverage, to continue to pay the employee share of the premium from their annuity or compensation until reaching age 65. However, that measure did not authorize the funding necessary to pay the employer or Government's share of the premium. H.R. 1805 provides that authority.

For those Members interested, they should know that the bill before us does not include language that was in the bill as introduced which would have repealed that part of the life insurance program dealing with reinsurance. Our colleagues on the Government Operations Committee made a recommendation in the 100th Congress that due to the fact that the program was insured by the Federal Government and thus self-insured, the statute requiring reinsurance of a portion of the total amount of the insurance with other companies, should be repealed.

However, since that recommendation, the Office of Personnel Management and the Metropolitan Life Insurance Co., our primary insurer, have addressed this issue and determined that repeal may not be necessary. I am assured that the committee intends to monitor these reviews closely. I am also pleased to advise my colleagues that the administration supports the enactment of the bill before us.

I thank the Speaker and the chairman and yield back whatever time I might have left.

□ 1230

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

Mr. ACKERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. JONTZ). The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the bill, H.R. 1805, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings, and to make a technical correction relating to the life insurance program.".

A motion to reconsider was laid on the table.

URBAN AND COMMUNITY FORESTRY ACT OF 1989

Mr. JONTZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2144) to improve forest management in urban areas and other communities, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Urban and Community Forestry Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the health of forests in urban areas and communities, including cities, their suburbs, and towns, in the United States is on the decline;

(2) forest lands, shade trees, and open spaces in urban areas and communities improve the quality of life for residents;

(3) forest lands and associated natural resources enhance the economic value of residential and commercial property in urban and community settings;

(4) tree plantings in urban areas and communities can aid in reducing carbon dioxide emissions, mitigating the heat island effect, and reducing energy consumption, thus contributing to efforts to reduce global warming trends;

(5) efforts to encourage tree plantings and protect existing open spaces in urban areas and communities can contribute to the social well-being and promote a sense of community in these areas; and

(6) strengthened research, education, technical assistance, and public information and participation in tree planting and maintenance programs for urban and community forests are needed to provide for the protection and expansion of tree cover and open space in urban areas and communities.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) improve understanding of the benefits of preserving existing tree cover in urban areas and communities;

(2) encourage owners of private residences and commercial properties to maintain trees and expand forest cover on their properties;

(3) provide education programs and technical assistance to State and local organizations (including community associations and schools) in maintaining forested lands and individual trees in urban and community settings and identifying appropriate tree species and sites for expanding forest cover;

(4) implement a tree planting program to complement urban and community tree maintenance and open space programs;

(5) promote the establishment of demonstration projects in selected urban and community settings to illustrate the benefits of maintaining and creating forest cover and trees;

(6) enhance the technical skills and understanding of sound tree maintenance and arboricultural practices of individuals involved in the planning, development, and maintenance of urban and community forests and trees; and

(7) expand existing research and educational efforts intended to improve understanding of tree growth and maintenance, tree physiology and morphology, species adaptations forest ecology, and the economic, environmental, social, and psychological benefits of trees and forest cover in urban and community environments.

SEC. 4. EDUCATION, TECHNICAL ASSISTANCE, AND RESEARCH ACTIVITIES.

(a) AMENDMENT TO COOPERATIVE FORESTRY ASSISTANCE ACT.—(1) Section 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105) is amended as follows:

(A) Redesignate subsection (c) as subsection (h).

(B) Insert the following new subsections:

"(c) The Secretary, in cooperation with State foresters and State extension agents or equivalent State officials, shall implement a program of education and technical assistance for urban forest resources. The program shall be designed to—

"(1) assist urban areas and communities in conducting inventories of their forest resources, including inventories of the species, number, location, and health of trees in urban areas and communities, and the status of related resources (including fish and wildlife habitat, water resources, and trails);

"(2) assist State and local organizations (including community associations and schools) in organizing and conducting urban and community forestry projects and programs;

"(3) improve education and technical support in—

"(A) selecting tree species appropriate for planting in urban and community environments;

"(B) providing for proper tree planting, maintenance, and protection in urban areas and communities;

"(C) protecting individual trees and preserving existing open spaces with or without tree cover; and

"(D) identifying opportunities for expanding tree cover in urban areas and communities;

"(4) assist in the development of State and local management plans for trees and associated resources in urban areas and communities; and

"(5) increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community environments and expand knowledge of the ecological relationships and benefits of trees and related resources in these environments.

"(d) The Secretary, in cooperation with State foresters or equivalent State officials, shall assist in identifying sources of plant materials appropriate for reforesting open spaces, replacing dead and dying urban trees, and expanding tree cover in urban areas and communities. The Secretary may make such plant materials available, and may procure or otherwise obtain such materials from public or private sources for purposes of making such materials available to urban areas and communities for such uses.

"(e)(1) The Secretary shall establish an urban and community forestry challenge cost share program. Funds or other support shall be provided under such program to eligible communities and organizations, on a competitive basis, for urban and community forestry projects. The Secretary shall annually make awards under the program in accordance with criteria developed in consultation with, and after consideration of recommendations received from, the National Urban and Community Forestry Advisory Council established under subsection (f). Such awards shall be consistent with the cost share requirements of this section.

"(2) The Federal share of support for a project provided under this subsection may not exceed 50 percent of the support for that project and shall be provided on a

matching basis. The non-Federal share of such support may be in the form of cash, services, or in-kind contributions, fairly valued.

"(f)(1) The Secretary shall establish a National Urban and Community Forestry Advisory Council for the purpose of—

"(A) developing a national urban and community forestry action plan;

"(B) evaluating the implementation of that plan; and

"(C) developing criteria for, and submitting recommendations with respect to, the urban and community forestry challenge cost share program under subsection (e).

"(2)(A) The Council shall be composed of 15 members appointed by the Secretary, as follows:

"(i) 2 members representing national nonprofit forestry and conservation citizen organizations;

"(ii) 3 members, 1 each representing State, county, and city and town governments;

"(iii) 1 member representing the forest products, nursery, or related industries;

"(iv) 1 member representing urban forestry, landscape, or design consultants;

"(v) 2 members representing academic institutions with an expertise in urban and community forestry activities;

"(vi) 1 member representing State forestry agencies or an equivalent State agency;

"(vii) 1 member representing a professional renewable natural resource or arboriculture society;

"(viii) 1 member from the Extension Service;

"(ix) 1 member from the Forest Service;

"(x) 2 members who are not officers or employees of any governmental body, 1 of whom is a resident of a community with a population of less than 50,000 as of the most recent census and both of whom have expertise and have been active in urban and community forestry.

"(B) A vacancy in the Council shall be filled in the manner in which the original appointment was made.

"(C) The Secretary shall select 1 member, from members appointed to the Council, who is not an officer or employee of the United States nor any State, county, city, or town government, who shall serve as the chairperson of the Council.

"(D)(i) Except as provided in clauses (ii) and (iii), members shall be appointed for terms of 3 years, and no member may serve more than two consecutive terms on the Council.

"(ii) In making the initial appointments, the Secretary shall provide that—

"(I) 5 members, including the chairperson and 2 governmental employees, shall be appointed for a term of 3 years;

"(II) 5 members, including 2 governmental employees, shall be appointed for a term of 2 years; and

"(III) 5 members, including 2 governmental employees, shall be appointed for a term of 1 year,

as designated by the Secretary.

"(iii) Any member appointed to fill a vacancy occurring before the expiration of the term of the member's predecessor shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the member's successor has taken office.

"(E)(i) Except as provided in clause (ii), members of the Council shall serve without pay, but may be reimbursed for reasonable costs incurred while in the actual performance of duties vested in the Council.

"(ii) Members of the Council who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Council.

"(iii) The Secretary shall provide financial and administrative support for the Council.

"(3) Within 1 year after the date of enactment of this subsection and every 10 years thereafter, the Council shall prepare a National Urban and Community Forestry Action Plan. The plan shall include (but not be limited to) the following:

"(A) An assessment of the current status of urban forest resources in the United States.

"(B) A review of urban and community forestry programs and activities in the United States, including education and technical assistance activities conducted by the Forest Service, Extension Service, and other Federal agencies, the State forestry organizations, private industry, private nonprofit organizations, community and civic organizations and interested others.

"(C) Recommendations for improving the status of the Nation's urban and community forest resources, including education and technical assistance and modifications required in existing programs and policies of relevant Federal agencies.

"(D) A review of urban and community forestry research, including—

"(i) a review of all ongoing research associated with urban and community forests, arboricultural practices, and the economic, social, and psychological benefits of trees and forest cover in urban and community environments being conducted by the Forest Service, other Federal agencies, and associated land grant colleges and universities;

"(ii) recommendations for new and expanded research efforts directed toward urban and community forestry concerns; and

"(iii) a summary of research priorities and an estimate of the funds needed to implement such research, on an annual basis, for the next 10 years.

"(E) Proposed criteria for evaluating proposed projects under the urban and community forestry challenge cost share program under subsection (e), with special emphasis given to projects that would demonstrate the benefits of improved forest management (including the maintenance and establishment of forest cover and trees) in urban areas and communities.

"(F) An estimate of the resources needed to implement the plan for the succeeding 10 fiscal years.

"(4) The plan may be amended by a majority of the Council members. Such amendments shall be incorporated into the Council's annual review of the plan submitted to the Secretary pursuant to paragraph (5) of this subsection.

"(5) The Council shall submit the plan to the Secretary and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate upon its completion. Beginning no later than one year after the plan is submitted and annually thereafter, the Council shall submit a review of the plan to the Secretary no later than December 31. The review shall consist of—

"(A) the Council's assessment of prior year accomplishments in research, education, technical assistance, and related activities in urban and community forestry;

"(B) the Council's recommendations for research, education, technical assistance, and related activities in the succeeding year; and

"(C) the Council's recommendations for the urban and community forestry challenge cost share projects to be funded during the succeeding year.

The review submitted to the Secretary shall be incorporated into the annual report of the Forest Service to the Congress under the Forest and Rangeland Renewable Resources Planning Act of 1974.

"(6) Upon request of the Council, the Secretary is authorized to detail, on a reimbursable basis, any of the personnel of the Department of Agriculture to the Council to assist the Council in carrying out its duties under this Act.

"(7) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

"(g) For the purposes of this section—

"(1) the term 'Council' means the National Urban and Community Forestry Advisory Council established under subsection (f);

"(2) the term 'plan' means the National Urban and Community Forestry Action Plan developed under subsection (f)(3); and

"(3) the term 'urban and community area' includes cities, their suburbs, and towns.".

(b) AMENDMENT TO RENEWABLE RESOURCES EXTENSION ACT.—(1) Section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(9) in cooperation with State foresters or equivalent State officials, increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community area environments and expand knowledge of the ecological relationships and benefits of trees and related resources in urban and community environments.".

(2) Section 5(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674(a)) is amended by striking "for planting and management of trees and forests in urban areas," and inserting "urban and community forestry activities,".

The SPEAKER pro tempore (Mr. ACKERMAN). Is a second demanded?

Mr. MORRISON of Washington. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. JONTZ] will be recognized for 20 minutes, and the gentleman from Washington [Mr. MORRISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Speaker, I yield myself such time as I may consume.

I want to begin by thanking the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA], and also the chairman of the Subcommittee on Forest, Family Farms, and Energy, of the Committee on Agriculture, the gentleman from Missouri [Mr. VOLKMER], for their very valuable assistance in the preparation of this legislation.

The Forestry Subcommittee is today conducting hearings in South Carolina about the problems in the forest industry as a result of the hurricane, and for that reason the gentleman from Missouri [Mr. VOLKMER] is not present for this debate.

This legislation seeks to address a very important concern in our country about what can be done to reforest our Nation's cities to cool down and green up our urban areas. The forests of our Nation's cities have been in a state of decline for some time with the various pressures of urban activity on trees. Fortunately, the citizenry of this Nation have recognized the importance of responding to the problems, not just to improve the living conditions in our Nation's cities, but also to address the important problem of global warming.

This legislation has been prepared to address that need, to expand the role of the Forest Service in providing assistance, financial, technical and educational, to the Cooperative Forestry System to municipalities in this country and community organizations to assist them with the important work that is now ongoing in urban forestry.

Part of the legislation is also addressed to expanding the role of the Extension Service in working with similar community organizations.

Mr. Speaker, this legislation was developed with the close cooperation of the American Forestry Association and also of the Association of State Foresters who play a very instrumental role in implementing the legislation. Many of our State forestry departments are now doing an outstanding job with very limited resources in assisting communities with their urban forestry programs, and this legislation through the Cooperative Forestry Act, will allow them to provide additional assistance.

I might mention, the American Forestry Association has spearheaded the effort nationally with regard to urban forestry through their global relief program to plant 100 million trees in our country. They certainly deserve a great deal of the credit for the legislation in this area.

Also, I want to thank the ranking Republican member of the subcommittee, the gentleman from Washington [Mr. MORRISON] for his cooperation, his assistance, and also the assistance of the administration and the Forest Service contributing to this legislation is appreciated a great deal.

Mr. DE LA GARZA. Mr. Speaker, I rise today in support of H.R. 2144, the "Urban and Community Forestry Act of 1989." I urge my colleagues to support its passage.

Trees, open spaces, and forested lands in our cities, their suburbs, and smaller communities, are important to the quality of life in these areas. Not only do these natural resources add to the esthetics of urban and community areas, but they increase the economic value of the landscape, reduce heating requirements, provide insulation from the sounds of the city, improve air quality and help reduce global warming, and generally contribute to the quality of city and suburban life. Yet, despite the importance of trees and open spaces in urban and community areas, these resources are on a precipitous decline.

According to testimony received by our committee, for every tree that is planted in our large urban areas, rural towns, and communities, four die or are removed. These losses are the result of land clearing for new transportation routes, utility corridors, housing, and industrial developments; insects and disease; physical damage; and even vandalism.

As evidenced by the outpouring of concern for the fate of the famous Treaty Oak in Austin, TX, people care about trees. The story of the Treaty Oak, a tree which has stood as a silent sentinel to much of the history of Texas and was suddenly threatened by an act of vandalism, is testimony to the caring and commitment that people share for trees.

H.R. 2144 would expand existing authority in the Department of Agriculture to provide education programs and technical assistance to State and local governments and organizations to aid in maintaining forested lands and individuals trees in urban and community areas. These programs would improve understanding of the benefits of preserving existing tree cover; enhance tree maintenance and arboricultural activities; and promote tree planting to replace dead and dying trees and revegetate open spaces.

H.R. 2144 would also provide for the establishment of a National Urban and Community Forestry Advisory Council, to aid the Forest Service in planning, implementing, and evaluating its urban and community forestry programs. The Council, consisting of 15 individuals appointed by the Secretary, is structured to provide both the breadth of expertise and the balance of interests needed to address the concerns that affect the Nation's urban and community trees and forested lands.

In addition, the bill would establish a new challenge cost share program to fund or otherwise support community-based, urban and community forestry projects. Awards under this program would be based on criteria developed by the Council and should reflect the recommendations which are made to the Secretary by the Council on an annual basis.

I commend the gentleman from Indiana, the Honorable JIM JONTZ for introducing this legislation, as well as the chairman of the Agriculture Committee's Subcommittee on Forests, Family Farms, and Energy, the Honorable HAROLD VOLKMER, for refining the legislation which is before you today.

Mr. Speaker, H.R. 2144 provides the basis for turning around the current decline of the trees and forested areas in our cities, suburbs, and towns. It offers a sound and rationale approach to addressing the problems which confront these important natural resources. I urge my colleagues to support H.R. 2144.

Mr. MORRISON of Washington. Mr. Speaker, I yield myself such time as I may consume.

First, let me say thanks to the gentleman from Indiana [Mr. JONTZ] for his leadership in this issue area. Urban and community forestry can be absolutely vitally important to this country. Perhaps with global warming, we are going to find out and rediscover the fact that growing things take in carbon dioxide and return oxygen, which we so badly need.

We are all concerned with the decline of trees in our metropolitan areas. Statistics show that for every one that gets planted that we are losing four. That is a great way to get into trouble. Those trees are vital, not only for global warming concerns, but in saving energy.

It is a pleasure to bring to the floor a bill that really can impact the block where you live or the park where your children play. This truly can, by bringing the expertise developed by our Forest Service working with a lot of people at the local level into the local communities to provide educational and technical support and even a financial boost to keep those things growing and green and helping to clean the air.

So the spirit behind this bill is very good. H.R. 2144 had some questions by the administration and some objections, but they were cleared up in the subcommittee, so I encourage support for this measure when it comes to us from the Agriculture Committee.

Mr. Speaker, I yield back the balance of my time.

Mr. JONTZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. JONTZ] that the House suspend the rules and pass the bill, H.R. 2144, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JONTZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of New York, for 60 minutes, on November 9.

Mr. OWENS of New York, for 5 minutes each day, on November 8, 13, 14, 15, 16, and 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MORRISON of Washington) and to include extraneous matter:)

Mr. BROOMFIELD.

Mr. CLINGER.

Mr. CONTE.

(The following Members (at the request of Mr. JONTZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. TRAFICANT.

Mr. HAMILTON.

Mr. DONNELLY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1816. An act to protect the retired pay of certain members of the Armed Forces convicted of an offense under section 2071(b) of title 18, United States Code; to the Committee on the Judiciary.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2916. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes; and

H.J. Res. 35. Joint resolution designating November 5-11, 1989, as "National Women Veterans Recognition Week."

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to the enrolled bills and a joint resolution of the Senate of the following titles:

S. 750. An act to extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington;

S. 1827. An act to revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York; and

S.J. Res. 198. Joint resolution designating November 1989 as "An End to Hunger Education Month."

ADJOURNMENT

Mr. JONTZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Tuesday, November 7, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1976. A letter from the Secretary of Education, transmitting a copy of final regulations for the Income Contingent Loan Program, Subpart E—Due Diligence, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1977. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed manufacturing license agreement for the production of significant military equipment in Taiwan (Transmittal No. MC-24-89), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

1978. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed manufacturing licensing agreement for the production of significant military equipment in Switzerland (Transmittal No. MC-23-89), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

1979. A letter from the Assistant Secretary for Legislative Affairs, transmitting copies of the original report of political contributions for Edmund Dejarnette, Jr., of Virginia, Ambassador designate to the United Republic of Tanzania, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1980. A letter from the Comptroller General, General Accounting Office, transmitting a report on the General Services Administration's efforts to assume a greater policy guidance and oversight role (GAO/GGD-90-14), pursuant to 31 U.S.C. 9106(a); to the Committee on Government Operations.

1981. A letter from the Director, Office of Thrift Supervision, Department of the Treasury, transmitting the semiannual report of the Inspector General of the Federal Home Loan Bank Board for the 6-month period ended September 30, 1989, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

1982. A letter from the Chairman, Federal Communications Commission, transmitting notice that the Commission's Inspector General has resigned from the Government effective September 29, 1989, pursuant to Public Law 95-452, section 8E(e) (102 Stat. 2524); to the Committee on Government Operations.

1983. A letter from the Chairman, Federal Communications Commission, transmitting the Commission's report on implementation of section 8E of the Inspector General Act of 1978, as amended, pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee on Government Operations.

1984. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the Corporation's notice that an Office of Inspector General has been established and the first semiannual report by him is enclosed for the period April 1 through September 30, 1989, pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee on Government Operations.

1985. A letter from the Acting Director, Federal Mediation and Conciliation Service, transmitting financial audits conducted by an independent firm of certified public accountants for fiscal years 1987 and 1988; to the Committee on Government Operations.

1986. A letter from the Chairman, National Credit Union Administration, transmitting the Board's notice that an Office of Inspector General has been established, pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee on Government Operations.

1987. A letter from the Acting Administrator, General Services Administration, transmitting a copy of a lease prospectus for the Federal Emergency Management Agency and the Federal Labor Relations authority in Washington, DC, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1988. A letter from the U.S. Trade Representative, transmitting a report on recent developments to eliminate or reduce foreign unfair trade practice for the period January through June 1989, pursuant to 19 U.S.C. 2416, 2413; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2144. A bill to improve forest management in urban areas and other communities, and for other purposes; with an amendment (Rept. 101-330). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

Mr. DELLUMS introduced a bill (H.R. 3590) to exempt from the District of Columbia income tax the spouses and minor children of elective officers of the U.S. Government and the spouses and minor children of certain employees on the staffs of elected officials in the legislative branch of the U.S. Government, which was referred to the Committee on the District of Columbia.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1733: Mr. OWENS of Utah.

H.R. 2695: Mr. PALLONE, Mr. DAVIS, and Mr. TORRICELLI.

H.R. 3030: Mr. THOMAS of Wyoming.

H.R. 3483: Mr. ATKINS, Mr. OWENS of Utah, Mr. STENHOLM, and Mr. HAYES of Illinois.

H.J. Res. 385: Mr. SKAGGS, Mr. MCGRATH, Mr. MARTINEZ, Mr. CONYERS, Mr. COOPER, Mrs. BOGGS, Mr. CARR, Mr. FORD of Tennessee, Mr. GRAY, Mr. HALL of Ohio, Mr.

HENRY, Mr. HERTEL, Mr. SABO, Mr. WEBER, Mr. CLINGER, Mr. SMITH of Texas, Mr. ANNUNZIO, and Mr. STENHOLM.

H. Con. Res. 187: Mr. DANNEMEYER, Mr. DORNAN of California, Mr. PAYNE of New Jersey, Mr. WAXMAN, and Mr. INHOFE.

H. Con. Res. 220: Mr. CLINGER, Mr. DANNEMEYER, Mr. DEFAZIO, Mr. MACHTLEY, Mr. MCNULTY, Mr. OBERSTAR, and Mr. TORRES.

SENATE—*Monday, November 6, 1989*

The Senate met at 2:30 p.m. and was called to order by the Honorable JEFF BINGAMAN, a Senator from the State of New Mexico.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

I just learned that the mother of Linda Takayama, who works in the Sergeant at Arms office, died last Thursday. Let us remember Linda and her husband and her family in silent prayer.

Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful. But his delight is in the law of the Lord; and in his law doth he meditate day and night. And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit in his season; his leaf also shall not wither; and whatsoever he doeth shall prosper.—Psalm 1:1-3.

Father in Heaven, thank Thee for the wisdom of the Psalms. Grant us the grace to conform, to seek the way of blessedness—the purposeful, productive, prosperous way. Give us grace to turn from the counsel of the ungodly, the way of the sinner, the dead end of the scorner. Help us to find delight in the law of the Lord and think on it continually.

In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 6, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF BINGAMAN, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BINGAMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders, there will be a period for morning business for 30 minutes, the Senators permitted to speak therein for up to 5 minutes each. When morning business closes, it is my intention to seek unanimous consent to proceed to H.R. 2710, the minimum wage bill. Should consent not be granted, I will then move to proceed to the bill with that motion being a debatable motion.

Mr. President, for the information of Senators, there will be no rollcall votes today. Shortly, I hope I will be in a position to inform our colleagues about the schedule for the remainder of the week.

POLITICAL CHANGE IN EAST GERMANY

Mr. MITCHELL. Mr. President, the changes sweeping through East Europe continue to surprise us with their scope and their intensity. Each day's news reports provide us with yet another example of the transformation of the political order in States that were, until just a few months ago, ruled by rigidly orthodox Communist governments.

In the past month, this outpouring of desire for democratic reform and renewal have been especially pronounced in East Germany, where demands to make the so-called German Democratic Republic truly democratic have reached unprecedented levels. In many ways, East Germany epitomized the Stalinist vision of Eastern Europe: a blindly loyal ally of the Soviet Union which would tolerate no dissent from its own people, would have no sympathy for those who advocated reform.

The Berlin wall symbolized this desire to cut off the people of East Germany not only from their fellow countrymen in the West, but from the corrupting ideas of democracy and freedom as well. When Soviet tanks moved against Hungary in 1956, against Czechoslovakia in 1968, or threatened to move against Poland in 1980, the Government in East Germany could be counted on to lend its support to the forces preserving the status quo in Eastern Europe.

Suddenly, all this has begun to change. It was only 1 month ago, on the anniversary of the founding of the East German State, that 5,000 brave demonstrators dared to clash with police in East Berlin as they demanded reform. But over this past weekend, in the same city, over 500,000—a half million—demonstrators gathered to carry the same demands, this time in a peaceful rally which was carried live on East German television.

The fact that citizens in East Germany are now demonstrating openly and demanding reform, and that the new authorities in East Germany are trying to appear favorable toward such reforms, is remarkable. Indeed, just 3 or 4 months ago, they would have seemed unimaginable, even to the most optimistic observers of the changing scene in Eastern Europe.

Just as remarkable as the possible pace of reform and renewal in East Germany, however, has been the equally compelling spectacle of the massive emigration of East Germans to the West. Yesterday, an additional 10,000 East Germans arrived in West Germany, the largest total for any single day this year. That thousands of citizens, many of them in the prime of life and seeking economic as well as political opportunity, are willing to leave their homes taking only what they can carry in order to start a new life in the West is the most eloquent testimony imaginable to the bankruptcy of communism and the failure of the Government of East Germany.

When those who flee East Germany arrive in the West, they are granted immediate citizenship by the Federal Republic of Germany, West Germany. That policy is a longstanding one, compelled by historical as well as humanitarian concerns. That the West is a magnet for those forced to live in the East has been obvious since before the wall was built in Berlin. If citizens of East Germany are to be allowed to travel freely to Czechoslovakia or Hungary and then to the Federal Republic, the wall will cease to exist in any practical sense. Each day it becomes more of an anachronism and a symbol of the failure of communism.

I urge the East German Government, I urge the Soviet Government, and I especially urge President Gorbachev: Tear the Berlin Wall down. It now stands as the largest symbolic representation of the failure of communism. It was designed to keep people in; it has obviously failed in that attempt. It should be torn down.

Can reform in East Germany occur fast enough and with enough practical effect to give the people a sense of hope, to have sufficient trust in the government and the political process to stay and participate? On the answer to this question may hinge the future political stability of not only East Germany, but of Eastern Europe as a whole.

Those of us in the West who value freedom and opportunity have an obligation to do more than cheer from the sidelines as the old order in Eastern Europe erodes and the political system is transformed. We must also encourage and, to the extent possible, facilitate the kinds of reforms which the people there demand themselves. We must land our efforts to those of the reformers, lend our voices to the chorus demanding democracy, and use our strength to foster the peaceful transformation now underway across an entire continent.

RESERVATION OF LEADERSHIP TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time. I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not more than 30 minutes, Senators speaking therein not to exceed 5 minutes each.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that morning business be extended until 3:30 p.m. under the same terms and conditions already in place.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

FIRST STEPS IN THE MIDDLE EAST

Mr. DOLE. Mr. President, over the weekend, there were hopeful, first steps toward peace on two very important and difficult Middle East problems.

ISRAELI CABINET ACCEPTS BAKER PLAN

The Israeli Cabinet has voted to accept Secretary Baker's proposal for United States-Israel-Egypt talks—aimed at forming a Palestinian delegation for negotiations under the peace plan proposed by Prime Minister Shamir.

The Israeli Cabinet did attach three provisos—in a probably purposeful gray area between requests and conditions—that the Palestinian delegation include no PLO representatives; that the Palestinians come only from the West Bank and Gaza; and that the agenda for the United States-Israel-Egypt talks be the Shamir election proposal and nothing else.

Those may be tough for us, or the Egyptians to accept, but it is fair to note that some in the Israeli Cabinet, including Shamir, undoubtedly had to swallow hard to accept some of what was in the Baker plan.

I also want to take special note of the efforts of Egyptian President Mubarak, whose own peace plan—elaborating the original Shamir proposal—was the catalyst which got us from the Shamir plan to where we are now.

In any event, this new Israeli move does keep the door open, and the process going. That, in itself, is an accomplishment, and cause for at least some hope.

LEBANON'S PARLIAMENT ELECTS A PRESIDENT

Happily, there was a similar small step forward in Lebanon over the weekend. The Lebanese Parliament, meeting in a remote mountain village far from war-torn Beirut, endorsed the peace plan and political settlement recently brokered by the Arab League; and elected a new Lebanese President, Rene Moawad—a Maronite Christian, but one with close ties to Syria.

Regrettably, General Aoun—who has been one of two claiming the job of Prime Minister—has rejected the Parliament's action, as he earlier had rejected the Arab League's peace plan.

He asserts he will continue to act as Prime Minister; refuse to yield his control over the presidential palace in Beirut; and order the largely Christian Lebanese army to persevere in its struggle to oust all Syrian forces from the country.

General Aoun's last goal—to get all the Syrians out—is the right goal. The real sovereignty of Lebanon cannot be restored until all Syrian, and all foreign, forces leave Lebanon.

But Aoun's action is a tragic mistake.

The reality is that the Arab League initiative is the only chance to get Lebanon back on the road to true peace. It will not lead to the early withdrawal of all Syrian troops; but at least it does raise the possibility of ending the killing. And it has started a political process which offers some hope of leading to a significant reduction in the Syrian presence, and the reestablishment of a government that can enjoy support across most of the Lebanese political and religious spectrum.

The Lebanese Parliament's action, like that of the Israeli Cabinet, hasn't finally solved any long-standing problems. But it has provided a mechanism for constructively addressing those problems, and offers some hope for real progress toward their solution.

The problems of Israel and the Palestinians, and those of Lebanon, are rooted in centuries of hatred and mistrust, compounded by decades of violence and political maneuvering. None of these problems are going to be solved overnight.

But this weekend did bring some new hope—a commodity in scarce supply, and of enormus importance, in the Middle East.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Kentucky is recognized.

A DRUG-FREE WORKPLACE POLICY FOR SENATE OFFICES

Mr. McCONNELL. Mr. President, I want to bring to the attention of my colleagues an example of how this institution has not done its fair share in our effort to fight the war on drugs.

Last year's Treasury Department appropriations bill contained a provision requiring any Federal agency or entity which receives appropriated funds to develop a written policy to ensure a drug-free workplace.

This was one of many attempts by Congress in the last several years to make a strong statement about the need—especially in the Federal Government—for a drug-free workplace.

The provision in the Treasury appropriations measure was clearly intended to apply to Congress. Section 628(a) of the act requires each Federal instrumentality receiving appropriated funds for fiscal year 1989 to develop and administer a written policy to ensure that all its workplaces are free from the illegal use, possession, or distribution of controlled substances.

This public law was very clear about how and when this new policy was to be developed. The provision required each Federal office to have its policy in place before any moneys could be expended for the fiscal year beginning October 1, 1989.

So how has the Senate responded to this statutory requirement? As nearly as I can tell, maybe no one has yet done it. Possibly some have. Here we are at the beginning of the 1990 fiscal year and, even though I have not polled every office, it could be that no one in this body has yet complied with this provision.

29-059 O-90-27 (Pt. 19)

The record in the House of Representatives is slightly better. A recent article in Roll Call estimated that 15 percent of all House offices have instituted drug-free workplace policies and the Committee on House Administration has communicated the need for Members of the House to comply with this provision.

The Senate's response to this issue to date may well be nonexistent. More than 1 year has passed since enactment of a drug-free workplace requirement for the Federal Government and we confine our activities to passing bills, making speeches, and issuing press releases so we can say that the drug problem has been solved in this country or is getting better. But we have apparently not yet taken the time to address the problem in our own Senate offices.

As lawmakers, Mr. President, we are expected to lead by example and certainly the citizens of this great Nation expect—at a minimum—that we follow statutory requirements which we write ourselves.

To further compound the problem, we also passed a statute last year—the Drug-Free Workplace Act—extending these workplace requirements to all Federal contractors and grantees. You can be sure that we are actively enforcing these provisions against anyone doing business with the Government, but we drag our feet when it applies to ourselves.

A drug-free society is one of this Nation's highest priorities and Congress needs to lead by example. We should work quickly to establish drug-free workplaces in each Senate office and urge our colleagues in the House to do the same.

I have developed a policy for my office which goes into effect today. I will be sending a copy of my plan to the Secretary of the Senate and I offer it to other Senators as a reasonable response to our obligation to have a drug-free workplace.

Our policy places my staff on notice that illegal drug use on or off duty will not be tolerated and can result in immediate dismissal from my office. Dismissal is not automatic once drug use is revealed; instead, the decision will be based on the facts and circumstances of each situation.

For example, anyone who brings a drug-related problem to our attention in the office will not risk job loss and every effort will be made to help the employee seek counseling and appropriate medical treatment.

I have reserved the right to drug test an individual on my staff if there is some evidence that the person is involved in illegal use. To implement this policy, I have asked each person in my office to sign a notification statement acknowledging and agreeing to the provisions of this new plan.

I commend this policy to my colleagues as a workable program for ensuring that each office in the Senate becomes a drug-free workplace. I intend to send a "Dear Colleague" letter outlining the policy we have implemented in my office and urging other Senators to lose no time in developing their own plan for each office they personally supervise.

Mr. President, I hope the Senate will move forward to comply with the law. Obviously, we cannot ask the country to work on this problem until we are willing to address the issue in our own offices.

I ask unanimous consent that a letter of mine to the Secretary of the Senate, a copy of my drug-free workplace policy in my office, and a copy of the employee statement for a drug-free workplace be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 6, 1989.

WALTER J. STEWART,
Secretary of the Senate, U.S. Senate, Washington, DC.

DEAR JOE: Section 628(a) of the Treasury, Postal Service, and General Government Appropriations Act of 1989 (P.L. 100-440) contained a provision which requires each federal entity receiving appropriated funds to develop and administer a written policy to ensure a workplace free from illegal drug use or activity.

This provision clearly was intended to apply to Congress, although both the House and Senate have been slow in complying with this provision.

The Committee on House Administration has asked each House Member to draft and implement a drug-free workplace policy for any office supervised by that Member. To my knowledge, the Senate has not taken any action as an institution to comply with this statutory provision.

A drug-free society is one of this Nation's highest priorities and Congress needs to lead by example. We should work quickly to establish drug-free workplaces in each Senate office and urge our colleagues in the House to do the same.

I am enclosing a copy of the policy which I have implemented in my office, effective today. I intend to send a Dear Colleague letter describing our policy in more detail and urging other Senators to develop their own plan for each office they personally supervise.

I hope the Secretary of the Senate's office will help all Senate offices to comply quickly with this statutory requirement.

Thank you for your attention to this important matter.

Sincerely,

MITCH MCCONNELL,
U.S. Senator.

DRUG-FREE WORKPLACE POLICY FOR THE OFFICE OF SENATOR MITCH MCCONNELL

Public Law 100-400 requires each "instrumentality of the United States receiving appropriated funds . . . to administer in good faith, a written policy designed to ensure that . . . its workplaces are free from the illegal use, possession, or distribution of controlled substances by (its) . . . employees."

The following is the policy for U.S. Senator Mitch McConnell's office to implement the drug-free workplace provisions of Public Law 100-400 and the Drug-Free Workplace Act:

1. General Policy: Members of the Senate and their staffs occupy sensitive positions requiring a high degree of trust and confidence. The work of this office, if performed by someone who uses or is under the influence of illegal drugs, compromises this public trust and cannot be tolerated for individuals who are Senate employees.

It is Senator McConnell's firm policy that no person employed by this office shall use, possess, manufacture, dispense, distribute or otherwise traffic in controlled substances in violation of the Controlled Substances Act (21 U.S.C. et seq.) or any other Federal statute or the applicable laws of any State. This policy applies to any illegal activity by the employee, on or off duty.

2. Treatment and Rehabilitation: Any employee who develops a drug problem is obligated to seek immediate rehabilitative or other medical treatment and to report such condition or treatment to Senator McConnell or his Administrative Assistant, who will make every reasonable effort to provide assistance and support to the employee. This notification will be kept confidential by all of the parties involved.

3. Drug Testing: The Senator reserves the right to require a drug test if he reasonably suspects that an individual in the office is using illegal drugs.

4. Penalties: Violation of any part of this policy, or refusal to submit to a drug test the Senator deems necessary under the provisions of this policy, provides sufficient justification for immediate dismissal from the staff. The Senator reserves the right to modify the dismissal sanction authorized by this section if unusual or exceptional circumstances exist. Dismissal will not be the sanction, for example, if an employee seeks treatment in good faith for a drug problem, discontinues any further illegal use, and makes the appropriate notification voluntarily under paragraph two above.

5. Employee Statement: To assist in the implementation of this policy, each employee in both the Washington and Kentucky offices is required to sign a policy notification statement to acknowledge and agree to the provisions of this policy.

6. Scope of Policy: Every employee serving as a member of the Senator's staff agrees to abide by this policy as a condition of employment by this office. The term "employee" is intended to include the Senator, all Washington and Kentucky staff members, and all paid and unpaid interns.

NOVEMBER 6, 1989.

EMPLOYEE STATEMENT ON A DRUG-FREE WORKPLACE OFFICE OF SENATOR MITCH MCCONNELL

I, the undersigned, have read the attached policy statement regarding a drug-free workplace in the Office of U.S. Senator Mitch McConnell. I understand the need for this policy and agree to all of its provisions.

I acknowledge that violation of any part of this office policy may result in my immediate dismissal.

Signed:

Date:

Mr. McCONNELL. Mr. President, I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Louisiana is recognized.

THE GARBAGE PROBLEM

Mr. BREAUX. Mr. President, Members who may be listening, this is a time when the United States Senate is spending a great deal of effort talking about perestroika and glasnost, Poland and Hungary; the Halls are ringing with debates on the balanced budget, budget reconciliation, individual retirement accounts, and such weighty issues as these which are, of course, very important and very pressing.

I rise today to talk about another issue that I think is extremely important, and that is garbage. It is not very exciting. It is not very interesting. It is not very pleasant to talk about. But the simple fact of the matter is unless we start paying more attention to how we handle the solid wastes of this country, we are going to soon find ourselves buried in it.

I was struck by a number of articles that have occurred in the last 3 weeks, the first in my own home State papers of Louisiana, one entitled "Sludge—the Town is Peeved at the Pooh-Pooh Choo-Choo." The article is exemplified by the fact that a small town in Louisiana found themselves an unwelcome recipient of 63 carloads of what the scientists and engineers tell us was concentrated solids, or treated municipal sewage.

The article went on to point out that the people of this small town in Louisiana knew exactly what was in the 63 train cars of unwelcomed and unwanted and certainly unnecessary cargo that has found its way down to the small southern Louisiana town from the State of Maryland, particularly from the city of Baltimore.

Another article here in the Washington Post, again this week, talked about the fierce politics of Yankee garbage in the Virginia mountains, pointing out how the hills of Virginia, the beautiful mountain ranges of Virginia, became the unwelcomed recipients of piles of garbage being trucked in from New York, New Jersey, and from other Northeastern States—being brought in by 18-wheel trucks rolling along our highways with their unwelcomed and unwanted cargo, and somehow finding its way to the hillsides of the rural communities of Virginia where the owners of the product found that they can dump the unwanted solid waste in the State of Virginia for a fraction of the cost that it would take for them to dispose of the unwanted sewage sludge in their own State.

I was in Chicago this weekend, and on the front page of the Chicago Tribune, the Sunday edition, Herald, "East Garbage is Filling the Heartland," where it pointed out that Interstate Highway 80 traversing the northern part of the United States, east to west and west to east, is becoming simply the garbage highway, or the garbage pipeline where unwanted garbage is being put on the Interstate Highway Systems, and literally thousands of tractor-trailer trucks are plying their way westward with the unwanted garbage which they are depositing in the State of Illinois and in other Midwestern States in areas that heretofore had been untainted by the smell and the sight of unwanted human waste.

Mr. President, a mountain of garbage that we are creating in this country every day is alarming, and it is getting worse. The statistics tell us that the total amount of garbage produced annually in the United States has risen by the dramatic amount of 80 percent just since 1960. Each American is now producing 3.6 pounds of household garbage a day, which as an individual increase is about a 34-percent increase over 1960. We are producing, Mr. President, 162 billion pounds of garbage a year.

That is enough to bury 2,700 football fields under 100 feet deep of garbage each year. I also point out that it is a product that no one wants. No one wants it in their backyard or in particular, in his State, giving rise to the NIMBY philosophy, "not in my backyard," if you will.

The problem, Mr. President, is that if we continue to try and move it around the country like we saw during the great garbage problem where we had garbage coming from east Long Island which could not find a place to reside, we are having the potential of the same types of problems occurring everyday in this country, as communities find they have no way to dispose of the garbage products in their own States and say, let us sell it to someone else, send it somewhere else; pay $100 for the State of Louisiana to take it for $50, or the State of Illinois to take it; let us pay $40 for the State of Virginia to place it in their mountains.

Mr. President, it is going to have to stop. The interstate commerce clause of the Constitution of the United States says that no State can unduly restrict interstate commerce. Unfortunately or fortunately, the Supreme Court has ruled that garbage is a product that cannot be unduly restricted by States in their regulatory processes without specific approval or agreement among the parties at issue.

Mr. President, it is time that Congress face and address this problem. I am preparing legislation which, hopefully, will try to give the clear authority to the States to restrict unwanted products, such as solid waste, from coming into their State boundaries, unless the State specifically approves it; the legislation would specifically give the States the authority to do that.

This legislation is needed, Mr. President, because existing law right now does not provide a State the right to prevent these products from coming into their States without an act of Congress. Current law also encourages States to handle their own solid waste management within their State boundaries. We do not require it; we do not mandate it. We only encourage it.

I will tell you, Mr. President, that this process is now not working. Eighty percent of our municipal solid waste is currently landfill, and the simple fact is that we are running out of land. No one wants it in his backyard. Therefore, the national problem of such magnitude has been created, which I have outlined previously.

My legislative intent in our proposal, which is being prepared will start with the premise that each State is responsible for their own solid waste and disposal of their own hazardous waste that is generated within that State. Each State should, and each State can manage its own solid waste. My legislation will require that each State will develop a solid waste management plan on how it will manage and dispose of solid and hazardous waste generated over the next 20 years. As I pointed out, current law only encourages States to do that; it does not require them to do that.

Failure to develop such a plan will result in sanctions, but the Federal Government will also encourage the States to do so by providing technical and financial assistance in the development of alternative means other than landfill, such as land disposal and recycling, which are the two hopes of the future. The solid waste plans will require the State to plan how it will manage its own solid waste over the next 20 years. The plan will emphasize that land disposal will be the last resort for disposing of solid waste—not the first choice, but the last choice—and it will encourage resource recovery and raise minimization types of activities.

Each State, under my legislation, will be able to refuse to accept out-of-State solid waste. Louisiana or Illinois, or Midwestern States that have a lot of room, will not be forced to accept the waste products of other States, if this legislation is adopted. Congress would authorize the States to restrict and demand the interstate disposal of solid and hazardous waste, without the concurrence of the State in which the disposal would occur.

If a State, on its own volition and by its own decision, chooses to receive solid waste for its disposal, we set up various requirements that will have to be met before it can be done. Right now, a State really does not have to be involved. If a contractor from Louisiana decides that he can make a great

deal of money by accepting hazardous waste or solid waste from another State, he can do so, without fear of prohibition by my own State of Louisiana.

So my legislation would require that interstate or regional agreement between the sending State and the accepting State must be signed before these interstate shipments can occur, and the agreement must be between the States, not between a contractor in State A and a contractor in State B. Theirs is not to set public policy. Theirs is not to set standards on health and safety. Theirs is to make a living and, hopefully, to make a profit.

My legislation would require the States to be involved, and when a State is going to receive solid waste or hazardous waste from another State, the receiving State must demonstrate, No. 1, that it has the capacity to handle the new waste. A contractor could be more than willing to accept waste from another State and not really have adequate capacity to take care of it. We have seen examples of that happening every day. He also would have to show, under my legislation, that the waste will be managed in accordance with the State's solid waste management plan, and receiving the waste will not jeopardize the ability of local and State governments to handle their own waste.

Certainly, a State's first obligation will be to take care of the needs of its own citizens, and that can be jeopardized if a State decides that we are going to handle all the waste from New Jersey or New York before we take care of the needs of the citizens of our own State. I think that is wrong, and our legislation would address that.

The legislation would also develop new Federal standards for the interstate transportation of solid waste. I was amazed to see that in the article of the Chicago paper, about the number of trucks that are handling these solid wastes, moving across the highways—many times very little regulation—thousands of trucks, daily, going down the highways, handling material that is potentially very hazardous. So my legislation addresses this by requiring that there be a complete manifest detailing the type of products, the amount, quantity, where it is coming from, and where it is destined for.

The final point, Mr. President, and I will yield the floor, is simply that it is high time that we address this on a national level before we find ourselves buried under a mountain that we cannot come out from under. Thank you.

CONTINUING CAPTIVITY OF TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise simply to advise my colleagues that today is the 1,696th day that Terry Anderson has been held captive in Beirut.

SALUTE TO ASSOCIATION FRANCE ETATS-UNIS

Mr. WARNER. It is my pleasure today to meet with a distinguished group of French visitors from the Association France Etats-Unis. This organization, which is led by national president Cyrille Makinsky, was created in 1945 with 70 provincial chapters, and now has a membership of over 130,000.

The aim of this group is to promote a better understanding of the United States in France by strengthening cultural, economic, and political ties between these two countries. They do so by sponsoring such programs as concerts, art exhibits, English courses, and university exchanges.

Having served as administrator of the American Revolution Bicentennial Administration, I am particularly aware of France's contribution to our struggle for independence. Over 200 years have passed, and France continues to be one of our strongest allies. I am therefore honored to welcome the members of the Association France Etats-Unis to our Capitol, and I wholeheartedly support their efforts to maintain and strengthen the historic relationship between our two countries.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Calendar Item No. 351, H.R. 2710, the minimum wage increase bill, and that no call for the regular order serve to displace the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MINIMUM WAGE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2710, the minimum wage bill, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2710) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

The Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, I am pleased to join with our other leaders in the Senate to recommend the compromise on the minimum wage. I welcome the compromise which was achieved last week after months of effort because it means that the minimum wage will finally go up. When it does, next April 1, it will have been more than 9 years since the last increase on January 1, 1981. For millions of low-income workers, this increase is long overdue and it will, at least partially, restore the lost purchasing power of the minimum wage over the last decade.

Both sides in this controversy have compromised. The amount of the increase is much less than I wanted and than the working poor deserved. The cost-of-living inflation adjustment since 1981 would put the minimum wage at $4.79 today, instead of the $4.25 it will reach on April 1, 1991. That is the measure of how far we have failed the test of fairness to the working poor.

Many will see this modest increase as too little too late. Our only answer to them is that this is the best compromise we could get from a "read my lips" administration that wanted to give them even less.

Supporters of the minimum wage have yielded a great deal in this compromise by accepting a reduced increase and by agreeing to an expanded training wage. But we have obtained major concessions from the President that make the amount of the increase and the provisions of the training wage less harsh than the administration proposed.

With respect to the amount of increase, the $4.25 an hour in the compromise bill will be reached 9 months earlier than the administration proposed. Although the compromise omits the third step, vetoed last June, we will have the opportunity in the next Congress to move up from the $4.25 level we have accepted today, and we intend to do so.

With respect to the training wage, the President had insisted from the beginning that it should last for 6 months for all employees, with the 6-month clock starting again each time a worker began a new job or changed jobs. In industries where job turnover is high, large numbers of minimum wage workers would never have es-

caped the training wage. In effect, the administration's proposal was a backdoor attempt to undermine the entire minimum wage.

During the earlier debate on this issue, we figured that almost 40 percent of those who would have been affected by the minimum wage, if that 6-month provision had been maintained, would have fallen out from any kind of coverage, and that would have been truly unfortunate. The way that we have now structured this training wage, which will be sunsetted, will only be targeted on teenagers in this country for a period of some 90 days and then can only be extended if there is a certified education training program listed with the Department of Labor. Many of us opposed any training wage at all because we regarded it as unfair to low-income workers.

As we reviewed during the earlier debate, in more than 95 percent of the jobs that were being covered by the minimum wage, when you look at the evaluation of the Department of Labor of what is entailed in training those individuals, 30 days would be actually sufficient to provide whatever training would be necessary for these very basic entry level jobs. Those dates are actually recommended by the administration's own Department of Labor. That is why we felt so strongly, in the earlier proposal, that there was no actual requirement for training. That was not even listed in the program. That has been altered in a way that now will permit the training wage to apply only to teenagers for a period of some 90 days. I think that is a very substantial difference from where the administration started, although, quite frankly, this will be the first time that we will have had any training wage. For most of us, we feel that holding that $3.35 for the last 9 years is a subminimum wage in any event. Talking about even these modest increases, if we had adjusted to the cost of living, these are really subminimum wages even as they exist at the present time.

Nonetheless, we did accept that period of time for a training period. but the stalemate of the last 8 years made some concessions to the administration inevitable on this issue. In the bill vetoed last June, supporters of the minimum wage had acquiesced to a 60-day training wage. In the weeks since then, much of the effort to reach a compromise had concentrated on how to reach an accommodation on the training wage. In this compromise, we have obtained six significant concessions from the administration: Seven million low-wage workers will be exempted from the training wage altogether; of almost 11 million workers earning less than $4.25, 68 percent are adults and will not be subjected to the training wage at all.

One of the important concerns we had in terms of continuing these training wages for 6 months and permitting those to the extended beyond that time was the impact that was going to have on adults. Sixty-eight percent of all of the minimum wages workers are adults.

A great percentage of those, two-thirds are women in our society. Most of those women in our society are single mothers, attempting to deal with the challenges of caring for a child and also trying to make ends meet.

So at least we were able to ensure that those who are in the greatest need—and that would be the adults—were going to be protected from any kind of a subminimum wage.

Teenagers caught by the training wage will have the chance to get out from under it if they have worked for 90 days with the same employer. I have commented on that. No employer may have more than 24 percent of his work force at the training wage at the same time. No employee who works for different firms will be subjected to the training wage after 6 months of lower wages with all employers. That is an important difference. If that individual is going to move into another job and is able to demonstrate that they received that 6 months training wage, they start right off at the minimum. That is an important difference from at least the approach the administration had earlier.

Any worker subjected to the training wage for longer than 90 days must be included in a bona fide training program filed by the employer with the Secretary of Labor. That is a distinction. There are a series of training programs which are filed with the Department of Labor, and in order for that employer to actually include the teenagers for a longer period of time there will have to definitely be some form of training or education. That is a feature which was missing previously. As I mentioned before, there was no requirement for any training or for any education in the previous program of the administration.

Finally, as I mentioned, the training wage itself will sunset in 1993.

In another key accommodation to the administration, the compromise drops the Minimum Wage Review Commission and the accompanied studies contained in the vetoed bill.

I regret that decision. After years of exaggerated and unsubstantiated claims on job loss and inflation and the adverse economic impact of raising the minimum wage, it is curious that the administration insisted on rejecting this commission of neutral experts to make recommendations for the future. Regrettably, the administration does not have the courage of its convictions about what the economic evidence is likely to show.

We have raised that minimum wage 11 different times. We had taken a good deal of time, both in the previous report, and in the support of the $4.55 increase in the minimum wage, in reviewing what has been the economic history of what the impact has been when we have raised minimum wage, on the inflation level and also on the job level.

We spent a good deal of the time when we were debating this issue with individual Senators in reviewing the impact of the minimum wage in their individual States, because over the course of this debate there was a great deal of misinformation put out. We tried to address those particular issues with what we thought were very responsible, comprehensive reviews of the Wharton School of Finance, doing computer models on what the actual job loss was going to be. Also, we did computer models of what the impact was going to be in the economy. The results were at dramatic odds with what was represented by the administration.

What we were attempting to do with this Commission was to try to develop information that all of us could basically agree as to the basic facts. We may have different interpretations of what those facts would be, but rather than allow the debate to deteriorate—and I think it did deteriorate—with each of those who were the proponents and the opponents using widely diverse figures it would be beneficial to try to at least come to agreement on what those figures were going to be on the questions of employment and economic impact.

We believe, both in terms of rural America and urban America, there are some very important points that have been raised about this issue, particularly in the southern part of our country and also in many of the rural communities—agricultural communities. We believe that those are important questions that should have been addressed and that we needed additional information.

The studies had not been as comprehensive as we hoped. We had hoped that this Commission would in a permanent way keep the Congress abreast of what the economic and job impact would be on raising of the minimum wage in the different areas of our country. I think that would have been enormously valuable and helpful. I am satisfied that this would have demonstrated the importance of continuing to keep the minimum wage at least pegged to the cost of living. I am absolutely convinced that that would have been the result of the findings of that Commission. I base that primarily on looking at what has happened in the past.

Clearly, what has affected our economic condition and employment have

been factors other than the increase in the minimum wage. I think any fair-minded Member of this body who really took the time to review those facts would come to the same conclusion. But nonetheless, we did accede to the administration's position on this issue, yet we will in committee try to do as much as we possibly can in gathering information related to those particular trends.

On other issues, including the enterprise test, the application of the minimum wage for Puerto Rico and the Territories, the tip credit which the administration recommended and which we were prepared to accede to, and the remedial education overtime, compromise provisions are identical to those in the vetoed bill. Since the provisions are identical, they will be implemented as described in the joint statement of managers which accompanied the conference report on the vetoed bill.

Finally, the compromise contains one other unfortunate change. It deletes a section of the vetoed bill dealing with overtime for certain computer professionals. The deletion is the result of an unfortunate misinterpretation of the intent and the effect of the prior language.

I will continue to work with the Department of Labor to remedy this problem, and if our goal cannot be achieved by regulation I will seek a legislative remedy. It is, I believe, called for.

Mr. President, it is futile to argue about the details of the compromise, about who won or lost. The real winners were the working poor. The important point is that the 9-year stalemate over the minimum wage is finally broken. We certainly welcome that change of attitude between the Bush administration and the Reagan administration. President Bush had indicated he was prepared to accept an increase, as I pointed out, in the minimum wage. That is dramatically different from the position of the previous administration; a factor that should not be lost in the course of this debate.

Never in the half century of the minimum wage has this long a period elapsed without an increase and may we do everything in our power to make sure that the working poor never have to wait that long again for an increase they deserve. During the course of the previous debate, we reviewed the 50-year history of the rise in the minimum wage. Looking back over that period of time, basically what we saw is that under Republican and Democratic Presidents alike, the minimum wage was, as it should be, a living wage, for working men and women. We are talking about working men and women who are attempting to provide for their families, feed and clothe their children, heat their homes, pay their mortgages, working Americans. That is what this legislation is all about.

Quite frankly, it is unfortunate that we had a period of time in the early 1980's when somehow this became a partisan issue, in spite of the fact we have seen previously, Republican as well as Democratic Presidents, urging increases in the minimum wage. President Eisenhower recommended on three different occasions that we increase it. We saw over the period of the sixties and the seventies, there were Democrat and Republican battles. Many of these same issues were debated for some period of time, but nevertheless during that period of time we kept what amounted to barely a living wage. We had really failed in our compact with those Americans on the bottom rung of the economic ladder, who over the period of 50 years have wanted assurance that if they were going to work, they were going to at least be able to provide for their families.

We included in the previous debate enormously instructive material describing the welfare benefits in the respective States. When health benefits are included, two-thirds of States have higher benefits if you do not work rather than working for a minimum wage. It is extraordinary to me that we find so many millions of Americans who want to work and who do not want the welfare.

We hear a great deal of talk about that issue about welfare. We were basically saying to just pay recipients the minimum wage to provide, and we have seen tragically how many of these individuals in an extraordinary number of instances wanting to work, having health care needs in their family, finding that the only way they were going to be able to make it is to finally not work, and spend narrow reserves they have in order to qualify for the Medicaid provisions. We are driving them against their will into the kind of condition. That is a shameful condition. It is an absolutely shameful condition.

With this increase, we have made some very small adjustment in trying to deal with that question yet, not nearly enough as I have mentioned. I have always been perplexed about why many of our good friends on the other side of the aisle make the argument, that if we provide for them in terms of the inflation, we are going to have some impact in terms of our economy. I do not hear them coming out and talking about repealing the cost of living for the 32 million seniors. I am certainly for 32 million elderly getting their cost of living. The Armed Forces get the cost of living. I am for it. But why not for those who are the working poor? Well, there is some impact, adverse impact, in our economy that is going to have this disastrous kind of effect on our economy that we cannot predict. The few million, they can argue, is not all that many. If it is not all that many, why do we not do it? If it is that many, and they are fellow citizens, why do we not do it?

So I always had difficulty in accepting that argument, Mr. President, in terms of the overall economic argument. We often heard the argument, that the wage negatively affects marginal industries. You know, you just raise the minimum wage and there will be an adverse economic impact on those industries.

We review here on the floor during the course of the debate the extraordinary explosion of pay increases for those CEO's, the greatest increase, personal increase, in those industries which pay the minimum wage than any other industry in our country. It is extraordinary. Absolutely shocking—400 or 500 percent. That was true right across all of the corporate boardrooms here, but no way. No sir, do not talk about providing a little increase in the cost of living for those people who are out there working, producing the profits for that particular factory.

So I did not find that argument as terribly persuasive.

Finally, Mr. President, you know, as we move the people into some positions where they are able to provide for themselves, we take them off transfer payments. What does that mean? You save the taxpayers some money. I would think that some who are constantly talking about how we are going to save some resources for our taxpayers, would think that would make some difference to them. But no.

We talk about the studies that the Urban Institute did back in 1988, the Ronald Mincy study. The study described the impact—if the minimum wage went to $4.35—from $4.25 cents. I think the lesson is quite clear. It would reduce the number of poor families with low-wage workers by about 200,000. That is not an insignificant number of reductions in poverty. It points out the significant savings for Federal and State governments.

According to CBO projections for savings achieved, if 50,000 families were lifted from AFDC and Food Stamp Programs, it saves the Federal Government $500 million in 5 years, $335 million in State savings, $835 million total. But that is only 50,000 families.

This very reputable person talks about 200,000; billions of dollars for decency and fairness to working families, saved by the Federal Government, saved by the State government and saved by local government.

There are a lot of reasons, Mr. President, for this increase. I raise that as one of them. I quite frankly do not feel it is the most powerful. I think the most powerful is the basic social

compact that we have in our society as a caring and decent society and which has been respected for some 50 years. But that is one that we should not lose track of.

Finally, we have the extraordinary recent tragedies of earthquakes in San Francisco, and Hugo in the Carolinas and down in Puerto Rico, and the Caribbean.

So, Mr. President, I welcome the chance to urge our colleagues. I stated that I believe between the administrators and those who had supported the other proposal, we are really meeting on the 50-yard line. It really is the 50-yard line. I think that is worthy of a legislative process.

Clearly the administration has some different views from some of us. But I do not have any hesitancy whatsoever in urging this measure to move forward, and I have no hesitancy in certainly recognizing the important role that the White House has played in terms of working with those of us who wanted to see this matter resolved, and we are prepared to come to grips with those issues which have separated us.

I think that fact has to be recognized as an important fact, and they deserve credit for it.

Mr. President, I hope we will be able to move along. I know the leader made the request last week that we have an opportunity to address these issues. We are prepared to address them in terms of the overall numbers potentially of the job situation and the flow lines in terms of the Department of Labor, what we are going to need coming into the market, and what potential job loss there might be—we are prepared to deal with those issues.

We know just in last month alone we created 223,000 jobs—just in that month alone. We have given the demographic flow line of what we are going to need over the period of the future, and the Department of Labor's own figures demonstrate we are going to be anywhere from 600,000 to 700,000 jobs short in the next 5 years.

We are prepared to come to grips with that particular issue, and some of the others in terms of what we tried to do with agricultural workers and others.

This measure has the support of the administration. That we welcome. It most importantly will make a difference in the quality of life for millions of our fellow citizens. I think that is really the overwhelming importance of this legislation, and I am hopeful we will have the opportunity to debate, discuss, and see this measure move toward accomplishment.

I understand there are some others who would like to speak on this issue. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I will reluctantly vote against the compromise on the minimum wage bill. I respect the efforts of President Bush and the sponsors of minimum wage legislation to resolve this thorny issue, which has been hanging like the sword of Damocles over the Congress for several years. I regret very much that I am unable to support it.

There are, however, some features of this bill deserving of support on their own merits. I am pleased that the compromise retains the provision to increase the small business exemption from $362,000 to $500,000. This will provide some limited relief for small proprietors who are struggling to eke out a living for themselves and their employees.

I also support the increase in the tip credit that is in this compromise. The restaurant industry has been frustrated by the paradoxical treatment of tips since the tax reform bill was enacted. Tips are treated as income for purposes of calculating an employee's FICA taxes, but they are not fully treated as income for purposes of the Fair Labor Standards Act. Raising the tip credit will alleviate this problem for the tourism industry in my home State of Utah and, of course, I think for every State even though it will not solve the problem completely.

It is good that these improvements in the minimum wage law have been made. And, I applaud the fact that the advocates of a minimum wage increase have agreed that $4.65 or $4.55 is just too high and will jeopardize too many jobs; I appreciate the inclusion of a training wage of sorts. But, despite these good faith efforts at compromise on both sides of the issue, I still cannot reconcile support for this measure with the evidence that clearly shows that minimum wage increases are detrimental to the very citizens we all want to help the most. At best, minimum wage increases are ineffective.

Opinion among American economists is nearly unanimous that an increase in the minimum wage will cause a disemployment effect; that is, jobs losses, not only of those jobs which already exist, but also of those new jobs which will not be created because of the minimum wage.

Last April when the Senate debated S. 4 I cited a number of studies that bear out this assertion. I will not go through them again, unless my colleagues want to be refreshed on these alarming job loss estimates that reach well into the hundreds of thousands.

I suppose we could collect a few more of these estimates for the RECORD, or a commission of a few dozen more studies, but I do not think the message is going to be any different. Even novice economists know that if the price of a product or service goes up, we are inclined to buy less of it. The minimum wage hike will automatically increase the price of labor to employers without a corresponding increase in productivity, and it stands to reason that they will try to use less labor in the production or delivery of their goods and services. And we have to admit that this compromise, although its adverse impact will be less than the bill we debated last April, will result in job losses.

And, while this compromise will also mitigate the ripple effect, we must be honest and acknowledge that, indeed, there will be one. The ripple effect is caused when workers who are more experienced or have greater skills than minimum wage workers require higher wages in order to maintain pay differentials that existed before the statutory minimum wage increase. Automatic increases in labor costs of any amount, which are unsupported by increases in productivity, have to mean one of two things: fewer jobs or hikes in consumer prices, and they may mean both. Either of these two outcomes will hurt low-income Americans the most.

The evidence is also mounting that minimum wage increases are not an effective way of helping the working poor. Just since our last debate on this issue, the Progressive Policy Institute released a paper in June 1989 that asserts that "raising the minimum wage is not an efficient way to reduce working poverty, because most of those affected are not poor but middle class." This paper points out that the wealthiest 20 percent of American households had a greater share of minimum wage earners than did the poorest 20 percent.

Furthermore, the Progressive Policy Institute—not exactly a conservative think tank—makes the finding that:

> Despite the history of the minimum wage, despite its sponsors' good intentions, an increase, by itself, has certain plainly regressive effects: More than 75 percent of poor Americans would gain nothing, while having to pay an average of $112 per family in higher prices—in order to boost the incomes of some low-wage workers, nearly 85 percent of whom are not poor.

That is pretty tough stuff. Like I say, that did not come from the conservative side of the political spectrum. That came from the liberal side. This is the first debate, the first time in minimum wage history that people have really questioned its efficacy and, virtually everyone who honestly looks

at it says it has very, very detrimental regressive effects.

While the average price increase per household is calculated based on a $4.55 minimum wage, there was also the caveat that if there was a significant ripple effect the household costs would go much higher.

Although the negative ramifications will not be as great as the minimum wage bill we debated in April and which President Bush rightly vetoed, I believe we must truthfully acknowledge that this compromise will indeed cost entry-level jobs and will trigger some level of price increase. It will also affect the Federal budget. There are a number of Federal programs that pay stipends to participants as well as entitlement programs, such as Medicaid, that will be affected by this minimum wage legislation.

Let me just conclude by saying, Mr. President, that this latest proposal to increase the minimum wage to $4.25 an hour by April 1991 is a good faith effort on the part of President Bush to resolve this issue—a matter I am sure all my colleagues will agree has been festering for a long, long time. While I do not agree that the minimum wage is the best way to achieve our policy goals to help the working poor, there are obviously many of my colleagues who think that it is.

This is not my idea of good public policy. I do recognize it, however, as a sincere attempt by Senators on both sides of a very thorny issue to reach an accommodation, and it is difficult not to support an outcome based on that kind of resolve. But, unfortunately, the good intentions expressed by colleagues on both sides do not assuage my concerns, and I must oppose the compromise.

Let me just add, in closing, that I am really concerned about the impact of the minimum wage on job losses, on increases in unemployment; the impact of the minimum wage on inflation, which I believe is going to go up from here on out as a result of this legislation. There will be many job losses. There will be disemployment. Although the labor supply is trending downward, it means there is going to be a permanent underclass that cannot even break into the work force because of this. And I think there is going to be a dramatic increase in wage-induced inflation over the next couple of years which will be triggered by this bill. I have no doubt that the bill will be passed, and I, of course, do not have any desire to slow it down or stop its passage, other than my own personal innate feelings that it is wrong.

I believe that it will trigger excessive and unnecessary costs throughout our society. After all, we are raising the minimum wage 27 percent over a 2-year period. That is 13.5 percent per year. That means that every labor negotiation from here on in is going to cite that as a reason why contracts should have commensurate increases in pay. It means that every good material and service that is sold in America is automatically going to go up in cost.

It means inflation is going to increase. It means that it is going to cost more for education, health care, and other goods and services, and these costs are almost eating the American family out of house and home right now.

It means that there are going to be fewer jobs for those who are really the ones who need them the most. I think it means that we could have some very difficult economic problems in the future, problems which particularly affect the poor and unskilled in our society.

I hope I am wrong. But time has proven those statements to be right, and I believe that time will prove them to be right in this instance, as well. I think 2 years from now we will be sorry, if we are really honest in admitting that this minimum wage increase will help trigger these adverse ramifications.

Keep in mind that we have a Congress that is spending us into bankruptcy already. This will just tend to push us even farther. Only it is a solid, actual push upward on the cost of society and on inflation and on our society that you cannot ignore.

We need to protect our economy from the doom and gloom prophets who have predicted future recessions.

But what do my colleagues believe is going to happen when the minimum wage is raised?

Without consequent or concomitant productivity increases, we are just courting disemployment, and that disemployment will occur among the low-skilled, inexperienced workers of our society. And employment and even the chance of being employed is going to elude hundreds of thousands of young people who have not finished school, who do not have any skills, who do not have any experience, who have not had the privilege of working. And that means that we will be supporting all of those individuals for a long time to come.

Mr. President, last April I supported President Bush's alternative minimum wage proposal that called for $4.25 over a 3-year period and a 6-month training wage. This approach would have offset two-thirds of the job losses that would have occurred under the original provisions of S. 4. It had been estimated that S. 4 would have cost us 600,000 to 650,000 entry-level job opportunities. Given those circumstances. I obviously preferred the substitute suggested by President Bush.

The new compromise will only save about half of the jobs that would be lost. Because the wage increase will be implemented in two increments instead of three, and because the training wage has been modified and restricted, the new compromise is less effective than the previous Bush proposal at mitigating job losses.

I said during the debate in April that any increase in the minimum wage was problematic. It was—and is—mainly a matter of degree. In the face of such clear and convincing evidence that the minimum wage is detrimental to those who need entry-level opportunities most and can afford price increases least, it is hard for me to retreat from an alternative that would have saved more jobs to one that will save fewer.

It is a close question. I hope I am wrong. I hope that I am wrong, and I hope the distinguished Senator from Massachusetts is right and that the President is right.

I admire the President for trying to accommodate a democratically controlled Congress which is insisting upon increases in minimum wage. They believe in this and they believe this is a legitimate, good way of doing things.

I do not think history has proven them right. I do not think the future will prove them right, either. Next year, if we are having these difficulties that I have been speaking about, or in the next few years, I hope we will hearken back to this day and say, "I wonder what we did? Maybe we should reconsider. Maybe what we did was wrong. Maybe we shouldn't do that again. Maybe we ought to attack this problem for the truly working poor in a different fashion. Maybe the way to do it is straight up with earned income tax credits that will really help these people."

It is an expensive way to go, but at least it is a legitimate way to go that does not impose these added costs on everybody when 80 percent of those under the minimum wage come from families that are not poor and are capable of doing fine at the present minimum wage level and are capable of contributing at those levels.

I do not want anybody to be paid less than a livable wage. I mean, that is great. But I do want the marketplace to make those determinations. I do not want anybody to suffer in our society. If they are, let us come up with ways that are legitimate that will help them alleviate that situation. Let us not escalate every cost in society for every American in the process of trying to help the working poor. Let us attack that small percentage, those 336,000 people who are on the minimum wage, who are actually the poor, let us attack that problem directly and let us do something about it.

I hope I am wrong. And if I am, I will be the first to admit it 2 or 3 years from now. And if I am wrong, I may change my view. But I have to say I

have not been wrong in the past, and I do not think I will be wrong in the future. When the time comes, I think the President will be sorry that he has made this compromise and this decision.

Be that as it may, it is a sincere one. I have great admiration for him. I have great admiration for my colleague from Massachusetts and those who are supporting this particular compromise on our side, as well, I hope they are right and I am wrong.

Mr. President, with that, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I listened with great interest to the presentation of my good friend and colleague from Utah when he addressed this issue about the increase in the minimum wage. I must say I had a degree of hope, as he addressed the U.S. Senate this afternoon, that he was going to feel that he could support this very modest increase in the minimum wage.

I had the sense of expectation, Mr. President, because I had noticed that when we debated this issue previously and voted on the President's proposal for $4.25, that the good Senator from Utah had supported the President's position at $4.25 for a period of 3 years, which is different than the $4.25 for 2 years. There is a 9-month differentiation, 9-month differentiation, to be fair, obviously, to the Senator from Utah.

But I would have thought that since he felt that the $4.25 was good enough last spring that he might be able to feel that $4.25 would be good enough at this particular time. He did not, for the reasons that he outlined, believe that to be the case.

Then I noticed that my good friend talked about the adverse impact on the States, the increasing of unemployment, that were we to raise this increase in minimum wage, what the impact would be on employment in the many States?

So I look back in the history of the increase in minimum wage in the State of Utah, because I think in this area of public policy, Mr. President, it is important to look at the past. It is one of the few areas of public policy, particularly in economic policy, where we can look at what has happened in the economy, what has happened in employment on 11 other different occasions and find out whether the predicted higher unemployment, lost opportunities, inflation has really been the case.

I looked, in particular, to what happened in the State of Utah. In 1949—these are figures completed by the Department of Labor—the minimum wage was 40 cents and unemployment in Utah in 1949 was 7.1 percent; 1950, the minimum wage was raised to 75 cents and the unemployment rate went from 7.1 to 5.5 percent; and then in 1955, it was still 75 cents, but it was raised to $1 in 1956. What happened in the State of Utah? The unemployment went from 4.1 down to 3.4 percent. Then in 1961, it was still $1 with 5.3 percent unemployment. It was raised to $1.15 in 1962, and what happened? Unemployment went from 5.3 down to 4.9 percent.

On four different occasions where it went up in the Senator's own State, the rates of unemployment went down. As recently as 1977, it was at $2.30, 5.3 percent; and then it went to $2.65 in 1978, and went from 5.3 percent unemployment down to 3.8 percent.

This is just in the State of Utah, Mr. President. No one is suggesting that there is not going to be some potential impact. But the fact of the matter is, in looking over the history of the increases, what happens to our economy from other factors—oil, interest rates, a wide range of different trade—is so much more dramatic in terms of either inflation or unemployment than the increase in the minimum wage.

Mr. President, I will print this in the RECORD but it is, again, somewhat instructive. Between 1961 and 1969, the Consumer Price Index went up 22.5 percent. The minimum wage during that time went up 60 percent. Employment increased 31 percent in the retail trade. So you have a three times higher increase in the minimum wage, and yet the employment went up 31.6 percent. It does not quite follow the argument that my good friend has made.

From 1971 to 1979, the CPI goes up 79.2 percent, the minimum wage goes up 81 percent and the employment from 1971 to 1979 increases 32 percent. Still we find the minimum wage between 1961 and 1969 three times higher than the CPI equal to the CPI from 1971 to 1979 and it increases to 32 percent.

Now what happens in 1981 and 1989? CPI goes up 39 percent, no increase in the minimum wage, employment goes up 29 percent. No increase in the minimum wage, and the increase in employment was lower than the two decades before it when the minimum wage went up 60 and 80 percent.

We can argue these figures and statistics, which we have done, Mr. President, but you reach the bottom line as those who have been before our committee have demonstrated, that these other macroeconomic issues are really the controlling factor item. To say that we are going to insist that those who are of the lowest level on the economic ladder are going to pay for these economic theories I think is unfortunate indeed.

Evidently, there are CEO's who should be wary about the increased cost to their companies yet were not sufficiently wary to dramatically increase their own compensation.

We have the American Stores Corp., a good deal of retail, not exclusively, but by and large retail. Compensation from 1981 to 1986, the percentage increase for executive salaries was 120 percent, from $482,000 to $1,044,000.

The Bally Manufacturing, Co. which is primarily amusement parks, hotel chains, pinball arcades, compensation went from $751,000 to $1,873,000 for executives, up 149 percent.

Even in food, Giant Food increased salaries from $601,000 to $3,436,000, 472 percent. These are the industries where we have very substantial numbers of workers of minimum wage.

The K Marts, from $506,000 to $3 million, 513 percent. These are the CEO's who are employing those minimum wage earners—and cannot afford it, because we are going to lose jobs, we are not going to benefit the people who are out there working. But they can raise their own compensation 513 percent; yet not a single percent for those who are working. Not a single percent, but for them or the Woolworths. Again, retail, Kids Mart from $400,000 to $2,260,000, 454 percent.

I will not take the time, Mr. President, to go through this, but it just is appalling to me when we hear about how many of these industries are right on the edge, concerned about the future of these industries, and here we have the corporate leaders of those same industries taking these kinds of extraordinary increases and almost without exception refusing to support an increase in the minimum wage. I have difficulty being convinced.

I finally would say the points that my colleague makes about the earned income credit I think have value. We debated that issue when we were considering this minimum wage earlier. The increase in the earned income credit is important, particularly for larger families, and the kinds of increase that we had with regard to the $4.55, or the cost-of-living benefits for primarily the single individual, and the couple with one child. But after you move beyond that, the earned income credit for the larger families clearly is an instrument that should be supported.

If we were able to bring those elements of public policy together, that, in terms of trying to reach or improve the quality of life and justice for these workers, is the way to go. We do not have that. We do not have that luxury, Mr. President, at this time. If the administration had started off with the support of that, it certainly would have been a matter that had to be considered.

This is the last train on this issue, Mr. President. That is why I would resist any amendments on that particular proposal. At another time, another place clearly it ought to be considered. This is the measure that we have before us. This is the measure that has the administration support. This is the measure which we have crafted in a way that I think can make an important difference to working families. I hear the arguments made. There are some people who are part-time students who come from middle-income families. I am just surprised that any worker in any of these States work for a minimum wage because of the fact they can remain on welfare and receive the Medicaid benefits and have a package which is vastly superior. We could get into that as well. During the course of the previous debate we did get into that in detail. I do not think it is necessary at this time to revisit the issue, unless there are those who want to pursue it further.

So, Mr. President, we look forward to trying to address further concerns, if there are further concerns, of my colleagues. I certainly hope we could move toward getting some final action. We have debated this issue over a period of 11 days. If this body does not know where it stands on the simple, fundamental issue of justice for working people, we are in very difficult times, Mr. President.

I am hopeful we will have a strong vote on it. I think that will reflect its bipartisan support. At the important times when we have seen the increase, it has been bipartisan.

I want to acknowledge at the outset the very special efforts of many of our colleagues who had supported our position earlier and then in the course of these negotiations, particularly the ranking minority member of the Budget Committee, Senator DOMENICI, who, has an understanding about the broad economic issues of employment, of inflation. He has spent a long time studying these issues. I think he brought an awareness, an understanding and an insight to this debate that was absolutely crucial at a very important time when the Congress and the executive were considering it. So I do recognize his very special interest, as well as a number of our colleagues on the other side of the aisle. I say that very sincerely. I hope when we finally vote on this measure, hopefully tomorrow, it will reflect the strong sense of fairness which is the posture of both political parties when they are at their best.

Mr. MITCHELL. Mr. President, I urge the Senate's adoption of this legislation containing the compromise on the Federal minimum wage increase, negotiated with the White House.

The legislation is long overdue. Legislation to increase the minimum wage was blocked in 1988, and then vetoed by the President earlier this year.

Today's legislation represents a compromise between the President and the majority in Congress who have supported an increase in the Federal minimum wage. But it also represents a victory—for the working men and women of America at the bottom of the economic scale.

The compromise provides for an increase of the Federal minimum wage to $4.25 over 2 years, effective April 1, 1990 and 1991. That is an acceleration of the increase over 3 years earlier proposed by the President. However, the increase is less than the $4.55 level earlier passed by Congress.

The compromise also provides for a 90-day training wage for teenagers. That is substantially less than the unlimited 6-month training wage proposed by the President. Because it is limited to teenagers, it is also narrower than the 60-day training wage passed by Congress.

The compromise training wage is for teenagers only. It does not apply to the 65 percent of all minimum wage workers who are age 20 or older.

The compromise training wage is for 90 days. There is also the opportunity to apply the training wage for an additional 90 days, if a subsequent employer provides a formal training program certified by the Department of Labor. This is an important safeguard.

The training wage provision also will expire after 3 years. It is experimental in nature. The compromise rejects any unreasonable, prolonged or indefinite subminimum wage structure.

Increasing the minimum wage is a top priority for this Congress. The compromise does not increase the wage as high as some might have hoped, but it is an improvement. It is a step forward that will clearly benefit those Americans who struggle on the margin of our national prosperity.

The last increase in the Federal minimum wage occurred in 1981—8 years ago, according to a schedule of increases enacted in 1977. Twelve years have passed since that legislation.

Whatever economic recovery has been achieved since 1981, the American people have expected that sacrifices made in the national interest must be fairly shared. And after sacrifice, when economic gains are achieved, they too must be fairly shared.

Since 1981, the Nation's average hourly wage has risen 35.9 percent—and the cost of living has increased 39.8 percent. In contrast, the current minimum wage of $3.35 an hour represents the lowest percentage of average hourly earnings since 1949—equal to only 34.4 percent of the national average.

The purchasing power of the Federal minimum wage is at its lowest level since 1955. An increase is urgently needed. The compromise legislation does not increase the minimum wage as many would have hoped—but it does provide an increase that will benefit millions of Americans.

In the State of Maine, the State minimum wage already is higher than the Federal minimum wage. Yet Maine minimum wage earners still have experienced a 17-percent decline in purchasing power since 1981. Since 1986, Maine has debated not whether to increase the minimum wage, but whether the State could do so unilaterally—and thereby risk being put at a competitive disadvantage to other States in attracting new business and investment.

In 1988, Gov. John McKernan of Maine wrote the Maine congressional delegation, and asked for an increase in the Federal minimum wage. "The current national rate of $3.35, which was established in 1981, has clearly not kept pace with inflation and general cost of living increases," the Governor wrote. "Thus, it is extremely difficult for an individual to take care of his or her family while earning minimum wage."

In Maine as well as the rest of the Nation, sentiment is strong that the Federal minimum wage needs to be increased. In 1988, a Gallup Poll revealed that 76 percent of the Americans favored increasing the Federal minimum wage to $5.05—well beyond the level that either the administration or Congress has proposed.

Opponents of the compromise legislation raise arguments of potential job loss and inflation. The same arguments have been raised in opposition to every increase in the Federal minimum wage that has been proposed since 1949. They already have been rejected by a majority in Congress, in passing the earlier legislation vetoed by the President.

But even after vetoing earlier legislation, the President himself has rejected arguments in opposition—and supports the compromise. The President supports increasing the minimum wage. He has compromised with a clear majority in Congress, and together, on a bipartisan basis, we are seeking now to pass legislation that will benefit those Americans who are most vulnerable; who toll at the margin of our national prosperity.

The legislation is reasonable.

It is moderate.

It is urgently needed.

I urge its adoption.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on today, November 6, 1989, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolutions:

S. 750. An act to extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington;

S. 1827. An act to revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York;

H.R. 2916. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes;

S.J. Res. 198. Joint resolution designating November 1989 as "An End to Hunger Education Month"; and

H.J. Res. 35. Joint resolution designating November 5-11, 1989, as "National Women Veterans Recognition Week".

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore [Mr. BINGAMAN].

MESSAGES FROM THE HOUSE

At 2:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1502) to authorize the appropriation of funds to the District of Columbia for additional officers and members of the Metropolitan Police Department of the District of Columbia, and to provide for the implementation in the District of Columbia of a community-oriented policing system, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3443. An act to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 222. Concurrent resolution to welcome the delegates of foreign postal administrations to the Twentieth Universal Postal Congress to be held in Washington, DC.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3443. An act to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, November 6, 1989, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 750. An act to extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington;

S. 1827. An act to revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York; and

S.J. Res. 198. Joint resolution designating November 1989 as "An End to Hunger Education Month."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and National Resources, without amendment:

H.R. 2120: A bill to amend the Deep Seabed Hard Mineral Resources Act to authorize appropriations to carry out the provisions of the Act for fiscal years 1990, 1991, and 1992 (Rept. No. 101-190).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 1729: A bill to amend the Commodity Exchange Act to reauthorize such Act, and for other purposes (Rept. No. 101-191).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1485: A bill to grant the consent of Congress to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOSCHWITZ:

S. 1843. A bill to amend the Internal Revenue Code of 1986 to provide a nonrefundable credit for the purchase and installation of Mode C equipment for transponders used in aircraft; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. HOLLINGS, and Mr. WARNER):

S. 1844. A bill to authorize appropriations for the continued funding for operation and maintenance of the Bethune Museum and Archives; to the Committee on Energy and Natural Resources.

By Mr. HEFLIN (for himself and Mr. SHELBY):

S. 1845. A bill regarding the duty-free entry of a nuclear magnetic spectrometer for the use of the University of Alabama at Birmingham; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOSCHWITZ:

S. 1843. A bill to amend the Internal Revenue Code of 1986 to provide a nonrefundable credit for the purchase and installation of Mode C equipment for transponders used in aircraft; to the Committee on Finance.

CREDIT FOR PURCHASE OF MODE C TRANSPONDERS

● Mr. BOSCHWITZ. Mr. President, I rise today to introduce legislation that will assist general aviation pilots in complying with the new Mode C equipment requirement.

On July 1, 1989, the Federal Aviation Administration [FAA] finalized a rule requiring all aircraft, with electrical systems, which are based within 30 nautical miles of the primary airport in a terminal control area [TCA], to be equipped with altitude encoding equipment. This equipment is referred to as a transponder with Mode C or more commonly, "Mode C." I believe it is important to note that provisions in the fiscal year 1988 continuing resolution and the Airport and Airway Safety and Capacity Expansion Act of 1987 required the FAA to enhance radar coverage thereby necessitating the Mode C requirement.

The FAA requires Mode C equipment, which provides aircraft altitude information on the air traffic controller's radar screen, in order to prevent two aircraft from colliding. I must say that small single engine aircraft rarely collide, even at busy uncontrolled airports. However, in late 1986 and early 1987, there were two tragic collisions involving air carriers and general aviation aircraft.

I agree that if the new Mode C requirement prevents just one such tragedy in the future, it is a good investment. But the point remains, that the private pilots will spend somewhere between $800 and $2,000 to increase safety, not for themselves as much as for the safety of air carrier passengers.

I have worked for over 2 years with the FAA in an attempt to craft a final rule that is fair to general aviation. I suggested that the FAA should be more selective—I questioned the need for this rule at the Minneapolis-St. Paul International Airport. Additionally, I urged the FAA to reduce the 30-nautical-mile veil, and establish a waiver system for non-Mode C equipped aircraft to enter the veil.

I must say that the FAA has been cooperative, but also very insistent that Mode C is necessary for the Minneapolis-St. Paul International Airport and that it will increase safety. I'm all for increasing the safety of our skies—last year alone I made 42 trips to Minnesota.

Mr. President, I am proud to say I have made progress. To be sure I am not alone in my efforts. I am told that the FAA received over 70,000 comments, the most ever on a proposed rule modification. At my request, FAA officials have traveled throughout my State to hear firsthand from pilots why Mode C, if not repealed, should at least be modified. The FAA has agreed to study each TCA area and reduce the size of the veil to correspond more closely with the local tower's Radar coverage capabilities. It has agreed to grant waivers to non-Mode C equipped aircraft to enter the veil for repair and maintenance—although some restrictions regarding altitude, time and previous notification will be required.

However, I believe the rule in its final form will have a negative impact on the economy of the Minneapolis-St. Paul metro area, and I am still working with the FAA for additional modifications.

Mr. President, there are over 30 airports within the 30-nautical-mile veil of the Minneapolis-St. Paul International Airport. Most of these airports are home to aircraft with very limited capabilities; a couple of them are just grass strips.

The individuals who own these aircraft are not wealthy. More often they are individuals with an average income and a great love of flying. That is why today I am introducing my Mode C tax credit legislation. The proposal is not excessive. It will only apply to taxpayers who are installing the required equipment for the first time. Further, it proposes only a modest 10 percent credit, with a $100 limit. As I stated earlier, the cost of installing Mode C equipment ranges between $800-$2,000.

Mr. President, most of today's military and commercial pilots become interested in flying at an early age, and many made their first flight from a local airport. We need to be sure that as we work to increase air carrier passenger safety, that we do not unduly penalize general aviation. If Congress is going to mandate that the FAA require Mode C equipment of general aviation pilots I believe Congress should also help them to comply. Mr. President, I ask my colleagues to join me in this effort.

I ask unanimous consent that a copy of my legislation be printed at the end of my statement. Mr. President, I yield the floor.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NONREFUNDABLE CREDIT FOR PURCHASE AND INSTALLATION OF MODE C EQUIPMENT FOR TRANSPONDERS USED IN AIRCRAFT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by adding at the end thereof the following new section:

"SEC. 25A. PURCHASE AND INSTALLATION OF MODE C EQUIPMENT FOR TRANSPONDERS USED IN AIRCRAFT.

"(a) GENERAL RULE.—In the case of a taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the expenditures as does not exceed $1,000, made by the taxpayer during such taxable year in purchasing and installing qualified Mode C equipment for each aircraft owned by the taxpayer in which such equipment has not been previously installed.

"(b) QUALIFIED MODE C EQUIPMENT.—For purposes of this section, the term 'qualified Mode C equipment' means any Mode C equipment included in a transponder or added to an existing transponder which results in such transponder having automatic altitude reporting capacity as described in, and required by, section 91.24 of title 14 of the Code of Federal Regulations.

"(c) ALLOCATION OF EXPENDITURES.—In the case of any aircraft in which more than 1 person has an interest, expenditures in purchasing and installing qualified Mode C equipment for such aircraft shall be allocated among such persons in proportion to their respective interests in such aircraft.

"(d) TERMINATION.—This section shall not apply to expenditures made after December 31, 1992."

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Purchase and installation of Mode C equipment for transponders used in aircraft."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after December 31, 1988, in taxable years ending after such date.●

By Mr. THURMOND (for himself, Mr. HOLLINGS, and Mr. WARNER):

S. 1844. A bill to authorize appropriations for the continued funding for operation and maintenance of the Bethune Museum and Archives; to the Committee on Energy and Natural Resources.

OPERATION AND MAINTENANCE OF THE BETHUNE MUSEUM AND ARCHIVES

Mr. THURMOND. Mr. President, it is a pleasure to rise today to introduce legislation to reauthorize the Mary McLeod Bethune Museum and Archives. The museum and archives, also known as the Mary McLeod Bethune Council House, is a National historic site here in Washington, DC, which acknowledges the contributions of African-American women to the life and culture of this country.

In 1982, Congress passed legislation designating the Bethune Council House as a National historic site. Later, in 1985, Congress amended that legislation to authorize funds for the operation and maintenance of the historic site in each of fiscal years 1987, 1988, and 1989. On September 30 of this year, the authority for operation of the Council House expired. However, an appropriation of $232,000 was included in the Interior Appropriations legislation for fiscal year 1990 and the museum and archives continues to operate today. Nevertheless, it is important that we move forward with reauthorization.

Mr. President, I would now like to briefly comment upon the life of Mary McLeod Bethune—a fine American and South Carolinian. Born in Mayesville, SC, in 1875, Ms. Bethune was the daughter of former slaves and rose to become a great American educator. She attended elementary school in Mayesville, and at the age of 13 she left to attend boarding school in North Carolina.

Later, she attended the Moody Bible Institute in Chicago. Upon her graduation from there in 1895, she returned south to teach school in Georgia and South Carolina. Ms. Bethune later moved to Daytona Beach, FL, where she founded the Daytona Normal and Industrial School, now named Bethune-Cookman College.

Upgrading educational opportunities for African-Americans represents only one of the many achievements of Ms. Bethune. In 1920, she became vice president of the National Urban League, and later served two terms as president of the National Association of Colored Women. Additionally, she served as an adviser to several Presidents beginning with the administration of Calvin Coolidge.

The lifetime contributions of Ms. Bethune continue to inspire others faced with seemingly insurmountable obstacles. Mary McLeod Bethune, a

woman of conviction and determination, proved that no goal is unattainable when you believe in your cause, and most importantly, God, and have the will to attain your goal.

Mr. President, while a resident of Washington, Ms. Bethune lived at the Bethune Council House at 1318 Vermont Avenue, Northwest. We in South Carolina and this Nation are proud of the many accomplishments of Mary McLeod Bethune, and her contributions to the heritage of this country. Accordingly, it is important that we continue to bring recognition to the contributions of Ms. Bethune and other African-American women through reauthorization of the Bethune Museum and Archives.

Mr. President, I ask unanimous consent that legislation reauthorizing the museum and archives for an additional 3 years be included in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1844

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 5(a) of the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes" (16 U.S.C. 461(a) note) is amended by striking "$100,000 for the fiscal year 1987, $110,000 for the fiscal year 1988, and $120,000 for the fiscal year 1989" and inserting "$232,000 for fiscal year 1990, $240,000 for fiscal year 1991, and $250,000 for fiscal year 1992".

Mr. HOLLINGS. Mr. President, I appreciate the opportunity to rise today and speak in strong support of legislation to reauthorize the historic Council House site of Mary McLeod Bethune. This site, which is located here in Washington, DC, and is also known as the Mary McLeod Bethune Museum and Archives, was the last official residence of Mary McLeod Bethune and was the base for her latter day accomplishments. The house, which was designated a National Historic Site in 1982, contains artifacts that not only acknowledge and honor the achievements and contributions of African-American women to the social and political growth of this Nation, but also provide inspiration for future accomplishments.

Mr. President, my colleagues on the Interior Appropriations Subcommittee were very supportive in working with me to secure funding for fiscal year 1990 so that the museum can continue to operate. However, the authority for that operation expired this past September and this reauthorization legislation is needed to continue our efforts.

As a Senator from South Carolina, Mr. President, I would like to take a few moments to comment on the individual accomplishments of Mary McLeod Bethune who was born in Mayesville, SC. Mary McLeod Bethune was born to former slaves, and rose from humble beginnings to become not just a great black educator, or just a great female educator, but an educator who set an example for all American educators to follow.

Her accomplishments through the years were astounding. She was graduated from Moody Bible Institute in Chicago in 1895 with aspirations to go to Africa as a missionary. However, to the fortune of this country, she remained in the United States and pursued her goals here. She all but singlehandedly built Bethune-Cookman College in Florida. She became an adviser to several Presidents including Presidents Roosevelt and Truman. She was the first black lady to head a Federal agency. She established the National Council of Negro Women. And more astounding is the fact that she succeeded in these areas during a period of American history when neither blacks nor women were allowed much input in formulating national policy. Her life was a series of achievements with each being obtained against incredible odds.

While Mary McLeod Bethune's achievements, until her death in 1955, laid the foundations for the civil rights movement during the 1950's and 1960's, her relentless courage continues to inspire others to pursue a more equitable society. This legislation which reauthorizes the Mary McLeod Bethune Museum and Archives allows us to continue our respects toward her and the many other African-American women who struggled for civil rights as well as our support for continued efforts in this area as others are inspired by their work.

By Mr. HEFLIN (for himself and Mr. SHELBY):

S. 1845. A bill regarding the duty-free entry of a nuclear magnetic spectrometer for the use of the University of Alabama at Birmingham; to the Committee on Finance.

DUTY-FREE ENTRY OF A NUCLEAR MAGNETIC SPECTROMETER

Mr. HEFLIN. Mr. President, I rise to introduce legislation which is intended to remove a bureaucratic roadblock placed before the University of Alabama at Birmingham by the U.S. Customs Service.

On April 3, 1989, the University of Alabama in Birmingham submitted an application to the U.S. Customs Service for a duty-free import of a Philips Medical Systems 4 Tesla, 1-meter bore, whole-body NMR spectrometer. Acquisition of this equipment by the University of Alabama in Birmingham was made possible through a grant from the U.S. Department of Energy.

From all indications, the U.S. Customs Service has disapproved the UAB application for a duty-free import of this medical equipment and required duty to be paid at the rate of 4.42 percent. This means that the University of Alabama at Birmingham would be required to pay approximately $346,970 on this medical research instrument. The U.S. Department of Energy made this grant to the University of Alabama at Birmingham in the amount of $7.85 million. No money was budgeted in the grant or elsewhere for this customs payment.

I do not believe that the University of Alabama in Birmingham should be required to pay duty on this instrument. It is custom-made, one-of-a-kind research instrument, built to the UAB specifications by Philips Medical Systems in The Netherlands for medical research use. This is not a product prototype and is not intended for commercialization. It will not be used for any testing of any safety or effectiveness for the purpose of future commercial distribution.

When requests for proposals for this medical technology was offered, no U.S. manufacturer responded to the University of Alabama at Birmingham request and no U.S. manufacturer was then, or is now, producing such an instrument.

I do not believe that it would make sense for the U.S. Government to impose a costly burden upon a research project that the Government itself is sponsoring.

I call upon the entire Congress to join my colleague from Alabama, Senator SHELBY and me, in our effort to relieve this costly burden on the University of Alabama at Birmingham. This is only a technicality of the bureaucracy.

ADDITIONAL COSPONSORS

S. 478

At the request of Mr. DODD, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 478, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

S. 511

At the request of Mr. INOUYE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 1277

At the request of Mr. FORD, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation

has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1511

At the request of Mr. METZENBAUM, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1511, a bill to amend the age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1629

At the request of Mr. SPECTER, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1629, a bill to establish clearly a Federal right of action by aliens and U.S. citizens against persons engaging in torture or extrajudicial killings, and for other purposes.

S. 1740

At the request of Mr. BINGAMAN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1740, a bill to establish a research and demonstration program to promote cofiring of natural gas and coal in certain boilers, to provide Federal funding and tax incentives to carry out the program and to clarify the status of cofired electric utility or industrial boilers for purposes of new source performance standards.

S. 1783

At the request of Mr. MCCAIN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1783, a bill to regulate Indian child protection and prevent child abuse on Indian reservations.

SENATE JOINT RESOLUTION 103

At the request of Mr. BRADLEY, the names of the Senator from California [Mr. WILSON], the Senator from North Dakota [Mr. BURDICK], the Senator from Georgia [Mr. NUNN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Colorado [Mr. WIRTH], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. GLENN], the Senator from Nebraska [Mr. KERREY], the Senator from Utah [Mr. GARN], the Senator from Washington [Mr. ADAMS], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 103, a joint resolution to designate the period commencing February 18, 1990, and ending February 24, 1990, as "National Visiting Nurse Association Week."

SENATE JOINT RESOLUTION 205

At the request of Mr. BIDEN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Joint Resolution 205, a joint resolution designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week."

SENATE JOINT RESOLUTION 206

At the request of Mr. GORE, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Joint Resolution 206, a joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative parties, for the full protection of Antarctica as a global ecological commons.

AMENDMENT NO. 968

At the request of Mr. DECONCINI, his name was added as a cosponsor of amendment No. 968 proposed to S. 1711, a bill to implement the President's 1989 National Drug Control Strategy.

NOTICES OF HEARINGS

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, I announce, for the information of Senators, that the Committee on Veterans' Affairs, which I am privileged to chair, is scheduled to hold a hearing Thursday, November 9, 1989, in SR-418 at 10:30 a.m., to consider the Department of Veterans Affairs' nominations of David E. Lewis to be assistant secretary for Acquisition and Facilities and Ronald E. Ray to be assistant secretary for Human Resources and Administration. Also, Edward G. Lewis, the nominee to be assistant secretary for Information Resources Management, has been asked back for further testimony.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Tuesday, November 14, 1989, to consider the nomination of Kyo R. Jhin to be chief counsel for advocacy for the Small Business Administration. The hearing will be held in room 428A of the Russell Senate Office Building and will commence at 9:30 a.m. For further information, please call John Ball, staff director of the committee at 224-5175, or Tracy Crowley at 224-3099.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommitte on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on November 6, 1989, at 2 p.m. to hold a hearing on the United States-Japan structural impediments [SII].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Monday, November 6, 1989, at 2 p.m. to hold a hearing on global warming legislation, S. 1610.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, November 6, 1989, to examine contracting practices and the use of consultants at the Environmental Protection Agency and the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFERENCE REPORT ON H.R. 2461, DEPARTMENT OF DEFENSE AUTHORIZATION ACT

Mr. NUNN, from the committee of conference, filed the following conference report:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2461) to authorize appropriations for fiscal year 1990 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1990 and 1991".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS

(a) ORGANIZATION OF ACT INTO DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Expiration of authorizations for fiscal years after fiscal year 1990.
Sec. 4. Congressional defense committees defined.
Sec. 5. Outlay limitation for fiscal year 1990.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense agencies.
Sec. 105. Reserve components.
Sec. 106. Chemical demilitarization program.
Sec. 107. Multiyear authorizations.
Sec. 108. Changes in prior milestone authorizations.

PART B—B-2 AIRCRAFT PROGRAM

Sec. 111. B-2 bomber program funding and limitations for fiscal year 1990.
Sec. 112. Limitation on annual production of B-2 bomber for fiscal years after fiscal year 1990.
Sec. 113. Ongoing evaluation by Comptroller General of B-2 test and evaluation results.
Sec. 114. Report on cost, schedule, and capability.
Sec. 115. Ongoing independent assessment of B-2 aircraft program.
Sec. 116. Submission of unclassified version of B-2 performance matrix.
Sec. 117. Reports relating to correction-of-deficiencies clauses in B-2 aircraft procurement contracts.
Sec. 118. Study of alternative B-2 aircraft force structures.
Sec. 119. Sense of Congress on procurement of B-2 aircraft.

PART C—OTHER STRATEGIC PROGRAMS

Sec. 121. Limitations on B-1B electronic countermeasures recovery program.
Sec. 122. Advanced Cruise Missile program.
Sec. 123. Cap on number of MX missiles that may be deployed.
Sec. 124. Reference to limitation on obligation of funds for MX Rail Garrison program.

PART D—PROGRAM TERMINATIONS

Sec. 131. F-14 aircraft program.
Sec. 132. AH-64 helicopter program.
Sec. 133. AHIP scout helicopter program.
Sec. 134. F-15E aircraft program.
Sec. 135. M88A2 recovery vehicle program.
Sec. 136. Reconnaissance aircraft programs.
Sec. 137. Statutory construction.

PART E—ARMY PROGRAMS

Sec. 141. M-1 tank program.
Sec. 142. Restriction on fiscal year 1989 funds for refuelers/tankers.
Sec. 143. Army recovery vehicle program.
Sec. 144. Repeal of procurement requirement and limitation of funds for the Heavy Expanded Mobility Tactical Truck.
Sec. 145. Limitation on modifications of certain special operations forces aircraft.
Sec. 146. Limitation on acceptance of delivery of Stinger missiles.
Sec. 147. M109 Howitzer Improvement Program.
Sec. 148. Equal employment opportunities relating to an Army contract.

PART F—NAVY PROGRAMS

Sec. 151. Limitation on procurement of V-22 Osprey aircraft.
Sec. 152. Preservation of dual-source production base for Standard Missile II.
Sec. 153. Annual report on Navy aircraft requirements.
Sec. 154. Fast sealift ship program.
Sec. 155. Transfer of A-6 aircraft to the Navy.
Sec. 156. Report regarding Trident submarine construction rate.

PART G—NONSTRATEGIC AIR FORCE PROGRAMS

Sec. 161. MC-130H (Combat Talon) aircraft program.
Sec. 162. AC-130U gunship program.
Sec. 163. AMRAAM missile program.
Sec. 164. Over-the-Horizon Backscatter radar.
Sec. 165. MILSTAR program.
Sec. 166. F-16 aircraft program.

PART H—CHEMICAL MUNITIONS

Sec. 171. Restriction on obligation of funds for procurement of binary chemical munitions.
Sec. 172. Chemical munitions European retrograde program.
Sec. 173. Chemical demilitarization cryofracture program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS

Sec. 201. Authorization of appropriations.
Sec. 202. Amounts for basic research and exploratory development for fiscal years 1990 and 1991.
Sec. 203. Amounts for improved infantry equipment.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

Sec. 211. Balanced Technology Initiative.
Sec. 212. Integrated electric drive program.
Sec. 213. Fast sealift technology development program.
Sec. 214. Tactical oceanography program.
Sec. 215. Grant for semiconductor cooperative research program.
Sec. 216. Army Heavy Force Modernization program.
Sec. 217. Joint research project on magnetoencephalography (MEG) and neuromagnetism.
Sec. 218. V-22 Osprey aircraft program.
Sec. 219. Biodegradable materials research.

PART C—STRATEGIC DEFENSE INITIATIVE

Sec. 221. Funding for the Strategic Defense Initiative for fiscal year 1990.
Sec. 222. Report on allocation of fiscal year 1990 SDI funding.
Sec. 223. Limitation on development and testing of antiballistic missile systems or components.
Sec. 224. Requirement for annual report on SDI programs.

PART D—STRATEGIC PROGRAMS

Sec. 231. Funding and limitations for ICBM modernization program.
Sec. 232. Funding for security improvements at the Kwajalein test range.
Sec. 233. Titan IV West Coast Launch Pad.

PART E—CHEMICAL AND BIOLOGICAL WARFARE PROGRAMS

Sec. 241. Program for monitoring compliance with possible chemical weapons convention.
Sec. 242. Report on biological defense research program.
Sec. 243. Restoration of certain reporting requirements relating to chemical and biological warfare agents.

PART F—OTHER MATTERS

Sec. 251. Advanced research projects.
Sec. 252. Clarification of requirement for competition in award of research and development contracts and construction contracts to colleges and universities.
Sec. 253. Extension of deadline for selection of heavy truck system configured with palletized loading system.
Sec. 254. Testing of infantry anti-tank weapon.
Sec. 255. Funding for facility for collaborative research and training for military medical personnel; funding for microelectronics research.
Sec. 256. Availability of funds transferred to NASA for National Aerospace Plane.
Sec. 257. Repeal of specification of funds for Rankine engine.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Department of Defense Base Closure Account.
Sec. 304. Humanitarian assistance.
Sec. 305. Army aviation flight facility at Jackson, Tennessee.
Sec. 306. Assistance to schools to benefit children of members of the Armed Forces and civilian employees of the Department of Defense.

PART B—LIMITATIONS

Sec. 311. Prohibition on payment of severance pay to foreign nationals in the event of certain base closures.
Sec. 312. Prohibition on joint use of the Marine Corps Air Station at El Toro, California, with civil aviation.
Sec. 313. Clarification of prohibition on certain depot maintenance workload competitions.
Sec. 314. Reduction in the number of civilian personnel authorized for duty in Europe.
Sec. 315. Repeal of limitation on the use of operation and maintenance funds to purchase investment items.

PART C—MISCELLANEOUS PROGRAM CHANGES

Sec. 321. Authorization to reduce under certain circumstances the rates for meals sold at a military dining facility.
Sec. 322. Improved and expedited disposal of lost, abandoned, or unclaimed personal property in the custody of the Armed Forces.
Sec. 323. Procurement of laundry and dry cleaning services from Navy exchanges.
Sec. 324. Procurement of supplies and services from military exchanges outside the United States.
Sec. 325. Tuition-free enrollment of dependents of certain employees of nonappropriated fund instrumentalities in schools of the Defense Dependents' Education System.

Sec. 326. Authority to use appropriated funds to support student meal programs in Department of Defense overseas dependents' schools.
Sec. 327. Commercial sale of recording of Air Force Singing Sergeants.
Sec. 328. Transportation of motor vehicles of military and civilian personnel stationed on Johnston Island.
Sec. 329. Authority to provide certain assistance to annual conventions of national military associations.
Sec. 330. Authority to lease fleet electronic warfare support aircraft.
Sec. 331. Energy efficiency incentive.
Sec. 332. Authority to acquire railroad track structure and temporary right-of-way for rail line.
Sec. 333. Authorization of long-term aircraft support contract.
Sec. 334. Service contract to train undergraduate naval flight officers.
Sec. 335. Defense contract auditors.
Sec. 336. Uniform allowance for civilian employees of the Department of Defense required to wear uniforms.

PART D—ARMED FORCES RETIREMENT HOMES

Sec. 341. United States Soldiers' and Airmen's Home subject to annual authorizations of appropriations.
Sec. 342. Military fines and forfeitures to benefit Armed Forces retirement homes.
Sec. 343. Deductions from the pay of enlisted members and warrant officers to benefit Armed Forces retirement homes.
Sec. 344. Inspection of Armed Forces retirement homes by Inspector General of the Department of Defense.
Sec. 345. Report regarding improving the operation and management of the Armed Forces retirement homes.
Sec. 346. Definitions.
Sec. 347. Repeal of superseded provisions relating to the United States Soldiers' and Airmen's Home.

PART E—ENVIRONMENTAL PROVISIONS

Sec. 351. Limitation on use of environmental restoration funds.
Sec. 352. Requirement for development of environmental data base.
Sec. 353. Five-year plan for environmental restoration at bases to be closed.
Sec. 354. Funding for waste minimization programs for certain industrial-type activities of the Department of Defense.
Sec. 355. Sense of Congress concerning investigation of soil and water contamination near Mead, Nebraska.
Sec. 356. Use of chlorofluorocarbons and halons in the Department of Defense.
Sec. 357. Annual report on defense budget for environmental compliance.
Sec. 358. Report on environmental requirements and priorities.
Sec. 359. Reports on environmental restoration of Jefferson Proving Ground, Indiana.
Sec. 360. Study of environmental damage to Shenandoah River.
Sec. 361. Study of waste recycling.

PART F—MISCELLANEOUS REPORTS

Sec. 371. Report on military use of the inland navigation system.
Sec. 372. Report on manpower, mobility, sustainability, and equipment.
Sec. 373. Report on second source for carbonizable rayon yarn.
Sec. 374. Report on military recruiting advertising expenditures.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

Sec. 401. End strengths for active forces.
Sec. 402. Reduction for fiscal year 1991 in number of Air Force colonels.
Sec. 403. Temporary increase in officer grade limitations.

PART B—RESERVE FORCES

Sec. 411. End strengths for selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserves.
Sec. 413. Increase in number of members in certain grades authorized to be on active duty in support of the Reserves.

PART C—MILITARY TRAINING STUDENT LOADS

Sec. 421. Authorization of training student loads.

PART D—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 431. Authorization of appropriations for military personnel for fiscal year 1990.

TITLE V—MILITARY PERSONNEL

PART A—RESERVE COMPONENTS MATTERS

Sec. 501. Delayed entry program and delayed entry training program for Reservists.
Sec. 502. Annual muster duty and muster duty pay for Ready Reservists.
Sec. 503. Three-year extension of certain Reserve officer management programs.
Sec. 504. Two-year extension of authority for certain single parents to enlist in reserve components.
Sec. 505. Two-year program of special unit assignment pay for enlisted members of Selected Reserve.
Sec. 506. Military education for civilian technicians of the Army National Guard.

PART B—OTHER MATTERS

Sec. 511. Increase in service obligation for graduates of the service academies and the Uniformed Services University of the Health Sciences.
Sec. 512. Extension of authority to make temporary promotions of certain Navy lieutenants.
Sec. 513. Testing of new entrants for drug and alcohol abuse.
Sec. 514. Correction of military records concerning promotions and enlistments of enlisted members.
Sec. 515. Title of admissions officer of United States Air Force Academy.
Sec. 516. Eligibility for Prisoner-of-War medal.
Sec. 517. GAO report on technical training for recruits and members of the reserve components.
Sec. 518. Provision of off-duty postsecondary education services overseas.
Sec. 519. Matters to be considered by promotion boards in case of officers in health professions competitive categories.
Sec. 520. Report on constructive credit for nurses.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

Sec. 601. Military pay raise for fiscal year 1990.
Sec. 602. Limitation on adjustments in variable housing allowance.

PART B—BONUSES AND SPECIAL AND INCENTIVE PAY

Sec. 611. Increase in selective reenlistment bonus.
Sec. 612. Enlistment bonus for members in skills designated as critical.
Sec. 613. Extension of enlistment and reenlistment bonus authorities for Reserve forces.
Sec. 614. Extension of special pay programs for nuclear-qualified officers.

PART C—TRAVEL AND TRANSPORTATION ALLOWANCES

Sec. 621. Reimbursement for certain fees incurred in travel.
Sec. 622. Lump-sum payment of overseas housing costs.
Sec. 623. Clarification of allowance for transportation of household effects.
Sec. 624. Travel entitlement for members assigned to a vessel under construction.
Sec. 625. Student travel authorized for dependents of members in Alaska and Hawaii.

PART D—MILITARY AVIATORS

Sec. 631. Aviation career incentive pay.
Sec. 632. Aviator retention bonuses.
Sec. 633. Reduction in nonoperational flying duty positions.
Sec. 634. Minimum service requirement for aviators.
Sec. 635. Report on life insurance.
Sec. 636. Report on aviator assignment policies and practices.
Sec. 637. Sense of Congress regarding establishment of commission to conduct a study on the national shortage of aviators.

PART E—MONTGOMERY GI BILL AMENDMENTS

Sec. 641. Increase in amount payable under Montgomery GI Bill for critical specialties.
Sec. 642. Payments for vocational-technical training under reserve-component GI bill.
Sec. 643. Limitation of active Guard and Reserve personnel to active-duty program.
Sec. 644. Report on imposition of contribution requirement for participation in chapter 106 program.
Sec. 645. Technical amendments.

PART F—PERSONNEL AND COMPENSATION TECHNICAL AMENDMENTS

Sec. 651. Technical amendments to military retirement laws.
Sec. 652. Repeal of certain obsolete and expired provisions.
Sec. 653. Other technical and clerical amendments.

PART G—MISCELLANEOUS

Sec. 661. Military relocation assistance programs.
Sec. 662. Extension of test program of reimbursement for adoption expenses.
Sec. 663. Repeal of four-year Reserve officer uniform allowance.

Sec. 664. Reimbursement for financial institution charges incurred because of Government error in direct deposit of pay.

TITLE VII—HEALTH CARE PROVISIONS

PART A—HEALTH CARE PROFESSIONS PERSONNEL MATTERS

Sec. 701. Authority to repay loans of certain health professionals who serve in the Selected Reserve.
Sec. 702. Revision of military physician special pay structure.
Sec. 703. Extension and expansion of medical officer retention bonus program.
Sec. 704. Special pay for psychologists.
Sec. 705. Accession bonus for registered nurses.
Sec. 706. Incentive pay for nurse anesthetists.
Sec. 707. Nurse officer candidate accession bonus.
Sec. 708. Program to increase use of certain nurses by the military departments.
Sec. 709. Authority to defer mandatory retirement for age of regular officers in a health-related profession.
Sec. 710. Retention in active service of Reserve officers in a health-related profession.
Sec. 711. Retention of certain Reserve psychologists in active status.
Sec. 712. Reallocation of Naval Reserve rear admiral positions authorized for health professions.

PART B—HEALTH CARE MANAGEMENT

Sec. 721. Prohibition on charges for outpatient medical and dental care.
Sec. 722. Sharing of health-care resources with the Department of Veterans Affairs.
Sec. 723. Prohibition on reducing end strength levels for medical personnel as a result of base closures and realignments.
Sec. 724. Revised deadline for the use of diagnosis-related groups for outpatient treatment.
Sec. 725. Armed Forces health professions scholarship program.
Sec. 726. Uniformed Services University of the Health Sciences and Henry M. Jackson Foundation for the Advancement of Military Medicine.
Sec. 727. Retention of funds collected from third-party payers of inpatient care furnished at facilities of the uniformed services.
Sec. 728. Reallocation of certain civilian personnel positions to medical support.
Sec. 729. Codification of appropriation provision relating to CHAMPUS.
Sec. 730. Limitation on CHAMPUS payments to noninstitutional health-care providers.
Sec. 731. Clarification and correction of provisions relating to health benefits for certain former spouses.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

PART A—PROCEDURES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Sec. 801. Assessment of risk in concurrent development of major defense acquisition systems.
Sec. 802. Operational test and evaluation.
Sec. 803. Low-rate initial production.
Sec. 804. Modifications with respect to reports on live-fire testing programs.
Sec. 805. Procedures applicable to multiyear procurement contracts.
Sec. 806. Revision of limitation on transfer of certain technical data packages to foreign countries.

PART B—CHANGES TO ACQUISITION STATUTES

Sec. 811. Acquisition report streamlining.
Sec. 812. Three-year program for use of master agreements for procurement of advisory and assistance services.
Sec. 813. Availability of funds for obligation following the resolution of a protest.
Sec. 814. Post-employment restrictions.
Sec. 815. Defense memoranda of understanding and related agreements.
Sec. 816. Offsets in reciprocal defense procurement agreements.
Sec. 817. Simplified approval of contracts implementing certain international agreements.
Sec. 818. Delegation of approval authority for certain contract actions.
Sec. 819. Procurement Technical Assistance Cooperative Agreement Program.

PART C—OTHER ACQUISITION POLICY MATTERS

Sec. 821. Requirement for certificate of independent price determination in certain Department of Defense contract solicitations.
Sec. 822. Uniform rules on dissemination of acquisition information.
Sec. 823. Limitation on authority to waive Buy American Act requirement.
Sec. 824. Acquisition of commercial and nondevelopmental items.
Sec. 825. Study and report on defense export financing.

PART D—PROVISIONS RELATING TO SMALL AND SMALL DISADVANTAGED BUSINESSES

Sec. 831. Provisions relating to small disadvantaged businesses.
Sec. 832. Credit for Indian contracting in meeting certain minority subcontracting goals.
Sec. 833. Test program for use of bond waiver authority under Small Business Act to assist certain small disadvantaged business concerns.
Sec. 834. Test program for negotiation of comprehensive small business subcontracting plans.

PART E—DEFENSE INDUSTRIAL AND TECHNOLOGY BASE

Sec. 841. Critical technologies planning.
Sec. 842. Defense industrial information and critical industries planning.
Sec. 843. Scientific and technical education.

PART F—MISCELLANEOUS

Sec. 851. Authority to contract with university presses for printing, publishing, and sale of History of the Office of the Secretary of Defense.
Sec. 852. Procurement from countries that deny adequate and effective protection of intellectual property rights.
Sec. 853. Acquisition laws technical amendments.

TITLE IX—MATTERS RELATING TO NATO MEMBER NATIONS AND OTHER ALLIES

PART A—CONVENTIONAL FORCE REDUCTIONS IN EUROPE

Sec. 901. Framework for determining conventional force requirements in a changing threat environment.
Sec. 902. Implications of mutual reductions in conventional forces in Europe by NATO and Warsaw Pact member nations.
Sec. 903. Report on verification measures for possible conventional arms control agreement.

PART B—BURDEN SHARING

Sec. 911. Reduction in authorized end strength for the number of military personnel in Europe.
Sec. 912. Active-duty forces in Europe of member nations of NATO.
Sec. 913. Contributions by Japan to global security.
Sec. 914. Report on costs associated with overseas dependents.
Sec. 915. United States-Republic of Korea security relationship and other security matters in East Asia.

PART C—EXPENDITURES IN EUROPE

Sec. 921. Limitation on expenditures for relocation of functions located at Torrejon Air Base, Madrid, Spain.
Sec. 922. Sense of Congress concerning United States military facilities in NATO member countries.

PART D—COOPERATIVE AGREEMENTS

Sec. 931. Codification of certain Allied cooperative agreements statutes.
Sec. 932. Extension and codification of authority provided the Secretary of Defense in connection with the NATO Airborne Warning and Control System (AWACS) Program.
Sec. 933. Revision and extension of authority for procurement of communications support and related supplies and services from other nations.
Sec. 934. Two-year extension of authority to provide excess defense articles for the modernization of defense capabilities of countries on NATO southern and southeastern flanks.
Sec. 935. Authority for exchange training through specified professional military education institution outside the United States.
Sec. 936. Extension of authority to pay certain expenses in connection with bilateral and regional cooperation programs.
Sec. 937. Extension of H-1 immigration status for certain nonimmigrants employed in cooperative research and development projects and coproduction projects.
Sec. 938. Methods of payment for acquisitions and transfers by the United States to Allied countries.

TITLE X—MATTERS RELATING TO ARMS CONTROL

Sec. 1001. Presidential report on possible effects of a strategic arms reduction agreement on Trident program.
Sec. 1002. Presidential report on the verification work that has been conducted with regard to mobile ICBMs under a START agreement.
Sec. 1003. Sense of Congress on START talks.
Sec. 1004. Report on asymmetries in capabilities of United States and Soviet Union to produce and deploy ballistic missile defense systems.
Sec. 1005. Sense of the Congress with respect to accidental launch protection.
Sec. 1006. Congressional findings and sense of Congress concerning the Krasnoyarsk radar.
Sec. 1007. Sense of Congress concerning exploring the feasibility of treaty limitations on weapons capable of threatening military satellites.
Sec. 1008. Report on satellite survivability.
Sec. 1009. Report on the desirability of negotiations with the Soviet Union regarding limitations on antisatellite capabilities.
Sec. 1010. Report on verification of compliance with agreements to limit nuclear testing.
Sec. 1011. Sense of Congress on arms control negotiations and United States modernization policy.
Sec. 1012. Report on effect of space nuclear reactors on gamma-ray astronomy missions.
Sec. 1013. Sense of Congress on chemical weapons negotiations.
Sec. 1014. United States program for on-site inspections under arms control agreements.

TITLE XI—DEPARTMENT OF ORGANIZATION AND DEFENSE MANAGEMENT MATTERS

PART A—FORCE STRUCTURE

Sec. 1101. Study of Total Force Policy, force mix, and military force structure.
Sec. 1102. Studies of close support for land forces.
Sec. 1103. Strategic air defense alert mission.
Sec. 1104. Sense of Congress concerning reassignment of units from Fort Knox, Kentucky to Fort Irwin, California.

PART B—GENERAL MANAGEMENT MATTERS

Sec. 1111. Additional funding for unified and specified combatant commands for fiscal year 1990.
Sec. 1112. Correction of pay grade for new Assistant Secretary of the Air Force.
Sec. 1113. Clarification of requirement for completion of full tour of duty as qualification for selection as a joint specialty officer.

PART C—PROFESSIONAL MILITARY EDUCATION

Sec. 1121. Reports relating to courses of instruction at certain professional military education schools and professional military education requirements for promotion to general or flag grade.
Sec. 1122. Clarification regarding schools that are joint professional military education schools for purposes of qualification of officers for joint specialty.
Sec. 1123. Professional military education in joint matters.
Sec. 1124. Employment of civilian faculty members at professional military education schools.

PART D—CONTRACTING OUT

Sec. 1131. One-year extension of authority of base commanders over contracting for commercial activities.
Sec. 1132. Exception from cost comparison procedures for purchase of products and services of the blind and other severely handicapped individuals.
Sec. 1133. Commercial activities study for base support operations at Fort Benjamin Harrison.
Sec. 1134. Evaluation and report on commercial activities study at the Niagara Falls Air Force Reserve Base.

TITLE XII—MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

Sec. 1201. Funding for military drug interdiction and counter-drug activities.
Sec. 1202. Department of Defense as lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs.
Sec. 1203. Budget proposals relating to drug interdiction and counter-drug activities.
Sec. 1204. Communications network.
Sec. 1205. Research and development.
Sec. 1206. Training exercises in drug-interdiction areas.
Sec. 1207. Drug interdiction and counter-drug activities of the National Guard.
Sec. 1208. Transfer of excess personal property.
Sec. 1209. Civil Air Patrol.
Sec. 1210. Operation of equipment used to transport civilian law enforcement personnel.
Sec. 1211. Restriction on direct participation by military personnel.
Sec. 1212. Additional support for counter-drug activities.
Sec. 1213. Reports.
Sec. 1214. Sense of Congress on National Narcotics Border Interdiction System.
Sec. 1215. Cooperative efforts against illegal drugs.
Sec. 1216. Technical and clerical amendments relating to military support for civilian law enforcement agencies.

TITLE XIII—MILITARY APPELLATE PROCEDURES

Sec. 1301. Court of Military Appeals.
Sec. 1302. Appellate review of article 69 actions.
Sec. 1303. Investigation of judicial misconduct.
Sec. 1304. Technical and conforming amendments.

TITLE XIV—MILITARY SURVIVOR BENEFIT PLAN

Sec. 1401. Short title.
Sec. 1402. Revised premium computation for Survivor Benefit Plan annuities.
Sec. 1403. Correction of annuity computation for survivors of certain retirement-eligible officers dying while on active duty.
Sec. 1404. Program to provide supplemental spouse annuity for military retirees.
Sec. 1405. Open enrollment period.
Sec. 1406. Definitions.
Sec. 1407. Miscellaneous technical and clerical amendments.

TITLE XV—MILITARY CHILD CARE

Sec. 1501. Short title; definitions.
Sec. 1502. Funding for military child care for fiscal year 1990.
Sec. 1503. Child care employees.
Sec. 1504. Parent fees.
Sec. 1505. Child abuse prevention and safety at facilities.
Sec. 1506. Parent partnerships with child development centers.
Sec. 1507. Report on five-year demand for child care.
Sec. 1508. Subsidies for family home day care.
Sec. 1509. Early childhood education demonstration program.
Sec. 1510. Deadline for regulations.

TITLE XVI—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

Sec. 1601. Transfer authority.
Sec. 1602. Restatement and clarification of requirement for consistency in the budget presentations of the Department of Defense.
Sec. 1603. Limitation on restoration of withdrawn unobligated balances.
Sec. 1604. Prohibition on transfer of funds to other departments and agencies.
Sec. 1605. Authority to transfer funds to Department of Energy.
Sec. 1606. One-year delay in any change in policy respecting reimbursement of Department of Defense funds for salaries of members of the Armed Forces assigned to duty in connection with foreign military sales programs.
Sec. 1607. Repair and replacement of property of the Department of Defense damaged or destroyed by Hurricane Hugo.

PART B—NAVAL VESSELS AND SHIPYARDS

Sec. 1611. Identification and handling of hazardous wastes in naval ship repair work.
Sec. 1612. Progress payments under naval vessel repair contracts.
Sec. 1613. Funding for ship production engineering.
Sec. 1614. Depot-level maintenance of ships homeported in Japan.
Sec. 1615. Report on alternatives to Navy oxygen breathing apparatus for shipboard firefighting.
Sec. 1616. Stripping of naval vessels to be used for experimental purposes.

PART C—TECHNICAL CORRECTIONS AND GENERAL TECHNICAL AND CLERICAL AMENDMENTS

Sec. 1621. Technical amendments to conform references to creation of Department of Veterans Affairs.
Sec. 1622. Miscellaneous technical and clerical amendments to title 10, United States Code.
Sec. 1623. Amendments to section 8125 of Public Law 101-463.

Sec. 1624. Report on recurring provisions of defense appropriations Act.

PART D—MISCELLANEOUS

Sec. 1631. Study of protection of United States civil aviation from terrorist activities overseas.
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TITLE XXXIV—CIVIL DEFENSE

Sec. 3401. Authorization of appropriations.

TITLE XXXV—PANAMA CANAL COMMISSION

Sec. 3501. Short title.
Sec. 3502. Authorization of expenditures.
Sec. 3503. Notification requirements.
Sec. 3504. General provisions.

SEC. 3. EXPIRATION OF AUTHORIZATIONS FOR FISCAL YEARS AFTER 1990

Authorizations of appropriations, and of personnel strength levels, in this Act for any fiscal year after fiscal year 1990 are effective only with respect to appropriations made during the first session of the One Hundred First Congress.

SEC. 4. CONGRESSIONAL DEFENSE COMMITTEES DEFINED

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

SEC. 5. OUTLAY LIMITATION FOR FISCAL YEAR 1990

(a) OUTLAY LIMIT.—(1) The net amount expended for national defense program, projects, and activities during fiscal year 1990 from covered defense appropriations may not exceed $289,732,000,000.

(2) For purposes of this section, covered defense appropriations are all funds appropriated pursuant to authorizations of appropriations contained in divisions A and B of this Act or appropriated pursuant to any prior authorization of appropriations (whether specific or indefinite) for Department of Defense—Military (budget function 051).

(b) OFFICIALS RESPONSIBLE FOR COMPLIANCE.—The Secretary of Defense and the Director of Central Intelligence shall take such steps as necessary to ensure compliance with the requirement in subsection (a).

(c) TRANSFERS TO BE CONSIDERED AS RESULTING FROM SIGNIFICANT POLICY CHANGES.—Any transfer of outlays from one fiscal year to an adjacent fiscal year that occurs pursuant to this section shall be considered a necessary (but secondary) result of a significant policy change as provided in section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (2 U.S.C. 909(a)).

(d) RATES OF OUTLAYS.—The Secretary of Defense, in ensuring (pursuant to subsection (b)) that the requirement in subsection (a) is complied with, shall nevertheless ensure that the rates of outlays for programs, projects, and activities for which funds are provided by covered defense appropriations which are designated or identified as congressional interest items are not reduced during fiscal year 1990 from the outlay rates that would otherwise apply with respect to those programs, projects, and activities.

(e) INAPPLICABILITY OF IMPOUNDMENT CONTROL ACT OF 1974.—The provisions of the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) shall not apply with respect to covered defense appropriations to the extent necessary to enable the Secretary of Defense to comply with subsection (a). The preceding sentence does not apply with respect to funds available for programs, projects, and activities which are designated or identified as congressional interest items.

(f) TIMING OF PAYMENTS TO BUSINESS CONCERNS.—Any payment required to be made by the Department of Defense to a business concern that, but for this subsection, would be required to be made during September 1990 may be made during the period beginning on October 1, 1990, and ending on the date that is 30 days after the date on which the payment would otherwise be required to be made. In determining the amount of any interest penalty under section 3902 of title 31, United States Code, for failure to make any such payment, any period for which the Secretary of Defense, under the preceding sentence, deferred the required payment date shall not be taken into account.

(g) IMPLEMENTATION REPORTS.—(1) The Secretary of Defense shall, on each of the dates specified in paragraph (2), submit to the congressional defense committees a report on the implementation of this section. Each such report shall include—

(A) an analysis of cumulative obligations and cumulative expenditures from accounts subject to the limitation in subsection (a) during the period beginning on October 1, 1989, and ending on the last day of the month preceding the month in which the report is to be submitted, including a comparison of such obligations and expenditures with the relevant estimates of outlays made by the Office of Management and Budget and the Congressional Budget Office; and

(B) a description of the specific actions taken by the Secretary to ensure that the Department of Defense meets the requirements of subsection (a).

(2) The reports required by paragraph (1) shall be submitted not later than the following dates in 1990: January 15, April 15, July 15, September 15, and October 15.

(h) EFFECTIVENESS CONTINGENT UPON ESTIMATED DEFENSE OUTLAYS FOR FISCAL YEAR 1990.—Subsections (a) through (g) shall be effective only if the estimated outlays for defense programs, projects, and activities during fiscal year 1990 from covered defense appropriations exceed $289,732,000,000. For the purpose of the preceding sentence, estimated outlays means an estimate of outlays prepared by the Director of the Office of Management and Budget upon adjournment of the first session of the One Hundred First Congress, using the technical assumptions underlying the congressional budget resolution for fiscal year 1990 (House Concurrent Resolution 106 of the 101st Congress, adopted on May 18, 1989).

(i) ANNUAL REPORT ON OUTLAYS AND BUDGET AUTHORITY REQUIRED.—(1) Not later than December 15, 1989, and not later than December 15 of each year thereafter, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall submit to the Speaker of the House of Representatives and the Committees on Armed Services, Appropriations, and the Budget of the Senate a joint report containing an agreed resolution of all differences between—

(A) the technical assumptions to be used by the Office of Management and Budget in preparing estimates with respect to all accounts in major functional category 050 (National Defense) for the budget to be submitted to Congress pursuant to section 1105 of title 31, United States Code, in the year following the year in which the report is submitted; and

(B) the technical assumptions to be used by the Congressional Budget Office in preparing estimates with respect to such accounts for such budget.

(2) In the event that the Director of the Office of Management and Budget and the Director of the Congressional Budget Office are unable to agree upon any technical assumption, the report shall reflect the average of the relevant outlay rates or assumptions used by the Office of Management and Budget and the Congressional Budget Office.

(3) The report with respect to a budget shall identify the following:

(A) The agreed first-year and outyear outlay rates for each account for the Department of Defense for each fiscal year covered by the proposed budget.

(B) The agreed amount of outlays estimated to occur from unexpended appropriations made for fiscal years prior to the fiscal year that begins after submission of the report.

(C) The estimated total outlays for funds requested for major functional category 050 (National Defense) for the fiscal years covered by the budget.

(j) SENSE OF CONGRESS REGARDING BUDGET RESOLUTIONS AND BUDGET SCOREKEEPING.—It is the sense of Congress that, in order to prevent a recurrence of a mismatch between budget authority and outlays for budget function 050 (National Defense), the technical assumptions contained in the report under subsection (i)(1) with respect to any budget should be used in the preparation of that budget, the preparation of the budget resolution, and in all scorekeeping in connection with budget function 050 (National Defense).

(k) SENSE OF CONGRESS REGARDING REQUIRED REDUCTIONS AND OTHER CHANGES IN NATIONAL DEFENSE OUTLAYS IN RELATION TO BUDGET AUTHORITY.—It is the sense of Congress that the outlay level specified for national defense for any fiscal year in the budget resolution for that fiscal year should not require a reduction (or other change) in outlays for national defense for that fiscal year below (or in relation to) the estimated outlays specified for national defense in the budget for such fiscal year (submitted to Congress pursuant to section 1105 of title 31, United States Code) by more than the amount by which such estimated outlays would be reduced (or otherwise changed) if the amount of budget authority provided for in each title of the President's request for budget authority for national defense (as contained in such budget) were reduced (or otherwise changed) by the uniform percentage necessary for the requested budget authority for national defense to be equal to the budget authority specified for national defense in that budget resolution.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for procurement of aircraft for the Army as follows:

(1) $3,120,500,000 for fiscal year 1990, of which $1,021,908,000 shall be available for modification of aircraft.

(2) $2,617,038,000 for fiscal year 1991.

(b) MISSILES.—Funds are hereby authorized to be appropriated for procurement of missiles for the Army as follows:

(1) $2,756,827,000 for fiscal year 1990, of which $107,337,000 shall be available for modification of missiles.

(2) $2,571,260,000 for fiscal year 1991.

(c) WEAPONS AND TRACKED COMBAT VEHICLES.—Funds are hereby authorized to be appropriated for procurement of weapons and tracked combat vehicles for the Army as follows:

(1) $2,717,500,000 for fiscal year 1990.

(2) $2,602,026,000 for fiscal year 1991.

(d) AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Army as follows:

(1) $1,887,047,000 for fiscal year 1990.

(2) $1,365,609,000 for fiscal year 1991.

(e) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for other procurement for the Army as follows:

(1) $3,068,771,000 for fiscal year 1990, of which—

(A) $446,282,000 is for tactical and support vehicles;

(B) $1,469,183,000 is for communications and electronics equipment; and

(C) $1,153,306,000 is for other support equipment.

(2) $3,146,340,000 for fiscal year 1991.

(f) INSTALLATION OF MODERNIZATION EQUIPMENT.—Of the amounts authorized to be appropriated in this section for fiscal year 1990, funds shall be available for procurement and installation of modernization equipment (in addition to the amounts for modifications specified in subsections (a)(1) and (b)(1)) as follows:

(1) Of funds appropriated for aircraft procurement for the Army, $89,900,000.

(2) Of funds appropriated for missile procurement for the Army, $38,300,000.

(3) Of funds appropriated for weapons and tracked combat vehicles, $143,400,000.

(4) Of funds appropriated for other procurement for the Army, $97,700,000.

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—(1) Funds are hereby authorized to be appropriated for procurement of aircraft for the Navy as follows:

(A) $9,500,222,000 for fiscal year 1990.

(B) $4,353,057,000 for fiscal year 1991.

(2) Of the amounts authorized to be appropriated pursuant to paragraph (1) for fiscal year 1990, funds shall be available for certain programs as follows:

(A) For the F-14D aircraft program, $1,529,664,000 of which—

(i) $1,175,336,000 shall be available for procurement of 18 new production F-14D aircraft and related new production closeout;

(ii) $272,000,000 shall be available for procurement of six remanufactured F-14D aircraft; and

(iii) $82,664,000 shall be available for advance procurement for remanufactured F-14D aircraft.

(B) For the CH/MH-53E aircraft program, $254,000,000 for 10 CH-53E aircraft and four MH-53E aircraft, subject to the limitation that any CH-53E aircraft procured with such funds shall be available only for the heavy-lift mission of the Marine Corps.

(C) For modification of aircraft, $600,757,000 shall be available for procurement of aircraft modifications.

(b) WEAPONS.—(1) Funds are hereby authorized to be appropriated for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

(A) $3,884,035,000 for fiscal year 1990.

(B) $1,987,294,000 for fiscal year 1991.

(2) Amounts authorized to be appropriated pursuant to paragraph (2) for fiscal year 1990 shall be available as follows:

(A) For ballistic missile programs, $1,518,165,000.

(B) For other missile programs, $2,798,552,000.

(C) For torpedo programs, $810,954,000 as follows:

For the MK-48 torpedo program, $438,900,000.

For the Sea Lance program, $1,799,000.

For the MK-50 torpedo program, $269,130,000.

For the ASW target program, $12,983,000.

For the ASROC program, $9,282,000.

For the modification of torpedoes and related equipment, $15,653,000.

For the torpedo support equipment program, $39,002,000.

For the antisubmarine warfare range support program, $24,205,000.

(D) For other weapons, $184,361,000, of which—

(i) $74,990,000 is for the MK-15 close-in weapon system; and

(ii) $63,771,000 is for the close-in weapon system modification program.

(E) For spares and repair parts, $94,441,000.

The sum of amounts authorized to be appropriated for for fiscal year 1990 for torpedo programs, other weapons, and spares and spare parts is reduced by $7,800,000.

(c) SHIPBUILDING AND CONVERSION.—(1) Funds are hereby authorized to be appropriated for shipbuilding and conversion for the Navy as follows:

(A) $10,958,400,000 for fiscal year 1990.

(B) $9,532,656,000 for fiscal year 1991.

(2) Amounts authorized to be appropriated pursuant to paragraph (1) shall be available as follows:

For the Trident submarine program, $1,137,800,000 for fiscal year 1990.

For the SSN-688 nuclear attack submarine program, $763,300,000 for fiscal year 1990.

For the SSN-21 nuclear attack submarine program, $816,800,000 for fiscal year 1990 and $3,329,000,000 for fiscal year 1991.

For the aircraft carrier service life extension program (SLEP), $651,200,000 for fiscal year 1990 and $76,600,000 for fiscal year 1991.

For the Enterprise refueling/modernization program, $1,422,100,000 for fiscal year 1990.

For the DDG-51 guided missile destroyer program, $3,533,700,000 for fiscal year 1990 and $3,604,700,000 for fiscal year 1991.

For the LHD-1 amphibious assault ship program, $35,000,000 for fiscal year 1990 and $959,900,000 for fiscal year 1991.

For the LSD-41 cargo variant program, $229,300,000 for fiscal year 1990 and $232,700,000 for fiscal year 1991.

For the MCM mine countermeasures program, $341,500,000 for fiscal year 1990.

For the MHC coastal minehunter program, $282,000,000 for fiscal year 1990 and $255,900,000 for fiscal year 1991.

For the AO (Jumbo) conversion program, $35,700,000 for fiscal year 1990.

For the TAGOS ocean surveillance ship program, $155,800,000 for fiscal year 1990.

For the AOE fast combat support ship program, $356,400,000 for fiscal year 1990 and $357,700,000 for fiscal year 1991.

For the oceanographic research ship program, $278,100,000 for fiscal year 1990 and $41,900,000 for fiscal year 1991.

For the moored training ship program, $220,000,000 for fiscal year 1990.

For service craft and landing craft, $56,400,000 for fiscal year 1990 and $88,600,000 for fiscal year 1991.

For the landing craft, air cushion (LCAC) program, $273,300,000 for fiscal year 1990 and $284,000,000 for fiscal year 1991.

For the Fast Sealift ship program, $20,000,000 for fiscal year 1990 and $240,000,000 for fiscal year 1991.

For outfitting and post delivery, $340,000,000 for fiscal year 1990.

For ship production engineering, $61,656,000 for fiscal year 1991.

For ship special support equipment, $10,000,000 for fiscal year 1990.

(d) OTHER PROCUREMENT, NAVY.—(1) Funds are hereby authorized to be appropriated for other procurement for the Navy as follows:

(A) $8,207,125,000 for fiscal year 1990.

(B) $5,144,805,000 for fiscal year 1991.

(2) Of the amounts authorized to be appropriated pursuant to paragraph (1) for fiscal year 1990, funds shall be available for certain programs as follows:

(A) For the ship support equipment program, $711,413,000.

(B) For the communications and electronics equipment program, $1,535,019,000.

(D) For aviation support equipment, $591,398,000.

(E) For the ordnance support equipment program, $1,079,346,000.

(F) For civil engineering support equipment, $113,592,000.

(G) For supply support equipment, $156,081,000.

(H) For personnel and command support equipment, $409,471,000.

(I) For spares and repair parts, $529,905,000.

The sum of amounts authorized to be appropriated for ship support equipment, communications and electronics equipment, ordnance support equipment, and spares and repair parts is reduced by $15,300,000.

(e) MARINE CORPS.—Funds are hereby authorized to be appropriated for procurement for the Marine Corps as follows:

(1) $1,215,600,000 for fiscal year 1990.

(2) $748,380,000 for fiscal year 1991.

(f) INSTALLATION OF MODERNIZATION EQUIPMENT.—Of the amounts authorized to be appropriated in this section for fiscal year 1990, funds shall be available for procurement and installation of modernization equipment (in addition to the amounts for modification specified in subsections (a)(2)(C) and (d)(2)(A)) as follows:

(1) Of funds appropriated for aircraft procurement for the Navy, $783,400,000.

(2) Of funds appropriated for weapons procurement for the Navy, $33,800,000.

(3) Of funds appropriated for other procurement for the Navy, $3,096,200,000.

(4) Of funds appropriated for procurement for the Marine Corps, $15,400,000.

SEC. 103. AIR FORCE

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for procurement of aircraft for the Air Force as follows:

(1) $16,329,857,000 for fiscal year 1990, of which $2,107,969,000 shall be available for modification of aircraft.

(2) $11,120,820,000 for fiscal year 1991.

(b) MISSILES.—Funds are hereby authorized to be appropriated for procurement of missiles for the Air Force as follows:

(1) $7,110,900,000 for fiscal year 1990, of which $115,647,000 shall be available for modification of missiles.

(2) $5,327,084,000 for fiscal year 1991.

(c) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for other procurement for the Air Force as follows:

(1) $8,538,454,000 for fiscal year 1990, of which—

(A) $410,921,000 is for munitions and associated support equipment;

(B) $224,268,000 is for vehicular equipment;

(C) $2,322,727,000 is for electronics and telecommunications equipment; and

(D) $5,580,538,000 is for other base maintenance and support equipment.

(2) $8,187,568,000 for fiscal year 1991.

(d) INSTALLATION OF MODERNIZATION EQUIPMENT.—Of the amounts authorized to be appropriated in this section for fiscal year 1990, funds shall be available for procurement and installation of modernization equipment (in addition to the amounts for modifications specified in subsections (a)(1) and (b)(1)) as follows:

(1) Of funds appropriated for aircraft procurement for the Air Force, $685,900,000.

(2) Of funds appropriated for missile procurement for the Air Force, $38,400,000.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for procurement for the Defense Agencies as follows:

(1) $1,332,251,000 for fiscal year 1990.

(2) $1,113,169,000 for fiscal year 1991.

SEC. 105. RESERVE COMPONENTS

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1990 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $209,000,000.

(2) For the Air National Guard, $350,500,000.

(3) For the Army Reserve, $75,000,000.

(4) For the Navy Reserve, $74,300,000.

(5) For the Air Force Reserve, $219,500,000.

(6) For the Marine Corps Reserve, $60,000,000.

(b) INSTALLATION OF MODERNIZATION EQUIPMENT.—Of the amounts authorized to be appropriated in subsection (a) for fiscal year 1990, funds shall be available for procurement and installation of modernization equipment as follows:

(1) Of funds appropriated for the Navy Reserve, $28,300,000.

(2) Of funds appropriated for the Air Force Reserve, $10,000,000.

(3) Of funds appropriated for the Air National Guard, $59,500,000.

SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747) as follows:

(1) $263,700,000 for fiscal year 1990.

(2) $317,700,000 for fiscal year 1991.

SEC. 107. MULTIYEAR AUTHORIZATIONS

(a) AUTHORIZED MULTIYEAR PROCUREMENTS.—The Secretary of the military department concerned may use funds appropriated for fiscal year 1990 to enter into multiyear procurement contracts in accordance with section 2306(h) of title 10, United States Code, for the following programs:

(1) ARMY.—For the Department of the Army:

(A) The M-1 Abrams tank program.

(B) The Bradley Fighting Vehicle program.

(C) The MH-47 helicopter program.

(D) The Family of Heavy Tactical Vehicles program.

(2) NAVY—For the Department of the Navy:

(A) The DDG-51 destroyer program.

(B) The SH-60 B/F helicopter program.

(C) The Mark 45 gun mount and Mark 6 ammunition hoist program.

(3) AIR FORCE.—For the Department of the Air Force:

(A) The KC-135 tanker aircraft program.

(B) The Combined Effects Munitions (CEM) program.

(C) The MH-60G helicopter program.

(D) The Maverick AGM65D missile program.

(b) DENIAL OF CERTAIN MULTIYEAR PROCUREMENTS.—The Secretary of the military department concerned may not use funds appropriated for fiscal year 1990 to enter into a multiyear procurement contract for any of the following programs:

(1) The E-2C aircraft program.

(2) The FA-18 aircraft program.

SEC. 108. CHANGES IN PRIOR MILESTONE AUTHORIZATIONS

(a) PROCUREMENT PROGRAMS.—(1) Subsection (a)(2) of section 106 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1034) is amended—

(A) by striking out "$976,200,000" in subparagraph (A) and inserting in lieu thereof "$984,719,000"; and

(B) by striking out "$360,000,000" in subparagraph (B) and inserting in lieu thereof "$68,596,000".

(2) Subsection (b)(2) of such section is amended—

(A) by striking out "$158,200,000" in subparagraph (A) and inserting in lieu thereof "$94,873,000"; and

(B) by striking out "$209,000,000" in subparagraph (B) and inserting in lieu thereof "$199,858,000".

(3) Subsection (c)(2) of such section is amended—

(A) by striking out "$2,215,000,000" in subparagraph (A) and inserting in lieu thereof "$1,514,638,000"; and

(B) by striking out "$2,090,500,000" in subparagraph (B) and inserting in lieu thereof "$1,535,225,000".

(4) Subsection (d)(2) of such section is amended—

(A) by striking out "$437,700,000" in subparagraph (A) and inserting in lieu thereof "$153,114,000"; and

(B) by striking out "$596,300,000" in subparagraph (B) and inserting in lieu thereof "$431,565,000".

(b) RDT&E PROGRAMS.—(1) Subsection (a)(2) of section 216 of such Act (101 Stat. 1051) is amended by striking out "$49,000,000" and inserting in lieu thereof "$44,661,000".

(2) Subsection (b)(2) of such section is amended—

(A) by striking out "$338,300,000" in subparagraph (A) and inserting in lieu thereof "$216,054,000"; and

(B) by striking out "$164,700,000" in subparagraph (B) and inserting in lieu thereof "$70,670,000".

(3) Subsection (c)(2) of such section is amended—

(A) by striking out "$23,700,000" in subparagraph (A) and inserting in lieu thereof "$22,475,000"; and

(B) by striking out "$24,000,000" in subparagraph (B) and inserting in lieu thereof "$14,603,000".

PART B—B-2 AIRCRAFT PROGRAM

SEC. 111. B-2 BOMBER PROGRAM FUNDING AND LIMITATIONS FOR FISCAL YEAR 1990

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 103(a) for procurement of aircraft for the Air Force for fiscal year 1990—

(1) not more than $1,663,974,000 may be obligated for procurement of B-2 aircraft;

(2) not more than $424,800,000 may be obligated for advance procurement of B-2 aircraft; and

(3) not more than $331,600,000 may be obligated for procurement of initial spares for B-2 aircraft.

(b) BLOCK 1 FLIGHT TESTING.—Funds appropriated for fiscal year 1990 for procurement of aircraft for the Air Force may not be obligated for the procurement of new production B-2 aircraft until—

(1) the planned Block 1 program of flight testing of the B-2 aircraft (consisting of approximately 75 flight test hours and 15 flights) is completed;

(2) the Director of Operational Test and Evaluation of the Department of Defense—

(A) reviews the Block 1 flight test data;

(B) evaluates the performance of the B-2 aircraft during such flight testing with respect to issues considered to be "Critical Operational Issues"; and

(C) submits to the Secretary of Defense a report containing (i) the results of such review and such evaluation (including the Director's findings and conclusions con-

cerning such test data), and (ii) an assessment known as an "Early Operational Assessment"; and

(3) the Secretary of Defense certifies to the congressional defense committees that no major aerodynamic problem or flightworthiness problem has been identified during the Block 1 flight testing of the B-2 aircraft.

(c) BLOCK 2 FLIGHT TESTING.—(1) Funds appropriated for fiscal year 1990 for procurement of aircraft for the Air Force may not be obligated for the procurement of B-2 aircraft until Block 2 flight testing (including testing of low-observables and flying qualities and performance testing in accordance with the Test and Evaluation Master Plan approved for the B-2 program) begins.

(2) Of the amounts made available for fiscal year 1990 for the procurement of B-2 aircraft, not more than 15 percent may be expended until—

(A) the panel of the Defense Science Board known as the Low-Observables Panel conducts an independent review of the test data resulting from early Block 2 flight testing and submits to the Secretary of Defense a report on the results of that review, together with the Panel's findings and conclusions, and a period of seven days elapses after the Secretary receives such report; and

(B) the Secretary of Defense, after receiving such report, certifies to the congressional defense committees that—

(i) the results of early Block 2 flight testing of that aircraft (including testing of low-observables and flying qualities and performance) are satisfactory; and

(ii) no significant technical or operational problems have been identified during early Block 2 flight testing.

(3) Not later than seven days after the date on which the Secretary receives the report under paragraph (2)(A), the Director of Operational Test and Evaluation shall submit to the Secretary the Director's evaluation of the results of the Block 2 flight testing to that date.

(d) APPLICATION OF LIMITATIONS AND REQUIREMENTS.—The limitations in subsections (b) and (c) apply only to the two new production B-2 aircraft for which funds are provided for fiscal year 1990.

SEC. 112. LIMITATION ON ANNUAL PRODUCTION OF B-2 BOMBER FOR FISCAL YEARS AFTER FISCAL YEAR 1990

(a) REQUIRED ANNUAL CERTIFICATION.—Funds appropriated to the Department of Defense for a fiscal year after fiscal year 1990 may not be obligated or expended for procurement for new production aircraft under the B-2 bomber program unless and until the Secretary of Defense submits to the congressional defense committees the certification referred to in subsection (b) with respect to that fiscal year.

(b) CERTIFICATION.—A certification referred to in subsection (a) for any fiscal year is a certification submitted by the Secretary of Defense to the congressional defense committees after the beginning of the fiscal year which is in writing and in unclassified form and in which the Secretary certifies each of the following:

(1) That the performance milestones for the B-2 aircraft for the previous fiscal year for both developmental test and evaluation and operational test and evaluation (as contained in the latest full performance matrix for the B-2 aircraft program established under section 232(a) of Public Law 100-456 and section 121 of Public Law 100-180) have been met.

(2) That the B-2 aircraft has a high probability of being able to perform its intended missions.

(3) That any proposed modification to the performance matrix referred to in paragraph (1) will be provided in writing in advance to the congressional defense committees.

(4) That the cost reduction initiatives established for the B-2 program can be achieved (such certification to be submitted together with details of the savings to be realized).

(5) That the quality assurance practices and fiscal management controls of the prime contractor and major subcontractors associated with the B-2 program meet or exceed accepted United States Government standards.

SEC. 113. ONGOING EVALUATION BY COMPTROLLER GENERAL OF B-2 TEST AND EVALUATION RESULTS

(a) EVALUATION.—The Comptroller General of the United States shall review all test reports and evaluation documents of the Department of Defense concerning the B-2 aircraft program.

(b) REPORTS.—The Comptroller General shall submit to Congress periodic reports setting forth the Comptroller General's findings resulting from the review under subsection (a). In addition to whatever other reports the Comptroller General submits under the preceding sentence, the Comptroller General shall submit a report under that sentence—

(1) not later than 30 days after the date on which the Secretary of Defense submits a certification under section 111(b)(3) with respect to Block 1 flight testing or a certification under section 111(c)(2)(B) with respect to Block 2 flight testing; and

(2) in any fiscal year, not later than 30 days after the date on which the Secretary of Defense submits a certification under section 112(a) with respect to that fiscal year.

(c) MATTERS TO BE INCLUDED IN REPORT.—Each report under subsection (b) shall include the Comptroller General's evaluation of—

(1) the rigor, realism, and adequacy of the developmental test and evaluation and the operational test and evaluation activities;

(2) whether such test and evaluation complies with the full performance matrix described in section 112(b)(1); and

(3) whether threat data as agreed upon within the United States intelligence community was fully used in the test and evaluation process.

(d) UNCLASSIFIED SUMMARY.—Each such report shall include an unclassified statement containing a summary of the findings of the Comptroller General with respect to each principal matter discussed in the report.

SEC. 114. REPORT ON COST, SCHEDULE, AND CAPABILITY

(a) REQUIRED REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the cost, schedule, and capability of the B-2 aircraft program. The report shall provide the following:

(1) An unclassified integrated program schedule for the B-2 aircraft program that includes—

(A) the total cost of the program shown by fiscal year, including costs (shown by fiscal year) for research and development, for procurement (including advance procurement, spares, and modifications), for military construction, for operation and maintenance, and for personnel (with all such costs to be expressed in both base year and then year dollars); and

(B) the proposed annual buy rate of B-2 aircraft.

(2) A detailed statement of the mission and requirements for the B-2 aircraft, including the current and projected capability (based on threat data as agreed upon within the United States intelligence community) of the B-2 aircraft to conduct missions against strategic relocatable targets and to conduct conventional warfare operations.

(3) A detailed assessment of the performance of the B-2 aircraft, together with a comparison of that performance with the performance of existing strategic penetrating bombers of the United States based on threat data as agreed upon within the United States intelligence community.

(4) A detailed assessment of the technical risks associated with the B-2 program, particularly those risks associated with the avionics systems and components of the aircraft.

(b) LIMITATION ON FUNDING UNTIL REPORT SUBMITTED.—Funds appropriated to the Department of Defense for fiscal year 1990 may not be obligated or expended for procurement for new production aircraft under the B-2 bomber program until the report required by subsection (a) is submitted to the congressional defense committees.

SEC. 115. ONGOING INDEPENDENT ASSESSMENT OF B-2 AIRCRAFT PROGRAM

(a) INDEPENDENT ASSESSMENT.—The Secretary of Defense shall provide for an ongoing independent assessment of the technological capabilities and performance of the B-2 aircraft. The Secretary shall appoint a panel of experts and shall use the resources of federally funded research and development centers (FFRDCs) to conduct the assessment. The Secretary shall provide the panel such resources as are necessary, including technical assistance by private contractors and the United States intelligence community, to assist the panel in conducting the assessment. Individuals appointed to the panel shall be independent of the Air Force and shall have no arrangements with the Air Force that would constitute a conflict of interest.

(b) REPORT.—The panel shall submit periodic reports of its findings to Congress. The first such report shall be submitted not later than April 1, 1990. Subsequent reports shall be submitted every six months thereafter until B-2 aircraft procurement is completed. Such reports shall be submitted in both classified and unclassified form. Each such report shall address the following matters:

(1) The capability of air defenses of the Soviet Union to defeat the B-2 aircraft during the designed service life of that aircraft, taking into consideration in particular—

(A) the low radar signature and anticipated performance of the aircraft;

(B) technological capabilities of the Soviet Union;

(C) developments by the Soviet Union of alternatives to defeat the B-2 aircraft; and

(D) the estimated cost to the Soviet Union to defeat the B-2 aircraft.

(2) The rationale for building the B-2 aircraft as a manned penetrating bomber, taking into consideration in particular—

(A) the missions of the aircraft;

(B) the capabilities of the aircraft to complete those missions; and

(C) the capability of the aircraft to search for, identify, and destroy strategic relocatable targets.

(3) The opportunity costs associated with the B-2 program as compared to other available or emerging technologies and oper-

ational concepts that could perform the missions of the B–2 aircraft at lesser costs.

(4) The planned service life of the B–2 aircraft and the potential for growth in that planned service life through the incorporation of preplanned product improvements and other modifications.

(5) The requirements for any follow-on aircraft or system that incorporates both low observable technology and high speed maneuverability.

(6) An assessment of the capability of the United States to defeat, identify, and destroy low observable vehicles, including manned aircraft and unmanned systems.

SEC. 116. SUBMISSION OF UNCLASSIFIED VERSION OF B–2 PERFORMANCE MATRIX

The Secretary of Defense shall submit to the congressional defense committees a report containing an unclassified version of the latest full performance matrix for the B–2 program established under section 121 of Public Law 100–180 and section 232 of Public Law 100–456. The report shall be submitted at the same time as the budget of the President for fiscal year 1991 is submitted to Congress pursuant to section 1105 of title 31, United States Code.

SEC. 117. REPORTS RELATING TO CORRECTION-OF-DEFICIENCIES CLAUSES IN B–2 AIRCRAFT PROCUREMENT CONTRACTS

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to the congressional defense committees two reports on the implementation of the contractor guarantee requirements of section 2403 of title 10, United States Code, with respect to the B–2 aircraft program. Each such report shall include the following:

(1) A copy of each so-called "correction of deficiency" clause in a contract with the prime contractor for the B–2 aircraft program in effect as of the date of the submission of the report.

(2) The plans of the Department of Defense for meeting the requirements of subsection (b) of section 2403 of title 10, United States Code, in future contracts for the procurement of B–2 aircraft, including a copy of any specific contract clause that has been agreed to by the Air Force and the contractor under that subsection.

(3) The manner in which inspection or acceptance by the Air Force will affect the relative liability of the Government and the contractor—

(A) under the contract clauses referred to in paragraphs (1) and (2), and

(B) under the plans referred to in paragraph (2) for compliance with the contractor guarantee requirements referred to in that paragraph.

(b) SUBMISSION OF REPORTS.——The first report required by subsection (a) shall be submitted not later than 30 days after the date of the enactment of this Act. The second report shall be submitted in conjunction with the certification under section 111(b)(3).

(c) PROTECTION OF PROPRIETARY INFORMATION.—The reports required by this section shall be submitted in classified and unclassified versions and shall clearly identify any material that contains proprietary information or other source selection information, the disclosure of which is restricted by law or regulation.

(d) MODIFICATION OF CORRECTION-OF-DEFICIENCY CLAUSES.—(1) The Secretary of the Air Force shall take appropriate steps to ensure—

(A) that the procurement of all B–2 aircraft authorized for fiscal years 1989 and 1990 is subject to a contractor guarantee pursuant to section 2403 of title 10, United States Code; and

(B) that the prime contractor for such aircraft is required to assume a substantially greater responsibility for the cost of corrective actions required under section 2403(b) of such title than under existing contracts for B–2 aircraft.

(2) Notwithstanding section 2403(g) of such title, the Secretary may not negotiate exclusions or limitations on the prime contractor's financial liability for the cost of corrective action for defects under section 2403(b) of such title for the B–2 aircraft referred to in paragraph (1) that would result in the total of such liability for such costs being less than the total of the contractor's target profit on the production of such aircraft unless the Secretary determines that the specific benefits of such exclusions or limitations substantially outweigh the potential costs.

(3) Whenever the Secretary makes a determination under paragraph (2), the Secretary shall notify the congressional defense committees of that determination and shall include in such notification the specific reasons for such determination and copies of any relevant exclusions or limitations.

(4) The Secretary shall describe in the reports required by subsection (a) the steps the Air Force has taken under this subsection.

(5) Nothing in this section shall be construed to require the renegotiation of any contract in effect on the date of the enactment of this Act.

SEC. 118. STUDY OF ALTERNATIVE B–2 AIRCRAFT FORCE STRUCTURES

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall conduct a comprehensive study of the force structure for the B–2 aircraft. Under the study, the Secretary shall compare—

(1) the current plan of the Department of Defense to produce 132 B–2 aircraft, with

(2) two alternative plans for production of B–2 aircraft, one of which would provide for procurement of three wings of B–2 aircraft with a total of 90 to 100 aircraft and the second of which would provide for procurement of two wings of B–2 aircraft with a total of 60 to 70 aircraft.

(b) MATTERS TO BE CONSIDERED.—In conducting the study under subsection (a), the Secretary of Defense shall determine the implications of adopting the alternative plans described in subsection (a)(2) with respect to each of the following:

(1) The cost of the B–2 aircraft program, including—

(A) annual program costs,

(B) total program costs,

(C) 20-year life cycle costs, and

(D) unit and flyaway costs.

(2) The effect on the military and arms control posture of the United States, including—

(A) strategic nuclear deterrent capabilities,

(B) long-range conventional strike capabilities, and

(C) on-going arms control negotiations and post-treaty force structures.

(c) REPORT.—The Secretary shall submit to the congressional defense committees a report in both classified and unclassified form containing the results of the study conducted under subsection (a). The report shall include such comments and recommendations as the Secretary considers appropriate and shall be submitted not later than March 31, 1990.

SEC. 119. SENSE OF CONGRESS ON PROCUREMENT OF B–2 AIRCRAFT

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has devoted substantial resources over the past several decades to the strategic bomber force, including substantial resources for—

(A) significant upgrades to B–52 aircraft;

(B) research, development, and procurement of B–1 aircraft; and

(C) research, development, and procurement of air-launched cruise missiles.

(2) The current estimate of the Department of Defense of a cost of $70,200,000,000 for acquisition of a force of 132 B–2 aircraft is predicated on several assumptions, including the achievement of cost-reduction initiatives, not all of which have been contracted for.

(3) The life-cycle costs for a force of 132 B–2 aircraft would be significantly higher than the acquisition cost estimate of $70,200,000,000.

(4) Funds have been approved for the production of 10 B–2 aircraft through fiscal year 1990, but Congress has not decided the total number of such aircraft that should be produced.

(5) If a substantial number of B–2 aircraft is not procured, additional funds could be made available for other important military programs.

(6) Fiscal year 1990 will constitute the fifth consecutive fiscal year for which the amount appropriated for national defense functions of the Government declined (after adjusting for inflation) from the preceding fiscal year.

(7) Expected limitations on future defense budgets make it essential that the Nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces, including the various elements of the Nation's strategic forces.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) it is not prudent or possible at this time to commit to a production rate for the B–2 aircraft higher than the rate under the low-rate initial production plan;

(2) the contingent authorization of funds in this Act for the low-rate initial production of two additional B–2 aircraft does not constitute a commitment to support the procurement of large numbers of B–2 aircraft, to provide funding in subsequent years for rate production of B–2 aircraft, or to approve a multiyear procurement of B–2 aircraft; and

(3) before a commitment is made to proceed with initial full-rate production of the B–2 aircraft, the President and Congress should carefully consider (based upon the assumption of a START regime that uses the Reykjavik counting rule for bombers, upon the assumption of a START regime that uses alternative rules for counting bombers, and upon the assumption of no START treaty) the desirability and feasibility of—

(A) structuring the strategic bomber force of the United States in such a manner that primary reliance would be placed upon bombers carrying cruise missiles rather than bombers having strictly a penetrating role; and

(B) pursuing options for the procurement of significantly fewer than 132 B–2 aircraft so that, if a decision is made in the future to procure an operational force of B–2 aircraft, the total acquisition and life-cycle cost of the B–2 aircraft program would be reduced.

PART C—OTHER STRATEGIC PROGRAMS

SEC. 121. LIMITATIONS ON B-1B ELECTRONIC COUNTERMEASURES RECOVERY PROGRAM

(a) GENERAL LIMITATION.—The Secretary of the Air Force may proceed with the recovery program for the B-1B aircraft electronic countermeasures (ECM) system only in accordance with this section.

(b) REQUIREMENT FOR TESTING PROGRAM.—(1) During fiscal years 1990 and 1991, the Secretary of Defense shall conduct a comprehensive program for the systematic testing of the B-1B avionics modifications.

(2) For purposes of this section, the term "B-1B avionics modifications" means the modifications proposed by the Air Force to the defensive avionics system of the B-1B aircraft consisting of (A) the "core configuration" modification to the ALQ-161 system, plus (B) the installation and integration of a radar warning receiver.

(3) Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a detailed plan for the conduct of the systematic testing program required by paragraph (1). The plan shall include the following:

(A) The planned test schedule for each of the various components of the defensive avionics system of the B-1B aircraft, to be tested both singly and in combination with other components of the defensive and offensive avionics systems for the aircraft.

(B) The objectives of each of the planned tests and the criteria that will be used to determine whether each such test is successful, partially successful, or unsuccessful.

(C) An explanation of how those scheduled tests can be used to estimate the capability of the B-1B aircraft to penetrate air defenses of the Soviet Union, including both single and multiple air defense threats.

(c) MODIFICATIONS TO B-1B AIRCRAFT.—(1) The Secretary of the Air Force may modify not more than six B-1B aircraft to incorporate the B-1B avionics modifications.

(2) The aircraft that are so modified using fiscal year 1990 funds shall be used to conduct the test program required by subsection (b). The test program shall be carried out in accordance with the plan submitted under subsection (b)(3).

(3) Except as provided in paragraph (4), no B-1B aircraft other than those modified pursuant to paragraph (1) may be modified to incorporate the B-1B avionics modifications until the test program required by subsection (b) is completed.

(4) The Secretary may modify the avionics systems of the first 19 B-1B production aircraft to bring those aircraft to the current avionics configuration of the balance of the B-1B fleet.

(d) BIMONTHLY STATUS REPORTS.—(1) The Secretary of Defense shall submit to the congressional defense committees a report every two months with respect to the test program under subsection (b). Each such report shall indicate whether the tests scheduled in the test plan to be carried out after the date of the submission of the preceding report under this subsection—

(A) have been carried out as scheduled and otherwise in accordance with the test plan; and

(B) whether, in the case of each such test, the test was successful, partially successful, or unsuccessful.

(2) The Secretary shall include in each such report an assessment of the capability of the B-1B aircraft to meet—

(A) performance objectives;

(B) technical and fiscal objectives; and

(C) significant test milestones.

(3) The first such bimonthly report shall be submitted February 1, 1990. The requirement for the submission of such reports shall cease to apply when the test program required by this section is completed.

(e) INDEPENDENT ASSESSMENT BY OUTSIDE PANEL.—(1) Following completion of the test program under subsection (b)(1), the Secretary of Defense shall provide for an independent assessment of the capabilities of the B-1B aircraft to penetrate air defenses of the Soviet Union. The Secretary shall appoint a panel of experts from the private sector to conduct the assessment and shall provide the panel with such resources as are necessary, including technical assistance by private contractors, to assist the panel in conducting the assessment. Individuals appointed to the panel shall be independent of the Air Force and shall have no arrangements with the Air Force that would constitute a conflict of interest.

(2) The panel—

(A) shall assess the air defense capabilities of the test aircraft referred to in subsection (c) after they have been modified with the B-1B avionics modifications; and

(B) on the basis of that assessment, shall determine what the air defense penetration capabilities of the entire fleet of such aircraft would be in all of its mission profiles if every aircraft in the fleet were so modified.

(3) The panel shall estimate the air defense penetration capabilities of the B-1B aircraft against the threats described—

(A) in the 1981 joint Office of the Secretary of Defense/Air Force Bomber Alternatives Study;

(B) in the 1986 Strategic Bomber Force Study; and

(C) in the most current threat baseline established by the intelligence community for estimated Soviet air defenses in the late 1990s.

(4) The Secretary of Defense shall ensure that individuals serving on the panel receive the full cooperation of all components of the Department of Defense in carrying out the functions of the panel under this section.

(5) The Secretary shall submit to the congressional defense committees the report of the panel not more than 180 days after the conclusion of the test program referred to in subsection (b).

(f) FUNDING OF B-1B AVIONICS MODIFICATIONS.—(1) Subject to the limitation in paragraph (2), the Secretary may use expired or lapsed funds—

(A) to carry out the B-1B avionics modifications and the testing program established in subsections (b) and (c); and

(B) upon completion of such testing program, to carry out the B-1B avionics modifications on the remainder of the unmodified B-1B aircraft.

(2) The amount of expired or lapsed funds used for any purpose related to development, procurement, modification, or repair of B-1B aircraft (including such amounts of expired or lapsed funds as have been applied to the B-1B program before the enactment of this Act) may not exceed $527,100,000.

(3) The use of expired or lapsed funds for the purposes described in paragraph (1) is subject to section 2782 of title 10, United States Code (as added by section 1603 of this Act).

(4) Funds for the B-1B recovery program for purposes other than those stated in paragraph (1), or for such purposes but in excess of the limitation under paragraph (3), may be provided only by law through the authorization and appropriation process.

(5) For purposes of this subsection, the term "expired or lapsed funds" means funds previously appropriated to the Air Force the availability of which for obligation has expired or lapsed.

(g) ACCESS BY GAO.—(1) The Secretary of Defense shall ensure that the General Accounting Office has full, direct, and timely access to the documentation relating to the recovery program (including test data and results).

(2) The Comptroller General of the United States shall actively monitor the recovery program and shall provide periodic reports to the congressional defense committees on the status and effectiveness of the program.

SEC. 122. ADVANCED CRUISE MISSILE PROGRAM

Funds appropriated or otherwise made available to the Air Force for fiscal year 1990 may not be obligated or expended for procurement of missiles under the Advanced Cruise Missile program until—

(1) there have been at least 10 successful developmental test flights of the Advanced Cruise Missile; and

(2) the Secretary of Defense certifies to the congressional defense committees that since June 1, 1989, a minimum of four flight tests of the Advanced Cruise Missile have been conducted and that, of those tests, the percentage which were successful is significantly greater than 50 percent.

SEC. 123. CAP ON NUMBER OF MX MISSILES THAT MAY BE DEPLOYED

The number of MX missiles deployed at any time may not exceed 50.

SEC. 124. REFERENCE TO LIMITATION ON OBLIGATION OF FUNDS FOR MX RAIL GARRISON PROGRAM

Limitations with respect to the obligation of funds for advance procurement of long-lead items and initial spare parts for the MX Rail Garrison program are set forth in section 231.

PART D—PROGRAM TERMINATIONS

SEC. 131. F-14 AIRCRAFT PROGRAM

(a) IN GENERAL.—(1) The Secretary of Defense shall terminate new production of F-14 aircraft in accordance with this section.

(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of F-14 aircraft.

(b) EXCEPTIONS.—(1) Subject to subsection (c), the prohibition in subsection (a)(2) does not apply to—

(A) the modification of, or the acquisition of spare or repair parts for, F-14 aircraft described in paragraph (2);

(B) completion of the new production aircraft described in paragraph (2)(B); and

(C) the obligation of not more than $1,175,336,000 from funds made available pursuant to section 102(a) for the procurement of not more than 18 new production F-14 aircraft and for payment of costs necessary to terminate the F-14 aircraft program.

(2) The F-14 aircraft referred to in paragraph (1)(A) are—

(A) F-14 aircraft acquired by the Navy on or before the date of enactment of this Act;

(B) F-14 new production aircraft for which funds, other than funds for the procurement of long lead items and other advance procurement, were obligated before the date of enactment of this Act and which are delivered to the Navy on or after that date; and

(C) eighteen F-14 new production aircraft for which funds are available pursuant to section 102(a).

(c) CONTRACT PROVISIONS.—(1) Funds appropriated or otherwise made available to the Department of Defense under this or any other Act may not be obligated for modification of, or the acquisition of spare or repair parts for, the F-14 aircraft until the Secretary of Defense certifies to the congressional defense committees that the Navy and the prime contractor have entered into a contract that includes a specific prohibition on the use of any funds made available under the contract for new production of any aircraft other than new production aircraft referred to in subparagraph (B) or (C) of subsection (b)(2).

(2) Funds referred to in paragraph (1) may not be obligated for F-14 new production aircraft until the Secretary of Defense certifies to the congressional defense committees that the Navy and the prime contractor have entered into a contract that includes the following provisions:

(A) A provision for the termination of the F-14 program and a provision providing that all termination activities be completed according to a schedule specified in the contract.

(B) A specific prohibition on the use of funds made available under the contract for new production of any aircraft other than new production aircraft referred to in subparagraphs (B) and (C) of subsection (b)(2).

(C) A provision providing that each aspect of the F-14 new production aircraft program be terminated as soon as the Navy determines that continuation of that aspect of the program is no longer necessary for—

(i) completion of new production aircraft referred to in subparagraphs (B) and (C) of subsection (b)(2); or

(ii) modification of, or production of spare or repair parts for, the F-14 aircraft.

(D) A provision providing that the termination schedule specifically require the prime contractor to disassemble, transfer to the United States, or otherwise dispose of all special tooling, test equipment, and technical data of the prime contractor and subcontractors relating to the F-14 aircraft, except for such items as are determined by the Navy to be necessary for the modification or operation and maintenance of F-14 aircraft referred to in subsection (b).

(E) A provision providing that all termination activities are to be completed not later than the date of delivery to the Navy of the last new production aircraft referred to in subsection (b)(1)(C).

SEC. 132. AH-64 HELICOPTER PROGRAM

(a) IN GENERAL.—(1) The Secretary of Defense shall terminate new production of AH-64 aircraft in accordance with this section.

(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of AH-64 aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a)(2) does not apply to—

(A) the modification of, or the acquisition of spare or repair parts for, AH-64 aircraft described in paragraph (2);

(B) completion of the new production aircraft described in paragraph (2)(B); and

(C) the obligation of not more than $1,487,527,000 from funds made available for fiscal years 1990 and 1991 for not more than 132 new production AH-64 aircraft and for payment of costs necessary to terminate the AH-64 aircraft program.

(2) The AH-64 aircraft referred to in paragraph (1)(A) are—

(A) AH-64 aircraft acquired by the Army on or before the date of enactment of this Act;

(B) AH-64 new production aircraft for which funds, other than funds for the procurement of long lead items and other advance procurement, were obligated before the date of enactment of this Act and which are delivered to the Army on or after that date; and

(C) 132 new production AH-64 aircraft for which funds are available in accordance with subsection (b)(1)(C).

SEC. 133. AHIP SCOUT AIRCRAFT PROGRAM

(a) IN GENERAL.—(1) The Secretary of Defense shall terminate the AHIP Scout aircraft program in accordance with this section.

(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of AHIP Scout aircraft (OH-58 aircraft modified into the configuration specified in the Army Helicopter Improvement Program described in the Selected Acquisition Report, dated December 31, 1988, relating to the OH-58 helicopter).

(b) EXCEPTIONS.—(1) Subject to subsection (c), the prohibition in subsection (a)(2) does not apply to—

(A) the modification of, or the acquisition of spare or repair parts for, AHIP Scout aircraft described in paragraph (2);

(B) completion of the installation of AHIP modification kits in the AHIP Scout aircraft described in paragraph (2)(B); and

(C) the obligation of not more than $195,000,000 from funds made available pursuant to section 101(a) for the procurement and installation of AHIP modification kits in not more than 36 AHIP Scout aircraft and for payment of costs necessary to terminate the AHIP Scout aircraft program.

(2) The AHIP Scout aircraft referred to in paragraph (1)(A) are—

(A) AHIP Scout aircraft acquired by the Army on or before the date of enactment of this Act;

(B) AHIP Scout aircraft for which funds, other than funds for the procurement of long lead items and other advance procurement, were obligated before the date of enactment of this Act and which are delivered to the Army on or after that date; and

(C) 36 AHIP Scout aircraft for which funds are available in accordance with subsection (b)(1)(C).

SEC. 134. F-15E AIRCRAFT PROGRAM

(a) IN GENERAL.—(1) The Secretary of Defense shall terminate new production of F-15E aircraft in accordance with this section.

(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of F-15E aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, F-15E aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the F-15E aircraft program.

(2) the F-15E aircraft referred to in paragraph (1)(A) are F-15E aircraft—

(A) that are acquired by the Air Force before October 1, 1991; or

(B) for which funds have been obligated for procurement before October 1, 1991, other than for the procurement of long lead items and other advance procurement.

SEC. 135. M88A2 RECOVERY VEHICLE PROGRAM

(a) IN GENERAL.—(1) The Secretary of Defense shall terminate new production of M88A2 recovery vehicles in accordance with this section.

(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of M88A2 recovery vehicles.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, M88A2 recovery vehicles described in paragraph (2); or

(B) the payment of costs necessary to terminate the M88A2 recovery vehicle program.

(2) the M88A2 recovery vehicles referred to in paragraph (1)(A) are M88A2 recovery vehicles—

(A) that were acquired by the Army before the date of enactment of this Act; or

(B) for which funds have been obligated for procurement before the date of the enactment of this Act, other than for the procurement of long lead items and other advance procurement.

SEC. 136. RECONNAISSANCE AIRCRAFT PROGRAMS

The Secretary of Defense shall terminate the SR-71 reconnaissance aircraft program and the classified airborne reconnaissance program as discussed in the classified annex to the joint statement of managers to accompany the conference report on H.R. 2461 of the One Hundred First Congress.

SEC. 137. STATUTORY CONSTRUCTION

A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding any provision of any of sections 131 through 136 unless that provision specifically refers to such section and specifically states that such provision of law modifies or supersedes such section.

PART E—ARMY PROGRAMS

SEC. 141. M-1 TANK PROGRAM

(a) DETROIT ARMY TANK PLANT.—None of the funds appropriated for the Army for fiscal year 1990 may be obligated to begin the inactivation or deactivation of the Detroit Army Tank Plant.

(b) BLOCK II MODIFICATION PROGRAM.—Funds appropriated for the Army for fiscal year 1990 may not be obligated for long-lead items and nonrecurring costs for the Block II modification program for the M-1 tank until the Secretary of the Army submits to the Committees on Armed Services of the Senate and House of Representatives a report with respect to the program as described in subsection (c).

(c) REPORT ON BLOCK II PROGRAM.—A report under subsection (b) shall—

(1) identify the total funding requirements for the Block II program;

(2) assess the proposed modifications under the program in terms of the results of the live-fire testing;

(3) describe operational implications of the weight increase for the M-1 tank under the proposed modifications;

(4) identify decisions in the program that have an effect on the next generation tank; and

(5) evaluate the overall cost effectiveness of the Block II modification program.

SEC. 142. RESTRICTION ON FISCAL YEAR 1989 FUNDS FOR REFUELERS/TANKERS

Of the funds appropriated or otherwise made available to the Army for fiscal year 1989, not more than $29,000,000 may be available for purposes of procuring and in-

stalling 480 tanker/refueler kits on pallets for use by heavy trucks configured with the palletized loading system.

SEC. 143. ARMY RECOVERY VEHICLE PROGRAM

(a) TESTING.—The Secretary of the Army—

(1) shall complete the technical and operational testing of the Army Improved Recovery Vehicle; and

(2) shall study all potential modifications to the existing chassis for the M-88 vehicle to perform the mission for the Improved Recovery Vehicle.

(b) CONDITIONS ON PRODUCTION DECISION.—The Secretary of the Army may not make a decision to enter into production during fiscal year 1990 or 1991 for a recovery vehicle for the Army until each of the following occurs:

(1) Operational testing of the vehicle to be produced is completed.

(2) The Director of Operational Test and Evaluation certifies to the Secretary of the Army that the vehicle meets performance requirements of the Army.

(3) The Secretary of the Army completes—

(A) an analysis of the cost-effectiveness of the vehicle that supports the proposed production decision; and

(B) an analysis of the cost-effectiveness of a service life extension program for the existing recovery vehicle.

SEC. 144. REPEAL OF PROCUREMENT REQUIREMENT AND LIMITATION OF FUNDS FOR THE HEAVY EXPANDED MOBILITY TACTICAL TRUCK

Section 129 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1045) is repealed.

SEC. 145. LIMITATION ON MODIFICATIONS OF CERTAIN SPECIAL OPERATIONS FORCES AIRCRAFT

(a) LIMITATION.—Funds appropriated for fiscal year 1990 for procurement of aircraft for the Army may not be obligated or expended for modifications for MH-60K and MH-47 helicopters until the Secretary of the Army certifies in writing to the congressional defense committees that the cost of any modification, correction of deficiencies, or retrofit that is required for such aircraft to meet established contract specifications and overall system performance requirements will not be borne by the Government.

(b) WAIVER.—(1) If the Secretary is unable to make the certification described in subsection (a), the Secretary shall submit to the congressional defense committees a report on the nature and extent of any prospective Government risk with respect to the costs of modifications, corrections, and deficiencies referred to in that subsection. In the report, the Secretary—

(A) shall set forth the type and degree of risk with respect to the affected major subsystem of each of the two aircraft; and

(B) shall specify the contractual agreements for any such areas of risk by affected major subsystem for each aircraft.

(2) Upon the receipt of a report under paragraph (1), the limitation in subsection (a) shall cease to apply.

SEC. 146. LIMITATION ON ACCEPTANCE OF DELIVERY OF STINGER MISSILES

The Secretary of the Army may not accept delivery of Stinger missiles that do not conform to all existing performance requirements unless the Secretary certifies in writing to the congressional defense committees that the contractor is contractually responsible to modify or retrofit delivered missiles in order to meet all performance specifications existing as of the time of delivery at no cost to the Government.

SEC. 147. M109 HOWITZER IMPROVEMENT PROGRAM

The Secretary of the Army may not obligate fiscal year 1990 funds for the M109 Howitzer Improvement Program until—

(1) the Secretary certifies to the congressional defense committees that the Army Acquisition Executive has approved the baseline acquisition program for the Howitzer Improvement Program that is consistent with the current five-year defense program;

(2) the Secretary submits that baseline report to Congress; and

(3) the Secretary submits to the committees a report on a design for a follow-on operational test of the howitzer and the degree to which the operational and organizational concept for the howitzer will be validated by that test.

SEC. 148. EQUAL EMPLOYMENT OPPORTUNITIES RELATING TO AN ARMY CONTRACT

Funds appropriated for procurement of aircraft for the Army for fiscal year 1990 may not be obligated for the procurement of C-23 Sherpa aircraft unless the Secretary of the Army secures a commitment from the contractor that it will support equal employment opportunities in its employment practices for all individuals irrespective of race, color, religion, sex, or national origin.

PART F—NAVY PROGRAMS

SEC. 151. LIMITATION ON PROCUREMENT OF V-22 OSPREY AIRCRAFT

(a) PROHIBITION.—None of the funds appropriated for fiscal year 1990 or otherwise made available to the Department of Defense for fiscal year 1990 pursuant to this Act or any Act enacted after this Act may be obligated for procurement of V-22 aircraft.

(b) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding any provision of this section unless that provision specifically refers to such section and specifically states that such provision of law modifies or supersedes such section.

SEC. 152. PRESERVATION OF DUAL-SOURCE PRODUCTION BASE FOR STANDARD MISSILE II

The Secretary of the Navy shall carry out the fiscal year 1990 acquisition for the Standard Missile II so as to preserve the existing dual-source production base for that missile.

SEC. 153. ANNUAL REPORT ON NAVY AIRCRAFT REQUIREMENTS

(a) ANNUAL REPORT REQUIREMENT.—(1) Chapter 635 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7345. Navy aircraft requirements: annual report

"(a) Not later than September 1 of each year, the Secretary of the Navy shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report addressing the current and projected aircraft requirements of the Navy and the plans of the Navy for aircraft acquisition and modernization.

"(b) Each such report shall cover at least the next 10 years and shall specify the following:

"(1) The number of aircraft, by type, required to fully equip the current and projected force structure of the Navy and the Marine Corps.

"(2) The current and projected inventory of each type of aircraft.

"(3) The current average age of (A) all Navy and Marine Corps aircraft, (B) all Navy and Marine Corps combat aircraft, and (C) all carrier-based combat aircraft.

"(4) A list of planned and programmed aircraft acquisition programs and major aircraft modernization programs, specifying (A) the approximate numbers of aircraft involved in each program, (B) the estimated fiscal year in which each program will begin and end, and (C) the estimated total cost for each program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7345. Navy aircraft requirements: annual report.".

(b) INITIAL REPORT.—Not later than February 1, 1990, the Secretary of the Navy shall submit to the congressional defense committees a report containing the information specified in section 7345 of title 10, United States Code, as added by subsection (a).

SEC. 154. FAST SEALIFT SHIP PROGRAM

(a) PROGRAM.—The Secretary of Defense is authorized to establish a fast sealift ship program.

(b) REPORT.—The Secretary of the Navy may not obligate funds for procurement of ships for the fast sealift ship program until 30 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the design characteristics for those ships. The report shall describe in detail the multimission capability of the ships and shall specify the operational concept for the use of those ships in contingencies requiring sealift and in routine fleet operations.

SEC. 155. TRANSFER OF A-6 AIRCRAFT TO THE NAVY

The Secretary of the Navy shall transfer all Marine Corps A-6 Intruder aircraft from the Marine Corps to the Navy not later than September 30, 1994.

SEC. 156. REPORT REGARDING TRIDENT SUBMARINE CONSTRUCTION RATE

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a written report, in both a classified and unclassified version, evaluating the practicality and desirability of reducing the rate at which Trident submarines are procured.

(b) PREPARATION AND CONTENT.—In preparing the report required by subsection (a), the Secretary shall consider alternative construction rates for the Trident submarine, each of which shall provide for a construction rate slower than one ship per year. The Secretary shall include in the report with respect to each such alternative rate—

(1) an evaluation of the effect of the alternative rate on—

(A) the availability and capability of the Trident submarine to perform the mission assigned to it; and

(B) the level and stability of the work force in the naval shipbuilding industry; and

(2) a discussion of the practicality and desirability of accelerating the procurement of other vessels for the Navy with funds saved by using the alternative rate.

(c) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted concurrently with the submission of the budget for fiscal year 1991 to Congress pursuant to section 1105 of title 31, United States Code.

PART G—NONSTRATEGIC AIR FORCE PROGRAMS

SEC. 161. MC-130H (COMBAT TALON) AIRCRAFT PROGRAM

(a) REQUIRED CERTIFICATION.—Funds appropriated pursuant to this Act may not be obligated for the payment of an award fee and the procurement of contractor-furnished equipment for the MC-130H Combat

Talon aircraft until the Director of Operational Test and Evaluation determines (and certifies under subsection (c)) that the results of qualification test and evaluation and of qualification operational test and evaluation demonstrate that such aircraft is capable of performing terrain following/terrain avoidance flight profiles as prescribed in the approved test and evaluation master plan for the Combat Talon II program dated September 1988.

(b) LIMITATION ON PRODUCTION OPTION FOR AVIONICS INTEGRATION.—If the certification under subsection (a) is made after April 30, 1990, the Secretary of the Air Force may not incur any costs to the Government when the Secretary executes the production option for avionics integration for the MC-130H program for fiscal year 1990 in excess of the costs that the Secretary would have incurred for such purpose in April 1990.

(c) SUBMISSION OF CERTIFICATION.—A certification under subsection (a) shall be submitted in writing to the congressional defense committees.

SEC. 162. AC-130U GUNSHIP PROGRAM

No funds may be obligated after the date of the enactment of this Act for procurement of AC-130U Gunship aircraft until the Secretary of the Air Force certifies in writing to the congressional defense committees that the cost of any modification, correction of deficiencies, or retrofit that is required to address and to meet established contract specifications and performance requirements for AC-130U Gunship aircraft procured using funds appropriated for the Department of Defense for fiscal year 1988 or fiscal year 1989 will be borne by the prime contractor or an appropriate subcontractor.

SEC. 163. AMRAAM MISSILE PROGRAM

(a) LIMITATION ON FUNDING.—No funds may be obligated to undertake full-rate production of the Advanced Medium-Range Air-to-Air (AMRAAM) missile until the Director of Operational Test and Evaluation (pursuant to section 138 of title 10, United States Code) certifies to the congressional defense committees that—

(1) all required testing for making the decision to proceed to full-rate production (as prescribed pursuant to the June 16, 1987 Department of Defense-approved AMRAAM Test and Evaluation Master Plan) has been conducted; and

(2) the results of that testing demonstrate that (A) the AMRAAM missile has met all established performance requirements, and (B) stable missile production design and configuration (including its software) have been established.

(b) FULL-RATE PRODUCTION DEFINED.—For purposes of subsection (a), full-rate production of the AMRAAM missile is production of that missile at a rate that exceeds 900 production-configured missiles per year.

(c) PRESERVATION OF PRODUCTION CAPABILITY OF OTHER MISSILES.—During the period beginning on the date of the enactment of this Act and ending on the date on which the certification required by subsection (a) is made, the Secretary of Defense shall ensure that production capability for the AIM-7F/M Sparrow and the AIM-9L/M Sidewinder missiles is maintained.

SEC. 164. OVER-THE-HORIZON BACKSCATTER RADAR

(a) REQUIREMENTS.—None of the funds appropriated or otherwise made available to the Air Force for fiscal year 1990 may be obligated for acquisition of land for the Central System of the Over-the-Horizon Backscatter (OTH-B) radar program.

(b) ALASKAN SYSTEM.—(1) With respect to acquisition of that portion of the OTH-B radar program known as the Alaskan System, the Secretary of the Air Force—

(A) shall enter into a type of contract known as a "fixed-price incentive (firm target) contract" or a "fixed-price incentive (successive target) contract" (or a similar type of contract that encourages maximum cost reduction) for the first sector of the system with funds appropriated for fiscal years 1989 and 1990; and

(B) shall include in that contract a priced option for the second sector of such system.

(2) The total value of the ceiling price of that contract for the first and second sectors of that system may not exceed $530,000,000.

(3) The contract entered into pursuant to paragraph (1) shall provide for all of the prime-mission equipment, software, construction, site activation activities, and required system capabilities for that system.

(c) REPORT BY THE SECRETARY OF DEFENSE.—No funds may be obligated for the Alaskan System referred to in subsection (b) until the Secretary of Defense submits to the congressional defense committees a report on the results of development test and evaluation of the East Coast System, including the results of integrated three-sector tests.

(d) REPORT BY DIRECTOR OF OT&E.—The Director of Operational Test and Evaluation of the Department of Defense shall submit to the congressional defense committees a report certifying whether the test results of the integrated initial operational evaluation conducted with the three East Coast System sectors of the OTH-B radar system demonstrate that the East Coast System sectors meet all contract requirements and performance specifications relevant to operational test and evaluation, including any specifications for the system relating to small target detection capability. The report shall be submitted not later than September 1, 1990.

SEC. 165. MILSTAR PROGRAM

(a) INFORMATION TO BE SUBMITTED TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees the following with respect to the Military Satellite and Terminal Relay (MILSTAR) system:

(1) A Selected Acquisition Report on the total program.

(2) A comprehensive master plan for the MILSTAR program setting forth—

(A) the MILSTAR program requirements;

(B) the Department of Defense acquisition strategy for the program; and

(C) Department of Defense plans relating to program execution, program schedule, program management, and program architecture.

(3) An analysis of the feasibility of establishing a cost sharing plan among all potential users of the MILSTAR system.

(b) LIMITATION ON PROCEEDING WITH PROGRAM.—(1) Funds appropriated or otherwise available to the Department of Defense may not be obligated for the MILSTAR program after April 1, 1990, unless the Secretary of Defense certifies to the congressional defense committees that the Department of Defense has complied with all conditions for the MILSTAR program specified in the classified annex to the joint statement of managers accompanying the conference report on the bill H.R. 2461 of the Hundred First Congress.

(2) Until the congressional defense committees receive all of the matters referred to in subsection (a), the Secretary of Defense may not obligate more than 75 percent of the funds appropriated pursuant to this Act for the MILSTAR program (other than for satellite communications ship terminals, satellite communications shore terminals, and extremely high frequency satellite communications).

SEC. 166. F-16 AIRCRAFT PROGRAM

None of the funds appropriated pursuant to this Act may be obligated or expended for F-16 aircraft until the Secretary of Defense submits a report to the congressional defense commitees in which he certifies—

(1) that the Director of Operational Test and Evaluation has—

(A) approved a test plan that evaluates all feasible alternatives for future air-land fire support for ground combat forces; and

(B) has approved a test plan that evaluates the upgrade programs proposed for the F-16 aircraft and the A-10 aircraft for close air support, to include night time operations; and

(2) that any fixed wing aircraft operated after July 1, 1990, at the National Training Center at Fort Irwin, California, will be fully integrated into the range instrumentation system to the same extent as attack helicopters.

PART H—CHEMICAL MUNITIONS

SEC. 171. RESTRICTION ON OBLIGATION OF FUNDS FOR PROCUREMENT OF BINARY CHEMICAL MUNITIONS

(a) 155-MILLIMETER BINARY CHEMICAL MUNITIONS.—None of the funds appropriated or otherwise made available for fiscal year 1990 for procurement of ammunition for the Army may be used for production of 155-millimeter binary chemical munition M687 projectiles until—

(1) the Secretary of the Army submits to the congressional defense committees a certification described in subsection (b); and

(2) a period of two weeks elapses after the date on which such certification is received.

(b) REQUIRED CERTIFICATION.—A certification by the Secretary of the Army under subsection (a) must state—

(1) that, based on deliveries of M20 plastic, M20 steel, and M21 components of the M687 projectile accepted by the Government from the incumbent contractor—

(A) the incumbent contractor has demonstrated monthly delivery rates of those components sufficient to eliminate before October 1, 1990, the production backlog of all those components for the M687 rounds authorized for production for fiscal years 1986, 1987, and 1988;

(B) the components and rounds for which delivery has been accepted conform to the contract specifications at the time that the Government entered into the contract; and

(C) the incumbent contractor has sustained those monthly delivery rates for such components for a period of not less than three consecutive months; and

(2) that the new production lines at Pine Bluff Arsenal, Arkansas, for the production of chemicals for the M687 projectile have been proven out and the Secretary of the Army has formally accepted the facility housing those production lines.

(c) MONTHLY GAO REPORTS.—Not later than February 1, 1990, and not later than the first day of each month thereafter, the Comptroller General of the United States shall submit to the congressional defense committees a report on the previous month's production rate for the M20 plastic, M20 steel, and M21 components of the M687 projectile and on the status of the production backlog for fiscal years 1986, 1987, and 1988 for those components. The Comptroller General shall continue submitting such reports

until he certifies to those committees either that the production backlog for those components has been eliminated or that production of the components has been terminated.

(d) FINAL GAO CERTIFICATION.—Not later than two weeks after a certification is submitted under subsection (a), the Comptroller General of the United States shall submit to the congressional defense committees a report containing the Comptroller General's assessment of whether the monthly delivery rates referred to in subsection (b)(1) demonstrate that there are reasonable grounds to believe that the incumbent contractor will continue to deliver at those monthly rates in order to eliminate the backlog of deliveries by October 1, 1990.

(e) EXCEPTION FOR CERTAIN LONG-LEAD MATERIALS.—The limitation in subsection (a) shall not apply with respect to the obligation of funds (not in excess of $2,000,000) for long-term lead materials to support procurement of plastics for cannister production for the M687 projectile.

SEC. 172. CHEMICAL MUNITIONS EUROPEAN RETROGRADE PROGRAM

(a) LIMITATIONS ON RETROGRADE PROGRAM.—The Secretary of Defense may not obligate any funds appropriated for fiscal year 1990 for the purpose of carrying out the chemical munitions European retrograde program involving the withdrawal from Europe of chemical munitions until each of the following occurs:

(1) The Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a certification—

(A) that an adequate United States binary chemical munitions stockpile will exist before any withdrawal of the existing stockpile from its present location in Europe is carried out; and

(B) that the plan for such retrograde program is based on—

(i) minimum technical risk;

(ii) minimum operational risk; and

(iii) maximum safety to the public.

(2) The Secretary submits to those committees a revised concept plan for such retrograde program that includes a description of—

(A) the full budgetary effect of the retrograde program; and

(B) the potential effect of the retrograde program on the chemical demilitarization program.

(b) LIMITATION ON TRANSFER OF FUNDS.—The Secretary of Defense may not transfer any funds from the chemical demilitarization emergency response program for the retrograde program referred to in subsection (a).

SEC. 173. CHEMICAL DEMILITARIZATION CRYOFRACTURE PROGRAM

(a) PROGRAM.—The Secretary of Defense, to the extent funds are available for the purpose, shall proceed as expeditiously as possible with the project to develop an operational cryofracture facility at the Tooele Army Depot, Utah.

(b) USE OF FISCAL YEAR 1989 FUNDS.—Of the amount authorized and appropriated for fiscal year 1989 for the chemical demilitarization program, $16,300,000 shall be obligated immediately for continued research and development testing of the cryofracture program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

(a) FISCAL YEAR 1990.—Funds are hereby authorized to be appropriated for fiscal year 1990 for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army, $5,666,210,000.

(2) For the Navy, $9,901,897,000.

(3) For the Air Force, $13,938,679,000.

(4) For the Defense Agencies, $8,436,986,000, of which—

(A) $211,200,000 is authorized for the activities of the Deputy Director, Defense Research and Engineering (Test and Evaluation); and

(B) $67,085,000 is authorized for the Director of Operational Test and Evaluation.

(b) FISCAL YEAR 1991.—Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army, $5,791,042,000.

(2) For the Navy, $8,414,683,000.

(3) For the Air Force, $11,305,240,000.

(4) For the Defense Agencies, $4,264,161,000, of which—

(A) $150,734,000 is authorized for the activities of the Deputy Director, Defense Research and Engineering (Test and Evaluation); and

(B) $25,834,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNTS FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT FOR FISCAL YEARS 1990 AND 1991

(a) FISCAL YEAR 1990.—Of the amounts appropriated pursuant to section 201 for fiscal year 1990, $3,510,196,000 shall be available for basic research and exploratory development projects.

(b) FISCAL YEAR 1991.—Of the amounts appropriated pursuant to section 201 for fiscal year 1991, $3,770,000,000, shall be available for basic research and exploratory development projects.

(c) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. AMOUNTS FOR IMPROVED INFANTRY EQUIPMENT

Of the amounts appropriated pursuant to section 201 for fiscal year 1990, amounts shall be available to increase the effectiveness of small infantry units through the development of improved weapons and equipment as follows:

For the Army, $18,000,000.

For the Marine Corps, $12,000,000.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 211. BALANCED TECHNOLOGY INITIATIVE

(a) AMOUNTS AUTHORIZED.—Of the amounts authorized to be appropriated pursuant to section 201 for fiscal year 1990, $238,082,000 shall be available for research and development under the Balanced Technology Initiative program.

(b) DETERMINATION OF SOURCE OF FUNDS.—The Secretary of Defense shall determine the amount of funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 for fiscal year 1990 that are to be allocated for the Balanced Technology Initiative.

(c) PROHIBITION REGARDING UNDISTRIBUTED REDUCTIONS.—No portion of any undistributed reduction (under this Act or any other Act) may be applied against the funds specified in subsection (a) or against any funds made available for the Balanced Technology Initiative for fiscal year 1990 that are in addition to the amount specified in subsection (a).

(d) PROHIBITION ON USE OF FUNDS FOR SDI.—None of the funds made available for the Balanced Technology Initiative by subsection (a) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(e) ANNUAL REPORT.—Not later than March 15 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the Balanced Technology Initiative and related matters. Each such report shall include the following:

(1) A current assessment of the extent to which advanced technologies can be used to exploit potential vulnerabilities of hostile threats to the national security of the United States.

(2) Identification of each program, project, and activity being pursued under the Balanced Technology Initiative and, with respect to each such program, project, and activity, the amount made available pursuant to this section and the source of such amount.

(3) For each program, project, and activity for which funds are made available pursuant to this section, a five-year funding plan that (A) provides for the allocation of sufficient resources to maintain adequate progress in research and development under such program, project, or activity, and (B) specifies the major programmatic and technical milestones and the schedule for achieving those milestones.

(4) The status of each program, project, and activity being pursued under the Balanced Technology Initiative.

(5) Identification of other on-going or potential research and development programs, projects, and activities not currently provided for under this section that should be considered for inclusion under the Balanced Technology Initiative in order to improve conventional defense capabilities.

(6) Identification of the most critical technologies for the successful development of existing or potential Balanced Technology Initiative programs, projects, and activities and an assessment of the current status of those technologies.

SEC. 212. INTEGRATED ELECTRIC DRIVE PROGRAM

(a) INTEGRATED ELECTRIC DRIVE PROGRAM.—The Secretary of the Navy is authorized to establish an Integrated Electric Drive program by merging the Ship Propulsion System program and the Shipboard System Component program with the Electric Drive program for the purpose of providing Integrated Electric Drive propulsion in the DDG–51 guided missile destroyer program.

(b) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $36,064,000 shall be available for the Integrated Electric Drive program.

SEC. 213. FAST SEALIFT TECHNOLOGY DEVELOPMENT PROGRAM

(a) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Fast Sealift Technology Development program for the purposes of completing, within 24 months after the date of the enactment of this Act, the technology development program described in the January 1989 report of the Secretary to Congress entitled "Fast Sealift Program Technology Assessment Report".

(b) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $15,000,000 shall be available for the Fast Sealift Technology Development program.

SEC. 214. TACTICAL OCEANOGRAPHY PROGRAM

(a) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Tactical Oceanography program to accelerate uses of scientific measurement and data collection devices and processes for the purpose of rapid tactical applications.

(b) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $3,000,000 shall be available for the Tactical Oceanography program.

SEC. 215. GRANT FOR SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

Of the amount authorized to be appropriated pursuant to section 201(a) for fiscal year 1990 for Defense Agencies, $100,000,000 shall be available to make grants under section 272 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 15 U.S.C. 4602).

SEC. 216. ARMY HEAVY FORCE MODERNIZATION PROGRAM

(a) FUNDING.—Of the amount appropriated pursuant to section 201 for the Army for fiscal year 1990, $58,000,000 shall be available to the Secretary of the Army for competitive development of Advanced Technology Transition Demonstrators (ATTDs) for a common chassis for the Heavy Force Modernization program of the Army.

(b) LIMITATION ON USE OF FUNDING.—No funds may be obligated for such competitive development until—

(1) the Milestone I decision to proceed with demonstration and validation for the Heavy Force Modernization program is made by the appropriate official of the Department of Defense (upon consideration of the recommendation of the Defense Acquisition Board for that program) and such decision includes proceeding with development of Advanced Technology Transition Demonstrators for the common chassis for that program; and

(2) after such decision, the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report described in subsection (c).

(c) REPORT.—The report referred to in subsection (b)(2) is a report by the Secretary of Defense containing the following:

(1) A description of the decisions referred to in subsection (b)(1), including a description of the demonstration and validation program approved.

(2) An updated Interagency Intelligence Memorandum providing current estimates (prepared within the 12 months preceding the date of the report) for production, and for operational capabilities, of future tanks of the Soviet Union.

(3) Detailed cost estimates and schedules for research, development, test, and evaluation, and for procurement, for all programs expected to use the common chassis to be selected pursuant to the competitive development under subsection (a) and explanations for the order in which those programs are to proceed through research, development, test, and evaluation and procurement.

(4) A description of the criteria to be used by the Secretary of Defense in determining whether—

(A) to proceed with a new tank program (for replacement of the M1 tank) using the common chassis to be selected pursuant to the competitive development under subsection (a); or

(B) to produce an M1A3 tank.

(5) The results of the review conducted under subsection (d).

(d) REVIEW OF ENGINE ACQUISITION PLAN.—(1) The Secretary of Defense, acting through an appropriate offical of the Office of the Secretary of Defense designated by the Secretary, shall conduct a detailed review of the acquisition plan of the Department of the Army for the engine to be acquired for the common chassis to be selected pursuant to the competitive development under subsection (a).

(2) The review of such plan shall include a review of—

(A) the Transverse Mounted Engine Propulsion System;

(B) the Advanced Integrated Propulsion System; and

(C) derivatives of commercially developed engine systems.

(3) The review should determine—

(A) whether the schedule for development of the Advanced Technology Transition Demonstrator for the common chassis is consistent with the availability of engines; and

(B) whether such acquisition plan provides for the maximum competition between all alternatives.

SEC. 217. JOINT RESEARCH PROJECT ON MAGNETOENCEPHALOGRAPHY (MEG) AND NEUROMAGNETISM

Of the amounts appropriated pursuant to section 201 for fiscal year 1990, $250,000 may be used for the joint research project of the Department of the Army and the Department of Energy on magnetoencephalography (MEG) and neuromagnetism.

SEC. 218. V-22 OSPREY AIRCRAFT PROGRAM

Of the amount appropriated pursuant to section 201(a) or otherwise made available to the Navy for fiscal year 1990, not more than $255,000,000 may be obligated for research, development, test, and evaluation in connection with the V-22 aircraft program.

SEC. 219. BIODEGRADABLE MATERIALS RESEARCH

Of the amount appropriated pursuant to section 201 for the Army for fiscal year 1990, not more than $100,000 may be obligated for the purpose of continuing the research into the potential use of biodegradable materials in ration packaging designs. The Army Natick Research, Development, and Engineering Center shall be the responsible agency for such research.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE FOR FISCAL YEAR 1990

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 for fiscal year 1990 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1990, not more than $3,573,202,000 may be obligated for the Strategic Defense Initiative.

(b) MANAGEMENT HEADQUARTERS SUPPORT.—Of the amount available for the Strategic Defense Initiative pursuant to subsection (a), not more than $23,000,000 shall be available for Management Headquarters Support.

(c) FUNDS FOR SUPPORT OF MEDICAL FREE ELECTRON LASER PROGRAM.—Of the amounts appropriated for fiscal years 1990 and 1991 that are available for the Strategic Defense Initiative, not more than $20,000,000 of that amount for each such year may be used to support the medical free electron laser program.

SEC. 222. REPORT ON ALLOCATION OF FISCAL YEAR 1990 SDI FUNDING

(a) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1990. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1990.

SEC. 223. LIMITATION ON DEVELOPMENT AND TESTING OF ANTIBALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1990, or any fiscal year before 1990, shall be subject to the limitations prescribed in paragraph (2).

(2) Funds described in paragraph (1) may not be obligated or expended—

(A) for the development or testing of any antiballistic missile system or component, except for development and testing consistent with the development and testing described in the 1989 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of antiballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the 1989 SDIO Report.

(3) The limitation in paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1990 if the transfer is made in accordance with section 1601 of this Act.

(b) DEFINITION.—As used in this section, the term "1989 SDIO Report" means the report entitled, "1989 Report to Congress on the Strategic Defense Initiative," dated January 19, 1989, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 231 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1059; 10 U.S.C. 2431 note).

SEC. 224. REQUIREMENT FOR ANNUAL REPORT ON SDI PROGRAMS

(a) REPORT REQUIRED.—Not later than March 15 of each year, the Secretary of Defense shall transmit to Congress a report (in both unclassified and classified form) on the programs and projects that constitute the Strategic Defense Initiative and on any other program or project relating to defense against ballistic missiles.

(b) CONTENT OF REPORT.—Each such report shall include the following:

(1) A statement of the basic strategy for research and development being pursued by the Department of Defense under the Strategic Defense Initiative (SDI), including the relative priority being given, respectively, to the development of near-term deployment options and research on longer-term technological approaches.

(2) A detailed description of each program or project which is included in the Strategic Defense Initiative or which otherwise relates to defense against strategic ballistic missiles, including a technical evaluation of each such program or project and an assessment as to when each can be brought to the stage of full-scale engineering development (assuming funding as requested or programmed).

(3) A clear definition of the objectives of each planned deployment phase of the Stra-

tegic Defense Initiative or defense against strategic ballistic missiles.

(4) An explanation of the relationship between each such phase and each program and project associated with the proposed architecture for that phase.

(5) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(6) A statement of the compliance of the planned SDI development and testing programs with existing arms control agreements, including the 1972 Anti-Ballistic Missile Treaty.

(7) A review of possible countermeasures of the Soviet Union to specific SDI programs, an estimate of the time and cost required for the Soviet Union to develop each such countermeasure, and an evaluation of the adequacy of the SDI programs described in the report to respond to such countermeasures.

(8) Details regarding funding of programs and projects for the Strategic Defense Initiative (including the amounts authorized, appropriated, and made available for obligation after undistributed reductions or other offsetting reductions were carried out), as follows:

(A) The level of requested and appropriated funding provided for the current fiscal year for each program and project in the Strategic Defense Initiative budgetary presentation materials provided to Congress.

(B) The aggregate amount of funding provided for previous fiscal years (including the current fiscal year) for each such program and project.

(C) The amount requested to be appropriated for each such program and project for the next fiscal year.

(D) The amount programmed to be requested for each such program and project for the following fiscal year.

(E) The amount required to reach the next significant milestone for each demonstration program and each major technology program.

(9) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include the following:

(A) Defending elements of the Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate shorter-range ballistic missiles of the Soviet Union armed with conventional, chemical, or nuclear warheads.

(B) Defending against an accidental launch of strategic ballistic missiles against the United States.

(C) Defending against a limited but militarily effective attack by the Soviet Union aimed at disrupting the National Command Authority or other valuable military assets.

(D) Providing sufficient warning and tracking information to defend or effectively evade possible attacks by the Soviet Union against military satellites, including those in high orbits.

(E) Providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible conventional or strategic attacks by the Soviet Union.

(F) Providing protection of the United States population from a nuclear attack by the Soviet Union.

(G) Any other significant near-term military mission that the application of SDI technologies might help to accomplish.

(10) For each of the near-term military missions listed in paragraph (9), the report shall include the following:

(A) A list of specific program elements of the Strategic Defense Initiative that are pertinent to such mission.

(B) The Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish such missions.

(C) The Secretary's estimate of the level of funding necessary for each program to reach those initial operating capability dates.

(D) The Secretary's estimate of the survivability and cost effectiveness at the margin of such architectures or systems against current and projected threats from the Soviet Union.

PART D—STRATEGIC PROGRAMS

SEC. 231. FUNDING AND LIMITATIONS FOR ICBM MODERNIZATION PROGRAM

(a) OVERALL OBLIGATIONAL LIMITATION.—Of the amounts appropriated for the Department of Defense for fiscal year 1990 pursuant to this Act, not more than $1,131,700,000 may be obligated for the activities described in subsection (b) for the intercontinental ballistic missile (ICBM) modernization program.

(b) COVERED ICBM MODERNIZATION ACTIVITIES.—The activities referred to in subsection (a) are the following:

(1) Research, development, test, and evaluation in connection with the MX Rail Garrison program and the Small ICBM program.

(2) Advance procurement of long-lead items for the MX Rail Garrison program.

(3) Advance procurement of initial spare parts for the MX Rail Garrison program.

(4) Procurement of operational Mark 21 reentry systems.

(5) Military construction at F. E. Warren Air Force Base, Wyoming, in connection with the MX Rail Garrison program.

(c) MAXIMUM AMOUNTS THAT MAY BE OBLIGATED FOR MODERNIZATION ACTIVITIES.—The maximum amount that may be obligated for each activity described in subsection (b) from amounts appropriated for the Department of Defense for fiscal year 1990 pursuant to this Act is as follows:

(1) For the activity described in subsection (b)(1), a total of $874,244,000.

(2) For the activity described in subsection (b)(2), $163,607,000.

(3) For the activity described in subsection (b)(3), $58,999,000.

(4) For the activity described in subsection (b)(4), $80,000,000.

(5) For the activity described in subsection (b)(5), $104,850,000.

(d) TRANSFER AUTHORITY; LIMITATION.—(1) The Secretary of Defense may transfer funds made available for fiscal year 1990 for any activity referred to in subsection (b) to any other activity referred to in that subsection, except that in no case may the total amount obligated from fiscal year 1990 defense funds for that activity exceed the amount specified for that activity in subsection (c).

(2) An amount transferred pursuant to this subsection may be used only in connection with the activity to which transferred and shall be merged with other funds made available for that activity for fiscal year 1990.

(3) An amount transferred pursuant to this subsection shall not be counted against the maximum amount authorized to be transferred pursuant to this Act under section 1601(a).

(e) USE OF UNOBLIGATED FY 1989 FUNDS.—The Secretary of the Air Force shall use $100,000,000 of amounts appropriated for research, development, test, and evaluation for the Air Force for fiscal year 1989 that remain available for obligation to carry out research, development, test, and evaluation in connection with the Small ICBM program.

(f) REPORT TO CONGRESS.—Not later than 10 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report specifying the amounts allocated to each activity referred to in subsection (b) and an explanation of any transfer of funds made pursuant to subsection (d). In the case of any such transfer of funds, the report shall include an identification of the activity or activities from which the funds are transferred and the activity or activities to which the funds are transferred.

SEC. 232. FUNDING FOR SECURITY IMPROVEMENTS AT THE KWAJALEIN TEST RANGE

The Secretary of Defense shall transfer to the Army $7,500,000 from funds available for research, development, test and evaluation for the Armed Forces for fiscal year 1990. Funds so transferred shall be available for the sole purpose of funding highest priority security improvements at the Kwajalein Test Range. Funds made available for such purpose shall be in addition to any funds otherwise made available for the United States Army Kwajalein Atoll Command.

SEC. 233. TITAN IV WEST COAST LAUNCH PAD

(a) PROHIBITION ON OBLIGATION OF FUNDS FOR SLC-7 FACILITY.—Funds appropriated or otherwise made available for the Air Force for fiscal year 1990 may not be obligated or expended in connection with the launch facility at Vandenberg Air Force Base, California, identified as the SLC-7 Launch Facility.

(b) LIMITATION ON OBLIGATION OF FUNDS FOR SLC-6 FACILITY.—(1) Of the funds appropriated for the Air Force for research, development, test, and evaluation for fiscal year 1990, not more than $31,200,000 shall be available for conversion of the launch facility at Vandenberg Air Force Base, California, identified as the SLC-6 Launch Facility, for launching Titan IV expendable launch vehicles.

(2) Funds appropriated or otherwise made available for the Air Force for fiscal year 1990 may not be used for a second West Coast launch capability for Titan IV expendable launch vehicles except for the conversion of the SLC-6 launch facility to such a capability.

PART E—CHEMICAL AND BIOLOGICAL WARFARE PROGRAMS

SEC. 241. PROGRAM FOR MONITORING COMPLIANCE WITH POSSIBLE CHEMICAL WEAPONS CONVENTION

Of the amount authorized to be appropriated pursuant to section 201 for the Defense Agencies for fiscal year 1990, $15,000,000 shall be available for use only by the Office of the Secretary of Defense to conduct a program to develop and demonstrate compliance monitoring capabilities in support of efforts by the United States in the Conference on Disarmament at Geneva to achieve a verifiable convention on the prohibition of chemical weapons.

SEC. 242. REPORT ON BIOLOGICAL DEFENSE RESEARCH PROGRAM

(a) REPORT.—The Secretary of Defense shall submit to the Congress a report on research, development, test, and evaluation conducted by the Department of Defense during fiscal year 1989 under the Biological Defense Research Program. The report shall be submitted in both classified and unclassified form in conjunction with the submission of the budget to Congress for fiscal 1991.

(b) CONTENT OF REPORT.—The report shall address the following matters:

(1) Each biological or infectious agent used in, or the subject of, research, development, test, and evaluation conducted under that program during that fiscal year and not previously listed in the Center for Disease Control Guidelines.

(2) The biological properties of each such agent.

(3) With respect to each agent, the location at which research, development, test, and evaluation under that program involving that agent is conducted and the amount of funds expended during that fiscal year under the program at that location.

(4) The biosafety level used in conducting that research, development, test, and evaluation.

(c) TYPES OF RESEARCH AFFECTED.—Subsection (a) applies to all research, development, test, and evaluation conducted under the Biological Defense Research Program by the Department of Defense.

(d) DEFINITION.—In this section the term 'biosafety level' means the applicable bio safety level described in the publication entitled 'Biosafety in Microbiological and Biomedical Laboratories' (CDC-NIH, 1984).

SEC. 243. RESTORATION OF CERTAIN REPORTING REQUIREMENTS RELATING TO CHEMICAL AND BIOLOGICAL WARFARE AGENTS

(a) SPECIFIC REPORTS.—Section 602 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (100 Stat. 1066; 10 U.S.C. 111 note) is amended—

(1) by striking out subsections (g) and (h) and inserting in lieu thereof the following:

"(g) PUBLIC LAW 91-121.—The exception provided in subsection (d)(3) applies to the following annual report and notifications relating to chemical or biological warfare agents:

"(1) The annual report required by subsection (a) of section 409 of Public Law 91-121 (50 U.S.C. 1511).

"(2) The notifications required by subsections (b)(4) and (c)(1) of such section (50 U.S.C. 1512(4), 1513(1)).

"(h) PUBLIC LAW 91-441.—The exception provided in subsection (d)(3) applies to the following reports:

"(1) The annual report required by section 203(c) of Public Law 91-141 (10 U.S.C. 2358 note), relating to independent research and development and bid and proposal programs.

"(2) Reports required by section 506(d) of such public law (50 U.S.C. 1518), relating to the disposal of chemical or biological warfare agents."; and

(2) by adding at the end the following new subsection:

"(v) PUBLIC LAW 95-79.—The exception provided in subsection (d)(3) applies to the notifications required by section 808 of Public Law 95-79 (50 U.S.C. 1520), relating to chemical or biological warfare agents.".

(b) CONFORMING AMENDMENT.—Subsection (d)(3) of such section is amended by striking out "(u)" and inserting in lieu thereof "(v)".

PART F—OTHER MATTERS

SEC. 251. ADVANCED RESEARCH PROJECTS

(a) AUTHORITY FOR DARPA COOPERATIVE AGREEMENTS AND OTHER TRANSACTIONS.—(1) Chapter 139 of title 10, United States Code, as amended by section 242(a), is further amended by adding at the end the following new section:

"§2371. Advanced research projects: cooperative agreements and other transactions

"(a) The Secretary of Defense, in carrying out advanced research projects through the Defense Advanced Research Projects Agency, may enter into cooperative agreements and other transactions with any person, any agency or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity.

"(b)(1) Cooperative agreements and other transactions entered into by the Secretary under subsection (a) may include a clause that requires a person or other entity to make payments to the Department of Defense (or any other department or agency of the Federal Government) as a condition for receiving support under the agreement or other transaction.

"(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary of Defense, to the account established under subsection (e). Amounts so credited shall be merged with other funds in the account and shall be available for the same purposes and the same period for which other funds in such account are available.

"(c) The authority provided under subsection (a) may be exercised without regard to section 3324 of title 31.

"(d) The Secretary shall ensure that—

"(1) to the maximum extent practicable, a cooperative agreement or other transaction under this section does not provide for research that duplicates research being conducted under existing programs carried out by the Department of Defense;

"(2) to the extent the Secretary determines practicable, the funds provided by the Government under the cooperative agreement or other transaction do not exceed the total amount provided by other parties to the cooperative agreement or other transaction; and

"(3) the authority under this section is used only when the use of standard contracts or grants is not feasible or appropriate.

"(e) There is hereby established on the books of the Treasury an account for support of advanced research projects provided for in cooperative agreements and other transactions entered into under subsection (a). Funds in such account shall be available for the payment of such support.

"(f) Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committees of Armed Services of the Senate and House of Representatives a report on all cooperative agreements and other transactions (other than contracts and grants) entered into under this section during such fiscal year. The report shall contain, with respect to each such cooperative agreement and transaction, the following:

"(1) A general description of the cooperative agreement or other transaction (as the case may be), including the technologies for which advanced research is provided for under such agreement or transaction.

"(2) The potential military and, if any, commercial utility of such technologies.

"(3) The reasons for not using a contract or grant to provide support for such advanced research.

"(4) The amount of the payments, if any, referred to in subsection (b) that were received by the Federal Government in connection with such cooperative agreement or other transaction during the fiscal year covered by the report.

"(5) The amount of the payments reported under paragraph (4), if any, that were credited to the account established under subsection (e).

"(g) The authority of the Secretary to enter into cooperative agreements and other transactions under this section expires at the close of September 30, 1991.".

(2) The table of sections at the beginning of such chapter, as amended by section 242(a), is further amended by adding at the end the following new item:

"2371. Advanced research projects: cooperative agreements and other transactions.".

(b) FUNDING.—Of the amounts appropriated pursuant to section 201 for the Defense Agencies, not more than $25,000,000 of the funds appropriated for fiscal year 1990 and not more than $25,000,000 of the funds appropriated for fiscal year 1991 may be available for the support, through the Defense Advanced Research Projects Agency, of advanced research provided for in cooperative agreements and other transactions authorized by section 2371 of title 10, United States Code (as added by subsection (a)). That amount shall be credited to the account established under subsection (e) of such section.

SEC. 252. CLARIFICATION OF REQUIREMENT FOR COMPETITION IN AWARD OF RESEARCH AND DEVELOPMENT CONTRACTS AND CONSTRUCTION CONTRACTS TO COLLEGES AND UNIVERSITIES

(a) COMPETITION REQUIREMENT.—Subsection (a) of section 2361 of title 10, United States Code, is amended by striking out "unless the grant" and all that follows through the end of the subsection and inserting in lieu thereof "unless—

"(1) in the case of a grant, the grant is made using competitive procedures; and

"(2) in the case of a contract, the contract is awarded in accordance with section 2304 of this title (other than pursuant to subsection (c)(5) of that section).".

(b) RESTRICTIONS WITH RESPECT TO SUPERSEDING LEGISLATION.—(1) Subsection (b) of such section is amended to read as follows:

"(b)(1) A provision of law may not be construed as modifying or superseding the provisions of subsection (a), or as requiring funds to be made available by the Secretary of Defense to a particular college or university by grant or contract, unless that provision of law—

"(A) specifically refers to this section;

"(B) specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(C) specifically identifies the particular college or university involved and states that the grant to be made or the contract to be awarded, as the case may be, pursuant to such provision of law is being made or awarded in contravention of subsection (a).

"(2) A grant may not be made, or a contract awarded, pursuant to a provision of law that authorizes or requires the making of the grant, or the awarding of the contract,

in a manner that is inconsisent with subsection (a) until—

"(1) the Secretary of Defense submits to Congress a notice in writing of the intent to make the grant or award the contract; and

"(2) a period of 180 days has elapsed after the date on which the notice is received by Congress.".

(2) Subsection (b) of section 2361 of title 10, United States Code, as amended by paragraph (1), applies with respect to any provision of law enacted after September 30, 1989.

(c) SEMIANNUAL REPORT.—(1) Such section is further amended by adding at the end the following new subsection:

"(c)(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a semiannual report on the use of competitive procedures for the award of research and development contracts, and the award of construction contracts, to colleges and universities. Each such report shall include—

"(A) a list of each college and university that, during the period covered by the report, received more than $1,000,000 in such contracts through the use of procedures other than competitive procedures; and

"(B) the cumulative amount of such contracts received during that period by each such college and university.

"(2) The reports under paragraph (1) shall cover the six-month periods ending on June 30 and December 31 of each year. Each such report shall be submitted within 30 days after the end of the period covered by the report.

"(3) A report is not required under paragraph (1) for any period beginning after December 31, 1993.".

(2) The first report under subsection (c) of section 2361 of title 10, United States Code, as added by paragraph (1), shall cover the last six months of 1989 and shall be submitted not later than February 1, 1990.

SEC. 253. EXTENSION OF DEADLINE FOR SELECTION OF HEAVY TRUCK SYSTEM CONFIGURED WITH PALLETIZED LOADING SYSTEM

Section 259(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1068) is amended by striking out "24 months after the enactment of this Act" in the first sentence and inserting in lieu thereof "June 4, 1990".

SEC. 254. TESTING OF INFANTRY ANTI-TANK WEAPON

(a) EVALUATION OF INFANTRY ANTI-TANK WEAPON.—(1) The Secretary of the Army shall conduct a side-by-side test and evaluation of the Bofors Bill weapon system, the Milan weapon system, and the Dragon II weapon system. On the basis of the performance of those systems in those tests, the Secretary of the Army shall select the superior weapon system, giving full consideration to cost effectiveness.

(2) Such test and evaluation shall be conducted, and such selection shall be made, not later than six months after the date of the enactment of this Act.

(3) The tests and criteria used for such evaluation shall be identical to those used for tests under section 114 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1931) and the associated language on page 303 of the joint explanatory statement of managers for the bill H.R. 4481 of the 100th Congress (House Report 100-989 of the 100th Congress).

(b) FUNDING OF TESTS.—The tests under subsection (a) shall be funded from—

(1) funds appropriated for fiscal year 1988 for evaluation of the Bofors Bill system and Milan system which remain unspent;

(2) funds appropriated for fiscal year 1989 for the terminated Dragon III program which remain unspent; and

(3) other fiscal year 1988 or 1989 funds available to the Secretary.

(c) INDEPENDENT ASSESSMENTS.—The Comptroller General of the United States and the Director of Operational Test and Evaluation of the Department of Defense shall each conduct an assessment of the operational tests and evaluations referred to in subsection (a). The Comptroller General and the Director shall each submit a report on such assessment to the Committees on Armed Services of the Senate and House of Representatives not later than two months after the end of the tests.

SEC. 255. FUNDING FOR FACILITY FOR COLLABORATIVE RESEARCH AND TRAINING FOR MILITARY MEDICAL PERSONNEL; FUNDING FOR MICROELECTRONICS RESEARCH

(a) FUNDING.—(1) Of the amounts appropriated pursuant to section 201 for fiscal year 1990, $18,000,000 may be used by the Secretary of Defense as a contribution toward the construction of a facility as part of a complex to enable collaborative research and training for Department of Defense military medical personnel in the following fields:

(A) Trauma care.

(B) Head, neck, and spinal injury.

(C) Paralysis.

(D) Neurosciences and neurodegenerative diseases.

(2) Such a contribution may be made only for a facility that will—

(A) support education, training, treatment, and rehabilitative services related to the fields described in paragraph (1); and

(B) support neuroscience research with relevance for the medical mission of the Department of Defense.

(3) Such a contribution may be made only for a facility to be located at an institutional setting that—

(A) has received national recognition for its work in the fields listed in paragraph (1); and

(B) can best facilitate interagency collaborative research, education, and training activities.

(4) The amount of a contribution under paragraph (1) may not exceed 33 percent of the total cost of such complex.

(b) MICROELECTRONICS RESEARCH.—Of the funds authorized to be appropriated pursuant to section 201 for fiscal year 1990, not more than $15,000,000 may be made available for a program of research in advanced microelectronics, optoelectronics, and materials. None of such funds may be obligated before July 1, 1990. Any contract awarded under such program shall be awarded using competitive procedures to the maximum extent feasible.

SEC. 256. AVAILABILITY OF FUNDS TRANSFERRED TO NASA FOR NATIONAL AEROSPACE PLANE

Of amounts appropriated to the Department of Defense for fiscal year 1990 that are transferred to the National Aeronautics and Space Administration pursuant to law, not more than $225,000,000 may be used for the National Aerospace Plane program.

SEC. 257. REPEAL OF SPECIFICATION OF FUNDS FOR RANKINE ENGINE

Section 205(a)(3) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1047) is repealed.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1990.—Funds are hereby authorized to be appropriated for fiscal year 1990 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $22,973,309,000.

(2) For the Navy, $23,926,751,000.

(3) For the Marine Corps, $1,657,800,000.

(4) For the Air Force, $21,909,296,000.

(5) For the Defense Agencies, $7,850,472,000.

(6) For the Army Reserve, $861,800,000.

(7) For the Naval Reserve, $894,800,000.

(8) For the Marine Corps Reserve, $77,400,000.

(9) For the Air Force Reserve, $978,500,000.

(10) For the Army National Guard, $1,867,100,000.

(11) For the Air National Guard, $1,981,900,000.

(12) For the National Board for the Promotion of Rifle Practice, $3,970,000.

(13) For the Defense Inspector General, $94,749,000.

(14) For the Court of Military Appeals, $4,000,000.

(15) For Environmental Restoration, Defense, $601,100,000.

(16) For Humanitarian Assistance, $13,000,000.

(17) For the Goodwill Games, as provided in section 305 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1949), $14,600,000.

(b) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1991.—Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $24,648,400,000.

(2) For the Navy, $25,262,700,000.

(3) For the Marine Corps, $1,771,300,000.

(4) For the Air Force, $23,344,300,000.

(5) For the Defense Agencies, $8,318,900,000.

(6) For the Army Reserve, $902,600,000.

(7) For the Naval Reserve, $949,900,000.

(8) For the Marine Corps Reserve, $79,400,000.

(9) For the Air Force Reserve, $1,015,400,000.

(10) For the Army National Guard, $1,896,300,000.

(11) For the Air National Guard, $2,104,600,000.

(12) For the National Board for the Promotion of Rifle Practice, $5,600,000.

(13) For the Defense Inspector General, $97,600,000.

(14) For the Court of Military Appeals, $4,200,000.

(15) For Environmental Restoration, Defense, $519,900,000.

(16) For Humanitarian Assistance, $13,000,000.

(c) SPECIAL AUTHORIZATION FOR CONTINGENCIES.—There is authorized to be appropriated for each of fiscal years 1990 and 1991, in addition to the amounts authorized to be appropriated in subsections (a) and (b), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by such subsections.

SEC. 302. WORKING CAPITAL FUNDS

(a) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1990.—Funds are hereby authorized to be appropriated for fiscal year 1990 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

(1) For the Navy Stock Fund, $40,500,000.

(2) For the Air Force Stock Fund, $126,100,000.

(3) For the Defense Stock Fund, $78,100,000.

(b) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1991.—Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

(1) For the Army Stock Fund, $141,500,000.

(2) For the Navy Stock Fund, $232,100,000.

(3) For the Air Force Stock Fund, $319,600,000.

(4) For the Defense Stock Fund, $156,300,000.

SEC. 303. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT

(a) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1990.—There is authorized to be appropriated for fiscal year 1990 to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2631), $500,000,000.

(b) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1991.—There is authorized to be appropriated for fiscal year 1991 to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2631), $500,000,000.

SEC. 304. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—Funds appropriated pursuant to the authorizations in subsections (a)(16) and (b)(16) of section 301 for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the funds appropriated for each of fiscal years 1990 and 1991 pursuant to such subsections for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to such subsections for each of fiscal years 1990 and 1991 for humanitarian assistance to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to such subsections for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to such subsections for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to such subsections for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f) REPORTS TO CONGRESS.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report on the provision of humanitarian assistance under the humanitarian relief laws specified in paragraph (4).

(2) A report required by paragraph (1) shall be submitted—

(A) not later than 60 days after the date of the enactment of this Act;

(B) not later than June 1, 1990; and

(C) not later than June 1 of each year thereafter until all funds available for humanitarian assistance under the humanitarian relief laws specified in paragraph (4) have been obligated.

(3) A report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

(A) The total amount of funds obligated for humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

(4) The humanitarian relief laws referred to in paragraphs (1), (2), and (3) are the following:

(A) This section.

(B) Section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617).

(C) Section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1078).

(D) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948).

(5) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948), is amended by striking out subsection (f).

SEC. 305. ARMY AVIATION FLIGHT FACILITY AT JACKSON, TENNESSEE

(a) ESTABLISHMENT OF FACILITY.—The Secretary of the Army shall establish an Army aviation flight facility at McKellar Field in Jackson, Tennessee.

(b) AMOUNT AUTHORIZED FOR TRANSFER OF BRIGADE.—Of the amount appropriated pursuant to section 301 for fiscal year 1990 for operation and maintenance for the Army National Guard, $300,000 is authorized to be used to transfer the aviation section of the 30th Separate Armored Brigade of the Tennessee National Guard to the facility established pursuant to subsection (a).

SEC. 306. ASSISTANCE TO SCHOOLS TO BENEFIT CHILDREN OF MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

(a) ASSISTANCE AUTHORIZED.—Of the amounts appropriated for operation and maintenance for fiscal year 1990, the Secretary of Defense is authorized to use $10,000,000 for the purpose of providing, in consultation with the Secretary of Education, assistance to eligible local educational agencies that operate schools that include students who—

(1) are dependent children of members of the Armed Forces or of civilian employees of the Department of Defense; and

(2) while in attendance at such schools, reside on Federal property.

(b) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency described in subsection (a) is eligible for financial assistance under such subsection if the Secretary of Defense, in consultation with the Secretary of Education, determines that such agency is unable, without the addition of such assistance, to provide a level of education for such students equivalent to the minimum level of education available within the State in which such students reside (as determined by comparable school district data).

(c) CRITERIA FOR ASSISTANCE.—Not later than December 31, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and Labor and Human Resources of the Senate and the Committees on Armed Services and Education and Labor of the House of Representatives a report describing the criteria and procedures the Secretary will use to select recipient agencies for assistance under subsection (a).

(d) REPORT ON IMPACT AID.—Not later than December 31, 1989, the Secretary of Defense, in consultation with the Secretary of Education, shall submit to the Committee on Armed Services and the Committee on Labor and Human Resources of the Senate and the Committee on Armed Services and the Committee on Education and Labor of the House of Representatives a report on the feasibility and desirability—

(1) of transferring to the Department of Defense by October 1, 1991, impact aid responsibilities for schools impacted by Department of Defense activities; and

(2) of providing support services (including funds for facilities) to schools receiving impact aid as a result of the presence of dependent children of members of the Armed Forces or of civilian employees of the Department of Defense.

PART B—LIMITATIONS

SEC. 311. PROHIBITION ON PAYMENT OF SEVERANCE PAY TO FOREIGN NATIONALS IN THE EVENT OF CERTAIN BASE CLOSURES

(a) CERTAIN SEVERANCE PAY COSTS NOT ALLOWABLE COSTS WITH RESPECT TO SERVICE CONTRACTS PERFORMED OUTSIDE THE UNITED STATES.—(1) Subsection (e)(1) of section 2324 of title 10, United States Code, is amended—

(A) by redesignating subparagraph (N) as subparagraph (O); and

(B) by inserting after subparagraph (M) the following new subparagraph (N):

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termi-

nation of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States military facility in that country at the request of the government of that country.".

(2) Subparagraph (N) of such subsection, as added by paragraph (1), shall not apply with respect to the termination of the employment of a foreign national employed under any covered contract (as defined in subsection (l) of such section) if such termination is the result of the closing of, or the curtailment of activities at, a United States military facility in a foreign country pursuant to an agreement entered into with the government of that country before the date of the enactment of this Act.

(b) PROHIBITION ON PAYMENT OF SEVERANCE PAY TO FOREIGN NATIONALS EMPLOYED BY THE DEPARTMENT OF DEFENSE.—(1) Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"**§ 1592. Prohibition on payment of severance pay to foreign nationals in the event of certain overseas base closures**

"Funds available to the Department of Defense may not be used to pay severance pay to a foreign national employed by the Department of Defense under a contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States military facility in that country at the request of the government of that country.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1592. Prohibition on payment of severance pay to foreign nationals in the event of certain overseas base closures.".

(3)(A) Section 1592 of title 10, United States Code, as added by paragraph (1), shall take effect on the date of the enactment of this Act.

(B) Such section shall not apply with respect to the closing of, or the curtailment of activities at, a United States military facility in a foreign country pursuant to an agreement entered into with the government of that country before the date of the enactment of this Act.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) in the event a United States military facility located in a foreign country is closed (or activities at the facility are curtailed) at the request of the government of that country, such government should be responsible for the payment of severance pay to foreign nationals in the country whose employment by the United States or by a contractor under a contract with the United States is terminated as a result of the closure or curtailment; and

(2) in negotiating a status-of-forces agreement or other country-to-country agreement with the government of a foreign country, the President should endeavor to include in the agreement a provision that would require the government of that country to pay severance pay to foreign nationals in that country whose employment is terminated as a result of the closing of, or the curtailment of activities at, a United States military facility in that country, if the closing or curtailment is at the request of the government of that country.

SEC. 312. PROHIBITION ON JOINT USE OF THE MARINE CORPS AIR STATION AT EL TORO, CALIFORNIA, WITH CIVIL AVIATION

The Secretary of the Navy may not enter into any agreement that would provide for, or permit, civil aircraft to regularly use the Marine Corps Air Station at El Toro, California.

SEC. 313. CLARIFICATION OF PROHIBITION ON CERTAIN DEPOT MAINTENANCE WORKLOAD COMPETITIONS

Section 2466 of title 10, United States Code, is amended—

(1) by striking out "may not require" and inserting in lieu thereof "shall prohibit";

(2) by striking out "or" after "Secretary of the Army" and inserting in lieu thereof "and"; and

(3) by striking out "to carry out" and inserting in lieu thereof "from carrying out".

SEC. 314. REDUCTION IN THE NUMBER OF CIVILIAN PERSONNEL AUTHORIZED FOR DUTY IN EUROPE

(a) REDUCTION REQUIRED.—The number of civilian employees of the Department of Defense authorized for duty in Europe on the date of the enactment of this Act shall be reduced by a number equal to the number of remaining authorizations for employees of the department that—

(1) were related to intermediate-range nuclear forces on December 8, 1987; and

(2) are unnecessary as a result of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-range and Shorter-range Missiles, signed on December 8, 1987 (commonly referred to as the "INF Treaty").

(b) DEADLINE FOR REDUCTION.—The reduction in the number of employees authorized for duty in Europe required by subsection (a) shall be completed not later than October 1, 1991.

SEC. 315. REPEAL OF LIMITATION ON THE USE OF OPERATION AND MAINTENANCE FUNDS TO PURCHASE INVESTMENT ITEMS

Section 303 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1073) is repealed.

PART C—MISCELLANEOUS PROGRAM CHANGES

SEC. 321. AUTHORIZATION TO REDUCE UNDER CERTAIN CIRCUMSTANCES THE RATES FOR MEALS SOLD AT A MILITARY DINING FACILITY

Section 1011(a) of title 37, United States Code, is amended—

(1) by striking out "or enlisted members" and all that follows through the period in the first sentence and inserting in lieu thereof "and enlisted members."; and

(2) by adding after the second sentence the following new sentence: "Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.".

SEC. 322. IMPROVED AND EXPEDITED DISPOSAL OF LOST, ABANDONED, OR UNCLAIMED PERSONAL PROPERTY IN THE CUSTODY OF THE ARMED FORCES

(a) IN GENERAL.—Subsection (a) of section 2575 of title 10, United States Code, is amended—

(1) by striking out "120 days" in the third sentence and inserting in lieu thereof "45 days";

(2) by striking out "$25 or more" and all that follows through "three months" in the fourth sentence and inserting in lieu thereof "more than $300, the Secretary may not dispose of the property until 45 days"; and

(3) by inserting after the second sentence the following new sentences: "The diligent effort to find the owner (or the heirs, next of kin, or legal representative of the owner) shall begin, to the maximum extent practicable, not later than seven days after the date on which the property comes into the custody or control of the Secretary. The period for which that effort is continued may not exceed 45 days.".

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by striking out "owner, his heirs or next of kin, or his legal representative" each place it appears and inserting in lieu thereof "owner (or the heirs, next of kin, or legal representative of the owner)";

(2) in subsection (a)—

(A) by striking out "his department" and inserting in lieu thereof "the Secretary's department"; and

(B) by striking out "owner, his heirs or next of kin, or his legal representatives" and inserting in lieu thereof "owner (or heirs, next of kin, or legal representative of the owner)"; and

(3) in subsection (c), by striking out "he" and inserting in lieu thereof "that person".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to property that comes into the custody or control of the Secretary of a military department or the Secretary of Transportation after the date of the enactment of this Act.

SEC. 323. PROCUREMENT OF LAUNDRY AND DRY CLEANING SERVICES FROM NAVY EXCHANGES

(a) IN GENERAL.—Chapter 143 of title 10, United States Code, is amended by adding at the end the following new section:

"**§ 2423. Laundry and dry cleaning services: procurement from facilities operated by the Navy Resale and Services Support Office**

"(a) AUTHORITY.—The Secretary of Defense may authorize an element of the Department of Defense to enter into a contract (through the use of procedures other than competitive procedures) with a laundry and dry cleaning facility operated by the Navy Resale and Services Support Office to procure laundry and dry cleaning services for the armed forces outside the United States.

"(b) APPLICATION.—Subsection (a) shall apply only with respect to a laundry and dry cleaning facility of the Navy Resale and Services Support Office that began operating before October 1, 1989.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2423. Laundry and dry cleaning services: procurement from facilities operated by the Navy Resale and Services Support Office.".

SEC. 324. PROCUREMENT OF SUPPLIES AND SERVICES FROM MILITARY EXCHANGES OUTSIDE THE UNITED STATES

(a) IN GENERAL.—Chapter 143 of title 10, United States Code, is amended by adding after section 2423 (as added by section 323) the following new section:

"**§ 2424. Procurement of supplies and services from exchange stores outside the United States**

"(a) AUTHORITY.—The Secretary of Defense may authorize an element of the Department of Defense to enter into a contract (through the use of procedures other than competitive procedures) with an exchange

store operated under the jurisdiction of the Secretary of a military department outside the United States to procure supplies or services for use by the armed forces outside the United States.

"(b) LIMITATIONS.—(1) A contract may not be entered into under subsection (a) in an amount in excess of $50,000.

"(2) Supplies provided under a contract entered into under subsection (a) shall be provided from the stocks of the exchange store on hand as of the date the contract is entered into with that exchange store.

"(3) A contract entered into with an exchange store under subsection (a) may not provide for the procurement of services not regularly provided by that exchange store.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2423 (as added by section 323) the following new item:

"2424. Procurement of supplies and services from exchange stores outside the United States.".

SEC. 325. TUITION-FREE ENROLLMENT OF DEPENDENTS OF CERTAIN EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES IN SCHOOLS OF THE DEFENSE DEPENDENTS' EDUCATION SYSTEM

(a) SPONSOR DEFINED TO INCLUDE CERTAIN EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES.—Section 1414(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 932(2)) is amended to read as follows:

"(2) The term 'sponsor' means a person—

"(A) who is—

"(i) a member of the Armed Forces serving on active duty, or

"(ii) a full-time civilian officer or employee of the Department of Defense and a citizen or national of the United States; and

"(B) who is authorized to transport dependents to or from an overseas area at Government expense and is provided an allowance for living quarters in that area.".

(b) CONFORMING AMENDMENT.—Section 1404(d)(1) of such Act (20 U.S.C. 923(d)(1)) is amended by striking out "(including employees of nonappropriated fund activities of the Department of Defense)" in subparagraph (A) and inserting in lieu thereof "(other than civilian officers and employees who are sponsors under section 1414(2))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to periods of enrollment in schools of the defense dependents' education system beginning after September 30, 1989.

SEC. 326. AUTHORITY TO USE APPROPRIATED FUNDS TO SUPPORT STUDENT MEAL PROGRAMS IN DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

(a) AUTHORITY PROVIDED.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools

"(a) AUTHORITY.—Subject to subsection (b), amounts appropriated to the Department of Defense for the operation of the defense dependents' education system may be used by the Secretary of Defense to enable an overseas meal program to provide students enrolled in that system with meals at a price equal to the average price paid by students for equivalent meals under a comparable public school meal program in the United States.

"(b) LIMITATION.—The authority provided by subsection (a) may be used only if the Secretary of Defense determines that Federal payments and commodities provided under section 20 of the National School Lunch Act (42 U.S.C. 1769b) and section 20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) to support an overseas meal program are insufficient to provide meals under that program at a price for students equal to the average price paid by students for equivalent meals under a comparable public school meal program in the United States.

"(c) DETERMINING AVERAGE PRICE.—In determining the average price paid by students in the United States for meals under a school meal program, the Secretary of Defense shall exclude free and reduced price meals provided pursuant to income guidelines.

"(d) OVERSEAS MEAL PROGRAM DEFINED.—In this section, the term 'overseas meal program' means a program administered by the Secretary of Defense to provide breakfasts or lunches to students attending Department of Defense dependents' schools which are located outside the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools.".

SEC. 327. COMMERCIAL SALE OF RECORDING OF AIR FORCE SINGING SERGEANTS

The Secretary of the Air Force may enter into an appropriate contract providing for the production and commercial sale of a recording made on April 9, 1989, by the Cincinnati Pops Orchestra and members of the Air Force known as the United States Air Force Singing Sergeants. Any contract entered into under this section shall contain such provisions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 328. TRANSPORTATION OF MOTOR VEHICLES OF MILITARY AND CIVILIAN PERSONNEL STATIONED ON JOHNSTON ISLAND

(a) AUTHORITY TO TRANSPORT.—(1) When a member of the Armed Forces or an employee of the Department of Defense is assigned to permanent duty on Johnston Island, one motor vehicle that is owned by the member or employee (or a dependent of the member or employee) may be transported at the expense of the United States to a location in the State of Hawaii from the old duty station of the member or employee (or from a location of lesser distance) if the member or employee designates Hawaii as the State in which the immediate family of the member or employee will reside.

(2) When a member or employee is reassigned from Johnston Island to a new permanent duty station, one motor vehicle that is owned by the member or employee (or a dependent of the member or employee) may be transported at the expense of the United States from the residence in the State of Hawaii of the dependents of the member or employee—

(A) to the new duty station of the member or employee; or

(B) at the request of the member or employee, to such other location not greater than the distance allowed under paragraph (1).

(b) REGULATIONS.—Subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense.

SEC. 329. AUTHORITY TO PROVIDE CERTAIN ASSISTANCE TO ANNUAL CONVENTIONS OF NATIONAL MILITARY ASSOCIATIONS

(a) AUTHORITY.—(1) Chapter 151 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2548. National military associations: assistance at national conventions

"(a) AUTHORITY TO PROVIDE SERVICES.—The Secretary of a military department may provide services described in subsection (c) in connection with an annual conference or convention of a national military association.

"(b) CONDITIONS FOR PROVIDING SERVICES.—Services may be provided under this section only if—

"(1) the provision of the services in any case is approved in advance by the Secretary concerned;

"(2) the services can be provided in conjunction with training in appropriate military skills; and

"(3) the services can be provided within existing funds otherwise available to the Secretary concerned.

"(c) COVERED SERVICES.—Services that may be provided under this section are—

"(1) limited air and ground transportation;

"(2) communications;

"(3) medical assistance;

"(4) administrative support; and

"(5) security support.

"(d) NATIONAL MILITARY ASSOCIATIONS.—The Secretary of Defense shall designate those organizations which are national military associations for purposes of this section.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2548. National military associations: assistance at national conventions.".

(b) EFFECTIVE DATE.—Section 2548 of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act.

SEC. 330. AUTHORITY TO LEASE FLEET ELECTRONIC WARFARE SUPPORT AIRCRAFT

Section 328 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1957), is amended by striking out "such a lease" and all that follows through the period and inserting in lieu thereof "leasing, operating, and supporting such aircraft is less than the projected costs of operating and maintaining existing aircraft of the Navy for the same activity.".

SEC. 331. ENERGY EFFICIENCY INCENTIVE

Section 736 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 2006; 42 U.S.C. 8287 note), is amended as follows:

(1) In subsection (a), by striking out "first-year energy cost savings (as defined in subsection (d)) realized" and inserting in lieu thereof "energy cost savings realized by the United States during the first five years".

(2) In subsection (b)—

(A) by striking out "First-year energy savings" and inserting in lieu thereof "The energy cost savings realized by the United States in each of the first five years under a contract"; and

(B) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) One-half of the amount of such savings may be used for the acquisition of energy conserving measures for military installations, and such measures may be in addition to any such energy conserving measures acquired for military installations under contracts entered into under title VIII of the National Energy Conservation Policy Act.".

(3) In subsection (c)—

(A) by striking out "end of the first year" and inserting in lieu thereof "end of each of the first five years"; and

(B) by striking out "first-year energy cost savings realized under the terms of the contract during that year by the military department concerned" and inserting in lieu thereof "energy cost savings realized by the United States under the terms of the contract during that year".

(4) By striking out subsection (d).

SEC. 332. AUTHORITY TO ACQUIRE RAILROAD TRACK STRUCTURE AND TEMPORARY RIGHT-OF-WAY FOR RAIL LINE

The Secretary of the Army may purchase the railroad track structure and temporary right-of-way in the State of Nevada for the railroad line known as the Mina Branch, located between milepost 331.12, near Wabuska, Nevada, and milepost 385.00, near Thorne, Nevada, for use in connection with the operation of Hawthorne Army Ammunition Plant, Nevada. The Secretary may use any funds appropriated pursuant to section 301 for the Army for fiscal year 1990 to carry out the preceding sentence.

SEC. 333. AUTHORIZATION OF LONG-TERM AIRCRAFT SUPPORT CONTRACT

The Secretary of the Army may enter into a long-term contract pursuant to section 2401 of title 10, United States Code, that includes a lease for the provision of air transportation at Kwajalein Atoll, Republic of the Marshall Islands, if—

(1) the contract does not impose a substantial termination liability on the United States within the meaning of section 2401(a)(1)(B) of title 10, United States Code; and

(2) the contract is made subject to the availability of funds for such purpose.

SEC. 334. SERVICE CONTRACT TO TRAIN UNDERGRADUATE NAVAL FLIGHT OFFICERS

In accordance with sections 2304 and 2401 of title 10, United States Code, the Secretary of the Navy may enter into a contract (to commence after September 30, 1990) for services with respect to the training of undergraduate naval flight officers.

SEC. 335. DEFENSE CONTRACT AUDITORS

The Secretary of Defense, not later than September 30, 1990, shall increase the number of full-time personnel employed by the Defense Contract Audit Agency to 7,457, of which not less than 6,488 shall be auditors.

SEC. 336. UNIFORM ALLOWANCE FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE REQUIRED TO WEAR UNIFORMS

(a) ALLOWANCE AUTHORIZED.—(1) Chapter 81 of title 10, United States Code, is amended by adding after section 1592 (as added by section 311(b)) the following new section:

"§ 1593. Uniform allowance: civilian employees

"(a) ALLOWANCE AUTHORIZED.—(1) The Secretary of Defense may pay an allowance to each civilian employee of the Department of Defense who is required by law or regulation to wear a prescribed uniform in the performance of official duties.

"(2) In lieu of providing an allowance under paragraph (1), the Secretary may provide a uniform to a civilian employee referred to in such paragraph.

"(3) This subsection shall not apply with respect to a civilian employee of the Defense Intelligence Agency who is entitled to an allowance under section 1606 of this title.

"(b) AMOUNT OF ALLOWANCE.—Notwithstanding section 5901(a) of title 5, the amount of an allowance paid, and the cost of uniforms provided, under subsection (a) to a civilian employee may not exceed $400 per year.

"(c) TREATMENT OF ALLOWANCE.—An allowance paid, or uniform provided, under subsection (a) shall be treated in the same manner as is provided in section 5901(c) of title 5 for an allowance paid under that section.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1592 (as added by section 311(b)) the following new item:

"1593. Uniform allowance: civilian employees.".

(b) CONFORMING AMENDMENT.—Section 1606(b)(2) of title 10, United States Code, is amended by striking out "$360 per year." and inserting in lieu thereof "The maximum allowance provided under section 1593(b) of this title.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

PART D—ARMED FORCES RETIREMENT HOMES

SEC. 341. UNITED STATES SOLDIERS' AND AIRMEN'S HOME SUBJECT TO ANNUAL AUTHORIZATIONS OF APPROPRIATIONS

(a) IN GENERAL.—Section 1321(b) of title 31, United States Code, is amended—

(1) by inserting before the period in the third sentence the following: "and only if the appropriations are specifically authorized by law"; and

(2) by striking out the last sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to appropriations for the operation of the United States Soldiers' and Airmen's Home made for fiscal years after fiscal year 1990.

SEC. 342. MILITARY FINES AND FORFEITURES TO BENEFIT ARMED FORCES RETIREMENT HOMES

(a) IN GENERAL.—(1) Chapter 165 of title 10, United States Code, is amended by inserting after section 2771 the following new section:

"§ 2772. Share of fines and forfeitures to benefit Armed Forces retirement homes

"(a)(1) The Secretary of the Army and the Secretary of the Air Force shall deposit in the Soldiers' Home, permanent fund, referred to in section 1321(a)(59) of title 31 a percentage (determined under paragraph (2)) of the following amounts:

"(A) The amount of fines adjudged against an enlisted member or warrant officer in the Army or the Air Force by sentence of a court-martial or under authority of section 815 of this title (article 15) over and above any amount that may be due from the member or warrant officer for the reimbursement of the United States or any individual.

"(B) The amount of forfeitures on account of the desertion of an enlisted member or warrant officer in the Army or the Air Force.

"(2) The board of commissioners for the United States Soldiers' and Airmen's Home shall determine, on the basis of the financial needs of that home, the percentage of the amounts referred to in paragraph (1) to be deposited in the Soldiers' Home, permanent fund.

"(b)(1) The Secretary of the Navy shall credit to the funds available for the operation of the Naval Home a percentage (determined under paragraph (2)) of the following amounts:

"(A) The amount of fines adjudged against an enlisted member or warrant officer in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy) by sentence of a court-martial or under authority of section 815 of this title (article 15) over and above any amount that may be due from the member or warrant officer for the reimbursement of the United States or any individual.

"(B) The amount of forfeitures on account of the desertion of an enlisted member or warrant officer in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy).

"(2) The Governor of the Naval Home shall determine, on the basis of the financial needs of the Naval Home, the percentage of the amounts referred to in paragraph (1) to be credited under such paragraph.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2771 the following new item:

"2772. Share of fines and forfeitures to benefit Armed Forces retirement homes.".

(b) APPLICATION OF AMENDMENTS.—(1) Subsection (a) of section 2772 of such title, as added by subsection (a), shall apply with respect to fines and forfeitures adjudged after the date of the enactment of this Act.

(2) Subsection (b) of such section shall apply with respect to fines and forfeitures adjudged after May 31, 1990.

SEC. 343. DEDUCTIONS FROM THE PAY OF ENLISTED MEMBERS AND WARRANT OFFICERS TO BENEFIT ARMED FORCES RETIREMENT HOMES

(a) IN GENERAL.—Section 1007 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) There shall be deducted each month from the pay of each enlisted member and warrant officer of the armed forces on active duty an amount (determined under paragraph (3)) not to exceed 50 cents.

"(2) Amounts deducted under paragraph (1) shall be—

"(A) deposited in the Soldiers' Home, permanent fund, in the case of deductions from the pay of enlisted members and warrant officers in the Army and Air Force; and

"(B) credited to the funds available for the operation of the Naval Home, in the case of deductions from the pay of enlisted members and warrant officers in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy).

"(3) The Secretary of Defense, after consultation with the Governor of the Naval Home and the board of commissioners for the United States Soldiers' and Airmen's Home, shall determine from time to time the amount to be deducted under paragraph (1) from the pay of enlisted members and warrant officers on the basis of the financial needs of the homes. The amount to be deducted may be fixed at different amounts on the basis of grade or length of service, or both.

"(4) In this subsection, the term 'armed forces' does not include the Coast Guard when it is not operating as a service in the Navy.

"(5) This subsection does not apply to an enlisted member or warrant officer of a reserve component.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), subsection (i) of section

1007 of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month beginning after the date of the enactment of this Act.

(2) With respect to deductions from the pay of an enlisted member or warrant officer in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy), such subsection shall take effect on October 1, 1990.

SEC. 344. INSPECTION OF ARMED FORCES RETIREMENT HOMES BY INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

During fiscal year 1990, the Inspector General of the Department of Defense shall—

(1) conduct an inspection of each Armed Forces Retirement Home, including the records of that retirement home; and

(2) submit to the administering authority of that retirement home, the Secretary of Defense, and the Committees on Armed Services of the Senate and House of Representatives a report—

(A) describing the results of the inspection; and

(B) containing such recommendations as the Inspector General considers appropriate, including any recommendation for future inspections of the retirement homes by the Inspector General.

SEC. 345. REPORT REGARDING IMPROVING THE OPERATION AND MANAGEMENT OF THE ARMED FORCES RETIREMENT HOMES

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report with regard to improving the operation and management of the Armed Forces Retirement Homes.

(b) CONTENT OF THE REPORT.—The report required by subsection (a) shall—

(1) address the feasibility of consolidating the administration and management of the retirement homes;

(2) address the feasibility of standardizing (and include proposals to standardize)—

(A) the eligibility requirements for admission to the retirement homes for persons who served as enlisted members or warrant officers in the Armed Forces;

(B) the monthly fees paid by residents of the retirement homes; and

(C) the funding arrangements for the retirement homes through a single trust fund; and

(3) include proposals to administer the retirement homes through a joint board of directors.

(c) PREPARATION OF THE REPORT.—(1) The Secretary shall appoint a board of five members to review the administration and financing of the United States Soldiers' and Airmen's Home and the Naval Home and to prepare the report required by subsection (a).

(2) The members of the board shall be appointed from persons who—

(A) are not officers or employees of the United States; and

(B) are experts in the fields of gerontology, health care, or the provision of care for elderly persons.

(d) EXPENSES OF PREPARATION.—The expenses of preparing the report required by subsection (a) shall be paid in equal amounts out of the funds available for the operation of the United States Soldiers' and Airmen's Home and the Naval Home.

(e) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted not later than February 15, 1990.

SEC. 346. DEFINITIONS

For purposes of this part:

(1) The terms "Armed Forces Retirement Home" and "retirement home" mean the United States Soldiers' and Airmen's Home or the Naval Home.

(2) The term "administering authority" means—

(A) the board of commissioners for the United States Soldiers' and Airmen's Home, in the case of that home; and

(B) the Governor of the Naval Home, in the case of that home.

(3) The term "Armed Forces" does not include the Coast Guard when it is not operating as a service in the Navy.

SEC. 347. REPEAL OF SUPERSEDED PROVISIONS RELATING TO THE UNITED STATES SOLDIERS' AND AIRMEN'S HOME

The following provisions of law are repealed:

(1) Sections 4818, 4820, and 4823, and the first and third sentences of section 4819, of the Revised Statutes of the United States (24 U.S.C. 44, 51, 53).

(2) Sections 2 through 6 of the Act entitled "An Act prescribing regulations for the Soldiers' Home located at Washington, in the District of Columbia, and for other purposes", approved March 3, 1883 (22 Stat. 564; 24 U.S.C. 52, 55, 56, 57, 60).

(3) The Act entitled "An Act to authorize the Treasurer of the United States to receive and keep on deposit funds of the Soldiers' Home in the District of Columbia", approved January 16, 1891 (26 Stat. 718; 24 U.S.C. 47).

(4) Section 2(a) of Public Law 94-454 (90 Stat. 1518; 24 U.S.C. 44c).

PART E—ENVIRONMENTAL PROVISIONS

SEC. 351. LIMITATION ON USE OF ENVIRONMENTAL RESTORATION FUNDS

Of the total amount appropriated pursuant to section 301 for environmental restoration for fiscal year 1990, not more than $517,800,000 may be obligated or expended until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report describing the manner in which funds for such purpose (up to that limit) have been obligated.

SEC. 352. REQUIREMENT FOR DEVELOPMENT OF ENVIRONMENTAL DATA BASE

(a) ENVIRONMENTAL DATA BASE.—The Secretary of Defense shall develop and maintain a comprehensive data base on environmental activities carried out by the Department of Defense pursuant to, and environmental compliance obligations to which the Department is subject under, chapter 160 of title 10, United States Code, and all other applicable Federal and State environmental laws. At a minimum, the information in the data base shall include all the fines and penalties assessed against the Department of Defense pursuant to environmental laws and paid by the Department, all notices of violations of environmental laws received by the Department, and all obligations of the Department for compliance with environmental laws. The Secretary may include any other information he considers appropriate.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress in development of the data base required under subsection (a). The report shall include a summary of the information collected for the data base with respect to environmental activities during 1989.

SEC. 353. FIVE-YEAR PLAN FOR ENVIRONMENTAL RESTORATION AT BASES TO BE CLOSED

(a) PLAN.—The Secretary of Defense shall develop a comprehensive five-year plan for environmental restoration at military installations that will be closed or realigned during fiscal years 1991 through 1995, pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627). The plan shall cover—

(1) the environmental restoration activities that the Secretary plans to carry out each year at the installations;

(2) the funding requirements needed for such activities; and

(3) such other information as the Secretary considers appropriate.

(b) REPORT.—At the same time the President submits to Congress the budget for fiscal year 1991 (pursuant to section 1105 of title 31, United States Code), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the five-year plan required under subsection (a). The report shall include an itemization of the funding requirements specified in the plan for environmental restoration activities during fiscal year 1991.

SEC. 354. FUNDING FOR WASTE MINIMIZATION PROGRAMS FOR CERTAIN INDUSTRIAL-TYPE ACTIVITIES OF THE DEPARTMENT OF DEFENSE

(a) REQUIREMENT TO ESTABLISH WASTE MINIMIZATION PROGRAM.—The Secretary of Defense shall require the Secretary of each military department to establish a program for fiscal year 1992 to reduce the volume of solid and hazardous wastes disposed of, and hazardous materials used by, each industrial-type activity within the department that is a depot maintenance installation and for which a working-capital fund has been established under section 2208 of title 10, United States Code.

(b) FUNDING.—Funding for the waste minimization program in each military department shall come out of payments received by the working-capital funds established for industrial-type and commercial-type activities of the department. The level of funding for fiscal year 1992 shall be not less than ½ of 1 percent of the amount of such payments received during fiscal year 1988 that were used for depot maintenance installation functions at industrial-type activities. The required level of funding for fiscal year 1992 may be reduced by amounts expended for waste minimization during fiscal years 1990 and 1991. In any case in which a military department fails to spend funds at the level required by this subsection for the waste minimization program, the Secretary concerned shall submit to Congress a report explaining the reasons for the failure.

(c) NOTICE OF EXCLUDED ACTIVITIES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress the name of each industrial-type or commercial-type activity of each military department which is not covered by the waste minimization program because the activity does not carry out depot maintenance installation functions.

(d) USE OF FUNDS.—Funds available for the waste minimization programs established pursuant to this section shall be used to carry out waste minimization projects at depot maintenance installations. The types of expenses for which such funds may be used include the following (if such expense is related to a waste minimization project):

(1) Operating expenses (including salaries).

(2) Equipment purchase expenses.

(3) Facility modification expenses.

(4) Process change expenses.

(5) Product substitution expenses.

(6) Military construction expenses.

(7) Research, development, test, and evaluation expenses.

(8) Expenses for the lease of equipment or facilities.

(e) RECOVERY OF COSTS.—Each project carried out at an industrial-type activity as part of a waste minimization program established pursuant to this section shall be designed to achieve, over the expected useful life of the project, reductions in the cost of the disposal of solid and hazardous wastes generated by the activity in an amount which is not less than the cost of the project. The Secretary of a military department may provide funds for a project that does not meet the requirement of the preceding sentence if the Secretary certifies to Congress that—

(1) the project will result in a reduction of solid or hazardous waste disposed of, or hazardous materials used by, the activity; or

(2) the project will eliminate or reduce the likelihood of harm to human health or the environment.

SEC. 355. SENSE OF CONGRESS CONCERNING INVESTIGATION OF SOIL AND WATER CONTAMINATION NEAR MEAD, NEBRASKA

(a) FINDINGS.—Congress finds the following:

(1) The Army Corps of Engineers is carrying out an investigation of soil and water contamination at the former Nebraska Ordnance Plant near Mead, Nebraska.

(2) Solvents, polychlorinated byphenals, Research Department Explosive (RDX), and explosive materials used in making ammunition have been discovered during the course of the investigation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Army should carry out the investigation referred to in subsection (a) as promptly as possible consistent with other environmental cleanup responsibilities, and (2) should continue to keep interested parties, including potentially affected residents in the area, University of Nebraska officials, and State and local government personnel, fully advised of developments relating to the investigation and activities at the site.

SEC. 356. USE OF CHLOROFLUOROCARBONS AND HALONS IN THE DEPARTMENT OF DEFENSE

(a) CHLOROFLUOROCARBONS EMISSION REDUCTION.—The Secretary of Defense shall formulate and carry out, through the Under Secretary of Defense for Acquisition, a program to reduce the unnecessary release of chlorofluorocarbons (hereinafter in this section referred to as "CFCs") and halons into the atmosphere in connection with maintenance operations and training and testing practices of the Department of Defense.

(b) REPORT.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the program the Secretary proposes to carry out pursuant to subsection (a). The Secretary shall specify in the report the reduction goals that are attainable on the basis of known technology, including the use of refrigerant recovery systems currently available. The Secretary shall include in the report a schedule for meeting those goals. The Secretary shall also include in such report reduction goals that can be achieved only with the use of new technology and assess the technologies and investment that will be required to attain those goals within a five-year period.

(2) Before the report required under paragraph (1) is submitted to the committees named in such paragraph, the Secretary shall transmit a copy of the report to the Administrator of the Environmental Protection Agency for comment.

(c) DOD REQUIREMENTS FOR CFCS.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary shall establish an advisory committee to be known as the "CFC Advisory Committee" (hereinafter in this section referred to as the "Committee"). The Committee shall be composed of not more than 15 members, with an equal number of representatives from the Department of Defense, the Environmental Protection Agency, and defense contractors. Members representing defense contractors shall be contractors that supply the Department of Defense with products or equipment that require the use of CFCs.

(2) It shall be the function of the Committee to study (A) the use of CFCs by the Department of Defense and by contractors in the performance of contracts for the Department of Defense, and (B) the cost and feasibility of using alternative compounds for CFCs or using alternative technologies that do not require the use of CFCs.

(3) Within 120 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that specify the use of CFCs.

(4) Within 150 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that do not specify use of CFCs but cannot be met without the use of CFCs.

(d) REPORT.—Not later than September 30, 1990, the Secretary shall submit to the committees named in subsection (b) a report containing the results of the study by the Committee. The report shall—

(1) identify cases in which the Committee found that substitutes for CFCs could be made most expeditiously;

(2) identify the feasibility and cost of substituting compounds or technologies for CFC uses referred to in subsection (c)(3) and estimate the time necessary for completing the substitution;

(3) identify CFC uses referred to in subsection (c)(4) for which substitutes are not currently available and indicate the reasons substitutes are not available;

(4) describe the types of research programs that should be undertaken to identify substitute compounds or technologies for CFC uses referred to in paragraphs (3) and (4) of subsection (c) and estimate the cost of the program;

(5) recommend procedures to expedite the use of substitute compounds and technologies offered by contractors to replace CFC uses;

(6) estimate the earliest date on which CFCs will no longer be required for military applications; and

(7) estimate the cost of revising military specifications for the use of substitutes for CFCs, the additional costs resulting from modification of Department of Defense contracts to provide for the use of substitutes for CFCs, and the cost of purchasing new equipment and reverification necessitated by the use of substitutes for CFCs.

SEC. 357. ANNUAL REPORT ON DEFENSE BUDGET FOR ENVIRONMENTAL COMPLIANCE

(a) REPORT.—(1) Section 2706 of title 10, United States Code, is amended—

(A) by inserting "(1)" before "The Secretary of Defense" in subsection (a);

(B) by striking out the subsection heading of subsection (b), redesignating paragraphs (1) through (4) of that subsection as subparagraphs (A) through (D), and redesignating such subsection as paragraph (2); and

(C) by adding at the end the following new subsection:

"(b) ENVIRONMENTAL BUDGET REPORT.—(1) Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the Secretary of Defense shall submit to Congress a report on—

"(A) the funding levels required for the Department of Defense to comply with applicable environmental laws during the fiscal year for which the budget is submitted; and

"(B) the funding levels requested for such purposes in the budget as submitted by the President.

"(2) The Secretary shall include in the report an explanation of any differences in the funding level requirements and the funding level requests in the budget.".

(2)(A) The heading of such section is amended to read as follows:

"§ 2706. Annual reports to Congress".

(B) The item relating to such section in the table of sections at the beginning of chapter 106 of such title is amended to read as follows:

"2706. Annual reports to Congress.".

(b) EFFECTIVE DATE.—The first environmental budget report under subsection (b) of section 2706 of such title (as added by subsection (a)) shall be submitted at the same time the President submits the budget for fiscal year 1992.

SEC. 358. REPORT ON ENVIRONMENTAL REQUIREMENTS AND PRIORITIES

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the long-range environmental challenges and goals of the Department of Defense.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) A discussion of major environmental concerns that the Department of Defense will face world-wide in the next decade, and a qualitative and quantitative assessment, where practicable, of each concern.

(2) A status report of current efforts, programs, resources, and policies used to address the concerns identified under paragraph (1), including the estimated cost, as of the date of the report, of disposing of solid waste and effluent generated by the Department of Defense.

(3) The projected funding for and schedule of actions under the Defense Environmental Restoration Program referred to in section 2701(a)(1) of title 10, United States Code.

(4) An assessment of anticipated Federal, State, and local environmental regulatory requirements and the effects of such requirements on operations and activities of the Department of Defense.

(5) An analysis of all the information described in paragraphs (1) through (4) and a discussion of potential courses of action, priorities, and goals of the Department of Defense, including the adoption of alternative waste minimization and disposal policies, such as requiring the purchase of biode-

gradable plastics and recycled paper, the recycling of post-consumer waste, and the consumption of ethanol and other alternative fuels.

(6) Such comments and recommendations as the Secretary considers appropriate.

(c) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than two years after the date of the enactment of this Act.

SEC. 359. REPORTS ON ENVIRONMENTAL RESTORATION OF JEFFERSON PROVING GROUND, INDIANA

(a) REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives three annual reports and a final report on plans and schedules for remediation of the environmental contamination at the Jefferson Proving Ground, Indiana, resulting from the activities of the Department of Defense.

(b) MATTERS TO BE INCLUDED IN FINAL REPORT.—The final report required by subsection (a) shall include the following:

(1) A description of the nature and extent of the environmental contamination, including any contamination resulting from hazardous materials.

(2) A detailed plan to restore all portions of the Jefferson Proving Ground south of the firing line to full and unrestricted use.

(3) A description of all portions of the Jefferson Proving Ground which the Department of Defense does not plan to make available for full and unrestricted use for reasons of liability, costs of cleanup, or any other reason.

(4) A plan to finance the cleanup of the Jefferson Proving Ground, including estimated costs of the cleanup, identification of the sources of funds for cleanup, and a time schedule for implementation of cleanup measures.

(c) CONSULTATION.—The Secretary shall consult with appropriate State and local officials in preparing the reports required by subsection (a).

(d) DEADLINES.—The first annual report required by subsection (a) shall be submitted not later than April 15, 1990. The final report required by subsection (a) shall be submitted not later than April 15, 1993.

SEC. 360. STUDY OF ENVIRONMENTAL DAMAGE TO SHENANDOAH RIVER

(a) STUDY REQUIREMENT.—The Administrator of the Environmental Protection Agency, in consultation with the State of Virginia, shall conduct a study to determine the environmental damage to the Shenandoah River that has resulted, or may be resulting, from activities of any company under contract with the Department of Defense and the National Aeronautics and Space Administration.

(b) MATTERS TO BE STUDIED.—In conducting the study, the Administrator shall determine the following:

(1) The degree of the pollution in the Shenandoah River, and any other environmental effects on the river, attributable to the activities of any company described in subsection (a).

(2) An estimate of the amount of funds and the length of time needed to assure attainment of any water quality standards for the river established under section 303 of the Federal Water Pollution Control Act, to assure protection of public water supplies, and to assure protection and propagation of a balanced, indigenous population of fish (including shellfish) and wildlife.

(c) DEADLINES.—The Administrator shall submit to Congress—

(1) a plan for carrying out the study required by this section not later than December 31, 1989;

(2) a progress report on the study not later than June 30, 1990; and

(3) a final report on the study not later than December 31, 1990.

SEC. 361. STUDY OF WASTE RECYCLING

(a) STUDY.—The Secretary of Defense shall conduct a study of the following:

(1) Current practices and future plans for managing postconsumer waste at facilities of the Department of Defense at which such waste is generated, including commissary and exchange stores, cafeterias, and mess halls.

(2) The feasibility of such Department of Defense facilities participating in programs at military installations or in local communities to recycle the postconsumer waste generated at the facilities.

(b) POSTCONSUMER WASTE DEFINED.—For purposes of this section, the term "postconsumer waste" means garbage and refuse, including items that have passed through their end use as consumer items.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report describing the findings and conclusions of the Secretary resulting from the study.

PART F—MISCELLANEOUS REPORTS

SEC. 371. REPORT ON MILITARY USE OF THE INLAND NAVIGATION SYSTEM

Not later than one year after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the potential for obtaining efficiencies, savings, and enhanced mobilization preparedness through increased use of the national inland waterway system by the Department of Defense and defense industries.

SEC. 372. REPORT ON MANPOWER, MOBILITY, SUSTAINABILITY, AND EQUIPMENT

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the readiness of the Armed Forces (in terms of manpower, mobility, sustainability, and equipment) to perform their assigned missions. The report shall be based on the manpower and other resources planned for the Armed Forces in the budget for the Department of Defense for fiscal year 1991.

(b) MATTERS TO BE INCLUDED IN REPORT.—The Secretary shall include in the report required by subsection (a) the following:

(1) A detailed analysis of trends in readiness and sustainability of the military forces of the United States over the five-year period 1986 to 1990 and, based on the current Five-Year Defense Program or other planning document approved by the Secretary, a projection of such trends over the succeeding five-year period.

(2) A detailed evaluation of the readiness and sustainability of the unified combatant commands and the specified combatant commands of the Armed Forces.

(3) A discussion of—

(A) the readiness and sustainability of the military forces of the United States in terms of the standards approved by the Secretary of Defense;

(B) the readiness and sustainability of allied forces of the United States; and

(C) the readiness and sustainability of potential enemy forces.

(4) A list of all improvements that need to be made in the readiness and sustainability of the manpower, mobility, and equipment of the Armed Forces to correct major shortfalls of the unified combatant commands and the specified combatant commands, the relative priority of each such improvement, and the estimated cost of each such improvement.

(5) Such other information regarding the readiness of the Armed Forces (in terms of manpower, mobility, sustainability, and equipment) as the Secretary considers appropriate.

(c) PRIORITY FOR IMPROVEMENTS.—The relative priority of the improvements referred to in subsection (b)(4) shall be determined by the Secretary on the basis of the improvements necessary to ensure the ability of the Armed Forces to perform their assigned missions and the ability of the United States to meet its military commitments.

(d) SUBMISSION OF REPORT.—The Secretary shall submit the report required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate, not later than February 15, 1990.

SEC. 373. REPORT ON SECOND SOURCE FOR CARBONIZABLE RAYON YARN

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress and schedule (including a time certain) for the Department of Defense to establish a certified second production source for carbonizable rayon yarn for use by the Department of Defense and the National Aeronautics and Space Administration on heat shields and rocket nozzles of reentry space vehicles.

(b) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted not later than 60 days after the date of the enactment of this Act.

SEC. 374. REPORT ON MILITARY RECRUITING ADVERTISING EXPENDITURES

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report evaluating—

(1) the results of using each of the types of media for military recruiting purposes; and

(2) the anticipated effects on military recruitment of devoting to print media advertising each year a greater portion of the total expenditures made in a year for recruitment advertising.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1990, as follows:

(1) The Army, 764,021, of which not more than 106,001 may be officers.

(2) The Navy, 591,541, of which not more than 72,493 may be officers.

(3) The Marine Corps, 197,159, of which not more than 20,110 may be officers.

(4) The Air Force, 567,474, of which not more than 102,200 may be officers.

(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1991, as follows:

(1) The Army, 763,721, of which not more than 105,675 may be officers.

(2) The Navy, 591,541, of which not more than 72,313 may be officers.

(3) The Marine Corps, 197,159, of which not more than 20,108 may be officers.

(4) The Air Force, 562,415, of which not more than 102,069 may be officers.

SEC. 402. REDUCTION FOR FISCAL YEAR 1991 IN NUMBER OF AIR FORCE COLONELS

The number of officers that (but for this section) would be authorized under section 523 of title 10, United States Code, and other applicable provisions of law to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1991 is hereby reduced by 250.

SEC. 403. TEMPORARY INCREASE IN OFFICER GRADE LIMITATIONS

(a) AUTHORITY TO INCREASE NUMBERS FOR FISCAL YEARS 1990 AND 1991.—The Secretary of Defense may increase the strength-in-grade limitations specified in section 523(a) of title 10, United States Code, by a total of 250 positions, to be distributed among grades and services as the Secretary considers appropriate. Any increase pursuant to the preceding sentence in an otherwise applicable limitation shall expire, as specified by the Secretary, not later than September 30, 1991.

(b) REPORT ON GRADE TABLE RESTRICTIONS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the adequacy of the strength-in-grade limitations prescribed in section 523(a) of title 10, United States Code. The report shall particularly address how those limitations affect the ability of the Department of Defense to recruit and retain nurses and other health professionals for service on active duty. The report shall include such recommendations as the Secretary considers appropriate and shall be submitted not later than March 1, 1990.

PART B—RESERVE FORCES

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1990, as follows:

(1) The Army National Guard of the United States, 458,000.

(2) The Army Reserve, 321,700.

(3) The Naval Reserve, 153,400.

(4) The Marine Corps Reserve, 44,000.

(5) The Air National Guard of the United States, 116,200.

(6) The Air Force Reserve, 84,900.

(7) The Coast Guard Reserve, 15,000.

(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1991, as follows:

(1) The Army National Guard of the United States, 458,500.

(2) The Army Reserve, 323,100.

(3) The Naval Reserve, 155,000.

(4) The Marine Corps Reserve, 44,100.

(5) The Air National Guard of the United States, 116,300.

(6) The Air Force Reserve, 85,200.

(7) The Coast Guard Reserve, 15,150.

(c) WAIVER AUTHORITY.—The Secretary of Defense may vary an end strength authorized by subsection (a) or subsection (b) by not more than 2 percent.

(d) ADJUSTMENTS.—The end strengths prescribed by subsection (a) or (b) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) FISCAL YEAR 1990.—Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1990, the following number of Reserves to be serving on full-time active duty, or in the case of members of the National Guard, full-time National Guard duty, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,164.

(2) The Army Reserve, 13,680.

(3) The Naval Reserve, 22,708.

(4) The Marine Corps Reserve, 2,301.

(5) The Air National Guard of the United States, 8,517.

(6) The Air Force Reserve, 686.

(b) FISCAL YEAR 1991.—Within the end strengths prescribed in section 411(b), the reserve components of the Armed Forces are authorized, as of September 30, 1991, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,514.

(2) The Army Reserve, 14,027.

(3) The Naval Reserve, 23,565.

(4) The Marine Corps Reserve, 2,401.

(5) The Air National Guard of the United States, 8,468.

(6) The Air Force Reserve, 700.

SEC. 413. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) SENIOR ENLISTED MEMBERS.—(1) The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E–9	542	200	224	13
E–8	2,504	425	637	74".

(2) Effective on October 1, 1990, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E–9	557	202	231	13
E–8	2,585	429	670	74".

(b) OFFICERS.—(1) The table in section 524(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,030	1,065	575	110
Lieutenant Colonel or Commander	1,448	520	476	75
Colonel or Navy Captain	351	188	190	25".

(2) Effective on October 1, 1990, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,219	1,071	575	110
Lieutenant Colonel or Commander	1,524	520	532	75
Colonel or Navy Captain	364	188	194	25".

PART C—MILITARY TRAINING STUDENT LOADS

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) FISCAL YEAR 1990.—For fiscal year 1990, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 79,667.

(2) The Navy, 67,224.

(3) The Marine Corps, 21,656.

(4) The Air Force, 39,575.

(5) The Army National Guard of the United States, 19,168.

(6) The Army Reserve, 15,377.

(7) The Naval Reserve, 3,237.

(8) The Marine Corps Reserve, 4,179.

(9) The Air National Guard of the United States, 2,941.

(10) The Air Force Reserve, 1,752.

(b) FISCAL YEAR 1991.—For fiscal year 1991, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 74,760.

(2) The Navy, 66,517.

(3) The Marine Corps, 22,235.

(4) The Air Force, 37,757.

(5) The Army National Guard of the United States, 18,667.

(6) The Army Reserve, 15,963.

(7) The Naval Reserve, 3,259.

(8) The Marine Corps Reserve, 4,178.

(9) The Air National Guard of the United States, 2,939.

(10) The Air Force Reserve, 1,774.

(c) ADJUSTMENTS.—The average military student loads authorized in subsections (a) and (b) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustment shall be apportioned.

PART D—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL FOR FISCAL YEAR 1990

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1990 a total of $78,780,742,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1990.

TITLE V—MILITARY PERSONNEL

PART A—RESERVE COMPONENTS MATTERS

SEC. 501. DELAYED ENTRY PROGRAM AND DELAYED ENTRY TRAINING PROGRAM FOR RESERVISTS

(a) DELAYED ENTRY PROGRAM ENLISTMENTS.—(1) Chapter 31 of title 10, United States Code, is amended by inserting after section 512 the following new section:

"§ 513. Enlistments: Delayed Entry Program

"(a) A person with no prior military service who is qualified under section 505 of this title and applicable regulations for enlistment in a regular component of an armed force may (except as provided in subsection (c)) be enlisted as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve for a term of not less than six years nor more than eight years.

"(b) Unless sooner ordered to active duty under chapter 39 of this title or another provision of law, a person enlisted under paragraph (1) shall, within 365 days after such enlistment, be discharged from the reserve component in which enlisted and immediately be enlisted in the regular component of an armed force. During the period beginning on the date on which the person enlists under subsection (a) and ending on the date on which the person is enlisted in a regular component under the preceding sentence, the person shall be in the Ready Reserve of the armed force concerned.

"(c) A person who is under orders to report for induction into an armed force under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), except as provided in clause (ii) or (iii) of section 6(c)(2)(A) of that Act, may not be enlisted under paragraph (1).

"(d) This section shall be carried out under regulations to be prescribed by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 512 the following new item:

"513. Enlistments: Delayed Entry Program.".

(b) EXEMPTION OF DEP ENLISTEES FROM READY RESERVE TRAINING REQUIREMENTS.—Section 270(a) of title 10, United States Code, is amended by inserting "or 513" after "section 269(b)" in the first sentence.

(c) LIMITATION ON CREDITING DEP SERVICE FOR LONGEVITY FOR PAY.—Subsection (e) of section 205 of title 37, United States Code, is amended to read as follows:

"(e)(1) Notwithstanding subsection (a), a period of service described in paragraph (2) of a member who enlists in a reserve component may not be counted under this section.

"(2) Paragraph (1) applies to the following service:

"(A) Service performed while a member of a reserve component under an enlistment under section 511(b) or 511(d) of title 10 before the member begins service on active duty under such section (including a period of active duty for training) unless the member performs inactive-duty training before beginning service on active duty or active duty for training;

"(B) Service performed while a member of a reserve component under an enlistment under section 513 of title 10 (other than a period of active duty to which the member is ordered under chapter 39 of title 10 or another provision of law).".

SEC. 502. ANNUAL MUSTER DUTY AND MUSTER DUTY PAY FOR READY RESERVISTS

(a) ORDER TO ANNUAL MUSTER DUTY.—(1) Chapter 39 of title 10, United States Code is amended by inserting after section 686 the following new section:

"§ 687. Ready Reserve: muster duty

"(a) Under regulations prescribed by the Secretary of Defense, a member of the Ready Reserve may be ordered without his consent to muster duty one time each year. A member ordered to muster duty under this section shall be required to perform a minimum of two hours of muster duty on the day of muster.

"(b) The period which a member may be required to devote to muster duty under this section, including round-trip travel to and from the location of that duty, may not total more than one day each calendar year.

"(c) Except as specified in subsection (d), muster duty (and travel directly to and from that duty) under this section shall be treated as the equivalent of inactive-duty training (and travel directly to and from that training) for the purposes of this title and the provisions of title 37 (other than section 206(a)) and title 38, including provisions relating to the determination of eligibility for and the receipt of benefits and entitlements provided under those titles for Reserves performing inactive-duty training and for their dependents and survivors.

"(d) Muster duty under this section shall not be credited in determining entitlement to, or in computing, retired pay under chapter 67 of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 686 the following new item:

"687. Ready Reserve: muster duty.".

(b) ALLOWANCE FOR ANNUAL MUSTER DUTY.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 433. Allowance for muster duty

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the Ready Reserve who is not a member of the National Guard or of the Selected Reserve is entitled to an allowance for muster duty performed pursuant to section 691 of title 10 if the member is engaged in that duty for at least two hours.

"(b) The amount of the allowance under this section shall be 125 percent of the amount of the average per diem rate for the United States (other than Alaska and Hawaii) under section 404(d)(2)(A) of this title as in effect on September 30 of the year preceding the year in which the muster duty is performed.

"(c) The allowance authorized by this section may not be disbursed in kind and shall be paid to the member on or before the date on which the muster duty is performed. The allowance shall constitute the single, flat-rate monetary allowance authorized for the performance of muster duty and shall constitute payment in full to the member, regardless of grade or rank in which serving, as commutation for travel to the immediate vicinity of the designated muster duty location, transportation, subsistence, and the special or extraordinary costs of enforced absence from home and civilian pursuits, including such absence on weekends and holidays.

"(d) A member who performs muster duty is not entitled to compensation for inactive-duty training under section 206(a) of this title for the same period.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"433. Allowance for muster duty.".

SEC. 503. THREE-YEAR EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS

(a) GRADE DETERMINATION AUTHORITY FOR CERTAIN RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(b) PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS SERVING ON ACTIVE DUTY.—(1) Sections 3380(d) and 8380(d) of such title are each amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(2) The Secretary of the Army or the Secretary of the Air Force, as appropriate, shall provide, in the case of a Reserve officer appointed to a higher grade on or after the date of the enactment of this Act under an appointment described in paragraph (3), that the date of rank of such officer under that appointment shall be the date of rank that would have applied to the appointment had the authority referred to in that paragraph not lapsed.

(3) An appointment referred to in paragraph (2) is an appointment under 3380 or 8380 of title 10, United States Code, that (as determined by the Secretary concerned) would have been made during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act had the authority to make appointments under that section not lapsed during such period.

(c) YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Effective as of October 1, 1989, section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 504. TWO-YEAR EXTENSION OF AUTHORITY FOR CERTAIN SINGLE PARENTS TO ENLIST IN RESERVE COMPONENTS

Section 523(d) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 510 note) is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1991".

SEC. 505. TWO-YEAR PROGRAM OF SPECIAL UNIT ASSIGNMENT PAY FOR ENLISTED MEMBERS OF SELECTED RESERVE

(a) SPECIAL PAY.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 308c the following new section:

"§ 308d. Special pay: enlisted members of the Selected Reserve assigned to certain high priority units

"(a) Under regulations prescribed by the Secretary of Defense, an enlisted member who is assigned to a high priority unit of the Selected Reserve of the Ready Reserve of an armed force, as designated under subsection (b), and who performs inactive duty for training for compensation under section 206 of this title with such unit may be paid compensation, in addition to the compensation to which the member is otherwise entitled, in an amount not to exceed $10 for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least four hours, including any such instruction or duty performed on a Sunday or holiday.

"(b) The Secretary concerned may designate a unit, for the purposes of subsection (a) and under such terms and conditions as the Secretary considers appropriate, as a

high priority unit if that unit has experienced, or reasonably might be expected to experience, critical personnel shortages. The Secretary may vacate a designation made under this subsection at any time he considers the designation no longer necessary.

"(c) Additional compensation may not be paid under this section for inactive duty performed after September 30, 1991.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 308c the following new item:

"308d. Special pay: enlisted members of the Selected Reserve assigned to certain high priority units.".

(b) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the administration of the special pay program provided for in section 308d of title 37, United States Code, as added by subsection (a). The report shall be submitted not later than May 1, 1991, and shall include such comments and recommendations as the Secretary considers appropriate.

SEC. 506. MILITARY EDUCATION FOR CIVILIAN TECHNICIANS OF THE ARMY NATIONAL GUARD

(a) BATTLE SKILLS COURSES.—A civilian technician of the Army National Guard may not be denied a military promotion because of the failure of the technician to attend the Battle Skills Course if the technician has requested in writing to attend such a course and has not been selected to attend a course that would permit completion of the course within one year after such request. If a civilian technician receives a military promotion before the technician has completed the Battle Skills Course, the technician shall complete that course within one year after the date of the promotion.

(b) TREATMENT OF TRAINING UNDER EARLIER PROGRAMS.—For purposes of any reserve component noncommissioned officers education program established for the training of civilian technicians of the Army National Guard, the Secretary of the Army shall accept as meeting the requirements of that program—

(1) training completed by a civilian technician before October 1, 1987, through courses known as—

(A) Primary Leadership Development courses;

(B) Basic Noncommissioned Officers courses; and

(C) Advanced Noncommissioned Officers courses; and

(2) an abbreviated course to update leadership training, knowledge of doctrine, and tactical skills.

(c) PLAN.—(1) The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a plan to use State and National Guard Bureau regional academies by October 1, 1993, to provide the portion of the Reserve Component Noncommissioned Officers Education System specifically related to military occupational specialties. Such plan shall also identify personnel, funds, and other resources required to implement the plan.

(2) The Secretary of the Army shall submit the plan required by paragraph (1) not later than April 1, 1990.

(d) AMENDMENT.—Section 523 of Public Law 100-456 (102 Stat. 1974) is amended by striking out "shall" in subsections (a) and (c) and inserting in lieu thereof "may, at the technician's option,".

PART B—OTHER MATTERS

SEC. 511. INCREASE IN SERVICE OBLIGATION FOR GRADUATES OF THE SERVICE ACADEMIES AND THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

(a) UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SERVICES.—Section 2114(b) of title 10, United States Code, is amended by striking out "seven years" in the fourth sentence and inserting in lieu thereof "10 years".

(b) MILITARY ACADEMY.—Section 4348(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(c) NAVAL ACADEMY.—Section 6959(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(d) AIR FORCE ACADEMY.—Section 9348 of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to persons who are first admitted to the Uniformed Services University of the Health Services or one of the military service academies after December 31, 1991.

SEC. 512. EXTENSION OF AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS

(a) THREE-YEAR EXTENSION.—Section 5721(f) of title 10, United States Code, is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(b) SAVINGS PROVISION.—(1) The Secretary of the Navy shall provide, in the case of an officer appointed to the grade of lieutenant commander on or after the date of the enactment of this Act under an appointment described in paragraph (2), that the date of rank of such officer under that appointment shall be the date of rank that would have applied to the appointment had the authority referred to in that paragraph not lapsed.

(2) An appointment referred to in paragraph (1) is an appointment under 5721 of title 10, United States Code, that (as determined by the Secretary of the Navy) would have been made during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act had the authority to make appointments under that section not lapsed during such period.

SEC. 513. TESTING OF NEW ENTRANTS FOR DRUG AND ALCOHOL ABUSE

(a) AUTHORITY TO TEST BEFORE ACCESSION.—Subsection (a) of section 978 of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Secretary concerned shall require that, except as provided under paragraph (2), each person applying for an original enlistment or appointment in the armed forces shall be required, before becoming a member of the armed forces, to—

"(A) undergo testing (by practicable, scientifically supported means) for drug and alcohol use; and

"(B) be evaluated for drug and alcohol dependency.

"(2) The Secretary concerned may provide that, in lieu of undergoing the testing and evaluation described in paragraph (1) before becoming a member of the armed forces, a member of the armed forces under the Secretary's jurisdiction may be administered that testing and evaluation after the member's initial entry on active duty. In any such case, the testing and evaluation shall be carried out within 72 hours of the member's initial entry on active duty.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (b) of such section is amended to read as follows:

"(b) A person who refuses to consent to testing and evaluation required by subsection (a) may not (unless that person subsequently consents to such testing and evaluation)—

"(1) be accepted for an original enlistment in the armed forces or given an original appointment as an officer in the armed forces; or

"(2) if such person is already a member of the armed forces, be retained in the armed forces.

An original appointment of any such person as an officer shall be terminated.".

(2) Subsection (c) of such section is amended—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting at the beginning of the subsection the following new paragraph (1):

"(1) A person determined, as the result of testing conducted under subsection (a)(1), to be dependent on drugs or alcohol shall be denied entrance into the armed forces.";

(C) in paragraph (2) (as so redesignated), by striking out "subsection (a)(1)(B)" and inserting in lieu thereof "subsection (a)(2)"; and

(D) in paragraph (3) (as so redesignated)—

(i) by inserting "who is denied entrance into the armed forces under paragraph (1), or a" after "A person"; and

(ii) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (2),".

(c) EXCESS LEAVE STATUS FOR PERSONS TESTING POSITIVE.—Subsection (c) of such section, as amended by subsection (b), is further amended by adding at the end the following new paragraph:

"(4) The Secretary concerned may place on excess leave any member of the armed forces whose test results under subsection (a)(2) are positive for drug or alcohol use. The Secretary may continue such member's status on excess leave pending disposition of the member's case and processing for administrative separation.".

(d) TRANSITION PROVISION.—The amendments made by subsections (a) and (b) shall take effect as of October 1, 1989.

SEC. 514. CORRECTION OF MILITARY RECORDS CONCERNING PROMOTIONS AND ENLISTMENTS OF ENLISTED MEMBERS

(a) AUTHORITY OF SERVICE SECRETARIES.—Subsection (a) of section 1552 of title 10, United States Code, is amended to read as follows:

"(a)(1) The Secretary of a military department may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice. Except as provided in paragraph (2), such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that military department. The Secretary of Transportation may in the same manner correct any military record of the Coast Guard.

"(2) The Secretary concerned is not required to act through a board in the case of the correction of a military record announcing a decision that a person is not eligible to enlist (or reenlist) or is not accepted for enlistment (or reenlistment) or announcing a decision not to promote an enlisted member to a higher grade. Such a correction may be made only if the correction is favorable to the person concerned.

"(3) Corrections under this section shall be made under procedures established by the Secretary concerned. In the case of the Secretary of a military department, those procedures must be approved by the Secretary of Defense.

"(4) Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.".

(b) TIME FOR REQUEST FOR CORRECTION.—Subsection (b) of such section is amended by striking out "subsection (a)" both places it appears and inserting in lieu thereof "subsection (a)(1)".

SEC. 515. TITLE OF ADMISSIONS OFFICER OF UNITED STATES AIR FORCE ACADEMY

(a) CHANGE IN TITLE OF REGISTRAR.—Chapter 903 of title 10, United States Code, is amended as follows:

(1) Section 9331(b)(6) is amended by striking out "registrar" and inserting in lieu thereof "director of admissions".

(2) Section 9333(c) is amended by striking out "registrar" and inserting in lieu thereof "director of admissions".

(3) Section 9334(b) is amended by striking out "registrar" and inserting in lieu thereof "director of admissions".

(4) Section 9336(b) is amended by striking out "registrar" each place it appears and inserting in lieu thereof "director of admissions".

(b) CLERICAL AMENDMENTS.—(1) The heading of section 9336 of such title is amended to read as follows:

"§ 9336. Permanent professors; director of admissions".

(2) The item relating to such section in the table of sections at the beginning of chapter 903 of such title is amended to read as follows:

"9336. Permanent professors; director of admissions.".

SEC. 516. ELIGIBILITY FOR PRISONER OF WAR MEDAL

(a) EXTENSION TO MEMBERS HELD BY HOSTILE FORCES.—Section 1128(a) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(4) by foreign armed forces that are hostile to the United States, under circumstances which the Secretary concerned finds to have been comparable to those under which persons have generally been held captive by enemy armed forces during periods of armed conflict.".

(b) EFFECTIVE DATE.—Paragraph (4) of section 1128(a) of title 10, United States Code, as added by subsection (a), applies with respect to periods of captivity after April 5, 1917.

SEC. 517. GAO REPORT ON TECHNICAL TRAINING FOR RECRUITS AND MEMBERS OF THE RESERVE COMPONENTS

(a) REPORT REGARDING PROVISION OF TECHNICAL TRAINING.—The Comptroller General of the United States shall prepare a report on various options for providing technical training for military recruits and members of the reserve components. The report shall evaluate the practicality and desirability of—

(1) providing persons who desire to enlist in the Armed Forces with technical training either before enlistment or immediately after enlistment;

(2) using civilian institutions of higher education and vocational schools to provide such training; and

(3) using civilian institutions of higher education and vocational schools to provide training in individual technical skills for members of the reserve components.

(b) MATTERS TO BE INCLUDED IN REPORT.—The report required by subsection (a) shall include the following:

(1) A comparison of (A) technical skills training provided by the Armed Forces, with (B) technical skills training available in civilian institutions of higher education and vocational schools.

(2) A description of a program by which a person eligible for enlistment in the Armed Forces would receive technical training in, or under contract with, an institution of higher education or vocational school (and a stipend to pursue such training) (A) before enlistment in exchange for a commitment to serve in the Armed Forces, or (B) immediately after basic training.

(3) A description of any personnel savings and other savings that could result from the implementation of such a program.

(4) A description of a program by which institutions of higher education and vocational schools would enhance the readiness of the reserve components by supplementing active-duty individual skills training.

(5) A description of the specific training improvements, if any, that could result from the implementation of such a program.

(6) A description of a demonstration project to test such a program, on a limited basis as determined in consultation with the Secretary of Defense, together with a description of the cost of such demonstration project.

(c) SUBMISSION OF REPORT.—The Comptroller General shall submit the report required by subsection (a) to the Committees on Armed Services of the Senate and House of Representatives not later than February 1, 1991.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "technical training" means training in noncombat skills in technical fields, including electricity, machinery, welding, surveying, journalism, and photography.

(2) The terms "institution of higher education" and "vocational school" have the meanings given those terms in section 435 of the Higher Education Act of 1965 (20 U.S.C. 1085).

SEC. 518. PROVISION OF OFF-DUTY POSTSECONDARY EDUCATION SERVICES OVERSEAS

Section 1212 of the Department of Defense Authorization Act, 1986 (10 U.S.C. 133 note), is amended—

(1) by striking out subsections (c) and (e); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) The Secretary of Defense shall conduct a study to determine the current and future needs of members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees for postsecondary education services at overseas locations. The Secretary shall determine on the basis of the results of that study whether the policies and procedures of the Department in effect on the date of the enactment of the Department of Defense Authorization Act for Fiscal Years 1990 and 1991 with respect to the procurement of such services are—

"(A) consistent with the provisions of subsections (a) and (b);

"(B) adequate to ensure the recipients of such services the benefit of a choice in the offering of such services; and

"(C) adequate to ensure that persons stationed at geographically isolated military installations or at installations with small complements of military personnel are adequately served.

The Secretary shall complete the study in such time as necessary to enable the Secretary to submit the report required by paragraph (2)(A) by the deadline specified in that paragraph.

"(2)(A) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study referred to in paragraph (1), together with a copy of any revisions in policies and procedures made as a result of such study. The report shall be submitted not later than March 1, 1990.

"(B) The Secretary shall include in the report an explanation of how determinations are made with regard to—

"(i) affording members, employees, and dependents a choice in the offering of courses of postsecondary education; and

"(ii) whether the services provided under a contract for such services should be limited to an installation, theater, or other geographic area.

"(3)(A) Except as provided in subparagraph (B), no contract for the provision of services referred to in subsection (a) may be awarded, and no contract or agreement entered into before the date of the enactment of this paragraph may be renewed or extended on or after such date, until the end of the 60-day period beginning on the date on which the report referred to in paragraph (2)(A) is received by the committees named in that paragraph.

"(B) A contract or an agreement in effect on October 1, 1989, for the provision of postsecondary education services in the European Theater for members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees may be renewed or extended without regard to the limitation in subparagraph (A).

"(C) In the case of a contract for services with respect to which a solicitation is pending on the date of the enactment of this Act, the contract may be awarded—

"(i) on the basis of the solicitation as issued before the date of the enactment of this paragraph;

"(ii) on the basis of the solicitation issued before the date of the enactment of this paragraph modified so as to conform to any changes in policies and procedures the Secretary determines should be made as a result of the study required under paragraph (1); or

"(iii) on the basis of a new solicitation.".

SEC. 519. MATTERS TO BE CONSIDERED BY PROMOTION BOARDS IN CASE OF OFFICERS IN HEALTH PROFESSIONS COMPETITIVE CATEGORIES

Section 615 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) The Secretary of each military department, under uniform regulations prescribed by the Secretary of Defense, shall include in guidelines furnished to a selection board convened under section 611(a) of this title that is considering officers in a health-professions competitive category for promotion to a grade below colonel or, in the case of the Navy, captain, a direction that the board give consideration to an officer's clinical

proficiency and skill as a health professional to at least as great an extent as the board gives to the officer's administrative and management skills.".

SEC. 520. REPORT ON CONSTRUCTIVE CREDIT FOR NURSES

(a) REPORT REQUIREMENT.—The Secretary of Defense shall prepare a report on the awarding of constructive credit to military nurses for education, training, or experience. The report shall discuss existing provisions of law providing for such constructive credit, including a discussion of any inequities which the Secretary considers that such provisions may have created. If the Secretary determines that any such inequities have been created, the report shall include recommendations by the Secretary for ways to eliminate or reduce those inequities.

(b) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives not later than March 1, 1990.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1990

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1990 shall not be made.

(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3.6 percent effective on January 1, 1990.

(c) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective on January 1, 1990, section 203(c)(1) of title 37, United States Code, is amended by striking out "$525" and inserting in lieu thereof "$543.90".

SEC. 602. LIMITATION ON ADJUSTMENTS IN VARIABLE HOUSING ALLOWANCE

(a) LIMITATION.—Section 403a(c)(2) of title 37, United States Code, is amended by inserting before the period the following: ", except that the monthly amount of a variable housing allowance for a member may not be reduced to the extent that the total of basic pay, basic allowance for quarters, basic allowance for subsistence, and variable housing allowance of the member is reduced, as a result of such a reduction, below the monthly total of those items for the month preceding the effective date of the most recent increase in the rate of basic pay of the member".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1990.

PART B—BONUSES AND SPECIAL AND INCENTIVE PAY

SEC. 611. INCREASE IN SELECTIVE REENLISTMENT BONUS

(a) INCREASE IN SELECTIVE REENLISTMENT BONUS.—Section 308(a) of title 37, United States Code, is amended—

(1) by striking out "paid a bonus," in paragraph (1) and all that follows in that paragraph and inserting in lieu thereof "paid a bonus as provided in paragraph (2).";

(2) by redesignating paragraph (2) as paragraph (4) and in that paragraph striking out "of this subsection"; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) The bonus to be paid under paragraph (1) may not exceed the lesser of the following amounts:

"(A) The amount equal to the product of—

"(i) ten times the monthly rate of basic pay to which the member was entitled at the time of the discharge or release of the member; and

"(ii) the number of years (or the monthly fractions thereof) of the term of reenlistment or extension of enlistment, not to exceed six.

"(B) $45,000.

"(3) Any portion of a term of reenlistment or extension of enlistment of a member that, when added to the total years of service of the member at the time of discharge or release, exceeds 16 years may not be used in computing a bonus under paragraph (2)(A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to reenlistment and extension of enlistment agreements entered into under section 308(a) of title 37, United States Code, after September 30, 1989.

SEC. 612. ENLISTMENT BONUS FOR MEMBERS IN SKILLS DESIGNATED AS CRITICAL

(a) INCREASE IN AUTHORIZED BONUS AND FIRST INSTALLMENT.—Section 308a(a) of title 37, United States Code, is amended—

(1) by striking out "$8,000" in the first sentence and inserting in lieu thereof "$12,000"; and

(2) by striking out "$5,000" in the second sentence and inserting in lieu thereof "$7,000".

(b) LIMITATION ON PAYMENTS.—The total amount of payments made during fiscal year 1990 under section 308a(a) of title 37, United States Code, by the Secretary of the Army may not exceed $66,400,000.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to an enlistment or extension of an initial period of active duty (in a skill designated as critical) entered into on or after October 1, 1989.

SEC. 613. EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR RESERVE FORCES

Sections 308b(g), 308c(f), 308e(e), 308g(h), 308h(g), and 308i(i) of title 37, United States Code, are amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

SEC. 614. EXTENSION OF SPECIAL PAY PROGRAMS FOR NUCLEAR-QUALIFIED OFFICERS

(a) SPECIAL PAY FOR OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1995".

(b) ACCESSION BONUS.—Section 312b(d) of such title is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1995".

(c) ANNUAL INCENTIVE BONUS.—Section 312c of such title is amended—

(1) by striking out "ending before October 1, 1990" in subsections (a)(1) and (b)(1); and

(2) by striking out "October 1, 1990" in subsection (e) and inserting in lieu thereof "October 1, 1995".

PART C—TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 621. REIMBURSEMENT FOR CERTAIN FEES INCURRED IN TRAVEL

(a) REIMBURSEMENT AUTHORIZED.—Section 404 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(i) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) is entitled to reimbursement for parking fees, ferry fares, and bridge, road, and tunnel tolls actually incurred incident to such travel.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to travel and transportation commenced after the date of the enactment of this Act.

SEC. 622. LUMP-SUM PAYMENT OF OVERSEAS HOUSING COSTS

(a) PAYMENTS AUTHORIZED.—Section 405 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(d) In the case of a member of the uniformed services authorized to receive a per diem allowance under subsection (a), the Secretary concerned may make a lump-sum payment for nonrecurring expenses incurred by the member in occupying private housing outside of the United States. Expenses for which payments are made under this subsection may not be considered for purposes of determining the per diem allowance of the member under subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to expenses incurred after August 31, 1990.

SEC. 623. CLARIFICATION OF ALLOWANCE FOR TRANSPORTATION OF HOUSEHOLD EFFECTS

(a) WAIVER FOR SUBSTANTIAL HARDSHIP.—Section 406(b)(1) of title 37, United States Code, is amended by adding at the end the following new subparagraph:

"(D) In connection with the change of temporary or permanent station of a member in a pay grade below pay grade O–6, the Secretary concerned may authorize a higher weight allowance than the weight allowance determined under subparagraph (C) for the member if the Secretary concerned determines that the application of the weight allowance determined under such subparagraph would result in significant hardship to the member or the dependents of the member. An increase in weight allowance under this subparagraph may not result in a weight allowance exceeding the weight allowance specified in subparagraph (C) for pay grades O–6 to O–10. The Secretary of Defense shall prescribe regulations to carry out this subparagraph.".

(b) TECHNICAL AMENDMENT.—Subparagraph (C) of such section is amended by inserting "in pounds" after "weight allowance" in the matter preceding the table.

(c) EFFECTIVE DATE.—The authority provided in subparagraph (D), as added by subsection (a), shall apply with respect to the transportation of baggage and household effects occurring after June 30, 1989.

SEC. 624. TRAVEL ENTITLEMENT FOR MEMBERS ASSIGNED TO A VESSEL UNDER CONSTRUCTION

(a) AUTHORIZATION FOR TRAVEL ALLOWANCE.—(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 406b the following new section:

"§ 406c. Travel and transportation allowances: members assigned to a vessel under construction

"(a) ALLOWANCE AUTHORIZED.—(1) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is assigned to permanent duty aboard a ship that is under construction at a location other than—

"(A) the designated home port of the ship; or

"(B) the area where the dependents of the member are residing,

is entitled to transportation, or an allowance for transportation under section 404(d)(3) of this title, for round-trip travel from the port of construction to either of those locations as provided in paragraph (2).

"(2) A member referred to in paragraph (1) shall be entitled to such transportation or allowance on or after the thirty-first day (and every sixtieth day after the thirty-first day) after the later of—

"(A) the date on which the ship enters the construction port; and

"(B) the date on which the member becomes permanently assigned to the ship.

"(3) The amount of reimbursement for personally procured transportation or the allowance for transportation under this subsection may not exceed the cost of Government-procured commercial round-trip air travel.

"(b) DEPENDENTS TRAVEL.—(1) In lieu of the entitlement of a member of the uniformed services to transportation under subsection (a), the Secretary concerned may provide transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title for the travel of the dependents of the member from the location that was the home port of the ship before commencement of construction to the port of construction.

"(2) The total reimbursement for transportation for the member's dependents under paragraph (1) may not exceed the cost of Government-procured commercial round-trip travel.

"(c) CHANGE OF HOME PORT.—In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the port at which the ship is being constructed, the dependents of such member may be provided the transportation allowances prescribed in subsections (a) and (b) in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

"(d) APPLICATION OF OTHER LAW.—Section 420 of this title does not apply with respect to transportation or allowances provided under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 406b the following new item:

"406c. Travel and transportation allowances: members assigned to a vessel under construction.".

(b) CLARIFYING AMENDMENT.—Subsection (c) of section 406b of such title is amended to read as follows:

"(c) In any case in which a member of the uniformed services is assigned to permanent duty aboard a ship that undergoes a change of home port to the overhaul or inactivation port, the dependents of the member may be provided transportation allowances prescribed in subsections (a) and (b) in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.".

SEC. 625. STUDENT TRAVEL AUTHORIZED FOR DEPENDENTS OF MEMBERS IN ALASKA AND HAWAII

(a) AUTHORIZATION FOR DEPENDENT CHILDREN.—Section 430 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "United States" in paragraphs (1) and (3) and inserting in lieu thereof "continental United States"; and

(B) by striking out "oversea" in paragraph (2);

(2) in subsection (b)—

(A) by striking out "United States" each place it appears and inserting in lieu thereof "continental United States"; and

(B) by striking out "in the oversea area" and inserting in lieu thereof "outside the continental United States"; and

(3) by adding at the end the following new subsections:

"(d) For a member assigned to duty outside the continental United States, transportation under this section may be provided a dependent child as described in subsection (a)(3) who is attending a school in Alaska or Hawaii.

"(e) The transportation allowance authorized by this section (whether transportation in kind or reimbursement) may not be paid in the case of a member assigned to a permanent duty station in Alaska or Hawaii for a child attending a school in the State of the permanent duty station.

"(f) In this section, the term 'continental United States' means the 48 contiguous States and the District of Columbia.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to travel and transportation commenced after the date of the enactment of this Act.

PART D—MILITARY AVIATORS

SEC. 631. AVIATION CAREER INCENTIVE PAY

(a) ENTITLEMENT REQUIREMENTS.—Subsection (a)(4) of section 301a of title 37, United States Code, is amended—

(1) by striking out "6 of the first 12, and 11 of the first 18 years of his aviation service." in the first sentence and inserting in lieu thereof "9 of the first 12, and 12 of the first 18, years of the aviation service of the officer.";

(2) by striking out "at least 9 but less than 11 of the first 18 years of his aviation service, he" in the second sentence and inserting in lieu thereof "at least 10 but less than 12 of the first 18 years of the aviation service of the officer, the officer"; and

(3) by striking out "his officer service" in the second sentence and inserting in lieu thereof "the officer's service as an officer".

(b) WAIVER OF ENTITLEMENT REQUIREMENTS BY THE SECRETARY CONCERNED.—Subsection (a)(5) of such section is amended by inserting after the first sentence the following new sentence: "For the needs of the service, the Secretary concerned may permit, on a case by case basis, an officer to continue to receive continuous monthly incentive pay despite the failure of the officer to perform the prescribed operational flying duty requirements during the prescribed periods of time so long as the officer has performed those requirements for not less than 6 years of aviation service.".

(c) MONTHLY RATES.—(1) Subsection (b)(1) of such section is amended—

(A) by striking out "400" in the portion of the table designated as Phase I and inserting in lieu thereof "650"; and

(B) by striking out the portion of the table designated as Phase II and inserting in lieu thereof the following:

"Phase II

"Years of service as an officer:	Monthly rate:
Over 18	$585
Over 20	495
Over 22	385
Over 25	250".

(2) Subsection (b)(2) of such section is amended by striking out "400" in the table and inserting in lieu thereof "650".

(d) REPORT ON NUMBER OF OFFICERS RECEIVING A WAIVER.—Such section is further amended by adding at the end the following new subsection:

"(f) The Secretary of Defense shall submit annually to Congress a report specifying for the year covered by the report—

"(1) the total number of officers who were determined under subsection (a)(5) to have failed to perform the minimum prescribed operational flying duty requirements;

"(2) the number of those officers who continued to receive continuous monthly incentive pay despite their failure to perform the minimum prescribed operational flying duty requirements and the extent to which they failed to perform those requirements; and

"(3) the reasons for the exercise of the authority under the second sentence of subsection (a)(5) in the case of each officer specified pursuant to paragraph (2).".

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made—

(A) by subsection (c) shall take effect on the date of the enactment of this Act; and

(B) by subsections (a), (b), and (d) shall take effect on October 1, 1991.

(2) The Secretary of a military department may delay, subject to the approval of the Secretary of Defense, the implementation of the amendments made by subsection (c) with respect to the department of that Secretary until such time as the Secretary concerned determines that implementation of those amendments is necessary to meet the needs of that department.

(3) If the Secretary of a military department delays under paragraph (2) the implementation of the amendments made by subsection (c) beyond October 1, 1991, the Secretary may also delay implementation of the amendments made by subsections (a), (b), and (d) until the date on which the Secretary implements the amendments made by subsection (c). During the delay in implementation, the provisions of section 301a of title 37, United States Code, as in effect on the day before the date of the enactment of this Act, shall continue to apply in the case of such department to the payment of aviation career incentive pay under such section.

(f) TRANSITION.—(1) An officer of a uniformed service who, as of the date the amendments made by subsections (a), (b), and (d) take effect with regard to the officer's uniformed service—

(A) has completed years of aviation service in an amount equal to one of the number of years of aviation service specified in column one of the following table; and

(B) has performed, or subsequently performs, the prescribed operational flying duties (including flight training but excluding proficiency flying) during the number of years of aviation service specified in column two of such table and corresponding to the number of years of aviation service applicable to the officer under column one,

shall be entitled to continuous monthly incentive pay at the rates provided in section 301a(b) of title 37, United States Code (as amended by this section) until the officer completes the years of service as an officer specified in column three of such table and applicable to the officer.

TABLE

Column 1	Column 2	Column 3
Number of years of aviation service	Number of years performing operational flying duty	Entitlement to continuous monthly incentive pay through the following year of officer service
6 or more	at least 6 of the first 12 years of aviation service.	18
6 or more	at least 9 but less than 11 of the first 18 years of aviation service.	22
6 or more	at least 6 of the first 12 and at least 11 of the first 18 years of aviation service.	25
at least 6 but less than 12.	less than 6 and subsequently completes 6 of the first 12 and 9 of the first 15 years of aviation service.	18
at least 12 but less than 18.	less than 9 and subsequently completes 9 of the first 18 years of aviation service.	22
at least 12 but less than 18.	less than 11 and subsequently completes 11 of the first 18 years of aviation service.	25

(2) For purposes of this subsection, the terms "operational flying duty" and "proficiency flying duty" have the meaning given to such terms in section 301a(a)(6) of title 37, United States Code.

SEC. 632. AVIATOR RETENTION BONUSES

(a) EXTENSION AND CODIFICATION OF CURRENT PROGRAM.—Section 301b of title 37, United States Code, is amended to read as follows:

"§ 301b. Special pay: aviation career officers extending period of active duty

"(a) BONUS AUTHORIZED.—An aviation officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on September 30, 1991, executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

"(b) COVERED OFFICERS.—An aviation officer referred to in subsection (a) is an officer of a uniformed service who—

"(1) is entitled to aviation career incentive pay under section 301a of this title;

"(2) is in an aviation specialty designated by the Secretary concerned (with the approval of the Secretary of Defense in the case of the Secretary of a military department) as a critical aviation specialty;

"(3) is in a pay grade below pay grade 0-6;

"(4) is qualified to perform operational flying duty;

"(5) has completed at least six but less than 13 years of active duty; and

"(6) has completed any active duty service commitment incurred for undergraduate aviator training.

"(c) AMOUNT OF BONUS.—The amount of a retention bonus paid under this section may not be more than—

"(1) $12,000 for each year covered by the written agreement, if the officer agrees to remain on active duty to complete 14 years of commissioned service; or

"(2) $6,000 for each year covered by the written agreement, if the officer agrees to remain on active duty for one or two years.

"(d) PRORATION.—The term of an agreement under subsection (a) and the amount of the bonus under subsection (c) may be prorated as long as such agreement does not extend beyond the date on which the officer making such agreement would complete 14 years of commissioned service.

"(e) PAYMENT OF BONUS.—Upon the acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed and may be paid by the Secretary in either a lump sum or installments.

"(f) ADDITIONAL PAY.—A retention bonus paid under this section is in addition to any other pay and allowances to which an officer is entitled.

"(g) REPAYMENT OF BONUS.—(1) If an officer who has entered into a written agreement under subsection (a) and has received all or part of a retention bonus under this section fails to complete the total period of active duty specified in the agreement, the Secretary concerned may require the officer to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid under this section.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (a) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after January 1, 1989.

"(h) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.

"(i) REPORTS.—(1) Not later than February 15 of each year, the Secretaries concerned shall submit to the Secretary of Defense a report analyzing the effect of the provision of retention bonuses to aviation officers during the preceding fiscal year on the retention of qualified aviators. Each report shall include—

"(A) a comparison of the cost of paying bonuses to officers who enter into an agreement for the period referred to in subsection (c)(1) with the cost of paying bonuses to officers who enter into an agreement for a period referred to in subsection (c)(2);

"(B) a description of the increase in the retention of qualified aviators as a result of the program; and

"(C) an examination of the desirability of targeting the retention bonus program toward officers in a critical aviation specialty rather than on the basis of experience or other criteria.

"(2) Not later than March 15 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives copies of the reports submitted to the Secretary under paragraph (1) with regard to the preceding fiscal year, together with such comments and recommendations as the Secretary considers appropriate.

"(j) LIMITATION ON PAYMENTS FOR FISCAL YEAR 1990.—(1) The total amount of payments made under this section to officers of the Air Force during fiscal year 1990 may not exceed $78,000,000.

"(2) The total amount of payments made under this section to officers of the Navy during fiscal year 1990 may not exceed $30,000,000.

"(k) DEFINITIONS.—In this section:

"(1) The term 'aviation service' means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer).

"(2) The term 'aviation specialty' means a community of pilots identified by type of aircraft or weapon system or a community of other designated aeronautical officers so identified.

"(3) The term 'critical aviation specialty' means an aviation specialty in which there exists a shortage of officers on the date of designation under subsection (b).

"(4) The term 'operational flying duty' has the meaning given such term in section 301a(a)(6)(A) of this title.".

(b) CONFORMING AMENDMENT.—Section 611 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1977), is amended by striking out subsection (e).

(c) AGREEMENTS ENTERED INTO UNDER THE FORMER LAW.—(1) The amendment made by subsection (a) shall not affect an agreement entered into under section 301b of title 37, United States Code (as in effect on September 30, 1989), and, except as provided in paragraph (2), the provisions of such section as in effect on such day shall continue to apply with respect to such agreement.

(2) For pay periods beginning after September 30, 1989, an officer serving under an agreement entered into under section 301b of such title before October 1, 1987, shall be entitled during the remainder of the agreement to the monthly rate of aviation career incentive pay specified in section 301a(b) of such title and corresponding to the officer's years of aviation service or years of service as an officer.

(d) COVERAGE OF PERIOD OF LAPSED AUTHORITY.—(1) In the case of an aviation officer described in paragraph (2) who executes an agreement under section 301b of title 37, United States Code, during the 90-day period beginning on the date of the enactment of this Act, the Secretary concerned may deem such agreement to have been executed and accepted for purposes of such section on the first date on which the officer would have qualified for such an agreement had the amendment made by subsection (a) taken effect on October 1, 1989.

(2) An aviation officer referred to in paragraph (1) is an officer who, during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act, would have qualified for an agreement under such section had the amendment made by subsection (a) taken effect on October 1, 1989.

(3) For purposes of this subsection, the term "Secretary concerned" has the meaning given that term by section 101(5) of title 37, United States Code.

SEC. 633. REDUCTION IN NONOPERATIONAL FLYING DUTY POSITIONS

(a) REDUCTIONS REQUIRED.—(1) Not later than September 30, 1991, the Secretary of Defense shall reduce the number of nonoperational flying duty positions in the Armed Forces to a number equal to not more than 98 percent of the total number of such positions in existence on September 30, 1989.

(2) Not later than September 30, 1992, the Secretary of Defense shall reduce the number

of nonoperational flying duty positions in the Armed Forces to a number equal to not more than 95 percent of the total number of such positions in existence on September 30, 1989.

(b) LIMITATION ON INCREASES IN NONOPERATIONAL FLYING DUTY POSITIONS.—No increase in the number of nonoperational flying duty positions in the Armed Forces (as a percentage of all flying duty positions in the Armed Forces) may be made after September 30, 1992, unless the increase is specifically authorized by law.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "Armed Forces" does not include the Coast Guard.

(2) The term "nonoperational flying duty position" means a position in a military department identified by the Secretary of that department as a position that—

(A) requires the assignment of an aviator; and

(B) does not include operational flying duty (as defined in section 301a(6)(A) of title 37, United States Code).

SEC. 634. MINIMUM SERVICE REQUIREMENT FOR AVIATORS

(a) IN GENERAL.—(1) Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 653. Minimum service requirement for certain flight crew positions

"(a) PILOTS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a pilot shall be 8 years, if the member is trained to fly fixed-wing jet aircraft, and 6 years, if the member is trained to fly any other type of aircraft.

"(b) NAVIGATORS AND NAVAL FLIGHT OFFICERS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a navigator or naval flight officer shall be 6 years.

"(c) DEFINITION.—In this section, the term 'active duty obligation' means the period of active duty required to be served after—

"(1) completion of undergraduate pilot training in the case of training as a pilot;

"(2) completion of undergraduate navigator training in the case of training as a navigator; or

"(3) completion of undergraduate training as a naval flight officer in the case of training as a naval flight officer.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"653. Minimum service requirement for certain flight crew positions.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraphs (2) and (3), section 653 of title 10, United States Code, as added by subsection (a)(1), shall apply to persons who begin undergraduate pilot training, undergraduate navigator training, or undergraduate naval flight officer training, as the case may be, after September 30, 1990.

(2) Such section shall apply to persons who graduate from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the Coast Guard Academy after December 31, 1991, and to persons who satisfactorily complete the academic and military requirements of the Senior Reserve Officers' Training Corps program (provided for in chapter 103 of title 10, United States Code) after December 31, 1991.

(3) The minimum service requirements provided for such section shall not apply in the case of any person who entered into an agreement with the Secretary concerned before October 1, 1990, and who is obligated under the terms of such agreement to serve on active duty for a period less than the applicable period specified in section 653 of such title.

(4) For purposes of this subsection, the term "Secretary concerned" has the meaning given that term in section 101(8) of title 10, United States Code.

SEC. 635. REPORT ON LIFE INSURANCE

(a) REPORT REQUIRED.—Not later than November 15, 1990, the Secretary of Defense shall submit to the Congress a report evaluating the adequacy of the current Servicemen's Group Life Insurance program and the practicability and desirability of providing an accidental death insurance plan for aviators and other aviation crew members serving on active duty that provides for the payment of death benefits in the amount of $100,000 for death resulting directly from the performance of operational flying duty. The report shall include a legislative proposal containing the recommendations of the Secretary following such evaluation and a recommendation on the advisability of providing an accidental death insurance plan for other members of the Armed Forces on active duty in an occupational specialty characterized as hazardous.

(b) DEFINITION.—For purposes of subsection (a), the term "operational flying duty" has the meaning given to that term in section 301a(a)(6)(A) of title 37, United States Code.

SEC. 636. REPORT ON AVIATOR ASSIGNMENT POLICIES AND PRACTICES

Not later than September 15, 1990, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and House of Representatives a report evaluating the aviator assignment policies and practices of the Armed Forces. The report shall include an analysis of the effectiveness and efficiency of the aviator assignment policies and practices of the Armed Forces, including an analysis of the policies and practices followed in accommodating the assignment preferences of aviators within operational needs of the Armed Forces.

SEC. 637. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COMMISSION TO CONDUCT A STUDY ON THE NATIONAL SHORTAGE OF AVIATORS

(a) ESTABLISHMENT OF COMMISSION.—In view of the critical shortage of qualified aviators in both the Armed Forces and in the commercial airline industry of the United States, it is the sense of Congress that the President should establish a commission to study the reasons for such shortages and to consider effective and practicable means of eliminating the shortages.

(b) MEMBERS OF THE COMMISSION.—A commission established by the President pursuant to subsection (a) should include as members—

(1) representatives from the commercial airline industry;

(2) representatives from the commercial and general aviation pilots organizations;

(3) representatives from the Department of Defense;

(4) representatives from the Department of Transportation; and

(5) representatives from such other sources as the President considers appropriate.

(c) TIME OF APPOINTMENT.—The President should appoint all members of the commission not later than February 15, 1990.

(d) REPORT.—The commission should submit a report on the results of its study to the President and Congress not later than March 1, 1991, together with specific recommendations for eliminating the shortage of aviators in the United States.

PART E—MONTGOMERY GI BILL AMENDMENTS

SEC. 641. INCREASE IN AMOUNT PAYABLE UNDER MONTGOMERY GI BILL FOR CRITICAL SPECIALTIES

Section 1415(c) of title 38, United States Code, is amended by striking out "$400 per month" and inserting in lieu thereof "$400 per month, in the case of an individual who first became a member of the Armed Forces before the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991, or $700 per month, in the case of an individual who first became a member of the Armed Forces on or after that date".

SEC. 642. PAYMENTS FOR VOCATIONAL-TECHNICAL TRAINING UNDER RESERVE-COMPONENT GI BILL

(a) IN GENERAL.—Section 2131(c)(1) of title 10, United States Code, is amended to read as follows:

"(c)(1) Educational assistance may be provided under this chapter for pursuit of any program of education that is an approved program of education for purposes of chapter 30 of title 38 other than a program of education in a course of instruction beyond the baccalaureate degree level.".

(b) AMOUNT OF ASSISTANCE.—Section 2131 of such title is amended—

(1) in subsection (b)—

(A) by striking out "Each" and inserting in lieu thereof "Except as provided in subsections (d) through (f), each"; and

(B) by inserting ", through the Secretary of Veterans Affairs," after "Secretary concerned"; and

(2) by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), the amount of the monthly educational assistance allowance payable to a person pursuing a full-time program of apprenticeship or other on-the-job training under this chapter is—

"(A) for each of the first six months of the person's pursuit of such program, 75 percent of the monthly educational assistance allowance otherwise payable to such person under this chapter;

"(B) for each of the second six months of the person's pursuit of such program, 55 percent of such monthly educational assistance allowance; and

"(C) for each of the months following the first 12 months of the person's pursuit of such program, 35 percent of such monthly educational assistance allowance.

"(2) In any month in which any person pursuing a program of education consisting of a program of apprenticeship or other on-the-job training fails to complete 120 hours of training, the amount of the monthly educational assistance allowance payable under this chapter to the person shall be limited to the same proportion of the applicable full-time rate as the number of hours worked during such month, rounded to the nearest 8 hours, bears to 120 hours.

"(3)(A) Except as provided in subparagraph (B), for each month that such person is paid a monthly educational assistance allowance under this chapter, the person's entitlement under this chapter shall be charged at the rate of—

"(i) 75 percent of a month in the case of payments made in accordance with paragraph (1)(A);

"(ii) 55 percent of a month in the case of payments made in accordance with paragraph (1)(B); and

"(iii) 35 percent of a month in the case of payments made in accordance with paragraph (1)(C).

"(B) Any such charge to the entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).

"(e)(1) The amount of the monthly educational assistance allowance payable to a person pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such person under this chapter.

"(2) For each month that a person is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the person's entitlement under this chapter shall be charged at the rate of 80 percent of a month.

"(f)(1)(A) The amount of the educational assistance allowance payable under this chapter to a person who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such person.

"(B) For purposes of subparagraph (A), the term 'established charge' means the lesser of—

"(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

"(ii) the actual charge to the person for such course or courses.

"(C) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the person and serviced by the institution.

"(2) In each case in which the amount of educational assistance is determined under paragraph (1), the period of entitlement of the person concerned shall be charged with one month for each $140 which is paid to the individual as an educational assistance allowance.".

(c) CONFORMING AMENDMENTS.—Section 2136(b) of such title is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "Except as otherwise provided in this chapter, the provisions of sections 1434(b), 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(c), 1780(g), 1786(a), 1787, and 1792) shall be applicable to the provision of educational assistance under this chapter."; and

(2) by striking out ", as used" in the second sentence and inserting in lieu thereof "and the term 'a person', as used".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any person who after September 30, 1990, meets the requirements set forth in subparagraph (A) or (B) of section 2132(a)(1) of title 10, United States Code.

SEC. 643. LIMITATION OF ACTIVE GUARD AND RESERVE PERSONNEL TO ACTIVE-DUTY PROGRAM

(a) LIMITATION.—Section 2132(d) of title 10, United States Code, is amended by adding at the end the following new sentence: "However, a person may not receive credit under the program established by this chapter for service (in any grade) on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components in a position which is included in the end strength required to be authorized each year by section 115(b)(1)(A)(ii) of this title.".

(b) SAVINGS PROVISION.—The amendment made by subsection (a) shall not affect the eligibility for educational assistance of any person who before the date of the enactment of this Act is entitled to educational assistance under section 2131(a) of title 10, United States Code.

SEC. 644. REPORT ON IMPOSITION OF CONTRIBUTION REQUIREMENT FOR PARTICIPATION IN CHAPTER 106 PROGRAM

Not later than March 15, 1990, the Secretary of Defense shall submit to Congress a report setting forth the views of the Secretary on the desirability and the practicability of requiring members of the reserve components, as a condition of participating in the educational assistance program under chapter 106 of title 10, United States Code, to sustain a reduction in pay in the same manner as applies to members of the Armed Forces on active duty who participate in the educational assistance program under chapter 30 of title 38, United States Code.

SEC. 645. TECHNICAL AMENDMENTS

(a) REFERENCES TO ADMINISTRATOR OF VETERANS' AFFAIRS.—Chapter 106 of title 10, United States Code, is amended—

(1) by striking out "Administrator of Veterans' Affairs" in sections 2131(b)(4), 2132(c), 2132(d), and 2136(a) and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(2) by striking out "to the Administrator" in section 2132(c) and inserting in lieu thereof "to that Secretary".

(b) OTHER TECHNICAL AMENDMENTS.—(1) Section 2131(b) of such title is amended by striking out "and educational" in the matter preceding paragraph (1) and inserting in lieu thereof "of an educational".

(2) Section 2132(d) of such title is amended by striking out "An individual" and inserting in lieu thereof "A person".

PART F—PERSONNEL AND COMPENSATION TECHNICAL AMENDMENTS

SEC. 651. TECHNICAL AMENDMENTS TO MILITARY RETIREMENT LAWS

(a) CLARIFICATION OF COMPUTATION OF RETIRED PAY UNDER HIGH-THREE SYSTEM.—Section 1407 of title 10, United States Code, is amended—

(1) in subsection (b), by inserting "or (d)" after "subsection (c)";

(2) by striking out subsections (c), (e), (f) and (g);

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (b) the following new subsections (c) and (d):

"(c) COMPUTATION OF HIGH-THREE AVERAGE FOR MEMBERS ENTITLED TO RETIRED OR RETAINER PAY FOR REGULAR SERVICE.—

"(1) GENERAL RULE.—The high-three average of a member entitled to retired or retainer pay under any provision of law other than section 1204 or 1205 or section 1331 of this title is the amount equal to—

"(A) the total amount of monthly basic pay to which the member was entitled for the 36 months (whether or not consecutive) out of all the months of active service of the member for which the monthly basic pay to which the member was entitled was the highest, divided by

"(B) 36.

"(2) SPECIAL RULE FOR SHORT-TERM DISABILITY RETIREES.—In the case of a member who is entitled to retired pay under section 1201 or 1202 of this title and who has completed less than 36 months of active service, the member's high-three average (notwithstanding paragraph (1)) is the amount equal to—

"(A) the total amount of basic pay to which the member was entitled during the period of the member's active service, divided by

"(B) the number of months (including any fraction thereof) of the member's active service.

"(d) COMPUTATION OF HIGH-THREE AVERAGE FOR MEMBERS AND FORMER MEMBERS ENTITLED TO RETIRED PAY FOR NONREGULAR SERVICE.—

"(1) RETIRED PAY UNDER CHAPTER 67.—The high-three average of a member or former member entitled to retired pay under section 1331 of this title is the amount equal to—

"(A) the total amount of monthly basic pay to which the member or former member was entitled during the member or former member's high-36 months (or to which the member or former member would have been entitled if the member or former member had served on active duty during the entire period of the member or former member's high-36 months), divided by

"(B) 36.

"(2) NONREGULAR SERVICE DISABILITY RETIRED PAY.—The high-three average of a member entitled to retired pay under section 1204 or 1205 of this title is the amount equal to—

"(A) the total amount of monthly basic pay to which the member was entitled during the member's high-36 months (or to which the member would have been entitled if the member had served on active duty during the entire period of the member's high-36 months), divided by

"(B) 36.

"(3) SPECIAL RULE FOR SHORT-TERM DISABILITY RETIREES.—In the case of a member who is entitled to retired pay under section 1204 or 1205 of this title and who was a member for less than 36 months before being retired under that section, the member's high-three average (notwithstanding paragraph (2)) is the amount equal to—

"(A) the total amount of basic pay to which the member was entitled during the entire period the member was a member of a uniformed service before being so retired (or to which the member would have been entitled if the member had served on active duty during the entire period the member was a member of a uniformed service before being so retired), divided by

"(B) the number of months (including any fraction thereof) which the member was a member before being so retired.

"(4) HIGH-36 MONTHS.—The high-36 months of a member or former member whose retired pay is covered by paragraph (1) or (2) are the 36 months (whether or not consecutive) out of all the months before the member or former member became entitled to retired pay for which the monthly basic pay to which the member or former member was entitled (or would have been entitled if serving on active duty during those months) was the highest. In the case of a former member, only months during which the former member was a member of a uniformed service may be used for purposes of the preceding sentence.".

(b) CLARIFICATION OF APPLICABILITY OF PROVISIONS TO FORMER MEMBERS ENTITLED TO RETIRED PAY.—Chapter 71 of title 10, United States Code, is amended as follows:

(1) Section 1401a is amended—

(A) in subsection (b)(3), by inserting "and former member" after "member" the first place it appears;

(B) in subsection (e), by inserting "or former member" after "member" the first and third places it appears; and

(C) in subsection (f), by inserting "or former member" in the second sentence after "member".

(2) Section 1407(b) is amended by striking out "member" and "member's" and inserting in lieu thereof "person" and "person's", respectively.

(3) Section 1409(a)(1) is amended by striking out "who is retired" and inserting in lieu thereof "who is entitled to that pay".

(4) Section 1410 is amended—

(A) in the matter preceding paragraph (1), by inserting "or former member" after "member" each place (other than the second place) it appears; and

(B) in paragraph (1), by striking out "member's retired pay" and inserting in lieu thereof "retired pay of the member or former member".

(c) PAYMENTS FROM MILITARY RETIREMENT FUND.—Section 1463(a) of such title is amended—

(1) in paragraph (1), by striking out "persons" and inserting in lieu thereof "members";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) retired pay payable under chapter 67 of this title to former members of the armed forces (other than retired pay payable by the Secretary of Transportation);".

(d) CLARIFICATION OF ENTITLEMENT OF RETIRED RESERVISTS FOR SERVICE PERFORMED WHILE IN RETIRED STATUS.—Section 675 of title 10, United States Code, is amended by adding at the end the following: "A member of the Ready Reserve (other than a member transferred to the Retired Reserve under section 1001(b) of this title) who is ordered to active duty or other appropriate duty in a retired status may be credited under chapter 67 of this title with service performed pursuant to such order. A member in a retired status is not eligible for promotion (or for consideration for promotion) as a Reserve.".

SEC. 652. REPEAL OF CERTAIN OBSOLETE AND EXPIRED PROVISIONS

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1)(A) Section 971(a) is amended by striking out ", under an appointment accepted after June 25, 1956,".

(B) The limitation in section 971(a) of title 10, United States Code, shall not apply with respect to a period of service referred to in that section while also serving under an appointment as a cadet or midshipman accepted before June 26, 1956.

(2) Section 971(b) is amended—

(A) in paragraph (1), by striking out ", if he was appointed as a midshipman or cadet after March 4, 1913"; and

(B) in paragraph (2), by striking out ", if he was appointed as a midshipman or cadet after August 24, 1912".

(3) Section 1482(e) is amended by striking out "the effective date of this subsection, or the date of death," and inserting in lieu thereof "the date of death".

(4) Sections 3014(f), 5014(f), and 8014(f) are each amended by striking out paragraph (5).

(5) Section 6330(a) is amended by striking out "under—" and all that follows through "this section." and inserting in lieu thereof "under this section.".

(6) Section 8925(a) is amended by striking out "and service computed under section 8683 of this title".

(7) Section 8926 is amended—

(A) in subsection (a)—

(i) by inserting "and" at the end of paragraph (1);

(ii) by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(iii) by striking out paragraphs (3) and (4); and

(B) by striking out subsection (d).

(b) TITLE 37.—Title 37, United States Code, is amended as follows:

(1) Sections 308b(e) and 308c(e) are each amended by striking out the second sentence.

(2) Section 308c(a) is amended by striking out ", after September 30, 1978,".

SEC. 653. OTHER TECHNICAL AND CLERICAL AMENDMENTS

(a) AMENDMENTS FOR STYLISTIC CONSISTENCY.—Title 10, United States Code, is amended as follows:

(1) Section 502 is amended by striking out "or affirmation".

(2) Section 603(f) is amended—

(A) by striking out "terminates—" and inserting in lieu thereof "terminates on the earliest of the following:";

(B) by striking out "on the" in paragraph (1) and inserting in lieu thereof "The";

(C) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period;

(D) by striking out "at the" in paragraph (2) and inserting in lieu thereof "The";

(E) by striking out "; or" at the end of paragraph (2) and inserting in lieu thereof a period;

(F) by striking out "on the" in paragraph (3) and inserting in lieu thereof "The"; and

(G) by striking out the semicolon at the end of paragraph (3) and all that follows and inserting in lieu thereof a period.

(3) Section 671b(a) is amended by striking out "Armed Forces of the United States" and inserting in lieu thereof "armed forces".

(4) Section 1076(e)(3)(C) is amended by striking out "1 year" and inserting in lieu thereof "one year".

(5) Section 1408(a) is amended—

(A) by striking out "(26 U.S.C. 3402(i))" in paragraph (4)(D); and

(B) by inserting "entitled to retired pay under section 1331 of this title" in paragraph (5) after "a former member".

(6) Section 1482(a) is amended—

(A) by striking out "expenses of—" and inserting in lieu thereof "expenses of the following:";

(B) by capitalizing the first letter of the first word in each of paragraphs (1) through (11);

(C) by striking out the semicolon at the end of paragraphs (1) through (9) and inserting in lieu thereof a period;

(D) by striking out "; and" at the end of paragraph (10) and inserting in lieu thereof a period; and

(E) in paragraph (11)—

(i) by striking out "clause" each place it appears and inserting in lieu thereof "paragraph"; and

(ii) by striking out "decedent; for the" and inserting in lieu thereof "decedent. For the".

(b) CORRECTION OF TABLE HEADING.—Section 305a(b) of title 37, United States Code, is amended by inserting "COMMISSIONED" before "OFFICERS" in the heading of the table in that subsection relating to officers in pay grades O-1 through O-6.

(c) CORRECTIONS TO AMENDMENTS MADE BY PUBLIC LAW 100-456.—(1) Section 411g(a) of title 37, United States Code, is amended by striking out "to" after "may be paid".

(2) Section 419 of such title is amended—

(A) by striking out "a officer" both places it appears and inserting in lieu thereof "an officer"; and

(B) by striking out "to" after "may be paid".

(d) PUNCTUATION AMENDMENT.—Section 209(c) of title 37, United States Code, is amended by striking out the period after "title 10" the first place it appears.

(e) CROSS REFERENCE CORRECTIONS.—(1) Section 1094(c)(2) of title 10, United States Code, is amended by striking out "subsections (b) and (d) through (g)" and inserting in lieu thereof "subsections (c) and (e) through (h)".

(2) Section 403(b)(1)(B) of Public Law 99-661 (10 U.S.C. 521 note) is amended by striking out "3033," and "8033," and inserting in lieu thereof "3021," and "8021,", respectively.

(f) DATE OF ENACTMENT REFERENCE.—Section 1102(j)(1) of title 10, United States Code, is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "November 14, 1986".

(g) REFERENCE TO THE CANAL ZONE.—Section 708(a) of title 32, United States Code, is amended by striking out "governor of each State and Territory, Puerto Rico, and the Canal Zone" and inserting in lieu thereof "Governor of each State or Territory and Puerto Rico".

PART G—MISCELLANEOUS

SEC. 661. MILITARY RELOCATION ASSISTANCE PROGRAMS

(a) REQUIREMENT TO PROVIDE ASSISTANCE.—Not later than October 1, 1990, the Secretary of Defense shall establish a program to provide relocation assistance to members of the Armed Forces and their families as provided in this section. In addition, the Secretary of Defense shall make every effort, consistent with readiness objectives, to stabilize and lengthen tours of duty to minimize the adverse effects of relocation.

(b) TYPES OF ASSISTANCE.—(1) The Secretary of each military department, under regulations prescribed by the Secretary of Defense, shall provide relocation assistance, through military relocation assistance programs described in subsection (c), to members of the Armed Forces who are ordered to make a change of permanent station which includes a move to a new location (and for dependents of such members who are authorized to move in connection with the change of permanent station).

(2) The relocation assistance provided shall include the following:

(A) Provision of destination area information and preparation (to be provided before the change of permanent station takes effect), with emphasis on information with regard to moving costs, housing costs and availability, child care, spouse employment opportunities, cultural adaptation, and community orientation.

(B) Provision of counseling about financial management, home buying and selling, renting, stress management aimed at intervention and prevention of abuse, property management, and shipment and storage of household goods (including motor vehicles and pets).

(C) Provision of settling-in services, with emphasis on available government living quarters, private housing, child care, spouse employment assistance information, cultural adaptation, and community orientation.

(D) Provision of home finding services, with emphasis on services for locating ade-

quate, affordable temporary and permanent housing.

(c) MILITARY RELOCATION ASSISTANCE PROGRAMS.—(1) The Secretary shall provide for the establishment of military relocation assistance programs to provide the relocation assistance described in subsection (b). The Secretary shall establish such a program in each geographic area in which at least 500 members of the Armed Forces are assigned to or serving at a military installation. A member who is not stationed within a geographic area that contains such a program shall be given access to such a program. The Secretary shall ensure that persons on the staff of each program are trained in the techniques and delivery of professional relocation assistance.

(2) The Secretary shall ensure that, not later than September 30, 1991, information available through each military relocation assistance program shall be managed through a computerized information system that can interact with all other military relocation assistance programs of the military departments, including programs located outside the continental United States.

(3) Duties of each military relocation assistance program shall include assisting personnel offices on the military installation in using the computerized information available through the program to help provide members of the Armed Forces who are deciding whether to reenlist information on locations of possible future duty assignments.

(d) DIRECTOR.—The Secretary of Defense shall establish the position of Director of Military Relocation Assistance Programs in the office of the Assistant Secretary of Defense (Force Management and Personnel). The Director shall oversee development and implementation of the military relocation assistance programs under this section.

(e) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.

(f) ANNUAL REPORT.—Not later than March 1 each year, the Secretary of Defense, acting through the Director of Military Relocation Assistance Programs, shall submit to Congress a report on the program under this section and on military family relocation matters. The report shall include the following:

(1) An assessment of available, affordable private-sector housing for members of the Armed Forces and their families.

(2) An assessment of the actual nonreimbursed costs incurred by members of the Armed Forces and their families who are ordered to make a change of permanent station.

(3) Information (shown by military installation) on the types of locations at which members of the Armed Forces assigned to duty at military installations live, including the number of members of the Armed Forces who live on a military installation and the number who do not live on a military installation.

(4) Information on the effects of the relocation assistance programs established under this section on the quality of life of members of the Armed Forces and their families and on retention and productivity of members of the Armed Forces.

(g) INAPPLICABILITY TO COAST GUARD.—This section does not apply to the Coast Guard.

(h) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section not later than July 1, 1990.

(i) REPORT ON PLAN FOR IMPLEMENTATION.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on a plan for the full implementation of the programs provided for in this section. The report shall include an estimate of the the cost of implementing that plan.

SEC. 662. EXTENSION OF TEST PROGRAM OF REIMBURSEMENT FOR ADOPTION EXPENSES

(a) INCLUSION OF COAST GUARD.—(1) Subsection (a) of section 638 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (101 Stat. 1106; 10 U.S.C. 113 note) is amended—

(A) by inserting "under the jurisdiction of the Secretary" after "member of the Armed Forces"; and

(B) by adding at the end the following new sentence: "The Secretary of Transportation shall carry out a similar test program under which a member of the Coast Guard may be reimbursed, as provided in this section, for qualifying adoption expenses incurred by the member.".

(2) Subsection (f) of such section is amended to read as follows:

"(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section with respect to members of the Armed Forces under the Secretary's jurisdiction. The Secretary of Transportation shall prescribe regulations to carry out this section with respect to members of the Coast Guard.".

(b) PERIOD COVERED BY TEST PROGRAM.—Subsection (h) of such section is amended to read as follows:

"(h) DURATION OF TEST PROGRAM.—The test program under this section shall apply with respect to qualifying adoption expenses incurred for adoption proceedings initiated—

"(1) in the case of a member of the Army, Navy, Air Force, or Marine Corps, after September 30, 1987, and before October 1, 1990; and

"(2) in the case of a member of the Coast Guard, after September 30, 1989, and before October 1, 1990.".

(c) TECHNICAL AMENDMENTS.—(1) Subsection (a) of such section is amended—

(A) by striking out "shall establish" and inserting in lieu thereof "shall carry out"; and

(B) by striking out "in the adoption of a child".

(2) Subsection (g)(1) of such section is amended by inserting "under 18 years of age" after "legal adoption of a child".

SEC. 663. REPEAL OF FOUR-YEAR RESERVE OFFICER UNIFORM ALLOWANCE

(a) REPEAL OF ALLOWANCE.—Section 416 of title 37, United States Code, is amended—

(1) by striking out subsection (a);

(2) by striking out "(b) In addition" and all that follows through "of this section" and inserting in lieu thereof "(a) In addition to the allowance provided by section 415 of this title";

(3) by striking out "he" and inserting in lieu thereof "the officer"; and

(4) by designating the sentence beginning "However, this subsection does not" as subsection (b) and in that sentence striking out "However, this subsection" and inserting in lieu thereof "Subsection (a)".

(b) SAVE PAY PROVISION.—An officer of an armed force who, but for the amendments made by subsection (a), would have become entitled to a uniform reimbursement under section 416(a) of title 37, United States Code, before the end of the one-year period beginning on the date of the enactment of this Act shall be entitled (during such one-year period) to receive such reimbursement under such section as in effect on the day before the date of the enactment of this Act.

SEC. 664. REIMBURSEMENT FOR FINANCIAL INSTITUTION CHARGES INCURRED BECAUSE OF GOVERNMENT ERROR IN DIRECT DEPOSIT OF PAY

(a) EXTENSION OF SCOPE OF REIMBURSEMENT AUTHORITY.—(1) Subsection (a) of section 1053 of title 10, United States Code, is amended to read as follows:

"(a)(1) A member of the armed forces (or a former member of the armed forces entitled to retired pay under chapter 67 of this title) who, in accordance with law or regulation, participates in a program for the automatic deposit of pay to a financial institution may be reimbursed by the Secretary concerned for a covered late-deposit charge.

"(2) A covered late-deposit charge for purposes of paragraph (1) is a charge (including an overdraft charge or a minimum balance or average balance charge) that is levied by a financial institution and that results from an administrative or mechanical error on the part of the Government that causes the pay of the person concerned to be deposited late or in an incorrect manner or amount.".

(2) Subsection (d) of such section is amended to read as follows:

"(d) In this section:

"(1) The term 'financial institution' has the meaning given the term 'financial organization' in section 3332(a) of title 31.

"(2) The term 'pay' includes (A) retired pay, and (B) allowances.".

(3)(A) The heading of such section is amended to read as follows:

"§ 1053. Reimbursement for financial institution charges incurred because of Government error in mandatory direct deposit of pay".

(B) The item relating to such section in the table of sections at the beginning of chapter 53 of such title is amended to read as follows:

"1053. Reimbursement for financial institution charges incurred because of Government error in mandatory direct deposit of pay.".

(b) OTHER DEPARTMENT OF DEFENSE PERSONNEL.—(1) Chapter 81 of such title is amended by adding after section 1593, as added by section 336, the following new section:

"§ 1594. Reimbursement for financial institution charges incurred because of Government error in mandatory direct deposit of pay

"(a)(1) A civilian officer or employee of the Department of Defense who, in accordance with law or regulation, participates in a program for the automatic deposit of pay to a financial institution may be reimbursed for a covered late-deposit charge.

"(2) A covered late-deposit charge for purposes of paragraph (1) is a charge (including an overdraft charge or a minimum balance charge) that is levied by a financial institution and that results from an administrative or mechanical error on the part of the Government that causes the pay of the officer or employee concerned to be deposited late or in an incorrect manner or amount.

"(b) Reimbursements under this section shall be made from appropriations available for the pay of the officer or employee concerned.

"(c) The Secretaries concerned shall prescribe regulations to carry out this section, including regulations for the manner in which reimbursement under this section is to be made.

"(d) in this section:

"(1) The term 'financial institution' has the meaning given the term 'financial organization' in section 3332(a) of title 31.

"(2) The term 'pay' includes allowances.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1593, as added by section 336, the following new item:

"1594. Reimbursement for financial institution charges incurred because of Government error in mandatory direct deposit of pay.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a), and section 1594 of title 10, United States Codes, as added by subsection (b), shall apply with respect to pay and allowances deposited (or scheduled to be deposited) on or after the first day of the first month beginning after the date of the enactment of this Act.

TITLE VII—HEALTH CARE PROVISIONS

PART A—HEALTH CARE PROFESSIONS PERSONNEL MATTERS

SEC. 701. AUTHORITY TO REPAY LOANS OF CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE

(a) EXPANSION OF EDUCATION LOANS THAT QUALIFY FOR REPAYMENT.—Subsection (a) of section 2172 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(4) a loan made, insured, or guaranteed through a recognized financial or educational institution if that loan was used to finance education regarding a health profession that the Secretary of Defense determines to be critically needed in order to meet identified wartime combat medical skill shortages.".

(b) EXTENSION OF AUTHORITY.—Subsection (d) of such section is amended by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1992".

(c) TECHNICAL AMENDMENTS.—(1) Subsection (a) of such section is amended by striking out "a portion of" in paragraph (1).

(2) Subsection (c) of such section is amended by striking out "portion of" in paragraph (2) and inserting in lieu thereof "amount of".

(d) REPORT ON LOAN REPAYMENTS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) evaluating the loan repayment program for certain health professionals established under section 2172 of title 10, United States Code (as amended by this section); and

(B) containing a legislative proposal to establish a comprehensive and coordinated program in the military departments to repay education loans for health professionals who serve on active duty or in a reserve component.

(2) The report required by paragraph (1) shall be submitted not later than January 15, 1990.

SEC. 702. REVISION OF MILITARY PHYSICIAN SPECIAL PAY STRUCTURE

(a) VARIABLE SPECIAL PAY.—Subsection (a)(2) of section 302 of title 37, United States Code, is amended—

(1) by striking out "$10,000" in subparagraph (C) and inserting in lieu thereof "$12,000";

(2) by striking out "$9,500" in subparagraph (D) and inserting in lieu thereof "$11,500";

(3) by striking out "$9,000" in subparagraph (E) and inserting in lieu thereof "$11,000";

(4) by striking out "$8,000" in subparagraph (F) and inserting in lieu thereof "$10,000";

(5) by striking out "$7,000" in subparagraph (G) and inserting in lieu thereof "$9,000";

(6) by striking out "$6,000" in subparagraph (H) and inserting in lieu thereof "$8,000"; and

(7) by striking out "$5,000" in subparagraph (I) and inserting in lieu thereof "$7,000".

(b) ADDITIONAL SPECIAL PAY.—Subsection (a)(4) of such section is amended—

(1) by striking out "(A)";

(2) by striking out "who has less than ten years of creditable service";

(3) by striking out "$9,000" and inserting in lieu thereof "$15,000"; and

(4) by striking out subparagraph (B).

(c) BOARD CERTIFICATION PAY.—Subsection (a)(5) of such section is amended—

(1) by striking out "$2,000" in subparagraph (A) and inserting in lieu thereof "$2,500";

(2) by striking out "$2,500" in subparagraph (B) and inserting in lieu thereof "$3,500";

(3) by striking out "$3,000" in subparagraph (C) and inserting in lieu thereof "$4,000";

(4) by striking out "$4,000" in subparagraph (D) and inserting in lieu thereof "$5,000"; and

(5) by striking out "$5,000" in subparagraph (E) and inserting in lieu thereof "$6,000".

(d) INCENTIVE SPECIAL PAY.—Subsection (b)(1) of such section is amended by striking out "$8,000 for any twelve-month period" and all that follows through the period and inserting in lieu thereof "$16,000 for any twelve-month period beginning in fiscal year 1990, $22,000 for any twelve-month period beginning in fiscal year 1991, $29,000 for any twelve-month period beginning in fiscal year 1992, and $36,000 for any twelve-month period beginning after fiscal year 1992.".

(e) RESERVE MEDICAL OFFICERS SPECIAL PAY.—Subsection (h) of such section is amended to read as follows:

"(h) RESERVE MEDICAL OFFICERS SPECIAL PAY.—(1) A reserve medical officer described in paragraph (2) is entitled to special pay at the rate of $450 a month for each month of active duty.

"(2) A reserve medical officer referred to in paragraph (1) is a reserve officer who—

"(A) is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer; and

"(B) is on active duty under a call or order to active duty for a period of less than one year.".

(f) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by inserting "VARIABLE, ADDITIONAL, AND BOARD CERTIFICATION SPECIAL PAY.—" in subsection (a) after "(a)";

(2) by inserting "INCENTIVE SPECIAL PAY.—" in subsection (b) after "(b)";

(3) by inserting "ACTIVE-DUTY AGREEMENT.—" in subsection (c) after "(c)";

(4) by inserting "REGULATIONS.—" in subsection (d) after "(d)";

(5) by inserting "FREQUENCY OF PAYMENTS.—" in subsection (e) after "(e)";

(6) by inserting "REFUND FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—" in subsection (f) after "(f)";

(7) by inserting "DETERMINATION OF CREDITABLE SERVICE.—" in subsection (g) after "(g)";

(8) by inserting "EFFECT OF DISCHARGE IN BANKRUPTCY.—" in subsection (i) after "(i)"; and

(9) by striking out "of this section" and "of this subsection" each place they appear (other than in subsection (g)).

(g) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (c) shall take effect on January 1, 1990.

(2) The amendments made by subsections (b) and (d) shall apply to an agreement entered into under section 302(c)(1) of title 37, United States Code, on or after the date of the enactment of this Act.

(3) The amendment made by subsection (e) shall take effect on January 1, 1990, and shall apply to pay periods beginning on or after such date.

SEC. 703. EXTENSION AND EXPANSION OF MEDICAL OFFICER RETENTION BONUS PROGRAM

(a) BONUS AUTHORIZED.—Subsection (a) of section 612 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1979; 37 U.S.C. 302 note), is amended by striking out "September 30, 1989" in paragraph (1) and inserting in lieu thereof "September 30, 1990".

(b) LIMITATION ON AMOUNT OF INCENTIVE SPECIAL PAY.—Subsection (a) of such section is further amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of law, the amount of incentive special pay under section 302(b) of title 37, United States Code, paid to a medical officer who executes an agreement under paragraph (1) may not exceed $16,000 during each year covered by the agreement.".

(c) COVERED OFFICERS.—Subsection (b) of such section is amended—

(1) in paragraph (3), by striking out "; and" and inserting in lieu thereof "or has completed any active-duty service commitment incurred for medical education and training;"; and

(2) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) has completed initial residency training (or will complete such training before October 1, 1991); and

"(5) is not pursuing a medical residency or fellowship subsequent to completing initial residency training.".

(d) REPORT.—(1) Subsection (g) of such section is amended to read as follows:

"(g) REPORT.—(1) Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report evaluating—

"(A) the effectiveness of the Armed Forces in retaining medical officers by providing a retention bonus under this section to medical officers who make a multi-year active-duty service commitment; and

"(B) the effectiveness and practicability of such alternative multi-year options as the Secretary considers appropriate to encourage medical officers to make active-duty service commitments of longer length.

"(2) The options evaluated by the Secretary under paragraph (1)(B) shall include—

"(A) a proposal to increase the payment of additional special pay under subsection (a)(4) of section 302 of title 37, United States Code, by $2,000 for a two-year active-duty service commitment, $4,000 for a three-year

active-duty service commitment, and $8,000 for a four-year active-duty service commitment; and

"(B) a proposal to increase the amount of incentive special pay provided under subsection (b) of such section to medical officers who make a multi-year active-duty service commitment by a certain percentage based on the length of the active-duty service commitment.

"(3) The Secretary shall include for each option evaluated under paragraph (1) an assessment of the cost of such option if implemented and methods to fund such option within the amounts provided for special pay under section 302 of title 37, United States Code.".

(2) Such section is further amended by striking out subsection (i).

(e) TRANSITION FOR CERTAIN OFFICERS EXCLUDED DURING FISCAL YEAR 1989.—(1) In the case of an agreement that was executed by a medical officer under section 612 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1979; 37 U.S.C. 302 note), before October 1, 1989, but that was not accepted by the Secretary concerned solely because of the limitation contained in subsection (h) of such section, the Secretary concerned may accept such agreement during the 90-day period beginning on the date of the enactment of this Act notwithstanding such limitation.

(2) An agreement accepted under this subsection may be deemed by the Secretary concerned to have been accepted on the date on which the officer executed the agreement during fiscal year 1989.

(f) COVERAGE OF PERIOD OF LAPSED AUTHORITY.—In the case of a medical officer described in paragraph (2) who executes an agreement under section 612 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1979; 37 U.S.C. 302 note), during the 90-day period beginning on the date of the enactment of this Act, the Secretary concerned may deem such agreement to have been executed and accepted for purposes of such section on the first date on which the officer would have qualified for such agreement had the authority referred to in such paragraph not lapsed.

(2) A medical officer referred to in paragraph (1) is an officer who, during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act, would have qualified for an agreement under such section but for the fact that the authority for the payment of bonuses provided by such section had lapsed.

(g) SECRETARY CONCERNED DEFINED.—For purposes of subsections (e) and (f), the term "Secretary concerned" has the meaning given that term by section 101(5) of title 37, United States Code.

SEC. 704. SPECIAL PAY FOR PSYCHOLOGISTS

(a) SPECIAL PAY AUTHORIZED.—Section 302c of title 37, United States Code, is amended by adding at the end the following new subsection:

"(c) ARMY, NAVY, AND AIR FORCE PSYCHOLOGISTS.—The Secretary of Defense may provide special pay at the rates specified in subsection (b) to an officer who—

"(1) is an officer in the Medical Service Corps of the Army or Navy or a biomedical sciences officer in the Air Force;

"(2) is designated as a psychologist; and

"(3) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology.".

(b) CLERICAL AMENDMENTS.—(1) The section heading of such section is amended by striking out "in the Public Health Service Corps".

(2) The item relating to section 302c in the table of sections at the beginning of chapter 5 of such title is amended by striking out "in the Public Health Service Corps".

(c) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by inserting "PUBLIC HEALTH SERVICE CORPS.—" in subsection (a) after "(a)"; and

(2) by inserting "RATE OF SPECIAL PAY.—" in subsection (b) after "(b)".

(d) IMPLEMENTATION OF AMENDMENT.—The Secretary of Defense may not implement subsection (c) of section 302c of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report—

(1) justifying the need of the military departments for the authority provided in such subsection; and

(2) describing the manner in which that authority will be implemented.

SEC. 705. ACCESSION BONUS FOR REGISTERED NURSES

(a) ACCESSION BONUS AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by adding after section 302c the following new section:

"§ 302d. Special pay: accession bonus for registered nurses

"(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a registered nurse and who, during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991 and ending on September 30, 1991, executes a written agreement described in subsection (c) to accept a commission as an officer and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

"(2) The amount of an accession bonus under paragraph (1) may not exceed $5,000.

"(b) LIMITATION ON ELIGIBILITY FOR BONUS.—A person may not be paid a bonus under subsection (a) if—

"(1) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a baccalaureate degree; or

"(2) the Secretary concerned determines that the person is not qualified to become and remain licensed as a registered nurse.

"(c) AGREEMENT.—The agreement referred to in subsection (a) shall provide that, consistent with the needs of the uniformed service concerned, the person executing the agreement will be assigned to duty, for the period of obligated service covered by the agreement, as an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service.

"(d) REPAYMENT.—(1) An officer who receives a payment under subsection (a) and who fails to become and remain licensed as a registered nurse during the period for which the payment is made shall refund to the United States an amount equal to the full amount of such payment.

"(2) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(3) An obligation to reimburse the United States imposed under paragraph (1) or (2) is for all purposes a debt owed to the United States.

"(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302c the following new item:

"302d. Special pay: accession bonus for registered nurses.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code, is amended by inserting "302d," after "302c," each place it appears.

(c) REPORT ON IMPLEMENTATION.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in section 302d of title 37, United States Code (as added by subsection (a)), is implemented.

SEC. 706. INCENTIVE PAY FOR NURSE ANESTHETISTS

(a) AUTHORIZATION FOR INCENTIVE PAY.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 302d (as added by section 705) the following new section:

"§ 302e. Special pay: nurse anesthetists

"(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b) who, during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991 and ending on September 30, 1991, executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary concerned, be paid incentive special pay in an amount not to exceed $6,000 for any 12-month period.

"(2) The Secretary concerned shall determine the amount of incentive special pay to be paid to an officer under paragraph (1). In determining that amount, the Secretary concerned shall consider the period of obligated service provided for in the agreement under that paragraph.

"(b) COVERED OFFICERS.—An officer referred to in subsection (a) is an officer of a uniformed service who—

"(1) is an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service;

"(2) is a qualified certified registered nurse anesthetist; and

"(3) is on active duty under a call or order to active duty for a period of not less than one year.

"(c) TERMINATION OF AGREEMENT.—Under regulations prescribed by the Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, the Secretary concerned may terminate an agreement entered into under subsection (a). Upon termination of an agreement, the entitlement of the officer to special pay under this section and the agreed upon commitment to active duty of

the officer shall end. The officer may be required to refund that part of the special pay corresponding to the unserved period of active duty.

"(d) PAYMENT.—Special pay payable to an officer under subsection (a) of this section shall be paid annually at the beginning of the 12-month period for which the officer is to receive that payment.

"(e) REPAYMENT.—(1) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302d (as added by section 705) the following new item:

"302e. Special pay: nurse anesthetists.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code (as amended by section 705(b)), is further amended by inserting "302e," after "302d," each place it appears.

(c) REPORT ON MILITARY USE OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of certified registered nurse anesthetists by the military departments. The report shall include—

(A) a description of restrictions imposed by the military departments on the use of such nurses;

(B) a comparison of such restrictions with restrictions imposed by other entities on the use of such nurses;

(C) a description of the number of persons who annually receive training by the military departments to be certified registered nurse anesthetists; and

(D) the desirability and cost of expanding the capability of the military departments to provide such training.

(2) The report required by paragraph (1) shall be submitted not later than March 1, 1990.

SEC. 707. NURSE OFFICER CANDIDATE ACCESSION BONUS

(a) BONUS AUTHORIZED.—Chapter 105 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—NURSE OFFICER CANDIDATE ACCESSION PROGRAM

"Sec.
"2130a. Financial assistance: nurse officer candidates.

"§ 2130a. Financial assistance: nurse officer candidates

"(a) BONUS AUTHORIZED.—(1) A person described in subsection (b) who, during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991 and ending on September 30, 1991, executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than $5,000. The bonus shall be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted, except that the first installment may not exceed $2,500.

"(2) In addition to the accession bonus payable under paragraph (1), a person selected under such paragraph shall be entitled to a monthly stipend of not more than $500 for each month the individual is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title. The continuation bonus may be paid for not more than 24 months.

"(b) ELIGIBLE STUDENTS.—A person eligible to enter into an agreement under subsection (a) is a person who—

"(1) is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title;

"(2) has completed the second year of an accredited baccalaureate degree program in nursing and has more than 6 months of academic work remaining before graduation; and

"(3) meets the qualifications for appointment as an officer of a reserve component of the Army, Navy, or Air Force as set forth in section 591 of this title or, in the case of the Public Health Service, section 207 of the Public Health Service Act (42 U.S.C. 209) and the regulations of the Secretary concerned.

"(c) REQUIRED AGREEMENT.—The agreement referred to in subsection (a) shall provide that the person executing the agreement agrees to the following:

"(1) That the person will complete the nursing degree program described in subsection (b)(1).

"(2) That, upon acceptance of the agreement by the Secretary concerned, the person will enlist in a reserve component of an armed force.

"(3) That the person will accept an appointment as an officer in the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer in the Air Force or commissioned corps of the Public Health Service, as the case may be, upon graduation from the nursing degree program.

"(4) That the person will serve on active duty as such an officer—

"(A) for a period of 4 years in the case of a person whose agreement was accepted by the Secretary concerned during that person's fourth year of the nursing degree program; or

"(B) for a period of 5 years in the case of a person whose agreement was accepted by the Secretary concerned during that person's third year of the nursing degree program.

"(d) REFUND OF PAYMENTS.—(1) A person shall refund any bonus or stipend paid under subsection (a) if the person—

"(A) fails to complete a nursing degree program in which the person is enrolled in accordance with the agreement entered into under such subsection;

"(B) having completed the nursing degree program, fails to accept an appointment, if tendered, as an officer of the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer of the Air Force or commissioned corps of the Public Health Service; or

"(C) fails to complete the period of obligated active service required under the agreement.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is eniered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991.

"(e) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of subchapters at the beginning of chapter 105 of such title is amended by adding at the end the following new item:

"III. Nurse Officer Candidate Accession Program ..... 2130a".

SEC. 708. PROGRAM TO INCREASE USE OF CERTAIN NURSES BY THE MILITARY DEPARTMENTS

(a) PROGRAM REQUIRED.—(1) Not later than September 30, 1991, the Secretary of each military department shall implement a program to appoint persons who have an associate degree or diploma in nursing (but have not received a baccalaureate degree in nursing) as officers and to assign such officers to duty as nurses.

(2) An officer appointed pursuant to the program required by subsection (a) shall be appointed in a warrant officer grade or in a commissioned grade not higher than O-3. Such officer may not be promoted above the grade of O-3 unless the officer receives a baccalaureate degree in nursing.

(b) REPORT ON IMPLEMENTATION.—Not later than April 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the actions taken by the Secretaries of the military departments to implement the program required by this section.

SEC. 709. AUTHORITY TO DEFER MANDATORY RETIREMENT FOR AGE OF REGULAR OFFICERS IN A HEALTH-RELATED PROFESSION

Section 1251(c)(2) of title 10, United States Code, is amended—

(1) by striking out "A deferment" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), a deferment";

(2) by striking out "67 years of age" and inserting in lieu thereof "68 years of age"; and

(3) by adding at the end the following new subparagraph:

"(B) The Secretary concerned may extend a deferment under this subsection beyond the day referred to in subparagraph (A) if the Secretary determines that extension of the deferment is necessary for the needs of the military department concerned. Such an extension shall be made on a case-by-case basis and shall be for such period as the Secretary considers appropriate.".

SEC. 710. RETENTION IN ACTIVE SERVICE OF RESERVE OFFICERS IN A HEALTH-RELATED PROFESSION

(a) ARMY.—(1) Subsection (c) of section 3855 of title 10, United States Code, is amended—

(A) by striking out "An officer" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an officer";

(B) by striking out "67 years of age" and inserting in lieu thereof "68 years of age"; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary of the Army may retain an officer (other than an officer in the Chaplains) in an active status under this section after the date on which the officer becomes 68 years of age if the Secretary determines that continued retention is necessary for the needs of the Army.".

(2) Such section is further amended by adding at the end the following new subsection:

"(d) Subsection (a)(1) of section 324 of title 32 shall not apply to an officer during any period in which the officer is retained in an active status under this section.".

(b) NAVY.—Subsection (c) of section 6392 of such title is amended—

(1) by striking out "An officer" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an officer";

(2) by striking out "67 years of age" and inserting in lieu thereof "68 years of age"; and

(3) by adding at the end the following new paragraph:

"(2) The Secretary of the Navy may retain an officer (other than an officer in the Chaplain Corps) in an active status under this section after the date on which the officer becomes 68 years of age if the Secretary determines that continued retention is necessary for the needs of the Navy.".

(c) AIR FORCE.—(1) Subsection (c) of section 8855 of such title is amended—

(A) by striking out "An officer" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an officer";

(B) by striking out "67 years of age" and inserting in lieu thereof "68 years of age"; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary of the Air Force may retain an officer (other than an officer who is designated as a chaplain) in an active status under this section after the date on which the officer becomes 68 years of age if the Secretary determines that continued retention is necessary for the needs of the Air Force.".

(2) Such section is further amended by adding at the end the following new subsection:

"(d) Subsection (a)(1) of section 324 of title 32 shall not apply to an officer during any period in which the officer is retained in an active status under this section.".

SEC. 711. RETENTION OF CERTAIN RESERVE PSYCHOLOGISTS IN ACTIVE STATUS

(a) ARMY.—Section 3855(a) of title 10, United States Code, is amended by striking out "the podiatry specialty in the Medical Allied Sciences Section of the Medical Service Corps, the Optometry Section of the Medical Service Corps," and inserting in lieu thereof the following "the Medical Service Corps (if the officer has been designated as an allied health officer or biomedical sciences officer in that Corps),".

(b) NAVY.—Section 6392(a) of such title is amended by inserting "allied health officer," before "or biomedical sciences officer".

SEC. 712. REALLOCATION OF NAVAL RESERVE REAR ADMIRAL POSITIONS AUTHORIZED FOR HEALTH PROFESSIONS

Effective on October 1, 1990, section 5457(a) of title 10, United States Code, is amended—

(1) by striking out "Medical Corps—7" and inserting in lieu thereof "Medical Corps—5"; and

(2) by inserting after and below paragraph (7) the following:

"(8) Nurse Corps—1.

"(9) Medical Service Corps—1.".

PART B—HEALTH CARE MANAGEMENT

SEC. 721. PROHIBITION ON CHARGES FOR OUTPATIENT MEDICAL AND DENTAL CARE

During fiscal years 1990 and 1991, the Secretary of Defense may not impose a charge for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 722. SHARING OF HEALTH-CARE RESOURCES WITH THE DEPARTMENT OF VETERANS AFFAIRS

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1104. Sharing of health-care resources with the Department of Veterans Affairs

"(a) SHARING OF HEALTH-CARE RESOURCES.—Health-care resources of the Department of Defense may be shared with health-care resources of the Department of Veterans Affairs in accordance with section 5011 of title 38 or under section 1535 of title 31.

"(b) REIMBURSEMENT FROM CHAMPUS FUNDS.—Pursuant to an agreement entered into under section 5011 of title 38 or section 1535 of title 31, the Secretary of a military department may reimburse the Secretary of Veterans Affairs from funds available for that military department for the payment of medical care provided under section 1079 or 1086 of this title.

"(c) CHARGES.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided to covered beneficiaries under this chapter pursuant to an agreement entered into by the Secretary of a military department under section 5011 of title 38 or section 1535 of title 31.

"(d) PROVISION OF SERVICES DURING WAR OR NATIONAL EMERGENCY.—Members of the armed forces on active duty during and immediately following a period of war, or during and immediately following a national emergency involving the use of the armed forces in armed conflict, may be provided health-care services by the Department of Veterans Affairs in accordance with section 5011A of title 38.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1104. Sharing of health-care resources with the Department of Veterans Affairs.".

SEC. 723. PROHIBITION ON REDUCING END STRENGTH LEVELS FOR MEDICAL PERSONNEL AS A RESULT OF BASE CLOSURES AND REALIGNMENTS

(a) PROHIBITION.—The end strength levels for medical personnel for each component of the Armed Forces, and the number of civilian personnel of the Department of Defense assigned to military medical facilities, may not be reduced as a result of the closure or realignment of a military installation under section 2687 of title 10, United States Code, or title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(b) MEDICAL PERSONNEL DEFINED.—For purposes of subsection (a), the term "medical personnel" has the meaning given that term in subparagraph (D) of section 115(b)(1) of title 10, United States Code.

SEC. 724. REVISED DEADLINE FOR THE USE OF DIAGNOSIS-RELATED GROUPS FOR OUTPATIENT TREATMENT

The regulations required by section 1101(a) of title 10, United States Code, to establish the use of diagnosis-related groups as the primary criteria for the allocation of resources to health care facilities of the uniformed services shall be prescribed to take effect not later than October 1, 1991, in the case of outpatient treatments.

SEC. 725. ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

(a) SPECIALIZED TRAINING DEFINED.—Section 2120 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The term 'specialized training' means advanced training in a health professions specialty received in an accredited program that is beyond the basic education required for appointment as a commissioned officer with a designation as a health professional.".

(b) EXPANSION OF PROGRAM.—Section 2121 of such title is amended—

(1) in subsection (a), by striking out "health professions scholarship program" and inserting in lieu thereof "health professions scholarship and financial assistance program";

(2) in subsection (b), by inserting "and specialized training" after "study"; and

(3) in subsection (c)—

(A) by striking out "of the program" in the second sentence and inserting in lieu thereof "pursuing a course of study"; and

(B) by inserting after the second sentence the following new sentence: "Members pursuing specialized training shall serve on active duty in a pay grade commensurate with their educational level, as determined by appointment under sections 3353, 5600, or 8353 of this title, with full pay and allowances of that grade for a period of 14 days during each year of participation in the program.".

(c) ELIGIBILITY.—Paragraph (1) of section 2122(a) of such title is amended by striking out "in a course of study" and all that follows through the semicolon and inserting in lieu thereof "in a course of study or selected to receive specialized training;".

(d) FINANCIAL ASSISTANCE.—(1) Section 2127 of such title is amended by adding at the end the following new subsection:

"(e) A person participating as a member of the program in specialized training shall be paid an annual grant of $15,000 in addition to the stipend under section 2121(d) of this title. The amount of the grant shall be increased annually by the Secretary of Defense, effective July 1 of each year, in the same manner as provided for stipends.".

(2) The heading of such section is amended to read as follows:

"§ 2127. Scholarships and financial assistance: payments".

(3) The item relating to such section in the table of sections at the beginning of subchapter I of chapter 105 of such title is amended to read as follows:

"2127. Scholarships and financial assistance: payments.".

(e) REPORT ON IMPLEMENTATION.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the new authority provided by this section is implemented.

(f) REPORT ON SUCCESS OF FINANCIAL ASSISTANCE PROGRAM.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) evaluating the success of the financial assistance program established by this section; and

(B) describing the number of participants in the program receiving specialized training payments under subsection (e) of section 2127 of title 10, United States Code (as added by subsection (d)) and the projected number of officers to be gained, by specialty, as a result of the program for each military department.

(2) The report required by paragraph (1) shall be submitted not later than March 1, 1991.

(g) DELAY IN TARGETING SCHOLARSHIPS FOR CRITICALLY NEEDED WARTIME SKILLS.—Paragraph (2) of section 2124 of such title is amended by inserting "after September 30, 1991," after "(2)".

(h) CLERICAL AMENDMENTS.—(1) Section 2120 of title 10, United States Code, is amended by striking out "the Armed Forces Health Professions Scholarship program" each place it appears and inserting in lieu thereof "the Armed Forces Health Professions Scholarship and Financial Assistance program".

(2) The subchapter heading of subchapter I of chapter 105 of such title is amended to read as follows:

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM FOR ACTIVE SERVICE".

(3) The item relating to such subchapter in the table of subchapters at the beginning of such chapter is amended to read as follows:

"I. Health Professions Scholarship and Financial Assistance Program for Active Service..... 2120".

SEC. 726. UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES AND HENRY M. JACKSON FOUNDATION FOR THE ADVANCEMENT OF MILITARY MEDICINE

(a) INCREASED NUMBER OF EXEMPTIONS FROM DUAL-PAY PROVISION.—Subsection (f)(2) of section 2113 of title 10, United States Code, is amended by striking out "two exemptions" in the last sentence and inserting in lieu thereof "five exemptions".

(b) GRANT AUTHORITY.—(1) Subsection (j)(1)(A) of such section is amended—

(A) by inserting ", accept grants from, and make grants to" after "contracts with"; and

(B) by striking out "or with" and inserting in lieu thereof "or".

(2) Subsection (g)(1) of section 178 of such title is amended by inserting ", accept grants from, and make grants to" after "contracts with".

SEC. 727. RETENTION OF FUNDS COLLECTED FROM THIRD-PARTY PAYERS OF INPATIENT CARE FURNISHED AT FACILITIES OF THE UNIFORMED SERVICES

(a) RETENTION AUTHORIZED.—Section 1095 of title 10, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) Amounts collected under this section from a third-party payer for the costs of inpatient hospital care provided at a facility of the uniformed services shall be credited to the appropriation supporting the maintenance and operation of the facility.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1989, and shall apply to amounts collected under section 1095 of title 10, United States Code, on or after that date.

SEC. 728. REALLOCATION OF CERTAIN CIVILIAN PERSONNEL POSITIONS TO MEDICAL SUPPORT

(a) REALLOCATION OF POSITIONS REQUIRED.—In implementing the report of the Deputy Inspector General of the Department of Defense entitled "Review of Unified and Specified Command Headquarters" (completed in February 1988), the Secretary of the Army and the Secretary of the Navy shall reallocate to medical support positions the 939 civilian positions selected for elimination.

(b) REPORT ON REALLOCATION.—(1) The Secretary of the Army and the Secretary of the Navy shall jointly submit to the Committees on Armed Services of the Senate and House of Representatives a report describing, as of the date such report is submitted—

(A) the medical support positions created pursuant to subsection (a);

(B) the location of such positions; and

(C) the duties of the civilian personnel in such positions.

(2) The report required by paragraph (1) shall be submitted not later than March 1, 1990.

SEC. 729. CODIFICATION OF APPROPRIATION PROVISION RELATING TO CHAMPUS

Subsection (c) of section 1074 of title 10, United States Code, is amended by adding at the end the following new sentence: "If a private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation with the other administering Secretaries, may by regulation require the private facility or health care provider to provide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program.".

SEC. 730. LIMITATION ON CHAMPUS PAYMENTS TO NONINSTITUTIONAL HEALTH-CARE PROVIDERS

(a) CHANGE IN LIMITATION.—Subsection (h) of section 1079 of title 10, United States Code, is amended by striking out "90th percentile" both places it appears and inserting in lieu thereof "80th percentile".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to services provided on or after October 1, 1989.

SEC. 731. CLARIFICATION AND CORRECTION OF PROVISIONS RELATING TO HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES

(a) ELIGIBILITY OF CERTAIN FORMER SPOUSES.—Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (F);

(2) by striking out the period at the end of clause (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(H) a person who would qualify as a dependent under clause (G) but for the fact that the date of the final decree of divorce, dissolution, or annulment of the person is on or after April 1, 1985, except that the term does not include the person after the end of the one-year period beginning on the date of that final decree.".

(b) AVAILABILITY OF CONVERSION HEALTH POLICIES AND EXTENSION OF ELIGIBILITY FOR MEDICAL AND DENTAL CARE.—(1) Chapter 55 of such title is amended by inserting after section 1086 the following new section:

"§ 1086a. Certain former spouses: extension of period of eligibility for health benefits

"(a) AVAILABILITY OF CONVERSION HEALTH POLICIES.—The Secretary of Defense shall inform each person who has been a dependent for a period of one year or more under section 1072(2)(H) of this title of the availability of a conversion health policy for purchase by the person.

"(b) EFFECT OF PURCHASE.—(1) Subject to paragraph (2), if a person who is a dependent for a one-year period under section 1072(2)(H) of this title purchases a conversion health policy within that period (or within a reasonable time after that period as prescribed by the Secretary of Defense), the person shall continue to be eligible for medical and dental care in the manner described in section 1076 of this title and health benefits under section 1086 of this title until the end of the one-year period beginning on the later of—

"(A) the date the person is no longer a dependent under section 1072(2)(H) of this title; and

"(B) the date of the purchase of the policy.

"(2) The extended period of eligibility provided under paragraph (1) shall apply only with regard to a condition of the person that—

"(A) exists on the date on which coverage under the conversion health policy begins; and

"(B) for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

"(c) CONVERSION HEALTH POLICY DEFINED.—In this section, the term 'conversion health policy' means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and the private insurer, that is available for purchase by or for the use of a person who is a dependent for a one-year period under section 1072(2)(H) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1086 the following new item:

"1086a. Certain former spouses: extension of period of eligibility for health benefits.".

(c) CONFORMING AMENDMENTS.—(1) Subsection (f) of section 1076 of such title is repealed.

(2) Paragraph (3) of section 1086(c) of such title is amended to read as follows:

"(3) A dependent covered by clause (F), (G), or (H) of section 1072(2) of this title who is not eligible under paragraph (1).".

(d) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—(1) The amendments made by this section apply to a person referred to in section 1072(2)(H) of title 10, United States Code (as added by subsection (a)), whose decree of divorce, dissolution, or annulment becomes final on or after the date of the enactment of this Act.

(2) The amendments made by this section shall also apply to a person referred to in such section whose decree of divorce, dissolution, or annulment became final during the period beginning on September 29, 1988, and ending on the day before the date of the enactment of this Act, as if the amendments had become effective on September 29, 1988.

(e) TRANSITION.—(1) In the case of a person who qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2549), on September 28, 1988, the Secretary of Defense shall make a conversion health policy available for purchase by the person during the remaining period the person is considered to be a dependent under that section (or within a reasonable time after that period as prescribed by the Secretary of Defense).

(2) Purchase of a conversion health policy under paragraph (1) by a person shall entitle the person to health care for preexisting conditions in the same manner and to the same extent as provided by section 1086a(b) of title 10, United States Code (as added by subsection (b)), until the end of the one-year period beginning on the later of—

(A) the date the person is no longer qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985; and

(B) the date of the purchase of the policy.

(3) For purposes of this subsection, the term "conversion health policy" has the meaning given that term in section 1086a(c) of title 10, United States Code (as added by subsection (b)).

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

PART A—PROCEDURES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

SEC. 801. ASSESSMENT OF RISK IN CONCURRENT DEVELOPMENT OF MAJOR DEFENSE ACQUISITION SYSTEMS

(a) ESTABLISHMENT OF POLICY.—The Secretary of Defense shall establish guidelines for—

(1) determining the degree of concurrency that is appropriate for the development of major defense acquisition systems; and

(2) assessing the degree of risk associated with various degrees of concurrency.

(b) REPORT ON GUIDELINES.—The Secretary shall submit to Congress a report that describes the guidelines established under subsection (a) and the method used for assessing risk associated with concurrency.

(c) REPORT ON CONCURRENCY IN MAJOR ACQUISITION PROGRAMS.—(1) The Secretary shall also submit to Congress a report outlining the risk associated with concurrency for each major defense acquisition program that is in either full-scale development or low-rate initial production as of January 1, 1990.

(2) The report shall include consideration of the following matters with respect to each such program:

(A) The degree of confidence in the enemy threat assessment for establishing the system's requirements.

(B) The type of contract involved.

(C) The degree of stability in program funding.

(D) The level of maturity of technology involved in the system.

(E) The availability of adequate test assets, including facilities and ranges.

(F) The plans for transition from development to production.

(d) SUBMISSION OF REPORTS.—The reports under subsections (b) and (c) shall be submitted to Congress not later than March 1, 1990.

(e) DEFINITION.—For purposes of this section, the term "concurrency" means the degree of overlap between the development and production processes of an acquisition program.

SEC. 802. OPERATIONAL TEST AND EVALUATION

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2398 the following new section:

"§ 2399. Operational test and evaluation of defense acquisition programs

"(a) CONDITION FOR PROCEEDING BEYOND LOW-RATE INITIAL PRODUCTION.—(1) The Secretary of Defense shall provide that a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed.

"(2) In this subsection, the term "major defense acquisition program" means—

"(A) a conventional weapons system that is a major system within the meaning of that term in section 2302(5) of this title; and

"(B) is designed for use in combat.

"(b) OPERATIONAL TEST AND EVALUATION.—(1) Operational testing of a major defense acquisition program may not be conducted until the Director of Operational Test and Evaluation of the Department of Defense approves (in writing) the adequacy of the plans (including the projected level of funding) for operational test and evaluation to be conducted in connection with that program.

"(2) The Director shall analyze the results of the operational test and evaluation conducted for each major defense acquisition program. At the conclusion of such testing, the Director shall prepare a report stating the opinion of the Director as to—

"(A) whether the test and evaluation performed were adequate; and

"(B) whether the results of such test and evaluation confirm that the items or components actually tested are effective and suitable for combat.

"(3) The Director shall submit each report under paragraph (2) to the Secretary of Defense, the Under Secretary of Defense for Acquisition, and the congressional defense committees. Each such report shall be submitted to those committees in precisely the same form and with precisely the same content as the report originally was submitted to the Secretary and Under Secretary and shall be accompanied by such comments as the Secretary may wish to make on the report.

"(4) A final decision within the Department of Defense to proceed with a major defense acquisition program beyond low-rate initial production may not be made until the Director has submitted to the Secretary of Defense the report with respect to that program under paragraph (2) and the congressional defense committees have received that report.

"(5) In this subsection, the term "major defense acquisition program" has the meaning given that term in section 138(a)(2)(B) of this title.

"(c) DETERMINATION OF QUANTITY OF ARTICLES REQUIRED FOR OPERATIONAL TESTING—The quantity of articles of a new system that are to be procured for operational testing shall be determined by—

"(1) the Director of Operational Test and Evaluation of the Department of Defense, in the case of a new system that is a major defense acquisition program (as defined in section 138(a)(2)(B) of this title); or

"(2) the operational test and evaluation agency of the military department concerned, in the case of a new system that is not a major defense acquisition program.

"(d) IMPARTIALITY OF CONTRACTOR TESTING PERSONNEL.—In the case of a major defense acquisition program (as defined in subsection (a)(2)), no person employed by the contractor for the system being tested may be involved in the conduct of the operational test and evaluation required under subsection (a). The limitation in the preceding sentence does not apply to the extent that the Secretary of Defense plans for persons employed by that contractor to be involved in the operation, maintenance, and support of the system being tested when the system is deployed in combat.

"(e) IMPARTIAL CONTRACTED ADVISORY AND ASSISTANCE SERVICES.—(1) The Director may not contract with any person for advisory and assistance services with regard to the test and evaluation of a system if that person participated in (or is participating in) the development, production, or testing of such system for a military department or Defense Agency (or for another contractor of the Department of the Defense).

"(2) The Director may waive the limitation under paragraph (1) in any case if the Director determines in writing that sufficient steps have been taken to ensure the impartiality of the contractor in providing the services. The Inspector General of the Department of Defense shall review each such waiver and shall include in the Inspector General's semi-annual report an assessment of those waivers made since the last such report.

"(3) A contractor that has participated in (or is participating in) the development, production, or testing of a system for a military department or Defense Agency (or for another contractor of the Department of Defense) may not be involved (in any way) in the establishment of criteria for data collection, performance assessment, or evaluation activities for the operational test and evaluation.

"(f) SOURCE OF FUNDS FOR TESTING.—The costs for all tests required under subsection (a) shall be paid from funds available for the system being tested.

"(g) DIRECTOR'S ANNUAL REPORT.—As part of the annual report of the Director under section 138 of this title, the Director shall describe for each program covered in the report the status of test and evaluation activities in comparison with the test and evaluation master plan for that program, as approved by the Director. The Director shall include in such annual report a description of each waiver granted under subsection (e)(2) since the last such report.

"(h) DEFINITIONS.—In this section:

"(1) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title. For purposes of subsection (a), that term does not include an operational assessment based exclusively on—

"(A) computer modeling;

"(B) simulation; or

"(C) an analysis of system requirements, engineering proposals, design specifications, or any other information contained in program documents.

"(2) The term 'congressional defense committees' means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2398 the following new item:

"2399. Operational test and evaluation of defense acquisition programs.".

(b) CONFORMING AMENDMENTS TO SECTION 138.—Section 138 of such title is amended—

(1) in subsection (b)—

(A) by inserting "and" at the end of paragraph (4);

(B) by striking out paragraph (5); and

(C) by redesignating paragraph (6) as paragraph (5);

(2) by striking out subsection (c);

(3) by striking out "(d)(1)" and inserting in lieu thereof "(c)";

(4) by striking out "(2) The Director may not" and inserting in lieu thereof "(d) The Director may not";

(5) by striking out subsection (f);

(6) by striking out "(g)(1)" and inserting in lieu thereof "(f)";

(7) by striking out "this paragraph" in the last sentence of subsection (f), as designated by paragraph (6), and inserting in lieu thereof "this subsection"; and

(8) by striking out "(2) The Director shall" and inserting in lieu thereof "(g) The Director shall".

(c) CONFORMING AMENDMENTS TO SECTION 2366.—(1) Subsection (a)(1) of section 2366 of such title is amended—

(A) by inserting "and" at the end of subparagraph (A);

(B) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(C) by striking out subparagraph (C);

(2) Subsection (b) of such section is amended—

(A) by striking out paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(3) Subsection (e) of such section is amended—

(A) by striking out paragraphs (3) and (7); and

(B) by redesignating paragraphs (4), (5), (6), and (8) as paragraphs (3), (4), (5), and (6), respectively.

(4)(A) The heading of such section is amended to read as follows:

"§ 2366. Major systems and munitions programs: survivability testing and lethality testing required before full-scale production".

(B) The item relating to such section in the table of sections at the beginning of chapter 139 of such title is amended to read as follows:

"2366. Major systems and munitions programs: survivability testing and lethality testing required before full-scale production".

SEC. 803. LOW-RATE INITIAL PRODUCTION

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2399 (as added by section 802) the following new section:

"§ 2400. Low-rate initial production of new systems

"(a) DETERMINATION OF QUANTITIES TO BE PROCURED FOR LOW-RATE INITIAL PRODUCTION.—(1) In the course of the development of a major system, the determination of what quantity of articles of that system should be procured for low-rate initial production (including the quantity to be procured for preproduction verification articles) shall be made—

"(A) when the milestone II decision with respect to that system is made; and

"(B) by the official of the Department of Defense who makes that decision.

"(2) In paragraph (1), the term 'milestone II decision' means the decision to approve the full-scale engineering development of a major system by the official of the Department of Defense designated to have the authority to make that decision.

"(3) Any increase from a quantity determined under paragraph (1) may only be made with the approval of the official making the determination.

"(4) The Secretary of Defense shall include a statement of the quantity determined under paragraph (1) in the first SAR submitted with respect to the program concerned after that quantity is determined. For purposes of the preceding sentence, the term 'SAR' means a Selected Acquisition Report submitted under section 2432 of this title.

"(b) LOW-RATE INITIAL PRODUCTION OF WEAPON SYSTEMS.—Except as provided in subsection (c), low-rate initial production with respect to a new system is production of the system in the minimum quantity necessary—

"(1) to provide production-configured or representative articles for operational tests pursuant to section 2399 of this title;

"(2) to establish an initial production base for the system; and

"(3) to permit an orderly increase in the production rate for the system sufficient to lead to full-rate production upon the successful completion of operational testing.

"(c) LOW-RATE INITIAL PRODUCTION OF NAVAL VESSEL AND SATELLITE PROGRAMS.—(1) With respect to naval vessel programs and military satellite programs, low-rate initial production is production of items at the minimum quantity and rate that (A) preserves the mobilization production base for that system, and (B) is feasible, as determined pursuant to regulations prescribed by the Secretary of Defense.

"(2) For each naval vessel program and military satellite program, the Secretary of Defense shall submit to Congress a report providing—

"(A) an explanation of the rate and quantity prescribed for low-rate initial production and the considerations in establishing that rate and quantity;

"(B) a test and evaluation master plan for that program; and

"(C) an acquisition strategy for that program that has been approved by the Secretary, to include the procurement objectives in terms of total quantity of articles to be procured and annual production rates.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2399 (as added by section 802) the following new item:

"2400. Low-rate initial production of new systems.".

SEC. 804. MODIFICATIONS WITH RESPECT TO REPORTS ON LIVE-FIRE TESTING PROGRAMS

(a) TESTING REPORT TO BE SUBMITTED BEFORE PRODUCTION.—Subsection (a)(1) of section 2366 of title 10, United States Code (as amended by section 842), is amended by inserting "and the report required by subsection (d) with respect to that testing is submitted in accordance with that subsection" after "this section" in subparagraphs (A) and (B).

(b) CONTENT OF TESTING REPORT.—Subsection (d) of such section is amended by adding at the end the following: "Each such report shall describe the results of the survivability or lethality testing and shall give the Secretary's overall assessment of the testing.".

SEC. 805. PROCEDURES APPLICABLE TO MULTIYEAR PROCUREMENT CONTRACTS

(a) ADDITIONAL REQUIREMENTS.—Section 2306(h) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(9) A multiyear contract may not be entered into for any fiscal year under this subsection unless each of the following conditions is satisfied:

"(A) The Secretary of Defense certifies to Congress that the current five-year defense program fully funds the support costs associated with the multiyear program.

"(B) The proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

"(C) The proposed multiyear contract—

"(i) achieves a 10 percent savings as compared to the cost of current negotiated contracts, adjusted for changes in quantity and for inflation; or

"(ii) achieves a 10 percent savings as compared to annual contracts if no recent contract experience exists.

"(10) The Secretary of Defense may instruct the Secretary of the military department concerned to incorporate into a proposed multiyear contract negotiated priced options for varying the quantities of end items to be procured over the period of the contract.

"(11) If for any fiscal year a multiyear contract to be entered into under this subsection is authorized by law for a particular procurement program and that authorization is subject to certain conditions established by law (including a condition as to cost savings to be achieved under the multiyear contract in comparison to specified other contracts) and if it appears (after negotiations with contractors) that such savings cannot be achieved, but that substantial savings could nevertheless be achieved through the use of a multiyear contract rather than specified other contracts, the President may submit to Congress a request for relief from the specified cost savings that must be achieved through multiyear contracting for that program. Any such request by the President shall include details about the request for a multiyear contract, including details about the negotiated contract terms and conditions.".

(b) CONFORMING REPEAL.—Section 104 of Public Law 100-526 (102 Stat. 2624) is repealed.

(c) TRANSITION.—Subparagraph (C) of paragraph (9) of section 2306(h) of title 10, United States Code, as added by subsection (a), does not apply to programs that are under a multiyear contract on the date of the enactment of this Act.

SEC. 806. REVISION OF LIMITATION ON TRANSFER OF CERTAIN TECHNICAL DATA PACKAGES TO FOREIGN COUNTRIES

(a) COUNTRIES TO WHICH TRANSFERS MAY BE MADE.—Subsection (b) of section 4542 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "a friendly foreign country" and inserting in lieu thereof "a member nation of the North Atlantic Treaty Organization or a country designated as a major non-NATO ally";

(2) in paragraph (2)(B), by inserting ", except as provided in subsection (e)" before the semicolon at the end; and

(3) in paragraph (3), by inserting "or (d)" after "subsection (c)".

(b) COOPERATIVE PROJECT AGREEMENTS.—Such section is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (c) the following new subsections:

"(d) COOPERATIVE PROJECT AGREEMENTS.—An agreement under this subsection is a cooperative project agreement under section 27 of the Arms Export Control Act (22 U.S.C. 2767) which includes provisions that—

"(1) for development phases describe the technical data to be transferred and for the production phase prescribe the content of the technical data package or assistance to be transferred to the foreign country participating in the agreement;

"(2) require that at least the United States production of the defense item to which the technical data package or assistance relates be carried out by the arsenal concerned; and

"(3) require the Secretary of Defense to monitor compliance with the agreement.

"(e) LICENSING FEES AND ROYALTIES.—The limitation in subsection (b)(2)(B) shall not apply if the technology (or production technique) transferred is subject to nonexclusive license and payment of any negotiated licensing fee or royalty that reflects the cost of development, implementation, and proveout of the technology or production technique. Any negotiated license fee or royalty shall be placed in the operating fund of the arsenal concerned for the purpose of capital investment and technology development at that arsenal.".

(c) CONFORMING AMENDMENT.—Subsection (f) of such section (as redesignated by subsection (b)(1)) is amended by inserting "or a cooperative project" in paragraph (1) after "cooperative research and development program".

PART B—CHANGES TO ACQUISITION STATUTES

SEC. 811. ACQUISITION REPORT STREAMLINING

(a) UNIT COST REPORTS.—(1) Subsection (a) of section 2433 of title 10, United States Code, is amended—

(A) in paragraph (2), by inserting "the service acquisition executive designated by" before "the Secretary concerned"; and

(B) in paragraph (4)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned";

(ii) in clause (A), by striking out "unit cost report submitted under subsection (e)(2)(B)(ii) with respect to" and inserting in lieu thereof "Selected Acquisition Report submitted under subsection (e)(2)(B) that includes information on"; and

(iii) in clause (B), by striking out "subsection (e)(2)(B)(ii) with respect to the program during that three-quarter period, the most recent unit cost report submitted under subsection (e)(1) with respect to the program" and inserting in lieu thereof "subsection (e)(2)(B) with respect to the program during that three-quarter period, the most recent Selected Acquisition Report submitted under subsection (e)(1) that includes information on the program".

(2) Subsection (b) of section 2433 of such title is amended—

(A) by striking out "(b) The program manager" and all that follows through the colon preceding paragraph (1) and inserting in lieu thereof the following:

"(b) The program manager for a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section 2432(b)(3) of this title) shall, on a quarterly basis, submit to the service acquisition executive designated by the Secretary concerned a written report on the unit costs of the program. Each report shall be submitted not more than 7 days (excluding Saturdays, Sundays, and legal public holidays) after the end of that quarter. The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):"; and

(B) in paragraph (4), by striking out "Selected Acquisition Report" and inserting in lieu thereof "description established under section 2435 of this title".

(3) Subsection (c) of section 2433 of such title is amended—

(A) in paragraph (1)—

(i) by striking out "fiscal-year" in the matter above clause (A); and

(ii) in the matter following clause (C)—

(I) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears;

(II) by striking out "(other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year)" and inserting in lieu thereof "(other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year)"; and

(III) by striking out "Secretary concerned" the second place it appears and inserting in lieu thereof "such service acquisition executive"; and

(B) in paragraph (2)—

(i) in the matter above clause (A)—

(I) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(II) by striking out "(other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year)" and inserting in lieu thereof "(other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year)"; and

(ii) by striking out "Secretary concerned" each place it appears in clauses (A), (B), and (C) and in the matter following clause (C) and inserting in lieu thereof "such service acquisition executive".

(4) Subsection (d) of section 2433 of such title is amended—

(A) in paragraph (1)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(ii) by striking out "Secretary shall determine" and inserting in lieu thereof "service acquisition executive shall determine";

(B) in paragraph (2)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(ii) by striking out "Secretary concerned shall, in addition to the determination under paragraph (1), determine" and inserting in lieu thereof "service acquisition executive, in addition to the determination under paragraph (1), shall determine"; and

(C) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) If, based upon the service acquisition executive's determination, the Secretary concerned determines (for the first time since the beginning of the current fiscal year) that the current program acquisition unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (1) or that the current procurement unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (2), the Secretary shall notify Congress in writing of such determination and of the increase with respect to such program within 30 days after the date on which the service acquisition executive reports his determination of such increase in such unit cost to the Secretary and shall include in such notification the date on which the determination was made.".

(5) Subsection (e) of section 2433 of such title is amended—

(A) by striking out "(e)(1)" and all that follows through the end of paragraph (2) and inserting in lieu thereof the following:

"(e)(1)(A) Except as provided in subparagraph (B), whenever the Secretary concerned determines under subsection (d) that the current program acquisition cost of a major defense acquisition program has increased by more than 15 percent, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination and such report shall include the information described in section 2432(e) of this title. The report shall be submitted within 45 days after the end of that quarter.

"(B) Whenever the Secretary makes a determination referred to in subparagraph (A) in the case of a major defense acquisition program during the second quarter of a fiscal year and before the date on which the President transmits the budget for the following fiscal year to Congress pursuant to section 1105 of title 31, the Secretary is not required to file a Selected Acquisition Report under subparagraph (A) but shall include the information described in subsection (g) regarding that program in the comprehensive annual Selected Acquisition Report submitted in that quarter.

"(2) If the percentage increase in the current program acquisition cost of a major defense acquisition program (as determined by the Secretary under subsection (d)) exceeds 25 percent, the Secretary of Defense shall submit to Congress, before the end of the 30-day period beginning on the day the Selected Acquisition Report containing the information described in subsection (g) is required to be submitted under section 2432(f) of this title—

"(A) a written certification, stating that—

"(i) such acquisition program is essential to the national security;

"(ii) there are no alternatives to such acquisition program which will provide equal or greater military capability at less cost;

"(iii) the new estimates of the program acquisition unit cost or procurement unit cost are reasonable; and

"(iv) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost; and

"(B) if a report under paragraph (1) has been previously submitted to Congress with respect to such program for the current fiscal year but was based upon a different unit cost report from the program manager to the service acquisition executive designated by the Secretary concerned, a further report containing the information described in subsection (g), determined from the time of the previous report to the time of the current report."; and

(B) in paragraph (3)—

(i) by striking out "(3)" and inserting in lieu thereof the following: "(3) If a determination of a more than 15 percent increase is made by the Secretary under subsection (d) and a Selected Acquisition Report containing the information described in subsection (g) is not submitted to Congress under paragraph (1), or if a determination of a more than 25 percent increase is made by the Secretary under subsection (d) and the certification of the Secretary of Defense is not submitted to Congress under paragraph (2), funds appropriated for military construction, for research, development, test, and evaluation, and for procurement may not be obligated for a major contract under the program.";

(ii) by striking out "in subsection (d)(3)(B)";

(iii) in clause (A)—

(I) by striking out "report of the Secretary concerned" and inserting in lieu thereof "Selected Acquisition Report"; and

(II) by striking out "(2)(B)(ii)" and inserting in lieu thereof "(2)(B)"; and

(iv) in clause (B)—

(I) by striking out "report of the Secretary concerned" and inserting in lieu thereof "Selected Acquisition Report";

(II) by striking out "(2)(B)(ii)" and inserting in lieu thereof "(2)(B)"; and

(III) by striking out "(2)(B)(i)" and inserting in lieu thereof "(2)(A)".

(6) Subsection (g)(2) of section 2433 of such title is amended by adding at the end the following new sentence: "The certification of the Secretary of Defense under subsection (e) is not required to be submitted for termination or cancellation of a program.".

(b) ENHANCED PROGRAM STABILITY.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (a)(2)(B)(iv), by striking out "development" and inserting in lieu thereof "production"; and

(2) in subsection (b)—

(A) by striking out "senior procurement executive of such military department (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))" in paragraph (1) and inserting in lieu thereof "service acquisition executive designated by such Secretary"; and

(B) by striking out "90 days—" in paragraph (2) and inserting in lieu thereof "180 days—".

(c) SELECTED ACQUISITION REPORTS.—Section 2432(b)(2)(A) of title 10, United States Code, is amended by striking out "5 percent change in total program cost" and inserting in lieu thereof "15 percent increase in program acquisition unit cost and current procurement unit cost".

SEC. 812. THREE-YEAR PROGRAM FOR USE OF MASTER AGREEMENTS FOR PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES

Section 2304 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j)(1) The Secretary of Defense may enter into agreements (known as 'master agreements') with responsible sources under which the Secretary may issue orders for the performance of specific advisory and assistance services. Any such agreement shall specify terms and conditions for the subsequent procurement of advisory and assistance services from the sources. The period covered by any such agreement may not exceed two years. Any such agreement may only be entered into using procedures that, in the case of the award of a contract, would be competitive procedures. Any such agreement shall be entered into with at least three of the sources that submit offers for the master agreement.

"(2) Following the establishment of sources for advisory and assistance services through the use of a master agreement described in paragraph (1), the Secretary of Defense (A) may request offers from all sources with master agreements for the services for which offers are being requested if the contracting officer determines that there is a reasonable expectation that offers will be obtained from at least two sources, and (B) may issue orders (known as 'task orders') pursuant to the request for offers to such sources for the performance of specific advisory and assistance services, subject to the requirements of this subsection. Any such request for offers shall contain a statement of work clearly specifying all tasks to be performed under the order. Upon evaluation of an offer or offers resulting from a request, the task order shall be issued to the source submitting the offer that the Secretary of Defense determines to be the most advantageous to the United States, considering only cost or price and other factors included in the request for offers.

"(3)(A) The requirements for the giving of notice of certain solicitations that are prescribed in section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall apply to solicitations for offers for a master agreement under this subsection in the same manner and to the same extent as those requirements apply to solicitations for proposals for a contract for services for a price expected to exceed $25,000.

"(B) Such requirements for the giving of notice shall not apply to the issuance of orders under a master agreement entered into pursuant to the procedures established under this section, except that the Secretary of Defense shall furnish for publication by the Secretary of Commerce a notice announcing the order.

"(4) The total value of task orders issued under master agreements by any contracting activity in a fiscal year may not exceed the amount equal to 30 percent of the value of all contracts for advisory and assistance services awarded by that contracting activity during fiscal year 1989.

"(5) The authority provided by this subsection to enter into master agreements shall terminate at the end of the three-year period beginning on the date on which final regulations prescribed to carry out this subsection take effect.".

SEC. 813. AVAILABILITY OF FUNDS FOR OBLIGATION FOLLOWING THE RESOLUTION OF A PROTEST

(a) IN GENERAL.—Subchapter IV of chapter 15 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 1558. Availability of funds following resolution of a protest

"(a) Notwithstanding section 1552 of this title or any other provision of law, funds available to an agency for obligation for a contract at the time a protest is filed in connection with a solicitation for, proposed award of, or award of such contract shall remain available for obligation for 90 working days after the date on which the final ruling is made on the protest. A ruling is considered final on the date on which the time allowed for filing an appeal or request for reconsideration has expired, or the date on which a decision is rendered on such an appeal or request, whichever is later.

"(b) Subsection (a) applies with respect to any protest filed under subchapter V of chapter 35 of this title or under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1558. Availability of funds following resolution of a protest.".

SEC. 814. POST-EMPLOYMENT RESTRICTIONS

(a) CLARIFICATION.—(1) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(A) by inserting ", except as provided in subsection (c)" in subsections (a)(1) and (b)(1) before the semicolon;

(B)(i) by redesignating subsections (j) through (n) as subsections (l) through (p), respectively; and

(ii) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) RECUSAL.—(1) A procurement official may engage in a discussion with a competing contractor that is otherwise prohibited by subsection (b)(1) if, before engaging in such discussion—

"(A) the procurement official proposes in writing to disqualify himself from the conduct of any procurement relating to the competing contractor (i) for any period during which future employment or business opportunities for such procurement official with such competing contractor have not been rejected by either the procurement official or the competing contractor, and (ii) if determined to be necessary by the head of such procuring official's procuring activity (or his designee) in accordance with criteria prescribed in implementing regulations, for a reasonable period thereafter; and

"(B) the head of that procuring activity of such procurement official (or his designee), after consultation with the appropriate designated agency ethics official, approves in writing the recusal of the procurement official.

"(2) A procurement official who, during the period beginning with the issuance of a procurement solicitation and ending with the award of a contract, has participated personally and substantially in the evaluation of bids or proposals, selection of sources, or conduct of negotiations in connection with such solicitation and contract may not be approved for a recusal under paragraph (1) during such period with respect to such procurement.

"(3) A procurement official who, during the period beginning with the negotiation of a modification or extension of a contract and ending with—

"(A) an agreement to modify or extend the contract, or

"(B) a decision not to modify or extend the contract,

has participated personally and substantially in the evaluation of a proposed modification or extension or the conduct of negotiations may not be approved for a recusal under paragraph (1) during such period with respect to such procurement.

"(4) A competing contractor may engage in a discussion with a procurement official that is otherwise prohibited by subsection (a)(1) if, before engaging in such discussion, the procurement official has been recused in accordance with this subsection.

"(5) Regulations implementing this subsection shall include specific criteria to be used in making determinations and approving recusals under paragraph (1).".

(2) Subsection (f) of such section (as redesignated by paragraph (1)(B)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking out "RESTRICTIONS ON GOVERNMENTAL OFFICIALS AND EMPLOYEES.—No" and all that follows through "shall—" and inserting in lieu thereof "RESTRICTIONS RESULTING FROM PROCUREMENT ACTIVITIES OF PROCUREMENT OFFICIALS.—(1) No individual who, while serving as an officer or employee of the Government or member of the Armed Forces, was a procurement official with respect to a particular procurement may knowingly—"; and

(C) by adding at the end the following new paragraph:

"(2) This subsection does not apply to any participation referred to in paragraph (1)(A) or (1)(B) with respect to a subcontractor who is a competing contractor unless—

"(A) the subcontractor is a first or second tier subcontractor and the subcontract is for an amount that is in excess of $100,000;

"(B) the subcontractor significantly assisted the prime contractor with respect to negotiation of the prime contract;

"(C) the procurement official involved in the award, modification, or extension of the prime contract personally directed or recommended the particular subcontractor to the prime contractor as a source for the subcontract; or

"(D) the procurement official personally reviewed and approved the award, modification, or extension of the subcontract.".

(3) Such section is further amended by inserting after subsection (j) (as redesignated by paragraph (1)(B)) the following new subsection (k):

"(k) ETHICS ADVICE.—(1) Regulations implementing this section shall include procedures for a procurement official or former procurement official of a Federal agency to request advice from the appropriate designated agency ethics official regarding whether such procurement official or former procurement official is or would be precluded by this section from engaging in a specified activity.

"(2) A procurement official or former procurement official of an agency who requests advice from a designated agency ethics official pursuant to paragraph (1) shall provide the agency ethics official with all information reasonably available to the procurement official or former procurement official that is relevant to a determination regarding such request.

"(3) Not later than 30 days after the date on which the appropriate designated agency ethics official receives a request for advice pursuant to paragraph (1) accompanied by the information required by paragraph (2), or as soon thereafter as practicable, the official shall issue a written opinion regarding whether the requesting procurement official or former procurement official is precluded by this section from engaging in the specified activity.".

(4) Subsection (o) of such section (as redesignated by paragraph (1)(B)) is amended to read as follows:

"(o) IMPLEMENTING REGULATIONS AND GUIDELINES.—(1) Government-wide regulations and guidelines appropriate to carry out this section shall be included in the Federal Acquisition Regulation.

"(2) Regulations implementing this section shall—

"(A) define the term 'thing of value' for the purposes of this section and shall include a single uniform Government-wide exclusion at a specific minimal dollar amount; and

"(B) authorize the delegation of the functions assigned to designated agency ethics officials under this section.

"(3) Notwithstanding sections 6 and 25 of this Act, on and after June 1, 1990, the Director of the Office of Government Ethics shall have the responsibility for issuance, modification, or termination of Government-wide regulations implementing paragraphs (1) and (2) of subsection (a), paragraphs (1) and (2) of subsection (b), subsections (c), (f), and (k), and paragraph (2) of this subsection. The Director shall exercise such responsibility in coordination with the Federal Acquisition Regulatory Council.".

(b) DEFINITIONS.—Subsection (p) of section 27 of such Act (as redesignated by subsection (a)(1)(B)) is amended—

(1) in paragraph (1), by striking out "with the development, preparation, and issuance of a procurement solicitation," and inserting in lieu thereof "on the earliest specific date, as determined under implementing regulations, on which an authorized official orders or requests an action described in clauses (i)–(viii) of paragraph (3)(A),";

(2) in paragraph (3), by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The term 'procurement official' means, with respect to any procurement (including the modification or extension of a contract), any civilian or military official or employee of an agency who has participated personally and substantially in any of the following, as defined in implementing regulations:

"(i) The drafting of a specification developed for that procurement.

"(ii) The review and approval of a specification developed for that procurement.

"(iii) The preparation or issuance of a procurement solicitation in that procurement.

"(iv) The evaluation of bids or proposals for that procurement.

"(v) The selection of sources for that procurement.

"(vi) The conduct of negotiations in the procurement.

"(vii) The review and approval of the award, modification, or extension of a contract in that procurement.

"(viii) Such other specific procurement actions as may be specified in implementing regulations."; and

(3) by adding at the end the following new paragraph:

"(8) The term 'designated agency ethics official' has the same meaning as the term 'designated agency official' in section 209(10) of the Ethics in Government Act of 1978 (92 Stat. 1850; 5 U.S.C. App.).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (e) (as redesignated by subsection (a)(1)(B))—

(A) by striking out "(c), or (e)" in paragraph (1)(A)(i) and inserting in lieu thereof "(d), or (f)";

(B) by striking out "(c), or (e)" in paragraph (1)(B)(ii) and inserting in lieu thereof "(d), or (f)";

(C) by striking out "(c), or (e)" in paragraph (2)(A) and inserting in lieu thereof "(d), or (f)";

(D) by striking out "(c), or (e)" in paragraph (3)(A) and inserting in lieu thereof "(d), or (f)"; and

(E) by striking out "subsection (m)" in paragraph (7)(B)(ii), and inserting in lieu thereof "subsection (o)";

(2) in paragraph (1) of subsection (g) (as redesignated by subsection (a)(1)(B)), by striking out "subsection (m)" and inserting in lieu thereof "subsection (o)";

(3) in subsection (h) (as redesignated by subsection (a)(1)(B))—

(A) by striking out "subsection (d)" in paragraph (1) and inserting in lieu thereof "subsection (e)";

(B) by striking out "(b) or (c)" in paragraph (2) and inserting in lieu thereof "(b) or (d)"; and

(C) by striking out "(h) and (i)" in paragraph (3) and inserting in lieu thereof "(i) and (j)";

(4) in subsection (i) (as redesignated by subsection (a)(1)(B)), by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(5) in paragraph (1) of subsection (j) (as redesignated by subsection (a)(1)(B))—

(A) by striking out "subsection (n)" and inserting in lieu thereof "subsection (p)"; and

(B) by striking out "subsection (m)" and inserting in lieu thereof "subsection (o)"; and

(6) in subsection (l) (as redesignated by subsection (a)(1)(B))—

(A) by striking out "subsection (b)" in paragraph (1) and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(B) in paragraph (2)—

(i) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(ii) by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)".

(d) WAIVER OF CERTAIN RESTRICTIONS ON FORMER GOVERNMENT PERSONNEL.—(1) Subsection (f) of section 27 of the Office of Federal Procurement Policy Act, as redesignated and amended by subsection (a), is further amended by adding at the end the following:

"(3)(A)(i) The President may grant a waiver of a restriction imposed by paragraph (1) (relating to post-Government service employment) to an officer or employee described in subparagraph (B) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Government at any one time may hold waivers under this subparagraph.

"(ii) A waiver granted under this subparagraph to any person shall apply only with respect to activities engaged in by that person after that person's Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Government employment began.

"(B) Waivers under subparagraph (A) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

"(C) A certification under subparagraph (A) shall take effect upon its publication in the Federal Register and shall identify—

"(i) the officer or employee covered by the waiver by name and by position, and

"(ii) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

"(D) The President may not delegate the authority provided by this paragraph.

"(E)(i) Each person granted a waiver under this paragraph shall prepare reports, in accordance with clause (ii), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in clause (ii), and if so, what those activities were.

"(ii) A report under clause (i) shall cover each six-month period beginning on the date of the termination of the person's Government employment (with respect to which the waiver under this paragraph was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this subparagraph shall be made available for public inspection and copying.

"(iii) If a person fails to file any report in accordance with clauses (i) and (ii), the President shall revoke the waiver and notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

"(iv) Any person who is granted a waiver under this paragraph shall be ineligible for appointment in the civil service unless all reports required of such person by clauses (i) and (ii) have been filed.

"(D) As used in this paragraph, the term 'civil service' has the meaning given that term in section 2101 of title 5, United States Code.".

(2) Section 207 of title 18, United States Code, is amended by adding at the end the following:

"(k)(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

"(B) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

"(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

"(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify—

"(A) the officer or employee covered by the waiver by name and by position, and

"(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

"(4) The President may not delegate the authority provided by this subsection.

"(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.

"(B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.

"(C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

"(D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports required of such person by subparagraphs (A) and (B) have been filed.

"(E) As used in this subsection, the term 'civil service' has the meaning given that term in section 2101 of title 5.".

(e) IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of the enactment of this section, regulations implementing the amendments made by this section to the provisions of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405, 421), after coordination with the Director of the Office of Government Ethics.

SEC. 815. DEFENSE MEMORANDA OF UNDERSTANDING AND RELATED AGREEMENTS

(a) CONSIDERATION OF MATTERS AFFECTING UNITED STATES INDUSTRY.—Section 2504 of title 10, United States Code, is amended to read as follows:

"§ 2504. Defense memoranda of understanding and related agreements

"(a) CONSIDERATIONS IN MAKING AND IMPLEMENTING MOUs AND RELATED AGREEMENTS.—In the negotiation, renegotiation, and implementation of any existing or proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding, between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, the Secretary of Defense shall—

"(1) consider the effects of such existing or proposed memorandum of understanding or related agreement on the defense industrial base of the United States; and

"(2) regularly solicit and consider comments and recommendations from the Secretary of Commerce with respect to the commercial implications of such memorandum of understanding or related agreement and the potential effects of such memorandum of understanding or related agreement on the international competitive position of United States industry.

"(b) INTER-AGENCY REVIEW OF EFFECTS ON UNITED STATES INDUSTRY.—Whenever the Secretary of Commerce has reason to believe that an existing or proposed memorandum of understanding or related agreement has, or threatens to have, a significant adverse effect on the international competitive position of United States industry, the Secretary may request an inter-agency review of the memorandum of understanding or related agreement. If, as a result of the review, the Secretary determines that the commercial interests of the United States are not being served or would not be served by adhering to the terms of such existing memorandum or related agreement or agreeing to such proposed memorandum or related agreement, as the case may be, the Secretary shall recommend to the President the renegotiation of the existing memorandum or related agreement or any modification to the proposed memorandum of understanding or related agreement that he considers necessary to ensure an appropriate balance of interests.

"(c) LIMITATION ON ENTERING INTO MOUs AND RELATED AGREEMENTS.—A memorandum of understanding or related agreement referred to in subsection (a) may not be entered into or implemented if the President, taking into consideration the results of the inter-agency review, determines that such memorandum of understanding or related agreement has or is likely to have a significant adverse effect on United States industry that outweighs the benefits of entering into or implementing such memorandum or agreement.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 148 of such title is amended by striking out the item relating to section 2504 and inserting in lieu thereof the following:

"2504. Defense memoranda of understanding and related agreements.".

SEC. 816. OFFSETS IN RECIPROCAL DEFENSE PROCUREMENT AGREEMENTS

Section 825(c) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2021) is amended—

(1) by transferring the text of paragraph (2) to the end of paragraph (1) and in that text striking out "the date of the enactment of this Act" and inserting in lieu thereof "September 29, 1988"; and

(2) by inserting the following after "(2)": "In the negotiation or renegotiation of any memorandum of understanding between the United States and one or more foreign countries relating to the reciprocal procurement of defense equipment and supplies or research and development, the President shall make every effort to achieve an agreement with the country or countries concerned that would limit the adverse effects that offset arrangements have on the defense industrial base of the United States.".

SEC. 817. SIMPLIFIED APPROVAL OF CONTRACTS IMPLEMENTING CERTAIN INTERNATIONAL AGREEMENTS

(a) EXCEPTION.—Paragraph (2) of section 2304(f) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) in the case of a procurement permitted by subsection (c)(4), but only if the head of the contracting activity prepares a document in connection with such procurement that describes the terms of an agreement or treaty, or the written directions, referred to in that subsection that have the effect of requiring the use of procedures other than competitive procedures and such document is approved by the competition advocate for the procuring activity.".

(b) PUBLIC INSPECTION.—Paragraph (4) of such section is amended by inserting after "any related information" the following: ", and any document prepared pursuant to paragraph (2)(E),".

SEC. 818. DELEGATION OF APPROVAL AUTHORITY FOR CERTAIN CONTRACT ACTIONS

(a) APPROVAL AUTHORITY.—Section 2304(f) of title 10, United States Code, is amended in paragraph (1)(B)—

(1) by striking out "or" after the semicolon in clause (ii);

(2) by redesignating clause (iii) as clause (iv) and striking out "$10,000,000" in such clause and inserting in lieu thereof "$50,000,000"; and

(3) by inserting after clause (ii) the following new clause (iii):

"(iii) in the case of a contract for an amount exceeding $10,000,000 (but equal to or less than $50,000,000), by the senior procurement executive of the agency designated

pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) or the senior procurement executive's delegate designated pursuant to paragraph (6)(B), or in the case of the Under Secretary of Defense for Acquisition, acting in his capacity as the senior procurement executive for the Department of Defense, the Under Secretary's delegate designated pursuant to paragraph (6)(C); or".

(b) DELEGATION.—Such section is amended in paragraph (6)—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) The authority of the senior procurement executive under paragraph (1)(B)(iii) may be delegated only to an officer or employee within the senior procurement executive's organization who—

"(i) if a member of the armed forces, is a general or flag officer; or

"(ii) if a civilian, is serving in a position in grade GS-16 or above (or in a comparable or higher position under any other schedule for civilian officers or employees).".

(c) CONFORMING AMENDMENTS.—(1) Clause (iv) of section 2304(f)(1)(B) of such title (as redesignated) is amended by striking out "paragraph (6)(B)" and inserting in lieu thereof "paragraph (6)(C)".

(2) Subparagraph (C) of section 2304(f)(6) of such title (as redesignated) is amended by striking out "paragraph (1)(B)(iii)" and inserting in lieu thereof "paragraph (1)(B)(iv)".

SEC. 819. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 301 for Defense Agencies for fiscal years 1990 and 1991 for operation and maintenance, $9,000,000 shall be available for each of such fiscal years only for the purpose of carrying out cooperative agreements under chapter 142 of title 10, United States Code.

(b) SET-ASIDE.—Of the amounts provided for in subsection (a), $600,000 shall be available for each of the fiscal years 1990 and 1991 for the purpose of carrying out programs sponsored by eligible entities named in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas (as defined in subparagraph (B) of section 2411(2) of such title). If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow for effective use of the funds authorized under this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

(c) ASSISTANCE FURNISHED TO CERTAIN INDIAN ORGANIZATIONS.—(1) Subsection (a) of section 2414 of title 10, United States Code, is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) in the case of a program operating on a Statewide basis, other than a program referred to in clause (3) or (4), $300,000;

"(2) in the case of a program operating on less than a Statewide basis, other than a program referred to in clause (3) or (4), $150,000;

"(3) in the case of a program operated wholly within one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $150,000; or

"(4) in the case of a program operated wholly within more than one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $300,000.".

(2) Subsection (b) of such section is amended by inserting "or is operated wholly within one or more service areas of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(a)(1)(D) of this title" after "or on less than a Statewide basis".

PART C—OTHER ACQUISITION POLICY MATTERS

SEC. 821. REQUIREMENT FOR CERTIFICATE OF INDEPENDENT PRICE DETERMINATION IN CERTAIN DEPARTMENT OF DEFENSE CONTRACT SOLICITATIONS

The Secretary of Defense shall propose a revision to the Federal Acquisition Regulation to provide that the exception contained in part 3.103-1 of the Federal Acquisition Regulation for work performed by foreign suppliers outside the United States, its possessions, and Puerto Rico be repealed.

SEC. 822. UNIFORM RULES ON DISSEMINATION OF ACQUISITION INFORMATION

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe in the Department of Defense Supplement to the Federal Acquisition Regulation a single, uniform regulation for the Department of Defense regarding dissemination of, and access to, acquisition information.

SEC. 823. LIMITATION ON AUTHORITY TO WAIVE BUY AMERICAN ACT REQUIREMENT

(a) DETERMINATION BY SECRETARY OF DEFENSE.—(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of that agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any agreement, including any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products produced in that country.

(b) REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal years 1990 and 1991. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) BUY AMERICAN ACT DEFINED.—For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 824. ACQUISITION OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS

(a) IN GENERAL.—The Secretary of Defense shall—

(1) prescribe regulations as provided in subsection (b); and

(2) conduct an analysis as provided in subsection (c).

(b) REGULATIONS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall publish for public comment new regulations to carry out the requirements in this subsection and rescind any regulations that are inconsistent with the requirements of this subsection. The Secretary shall promulgate final regulations to carry out such requirements not later than 270 days after the date of the enactment of this Act.

(2) The Secretary of Defense shall develop a simplified uniform contract for the acquisition of commercial items by the Department of Defense and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

(A) those contract clauses that are required to implement provisions of law applicable to such an acquisition; and

(B) those contract clauses that are appropriate, as determined by the Secretary of Defense, for a contract for such an acquisition.

In addition to the clauses described in subparagraphs (A) and (B), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract.

(3) The Secretary of Defense shall require that a prime contractor under a Department of Defense contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

(A) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

(B) those contract clauses that are appropriate, as determined by the Secretary of Defense, for such a subcontract.

In addition to the clauses described in subparagraphs (A) and (B), a contractor under a Department of Defense contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract.

(4) The Secretary of Defense shall require the use, in appropriate circumstances, of a modified inspection clause with streamlined inspection procedures in each Department of Defense contract for the acquisition of commercial items awarded to a contractor that (A) has a proven record of high quality production, and (B) offers an appropriate warranty to protect the Federal Government's interest in acquiring a high quality product.

(5) The Secretary of Defense shall require the use, in appropriate circumstances, of standard commercial warranties in each Department of Defense contract for the acquisition of commercial items.

(6) The Secretary of Defense shall revise the regulations governing the applicability of the exemption contained in section 2306a(b)(1)(B) of title 10, United States Code, consistent with the public interest. In revising such regulations, the Secretary (A) shall address the standards for applying such exemption to contracts and subcontracts for items which are modifications to commercial items, components of commercial items, spare parts for commercial items, new commercial items, or commercial items which are no longer sold to the public, and

(B) shall ensure that cost or pricing data are not required in connection with contracts and subcontracts qualifying for an exemption under the regulations as revised under this paragraph.

(c) ANALYSIS.—(1) The Secretary of Defense shall conduct an analysis of impediments to the acquisition of nondevelopmental items by the Department of Defense. In conducting the analysis, the Secretary shall consider, at a minimum, the following:

(A) Whether to expand the regulations governing the acquisition and distribution of commercial products to address the procurement of nondevelopmental items.

(B) Whether revisions to the regulations governing specifications, standards, and other purchase descriptions are necessary to implement the statutory requirement that product specifications be stated in terms of functions to be performed, performance required, or essential physical characteristics, and to minimize the use of specifications unique to the Department of Defense.

(C) Whether to establish a presumption that the Department of Defense should not request technical data on commercial items.

(D) Whether the Secretary of Defense should make greater use of the authority granted the Secretary in law to exempt defense contracts for commercial items from the application of various requirements.

(2) Not later than 270 days after the date of the enactment of this Act, the Secretary shall develop and submit to the Committees on Armed Services of the Senate and House of Representatives a plan of action for addressing any impediments identified in the analysis required by paragraph (1). The plan shall include a specific schedule for the following:

(A) Rescission of any regulations that are identified as impediments to the acquisition of nondevelopmental items.

(B) Publication for public comment of new regulations to carry out the plan.

(C) Submission to Congress of proposals for such legislative changes as may be needed to carry out the plan.

(d) TRAINING.—(1) The Secretary of Defense shall establish a program for training contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items.

(2) The training program shall provide, at a minimum, for the following:

(A) Training in the requirements of the regulations promulgated pursuant to this section, the requirements of section 2325 of title 10, United States Code, and regulations prescribed pursuant to that section.

(B) Training of contracting officers in the fundamental principles of price analysis and other alternative means of determining price reasonableness.

(C) Training of appropriate acquisition personnel in market research techniques and in the drafting of functional and performance specifications.

(e) DEMONSTRATION PROGRAM FOR ITEMS ISSUED TO MEMBERS.—(1) The Secretary of Defense shall carry out a demonstration program in accordance with this subsection with respect to the procurement of individual items of clothing issued to members of the Armed Forces. Under the demonstration program, the Secretary shall—

(A) identify those items of clothing that are the same as, or similar to, clothing items produced by commercial sources for sale to consumers other than the Armed Forces; and

(B) designate for acquisition in accordance with this subsection certain of such items (hereinafter in this subsection referred to as "demonstration items") as the Secretary considers appropriate for acquisition under the demonstration program.

(2) With respect to a portion (determined by the Secretary) of the contracts for demonstration items entered into by the Department of Defense, the Secretary shall—

(A) include in the solicitations for such items a specification reflecting design and functional requirements that are comparable to those used in the award of commercial contracts;

(B) require each offeror to submit a sample article of the item;

(C) provide in the evaluation criteria included in the solicitation that award of the contract will be made to the proposal which is most advantageous to the United States, considering only cost or price and other factors included in the solicitation;

(D) evaluate competitive proposals, either with or without discussions, and the sample article received in response to a solicitation for such items and award a contract in accordance with the evaluation criteria included in the solicitation; and

(E) require each contractor awarded a contract for such items to produce items identical in all major characteristics (including quality) to the sample article submitted with the contractor's bid or proposal.

(3) The demonstration program required under this subsection shall apply with respect to solicitations for demonstration items covered by the program issued after the end of the 180-day period beginning on the date of the enactment of this Act and before October 1, 1993.

SEC. 825. STUDY AND REPORT ON DEFENSE EXPORT FINANCING

(a) STUDY.—The President shall conduct a study of export financing of defense articles. In the course of the study, the President shall—

(1) examine the effect of export financing on the ability of United States industry to compete in the international market for defense products;

(2) determine the extent to which other countries support commercial financing for defense exports through official government credit programs;

(3) determine the extent to which United States private capital is used to support defense exports and the obstacles that United States lending institutions face in providing additional support; and

(4) determine the feasibility and desirability of using existing or new Government export guarantee programs to provide greater private capital support for United States defense exports.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the President shall submit to Congress a report on the findings of the study under subsection (a).

PART D—PROVISIONS RELATING TO SMALL AND SMALL DISADVANTAGED BUSINESSES

SEC. 831. PROVISIONS RELATING TO SMALL DISADVANTAGED BUSINESSES

(a) EXTENSION OF CONTRACT GOAL.—Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) is amended by striking out "and 1990" in subsections (a) and (h) and inserting in lieu thereof "1990, 1991, 1992, and 1993".

(b) PRICE DIFFERENTIAL.—Subsection (e) of such section is amended by adding at the end of paragraph (3) the following sentence: "The Secretary shall adjust the percentage specified in the preceding sentence for any industry category if available information clearly indicates that nondisadvantaged small business concerns in such industry category are generally being denied a reasonable opportunity to compete for contracts because of the use of that percentage in the application of this paragraph.".

(c) REPORT DEADLINE.—Subsection (g) of such section is amended—

(1) by striking out "Between May 1 and May 30" in paragraph (1) and inserting in lieu thereof "Not later than July 15"; and

(2) by striking out "Between October 1 and October 10" in paragraph (2) and inserting in lieu thereof "Not later than December 15".

SEC. 832. CREDIT FOR INDIAN CONTRACTING IN MEETING CERTAIN MINORITY SUBCONTRACTING GOALS

(a) REGULATIONS.—Subject to subsections (b) and (c), in any case in which a subcontracting goal is specified in a Department of Defense contract in the implementation of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) and section 8(d) of the Small Business Act (15 U.S.C. 637(d)), credit toward meeting that subcontracting goal shall be given for—

(1) work performed in connection with that Department of Defense contract, and work performed in connection with any subcontract awarded under that Department of Defense contract, if such work is performed on any Indian lands and meets the requirements of paragraph (1) of subsection (b); or

(2) work performed in connection with that Department of Defense contract, and work performed in connection with any subcontract awarded under that Department of Defense contract, if the performance of such contract or subcontract is undertaken as a joint venture that meets the requirements of paragraph (2) of that subsection.

(b) ELIGIBLE WORK.—(1) Work performed on Indian lands meets the requirements of this paragraph if—

(A) not less than 40 percent of the workers directly engaged in the performance of the work are Indians; or

(B) the contractor or subcontractor has an agreement with the tribal government having jurisdiction over such Indian lands that provides goals for training and development of the Indian workforce and Indian management.

(2) A joint venture undertaking to perform a contract or subcontract meets the requirements of this paragraph if—

(A) an Indian tribe or tribally owned corporation owns at least 50 percent of the joint venture;

(B) the activities of the joint venture under the contract or subcontract provide employment opportunities for Indians either directly or through the purchase of products or services for the performance of such contract or subcontract; and

(C) the Indian tribe or tribally owned corporation manages the performance of such contract or subcontract.

(c) EXTENT OF CREDIT.—The amount of the credit given toward the attainment of any subcontracting goal under subsection (a) shall be—

(1) in the case of work performed as described in subsection (a)(1), the value of the work performed; and

(2) in the case of a contract or subcontract undertaken to be performed by a joint venture as described in subsection (a)(2), an amount equal to the amount of the contract or subcontract multiplied by the percentage of the tribe's or tribally owned corporation's ownership interest in the joint venture.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the implementation of this section.

(e) DEFINITIONS.—In this section:

(1) The term "Indian lands" has the meaning given that term by section 4(4) of the Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C. 2703(4)).

(2) The term "Indian" has the meaning given that term by section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(3) The term "Indian tribe" has the meaning given that term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(4) The term "tribally owned corporation" means a corporation owned entirely by an Indian tribe.

SEC. 833. TEST PROGRAM FOR USE OF BOND WAIVER AUTHORITY UNDER SMALL BUSINESS ACT TO ASSIST CERTAIN SMALL DISADVANTAGED BUSINESS CONCERNS

The Secretary of Defense and the Small Business Administration shall establish a program for fiscal years 1990 and 1991 to test the use of the authority provided by section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)). Under the test program, the Secretary of Defense shall make every reasonable effort during each such fiscal year to award not less than 30 contracts for construction projects (including repair and alteration of existing facilities) to participants in the Minority Small Business and Capital Ownership Development Program of the Small Business Administration who have been granted surety bond exemptions under the authority provided by section 7(j)(13)(D) of such Act.

SEC. 834. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS

(a) TEST PROGRAM.—(1) The Secretary of Defense shall establish a test program under which one contracting activity in each military department and Defense Agency is authorized to undertake one or more demonstration projects to determine whether the negotiation and administration of comprehensive small business subcontracting plans will result in an increase in opportunities provided for small business concerns under Department of Defense contracts.

(2) In developing the test program, the Secretary of Defense shall—

(A) consult with the Administrator of the Small Business Administration; and

(B) provide an opportunity for public comment on the test program.

(b) COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLAN.—(1) In a demonstration project under the test program, the Secretary of a military department or head of a Defense Agency shall negotiate, monitor, and enforce compliance with a comprehensive subcontracting plan with a Department of Defense contractor described in paragraph (3).

(2) The comprehensive subcontracting plan—

(A) shall provide for small business concerns to participate as subcontractors in the contracts awarded by the Secretary or agency head to the contractor (or any division or operating element of the contractor) to which the subcontracting plan applies; and

(B) shall apply to the entire business organization of the contractor or to one or more of the contractor's divisions or operating elements, as specified in the subcontracting plan.

(3) A Department of Defense contractor referred to in paragraph (1) is, with respect to a comprehensive subcontracting plan, a business concern that, during the fiscal year ending on September 30, 1989—

(A) pursuant to at least five Department of Defense contracts, furnished supplies or services (including professional services) to the Department of Defense, engaged in research and development for the Department, or performed construction for the Department; and

(B) was paid $25,000,000 or more for such contract activities.

(c) WAIVER OF CERTAIN SMALL BUSINESS ACT SUBCONTRACTING PLAN REQUIREMENTS.—A Department of Defense contractor is not required to negotiate or submit a subcontracting plan under paragraph (4) or (5) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) with respect to a Department of Defense contract if—

(1) the contractor has negotiated a comprehensive subcontracting plan under the test program that includes the matters specified in section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6));

(2) such matters have been determined acceptable by the Secretary of the military department or head of a Defense Agency negotiating such comprehensive subcontracting plan; and

(3) the comprehensive subcontracting plan applies to the contract.

(d) FAILURE TO MAKE A GOOD FAITH EFFORT TO COMPLY WITH A COMPANY-WIDE SUBCONTRACTING PLAN.—A contractor that has negotiated a comprehensive subcontracting plan under the test program shall be subject to section 8(d)(4)(F) of the Small Business Act (15 U.S.C. 637(d)(4)(F)) regarding the assessment of liquidated damages for failure to make a good faith effort to comply with its company-wide plan and the goals specified in that plan.

(e) TEST PROGRAM PERIOD.—The test program authorized by subsection (a) shall begin on October 1, 1990, unless Congress adopts a resolution disapproving the test program. The test program shall terminate on September 30, 1993.

(f) REPORT.—(1) Not later than March 1, 1994, the Secretary of Defense shall submit a report on the results of the test program to the Committees on Armed Services and on Small Business of the Senate and the House of Representatives.

(2) Before submitting such report to the committees referred to in paragraph (1), the Secretary shall transmit the proposed report to the Administrator of the Small Business Administration. The report submitted to the committees shall include any comments and recommendations relating to the report that are transmitted to the Secretary by the Administrator before the date specified in such paragraph.

(g) DEFINITIONS.—As used in this section:

(1) The term "small business concern" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)), and includes a small business concern owned and controlled by socially and economically disadvantaged individuals.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

PART E—DEFENSE INDUSTRIAL AND TECHNOLOGY BASE

SEC. 841. CRITICAL TECHNOLOGIES PLANNING

(a) NATIONAL CRITICAL TECHNOLOGIES PANEL.—(1) The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VI—NATIONAL CRITICAL TECHNOLOGIES PANEL

"ESTABLISHMENT

"SEC. 601. The Director of the Office of Science and Technology Policy shall establish within that office a National Critical Technologies Panel (hereinafter in this title referred to as the 'panel'). The panel shall prepare the biennial national critical technologies report required by section 603.

"MEMBERSHIP

"SEC. 602. (a) The panel shall consist of 13 members appointed from among persons who are experts in science and engineering as follows:

"(1) The Director of the Office of Science and Technology Policy shall appoint nine members, of whom—

"(A) three shall be Federal Government officials; and

"(B) six shall be appointed from persons in private industry and higher education.

"(3) The Secretary of Defense shall appoint one member, who shall be an official of the Department of Defense.

"(4) The Secretary of Energy shall appoint one member, who shall be an official of the Department of Energy.

"(5) The Secretary of Commerce shall appoint one member, who shall be an official of the Department of Commerce.

"(6) The Administrator of the National Aeronautics and Space Administration shall appoint one member, who shall be an official of that agency.

"(b)(1) Members appointed under subsection (a)(1)(B) shall serve for a term of two years.

"(2) Any vacancy in the membership of the panel shall be filled in the same manner as the original appointment.

"(c) The Director shall designate one of the members appointed under subsection (a)(1)(A) as chairman of the panel.

"BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT

"SEC. 603. (a) The panel shall submit to the President a biennial report on national critical technologies. Each such report shall identify those product technologies and process technologies that the panel considers to be national critical technologies. The number of the such technologies identified in any such report may not exceed 30. The reports shall be submitted not later than October 1 of even-numbered years.

"(b) For purposes of subsection (a), a product or process technology may be considered to be a national critical technology if the panel determines it to be a technology that it is essential for the United States to develop to further the long-term national security and economic prosperity of the United States.

"(c) Each such report shall include, with respect to each technology identified in the report, the following information:

"(1) The reasons for the panel's selection of that technology.

"(2) The state of the development of that technology in the United States and in other countries.

"(3) An estimate of the current and anticipated level of research and development effort in the United States, including anticipated milestones for specific accomplishments, by—

"(A) the Federal Government;

"(B) State and local governments;
"(C) private industry; and
"(D) colleges and universities.
"(d) Not later than 30 days after the date on which a report is submitted to the President under this section, the President shall transmit the report, together with any comments that the President considers appropriate, to Congress.

"ADMINISTRATION AND FUNDING OF PANEL

"SEC. 604. The Director of the Office of Science and Technology Policy shall provide administrative support for the panel. Funds for necessary expenses of the panel shall be provided for fiscal years after fiscal year 1990 from funds appropriated for that Office.

"EXPIRATION

"SEC. 605. The provisions of this title shall cease to be effective on December 31, 2000, and the panel shall terminate on that date.".

(2) The Secretary of Defense shall reimburse the Director of the Office of Science and Technology Policy for the reasonable expenses, not to exceed $500,000, incurred by the National Critical Technologies Panel during fiscal year 1990.

(b) ANNUAL DEFENSE CRITICAL TECHNOLOGIES PLAN.—(1) Chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2508. Annual defense critical technologies plan

"(a) ANNUAL PLAN.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual plan for developing the technologies considered by the Secretary of Defense and the Secretary of Energy to be the technologies most critical to ensuring the long-term qualitative superiority of United States weapon systems. The number of such technologies identified in any plan may not exceed 20. Each such plan shall be developed in consultation with the Secretary of Energy.

"(2) In selecting the technologies to be included in the plan for any year, the Secretary of Defense and the Secretary of Energy shall consider both product technologies and process technologies, including the technologies identified in the most recent biennial report submitted to the President by the National Critical Technologies Panel under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976.

"(3) Each such plan shall cover the 15 fiscal years following the year in which the plan is submitted.

"(4) Such plan shall be submitted not later than March 15 of each year and shall be submitted in both classified and unclassified form.

"(b) PRIORITIES AND FUNDING.—Each plan submitted under subsection (a) shall—

"(1) designate priorities for development of the technologies identified in the plan; and

"(2) specify the funding requirements of the Department of Defense, the Department of Energy, and other appropriate departments and agencies of the Federal Government for the development of the technologies identified in the plan for the five fiscal years following the year in which the plan is submitted.

"(c) CONTENT OF PLAN.—Each plan submitted under subsection (a) shall include, with respect to each technology identified in the plan, the following:

"(1) The reasons for the selection of that technology, including—

"(A) a discussion of the consideration given to the most recent biennial report submitted to the President under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976; and

"(B) the relationship of the technology to the overall science and technology program of the Department of Defense and the long-term funding strategy associated with that program.

"(2) A designation of the lead organization within the Department of Defense or the Department of Energy responsible for the development of the technology.

"(3) A summary description of the lead organization's plan for the development of the technology, including the milestone goals.

"(4) The amounts contained in the budgets of the Department of Defense, the Department of Energy, and other departments and agencies for the support of the development of such technology for—

"(A) the five preceding fiscal years; and

"(B) the fiscal year beginning in the year in which the plan is submitted; and

"(C) each fiscal year thereafter for which the Secretary of Defense, with respect to the Department of Defense, and the Secretary of Energy, with respect to the Department of Energy, has prepared a budget.

"(5) A comparison of the positions of the United States and the Soviet Union in the development of that technology.

"(6) The potential contributions that the allies of the United States and other industrialized nations can make to meet the needs of the United States and its allies for that technology.

"(7) A comparison of the extent to which the United States has access to research conducted on such technology in allied nations and other industrialized nations with the extent to which such nations have access to research conducted in the United States on such technology and a discussion of the effects of any imbalance in such access on development of that technology.

"(8) With respect to the development of such technology—

"(A) a comparison of the relative positions of the United States and other industrialized countries that are prominent in the development of such technology;

"(B) the trends in the relevant industrial bases of such countries;

"(C) the competitiveness of the United States industrial base supporting research in, and the development and use of, such technology;

"(D) the extent to which the United States should depend on other countries for the development of such technology; and

"(E) the extent to which action should be taken by the Federal Government to maintain and improve—

"(i) research efforts in the United States; and

"(ii) the industrial base supporting such efforts.

"(9) The potential contributions that the private sector can be expected to make from its own resources in connection with the development of civilian applications for such technology.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2508. Annual defense critical technologies plan.".

(c) AGREEMENTS FOR STUDIES.—(1) Section 2368 of title 10, United States Code, is amended to read as follows:

"§ 2368. Critical technologies research

"(a) AGREEMENTS.—The Secretary of Defense may enter into agreements with the National Academy of Sciences, the National Academy of Engineering, and the National Institute of Medicine for the conduct of studies in fields of research and development essential to the development of the technologies identified in the most recent biennial report submitted to the President by the National Critical Technologies Panel under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976.

"(b) CONSULTATION WITH DIRECTOR OF OSTP.—An agreement under subsection (a) may be entered into only after consultation with the Director of the Office of Science and Technology Policy.

"(c) FUNDING LIMITATION.—The Secretary may not obligate more than $500,000 for agreements under subsection (a) in any fiscal year.".

(2) The item relating to that section 2368 in the table of sections at the beginning of chapter 139 of such title is amended to read as follows:

"2368. Critical technologies research.".

SEC. 842. DEFENSE INDUSTRIAL INFORMATION AND CRITICAL INDUSTRIES PLANNING

(a) EXPANDED FUNCTIONS OF THE DEFENSE INDUSTRIAL BASE OFFICE.—Section 2503 of title 10, United States Code, is amended—

(1) by striking out "at a minimum—" in the matter preceding paragraph (1) and inserting in lieu thereof "at a minimum, do the following:";

(2) by amending the first word of each of paragraphs (1) through (4) so that the initial letter of such word is uppercase;

(3) by striking out the semicolon at the end of each of paragraphs (1) and (2) and inserting in lieu thereof a period;

(4) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(5) by adding at the end the following new paragraph:

"(5) Establish and implement a consolidated analysis program (A) to assess and monitor worldwide capabilities in technologies critical to the national security of the United States, and (B) to monitor defense-related manufacturing capabilities of the United States.".

(b) CRITICAL INDUSTRIES PLANNING.—Section 2503 of title 10, United States Code, as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(6) Identify the industries most critical for national security applications of the technologies identified in the most recent annual defense critical technologies plan submitted under section 2508 of this title.".

(c) REPORT ON DEFENSE INDUSTRIAL BASE.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the actions taken under section 2503 of title 10, United States Code, for the improvement of the defense industrial base of the United States.

(2) The report shall include Under Secretary's analysis of the condition of the defense industrial base of the United States, particularly with respect to the financial ability of United States businesses—

(A) to conduct research and development activities relating to critical defense technologies, including the critical technologies identified in the first annual defense critical technologies plan submitted pursuant to section 2508 of title 10, United States Code, as added by section 841(b) of this Act;

(B) to apply those technologies to the production of goods and the furnishing of services; and

(C) to engage in any other activities determined by the Secretary of Defense to be critical to the national security.

(3) In preparing the analysis required in paragraph (2), the Secretary, acting through the Under Secretary of Defense for Acquisition, shall consider—

(A) trends in the profitability, levels of capital investment, spending on research and development, and debt burden of businesses involved in research on, development of, and application of critical defense technologies;

(B) the consequences of mergers, acquisitions, and takeovers of such businesses;

(C) the results of current Department of Defense spending for critical defense technologies; and

(D) the likely future level of Department of Defense spending for such technologies during the four fiscal years following fiscal year 1990 and the likely results of that level of spending.

(4) The report under this subsection shall be submitted not later than March 15, 1990.

SEC. 843. SCIENTIFIC AND TECHNICAL EDUCATION

(a) FINDINGS.—Congress makes the following findings:

(1) The possession and maintenance of technologically superior systems in the Department of Defense is a critical part of the national defense strategy of the United States.

(2) Defense programs use a significant portion of the entire science and technology workforce of the United States.

(3) The science and technology workforce of the United States has been declining in recent years and that decline threatens the supply of qualified engineers and scientists for the Department of Defense in the future.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the Secretary of Defense should take such actions as may be necessary and appropriate to promote and encourage, at precollege through post-doctoral levels, an increase in the number of citizens and nationals of the United States who pursue courses of study in science, engineering, and other technical disciplines.

(c) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, by February 1, 1990, a report on current, expanded, and proposed new programs of the Department of Defense and, as appropriate, proposed interagency programs to preserve and perpetuate an effective scientific and engineering workforce for the United States for the future. The Secretary, in coordination with the Director of the Office of Science and Technology Policy, shall include in the report an evaluation of the following concepts:

(1) Summer internships at Department of Defense laboratories for precollege teachers of sciences, engineering, or other technical disciplines.

(2) An award program for exceptional precollege teachers in sciences, engineering, or other technical disciplines.

(3) A scholarship program for undergraduates in scientific or technical education who plan to teach those disciplines at the precollege level.

(4) Expanding the Barry Goldwater Scholarship and Excellence is Education Program or any other such program that the Secretary and the Director mutually agree would promote increases in scientific and engineering careers.

(d) NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS.—(1) Part III of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 111—NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

"Sec.
"2191. Graduate fellowships.

"§ 2191. Graduate fellowships

"(a) The Secretary of Defense shall prescribe regulations providing for the award of fellowships to citizens and nationals of the United States who agree to pursue graduate degrees in science, engineering, or other fields of study designated by the Secretary to be of priority interest to the Department of Defense.

"(b) A fellowship awarded pursuant to regulations prescribed under subsection (a) shall be known as a 'National Defense Science and Engineering Graduate Fellowship'.

"(c) National Defense Science and Engineering Graduate Fellowships shall be awarded solely on the basis of academic ability. The Secretary shall take all appropriate actions to encourage applications for such fellowships of persons who are members of groups (including minority groups, women, and disabled persons) which historically have been underrepresented in science and technoloy fields. Recipients shall be selected on the basis of a nationwide competition. The award of a fellowship under this section may not be predicated on the geographic region in which the recipient lives or the geographic region in which the recipient will pursue an advanced degree.

"(d) The regulations prescribed under this section shall include—

"(1) the criteria for award of fellowships;

"(2) the procedures for selecting recipients;

"(3) the basis for determining the amount of a fellowship; and

"(4) the maximum amount that may be awarded to an individual during an academic year.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, of such title are each amended by inserting after the item relating to chapter 110 the following new item:

"111. National Defense Science and Engineering Graduate Fellowships ..... 2191".

(e) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201, $10,500,000 of the amount appropriated for fiscal year 1990 and $11,000,000 of the amount authorized to be appropriated for fiscal year 1991 shall be available for National Defense Science and Engineering Graduate Fellowships provided for under chapter 111 of title 10, United States Code (as added by subsection (c)).

PART F—MISCELLANEOUS

SEC. 851. AUTHORITY TO CONTRACT WITH UNIVERSITY PRESSES FOR PRINTING, PUBLISHING, AND SALE OF HISTORY OF THE OFFICE OF THE SECRETARY OF DEFENSE

The Government Printing Office, on behalf of the Secretary of Defense, shall contract for services for the printing, publishing, and sale of volumes III and IV of the publication entitled "History of the Office of the Secretary of Defense" using procurement procedures that exclude sources other than university presses.

SEC. 852. PROCUREMENT FROM COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

(a) SENSE OF CONGRESS.—It is the sense of Congress that it should be a very important consideration in the procurement of property, services, or technology by the Department of Defense whether such procurement is from any person of any country which has been identified by the United States Trade Representative, on the advice of the Commissioner of Patents and Trademarks in the Department of Commerce and the Register of Copyrights, pursuant to section 182(a)(2) of the Trade Act of 1974 (19 U.S.C. 2242) as denying adequate and effective protection of intellectual property rights or fair and equitable market access to United States persons that rely upon intellectual property protection.

(b) REPORT.—(1) If the Secretary of Defense takes any action, upon the direction of the United States Trade Representative (in consultation with the Commissioner of Patents and Trademarks and the Register of Copyrights), with respect to the procurement of property, services, or technology by the Department of Defense on the basis of the consideration set forth in subsection (a), the Secretary shall submit promptly to the committees described in paragraph (2) a report describing the nature of such action and the reasons for such action.

(2) The committees to which the report required by paragraph (1) shall be submitted are the Committees on Armed Services, on Finance, and on the Judiciary of the Senate and the Committees on Armed Services, on Ways and Means, and on the Judiciary of the House of Representatives.

SEC. 853. ACQUISITION LAWS TECHNICAL AMENDMENTS

(a) REPEAL OF DUPLICATE PROVISION; RESTORATION OF INADVERTENTLY STRICKEN PROVISION.—(1) Section 2324 of title 10, United States Code, is amended—

(A) by striking out "(l)(1)" and all that follows through "In subsection (k):" and inserting in lieu thereof "(6) In this subsection:";

(B) by redesignating subsection (l) as subsection (m); and

(C) by inserting after subsection (k) the text of subsection (k) of such section as in effect on the day before the date of the enactment of the Major Fraud Act of 1988 (Public Law 100-700; 102 Stat. 4631 et seq.), with such text designated as subsection (l).

(2) Section 833(c) of Public Law 100-456 (102 Stat. 2024) is amended by striking out "section 2324(k)" and inserting in lieu thereof "section 2324(m)".

(3) The amendments made by this subsection shall take effect as of November 19, 1988.

(b) REFERENCES TO FAR.—(1) Section 2302 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(6) The term 'Federal Acquisition Regulation' means the Federal Acquisition Regulation issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)).".

(2) Section 2320(a) of such title is amended by striking out paragraph (4).

(3) Clause (i) of section 2324(k)(5)(B) of such title is amended by striking out "the single" and all that follows through the period and inserting in lieu thereof "the Federal Acquisition Regulation.".

(c) PROCUREMENT MANAGEMENT PERSONNEL CLARIFICATIONS.—(1) Paragraph (2) of section

1621 of title 10, United States Code, is amended to read as follows:

"(2) The term 'procurement command' means any of the following:

"(A) The Army Materiel Command, the Army Information Systems Command, and the Army Strategic Defense Command.

"(B) Any Navy weapons systems command, the Navy Strategic Systems Program Office, and the Marine Corps Research, Development and Acquisition Command.

"(C) The Air Force Systems Command and the Air Force Logistics Command.

"(D) Any successor organization to any command or office named in subparagraphs (A) through (C).".

(2) Section 1622(b)(2) of such title is amended—

(A) by striking out "acquisition, support, and maintenance of weapon systems," and inserting in lieu thereof "acquisition of weapon systems or related items of supply,"; and

(B) by inserting before the period the following: "or to a staff of a service acquisition executive, program executive officer, or program manager of a military department".

(3) Section 1623 of such title is amended—

(A) in subsection (a), by inserting "or on the staff of a service acquisition executive, program executive officer, or program manager of a military department" before the period at the end of the first sentence; and

(B) in subsection (b), by striking out "procurement command," and inserting in lieu thereof "procurement command or on the staff of a service acquisition executive, program executive officer, or program manager of a military department,".

(4) The amendments made by this subsection shall take effect as of July 1, 1989.

(d) CORRECTION OF REFERENCE.—Section 2304(b)(2) of title 10, United States Code, is amended—

(1) by striking out "An executive agency" and inserting in lieu thereof "The head of an agency";

(2) by inserting "concerns" before "other than"; and

(3) by inserting before the period the following: "and concerns other than small business concerns, historically Black colleges and universities, and minority institutions in furtherance of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)".

(e) CROSS-REFERENCE CORRECTION.—Section 2411(1)(D) of title 10, United States Code, is amended—

(1) by striking out "section 4(c)" and inserting in lieu thereof "section 4(l)"; and

(2) by striking out "450(c)" and inserting in lieu thereof "450b(l)".

(f) CORRECTION OF INCONSISTENCY.—Section 2305(b)(4)(D) of title 10, United States Code, is amended by inserting "cost or" after "considering only".

TITLE IX—MATTERS RELATING TO NATO MEMBER NATIONS AND OTHER ALLIES

PART A—CONVENTIONAL FORCE REDUCTIONS IN EUROPE

SEC. 901. FRAMEWORK FOR DETERMINING CONVENTIONAL FORCE REQUIREMENTS IN A CHANGING THREAT ENVIRONMENT

(a) EVALUATION OF EFFECT OF WARSAW PACT REDUCTIONS AND OF POSSIBLE CFE AGREEMENT.—The Secretary of Defense shall submit to the congressional defense committees a report providing the Secretary's evaluation of the effect upon requirements of the United States for conventional forces and for military spending that could be anticipated under the following assumptions:

(1) The full implementation of the unilateral force reductions in, and subsequent reorganization of, forces of the Soviet Union described by the President of the Soviet Union on December 7, 1988, and the unilateral force reductions subsequently announced by the other members of the Warsaw Pact.

(2) Entry into force of a conventional arms control agreement establishing rough parity in conventional forces in Europe between forces of the North Atlantic Treaty Organization and the Warsaw Pact at equal levels (at approximately 85 to 90 percent of NATO's current inventory) of tanks, artillery, armored troop carriers, combat helicopters, and land-based combat aircraft.

(b) MATTERS TO BE INCLUDED IN EVALUATION.—In carrying out the evaluation required by subsection (a) of the unilateral force reductions referred to in paragraph (1) of that subsection and the potential effect of an agreement referred to in paragraph (2) of that subsection, the Secretary shall include in the evaluation (at a minimum) the following (stated for both the near-term and mid-term):

(1) An assessment of the threat to NATO under the assumptions specified in each of paragraphs (1) and (2) of subsection (a).

(2) The effect on the defense strategy of the United States for meeting its NATO commitments in the changing threat environment, including the effect on the ability of NATO to defend against an attack by the Warsaw Pact (A) on short warning, or (B) during a crisis in Europe.

(3) The effect on—

(A) the mix of active and reserve forces of the United States;

(B) the ratio of (i) conventional forces of the United States deployed in the European theater, to (ii) conventional forces of the United States deployed in the continental United States; and

(C) air and sea lift requirements.

(3) The effect on operational military concepts of the United States and NATO (such as Follow-on Forces Attack (FOFA), AirLand Battle, Maritime Strategy, and Rapid Reinforcement) that were initially developed to counter the large advantage of the Warsaw Pact in conventional land forces in the European theater.

(4) The effect on equipment requirements of the United States for meeting its commitments to NATO in the 1990s.

(c) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted concurrently with the submission to Congress of the President's budget for fiscal year 1991 pursuant to section 1105 of title 31, United States Code. The report shall be submitted in both classified and unclassified form.

SEC. 902. IMPLICATIONS OF MUTUAL REDUCTIONS IN CONVENTIONAL FORCES IN EUROPE BY NATO AND WARSAW PACT MEMBER NATIONS

(a) COMMENDATION OF PRESIDENT'S CONVENTIONAL ARMS REDUCTION INITIATIVE.—Congress commends and supports the President's conventional arms control initiative announced in Brussels on May 29, 1989, in which the President proposed, and the North Atlantic Treaty Organization (NATO) agreed, that NATO expand its negotiating position at the negotiations on reductions in conventional forces in Europe (begun in Vienna on March 9, 1989, and known as the "CFE Talks") to include—

(1) substantial reductions by each side to equal ceilings of helicopters and combat aircraft; and

(2) a reduction to a common ceiling of United States military personnel stationed in Western Europe and Soviet military personnel stationed in Eastern Europe.

(b) PRESIDENTIAL REPORT.—(1) Not later than six months after the date of the enactment of this Act, the President shall submit to Congress an unclassified report, with classified annexes as necessary, on the foreign policy and military implications to NATO and to the Warsaw Pact of significant reductions of conventional forces by NATO and Warsaw Pact countries to a ceiling which is the same for both sides.

(2) The report shall address possible force reduction scenarios for a second round of CFE negotiations and shall be based upon two different assumptions with regard to the level of reductions in personnel and equipment to be made. Under the first assumption, personnel and equipment would be reduced to a level 25 percent below current NATO levels. Under the second assumption, personnel and equipment would be reduced to a level 50 percent below current NATO levels.

(3) The report shall include the following:

(A) A comprehensive net assessment of the current balance between NATO forces and Warsaw Pact forces and of the overall trends in that balance, including an assessment of the trends in active and reserve forces and in total equipment holdings in stationed and indigenous forces.

(B) A description of the likely alternative force postures that could be adopted by member nations of both alliances (particularly by the United States and the Soviet Union) under each of the assumptions analyzed, together with a description of the possible effects of restructuring of both NATO and Warsaw Pact forces in Europe for defensive purposes.

(C) A statement of the costs (or savings) to the United States, over at least a seven-year period, estimated to be associated with each force posture described under subparagraph (B), together with an analysis of how those costs (or savings) were determined.

(D) An analysis of the implications for NATO strategy, security, and military policy under each of the reduction levels referred to in paragraph (2), including a net assessment of the resulting balance between NATO forces and Warsaw Pact forces.

(E) An assessment of the effects under each of the reduction levels referred to in paragraph (2) (including the alternative force postures under each assumption) upon the stability of the conventional balance of forces in Europe.

(F) An assessment of the ability of NATO to defend Europe under each of the assumed reduction levels in the event of an attack by the Warsaw Pact (i) on short warning, or (ii) during a crisis in Europe.

(G) An assessment of the effects under each of the reduction levels referred to in paragraph (2) on—

(i) the short-range nuclear force requirements of NATO;

(ii) the requirements of the United States for POMCUS and war-reserve stocks;

(iii) the requirements of NATO for airlift and sealift based in the United States and for reinforcing units from the United States; and

(iv) the ability of the United States to meet global military requirements.

SEC. 903. REPORT ON VERIFICATION MEASURES FOR POSSIBLE CONVENTIONAL ARMS CONTROL AGREEMENT

(a) REPORT.—The President shall submit to Congress a report on the types of measures that would be required to verify the proposal for reductions in conventional forces in Europe adopted by the member nations of

the North Atlantic Treaty Organization (NATO) on May 30, 1989.

(b) MATTERS TO BE INCLUDED IN REPORT.—The President shall include in the report under subsection (a) the following:

(1) A discussion of the types of information that it would be necessary for the parties to such an agreement to exchange for such verification.

(2) A discussion of the range of options under consideration by the executive branch for defining what constitutes a militarily significant violation of a conventional arms control agreement.

(3) A description of the national technical means, on-site inspections, and other cooperative measures that would be necessary to detect violations of such an agreement, including—

(A) an analysis of the measures that would be required to monitor (i) the withdrawal and demobilization of military personnel, and (ii) the withdrawal and (if required by the agreement) the destruction of military equipment provided for in any such agreement; and

(B) the President's judgment on those on-site inspections and confidence building measures under consideration that are the most acceptable, and the least acceptable, to the NATO alliance and the Warsaw Pact, including an assessment of the counterintelligence aspects of such measures for NATO.

(4) A discussion of the procedures the NATO alliance would follow in the event of a violation of such an agreement by a member of the Warsaw Treaty Organization.

(c) DATA BASE ANALYSIS.—(1) The report under subsection (a) shall also include a comprehensive analysis of—

(A) the uncertainties in the data bases to be used by United States intelligence with respect to the military forces of NATO member nations and Warsaw Pact member nations located in the proposed areas of reduction;

(B) the uncertainties in the estimates of the trends in such forces; and

(C) the differences in the data bases and counting rules used by the United States, the allies of the United States, and the Warsaw Pact member nations.

(2) The analysis under paragraph (1) shall address separately the uncertainties in the estimates of each of the following:

(A) Active forces.

(B) Reserve forces.

(C) Equipment subject to reductions and ceilings.

(D) Indigenous forces.

(E) Stationed forces.

(d) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than March 1, 1990. The report shall include such comments and recommendations as the President determines appropriate. The report shall be submitted in both classified and unclassified versions.

PART B—BURDEN SHARING

SEC. 911. REDUCTION IN AUTHORIZED END STRENGTH FOR THE NUMBER OF MILITARY PERSONNEL IN EUROPE

(a) REDUCTION REQUIRED.—Section 1002(c)(1) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended by striking out "326,414" and inserting in lieu thereof "311,855".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 30, 1991.

SEC. 912. ACTIVE-DUTY FORCES IN EUROPE OF MEMBER NATIONS OF NATO

(a) FINDINGS.—Congress makes the following findings:

(1) Member nations of the North Atlantic Treaty Organization (NATO), at the initiative of the President, have presented to the nations of the Warsaw Pact a comprehensive proposal concerning reductions in conventional forces in Europe for consideration in the negotiations on Conventional Armed Forces in Europe (CFE).

(2) An agreement based on that proposal would significantly enhance security and stability in Europe and the cause of peace worldwide.

(3) Irrespective of developments in the CFE negotiations, several member nations of NATO are considering making significant unilateral reductions over the next several years in the number of their active-duty forces in Europe.

(4) Such unilateral reductions in active-duty forces before an agreement on CFE enters into force would—

(A) undercut efforts by NATO to improve its conventional defense posture in Europe, increase reliance by NATO on the threat of the early use of nuclear weapons to deter aggression, and undermine the NATO arms control negotiating posture in the CFE negotiations; and

(B) exacerbate longstanding burdensharing tensions among member nations of NATO.

(5) Despite shifts in relative economic power from the United States to some of the major allies of the United States, the costs of mutual defense continue to be borne disproportionately by the United States.

(6) Adjustments in burdensharing are long overdue.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "active-duty forces in Europe" means those active-duty military personnel assigned to permanent duty ashore in European member nations of NATO, except that such term does not include INF-related forces.

(2) The term "INF-related forces" means those active-duty military personnel assigned to permanent duty ashore in European member nations of NATO who are to be demobilized or withdrawn from Europe as a result of the elimination of the intermediate-range nuclear weapons of the United States pursuant to the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-range and Shorter-range Missiles, signed on December 8, 1987 (commonly referred to as the "INF Treaty").

(3) The term "U.S. end-strength level in Europe" means the actual number of active-duty forces in Europe of the Armed Forces of the United States at the end of a fiscal year.

(4) The term "allied forces end-strength level in Europe" means the actual number of active-duty forces in Europe of the armed forces of member nations of NATO (other than the United States) in Europe at the end of a fiscal year.

(c) BASELINE REPORT ON ACTIVE-DUTY FORCES IN EUROPE.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report on the number of the active-duty forces in Europe of the member nations of NATO. The report shall identify the following:

(1) The U.S. end-strength level in Europe for fiscal year 1989.

(2) The allied forces end-strength level in Europe for fiscal year 1989.

(3) The actual number of active-duty forces in Europe of the armed forces of each member nation of NATO (other than the United States) at the end of fiscal year 1989.

(4) The ratio (expressed in terms of a percentage) of—

(A) the U.S. end-strength level in Europe; to

(B) the allied forces end-strength level in Europe.

(d) U.S.-ALLIED FORCES RATIO.—(1) The ratio identified for fiscal year 1989 under subsection (c)(4) is hereinafter in this section referred to as the "baseline U.S.-allied forces ratio".

(2) The ratio identified in an annual report under subsection (e) is hereinafter in this section referred to as the "U.S.-allied forces ratio".

(e) ANNUAL REPORT ON MAINTAINING ACTIVE-DUTY FORCES IN EUROPE.—(1) During each of the fiscal years 1991, 1992, and 1993, the Secretary of Defense shall prepare a report identifying for the preceding fiscal year the following:

(A) The U.S. end-strength level in Europe for the fiscal year covered by the report.

(B) The allied forces end-strength level in Europe for such fiscal year.

(C) The ratio (expressed in terms of a percentage) of the U.S. end-strength level in Europe to the allied forces end-strength level in Europe for the fiscal year covered by the report.

(2) The Secretary shall include in each such report the following:

(A) A statement of whether there has been any change in the U.S.-allied forces ratio for such fiscal year compared with—

(i) the baseline U.S.-allied forces ratio; and

(ii) after fiscal year 1991, the U.S-allied forces ratio for the fiscal year immediately preceding the fiscal year covered by such report.

(B) In the case of a change in the U.S.-allied forces ratio for such fiscal year, a description of the amount of such change and any explanation of the cause for such change.

(C) A discussion of any action taken by the United States during such fiscal year to encourage member nations of NATO (other than the United States) to increase the number of their active-duty forces in Europe and the results of that action.

(3)(A) Except as provided in subparagraph (B), the report required by paragraph (1) shall be submitted to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives not later than April 1 of each fiscal year referred to in such paragraph.

(B) The Secretary shall be considered to have complied with subparagraph (A) in a fiscal year if the Secretary includes the information required by paragraphs (1) and (2) in the report submitted in such year pursuant to section 1002(d)(2) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note).

(f) LIMITATION ON OBLIGATION OF FUNDS.—(1) If the Secretary of Defense states in a report prepared under subsection (e) that the U.S.-allied forces ratio for the fiscal year covered by such report is greater than the baseline U.S.-allied forces ratio by more than one-tenth of one percentage point—

(A) the President shall undertake appropriate diplomatic initiatives to persuade the member nations of NATO (other than the United States) to increase the number of

their active-duty forces in Europe so that the U.S.-allied forces ratio no longer exceeds the baseline U.S.-allied forces ratio; and

(B) funds appropriated to or for the use of the Department of Defense may not be obligated or expended for the next fiscal year to support active-duty forces in Europe of the Armed Forces of the United States at an end-strength level that would cause the U.S-allied forces ratio in such fiscal year to exceed the baseline U.S.-allied forces ratio by more than one-tenth of one percentage point.

(2) The President may waive the provisions of paragraph (1) if the President determines that such action is critical to the national security of the United States. The President shall immediately notify Congress of such a waiver and the reasons for such waiver.

(3) Paragraph (1) shall not apply in the event of a declaration of war or an armed attack on any member nation of NATO or in the event that a comprehensive arms reduction agreement enters into force as a result of the negotiations on Conventional Armed Forces in Europe (CFE).

(g) END-STRENGTH PERMANENT CEILING.—Nothing in this section shall be construed to permit the obligation or expenditure of funds to support an end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level in excess of the permanent ceiling specified in section 1002(c)(1) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note).

SEC. 913. CONTRIBUTIONS BY JAPAN TO GLOBAL SECURITY

(a) FINDINGS.—Congress finds—

(1) that extraordinary political, economic, and social changes have occurred in Japan since World War II; and

(2) that, as a result of such changes, Japan is capable of assuming increased responsibility for its own security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in view of the changes referred to in subsection (a), Japan should—

(1) assume increased responsibility for its own security;

(2) offset the direct costs incurred by the United States in deploying military forces for the defense of Japan, including costs (other than pay and allowances) related to the presence of United States military personnel in Japan; and

(3) make a contribution to the common defense that is more commensurate with its economic status by taking the following actions:

(A) Increasing expenditures for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization (NATO) on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(B) Devoting any increase in its spending for such Official Development Assistance program primarily to the Republic of the Philippines and to countries in regions of importance to global stability outside of East Asia, particularly to countries in Latin America, the Caribbean area, and the Mediterranean area.

(C) Devoting any increase in spending for that program primarily to untied grants and increasing the portion of total expenditures made in that program for those multilateral financial institutions of which Japan is a member.

(D) Designating those nations that are to be recipients of increased development assistance referred to in subparagraphs (A) through (C) after consultation with Japan's security partners.

(E) Completing, after consultation with the United States, the 5-year defense program of Japan for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, fulfilling the pledge made by the Prime Minister of Japan in May 1981 to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 nautical miles.

(F) Acquiring "off-the-shelf" military equipment from the United States (including completely equipped, long-range early warning aircraft, additional AEGIS weapon systems, refueling aircraft, munitions, and spare parts) in developing the capabilities called for in Japan's current and subsequent 5-year defense programs.

(c) NEGOTIATIONS AND CONSULTATIONS.—At the earliest practicable date after the enactment of this Act, the President shall—

(1) enter into negotiations with Japan for the purpose of achieving an agreement under which Japan agrees to make contributions sufficient in value to meet the direct cost of deploying United States forces for the defense of Japan; and

(2) issue an invitation to the Government of Japan and other governments of Pacific allies of the United States to engage in annual multilateral consultations on security concerns, consistent with the constitutions and national defense requirements of the respective countries.

(d) REPORTS.—(1) In order that Congress may determine whether further action is appropriate, not later than April 1, 1990, the President shall submit to the congressional committees described in paragraph (3) an initial report on the status and results of—

(A) the negotiations with Japan referred to in subsection (c)(1); and

(B) the invitation required under subsection (c)(2), including any consultations resulting from such invitation.

(2) Not later than one year after the date of the enactment of this Act, the President shall submit to such congressional committees a second report on the status and results of the matters referred to in paragraph (1).

(3) The congressional committees referred to in this subsection are the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives.

SEC. 914. REPORT ON COSTS ASSOCIATED WITH OVERSEAS DEPENDENTS

(a) REPORT REQUIRED.—The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives on practicable options available to the Department of Defense to reduce costs associated with maintaining overseas—

(1) dependents of members of the Armed Forces; and

(2) dependents of civilian employees of the Department of Defense.

(b) ELEMENTS OF REPORT.—In preparing the report required by subsection (a), the Secretary shall specifically address, at a minimum, the following:

(1) Whether expansion of incentives for unaccompanied tours of duty overseas would be effective in increasing the number of such tours and whether such an expansion of incentives would be cost effective.

(2) Whether more frequent rotation of overseas personnel without dependents would result in overall savings as compared to current rotation practices.

(3) Whether an increase in the use of local contractors at overseas stations to provide services currently being provided by Department of Defense personnel would result in overall savings to the United States.

(4) The cost implications for United States families at overseas stations resulting from an increase in the use of local contractors.

(5) Whether costs associated with the support of overseas dependents would change from a reduction in personnel under a conventional forces in Europe (CFE) agreement.

(6) Whether the granting of fewer exceptions to the length of overseas duty tours would reduce permanent change of station costs.

(7) The extent to which overseas facilities could be consolidated and centralized to reduce administrative and overhead costs.

(8) The extent to which reductions in family support services at overseas stations could be made without materially affecting the standard of living of the personnel assigned to duty at such stations.

(9) Whether reductions in overseas family support costs would likely result in increased costs in programs in the United States.

(10) The extent to which dependents would be likely to accompany members of the Armed Forces and civilian employees of the Department of Defense to overseas stations in the absence of each of the various types of special assistance and benefits currently provided to overseas dependents.

(11) The effect that a reduction or termination of the various types of the special assistance and benefits for overseas dependents would have on combat readiness, morale, and retention.

(b) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted not later than February 1, 1990.

SEC. 915. UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP AND OTHER SECURITY MATTERS IN EAST ASIA

(a) FINDINGS.—Congress makes the following findings:

(1) Since the end of the Korean conflict, the Republic of Korea has made tremendous progress in rebuilding its economic and military strength.

(2) Despite this progress, an indigenous military balance has not yet been achieved on the Korean peninsula, and the Democratic People's Republic of Korea continues to pose a serious threat to the security of the Republic of Korea.

(3) The alliance between the United States and the Republic of Korea has contributed greatly to the security of both countries.

(4) The Republic of Korea has dedicated a large share of its national resources to its security, as shown by the fact that defense expenditures comprise approximately one-third of the national budget of the Republic of Korea.

(5) The United States has contributed a large amount of national resources, including approximately 44,000 military personnel, to protecting the security interests that it shares with the Republic of Korea.

(6) The presence of United States military personnel in the Republic of Korea contributes to the preservation of peace on the Korean peninsula, serves as a military de-

terrent, and is a tangible manifestation of the commitment of the United States to the defense of the Republic of Korea.

(7) In accordance with its obligations under the 1954 Mutual Defense Treaty with the Republic of Korea, the United States remains committed to the security and territorial integrity of the Republic of Korea.

(b) SENSE OF CONGRESS ON THE UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP.—(1) It is the sense of Congress that—

(A) the United States should review the missions, force structure, and locations of its military forces in the Republic of Korea and East Asia;

(B) the Republic of Korea should assume increased responsibility for its own security;

(C) the Republic of Korea should offset more of the direct costs incurred by the United States in deploying military forces for the defense of the Republic of Korea; and

(D) the United States and the Republic of Korea should consult on the feasibility and desirability of partial, gradual reductions of United States military forces in the Republic of Korea.

(2) In order that Congress may determine whether further action is appropriate, not later than April 1, 1990, the President shall submit to the congressional committees described in subsection (d) an initial report on the status and results of any consultations held by the United States and the Republic of Korea on the matter referred to in paragraph (1)(D).

(3) Not later than one year after the date of the enactment of this Act, the President shall submit to such congressional committees a second report on the status and results of the consultations referred to in paragraph (1)(D).

(c) REPORT ON MILITARY PRESENCE IN EAST ASIA.—(1) Not later than April 1, 1990, the President shall submit to the congressional committees described in subsection (d) a report on the military presence of the United States in East Asia, including the Republic of Korea. The President shall include in such report a strategic plan relating to the continued United States military presence in East Asia.

(2) The report required by this subsection shall specifically include the following:

(A) An assessment of the implications of recent developments in the Soviet Union and the People's Republic of China for United States and allied security planning in East Asia.

(B) Identification of any changes in the missions, force structure, and locations of United States forces in East Asia that could strengthen the capabilities of such forces and lower the costs of maintaining such forces.

(C) A discussion of ways in which increased defense responsibilities and costs presently borne by the United States can be transferred to the allies of the United States in East Asia.

(D) Identification of the additional actions that the Republic of Korea can take to contribute more to its own security.

(E) A discussion of the feasibility of restructuring United States military forces stationed in Okinawa with the objective of improving civil-military relations and increasing United States training opportunities.

(F) A discussion of the status and prospects of negotiations between the United States and the Republic of the Philippines on the continued use of United States military installations in the Republic of the Philippines.

(G) An assessment of whether a requirement still exists for a regional security role for United States forces stationed in the Republic of Korea.

(3) The report required by this subsection shall also include a five-year plan with respect to the United States military presence in the Republic of Korea, including a discussion of the feasibility and desirability of the following:

(A) Partial, gradual reductions in the number of United States military personnel stationed in the Republic of Korea.

(B) Larger offsets by the Republic of Korea for the direct costs incurred by the United States in deploying military forces in defense of the Republic of Korea.

(C) The relocation of United States military personnel and facilities within the Republic of Korea that can be made to reduce friction between such personnel and the people of the Republic of Korea.

(D) Changes in the United Nations and United States-Republic of Korea bilateral command arrangements that would facilitate a transfer of certain military missions and command to the Republic of Korea.

(E) Confidence-building measures that could be promoted in northeast Asia to lessen tensions in the region.

(F) Additional actions the Republic of Korea could take to assume more responsibility for its own security.

(d) CONGRESSIONAL COMMITTEES TO RECEIVE REPORTS.—The congressional committees referred to in this section are the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives.

PART C—EXPENDITURES IN EUROPE

SEC. 921. LIMITATION ON EXPENDITURES FOR RELOCATION OF FUNCTIONS LOCATED AT TORREJON AIR BASE, MADRID, SPAIN

(a) LIMITATION.—During the period beginning on June 27, 1989, and ending on October 1, 1993, not more than $360,000,000 may be obligated or expended from funds available to the Department of Defense for the purpose of relocating functions of the Department of Defense located at Torrejon Air Base, Madrid, Spain, on June 15, 1989, to any other location outside the United States.

(b) COUNTING OF NATO INFRASTRUCTURE CONTRIBUTIONS.—For purposes of subsection (a), contributions for the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, that are used (directly or indirectly) for the purpose of relocations described in subsection (a) shall be included in determining the amount expended on such relocations.

(c) COUNTING OF REPAYMENTS FOR NATO INFRASTRUCTURE FAMILY HOUSING COMMITMENTS.—(1) All amounts which the United States is obligated to pay under a housing reimbursement agreement described in paragraph (2) shall be deemed to be amounts obligated for purposes of subsection (a), regardless of when the agreement is entered into or when payments pursuant to the agreement are to be made.

(2) A housing reimbursement agreement for purposes of paragraph (1) is an agreement calling for the United States to make a series of annual payments as repayment for advances for the cost of construction, through the NATO Infrastructure program, of military family housing in connection with the relocations described in subsection (a).

(d) EXCLUSION FOR PERSONNEL EXPENSES.—There shall be excluded from the determination of amounts expended on relocations described in subsection (a) amounts spent for expenses associated with permanent change of station moves and other personnel-related expenses.

SEC. 922. SENSE OF CONGRESS CONCERNING UNITED STATES MILITARY FACILITIES IN NATO MEMBER COUNTRIES

(a) NATO POLICY.—It is the sense of Congress that the North Atlantic Treaty Organization (NATO) should adopt as its policy the following views expressed by the North Atlantic Assembly in its 1987 report entitled "NATO in the 1990s":

(1) The member nations of NATO should examine further measures that could be taken to relieve the United States from the burdens of its military presence in Europe.

(2) Such nations should consider the provision of base facilities for allied forces and equipment as a part of their national contributions to Western security.

(3) Such nations should not expect compensation for providing facilities that the NATO alliance decides are essential to implement NATO security strategy.

(4) All wealthier member nations of NATO should assist Portugal, Greece, and Turkey to ensure that NATO remains politically, economically, and militarily strong in its southern region as well as in its central and northern regions.

(b) UNITED STATES PAYMENT FOR USE OF BASE FACILITIES IN NATO COUNTRIES.—It is further the sense of Congress that the United States should not provide economic or security assistance to any NATO member nation as compensation or rent for the use of base facilities in that nation.

PART D—COOPERATIVE AGREEMENTS

SEC. 931. CODIFICATION OF CERTAIN ALLIED COOPERATIVE AGREEMENTS STATUTES

(a) STATUTORY REORGANIZATION.—Chapter 138 of title 10, United States Code, is amended—

(1) by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 138—COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES

"Subchapter
"I. Acquisition and Cross-Servicing Agreements 2341
"II. Other Cooperative Agreements 2350a

"SUBCHAPTER I—ACQUISITION AND CROSS-SERVICING AGREEMENTS";

and

(2) by adding at the end the following:

"SUBCHAPTER II—OTHER COOPERATIVE AGREEMENTS

"Sec.
"2350a. Cooperative research and development projects: allied countries.
"2350b. Cooperative projects under Arms Export Control Act: acquisition of defense equipment.
"2350c. Cooperative military airlift agreements: allied countries.
"2350d. Cooperative logistic support agreements: NATO countries.
"2350e. NATO Airborne Warning and Control System (AWACS) program: authority of Secretary of Defense.
"2350f. Procurement of communications support and related supplies and services.

"§ 2350a. Cooperative research and development projects: allied countries

"(a) AUTHORITY TO ENGAGE IN COOPERATIVE R&D PROJECTS.—The Secretary of Defense may enter into a memorandum of under-

standing (or other formal agreement) with one or more major allies of the United States for the purpose of conducting cooperative research and development projects on defense equipment and munitions.

"(b) REQUIREMENT THAT PROJECTS IMPROVE CONVENTIONAL DEFENSE CAPABILITIES.—(1) The Secretary of Defense may not enter into a memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section unless the Secretary determines that the proposed project will improve, through the application of emerging technology, the conventional defense capabilities of the North Atlantic Treaty Organization (NATO) or the common conventional defense capabilities of the United States and its major non-NATO allies.

"(2) The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

"(c) COST SHARING.—Each cooperative research and development project entered into under this section shall require sharing of the costs of the project between the participants on an equitable basis.

"(d) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of the major allies of the United States in cooperative research and development projects, funds made available for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

"(2) A major ally of the United States may not use any military or economic assistance grant, loan, or other funds provided by the United States for the purpose of making that ally's contribution to a cooperative research and development program entered into with the United States under this section.

"(e) COOPERATIVE OPPORTUNITIES DOCUMENT.—(1)(A) In order to ensure that opportunities to conduct cooperative research and development projects are considered at an early point during the formal development review process of the Department of Defense in connection with any planned project of the Department, the Under Secretary of Defense for Acquisition shall prepare an arms cooperation opportunities document with respect to that project for review by the Defense Acquisition Board at formal meetings of the Board.

"(B) The Under Secretary shall also prepare an arms cooperation opportunities document for review of each new project for which a document known as a Mission Need Statement is prepared.

"(2) An arms cooperation opportunities document referred to in paragraph (1) shall include the following:

"(A) A statement indicating whether or not a project similar to the one under consideration by the Department of Defense is in development or production by one or more of the major allies of the United States.

"(B) If a project similar to the one under consideration by the Department of Defense is in development or production by one or more major allies of the United States, an assessment by the Under Secretary of Defense for Acquisition as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project of the United States under consideration by the Department of Defense.

"(C) An assessment of the advantages and disadvantages with regard to program timing, developmental and life cycle costs, technology sharing, and Rationalization, Standardization, and Interoperability (RSI) of seeking to structure a cooperative development program with one or more major allies of the United States.

"(D) The recommendation of the Under Secretary as to whether the Department of Defense should explore the feasibility and desirability of a cooperative development program with one or more major allies of the United States.

"(f) REPORTS TO CONGRESS.—(1) Not later than March 1 of each year, the Under Secretary of Defense for Acquisition shall submit to the Speaker of the House of Representatives and the Committees on Armed Services and Appropriations of the Senate a report on cooperative research and development projects under this section. Each such report shall include—

"(A) a description of the status, funding, and schedule of existing projects carried out under this section for which memoranda of understanding (or other formal agreements) have been entered into; and

"(B) a description of the purpose, funding, and schedule of any new projects proposed to be carried out under this section (including those projects for which memoranda of understanding (or other formal agreements) have not yet been entered into) for which funds have been included in the budget submitted to Congress pursuant to section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

"(2) The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report—

"(A) enumerating those countries to be added to or deleted from the existing designation of countries designated as major non-NATO allies for purposes of this section; and

"(B) specifying the criteria used in determining the eligibility of a country to be designated as a major non-NATO ally for purposes of this section.

"(g) SIDE-BY-SIDE TESTING.—(1) It is the sense of Congress—

"(A) that the Secretary of Defense should test conventional defense equipment, munitions, and technologies manufactured and developed by major allies of the United States to determine the ability of such equipment, munitions, and technologies to satisfy United States military requirements or to correct operational deficiencies; and

"(B) that while the testing of nondevelopmental items and items in the late state of the development process are preferred, the testing of equipment, munitions, and technologies may be conducted to determine procurement alternatives.

"(2) The Secretary of Defense may acquire equipment, munitions, and technologies of the type described in paragraph (1) for the purpose of conducting the testing described in that paragraph.

"(3) The Deputy Director, Defense Research and Engineering (Test and Evaluation) shall notify the Speaker of the House of Representatives and the Committees on Armed Services and on Appropriations of the Senate of the Deputy Director's intent to obligate funds made available to carry out this subsection not less than 30 days before such funds are obligated.

"(4) The Secretary of Defense shall include in the annual report to Congress required by section 2457(d) of this title information on—

"(A) the equipment, munitions, and technologies manufactured and developed by major allies of the United States that were evaluated under this subsection during the previous fiscal year;

"(B) the obligation of any funds under this subsection during the previous fiscal year; and

"(C) the equipment, munitions, and technologies that were tested under this subsection and procured during the previous fiscal year.

"(h) SECRETARY TO ENCOURAGE SIMILAR PROGRAMS.—The Secretary of Defense shall encourage major allies of the United States to establish programs similar to the one provided for in this section.

"(i) DEFINITIONS.—In this section:

"(1) The term 'cooperative research and development project' means a project involving joint participation by the United States and one or more major allies of the United States under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

"(A) to develop new conventional defense equipment and munitions; or

"(B) to modify existing military equipment to meet United States military requirements.

"(2) The term 'major ally of the United States' means—

"(A) a member nation of the North Atlantic Treaty Organization (other than the United States); or

"(B) a major non-NATO ally.

"(3) The term 'major non-NATO ally' means a country (other than a member nation of the North Atlantic Treaty Organization) that is designated as a major non-NATO ally for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.".

(b) TRANSFER OF EXISTING TITLE 10 SECTIONS.—(1) Section 2407 of title 10, United States Code (relating to acquisition of defense equipment under cooperative agreements), is transferred to the end of chapter 138 of such title (as amended by subsection (a)) and redesignated as section 2350b.

(2) Section 2213 of such title (relating to cooperative military airlift agreements), is transferred to the end of chapter 138 of such title (as amended by paragraph (1)), redesignated as section 2350c, and amended in subsection (d) by striking out "chapter 138 of this title" and inserting in lieu thereof "subchapter I".

(c) CODIFICATION OF EXISTING NON-TITLE 10 SECTION.—Chapter 138 of such title (as amended by subsection (b)) is further amended by adding at the end the following new section:

"§ 2350d. Cooperative logistic support agreements: NATO countries

"(a) GENERAL AUTHORITY.—(1) The Secretary of Defense may enter into bilateral or multilateral agreements known as Weapon System Partnership Agreements with one or more governments of other member countries of the North Atlantic Treaty Organization (NATO) participating in the operation of the NATO Maintenance and Supply Organization. Any such agreement shall be for the purpose of providing cooperative logistics support for the armed forces of the countries which are parties to the agreement. Any such agreement—

"(A) shall be entered into pursuant to the terms of the charter of the NATO Maintenance and Supply Organization; and

"(B) shall provide for the common logistic support of a specific weapon system common to the participating countries.

"(2) Such an agreement may provide for—

"(A) the transfer of logistics support, supplies, and services by the United States to the NATO Maintenance and Supply Organization; and

"(B) the acquisition of logistics support, supplies, and services by the United States from that Organization.

"(b) AUTHORITY OF SECRETARY.—Under the terms of a Weapon System Partnership Agreement, the Secretary of Defense—

"(1) may agree that the NATO Maintenance and Supply Organization may enter into contracts for supply and acquisition of logistics support in Europe for requirements of the United States, to the extent the Secretary determines that the procedures of such Organization governing such supply and acquisition are appropriate; and

"(2) may share the costs of set-up charges of facilities for use by the NATO Maintenance and Supply Organization to provide cooperative logistics support and in the costs of establishing a revolving fund for initial acquisition and replenishment of supply stocks to be used by the NATO Maintenance and Supply Organization to provide cooperative logistics support.

"(c) SHARING OF ADMINISTRATIVE EXPENSES.—Each Weapon System Partnership Agreement shall provide for joint management by the participating countries and for the equitable sharing of the administrative costs incident to the agreement.

"(d) APPLICATION OF CHAPTER 137.—Except as otherwise provided in this section, the provisions of chapter 137 of this title apply to a contract entered into by the Secretary of Defense for the acquisition of logistics support under a Weapon System Partnership Agreement.

"(e) APPLICATION OF ARMS EXPORT CONTROL ACT.—Any transfer of defense articles or defense services to a member country of the North Atlantic Treaty Organization or to the NATO Maintenance and Supply Organization for the purposes of a Weapon System Partnership Agreement shall be carried out in accordance with the Arms Export Control Act (22 U.S.C. 2751 et seq.).

"(f) SUPPLEMENTAL AUTHORITY.—The authority of the Secretary of Defense under this section is in addition to the authority of the Secretary under subchapter I and any other provision of law.".

(d) CONFORMING REPEALS.—The following provisions of law are repealed:

(1) Section 1103 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 713).

(2) Section 1102 and section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661, 800 Stat. 3961, 3965).

(e) CONFORMING AND CLERICAL AMENDMENTS.—(1) Sections 2342 through 2350 of title 10, United States Code, are amended by striking out "this chapter" each place it appears and inserting in lieu thereof "this subchapter".

(2) The items relating to chapter 138 in the table of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are amended to read as follows:

"138. Cooperative Agreements with NATO Allies and Other Countries 2341".

(3) The heading of section 2350b of such title (as redesignated by subsection (b)(1)) is amended to read as follows:

"§ 2350b. Cooperative projects under Arms Export Control Act: acquisition of defense equipment".

(4) The heading of section 2350c of such title (as redesignated by subsection (b)(2)) is amended to read as follows:

"§ 2350c. Cooperative military airlift agreements: allied countries".

SEC. 932. EXTENSION AND CODIFICATION OF AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

(a) EXTENSION AND CODIFICATION.—(1) Chapter 138 of title 10, United States Code (as amended by section 931), is further amended by adding at the end the following new section:

"§ 2350e. NATO Airborne Warning and Control System (AWACS) program: authority of Secretary of Defense

"(a) AUTHORITY UNDER AWACS PROGRAM.—The Secretary of Defense, in carrying out an AWACS memorandum of understanding, may do the following:

"(1) Waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

"(A) Auditing.

"(B) Quality assurance.

"(C) Codification.

"(D) Inspection.

"(E) Contract administration.

"(F) Acceptance testing.

"(G) Certification services.

"(H) Planning, programming, and management services.

"(2) Waive any surcharge for administrative services otherwise chargeable.

"(3) In connection with that Program, assume contingent liability for—

"(A) program losses resulting from the gross negligence of any contracting officer of the United States;

"(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

"(C) the United States share of the unfunded termination liability.

"(b) CONTRACT AUTHORITY LIMITATION.—Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(c) DEFINITION.—In this section, the term 'AWACS memorandum of understanding' means—

"(1) the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978;

"(2) the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO on September 26, 1984; and

"(3) any other follow-on support agreement for the NATO E-3A Cooperative Programme.

"(d) EXPIRATION.—The authority provided by this section expires on September 30, 1991.".

(b) CONFORMING REPEAL.—Section 103 of the Department of Defense Authorization Act, 1982 (Public Law 97-86), is repealed.

SEC. 933. REVISION AND EXTENSION OF AUTHORITY FOR PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES FROM OTHER NATIONS

(a) RECODIFICATION OF SECTION.—Section 2401a of title 10, United States Code, is transferred to the end of subchapter II of chapter 138 of such title, as added by section 931 and amended by section 932, and is redesignated as section 2350f.

(b) AUTHORITY TO ENTER INTO BILATERAL AND MULTILATERAL ARRANGEMENTS.—Subsection (a) of such section is amended—

(1) by striking out "an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO)" and inserting in lieu thereof "a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied international organizations";

(2) by striking out "such country or NATO" and inserting in lieu thereof "the allied country or countries or allied international organization or allied international organizations, as the case may be,"; and

(3) by adding at the end the following new sentence: "The term of an arrangement entered into under this subsection may not exceed five years.".

(c) LIQUIDATION OF CREDITS AND LIABILITIES.—Subsection (b) of such section is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second sentence as paragraph (3);

(3) by inserting after the first sentence the following new sentence: "Liquidations may be made at such times as the parties in an arrangement may agree upon, but in no case may final liquidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into."; and

(4) by inserting after paragraph (1), as designated by clause (1) of this subsection, the following new paragraph:

"(2) Parties to an arrangement entered into under this section shall annually reconcile accrued credits and liabilities accruing under such agreement. Any liability of the United States resulting from a reconciliation shall be charged against the applicable appropriation available to the Department of Defense (at the time of the reconciliation) for obligation for communications support and related supplies and services.".

(d) DEFINITIONS.—Subsection (d) of such section is amended—

(1) by striking out "In this section, the term 'allied country' means—" and inserting in lieu thereof "In this section:

"(1) The term 'allied country' means—";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(3) by striking out "; or" at the end of clause (A), as redesignated by clause (2) of this subsection, and inserting in lieu thereof a semicolon;

(4) by striking out the period at the end of clause (B), as redesignated by clause (2) of this subsection, and inserting in lieu thereof "; or"; and

(5) by adding at the end the following:

"(C) any other country designated as an allied country for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

"(2) The term 'allied international organization' means the North Atlantic Treaty Organization (NATO) or any other interna-

tional organization designated as an allied international organization for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.".

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2401a.

SEC. 934. TWO-YEAR EXTENSION OF AUTHORITY TO PROVIDE EXCESS DEFENSE ARTICLES FOR THE MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES ON NATO SOUTHERN AND SOUTHEASTERN FLANKS

Section 516(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(a)) is amended—

(1) by striking out "during the fiscal years 1987, 1988, and 1989" in the first sentence and inserting in lieu thereof "during the fiscal years 1987 through 1991"; and

(2) by adding at the end the following new sentence: "Transfers to recipient countries under this subsection shall be consistent with the policy framework for the Eastern Mediterranean region established in section 620C of this Act.".

SEC. 935. AUTHORITY FOR EXCHANGE TRAINING THROUGH SPECIFIED PROFESSIONAL MILITARY EDUCATION INSTITUTION OUTSIDE THE UNITED STATES

(a) AUTHORITY.—The United States Army Russian Institute in Garmisch-Partenkirchen, Federal Republic of Germany, shall be treated for purposes of section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) as if it were located in the United States.

(b) EXPIRATION OF AUTHORITY.—Subsection (a) shall cease to be in effect upon the enactment in foreign assistance authorizing legislation of an amendment to section 544 of the Foreign Assistance Act of 1961 that provides the same authority as is provided by subsection (a).

SEC. 936. EXTENSION OF AUTHORITY TO PAY CERTAIN EXPENSES IN CONNECTION WITH BILATERAL AND REGIONAL COOPERATION PROGRAMS

(a) EXTENSION OF AUTHORITY TO MEETINGS, ETC., IN CANADA AND MEXICO.—Subsection (b)(1) of section 1051 of title 10, United States Code, is amended by inserting "or in connection with travel to Canada or Mexico" before the period at the end.

(b) THREE-YEAR EXTENSION OF AUTHORITY.—Subsection (g) of such section is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 937. EXTENSION OF H-1 IMMIGRATION STATUS FOR CERTAIN NONIMMIGRANTS EMPLOYED IN COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS AND COPRODUCTION PROJECTS

The Attorney General shall provide for the extension through December 31, 1991, of nonimmigrant status under section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) for an alien to perform temporarily services relating to a cooperative research and development project or a coproduction project provided under a government-to-government agreement administered by the Secretary of Defense in the case of an alien who has had such status for a period of at least five years if such status has not expired as of the date of the enactment of this Act but would otherwise expire during 1989, 1990, or 1991, due only to the time limitations with respect to such status.

SEC. 938. METHODS OF PAYMENT FOR ACQUISITIONS AND TRANSFERS BY THE UNITED STATES TO ALLIED COUNTRIES

(a) EXCHANGES TO BE FOR SUPPLIES OR SERVICES OF IDENTICAL VALUE.—Section 2344 of title 10, United States Code, is amended by striking out "identical or substantially identical nature" before the period at the end of subsection (a) and inserting in lieu thereof "equal value".

(b) LIMITATIONS ON EXCHANGES.—Such section is further amended by adding at the end the following new subsection:

"(c) In acquiring or transferring logistics support, supplies, or services under the authority of this chapter by exchange of supplies or services, the Secretary of Defense may not agree to or carry out the following:

"(1) Transfers in exchange for property the acquisition of which by the Department of Defense is prohibited by law.

"(2) Transfers of source, byproduct, or special nuclear materials or any other material, article, data, or thing of value the transfer of which is subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"(3) Transfers of chemical munitions.".

(c) APPLICATION OF CHAPTER 138.—Section 2350d(e) of title 10, United States Code, as enacted by section 931(c), is amended by inserting "this chapter and" after "in accordance with".

TITLE X—MATTERS RELATING TO ARMS CONTROL

SEC. 1001. PRESIDENTIAL REPORT ON POSSIBLE EFFECTS OF A STRATEGIC ARMS REDUCTION AGREEMENT ON TRIDENT PROGRAM

(a) REPORT.—Not later than April 1, 1990, the President shall submit to Congress a comprehensive report on the Trident program under a possible Strategic Arms Reduction Talks (START) agreement. The report shall address the following issues:

(1) The objective for the size of the Trident submarine force fleet both with and without a START agreement.

(2) The implications for United States strategic force posture under a START agreement of a fleet of 21 or more Trident submarines, each with 192 warheads on 24 ballistic missiles, under two different assumptions, as follows:

(A) All such warheads are accountable under START limits.

(B) The warheads on one-to-three Trident submarines are not accountable under START limits.

(3) A net assessment of the implications for United States security of a START agreement that allows the Soviet Union as well as the United States to have an equivalent number of warheads on submarines that are not accountable under START limits.

(4) The technical feasibility and cost implications of various options for reducing the number of warheads on Trident submarines, including those submarines already built, those under construction, and those yet to be built.

(5) The verification challenges to the United States posed by such options if the Soviet Union were to adopt them in its ballistic missile submarine forces.

(b) FORM OF REPORT.—The President shall submit the report under subsection (a) in both classified and unclassified versions.

(c) WAIVER.—The President may waive the requirements of subsection (a) if he has signed a START agreement or other strategic arms reduction agreement with the Soviet Union before the date by which the report is otherwise required to be submitted.

SEC. 1002. PRESIDENTIAL REPORT ON THE VERIFICATION WORK THAT HAS BEEN CONDUCTED WITH REGARD TO MOBILE ICBMs UNDER A START AGREEMENT

(a) FINDINGS.—Congress makes the following findings:

(1) The United States must have confidence that any agreement achieved through the Strategic Arms Limitation Talks (START) in Geneva will be effectively verifiable.

(2) The position of the United States at the START negotiations, from 1985 until September 1989, was to ban the deployment of mobile intercontinental ballistic missiles (ICBMs) under a START regime unless an effective verification regime could be identified and implemented. In September 1989, the United States announced that it was withdrawing its proposal for the ban of mobile ICBMs, contingent upon Congress providing funds for mobile ICBMs to be deployed by the United States.

(3) The Soviet Union has deployed two mobile ICBM systems, the SS-24 and the SS-25.

(4) The President conducted a strategic review during the period between January 20, 1989, and the resumption of the START negotiations on June 15, 1989.

(b) PRESIDENTIAL REPORT.—Not later than March 31, 1990, the President shall submit to Congress a report (in classified and unclassified form) describing all studies that have been performed between March 1985 and August 1989 by agencies of the United States Government with regard to the capability of the United States to monitor and verify a START agreement which allows mobile ICBMs. The report shall include the following:

(1) A description of each study conducted by United States Government agencies during the strategic review referred to in subsection (a)(4) to determine the ability of the United States to verify limitations on mobile ICBMs of the Soviet Union under a START agreement, including a summary of the conclusions reached under each such study.

(2) A description of any so-called "Red Team" study conducted between March 1985 and August 1989 with regard to the existence of mobile ICBMs under a START regime, including a summary of the conclusions reached under each such study.

(3) A description of each study conducted by United States Government agencies between March 1989 and August 1989 to assess the value of various options relating to the verification of mobile ICBMs (such options to include the option known as "tagging" and the establishment of designated deployment areas), including a summary of the conclusions reached under each such study.

SEC. 1003. SENSE OF CONGRESS ON START TALKS

Congress hereby reaffirms the sense of Congress expressed in the second session of the 100th Congress (in section 902 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2031)) that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the Strategic Arms Reduction Talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force; and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

SEC. 1004. REPORT ON ASYMMETRIES IN CAPABILITIES OF UNITED STATES AND SOVIET UNION TO PRODUCE AND DEPLOY BALLISTIC MISSILE DEFENSE SYSTEMS

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the asymmetry in the near-term capabilities of the United States and the Soviet Union to deploy ballistic missile defenses beyond those permitted under the 1972 ABM Treaty. The study shall be conducted in coordination with the Director of Central Intelligence.

(b) MATTERS TO BE INCLUDED IN STUDY.—Subject to subsection (e), the study shall include the following:

(1) An assessment of the likelihood of a breakout by the Soviet Union from the 1972 ABM Treaty in the next five years and the assumptions used for that assessment.

(2) An assessment of the capability of the Soviet Union to exploit a situation in which the limitations of the 1972 ABM Treaty do not apply, including a detailed assessment of the capabilities of the Soviet Union to produce—

(A) space-based anti-ballistic missile (ABM) launchers and interceptors;

(B) ground-based ABM launchers and interceptors; and

(C) the infrastructure for ABM battle management command, control, and communications.

(3) An assessment of the production base of the United States for production of the elements specified in subparagraphs (A), (B), and (C) of paragraph (2), including an estimate of how quickly the United States could respond to a breakout by the Soviet Union in each of those elements.

(c) STUDY TO ASSESS POSSIBLE U.S. RESPONSE TO SOVIET BREAKOUT.—(1) The study shall also include an assessment of the immediate and long-term actions that could be taken by the United States to respond to redress any asymmetry in the potential of the United States and the Soviet Union to exploit a breakout by the Soviet Union from the 1972 ABM Treaty.

(2) That assessment shall include an evaluation of the actions that would be necessary to support—

(A) a one-site ABM system (as allowed under the Treaty); or

(B) an expanded ABM system unconstrained by the limitations of the 1972 ABM Treaty.

(3) Such assessment shall specifically address the required actions, and the costs associated with those actions, to support both the one-site ABM system and the expanded ABM system to be evaluated under paragraph (2), including (A) the upgrading and expansion of the existing United States radar network, (B) the use of existing inactive ABM components at Grand Forks, North Dakota, and (C) the development and deployment of other required components.

(d) REPORT.—Not later than the date on which the budget for fiscal year 1991 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on the study under subsection (a). The report shall be submitted in both classified and unclassified form. The report shall specify the results of the study under subsection (a), including each matter required to be included in the study under this section.

(e) WAIVER OF REQUIRED STUDY FEATURE.—The study under subsection (a) need not include the assessment referred to in subsection (b)(1) if, before the date of the submission of the report required by subsection (d) with respect to the study, the President submits to Congress the report required by section 907 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2034), regarding antiballistic missile capabilities and activities of the Soviet Union (such report having been required by subsection (c) of such section to be submitted not later that January 1, 1989).

(f) 1972 ABM TREATY DEFINED.—For purposes of this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

SEC. 1005. SENSE OF THE CONGRESS WITH RESPECT TO ACCIDENTAL LAUNCH PROTECTION

(a) FINDINGS.—Congress makes the following findings:

(1) The Strategic Defense Initiative (SDI) has made substantial progress in developing technologies to defend the United States from a possible ballistic missile attack, be it deliberate or accidental.

(2) Ground-based elements and their associated adjuncts and technologies represent the most mature technologies within the SDI program and should therefore receive priority by the Strategic Defense Initiative Organization.

(3) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty.

(4) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union.

(5) The continued proliferation of offensive ballistic missile forces by non-superpower countries hostile to the United States and our allies raises the possibility of future nuclear threats.

(b) REAFFIRMATION OF SENSE OF CONGRESS.—Congress hereby reaffirms the sense of Congress expressed in section 224(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1942) stating—

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to development of technologies and systems for a system capable of protecting the United States from the accidental launch of a strategic ballistic missile against the continental United States; and

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty.

(c) SUBMISSION OF PREVIOUSLY REQUIRED REPORT.—The Secretary of Defense shall submit to Congress forthwith the report on the status of planning for development of a deployment option for such an accidental launch protection system that was required by section 224(c) of that Act to be submitted not later than March 1, 1989.

SEC. 1006. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING THE KRASNOYARSK RADAR

(a) REAFFIRMATION OF PRIOR FINDINGS.—Congress hereby reaffirms the findings made with respect to the large phased-array radar of the Soviet Union known as the "Krasnoyarsk radar" in paragraphs (1) through (6) of section 902(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1135), as follows:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

(b) FURTHER FINDINGS.—In addition to the findings referred to in subsection (a), Congress finds with respect to the Krasnoyarsk radar that—

(1) in 1987 the President declared that radar to be a clear violation of the 1972 Anti-Ballistic Missile Treaty;

(2) until the meeting between the Secretary of State and the Foreign Minister of the Soviet Union at Jackson Hole, Wyoming, in September 1989, the Soviet Union had rejected demands by the United States that it dismantle that radar without conditions, but the joint statement issued following that meeting states that the government of the Soviet Union "had decided to completely dismantle the Krasnoyarsk radar station"; and

(3) on October 23, 1989, the Foreign Minister of the Soviet Union conceded that the Krasnoyarsk radar is a violation of the 1972 Anti-Ballistic Missile Treaty.

(c) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the Soviet Union should dismantle the Krasnoyarsk radar (as announced in the joint statement referred to in subsection (b)(2)) expeditiously and without conditions; and

(2) that until such radar is completely dismantled it will remain a clear violation of the 1972 Anti-Ballistic Missile Treaty.

SEC. 1007. SENSE OF CONGRESS CONCERNING EXPLORING THE FEASIBILITY OF TREATY LIMITATIONS ON WEAPONS CAPABLE OF THREATENING MILITARY SATELLITES

It is the sense of Congress that, as soon as practicable, the President should explore the feasibility of a mutual and verifiable treaty with the Soviet Union which places the strictest possible limitations, consistent with the security interests of the United States and its allies, on the development, testing, production, and deployment of weapons capable of directly threatening United States military satellites.

SEC. 1008. REPORT ON SATELLITE SURVIVABILITY

(a) REQUIREMENT FOR REPORT.—The President shall submit to Congress a comprehensive report on United States antisatellite weapon activities and the survivability of United States satellites against current and potential antisatellite weapons deployed by

the Soviet Union. The report shall be submitted by March 15, 1990, and shall be submitted in both classified and unclassified versions.

(b) MATTERS TO BE INCLUDED IN REPORT.—The report required by subsection (a) shall include the following:

(1) Detailed information (including funding profiles, expected capabilities, and schedules for development, testing, and deployment) on all United States antisatellite weapon programs.

(2) An analysis of the antisatellite potential of the anticipated deployed version of each Strategic Defense Initiative technology capable of damaging or destroying objects in space.

(3) An assessment of the threat that would be posed to satellites of the United States if the technologies described in paragraphs (1) and (2) were to be tested by the Soviet Union, at levels of performance equal to those intended by the United States, and developed into weapons for damaging or destroying objects in space.

(4) A review of arms control options and satellite survivability measures (including cost data) that would improve the survivability of current and future United States military satellite systems.

(5) A review of alternative means of providing the support to military forces of the United States that is currently provided by United States satellites if those satellites become vulnerable to attack as the result of the deployment by the Soviet Union of antisatellite weapons with the levels of performance contemplated in paragraph (3).

SEC. 1009. REPORT ON THE DESIRABILITY OF NEGOTIATIONS WITH THE SOVIET UNION REGARDING LIMITATIONS ON ANTISATELLITE CAPABILITIES

(a) REPORT BY THE PRESIDENT.—The President shall submit to Congress a comprehensive report regarding the desirability of an agreement with the Soviet Union to impose limitations on antisatellite capabilities. The President shall include in such report his determination of whether a ban or other limitations on some or all antisatellite weapons would be verifiable and, if so, whether such a ban or other limitation would be in the national interest of the United States.

(b) MATTERS RELATING TO VERIFICATION.—In making the determination referred to in subsection (a), the President shall—

(1) consider the extent to which on-site inspection measures (as well as national technical means for verification) can increase confidence in the ability of the United States to monitor and verify various agreed-upon antisatellite limitations; and

(2) examine various arms control possibilities, including—

(A) a total ban on antisatellite capability by both the United States and the Soviet Union;

(B) a ban or other limitation on antisatellite weapons with the potential to attack satellites at altitudes above the Van Allen belt; and

(C) a ban or other limitation on antisatellite weapons that operate only in low-Earth orbit.

(c) MATTERS RELATING TO DETERRENCE AND WAR FIGHTING REQUIREMENTS.—In the report required by subsection (a), the President shall also address the following:

(1) The contribution an antisatellite capability of the United States can make toward enhancing deterrence.

(2) The contribution an antisatellite capability can make toward meeting the war fighting requirements of the United States and how such a capability enhances force survivability.

(3) The extent to which (based upon a net assessment) the United States would be better able to meet its war fighting requirements and deterrence objectives if—

(A) the Soviet Union possessed an antisatellite capability and the United States did not possess an antisatellite capability;

(B) neither the United States nor the Soviet Union possessed an antisatellite capability;

(C) the United States and the Soviet Union both possessed a limited antisatellite capability;

(D) the United States and the Soviet Union both possessed an unrestricted antisatellite capability.

(d) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to Congress not later than May 1, 1990, and shall be submitted in both classified and unclassified versions.

SEC. 1010. REPORT ON VERIFICATION OF COMPLIANCE WITH AGREEMENTS TO LIMIT NUCLEAR TESTING

(a) REPORT REQUIREMENT.—The Secretary of Energy shall prepare a report, in classified form, assessing the possible effects on the abilities of the United States to verify compliance by the Soviet Union with any agreement (presently in effect or under negotiation) to limit testing of nuclear devices should any information or data now obtained under any cooperative agreement with any controlled country and used to verify the degree of such compliance be curtailed or become unavailable due to a change in, or severing of, diplomatic relations with such a controlled country. The report shall assess, in particular, whether compliance by the Soviet Union with any such agreement to limit testing of nuclear devices can be fully and reliably verified should such a cooperative agreement be curtailed or terminated. The report shall be prepared in consultation with the Secretary of Defense.

(b) SUBMISSION OF REPORT.—The report prepared under subsection (a) shall be submitted to Congress not later than six months after the date of the enactment of this Act.

(c) CONTROLLED COUNTRY DEFINITION.—For purposes of this section, the term "controlled country" means a country listed in section 620(f)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)(1)).

SEC. 1011. SENSE OF CONGRESS ON ARMS CONTROL NEGOTIATIONS AND UNITED STATES MODERNIZATION POLICY

(a) FINDINGS.—Congress makes the following findings:

(1) The United States is currently engaged in a wide range of arms control negotiations in the areas of strategic nuclear forces, strategic defenses, conventional force levels, chemical weapons, and security and confidence building measures.

(2) On May 30, 1989, the North Atlantic Treaty Organization issued a "Comprehensive Concept on Arms Control and Disarmament" which placed a special emphasis on arms control as a means of enhancing security and stability in Europe.

(3) The President has stated that arms control is one of the highest priorities of the United States in the area of security and foreign policy and that the United States will pursue a dynamic, active arms control dialogue with the Soviet Union and the other Warsaw Pact countries.

(4) The United States has already made major proposals at the Conventional Forces in Europe Talks, convened on March 6, 1989, which would result in a dramatic reduction in Soviet and Warsaw Pact conventional forces.

(5) The President, on September 25, 1989, made a major new arms control proposal in the area of chemical weapons.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President is to be commended for pursuing a wide array of arms control initiatives in the context of a multitude of arms control negotiations, all of which have been designed to enhance global security and result in meaningful, militarily significant reductions in military forces;

(2) Congress fully supports the arms control efforts of the President and encourages the government of the Soviet Union to respond favorably to United States arms control proposals which would require the Soviet Union to reduce its massive quantitative superiority in military weaponry;

(3) the President should seek arms control agreements that would not limit the United States to levels of forces inferior to the limits provided for the Soviet Union; and

(4) the President's efforts to negotiate such agreements is dependent upon the maintenance of a vigorous research and development and modernization program as required for a prudent defense posture.

(c) REAFFIRMATION OF PROHIBITION RELATING TO ENTERING INTO CERTAIN ARMS CONTROL AGREEMENTS .—Congress hereby reaffirms the proviso in the first sentence of section 33 of the Arms Control and Disarmament Act (22 U.S.C. 2573) that no action may be taken under that Act or any other Act that will obligate the United States to disarm or to reduce or limit the Armed Forces or armaments of the United States, except pursuant to the treatymaking power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress.

SEC. 1012. REPORT ON EFFECT OF SPACE NUCLEAR REACTORS ON GAMMA-RAY ASTRONOMY MISSIONS

Not later than April 30, 1990, the President shall submit to Congress a report on the potential for interference with gamma-ray astronomy missions that could be caused by the placement in Earth orbit of space nuclear reactors.

SEC. 1013. SENSE OF CONGRESS ON CHEMICAL WEAPONS NEGOTIATIONS

(a) FINDINGS.—Congress makes the following findings:

(1) The proliferation of chemical weapons and the repeated use of chemical weapons represent a grave threat to the security and interests of the United States.

(2) The most comprehensive and effective response to the threat posed by the proliferation of chemical weapons is the completion of an effectively verifiable treaty banning the production and stockpiling of all chemical weapons.

(3) The successful completion of a treaty banning all chemical weapons through the negotiations at the multinational United Nations Conference on Disarmament in Geneva should be one of the highest arms control priorities of the United States.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the President should continue ongoing efforts to establish an agreement with the Soviet Union and other countries establishing a mutual and effectively verifiable agreement to stop the production, prolifera-

tion, and stockpiling of all lethal chemical weapons; and

(2) the United States negotiators in Geneva should take concrete steps to initiate proposals regarding the composition of the verification regime for such an agreement that will meet the legitimate concerns of other parties while addressing the security concerns of the United States.

SEC. 1014. UNITED STATES PROGRAM FOR ON-SITE INSPECTIONS UNDER ARMS CONTROL AGREEMENTS

(a) FINDINGS CONCERNING ON-SITE INSPECTION PERSONNEL.—Congress makes the following findings:

(1) The United States is currently engaged in multilateral and bilateral negotiations seeking to achieve treaties or agreements to reduce or eliminate various types of military weapons and to make certain reductions in military personnel levels. These negotiations include negotiations for (A) reductions in strategic forces, conventional armaments, and military personnel levels, (B) regimes for monitoring nuclear testing, and (C) the complete elimination of chemical weapons.

(2) Requirements for monitoring these possible treaties or agreements will be extensive and will place severe stress on the monitoring capabilities of United States national technical means.

(3) In the case of the INF Treaty, the United States and the Soviet Union negotiated, and are currently using, on-site inspection procedures to complement and support monitoring by national technical means. Similar on-site inspection procedures are being negotiated for inclusion in possible future treaties and agreements referred to in paragraph (1).

(4) During initial implementation of the provisions of the INF Treaty, the United States was not fully prepared for the personnel requirements for the conduct of on-site inspections. The Director of Central Intelligence has stated that on-site inspection requirements for any strategic arms reduction treaty or agreement will be far more extensive than those for the INF Treaty. The number of locations within the Soviet Union that would possibly be subject to on-site inspections under a START agreement have been estimated to be approximately 2,500 (compared to 120 for the INF Treaty).

(5) On-site inspection procedures are likely to be an integral part of any future arms control treaty or agreement.

(6) Personnel requirements will be extensive for such on-site inspection procedures, both in terms of numbers of personnel and technical and linguistic skills. Since verification requirements for the INF Treaty are already placing severe stress on current personnel resources, the requirements for verification under START and other possible future treaties and agreements may quickly exceed the current number of verification personnel having necessary technical and language skills.

(7) There is a clear need for a database of the names of individuals who are members of the Armed Forces or civilian employees of the United States Government, or of other citizens and nationals of the United States, who are qualified (by reason of technical or language skills) to participate in on-site inspections under an arms control treaty or agreeement.

(8) The organization best suited to establish such a database is the On-Site Inspection Agency (OSIA) of the Department of Defense, which was created by the President to implement (for the United States) the on-site inspection provisions of the INF Treaty.

(b) STATUS OF THE OSIA.—(1) Congress finds that—

(A) the Director of the OSIA (currently a brigadier general of the Army) is appointed by the Secretary of Defense with the concurrence of the Secretary of State and the approval of the President;

(B) the Secretary of Defense provides to the Director appropriate policy guidance formulated by the interagency arms control mechanism established by the President;

(C) most of the personnel of the OSIA are members of the Armed Forces (who are trained and paid by the military departments within the Department of Defense) and include linguists, weapons specialists, and foreign area specialists;

(D) the Department of Defense provides the OSIA with substantially all of its administrative and logistic support (including military air transportation for inspections in the Soviet Union and Eastern Europe); and

(E) the facilities in Europe and the United States at which OSIA personnel escort personnel of the Soviet Union conducting inspections under the on-site inspection terms of the INF Treaty are under the jurisdiction of the Department of Defense (or under the jurisdiction of entities that are contractors with the Department of Defense).

(2) In light of the findings in paragraph (1) and the report submitted pursuant to section 909 of Public Law 100-456 entitled "Report to the Congress on U.S. Monitoring and Verification Activities Related to the INF Treaty" (submitted on July 27, 1989), Congress hereby determines that by locating the On-Site Inspection Agency within the Department of Defense for the purposes of administrative and logistic support and operational guidance, and integrating on-site inspection responsibilities under the INF Treaty with existing organizational activities of that Department, the President has been able to ensure that sensitive national security assets are protected and that obligations of the United States under that treaty are fulfilled in an efficient and cost-effective manner.

(c) ESTABLISHMENT OF PERSONNEL DATABASE.—(1) In light of the findings in subsection (a), the Director of the On-site Inspection Agency shall establish a database consisting of the names of individuals who could be assigned or detailed (in the case of Government personnel) or employed (in the case of non-Government personnel) to participate in the conduct of on-site inspections under any future arms control treaty or agreement that includes provisions for such inspections.

(2) The database should be composed of the names of individuals with skills (including linguistic and technical skills) necessary for the conduct of on-site inspections.

(d) INF TREATY DEFINED.—For purposes of this section, the term "INF Treaty" means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington, DC, on December 8, 1987.

TITLE XI—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

PART A—FORCE STRUCTURE

SEC. 1101. STUDY OF TOTAL FORCE POLICY, FORCE MIX, AND MILITARY FORCE STRUCTURE

(a) FINDINGS.—Congress makes the following findings:

(1) Since the inception of the Total Force Policy in the Department of Defense in 1973, there has never been a comprehensive, authoritative study done by the Department on the operation and effectiveness of that policy.

(2) Decisions within the Department of Defense with respect to military force mix appear to be made in a fragmented and decentralized manner.

(3) A comprehensive study of the Total Force Policy, force mix, and military force structure is long overdue.

(b) STUDY.—(1) The Secretary of Defense shall convene a study group to review the operation, effectiveness, and soundness of the following policies and practices of the Department of Defense and to make recommendations to the Secretary for improvement of those policies and practices:

(A) The Total Force Policy.

(B) Assignment of missions within and between the active and reserve components of the armed forces.

(C) Force structure of the active and reserve components of the armed forces.

(2) The study group shall include—

(A) senior-level active-duty officers from each branch of the armed forces;

(B) senior-level reserve-component officers from each of the seven reserve components;

(C) civilian officials of the Department of Defense; and

(D) such participants from outside the Department of Defense as the Secretary considers appropriate.

(3) The Chairman of the Joint Chiefs of Staff shall provide such joint staff support to the study group as necessary. He shall participate in the activities of the study group in accordance with the provisions of section 153 of title 10, United States Code, including the responsibility to assess the conformance of manpower programs and policies with strategic plans and to advise the study group about the extent to which program recommendations and budget proposals conform with the priorities established in strategic plans and for the combatant commands.

(4) The Secretary shall ensure that the study group, in carrying out its duties and responsibilities, has access to federally funded research centers (FFRCs) and other necessary support.

(5) The Secretary of Defense shall consult with the Secretary of Transportation with respect to the functions of the study group insofar as they relate to the Selected Reserve of the Coast Guard Reserve.

(6) Meetings of the study group may be closed to the public in connection with the consideration of classified material.

(c) MATTERS TO BE CONSIDERED.—(1) In carrying out the study required by subsection (a), the study group shall evaluate and make recommendations to the Secretary concerning each of the following matters (with each such matter to be evaluated separately insofar as it relates to each policy or practice set forth in subparagraphs (A) through (C) of subsection (b)(1)):

(1) With respect to the Total Force Policy of the Department of Defense, the basic tenets of that policy, how well that policy has been implemented, and what changes (if any) are desirable to improve upon that policy and its implementation.

(2) The effectiveness of the existing chain of management and command responsibility in evaluating and integrating force requirements among the armed forces, and between the active components and the reserve components.

(3) The extent to which officials responsible for such evaluation and integration of force requirements currently (and should in the future) participate in the budget and re-

source allocation processes of the Department of Defense.

(4) The adequacy of the methodology used by the Department of Defense in the assignment of missions between the active and reserve components and, within each active and reserve component, the assignment of missions among various major types of units, including—

(A) the extent to which that methodology includes the use of cost-benefit analyses; and

(B) the methodology for the manner by which force reductions are distributed within individual units and between active and reserve components.

(5) The scope and size of force reductions with respect to major units (such as air wings, carrier groups, and divisions) that would result in an irreversible change of the capability of those units to perform assigned missions, with emphasis on considerations such as mobilization, loss of skilled manpower, equipment, and training.

(d) ADDITIONAL MATTERS TO BE CONSIDERED.—(1) In carrying out its study and making its recommendations, the study group shall also evaluate the process by which decisions within the Department of Defense respecting force mix and force structure are made with regard to the readiness, sustainability, and overall mission capability of the active and reserve forces. The study group shall also consider whether the Department of Defense has a cogent strategy for making such decisions with respect to force mix that anticipates a substantially smaller military force structure in the future and whether the Department has developed a system for regular and systematic top-level evaluation of decisions respecting force mix or reductions in force structure.

(2) In carrying out the evaluation required by paragraph (1), the study group shall consider (among other matters it considers appropriate) the following:

(A) The optimal structure of military forces required to meet the threat as described in net assessments prepared pursuant to section 153 of title 10, United States Code, taking into account currently available and projected budget resources.

(B) The appropriateness of the missions that have been assigned to major units (such as air wings, carrier groups, and divisions) in each of the active and reserve components in view of the status of those units with respect to personnel and equipment resources and training systems.

(C) The response times for the deployment of such units in the event of a mobilization.

(D) An evaluation of the readiness and sustainability of each of the active and reserve components and of the contributions of each such component to the overall military capability of the United States.

(E) The extent to which the active and reserve component units that are identified for use during the first 30 days of a mobilization are prepared to undertake wartime missions (as measured against the standards established by the Chairman of the Joint Chiefs of Staff in accordance with section 153 of title 10, United States Code), the reasons for any lack of preparedness for such missions, and recommendations for measures that would be necessary for those units to become fully mission capable.

(F) The adequacy of equipment distribution and modernization in the active and reserve components, including consideration of the importance of prepositioning of light and heavy equipment in the mobilization process.

(G) The adequacy of the current base of military personnel and equipment available for short notice rotation and deployment in order to meet worldwide defense commitments.

(H) The capability of each component of the active and reserve forces to meet assigned and projected missions at each step in the mobilization process and the adequacy of current airlift and sealift capability.

(I) The resources (including funds) needed for sufficient personnel, equipment, and training to achieve desired force structure and mission capability in both the active and reserve components.

(J) The capability of the active and reserve components, jointly and separately, to respond to mobilization requirements at each stage of the mobilization process.

(d) REPORTS.—(1) The study group shall submit to the Secretary of Defense an interim report on its findings and recommendations at such time as the Secretary may require, but not later than September 1, 1990. The Secretary shall submit the interim report to the Committees on Armed Services of the Senate and the House of Representatives not later than September 15, 1990.

(2) The study group shall submit its final report, including its findings and recommendations, to the Secretary not later than December 1, 1990. The Secretary shall submit the final report of the study group, together with any comment and recommendation of the Secretary, to those committees not later than December 31, 1990.

(e) LIMITATION ON OBLIGATION OF CERTAIN FUNDS IF REPORTS SUBMITTED LATE.—If either of the reports required by subsection (d) is not submitted to those committees by the date specified in that subsection for the report to be submitted, the Secretary of Defense may not, on or after that date, obligate any funds for a new contract for advisory, consultant, or assistance services until the report is submitted.

SEC. 1102. STUDIES OF CLOSE SUPPORT FOR LAND FORCES

(a) SECRETARY OF DEFENSE STUDY.—The Secretary of Defense shall conduct a study of close support, including close air support.

(b) CONTRACTOR STUDY.—In conducting the study required by subsection (a), the Secretary shall provide for a study to be conducted by the Institute for Defense Analysis, a Federal contract research center. The Institute shall submit a report to the Secretary on such study at such time before March 1, 1990, as the Secretary may require.

(c) JCS STUDY.—The Chairman of the Joint Chiefs of Staff shall conduct a study of close support, including close air support. The Chairman shall submit a report to the Secretary of Defense on such study at such time before March 1, 1990, as the Secretary may require.

(d) STUDIES TO BE INDEPENDENT.—Each study under subsections (a), (b), and (c) shall be conducted independently of the others.

(e) MATTERS TO BE INCLUDED.—The studies conducted under subsections (a), (b), and (c) shall include consideration of each of the following:

(1) The nature of the present, and anticipated future, battlefield across a representative set of conflict levels.

(2) The requirements of the land force for close support across this representative set of conflict levels in terms of targets and time, including the lessons of recent combat experience.

(3) With regard to the battlefields and close support requirements identified pursuant to paragraphs (1) and (2), the current and anticipated ground and air systems capable of meeting these requirements.

(4) With regard to these major systems, their significant characteristics in terms of effectiveness, integration with allies, command and control, survivability, and lifecycle cost.

(5) The implications (in terms of roles and missions) of the selection of, or failure to select, each of these major systems as part of an appropriate force structure.

(f) REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress a report on the studies conducted under this section. The report shall include—

(1) the findings, conclusions, and recommendations of the Secretary in the study conducted by the Secretary under subsection (a) with respect to each of the matters set forth in subsection (e);

(2) copies of the reports to the Secretary under subsections (b) and (c), including the findings, conclusions, and recommendations contained in those reports; and

(3) such comments on those reports as the Secretary considers appropriate.

(g) TIME FOR SUBMISSION.—The report required under subsection (f) shall be submitted not later than March 1, 1990.

(h) CLOSE AIR SUPPORT DEFINED.—For purposes of this section, the term "close air support", as defined in Joint Chiefs of Staff Publication 1, dated June 1, 1987, means air action against hostile targets which are in close proximity to friendly forces and which require detailed integration of each air mission with the fire and movement of those forces.

SEC. 1103. STRATEGIC AIR DEFENSE ALERT MISSION

(a) READINESS OF AIR NATIONAL GUARD UNITS.—The Secretary of Defense shall ensure that those units of the Air National Guard that are assigned to carry out the strategic air defense mission in the northern portion of the United States retain the capability to generate and maintain a readiness posture that meets the needs of all operations plans of the North American Aerospace Defense Command (NORAD).

(b) FISCAL YEAR 1990 LIMITATION.—During fiscal year 1990, the Secretary of Defense may not reduce the man years or flying hours of the units described in subsection (a).

(c) REPORT.—Not later than March 1, 1990, the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the strategic air defense alert mission. The report shall describe the following:

(1) The rationale and goals for the strategic air defense modernization program undertaken jointly by the United States and Canada.

(2) The operational requirements of NORAD in crisis and wartime for generating and forward deploying air defense forces of the Air National Guard based in the northern portion of the United States.

(3) The plans of the Air Force for maintaining the readiness of aircraft, flight crews, maintenance personnel, control tower personnel, and security forces of the air defense units described in subsection (a) to implement NORAD operations plans.

(4) The plans of the Air Force for transitioning from current interceptor aircraft and current peacetime unit alert mission and training practices to new aircraft and new unit alert mission and training practices, including the effect of such transition on unit manning levels and combat mission readiness.

(5) The current ability of the forward operating bases in Canada to accommodate for-

ward deployment of air defense units on a sustained basis and plans of the Air Force for the improvement of such bases.

(6) The current and planned radars, intercept systems, communications systems, and command elements (together with deployment schedules for those which are planned) that are intended to detect, identify, track, and intercept intruders into northern Canadian airspace during peacetime, during periods of heightened tension, and during hostilities.

(d) REPEAL.—Section 713 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1998), is repealed.

SEC. 1104. SENSE OF CONGRESS CONCERNING REASSIGNMENT OF UNITS FROM FORT KNOX, KENTUCKY, TO FORT IRWIN, CALIFORNIA

It is the sense of Congress that any combat unit of battalion or squadron size (or larger size) that on the date of the enactment of this Act is stationed at Fort Knox, Kentucky, shall not be permanently reassigned to Fort Irwin, California.

PART B—GENERAL MANAGEMENT MATTERS

SEC. 1111. ADDITIONAL FUNDING FOR UNIFIED AND SPECIFIED COMBATANT COMMANDS FOR FISCAL YEAR 1990

Of the funds authorized to be appropriated pursuant to section 301 for the Defense Agencies for fiscal year 1990, $25,000,000 shall be available for the establishment of a fund under the management of the Chairman of the Joint Chiefs of Staff for use in response to the request of a commander of a unified or specified combatant command for additional funding of the following activities:

(1) Joint exercises (including foreign country participation).

(2) Force training.

(3) Contingencies.

(4) Selected operations.

(5) Command and control.

(6) Military education and training to military and related civilian personnel of foreign countries.

(7) Personnel expenses of defense personnel for bilateral or regional cooperation programs.

SEC. 1112. CORRECTION OF PAY GRADE FOR NEW ASSISTANT SECRETARY OF THE AIR FORCE

Section 5315 of title 5, United States Code, is amended by striking out "(3)" after "Assistant Secretaries of the Air Force" and inserting in lieu thereof "(4)".

SEC. 1113. CLARIFICATION OF REQUIREMENT FOR COMPLETION OF FULL TOUR OF DUTY AS QUALIFICATION FOR SELECTION AS A JOINT SPECIALTY OFFICER

Section 661(c) of title 10, United States Code, is amended by striking out "(as described in section 664 (f)(1) or (f)(3) of this title)" in paragraphs (1)(B) and (3)(A) and inserting in lieu thereof "(as described in section 664(f) of this title (other than in paragraph (2) thereof))".

PART C—PROFESSIONAL MILITARY EDUCATION

SEC. 1121. REPORTS RELATING TO COURSES OF INSTRUCTION AT CERTAIN PROFESSIONAL MILITARY EDUCATION SCHOOLS AND PROFESSIONAL MILITARY EDUCATION REQUIREMENTS FOR PROMOTION TO GENERAL OR FLAG GRADE

(a) SERVICE SECRETARIES REPORTS.—(1) The Secretary of each military department shall submit to the Secretary of Defense a report—

(A) evaluating the principal courses of instruction at each intermediate or senior professional military education school operated by that department in light of the mission of that school; and

(B) recommending the appropriate duration for those courses and the level and courses of professional military education that should be required before an officer is selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half).

(2) The reports required by paragraph (1) shall be prepared independently of the report required by subsection (b) and independently of each other.

(3) The reports required by paragraph (1) shall be submitted at such time as may be required by the Secretary of Defense.

(b) SECRETARY OF DEFENSE REPORT.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) containing copies of the reports submitted to the Secretary under subsection (a), together with such comments on each report as the Secretary considers appropriate;

(B) evaluating the principal courses of instruction at each intermediate or senior professional military education school in light of the mission of that school; and

(C) recommending the appropriate duration for those courses and the level and types of professional military education that should be required before an officer is selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half).

(2) The report required by paragraph (1) shall be submitted not later than April 2, 1990.

(c) OTHER MATTERS TO BE INCLUDED IN REPORTS.—The reports required by subsection (a) and subsection (b) shall include a discussion of the following:

(1) The implications of establishing by law a minimum length of 10 months duration for the principal courses of instruction at each intermediate or senior professional military education school.

(2) The implications of requiring by law, beginning January 1, 1999, that a prerequisite for selection of an officer for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) shall be graduation from an intermediate professional military education school and a senior professional military education school.

(3) The practicability of providing that—

(A) the promotion eligibility of an officer may not be adversely affected by the attendance of the officer at a professional military education course of 10 months or more at an intermediate or senior professional military education school; and

(B) an officer who attends a professional military education course of 10 months or more at an intermediate or senior professional military education school shall be entitled to an additional year of service for each such course to prevent prejudice when considering the officer for discharge or retirement pursuant to subchapter III of chapter 36 of title 10, United States Code—

(i) for failure of selection for promotion; or

(ii) for years of service.

(d) INTERMEDIATE OR SENIOR PROFESSIONAL MILITARY EDUCATION SCHOOL DEFINED.—For purposes of this section, the term "intermediate or senior professional military education school" means any of the following:

(1) The Army War College.

(2) The College of Naval Warfare.

(3) The Air War College.

(4) The United States Army Command and General Staff College.

(5) The College of Naval Command and Staff.

(6) The Air Command and Staff College.

(7) The Marine Corps Command and Staff College.

SEC. 1122. CLARIFICATION REGARDING SCHOOLS THAT ARE JOINT PROFESSIONAL MILITARY EDUCATION SCHOOLS FOR PURPOSES OF QUALIFICATION OF OFFICERS FOR JOINT SPECIALTY

Section 661(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) For purposes of this chapter, a school that is organized within, and operated by, a military department may not be construed to be a joint professional military education school.".

SEC. 1123. PROFESSIONAL MILITARY EDUCATION IN JOINT MATTERS

(a) EXISTING EFFORTS TO IMPROVE PROFESSIONAL MILITARY EDUCATION.—(1) The Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 992) mandated—

(A) the strengthening of the focus on joint matters in courses of instruction offered by professional military education schools operated by the military departments; and

(B) the maintenance of rigorous standards at joint professional military education schools for the education of joint specialty officers.

(2) Congress applauds the actions taken since 1986 by the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, consistent with such mandate, to improve professional military education provided by intermediate and senior professional military education schools.

(b) STATEMENT OF CONGRESSIONAL POLICY.—As part of the efforts of the Secretary of Defense to improve professional military education, Congress urges, as a matter of policy, and fully expects the Secretary to establish the following:

(1) A coherent and comprehensive framework for the education of officers, including officers nominated for the joint specialty.

(2) A two-phase approach to strengthening the focus on joint matters, as follows:

(A) Phase I instruction consisting of a joint curriculum, in addition to the principal curriculum taught to all officers at service-operated professional military education schools.

(B) Phase II instruction consisting of a follow-on, solely joint curriculum taught at the Armed Forces Staff College to officers who are expected to be selected for the joint specialty. The curriculum should emphasize multiple "hands on" exercises and must adequately prepare students to perform effectively from the outset in what will probably be their first exposure to a totally new environment, an assignment to a joint, multiservice organization. Phase II instruction should be structured so that students progress from a basic knowledge of joint matters learned in Phase I to the level of expertise necessary for successful performance in the joint arena.

(3) A sequenced approach to joint education in which the norm would require an officer to complete Phase I instruction before proceeding to Phase II instruction. An exception to the normal sequence should be granted by the Chairman of the Joint Chiefs of Staff only on a case-by-case basis for compelling cause. Officers selected to receive such an exception should be required to demonstrate a basic knowledge of joint matters and other aspects of the Phase I curriculum that qualifies them to meet the minimum requirements established for entry into Phase II instruction without first complet-

ing Phase I instruction. The number of officers selected to attend an offering of the principal course of instruction at the Armed Forces Staff College who have not completed Phase I instruction should comprise only a small portion of the total number of officers selected.

(c) DURATION OF PRINCIPAL COURSE OF INSTRUCTION AT THE ARMED FORCES STAFF COLLEGE.—(1) Section 663 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) DURATION OF PRINCIPAL COURSE OF INSTRUCTION AT ARMED FORCES STAFF COLLEGE.—The duration of the principal course of instruction offered at the Armed Forces Staff College may not be less than three months.".

(2) Subsection (e) of such section, as added by paragraph (1), shall be implemented by the Secretary of Defense not later than two years after the date of the enactment of this Act.

(d) INFORMATION REGARDING STUDENTS ATTENDING THE ARMED FORCES STAFF COLLEGE.—Section 667 of such title is amended—

(1) by redesignating paragraph (17) as paragraph (18); and

(2) by inserting after paragraph (16) the following new paragraph:

"(17) With regard to each time the principal course of instruction at the Armed Forces Staff College is offered—

"(A) the number of officers selected to attend that course who did not first complete while in residence at a professional military education school operated by a military department the principal course of instruction offered at that school;

"(B) the number of those officers as a percentage of all officers who attended that course of instruction at the Armed Forces Staff College;

"(C) a description of the different reasons why officers were selected to attend that course without first attending the principal course of instruction offered at a professional military education school operated by a military department; and

"(D) the number of officers so selected for each such reason.".

(e) JOINT MATTERS DEFINED.—For purposes of this section, the term "joint matters" has the meaning given to that term in section 668(a) of title 10, United States Code.

SEC. 1124. EMPLOYMENT OF CIVILIAN FACULTY MEMBERS AT PROFESSIONAL MILITARY EDUCATION SCHOOLS

(a) NATIONAL DEFENSE UNIVERSITY.—(1) Chapter 81 of title 10, United States Code, is amended by adding after section 1594 (as added by section 664(b)) the following new section:

"§ 1595. National Defense University: civilian faculty members

"(a) AUTHORITY OF SECRETARY.—The Secretary of Defense may employ as many civilians as professors, instructors, and lecturers at the National Defense University as the Secretary considers necessary.

"(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

"(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—This section shall apply with respect to persons who are selected by the Secretary for employment as professors, instructors, and lecturers at the National Defense University after the end of the 90-day period beginning on the date of the enactment of this section.

"(d) NATIONAL DEFENSE UNIVERSITY DEFINED.—In this section, the term 'National Defense University' includes the National War College, the Armed Forces Staff College, and the Industrial College of the Armed Forces.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1594 (as added by section 664(b)) the following new item:

"1595. National Defense University: civilian faculty members.".

(b) ARMY WAR COLLEGE AND UNITED STATES ARMY COMMAND AND GENERAL STAFF COLLEGE.—(1) Chapter 373 of title 10, United States Code, is amended by inserting after the table of sections the following new section:

"§ 4021. Army War College and United States Army Command and General Staff College: civilian faculty members

"(a) AUTHORITY OF SECRETARY.—The Secretary of the Army may employ as many civilians as professors, instructors, and lecturers at the Army War College or the United States Army Command and General Staff College as the Secretary considers necessary.

"(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

"(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—(1) Except as provided in paragraph (2), this section shall apply with respect to persons who are selected by the Secretary for employment as professors, instructors, and lecturers at the Army War College or the United States Army Command and General Staff College after the end of the 90-day period beginning on the date of the enactment of this section.

"(2) This section shall not apply with respect to professors, instructors, and lecturers employed at the Army War College or the United States Army Command and General Staff College if the duration of the principal course of instruction offered at the college involved is less than 10 months.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 4024 the following new item:

"4021. Army War College and United States Army Command and General Staff College: civilian faculty members.".

(c) NAVAL WAR COLLEGE AND MARINE CORPS COMMAND AND STAFF COLLEGE.—(1) Section 7478 of title 10, United States Code, is amended to read as follows:

"§ 7478. Naval War College and Marine Corps Command and Staff College: civilian faculty members

"(a) AUTHORITY OF SECRETARY.—The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at a school of the Naval War College or at the Marine Corps Command and Staff College as the Secretary considers necessary.

"(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

"(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—This section shall not apply with respect to professors, instructors, and lecturers employed at a school of the Naval War College or at the Marine Corps Command and Staff College if the duration of the principal course of instruction offered at the school or college involved is less than 10 months.".

(2) The item relating to such section in the table of sections at the beginning of chapter 643 of such title is amended to read as follows:

"7478. Naval War College and Marine Corps Command and Staff College: civilian faculty members.".

(d) AIR UNIVERSITY.—(1) Chapter 873 of title 10, United States Code, is amended by inserting after the table of sections the following new section:

"§ 9021. Air University: civilian faculty members

"(a) AUTHORITY OF SECRETARY.—The Secretary of the Air Force may employ as many civilians as professors, instructors, and lecturers at a school of the Air University as the Secretary considers necessary.

"(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

"(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—(1) Except as provided in paragraph (2), this section shall apply with respect to persons who are selected by the Secretary for employment as professors, instructors, and lecturers at a school of the Air University after the end of the 90-day period beginning on the date of the enactment of this section.

"(2) This section shall not apply with respect to professors, instructors, and lecturers employed at a school of the Air University if the duration of the principal course of instruction offered at that school is less than 10 months.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 9025 the following new item:

"9021. Air University: civilian faculty members.".

(e) CONFORMING AMENDMENTS.—Section 5102(c)(10) of title 5, United States Code, is amended—

(1) by inserting after "(10)" the following: "civilian professors, instructors, and lecturers at a professional military education school whose pay is fixed under section 1595, 4021, 7478, or 9021 of title 10;";

(2) by striking out "the Naval War College and";

and

(3) by striking out "sections 6952 and 7478" and inserting in lieu thereof "section 6952".

PART D—CONTRACTING OUT

SEC. 1131. ONE-YEAR EXTENSION OF AUTHORITY OF BASE COMMANDERS OVER CONTRACTING FOR COMMERCIAL ACTIVITIES

(a) IN GENERAL.—(1) Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2468. Military installations: authority of base commanders over contracting for commercial activities

"(a) AUTHORITY OF BASE COMMANDER.—The Secretary of Defense shall direct that the commander of each military installation shall have the authority and the responsibility to enter into contracts in accordance with this section for the performance of a commercial activity on the military installation.

"(b) YEARLY DUTIES OF BASE COMMANDER.—To enter into a contract under subsection (a) for a fiscal year, the commander of a military installation shall—

"(1) prepare an inventory for that fiscal year of commercial activities carried out by Government personnel on the military installation;

"(2) decide which commercial activities shall be reviewed under the procedures and requirements of Office of Management and

Budget Circular A-76 (or any successor administrative regulation or policy); and

"(3) conduct a solicitation for contracts for the performance of those commercial activities selected for conversion to contractor performance under the Circular A-76 process.

"(c) LIMITATIONS.—(1) The Secretary of Defense shall prescribe regulations under which the commander of each military installation may exercise the authority and responsibility provided under subsection (a).

"(2) The authority and responsibility provided under subsection (a) are subject to the authority, direction, and control of the Secretary.

"(d) ASSISTANCE TO DISPLACED EMPLOYEES.—If the commander of a military installation enters into a contract under subsection (a), the commander shall, to the maximum extent practicable, assist in finding suitable employment for any employee of the Department of Defense who is displaced because of that contract.

"(e) MILITARY INSTALLATION DEFINED.—In this section, the term 'military installation' means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located within the United States, the Commonwealth of Puerto Rico, or Guam.

"(f) TERMINATION OF AUTHORITY.—The authority provided to commanders of military installations by subsection (a) shall terminate on September 30, 1990.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2468. Military installations: authority of base commanders over contracting for commercial activities.".

(b) EFFECTIVE DATE.—Section 2468 of title 10, United States Code (as added by subsection (a)), shall take effect as of October 1, 1989.

SEC. 1132. EXCEPTION FROM COST COMPARISON PROCEDURES FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED INDIVIDUALS

Section 2461 of title 10, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) WAIVER FOR THE PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED PERSONS.—Subsections (a) through (c) shall not apply to a commercial or industrial type function of the Department of Defense that—

"(1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Wagner-O'Day Act; or

"(2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped persons in accordance with that Act.".

SEC. 1133. COMMERCIAL ACTIVITIES STUDY FOR BASE SUPPORT OPERATIONS AT FORT BENJAMIN HARRISON

(a) STUDY REQUIRED.—Commercial activities carried out by Government personnel at Fort Benjamin Harrison, Indiana, may not be converted to performance by private contractor under the procedures and requirements of Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy) until the Secretary of the Army completes a new commercial activities study for the military installation.

(b) CONTENT OF STUDY.—The commercial activities study referred to in subsection (a) shall include—

(1) work-load data through fiscal year 1989; and

(2) sufficient data regarding the commercial activities examined for possible conversion to performance by private contractor to permit the use of fixed-price contracts for those commercial activities selected for conversion.

SEC. 1134. EVALUATION AND REPORT ON COMMERCIAL ACTIVITIES STUDY AT THE NIAGARA FALLS AIR FORCE RESERVE BASE

(a) EVALUATION AND REPORT REQUIRED.—Commercial activities carried out by Government personnel at the Niagara Falls Air Force Reserve Base, New York, may not be converted to performance by private contractor under the procedures and requirements of Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy) until completion of the following:

(1) The Comptroller General of the United States—

(A) evaluates the accuracy of the most recently completed commercial activities study for the Niagara Falls Air Force Reserve Base, including an analysis of comparable situations at other military installations in the United States; and

(B) submits to the Secretary of the Air Force a report describing the results of such evaluation.

(2) The Secretary of the Air Force submits to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(A) a copy of the report submitted by the Comptroller General;

(B) such comments on the report as the Secretary considers appropriate; and

(C) a determination by the Secretary regarding the desirability of converting commercial activities at the Niagara Falls Air Force Reserve Base to performance by private contractor.

(b) DEADLINE FOR SUBMISSION OF REPORT.—The report required by subsection (a)(2) shall be submitted not later than 60 days after the date of the enactment of this Act.

TITLE XII—MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

SEC. 1201. FUNDING FOR MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

(a) IN GENERAL.—(1) Of the amounts appropriated pursuant to this Act for the Department of Defense for fiscal year 1990, not more than $450,000,000 shall be available from the sources and in the amounts specified in paragraph (2) for carrying out the drug interdiction and counter-drug activities provided for in this title.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $182,000,000 of the amounts appropriated pursuant to title I for fiscal year 1990.

(B) $28,000,000 of the amounts appropriated pursuant to title II for fiscal year 1990.

(C) $235,000,000 of the amounts appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of amounts appropriated pursuant to division B for land acquisition and construction.

(b) OPERATIONS OF THE DEPARTMENT OF DEFENSE.—Of the amount made available under subsection (a), $284,000,000 shall be available to carry out the mission of the Department of Defense relating to drug interdiction and counter-drug activities (other than purposes specified in subsections (c) through (g)).

(c) NATIONAL GUARD.—Of the amount made available under subsection (a), $70,000,000 shall be available to provide funds under section 1207 for the purpose of drug interdiction by, and counter-drug activities of, the National Guard.

(d) INTEGRATION OF C3I ASSETS.—Of the amount made available under subsection (a), $27,000,000 shall be available to carry out the activities of the Department of Defense under section 1204.

(e) RESEARCH AND DEVELOPMENT.—Of the amount made available under subsection (a), $28,000,000 shall be available to carry out research and development activities referred to in section 1205.

(f) CIVIL AIR PATROL.—Of the amount made available under subsection (a), $1,000,000 shall be available to support Civil Air Patrol activities under section 1209.

(g) OTHER ASSISTANCE.—Of the amount made available under subsection (a), $40,000,000 shall be available to carry out the authority of the Secretary under section 1212 to provide additional counter-drug support to civilian agencies.

SEC. 1202. DEPARTMENT OF DEFENSE AS LEAD AGENCY FOR THE DETECTION AND MONITORING OF AERIAL AND MARITIME TRANSIT OF ILLEGAL DRUGS

(a) FUNCTION OF DEPARTMENT OF DEFENSE.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 123 the following new section:

"§ 124. Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency

"(a) LEAD AGENCY.—The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

"(b) PERFORMANCE OF DETECTION AND MONITORING FUNCTION.—(1) To carry out subsection (a), Department of Defense personnel may operate equipment of the Department to intercept a vessel or an aircraft detected outside the land area of the United States for the purposes of—

"(A) identifying and communicating with that vessel or aircraft; and

"(B) directing that vessel or aircraft to go to a location designated by appropriate civilian officials.

"(2) In cases in which a vessel or an aircraft is detected outside the land area of the United States, Department of Defense personnel may begin or continue pursuit of that vessel or aircraft over the land area of the United States.

"(c) UNITED STATES DEFINED.—In this section, the term 'United States' means the land area of the several States and any territory, commonwealth, or possession of the United States.".

(2) The table of sections of such chapter is amended by inserting after the item relating to section 123 the following new item:

"124. Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency.".

(b) CONFORMING REPEAL.—Section 1102 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2042), is repealed.

SEC. 1203. BUDGET PROPOSALS RELATING TO DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

The budget of the United States Government submitted to Congress under section 1105 of title 31, United States Code, for fiscal years 1991 and 1992 shall set forth separately the amount requested for the mission of the Department of Defense related to drug interdiction and counter-drug activities in support of civilian agencies.

SEC. 1204. COMMUNICATIONS NETWORK

(a) INTEGRATION OF NETWORK.—(1) The Secretary of Defense shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(2) The Secretary shall carry out this subsection in consultation with the Director of National Drug Control Policy.

(b) CONFORMING REPEAL.—Section 1103 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2042), is repealed.

SEC. 1205. RESEARCH AND DEVELOPMENT

The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies designed to improve—

(1) the ability of the Department to carry out the detection and monitoring function of the Department under section 124 of title 10, United States Code, as added by section 1202; and

(2) the ability to detect illicit drugs and other dangerous and illegal substances that are concealed in containers.

SEC. 1206. TRAINING EXERCISES IN DRUG-INTERDICTION AREAS

(a) EXERCISES REQUIRED.—The Secretary of Defense shall direct that the armed forces, to the maximum extent practicable, shall conduct military training exercises (including training exercises conducted by the reserve components) in drug-interdiction areas.

(b) REPORT.—(1) Not later than February 1 of 1991 and 1992, the Secretary shall submit to Congress a report on the implementation of subsection (a) during the preceding fiscal year.

(2) The report shall include—

(A) a description of the exercises conducted in drug-interdiction areas and the effectiveness of those exercises in the the national counter-drug effort; and

(B) a description of those additional actions that could be taken (and an assessment of the results of those actions) if additional funds were made available to the Department of Defense for additional military training exercises in drug-interdiction areas for the purpose of enhancing interdiction and deterrence of drug smuggling.

(c) DRUG-INTERDICTION AREAS DEFINED.—For purposes of this section, the term "drug-interdiction areas" includes land and sea areas in which, as determined by the Secretary, the smuggling of drugs into the United States occurs or is believed by the Secretary to have occurred.

SEC. 1207. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES OF THE NATIONAL GUARD

(a) ASSISTANCE AUTHORIZED.—(1) Chapter 1 of title 32, United States Code, is amended by adding at the end the following new section:

"§ 112. Drug interdiction and counter-drug activities

"(a) FUNDING ASSISTANCE.—The Secretary of Defense may provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for—

"(1) the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of that State used for—

"(A) the purpose of drug interdiction and counter-drug activities; and

"(B) the operation and maintenance of the equipment and facilities of the National Guard of that State used for that purpose; and

"(2) the procurement of services and leasing of equipment for the National Guard of that State used for the purpose of drug interdiction and counter-drug activities.

"(b) PLAN REQUIREMENTS.—A plan referred to in subsection (a) shall—

"(1) specify how personnel of the National Guard of that State are to be used in drug interdiction and counter-drug activities;

"(2) certify that those operations are to be conducted at a time when the personnel involved are not in Federal service; and

"(3) certify that participation by National Guard personnel in those operations is service in addition to annual training required under section 502 of this title.

"(c) EXAMINATION OF PLAN.—(1) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall examine the adequacy of the plan submitted by the Governor under subsection (b).

"(2) Except as provided in paragraph (3), the Secretary shall carry out paragraph (1) in consultation with—

"(A) the Attorney General of the United States in the case of a plan submitted for fiscal year 1990; and

"(B) the Director of National Drug Control Policy in the case of a plan submitted for subsequent fiscal years.

"(3) Paragraph (2) shall not apply if—

"(A) the Governor of a State submits a plan under subsection (b) that is substantially the same as a plan submitted for that State for a previous fiscal year; and

"(B) funds were provided to the State pursuant to such plan.

"(d) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

"(e) EXCLUSION FROM END-STRENGTH COMPUTATION.—(1) Members of the National Guard on active duty or full-time National Guard duty for the purposes of administering this section shall not be counted toward the annual end strength authorized for reserves on active duty in support of the reserve components of the armed forces or toward the strengths authorized in sections 517 and 524 of title 10.

"(2) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report specifying for the period covered by the report the number of members of the National Guard excluded under paragraph (1) from the computation of end strengths.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'counter-drug activities' includes the use of National Guard personnel, while not in Federal service, in any law enforcement activities authorized by State and local law and requested by the Governor.

"(2) The term 'Governor of a State' means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

"(3) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"Sec. 112. Drug interdiction and counter-drug activities.".

(b) CONFORMING REPEAL.—Section 1105 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2047), is repealed.

SEC. 1208. TRANSFER OF EXCESS PERSONAL PROPERTY

(a) TRANSFER AUTHORIZED.—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

(A) suitable for use by such agencies in counter-drug activities; and

(B) excess to the needs of the Department of Defense.

(2) Personal property transferred under this section may be transferred without cost to the recipient agency.

(3) The Secretary shall carry out this section in consultation with the Attorney General and the Director of National Drug Control Policy.

(b) CONDITIONS FOR TRANSFER.—The Secretary may transfer personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense; and

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment.

(c) APPLICATION.—The authority of the Secretary to transfer personal property under this section shall expire on September 30, 1992.

SEC. 1209. CIVIL AIR PATROL

To the extent funds are available under section 1201(f), the Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights.

SEC. 1210. OPERATION OF EQUIPMENT USED TO TRANSPORT CIVILIAN LAW ENFORCEMENT PERSONNEL

Section 374(b)(2)(E) of title 10, United States Code, is amended by striking out ", the Attorney General" and all that follows through "outside the land area of the United States" and inserting in lieu thereof "and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)".

SEC. 1211. RESTRICTION ON DIRECT PARTICIPATION BY MILITARY PERSONNEL

Section 375 of title 10, United States Code, is amended—

(1) by striking out "the provision of any support" and inserting in lieu thereof "any activity";

(2) by striking out "to any civilian law enforcement official"; and

(3) by striking out "a search and seizure, an arrest," and inserting in lieu thereof "a search, seizure, arrest,".

SEC. 1212. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

At the request of the head of a Federal agency with counter-drug responsibilities, the Secretary of Defense during fiscal year 1990 may provide support for the counter-drug activities of that agency as follows:

(1) Maintenance and repair of equipment that has been made available by the Department of Defense under chapter 18 of title 10, United States Code, in order to preserve the potential future utility of such equipment to the Department of Defense.

(2) Transportation of personnel, supplies, and equipment for purposes of facilitating a counter-drug operation.

(3) Establishment and operation of a base of operations for purposes of facilitating a counter-drug operation.

(4) Loan of National Guard equipment, subject to such minimum standards of care and maintenance and such minimum training and proficiency requirements for persons who are to use such equipment as the Secretary considers appropriate.

(5) Training of personnel.

SEC. 1213. REPORTS

(a) BY THE PRESIDENT.—Not later than April 1, 1990, the President shall submit to Congress a report—

(1) describing the progress made on implementation of the plan required by section 1103 of the National Defense Authorization Act, Fiscal Year 1989 (10 U.S.C. 374 note);

(2) containing an analysis of the feasibility of establishing a National Drug Operations Center for the integration, coordination, and control of all drug interdiction operations; and

(3) describing how intelligence activities relating to narcotics trafficking can be integrated, including—

(A) coordinating the collection and analysis of intelligence information;

(B) ensuring the dissemination of relevant intelligence information to officials with responsibility for narcotics policy and to agencies responsible for interdiction, eradication, law enforcement, and other counter-drug activities; and

(C) coordinating and controlling all intelligence activities relating to counter-drug activities.

(b) BY THE SECRETARY OF DEFENSE.—(1) Not later than February 1, 1990, the Secretary of Defense shall submit a report to Congress—

(A) on the specific drug-related research and development projects to be funded, and the planned allocation of funding for such projects, under section 1205;

(B) on the feasibility of detailing officers in the Judge Advocate General's Corps of the military departments to the Department of Justice to assist in the prosecution of drug cases in areas in which there is a lack of sufficient prosecutorial resources;

(C) on the feasibility of increasing the use of the resources and personnel of the Special Operations Command in drug interdiction and counter-drug activities; and

(D) on the desirability and feasibility of assigning active-duty members of the Armed Forces, at the request of the Secretary of the Treasury and with the approval of the Secretary of Defense, to assist the United States Customs Service in the inspection of cargo, vehicles, vessels, and aircraft at points of entry into the United States.

In preparing the report required by this paragraph, the Secretary shall consult with the Director of National Drug Control Policy and other appropriate heads of agencies.

(2) Not later than April 1, 1990, the Secretary of Defense shall submit a report to Congress on—

(A) the feasibility of establishing aerial and maritime navigational corridors by which civilian aircraft and vessels may travel through drug interdiction areas, as defined in section 1206(c);

(B) the feasibility of requiring the submission of navigational plans for all civilian aircraft and vessels that will travel in such areas; and

(C) the funding considered necessary to implement a plan to carry out the matters referred to in subparagraphs (A) and (B).

In preparing the report required by this paragraph, the Secretary shall consult with the Secretary of Transportation and the Director of National Drug Control Policy.

(3) Not later than February 1 of 1990 and 1991, the Secretary of Defense shall submit to Congress a report on the drug interdiction and counter-drug activities of the Department of Defense under chapter 18, United States Code, and other applicable provisions of law during the preceding fiscal year. The report shall include—

(A) specific information as to the size, scope, and results of Department of Defense drug interdiction operations;

(B) specific information on the nature and terms of interagency agreements with other agencies relating to drug interdiction; and

(C) any recommendations for additional legislation that the Secretary determines would assist in furthering the ability of the Department to perform its mission under that chapter or to assist other agencies.

SEC. 1214. SENSE OF CONGRESS ON NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM

(a) FINDINGS.—Congress finds the following:

(1) The Anti-Drug Abuse Act of 1988 (Public Law 100-690) terminated the National Narcotics Border Interdiction System (NNBIS).

(2) The National Narcotics Border Interdiction System provided valuable information and support to State and local law enforcement agencies involved in drug interdiction activities.

(b) SENSE OF CONGRESS.—In light of the findings specified in subsection (a), it is the sense of Congress that the cooperation that existed between State and local law enforcement officials and the Federal agencies participating in the National Narcotics Border Interdiction System should, to the extent possible, be continued and enhanced by the President.

SEC. 1215. COOPERATIVE EFFORTS AGAINST ILLEGAL DRUGS

(a) AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.—Section 511(e)(3)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(3)(B)), as added by section 6077(a) of the Asset Forfeiture Amendments Act of 1988 (Public Law 100-690; 102 Stat. 4324), is amended to read as follows:

"(B) will serve to encourage further cooperation between the recipient State or local agency and federal law enforcement agencies.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1989.

SEC. 1216. TECHNICAL AND CLERICAL AMENDMENTS RELATING TO MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

(a) CHAPTER DESIGNATION.—The chapter following chapter 17 of title 10, United States Code (relating to military support for civilian law enforcement agencies), is redesignated as chapter 18.

(b) REFERENCE TO TARIFF SCHEDULES.—Section 374(b)(4) of such title is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" in subparagraph (A)(iii) and inserting in lieu thereof "general note 2 of the Harmonized Tariff Schedule of the United States".

(c) CROSS-REFERENCE AMENDMENT.—Section 374(c) of such title is amended by striking out "paragraph (2)" and inserting in lieu thereof "subsection (b)(2)".

TITLE XIII—MILITARY APPELLATE PROCEDURES

SEC. 1301. COURT OF MILITARY APPEALS

(a) REVIEW BY THE COURT UNDER ARTICLE 67.—Section 867 (article 67) of title 10, United States Code, is amended—

(1) by striking out subsections (a), (g), (h), and (i); and

(2) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (a), (b), (c), (d), and (e) respectively.

(b) RESTATEMENT OF CERTIORARI PROVISION.—Subchapter IX of chapter 47 of title 10, United States Code, is amended by inserting after section 867 (article 67) the following new section (article):

"§ 867a. Art. 67a. Review by the Supreme Court

"(a) Decisions of the United States Court of Military Appeals are subject to review by the Supreme Court by writ of certiorari as provided in section 1259 of title 28. The Supreme Court may not review by a writ of certiorari under this section any action of the Court of Military Appeals in refusing to grant a petition for review.

"(b) The accused may petition the Supreme Court for a writ of certiorari without prepayment of fees and costs or security therefor and without filing the affidavit required by section 1915(a) of title 28.".

(c) RESTATEMENT AND REVISION OF COMA CHARTER.—Chapter 47 of such title is amended by adding at the end the following new subchapter:

"SUBCHAPTER XI—COURT OF MILITARY APPEALS

"Sec. Art.
"941. 141. Status.
"942. 142. Judges.
"943. 143. Organization and employees.
"944. 144. Procedure.
"945. 145. Annuities for judges and survivors.
"946. 146. Code committee.

"§ 941. Art. 141. Status

"There is a court of record known as the United States Court of Military Appeals. The court is established under article I of the Constitution. The court is located for administrative purposes only in the Department of Defense.

"§ 942. Art. 142. Judges

"(a) NUMBER.—The United States Court of Military Appeals consists of five judges.

"(b) APPOINTMENT; QUALIFICATION.—(1) Each judge of the court shall be appointed from civil life by the President, by and with the advice and consent of the Senate, for a specified term determined under paragraph (2). A judge may serve as a senior judge as provided in subsection (e).

"(2) The term of a judge shall expire as follows:

"(A) In the case of a judge who is appointed after March 31 and before October 1 of any year, the term shall expire on September 30 of the year in which the fifteenth anniversary of the appointment occurs.

"(B) In the case of a judge who is appointed after September 30 of any year and before April 1 of the following year, the term shall expire fifteen years after such September 30.

"(3) Not more than three of the judges of the court may be appointed from the same political party, and no person may be appointed to be a judge of the court unless the person is a member of the bar of a Federal court or the highest court of a State.

"(c) REMOVAL.—Judges of the court may be removed from office by the President, upon notice and hearing, for—

"(1) neglect of duty;

"(2) misconduct; or

"(3) mental or physical disability.

A judge may not be removed by the President for any other cause.

"(d) PAY AND ALLOWANCES.—Each judge of the court is entitled to the same salary and travel allowances as are, and from time to time may be, provided for judges of the United States Courts of Appeals.

"(e) SENIOR JUDGES.—(1) A former judge of the court who is receiving retired pay or an annuity under section 945 of this title (article 145) or under subchapter III of chapter 83 or chapter 84 of title 5 shall be a senior judge.

"(2)(A) The chief judge of the court may call upon a senior judge of the court, with the consent of the senior judge, to perform judicial duties with the court—

"(i) during a period a judge of the court is unable to perform his duties because of illness or other disability;

"(ii) during a period in which a position of judge of the court is vacant; or

"(iii) in any case in which a judge of the court recuses himself.

"(B) A senior judge shall be paid for each day on which he performs judicial duties with the court an amount equal to the daily equivalent of the annual rate of pay provided for a judge of the court. Such pay shall be in lieu of retired pay and in lieu of an annuity under section 945 of this title (article 145), subchapter III of chapter 83 or subchapter II of chapter 84 of title 5, or any other retirement system for employees of the Federal Government.

"(3) A senior judge, while performing duties referred to in paragraph (2), shall be provided with such office space and staff assistance as the chief judge considers appropriate and shall be entitled to the per diem, travel allowances, and other allowances provided for judges of the court.

"(4) A senior judge shall be considered to be an officer or employee of the United States with respect to his status as a senior judge, but only during periods the senior judge is performing duties referred to in paragraph (2). For the purposes of section 205 of title 18, a senior judge shall be considered to be a special government employee during such periods. Any provision of law that prohibits or limits the political or business activities of an employee of the United States shall apply to a senior judge only during such periods.

"(5) The court shall prescribe rules for the use and conduct of senior judges of the court. The chief judge of the court shall transmit such rules, and any amendments to such rules, to the Committees on Armed Services of the Senate and the House of Representatives not later than 15 days after the issuance of such rules or amendments, as the case may be.

"(6) For purposes of subchapter III of chapter 83 of title 5 (relating to the Civil Service Retirement and Disability System) and chapter 84 of such title (relating to the Federal Employees' Retirement System) and for purposes of any other Federal Government retirement system for employees of the Federal Government—

"(A) a period during which a senior judge performs duties referred to in paragraph (2) shall not be considered creditable service;

"(B) no amount shall be withheld from the pay of a senior judge as a retirement contribution under section 8334, 8343, 8422, or 8432 of title 5 or under any other such retirement system for any period during which the senior judge performs duties referred to in paragraph (2);

"(C) no contribution shall be made by the Federal Government to any retirement system with respect to a senior judge for any period during which the senior judge performs duties referred to in paragraph (2); and

"(D) a senior judge shall not be considered to be a reemployed annuitant for any period during which the senior judge performs duties referred to in paragraph (2).

"(f) SERVICE OF ARTICLE III JUDGES.—(1) The Chief Justice of the United States, upon the request of the chief judge of the court, may designate a judge of a United States court of appeals or of a United States district court to perform the duties of judge of the United States Court of Military Appeals—

"(A) during a period a judge of the court is unable to perform his duties because of illness or other disability; or

"(B) in any case in which a judge of the court recuses himself.

"(2) A designation under paragraph (1) may be made only with the consent of the designated judge and the concurrence of the chief judge of the court of appeals or district court concerned.

"(3) Per diem, travel allowances, and other allowances paid to the designated judge in connection with the performance of duties for the court shall be paid from funds available for the payment of per diem and such allowances for judges of the court.

"(g) EFFECT OF VACANCY ON COURT.—A vacancy on the court does not impair the right of the remaining judges to exercise the powers of the court.

"§ 943. Art. 143. Organization and employees

"(a) CHIEF JUDGE.—The President shall designate from time to time one of the judges of the United States Court of Military Appeals to be chief judge of the court.

"(b) PRECEDENCE OF JUDGES.—The chief judge of the court shall have precedence and preside at any session that he attends. The other judges shall have precedence and preside according to the seniority of their original commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

"(c) STATUS OF ATTORNEY POSITIONS.—(1) Attorney positions of employment under the Court of Military Appeals are excepted from the competitive service. Appointments to such positions shall be made by the court, without the concurrence of any other officer or employee of the executive branch, in the same manner as appointments are made to other executive branch positions of a confidential or policy-determining character for which it is not practicable to examine or to hold a competitive examination. Such positions shall not be counted as positions of that character for purposes of any limitation on the number of positions of that character provided in law.

"(2) In making appointments to the positions described in paragraph (1), preference shall be given, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of title 5).

"§ 944. Art. 144. Procedure

"The United States Court of Military Appeals may prescribe its rules of procedure and may determine the number of judges required to constitute a quorum.

"§ 945. Art. 145. Annuities for judges and survivors

"(a) RETIREMENT ANNUITIES FOR JUDGES.—(1) A person who has completed a term of service for which he was appointed as a judge of the United States Court of Military Appeals is eligible for an annuity under this section upon separation from civilian service in the Federal Government.

"(2) A person who is eligible for an annuity under this section shall be paid that annuity if, at the time he becomes eligible to receive that annuity, he elects to receive that annuity in lieu of any other annuity for which he may be eligible at the time of such election (whether an immediate or a deferred annuity) under subchapter III of chapter 83 or subchapter II of chapter 84 of title 5 or any other retirement system for civilian employees of the Federal Government. Such an election may not be revoked.

"(3)(A) The Secretary of Defense shall notify the Director of the Office of Personnel Management whenever an election under paragraph (2) is made affecting any right or interest under subchapter III of chapter 83 or subchapter II of chapter 84 of title 5 based on service as a judge of the United States Court of Military Appeals.

"(B) Upon receiving any notification under subparagraph (A) in the case of a person making an election under paragraph (2), the Director shall determine the amount of the the person's lump-sum credit under subchapter III of chapter 83 or subchapter II of chapter 84 of title 5, as applicable, and shall request the Secretary of the Treasury to transfer such amount from the Civil Service Retirement and Disability Fund to the Department of Defense Military Retirement Fund. The Secretary of the Treasury shall make any transfer so requested.

"(C) In determining the amount of a lump-sum credit under section 8331(8) of title 5 for purposes of this paragraph—

"(i) interest shall be computed using the rates under section 8334(e)(3) of such title; and

"(ii) the completion of 5 years of civilian service (or longer) shall not be a basis for excluding interest.

"(b) AMOUNT OF ANNUITY.—The annuity payable under this section to a person who makes an election under subsection (a)(2) is 80 percent of the rate of pay for a judge in active service on the United States Court of Military Appeals as of the date on which the person is separated from civilian service.

"(c) RELATION TO THRIFT SAVINGS PLAN.—Nothing in this section affects any right of any person to participate in the thrift savings plan under section 8351 of title 5 or subchapter III of chapter 84 of such title.

"(d) SURVIVOR ANNUITIES.—The Secretary of Defense shall prescribe by regulation a program to provide annuities for survivors and former spouses of persons receiving annuities under this section by reason of elections made by such persons under subsection (a)(2). That program shall, to the maxi-

mum extent practicable, provide benefits and establish terms and conditions that are similar to those provided under survivor and former spouse annuity programs under other retirement systems for civilian employees of the Federal Government. The program may include provisions for the reduction in the annuity paid the person as a condition for the survivor annuity. An election by a judge (including a senior judge) or former judge to receive an annuity under this section terminates any right or interest which any other individual may have to a survivor annuity under any other retirement system for civilian employees of the Federal Government based on the service of that judge or former judge as a civilian officer or employee of the Federal Government (except with respect to an election under subsection (g)(1)(B)).

"(e) COST-OF-LIVING INCREASES.—The Secretary of Defense shall periodically increase annuities and survivor annuities paid under this section in order to take account of changes in the cost of living. The Secretary shall prescribe by regulation procedures for increases in annuities under this section. Such system shall, to the maximum extent appropriate, provide cost-of-living adjustments that are similar to those that are provided under other retirement systems for civilian employees of the Federal Government.

"(f) DUAL COMPENSATION.—A person who is receiving an annuity under this section by reason of service as a judge of the court and who is appointed to a position in the Federal Government shall, during the period of such person's service in such position, be entitled to receive only the annuity under this section or the pay for that position, whichever is higher.

"(g) ELECTION OF JUDICIAL RETIREMENT BENEFITS.—(1) A person who is receiving an annuity under this section by reason of service as a judge of the court and who later is appointed as a justice or judge of the United States to hold office during good behavior and who retires from that office, or from regular active service in that office, shall be paid either (A) the annuity under this section, or (B) the annuity or salary to which he is entitled by reason of his service as such a justice or judge of the United States, as determined by an election by that person at the time of his retirement from the office, or from regular active service in the office, of justice or judge of the United States. Such an election may not be revoked.

"(2) An election by a person to be paid an annuity or salary pursuant to paragraph (1)(B) terminates (A) any election previously made by such person to provide a survivor annuity pursuant to subsection (d), and (B) any right of any other individual to receive a survivor annuity pursuant to subsection (d) on the basis of the service of that person.

"(h) SOURCE OF PAYMENT OF ANNUITIES.—Annuities and survivor annuities paid under this section shall be paid out of the Department of Defense Military Retirement Fund.

"§ 946. Art. 146. Code committee

"(a) ANNUAL SURVEY.—A committee shall meet at least annually and shall make an annual comprehensive survey of the operation of this chapter.

"(b) COMPOSITION OF COMMITTEE—The committee shall consist of—

"(1) the judges of the United States Court of Military Appeals;

"(2) the Judge Advocates General of the Army, Navy, and Air Force, the Chief Counsel of the Coast Guard, and the Staff Judge Advocate to the Commandant of the Marine Corps; and

"(3) two members of the public appointed by the Secretary of Defense.

"(c) REPORTS.—(1) After each such survey, the committee shall submit a report—

"(A) to the Committees on Armed Services of the Senate and House of Representatives; and

"(B) to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of Transportation.

"(2) Each report under paragraph (1) shall include the following:

"(A) Information on the number and status of pending cases.

"(B) Any recommendation of the committee relating to—

"(i) uniformity of policies as to sentences;

"(ii) amendments to this chapter; and

"(iii) any other matter the committee considers appropriate.

"(d) QUALIFICATIONS AND TERMS OF APPOINTED MEMBERS.—Each member of the committee appointed by the Secretary of Defense under subsection (b)(3) shall be a recognized authority in military justice or criminal law. Each such member shall be appointed for a term of three years.

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App. I) shall not apply to the committee.".

(d) TRANSITION FROM THREE-JUDGE COURT TO FIVE-JUDGE COURT.—(1) Effective during the period before October 1, 1990—

(A) the number of members of the United States Court of Military Appeals shall (notwithstanding subsection (a) of section 942 of title 10, United States Code, as enacted by subsection (c)) be three; and

(B) the maximum number of members of the court who may be appointed from the same political party shall (notwithstanding subsection (b)(3) of section 942) be two.

(2) In the application of paragraph (2) of section 942(b) of title 10, United States Code (as enacted by subsection (c)) to the judges who are first appointed to the two new positions of the court created as of October 1, 1990—

(A) with respect to one such judge (as designated by the President at the time of appointment), the anniversary referred to in subparagraph (A) of that paragraph shall be treated as being the seventh anniversary and the number of years referred to in subparagraph (B) of that paragraph shall be treated as being seven; and

(B) with respect to the other such judge (as designated by the President at the time of appointment), the anniversary referred to in subparagraph (A) of that paragraph shall be treated as being the thirteenth anniversary and the number of years referred to in subparagraph (B) of that paragraph shall be treated as being thirteen.

(e) TRANSITION RULES RELATING TO RETIREMENT OF NEW JUDGES.—(1) Except as otherwise provided in paragraphs (2) and (3), each judge to whom subsection (d)(2) applies shall be eligible for an annuity as provided in section 945 of title 10, United States Code, as enacted by subsection (c).

(2) The annuity of a judge referred to in paragraph (1) is computed under subsection (b) of such section 945 only if the judge—

(A) completes the term of service for which he is first appointed;

(B) is reappointed as a judge of the United States Court of Military Appeals at any time after the completion of such term of service;

(C) is separated from civilian service in the Federal Government after completing a total of 15 years as a judge of such court; and

(D) elects to receive an annuity under such section in accordance with subsection (a)(2) of such section.

(3) In the case of a judge referred to in paragraph (1) who is separated from civilian service after completing the term of service for which he is first appointed as a judge of the United States Court of Military Appeals and before completing a total of 15 years as a judge of such court, the annuity of such judge (if elected in accordance with section 945(a)(2) of title 10, United States Code) shall be 1/15 of the amount computed under subsection (b) of such section times the number of years (including any fraction thereof) of such judge's service as a judge of the court.

(f) APPLICABILITY OF AMENDED RETIREMENT PROVISIONS.—Except as otherwise provided in subsections (c) and (d), section 945 of title 10, United States Code, as enacted by subsection (c), applies with respect to judges of the United States Court of Military Appeals whose terms of service on such court end after September 28, 1988, and to the survivors of such judges.

(g) TERMS OF CURRENT JUDGES.—Section 942(b) of title 10, United States Code, as enacted by subsection (c), shall not apply to the term of office of a judge of the United States Court of Military Appeals serving on such court on the date of the enactment of this Act. The term of office of such a judge shall expire on the later of (A) the date the term of such judge would have expired under section 867(a)(1) of title 10, United States Code, as in effect on the day before such date of enactment, or (B) September 30 of the year in which the term of such judge would have expired under such section 867(a)(1).

(h) CIVIL SERVICE STATUS OF CURRENT EMPLOYEES.—Section 943(c) of title 10, United States Code, as enacted by subsection (c), shall not be applied to change the civil service status of any attorney who is an employee of the United States Court of Military Appeals on the day before the date of the enactment of this Act.

(i) TERMINATION OF AUTHORITY RELATING TO SERVICE OF ARTICLE III JUDGES AFTER 5 YEARS.—The authority of the Chief Justice of the United States under section 942(f) of title 10, United States Code, as enacted by subsection (c), shall terminate on September 30, 1995.

SEC. 1302. APPELLATE REVIEW OF ARTICLE 69 ACTIONS

(a) REVIEW.—Section 869 (article 69) of title 10, United States Code, is amended—

(1) in subsection (a), by striking out the third sentence; and

(2) by adding at the end the following:

"(d) A Court of Military Review may review, under section 866 of this title (article 66)—

"(1) any court-martial case which (A) is subject to action by the Judge Advocate General under this section, and (B) is sent to the Court of Military Review by order of the Judge Advocate General; and

"(2) any action taken by the Judge Advocate General under this section in such case.

"(e) Notwithstanding section 866 of this title (article 66), in any case reviewed by a Court of Military Review under this section, the Court may take action only with respect to matters of law.".

(b) EFFECTIVE DATE.—Subsection (e) of section 869 of title 10, United States Code, as added by subsection (a), shall apply with respect to cases in which a finding of guilty is

adjudged by a general court-martial after the date of the enactment of this Act.

SEC. 1303. INVESTIGATION OF JUDICIAL MISCONDUCT

Subchapter I of chapter 47 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 806a. Art. 6a. Investigation and disposition of matters pertaining to the fitness of military judges

"(a) The President shall prescribe procedures for the investigation and disposition of charges, allegations, or information pertaining to the fitness of a military judge or military appellate judge to perform the duties of the judge's position. To the extent practicable, the procedures shall be uniform for all armed forces.

"(b) The President shall transmit a copy of the procedures prescribed pursuant to this section to the Committees on Armed Services of the Senate and House of Representatives.".

SEC. 1304. TECHNICAL AND CONFORMING AMENDMENTS

(a) CLERICAL AMENDMENTS.—(1) The table of subchapters at the beginning of chapter 47 of title 10, United States Code, is amended by adding at the end the following new item:

"XII. Court of military appeals 941 141".

(2) The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"806a. 6a. Investigation and disposition of matters pertaining to the fitness of military judges.".

(b) CONFORMING AMENDMENTS.—(1) Section 869(a) (article 69(a)) of title 10, United States Code, is amended by striking out "section 867(b)(2) of this title (article 67(b)(2))" in the third sentence and inserting in lieu thereof "section 867(a)(2) of this title (article 67(a)(2))".

(2) Section 8337(a) of title 5, United States Code, is amended by striking out "section 867(a)(2)" in the fourth sentence and inserting in lieu thereof "section 942(c)".

(3) Section 1259 of title 28, United States Code, is amended by striking out "section 867(b)(1)", "section 867(b)(2)", and "section 867(b)(3)" and inserting in lieu thereof "section 867(a)(1)", "section 867(a)(2)", and "section 867(a)(3)", respectively.

TITLE XIV—MILITARY SURVIVOR BENEFIT PLAN

SEC. 1401. SHORT TITLE

This title may be cited as the "Military Survivor Benefits Improvement Act of 1989".

SEC. 1402. REVISED PREMIUM COMPUTATION FOR SURVIVOR BENEFIT PLAN ANNUITIES

(a) REVISION IN RETIRED PAY REDUCTION.—Subsection (a) of section 1452 of title 10, United States Code, is amended by striking out the matter preceding paragraph (2) and inserting in lieu thereof the following:

"(a) SPOUSE AND FORMER SPOUSE ANNUITIES.—

"(1) REQUIRED REDUCTION IN RETIRED PAY.—Except as provided in subsection (b), the retired pay of a participant in the Plan who is providing spouse coverage (as described in paragraph (5)) shall be reduced as follows:

"(A) STANDARD ANNUITY.—If the annuity coverage being providing is a standard annuity, the reduction shall be as follows:

"(i) DISABILITY AND NONREGULAR SERVICE RETIREES.—In the case of a person who is entitled to retired pay under chapter 61 or chapter 67 of this title, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

"(ii) MEMBERS AS OF ENACTMENT OF FLAT-RATE REDUCTION.—In the case of a person who first became a member of a uniformed service before March 1, 1990, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

"(iii) NEW ENTRANTS AFTER ENACTMENT OF FLAT-RATE REDUCTION.—In the case of a person who first becomes a member of a uniformed service on or after March 1, 1990, and who is entitled to retired pay under a provision of law other than chapter 61 or chapter 67 of this title, the reduction shall be in an amount equal to 6 1/2 percent of the base amount.

"(iv) ALTERNATIVE REDUCTION AMOUNTS.—For purposes of clauses (i) and (ii), the alternative reduction amounts are the following:

"(I) An amount equal to 6 1/2 percent of the base amount.

"(II) An amount equal to 2 1/2 percent of the first $337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount.

"(B) RESERVE-COMPONENT ANNUITY.—If the annuity coverage being provided is a reserve-component annuity, the reduction shall be in whichever of the following amounts is more favorable to that person:

"(i) An amount equal to 6 1/2 percent of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

"(ii) An amount equal to 2 1/2 percent of the first $337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.".

(b) PERSONS PROVIDING SPOUSE COVERAGE.—Such subsection is further amended by adding at the end the following new paragraph:

"(5) For the purposes of paragraph (1), a participant in the Plan who is providing spouse coverage is a participant who—

"(A) has (i) a spouse or former spouse, or (ii) a spouse or former spouse and a dependent child; and

"(B) has not elected to provide an annuity to a person designated by him under section 1448(b)(1) of this title or, having made such an election, has changed his election in favor of his spouse under section 1450(f) of this title.".

(c) CONFORMING AMENDMENT.—Subsection (a)(4) of such section is amended by striking out "amount under paragraph (1)(A)" in subparagraphs (A) and (B) and inserting in lieu thereof "amounts under paragraph (1)".

(d) RECOMPUTATION OF SBP PREMIUM FOR CURRENT PARTICIPANTS.—

(1) RECOMPUTATION.—The Secretary concerned shall recompute the SBP premium of persons described in paragraph (2). Any such recomputation shall take effect on March 1, 1990.

(2) PERSONS COVERED.—A person referred to in paragraph (1) as described in this paragraph is a person who on March 1, 1990—

(A) is entitled to retired pay;

(B) is providing spouse coverage (as described in paragraph (5) of section 1452 of title 10, United States Code, as added by subsection (b)); and

(C) is subject to an SBP premium in excess of 6 1/2 percent of the base amount of that person under the Survivor Benefit Plan.

(3) AMOUNT OF RECOMPUTED PREMIUM.—The amount of an SBP premium recomputed under this subsection shall be 6 1/2 percent of the base amount under the Survivor Benefit Plan of the person whose premium is recomputed.

(4) SBP PREMIUM DEFINED.—For purposes of this subsection, the term "SBP premium" means a reduction in retired pay under section 1452 of title 10, United States Code.

SEC. 1403. CORRECTION OF ANNUITY COMPUTATION FOR SURVIVORS OF CERTAIN RETIREMENT-ELIGIBLE OFFICERS DYING WHILE ON ACTIVE DUTY

(a) ANNUITY COMPUTATION BASED ON FINAL BASIC PAY.—Paragraph (3) of section 1451(c) of title 10, United States Code, is amended to read as follows:

"(3) In the case of an annuity provided by reason of the service of a member described in section 1448(d)(1)(B) or 1448(d)(1)(C) of this title who first became a member of a uniformed service before September 8, 1980, the retired pay to which the member would have been entitled when he died shall be determined for purposes of paragraph (1) based upon the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death, unless (as determined by the Secretary concerned) the member would have been entitled to be retired in a higher grade.".

(b) ADJUSTMENT OF ANNUITIES ALREADY IN EFFECT.—

(1) RECOMPUTATION.—The Secretary concerned shall recompute the annuity of any person who on the effective date specified in subsection (d) is entitled to an annuity under the Survivor Benefit Plan by reason of eligibility described in section 1448(d)(1)(B) or 1448(d)(1)(C) of title 10, United States Code, and who is further described in subsection (c).

(2) AMOUNT OF RECOMPUTED ANNUITIES.—The amount of the annuity as so recomputed shall be the amount that would be in effect for that annuity on the effective date specified in subsection (d) if the annuity had originally been computed subject to the provisions of paragraph (3) of section 1451(c) of title 10, United States Code, as amended by subsection (a).

(c) PERSONS ELIGIBLE FOR RECOMPUTATION.—A person is eligible to have an annuity under the Survivor Benefit Plan recomputed under subsection (b) if—

(1) the annuity is based upon the service of a member of the uniformed services who died on active duty during the period beginning on September 21, 1972, and ending on the effective date specified in subsection (d); and

(2) the retired pay of that member for the purposes of determining the amount of the annuity under the Survivor Benefit Plan was computed using a rate of basic pay lower than the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death.

(d) EFFECTIVE DATE.—An annuity recomputed under subsection (b) shall take effect as so recomputed on March 1, 1990.

SEC. 1404. PROGRAM TO PROVIDE SUPPLEMENTAL SPOUSE ANNUITY FOR MILITARY RETIREES

(a) ESTABLISHMENT OF PROGRAM.—(1) Effective on October 1, 1991, chapter 73 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—SUPPLEMENTAL SURVIVOR BENEFIT PLAN

"Sec.

"1456. Supplemental spouse coverage: establishment of plan; definitions.
"1457. Supplemental spouse coverage: payment of annuity; amount.
"1458. Supplemental spouse coverage: eligible participants; elections of coverage.
"1459. Former spouse coverage: special rules.
"1460. Supplemental spouse coverage: reductions in retired pay.
"1460a. Incorporation of certain administrative provisions.
"1460b. Regulations.

"§ 1456. Supplemental spouse coverage: establishment of plan; definitions

"(a) ESTABLISHMENT OF SUPPLEMENTAL SURVIVOR BENEFIT PLAN.—

"(1) PLAN.—The Secretary of Defense shall carry out a program in accordance with this subchapter to enable participants in the Survivor Benefit Plan who are providing coverage for a spouse or former spouse beneficiary under that Plan to also provide a supplemental annuity for that spouse or former spouse beginning when the participant dies or when the spouse or former spouse becomes 62 years of age, whichever is later, in order to offset the effects of the two-tier annuity computation under the Survivor Benefit Plan.

"(2) NAME OF PLAN.—The program under this subchapter shall be known as the Supplemental Survivor Benefit Plan.

"(b) DEFINITIONS.—

"(1) INCORPORATION OF DEFINITIONS APPLICABLE TO SURVIVOR BENEFIT PLAN.—The definitions in section 1447 of this title apply in this subchapter.

"(2) SUPPLEMENTAL SPOUSE ANNUITY DEFINED.—In this subchapter, the term 'supplemental spouse annuity' means an annuity provided to a spouse or former spouse under this subchapter.

"§ 1457. Supplemental spouse coverage: payment of annuity; amount

"(a) COMMENCEMENT OF ANNUITY.—A supplemental spouse annuity commences on the later of—

"(1) the day on which an annuity under the Survivor Benefit Plan becomes payable to the beneficiary; or

"(2) the first day of the first month after the month in which the beneficiary becomes 62 years of age.

"(b) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING STANDARD ANNUITY UNDER SBP.—In the case of a person providing a standard annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity for that beneficiary under this subchapter, the monthly annuity payable to the beneficiary under this subchapter shall be the amount equal to 20 percent of the base amount under the Survivor Benefit Plan of the person providing the annuity. The annuity shall be computed as of the date of the death of the person providing the annuity, notwithstanding that the annuity is not payable at that time by reason of subsection (a).

"(c) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING RESERVE-COMPONENT ANNUITY UNDER SBP.—In the case of a person providing a reserve-component annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity for that beneficiary under this subchapter, the monthly annuity payable to that beneficiary under this subchapter shall be determined as follows:

"(1) BENEFICIARY INITIALLY 62 YEARS OF AGE OR OLDER.—If the beneficiary is 62 years of age or older when the beneficiary becomes entitled to the reserve-component annuity under the Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity is the difference between—

"(A) the amount of the reserve-component annuity under the Survivor Benefit Plan to which the beneficiary would be entitled if that beneficiary were under 62 years of age (as computed under section 1451(a)(2)(A) of this title); and

"(B) the amount of the reserve-component annuity to which the beneficiary is entitled (as computed under section 1451(a)(2)(B) of this title).

"(2) BENEFICIARY INITIALLY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age when the beneficiary becomes entitled to the reserve-component annuity under the Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity of that beneficiary (commencing on the date specified in subsection (a)(2)) is the amount by which the beneficiary's annuity under the Survivor Benefit Plan is reduced (on the same day) under section 1451(d) of this title.

(3) EXCLUSION OF DIC OFFSET.—Computations under paragraphs (1) and (2) shall be made without regard to any reduction required under section 1450(c) of this title (or any other provision of law) with respect to the receipt of dependency and indemnity compensation under section 411 of title 38.

"(d) ADJUSTMENTS IN ANNUITIES.—

"(1) PERIODIC ADJUSTMENTS (COLAS).—Whenever annuities under the Survivor Benefit Plan are increased under section 1451(g)(1) of this title (or any other provision of law) or recomputed under section 1451(i) of this title, each annuity under this subchapter shall be increased or recomputed at the same time. The increase shall, in the case of any such annuity, be by the same percent as the percent by which the annuity of that beneficiary is increased or recomputed under the Survivor Benefit Plan.

"(2) ROUNDING DOWN.—The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(e) TERMINATION OF ANNUITY.—A supplemental spouse annuity terminates effective as of the first day of the month in which the beneficiary dies or otherwise becomes ineligible to continue to receive an annuity under the Survivor Benefit Plan.

"§ 1458. Supplemental spouse coverage: eligible participants; elections of coverage

"(a) COVERAGE.—

"(1) IN GENERAL.—A person who provides an annuity for a spouse or former spouse under the Survivor Benefit Plan may elect in accordance with this section to provide a supplemental spouse annuity for that spouse or former spouse.

"(2) COVERAGE CONTINGENT ON CONCURRENT SBP COVERAGE.—When a person providing a supplemental spouse annuity under this subchapter ceases to be a participant under the Survivor Benefit Plan, that person's coverage under this subchapter automatically terminates.

"(3) ELECTIONS TO BE VOLUNTARY.—A person may not be ordered or required to elect (or to enter into an agreement to elect) to provide a spouse or former spouse with a supplemental spouse annuity under this subchapter. Except as provided in section 1459(b) of this title, in no case shall a person be deemed to have made an election to provide a supplemental annuity for a spouse or former spouse of such person.

"(b) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under this section if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of this title. However, such a person may waive the right to have that annuity computed under section 1451(e) of this title. Any such election is irrevocable. A person making such a waiver may make an election under this section as in the case of any other participant in the Survivor Benefit Plan.

"(c) ELECTION OF SUPPLEMENTAL SPOUSE ANNUITY BEFORE BECOMING A PARTICIPANT IN SBP.—

"(1) IN GENERAL.—A person anticipating becoming a participant in the Survivor Benefit Plan who has a spouse or former spouse may elect to provide a supplemental spouse annuity under this subchapter for that spouse or former spouse.

"(2) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) must be made before the day on which the person making the election first becomes a participant in the Survivor Benefit Plan; and

"(B) shall be made in the same manner as an election under section 1448 of this title that is available to that person at the same time.

"(3) REQUIREMENT OF SPOUSE ANNUITY UNDER SBP.—If upon becoming a participant in the Survivor Benefit Plan under section 1448 of this title the person is not providing an annuity for the person's spouse or former spouse, an election under this section to provide a supplemental spouse annuity shall be void.

"(4) SPECIAL RULE FOR RCSBP PARTICIPANTS.—For the purposes of this subsection, a person providing a reserve-component annuity under the Survivor Benefit Plan shall not be considered to have become a participant in that Plan until the end of the 90-day period referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(d) ELECTION OF FORMER SPOUSE AFTER BECOMING ELIGIBLE FOR SURVIVOR BENEFIT PLAN.—

"(1) ELECTION OF COVERAGE.—A person who elects under section 1448(b)(3) of this title to provide coverage under the Survivor Benefit Plan for a former spouse may elect to provide a supplemental spouse annuity for that former spouse. Any such election must be signed by the person and received by the Secretary concerned within one year after the date of the decree of divorce, dissolution, or annulment.

"(2) EFFECTIVE DATE OF ELECTION.—An election under paragraph (1) is effective as of the same day as the election under section 1448(b)(3) of this title.

"(e) NOTICE TO SPOUSE OF FORMER SPOUSE COVERAGE.—If a married person who is eligible to provide an annuity under the Survivor Benefit Plan elects to provide an annuity under that Plan for a former spouse (or for a former spouse and dependent child) and elects under this section to provide a supplemental spouse annuity for that former spouse, the notification to the person's spouse under section 1448(a)(3)(E) or 1448(b)(3)(D) of this title shall include notice of the election under this section.

"(f) IRREVOCABILITY OF ELECTIONS.—

"(1) STANDARD ANNUITY.—An election under subsection (c) to provide a supplemental spouse annuity by a person providing a standard annuity under the Survivor Benefit Plan is irrevocable if not revoked on the

day before the date on which the person first becomes a participant in that Plan.

"(2) RESERVE-COMPONENT ANNUITY.—An election under subsection (c) to provide a supplemental spouse annuity by a person providing a reserve-component annuity under the Survivor Benefit Plan is irrevocable if not revoked before the end of the 90-day period with respect to that person referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(3) FORMER SPOUSE ELECTIONS.—An election under subsection (d) may not be revoked except in accordance with subsection (h).

"(g) REMARRIAGE AFTER RETIREMENT.—

"(1) ELECTION UPON REMARRIAGE.—A person—

"(A) who is a participant in the Survivor Benefit Plan and is providing coverage under that Plan for a spouse (or a spouse and child) but is not a participant in the Supplemental Survivor Benefit Plan;

"(B) who does not have an eligible spouse beneficiary under that Plan; and

"(C) who remarries,

may (subject to paragraph (2)) elect to provide a supplemental spouse annuity under this subchapter for the person's spouse.

"(2) LIMITATIONS ON ELECTION.—A person may not make an election under paragraph (1) if the person elects under section 1448(a)(6)(A) of this title not to provide coverage under the Survivor Benefit Plan for the person's spouse.

"(3) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) is irrevocable;

"(B) shall be made within one year after the remarriage; and

"(C) shall be made in such form and manner as may be prescribed in regulations under section 1460b of this title.

"(h) CHANGE OF FORMER SPOUSE BENEFICIARY TO SPOUSE OR CHILD BENEFICIARY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter elects under section 1450(f)(1) of this title to change the beneficiary of the annuity under the Survivor Benefit Plan in order to provide an annuity under that Plan to that person's spouse or to a dependent child—

"(1) the beneficiary under the supplemental spouse annuity shall be deemed to be changed to that spouse also, if the change under section 1450(f)(1) was to provide the annuity for the person's spouse; and

"(2) participation in the supplemental spouse annuity program shall be terminated, if the change under section 1450(f)(1) of this title was to provide the annuity for a dependent child.

"(i) REINSTATEMENT OF DISCONTINUED ANNUITY UPON REINSTATEMENT OF SBP ANNUITY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter discontinues participation in the Survivor Benefit Plan under any provision of law and subsequently resumes participation in that Plan under any provision of law, the participation of that person in the Supplemental Survivor Benefit Plan under this chapter shall be reinstated effective on the day on which participation in the Survivor Benefit Plan resumes.

"§ 1459. Former spouse coverage: special rules

"(a) DISCLOSURE OF VOLUNTARY WRITTEN AGREEMENT WITH FORMER SPOUSE.—A person who elects under section 1458 of this title to provide a supplemental spouse annuity for a former spouse shall, at the time of making the election, provide the Secretary concerned with a written statement (in a form to be prescribed by that Secretary and signed by such person and former spouse) setting forth whether the election is being made pursuant to a written agreement previously entered into voluntarily by such person as a part of or incident to a proceeding of divorce, dissolution, or annulment and (if so) whether such voluntary written agreement has been incorporated in, or ratified or approved by, a court order.

"(b) ENFORCEMENT OF VOLUNTARY WRITTEN AGREEMENTS INCIDENT TO DIVORCE, ETC.—

"(1) ELECTIONS DEEMED TO HAVE BEEN MADE.—If a person who is eligible to elect under section 1458 of this title to provide a supplemental spouse annuity for a former spouse voluntarily enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to elect to provide a supplemental annuity for a former spouse and that agreement is incorporated in or ratified or approved by a court order or is filed with the court of appropriate jurisdiction in accordance with applicable State law, and such person then fails or refuses to make the election as set forth in the voluntary agreement, such person shall be deemed to have made the election if the Secretary concerned—

"(A) receives from the former spouse concerned a written request, in such manner as the Secretary shall prescribe, requesting that the election be deemed to have been made; and

"(B) receives (i) a copy of the court order, regular on its face, which incorporates, ratifies, or approves the written agreement of such person, or (ii) a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable State law.

"(2) TIME LIMIT FOR REQUEST TO SECRETARY CONCERNED.—An election may not be deemed to have been made under paragraph (1) in the case of any person unless the Secretary concerned receives a request from the former spouse within one year after the date of the court order or filing involved.

"(3) EFFECTIVE DATE OF DEEMED ELECTION.—An election deemed to have been made under paragraph (1) shall become effective on the first day of the first month which begins after the date of the court order or filing involved.

"§ 1460. Supplemental spouse coverage: reductions in retired pay

"(a) REDUCTION REQUIRED.—The retired pay of a person who elects to provide a supplemental spouse annuity shall be reduced each month as required under regulations prescribed under subsection (b).

"(b) REGULATIONS DETERMINING AMOUNT OF REDUCTION.—Regulations for the purposes of subsection (a) shall be prescribed by the Secretary of Defense. Those regulations shall be based upon assumptions used by the Department of Defense Retirement Board of Actuaries in the valuation of military retirement and survivor benefit programs under chapter 74 of this title (including assumptions relating to mortality, interest rates, and inflation) and shall ensure the following:

"(1) That reductions in retired pay under this section are made in amounts sufficient to provide that the Supplemental Survivor Benefit Plan operates on an actuarially neutral basis.

"(2) That such reductions are stated, with respect to the base amount (under the Survivor Benefit Plan) of any person, as a constant percentage of that base amount.

"(3) That the amounts of such reductions in retired pay of persons participating in the Supplemental Survivor Benefit Plan (stated as a percentage of base amount)—

"(A) are based on the age of the participant at the time participation in that Plan is first effective under this subchapter; and

"(B) are not determined by any other demographic differentiation among participants in the Plan.

"(4) That such reductions are otherwise determined in accordance with generally accepted actuarial principles and practices.

"(c) SUSPENSION OF REDUCTION WHEN THERE IS NO SPOUSE BENEFICIARY.—A reduction in retired pay under this section shall not be made in the case of any person during any month in which there is no eligible spouse or former spouse beneficiary.

"(d) ADJUSTMENTS IN AMOUNT OF REDUCTION.—Whenever the amount of the reduction in retired pay of a participant in the Survivor Benefit Plan is increased under section 1452(h) of this title or recomputed under section 1452(i) of this title, the amount of the reduction in that retired pay under this section shall be increased or recomputed, as the case may be, at the same time and in the same manner as that increase or recomputation.

"(e) ADMINISTRATIVE PROVISIONS.—The provisions of subsections (d) and (f) of section 1452 of this title apply with respect to the participation of a person in the Supplemental Survivor Benefit Plan in the same manner that those provisions apply under the Survivor Benefit Plan.

"§ 1460a. Incorporation of certain administrative provisions

"(a) APPLICABILITY OF CERTAIN PROVISIONS OF SBP LAW.—The provisions of section 1449, 1452(g), 1453, and 1454 of this title are applicable to a person eligible to make an election, and to an election, under this subchapter in the same manner as if made under subchapter II.

"(b) OTHER APPLICABLE PROVISIONS.—Except to the extent otherwise provided in regulations prescribed under section 1460b of this title, the provisions of subsections (h), (i), and (l) of section 1450 of this title apply to supplemental spouse annuities in the same manner that those provisions apply to annuities under the Survivor Benefit Plan.

"§ 1460b. Regulations

"The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the uniformed services and shall, so far as practicable, incorporate provisions of the regulations in effect under section 1455 of this title.".

(2) Effective on October 1, 1991, the table of subchapters at the beginning of chapter 73 of such title is amended by adding at the end the following new item:

"III. Supplemental Spouse Coverage for Survivor Benefit Plan Participants ..... 1456".

(b) CONFORMING AMENDMENTS.—(1) Section 1331(d) of title 10, United States Code, is amended by inserting "and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter," after "this title".

(2) Section 3101(c)(1) of title 38, United States Code, is amended by striking out "of subchapter I or II".

(3) The amendments made by paragraphs (1) and (2) shall take effect on October 1, 1991.

SEC. 1405. OPEN ENROLLMENT PERIOD

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 1404.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period elect to—

(1) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or

(2) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 1404.

(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan and under that Plan is providing annuity coverage for the person's spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under paragraph (1) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section. Any such election is irrevocable. A person making such a waiver may make an election under paragraph (1) as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the one-year period beginning on October 1, 1991.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(i) REPORT CONCERNING OPEN SEASON.—Not later than June 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the open season authorized by this section for the Survivor Benefit Plan. The report shall include—

(1) a description of the Secretary's plans for implementation of the open season;

(2) the Secretary's estimates of the costs associated with the open season, including any anticipated effect of the open season on the actuarial status of the Department of Defense Military Retirement Fund; and

(3) any recommendation by the Secretary for further legislative action.

SEC. 1406. DEFINITIONS

For the purpose of this title:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

(3) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

SEC. 1407. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS

(a) GENERAL AMENDMENTS.—Subchapter II of chapter 73 of title 10, United States Code, is amended as follows:

(1) Section 1447 is amended—

(A) in paragraph (5), by striking out "this clause" both places it appears and inserting in lieu thereof "this paragraph";

(B) in paragraph (11), by inserting "paid under section 6330 of this title" after "retainer pay"; and

(C) by adding at the end the following new paragraph:

"(14) The term 'reserve-component retired pay' means retired pay under chapter 67 of this title.".

(2) Sections 1447(2)(B), 1447(2)(C)(ii), 1448(a)(1)(B), 1448(a)(2)(B), 1448(f)(1)(A), 1448(f)(1)(B), and 1450(l)(1) are amended by striking out "retired pay under chapter 67 of this title" and inserting in lieu thereof "reserve-component retired pay".

(3) Sections 1447(2)(C)(i), 1447(3), 1447(4), 1448(a)(4)(A), 1449, and 1450(l)(2) are amended by striking out "or retainer".

(4) Section 1450(f)(3)(B) is amended—

(A) by striking out "before October 1, 1985, or"; and

(B) by striking out ", whichever is later".

(5) Section 1451(c)(4) is amended by inserting "by reason of the service of a person who first became a member of a uniformed service before September 8, 1980" after "of this title".

(6) Section 1451(e)(1) is amended by striking out "plan" in the matter preceding subparagraph (A) and inserting in lieu thereof "Plan".

(7) Section 1451(e)(1)(B) is amended—

(A) by striking out "is" each place it appears and inserting in lieu thereof "was";

(B) by striking out "has" in clause (ii) and inserting in lieu thereof "had"; and

(C) by striking out "would be" in clause (iii) and inserting in lieu thereof "would have been".

(8) Section 1451(e)(2) is amended by striking out "(as the base amount is adjusted from time to time under section 1401a of this title)" in subparagraphs (A) and (B).

(9) Section 1452(h) is amended—

(A) by inserting "(or any other provision of law)" after "of this title" the first place it appears; and

(B) by striking out "increased under section 1401a of this title" and inserting in lieu thereof "so increased".

(10)(A) The heading of section 1454 is amended to read as follows:

"§ 1454. Correction of administrative errors".

(B) The item relating to that section in the table of sections at the beginning of that subchapter is amended to read as follows:

"1454. Correction of administrative errors.".

(b) PARITY OF TREATMENT OF FORMER SPOUSES AND SURVIVING SPOUSES.—(1) Section 1451(e) of title 10, United States Code, is amended by inserting "or former spouse" in paragraphs (3)(A) and (4)(A) after "widow or widower".

(2) The amendments made by paragraph (1) shall apply only with respect to the computation of an annuity for a person who becomes a former spouse under a divorce that becomes final after the date of the enactment of this Act.

TITLE XV—MILITARY CHILD CARE

SEC. 1501. SHORT TITLE; DEFINITIONS

(a) SHORT TITLE.—This title may be cited as the "Military Child Care Act of 1989".

(b) DEFINITIONS.—For purposes of this title:

(1) The term "military child development center" means a facility on a military installation (or on property under the jurisdiction of the commander of a military installation) at which child care services are provided for members of the Armed Forces or any other facility at which such child care services are provided that is operated by the Secretary of a military department.

(2) The term "family home day care" means home-based child care services that are provided for members of the Armed Forces by an individual who (A) is certified by the Secretary of the military department concerned as qualified to provide those services, and (B) provides those services on a regular basis for compensation.

(3) The term "child care employee" means a civilian employee of the Department of Defense who is employed to work in a military child development center (regardless of whether the employee is paid from appropriated funds or nonappropriated funds).

(4) The term "child care fee receipts" means those nonappropriated funds that are derived from fees paid by members of the Armed Forces for child care services provided at military child development centers.

SEC. 1502. FUNDING FOR MILITARY CHILD CARE FOR FISCAL YEAR 1990

(a) FISCAL YEAR 1990 FUNDING.—(1) It is the policy of Congress that the amount of appropriated funds available during fiscal year 1990 for operating expenses for military child development centers shall not be less than the amount of child care fee receipts that are estimated to be received by the Department of Defense during that fiscal year. Of the amount authorized to be appropriated for the Department of Defense for fiscal year 1990, $102,000,000 shall be available for operating expenses for military child development centers.

(2) In addition to the amount referred to in paragraph (1), $26,000,000 shall be available for child care and child-related services of the Department other than military child development centers.

(3) In using the funds referred to in paragraph (1), the Secretary shall give priority to—

(A) increasing the number of child care employees who are directly involved in providing child care for members of the Armed Forces; and

(B) expanding the availability of child care for members of the Armed Forces.

(b) FUNDS DERIVED FROM PARENT FEES TO BE USED FOR EMPLOYEE COMPENSATION AND OTHER CHILD-CARE SERVICES.—(1) Except as provided in paragraph (2), child care fee receipts may be used during fiscal year 1990 only for compensation of child care employees who are directly involved in providing child care.

(2) If the Secretary of Defense determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Secretary may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—

(A) first, for the purchase of consumable or disposable items for military child development centers; and

(B) if the requirements of such centers for consumable or disposable items for fiscal year 1990 have been met, for other expenses of those centers.

(c) REPORT.—(1) Not later than December 31, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on how the Secretary intends to use the funds referred to in subsection (a), including how the Secretary intends to achieve the priorities specified in paragraph (3) of that subsection.

(2) If at the time such report is submitted the Secretary proposes to use the authority provided by subsection (b)(2), the Secretary shall include in the report under paragraph (1) a description of the use proposed to be made of that authority and a statement of the reasons why the Secretary determined that compliance with the limitation in subsection (b)(1) would result in an uneconomical and inefficient use of child care fee receipts, together with supporting cost information and other information justifying the determination.

(3) If the Secretary uses such authority after December 31, 1989, the Secretary shall promptly inform the committees of the use of the authority and of the reasons for its use.

SEC. 1503. CHILD CARE EMPLOYEES

(a) REQUIRED TRAINING.—(1) The Secretary of Defense shall establish, and prescribe regulations to implement, a training program for child care employees. Those regulations shall apply uniformly among the military departments. Subject to paragraph (2), satisfactory completion of the training program shall be a condition of employment of any person as a child care employee.

(2) Under those regulations, the Secretary shall require that each child care employee complete the training program not later than six months after the date on which the employee is employed as a child care employee (except that, in the case of a child care employee hired before the date on which the training program is established, the Secretary shall require that the employee complete the program not later than six months after that date).

(3) The training program established under this subsection shall cover, at a minimum, training in the following:

(A) Early childhood development.

(B) Activities and disciplinary techniques appropriate to children of different ages.

(C) Child abuse prevention and detection.

(D) Cardiopulmonary resuscitation and other emergency medical procedures.

(b) TRAINING AND CURRICULUM SPECIALISTS.—(1) The Secretary of Defense shall require that at least one employee at each military child development center be a specialist in training and curriculum development. The Secretary shall ensure that such employees have appropriate credentials and experience.

(2) The duties of such employees shall include the following:

(A) Special teaching activities at the center.

(B) Daily oversight and instruction of other child care employees at the center.

(C) Daily assistance in the preparation of lesson plans.

(D) Assistance in the center's child abuse prevention and detection program.

(E) Advising the director of the center on the performance of other child care employees.

(3) Each employee referred to in paragraph (1) shall be an employee in a competitive service position.

(c) PROGRAM TO TEST COMPETITIVE RATES OF PAY.—(1) For the purpose of improving the capability of the Department of Defense to provide military child development centers with a qualified and stable civilian workforce, the Secretary of Defense shall conduct a program as provided in this subsection to increase the compensation of child care employees. The Secretary shall begin the program not later than six months after the date of the enactment of this Act. The program shall be in effect for a period of at least two years.

(2) The program shall apply to all child care employees who—

(A) are directly involved in providing child care; and

(B) are paid from nonappropriated funds.

(3) Under the program, child care employees at a military installation who are described in paragraph (2) shall be paid—

(A) in the case of entry-level employees, at rates of pay competitive with the rates of pay paid to other entry-level employees at that installation who are drawn from the same labor pool; and

(B) in the case of other employees, at rates of pay substantially equivalent to the rates of pay paid to other employees at that installation with similar training, seniority, and experience.

(d) EMPLOYMENT PREFERENCE TEST PROGRAM FOR MILITARY SPOUSES.—(1) The Secretary of Defense shall conduct a test program under which qualified spouses of members of the Armed Forces shall be given a preference in hiring for the position of child care employee in a position paid from nonappropriated funds if the spouse is among persons determined to be best qualified for the position. A spouse who is provided a preference under this subsection at a military child development center may not be precluded from obtaining another preference, in accordance with section 806 of the Military Family Act of 1985 (10 U.S.C. 113 note), in the same geographical area as the military child development center.

(2) The test program under this subsection shall run concurrently with the program under subsection (c).

(e) REPORT ON COMPENSATION AND SPOUSE EMPLOYMENT PREFERENCE PROGRAMS.—Not later than March 1, 1991, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the programs under subsections (c) and (d). The report shall include the findings of the Secretary concerning the effect of each of the programs on the quality of child care provided in military child development centers and the effect of the spouse employment preference program on employee turnover at such centers.

(f) ADDITIONAL CHILD CARE POSITIONS.—(1) The Secretary of Defense shall make available for child care programs of the Department of Defense, not later than September 30, 1990, at least 1,000 competitive service positions in addition to the number of competitive service positions in such programs as of September 30, 1989. During fiscal year 1991, the Secretary shall make available to child care programs of the Department additional competitive service positions so that the number of competitive service positions in such programs as of September 30, 1991, is at least 3,700 greater than the number of competitive service positions in such programs as of September 30, 1989.

(2) The Secretary may waive the increase otherwise required by the second sentence of paragraph (1) to the extent that the Secretary determines that such increase is not executable. If the Secretary issues such a waiver, the Secretary shall promptly submit

to the Committees on Armed Services of the Senate and House of Representatives a report on the waiver. Any such report shall specify the number of such positions waived and the reasons for the waiver.

(3) The additional positions provided for in paragraph (1), and the workyears associated with those positions, that are used outside the United States shall not be counted for purpose of applying any limitation on the total number of positions or workyears, respectively, available to the Department of Defense outside the United States (or any limitation on the availability of appropriated funds for such positions or workyears for any fiscal year).

(g) COMPETITIVE SERVICE POSITION DEFINED.—For purposes of this section, the term "competitive service position" means a position in the competitive service, as defined in section 2102(a)(1) of title 5, United States Code.

SEC. 1504. PARENT FEES

The Secretary of Defense shall prescribe regulations establishing fees to be charged parents for the attendance of children at military child development centers. Those regulations shall be uniform for the military departments and shall require that, in the case of children who attend the centers on a regular basis, the fees shall be based on family income.

SEC. 1505. CHILD ABUSE PREVENTION AND SAFETY AT FACILITIES

(a) CHILD ABUSE TASK FORCE.—The Secretary of Defense shall establish and maintain a special task force to respond to allegations of widespread child abuse at a military installation. The task force shall be composed of personnel from appropriate disciplines, including, where appropriate, medicine, psychology, and childhood development. In the case of such allegations, the task force shall provide assistance to the commander of the installation, and to parents at the installation, in helping them to deal with such allegations.

(b) NATIONAL HOTLINE.—(1) The Secretary of Defense shall establish and maintain a national telephone number for persons to use to report suspected child abuse or safety violations at a military child development center or family home day care site. The Secretary shall ensure that such reports may be made anonymously if so desired by the person making the report. The Secretary shall establish procedures for following up on complaints and information received over that number.

(2) The Secretary shall establish such national telephone number not later than 90 days after the date of the enactment of this Act and shall publicize the existence of the number.

(c) ASSISTANCE FROM LOCAL AUTHORITIES.—The Secretary of Defense shall prescribe regulations requiring that, in a case of allegations of child abuse at a military child development center or family home day care site, the commander of the military installation or the head of the task force established under subsection (a) shall seek the assistance of local child protective authorities if such assistance is available.

(d) SAFETY REGULATIONS.—The Secretary of Defense shall prescribe regulations on safety and operating procedures at military child development centers. Those regulations shall apply uniformly among the military departments.

(e) INSPECTIONS.—The Secretary of Defense shall require that each military child development center be inspected not less often than four times a year. Each such inspection shall be unannounced. At least one inspection a year shall be carried out by a representative of the installation served by the center, and one inspection a year shall be carried out by a representative of the major command under which that installation operates.

(f) REMEDIES FOR VIOLATIONS.—(1) Except as provided in paragraph (2), any violation of a safety, health, or child welfare law or regulation (discovered at an inspection or otherwise) at a military child development center shall be remedied immediately.

(2) In the case of a violation that is not life threatening, the commander of the major command under which the installation concerned operates may waive the requirement that the violation be remedied immediately for a period of up to 90 days beginning on the date of the discovery of the violation. If the violation is not remedied as of the end of that 90-day period, the military child development center shall be closed until the violation is remedied. The Secretary of the military department concerned may waive the preceding sentence and authorize the center to remain open in a case in which the violation cannot reasonably be remedied within that 90-day period or in which major facility reconstruction is required.

(3) If a military child development center is closed under paragraph (2), the Secretary of the military department concerned shall promptly submit to the Committees on Armed Services of the Senate and House of Representatives a report notifying those committees of the closing. The report shall include—

(A) notice of the violation that resulted in the closing and the cost of remedying the violation; and

(B) a statement of the reasons why the violation has not been remedied as of the time of the report.

(g) REPORT ON COOPERATION WITH DEPARTMENT OF JUSTICE.—(1) The Secretary of Defense, in consultation with the Attorney General, shall study matters relating to military child care that are of concern to the Department of Justice. The matters studied shall include the following:

(A) Improving communication between the Department of Defense and the Department of Justice in investigations of child abuse in military programs and in the coordination of the conduct of such investigations.

(B) Eliminating overlapping responsibilities between the two departments.

(C) Making better use of government and non-government experts in child abuse investigations and prosecutions.

(D) Improving communication with affected families by the Department of Defense, the Department of Justice, and appropriate State and local agencies

(2) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the study required by paragraph (1). The report shall include recommendations on methods for improving the matters studied.

(3) Not later than nine months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report evaluating the findings in the report submitted under paragraph (2).

SEC. 1506. PARENT PARTNERSHIPS WITH CHILD DEVELOPMENT CENTERS

(a) PARENT BOARDS.—The Secretary of Defense shall require that there be established at each military child development center a board of parents, to be composed of parents of children attending the center. The board shall meet periodically with staff of the center and the commander of the installation served by the center for the purpose of discussing problems and concerns. The board, together with the staff of the center, shall be responsible for coordinating the parent participation program described in subsection (b).

(b) PARENT PARTICIPATION PROGRAMS.—The Secretary of Defense shall require the establishment of a parent participation program at each military child development center. As part of such program, the Secretary of Defense may establish fees for attendance of children at such a center, in the case of parents who participate in the parent participation program at that center, at rates lower than the rates that otherwise apply.

SEC. 1507. REPORT ON FIVE-YEAR DEMAND FOR CHILD CARE

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the expected demand for child care by military and civilian personnel of the Department of Defense during fiscal years 1991 through 1995.

(b) PLAN FOR MEETING DEMAND.—The report shall include—

(1) a plan for meeting the expected child care demand identified in the report; and

(2) an estimate of the cost of implementing that plan.

(c) MONITORING OF FAMILY DAY CARE PROVIDERS.—The report shall also include a description of methods for monitoring family home day care programs of the military departments.

SEC. 1508. SUBSIDIES FOR FAMILY HOME DAY CARE

The Secretary of Defense may use appropriated funds available for military child care purposes to provide assistance to family home day care providers so that family home day care services can be provided to members of the Armed Forces at a cost comparable to the cost of services provided by military child development centers. The Secretary shall prescribe regulations for the provision of such assistance.

SEC. 1509. EARLY CHILDHOOD EDUCATION DEMONSTRATION PROGRAM

(a) DEMONSTRATION PROGRAM FOR ACCREDITED CENTERS.—(1) The Secretary of Defense shall carry out a program to demonstrate the effect on the development of preschool children of requiring that military child development centers meet standards of operation necessary for accreditation by an appropriate national early childhood programs accrediting body. To carry out such demonstration program, the Secretary shall ensure that not later than June 1, 1991, at least 50 military child development centers are accredited by such an appropriate national early childhood accrediting body.

(2) Each military child development center so accredited shall be designated as an early childhood education demonstration project and shall serve as a program model for other military child development centers and family home day care providers at military installations.

(b) PLAN FOR IMPLEMENTATION.—Not later than April 1, 1990, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a plan for carrying out the requirements of subsection (a).

(c) EVALUATION.—The Secretary shall obtain an independent evaluation of the

demonstration program carried out under subsection (a) to determine the extent to which the imposition of a requirement that military child development centers meet accreditation standards effectively promotes the development of preschool children of members of the Armed Forces. The Secretary shall report the results of the evaluation to Congress, together with such comments and recommendations as the Secretary considers appropriate, not later than July 15, 1992.

SEC. 1510. DEADLINE FOR REGULATIONS

Regulations required to be prescribed by this title shall be prescribed not later than 90 days after the date of the enactment of this Act.

TITLE XVI—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

SEC. 1601. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1990 between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON OBLIGATION LIMITATIONS.—A transfer made under the authority of this section increases by the amount of the transfer the obligation limitation provided in this division on the account (or other amount) to which the transfer is made.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1602. RESTATEMENT AND CLARIFICATION OF REQUIREMENT FOR CONSISTENCY IN THE BUDGET PRESENTATIONS OF THE DEPARTMENT OF DEFENSE

(a) RESTATEMENT AND CLARIFICATION.—(1) Chapter 2 of title 10, United States Code, is amended by inserting after section 114 the following new section:

"§ 114a. Five-Year Defense Program: submission to Congress; consistency in budgeting

"(a) The Secretary of Defense shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, the current five-year defense program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget.

"(b)(1) The Secretary of Defense shall ensure that amounts described in subparagraph (A) of paragraph (2) for any fiscal year are consistent with amounts described in subparagraph (B) of paragraph (2) for that fiscal year.

"(2) Amounts referred to in paragraph (1) are the following:

"(A) The amounts specified in program and budget information submitted to Congress by the Secretary in support of expenditure estimates and proposed appropriations in the budget submitted to Congress by the President under section 1105(a) of title 31 for any fiscal year, as shown in the five-year defense program submitted pursuant to subsection (a).

"(B) The total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress under that section for any fiscal year.

"(c) Nothing in this section shall be construed to prohibit the inclusion in the five-year defense program of amounts for management contingencies, subject to the requirements of subsection (b).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 114 the following new item:

"114a. Five-Year Defense Program: submission to Congress; consistency in budgeting.".

(b) CONFORMING AMENDMENT.—Section 114 of title 10, United States Code, is amended by striking out subsections (f) and (g).

SEC. 1603. LIMITATION ON RESTORATION OF WITHDRAWN UNOBLIGATED BALANCES

(a) CONDITIONS ON RESTORATION.—(1) Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2782. Unobligated balances withdrawn from availability for obligation: limitations on restoration

"(a)(1) If a defense funds restoral to provide funds for a program, project, or activity to cover amounts required for late contract changes would cause the total amount of such restorals during a fiscal year for late contract changes for that program, project or activity to exceed $4,000,000, the restoral action may only be carried out if—

"(A) the Secretary of the military department concerned, or the Secretary of Defense, with respect to a program, project, or activity administered by a Defense Agency, determines that such action is necessary to pay obligations and make adjustments under an existing contract; and

"(B) the action is approved by the Secretary of Defense (or an officer of the Department of Defense within the Office of the Secretary of Defense to whom the Secretary has delegated the authority to approve such an action).

"(2) A contract change shall be considered to be a late contract change for purposes of paragraph (1) if it is made after the end of the period of availability for obligation of the account to which funds are to be restored under the restoral action.

"(b) In a case in which any defense funds restoral to provide funds for a program, project, or activity of the Department of Defense would cause the total amount so restored during a fiscal year for that program, project or activity to exceed $25,000,000, the restoral action may not be taken until—

"(1) the Secretary of Defense submits to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a notice in writing of the intent to restore such funds, together with a description of the legal basis for the proposed action and the policy reasons for the proposed action; and

"(2) a period of 30 days has elapsed after the notice is submitted.

"(c) In this section:

"(1) The term 'defense funds restoral' means a restoration of funds authorized by section 1552(a)(2) of title 31 to an appropriation account of the Department of Defense.

"(2) The term 'contract change' means a change to a contract under which the contractor is required to perform additional work. Such term does not include adjustments to pay claims or increases under a so-called 'escalation clause'.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2782. Unobligated balances withdrawn from availability for obligation: limitations on restoration.".

(b) REPORT ON STATUS OF AIR FORCE FUNDS IN TREASURY M ACCOUNT.—The Secretary of Defense shall submit to the congressional defense committees a report on the status of the availability of expired or lapsed funds of the Department of the Air Force in the Department of Treasury Account known as the "M Account". The report shall include an accounting of all funds for the B–1B aircraft program that have been transferred to that account and the amount of those funds that have been withdrawn or obligated from that account. The report shall be submitted concurrently with the submission to Congress of the budget for fiscal year 1991.

SEC. 1604. PROHIBITION ON TRANSFER OF FUNDS TO OTHER DEPARTMENTS AND AGENCIES

Funds made available pursuant to this or any other Act for military functions of the Department of Defense may not be made available to any other department or agency of the Federal Government pursuant to a provision of law enacted after the date of the enactment of this Act unless, not less than 30 days before such funds are made available to such other department or agency, the Secretary of Defense submits to the congressional defense committees a report describing the effect on military preparedness of making such funds available to such department or agency.

SEC. 1605. AUTHORITY TO TRANSFER FUNDS TO DEPARTMENT OF ENERGY

(a) TRANSFERS FOR ATOMIC ENERGY DEFENSE ACTIVITIES.—During fiscal year 1990, the Secretary of Defense may transfer to the Department of Energy, from funds appropriated to the Department of Defense, such sums (not to exceed $135,000,000) as the Secretary of Defense and the Secretary of Energy, with the approval of the President, determine are necessary for Atomic Energy Defense Activities. Funds so transferred shall be merged with, and shall be available for the same time period as, the appropriation account to which transferred.

(b) CONGRESSIONAL NOTICE-AND-WAIT.—A transfer may not be made under subsection (a) until—

(1) the Secretary of Defense notifies the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives in writing of the proposed transfer and of the source of the funds for the proposed transfer; and

(2) a period of 30 days elapses after the notice is received by those committees.

SEC. 1606. ONE-YEAR DELAY IN ANY CHANGE IN POLICY RESPECTING REIMBURSEMENT OF DEPARTMENT OF DEFENSE FUNDS FOR SALARIES OF MEMBERS OF THE ARMED FORCES ASSIGNED TO DUTY IN CONNECTION WITH FOREIGN MILITARY SALES PROGRAMS

(a) ONE-YEAR DELAY.—Charges for administrative services calculated under section 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e)) in connection with the sale of defense articles or defense services may not exclude recovery of administrative expenses incurred by the Department of Defense before October 1, 1990, that are attributable to salaries of members of the Armed Forces if the recovery of such administrative expenses would have been allowed under the law in effect on September 30, 1989. Reimbursement of Department of Defense military personnel appropriation accounts for the value of services provided during fiscal year 1990 in connection with the sale of defense articles or defense services may not be denied or limited except to the extent permitted under the law in effect on September 30, 1989.

(b) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 1607. REPAIR AND REPLACEMENT OF PROPERTY OF THE DEPARTMENT OF DEFENSE DAMAGED OR DESTROYED BY HURRICANE HUGO

(a) Subject to subsection (b), the Secretary of Defense may take such action as he considers necessary to repair damage to real property, facilities, equipment, and other property of the Department of Defense caused by hurricane Hugo in September 1989 or to replace any such property damaged beyond economical repair by that hurricane.

(b) The authority of the Secretary under subsection (a) is subject to the availability of appropriations that may be used for the purposes described in such subsection.

PART B—NAVAL VESSELS AND SHIPYARDS

SEC. 1611. IDENTIFICATION AND HANDLING OF HAZARDOUS WASTES IN NAVAL SHIP REPAIR WORK

(a) REVISION OF REQUIRED CONTRACT PROVISIONS.—Section 7311 of title 10, United States Code, is amended to read as follows:

"§ 7311. Repair or maintenance of naval vessels: handling of hazardous waste

"(a) CONTRACTUAL PROVISIONS.—The Secretary of the Navy shall ensure that each contract entered into for work on a naval vessel (other than new construction) includes the following provisions:

"(1) IDENTIFICATION OF HAZARDOUS WASTES.—A provision in which the Navy identifies the types and amounts of hazardous wastes that are required to be removed by the contractor from the vessel, or that are expected to be generated, during the performance of work under the contract, with such identification by the Navy to be in a form sufficient to enable the contractor to comply with Federal and State laws and regulations on the removal, handling, storage, transportation, or disposal of hazardous waste.

"(2) COMPENSATION.—A provision specifying that the contractor shall be compensated under the contract for work performed by the contractor for duties of the contractor specified under paragraph (3).

"(3) STATEMENT OF WORK.—A provision specifying the responsibilities of the Navy and of the contractor, respectively, for the removal (including the handling, storage, transportation, and disposal) of hazardous wastes.

"(4) ACCOUNTABILITY FOR HAZARDOUS WASTES.—(A) A provision specifying the following:

"(i) In any case in which the Navy is the sole generator of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear a generator identification number issued to the Navy pursuant to applicable law.

"(ii) In any case in which the contractor is the sole generator of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear a generator identification number issued to the contractor pursuant to applicable law.

"(iii) In any case in which both the Navy and the contractor are generators of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear both a generator identification number issued to the Navy and a generator identification number issued to the contractor pursuant to applicable law.

"(B) A determination under this paragraph of whether the Navy is a generator, a contractor is a generator, or both the Navy and a contractor are generators, shall be made in the same manner provided under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) and regulations promulgated under that subtitle.

"(b) RENEGOTIATION OF CONTRACT.—The Secretary of the Navy shall renegotiate a contract described in subsection (a) if—

"(1) the contractor, during the performance of work under the contract, discovers hazardous wastes different in type or amount from those identified in the contract; and

"(2) those hazardous wastes originated on, or resulted from material furnished by the Government for, the naval vessel on which the work is being performed.

"(c) REMOVAL OF WASTES.—The Secretary of the Navy shall remove known hazardous wastes from a vessel before the vessel's arrival at a contractor's facility for performance of a contract, to the extent such removal is feasible.

"(d) RELATIONSHIP TO SOLID WASTE DISPOSAL ACT.—Nothing in this section shall be construed as altering or otherwise affecting those provisions of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that relate to generators of hazardous waste. For purposes of this section, any term used in this section for which a definition is provided by the Solid Waste Disposal Act (or regulations promulgated pursuant to such Act) has the meaning provided by that Act or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any contract for work on a naval vessel (other than new construction) entered into after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 1612. PROGRESS PAYMENTS UNDER NAVAL VESSEL REPAIR CONTRACTS

Section 7312 of title 10, United States Code, is amended—

(1) by striking out "90 percent" and "85 percent" in subsection (a) and inserting in lieu thereof "95 percent" and "90 percent", respectively; and

(2) by striking out "(other than a nuclear-powered vessel) for work required to be performed in one year or less" in subsection (b).

SEC. 1613. FUNDING FOR SHIP PRODUCTION ENGINEERING

(a) CATEGORY FOR FUNDING.—Any request submitted to Congress for appropriations for ship production engineering necessary to support the procurement of any ship included (at the time the request is submitted) in the five-year shipbuilding and conversion plan of the Navy shall be set forth in the Shipbuilding and Conversion account of the Navy (rather than in research and development accounts).

(b) APPLICABILITY.—Subsection (a) shall apply only with respect to appropriations for a fiscal year after fiscal year 1990.

SEC. 1614. DEPOT-LEVEL MAINTENANCE OF SHIPS HOMEPORTED IN JAPAN

(a) REQUIREMENT THAT CERTAIN WORK BE PERFORMED IN UNITED STATES.—The Secretary of the Navy shall require that, to the extent feasible and consistent with policies of the Navy regarding family separations, not less than one-half of the depot-level maintenance work described in subsection (b) (measured in cost) shall be carried out in shipyards in the United States (including the territories of the United States).

(b) WORK COVERED.—Depot-level maintenance work referred to in subsection (a) is depot-level maintenance work for naval vessels that is scheduled as of October 1, 1989, to be carried out in Japan during fiscal years 1990, 1991, and 1992.

(c) CONFORMING REPEAL.—Section 1226 of Public Law 100-456 (102 Stat. 2055) is repealed.

SEC. 1615. REPORT ON ALTERNATIVES TO NAVY OXYGEN BREATHING APPARATUS FOR SHIPBOARD FIREFIGHTING

(a) STUDY.—The Secretary of the Navy shall evaluate alternatives to the Oxygen Breathing Apparatus (OBA) of the Navy used in shipboard firefighting. The evaluation shall include consideration of—

(1) firefighting breathing devices which are used by other government agencies;

(2) firefighting breathing devices which are commercially available; and

(3) undeveloped technologies which could lead to the development of a more effective breathing device for shipboard firefighting.

(b) CRITERIA.—In performing the evaluation under subsection (a), the Secretary shall consider the following criteria for firefighting breathing devices:

(1) Uninterrupted breathing duration.

(2) Adaptability to shipboard space limitations.

(3) Portability in use.

(4) Training requirements for effective use.

(5) Cost.

(6) Availability.

(c) REPORT.—(1) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation under subsection (a). The report shall include an acquisition plan for providing an improved breathing

apparatus for shipboard firefighting as soon as possible. In preparing that plan, the Secretary shall consider the use of any available expedited research and development and acquisition procedures.

(2) The report shall be submitted no later than 180 days after the date of the enactment of this Act.

SEC. 1616. STRIPPING OF NAVAL VESSELS TO BE USED FOR EXPERIMENTAL PURPOSES

Section 7306 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary of the Navy,"; and

(2) by adding at the end the following:

"(b)(1) Before using any vessel for an experimental purpose pursuant to this section, the Secretary shall carry out such stripping of the vessel as is practicable.

"(2) Amounts received as a result of stripping of vessels pursuant to this subsection shall be credited to applicable appropriations available for the procurement of scrapping services under this subsection, to the extent necessary for the procurement of those services. Amounts received which are in excess of amounts necessary for procuring those services shall be deposited into the general fund of the Treasury.

"(3) In providing for stripping of a vessel pursuant to this subsection, the Secretary shall ensure that such stripping does not destroy or diminish the structural integrity of the vessel.".

PART C—TECHNICAL CORRECTIONS AND GENERAL TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1621. TECHNICAL AMENDMENTS TO CONFORM REFERENCES TO CREATION OF DEPARTMENT OF VETERANS AFFAIRS

(a) TITLE 10 UNITED STATES CODE.—Title 10, United States Code is amended as follows:

(1) The following sections are amended by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs": sections 176(a)(3), 772(g), 1174(h)(2), 1201(3)(B), 1203(4)(A), 1203(4)(B), 1203(4)(C), 1204(4)(B), 1206(4), 1209, 1210(c), 1210(d), 1210(e), 1212(c), 1218(a)(1), 1431(b)(1), 1433 (in two places), 1441, 1449, 1450(h), 1452(g)(1), 1452(g)(5), 1476(b), 2641(a), 2641(b)(1) (in two places), 2641(d)(2), 4342(a)(1), 4621(d), 4683(a)(1), 4713(c), 6954(a)(1), 7603, 9342(a)(1), 9621(d), and 9713(c).

(2) The following sections are amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs": sections 1074(b), 1216(c), 1476(a)(2), 1477(b)(5)(C), 1480(b), 1480(c), 1552(e), 1553(a), 1553(c), 1554(c), 2006(d), 2641(b) (in two places), and 6160(b).

(3) Section 1086(g) is amended by striking out "Veterans' Administration facilities" and inserting in lieu thereof "facilities of the Department of Veterans Affairs".

(4) Sections 1168(b) and 1218(c) are amended by striking out "Veterans' Administration facility" and inserting in lieu thereof "facility of the Department of Veterans Affairs".

(5) Section 1480(c) is amended by striking out "the Secretary or the Administrator" and inserting in lieu thereof "the Secretary concerned or the Secretary of Veterans Affairs".

(6) Section 2006(d) is amended by striking out "the Administrator" in the second sentence and inserting in lieu thereof "the Secretary of Veterans Affairs".

(7)(A) The heading of section 2185 is amended to read as follows:

"§ 2185. Programs to be consistent with programs administered by the Department of Veterans Affairs".

(B) The item relating to such section in the table of sections at the beginning of chapter 110 is amended to read as follows:

"2185. Programs to be consistent with programs the Department of Veterans Affairs.'.

(8) Section 2641(b)(1) is amended by striking out "the Administrator requests" and inserting in lieu thereof "the Secretary of Veterans Affairs requests".

(9) Section 2679 is amended—

(A) in subsection (a)—

(i) by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs";

(ii) by inserting "concerned" after "Secretary" the second and third places it appears; and

(iii) by striking out "the Administrator," and inserting in lieu thereof "the Secretary of Veterans Affairs,"; and

(B) in subsection (c), by striking out "the Administrator" and inserting in lieu thereof "the Secretary of Veterans Affairs".

(10) The text of each of sections 3446 and 8446 is amended to read as follows:

"The President may retain on active duty a disabled officer until—

"(1) the physical condition of the officer is such that the officer will not be further benefited by retention in a military hospital or a medical facility of the Department of Veterans Affairs; or

"(2) the officer is processed for physical disability benefits as provided by law.".

(b) TITLE 37 UNITED STATES CODE.—Title 37, United States Code is amended as follows:

(1) Section 602(b)(5) is amended by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs".

(2) Section 603 is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

SEC. 1622. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE

(a) CORRECTION OF DUPLICATE SECTION NUMBERS.—The second section 7313 of title 10, United States Code (enacted by section 1225 of Public Law 100-456), is redesignated as section 7314, and the item relating to that section in the table of sections at the beginning of chapter 633 of such title is revised to reflect that redesignation.

(b) TRANSFER AND REDESIGNATION OF SECTION.—(1) Section 975 of title 10, United States Code, is transferred to chapter 141, inserted after section 2389, and redesignated as section 2390.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2389 the following new item:

"2390. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.".

(3) The table of sections at the beginning of chapter 49 of such title is amended by striking out the item relating to section 975.

(c) PUNCTUATION AND CAPITALIZATION CORRECTIONS.—Title 10, United States Code, is further amended as follows:

(1) Section 113(j)(2)(B) is amended by striking out "Five-Year Defense Program" and inserting in lieu thereof "five-year defense program".

(2) The item relating to section 421 in the table of sections at the beginning of chapter 21 is amended to read as follows:

"421. Funds for foreign cryptologic support.".

(3) Section 421(c) is amended—

(A) by inserting "of Representatives" after "of the House"; and

(B) by striking out "National Security Act of 1947, as amended, and funds" and inserting in lieu thereof "National Security Act of 1947 (50 U.S.C. 413 et seq.). Funds".

(4) Section 1482(e) is amended by striking out "chapter 10, title 37" and inserting in lieu thereof "chapter 10 of title 37".

(5) Section 2325(d) is amended by striking out "previously-developed" and inserting in lieu thereof "previously developed".

(6) Subparagraph (D) of section 2326(g)(1) is amended by striking out "(D) Congressionally-mandated" and inserting in lieu thereof "(D) Congressionally mandated".

(7) Sections 2463(b) and 2464(b)(3)(A) are amended by striking out "Committee on Appropriations" and inserting in lieu thereof "Committees on Appropriations".

(8) Section 7309(a) is amended by inserting a comma after "armed forces".

(d) REVISION TO PART HEADING.—

(1) The heading of part III of subtitle A of title 10, United States Code, is amended to read as follows:

"PART III—TRAINING AND EDUCATION"

(2) The item relating to that part in the table of chapters at the beginning of subtitle A of that title is amended to read as follows:

"PART III—TRAINING AND EDUCATION"

(e) DEFINITIONS.—Title 10, United States Code, is further amended as follows:

(1) Section 138(a)(2) is amended—

(A) by striking out "(A) 'Operational'" and inserting in lieu thereof "(A) The term 'operational'"; and

(B) by striking out "(B) 'Major'" and inserting in lieu thereof "(B) The term 'major'".

(2) Section 1032(d) is amended—

(A) by striking out "(1) 'Dependent'" and inserting in lieu thereof "(1) The term 'dependent'"; and

(B) by inserting "The term" after "(2)".

(3) Section 1094(d) is amended—

(A) by striking out "(1) 'License'" and inserting in lieu thereof "(1) The term 'license'"; and

(B) by striking out "(2) 'Health-care'" and inserting in lieu thereof "(2) The term 'health-care'".

(4) Section 1586(g) is amended—

(A) by striking out "For the purposes of this section—" and inserting in lieu thereof "In this section:";

(B) by inserting "The term" in paragraphs (1) and (2) after the paragraph designation; and

(C) by striking out "; and" at the end of paragraph (1) and inserting in lieu thereof a period.

(5) Sections 1095(g), 4348(d), and 9348(d) are amended by inserting "the term" after "In this section,".

(6) Section 1408(a) is amended—

(A) by inserting "The term" in each paragraph after the paragraph designation; and

(B) by revising the first word after the open quotation marks in each paragraph so that the initial letter of that word is lower case.

(7) Section 1461(b) is amended by inserting "the term" after "In this chapter,".

(8) Sections 5441, 6964(a), and 7081(a) are amended by inserting ", the term" after "In this chapter".

(f) AMENDMENTS FOR STYLISTIC CONSISTENCY.—Title 10, United States Code, is further amended as follows:

(1) Section 2575(a) is amended by striking out "of this section" in the first sentence.

(2) Section 7422(c)(2)(B) is amended by striking out "one hundred eighty days prior to" and inserting in lieu thereof "180 days before".

(g) DATE OF ENACTMENT REFERENCE.—Section 6334(a) of title 10, United States Code, is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "December 4, 1987".

(h) OBSOLETE PROVISIONS.—(1) Section 194 of title 10, United States Code, is amended by striking out "After September 30, 1989, the" in subsections (a) and (b) and inserting in lieu thereof "The".

(2) Section 601 of Public Law 99-433 (10 U.S.C. 194 note) is amended by striking out "Effective on October 1, 1988, the" in subsection (a)(1) and inserting in lieu thereof "The".

SEC. 1623. AMENDMENTS TO SECTION 8125 OF PUBLIC LAW 101-463

Section 8125 of Public Law 100-463 (10 U.S.C. 113 note; 102 Stat. 2270-41) is amended as follows:

(1) Subsection (c) is amended—

(A) by striking out "incude" and inserting in lieu thereof "include";

(B) by inserting a comma after "burden-sharing";

(C) by striking out "assistance costs: Provided, That the" and inserting in lieu thereof "assistance costs. The"; and

(D) by striking out "Department of" and inserting in lieu thereof "Secretaries of".

(2) Subsection (d) is amended—

(A) by striking out "in the budgets" and inserting in lieu thereof "in each budget";

(B) by striking out "for fiscal years after fiscal year 1989" and inserting in lieu thereof "(1)"; and

(C) by inserting "(2)" after "military units, and".

(3) Subsection (f) is amended—

(A) in the first sentence, by striking out "after fiscal year 1989"; and

(B) in the second sentence—

(i) by striking out "provided for" and inserting in lieu thereof "in";

(ii) by inserting "(1)" after "if and when"; and

(iii) by inserting "(2)" after "that nation, and".

(4) Subsection (g) is amended—

(A) by striking out "Department of Defense" before "budget submissions" in paragraph (1);

(B) by striking out "1989, and shall detail: (A) a description of" in paragraph (1) and inserting in lieu thereof "1989 and shall set forth a detailed descripton of (A)";

(C) by striking out "the House and Senate" in paragraph (2) and inserting in lieu thereof "the Senate and House of Representatives,"; and

(D) by inserting "outside the United States" in paragraph (2) after "duty stations ashore".

SEC. 1624. REPORT ON RECURRING PROVISIONS OF DEFENSE APPROPRIATIONS ACT

(a) REPORT.—Not later than April 1, 1990, the Secretary of Defense shall submit to the defense committees of Congress a report on recurring provisions of law enacted in the General Provisions title of the Department of Defense Appropriations Act, 1990.

(b) MATTERS TO BE INCLUDED.—With respect to each provision covered by the report, the report shall indicate the following:

(1) When the provision (or a substantially similar provision) was first included in an annual Department of Defense Appropriations Act.

(2) The original policy reason (as nearly as the Secretary can determine) for the inclusion of such a provision.

(3) The Secretary's assessment as to whether that reason still pertains and whether there are additional policy reasons for the continuing inclusion of the provision in annual Acts making appropriations for the Department of Defense.

(4) The Secretary's recommendation as to whether the policy of that provision should continue to be provided by law and, if the recommendation is that the policy should not continue to be provided by law, a detailed statement of the reasons for such recommendation.

(5) In the case of each provision which the Secretary recommends under paragraph (4) should continue to be provided by law, the recommendation of the Secretary as to whether such provision should continue to be included in annual Acts making appropriations for the Department of Defense or whether it would be desirable for Congress to enact such provision as permanent law and, if the recommendation is that the policy should not be enacted as permanent law, a detailed statement of the reasons for such recommendation.

(c) DRAFT OF PROPOSED LEGISLATION.—The report shall include a draft of proposed legislation for the codification into title 10, United States Code, or other appropriate statutes of those provisions covered by the report which the Secretary recommends (under subsection (b)(5)) would be desirable for Congress to enact as permanent law.

(d) UPDATE OF EARLIER REPORT.—The report shall be an update of the report submitted by the General Counsel of the Department of Defense pursuant to section 1267 of the Department of the Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 705).

(e) DEFINITIONS.—For purposes of this section:

(1) The term "defense committees of Congress" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

(2) The term "recurring provision" means a provision of an appropriations Act which (1) is not permanent law, and (2) has been enacted in substantially the same form in previous Acts making appropriations for the same purpose.

PART D—MISCELLANEOUS

SEC. 1631. STUDY OF PROTECTION OF UNITED STATES CIVIL AVIATION FROM TERRORIST ACTIVITIES OVERSEAS

(a) STUDY.—The Secretary of Defense shall conduct a study on the feasibility and desirability of the United States, at the request of a foreign government, deploying military personnel or providing military equipment in areas under the jurisdiction of that government to assist that government in the protection of United States civil aviation interests from terrorist activity. The study should also undertake to determine what programs of the Department of Defense (1) have application to enhancing civil aviation security, and (2) could be quickly adopted by the Federal Aviation Administration for that purpose.

(b) RESEARCH AND DEVELOPMENT MATTERS TO BE STUDIED.—The study shall include a review of United States Government programs concerning research and development in areas relating to explosives detection, terrorist identification, and anti-terrorist operations.

(c) INTERAGENCY COORDINATION.—The study shall be conducted in consultation with the Secretary of State and the Administrator of the Federal Aviation Administration.

(d) SUBMISSION OF REPORT.—The Secretary shall submit to Congress a report on the study (including the Secretary's findings, conclusions, and recommendations) within six months after the date of enactment of this Act.

SEC. 1632. DEDICATION OF CORRIDOR IN PENTAGON TO SERVICE MEMBERS WHO SERVED IN SPACE-RELATED ACTIVITIES

It is the sense of Congress that the Secretary of Defense should dedicate an appropriate corridor in the Pentagon building to commemorate the service of the members of the Armed Forces who have served in space-related activities, including service with the National Aeronautics and Space Administration, the United States Space Command, and the Strategic Defense Initiative Organization.

SEC. 1633. DELEGATION AUTHORITY WITH RESPECT TO ADMIRALTY CLAIMS BY OR AGAINST THE UNITED STATES

Sections 4802(c), 4803(c), 7622(c), 7623(c), 9802(c), and 9803(c) of title 10, United States Code, are each amended by striking out "$10,000" and inserting in lieu thereof "$100,000".

SEC. 1634. AUTHORITY TO ACCEPT VOLUNTARY SERVICES FOR NATURAL RESOURCES PROGRAMS

Section 1588(a) of title 10, United States Code, is amended by striking out "a museum" and inserting in lieu thereof "a museum, a natural resources program,".

SEC. 1635. FINDINGS AND CONGRESSIONAL DECLARATIONS CONCERNING SERVICE IN THE NATIONAL GUARD AND RESERVES

(a) FINDINGS.—Congress makes the following findings:

(1) Citizens and nationals of the United States have taken up arms to defend their homes and communities, and to secure and preserve the independence of the United States, from the earliest days of the Nation.

(2) The concept of the citizen-soldier has been a keystone of the defense strategy of the Nation.

(3) Members of the National Guard and Reserves have served proudly and honorably in every war or conflict involving United States Armed Forces.

(4) The Total Force Policy of the United States, by placing significant portions of wartime mission capability and selected day-to-day operations in the National Guard and Reserve, has reinforced the proposition that the Guard and Reserve are essential elements of the national defense establishment of the United States.

(5) During the 1980's, Congress and the Department of Defense have demonstrated their increasing reliance and confidence in the National Guard and Reserve by expanding missions, increasing training requirements, and providing new state-of-the-art weapons and support equipment.

(6) The National Guard and Reserve represent a very cost-effective arm of the Total Force, preserving combat capability and retaining valuable trained human resources, especially during periods of austere defense budgets.

(7) Participation by citizens in the National Guard and Reserve enhances the military readiness of the United States and demonstrates the resolve of the citizenry to protect and preserve American values.

(8) Participation in the National Guard and Reserve improves the economy by providing individuals with job skills and education.

(b) CONGRESSIONAL DECLARATIONS.—In light of the findings in subsection (a), Congress—

(1) reaffirms that service in the National Guard and Reserve is in the highest traditions of military service to the country and acknowledges the valuable contribution that the men and women who serve in the National Guard and Reserve are making to their country;

(2) encourages Guard and Reserve participation by all elements of American society; and

(3) continues to support reliance on the National Guard and Reserve as full partners in the Total Force.

SEC. 1636. EXPANSION OF SCOPE OF CIVIL RESERVE AIR FLEET ENHANCEMENT PROGRAM

(a) DEFINITIONS.—(1) Paragraph (2) of section 9511 of title 10, United States Code, is amended to read as follows:

"(2) The term 'passenger-cargo combined aircraft' means a civil aircraft equipped so that its main deck can be used to carry both passengers and property (including mail) simultaneously.".

(2) Paragraph (5) of such section is amended to read as follows:

"(5) The term 'cargo-convertible aircraft' means a passenger aircraft equipped or designed so that all or substantially all of the main deck of the aircraft can be readily converted for the carriage of property or mail.".

(3) Paragraph (8) of such section is amended by striking out "a civil aircraft" in clause (A) and all that follows through "defense purposes" and inserting in lieu thereof "a new or existing aircraft and who contracts with the Secretary to modify that aircraft by including or incorporating specified defense features".

(4) Such section is further amended by adding at the end the following new paragraph:

"(12) The term 'defense feature' means equipment or design features included or incorporated in a civil aircraft which ensures the interoperability of such aircraft with the Department of Defense airlift system. Such term includes any equipment or design feature which enables such aircraft to be readily modified for use as a cargo-convertible, cargo-capable, or passenger-cargo combined aircraft.".

(b) CONTRACT AUTHORITY.—Section 9512 of such title is amended to read as follows:

"§ 9512. Contracts for the inclusion or incorporation of defense features

"(a) Subject to the provisions of chapter 137 of this title, and to the extent that funds are otherwise available for obligation, the Secretary—

"(1) may contract with any citizen of the United States for the inclusion or incorporation of defense features in any new or existing aircraft to be owned or controlled by that citizen; and

"(2) may contract with United States aircraft manufacturers for the inclusion or incorporation of defense features in new aircraft to be operated by a United States air carrier.

"(b) Each contract entered into under subsection (a) shall include the terms required by section 9513 of this title and a provision that requires the contractor to repay to the United States a percentage (to be established in the contract) of any amount paid by the United States to the contractor under the contract with respect to any aircraft if—

"(1) the aircraft is destroyed or becomes unusable, as defined in the contract;

"(2) the defense features specified in the contract are rendered unusable or are removed from the aircraft;

"(3) control over the aircraft is transferred to any person that is unable or unwilling to assume the contractor's obligations under the contract; or

"(4) the registration of the aircraft under section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is terminated for any reason not beyond the control of the contractor.

"(c)(1) A contract under subsection (a) for the inclusion or incorporation of defense features in an aircraft may include a provision authorizing the Secretary—

"(A) to contract, with the concurrence of the contractor, directly with another person for the performance of the work necessary for the inclusion or incorporation of defense features in such aircraft; and

"(B) to pay such other person directly for such work.

"(2) A contract entered into pursuant to paragraph (1) may include such specifications for work and equipment as the Secretary considers necessary to meet the needs of the United States.".

(c) CLERICAL AMENDMENTS.—(1) The heading of section 9513 is amended to read as follows:

"§ 9513. Commitment of aircraft to the Civil Reserve Air Fleet"

(2) The items relating to sections 9512 and 9513 in the table of sections at the beginning of chapter 931 of title 10, United States Code, are amended to read as follows:

"9512. Contracts for the inclusion or incorporation of defense features.
"9513. Commitment of aircraft to the Civil Reserve Air Fleet.".

SEC. 1637. REPORT ON CERTAIN PERSONS PARTICIPATING IN RADIATION-RISK ACTIVITIES

(a) REPORT.—The Secretary of Defense shall prepare, in consultation with the Secretary of Veterans Affairs, a report identifying the number of persons who, while serving on active-duty for training, inactive-duty training, or as a military technician of the National Guard, participated in a radiation-risk activity, but are not covered under section 312(c) of title 38, United States Code (as added by the Radiation-Exposed Veterans Compensation Act of 1988; Public Law 100-321). For purposes of the report, the term 'radiation-risk activity' has the meaning given that term by section 312(c)(4) of such title.

(b) DEADLINE.—The report required by subsection (a) shall be submitted to Congress not later than February 15, 1990.

SEC. 1638. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING KIDNAPPING AND MURDER OF LIEUTENANT COLONEL HIGGINS

(a) FINDINGS.—Congress makes the following findings:

(1) The radical, Lebanese-based terrorist organization which calls itself the "Organization of the Oppressed of the Earth" announced on July 31, 1989, that it had executed Lieutenant Colonel William R. Higgins, a United States Marine assigned for service with the United Nations in the U.N. Truce Supervision Organization (UNTSO), who was kidnapped in southern Lebanon on February 17, 1988.

(2) That organization claimed to have executed Lieutenant Colonel Higgins in response to the capture on July 28, 1989, by Israeli commandos of a radical Muslim Shiite leader, Sheik Abdul Karim Obeid, believed to be associated with that organization.

(3) That organization released to certain news agencies a videotape showing Lieutenant Colonel Higgins killed by hanging, though many forensic experts believe the videotape indicates that the person shown did not die from hanging.

(4) The kidnapping of Lieutenant Colonel Higgins, who was engaged only in carrying out the legitimate United Nations peacekeeping activities to which he had been assigned, was wholly unjustified.

(5) It is absolutely clear that the kidnapping and the murder of Lieutenant Colonel Higgins were outrageous acts of terrorism that deserve the condemnation of all civilized people.

(6) There is strong evidence that the Government of Iran has supported the organization responsible for Lieutenant Colonel Higgins's kidnapping and murder, as well as other terrorist and extremist forces inside Lebanon and throughout the Middle East.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress is outraged by the kidnapping and murder of Lieutenant Colonel Higgins and condemns those actions as barbaric, cowardly, and utterly incompatible with the standards of conduct upheld by civilized people;

(2) the President should use all available resources of the United States Government, including diplomatic and intelligence channels, to determine the identity of those persons responsible for the kidnapping and murder and the details regarding those terrorist acts;

(3) the President should determine whether it would be possible to identify and bring to justice, or to retaliate against, those persons responsible for the kidnapping and murder in a manner consistent with United States and international legal requirements that would reduce the risk to Americans from terrorism;

(4) the President should take strong and decisive action, possibly including the use of military force, to prevent or respond to acts of international terrorism. Such actions should be taken in concert with other nations where practicable, but the President should be prepared to act unilaterally, if necessary;

(5) the United States should make clear to the new leadership in Iran (A) that the United States will not tolerate a continuation of past policies of support of groups which undertake terrorist actions against American citizens or direct assaults on American vital interests in the Middle East or elsewhere, and (B) that if such support should continue, the United States will hold the authorities in Iran accountable for that support and act accordingly;

(6) the Secretary General of the United Nations should take all necessary steps to help ensure that the body of Lieutenant Colonel Higgins is returned to his country and family and that those responsible for his kidnapping and murder are immediately brought to justice;

(7) the President should engage in urgent and continuing diplomatic contacts with all other governments concerning their policies and actions which might have relevance to the interests of the United States Government or increase the vulnerability of the United States citizens to attacks by terrorists; and

(8) the President should continue to consult with other nations to ensure international cooperation and coordination to end terrorist attacks.

SEC. 1639. REPORTS ON CONTROLS ON TRANSFER OF MISSILE TECHNOLOGY AND CERTAIN WEAPONS TO OTHER NATIONS

(a) REQUIREMENT FOR SUBMISSION OF PREVIOUSLY REQUIRED REPORT.—Section 901(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1135) is amended by striking out "February 1, 1988" and inserting in lieu thereof "60 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 1991".

(b) REPORT ON MANPOWER REQUIRED TO IMPLEMENT EXPORT CONTROLS ON CERTAIN WEAPONS TRANSFERS.—(1) Not later than February 1, 1990, the Secretary of Defense shall submit to Congress a report relating to Department of Defense manpower required to implement export controls on certain weapons transfers. In the report, the Secretary shall—

(A) identify the role of the Department of Defense in implementing export controls on nuclear, chemical, and biological weapons;

(B) describe the number and skills of personnel currently available in the Department of Defense to perform such role; and

(C) assess the adequacy of the level of personnel resources described in subparagraph (B) for the effective performance of such role.

(2) The report required by paragraph (1) shall identify the total number of current Department of Defense full-time employees or military personnel, and the grades of such personnel and the special knowledge, experience, and expertise of such personnel, required to carry out each of the following activities of the Department in implementing export controls on nuclear, chemical, and biological weapons:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Technology security operations.

(F) Technical review.

(3) The report shall include the Secretary's assessment of the adequacy of staffing in each of the categories specified in subparagraphs (A) through (F) of paragraph (2) and shall make recommendations concerning measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination with respect to implementing export controls on nuclear, chemical, and biological weapons.

(c) REPORT ON MISSILE TECHNOLOGY CONTROL REGIME ENFORCEMENT.—(1) The Secretary of Defense shall include in the report under subsection (b) information concerning the Missile Technology Control Regime (MTCR). In the report, the Secretary shall review the existing regulations covering the issues addressed by the MTCR and shall assess whether those regulations—

(A) appropriately cover each item listed in the MTCR annex; and

(B) sufficiently stress consideration of ultimate end use of an item as a factor in issuance of export licenses with respect to that item.

(2) In the report, the Secretary shall also assess whether, in the case of a request for an export license involving a country that is considered to be a suspect country for purposes of the regime, or involving a commodity that is considered to be a suspect commodity for purposes of the regime, sufficient information on that request is brought to the attention of the Department of Defense before such a license is issued and, if not, what measures could be taken to improve Department of Defense oversight of the issuance of export licenses in such cases.

(3) In the report, the Secretary may also address whatever other initiatives for the enforcement of the regime the Secretary considers would help strengthen the regime.

SEC. 1640. REVIEWS AND REPORTS ON DECONTROL OF CERTAIN PERSONAL COMPUTERS

(a) REVIEWS.—The Secretary of Defense and the Secretary of Commerce shall each conduct an independent review on the foreign availability of the personal computers known as AT-compatible microcomputers. Each Secretary, in conducting his review, shall, at a minimum, determine the availability of such microcomputers from sources other than member nations of the Coordinating Committee for Multilateral Export Controls or other nations that control the export of such computers. The Secretary of Defense, in conducting his review, also shall assess the military significance of such microcomputers for the Soviet Union and its Warsaw Pact allies.

(b) REPORTS.—The Secretary of Defense and the Secretary of Commerce shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the respective reviews required by subsection (a).

(c) DEADLINE FOR REPORTS.—The reports required by subsection (b) shall be submitted not later than January 1, 1990.

SEC. 1641. ANNUAL JOINT STANDOFF WEAPONS MASTER PLAN AND REPORT ON STANDOFF MUNITIONS

(a) ANNUAL SUBMISSION OF MASTER PLAN FOR JOINT STANDOFF WEAPONS.—Not later than March 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a plan (known as a "Joint Standoff Weapons Master Plan") for the development of standoff weapons which can adequately address the needs of more than one of the Armed Forces. Each such report shall include a description of all technology base projects that could contribute to the fielding of standoff weapons.

(b) UNIFIED COMMANDERS REPORTS ON STANDOFF MUNITIONS.—(1) In the first report under subsection (a) submitted after the enactment of this Act, the Secretary of Defense shall include the reports of the unified commanders submitted to the Secretary pursuant to paragraph (2).

(2) The Secretary shall require the commander of each unified combatant command to submit to the Secretary a report on the results of the study conducted by the commander pursuant to subsection (c). Such reports shall be submitted to the Secretary at such time as specified by the Secretary so that they may be included in the report of the Secretary referred to in paragraph (1).

(c) STUDY OF STANDOFF MUNITIONS BY COMMANDERS OF UNIFIED COMBATANT COMMANDS.—The Secretary of Defense shall require the commander of each unified combatant command to conduct a study of the status of forces assigned to his command in terms of the standoff munitions available to those forces and the survivability of the launching platforms in the absence of standoff munitions. Each such study shall include the following:

(1) The commander's evaluation of the threat posed to combat aircraft under his command by potential enemy forces in his region of responsibility and the extent to which those aircraft are vulnerable to attack.

(2) The commander's evaluation of the current capabilities of those aircraft that are programmed to be assigned to the commander in the event of conflict in his region of responsibility to carry out standoff attacks.

(3) The commander's evaluation of the adequacy of the inventories of munitions in general, and of standoff munitions in particular, in the component forces that would be assigned to the commander in time of war.

(4) The commander's evaluation of the extent to which the survivability of combat aircraft is threatened by the absence of standoff munitions and a statement of the the priority which the commander would give to providing standoff munitions for such aircraft to improve their survivability.

(5) Identification of those standoff munitions programs the commander considers most promising for the improvement of the survivability of combat aircraft.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE

This division may be cited as the "Military Construction Authorization Act for Fiscal Years 1990 and 1991".

TITLE XXI—ARMY

PART A—FISCAL YEAR 1990

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $2,300,000.
Fort McClellan, $2,750,000.
Redstone Arsenal, $18,390,000.
Fort Rucker, $3,600,000.

ALASKA

Fort Richardson, $3,350,000.
Fort Wainwright, $14,800,000.

ARIZONA

Fort Huachuca, $9,900,000.
Yuma Proving Ground, $11,400,000.

CALIFORNIA

Fort Irwin, $4,950,000.
Fort Ord, $2,450,000.
Sacramento Army Depot, $3,900,000.

COLORADO

Fitzsimons Army Medical Center, $2,100,000.
Fort Carson, $4,700,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, $11,000,000.

FLORIDA

Key West Naval Air Station, $6,100,000.

GEORGIA

Fort Benning, $12,146,000.
Fort Gordon, $4,000,000.
Fort Stewart, $5,200,000.

HAWAII

Fort Shafter, $9,300,000.
Schofield Barracks, $10,000,000.

ILLINOIS

Melvin Price Support Center, $3,750,000.
Savanna Army Depot, $850,000.

INDIANA

Fort Benjamin Harrison, $359,000.

KANSAS

Fort Leavenworth, $3,000,000.
Fort Riley, $12,680,000.

KENTUCKY
Fort Campbell, $30,450,000.
Fort Knox, $13,400,000.
LOUISIANA
Fort Polk, $23,350,000.
MARYLAND
Aberdeen Proving Ground, $1,700,000.
Fort Detrick, $1,300,000.
Fort Meade, $6,200,000.
Fort Ritchie, $630,000.
MASSACHUSETTS
Fort Devens, $3,550,000.
MISSOURI
Fort Leonard Wood, $10,450,000.
NEW JERSEY
Fort Monmouth, $8,600,000.
Picatinny Arsenal, $11,800,000.
NEW YORK
Fort Drum, $70,600,000.
NORTH CAROLINA
Fort Bragg, $65,300,000.
OKLAHOMA
Fort Sill, $13,170,000.
McAlester Army Ammunition Plant, $2,200,000.
PENNSYLVANIA
New Cumberland Army Depot, $14,000,000.
SOUTH CAROLINA
Fort Jackson, $23,000,000.
TEXAS
Corpus Christi Army Depot, $5,200,000.
Fort Bliss, $16,600,000.
Fort Hood, $21,400,000.
UTAH
Dugway Proving Ground, $2,400,000.
VIRGINIA
Fort Belvoir, $23,000,000.
Fort Lee, $10,050,000.
Fort Monroe, $1,100,000.
Fort Story, $3,350,000.
WASHINGTON
Fort Lewis, $770,000.
VARIOUS LOCATIONS
Classified location, $3,400,000.
Classified location, $600,000.
Classified location, $3,900,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY
Ansbach, $2,900,000.
Augsburg, $600,000.
Grafenwoehr, $6,500,000.
Hanau, $14,800,000.
Hohenfels, $4,950,000.
Mainz, $26,400,000.
Stuttgart, $9,400,000.
Wuerzburg, $12,000,000.
Various locations, $4,150,000.
KOREA
H-220 Heliport, $4,050,000.
KWAJALEIN ATOLL
Kwajalein, $9,500,000.
PUERTO RICO
Fort Buchanan, $690,000.
TURKEY
Location 276, $1,950,000.
CLASSIFIED LOCATIONS
Classified locations, $6,100,000.

SEC. 2102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 2104(a)(6)(A), at the following installations and locations in the number of units, and in the amounts, shown for each installation:

Fort Rucker, Alabama, two units, $400,000.
Helemano, Hawaii, ninety units, $10,322,000.
Hickam Air Force Base, Hawaii, twenty units, $2,500,000.
Kaneohe, Hawaii, forty units, $4,700,000.
Hawaii, various locations, one hundred and eighty units, $18,000,000.
Fort Lee, Virginia, one unit, $210,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(6)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $1,349,000.

(c) WAIVER OF SPACE LIMITATIONS.—(1) The family housing units authorized by subsection (a) to be constructed at Fort Rucker, Alabama, and at Fort Lee, Virginia, shall be constructed for assignment to general officers, who hold positions as commanders or who hold special command positions (as designated by the Secretary of Defense), and notwithstanding section 2826 of title 10, United States Code, the units may be constructed with the net floor area of not more than 3,000 square feet.

(2) For the purpose of this subsection, the term "net floor area" has the meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(6)(A), improve existing military family housing in an amount not to exceed $36,329,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may—

(1) carry out projects to improve existing military family housing units, in the number of units shown and in the amount shown, at—

(A) Fort Leavenworth, Kansas, one unit, $95,900, of which $86,900 is for concurrent repairs; and

(B) Fort Monmouth, New Jersey, one hundred and twenty-four units, $6,500,000; and

(2) carry out projects to improve four units at Fort Sill, Oklahoma, the improvement of which was authorized by the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), in the amount of $178,088.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,239,165,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $554,445,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $103,990,000.

(3) For the construction of the Central Distribution Center, Phase III, Red River Army Depot, Texas, as authorized by section 2101(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $39,000,000.

(4) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $11,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $74,420,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $73,810,000; and

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,377,400,000, of which not more than $319,142,000 may be obligated or expended for the leasing of military family housing worldwide.

(7) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,100,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2105. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1514), authorization for the following projects authorized in section 101 of that Act, as extended by section 2107(b) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4020), section 2105(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1184), and section 2106(a) of the Military Construction Authorization Act, 1989 (Public Law 100-456; 102 Stat. 2092) shall remain in effect until October 1, 1990, or the date of enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(2) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 981), authorizations for the following projects authorized in sections 101 and 102 of that Act, as extended by section 2105(b) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 99-180; 101 Stat. 1185) and section 2106(b) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2092), shall remain in effect until October 1, 1990, or the date of enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(2) Family housing, new construction, six units, in the amount of $596,000 at Fort Myer, Virginia.

(3) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4040), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act, as extended by section 2106(c) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2092), shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Aircraft maintenance hangar in the amount of $7,100,000 at Hanau, Germany.

(2) Family housing, new construction, forty units in the amount of $4,100,000 at Crailsheim, Germany.

(d) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECTS.—Notwithstanding the provisions of section 2171 of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1206), authorizations for the following projects authorized in sections 2101 and 2102 of that Act shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Child development center in the amount of $1,050,000 at Rheinberg, Germany.

(2) Training exercise facility in the amount of $5,900,000 at Einsiedlerhof, Germany.

(3) Operations building modifications in the amount of $5,400,000 at Stuttgart, Germany.

(4) Hardstand/tactical equipment shop in the amount of $2,250,000 at Wiesbaden, Germany.

(5) Family housing, new construction, twenty-five units, in the amount of $2,200,000 at Fort A.P. Hill, Virginia.

(6) Family housing, new construction, one hundred six units, in the amount of $11,200,000 at Bamberg, Germany.

(7) Family housing, new construction, one hundred fifty-two units, in the amount of $12,600,000 at Baumholder, Germany.

(8) Troop support facility upgrade in the amount of $4,150,000 in Honduras.

(9) Wartime host nation support in the amount of $4,500,000, in Europe, various locations.

PART B—FISCAL YEAR 1991

SEC. 2121. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $34,300,000.

ARKANSAS

Pine Bluff Arsenal, $17,100,000.

OREGON

Umatilla Depot Activity, $45,500,000.

SEC. 2122. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,803,180,000 as follows:

(1) For military construction projects inside the United States authorized by section 2121, $96,900,000.

(2) For the construction of the Central Distribution Center, Phase III, Red River Army Depot, Texas, as authorized by section 2101(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $39,000,000.

(3) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $96,530,000.

(5) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,558,750,000, of which not more than $453,884,000 may be obligated or expended for the leasing of military family housing worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2121 of this Act may not exceed the total amount authorized to be appropriated under subsection (a)(1).

TITLE XXII—NAVY

PART A—FISCAL YEAR 1990

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Mobile, Navy Station, $3,965,000.

ALASKA

Adak, Naval Air Station, $18,870,000.

ARIZONA

Yuma, Marine Corps Air Station, $900,000.

CALIFORNIA

Camp Pendleton, Marine Corps Air Station, $2,100,000.

Camp Pendleton, Marine Corps Base, $57,600,000.

China Lake, Naval Weapons Center, $17,500,000.

Concord, Naval Weapons Station, $5,640,000.

Coronado, Naval Amphibious Base, $7,770,000.

Coronado, Surface Warfare Officers School Command Detachment, $4,360,000.

El Centro, Naval Air Facility, $7,200,000.

Lemoore, Naval Air Station, $2,100,000.

Moffett Field, Naval Air Station, $1,000,000.

Monterey, Fleet Numerical Oceanography Center, $6,760,000.

Monterey, Naval Post Graduate School, $18,690,000.

North Island, Naval Air Station, $6,160,000.

San Diego, Fleet Anti-Submarine Warfare Training Center, Pacific, $820,000.

San Diego, Fleet Combat Training Center, Pacific, $3,670,000.

San Diego, Fleet Intelligence Training Center, Pacific, $2,500,000.

San Diego, Fleet Training Center, $12,800,000.

San Diego, Integrated Combat Systems Test Facility, $4,100,000.

San Diego, Marine Corps Recruit Depot, $3,070,000.

San Diego, Naval Ocean Systems Center, $1,300,000.

San Diego, Naval Station, $1,000,000.

San Diego, Naval Submarine Base, $10,800,000.

San Diego, Naval Training Center, $7,150,000.

San Diego, Naval Public Works Center, $4,400,000.

San Francisco, Navy Public Works Center, $3,910,000.

Seal Beach, Naval Weapons Station, $9,000,000.

Tustin, Marine Corps Air Station, $2,990,000.

Twentynine Palms, Marine Corps Air-Ground Combat Center, $3,140,000.

Vallejo, Mare Island Naval Shipyard, $9,000,000.

CONNECTICUT

New London, Naval Submarine Base, $24,250,000.

New London, Naval Submarine School, $8,200,000.

New London, Naval Underwater Systems Center, $12,600,000.

DISTRICT OF COLUMBIA

Washington, Commandant, Naval District, $420,000.

Washington, Naval Observatory, $2,500,000.

FLORIDA

Cecil Field, Naval Air Station, $1,970,000.

Jacksonville, Naval Hospital, $2,080,000.

Mayport, Naval Station, $20,000,000.

Orlando, Naval Training Center, $18,400,000.

Panama City, Naval Diving and Salvage Training Center, $4,300,000.

Panama City, Naval Experimental Diving Unit, $2,900,000.

Pensacola, Navy Public Works Center, $2,100,000.

GEORGIA

Albany, Marine Corps Logistics Base, $4,550,000.

Athens, Navy Supply Corps School, $1,000,000.

Kings Bay, Naval Submarine Base, $66,689,000.

HAWAII

Kaneohe Bay, Marine Corps Air Station, $13,150,000.

Lualualei, Naval Magazine, $4,600,000.

Pearl Harbor, Naval Submarine Base, $18,600,000.

Pearl Harbor, Naval Submarine Training Center, Pacific, $5,550,000.

Pearl Harbor, Navy Public Works Center, $750,000.

Wahiawa, Naval Communication Area Master Station Eastern Pacific, $8,000,000.

ILLINOIS

Great Lakes, Naval Hospital, $12,270,000.

Great Lakes, Naval Training Center, $15,900,000.

INDIANA

Crane, Naval Weapons Support Center, $4,000,000.

Indianapolis, Naval Avionics Center, $8,000,000.

MAINE

Brunswick, Naval Air Station, $1,000,000.

Brunswick, Naval Branch Medical Clinic, $2,650,000.

Kittery, Portsmouth Naval Shipyard, $1,000,000.

MARYLAND

Indian Head, Naval Explosive Ordnance Disposal Technology Center, $7,700,000.

Indian Head, Naval Ordnance Station, $10,670,000.

Patuxent River, Naval Air Test Center, $17,000,000.

St. Inigoes, Naval Electronic Systems Engineering Activity, $2,950,000.

MISSISSIPPI

Meridian, Naval Air Station, $11,800,000.

Pascagoula, Naval Station, $2,220,000.

MISSOURI

Kansas City, Marine Corps Support Activity, $10,000,000.

NEVADA

Fallon, Naval Air Station, $1,000,000.

NEW JERSEY

Bayonne, Navy Publications and Printing Service Detachment Office, $1,000,000.

Earle, Naval Weapons Station, $14,270,000.

NEW MEXICO

Elephant Butte, Naval Space Surveillance Field Station, $4,700,000.

NEW YORK

New York, Naval Station, $25,640,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $21,210,000.

Cherry Point, Marine Corps Air Station, $10,750,000.

New River, Marine Corps Air Station, $21,100,000.

OKLAHOMA

Tinker Air Force Base, Naval Air Detachment, $21,500,000.

PENNSYLVANIA

Philadelphia, Naval Shipyard, $10,000,000.

RHODE ISLAND

Newport, Naval Education and Training Center, $8,290,000.

SOUTH CAROLINA

Beaufort, Marine Corps Air Station, $4,920,000.

Charleston, Naval Supply Center, $700,000.

Charleston, Naval Weapons Station, $4,600,000.

TENNESSEE

Memphis, Naval Air Station, $10,000,000.

TEXAS

Ingleside, Naval Station, $19,720,000.

Lackland Air Force Base, Naval Technical Training Center Detachment, $4,500,000.

VIRGINIA

Chesapeake, Naval Security Group Activity, Northwest, $1,300,000.

Dahlgren, Naval Surface Warfare Center, $1,000,000.

Dam Neck, Marine Environmental Systems Facility, $8,000,000.

Little Creek, Naval Amphibious Base, $5,200,000.

Norfolk, Naval Air Station, $4,400,000.

Norfolk, Naval Eastern Oceanography Center, $680,000.

Norfolk, Naval Public Works Center, $332,000.

Norfolk, Naval Supply Center, $6,500,000.

Oceana, Naval Air Station, $12,555,000.

Portsmouth, Norfolk Naval Shipyard, $9,700,000.

Quantico, Marine Corps Combat Development Command, $3,450,000.

Williamsburg, Cheatham Annex, Naval Supply Center, $18,500,000.

Yorktown, Naval Weapons Station, $21,420,000.

WASHINGTON

Bremerton, Naval Hospital, $1,000,000.

Bremerton, Puget Sound Naval Shipyard, $19,900,000.

Bremerton, Puget Sound Naval Supply Center, $690,000.

Everett, Naval Station, $11,200,000.

Keyport, Naval Undersea Warfare Engineering Station, $12,250,000.

Oso, Jim Creek Naval Radio Station, $1,200,000.

VARIOUS LOCATIONS

Land acquisition, $22,300,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ASCENSION ISLAND

Naval Communication Detachment, $3,500,000.

AUSTRALIA

Exmouth, Harold E. Holt Naval Communication Station, $610,000.

GUAM

Camp Covington, Mobile Construction Battalion, $4,300,000.

Navy Public Works Center, $4,150,000.

ICELAND

Keflavik, Naval Air Station, $7,500,000.

Keflavik, Naval Communication Station, $8,450,000.

ITALY

Naples, Naval Support Activity, $46,600,000.

PUERTO RICO

Roosevelt Roads, Naval Communication Station, $1,300,000.

SPAIN

Rota, Naval Station, $1,900,000.

UNITED KINGDOM

Edzell, Scotland, Naval Security Group Activity, $5,820,000.

VARIOUS LOCATIONS

Classified location, $5,800,000.

Host Nation Infrastructure Support, $1,000,000.

SEC. 2202. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2204(a)(6)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units, and in the amount, shown for each installation:

Camp Pendleton, Marine Corps Base, California, two hundred ninety-five units, $25,150,000.

El Toro, Marine Corps Air Station, California, two hundred units, $15,000,000.

Moffett Field, Naval Air Station, California, seventy-four units, $6,600,000.

San Francisco, Navy Public Works Center, California, three hundred forty-four units, $28,350,000.

Glenview Naval Air Station, Illinois, one hundred forty units, $15,300,000.

Thurmont, Naval Support Facility, Maryland, eleven units, $1,160,000.

Guantanamo, Naval Station, Cuba, two hundred fifty-four units, $31,669,000.

Keflavik, Naval Air Station, Iceland, one hundred twelve units, $23,213,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2204(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $3,100,000.

(c) PROJECT.—(1) The Secretary of the Navy may construct one family housing unit, at a cost not to exceed $140,000, on the Naval Air Station at Kingsville, Texas, in accordance with applicable provisions of law.

(2) Funds appropriated to the Department of the Navy for any fiscal year before fiscal year 1991 for military family housing projects that remain available, as savings, for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts, to carry out paragraph (1).

(3) The authority to carry out this subsection shall expire on October 1, 1994.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 2204(a)(6)(A), improve existing military family housing units in the amount of $41,748,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units, and in the amount, shown for each installation:

Long Beach, Naval Station, California, forty-four units, $2,208,200.

San Diego, Navy Public Works Center, California, one unit, $79,900.

Great Lakes, Navy Public Works Center, Illinois, two hundred sixty-two units, $17,198,100.

Lakehurst, Naval Air Engineering Center, New Jersey, thirty-two units, $1,946,400.

Lakehurst, Naval Air Engineering Center, New Jersey, one unit, $80,100.

New York, Naval Station, New York, ten units, $842,000.

New York, Naval Station, New York, ten units, $719,100.

Cherry Point, Marine Corps Air Station, North Carolina, two hundred fourteen units, $13,398,000.

Newport, Naval Education and Training Center, Rhode Island, two hundred twenty units, $13,700,000.

Bangor, Naval Submarine Base, Washington, one hundred units, $5,844,200.

Guantanamo Bay, Naval Station, Cuba, one unit, $104,700.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,962,935,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $915,511,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $90,930,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $14,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $84,970,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $5,810,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $191,290,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $660,424,000, of which not more than $40,800,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2205. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1206), authorizations for the following projects authorized in section 2121 of that Act shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Physical security improvements in the amount of $2,460,000 at Naval Air Station, Sigonella, Italy.

(2) Cold-iron utilities support in the amount of $7,480,000 at Naval Support Office, La Maddalena, Italy.

(3) Command, Control, Communications and Intelligence Complex in the amount of $19,400,000 at Naval Support Activity, Naples, Italy.

SEC. 2206. STUDY AND SOLICITATION OF BIDS FOR OFFICE SPACE

(a) STUDY.—The Secretary of the Navy shall conduct a study to determine the location or locations in the State of Virginia at which the Department of the Navy can most efficiently and effectively carry out the operations it currently performs in such State within the National Capital Region.

(b) REPORT.—The Secretary shall, within 90 days after the date of the enactment of this Act, transmit a report to the Committees on Armed Services of the Senate and the House of Representatives containing the findings and conclusions of such study.

(c) SOLICITATION OF BIDS.—After the 30-day period beginning on the date on which the report described in subsection (b) is transmitted, the Administrator of General Services may issue one or more solicitations of bids, in accordance with applicable law, for office space in the State of Virginia for use by the Department of the Navy in carrying out the operations of the Department currently being performed in such State within the National Capital Region.

SEC. 2207. COMMUNITY SUPPORT CENTER, MARINE CORPS AIR STATION, TUSTIN, CALIFORNIA

(a) PROJECT AUTHORIZATION.—(1) Section 2201(a) of the Military Construction Authorization Act, 1989 (Public Law 100-456; 102 Stat. 2093), is amended by striking out "$10,990,000" after "Marine Corps Air Station, Tustin," under the heading "California" and inserting in lieu thereof "$12,036,000".

(2) Section 2202(a) of such Act (102 Stat. 2097) is amended by striking out "and eighty mobile home spaces, $10,120,000" in the item relating to Marine Corps Air Station, El Toro, California, and inserting in lieu thereof ", $9,074,000".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 2205(a)(1) of such Act (102 Stat. 2099) is amended by striking out "$1,296,450,000" and inserting in lieu thereof "$1,297,496,000".

(2) Section 2205(a)(6)(A) of such Act (102 Stat. 2099) is amended by striking out "$250,770,000" and inserting in lieu thereof "$249,724,000".

PART B—FISCAL YEAR 1991

SEC. 2221. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ARIZONA

Yuma, Marine Corps Air Station, $3,000,000.

CALIFORNIA

Bridgeport, Marine Corps Mountain Warfare Training Center, California, $8,000,000.

Twentynine Palms, Marine Corps Air-Ground Combat Center, $3,600,000.

FLORIDA

Orlando, Naval Training Center, $17,950,000.

GEORGIA

Kings Bay, Naval Submarine Base, $75,231,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $3,000,000.

Cherry Point, Marine Corps Air Station, $1,050,000.

TEXAS

Lackland Air Force Base, Naval Technical Training Center Detachment, $11,800,000.

VIRGINIA

Dam Neck, Marine Environmental Systems Facility, $8,000,000.

Little Creek, Naval Amphibious Base, $12,400,000.

WASHINGTON

Everett, Naval Station, $22,150,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ICELAND

Keflavik, Naval Air Station, $1,030,000.

SEC. 2222. FAMILY HOUSING

The Secretary of the Navy may, using amounts appropriated pursuant to section 2223(a)(5)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units, and in the amount, shown for each installation:

New York, Naval Station, New York, one hundred fifty units, $19,600,000.

Keflavik, Naval Air Station, Iceland, one hundred twelve units, $27,200,000.

SEC. 2223. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $986,410,000 as follows:

(1) For military construction projects inside the United States authorized by section 2221(a), $166,181,000.

(2) For military construction projects outside the United States authorized by section 2221(b), $1,030,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $81,999,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $46,800,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $674,900,000, of which not more than $66,421,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2221 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE XXIII—AIR FORCE

PART A—FISCAL YEAR 1990

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $12,100,000.

Maxwell Air Force Base, $1,520,000.

ALASKA

Clear Air Force Station, $5,000,000.

Eielson Air Force Base, $21,000,000.

Elmendorf Air Force Base, $2,400,000.

King Salmon Airport, $8,000,000.

Shemya Air Force Base, $22,700,000.

ARIZONA

Davis-Monthan Air Force Base, $8,200,000.

Luke Air Force Base, $3,970,000.

Williams Air Force Base, $1,850,000.

ARKANSAS

Ira Eaker Air Force Base, $4,050,000.

CALIFORNIA

Beale Air Force Base, $13,472,000.

Castle Air Force Base, $3,900,000.

Edwards Air Force Base, $12,400,000.

McClellan Air Force Base, $27,730,000.

Onizuka Air Force Station, $14,800,000.

Travis Air Force Base, $9,000,000.

Vandenberg Air Force Base, $13,550,000.

COLORADO

Lowry Air Force Base, $21,250,000.

DELAWARE

Dover Air Force Base, $8,300,000.

FLORIDA

Cape Canaveral Air Force Station, $89,000,000.

Eglin Air Force Base, $12,100,000.

Eglin Air Force Base, Auxiliary Field 9, $21,900,000.

Homestead Air Force Base, $7,350,000.

MacDill Air Force Base, $4,490,000.

Patrick Air Force Base, $3,800,000.

Tyndall Air Force Base, $8,500,000.

GEORGIA

Robins Air Force Base, $33,350,000.

HAWAII
Hickam Air Force Base, $530,000.
ILLINOIS
Scott Air Force Base, $8,400,000.
INDIANA
Grissom Air Force Base, $6,800,000.
KANSAS
McConnell Air Force Base, $5,200,000.
LOUISIANA
Barksdale Air Force Base, $7,700,000.
England Air Force Base, $10,300,000.
MAINE
Loring Air Force Base, $8,500,000.
MARYLAND
Andrews Air Force Base, $5,550,000.
MASSACHUSETTS
Hanscom Air Force Base, $5,600,000.
MICHIGAN
K.I. Sawyer Air Force Base, $4,300,000.
MISSISSIPPI
Columbus Air Force Base, $1,200,000.
MISSOURI
Whiteman Air Force Base, $72,500,000.
MONTANA
Malmstrom Air Force Base, $32,100,000.
NEBRASKA
Offutt Air Force Base, $1,150,000.
NEVADA
Nellis Air Force Base, $4,800,000.
NEW JERSEY
McGuire Air Force Base, $4,900,000.
NEW MEXICO
Holloman Air Force Base, $17,350,000.
Kirtland Air Force Base, $18,350,000.
NEW YORK
Griffis Air Force Base, $7,400,000.
Plattsburgh Air Force Base, $9,900,000.
NORTH CAROLINA
Seymour Johnson Air Force Base, $4,500,000.
NORTH DAKOTA
Grand Forks Air Force Base, $1,900,000.
OHIO
Newark Air Force Base, $2,980,000.
Wright Patterson Air Force Base, $11,760,000.
OKLAHOMA
Altus Air Force Base, $5,200,000.
Tinker Air Force Base, $56,800,000.
SOUTH CAROLINA
Charleston Air Force Base, $4,650,000.
Myrtle Beach Air Force Base, $2,350,000.
Shaw Air Force Base, $5,700,000.
SOUTH DAKOTA
Ellsworth Air Force Base, $11,350,000.
TEXAS
Bergstrom Air Force Base, $2,400,000.
Carswell Air Force Base, $650,000.
Goodfellow Air Force Base, $3,300,000.
Kelly Air Force Base, $17,930,000.
Lackland Air Force Base, $34,250,000.
Lackland Training Annex, $1,994,000.
Laughlin Air Force Base, $5,350,000.
Randolph Air Force Base, $630,000.
Reese Air Force Base, $4,630,000.
UTAH
Hill Air Force Base, $16,950,000.
VIRGINIA
Langley Air Force Base, $3,300,000.
WASHINGTON
Fairchild Air Force Base, $14,200,000.
WYOMING
F. E. Warren Air Force Base, $104,850,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

CANADA
Various locations, $24,000,000.
GERMANY
Hahn Air Base, $4,120,000.
Sembach Air Base, $1,250,000.
Spangdahlem Air Base, $1,250,000.
Zweibrucken Air Base, $6,100,000.
GUAM
Andersen Air Force Base, $6,500,000.
ICELAND
Naval Air Station, Keflavik, $7,400,000.
ITALY
Aviano Air Base, $2,250,000.
San Vito Air Station, $2,750,000.
KOREA
Kunsan Air Base, $7,900,000.
OMAN
Seeb, $2,200,000.
Thumrait, $23,600,000.
PORTUGAL
Lajes Field, $10,000,000.
TURKEY
Balikesir Radio Relay Site, $3,600,000.
Erhac Air Base, $2,750,000.
Incirlik Air Base, $1,100,000.
UNITED KINGDOM
Bovingdon Radio Relay Site, $400,000.
RAF Alconbury, $1,300,000.
RAF Barford St. John, $490,000.
RAF Bentwaters, $2,450,000.
RAF Christmas Common Radio Relay Site, $210,000.
RAF Fairford, $1,350,000.
RAF Mildenhall, $1,650,000.
RAF Upper Heyford, $5,350,000.
VARIOUS LOCATIONS
Classified location, $740,000.

SEC. 2302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), construct or acquire family housing units (including land acquisition) at the following installations in the number of units, and in the amount, shown for each installation:

Kelly Air Force Base, Texas, eleven units, $1,619,000.
Ramstein Air Base, Germany, two hundred units, $18,722,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $8,000,000.

SEC. 2303. IMPROVEMENT TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), improve existing military family housing units in an amount not to exceed $173,349,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Maxwell Air Force Base, Alabama, eight units, $357,000; eight units, $800,000; one unit, $108,000; thirty-two units, $1,548,000.
Elmendorf Air Force Base, Alaska, eighty-eight units, $9,578,000; forty units, $4,451,000.
Davis-Monthan Air Force Base, Arizona, five units, $200,000.
Travis Air Force Base, California, one hundred forty-two units, $7,691,000.
Peterson Air Force Base, Colorado, thirty-two units, $1,438,000.
Bolling Air Force Base, District of Columbia, forty units, $1,683,000.
Tyndall Air Force Base, Florida, forty units, $2,441,000.
Scott Air Force Base, Illinois, four units, $250,000; eighty units, $4,076,000.
England Air Force Base, Louisiana, one hundred one units, $4,208,000.
Whiteman Air Force Base, Missouri, fifteen units, $970,000.
Nellis Air Force Base, Nevada, thirty-two units, $1,727,000.
Holloman Air Force Base, New Mexico, one hundred twenty-three units, $5,710,000; one unit, $47,000.
Bergstrom Air Force Base, Texas, two units, $149,000.
Carswell Air Force Base, Texas, one hundred nineteen units, $5,432,000.
Kelly Air Force Base, Texas, seventy-nine units, $3,650,000.
Randolph Air Force Base, Texas, one hundred twenty-four units, $4,136,000; one unit, $78,000.
Langley Air Force Base, Virginia, eighty-six units, $5,398,000.
Fairchild Air Force Base, Washington, two hundred thirty units, $12,162,000.
Ramstein Air Base, Germany, one unit, $137,000; twenty-four units, $2,180,000; thirty-eight units, $2,681,000.
Spangdahlem Air Base, Germany, four units, $302,000.
Andersen Air Base, Guam, two hundred units, $17,817,000.
RAF Alconbury, United Kingdom, one unit, $55,000.
RAF Bentwaters, United Kingdom, eighty-three units, $4,610,000.
RAF Chicksands, United Kingdom, thirty-four units, $3,027,000.
RAF Lakenheath, United Kingdom, fourteen units, $1,153,000; sixty units, $3,408,000.
RAF Mildenhall, United Kingdom, two units, $89,000.

(c) WAIVER OF SPACE LIMITATIONS FOR FAMILY HOUSING UNITS.—(1) The Secretary of the Air Force may carry out improvement projects to add to and alter existing family housing units and, notwithstanding section 2826(a) of title 10, United States Code, to—

(A) increase the net floor area of one family housing unit at Ramstein Air Base, Germany, to not more than 3,045 square feet;

(B) increase the net floor area of four family housing units at Scott Air Force Base, Illinois, to not more than 2,470 square feet; and

(C) increase the net floor area of two family housing units at Hill Air Force Base, Utah, to not more than 2,315 square feet.

(2) The Secretary of the Air Force may, notwithstanding section 2826(a) of title 10, United States Code, carry out new construction projects to build five family housing units at Kelly Air Force Base, Texas, to not more than 3,000 square feet.

(3) For purposes of this subsection, the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years be-

ginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,193,638,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $945,836,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $120,710,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2101), $66,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $7,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $106,094,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $3,000,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $201,690,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $743,308,000, of which not more than $96,000,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) AUTHORIZED PROJECTS.—(1) The Secretary of the Air Force may use not more than $248,900 of the amount appropriated pursuant to the authorization in subsection (a) to acquire a depot operations logistics facility at Tinker Air Force Base, Oklahoma.

(2) The Secretary of the Air Force may provide not more than $7,250,000 of the amount appropriated pursuant to the authorization in subsection (a)(1) to the Douglas School District, South Dakota, for the construction of a middle school primarily for the dependents of Armed Forces personnel assigned to duty at Ellsworth Air Base, South Dakota.

SEC. 2305. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECT.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 982), authorization for the following project authorized in section 301 of that Act shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

GEODSS Site 5, Portugal, Composite Support Facility in the amount of $2,250,000 and Spacetrack Observation Facility in the amount of $12,400,000.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECT.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4040), authorization for the following project authorized in section 2301 of that Act shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

KC-135 CPT Simulator Facility in the amount of $760,000 at Beale Air Force Base, California.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECTS.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1206), authorization for the following projects authorized in sections 2131 and 2132 of that Act shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) KC-135 CPT Simulator Facility, in the amount of $1,150,000 at Loring Air Force Base, Maine.

(2) Thirty-four family housing units in the amount of $2,530,000 at Holbrook, Arizona.

SEC. 2306. LUKE AIR FORCE BASE, ARIZONA

Section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2101) is amended—

(1) by striking out "Williams Air Force Base, $11,130,000." under the heading "Arizona" and inserting in lieu thereof "Williams Air Force Base, $9,230,000."; and

(2) by striking out "Luke Air Force Base, $4,550,000." under the heading "Arizona" and inserting in lieu thereof "Luke Air Force Base, $6,450,000.".

SEC. 2307. ARNOLD ENGINEERING DEVELOPMENT CENTER, TENNESSEE

(a) PROJECT AMOUNT.—Section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2101), is amended by striking out "Arnold Engineering Development Center, $213,800,000." under the heading "Tennessee" and inserting in lieu thereof "Arnold Engineering Development Center, $256,800,000.".

(b) TITLE TOTAL.—Section 2304(b)(2) of such Act (102 Stat. 2108) is amended by striking out "$133,000,000" and inserting in lieu thereof "$176,000,000".

SEC. 2308. REFERENCE TO LIMITATION ON OBLIGATION OF FUNDS FOR MX RAIL GARRISON PROGRAM

Limitations with respect to the obligation of funds for construction in connection with the MX Rail Garrison program are set forth in section 231.

PART B—FISCAL YEAR 1991

SEC. 2321. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALASKA

Shemya Air Force Base, $48,200,000.

COLORADO

Falcon Air Force Station, $2,000,000.
Peterson Air Force Base, $17,750,000.

OKLAHOMA

Altus Air Force Base, $7,900,000.

SOUTH CAROLINA

Charleston Air Force Base, $8,740,000.

TEXAS

Lackland Air Force Base, $22,550,000.

UTAH

Hill Air Force Base, $2,350,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Hahn Air Base, $7,200,000.

WORLDWIDE CLASSIFIED

Classified locations, $5,910,000.

SEC. 2322. FAMILY HOUSING

The Secretary of the Air Force may, using amounts appropriated pursuant to section 2323(a)(6)(A), construct or acquire family housing units (including land acquisition) at the following installation:

Malmstrom Air Force Base, Montana, one unit, $180,000.

SEC. 2323. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,150,836,000, as follows:

(1) For military construction projects inside the United States authorized by section 2321(a), $109,490,000.

(2) For military construction projects outside the United States authorized by section 2321(b), $13,110,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2101), $66,300,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $12,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $114,756,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $180,000; and

(B) for support of military family housing (including functions described in section 2833 of title 10, United States Code), $835,000,000, of which not more than $138,632,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2321 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE XXIV—DEFENSE AGENCIES

PART A—FISCAL YEAR 1990

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE LOGISTICS AGENCY

Defense Depot, Tracy, California, $24,000,000.
Defense Reutilization and Marketing Office, Eglin Air Force Base, Florida, $2,750,000.
Defense Fuel Support Point, Searsport, Maine, $2,700,000.
Defense Construction Supply Center, Columbus, Ohio, $26,600,000.
Defense Personnel Support Center, Philadelphia, Pennsylvania, $3,800,000.
Defense General Supply Center, Richmond, Virginia, $6,066,000.
Defense Fuel Support Point, Manchester, Washington, $22,600,000.

DEFENSE MEDICAL FACILITIES OFFICE

Maxwell Air Force Base, Alabama, $1,600,000.
Naval Air Station, Mobile, Alabama, $3,000,000.
Naval Air Station, Adak, Alaska, $18,000,000.
Marine Corps Air Station, Twentynine Palms, California, $38,000,000.
Fitzsimons Army Medical Center, Colorado, $5,200,000.
Hurlburt Field, Florida, $6,000,000.
Naval Air Station, Jacksonville, Florida, $2,400,000.
Patrick Air Force Base, Florida, $2,700,000.
Andrews Air Force Base, Maryland, $2,900,000.
Naval Station, Pascagoula, Mississippi, $2,548,000.
Nellis Air Force Base, Nevada, $62,000,000.
Lackland Air Force Base, Texas, $6,000,000.
Naval Station, Ingleside, Texas, $2,300,000.
Portsmouth Naval Hospital, Virginia, $330,000,000.

DEFENSE NUCLEAR AGENCY

Armed Forces Radiobiology Research Institute, Bethesda, Maryland, $900,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $21,444,000.

OFFICE OF THE SECRETARY OF DEFENSE

The Pentagon, Arlington, Virginia, $3,500,000.
Classified Location, $4,500,000.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Bethesda, Maryland, $600,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Nellis Air Force Base, Nevada, $6,542,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE MEDICAL FACILITIES OFFICE

Camp Carroll, Korea, $1,500,000.
Camp Garry Owen, Korea, $800,000.

DEFENSE NUCLEAR AGENCY

Johnston Atoll, $6,168,000.

DEPARTMENT OF DEFENSE SCHOOLS

Naval Air Station, Bermuda, $4,810,000.
Augsburg, Germany, $6,300,000.
Frankfurt, Germany, $7,101,000.
Grafenwoehr, Germany, $4,186,000.
Hohenfels, Germany, $17,079,000.
Royal Air Force, Bicester, United Kingdom, $6,275,000.
Royal Air Force, Upwood, United Kingdom, $4,175,000.
Various Locations, $6,600,000.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $1,155,000.
Roosevelt Roads, Puerto Rico, $6,541,000.

NATIONAL SECURITY AGENCY

Classified Location, $23,000,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may, using amounts appropriated pursuant to section 2405(a)(10)(A), construct or acquire three family housing units (including land acquisition) at classified locations in the total amount not to exceed $400,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 2405(a)(10)(A), improve existing military family housing units in an amount not to exceed $200,000.

SEC. 2404. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4037) is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987, not more than $5,000,000 appropriated for fiscal year 1988, not more than $9,300,000 appropriated for fiscal year 1989, and not more than $11,000,000 appropriated for fiscal year 1990, carry out military construction projects not otherwise authorized by law for conforming storage facilities.".

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $562,720,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $235,150,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $95,690,000.

(3) For military construction projects at Fort Sill, Oklahoma, as authorized by section 2401(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2109), $27,000,000.

(4) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4034), $53,000,000.

(5) For military construction projects at Fort Lewis, Washington, authorized by section 101 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1495), $16,000,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $13,100,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $80,480,000.

(9) For conforming storage facilities construction under the authority of section 2404 of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4037), $11,000,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing facilities, $600,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $20,700,000, of which not more than $17,825,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed—

(1) the total amount authorized to be appropriated under paragraph (1) and (2) of subsection (a);

(2) $321,500,000 (the balance of the amount authorized under section 2401(a) for the construction of a medical facility at Portsmouth Naval Hospital, Virginia); and

(3) $52,000,000 (the balance of the amount authorized by section 2401(a) for the construction of a hospital at Nellis Air Force Base, Nevada).

SEC. 2406. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

(a) EXTENSION OF CERTAIN 1987 PROJECT.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4040), the authorization for the Defense Fuel Support Point, Charleston, South Carolina, in the amount of $5,530,000, in section 2401(a) of that Act shall remain in effect until October 1, 1990, or until the date of enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later.

(b) EXTENSION OF CERTAIN 1988 PROJECTS.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1206), authorizations for the following projects authorized in section 2141 of that Act shall remain in effect until October 1, 1990, or until the date of enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Fuel Tankage, in the amount of $9,400,000 at Defense Fuel Supply Point, Key West, Florida.

(2) Second Echelon Medical Storage Facility, Iraklion, Greece, $340,000.

(3) Composite Medical Facility, Misawa Air Base, Japan, $4,700,000.

SEC. 2407. MEDICAL FACILITY, FORT SILL, OKLAHOMA

(a) PROJECT AMOUNT.—Section 2401 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat 2109) is amended in the items listed under the heading "Defense Medical Facilities Office", by striking out "Fort Sill, Oklahoma, $54,000,000." and inserting in lieu thereof "Fort Sill, Oklahoma, $68,000,000.".

(b) TITLE TOTAL.—Section 2407(b)(2) of such Act (102 Stat. 2112) is amended by striking out "$27,000,000" and inserting in lieu thereof "$41,000,000".

PART B—FISCAL YEAR 1991

SEC. 2421. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may acquire real property and may carry out military construction projects in the amount shown for the following installation outside the United States:

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $4,200,000.

SEC. 2422. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $456,100,000, as follows:

(1) For military construction projects outside the United States authorized by section 2421, $4,200,000.

(2) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4034), $84,000,000.

(3) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a), $176,000,000.

(4) For military construction projects at Nellis Air Force Base, Nevada, authorized by section 2401(a), $52,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $14,200,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $94,400,000.

(8) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $21,300,000, of which not more than $18,135,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2421 may not exceed the total amount authorized to be appropriated under paragraph (1) of subsection (a).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 of this Act and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501 of this Act, in the amount of $424,714,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

PART A—FISCAL YEAR 1990

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $187,411,000, and

(B) for the Army Reserve, $80,800,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $56,600,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $198,628,000, and

(B) for the Air Force Reserve, $46,200,000.

PART B—FISCAL YEAR 1991

SEC. 2621. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $119,500,000, and

(B) for the Army Reserve, $62,800,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $53,300,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $107,500,000, and

(B) for the Air Force Reserve, $38,500,000.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) IN GENERAL.—Authorizations of military construction projects, land acquisition, family housing projects and facilities, contributions to the NATO Infrastructure Program, and Guard and Reserve projects in titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this subdivision (and authorizations of appropriations therefor) shall be effective only to the extent that appropriations are made for such projects, acquisition, facilities, and contributions during the first session of the One Hundred First Congress.

(b) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS IN CERTAIN CASES.—(1) Except as provided in subsections (a) and (c)(1), all authorizations contained in part A of each of titles XXI, XXII, XXIII, and XXIV and the authorization in title XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later.

(2) Except as provided in subsections (a) and (c)(2), all authorizations contained in part B of each of titles XXI, XXII, XXIII, and XXIV, for military construction projects, land acquisition, and family housing projects and facilities (and authorizations of appropriations therefor) shall expire on October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later.

(c) EXCEPTIONS.—(1) The provisions of subsection (b)(1) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later, for military construction projects, land acquisitions, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

(2) The provisions of subsection (b)(2) do not apply to authorizations for military construction projects, land acquisition, and family housing projects and facilities (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later, for military construction projects, land acquisitions, family housing projects and facilities.

TITLE XXVIII—GENERAL PROVISIONS

PART A—MILITARY CONSTRUCTION PROGRAM CHANGES

SEC. 2801. FAMILY HOUSING RENTAL GUARANTEE PROGRAM

Section 802(b) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note) is amended—

(1) by striking out clause (11) and inserting in lieu thereof the following:

"(11) shall include a provision authorizing the Secretary of the military department concerned, or the Secretary of Transportation with respect to the Coast Guard, to take such action as the Secretary considers appropriate to protect the interests of the United States, including rendering the agreement null and void if, in the opinion of the Secretary, the owner of the housing fails to maintain a satisfactory level of operation and maintenance;";

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof a semicolon; and

(3) by adding after paragraph (12) the following new paragraphs:

"(13) may provide that utilities, trash collection, snow removal, and entomological services will be furnished by the Federal Government at no cost to the occupant to the same extent that these items are provided to occupants of housing owned by the Federal Government; and

"(14) may require that rent collection and operation and maintenance services in connection with the housing be under the terms of a separate agreement or be carried out by personnel of the Federal Government.".

SEC. 2802. LEASING OF MILITARY FAMILY HOUSING

Section 2828 of title 10, United States Code, is amended—

(1) in subsection (b)(2), by striking out "$10,000" and inserting in lieu thereof "$12,000";

(2) in subsection (b)(3)—

(A) by striking out "(A) Except as provided in subparagraph (B), not" and inserting in lieu thereof "Not";

(B) by striking out "$10,000" and "$12,000" and inserting in lieu thereof "$12,000" and "$14,000", respectively; and

(C) by striking out subparagraph (B);

(3) in subsection (e)(1), by striking out the first sentence and inserting in lieu thereof the following: "Expenditures for the rental of family housing in foreign countries (including the costs of utilities, maintenance, and operation) may not exceed $20,000 per unit per annum as adjusted for foreign currency fluctuation from October 1, 1987."; and

(4) in subsection (e)(2), by striking out "38,000" and inserting in lieu thereof "53,000".

SEC. 2803. LONG TERM FACILITIES CONTRACTS

Section 2809 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(B)(ii), by striking out "Potable" and inserting in lieu thereof "Utilities, including potable";

(2) in subsection (b), by striking out "child care centers" and inserting in lieu thereof "activities and services described in clause (i) or (ii) of subsection (a)(1)(B)"; and

(3) in subsection (c), by striking out "1989" and inserting in lieu thereof "1991".

SEC. 2804. IMPROVEMENTS TO FAMILY HOUSING UNITS FOR THE HANDICAPPED

Section 2825(b)(1) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "will exceed"; and

(2) by inserting the following before the period: ", or (B) in the case of improvements necessary to make the unit suitable for habitation by a handicapped person, $60,000 multiplied by such index".

SEC. 2805. DOMESTIC BUILD-TO-LEASE PROGRAM

Section 2828(g) of title 10, United States Code, is amended—

(1) by striking out paragraphs (7) and (8) and inserting in lieu thereof the following:

"(7) Each of the Secretaries concerned may enter into one or more contracts under this subsection for a number of family housing units not exceeding the number specified for that Secretary as follows:

"(A) The Secretary of the Army, 6,300.

"(B) The Secretary of the Navy, 6,200.

"(C) The Secretary of the Air Force, 5,800.

"(D) The Secretary of the Transportation with respect to the Coast Guard, 900.";

(2) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively; and

(3) in paragraph (8), as so redesignated, by striking out "1989" and inserting in lieu thereof "1991".

SEC. 2806. TURN-KEY SELECTION PROCEDURES

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out the second sentence; and

(2) in subsection (c), by striking out "1990" and inserting in lieu thereof "1991".

SEC. 2807. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM

(a) IN GENERAL.—Subchapter III of chapter 169 of title 10, United States Code, is amended by adding after section 2863 the following new section:

"§ 2864. Military construction contracts on Guam

"(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated for military construction may not be obligated or expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant alien described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

"(b) EXCEPTION.—In any case in which there is no acceptable bid made in response to a solicitation for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the 21-day period beginning on the date on which the Secretary concerned transmits to the Committees on Armed Services of the Senate and the House of Representatives a written notification of that determination.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding after the item relating to section 2863 the following:

"2864. Military construction contracts on Guam.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into, modified, or extended on or after the date of the enactment of this Act.

SEC. 2808. AUTHORIZED COST VARIATIONS

Section 2853 of title 10, United States Code, is amended to read as follows:

"§ 2853. Authorized cost variations

"(a) Except as provided in subsection (c) or (d), the cost authorized for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be increased by not more than 25 percent of the amount appropriated for such project or 200 percent of the minor construction project ceiling specified in section 2805(a)(1), whichever is less, if the Secretary concerned determines that such an increase in cost is required for the sole purpose of meeting unusual variations in cost and that such variations in cost could not have reasonably been anticipated at the time the project was approved originally by Congress.

"(b) Except as provided in subsection (c), the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be reduced by not more than 25 percent from the amount approved for that project, construction, improvement, or acquisition by Congress.

"(c) The limitation on cost increase in subsection (a) or the limitation on scope reduction in subsection (b) does not apply if—

"(1) the increase in cost or reduction in scope is approved by the Secretary concerned;

"(2) the Secretary concerned notifies the appropriate committees of Congress in writing of the increase or reduction and the reasons therefor; and

"(3) a period of 21 days has elapsed after the date on which the notification is received by the committees.

"(d) The limitation on cost increases in subsection (a) does not apply to a within-scope modification to a contract or to the settlement of a contractor claim under a contract if the increase in cost is approved by the Secretary concerned, and the Secretary concerned promptly submits written notification of the facts relating to the proposed increase in cost to the appropriate committees of Congress.".

SEC. 2809. LEASE-PURCHASE OF FACILITIES

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter I the following new section:

"§ 2812. Lease-purchase of facilities

"(a)(1) The Secretary concerned may enter into an agreement with a private contractor for the lease of a facility of the kind specified in paragraph (2) if the facility is provided at the expense of the contractor on a military installation under the jurisdiction of the Department of Defense.

"(2) The facilities that may be leased pursuant to paragraph (1) are as follows:

"(A) Administrative office facilities.

"(B) Troop housing facilities.

"(C) Energy production facilities.

"(D) Utilities, including potable and waste water treatment facilities.

"(E) Hospital and medical facilities.

"(F) Transient quarters.

"(G) Depot or storage facilities.

"(H) Child care centers.

"(b) Leases entered into under subsection (a)—

"(1) may not exceed a term of 32 years;

"(2) shall provide that, at the end of the term of the lease, title to the leased facility shall vest in the United States; and

"(3) shall include such other terms and conditions as the Secretary concerned determines are necessary or desirable to protect the interests of the United States.

"(c)(1) The Secretary concerned may not enter into a lease under this section until—

"(A) the Secretary submits to the appropriate committees of Congress a justification of the need for the facility for which the proposed lease is being entered into and an economic analysis (based upon accepted life-cycle costing procedures) that demonstrates the cost effectiveness of the proposed lease compared with a military construction project for the same facility; and

"(B) a period of 21 days has expired following the date on which the justification and economic analysis are received by the committees.

"(2) Each Secretary concerned may, under this section, enter into—

"(A) not more than three leases in fiscal year 1990; and

"(B) not more than five leases in each of the fiscal years 1991 and 1992.

"(d) Each lease entered into under this section shall include a provision that the obligation of the United States to make payments under the lease in any fiscal year is subject to the availability of appropriations for that purpose.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"2812. Lease-purchase of facilities.".

PART B—LAND TRANSACTIONS

SEC. 2811. LAND CONVEYANCE AT MARINE CORPS AIR STATION, EL TORO, CALIFORNIA, AND CONSTRUCTION OF FAMILY HOUSING AT MARINE CORPS AIR STATION, TUSTIN, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (d), the Secretary of the Navy may--

(1) convey to the County of Orange, California, or its designee, or both, all right, title, and interest of the United States in and to approximately 77 acres of real property, including improvements thereon, consisting of three severable parcels at Marine Corps Air Station, El Toro, California; and

(2) accept monetary consideration for such property and expend it for the construction of additional military family housing units at Marine Corps Air Station, Tustin, California.

(b) CONDITIONS.—(1) The Secretary shall provide that all conveyances under this section are subject to the retention of appropriate interests to ensure that future use of the conveyed property is compatible with military activities.

(2) Conveyances under this section shall be made in exchange for payment of the fair market value of the property conveyed, as determined by an independent appraisal satisfactory to the Secretary and paid for by the County or its designees, or both.

(3) Any contract for construction authorized under this section shall be awarded through competitive procedures.

(4) The Secretary may not enter into any contract for construction under this section until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives a detailed report on the proposed contract.

(5) The Secretary shall deposit into the Treasury as miscellaneous receipts any amount received under this section and not obligated under this section by the end of the four-year period beginning on the date of the receipt thereof.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the County or its designee, or both.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2812. LAND CONVEYANCE, FORT GILLEM, GEORGIA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Army may convey, without consideration, to the State of Georgia all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, at Fort Gillem, Clayton County, Georgia, consisting of approximately 35.26 acres, for use by the State for the administration of the Georgia Department of Defense, the Georgia National Guard, and other Georgia National Guard activities.

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the following conditions:

(1) The property conveyed shall be used for the administration of the Georgia Department of Defense, the Georgia National Guard, and for other official activities of the Georgia National Guard.

(2) The Secretary may reserve to the United States (and shall include in the instrument of conveyance) such easements and other interests in the property conveyed pursuant to this section as the Secretary determines necessary or convenient for the operations, activities, and functions of the United States.

(c) REVERSION.—If the Secretary determines at any time that the property conveyed pursuant to this section is not being used for the purposes specified in subsection (b)(1), all right, title, and interest in and to the property (including improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2813. LAND CONVEYANCE, HICKAM AIR FORCE BASE, HAWAII

(a) IN GENERAL.—Subject to subsections (b) through (h), the Secretary of the Air Force may convey to the State of Hawaii all right, title, and interest of the United States in and to approximately 22.88 acres of real property, including improvements thereon, located on the eastern boundary of Hickam Air Force Base, Hawaii.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized by subsection (a), the State of Hawaii shall, subject to subsection (c), be required to—

(A) pay for the cost of designing and constructing the facilities and improvements described in subsection (c)(2), in accordance with such specifications as the Secretary may prescribe;

(B) pay for the cost of relocating munition storage facilities designated by the Secretary and situated on the property to be conveyed by the Secretary;

(C) pay for the cost of relocating the existing security fence to conform with the new boundaries of Hickam Air Force Base after such conveyance; and

(D) pay to the United States the difference, if any, between the fair market value of the property conveyed, as determined by the Secretary, and the cost of facilities and improvements provided by the State of Hawaii under subsection (c).

(2) Costs incurred by the State of Hawaii in connection with the relocations referred to in clauses (B) and (C) of paragraph (1) may not be considered as any part of the payment of the fair market value of the property referred to in subsection (a).

(c) IMPLEMENTATION.—(1) The Secretary may—

(A) accept facilities and improvements referred to in paragraph (2) designed and constructed by the State of Hawaii, according to standards specified by the Secretary, that are equal in value to not less than the fair market value of the property to be conveyed by the Secretary; or

(B) in the discretion of the Secretary, accept payment of the fair market value for the property to be conveyed by the Secretary and design and construct facilities and improvements referred to in paragraph (2).

(2) The facilities and improvements to be provided by the State of Hawaii or constructed by the Secretary with funds provided by the State shall be for one or more of the following projects in the order of priority in which they are listed:

(A) One hundred units of military family housing at Hickam Air Force Base, Hawaii.

(B) Construction of an enlisted personnel dormitory at such Base.

(C) Renovation of an existing enlisted personnel dormitory at such Base.

(3) The Secretary may not enter into any contract for any construction project or improvement under this section until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a detailed report on the proposed contract.

(d) SECURITY FOR CONVEYANCE.—(1) The Secretary may convey the property described in subsection (a) to the State of Hawaii before completion of the construction of the facilities referred to in subsection (b)(1) upon—

(A) the execution of an escrow agreement between the Secretary and the State of Hawaii and deposit by the State in an escrow account (pursuant to such agreement) of an amount equal to the fair market value of the property to be conveyed by the Secretary; or

(B) the acceptance by the Secretary of payment of such amount.

(2) The Secretary may obligate and expend funds accepted under paragraph (1)(B) for design and construction of the facilities and improvements referred to in subsection (c)(2).

(e) VACATING PROPERTY.—If the Secretary conveys property to the State under this section before completion of the construction of the facilities and improvements referred to in subsection (b)(1), the Secretary shall not be required to vacate the property until the completion, and approval by the Secretary, of the work described in subparagraphs (B) and (C) of subsection (b)(1).

(f) EXCESS AMOUNT.—The Secretary shall deposit into the Treasury as miscellaneous receipts any amount received under this section and not obligated under this section by the end of the four-year period beginning on the date of the receipt thereof.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the State of Hawaii.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2814. LAND CONVEYANCES, KAPALAMA MILITARY RESERVATION, HAWAII

(a) IN GENERAL.—(1) Section 2332 of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 100 Stat. 1223), is amended by striking out subsections (a) through (e) and inserting in lieu thereof the following:

"(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Army may sell and convey to the State of Hawaii approximately 35.92 acres of real property, including improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate the facilities located on such property.

"(b) CONSIDERATION.—In consideration for the real property described in subsection (a), the State of Hawaii shall pay the United

States an amount equal to not less than the fair market value of the property to be conveyed, as determined by the Secretary.

"(c) USE OF SALE PROCEEDS.—The Secretary shall use the proceeds received from the sale of property authorized by this section—

"(1) for the cost of the design and construction of suitable replacement facilities to be constructed at Fort Shafter, Fort Kamehameha, Tripler Army Medical Center, and Schofield Barracks, Hawaii; and

"(2) for any cost incurred by the Department of the Army under this section with respect to the sale and relocation of facilities.

"(d) EXCESS AMOUNT.—(1) The Secretary may use any proceeds in excess of the amount required to pay costs referred to in subsection (c) for the implementation of the plan established by the Secretary of the Army on March 1, 1988, for the future use and development of Fort DeRussy, Hawaii, except that such proceeds may not be used to pay for the construction of any nonappropriated-fund project identified in such plan.

"(2) At the end of the ten-year period beginning on the date of the enactment of the Military Construction Authorization Act, 1989, the Secretary shall deposit any amount received and not expended under this section into the Treasury as miscellaneous receipts.".

(2) Subsections (f) and (g) of section 2332 of such Act are redesignated as subsections (e) and (f), respectively.

(b) SAVINGS PROVISION.—The provisions of section 2332 of the Military Construction Authorization Act, 1988 and 1989, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the sale of any property referred to in such section that was sold pursuant to such section before the date of the enactment of this Act.

(c) CEDED LANDS.—(1) Subject to paragraphs (2) through (4), the Secretary of the Army shall convey to the State of Hawaii, without consideration other than that described in paragraph (2), all right, title, and interest of the United States in and to approximately 17.8 acres of ceded lands, including improvements thereon, at Kapalama Military Reservation, Hawaii.

(2) In consideration for the conveyance authorized under paragraph (1) the State of Hawaii shall pay to the United States the fair market value, as determined by the Secretary, of any improvements on the land not made at the State's expense. The Secretary shall deposit any amount received into the Treasury as miscellaneous receipts.

(3) The exact acreage and legal description of the land to be conveyed under paragraph (1) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the State of Hawaii.

(4) The Secretary may require such additional terms and conditions in connection with the conveyance under this subsection as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2815. LAND CONVEYANCE, PUBLIC WORKS CENTER, GREAT LAKES, ILLINOIS

(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Navy may—

(1) sell and convey all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 14 acres of land, comprising that portion of the Public Works Center, Great Lakes, located south of the intersection of Desplaines Avenue and West Roosevelt Road, Forest Park, Illinois; and

(2) use the proceeds from the sale of such property to construct not more than 35 units of military family housing at the Naval Air Station, Glenview, Illinois.

(b) COMPETITIVE PROCEDURES; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of the property described in subsection (a)(1).

(2) In no event may the property be sold for less than the greater of (A) the fair market value of the property, as determined by the Secretary, or (B) the amount necessary to cover the costs of constructing replacement housing and relocating the tenants from such property.

(c) CONDITION OF SALE.—The conveyance authorized by subsection (a) shall be subject to the condition that the purchaser permit the Department of the Navy to continue to occupy, without consideration, the property to be conveyed until the replacement housing has been constructed or acquired by the Secretary, except that in no event may the Department continue to occupy the property pursuant to this subsection more than two years after the date of the conveyance.

(d) USE OF FUNDS.—(1) The Secretary may use the proceeds from the sale of the property described in subsection (a) for payment of the following costs:

(A) The cost of design and construction of not more than 35 units of military family housing to be constructed at the Naval Air Station, Glenview, Illinois.

(B) The cost of relocating the tenants occupying the housing facilities located on the property described in subsection (a)(1) to new housing facilities.

(C) The cost of appraisals and other costs related to the sale of the property.

(2) The Secretary may not enter into any contract for construction under this section until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives a detailed report on the proposed contract.

(3) The Secretary shall deposit into the Treasury as miscellaneous receipts any amount received under this section and not obligated under this section by the end of the four-year period beginning on the date of receipt thereof.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the purchaser.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2816. LAND CONVEYANCE, FORT KNOX, KENTUCKY

(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Army may sell and convey all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 12 acres, including improvements thereon, contiguous to the corporate limits of the City of Radcliff, Kentucky, and bounded on the east by U.S. Highway 31W, by the Radcliff city park on the south, by residential property to the west, and by Fort Knox to the north.

(b) COMPETITIVE BID REQUIREMENT; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of the property referred to in subsection (a).

(2) In no event may any of the property referred to in subsection (a) be sold for less than the fair market value of the property, as determined by the Secretary.

(c) USE OF PROCEEDS.—(1) The Secretary shall use the proceeds from the sale of the property referred to in subsection (a) for the construction of up to four units of military family housing at Fort Knox, Kentucky.

(2) The Secretary shall deposit into the Treasury as miscellaneous receipts any amount received under this section and not obligated under this section by the end of the four-year period beginning on the date of receipt thereof.

(d) NOTICE.—The Secretary may not enter into any contract for construction under this section until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives a detailed report on the proposed contract.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the purchaser.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2817. RELEASE OF REVERSIONARY INTEREST TO STATE OF MINNESOTA

(a) IN GENERAL.—Subject to subsection (b) through (d), the Secretary of the Army may release—

(1) to the State of Minnesota the reversionary interest of the United States in approximately 35 acres of real property at Fort Snelling, Minnesota, including improvements thereon, known as "Area J" and conveyed from the United States to the State of Minnesota by a quitclaim deed dated August 17, 1971; and

(2) the State of Minnesota from all covenants and agreements contained in such quitclaim deed that relate to such property.

(b) CONSIDERATION.—In consideration of the release under subsection (a), the State of Minnesota shall convey to the United States, without consideration, the property referred to in subsection (a)(1) for use by the Department of the Army.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property from which the reversionary interest is to be released shall be determined by surveys satisfactory to the Secretary of the Army and the State of Minnesota.

(d) ADDITIONAL TERMS AND CONDITIONS.—(1) The Secretary may require such additional terms and conditions in connection with the release under this section as the Secretary determines appropriate to protect the interests of the United States.

(2) The Secretary of the Army may accept the conveyance of the property referred to in subsection (b) subject to a reversionary interest in the State of Minnesota. The reversionary interest may provide that if the property is not used for Army purposes and the preservation of the historic structures lying thereon in conformity with Department of the Interior standards for properties on the National Register of Historic Places, the property shall revert to the State of Minnesota.

SEC. 2818. LAND CONVEYANCE, NAVAL RESERVE CENTER, KEARNEY, NEW JERSEY

(a) IN GENERAL.—Subject to sections (b) through (d) the Secretary of the Navy may convey to Hudson County, New Jersey, all

right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 2.9 acres, that comprises a portion of the Naval Reserve Center, Kearney, New Jersey.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized by subsection (a), Hudson County, New Jersey, shall demolish two Naval Reserve Center buildings on the Naval Reserve Center referred to in that subsection, improve the motor vehicle parking facilities on such Naval Reserve Center, and provide additional motor vehicle parking facilities on land adjacent to or near the Naval Reserve Center (and owned by Hudson County) for use by the United States. The improved and the additional parking facilities shall be acceptable to the Secretary, and the additional parking facilities shall be provided on such terms and conditions and for such period as the Secretary shall prescribe.

(2) If the fair market value of the land to be conveyed under subsection (a) exceeds the fair market value of the consideration received under paragraph (1), as determined by the Secretary, Hudson County shall pay the amount of the difference to the United States. Any such payment shall be deposited into the Treasury as miscellaneous receipts.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section described in subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by Hudson County, New Jersey.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2819. TRANSFER OF JURISDICTION OVER CERTAIN LANDS AT SANDIA, NEW MEXICO

(a) IN GENERAL.—The Secretary of Defense may transfer to the Secretary of Energy, without consideration, jurisdiction and control of the real property, including improvements thereon, described in subsection (b) for use by the Department of Energy in providing a location for the Center for National Security and Arms Control.

(b) DESCRIPTION OF PROPERTY.—(1) The real property referred to in subsection (a) is a tract of land, including improvements thereon, located in Bernalillo County, New Mexico, in a portion of section 32, township 10 north, range 4 east, New Mexico principal meridian, and consisting of approximately 5.6 acres.

(2) The exact acreage and legal description of the property referred to in paragraph (1) shall be determined by a survey satisfactory to the Secretary of Defense.

SEC. 2820. LAND CONVEYANCE, PITTSBURGH, PENNSYLVANIA

(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Navy may convey to Carnegie-Mellon University all right, title, and interest of the United States in and to approximately 1.29 acres of land located at 4902 Forbes Avenue, Allegheny County, Pittsburgh, Pennsylvania, including improvements thereon, comprising the Naval and Marine Corps Reserve Center.

(b) CONSIDERATION.—In consideration for the sale and conveyance, the University shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States under subsection (a).

(c) USE OF FUNDS.—(1) Funds received by the Secretary under subsection (b) may be used to pay for the acquisition or construction of a replacement facility, including the acquisition of real property, in the greater Pittsburgh area to be used as a Naval and Marine Corps Reserve Center.

(2) The Secretary shall deposit into the Treasury as miscellaneous receipts any amount received under this section and not obligated under paragraph (1) within the four-year period beginning on the date of the receipt thereof.

(d) NOTICE.—The Secretary may not enter into any contract for acquisition or construction of replacement facilities under this section until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives a detailed report on the proposed contract.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the University.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2821. LAND CONVEYANCE, FORT BELVOIR, VIRGINIA

(a) IN GENERAL.—Subject to subsections (b) through (h), the Secretary of the Army may convey to any grantee selected in accordance with subsection (e) all right, title, and interest of the United States in and to all or any portion of the parcel of real property, including improvements thereon, at Fort Belvoir, Virginia, consisting of approximately 820 acres and known as the Engineer Proving Ground.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized in subsection (a), the grantee shall—

(A) construct facilities for the Department of the Army referred to in subsection (c)(1)(D);

(B) permit use by, or grant title to, the Department of such facilities; and

(C) make infrastructure improvements for the Department of the Army referred to subsection (c)(1)(D),

as may be specified by the Secretary in an agreement to be entered into by the grantee and the Secretary in connection with the conveyance.

(2) In no event may the value of the consideration provided by the grantee pursuant to paragraph (1) be less than the fair market value, as determined by the Secretary, of the property conveyed to the grantee pursuant to this section.

(c) CONTENT OF AGREEMENT.—(1) An agreement entered into under this section shall include the following:

(A) A requirement that the grantee develop the real property conveyed to the grantee pursuant to this section as a balanced, mixed-use development.

(B) A requirement that the development of the property include improvements to public transportation systems, utilities, and telecommunications on and off the property, and any other infrastructure improvements that may be specified by the Secretary in connection with such development.

(C) A requirement that the development and all such improvements comply with the specifications of a master plan formulated for the real property by the Secretary and agreed to by the appropriate officials of the County of Fairfax, Virginia, and the Commonwealth of Virginia.

(D) A requirement that the grantee construct facilities and make infrastructure improvements for the Department of the Army that the Secretary determines are necessary for the Department at Fort Belvoir and at other sites at which activities will be relocated as a result of the conveyance made under this section.

(E) A requirement that the construction of facilities and infrastructure improvements referred to in subparagraph (D) be carried out in accordance with plans and specifications approved by the Secretary.

(F) Such other terms and conditions as the Secretary and the grantee may agree upon.

(2) The Secretary may provide that the agreement be subject to review and approval by the appropriate officials of the County of Fairfax, Virginia, and the Commonwealth of Virginia.

(d) NOTICE.—The Secretary may not enter into any agreement under this section until the expiration of 60 days following the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives a report containing the details of the proposed agreement.

(e) SELECTION OF GRANTEE.—The Secretary shall use competitive procedures for the selection of a grantee. In evaluating the offers of prospective grantees, the Secretary shall consider the technical sufficiency of the offers and the cost of constructing the required facilities and making the required infrastructure improvements for the Department of the Army, as contained in the offers.

(f) REVERSION.—If the Secretary determines that the grantee—

(1) is unable or unwilling to develop the real property conveyed to the grantee under this section in accordance with the agreement entered into by the grantee under this section; or

(2) is unable or unwilling to construct any facility or complete any infrastructure improvement for the Department of the Army in accordance with such agreement,

all right, title, and interest in and to the real property conveyed to such grantee in connection with such agreement shall automatically revert to the United States, regardless of the reason for such inability or unwillingness, and the United States shall have the right of immediate entry thereon.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary. The cost of any such survey shall be borne by the grantee.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions with respect to the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. MODIFICATION OF REVERSIONARY INTEREST, PORT OF BENTON, WASHINGTON

(a) IN GENERAL.—(1) Subject to subsections (b) through (d), the Secretary of the Army may modify the reversionary interest of the United States in and to approximately 22 acres of real property, including improvements thereon, constituting a portion of a larger tract of land conveyed to the Port of Benton, Washington, by quit-claim deed dated June 1, 1964.

(2) The deed referred to in paragraph (1) is the quit-claim deed executed by the Secretary of the Army, dated June 1, 1964, which conveyed to the Port of Benton, Washington, pursuant to section 108 of the River and Harbor Act of 1960 (74 Stat. 486; 33 U.S.C. 578), approximately 290 acres of land owned by the United States.

(3) The 22-acre parcel of land referred to in paragraph (1) is bordered on the east by the Columbia River, on the north by First Street, on the south by the Tri-Cities University Center, and on the west by the Port of Benton property that is east of George Washington Way.

(b) MODIFICATION.—(1) The Secretary shall modify the reversionary interest referred to in subsection (a) in such manner as may be necessary to permit the Port of Benton, Washington, to donate approximately 22 acres of the land conveyed by the deed referred to in subsection (a)(2) to Washington State University for the establishment of a university branch on the donated land.

(2) The modified reversionary interest shall provide that if at any time the Secretary determines that the donated land is not being used for the purpose described in paragraph (1), title to such land shall revert to the United States, the United States shall have the right of immediate entry thereon, and title to the land (including all improvements thereon) shall vest in the United States without compensation by the United States.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary of the Army. The cost of such survey shall be borne by the Port of Benton, Washington.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

PART C—PROVISIONS RELATING TO BASE CLOSURES AND REALIGNMENTS

SEC. 2831. HOMEOWNERS ASSISTANCE PROGRAM

(a) IN GENERAL.—Section 2832 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b)(1) Subject to paragraph (2) and notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a)—

"(A) the Secretary of Defense may transfer not more than $31,000,000 from the Department of Defense Base Closure Account, established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627), to the fund established pursuant to subsection (d) of such section 1013 for use as part of such fund; and

"(B) any funds so transferred shall be available for obligation and expenditure for the same purposes that funds appropriated to such fund are available, except that such funds may not be obligated after September 30, 1991.

"(2) Amounts may be transferred under paragraph (1) only after the date on which the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives receive from the Secretary written notice of, and justification for, the transfer.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only to funds appropriated or transferred to, or otherwise deposited in, the Department of Defense Base Closure Account for, or during, fiscal years beginning after September 30, 1989.

SEC. 2832. USE OF CLOSED BASES FOR PRISONS AND DRUG TREATMENT FACILITIES

(a) FINDINGS.—The Congress finds that—

(1) the war on drugs is one of the highest priorities of the Federal Government;

(2) to effectively wage the war on drugs, adequate penal and correctional facilities and a substantial increase in the number and capacity of drug treatment facilities are needed;

(3) under the base closure process, authorized by title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627), 86 military bases are scheduled for closure; and

(4) facilities rendered excess by the base closure process should be seriously considered for use as prisons and drug treatment facilities, as appropriate.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should, pursuant to the provisions of title II of the Defense Authorization Amendments and Base Closure and Realignment Act, give priority to making real property (including the improvements thereon) of the Department of Defense rendered excess or surplus as a result of the recommendations of the Commission on Base Realignment and Closure available to another Federal agency or a State or local government for use as a penal or correctional facility or as a drug abuse prevention, treatment, or rehabilitation center.

SEC. 2833. NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES OF ENROLLMENT CHANGES DUE TO BASE CLOSURES AND REALIGNMENTS

(a) IDENTIFICATION OF ENROLLMENT CHANGES.—(1) Not later than January 1 of each year in which any activities necessary to close or realign a military installation under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627) are conducted, the Secretary of Defense shall identify, to the extent practicable, each local educational agency that will experience at least a 5-percent increase or at least a 10-percent reduction in the number of dependent children of members of the Armed Forces and of civilian employees of the Department of Defense enrolled in schools under the jurisdiction of such agency during the next academic year (compared with the number of such children enrolled in such schools during the preceding year) as a result of the closure or realignment of a military installation under that Act.

(2) The Secretary shall carry out this subsection in consultation with the Secretary of Education.

(b) NOTICE REQUIRED.—Not later than 30 days after the date on which the Secretary of Defense identifies a local educational agency under subsection (a), the Secretary shall transmit a written notice of the schedule for the closure or realignment of the military installation affecting that local educational agency to that local educational agency and to the State government education agency responsible for administering State government education programs involving that local educational agency.

SEC. 2834. REPORT

(a) REPORT REQUIREMENT.—Not later than November 15, 1989, the Comptroller General of the United States shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report on the methodology, findings, and recommendations of the Commission on Base Realignment and Closure.

(b) CONTENT OF REPORT.—(1) In preparing the report, the Comptroller General should consider the following:

(A) The adequacy and accuracy of the information relied upon as a basis for the Commission's recommendations.

(B) The process used in the determination of military missions and requirements and the military value of the bases in meeting such missions and requirements.

(C) The criteria used to select bases to be closed or realigned.

(D) The findings regarding military and civilian personnel reductions and associated relocation and termination expenses.

(E) The findings regarding nonrecurring costs, including expenses such as costs of construction, personnel, and logistics.

(F) The findings regarding long-term, annual savings, including the estimated cost amortization period.

(G) The findings regarding assumed proceeds from property sales for each applicable initiative.

(H) The findings regarding any environmental restoration costs that must be incurred in order to make it possible to sell or transfer excess property.

(2) If any inaccuracies in the information referred to in paragraph (1)(A) are noted in the report, the Comptroller General shall include in the report an assessment of the effects of such inaccuracies upon the methodology, findings, and recommendations of the Commission.

PART D—MISCELLANEOUS PROVISIONS

SEC. 2841. WHITE SANDS MISSILE RANGE, NEW MEXICO

(a) IN GENERAL.—The Secretary of the Army may, subject to such terms and conditions as the Secretary considers appropriate to protect the interests of the United States, issue a revocable license to the Ova Noss Family Partnership, a California limited partnership, to conduct a search for treasure trove in the Victorio Peak region of White Sands Missile Range, New Mexico, and may provide the Ova Noss Family Partnership with necessary processing, administration, and support incident to the license, including transportation, communications, safety and security, ordnance disposal services, housing, and public affairs assistance that the Ova Noss Family Partnership cannot contract for directly.

(b) REIMBURSEMENT.—(1) The Secretary of the Army shall require the Ova Noss Family Partnership to reimburse the Department of the Army for—

(A) all costs related to providing such processing, administration, and support; and

(B) other costs or losses incurred by the Department of the Army in connection with or as a result of the search.

(2) Reimbursements for such costs shall be credited to the Department of the Army appropriation from which the costs were paid.

(c) REPORT.—For each fiscal year in which any action is carried out under this section, the Secretary shall transmit a report to the Committees on Armed Services of the Senate and of the House of Representatives containing an accounting of each action taken under this section during such fiscal year.

SEC. 2842. COMMUNITY PLANNING ASSISTANCE

The Secretary of Defense may use funds appropriated to the Department of Defense for fiscal year 1990 for planning and design purposes to provide community planning assistance in the following amounts to the following communities:

(1) Not to exceed $250,000 of the planning and design funds of the Department of the Army for communities located near the newly established light infantry division posts at Fort Drum, New York.

(2) Not to exceed $250,000 of the planning and design funds of the Department of the Navy for communities located near the newly established Navy strategic dispersal program homeport at Everett, Washington.

(3) Not to exceed $250,000 of the planning and design funds of the Department of the Air Force for communities located near Whiteman Air Force Base, Knob Noster, Missouri.

SEC. 2843. DEVELOPMENT OF LAND AND LEASE OF FACILITY AT HENDERSON HALL, ARLINGTON, VIRGINIA

(a) IN GENERAL.—The Secretary of the Navy may—

(1) using funds provided by the Navy Mutual Aid Association, design, supervise, construct, and inspect a multipurpose facility of approximately 62,000 square feet to be located at Henderson Hall, Arlington, Virginia; and

(2) lease, without reimbursement, to the Navy Mutual Aid Association approximately one-third of the square footage of the facility to be constructed.

(b) TERMS OF LEASE.—The lease entered into under subsection (a)(2) shall—

(1) be for a term of 50 years;

(2) be in full consideration for the funds provided to the Secretary by the Navy Mutual Aid Association pursuant to subsection (a);

(3) provide that in the event the lease is canceled by the Secretary before expiration, the Secretary shall, as determined by the Secretary, provide comparable alternative space or, subject to the availability of funds, reimburse the Navy Mutual Aid Association for the unamortized cost of the building; and

(4) allow, at the discretion of the Secretary, for the Navy Mutual Aid Association to continue to use the space after the initial 50-year term, in compliance with laws and regulations applicable at that time.

(c) CONDITIONS.—(1) Title to the facility described in subsection (a)(1) shall be and remain in the United States.

(2) All construction authorized under this section shall be awarded through competitive procedures.

(3) Any lease or other agreement entered into under the authority of this section shall be subject to such terms and conditions as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2844. REPORT REGARDING FORT MEADE RECREATION AREA

The Secretary of the Army shall, not later than 30 days after the date of the enactment of this Act, transmit to the Committees on Armed Services of the Senate and of the House of Representatives a report on the feasibility of conveying to the State of Delaware a parcel of property known as Fort Meade Recreation Area, formerly Fort Miles, Delaware, consisting of approximately 96 acres.

SEC. 2845. COOPERATIVE AGREEMENTS FOR LAND MANAGEMENT ON DEPARTMENT OF DEFENSE INSTALLATIONS

(a) IN GENERAL.—The Act entitled "An Act to promote effectual planning, development, maintenance, and coordination of wildlife, fish, and game conservation and rehabilitation in military reservations" (popularly known as the "Sikes Act"), approved September 15, 1960 (16 U.S.C. 670a et seq.), is amended by inserting after section 103 the following new section:

"SEC. 103a. (a) The Secretary of Defense may enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals to provide for the maintenance and improvement of natural resources on, or to benefit natural and historic research on, Department of Defense installations.

"(b) A cooperative agreement shall provide for the Secretary of Defense and the other party or parties to the agreement—

"(1) to contribute funds on a matching basis to defray the cost of programs, projects, and activities under the agreement; or

"(2) to furnish services on a matching basis to carry out such programs, projects, and activities, or to do both.

"(c) Cooperative agreements entered into under this section shall be subject to the availability of funds and shall not be considered, nor be treated as, cooperative agreements to which chapter 63 of title 31, United States Code, applies.".

(b) CONFORMING AMENDMENTS.—Section 106 of such Act (16 U.S.C. 670f) is amended—

(1) in subsection (a), by inserting "and cooperative agreements agreed to under section 103a" in the first sentence after "sections 101 and 102"; and

(2) in subsection (b), by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", and to carry out such functions and responsibilities as the Secretary may have under cooperative agreements entered into under section 103a.".

SEC. 2846. REIMBURSEMENT FOR COSTS ASSOCIATED WITH HOMEPORTING AT LAKE CHARLES, LOUISIANA

(a) IN GENERAL.—(1) Subject to subsections (b) through (e), the Secretary of the Navy may—

(A) reimburse the Lake Charles Harbor and Terminal District, Lake Charles, Louisiana, in an amount not to exceed $2,600,000 for actual expenses—

(i) that were incurred by the District before the date of the enactment of this Act for the construction of utilities and roads to serve the proposed Lake Charles Navy Homeport, which is to be closed pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2626); and

(ii) that will be incurred by the District after the date of the enactment of this Act in connection with the construction of such utilities and roads as a direct result of the closing of the homeport, as determined by the Secretary;

(B) pay to the Lake Charles Harbor and Terminal District an amount not to exceed $1,300,000 for completion of the permanent access road to the proposed homeport from State Highway 384;

(C) take such action as may be necessary to release to the State of Louisiana any funds remaining in the trust account established by the State pursuant to the Memorandum of Agreement between the State and the Department of the Navy for use by the Department in connection with the construction of the Lake Charles Navy Homeport; and

(D) reimburse the State of Louisiana for any funds expended by the Navy from the trust account referred to in clause (C).

(2) The total of the amount of funds that may be released to the State of Louisiana pursuant to subparagraph (C) of paragraph (1) and paid to the State pursuant to subparagraph (D) of that paragraph may not exceed $5,000,000.

(b) SOURCE OF FUNDS.—Payments under this section shall be made from funds appropriated pursuant to the Military Construction Appropriations Act, 1988 (as contained in section 101(j) of Public Law 100-202; 101 Stat. 1329-311) for the construction of facilities at the proposed Lake Charles Navy Homeport. In no event may the total amount paid under this section by the Secretary exceed the amount appropriated for construction of homeport facilities at Lake Charles and remaining available for obligation after payment of all termination costs resulting from the closure of the Lake Charles Navy Homeport.

(c) LAND CONVEYANCE.—The Secretary shall convey to the Lake Charles Harbor and Terminal District, without consideration, approximately 38 acres of real property, including improvements and the sheet pile materials thereon, constituting the proposed Lake Charles Navy Homeport, Louisiana. Such lands are the same lands that were previously conveyed, without consideration, to the United States by the Lake Charles Harbor and Terminal District by special warranty deed dated March 14, 1988.

(d) CONDITION.—The reimbursements and conveyance provided for in this section shall be made subject to the condition that the agreement entered into by the Lake Charles Harbor and Terminal District, the State of Louisiana, and the United States entitled "Memorandum of Understanding for Donation of Land and Establishment of Homeport", dated June 11, 1986, shall be considered canceled and of no force or effect after such reimbursements and conveyance have been made by the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2847. FEASIBILITY STUDY OF LAND TRANSFER FOR USE AS A CORRECTIONAL FACILITY

(a) IN GENERAL.—(1) The Secretary of Defense shall, in consultation with the Attorney General of the United States, conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land of approximately one hundred acres not more than one hundred miles from the southern boundary of Arlington County, from the military installations within Virginia which encompass land that may be suitable for use by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for a medium security correctional facility for persons sentenced in the courts of Virginia or in a United States District Court in Virginia.

(2) The study required by paragraph (1) shall address, at a minimum, the following issues:

(A) Whether there are parcels of land within those installations of the size described which could be released from Federal control without severely affecting the present mission of such installations.

(B) A description of the parcels of land referred to in subparagraph (A).

(C) A description of the effects, if any, transfer of such parcels of land from Federal control would have on the ability of the Secretary of Defense to carry out effectively the missions of the Department of Defense.

(D) An analysis of the risk, if any, that might be posed to military personnel and their dependents housed on such installation by the operation of such a correctional facility on the parcels of land referred to in subparagraph (A).

(E) An estimate of the date on which the parcels of land referred to in subparagraph (A) would be available for transfer from Federal control.

(b) REPORT.—The report of the study described in subsection (a) shall be transmitted to the Committees on Armed Services of the Senate and of the House of Representatives not later than 60 days after the date of the enactment of this Act.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that no land is to be conveyed or otherwise transferred for use as a correctional facility as a result, directly or indirectly, of the study carried out under this section unless—

(1) the unit or units of general local government having jurisdiction over the the land will utilize the correctional facility to be located on the land; or

(2) such unit or units have approved formally the use of such land for a correctional facility.

SEC. 2848. CONSTRUCTION OF MILITARY FAMILY HOUSING AT MARINE CORPS AIR STATION, TUSTIN, CALIFORNIA

(a) AUTHORITY TO USE LITIGATION PROCEEDS.—Subject to subsections (b) through (d), upon final settlement in the case of Rossmoor Liquidating Trust against United States, in the United States District Court for the Central District of California (Case No. CV 82-0956 LEW (Px)), the Secretary of the Treasury shall deposit in a separate account any funds paid to the United States in settlement of such case. The Secretary of the Treasury shall make available, upon request, the amount in such account to the Secretary of the Navy solely for the construction of military family housing at Marine Corps Air Station, Tustin, California.

(b) UNITS AUTHORIZED.—Not more than 150 military family housing units may be constructed with funds referred to in subsection (a). The units authorized by this subsection are in addition to any units otherwise authorized to be constructed at Marine Corps Air Station, Tustin, California.

(c) PAYMENT OF EXCESS INTO TREASURY.—The Secretary of the Treasury shall deposit into the Treasury as miscellaneous receipts funds referred to in subsection (a) that have not been obligated for construction under this section within four years after receipt thereof.

(d) LIMITATION.—The Secretary may not enter into any contract for the construction of military family housing under this section until after the expiration of the 21-day period beginning on the day after the day on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report containing the details of such contract.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3101. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,774,573,000, to be allocated as follows:

(A) For research and development, $1,064,970,000.

(B) For weapons testing, $511,700,000.

(C) For production and surveillance, $2,100,000,000.

(D) For program direction, $97,903,000.

(2) For defense nuclear materials production, $1,654,691,000, to be allocated as follows:

(A) For production reactor operations, $578,049,000.

(B) For processing of defense nuclear materials, including naval reactors fuel, $589,609,000, of which $78,744,000 shall be used for special isotope separation.

(C) For supporting services, $282,868,000.

(D) For uranium enrichment for naval reactors, $168,900,000.

(E) For program direction, $35,265,000.

(3) For environmental restoration and management of defense waste and transportation, $1,441,875,000 to be allocated as follows:

(A) For environmental restoration, $572,000,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $699,696,000.

(C) For waste research and development, $115,225,000.

(D) For hazardous waste and compliance technology, $40,163,000.

(E) For transportation management, $11,841,000.

(F) For program direction, $2,950,000.

(4) For verification and control technology, $159,146,000.

(5) For nuclear materials safeguards and security technology development program, $82,241,000.

(6) For security investigations, $41,200,000.

(7) For new production reactors, $203,500,000.

(8) For naval reactors development, $562,800,000.

SEC. 3102. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 90-D-101, general plant projects, various locations, $28,130,000.

Project 90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $1,000,000.

Project 90-D-103, environment, safety, and health improvements, various locations, $10,700,000.

Project 90-D-121, general plant projects, various locations, $30,850,000.

Project 90-D-122, production capabilities for the nuclear depth/strike bomb (ND/SB), various locations, $8,000,000.

Project 90-D-124, high explosives (HE) synthesis facility, Pantex Plant, Amarillo, Texas, $1,800,000.

Project 90-D-125, steam plant ash disposal facility, Y-12 Plant, Oak Ridge, Tennessee, $1,500,000.

Project 90-D-126, environmental, safety, and health enhancements, various locations, $26,700,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $9,200,000.

Project 89-D-125, plutonium recovery modification project, Rocky Flats Plant, Golden, Colorado, $45,000,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $3,500,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $44,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $94,400,000.

Project 88-D-122, facilities capability assurance program, various locations, $83,099,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $5,500,000.

Project 88-D-124, fire protection upgrade, various locations, $5,400,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $36,000,000.

Project 87-D-104, safeguards and security enhancement, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $41,200,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $5,200,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $24,025,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $9,460,000.

(2) For materials production:

Project 90-D-141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho, $3,500,000.

Project 90-D-142, coal storage facility environmental upgrade, Feed Materials Production Center, Fernald, Ohio, $920,000.

Project 90-D-143, plutonium finishing plant fire safety and loss limitation, Richland, Washington, $800,000.

Project 90-D-146, general plant projects, various locations, $36,802,000.

Project 90-D-149, plantwide fire protection, Phase I, Savannah River, South Carolina, $4,900,000.

Project 90-D-150, reactor safety assurance, Phase I, Savannah River, South Carolina, $12,700,000.

Project 90-D-151, engineering center, Savannah River, South Carolina, $7,000,000.

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $10,300,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $7,800,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $40,000,000.

Project 89-D-148, improved reactor confinement system, design only, Savannah River, South Carolina, $7,100,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $6,400,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, and III, Feed Materials Production Center, Fernald, Ohio, $55,111,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $40,000,000.

Project 86-D-149, productivity retention program, Phases I, II, III, IV, and V, various locations, $81,780,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $3,164,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $6,181,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $75,000,000.

(3) For defense waste and environmental restoration:

Project 90-D-170, general plant projects, various locations, $29,036,000.

Project 90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington, $1,100,000.

Project 90-D-172, aging waste transfer lines, Richland, Washington, $1,300,000.

Project 90-D-173, B plant canyon crane replacement, Richland, Washington, $1,500,000.

Project 90-D-174, decontamination laundry facility, Richland, Washington, $2,800,000.

Project 90-D-175, landlord program safety compliance-I, Richland, Washington, $4,200,000.

Project 90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina, $3,100,000.

Project 90-D-177, RWMC transuranic (TRU) waste treatment and storage facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $5,000,000.

Project 90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $6,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $7,400,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $27,600,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $15,400,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, $9,360,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $6,440,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $29,100,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $700,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $2,790,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $14,140,000.

(4) For verification and control technology:

Project 90-D-186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico, $1,000,000.

(5) For new production reactor:

Project 88-D-154, new production reactor capacity, various locations, $100,000,000.

(6) For naval reactors development:

Project 90-N-101, general plant projects, various locations, $8,500,000.

Project 90-N-102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $3,600,000.

Project 90-N-103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho, $200,000.

Project 90-N-104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York, $3,900,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $6,500,000.

Project 89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho, $3,100,000.

Project 89-N-104, power system upgrade, Naval Reactors Facility, Idaho, $6,400,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $3,000,000.

(7) For capital equipment not related to construction:

(A) For weapons activities, $284,370,000, including $8,740,000 for the defense inertial confinement fusion program.

(B) For materials production, $104,425,000.

(C) For defense waste and environmental restoration, $50,126,000.

(D) For verification and control technology, $9,732,000.

(E) For nuclear safeguards and security, $4,967,000.

(F) For naval reactors development, $54,000,000.

SEC. 3103. FUNDING LIMITATIONS

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO THE STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1990 for operating expenses and plant and capital equipment, not more than $220,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1990 for operating expenses and plant and capital equipment, $173,940,000 shall be available for the defense inertial confinement fusion program.

(c) SPECIAL ISOTOPE SEPARATION PROJECT.—(1) The funds authorized for Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, may not be used for construction or procurement of long-lead materials or equipment.

(2) The Secretary of Energy may transfer not more than $10,000,000 of the funds authorized for Project 86-D-148 to the funds authorized for Operating Expenses for activities in support of such project.

(3) No funds may be obligated for site preparation for Project 86-D-148 until the Secretary of Energy has certified to the Committees on Armed Services of the Senate and House of Representatives that obligation of funds for site preparation is—

(A) essential for the national security of the United States; and

(B) necessary to meet plutonium requirements.

(4) No additional funds may be obligated for construction, including site preparation, in connection with such project until the Secretary has certified to the Committees on Armed Services of the Senate and the House of Representatives that the technology for the special isotope separation project has been proven and that all environmental requirements provided in applicable laws have been met.

(d) LANCE WARHEAD FOLLOW-ON.—(1) Except as provided in paragraph (2), funds appropriated pursuant to the authorization contained in section 3101 may not be obligated for advanced development for any warhead for the design or development of a new warhead for the Follow-on To Lance (FOTL) missile.

(2) Funds referred to in paragraph (1) may be obligated for advanced development for a warhead for the FOTL missile only if the Secretary of Energy certifies to the Committees on Armed Services of the Senate and House of Representatives that—

(A) such warhead is a cost effective use of the W84 warhead, the W85 warhead, or both the W84 and W85 warheads, as the case may be; or

(B) neither the W84 or W85 warhead is compatible with the FOTL missile.

(3) Any certification submitted pursuant to paragraph (2) shall be accompanied by a detailed explanation of the reasons for such certification.

(4) For purposes of this paragraph, the term "advance development" with respect to the FOTL missile means work under phase 1 or work under phase 2, other than design work under phase 2A.

PART B—RECURRING GENERAL PROVISIONS

SEC. 3121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3102 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) SPECIFIC TRANSFER.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1990 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 3103(a).

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary of Energy may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 3102, the Secretary of Energy may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

PART C—TECHNOLOGY TRANSFER

SEC. 3131. SHORT TITLE

This part may be cited as the "National Competitiveness Technology Transfer Act of 1989".

SEC. 3132. FINDINGS AND PURPOSES

(a) FINDINGS.—Congress finds that—

(1) technology advancement is a key component in the growth of the United States industrial economy, and a strong industrial base is an essential element of the security of this country;

(2) there is a need to enhance United States competitiveness in both domestic and international markets;

(3) innovation and the rapid application of commercially valuable technology are assuming a more significant role in near-term marketplace success;

(4) the Federal laboratories and other facilities have outstanding capabilities in a variety of advanced technologies and skilled scientists, engineers, and technicians who could contribute substantially to the posture of United States industry in international competition;

(5) improved opportunities for cooperative research and development agreements between contractor-managers of certain Federal laboratories and the private sector in the United States, consistent with the program missions at those facilities, particularly the national security functions involved in atomic energy defense activities, would contribute to our national well-being; and

(6) more effective cooperation between those laboratories and the private sector in the United States is required to provide speed and certainty in the technology transfer process.

(b) PURPOSES.—The purposes of this part are to—

(1) enhance United States national security by promoting technology transfer between Government-owned, contractor-operated laboratories and the private sector in the United States; and

(2) enhance collaboration between universities, the private sector, and Government-owned, contractor-operated laboratories in order to foster the development of technologies in areas of significant economic potential.

SEC. 3133. AUTHORITY TO ENTER INTO COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS

(a) TECHNOLOGY TRANSFER ACTIVITIES.—Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (a)—

(A) by inserting ", and, to the extent provided in an agency-approved joint work statement, the director of any of its Government-owned, contractor-operated laboratories" after "Government-operated Federal laboratories";

(B) by striking "for Government-owned" and inserting in lieu thereof "(in the case of a Government-owned, contractor-operated laboratory, subject to subsection (c) of this section) for" in paragraph (2); and

(C) by striking "of Federal employees" in paragraph (2);

(2) in subsection (b)—

(A) by inserting ", and, to the extent provided in an agency-approved joint work statement, a Government-owned, contractor-operated laboratory," after "Government-operated Federal laboratory";

(B) by striking "a Federal" in paragraph (2) and inserting in lieu thereof "a laboratory"; and

(C) by inserting after paragraph (5) the following:

"A Government-owned, contractor-operated laboratory that enters into a cooperative research and development agreement under subsection (a)(1) may use or obligate royalties or other income accruing to such laboratory under such agreement with respect to any invention only (i) for payments to inventors; (ii) for the purposes described in section 14(a)(1)(B) (i), (ii), and (iv); and (iii) for scientific research and development consistent with the research and development mission and objectives of the laboratory.";

(3) in subsection (c)(3)(A), by striking "employee standards of conduct" and inserting in lieu thereof "standards of conduct for its employees";

(4) in subsection (c)(5)(A), by inserting "presented by the director of a Government-operated laboratory" after "any such agreement";

(5) in subsection (c)(5)(B), by inserting "by the director of a Government-operated laboratory" after "an agreement presented";

(6) in subsection (c)(5), by adding at the end the following new subparagraph:

"(C)(i) Any agency which has contracted with a non-Federal entity to operate a laboratory shall review and approve, request specific modifications to, or disapprove a joint work statement that is submitted by the director of such laboratory within 90 days after such submission. In any case where an agency has requested specific modifications to a joint work statement, the agency shall approve or disapprove any resubmission of such joint work statement within 30 days after such resubmission, or 90 days after the original submission, whichever occurs later. No agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before both approval of the agreement under clause (iv) and approval under this clause of a joint work statement.

"(ii) In any case in which an agency which has contracted with a non-Federal entity to operate a laboratory disapproves or requests the modification of a joint work statement submitted under this section, the agency shall promptly transmit a written explanation of such disapproval or modification to the director of the laboratory concerned.

"(iii) Any agency which has contracted with a non-Federal entity to operate a laboratory or laboratories shall develop and provide to such laboratory or laboratories one or more model cooperative research and development agreements, for the purposes of standardizing practices and procedures, resolving common legal issues, and enabling review of cooperative research and development agreements to be carried out in a routine and prompt manner.

"(iv) An agency which has contracted with a non-Federal entity to operate a laboratory shall review each agreement under this section. Within 30 days after the presentation, by the director of the laboratory, of such agreement, the agency shall, on the basis of such review, approve or request specific modification to such agreement. Such agreement shall not take effect before approval under this clause.

"(v) If an agency fails to complete a review under clause (iv) within the 30-day period specified therein, the agency shall submit to the Congress, within 10 days after the end of that 30-day period, a report on the reasons for such failure. The agency shall, at the end of each successive 30-day period thereafter during which such failure continues, submit to the Congress another report on the reasons for the continuing failure. Nothing in this clause relieves the agency of the requirement to complete a review under clause (iv).

"(vi) In any case in which an agency which has contracted with a non-Federal entity to operate a laboratory requests the modification of an agreement presented under this section, the agency shall promptly transmit a written explanation of such modification to the director of the laboratory concerned.";

(7) in subsection (c), by adding at the end the following new paragraph:

"(7)(A) No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained in the conduct of research or as a result of activities under this Act from a non-Federal party participating in a cooperative research and development agreement shall be disclosed.

"(B) The director, or in the case of a contractor-operated laboratory, the agency, for a period of up to 5 years after development of information that results from research and development activities conducted under this Act and that would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement, may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code."; and

(8) in subsection (d)—

(A) by striking "and" at the end of paragraph (1);

(B) by amending paragraph (2) to read as follows:

"(2) the term 'laboratory' means—

"(A) a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the Federal Government;

"(B) a group of Government-owned, contractor-operated facilities under a common contract, when a substantial purpose of the contract is the performance of research and development for the Federal Government; and

"(C) a Government-owned, contractor-operated facility that is not under a common contract described in subparagraph (B), and the primary purpose of which is the performance of research and development for the Federal Government,

but such term does not include any facility covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program; and"; and

(C) by adding at the end the following new paragraph:

"(3) the term 'joint work statement' means a proposal prepared for a Federal agency by the director of a Government-owned, contractor-operated laboratory describing the purpose and scope of a proposed cooperative research and development agreement, and assigning rights and responsibilities among the agency, the laboratory, and any other party or parties to the proposed agreement.".

(b) PRINCIPLES.—Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended by adding at the end the following new subsection:

"(g) PRINCIPLES.—In implementing this section, each agency which has contracted with a non-Federal entity to operate a laboratory shall be guided by the following principles:

"(1) The implementation shall advance program missions at the laboratory, including any national security mission.

"(2) Classified information and unclassified sensitive information protected by law, regulation, or Executive order shall be appropriately safeguarded.".

(c) TECHNICAL AMENDMENTS.—Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended—

(1) in subsection (a)(1), by inserting "by Government-operated Federal laboratories" after "entered into"; and by striking "11" and inserting in lieu thereof "12";

(2) in subsection (a)(1)(B)(ii), by inserting ", including payments to inventors and developers of sensitive or classified technology, regardless of whether the technology has commercial applications" after "that laboratory"; and

(3) in subsection (a)(1)(B)(iv), by striking "Government-operated".

(d) CONTRACT PROVISIONS.—(1) Not later than 150 days after the date of enactment of this Act, each agency which has contracted with a non-Federal entity to operate a Government-owned laboratory shall propose for inclusion in that laboratory's operating contract, to the extent not already included, appropriate contract provisions that—

(A) establish technology transfer, including cooperative research and development agreements, as a mission for the laboratory under section 11(a)(1) of the Stevenson-Wydler Technology Innovation Act of 1980;

(B) describe the respective obligations and responsibilities of the agency and the laboratory with respect to this part and section 12 of the Stevenson-Wydler Technology Innovation Act of 1980;

(C) require that, except as provided in paragraph (2), no employee of the laboratory shall have a substantial role (including an advisory role) in the preparation, negotiation, or approval of a cooperative research and development agreement if, to such employee's knowledge—

(i) such employee, or the spouse, child, parent, sibling, or partner of such employee, or an organization (other than the laboratory) in which such employee serves as an officer, director, trustee, partner, or employee—

(I) holds a financial interest in any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement; or

(II) receives a gift or gratuity from any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement; or

(ii) a financial interest in any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement, is held by any person or organization with whom such employee is negotiating or has any arrangement concerning prospective employment;

(D) require that each employee of the laboratory who negotiates or approves a cooperative research and development agreement shall certify to the agency that the circumstances described in subparagraph (C)(i) and (ii) do not apply to such employee;

(E) require the laboratory to widely disseminate information on opportunities to participate with the laboratory in technology transfer, including cooperative research and development agreements; and

(F) provides for an accounting of all royalty or other income received under cooperative research and development agreements.

(2) The requirements described in paragraph (1)(C) and (D) shall not apply in a case where the negotiating or approving employee advises the agency that reviewed the applicable joint work statement under section 12(c)(5)(C)(i) of the Stevenson-Wydler Technology Innovation Act of 1980 in advance of the matter in which he is to participate and the nature of any financial interest described in paragraph (1)(C), and where the agency employee determines that such financial interest is not so substantial as to be considered likely to affect the integrity of the laboratory employee's service in that matter.

(3) Not later than 180 days after the date of enactment of this Act, each agency which has contracted with a non-Federal entity to operate a Government-owned laboratory shall submit a report to the Congress which includes a copy of each contract provision amended pursuant to this subsection.

(4) No Government-owned, contractor-operated laboratory may enter into a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 unless—

(A) that laboratory's operating contract contains the provisions described in paragraph (1)(A) through (F); or

(B) such laboratory agrees in a separate writing to be bound by the provisions described in paragraph (1)(A) through (F).

(5) Any contract for a Government-owned, contractor-operated laboratory entered into after the expiration of 150 days after the date of enactment of this Act shall contain the provisions described in paragraph (1)(A) through (F).

(e) TECHNOLOGY TRANSFER FUNDING AND REPORT.—Section 11(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(b)) is amended—

(1) by striking "after September 30, 1981,";

(2) by striking "not less than 0.5 percent of the agency's research and development budget" and inserting in lieu thereof "sufficient funding, either as a separate line item or from the agency's research and development budget,";

(3) by striking "The agency head may waive" and all that follows through "waives such requirement, the" and inserting in lieu thereof "The"; and

(4) by striking "reasons for the waiver and alternate plans for conducting the technology transfer function at the agency." and inserting in lieu thereof "agency's technology transfer program for the preceding year and the agency's plans for conducting its technology transfer function for the upcoming year, including plans for securing intellectual property rights in laboratory innovations with commercial promise and plans for managing such innovations so as to benefit the competitiveness of United States industry.".

PART D—ENVIRONMENT, SAFETY, AND MANAGEMENT

SEC. 3141. DEFENSE WASTE CLEANUP TECHNOLOGY PROGRAM

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and carry out a program of research for the development of technologies useful for (1) the reduction of environmental hazards and contamination resulting from defense waste, and (2) environmental restoration of inactive defense waste disposal sites.

(b) COORDINATION OF RESEARCH ACTIVITIES.—(1) In order to ensure nonduplication of research activities by the Department of Energy regarding technologies referred to in subsection (a), the Secretary shall coordinate the research activities of the Department of Energy relating to the development of such technologies with the research activities of the Environmental Protection Agency, the Department of Defense, and other appropriate Federal agencies relating to the same matter.

(2) To the extent that funds are otherwise available for obligation, the Secretary may enter into cooperative agreements with the Environmental Protection Agency, the Department of Defense, and other appropriate Federal agencies for the conduct of research for the development of technologies referred to in subsection (a).

(c) REPORT.—(1) The Secretary shall submit to Congress not later than April 1 each year a report on the research activities of the Department of Energy for the development of technologies referred to in subsection (a). The report shall cover such activities for the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in the report the following:

(A) A description and assessment of each research program being carried out by or for the Department of Energy and the identification of the individual laboratory, contractor, or institution of higher education responsible for the research program.

(B) An assessment of the extent to which (i) there are practical applications of the technologies being researched, and (ii) such technologies will likely facilitate compliance by the Department of Energy with applicable environmental laws and regulations.

(C) An accounting of the funds allocated to each research program and to each laboratory, contractor, or institution of higher education carrying out the research program.

(D) An assessment of the research projects that have been coordinated with the Environmental Protection Agency, the Department of Defense, and other appropriate Federal agencies pursuant to subsection (b).

(2) The first report required by paragraph (1) shall be submitted not later than April 1, 1990.

(d) DEFINITIONS.—As used in this section:

(1) The term "defense waste" means waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term "inactive defense waste disposal site" means any site (including any facility) under the control or jurisdiction of the Secretary of Energy which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

SEC. 3142. EXECUTIVE MANAGEMENT TRAINING IN THE DEPARTMENT OF ENERGY

(a) ESTABLISHMENT OF TRAINING PROGRAM.—The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.

(b) TRAINING PROVISIONS.—The training program shall at a minimum include instruction in the following areas:

(1) Department of Energy policy and procedures for management and operation of atomic energy defense facilities.

(2) Methods of evaluating technical performance.

(3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.

(4) The establishment of program milestones and methods to evaluate success in meeting such milestones.

(5) Methods for conducting long-range technical and budget planning.

(6) Procedures for reviewing and applying innovative technology to environmental restoration and defense waste management.

SEC. 3143. MAJOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

(a) MAJOR PROGRAM DEFINED.—In this section, the term "major Department of Energy national security program" means a research and development program (which may include construction and production activities), a construction program, or a production program—

(1) that is designated by the Secretary of Energy as a major Department of Energy national security program; or

(2) that is estimated by the Secretary of Energy to cost more than $500,000,000 (based on fiscal year 1989 constant dollars).

(b) REQUIRED REPORTS.—(1) Except as provided in paragraph (3), the Secretary of Energy shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives at the end of each calendar-year quarter a report on each major Department of Energy national security program.

(2) Each such report shall include, at a minimum, the following information:

(A) A description of the program, its purpose, and its relationship to the mission of the national security program of the Department of Energy.

(B) The program schedule, including estimated annual costs.

(C) A comparison of the current schedule and cost estimates with previous schedule and cost estimates, and an explanation of changes.

(3) A report under this section need not be submitted for the first, second, or third calendar-year quarter if the comparison between current schedule and cost estimates and schedule and cost estimates contained in the last submitted report shows that there has been—

(A) less than a 5 percent change in total program cost; and

(B) less than a 90-day delay in any significant schedule item of the program.

(c) SUBMISSION OF REPORT.—Each report under this section shall be submitted not later than 30 days after the end of each calendar-year quarter. The first report shall cover the fourth quarter of 1989 and shall be submitted not later than January 30, 1990.

(d) IDENTIFICATION OF PROGRAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit a report to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives that identifies all programs of the Department of Energy that are major Department of Energy national security programs, as defined in subsection (a).

SEC. 3144. FIVE-YEAR BUDGET PLAN REQUIREMENT

(a) PLAN REQUIREMENT.—The Secretary of Energy each year shall prepare a five-year budget plan for the national security programs of the Department of Energy. The plan shall contain the estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the national security programs and shall be at a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) SUBMISSION OF PLAN.—The Secretary shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives the plan required under subsection (a) at the same time as the President submits to Congress the budget pursuant to section 1105 of title 31, United States Code.

PART E—MISCELLANEOUS PROVISIONS

SEC. 3151. PROHIBITION AND REPORT ON BONUSES TO CONTRACTORS OPERATING DEFENSE NUCLEAR FACILITIES

(a) PROHIBITION.—The Secretary of Energy may not provide any bonuses, award fees, or other form of performance- or production-based awards to a contractor operating a Department of Energy defense nuclear facility unless, in evaluating the performance or production under the contract, the Secretary considers the contractor's compliance with all applicable environmental, safety, and health statutes, regulations, and practices for determining both the size of, and the

contractor's qualification for, such bonus, award fee, or other award. The prohibition in this subsection applies with respect to contracts entered into, or contract options exercised, after the date of the enactment of this Act.

(b) REPORT ON ROCKY FLATS BONUSES.—The Secretary of Energy shall investigate the payment, from 1981 to 1988, of production bonuses to Rockwell International, the contractor operating the Rocky Flats Plant (Golden, Colorado), for purposes of determining whether the payment of such bonuses was made under fraudulent circumstances. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of that investigation, including the Secretary's conclusions and recommendations.

(c) DEFINITION.—In this section, the term "Department of Energy defense nuclear facility" has the meaning given such term by section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

(d) REGULATIONS.—The Secretary of Energy shall promulgate regulations to implement subsection (a) not later than 90 days after the date of the enactment of this Act.

SEC. 3152. PREFERENCE FOR ROCKY FLATS WORKERS

In any contract awarded by the Secretary of Energy to carry out any cleanup, decontamination, or decommissioning of the Rocky Flats Plant (Golden, Colorado), the Secretary of Energy shall require the contractor to give first preference in hiring employees to those employees who worked at the Rocky Flats Plant before it was closed and who are qualified to carry out the duties of the positions, as determined by the contractor.

SEC. 3153. AUTHORIZATION AND FUNDING FOR ROCKY FLATS AGREEMENT

(a) AUTHORIZATION.—(1) Using funds available pursuant to subsection (b), the Secretary of Energy shall make such payments as may be necessary—

(A) to carry out the agreement entered into on June 16, 1989, between the Department of Energy and the State of Colorado with respect to the Rocky Flats Plant; and

(B) to enable the State of Colorado to provide such assistance to the Colorado communities described in paragraph (2) as is necessary to ensure, through testing and related activities, that the drinking water of those communities is safe, pure, and clean.

(2) The Colorado communities referred to in paragraph (1)(B) are those communities whose water supply flows through, runs off, or is otherwise affected by air or water emissions of, the Rocky Flats Plant.

(b) FUNDING.—Of the funds appropriated to the Department of Energy for fiscal year 1990 pursuant to the authorization in this title for environmental restoration and management of defense waste, not more than $3,435,000 may be obligated to carry out the agreement referred to in subsection (a)(1)(A) and to provide for testing and related activities authorized under subsection (a)(2).

SEC. 3154. MORATORIUM ON INCINERATION OF RADIOACTIVE WASTE AT LOS ALAMOS NATIONAL LABORATORY

The Los Alamos National Laboratory is prohibited from incinerating radioactive waste, including any waste containing radioactive constituents, until the earlier of the following dates:

(1) August 1, 1990.

(2) The date on which the State of New Mexico adopts regulations on emissions resulting from the incineration of radioactive waste.

SEC. 3155. PRODUCTION OF THE 155-MILLIMETER ARTILLERY-FIRED, ATOMIC PROJECTILE

Section 1635 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2649), is amended—

(1) in subsection (b), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", not including amounts spent exclusively to ensure the safety and security of the warheads."; and

(2) by adding at the end the following new subsection:

"(d) The Secretary of Energy and the Secretary of Defense shall jointly submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section and shall include in such report the number of projectiles referred to in subsection (b) that have been produced and the total amount obligated for the production of such projectiles. Such report shall be submitted at the same time that the President submits the budget for fiscal year 1991 to Congress pursuant to section 1105 of title 31, United States Code.".

SEC. 3156. REPORTS IN CONNECTION WITH PERMANENT CLOSURES OF DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES

(a) TRAINING AND JOB PLACEMENT SERVICES PLAN.—Not later than 120 days before a Department of Energy defense nuclear facility (as defined in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g)) permanently ceases all production and processing operations, the Secretary of Energy must submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the environmental remediation and cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) CLOSURE REPORT.—Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

(1) a complete survey of environmental problems at the facility;

(2) budget quality data indicating the cost of environmental restoration and other remediation and cleanup efforts at the facility; and

(3) a discussion of the proposed cleanup schedule.

SEC. 3157. DEFENSE PROGRAM MISSIONS

Section 91 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2121(a)) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(3) provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs;

"(4) carry out research on and development of technologies needed for the effective negotiation and verification of international agreements on control of special nuclear materials and nuclear weapons; and

"(5) under applicable law (other than this paragraph) and consistent with other missions of the Department of Energy, make transfers of federally owned or originated technology to State and local governments, private industry, and universities or other nonprofit organizations so that the prospects for commercialization of such technology are enhanced.".

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

SEC. 3201. AUTHORIZATION

There are authorized to be appropriated for fiscal year 1990 $7,000,000 for the establishment and operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.)

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

PART A—CHANGES IN STOCKPILE AMOUNTS

SEC. 3301. CHANGES IN STOCKPILE REQUIREMENTS

Pursuant to section 3(c)(4) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)(4)), the National Defense Stockpile Manager may revise quantities of materials to be stockpiled under that Act in accordance with the following table:

Material	Current Quantity	Revised Quantity
Aluminum oxide, abrasive grain group.	638,000 short tons (contained).	374,000 short tons (contained)
Antimony	36,000 short tons.	88,500 short tons
Asbestos, amosite.	17,000 short tons.	0 short tons
Bauxite, refractory.	1,400,000 long calcined tons.	1,240,000 long calcined tons
Bismuth	2,200,000 pounds.	1,060,000 pounds
Chromite, refractory grade ore.	850,000 short dry tons.	695,000 short dry tons
Columbium group.	4,850,000 pounds (contained).	12,520,000 pounds (contained)
Diamond, industrial group.	29,730,000 carats.	7,730,000 carats
Fluorspar, acid grade.	1,400,000 short dry tons.	900,000 short dry tons
Fluorspar, metallurgical grade.	1,700,000 short dry tons.	310,000 short dry tons
Graphite, natural, malagasy, crystalline.	20,000 short tons.	14,200 short tons
Graphite, natural, other than ceylon and malagasy.	2,800 short tons	1,930 short tons
Manganese, battery grade group.	87,000 short dry tons.	50,000 short dry tons
Mica, muscovite block, stained and better.	6,200,000 pounds.	2,500,000 pounds
Natural insulation fibers.	1,500,000 pounds.	0 pounds
Platinum group metals, iridium.	98,000 troy ounces.	86,000 troy ounces
Platinum group metals, palladium.	3,000,000 troy ounces.	2,150,000 troy ounces
Quartz crystals.	600,000 pounds	240,000 pounds
Talc, steatite block and lump.	28 short tons	0 short tons
Tungsten group.	50,666,000 pounds (contained).	70,900,000 pounds (contained)

SEC. 3302. AUTHORIZED DISPOSALS

(a) AUTHORITY.—During fiscal years 1990 and 1991, the National Defense Stockpile Manager may dispose of materials in the National Defense Stockpile in accordance with this section. The value of materials disposed of may not exceed $180,000,000 during each of such fiscal years, and such disposal may be made only as specified in subsection (b).

(b) MATERIALS AUTHORIZED TO BE DISPOSED.—Any disposal under subsection (a) shall be made from quantities of materials in the National Defense Stockpile previously authorized for disposal by law or, in the case of materials in the National Defense Stockpile that have been determined to be excess to the current requirements of the stockpile, in accordance with the following table:

Material	Quantities
Asbestos, amosite	34,000 short tons
Bismuth	255,400 pounds
Diamond, industrial, crushing bort.	8,000,000 carats
Fluorspar, metallurgical grade.	15,000 short dry tons
Graphite, natural, Malagasy, crystalline.	3,635 short tons
Graphite, natural, other than Ceylon and Malagasy.	873 short tons
Mercury	15,000 flasks
Mica, muscovite block, stained and better.	10,000 pounds
Silicon carbide	690 short tons
Talc, block and lump	28 short tons
Tin	5,000 metric tons

(c) ADDITIONAL AUTHORITY.—The disposal authority provided in subsection (a) is in addition to any other disposal authority provided by law.

(d) LIMITATION ON DISPOSALS DURING FISCAL YEARS 1990 AND 1991.—The National Defense Stockpile Manager may dispose of materials under this section during each of the fiscal years 1990 and 1991 only to the extent that the total amount received (or to be received) from such disposals for each such fiscal year does not exceed the amount obligated from the National Defense Stockpile Transaction Fund during such fiscal year for the purposes authorized under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

SEC. 3303. AUTHORIZATION OF ACQUISITIONS

(a) ACQUISITIONS.—During each of the fiscal years 1990 and 1991, the National Defense Stockpile Manager shall obligate $180,000,000 out of funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) UPGRADE PROGRAMS.—Of the amount specified in subsection (a), at least $30,000,000 shall be obligated during each of such fiscal years for programs not already required by law for upgrading stockpile materials.

PART B—PROGRAMMATIC CHANGES

SEC. 3311. STRATEGIC AND CRITICAL MATERIALS DEVELOPMENT, RESEARCH, AND CONSERVATION

Section 8 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98g) is amended by adding at the end the following new subsections:

"(c) The President shall make scientific, technologic, and economic investigations concerning the feasibility of—

"(1) developing domestic sources of supply of materials (other than materials referred to in subsections (a) and (b)) determined pursuant to section 3(a) to be strategic and critical materials; and

"(2) developing or using alternative methods for the refining or processing of a material in the stockpile so as to convert such material into a form more suitable for use during an emergency or for storage.

"(d) The President shall encourage the conservation of domestic sources of any material determined pursuant to section 3(a) to be a strategic and critical material by making grants or awarding contracts for research regarding the development of—

"(1) substitutes for such material; or

"(2) more efficient methods of production or use of such material.".

SEC. 3312. DEVELOPMENT OF DOMESTIC SOURCES

(a) AUTHORITY OF THE PRESIDENT.—The Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) is amended by adding at the end the following new section:

"DEVELOPMENT OF DOMESTIC SOURCES

"SEC. 15. (a) Subject to subsection (c) and to the extent the President determines such action is required for the national defense, the President shall encourage the development of domestic sources for materials determined pursuant to section 3(a) to be strategic and critical materials—

"(1) by purchasing, or making a commitment to purchase, strategic and critical materials of domestic origin when such materials are needed for the stockpile; and

"(2) by contracting with domestic facilities, or making a commitment to contract with domestic facilities, for the processing or refining of strategic and critical materials in the stockpile when processing or refining is necessary to convert such materials into a form more suitable for storage and subsequent disposition.

"(b) A contract or commitment made under subsection (a) may not exceed five years from the date of the contract or commitment. Such purchases and commitments to purchase may be made for such quantities and on such terms and conditions, including advance payments, as the President considers to be necessary.

"(c)(1) Descriptions of proposed transactions under subsection (a) shall be included in the appropriate annual materials plan submitted to Congress under section 11(b). Changes to any such transaction, or the addition of a transaction not included in such plan, shall be made in the manner provided by section 5(a)(2).

"(2) The authority of the President to enter into obligations under this section is effective for any fiscal year only to the extent that funds in the National Defense Stockpile Transaction Fund are adequate to meet such obligations. Payments required to be as a result of obligations incurred under this section shall be made from amounts in the fund.

"(d) The authority of the President under subsection (a) includes the authority to pay—

"(1) the expenses of transporting materials; and

"(2) other incidental expenses related to carrying out such subsection.

"(e) The President shall include in the reports required under section 11(a) information with respect to activities conducted under this section.".

(b) USE OF NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.—Section 9(b)(2) of such Act (50 U.S.C. 98h(b)(2)) is amended by adding at the end the following new subparagraph:

"(F) Activities authorized under section 15.".

SEC. 3313. NATIONAL DEFENSE STOCKPILE MANAGER

(a) REDESIGNATION AND TRANSFER OF SECTION.—Section 6A of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e–1) is—

(1) transferred to appear after section 15 of such Act (as added by section 3312); and

(2) redesignated as section 16.

(b) AUTHORITY OF THE PRESIDENT.—Such section (as redesignated and transferred) is amended—

(1) by striking out "sections 7, 8, and 13" each place it appears and inserting in lieu thereof "sections 7 and 13";

(2) by adding at the end of subsection (c) the following new sentence: "The President may not delegate functions of the President under sections 7 and 13."; and

(3) by striking out "section 6(b) or 6(d)" in subsection (d) and inserting in lieu thereof "section 6(a)(6)".

SEC. 3314. AUTHORITY TO DISPOSE OF MATERIALS IN THE STOCKPILE FOR INTERNATIONAL CONSUMPTION

Section 6 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e) is amended—

(1) in subsection (b)—

(A) by striking out paragraph (3);

(B) by inserting "and" at the end of paragraph (1); and

(C) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period; and

(2) by striking out "paragraph (1), (2), or (3)" in subsection (d) and inserting in lieu thereof "paragraph (1) or (2)".

SEC. 3315. INFORMATION INCLUDED IN REPORTS TO CONGRESS

Section 11(a)(5) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–2(a)(5)) is amended by striking out "made from the fund" and inserting in lieu thereof "made to the fund, and obligations to be made from the fund,".

TITLE XXXIV—CIVIL DEFENSE

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated $151,535,000 for fiscal year 1990 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE

This title may be referred to as the "Panama Canal Commission Authorization Act, Fiscal Year 1990".

SEC. 3502. AUTHORIZATION OF EXPENDITURES

(a) IN GENERAL.—The Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.), for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1990, except that not more than $52,000 for such fiscal year may be expended for official reception and representation functions, of which—

(1) not more than $12,000 may be expended for such purposes by the supervisory board for the Commission;

(2) not more than $6,000 may be expended for such purposes by the Secretary of the Commission; and

(3) not more than $34,000 may be expended for such purposes by the Administrator of the Commission.

(b) PURCHASE OF PASSENGER MOTOR VEHICLES.—Funds available to the Panama Canal Commission shall be available for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport personnel of the Commission across the Isthmus of Panama. Such vehicles may be purchased without regard to price limitations prescribed by law or regulation.

SEC. 3503. NOTIFICATION REQUIREMENTS

The Panama Canal Commission shall provide written advance notification to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Armed Services of the Senate regarding—

(1) any proposed change in the rates of tolls for use of the Panama Canal;

(2) any payment estimated to be due the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341 of the Panama Canal Act of 1979 (22 U.S.C. 3751); and

(3) the initiation of any major capital acquisition or construction project exceeding $10,000,000 unless the proposed acquisition or project was included in the budget estimates submitted to Congress for the fiscal year in which the acquisition or project is to be undertaken.

SEC. 3504. GENERAL PROVISIONS

(a) PAY INCREASES.—Funds for the Panama Canal Commission may be obligated, notwithstanding section 1341 of title 31, United States Code, to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the United States in comparable positions.

(b) EXPENSES IN ACCORDANCE WITH LAW.—Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

And the Senate agree to the same.

SAM NUNN,
J. JAMES EXON,
CARL LEVIN,
EDWARD M. KENNEDY,
JEFF BINGAMAN,
ALAN J. DIXON,
JOHN GLENN,
ALBERT GORE, JR.,
TIMOTHY E. WIRTH,
RICHARD SHELBY,
ROBERT C. BYRD,
JOHN W. WARNER,
STROM THURMOND,
BILL COHEN,
PETE WILSON,
JOHN MCCAIN,
SLADE GORTON,
TRENT LOTT,
DAN COATS,
Managers on the Part of the Senate.

From the Committee on Armed Services, for consideration of the entire House bill (except sections 111 through 118, 137, 138, 210, 221, 255, 3103(a), 4101, and 4102) and the entire Senate amendment (except sections 133 through 135, 231, 841, 843, 845, 2301(a) insofar as it addresses MX Rail Garrison facilities, 2836, 3103(a) 3142(b), 3142(c), 3142(e), and 3155), and modifications committed to conference, and as exclusive conferees with respect to any proposal to report in total disagreement:

LES ASPIN,
G.V. MONTGOMERY,
BEV BYRON,
NICHOLAS MAVROULES,
EARL HUTTO,
IKE SKELTON,
MARVIN LEATH,
DAVE MCCURDY,
TOM FOGLIETTA,
ROY DYSON,
MARILYN LLOYD,
RICHARD RAY,
JOHN M. SPRATT, JR.,
GEORGE (BUDDY) DARDEN,
GEORGE J. HOCHBRUECKNER,
JOSEPH E. BRENNAN,
OWEN PICKETT,
H. MARTIN LANCASTER,
WM. L. DICKINSON,
FLOYD SPENCE,
BOB DAVIS,
DAVID O'B. MARTIN,
JOHN R. KASICH,
HERBERT H. BATEMAN,
ANDY IRELAND,
JAMES V. HANSEN,
JOHN G. ROWLAND,

From the Committee on Armed Services, for consideration of sections 111 through 118, 137, 138, 210, 221, 255, and 3103(a) of the House bill and sections 133 through 135, 231, 2301(a) insofar as it addresses MX Rail Garrison facilities, and 3103(a) of the Senate amendment, and modifications committed to conference:

LES ASPIN,
NICHOLAS MAVROULES,
DAVE MCCURDY,
JOHN M. SPRATT, Jr.,
GEORGE J. HOCHBRUECKNER,
JOSEPH E. BRENNAN,
WM. L. DICKINSON,
BOB DAVIS,
JAMES V. HANSEN,

From the Committee on Armed Services, for consideration of sections 4101 and 4102 of the House bill, and modifications committed to conference:

LES ASPIN,
TOM FOGLIETTA,
WM. L. DICKINSON,

From the Committee on Armed Services, for consideration of sections 841, 843, 845, 3142(b), 3142(c), and 3142(e), of the Senate amendment, and modifications committed to conference:

LES ASPIN,
PAT SCHROEDER,
WM. L. DICKINSON,

From the Committee on Armed Services, for consideration of sections 2836 and 3155 of the Senate amendment, and modifications committed to conference:

LES ASPIN,
MARILYN LLOYD,
RICHARD RAY,
JOHN M. SPRATT, Jr.,
JAMES V. HANSEN,

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of Rule XLVIII:

ANTHONY C. BEILENSON,
ROBERT W. KASTENMEIER,
HENRY J. HYDE,

From the Committee on Education and Labor, for consideration of sections 4101 and 4102 of the House bill and section 907 of the Senate amendment, and modifications committed to conference:

AUGUSTUS F. HAWKINS,
PAT WILLIAMS,
TOM PETRI,
STEVE BARTLETT,

From the Committee on Energy and Commerce, for consideration of sections 2836, 3142(a), and 3155 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
PHILIP R. SHARP,
THOMAS A. LUKEN,
DENNIS E. ECKART,
NORMAN F. LENT,
CARLOS J. MOORHEAD,

From the Committee on Foreign Affairs, for consideration of sections 135, 206, 252, 256, 304, 1103, 1106, 1214, 1241 through 1247, 1253, 1254, 1255, 1257, 1258, 1261, 3139, 3141 through 3148, and 3501 of the House bill and sections 229, 236, 251, 304, 804, 805, 840, 904, 905, 906, 910, 911, 916, 918, 919, 920, 921, 923, 924, 928, 930, 931, 932, 935, 937, 938, 940, 941, 943, 1108, and 3143 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
LEE H. HAMILTON,
GUS YATRON,
STEPHEN J. SOLARZ,

From the Committee on Government Operations, for consideration of sections 822, 828, 829, 844, 927, 929, 933, 2831, and 3142(d) of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, JR.,
MIKE SYNAR,
BOB WISE,
ALBERT G. BUSTAMANTE,
FRANK HORTON,

From the Committee on the Judiciary, for consideration of sections 1103, 1106, and 1107 of the House bill and sections 552(c), 837, 840, 844, 913, 925, 926, 929, 936, 1103, 3135, and 3142(d) of the Senate amendment, and modifications committed to conference:

ROBERT W. KASTENMEIER,
BARNEY FRANK,
BRUCE A. MORRISON,
CARLOS J. MOORHEAD,

From the Committee on Merchant Marine and Fisheries, for consideration of sections 925, 1001 through 1003, 1103, and 2832 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
GERRY E. STUDDS,
BILLY TAUZIN,
DON YOUNG,
JACK FIELDS,

From the Committee on Post Office and Civil Service, for consideration of sections 841, 843, 845, and 3142 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM (BILL) CLAY,
GERRY SIKORSKI,
GARY L. ACKERMAN,
BENJAMIN A. GILMAN,
FRANK HORTON,

From the Committee on Public Works and Transportation, for consideration of section 2205 of the House bill and sections 656, 925, 2810, and 2831 of the Senate amendment, and modifications committed to conference:

GLENN M. ANDERSON,
JAMES L. OBERSTAR,
DOUGLAS H. BOSCO,
JOHN PAUL HAMMERSCHMIDT,
THOMAS E. PETRI,

From the Committee on Science, Space, and Technology, for consideration of sections 801 and 3131 through 3138 of the Senate

amendment, and modifications committed to conference:

ROBERT A. ROE,
MARILYN LLOYD,
DOUG WALGREN,
ROBERT S. WALKER,
SHERWOOD BOEHLERT,

From the Committee on Small Business, for consideration of sections 828, 831, and 832 of the Senate amendment, and modifications committed to conference:

JOHN J. LAFALCE,
NEAL SMITH,

From the Committee on Veterans' Affairs, for consideration of section 907 of the Senate amendment, and modifications committed to conference:

TIM PENNY,
LIZ PATTERSON,
GEORGE E. SANGMIESTER,
JOHN PAUL HAMMERSCHMIDT,
CHRISTOPHER H. SMITH,

From the Committee on Ways and Means, for consideration of section 925 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
ED JENKINS,
THOMAS J. DOWNEY,
PHIL CRANE,
DICK SCHULZE,

Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2461) to authorize appropriations for fiscal year 1990 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY STATEMENT OF CONFERENCE ACTION

The conferees recommend authorization for the Department of Defense for procurement, research and development, test and evaluation, operation and maintenance, working capital funds, military personnel, military construction and family housing, weapons programs of the Department of Energy, and civil defense totaling $302.8 billion. The budget authority implication of these authorizations is $305.5 billion.

While the overall funding level is consistent with the President's request, the funding in some areas of the bill, such as procurement, are significantly above the requested level, while in other areas, such as operation and maintenance, the funding is significantly below the request.

These funding adjustments were necessary to meet the outlay requirements of the Budget Resolution. The conferees worked with the Secretary of Defense in determining how best to reduce the outlays in the President's request by approximately $3.8 billion. The general format of the allocations of changes for each of the titles in this conference report was adopted by the conferees based on the recommendations of the Secretary of Defense.

COMPLIANCE WITH THE BUDGET RESOLUTION

The April 1989 budget summit between the President and the congressional leadership resulted in an agreement that national defense funding for fiscal year 1990 would be $305.5 billion in budget authority and $299.2 billion in outlays. This agreement was formalized in the Concurrent Resolution on the Budget for fiscal year 1990. The President's revised budget request complied with the budget authority target of this agreement. However, due to technical estimating differences between the Administration and the Congressional Budget Office, the actual spending, or outlays, associated with the President's revised request may have been as much as $4 billion above the target in the Budget Resolution.

Accounting for all recommendations included in this conference report, including specific dollar authorizations and other sections of the bill, the budget authority implication of this bill is $305.5 billion, and the estimated outlays associated with this bill are $299.1 billion. Thus, this conference report complies with both the budget authority and outlay targets in the Budget Resolution.

BIENNIAL BUDGETING

Section 1405 of the Department of Defense Authorization Act for Fiscal Year 1986 (Public Law 99-145) requires the Department of Defense to submit a biennial budget request. The President's revised budget authority request for fiscal year 1991 was for $321.2 billion, of which $238 billion requires direct authorization.

The House bill contained authorizations for fiscal year 1991 with a budget authority implication of $85 billion, $4 billion of which was in direct authorizations.

The Senate amendment contained authorizations with a budget authority implication of $288 billion, including $204 billion in direct authorizations.

The conferees recommend authorizations for fiscal year 1991 totalling $269.9 billion, of which $187.0 billion are in direct authorizations. The conferees have authorized programs in fiscal year 1991 where program stability is assured. Through this approach, the conferees have authorized approximately 84 percent of the total requested for fiscal year 1991. The absence of an authorization in fiscal year 1991 does not generally represent a prejudicial action by the conferees.

The conferees support biennial budgeting and believe that two-year planning can substantially improve defense program stability as well as congressional oversight. However, the conferees were unable to recommend authorizations for all programs in the second year of the biennial request due to the uncertainty of the overall fiscal situation and the lack of consensus between the Congress and the Administration over how to meet the Gramm-Rudman-Hollings deficit targets. The conferees also note that to date there has been no tangible progress toward a biennial Budget Resolution or biennial appropriations.

EXPIRATION OF FISCAL YEAR 1991 AUTHORIZATIONS (SEC. 3)

The House bill contained a provision (sec. 3) that would provide that authorizations for appropriations and of personnel strength levels would be effective only with respect to appropriations made during the current session of Congress.

The Senate amendment contained no similar provision.

The Senate recedes.

OUTLAY LIMITATION FOR FISCAL YEAR 1990 (SEC. 5)

The House bill contained a provision (sec. 4) that would set a ceiling on the expenditures of the Department of Defense (DOD) during fiscal year 1990. This ceiling would ensure that defense outlays do not exceed the levels in the Budget Resolution. The House provision would also provide for quarterly reports on the steps taken to ensure compliance with this limitation. The House provision also would express the sense of Congress that the Department of Defense and the Congressional Budget Office (CBO) should attempt to eliminate the differences in their outlay estimation techniques prior to the submission of the amended fiscal year 1991 budget.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide that the outlay cap would only take effect if OMB estimates that DOD outlays will exceed $289.7 billion for fiscal year 1990 based on final congressional appropriations for the Department of Defense.

The amendment would also require the Director of the Office of Management and Budget and the Director of the Congressional Budget Office to report jointly to the Speaker of the House of Representatives and the Committees on Armed Services, Appropriations, and the Budget of the Senate not later than December 15 of each year on the resolution of all differences in technical estimating methods with respect to the national defense function. Any differences that could not be resolved would be averaged.

In addition, the amendment would express the sense of Congress that the technical estimating methods contained in this joint report should be used in the submission of the President's budget request for national defense, in the preparation of the Budget Resolution, and in all scorekeeping of the defense authorization and appropriation bills.

Finally, the amendment would express the sense of Congress that the outlay target contained in the Budget Resolution should not require any reductions in outlays from the President's request for national defense in excess of those that could be achieved by an across-the-board reduction of each title in the President's national defense budget authority request unless the Budget Resolution is accompanied by a report describing the differences between the President's request and the Budget Resolution.

When the President submitted a revised budget request for national defense following the Budget Summit with the Congress in April 1989, the budget authority totals in his request complied with the agreed level of $305.5 billion. While the outlays associated with this request were in compliance with the Budget Summit agreement of $299.2 billion according to Administration

estimates, CBO estimated that they exceeded the agreement by $3.8 billion.

The conferees note that this technical disagreement has created a situation in which the Armed Services and Appropriations Committees of the Senate and House of Representatives are required to cut $3.8 billion in outlays from the President's defense request without cutting any budget authority. This can only be done by disproportionate reductions in the faster spending personnel and operating accounts, coupled with large increases to the slower spending procurement accounts. When the Armed Services and Appropriations Committees are forced by short-term outlay constraints to add slow spending procurement programs, long term defense outlays are not decreased, they are increased. In the past few years, mismatches in the budget authority and outlay targets have made budget considerations, rather than national security requirements, a dominant factor in the formulation of the defense authorization and appropriation bills.

While the conferees recognize that an outlay cap may impose some management difficulties on the Department of Defense, they were compelled to include such a cap because of scorekeeping disagreements between the Budget Committees of the Senate and House of Representatives. Under the procedures used by CBO to score the defense appropriations bill in the Senate, this conference report complies with the Budget Resolution targets for national defense. However, under the CBO scoring rules relied upon by the House Budget Committee, this conference report would not be consistent with the Budget Resolution without an outlay cap. Since the Budget Committees of the House and Senate have imposed different, and conflicting, scorekeeping requirements on the Armed Services and Appropriations Committees, the conferees have included the outlay cap in order to comply with the scorekeeping requirements of each House.

While the conferees understand that the overall level of defense spending must be decided in the context of the broad fiscal policy situation that is properly considered in the debate on the Budget Resolution, the intent of this amendment is to begin to eliminate the technical disagreements over outlays that in the past have disrupted the defense authorization and appropriation processes and to permit the defense committees to make decisions on defense programs based on national security considerations rather than technical budget factors.

SUMMARY TABLE OF AUTHORIZATIONS

The defense authorization act provides authorizations for appropriations but does not generally provide budget authority. Budget authority is generally provided in appropriations acts.

In order to relate the conference recommendation to the Budget Resolution, matters in addition to the dollar authorizations contained in this Act must be taken into account. A number of programs in the defense function are authorized permanently or, in certain instances, authorized in other annual legislation. In addition, the authorization act includes a number of legislative provisions affecting military compensation.

The table below summarizes authorizations included in the Act for fiscal year 1990 and 1991 and, in addition, summarizes the implication of the conference action for the budget totals for National Defense (Budget Function 050)

	FY1990 Rev Auth Request	Revised FY1990 BA Request	House FY1990 Authorized	Senate FY1990 Authorized	House +/- Senate	Conference Change to FY90 Request	Conference FY1990 Authorized	Budget Authority Implication
Aircraft Procurement, Army	2,906.1	2,906.1	3,183.6	2,706.5	477.1	214.4	3,120.5	3,120.5
Missile Procurement, Army	2,566.7	2,661.6	2,702.6	2,748.3	-186.5	190.1	2,756.8	2,851.7
Weapons & Tracked Combat Vehicles	2,724.0	2,724.0	2,715.7	2,637.6	78.1	-6.5	2,717.5	2,717.5
Procurement of Ammunition, Army	1,704.8	1,704.8	1,687.8	1,697.4	-9.6	182.2	1,887.0	1,887.0
Other Procurement, Army	3,192.9	4,169.1	4,036.9	2,892.7	259.4	-115.6	3,068.8	4,053.5
Aircraft Procurement, Navy	8,673.0	8,826.1	8,665.8	8,346.8	165.9	827.2	9,500.2	9,653.3
Weapons Procurement, Navy	3,910.4	5,725.0	5,570.5	4,012.6	-357.8	-326.3	3,884.0	5,398.7
Shipbuilding & Conversion, Navy	9,550.6	9,550.6	9,925.3	9,756.5	168.8	1,407.8	10,958.4	10,958.4
Other Procurement, Navy	4,915.0	4,915.0	5,840.0	6,314.3	-474.3	3,292.1	8,207.1	8,207.1
Procurement, Marine Corps	1,196.8	1,196.8	1,202.7	1,178.0	24.7	18.8	1,215.6	1,215.6
Aircraft Procurement, Air Force	16,787.2	16,787.2	15,972.7	15,930.6	42.1	-457.3	16,329.9	16,329.9
Missile Procurement, Air Force	7,382.2	7,382.2	7,140.5	7,119.3	21.2	-271.3	7,110.9	7,110.9
Other Procurement, Air Force	8,561.8	8,561.8	8,605.2	8,450.2	155.0	-23.3	8,538.5	8,538.5
Procurement, Defense Agencies	1,321.8	1,321.8	1,321.2	1,284.4	36.8	10.5	1,332.3	1,332.3
National Guard and Reserve Equipment	0.0	0.0	1,227.7	1,923.4	-695.7	988.3	988.3	988.3
Defense Production Act Purchases		10.5	0.0	0.0	0.0	0.0	0.0	10.5
Chemical Agents & Munitions Destruction	311.4	311.4	311.4	311.4	0.0	-47.7	263.7	263.7
Defense Inspector General	1.1	0.0	1.1	0.0	0.0	0.0	0.0	0.0
Total Procurement	75,705.8	78,754.0	80,110.7	77,309.9	-294.6	5,883.3	81,879.5	84,637.3
R,D,T & E, Army	5,648.8	5,693.5	5,858.5	5,723.9	89.9	17.4	5,666.2	5,710.9
R,D,T & E, Navy	9,590.5	9,830.3	10,314.0	9,928.9	142.6	310.1	9,901.9	10,140.4
R,D,T & E, Air Force	14,551.9	14,551.9	14,313.1	14,629.9	-316.8	-613.2	13,938.7	13,938.7
R,D,T & E, Defense Agencies	8,965.8	8,965.8	7,747.0	9,015.9	-1268.9	-807.1	8,158.7	8,158.7
Developmental Test and Evaluation	309.3	309.3	309.6	294.3	15.3	-98.1	211.2	211.2
Operational Test and Evaluation	194.5	194.5	124.5	164.5	-40.0	-127.4	67.1	67.1
Total Research & Development	39,260.9	39,545.3	38,666.7	39,757.4	-1377.9	-1318.3	37,943.8	38,227.0
ICBM Reduction-Section 231						0.0	0.0	0.0

	FY1990 Rev Auth Request	Revised FY1990 BA Request	House FY1990 Authorized	Senate FY1990 Authorized	House +/- Senate	Conference Change to FY90 Request	Conference FY1990 Authorized	Budget Authority Implication
Operation and Maintenance, Army	23,708.6	23,708.6	23,422.8	23,453.7	-31.0	-735.3	22,973.3	22,973.3
Operation and Maintenance, Navy	25,954.6	25,954.6	24,496.5	24,358.2	138.3	-2027.8	23,926.8	23,926.8
Operation and Maintenance, Marine Corps	1,716.3	1,716.3	1,703.5	1,700.5	3.0	-58.5	1,657.8	1,657.8
Operation and Maintenance, Air Force	22,812.2	22,812.2	22,368.3	22,709.5	-341.2	-902.9	21,909.3	21,909.3
Operation and Maint, Defense Agencies	8,021.6	8,021.6	7,974.9	7,926.0	48.9	-171.1	7,850.5	7,850.5
Office Of The Inspector General	94.7	95.8	94.7	96.2	-0.4	-1.1	94.7	94.7
Operation and Maintenance, Army Reserve	861.9	861.9	863.0	864.3	-1.3	-0.1	861.8	861.8
Operation and Maintenance, Navy Reserve	980.0	980.0	917.2	895.7	21.5	-85.2	894.8	894.8
Operation & Maint, Marine Corps Reserve	77.4	77.4	77.4	77.5	-0.1	0.0	77.4	77.4
Operation and Maint, Air Force Reserve	1,004.6	1,004.6	984.4	981.9	2.5	-26.1	978.5	978.5
Operation & Maint, Army National Guard	1,870.2	1,870.2	1,867.1	1,875.5	-8.4	-3.1	1,867.1	1,867.1
Operation & Maint, Air National Guard	2,041.2	2,041.2	1,999.8	1,988.4	11.4	-59.3	1,981.9	1,981.9
Rifle Practice, Army	4.7	4.7	4.0	4.7	-0.7	-0.7	4.0	4.0
Court of Military Appeals	4.0	4.0	4.0	4.0	0.0	0.0	4.0	4.0
Environmental Restoration, Defense	517.8	517.8	600.8	517.8	83.0	83.3	601.1	601.1
Goodwill Games	14.6	14.6	14.6	14.6	0.0	0.0	14.6	14.6
Humanitarian Assistance	13.0	13.0	13.0	13.0	0.0	0.0	13.0	13.0
DoD Base Closure Account	500.0	500.0	500.0	300.0	200.0	0.0	500.0	500.0
Total Operation & Maintenance	90,197.4	90,198.5	87,906.0	87,781.5	125.6	-3988.0	86,210.5	86,210.5
Army Stock Fund	107.6	107.6	134.6	97.6	37.0	-107.6	0.0	0.0
Navy Stock Fund	223.4	223.4	223.4	201.4	22.0	-182.9	40.5	40.5
Air Force Stock Fund	339.3	339.3	339.3	306.3	33.0	-213.2	126.1	126.1
Defense Stock Fund	104.1	104.1	104.1	94.1	10.0	-26.0	78.1	78.1
Total Revolving & Management	774.4	774.4	801.4	699.4	102.0	-529.7	244.7	244.7
Total Military Personnel	0.0	79,185.3	0.0	0.0	-102.8	-404.6	78,780.7	78,780.7
Other Legislation		129.5	0.0	0.0	0.0	-129.5	0.0	0.0
Drug Interdiction-Title XI		0.0	450.0	[450]	450.0	[450.0]	[450.0]	[450.0]
Section 902-Management Improvements		(286.1)	0.0	(373.0)	373.0	286.1	0.0	0.0

	FY1990 Rev Auth Request	Revised FY1990 BA Request	House FY1990 Authorized	Senate FY1990 Authorized	House +/- Senate	Conference Change to FY90 Request	Conference FY1990 Authorized	Budget Authority Implication
Atomic Energy Defense Activities	9,387.0	9,387.0	9,687.0	9,883.0	-196.0	276.0	9,663.0	9,663.0
CIA Retirement	0.0	154.9	0.0	0.0	0.0	0.0	0.0	154.9
FEMA Salaries and Expenses	20.7	71.7	20.7	20.7	0.0	0.0	20.7	71.7
FEMA Planning and Assistance	130.8	244.1	130.8	130.8	0.0	0.0	130.8	244.1
Intelligence Community Staff	0.0	24.1	0.0	0.0	0.0	0.0	0.0	24.1
Selective Service System Salaries	0.0	26.3	0.0	0.0	0.0	0.0	0.0	26.3
Total Other Defense	151.5	521.0	151.5	151.5	0.0	0.0	151.5	521.0
Total National Defense	223,516.2	305,508.0	226,048.4	223,369.2	-805.2	-11.0	302,963.8	305,497.0

	FY1990 Rev Auth Request	Revised FY1990 BA Request	House FY1990 Authorized	Senate FY1990 Authorized	House +/- Senate	Conference Change to FY90 Request	Conference FY1990 Authorized	Budget Authority Implication
Military Construction, Army	737.1	745.3	767.0	732.6	34.4	45.8	782.9	791.1
Military Construction, Navy	1,133.2	1,133.2	1,155.3	1,137.6	17.7	-22.0	1,111.2	1,111.2
Military Construction, Air Force	1,385.5	1,393.3	1,202.1	1,328.5	-126.5	-136.8	1,248.6	1,256.5
Military Construction, Defense Agencies	596.2	596.2	531.3	563.2	-31.9	-54.8	541.4	541.4
Mil Construction, Army National Guard	114.0	114.0	193.3	175.1	18.2	73.4	187.4	187.4
Mil Construction, Air National Guard	164.6	164.6	198.6	216.2	-17.6	34.0	198.6	198.6
Military Construction, Army Reserve	76.9	76.9	80.5	91.5	-11.0	3.9	80.8	80.8
Military Construction, Naval Reserve	50.9	50.9	56.6	50.9	5.7	5.7	56.6	56.6
Military Construction, Air Force Reserve	46.2	46.2	46.2	46.2	0.0	0.0	46.2	46.2
Property disposal, use of proceeds			109.2	113.0		[137.2]	137.2	0.0
NATO Infrastructure	501.9	501.9	424.7	462.3	-37.6	-77.2	424.7	424.7
Total Military Construction	4,806.5	4,822.5	4,764.8	4,917.1	-152.3	-128.0	4,815.7	4,694.5
Family Housing, Army	1,438.2	1,437.9	1,521.8	1,432.6	89.2	13.0	1,451.2	1,450.9
Family Housing, Navy and Marine Corps	752.2	752.2	936.5	742.4	194.1	99.5	851.7	851.7
Family Housing, Air Force	1,015.9	1,015.9	1,025.5	1,041.0	-15.5	-70.9	945.0	945.0
Family Housing, Defense Agencies	21.3	21.3	21.3	21.3	0.0	0.0	21.3	21.3
Homeowners Assistance Fund, Defense	5.1	7.7	5.1	5.1	0.0	0.0	5.1	7.7
Total Family Housing	3,232.7	3,235.0	3,510.2	3,242.4	267.8	41.6	3,274.3	3,276.6
Total Trust Funds	0.0	27.9	0.0	0.0	0.0	0.0	0.0	27.9
Total Offsetting Receipts	0.0	-786.3	0.0	0.0	0.0	0.0	0.0	-786.3
Total DoD Military	213,977.7	295,600.0	216,209.8	213,334.7	-609.2	-287.0	293,149.2	295,313.0

	FY1991 Rev Auth Request	Revised FY1991 BA Request	House FY1991 Authorized	Senate FY1991 Authorized	Conference Change to FY91 Request	Conference FY1991 Authorized	Budget Authority Implication
Aircraft Procurement, Army	3,038.2	3,038.2	0.0	2,742.1	-421.2	2,617.0	2,617.0
Missile Procurement, Army	2,803.9	3,003.8	0.0	2,798.8	-232.7	2,571.3	2,771.1
Weapons & Tracked Combat Vehicles	2,781.6	2,781.6	0.0	3,120.1	-179.6	2,602.0	2,602.0
Procurement of Ammunition, Army	1,574.0	1,574.0	0.0	1,617.3	-208.4	1,365.6	1,365.6
Other Procurement, Army	3,857.2	3,925.8	0.0	3,745.8	-710.9	3,146.3	3,214.9
Aircraft Procurement, Navy	9,086.3	9,517.9	0.0	9,200.2	-4733.3	4,353.1	4,784.6
Weapons Procurement, Navy	4,465.2	6,000.4	0.0	3,589.5	-2477.9	1,987.3	3,522.5
Shipbuilding & Conversion, Navy	11,021.5	11,021.5	0.0	12,362.0	-1488.8	9,532.7	9,532.7
Other Procurement, Navy	5,697.2	5,697.2	0.0	6,592.5	-552.4	5,144.8	5,144.8
Procurement, Marine Corps	1,398.0	1,398.0	0.0	1,090.9	-649.6	748.4	748.4
Aircraft Procurement, Air Force	18,243.8	18,243.8	0.0	13,957.1	-7123.0	11,120.8	11,120.8
Missile Procurement, Air Force	10,087.6	10,087.6	0.0	6,002.1	-4760.5	5,327.1	5,327.1
Other Procurement, Air Force	9,096.2	9,096.2	0.0	8,030.7	-908.6	8,187.6	8,187.6
Procurement, Defense Agencies	1,429.7	1,429.7	0.0	1,115.2	-316.5	1,113.2	1,113.2
National Guard and Reserve Equipment	0.0	0.0	0.0	2,131.0	0.0	0.0	0.0
Defense Production Act Purchases		13.6	0.0	0.0	0.0	0.0	13.6
Chemical Agents & Munitions Destruction	317.7	317.7	0.0	317.7	0.0	317.7	317.7
Defense Inspector General	1.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Procurement	84,899.1	87,147.0	0.0	78,412.9	-24763.4	60,134.8	62,383.7
R,D,T & E, Army	6,027.7	6,027.7	894.1	5,717.7	-236.7	5,791.0	5,791.0
R,D,T & E, Navy	9,251.1	9,336.4	938.0	8,573.7	-836.4	8,414.7	8,500.0
R,D,T & E, Air Force	13,505.3	13,505.3	907.7	9,864.3	-2200.1	11,305.2	11,305.2
R,D,T & E, Defense Agencies	10,030.5	10,030.5	1,030.2	4,015.5	-5942.9	4,087.6	4,087.6
Developmental Test and Evaluation	434.7	434.7	0.0	434.7	-284.0	150.7	150.7
Operational Test and Evaluation	160.4	160.4	0.0	160.4	-134.6	25.8	25.8
Total Research & Development	39,409.7	39,495.0	3,770.0	28,766.4	-9634.6	29,775.1	29,860.4

	FY1991 Rev Auth Request	Revised FY1991 BA Request	House FY1991 Authorized	Senate FY1991 Authorized	Conference Change to FY91 Request	Conference FY1991 Authorized	Budget Authority Implication
Operation and Maintenance, Army	24,876.9	24,876.9	0.0	24,589.9	-228.5	24,648.4	24,648.4
Operation and Maintenance, Navy	27,287.8	27,287.8	0.0	24,945.9	-2025.1	25,262.7	25,262.7
Operation and Maintenance, Marine Corps	1,775.5	1,775.5	0.0	1,767.5	-4.2	1,771.3	1,771.3
Operation and Maintenance, Air Force	23,545.1	23,545.1	0.0	23,269.3	-200.8	23,344.3	23,344.3
Operation and Maint, Defense Agencies	8,318.9	8,318.9	0.0	8,237.9	0.0	8,318.9	8,318.9
Office Of The Inspector General	96.6	97.6	0.0	97.6	0.0	97.6	97.6
Operation and Maintenance, Army Reserve	902.6	902.6	0.0	902.6	0.0	902.6	902.6
Operation and Maintenance, Navy Reserve	1,017.0	1,017.0	0.0	949.9	-67.1	949.9	949.9
Operation & Maint, Marine Corps Reserve	79.4	79.4	0.0	79.4	0.0	79.4	79.4
Operation and Maint, Air Force Reserve	1,041.3	1,041.3	0.0	1,015.4	-25.9	1,015.4	1,015.4
Operation & Maint, Army National Guard	1,896.3	1,896.3	0.0	1,896.3	0.0	1,896.3	1,896.3
Operation & Maint, Air National Guard	2,160.7	2,160.7	0.0	2,104.6	-56.1	2,104.6	2,104.6
Rifle Practice, Army	5.6	5.6	0.0	5.6	0.0	5.6	5.6
Court of Military Appeals	4.2	4.2	0.0	4.2	0.0	4.2	4.2
Environmental Restoration, Defense	519.9	519.9	0.0	519.9	0.0	519.9	519.9
Goodwill Games	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Humanitarian Assistance	13.0	13.0	0.0	13.0	0.0	13.0	13.0
DoD Base Closure Account	500.0	500.0	0.0	500.0	0.0	500.0	500.0
Total Operation & Maintenance	94,040.8	94,041.8	0.0	90,899.0	-2607.7	91,434.1	91,434.1
Army Stock Fund	141.5	141.5	0.0	141.5	0.0	141.5	141.5
Navy Stock Fund	232.1	232.1	0.0	232.1	0.0	232.1	232.1
Air Force Stock Fund	319.6	319.6	0.0	319.6	0.0	319.6	319.6
Defense Stock Fund	156.3	156.3	0.0	156.3	0.0	156.3	156.3
Total Revolving & Management	849.5	849.5	0.0	849.5	0.0	849.5	849.5
Total Military Personnel	0.0	81,283.4	0.0	0.0	-13.4	0.0	81,270.0
Other Legislation		69.0	0.0	0.0	-69.0	0.0	0.0
Drug Interdiction-Title XI		0	600	0	0.0	0	0
Section 902-Management Improvements		(433.6)	0.0	(503.0)	433.6	0.0	0.0

	FY1991 Rev Auth Request	Revised FY1991 BA Request	House FY1991 Authorized	Senate FY1991 Authorized	Conference Change to FY91 Request	Conference FY1991 Authorized	Budget Authority Implication
Military Construction, Army	995.3	995.3	0.0	244.4	-750.9	244.4	244.4
Military Construction, Navy	1,211.0	1,211.0	0.0	288.2	-946.3	264.7	264.7
Military Construction, Air Force	1,606.3	1,606.3	0.0	312.0	-1290.5	315.8	315.8
Military Construction, Defense Agencies	951.3	951.3	0.0	479.5	-516.5	434.8	434.8
Mil Construction, Army National Guard	119.5	119.5	0.0	119.5	0.0	119.5	119.5
Mil Construction, Air National Guard	107.2	107.2	0.0	107.2	0.3	107.5	107.5
Military Construction, Army Reserve	61.9	61.9	0.0	61.9	0.9	62.8	62.8
Military Construction, Naval Reserve	53.3	53.3	0.0	53.3	0.0	53.3	53.3
Military Construction, Air Force Reserve	38.5	38.5	0.0	38.5	0.0	38.5	38.5
Property disposal, use of proceeds							
NATO Infrastructure	503.6	503.6	0.0	503.6	-503.6	0.0	0.0
Total Military Construction	5,647.9	5,647.9	0.0	2,208.1	-4006.5	1,641.4	1,641.4
Family Housing, Army	1,617.3	1,617.0	0.0	1,559.0	-58.3	1,559.0	1,558.8
Family Housing, Navy and Marine Corps	871.1	871.1	0.0	721.7	-149.4	721.7	721.7
Family Housing, Air Force	1,103.0	1,103.0	0.0	835.0	-268.0	835.0	835.0
Family Housing, Defense Agencies	21.8	21.8	0.0	21.3	-0.5	21.3	21.3
Homeowners Assistance Fund, Defense	5.1	7.4	0.0	5.1	-7.4	0.0	0.0
Total Family Housing	3,618.3	3,620.3	0.0	3,142.1	-483.6	3,137.0	3,136.8
Total Trust Funds	0.0	28.7	0.0	0.0	0.0	0.0	28.7
Total Offsetting Receipts		-749.1	0.0	0.0	0.0	0.0	-749.1
Total DoD Military	228,465.3	310,999.9	4,370.0	203,775.0	-41144.6	186,971.9	269,855.4

	FY1991 Rev Auth Request	Revised FY1991 BA Request	House FY1991 Authorized	Senate FY1991 Authorized	Conference Change to FY91 Request	Conference FY1991 Authorized	Budget Authority Implication
Atomic Energy Defense Activities	9,687.0	9,687.0	0.0	0.0	-9687.0	0.0	0.0
CIA Retirement		164.6	0.0	0.0	-164.6	0.0	0.0
FEMA Salaries and Expenses		68.9	0.0	0.0	-68.9	0.0	0.0
FEMA Planning and Assistance		240.4	0.0	0.0	-240.4	0.0	0.0
Intelligence Community Staff		24.4	0.0	0.0	-24.4	0.0	0.0
Selective Service System Salaries		26.7	0.0	0.0	-26.7	0.0	0.0
Total Other Defense	0.0	525.0	0.0	0.0	-525.0	0.0	0.0
Total National Defense	238,152.3	321,211.9	4,370.0	203,775.0	-51356.6	186,971.9	269,855.4

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

OVERVIEW

The amended budget request for fiscal year 1990 contained an authorization of $75,705.8 million for procurement in the Department of Defense. The House bill would authorize $80,110.7 million. The Senate amendment would authorize $77,309.9 million. The conferees recommend authorization of $81,879.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

INSTALLATION OF MODERNIZATION EQUIPMENT

Subsequent to passage of the Senate amendment, the fiscal year 1990 defense appropriations bill passed the Senate. That bill contained a policy change in the installation of modification kits for fielded weapon systems. Under current practice, the Military Departments budget for the modification kits for combat systems in the procurement accounts, but the installation of those kits has been funded in the operation and maintenance accounts. While the procurement of modification kits may occur in one fiscal year, the installation of those kits (and thereby the budgeting of funds for those installations) would not occur until several years later.

The Senate-passed appropriations bill proposed a change in this practice that would require the Department of Defense to budget for the full cost of the modifications in the procurement account. With this change, the cost of the kit itself, as well as the future cost of installing those kits, must be included in the procurement account in fiscal year 1990.

This change in policy necessitated substantial increases in the appropriation accounts in fiscal year 1990. This does not represent an increase in overall funding for the Department of Defense. It does mean, however, that some of the costs that would have to be authorized and appropriated in future years will now be authorized and appropriated in fiscal year 1990. This new approach to budgeting for modification kits is analogous to the "full funding" concept which has long characterized procurement of new weapon systems.

The conferees endorse this new approach to budgeting for modification kits and recommend provisions that would specify that certain funds in each appropriation account are available for installation of modernization equipment. The designated funds are sufficient to install modernization kits procured in previous years, as well as to install kits that would otherwise be procured in fiscal year 1990 and installed in fiscal year 1991 and beyond. The Department of Defense may have to adjust the installation funding accounts in subsequent years to reflect the full funding of the kits procured prior to fiscal year 1990.

The conferees note that complete installation of modification kits may not be achieved within the time limit for which the funds are available for obligation. The conferees direct the Comptroller of the Department of Defense to report on the implementation of this new procedure, including any changes necessary to address any potential execution problem, when the amended fiscal year 1991 budget request is submitted.

The conferees recommend the following funds shall be available for procurement and installation of modification kits in fiscal year 1990:

For the Army,
Aircraft Procurement, $89.9 million;
Missile Procurement, $38.3 million;
Weapons, Tracked Combat Vehicles, $143.4 million;
Other Procurement, $97.7 million;
For the Navy,
Aircraft Procurement, $783.4 million;
Weapons Procurement, $33.8 million;
Other Procurement, $3,096.2 million;
Procurement, Marine Corps, $15.4 million;
For the Air Force,
Aircraft Procurement, $685.9 million;
Missile Procurement, $38.4 million;
For the National Guard and Reserve Components,
Navy Reserve, $28.3 million;
Air Force Reserve, $10.0 million;
Air National Guard, $59.5 million;

AIRCRAFT PROCUREMENT, ARMY

OVERVIEW

The amended budget request for fiscal year 1990 contained $2,906.1 million for Aircraft Procurement, Army. The House bill would authorize $3,183.6 million. The Senate amendement would authorize $2,706.5 million. The conferees recommend authorization of $3,120.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	AIRCRAFT PROCUREMENT, ARMY														
1	GRISLY HUNTER	1	9,898	1	9,898	1	9,898			1	9,898	1	9,942	--	--
2	GOLDEN KNIGHTS REPLACEMENT AIRCRAFT														
3	C-20 AIRCRAFT														
4	CESSNA SKYLANE														
5	RC-12H/K RECON AIRPLANE	5	52,739	5	52,739	5	52,739			5	52,739	10	106,726	--	--
6	AIRCRAFT (SHORTS)														
7	EH-60A HELICOPTER(QUICKFIX)(MYP)														
8	EH-60 ADVANCE PROCUREMENT (CY)														
9	AH-64 ATTACK HELICOPTER (APACHE) (MYP)	66	752,056	60	680,600	66	701,756		(50,300)	66	701,756	66	785,771	66	785,771
10	AH-64 ADVANCE PROCUREMENT (CY)		36,500		80,500		36,500				36,500				
11	UH-60 BLACKHAWK (MYP)	61	174,284	61	174,284	61	102,684	11	31,800	72	206,084	61	206,826	61	206,826
12	UH-60 ADVANCE PROCUREMENT (CY)		180,312		180,312		100,212				180,312		173,731		173,731
13	MH-60K (SOF AIRCRAFT)	11	71,300	11	41,300	11	51,300	(11)	(71,300)			11	68,500	--	--
	MODIFICATION OF AIRCRAFT														
14	OV-1 MODS SURVEILLANCE AIRPLANE		15,238		15,238		15,238				15,238		36,873		36,873
15	OV-1 ADVANCE PROCUREMENT (CY)														
16	RC-12D MODS		43,063		43,063		43,063				43,063		34,334		34,334
17	RU-21 MODS		1,531		1,531		1,531				1,531		9,839		9,839
18	AH1S MODS		5,890		5,890		5,890				5,890		4,380		4,380
19	AH-64 MODS		38,097		38,097		38,097				38,097		77,120		77,120
20	CH-47 CARGO HELICOPTER (MODS) (MYP)		200,177		180,177		200,177		(19,200)		180,977		194,894		--
21	CH-47 ADVANCE PROCUREMENT (CY)		104,300		104,300		104,300		(8,300)		96,000		48,900		--
22	OH-58 MODS		28,234		28,234		28,234		(5,000)		23,234		26,126		26,126
23	UH-1 MODS		9,602		9,602		7,802				9,602		23,952		23,952
24	UH-60 MODS		40,941		40,941		40,941				40,941		68,992		68,992
25	AHIP				241,100			36	195,000	36	195,000				
25a	AHIP PRIOR YEAR SAVINGS						(96,000)								
26	AHIP ADVANCE PROCUREMENT (CY)				35,300										
27	AIRBORNE AVIONICS						4,800		4,800		4,800				7,800
28	ASE MODS		7,125		7,125		7,125				7,125		12,872		12,872
29	ACFT SPWR MODS		19,717		19,717		19,717				19,717		18,552		18,552

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30	SOF AIRCRAFT MODS		212,502		212,502		212,502				212,502		317,043		317,043
31	SOF MODS ADVANCE PROCUREMENT (CY)		127,400		127,400		127,400				127,400				
32	TRACTOR HEAVY MODS		791		791		791				791		796		796
33	SPARES AND REPAIR PARTS		553,423		600,423		681,223		47,000		600,423		538,265		538,265
34	AIRCRAFT SURVIVABILITY EQUIPMENT		98,834		98,834		98,834				98,834		109,215		109,215
35	ASE ADVANCE PROCUREMENT (CY)														
36	AVIONICS SUPPORT EQUIPMENT		30,786		30,786		30,786				30,786		32,093		32,093
37	COMMON GROUND EQUIPMENT		46,325		46,325		45,325				46,325		75,822		75,822
38	AIR TRAFFIC CONTROL		7,782		7,782		7,782				7,782		8,284		8,284
39	SYNTHETIC FLIGHT TRAINING SYSTEMS		9,959		9,959		9,959				9,959		9,939		9,939
40	AVIATION NON SYSTEM TRAINING DEVICES												7,516		7,516
41	INDUSTRIAL FACILITIES		23,023		23,023		23,023				23,023		26,537		26,537
42	WAR CONSUMABLES		4,271		4,271		4,271				4,271		4,360		4,360
	UNDISTRIBUTED REDUCTION						(43,000)								
	MODERNIZATION				31,600		31,600		89,900		89,900				
	TOTAL AIRCRAFT PROCUREMENT ARMY		2,906,100		3,183,644		2,706,500		214,400		3,120,500		3,038,200		2,617,038

UH-60/MH-60K helicopters

The amended budget request contained $174.284 million to procure 61 UH-60 Blackhawk helicopters and $71.3 million to procure an additional 11 Blackhawk helicopters for modification to the MH-60K special operations configuration. These two procurements were reflected in two separate lien items in the amended budget request.

The House bill and the Senate amendment would fully approve both of these requests.

The conferees recommend that total funding for the 61 UH-60 helicopters and 11 MH-60K helicopters be consolidated at a single funding level of $206.084 million. The conferees determined that the amended budget request for these two procurements could be reduced by a total of $39.5 million because the request overstated the funding required to procure and modify these helicopters. The conferees understand that this reduction will not affect the total number of Blackhawk helicopters to be procured and modified.

Command and control consoles for Army helicopters

The amended request did not include funds to continue the procurement and installation of command and control consoles in Army helicopters.

The Senate amendment would authorize $4.8 million for procurement and installation of ASC-15B consoles in fiscal year 1990.

The House bill would not authorize funds for this purpose.

The House recedes. The conferees note, however, that the burden of interoperability should not fall exclusively on the Army, and such consoles should be installed on command and control helicopters for all the military Departments. With this larger potential market, the conferees believe the Department of Defense should expand the program and open it to competition by all qualified bidders.

Missile Procurement, Army

OVERVIEW

The amended budget request for fiscal year 1990 contained $2,661.6 million for Missile Procurement, Army. The House bill would authorize $2,702.6 million. The Senate amendment would authorize $2,889.1 million. The conferees recommend authorization of $2,851.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

The tables display the total amount authorized for Missile Procurement, Army for fiscal year 1990. This amount is greater than the total authorized in section 101 of the conference report, but is equal to the sum of the pertinent amounts in sections 101 and 108 (milestone authorizations). The difference is attributable to the Army Tactical Missile program, which was authorization Act for Fiscal Years 1988 and 1989 as a milestone authorization program. The milestone authorization for that program (as amended) is included in the tables.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	MISSILE PROCUREMENT, ARMY														
1	CHAPARRAL	422	30,787	422	30,787	422	30,787			422	30,787	454	25,700	454	25,700
2	NON-LINE OF SIGHT MSL											256	76,900	256	76,900
3	N-LOS ADVANCE PROCUREMENT (CY)		32,469		32,469		32,469				32,469		54,300		54,300
4	ADS HVY MSL SYSTEM	190	238,871	190	238,871		75,000		(100,000)	190	138,871	263	232,682		
5	ADATS ADVANCE PROCUREMENT (CY)		31,700		31,700		31,700				31,700		36,200		36,200
6	HAWK MSL SYSTEM (MYP)	358	55,358	358	55,358	358	55,358			358	55,358	358	48,500	358	48,500
7	OTHER MISSILE SUPPORT		997		997		997				997		4,700		4,700
8	PATRIOT(MYP)	815	924,488	815	924,488	815	924,488			815	924,488	817	859,939	817	859,939
9	PATRIOT ADVANCE PROCUREMENT (CY)														
10	STINGER(MYP)	2,375	117,545	2,375	117,545	4,375	206,545	1,625	70,000	4,000	187,545	7,203	258,800	7,203	258,800
11	STINGER ADVANCE PROCUREMENT (CY)												21,300		21,300
12	LINE OF SIGHT FIRE UNIT (MYP)	122	115,754	122	115,754	122	115,754			122	115,754	132	110,100	132	110,100
13	LOS-F ADVANCE PROCUREMENT (CY)												25,700		25,700
14	LASER HELLFIRE SYSTEM	3,102	138,326	3,102	138,326	5,902	231,826	2,000	70,000	5,102	208,326	3,002	137,941	5,802	137,941
15	ADVANCED ANTITANK WPNS SYS MED (AAWS-M)												15,070		15,070
16	TOW 2 (MYP)	9,455	114,710	9,455	114,710	13,755	165,810			9,455	114,710	13,284	168,700	13,284	168,700
17	MULTIPLE LAUNCH ROCKET SYSTEM (MYP)	24,000	311,374	24,000	352,374	48,000	440,174	24,000	128,800	48,000	440,174	24,000	310,070	48,000	310,070
17a	MLRS LAUNCHER SAVINGS						(17,000)		(17,000)		(17,000)				
18	MLRS ADVANCE PROCUREMENT (CY)		63,400		63,400		63,400				63,400		66,000		66,000
19	ARMY TACTICAL MISSILE SYS (ATACMS)	152	87,273	152	87,273	276	133,273			152	87,273	452	194,958	452	194,958
20	ATACMS ADVANCE PROCUREMENT (CY)		7,600		7,600		7,600				7,600		4,900		4,900

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	MODIFICATION OF MISSILES														
21	PATRIOT MODS		19,449		19,449		19,449				19,449		18,400		18,400
22	CHAPARRAL MODS														
23	HAWK MODS		28,781		28,781		28,781				28,781		32,830		32,830
24	TOW MODS		27,962		27,962		27,962				27,962		54,300		54,300
25	DRAGON MODS														
26	LANCE MODS														
27	PERSHING MODS														
28	MLRS MODS		28,567		28,567		28,567				28,567		27,287		27,287
29	TRACTOR RIG		2,578		2,578		2,578				2,578		7,800		7,800
30	AN/TSQ-73 MODS														
31	SPARES AND REPAIR PARTS		247,514		247,514		247,514				247,514		177,770		177,770
32	AIR DEFENSE TARGETS		23,317		23,317		23,317				23,317		23,132		23,132
33	ITEMS LESS THAN $2.0M (MISSILES)		2,172		2,172		2,172				2,172		2,965		2,965
34	PRODUCTION BASE SUPPORT		10,608		10,608		10,608				10,608		6,856		6,856
	MODERNIZATION								38,300		38,300				
	TOTAL MISSILE PROCUREMENT ARMY		2,661,600		2,702,600		2,889,129		190,100		2,851,700		3,003,800		2,771,118

Additional authorization of missiles

The Senate amendment contained a provision (sec. 108) that would increase funding for the following missiles:

For the Army,
$89 million for 2,000 additional Stinger missiles;
$93.5 million for 2,800 additional Hellfire missiles;
$51.1 million for 4,300 additional TOW 2 missiles;
$87.8 million for 24,000 additional MLRS rockets; and
$46 million for 124 additional Army Tactical Missiles.

For the Navy,
$45.3 million for 200 HARM missiles, and
$79.8 million for 370 SM-2 missiles.

For the Air Force,
$109.3 million for 500 HARM missiles.

The House bill contained no similar provision. The House bill, however, would increase the authorization for MLRS rockets by $41 million.

The conferees agree that the Department of Defense did not adequately fund production of tactical missiles. Fiscal constraints, however, did not permit all of the increases contained in the Senate amendment. The conferees do not believe separate bill provisions are necessary, but nonetheless recommend the following increased authorization for tactical missiles:

For the Army,
$70 million for 2,000 additional Stinger missiles,
$70 million for 2,000 additional Hellfire missiles, and
$87.8 million for 24,000 additional MLRS rockets.

For the Navy,
$43.6 million for additional SM-2 missiles.

The Senate report (S. Rept. 101-81) directed the Department of Defense to improve its planning and programming process for tactical missiles by developing a ten-year master plan coordinated among all military departments. The conferees concur with this recommendation and direct the Department to comply with that direction.

Air defense heavy missile system

The amended budget request contained $238.871 million for procurement and $40.21 million for research and development for the air defense heavy missile system in fiscal year 1990.

The House bill would authorize the requested funds.

The Senate amendment would authorize $75 million for procurement and $119.21 for research and development in fiscal year 1990. The Senate based its recommendation on a revised budget request submitted by the Army after a delay in the operational testing program. That delay would increase the requirement for research and development funds, but would decrease the need for procurement funds in fiscal year 1990.

The conferees recommend authorization of $138 million in procurement and $56.21 for research and development. The additional $16 million in research and development is provided to facilitate live-fire testing of the air defense heavy missile system fire units. The procurement funds are adequate to ensure current production levels until the system successfully completes operational testing.

TOW missile

The Senate report (S. Rept. 101-81) would direct the Secretary of the Army to obtain two sets of bids from prospective bidders on the TOW missile. One set would be based on annual competitions and one based on a "winner take all" multiyear procurement.

The House report (H. Rept. 101-121) contained no similar direction.

The Senate recedes. Subsequent to the action by the Senate, the Army complied with this guidance. No further action is needed.

Multiple launch rocket system

The amended budget request contained in $311.4 million for the Multiple Launch Rocket System. This funding level represents an increase of $60 million compared to the original budget request. The added funds were intended to procure additional fire units for the active Army.

Both the House bill and the Senate amendment would approve the amended budget request for fire units. (The increase for rockets is discussed elsewhere in the statement of managers.)

The conferees believe that the Army should continue fielding of Multiple Launch Rocket Systems into National Guard and Army Reserve units. The conferees direct that one batallion of launchers in fiscal year 1990 be distributed to the National Guard.

WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

OVERVIEW

The amended budget request for fiscal year 1990 contained $2,724.0 million for Weapons and Tracked Combat Vehicles, Army. The House bill would authorize $2,715.7 million. The Senate amendment would authorize $2,637.6 million. The conferees recommend authorization of $2,717.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	PROCUREMENT OF W&TCV,ARMY														
1	BRADLEY FIGHTING VEHICLE FAMILY (MYP)	600	576,417	600	576,417	600	549,417		(15,000)	600	561,417	600	648,299	600	648,299
2	BRADLEY ADVANCE PROCUREMENT (CY)		58,600		58,600		58,600				58,600		33,000		33,000
3	BRADLEY FVS TRAINING DEVICES		12,309		12,309		12,309				12,309				
4	BRADLEY FVS TRAINING DEVICES (MOD)														
5	FIELD ARTILLERY AMMUNITION SUPPORT VEH														
6	RECOVERY VEHICLE SERIES (MYP)						15,000		15,000		15,000				
6a	RECOVERY VEHICLE PRIOR YEAR SAVINGS						(124,800)		(124,800)		(124,800)				
7	REC VEH ADV PROCUREMENT (CY)														
8	M1 ABRAMS TANK TRAINING DEVICES		12,886		12,886		12,886				12,886		14,530		14,530
9	M1 ABRAMS TANK SERIES (MYP)	448	1,033,735	448	1,033,735	448	1,033,735			448	1,033,735	261	811,311	261	811,311
10	M1 ADVANCE PROCUREMENT (CY)		245,000		245,000		276,600				245,000		368,300		368,300
	FIELD ARTILLERY AMMO SUPPORT VEHICLE														
	MODIFICATION OF TRACKED COMBAT VEHICLES														
11	CARRIER, MOD														
12	BFVS SERIES (MOD)		84,098		84,098		84,098				84,098		109,264		109,264
13	HOWITZER, MED SP FT 155MM M109 SER(MOD)		75,477		45,477		75,477				75,477		179,574		--
14	155MM HOW ADV PROCUREMENT (CY)														
15	M1 ABRAMS TANK (MOD)		42,328		42,328		42,328				42,328		51,963		51,963
16	9MM		491		491		491				491		492		492
17	HOST NATION SUPPORT		53,981		54,000		53,981				53,981				
	SUPPORT EQUIPMENT AND FACILITIES														
18	SPARES AND REPAIR PARTS		309,956		309,956		309,956				309,956		336,502		336,502
19	ITEMS LESS THAN $2.0M (TCV-WTCV)		1,684		1,684		1,684				1,684		923		923
20	PRODUCTION BASE SUPPORT (TCV-WTCV)		55,442		23,942		22,542		(31,500)		23,942		59,618		59,618
21	REGIONAL MAINTENANCE TRAINING SITES-EQUI		6,399		6,399		6,399				6,399		9,973		9,973

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	WEAPONS AND OTHER COMBAT VEHICLES														
22	HOWITZER, LIGHT, TOWED, 105MM, M119	75	24,631	75	24,631	75	24,631			75	24,631	79	25,748	79	25,748
	HOWITZER,LIGHT,TOWED,105MM,M119 ADV PROC														
23	MACHINE GUN, 7.62MM, M60	580	2,965	580	2,965	580	2,965			580	2,965	597	2,953	597	2,953
24	SOF WEAPONS		1,892		1,892		1,892				1,892		1,949		1,949
25	MACHINE GUN, 5.56MM (SAW)	5,932	8,683	5,932	8,683	5,932	8,683			5,932	8,683	5,930	9,076	5,930	9,076
26	GRENADE LAUNCHER, AUTO, 40MM, MK19-3	1,476	19,736	1,476	19,736	1,476	19,736			1,476	19,736	1,418	19,902	1,418	19,902
27	LAUNCHER, SMOKE GRENADE	2,627	1,594	2,627	1,594	2,627	1,594			2,627	1,594	2,656	1,673	2,656	1,673
28	MORTAR, 120MM	167	10,854	167	10,854	167	10,854			167	10,854	188	11,909	188	11,909
29	M16 RIFLE	32,800	14,179	32,800	14,179	32,800	14,179			32,800	14,179	32,675	14,286	32,675	14,286
30	SNIPER WEAPON SYSTEM	1,010	3,770	1,010	3,770	612	2,270			1,010	3,770				
31	PERSONAL DEFENSE WEAPON, 9MM	34,696	7,539	34,696	7,539	34,696	7,539			34,696	7,539	35,101	7,750	33,089	7,750
32	VEH RAPID FIRE WPN SYS-BUSHMASTER (MYP)	560	18,719	560	18,719	560	18,719			560	18,719	480	20,637	480	20,637
33	BUSHMASTER ADV PROCUREMENT (CY)												2,000		2,000
34	M16A1 RIFLE MODS		3,990		3,990		3,990				3,990		4,433		4,433
35	MODIFICATIONS LESS THAN $2.0M(WOCV-WTCV)		483		483		483				483		487		487
36	SPARES AND REPAIR PARTS		20,991		20,991		20,991				20,991		13,771		13,771
37	ITEMS LESS THAN $2.0M (WOCV-WTCV)		1,035		1,035		1,035				1,035		1,931		1,931
38	PRODUCTION BASE SUPPORT (WOCV-WTCV)		14,136		14,136		14,136				14,136		19,346		19,346
	INDUSTRIAL PREPAREDNESS								6,400		6,400				
	MODERNIZATION				53,200		53,200		143,400		143,400				
	TOTAL PROCUREMENT OF W&TCV,ARMY		2,724,000		2,715,719		2,637,600		(6,500)		2,717,500		2,781,600		2,602,026

M119 howitzers

The amended budget request contained $24.631 million to continue procurement of M119 howitzers.

Both the House bill and the Senate amendment would authorize the program at the requested level.

The M119 program has suffered considerable delay in the delivery of previously authorized howitzers, primarily because of manufacturing problems with the foreign manufacturer. The conferees understand that the fiscal year 1990 budget request would implement the transition of M119 howitzer manufacturing from the foreign producer to U.S. arsenals.

The Department of Defense has informed the conferees that U.S. arsenal production is proceeding on schedule. The conferees believe it is important to maintain the domestic manufacturing base. Should insufficient funds be appropriated to implement the transition to U.S. production, the conferees would welcome a reprogramming to maintain the transition schedule.

AMMUNITION, ARMY

OVERVIEW

The amended budget request for fiscal year 1990 contained $1,704.8 million for Ammunition, Army. The House bill would authorize $1,687.8 million. The Senate amendment would authorize $1,697.4 million. The conferees recommend authorization of $1,887.0 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	PROCUREMENT OF AMMUNITION, ARMY														
1	NUCLEAR WEAPONS SUPPORT MATERIEL		6,474		6,474		6,474				6,474		6,104		--
2	PROJ, 155MM, NUCLEAR, M785	[ ]	[ ]									[ ]	[ ]		--
3	PROJ, 155MM, BINARY CHEMICAL, M687	[ ]	[ ]									[ ]	[ ]		--
4	CTG, 5.56MM, ALL TYPES		41,747		41,747		41,747		3,500		45,247		56,906		--
5	CTG, 5.56MM, BALL M193														
6	CTG, 5.56MM, TRACER CLIP														
7	CTG, 5.56MM, BLANK M200														
8	CTG, 5.56MM, BLK M200, LKD F/SAW														
9	CTG, 5.56MM BALL M16-A2														
10	CTG, 5.56MM, PLASTIC M862														
11	CTG, 5.56MM TRACER M16-A2														
12	CTG, 7.62MM ALL TYPES		18,843		18,843		18,843		10,000		28,843		21,562		21,562
13	CTG, 7.62MM, 4 BALL/1 TRCR LKD														
14	CTG, 7.62MM, BLANK M82 LKD/M13														
15	CTG, .45 CAL, BALL, M1911														
16	CTG, .50 CAL, PLASTIC, M858														
17	CTG, .50 CAL, BALL, M33	1,453	1,415	1,453	1,415	1,453	1,415			1,453	1,415	2,041	1,955	2,041	1,955
18	CTG, .50 CAL, BLANK, M928														
19	CTG, .50 CAL, 4 BALL/1 TR W/M9 LK														
20	CTG, 20MM, LKD TP-T, M220	4,172	15,027	4,172	15,027	4,172	15,027			4,172	15,027	4,137	14,954	4,137	14,954
21	CTG, 20MM, LKD TP, M55	5	16	5	16	5	16			5	16	1,003	3,110	1,003	3,110
22	CTG, 20MM, MPT-SD, M940	548	9,431	548	9,431	548	19,431		10,000	548	19,431	530	8,468	530	8,468
23	CTG, 25MM, HEI-T, M792											491	9,575	--	--
24	CTG, 25MM, LKD TP-T, M793														
25	CTG, 25MM, AP TRNG, M910	758	14,438	758	14,438	758	14,438			758	14,438	1,675	30,591	1,675	30,591
26	CTG, 25MM, APFSDS-T, M919	102	9,075	102	9,075	113	10,075		10,000	102	19,075	529	28,302	529	28,302
27	CTG, 30MM, LKD TP M788	998	10,027	998	10,027	998	10,027			998	10,027	877	8,836	877	8,836
28	CTG, 40MM, ALL TYPES		46,870		46,870		46,870				46,870		25,467		25,467
29	CTG, 40MM HEDP M430					1,375	15,000		15,000		15,000				
30	CTG, 40MM TP F/MK19														
31	CTG, 40MM GREEN STAR PARA M661														
32	CTG, 40MM PRACTICE M781														
33	CTG, 40MM WHITE STAR CLUSTER M585														
34	CTG, 40MM RED STAR PARA M662														
35	CTG, 40MM TACTICAL CS M651														

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	MORTAR AMMUNITION														
36	CTG, MORTAR, 60MM, 1/10 PRAC, M840	20	6,403	20	6,403	20	6,403			20	6,403	20	4,994	20	4,994
37	CTG, MORTAR, 60MM, ILLUM, M721														
38	CTG, MORTAR, 60MM, SMOKE, M722	24	3,617	24	3,617	24	3,617			24	3,617	24	3,858	24	3,858
39	CTG, MORTAR, 60MM, HE, M720	126	12,719	126	12,719	126	12,719			126	12,719				
40	CTG, MORTAR, 60MM, METAL PARTS														
41	CTG, MORTAR, 81MM, ILLUM, M853														
42	CTG, MORTAR, 81MM, HE, M821														
43	CTG, MORTAR, 81MM, 1/10 PRAC, M880														
44	CTG, MORTAR, 4.2 IN, HE, M329	99	11,253	99	11,253	99	11,253	(99)	(11,253)						
45	CTG, MORTAR, 4.2 IN, ILLUM, M335														
46	CTG, MORTAR, 120MM, HE, XM934											61	21,382	61	21,382
47	CTG, MORTAR, 120MM, HE, XM933											74	22,376	74	22,376
48	CTG, MORTAR, 120MM, SMOKE, XM929											37	16,708	37	16,708
49	CTG, MORTAR, 120MM, 1/10 PRAC, XM931														
	TANK AMMUNITION														
50	CTG, TANK, 35MM, SUBCAL PRAC, M968	192	15,234	192	15,234	35	2,834		(12,400)	192	2,834	139	11,359	139	11,359
51	CTG, TANK, 105MM, TP-T, M490A1	164	22,869	164	22,869	57	7,869		(15,000)	164	7,869	112	15,672	112	15,672
52	CTG, TANK, 105MM, DS-TP, M724A1	353	55,940	353	55,940	240	39,440		(16,500)	353	39,440	275	43,669	275	43,669
53	CTG, TANK, 105MM, APFSDS-T, M833														
54	CTG, TANK, 105MM, APFSDS-T, M900E1	[ ]	[ ]									[ ]	[ ]		
55	CLASSIFIED PROJECT	[ ]	[ ]									[ ]	[ ]		
56	CLASSIFIED PROJECT	[ ]	[ ]						[9,900]			[ ]	[ ]		
57	CLASSIFIED PROJECT	[ ]	[ ]									[ ]	[ ]		
58	CLASSIFIED PROJECT	[ ]	[ ]									[ ]	[ ]		
59	CTG, TANK, 120MM, APFSDS-T, M829														
60	CTG, TANK, 120MM, HEAT-MP-T, M830														
61	CTG, TANK, 120MM, TP-T, M831	30	28,500	30	28,500	52	48,900		20,400	30	48,900	34	32,602	34	32,602
62	CTG, TANK, 120MM, TPCSDS-T, M865	91	63,519	91	63,519	127	85,419		21,900	91	85,419	91	61,669	91	61,669

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount	Bush Revised FY1991 Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
	ARTILLERY AMMUNITION														
63	CTG, ARTY, 75MM, BLANK, M337A1	82	1,788	82	1,788	82	1,788			82	1,788				
64	CTG, ARTILLERY, 105MM, BLANK, M395														
65	CTG, ARTILLERY, 105MM, HERA, M913	27	15,876	27	15,876	14	7,976		(7,900)	27	7,976	43	20,986	--	--
66	CTG, ARTILLERY, 105MM, ILLUM, M314														
67	PROJ, ARTY, 155MM, DPICM, M483A1														
68	PROJ, ARTY, GRENADE METAL PARTS														
69	PROJ, ARTY, 155MM, M483 PROVE-OUT														
70	PROJ, ARTY, 155MM, ILLUM, M485														
71	PROJ, ARTY, 155MM, SMOKE WP, M825								60,000		60,000				
72	PROJ, ARTY, 155MM, ADAM-L M731	14	62,098	14	62,098	14	62,098		20,100	14	82,198				
73	PROJ, ARTY, 155MM, RAAMS-S M718														
74	PROJ, ARTY, 155MM, RAAMS-L M741	35	47,399	35	47,399	35	47,399			35	47,399				
75	PROJ, ARTY, 155MM, BASEBURNER M864	240	178,732	240	178,732	164	122,232			240	178,732	120	89,663	161	120,663
76	PROJ, ARTY, 155M, COPPERHEAD M712														
77	PROJ, ARTILLERY, 155MM, TRNG, M804											119	17,715	119	17,715
78	PROJ, ARTY, 8 IN, HE RAP, M650														
79	PROP CHG, 155MM, GREEN BAG, M3	220	11,685	220	11,685	760	40,385		28,700	220	40,385				
80	PROP CHG, 155MM, RED BAG, M203	203	106,260	203	106,260	81	42,260		(64,000)	203	42,260	129	67,583	129	126,583
81	PROP CHG, 155MM, RED BAG, M119					314	33,000		33,000		33,000				
	ARTILLERY FUZES														
82	FUZE, ARTILLERY, ELEC TIME, M767	61	7,476	61	7,476	61	7,476			61	7,476	104	10,155	104	10,155
83	FUZE, ARTILLERY, PROXIMITY, M732											190	31,128	--	--
84	FUZE, ARTILLERY, PD, M739	1,001	13,668	1,001	13,668	1,001	13,668			1,001	13,668				
85	FUZE, ARTILLERY, MECH TIME, M577														
86	FUZE, ARTILLERY, MECH TIME, M582														
87	FUZE, ARTILLERY, ELEC TIME, M762	417	47,364	417	47,364	417	47,364			417	47,364	324	28,817	324	38,817

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MINES															
88	TRAINING DEVICE, MINE SYSTEM		113		113		113				113		163		163
89	MINE, GEMSS, AT, M75														
90	MINE, VOLCANO, PRACTICE, M88											3	1,558	--	--
91	MINE, VOLCANO, AT/AP, M87	47	80,950	47	80,950	29	49,950			47	80,950	36	57,370	36	57,370
92	MINE, MICLIC, ROCKET MOTOR, MK22	1,781	6,882	1,781	6,882	891	3,382			1,781	6,882	1,549	5,978	1,549	5,978
93	MINE, MICLIC, LINE CHARGE, M58	937	9,875	937	9,875	469	4,875			937	9,875	747	7,705	747	7,705
94	MINE, MOPMS, AT/AP, M131	3,327	40,621	3,327	40,621	1,916	23,421		(27,200)	3,327	13,421	732	8,787	732	8,787
95	PURSUIT DETERRENT MUNITION (SOF)														
ROCKETS															
96	RANGER, ANTI-ARMOR WPN SYS (SOF)		3,698		3,698		3,698				3,698		6,211		6,211
97	AT-4 MULTI-PURPOSE WEAPON	66	56,031	66	56,031	41	34,431		3,000	66	59,031			39	32,000
98	AT-4 MULTI PURPOSE WEAPON TRAINER	5,859	3,890	5,859	3,890		490		(3,400)	5,859	490	5,834	3,887	5,834	3,887
99	ROCKET, HYDRA 70, ILLUM, M257	23	15,625	23	15,625	23	15,625			23	15,625	19	13,029	19	13,029
100	ROCKET, HYDRA 70, HE/RS, M151/M433											20	10,074	--	--
101	ROCKET, HYDRA 70, SMOKE, M264	2	1,157	2	1,157	2	1,157			2	1,157	2	1,168	2	1,168
102	ROCKET, HYDRA 70, MPSM PRAC, M267	7	3,929	7	3,929	7	3,929			7	3,929	11	6,010	11	6,010
103	ROCKET, HYDRA 70, HE/PD, M151/M423	25	8,763	25	8,763	25	8,763			25	8,763	25	8,846	25	8,846
104	ROCKET, HYDRA 70, SIG PRAC, M274	167	51,162	167	51,162	167	51,162			167	51,162	150	46,389	150	46,389
OTHER AMMUNITION															
105	CTG, 165MM, COMB ENG VEH, TP, M623	19	8,090	19	8,090	19	8,090			19	8,090				
106	PRIMER, PERCUSSION, M82														
107	DEMOLITION MUNITIONS, ALL TYPES					6	11,800		11,800		11,800		10,486		10,486
108	LINEAR SHAPED CHARGE (SOF)														
109	TIME DELAY FIRING DEVICE (SOF)											10	1,997	--	--
110	GRENADES, ALL TYPES		12,612		12,612		19,912				12,612		2,972		2,972
111	GRENADE LNCHR SMK IR SCREENING M76														
112	SIGNALS, ALL TYPES		5,018		5,018		3,818				5,018		8,570		8,570
113	SIMULATORS, ALL TYPES		5,329		5,329		5,329				5,329		7,655		7,655
114	AMMO COMPONENTS, ALL TYPES		25,616		25,616		25,616				25,616		21,696		21,696
115	CAD/PAD		7,155		7,155		7,155				7,155		7,780		7,780
115a	MOUT FUZE					150	18,000		18,000		18,000				

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116	ITEMS LESS THAN $2 MILLION		7,072		7,072		6,872				7,072		6,301		6,301
117	EOD EXPLOSIVE ITEMS		2,255		2,255		2,255				2,255		1,380		1,380
118	SPARES AND REPAIR PARTS		9,100		9,100		9,100				9,100				
119	AMMUNITION PECULIAR EQUIPMENT		7,069		7,069		7,069				7,069		5,768		5,768
120	NITROGUANIDINE (LB)		22,830		22,830		22,830				22,830		28,875		28,875
121	AMMO 9MM/ELT		2,004		2,004		2,004				2,004		2,013		2,013
122	HOST NATION SUPPORT (AMMO)		18,239		18,239		18,239				18,239		17,901		17,901
122a	GENERAL INCREASE-WAR RESERVE & TRAINING PRODUCTION BASE SUPPORT				30,000										
123	PROVISION OF INDUSTRIAL FACILITIES		125,310		125,310		125,310				125,310		181,563		--
124	COMPONENTS FOR PROVE-OUT		6,979		6,979		6,979				6,979		12,629		12,629
125	LAYAWAY OF INDUSTRIAL FACILITIES		39,977		39,977		39,977				39,977		25,485		25,485
126	RDX FACILITY														
127	JEFFERSON PROVING GROUND MODERNIZATION		1,991		1,991		1,991				1,991				
999	CLASSIFIED PROGRAMS		229,695		182,676		239,595		9,900		239,595		337,588		242,088
	UNDISTRIBUTED				19										
	INDUSTRIAL PREPAREDNESS						71,000		64,600		64,600				75,000
	TOTAL AMMUNITION, ARMY		1,704,800		1,687,800		1,697,400		182,247		1,887,047		1,574,000		1,365,609

OTHER PROCUREMENT, ARMY

OVERVIEW

The amended budget request for fiscal year 1990 contained $4,169.1 million for Other Procurement, Army. The House bill would authorize $4,036.9 million. The Senate amendment would authorize $3,777.4 million. The conferees recommend authorization of $4,053.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

The tables display the total amount authorized for Other Procurement, Army for fiscal year 1990. This amount is greater than the total authorized in section 101 of the conference report, but is equal to the sum of the pertinent amounts in sections 101 and 108 (milestone authorizations). The difference is attributable to the Mobile Subscriber Equipment Program, which was authorized in the National Defense Authorization Act for Fiscal Years 1988 and 1989 as a milestone authorization program. The milestone authorization for that program (as amended) is included in the tables.

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	OTHER PROCUREMENT, ARMY														
	TACTICAL AND SUPPORT VEHICLES														
1	TACTICAL TRAILERS/DOLLY SETS		19,265		19,265		15,165				19,265		15,299		15,299
2	MOTORCYCLE, GED, 2W, ROUGH TERRAIN														
3	SEMITRAILER FB BB/CONT TRANS 22 1/2 T											856	15,361	856	15,361
4	SEMITRAILER FB BB/CONT TR 34T M872 C/S														
5	SEMITRAILER LB 40T M870A1 (CCE)														
6	SEMITRAILER, TANK, 5000G	20	1,195	20	1,195	20	1,195			20	1,195				
7	SEMITRAILER, TANK, 7500G, BULKHAUL														
8	SEMITRAILER VAN ELEC 3-6T 2W M373A2														
9	SEMITRAILER, VAN, ASL, 10T														
10	HI MOB MULTI-PURP WHLD VEH (HMMWV)(MYP)	8,517	222,533	8,517	222,533	8,517	222,533			8,517	222,533	9,484	252,613	9,484	252,613
11	SMALL UNIT SUPPORT VEHICLE (SUSV)	192	28,351	192	28,351	115	16,951			192	28,351	194	29,235	194	29,235
12	TRUCK, 5T, 6X6, ABT (MYP)														
13	FAMILY OF MEDIUM TACTICAL VEH (MYP)											644	77,994	644	77,994
14	HEAVY EQUIPMENT TRANSPORTER SYS		34,950		34,950		34,950				34,950		95,833		95,833
15	TRUCK, 10T, 8X8, ABT	46	7,468	46	7,468					46	7,468	23	3,469	23	3,469
16	FAMILY OF HEAVY TACTICAL VEH (MYP)	112	43,297	112	43,297	50	19,297			112	43,297	789	236,460	789	236,460
17	TRUCK, TRACTOR, LINE HAUL, M915A1	123	9,728	123	9,728	27	2,128			123	9,728				
18	MODIFICATION OF IN-SERVICE EQUIPMENT		3,051		3,051		3,051				3,051		784		784
19	SHOP EQUIPMENT, AUTO MAINT & REP														
20	ITEMS LESS THAN $2.0M (TAC VEH)		3,484		3,484		3,484				3,484		1,487		1,487
21	PASSENGER CARRYING VEHICLES	168	2,003	168	2,003	168	2,003			168	2,003	175	2,296	175	2,296
22	GENERAL PURPOSE VEHICLES		4,978		4,978		4,978				4,978		5,969		5,969
23	TRUCK, CARGO, PICKUP, 4X2														
24	TRUCK, CARRYALL														
25	SPECIAL PURPOSE VEHICLES		7,748		7,748		7,748				7,748		6,699		6,699
26	SPARES AND REPAIR PARTS		56,854		56,854		40,654				56,854		84,065		84,065
27	PRODUCTION BASE SUPPORT (TAC VEH)		1,377		1,377		1,377				1,377		985		985

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	COMMUNICATIONS AND ELECTRONICS EQUIPMENT														
28	JCSE EQUIPMENT (USREDCOM)		2,372		2,372		2,372				2,372		4,260		4,260
29	CLASSIFIED PROJECT 9MW		8,499		8,499		8,499				8,499		9,000		9,000
30	TRACTOR SEAT		597		597		597				597		997		997
31	TRI-TAC EQUIPMENT		22,094		22,094		22,094				22,094		24,878		24,878
32	MOD OF IN-SVC EQ (TRI-TAC)														
33	MOB SUBSCRIBER EQUIP		984,719		984,719		884,719				984,719		68,596		68,596
34	SINCGARS FAMILY		290,728		150,328		121,628		(169,100)		121,628		264,519		--
35	BECS	2,810	33,201	2,810	33,201	2,810	33,201			2,810	33,201	10,014	30,982	10,014	30,982
36	IMP HF RADIO FAMILY														
37	OPTICAL LONG HAUL TRAN SYS														
38	POWER SUPPLY, PP-6148/U														
39	SOF MOD RADIOS		26,542		26,542		26,542				26,542		47,850		47,850
40	ANTENNA GROUP OE-254														
41	SMALL UNIT TRANSCEIVER	2,445	3,972	2,445	3,972	755	1,172			2,445	3,972				
42	SMALL UNIT TRANSCEIVER (SOF)														
43	VEHICULAR INTERCOM SYSTEM														
44	MOD OF IN-SVC EQUIP (CSC)		4,152		4,152		4,152				4,152		4,264		4,264
45	SWASIA COMM INFRASTRUCTURE		17,097		17,097		17,097				17,097		6,129		6,129
46	ITEMS LESS THAN $2.0M (CSC-C-E)		199		199		199				199				
47	ITEMS LESS THAN $2.0M(CSC-C-E)(SOF)														
48	SECURE CONFERENCING PROJECT		2,175		2,175		2,175				2,175		1,090		1,090
49	AR TELECOM AUTO PR (ATCAP)		3,063		3,063		3,063				3,063		2,467		2,467
50	C-E FACILITIES/PROJECTS		2,063		2,063		2,063				2,063		3,071		3,071
51	SOUTHCOM C3 UPGRADE		13,935		13,935		13,935				13,935		10,887		10,887
52	SOUTHCOM INTELL MGMT SYS		1,891		1,891		1,891				1,891		1,981		1,981
53	ELECTROMAG COMP PROG(EMCP)		495		495		495				495		396		396
54	DEFENSE DATA NETWORK (DDN)		593		593		593				593		2,573		2,573
55	TERRESTRIAL TRANSMISSION EUROPE		5,139		5,139		5,139				5,139		6,836		6,836
56	TERRESTRIAL TRANSMISSIONS PACOM		395		395		395				395		792		792
57	WW TECH CON IMP PR(WWTCIP)		2,965		2,965		2,965				2,965		3,963		3,963
58	DIGITAL EQUIPMENT (DSCS)		5,733		5,733		5,733				5,733		8,322		8,322
59	INTERCONNECT FACILITY (DSCS)		5,553		5,553		5,553				5,553		3,071		3,071
60	JAM RESISTANT SECURE COM (JRSC)		4,853		4,853		4,853				4,853		4,854		4,854
61	DSCS OPERATIONS CONTROL SYS (DOCS)		20,748		20,748		20,748				20,748		20,882		20,882

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62	MOD IN-SVC EQUIP (DSCS)		1,948		1,948		1,948				1,948		3,625		3,625
63	MPK SAT UHF TERM, AN/PSC-3														
64	VEH SAT UHF TERM, AN/VSC-7														
65	ADVANCED MANPACK UHF TERMINAL COMSEC DEV											41	1,491	--	--
66	SINGLE CHANNEL UHF DAMA												1,393	--	--
67	GMF CONTROL											2	- 995	--	--
68	SINGLE CHANNEL OBJECT TACT TERM (SCOTT)	16	38,641	16	38,641	16	38,641			16	38,641	34	71,835	--	--
69	MOD IN-SVC EQUIP (TAC SAT)		2,598		2,598		2,598				2,598		3,220		3,220
70	EUCOM C3 (MWS)														
71	USEUCOM CMD COMMAND CNTRS		5,436		5,436		5,436				5,436		7,000		7,000
72	USAREUR TACTICAL COMD & CONTROL SYS		5,139		5,139		5,139				5,139		5,648		5,648
73	IFF COMSEC														
74	TRUNK ENCRYPTION DEVICES (TED)		9,988		9,988		9,988				9,988		7,517		7,517
75	MINTERM KY-99		6,245		6,245		6,245				6,245		5,750		5,750
76	AUTO KEY DC KGX-93/TSEC														
77	SEC VO IMPRV PRG (COMSEC)		1,482		1,482		1,482				1,482		1,684		1,684
78	DED LOOP ENCRYP DEV KG-84		11,408		11,408		11,408				11,408		10,667		10,667
79	COMSEC MODULE, TSEC/KGV-13														
80	FREQ MODULE, KGV-10/TSEC														
81	TEMPEST (COMSEC)														
82	ADDS COMSEC KOK-13														
83	TSEC/KGV-11/SECURE MODULE		1,200		1,200		1,200				1,200		2,987		2,987
84	SOF ITEMS LESS THAN 2.0M (COMSEC)														
85	ITEMS LESS THAN $2.0M (COMSEC)		6,035		6,035		6,035				6,035		6,047		6,047
86	INFO SYSTEMS CONUS/WESTERN HEMISPHERE		18,514		18,514		18,514				18,514		11,195		11,195
87	LOCAL AREA NETWORK (LAN)		495		495		495				495		4,740		4,740
88	INFORMATION SYSTEMS (EUCOM)		8,892		8,892		8,892				8,892		8,814		8,814
89	INFORMATION SYSTEMS (PACOM)		1,681		1,681		1,681				1,681		3,765		3,765
90	INFO SYS-MCA SUPPORT		19,346		19,346		19,346				19,346		15,768		15,768
91	PENTAGON TELECOM CTR (PTC)		1,186		1,186		1,186				1,186		3,269		3,269
92	ARMY PRINTING AND BINDING EQUIPMENT		2,972		2,972		2,972				2,972		3,384		3,384
93	CALIBRATION SETS EQUIPMENT		14,426		14,426		14,426				14,426		15,355		15,355
94	TMDE MODERNIZATION		22,608		22,608		22,608				22,608		20,272		20,272
95	4TH PSYOP GROUP		10,126		10,126		10,126				10,126		10,204		10,204
96	ALL SOURCE ANALYSIS SYSTEM	[ ]	[ ]									[ ]	[ ]		

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97	SINGLE SOURCE PROCESSOR - SIGINT														
98	REAR ECHELON COMINT SYSTEM (RECS)														
99	COMMANDERS TACTICAL TERMINAL	[ ]	[ ]									[ ]	[ ]		
100	TAC ELEC SURV SYS	[ ]	[ ]									[ ]	[ ]		
101	MANPACK RADIO DF SYS	[ ]	[ ]									[ ]	[ ]		
102	MOD IN-SVC EQ (INT SPT) TIARA		6,069		6,069		2,169				6,069		7,054		7,054
103	ITEMS LESS THAN $2.0M (INT SPT-C-E)		5,324		5,324		5,324				5,324		4,462		4,462
104	FT DEVENS TRAINING SUPPORT														
105	TROJAN	[ ]	[ ]									[ ]	[ ]		
106	FOREIGN COUNTERINTELLIGENCE PROGRAM	[ ]	[ ]									[ ]	[ ]		
107	GENERAL DEFENSE INTELLIGENCE PROGRAM	[ ]	[ ]						[-1,100]			[ ]	[ ]		
108	STARNET/VIABLE		1,454		1,454		1,454				1,454		2,119		2,119
109	BATTERY COMPUTER SYSTEM														
110	AMC INFORMATION PROCESSING EQUIP (IPE)		15,736		15,736		15,736				15,736		11,151		11,151
111	COMPUTER-AIDED ACQ AND LOG SUPPORT												6,353		--
112	ADV FIELD ARTILLERY TACT DATA SYS		7,395		7,395		7,395				7,395		16,445		16,445
113	LIGHT TACTICAL FIRE														
114	ARMY DATA DISTRIBUTION SYSTEM-ADDS		48,817		24,417				(24,400)		24,417		223,254		--
115	TRADOC AUTOMATION		4,236		4,236		4,236				4,236		1,974		1,974
116	LIFE CYCLE SOFTWARE SUP. (LCSS)		498		498		498				498		495		495
117	ADPE FOR NON TAC MGT INFO SYS														
118	SUPERCOMPUTERS														
119	EUSA-C3I INITIATIVES		7,196		7,196		7,196				7,196		5,441		5,441
120	ACQN INFORMATION MANAGEMENT		2,867		2,867		2,867				2,867		6,609		6,609
121	HQ AUTOMATION		27,690		27,690		27,690		(20,000)		7,690		25,391		25,391
122	INFO PROC EQUIP		6,056		6,056		6,056				6,056		6,298		6,298
123	MEDICAL AUTOMATION SYSTEMS		1,870		1,870		1,870				1,870		1,679		1,679
124	PERSONNEL AUTOMATION SYSTEMS		8,404		8,404		8,404				8,404		9,421		9,421
125	TRAINING AUTOMATION SYSTEMS		988		988		988				988				
126	LOGISTICS AUTOMATION SYSTEMS		11,213		11,213		11,213				11,213		5,629		5,629
127	RESERVE COMPONENT AUTOMATION SYSTEMS														
128	ARMY RESERVES HQ INFO SYSTEMS		6,099		6,099		6,099				6,099		4,040		4,040
129	FORWARD ENTRY DEVICE		24,558		24,558		11,358				24,558		21,195		21,195
130	MANUEVER CONTROL SYS		13,914		13,914		13,914				13,914				
131	CBT SVC SPT CONTROL SYS		1,025		1,025		1,025				1,025		349		349

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132	CORPS/THEATER ADP SVC CTR (CTASC)		17,716		17,716		17,716				17,716		20,572		20,572
133	TACTICAL ARMY CSS COMPUTER SYS (TACCS)		24,907		24,907		24,907				24,907		21,633		21,633
134	FAAD C2												52,848		--
135	POSITIVE HOSTILE ID												2,330		--
136	TRACTOR BALL		999		999		999				999		4,504		4,504
137	TRACTOR CRASH		14,596		14,596		14,596				14,596		23,022		23,022
138	FAAD GBS												48,549		--
139	LOGMARS		8,007		8,007		8,007				8,007		11,891		11,891
140	WWMCCS INFORMATION SYSTEM (WIS)		31,923		31,923		31,923				31,923		31,915		31,915
141	UNIT LEVEL COMPUTER (ULC).														
142	AFRTS (AUDIO VISUAL)		5,930		5,930		5,930				5,930		6,241		6,241
143	ITEMS LESS THAN $2.0M (A/V-C-E)		1,977		1,977		1,977				1,977		1,981		1,981
144	TACTICAL ELEC NEWS GATHERING EQUIP														
145	TACTICAL DECEPTION	[ ]	[ ]									[ ]	[ ]		
146	MOD IN-SVC EQUIP (EW)		8,401		8,401		8,401				8,401				
147	ITEMS LESS THAN $2.0M (EW-C-E)														
148	BATTERY CHARGER PP-7286/U														
149	POWER SUPPLY, PP-6224														
150	COMPUTER/INDICATOR, CP-696/PD	1,236	6,719	1,236	6,719	911	4,919			1,236	6,719	961	6,935	961	6,935
151	LT WT ARTILLERY METEOROLOGICAL SYS														
152	MINI EYESAF LASER IR OBS SET, AN/PVS-6											1,333	12,375	--	--
153	PHYSICAL SECURITY EQUIPMENT		12,662		12,662		12,662				12,662		8,158		8,158
154	FACILITY INTRUSION DETECTION SYSTEM	2	5,740	2	5,740	2	5,740			2	5,740	2	2,876	2	2,876
155	NAVSTAR USER EQUIPMENT		27,021		27,021		27,021		(10,000)		17,021		32,815		32,815
156	POSITION AZIMUTH DETERMINING SYS (PADS)														
157	NIGHT VISION GOGGLES		45,286		45,286		31,886				45,286		45,473		45,473
158	AIMING LIGHT, INFRARED, AN/PAQ-4		1,464		1,464		1,464				1,464		2,545		2,545
159	IMAGERY PROCESSING SYSTEM	[ ]	[ ]						[-22,827]			[ ]	[ ]		
160	NIGHT VISION SIGHT INDIV WPN AN/PVS-4	5,852	14,920	5,852	14,920	969	2,520			5,852	14,920	5,725	14,649	5,725	14,649
161	RADIAC SET AN/VDR-2	7,410	8,698	7,410	8,698	7,410	8,698			7,410	8,698	9,392	10,898	9,392	10,898
162	MULTIFUNCTION RADAR TRANSPONDER BEACON	40	2,175	40	2,175	40	2,175			40	2,175				
163	SMALL AEROSTAT SURVEILLANCE SYSTEM		3,483						(3,483)						
164	IMP-REMBASS (SOF)												10,051		--
165	JOINT STARS (ARMY)														

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166	ELECTRONIC MAINTENANCE SHOPS														
167	TEST SET, RADAR, AN/TPM-25														
168	MODIFICATION OF IN-SERVICE EQ (TAC EL)		37,220		37,220		37,220				37,220		29,267		29,267
169	ITEMS LESS THAN $2.0M (TACT ELEC-C-E)		1,581		1,581		1,581				1,581				
170	INTERMEDIATE FORWARD TEST EQUIP		39,679		39,679		39,679				39,679		34,204		34,204
171	TMDE FOR STE/ICE														
172	CORE ELECTRONIC AUTO TEST (STE-X)	30	1,963	30	1,963	30	1,963			30	1,963	41	1,974	41	1,974
173	SPARES AND REPAIR PARTS		316,319		316,319		315,219				316,319		311,515		311,515
174	SPECIAL PROGRAMS		72,457		72,457		72,457		(30,000)		42,457		71,411		71,411
175	PRODUCTIVITY INVESTMENT FUNDING														
176	PR ENH CAP INV PR/QWK RT INV PR(PECIP/QR		14,748		14,748		14,748				14,748		14,779		14,779
177	PRODUCTION BASE SUPPORT (C-E)		9,629		9,629		9,629				9,629		12,005		12,005
	UNDISTRIBUTED -ROUNDING				10										
999	CLASSIFIED PROGRAMS		143,044		120,217		130,544		(23,927)		119,117		124,326		124,326
	OTHER SUPPORT EQUIPMENT														
178	MODULAR DECON SYSTEM												1,584		1,584
179	DECONTAMINATE APP PWR DR LT WT M17											550	8,610	550	8,610
180	MASK, PROTECTIVE, NBC		56,030		56,030		45,730				56,030		60,585		60,585
180a	IMPROVED DRINKING SYSTEM						1,000		1,000		1,000				
181	MASK, ACFT	750	9,878	750	9,878	696	9,178			750	9,878	17,500	27,532	17,500	27,532
182	CHEMICAL AGENT MONITOR	3,307	19,757	3,307	19,757	2,596	15,457			3,307	19,757	3,273	20,387	3,273	20,387
183	SIMP COLL PROT EQUIP M20	928	6,201	928	6,201	632	4,201			928	6,201	380	3,661	380	3,661
184	COLL PROT EQUIP, NBC TEMPER, XM28												4,354		--
185	RECON SYSTEM, NBC	14	26,037	14	26,037	14	26,037			14	26,037	28	36,914	28	36,914
186	HEAVY ASSAULT BRIDGE												21,772		21,772
187	RIBBON BRIDGE														
188	LIGHT ASSAULT BRIDGE		3,939		3,939		3,939				3,939		10,887		10,887
189	ITEMS LESS THAN $2.0M(BRIDGING)		786		786		786				786		590		590
190	DISPENSER, MINE XM139	59	10,966	59	10,966	59	10,966			59	10,966	92	14,375	92	14,375
191	MIXING AND PUMPING UNIT (TEXS)											14	2,969	--	--
192	MARKING SYS, CLEAR LANE														
193	DETECTING SET, MINE, AN/PSS-12														
194	MINE PLOW(BLADE)														
195	MINE CLEARING ROLLER														
196	CONTROL REMOTE LANDMINE SYSTEM XM71														
197	VEHICLE MAGNETIC SIGNATURE DUP											55	4,820	--	--
198	M-9 ARMORED COMBAT EARTHMOVER (ACE)	132	61,763	132	61,763	132	61,763			132	61,763	132	63,252	132	63,252

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199	MOD IN-SVC EQ (ENGR-NC)												989		--
200	ITEMS LESS THAN $2.0M(ENG NON-CONST)														
201	AIR CONDITIONERS VARIOUS SIZE/CAPACITY		6,888		6,888		6,888				6,888		2,969		2,969
202	FIELD KITCHEN,MOBILE, TRL MTD.														
203	BAKERY PLANT FIELD											8	8,175	--	--
204	RIGID WALL SHELTER CMD POST ANNEX	64	4,790	64	4,790	64	4,790			64	4,790	87	6,581	87	6,581
205	DIVING EQUIPMENT		1,959		1,959		1,959				1,959				
206	FIRETRUCKS														
207	LAUNDRY UNIT/TRL MTD											150	11,975	--	--
208	ARMY PRINTING AND BINDING EQUIPMENT														
209	ITEMS LESS THAN $2.0M (CSS-EQ)		5,253		5,253		5,253				5,253		3,366		3,366
210	MOD IN-SVC EQUIP (CSE)		796		796		796				796				
211	SOF ITEMS LESS THAN 2.0M (CSS-EQ)		692		692		692				692		692		692
212	TANK ASSEMBLY FAB COLL POL 50000 G	181	2,288	181	2,288	181	2,288			181	2,288	249	2,969	249	2,969
213	TANK ASSEMBLY FAB COLLAPSIBLE POL 10000G	119	1,106	119	1,106	77	706			119	1,106	327	3,054	327	3,054
214	TANK ASSY, FAB COLLAPS, 20,000 GAL POL											537	3,265	--	--
215	TANK/PUMP UNIT LIQ DISP F/TRK MOUNTING	332	2,963	332	2,963	186	1,663			332	2,963				
216	LABORATORY, PETROLEUM, SEMI-TRLR MTD	2	1,470	2	1,470	2	1,470			2	1,470	6	3,775	6	3,775
217	PUMP ASSY LIQ GAS WHL 4 IN OUT 350 GPM											764	7,541	--	--
218	SWA PETROLEUM DISTRIBUTION SYSTEM		42,093		42,093		42,093				42,093		55,555		55,555
219	ITEMS LESS THAN $2.0M (POL)		1,469		1,469		1,469				1,469		1,969		1,969
220	WATER PURIF UNIT REV OS 3000 GPH	37	14,309	37	14,309	22	8,509			37	14,309	40	15,942	40	15,942
221	WATER PURIF UNIT REV OSMOSIS 600 GPH														
222	TACTICAL WATER DISTR SYS														
223	TANK FABRIC COLL WTR 3000 GAL (ONION)	669	1,082	669	1,082	394	582			669	1,082	1,529	2,459	1,529	2,459
224	WATER QUALITY ANALYSIS SET PURIF											100	989	100	989
225	ITEMS LESS THAN $2.0M (WATER EQ)		3,042		3,042		2,042				3,042		5,606		5,606
226	COMBAT SUPPORT MEDICAL		67,303		67,303		67,303				67,303		67,320		67,320
227	MEDICAL SUPPORT EQUIPMENT		58,645		58,645		58,645				58,645		60,428		60,428
228	WELDING SHOP, TRAILER MTD	20	600	20	600	20	600			20	600				
229	SHOP EQ ELECTRICAL RPR SEMI-TRL MTD														
230	STEAM CLEANER														
231	SHOP EQUIPMENT, CANVAS/GLASS SHELTER														
232	ITEMS LESS THAN $2.0M (MAINT EQ)		11,284		11,284		11,284				11,284		9,684		9,684

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233	SMALL EMPLACEMENT EXCAVATOR (SEE)											100	18,311	--	--
234	MOD IN-SVC EQ (CONST EQUIP)		1,988		1,988		1,988				1,988				
235	ITEMS LESS THAN $2.0M (CONST EQUIP)		3,063		3,063		3,063				3,063		3,365		3,365
236	LANDING, CRAFT, UTILITY														
237	TUG INLAND AND COASTAL WATERWAYS					1	7,500	1	7,500	1	7,500				
238	LOGISTIC SUPPORT VESSEL (LSV)														
239	CAUSEWAY SYSTEMS												3,463		3,463
240	MOD IN-SVC EQ (FLOAT/RAIL)		1,713		1,713		1,713				1,713		1,870		1,870
241	ITEMS LESS THAN $2.0M (FLOAT/RAIL)		99		99		99				99		2,345		2,345
242	GENERATORS AND ASSOCIATED EQUIP		41,931		41,931		41,931				41,931		52,356		52,356
243	TRUCK, FORK LIFT, CBD, PT, 4000 LB.														
244	TRUCK, FORK LIFT, DE, PT, RT, 10000 LB											102	11,572	--	--
245	TRUCK, FORK LIFT, DE, PT, RT, 6000 LB	281	21,321	281	21,321	41	3,121			281	21,321	259	20,034	259	20,034
246	TRUCK, FORK LIFT, DE, PT, RT, 4000 LB	302	14,115	302	14,115	221	10,315			302	14,115	247	11,752	247	11,752
247	65 TON CRANE														
248	ITEMS LESS THAN $2.0M (MHE)		988		988		988				988		4,573		4,573
249	SPARES AND REPAIR PARTS		30,161		30,161		13,561				30,161		31,793		31,793
250	BASE LEVEL COM'L EQUIPMENT		27,655		27,655		27,655				27,655		29,697		29,697
251	PROD ENHANCING CAPITAL INVEST PRGM		4,939		4,939		4,939				4,939		4,948		4,948
252	QUICK RETURN ON INVESTMENT PROGRAM		2,568		2,568		2,568				2,568		2,573		2,573
253	NON-CENTRALLY MANAGED ITEMS														
254	PRODUCTION BASE SUPPORT (OTH)		15,337		15,337		15,337				15,337		13,578		13,578
255	OSD PRODUCTIVITY INVESTMENT FUNDING		34,119		34,119		34,119				34,119		36,441		36,441
256	MANUFACTURING METHODS AND TECHNOLOGY		8,955		8,955		8,955				8,955		8,906		8,906
257	SPECIAL EQUIPMENT FOR USER TESTING		18,077		18,077		18,077				18,077		16,690		16,690
258	HOST NATION SUPPORT - EUROPE		122,339		122,300		122,339				122,339				
259	NATIONAL TRAINING CTR SUP		30,903		30,903		30,903				30,903		33,791		33,791
260	TRAINING DEVICES, NONSYSTEM		140,275		140,275		140,275				140,275		86,980		86,980
261	SIMNET/CLOSE COMBAT TACTICAL TRAINER		13,524		13,524		13,524				13,524		23,751		23,751
262	AREA ORIENTED DEPOT UPGRADE		30,547		30,547		30,547				30,547		30,481		30,481
	ASSET CAPITALIZATION PROGRAM						59,100		59,100		59,100				59,100
	CONTRACT TERMINATION AT ICPS														
	NATIONAL TRAINING CENTER EQUIPMENT MODERNIZATION				58,900		58,900		97,700		97,700				
	TOTAL OTHER PROCUREMENT ARMY		4,169,100		4,036,861		3,777,432		(115,610)		4,053,490		3,925,800		3,214,936

Vehicle intercom system

The Senate amendment would delete $10 million from the funds requested in the Other Procurement, Army account based on the availability of $10 million appropriated in fiscal year 1989 for the Vehicle Intercom System (VIS).

The House bill contained no similar provision.

The Senate recedes. The conferees note that a requirement has existed in previous years to install modern vehicle intercom systems in Army combat vehicles, though the Army judged the combat improvement insufficient to justify the cost for such systems. The conferees believe that the Army should again evaluate the cost effectiveness of installing new vehicle intercom systems, but that any modernization program may proceed only on the basis of a full and open competition.

Chemical mask improved drinking system

The Senate report (S. Rept. 101-81) directed the Army to allow the manufacture of the Chemical Mask Improved Drinking System (CMIDS), a non-developmental item (NDI), to make such minor material adjustments as needed to complete, for purposes of type classification of this sytem, operational tests and evaluation of the CMIDS with the Army's flexible two-quart canteen within the available funds previously authorized for such tests by the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180). The Senate report also directed the Army to continue evaluation of options for using the CMIDS in conjunction with one-quart canteens.

The Senate report authorized $1 million for the procurement of the CMIDS for issuance with other chemical protective gear to users of the flexible two-quart canteen. However, the Senate report prohibited the obligation of these funds unless the Secretary of the Army, based on operational test results of the system as modified with the minor material adjustments noted above, certifies to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that the CMIDS: (a) is compatible with the M40/42 gas mask and the flexible two-quart canteen; and (b) provides an improvement in convenience and practicality over the present gravity system for fluid intake by troops wearing chemical protective masks.

The House report (H. Rept. 101-121) contained no similar direction.

The conferees agree that the Army should proceed with testing and procurement of the CMIDS as directed in the Senate report, except that the conferees agree that of the $1 million in fiscal year 1990 funds authorized for this program, up to $320,000 may be used to complete operational test and evaluation of the system. The conferees direct that the acquisition of this NDI be conducted in accordance with the Competition in Contracting Act and other applicable law.

Transmissions for tactical trucks

The House report (H. Rept. 101-121) requested the Secretary of the Army to report on the possibility of incorporating commercially-available truck transmissions through competitive means into existing and future combat vehicle programs.

The Senate report (S. Rept. 101-81) contained no similar language.

The conferees note that the Packard Commission had recommended expended use of commercial components and therefore endorse the intent of the House language.

AIRCRAFT PROCUREMENT, NAVY

OVERVIEW

The amended budget request for fiscal year 1990 contained $8,826.1 million for Aircraft Procurement, Navy. The house bill would authorize $8,665.8 million. The Senate amendment would authorize $8,499.9 million. The conferees recommend authorization of $9,653.3 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

The tables display the total amount authorized for Aircraft Procurement, Navy for fiscal year 1990. This amount is greater than the total authorized in section 102 of the conference report, but is equal to the sum of the pertinent amounts in sections 102 and 108 (milestone authorizations). The difference is attributable to the T-45 Training System program, which was authorized in the National Defense Authorization Act for Fiscal Years 1988 and 1989 as a milestone authorization program. The milestone authorization for that program (as amended) is included in the tables.

P-1		Bush Revised FY1990 Request		-----House------ Authorization		-----Senate------ Authorization		---Conference--- Change to Request		---Conference--- Authorization		Bush Revised FY1991 Request		---Conference--- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	AIRCRAFT PROCUREMENT, NAVY														
1	A-6 UPGRADE (ATTACK) INTRUDER														
2	ADVANCED TACTICAL AIRCRAFT	[ ]	[ ]									[ ]	[ ]		
3	ATA ADV PROCUREMENT (CY)	[ ]	[ ]									[ ]	[ ]		
4	EA-6B/REMFG (ELEC WARFARE) PROWLER		104,970		104,970		104,970				104,970	3	308,545	3	308,545
5	EA-6B ADVANCE PROCUREMENT (CY)		24,890		24,890		24,890				24,890		34,811		34,811
6	CLASSIFIED PROGRAM	[ ]	[ ]									[ ]	[ ]		
7	AV-8B (V/STOL) HARRIER (MYP)	24	461,225	24	461,225	24	461,225			24	461,225	24	454,920	--	--
8	AV-8B ADVANCE PROCUREMENT (CY)		29,868		29,868		29,868				29,868				
9	F-14A/D/REMFG (FIGHTER) TOMCAT	6	688,640	12	857,000	6	688,640	18	758,360	18/6	1,447,000	12	681,609	12	681,609
10	F-14 ADVANCE PROCUREMENT (CY)		82,664		144,000		82,664				82,664		121,825		121,825
11	F/A-18 (FIGHTER) HORNET (MYP)	66	1,889,718	66	1,889,718	66	1,894,718		5,000	66	1,894,718	66	1,666,451	--	--
	F-18 PRIOR YEAR SAVINGS						(53,000)		(53,000)		(53,000)				
12	F/A-18 ADVANCE PROCUREMENT (CY)		530,900		169,900		530,900		(361,000)		169,900		338,300		--
13	CH/MH-53E (HELO) SUPER STALLION (MYP)	23	359,307	14	254,000	23	359,307	(9)	(105,307)	14	254,000	23	368,173	--	--
14	CH/MH-53E ADV PROCUREMENT (CY)		51,700				51,700		(20,230)		31,470		55,800		--
15	V-22 OSPREY														
16	V-22 ADVANCE PROCUREMENT (CY)				157,000										
17	AH-1W (HELICOPTER) SEA COBRA														
18	SH-60B (ASW HELICOPTER) (MYP)	6	145,443	6	145,443	6	145,443			6	145,443	6	102,594	6	102,594
19	SH-60B ADVANCE PROCUREMENT (CY)		41,900		41,900		33,100				41,900		38,900		38,900
20	SH-60F CV (ASW HELICOPTER) (MYP)		25,025		25,025		25,025				25,025	18	231,378	18	231,378
21	SH-60F ADVANCE PROCUREMENT (CY)		54,027		54,027		26,627				54,027		35,324		35,324
22	LRAACA												19,880		19,880
23	E-2C (EARLY WARNING) HAWKEYE (MYP)	4	261,183	4	261,183	4	261,183			4	261,183	9	351,759	--	--
24	E-2C ADVANCE PROCUREMENT (CY)		224,987		45,000		224,987		(179,987)		45,000		71,866		--
25	T-44A	5	12,023	5	12,023	5	12,023			5	12,023				
26	T-45TS GOSHAWK		153,114		153,114		153,114				153,114	24	385,093	24	385,093
27	T-45 ADVANCE PROCUREMENT (CY)												46,472		46,472
28	E-6A														
29	E-6A ADVANCE PROCUREMENT (CY)														
30	HH-60H														

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	MODIFICATION OF AIRCRAFT														
31	A-3 SERIES		100		100		100				100		99		99
32	A-4 SERIES		6,339		6,339		3,839				6,339		6,471		6,471
33	A-6 SERIES		63,387		63,387		63,187				63,387		66,347		66,347
33a	A-6 PRIOR YEAR SAVINGS						(25,000)								
34	EA-6 SERIES		26,033		26,033		26,033				26,033		27,592		27,592
35	A-7 SERIES		62		62		62				62		99		99
36	AV-8 SERIES		100		100		100				100		99		99
37	F-4 SERIES		98		98		98				98		99		99
38	RF-4 SERIES		100		100		100				100		99		99
39	F-14 SERIES		16,038		16,038		16,038				16,038		45,149		45,149
40	F-5 SERIES		100		100		100				100		99		99
41	ES-3 SERIES		107,966		107,966		107,966				107,966		4,994		4,994
42	OV-10 SERIES		10,858		10,858		10,858				10,858		32,314		32,314
43	F-18 SERIES		4,717		4,717		4,717				4,717		3,281		3,281
44	H-46 SERIES		3,898		3,898		3,898				3,898		5,187		5,187
45	H-53 SERIES		29,721		29,721		29,121				29,721		30,913		30,913
46	SH-60 SERIES		599		599		599				599		34,764		34,764
47	VH-60 SERIES		5,852		5,852		5,852				5,852		480		480
48	H-1 SERIES		48,115		48,115		48,115				48,115		53,357		53,357
49	H-2 SERIES		24,071		24,071		24,071				24,071		29,841		29,841
50	H-3 SERIES		10,333		10,333		10,333				10,333		1,299		1,299
51	EP-3 SERIES		13,752		13,752		13,752				13,752		21,742		21,742
52	P-3 SERIES		30,725		30,725		20,325				30,725		114,168		114,168
53	S-3 SERIES		56,135		56,135		56,135				56,135		79,572		79,572
54	E-2 SERIES		71,720		71,720		71,720				71,720		57,402		57,402
55	TRAINER A/C SERIES		2,310		2,310		2,310				2,310		1,300		1,300
56	EC-130 SERIES														
57	C-130 SERIES		3,129		3,129		3,129				3,129		4,147		4,147
58	FEWSG		269		269		269				269		10,161		10,161
59	CARGO/TRANSPORT A/C SERIES		1,552		1,552		52				1,552		1,599		1,599
60	E-6A		7,512		7,512		7,512				7,512		5,203		5,203

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
61	VARIOUS														
62	POWER PLANT CHANGES		5,959		5,959		5,059				5,959		7,209		7,209
63	MISC FLIGHT SAFETY CHANGES		999		999		999				999		1,026		1,026
64	COMMON ECM EQUIPMENT		46,781		46,781		34,481				46,781		104,268		104,268
65	COMMON AVIONICS CHANGES		1,427		1,427		1,427				1,427		2,971		2,971
	AIRCRAFT SPARES AND REPAIR PARTS														
66	SPARES AND REPAIR PARTS		1,322,707		1,322,707		1,317,007				1,322,707		1,432,950		1,432,950
	AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES														
67	COMMON GROUND EQUIPMENT		438,603		438,603		438,603				438,603		447,689		447,689
68	AIRCRAFT INDUSTRIAL FACILITIES		32,846		32,846		32,846				32,846		34,858		34,858
69	WAR CONSUMABLES		2,707		2,707		2,707				2,707		34,234		34,234
70	OTHER PRODUCTION CHARGES		35,462		35,462		35,462				35,462		29,408		29,408
71	SPECIAL SUPPORT EQUIPMENT		47,042		47,042		47,042				47,042		45,701		45,701
999	CLASSIFIED PROGRAMS		1,204,392		1,204,392		1,204,392				1,204,392		1,426,009		--
	MODERNIZATION				151,000		151,000		783,400		783,400				
	UNOBLIGATED PRIOR YEAR FUNDS						(333,924)								
	TOTAL AIRCRAFT PROCUREMENT, NAVY		8,826,100		8,665,802		8,499,876		827,236		9,653,336		9,517,900		4,784,622

EA-6B electronic warfare aircraft

The amended budget request proposed to discontinue manufacture of EA-6B electronic warfare aircraft and initiate a program to update and refurbish existing EA-6B aircraft. Both the House bill and the Senate amendment would authorize the program as requested.

The conferees note, however, that there is a serious shortfall of EA-6B aircraft for the fleet. The shortfall currently exceeds levels which the Navy considers manageable. Although the conferees support efforts by the Secretary of the Navy to eliminate low priority procurement programs, the conferees are concerned about how the Navy will satisfy electronic warfare support of the fleet in the future.

The conferees are aware of proposals within the Department of the Navy that would decrease the shortfall through a one-time production of block 91 EA-6B airframes only. Those airframes would be subsequently fitted with the new generation Advanced Capability (ADVCAP) electronics suite as it becomes available in fiscal year 1992. While this proposal represents an unusual acquisition approach, it would permit efficient production and prompt termination of the EA-6B production line which would otherwise have to be sustained at extremely inefficient rates until the ADVCAP suite becomes available. It would also provide time to develop foreign military sales of the EA-6B, which has only recently been authorized for export to certain allies.

Accordingly, the conferees direct the Secretary of the Navy to evaluate the shortfalls in this mission area, and explore alternatives for satisfying remaining requirements. If the Secretary's review confirms the need for added EA-6B aircraft, the conferees encourage the Secretary to initiate the appropriate reprogramming actions. Because of the impending closure of the line, the conferees direct that the Secretary provide an analysis of both the mission shortfall and the reprogramming plan, if justified, to the congressional defense committees not later than February 1, 1990.

The conferees direct, however, that the source funds for any reprogramming must come from within Navy aviation procurement accounts.

WEAPONS PROCUREMENT, NAVY

OVERVIEW

The amended budget request for fiscal year 1990 contained $5,725.0 million for Weapons Procurement, Navy. The House bill would authorize $5,570.5 million. The Senate amendment would authorize $5,928.3 million. The conferees recommend authorization of $5,398.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

The tables display the total amount authorized for Weapons Procurement, Navy for fiscal year 1990. This amount is greater than the total authorized in section 102 of the conference report, but is equal to the sum of the pertinent amounts in sections 102 and 108 (milestone authorizations). The difference is attributable to the Trident II D-5 ballistic missile program, which was authorized in the National Defense Authorization Act for Fiscal Years 1988 and 1989 as a milestone authorization program. The milestone authorization for that program (as amended) is included in the tables.

P-1 LINE ITEM	Bush Revised FY1990 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount	Bush Revised FY1991 Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
WEAPONS PROCUREMENT, NAVY														
BALLISTIC MISSILES														
1 POSEIDON														
2 TRIDENT I		1,196		1,196		1,196				1,196		1,239		--
3 TRIDENT II	63	1,598,507	63	1,598,507	72	1,699,507		(300,000)	63	1,298,507	52	1,316,597	52	1,316,597
4 TRIDENT II ADVANCE PROCUREMENT (CY)		216,131		216,131		216,131				216,131		218,628		218,628
5 MISSILE INDUSTRIAL FACILITIES		2,331		2,331		2,331				2,331		2,378		--
OTHER MISSILES														
6 TOMAHAWK (MYP)	400	572,161	400	572,161	400	572,161			400	572,161	400	662,570	--	--
7 TOMAHAWK ADVANCE PROC (CY)														
8 AIM/RIM-7 F/M SPARROW														
9 AMRAAM (MYP)	150	129,785	150	129,785	150	129,785		(21,685)	150	108,100	800	382,512	--	--
10 AIM-9L/M SIDEWINDER														
11 PHOENIX (MYP)	420	376,457	420	376,457	420	376,457		(50,000)	420	326,457				
12 PHOENIX ADVANCE PROCUREMENT (CY)														
13 HARPOON	190	214,141	190	214,141	190	194,141		(20,000)	190	194,141	184	229,769	184	229,769
14 AGM-88A (HARM) (MYP)	1,162	292,174	1,162	292,174	1,362	337,474			1,162	292,174	1,400	354,881	--	--
15 SM-2 MR	590	310,619	590	310,619	960	390,419	370	43,600	960	354,219	900	552,030	900	552,030
16 RAM	580	90,265	580	90,265	580	90,265			580	90,265	540	86,869	540	86,869
17 STINGER														
18 SIDEARM														
19 HELLFIRE	1,098	50,444	1,098	50,444	1,098	50,444			1,098	50,444	1,198	57,099	1,198	57,099
20 LASER MAVERICK														
21 IIR MAVERICK														
22 PENGUIN	64	39,634	64	39,634	64	39,634			64	39,634	65	40,457	65	40,457
23 PENGUIN ADVANCE PROCUREMENT (CY)		3,719		3,719		3,719				3,719				
24 MAVERICK MISSILES (MYP)	560	59,951	560	59,951	560	59,951			560	59,951	2,135	185,361	--	--
25 MAVERICK ADVANCE PROCUREMENT (CY)		6,500		6,500		6,500				6,500		6,900		--
26 TACIT RAINBOW														
27 AERIAL TARGETS		124,715		124,715		124,715				124,715		121,174		121,174
28 DRONES AND DECOYS						25,000		25,000		25,000				
29 OTHER MISSILE SUPPORT		14,631		14,631		14,631				14,631		28,782		28,782

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	MODIFICATION OF MISSILES														
30	TOMAHAWK MODS		3,330		3,330		3,330				3,330		25,758		25,758
31	AIM/RIM-7E/F SPARROW MOD		28,950		28,950		28,950				28,950		8,876		8,876
32	SIDEWINDER MODS												7,000		7,000
33	PHOENIX MODS												3,012		3,012
34	AGM-84A HARPOON MOD		12,819		12,819		12,819				12,819		15,825		15,825
35	STANDARD MISSILES MOD		11,717		11,717		11,717				11,717		13,003		13,003
36	OTHER MISSILE MODS														
36a	MODERNIZATION								33,800		33,800				
	SUPPORT EQUIPMENT AND FACILITIES														
37	WEAPONS INDUSTRIAL FACILITIES		16,836		16,836		21,336		4,500		21,336		24,704		24,704
38	FLEET SATELLITE COMMUNICATIONS (MYP)	2	171,817	2	171,817	2	171,817			2	171,817	3	200,986	--	--
39	FLEET SAT ADVANCE PROCUREMENT (CY)		141,000		141,000		141,000				141,000				
40	DEFENSE METEOROLOGICAL SATELLITE PROGRAM														
41	ORDNANCE SUPPORT EQUIPMENT		111,672		111,672		111,672				111,672		272,226		--
	TORPEDOES AND RELATED EQUIPMENT														
42	MK-48 ADCAP TORPEDO	320	493,642	180	331,942	280	464,100	(80)	(54,742)	240	438,900	320	408,828	--	--
43	SEA LANCE		1,799		1,799		1,799				1,799		46,328		46,328
44	MK-50 ALWT	200	269,130	200	269,130	200	269,130			200	269,130	270	328,521	270	328,521
45	MK-50 ADVANCE PROCUREMENT (CY)														
46	MOBILE TARGET MK-30 (MYP)														
47	ASW TARGETS		12,983		12,983		12,983				12,983		25,028		25,028
48	ASROC		9,282		9,282		9,282				9,282		10,075		10,075
49	VERTICAL LAUNCHED ASROC														
50	MOBILE MINE MK-67														
51	TORPEDO MK-46 MODS		8,682		8,682		14,682		6,000		14,682		11,609		11,609
52	CAPTOR MODS														
53	SWIMMER WEAPONS SYSTEMS (SOF)		971		971		971				971		1,029		1,029
54	TORPEDO SUPPORT EQUIPMENT		39,002		39,002		39,002				39,002		38,796		38,796
55	ASW RANGE SUPPORT		24,205		24,205		24,205				24,205		24,110		24,110

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	OTHER WEAPONS														
56	MK-15 CLOSE IN WEAPONS SYSTEM	20	59,990	25	74,990	20	59,990	5	15,000	25	74,990	19	62,046	19	62,046
57	MK-75 76MM GUN MOUNT	2	7,177	2	7,177	2	6,177			2	7,177				
58	MK-19/40MM MACHINE GUN	25	523	25	523	25	523			25	523	25	547	25	547
59	25MM GUN MOUNT	22	4,930	22	4,930	22	4,930			22	4,930	55	9,688	55	9,688
60	SMALL ARMS AND WEAPONS		9,553		9,553		9,553				9,553		13,129		13,129
61	SMALL ARMS AND WEAPONS - (SOF)		1,228		1,228		1,228				1,228		1,218		1,218
62	CIWS MODS		63,771		63,771		63,771				63,771		80,680		80,680
63	5 /54 GUN MOUNT MODS		9,240		9,240		9,240				9,240		15,543		15,543
64	3"/50 GUN MOUNT MODS		279		279		279				279		287		287
65	MK 75 76MM GUN MOUNT MODS		5,812		5,812		5,812				5,812		9,430		9,430
66	MODS UNDER $2,000,000		2,430		2,430		2,430				2,430		2,337		2,337
67	GUN SUPPORT EQUIPMENT		4,428		4,428		4,428				4,428		5,358		5,358
	SPARES AND REPAIR PARTS														
68	SPARES AND REPAIR PARTS		94,441		94,441		94,441				94,441		87,177		87,177
	TRANSFER TO SCN (ENTERPRISE)				(7,800)		(7,800)		(7,800)		(7,800)				
	TOTAL WEAPONS PROCUREMENT NAVY		5,725,000		5,570,500		5,928,258		(326,327)		5,398,673		6,000,400		3,522,519

29-059 O-90-32 (Pt. 19)

MK-48 advanced capability torpedo

The amended budget request included $493.6 million for 320 MK-48 advanced capability (ADCAP) torpedoes.

The House bill contained $331.9 million for 180 torpedoes, while the Senate amendment contained $464.1 million for 280 torpedoes.

The conferees agree to recommend $438.9 million for 240 MK-48 ADCAP torpedoes, a reduction of $54.7 million and 80 torpedoes from the budget request.

The conferees are particularly interested in the conduct and results to date of MK-48 ADCAP operational testing. The operational tests performed indicate that this weapon is superior to the existing MK-48 weapons, but deficiencies in achieving performance goals and in completing required tests have precluded the Department of Defense certification required by law for procurement at the full production rate.

The conferees recognize that the Navy is moving to correct deficiencies in this weapon and is planning to conduct additional tests. The conferees also recognize that some weapons must be funded and procured in order to maintain the two suppliers which have been selected.

Nevertheless, the conferees agree that absent completion of the operational test plan and a demonstration of significant improvement in torpedo performance, they would be unwilling to increase the authorization for this program in the future.

Assignment of programs to Navy accounts

The Senate report (S. Rept. 101-81) would direct the Secretary of Defense to modify the assignment of programs to the Weapons Procurement, Navy (WPN) and Other Procurement, Navy (OPN) accounts.

The House report (H. Rept. 101-121) contained no similar direction.

The conferees support the direction contained in the Senate report and direct the Secretary of Defense to provide the associated report, which summarizes the changes in the budget displays, to the Committees on Armed Services and Appropriations of the Senate and House of Representatives not later than January 31, 1990.

SHIPBUILDING AND CONVERSION, NAVY

OVERVIEW

The amended budget request for fiscal year 1990 contained $9,550.6 million for Shipbuilding and Conversion, Navy. The House bill would authorize $9,925.3 million. The Senate amendment would authorize $9,756.5 million. The conferees recommend authorization of $10,958.4 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	SHIPBUILDING AND CONVERSION, NAVY														
1	TRIDENT (NUCLEAR)	1	1,137,200	1	1,137,200	1	1,137,200		(100,000)	1	1,037,200	1	1,199,400	--	--
2	TRIDENT ADVANCE PROCUREMENT (CY)		140,600		140,600		100,600		(40,000)		100,600		143,000		--
3	CVN AIRCRAFT CARRIER (NUCLEAR)														
4	SSN-688 CLASS SUBMARINE (NUCLEAR)	1	806,300	1	806,300	1	763,300		(43,000)	1	763,300				
5	SSN-688 ADVANCE PROCUREMENT (CY)														
6	SSN-21											2	2,266,700	2	2,266,700
7	SSN-21 ADVANCE PROCUREMENT (CY)		816,800		816,800		816,800				816,800		1,062,300		1,062,300
8	CV SLEP	1	630,300	1	630,300	1	630,300			1	630,300				
9	CV SLEP ADVANCE PROCUREMENT (CY)		20,900		20,900		20,900				20,900		76,600		76,600
10	CG-47 AEGIS CRUISER (MYP)														
11	DDG-51 (MYP)	5	3,600,700	5	3,600,700	5	3,600,700		(67,000)	5	3,533,700	5	3,600,800	5	3,600,800
12	DDG-51 ADVANCE PROCUREMENT (CY)												3,900		3,900
13	LHD-1 AMPHIBIOUS ASSAULT SHIP											1	959,900	1	959,900
14	LHD-1 ADVANCE PROCUREMENT (CY)		35,000		35,000		35,000				35,000				
15	LSD-41 (CARGO VARIANT)	1	229,300	1	229,300	1	229,300			1	229,300	1	232,700	1	232,700
16	MCM MINE COUNTERMEASURES SHIP	3	341,500	3	341,500	3	341,500			3	341,500				
17	MHC COASTAL MINE HUNTER	1	120,300	3	282,000	1	120,300	2	161,700	3	282,000	3	255,900	3	255,900
18	TAO FLEET OILER														
19	AO (JUMBO)	1	35,700	1	35,700	1	35,700			1	35,700				
20	TAGOS SURTASS SHIPS	1	155,800	1	155,800	1	155,800			1	155,800				
21	AOE	1	356,400	1	356,400	1	356,400			1	356,400	1	357,700	1	357,700
22	OCEANOGRAPHIC RESEARCH SHIP	3	278,100	3	278,100	3	278,100			3	278,100	1	41,900	1	41,900
23	MOORED TRNG SHIP DEMO (ADV PROC-CY)	1	220,000	1	220,000	1	220,000			1	220,000				
24	SERVICE CRAFT		45,100		45,100		45,100				45,100		78,600		78,600
25	LANDING CRAFT		11,300		11,300		11,300				11,300		10,000		10,000
26	LCAC LANDING CRAFT	9	196,400	9	196,400	14	336,166	3	54,000	12	250,400	12	255,900	12	255,900
27	LCAC ADVANCE PROCUREMENT (CY)		22,900		22,900		22,900				22,900		28,100		28,100
28	PATROL BOATS (SOF)														
29	OUTFITTING		205,500		205,500		205,500				205,500		265,000		--
30	POST DELIVERY		134,500		134,500		134,500				134,500		147,900		--

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
31	TACS CRANE SHIP														
32	SHIP SPECIAL SUPPORT EQUIPMENT		10,000		10,000		10,000				10,000		35,200		--
	ENTERPRISE REFUELING & MODERNIZATION				129,100		129,100		1,422,100		1,422,100				
	FAST SEALIFT SHIP														240,000
	SEALIFT SHIP ADVANCE PROCUREMENT				20,000		20,000		20,000		20,000				
	UNDISTRIBUTED REDUCTION (MILSTAR)														
	ICEBREAKERS														
	TRANSFER FROM OTHER ACCOUNTS														
	SHIP PRODUCTION ENGINEERING (INCL TRANSF				63,906										61,656
	TOTAL SHIPBUILDING AND CONVERSION, NAVY		9,550,600		9,925,306		9,756,466		1,407,800		10,958,400		11,021,500		9,532,656

Aircraft carrier technology study

The Senate report (S. Rept. 101-81) directed the Secretary of the Navy to commission an independent study by the National Academy of Sciences for the production of an integrated technology plan for the evolution of aircraft carriers in the first half of the twenty-first century.

The House report (H. Rept. 101-121) contained no similar language.

The conferees agree the Secretary of the Navy should have greater flexibility to draw upon the capabilities of a number of institutions which could conduct this independent study. Accordingly, the Secretary will select the institution to conduct the study. He shall submit to the Committees on Armed Services of the Senate and the House of Representatives within 90 days of the enactment of this Act a study plan which contains his rationale for selecting the institution(s) to conduct the study. The conferees reiterate the requirement to complete this study in a timely manner, within the 18 months first envisioned. The Secretary, of course, may commission additional supporting analyses on this matter as deemed appropriate.

The conferees wish to emphasize that the product of this study is to be a technology plan for the evolution of sea bases for the most efficient and economical accommodation of tactical air power in the first half of the twenty-first century—not a justification paper on building aircraft carriers in the near term.

Fast sealift ship procurement

The conferees are in agreement with the language contained in both the Senate report (S. Rept. 101-81) and the House report (H. Rept. 101-121) regarding procurement of fast sealift ships. The conferees are aware of the tension created in the shipbuilding account by requiring the construction of sealift ships as well as combatants and combatant support ships. To ease this tension, the conferees agree that to the greatest extent feasible the Navy should strive to design sealift ships that possess multimission capability and that would be useful in the day to day activities of the fleet. A research and development program has been provided separately in Title II to be used to this end, as well as to develop new technologies for advanced capabilities, construction and production of ships in this size category. Since this will be a new design effort for ships of a size compatible with commercial uses, thought and care should be taken to allow for commercial viability.

To ensure maximum usefulness of these ships, the conferees have also agreed to a legislative provision (sec. 154) directing that none of the funds made available for the construction of sealift ships may be obligated or expended until 30 days after the Secretary of the Navy has submitted an acquisition strategy to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that shall detail the multimission design characteristics of these ships, the operational concept for their employment, and any potential commercial utility they may possess. The report shall include measures taken with respect to commonality, producibility and survivability. Also, the report shall include provisions for domestic production of major components of propulsion and auxiliary systems. This report shall be submitted within nine months of the date of enactment of this Act.

The conferees direct that in determining operational characteristics, designers consider the relationship of speed to round trip efficiencies. The conferees agree that high speed in ships is an attribute of tactical military importance, but they recognize that high speed and high efficiency may be incompatible; however, the choice of one need not exclude the other. To this effect in the near term, the designers should consider combined plants that are capable of high efficiency in some speed regime, but that deliver greater power for higher speed when it is tactically useful or important. Over the longer term, integrated electric drive propulsion may allow these attributes to reside in a single point.

This report shall present the outlines of research and development to be undertaken in technologies of hull, machinery and automation that will improve performance characteristics of these and following ships. This requirement is related to and may be a further refinement of the report required on fast sealift technology contained in Title II of this statement of managers.

Finally, the conferees encourage the Secretary of the Navy to seek the participation, both financially and otherwise, of the Maritime Administration to help develop commercial viability in these ship designs and/or in the separate technologies where such development is feasible and consistent with military objectives.

Integrated electric drive ship installation

The Senate report (S. Rept. 101-81) directed installation of integrated electric drive propulsion in a ship of flight three of the DDG-51 *Arleigh Burke* class guided missile destroyer.

The House report (H. Rept. 101-121) contained no similar direction.

The conferees are aware of and concerned that the development of integrated electric drive is proceeding without a target date for installation in a ship. The conferees agree that although technical developments should proceed carefully, a date certain for an operational system is necessary to impose organizational focus and discipline.

The conferees note the electric drive system has been in development for over 12 years, and the potential benefits for surface ships and submarines are so great that the program deserves and requires special attention. Many qualified observers believe that with priority attention the system could have been operational already. Without passing on the merits of that argument, the conferees believe that certainly another 10 years—a total of over 20 years—is sufficient to bring this system into operational use in a combatant. Accordingly, the conferees direct that the integrated electric drive propulsion system be installed and operational in a DDG-51 class ship by the year 2000.

To this end, the conferees direct the Secretary of the Navy to report to the Committees on Armed Services of the Senate and House of Representatives within 120 days of the date of enactment of this Act on the assignment of a senior program manager and a development and test plan that will support the goal of putting this system to sea in a DDG-51 class ship before the year 2000. The report shall include a plan for parallel development of superconducting technology that will keep open the option for its inclusion in the electric drive installation.

The conferees consider this program to be an item of special congressional interest.

ECM equipment on DDG-51 class destroyers

The Senate report (S. Rept. 101-81) urged the Secretary of the Navy to include an active electronics countermeasures (ECM) capability on the next flight of DDG-51 class destroyers. No preference was expressed concerning selection of particular equipment.

The House report (H. Rept. 101-121) contained no similar language.

The conferees urge the Secretary of the Navy to provide an active ECM capability on the next flight of DDG-51s.

OTHER PROCUREMENT, NAVY

OVERVIEW

The amended budget request for fiscal year 1990 contained $4,915.0 million for Other Procurement, Navy. The House bill would authorize $5,480.0 million. The Senate amendment would authorize $6,314.3 million. The conferees recommend authorization of $8,207.1 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount	Bush Revised FY1991 Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
	OTHER PROCUREMENT, NAVY														
	SHIPS SUPPORT EQUIPMENT														
1	LM-2500 GAS TURBINE		7,502		7,502		7,502				7,502		8,761		8,761
2	ALLISON 501K GAS TURBINE	1	3,883	1	3,883	1	3,883			1	3,883	1	8,421	1	8,421
3	LM2500 SPECIAL SUPPORT EQUIPMENT														
4	STEAM PROPULSION IMPROVEMENT PROGRAM		6,275		6,275		6,275				6,275		7,200		7,200
5	OTHER PROPULSION EQUIPMENT		5,806		5,806		5,806				5,806		6,207		6,207
6	OTHER GENERATORS		1,923		1,923		1,923				1,923		12,972		12,972
7	OTHER PUMPS		5,293		5,293		5,293				5,293		8,944		8,944
8	HIGH PRESSURE AIR COMPRESSOR	3	586	3	586	3	586			3	586	2	454	2	454
9	OTHER AIR COMPRESSORS														
10	SUBMARINE PROPELLERS	17	5,381	17	5,381	17	5,381			17	5,381	17	10,863	17	10,863
11	OTHER PROPELLERS AND SHAFTS		4,684		4,684		4,684				4,684		4,862		4,862
12	ELECTRICALLY SUSPENDED GYRO NAVIGATOR		2,527		2,527		2,527				2,527		4,527		4,527
13	CARRIER NAVIGATION SYSTEM														
14	OTHER NAVIGATION EQUIPMENT		4,999		4,999		4,999				4,999		5,677		5,677
15	UNDERWAY REPLENISHMENT EQUIPMENT		7,175		7,175		7,175				7,175		9,522		9,522
16	TYPE 18 PERISCOPE		17,120		17,120		17,120				17,120		8,808		8,808
17	TYPE 8 PERISCOPES														
18	PERISCOPES AND ACCESSORIES		3,741		3,741		3,741				3,741		4,148		4,148
19	FIREFIGHTING EQUIPMENT		18,025		18,025		18,025				18,025		23,067		23,067
20	COMMAND AND CONTROL SWITCHBOARDS		3,398		3,398		3,398				3,398	5	6,777	5	6,777
21	POLLUTION CONTROL EQUIPMENT		7,932		7,932		7,932				7,932		9,231		9,231
22	SUBMARINE SILENCING EQUIPMENT		12,197		12,197		12,197				12,197		15,627		15,627
23	SURFACE SHIP SILENCING EQUIPMENT		5,619		5,619		5,619				5,619		5,198		5,198
24	SUBMARINE BATTERIES	35	9,516	35	9,516	35	9,516			35	9,516	27	7,281	27	7,281
25	STRATEGIC PLATFORM SUPPORT EQUIPMENT		59,911		59,911		59,911				59,911		56,710		--
26	STRATEGIC MISSILE SUPPORT EQUIPMENT		28,680		28,680		28,680				28,680				
27	DSSP EQUIPMENT		7,380		7,380		7,380				7,380		8,623		8,623
28	SEALIFT SUPPORT EQUIPMENT		10,571		10,571		10,571				10,571		21,547		21,547
29	AIR CONDITIONERS	2	791	2	791	2	791			2	791	2	1,197	2	1,197
30	MINESWEEPING CABLE		2,399		2,399		2,399				2,399		3,965		3,965
31	HM&E ITEMS UNDER $2 MILLION		23,801		23,801		23,801				23,801		33,980		33,980
32	SURFACE IMA		8,071		8,071		8,071				8,071		13,385		13,385

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	Conference Authorization Quantity	Conference Authorization Amount
33	DEGAUSSING EQUIPMENT		1,702		1,702		1,702				1,702		3,402		3,402
34	RADIOLOGICAL CONTROLS		375		375		375				375		437		437
35	MINI/MICROMINI ELECTRONIC REPAIR		550		550		550				550		642		642
36	CHEMICAL WARFARE DETECTORS	470	7,938	470	7,938	470	7,938			470	7,938	1,153	10,573	1,153	10,573
37	SUBMARINE LIFE SUPPORT SYSTEM	8	5,121	8	5,121	8	5,121			8	5,121	7	8,382	7	8,382
38	HM&E ENGINEERED MAINTENANCE														
39	SHIPBOARD ENERGY CONSERVATION														
40	REACTOR POWER UNITS	3	136,146	3	136,146	3	136,146			3	136,146	1	45,921	1	45,921
41	REACTOR COMPONENTS		237,764		237,764		237,764				237,764		239,726		239,726
42	DIVING AND SALVAGE EQUIPMENT		5,010		5,010		4,810				5,010		4,087		4,087
43	NAVAL SPECIAL WARFARE EQUIPMENT		4,101		4,101		4,101				4,101		3,661		3,661
44	NAVAL SPECIAL WARFARE EQUIPMENT - (SOF)		18,367		18,367		18,367				18,367		19,520		19,520
45	SOF EQUIPMENT														
46	SMALL BOATS	239	13,448	239	13,448	239	13,048			239	13,448	113	13,811	113	13,811
47	OTHER SHIPS TRAINING EQUIPMENT		5,351		5,351		5,351				5,351		8,437		8,437
48	CALIBRATION EQUIPMENT														
49	PRODUCTION SUPPORT FACILITIES		16,903		16,903		16,803				16,903		15,450		15,450
50	OPERATING FORCES IPE		8,451		8,451		8,451				8,451		9,647		9,647
50a	REDUCTION IN SHIP SUPPORT EQUIPMENT				(25,000)				(25,000)		(25,000)				
50b	MODERNIZATION				1,010,300		1,010,300		3,096,200		3,096,200				
	COMMUNICATIONS AND ELECTRONICS EQUIPMENT														
51	AN/SPS-67														
52	AN/SPS-40		7,971		7,971		7,971				7,971		9,639		9,639
53	AN/SPS-48		5,174		5,174		5,174				5,174		1,320		1,320
54	AN/SPS-49		4,504		4,504		4,504				4,504		8,981		8,981
55	AN/SYS-()		3,970		3,970		3,970				3,970		3,135		3,135
56	MK 23 TARGET ACQUISITION SYSTEM	4	25,771	4	25,771	4	25,771			4	25,771	5	30,523	5	30,523
57	RADAR SUPPORT		13,053		13,053		13,053				13,053		14,502		14,502
57a	AN/SYS-2/SPS-49 ADT				20,000										
58	SURFACE SONAR SUPPORT EQUIPMENT		8,290		8,290		8,290				8,290		19,774		19,774
59	AN/SQQ-89 SURFACE ASW COMBAT SYS	7	192,465	7	192,465	7	187,765			7	192,465	9	253,699	9	253,699
60	AN/BQQ-5		95,697		95,697		95,697				95,697		115,237		115,237

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61	TB-16 TOWED ARRAY (MYP)														
62	SURF SONAR WINDOWS AND DOMES		12,161		12,161		12,161				12,161		13,538		13,538
63	SONAR SUPPORT EQUIPMENT		9,434		9,434		9,434				9,434		10,590		10,590
64	SONAR SWITCHES AND TRANSDUCERS		20,835		20,835		20,835				20,835		25,223		25,223
65	FBM SYSTEM SONARS		2,992		2,992		2,992				2,992		2,895		--
	QUICK REACTION SURVEILLANCE SYSTEM														
66	SUBMARINE ACOUSTIC WARFARE SYSTEMS		22,118		22,118		22,118				22,118		28,771		28,771
67	SURFACE SHIP TORPEDO DEFENSE		15,748		15,748		15,748				15,748		23,304		23,304
68	ACOUSTIC COMMUNICATIONS		167		167		167				167		176		176
69	AN/BSY-1	1	190,529	1	190,529	1	190,529			1	190,529	1	225,066	1	225,066
70	SOSUS		21,096		21,096		21,096				21,096		38,687		38,687
71	LAMPS MK1 ASW SUPPORT		13,051		13,051		11,751				13,051		12,906		12,906
72	AN/SQR-18 TOWED ARRAY SONAR		6,276		6,276		6,276				6,276		15,055		15,055
73	AN/SQR-15 TOWED ARRAY SONAR		1,724		1,724		1,724				1,724		1,922		1,922
74	SURTASS		15,347		15,347		15,347				15,347		24,600		24,600
75	ASW OPERATIONS CENTER		15,234		15,234		15,234				15,234		16,750		16,750
76	CARRIER ASW MODULE		4,180		4,180		4,180				4,180		4,520		4,520
77	AN/SLQ-32		78,005		78,005		78,005				78,005		79,150		79,150
78	AN/WLR-1														
79	AN/WLR-8	15	8,119	15	8,119	15	8,119			15	8,119	11	6,051	11	6,051
80	ICAD SYSTEMS		3,766		3,766		3,766				3,766		4,758		4,758
81	OFFBOARD DECEPTION DEVICES														
82	EW SUPPORT EQUIPMENT		530		530		530				530		1,213		1,213
83	FLEET EW SUPPORT GROUP														
84	C3 COUNTERMEASURES	136	5,860	136	5,860	136	5,860			136	5,860	134	6,139	134	6,139
84a	SIDEKICK			5	10,000										
84b	SIGNATURE REDUCTION				10,000										
85	COMBAT CRYPTOLOGIC SUPPORT CONSOLE		1,407		1,407		1,407				1,407		1,473		1,473
86	COMBAT DF		27,781		27,781		27,781				27,781		17,360		17,360
87	OUTBOARD														
88	NAVAL INTELLIGENCE PROCESSING SYSTEM		6,868		6,868		6,868				6,868		7,674		7,674
89	AN/WLQ-4 DEPOT														
90	AN/WLQ-4 IMPROVEMENTS		16,156		16,156		16,156				16,156		37,622		37,622
91	AN/BLD-1 (INTERFEROMETER)														

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92	SUBMARINE SUPPORT EQUIPMENT PROGRAM		3,014		3,014		3,014				3,014		6,489		6,489
93	NAVY TACTICAL DATA SYSTEM		68,552		68,552		68,552				68,552		81,298		81,298
94	TACTICAL FLAG COMMAND CENTER	1	6,171	1	6,171	1	6,171			1	6,171	1	5,283	1	5,283
95	COMMAND AND CONTROL PROCESSOR												8,373		8,373
96	JOINT TACTICAL INFO DIST SYSTEM												25,426		25,426
97	MINESWEEPING SYSTEM REPLACEMENT		8,868		8,868		8,868				8,868		9,879		9,879
98	OMEGA SHIPBOARD EQUIPMENT														
99	NAVSTAR GPS RECEIVERS	121	13,043	121	13,043	121	13,043			121	13,043	97	9,710	97	9,710
100	HF LINK-11 DATA TERMINALS		1,174		1,174		1,174				1,174		937		937
101	ARMED FORCES RADIO AND TV		5,203		5,203		5,203				5,203		5,475		5,475
102	STRATEGIC PLATFORM SUPPORT EQUIPMENT		114,567		114,567		109,567		(5,000)		109,567		207,532		--
103	STRATEGIC MISSILE SUPPORT EQUIPMENT		7,032		7,032		7,032				7,032				
	MOLDED CASE CIRCUIT BREAKERS														
104	OTHER SPAWAR TRAINING EQUIPMENT		982		982		982				982		5,686		5,686
105	OTHER NAVSEA TRAINING EQUIPMENT		1,335		1,335		1,335				1,335		11,086		11,086
106	MATCALS		15,385		15,385		15,385				15,385		13,355		13,355
107	SHIPBOARD AIR TRAFFIC CONTROL		6,864		6,864		6,864				6,864		8,331		8,331
108	AUTOMATIC CARRIER LANDING SYSTEMS		13,319		13,319		13,319				13,319		6,793		6,793
109	TACAN		4,181		4,181		4,181				4,181		4,152		4,152
110	AIR STATION SUPPORT EQUIPMENT		6,094		6,094		6,094				6,094		7,224		7,224
111	MICROWAVE LANDING SYSTEM												5,855		5,855
112	FACSFAC		25,309		25,309		25,309				25,309		3,041		3,041
113	RADAR AIR TRAFFIC CONTROL		1,365		1,365		1,365				1,365		1,464		1,464
114	MK XII AIMS IFF		10,884		10,884		10,884				10,884		13,067		13,067
115	TADIXS		11,916		11,916		11,916				11,916		15,665		15,665
116	NAVAL SPACE SURVEILLANCE SYSTEM		83		83		83				83		2,493		2,493
117	SPACE SYSTEM PROCESSING		1,144		1,144		1,144				1,144				
118	MULTOTS		131		131		131				131		157		157
119	NCCS ASHORE		17,797		17,797		17,797				17,797		20,966		20,966
120	RADIAC		4,047		4,047		4,047				4,047		4,912		4,912
121	OVER THE HORIZON RADAR	1	86,557	1	86,557	1	86,557	(1)	(74,675)		11,882	1	79,615	1	79,615
122	GPETE		17,271		17,271		17,271				17,271		18,364		18,364
123	INTEG COMBAT SYS TEST FACILITY		4,095		4,095		4,095				4,095		4,082		4,082
124	CALIBRATION STANDARDS		7,435		7,435		7,435				7,435		8,028		8,028

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125	EMI CONTROL INSTRUMENTATION		9,445		9,445		9,445				9,445		10,272		10,272
126	SHORE ELEC ITEMS UNDER $2.0 MILLION		24,445		24,445		24,445				24,445		16,407		16,407
127	SHIPBOARD HF COMMUNICATIONS		3,960		3,960		3,960				3,960		9,062		9,062
128	SHIPBOARD UHF COMMUNICATIONS		1,460		1,460		1,460				1,460		2,237		2,237
129	FLIGHT DECK COMMUNICATIONS		2,804		2,804		2,804				2,804		1,772		1,772
130	PORTABLE RADIOS		9,838		9,838		9,838				9,838		9,618		9,618
131	PORTABLE RADIOS - (SOF)														
132	SHIP COMMUNICATIONS AUTOMATION		10,139		10,139		10,139				10,139		15,122		15,122
133	SHIP COMM ITEMS UNDER $2.0 MILLION		6,702		6,702		3,702				6,702		7,246		7,246
134	SEALIFT SHIP COMMUNICATIONS														
135	SHORE LF/VLF COMMUNICATIONS		3,778		3,778		3,778				3,778		1,486		1,486
136	VERDIN		4,528		4,528		4,528				4,528		1,929		1,929
137	SSN INTEGRATED COMMUNICATIONS														
138	SUBMARINE COMMUNICATION EQUIPMENT		9,630		9,630		9,630				9,630		16,686		16,686
139	COMPACT VLF RECEIVER												11,335		11,335
140	SATCOM SHIP TERMINALS		69,931		69,931		69,931				69,931		72,194		72,194
141	SATCOM SHORE TERMINALS		26,262		26,262		26,262				26,262		9,239		9,239
142	SATCOM SHORE TERMINALS - (SOF)														
143	JCS COMMUNICATIONS EQUIPMENT		1,461		1,461		1,461				1,461		1,467		1,467
144	ELECTRICAL POWER SYSTEMS		279		279		279				279		348		348
145	SHORE HF COMMUNICATIONS		3,283		3,283		3,283				3,283		8,990		8,990
146	DCS TECH CONTROL IMPROVEMENTS		335		335		335				335				
147	VOICE FREQ CARRIER TELEGRAPH		1,256		1,256		1,256				1,256		1,052		1,052
148	WORLDWIDE WIDEBAND COMM		3,424		3,424		3,424				3,424				
149	WWMCCS COMMUNICATIONS EQUIPMENT		514		514		514				514		470		470
150	SHORE COMMUNICATIONS AUTOMATION		42		42		42				42		2,926		2,926
151	SHORE COMM ITEMS UNDER $2.0 MILLION		2,867		2,867		2,867				2,867		1,070		1,070
152	SHORE COMM ITEMS UNDER $2 MILLION (SOF)														
153	SINGLE AUDIO SYSTEM		3,213		3,213		3,213				3,213				
154	TSEC/KY-71/72 (STU-II/STU-IIM)		22,789		22,789		22,789				22,789		21,775		21,775
155	TSEC/KG-84		22,988		22,988		22,988				22,988		18,256		18,256
156	TSEC/KY-57/58 (VINSON)		7,585		7,585		7,585				7,585		18,101		18,101
157	TSEC/KYV-5 (ANDVT)		37,761		37,761		37,761				37,761		42,684		42,684
158	TSEC/KG-81 (WALBURN)		8,043		8,043		8,043				8,043		9,479		9,479

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159	TSEC/KGR-96 (ITSS)		5,091		5,091		5,091				5,091		4,317		4,317
160	BLACKER CRYPTO		3,821		3,821		3,821				3,821		4,182		4,182
161	TSEC/KG-58/KGV-6 (PLRS)		8,222		8,222		8,222				8,222		4,625		4,625
162	TRITAC CRYPTO		17,132		17,132		17,132				17,132		8,962		8,962
163	TSEC/KGV-11		7,473		7,473		7,473				7,473		6,370		6,370
164	COMMON FILL DEVICES		2,196		2,196		2,196				2,196		1,175		1,175
165	SIGNAL SECURITY		403		403		403				403		399		399
166	CRYPTOGRAPHIC ITEMS UNDER $2 MILLION		8,255		8,255		8,255				8,255		8,084		8,084
167	CRYPTO ITEMS UNDER $2 MILLION (SOF)														
168	TSEC/KGV-8												2,129		2,129
169	CRYPTOLOGIC COMMUNICATIONS EQUIP		1,310		1,310		1,310				1,310		586		586
170	SHIPS SIGNAL EXPLOITATION SPACE														
171	CRYPTOLOGIC ITEMS UNDER $2 MILLION		795		795		795				795		526		526
172	CRYPTOLOGIC RESERVES EQUIPMENT		629		629		29				629		395		395
173	CRYPTOLOGIC FIELD TRAINING EQUIP		199		199		199				199		132		132
174	SHORE CRYPTOLOGIC SUPPORT SYSTEM		963		963		963				963				
175	WAR RESERVE		628		628		28				628		424		424
176	ELEC ENGINEERED MAINT (NAVSEA)		2,231		2,231		2,231				2,231		2,352		2,352
177a	TRANSFER TO R&D FOR MED DEPTH MINE				(15,000)				(7,500)		(7,500)				
177b	REDUCTION IN COMM & ELECTRONIC EQUIP				(57,500)				(57,500)		(57,500)				
177	ELEC ENGINEERED MAINT (SPAWAR)		1,487		1,487		1,487				1,487		1,604		1,604
	AVIATION SUPPORT EQUIPMENT														
178	AN/SSQ-36 (BT)											14,200	2,858	14,200	2,858
179	AN/SSQ-53 (DIFAR)	234,290	70,616	234,290	70,616	234,290	70,616			234,290	70,616	166,510	52,929	166,510	52,929
180	AN/SSQ-57 (SPECIAL PURPOSE)														
181	AN/SSQ-62 (DICASS)	14,000	22,152	14,000	22,152	14,000	22,152			14,000	22,152	14,400	21,891	14,400	21,891
182	AN/SSQ-77 (VLAD)	46,700	22,667	46,700	22,667	46,700	22,667			46,700	22,667	49,900	24,688	49,900	24,688
182a	SONOBUOYS-GENERAL INCREASE						45,000		45,000		45,000				
183	SIGNAL UNDERWATER SOUND (SUS)											5,868	1,775	5,868	1,775
	AIR LAUNCHED ORDNANCE														
184	SKIPPER														
185	GENERAL PURPOSE BOMBS		80,340		80,340		80,340				80,340		66,412		66,412
186	LASER GUIDED BOMB KITS														
187	WALLEYE														

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188	ROCKEYE														
189	ZUNI ROCKET														
190	2.75 INCH ROCKET		18,849		18,849		18,849				18,849		19,153		19,153
191	PARACHUTE FLARES														
192	MACHINE GUN AMMUNITION		13,364		13,364		33,364		10,000		23,364		13,591		13,591
193	PRACTICE BOMBS		34,403		34,403		34,403				34,403		40,132		40,132
194	CARTRIDGES + CARTRIDGE ACTUATED DEVICES		23,996		23,996		23,996				23,996		18,780		18,780
195	AIRCRAFT ESCAPE ROCKETS		4,445		4,445		4,445				4,445		4,828		4,828
196	AIRBORNE EXPENDABLE COUNTERMEASURES		35,470		35,470		35,470				35,470		57,441		57,441
197	MARINE LOCATION MARKERS		6,650		6,650		6,650				6,650		6,765		6,765
198	DEFENSE NUCLEAR AGENCY MATERIAL														
199	BIGEYE CHEMICAL WEAPON												9,247		--
200	JATOS		6,625		6,625		6,625				6,625		5,531		5,531
201	GATOR		9,662		9,662		9,662				9,662		9,532		9,532
202	MISC AIR LAUNCHED ORDNANCE														
203	WEAPONS RANGE SUPPORT EQUIPMENT		52,223		52,223		52,223				52,223		52,480		52,480
204	EXPEDITIONARY AIRFIELDS		4,516		4,516		4,516				4,516		4,830		4,830
205	AIRCRAFT REARMING EQUIPMENT		15,552		15,552		15,552				15,552		10,442		10,442
206	CATAPULTS AND ARRESTING GEAR		36,657		36,657		36,657				36,657		37,146		37,146
207	METEOROLOGICAL EQUIPMENT		20,047		20,047		20,047				20,047		35,880		35,880
208	OTHER PHOTOGRAPHIC EQUIPMENT														
209	MISC SURVIVAL EQUIPMENT		6,548		6,548		6,548				6,548		6,143		6,143
210	AIRBORNE MINE COUNTERMEASURES		24,996		24,996		24,996				24,996		24,679		24,679
211	LAMPS MK III SHIPBOARD EQUIPMENT		14,568		14,568		14,568				14,568		6,288		6,288
212	REWSON PHOTOGRAPHIC EQUIPMENT		1,942		1,942		1,942				1,942		1,963		1,963
213	STOCK SURVEILLANCE EQUIPMENT		2,443		2,443		2,443				2,443		1,326		1,326
214	OTHER AVIATION SUPPORT EQUIPMENT		7,667		7,667		7,667				7,667		5,799		5,799
	ORDNANCE SUPPORT EQUIPMENT														
	ASSET CAPITALIZATION PROGRAM						351,900		351,900		351,900				364,800
215	3 /50 GUN AMMUNITION		694		694		694				694		721		721
216	5 /38 GUN AMMUNITION		5,432		5,432		5,432				5,432		5,526		5,526
217	5 /54 GUN AMMUNITION		39,809		39,809		39,809				39,809		39,489		39,489
218	16 INCH GUN AMMUNITION		26,539		26,539		26,539				26,539		32,424		32,424
219	CIWS AMMUNITION		30,776		30,776		30,776				30,776		32,221		32,221

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220	76MM GUN AMMUNITION		5,467		5,467		5,467				5,467		5,624		5,624
221	OTHER SHIP GUN AMMUNITION		22,674		22,674		22,674				22,674		36,739		36,739
222	GUN FIRE CONTROL EQUIPMENT		9,175		9,175		9,175				9,175		17,154		17,154
223	MK 92 FIRE CONTROL SYSTEM		15,833		15,833		15,833				15,833		21,341		21,341
224	HARPOON SUPPORT EQUIPMENT		31,198		31,198		31,198				31,198		14,019		14,019
225	TERRIER SUPPORT EQUIPMENT		25,781		25,781		25,781				25,781		15,686		15,686
226	TARTAR SUPPORT EQUIPMENT		17,808		17,808		17,808				17,808		20,379		20,379
227	POINT DEFENSE SUPPORT EQUIPMENT (MYP)	7	40,777	7	40,777	7	40,777			7	40,777	8	50,944	8	50,944
228	AIRBORNE ECM/ECCM		1,020		1,020		1,020				1,020		1,041		1,041
229	AEGIS SUPPORT EQUIPMENT		43,974		43,974		43,974				43,974		53,906		53,906
230	SURFACE TOMAHAWK SUPPORT EQUIPMENT		42,077		42,077		42,077				42,077	11	23,140	11	23,140
231	SUBMARINE TOMAHAWK SUPPORT EQUIPMENT		6,171		6,171		6,171				6,171		5,465		5,465
232	VERTICAL LAUNCH SYSTEM	3	90,487	3	90,487	3	90,487			3	90,487	2	69,135	2	69,135
233	STRATEGIC PLATFORM SUPPORT EQUIPMENT		22,635		22,635		22,635				22,635		28,468		--
234	STRATEGIC MISSILE SYSTEMS EQUIPMENT		38,129		38,129		38,129				38,129		160,535		--
235	MK-92														
235a	MK-92 CORT			3	30,000										
236	MK 117 FIRE CONTROL SYSTEM		49,896		49,896		49,896				49,896		62,457		62,457
237	SUBMARINE ASW SUPPORT EQUIPMENT		7,967		7,967		7,967				7,967		6,040		6,040
238	SURFACE ASW SUPPORT EQUIPMENT		8,689		8,689		8,689				8,689		6,310		6,310
239	ASW RANGE SUPPORT EQUIPMENT		6,625		6,625		6,625				6,625		8,435		8,435
240	EXPLOSIVE ORDNANCE DISPOSAL EQUIP		11,806		11,806		9,806				11,806		12,541		12,541
241	SWIMMER WEAPON SYSTEMS (SOF)		2,321		2,321		2,321				2,321		1,739		1,739
242	UNMANNED SEABORNE TARGET		3,771		3,771		3,771				3,771		4,856		4,856
243	ANTI-SHIP MISSILE DECOY SYSTEMS		8,925		8,925		8,925				8,925		6,252		6,252
244	CALIBRATION EQUIPMENT		1,227		1,227		1,227				1,227		1,274		1,274
245	STOCK SURVEILLANCE EQUIPMENT		1,638		1,638		1,638				1,638		1,685		1,685
246	OTHER ORDNANCE TRAINING EQUIPMENT		1,967		1,967		1,967				1,967		2,815		2,815
247	SMALL ARMS AND LANDING PARTY AMMO		30,449		30,449		30,449				30,449		33,321		33,321
248	SMALL ARMS & LANDING PARTY AMMO (SOF)		3,300		3,300		3,300				3,300		5,282		5,282
249	PYROTECHNIC AND DEMOLITION MATERIAL		2,687		2,687		2,687				2,687		2,519		2,519
250	PYROTECHNIC AND DEMOLITION (SOF)		20,079		20,079		20,079				20,079		17,137		17,137
251	QUICKSTRIKE		17,944		17,944		17,944				17,944		17,460		17,460
252	FLEET MINE SUPPORT EQUIPMENT		20,575		20,575		20,575				20,575		20,837		20,837

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253	MINE NEUTRALIZATION DEVICES		3,428		3,428		3,428				3,428		3,208		3,208
254	DEFENSE NUCLEAR AGENCY MATERIAL														
255a	REDUCTION IN ORDNANCE SUPPORT EQUIP				(25,000)				(25,000)		(25,000)				
255	SHIPBOARD EXPENDABLE COUNTERMEASURES		32,696		32,696		32,696				32,696		54,317		54,317
	CIVIL ENGINEERING SUPPORT EQUIPMENT														
256	ARMORED VEHICLES		202		202		202				202		205		205
257	PASSENGER CARRYING VEHICLES	502	6,818	502	6,818	472	6,318			502	6,818	477	6,687	477	6,687
258	TRUCKS & TRAILERS		9,930		9,930		8,930				9,930		10,099		10,099
259	TRUCKS														
260	GENERAL PURPOSE TRUCKS		10,812		10,812		10,812				10,812		11,745		11,745
261	TRAILERS														
262	TRAILERS/TRUCK TRACTORS		4,611		4,611		3,911				4,611		4,627		4,627
263	CRUSH, MIX, BATCH, PAVE EQUIPMENT														
264	DRILLING AND BLASTING EQUIPMENT														
265	EARTH MOVING EQUIPMENT	152	8,918	152	8,918	138	8,418			152	8,918	128	8,961	128	8,961
266	LIGHTING AND POWER GENERATING EQUIP														
267	MISC CONSTRUCTION AND MAINTENANCE EQUIP		8,964		8,964		8,764				8,964		9,044		9,044
268	FIRE FIGHTING EQUIPMENT	61	6,442	61	6,442	58	6,242			61	6,442	64	7,107	64	7,107
269	WEIGHT HANDLING EQUIPMENT	43	9,287	43	9,287	43	9,287			43	9,287	38	9,268	38	9,268
270	AMPHIBIOUS EQUIPMENT		5,398		5,398		21,898		16,500		21,898		3,235		3,235
271	COMBAT CONSTRUCTION SUPPORT EQUIPMENT		7,349		7,349		5,749				7,349		9,603		9,603
272	MOBILE UTILITIES SUPPORT EQUIPMENT		2,397		2,397		2,397				2,397		2,371		2,371
273	COLLATERAL EQUIPMENT		5,348		5,348		5,348				5,348		3,708		3,708
274	OCEAN CONSTRUCTION EQUIPMENT		1,220		1,220		1,220				1,220		1,239		1,239
275	FLEET MOORINGS		3,874		3,874		3,874				3,874		3,855		3,855
276	POLLUTION CONTROL EQUIPMENT		3,425		3,425		3,425				3,425		3,573		3,573
277	OTHER CIVIL ENG SUPPORT EQUIPMENT		2,097		2,097		2,097				2,097		2,223		2,223
	SUPPLY SUPPORT EQUIPMENT														
278	FORKLIFT TRUCKS		6,788		6,788		5,588				6,788		15,829		15,829
279	OTHER MATERIALS HANDLING EQUIPMENT		2,294		2,294		1,794				2,294		3,763		3,763
280	AUTOMATED MATERIALS HANDLING SYSTEMS		12,376		12,376		12,376				12,376		7,090		7,090
281	OTHER SUPPLY SUPPORT EQUIPMENT		2,226		2,226		2,226				2,226		2,283		2,283
282	POLLUTION CONTROL EQUIPMENT		1,274		1,274		1,274				1,274		1,151		1,151
283	SPECIAL PURPOSE SUPPLY SYSTEMS		131,123		131,123		131,123				131,123		404,355		--

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	PERSONNEL AND COMMAND SUPPORT EQUIPMENT														
284	SURFACE SONAR TRAINERS		8,616		8,616		8,616				8,616		4,918		4,918
285	SUBMARINE SONAR TRAINERS														
286	SURFACE COMBAT SYSTEM TRAINERS		3,704		3,704		3,704				3,704		18,297		18,297
287	SUBMARINE COMBAT SYSTEM TRAINERS														
288	SHIP SYSTEM TRAINERS		20,014		20,014		20,014				20,014		35,385		35,385
289	TRAINING SUPPORT EQUIP		2,683		2,683		2,683				2,683		3,749		3,749
290	TRAINING DEVICE MODIFICATIONS		19,428		19,428		19,428				19,428		47,453		--
291	COMMAND SUPPORT EQUIPMENT		27,537		27,537		27,537				27,537		18,400		18,400
292	EDUCATION SUPPORT EQUIPMENT		6,951		6,951		6,951				6,951		7,745		7,745
293	MEDICAL SUPPORT EQUIPMENT		56,802		56,802		56,802				56,802		49,266		49,266
294	INTELLIGENCE SUPPORT EQUIPMENT		63,061		63,061		63,061				63,061		54,577		54,577
295	ITEMS UNDER $2 MILLION		857		857		857				857		856		856
296	OPERATING FORCES SUPPORT EQUIPMENT		15,058		15,058		15,058				15,058		21,092		21,092
297	NAVAL RESERVE SUPPORT EQUIPMENT		3,824		3,824		24				3,824		768		768
298	OCEANOGRAPHIC SUPPORT EQUIPMENT		25,277		25,277		25,277				25,277		17,963		17,963
299	PHYSICAL SECURITY EQUIPMENT		15,990		15,990		15,990				15,990		41,793		41,793
300	COMPUTER ACQUISITION PROGRAM		107,102		107,102		106,102				107,102		100,694		100,694
301	PRODUCTIVITY INVESTMENT FUND (PIF)		31,300		31,300		31,300				31,300		20,700		20,700
302	PROD ENHANCING INCENTIVE FUND (PEIF)		1,267		1,267		1,267				1,267		1,460		1,460
	SPARES AND REPAIR PARTS														
303	SPARES AND REPAIR PARTS		547,405		529,905		547,405		(17,500)		529,905		568,966		568,966
	OPN TRANSFER TO SCN FOR ENTERPRISE				(15,300)		(15,300)		(15,300)		(15,300)				
	TOTAL OTHER PROCUREMENT NAVY		4,915,000		5,840,000		6,314,300		3,292,125		8,207,125		5,697,200		5,144,805

Sonobuoys

The amended budget request contained $115.5 million for procurement of sonobuoys of all types for fiscal year 1990.

The Senate amendment included $160.5 million for sonobuoy procurement, an increase of $45 million.

The House bill authorized the requested amount.

The conferees agree to provide authorization of $160.5 million for sonobuoy procurement for fiscal year 1990. This increase of $45 million to the amended budget request represents a general increase for sonobuoys to be allocated based on the Navy's inventory needs.

Practice bombs

The House report (H. Rept. 101-121) would request the Secretary of the Navy to provide a report detailing annual training requirements and current inventory status for practice Rockeye bombs by January 1, 1990. The House Report would also direct the Navy to procure BDU-45 requirements on an "all-up" round basis.

The Senate report (S. Rept. 101-81) contained no similar direction.

The conferees agree to the reporting requirement for practice Rockeye bombs but not to the direction to procure BDU-45 requirements on an "all-up" round basis. Noting recent improvement in BDU-45 deliveries, the conferees agree that the Navy may procure its BDU-45 requirements on an "all-up" round basis.

Ship survivability improvements

The House bill contained a total of $85 million for upgrades to ship survivability, primarily directed toward the Navy's frigates. These amounts, which were in addition to those contained in the amended budget request, included $15 million for the Close-in Weapon System Block I upgrade; $30 million for the MK-92 coherent receiver transmitter (CORT); $10 million for the Sidekick electronic warfare modification to the SLQ-32 (V) 2; $10 million for ship signature reduction applications; and $20 million for purchase of AN/SYS-2 equipment, MK-49 radar automatic detection trackers, and associated computers.

The Senate amendment contained no similar additions.

Although in substantial agreement on the need for these improvements, the conferees agree to recommend only authorization of an additional $15 million for the Close-in Weapon System Block I upgrade program, to be apportioned by the Secretary of the Navy between all-up systems and modification kits so as to maximize the number of systems in the fleet at the earliest possible time.

The conferees welcome the recent receipt of the Navy's plan for upgrading the survivability of its frigates and destroyers. The conferees strongly urge the Secretary of the Navy to ensure that future Navy budgets reflect the priorities established in this plan, and to use available reprogramming authority to speed the introduction of these systems to the fleet.

Negotiations with shipyard contractors

The conferees desire that the Navy fully explore all equitable and legal aspects of certain claims for relief submitted by shipyards pursuant to section 122 of the fiscal year 1987 Military Construction Appropriations Act (Public Law 99-591).

Accordingly, the conferees direct the Secretary of the Navy to reconsider actively and together with the shipyards all facts and the quantum aspects of the claims and to report to the Committees on Armed Services of the Senate and House of Representatives the results of such reconsideration with a definitive analysis of such claims under section 122.

PROCUREMENT, MARINE CORPS

OVERVIEW

The amended budget request for fiscal year 1990 contained $1,196.8 million for Procurement, Marine Corps. The House bill would authorize $1,202.7 million. The Senate amendment would authorize $1,178.0 million. The conferees recommend authorization of $1,215.6 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount	Bush Revised FY1991 Request Quantity	Bush Revised FY1991 Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	PROCUREMENT, MARINE CORPS														
1	5.56 MM, ALL TYPES		11,825		11,825		11,825				11,825		21,059		21,059
2	7.62 MM, ALL TYPES		1,132		1,132		1,132				1,132		3,587		3,587
3	LINEAR CHARGES, ALL TYPES		2,611		2,611		2,611				2,611		2,182		2,182
4	.50 CALIBER		12,037		12,037		12,037				12,037		11,943		11,943
5	SMALL ARMS AMMO, ALL TYPES														
6	40 MM, ALL TYPES		22,531		22,531		22,531				22,531		25,558		25,558
7	60MM ILLUM M721		7,586		7,586		7,586				7,586		10,681		10,681
8	60MM SMOKE WP		3,066		3,066		3,066				3,066		1,227		1,227
9	60MM HE M888												5,651		5,651
10	81MM HE		2,291		2,291		2,291				2,291		3,609		3,609
11	81MM SMOKE RP M819														
12	81MM TP M879		9,988		9,988		9,988				9,988		9,211		9,211
13	120MM HEAT MP-T M830		8,848		8,848		8,848				8,848		16,837		16,837
14	120MM APFSDS-T M829E1		12,047		12,047		12,047				12,047		13,125		13,125
15	120MM TPCSDS-T M865		9,645		9,645		9,645				9,645		18,649		18,649
16	120MM TP-T M831		8,632		8,632		8,632				8,632		12,926		12,926
17	155MM HE ADAM														
18	155MM HE RAAMS														
19	155MM HE M107		38,007		38,007		38,007				38,007				
20	155MM HE DP ICM M483														
21	155MM CHG. PROP. RED BAG														
22	155MM PROJ M864 BASEBURNER		5,875		5,875		5,875				5,875		9,089		9,089
23	155MM CHARGE WHITE BAG		2,818		2,818		2,818				2,818		9,649		9,649
24	155MM CHARGE GREEN BAG		1,860		1,860		1,860				1,860		4,513		4,513
25	FUZE, PD, M739A1		5,269		5,269		5,269				5,269		1,579		1,579
26	FUZE PROXIMITY M732A2												18,096		18,096
27	FUZE, ET, XM762												9,934		9,934
28	FUZE, ET, XM767												3,335		3,335
29	83MM ROCKET HEAA (SMAW)		28,357		28,357		28,357				28,357		29,339		29,339
30	LIGHT ANTI-ARMOR WEAPON		3,342		3,342		3,342				3,342		3,386		3,386
31	8 INCH HE M106												17,449		17,449
32	9MM ALL TYPES												759		759
33	MACHINE GUN AMMO, ALL TYPES														

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34	MORTAR AMMO, ALL TYPES														
35	GRENADES, ALL TYPES		8,672		8,672		8,672				8,672		7,884		7,884
36	ROCKETS, ALL TYPES														
37	155MM AMMO, ALL TYPES														
38	FUZES, ALL TYPES														
39	TRAINING AMMO, ALL TYPES														
40	AMMO MODERNIZATION		11,051		11,051		11,051				11,051		11,663		11,663
41	ITEMS LESS THAN $2 MIL		4,911		4,911		4,911				4,911		4,196		4,196
	GENERAL INCREASE-AMMUNITION														
42	AAV7A1 PIP		12,947		12,947		12,247				12,947		18,094		18,094
43	MODIFICATION KITS		3,000		3,000		3,000				3,000		3,020		3,020
44	M-1 A1 MAIN BATTLE TANK (MYP)	155	396,340	155	396,340	155	396,340			155	396,340	255	653,420	--	--
45	M-1 ADVANCE PROCUREMENT (CY)		120,300		120,300		120,300				120,300				
46	M1 TANK TRAINER														
47	ITEMS UNDER $2M (TRKD VEH)		794		794		794				794		319		319
48	POS AZIMUTH DETERM SYSTEM (PADS)														
49	ITEMS UNDER $2M (ALL OTHER)		2,568		2,568		2,568				2,568		1,683		1,683
50	MACHINE GUN, 50 CAL M2											456	4,123	456	4,123
51	9MM HANDGUN														
52	5.56MM SQUAD AUTOMATIC WEAPON	1,297	5,417	1,297	5,417	1,297	5,417			1,297	5,417				
53	M16A2 5.56MM RIFLE														
54	MK-19 40MM MACHINE GUN	123	1,858	123	1,858	123	1,858			123	1,858	321	4,995	321	4,995
55	MORTAR, MED. EXTENDED RANGE														
56	HAWK (MYP)														
57	HAWK ADVANCE PROCUREMENT (CY)														
58	HAWK MOD		1,073		1,073		1,073				1,073		4,890		4,890
59	STINGER (MYP)														
60	DRAGON PIP														
61	TOW (MYP)	839	9,982	839	9,982	839	9,982			839	9,982	900	10,016	900	10,016
62	MODIFICATION KITS														
63	MANPACK RADIOS AND EQUIP		4,271		4,271		3,471				4,271		2,470		2,470
64	VECHICLE MTD RADIOS & EQUIPMENT (MYP)		42,490		42,490		42,490				42,490		36,953		36,953
65	VEH MTD RADIOS ADVANCE PROC (CY)												16,200		16,200
66	UNIT LEVEL CIRCUIT SWITCH (ULCS)		48,217		48,217		30,617				48,217		31,495		31,495
67	TACT COMM CENTER EQUIP		7,723		7,723		7,723				7,723				
68	AN/PSG( ) DIGITAL COMM TERMINAL	174	3,554	174	3,554	174	3,554			174	3,554	511	10,071	511	10,071

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69	SWEEP GENERATOR		3,271		3,271		3,271				3,271		3,520		3,520
70	AUTO TEST EQUIP SYS														
71	ELECTRON CALIBRATION FACILITY														
72	ELECTRONIC TEST EQUIP (TEL)		4,669		4,669		4,669				4,669		8,441		8,441
73	AN/GRM-114A RADIO TEST SET														
74	ANDVT/TACTERM														
75	TEST CALIB + MAINT SPT														
76	MODIFICATION KITS (TEL)		5,133		5,133		5,133				5,133		8,209		8,209
77	ITEMS LESS THAN $2M (TEL)		2,599		2,599		2,599				2,599		1,661		1,661
78	POS LOCATING RPTG SYSTEM (PLRS)	2	54,815	2	54,815	2	54,815			2	54,815		13,773		13,773
79	TACTICAL AIR OPER MODULE (TAOM)	5	46,639	5	46,639	5	46,639			5	46,639	5	40,662	5	40,662
80	TACTICAL RECEIVER EQUIPMENT SET														
81	IMPR DIR AIR SPT CTR (IDASC)														
82	LEWDD	10	2,389	10	2,389	10	2,389			10	2,389	42	9,844	42	9,844
83	INTELLIGENCE SUPPORT EQUIPMENT		4,379		4,379		4,379				4,379		11,564		11,564
84	MOD KITS (INTEL)		3,939		3,939		3,939				3,939		2,973		2,973
85	ITEMS LESS THAN $2M (INTELL)		922		922		922				922				
86	ELECTRONIC TDME REPAIR FACILITY											5	3,674	5	3,674
87	AN/USM-489 SPECTRUM ANALYZER, PORTABLE	107	4,094	107	4,094	88	3,394			107	4,094				
88	CALIBRATION FACILITY, MECH														
89	STE/ICE SIMPLE TEST EQ														
90	MECH TEST TMDE		1,196		1,196		1,196				1,196		1,301		1,301
91	AN/UPM-137 RADAR TEST SET														
92	ELECTRONIC TEST EQUIP (NONTEL)		1,797		1,797		1,797				1,797		1,748		1,748
93	THERMAL IMAGING EQUIPMENT												3,683		3,683
94	NIGHT VISION EQUIPMENT														
95	ADP EQUIPMENT		17,486		17,486		17,486				17,486		12,650		12,650
96	TEST CALIB & MAINT SPT (NON-TEL)		1,497		1,497		1,497				1,497		1,498		1,498
97	MODIFICATION KITS (NONTEL)		8,669		8,669		8,669				8,669		2,675		2,675
98	ITEMS LESS THAN $2M (NON-TEL)		1,252		1,252		1,152				1,252		944		944
99	COMMERCIAL PASSENGER VEHICLES	142	1,996	142	1,996	142	1,996			142	1,996	154	2,397	154	2,397
100	COMMERCIAL CARGO VEHICLES		12,981		12,981		12,981				12,981		12,984		12,984
101	5/4T TRUCK HMMWV (MYP)														
102	M876 TRUCK,MAINTENANCE,TELEPHONE/UTILITY											27	4,856	27	4,856
103	5-TON TRUCKS (MYP)		2,644		2,644		2,644				2,644				

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104	LOGISTICS VEHICLE SYSTEM (MYP)														
105	TRAILERS		2,051		2,051		2,051				2,051		2,100		2,100
106	MODIFICATION KITS		2,880		2,880		2,880				2,880		8,865		8,865
107	ITEMS LESS THAN $2 MIL		650		650		650				650		1,203		1,203
108	ENVIRONMENTAL CONTROL EQUIP ASSORT		68		68		68				68		1,904		1,904
109	HEAVY ROUGH TERRAIN CRANE														
110	LIGHT ROUGH TERRAIN CRANE	18	1,052	18	1,052	18	1,052			18	1,052				
111	TRACTORS, ALL TYPES														
112	CONTAINER HANDLER, ROUGH TERR														
113	FORKLIFTS, ALL TYPES														
114	LAUNDRY UNIT, FIELD														
115	FIELD BATH SHOWER UNIT														
116	FIELD WIRING HARNESS														
117	FUEL & WATER PUMP & STORAGE MODULE														
118	AMPHIBIOUS ASSAULT FUEL SYSTEM												2,347		2,347
119	TACT AIRFIELD FUEL DISP SYS														
120	TOPOGRAPHIC/SURVEY EQUIPMENT												3,729		3,729
121	WET GAP BRIDGE SYSTEM														
122	POWER EQUIPMENT ASSORTED		486		486		486				486		12,117		12,117
123	COMMAND SUPPORT EQUIPMENT		4,011		4,011		4,011				4,011		7,006		7,006
124	AMPHIBIOUS RAID EQUIPMENT		199		199		199				199		199		199
125	PRODUCTIVITY INVESTMENT		10,550		10,550		10,550				10,550		8,260		8,260
126	PHYSICAL SECURITY EQUIPMENT		299		299		299				299		298		298
127	GARRISON MOBILE ENGR EQUIP		4,493		4,493		4,493				4,493		5,494		5,494
128	TELEPHONE SYSTEM														
129	WAREHOUSE MODERNIZATION		2,496		2,496		2,496				2,496		2,997		2,997
130	MATERIAL HANDLING EQUIP		2,435		2,435		2,435				2,435		2,197		2,197
131	LIGHTWEIGHT DECONTAMINATION SYSTEM											263	3,597	263	3,597
132	DRY CHEMICAL FIRE EXTINGUISHER	300	3,138	300	3,138	250	2,638			300	3,138	196	2,102	196	2,102
133	TRAINING DEVICES (AUDIO VISUAL)														
134	TRAINING DEVICES (SIMULATORS)														

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135	TRAINING DEVICES		5,013		5,013		5,013				5,013		3,645		3,645
136	SHELTER FAMILY		13,818		13,818		10,718				13,818		15,104		15,104
137	CONTAINER FAMILY		12,217		12,217		10,517				12,217		15,313		15,313
138	CHEMICAL ALARM SYSTEM														
139	MODIFICATION KITS												1,511		1,511
140	ITEMS LESS THAN $2 MIL		3,804		3,804		3,604				3,804		2,667		2,667
141	SPARES AND REPAIR PARTS		61,838		61,838		59,138				61,838		61,423		61,423
	ASSET CAPITALIZATION PROGRAM						3,400		3,400		3,400				3,800
	MODERNIZATION				5,900		5,900		15,400		15,400				
	TOTAL MARINE CORPS PROCUREMENT		1,196,800		1,202,700		1,178,000		18,800		1,215,600		1,398,000		748,380

AIRCRAFT PROCUREMENT, AIR FORCE

OVERVIEW

The amended budget request for fiscal year 1990 contained $16,787.2 million for Aircraft Procurement, Air Force. The House bill would authorize $15,972.7 million. The Senate amendment would authorize $15,930.6 million. The conferees recommend authorization of $16,329.9 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY 1991 Request Quantity	Bush Revised FY 1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	AIRCRAFT PROCUREMENT, AIR FORCE														
1	B-1B		9,960		9,960		9,960		(9,960)				9,948		--
2	B-2A	3	2,107,974	2	1,607,974	3	1,807,974	(1)	(444,000)	2	1,663,974	5	2,609,188	--	--
3	B-2A ADV PROCUREMENT (CY)		409,800		169,800		409,800		15,000		424,800		568,900		--
4	F-15 D/E (MYP)	36	1,338,807	36	1,338,807	36	1,338,807			36	1,338,807	36	1,991,907	36	1,991,907
5	F-15 ADVANCE PROCUREMENT (CY)		115,800		115,800		115,800				115,800				
6	F-16 C/D (MYP)	150	2,507,011	150	2,507,011	150	2,507,011			150	2,507,011	150	2,362,394	150	2,362,394
7	F-16 ADVANCE PROCUREMENT (CY)		556,100		556,100		556,100				556,100		437,400		437,400
8	MC-130H - SOF	2	241,848	2	241,848	2	241,848			2	241,848		5,772		--
9	MC-130H ADVANCE PROCUREMENT (CY)														
10	AC-130U GUNSHIP - SOF	5	239,040	5	239,040	5	239,040			5	239,040				
11	AC-130U ADVANCE PROCUREMENT (CY)														
13	MULTI-YEAR OFFSET														
14	C-17 (MYP)	6	1,523,971	6	1,523,971	6	1,424,571	(2)	(363,900)	4	1,160,071	10	2,010,155	--	--
15	C-17 ADVANCE PROCUREMENT (CY)		167,600		167,600		167,600		(67,900)		99,700		335,000	--	--
16	C-27A	5	74,386	5	74,386	5	74,386			5	74,386	5	76,198	--	--
17	TANKER, TRANSPORT, TRAINER SYSTEM	14	147,425	14	147,425	14	147,425			14	147,425	28	177,272	--	--
18	MH-60G (MYP)	4	52,822	4	52,822	4	52,822			4	52,822	4	33,006	4	33,006
19	CIVIL AIR PATROL A/C	38	2,000	38	2,000	38	2,500		500	38	2,500	38	1,801	38	1,801
20	C-29A														
21	E-8B												55,474		--
22	TR-1/U-2														
	MODIFICATION OF INSERVICE AIRCRAFT														
23	B-52		225,613		225,613		225,613		(43,900)		181,713		83,560		83,560
24	FB-111														
25	B-1B		83,499		83,499		83,499		(11,500)		71,999		108,700		--
26	A-7		56,700		56,700		3,900				56,700		22,500		22,500
27	A-10		53,342		53,342		32,442				53,342		20,600		--
28	F/RF-4		64,900		64,900		27,300				64,900		75,300		--
29	F-5														
30	F-15		215,536		215,536		210,036				215,536		254,574		254,574
31	F-16		228,100		228,100		217,400				228,100		315,800		--
32	F-111		83,757		83,757		83,757				83,757		139,822		139,822

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33	TR-1A		22,300		22,300		22,300				22,300		18,800		18,800
34	T/AT-37		16,900		16,900		16,900				16,900		19,600		19,600
35	C-5		55,700		55,700		27,400				55,700		56,251		56,251
36	C-9		5,700		5,700		5,700				5,700		1,400		1,400
37	C-21		3,920		3,920		3,920				3,920		100		100
38	C-137		1,700		1,700		1,700				1,700		1,700		1,700
39	C-141		31,200		31,200		29,400				31,200		42,700		42,700
40	SOF C141														
41	T-38		12,700		12,700		12,700				12,700		21,800		21,800
42	T-43		10,200		10,200		10,200				10,200		300		300
43	KC-10A (ATCA)		12,100		12,100		12,100				12,100		6,600		6,600
44	C-12		3,500		3,500		3,200				3,500		1,000		1,000
45	C-18		200		200		200				200		200		200
46	C-20 MODS		200		200		200				200		200		200
47	VC-25A MOD														
48	C-130		117,050		117,050		74,450				117,050		130,900		130,900
49	SOF C130		107,400		107,400		95,700				107,400		98,800		98,800
50	C-135 (MYP)	24	488,310	24	488,310	40	620,310			24	488,310	24	531,000	24	531,000
51	E-3		36,456		36,456		36,456				36,456		104,200		104,200
52	E-4		18,200		18,200		18,200				18,200		37,800		37,800
53	E-8		800		800		800				800				
54	H-1														
55	H-3 AIRCRAFT SYSTEM		700		700		200				700		600		600
56	HH-53 AIRCRAFT		31,000		31,000		31,000				31,000		6,900		6,900
57	SOF HH-53														
58	H-60		7,200		7,200		7,200				7,200		4,600		4,600
59	OTHER AIRCRAFT		120,023		120,023		60,723		(20,500)		99,523		78,974		--
60	SOF OTHER AIRCRAFT		6,700		6,700		6,700				6,700		5,000		5,000
61	OV-10		2,100		2,100		2,100				2,100		3,800		3,800
62	CLASSIFIED PROJECTS		49,863		49,863		49,863				49,863		49,314		--
63	SOF CLASSIFIED PROJECTS		9,400		9,400		9,400				9,400		9,400		9,400
	CRAF MODS		900		900		900				900		1,800		1,800

P-1		Bush Revised FY1990 Request		-----House------ Authorization		-----Senate------ Authorization		---Conference--- Change to Request		---Conference--- Authorization		Bush Revised FY 1991 Request		---Conference--- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
AIRCRAFT SPARES AND REPAIR PARTS															
64	SPARES AND REPAIR PARTS		3,760,668		3,470,268		3,379,068				3,760,668		4,023,918		4,023,918
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES															
65	COMMON AGE		299,786		299,786		299,786		(27,083)		272,703		348,167		348,167
66	INDUSTRIAL RESPONSIVENESS		57,566		57,566		57,566		(10,000)		47,566		43,348		43,348
67	WAR CONSUMABLES		51,924		51,924		51,924				51,924		53,662		53,662
68	OTHER PRODUCTION CHARGES		591,430		591,430		591,430				591,430		626,385		--
69	COMMON ECM EQUIPMENT		228,838		228,838		228,838				228,838		195,616		195,616
70	COMMON GROUND EQUIP		109,153		109,153		47,153				109,153		14,055		14,055
71	OTHER PRODUCTION CHARGES - SOF		9,422		9,422		9,422				9,422		9,639		9,639
999	CLASSIFIED PROGRAMS														
	C-20 PRIOR YEAR SAVINGS						(20,000)		(20,000)		(20,000)				
	UNDISTIBUTED REDUCTION						(70,000)								
	AIRCRAFT COMPONENT ADJUSTMENT								(140,000)		(140,000)				
	MODERNIZATION				215,900		215,900		685,900		685,900				
	TOTAL AIRCRAFT PROCUREMENT AIR FORCE		16,787,200		15,972,700		15,930,600		(457,343)		16,329,857		18,243,800		11,120,820

C-17 transport aircraft

The amended budget request included $1.5 billion for the procurement of 6 C-17 transport aircraft in fiscal year 1990 and $167.6 million for advance procurement of long lead items for subsequent years.

The House bill would authorize the requested amount, while the Senate amendment would reduce these funds by $99.4 million.

The conferees agree the execution of this program is behind the planned schedule and therefore recommend authorization of $1.2 billion for the procurement of 4 aircraft in fiscal year 1990, a reduction to the request of $363.9 million and 2 aircraft, and authorization of $99.7 million for advance procurement, a reduction of $67.9 million.

KC-135 modification kits

The amended budget request contained $488.3 million to procure 24 KC-135 modification kits. The House bill would fully fund the request. The Senate amendment would add $140 million to the request to procure up to 12 additional kits, while applying offsetting undistributed reductions of $70 million each to the Missile Procurement, Air Force and Aircraft Procurement, Air Force accounts. The Senate amendment would further provide that the Air Force could apply both undistributed reductions against the increased funds for KC-135 modification kits in the event they were unable to identify lower priority offsetting reductions.

The Senate recedes.

Aircraft component systems

Since the House bill and the Senate amendment were approved, the conferees have learned of acquisition difficulties with certain aircraft component systems. The conferees understand that these acquisition problems may result in $140 million that cannot be executed in fiscal year 1990. Therefore, the conferees recommend a general reduction of $140 million in the funds requested in the Aircraft Procurement, Air Force account. This reduction is made without prejudice. If the Air Force is able to proceed with its plans and determines that additional funds are required, the Armed Services Committees of the Senate and House of Representatives would consider a reprogramming request.

The conferees emphasize that the reduction may not be made in the Airborne Self Protection Jammer system.

MISSILE PROCUREMENT, AIR FORCE

OVERVIEW

The amended budget request for fiscal year 1990 contained $7,382.2 million for Missile Procurement, Air Force. The House bill would authorize $7,140.5 million. The Senate amendment would authorize $7,119.3 million. The conferees recommend authorization of $7,110.9 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount	Bush Revised FY 1991 Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
	MISSILE PROCUREMENT, AIR FORCE														
1	PEACEKEEPER (M-X)	12	691,000	12	691,000	12	691,000			12	691,000	12	645,017	--	--
1a	MX MK-21 REENTRY		80,000		80,000		80,000				80,000				
1b	RAIL GARRISON LAUNCHERS											5	1,006,300	--	--
2	RAIL GARRISON ADVANCE PROC (CY)		163,607				163,607				163,607		133,900		--
3	MISSILE REPLACEMENT EQ-BALLISTIC		58,892		58,892		58,892				58,892		40,262		--
4	ADVANCED CRUISE MISSILE	[ ]	[ ]									[ ]	[ ]		--
5	ACM ADV PROCUREMENT (CY)	[ ]	[ ]									[ ]	[ ]		--
6	HAVE FLAG	[ ]	[ ]									[ ]	[ ]		--
7	TACIT RAINBOW	[ ]										[ ]	160,492		--
8	SRAM II		4,415		4,415		4,415				4,415	25	73,603	25	73,603
9	SRAM II ADVANCE PROCUREMENT (CY)		6,376		6,376		6,376				6,376		5,742		5,742
10	HAVE NAP	22	23,431	22	23,431	22	23,431			22	23,431	26	25,103	26	25,103
11	AIR LAUNCH CRUISE MISSILE														
12	AIM-7F/M SPARROW														
13	AIM-9L/M SIDEWINDER		452		452		452				452		361		361
14	AGM-65D MAVERICK (MYP)	2,270	177,458	2,270	177,458	2,270	177,458			2,270	177,458	2,020	167,203	2,020	167,203
15	AGM-65D ADVANCE PROCUREMENT (CY)		10,800		10,800		10,800				10,800		7,800		7,800
16	AGM-88A HARM	326	79,339	326	79,339	826	188,639			326	79,339	200	45,303	700	154,603
17	RAPIER														
18	AMRAAM (MYP)	1,450	902,876	1,450	902,876	1,300	827,876	(635)	(215,100)	815	687,776	2,200	892,882	--	--
19	GRD LAUNCH CRUISE MISSILE														
20	TARGET DRONES	49	22,497	49	22,497	49	22,497			49	22,497	49	22,821	49	22,821
21	INDUSTRIAL PREPAREDNESS		13,945		13,945		13,945				13,945		13,960		13,960
22	MISSILE REPLACEMENT EQ-OTHER		2,045		2,045		2,045				2,045		2,515		2,515
	MODIFICATION OF INSERVICE MISSILES														
23	ADVANCED CRUISE MISSILE	[ ]	[ ]									[ ]	[ ]		--
24	CLASSIFIED PROGRAMS	[ ]	[ ]									[ ]	[ ]		--
25	HAVE NAP		997		997		997				997				
26	AIM-9L/M SIDEWINDER														
27	MM II/III MODIFICATIONS		92,680		92,680		92,680				92,680		217,457		--
28	AGM-45A SHRIKE														
29	AGM-65D MAVERICK		9,968		9,968		9,968				9,968		3,108		3,108
30	AGM-88A HARM		1,410		1,410		1,410				1,410		1,991		1,991

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY 1991 Request Quantity	Bush Revised FY 1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
31	AIR LAUNCH CRUISE MISSILE		3,886		3,886		3,886				3,886		3,583		3,583
32	PEACEKEEPER (M-X)		1,862		1,862		1,862				1,862		1,859		1,859
33	MODIFICATIONS UNDER $2.0M		247		247		247				247		275		275
	SPARES AND REPAIR PARTS														
34	SPARES AND REPAIR PARTS		259,411		200,418		259,411				259,411		457,157		457,157
	OTHER SUPPORT														
	SPACE PROGRAMS														
35	SPACEBORNE EQUIP (COMSEC)		20,540		20,540		20,540				20,540		7,315		7,315
36	GLOBAL POSITIONING (MYP)		70,291		70,291		70,291				70,291		67,052		67,052
37	GPS ADVANCE PROCUREMENT (CY)												133,700		133,700
38	SPACE SHUTTLE OPERATIONS		46,087		46,087		46,087		(13,000)		33,087		38,423		38,423
39	MILSTAR (MYP)								88,200		88,200		84,352		--
40	DEF METEOROLOGICAL SAT PROG (MYP)	1	80,387	1	80,387	1	80,387			1	80,387	1	86,487	1	86,487
41	DMSP ADVANCE PROCUREMENT (CY)		56,993		56,993		56,993				56,993		63,651		63,651
42	DEFENSE SUPPORT PROGRAM (MYP)	1	359,330	1	359,330	1	359,330		(28,000)	1	331,330	1	300,864	--	--
43	DSP ADVANCE PROCUREMENT (CY)		12,300		12,300		12,300				12,300		241,900		--
44	DEFENSE SATELLITE COMM SYSTEM (MYP)		49,090		49,090		49,090				49,090		62,898		--
45	SPACE BOOSTERS (MYP)	3	209,281	3	209,281	3	209,281			3	209,281	2	206,984	2	206,984
46	SPACE BOOSTERS ADV PROC (CY)		50,300		50,300		50,300				50,300				
47	MEDIUM LAUNCH VEHICLE (MYP)	3	137,286	3	137,286	3	137,286		(9,000)	3	128,286	5	207,147	5	207,147
48	MLV ADVANCE PROCUREMENT (CY)		39,400		39,400		39,400				39,400		27,300		27,300
	SPECIAL PROGRAMS														
49	OTHER PROGRAMS														
50	DEFENSE RECONN SUPPORT ACTIVITIES												65,848		--
51	FOREST GREEN		517		517		517				517		600		600
52	IONDS (MYP)														
53	IONDS ADVANCE PROCUREMENT (CY)												32,811		32,811
54	SPECIAL PROGRAMS		3,182,705		3,163,605		2,976,105		(109,100)		3,073,605		3,513,930		3,513,930
55	SPECIAL UPDATE PROGRAMS		131,168		131,168		131,168				131,168		224,796		--
999	CLASSIFIED PROGRAMS		328,931		328,931		328,931				328,931		792,848		--
	CLASSIFIED PROGRAM								26,300		26,300				
	MODERNIZATION						29,400		38,400		38,400				
	UNDISTRIBUTED REDUCTION						(70,000)								
	AIM-9P PRIOR YEAR SAVINGS						(50,000)		(50,000)		(50,000)				
	TOTAL MISSILE PROCUREMENT AIR FORCE		7,382,200		7,140,500		7,119,300		(271,300)		7,110,900		10,087,600		5,327,084

Defense support program

The amended budget request contained $359.33 million for the Defense Support Program (DSP) satellite procurement, plus $12.3 million in advance procurement.

The House bill would authorize the requested amount.

The Senate amendment would reduce the request by $28.3 million to defer acquisition of obsolete parts for satellites number 23-25.

The Senate recedes.

The conferees agree, however, to reduce the requested amount by $28 million in recognition of program savings expected by the House and Senate Appropriations Committees as a result of quality management initiatives and a reduction in launch support funds.

Titan IV solid rocket boosters

The Air Force had planned to phase out the existing Titan IV solid rocket motor (SRM) in favor of the new solid rocket motor upgrade (SRMU) which would provide greater lift capacity, somewhat more reliability, and ease of production and processing. Last year, Congress expressed reservations about these plans. This year, the conferees concluded that delays in the SRMU program and uncertainty about the impact of the new boosters on Titan IV payloads dictate continued procurement of the existing SRM and a reduction in the programmed procurement of SRMUs.

The Air Force had planned to contract for an additional 10 SRMUs in fiscal year 1990. The conferees direct instead that the Air Force procure up to 7 more SRMs in this follow-on procurement. The conferees believe that no additional funds are required to implement this direction.

As a matter of policy, the conferees believe that the Air Force should continue to use the existing SRM to launch those payloads not requiring added lift capacity until the SRMU has demonstrated required performance, including the ability to launch payloads without requiring expensive satellite re-integration efforts. If the SRMU is not "transparent" to these satellites, these satellites should continue to utilize the SRM until significant block changes are undertaken such that integration costs are minimized.

OTHER PROCUREMENT, AIR FORCE

OVERVIEW

The amended budget request for fiscal year 1990 contained $8,561.8 million for Other Procurement, Air Force. The House bill would authorize $8,605.2 million. The Senate amendment would authorize $8,450.2 million. The conferees recommend authorization of $8,538.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are without prejudice.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY 1991 Request Quantity	Bush Revised FY 1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	OTHER PROCUREMENT, AIR FORCE														
	MUNITIONS AND ASSOCIATED EQUIPMENT														
1	2.75 INCH ROCKET MOTOR	68,491	15,612	68,491	15,612	52,491	11,912			68,491	15,612	65,841	15,179	65,841	15,179
2	2.75 INCH ROCKET HEAD - WP	80,078	6,039	80,078	6,039	70,246	5,339			80,078	6,039	119,763	9,063	119,763	9,063
3	LIGHT ANTI-TANK TACTICAL AT-4														
4	ITEMS LESS THAN $2,000,000		5,817		5,817		3,917				5,817		7,111		7,111
5	9MM PARABELLUM														
6	5.56 MM	35,022	5,370	35,022	5,370	29,854	4,050		(1,000)	35,022	4,370	55,413	8,790	55,413	8,790
7	20 MM COMBAT	1,341	4,665	1,341	4,665	767	2,065			1,341	4,665	1,743	6,056	1,743	6,056
8	20MM TRAINING	9,389	26,996	9,389	26,996	5,519	13,202		(3,594)	9,389	23,402	12,637	36,499	12,637	36,499
9	30 MM TRAINING	7,082	58,744	7,082	58,744	4,832	36,196		(3,848)	7,082	54,896	7,086	58,707	7,086	58,707
10	40MM TP GRENADES											1,214	1,856	1,214	1,856
11	40MM HE GRENADES	190	2,160	190	2,160	190	2,160			190	2,160	143	1,625	143	1,625
12	CART CHAFF RR-170														
13	SIGNAL MK-4 MOD 3	1,516	1,759	1,516	1,759	923	1,059			1,516	1,759	1,576	1,827	1,576	1,827
14	MXU-4A/A ENGINE STARTER											60	7,822	60	7,822
15	CART IMP 3000 FT/LBS														
16	ITEM LESS THAN 2.0M CARTRIDGES-SOF						(500)								
17	ITEMS LESS THAN $2,000,000		11,287		11,287		11,287				11,287		13,215		13,215
18	MK-82 INERT/BDU-50					33,980	8,462		8,462		8,462	58,861	17,016	58,861	17,016
19	TIMER ACTUATOR FIN FUZE														
20	BSU-49 INFLATABLE RETARDER	14,969	5,614	14,969	5,614	5,449	2,014			14,969	5,614	14,981	5,611	14,981	5,611
21	BSU-50 INFLATABLE RETARDER														
22	BOMB 2000 LB HIGH EXPLOSIVE														
23	BOMB HARD TARGET 2000LB											2,037	27,218	2,037	27,218
	LASER BOMB GUIDANCE SYSTEM	159	9,900	159	9,900	159	9,900			159	9,900	33	2,000	33	2,000
24	GBU-15		13,800		13,800		13,800		(12,470)		1,330		27,348		--
25	BOMB PRACTICE 25 POUND	1584086	24,223	1584086	24,223	1583694	17,623			1584086	24,223	1538518	23,517	1538518	23,517
26	BOMB PRACTICE BDU-38	846	3,545	846	3,545	846	3,545			846	3,545	846	3,636	846	3,636
27	MK-84 BOMB-EMPTY											15,321	23,286	15,321	23,286
28	SKEET/SENSOR FUZED WEAPON											65	94,674	--	--
	SQUAD AUTOMATIC WEAPON	1,200	1,970	1,200	1,970	1,200	1,970			1,200	1,970	1,200	1,970	1,200	1,970
29	CBU-87 (COMBINED EFFECTS MUN) (MYP)	11,537	136,630	11,537	136,630	11,537	136,630			11,537	136,630	10,425	126,605	10,425	126,605
30	CBU ADVANCE PROCUREMENT (CY)		20,000		20,000		20,000		(20,000)				15,000		15,000

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Amount	-----House------ Authorization Quantity	Amount	-----Senate------ Authorization Quantity	Amount	---Conference--- Change to Request Quantity	Amount	---Conference--- Authorization Quantity	Amount	Bush Revised FY 1991 Request Quantity	Amount	---Conference--- Authorization Quantity	Amount
31	BIGEYE		6,916		6,916		6,916				6,916		60,685		--
32	ITEMS LESS THAN $2,000,000		292		292		292				292		299		299
33	ITEMS LESS THAN $2,000,000														
34	FLARE, IR MJU-7B	182,311	6,606	182,311	6,606	182,217	5,206			182,311	6,606	91,279	3,158	91,279	3,158
35	PARACHUTE FLARE LUU-2 B/B	3,818	1,680	3,818	1,680	3,262	1,480			3,818	1,680	3,860	1,696	3,860	1,696
36	FLARE IR (B1B)	5,990	5,971	5,990	5,971	5,990	5,971			5,990	5,971	6,094	5,995	6,094	5,995
37	MJU-10B											152,243	7,294	152,243	7,294
38	SPARES AND REPAIR PARTS		8,052		8,052		8,052				8,052		7,667		7,667
39	MODIFICATIONS		199		199		199				199		199		199
40	ITEMS LESS THAN $2,000,000		17,074		17,074		16,074				17,074		20,147		20,147
41	FMU-139	36,213	25,148	36,213	25,148	33,228	22,348			36,213	25,148	47,392	43,983	47,392	43,983
42	ITEMS LESS THAN $2,000,000		1,302		1,302		1,102				1,302		1,340		1,340
43	M-203 GRENADE LAUNCHER														
44	MACHINE GUN, 7.62MM, M-60														
45	9MM HANDGUN														
46	HOST NATION SUPPORT WEAPONS	74	16,000	74	16,000	74	16,000			74	16,000				
	VEHICULAR EQUIPMENT														
47	SEDAN, 4 DR 4X2	117	876	117	876	94	676			117	876	84	646	84	646
48	STATION WAGON, 4X2	61	482	61	482	61	482			61	482	58	483	58	483
49	BUS, 28 PASSENGER	16	630	16	630	7	330			16	630	16	645	16	645
50	BUS INTERCITY	4	687	4	687	4	687			4	687	1	176	1	176
51	BUS, 44 PASSENGER	56	3,642	56	3,642	51	3,442			56	3,642	67	4,303	67	4,303
52	AMBULANCE, BUS	5	459	5	459	5	459			5	459	8	754	8	754
53	MODULAR AMBULANCE	51	2,065	51	2,065	47	1,865			51	2,065	44	1,840	44	1,840
54	14-20 PASSENGER BUS	11	378	11	378	11	378			11	378	4	142	4	142
55	LAW ENFORCEMENT VEHICLE	130	1,348	130	1,348	130	1,348			130	1,348	55	586	55	586
56	TRUCK, STAKE/PLATFORM	517	7,355	517	7,355	508	7,255			517	7,355	366	5,089	366	5,089
57	TRUCK, CARGO-UTILITY, 3/4T, 4X4	255	4,171	255	4,171	215	3,471			255	4,171	206	3,474	206	3,474
58	TRUCK, CARGO-UTILITY, 1/2T, 4X2	286	4,118	286	4,118	263	3,818			286	4,118	213	3,134	213	3,134
59	TRUCK, PICKUP, 1/2T, 4X2	435	4,893	435	4,893	392	4,493			435	4,893	388	3,985	388	3,985
60	TRUCK, PICKUP, COMPACT														
61	TRUCK MULTI-STOP 1 TON 4X2	410	8,111	410	8,111	363	7,311			410	8,111	452	8,531	452	8,531
62	TRUCK, PANEL, 4X2														
63	TRUCK CARRYALL	210	3,505	210	3,505	122	3,205			210	3,505	189	3,085	189	3,085
64	COMMERCIAL UTILITY CARGO VEHICLE	34	544	34	544	34	544			34	544				
65	TRUCK, CARGO, 2 1/2T, 6X6, M-35														

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount	Bush Revised FY 1991 Request Quantity	Bush Revised FY 1991 Request Amount	Conference Authorization Quantity	Conference Authorization Amount
66	TRUCK, CARGO 5T M-923.M-925 (MYP)	137	7,841	137	7,841	137	7,841			137	7,841	67	4,684	67	4,684
67	HIGH MOBILITY VEHICLE (MYP)														
68	TRUCK TRACTOR, OVER 5T	69	3,092	69	3,092	67	2,992			69	3,092	77	3,677	77	3,677
69	TRUCK, DUMP 5 TON	77	2,931	77	2,931	68	2,531			77	2,931	96	3,695	96	3,695
70	TRUCK, UTILITY														
71	CAP VEHICLES						800		800		800				
72	ITEMS LESS THAN $2,000,000		16,714		16,714		15,514				16,714		11,695		11,695
73	TRUCK MAINT 4X2														
74	TRUCK, TELEPHONE MAINTENANCE														
75	TRUCK, TANK, 1200 GAL	48	1,768	48	1,768	48	1,768			48	1,768	71	2,683	71	2,683
76	TRUCK TANK FUEL R-11(R-9)	350	33,630	350	33,630	272	26,130			350	33,630				
77	TRUCK, TANK, FUEL, M-49	68	4,872	68	4,872	68	4,872			68	4,872	31	2,338	31	2,338
78	TRUCK TANK WATER WASTE											41	4,133	41	4,133
79	TRACTOR, A/C TOW, MB-4	3	151	3	151	3	151			3	151	145	3,651	145	3,651
80	TRACTOR, TOW, FLIGHTLINE	3	65	3	65	3	65			3	65	303	5,627	303	5,627
81	TRACTOR, DOZER														
82	MOBILE MAINT UNIT											9	4,542	9	4,542
83	MOBILE ARM RECON VEHICLE											40	26,240	--	--
84	MOS MARKING VEHICLE														
85	ITEMS LESS THAN $2,000,000		15,477		15,477		13,977				15,477		13,175		13,175
86	TRUCK CRASH P-19	2	379	2	379	2	379			2	379				
87	TRUCK CRASH P-23(P-2)	42	19,177	42	19,177	42	19,177			42	19,177	48	21,917	48	21,917
88	TRUCK WATER P-18	9	1,074	9	1,074	9	1,074			9	1,074	46	5,755	46	5,755
89	TRUCK PUMPER P-24(P-8)	36	4,696	36	4,696	35	4,596			36	4,696	50	6,522	50	6,522
90	TRUCK PUMPER P-22(P-12)	36	4,084	36	4,084	33	3,784			36	4,084	35	3,970	35	3,970
91	ITEMS LESS THAN $2,000,000		2,706		2,706		2,606				2,706		2,491		2,491
92	TRUCK F/L 4000 LB GED/DED 144 INCH	220	6,283	220	6,283	211	6,083			220	6,283	293	7,335	293	7,335
93	TRUCK, F/L 6000 LB	80	1,874	80	1,874	75	1,674			80	1,874	103	2,817	103	2,817
94	TRUCK, F/L 10,000 LB	163	6,906	163	6,906	155	6,606			163	6,906	331	18,411	331	18,411
94a	UNDISTRIBUTED REDUCTION-TACTICAL VEH						(30,000)								
95	60K A/C LOADER														
96	25K A/C LOADER	11	1,535	11	1,535	11	1,535			11	1,535	18	2,536	18	2,536
97	TACTICAL CARGO LOADER											2	1,723	2	1,723
98	CONTAINER, LIFT, TRUCK														
99	ITEMS LESS THAN $2,000,000		9,879		9,879		9,879				9,879		6,487		6,487
100	LOADER, SCOOP	116	7,218	116	7,218	111	6,918			116	7,218	103	6,371	103	6,371

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101	DISTRIBUTOR, WATER 1500 GALLON														
102	CLEANER, RUNWAY/STREET	86	5,236	86	5,236	72	3,936			86	5,236	119	8,548	119	8,548
103	CRANE, 7-50 TON	10	1,614	10	1,614	9	1,514			10	1,614	12	787	12	787
104	EXCAVATOR, DED, PT	40	5,560	40	5,560	40	5,560			40	5,560	25	3,564	25	3,564
105	SPARES AND REPAIR PARTS		3,011		3,011		3,011				3,011		2,787		2,787
106	MODIFICATIONS		1,208		1,208		1,208				1,208		1,003		1,003
107	ITEMS LESS THAN $2,000,000		11,223		11,223		9,923				11,223		13,682		13,682
	ELECTRONICS AND TELECOMMUNICATIONS EQUIP														
108	SPACE SYSTEMS (COMSEC)		82,857		82,857		82,857				82,857		96,597		96,597
109	TEMPEST EQUIPMENT														
110	TAC SECURE VOICE														
111	DCS SECURE VOICE (COMSEC)														
112	SECURE DATA														
113	TRI-TAC (COMSEC)														
114	SPARES AND REPAIR PARTS		7,433		7,433		7,433				7,433		7,158		7,158
115	MODIFICATIONS (COMSEC)		1,769		1,769		1,769				1,769		1,789		1,789
116	INTELLIGENCE DATA HANDLING SYS		2,594		2,594		2,594				2,594		8,346		--
117	INTELLIGENCE TRAINING EQUIPMENT		12,181		12,181		9,181				12,181		11,989		11,989
118	INTELLIGENCE COMM EQUIP		2,359		2,359		2,359				2,359		30,047		30,047
119	ITEMS LESS THAN $2,000,000		8,076		8,076		8,076				8,076		10,745		10,745
120	TRAFFIC CONTROL/LANDING		4,510		4,510		4,510				4,510		18,732		18,732
121	TACTICAL AIR CONTROL SYS IMPROVE		233,078		233,078		233,078				233,078		264,661		264,661
122	WEATHER OBSERV/FORCAST		55,440		55,440		55,440				55,440		50,649		50,649
123	DEFENSE SUPPORT PROGRAM		89,014		89,014		60,714		(23,000)		66,014		69,389		69,389
124	OTH-B RADAR		209,478		209,478		209,478		(10,000)		199,478		218,523		218,523
125	SAC COMMAND AND CONTROL		47,300		47,300		47,300				47,300		49,350		49,350
126	LAUNCH CONTROL CENTER COMMUNICATIONS														
127	CHEYENNE MOUNTAIN COMPLEX		37,126		37,126		37,126		(5,000)		32,126		11,070		--
128	PAVE PAWS/SLBM WARNING SYSTEMS														
129	BMEWS MODERNIZATION		6,256		6,256		6,256				6,256		715		715
130	SPACETRACK		5,392		5,392		5,392				5,392				
131	NAVSTAR GPS		11,476		11,476		11,476		(4,000)		7,476		4,227		4,227
132	USAFE COMMAND/CONTROL SYSTEM		2,539		2,539		2,539				2,539		2,510		2,510
133	PACAF COMMAND/CONTROL		10,902		10,902		10,902				10,902		1,077		1,077
134	DEFENSE METEOROLOGICAL SAT PROG		822		822		822				822		16,838		16,838

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135	CARIBBEAN BASIN RADAR NETWORK		39,951		39,951		28,951				39,951		16,323		16,323
136	MARS/USAF-FAA RADAR UPGRADE		67,345		67,345		67,345				67,345		55,864		--
137	TAC SIGINT SUPPORT		17,977		17,977		17,977				17,977		14,149		--
138	DIST ERLY WARNING RDR/NORTH WARNING		195,415		195,415		195,415				195,415		5,198		--
139	TACTICAL GROUND INTERCEPT FACILITY		6,202		6,202		6,202				6,202		9,236		9,236
140	TR-1 GROUND STATIONS		5,452		5,452		5,452				5,452				
141	AIR BASE OPERABILITY		3,252		3,252		3,252				3,252		3,643		3,643
142	IMAGERY TRANS												35,839		--
143	NUDET DETECTION SYSTEM (NDS)														
144	TACTICAL WARNING SYSTEMS SUPPORT		1,124		1,124		1,124				1,124		1,740		1,740
145	AUTOMATIC DATA PROCESSING EQUIP		74,385		74,385		74,385				74,385		60,080		60,080
146	WWMCCS/WIS ADPE		15,591		15,591		15,591				15,591		34,055		--
147	MAC COMMAND AND CONTROL SUPPORT		26,883		26,883		26,883		(4,600)		22,283		22,254		22,254
148	MAC COMMAND AND CONTROL-SOF														
149	GLCM COMMUNICATIONS														
150	AIR FORCE PHYSICAL SECURITY SYSTEM		21,817		21,817		21,817				21,817		22,799		22,799
151	WEAPONS STORAGE/SECURITY		36,200		36,200		36,200				36,200		21,300		21,300
152	RANGE IMPROVEMENTS		115,817		115,817		115,817				115,817		114,264		114,264
153	C3 COUNTERMEASURES		7,046		7,046		7,046				7,046		8,468		8,468
154	JOINT SURVEILLANCE SYSTEM		5,896		5,896		5,896				5,896				
155	SPACE SHUTTLE														
156	BASE LEVEL DATA AUTO PROGRAM		27,604		27,604		27,604				27,604		19,445		19,445
157	SATELLITE CONTROL FACILITY		68,335		68,335		68,335				68,335		93,522		--
158	CONSTANT WATCH		7,324		7,324		7,324				7,324		4,568		--
159	CONSOLIDATED SPACE OPS CENTER		1,011		1,011		1,011				1,011		1,521		1,521
160	CMD CENTER PROCESSING/DISPLAY SYS														
161	HAMMER ACE														
162	SAMTO TEST RANGES I&M		69,721		69,721		69,721		(10,000)		59,721		67,214		67,214
163	PROGRAM 698AJ		1,368		1,368		1,368				1,368		1,900		1,900
164	INFORMATION TRANSMISSION SYSTEMS		303		303		303				303		999		999
165	TELEPHONE EXCHANGE		80,501		80,501		80,501		(5,802)		74,699		79,750		79,750
166	JOINT TACTICAL COMM PROGRAM (MYP)		122,360		122,360		122,360				122,360		109,990		109,990
167	JTCP ADVANCE PROCUREMENT (CY)												9,300		9,300
168	USTRANSCOM												10,065		10,065
169	USSOCCOM		7,405		7,405		7,405				7,405		7,753		7,753
170	USCENTCOM		8,974		8,974		8,974				8,974		11,057		11,057

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171	AUTOMATED TELECOMMUNICATIONS PRG		3,945		3,945		3,945				3,945		3,698		3,698
172	MILSTAR		103,386		103,386		103,386				103,386		227,813		--
173	SATELLITE TERMINALS		21,248		21,248		21,248				21,248		42,175		42,175
174	WIDEBAND SYSTEMS UPGRADE		55,631		55,631		55,631				55,631		13,488		13,488
175	MINIMUM ESSENTIAL EMER COMM NET		3,329		3,329		3,329				3,329		23,310		--
176	DCS SECURE VOICE EQUIPMENT														
177	TACTICAL C-E EQUIPMENT		32,235		32,235		30,035				32,235		49,308		49,308
178	RADIO EQUIPMENT		6,753		6,753		6,753				6,753		3,524		3,524
179	RADIO EQUIPMENT-SOF														
180	FIBER OPTICS												799		799
181	TV EQUIPMENT (AFRTV)		4,678		4,678		4,678				4,678		4,757		4,757
182	CCTV/AUDIOVISUAL EQUIPMENT		3,966		3,966		3,966				3,966		3,935		3,935
183	E + I REQUIREMENTS		1,758		1,758		1,758				1,758		2,538		2,538
184	SPARES AND REPAIR PARTS		253,749		253,749		253,749		(17,094)		236,655		272,546		272,546
185	CAP COM & ELECT						500		500		500				
186	ITEMS LESS THAN $2,000,000		11,873		11,873		11,873				11,873		16,514		16,514
187	COMM-ELECTRONICS CLASS IV		19,892		19,892		14,792				19,892		20,203		20,203
188	TACTICAL EQUIPMENT														
189	ANTIJAM VOICE		13,419		13,419		13,419				13,419		14,075		14,075
	OTHER BASE MAINTENANCE AND SUPPORT EQUIP														
190	BASE/ALC CALIBRATION PACKAGE		29,927		29,927		29,927				29,927		31,702		31,702
191	NEWARK AFS CALIBRATION PACKAGE		2,989		2,989		2,989				2,989		1,774		1,774
192	TEST EQUIPMENT-GEN PURP														
193	ITEMS LESS THAN $2,000,000		31,956		31,956		30,356				31,956		36,633		36,633
194	AUTOMATIC LIFE PRESERVER														
195	NIGHT VISION GOGGLES		4,452		4,452		4,452				4,452		4,732		4,732
196	NIGHT VISION GOGGLES-SOF		1,361		1,361	(44)	861				1,361		1,361		1,361
197	CHEMICAL/BIOLOGICAL DEF PROG	28	56,544	28	56,544	37	64,744	9	8,200	37	64,744	27	67,632	--	--
198	ITEMS LESS THAN $2,000,000		3,663		3,663		3,063				3,663		5,451		5,451
199	BASE MECHANIZATION EQUIPMENT		28,437		28,437		28,437				28,437		25,935		25,935
200	AIR TERMINAL MECHANIZATION EQUIP		8,614		8,614		8,614				8,614		6,957		6,957
201	ITEMS LESS THAN $2,000,000		12,019		12,019		10,619				12,019		13,113		13,113
202	GENERATORS-MOBILE ELECTRIC		25,859		25,859		11,959				25,859		29,155		29,155
203	FLOOD LIGHTS												667		667

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204	ITEMS LESS THAN $2,000,000		4,423		4,423		4,123				4,423		4,959		4,959
205	BASE PROCURED EQUIPMENT		34,668		34,668		32,068				34,668		37,229		37,229
206	MEDICAL/DENTAL EQUIPMENT		109,022		109,022		108,622				109,022		82,082		82,082
207	AIR BASE OPERABILITY		28,942		28,942		28,942				28,942		20,105		20,105
208	PALLET, AIR CARGO, 108"X88"	4,132	3,721	4,132	3,721	4,054	3,621			4,132	3,721	4,000	3,700	4,000	3,700
209	BLADDERS FUEL														
210	PHOTOGRAPHIC EQUIPMENT		8,289		8,289		8,289				8,289		9,638		9,638
211	TACTICAL SHELTER - SOF		3,582		3,582		3,582				3,582		3,719		3,719
212	PRODUCTIVITY ENHANCEMENT		10,087		10,087		10,087				10,087		10,824		10,824
213	PRODUCTIVITY INVESTMENTS		5,078		5,078		5,078				5,078		10,895		10,895
214	MOBILITY EQUIPMENT		11,697		11,697		11,697				11,697		7,749		7,749
215	WARTIME HOST NATION SUPPORT		4,726		4,726		4,726				4,726		8,896		8,896
216	SPARES AND REPAIR PARTS		7,099		7,099		7,099				7,099		5,341		5,341
217	ITEMS LESS THAN $2,000,000		18,542		18,542		15,342				18,542		21,009		21,009
218	INTELLIGENCE PRODUCTION ACTIVITY		82,485		82,485		80,785		(1,700)		80,785		81,610		81,610
219	TECH SURV COUNTERMEASURES EQ		991		991		991				991		1,974		--
220	PHOTO PROC/INTERPRET SYS														
221	SELECTED ACTIVITIES		4,732,801		4,746,801		4,716,101		5,800		4,738,601		5,012,840		5,012,840
222	SPECIAL UPDATE PROGRAM		214,909		214,909		214,909				214,909		191,345		--
223	SPECIAL APPLICATION PROGRAM														
224	INDUSTRIAL PREPAREDNESS		4,513		4,513		4,513				4,513		4,902		4,902
225	MISC EQUIPMENT												7,383		7,383
226	MISC EQUIPMENT-SOF		1,842		1,842		1,842				1,842		1,684		1,684
227	MODIFICATIONS														
	ASSET CAPITALIZATION PROGRAM						75,000		75,000		75,000				75,000
	UNDISTRIBUTED REDUCTION														
	MODERNIZATION				29,400										
	TOTAL OTHER PROCUREMENT AIR FORCE		8,561,800		8,605,200		8,450,200		(23,346)		8,538,454		9,096,200		8,187,568

30mm training round

The amended budget request contained $58.7 million for 7,082,000 rounds of 30mm training ammunition.

The House bill would authorize the requested amount.

The Senate amendment, anticipating contract savings, would reduce the budget request by $3.8 million.

The conferees agree to recommend authorization of $54.9 million, a reduction of $3.8 million.

Further, the conferees believe that the Department of Defense should procure the 30mm training round in a manner that ensures the best price for the Government over the long term. If the Department of Defense believes that savings can be achieved from continued competitive procurement, the conferees encourage the Department to continue dual-source production of this round.

GBU-15

The amended budget request contained $13.8 million for the GBU-15 improved data link and the GBU-15/I 2000 hard target bomb integration kit.

Both the House bill and the Senate amendment would authorize the requested amount. The conferees, however, have been advised that program schedule delays make a reduction of $12.5 million appropriate.

The conferees, therefore, recommended an authorization of $1.3 million for the GBU-15 improved data link and GBU-15/I 2000 hard target bomb integration kit. The authorized funds would be used to preserve the competitive procurement in conjunction with the completion of the initial operational test of the GBU-15 improved data link.

Defense support program ground equipment

The amended budget request contained $89.014 million for procurement of Defense Support Program ground equipment.

The House bill and the Senate amendment would authorize the requested amount. The conferees agree to a reduction from the requested amount of $23 million due to contract savings identified by the Air Force.

Caribbean basin radar network

The amended budget request contained $39.951 million for procurement of the Caribbean basin radar network.

The House bill would authorize the requested amount.

The Senate amendment would reduce the requested amount by $11 million to defer acquisition of one radar pending a review and report on wide-area surveillance programs and because of concerns about possible redundancies and gaps in coverage of the Caribbean area.

The conferees agree to authorize the requested amount for the Caribbean basin radar network. The conferees also agree to require the review of and report on wide-area surveillance programs directed by the Senate report (S. Report 101-81). The report required by section 1103 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 101-456) clarified communications aspects of the problem of achieving an integrated DOD and non-DOD command, control, communications, and intelligence (C^3I) drug interdiction network. The conferees believe that the report required by the Senate report should contribute significantly to understanding the capabilities of and shortcomings in the coverage and integration of current and planned sensors for tactical warning/attack assessment and drug interdiction operations.

NAVSTAR user equipment

The amended budget request contained $27.021 million for the Army and $11.476 million for the Air Force for procurement of NAVSTAR GPS user equipment.

The House bill and the Senate amendment would authorize the requested amounts.

The conferees agree to a reduction of $10 million in the Army program and $4 million in the Air Force program, without prejudice, for budgetary reasons.

PROCUREMENT, DEFENSE AGENCIES

OVERVIEW

The amended budget request for fiscal year 1990 contained $1,321.8 million for Procurement, Defense Agencies. The House bill would authorize $1,321.2 million. The Senate amendment would authorize $1,284.4 million. The conferees recommend authorization of $1,332.3 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount	Bush Revised FY 1991 Request Quantity	Bush Revised FY 1991 Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	PROCUREMENT, DEFENSE AGENCIES														
1	MOTOR VEHICLES											2	300	2	300
2	MAJOR EQUIPMENT, OSD/WHS		69,312		69,312		69,312				69,312		78,742		78,742
3	REMOTELY PILOTED VEHICLES		29,304		29,304		29,304				29,304		24,031		24,031
4	CLASSIFIED EQUIPMENT, NSA	[ ]	[ ]						[7,400]			[ ]	[ ]		
5	VEHICLES	20	413	20	413	20	413			20	413	28	433	28	433
6	OTHER CAPITAL EQUIPMENT, DNA	7	2,228	7	2,228	7	2,228			7	2,228	22	4,153	22	4,153
7	WWMCCS ADP SYSTEMS		7,632		7,632		7,632				7,632		8,905		8,905
8	ITEMS LESS THAN $2 MILLION		22,322		22,322		22,322				22,322		20,708		20,708
9	PRODUCTIVITY INVESTMENT FUNDING(PIF)												1,700		1,700
10	INTELLIGENCE AND COMMUNICATIONS, DIA	[ ]	[ ]						[-300]			[ ]	[ ]		
11	MATERIALS HANDLING EQUIPMENT		9,602		9,602		9,602				9,602		4,001		4,001
12	VEHICLES		2,326		2,326		2,326				2,326		1,534		1,534
13	MECHANIZED MATERIALS HANDLING SYS		16,456		16,456		16,456				16,456		52,471		52,471
14	ADP EQUIPMENT, DLA		40,500		40,500		40,500				40,500		53,009		53,009
15	TELECOMMUNICATIONS EQUIPMENT		6,000		6,000		6,000				6,000		15,800		15,800
16	OTHER MAJOR EQUIPMENT		9,392		9,392		9,392				9,392		7,324		7,324
17	ITEMS LESS THAN $2 MILLION		2,811		2,811		2,811				2,811		1,243		1,243
18	ADP EQUIPMENT		13,658		13,658		13,658				13,658		18,628		18,628
19	VEHICLES		101		101		101				101		253		253
20	OTHER CAPITAL EQUIPMENT		115,688		115,688		115,688				115,688		118,115		118,115
21	VEHICLES		2,771		2,771		2,771				2,771		4,136		4,136
22	OTHER CAPITAL EQUIPMENT		422		422		422				422		184		184
23	ITEMS LESS THAN $2 MILLION ,USUHS		881		881		881				881		890		890
24	ITEMS LESS THAN $2 MILLION ,DCAA		2,988		2,988		2,988				2,988		1,991		1,991
25	ITEMS LESS THAN $2 MILLION, DSPO		394,087		394,087		325,087		(33,600)		360,487		351,131		--
26	AIRBORNE RECONNAISSANCE SUPPORT PROG														
27	ITEMS LESS THAN $2 MILLION, IG								1,051		1,051				
28	MAJOR EQUIPMENT, OJCS		23,340		23,340		23,340				23,340		24,751		24,751
29	VEHICLES														
30	OTHER CAPITAL EQUIPMENT	1	952	1	952	1	952			1	952	1	1,000	1	1,000
999	CLASSIFIED PROGRAMS		548,614		548,014		550,314		7,100		555,714		634,267		634,267
	VEHICLES-GENERAL REDUCTION														
	SOUTHCOM IMAGERY SUPPORT								6,000		6,000				
	ASSET CAPITALIZATION PROGRAM						29,900		29,900		29,900				34,600
	TOTAL PROCUREMENT DEFENSE AGENCIES		1,321,800		1,321,200		1,284,400		10,451		1,332,251		1,429,700		1,113,169

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY 1991 Request Quantity	Bush Revised FY 1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
CHEM AGENTS AND MUNITIONS DESTRUCTION															
1	RESEARCH AND DEVELOPMENT		1,100		1,100		1,100				1,100				
2	PROCUREMENT		139,100		139,100		139,100		(25,600)		113,500		174,900		174,900
3	CHEM DEMILITARIZATION - O&M		171,200		171,200		171,200		(22,100)		149,100		142,800		142,800
	TOTAL CHEMICAL DESTRUCTION		311,400		311,400		311,400		(47,700)		263,700		317,700		317,700

PROCUREMENT, NATIONAL GUARD AND RESERVE EQUIPMENT

OVERVIEW

The House bill would authorize $1,227.7 million for procurement, National Guard and Reserve equipment. The Senate amendment would authorize $1,923.4 million. The conferees recommend authorization of $988.3, as delineated in the following table.

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY 1991 Request Quantity	Bush Revised FY 1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	NATL GUARD & RESERVE EQUIPMENT, DEFENSE														
	ARMY RESERVE														
1	MISCELLANEOUS EQUIPMENT				25,000				25,000		25,000				
	5-TON TRUCK				50,000				50,000		50,000				
	NAVY RESERVE														
	C-130H AIRCRAFT			2	48,000										
	LAMPS MARK-1 ASW UPGRADE			6	45,000			6	45,000	6	45,000				
	HH-60 HELICOPTER UPGRADE				8,400										
	EA-6B AIRCRAFT			4	110,000										
	C-20 AIRCRAFT			1	24,800										
	AN/SQQ58 SONOBUOYS						1,000		1,000		1,000				
	UNDISTRIBUTED REDUCTION						(1,000)								
	SH-3H/SH-2G ASW MISSION DATA RECORDE				4,500										
	INSTALLATION OF MODIFICATIONS								28,300		28,300				
	MARINE CORPS RESERVE														
8	MISCELLANEOUS EQUIPMENT								10,000		10,000				
9	KC-130T AIRCRAFT				50,000			2	50,000	2	50,000				
	AH-1W COBRA AIRCRAFT			3	30,000										
	AIR FORCE RESERVE														
11	MISCELLANEOUS EQUIPMENT				35,000				35,000		35,000				
12	C-130H AIRCRAFT			2	44,500			2	44,500	2	44,500				
14	MH-60G HELO				151,000				75,000		75,000				
	INSTALLATION OF MODIFICATIONS								10,000		10,000				
	F-16 IMPROVEMENT PACKAGE				55,000				55,000		55,000				

P-1 LINE	ITEM	Bush Revised FY1990 Request Quantity	Bush Revised FY1990 Request Amount	-----House------ Authorization Quantity	-----House------ Authorization Amount	-----Senate------ Authorization Quantity	-----Senate------ Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount	Bush Revised FY 1991 Request Quantity	Bush Revised FY 1991 Request Amount	---Conference--- Authorization Quantity	---Conference--- Authorization Amount
	NATIONAL GUARD EQUIPMENT														
	ARMY NATIONAL GUARD														
17	MISCELLANEOUS EQUIPMENT				30,000				30,000		30,000				
19	M113 APR/M577 COMMAND VEHICLES				91,000	300	91,000		101,000		101,000				
	M113 A-2 TO A-3 UPGRADE				10,000		10,000								
21	C-23 AIRCRAFT			4	28,000	4	28,000	4	28,000	4	28,000				
22	FIRE SUPPORT TEAM VEHICLES			87	39,000										
	MULTIPLE LAUNCH ROCKET SYSTEM			1	104,000										
	5-TON TRUCKS/TRUCK REBUILD				50,000				50,000		50,000				
	CH-47D HELICOPTER			4	52,000										
	AIR NATIONAL GUARD														
24	MISCELLANEOUS EQUIPMENT				25,000				25,000		25,000				
25	C-130 AIRCRAFT			2	44,500	10	218,000	10	174,000	10	174,000				
27	HC-130 AIRCRAFT					1	43,000	1	43,000	1	43,000				
	F-15/F-16 IMPROVEMENT PACKAGE				49,000				49,000		49,000				
	INSTALLATION OF MODIFICATIONS								59,500		59,500				
	C-26 AIRCRAFT			6	24,000										
30	KC-135 AIRCRAFT														
	RESERVE EQUIPMENT TRANSFER						1,369,600								--
	UNDISTRIBUTED REDUCTION				(163,800)										
	GUARD AND RESERVE MODERNIZATION				163,800		163,800								
	TOTAL GUARD AND RESERVE EQUIPMENT				1,227,700		1,923,400		988,300		988,300				

M113 family of vehicles

The House bill would authorize $91 million for M113 personnel carriers, $10 million for M113 conversion kits, and $39 million for fire support team vehicles, which are based on the M113 chassis.

The Senate amendment would authorize $91 million for the M113 vehicles and $10 million for the M113 conversion kits.

The conferees recommend that a total of $101 million be provided for the M113 family of vehicles. The combination of vehicles and modifications is subject to the allocation of the Director of the National Guard Bureau based on the most pressing requirements that maximize combat readiness of National Guard units.

SH-2 block upgrade kits

Neither the amended budget request nor the Senate amendment contained funds for block upgrade kits for the SH-2 antisubmarine warfare helicopter.

The House bill provided $45 million for 6 block upgrade kits.

The Senate recedes.

AH-1W Cobra aircraft

The conferees understand that the Marine Corps Reserve continues to operate older generation AH-1 attack helicopters. The conferees were informed that the Marine Corps places a high priority on replacing those helicopters, yet at no time has the Marine Corps budgeted to upgrade or replace them. The conferees believe that the Marines Corps should develop a modernization program for attack helicopters in reserve units and would welcome a reprogramming by the Department of the Navy to initiate that modernization program.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

CH-53 and MH-53 helicopters (sec. 102 (a)(2)(B))

The House bill contained a provision (sec. 126) that would authorize $254 million for procurement of 14 CH-53E helicopters for the Marine Corps heavy lift mission.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would specify procurement of 10 CH-53E helicopters for the Marine Corps heavy lift mission and 4 CH-53E helicopters for Navy airborne mine countermeasures.

Multiyear procurement authorizations (secs. 107 and 805)

The House bill contained a provision (sec. 108) that would authorize the Department of Defense to enter into multiyear contracts for certain weapon systems. That provision (sec. 108(c)) would also delineate certain weapon systems for which multiyear contract authorization would be specifically denied.

The House bill also contained a provision (sec. 140) that would codify limitations and conditions on multiyear contracts. Those conditions had been incorporated in annual authorization acts in recent years. Section 140 would codify those conditions in title 10, United States Code.

The Senate amendment contained a similar provision (sec. 106) that would authorize certain weapon systems for multiyear procurement. The Senate amendment also contained a provision (sec. 106(b)) that would deny multiyear contract authorization for certain weapon systems.

The Senate amendment did not contain a provision similar to the House section (sec. 140) that would codify conditions and limitations on multiyear contracts. The Senate amendment did contain a section (sec. 106(c)) that would impose conditions on the specific weapon systems recommended for multiyear contract authorization.

The Senate recedes on both sections, with amendments.

The conferees recommend multiyear contract authorization for the following weapon systems:

M1 tank
M2 fighting vehicle
MH-47 helicopter
Family of Heavy Tactical Vehicles
Mark 45 gun mount and Mark 6 Ammunition Hoist
AGM-65(d) missile
SH-60B/F helicopter
DDG-51 destroyer
Combined Effects Munitions
MH-60G helicopter
KC-135 tanker aircraft

The conferees specifically deny multiyear contract authorization for the following weapon systems:

E-2C aircraft
F/A-18 aircraft

The conferees also agree to a provision (sec. 805) that would permanently codify the conditions and limitations that have been imposed in previous years on an annual basis.

Maverick missile (sec. 107(a)(3))

The amended budget request proposed termination of the AGM-65D Maverick missile program after fiscal year 1992. For the remaining three years of production, the Air Force has proposed a winner-take-all competition between the two current producers, with the winner producing the remaining missiles under a three-year multiyear contract.

The House bill contained a provision (sec. 108) that would deny the multiyear contract authorization, and direct the Air Force to maintain the current dual-source competitive procurement of the missile.

The Senate amendment contained a provision (sec. 106(a)) that would authorize the Air Force to proceed with a multiyear contract. However, the Senate report (S. Rept. 101-81) would express the same concern as the House report (H. Rept. 101-121) as to whether the proposed acquisition strategy was appropriate. The Senate report noted that the Air Force and Navy will have serious shortfall of Maverick missiles at the conclusion of the proposed multiyear procurement. The Senate report questioned whether the Maverick missile should be terminated so far short of meeting inventory requirements. The Senate amendment would direct the Air Force not to enter a multiyear procurement until it had solicited annual contracts based on head-to-head competitions between the two producers, as well as three-year multiyear contracts for all remaining quantities. The Senate amendment would stipulate that the Secretary of the Air Force should not enter into a contract until he had determined the long term plans for Maverick missile acquisition and then determined which acquisition was most appropriate.

The House recedes. The conferees are very concerned that the Air Force and Navy will propose to continue production of Maverick missiles beyond fiscal year 1992 when they have only one production source. Should that be the case, the Government would have lost the benefits of competition, for which it has invested substantial resources. The conferees believe a fundamental assessment of the long term inventory plans for Maverick missiles is critical and must precede any decision on acquisition strategies. The Secretaries of the Air Force and the Navy shall jointly determine the long term inventory objectives for the Maverick missile, and shall solicit the two types of bid proposals from the existing contractors. The conferees direct that no multiyear contract may be entered into until the two Secretaries have jointly reported to the Congress on their inventory goals and which acquisition strategy is most cost-effective in meeting those goals.

Milestone authorizations (sec. 108)

The House bill contained provisions (sec. 110 and sec. 203) that would repeal the milestone authorizations for four specific weapon systems.

The Senate amendment contained a provision (sec. 107) that would amend the milestone authorization for those same four weapon systems.

The House recedes with an amendment.

B-2 bomber program funding (sec. 111)

The amended budget request contained $2,108.0 million for procurement of three B-2 aircraft; $409.8 million for advance procurement for five B-2 aircraft in fiscal year 1991; and $331.6 million for initial spares for the B-2 bomber program.

The House bill would provide $1,608.0 million for procurement of two B-2 aircraft; $169.8 million for advance procurement of two B-2 aircraft in fiscal year 1991; and $101.6 million for initial spares. The House bill would also authorize procurement of two B-2s in fiscal year 1991.

The Senate amendment would provide $1,808.0 million for procurement of three B-2 aircraft and fully fund the requested amount for long-lead items for five B-2 aircraft in fiscal year 1991 and for initial spares. The Senate amendment would not authorize a level of B-2 production for fiscal year 1991.

The conferees agree to authorize procurement of two B-2 aircraft in fiscal year 1990 and advance procurement for five B-2 aircraft in fiscal year 1991 as follows:

Fiscal year 1990

Account	*Millions*
RDT&E	$1,881.448
Procurement	1,663.974
Advance procurement	424.800
Initial spares	331.600

Programmatic issues regarding the B-2 bomber (secs. 111-119)

Both the House bill and the Senate amendment contained a number of provisions bearing on the B-2 program (House secs. 111-118, Senate secs. 133-135, 942.) The conferees have accepted many of the limitations on obligations, including both demonstrated performance milestones, required certifications by the Secretary of Defense, and several reports by DOD, the General Accounting Office, the Defense Science Board, and a new independent expert review group (secs. 111-116). By these actions, the conferees emphasize that decisions about the future of B-2 program will be based on successful flight test results, cost considerations and demonstrated requirements.

The B-2 flight testing program during fiscal years 1990 and 1991 will provide most of the answers to questions about B-2 flight performance and low-observability, during which time the conferees agree to hold production to low levels. Thereafter, assuming the flight test results are satisfactory, the congressional defense committees will have to decide whether or not to make a major commitment to B-2 production. To empha-

size that this is a decision not yet taken, the conferees have agreed to adopt both sections 118 and 119 of the conference report, the former requiring a study of the costs and consequences of production of fewer than 132 B-2s, and the latter specifically stating that the Congress, by its actions in approving this Act, has not made a commitment to serial production.

Finally, the conferees note the critical importance they attach to timely completion of the several B-2 studies and reports requested in these sections, as input to their fiscal year 1991 deliberations, and direct the Secretary of Defense to ensure timely delivery of the required reports.

Limitation on B-1B electronic countermeasures recovery program (sec. 121)

The House bill contained a provision (sec. 119) that would impose funding limitations on the use by the Air Force of expired or lapsed (M account) funding for corrective actions to the B-1B's defective defensive electronic countermeasures (ECM) system.

The Senate amendment contained a provision (sec. 132) that would require the Secretary of Defense to develop and implement a comprehensive test plan for the Air Force's proposed modifications to the defensive avionics system, to include both the core configuration and the installation and integration of a radar warning receiver, before fleet-wide modifications would be permitted.

Both bills reflect the continuing congressional concern that Air Force and contractor efforts to date to obtain a functioning, effective and reliable defensive electronic countermeasures capability have been characterized by substantial failure and continued cost overruns. Until a test and evaluation of proposed modifications is satisfactorily completed, the conferees have no confidence that fixes proposed by the Air Force, the cost of which will approach another billion dollars, will result in significantly improved B-1B penetration capability. The conferees also view with dismay prior efforts by the Air Force to withdraw substantial sums of expired and/or lapsed funds to engage in repair efforts, without prior Congressional notification. The oversight responsibilities of the authorizing committee require timely notifications not just of problems encountered with fielded systems but also of the justification for proposed expenditures of funds for corrective actions.

Accordingly, the conferees agree to a provision that would direct the Secretary of Defense to develop and implement a test program, using up to six B-1B aircraft, prior to further fleet-wide modifications to the B-1B defensive avionics system. The Secretary may, however, use M account funds to bring the first 19 production B-1B aircraft to the common configuration of the balance of the fleet. The testing would encompass both the core modification and the installation and integration of a radar warning receiver. This will provide the basis for the authorization committees to determine whether the proposed modifications would provide an increase in penetration capability commensurate with the additional cost of the modifications.

The conferees further agree to cap the amount that the Air Force may utilize for B-1B ECM recovery activities from expired and lapsed funds at $527.1 million, coresponding to the amount of unobligated funds from appropriations for the B-1B program that have been contributed to the M Accounts in prior fiscal years. If further funds are required to carry out B-1B recovery activities, they will have to be requested as specific authorizations in future fiscal years.

Advanced cruise missile (sec. 122)

The Senate amendment contained a provision (sec. 136) that would limit the obligation of fiscal year 1990 procurement funds for production of the Advanced Cruise Missile.

The House bill contained no similar provision.

The House recedes. Additional guidance by the conferees on this program is contained in the classified annex to this statement of managers.

Cap on number of MX missiles that may be deployed (sec. 123)

The House bill contained a provision (sec. 138) that would limit the number of MX missiles deployed to not more than 50.

The Senate amendment contained no similar provision.

The Senate recedes.

Procurement of F-14D aircraft (sec. 131)

The House bill contained a provision (sec. 127) that would require that not less than $1.001 billion of the funds appropriated for procurement of aircraft for the Navy be used only for procurement of F-14D aircraft. The provision would require that $857 million shall be available only to procure 12 new production F-14D aircraft, that $89 million shall be available only for advance procurement for 12 new production aircraft in fiscal year 1991, and that $55 million shall be available only for advance procurement of 6 remanufactured F-14D aircraft in fiscal year 1991. No funds would be provided for the remanufacture program in fiscal year 1990.

The Senate amendment contained a provision (sec. 141) that would prohibit the obligation of any funds to procure new production F-14 aircraft. The Senate amendment would authorize the funds for the remanufacture program and terminate the F-14 production line as contained in the amended budget request.

The conferees deliberated extensively on the future of Navy aviation and the role of the F-14 in current and future modernization requirements. The conferees believe that the F-14 program should be terminated, but that a one-time concluding purchase of aircraft would facilitate the transition required in the industrial base to support an aircraft that will no longer be in production. Consequently, the conferees recommend an authorization for a final production lot of 18 new production F-14s. The conferees recommended a provision that would require the Navy and the contractor to enter into a contract that terminates the F-14 production line as these final 18 aircraft are being manufactured prior to obligating the funds for the final production F-14s. The provision would also prohibit the obligation of any funds for new production aircraft beyond those appropriated pursuant to authorization contained in this conference report.

The conferees believe that the F-14 remanufacture program must proceed on schedule since it represents the only viable long term solution to modernization of the fleet. The conferees recommended that the remanufacture program proposed in the amended budget request be authorized at the requested levels.

AH-64 attack helicopters (sec 132)

The amended budget request contained $752.056 million to procure 66 AH-64 helicopters in fiscal year 1990 and $36.5 million in advance procurement for the final 66 helicopters to be procured in fiscal year 1991. The Administration proposed that the AH-64 helicopter program be terminated after fiscal year 1991.

The House bill would authorize $680.6 million to procure 60 helicopters in fiscal year 1990 and $80.5 million for advance procurement for 60 helicopters in fiscal year 1991. The House bill also contained a provision (sec. 108(b)) that would direct the Secretary of the Army to enter into a 4-year multiyear contract to buy a total of 240 helicopters starting with those authorized for procurement in fiscal year 1990.

The Senate amendment would authorize $701.756 million for 66 helicopters in fiscal year 1990 and $36.5 million for advance procurement in fiscal year 1991. The Senate amendment would reduce the budget request by $50.3 million because of the availability of prior year funds in the AH-64 program. The Senate amendment also contained a provision (sec. 142) that would require the termination of the AH-64 program after fiscal year 1991.

The Senate recedes with an amendment. The conferees recommend a provision that would require termination of the AH-64 program after fiscal year 1991. The conferees note that termination of the AH-64 program at that point will leave certain Army National Guard and Reserve aviation units without AH-64 helicopters. The conferees direct the Secretary of the Army to evaluate the modernization needs of those units and to report to the Congress by March 1, 1990 on how remaining reserve component aviation units will be modernized.

Army helicopter improvement program (sec. 133)

The House bill contained a provision (sec. 129) that would require that of the funds appropriated for procurement of aircraft for the Army in fiscal year 1990, $276.4 million shall be available only for the Army helicopter improvement program. The provision would require that those funds be offset by certain reductions in other Army accounts.

The Senate amendment contained a provision (sec. 143) that would prohibit the obligation of funds for procurement of the Army Helicopter Improvement Program.

The conferees extensively deliberated the future of the Army Helicopter Improvement Program and its role in modernization of Army aviation. The Conferees believe the AHIP program should be terminated. The conferees recommend a final procurement production lot in order to facilitate a more orderly transition out of production. The conferees note that the Army's LHX program is nearing a critical state in its acquisition cycle and believe the additional procurement year of AHIP provides insurance in the event the LHX program is substantially revised.

The conferees recommend a provision that would provide $195 million for procurement and installation of the last 36 AHIP modification kits.

The Senate recedes with an amendment.

F-15 aircraft (sec. 134)

The Senate amendment contained a provision (sec. 144) that would prohibit the obligation of funds to procure F-15 aircraft after fiscal year 1991.

The House bill contained no similar provision. The House report (H. Rept. 101-121) would direct the Department of Defense to conduct certain studies on the risk caused by termination of the F-15E and the feasi-

bility of extending production beyond fiscal year 1991.

The House recedes.

The conferees agree with the House position that there is risk associated with termination of the F-15E before an Air Force variant of the A-12 enters production. The conferees concur with the direction contained in the House report. The conferees will reconsider the F-15E termination decision next year in light of these reports. The conferees are prepared to amend this provision if the studies and reports indicate that the risk caused by termination is too great.

Army recovery vehicle (secs. 135 and 143)

The House bill contained a provision (sec. 123) that would require the Secretary of the Army to complete the technical and operational testing of the Improved Recovery Vehicle. The Secretary would also be directed to study all potential modifications to the existing chassis for the M88 vehicle to meet the mission requirements of the Improved Recovery Vehicle. The provision would further stipulate that the Secretary may not make a decision to enter production of recovery vehicles until operational testing is completed, the Office of Operational Test and Evaluation has certified the performance of the vehicle, and the Secretary has completed a cost-effective analysis supporting his decision.

The Senate amendment contained a provision (sec. 145) that would prohibit the obligation of funds for procurement of the M88A2 recovery vehicle.

The House recedes to the Senate provision. The conferees believe the M88A2 program should be terminated.

The Senate recedes with an amendment to the House provision. The conferees agree to add service life extensions to the alternatives the Secretary is to evaluate for the recovery vehicle mission.

Deactivation of Detroit Army Tank Plan (sec. 141)

The House bill contained a provision (sec. 122(a)) that would prohibit the obligation of funds for the purpose of initiating the layaway of the Detroit Tank Plant.

The Senate amendment contained a similar provision (sec. 121).

The House recedes.

M1 block II modification program (sec. 141)

The House bill contained a provision (sec. 122(b) and (c)) that would prohibit the obligation of funds for long-lead items and nonrecurring costs for the M1 block II modification program until the Secretary of Defense approved the program and the Secretary of the Army provided a report that identified total funding requirements, evaluating the program in terms of live-fire testing, the impact of the increased weight on operational performance, and the relationship of the block II program to the next generation tank.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of the Army to evaluate the overall cost effectiveness of the block II modification program.

Restriction for 10-ton truck tankers (sec. 142)

The Senate amendment contained a provision (sec. 122) that would permit the Army to spend up to $29 million of funds appropriated for 10-ton trucks in fiscal year 1989 for purposes of purchasing and installing additional tanker refueling kits on 10-ton trucks.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees note that both active and reserve components of the Army have a critical shortfall of refueling capability. The conferees agree with the intent of the Senate amendment, but the Army has confirmed that it is not possible to adjust the contract for tanker variants for the existing 10-ton truck program without unacceptable contract penalties to the Government.

The conferees note that the Army intends to procure refueling kits for installation on pallets for use by the new heavy truck configured with the palletized loading system, though that program is not scheduled to begin for several years. The conferees believe that system should have maximum commonality with existing tanker refueling systems.

The conferees also note the current risk of a serious contraction in the U.S. production base for refueling systems. The conferees believe that it is possible to address the manufacturing base concerns at the same time that a refueling shortfall through the new technology of the palletized loading system is addressed.

Consequently, the conferees recommend that up to $29 million of funds appropriated in fiscal year 1989 may be used to procure the same refueling system currently being installed on 10-ton trucks for installation on pallets to be used by the new palletized loading system. The conferees understand that this will require a reprogramming request on the part of the Army that identifies offsets in other procurement accounts, and encourage the Army to proceed as soon as possible with that reprogramming request in order to protect the manufacturing base.

Repeal of HEMTT truck program procurement requirement (sec. 144)

The House bill contained a provision (sec. 136) that would repeal section 129 of the Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180). Section 129 requires the procurement of 4,737 heavy expanded mobility tactical trucks (HEMTT) under terms of multiyear contracts, starting in fiscal year 1988.

The Senate amendment contained a similar provision (sec. 151).

The Senate recedes.

Limitation on modifications of certain special operations forces aircraft (sec. 145)

The amendment budget request contained $212.5 million to procure 11 MH-60 and 11 MH-47 helicopters for special operations forces, and $127.4 million for advance procurement for fiscal year 1991.

Both the House bill and the Senate amendment would authorize the requested amounts.

The House report (H. Rept. 101-121) would direct the Army not to obligate fiscal year 1990 production funds until after the flight tests in these programs were successfully completed.

The Senate report (S. Rept. 101-81) contained no similar direction.

The conferees agree to a provision that would specify that no fiscal year 1990 production funds may be obligated for these programs until the Secretary of the Army certifies that the cost of any modification, correction of deficiencies, or retrofit that is required to meet established contract specifications and overall system performance requirements for the MH-60K and MH-47E helicopters will not be borne by the government. If the Secretary cannot make this certification, he is to report the nature and extent of any prospective government risk and the negotiated contractual agreements that cover any such risk. Upon making this report, the Secretary may obligate the production funds for fiscal year 1990.

Stinger missiles (sec. 146)

The House report (H. Rept. 101-121) would express the concern that the Army not take delivery of Stinger missiles until it ensures that the missiles fully comply with performance specifications.

The Senate report (S. Rept. 101-81) contained no similar language.

The conferees understand that Stinger missiles, as currently configured, do not meet their performance specifications. Yet the missiles perform far in excess of Stinger missiles currently available to the Army. The conferees understand the Army's desire to take delivery of missiles far superior to current missiles, even though not all performance specifications have been met.

The conferees recommend a provision that would permit the Army to take delivery of Stinger missiles, so long as the contractor signs a legally binding contract by which it assumes responsibility for the complete and entire costs, including any costs incurred by the Government, of retrofitting all delivered missiles with whatever hardware and software changes are required to meet 10 percent of the performance specifications.

M109 howitzers (sec. 147)

The amended budget request contained $75.5 million to continue procurement and installation of kits under the Howitzer Improvement Program, which would modify existing M109 self-propelled howitzers.

The House bill would authorize $45.5 million, a reduction of $30 million, in light of delays in the test schedule and continuing software problems.

The Senate amendment would authorize the requested amount.

The House recedes. The conferees note, however, the disappointing results of the recent operational tests and understands that the Army has scheduled a new series of operational tests. Consequently, the conferees direct that none of the funds appropriated pursuant to this authorization may be obligated until the Secretary of the Army has reported to the Committees on Armed Services and Appropriations of the Senate and House of Representatives on the design of the follow-on operational tests and the degree to which the operational and organizational concept of the Howitzer Improvement Program has been validated by these follow-on tests.

The conferees also restrict obligation of funds until the Secretary of the Army certifies that the acquisition executive has approved a baseline acquisition plan for this program that is consistent with the current Five Year Defense Program.

Equal employment opportunities relating to an Army contract (sec. 148)

The House bill contained a provision (sec. 130) that would prohibit the obligation of fiscal year 1990 procurement funds for the C-23 Sherpa aircraft unless the Secretary of the Army secured a commitment from the contractor that it will support equal employment opportunities for all individuals irrespective of race, color, religion, sex, or national origin.

The Senate amendment contained no similar provision.

The Senate recedes.

V-22 aircraft program (secs. 151 and 218)

The House bill contained a provision (sec. 126) that would stipulate that of the funds appropriated for procurement of aircraft for the Navy in fiscal year 1990, $157 million shall be available only for the V-22 program, and $254 million shall be available only for procurement of CH-53E aircraft for use only for the heavy lift mission of the Marine Corps. The House bill would also provide $351 million for continued research and development for the V-22 program. The House report (H. Rept. 101-121) directed the Secretary of Defense to conduct a cost and operational effectiveness analysis (COEA) of all reasonable alternatives to the V-22. The report noted that the House recommended authorization of procurement funds to preserve a pilot production option in fiscal year 1991 pending completion of the COEA.

The Senate amendment contained a provision (sec. 123) that would prohibit the obligation of any funds for procurement of V-22 aircraft or production capability for the V-22.

The Senate report (S. Rept. 101-81) endorsed continued development of the V-22 aircraft for purposes of demonstrating the technological performance of the V-22 to encourage the commercial exploitation of the aircraft. The Senate amendment would authorize $255 million in research and development for that purpose. The Senate report also stipulated that certain reports and certifications be undertaken concerning the V-22 and its commercial applications. The report noted that the V-22 might become affordable in the future if commercial applications might lower its costs to the Government. The Senate amendment would prohibit obligation of prior-year procurement funds and would fully authorize the alternative helicopter program suggested by the Department of Defense.

The conferees deliberated extensively on the future of the V-22 program. The conferees agree that the V-22 aircraft represents revolutionary technology that holds considerable promise for the military. The conferees also note, however, that the cost of the V-22 program may prove unaffordable. The costs of the V-22 can be reduced either by exploiting its commercial potential or by expanding its application to other missions by other military departments.

The conferees recommend authorization of not more than $255 million for research and development, and no advance procurement funds in fiscal year 1990. The Senate recedes on its prohibition on obligation of prior-year procurement funds, and the House recedes on its provisions (sec. 126) mandating procurement funds in fiscal year 1990. The conferees recommend a provision that would limit funding in fiscal year 1990 to research and development in an amount not to exceed $255 million, and prohibit the obligation of procurement funds other than prior year procurement funds.

The conferees endorse the study provisions and certifications required in both the House report and the Senate report. The conferees note that the future of the V-22 will be considered on the basis of the information that will be provided as a consequence of those studies and certifications.

Standard missile II program (sec. 152)

The amended budget request contained $310.6 million for procurement of 590 Standard missiles in fiscal year 1990.

The House bill authorized the requested amount.

The Senate amendment would authorize $390.4 million for procurement of 960 missiles.

The conferees agree to an authorization of $354.2 million for procurement of up to 960 missiles in fiscal year 1990.

The House bill also contained a provision (sec. 121(f)) that would require the Secretary of the Navy to carry out fiscal year 1990 acquisition for the Standard Missile II so as to preserve the existing dual-source production base.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees agree with the House provision and recognize that combining prior and instant year production quantities may be required.

Report on Navy aircraft requirements (sec. 153)

The Senate amendment contained a provision (sec. 152) that would require certain reports from the Secretary of the Navy on requirements and acquisition plans for Navy aviation.

The House bill contained no similar provision.

The House recedes.

Fast sealift ship procurement (sec. 154)

The conferees agree to a provision that would authorize the Secretary of Defense to establish a fast sealift ship program. The Secretary of the Navy may not obligate funds for procurement of ships for the fast sealift ship program until 30 days after the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the design characteristics of such ships. The report shall describe in detail the multimission capability of the ships and shall specify the operational concept for the use of those ships in routine fleet operations as well as in contingencies requiring sealift.

Rationalizing Navy/Marine Corps medium attack squadrons (sec. 155)

In the report accompanying the Senate amendment (S. Rept. 101-81), the Senate directed the Secretary of the Navy to initiate the transfer of A-6 aircraft from the Marine Corps to the Navy, and to replace the aircraft in the Marine Corps with F-18D aircraft. To accomplish the transfer, the Senate amendment would authorize $20 million in research and development, and directed the Navy to initiate installation of a radar beacon bombing system in the F-18D aircraft. The Senate amendment would also increase the procurement authorization for F-18s by $5 million. The increased procurement funding was necessary to buy the more costly F-18D rather than single-seat F-18Cs for the Marine Corps.

The House bill contained no similar provision.

The conferees believe that the composition of Navy and Marine Corps medium attack squadrons must be reconfigured. For years, both the Navy and the Marine Corps have operated A-6 aircraft. The Navy has a pressing shortfall of A-6 aircraft while the Marine Corps would like to discontinue operation of A-6 aircraft in favor of suitable F-18D aircraft for the night, all-weather attack mission. Currently, the Marine Corps operates a large number of different types of aircraft, that is proving to be increasingly burdensome.

The conferees concur with the Senate direction, and have included a provision that would direct the Secretary of the Navy to initiate a systematic transfer of A-6 aircraft from the Marine Corps to the Navy in fiscal year 1990, and to complete such transfer as expeditiously as force structure changes and other support requirements permit. The completion of this transfer must occur by the end of fiscal year 1994. The conferees also direct the Secretary to change the model composition of F-18 procurement in fiscal-year 1990 to increase the quantity of F-18D aircraft and the decrease the quantity of F-18C aircraft accordingly. The conferees recommend an increase in procurement authorization of $5 million to pay for the increased costs associated with the larger number of F-18D aircraft.

The conferees also understand that there will have to be certain improvements and upgrades to the radar on the F-18D to provide it with the required all-weather precision navigation and attack for the long term utilization of this aircraft. Additionally, the conferees understand that software changes in the F-18D aircraft radar upgrade will enable a beacon bombing capability.

In order for the Marine Corps to provide precision close-air support bombing in adverse weather, the Secretary of the Navy shall insure that engineering change orders are undertaken in conjunction with the early stages of the radar upgrade program so that all F-18D aircraft can incorporate this beacon bombing system.

The conferees direct the Secretary of the Navy to report the progress of the A-6 aircraft transfer on an annual basis until completed.

Report regarding Trident submarine construction rate (sec. 156)

The House bill contained a provision (sec. 1251) that would require the Secretary of Defense to submit a report on construction rates for Trident submarines.

The Senate bill contained no similar provision.

The Senate recedes.

MC-130H (Combat Talon) aircraft program (sec. 161)

The House bill contained a provision (sec. 121(a)) that would prohibit the obligation of fiscal year 1990 procurement funds for the MC-130H Combat Talon aircraft until certain conditions were met.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The amendment would prohibit the obligation or expenditure of certain funds for the procurement of MC-130H aircraft until the Director of Operational Test and Evaluation in the Office of the Secretary of Defense submits the following certification to the congressional defense committees: the qualification test and evaluation and qualification operational test and evaluation demonstrate that the aircraft is capable of performing terrain following/terrain avoidance as prescribed in the September 1988 test and evaluation master plan. The funds that would not be obligated or expended until this certification was completed are those contained in the amended budget request for (1) the payment of an award fee to the contractor responsible for integrating the aircraft's avionics ($6 million), and (2) the procurement of contractor-furnished equipment ($49.1 million). Obligation or expenditure of the remainder of the funds requested for the procurement of MC-130H aircraft would not be constrained by the requirement for this certification.

The amendment would also specify that if the certification is made after April 30, 1990, the Secretary of the Air Force may

not incur any costs when he executes the production option for avionics integration in excess of the costs that he would have incurred for such purpose in April 1990.

AC-130U gunship program (sec. 162)

The House bill contained a provision (sec. 121(b)) that would prohibit the obligation of fiscal year 1990 procurement funds for the AC-130U gunship aircraft until certain conditions were met.

The Senate amendment contained no similar provision.

The Senate recedes.

AMRAAM missile program limitation (sec. 163)

The House bill contained a provision (sec. 121(c)) that would prohibit the obligation of funds for full-rate production of the Advanced Medium-Range Air-to-Air missile (AMRAAM) until the Director of Operational Test and Evaluation certified that all required testing had been conducted and that those tests confirmed that the missile satisfied performance requirements and was of stable configuration. Further, the provision would define full-rate production to be a rate in excess of 900 missiles per year. Finally, the provision would stipulate that the Secretary of Defense should ensure that production capability for the AIM-7F/M and AIM-9L/M missiles is maintained until the certification is delivered.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify that the certification by the Director of Operational Test and Evaluation would concern only the tests outlined in the Test and Evaluation Master Plan for the AMRAAM missile. Furthermore, the conferees point out that the prohibition of full-rate production funding is not intended to limit long lead budgeting or product improvement planning for production rates which will exceed 900 missiles per year following the certification by the Director of Operational Test and Evaluation.

Over the horizon backscatter radar (sec. 164)

The amended budget request contained $209.478 million for procurement of the Over the Horizon Backscatter Radar (OTH-B) Alaskan System and $5 million in military construction funds for land acquisition for the Central System.

Both the House bill and the Senate amendment would authorize the requested amount.

The conferees agree to authorize $199.478 million for the Alaskan OTH-B System for fiscal year 1990.

The House bill contained a provision (sec. 121(d)) that would prohibit obligation and expenditure of funds for this program, except for site preparation for the Alaskan System, until the Director of Operational Test and Evaluation (OT&E) certified to Congress that tests of the East Coast System demonstrated that the system meets all performance requirements and contract specifications.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

After passage of the House bill and the Senate amendment, the conferees learned of extremely serious growth in the estimates of the cost of the Alaskan System. Congress had been informed that the fiscal year 1989 appropriation, together with the requested amount for fiscal year 1990, would buy both sectors of the Alaskan System. Now the conferees are informed that these funds are sufficient to procure only one sector. The main reason for the cost growth is the high cost of construction of this type of facility at the site selected by the Air Force.

One certain result of this development is that the Air Force will be unable to procure both the second Alaskan sector and the first sector of the Central System in fiscal year 1991. Therefore, the conferees agree to a provision (sec. 164) that would deny the request for military construction funds for land acquisition for the Central System.

In addition, section 164 would direct the Air Force to award a fully funded, Fixed Price Incentive Firm (FPIF) or Fixed Price Incentive Successive (FPIS) contract, or some other similar type of contract which encourages maximum cost reduction, for the first Alaskan sector, with a priced option for the second sector. The ceiling price for both sectors shall not exceed $530 million. The contract must include all the prime mission equipment, site activation, software, and capabilities that are essential to normal operation of the system.

Section 164 also would prohibit the obligation of funds for the Alaskan System until the Secretary of the Air Force submits to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report on the result of Development Test and Evaluation, including integrated three-sector tests.

Finally, section 164 would require the Director of OT&E to certify that the East Coast System meets all performance requirements and contract specifications relevant to operational test and evaluation.

The conferees direct the Air Force to pursue a cost reduction program with the prime contractor and require a report by March 1, 1990, on the status and results of this program, to be submitted to the Committees on Armed Services and Appropriations of the Senate and House of Representatives. As part of this program, the conferees expect the Air Force to initiate site-specific design activities as soon as possible in order to reduce uncertainties and risks in construction bids. The contract for the Alaskan System should be flexible enough to accommodate any cost reductions identified through such a program.

MILSTAR satellite program (sec. 165)

The House bill contained a provision (sec. 121(e)) that would prohibit the obligation and expenditure of funds for the MILSTAR satellite and terminal program until the Secretary of Defense submits to Congress a Selected Acquisition Report (SAR) on the program, a comprehensive master plan for the program, and an analysis of the feasibility of establishing a cost sharing plan among all potential users of the system.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The conferees agree to a provision that would direct the Secretary of Defense to submit to Congress (1) a SAR on the total MILSTAR program, including the various terminal programs; (2) a master plan for the system; and (3) a cost-sharing feasibility analysis. These items must be submitted no later than 180 days after the date of enactment of this Act. The conferees further agree to limit the obligation of funds for the total MILSTAR program to 75 percent of the funds appropriated until these items are submitted to Congress. The limit on obligation shall not apply to the Navy's ship and shore terminal program.

Finally, the conferees endorse the reporting requirement contained in the Senate report (S. Rept. 101-81).

Air-land support for ground combat forces (secs. 166 and 1102)

The House bill contained a provision (sec. 1223) that would require the Department of Defense to contract with the Institute for Defense Analysis to conduct a study on close support. The provision would also direct the Chairman of the Joint Chiefs of Staff to conduct a parallel study, with both studies independent of each other. Both studies would evaluate the same issues, notably requirements for close air support and the characteristics that determine the effectiveness and survivability of close support systems.

The House bill contained a second provision (sec. 1224) that would direct the Department of Defense to execute the close air support operational test plan as required by section 108 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) and emphasize that the tests must be operational in character, conducted by the Army and at Ft. Hood, Texas. The House bill would also broaden the scope of the tests to include any system or combination of systems which are potential alternatives for the close support mission. The House bill would authorize the $45 million requested for those tests.

The Senate report (S. Rept. 101-81) expressed concern over the close air support issue and endorsed the operational test plan developed by the Director, Operational Test and Evaluation, pursuant to section 108 of Public Law 100-526. The Senate amendment would authorize the funds for the test as contained in the amended budget request.

The conferees agree with the direction of the House report (H. Rept. 101-121) that the close air support concept must be broadened to a more realistic framework that evaluates all systems that contribute to the indirect fire support mission, including fixed wing aircraft, helicopters and long range artillery systems.

Subsequent to passage of the Senate amendment, the Department of Defense has taken certain steps that seriously jeopardize the objectivity and usefulness of the proposed operational tests. The conferees believe these actions undermine the usefulness of the tests and recommend that no funds be authorized at this time. The conferees believe, however, that the Department must objectively evaluate alternatives for improving air-land support for ground combat forces.

Since the Senate amendment was passed, the Air Force has reported to the Congress that the funds requested for initiating certain improvements to the A-10 cannot be obligated and the funds requested for the F-16 should be reduced by 80 percent. The conferees understand that the reduction was proposed because the Air Force does not believe it could execute the program as proposed in the amended budget submission. Nonetheless, the conferees are concerned that this reduction projects a low priority by the Air Force for this important mission.

The conferees continue to believe that close air support should enjoy substantially higher priority in the Department of Defense than the Air Force and the Army are willing to give it. Consequently, the conferees recommend a provision that would prohibit the Air Force from obligating funds to

procure F-16 aircraft until the Director of Operational Test and Evaluation certifies that the Air Force and the Army have developed an operational test plan that adequately evaluates alternatives for modernizing air-land fire support for ground combat forces. Further, the provision would prohibit the obligation of funds for F-16 procurement until the Director of Operational Test and Evaluation certifies that the Air Force has fully integrated aircraft flying close air support into the laser instrumentation system used at the National Training Center at Fort Irwin, California.

The Senate recedes on House section 1223; the House recedes on section 1224.

Restriction on 155mm binary chemical munitions (sec. 171)

The House bill contained a provision (sec. 101(b)) that would prohibit any of the funds appropriated or otherwise made available for fiscal year 1990 for porcurement of ammunition for the Army to be used for production of 155mm binary chemical munition projectiles. In line with this prohibition, the House provision would reduce the Army ammunition procurement authorization by $47 million. The House provision would also provide the Secretary of the Army reprogramming authority for the 155mm program contingent on the Secretary certifying that such reprogramming authority is necessary for the preservation of the production base or capability for such munitions.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees support the 155mm binary chemical munition program but agree that fiscal year 1990 funds are not required unless production problems involving the contractor for one of the key components of this weapons system are fully and expeditiously remedied and new 155mm chemical agent production lines being constructed at Pine Bluff Arsenal, Arkansas, are proven out, accepted by the Army, and fully operational by next spring.

In a September 20, 1989 letter to the Committee on Armed Services of the House of Representatives from the General Accounting Office (GAO), the conferees were informed that the Army believes that the delinquent contractor will by January 1990 increase production of the 155mm component to a specified monthly level well above the current contract level and will be capable of sustaining that production rate thereafter. Over recent months, the contractor has steadily increased its production rates of the pacing 155mm component. However, a substantial backlog of components authorized for production in prior years still remains and the contractor has yet to demonstrate that it can achieve or sustain the higher production rate specified in the GAO letter. In the letter, the GAO expressed skepticism that the contractor could achieve this production rate but concluded that, "If this can be done, then a fiscal year 1990 program is needed."

The new chemical agent production line at Pine Bluff Arsenal has experienced a three month slippage in its construction schedule. Nevertheless, the Army believes that these problems have been overcome and that the facility will be proven out, accepted and in full-scale production by March 1990. In its September 20 letter, the GAO stated, "Whether this can be done remains to be seen."

In view of the uncertainties involved with the contractor for the pacing 155mm component and the construction schedule at Pine Bluff, the conferees agree to authorize $47 million in fiscal year 1990 for procurement of 155mm binary chemical munition M687 projectiles but to prohibit the use of these funds until the Secretary of the Army submits to the congressional defense committees a certification and two weeks have elapsed after the certification has been received. The certification by the Secretary of the Army must state that two conditions have been met:

(1) based on deliveries of specified components of the M687 projectile accepted by the Government from the contractor:

(a) the contractor has demonstrated monthly delivery rates of those components sufficient to eliminate before October 1, 1990, the production backlog of all components for M687 rounds authorized for production for fiscal years 1986, 1987, and 1988;

(b) the components and rounds for which delivery has been accepted conform to the contract specifications at the time that the Government entered into the contract and thus have not been accepted as the result of waivers or contract deviations granted by the Army; and

(c) the contractor has sustained those monthly delivery rates for such components for a period of not less than three consecutive months; and

(2) the new DC production line at Pine Bluff Arsenal has been proven out, the DC/DF link-up established, and the facility accepted by the Army.

The conferees also agree to direct the GAO to submit monthly reports to the congressional defense committees starting February 1, 1990, on the contractor's monthly production rate of the specified components and on the status of the production backlog for fiscal years 1986, 1987, and 1988 for those components. Not later than two weeks after the certification by the Secretary of the Army is received, the GAO is directed to submit a report containing its assessment of whether the monthly delivery rates by the contractor demonstrate that there is reasonable grounds to believe that the contractor will continue to deliver at those monthly rates in order to eliminate the backlog of component production by October 1990. Finally, the conferees agree to exempt from the restriction on 155mm binary chemical munition funding up to $2 million required for procurement of long-term lead materials to support procurement of plastics for canister production for the M687 projectile.

Retrograde of chemical munitions from Europe (sec. 172)

The House bill contained a provision (sec. 124) that would prohibit the obligation of any funds appropriated for fiscal year 1990 or a prior year for the purpose of carrying out the planned withdrawal of U.S. unitary chemical munitions from Europe until the Secretary of Defense submits a certification and revised concept plan to the Committees on Armed Services of the Senate and House of Representatives. The certification must include an assurance that an adequate U.S. binary stockpile will exist before any withdrawal from Europe of the unitary stockpile is carried out and that the retrograde program is based on minimum technical risk, minimum operational risk, and maximum safety to the public. The revised concept plan must include a description of the full budgetary effect of the retrograde program and its potential effect on the chemical demilitarization program. The House provision would also prohibit the transfer of any funds from the chemical demilitarization emergency response program for the retrograde program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

Chemical demilitarization cryofracture program (sec. 173)

The House bill contained a provision (sec. 125) that would direct the Secretary of Defense, to the extent funds are available for the purpose, to proceed as expeditiously as possible with the project to develop an operational cryofracture facility at the Toole Army Depot, Utah. The provision would also direct the immediate obligation of $16.3 million of the funds authorized and appropriated in fiscal year 1989 for the chemical demilitarization program for continued research and development testing of the cryofracture program.

The Senate amendment contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Funding for procurement of certain conventional forces

The House bill contained a provision (sec. 128) that would increase authorization for procurement of Army aircraft by $147 million to procure spare parts and supplies required in fiscal year 1990 to repair Army helicopters damaged this spring in storms. The provision would also increase Army missile procurement by $41 million for multiple launch rocket system (MLRS) rockets, and by $30 million for conventional ammunition.

The Senate bill contained no similar provision.

The House recedes.

Sense of Congress on remanufacture of military equipment

The House bill contained a provision (sec. 134) that would state the sense of Congress that the Department of Defense should emphasize remanufacture of existing military equipment, especially medium tactical trucks for the Army.

The Senate amendment contained no similar provision.

The House recedes. The conferees agree that remanufacture of existing military equipment could well be the most cost-effective solution to modernization during periods of limited budgetary resources, but that the choice between remanufacture and new procurement must be based on a case-by-case analysis.

The conferees agree with the intent of the Senate report (S. Rept. 101-81) concerning service life extension of tactical medium trucks. The conferees believe the deteriorating condition of current trucks justifies an acceleration of the service life extension program. The conferees request the Secretary of the Army to provide by March 1, 1990 a plan to refurbish 2 and ½ ton and 5 ton trucks in fiscal years 1992 and 1993 respectively, or at the earliest practicable date, for both active and reserve component truck fleets.

Revision in procurement funding levels

The House bill contained a provision (sec. 139(a)) that would authorize $176.3 million for host nation support programs.

The Senate amendment contained no similar provision; however, it would also authorize an identical amount for host nation support programs.

The House recedes. The conferees' approval of the amount contained in the

amended budget request for host nation support programs is reflected in the appropriate line items in the procurement funding tables.

Trident II missile program

The Senate amendment contained a provision (sec. 131) that would prohibit reductions to Trident II missile program funding.

The House bill contained no similar provision.

The Senate recedes.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (RDT&E)

OVERVIEW

The amended budget request for fiscal year 1990 contained an authorization of $39,545.3 million for research, development, test, and evaluation in the Department of Defense. The House bill would authorize $38,666.7 million. The Senate amendment would authorize $40,044.6 million. The conferees recommend authorization of $38,227.0 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

RESEARCH AND DEVELOPMENT, ARMY

OVERVIEW

The amended budget request for fiscal year 1990 contained $5,693.5 million for Army research, development, test, and evaluation. The House bill would authorize $5,858.5 million. The Senate amendment would authorize $5,768.6 million. The conferees recommended authorization of $5,710.9 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

The tables display the total amount authorized for Research and Development, Army for fiscal year 1990. This amount is greater than the total authorized in section 201 of the conference report, but is equal to the sum of the pertinent amounts in sections 201 and 108 (milestone authorizations). The difference is attributable to the Army Tactical Missile program, which was authorized in the National Defense Authorization Act for Fiscal Year 1988 and 1989 as a milestone authorization program. The milestone authorization for that program (as amended) is included in the tables.

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL ARMY							
1	61101A	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	9,079	9,079	9,079		9,079	9,196	9,196
2	61102A	DEFENSE RESEARCH SCIENCES	175,885	185,885	175,885		175,885	182,216	182,216
3	61103A	UNIVERSITY RESEARCH SCIENCES	21,859	41,859	21,859		21,859	22,240	22,240
4	62105A	MATERIALS TECHNOLOGY	13,391	17,391	13,391		13,391	13,638	13,638
5	62120A	ELECTRONIC SURVIVABILITY AND FUZING TECH	28,187	28,187	28,187		28,187	27,966	27,966
6	62122A	SURVIVABILITY ENHANCEMENT	5,949	5,949	25,949	10,000	15,949	6,135	6,135
7	62211A	AVIATION TECHNOLOGY	41,492	41,492	41,492		41,492	42,086	42,086
8	62303A	MISSILE TECHNOLOGY	31,008	46,008	31,008		31,008	30,543	30,543
9	62307A	LASER WEAPONS TECHNOLOGY	552	3,552	552		552	545	545
10	62601A	COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	37,219	37,219	37,219		37,219	40,278	40,278
11	62618A	BALLISTICS TECHNOLOGY	30,334	30,334	30,334		30,334	28,980	28,980
12	62622A	CHEMICAL, SMOKE AND EQUIP DEFEATING TECH	53,940	55,940	53,940		53,940	53,942	53,942
13	62623A	JOINT SERVICE SMALL ARMS PROGRAM	5,126	5,126	5,126		5,126	5,248	5,248
14	62624A	WEAPONS AND MUNITIONS TECHNOLOGY	39,104	41,104	39,104		39,104	39,972	39,972
15	62705A	ELECTRONICS AND ELECTRONIC DEVICES	18,221	20,221	18,221		18,221	18,393	18,393
16	62709A	NIGHT VISION TECHNOLOGY	19,269	19,269	19,269		19,269	19,789	19,789
17	62716A	HUMAN FACTORS ENGINEERING TECHNOLOGY	15,000	15,000	15,000		15,000	15,323	15,323
18	62720A	ENVIRONMENTAL QUALITY TECHNOLOGY	11,904	13,904	11,904		11,904	12,198	12,198
19	62727A	NON-SYSTEM TRAINING DEVICE TECHNOLOGY	4,408	4,408	4,408		4,408	4,518	4,518
20	62782A	COMMAND, CONTROL, COMMUNICATIONS TECH	21,903	21,903	21,903	(6,000)	15,903	23,183	23,183
21	62783A	COMPUTER AND SOFTWARE TECHNOLOGY	5,528	5,528	5,528		5,528	5,662	5,662
22	62784A	MILITARY ENGINEERING TECHNOLOGY	45,237	45,237	45,237		45,237	47,744	47,744
23	62785A	MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	17,148	17,148	17,398		17,148	17,053	17,053
24	62786A	LOGISTICS TECHNOLOGY	37,343	40,343	37,343		37,343	37,854	37,854
25	62787A	MEDICAL TECHNOLOGY	96,366	97,366	96,366		96,366	95,510	95,510
		UNDISTRIBUTED TECH BASE				15,000	15,000		92,109
26	62788A	TRACTOR FLOP	1,838	1,838	1,838		1,838	1,817	1,817
27	63001A	LOGISTICS ADVANCED TECHNOLOGY	10,484	10,484	10,484		10,484	10,040	10,040
28	63002A	MEDICAL ADVANCED TECHNOLOGY	34,671	34,671	34,671		34,671	37,244	37,244
29	63003A	AVIATION ADVANCED TECHNOLOGY	31,984	31,984	31,984		31,984	34,156	34,156
30	63004A	WEAPONS AND MUNITIONS ADVANCED TECH	48,774	68,774	108,674	19,000	67,774	33,243	33,243
31	63005A	COMBAT VEHICLE AND AUTOMOTIVE ADV TECH	158,047	110,047	88,047	(7,000)	151,047	172,690	172,690
31a		COMMON CHASSIS ADVANCED TECHNOLOGY		[58,000]		[58,000]			
32	63006A	COMMAND,CONTROL, COMMUNICATIONS ADV TECH	11,652	11,652	11,652	(3,652)	8,000	11,109	11,109
33	63007A	HUMAN FACTORS/PERSONNEL/TRAIN ADV TECH	18,896	18,896	18,896		18,896	19,737	19,737

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
34	63009A	CLASSSIFIED PROGRAM	[ ]					[ ]	
35	63012A	TRACTOR HOLE	9,193	9,193	13,993	4,800	13,993	4,541	4,541
36	63013A	TRACTOR DIRT	1,838	1,838	1,838		1,838	1,180	1,180
37	63102A	MATERIALS AND STRUCTURES ADVANCED TECH	4,689	4,689	4,689		4,689	5,150	5,150
38	63105A	AIDS RESEARCH							
39	63270A	EW TECHNOLOGY	[ ]					[ ]	
40	63313A	MISSILE AND ROCKET ADVANCED TECHNOLOGY	10,678	25,678	10,678	15,000	25,678	8,839	8,839
41	63314A	DIRECTED ENERGY	46,135	46,135	46,135		46,135	56,439	56,439
42	63324A	ARMY DEVELOPMENT AND EMPLOYMENT AGENCY	3,947	3,947	3,947		3,947	3,481	3,481
43	63606A	LANDMINE WARFARE AND BARRIER ADV TECH	10,272	10,272	10,272		10,272	12,982	12,982
44	63607A	JOINT SERVICE SMALL ARMS PROGRAM	6,826	6,826	6,826		6,826	5,872	5,872
45	63710A	NIGHT VISION ADVANCED TECHNOLOGY	21,781	21,781	21,781		21,781	23,294	23,294
46	63733A	ENVIRONMENTAL QUALITY CONTROL EQUIPMENT							
47	63734A	MILITARY ENGINEERING ADVANCED TECHNOLOGY	3,618	3,618	3,618		3,618	3,721	3,721
48	63742A	ADVANCED ELECTRONIC DEVICES DEVELOPMENT	6,849	6,849	6,849		6,849	7,109	7,109
49	63758A	ARMY BATTLEFIELD TECHNOLOGY INTEGRATION	2,600	2,600	2,600		2,600	2,534	2,534
50	63759A	CHEM BIOLOGICAL DEFENSE & SMOKE ADV TECH	3,989	3,989	3,989		3,989	3,970	3,970
51	63768A	BALANCED TECHNOLOGY INITIATIVE							
52	63772A	ADV TACTICAL COMPUTER SCIENCE AND TECH	4,480	4,480	4,480		4,480	4,719	4,719
53	1140011A	ADV SPECIAL OPS RESEARCH, DEVELOP & ACQ	12,371	12,371	12,371		12,371	10,200	10,200
		BATTERY TECHNOLOGY				1,000	1,000		
53a		IR FOCAL PLANE		25,000					
		ADV TECH DEVELOPMENT CLASSIFIED	35,410	35,410	35,410		35,410	36,710	36,710
54	12814A	SPECIAL PROGRAMS	[ ]			[-15,000]		[ ]	--
55	33152A	WORLD-WIDE MILITARY COMMAND AND CONTROL SY	[ ]					[ ]	--
55a		CHEMICAL WEAPONS CONVENTION COMPL MONITOR		15,000	15,000	15,000	15,000		
	63392A	ANTI-SATELLITE SYSTEM (ASAT)	94,572	94,572	94,572	(9,000)	85,572	124,281	--
		STRATEGIC CLASSIFIED	78,699	78,699	78,699	(15,000)	63,699	56,158	--

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
56	63302A	JOINT TACTICAL MISSILE DEFENSE PROGRAM	36,096	86,096	36,096	25,000	61,096	35,003	35,003
57	63303A	SURFACE-TO-SURFACE MISSILE ROCKET SYSTEM	47,175	47,175	47,175	(18,278)	28,897	47,207	47,207
58	63604A	NUCLEAR MUNITIONS AND RADIACS -ADV DEV	[ ]					[ ]	--
59	63612A	ADVANCED ANTI-TANK WEAPON SYSTEM	56,598	56,598	56,598		56,598	21,777	21,777
60	63619A	LANDMINE WARFARE AND BARRIER - ADV DEV	3,747	3,747	3,747		3,747	4,982	4,982
61	63627A	SMOKE, OBSCURANT AND EQUIP DEFEATING SYS -	8,796	8,796	8,796		8,796	12,215	12,215
62	63693A	ARAMAMENT ENHANCMENT INITIATIVE	[ ]					[ ]	
63	63642A	MEDIUM SURFACE-TO-AIR MISSILE	4,740	4,740	4,740	(4,740)		6,812	--
64	63645A	ARMORED FAMILY OF VEHICLES - ADV DEV							
65	63706A	IDENTIFICATION-FRIEND-OR-FOE - ADV DEV			14,200				
66	63713A	ARMY DATA DISTRIBUTION SYSTEM	19,414	19,414	19,414		19,414	13,145	13,145
67	63730A	TACTICAL SURVEILLANCE SYSTEM - ADV DEV	[ ]					[ ]	
68	63738A	NON-SYSTEM TRAINING DEVICES - ADV DEV							
69	63740A	AIR DEFENSE C2I - ADV DEV							
70	63745A	TACTICAL ELECTRONIC SUPPORT SYS ADV DEV	[ ]					[ ]	
71	63747A	SOLDIER SUPPORT AND SURVIVABILITY	6,822	6,822	6,822		6,822	8,640	8,640
72	63754A	CLASSIFIED PROGRAM - ADV DEV	[ ]			[40,000]		[ ]	
73	63757A	FORWARD AREA AIR DEFENSE (FAAD) SYSTEM	40,210	40,210	119,210	16,000	56,210		
74	63766A	TACICAL ELECTRONIC SURVEILL SYS ADV DEV	[ ]					[ ]	
75	63774A	NIGHT VISION SYSTEMS ADVANCED DEVELOP	3,087	3,087	3,087		3,087	3,232	3,232
76	63775A	LIGHT ARMORED VEHICLE/WEASEL EVALUATION							
77	63776A	AIRBORNE ADVERSE WEATHER WEAPONS SYSTEM	23,162	23,162	23,162		23,162		
78	63777A	FOLLOW-ON LANCE - ADV DEV							
79	63801A	AVIATION - ADV DEV	15,971	15,971	15,971		15,971	5,073	5,073
80	63802A	WEAPONS AND MUNITIONS - ADV DEV	46,086	46,086	46,086	(21,086)	25,000	45,635	45,635
81	63803A	CHEMICAL SYSTEMS - ADV DEV	7,211	7,211	7,211		7,211	27,669	27,669
82	63804A	LOGISTICS AND ENGINEER EQUIP- ADV DEV	18,713	18,713	18,713		18,713	18,892	18,892
83	63805A	COMBAT SERVICE SUPPORT COMPUTER SYS EVAL A	2,263	2,263	2,263		2,263	5,089	5,089
84	63806A	CHEMICAL/BIOLOGICAL DEFENSE EQUIP ADV DEV	20,001	20,001	20,001		20,001	24,210	24,210
85	63807A	MEDICAL SYSTEMS - ADV DEV	27,305	27,305	27,305		27,305	28,418	28,418
86	63808A	CLASSIFIED PROGRAM	29,092	29,092	29,092		29,092	16,997	16,997
	63810A	ADV MISSILE SYSTEM-HEAVY	13,000	13,000	13,000		13,000	3,000	3,000

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
87	64202A	AIRCRAFT WEAPONS	9,596	9,596	9,596		9,596	7,517	7,517
88	64216A	AIRCRAFT PROPULSION SYSTEM	51,703	51,703	51,703		51,703	53,042	53,042
89	64223A	LIGHT ARMED SCOUT HELICOPTER	240,728	240,728	240,728	(6,946)	233,782	406,552	406,552
89a		EW DEVELOPMENT				[10,000]			
90	64270A	EW DEVELOPMENT	[ ]					[ ]	
91	64306A	STINGER							
92	64310A	HELIBORNE MISSILE - HELLFIRE							
93	64313A	GRASS BLADE							
94	64321A	JOINT TACTICAL FUSION PROGRAM	[ ]					[ ]	
95	64324A	ARMY TACTICAL MISSILE SYSTEM (ATACMS)	44,661	44,661	44,661		44,661		
96	64603A	NUCLEAR MUNITIONS AND RADIAC - ENG DEV	[ ]					[ ]	--
97	64604A	MEDIUM TACTICAL VEHICLES	18,372	18,372	18,372		18,372	6,943	6,943
98	64609A	SMOKE, OBSCURANT AND EQUIP SYS ENG DEV	13,225	13,225	13,225		13,225	10,149	10,149
99	64611A	ADVANCED ANTI-TANK WEAPON SYS ENG DEV	158,694	158,694	158,694		158,694	116,769	116,769
100	64619A	LANDMINE WARFARE	21,779	21,779	21,779		21,779	27,758	27,758
101	64622A	HEAVY TACTICAL VEHICLES	5,414	5,414	5,414		5,414		
102	64630A	M1A1 DEVELOPMENT PROGRAM						45,767	45,767
103	64702A	JOINT TACTICAL INFORMATION DISTRIBUTION SY							
104	64709A	IDENTIFICATION-FRIEND-OR-FOE - ENG DEV	23,126	23,126	23,126		23,126	18,256	18,256
105	64710A	NIGHT VISION SYSTEMS - ENG DEV	19,354	19,354	19,354		19,354	17,512	17,512
106	64713A	COMBAT FEEDING, CLOTHING, AND EQUIPMENT	4,930	4,930	4,930		4,930	5,340	5,340
107	64715A	NON-SYSTEM TRAINING DEVICES - ENG DEV	16,124	16,124	16,124		16,124	30,352	30,352
108	64718A	PHYSICAL SECURITY							
109	64722A	EDUCATION AND TRAINING SYSTEMS DEVELOP							
110	64723A	SPECIAL PURPOSE DETECTORS	485	485	485		485	500	500
111	64726A	METEOROLOGICAL EQUIPMENT AND SYSTEMS							
112	64740A	TACICAL SURVEILLANCE SYSTEM - ENG DEV	[ ]					[ ]	
113	64741A	AIR DEFENSE C2I - ENG DEV	62,891	62,891	62,891		62,891	75,650	75,650
114	64746A	AUTOMATIC TEST EQUIPMENT DEVELOPMENT	9,269	9,269	9,269		9,269	8,427	8,427
115	64754A	CLASSIFIED PROGRAM - ENG DEV	[ ]			[-59,300]		[ ]	
116	64766A	TACTICAL ELECTRONIC SURVEILL SYS ENG DEV	[ ]					[ ]	
117	64770A	JOINT SURVEILL/TARGET ATTACK RADAR SYS	39,659	39,659	39,659		39,659	50,988	50,988
118	64779A	JOINT INTEROP OF TACT C2 SYS (JINTACCS)	4,622	4,622	4,622		4,622	4,897	4,897
119	64801A	AVIATION - ENG DEV	8,393	15,393	8,393	7,000	15,393	11,639	11,639
120	64802A	WEAPONS AND MUNITIONS - ENG DEV	16,364	26,364	21,364	10,000	26,364	6,428	6,428
121	64803A	CHEMICAL SYSTEMS - ENG DEV	31,444	31,444	31,444		31,444	6,364	6,364

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
122	64804A	LOGISTICS AND ENGINEER EQUIP ENG DEV	31,532	31,532	31,532		31,532	24,155	24,155
123	64805A	COMMAND, CONTROL, COMMUNIC SYS- ENG DEV	11,893	11,893	11,893		11,893	1,407	1,407
124	64806A	CHEMICAL/BIOLOGICAL DEFENSE EQUIP - ENG DE	39,562	39,562	39,562		39,562	35,090	35,090
125	64807A	MEDICAL MATERIEL/MEDICAL BIO DEFENSE EQ -	17,569	17,569	17,569		17,569	19,318	19,318
126	64808A	LANDMINE WARFARE/BARRIER - ENG DEV	9,802	9,802	22,702		9,802	18,258	18,258
127	64810A	FIBER OPTIC GUIDED MISSILE - ENG DEV	139,366	139,366	154,366		139,366	98,344	98,344
128	64812A	CLASSIFIED PROGRAM						23,258	23,258
129	64813A	TRACTOR PULL	3,920	3,920	3,920		3,920	34,717	34,717
130	64814A	SEEK AND DESTROY ARMAMENT MISSILE - ENG DE	154,972	154,972	154,972		154,972	128,749	128,749
131	64815A	TRACTOR TRAILER	4,927	4,927		(4,927)		4,982	--
132	64816A	AIRBORNE ADVERSE WEATHER WEAPON SYS- ENG D	89,046	89,046	89,046		89,046	146,980	146,980
133	64817A	TRACTOR BALL	9,609	9,609	9,609		9,609	2,465	2,465
134	64818A	ARMY TACTICAL C2 HARDWARE AND SOFTWARE	25,223	25,223	25,223		25,223	22,549	22,549
135	64819A	LINE-OF-SIGHT ANTITANK						78,977	78,977
136	64820A	FOWARD AREA AIR DEF GROUND BASES SENSOR	17,194	17,194	17,194		17,194	20,273	20,273
137	64821A	FOLLOW-ON LANCE	32,819	32,819	32,819		32,819	128,649	--
138	65710A	JOINT CB POINT OF CONTACT, TEST & ASSESSME	6,030	6,030	6,030		6,030	6,251	6,251
139	23726A	ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	37,504	37,504	37,504		37,504	39,262	39,262
140	23735A	COMBAT VEHICLE IMPROVEMENT PROGRAMS	73,216	73,216	93,216		73,216	59,436	59,436
141	23739A	AIR DEFENSE C21 MODIFICATIONS							
142	23740A	MANEUVER CONTROL SYSTEM	7,419	7,419	7,419		7,419	20,241	20,241
143	23743A	155MM SELF-PROPELLED HOWITZER IMPROVE	10,666	10,666	10,666		10,666	3,731	3,731
144	23744A	AIRCRAFT MODS/PRODUCT IMPROVEMENT PROG	81,453	86,453	81,453		81,453	60,846	60,846
145	23745A	WEAPONS AND MUNITIONS EQUIPMENT UPGRADE PR							
146	23752A	AIRCRAFT ENGINE COMPONENT IMPROVE PROG	5,828	5,828	5,828		5,828	6,970	6,970
147	23801A	MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PR	49,895	49,895	49,895		49,895	53,060	53,060
148	23802A	OTHER MISSILE PRODUCT IMPROVE PROGRAMS	80,625	82,625	80,625	2,000	82,625	62,357	62,357
149	23806A	TRACTOR RIG	13,991	13,991	13,991		13,991	22,699	22,699
150	23808A	TRACTOR CARD	12,000	12,000	12,000		12,000	10,000	10,000
151	23809A	DRAGON III			(5,480)				
152	27316A	TACIT RAINBOW	57,686	57,686	57,686		57,686	72,728	72,728

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
153	28010A	JOINT TACT COMMUNICATIONS PROG (TRI-TAC)							
154	33145A	EUCOM C3 SYSTEMS							
		SOLDIER/MARINE ENHANCEMENT PROGRAM(ARMY)			18,000	18,000	18,000		
		PRIOR YEAR SAVINGS-MAXICUBE CARGO			(10,000)				
		PRIOR YEAR SAVINGS-FLUIDTRONICS			(5,000)				
		PRIOR YEAR SAVINGS-VEHICLE INTERCOM SYSTEM			(10,000)				
155	1110011A	FORCE ENHANCEMENTS-ACTIVE	58,536	53,536	58,536	(5,000)	53,536	44,810	44,810
		TACTICAL CLASSIFIED	567,311	577,311	508,011	(9,300)	558,011	640,604	632,728
156	64716A	TERRAIN INFORMATION - ENG DEV	12,921	12,921	7,921		12,921	11,591	11,591
157	64778A	NAVSTAR GLOBAL POSITIONING SYS (USER EQ)	7,747	7,747	7,747		7,747	8,227	8,227
158	31359A	SPECIAL ARMY PROGRAM	[ ]					[ ]	
159	33142A	SATCOM GROUND ENVIRONMENT	55,489	55,489	55,489		55,489	59,132	59,132
160	33401A	COMMUNICATIONS SECURITY (COMSEC)	[ ]					[ ]	
161		INTEL/COMMUNICATIONS CLASSIFIED	26,025	26,025	25,525		26,025	26,208	26,208

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
161	65301A	KWAJALEIN MISSILE RANGE	157,705	157,705	157,705		157,705	164,651	164,651
		KWAJALEIN MISSILE RANGE SECURITY			7,500	[7,500]			
		UNDISTRIBUTED REDUCTION			(2,500)				
162	65502A	SMALL BUSINESS INNOVATIVE RESEARCH							
163	65601A	ARMY TEST RANGES AND FACILITIES	226,929	226,929	220,929	(6,000)	220,929	235,309	235,309
164	65602A	ARMY TECH TEST INSTRUMENTATION & TARGETS	66,926	66,926	66,926		66,926	89,570	89,570
165	65603A	ARMY USER TEST INSTRUMENT & THREAT SIM	64,805	64,805	60,305	(4,500)	60,305	58,117	58,117
166	65604A	TECHNOLOGY AND VULNERABILITY ASSESMENT	[ ]					[ ]	
167	65702A	METEOROLOGICAL SUPPORT TO RDT&E ACTIV	23,490	23,490	23,490		23,490	23,969	23,969
168	65706A	MATERIEL SYSTEMS ANALYSIS	23,505	23,505	23,505		23,505	23,987	23,987
169	65709A	EXPLOITATION OF FOREIGN ITEMS	[ ]			[-5,000]		[ ]	
170	65712A	SUPPORT OF OPERATIONAL TESTING	70,869	70,869	64,869	(6,000)	64,869	75,107	75,107
171	65801A	PROGRAMWIDE ACTIVITIES	89,434	89,434	86,434	(3,000)	86,434	91,494	91,494
172	65802A	INTERNATIONAL COOPERATIVE RESEARCH & DEV	1,750	1,750	1,750		1,750	1,858	1,858
173	65803A	TECHNICAL INFORMATION ACTIVITIES	7,608	7,608	7,608		7,608	7,684	7,684
174	65805A	MUNITIONS STANDARDIZATION, EFFECTIVENESS A	12,699	12,699	12,699		12,699	12,692	12,692
175	65810A	RDT&E SUPPORT FOR NONDEVELOPMENTAL ITEMS	7,534	7,534	9,750		7,534	7,648	7,648
176	65872A	PRODUCTIVITY INVESTMENTS	19,176	19,176	19,176		19,176	19,203	19,203
177	65894A	REAL PROPERTY MAINTENANCE ACTIV- RDT&E	175,331	175,331	175,331	(2,000)	173,331	178,380	178,380
178	65896A	BASE OPERATIONS - RDT&E	198,692	198,692	198,692	(3,000)	195,692	202,980	202,980
179	65898A	MANAGEMENT HEADQUARTERS (RESEARCH & DEV)	14,753	14,753	14,753		14,753	15,049	15,049
180	78011A	INDUSTRIAL PREPAREDNESS	34,454	34,454	34,454		34,454	36,085	36,085
		R&D FACILITIES CONSTRUCT TRANSFER TO MILCO							
		R&D SUPPORT/CIVILIAN WORK YEAR GROWTH							
		REDUCTION FOR ROBOTICS							
181		DEFENSEWIDE MISSION CLASSIFIED	55,997	50,997	49,497	(5,000)	50,997	57,319	57,319
		TOTAL, RDT&E ARMY	5,693,500	5,858,500	5,768,559	17,371	5,710,871	6,027,700	5,791,042

Electrothermal gun

The House bill recommended an authorization of $20 million above the amended request to support competitive work on electro-thermal guns.

The Senate amendment recommended an increased authorization of $25 million for fiscal year 1990 and $35 million for fiscal year 1991, and encouraged the Army Science Board to monitor the program. The Senate report (S. Rept. 101-81) directed the Secretary of the Army to report on assessments of the Army Science Board with the budget submissions for fiscal years 1991 and 1992.

The conferees recommend an increased authorization of $20 million. The funds may not be expended within the Army laboratory system, but must be obligated on a competitive basis in the private sector. Further, the funds must be matched on a dollar-for-dollar basis by each contractor awarded a contract. The Army Science Board is directed to monitor the progress of the funded programs and develop a scheduled plan for testing a selected electro-thermal gun system against the conventional gun system currently being developed preferably during fiscal year 1992, and report to the Secretary of the Army on its findings and recommendations. The Secretary of the Army shall provide a summary assessment of the reports of the Army Science Board to Congress with the budget submissions for fiscal years 1991 and 1992.

Fiber optic guided missile

The House bill would authorize $15 million for development of a fiber optic guided anti-tank weapon system in program element 603313A and would direct that the anti-armor system be specifically developed and tested using the existing Initial Operational Evaluation (IOE) version.

The Senate amendment would provide an increased authorization of $15 million in the Fiber Optic Guided Missile (FOG-M) engineering development account, directing that the funds be used to restore the anti-tank capability inherent in the FOG-M missile.

The Senate recedes.

Tactical missile defense

The amended budget request contained $36,096 million to continue development of tactical ballistic missile defenses under the Joint Tactical Missile Defense Program. The House bill would increase that authorization by $50 million for a total of $86.096 million. The Senate amendment would authorize the requested amount.

The conferees are concerned about the proliferation of tactical ballistic missiles capable of delivering nuclear, chemical or conventional warheads that may confront our forces abroad during the next decade. The conferees support the Administration programs to evaluate technologies to counter the tactical missile threat in combination with continued arms control efforts on Intermediate Nuclear Forces and other tactical missiles.

The conferees agree that the Joint Tactical Missile Defense (JTMD) Program, which is investigating the technologies best suited to counter tactical ballistic missile threats, must treat potentially effective solutions equitably. Any potential solution must be given an unbiased evaluation as to its contribution toward providing the most effective asset defense capability against conventional, nuclear, and chemical tactical missile threats that may face our forward deployed forces in NATO and other theaters. The conferees recommend an additional authorization of $25 million for this effort and direct that the Secretary of the Army report to the Committees on Armed Services of the Senate and House of Representatives on how these additional funds will be obligated.

The conferees recognize the significant contribution that the SDI pre-prototype, anti-tactical ballistic missile (ATBM) interceptor program can make toward developing a defense capability for future forward deployed or contingency forces. Accordingly, the conferees urge that the SDI ATBM pre-prototype interceptor program continue on a high priority basis.

Composite blade

The House bill would authorize $5 million to continue the development of an all-composite blade for the UH-60 helicopter, directing the Army to provide a cost-benefit analysis of composite rotor systems.

The Senate report (S. Rept. 101-81) noted that there are sufficient funds appropriated in prior years that remain available in the UH-60 program, and would direct the Army to use up to $5 million to continue development of the all-composite rotor system.

The House recedes. The conferees direct the Army to provide a cost-benefit analysis of a composite rotor system prior to obligation of these funds.

Mine/countermine capabilities

The House report (H. Rept. 101-121) and the Senate report (S. Rept. 101-81) expressed concern over the ability of U.S. forces to counter increasingly sophisticated anti-vehicle and anti-personnel mines and booby traps. The Senate report highlighted the possibility of using military dogs. The Senate report directed the Army to provide a study by March 1, 1990 outlining approaches for dealing with mines and identifying required funding for that effort.

The conferees endorse the intent of the reports, and direct the Army to prepare a Mine and Countermine Master Plan that includes mine, mine detection, and mine neutralization technology, and submit that plan by March 1, 1990. The plan should include a discussion of the threat, an evaluation of various alternative solutions, and a recommended program with necessary funding.

Line of sight anti-tank system

The House report (H. Rept. 101-121) expressed support for introduction of competition into the hypervelocity missile program to address technical risks. The House report further stated that all efforts should be directed to completing the scheduled test firings by the current contractors before diverting attention to further competition, and, depending on firing results, the Army should structure future competitions to address technical deficiencies.

The Senate report (S. Rept. 101-81) contained no similar language.

The conferees agree with the intent of the House report. The conferees note with concern the test failures in the hypervelocity missile program to date and believe that the Army must be willing to expand the expertise available to make the program a success in the event of future test failures.

Tactical nuclear weapons

The House report (H. Rept. 101-121) directed the Secretary of Defense to conduct the Follow-On-To-Lance (FOTL) development program in a manner that preserves the option of providing functionally-related observable differences (FRODs) that would distinguish between nuclear FOTL missiles on their launchers and other non-nuclear, surface-to-surface missiles on their launchers. In addition, the Secretary of Defense was directed to submit a report to Congress with the fiscal year 1991 amended budget request describing the programmatic, operational, and arms control and defense policy implications associated with FOTL FRODS.

The Senate report (S. Rept. 101-81) did not provide similar direction.

The conferees agree that the FOTL missile system should be readily distinguishable from other, non-nuclear, surface-to-surface missile systems with ranges below the 500 kilometer threshold of the Intermediate-Nuclear Forces (INF) Treaty; therefore, they direct the Secretary of Defense to conduct the FOTL development program in a manner that achieves this result. The conferees believe that FRODs offer one option for distinguishing between nuclear and conventional missiles, but other options should not be ruled out. The conferees direct the Secretary of Defense to submit a report to Congress with the fiscal year 1991 amended budget request describing the programmatic, operational, and arms control and defense policy implications associated both with the FROD option and with other options which the Defense Department could pursue to ensure that the FOTL missile system can be distinguished from other, non-nuclear, surface-to-surface missile systems of less than INF range.

Stingray

The House bill would approve the amended budget request for the Combat Vehicle Improvement program for the Bradley Fighting Vehicle, Block 3, including the Stingray directed energy weapon program.

The Senate amendment would increase the request for Combat Vehicle Improvements by $20 million, directing that the funds be used to initiate full scale development of the Stringray system.

The Senate recedes.

The conferees recommend authorization of the amount requested in the amended budget request in view of the fact that the recommended increase was not included in the Senate and House defense appropriations bills. The conferees support accelerated development of directed energy weapons. The conferees believe directed energy systems are applicable for multiple types of vehicles at an affordable cost. The conferees believe this goal is possible if the Army coordinates the disparate directed energy weapon programs currently underway in various programs and activities.

Mapping, charting, and geodesy

The amended budget request contained $12.9 million for improved positioning equipment and terrain information systems.

The House bill would authorize the requested amount.

The Senate amendment would authorize $7.9 million.

The Senate recedes.

The conferees agree that the Digital Topographic Support System and the Quick Response Multicolor Printer will be of value to tactical forces. The conferees encourage the Army to ensure that commands such as the U.S. Central Command and the U.S. Special Operations Command which support worldwide contingencies, including contingencies in areas where mapping and terrain information resources are poor, be given the highest priority for the fielding of terrain information systems.

RESEARCH AND DEVELOPMENT, NAVY

OVERVIEW

The amended budget request for fiscal year 1990 contained $9,830.3 million for Navy research, development, test, and evaluation. The House bill would authorize $10,171.4 million. The conferees recommend authorization of $10,140.4 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

The tables display the total amount authorized for Research and Development, Navy for fiscal year 1990. This amount is greater than the total authorized in section 201 of the conference report, but is equal to the sum of the pertinent amounts in sections 201 and 108 (milestone authorizations). The difference is attributable to the T-45 Training System and Trident II D-5 ballistic missile programs, which were authorized in the National Defense Authorization Act for Fiscal Years 1988 and 1989 as milestone authorization programs. The milestone authorization for these programs (as amended) is included in the tables.

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL NAVY							
1	61103N	UNIVERSITY RESEARCH INITIATIVES	24,275	44,275	24,275		24,275	24,268	24,268
2	61152N	IN-HOUSE INDEPENDENT LABORATORY RESEARCH	24,426	24,426	24,426		24,426	25,903	25,903
3	61153N	DEFENSE RESEARCH SCIENCES	341,651	349,651	351,651	10,000	351,651	361,746	361,746
4	62111N	ANTI-AIR WARFARE/ANTI-SURFACE WARFARE TECH	58,176	58,176	58,176		58,176	61,003	61,003
5	62121N	SURFACE SHIP TECHNOLOGY	14,717	24,717	14,717		14,717	15,556	15,556
6	62122N	AIRCRAFT TECHNOLOGY	22,686	22,686	22,686	(1,400)	21,286	23,911	23,911
7	62131M	MARINE CORPS LANDING FORCE TECHNOLOGY	16,374	18,374	16,374		16,374	17,616	17,616
8	62232N	COMMAND, CONTROL, & COMMUNICATIONS TECH	16,508	16,508	16,508	(1,000)	15,508	17,832	17,832
9	62233N	MISSION SUPPORT TECHNOLOGY	31,781	31,781	31,781		31,781	33,398	33,398
10	62234N	SYSTEMS SUPPORT TECHNOLOGY	63,593	63,593	63,593		63,593	66,647	66,647
11	62314N	ASW TECHNOLOGY	95,686	129,486	95,686	33,800	129,486	101,911	101,911
12	62315N	MINE AND SPECIAL WARFARE TECHNOLOGY	16,556	17,556	16,556		16,556	17,439	17,439
13	62323N	SUBMARINE TECHNOLOGY	15,334	26,334	15,334		15,334	16,169	16,169
14	62324N	NUCLEAR PROPULSION	14,036	14,036	14,036		14,036	14,353	14,353
15	62435N	OCEAN AND ATMOSPHERIC SUPPORT TECHNOLOGY	29,458	34,458	29,458		29,458	30,897	30,897
		UNDISTRIBUTED TECH BASE				15,000	15,000		92,100
16	62936N	INDEPENDENT EXPLORATORY DEVELOPMENT	16,407	18,407	16,407		16,407	17,289	17,289
17	63202N	AVIONICS							
18	63210N	AIRCRAFT PROPULSION	8,359	8,359	8,359	(1,000)	7,359	9,954	9,954
19	63217N	ADVANCED AIRCRAFT SUBSYSTEMS	9,286	9,286	9,286		9,286	5,893	5,893
20	63268N	NAVAL AIRSHIP							
21	63270N	EW TECHNOLOGY	12,830	12,830	12,830		12,830	12,881	12,881
22	63303N	ELECTROMAGNETIC RADIATION SOURCE ELIM TECH	5,014	5,014	5,014		5,014	5,542	5,542
23	63508N	SHIP PROPULSION SYSTEM	14,123	14,123		(14,123)		18,924	
24	63573N	INTEGRATED ELECTRIC DRIVE	11,998	11,998	58,187	24,066	36,064	11,802	62,907
25	63701N	HUMAN FACTORS ENGINEERING	2,541	2,541	2,541		2,541	2,776	2,776
26	63706N	MEDICAL DEVELOPMENT	17,536	17,536	17,536		17,536	19,018	19,018
27	63707N	MANPOWER AND PERSONNEL SYSTEMS	3,113	3,113	3,113		3,113	3,133	3,133
28	63712N	GENERIC LOGISTICS R&D TECH DEMONSTRATIONS	20,975	20,975	20,975		20,975	13,762	13,762
29	63720N	EDUCATION AND TRAINING	5,374	5,374	5,374		5,374	5,806	5,806
30	63732M	MARINE CORPS ADVANCED MANPOWER/TRAINING SY	4,078	4,078	4,078		4,078	3,522	3,522
31	63733N	SIMULATION AND TRAINING DEVICES	4,587	4,587	4,587		4,587	5,436	5,436
32	63739N	NAVY LOGISTIC PRODUCTIVITY	1,445	1,445	1,445		1,445	1,558	1,558
33	63743N	ARIADNE							

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
34	63747N	ADVANCED ANTI-SUBMARINE WARFARE TECH	4,603	38,303	4,603	33,700	38,303	5,021	5,021
35	63768N	BALANCED TECHNOLOGY INITIATIVE							
	1140011N	ADVANCED SPECIAL OPS-R,D&A	1,600	1,600	1,600		1,600	1,600	1,600
36	63792N	ADVANCED TECHNOLOGY TRANSITION	60,559	60,559	60,559		60,559	49,396	49,396
36a		COUNTERMINE LASER		8,500		8,500	8,500		8,500
36b		PLUME CHARACTERIZATION		4,500		4,500	4,500		
37	63392N	ANTI-SATELLITE SYSTEM (ASAT)							
38	63451N	TACTICAL SPACE OPERATIONS	5,698	5,698	5,698		5,698	3,808	3,808
39	63588N	SSBN SURVIVABILITY	11,918	11,918	11,918		11,918	16,874	16,874
40	63735N	WWMCCS ARCHITECTURE SUPPORT	6,881	6,881	6,881		6,881		
41	63741N	SATELLITE LASER COMMUNICATIONS	2,001	17,001	2,001	15,000	17,001	1,809	1,809
42	64363N	TRIDENT II	216,054	216,054	216,054		216,054	70,670	70,670
43	65856N	STRATEGIC TECHNICAL SUPPORT	6,234	6,234	6,234		6,234	6,542	6,542
44	11221N	FLEET BALLISTIC MISSILE SYSTEM	47,558	47,558	42,558	(4,198)	43,360	63,114	--
45	11224N	SSBN SECURITY TECHNOLOGY PROGRAM	41,994	41,994	50,774		41,994	42,143	57,143
46	11228N	TRIDENT	38,389	38,389	38,389		38,389	36,819	36,819
47	11401N	EXTREMELY LOW FREQUENCY (ELF) COMMUNIC	100	100	100		100	100	100
48	11402N	NAVY STRATEGIC COMMUNICATIONS	31,284	31,284	31,284		31,284	19,250	19,250
49	12427N	NAVAL SPACE SURVEILLANCE	755	755	755		755	782	782
50	33131N	MINIMUM ESSENTIAL EMERGENCY COMM NETWORK (	1,305	1,305	1,305		1,305	1,522	1,522
51	33152N	WORLD-WIDE MILITARY C2 SYSTEMS, INFO SYS	6,026	6,026	6,026		6,026	3,909	3,909
52	63109N	INTEGRATED AIRCRAFT AVIONICS	3,312	3,312	3,312		3,312	4,810	4,810
53	63207N	AIR/OCEAN TACTICAL APPLICATIONS	11,166	11,166	11,166	(3,080)	8,086	12,314	12,314
54	63208N	T-45 TRAINING SYSTEM	26,475	26,475	26,475	(4,000)	22,475	14,603	14,603
55	63216N	AVIATION LIFE SUPPORT SYSTEMS - ADV DEV	8,777	8,777	8,777		8,777	9,579	9,579
56	63220N	ADVANCED TACTICAL SUPPORT (ATS)	999	999	999		999	1,504	1,504
57	63222N	SKIPPER ENHANCEMENTS		10,000		10,000	10,000		
58	63228N	CV ASW MODULE	3,505	3,505	3,505		3,505	3,518	3,518
59	63231N	NAVY ADVANCED TACTICAL FIGHTER	64,735	64,735	64,735		64,735	64,725	64,725
60	63254N	AIR ASW	11,035	11,035	11,035		11,035	11,002	11,002
61	63256N	V-22A							
62	63257N	A-6 UPGRADES							
63	63260N	AIRBORNE MINE COUNTERMEASURES	13,027	13,027	19,427		13,027	16,558	16,558
64	63261N	TACTICAL AIRBORNE RECONNAISSANCE	24,225	24,225	24,225		24,225	32,478	32,478
65	63262N	AIRCRAFT SURVIVABILITY AND VULNERABILITY	9,141	9,141	9,141		9,141	12,662	12,662

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
66	63306N	ADVANCED A/L AIR-TO-SURFACE MISSILE SYS							
67	63318N	ADVANCED SURFACE-TO-AIR MISSILE	91,052	91,052	91,052		91,052	40,400	40,400
68	63319N	NATO AAW SYSTEMS	20,842	20,842	20,842	(3,842)	17,000	23,848	--
69	63320N	LOW COST ANTI-RADIATION SEEKER	12,026	12,026	12,026		12,026	10,246	10,246
70	63321N	ADVANCED AIR-TO-AIR MISSILE (AAAM)	72,651	72,651	72,651		72,651	82,920	82,920
71	63382N	BATTLE GROUP AAW COORDINATION	9,491	9,491	9,491		9,491	10,856	10,856
72	63502N	SURFACE MINE COUNTERMEASURES	14,306	14,306	14,306		14,306	20,595	20,595
73	63504N	ADVANCED SUBMARINE ASW DEVELOPMENT	16,322	16,322	16,322		16,322	28,625	28,625
74	63506N	SURFACE SHIP TORPEDO DEFENSE	51,515	51,515	51,515		51,515	52,984	52,984
75	63512N	SHIPBOARD AVIATION SYSTEMS	7,836	7,836	7,836		7,836	7,347	7,347
76	63513N	SHIPBOARD SYSTEM COMPONENT DEVELOPMENT	12,066	12,066		(12,066)		12,181	
77	63514N	SHIP COMBAT SURVIVABILITY	32,120	32,120	32,120		32,120	30,950	30,950
78	63522N	SUBMARINE ARCTIC WARFARE SUPPORT EQUIP	2,902	2,902	2,902		2,902	2,813	2,813
79	63525N	PILOT FISH	60,393	60,393	60,393		60,393	54,869	--
80	63527N	RETRACT LARCH	[ ]					[ ]	
81	63528N	NON-ACOUSTIC ANTI-SUBMARINE WARFARE	15,994	23,494	15,994		15,994	17,055	17,055
82	63529N	ADVANCED ASW TARGET	25,307	25,307	30,807	5,500	30,807	12,143	12,143
83	63536N	RETRACT JUNIPER	54,721	54,721	54,721		54,721	40,655	--
84	63542N	RADIOLOGICAL CONTROL	3,899	3,899	3,899		3,899	3,959	3,959
85	63551N	LINK SAKI	8,700		8,700	(8,700)		14,000	--
86	63553N	SURFACE ASW	53,855	53,855	53,855		53,855	51,992	51,992
87	63561N	ADVANCED SUBMARINE SYSTEM DEVELOPMENT	37,203	37,203	17,203	(10,000)	27,203	56,060	42,060
88	63562N	SUBMARINE TACTICAL WARFARE SYSTEMS	7,483	7,483	7,483		7,483	7,186	7,186
89	63564N	SHIP DEVELOPMENT	6,213		6,213	(4,600)	1,613	14,163	--
90	63569N	ATTACK SUBMARINE DEVELOPMENT							
91	63570N	ADVANCED NUCLEAR POWER SYSTEMS	80,176	80,176	80,176	(6,615)	73,561	86,989	86,989
92	63571N	PHYSICAL SECURITY							
93	63576N	CHALK EAGLE	113,959	113,959	113,959		113,959	110,394	--
94	63582N	COMBAT SYSTEM INTEGRATION	8,989	8,989	8,989		8,989	8,993	8,993
95	63591N	JOINT ADVANCED SYSTEMS	191,160	191,160	191,160		191,160	113,683	--
96	63601N	MINE DEVELOPMENT	4,345	4,345	4,345		4,345	4,964	24,964
97	63602N	CHALK PINE	[ ]					[ ]	
98	63609N	CONVENTIONAL MUNITIONS	54,405	54,405	54,405		54,405	51,893	51,893
99	63610N	ADVANCED WARHEAD DEVELOPMENT	4,720	9,720	4,720		4,720	4,959	14,959

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
100	63611M	MARINE CORPS ASSAULT VEHICLES	16,167	16,167	16,167		16,167	41,979	41,979
101	63612M	MARINE CORPS MINE/COUNTERMEASURES SYSTEMS	9,592	9,592	9,592		9,592	19,525	19,525
102	63634N	TACTICAL NUCLEAR DEVELOPMENT	15,026	15,026	15,026		15,026	14,232	14,232
103	63635M	MARINE CORPS GROUND COMBAT/SUPPORT SYS	6,562	6,562	6,562		6,562	13,936	13,936
104	63654N	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOP	9,524	9,524	9,524		9,524	10,654	10,654
105	63691N	MK 48 ADCAP - ADV DEV	44,902	44,902	44,902		44,902	59,150	59,150
106	63702N	OCEAN ENGINEERING SYSTEMS DEVELOPMENT	2,185	2,185	2,185		2,135	2,212	2,212
107	63704N	ASW OCEANOGRAPHY	9,408	9,408	9,408		9,408	9,457	9,457
108	63708N	ASW SIGNAL PROCESSING	19,583	19,583	19,583		19,583	24,818	24,818
109	63709N	ADVANCED MARINE BIOLOGICAL SYSTEM	5,715	5,715	5,715		5,715	5,579	5,579
110	63711N	FLEET TACTICAL DEVELOP & EVAL PROGRAM	6,161	6,161	6,161		6,161	6,482	6,482
111	63713N	OCEAN ENGINEERING TECHNOLOGY DEVELOPMENTS	14,729	14,729	14,729		14,729	15,042	15,042
112	63717N	COMMAND AND CONTROL SYSTEMS	28,376	28,376	28,376		28,376	26,400	26,400
113	63719N	CONTAINER OFF-LOADING/TRANSFER SYS(COTS)							
114	63724N	NAVY ENERGY PROGRAM	7,007	7,007	7,007		7,007	7,748	7,748
115	63725N	FACILITIES IMPROVEMENT							
116	63729M	MARINE CORPS COMBAT SERVICES SUPPORT	2,038	2,038	2,038		2,038	1,288	1,288
117	63734N	CHALK CORAL	19,450	19,450	19,450		19,450	30,581	30,581
118	63737N	LINK HAZEL	1,096	1,096	1,096		1,096	1,103	1,103
119	63740N	LINK LAUREL	116,743	116,743	116,743		116,743	123,851	--
120	63744N	LINK SPRUCE							
121	63746N	RETRACT MAPLE	149,954	149,954	149,954		149,954	188,629	--
122	63748N	LINK PLUMERIA	6,340	6,340	6,340		6,340	12,697	--
123	63750N	CHALK WEED	9,238	9,238	9,238		9,238	35,850	35,850
124	63751N	RETRACT ELM	77,999	77,999	77,999		77,999	103,234	--
125	63752N	CHALK POINSETTIA	[ ]					[ ]	
126	63763N	WARFARE SYS ARCHITECTURE AND ENGINEER	6,783	6,783	6,783		6,783	9,429	9,429
127	63764N	LINK EVERGREEN	[ ]					[ ]	
128	63784N	FIXED DISTRIBUTED SYSTEMS - ADV							
129	63785N	ANTI-SUB WARFARE ENVIRON ACOUSTIC SUPP	16,816	31,816	16,816	15,000	31,816	16,985	16,985
130	63787N	SPECIAL PROCESSES	35,498	35,498	35,498		35,498	31,258	--
131	64203N	STANDARD AVIONICS DEVELOPMENT	15,841	15,841	15,841		15,841	16,827	16,827
132	64211N	IFF SYSTEM DEVELOPMENT	26,337	26,337	26,337		26,337	56,488	56,488
133	64212N	LAMPS	7,274	7,274	7,274		7,274	21,387	21,387
134	64213N	HELICOPTER DEVELOPMENT	69,295	18,295	69,295	(51,000)	18,295	90,067	--

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
135	64214N	AV-8B AIRCRAFT - ENG DEV	28,110	28,110	28,110		28,110	30,269	30,269
136	64215N	SUPPORT EQUIPMENT	63,071	63,071	63,071		63,071	21,555	21,555
137	64218N	AIR/OCEAN EQUIPMENT ENGINEERING	2,467	2,467	2,467		2,467	2,777	2,777
138	64219N	AIRBORNE ASW DEVELOPMENTS	8,105	8,105	8,105		8,105	8,605	8,605
139	64221N	P-3 MODERNIZATION PROGRAM	357,147	357,147	357,147		357,147	277,353	277,353
140	64233N	ADVANCED TACTICAL AIRCRAFT	[ ]					[ ]	
141	64260N	C/MH-53E	8,102	8,102	8,102		8,102	9,644	9,644
142	64261N	ACOUSTIC SEARCH SENSORS	49,833	49,833	49,833		49,833	54,565	54,565
143	64262N	V-22A		351,000	255,000	255,000	255,000		
144	64264N	AVIATION LIFE SUPPORT SYSTEMS - ENG DEV	21,654	21,654	21,654		21,654	20,513	20,513
145	64268N	AIRCRAFT ENGINE COMPONENT IMPROVE PROG	37,982	37,982	37,982		37,982	41,368	41,368
146	64270N	EW DEVELOPMENT	140,272	140,272	140,272		140,272	151,327	151,327
147	64301N	MK 92 FIRE CONTROL SYSTEM UPGRADE	3,000	3,000	3,000		3,000	4,192	4,192
148	64303N	AEGIS AREA AIR DEFENSE	12,221	12,221	12,221		12,221	7,623	7,623
149	64307N	AEGIS COMBAT SYSTEM ENGINEERING	54,975	54,975	54,975		54,975	90,499	90,499
150	64309N	SEA LANCE	127,832	127,832	127,832		127,832	139,890	139,890
151	64314N	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE	7,146	7,146	7,146		7,146	3,595	3,595
152	64354N	AIR-TO-AIR MISSILE SYSTEMS ENGINEERING	32,151	32,151	32,151		32,151	28,611	28,611
153	64355N	VERTICAL LAUNCH ASROC							
154	64358N	CLOSE-IN WEAPON SYSTEM (PHALANX)	2,931	2,931	2,931		2,931	6,294	6,294
155	64361N	NATO SEA SPARROW	4,895	4,895	4,895		4,895	5,874	5,874
156	64366N	STANDARD MISSILE IMPROVEMENTS	66,274	66,274	66,274		66,274	49,074	49,074
157	64367N	TOMAHAWK	18,143	18,143	18,143		18,143	18,836	18,836
158	64369N	5" ROLLING AIRFRAME MISSILE	5,261	5,261	5,261		5,261	2,911	2,911
159	64370N	SSN-688 CLASS VERTICAL LAUNCH SYSTEM	8,954	8,954	8,954		8,954	12,352	7,000
160	64372N	NEW THREAT UPGRADE	7,392	7,392	7,392		7,392	12,158	12,158
161	64373N	AIRBORNE MINE COUNTERMEASURES - ENG DEV							
162	64502N	SUBMARINE COMMUNICATIONS	7,360	7,360	7,360		7,360	11,045	11,045
163	64503N	SUBMARINE SONAR DEVELOPMENT	27,179	27,179	27,179		27,179	43,321	43,321
164	64504N	AIR CONTROL	19,146	19,146	19,146		19,146	20,636	20,636
165	64506N	CHEMICAL WARFARE COUNTERMEASURES	7,511	7,511	7,511		7,511	8,254	8,254
166	64507N	NAVY STANDARD SIGNAL PROCESSORS	28,215	28,215	28,215		28,215	20,037	20,037
167	64508N	RADAR SURVEILLANCE EQUIPMENT	6,002	6,002	6,002		6,002	7,724	7,724
168	64515N	SUBMARINE SUPPORT EQUIPMENT PROGRAM	31,379	11,234	31,379	(20,145)	11,234	36,506	16,506
169	64516N	SHIP SURVIVABILITY	6,984	6,984	6,984		6,984	6,120	6,120

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
170	64518N	COMBAT INFORMATION CENTER CONVERSION	24,354	24,354	24,354		24,354	28,526	28,526
171	64524N	SUBMARINE COMBAT SYSTEM	361,138	361,138	361,138		361,138	389,061	389,061
172	64561N	SSN-21 DEVELOPMENTS	191,669	191,669	191,669		191,669	178,209	192,209
173	64562N	SUBMARINE TACTICAL WARFARE SYSTEM	77,341	77,341	77,341		77,341	73,702	73,702
174	64563N	PHYSICAL SECURITY - ENG DEV							
175	64567N	SHIP SUBSYS DEVELOP/LAND BASED TEST SITE	52,693		52,693		52,693	47,493	--
176	64574N	STANDARD EMBEDDED COMPUTER RESOURCES	29,178	29,178	29,178		29,178	33,639	33,639
177	64575N	AN/SQS-53C							
178	64578N	LINK BIRCH	2,498	2,498	2,498		2,498		
179	64601N	MINE DEVELOPMENT	11,663	11,663	11,663		11,663	12,110	22,110
180	64602N	NAVAL GUNNERY IMPROVEMENTS	13,875	13,875	13,875		13,875	14,521	14,521
181	64603N	UNGUIDED CONVENTIONAL AIR-LAUNCHED WPNS	11,810	13,810	11,810		11,810	12,905	12,905
182	64608N	SURFACE ELECTRO-OPTIC SYSTEM	17,030	17,030	17,030		17,030	10,456	20,456
183	64609N	BOMB FUZE IMPROVEMENT	19,000	21,500	19,000		19,000	20,000	20,000
184	64610N	MK 50 TORPEDO	63,638	63,638	63,638		63,638	11,409	11,409
185	64612M	MARINE CORPS MINE COUNTERMEASURES SYSTEMS	27,055	27,055	27,055		27,055	33,333	33,333
186	64654N	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOP	5,706	5,706	5,706		5,706	5,873	5,873
187	64656M	MARINE CORPS ASSAULT VEHICLES	19,500	19,500	19,500		19,500	19,176	19,176
188	64657M	MARINE CORPS GROUND COMBAT/SUPP ARMS SYSTE	199	199	199		199	199	199
189	64675N	MK 48 ADCAP - ENG DEV							
190	64704N	ANTI-SUB WARFARE OCEANOGRAPHIC EQUIPMENT	1,265	1,265	1,265		1,265	1,347	1,347
191	64705N	CHALK BANYAN				20,000	20,000		
192	64707N	OVER-THE-HORIZON TARGETING	3,221	3,221	3,221		3,221	4,023	4,023
193	64708N	INITIAL TRAINER ACQUISITION							
194	64710N	NAVY ENERGY PROGRAM	3,311	3,311	3,311		3,311	3,786	3,786
195	64713N	SURFACE ASW SYSTEM IMPROVEMENT	69,142	99,142	69,142	30,000	99,142	117,882	147,882
196	64715N	SURFACE WARFARE TRAINING DEVICES	17,687	17,687	17,687		17,687	12,160	12,160
197	64717M	MARINE CORPS COMBAT SERVICES SUPPORT	2,254	2,254	2,254		2,254	5,067	5,067
198	64718M	MARINE CORPS INTELL/ELECTRONICS WARFARE SY	999	999	999		999	1,147	1,147
199	64719M	MARINE CORPS COMMAND/CONTROL/COMMUNIC SYS	26,074	26,074	26,074	2,000	28,074	11,641	11,641
200	64727N	JOINT STANDOFF WEAPON SYSTEMS	13,113	13,113	13,113		13,113	24,557	24,557
201	64761N	INTELLIGENCE	1,835	1,835	1,835		1,835	2,474	2,474
202	64763N	LINK CYPRESS	[ ]					[ ]	
203	64771N	MEDICAL DEVELOPMENTS	4,284	4,284	4,284		4,284	4,598	4,598
		SOLDIER/MARINE ENHANCEMENT PROGRAM(MC)			12,000	12,000	12,000		
204	64780M	JINTACCS MARINE CORPS	2,019	2,019	2,019		2,019	1,840	1,840

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
205	64784N	FIXED DISTRIBUTED SYSTEMS - ENG	160,157	160,157	160,157		160,157	204,558	204,558
206	65155N	FLEET TACTICAL DEVELOPMENT AND EVAL	14,651	14,651	14,651		14,651	15,608	15,608
207	65803N	ELECTROMAGNETIC SPECTRUM MANAGEMENT	3,438	3,438	3,438		3,438	3,531	3,531
208	65853N	MANAGEMENT AND TECHNICAL SUPPORT	9,184	9,184	9,184		9,184	9,351	9,351
209	65867N	C2 SURVEILLANCE/RECONNAISSANCE SUPPORT	9,450	9,450	9,450		9,450	10,102	10,102
210	24134N	A-6 SQUADRONS	23,215	23,215	56,115		23,215	21,077	21,077
210a		A-6 PRIOR YEAR SAVINGS			(32,900)				
211	24136N	F/A-18 SQUADRONS	50,644	50,644	70,644		50,644	77,880	77,880
212	24152N	EARLY WARNING AIRCRAFT SQUADRONS	38,932	38,932	38,932		38,932	36,895	36,895
213	24154N	SEA-BASED ELECTRONIC WARFARE SQUADRONS	10,019	13,019	10,019		10,019	2,106	2,106
214	24161N	AVIATION SUPPORT CVW							
215	24163N	FLEET TELECOMMUNICATIONS (TACTICAL)	9,276	9,276	9,276		9,276	8,882	8,882
216	24229N	SURFACE COMBATANT ORDNANCE AND MISSILES	42,252	42,252	42,252		42,252	33,085	33,085
217	24311N	UNDERSEA SURVEILLANCE SYSTEMS	40,869	40,869	40,869		40,869	50,927	50,927
218	24313N	SHIP-TOWED ARRAY SURVEILLANCE SYSTEMS	5,546	5,546	5,546		5,546	7,550	7,550
219	24413N	AMPHIBIOUS TACTICAL SUPPORT UNITS						4,011	4,011
220	24571N	SPECIAL PROJECTS	9,073	9,073	9,073	(2,145)	6,928	9,005	9,005
221	25601N	HARM IMPROVEMENT	5,096	5,096	5,096		5,096		
222	25604N	TACTICAL INFORMATION SYSTEM	96,553	96,553	91,653		96,553	79,764	79,764
223	25620N	ASW COMBAT SYSTEMS INTEGRATION	16,159	16,159	16,159		16,159	19,018	19,018
224	25633N	AIRCRAFT EQUIPMENT RELIABILITY/MAINT PROG	1,004	1,004	1,004		1,004	1,412	1,412
225	25658N	LABORATORY FLEET SUPPORT	6,521	6,521	6,521	(1,000)	5,521	6,553	6,553
226	25667N	F-14 UPGRADE	169,351	169,351	169,351	(40,000)	129,351	119,737	--
227	25670N	TACTICAL INTELLIGENCE PROCESSING	4,314	4,314	4,314		4,314	4,792	4,792
228	25675N	OPERATIONAL REACTOR DEVELOPMENT	53,562	53,562	53,562		53,562	55,788	55,788
229	26313M	MARINE CORPS TELECOMMUNICATIONS	6,138	6,138	6,138		6,138	5,454	5,454
230	26623M	MARINE CORPS GROUND COMBAT/SUPP ARMS SYS	52,684	52,684	52,684	(1,295)	51,389	42,273	42,273
231	26624M	MARINE CORPS COMBAT SERVICES SUPPORT	2,784	2,784	2,784		2,784	3,486	3,486
232	26625M	MARINE CORPS INTELL/ELECTRONICS WARFARE SY	26,454	26,454	26,454		26,454	36,373	36,373
233	26626M	MARINE CORPS COMMAND/CONTROL/COMMUNIC SYS	14,651	14,651	14,651		14,651	24,103	24,103
234	27316N	TACIT RAINBOW							
235	28010M	JOINT TACTICAL COMMUNIC PROG (TRI-TAC)	592	592	592		592	2,046	2,046
236	1110011N	FORCE ENHANCEMENTS-ACTIVE	48,669	48,669	48,669		48,669	62,743	62,743
236a		MEDIUM DEPTH MINE		15,000		7,500	7,500		15,000
236b		TORPEDO DETECTION PROCESSOR		15,000					
236c		USQ-95 RADAR ENVIRON SIMULATOR		1,950					
		TACTICAL CLASSIFIED	1,555,688	1,555,688	1,555,688		1,555,688	1,050,008	1,050,003

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
237	63783N	INTEGRATED PLATFORM COMMUNICATIONS DEVELOP							
238	64230N	WARFARE SUPPORT SYSTEM	33,994	33,994	28,994		33,994	20,105	20,105
239	64231N	TACTICAL COMMAND SYSTEM	47,475	47,475	42,475		47,475	42,191	42,191
240	64232N	COMMUNICATION SUPPORT SYSTEM							
241	64514N	NAVIGATION SYSTEMS	5,700	5,700	5,700		5,700	5,216	5,216
242	64577N	EHF SATCOM	22,268	22,268	22,268		22,268	17,891	17,891
243	64777N	NAVSTAR GPS	43,821	43,821	43,821		43,821	42,747	42,747
244	65866N	NAVY COMMAND AND CONTROL	3,147	3,147	3,147		3,147	4,339	4,339
245	31326N	PRARIE SCHOONER	[ ]					[ ]	
246	31327N	TECHNICAL RECONNAISSANCE & SURVEILLANCE	[ ]			[3,800]		[ ]	
247	33109N	SATELLITE COMMUNICATIONS	15,876	15,876	15,876		15,876	14,087	14,087
248	33401N	COMMUNICATIONS SECURITY (COMSEC)	[ ]					[ ]	
249	33603N	MILSTAR SATELLITE COMMUNICATIONS SYSTEM	5,001	5,001	5,001		5,001	4,517	4,517
250	34111N	SPECIAL ACTIVITIES	[ ]			[20,000]		[ ]	
		INTEL & COMMUNICATIONS CLASSIFIED	686,247	686,247	710,047	23,800	710,047	707,265	707,265

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R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
251	63721N	ENVIRONMENTAL PROTECTION	10,687	10,687	9,187		10,687	11,145	11,145
252	64208N	RANGE INSTRUMENTATION SYS DEVELOP (RISD)	9,105	9,105	9,105		9,105	9,647	9,647
253	64255N	ELECTRONIC WARFARE SIMULATOR DEVELOPMENT	38,276	38,276	38,276		38,276	38,246	38,246
254	64258N	TARGET SYSTEMS DEVELOPMENT	92,208	92,208	92,208	(29,686)	62,522	80,221	80,221
255	64703N	PERSONNEL, TRAIN, SIMUL, & HUMAN FACTORS	1,021	1,021	1,021		1,021	1,047	1,047
256	65150N	COST RESEARCH	996	996	996		996	996	996
257	65151M	STUDIES AND ANALYSIS SUPPORT - MC	2,497	2,497	2,497		2,497	3,013	3,013
258	65152N	STUDIES AND ANALYSIS SUPPORT - NAVY	3,862	3,862	3,862	(1,484)	2,378	4,060	4,060
259	65153M	MARINE CORPS OPER ANALYSIS GROUP, CNA	4,796	4,796	4,796		4,796	5,006	5,006
260	65154N	CENTER FOR NAVAL ANALYSES	28,678	28,678	28,678		28,678	29,165	29,165
261	65156M	MARINE CORPS OPERATIONAL TEST AND EVAL	1,359	1,359	1,359		1,359	1,427	1,427
262	65502N	SMALL BUSINESS INNOVATIVE RESEARCH							
263	65804N	TECHNICAL INFORMATION SERVICES	2,630	2,630	2,630		2,630	3,659	3,659
264	65854M	MARINE CORPS DEVELOPMENT CENTER SUPPORT							
265	65857N	INTERNATIONAL RDT&E	7,546	7,546	7,546		7,546	8,228	8,228
266	65861N	RDT&E LAB AND FACILITIES MANAGEMENT SUPP	56,153	56,153	56,153	(2,141)	54,012	58,876	58,876
267	65862N	RDT&E INSTRUMENTATION AND MATERIEL SUPP	30,630	30,630	29,630	(1,000)	29,630	17,772	17,772
268	65863N	RDT&E SHIP AND AIRCRAFT SUPPORT	98,251	98,251	93,251	(5,000)	93,251	90,172	90,172
269	65864N	TEST AND EVALUATION SUPPORT	346,913	346,913	335,913	(5,000)	341,913	366,703	366,703
270	65865N	OPERATIONAL TEST & EVALUATION CAPABILITY	8,720	8,720	8,720	(3,720)	5,000	8,986	8,986
271	65871M	MARINE TACT EXPLOITATION OF NATL CAPABILIT	1,223	1,223	1,223		1,223	1,824	1,824
272	65872N	PRODUCTIVITY INVESTMENTS	695	695	695		695	700	700
273	35111N	WEATHER SERVICE	1,022	1,022	1,022		1,022	1,060	1,060
274	35160N	DEFENSE METEOROLOGICAL SATELLITE PROGRAM (	4,264	4,264	4,264		4,264	4,474	4,474
275	78011N	INDUSTRIAL PREPAREDNESS	40,499	50,499	45,499	5,000	45,499	41,168	46,168
		TACTICAL OCEANOGRAPHY			3,000	3,000	3,000		
		R&D FACILITIES CONSTRUCT TRANSFER TO MILCO							
		REDUCTION FOR ROBOTICS							
		ASW TECHNOLOGY							90,000
		FAST SEALIFT TECHNOLOGY DEVELOPMENT			30,000	15,000	15,000		15,000
		TOTAL RDT&E, NAVY	9,830,300	10,313,999	10,171,380	310,126	10,140,426	9,336,400	8,499,956

Active ionospheric auroral research

The Senate amendment contained an additional authorization of $10 million that would support Department of Defense studies of technologies to exploit the auroral field.

The House bill contained no similar authorization.

The House recedes.

The conferees agree that exploitation of auroral ionospheric phenomena for improved military and submarine communications programs, and other military and civilian high energy applications, could have high potential payoff.

The conferees direct the Department to allocate funds for both submarine communication and other high energy active ionospheric auroral projects in a manner that ensures a robust research effort in these emerging technologies. Projects should be selected on a competitive basis within each area of research under the overall direction of the Director, Defense Research and Engineering with the participation of the Office of Naval research as appropriate.

Antisubmarine warfare

The House bill authorized an additional $90 million for antisubmarine warfare (ASW) research and development to be distributed among four programs: ASW technology, advanced ASW technology, nonacoustic ASW, and ASW environmental acoustic research.

The Senate amendment authorized funding for these programs at the requested levels.

The conferees recommend an additional authorization of $82.5 million for antisubmarine warfare research and development in fiscal year 1990 to be distributed among the four programs indicated. The conferees agree that a robust ASW program is necessary to fulfill national security objectives; moreover, the continuing improvement in the quality of the Soviet submarine force will reduce the U.S. advantage in antisubmarine warfare. The conferees believe that development of new antisubmarine warfare capabilities should be accelerated.

Laser submarine communications

The amended budget request contained $2.001 million for the satellite laser communications program.

The House bill would add $15 million to the requested amount and would direct that appropriated funds be used to support gas and solid state laser engineering technologies.

The Senate amendment would add $10 million to the Defense Advanced Research Projects Agency (DARPA) request for submarine laser communications research and development.

The Senate recedes.

The conferees agree to authorize $17.001 million for submarine laser communications research and development in the Navy and to authorize the requested amount for such research and development in DARPA. The conferees support the coordination between the Navy and DARPA submarine laser communications programs reflected in the approved Memorandum of Understanding (MOU). All research and development activities supported by this authorization should be conducted in accordance with the letter and spirit of this MOU. Further, the conferees direct that the $17.001 million authorized for submarine laser communications be applied as follows: $3.5 million to support gas laser engineering technology, and $13.501 million to support solid state laser technology, including diode pumping technology. If the appropriated amount is less than the authorized amount, the allocation of funds between gas and solid state technologies should be proportional to the above allocation.

Fleet ballistic missile system

The amended budget request contained $47.558 million for this activity.

The House bill fully funded the request.

The Senate amendment reduced the request by $5 million.

The conferees agree to authorize $43.358 million for this activity.

SSBN security technology program

The amended budget request contained $41.994 million for this program.

The House bill fully funded the request.

The Senate amendment added $8.78 million to the request.

The conferees agree to fully fund the request.

Skipper

The House bill would authorize $10 million to complete test and evaluation of the Skipper air-to-surface weapon system.

The Senate amendment contained no funds for this program.

The Senate recedes.

Advanced tactical fighter/Navy advanced tactical fighter

The House report (H. Rept. 101-121) expressed concern that the Air Force and Navy were not sufficiently coordinating requirements in the selection of an Advanced Tactical Fighter (ATF) that might meet the requirements of both Services. The House report directed the Secretary of Defense to include appropriately weighted Navy ATF requirements in the source selection criteria so that the design best suited to both Air Force and Navy needs wins the competition between the current two contractor teams.

Since the issuance of the House report, the conferees have been informed that source selection criteria give substantial weight to Navy-unique operating requirements. The Services have assured the conferees that Navy operating requirements will have a substantial role in the ultimate selection process. The conferees believe this is critical. The conferees believe it is possible to select a fighter that is best for the Air Force while still being most adaptable for Navy use.

The conferees note that the Navy is evaluating its long-term modernization requirements and plans and that alternatives other than a Navy ATF are being evaluated. This does in no way negate the facts that the Navy must positively participate in the ATF demonstration/validation program, and that the ATF source selection criteria must give substantial weight to Navy requirements.

A-6 attack aircraft

The Senate amendment recommended that $32.9 million of funds appropriated for the A-6G in previous years be used to initiate a Block 3 upgrade program for the A-6.

The House bill contained no funds for this purpose.

The Senate recedes.

The conferees note that the Navy will continue to operate the A-6 into the next century, and that the aircraft must be upgraded to improve its maintainability and survivability. The conferees understand that the Navy has restructured the current block improvement program and intends to program further improvements in the upcoming Five Year Defense Program. The conferees understand that the budget will not permit an expensive modification program like the "F" program or the "G" program. However, the conferees encourage the Navy to program sufficient resources to upgrade the A-6 so that it might operate survivably in the fleet into the next century.

Harpoon and Standoff Land attack missile

The House report (H. Rept. 101-121) expressed support for dual source competitive procurement for both Harpoon and Standoff land attack missiles. The House report noted that the Navy was expected to expedite the qualification of a second source producer for the missiles at the earliest practical date.

The Senate report (S. Rept. 101-81) contained no similar language.

The conferees support competition as long as the Navy's inventory goals and annual procurement objectives are sufficient to justify the cost of establishing a second source producer. Before the Navy does expend funds to establish a second source producer, the conferees expect the Navy to provide a comprehensive analysis that justifies dual sourcing in terms of economic savings. The Navy is warned that it must program in the Five Year Defense Program sufficient quantities of missiles at the rate suggested by the economic analysis before it proceeds to expand the production base for Harpoon missiles.

Shipboard aviation systems

The amended budget request contained $7.8 million for research and development for carrier aircraft handling and launch/recovery systems.

The House bill and the Senate amendment would authorize the requested amount. A limitation on obligation of authorized funds would be imposed by the Senate report (S. Rept. 101-81).

The conferees endorse the limitation imposed by the Senate report.

The conferees continue to support the electromagnetic aircraft launcher project in the shipboard aviation systems program, and they view with concern the Navy's failure to comply with previous congressional direction to proceed to prototype development of the electromagnetic launcher. The conferees direct the Navy to: (1) continue with the planned, full-scale, competitive prototype development of an electromagnetic catapult for naval ships; and (2) not to obligate any funds for the shipboard aviation systems program, except for developmental study of the Navy's future air traffic control and landing system, known as SMATCALS, until the Navy awards initial contracts for prototype development of electromagnetic aircraft launcher systems.

Advanced submarine systems development

The amended budget request included $37.203 million for advanced submarine systems development.

The House bill would authorize the requested amount, while the Senate amendment would reduce these funds by $20 million.

The conferees recommend authorization of $27.203 million for advanced submarine systems development.

The Senate report (S. Rept. 101-81) expressed concern that this program funds development of HY-130 steel, an activity that directly supports the SSN-21 development program.

The House report (H. Rept. 101-121) did not express a similar concern.

The House recedes.

The conferees agree that after fiscal year 1990 development of HY-130 steel—which is intended for the SSN-21 program—is to be undertaken in the RDT&E program devoted to SSN-21 development. Furthermore, the conferees emphasize that other programs that are similarly justified on the basis of their support for the SSN-21 program are to be funded in the SSN-21 development program.

Electronic support measures

The amended budget request contained $31.4 million for research and development for the submarine electronic support measures equipment program for fiscal year 1990.

The Senate amendment would authorize the requested amount. The House bill would reduce the requested amount by $20.2 million.

The Senate recedes.

The conferees agree the reduction is intended to terminate with prejudice the development of the proposed AN/WLQ-() electronic support measures system. The conferees encourage the Navy to: (1) upgrade the AN/WLQ-4(V)1 system to be installed on the SSN-21 class submarines to provide the best affordable capability, (2) schedule installation of integrated electronic mast systems on SSN-21 class submarines at the earliest possible date, and (3) develop and propose to Congress with the first budget request feasible an accelerated development program for a state-of-the-art electronic support measures system for submarines.

Mine warfare

Medium depth mine

The amended budget request contained no authorization for research or procurement related to a new medium depth mine.

The House bill would authorize $15 million for research and development of a medium depth mine.

The Senate amendment contained no similar authorization.

The conferees agree to recommend authorization of $7.5 million in Title II of this statement of managers for research and development of a medium depth mine. The conferees reaffirm the language contained in the House report (H. Rept. 101-121) regarding the conduct and scope of this program.

Mine countermeasures

The conferees remain concerned about deficiencies in the U.S. mine countermeasures capabilities. Accordingly, the conferees reaffirm the direction to the Secretary of the Navy contained in both the House report (H. Rept. 101-121) and the Senate report (S. Rept. 101-81) to report on the requirements for mine countermeasures not later than 30 days after the date of enactment of this Act.

Improved tactical air launch decoy

The House report (H. Rept. 101-121) recommended that the Navy institute an improved tactical air launch decoy program.

The Senate report (S. Rept. 101-81) contained no similar language.

The conferees endorse the language in the House report.

RESEARCH AND DEVELOPMENT, AIR FORCE

OVERVIEW

The amended budget request for fiscal year 1990 contained $14,551.9 million for Air Force research, development, test, and evaluation. The House bill would authorize $14,313.1 million. The Senate amendment would authorize $14,629.9 million. The conferees recommend authorization of $13,938.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL AIR FORCE							
1	61101F	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	7,657	8,657	7,657		7,657	8,114	8,114
2	61102F	DEFENSE RESEARCH SCIENCES	187,555	197,555	187,555		187,555	190,783	190,783
3	61103F	UNIVERSITY RESEARCH INITIATIVES	24,882	44,882	24,882		24,882	24,878	24,878
4	62101F	GEOPHYSICS	36,025	36,025	36,025		36,025	36,434	36,434
5	62102F	MATERIALS	59,313	61,313	59,313		59,313	59,717	59,717
6	62201F	AEROSPACE FLIGHT DYNAMICS	67,650	71,650	67,650		67,650	69,074	69,074
7	62202F	HUMAN SYSTEMS TECHNOLOGY	50,181	52,181	50,181		50,181	51,732	51,732
8	62203F	AEROSPACE PROPULSION	64,921	67,921	64,921		64,921	65,735	65,735
9	62204F	AEROSPACE AVIONICS	68,457	71,457	68,457		68,457	72,014	72,014
10	62205F	PERSONNEL, TRAINING AND SIMULATION	29,018	32,018	29,018		29,018	28,990	28,990
11	62206F	CIVIL ENGINEERING AND ENVIRONMENTAL QUAL	6,051	6,051	6,051		6,051	5,885	5,885
12	62302F	ROCKET PROPULSION	37,740	39,740	37,740		37,740	38,505	38,505
13	62601F	ADVANCED WEAPONS	32,880	32,880	32,880		32,880	34,029	34,029
14	62602F	CONVENTIONAL MUNITIONS	44,459	46,459	44,459		44,459	45,266	45,266
		UNDISTRIBUTED TECH BASE				13,000	13,000		92,100
15	62702F	COMMAND CONTROL AND COMMUNICATIONS	83,012	86,012	83,012		83,012	84,400	84,400
16	63106F	LOGISTICS SYSTEMS TECHNOLOGY	9,616	9,616	9,616		9,616	13,469	13,469
17	63109F	INEWS/ICNIA	36,364	36,364	36,364		36,364	31,788	31,788
18	63112F	ADVANCED MATERIALS FOR WEAPON SYSTEMS	12,116	12,116	9,116		12,116	14,673	14,673
19	63202F	AEROSPACE PROPULSION SUBSYS INTEGRATION	23,152	23,152	23,152		23,152	27,771	27,771
20	63203F	ADVANCED AVIONICS FOR AEROSPACE VEHICLES	26,994	26,994	26,994		26,994	32,582	32,582
21	63205F	AEROSPACE VEHICLE TECHNOLOGY	19,150	19,150	19,150		19,150	21,858	21,858
22	63211F	AEROSPACE STRUCTURES	18,087	18,087	18,087		18,087	18,705	18,705
23	63216F	AEROSPACE PROPULSION AND POWER TECH	34,923	34,923	34,923		34,923	39,256	39,256
24	63226F	DOD COMMON PROGRAMMING LANG (ADA) ADV DEV							
25	63227F	PERSONNEL, TRAINING AND SIMULATION TECH	7,829	7,829	7,829		7,829	8,997	8,997
26	63231F	CREW SYSTEMS AND PERSONNEL PROTECTION	20,606	20,606	20,606		20,606	20,906	20,906
27	63245F	ADVANCED FIGHTER TECHNOLOGY INTEGRATION	22,775	22,775	22,775		22,775	23,268	23,268
28	63250F	LINCOLN LABORATORY	25,603	25,603	25,603	(1,000)	24,603	26,988	26,988
29	63253F	ADVANCED AVIONICS INTEGRATION	14,732	14,732	14,732		14,732	18,240	18,240
30	63269F	NATIONAL AERO SPACE PLANE TECH PROG	[100,000]	285,000	100,000	[225,000]	[225,000]		--
31	63270F	EW TECHNOLOGY	36,342	36,342	36,342		36,342	40,959	40,959
32	63302F	SPACE AND MISSILE ROCKET PROPULSION	11,594	11,594	11,594		11,594	12,285	12,285
33	63363F	HYPERVELOCITY MISSILE	8,306	8,306		(6,306)	2,000	6,189	

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
34	63401F	ADVANCED SPACECRAFT TECHNOLOGY	8,998	18,998	8,998		8,998	12,730	12,730
35	63410F	SPACE SYSTEMS ENVIRONMENTAL INTERACTIONS T	3,965	3,965	3,965		3,965	4,148	4,148
36	63452F	VERY HIGH SPEED INTEGRATED CIRCUITS							
37	63601F	CONVENTIONAL WEAPONS	25,521	25,521	25,521		25,521	28,834	28,834
38	63605F	ADVANCED WEAPONS TECHNOLOGY	70,324	90,324	70,324		70,324	58,751	58,751
		EXCIMER LASER TECHNOLOGY				[20,000]	[20,000]		
39	63707F	WEATHER SYSTEMS - ADV DEV	5,551	5,551	5,551		5,551	5,619	5,619
40	63723F	CIVIL AND ENVIRONMENTAL ENGINEERING TECH	9,146	9,146	9,146		9,146	9,971	9,971
41	63726F	C3I SUBSYSTEM INTEGRATION	7,878	7,878	7,878		7,878	9,215	9,215
42	63728F	ADVANCED COMPUTER TECHNOLOGY	8,027	8,027	8,027		8,027	8,851	8,851
43	63751F	TRAINING SYSTEMS TECHNOLOGY							
44	63752F	DOD SOFTWARE ENGINEERING INSTITUTE							
45	63768F	BALANCED TECHNOLOGY INITIATIVE							
46	63789F	C3 ADVANCED DEVELOPMENT	8,997	8,997	8,997		8,997	9,392	9,392
47	63105F	OLYMPIC	[ ]					[ ]	--
48	63110F	SPECIAL EVALUATION PROGAM	[ ]					[ ]	--
49	63111F	MERIDIAN	[ ]					[ ]	--
50	63311F	ADVANCED STRATEGIC MISSILE SYSTEMS	99,352	141,352	119,352	(12,000)	87,352	99,272	129,272
51	63312F	ADVANCED CONCEPTS	[ ]					[ ]	--
52	63321F	BELL WEATHER	[ ]					[ ]	--
53	63364F	SHORT RANGE ATTACK MISSILE II (SRAM II) -							
54	63367F	RELOCATABLE TARGET CAPABILITY PROGRAM	6,398	6,398	6,398		6,398	6,972	6,972
55	63428F	SPACE SURVEILLANCE TECHNOLOGY	4,968		4,968	(4,968)		8,928	8,928
56	63717F	TECHNICAL ON-SITE INSPECTION PROGRAM							
57	64226F	B-1B							
58	64234F	COMMON STRATEGIC ROTARY LAUNCHER							
59	64240F	B-2 ADVANCED TECHNOLOGY BOMBER	1,881,448	1,881,448	1,881,448		1,881,448	1,446,532	1,446,532
60	64244F	SHORT RANGE ATTACK MISSILE II (SRAM II) -	217,011	217,011	217,011		217,011	212,759	212,759
61	64312F	ICBM MODERNIZATION	889,010	614,766	889,010		889,010	751,546	--
61	64312F	(MX SILO BASING)	14,766	14,766	14,766		14,766	7,382	--
61	64312F	(MX RAIL GARRISON)	774,244	600,000	774,244		774,244	544,164	--
61	64312F	(UNDISTRIBUTED)							
61	64312F	(SMALL ICBM)	100,000		100,000		100,000	200,000	--

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
62	64326F	STRAT CONVENTIONAL STANDOFF CAP (SCSC)							
63	64361F	AIR LAUNCHED CRUISE MISSILE (ALCM)	1,347	1,347	1,347		1,347		
64	64406F	SPACE DEFENSE SYSTEM							
65	64711F	SYSTEMS SURVIVABILITY (NUCLEAR EFFECTS)	7,675	7,675	7,675		7,675	8,743	8,743
66	11120F	ADVANCED CRUISE MISSILE	[ ]					[ ]	--
67	11142F	KC-135 SQUADRONS	2,203	2,203	2,203		2,203	3,533	3,533
68	11213F	MINUTEMAN SQUADRONS	94,010	94,010	94,010	(30,000)	64,010	40,632	40,632
69	11312F	PACCS AND WWABNCP SYS EC-135 CLASS V MODS	1,186	1,186	1,186		1,186	1,245	1,245
70	11313F	WAR PLANNING AUTOMATED DATA PROCESS -SAC	13,811	13,811	13,811		13,811	15,779	15,779
	11815F	ADVANCED STRATEGIC PROGRAMS	5,700	5,700	5,700		5,700	6,300	--
71	12310F	NCMC - TW/AA SYSTEMS	120,620	120,620	120,620	(7,000)	113,620	105,569	105,569
72	12311F	NCMC - SPACE DEFENSE SYSTEMS							
73	12313F	BALLISTIC MISSILE TACT WARNING/ATTACK ASSE							
74	12325F	JOINT SURVEILLANCE SYSTEM	1,626	1,626	1,626		1,626	1,674	--
75	12411F	SURVEILLANCE RADAR STATIONS/SITES	6,376	6,376	6,376		6,376	8,198	--
76	12412F	DISTANT EARLY WARN (DEW) RADAR STATIONS						2,847	--
77	12417F	OVER-THE-HORIZON BACKSCATTER RADAR	20,399	20,399	20,399		20,399	18,145	18,145
78	12423F	BALLISTIC MISSILE EARLY WARNING (BMEWS)	19,314	19,314	19,314		19,314	22,962	22,962
79	12424F	SPACETRACK	15,747	15,747	15,747		15,747	15,520	15,520
80	12431F	DEFENSE SUPPORT PROGRAM (PY SAVINGS)	123,704	123,704	103,704		123,704	60,516	--
81	12432F	SUB-LAUNCH BALLISTIC MISS (SLBM) RADAR WAR	4,599	4,599	4,599		4,599	3,891	3,891
82	12433F	NUDET DETECTION SYSTEM	6,735	6,735	6,735		6,735	3,131	3,131
83	12436F	COMMAND CENTER PROCESSING & DISPLAY SYS							
84	33131F	MINIMUM ESSENTIAL EMERGENCY COMMUNIC NET (	15,798	15,798	15,798		15,798	2,670	2,670
85	33152F	WORLD-WIDE MILT COMMAND & CONTROL SYS, INF	3,435	3,435	3,435		3,435	3,700	3,700
86	33154F	WWMCCS INFO SYSTEM JOINT PROG MNGT OFF							
87	33601F	MILSTAR SATELLITE COMMUNICATIONS SYSTEM (A	210,193	210,193	210,193		210,193	104,915	104,915
88	33603F	MILSTAR SATELLITE COMMUNICATIONS SYS	[ ]			[-88,200]		[ ]	--
89	35124F	SPECIAL APPLICATIONS PROGRAM	[ ]					[ ]	--
90	35172F	BERNIE	[ ]					[ ]	--
91	35892F	SPECIAL ANALYSIS ACTIVITIES	[ ]					[ ]	--
92	41123F	MILITARY AIRLIFT GROUP (IF)							
92a		LASER VERIFICATION		2,000					
		STRATEGIC CLASSIFIED	1,066,077	1,066,077	1,166,077	(88,200)	977,877	1,026,513	--

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
93	63107F	TECHNICAL EVALUATION SYSTEM	[ ]					[ ]	
94	63230F	ADVANCED TACTICAL FIGHTER	1,111,492	1,111,492	1,111,492	(200,000)	911,492	206,563	206,563
95	63260F	INTELLIGENCE ADVANCED DEVELOPMENT	6,699	6,699	6,699		6,699	7,273	7,273
96	63307F	AIR BASE OPERABILITY ADVANCED DEVELOP	2,794	2,794	2,794		2,794	3,832	3,832
97	63320F	LOW COST ANTI-RADIATION SEEKER	7,632	7,632	7,632		7,632		
98	63617F	COMMAND, CONTROL, & COMMUNICATION APPLIC	7,876	7,876	7,876		7,876	8,016	8,016
99	63714F	DOD PHYSICAL SECURITY EQUIPMENT-EXTERIOR							
100	63742F	COMBAT IDENTIFICATION TECHNOLOGY	1,959	1,959	1,959		1,959	1,973	1,973
101	63801F	SPECIAL PROGRAMS	[ ]					[ ]	
102	64201F	AIRCRAFT AVIONICS EQUIPMENT DEVELOPMENT	13,157	13,157	13,157		13,157	12,943	12,943
103	64212F	AIRCRAFT EQUIPMENT DEVELOPMENT	1,481	1,481	1,481		1,481	2,869	2,869
104	64218F	ENGINE MODEL DERIVATIVE PROGRAM (EMDP)	994	994	994		994	994	994
105	64222F	NUCLEAR WEAPONS SUPPORT	2,246	2,246	2,246		2,246	2,311	2,311
106	64223F	ALTERNATE FIGHTER ENGINE	61,758	61,758	61,758		61,758	4,977	4,977
107	64231F	C-17 PROGRAM	915,227	915,227	885,227	(30,000)	885,227	498,426	498,426
108	64233F	TANKER, TRANSPORT, BOMBER TRAINING SYS	3,625	3,625	3,625		3,625	2,374	2,374
109	64236F	INFRARED SEARCH AND TRACK SYSTEM	2,449	2,449	2,449		2,449		
110	64237F	VARIABLE STABILITY IN-FLIGHT SIM TEST AC	12,445	12,445	12,445		12,445	3,896	3,896
111	64239F	ADVANCED TACTICAL FIGHTER - ENG DEV						1,386,565	1,186,565
112	64241F	CONSOLIDATED EW PROGRAMS							
113	64239F	ADVANCED TACTICAL AIRCRAFT-ENG DEV	[ ]					[ ]	
114	64245F	SHORT RANGE ATTACK MISSILE-TACT (SRAM-T)	55,402	55,000	55,402	(402)	55,000	109,418	--
115	64246F	CLOSE AIR SUPPORT							
116	64247F	MODULAR AUTOMATIC TEST EQUIPMENT	13,926	13,926	13,926		13,926	12,701	12,701
117	64249F	NIGHT/PRECISION ATTACK	11,514	11,514	11,514		11,514	6,000	6,000
118	64250F	INTEGRATED EW/CNI DEVELOPMENT	103,194	103,194	103,194		103,194	46,968	46,968
119	64268F	AIRCRAFT ENGINE COMPONENT IMPROVE PROG	108,494	108,494	108,494	(18,494)	90,000	132,325	132,325
120	64270F	EW DEVELOPMENT	130,356	130,356	130,356	(63,100)	67,256	189,613	189,613
121	64314F	ADV MEDIUM-RANGE, AIR-TO-AIR MISSILE (A							
122	64315F	ADV SHORT RANGE AIR-TO-AIR MISS (ASRAAM)	4,987	4,987	4,987	(4,987)		6,472	6,472
123	64321F	JOINT TACTICAL FUSION PROGRAM	[ ]					[ ]	
124	64327F	HARDENED TARGET MUNITIONS	6,408	6,408	6,408		6,408		
125	64362F	GROUND-LAUNCHED CRUISE MISSILE (GLCM)							
126	64601F	CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT	9,145	9,145	9,145		9,145	9,449	9,449
127	64602F	ARMAMENT/ORDNANCE DEVELOPMENT	21,236	21,236	21,236	(17,000)	4,236	23,029	23,029

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
128	64604F	SUBMUNITIONS	7,349	7,349	7,349		7,349	7,406	7,406
129	64607F	WIDE-AREA, ANTI-ARMOR MUNITIONS	25,125	25,125	25,125		25,125		
130	64617F	AIR BASE OPERABILITY	12,154	12,154	12,154		12,154	10,014	10,014
131	64703F	AEROMEDICAL SYSTEMS DEVELOPMENT	6,038	6,038	6,038		6,038	7,667	7,667
132	64704F	COMMON SUPPORT EQUIPMENT DEVELOPMENT	6,967	6,967	6,967		6,967	8,485	8,485
133	64706F	LIFE SUPPORT SYSTEMS	13,020	13,020	13,020		13,020	13,315	13,315
134	64708F	OTHER OPERATIONAL EQUIPMENT	2,230	2,230	2,230		2,230	2,135	2,135
135	64710F	RECONNAISSANCE EQUIPMENT							
136	64715F	DOD PHYSICAL SECURITY EQUIPMENT-EXTERIOR							
137	64725F	COMBAT IDENTIFICATION SYSTEMS	109,989	109,989	109,989		109,989	104,006	104,006
138	64727F	JOINT STANDOFF WEAPON SYSTEMS	24,711	24,711	24,711	(24,711)		34,611	--
139	64733F	SURFACE DEFENSE SUPPRESSION	15,422	15,422	15,422		15,422	7,149	7,149
140	64738F	PROTECTIVE SYSTEMS							
141	64740F	COMPUTER RESOURCES MANAGEMENT TECHNOLOGY	11,736	11,736	11,736		11,736	12,295	12,295
142	64750F	INTELLIGENCE EQUIPMENT	3,522	3,522	3,522		3,522	3,808	3,808
143	64754F	JOINT TACTICAL INFORMATION DISTRIBUTION SY	41,651	41,651	41,651		41,651	43,683	43,683
144	64756F	SIDE LOOKING AIRBORNE RADAR	8,155	8,155	8,155		8,155	4,026	4,026
145	64770F	JOINT SURVEILL/TARGET ATTACK RADAR SYS (J	143,183	143,183	143,183	(40,000)	103,183	58,864	58,864
146	64779F	JOINT INTEROP OF TACT C2 SYS (JINTACCS)	6,271	6,271	6,271		6,271	6,456	6,456
147	11133F	SR-71 SQUADRONS	[ ]					[ ]	
148	21131F	US CENTRAL COMMAND - COMMUNICATIONS							
149	27129F	F-111 SQUADRONS	32,369	32,369	32,369		32,369	11,028	11,028
150	27130F	F-15A/B/C/D SQUADRONS	2,749	2,749	2,749		2,749	2,842	2,842
	27131F	A-10 SQUADRONS	20,000		20,000	(14,000)	6,000	10,000	10,000
151	27133F	F-16 SQUADRONS	74,212	17,412	74,212	(59,212)	15,000	63,504	63,504
152	27134F	F-15E SQUADRONS	103,494	103,494	103,494	(12,710)	90,784	111,150	111,150
153	27136F	F-4G WILD WEASEL SQUADRONS	3,149	3,149	3,149		3,149	12,085	12,085
154	27137F	CONSTANT HELP	[ ]					[ ]	
155	27141F	F-117A SQUADRONS	50,659	50,659	50,659		50,659	44,554	44,554
156	27162F	TACTICAL AGM MISSILES	2,485	2,485	2,485		2,485	497	497
157	27163F	ADV MEDIUM RANGE AIR-TO-AIR MISS (PROC)	14,929	14,929	14,929		14,929	24,878	24,878
158	27168F	F-111 SELF PROTECTION SYSTEMS	10,560	10,560	10,560		10,560	11,609	11,609
159	27169F	SEEK CLOCK	[ ]					[ ]	
160	27215F	TR-1 SQUADRON	110,710	110,710	85,710		110,710	53,311	53,311
161	27217F	FOLLOW-ON TACTICAL RECONNAISSANCE SYSTEM	80,848	80,848	80,848		80,848	46,724	46,724

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
162	27247F	AF TENCAP	335	335	335		335	345	345
163	27316F	TACIT RAINBOW	20,997	20,997	20,997		20,997	9,754	9,754
164	27319F	STANDOFF LAND ATTACK MISSILE	5,062	5,062		(5,062)		10,076	--
165	27411F	OVERSEAS AIR WEAPON CONTROL SYSTEM	3,524	3,524	3,524		3,524	4,110	4,110
166	27412F	TACTICAL AIR CONTROL SYSTEMS	17,322	17,322	17,322		17,322	21,648	21,648
167	27417F	AIRBORNE WARNING AND CONTROL SYS (AWACS)	135,132	135,132	67,432		135,132	126,231	126,231
167a		PRIOR YEAR AWACS-RSIP			(47,500)				
168	27423F	ADVANCED COMMUNICATIONS SYSTEMS	12,728	12,728	12,728		12,728	6,950	6,950
169	27424F	COPPER COAST	[ ]					[ ]	
170	27431F	TACTICAL AIR INTELLIGENCE SYSTEM ACTIV	462	462	462		462	472	472
171	27433F	TACTICAL IMPROVEMENT PROGRAM	[ ]					[ ]	
172	27435F	TACTICAL RECONN IMAGERY AND EXPLOITATION							
173	27579F	ADVANCED SYSTEMS IMPROVEMENTS	[ ]					[ ]	
174	27585F	SEEK SPINNER			(19,900)	(19,900)	(19,900)		
175	27590F	SEEK EAGLE	16,797	16,797	16,797		16,797	17,807	17,807
176	27591F	OMEGA	[ ]					[ ]	
177	28006F	MISSION PLANNING SYSTEMS	2,485	2,485	2,485		2,485	6,950	6,950
178	28010F	JOINT TACTICAL COMMUNIC PROG (TRI-TAC)	3,536	3,536	3,536		3,536	4,713	4,713
179	28021F	ELECTRONIC COMBAT SUPPORT	2,490	2,490	2,490		2,490	2,697	2,697
180	28042F	HAVE FLAG	[ ]					[ ]	--
181	33605F	SATELLITE COMMUNICATIONS TERMINALS	5,915	5,915	5,915		5,915	5,910	5,910
182	35142F	CENTENNIAL	[ ]					[ ]	
183	35887F	ELECTRONIC COMBAT INTELLIGENCE SUPPORT	1,744	1,744	1,744		1,744	1,793	1,793
184	41129F	THEME CASTLE	[ ]					[ ]	
185	41316F	SENIOR CITIZEN	[ ]					[ ]	
186	41840F	MAC COMMAND AND CONTROL SYSTEM	10,989	10,989	10,989		10,989	11,446	11,446
187	52610F	A-7 SQUADRONS (ANG)	29,945	29,945	29,945		29,945	4,932	4,932
188	1110011F	FORCE ENHANCEMENTS-ACTIVE	38,689	38,689	38,689		38,689	99,754	99,754
	1140011F	ADVANCED SPECIAL OPS-R&D	2,300	2,300	2,300		2,300	3,000	3,000
		TIARA GENERAL REDUCTION			(8,000)				
		COPPER HELIX			2,000	2,000	2,000		
		TACTICAL CLASSIFIED	649,803	649,803	649,803		649,803	650,934	650,934

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
189	31305F	INTELLIGENCE PRODUCTION ACTIVITIES	[ ]					[ ]	
190	31310F	FOREIGN TECHNOLOGY DIVISION	[ ]					[ ]	
191	31313F	DEFENSE DISSEMINATION PROGRAM	[ ]			[-7,617]		[ ]	
192	31314F	INFRARED/ELEC-OPTICAL/DEW PROC&EXPLOIT	[ ]					[ ]	
193	31315F	MISSILE AND SPACE TECHNICAL COLLECTION	[ ]			[-19,800]		[ ]	
194	31317F	SENIOR YEAR OPERATIONS	[ ]					[ ]	
195	31324F	FOREST GREEN	[ ]					[ ]	
196	31357F	NUDET DETECTION SYSTEM	[ ]			[3,700]		[ ]	
197	33110F	DEFENSE SATELLITE COMMUNICATIONS SYSTEM	25,105	25,105	25,105		25,105	13,079	13,079
198	33126F	LONG-HAUL COMMUNICATIONS (DCS)	3,235	3,235	3,235		3,235	3,481	3,481
199	33128F	INTER-SERVICE/AGENCY AUTOMATED MESSAGE PRO							
200	33144F	ELECTROMAGNETIC COMPATIBILITY ANAL CEN (E	8,746	8,746	8,746		8,746	9,101	9,101
201	33401F	COMMUNICATIONS SECURITY	[ ]					[ ]	
202	34111F	SPECIAL ACTIVITIES	[ ]			[21,500]		[ ]	
203	35114F	TRAFFIC CONTROL, APPROACH, & LANDING SYS (	20,809	20,809	20,809		20,809	20,573	20,573
204	35159F	DEFENSE RECONNAISSANCE SUPPORT ACTIV	[ ]			[73,700]		[ ]	
205	35164F	NAVSTAR GLOBAL POSITIONING SYS (USER EQ)	35,555	35,555	35,555		35,555	32,916	32,916
206	35165F	NAVSTAR GPS (SPACE AND CONTROL SEGMENTS)	33,310	33,310	33,310		33,310	30,669	30,669
	35185F	CALVARY	3,000	3,000	3,000		3,000	5,000	--
		SPECIAL ACTIVITIES PRIOR YEAR			(16,100)	(16,100)	(16,100)		
		INTEL/COMMUNICATIONS CLASSIFIED	2,005,300	1,958,900	2,169,900	71,483	2,076,783	2,072,748	2,072,748
207	63402F	SPACE TEST PROGRAM	66,589	66,589	66,589	(15,000)	51,589	66,505	66,505
208	63438F	SATELLITE SYSTEMS SURVIVABILITY	10,361	35,361	10,361		10,361	10,554	10,554
209	64211F	ADVANCED AERIAL TARGET DEVELOPMENT	6,455	6,455	6,455		6,455	7,179	7,179
210	64227F	FLIGHT SIMULATOR DEVELOPMENT	65,186	65,186	65,186		65,186	45,764	45,764
211	64243F	MANPOWER, PERSONNEL AND TRAINING DEVELOP	4,534	4,534	4,534		4,534	3,409	3,409
212	64408F	ADVANCED LAUNCH SYSTEM	99,352	99,352	99,352		99,352	99,272	--
213	64609F	R&M MATURATION/TECHNOLOGY INSERTION	20,531	20,531	20,531		20,531	21,014	21,014
214	64707F	WEATHER SYSTEMS - ENG DEV	4,821	4,821	4,821		4,821	5,358	5,358
215	64735F	RANGE IMPROVEMENT	96,769	96,769	86,769		96,769	114,195	114,195

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
216	64747F	ELECTROMAGNETIC RADIATION TEST FACIL	4,447	4,447	4,447		4,447	4,728	4,728
217	64755F	IMPROVED CAP FOR DEVELOP TEST & EVAL	52,599	52,599	52,599		52,599	56,407	56,407
218	65101F	PROJECT AIR FORCE	23,320	23,320	23,320		23,320	24,658	24,658
219	65306F	RANCH HAND II EPIDEMIOLOGY STUDY	1,419	1,419	1,419		1,419	1,476	1,476
220	65502F	SMALL BUSINESS INNOVATIVE RESEARCH							
221	65708F	NAVIGATION/RADAR/SLED TRACK TEST SUPPORT	26,568	26,568	26,568		26,568	26,433	26,433
222	65807F	TEST AND EVALUATION SUPPORT	296,352	296,352	294,352	(2,000)	294,352	312,319	312,319
223	65808F	ADVANCED SYSTEMS ENGINEERING/PLANNING	14,036	14,036	14,036		14,036	14,914	14,914
224	65809F	DYCOMS	4,968	4,968	4,968		4,968	3,177	3,177
225	65863F	RDT&E AIRCRAFT SUPPORT	58,448	58,448	56,448		58,448	60,153	60,153
226	65894F	REAL PROPERTY MAINTENANCE - RDT&E	94,752	94,752	89,752	(4,752)	90,000	93,452	93,452
227	65896F	BASE OPERATIONS - RDT&E	65,780	65,780	65,780		65,780	63,364	63,364
228	35110F	SATELLITE CONTROL FACILITY	102,579	102,579	102,579		102,579	124,717	124,717
229	35119F	SPACE BOOSTERS	413,248	413,248	413,248		413,248	244,750	244,750
230	35130F	CONSOLIDATED SPACE OPERATIONS CENTER	29,533	29,533	29,533		29,533	24,762	24,762
231	35160F	DEFENSE METEOROLOGICAL SATELLITE PROGRAM (	52,641	52,641	47,641	(5,000)	47,641	49,647	49,647
232	35171F	SPACE SHUTTLE OPERATIONS	61,692	61,692	61,692		61,692	44,727	44,727
233	71112F	INVENTORY CONTROL POINT OPERATIONS	4,621	4,621	4,621		4,621	4,752	4,752
234	72207F	DEPOT MAINTENANCE (NON-IF)	2,428	2,428	2,428		2,428	2,668	2,668
235	78011F	INDUSTRIAL PREPAREDNESS	70,751	95,751	95,751	25,000	95,751	71,513	71,513
236	78026F	PRODUCTIVITY, REL, AVAIL, MAINT. PROG OFC	19,158	19,158	19,158		19,158	19,652	19,652
237	91218F	CIVILIAN COMPENSATION PROGRAM	4,148	4,148	4,148		4,148	4,360	4,360
238	1001004F	INTERNATIONAL ACTIVITIES	3,177	3,177	3,177		3,177	3,750	3,750
		R&D FACILITIES CONSTRUCT TRANSFER TO MILCO							
		REDUCTION FOR ROBOTICS							
		R&D SUPPORT/CIVILIAN WORK YEAR GROWTH							
		KWAJALEIN MISSILE RANGE SECURITY							
		UNDISTRIBUTED REDUCTION		(299,956)	(5,000)				
		PRIOR YEAR SAVINGS			(54,000)	(22,800)	(22,800)		
		TOTAL RDT&E, AIR FORCE	14,551,900	14,313,130	14,629,932	(613,221)	13,938,679	13,505,300	11,305,240

Hypervelocity missile

The amended budget request contained $8.3 million in fiscal year 1990 for continued development of the hypervelocity missile program.

The House bill would approve the program at the requested level.

The Senate report (S. Rept. 101-81) terminated the program and directed the Air Force to discontinue development of a unique hypervelocity missile and adapt for Air Force use the hypervelocity missile being developed for the Army.

The House recedes with an amendment. The conferees concur with the directions contained in the Senate report, but recommend authorization of $2 million to initiate adaption of the Army missile version for use by the Air Force.

Excimer laser program

The House bill would authorize an additional $20 million to continue the technologies associated with the single and repetitively pulsed excimer laser programs to revolve the remaining critical technology issues necessary to support a milestone 1 decision for an anti-satellite (ASAT) directed-energy weapon system.

The Senate amendment contained no similar increase.

The conferees authorize the Secretary of Defense to make available an amount not to exceed $20 million for the continuation of the excimer programs.

Advanced strategic missile systems

The amended budget request contained $99.352 million for the Advanced Strategic Missile Systems (ASMS) research and development program.

The House bill would increase the request by $42 million, and the Senate amendment would increase the request by $20 million. However, the House appropriations bill would reduce funding for this program by $14 million, and the Senate amendment thereto would reduce funding by $12 million.

Accordingly, with the greatest regret, the conferees agree to authorize $87.352 million for this program. The conferees express continued concern over the long-term decline in funding for the ASMS program, and intend to address the situation again in next year's authorization bills. The conferees also strongly endorse the findings of both Armed Services Committees' reports (H. Rept. 101-121 and S. Rept 101-81) that earth penetrator technology for attacking deeply buried targets should be included in the ASMS program.

Defense Support Program

The amended budget request contained $123.704 million for research and development for the Defense Support Program (DSP).

The House bill would authorize the requested amount.

The Senate amendment would reduce the requested amount by $20 million due to the availability of prior year funds.

The conferees agree to authorize $123.704 million for the program. Prior year savings of $22.8 million from the following sources would be applied to this program: $16 million from unobligated balances, $1.2 million from funds that are excess to program requirements, $4.6 million from funds originally intended for the Direct Airfield Attack Combined Munition, and $1 million from funds originally intended for the Modular Standoff Weapon.

Advanced Tactical Fighter

The amended budget request contained $1,111,492,000 to continue development of the Advanced Tactical Fighter (ATF). Both the House bill and the Senate amendment would authorize funding at the requested level.

Several important developments have occurred since both bills were passed. First, the conferees agreed to meet both the budget authority and outlays targets specified in the Budget Resolution for fiscal year 1990, and the Secretary of Defense proposed research and development spending targets that were over $2 billion below his original amended budget submission. Second, the House defense appropriations bill recommended termination of the ATF program, and the funding level is uncertain in that conference. Third, the Air Force announced an extension in the demonstration/validation phase of the program. That extension goes beyond the terms of the existing contract and brings into question the standing of the existing contract.

The funding constraints and the uncertainty and changes within the ATF program led the conferees to recommend an authorization of $911,492,000, a reduction of $200 million. If the Air Force believes that the full budget request is essential, the conferees would very promptly consider a reprogramming request. If, after meeting the same budget authority and outlay constraints and the additional transfers associated with the bipartisan agreement on drug policy, the defense appropriations conference appropriates a level in excess of the authorized level, the Armed Services Committees of the Senate and House of Representatives will review the matter expeditiously to decide on the required subsequent authorization.

Airborne warning and control system (AWACS)

The amended budget request contained $135.1 million for research and development for improvements to the Airborne Warning and Control System (AWACS). Of that amount, $67.7 million was requested to continue development of the Radar System Improvement Program (RSIP).

The Senate amendment would delete all funding in fiscal year 1990 for the RSIP program and direct the Air Force to stop work on RSIP and not expend $45 million appropriated in fiscal year 1989.

The House bill contained no similar direction and would authorize the funds as requested.

The Senate recedes. The conferees direct certain actions, as discussed in the classified annex to this statement of the managers.

Defense meteorological satellite program

The amended budget request contained $52.641 million for research and development for the Defense Meteorological Satellite Program (DMSP).

The House bill would authorize the requested amount.

The Senate amendment would reduce the requested amount by $5 million and would defer development of the Block 6 upgrade pending a report from the Secretary of the Air Force on plans and costs for ensuring satellite and data dissemination survivability.

The conferees agree to reduce the budget request by $5 million, without prejudice, and endorse the Senate's report requirement.

RESEARCH AND DEVELOPMENT, DEFENSE AGENCIES

OVERVIEW

The amended budget request for fiscal year 1990 contained $9,469.6 million for Defense Agencies research, development, test, and evaluation. The House bill would authorize $8,181.1 million. The Senate amendment would authorize $9,474.7 million. The conferees recommend authorization of $8,437.0 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
		RESEARCH DEV TEST & EVAL DEFENSE AGENCIES							
1	61101E	DEFENSE RESEARCH SCIENCES	85,100	100,100	95,100	(2,000)	83,100	86,200	86,200
1a		ADVANCED NEURAL NETWORKS				[12,776]	[12,776]		
2	61101W	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	2,123	2,123	2,123		2,123	2,250	2,250
3	61103D	UNIVERSITY RESEARCH INITIATIVES			15,000				
3a		URI-UNOBLIGATED PRIOR YEAR FUNDS				[44,500]	[44,500]		
4	61103E	UNIVERSITY RESEARCH INITIATIVES	25,000	45,000	25,000		25,000	25,000	25,000
5	61104D	DEFENSE UNIV RESEARCH INSTRUMENT PROG		27,825					
6	62101E	TECHNICAL STUDIES	1,900	1,900	1,900		1,900	2,100	2,100
7	62108D	CENTER FOR ADVANCE OF SCIENTISTS, ENGINEER							
8	62301E	STRATEGIC TECHNOLOGY	214,709	269,709	268,709	39,629	254,338	220,300	220,300
8a		GALLIUM ARSENIDE TECHNOLOGY				25,000	25,000		
9	62702E	TACTICAL TECHNOLGY	124,600	126,600	124,600		124,600	122,656	122,656
10	62707E	PARTICLE BEAM TECHNOLOGY	14,000	14,000	14,000		14,000	14,500	14,500
11	62708E	INTEGRATED COMMAND AND CONTROL TECH	34,000	84,000	54,000	20,000	54,000	38,000	38,000
12	62712E	MATERIALS AND ELECTRONICS TECHNOLOGY	31,000	71,000	83,000	7,000	38,000	42,800	42,800
12a		X-RAY LITHOGRAPHY				40,000	40,000		
13	62714E	NUCLEAR MONITORING	24,500	36,000	34,300	9,800	34,300	25,600	25,600
14	62715H	DEFENSE NUCLEAR AGENCY	344,518	344,518	344,518	(14,838)	329,680	358,669	358,669
		LIGHTER THAN AIR TECHNOLOGY (DARPA)							
		NON-ACOUSTIC ASW (DOD-DOE)							
		ACTIVE IONOSPHERE AURORAL RESEARCH							
		UNDISTRIBUTED TECH BASE				7,000	7,000		92,102
15	62716B	MAPPING, CHARTING AND GEODESY							

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
16		(SDI-GENERAL)	4,601,904	2,844,500	4,301,904	(1,028,702)	3,573,202	5,425,272	--
16	63220C	SDI-SURVEILLANCE, ACQUISITION, TRACKING AN	1,336,932					1,358,889	--
17	63221C	SDI-DIRECTED ENERGY WEAPONS	831,399					962,603	--
18	63222C	SDI-KINETIC ENERGY WEAPONS	1,111,253					1,299,365	--
19	63223C	SDI-SYSTEMS AND BATTLE MANAGEMENT	723,054					826,167	--
20	63224C	SDI-SURVIV, LETHALITY, AND KEY SUPPORT TE	572,872					648,792	--
35	64220C	PHASE I STRATEGIC DEFENSE SYSTEM						302,000	--
91	65898C	MANAGEMENT HEADQUARTERS (SDI)	26,394					27,456	--
21	63225D	JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOP	7,933	7,933	25,000		7,933	8,205	30,005
22	63226E	EXPERIMENTAL EVAL OF MAJOR INNOVATIVE TECH	167,300	202,300	197,500	(650)	166,650	158,800	198,800
		LIGHTSAT				25,000	25,000		
23	63227E	RELOCATABLE TARGET DETECTION TECHNOLOGY PR	21,500	21,500	19,000	(2,500)	19,000	24,000	24,000
24	63569E	ADVANCED SUBMARINE TECHNOLOGY		95,000		95,000	95,000		95,000
24a		SPECIAL TECHNOLOGY SUPPORT		25,000		25,000	25,000		
25	63706D	MICROWAVE/MILL WAVE MONO INT CIR (MIMIC)							
26	63706E	MICROWAVE/MILL WAVE MONO INT CIR (MIMIC)	79,580	81,080	79,580	1,500	81,080	84,190	84,190
27	63707E	PROTYPING OF ADV TECH/INNOVATIVE CONCEPT	94,700	94,700	94,700		94,700	100,000	100,000
28	63736D	COMPUTER AIDED LOGISTICS SUPPORT	12,875	12,875	12,875		12,875	13,267	13,267
29	63737D	BALANCED TECHNOLOGY INITIATIVE	206,082	238,082	296,082	32,000	238,082	201,410	201,410
30	63738D	COOPERATIVE DOD/VA MEDICAL RESEARCH		20,000		20,000	20,000		
		MEDICAL FACILITY		18,000		18,000	18,000		
		UNDISTRIBUTED REDUCTION		(18,000)		(18,000)	(18,000)		
31	63739E	SEMICONDUCTOR MANUFACTURING TECHNOLOGY	100,000	100,000	100,000		100,000	100,000	100,000
32	63740D	RANKINE CYCLE ENERGY RECOVERY (RACER)SYS				(4,000)	(4,000)		
33	63756D	CONSOLIDATED DOD SOFTWARE INITIATIVE	14,670	14,670	14,670		14,670	12,190	12,190
34	63756E	CONSOLIDATED DOD SOFTWARE INITIATIVE	32,426	32,426	39,926	3,000	35,426	33,600	33,600

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
36	35108K	COMMAND AND CONTROL RESEARCH	2,415	2,415	2,415		2,415	2,497	2,497
37	72807E	INFRARED FOCAL PLANE ARRAY	19,810		24,810	5,000	24,810	20,082	--
38	1110011D	FORCE ENHANCEMENTS-ACTIVE	15,530	5,030	15,530	(5,000)	10,530	15,820	15,820
		SUPER MAGNETIC ENERGY STORAGE SYSTEM							
		NATIONAL AIRSPACE SYSTEM				15,000	15,000		
39	1140011D	ADV SPECIAL OPS RESEARCH, DEVELOP & ACQ	9,110	9,110	9,110		9,110	9,423	9,423
40	63711H	VERIFICATION TECHNOLOGY DEMONSTRATION	19,000	19,000	19,000		19,000	18,000	--
41	63734K	ISLAND SUN	58,070	58,070	58,070		58,070	60,030	--
42	63741D	AIR DEFENSE INITIATIVE	253,151	253,151	153,151	(93,151)	160,000	291,055	--
43	32016K	NATIONAL MILITARY COMMAND SYS-WIDE SUPP	12,920	12,920	12,920		12,920	13,604	13,604
44	32019K	WWMCCS SYSTEMS ENGINEER	16,790	16,790	16,790		16,790	15,578	15,578
45	33131K	MINIMUM ESSENTIAL EMERGENCY COMMUNIC NET (	8,013	8,013	8,013		8,013	7,856	7,856
46	63228D	PHYSICAL SECURITY EQUIPMENT	32,802	32,802	32,802		32,802	33,198	33,198
47	64702D	JOINT STANDOFF WEAPONS PROGRAM	31,836	31,836	31,836	(13,000)	18,836	74,105	74,105
48	64722S	JOINT SERVICE EDUCATION AND TRAINING SYS D	8,978	8,978	8,978	(3,978)	5,000	9,689	9,689
49	64771D	JOINT TACT INFO DISTRIBUTION SYS (JTIDS)	82,509	82,509	82,509		82,509	80,798	80,798
50	21135K	CINC C2 INITIATIVES	1,918	1,918	1,918		1,918	1,982	1,982
51	28045K	C3 INTEROPER (JOINT TACTICAL C3 AGENCY)	50,549	50,549	50,549		50,549	52,316	52,316
52	28298K	MGT HEADQTRS (JOINT TACTICAL C3 AGENCY)	6,490	6,490	6,490		6,490	6,620	6,620
		TORPEDO SOFTWARE VALIDATION							
		LASER VERIFICATION				2,000	2,000		
53	35141D	JOINT REMOTELY PILOTED VEHICLES PROGRAM	117,005	132,005	117,005		117,005	119,577	119,577

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
54	63701B	MAPPING, CHARTING, GEODESY INVEST & PROTOT							
55	64701B	MAPPING, CHARTING & GEODESY ENG DEV/TEST							
56	64703D	LANDSAT							
57	31011G	CRYPTOLOGIC ACTIVITIES	[ ]			[37,900]		[ ]	
58	31301L	GENERAL DEFENSE INTELLLIGENCE PROGRAM	[ ]			[-800]		[ ]	
59	33126K	LONG-HAUL COMMUNICATIONS (DCS)	18,520	18,520	18,520		18,520	19,437	19,437
60	33127K	SUPPORT OF THE NATIONAL COMMUNIC SYSTEM	4,070	4,070	4,070		4,070	3,410	3,410
	33154K	WWMCCS ADP MODERNIZATION	51,209	51,209	51,209		51,209	51,772	51,772
61	33401G	COMMUNICATIONS SECURITY	[ ]					[ ]	
62	35139B	DMA MC&G PRODUCTION SYSTEM IMPROVEMENT	261,075	261,075	261,075		261,075	216,598	216,598
63	35154I	AIRBORNE RECONNAISSANCE SUPPORT PROGRAM	84,600	184,600	(2,000)	(49,600)	35,000	193,700	43,000
64	35159B	DEFENSE RECONNAISSANCE SUPPT ACTIVITIES	4,526	4,526	4,526		4,526	7,375	--
65	35159G	DEFENSE RECONNAISSANCE SUPPT ACTIVITIES	[ ]					[ ]	--
66	35159I	DEFENSE RECONNAISSANCE SUPPT ACTIVITIES	36,247	26,247	71,247	(10,000)	26,247	39,121	--
67	35167G	COMPUTER SECURITY	[ ]					[ ]	--
68	35884L	INTELLIGENCE PLANNING AND REVIEW	[ ]			[2,500]		[ ]	--
69	35885G	TACTICAL CRYPTOLOGIC ACTIVITIES	[ ]			[-7,300]		[ ]	--
		INTEL & COMMUNICATIONS CLASSIFIED	1,253,853	1,288,053	1,233,453	32,300	1,286,153	1,291,249	1,092,575
70	63708D	INTEGRATED DIAGNOSTICS	14,501	14,501		(14,501)		14,269	14,269
71	63739D	SEMICONDUCTOR MANUFACTURING TECHNOLOGY							
72	63790D	NATO RESEARCH AND DEVELOPMENT	96,674	96,674	200,000	29,000	125,674	95,131	95,131
73	65104D	TECHNICAL SUPPORT TO USD(A)	23,725	23,725	22,225	(5,455)	18,270	25,092	25,092
74	65106D	GENERAL SUPPORT FOR PA&E	2,335	2,335	2,335		2,335	2,507	2,507
75	65107D	GENERAL SUPPORT FOR POLICY	5,650	5,650	5,650		5,650	5,674	5,674
76	65108D	GENERAL SUPPORT FOR NET ASSESSMENT	3,789	3,789	5,009		3,789	3,788	3,788
77	65109D	GENERAL SUPPORT FOR FM&P	1,528	1,528	1,528		1,528	1,624	1,624
78	65110D	TECH SUPPORT TO USD(A)--CRITICAL TECH	4,079	4,079	4,079	(1,079)	3,000	4,219	4,219
79	65112D	RAND NATIONAL DEFENSE RESEARCH INSTITUTE	18,683	18,683	18,683		18,683	18,804	18,804
80	65114E	BLACK LIGHT	6,000	6,000	6,000		6,000	6,000	6,000
81	65116D	GENERAL SUPPORT TO C3I	2,155	2,155	2,155		2,155	2,253	2,253

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
82	65117D	FOREIGN MATERIAL ACQUISITION AND EXPLOIT	10,655	10,655	10,655		10,655	11,019	11,019
83	65119D	GENERAL SUPPORT FOR P&L	3,151	3,151	8,151	(451)	2,700	3,259	3,259
84	65134D	THREAT SIMULATORS DEVELOPMENT							
85	65502E	SMALL BUSINESS INNOVATIVE RESEARCH							
86	65711S	CRITICAL TECHNOLOGY ANALYSIS	4,488	4,488	4,488	(1,469)	3,019	4,227	4,227
87	65801S	DEFENSE TECHNICAL INFORMATION CENTER	25,321	25,321	24,321	(2,013)	23,308	25,985	25,985
88	65802S	INFORMATION ANALYSIS CENTERS	5,377	5,377	5,377		5,377	5,539	5,539
89	65803S	R&D IN SUPP OF DOD ENLIST, TESTING & EVAL	1,800	1,800	1,800		1,800	1,800	1,800
90	65872E	PRODUCTIVITY INVESTMENTS							
92	65898E	MANAGEMENT HQ (RESEARCH AND DEVELOPMENT)	16,506	16,506	41,506		16,506	17,789	17,789
93	72807D	INFRARED FOCAL PLANE ARRAY							
94	78011S	INDUSTRIAL PREPAREDNESS	16,441	16,441	16,441	(1,441)	15,000	25,196	25,196
95	1001015D	TECHNOLOGY SECURITY FUNCTIONS	1,526	1,526	1,526		1,526	2,424	2,424
		SCIENCE & ENGINEERING EDUCATION			10,500	10,500	10,500		11,000
		HEAVY FORCES COMMON CHASSIS			70,000				
		SOLID ROCKET DEMILITARIZATION			6,000	3,000	3,000		7,500
		OT&E CAPABILITY IMPROVEMENT PROGRAM							
		DARPA MANAGEMENT RESERVE							
		REDUCTION FOR ROBOTICS							
		R&D SUPPORT/CIVILIAN WORK YEAR GROWTH							
		UNDISTRIBUTED REDUCTION		(96)					
	63229E	X-RAY LITHOGRAPHY			10,000				
		TOTAL RDT&E, DEFENSE AGENCIES	8,965,800	7,747,015	9,015,912	(807,099)	8,158,701	10,030,500	4,087,593

R-1 Line	PE	Program	Revised FY 1990 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized	Revised FY 1991 Request	FY 1991 Conference Authorized
		DIRECTOR OF TEST & EVAL DEFENSE							
1	64940D	TEST INSTRUMENTATION DEVELOPMENT	166,357	166,357	151,357	(83,100)	83,257	283,966	--
2	64941D	SPACE SYSTEM TEST CAPABILITIES	1,955	1,955	1,955		1,955	1,933	1,933
3	65111D	FOREIGN WEAPONS EVALUATION	15,737	15,737	15,737	(15,737)		15,770	15,770
4	65130D	NATO COOPERATIVE DEVELOPMENT TESTING	26,915	26,915	26,915	(26,915)		26,821	26,821
		FOREIGN COMPARATIVE TESTING				42,652	42,652		
		PRIOR YEAR SAVINGS				(15,000)	(15,000)		
5	65131D	LIVE FIRE TESTING	10,850	11,100	10,850		10,850	11,274	11,274
6	65132D	JOINT TECH COORD GROUP FOR AIRCRAFT SURV	7,880	7,880	7,880		7,880	7,623	7,623
7	65804D	DEVELOPMENT TEST AND EVALUATION	60,668	60,668	60,668		60,668	67,435	67,435
8	65805D	THIRST WATCHER	13,938	13,938	13,938		13,938	14,878	14,878
		CLASSIFIED PROGRAMS	5,000	5,000	5,000		5,000	5,000	5,000
		TOTAL DEVELOPMENTAL TEST	309,300	309,550	294,300	(98,100)	211,200	434,700	150,734
		DIRECTOR OF OPERATIONAL TEST & EVALUATION							
1	64340D	OT&E CAPABILITY IMPROVEMENT	124,360	54,360	94,360	(70,000)	54,360	129,566	--
2	65118D	OPERATIONAL TEST AND EVALUATION	25,140	25,140	25,140	(12,415)	12,725	25,834	25,834
3	64246D	CLOSE AIR SUPPORT	45,000	45,000	45,000	(45,000)		5,000	
		TOTAL OPERATIONAL TEST	194,500	124,500	164,500	(127,415)	67,085	160,400	25,834

Projects of the Defense Advanced Research Projects Agency

In addition to other changes, the House bill would authorize increases in the amounts requested for the Defense Advanced Research Project Agency (DARPA) accounts as follows: (1) $15 million for Defense Research Science for artificial neural network technology; (2) $55 million for Strategic Technology to include $15 million for high temperature superconductivity and $40 million for digital gallium arsenide microelectronics; (3) $50 million for Integrated Command and Control Technology to support development of high definition television (HDTV); and (4) $40 million for Materials and Electronics Technology for development of X-ray lithography.

The Senate amendment would authorize increases as follows: (1) $10 million for Defense Research Science for artificial neural network technology; (2) $54 million for Strategic Technology to include $30 million for the DARPA Initiative for Concurrent Engineering (DICE), $12 million for high performance computing, and $12 million for high temperature superconductor research; (3) $20 million for Integrated Command and Control for high resolution display technology; (4) $52 million for Material and Electronics Technology, including $25 million for gallium arsenide manufacturing technology and insertion, $10 million for advanced ceramics insertion technology, $10 million for application specific semiconductor manufacturing technology and $7 million for continued development of a continuous fiber metal matrix composite model factory; (5) $7.5 million for the Department of Defense Consolidated Software Initiative; and (6) $10 million for a new program element for X-ray lithography.

In addition to provisions relating to DARPA in other sections of the statement of managers, the conferees agree to recommend an increased authorization of $134.629 million for DARPA as follows:

(1) $39.629 million for Strategic Technology, including $30 million for the DICE program and $9.629 million for high temperature superconductors; (2) $25 million for a new program element for gallium arsenide research and development; (3) $20 million for Integrated Command and Control for high resolution display technology; (4) $7 million for Materials and Electronics for development of the continuous fiber metal matrix composite model factory; (5) $40 million for a new project element for X-ray lithography; and (6) $3 million for the Department of Defense Consolidated Software Program. The conferees support DARPA's activities on developing artificial neural network technology and direct that not more than $12.766 million of unobligated fiscal year 1989 Department of Defense funds be used in support of this program.

Manufacturing technology programs

The House bill would authorize an additional $25 million for the Air Force manufacturing technology (ManTech) program and $10 million for the Navy ManTech program. The House report (H. Rept. 101-121) specifically recommended authorization to support establishment of a Center of Excellence for Composites Manufacturing Technology and a National Powder Metallurgy Research and Development Center. Continued support of the Navy's Low Articulating Robotic Systems program with specific attention to shipbuilding and propulsion cost reduction are also recommended.

The Senate amendment contained a $60 million increase for all ManTech programs. The Senate report (S. Rept. 101-81) specified that of this amount, an increase of $25 million was intended for the Air Force, $30 million for DARPA to support its concurrent engineering program, and $5 million for the Navy to support the concurrent engineering program, and $5 million for the Navy to support the establishment of a Center of Excellence for Composites Manufacturing Technology. The Senate report also directed that $7 million support the DARPA continous fiber metal matrix program and $5 million support for the National Center for Manufacturing Sciences.

In addition to other changes, the conferees agree to increase funding of the ManTech industrial preparedness program by a total of $30 million. The conferees recommend that the Navy be provided with an additional $5 million for establishment of a Center of Excellence for Composites Manufacturing Technology. The conferees further recommend that of the amount provided, $7.9 million shall be used for support of the National Center for Manufacturing Sciences, of which $2.9 million may be used for the establishment of a Center of Excellence for Advanced Flexible Manufacturing Systems. The conferees also recommend continued support for a National Powder Metallurgy Research and Development Center and the Low Articulating Robotic Systems program.

The conferees also note the excellent support provided by the Defense Manufacturing Board (DMB) and strongly endorse its continued support of the Defense Department's activities to improve manufacturing, quality assurance, and industrial preparedness activities.

Nuclear monitoring

The amended budget request contained $24.5 million for nuclear monitoring activities within the Defense Advanced Research Projects Agency (DARPA).

The House bill would increase this by $11.5 million, while the Senate amendment would increase this amount by $9.8 million.

The conferees agree to authorize $34.3 million for this program.

Joint DoD-DoE munitions technology development

The amended budget request contained $7.933 million for joint DoD-DoE munitions technology development.

The House bill would approve the requested amount, while the Senate amendment would add $17.067 million to the request in order to increase funding for this important program above last year's level.

The conferees agree to approve the request and further direct the Secretary of Defense to make available to this program not less than $12.224 million in unobligated prior-year funds.

Satellite survivability

The House bill would authorize $35 million above the requested amount for satellite survivability-related programs, including $25 million for improving the survivability of existing early warning and other critical U.S. space assets, and $10 million for survivable space power systems.

The Senate amendment contained no similar increases.

The House recedes.

The conferees share the concerns of the House about satellite survivability. The conferees believe, however, that a more considered and concerted approach is required to begin to solve this complex problem. The conferees believe that this issue warrants high-level administration review and authorize the Secretary of Defense to make available an amount not to exceed $10 million for survivable space power systems research and development.

On a related matter, the House bill would authorize $2 million to DARPA for laser weapon verification research.

The Senate amendment contained a provision (sec. 230) that would mandate award of any laser weapon verification RDT&E contracts to contractors with experience in: (1) development of technologies for cooperative verification of laser weapons; (2) propogation of high energy laser beams through the atmosphere; and (3) verification of testing or deployment of high energy laser beams against satellites in space.

The conferees agree to authorize $2 million to DARPA for laser weapons verification RDT&E. The conferees endorse the Senate position on the criteria for awarding contracts for such research but see no need for a legislative provision.

The Senate recedes.

In addition, the House bill would authorize $35 million above the requested amount for the DARPA LIGHTSAT program for rapid replenishment research.

The Senate amendment would authorize $25 million above the requested amount.

The conferees agree to authorize $25 million above the requested amount.

The conferees also agree to direct the Secretary of Defense to remove the restriction on the LIGHTSAT program that prohibits demonstration of advanced technologies in space. The conferees agree that the LIGHTSAT program should be oriented toward technology development but believe it is appropriate and necessary to test and demonstrate such technologies in the space environment. The conferees note that the Air Force plans to procure DARPA's Standard Small Launch Vehicle for its Space Test program if DARPA succeeds in demonstrating the vehicle and requisite capabilities. The conferees therefore direct that DARPA continue the Standard Small Launch Vehicle program.

Relocatable target detection technology

The amended budget request contained $21.5 million for relocatable target detection technology.

The House bill would approve the requested amount.

The Senate amendment would reduce the request by $2.5 million

The conferees agree to authorize $19 million for this program.

Infrared focal plane array

The amended budget request contained $19.81 million for the development of infrared focal plane array production technology under the management of the Defense Advanced Research Projects Agency (DARPA).

The House bill contained $25 million for the development of this technology under the Army's research and development program.

The Senate amendment contained $5 million more than the amended budget request for the DARPA program.

The House recedes.

The conferees recommend continuing the program in DARPA with funding authorized at the level recommended by the Senate.

The conferees understand the great importance of this program, especially for emerging state-of-the-art Army weapon systems. It is estimated that future Army weapons will account for approximately 70 percent of all Department of Defense appli-

cations for this technology. The conferees are especially interested in the development of techniques that will permit producible and affordable infrared focal plane array applications to be widely deployed in a cost-effective manner.

The conferees direct that management of this program be exercised jointly between DARPA and the Army. Further, the conferees expect DARPA to request authority to reprogram additional funds if such funds are needed to carry out congressional intent.

DARPA, working in conjunction with the Army, is directed to develop plans to transition the infrared focal plane producibility technology program to the Army and to provide those plans to the Committees on Armed Services of the Senate and House of Representatives no later than March 1, 1990.

Air Defense Initiative

The amended budget request contained $253.151 million for the Air Defense Initiative (ADI).

The House bill would authorize the requested amount.

The Senate amendment would reduce the requested amount by $100 million due to concerns that the program has devoted excessive resources to battle management and engagement technologies and insufficient resources to wide-area tactical warning/attack assessment (TW/AA).

The conferees agree to authorize $160 million, a reduction of $93.151 million from the request, which is aproximately last year's level plus inflation. The conferees share the concerns expressed in the Senate report (S. Rept. 101-81), and direct a re-structuring of the ADI program. The conferees expect increased emphasis on technologies able to provide wide-area TW/AA of advanced threats on a day-to-day basis.

The conferees are uncomfortable with the varying assessments of the immediacy and severity of advanced air threats; with the relationship between ADI technologies and Air Force upgrade programs for various deployed systems; and with the technical soundness of ADI's advanced TW/AA concepts. The conferees expect the Under Secretary of Defense for Acquisition to examine these issues carefully prior to the submission of the amended fiscal year 1991 budget request.

Unmanned aerial vehicles (UAV)

The amended budget request contained $117 million for the Joint Remotely Piloted Vehicle Program.

The House bill would authorize $132 million, an increase of $15 million for advanced development activities, to ensure that unmanned aerial vehicle-peculiar technologies are considered in future system designs.

The Senate amendment would authorize the program at the requested level.

The House recedes.

While the non-developmental item (NDI) acquisition approach has dominated recent Defense Department activities in unmanned aerial vehicles (UAV), the conferees believe that advanced development may be needed in the future to support a robust UAV program. The conferees further believe that the Secretary should review UAV programs in the Defense Advanced Research Projects Agency (DARPA) to determine whether they should be included in subsequent joint UAV budget requests.

Airborne reconnaissance support program

The amended budget request contained $84.6 million to continue programs within the Airborne Reconnaissance Support Program (ARSP). The budget request also proposed to terminate further operations of the SR-71 fleet of aircraft in fiscal year 1990.

The House bill would approve the ARSP program at the requested level, and would authorize an additional $200 million for a related classified activity. The House bill would agree with the budget request to terminate further operation of the SR-71 fleet.

The Senate amendment would terminate the ARSP program and direct that ongoing activities within the ARSP program be transferred to other accounts. The Senate amendment would authorize $100 million for a related classified activity. The Senate amendment would also direct the Department to continue to operate the fleet of SR-71 aircraft through fiscal year 1990.

The conferees believe that the airborne reconnaissance program is in virtual disarray. The Congress has asked for a road map for three years and has yet to receive cogent plans to guide future investment. While the conferees believe there is substantial inherent military value in the SR-71 fleet, it is clear that the Department has no intention of operating the aircraft to achieve or exploit that potential. The high cost of continued operation of an asset so ill used by the Department cannot be justified. Consequently, the conferees reluctantly recommend termination of any further operation of the SR-71s, and include a provision terminating the program.

Concerning the classified program, the conferees include a provision that would terminate the activity.

The conferees stress their disappointment with the way the ARSP has functioned, and provide additional comments and direction in the classified annex to the statement of managers.

Space-based wide-area surveillance

The amended budget request for space-based wide area surveillance (SB/WAS) totaled $23.668 million.

The House bill would deny all funding for this program.

The Senate amendment would authorize the requested amounts, with reservations about affordability and performance.

The conferees are concerned: (1) that a space-based wide area surveillance constellation is unaffordable in light of current budget constraints and competing priorities; (2) that the system will have little or no ability to detect and track advanced targets; and (3) that the requirements for wide-area surveillance have not been refined and assessed with respect to cost implications for a space-based surveillance system.

The conferes agree that further technology development should not proceed until the Defense Acquisition Board (DAB) has reviewed the program and approved an acquisition plan, system architecture, and operational requirements; and until Congress has reviewed and approved the program plan.

The conferees agree to authorize the Secretary of Defense to make available an amount not to exceed $10 million to the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C^{3}I)) to investigate modifications or enhancements to national systems to determine what portion of the wide-area surveillance mission can be performed by such systems and the cost-effectiveness of such upgrades. The ASD (C^{3}I) assessment of national systems should be guided by the necessity to ensure that these systems would be able to satisfy the operational requirements of military commanders.

Additionally, the conferees agree that the ASD(C^{3}I) may allocate some of the funds to the Air Force and Navy to prepare for the DAB review.

The DAB review should address, inter alia, cost, survivability, international cooperation, continental United States tactical warning/attack assessment coverage and priority versus support for allies and tactical forces on a world-wide basis, relationships among other programs and capabilities, and the issue of detecting and tracking advanced threats.

The conferees are concerned that the management of the development and acquisition of any space-based wide area surveillance system will remain a key issue. The capabilities of current systems, and the design and operational concepts of future systems to ensure interoperability, cross-cueing and common components should be considered prior to any commitment to a new space-based system.

Operational test and evaluation funding

The amended budget request contained $149.5 million for support of activities sponsored by the Department of Defense Office of Operational Test and Evaluation.

The House bill would authorize $79.5 million, and the Senate amendment would authorize $119.5 million.

The conferees agree to an authorization of $67.085 million for the Office of Operational Test and Evaluation. The authorization for the Capability Improvement Program is reduced by $70 million from the amount included in the amended budget request in recognition of delays incurred in obligating prior year funds, the lack of coordination in planning for this program, and the potential duplication with existing Defense Department test capabilities.

Further, the conferees agree that the need for a Strategic Defense Initiative operational test and evaluation activity is premature in view of the shifting SDI architectures, plans and priorities. Accordingly, the conferees agree to reduce the operational test and evaluation authorization by $12.415 million from the requested amount and direct the Department of Defense not to obligate any appropriated funds for such an activity until it has been formally authorized in law.

Advanced submarine techology

The House bill contained an addition of $95 million for research and development in advanced submarine technology for the Defense Advanced Research Projects Agency.

The Senate amendment authorized the requested amount.

The conferees agree to authorize an additional $95 milion for this activity.

This authorization constitutes the third year of what the conferees perceive to be a five-year program. The conferees agree that some of the programs conceived and started under the authority of the Defense Advanced Research Projects Agency ought to transition to the Navy. The Director, Defense Advanced Research Projects Agency is directed to report to the Committees on Armed Services of the Senate and House of Representatives by April 1, 1990 on a plan to transition some advanced submarine technology projects to the Navy.

National airspace system

The House bill contained $15 million that would support Department of Defense participation in the planned upgrade of the na-

tion's airspace system. Approximately one-third of the airspace facilities are currently operated by the Department of Defense, and improvements to these facilities will not be included under the planned Federal Aviation Administration (FAA) upgrade to the airspace system. Failure of the Department of Defense to upgrade these facilities in synchronization with the FAA could create interoperability and incompatibility problems that could result in serious safety hazards to both military and civilian aircraft.

The Senate amendment contained no similar provision.

The Senate recedes.

Superconductive magnetic energy storage systems

The conferees are encouraged by the progress of research on Superconductive Magnetic Energy Storage Systems (SMES). The potential for defense applications and the utility of such systems in both the industrial and residential sectors is very encouraging. The conferees are aware that other governments have committed substantial resources in research and development toward both defense and private sector applications and are making commensurate progress. In light of the results of this research, the broad potential applications, and the demonstrated commitment by competing interests, the conferees encourage the Department of Defense to continue this high priority research.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Technology base enhancement (sec. 202)

The House bill contained a provision (sec. 202) that would authorize funds for basic research and exploratory development to revitalize the Department of Defense's technology base covering fiscal years 1990 through 1994. The House bill would authorize a 2 percent real growth rate for the technology base over this 5-year period.

The Senate amendment contained no similar provision addressing the technology base as a defense-wide program, but would authorize several technology base initiatives within the Defense Advanced Research Projects Agency (DARPA).

During hearings preparatory to drafting the fiscal year 1990 defense authorization bill, the Armed Services Committees of both the Senate and House of Representatives received testimony from recognized national experts recommending steps be taken to halt the funding decline in the defense technology base, and that more direct actions be taken to invigorate the program and provide long term growth and stability.

The conferees agree that the technology base need to be improved and stabilized. However, limitations placed on overall defense funding preclude achieving a 2-percent real growth for defense technology base programs in fiscal year 1990. Further, the conferees agree to a 2-year technology base authorization consistent with the overall defense authorization bill for fiscal years 1990 and 1991. The conferees also agree that the fiscal year 1991 authorized funding level for the technology base will reflect the 2-percent real growth included in section 202 of the House bill.

Any undistributed authorizations included in the fiscal year 1990 or 1991 technology base accounts of the Services may be allocated to the programs of greatest need and potential benefit under the intent of this legislation. The conferees suggest areas of technology related to electronics, endothermic jet fuel, and materials including advancing ceramics and rubber composites. For example, the conferees believe the Army should investigate use of advanced rubber technology to improve performance of armored vehicle track components. There is also congressional interest in vehicle technology, particularly in ship- and submarine-enhanced performance. Undistributed authorization may also be used to investigate options for future designs and reduced acquisition and life cycle costs.

The conferees remind the Department of Defense of the need to support university research programs, to upgrade university facilities and instrumentation, and to maintain support for the various centers of excellence that have been established.

The Department of Defense should report to the Armed Services Committees of the Senate and House of Representatives on its intended distribution of any undistributed authorized funds, and the rationale used in making their allocation, prior to any obligation of these funds.

Soldier/Marine enhancement program (sec. 203)

The Senate amendment contained a provision (sec. 202) that would authorize $30 million for research and development to test and evaluate improved weapons and support equipment for infantry units in the Army and Marine Corps.

The House bill contained no similar provision.

The House recedes. The conferees endorse the intention of the Senate in establishing the Soldier/Marine Enhancement program.

Balanced Technology Initiative (sec. 211)

The Senate amendment contained a provision (sec. 221) that would authorize $296 million for research and development under the Balanced Technology Initiative (BTI). The provision would further stipulate that: the Director of Defense Research and Engineering shall determine how funds appropriated for the program are to be allocated to the military departments and agencies; funds are to be protected from undistributed reductions; and appropriated funds may not be used in connection with any Strategic Defense Initiative activity. An annual report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives, due no later than March 15th of each year, should be submitted providing an overall assessment of the status and future plans for each project undertaken by the Balanced Technology Initiative program.

The House bill contained a provision (sec. 208) that would increase the Balanced Technology Initiative funding by $32 million over the amended budget request to an authorization of $238 million.

The House recedes with an amendment that would authorize funds not in excess of the amount included in the House bill.

The conferees affirm the language contained in the Senate report (S. Rept. 101-81) expressing concern over the Department of Defense's support, leadership and guidance of the BTI program. The conferees support the actions contained in the Senate report directing the Secretary of Defense to improve planning and execution of the BTI program and reaffirm their intent that the Secretary of Defense and the Director of Defense Research and Engineering take all necessary steps to provide proper guidance and management to this program to permit it to attain its original goals and objectives.

Integrated electric drive program establishment sec. 212)

The Senate amendment contained a provision (sec. 224) that would merge three research and development programs (the Ship Propulsion System program, the Shipboard System Component Development program, and the Electric Drive program) and would authorize the Secretary of the Navy to establish an Integrated Electric Drive program.

The House bill contained no similar provision.

The House recedes.

The conferees agree that the merger of these programs is essential to creating the critical mass necessary to bring a program from development into operation. Elsewhere in this report, the Secretary of the Navy is directed to put integrated electric drive propulsion to sea in a DDG-51 class ship by the year 2000, a period which will have allowed more than 20 years for the development of this system. The conferees find that this time should be more than sufficient to achieve an initial operational capability.

The conferees agree that while superconducting technology will allow an integrated electric drive system to deliver the greatest benefits, ample justification exists to proceed in its absence. Keeping superconducting technology on a parallel path in order to preserve the option for including it in the initial installation of an electric drive system is a sound management approach that the conferees endorse.

Conversely, the conferees believe that delaying the installation of electric drive until superconducting technology is ready to be inlcuded will almost certainly push the initial operational capability of electric drive well into the next century, where no operational target can now be identified. Therefore, electric drive would just continue as a technology development program. The conferees beleive this would be a mistake and specifically direct the Navy to commit to putting the integrated electric drive system, with or without superconducting technology, to sea in a DDG-51 class ship by the year 2000.

The Secretary of Defense is directed to report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives on his assessment of additional measures to give focus to this development and acquisition priority.

Fast sealift ship technology development (sec. 213)

The Senate amendment contained a provision (sec. 225) that would authorize the Secretary of the Navy to establish a fast sealift technology development program, for which $30 million was provided.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees agree the urgent need for additional military sealift requires a program with a fast start; however, urgency must not dictate the construction of ships so narrowly defined for sealift that they can only be laid up in the Ready Reserve Force to await a contingency. This would be an inappropriate use of scarce shipbuilding resources. Consequently, the conferees agree the Navy should conduct a fast sealift technology development program for which $15 million is authorized for fiscal year 1990. The first goal of this program should be to ensure the ships authorized and appropriated in fiscal year 1990 for fast sealift are designed to possess multimission capabilities

and to be useful in day to day fleet operations. Further, since this will be a new design effort for ships of a size compatible with commercial uses, thought and care should be taken to allow for commercial viability.

The conferees agree, further, that an appropriate portion of the funds provided to implement this program should be used to initiate the 24-month fast sealift technology program described in the Fast Sealift Program Technology Assessment Report submitted to the Congress by the Secretary of the Navy in response to a requirement set forth in the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456). Initially, the Navy should conduct analyses to determine the effect of performance characteristics such as speed, payload carrying capacity, signature reduction, endurance, and survivability on the military effectiveness and affordability of candidate concepts for multimission ships for at least the sealift and amphibious lift missions. Commonality and producibility using advanced shipbuilding technologies should be specifically emphasized. Key synergistically-related technologies should be identified to serve as building blocks for a development strategy. These technologies may be identical to or closely related to current hull, machinery and electrical development programs, and the strategy should seek to capitalize on and/or reinforce those programs.

While military effectiveness and affordability must be the primary focus of this program, the conferees desire that the program be conducted with sensitivity to commercial viability of not only ship concepts but also the underlying technologies. To this end, the Secretary of the Navy is directed to seek the participation, financially and substantively, of the Maritime Administration and industry.

The conferees expect the program will pursue the work outlined in the Fast Sealift Program Technology Assessment Report, to include tank and operational tests for the purpose of advancing the state of knowledge regarding the so-called "semi-planing monohull" technology to a level commensurate with an aggressive design and construction effort by the early 1990's. Also, the program shall fully investigate displacement hull configurations in conjunction with large power applications to various propulsion technologies such as podded propulsion and large water jet pumps. The program should also investigate those key technologies—such as large size seals—needed to build a surface effect ship (SES) of militarily useful size.

The Secretary of the Navy is directed to submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives within 90 days of the date of enactment of this Act a plan for the accomplishment of near-term multimission design objectives for ships authorized and appropriated for sealift in fiscal year 1990. The report shall include the identification of a program manager together with the detailed plan for the accomplishment of the longer term objectives as set forth in: (1) the Fast Sealift Program Technology Assessment Report, (2) the Senate report (S. Rept. 101-81), and (3) this statement of managers.

Tactical oceanography (sec. 214)

The Senate amendment (sec. 226) authorized the Secretary of the Navy to establish a Tactical Oceanography program to accelerate uses of scientific measurement and data collection devices and processes for the purpose of rapid tactical applications.

The House bill contained no similar provision.

The House recedes.

The conferees agree the Secretary of the Navy should establish a Tactical Oceanography program in the exploratory development portion of the Navy's research and development program. There have been numerous examples in recent years of the possibilities for making greater explicit use of the tools and methods of scientific work in the world's oceans to benefit tactical antisubmarine warfare. Major thrusts in oceanography today such as telemetry, remote vehicle operation, high resolution sonar and optics, secure unattended bottom mounted sensors, tomography, data combination and display, and real time in-situ measurement of a variety of chemical species are meeting needs for data very similar to those required for defense. New platforms and technologies can be developed and evaluated quickly and inexpensively while being applied to scientific purposes. Improving the speed and method by which data is extracted from the ocean environment is a priority activity with important applications in both the civil sector and defense. The conferees agree that a modestly funded program holds great promise for the Navy's needs in antisubmarine warfare.

Grant for semiconductor cooperative research program (sec. 215)

The House bill contained a provision (sec. 205) that would make available $100 million to make grants for the Semiconductor Manufacturing Technology (SEMATECH) under the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180).

The Senate amendment contained no similar provision.

The Senate recedes.

Army heavy force modernization program (sec. 216)

The House bill contained a provision (sec. 207) that would prohibit the obligation of funds for competitive development of the Advanced Technology Transition Demonstrators (ATTD) for a common chassis for the Army's Heavy Forces Modernization program until certain studies had been conducted and reports are delivered to Congress recommending that the Army proceed with a program. As explained in the House report (H. Rept. 101-121), this provision was included, in part, because of concern that the United States must control the cost if producing tanks at credible production levels are to be achieved.

The Senate amendment contained no similar provision. The Senate report (S. Rept. 101-81), however, expressed reservations concerning the Heavy Forces Modernization program and prohibited the obligation of funds for the common chassis program until the Secretary of Defense had conducted a comprehensive review of the program and determined in what manner it should proceed, if at all.

The House bill also contained a provision (sec. 209) that would encourage the Army to continue the development of the so-called transverse-mounted engine program program for the M1 tank.

The Senate recedes with an amendment to section 207. The conferees recommend a provision that would require the Secretary of Defense to explain the rationale for the order in which vehicle types (i.e., self-propelled artillery, tanks, infantry fighting vehicles, etc.) are to be developed and produced, and would add a requirement that the Secretary of Defense study engine development and source selection issues.

The conferees note that the requirement for a Milestone I decision should in no way inhibit the Army from proceeding with ATTD if the Secretary of Defense so approves proceeding as a result of the Milestone I review.

The House recedes on section 209.

Magnetoencephalography (MEG) and neuromagnetism research (sec. 217)

The Senate amendment containd a provision (sec. 230b) that would authorize not more than $250,000 for a joint Army-Department of Energy research project on magnetoencephalography (MEG) and neuromagnetism.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the program at the discretion of the Administration.

Biodegradable materials research (sec. 219)

The Senate amendment contained a provision (sec. 228) that would authorize not more than $100,000 of the funds within the Army research, development, test and evaluation program for the purpose of continuing the research into the potential use of biodegradable materials in ration packaging designs.

The House bill contained no similar provision.

The House recedes.

Funding for the Strategic Defense Initiative (secs. 221 and 222)

The budget request contained $4,601.9 million for the Strategic Defense Initiative. The House bill (sec. 221) would provide $2,844.5 million. The Senate amendment (sec. 231) would provide $4,301.9 million.

The conferees agree in section 221 to authorize a total of $3,573.2 million for the Strategic Defense Initiative, to include not more than $23 million for the management headquarters activity.

The conferees also agree to accept the provision in the Senate amendment (sec. 235) that would authorize the Director, SDIO to allocate SDI funds in amounts not to exceed $20 million per annum for each of fiscal years 1990 and 1991 for a program of research on the medical uses of the free electron laser.

The conferees further agree in section 222 to accept the requirement in the Senate amendment (sec. 232) for the Director, SDIO to report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives within 90 days of the date of enactment of this Act on the allocation of fiscal year 1990 funds to each program, project, and activity within the SDI program.

SDI development and testing restriction (sec. 223)

The Senate amendment contained a provision (sec. 222) that would specify that funds provided to the Defense Department for fiscal year 1990 and previous years for the development or testing of anti-ballistic missile (ABM) systems or components may not be obligated or expended unless such development or testing is consistent with the development and testing described in the 1989 Strategic Defense Initiative Organization (SDIO) report.

Appendix C of the 1989 SDIO report, which was submitted to Congress by Secretary Carlucci on January 19, 1989, contains

the following statement: "Currently, no experiment has been approved which would not fall within the categories used in Appendix D to the 1987 Report to Congress on the SDI."

At a hearing of the Strategic and Nuclear Forces Subcommittee of the Senate Armed Services Committee on June 15, 1989. Under Secretary of Defense Paul D. Wolfowitz and Lt. Gen. George L. Monahan, Director of the SDIO, confirmed that this statement means that there are no SDI development or testing activities planned in fiscal year 1990, including long lead acquisition in fiscal year 1990 of material or equipment uniquely required for such development or testing in later years, which would conflict with the agreement on the ABM compliance issue which the Congress worked out with then-National Security Advisor Frank Carlucci in 1987, as reflected in section 225 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180).

Under Secretary Wolfowitz and General Monahan also confirmed that none of the SDI experiments which require additional compliance review will entail development or testing in fiscal year 1990, or the purchase in fiscal year 1990 of material or equipment uniquely required for development or testing in later years, that would conflict with the 1987 agreement, as reflected in section 225. Finally, the two witnesses affirmed that the 1985 Presidential directive requiring that the SDI program be conducted according to the so-called restrictive interpretation of the ABM Treaty was still in effect.

The House bill contained a virtually identical provision (sec. 234).

The House recedes.

Strategic defense report (sec. 324)

The Senate amendment contained a provision (sec. 233) that would establish in permanent law the requirement for an annual report to Congress on the program and projects of the Strategic Defense Initiative (SDI). The Senate provision would incorporate the nine elements required for inclusion in the annual report first enacted in section 231(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180). The Senate provision would also add one new reporting element: a statement of the basic research and development strategy being pursued under the SDI.

The House bill contained a provision (sec. 223) that would extend for one year the annual SDI report required by section 231(a) but would delete two of the previously required elements of the annual report.

The House recedes.

ICBM modernization (sec. 231)

The amended budget request contained $874.2 million in RDT&E funds for the Small ICBM and Rail-Garrison MX research and development activities; $163.6 million for advance procurement of long-lead items and $59 million for initial spares for Rail-Garrison MX; $80 million for live operational Mark 21 re-entry systems; and $104.9 million in military construction funds at F.E. Warren Air Force Base, Wyoming for the Rail-Garrison MX basing mode.

The House bill contained three provisions that would affect these programs (secs. 137, 210, and 255). The House bill would provide no funds for the Small ICBM program, $600 million for RDT&E on the Rail-Garrison program, and no funding for Rail-Garrison MX long-lead procurement items and military construction.

The Senate amendment contained no legislative restrictions similar to the House bill, and would fully fund the requests for RDT&E, procurement, and military construction.

The House recedes from its three legislative provisions.

The conferees agree to include the House provision (sec. 138) that would establish a permanent cap of 50 MX missiles that may be deployed at any time.

The following table summarize the funding for the ICBM modernization effort.

ICBM Funding, Fiscal year 1990

[In millions of dollars]

Program	Request	House bill	Senate amendment	Conference agreement
Mark 21 Reentry Vehicle Systems	80	80	80	
Rail Garrison MX:				
RDT&E	774	600	774	
Procurement	223	0	223	
Milcon	105	0	105	
SICBM	100	0	100	
Obligation limitation				−150
Total	1,282	680	1,282	1,132

The requested amounts for ICBM modernization efforts totalled $1,282 million. The conferees agree to provide $1,132 million. The Secretary of Defense is given the authority to allocate the reduction among all of the items and accounts identified above. He may not, however, increase funding for any item above the requested amount. In addition, the conferees expect the Secretary of Defense to allocate this reduction between the Small ICBM and the Rail MX programs. The reduction should not be derived solely from a single ICBM program. The Secretary is further directed to report within 10 days of the date of enactment of this Act to the Committees on Armed Services and Appropriations of the Senate and House of Representatives on his allocation to the various ICBM modernization accounts of the reduction required by this section.

In addition, the conferees direct the Air Force to transfer $100 million in fiscal year 1989 unobligated RDT&E funds to the Small ICBM program in lieu of approval of the pending reprogramming request 89-21 PA, which shall be withdrawn.

The conferees further mandate that the reductions required by this section and the allocation of those reductions by the Secretary are actions taken to reach outlay and budget authority targets, and that these reductions are made without prejudice to these programs and activities.

By these actions, the conferees strongly reiterate their support for the Administration's two-missile ICBM Modernization program.

Security at the Kwajalein test range (sec. 232)

The Senate amendment contained a provision (sec. 242) that would authorize the Secretary of the Air Force to transfer $5 million of funds available for research, development, test, and evaluation (RDT&E) for fiscal year 1990 and the Secretary of the Army to transfer $2.5 million of funds available for RDT&E for fiscal year 1990 to the Army for the purpose of funding highest priority security improvements at the Kwajalein test range.

The House bill contained no similar provision. The House report (H. Rept. 101-121), however, directed that $5 million of the proposed Kwajalein budget be set aside for highest priority security improvements and strongly urged the Department of Defense to reprogram money for remaining security improvements.

The House recedes with an amendment.

The conferees direct the Secretary of Defense to transfer $7.5 million to the Secretary of the Army from funds for RDT&E available to the Department of Defense for fiscal year 1990, for the sole purpose of funding highest priority security improvements at the Kwajalein test range.

The conferees note their concern about the security of sensitive activities at the Kwajalein test range. These concerns stem from the persistent failure of the Defense Department to adequately fund security programs at the Kwajalein test range, as well as the volume and importance of the activities conducted there.

Titan IV west coast launch pad (sec. 233)

The amended budget request contained $32.9 million for initial concept and design efforts for a second Titan IV space booster launch pad at Vandenberg Air Force Base, California.

The House bill and the Senate amendment would authorize the requested amount. The House and Senate authorizations, however, were based on the assumption that the Air Force had elected to convert the existing but unused Space Launch Complex 6 (SLC-6) rather than build a new pad.

The committees made this assumption because Congress last year prohibited the Air Force from proceeding with a new Titan IV pad; the Five Year Defense Program contains funds that are sufficient only to convert SLC-6: and the Air Force Systems Command recommended conversion of SLC-6.

The conferees recently learned, however, that the Air Force has decided to build a brand new pad and has already issued a draft Request For Proposals (RFP) to industry for that purpose. The Armed Services Committees of the Senate and House of Representatives were not notified or consulted by the Air Force about its decision to build SLC-7 instead of converting SLC-6 until the RFP had been released. The conferees express serious concern that the Air Force has taken these steps despite a provision in the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456) that explicitly prohibited the expenditure of any funds in connection with the SLC-7 launch facility at Vandenberg Air Force Base.

Conversion of SLC-6, according to the Air Force's estimates, would save more than $200 million over building a new pad with comparable capabilities, and conversion also will take less time. Moreover, conversion will permit the Air Force to make use of the mothballed SLC-6 facility, in which the Air Force had invested $3.5 billion, and to forgo the expense of maintaining the facility in mothballs.

It is clear that the facility will never be used for its original purpose, which was to launch military satellites from the Shuttle. Repeated testimony by the Department of Defense and NASA demonstrates that the Shuttle manifest cannot absorb more military flights. Moreover, the Shuttle's West Coast payload, even with solid booster upgrades, is insufficient for DoD payloads. The Defense Department's satellites, since being forced off the Shuttle, have been redesigned for launch by expendible boosters and cannot fly on the Shuttle. Finally, the GAO and the Air Force report that it would

cost $1.5 billion or more and take 5 years to restore a Shuttle launch capability at SLC-6. That prospect is simply unaffordable.

NASA's west coast launch requirements for the Mission to Planet Earth can be met with Titan IV or medium-lift launch vehicles. Neither the Space Station nor planetary missions require a Shuttle or Shuttle-C polar launch capability from the west coast. The conferees note that neither NASA nor the Air Force has any plans for manned polar-orbit Shuttle missions and do not believe that restoring SLC-6 for such missions is credible.

For these reasons, the conferees believe that converting SLC-6 for Titan IV launch would be prudent and economical. The capacity of such a pad also would satisfy national requirements.

The Air Force argues also that the SLC-6 site and existing facilities preclude designing a pad that would reduce the costs and time required to process and launch space boosters. Also, the conferees have been informed recently that a SLC-6 conversion probably could not accommodate a future Advanced Launch System (ALS). (The conferees do not question this assertion, but note that last year the Air Force made the opposite argument.) The Air Force would prefer to be able to design a new pad from a "clean slate" to incorporate new concepts and advanced capabilities.

The conferees agree that these goals are worth pursuing. Congress has repeatedly expressed frustration with the lack of responsiveness of current launch vehicles and operations and with the time, cost, and complexity involved in such operations.

The conferees are concerned, however, that the Air Force has no concrete plan that shows how much these added capabilities will cost or what specific benefits will be gained. The conferees have no assurances, furthermore, that the corporate Air Force will adequately and consistently support such an initiative financially.

In the absence of such a plan and assurances of Air Force financial commitment, the conferees cannot agree to support construction of a new pad instead of SLC-6 conversion.

Finally, the Air Force maintains that it must proceed quickly with plans for a second Titan IV launch facility at Vandenberg to meet critical launch requirements in fiscal year 1996. The SLC-7 option may preclude meeting this schedule. The conferees do not believe that the Air Force can complete the required 35 percent of the actual design in time to justify military construction funds in fiscal year 1991.

Accordingly, the conferees agree to a provision that would prohibit the Air Force from building a brand new pad and that would direct that SLC-6 be converted instead. The conferees agree to authorize the requested amount for design of this second Titan IV launch pad.

The conferees may be willing to reconsider their decision during the fiscal year 1991 budget process, but only if any new proposed plan for SLC-7 incorporates advanced launch concepts. At a minimum, an alternative plan for SLC-7 must include the following concepts: (1) integrate, transfer, and launch (ITL), which includes off-pad assembly and integration of launch vehicles for subsequent transfer and launch; (2) adequate facilities for assembling multiple launch vehicles in an assembly line process; and (3) a clean pad free of large, fixed gantries and support stands.

Chemical weapons monitoring program (sec. 241)

The House bill contained a provision (sec. 252) that would make available to the Office of the Secretary of Defense $15 million to conduct a program to develop and demonstrate compliance monitoring capabilities in support of a verifiable convention prohibiting chemical weapons.

The Senate amendment contained a virtually identical provision (sec. 229).

The Senate recedes with an amendment. It is the intent of the conferees that these funds be available only to the Office of the Secretary of Defense to conduct this program, and not to any other office or agency within the Department of Defense.

Report on identification of agents used in the biological defense research program (sec. 242)

The House bill contained a provision (sec. 251) that would require the Secretary of Defense to disclose all biological agents used in, or the subject of research, development, testing and evaluation that is conducted under the Biological Defense Research Program; the unique and complete biological properties of the agents; the location at which the research is being conducted; and the amount of funds being spent at each location. This report would be published annually in the Federal Register except for those parts which the Secretary determines should remain classified. Those parts would then be provided in classified form to the Committees on Armed Services of the Senate and House of Representatives.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees agree that the report will be provided to Congress in classified and unclassified form at the time of the fiscal year 1991 amended budget submission. The Armed Services Committees intend to carefully review this report during consideration of the fiscal year 1991 budget and to make a determination as to whether or not the reporting requirement should be an annual one. The conferees urge the Department of Defense to provide the information requested on the research it conducts under the Biological Defense Research Program as completely and accurately as possible. If the Department is unable to provide any of the information requested, the conferees would expect a detailed explanation as to the causes underlying the omission.

Restoration of certain reporting requirements in the chemical and biological warfare defense programs (sec. 243)

The Senate amendment contained a provision (sec. 243) that would amend section 602 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) to restore four reporting and/or notification requirements related to chemical and biological warfare (CBW) defense programs that were inadvertently deleted by that Act: (1) annual report on CBW expenditures for research, development, test and evaluation (RDT&E) of CBW agents; (2) report on an emergency disposal of CBW agents that were not detoxified or otherwise made harmless; (3) prior notice to Congress of any DoD experiment or study involving the use of human subjects to test CBW agents; and (4) prior notice to local officials of any test or experiment involving the use of any CBW agent on civilian populations.

The House bill contained no similar provision.

The House recedes. The conferees direct the Secretary of Defense to provide the Committees on Armed Services of the Senate and House of Representatives with the annual report on CBW agent RDT&E expenditures in fiscal year 1988 which was prepared by the Department of Defense but not submitted to Congress.

Advanced research projects (sec. 251)

The Senate amendment contained a provision (sec. 222) that would authorize the Secretary of Defense to enter into cooperative agreements and other transactions in carrying out advanced research projects through the Defense Advanced Research Projects Agency (DARPA). These cooperative agreements and other transactions could be entered into with individuals and agencies inside or outside the government and could include provisions for payment to the Defense Department, or other parts of the Federal Government, as a condition for receiving support under the agreement or transaction. These payments could, at the discretion of the Secretary of Defense, be credited to a special account established on the books of the U.S. Treasury and could then be used, along with other funds merged into this account, by the Secretary of Defense for supporting other similar DARPA advanced research projects. The provision would also require the Secretary of Defense to ensure to the maximum extent practicable that this authority be used only when the use of standard contracts or grants is not feasible, and to submit an annual report to the Committees on Armed Services of the Senate and House of Representatives on all agreements and other transactions entered into under this section. The Senate amendment identified an initial authorization of $25 million as working capital for the special account for fiscal years 1990 and 1991.

The House bill contained no similar provision.

The House recedes with an amendment that would establish this authority on a two-year trial basis. At the end of this trial period, the Secretary of Defense shall make a report to the Committees on Armed Services of the Senate and House of Representatives on his assessment of the successes and failures of the programs authorized by this provision. The Secretary shall also recommend whether or not the provision should be enacted in permanent law, with or without amendment, to include whether similar authorization for the military Services and other defense agencies should be provided.

Grants and contracts to colleges and universities (sec. 252)

In the National Defense Authorization Act for Fiscal Year 1989, Congress enacted section 2361 of title 10, United States Code, requiring the use of competitive procedures in making grants and contracts to colleges and universities. Because of concerns about the manner in which that provision might be implemented Congress delayed implementation of this provision until October 1, 1989 to permit further study and analysis.

During hearings in 1989, the Armed Services Committees of both the Senate and House of Representatives received testimony emphasizing the importance of discouraging both legislative and executive branch earmarking. It was also noted that circumstances might exist in which it would be in the government's best interest to permit the award of contracts and grants to universities and colleges using the same exceptions applicable to all other entities under the Com-

petition in Contracting Act (CICA). This year's legislation, as approved by both Houses, addressed this issue.

The House bill contained a provision (sec. 253) that would amend section 2361 of title 10, United States Code, to permit the Secretary of Defense to make grants, or award contracts, to colleges or universities for research and development, or the construction of facilities, using the procedures contained in the CICA which permit non-competitive procedures to be used in certain, specific circumstances. The House provision would however, preclude use of the exception permitting sole-source procurement as directed by statute. The House provision would further require that no statutory exemption could be construed as overriding this limitation unless it specifically referred to, and expressly superseded, section 2361.

The Senate amendment contained a similar provision (sec. 223). The Senate amendment also would require the Secretary of Defense to provide a semiannual report to the Committees on Armed Services of the Senate and House of Representatives on the use of competitive procedures for research and development contracts with colleges and universities.

The Senate recedes with an amendment.

Testimony received by the Armed Services Committees of the Senate and House of Representatives has been consistent in recommending merit-based competitive awards of grants and contracts to universities and colleges. The conferees continue to oppose the use of legislative earmarking of Department of Defense research and development funds to these institutions. It is the intent of the conferees that the Department of Defense carefully monitor the use of the limited authority granted in this section to use other than full and open competition. Permission to use these exceptions should not be viewed as representing any less resolve on the part of the Congress to ensure that fair, effective competition is used, to the maximum extent possible, in awarding grants and contracts for basic research and exploratory development to academic institutions.

The conference agreement requires a semiannual report on use by the Executive branch of exceptions to CICA. The conferees will monitor these reports closely to ensure that merit-based procedures are used in such cases.

The conference agreement also makes it clear that legislative earmarking is inappropriate. In the event that subsequent legislation contains any earmarking, the conference agreement precludes obligation of the funds until the Armed Services and Appropriations Committees of the Senate and House of Representatives have had ample opportunity to consider remedial legislation.

Selection of heavy truck system with palletized loading system (sec. 253)

The Senate amendment contained a provision (sec. 230) that would amend section 259(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) to extend by 6 months the deadline for selection of a final design for the Army's heavy truck system configured with palletized loading system.

The House bill contained no similar provision.

The House recedes.

Infantry anti-tank weapon (sec. 254)

The House bill contained a provision (sec. 254) that would require the Army to conduct a side-by-side evaluation of the Bofors Bill weapon system and the Dragon II anti-tank weapon system, and, on the basis of that evaluation, select an interim system for the Army. The provision would further stipulate that either system selected must be ready to enter production by the start of fiscal year 1991.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees agree with the House position that the tests directed by the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-465) were not conducted by the Army in accordance with the expectation of the conferees. Therefore, the conferees include a provision that would require the Army to complete side-by-side testing of the Dragon II, Bofors Bill, and Milan weapon systems.

The conferees note the growing threat posed by reactive armor. The conferees believe that some of the tests should be conducted as feasible against targets fitted with multiple layers of reactive armor.

The conferees do not agree that the Army should select the best system as an interim anti-tank weapon system for the Army and reaffirm their commitment that the Army's Advanced anti-tank Weapon System-Medium (AAWS-M) is currently the only feasible solution to the anti-armor problem in the current budget environment.

Funding for collaborative medical research and training and for microelectronics and materials research (sec. 255)

The House bill contained a provision (sec. 257) that would authorize up to $18 million for a facility as part of a larger project for collaborative research and training for Defense Department military medical personnel in trauma care, head, neck, and spinal injury, paralysis, and neuro-degenerative diseases. The provision would also stipulate that this facility should be located at an institution with national recognition in these fields and that the Federal Government's share of the facility cost should not exceed one-third of the total cost of the project.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees agree that competitive procedures will be used for all contracts awarded under this program to the maximum extent possible.

The conferees note and continue to support the DARPA program of research in advanced microelectronic, and optoelectronics, and materials. The conferees agree to a provision that would authorize the Secretary of Defense, at his discretion, to obligate not more than $15 million for this program in fiscal year 1990. The Conferees are aware, however, that the funds appropriated for this program in fiscal year 1989 were not obligated until late in that fiscal year. Consequently, none of the funds authorized for use on this program shall be obligated before July 1, 1990.

National aerospace plane (sec. 256)

The House bill would authorize $285 million for the National Aerospace Plane (NASP). The House report (H. Rept. 101-121) recommended that the program remain a joint Department of Defense/National Aeronautics and Space Administration (NASA) initiative with the Air Force as the lead agency. The House report also directed the Air Force to conduct a study on the feasibility and cost savings associated with accelerating the NASP program by one year.

The Senate amendment would authorize $100 million for the NASP.

The National Space Council recently recommended that the NASP program be funded at $254 million in fiscal year 1990, with funding provided in equal parts from the Department of Defense and NASA. The conferees support this recommendation but note that NASA has been appropriated only $60 million for NASP—far below the requested equal share for NASA. The conferees agree to authorize up to $225 million for the program to be funded as provided for in this section through amounts appropriated to the Department of Defense for fiscal year 1990 that are transferred to NASA pursuant to law. The conferees further direct the Air Force to conduct a study as outlined in the House report.

Finally, the conferees recommend that the NASP program continue in the future as a joint Department of Defense/NASA program with the Air Force as the lead agency.

Rankine engine (sec. 257)

The conferees agree to repeal section 205(a)(3) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 101-180). This section limited funds for the Rankine engine.

LEGISLATIVE PROVISIONS ADOPTED

Mid infrared advanced chemical laser

The House bill contained a provision (sec. 204) that would prohibit the testing of the Mid Infrared Advanced Chemical Laser (MIRACL) transmitter and associated optics against an object in space unless such testing was specifically authorized by law.

The Senate amendment contained no similar provision.

The Secretary of Defense has delivered a letter to the Committees on Armed Services of the Senate and House of Representatives dated October 23, 1989 stating that while remaining a research and development asset, the modified MIRACL system may provide a modest ASAT capability in the near term. Given that the upgrade will not be completed until fiscal year 1991 at the earliest, the MIRACL system will not be capable of conducting any testing against objects in space until that fiscal year. It is therefore the conferees' understanding that there will be no test of the MIRACL system against an object in space during fiscal year 1990. The conferees also note that the MIRACL program continues to be a congressional interest item. Accordingly, the conferees ask the Secretary of Defense to respect the desire of the Congress to continue to address the policy implications during the fiscal year 1991 budget process associated with testing of the MIRACL against an object in space and urge the Secretary not to take action inconsistent with this expressed interest during the calendar year 1990.

The House recedes.

Trident II missile program

The Senate amendment contained a provision (sec. 241) that would prohibit the transfer of RDT&E funds from the Trident II missile program to other programs.

The House bill contained no similar provision.

The Senate recedes.

Sense of Congress on Presidential support for continued development of the V-22 program

The Senate amendment contained a provision (sec. 944) that would express the sense of Congress that the President should continue development of the joint services V-22 Osprey program. The provision would speci-

fy that the sense of Congress was in support of the recommendations contained in the Senate report (S. Rept. 101-81).

The House bill contained no similar provision.

The Senate recedes.

TITLE III—OPERATION AND MAINTENANCE AND WORKING CAPITAL FUNDS

OVERVIEW

The House bill would authorize $87,887,819,000 for operation and maintenance in the Department of Defense and $429,100,000 for Working Capital Fund accounts in fiscal year 1990, a reduction from the amended budget request of $2,309,630,000 and $27,000,000, respectively.

The Senate amendment would authorize $87,780,449,000 for operation and maintenance in the Department of Defense and $699,400,000 for Working Capital Fund accounts in fiscal year 1990, a reduction from the amended budget request of $2,417,000,000 and $75,000,000 respectively.

The conferees recommend authorization of $86,210,547,000 for operation and maintenance in the Department of Defense and $244,700,000 for Working Capital Fund accounts in fiscal year 1990, as reflected in the following tables. This level of authorization represents a reduction from the amended budget request of $3,986,902,000 and $529,700,000, respectively.

OPERATION AND MAINTENANCE
SUMMARY OF FUNDS RECOMMENDED
FOR AUTHORIZATION
(DOLLARS IN THOUSANDS)

ACCOUNT	AMENDED FY 1990 REQUEST	HOUSE CHANGE	FY 1990 HOUSE AUTHORIZED	SENATE CHANGE	FY 1990 SENATE AUTHORIZED	CONFERENCE CHANGE	FY 1990 CONFERENCE AUTHORIZED
O&M, ARMY	23,708,600	(304,350)	23,404,250	(254,900)	23,453,700	(735,291)	22,973,309
O&M, NAVY	25,954,600	(1,458,080)	24,496,520	(1,596,400)	24,358,200	(2,027,849)	23,926,751
O&M, MARINE CORPS	1,716,300	(12,800)	1,703,500	(15,800)	1,700,500	(58,500)	1,657,800
O&M, AIR FORCE	22,812,200	(443,560)	22,368,640	(102,700)	22,709,500	(902,904)	21,909,296
O&M, DEFENSE AGENCIES	8,021,600	(46,690)	7,974,910	(95,600)	7,926,000	(171,128)	7,850,472
O&M, INSPECTOR GENERAL	94,749	0	94,749	400	95,149	0	94,749
O&M, ARMY RESERVE	861,900	1,100	863,000	2,400	864,300	(100)	861,800
O&M, NAVY RESERVE	980,000	(62,800)	917,200	(84,300)	895,700	(85,200)	894,800
O&M, MARINE CORPS RESERVE	77,400	0	77,400	100	77,500	0	77,400
O&M, AIR FORCE RESERVE	1,004,600	(20,213)	984,387	(22,700)	981,900	(26,100)	978,500
O&M, ARMY NATIONAL GUARD	1,870,200	(3,100)	1,867,100	5,300	1,875,500	(3,100)	1,867,100
O&M, AIR NATIONAL GUARD	2,041,200	(41,407)	1,999,793	(52,800)	1,988,400	(59,300)	1,981,900
RIFLE PRACTICE, ARMY	4,700	(730)	3,970	0	4,700	(730)	3,970
COURT OF MILITARY APPEALS	4,000	0	4,000	0	4,000	0	4,000
ENVIRONMENTAL RESTORATION	517,800	83,000	600,800	0	517,800	83,300	601,100
GOODWILL GAMES	14,600	0	14,600	0	14,600	0	14,600
HUMANITARIAN ASSISTANCE	13,000	0	13,000	0	13,000	0	13,000
BASE CLOSURE	500,000	0	500,000	(200,000)	300,000		500,000
TOTAL OPERATION & MAINTENANCE	90,197,449	(2,309,630)	87,887,819	(2,417,000)	87,780,449	(3,986,902)	86,210,547

WORKING CAPITAL FUNDS
(DOLLARS IN THOUSANDS)

ACCOUNT	AMENDED FY 1990 REQUEST	HOUSE CHANGE	FY 1990 HOUSE AUTHORIZED	SENATE CHANGE	FY 1990 SENATE AUTHORIZED	CONFERENCE CHANGE	FY 1990 CONFERENCE AUTHORIZED
O&M, WORKING CAPITAL FUNDS							
Army Stock Fund	107,600	27,000	134,600	(10,000)	97,600	(107,600)	0
Navy Stock Fund	223,400	0	223,400	(22,000)	201,400	(182,900)	40,500
Air Force Stock Fund	339,300	0	(33,000)	(33,000)	306,300	(213,200)	126,100
Defense Stock Fund	104,100	0	104,100	(10,000)	94,100	(26,000)	78,100
TOTAL O&M, WORKING CAPITAL FUNDS	774,400	27,000	429,100	(75,000)	699,400	(529,700)	244,700

O&M, ARMY
($ IN THOUSANDS)

	FY 90 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, ARMY	23,708,600						22,973,309
Unified and Specified Commands		(12,000)				(6,000)	
Inventory management		(100,000)				0	
ADP management		(105,500)				(152,078)	
Household goods claims		(2,000)				(2,000)	
Blackmarketing		(3,000)				(3,000)	
Maintenance support activities		(50,000)				(22,000)	
Contracting out studies/savings		(15,000)				(68,000)	
Troop schools		(2,000)				(2,000)	
Physical fitness facility contracts		(2,000)				(2,000)	
Excess overtime		(20,000)				(20,000)	
Stock fund cash		(27,000)				(77,000)	
Management improvements		(92,150)				(68,700)	
Real property maintenance		(41,000)		60,000		(41,000)	
Classified programs		(500)		(800)		(15,213)	
Overocean transportation		100,000				100,000	
Depot maintenance/helicopter damage repairs		105,000		100,000		100,000	
Base operations		100,000				85,000	
Commissary operations/transportation		5,500				5,500	
ASIMS (viable)		1,000				0	
Modernization of equipment		(143,700)		(143,700)		(143,700)	
Foreign currency				(177,900)		(177,900)	
Command, Control and Communications				(20,000)		(20,000)	
Administration				(10,000)		(10,000)	
Claims				(8,800)		(12,000)	
Industrial Fund Passthrough				(15,400)		(15,400)	
Civilian pay raise				59,200		0	
Supply operations				45,000		45,000	
Pentagon transfer				(12,400)		(12,400)	
Asset capitalization program				(59,100)		(59,100)	
Ammunition plant maintenance				(71,000)		(71,000)	
Civilian personnel						(55,300)	
Travel						(15,000)	
TOTAL		(304,350)		(254,900)		(735,291)	

O&M, NAVY
($ IN THOUSANDS)

	FY 90 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, NAVY	25,954,600						23,926,751
Contracting out studies/savings		(15,000)				(36,800)	
Naval Audit Service		(2,000)				0	
Unified and Specified Command HQ		(6,000)				(3,000)	
Automatic Data Processing		(40,000)				(143,573)	
Household goods claims		(2,000)				(2,000)	
Stock fund cash		(42,000)		(100,000)		(240,450)	
Legislative/management improvements		(100,880)				(94,400)	
Real property maintenance		(21,400)		60,000		(21,400)	
Classified programs		(2,300)		(1,300)		(2,326)	
Depot maintenance		36,300		65,000		36,300	
Commissary operations/transportation		500				500	
Naval Aviation Museum, Pensacola		2,000				2,000	
USS ENTERPRISE refueling		(106,000)		(106,000)		(106,000)	
Modernization of equipment		(1,161,300)		(1,161,300)		(1,161,300)	
Foreign currency				(44,400)		(44,400)	
Command, Control and Communications				(10,000)		(10,000)	
Administration				(5,000)		(5,000)	
Recruiting/Chicago museum		2,000		2,000		2,000	
Civilian pay raise				69,200		0	
Pentagon transfer				(4,700)		(4,700)	
SOSUS				(8,000)		0	
Asset capitalization program				(351,900)		(351,900)	
Civilian personnel						(7,700)	
Ship maintenance and repair						186,300	
Travel						(20,000)	
TOTAL		(1,458,080)		(1,596,400)		(2,027,849)	

O&M, MARINE CORPS
($ IN THOUSANDS)

	FY 90 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, MARINE CORPS	1,716,300						1,657,800
Real property maintenance		(6,900)		15,000		(6,900)	
Modernization of equipment		(5,900)		(5,900)		(5,900)	
Foreign currency				(25,500)		(25,500)	
Civilian pay raise				4,000		0	
Asset capitalization program				(3,400)		(3,400)	
Contracting out studies/savings						(11,500)	
Civilian personnel						(2,400)	
Management improvements						(2,900)	
TOTAL		(12,800)		(15,800)		(58,500)	

O&M, AIR FORCE
($ IN THOUSANDS)

	FY 90 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, AIR FORCE	22,812,200						21,909,296
Invalid backorders		(23,680)				(23,680)	
Automatic Data Processing		(10,000)				(56,700)	
Household goods claims		(2,000)				(2,000)	
Contracting out studies		(15,000)				(24,000)	
Unified and Specified Command		(6,000)				(3,000)	
Stock fund cash		(46,000)				(112,200)	
Legislative/management improvements		(88,680)				(94,400)	
Real property maintenance		(69,200)		60,000		(69,200)	
Classified programs		(1,600)				(2,924)	
Civil Air Patrol		1,900				1,900	
Commissary operations/transportation		4,000				4,000	
Second destination transportation		20,000				0	
Base operating support		38,000				0	
Modernization of equipment		(245,300)		(245,300)		(245,300)	
Foreign currency				(84,400)		(84,400)	
Administration				(10,000)		(10,000)	
Industrial fund passthrough				(56,700)		(56,700)	
Civilian pay raise				41,700		0	
Depot maintenance				65,000		0	
Pentagon transfer				(9,000)		(9,000)	
SR-71				211,000		0	
Asset capitalization program				(75,000)		(75,000)	
Civilian personnel						(20,300)	
Travel						(20,000)	
TOTAL		(443,560)		(102,700)		(902,904)	

O&M, MARINE CORPS RESERVE
($ IN THOUSANDS)

	FY 90 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, MARINE CORPS RESERVE	77,400						77,400
Civilian pay raise				100		0	
TOTAL		0		100		0	

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O&M, ARMY NATIONAL GUARD
($ IN THOUSANDS)

	FY 90 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, ARMY NATIONAL GUARD	1,870,200						1,867,100
Automatic Data Processing		(3,000)				(3,000)	
Real property maintenance		(100)				(100)	
Civilian pay raise				5,300		0	
TOTAL		(3,100)		5,300		(3,100)	

O&M, AIR NATIONAL GUARD
($ IN THOUSANDS)

	FY 90 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, AIR NATIONAL GUARD	2,041,200						1,981,900
Real property maintenance		(1,000)				(1,000)	
Reinstate FY 1990 force structure reduction		12,893		0		0	
Modernization of equipment		(53,300)		(53,300)		(53,300)	
Command, Control and Communications				(5,000)		(5,000)	
Civilian pay raise				5,500		0	
TOTAL		(41,407)		(52,800)		(59,300)	

O&M, RIFLE PRACTICE, ARMY
($ IN THOUSANDS)

		HOUSE BILL		SENATE BILL		CONFERENCE	
	FY 90 REQUEST	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION
O&M, RIFLE PRACTICE, ARMY	4,700						3,970
Excessive growth		(700)				(700)	
Real property maintenance		(30)				(30)	
TOTAL		(730)		0		(730)	

O&M, U.S. COURT OF MILITARY APPEALS
($ IN THOUSANDS)

	FY 90 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, U.S. COURT OF MILITARY APPEALS	4,000	----				0	4,000
TOTAL		0		0		0	

O&M, U.S. ENVIRONMENTAL RESTORATION, DEFENSE
($ IN THOUSANDS)

		HOUSE BILL		SENATE BILL		CONFERENCE	
	FY 90 REQUEST	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION
O&M, ENVIRONMENTAL RESTORATION, DEFENSE	517,800						601,100
Increase		83,000				83,300	
TOTAL		83,000		0		83,300	

O&M, GOODWILL GAMES
($ IN THOUSANDS)

		HOUSE BILL		SENATE BILL		CONFERENCE	
	FY 90 REQUEST	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION	CHANGE FROM REQUEST	AUTHORIZATION
O&M, GOODWILL GAMES	14,600						14,600
						0	
TOTAL		0		0		0	

O&M, HUMANITARIAN ASSISTANCE
($ IN THOUSANDS)

	FY 90 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, HUMANITARIAN ASSISTANCE	13,000						13,000
						0	
TOTAL		0		0		0	

O&M, BASE CLOSURE
($ IN THOUSANDS)

	FY 90 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, BASE CLOSURE	500,000						500,000
Base closure				(200,000)			
TOTAL			0	(200,000)			

O&M, WORKING CAPITAL FUNDS
($ IN THOUSANDS)

	FY 90 REQUEST	HOUSE BILL CHANGE FROM REQUEST	HOUSE BILL AUTHORIZATION	SENATE BILL CHANGE FROM REQUEST	SENATE BILL AUTHORIZATION	CONFERENCE CHANGE FROM REQUEST	CONFERENCE AUTHORIZATION
O&M, WORKING CAPITAL FUNDS							
Army Stock Fund	107,600	27,000		(10,000)		(107,600)	0
Navy Stock Fund	223,400	0		(22,000)		(182,900)	40,500
Air Force Stock Fund	339,300	0		(33,000)		(213,200)	126,100
Defense Stock Fund	104,100	0		(10,000)		(26,000)	78,100
TOTAL	774,400	27,000		(75,000)		(529,700)	244,700

Fiscal year 1991 authorization

The Senate amendment would authorize $90,899,000,000 for operation and maintenance in the Department of Defense in fiscal year 1991, a reduction from the amended budget request of $3,142,800,000. The Senate amendment would also authorize $849,500,000 for Working Capital Fund accounts, the amount requested in the amended budget request.

The House bill did not authorize appropriations for operation and maintenance in the Department of Defense and for Working Capital Fund accounts in fiscal year 1991.

The conferees recommend authorization of $91,434,100,000 for operation and maintenance in the Department of Defense and $849,500,000 for Working Capital Fund accounts in fiscal year 1991, as reflected in the following tables. This level of authorization represents a reduction from the amended budget request of $2,607,700,000 for the operation and maintenance accounts, and the same amount requested for the Working Capital Fund accounts.

OPERATION AND MAINTENANCE FOR FISCAL YEAR 1991 ON ADJUSTMENTS BY ACCOUNT

[In thousands of dollars]

	Amended budget request	Enterprise remod	Modification installation	Ammunition plant maintenance	Total
Army	24,876,900		(157,500)	(71,000)	24,648,400
Navy	27,287,800	(40,500)	(1,184,600)		25,262,700
Marine Corps	1,775,500		(4,200)		1,771,300
Air Force	23,545,100		(200,800)		23,344,300
Defense agencies	8,318,900				8,318,900
Inspector General	97,600				96,600
Army Reserve	902,600				902,600
Navy Reserve	1,017,000		(67,100)		949,900
Marine Corps Reserve	79,400				79,400
Air Force Reserve	1,041,300		(25,900)		1,015,400
Army National Guard	1,896,300				1,896,300
Air National Guard	2,160,700		(56,100)		2,104,600
Rifle practice Army	5,600				5,600
U.S. Court of Military Appeals	4,200				4,200
Environmental restoration defense	519,900				519,900
Humanitarian assistance	13,000				13,000
Base closure	500,000				500,000
Total	94,041,800	(840,500)	(1,696,200)	(71,000)	91,343,100

	Amended budget request	Fiscal year House authorized	Fiscal year Senate authorized	Fiscal year Conference authorized
Working capital funds:				
Army Stock Fund	141,500		141,500	141,500
Navy Stock Fund	232,100		232,100	232,100
Air Force Stock Fund	319,600		319,600	319,600
Defense Stock Fund	156,300		156,300	156,300
Total	849,500		849,500	849,500

ITEMS OF SPECIAL INTEREST

Review of unified and specified command headquarters

The House bill would reduce the funding requested for unified and specified command headquarters by $24 million.

The Senate amendment would make no reductions in this area.

The conferees agree to reduce funding for unified and specified command headquarters by $12 million.

The House report (H. Rept. 101-121) would require the Department of Defense to report by January 1, 1990 on how and when it will implement the recommendations of the study by the DoD Deputy Inspector General concerning elimination of the service components of the U.S. Transportation Command and U.S. Space Command. The report required by the House report would also include a reexamination by the Department of Defense of the recommendations of the study by the DoD Deputy Inspector General; identification of those positions specifically recommended for elimination; and an action plan to reduce these positions by January 1, 1990.

The Senate report (S. Rept. 101-81) would not require a similar report.

The conferees agree that no report is required from the Department of Defense containing a plan of action to eliminate the component commands of the U.S. Transportation Command and U.S. Space Command.

Submarine reactor compartment disposals

The amended budget request contained $49 million for disposal of eight rector compartments of inactivated submarines in fiscal year 1990 and $36 million for disposal of six more reactor compartments in fiscal year 1991.

The House bill would authorize the full amount requested for these reactor compartment disposals. The House report (H. Rept. 101-121) would direct the Navy to execute the completion of reactor compartment disposals in accordance with its amended budget request.

The Senate amendment would authorize the full amount requested for these reactor compartment disposals, but the Senate report (S. Rept. 101-81) did not specifically address this subject.

The conferees endorse the language in the House report concerning submarine reactor compartment disposals by the Navy. The conferees recommend authorization of the full amount requested for this purpose in the fiscal year 1990 and 1991 amended budget request and direct the Navy to execute the completion of reactor compartment disposals in accordance with its amended budget request.

Report on manpower, sustainability and readiness of public and private shipyards

The Senate report (S. Rept. 101-81) would require the Secretary of Defense to submit a report on the manpower, sustainability and readiness of public and private shipyards in the United States to the Committees on Armed Services of the Senate and House of Representatives not later than February 5, 1990. This report would identify the public and commercial industrial facilities, capabilities, occupational skills, and personnel strength necessary to support the overhaul, modernization and repair of naval vessels in conjunction with the Navy's overall mobilization base.

The House report (H. Rept. 101-121) would not require a similar report.

The conferees agree to require the report from the Secretary of Defense on the manpower, sustainability and readiness of public and private shipyards as required in the Senate report.

Use of operation and maintenance funding for renovation and repair

The House report (H. Rept. 101-121) would direct the Department of Defense to revise its regulations to (1) limit to $500,000 the amount of operation and maintenance funds that can be used on the renovation, repair, or maintenance of any one building, and (2) require an annual listing in the budget justification for each Service of projects costing between $200,000 and $500,000. Projects outlined in the listing would be subject to specific authorization.

The Senate report (S. Rept. 101-81) did not contain any similar direction.

The conferees agree that there have been instances where the Services have used O&M funds to restore totally facilities instead of programming these efforts in the major construction program. The conferees considered instituting procedures to provide additional oversight of the facilities maintenance and repair program as proposed by the House report. The conferees' intention is not to create additional oversight that would possibly delay the timely repair of facilities. However, the conferees believe that current Service policies and practices concerning facility maintenance and repair projects are deficient. The conferees, therefore, direct the Services to review and revise facility project regulations, procedures, internal control systems, the approval process, and funding. These revisions should examine a ceiling on the amount of O&M funds that can be used for any single renovation, repair, or maintenance project. The military Services should report their assessments and actions they have taken to prevent the misuse of repair for construction purposes to the Committees on Armed Services of the Senate and House of Representatives by March 1, 1990.

Report on fuel supply network in the southern Atlantic states

The conferees direct that, not later than March 31, 1990, the Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives that will address:

(1) the impact of any changes in fuel supply modes, including the use of pipelines, on rail traffic to and from the military installations in the southern Atlantic states;

(2) the ramifications of such changes for our nation's defense rail line requirements and the Strategic Rail Corridor Network; and

(3) whether mobilization requirements that are maintained by the current rail supply network shall be considered along with price as an award factor in competition for fuel supply contracts.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Base closure account (sec. 303)

The House bill contained a provision (sec. 303) that would authorize $500 million for the base closure account, which would fund a substantial portion of the costs of executing the recommendations of the Defense Secretary's Commission on Base Realignment and Closure.

The Senate amendment contained a similar provision (sec. 303) that would authorize $300 million for this purpose.

The Senate recedes.

Humanitarian assistance (sec. 304)

The House bill contained a provision (sec. 304) that would extend the authority contained in prior defense authorization acts for the provision of humanitarian assistance to Afghan refugees.

The Senate amendment contained a similar provision (sec. 304).

The House recedes.

Army aviation flight facility at Jackson, Tennessee (sec. 305)

The House bill contained a provision (sec. 305) that would authorize $300,000 for the transfer of the aviation section of the 30th Separate Army Brigade to an Army aviation flight facility at McKellar Field in Jackson, Tennessee.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

Assistance to schools to benefit children of military personnel on active duty and civilian personnel (sec. 306)

The House bill contained a provision (sec. 306) that would authorize $10 million only for school districts impacted by Department of Defense (DOD) dependents and unable to provide a minimum education level without assistance from the Department of Defense. This provision would also require a report from the Secretary of Defense no later than December 31, 1989 on the feasibility and desirability of restoring to the Department of Defense by October 1, 1991 impact aid responsibilities for schools impacted by DOD activities.

The Senate amendment contained a provision (sec. 344) that would require a report from the Secretary of Defense no later than December 1, 1989 on the feasibility and desirability of restoring to the Department of Defense by October 1, 1991 impact aid responsibilities for schools impacted by DOD activities.

The Senate recedes with an amendment. The conferees agree to give the Secretary of Defense discretionary authority to provide, in consultation with the Secretary of Education, up to $10 million in assistance to eligible local educational agencies.

Prohibition on payment of severance pay to foreign nationals in the event of certain base closures (sec. 311)

The House bill contained a provision (sec. 311) that would prohibit the Department of Defense from paying severance pay to foreign employees whose employment is terminated when an overseas U.S. military facility is closed or curtailed at the request of the host government.

The Senate amendment contained no similiar provision.

The Senate recedes with an amendment that would apply the prohibition on the payment of severance pay to employees who work at overseas U.S. military facilities that are closed or curtailed as the result of agreements entered into with the host countries after the date of the enactment of this Act.

Prohibition on joint use of the Marine Corps Air Station at El Toro, California (sec. 312)

The House bill contained a provision (sec. 313) that would prohibit the Secretary of the Navy from entering into any agreement to permit use of civil aircraft at Marine Corps Air Station, El Toro, California.

The Senate amendment contained a similar provision (sec. 322).

The House recedes.

Clarification of prohibition on certain depot maintenance workload competitions (sec. 313)

The House bill contained a provision (sec. 314) that would require the Secretary of Defense to prohibit the Secretary of the Army and the Secretary of the Air Force from competing workload competitions between themselves or with private industry.

The Senate amendment contained no similar provision.

The Senate recedes.

Reduction in the number of civilian personnel authorized for duty in Europe (sec. 314)

The House bill contained a provision (sec. 316) that would reduce civilian employees of the Defense Department in Europe by October 1, 1991 by a number equal to the number related to the U.S. intermediate-range nuclear forces on December 8, 1987.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Repeal of limitation on the use of operation and maintenance funds to purchase investment items (sec. 315).

The Senate amendment contained a similar provision (sec. 321) that would repeal section 303 of the National Defense Authorization Act for Fiscal years 1988 and 1989 which provided that operation and maintenance funds may not be used to purchase items costing more than $5,000 in fiscal year 1990 if purchases of the items prior to 1988 were chargeable to procurement appropriations.

The House bill contained no provision.

The House recedes.

Authorization to reduce under certain circumstances the rates for meals sold at a military dining facility (sec. 321)

The House bill contained a provision (sec. 322) that would authorize exemptions for military personnel from paying the full meal rate in dining facilities under unusual and extraordinary circumstances.

The Senate amendment contained a similar provision (sec. 653).

The Senate recedes.

Improved and expedited disposal of lost, abandoned, or unclaimed personal property in the custody of the Armed Forces (sec. 322)

The House bill contained a provision (sec. 323) that would provide for more efficient and economical storage, safeguarding, and disposal of privately-owned property abandoned on military installations by reducing the length of time that property must be held prior to disposal.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would increase to 45 days the proposed waiting period required before the Service Secretary may dispose of abandoned property of more than $300 value.

Procurement of laundry and dry cleaning services from Navy exchanges (sec. 323)

The House bill contained a provision (sec. 324) that would add laundry and dry cleaning operations to the list of exchange activities that can do work for the U.S. Government on a reimbursable basis.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit the effect of this provision to Navy laundry and dry cleaning facilities operating outside the United States.

Procurement of supplies and services from military exchanges outside the United States (sec. 324)

The House bill contained a provision (sec. 325) that would authorize government agencies overseas to purchase from military exchanges with a limitation of $50,000, provided the exchange price is considered fair and reasonable.

The Senate amendment contained no similar provision.

The Senate recedes.

Tuition-free enrollment of dependents of certain employees of nonappropriated fund instrumentalities in schools of the Defense Dependents' Education System (sec. 325)

The House bill contained a provision (sec. 326) that would provide space-required and tuition-free enrollment of dependents of employees of nonappropriated fund instrumentalities in schools of the Defense Dependents' Education System.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit eligibility to those dependents of employees who are authorized to transport dependents to or from the overseas area at U.S. Government expense and are authorized a living quarters allowance. This policy is consistent with the eligibility provided to dependents of Department of Defense civil service employees.

Authority to use appropriated funds to support student meal programs in Department of Defense Overseas Dependents' Schools (sec. 326)

The House bill contained a provision (sec. 327) that would authorize use of Department of Defense (DOD) funds to finance school meal programs in the DOD Overseas Dependents' Schools. This authorization would be used only if the Secretary of Defense determines that Department of Agriculture subsidies are insufficient to provide a meal at the average price of meals in schools in the United States.

The Senate amendment contained a similar provision (sec. 652).

The Senate recedes.

Commercial sale of recording of Air Force Singing Sergeants (sec. 327)

The House bill contained a provision (sec. 328) that would authorize the Air Force Singing Sergeants to produce a recording with the Cincinnati Pops Orchestra for commercial sale.

The Senate amendment contained a similar provision (Sec. 561).

The House recedes.

Transportation of motor vehicles of military and civilian personnel stationed on Johnston Island (sec. 328)

The House bill contained a provision (sec. 329) that would permit federal employees stationed on Johnston Island in the Pacific to transport their motor vehicles at government expense to and from Hawaii.

The Senate amendmnent contained no similar provision.

The Senate recedes.

Authorization to provide certain assistance to annual conventions of national military associations (sec. 329)

The House bill contained a provision (sec. 330) that would authorize the Secretary of a military department to provide limited services in connection with an annual conference or convention of a national military association.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to establish appropriate standards and criteria under which the services authorized by the section will be provided.

Authority to lease fleet electronic warfare support aircraft (sec. 330)

The Senate amendment contained a provision (sec. 355) that would amend section 328 of the National Defense Authorization Act for Fiscal Year 1989 to allow the Secretary of the Navy to lease aircraft for use by the Fleet Electronic Warfare Support Group if the lease results in cost reductions in meeting current mission requirements on fleet basis.

The House bill contained no similar provision.

The House recedes.

Energy efficiency incentive (sec. 331)

The Senate amendment contained a provision (sec. 351) that would amend section 736 of the National Defense Authorization Act for Fiscal Year 1989 to provide further incentives for local installation commanders to pursue energy conservation initiatives.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Authority to acquire railroad track structure and temporary right-of-way for rail line (sec. 332)

The Senate amendment contained a provision (sec. 352) that would authorize the Secretary of the Army to use operation and maintenance funds to purchase the right-of-way across tribal lands and to purchase and maintain the rail line over the right of way from milepost 331.12 near Wabusku, Nevada to milepost 385.000 near Thorne, Nevada.

The House bill contained no similar provision.

The House recedes.

Authorization of long-term aircraft support contract (sec. 333)

The Senate amendment contained a provision (sec. 354) that would authorize the Army to enter into a long-term aircraft support contract at the United States Army Kwajalein Atoll.

The House bill contained no similar provision.

The House recedes.

Service contract to train undergraduate naval flight officers (sec. 334)

The Senate amendment contained a provision (sec. 356) that would authorize the Secretary of the Navy to enter into a contract for services to train undergraduate naval flight officers during fiscal year 1992 after conducting a competition for each contract for services.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the Navy to enter into the contract after September 30, 1990.

Defense contract auditors (sec. 335)

The Senate amendment contained a provision (sec. 357) that would require the Secretary of Defense to increase the number of full-time personnel of the Defense Contract Audit Agency to 7,457, of which not less than 6,488 shall be auditors, not later than September 30, 1990.

The House bill contained no similar provision.

The House recedes.

Uniform allowance for civilian employees (sec. 336)

The Senate amendment contained a provision (sec. 654) that would increase the uniform allowance for certain civilian employees of the Department of Defense who are required by regulation or statute to wear a unform.

The House bill contained no similar provision.

The House recedes.

Armed Forces Retirement Homes (sec. 341-347)

The House bill contained a provision (sec. 351) that would require annual authorization of appropriations for the operation of the United States Solidiers' and Airmen's Home.

The Senate amendment contained no similar provision.

The Senate recedes.

The House bill contained a provision (sec. 352) that would make available a share of the stoppages, fines, and forfeitures adjudged against an enlisted member or warrant officer in the Navy and Marine Corps for the purpose of funding the Naval Home.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The House bill included a provision (sec. 353) that would provide for deductions from the pay of enlisted members and warrant officers to finance the Naval Home.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would make the effective date October 1, 1990, and state that pay deductions to support Armed Forces Retirement Homes shall not apply to an enlisted member or warrant officer of a reserve component.

The House bill included a provision (sec. 354) that would provide for an annual inspection of the Armed Forces Retirement Homes by the Inspector General of the Department of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Inspector General to inspect the operation of these homes during fiscal year 1990. The Inspector General's report should include recommendations for future inspection requirements.

The House bill contained a provision (sec. 355) that would require the Secretary of Defense to submit to report to the Committees on Armed Services of the Senate and House of Representatives by February 15, 1990 regarding improvements in the operation and management of the Armed Forces Retirement Homes.

The Senate amendment contained no similar provision.

The Senate recedes.

The House bill contained two provisions (secs. 356-357) that would make technical and conforming amendments.

The Senate amendment contained no similar provisions.

The Senate recedes with a technical amendment.

Limitation on the use of environmental restoration funds (sec. 351)

The House bill contained a provision (sec. 315) that would prohibit the Secretary of Defense from obligating $83 million of the total amount appropriated for environmental restoration activities until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report on the manner in which the remainder of the funds appropriated for such purpose have been spent.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to submit a report on the manner in which the funds contained in the amended budget request for environment restoration are spent before any amount above the budget request for fiscal year 1990 is obligated.

Requirement for development of environmental data base (sec. 352)

The House bill contained a provision (sec. 361) that would require the Secretary of Defense to develop and maintain a comprehensive data base on Department of Defense (DOD) environmental activities to comply with applicable federal and state environmental laws. The Secretary of Defense would be required to submit a report to accompany the fiscal year 1991 budget request to the Committees on Armed Services of the Senate and House of Representatives on the progress in the development of the data base.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would modify the date for submission of the report required by the House provision to within one year after enactment of this Act.

Five-year plan for environmental restoration at bases to be closed (sec. 353)

The House bill contained a provision (sec. 363) that would require the Secretary of Defense to develop a comprehensive five-year plan for environmental restoration at military installations that will be closed or realigned between fiscal years 1991-1995.

The Senate amendment contained no similar provision.

The Senate recedes.

Funding for waste minimization programs for certain industrial-type activities of the Department of Defense (sec. 354)

The house bill contained a provision (sec. 365) that would establish a waste minimization capitalization account in fiscal year 1991 with funding to be not less than one-half percent of total industrial fund revenues.

The Senate amendment contained no similar provision.

The Senate recedes with amendments. The conferees agree to establish a harzardous waste minimization program with the following modifications:

(1) that the program be established in fiscal year 1992 instead of fiscal year 1991.

(2) that the calculation of a minimum amount of funding in fiscal year 1992 for the program of one half percent of total payments to the industrial fund be based on the amount of payments received in fiscal year 1988 that were utilized for industiral type work at traditional depot maintenance installations, such as those involved in ship, aircraft or vehicle maintenance; that funds spent on waste minimization projects in fiscal years 1990 and 1991 may be counted against the required level of funding for fiscal year 1992; and that exempted installations will be identified in a report to Congress.

(3) that any Service failing to achieve the minimum level of funding for hazardous waste minimization shall report to Congress why it was unable to comply.

(4) that types of expenditures that can be included in the waste minimization program include installation operating expenses, including salaries, equipment purchase, facility modification, process change, product substitutions, and Military Construction and Research, Development, Testing, and Evaluation projects.

(5) that the payback period for waste minimization projects be extended from three years to "over the useful life of the projects", and that projects that do not meet this criterion must be certified as reducing solid or hazardous waste, hazardous materials, or the likelihood of harm to the environment or human health.

Sense of the Congress concerning investigation of soil and water contamination near Mead, Nebraska (sec. 355)

The Senate bill contained a provision (sec. 343) that would express the sense of the Senate that the United States Army Corps of Engineers should carry out the investigation of soil and water contamination at the former Nebraska Ordnance Plant near Mead, Nebraska, as promptly as possible consistent with other environmental cleanup responsibilities, and should continue to keep interested parties fully advised of developments relating to the study and activities at the site.

The House bill contained no similar provision.

The House recedes.

Use of chlorofluorocarbons and halons in the Department of Defense (sec. 356)

The Senate amendment contained a provision (sec. 353) that would require the Department of Defense to establish programs for the reduction of unnecessary emissions of chlorofluorocarbons and halons, into the atmosphere as a consequence of maintenance procedures, training and testing practices.

The House bill contained no similar provision.

The House recedes with technical amendments.

Report on defense budget for environmental compliance (sec. 357)

The House bill contained a provision (sec. 362) that would require the Secretary of Defense to develop and implement a method to track Department of Defense (DOD) expenditures related to compliance with applicable environmental laws. It would also require the Secretary of Defense to submit an annual report on such expenditures to Congress beginning with the submission of the fiscal year 1991 budget request.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to submit the report required by the House provision beginning with the submission of the fiscal year 1992 budget request.

Report on environmental requirements and priorities (sec. 358)

The House bill contained a provision (sec. 364) that would require the Secretary of Defense to submit a report, within 2 years from the enactment of this Act, to the Committees on Armed Services of the Senate and House of Representatives on the long-range environmental challenges and goals of the Department of Defense. The House provision would also authorize the Secretary to obligate or expend up to $3 million to prepare this report.

The Senate amendment contained a similar provision (sec. 342), but would not authorize a specific amount for preparation of this report.

The House recedes with a technical amendment. The conferees agree that the Department of Defense should conduct the study required in both bills, utilizing quantitative and analytical information to the maximum extent possible to examine the risks that exist in order to establish priorities.

Report on environmental restoration of Jefferson Proving Ground, Indiana (sec. 359)

The Senate amendment contained a provision (sec. 332) that would require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives by April 15, 1990 on the environmental contamination at the Jefferson Proving Ground, Indiana, and on the Department of Defense's plans to clean up this facility.

The House bill contained no similar provision.

The House recedes with an amendment that would require annual reports from the Secretary of Defense on the environmental contamination at the Jefferson Proving Ground, Indiana, resulting from the activities of the Department of Defense, with a final report to be completed no later than April 15, 1993.

Environmental impact study of the Shenandoah River (sec. 360)

The Senate amendment contained a provision (sec. 358) that would require the Secretary of the Army, acting through the Corps of Engineers, to conduct a study by June 30, 1990, to determine the damage and environmental impact on the Shenandoah River by companies under contract to the Department of Defense and the National Aeronautics and Space Administration.

The House bill contained no similar provision.

The House recedes with an amendment that would require the study to be carried out by the Administrator of the Environmental Protection Agency, and would change the date for the submission of the final report to December 31, 1990.

Study on waste recycling (sec. 361)

The House bill contained a provision (sec. 371) that would direct the Secretary of Defense to study the feasibility of facilities such as commissaries, exchanges, cafeterias, and dining halls participating in programs to recycle post-consumer waste.

The Senate amendment contained no similar provision.

The Senate recedes.

Report on military utilization of the inland navigation system (sec. 371)

The Senate amendment contained a provision (sec. 341) that would require the Secretary of the Army to submit to Congress not later than one year after the date of enactment of this Act a report on the potential for obtaining efficiencies, savings and enhanced mobilization preparedness through increased utilization of the national inland waterway system by the Department of Defense and defense industry.

The House bill contained no similar provision.

The House recedes.

Report on manpower, mobility, sustainability and equipment (sec. 372)

The Senate amendment contained a provision (sec. 344) that would require the Secretary of Defense to submit to the Congress by February 15, 1990 a comprehensive report on the readiness of the armed forces, in terms of manpower, mobility, sustainability and equipment, to perform their assigned missions. A similar report required by section 327 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456) has not yet been submitted to the Congress.

The House bill contained no similar provision.

The House recedes.

Report on second source for carbonizable rayon yarn (sec. 373)

The Senate amendment contained a provision (sec. 346) that would require the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives no later than November 30, 1989 on the progress, timetable and a time-certain for the Department of Defense to establish a certified second production source for carbonizable rayon yarn.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to submit the report required by the Senate provision no later than 60 days following the enactment of this Act.

Report on military recruiting advertising expenditures (sec. 374)

The House bill contained a provision (sec. 372) that would require a report from the Secretary of Defense not later than 120 days after enactment of this Act on the cost and effectiveness of the various media used for recruit advertising, including an analysis of the effect of increasing expenditures for newspaper advertising.

The Senate amendment contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Prohibition on releasing civilian personnel at the San Antonio Real Property Maintenance Agency

The House bill contained a provision (sec. 312) that would prohibit the Secretary of Defense from terminating or laying off any employees of the San Antonio Real Property Maintenance Agency starting from the date of enactment of this Act until the disestablishment of the Real Property Maintenance Agency. This provision would also require that, if the Secretary of Defense increases the number of civilian personnel at the base civil engineering offices being established in the San Antonio area, the Secretary shall achieve such increases, consistent with Office of Personnel Management guidelines, by hiring persons whose employment by Department of Defense (DOD) at the Real Property Maintenance Agency is terminated as a result of the abolishment of that agency; and by transfer of employees of DOD employed at the Real Property Maintenance Agency in San Antonio, Texas.

The Senate amendment contained no similar provision.

The House recedes.

Prohibition on certain environmental restoration activities at Rocky Mountain Arsenal

The House bill contained a provision (sec. 366) that would prohibit the Secretary of the Army from conducting on-post remedial investigation, endangerment assessment and feasibility studies associated with environmental restoration activities at Rocky Mountain Arsenal unless they are consistent with the federal facility agreement of February 17, 1989, providing that significant portions of the arsenal shall be available for use as open space for public benefit, including, but not limited to, use as wildlife habitat and parks. The section would, however, allow the Secretary of the Army to make exceptions to allow the use of some portion of the arsenal for commercial or light industrial purposes if he notifies the Committees on Armed Services of the Senate and House of Representatives of his intention to do so and the reasons for his determination.

The Senate amendment contained no similar provision.

Rocky Mountain Arsenal, which borders the Denver metropolitan area, was constructed during the Second World War and for two decades manufactured and tested chemical agents and other munitions. In addition, portions of the arsenal were leased to Shell Oil Company for the manufacture of pesticides. Disposing of the hazardous wastes associated with these activities onsite in accordance with existing procedures resulted in very serious environmental damage to the site. In 1986, Rocky Mountain Arsenal (except for Basin F) was designated as a National Priority List (NPL) site and in 1989 Basin F was added as part of the NPL site. Since the mid-1970's, the Arsenal has no longer had an operational mission, and the Army is engaged in meeting its responsibilities under federal environmental law to restore the site environment to be protective of human health.

Although the 17,000 acre Arsenal site contains some of the most polluted real estate in the world, many species of wildlife, including bald eagles, have not only survived but thrived in the area. In recognition of this fact, the Army entered into a recent agreement with the Fish and Wildlife Service of the Department of Interior to manage the Arsenal land to protect the wildlife and habitat. In addition, there is almost unanimous agreement by all parties interested in the ultimate use of the Arsenal property that it should remain as open space and a wildlife habitat.

Efforts to address the serious contamination of the Arsenal land over the last decade have been marked by growing contentiousness between the Army, the Environmental Protection Agency, and Shell Oil Company, and the State of Colorado regarding control of the cleanup. The State of Colorado filed suit in December of 1983, and the case has been in court ever since. Efforts to break this impasse through negotiations of a consent decree in 1987 and 1988 were unsuccessful. Efforts to arrive at a three party Federal facility agreement in accordance with section 120 of the Superfund Amendments and Reauthorization Act were also unsuccessful. The conferees note that Colorado is the only state, to date, that has failed to negotiate such an agreement to govern the cleanup of a federal facility National Priority List (NPL) site, while 15 similar agreements have been concluded involving 10 other States.

Absent formal state participation, the Army has proceeded with the statutory cleanup process in accordance with EPA guidance. In February of 1989, the Army entered into a settlement agreement with Shell Oil Company that resolved legal issues involving the relative contribution of both parties toward the cost of the cleanup. At the same time, the Army, Shell, EPA, and the Departments of Justice, Interior, and Health and Human Services entered into a federal facility agreement that establishes a framework for future cleanup activities.

To date, the Army has spent $245 million for cleanup activities at Rocky Mountain Arsenal and is projected to spend another $246 million prior to the final Record of Decision in 1993. As a result of these activities, the most serious imminent threats to human health and the environment are being addressed. For example, the Army has constructed a boundary system tht pumps and treats water before it leaves the arsenal. The Army has also drained the highly toxic fluids in Basin F and is developing a method for the final disposal of these fluids. In addition, the Army is carrying out 13 interim remedial actions that will stablize the site and pave the way for a complete remedy.

In view of the foregoing, the conferees are seriously concerned that the State of Colorado has not expeditiously resolved its differences with the Federal Government over the cleanup of Rocky Mountain Arsenal. In reviewing the history of state participation in negotiations with other parties over the past several years, it is apparent to the conferees that the State of Colorado has consistently sought paramount State control of the site. This contention is inconsistent with the Administration's position on the implementation of existing law and conflicts with the administrative procedures that have been developed over the past 2 years to better define the role of states in cleanup actions at federal facility NPL sites.

The conferees are also troubled by the delay in the legal resolution of the current litigation between the State and federal government. Although the court denied an Army motion for summary judgment and dismissal in February 1989, this decision is neither appealable nor final. The failure to render a judgment on the case to date places a cloud over ongoing cleanup efforts and prevents a conclusive judicial resolution.

The conferees are concerned about the failure of any conclusive settlement of existing differences upon the completion of ongoing interim remedial actions. The conferees note that interim remedial actions are not required by law prior to the issuance of a record of decision. The absence of a settlement of this matter agreeable to all parties, including the State, raises serious questions about the prudence of the Army's continuation of these cleanup actions. The continued absence of such a settlement will weigh heavily with the Armed Services Committee of the House of Representatives in its review of future funding requests for interim remedial actions at Rocky Mountain Arsenal.

The conferees can appreciate the concern that resulted in section 366 of the House bill. If the parties cannot agree upon a land use arrangement they all support, it does not bode well for the resolution of other issues. The conferees recognize that the motivation behind this provision was to highlight the problems created by the continuing legal and procedural wrangling over the cleanup of the Arsenal and to force a timely resolution of those differences. The conferees also agree that land use decisions at Department of Defense installations are clearly within the jurisdiction of the Armed Services Committees of the Senate and House of Representatives.

The conferees also recognize the hard work and positive efforts by the Chairman of the Environmental Restoration Panel of the Armed Services Committee of the House of Representatives to deal with environmental problems at Rocky Mountain Arsenal and at over 800 other Department of Defense installations. The conferees support these efforts and believe that they are essential to be able to address the looming impact of environmental issues upon DOD missions and activities.

Nevertheless, the conferees do not believe that it is appropriate at this time to enact legislation that may complicate or foreclose efforts by the State of Colorado, the courts, and other parties to reach a settlement on the issues associated with the cleanup of Rocky Mountain Arsenal. The conferees are also concerned that such action may create a precedent that would lead to unwarranted congressional involvement in the resolution of legal and procedural conflicts at other DOD hazardous waste cleanup sites. At the same time, however, the conferees want to state their clear intention that the failure of efforts to resolve existing differences at Rocky Mountain Arsenal by the time Congress begins consideration of the fiscal year 1991 defense authorization bill will result in efforts by the House conferees to enact a similar provision in next year's bill, and the Senate conferees will be more receptive to the House position.

The House reluctantly recedes.

Tug and towing services at Port Canaveral, Florida

The Senate amendment contained a provision (sec. 359) that would require the Secretary of the Navy to personally make any determination required by Part 19.502-2 of the Federal Acquisition Regulation with respect to tug and towing services for the Department of the Navy at Port Canaveral, Florida.

The House bill contained no similar provision.

The Senate recedes.

Sale and use of United States domestic meat in armed forces facilities in the European Community

The Senate amendment contained a provision (sec. 934) that would require meat sold in all overseas Department of Defense (DOD) facilities to be of U.S. origin.

The House bill contained no similar provision. However, the House report (H. Rept. 101-121) would direct the DOD to provide fresh beef to commissaries in central Europe and authorized the use of $10 million for this purpose.

The Senate recedes. The conferees agree with the House report on this matter, including the necessity for Department of Agriculture subsidies to reduce the price impact to commissary patrons in Europe. The conferees further agree that the shipment should be made to areas accessible to main shipping routes, generally in central Europe and the United Kingdom. The conferees emphasize that the Department of Defense should intensify its efforts to procure other commissary and exchange products from U.S. sources.

Requirements relating to environmental restoration activities and environmental contamination

The Senate amendment contained a provision (sec. 2836) that would require the Secretary of Defense to ensure that all information relating to environmental restoration activities at DOD facilities that is required to be provided to regional offices of the Environmental Protection Agency (EPA) and appropriate State and local authorities is expeditiously provided to such offices and authorities. The provision would also require the Secretary of Defense to consult with the Administrator of the Environmental Protection Agency on all of the Department's environmental contamination plans and remedial actions to abate or mitigate contamination at Defense facilities. In addition, the Secretary of Defense would be required to install monitoring systems at Defense facilities where potential environmental contamination is found to ensure that there is no release or exposure of environmental contamination that will pose a risk to public health.

The House bill contained no similar provision.

The Senate recedes. The conferees agree completely with the spirit of the Senate amendment, which supports the public's right to be informed immediately after the discovery of potential environmental contamination that will pose a risk to the public health. The conferees note that existing law (sec. 2705, Comprehensive Environmental Response, Compensation and Liability Act (Public Law 96-500)) currently requires the Department of Defense to promptly notify EPA regional offices and all State and local authorities of environmental contamination information, including the discovery of releases or threatened releases of hazardous substances at the facility. The conferees determine that the Senate amendment would have been unnecessary if the Department of Defense had complied with the letter and spirit of the law in the past. The conferees expect the Office of the Secretary of Defense and the headquarters of each of the military Services to expeditiously disseminate, to all levels of command, complete information pertaining to the requirements of current law which relate to the release or threatened release of hazardous substances.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

LEGISLATIVE PROVISIONS ADOPTED

End strengths for active forces (sec. 401)

The House bill contained a provision (sec. 401) that would authorize end strengths for the active forces in the Army, Navy, Marine Corps, and Air Force for fiscal years 1990 and 1991.

The Senate amendment contained a similar provision (sec. 401).

The conference agreement is summarized in the tables below.

	Administrative request	House	Senate	Conference
Fiscal Year 1990 Active Force End Strengths				
Army	764,400	764,021	764,021	764,021
Navy	592,000	591,541	591,541	591,541
Marine Corps	197,200	197,159	197,159	197,159
Air Force	567,900	567,474	567,474	567,474
Total	2,121,500	2,120,195	2,120,195	2,120,195
Fiscal Year 1990 Officer End Strengths				
Army	106,077		106,001	106,001
Navy	72,610	72,493	72,443	72,493
Marine Corps	20,110		20,110	20,110
Air Force	102,242		102,200	102,200
Total	301,039		300,754	300,804
Fiscal Year 1991 Active Force End Strengths				
Army	764,100	764,021	763,721	763,721
Navy	592,000	591,541	591,541	591,541
Marine Corps	197,200	197,159	197,159	197,159
Air Force	566,800	562,415	566,374	562,415
Total	2,121,100	2,115,136	2,118,759	2,114,836
Fiscal Year 1991 Officer End Strengths				
Army	105,751		105,575	105,575
Navy	72,430	72,313	72,263	72,313
Marine Corps	20,108		20,108	20,108
Air Force	102,111		102,069	102,069
Total	300,400		300,115	300,165

Reduction for fiscal year 1991 in number of Air Force colonels (sec. 402)

The Senate amendment contained a provision (sec. 403) that would reduce the number of colonel grade authorizations otherwise provided in law by 250 in fiscal year 1991.

The House bill contained no similar provision.

The House recedes. The grade authorization savings achieved by this section may be used by the Secretary of Defense as provided for in section 403 of this conference report.

Temporary increase in grade limitations (sec. 403)

The House bill contained a provision (sec. 707) that would authorize an increase in the grade limitations on the lieutenant commander grade in the Navy by 173 during fiscal year 1991 and require the Secretary of the Navy to use this authority only for the Nurse Corps for nurses in duty assignments involving direct patient care. The House bill would also require: (1) the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives not later than March 1, 1990 on the adequacy of current grade limitations and to make appropriate recommendations; (2) the Secretaries of the military departments to issue instructions directing that promotion boards considering health professionals for advancement give at least equal weight to clinical proficiency and skill as a health professional relative to administrative and management skills; and (3) the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives, not later than March 1, 1990, on the constructive service credit provisions for nurses and to make appropriate recommendations.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The amendment would strike the House provision that would authorize the increase in grade limitations. Instead, the Secretary of Defense is authorized to utilize the 250 Air Force colonel authorizations that were withdrawn by sec. 403 of the National Defense Authorization Act in Fiscal Year 1989 (Public Law 100-456) and that would be withdrawn by section 402 of this Act to temporarily provide increases in grade limitations among the military services in fiscal years 1990 and 1991 as he considers appropriate. The conferees intend that this authority be applied to relieve nurse retention problems caused by promotion flow that is less than experienced in the line officer communities in the military Services, and to relieve promotion congestion problems in the line officer community such as are being experienced in the Marine Corps. The conferees stress that this authority is temporary and that future action will depend upon the rigor and timeliness of the reports required.

In the report on grade table restriction due not later than March 1, 1990, the Secretary should include the following:

(1) a review of the adequacy of the current Defense Officer Personnel Management Act (DOPMA) grade table category distributions by Service and competitive category within the Service;

(2) a presentation of historical (since the implementation of DOPMA), current and projected (at a minimum, through fiscal year 1991) by-grade requirements (from approved Service manning documents), authorized strength levels, and actual strength in grade at the end of each fiscal year for each competitive category;

(3) a comparison of by-grade retention rates, promotion opportunity and timing for the "line" and "other than the line" categories;

(4) the effect of constructive service credit awarded to members of the professional categories and a discussion of whether this credit has created an inequity within or between professional categories and, if so, recommendations suggesting how it should be addressed; and

(5) development and evaluation of separate grade tables—one for the "line" category and others for the "other than the line" categories (to include medical and dental officers). These grade tables might have different "sliding scales" to reflect the fundamentally different management systems underlying the categories included therein.

The report should include an assessment from each of the services concerning service-unique officer personnel management problems that hamper effective management of the officer corps. Finally, the report should forward a legislative proposal necessary for implementing any recommendations made. The legislative proposal should contain, at a minimum, provisions that would implement separate grade tables—one for the "line" and one for the "other than the line" categories (including medical and dental officers).

The conferees understand that the Office of the Secretary of Defense, as a follow-up to personnel management issues arising from the Defense Management Review, is considering a study of technical changes to DOPMA necessary to improve the overall management of the Department's officer career force. The conferees are encouraged by this process and look forward to its results.

In addition, in view of the action recommended in other sections of the conference report, the conferees suggest that the Secretary of Defense submit to the Committees on Armed Services of the Senate and House of Representatives a report outlining the legislative changes needed to improve the efficiency with which these actions could be implemented in the officer personnel management system. The conferees would be receptive to giving such recommendations an early hearing and, if justified, rapid consideration.

PART B—RESERVE FORCES

LEGISLATIVE PROVISIONS ADOPTED

End strengths for Selected Reserve (sec. 411)

The House bill contained a provision (sec. 411) that would authorize end strengths for the Selected Reserve for fiscal years 1990 and 1991.

The Senate amendment contained a similar provision (sec. 412).

The conference agreement is summarized in the following tables.

	Administration request	House	Senate	Conference
Fiscal Year 1990 Selected Reserve End Strengths				
Army National Guard	458,000	458,000	458,000	458,000
Army Reserve	321,700	321,977	321,700	321,700
Naval Reserve	153,400	153,940	153,400	153,400
Marine Corps Reserve	44,000	44,000	44,000	44,000
Air National Guard	116,200	116,800	116,200	116,200
Air Force Reserve	84,900	85,130	84,900	84,900
Coast Guard Reserve	12,950	13,575	12,950	15,000
Total	1,191,150	1,193,422	1,191,150	1,193,200
Fiscal Year 1991 Selected Reserve End Strengths				
Army National Guard	458,500	458,800	458,500	458,500
Army Reserve	323,100	323,644	323,100	323,100
Naval Reserve	155,000	155,540	155,000	155,000
Marine Corps Reserve	44,100	44,100	44,100	44,100
Air National Guard	116,300	116,900	116,300	116,300
Air Force Reserve	85,200	85,430	85,200	85,200
Coast Guard Reserve	13,500	15,150	13,500	15,150
Total	1,195,700	1,199,564	1,195,700	1,197,350

End strengths for reserves on active duty in support of the reserves (sec. 412)

The House bill contained a provision (sec. 412) that would authorize, within the authorization for the selected reserve, end strengths for reserves on active duty in support of the reserves for fiscal years 1990 and 1991.

The Senate amendment contained a similar provision (sec. 422).

The conference agreement is summarized in the tables below.

	Administration request	House	Senate	Conference
Fiscal Year 1990 Reserve Full-Time Support End Strengths				
Army National Guard	26,164	26,164	26,164	26,164
Army Reserve	13,680	13,707	13,680	13,680
Naval Reserve	22,708	22,708	22,708	22,708
Marine Corps Reserve	2,301	2,301	2,301	2,301
Air National Guard	8,517	8,565	8,517	8,517
Air Force Reserve	686	686	686	686
Total	74,056	74,131	74,056	74,056
Fiscal Year 1991 Reserve Full-Time Support End Strengths				
Army National Guard	26,514	26,514	26,514	26,514
Army Reserve	14,027	14,081	14,027	14,027
Naval Reserve	23,565	23,565	23,565	23,565
Marine Corps Reserve	2,401	2,401	2,401	2,401
Air National Guard	8,468	8,516	8,468	8,468
Air Force Reserve	700	700	700	700
Total	75,675	75,777	75,675	75,675

PART D—AUTHORIZATIONS OF APPROPRIATIONS

LEGISLATIVE PROVISIONS ADOPTED

Authorization of appropriations for military personnel for fiscal year 1990 (sec. 431)

The House bill contained a provision (sec. 431) that would limit the amount authorized to be appropriated for military personnel for fiscal year 1990 to $79,241,600,000.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would reduce the amount authorized to be appropriated for military personnel for fiscal year 1990 to $78,780,742,000.

The conferees make this adjustment reluctantly as part of a broader initiative to conform budget authority and outlay authorizations in this bill to levels in the budget resolution for fiscal year 1990. The conferees agree to this adjustment only after consultation with the Secretary of Defense. In making this adjustment, the conferees took into account certain initiatives that are ongoing in the Department of Defense, such as the Management Review and the Base Closure process, as well as initiatives included in this conference report, such as the Total Force review. The conferees expect that these and other initiatives will result in manpower efficiencies in fiscal year 1990.

The conferees made no substantial reductions to the authorized end strengths of the Department of Defense for fiscal year 1990 in order to allow the Secretary of Defense management flexibility in making adjustments he deems essential in view of reduced budget authority.

The conferees are concerned that any drawdown of end strength have a minimum impact on combat capability and suggest that the Secretary of Defense could make additional reductions in the number of personnel assigned to headquarters and unified and specified command functions (as identified in the report by the Department of Defense Deputy Inspector General on this matter). He should also give strong consideration to a drawdown in strength commensurate with the numbers identified by the Senate and House Appropriations Committees related to the drawdown of Intermediate Range Nuclear Forces. Finally, the conferees note their strong desire that medical and medical support personnel be excluded from reductions in strength because of existing shortfalls and the importance of adequate medical department staffing to both wartime readiness and quality of life for the current force.

In developing the actions that the Department of Defense will have to take to comply with this provision, the conferees direct the Secretary of Defense: 1) to minimize the negative effects on the welfare and quality-of-life of military personnel and their families; 2) to make manpower adjustments based on management efficiencies and programmatic decisions; and 3) to prevent a return to the late 1970's phenomenon of the "hollow" Army in which many units were substantially undermanned.

The conferees realize that the task facing the Secretary of Defense in the coming months is extremely difficult but believe that their expectations concerning the protection of "people issues" as described above are consistent with testimony delivered by the Secretary and that he will carry out this intent. The conferees direct the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives by January 1, 1990, on the actions he intends to take in order to implement this section.

The conferees further expect the Secretary of Defense to submit reprogramming requests for additional military personnel funds as he deems appropriate.

LEGISLATIVE PROVISION NOT ADOPTED

Authorization of appropriations for reserve other training and support for fiscal year 1990

The House bill contained a provision (sec. 432) that would cap the reserve component other training and support account in order to offset the cost of improvement to the reserve portion of the Montgomery G.I. Bill provided for in section 632 of the House bill.

The Senate amendment contained no similar provision.

The House recedes in view of the conference agreement delaying the effective date of the Montgomery G.I. Bill improvements until fiscal year 1991, as reflected in section 642 of this conference report.

Repeal of prohibition on use of certain personnel management constraints

The Senate amendment contained a provision (sec. 441) that would repeal certain civilian personnel management constraints.

The House bill contained no similar provision.

The Senate recedes.

TITLE V—MILITARY PERSONNEL

PART A—RESERVE COMPONENTS MATTERS

LEGISLATIVE PROVISION ADOPTED

Annual muster duty and muster duty pay for ready reservists (sec. 502)

The House bill contained a provision (sec. 502) that would authorize a new "muster duty" that would allow the Secretary of Defense to call up for one day each year members of the Individual Ready Reserve without their consent. The provision would also authorize a flat rate "muster duty" allowance of 125 percent of the average per diem rate in the United States.

The Senate bill contained a similar provision (sec. 503).

The Senate recedes.

Two-year extension of authority for certain single parents to enlist in reserve components (sec. 504)

The House bill contained a provision (sec. 505) that would extend to September 30, 1990 the requirement that single parents, who wish to enlist in the reserve components from active service, be considered for enlistment in such a manner that the fact that they are single parents, by itself, does not disqualify them from enlistment.

The Senate amendment contained a similar provision (sec. 505(d)) except that the requirement would be extended to September 30, 1992.

The House recedes with an amendment that would extend the requirement to September 30, 1991.

Two-year program of special unit assignment pay for enlisted members of the Selected Reserve (sec. 505)

The Senate amendment contained a provision (sec. 506) that would authorize a special unit assignment pay for selected Reserve enlisted personnel assigned to high priority units on a 2-year test basis. The pay would be limited to $10.00 for each period of training.

The House bill contained no similar provision.

The House recedes.

Military education of civilian technicians of the Army National Guard (sec. 506)

The House bill contained a provision (sec. 510) that would prohibit the denial of promotions to Army National Guard civilian technicians because of failure to attend battle skills courses in those cases where the technician requested but was denied attendance within one year of the request. The House provision would also require the Secretary of the Army to submit a plan to the Committees on Armed Services of the Senate and House of Representatives by April 1, 1990 to use regional and state academies to provide the portion of the Reserve Component Noncommissioned Officers Education System related to military occupational specialties.

The Senate amendment contained no similar provision.

The Senate recedes.

PART B—OTHER MATTERS

LEGISLATIVE PROVISION ADOPTED

Increase in service obligation for graduates of the Service academies and the Uniformed Services University of the Health Sciences (sec. 511)

The Senate amendment contained a provision (sec. 551) that would increase the active duty service obligations of graduates of the Uniformed Services University of Health Sciences from seven years to ten years and of the graduates of the Service academies from five years to six years. The increased obligations would apply to persons who are first admitted to these institutions after December 31, 1990.

The House bill contained no similar provision.

The House recedes with an amendment that would apply these increased obligations to persons first admitted to these institutions after December 31, 1991.

Extension of authority to make temporary promotions of certain Navy lieutenants (sec. 512)

The House bill contained a provision (sec. 504) that would extend to September 30, 1992, the authority for the Navy to make temporary promotions of certain Navy lieutenants who possess skills for which critical shortages exist and who are serving in positions requiring a higher grade.

The Senate amendment (sec. 553(a)) would make this authority permanent.

The Senate recedes.

Testing of new entrants for drug and alcohol abuse (sec. 513)

The Senate amendment contained a provision (sec. 554) that would provide discretion to the Service Secretaries concerned to decide whether drug and alcohol abuse testing is to be conducted at military entrance processing centers or at basic military training centers.

The House bill contained no similar provision.

The House recedes with an amendment that would make this testing requirement applicable to prior-service personnel.

The conferees expect the Secretary of Defense to exercise appropriate oversight to ensure effective, efficient operation of the drug and alcohol abuse testing program prescribed in section 978, title 10, United States Code.

Correction of military records (sec. 514)

The Senate amendment contained a provision (sec. 555) that would authorize the Secretary of a military Department (or, in the case of the Coast Guard, the Secretary of Transportation) to make corrections to an enlisted member's records on the promotion of the member to an initial or next higher grade without burdening the Board for Correction of Military Records with routine administrative actions. Correction under this provision could be made only in favor of the member concerned.

The House bill contained no similar provision.

The House recedes with an amendment that would ensure that this provision is governed by the same statutory principles concerning back pay and availability of appropriations that apply to the correction of similar records by the Board for Correction of Military Records. This section is intended to clarify existing law, and should not be construed to invalidate any action previously taken by the Secretaries of the military Departments that are consistent with the purposes of this section. The conferees note that any action or failure to act by the Secretary under this provision shall not affect the right of an individual to seek relief before the appropriate correction board.

Title of the admissions officer of the United States Air Force Academy (sec. 515)

The House bill contained a provision (sec. 507) that would change the title of the admissions officer at the United States Air Force Academy from "Registrar" to "Director of Admissions."

The Senate amendment contained no similar provision.

The Senate recedes.

Eligibility for prisoner-of-war medal (sec. 516)

The House bill contained a provision (sec. 508) that would make eligible for award of the prisoner-of-war medal for military personnel who were taken prisoner and held hostage by North Korea as a result of the seizure of the U.S.S. Pueblo.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The amendment would clarify the intent of Congress that persons serving with the U.S. armed forces who are taken prisoner and held captive by certain hostile, foreign armed forces should receive the prisoner of war medal. This clarification is intended to cover the individuals taken prisoner as a result of the U.S.S. Pueblo seizure, as well as any similar occurrence that the Service Secretary concerned deems comparable to the circumstances under which persons have generally been held captive by enemy armed forces during a war or conflict.

Report on technical training for recruits and members of the reserve components (sec. 517)

The House bill contained a provision (sec. 652) that would require the Secretary of Defense to contract for a report from an independent, nonprofit organization on the practicality and desirability of providing initial skill training for recruits at civilian higher education institutions and vocational schools before recruits enter active duty. The report would be required to be submitted to the Committees on Armed Services of the Senate and House of Representatives by February 1, 1991.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Comptroller General, rather than an independent, nonprofit organization, to conduct the study and render the report.

Contract procedures for postsecondary education services (sec. 518)

The Senate amendment contained a provision (sec. 559) that would clarify section 1212 of the Department of Defense Authorization Act for Fiscal Year 1986 (Public Law 99-145) with regard to procedures for the procurement of off-duty postsecondary education services for eligible Department of Defense personnel. The provision, if enacted before the conclusion of a current contract solicitation, would result in the termination and subsequent recompetition of that contract solicitation.

The House bill contained no similar provision.

The House recedes with an amendment that would: 1) require the Secretary of Defense to delay action on the current contract solicitation; 2) require the Secretary of Defense to conduct a study on the delivery of postsecondary education services to eligible Department of Defense personnel overseas in the context of section 1212 of Public Law 99-145; 3) require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives by March 1, 1990 on the results of the study; and 4) permit the Secretary of Defense to proceed with action to award, modify or cancel the current contract solicitation no earlier than 60 days after the submission of the required report.

Matters to be considered by promotion boards in case of officers in health professions competitive categories (sec. 519)

The House bill contained a provision (sec. 707(c)) that would require the Secretary of Defense to prescribe regulations regarding the weight that promotion boards should give to the clinical proficiency of certain officers in health professions in the selection process.

The Senate amendment contained no similar provision.

The Senate recedes. The conferees note that this matter is also addressed in the discussion of section 403 of this statement of managers.

Report on constructive credit for nurses (sec. 520)

The House bill contained a provision (sec. 707(d)) that would require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives on the issue of constructive service credit for nurses.

The Senate amendment contained no similar provision.

The Senate recedes. The conferees note that this matter is also addressed in the discussion of section 403 of this statement of managers.

Report on reserve general and flag officers

The House bill contained a provision (sec. 506) that would require the Secretary of Defense to submit a report to the Congress not later than February 1, 1991, on the number and distribution of general and flag officers in the reserve components.

The Senate amendment contained no similar provision.

The House recedes.

The conferees believe that the purpose of the House provision, i.e., to validate the requirements in each of the reserve components for general and flag positions, is worth pursuing. Therefore, the conferees direct the Secretary of Defense to conduct a study of the general and flag officer requirements in each of the reserve components and to report to the Committees on Armed Services of the Senate and House of Representatives not later than March 15, 1991 on the results of the study.

The conferees expect this study to be consistent with the results of the study required by section 1622 of this conference report on the Total Force Policy, force structure and force mix. Specifically, the conferees expect that the general and flag officer requirements that are recommended will be based on the organizational structures and staffing patterns for each of the reserve components that result from the Total Force review. A report based on an "a priori" assumption that existing organizational structures and staffing patterns in the reserve components are valid is not acceptable.

The methodology used in the study to evaluate general and flag officer requirements in the reserve components is to be developed in such a way so as to allow analytical comparison against active component general and flag officer requirements. The report should also discuss the relationship of the results of the study to the Reserve Officer Personnel Management Act (ROPMA) legislation proposed by the Administration.

Authority to vacate promotion to grades of major through major general and lieutenant commander through rear admiral

The Senate amendment contained a provision (sec. 531) that would extend the current authority of the President to vacate promotions to the brigadier general and rear admiral (lower-half) grades during the first 18 months following promotion to those grades to the grades of major through major general and lieutenant commander through rear admiral.

The House bill contained no similar provision.

The Senate recedes.

Master of arts in leader development

The Senate amendment contained a provision (sec. 557) that would authorize the Superintendent of the United States Military Academy, under regulations prescribed by the Secretary of the Army, to confer the degree of Master of Arts in Leader Development.

The House bill contained no similar provision.

The Senate recedes.

Although the conferees are persuaded that there is a *bona fide* need for Army tactical officers serving at West Point to receive instruction in leadership theory and techniques tailored to the requirements of their position, several issues have yet to be addressed. The needs of the Naval Academy and the Air Force Academy for similar advanced degree programs and the justification for awarding a masters degree, as opposed to a certificate like that awarded for completion of professional military education schools, have not fully been determined. Moreover, questions exist about the rigor of the proposed curriculum for West Point. Therefore, the conferees urge the Secretary of Defense to critically evaluate the requirements for and desirability of military educational institutions granting advanced professional degrees.

The conferees are also concerned about permanent change of station and tuition costs being incurred in conjunction with the current practice of sending Army tactical officers to civilian institutions to pursue masters degrees in fields that are often only tangentially related to the duties these officers perform at the United States Military Academy. Therefore, the conferees expect the Secretary of Defense to delineate for the Committees on Armed Services of the Senate and House of Representatives the nature and extent of these costs. No new commitment should be incurred to send Army tactical officers for advanced degrees at civilian education institutions other than those for which the Department is already obligated. The conferees expect the Committees on Armed Services of the Senate and House of Representatives to consider issues related to the awarding of advanced degrees by the Service academies when considering the amended fiscal year 1991 defense authorization request next year.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

LEGISLATIVE PROVISIONS ADOPTED

Limitation on adjustments in variable housing allowance (sec. 602)

The House bill contained a provision (sec. 602) that would amend section 403a(c)(2), title 37, United States Code, regarding adjustments to variable housing allowance (VHA) payments, to require that the monthly amount of variable housing allowance for a member may not be reduced to the extent that the total basic pay, basic allowance for quarters, basic allowance for subsistence, and VHA received by a member would result in a lower total of these items than the month preceding the effective date of the most recent increase in the rate of basic pay of the member.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would delay the effective date of the House provision to October 1, 1990. The conferees delayed the effective date of this provision because it would have no effect in fiscal year 1990 since there will be no adjustments made to VHA rates during this fiscal year. The delay in effective date of this provision would also give the Department of Defense sufficient time to propose possible alternatives to this provision designed to avert a net reduction in pay to members in areas where VHA is reduced.

As recognized in the House report (H. Rept. 101-121), this provision is designed to redress morale problems for this group of members. However, within an overall cap on appropriations for VHA, the cost of holding VHA rates constant for this group would have to be funded by lower increases for those in high cost areas. The conferees urge the Secretary of Defense to carefully study and propose and equitable resolution of this problem for consideration by the Committees on Armed Services of the Senate and House of Representatives next year.

PART B—BONUSES AND SPECIAL AND INCENTIVE PAY

LEGISLATIVE PROVISIONS ADOPTED

Increase in selective reenlistment bonus (sec. 611)

The Senate amendment contained a provision (sec. 629) that would increase the ceiling on selective reenlistment bonuses for enlisted personnel. The current ceiling is six months of basic pay multiplied by the number of years of additional obligated service, not to exceed $30,000, whichever is less. The revised ceiling would be 10 months of basic pay multiplied by the number of years of obligated service, not to exceed $45,000, whichever is less.

The House bill contained no similar provision.

The House recedes.

Enlistment bonus for members in skills designated as critical (sec. 612)

The House bill contained a provision (sec. 611) that would increase the amount of the enlistment bonus that may be paid to a person who enlists for a period of at least four years in a critical skill from $8,000 to $12,000. The provision would also authorize an increase in the first installment paid under this provision from $5,000 to $7,000. This provision is intended to be used by the Army to assist in recruiting high quality personnel to fill critical skill requirements.

The Senate amendment contained no similar provision.

The Senate recedes.

Extension of enlistment and reenlistment bonus authorities for reserve forces (sec. 613)

The House bill contained a provision (sec. 612) that would extend the authority for the payment of reserve forces enlistment and reenlistment bonuses until September 30, 1995.

The Senate amendment contained a similar provision (sec 630 (a)) that would extend the same authority until September 30, 1992.

The House recedes.

Extension of special pay programs for nuclear-qualified officers (sec. 614)

The House bill contained a provision (sec. 613) that would 1) extend special pay authority for nuclear-qualified officers extending on active duty until September 30, 1995 (sec. 613(a)); 2) extend special pay authority for the nuclear career accession bonus until September 30, 1995 (sec. 613(b)); and 3) extend special pay authority for the nuclear career annual incentive bonus until September 30, 1995 (sec. 613(c)).

The Senate amendment contained a similar provision (sec. 630 (b), (c), (d)) that would extend the same three special pay authorities until September 30, 1992.

The Senate recedes.

PART C—TRAVEL AND TRANSPORTATION ALLOWANCE

LEGISLATIVE PROVISIONS ADOPTED

Reimbursement for certain fees incurred in travel (sec. 621)

The Senate amendment contained a provision (sec. 632) that would authorize reimbursement of parking fees, ferry fees, and tolls incurred by members of the armed forces incident to official travel.

The House bill contained no similar provision.

The House recedes.

Lump-sum payment of initial overseas housing costs (sec. 622)

The House bill contained a provision (sec. 614) that would authorize the lump-sum payment for the nonrecurring up-front costs incurred by military service members moving into private housing overseas. The provision would apply with respect to expenses incurred after August 31, 1990.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The amendment would expand the lump-sum payment authority to other than initial housing costs, for example, modification to protect against a terrorist threat.

The conferees expect the expanded authority to be used very judiciously. The conferees appreciate the financial rigors military families face in moving into private housing at certain overseas locations. For this reason, the conferees believe that advance payment of per diem that would otherwise be paid incrementally is appropriate under regulations promulgated by the Secretary of Defense.

Clarification of allowance for transportation of household effects (sec. 623)

The House bill contained a provision (sec. 653) that would reinstate the authority of the Secretaries of the military Departments to waive household goods weight allowances in certain instances. This authority was inadvertently deleted when household goods weight allowances were increased in the National Defense Authorization Act for Fiscal Year 1989 (P.L. 100-456).

The Senate amendment contained no similar provision.

The Senate recedes.

Travel entitlement for members assigned to a vessel under construction (sec. 624)

The Senate amendment contained a provision (sec. 631) that would expand current authority, which permits funded travel for uniformed service members between homeports and other ports where the ships to which they are assigned are undergoing overhaul or inactivation, to include members assigned to ships undergoing construction.

The House bill contained no similar provision.

The House recedes.

Student travel authorized for dependents of members in Alaska and Hawaii (sec. 625)

The Senate amendment contained a provision (sec. 633) that would expand the current student travel program for certain dependents of members assigned overseas to include authorizing transportation for dependents of members assigned in Hawaii and Alaska.

The House bill contained no similar provision.

The House recedes.

PART D—MILITARY AVIATORS

LEGISLATIVE PROVISIONS ADOPTED

Aviation career incentive pay (sec. 631)

The House bill contained a provision (sec. 621) that would: (1) authorize a 35 percent increase in aviation career incentive pay (ACIP) and restructure the pay to eliminate inversions in total pay for aviators beyond 18 years of aviation service; (2) increase the amount of operational flying duty that an aviator must complete in order to be eligible for continuous entitlement to ACIP; (3) permit the service Secretary to waive certain of the more stringent requirements on an individual basis to meet unique service needs; and (4) require the Secretary of Defense to report on the number of waivers granted and the reasons for the waivers.

The Senate amendment contained a similar provision (sec. 621).

The Senate recedes with an amendment.

The amendment would add a transition authority to ensure a smooth phase-in of the increase in the number of years an aviator must perform operational flying duties in order to be entitled to continuous receipt of ACIP.

The conferees believe that the substantial increase in ACIP in exchange for the requirement for more operational flying duty recognizes the vital role of military aviators in the overall combat effectiveness of our military forces and the desire of military aviators to spend more time in operational flying to hone their unique skills. The conferees recognize that military aviators are not solely motivated by monetary considerations in making career decisions. They are more motivated by job satisfaction; i.e., effective operational flying. The conferees believe both of these consideratons are addressed by this provision.

What is not addressed in this provision is the desire expressed by many military aviators for further improvements in quality of life, such as better, less costly medical care for dependents; better, less costly housing; better, less costly child care; and more visibility and control of assignments. These are not concerns unique to military aviators. Some of these concerns are addressed in other provisions of this conference report. However, the conferees are mindful that more needs to be done. The conferees urge the Secretary of Defense to evaluate and propose initiatives accordingly.

Aviator retention bonuses (sec. 632)

The House bill contained a provision (sec. 622) that would extend and codify the current aviator retention bonus authority to September 30, 1991. The provision also would limit Navy and Air Force obligations for the bonus in fiscal year 1990 to $30 million and $78 million, respectively.

The Senate amendment contained a similar provision (sec. 622).

The Senate recedes.

The conferees expect the Navy and the Air Force to use this authority, in coordination with the aviation career incentive pay increase, as a tool for retaining military aviators for operational flying duties. The conferees expect the report required by this provision to include a critical evaluation of whether or not the bonus authority needs to be continued beyond September 30, 1991, and if so, the justification for such an extension and a recommendaton on any changes that should be made to improve the efficiency of the bonus.

Reduction in nonoperational flying duty positions (sec. 633)

The House bill contained a provision (sec. 623) that would require the Secretary of Defense to reduce the number of nonoperational flying duty positions in the armed forces (except the Coast Guard) in existence on September 30, 1989 by two percent of the total number of such positions by September 30, 1991, and by five percent by September 30, 1992. The House provision would also prohibit any increases in nonoperational flying positions after fiscal year 1991 unless authorized by law.

The Senate amendment contained a similar provision (sec. 532).

The Senate recedes.

Minimum service requirement for aviators (sec. 634)

The House bill contained a provision (sec. 624) that would require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives on the rationale for the existing disparate active duty service obligations for aviators, the legitimacy of interservice difference, and the long-term desirability of uniform active duty service obligations.

The Senate amendment contained a provision (sec. 533) that would establish a minimum active duty service obligation of nine years for fixed wing jet pilots and seven years for all other aviators after they complete undergraduate flying training.

The House recedes with an amendment that would change the minimum active duty service obligations prescribed in the Senate provision to eight years and six years for fixed wing jet pilots and all other aviators, respectively.

Report on life insurance (sec. 635)

The House bill contained a provision (sec. 625) that would require the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives, not later than February 15, 1990, on the adequacy of the current Serviceman's Group Life Insurance program in providing coverage to aviators and aircrew members, and the practicality and desirability of providing an accidental death insurance plan in the amount of $100,000 for death resulting directly from the performance of operational flying duty.

The Senate amendment contained a similar provision (sec. 655).

The Senate recedes with an amendment that would change the due date of the report to November 15, 1990.

Sense of Congress regarding establishment of commission to conduct a study on the national shortage of aviators (sec. 637)

The Senate amendment contained a provision (sec. 656) that would express the sense of Congress that the President should establish a commission to study the national shortage of aviators and to make recommendations for eliminating the shortage.

The House bill contained no similar provision.

The House recedes.

PART E—MONTGOMERY G.I. BILL AMENDMENTS

LEGISLATIVE PROVISIONS ADOPTED

Reserve-component G.I. Bill provisions (sec. 642 and sec. 644)

The House bill contained a provision (sec. 632) that would expand the G.I. Bill educational program for reservists to cover payments for vocational-technical training.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would establish an effective date for this provision of October 1, 1990 (sec. 642). In addition, the amendment would require the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives by March 15, 1990 on whether or not the reserve component G.I. Bill should be modified to make it contributory (sec. 644). The conferees expect the report to evaluate the costs and benefits of adding vocational-tech-

nical training to the G.I. Bill program for reservists and to include recommendations for such modifications of this provision as the Secretary deems appropriate.

PART F—PERSONAL AND COMPENSATION TECHNICAL AMENDMENTS

LEGISLATIVE PROVISIONS ADOPTED

Technical amendments to military retirement laws (sec. 651)

The House bill contained a provision (sec. 641) that would make technical, clarifying amendments to military retirement laws.

The Senate amendment contained no similar provision.

The Senate recedes.

Repeal of certain obsolete and expired provisions (sec. 652)

The House bill contained a provision (sec. 644) that would repeal certain obsolete and expired provisions in title 10 and title 37 of the United States Code.

The Senate amendment contained no similar provision.

The Senate recedes.

Other technical amendments (sec. 653)

The House bill contained a provision (sec. 645) that would make technical corrections to title 10 and title 37 of the United States Code for stylistic consistency.

The Senate amendment contained no similar provision.

The Senate recedes.

PART G—MISCELLANEOUS

LEGISLATIVE PROVISIONS ADOPTED

Military relocation assistance program (sec. 661)

The House bill contained a provision (sec. 651) that would require the Secretary of Defense to establish a relocation assistance program to furnish information to military members on moving costs, housing, child care, spousal employment and other matters related to the relocation of military personnel and their families incident to directed permanent change of station moves. The provision also would require the Secretary of Defense to report on a plan for the full implementation of the relocation assistance program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would delay the effective date of this provision to October 1, 1990. The conferees agree to the delayed effective date to give the Secretary of Defense another opportunity to respond to the concerns raised in the House report (H. Rept. 101-121) by submitting a plan for effective direction and control of the disparate relocation programs in the military Services.

The conferees would consider modification of the provision if such a plan is forthcoming to the Committees on Armed Services of the Senate and House of Representatives in time for consideration of the amended fiscal year 1991 defense authorization request.

Extension of test program for reimbursement for adoption expenses (sec. 662)

The House bill contained a provision (sec. 655) that would extend the test program for reimbursement of adoption expenses authorized by subsection (h) of section 638 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 to September 30, 1990.

The Senate amendment (sec. 553(b)) would extend the test to September 30, 1992.

The Senate recedes with an amendment that would authorize the Coast Guard to be included in the test.

The conferees are aware that there were administrative delays in the start-up of the two-year test. The conferees believe a one year extension will provide sufficient time for the Department of Defense to evaluate the results of the test and to report to the Committee on Armed Services of the Senate and House of Representatives as originally required. The conferees do not intend to signal a termination of this program by extending it by only one year. Rather, the conferees believe that the Department of Defense needs to act expeditiously to complete its evaluation of the test and to make its recommendations to the Committees on Armed Services so that a final decision on this program may be made.

Repeal of reserve officer uniform allowance (sec. 663)

The Senate amendment contained a provision (sec. 504) that would repeal an obsolete clothing allowance entitlement of not more than $50.00 every four years currently authorized under section 415, title 37, United States Code, for certain reserve officers.

The House bill contained no similar provision.

The House recedes.

Relief of expenses incurred because of error in mandatory direct deposit of pay (sec 664)

The Senate amendment contained a provision (sec. 556) that would authorize the reimbursement of charges incurred by a member of the armed forces or civilian employees of the Department of Defense resulting from an error in mandatory direct deposit of pay to a member's account.

The House bill contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Prohibition on authorizing the advance payment of pay and allowances relating to the pay period ending September 30, 1989

The House bill contained a provision (sec. 603) that would prohibit the Secretary of Defense, notwithstanding the authority provided to him under subsection (h) of section 1006, title 37, United States Code, from advancing the October 1, 1989 pay date for military personnel.

The Senate amendment contained no similar provision.

The House recedes.

Special duty assignment pay for enlisted members of the National Guard or a Reserve component

The House bill contained a provision (sec. 654) that would authorize drill sergeants in the National Guard or a Reserve component an additional special duty assignment pay while performing inactive duty training.

The Senate amendment contained no similar provision.

The House recedes.

Transportation for POW/MIA families

The Senate amendment contained a provision (sec. 558) that would authorize the Secretary of Defense to provide transportation to an annual meeting in the United States for next-of-kin of persons who have been prisoners-of-war or missing-in-action in the Vietnam War.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that both the Senate and House Defense Appropriations bills for fiscal year 1990 have addressed this issue.

Report on loss of SSI benefits

The Senate amendment contained a provision (sec. 945) that would require the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives on the number of dependents of Department of Defense personnel who are eligible for supplemental security income (SSI) benefits under Social Security based on blindness or disability and the number who lose their benefit because they accompany military members overseas.

The House bill contained no similar provision.

The Senate recedes. The conferees understand that the SSI eligibility of dependents who accompany military members overseas is being addressed in other legislation.

TITLE VII—HEALTH CARE PROVISIONS

PART A—HEALTH CARE PROFESSIONS PERSONNEL MATTERS

LEGISLATIVE PROVISIONS ADOPTED

Authority to repay loans of certain health professionals who serve in the Selected Reserve (sec. 701)

The House bill contained a provision (sec. 701) that would assist the military Services in recruiting certain health care professionals into the Selected Reserve. The provision would (1) expand current educational loan repayment authority to include loans guaranteed by state agencies; and (2) require the Secretary of Defense to report on the desirability of instituting a coordinated loan repayment program for both the active and reserve components.

The Senate amendment contained a similar provision (sec. 525) that would: (1) expand loan repayment authority to cover non-federal loans (not limited to loans guaranteed by state agencies as in the House provision); (2) increase the payment amounts; and (3) authorize loan repayment for health care professionals recruited for the Individual Ready Reserve.

The Senate recedes with an amendment that would adopt the House provision but revise the current loan repayment authority to include the broader Senate provision on the types of loans that may be covered.

The statement of managers accompanying section 671 of the National Defense Authorization Act for Fiscal Year 1986 (P.L. 99-145) which created the health professionals loan repayment program, limited eligibility to surgeons, anesthesiologists, nurse anesthetists and operating room nurses. Currently, the military services are critically short of their wartime requirement for medical-surgical nurses. The conferees, therefore, believe it is appropriate to expand eligibility for the loan repayment program to include medical-surgical nurses to help ameliorate this war-stopping shortfall. The conferees expect the Secretary to use this authority judiciously.

Military physician special pay structure (secs. 702 and 703)

The House bill contained a provision (sec. 702) that would revise special pays for military physicians by increasing variable special pay, additional special pay, and board certification pay by specific amounts; authorize an increase in the amount of incentive special pay to a maximum of $20,000; and terminate the medical officer retention bonus.

The Senate amendment contained a provision (sec. 623) that would increase military physician special pays by 35 percent and a provision (sec. 624) that would extend the authority to pay the medical officer retention bonus for 1 year.

The Senate amendment also contained a provision (sec. 628) that would assist the Department of Defense in recruiting and retaining medical officers in the reserve components by increasing medical special pay for such officers when they perform active duty for training from $350 to $450.

The Senate recedes on the increase in medical special pays with an amendment that would set incentive special pay rates for fiscal years 1990, 1991, 1992, and beyond. The House recedes on the extension of the medical officer retention bonus with an amendment that would open the eligibility for the bonus to officers who have a service commitment. The House recedes on the increase in reserve medical special pays with an amendment that would permit payment to physicians who have previously not served on active duty.

Medical officer retention bonus

With regard to the administration of the medical officer retention bonus, the conferees intend that the levels of payment by specialty during fiscal year 1990 remain the same as during fiscal year 1989. All physicians who will have completed specialty training by the end of fiscal year 1990 would be eligible to sign medical officer retention bonus contracts—regardless of obligated status.

Those physicians signing a medical officer retention bonus contract during fiscal year 1990, who are obligated at the time they sign the contract, will have the period of the rentention bonus contract added to their obligations. The medical officer retention bonus would be payable during the first, second, third, or fourth years of total obligation. Physicians signing new medical officer retention bonus contracts in fiscal year 1990 may not receive bonus payments while engaged in additional residency or fellowship training nor may time spent in additional residency or fellowship training count towards meeting the retention bonus obligation.

1989 ceiling on medical officer retention bonus payments

Because of the limitation of $30 million for the medical officer retention bonus in subsection (h) of section 612 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456), the service Secretaries have agreements signed before October 1, 1989, for which they are unable to obligate funds. The conferees believe that these agreements should be honored. Therefore, the conferees have included a provision that permits the service Secretaries to accept and thereby obligate funds for these previously executed agreements.

Incentive special pay

With regard to incentive special pay, the conferees capped maximum payment at $16,000 (the fiscal year 1989 level) during fiscal year 1990; at $22,000 during fiscal year 1991; at $29,000 during fiscal year 1992; and at $36,000 during fiscal year 1993. Physicians receiving a medical officer retention bonus payment for service during a 12-month period will continue to be eligible for incentive special pay during that period at the rates in effect during fiscal years 1989 and 1990. When no longer eligible for a retention bonus payment, the physician will be eligible for the incentive special pay in effect at that time.

Within the above constraints, the conferees intend that the incentive special pay program be managed in such a way as (1) to transition smoothly out of the medical officer retention bonus environment without significantly disadvantaging physicians who have signed bonus contracts, and (2) to avoid large reductions in total compensation for such individuals as the retention bonus payments cease. For example, the conferees expect that the incentive special pay to an obligated officer who takes the medical officer retention bonus to be regulated to ensure that there are no abrupt or marked changes in the flow of compensation to that officer at the point when medical officer retention bonus payments to that officer cease.

Under these guidelines, the conferees intend that, beginning in fiscal year 1991, the amount of incentive special pay for each specialty increase by an amount sufficient to ensure that by fiscal 1993 the amount of incentive special pay plus any additional amount available for a multi-year contract (discussed below) approximates, at a minimum, the total of fiscal year 1989 incentive special pay plus an annual four year medical officer retention bonus payment. To the greatest extent possible, incentive special pay should not vary by specialty among the military Services.

Any increase in incentive special pay each year for each specialty, however, is contingent on the Services' ability to justify the need for improved retention. The Services must establish desired retention goals for each specialty based on the inventory of that specialty for junior physicians (grades 03/04) and senior physicians (grade 05/06) and the requirements of that specialty for junior and senior physicians. Requirements are to be justified based on wartime needs, cross-utilization capabilities contributing to a specialty's ability to satisfy wartime requirements, or requirements generated from a specialty's ability to provide cost-effective peacetime health care in the direct care system based on the expected population to be supported. Incentive special pay for a specialty should *not* increase if the retention goals for that specialty have been met in the previous fiscal year or if the inventory for that specialty exceeds 110 percent of requirements.

The Secretary of Defense should report by March 1 of each year to the Committees on Armed Services of the Senate and House of Representatives on the status of each specialty for which an incentive special pay is proposed.

Multi-year contracts

The Secretary of Defense is also required to report by March 1, 1990 to the Committee on Armed Services of the Senate and House of Representatives on the effectiveness of the multi-year contracts offered under the medical officer retention bonus. Based on this assessment and other analyses, this report should evaluate the potential effectiveness of multi-year kickers and should include, at a minimum, the following two options: (1) a kicker to the additional special pay that would offer $2,000 for a 2-year contract, $4,000 for a 3-year contract, and $8,000 for a 4-year contract independent of specialty; and (2) a multi-year kicker to Incentive Special Pay (ISP) that would be proportional to the ISP rates. The report should include an assessment of the cost of such a provision and indicate how it might be funded within the amounts budgeted for medical special pays.

Special pay for psychologists (sec. 704)

The Senate amendment contained a provision (sec. 630a) that would authorize a board certification pay to military psychologists who hold a diploma or Diplomate in Psychology by the American Board of Professional Psychology.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the Secretary of Defense, at his discretion, to pay board certification pay to eligible military psychologists after the Secretary submits a report to the Committees on Armed Services of the Senate and House of Representatives justifying the need for this pay and describing the way in which the authority will be implemented.

Nurse officer candidate accession bonus (sec. 707)

The House bill contained a provision (sec. 705) that would authorize a nurse officer accession bonus and stipend to assist the military Services in recruiting junior and senior Bachelor of Science nursing students into the military.

The Senate amendment contained a similar provision (sec. 626).

The Senate recedes.

Program to increase the use of certain nurses by the military departments (sec. 708)

The House bill contained a provision (sec. 706) that would require the Secretaries of the military Departments to implement a program to appoint as officers and to assign such officers as nurses, persons who have an associate degree or diploma in nursing but who have not received a baccalaureate degree in nursing.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees fully concur in the discussion of the House provision in the House report (H. Rept. 101-121) and urge the Secretary of Defense to make a concerted effort to develop and implement a coherent strategy for the objective, efficient management of nurse manpower resources in the Department of Defense.

Authority to defer mandatory retirement for age of regular officers in a health-related profession (secs. 709 and 710)

The House bill contained a provision (sec. 708) that would assist the military services in retaining and recruiting older health professionals. The provision would repeal the mandatory retirement age of 67 and vest the Secretaries of the military departments with discretionary authority to continue health professionals in the reserve components in an active status.

The Senate amendment contained a similar provision (sec. 527), except that the provision would increase the mandatory retirement age to 68 and would not provide discretionary authority to the Secretaries of the military departments as would the House provision.

The Senate recedes with an amendment.

The amendment would establish a mandatory retirement age of 68 for health professionals in the active and reserve components and provide discretionary authority to the Secretaries of the military departments to waive the mandatory retirement age for active and reserve component medical professionals to keep them in an active status.

The conferees believe this agreement strengthens the flexibility the Department of Defense needs to tap a valuable resource of talent to fill critical needs in military medicine. The conferees expect the Department of Defense to aggressively manage this program and to be prepared to report on its effectiveness in hearings on military medicine before the Committees on Armed Services in the Senate and House of Representatives next year.

Retention of certain reserve psychologists in active status (sec. 711)

The Senate amendment contained a provision (sec. 528) that would include psychologists in the category of health officers in the military departments who may be retained in an active status in the reserve components until age 67.

The House bill contained no similar provision.

The House recedes.

PART B—HEALTH CARE MANAGEMENT

LEGISLATIVE PROVISIONS ADOPTED

Sharing of health-care resources with the Department of Veterans Affairs (sec. 722)

The House bill contained a provision (sec. 712) that would authorize the Department of Defense to use CHAMPUS funds to reimburse the Department of Veterans' Affairs for medical care provided under Department of Defense and Department of Veterans' Affairs sharing agreements.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees, while adopting the House provision, remain concerned about the reservations expressed in the Senate report (S. Rept. 101-81) regarding centralized oversight and guidance, or the lack thereof, over DOD-VA sharing agreements. Nonetheless, the conferees believe the potential efficiencies that could be achieved through well managed DoD-VA agreements and the potential benefits to DOD health care beneficaries outweigh these concerns at this time. The conferees urge the Secretary of Defense to take appropriate action to provide the necessary leadership, which has been noticeably absent up until now, to manage the DOD-VA sharing program and to implement this provision in a cost-effective manner.

Prohibition on reducing end structure levels for medical personnel as a result of base closures and realignments (sec. 723)

The House bill contained a provision (sec. 713) that would prohibit the military services from reducing their military or civilian medical personnel strengths because of base closures or realignments.

The Senate amendment contained no similar provision.

The Senate recedes.

Revised deadline for the use of diagnosis-related groups for outpatient treatment (sec. 724)

The House bill contained a provision (sec. 714) that would delay until October 1, 1991 the implementation date mandated by the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180), for the implementation of diagnosis-related groups as the primary tool for allocation of resources to military treatment facilities for outpatient care.

The Senate amendment contained a similar provision but would extend the implementation date until October 1, 1990.

The Senate recedes.

Armed forces health professions scholarships program (sec. 725)

The House bill contained a provision (sec. 715) that would expand the current Armed Forces Health Professions Scholarship program (AFHPSP) to authorize the award of an annual grant of $15,000 to a graduate physician pursuing a residency program in a specialty designated as critical by the Secretary of Defense. Physicians recruited under this authority would receive the monthly stipend payable to other participants in the AFHPSP program. The House provision would also delay until October 1, 1990 the requirement for the Department of Defense to earmark 2,500 AFHPSP awards to individuals in their third or fourth year of medical school who agree to accept residency training in a criticallly needed wartime skill.

The Senate amendment contained a similar provision (sec. 524) except that it would repeal the earmarking requirement that would be delayed by the House provision.

The Senate recedes with an amendment that would adopt the House provision, but would delay the earmarking requirement to October 1, 1991.

Uniformed Services University of the Health Sciences and Henry M. Jackson Foundation for the Advancement of Military Medicine (sec. 726)

The House bill contained a provision (sec. 716) that would: (1) increase the number of faculty members at the Uniformed Service University of the Health Sciences (USUHS) who may be exempt from certain statutory restrictions on salaries from two to five; (2) authorize part-time or full-time employees of the Jackson Foundation to also be employed by the Federal Government if compensation is within Department of Defense guidelines; and (3) authorize the USUHS to accept grants from and to make grants to the Jackson Foundation.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would strike the authority in the House provision for part-time or full-time employees of the Jackson Foundation to also be employed by the Federal Government.

Retention of funds collected from third-party payers of inpatient care furnished at facilities of the uniformed services (sec. 727)

The House bill contained a provision (sec. 717) that would, subject to appropriations, permit collections from third-party payers of the cost of care provided in military medical facilities to non-active duty beneficiaries to be credited to the account of the military treatment facility making the collection rather than be deposited in the general fund of the Treasury.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would strike that portion of the House provision that would make this authority subject to appropriations.

Reallocation of certain civilian personnel positions to medical support (sec. 728)

The House bill contained a provision (sec. 718) that would require the Secretaries of the Army and the Navy to submit a report to the Committees on Armed Services of the Senate and House of Representatives by March 1, 1990 on the reallocation of civilian positions that were reduced by the "Review of Unified and Specified Command Headquarters" to medical support positions in the respective services.

The Senate amendment contained no similar provision.

The Senate recedes.

Limitation on CHAMPUS payment to non-institutional health-care providers (sec. 730)

The Senate amendment contained a provision (sec. 522) that would assist the Department of Defense in controlling CHAMPUS costs by limiting CHAMPUS payments to non-institutional health-care providers to the 80th percentile of billed charges made for similar services in the same locality, and by limiting the amount by which allowable charges by CHAMPUS providers may be updated to the amount justified by Medicare economic index data.

The House bill contained no similar provision.

The House recedes with an amendment that would strike that portion of the Senate provision limiting the amount by which allowable charges by CHAMPUS providers may be updated to the amount justified by Medicare economic index data. The conferees agree to the amendment because the effect of the imposition of the Medicare economic index criterion on out-of-pocket costs to CHAMPUS beneficiaries is unclear. The conferees expect the Department of Defense to address this matter and to advise the Committees on Armed Services of the Senate and House of Representatives of the effect that such a provision would have on the cost to CHAMPUS beneficiaries.

Clarification and correction of provisions providing health benefits for certain former spouses (sec. 731)

The House bill contained a provision (sec. 720) that would clarify current authority providing certain former spouses with medical benefits for a specified period of time to permit these former spouses to receive medical care in either military medical facilities or under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). The provision would also clarify that the extension of the current authority provided for in the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456) regarding a former spouse with a pre-existing condition would be for that pre-existing condition only.

The Senate amendment contained no similar provision.

The Senate recedes.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT AND RELATED MATTERS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Weapons acquisition risk assessment (sec. 801)

The House bill contained a provision (sec. 131) that would require the Secretary of Defense to establish a policy for determining the risk in a program due to program concurrency. The provision would require a risk assessment to be included in the Selected Acquisition Report for all major weapon systems.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require a one-time report on risk assessment due to program concurrency. The report would apply only to major acquisition programs in full-scale development or low-rate initial production.

Operational test & evaluation policy (sec. 802)

The Senate amendment contained a provision (sec. 827(b)) that would clarify the definition of operational test and evaluation to exclude evaluations based solely on computer modeling, simulation or analysis.

The House bill contained no similar provision.

The House recedes.

The Senate amendment, also contained a provision under section 827(c) that would require the Director, Operational Test and Evaluation, to ensure that any contractor who has participated in development or production of a weapon system be precluded from assisting in operational test and evaluation of the weapon system. An exception would be provided if the Director determines that adequate safeguards have been instituted to ensure the impartiality of the contractor providing assistance.

The House bill contained no similar provision.

The House recedes with an amendment.

The Department of Defense Inspector General and the General Accounting Office have reported cases where the contractors involved in the development of a weapon also participated in evaluating the operational effectiveness and operational suitability of that weapon. The conferees believe that use of contractors to support operational test and evaluation in this manner can compromise the integrity of the operational test and evaluation of that weapon and the integrity of the operational test and evaluation of that weapon and the entire operational test process.

Under the conference agreement, no contractor who has participated in the development or production of a weapon system may provide advisory or assistance services to the Director, Operational Test and Evaluation with regard to the operational test and evaluation of that weapon system. The conferees recognize, however, that some flexibility in the use of contractor support is required. For instance, operational tests may require contractor support in areas such as instrumentation, data collection, and data processing.

Therefore, an exception may be made if the Director reports his determination, in writing, that sufficient steps have been taken to ensure the contractor's impartiality. Each such written determination must be provided to Congress with the Director's report on the weapon system. Nevertheless, it is the intent of the conferees that the Director, Operational Test and Evaluation is ultimately responsible for the consequences of any contractor participation in any operational test and evaluation activities.

The conferees agree that no exception can be made to allow a contractor to participate in any way in the establishment of criteria for data collection, performance assessment (i.e., scoring) or evaluation of the operational suitability and operational effectiveness of a system if the contractor was involved in the development, or will be involved in the production, of that system.

The conferees expect the Secretary of Defense to promulgate appropriate regulations to implement this provision. Further, an assessment of the Department's compliance with this provision shall be included in the semi-annual report to Congress by the Inspector General of the Department of Defense.

Low rate initial production (sec. 803)

The House bill contained a provision (sec. 132) that would clarify the definition of the term "low rate initial production" and would direct that determination of major weapon system initial low-rate production quantities be made at the same time the Department of Defense makes the decision to proceed with full-scale engineering development. The House bill would also authorize the Secretary of Defense to waive these provisions if industrial base considerations so dictate and would require submission of an annual report on program execution compared to test plans.

The Senate amendment contained a similar provision (sec. 827(a)) that would clarify the definition of low rate initial production and would define that concept for use with naval vessels.

The conferees recommend a provision that would define low-rate initial production as the minimum amount necessary to: (1) provide production-configured or representative articles necessary to conduct operational tests pursuant to section 138 of title 10, United States Code; (2) establish a single production source; and (3) permit an orderly increase in the production rate sufficient to lead to full-rate production upon the successful completion of operational testing.

The quantity of items required for operational test and evaluation should be determined by the Director of Operational Test and Evaluation, or by the respective Service test agency if a program is not a major defense acquisition program.

The conferees are concerned that too many weapon systems are entering full production status before they have successfully completed operational test and evaluation and have their identified design deficiencies corrected. The conference agreement would permit establishment of a single production source, and recognizes the advantages of maintaining this source once started. This recognition is not intended to condone a continuing reapproval of "low rate initial production" quantities that eventually may total to a significant percentage of the total planned procurement. The conferees expect the Department of Defense to consider carefully the status of the weapon system's development prior to granting the approval for the low rate initial production phase to ensure that the weapons is ready to begin production based on demonstrated design maturity as evidenced by the results of analysis, simulation and development testing.

The conferees believe that a firm definition of low-rate initial production quantities should be made at the same time the decision is made to proceed with full-scale engineering development. This decision should also include quantities required for pre-production verification. Any increase in these quantities during the execution of a program should be reviewed by a subsequent meeting of the Defense Acquisition Board and approved by the Defense Acquisition Executive, or the Service or defense agency equivalent. For major systems, the Secretary of Defense shall report the approved quantities to the Congress in the Selected Acquisition Reports.

The conferees also agree to an exemption permitting the Secretary of Defense to prescribe regulations specifically addressing initial production rates for naval vessels and military satellite programs. The conferees agree that the Secretary of Defense should set the initial production rates and quantities for ship and satellite programs in a manner that recognizes the unique nature of these programs due to their inherent fabrication complexity, relatively small number procured, high unit cost, long production periods, and in many instances, fragile production base. The conferees intend, however, that the Secretary should, to the maximum extent possible, preserve the checks and balances associated with the low rate initial production decision as directed for all other programs. In addition, the Secretary shall include in these regulations the manner and degree to which equipment and major systems, integral to the construction of naval vessels, will be produced and tested so that the ship weapon system is taken to its fleet introduction in a logical and consistent manner. These regulations should explicitly provide, in each instance, for consideration of the status of the mobilization production base.

This special consideration for ships and satellites recognizes that it may be inappropriate to withhold approval to proceed beyond low rate initial production pending completion of operational testing when the fabrication and integration period may exceed five years, when a limited production base may exist, or when the underlying technology is rapidly advancing. In these instances, the Secretary should require that the test program leading up to full operational test and evaluation be structured leading up to full operational test and evaluation be structured to generate the maximum level of confidence in assessing the ultimate operational suitability and effectiveness of the naval vessel or satellite.

The conferees agrees that certain additional reporting requirements are warranted to improve oversight for these exempted programs. Specifically, information on the initial production rate and quantity chosen, the rationale for that choice, the program's Test and Evaluation Master Plan, and the approved acquisition strategy are required to ensure that the early production and testing of these naval vessel and military satellite programs adhere to congressional intent.

Live-fire testing program (sec. 804)

The House bill contained a provision (sec. 133) that would amend section 2366 of title 10, United States Code, to require the Department of Defense to report the results of live-fire testing before a major covered system could enter full-rate production. The provision would also permit the Secretary of Defense to fund live-fire tests from procurement funds available for the weapon system, but not to exceed one-third of one percent of the total program cost.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Department of Defense to report the results of live-fire testing prior to full-rate production. The conferees agree with the intent of the House provision to allow the Secretary of Defense to reprogram up to one-third of one percent of total funds approved by Congress for procurement of a specific system that has been identified as a live-fire testing candidate. The conferees note that the Department of Defense has issued directives implementing this direction. Consequently, statutory language on this point is not necessary at this time.

Revision of limitation on transfer of certain technical data packages to foreign countries (sec. 806)

The House bill contained a provision (sec. 135) that would permit, under certain conditions, the transfer of technical data packages for large caliber cannon to allied countries.

The Senate amendment contained no similar provision.

The Senate recedes.

Acquisition report streamlining (sec. 811)

The Senate amendment contained a provision (sec. 825) that would streamline certain reporting requirements, eliminating separate quarterly internal unit cost reports by consolidating those reports into the internal Defense Acquisiton Executive Summary reports. The provision would also consolidate the external unit cost exception reports by consolidating them with the Selected Acquisition Reports. The provision would also standardize certain cost and baseline reporting criteria.

The House bill contained no similar provision.

The House recedes.

The conferees fully support efforts to streamline acquisition reporting documents by the Department of Defense, but conclude that the changes contained in the Senate amendment are insufficient. The conferees believe that comprehensive streamlining is justified. not only for reports required by Congress but also reports required of program managers by the Secretary of Defense and by the Services themselves. The conferees direct the Under Secretary of Defense for Acquisition to submit comprehensive proposals to lessen the reporting burdens imposed by all offices and military Departments. The conferees are prepared to consider further streamlining of the Selected Acquisition Reports in light of the Under Secretary's recommendations.

Three-year program for use of master agreements for procurement of advisory and assistance services (sec. 812)

The Senate amendment contained a provision (sec. 828) that would facilitate the acquisition of study, advisory, and assistance services on a timely basis. It would authorize the Department of Defense to enter into master agreements for such services using competitive procurement procedures. Firms awarded master agreements would then compete with one another for task orders for specific study, advisory, or assistance services.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees view this test program as an important step in the development of improved policies and procedures in the acquisition of advisory and assistance services, including professional and technical services. In developing the test program, the Department should seek the advice of the affected industry.

The conferees direct the Department of Defense to implement the test program authorized in this section in a manner that emphasizes such quality-related factors as technical proficiency, management, past experience and other similar criteria. The Department should strive to develop solicitations with specificity and clarity sufficient to reduce the need for discussions and "best and final" offers in the process of awarding the agreements.

The DOD may not use this authority to contract for any organic governmental function or service in a manner that would be inconsistent with the Office of Management and Budget (OMB) Circular A-120. The phrase "organic governmental function" means work of a policy, decisionmaking, or managerial nature that is the direct responsibility of agency officials as that term is used in OMB circular A-120 and Department of Defense Directive DOD 4205.2 dated January 27, 1986 ("Department of Defense Contractor Assistance Services").

The conferees note that entities eligible to participate in programs under section 8(a) of the Small Business Act and section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661) may particpate in this test program.

Availability of funds for obligation following bid protest (sec. 813)

The Senate amendment contained a provision (sec. 829) that would provide authority to the Department of Defense to use an appropriation to fund a procurement for up to 90 days following the resolution of a bid protest, notwithstanding the expiration of the appropriation during the pendency of the protest.

The House bill contained no similar provision.

The House recedes with an amendment that would provide that any federal agency, not just DoD, may obligate an otherwise expired appropriation under these circumstances. In addition, the House amendment would clarify the circumstances under which a ruling on a bid protest would be considered to be final for purposes of this rule.

Post-employment restrictions (sec. 814)

The Senate amendment contained a provision (sec. 844) that would clarify the restrictions on post-employment activities of government officials covered by section 27 of the Office of Federal Procurement Policy (OFPP) Act.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees note that section 27 of the OFPP Act was adopted by the Congress last year after the provisions were reviewed and concurred in by the Executive Branch. Since that time, there has been significant concern about the impact of the legislation's provisions on the ability of government to attract and retain high caliber personnel. Much of the concern reflects the fact that the Executive Branch, despite its support for these provisions in 1988, failed to issue timely proposed regulations and guidance in 1989. This delay produced misapprehension and miscommunications about the effect of the underlying legislation. The conferees also note that the implementation process has highlighted areas which should be addressed through legislative action. Accordingly, the conferees have agreed to a number of amendments to section 27 of the OFPP Act.

Recusal of procurement officials.—Section 27 of the OFPP Act prohibits a procurement official (as defined in the Act) from discussing employment with a competing contractor during the course of a procurement. The conference agreement would add a new section 27(c) of the OFPP Act to make it clear that the Act permits recusal of procurement officials in appropriate circumstances. Under this provision, a procurement official could discuss employment with a competing contractor if, prior to engaging in such discussions, the official requests recusal in writing, and the request is approved by the head of the procuring activity (or that official's designee).

Regulations implementing this new section also should include specific criteria bearing on the integrity of a procurement—such as the timing of the request and the degree of the employee's involvement in key procurement decisions and actions—to be considered by agency officials in deciding whether to approve or disapprove an employee's request for recusal and in determining the appropriate length of a recusal.

Recusal is not permitted during the period beginning with the issuance of a procurement solicitation and ending with the award of a contract if the individual has participated personally and substantially in specified acquisition activities. A similar provision applies to modification or extension of contracts.

There may be circumstances in which an official's involvement in a particular procurement was so substantial that even after a recusal is no longer in effect with respect to a particular contractor, the official should not participate in the specific procurement. The implementing regulations should provide appropriate standards and procedures for addressing such circumstances.

Nothing in this provision affects the validity of the current interim regulations which permit a competing contractor to contact an official for purposes of determining whether that person is governed by the OFPP Act's restrictions on employment discussions. Such a contact, however, may not extend to substantive discussions of an employment opportunity until the government official obtains an approved recusal under this section.

Enforcement discretion.—The conference agreement would revise section 27(f) (section 27(e) under current law) to incorporate a "knowing" violation standard directly into the statute. A "knowing' standard is already included in the other substantive prohibitions of section 27.

Post-service employment with subcontractors.—Under section 27, the statutory term "competing contractor" includes entities that are reasonably likely to compete for subcontracts as well as contracts. The conference agreement would revise section 27(f) (section 27(e) under current law) as it applies to post-service employment with subcontractors. A procurement official would be prohibited from working on a particular subcontract only if one or more of the following conditions is met: (1) The subcontractor is a first-tier subcontractor (i.e., a subcontractor to the prime contractor) or a second-tier subcontractor (i.e., a subcontractor to a first-tier subcontractor) and the contract is for an amount in excess of $100,000. (2) The subcontractor significantly assisted the prime contractor with respect to negotiation with the government of the prime contract. The conferees recognize that many subcontractors provide incidental assistance to prime contractors in the preparation of bids and proposals and in the conduct of negotiations. The term "significantly assisted the prime contractor" is intended to cover only a subcontractor who serves as an integral contributor to the prime contractor's negotiating strategy. It includes those who perform a significant role in the development of a bid or proposal as well as those who participate in face-to-face negotiations. (3) The procurement official was involved in the award, modification, or extension of the prime contract and personally directed or recommended the particular subcontractor to the prime contractor as a source for the subcontract. (4) The procurement official personally reviewed and approved the award, modification, or extension of the subcontract.

Ethics advice.—The conference agreement would add a new section 27(k) to the OFPP

Act. Under this provision, an employee or former employee of an agency may request advice from the appropriate designated agency ethics official as to whether he or she is precluded from working for a particular contractor on a particular contract or engaging in a discussion of prospective employment. Such a request must be accompanied by all information reasonably available to the employee or former employee that is relevant to a determination by the ethics official. Regulations implementing this section should provide guidance as to the kinds of information that are necessary to render such a determination.

Upon receipt of such a request, accompanied by appropriate information, the designated agency ethics official must issue a written opinion as to whether the employee or former employee is precluded from engaging in the activity at issue. The conference agreement would require that the opinion be issued within 30 days "or as soon thereafter as practicable." The implementing regulations should provide that the authority to take more than 30 days to provide such advice should be used only in unusual circumstances, and that the reason for taking more than 30 days should be documented in the official file.

The post-service employment restrictions in section 27 are enforced through civil penalties, which can amount to a fine of up to $100,000 for an employee. The conferees note that the Department of Justice and the Office of Government Ethics have entered into agreements with respect to other conflict of interest statutes which have the effect of providing that those who obtain authorized advice based on full disclosure are not prosecuted under such statutes. The conferees expect the Department of Justice to enter into appropriate memoranda of understanding to provide that an employee or former employee who obtains a written opinion under this section on the basis of complete disclosure of all relevant information, and who reasonably relies on such an opinion, will not be penalized under this section.

Time period covered by certain restrictions.—A number of the prohibitions under section 27 of the Office of Federal Procurement Policy Act apply "during the conduct of any Federal agency procurement of property or services." Section 27 currently defines this as the "period beginning with the development, preparation, and issuance of a procurement solicitation, and concluding with the award, modification, or extension of a contract . . . ." A defined time period is used in section 27 to avoid any implication that the board definition of "procurement" in section 4(2) of the Act applies in such circumstances.

Concern has been expressed that the term "beginning with the development . . . of a solicitation" as defined in the implementing regulations is too imprecise to provide adequate notice that a procurement has begun. The conferees believe that the authority for issuance of implementing regulations under section 27 provides the Executive Branch with adequate discretion to describe a discrete event constituting the beginning of a solicitation. However, in order to provide a greater degree of guidance, the conference agreement would amend current law to provide that for purposes of this section, the conduct of a procurement begins with "the earliest specific date on which an authorized official orders or requests" the drafting of a specification or other action described in the definition of the term "procurement official." The conferees note that this does not mean that a procurement begins any time a government official prepares any document that deals with a procurement; rather, the action must be undertaken at the direction or request of an official responsible for a specific procurement.

The conferees intend that the implementing regulations supply the requisite procedural detail so that this provision will apply only when there is sufficient notice that a procurement has begun. The issue of whether to formally publish a notice with respect to a procurement (and, if so, what form of publication should be used) is a matter left for consideration in the development of implementing regulations. The conferees note, however, that if a notice is published, it could be done in conjuction with other notices required by law, such as the notice of the procurement published in the *Commerce Business Daily* (under 41 U.S.C. 416 and 15 U.S.C. 637(e)).

Personal and substantial participation in a procurement.—The post-employment limitations in section 27(f) (section 27(e) under current law) restrict certain government officials from working for competing contractors on specified contract matters. The conferees are aware that some concern has been expressed about the interplay between the broad definition of "procurement" in section 4(2) of the Office of Federal Procurement Policy Act and the specific restrictions on "procurement officials" in section 27.

The conference agreement amends the definition of "procurement official" in section 27(p)(3) (section 27(n)(3) under current law) to make it clear that the broad definition of "procurement" in section 4(2) is not applicable. A person becomes a "procurement official" under section 27 only if the official performs one of the specific functions listed in the definition of "procurement official." Persons who perform general scientific, engineering, or technical work, provide budget or policy advice, or serve on advisory boards are not covered unless they participate personally and substantially in one of the following actions, as defined in implementing regulations, with respect to a specific procurement (including any procurement using procedures other than competitive procedures): (1) the drafting of a specification to be used for that procurement; (2) the review and approval of a specification for that procurement; (3) the preparation or issuance of a procurement solicitation in that procurement; (4) the evaluation of bids or proposals for that procurement; (5) the selection of sources for that procurement; (6) the conduct of negotiations in the procurement; (7) the review and approval of the award, modification, or extension of a contract in that procurement; or (8) such other specific procurement functions as may be set forth in implementing * * *

The conferees note that similar concerns have been expressed with respect to whether the prohibitions on post-service employment extend to general scientific, engineering, and technical work on behalf of a contractor. The regulations should make it clear that after the individual leaves government service, scientific and technical work on behalf of a contractor which is not required for the performance of a specific contract would not be covered (e.g., work on an independent research and development project).

Implementing regulations and guidelines.—The conference agreement requires that implementing regulations be issued not later than 90 days after the date of enactment of this Act. The conferees urge the Executive Branch to issue such regulations, at least in interim form, as soon as possible, and not await the full 90 day period.

The initial regulations implementing this section will be issued in accordance with the current process governing changes to the Federal Acquisition Regulation. The conferees recognize, however, that the post-employment and gratuities provisions of section 27 are more closely related to the ethics and conflict of interest statutes, regulated primarily by the Office of Government Ethics. Accordingly, the conference agreement would provide that the responsibility for such provisions will be exercised by the Director of Government Ethics, in coordination with the Federal Acquisition Regulatory Council, on and after June 1, 1990. Although such rules will be developed through a procedure that differs from the process provided elsewhere for issuance of the Federal Acquisition Regulation, they will continue to be included in the Federal Acquisition Regulation.

Notwithstanding the transfer of responsibility to the Office of Government Ethics, the conferees emphasize the importance of prompt issuance of regulations implementing this section within the 90 day period discussed above. Although coordination is required, nothing in this provision shall be construed to provide a basis for delay in the issuance of such regulations.

Special waiver authority.—The Senate amendment also contained a provision (sec. 3142(d)) that would facilitate recruitment by the Department of Energy from the Department's nonprofit multiprogram laboratories by authorizing a limited waiver of the post-employment restrictions in section 27(e) of the OFPP Act, as well as the post-employment and conflict of interest restrictions in sections 207 and 208 of title 18, United States Code, for not more than 25 employees.

The House bill contained no similar provision.

The House recedes with an amendment.

The purpose of the Senate provision was to enable the Department of Energy to address what the Department has described as a major crisis in the management of the nuclear weapons complex. Management of the facilities that produce nuclear weapons and nuclear materials demands highly-skilled and well-trained individuals in such fields as nuclear engineering, nuclear physics, and hazardous and radioactive waste management. Much of that talent is employed in the national laboratories, such as Lawerence Livermore or Sandia, that are operated for the Department of Energy on a not for profit basis.

The conference agreement addresses the Senate's concerns and also reflects the determination by the conferees that the President should have the flexibility to apply the waivers to any agency that needs to obtain the services of a particular individual possessing unique skills and abilities that are critical to the government. The conference agreement also addresses the need to provide adequate protection to ensure against inappropriate use of this authority. Under the conference agreement, the President would be authorized to waive the restrictions on post-service employment activities under section 207 of title 18, United States Code and section 27(f) of the OFPP Act (currently section 27(e)) for up to 25 persons in the Executive Branch "in the public interest" for "critically needed" positions.

The name of the person, the position, and the basis for the waiver would have to be published in the Federal Register. After leaving federal service, a person who received such a waiver would have to submit reports every 6 months (for a 2 year period) on post-employment activities.

Under the conference agreement, waivers under this section extend only to a post-service employment with the same government-owned contractor-operated entity that employed the individual immediately prior to entering government service. It is the intent of the conferees that waivers be granted only when a critical position must be filled from a limited pool of qualified persons who enter government service from such a government-owned contractor-operated entity, who are asked to serve in a government position to fill a critical need, and who return to the same government-owned contractor-operated entity after government service.

Defense memoranda of understanding and related agreements (sec. 915)

The Senate amendment contained a provision (sec. 804) that would specify the role of the Secretary of Commerce in the negotiation and implementation of armaments cooperation agreements between the United States and foreign countries.

The House bill contained no similar provision.

The House recedes with an amendment that would make clarifying changes and that would ensure that the Secretary of Defense will consider the effects of armaments cooperation agreements on the U.S. defense industrial base and the comments of the Secretary of Commerce on the commercial implications of such agreements.

Offsets in reciprocal defense procurement agreements (sec. 816)

The Senate amendment contained a provision (sec. 805) that would direct the Secretary of Defense to make every effort in negotiations with foreign governments on reciprocal defense procurement agreements to achieve an agreement that would limit the adverse effects of offsets on the U.S. defense industrial base.

The House bill contained no similar provision.

The House recedes with an amendment that would direct the President, rather than the Secretary of Defense, to be responsible for negotiating an agreement that would limit the adverse effects of offset arrangements on the defense industrial base of the United States.

Simplified approval of contracts implementing certain international agreements (sec. 817)

Section 2304(f), title 10, United States Code, contains an exception to the use of full and open competition when a foreign government or international organization makes a request for U.S. defense items that has the effect of requiring the acquisition to be made from a specific source. Despite this exemption from competitive procedures, the contracting officer must nonetheless prepare a "justification and approval" document explaining the basis for using other than full and open competition. This document must then be approved by senior acquisition officials.

The Senate amendment contained a provision (sec. 830) that would amend current law with a requirement to place in the contract file a document describing the terms of the agreement or treaty, or the written directions that have the effect of requiring the use of other than competitive procedures.

The House bill contained no similar provision.

The House recedes with an amendment that would require the agency competition advocate to approve the required document.

Delegation of authority to approve certain contract justifications (sec. 818)

The Senate amendment contained a provision (sec. 826) that would permit the delegation of the authority of the senior procurement executive to approve the use of other than competitive procedures for contracts between $10 million and $50 million to heads of procuring activities who are general or flag officers or civilians of equivalent rank.

The House bill contained no similar provision.

The House recedes with an amendment that would provide that the use of such procedures for awards between $10 and $50 million may be delegated to a general or flag officer or civilian equivalent rank within the senior procurement executive's organization. This change would reduce the paperwork burden on senior management and their staff while ensuring that high level attention outside of the procurement activity remains focused on the use of noncompetitive procurement procedures.

The conferees will carefully monitor this issue to ensure that the Department of Defense adheres to the use of competitive procedures where appropriate and that the integrity of the justification and approval process is maintained. Should the Department exercise this authority prudently, the conferees will entertain a request to provide similar relief for such awards up to $100 million.

Procurement technical assistance cooperative agreement program (sec. 819)

The House bill contained a provision (sec. 307) that would authorize $8 million to fund the procurement technical assistance cooperative agreement program.

The Senate amendment contained a provision (sec. 835) that would authorize $9 million to fund the program in each of fiscal years 1990 and 1991. In addition, the Senate provision would require that in each of those years, $600,000 be used to fund centers sponsored by native American Tribal organizations. The Senate provision would also authorize the Department of Defense to fund up to $300,000 of the cost of such centers which serve more than one of the twelve Bureau of Indian Affairs regions in the United States.

The House recedes with a clarifying amendment. The Conferees direct the Secretary of Defense to ensure that at least $9 million is provided for this program. The Armed Services Committees of the Senate and House of Representatives intend to review this program in the next year to determine whether it is is being funded and managed in a manner that achieves the full objectives of the program.

Requirement for certificate of independent price determination in certain DOD contract solicitations (sec. 821)

The Senate amendment contained a provision (sec. 836) that would require the Secretary of Defense to revise the Department of Defense Supplement to the Federal Acquisition Regulation to provide that a foreign contractor who proposes to perform a contract outside the United States certify that the contractor did not engage in anti-collusive bidding practices to obtain the contract. Department of Defense solicitations for contracts performed inside the United States currently include this requirement.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to propose a revision to the Federal Acquisition Regulation making the certification requirement applicable to any foreign contractor bidding on a contract with any government agency.

Uniform rules on dissemination of acquisition information (sec. 822)

The Senate amendment contained a provision (sec. 823) that would require the Secretary of Defense to prescribe a single, uniform rule for the Department of Defense regarding dissemination of and access to acquisition information.

The House bill contained no similar provision.

The House recedes with a clarifying amendment. The conferees note that this provision is intended to improve the efficiency and effectiveness of Department of Defense acquisition practices and is not intended to provide a basis for a private party to challenge the validity of any implementing rule issued by a Department of Defense component on the grounds that it is inconsistent with Department of Defense or government-wide policy.

Limitation of authority to waive Buy-American Act requirement (sec. 823)

The House bill contained a provision (sec. 903) that would authorize the Secretary of Defense to award a contract, under certain conditions, to a domestic firm that would otherwise be awarded to a foreign firm.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to rescind the Secretary's waiver of the Buy American Act with respect to a particular product if the Secretary determines that a foreign country with which the United States has entered into a reciprocal defense procurement agreement has violated the agreement by discriminating against a similar U.S. product covered by the agreement. The amendment would also direct the Secretary of Defense to prepare a report on the amount of DOD purchases from foreign entities.

Acquisition of commercial and non-developmental items (sec. 824)

The Senate amendment contained a provision (sec. 822) that would require the Department of Defense to take specific actions to implement section 2325, title 10, United States Code, which requires the Department to purchase non-developmental items (NDIs) "to the maximum extent practicable". NDIs are items that are available in the commercial market or already in use by the government.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees are very concerned by testimony presented in oversight hearings by the General Accounting Office and the Inspector General of the Department of Defense about the Department's lack of progress in eliminating barriers to the procurement of NDIs. The conference agreement would direct the Secretary of Defense to issue new regulations to address three specific impediments to the acquisition of commercial items.

First, the Secretary would be required to develop a simplified uniform contract for the acquisition of commercial items and to limit the clauses required for inclusion in subcontracts under such contracts. Under this provision, a contract clause not included in the uniform contract developed by the Secretary could be required in the solicitation for a particular commercial item procurement only upon a determination in writing by the contracting officer that the clause is essential for the protection of the government's interest in that procurement. This provision is not intended to exempt the Department of Defense from any statute or from any requirement of the Federal Acquisition Regulation or the Federal Information Resource Management Regulation.

Second, the Secretary would be required to develop a streamlined inspection clause for use in appropriate contracts for commercial products. The conferees believe that DOD should take advantage of alternative approaches to quality assurance. These approaches include a greater reliance on commercial warranties and the use of contractors with a proven record of quality performance.

Third, the Secretary would be required to reexamine and revise regulations requiring contractors to provide certified cost or pricing data to ensure that this requirement is applied in contracts for commercial products only when necessary. In revising the regulations, the Secretary should consider the following:

(1) revising the percentage tests in the regulations;

(2) revising the sales categories established for the percentage tests;

(3) allowing greater flexibility in the time periods for the application of these tests;

(4) creating an alternative test based on volume of commercial sales (as opposed to percentage of sales);

(5) placing a greater emphasis on competitive market prices (as opposed to catalog prices); and

(6) generally requiring the submission of cost or pricing data only when there is no adequate alternative basis for determining the reasonableness of price.

The conference agreement would retain the training requirements set forth in the Senate amendment with minor clarifications. In addition, the conference agreement would require the Secretary to conduct an analysis of impediments to the acquisition of NDIs and to develop a plan of action for addressing any such impediments.

The conference agreement would also require the Secretary to establish a 3-year demonstration program for the procurement of items of individual clothing using solicitation provisions that reflect solicitation techniques used in the commercial sector.

The conferees understand that DOD uses detailed military specifications to procure all but 7 of the 8,000 items managed by the Defense Personnel Support Center (DPSC). This appears to reflect insufficient attention to the statutory mandate to purchase non-developmental items "to the maximum extent practicable."

The Secretary of Defense would be required to designate the items to be included within the demonstration program and to specify what portion of DOD's annual requirements for such items shall be solicited under the demonstration program. The conferees expect that the Secretary will select an array of items for which market surveys reflect that commercial counterparts for current military standard items are already being manufactured.

The conferees caution the Department that in implementing the demonstration program, it should encourage the participation of those firms that have previously been supplying the Department with military uniforms and items of individual clothing in accordance with existing military specifications. Specifically, the Department may not apply any "commerciality" requirement with respect to the eligibility of an offeror or to the product being offered.

Study and report of defense export financing (sec. 825)

The Senate amendment contained a provision (sec. 916) that would require the President to conduct a study of export financing of defense articles.

The House bill contained no similar provision.

The House recedes. The conferees expect that the report on the findings of the study will be submitted to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives.

Extension of contract goal for small and disadvantaged businesses (sec. 831)

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661) establishes a five percent goal for the award of certain Department of Defense contracts and subcontracts to disadvantaged small business concerns, historically Black colleges and universities, and other minority institutions. To help attain this goal, DOD is authorized to use other than competitive procedures in the award of a contract and the use of a price evaluation preference. This program expires at the end of fiscal year 1990.

The House bill contained a provision (sec. 904) that would extend the program through fiscal year 1993.

The Senate amendment contained no similar provision because the program was authorized through fiscal year 1990.

The Senate recedes with a clarifying amendment.

The conferees reaffirm their commitment to ensuring that the Department makes every reasonable effort to attain the 5 percent goal. The additional three years will provide the Department, and the defense industry, with the opportunity to vigorously pursue the program's fundamental objective: to expand the participation of disadvantaged small business concerns, historically Black colleges and universities, and minority institutions in the defense marketplace.

The conferees emphasize that significant benefits can be derived from aggressive and imaginative implementation of the section 1207 program. New participants are introduced into the defense industrial and technology base as prime contractors, subcontractors, and suppliers. The opportunities provided by the section 1207 program provide participants an additional means to overcome their disadvantaged economic status and move towards full participation in America's economic mainstream—thereby benefitting the entire nation.

The conferees recognize the Department's efforts to attain the five percent goal in prime contract awards and subcontracting opportunities provided by the Department's major prime contractors. However, the Department's annual section 1207 reports to the Congress indicate that some DOD components have been less successful than others in working toward the goal. In addition, the conferees are especially concerned about the need to increase participation by historically Black colleges and universities and other minority institutions in DOD contracting.

To assist the Committees on Armed Services of the Senate and House of Representatives in monitoring and evaluating the implementation of the section 1207 program, the Department is required to submit annually two reports. Section 1207(g) specifies the minimum requirements of those reports. The conferees direct that the Department's report to the Congress due by December 15, 1991, and thereafter, present the annual performance of each DOD component (and that component's individual major buying activities) toward attaining the five percent goal for each fiscal year since the program's inception. The rates of participation for small disadvantaged businesses, historically Black colleges and universities, and for other minority institutions should be separately presented. For the report due December 15, 1990, the conferees direct the Department to make its best effort to disaggregate the data concerning the participation of these entities. To assist in establishing a baseline for purposes of comparison, the level of participation by disadvantaged small business concerns in fiscal years 1980, 1982, and 1985 should also be presented.

The report should also describe the status of efforts to implement various regulatory proposals to encourage major defense prime contractors to make broader use of disadvantaged small business concerns, historically Black colleges and universities, and other minority educational institutions eligible under the section 1207 program. Further, the report should propose additional strategies to improve participation at the subcontract level. The conferees anticipate that minority participation in the DOD contracting process will significantly exceed current levels by 1993.

The conferees reemphasize that the section 1207 5 percent goal is a Department-wide goal and is not segmented by industry categories.

The Senate amendment also contained a provision (sec. 833) that would require the Department to tailor to industry categories the use of price differentials for contracts with disadvantaged small businesses so that non-disadvantaged small and medium-sized businesses are not denied a reasonable opportunity to compete and that the payment of price differentials not be made when there is adequate participation by disadvantaged small business within an industry category.

The House bill contained no similar provision.

The House recedes with an amendment that would require DOD to adjust by industry categories the rate of the price differential when available information clearly indicates that as a group non-disadvantaged small businesses in an industry category are generally being denied a reasonable opportunity to compete because of the use of the differential.

The conferees direct the Department of Defense to provide all interested parties an opportunity to comment on the administrative mechanism developed to implement this provision. Such mechanism shall ensure that timely action will be taken to adjust the use of the evaluation preference when available information clearly indicates that there has been a substantial decrease in the

aggregate share of awards to small businesses that are not disadvantaged and that such decrease is directly attributable to the use of the evaluation preference. The conferees emphasize that the adoption of this provision relating to the adjustment of the price evaluation preference is not intended to be construed as altering the Department-wide character of the section 1207 goal.

In conducting an assessment under this provision, the Department should consider data available from government agencies and the private sector. In conducting an assessment of a particular industry category to determine the effect of the use of the price differential, the Department shall consider, among other data elements, the following: the average profit margins in the industry category, the average historical price differences between the high and low bidder in response to DOD solicitations, the relative aggregate share of contract awards to disadvantaged small businesses and to non-disadvantaged small businesses, and the extent of any decrease in the aggregate share of contracts awarded to non-disadvantaged small businesses from previous fiscal years.

Credit for Indian contracting in meeting certain minority subcontracting goals (sec. 832)

The Senate amendment contained a provision (sec. 838) that would provide DOD prime contractors with credit toward meeting minority subcontracting goals for certain contracts and subcontracts awarded by the contractor that were performed on Indian lands or by certain Indian-controlled joint ventures.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the amount of the credit toward the subcontracting goal to the value of the work performed on Indian-owned land or the portion of the total contract value reflected by the Indian ownership in the joint venture.

The conferees believe that entreprenurial opportunities for Indians will be enhanced by providing credit to prime contractors who perform work on Indian-owned lands with businesses that employ significant Indian labor and management or by forming joint ventures with Indian owned businesses.

Test program for use of bond waiver authority of Small Business Act to assist certain disadvantaged small business concerns (sec. 833)

Section 301 of the Business Opportunity Development Reform Act of 1988 (Public Law 100-656) authorized a 3-year test of a new form of developmental assistance to certain contractors participating in the Small Business Administration's (SBA) Minority Small Business and Capital Ownership Development (MSB/COD) Program (more commonly known as the SBA Section 8(a) program) by granting exemptions under limited circumstances from the performance and payment bonding requirements of the Miller Act (40 U.S.C. 270a). This authority expires on September 30, 1992.

The Senate amendment contained a provision (sec. 839) that would require the Secretary of Defense to direct the Secretaries of each military department to identify in each of fiscal years 1990 and 1991 not less than 10 construction projects that are suitable for award to MSB/COD program participants and to make use of the new authority provided by section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)). The purpose of the Senate provision is to obtain use of the new authority with respect to Department of Defense construction contracts awarded under the authority of the SBA 8(a) program.

The House bill contained no similar provision.

The House recedes with an amendment that would clarify the Department's participation in the test of the surety bond waiver authority provided by the Small Business Act.

The conferees agree that the Department shall be required to make every reasonable effort to award not less than 30 construction contracts in each of fiscal years 1990 and 1991 to firms participating in the MSB/COD Program which have been accorded a waiver of surety bonding requirements pursuant to the authority granted by the Small Business Act. It is expected that this Departmental effort will be exercised in close coordination with the Small Business Administration.

The objective of the test program authorized by the Small Business Act is to afford a qualified 8(a) contractor with the opportunity to demonstrate its performance capabilities, when the firm is unable to obtain the required surety bonding from private sources, even with a guarantee provided through the SBA's Surety Bond Guarantee Program. It is anticipated that successful performance of these government contract opportunities will enhance the firm's overall qualifications to obtain bonding for similar work in the future.

The conferees note that the Small Business Act provision granting the authority to waive the performance bond and payment bond required by the Miller Act is limited to contracts with an anticipated award value of $3 million or less. Further, the Small Business Act provision provides alternative payment protections to subcontractors and suppliers of the disadvantaged small business concern granted the surety bonding waiver. The Small Business Act requires that, as a condition to the exercise of the bond waiver authority, provision must be made for the direct disbursement of funds due to subscontractor and suppliers of the 8(a) prime contractor (whose application for payment, pursuant to Chapter 39, title 31, United States Code, must be certified as including only amounts earned and must be approved by the agency as payable), by either the procuring agency or through a FDIC-insured bank acting as an escrow agent. The conferees emphasize that the mere disbursement of funds due to subcontractors and suppliers through such direct disbursement arrangements is not intended to create any contractual relationship between such firms and the Government. It is expected that the contract between the Government and the 8(a) contractor being accorded the developmental assistance of the surety bond waiver will contain provisions that clearly obviate any such interpretation, and will require the 8(a) prime contractor to flow-down such contractual provisions to its subcontractors (including suppliers) at any tier.

Finally, the conferees expect that the Committees on Armed Services of the Senate and House of Representatives will carefully review the Department's participation in the surety bond waiver test program, and evaluate the administration of the contracts performed subject to such authority, to assess whether the Department's participation should be expanded or terminated. In that regard, the conferees note that section 504 of Public Law 100-656 requires the General accounting Office (GAO) to conduct a comprehensive review of the operation of the MSB/COD Program during fiscal years 1990 and 1991 in light of the significant program changes made by that statute. It is understood that the implementation of the authority to waive surety bonds will be included in that GAO review. It is expected that the GAO's review of the surety bond wiver authority (and the required alternative payment arrangements) will assess the provision's overall effectiveness in attaining the developmental assistance objectives of its authorizing legislation and identify any implementation problems affecting the participating 8(a) firms, their subcontractors and suppliers, agency contracting activities administering contracts subject to the bond waiver authority, or the Small Business Administration. The GAO's report should make any appropriate recommendations regarding modifications to the authority or its implementation by SBA and the procuring agencies. The conferees expect that copies of this report will be furnished to the Committees on Armed Services of the Senate and House of Representatives.

The GAO's report under section 504 is not due, however, until February 1, 1992. So that the Committees on Armed Services of the Senate and House of Representatives may fully evaluate the effectiveness of the Small Business Act's surety bond waiver authority in the context of construction contracts awarded by the military departments and Defense agencies, the conferees direct that an interim report be furnished to the Committees on Armed Services and Small Business of the Senate and House of Representatives by March 1, 1991. Timely submission of this interim report will permit the Committees on Armed Services to determine whether the Department's participation in the program should be continued during fiscal year 1992.

Test program for the negotiation of company-wide subcontract plans (sec. 834)

The Senate amendment contained a provision (sec. 831) that would authorize the Department of Defense (DOD) prime contractors to negotiate small and small disadvantaged business subcontract plans that establish goals for their participation in subcontracts awarded by the prime contractor on a company-wide basis. This program would be limited to a 4-year test period and to one contracting activity within each component of the Department.

The House bill contained no similar provisions.

The House recedes with a clarifying amendment that would delay the implementation of the program until October 10, 1990 and limit the test program to three years.

The conferees believe that in many cases comprehensive subcontracting plans may be more advantageous to both the government and to small and small disadvantaged businesses. Company-wide plans should encourage prime contractors to utilize these firms for subcontracting business opportunities that support the company-wide operation, as well as those directly related to the performance of a particular government contract.

The conferees anticipate that this test program will increase the range of subcontracting business opportunities available for award to small and small disadvantaged businesses. Since subcontract plans are cur-

rently negotiated on a contract-by-contract basis, this broader range of business opportunities may not now be available.

The conferees direct that in the implementation of this test program, the subcontracting opportunities made available to small and small disadvantaged businesses from the prime contractor's company-wide base not be concentrated in narrow, nontechnical work (e.g., janitorial services) in order to meet the subcontract goals and thereby miss the opportunity to expand available participation in a broader range of subcontracting business opportunities, especially in the technical arena. The subcontract plan shall set forth actions by the prime contractor to publicize prospective subcontracting opportunities for small business concerns.

The conferees further direct the Department to negotiate plans that include separate specific goals and timetables for the awarding of subcontracts in industry categories which, based on available information, have not historically been made available to small and small disadvantaged business.

The conferees will assess the success of the program on the basis of whether small and small disadvantaged businesses' participation in the prime contractors' company-wide base result in an increase in business opportunities currently afforded small and small disadvantaged businesses and whether prime contractors are providing significantly more work in areas that traditionally have not been made available to small and small disadvantaged business in the company-wide base.

The conference agreement would expressly provide that any contractor negotiating a company-wide plan under this section shall be subject to the assessment of liquidated damages pursuant to section 637(d)(4)(f), title 15, United States Code, for the failure to make a good faith effort to comply with the goals set forth in the plan. Additionally, the conferees expect the affected agency to designate a single official to administer, monitor, and enforce compliance with the plan.

Finally, the conference agreement would delay the effective date of the test program by 1 year. This affords the Committees on Small Business of the Senate and House of Representatives the opportunity to review the test program and its evaluation criteria, and to consider any appropriate legislation, including legislation to accelerate the effective date of the test program.

Critical technologies planning (sec. 841)

The Senate amendment contained a provision (sec. 801) that would amend title 10, United States Code, to provide for two levels of critical technologies planning.

First, the Director of the Office of Science and Technology Policy (OSTP) would be directed to organize and take necessary action to provide a National Critical Technologies Report every even-numbered year. This report would identify product and process technologies, not to exceed 30, judged to be most essential to the United State's defense and economic prosperity. The Director, OSTP, could request the Secretary of Defense to support preparation of this plan by obligating support, not to exceed $500,000 per year, to the National Academy of Sciences, the National Academy of Engineering, and the National Institute of Medicine to conduct in-depth studies in fields essential to development of the technologies identified.

Second, the Senate amendment would clarify and enhance the requirement for the Secretary of Defense, in consultation with the Secretary of Energy, to submit an annual Defense Critical Technologies Plan for developing those technologies most critical to ensure the long-term qualitative superiority of United States weapon systems. The technologies selected by the panel chaired by the Director, OSTP, would have to considered in preparing this plan. The legislative direction for preparation of this plan would include a 15-year planning horizon, designation of priorities for development of the identified technologies, and a requirement for specifying funding needed for the technology developments to be undertaken. For each technology selected, the plan would include the rationale for selection; relationship of that technology to the Defense Department's long-term funding strategy; designation of the lead military Service or defense agency; a comparison of the relative positions of the United States, the Soviet Union and other industrialized countries, the potential contributions of, and the extent that, the United States should depend on other countries for developing the technology; and a summary description of the plan and funding for developing that technology. Other aspects of the defense Critical Technologies Plan were also described.

The House bill contained no similar provision relating to the preparation and submission of either Critical Technologies Plan. The House report (H. Rept. 101-121) directed that the Office of the Secretary of Defense submit a detailed investment strategy to the Committees on Armed Services of the Senate and House of Representatives that details how 5-year funding for technology base programs would be utilized.

The House recedes with an amendment that would authorize preparation of the National Critical Technologies Plan as an amendment to section 6601 of title 42, United States Code (the National Science and Technology Policy, Organization and Priorities Act of 1976). The $500,000 provided to OSTP by DOD would be restricted to fiscal year 1990. National Critical Technology Plan support in fiscal year 1991 and thereafter is expected to be provided as a part of the OSTP budget.

Critical industries plan (sec. 842)

The Senate amendment contained a provision (sec. 802) that would amend section 2503 of title 10, United States Code, to direct the Defense Industrial Base Office to identify the industries most critical for application of technologies identified to be critical to national defense. The provision would also require the Under Secretary of Defense for Acquisition to submit a report to the Committees on Armed Services of the Senate and House of Representatives on actions taken to improve the United States defense industrial base. This report would include analysis of the condition of the industrial base with regard to its financial abilities to conduct research and development activities, to apply those technologies in production, and to engage in other activities critical to national security. Trends in profitability, capital investment, spending on research and development, debt burden, consequences of mergers and takeovers, and results of current and projected DOD spending on critical defense technologies should be included in this report.

The House bill contained no similar provision.

The House recedes.

Defense industrial information (sec. 842)

The Senate amendment contained a provision (sec. 803) that would amend section 2503 of title 10, United States Code, to add to the duties of the Defense Industrial Base Office the requirement to analyze the United States' defense industrial base capability to fulfill national security needs. The accompanying Senate report (S. Rept. 101-81) would recommend that the Department of Defense consolidate existing defense industrial base analysis programs and use such a capability to (a) assess and monitor worldwide capabilities in technologies critical to national security, and (b) monitor defense-related manufacturing capabilities. The Senate provision would add $5 million as initial funding for this operation.

The House bill contained no similar provision.

The House recedes with an amendment. The conferees agree that the two existing DOD programs, the Defense Industrial Network (DINET) and the Defense Intelligence Agency's Project SOCRATES, should be consolidated within the Defense Industrial Base Office to support research, development and acquisition activities of the Under Secretary of Defense for Acquisition. The conferees direct that funding for consolidation and implementation of defense industrial information activities be taken from funds appropriated to the Department of Defense in support of the Under Secretary of Defense for Acquisition.

Science and technical education (sec. 843)

The Senate amendment contained a provision (sec. 846) that expressed the sense of Congress that the Secretary of Defense should take appropriate and necessary actions to promote and encourage, at all levels of education, an increase in the number of United States citizens undertaking education in science, engineering and other technical disciplines. This expression of the sense of Congress was, in part, based on a recognition of the critical role that people with such training play in retaining a strong national defense. The accompanying Senate report (S. Rept. 101-81) would direct the Department of Defense to prepare and submit a report to the Armed Service Committees of the Senate and House of Representatives detailing the Department's plan for implementing new programs, expanding existing programs and, as appropriate, developing inter-agency programs. The report also directed the Department to coordinate with the Director of the Office of Science and Technology Policy in evaluating four specific concepts for increasing the number of persons undertaking science- and technology-related courses.

The House bill contained no similar provision.

The House recedes.

National defense science and engineering graduate fellowships (sec. 843)

The Senate amendment contained a provision (sec. 847) that would amend title 10, United States Code, to create a program of National Defense Science and Engineering Graduate Fellowships. This provision would require the Secretary of Defense to prescribe regulations providing for award of fellowships to United States citizens to pursue graduate degrees in science, engineering, or other fields of study designated to be of priority interest to the Department of Defense. These fellowships would be awarded solely on the basis of academic ability as determined by a nationwide competition. The

provision would also authorize funding for these fellowships for fiscal years 1990 and 1991 not to exceed $10.5 million and $11 million, respectively.

The House bill contained no similar provision.

The House recedes.

The conferees are fully committed to support the Department of Defense in its efforts to promote and encourage the training of greater numbers of scientists and engineers that can sustain the nation's technological superiority. The conference agreement recognizes the importance of this effort and would permanently establish the National Defense Science and Engineering Fellowship program within the Department of Defense. Inclusion of funding for both fiscal years 1990 and 1991 demonstrates the intent of Congress to provide adequate, continuing resources to support the award of these fellowships.

Authority to contract with university presses for printing, publishing, and sale of History of the Office of the Secretary of Defense (sec. 851)

The House bill contained a provision (sec. 902) that would authorize the Government Printing Office, on behalf of the Secretary of Defense, to contract with university presses for the printing, publishing, and sale of the next two volumes of the *History of the Office of the Secretary of Defense.*

The Senate amendment contained a similar provision (sec. 915).

The Senate recedes. It is the intent of the conferees that the selection be made through competition among university presses using evaluation criteria that gives primary weight to qualitative factors.

Procurement from countries that deny adquate and effective protection of intellectual property rights (sec. 852)

The Senate amendment contained a provison (sec. 840) that would express the sense of Congress that it should be a very important consideration in the procurement of property, services, or technology by the Defense Department whether such procurement is from any person of any country that denies certain levels of protection of U.S. intellectual property rights.

The House bill contained no similar provision.

The House recedes with an amendment. The amendment would express the sense of Congress that it should be a very important consideration in the procurement of property, services, or technology by the Defense Department whether such procurement is from any person of any country which has been identified by the U.S. Trade Representative, on the advice of the Commissioner of Patents and Trademarks and the Register of Copyrights, as denying adequate and effective protection of intellectual property rights or fair and equitable market access to U.S. persons that rely upon intellectual property protection. The amendment would also direct the Secretary of Defense to report to certain congressional committees whenever he takes any action with respect to defense procurement on the basis of the considerations specified in this section.

Acquisition laws technical amendments (sec. 853)

The House bill contained a provision (sec. 901) that would make a number of technical amendments in various acquisition laws,

The Senate amendment contained a provision (sec. 842) that would make technical amendments in certain laws affecting procurement management personnel.

The Senate recedes with an amendment that would incorporate section 842 of the Senate amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Fiscal year 1990 prohibition on procuring anchor and mooring chain from foreign sources

The House bill contained a provision (sec. 1212) that would prohibit the Department of Defense from purchasing welded shipboard anchor and mooring chain manufactured outside the United States, except in the case of chain with a diameter greater than 4 inches.

The Senate amendment contained no similar provision.

The House recedes.

Transportation of components of contractor supplied items

The House bill contained a provision (sec. 1219) that would amend section 2631, title 10, United States Code, to require that only U.S.-owned or U.S.-flag vessels may be used to transport by sea "components and/or ingredients thereof" that are purchased for DOD use.

The Senate amendment contained no similar provision.

The House recedes.

Defense management review implementation

The Senate amendment contained a provision (sec. 701) that would require the Secretary of Defense to submit to the Congress a report on implementation of the Secretary's July 1989 program entitled *Defense Management: Report to the President.*

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the Defense Management Review contains the potential for significant reform. The proposed reforms, however, like those of the Package Commission, consist primarily of broad principles which can be furthered—or frustrated—in the implementation process.

Successful implementation of the Defense Management Review will require continuing consultation and coordination between the Defense Department and the Congress. Rather than establish a statutory reporting requirement, the conferees believe that the best approach would be for the Secretary to take the initiative and keep the Congress informed on a regular basis on the status of proposed, ongoing, and completed organizational changes, personnel reductions, regulatory changes, and legislative proposals related to implementation of the Defense Management Review.

Defense enterprise programs

The Senate amendment contained a provision (sec. 821) that would provide the Under Secretary of Defense for Acquisition with the authority to waive the application of all regulations not required by statute for the Defense Enterprise Programs established pursuant to section 2436, title 10, United States Code. The provision would also allow the Secretary of Defense to request milestone authorizations under section 2437 for Defense Enterprise Programs entering or in the concept demonstration validation stage of the acquisition cycle. Finally, the provision would require a report by the Secretary of Defense on efforts to promote more generally the lessons derived from experience with defense enterprise programs.

The House bill contained no similar provision.

The Senate recedes.

The conferees believe that the Defense Enterprise Program concept has great potential for streamlining the acquisition process and providing greater authority and accountability for program managers in the Department of Defense. The conferees are aware that the Department of Defense is undertaking a comprehensive review of the implementation of this concept in the context of the Defense Management Review. The Armed Services Committees of the Senate and House of Representatives will be conducting extensive oversight of the Defense Management Review in general and the Department's proposals for Defense Enterprises Programs in particular. Accordingly, the conferees agree to defer consideration of the changes contained in the Senate amendment until those oversight hearings have been held.

Test program for use of simplified procedures in the competitive award of certain contracts on the basis of quality factors

The Senate amendment contained a provision (sec. 824) that would authorize the Department of Defense to conduct a three-year test program to make awards without discussions for property or services in the acquisition of any non-major system. The Secretary would be required to limit the number of organizations in the test program to those organizations that, during fiscal year 1989, entered into contracts, the total dollar value of which did not exceed 30 percent of the total dollar value of contracts for the Department in fiscal year 1989.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree that it is imperative to provide agencies the authority to award without discussions even though an award may not be made to the offeror with the lowest price. There are many situations in which an agency would find it desirable to award on the basis of factors other than lowest price (e.g., technical merit, quality, past performance, etc.), but where discussions are not necessary. On the contrary, recent revelations about abuse of the acquisition process make clear that discussions and the requirement for best and final offers often are not advantageous to the Department of Defense or its contractors.

The conferees were concerned that contractors, expecting the opportunity to submit a best and final offer, and expecting discussions with the contracting officer, initially would not submit their best offer to the government. Accordingly, it may not be in the government's best interest to award on the basis of initial proposals given the current practice.

In view of this concern, the conferees considered adopting changes to sections 2305 (a) and (b) of title 10, United States Code, that would reverse the presumption in those sections that discussions will be held with all offerors unless award can be made on the basis of the lowest price offered to the government. The conferees considered providing that an award will be made on the basis of initial proposals unless discussions are necessary. The conferees acknowledge that in many instances, discussions are necessary, and this change would not be intended to preclude discussions where appropriate. However, there are also many circumstances where discussions are not necessary,

yet it is in the government's interest to be able to award on the basis of factors other than price. Thus, section 2305(b) would provide that award may be made on the basis of the evaluation criteria stated on the solicitation, including price and other non-price related factors, irrespective of whether discussions are held. By changing the presumption, the conferees believe that there would be a greater likelihood that offerors initially would provide their best offer to the government.

Due to the nature of such a proposed change, the conferees believe that it is more appropriate to defer adoption of such language until the Armed Services Committees of the Senate and House of Representatives have had an opportunity to make the text of the proposed change available for public comment.

Small Business Administration certificate of competency

The Senate amendment contained a provision (sec. 832) that would authorize the Department of Defense, where a contracting officer determines that a small business is "nonresponsible" and hence ineligible to receive a small purchase contract ($25,000 or less), to make the contract award to the next low bidder if the small business does not request that the Small Business Administration review the nonresponsibility determination.

The House bill contained no similar provision.

The Senate recedes.

Defense quality improvement program

The Senate amendment contained a provision (sec. 834) that would require the Secretary of Defense to take actions necessary to ensure the Defense Department's quality assurance program results in the highest quality weapons systems. Four specific actions were directed, including: (a) assessing the status of the Department's quality assurance program, including methodology for measuring progress and defining improvement areas; (b) evaluating the Department's quality training program; (c) evaluating defense contractors' quality assurance programs; and (d) evaluating means to motivate defense contractors to improve their programs.

The House bill contained no similar provision.

The Senate recedes.

The conferees endorse the Department of Defense's activities to achieve the highest possible quality at the lowest cost. The Department of Defense is taking a leadership position throughout government and industry in improving quality through its Total Quality Management program. Payoffs from this Total Quality Management initiative are already apparent at facilities such as the Naval Aviation Depot, Cherry Point, North Carolina where cost trends for aircraft engine repairs have decreased as much as $7,000 per engine between 1985 and 1987. The conferees commend this facility for being the first winner of the Presidential Award for Quality and Productivity Improvement.

The conferees agree that the Secretary of Defense should assess and evaluate the Department's and defense contractors' quality assurance programs on a continuing basis. The conferees further endorse the recommended approaches contained in the Senate report (S. Rept. 101-81) to increase the motivation of government and contractor organizations and individuals. In recognition of the fact that improved quality is already being emphasized by the Secretary of Defense, the conferees agree to delete the Senate provision and, instead, express their firm support for the Defense Department's improved quality program in the statement of managers.

Participation of Federal Prison Industries in defense procurement

The Senate amendment contained a provision (sec. 837) that would provide small business the same preference in Department of Defense procurements currently provided by law to Federal Prison Industries. The term "current market place" would also be defined.

The House bill contained no similar provision.

The Senate recedes.

Critical personnel needs of the Federal Government

The National Commission on the Public Service (the "Volcker Commission") observed earlier this year that "there is evidence on all sides of an erosion of performance and morale across government in America. Too many of our most talented public servants—those with the skills and dedication that are the hallmarks of an effective career service—are ready to leave. Too few of our brightest young people—those with the imagination and energy that are essential for the future—are willing to join. Meanwhile, the need for a strong public service is growing, not lessening."

Nowhere is that need more apparent than in the vital progarms authorized by this Act. Management of the defense acquisition process, for example, is one of the most difficult challenges facing government. Scientists, engineers, and managers are constantly challenged to meet increasingly demanding goals in terms of cost, schedule, and performance in circumstances characterized by instability in funding and an increasingly dynamic threat environment.

The Department of Energy faces problems of equal if not greater magnitude in addressing the crisis in the management of the nuclear weapons complex. Management of the facilities that produce nuclear weapons and materials demands highly-skilled and well-trained individuals in such fields as nuclear engineering, nuclear physics, and hazardous and radioactive waste management. Relatively few individuals have the experience in applying these skills and experience to the problems of nuclear weapons. Pay caps and other rules applicable to government service make it very difficult to recruit high quality personnel to serve in these critical positions at the Department of Energy.

The Senate amendment contained a number of provisions aimed at initiating personnel management reform. Section 841 of the Senate amendment would authorize the establishment of 10 alternative personnel management demonstration programs on a government-wide basis to provide greater flexibility in pay and promotion policy.

The Senate amendment also contained provisions (secs. 843 and 3142(b) that would provide the Departments of Defense and Energy with authoity to designate a limited number of positions as critical and to provide compensation for such positions at a rate not to exceed 150 percent of the pay for Executive Level II.

The Senate amendment also contained two provisions (secs. 845 and 3142(c)) that would address the substantial disincentive to continued government service imposed by current law on military personnel by requiring a penalty consisting of a substantial reducton—and in many cases, a total forfeiture—of retired pay if they subsequently enter the civil service. As the DoD Deputy Inspector General has noted: "It makes little sense to encourage a brain from the Government by forcing retired military personnel with badly needed skills to become contractors/consultants instead of civil servants." The Senate amendment would permit waiver of the penalty to fill a limited number of critically needed positions in the Departments of Defense and Energy.

The House bill contained no similar provisions.

The conferees agree that there is an urgent need to address the crisis in public service and to promptly enact remedial legislation. In light of recent actions initiated within the Congress and in the Administration to explore the potential for government-wide solutions, the conferees reluctantly agree to defer action on this matter at this time. The conferees note, however, that the problems facing the public service are simply too critical to await the development of a solution that will address every conceivable problem and interest—and that the prompt and vigorous action by the Administration and Congress must be taken in the next few months to enact the necessary legislation.

Report regarding coordination of information within the executive branch on fraud by contractors

The Senate amendment contained a provision (sec. 933) that would require the President to report to Congress on current and planned administrative mechanisms to coordinate information within the Executive Branch concerning administrative and judicial actions taken against government contractors as a result of a determination that the contractor (or an employee) has engaged in fraud against the government.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree that there is substantial room for improvement in the manner in which the Executive Branch develops, organizes and coordinates information about contract fraud, but do not believe that a formal statutory report is required at this time. The conferees direct the Secretary of Defense to review and revise as necessary internal Department of Defense procedures for coordination and dissemination of contractor fraud information as contemplated by section 933 of the Senate amendment, and to propose any changes that might be required to enhance coordination between the Department of Defense and other government agencies. The Secretary, or his designee, should be prepared to discuss this review in detail during oversight hearings before the Committees on Armed Services of the Senate and House of Representatives in early 1990.

TITLE IX—MATERIALS RELATING TO NATO MEMBER NATION AND OTHER ALLIES

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Framework for determining conventional force requirements in a changing threat environment (sec. 901)

The House bill contained a provision (sec. 1221) that would require the Secretary of Defense to submit to the Committees on Armed Services and Appropriations of the

Senate and House of Representatives concurrent with the submission of the amended budget request for fiscal year 1991 a report evaluating the effect that the unilateral force reductions being implemented by the Warsaw Pact may be expected to have upon U.S. requirements for conventional forces and for military spending. The House provision would also direct the Secretary of Defense to include in the report an evaluation of the effect on U.S. requirements for conventional forces and for military spending of an entry into force of an agreement on conventional arms reductions along the lines of the current NATO proposal in the negotiations on Conventional Forces in Europe (CFE).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

Implications of mutual NATO/Warsaw Pact conventional force reductions (sec. 902)

The House bill contained a provision (sec. 1255) that would commend the President's May 29, 1989 conventional arms control initiative and require him to submit to Congress not later than six months after the date of enactment of this Act a report on the foreign policy and military implications of two possible scenarios for reductions in NATO and Warsaw Pact conventional forces well beyond those being discussed in the first phase of the negotiations on Conventional Forces in Europe (CFE).

The Senate amendment contained a similar provision (sec. 905), which would include the reporting requirements established in the House provision but would also direct the President to include in the report a discussion of the foreign policy and military implications of reductions on the order of those being discussed in the first phase of CFE. The Senate provision would also direct the President to include in the report a comprehensive net assessment of the current NATO/Warsaw Pact conventional balance.

The Senate recedes with an amendment that would include the requirement for a comprehensive net assessment in the report. The conferees agree that a discussion of the foreign policy and military implications of reductions on the order of those being discussed in the first phase of CFE should be included in the provision in this Act pertaining to the framework for determining conventional force requirements in a changing threat environment (sec. 901).

Report on conventional arms control verification (sec. 903)

The Senate amendment contained a provision (sec. 904) that would require the President to submit to the Committees on Armed Services and Intelligence of the Senate and House of Representatives not later than March 1, 1990 a report on the types of measures that would be required to verify effectively the May 30, 1989 proposal by the North Atlantic Treaty Organization in the negotiations on Conventional Forces in Europe (CFE).

The House bill contained no similar provision.

The House recedes with an amendment that would change the recipient of the report from the committees listed in the Senate provision to the Congress.

Reduction in authorized end strength for the number of military personnel in Europe (sec. 911)

The House bill contained a provision (sec. 402) that would reduce the U.S. European troop strength ceiling from 326,414 to 311,627. This reduction included 14,559 military positions previously associated with U.S. intermediate-range nuclear forces (INF) in Europe that will be eliminated by 1991 under the terms of the INF Treaty and 228 military positions selected for elimination as part of a European headquarters consolidation.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would reduce the U.S. European troop strength ceiling by 14,559, a number equal to the INF-related positions.

Active-duty forces in Europe of member nations of NATO (sec. 912)

The Senate amendment contained a provision (sec. 937) that would require the Secretary of Defense to ensure that, for the next three years, the current ratio (expressed as a percentage) of U.S. active duty forces in Europe to allied active duty forces in Europe does not increase by more than a specified amount.

The provision would establish a baseline ceiling based on U.S. and allied force levels in Europe as of the end of fiscal year 1989 and require submission annually, beginning in April 1991 and continuing for 2 years thereafter, of data on U.S. and allied force levels in Europe in the previous fiscal year. In the event any of the annual reports submitted, respectively, in fiscal years 1991, 1992 or 1993 shows that the percentage of U.S. to allied troops in Europe for the fiscal year preceding the fiscal year in which the report is submitted is greater than the ceiling established in the baseline report by more than a specified amount, the provision would require the President to take actions to correct this imbalance by the end of the fiscal year which begins the year that report was submitted. If the imbalance is not corrected by the end of that fiscal year, the provision would prohibit the obligation or expenditure of any funds to support an end strength level of U.S. forces in Europe for the following fiscal year which would exceed the baseline ceiling by more than the specified amount.

In the event a comprehensive arms reduction agreement is signed in CFE during the next 3 years, the provision would automatically terminate. The provision would also provide that this restriction shall not apply in the event of a declaration of war, or an armed attack on any NATO member. Finally, the provision would provide that the restriction may be waived if the President declares that such action is critical to the national security of the United States and immediately notifies Congress of his action and the reasons therefor.

The House recedes with an amendment that would direct that for purposes of computing the baseline ratio and preparing the annual reports required under this section, the Secretary of Defense shall exclude from the end strength levels of U.S. and allied active duty forces in Europe any U.S. or allied forces which are scheduled to be demobilized or withdrawn from Europe as a result of the elimination of U.S. intermediate-range nuclear forces (INF) under the 1987 INF Treaty. For the United States, this exclusion would include the 14,559 military positions authorized for INF bases in Europe. For our NATO allies, this exclusion would include any security forces assigned to INF bases and, in the case of the Federal Republic of Germany (FRG), any active duty forces associated with the FRG P-1B missiles which will be destroyed by West Germany as a unilateral action taken in parallel with the U.S. and Soviet INF dismantlements.

The conferees are concerned by reports that several NATO allies are considering making significant reductions over the next few years in the size of their active forces irrespective of developments in the CFE negotiations. The conferees agree that such reductions would undercut NATO's efforts to improve its conventional defense posture, increase its reliance on the threat of the early use of nuclear weapons to deter agression, undermine NATO's negotiating posture in CFE, and exacerbate long-standing burdensharing tensions within the alliance.

Japan's contributions to security (sec. 913)

The House bill contained a provision (sec. 1257) that would express the sense of Congress that the President should: (1) encourage Japan to begin to increase by 1991 its host nation support for U.S. military forces in Japan, and (2) invite by 1991 Japan and other Pacific allies to engage in annual multilateral consultations on security concerns.

The Senate amendment contained a provision (sec. 938) that would: (1) express the sense of Congress that Japan should assume a more significant security role by taking certain actions; (2) direct the President to negotiate an agreement with Japan in which Japan would agree to offset the direct cost of deploying U.S. military forces for the defense of Japan; and (3) require the President to report to Congress on the status and results of the negotiations.

The House recedes with an amendment that would clarify certain elements of the Senate provision. In addition, the amendment would direct the President to issue an invitation to Japan and other Pacific allies to engage in annual multilateral consultations on security concerns.

Report on overseas dependents costs (sec. 914)

The Senate amendment contained a provision (sec. 939) that would require a report to Congress from the Secretary of Defense by February 1, 1990 on practicable options for reducing costs associated with maintaining overseas dependents of members of the armed forces and dependents of civilian employees of the Department of Defense.

The House bill contained no similar provision.

The House recedes with an amendment.

United States-Republic of Korea security relationship (sec. 915)

The Senate amendment contained a provision (sec. 940) that would: (1) express the findings of the Congress on the history and importance of the security relationship between the United States and the Republic of Korea; (2) express the sense of Congress that the United States and the Republic of Korea should take certain steps to adjust their security relationship, including consultations on the feasibility and desirability of partial, gradual reductions of U.S. military forces in the Republic of Korea; (3) require the President to report to Congress on the status and results of the consultations; and (4) direct the President to prepare a report on the U.S. military presence in the Republic of Korea and in East Asia.

The House bill contained no similar provision.

The House recedes with an amendment that would add two new findings and clarify certain other elements of the Senate provision.

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Limitation on expenditures for relocation of functions located at Torrejon Air Base, Madrid, Spain (sec. 921)

The House bill contained a provision (sec. 1252) that would limit to $250 million the total amount of Department of Defense funds which could be spent relocating functions now at Torrejon Air Base, Madrid, Spain, to any other location outside the United States. Counted against this limit would be contributions to the NATO Infrastructure program used for such relocations and repayments for family housing prefinanced by the NATO Infrastructure program. Excluded would be expenditures for permanent change of station moves and other personnel-related expenses.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would raise the limit on U.S. expenditures for relocation from $250 million to $360 million. Under present arrangements, the United States will have to pay $470 million to relocate functions currently at Torrejon Air Base; the majority of this expense arises from plans to relocate the 401st Tactical Fighter Wing (TFW) to Crotone, Italy. The conferees recognize that under this agreement, the Administration will probably have to reopen negotiations with our NATO partners so that our allies will pay a larger portion of the costs involved with the relocation of U.S. forces from Torrejon, Spain. The conferees do not intend that the construction cost cap be met by scaling back the facilities to be built to support the men and women of the 401st TFW. The conference agreement is meant neither to preclude nor to mandate the construction of a new air base at Crotone, Italy.

The conferees remain concerned that the costs of relocating United States military activities from Spain occasioned by the demand of the Spanish Government are not being borne more directly by the NATO allies. The conferees believe that the Administration should exploit every opportunity to reduce the United States' share of this expense and exercise rigid cost control over the development of Crotone Air Base to ensure that it is carried out at minimum cost to the United States.

Sense of Congress concerning United States military facilities in NATO member countries (sec. 922)

The House bill contained a provision (sec. 1253) that would prohibit the Department of Defense from operating, constructing, or maintaining U.S. military facilities in a NATO country unless the base rights agreement with that country is not conditioned on U.S. foreign assistance or a "best efforts" agreement by the Executive Branch to obtain foreign assistance.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would express the sense of Congress that: (1) the NATO alliance should adopt as policy the views of NATO base rights expressed by the North Atlantic Assembly in its report *NATO in the 1990s*; and (2) the United States should not provide foreign assistance to a NATO nation as compensation or "rent" for the use of base facilities in that nation.

Allied cooperative research and development (sec. 931)

The amended budget request contained $96.674 million for new cooperative research and development projects with NATO and major non-NATO allies.

The House bill would authorize the requested amount.

The Senate amendment would increase the requested amount to $200 million.

The conferees recommend authorization of $125.674 million for new cooperative research and development projects.

The House bill also contained a provision (sec. 206) that would require that not less than 10 percent of the funds for cooperative research and development be available only for projects with major non-NATO allies.

The Senate amendment also contained a provision (sec. 251) that would codify in a single section of title 10, United States Code, the two separate sections of law that now authorize the NATO and non-NATO parts of the cooperative research and development program.

The House recedes with an amendment that would clarify certain requirements for reports to the Congress.

The amendment would also modify the side-by-side testing component of the cooperative research and development statute (section 2350a (f), title 10, United States Code, as codified by this Act). The conferees believe that the existing statute on the side-by-side testing program is unnecessarily restrictive in suggesting that testing may not be conducted at early stages of development and that a U.S. alternative to the foreign item must exist. Therefore, the conferees agree to modify the statutory authority for the program to express the sense of Congress that (1) testing should determine the ability of foreign equipment, munitions, and technologies to satisfy U.S. military requirements or to correct operational deficiencies, and (2) while the testing of nondevelopmental items in the late stage of the development process is still preferred, the testing of equipment, munitions, and technologies at an earlier stage of development may be conducted to determine procurement alternatives. In addition, the amendment directs the Secretary of Defense to include a report on this testing program in the Secretary's annual report to the Congress on the standardization of NATO equipment.

The conferees agree that these changes to the NATO side-by-side testing program now make it possible to consolidate into a single program element the two program elements entitled "Foreign Weapons Evaluation" (program element number 0605111D) and "NATO cooperative Development Testing" (program element number 060513D). The testing activities that had been conducted under these two program elements are now to be conducted under a single new program element entitled "Foreign Comparative Testing." This consolidation is reflected in the funding table for Research, Development, Test and Evaluation, Defense Agencies.

Both the House bill and the Senate amendment would authorize the requested amounts for Foreign Weapons Evaluation and NATO Cooperative Development Testing. However, the conferees now understand that $15 million in prior year savings is available in NATO Cooperative Development Testing. Therefore, for the newly consolidated program element entitled "Foreign Comparative Testing," the conferees recommend authorization of $27.652, a reduction of $15 million from the amended budget request for the two combined testing activities.

The conferees express continued support for cooperative research and development projects with major non-NATO allies. The conferees note that the original budget request of $99.671 million for new cooperative research and development projects in fiscal year 1990 assumes that 11 percent would be allocated for new projects with major non-NATO allies. Applying this percentage share to the amended budget request of $96.674 million yields an allocation of $10.6 million for new projects with major non-NATO allies. The conferees support this level of funding and designate it as a congressional interest item.

The conferees are concerned that the senior leadership of the Defense Department needs to manage more closely the internal planning process by which cooperative candidates are identified and developed. From the very outset of the cooperative research and development program in 1985, the Under Secretary of Defense for Acquisition has been required to prepare a formal arms cooperative opportunities document for review by the Defense Acquisition Board. The purpose of the document is to force the senior management of the Defense Department to consider whether a cooperative approach could more effectively and efficiently satisfy the military requirements of a proposed U.S. system.

Unfortunately, the historical record on the use of this management tool has been very weak. Apparently, it has been implemented in a routine and *pro forma* manner. The conferees are disappointed by this practice and urge the senior DOD leadership to strengthen the cooperative opportunities review process. It is important to remember that this planning process should consider a variety of cooperative approaches as possible alternatives to a U.S. system; the structure and funding required by the cooperative research and development statute may not be the best cooperative approach to satisfying a particular set of military requirements. Therefore, the cooperative opportunities review process should be used as a catalyst for the consideration of a range of cooperative arrangements.

Extension of authority provided the Secretary of Defense in connection with the NATO Airborne Warning and Control System (AWACS) program (sec. 932)

The House bill contained a provision (sec. 109) that would extend through fiscal year 1990 the authority of the Secretary of Defense to waive reimbursement for certain costs incurred in the NATO Airborne Warning and Control System (AWACS) program.

The Senate amendment contained a similar provision (sec. 908) that would extend the waiver authority through fiscal year 1991.

The House recedes.

Procurement of communications support and related supplies and services (sec. 933)

The Senate amendment contained a provision (sec. 909) that would make certain changes in the applicability and administration of the authority of the Secretary of Defense to enter into bilateral agreements with U.S. allies or NATO for the equivalent exchange of communications supplies and services.

The House bill contained no similar provision.

The House recedes.

Extension of authority to provide excess defense articles for the modernization of defense capabilities of countries on the southern and southeastern flanks of NATO (sec. 934)

The Senate amendment contained a provision (sec. 910) that would extend through fiscal year 1994 the authority of the President to transfer excess U.S. defense equipment to allies on NATO's southern and southeastern flanks.

The House bill contained no similar provision.

The House recedes with an amendment that would extend the President's authority through fiscal year 1991. The amendment would also specify that transfers to recipient nations be consistent with the current policy framwork for the Eastern Mediterranean region that is established in section 620C of the Foreign Assistance Act of 1961, as amended.

Exchange training (sec. 935)

The Senate amendment contained a provision (sec. 911) that would allow the U.S. Army Russian Institute in Garmisch-Partenkirchen, West Germany to participate in the exchange training arrangements authorized by section 544 of the Foreign Assistance Act of 1961.

The House bill contained no similar provision.

The House recedes with an amendment that would specify that the Senate provision shall expire upon enactment of the same authority as part of the International Cooperation Act of 1989 or any other Act.

Payment of certain expenses in connection with bilateral and regional cooperation programs (sec. 936)

The Senate amendment contained a provision (sec. 912) that would permanently extend and slightly broaden the authority of the Secretary of Defense to pay the travel expenses of military personnel of developing countries who attend defense meetings with U.S. military personnel.

The House bill contained no similar provision.

The House recedes with an amendment that extends the authority through fiscal year 1992.

Admission of nonimmigrants for cooperative research, development, and coproduction projects (sec. 937)

The Senate amendment contained a provision (sec. 913) that would authorize nonimmigrant aliens coming temporarily to the United States to work on cooperative defense research, development, or coproduction projects to remain, subject to certain conditions, in the United States during their participation in these projects.

The House bill contained no similar provision.

The House recedes with an amendment. The amendment would direct the Attorney General to extend through December 31, 1991 the H-1 visas of nonimmgrant aliens who have come to the United States to work on cooperative defense projects. The H-1 visas to be extended would otherwise expire during 1989, 1990, or 1991.

The agreement reached by the conferees on this issues would provide only a temporary solution to the problem addressed by the Senate amendment. Therefore, the conferees urge the Committees on the Judiciary of the Senate and House of Representatives to recommend a permanent solution in 1990. Depending upon the action taken by these two Committees, the Armed Services Committees of the Senate and House of Representatives may find it necessary to address this issue again next year.

Methods of payment for acquisitions and transfer by the United States (sec. 938)

The Senate amendment contained a provision (sec. 917) that would allow the support, supplies, and services acquired or transferred by the United States with allies under acquisition and cross-servicing agreements to be of an identical value rather than of an identical nature.

The House bill contained no similar provision.

The House recedes with an amendment that would make clarifying changes. The amendment would also specify that the transfer of defense articles or sevices to NATO allies and the NATO Maintenance and Supply Organization for Weapon System Partnership Agreements (under section 1102 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661)) may be carried out in accordance with chapter 138 (as amended by this section) of title 10, United States Code, as well as the Arms Export Control Act (22 U.S.C. 2751 et seq.).

LEGISLATIVE PROVISION NOT ADOPTED

Repeal of limitation on the expenditure of funds for the participation of developing countries in combined exercises

The House bill contained a provision (sec. 321) that would remove the limitation on the amount of funds that the Secretary of Defense may spend to reimburse developing countries for their expenses in combined exercises with the United States.

The Senate amendment contained no similar provision.

The House recedes.

TITLE X—MATTERS RELATING TO ARMS CONTROL

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Trident program and START (sec. 1001)

The Senate amendment contained a provision (sec. 918) that would require the President to report to the Congress by April 1, 1990 on the implications of one aspect of the U.S. negotiating position in START which has not drawn much attention: the U.S. proposal to allow each side to exclude from the START ceilings and sublimits up to seventy-two submarine-launched ballistic missiles (SLBMs) deployed on submarines undergoing overhaul. If accepted, this proposal would allow the United States to deploy a larger fleet of Trident submarines than otherwise would be the case and thereby ease somewhat concerns about the survivability of U.S. nuclear ballistic missile submarines (SSBNs) under START. However, it would also permit the Soviet Union, with careful planning, to augment its deployed SSBN force under a breakout scenario by rapidly putting its SSBNs in overhaul to sea.

The report required by the Senate provision would include a net assessment of the implications for U.S. security of a START agreement that incorporates this proposal. The report would also address the technical feasibility and cost implications of another option for increasing the size of the U.S. SSBN force which could be deployed under START: reducing the number of warheads deployed on each Trident submarine.

The House bill contained no similar provision.

The House recedes.

Report on mobile ICBM verification studies (sec. 1002)

The Senate amendment contained a provision (sec. 923) that would require the President to submit to the President of the Senate and the Speaker of the House of Representatives not later than March 31, 1990 a report describing all studies and their conclusions that have been performed between March 1985 and August 1989 by agencies of the U.S. government regarding our capability to monitor and verify a START agreement that allows mobile ICBMs. The Senate provision would specify that any particularly sensitive information contained in this report should be submitted to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence.

The House bill contained no similar provision.

The House recedes with an amendment that would require the report to be submitted to Congress in classified and unclassified form and would make certain other minor changes.

Sense of Congress on START (sec. 1003)

The Senate amendment contained a provision (sec. 924) that would express the sense of the Senate on the START negotiations. The provision is virtually identical to section 902 in the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456).

The House bill contained no similar provision.

The House recedes with an amendment that would change the sense of the Senate to the sense of Congress. The conferees agree that in expressing the sense of Congress that START "should not prohibit or limit the deployment of non-nuclear cruise missiles," it is not the intent of the conferees to preclude the option under a future START agreement of a negotiated requirement that non-nuclear cruise missiles with ranges greater than a specified limit have observable differences which make them distinguishable from nuclear cruise missiles.

Report on U.S. and Soviet ABM asymmetries (sec. 1004)

The Senate amendment contained a provision (sec. 236) that would direct the Secretary of Defense, in coordination with the Central Intelligence Agency, to submit to the Committees on Armed Services of the Senate and House of Representatives a report on the asymmetry in U.S. and Soviet near-term capabilities to deploy anti-ballistic missile (ABM) defenses beyond those permitted under the 1972 ABM Treaty. The report is to be submitted not later than the date on which the amended budget request for fiscal year 1991 is submitted to Congress.

The House bill contained no similar provision.

The House recedes with an amendment that would require the report to be submitted to Congress in both classified and unclassified form.

Sense of Congress with respect to ALPS (sec. 1005)

The Senate amendment contained a provision (sec. 921) that would express the sense of Congress that the Strategic Defense Initiative (SDI) should give priority to the development of technologies and systems for an accidental launch protection system (ALPS) and that such development should be carried out with an objective of ensuring that ALPS is in compliance with the 1972

ABM Treaty. A virtually identical provision (sec. 224) was contained in the National Defense Authorization Act for Fiscal Year 1989 Public Law 100-456). The Senate provision would also direct the Secretary of Defense to submit to Congress forthwith the overdue report on ALPS which was required by section 224(c) of the National Defense Authorization Act for Fiscal Year 1989.

The House bill contained no similar provision.

The House recedes with an amendment that would restate the Senate provision in the form of a reaffirmation of the sense of Congress on ALPS as expressed in section 224(b) of the National Defense Authorization Act for Fiscal Year 1989.

Sense of Congress on the Krasnoyarsk radar (sec. 1006)

The House bill contained a provision (sec. 1261) that would express the sense of Congress that the Soviet radar at Krasnoyarsk is a violation of the ABM Treaty and should dismantled.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would take account of the Soviet announcement at the September 1989 ministerial meetings in Wyoming that it would dismantle the radar without conditions and the October 23, 1989 speech by Soviet Foreign Minister Shevardnadze in which the Soviet government formally conceded that the radar was a violation of the treaty.

Satellite survivability (secs. 1007-1009)

The House bill contained a provision (sec. 256) that would express the sense of Congress that the President should seek a mutual verifiable treaty, consistent with the security interests of the United States and its allies, which places the strictest possible limitations on antisatellite (ASAT) weapons. The House provision would also express the sense of Congress that the President should seek the dismantlement of the Soviet Union's ground-launched co-orbital ASAT. In addition, the House provision would require a comprehensive report from the President on U.S. ASAT activities and the survivability of U.S. satellites against current and potential ASAT weapons deployed by the Soviet Union.

The Senate amendment contained a provision (sec. 906) that would require a comprehensive report from the President regarding the desirability of an agreement to impose limitations on ASAT capabilities. The report would also require his determination of whether a ban or other limitations on some or all ASAT weapons would be verifiable and, if so, whether such a ban would be in the national interest of the United States.

The Senate recedes with an amendment that would express the sense of Congress that the President should explore the feasibility of a verifiable treaty with the strictest possible limitations, which are consistent with the security interests of the United States and its allies, on weapons capable of threatening military satellites, while deleting the sense of Congress contained in the House bill that the President should seek the dismantlement of the Soviet Union's co-orbital ASAT. The conference agreement would also require the President to submit the ASAT reports identified in both the House bill and the Senate amendment.

Verification of nuclear testing agreements (sec. 1010)

The House bill contained a provision (sec. 3139) that would require a classified report by the Secretary of Energy to the Committees on Armed Services of the Senate and House of Representatives not later than 6 months after the date of the enactment of this Act assessing the possible effect on U.S. abilities to verify Soviet compliance with nuclear testing agreements in effect or under negotiation should any information or data now obtained under any cooperative agreement with any controlled country and used to verify the degree of such compliance be curtailed or become unavailable due to a change in, or severing of, diplomatic relations with such a controlled country.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would change the recipient of the report from the Committees on Armed Services to the Congress.

Sense of Congress on arms control and U.S. modernization policy (sec. 1011)

The House bill contained a provision (sec. 3501) that would express the sense of Congress that it commends and supports the President's arms control efforts and should refrain from taking legislative actions that undermine or expand U.S. negotiating positions.

The Senate amendment contained a provision (sec. 941) that would express the sense of the Senate reaffirming U.S./Soviet equality in strategic forces.

The Senate recedes with an amendment that would combine the two provisions with certain changes.

Report on the effect of spece nuclear reactors on gamma-ray astronomy missions (sec. 1012)

The House bill contained a provision (sec. 1256) that would direct the President to submit a report to Congress on the potential for interference with gamma-ray astronomy missions that could be caused by the placement in earth orbit of space nuclear reactors.

The Senate amendment contained a similar provision (sec. 932).

The Senate recedes.

The conferees agree to adopt the House report requirement, with the understanding that "space nuclear reactors" refer to reactors that are now available to the United States, the Soviet Union, or any other nation with the capability to launch nuclear reactors into space, and reactors that may be available to these nations in the future.

Chemical weapons negotiations (sec. 1013)

The House bill included a provision (sec. 1254) that would express the sense of Congress on chemical weapons negotiations. The provision stated, inter alia, that the President should intensify ongoing efforts to establishing a mutual and verifiable agreement to stop the production, proliferation, and stockpiling of lethal chemical weapons.

The Senate amendment included no similar provision.

The Senate recedes with an amendment.

United States program for on-site inspections under arms control agreements (sec. 1014)

The Senate amendment contained a provision (sec. 930) that would require the Director of the On-Site Inspection Agency (OSIA) to establish a database consisting of the names of individuals who could be assigned, detailed, or employed to participate in the conduct of on-site inspections under any future arms control treaty or agreement that includes provisions for such inspections.

The House bill contained no similar provision.

The House recedes with an amendment that would state that the location of the OSIA within the Department of Defense for purposes of administrative and logistic support and operational guidance, and integrating on-site inspection responsibilities under the INF Treaty (and possibly future agreements) with existing organizational activities of the Department ensures that, among other things, sensitive national security assets are protected and that obligations of the United States under that treaty, or possibly other agreements, are fulfilled in an efficient and cost-effective manner. The conferees believe strongly that the operational direction of OSIA should remain solely under the Security of Defense. The conferees further believe that policy direction of OSIA should continue to be formulated by the interagency process and transmitted to the Director of OSIA by the Secretary of Defense.

With respect to the establishment of the database on potential on-site inspectors for future treaty requirements, the conferees believe that the database should be compiled with the names of individuals who are members of the armed forces on active duty, civilian employees of the United States, retired members of the armed forces, and other citizens or nationals of the United States who have the skills referred to in paragraph (c)(2) of the provision. While the Director may include in the database the name of an individual who is not a member of the armed forces or an employee of the United States, it may only be done with the consent of the individual. Names of such individuals may be included whether they would be available for the performance of duties on a full-time basis or only on a part-time basis.

LEGISLATIVE PROVISIONS NOT ADOPTED

Report on the desirability of negotiations to end production of fissile materials for weapons purposes

The House bill contained provisions (secs. 3141-3148) that would, among other things, urge the President to initiate negotiations to ban the production of plutonium and highly-enriched uranium for weapons purposes and to establish a joint U.S.-Soviet verification working group on monitoring and verification requirements for such a ban. The provisions would also require a report from the President regarding the monitoring and verification issues and requirements for an agreement that would ban the production of plutonium.

The Senate amendment contained a provision (sec. 935) that would require the Secretary of Defense and Secretary of Energy, in coordination with the Director of Central Intelligence, to provide Congress with a report on the verification, national technical means, and on-site monitoring issues associated with the possible dismantlement of U.S. and Soviet nuclear warheads and the monitoring of fissile materials as part of a future strategic arms reduction treaty.

The House recedes from its provisions and the Senate recedes from its provision. The conferees, however, recognize the need for a report that addresses the implications for U.S. national security of, and other issues (including national technical means and on-site monitoring and verification) associated with any bilateral or multilateral ban on the production of fissile materials for weapons purposes.

Accordingly, the President shall submit such a report in both classified and unclassified form to the Committee on Armed Services and Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives not later than July 15, 1990.

Nuclear test ban readiness program

The Senate amendment contained a provision (sec. 3143) that would clarify the Senate's interpretation of the objectives and scope for the Nuclear Test-Ban Readiness Program (NTBRP). The Senate report (S. Rept. 101-81), noted continued support for the program, but restated that the program was established to assure that the United States retains the capability to maintain the reliabiity, safety, and modernization of the nuclear stockpile in the event that further restraints on the nuclear testing program are imposed.

The House bill contained no similar provision.

The Senate recedes. The Senate conferees have agreed to recede from their provision because it is their understanding that such a provision is unnecessary due to the fact that the NTBRP shall continue to adhere to the original intended scope and objectives of that program as outlined by Senators Nunn, Warner and Exon during a colloquy on the Senate floor on September 28, 1988 and as correctly restated in the Senate report. The House conferees are cognizant of the Senate view.

TITLE XI—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

Legislative Provisions

LEGISLATIVE PROVISIONS ADOPTED

Force structure provisions (sec. 1101)

The House bill contained a number of provisions related to the force structure of the armed forces:

(1) section 1222 would prohibit the Secretary of Defense from executing any change to current active or reserve force structure, except those related to mission changes or equipment modernization, until the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives, by September 1, 1990, a report on the Active and Reserve force structure and force mix decisionmaking process for the Armed Forces;

(2) section 373 would express the sense of Congress that the Secretary of the Army should not take any action to reduce manpower strengths in the United States as a surrogate for strength reductions related to Intermediate Range Nuclear Force reductions; and

(3) section 374 would express the sense of Congress that no combat unit of battalion or squadron size (or larger) in the United States should be deactivated unless such deactivation is a result of current negotiations regarding reduction of conventional forces in Europe.

The Senate amendment also contained provisions in this area:

(1) section 541 would require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives, by December 1, 1990, on the soundness and operation of the Total Force Policy in the Department of Defense, including an assessment of the effectiveness of active and reserve force mix; and

(2) section 402 would prohibit the deactivation of an Army brigade at Fort Carson until the report required by section 541 is received.

The conferees agree to delete all of these provisions except for the requirement for a study on the Total Force Policy and the related active and reserve force structure and force mix decisionmaking process.

The conferees realize that the Secretary or Defense must make some difficult force structure decisions to meet fiscal year 1990 budgetary restrictions, while at the same time providing for the effective employment of these forces. The conferees believe that the Secretary of Defense should have as much flexibility as possible in making these decisions. Therefore, the conference agreement would delete the provisions in both bills that would restrict the authority of the Secretary of Defense to make changes in the size of the current force structure of the Armed Forces.

With regard to the report required from the Secretary of Defense, the conferees underscore the need for a comprehensive, analytically supported study. The report is expected to cover such issues as the assignment of missions to the active and reserve components; the reassignment of missions between these components; the potential effect of conventional arms reduction agreements on force structure realignments; and other issues related to the future size and configuration of the military services.

The conferees urge the Secretary of Defense to give this effort his personal attention and to ensure that the results provide a sound basis for evaluating the long term force structure requirements of the armed forces. An interim report is required by September 15, 1990, and a final report is required by December 31, 1990.

The conferees have included a provision that would forbid the Secretary of Defense to obligate funds for new contracts for advisory and assistance consultant services if the required interim or final reports are not submitted by the prescribed due dates.

Air defense alert mission (sec. 1103)

The House bill contained a provision (sec. 1012) that would require a new report, pursuant to section 713 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456), from the Secretary of Defense on the performance of the strategic air defense alert mission by Air National Guard units based in the northern portion of the United States.

The Senate amendment contained a provision (sec. 703) that would amend section 713.

The conferees agree to repeal section 713 and adopt a new provision that would direct the Department of Defense to ensure that the Air National Guard units assigned the strategic air defense mission in the northern portion of the United States retain the capability to generate and sustain a readiness posture that meets the requirements of the operational plans of the North American Aerospace Defense (NORAD) Command.

In addition, the provision would prohibit the Department of Defense from reducing the man-years or flying hours of these air defense units in fiscal year 1990. Finally, the provision would require a report from the Secretary of the Air Force describing the joint U.S.-Canada air defense modernization program; NORAD's operational requirements for air defense of Canada and the northern United States; Air Force plans for maintaining the readiness of northern Air National Guard interceptor aircraft, flight crews, and maintenance, control tower, and security personnel to implement NORAD operational plans in time of need; Air Force plans for transitioning from current to new aircraft and alert mission and training practices; the ability of forward operating bases to support air defense operations; and the systems and their deployment schedules that support the air defense mission.

The conferees understand that the northern Air National Guard air defense units could provide valuable support to the air defense of the United States by conducting alert missions in other air defense regions. The conferees are convinced, however, that these units will continue to play a vital role in the strategic air defense of Canada and the northern United States.

In a period of heightened tension, NORAD plans to deploy forward well into Canada interceptor, squadrons, Airborne Warning and Control System (AWACS) aircraft, tankers, and support personnel and equipment to intercept any hostile air attacks. The Air National Guard air defense units based along the northern tier of the United States are critical to NORAD's plans.

The conferees believe that a way can and must be found to permit the interceptor aircraft and crews of these units to conduct alert missions away from their home bases without compromising the ability of the support elements of the units to fulfill their wartime missions in support of NORAD. It is essential for these units to retain trained operations and maintenance, air traffic control, and security personnel in sufficient numbers to support any potential forward deployment on short notice to Canadian territory.

The conferees require assurances, in the form of the authoritative report required by this section, that DOD's plans accommodate these concerns. The provision adopted by the conferees attempts to provide DOD with the flexibility to continue the modernization program and make efficient use of scarce air defense assets while ensuring that the primary mission of strategic air defense is thoroughly protected.

Reassignment to Fort Irwin, California (sec. 1104)

The Senate amendment contained a provision (sec. 404) that would express the sense of Congress that any combat unit of battalion or squadron size (or larger size) that on the date of enactment of this Act is stationed at Fort Knox, Kentucky, shall not be permanently reassigned to Fort Irwin, California.

The House bill contained no similar provisions.

The House recedes.

Fund for unified and specified combatant commands (sec. 1111)

The Senate amendment contained a provision (sec. 702 that would establish a $10 million fund to be managed by the Chairman of the Joint Chiefs of Staff for use pursuant to the requests of the unified and specified combatant commands for certain enumerated activities. The Senate amendment, however, did not provide a specific Operations and Maintenance line item authorization for the fund.

The House bill contained a provision (sec. 1203) that would remove the latitude from existing law (10 U.S.C. 166) that had been intended to require the Secretary of Defense to submit a budget request for the combatant commanders (CINCs).

The House recedes with an amendment that would increase the size of the fund

from $10 to $25 million and provide a specific authorization for the fund within Operations and Maintenance, Defense Agencies.

The issue of a budget for the unified and specified combatant commanders was originally raised by section 211 (10 U.S.C. 166) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433). Although section 211 requires the submission of such a budget, it also gives the Secretary of Defense flexibility over what to include in the required budget proposal. The Department of Defense has taken advantage of the phrasing of the provision and has not submitted combatant command budget proposal.

Last year, the Senate conferees opposed a House provision to remove the latitude from the law and make a combatant command budget mandatory. Instead, in the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456), the Congress mandated a report on the establishment of a small budget that would be managed by the Chairman of the Joint Chiefs of Staff but which would be controlled for execution by the commanders of the unified and specified combatant commands. That report, submitted in April 1989, has been carefully considered, and the conferees are convinced that a fund should be available for use by the combatant commanders for requirements in which the prompt availability of small amounts of monies would enable the commanders to take advantage of opportunities which are not amenable to the time-consuming reprogramming process that would otherwise pertain.

Accordingly, the conferees authorize the establishment of a fund under the management of the Chairman of the Joint Chiefs of Staff in the amount of $25 million for use pursuant to the requests of the combatant commanders for specified activities, including joint exercises, force training, contingencies, selected operations, command and control, international military education and training, and attendance of defense personnel of developing countries at regional meetings. The conferees direct that such funds may only be used for activities for which funding is not available in a timely fashion under existing authorizations and appropriations.

The conferees note with approval the potential uses for the fund that were cited by six combatant commanders in the April 1989 report. Given the low level of initial funding, the conferees considered limiting the use of the fund to those six combatant commanders. The conferees ultimately decided not to restrict the flexibility of the Chairman of the Joint Chiefs of Staff in managing the fund but believe that the suggested uses by the six CINCs would be an excellent reference point when the Chairman begins to receive and review actual CINC requests. The conferees strongly urge the remaining five CINCs to keep abreast of the uses to which the fund is put and to reconsider whether or not their commands might benefit from the flexibility inherent in a separate combatant command fund.

To facilitate consideration of a CINC fund next year, the conferees request that the Secretary of Defense include a separate line item request in the fiscal year 1991 budget. In order to enable the conferees to assess the proper controls, scope, and management of such a fund and to determine the desirability of making this authority permanent, the Chairman of the Joint Chiefs of Staff, after consultation with the combatant commanders, is directed to submit a report to the Committees on Armed Services of the Senate and House of Representatives by June 1, 1990 detailing the activities underwritten by the fund, the benefits derived from those activities, and the recommendations of the Chairman and the combatant commanders as to the funding level for such fund in future years.

Executive level positions (sec. 1112)

The House bill contained a provision (sec. 1232) that would establish the position of the Assistant Secretary of the Air Force for Financial Management at Executive Schedule level IV.

The Senate amendment contained a provision (sec. 704) that would establish the Executive Schedule level of several positions in the Department of Defense as follows: (1) Comptroller of the Department of Defense, level III; (2) General Counsels of the military departments, level IV; (3) Assistant Secretary of the Air Force for Financial Management, level IV.

The Senate believes that the scope, authority and importance of their respective duties merit the establishment of these levels for the Comptroller and the General Counsels. These officials have responsibilities that cut across all of the functional areas of their respective departments. Moreover, the full implementation of the Secretary of Defense's Defense Management Review will clearly require substantial involvement of these officials.

The Senate recedes.

The conferees believe that the appropriate levels for the Comptroller of the Department of Defense and the General Counsels of the military departments need further study. Accordingly, the Secretary of Defense is requested to conduct a comprehensive review and analysis of the duties of these officials and to provide a letter report to the Committees on Armed Services of the Senate and House of Representatives containing the results of that study and his recommendations as to the appropriate Executive Schedule level for each position along with his complete rationale for those recommendations.

Clarification of requirement for completion of full tour of duty as qualification for selection as a joint specialty officer (sec. 1113)

The House bill contained a technical provision (sec. 1231) that would amend the reference in subparagraphs 661(c)(1)(B) and (3)(A) of title IV of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) to maintain consistent requirements for promotion of flag/general officer and for award of joint specialty officer status.

The Senate amendment contained no similar provision.

The Senate recedes.

Reports relating to courses of instruction at certain professional military education schools and professional military education requirements for promotion to general or flag rank (sec. 1121)

The House bill contained a provision (sec. 1001) that would require independent reports on professional military education from the Secretary of Defense and each of the service Secretaries.

The Senate amendment contained no similar provision.

The Senate recedes.

The National Defense University schools (sec. 1122)

The House bill contained a provision (sec. 1002) that would remove any ambiguity in section 663, title 10, United States Code, concerning the interpretation of the phrase "joint professional military education school" by substituting "school of the National Defense University (NDU)".

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would amend section 661 rather than section 663 and would specify that for purposes of chapter 38 of title 10, United States Code, joint professional military education schools shall not be construed to include any school organized within and operated by a military department. The conferees agree that service schools were never intended to serve as joint schools, and this provision merely clarifies the original intent of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

Professional military education in joint matters (sec. 1123)

The House bill contained a provision (sec. 1003) that would establish a three month minimum course length at the Armed Forces Staff College (AFSC) and would make the attendance at a professional military education (PME) school operated by a military department a prerequisite for attending the AFSC. This provision is based upon a recommendation of the House Armed Services Committee Panel on Military Education contained in its report issued April 21, 1989 (Committee Print No. 4).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would: (1) express congressional policy on a number of issues relating to PME; (2) establish the minimum duration of the principal course of instruction at the Armed Forces Staff College at three months; (3) direct the Secretary of Defense to implement the three month course of instruction not later than two years after the date of enactment of this Act; and (4) direct the Secretary of Defense to include certain additional data in the annual report required by section 667, title 10, United States Code.

The conferees note with approval the efforts of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff (JCS) to improve professional military education at intermediate and senior PME schools. The conferees note that the actions of those officials are based upon provisions of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) which mandated (10 U.S.C. 663) a strengthening of the focus of PME schools on joint matters (as defined in 10 U.S.C. 99-668(a)) and on preparing officers to serve in joint duty assignments and to become joint specialists.

The conferees note with approval that the Department of Defense is establishing a "two phase" approach to the professional military education of officers nominated for the joint specialty.

"Phase I" should consist of a joint curriculum that is taught in service colleges to all students. This should be in addition to the principal curriculum of each school and should include capabilities and limitations, doctrine, organizational concepts, and command and control of forces of all services; joint planning processes and systems; and the role of service commands as part of a unified command. The conferees did not address the issue of Phase I being taught at other than a service PME school. The con-

ferees note, however, that the language adopted leaves the issue open for resolution by the Secretary of Defense and Chairman, JCS, or for later consideration by the Congress.

"Phase II" should consist of a follow-on joint curriculum that is taught at AFSC for nominees for the joint specialty. This Phase II joint curriculum should build on Phase I with a concentration on the integrated deployment and employment of multi-service forces. The joint curriculum should be the only focus in this phase and should include joint doctrine; case studies and war games covering joint force development, mobilization, deployment, war planning, and force employment across the spectrum of scenarios, including low intensity conflict; increasing the understanding of the four separate service cultures; and developing joint attitudes and perspectives.

The conferees believe it is necessary to emphasize, in connection with Phase II, that the development of joint attitudes and perspectives, often referred to as "socialization" or "bonding," is an extremely important learning objective. The conferees believe that the course at AFSC must be of sufficient duration to accomplish that objective and note that close observation will be necessary to verify that reducing the length of the present 5½ month course does not adversely affect the ability of students to learn from other service representatives and to develop a joint perspective.

The conferees believe that three months is the minimum appropriate course length to achieve the curriculum and socialization requirements of Phase II. The conferees recognize, however, that current plans call for the duration of Phase II to be only 9 weeks for the intermediate level and 5 weeks for the senior level. Although the conferees agreed to afford the Department of Defense flexibility in establishing the course length for the next two years, the conferees recommend that the Secretary of Defense extend the length of the Phase II course at the Armed Forces Staff College to a minimum of 3 months as soon as possible. It is only through such a process that empirical data can be collected and that a judgment can be made as to whether learning objectives are being met. The conferees made a commitment to reexamine this issue in time to act on it, if appropriate, before the three month minimum duration requirement enacted this year goes into effect. Such reexamination will be assisted if the Secretary of Defense and the Chairman, JCS, provide detailed and timely information and recommendations on this matter to the Committees on Armed Services of the Senate and House of Representatives.

The conferees strongly urge that the sequence of Phase I followed by Phase II be the norm but recognize that some students may have to enter Phase II directly without completing a Phase I program. The conferees urge, and fully expect, however, that the number of officers entering Phase II without Phase I will be held to a minimum; that the Chairman, JCS, shall grant exceptions on a case-by-case basis for compelling cause; and that officers who receive exceptions shall be required to demonstrate a basic familiarity with joint matters and other aspects of the Phase I curriculum that qualifies them for direct entry into the Phase II advanced course. The conferees believe that such minimum qualifications might be achieved and demonstrated through successful completion of correspondence or satellite course followed by passing a test on the principal aspects of Phase I. The conferees fully expect that the number of officers who skip Phase I should decrease over time to a small percentage of any given course student body at the Armed Forces Staff College. The conferees note, moreover, that under this program, officers must complete both phases prior to being designated joint specialists.

In order to facilitate Congressional oversight of the course at the Armed Forces Staff College, the conferees have included a provision that would require the Secretary of Defense to include summary data on exceptions to the Phase I/Phase II sequence of attendance in his annual report to the Congress.

Finally, the conferees urge the Secretary of Defense to ensure that the Chairman, JCS, has authority to control and accredit the joint curriculum of the service colleges as well as the faculty qualifications, and faculty and student body mixes.

Employment of civilian faculty members at professional military education schools (sec. 1124)

The Senate amendment contained a provision (sec. 560) that would expand the current authority provided to the Secretary of the Navy to employ civilians as professors, instructors, and lecturers at the Naval War College to include such employment for the Marine Corps University.

The House bill contained a provision (sec. 1004) that would extend the same authority to the Secretary of Defense for all intermediate and senior schools, including the Marine Corps Command and Staff College.

The Senate recedes.

Authority of base commanders over contracting out decisions (sec. 1131)

The House bill contained a provision (sec. 341) that would put into permanent law section 1111 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) requiring the Secretary of Defense to delegate to base commanders more authority over the commercial activities/contracting out program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would extend the authority originally contained in section 1111 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 through September 30, 1990. The conferees direct the Secretary of Defense to submit a report to the Committee on Armed Services of the Senate and the House of Representatives no later than June 1, 1990 describing the impact of delegating to base commanders this authority over the commercial activities/contracting out program in the Department of Defense.

Exception from cost comparison procedures for purchase of products and services of the blind and other severely handicapped individuals (sec. 1132)

The House bill contained a provision (sec. 342) that would remove the statutory requirement for the Department of Defense to conduct cost comparison studies for commercial activities when the contract award involves sheltered workshop programs under the Javits-Wagner-O'Day Act.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Commercial activities study for base support at Fort Benjamin Harrison, Indiana (sec. 1133)

The House bill contained a provision (sec. 343) that would provide that commercial activities carried out by government personnel at Fort Benjamin Harrison, Indiana, may not be converted to performance by private contractor under OMB Circular A-76 until the Army completes a new commercial activities study for the military installation.

The Senate amendment contained no similar provision.

The Senate recedes.

Review of commercial activities study for base operations at the Niagara Falls Air Force Reserve Base, New York (sec. 1134)

The House bill contained a provision (sec. 344) that would require that commercial activities carried out by government personnel at Niagara Falls Air Force Reserve Base, New York, may be converted to performance by private contractor until: (1) the Comptroller General reports on the accuracy of the recently completed commercial activities study at the base; and (2) the Secretary of the Air Force reports to the Committees on Armed Services of the Senate and House of Representatives on the Comptroller General's report and on the Secretary's determination of the desirability of converting these activities to performance by private contractor.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Comptroller General's review of this situation to be completed no later than 60 days after enactment of this Act.

LEGISLATIVE PROVISION NOT ADOPTED

Confidential aircraft mishap safety investigation report

The House bill contained a provision (sec. 1011) that would require the Secretaries of the military departments to make reports of confidental aircraft mishap safety investigations available to the Chairmen and Ranking Minority Members of the Committees on Armed Services of the Senate and House of Representatives.

The Senate amendment contained no similar provision.

The House recedes. The conferees agree that access to confidential aircraft mishap safety investigation reports is essential to the performance of congressional oversight responsibilities by the Committees on Armed Services. Because the Secretaries of the military departments concur with this fundamental premise, legislation mandating such access is unnecessary.

TITLE XII—MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

OVERVIEW

The conferees agree that the Department of Defense has not acted as vigorously as it could have in implementing the responsibilities assigned to it by the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456); note with approval the recently demonstrated commitment of the Secretary of Defense for the Department of Defense to contribute to the national counter-drug effort; and underline their intention to oversee closely the efforts of the Department in the coming year.

The conferees agree that the Department of Defense can play a more effective role in the future and agree on a number of ways

in which it can more effectively perform its detection and monitoring mission and provide more significant assistance to law enforcement and other agencies of the United States that have counter-drug responsibilities.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Funding (sec. 1201)

The House bill (sec. 1108) and the Senate amendment (sec. 1101) would each provide $450 million to fund the Department of Defense's role in the national counter-drug effort.

The conferees agree with the Senate's funding mechanism.

Lead agency for detection (sec. 1202)

The House bill (sec. 1106) contained a provision that would clarify the role of the Department of Defense as the single lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

The Senate amendment contained a provision (sec. 1102) that would require the Secretary of Defense to provide guidance on an annual basis on the specific force levels and the specific supporting resources necessary to fulfill the responsibilities of the Department of Defense as the single lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

The Senate recedes with an amendment that would place this codification provision in chapter 3 of title 10, United States Code. This codification is intended to establish clearly in law that detection and monitoring is a mission of the Department of Defense, just like any other mission. Accordingly, although that mission is of significant assistance to law enforcement agencies of the United States, the conduct of that mission and the resources devoted to it are subject to a prioritization of missions of the Department of Defense but are not subject to the limitations in the law relating to support to law enforcement, such as the provisions of section 376, title 10, United States Code.

The conferees believe that early detection of aerial and maritime targets suspected of drug trafficking is essential and urge the Department of Defense to pursue vigorously activities that result in the earliest possible detection of such targets.

The conferees believe that the deployment of radar assets along the Gulf Coast to close remaining gaps in Gulf Coast and Caribbean radar coverage is important and strongly recommend that the Secretary of Defense accelerate the completion of the aerostat radar network, including two semi-submersible drilling platforms, with the funds provided.

The conferees note that the problem of availability of E2C aircraft has essentially been resolved. The conferees urge the Department to make these extremely valuable and flexible airborne surveillance assets available on a priority basis to the counter-drug joint task forces for both immediate and planned drug interdiction operations.

The conferees urge the Secretary of Defense to consider conversion of existing Marine Corps Reserve OV-10A aircraft for improved drug interdiction performance.

Budget proposals (sec. 1203)

The House bill contained a provision (sec. 1106) that would require the Secretary of Defense to include a separate budget proposal for drug interdiction and counter-drug support to civilian agencies in his annual budget submission.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would call for a separate budget proposal for the next 2 fiscal years.

Communications network (sec. 1204)

Both the House bill (sec. 1108) and the Senate amendment (sec. 1103) contained a provision that would continue the task of the Secretary of Defense in integrating the command, control, communications, and technical intelligence assets of the United States into an effective communications network. However, the House bill and the Senate amendment differed in the funding that each would authorize for this task.

The House recedes.

Research and development (sec. 1205)

Both the House bill (sec. 1108) and the Senate amendment (sec. 1106) contained provisions relating to research and development activities of the Department of Defense.

The conferees prefer the Senate version and broaden the activities to those relating to the Department's detection and monitoring mission as well as to the detection of drugs and other dangerous substances concealed in containers.

The conferees believe that a technological breakthrough relating to drug detection would have application to a number of other areas as well, but its contribution to the counter-drug effort cannot be overstated. Accordingly, the conferees strongly urge the Secretary of Defense to consider research and development projects in the following areas: night vision; ground sensor; physical/electronic security; imaging/electronic surveillance; chemical/biosensor; and explosives ordnance detection.

Training exercises in drug-interdiction areas (sec. 1206).

The House bill (sec. 1102) contained a provision (sec. 1102) that would amend section 317(b), title 10, United States Code, to require the Secretary of Defense to direct that the armed forces, to the maximum extent practicable, conduct training exercises for both the active and reserve forces in "drug interdiction areas" and to report to Congress annually in connection with those exercises.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would call for the reports at the end of each of the next 2 fiscal years.

Drug interdiction and enforcement activities of the National Guard (sec. 1207)

Both the House bill (sec. 1106) and the Senate amendment (sec. 1104) contained provisions concerning funding of plans approved by the Secretary of Defense and submitted by the Governor of a State for the purpose of drug interdiction and enforcement operations of the National Guard when not in Federal service.

The House recedes with an amendment that would avoid any inference that this process would create an entitlement to funding in the total or any part thereof. The conferees are aware that plans already submitted exceed the funding authorized and, therefore, the Secretary of Defense must select the higher priority activities for approval. His discretion to allocate the funds must not be confined. The conferees also believe that it is useful to broaden the funding authority to include procurement of services and leasing to equipment for the National Guard. The conferees are further aware that many plans for fiscal year 1990 have already been through the consultation process with the Attorney General but believe that plans for fiscal year 1991 and succeeding fiscal years should be coordinated with the Director of National Drug Control Policy. The conferees, moreover, have withdrawn the statutory limitation of delegation provision in order to provide flexibility and in recognition of the high level of attention that has been and is being paid to this matter within the Department of Defense.

The definition of the term "counter-drug activities" removes any federal legal impediment to allocation of funds to any enforcement operations authorized by State law and requested by a Governor. The conferees are aware that such funds can be spent while the National Guard is in State active duty or is under title 32 status but not while the Guard is in Federal Service under title 10. The conferees affirm that in reviewing State plans, the Secretary of Defense may use discretion to ensure that Guardsmen are adequately and properly trained for the operations requested. The conferees believe that it would be improper to involve Guardsmen in roles for which they have not been trained because such would place the Guardsmen and members of the public at unwarranted risk and would jeopardize the admissibility of evidence and the validity of arrests that might be obtained through these activities.

The conferees are concerned that this program may make the National Guard less aggressive in seeking drug interdiction and law enforcement support operations during normal training periods, consistent with its readiness to perform assigned missions. The conferees call the attention of the Secretary of Defense to this possibility and request his comments on the feasibility of implementing in fiscal year 1991 a requirement that State plans submitted pursuant to this section be "matched" by plans of substantially similar extent and cost for National Guard drug interdiction and law enforcement activities to be conducted incident to annual training required under section 502, title 32, United States Code.

Excess property (sec. 1208).

The Senate amendment contained a provision (sec. 1110) that would authorize the Secretary of Defense to transfer excess property of the Department of Defense to State and Federal law enforcement agencies for counter-drug activities.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize such transfers to be made to all Federal and State agencies that have counter-drug responsibilities.

Civil Air Patrol (sec. 1209)

The House bill (sec. 1108) and the Senate amendment (sec. 1107) both contained provisions relating to payment of the expenses of the Civil Air Patrol.

The conferees prefer the Senate amendment, with a change that would broaden the authorization to allow payment for drug surveillance flights, such as for marijuana detection, even though they are not part of the Department's detection and monitoring mission.

Operation of equipment (sec. 1210)

The House bill contained a provision (sec. 1103) that would amend section 374(b)(2), title 10, United States Code, to authorize the inspection of cargo, vehicles, vessels, and aircraft at points of entry into the

United States and to authorize transportation of and the operation of a base of operations for civilian law enforcement personnel within the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would remove the authorization for the inspection of cargo, vehicles, vessels, and aircraft. Instead, the conferees call upon the Secretary of Defense to report on the desirability and feasibility of such an authorization in section 1213(c)(1)(c) of this conference report.

The conferees are determined to limit support of military personnel to law enforcement agencies so as to ensure that there is no direct participation by military personnel in a search, seizure, arrest or any similar activity. Accordingly, in authorizing Department of Defense personnel to provide transport and to operate a base of operations for civilian law enforcement personnel in the United States, the Department is cautioned that this authorization must not be interpreted to allow military personnel to participate directly in domestic law enforcement activities.

Restriction on direct participation by military personnel (sec. 1211)

The House bill contained a provision (sec. 1107) that would amend section 375, title 10, United States Code, to clarify the restriction on direct participation by military personnel in law enforcement activities. The amendment broadens the restriction to all activities under chapter 18 of title 10.

The Senate amendment contained no similar provision.

The Senate recedes.

Additional support for counter-drug activities (sec. 1212)

The House bill contained provisions (secs. 1104 and 1105) that would waive the requirement under section 1535 of title 31, United States Code, popularly known as the Economy Act, that the Department of Defense be reimbursed for the cost of support provided to a law enforcement agency, and that would change the standard for not providing support to law enforcement agencies.

The Senate amendment contained three provisions (secs. 1105, 1108 and 1109) that would authorize the Secretary of Defense to provide certain types of support, out of funds made available to the Department of Defense, to federal agencies with counter-drug responsibilities.

As a general matter, the reimbursement requirements of the Economy Act provide an important degree of fiscal accountability when one agency provides support to a mission assigned to another agency. Particularly in an era of declining funds available for critical readiness functions, the Department of Defense does not have unlimited funds to underwrite the transportation, operations, maintenance, and training needs of civilian agencies. The conferees agree, however, that in addition to the support now provided by the Department of Defense, the Department can provide a certain amount of logistical and training support to federal agencies in a manner consistent with the military mission of the Department of Defense. Section 1212 would provide discretionary authority to the Secretary of Defense to provide support services to federal agencies with counter-drug responsibilities. The conferees believe that up to $40 million of funding for the designated support services is consistent with military preparedness and military training and operations requirements. This support would, of course, be subject to the prohibition on direct participation in law enforcement activities. Nothing in this section shall be construed as restricting the Department of Defense from providing support beyond the amount described in this section to the extent consistent with sections 376 and 377, title 10, United States Code.

Reports (sec. 1213)

The House bill contained provisions (secs. 1106 and 1109) that would require the President, the Director of National Drug Control Policy, and the Secretary of Defense to submit a number of reports relating to the national drug control effort.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would change the official who shall submit one report and change one report from a plan to a feasibility study.

Sense of Congress on National Narcotics Border Interdiction System (sec. 1214)

The Senate amendment contained a provision (sec. 929) that would express the sense of Congress that the Director of the Office of National Drug Control Policy continue and enhance the cooperation between State and local law enforcement agencies and Federal agencies that participated in the National Narcotics Border Interdiction System.

The House bill contained no similar provision.

The House recedes with an amendment that would change the official responsible for such action from the Director of National Drug Control Policy to the President.

Cooperative efforts against illegal drugs (sec. 1215)

The Senate amendment contained a provision (sec. 936) that would amend the asset forfeiture provisions of section 881(e)(3)(B), title 21, United States Code, to facilitate the sharing of the proceeds of forfeited assets between federal and state law enforcement agencies. The Senate provision would, in effect, repeal an amendment to the asset forfeiture laws made by the Asset Forfeiture Amendments Act of 1988. The amendment went into effect on October 1, 1989.

The House bill contained no similar provision.

The conferees agree that the amendment to the asset forfeiture laws made by the Asset Forfeiture Amendments Act of 1988 has brought about unintended results. The conferees agree, in effect, to repeal the existing provision in law. The conferees further agree that the repeal should be retroactive to October 1, 1989.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Airborne drug traffickers

The Senate amendment contained a provision (sec. 925) that would authorize Federal law enforcement agencies to use appropriate force to compel airborne drug traffickers to comply with instructions to land their aircraft.

The House bill contained no similar provision.

The Senate recedes.

Funding for programs under the Anti-Drug Abuse Act of 1988

The Senate amendment contained a provision (sec. 927) that would authorize the President to transfer a portion of funds of all departments and agencies of the Executive Branch of the government that were unobligated at the end of fiscal year 1989 to fund the Anti-Drug Abuse Act of 1988 (Public Law 100-690).

The House bill contained no similar provision.

The Senate recedes.

TITLE XIII—MILITARY APPELLATE PROCEDURES

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Military appellate procedures (secs. 1301-1304)

The Senate amendment contained a provision (sec. 552) that would revise military appellate procedures. The Senate provision would increase the size of the Court of Military Appeals from three to five members, modernize the removal statute, revise the authority for Article III judges to sit on the Court of Military Appeals when a judge on the Court is disabled, clarify the status of senior judges on the Court, increase the flexibility of the Court in the management of its legal staff, authorize the Judge Advocates General to certify cases to the Courts of Military Review when the sentence is not subject to automatic review, and require the President to prescribe standards and procedures for the investigation and disposition of allegations that may affect the fitness of a military trial or appellate judge to perform the duties of a judicial office.

The House bill contained no similar provision.

The House recedes with a clarifying amendment which sets forth the revised appellate procedures in title XIII of the bill.

Section 1301 revises and restates the charter of the Court of Military Appeals as subchapter XI (articles 141-146) of the Uniform Code of Military Justice. Jurisdictional provisions are set forth in articles 67 and 67a. The conferees note that these amendments should not be construed as affecting the status, jurisdiction, or the proceedings of the Court of Military Appeals, or of the judges of the Court, as in effect on the day before the date of enactment of this Act.

Article 141 restates current law governing the status of the Court of Military Appeals. The Court is an independent tribunal established under Article I of the Constitution and located for administrative purposes only in the Department of Defense.

Article 142(a) increases the size of the Court from three to five judges in order to increase stability on the Court and reduce the adverse impact of judicial turnover. As under current law, the Court will sit as a whole for all its actions, rather than in panels, to ensure clarity and uniformity in the application of military law. Under the transition provision (sec. 1301(d)(1)), the increase in the size of the Court will take effect on October 1, 1990. The Court has instituted an annual term ending on September 30 of each year in an effort to reduce its backlog of cases, and the October 1 effective date is designed to coincide with the beginning of the Court's annual term. Section 1301(d)(2)) contains a transition provision staggering the terms for the two new positions in order to ensure even distribution of the terms of the judges.

Article 142(b) restates the current requirement that judges of the court be appointed from civil life by the President with the advice and consent of the Senate and that a person appointed to the Court must be a member of the bar of a Federal court or the highest court of a state. Under current law, no more than two judges may be from the same political party. In view of the increase

in the size of the Court, Article 142(b) provides that no more than three judges may be from the same political party. Article 142(b) also revises the formula for computing the terms of the judges to reflect the Court's establishment of an annual term ending on September 30 of each year. Under current law, a judge's term expires on the fifteenth anniversary of the date of appointment. Under Article 142(b), a judge's term will expire on September 30, rather than on the anniversary of the date of appointment, in order to avoid the disruption that would flow from having a term expire in the middle of the Court's annual term. Judges, including those serving transitional terms under section 1301(d), may be reappointed for full 15 year terms.

Article 142(c) modernizes the removal statute to include the standard of misconduct.

Article 142(d) restates current law regarding the pay and allowances of the judges.

Article 142(e) revises the law regarding the use of senior judges. Senior judges may perform judicial duties when less than five active judges are available due to illness, a vacancy, or recusal of a judge. This provision authorizes the Court to prescribe rules for the use of senior judges, including the performance of duties for the Court other than judicial duties.

Article 142(f) revises the provision in current law which permits Article III judges to sit on the Court of Military Appeals when a judge of the court temporarily is unavailable. Article 142(f) authorizes the Chief Justice of the United States to designate any federal district or appellate court judge, with the concurrence of that judge and the chief judge of the relevant district or circuit court, to sit on the Court of Military Appeals during a period of disability or recusal (or any lesser period). In view of the consent and concurrence requirements, the conferees believe that this provision will operate in a manner consistent with the needs of the Article III judiciary, but have included a five year "sunset" provision to ensure further formal review.

Article 143(a) restates current law regarding the designation of the Chief Judge of the Court.

Article 143(b) restates current law regarding the precedence of the judges. The Court, by internal rule, may establish procedures for determining when a judge next in precedence to the Chief Judge may act for the Chief Judge (including acting under Articles 142(e) and 142(f)) when the Chief Judge is unavailable or the position is vacant.

Article 143(c) provides the Court with flexibility similar to that exercised by other courts with respect to the clerks of judges and other members of the legal staff. The transitional provision (sec. 1301(h)) provides that Article 143(c) is prospective only and does not change the civil service status of any of the present employees of the Court.

Article 144 restates current law authorizing the court to establish rules of procedure.

Article 145 restates current law and makes technical changes in the provisions governing retirement of the judges of the Court of Military Appeals.

Article 146 restates current law regarding the Code Committee.

Section 1301 concerns the jurisdiction of the Courts of Military Review, the intermediate appellate courts, which are located in each of the military departments and the Coast Guard. Under current law, these courts hear all cases (unless appeal is waived) in which the sentence extends to death, a punitive discharge, or confinement for one year or more, but their statutory jurisdiction does not extend to cases involving lesser sentences—no matter how important the legal issues in the case.

Section 1302 establishes a procedure for the Judge Advocates General to certify cases to the Courts of Military Review when the sentence is not subject to automatic review. The certification can take place either upon initial review by the Judge Advocate General or after formal review by the Judge Advocate General. It is the intention of the conferees that, at a minimum, cases involving interpretation of the Manual for Courts-Martial, the Uniform Code of Military Justice, and the Constitution—as well as other important questions at law—be referred for decision by the Courts of Military Review.

Section 1303 requires the President to prescribe standards and procedures for the investigation and disposition of allegations that may affect the fitness of a military trial judge or a military appellate judge on a Court of Military Review to perform the duties of a judge's office. It is the intent of the conferees that the term "fitness" should be construed broadly, including, for example, matters pertaining to competence, partiality, and misconduct. The conferees intend that, to the extent consistent with the Uniform Code of Military Justice, such rules should emulate the standards and procedures that govern investigation and disposition of allegations concerning judges in the civilian sector.

Section 1304 contains technical and conforming amendents.

TITLE XIV—MILITARY SURVIVOR BENEFIT PLAN

Overview

The Survivor Benefit Plan requires retired service members to contribute 2.5 percent of the first $337 of monthly retired pay plus 10 percent of the remainder in order to provide an annuity to a surviving spouse of 55 percent of military retired pay until age 62 and of 35 percent thereafter. The social security survivor annuity earned by the service member as a result of military service provides an amount sufficient to ensure a combined total of at least 55 percent of military retired pay after age 62. Under the Survivor Benefit Plan, the retiree can expect to pay for about 60 percent of the benefits paid to the survivor; in other words, the plan is subsidized by the government by about 40 percent.

Legislative Provisions

LEGISLATIVE PROVISIONS ADOPTED

Revised premium computation for survivor benefit plan annuities (sec. 1402)

The Senate amendment contained a provision (sec. 641) that would establish a level premium—6.5 percent of retired pay—as the contribution required under the Survivor Benefit Plan (SBP).

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees agree to adopt the level premium contained in the Senate provision. Since some current and future retirees would be better off under the present formula, the conferees included a save pay provision to permit certain individuals to choose either the old or new premium formula according to their specific needs and circumstances. (Individuals in this category include all current retirees and those on active or reserve duty on the date of enactment of the SBP who retire and elect SBP in the future.) In addition, all future reserve and disability retirees will be able to select the most beneficial premium formula while future active duty retirees (those who entered active duty after the date of enactment) will have their premium calculated under the 6.5 percent formula.

Correction of annuity computation for survivors of certain retirement-eligible officers dying while on active duty (sec. 1403)

The Senate amendment contained a provision (sec. 643) that would ensure that the survivor benefit plan annuity for a surviving spouse will be based on the grade of the retirement eligible officer at the time of death regardless of time served in the grade.

The House bill contained no similar provision.

The House recedes with an amendment that would clarify the intent of the Senate provision to include retirement eligible officers who have served less than 10 years as officers at the time of death.

Program to provide supplemental spouse annuity for military retirees (sec. 1404)

The Senate amendment contained a provision (sec. 642) that would establish a supplemental plan to permit retirees to purchase an additional 20 percent of retired pay as a survivor annuity payable to the spouse after age 62. The cost of the supplemental plan would be actuarially neutral—in other words, the premiums would be sufficient to pay for the full cost of the supplemental benefit without a government subsidy. The basic Survivor Benefit Plan (SBP) would continue to exhibit a 40 percent subsidy.

The House bill contained no similar provision.

The House recedes with an amendment that would delay the effective date of this provision to October 1, 1991.

Although the conferees agree to the framework for a supplemental plan included in the Senate amendment, they could not reach a final agreement on the amount of the subsidy, if any, the government should provide in the supplemental plan.

The conferees emphasize that the guiding principle under which the Survivor Benefit Plan was originally developed was to provide a survivor annuity equal to 55 percent of retired pay at a reasonable cost to both the retiree and the taxpayer. To achieve this goal, the Survivor Benefit Plan annuity was integrated with social security—a practice not uncommon in other public and private sector retirement and survivor annuity plans.

Although the level of the Survivor Benefit Plan decreases when the survivor reaches age 62, the social security survivor benefit—stemming from the government's contribution to the social security system on behalf of the service member for his or her active duty service—provides an amount at least sufficient to offset the decrease. This approach keeps the cost of SBP to the retiree down—substantially below the cost of the predecessor survivor program—the Retired Serviceman's Family Protection Plan (RSFPP). The conferees note that the high rates were less than 15 perecent at the time the plan was replaced by the SBP.

The conferees further note that the actuarially-neutral supplemental plan envisioned by the Senate amendment is based on the premise that current benefit levels are adequate for most surviving spouses and that no additional government subsidy in the post-age-62 benefit is in order, a position

with which the Department of Defense agrees. Many organizations representing active duty and retired groups have disagreed with this position, however, and have argued in favor of providing a subsidized annuity at 50 top 55 percent of retired pay for life asserting that: (1) the surviving spouse's post-age-62 income is inadequate under the current plan and (2) a non-subsidized post-age 62 supplemental would not be affordable for most retired families.

In order to give all arguments due consideration before making a final decision, the conferees agree to direct the Secretary of Defense to provide a report by June 1, 1990 to the Committees on Armed Services of the Senate and House of Representatives on the need for and possible options for providing a subsidy on the supplemental plan.

Within the framework adopted by the conferees, the report should evaluate, at a minimum, the following kinds of supplemental plans: (1) one that is actuarially neutral (although a variety of premium schedules should not be considered, such as single premium, different premiums for officers and enlisted, and an age dependent premium; (2) a supplemental plan for which the subsidy is the same as for the basic Survivor Benefit Plan; and (3) one that has the same subsidy as that provided under the new civil service survivor benefit plan. The report should address, at a minimum, the following areas for each of the supplemental plans evaluated:

1. example of premiums and annuities for representative retirees;
2. subsidy by individual grouping of retirees (officer, enlisted; active, reserve; age, etc.);
3. likely rates of participation by demographic groupings;
4. changes in the normal cost and a plan for funding any increase in these costs;
5. potential for creating aggrieved groups (for example, annuitants who are survivors on the date of enactment of a subsidized supplemental plan or survivors of service members who die on active duty);
6. implications of laws governing benefits for former spouses;
7. evaluation of the implications (from the perspective of comparisons with retirement plans in the private sector) of removing the social security integration from the Survivors Benefit Plan (for a subsidized supplemetal plan); and
8. desirability and cost implications of permitting retirees who choose basic survivor coverage at the time of retirement to opt for supplemental coverage within 2 years of their initial SBP decision.

The conferees note that choosing survivor protection is an extremely important, personal decision, and that the Department of Defense should seek direct input from the individuals SBP serves now and will serve in the future. In order to achieve this end, the conferees expect the Department to work and share information with interested military associations and to survey current retirees, widows, and active duty and reserve members to obtain their preferences and views on questions relating to the affordability of different premium levels, the adequacy of current widows' benefits, etc.

The Secretary's report to Congress should evaluate all of the considerations enumerated above and contain recommendations and draft legislation, if appropriate, to support those recommendations.

Open enrollment period (sec. 1405)

The Senate amendment contained a provision (sec. 644) that would provide for a one-year open enrollment period to allow: (1) persons not currently participating in the survivor benefit plan (SBP) to elect coverage; (2) persons who are participants in the SBP to increase coverage; and (3) persons who are participants in the SBP to elect supplemental coverage.

The House bill contained in similar provision.

The House recedes with an amendment that would delay the open enrollment period to the one-year period beginning October 1, 1991. The amendment would also require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives on the open enrollment period. The report would include a plan for implementation of the open enrollment period. The conferees urge the Secretary of Defense to carefully consider, as a minimum, such factors as costs, benefits, fairness, and precedent in preparing the report. The conferees would be interested in any alternatives the Secretary of Defense may wish to propose.

Miscellaneous technical and clerical amendments (sec. 1407)

The Senate amendment contained a provision (sec. 645) that would make miscellaneous technical and clerical changes to chapter 73, title 10, United States Code.

The House bill contained two similar provisions (sec. 642 and sec. 643).

The Senate recedes with an amendment conforming the three sections.

TITLE XV—MILITARY CHILD CARE

Legislative Provisions

Legislative provisions adopted

Funding for military child care for fiscal year 1990 (sec. 1502)

The House bill contained a provision (sec. 802) that would require the Secretary of Defense to make available a sufficient amount of funding for military child care equal to 70 percent of total operating expenses for military child development centers during fiscal year 1990. Section 802 would also: (1) direct that increasing the number of care givers and expanding the availability of care by priorities for use of these appropriated funds; (2) require that non-appropriated funds from parent fees be used only for salaries of child care workers; and (3) authorize the Secretary of Defense to waive the parent fee requirement, as well as the requirement in section 803 pertaining to additional civil service positions for child care, if the Secretary determines that these requirements could not be executed in an orderly manner.

The Senate amendment contained a similar provision (sec. 1202) except that: (1) the Secretary of Defense would make available for military child care during fiscal year 1990 funds equal to 75 percent of the estimated non-appropriated funds to be used for military child care and, for fiscal year 1991 and beyond, funds equal to 100 percent of the estimated non-appropriated funds to be used for military child care; and (2) no requirement would be included concerning the use of parent fees.

The House recedes with an amendment that would: (1) state the policy that appropriated funds during fiscal year 1990 for child development center operating expenses shall not be less than the amount of parent fees for child care estimated to be received by the Department during fiscal year 1990; (2) pursuant to that policy, require that at least $102 million in appropriated funds be available for child development centers during fiscal year 1990; (3) require that at least an additional $26 million be available for other child care and child-related services during fiscal year 1990; and (4) direct that parent fees be used solely for compensating child care workers, with authority to waive this requirement, in part, if it would result in the uneconomic or inefficient use of funds. In the event the Secretary makes such a determination, parent fees could be used first, for the purchase of consumable or disposable items and second, for other child development centers expenses. The conferees stress that appropriated funds should be used to the maximum extent possible for the purchase of child development center supplies, furniture, etc.

In addition, the conferees note that $102 million and $26 million, respectively, are spending floors, not ceilings, and that the Department of Defense should allocate specific amounts to the military Services according to their individual needs and requirements in order to maximize child care resources. The conferees further clarify that the current practice of devoting non-appropriated funds to child development centers from non-parent fee sources (e.g., profits from Burger King restaurants) is not affected by this section and, therefore, should be continued as appropriate.

Child care employees (sec. 1503)

The House bill contained a provision (sec. 803) that would require that by September 30, 1990 at least 3,700 additional civil service positions be made available for child care than the number available as of September 30, 1989. Section 803 would also: (1) require the Secretary of Defense to establish a uniform training program for child care employees as a condition of employment; (2) direct that non-appropriated fund child care employees be paid compensation comparable to that of other employees on the same military installation with similar training, experience and seniority; (3) establish a new category of child care employee; and (4) provide preference to qualified military spouses for employment or promotion as non-appropriated fund child care employees without precluding such spouses from obtaining another preference in the same geographical area.

The Senate amendment contained a similar provision (sec. 1203), except that: (1) the 3,700 additional space requirement would have to be met no later than September 30, 1991; and (2) non-appropriated fund child care worker compensation would be increased on a two-year pilot basis to a level competitive with the compensation paid to other employees at the same installation drawn from the same labor pool.

The House recedes with an amendment that would: (1) require that at least 1,000 additional civil service positions be made available for military child care during fiscal year 1990 and that at least 3,700 positions be made available by the end of fiscal year 1991 with a waiver authority if some portion of the fiscal year 1991 requirement cannot be executed; (2) direct a test program of at least two year's duration in which entry-level non-appropriated fund child care employees are paid at rates of pay competitive with those of other installation employees drawn from the same labor pool and in which other non-appropriated fund child care employees are paid at rates equivalent to those of other installation employees with similar training, seniority and experience; (3) make the spouse preference authority a test program of at least two year's duration beginning on the date the imple-

menting regulation is published; and (4) direct a report on the pay and preference test programs' impact on quality of care and personnel turnover at child development centers.

Parent fees (sec. 1504)

The House bill contained a provision (sec. 804) that would require the Secretary of Defense to issue uniform regulations establishing fees for child development centers based on family income.

The Senate amendment contained a similar provision (sec. 1204).

The House recedes with an amendment that would limit the family income requirement to fees for the care of children who attend centers on a regular basis.

Child abuse prevention and safety at facilities (sec. 1505)

The House bill contained a provision (sec. 805) that would: (1) establish and maintain a special task force comprised of multi-disciplinary personnel from within and outside the Department of Defense to respond in the case of alleged wide-spread child abuse in child development centers; (2) require the Secretary of Defense to establish and publicize a national hotline for the reporting of suspected child abuse or safety violations at child development centers and family day care homes; (3) require the establishment of uniform regulations on safety and operating procedures and four unannounced inspections per child development center per year; (4) require that safety violations in child development centers be fixed within 90 days; and (5) require the Secretary of Defense to study areas of interdepartmental concern in military child care, including improving communication and eliminating overlapping responsibilities between the Departments of Defense and Justice.

The Senate amendment contained a similar provision (sec. 1204).

The House recedes with technical amendments.

Parent partnerships with child development centers (sec. 1506)

The House bill contained a provision (sec. 806) that would require the Secretary of Defense to establish parent boards and parent participation programs at child development centers. Section 806 would also require that parents of children attending the centers who choose not to participate in the newly established parent participation program pay higher fees.

The Senate amendment contained a similar provision (sec. 1206) without a requirement to charge different fees depending on the parents' decision to participate in the parent participation program.

The Senate recedes with an amendment that would authorize the Secretary of Defense to charge lower fees to parents that choose to participate than those of parents who choose not to participate.

Subsidies for family home day care (sec. 1508)

The Senate amendment contained a provision (sec. 1208) that would authorize the Secretary of Defense to utilize appropriated and non-appropriated funds available for military child care purposes for the support of family home day care in order that this service be available to service members at a cost comparable to that of child development centers.

The House bill contained no similar provision.

The House recedes with an amendment that would limit this authority to the use of appropriated funds.

Early childhood education demonstration program (sec. 1509)

The Senate amendment contained a provision (sec. 1209) that would require that 15 percent of military child development centers (96 centers) be accredited by an appropriate national early childhood accrediting body and that these centers be designated as early childhood education programs. Section 1209 would also require the Secretary of Defense: (1) to submit a plan to the Committees on Armed Services of the Senate and House of Representatives by January 1, 1990 detailing how he would implement this section; and (2) to obtain an independent assessment of the programs' effectiveness for promoting the development of preschool children.

The House bill contained no similar provision.

The House recedes with an amendment that would require that 50 centers obtain the appropriate accreditation no later than June 1, 1991, with an implementation plan due no later than April 1, 1990.

TITLE XVI—GENERAL PROVISIONS

Legislative Provisions

Legislative provisions adopted

Transfer authority (sec. 1601)

The House bill contained a provision (sec. 1201) that would permit the transfer of an authorization for any fiscal year to any other authorization for that fiscal year made available within Division A of the Act upon determination by the Secretary of Defense that such a transfer would be in the national interest. The provision would authorize reprogrammings involving the transfer of authorizations as set out in bill language.

The authority to transfer could only be used to provide authorization for higher priority items than the items from which the authorization was transferred and could not be used to provide authorization for an item that was denied authorization by the Congress. The Secretary of Defense would be required to notify the Congress promptly of transfers. The total amount of transfers would be limited to $3 billion.

The Senate amendment contained a similar provision (sec. 901) that would authorize transfers within titles I–III.

The Senate recedes.

Consistency in the budget presentations of the Department of Defense (sec. 1602)

The House bill contained a provision (sec. 1202) that would amend the existing provision of law (10 U.S.C. 114 (f) and (g)) that requires the submission of the Five Year Defense Program to Congress by April 1 of each year. The House bill would eliminate the provision of law that allows inconsistencies between the President's budget and the Five Year Defense Program if such inconsistencies are explained in detail. Under the House bill, no inconsistencies would be permitted. The House bill would also change the date for submission of the Five Year Defense Program from April 1 to be at or about the time that the President's budget is submitted to Congress.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that provides that the use of management contingency accounts is not precluded, provided such accounts are included in both the President's budget and the Five Year Defense Program. The conferees understand that the Department of Defense may not be able to submit the Five Year Defense Program in support of a new budget request at precisely the same time as the President's budget following years when the Congress has failed to provide full year authorizations and appropriations in a timely fashion for the previous fiscal year.

Limitation on restoration of withdrawn unobligated balances (sec. 1603)

The Senate amendment contained a provision (sec. 903) that would specify the procedures under which funds whose period of availability for obligation has ended may be restored. The procedures for restoration of funds for a program, project, or activity totalling more than $4 million during a fiscal year would require the Secretary of the Military Department concerned or the Secretary of Defense, in the case of a Defense Agency, to determine that such action is necessary and such action would have to be approved by the Secretary of Defense. In the case of restoration of funds totalling more than $25 million in a fiscal year, the Secretary of Defense would also have to provide written notice to the Armed Services and Appropriations Committees of the Senate and House of Representatives and wait until 30 days have elapsed after such notification is submitted.

The House bill contained a provision (sec. 119(f)) that would require the Secretary of the Air Force to submit a report on the status of the availability of Air Force funds in the "M Account", including an accountability of all B–1B aircraft program funds.

The House recedes with an amendment that would apply the procedures for funds restoration of less than a total of $25 million in a fiscal year only to "late contract changes", i.e., a change to a contract made after the end of availablity for obligation of funds for the contract and under which the contractor is required to perform additional work. The procedures for funds restoration totalling more than $25 million in a fiscal year would remain as provided in the Senate provision.

The conferees further agree to require the Secretary of the Air Force to submit a status report on Air Force funds in the "M Account."

Prohibition on transfer of funds to other departments and agencies (sec. 1604)

The conferees are increasingly concerned about the tendency to look upon the Department of Defense as a source of funds. Such transfers are inconsistent with the national priorities established in the budget process. While there may be compelling reasons from time to time requiring such a transfer, such actions should take place only in exceptional circumstances. Accordingly, the conference agreement includes a provision that would preclude the use of funds made available to the Department of Defense by any other agency of the Federal Government except in accordance with this Act or any other law in effect on the date of enactment of this Act unless not less than 30 days prior to such transfer, the Secretary of Defense submits a report to the Armed Services and Appropriations Committees of the Senate and House of Representatives describing the effect of such transfer of such funds on the military preparedness of the United States.

Authority to transfer funds to the Department of Energy (sec. 1605)

The conferees include a provision that would allow the Secretary of Defense to transfer not more than $135 million to the Secretary of Energy during fiscal year 1990

in support of the Department of Energy's plan for restart of the Savannah River defense reactors. Such a transfer cannot be made until the Secretary of Defense notifies the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the proposed transfer and of the source of funds for the transfer, and 30 days have elapsed after the notice is received by those committees.

The Department of Defense supports this transfer to ensure the safe and timely restart of the Savannah River reactors. The restart of these reactors is essential to the maintenance of an adequate tritium supply for the nation's nuclear deterrent forces. The Savannah River reactors are the nation's only viable source of tritium for the forseeable future, until a few production reactor can begin operation. The conferees note that the Secretary of Energy has stated that $233 million above the amounts otherwise authorized by this act is needed to support the restart plan for the Savannah River reactors and that the Department of Energy has expressed its intent to reprogram $98 million from the Department's fiscal year 1990 budget for this purpose.

Reimbursement of Department of Defense funds for members of the armed forces assigned to duty in connection with foreign military sales programs (sec. 1606)

The House bill contained a provision (sec. 509) that would require that military personnel serve in the foreign military sales program only to the extent that the military Departments are reimbursed for the salaries of such personnel.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees agree to delay for one year any change in the law that requires the reimbursement of Defense Department funds for the salaries of military personnel who serve in the foreign military sales program.

Repair and replacement of property of the Department of Defense damaged or destroyed by hurricane Hugo (sec. 1607)

The conferees agree to a provision that would authorize the Secretary of Defense to take such action as he considers necessary to repair damage to real property, facilities, equipment, and other property of the Department of Defense caused by hurricane Hugo in September 1989, or to replace any such property damaged beyond economical repair by that hurricane. The conferees direct that any actions taken by the Secretary of Defense under this section be subject to all existing Department of Defense directives concerning reprogramming of funds.

Handling of hazardous wastes in naval ship repair work (sec. 1611)

The House bill contained a provision (sec. 1211) that would amend section 7311, title 10, United States Code, relating to provisions required in ship repair contracts to: (1) provide that the requirements of that section apply to all contracts for work on a naval vessel other than new construction; (2) clarify the manner in which the Navy must identify hazardous waste expected to be handled by the contractor during such work; (3) provide that the contractor be indemnified by the United States for all claims, losses, or damages arising out of the contractor's removal, handling, storage, transportation or disposal of hazardous wastes guaranteed by the Navy from the vessel on which such work is being performed; and (4) clarify the circumstances under which the Secretary of the Navy must renegotiate such contracts when previously unidentified hazardous wastes are discovered during the course of work in the vessel.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conference agreement would adopt those portions of the House provision that would expand the applicability of section 7211, title 10, United States Code, to all contracts for work on a naval vessel (except new construction); clarify the manner in which hazardous wastes are to be identified in such contracts; and clarify the circumstances under which contract renegotiation would be required.

However, the conferees did not adopt the portion of the House provision relating to indemnification. Rather, the conferees have included a provision that would require that all covered contracts provide that all manifests, invoices, or other documents related to the removal, handling, storage, transportation or disposal of hazardous waste, as defined by applicable law, arising out of the performance of such a contract bear the generator identification number of the party or parties to the contract who generate the hazardous waste, as determined under the Solid Waste Disposal Act and regulations promulgated pursuant to that Act. Specifically, all such documents will bear a generator identification number issued by the contractor with respect to all such hazardous waste generated solely by the contractor. All such documents related to such hazardous waste that are generated by both the Navy and the contractor, as determined under applicable law, shall bear both a generator identification number issued to the Navy and a generator number issued to the contractor.

The conference agreement would also require the Secretary of the Navy to remove known hazardous wastes from a vessel before the vessel's arrival at a contractor's facility for the performance of a contract covered by this section, to the extent such removal is feasible.

This conference agreement is designed to ensure that there be no question that hazardous wastes that arise during the performance of a ship repair contract and that are otherwise subject to applicable law are to be identified on all appropriate documents and dealt with as would any other hazardous wastes subject to applicable law, except that documents relating to hazardous wastes generated by other parties to the contract shall reflect that both parties were involved in the generation of that waste. This will ensure that such co-generated waste will continue to be identified throughout the waste stream as having arisen from work performed under a contract between the Navy and the particular contractor involved, so that the identities of both generators of that waste are known if and when questions of liability for the generation of that waste arise sometime in the future.

The conferees emphasize that the conference agreement does not alter any federal liability for the handling of hazardous waste as established by the Solid Waste Disposal Act, and other applicable Federal laws and regulations. Finally, the conferees agree that this approach to handling hazardous wastes arising from ship repair work is taken only because of the unique circumstances of such work, such as the quantity and diverse nature of hazardous wastes arising from such work, and because of the complexity of the determination under law and implementing regulations of how and when hazardous waste is generated on board a U.S. naval vessel. For these reasons, the conferees do not view this conference agreement as providing a precedent for similar handling of issues involving hazardous wastes arising from other situations.

Progress payments under naval vessel repair contracts (sec. 1612)

The House bill included a provision (sec. 1213) that would amend section 7312, title 10, United States Code, to increase the minimum rate of progress payments by 5 percent. It would also extend the applicability of the provision to nuclear-powered vessels and to ship work required to be performed in greater than one year.

The Senate amendment contained no similar provision.

The Senate recedes.

Funding for ship production engineering (sec. 1613)

The amended budget request included funds for ship production engineering in the Research, Development, Test and Evaluation (RDT&E), Navy account, but the House bill authorized funds for this purpose in the Shipbuilding and Conversion, Navy (SCN) account. The House bill also included a provision (sec. 1215) that would require that funds for this program in future years be requested in the SCN account.

The Senate amendment authorized the program as requested, but included a similar provision (sec. 227) that prohibited certain ship design efforts from being funded in the RDT&E account in future years.

The conferees agree to recommend authorization of these funds in the Navy RDT&E account in fiscal year 1990, as requested. The conferees also agree to adopt the House provision, which would shift funding for ship production engineering to the SCN account in future years.

Depot-level maintenance of ships homeported in Japan (sec. 1614)

The House bill contained a provision (sec. 1216) that would require that no less than one-half of the depot-level maintenance work for naval vessels homeported in Japan that is scheduled as of October 1, 1989 be carried out during fiscal years 1990, 1991, and 1992 in shipyards in the United States, including the territories of the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would stipulate that the requirement be met to the extent feasible and consistent with Navy policies regarding family separations.

The conferees direct the Secretary of the Navy to submit a report to the Committees on Armed Services of the Senate and House of Representatives not later than 90 days after the date of enactment of this Act indicating the extent to which the Navy has complied with similar provisions in the past; reasons why maintenance carried out in Japan was judged to be infeasible for accomplishment in the United States or its territories; and providing a plan to substantially reduce the amount of ship repair work done on naval vessels homeported in Japan, toward a goal of a 50 percent reduction (by dollar value) from the level of fiscal year 1988, consistent with Navy family separation policies.

Report of alternatives to Navy oxygen breathing apparatus for shipboard firefighting (sec. 1615)

The House bill included a provision (sec. 1217) that would require the Secretary of the Navy to study and report on alternatives to the standard oxygen breathing apparatus (OBA) in use on board Navy ships.

The Senate amendment contained no similar provision.

The Senate recedes.

Stripping of naval vessels used for experimental purposes (sec. 1616)

The House bill included a provision (sec. 1218) that would amend section 7306, title 10, United States Code, to provide that before using any vessel issued for experimental purposes, the Secretary of the Navy must carry out such stripping of the vessel as practicable.

The Senate amendment contained no similar provision.

The Senate recedes.

Technical amendments (sec. 1622)

The House bill contained a provision (sec. 1233) that would make a number of technical amendments in the laws affecting the Department of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Airport terrorism (sec. 1631)

The House bill contained a provision (sec. 1258) that would authorize the President to assign U.S. Armed Forces to foreign airports to assist in protecting U.S. citizens against terrorism and other acts of violence.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense, in consultation with the Secretary of State and the Administrator of the Federal Aviation Administration, to conduct a study on the feasibility and desirability of deploying military personnel or providing military equipment to assist in the protection of foreign airports and to determine which programs of the Department of Defense, including research and development programs on explosive detection, terrorist identification, and anti-terrorist operations, have application to and could be adopted to enhance civil aviation security. The Secretary would be required to submit the study to the Congress within 6 months after the date of enactment of this Act.

Dedication of corridor in Pentagon to service members who served in space-related activities (sec. 1632)

The House bill contained a provision (sec. 1259) that would express the sense of Congress that the Secretary of Defense would dedicate an appropriate corridor in the Pentagon to commemorate the service of the members of the Armed Forces who have served in space-related activities.

The Senate amendment contained no similar provision.

The Senate recedes.

Admiralty claims (sec. 1633)

The Senate amendment contained a provision (sec. 914) that would increase the statutory delegation authority of the Secretaries of the military departments for the settlement or compromise of admiralty claims for or against the United States.

The House bill contained no similar provision.

The House recedes.

Authority to accept certain volunteer services (sec. 1634)

The Senate amendment contained a provision (sec. 442) that would expand existing authority for the Department of Defense to accept certain voluntary services to include acceptance of voluntary services in national resource programs.

The House bill contained no similar provision.

The House recedes.

Service in the National Guard and reserves (sec. 1635)

The Senate amendment contained a provision (sec. 922) that would declare the Senate's reaffirmation of the value of service in the National Guard and reserves, the Senate's encouragement of participation in the National Guard and reserves, and the Senate's support of the National Guard and Reserves as full partners in the Total Force.

The House bill contained no similar provision.

The House recedes with an amendment that would express these declarations as those of the Congress.

Civil Reserve Air Fleet (CRAF) (sec. 1636)

The Senate amendment included a provision (sec. 153) which would expand the Civil Reserve Air Fleet (CRAF) program.

The House bill contained no similar provision.

The House recedes.

Radiation risk activities (sec. 1637)

The Senate amendment contained a provision (sec. 3202) that would direct the Secretary of Defense, in consultation with the Secretary of Veterans' Affairs, to submit to the Committees on Armed Services and Veterans Affairs of the Senate and House of Representatives a report identifying the number of individuals who, while serving on active duty for training, inactive duty training, or as a military technician of the National Guard, participated in radiation-risk activities, but are not covered under provisions of the Atomic Veterans Act (Public Law 100-321). The provision would require the report to be submitted not later than 60 days after the date of enactment of this Act.

The House bill contained no similar provision.

The House recedes with an amendment that would require the report to be submitted not later than February 15, 1990.

Congressional findings and sense of Congress concerning kidnapping and murder of Lieutenant Colonel Higgins (sec. 1638)

The Senate amendment contained a provision (sec. 919) that would express the sense of Congress that the President should utilize all available resources of the United States Government to identify those responsible for the barbaric murder of Colonel Higgins; determine whether it would be possible to bring them to justice or to retaliate so as to reduce the risk to Americans from terrorism; retaliate as would be appropriate and feasible; engage in diplomatic contacts with other governments concerning their policies and actions of relevance to United States' interests or that might increase the vulnerability of United States citizens to terrorist attacks; and consult with other governments to ensure international cooperation and coordination to end terrorist attacks. The Senate provision would call upon the United States to make clear to the new leadership in Iran that we will not tolerate support for terrorist actions against American citizens or American vital interests and, should such support continue, we will hold Iranian authorities accountable and act accordingly. The Senate provision would also call upon the United Nations Secretary General to do everything possible to help ensure that Col. Higgins' body is returned to his country and family and that those responsible for his death be brought to justice.

The House bill contained no similar provision.

The House recedes with technical amendments regarding congressional findings and with clarifying amendments regarding the sense of Congress.

With regard to Lt. Col. Higgins' service in the United Nations Truce Supervision Organization (UNTSO), the conferees wish to clarity that when a member of the U.S. military is assigned, or, in the parlance of the United Nations, "seconded" to a United Nations peacekeeping organization or function, that member works exclusively for the United Nations throughout the period of the "secondment." U.S. military personnel so-assigned neither retain nor perform any duties for the United States Government.

Report on DOD manpower required to control proliferation of certain weapons (sec. 1639)

The Senate amendment contained a provision (sec. 920) that would require the Secretary of Defense to submit various reports on the role and staffing of the Defense Department with respect to controlling the proliferation of missile technology and nuclear, chemical, and biological weapons.

The House bill contained no similar provision.

The House recedes with an amendment that would require an additional report from the Secretary of Defense concerning the Defense Department's role in the implementation of the Missile Technology Control Regime (MTCR). The conferees express their displeasure with the fact that one of the reports referred to in this section is more than 1½ years overdue.

Review and report on decontrol of certain personal computers (sec. 1640)

The Senate amendment contained a provision (sec. 931) that would direct the Secretary of Defense, in consultation with the Director of Central Intelligence and the Science Advisor to the President, to review the report made by the Secretary of Commerce on the foreign availability of certain personal computers.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense and the Secretary of Commerce to submit to certain congressional committees separate reports on the foreign availability of certain personal computers.

Report on standoff munitions (sec. 1641)

The conferees note with disappointment the continuing lack of standoff munitions in the hands of operational forces. Standoff munitions are those munitions that have sufficient range and guidance systems to permit pinpoint accuracy from distances which allow the launching aircraft to fly outside the reach of air defense missiles.

Despite over a decade of work, U.S. combat aircraft have virtually no standoff munitions today. Yet, during the past 10 years, Soviet air defense systems, as well as conventional air defenses in many other countries, have improved dramatically, increasing the risk to U.S. aircraft and pilots.

Because of this growing air defense threat, the Army, Navy and Air Force have initiated extraordinarily expensive modernization programs for new aircraft platforms that could easily reach $200 billion. Yet, at the same time, the Services have neglected opportunities to improve survivability by fielding standoff munitions. The Services consistently stress platform acquisition over development and fielding of improved standoff conventional munitions.

The conferees recommend a provision that would direct the Unified Commanders in Chief (the CINCs) to provide reports on the survivability of forces that would be available to them in the event of hostilities in their regions. The reports shall be part of the annual report to the Congress on the Joint Standoff Weapons Master Plan. The CINCS are directed to determine the survivability of those forces, whether there is a requirement for standoff munitions for those forces, the adequacy of existing stocks of munitions and specifically of standoff munitions, the priority they would devote to standoff munitions, and the importance of standoff munitions in the event of reduced force structure. The CINCS should identify those standoff munitions programs they consider most promising, including lethal unmanned aerial vehicles (UAVs) or other classified programs.

LEGISLATIVE PROVISIONS NOT ADOPTED

Restrictions on international agreements relating to naval nuclear propulsion

The House bill contained a provision (sec. 1214) that would provide that no agreements relating to communication of Restricted Data concerning uses for naval nuclear propulsion may be entered into after the date of enactment of this Act. The House provision would further provide that in the case of agreements already in existence on the date of enactment of this Act, any Restricted Data or certain other militarily sensitive information that would be conveyed under such an agreement may not be conveyed until the President meets the requirements of section 123 of the Atomic Energy Act and makes certain determinations and reports to Congress.

The Senate amendment contained no similar provision.

The conferees recognize the general desirability of limiting the proliferation of nuclear powered submarines, the need for tight controls over U.S. nuclear propulsion technology, and the importance of the support infrastructure and resources necessary to ensure the safety of any nuclear submarine development and deployment. The conferees agree that current U.S. policy supports these concepts. Accordingly, the House recedes.

Missile technology control regime

The House bill contained a number of provisions (secs. 1241-1247) to strengthen the Missile Technology Control Regime (MTCR) and export controls on ballistic missile technology.

The Senate amendment contained no similar provisions.

The House recedes. The conferees agree that Congress should attach high priority to enacting legislation this session addressing the critical issue of increased proliferation of ballistic missile technology. However, the conferees believe that this Act is not the appropriate vehicle for legislation on this issue and therefore agree to delete the House MTCR provisions without prejudice to their merits.

The conferees commend the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs, with jurisdiction over amendments to the Arms Export Control Act, for recently conducting hearings on legislation addressing this issue. The Banking Committees of the Senate and House of Representatives, which have jurisdiction over amendments to the Export Administration Act, have also indicated that they intend to address this issue.

The conferees urge the relevant committees of jurisdiction to report appropriate legislation on this issue as soon as possible to the Senate and House of Representatives. The conferees believe that such legislation should reflect the following broad principles:

—the reality and significance of the problem and its expanding nature;

—the need for the United States to aggressively expand the membership (to include the Soviet Union and, at an appropriate time, the People's Republic of China) and clarify the terms of the MTCR,

—the recognition that notwithstanding the good faith efforts of the executive branch to implement the MTCR, additional measures are needed to further improve the U.S. licensing process;

—the need for sanctions against domestic firms or persons and foreign states, firms, entities, and/or persons found to be evading or violating MTCR guidelines;

—the need for an expanded flow of information from the Executive Branch to the Congress on this problem; and

—the need to put details in place rapidly.

Report regarding terrorist attacks against military personnel

The House bill contained a provision (sec. 1260) that would require a report on the extent of financing of terrorist attacks against military personnel of the United States and its allies utilizing loans from the United States, its allies, and multinational or international financial institutions to members of the Warsaw Pact.

The Senate amendent contained no similar provision.

The House recedes. The conferees are concerned about the possibility of assistance to international terrorist organizations from members of the Warsaw Pact. The conferees note, however, that terrorist targets are not limited to military personnel and that financial assistance is but one of numerous forms of aid to terrorist organizations. The conferees are reluctant to require a report on this limited aspect of the problem. At the same time, they urge the Secretary of Defense, in consultation with other appropriate departments and agencies, to investigate all forms of support for international terrorism by members of the Warsaw Pact and to provide the results of such investigations to the Congress.

Reductions to reflect management savings

The Senate amendment contained a provision (sec. 902) that would reduce the authorizations for the military personnel and operation and maintenance accounts in order to reflect the savings from management improvements proposed by the Administration without specifying the allocation of these savings.

The House bill contained no similar provision.

The Senate recedes. The conference agreement incorporates anticipated savings from management improvements relating to civilian personnel in the authorizations for the operation and maintenance accounts. Savings reflecting management improvements relating to military personnel are reflected in a cap on the authorization for appropriations for military personnel.

Commission on National Service

The Senate amendment contained a provision (sec. 907) that would establish a commission to conduct a comprehensive study of the desirability, need for, advantages and disadvantages of a national service program by February 15, 1991.

The House bill contained no similar provision.

The Senate recedes. The conferees recognize that other legislative initiatives authorizing national service pilot projects currently pending before the Congress could accomplish the goals of the Senate provision. These pilot projects should provide the information needed to assess the feasibility and the cost/benefit implications of a broad-based program of national service.

Retirement pay forfeiture

The Senate amendment contained a provision (sec. 926) that would require the Senate Judiciary Committee to hold appropriate hearings and report back to the Senate by November 1, 1989 on issues concerning the forfeiture of office provisions of section 2071(b), title 18, United States Code, including the issue of that statute's applicability to military retired pay in general and the military retired pay of Lt. Col. Oliver North in particular.

The House bill contained no similar provision.

Subsequent to adoption of this provision by the Senate, hearings were scheduled by the Senate Judiciary Committee. The Senate also scheduled consideration of this matter as a separate legislative item. Accordingly, the Senate recedes.

Report on the International Military Education and Training program

The Senate amendment contained a provision (sec. 928) that would direct the General Accounting Office to prepare a report on the International Military Education and Training (IMET) program. The House bill contained no similar provision.

The Senate recedes.

Report regarding American hostages in Iran

The Senate amendment contained a provision (sec. 942) that would express the sense of the Senate that the Secretary of Defense and Director of Central Intelligence should report to the appropriate congressional committees on efforts to locate American hostages in Lebanon and how additional resources could be utilized for this purpose.

The House bill contained no similar provision.

The Senate recedes, since the requested report has been received.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

OVERVIEW

The amended budget request for fiscal year 1990 contained $8,039,190,000 for military construction and family housing.

The House bill would authorize $8,165,820,000 for military construction and family housing.

The Senate amendment would provide $8,046,461,000 for this purpose.

The conferees recommend authorization of $7,952,811,000 for military construction and family housing for fiscal year 1990.

The amended budget request for fiscal year 1991 contained authorization of

$9,266,150,000 for military construction and family housing.

The House bill did not address the request, deferring it without prejudice.

The Senate amendment would provide $5,349,806,000 for this purpose.

The conferees recommend a partial authorization of $4,778,126,000 for military construction and family housing for fiscal year 1991. The conferees expect the Department of Defense to submit an amended fiscal year 1991 budget request, adjusted for actions taken by Congress, fact of life changes, and revised cost estimates.

FISCAL YEAR 1990 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS

[In thousands of dollars]

	Budget request	Passed House	Passed Senate	House +/− Senate	Conference agreement
Army	737,100	767,018	732,614	34,404	782,855
Navy	1,133,200	1,155,270	1,137,599	(17,671)	1,111,221
Air Force	1,385,490	1,202,076	1,328,835	(126,459)	1,248,640
Defense agencies	596,200	531,320	563,200	(31,880)	541,420
NATO infrastructure	501,900	424,714	462,300	(37,586)	424,714
Army National Guard	114,000	193,333	175,109	18,224	187,411
Air National Guard	164,600	198,590	216,180	(17,590)	198,628
Army Reserve	76,900	80,505	91,455	(10,950)	80,800
Navy Reserve	50,900	56,600	50,900	5,700	56,600
Air Force Reserve	46,200	46,200	46,200	0	46,200
Total Military construction	4,806,490	4,655,626	4,804,092	(148,466)	4,678,489
Family housing, Army	1,437,900	1,521,510	1,432,300	89,210	1,450,910
Portion applied to debt reduction	300	300	300	0	300
Family housing, Navy	752,200	936,494	742,364	194,130	851,714
Family housing, Air Force	1,015,900	1,025,490	1,041,005	(15,515)	944,998
Family housing, Defense agencies	21,300	21,300	21,300	0	21,300
Homeowners Assistance Fund	5,100	5,100	5,100	0	5,100
Total family housing	3,232,700	3,510,194	3,242,369	267,825	3,274,322
Total military construction and family housing	8,039,190	8,165,820	8,046,461	119,359	7,952,811
General provisions implicit authorization [1]	0	109,199	113,000	(3,801)	137,170
Grand total	8,039,190	8,275,019	8,159,461	115,558	8,089,981

[1] Authorization of expenditure of proceeds from sale of real property.

Miscellaneous Report Requirements

The House and Senate reports (H. Rept. 101-121 and S. Rept. 101-81) addressed items of special emphasis. The conferees endorse the language on items of special emphasis found in both reports and, unless some modification to that language is contained in this statement of managers, the positions and requirements contained under "Items of Special Emphasis" in both Senate and House reports on the fiscal year 1990 military construction authorization bills are concurred in by the conferees.

Parametric Facility Planning

The conferees are aware that the architecture profession has developed computer-assisted facility planning that can provide reliable cost estimating for construction projects. This parametric planning approach offers advantages in shorter planning and design times, lower costs, particularly in the early stages of the process, and more timely and responsive final design products.

The conferees reiterate the requirement that military construction projects under consideration for authorization be far enough along in the planning and design process, nominally 35 percent designed, that the Congress can have a high degree of confidence that the requested project can be executed within the budget year and within the authorized funding level.

In light of the maturing capability of parametric facility planning, the conferees have no objection to the use of this technique as the basis of cost estimates for budget requests for military construction projects. However, the military Services are directed to retain records of the efficacy of both the standard, incremental design process and the parametric planning/compressed design approach. A comparative analysis of the two approaches should be undertaken after the Services have sufficient experience with this new approach to cost estimating. Such a study should include the accuracy of cost estimating, the timeliness of project execution, and the relative costs of the two approaches.

This study should be submitted to the Committees on Armed Services and Appropriations of the Senate and House of Representatives at the earliest possible date, once a sufficient data base of comparison has been developed, but no later than March 1, 1993.

* * * should be pursued only under the most extraordinary circumstances. When justified, it should be done through securing significant blocks of land to support the long term needs of the base, rather than small tracts to support individual construction projects. Major expansions should be developed in coordination with local governmental agencies at minimal cost to the federal government.

Beginning with the amended fiscal year 1991 budget submission, the conferees expect the military services to highlight any military construction requests that include land acquisition, and to provide a detailed justification for such an added expense, including the history of the installation's property lines and its long-term real estate needs.

TITLE XXI—ARMY

Fiscal Year 1990

The House bill would authorize $2,293,928,000 for Army military construction and family housing programs for fiscal year 1990.

The Senate amendment would authorize $2,165,316,000 for this purpose.

The conferees recommend authorization of $2,239,165,000 for military construction and family housing for the Army for fiscal year 1990.

Fiscal Year 1991

The Senate amendment would authorize $1,808,280,000 for Army military construction and family housing for fiscal year 1991. The House bill contained no similar funding. The conferees recommend $1,803,180,000 for these purposes.

TITLE XXII—NAVY

Fiscal Year 1990

The House bill would authorize $2,091,764,000 for Navy military construction and family housing programs for fiscal year 1990.

The Senate amendment would authorize $1,879,963,000 for this purpose.

The conferees recommend authorization of $1,962,935,000 for military construction and family housing for the Navy for fiscal year 1990.

Fiscal Year 1991

The Senate amendment would authorize $1,009,780,000 for Navy military construction and family housing for fiscal year 1991. The House bill contained no similar funding. The conferees recommend $986,410,000 for these purposes.

Study and solicitation of bids for office space (sec. 2206)

The House bill contained a provision (sec. 2205) that would prohibit the Secretary of the Navy from obligating funds to enter into a lease for office space in the National Capital Region unless proposals were solicited from all areas of the National Capital Region. Also, the provision would direct the Secretary of Defense to determine the amount of Navy office space that could be relocated outside the National Capital Region and to submit a plan for phased reduction of Navy office space in the National Capital Region.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of the Navy to study locations within the Commonwealth of Virginia at which the Navy can most efficiently carry out its operations. The Secretary must submit a report to Congress within 90 days of the date of enactment. After 30 days starting on the day on which the report is submitted, the Administrator of General Services may issue one or more bid solicitations for office space in Vir-

ginia, which will be subject to section 7 of the Public Buildings Act of 1959. The conferees intend that the Navy functions now performed in leased office space in Northern Virginia be performed at the location or locations in the Commonwealth of Virginia where they can be most efficiently and effectively performed.

Community support center, Marine Corps Air Station, Tustin, California (sec. 2207)

The Senate amendment contained a provision (sec. 2206) that would amend the Department of the Navy's military construction authorization for fiscal year 1989 by authorizing the Marine Corps to construct community support facilities instead of a mobile home park at Tustin, California.

The House bill contained no similar provision.

The House recedes with technical amendments.

Naval Ordnance Station, Indian Head, Maryland

The conferees understand that the Naval Ordnance Station, Indian Head, Maryland, has been forced to close certain buildings that were part of a mission essential chemical lab. One building was closed due to chemical contamination and the remaining buildings are over 80 years old, posing safety hazards and space restrictions which prohibit upgrading the current facilities. A chemical lab replacement building is required to permit the Navy to meet Federal and State occupational health and safety standards as well as federal and state requirements for effluent testing and analysis.

Without the replacement lab, sample testing and analysis backlogs will cause delays in various Navy tactical weapon systems adversely affecting anti-submarine warfare, anti-surface warfare, air launched missiles and rockets, amphibious warfare, gun propellants, and certain fuel programs.

To provide for the safety of Naval employees and to avoid unnecessary and costly delays in crucial production and research and development programs, the conferees direct the Secretary of the Navy to complete design of a replacement chemical lab in fiscal year 1990 and include the project in the amended fiscal year 1991 military construction budget request.

Marine Corps Mountain Warfare Training Center

The conferees understand that the condition of facilities at the Marine Corps Mountain Warfare Training Center (MCMWTC), Bridgeport, California, constitutes a significant hazard to the health and safety of personnel assigned to this activity. The operational facilities, trainee barracks, and support facilities for the permanent party personnel are all in poor repair. Many lack the minimum services and structural integrity to ensure the well-being of their occupants.

For these reasons, the conferees direct that not more than $2.3 million of the Navy's minor construction and repair and maintenance authorization be used to make appropriate repairs and improvements to this complex. The conferees also direct that 33 of the 295 units of family housing authorized for Camp Pendleton, California, the support base for the MCMWTC, be used to provide adequate family housing for this remote site. Finally, the conferees authorize a total of $8 million for fiscal year 1991 for the provision of utilities and foundations for the erection of modular structures to provide austere, yet safe facilities for the training and support of the Center's students.

Land acquisition, Puget Sound Naval Shipyard, Washington

The conferees have become aware of the severe shortage of usable land at the Puget Sound Naval Shipyard, Washington. This situation has caused a shortage of adequate storage, administrative, and other support facilities on the installation. This problem will be exacerbated by the anticipated increase in fleet overhaul and repair work, and the temporary homeporting of active Navy ships at this installation.

The conferees understand that the Navy is considering a proposal to acquire approximately 15 acres of additional land adjacent to the base, and that this expansion is critical to resolving the facility deficiencies at the shipyard. In order to address this problem in a timely manner, the conferees direct the Navy to expedite the planning for this acquisition so that it can be included in the fiscal year 1991 amended budget request. If it is determined that acquisition of all or a portion of this tract is essential prior to 1991 the conferees direct Navy to consider submission of an emergency reprogramming request for this purpose.

TITLE XXIII—AIR FORCE

Fiscal Year 1990

The House bill would authorize $2,227,566,000 for Air Force military construction and family housing programs for fiscal year 1990.

The Senate amendment would authorize $2,369,540,000 for this purpose.

The conferees recommend authorization of $2,193,638,000 for military construction and family housing for the Air Force for fiscal year 1990.

Fiscal Year 1991

The Senate amendment would authorize $1,146,996,000 for Air Force military construction and family housing for fiscal year 1991. The House bill contained no similar funding. The conferees recommend $1,150,836,000 for these purposes.

Tinker Air Force Base, Oklahoma (sec. 2304(c))

The Senate amendment contained a provision (sec. 2830(a)) that would authorize the Secretary of the Air Force to acquire a Depot Operations Logistics Facility currently being leased by the Air Force on Tinker Air Force Base, Oklahoma.

The House bill contained no similar provision.

The House recedes.

Luke Air Force Base, Arizona (sec. 2306)

The House bill contained a provision (sec. 2306) that would amend section 2301 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456) by rescinding the authorization for appropriation of $1.9 million for a simulator maintenance training facility at Williams Air Force Base, Arizona, and authorizing this project for the same amount at Luke Air Force Base, Arizona. This change followed a change in force modernizations plans affecting the two installations.

The Senate amendment contained no similar provision.

The Senate recedes.

Increased authorization for the Arnold Engineering Development Center, Tennessee (sec. 2307)

The Senate amendment contained a provision (sec. 2323) that would increase the authorization for a Large Rocket Test Facility at the Arnold Engineering Development Center, Tennessee, from $213.8 million to $256.8 million by amending section 2301 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456). The provision would recognize that the need for this project was under review, and conditioned the amendment on the validation and certification of the requirement by the Secretary of Defense.

The House bill contained no similar provision.

The House recedes with an amendment that would delete the requirement for certification of the increase by the Department of Defense inasmuch as this certification has already been received by the Committees on Armed Services of the Senate and House of Representatives.

Grant for construction of a school at Ellsworth Air Force Base, South Dakota

The Senate amendment contained a provision (sec. 2306) that would authorize the Secretary of the Air Force to make a grant to the Douglas School District, South Dakota, for the purpose of constructing a middle school primarily for dependents of military personnel stationed at Ellsworth Air Force Base, South Dakota.

The House bill contained a similar provision (sec. 2304(c)) that would authorize $7.25 million for construction of such middle school.

The Senate recedes. Both the House bill and the Senate amendment would authorize the appropriation of funds for the construction of this school, and the conferees believe that the grant authority that would be provided by the Senate amendment is unnecessary.

Central CONUS over-the-horizon backscatter radar

The Senate amendment contained $5 million for land acquisition associated with the fielding of the Central Continental United States (CONUS) Over-the-Horizon Backscatter (OTH-B) radar system.

The House bill contained no similar authorization.

The Senate recedes. The conferees note that unexpected cost growth in the deployment of the first sector of the Alaskan OTH-B system will defer procurement of the second sector of this system until at least fiscal year 1991. Consequently, the deployment of the Central CONUS system will be deferred at least until fiscal year 1992, with land acquisition required no earlier than fiscal year 1991. The conferees believe that this land acquisition should be reviewed by the Secretary of Defense and if appropriate, resubmitted in the amended fiscal year 1991 budget submission.

TITLE XXIV—DEFENSE AGENCIES

Fiscal Year 1990

The House bill would authorize $552,620,000 for Defense Agencies military construction and family housing programs for fiscal year 1990.

The Senate amendment would authorize $584,500,000 for this purpose.

The conferees recommend authorization of $562,720,000 for military construction and family housing for Defense Agencies for fiscal year 1990.

Fiscal Year 1991

The Senate amendment would authorize $500,700,000 for Defense Agencies military construction and family housing for fiscal year 1991. The House bill contained no similar funding. The conferees recommend $456,100,000 for these purposes.

National test bed

The Senate amendment contained a provision (sec. 231(c)) that would authorize the transfer of $23 million from the research and development account to the military construction account to finance the cost overrun in the construction of the National Test Bed at Falcon Air Force Station, Colorado.

The House bill contained no similar provision.

The Senate recedes. The conferees recognize that the National Test Bed facilities cannot be completed within the current $100 million authorization. However, the Congress has been clear that it intends this project to be funded through the military construction account, not the research and development account. The Secretary of Defense has existing authority (section 2853, title 10, United States Code), under which this project can be completed without further legislative action. The conferees suggest that a cost variation request be submitted to the appropriate committees of Congress explaining the reasons for the cost overrun and identifying the funds required to complete the complex. Alternatively, because the unfunded portion of the project involves support, not operational functions, the conferees suggest that the Secretary program the unfunded facilities as a new initiative in the amended fiscal year 1991 budget request.

Portsmouth Naval Hospital, Virginia

The Senate amendment contained a provision (sec. 2406) that would authorize the Secretary of Defense to enter into a contract for the construction of a new naval hospital at Portsmouth, Virginia, which would be incrementally funded.

The House bill contained a similar provision (sec. 2401) that would provide full authorization of $330 million and incremental funding for the first phase of construction in the amount of $8.5 million.

The Senate recedes. The conferees believe that the additional contracting authority that would be provided by the Senate amendment is unnecessary.

Nellis Air Force Base Hospital, Nevada

The Senate amendment contained a provision (sec. 2408) that would authorize the Secretary of Defense to enter into a contract for the construction of a new joint Air Force/Veterans' Affairs Department hospital at Nellis Air Force Base, Nevada, which would be incrementally funded.

The House bill contained a similar provision (sec. 2401) that would provide full authorization of $62 million and incremental funding for the first phase of construction in the amount of $10 million.

The Senate recedes. The conferees believe that the additional contracting authority is unnecessary.

Design of large blast and thermal simulator

It is the conferees' intent that the design of the Defense Nuclear Agency's large blast and thermal simulator planned for White Sands Missile Range, New Mexico, be funded from the Defense Agencies' authorization for planning and design.

TITLE XXV—NATO

FISCAL YEAR 1990

The House bill would authorize $424,714,000 for the U.S. contribution to the NATO Infrastructure program for fiscal year 1990.

The Senate amendment would authorize $462,300,000 for this purpose.

The Senate recedes.

FISCAL YEAR 1991

The Senate amendment would authorize $503,600,000 for the U.S. contribution to the NATO Infrastructure program for fiscal year 1991. The House bill contained no similar funding. The Senate recedes.

TITLE XXVI—GUARD AND RESERVE

FISCAL YEAR 1990

The House bill would authorize $575,228,000 for military construction for fiscal year 1990 for the Guard and Reserve components.

The Senate amendment would authorize $579,844,000 for this purpose.

The conferees recommend authorization of $569,639,000 for military construction for fiscal year 1990. This authorization would be distributed as follows:

Army National Guard	$187,411,000
Army Reserve	80,800,000
Naval/Marine Corps Reserve	56,600,000
Air National Guard	198,628,000
Air Force Reserve	46,200,000

TITLE XXVIII—GENERAL PROVISIONS

PART A—* * *

LEGISLATIVE PROVISIONS ADOPTED

Family housing rental guarantee program (sec. 2801)

The House bill contained a provision (sec. 2801) that would modify the test program for the family housing guaranteed rental program enacted in section 802 of the Military Construction Authorization Act for Fiscal Year 1984 (Public Law 98-115) to provide increased flexibility in contract administration and to permit alternate maintenance and utility arrangements.

The Senate amendment contained a similar provision (sec. 2801).

The House recedes. The conferees are aware that this program has been amended annually since the test began in fiscal year 1984, and that the section 802 program has failed to provide any housing for military families. The current authority for this program expires on September 30, 1990. The amendments agreed to in this conference report, therefore, represent one last opportunity for the military Departments to make section 802 work.

In modifying the potential scope of contracts under this provision, it is the conferees' intent that the total cost of each unit of housing, including rental costs and the expenses of utilities, maintenance, and management, shall not exceed the maximum, initial rental rates set in accordance with section 802(b)(2) of the Military Construction Authorization Act for Fiscal Year 1984, as amended (10 U.S.C. 2821 note).

Leasing of military family housing (sec. 2802)

The House bill contained a provision (sec. 2802) that would alter the existing leasing authority contained in section 2828, title 10, United States Code, by indexing to foreign currency adjustment the cost cap for overseas leases and by increasing the limit on the overall number of leases from 38,000 to 53,000 units.

The Senate amendment contained a similar provision (sec. 2802) that would raise the maximum costs of domestic leases; index the current cost ceiling on overseas leases by both inflation and currency fluctuation; and increase the scope of the program to 53,419 units.

The House recedes with an amendment that would limit the increase in overseas leases to adjustments due to currency fluctuation and would limit the number of overseas leases to 53,000 units.

Long term facilities contracts (sec. 2803)

The House bill contained a provision (sec. 2803) that would modify the existing authority for long term facilities contracts contained in section 2809, title 10, United States Code, by broadening the opportunity to contract for utilities services and extending this authority until September 30, 1990.

The Senate amendment contained a similar provision (sec. 2803) that would permit increased numbers of utility service contracts and extend the existing authority until September 30, 1991.

The Senate recedes with an amendment that would extend the existing authority until September 30, 1991.

Improvements to family housing units for the handicapped (sec. 2804)

The House bill contained a provision (sec. 2404) that would authorize the expenditure of up to $60,000 per military family housing unit to provide modifications needed to accommodate the needs of the handicapped.

The Senate amendment contained a similar provision (sec. 2804) that would authorize the expenditure of up to $100,000 for modifications to no more than three military family housing units annually by each military Service to provide suitable accommodations for handicapped individuals.

The Senate recedes with an amendment that would provide that the $60,000 limit is multiplied by the area cost index.

Domestic build-to-lease program (sec. 2805)

The House bill contained a provision (sec. 2805) that would extend the current build-to-lease authority contained in section 2828, title 10, United States Code, to September 30, 1990 and increase the number of authorized units for the Navy and the Air Force.

The Senate amendment contained a similar provision (sec. 2805) that would extend this authority until September 30, 1991 and provide similar increases in numbers of authorized units.

The House recedes with an amendment that would simplify the provisions of section 2828, title 10, United States Code, relating to the number of authorized units.

Turn-key selection procedures (sec. 2806)

The House bill contained a provision (sec. 2806) that would amend section 2862, title 10, United States Code, to permit the military Departments to enter into turn-key construction contracts without the approval of the Secretary of Defense and to extend this authority to defense agencies, although they would be required to receive approval from the Secretary of Defense.

The Senate amendment contained a similar provision (sec. 2806) that would permit the Secretary concerned, as outlined in section 2801(c)(3), title 10, United States Code, to excercise this authority. The amendment would also extend this authority until September 30, 1991.

The House recedes.

Prohibition of funding for certain military construction contracts on Guam (sec. 2807)

The House bill contained a provision (sec. 2807) that would add a new section to chapter 169, title 10, United States Code, to disallow the employment of certain non-immigrant aliens on military construction contracts on Guam except under exceptional circumstances.

The Senate amendment contained no similar provision.

The Senate recedes.

Authorized cost variations (sec. 2808)

The House bill contained a provision (sec. 2808) that would amend section 2853, title 10, United States Code, relating to authorized cost variations, to provide that the restrictions and reporting requirements applicable to cost variations apply on a project-by-project basis, not on the basis of all military construction projects at an installation, as in current law.

The Senate amendment contained a similar provision (sec. 2807).

The House recedes with an amendment that would simplify the provisions of section 2853, title 10, United States Code, but make no substantive change, other than the change from installation basis to project basis.

Lease-purchase of facilities (sec. 2809)

The Senate amendment contained a provision (Sec. 2810) that would authorize the Department of Defense to enter into lease-purchase agreements for the construction of specified categories of facilities on or near military installations.

The House bill contained no similar provision.

The House recedes with an amendment that would restrict this authority to construction on military installations, limit the numbers of initiatives during fiscal years 1990, 1991 and 1992, and make payment under the lease subject to the availability of appropriations.

The conferees intend, by making lease payments subject to annual appropriations, to ensure that both the budget authority and outlays scored for each lease-purchase project in any year will be equal to the lease payment due in such year. The mere fact that government will assume ownership after a period of years, if all the lease payments are made, does not mean that budget authority in the first year should equal the total cost of the project to assume ownership. In that each year's lease payments are contingent on appropriations, the services should devise contract language that protects the government in case a lease payment is not made in a year in which it is due.

The conferees believe this authority holds promise of saving taxpayers substantial sums on the construction of urgently needed facilities as compared to leasing these facilities. Before submitting the amended fiscal year 1991 military construction budget request to the Congress, the military Departments are directed to review their plans for the application of this authority to the fiscal 1991 budget.

Conveyance of land at Marine Corps Air Station El Toro, California and construction of family housing at Marine Corps Air Station, Tustin, California (sec. 2811)

The House bill contained a provision (sec. 2813) that would authorize the sale at fair market value of approximately 77 acres at Marine Corps Air Station El Toro, California, to Orange County, California. The proceeds of this sale would be used to construct military family housing at Marine Corps Air Station Tustin, California.

The Senate amendment contained no similar provision.

The Senate recedes.

Land conveyance, Fort Gillem, Georgia (sec. 2812)

The Senate amendment contained a provision (sec. 2828) that would authorize the transfer of approximately 35 acres at Fort Gillem, Georgia, to the State of Georgia for the purpose of establishing a new headquarters for the Georgia Department of Defense and related National Guard activities.

The House bill contained no similar provision.

The House recedes.

Conveyance of land, Hickam Air Force Base, Hawaii (sec. 2813)

The Senate amendment contained a provision (sec. 2829) that would authorize the transfer at fair market value of approximately 23 acres of land at Hickam Air Force Base to the State of Hawaii. The Secretary would be authorized to use the proceeds for the construction of military family housing on the Island of Oahu, and other specified construction projects on Hickam Air Force Base.

The House bill contained no similar provision.

The House recedes with an amendment that would provide that the proceeds could only be used for military family housing and dormitories on Hickam Air Force Base or returned to the United States Treasury.

Sale of land and replacement of certain facilities, Kapalama Military Reservation, Hawaii (sec. 2814)

The House bill contained a provision (sec. 2812) that would amend section 1223 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180), which provides for the sale and replacement of certain land and improvements at Kapalama Military Reservation, Hawaii, by authorizing the negotiated sale to the State of Hawaii at fair market value.

The Senate amendment contained a similar provision (sec. 2822).

The House recedes with an amendment that would permit the immediate use of proceeds from this sale for both the replacement of facilities being relocated from Kapalama Military Reservation and for implementation of the plan of March 1, 1988 to develop Fort DeRussy. Also, the amendment would authorize the conveyance to the State of Hawaii of about 18 acres of ceded land at Kapalama Military Reservation.

Land conveyance, public works center, Great Lakes, Illinois (sec. 2815)

The Senate amendment contained a provision (sec. 2824) that would authorize the competitive sale of approximately 14 acres at the Navy Public Works Center, Great Lakes, Illinois. The Navy would be authorized to apply the proceeds to the construction of up to 35 units of military family housing on Glenview Naval Air Station, Illinois.

The House bill contained no similar provision.

The House recedes with technical alterations.

Land conveyance, Fort Knox (sec. 2816)

The House bill contained a provision (sec. 2814) that would authorize the sale of approximately 12 acres of land at Fort Knox, Kentucky, together with improvements, and the use of the proceeds to construct up to four units of family housing and to improve additional military family housing elsewhere on that installation.

The Senate amendment contained a similar provision (sec. 2823).

The Senate recedes.

Land release to the State of Minnesota (sec. 2827)

The Senate amendment contained a provision (sec. 2830) that would authorize the Secretary of the Army to release to the State of Minnesota a reversionary interest in approximately 35 acres of land. In return, the State would donate this same property to the Department of the Army and permit its further development as a reserve training site.

The House bill contained no similar provision.

The House recedes with technical modifications.

Land conveyance, Naval Reserve Center, Kearney, New Jersey (sec. 2815)

The Senate amendment contained a provision (sec. 2826) that would authorize the Secretary of the Navy to convey approximately 3 acres of land at the Naval Reserve Center, Kearney, New Jersey, to the town of Kearney, New Jersey, in exchange for the improvement of certain parking facilities and the provision of other facilities.

The House bill contained no similar provision.

The House recedes.

Transfer of jurisdiction over certain lands at Sandia, New Mexico (sec. 2819)

The Senate amendment contained a provision (sec. 2834) that would authorize the transfer of approximately 6 acres of land at the Sandia National Laboratories, Albuquerque, New Mexico, from the Department of Defense to the Department of Energy.

The House bill contained no similar provision.

The House recedes.

Land conveyance, Pittsburgh, Pennsylvania (sec. 2820)

The House bill contained a provision (sec. 2811) that would authorize the Secretary of the Navy to convey approximately one acre of land and improvements comprising the Naval Reserve and Marine Corps Reserve Center, Pittsburgh, Pennsylvania, to Carnegie-Mellon University at fair market value. The proceeds would be used to finance, in part, the construction of an expanded reserve center.

The Senate amendment contained a similar provision (sec. 2821) that would authorize the competitive sale of this property for the same purpose.

The Senate recedes.

Land conveyance, Fort Belvoir, Virginia (sec. 2821)

The Senate amendment contained a provision (sec. 2827) that would authorize the Secretary of the Army to convey approximately 820 acres at the Engineer Proving Grounds, Fort Belvoir, Virginia to a grantee who would, in exchange, construct facilities needed by the Army. The facilities provided by the granter must be equal to or greater in value than the fair market value of the land conveyed.

The House bill contained no similar provision.

The House recedes with technical amendments.

Army property interest, Benton, Washington (sec. 2832)

The Senate amendment contained a provision (sec. 2825) that would authorize the Secretary of the Army to amend a deed previously provided to the Port of Benton, Washington, to alter the Army's reversionary interest to permit transfer of property from the Port of Benton, Washington, to Washington State University for educational purposes.

The House bill contained no similar provision.

The House recedes.

PART C—PROVISIONS RELATING TO BASE CLOSURES AND REALIGNMENTS

LEGISLATIVE PROVISIONS ADOPTED

Homeowners assistance program (sec. 2831)

The Senate amendment contained a provision (sec. 2811) that would permit the Secretary of Defense to transfer funds into the homeowners assistance account from any funds available to the Department of Defense.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize transfer of up to $31 million from the Base Closure Account, authorized in section 303 of this conference report, to homeowners assistance. No transferred funds could be obligated after September 30, 1991. These additional homeowners assistance funds are required due to base closures and realignments.

It is also recommended that the Secretary of Defense utilize the private sector in the administration of the homeowners assistance program in those instances where it is found to be a more cost-effective alternative.

Use of closed bases for prisons and drug treatment facilities (sec. 2832)

The House bill contained a provision (sec. 2827) that would express the sense of Congress that military installations made excess through base closure should be made available, without reimbursement, to Federal, State, or local agencies for prisons or drug rehabilitation centers.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees believe that excess military properties made available through closures or realignments provide opportunities to support the expansion of prisons and drug rehabilitation centers. The National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456) includes a section directing the establishment of an interagency commission to screen excess Department of Defense properties for these purposes. The commission submitted its first report to the President and Congress on September 1, 1989.

Although the conferees believe that use of closed bases for prisons and drug treatment facilities is important, the conferees do not intend that the procedure for disposing of excess property contained in the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) be changed. These procedures give due regard to the whole range of interests attendent to disposing of excess military property, including maximizing income from sale and community economic redevelopment.

Notice to local and state educational agencies of enrollment changes due to base closures and realignments (sec. 2833)

The Senate amendment contained a provision (sec. 333) that would direct the Secretary of Defense, in consultation with the Secretary of Education, to report annually to state and local educational agencies on any significant changes in enrollment of minor dependents of military and civilian employees that result from actions taken in implementing the recommendations of the Defense Secretary's Base Realignment and Closure Commission under the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526).

The House bill contained no similar provision.

The House recedes.

Base closure report from the Comptroller General (sec. 2834)

The Senate amendment contained a provision (sec. 331) that would direct a report by the Comptroller General regarding the accuracy of the analysis by the Defense Secretary's Commission Base Realignment and Closure, which led to recommendations for closure and realignment of military installations.

The House bill contained no similar provision.

The House recedes with an amendment that would alter the scope of the required report.

Report regarding Fort Meade Recreation Area, Delaware (sec. 2844)

The Senate amendment contained a provision (sec. 2830(b)) that would direct the Secretary of the Army to submit a report to the Committees on Armed Services of the Senate and House of Representatives regarding the flexibility of conveying to the State of Delaware approximately 96 acres constituting the former Fort Miles, Delaware that is currently known as the Fort Meade Recreation Area.

The House bill contained no similar provision.

The House recedes. It is the conferees' understanding that the area in question is the residual land from a 1,000 acre tract transferred to the Army from the State of Delaware at the beginning of World War II to serve as a coastal defense installation known as Fort Miles. At the time of the original conveyance, the State of Delaware received an understanding that the property would be returned once it was no longer needed for national defense purposes.

The majority of the fort that surrounds the tract in question was returned to the State and constitutes Cape Henlopen State Park. Despite repeated requests by the State and the Delaware congressional delegation, the remaining acreage has not been returned. The Army should carefully review the residual defense requirement for this property and, absent compelling national security needs, return it to the State. The conferees expect the Army and State to work out an arrangement whereby the recreational needs currently served by the site can be met in the future.

Cooperative agreements for land management (sec. 2845)

The Senate amendment contained a provision (sec. 2832) that would authorize the Secretary of Defense to enter into cooperative agreements with individuals and organizations for natural resource management.

The House bill contained no similar provision.

The House recedes.

The conferees note that this amendment to the Sikes Act would allow private conservation organizations, groups and individuals opportunities to assist financially and furnish services for programs that maintain and improve natural resources on defense installations. The current program administered by the Department of Defense in cooperation with the Secretary of the Interior and the appropriate state Fish and Wildlife agency carries out the development, enhancement, operation and maintenance of public outdoor recreational resources on military reservations. This provision would not replace any current programs or activities called for in existing cooperative agreements, but rather would allow for additional natural resource management and conservation. By way of example, the conferees note that the amendment would allow conservation organizations actively participating in the North American Waterfowl Management Plan to assist the Department of Defense in the restoration and enhancement of waterfowl habitat on military reservations. Apart from waterfowl and wetlands conservation, volunteers could furnish their services to assist in a variety of natural resource management activities. These opportunities could provide benefits for many fish and wildlife resources as well as overall natural resource management programs on military reservations throughout the Nation.

Reimbursement of costs, Lake Charles, Louisiana (sec. 2846)

The Senate amendment contained a provision (sec. 2835) that would authorize the Secretary of the Navy to reimburse the Lake Charles Harbor and Terminal District for expenses incurred as a result of the community's support for the Navy's proposed new homeport at Lake Charles. The initiative has since been cancelled as part of the recommendations of the Defense Secretary's Commission on Base Realignment and Closure.

The House bill contained no similar provision.

The House recedes. The conferees believe that reimbursement is not appropriate at other homeports cancelled as part of the recommendations of the Defense Secretary's base closure commission.

Feasibility study of land transfer for use as a correctional facility (sec. 2847)

The Senate amendment contained a provision (sec. 2837) that would direct the Secretary of Defense to conduct a study of the feasibility of selling or otherwise transferring Department land within the Commonwealth of Virginia to the Commonwealth of Virginia or a political subdivision thereof for the purpose of establishing a medium security prison.

The House bill contained no similar provision.

The House recedes with an amendment that would express the sense of Congress that the reuse of defense property for this purpose shall be limited to sites that are agreeable to the local jurisdiction or that support the prison requirements of that jurisdiction.

Construction of military family housing at Marine Air Corps Air Station, Tustin, California (sec. 2848)

The Senate amendment contained a provision (sec. 2207) that would authorize the Secretary of the Navy to use the proceeds from the anticipated settlement in the case of *Rossmoor Liquidation Trust* v. *United States* (Case No. CV 82-0956 LEW(Px)) for the purpose of constructing up to 150 units of military family housing at Marine Corps Air Station, Tustin, California.

The House bill contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Development of Navy command and control complex in Naples, Italy

The House bill contained a provision (sec. 2204(c)) that would delay the obligation of military construction funds for the development of a new command and control complex and associated support facilities at Naples, Italy, until the Secretary of the Navy has explored other alternatives to the

planned site at Capodichino Airport, Naples, Italy.

The Senate amendment contained no similar provision.

The House recedes.

Limitation on authority to carry out a certain land exchange

The House bill contained a provision (sec. 2815) that would amend section 2824 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100-456), which authorizes the Secretary of the Navy to enter into a land exchange with the San Diego Port District, San Diego, California, by requiring the written approval of the City of National City, California.

The Senate amendment contained no similar provision.

The House recedes. The conferees believe that the original provision meets the interests of the parties to the proposed agreement. However, the conferees are also sensitive to the concerns of adjacent municipalities and urge the Navy to take these considerations into account to the maximum extent possible in pursuing an agreement under this authority.

Conveyance of facility, Little Rock, Arkansas

The House bill contained a provision (sec. 2823) that would authorize the conveyance of an excess Army Reserve Center at Little Rock, Arkansas, to the University of Arkansas, Little Rock, without reimbursement.

The Senate amendment contained no similar provision.

The House recedes.

Additional military construction authorizations

The House bill contained a provision (sec. 2825) that would authorize certain military construction projects in addition to those authorized elsewhere in the bill.

The Senate amendment contained no similar provision.

The House recedes. The conferees considered the additional House authorizations and incorporated many of them in the appropriate sections of the conference report.

Additional savings through base closures

The House bill contained a provision (sec. 2826) that would express the sense of Congress that the Secretary of Defense should immediately embark on a program to achieve up to $15 billion in savings through additional closures of military installations.

The Senate amendment contained no similar provision.

The House recedes.

Davis-Bacon revision

The House bill contained two provisions (sec. 4101 and 4102) that would amend the Davis-Bacon Act of 1931. Changes would include raising the threshold of applicability for Department of Defense new construction to $50,000, and, for alteration and repair, to $15,000. The provision would also address several other related issues, including the rights of aggrieved parties.

The Senate amendment contained no similar provisions.

The House recedes.

Unspecified minor construction

The Senate amendment contained a provision (sec. 2809) that would amend section 2805, title 10, United States Code, to increase the threshold for a minor construction project not otherwise authorized by law from $1 million to $1.5 million.

The House bill contained no similar provision.

The Senate recedes. The conferees recognize that the real buying power of the current threshold has decreased since it was increased from $500,000 to $1 million in 1982. However, the provision as requested by the Administration would affect a variety of other provisions of law that incorporate by reference the statutory minor construction threshold. The conferees believe that the Secretary of Defense should analyze the problem of reduced purchasing power for minor construction and design a remedy that focuses upon the specific problem.

Operation of the Pentagon Reservation

The Senate amendment contained a provision (sec. 2831) that would transfer the Pentagon Reservation from the General Services Administration (GSA) to the Department of Defense (DOD). The provision would also direct DOD to withhold certain payments to the Federal Buildings Fund to provide a source of funds for the renovation of the Pentagon. The provision would also direct that the management of the Pentagon Reservation be delegated to the Department of the Army.

The House bill contained no similar provision.

The Senate recedes. The conferees are appalled by the severe deterioration of the Pentagon Reservation. GSA has managed these facilities since 1975. During this period, DOD has paid nearly $240 million into the Federal Buildings Fund in excess of the expenses related to management, maintenance and operation. This excess payment is supposed to be used to capitalize new construction and renovation of public buildings. Despite DOD's payments, GSA's allocations from the Federal Buildings Fund have been grossly insufficient to maintain the Pentagon.

As a result, the Pentagon has a failing energy plant, supplemented by leased generators. Floors, walls and ceilings have holes. GSA's failure to maintain the Pentagon means that a massive renovation, estimated at $800 million, is now needed to bring the Pentagon up to a satisfactory level. The current condition of the Pentagon facilities is deplorable; it adversely affects morale and efficiency, has a negative impact on employee health, and could have an adverse impact on national security.

The Senate reluctantly recedes because all of the House committees with legislative jurisdiction over a proposal to transfer the Pentagon from GSA to DOD have not had an opportunity to consider such legislation. Therefore, the conferees defer, without prejudice, action to transfer the property.

In deferring action, the conferees accept the proposal of the Chairmen and Ranking Minority Members of the Committees on Government Operations and Public Works and Transportation of the House of Representatives communicated in their letter of October 20, 1989. In this letter, these members recommended, "In lieu of section 2831, we propose the following:

(1) Conference report language containing a strong admonition to the General Services Administration to develop an overall rehabilitation plan for the Pentagon;

(2) that both the Government Operations and Public Works Committees hold hearings on this issue as soon as possible during the second session of this Congress; and

(3) that both these Committees will make sustained effort to agree upon a joint plan of action calling for appropriate administrative and/or legislative change by the end of this Congress."

The conferees, for the sake of comity, are willing to permit GSA, the Department of Defense, and the appropriate congressional committees, including the Armed Services Committees, to develop and consider a detailed plan which will result in the renovation of the Pentagon. Unless the Armed Services Committees of the Senate and House of Representatives are satisfied with progress along this route by April 15, 1990, they intend to address the transfer of the Pentagon Reservation to DOD control in the defense authorization bill for fiscal year 1991. Therefore, GSA, in consultation with the Department of Defense, should promptly submit a detailed plan which will result in the complete renovation of the Pentagon. The plan could involve the submission of a prospectus, developed in cooperation with the Department of Defense, or it could involve another renovation strategy, such as property transfer. Accompanying the detailed plan should be a funding program.

Requirements relating to environmental restoration activities and environmental contamination

The Senate amendment contained a provision (sec. 2836) that would require the Secretary of Defense to ensure that all information relating to environmental restoration activities at DoD facilities that is required to be provided to regional offices of the Environmental Protection Agency (EPA) and appropriate State and local authorities is expeditiously provided to such offices and authorities. The provision would also require the Secretary of Defense to consult with the Administrator of the Environmental Protection Agency on all of the Department's environmental contamination plans and remedial actions to abate or mitigate contamination at Defense facilities. In addition, the Secretary of Defense would be required to install monitoring systems at Defense facilities where potential environmental contamination is found to ensure that there is no release or exposure of environmental contamination that will pose a risk to public health.

The House bill contained no similar provision.

The Senate recedes. The conferees agree completely with the spirit of the Senate amendment, which supports the public's right to be informed immediately after the discovery of potential environmental contamination that will pose a risk to the public health. The conferees note that existing law (sec. 2705, Comprehensive Environmental Response, Compensation and Liability Act (Public Law 96-500)) currently requires the Department of Defense to promptly notify EPA regional offices and all State and local authorities of environmental contamination information, including the discovery of released or threatened releases of hazardous substances at the facility. The conferees determine that the Senate amendment would have been unnecessary if the Department of Defense had complied with the letter and spirit of the law in the past. The conferees expect the Office of the Secretary of Defense and the headquarters of each of the military Services to expeditiously disseminate, to all levels of command, complete information pertaining to the requirements of current law which relate to the release of hazardous substances.

#	LOCATION	SERVICE	INSTALLATION
0	ALABAMA	ARMY	ANNISTON ARMY DEPOT
1	ALABAMA	ARMY	FORT MCCLELLAN
2	ALABAMA	ARMY	REDSTONE ARSENAL
3	ALABAMA	ARMY	REDSTONE ARSENAL
4	ALABAMA	ARMY	FORT RUCKER
5	ALABAMA	ARMY	FORT RUCKER
6	ALABAMA	NAVY	MOBILE NAVAL STATION
7	ALABAMA	NAVY	MOBILE NAVAL STATION
8	ALABAMA	NAVY	MOBILE NAVAL STATION
9	ALABAMA	AIR FORCE	GUNTER AFB
10	ALABAMA	AIR FORCE	GUNTER AFB
11	ALABAMA	AIR FORCE	GUNTER AFB
12	ALABAMA	AIR FORCE	MAXWELL AFB
13	ALABAMA	AIR FORCE	MAXWELL AFB
14	ALABAMA	AIR FORCE	MAXWELL AFB
15	ALABAMA	DEFENSE AGENCIES	MAXWELL AIR FORCE BASE - DMSA
16	ALABAMA	DEFENSE AGENCIES	MOBILE NAVAL STATION - DMSA
17	ALABAMA	ARMY NATIONAL GUA	LICEVILLE
18	ALABAMA	ARMY NATIONAL GUB	IRMINGHAM
19	ALABAMA	ARMY NATIONAL GUC	ITRONELLE
20	ALABAMA	ARMY NATIONAL GUH	UNTSVILLE
21	ALABAMA	AIR NATIONAL GUA	BIRMINGHAM MAP
22	ALABAMA	AIR NATIONAL GUA	MARTIN ANGB
23	ALABAMA	AIR NATIONAL GUA	MARTIN ANGB
24	ALABAMA	NAVY RESERVE	NRC HUNTSVILLE
25	ALABAMA	AIR FORCE RESERV	MAXWELL AFB
26			
27	ALASKA	ARMY	FT J M WAINWRIGHT
28	ALASKA	ARMY	FORT RICHARDSON
29	ALASKA	NAVY	ADAK NAVAL AIR STATION
30	ALASKA	NAVY	ADAK NAVAL AIR STATION
31	ALASKA	NAVY	ADAK NAVAL AIR STATION
32	ALASKA	NAVY	ADAK NAVAL AIR STATION
33	ALASKA	AIR FORCE	CLEAR AFS

PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
M-1 ENGINE REBUILD FACILITY ADDITION	2,300	2,300	2,300	0	2,300
APPLIED INSTRUCTION FACILITY	2,750	2,750	2,750	0	2,750
LABORATORY FACILITY ADDITION	17,500	17,500	17,500	0	17,500
SCIENTIFIC LIBRARY	890	890	890	0	890
AUTOMATED RECORD FIRE RANGE	1,150	1,150	1,150	0	1,150
TRAINING SUPPORT CENTER	2,450	2,450	2,450	0	2,450
MESS HALL	880	880	880	0	880
PHYSICAL FITNESS FACILITY	2,220	2,220	2,220	0	2,220
SITE IMPROVEMENT MITIGATION	865	865	865	0	865
ADD TO SOFTWARE DEVELOPMENT FAC-PH III	6,400	6,400	6,400	0	6,400
BASE ENGINEER/VEHICLE MAINTENANCE COMPLEX	4,800	4,800	4,800	0	4,800
FIRE STATION	900	900	900	0	900
ADD/ALTER CONSOLIDATED SUPPORT COMPLEX	0	700	0	700	700
RELIGIOUS EDUCATION FACILITY	0	680	0	680	0
VOQ	0	820	0	820	820
HOSPITAL LIFE SAFETY UPGRADE	1,600	1,600	1,600	0	1,600
MEDICAL/DENTAL CLINIC	3,000	3,000	3,000	0	3,000
ARMORY	0	709	709	0	709
AVIATION FUEL STORAGE COMPLEX JOINT W/ANG	400	400	400	0	400
ARMORY	932	932	932	0	932
ARMORY	886	886	886	0	886
AVIATION FUEL STORAGE COMPLEX JOINT W/ARNG	3,000	3,000	3,000	0	3,000
BASE SUPPLY AND EQUIPMENT WAREHOUSE	0	900	900	0	900
VEHICLE MAINTENANCE SHOP	0	2,100	2,100	0	2,100
RESERVE CENTER ACQUISITION	1,052	1,052	1,052	0	1,052
COMPOSITE TRAINING FACILITY	1,770	1,770	1,770	0	1,770
TOTAL, ALABAMA	55,745	61,654	59,454	2,200	60,974
PHYSICAL FITNESS TRAINING CENTER	14,800	0	14,800	(14,800)	14,800
COMMUNICATIONS FACILITY	3,350	3,350	3,350	0	3,350
AIRCRAFT DIRECT FUELING STATION	2,300	2,300	2,300	0	2,300
BACHELOR ENLISTED QUARTERS ADDITION	8,700	8,700	8,700	0	8,700
HARPOON MISSILE MAGAZINE & INERT STOREHSE	3,500	3,500	3,500	0	3,500
ORDNANCE HANDLING PAD	4,370	4,370	4,370	0	4,370
ALTER DORMITORY-PHASE I	5,000	5,000	5,000	0	5,000

	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
34	ALASKA	AIR FORCE	EIELSON AFB	ADD TO AND ALTER VEHICLE MAINT COMPLEX.....	11,000	11,000	11,000	0	11,000
35	ALASKA	AIR FORCE	EIELSON AFB	SUPPLY COMPLEX.....	0	0	10,000	(10,000)	10,000
36	ALASKA	AIR FORCE	ELMENDORF AFB	COMBAT ARMS TRAINING AND MAINTENANCE FAC.....	2,400	0	2,400	(2,400)	2,400
37	ALASKA	AIR FORCE	KING SALMON AFB	EXPAND PARKING APRON.....	6,000	6,000	6,000	0	6,000
38	ALASKA	AIR FORCE	KING SALMON AFB	FIRE PROTECTION.....	2,000	2,000	2,000	0	2,000
39	ALASKA	AIR FORCE	SHEMYA AFB	COLD STORAGE AND SUBSISTENCE WAREHOUSE.....	8,100	8,100	8,100	0	8,100
40	ALASKA	AIR FORCE	SHEMYA AFB	CONSOLIDATED COMMUNICATIONS FACILITY.....	4,550	4,550	4,550	0	4,550
41	ALASKA	AIR FORCE	SHEMYA AFB	POL OPERATIONS FACILITY.....	4,750	4,750	4,750	0	4,750
42	ALASKA	AIR FORCE	SHEMYA AFB	UPGRADE POL SYSTEM.....	3,800	3,800	3,800	0	3,800
43	ALASKA	AIR FORCE	SHEMYA AFB	UPGRADE WATER SYSTEM-PHASE II.....	1,500	1,500	1,500	0	1,500
44	ALASKA	DEFENSE AGENCIES	ADAK NAVAL AIR STATION - DMSA	FLEET HOSPITAL FACILITY 23.....	18,000	0	18,000	(18,000)	18,000
45	ALASKA	ARMY NATIONAL GU	NOORVIK	ARMORY, SCOUT, EXPANSION.....	267	267	267	0	267
46	ALASKA	ARMY NATIONAL GU	TUNUNAK	ARMORY, SCOUT, EXPANSION.....	267	267	267	0	267
47	ALASKA	ARMY NATIONAL GU	WAINWRIGHT	ARMORY, SCOUT, EXPANSION.....	267	267	267	0	267
48	ALASKA	AIR NATIONAL GUA	EIELSON AFB	ALTER COMPOSITE SQUAD OPS AND TNG FAC.....	2,300	2,300	2,300	0	2,300
49	ALASKA	NAVY RESERVE	NRF ANCHORAGE	RESERVE CENTER ACQUISITION.....	1,200	1,200	1,200	0	1,200
50	ALASKA	AIR FORCE RESERV	ELMENDORF AFB	CIVIL ENGINEERING TRAINING FACILITY.....	1,400	1,400	1,400	0	1,400
51				TOTAL, ALASKA.....	109,821	74,621	119,821	(45,200)	119,821
52	ARIZONA	ARMY	FORT HUACHUCA	BARRACKS.....	9,900	9,900	9,900	0	9,900
53	ARIZONA	ARMY	YUMA PROVING GROUND	AIR CARGO TEST PREPARATION COMPLEX.....	11,400	11,400	11,400	0	11,400
54	ARIZONA	NAVY	YUMA MARINE CORPS AIR STATION	AIRCRAFT POWER CHECK PADS.....	900	900	900	0	900
55	ARIZONA	AIR FORCE	DAVIS-MONTHAN AFB	A10-ADD TO AND ALTER AIRCRAFT ENGINE SHOP....	2,000	2,000	2,000	0	2,000
56	ARIZONA	AIR FORCE	DAVIS-MONTHAN AFB	AIRCRAFT MAINTENANCE DOCK.....	2,200	2,200	2,200	0	2,200
57	ARIZONA	AIR FORCE	DAVIS-MONTHAN AFB	TRAFFIC MANAGEMENT COMPLEX FACILITY.....	0	0	4,000	(4,000)	4,000
58	ARIZONA	AIR FORCE	LUKE AFB	DORMITORY.....	3,200	3,200	3,200	0	3,200
59	ARIZONA	AIR FORCE	LUKE AFB	MUNITIONS STORAGE IGLOOS.....	770	770	770	0	770
60	ARIZONA	AIR FORCE	WILLIAMS AFB	WATER SUPPLY COMPLEX.....	1,850	1,850	1,850	0	1,850
61	ARIZONA	ARMY NATIONAL GU	PHOENIX	ARMORY, ADDITION/ALTERATION.....	2,097	2,097	2,097	0	2,097
62	ARIZONA	ARMY NATIONAL GU	SHOW LOW	ORGANIZATIONAL MAINTENANCE FACILITY.....	0	0	500	(500)	500
63	ARIZONA	AIR NATIONAL GUA	FORT HUACHUCA	COMPOSITE DEPLOYMENT SUPPORT FACILITY.....	0	2,350	2,350	0	2,350
64	ARIZONA	AIR FORCE RESERV	LUKE AFB	ADD FIRE PROTECTION-AIRCRAFT HANGAR.....	650	650	650	0	650
65				TOTAL, ARIZONA.....	34,967	37,317	41,817	(4,500)	41,817
66	ARKANSAS	AIR FORCE	LITTLE ROCK AFB	ADD/ALTER DORMITORIES.....	0	1,500	0	1,500	0
67	ARKANSAS	AIR FORCE	LITTLE ROCK AFB	PERSONNEL PROCESSING CENTER.....	0	7,000	0	7,000	0

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
68	ARKANSAS	AIR FORCE	IRA EAKER AFB	CIVIL ENGINEER SHOP FACILITY	0	2,700	0	2,700	2,700
69	ARKANSAS	AIR FORCE	IRA EAKER AFB	CONVOY ROAD	0	500	0	500	500
70	ARKANSAS	AIR FORCE	IRA EAKER AFB	WATER WELL AND ELEVATED STORAGE	0	850	0	850	850
71	ARKANSAS	ARMY NATIONAL GUCAMDEN		ARMORY	647	647	647	0	647
72	ARKANSAS	ARMY NATIONAL GUCAMP ROBINSON		PROFESSIONAL EDUCATION CENTER QUARTERS	0	6,950	0	6,950	0
73	ARKANSAS	ARMY NATIONAL GUCAMP ROBINSON		TRAINING SITE, TROOP COMPLEX	0	4,025	0	4,025	0
74	ARKANSAS	ARMY RESERVE	FORT CHAFFEE	REGIONAL TRAINING SITE-MEDICAL	2,097	2,097	2,097	0	2,097
75				TOTAL, ARKANSAS	2,744	26,269	2,744	23,525	6,794
76	CALIFORNIA	ARMY	FT IRWIN	DINING FACILITY	3,350	3,350	3,350	0	3,350
77	CALIFORNIA	ARMY	FT IRWIN	ELECTRICAL SWITCHGEAR/DISTRIBUTION	1,600	1,600	1,600	0	1,600
78	CALIFORNIA	ARMY	FORT ORD	AUTOMATED RECORD FIRE RANGE	2,450	2,450	2,450	0	2,450
79	CALIFORNIA	ARMY	SACRAMENTO ARMY DEPOT	MICROWAVE/RADAR MAINTENANCE FACILITY	3,900	3,900	3,900	0	3,900
80	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS AIR STA	FLIGHT LINE SECURITY IMPROVEMENTS	2,100	2,100	2,100	0	2,100
81	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	AIR DEFENSE OPERATIONS CENTER	7,300	7,300	7,300	0	7,300
82	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	BACHELOR ENLISTED QUARTERS	24,500	24,500	24,500	0	24,500
83	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	COMBINED ARMS STAFF TRAINER FACILITY	2,800	2,800	2,800	0	2,800
84	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	OPERATIONS SUPPORT FACILITY	3,250	3,250	3,250	0	3,250
85	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	TACTICAL COMPONENTS STORAGE FACILITY	850	850	850	0	850
86	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	TACTICAL SYSTEMS TEST AND SUPPORT CENTER	5,000	5,000	5,000	0	5,000
87	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	TACTICAL VEHICLE MAINTENANCE FACILITY	13,900	13,900	13,900	0	13,900
88	CALIFORNIA	NAVY	CHINA LAKE NAVAL WEAPONS CENTER	MISSILE ENGAGEMENT SIMULATION ARENA	17,500	17,500	17,500	0	17,500
89	CALIFORNIA	NAVY	CONCORD NAVAL WEAPONS STATION	MISSILE INTEGRATION FACILITY	2,440	2,440	2,440	0	2,440
90	CALIFORNIA	NAVY	CONCORD NAVAL WEAPONS STATION	POTABLE WATER SYSTEM IMPROVEMENTS	3,200	3,200	3,200	0	3,200
91	CALIFORNIA	NAVY	CORONADO NAVAL AMPHIBIOUS BASE	OPERATIONAL STORAGE WAREHOUSE	4,370	4,370	4,370	0	4,370
92	CALIFORNIA	NAVY	CORONADO NAVAL AMPHIBIOUS BASE	SPECIAL WARFARE COMMAND HEADQUARTERS	3,400	3,400	3,400	0	3,400
93	CALIFORNIA	NAVY	CORONADO SURFACE WARFARE OFF SCOL	CSURFACE WARFARE INSTRUCTION BUILDING	4,360	4,360	4,360	0	4,360
94	CALIFORNIA	NAVY	EL CENTRO NAVAL AIR FACILITY	BACHELOR ENLISTED QUARTERS	7,200	7,200	7,200	0	7,200
95	CALIFORNIA	NAVY	LEMOORE NAVAL AIR STATION	CENTRIFUGE TRAINER FACILITY	2,100	2,100	2,100	0	2,100
96	CALIFORNIA	NAVY	MOFFETT FIELD NAVAL AIR STATION	CHILD CARE CENTER	1,000	1,000	1,000	0	1,000
97	CALIFORNIA	NAVY	MONTEREY FLEET NUMERICAL OCEANOGRAP	COMPUTER CENTER	0	6,010	0	6,010	6,010
98	CALIFORNIA	NAVY	MONTEREY FLEET NUMERICAL OCEANOGRAP	METEOROLOGICAL BUILDING ADDITION	750	750	750	0	750
99	CALIFORNIA	NAVY	MONTEREY NAVAL POSTGRADUATE SCHOOL	ACADEMIC LIBRARY ADDITION	5,000	5,000	5,000	0	5,000
100	CALIFORNIA	NAVY	MONTEREY NAVAL POSTGRADUATE SCHOOL	CHILD DEVELOPMENT CENTER	0	2,000	0	2,000	2,000
101	CALIFORNIA	NAVY	MONTEREY NAVAL POSTGRADUATE SCHOOL	CLASSROOM AND APPLIED LABORATORY FACILITY	11,690	11,690	11,690	0	11,690

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
102	CALIFORNIA	NAVY	NORTH ISLAND NAVAL AIR STATION	PIER ELECTRIC POWER UPGRADE	6,160	6,160	6,160	0	6,160
103	CALIFORNIA	NAVY	SAN DIEGO FLEET ANTI-SUB WAR TRNG C	CHILLED WATER PLANT UPGRADE	820	820	820	0	820
104	CALIFORNIA	NAVY	SAN DIEGO FLEET COMBAT TRNG CTR PAC	SECURITY UPGRADE	3,670	3,670	3,670	0	3,670
105	CALIFORNIA	NAVY	SAN DIEGO FLEET INTELLIGENCE TRNG C	INTELLIGENCE TRAINING BUILDING ADDITION	2,500	2,500	2,500	0	2,500
106	CALIFORNIA	NAVY	SAN DIEGO FLEET TRAINING CENTER	FIRE FIGHTING TRAINER FACILITY	12,800	12,800	12,800	0	12,800
107	CALIFORNIA	NAVY	SAN DIEGO INTEGRATED COMBAT SYS TES	ELECTRONICS SYSTEMS INTEGRATION LABORATORY	4,100	4,100	4,100	0	4,100
108	CALIFORNIA	NAVY	SAN DIEGO MARINE CORPS RECRUIT DEPO	CHILD CARE CENTER	540	540	540	0	540
109	CALIFORNIA	NAVY	SAN DIEGO MARINE CORPS RECRUIT DEPO	MESS HALL ADDITION	2,530	2,530	2,530	0	2,530
110	CALIFORNIA	NAVY	SAN DIEGO NAVAL HOSPITAL	PARKING GARAGE	0	7,500	0	7,500	0
111	CALIFORNIA	NAVY	SAN DIEGO NAVAL HOSPITAL	REGIONAL MEDICAL CENTER-SUPPORT FACILITIES	5,000	0	5,000	(5,000)	0
112	CALIFORNIA	NAVY	SAN DIEGO NAVAL OCEAN SYSTEMS CENTE	PHYSICS LABORATORY SAFETY IMPROVEMENTS	1,300	1,300	1,300	0	1,300
113	CALIFORNIA	NAVY	SAN DIEGO NAVAL STATION	CHILD CARE CENTER	1,000	1,000	1,000	0	1,000
114	CALIFORNIA	NAVY	SAN DIEGO NAVAL SUBMARINE BASE	WATERFRONT INDUSTRIAL FACILITY	10,800	10,800	10,800	0	10,800
115	CALIFORNIA	NAVY	SAN DIEGO NAVAL TRAINING CENTER	BRIDGE	4,800	4,800	4,800	0	4,800
116	CALIFORNIA	NAVY	SAN DIEGO NAVAL TRAINING CENTER	CHILD DEVELOPMENT CENTER	0	2,350	0	2,350	2,350
117	CALIFORNIA	NAVY	SAN DIEGO NAVY PUBLIC WORKS CENTER	HAZARDOUS WASTE STORAGE FACILITIES	2,900	2,900	2,900	0	2,900
118	CALIFORNIA	NAVY	SAN DIEGO NAVY PUBLIC WORKS CENTER	MUNICIPAL SEWER CONNECTION	1,500	1,500	1,500	0	1,500
119	CALIFORNIA	NAVY	SAN FRANCISCO NAVY PUBLIC WORKS CEN	HANDICAPPED ACCESS IMPROVEMENTS	360	360	360	0	360
120	CALIFORNIA	NAVY	SAN FRANCISCO NAVY PUBLIC WORKS CEN	WATER SUPPLY SYSTEM IMPROVEMENTS	3,550	3,550	3,550	0	3,550
121	CALIFORNIA	NAVY	SEAL BEACH NAVAL WEAPONS STATION	MISSILE MAGAZINES	9,000	9,000	9,000	0	9,000
122	CALIFORNIA	NAVY	TUSTIN MARINE CORPS AIR STATION	FLIGHT LINE SECURITY IMPROVEMENTS	2,350	2,350	2,350	0	2,350
123	CALIFORNIA	NAVY	TUSTIN MARINE CORPS AIR STATION	HAZARDOUS AND FLAMMABLE STOREHOUSE	640	640	640	0	640
124	CALIFORNIA	NAVY	TWENTYNINE PALMS MARCORP AIR-GRND C	ELECTRONICS COMMUNICATIONS MAINT SHOP	1,550	1,550	1,550	0	1,550
125	CALIFORNIA	NAVY	TWENTYNINE PALMS MARCORP AIR-GRND C	SMALL ARMS RANGE IMPROVEMENTS	1,590	1,590	1,590	0	1,590
126	CALIFORNIA	NAVY	VALLEJO MARE ISLAND NAVAL SHIPYARD	CONTROLLED INDUSTRIAL BUILDING ADDITION	6,300	6,300	6,300	0	6,300
127	CALIFORNIA	NAVY	VALLEJO MARE ISLAND NAVAL SHIPYARD	DREDGED MATERIAL HANDLING FACILITY	0	2,700	0	2,700	2,700
128	CALIFORNIA	AIR FORCE	BEALE AFB	ALERT CREW FACILITY	3,100	3,100	3,100	0	3,100
129	CALIFORNIA	AIR FORCE	BEALE AFB	DORMITORY	5,600	5,600	5,600	0	5,600
130	CALIFORNIA	AIR FORCE	BEALE AFB	U2R-WEATHER SHELTER	3,522	3,522	3,522	0	3,522
131	CALIFORNIA	AIR FORCE	BEALE AFB	UPGRADE ALERT COMPLEX	1,250	1,250	1,250	0	1,250
132	CALIFORNIA	AIR FORCE	CASTLE AFB	COMBAT ARMS TRAINING AND MAINTENANCE FACILITY	0	730	0	730	0
133	CALIFORNIA	AIR FORCE	CASTLE AFB	DINING FACILITY	3,900	3,900	3,900	0	3,900
134	CALIFORNIA	AIR FORCE	CASTLE AFB	SECURITY POLICE OPERATIONS FACILITY	0	2,950	0	2,950	0
135	CALIFORNIA	AIR FORCE	CASTLE AFB	TANKER RAMP SAFETY LIGHTING	0	5,000	0	5,000	0

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
136	CALIFORNIA	AIR FORCE	EDWARDS AFB	CORROSION CONTROL FACILITY	0	0	6,500	(6,500)	0
137	CALIFORNIA	AIR FORCE	EDWARDS AFB	FLIGHT TEST ENGINEERING AND MGMT FAC	12,400	12,400	12,400	0	12,400
138	CALIFORNIA	AIR FORCE	MCCLELLAN AFB	ADD TO AND ALTER CHILD DEVELOPMENT CTR	630	630	630	0	630
139	CALIFORNIA	AIR FORCE	MCCLELLAN AFB	ADD TO AND ALTER DEPOT HYDRAULIC FACILITY	7,400	7,400	7,400	0	7,400
140	CALIFORNIA	AIR FORCE	MCCLELLAN AFB	CHILD DEVELOPMENT CENTER	0	1,200	1,200	0	1,200
141	CALIFORNIA	AIR FORCE	MCCLELLAN AFB	JET FUEL STORAGE COMPLEX	4,000	4,000	4,000	0	4,000
142	CALIFORNIA	AIR FORCE	MCCLELLAN AFB	UPGRADE ELECTRICAL DISTRIBUTION SYSTEM	0	9,500	0	9,500	9,500
143	CALIFORNIA	AIR FORCE	MCCLELLAN AFB	VEHICLE MAINTENANCE FACILITY	5,000	5,000	5,000	0	5,000
144	CALIFORNIA	AIR FORCE	ONIZUKA AFS	UPGRADE POWER DISTRIBUTION SYSTEM	14,800	14,800	14,800	0	14,800
145	CALIFORNIA	AIR FORCE	TRAVIS AFB	ALTER SUPPORT CENTER	9,000	9,000	9,000	0	9,000
146	CALIFORNIA	AIR FORCE	VANDENBERG AFB	CHILD DEVELOPMENT CENTER	0	2,050	0	2,050	2,050
147	CALIFORNIA	AIR FORCE	VANDENBERG AFB	EMERGENCY ELECTRIC BACKUP POWER PLANT	5,400	0	5,400	(5,400)	5,400
148	CALIFORNIA	AIR FORCE	VANDENBERG AFB	VEHICLE MAINTENANCE COMPLEX	6,100	6,100	6,100	0	6,100
149	CALIFORNIA	DEFENSE AGENCIES	DEFENSE DEPOT TRACY - DLA	SUBSISTENCE WAREHOUSE	24,000	24,000	24,000	0	24,000
150	CALIFORNIA	DEFENSE AGENCIES	DEFENSE LANGUAGE INSTITUTE - MONTER	ACADEMIC AUDITORIUM	6,100	0	0	0	0
151	CALIFORNIA	DEFENSE AGENCIES	DEFENSE LANGUAGE INSTITUTE - MONTER	GENERAL INSTRUCTIONAL FACILITY PH III	10,600	10,600	0	10,600	0
152	CALIFORNIA	DEFENSE AGENCIES	TWENTYNINE PALMS - DMSA	HOSPITAL/DENTAL CLINIC REPLACEMENT	38,000	38,000	38,000	0	38,000
153	CALIFORNIA	ARMY NATIONAL GU	CAMP ROBERTS	MATES ADDITION/ALTERATION	6,014	6,014	6,014	0	6,014
154	CALIFORNIA	ARMY NATIONAL GU	CAMP ROBERTS	TRNG SITE, HQ BUILDING	765	765	765	0	765
155	CALIFORNIA	ARMY NATIONAL GU	CAMP SAN LUIS OBISPO	RANGE, MAC	842	842	842	0	842
156	CALIFORNIA	ARMY NATIONAL GU	LONG BEACH	PAINT SHOP VENTILATION	250	250	250	0	250
157	CALIFORNIA	ARMY NATIONAL GU	LOS ALAMITOS AFRC	ARMY AVIATION SUPPORT FACILITY ADD/ALT	1,212	1,212	1,212	0	1,212
158	CALIFORNIA	ARMY NATIONAL GU	PITTSBURGH	ORGANIZATIONAL MAINTENANCE SHOP29 ALT	324	324	324	0	324
159	CALIFORNIA	ARMY NATIONAL GU	SACRAMENTO	ARMORY	2,146	2,146	2,146	0	2,146
160	CALIFORNIA	ARMY NATIONAL GU	SACRAMENTO	AVN AASF C-12 AIRCRAFT HANGAR	498	498	498	0	498
161	CALIFORNIA	AIR NATIONAL GU	CHANNEL ISLANDS ANGB	FUEL CELL AND CORROSION CONTROL DOCK	3,800	3,800	3,800	0	3,800
162	CALIFORNIA	AIR NATIONAL GU	CHANNEL ISLANDS ANGB	JET FUEL STORAGE COMPLEX	3,100	3,100	3,100	0	3,100
163	CALIFORNIA	AIR NATIONAL GU	FRESNO ANGB	ADD TO/ALTER COMPOSITE AVIONICS/ENG SHOP	1,100	1,100	1,100	0	1,100
164	CALIFORNIA	AIR NATIONAL GU	SEPULVEDA ANG ANNEX	COMPOSITE VEHICLE MAINT AND AGE FACILITY	1,700	1,700	1,700	0	1,700
165	CALIFORNIA	ARMY RESERVE	CAMP PARKS	REGIONAL TRAINING SITE-MEDICAL	2,777	2,777	2,777	0	2,777
166	CALIFORNIA	ARMY RESERVE	LOS ALAMITOS	AVIATION FLIGHT ACTIVITY	9,792	9,792	9,792	0	9,792
167	CALIFORNIA	NAVY RESERVE	NMCRC BAKERSFIELD	LAND ACQUISITION	1,000	1,000	1,000	0	1,000
168	CALIFORNIA	NAVY RESERVE	NMCRC SAN BERNADINO	RESERVE TRAINING BUILDING	5,350	5,350	5,350	0	5,350
169	CALIFORNIA	NAVY RESERVE	NMCRC SAN DIEGO	AIRCRAFT MAINTENANCE HANGAR	6,700	6,700	6,700	0	6,700

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
170				TOTAL, CALIFORNIA	427,942	453,432	418,942	34,490	432,052
171	COLORADO	ARMY	FITZSIMONS ARMY MEDICAL CENTER	CHILD DEVELOPMENT CENTER	0	2,100	0	2,100	2,100
172	COLORADO	ARMY	FORT CARSON	AUTOMATED RECORD FIRE RANGE	2,250	2,250	2,250	0	2,250
173	COLORADO	ARMY	FORT CARSON	COLD STORAGE FACILITY	2,450	2,450	2,450	0	2,450
174	COLORADO	AIR FORCE	LOWRY AFB	COMPUTER OPERATIONS CENTER	0	15,500	0	15,500	15,500
175	COLORADO	AIR FORCE	LOWRY AFB	LOGISTICS SUPPORT FACILITY	3,550	3,550	3,550	0	3,550
176	COLORADO	AIR FORCE	LOWRY AFB	PRECISION MEASUREMENT EQUIPMENT LABORATORY	0	2,200	0	2,200	2,200
177	COLORADO	AIR FORCE	PETERSON AFB	SPACE OPERATIONS TRAINING FACILITY	0	0	12,200	(12,200)	0
178	COLORADO	AIR FORCE	PETERSON AFB	SUPPLY WAREHOUSE	0	0	4,000	(4,000)	0
179	COLORADO	DEFENSE AGENCIES	FITZSIMONS ARMY MEDICAL CENTER	LIFE SAFETY UPGRADE	0	5,200	0	5,200	5,200
180	COLORADO	ARMY NATIONAL GUD	URANGO	ARMORY	0	906	906	0	906
181	COLORADO	ARMY NATIONAL GUM	ONTROSE	ARMORY	0	1,698	1,698	0	1,698
182	COLORADO	AIR NATIONAL GUA	BUCKLEY ANGB	JOINT OPERATIONS AND TRAINING FACILITY	0	7,700	0	7,700	7,700
183	COLORADO	AIR NATIONAL GUA	BUCKLEY ANGB	MEDICAL TRAINING FACILITY	1,200	1,200	1,200	0	1,200
184	COLORADO	AIR NATIONAL GUA	BUCKLEY ANGB	SQUADRON OPERATIONS FACILITY	1,600	1,600	1,600	0	1,600
185				TOTAL, COLORADO	11,050	46,354	29,854	16,500	46,354
186	CONNECTICUT	NAVY	NEW LONDON NAVAL SUBMARINE BASE	BACHELOR ENLISTED QUARTERS	11,900	11,900	11,900	0	11,900
187	CONNECTICUT	NAVY	NEW LONDON NAVAL SUBMARINE BASE	BOILER PLANT MODIFICATIONS	2,750	2,750	2,750	0	2,750
188	CONNECTICUT	NAVY	NEW LONDON NAVAL SUBMARINE BASE	CHILD CARE CENTER	1,000	1,000	1,000	0	1,000
189	CONNECTICUT	NAVY	NEW LONDON NAVAL SUBMARINE BASE	MUNICIPAL SEWER CONNECTION	3,700	3,700	3,700	0	3,700
190	CONNECTICUT	NAVY	NEW LONDON NAVAL SUBMARINE BASE	WEAPONS FACILITY (INCREMENT II)	1,400	1,400	1,400	0	1,400
191	CONNECTICUT	NAVY	NEW LONDON NAVAL SUBMARINE BASE	WEAPONS STORAGE IMPROVEMENTS	3,500	3,500	3,500	0	3,500
192	CONNECTICUT	NAVY	NEW LONDON NAVAL SUBMARINE SCHOOL	OPERATIONAL TRAINER FACILITY	8,200	8,200	8,200	0	8,200
193	CONNECTICUT	NAVY	NEW LONDON NAVAL UNDERWATER SYSTEMS	ELECTROMAGNETIC SYSTEMS LABORATORY	12,600	12,600	12,600	0	12,600
194				TOTAL, CONNECTICUT	45,050	45,050	45,050	0	45,050
195	DELAWARE	AIR FORCE	DOVER AFB	ADD TO APRON	4,100	4,100	4,100	0	4,100
196	DELAWARE	AIR FORCE	DOVER AFB	OPERATIONS COMMAND POST	4,200	4,200	4,200	0	4,200
197	DELAWARE	AIR FORCE RESERV	DOVER AFB	ADD/ALTER OPERATIONAL TRAINING FACILITY	1,600	1,600	1,600	0	1,600
198				TOTAL, DELAWARE	9,900	9,900	9,900	0	9,900
199	DISTRICT OF C	ARMY	WALTER REED AMC	PARKING STRUCTURE	0	0	11,000	(11,000)	11,000
200	DISTRICT OF C	NAVY	WASHINGTON COMMANDANT NAVAL DISTRICT	STEAM PLANT SYSTEM MODERNIZATION	420	420	420	0	420
201	DISTRICT OF C	NAVY	WASHINGTON NAVAL OBSERVATORY	LABORATORY EXPANSION	2,500	2,500	2,500	0	2,500
202	DISTRICT OF C	AIR FORCE	BOLLING AIR FORCE BASE	NATIONAL CAPITAL MUSIC CENTER	5,900	5,900	0	5,900	0
203				TOTAL, DISTRICT OF COLUMBIA	8,820	8,820	13,920	(5,100)	13,920

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
204	FLORIDA	ARMY	KEY WEST	SOF-SPECIAL FORCES TRAINING FACILITY.....	6,100	6,100	6,100	0	6,100
205	FLORIDA	NAVY	CECIL FIELD NAVAL AIR STATION	ENGINE MAINTENANCE SHOP.....	1,070	1,070	1,070	0	1,070
206	FLORIDA	NAVY	CECIL FIELD NAVAL AIR STATION	STRIKE FIGHTER WEAPONS SCHOOL.....	900	900	900	0	900
207	FLORIDA	NAVY	JACKSONVILLE NAVAL HOSPITAL	BACHELOR ENLISTED QUARTERS.....	2,080	2,080	2,080	0	2,080
208	FLORIDA	NAVY	NAVAL STATION MAYPORT	INDUSTRIAL BERTHING WHARF.....	0	20,000	0	20,000	20,000
209	FLORIDA	NAVY	ORLANDO NAVAL TRAINING CENTER	ELECTRONIC TECHNICIAN SCHOOL.....	14,190	14,190	14,190	0	14,190
210	FLORIDA	NAVY	ORLANDO NAVAL TRAINING CENTER	FIRE FIGHTING TRAINING FACILITIES.....	4,210	4,210	4,210	0	4,210
211	FLORIDA	NAVY	PANAMA CITY NAVAL DIV & SALVAGE TRN	DIVER TRAINING BUILDING ADDITION.....	4,300	4,300	4,300	0	4,300
212	FLORIDA	NAVY	PANAMA CITY NAVY EXPERIMENTAL DIVIN	UNDERWATER EQUIPMENT SUPPORT COMPLEX.....	2,900	2,900	2,900	0	2,900
213	FLORIDA	NAVY	PENSACOLA NAVY PUBLC WORKS CENTER	WASTEWATER TRANSFER SYSTEM.....	2,100	2,100	2,100	0	2,100
214	FLORIDA	AIR FORCE	CAPE CANAVERAL AFS	SOLID ROCKET MOTOR ASSEMBLY FACILITY.....	89,000	89,000	89,000	0	89,000
215	FLORIDA	AIR FORCE	EGLIN AFB	ADD TO COMPUTER SERVICES CENTER.....	9,900	9,900	9,900	0	9,900
216	FLORIDA	AIR FORCE	EGLIN AFB	CONTROL TOWER.....	2,200	2,200	2,200	0	2,200
217	FLORIDA	AIR FORCE	EGLIN AFB AUXILIARY FIELD 9	SOF-ADD TO INTELLIGENCE FACILITY.....	660	660	660	0	660
218	FLORIDA	AIR FORCE	EGLIN AFB AUXILIARY FIELD 9	SOF-APRON ADDITION.....	2,000	2,000	2,000	0	2,000
219	FLORIDA	AIR FORCE	EGLIN AFB AUXILIARY FIELD 9	SOF-BASE ENGINEER COMPLEX.....	4,600	4,600	4,600	0	4,600
220	FLORIDA	AIR FORCE	EGLIN AFB AUXILIARY FIELD 9	SOF-DINING FACILITY.....	2,300	2,300	2,300	0	2,300
221	FLORIDA	AIR FORCE	EGLIN AFB AUXILIARY FIELD 9	SOF-ELECTRIC SUBSTATION.....	2,500	2,500	2,500	0	2,500
222	FLORIDA	AIR FORCE	EGLIN AFB AUXILIARY FIELD 9	SOF-EXPAND SEWAGE TREATMENT PLANT.....	2,000	2,000	2,000	0	2,000
223	FLORIDA	AIR FORCE	EGLIN AFB AUXILIARY FIELD 9	SOF-EXPLOSIVE ORDNANCE DISPOSAL FACILITY.....	690	690	690	0	690
224	FLORIDA	AIR FORCE	EGLIN AFB AUXILIARY FIELD 9	SOF-FUEL SYSTEMS MAINTENANCE DOCK.....	3,550	3,550	3,550	0	3,550
225	FLORIDA	AIR FORCE	EGLIN AFB AUXILIARY FIELD 9	SOF-SUPPLY COMPLEX.....	3,600	3,600	3,600	0	3,600
226	FLORIDA	AIR FORCE	HOMESTEAD AFB	ADD TO TRANSIENT DORMITORY.....	1,950	1,950	1,950	0	1,950
227	FLORIDA	AIR FORCE	HOMESTEAD AFB	ALTER DORMITORIES.....	5,400	5,400	5,400	0	5,400
228	FLORIDA	AIR FORCE	MACDILL AFB	F16-AVIONICS SHOP.....	3,550	3,550	3,550	0	3,550
229	FLORIDA	AIR FORCE	MACDILL AFB	FUELS MOBILITY SUPPORT EQUIPMENT WHSE.....	940	940	940	0	940
230	FLORIDA	AIR FORCE	MACDILL AFB	WING OPERATIONS.....	0	0	3,050	(3,050)	0
231	FLORIDA	AIR FORCE	PATRICK AFB	DINING FACILITY.....	3,800	3,800	3,800	0	3,800
232	FLORIDA	AIR FORCE	TYNDALL AFB	CHILD DEVELOPMENT CENTER.....	0	1,200	0	1,200	1,200
233	FLORIDA	AIR FORCE	TYNDALL AFB	COMBAT SUPPORT TRAINING COMPLEX-PHASE II.....	5,800	5,800	5,800	0	5,800
234	FLORIDA	AIR FORCE	TYNDALL AFB	F15-TACTICAL TRAINING FACILITY.....	1,500	1,500	1,500	0	1,500
235	FLORIDA	DEFENSE AGENCIES	DEF REUTIL AND MARKTNG OFC EGLIN AF	COVERED STORAGE.....	2,750	2,750	2,750	0	2,750
236	FLORIDA	DEFENSE AGENCIES	HURLBURT FIELD - DMSA	MEDICAL/DENTAL CLINIC REPLACEMENT.....	6,000	6,000	6,000	0	6,000
237	FLORIDA	DEFENSE AGENCIES	JACKSONVILLE NAVAL AIR STATION - DM	HOSPITAL FIRE PROTECTION.....	2,400	2,400	2,400	0	2,400

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
238	FLORIDA	DEFENSE AGENCIES	PATRICK AIR FORCE BASE - DMSA	DENTAL CLINIC REPLACEMENT	2,700	2,700	2,700	0	2,700
239	FLORIDA	ARMY NATIONAL GU	CAMP BLANDING	STATE MILITARY ACADEMY	1,276	1,276	1,276	0	1,276
240	FLORIDA	ARMY NATIONAL GU	ST. AUGUSTINE	ARMORY	0	0	2,500	(2,500)	2,500
241	FLORIDA	ARMY NATIONAL GU	TAMPA	ORGANIZATIONAL MAINTENANCE SHOP	604	604	604	0	604
242	FLORIDA	AIR FORCE RESERV	HOMESTEAD AFB	CIVIL ENGINEERING TRAINING FACILITY	800	800	800	0	800
243				TOTAL, FLORIDA	200,320	221,520	205,870	15,650	224,020
244	GEORGIA	ARMY	FORT BENNING	BARRACKS REVITALIZATION	0	0	2,000	(2,000)	2,000
245	GEORGIA	ARMY	FORT BENNING	CHILD CARE FACILITIES (2)	0	2,600	2,646	(46)	2,646
246	GEORGIA	ARMY	FORT BENNING	FUEL STORAGE FACILITY	3,650	3,650	3,650	0	3,650
247	GEORGIA	ARMY	FORT BENNING	TACTICAL EQUIPMENT SHOP	2,600	2,600	2,600	0	2,600
248	GEORGIA	ARMY	FORT BENNING	URBAN TERRAIN ASSAULT COURSE	1,250	1,250	1,250	0	1,250
249	GEORGIA	ARMY	FORT GORDON	APPLIED INSTRUCTION FACILITY	4,000	4,000	4,000	0	4,000
250	GEORGIA	ARMY	FT STEWART/HUNTER AAF	MODERNIZE SEWAGE TREATMENT PLANT	2,500	2,500	2,500	0	2,500
251	GEORGIA	ARMY	FT STEWART/HUNTER AAF	PAVE TANK TRAILS	2,700	2,700	2,700	0	2,700
252	GEORGIA	NAVY	ALBANY MARINE CORPS LOGISTICS BASE	CALIBRATION LABORATORY	0	0	3,250	(3,250)	3,250
253	GEORGIA	NAVY	ALBANY MARINE CORPS LOGISTICS BASE	COMBAT VEHICLE MAINTENANCE SHOP	1,300	1,300	1,300	0	1,300
254	GEORGIA	NAVY	ATHENS NAVY SUPPLY CORPS SCHOOL	CHILD CARE CENTER	1,000	1,000	1,000	0	1,000
255	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	BACHELOR ENLISTED QUARTERS	13,600	13,600	13,600	0	13,600
256	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	COMMUNITY IMPACT ASSISTANCE	3,770	11,550	11,549	1	11,549
257	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	DREDGING DIKES	6,870	6,870	6,870	0	6,870
258	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	MAGNETIC SILENCING FACILITY	18,020	18,020	18,020	0	18,020
259	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	ORDNANCE OPERATIONS	5,330	5,330	5,330	0	5,330
260	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	STRATEGIC WEAPONS MAGAZINES	7,600	7,600	7,600	0	7,600
261	GEORGIA	NAVY	KINGS BAY NAVAL SUBMARINE BASE	UTILITIES AND SITE IMPROVEMENTS	3,720	3,720	3,720	0	3,720
262	GEORGIA	AIR FORCE	ROBINS AFB	ADD/ALTER CHILD DEVELOPMENT CENTER	0	0	1,100	(1,100)	1,100
263	GEORGIA	AIR FORCE	ROBINS AFB	C-141 DEPOT MAINTENANCE HANGAR	0	13,700	14,400	(700)	13,700
264	GEORGIA	AIR FORCE	ROBINS AFB	F15-WING REPAIR FACILITY	8,200	8,200	8,200	0	8,200
265	GEORGIA	AIR FORCE	ROBINS AFB	LOGISTICS COMPLEX	9,300	9,300	9,300	0	9,300
266	GEORGIA	AIR FORCE	ROBINS AFB	MILSTAR COMMUNICATIONS GROUND TERMINAL	330	330	330	0	330
267	GEORGIA	AIR FORCE	ROBINS AFB	UPGRADE AIR CONDITIONING FOR DEPOT LABS	720	720	720	0	720
268	GEORGIA	ARMY NATIONAL GU	WINDER	ARMORY, ADDITION/ALTERATION	958	958	958	0	958
269	GEORGIA	ARMY NATIONAL GU	WINDER	ORGANIZATIONAL MAINTENANCE SHOP 8 ADD	284	284	284	0	284
270	GEORGIA	AIR NATIONAL GU	ADOBBINS AFB	ADD TO MEDICAL TRAINING FAC (JOINT W/AFR)	725	725	725	0	725
271	GEORGIA	AIR NATIONAL GU	ADOBBINS AFB	MUNITIONS MAINTENANCE AND STORAGE FAC	2,400	2,400	2,400	0	2,400

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
272	GEORGIA	AIR NATIONAL GUA	DOBBINS AFB	WEAPONS RELEASE SHOP	1,200	1,200	1,200	0	1,200
273	GEORGIA	ARMY RESERVE	FORT GILLEM	MILITARY INTELL CONSOLIDATED TRAINING FAC	1,952	1,952	1,952	0	1,952
274	GEORGIA	ARMY RESERVE	FORT GORDON	REGIONAL TRAINING SITE-MEDICAL	2,236	2,236	2,236	0	2,236
275	GEORGIA	AIR FORCE RESERV	DOBBINS AFB	ADD/ALTER MEDICAL TRAINING (W/ANG)	725	725	725	0	725
276				TOTAL, GEORGIA	106,940	131,020	138,115	(7,095)	137,415
277	HAWAII	ARMY	SCHOFIELD BARRACKS	MILITARY OPERATIONS ON URBANIZED TERRAIN	5,600	5,600	5,600	0	5,600
278	HAWAII	ARMY	SCHOFIELD BARRACKS	MULTI-PURPOSE MACHINE GUN RANGE	4,400	4,400	4,400	0	4,400
279	HAWAII	ARMY	FORT SHAFTER	BARRACKS WITH DINING FACILITY	9,300	9,300	9,300	0	9,300
280	HAWAII	NAVY	KANEOHE BAY MARINE CORPS AIR STATIO	MAINTENANCE HANGARS MODIFICATIONS	7,950	7,950	7,950	0	7,950
281	HAWAII	NAVY	KANEOHE BAY MARINE CORPS AIR STATIO	SPECIALIZED COMPARTMENTED INFORMATION FAC	5,200	5,200	5,200	0	5,200
282	HAWAII	NAVY	LUALUALEI NAVAL MAGAZINE	TOMAHAWK MISSILE MAGAZINES	4,600	4,600	4,600	0	4,600
283	HAWAII	NAVY	PEARL HARBOR NAVAL SUBMARINE BASE	GENERAL PURPOSE BERTHING WHARF	18,600	18,600	18,600	0	18,600
284	HAWAII	NAVY	PEARL HARBOR NAVAL SUBMARINE TRNG C	FIRE FIGHTING & DAMAGE CTRL TRNR FACS	5,550	5,550	5,550	0	5,550
285	HAWAII	NAVY	PEARL HARBOR NAVY PUBLIC WORKS CENT	SANITARY WASTEWATER SYSTEM	750	750	750	0	750
286	HAWAII	NAVY	WAHIAWA NAV COMMS AREA MASTER STA E	COMMUNICATIONS CTR SECURITY IMPROVEMENTS	8,000	0	8,000	(8,000)	8,000
287	HAWAII	AIR FORCE	HICKAM AFB	FIRE PROTECTION-INTELLIGENCE FACILITY	530	530	530	0	530
288	HAWAII	AIR NATIONAL GUA	HICKAM AFB	ALTER AIRCRAFT ENGINE SHOP	570	570	570	0	570
289	HAWAII	AIR NATIONAL GUA	HICKAM AFB	APRON ADDITION	3,300	3,300	3,300	0	3,300
290				TOTAL, HAWAII	74,350	66,350	74,350	(8,000)	74,350
291	IDAHO	AIR FORCE	MOUNTAIN HOME AFB	F111-ADD TO AND ALTER SQUADRON OPS FAC	720	0	0	0	0
292	IDAHO	AIR FORCE	MOUNTAIN HOME AFB	F111-ALTER CORROSION CONTROL FACILITY	1,900	0	0	0	0
293	IDAHO	AIR FORCE	MOUNTAIN HOME AFB	F111-ALTER FUEL SYSTEM MAINTENANCE DOCK	1,300	0	0	0	0
294	IDAHO	ARMY NATIONAL GU	GOWEN FIELD	MATES SPT & WASH FACI	3,429	3,429	3,429	0	3,429
295	IDAHO	ARMY NATIONAL GU	GOWEN FIELD	MOBILIZATION AND TRAINING EQUIPMENT SITE	7,618	7,618	7,618	0	7,618
296	IDAHO	AIR NATIONAL GUA	BOISE AIRPORT	ADD TO/ALTER VEHICLE MAINTENANCE FACILITY	1,450	1,450	1,450	0	1,450
297				TOTAL, IDAHO	16,417	12,497	12,497	0	12,497
298	ILLINOIS	ARMY	MEL PRICE SUPPORT CENTER	ALTER DORMITORY	0	0	3,750	(3,750)	3,750
299	ILLINOIS	ARMY	SAVANNA ARMY DEPOT	FUNCTION TEST RANGE	0	850	0	850	850
300	ILLINOIS	NAVY	GREAT LAKES NAVAL HOSPITAL	BACHELOR ENLISTED QUARTERS	10,470	10,470	10,470	0	10,470
301	ILLINOIS	NAVY	GREAT LAKES NAVAL HOSPITAL	HOSPITAL CORPS SCHOOL ADDITION	1,800	1,800	1,800	0	1,800
302	ILLINOIS	NAVY	GREAT LAKES NAVAL TRAINING CENTER	CHILD CARE CENTER	2,300	2,300	2,300	0	2,300
303	ILLINOIS	NAVY	GREAT LAKES NAVAL TRAINING CENTER	ELECTRICIANS & COMMUNICATIONS TRNG BLDG	13,600	13,600	13,600	0	13,600
304	ILLINOIS	AIR FORCE	SCOTT AFB	DORMITORY	0	0	8,400	(8,400)	8,400
305	ILLINOIS	ARMY NATIONAL GU	DECATUR	ARMORY AND ORGANIZATIONAL MAINTENANCE SHOP	0	3,304	3,120	184	3,304

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
306	ILLINOIS	ARMY NATIONAL GU	FREEPORT	ARMORY ADDITION/ALTERATION	375	375	375	0	375
307	ILLINOIS	ARMY NATIONAL GU	MACHESNEY PARK	ARMORY	0	2,920	0	2,920	2,920
308	ILLINOIS	ARMY NATIONAL GU	MACHESNEY PARK	ORGANIZATIONAL MAINTENANCE SHOP	0	586	0	586	586
309	ILLINOIS	ARMY NATIONAL GU	MARSEILLES	SMALL ARMS AMMUNITION STORAGE FACILITY	0	307	0	307	307
310	ILLINOIS	ARMY NATIONAL GU	MARSEILLES	SURFACED ROADWAY	0	325	0	325	325
311	ILLINOIS	ARMY NATIONAL GU	SPRINGFIELD	ENGINEER BUILDING/STOR	386	386	386	0	386
312	ILLINOIS	ARMY NATIONAL GU	URBANA	ARMORY	0	0	865	(865)	865
313	ILLINOIS	ARMY NATIONAL GU	WILLIAMSON	ARMORY W/MAINTENANCE SHOP	0	2,592	2,592	0	2,592
314	ILLINOIS	AIR NATIONAL GUAG	GREATER PEORIA AIRPORT	BASE SUPPLIES AND EQUIPMENT WAREHOUSE	2,600	2,600	2,600	0	2,600
315	ILLINOIS	AIR NATIONAL GUAG	GREATER PEORIA AIRPORT	JET FUEL STORAGE COMPLEX	2,800	2,800	2,800	0	2,800
316	ILLINOIS	AIR NATIONAL GUAG	GREATER PEORIA AIRPORT	SUPPORT EQUIPMENT SHOP	950	950	950	0	950
317	ILLINOIS	NAVY RESERVE	NAS GLENVIEW	BACHELOR ENLISTED QUARTERS	4,700	4,700	4,700	0	4,700
318	ILLINOIS	NAVY RESERVE	NAS GLENVIEW	TACTICAL AIR COMMAND CENTER	600	600	600	0	600
319	ILLINOIS	NAVY RESERVE	NRC DECATUR	RESERVE CENTER ACQUISITION	1,000	1,000	1,000	0	1,000
320	ILLINOIS	AIR FORCE RESERV	CHANUTE AFB	CIVIL ENGINEERING TRAINING FACILITY	1,000	1,000	1,000	0	0
321				TOTAL, ILLINOIS	42,581	53,465	61,308	(7,843)	65,480
322	INDIANA	ARMY	FORT BENJAMIN HARRISON	WASTEWATER TREATMENT FACILITY	0	359	359	0	359
323	INDIANA	NAVY	CRANE NAVAL WEAPONS SUPPORT CENTER	BATTERY TEST FACILITY	0	3,200	4,000	(800)	4,000
324	INDIANA	NAVY	INDIANAPOLIS NAVAL AVIONICS CENTER	INDUSTRIAL PARTS FACILITY	8,000	8,000	8,000	0	8,000
325	INDIANA	AIR FORCE	GRISSOM AFB	WASTE WATER TREATMENT PLANT MODERNIZATION	0	4,650	0	4,650	4,650
326	INDIANA	AIR FORCE	GRISSOM AFB	WING HEADQUARTERS AND COMMAND POST	0	2,150	2,150	0	2,150
327	INDIANA	ARMY NATIONAL GU	STOUT FIELD (INDIANAPOLIS)	DLOG ADDITION	742	742	742	0	742
328	INDIANA	AIR NATIONAL GUAH	ULMAN FIELD	ADD TO AND ALTER BASE SUPPLY WAREHOUSE	1,750	1,750	1,750	0	1,750
329	INDIANA	AIR NATIONAL GUAF	T WAYNE MAP	MUNITIONS MAINT/STORAGE COMPLEX	1,950	1,950	1,950	0	1,950
330	INDIANA	ARMY RESERVE	KINGSBURY	ARMY RESERVE CENTER W/MAINTENANCE FACILITY	3,435	3,435	3,435	0	3,435
331				TOTAL, INDIANA	15,877	26,236	22,386	3,850	27,036
332	IOWA	ARMY NATIONAL GU	ALGONA	ARMORY	868	868	868	0	868
333	IOWA	ARMY NATIONAL GU	CAMP DODGE	ARMORY	0	6,857	0	6,857	6,857
334	IOWA	ARMY NATIONAL GU	CENTERVILLE	ARMORY	995	995	995	0	995
335	IOWA	AIR NATIONAL GUAS	IOUX GATEWAY AIRPORT	ADD TO ECM SHOP	0	0	390	(390)	390
336	IOWA	AIR NATIONAL GUAS	IOUX GATEWAY AIRPORT	BASE SUPPLY WAREHOUSE	0	0	2,550	(2,550)	2,550
337	IOWA	AIR NATIONAL GUAS	IOUX GATEWAY AIRPORT	LAND ACQUISITION	0	0	550	(550)	550
338				TOTAL, IOWA	1,863	8,720	5,353	3,367	12,210
339	KANSAS	ARMY	FORT LEAVENWORTH	CHILD DEVELOPMENT/RELIGIOUS EDUCATION FAC	5,500	3,000	5,500	(2,500)	3,000

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340	KANSAS	ARMY	FORT RILEY	CHILD DEVELOPMENT CENTER	1,500	1,500	1,500	0	1,500
341	KANSAS	ARMY	FORT RILEY	STANDBY EMERGENCY GENERATORS	580	580	580	0	580
342	KANSAS	ARMY	FORT RILEY	WATER TREATMENT PLANT	10,600	10,600	10,600	0	10,600
343	KANSAS	AIR FORCE	MCCONNELL AFB	ADD/ALTER PHYSICAL FITNESS CENTER	0	5,200	0	5,200	5,200
344	KANSAS	ARMY NATIONAL GU	TOPEKA	UNITED STATES PROPERTY & FISCAL FACILITY	1,400	1,400	1,400	0	1,400
345	KANSAS	AIR NATIONAL GUAM	CONNELL AFB	CONSTRUCT ARM/DISARM APRON	520	520	520	0	520
346	KANSAS	AIR NATIONAL GUAM	CONNELL AFB	LAND ACQUISIITON	0	5,200	5,200	0	5,200
347	KANSAS	AIR NATIONAL GUAM	CONNELL AFB	OPERATION AND TRAINING FACILITY	0	0	3,700	(3,700)	3,700
348	KANSAS	ARMY RESERVE	FORT RILEY	ADD/ALT MAINTENANCE FACILITY/NEW WAREHOUSE	4,028	4,028	4,028	0	4,028
349				TOTAL, KANSAS	24,128	32,028	33,028	(1,000)	35,728
350	KENTUCKY	ARMY	FORT CAMPBELL	CHILD DEVELOPMENT CENTER (2)	5,500	5,500	5,500	0	5,500
351	KENTUCKY	ARMY	FORT CAMPBELL	FLIGHT SIMULATORS	2,550	2,550	2,550	0	2,550
352	KENTUCKY	ARMY	FORT CAMPBELL	SPECIAL OPNS AIRCRAFT MAINTENANCE HANGAR	8,200	8,200	8,200	0	8,200
353	KENTUCKY	ARMY	FORT CAMPBELL	TACTICAL EQUIPMENT SHOP	14,200	14,200	14,200	0	14,200
354	KENTUCKY	ARMY	FORT KNOX	M1 TANK DRIVER TRAINING FACILITY	0	0	6,500	(6,500)	5,900
355	KENTUCKY	ARMY	FORT KNOX	PHYSICAL FITNESS CENTER TRAINING CENTER	0	5,420	5,419	1	5,300
356	KENTUCKY	ARMY	FORT KNOX	PORTER RIVER ROAD BRIDGE	2,200	2,200	2,200	0	2,200
357	KENTUCKY	ARMY NATIONAL GU	ASHLAND	ARMORY	0	2,464	0	2,464	2,464
358				TOTAL, KENTUCKY	32,650	40,534	44,569	(4,035)	46,314
359	LOUISIANA	ARMY	FORT POLK	GENERAL PURPOSE WAREHOUSE	1,150	1,150	1,150	0	1,150
360	LOUISIANA	ARMY	FORT POLK	GENERAL PURPOSE WAREHOUSES	12,600	12,600	12,600	0	12,600
361	LOUISIANA	ARMY	FORT POLK	RANGE MODERNIZATION	9,600	9,600	9,600	0	9,600
362	LOUISIANA	AIR FORCE	BARKSDALE AFB	DORMITORIES	7,700	7,700	7,700	0	7,700
363	LOUISIANA	AIR FORCE	ENGLAND AFB	ADD TO AND ALTER ACFT CORROSION CTRL FAC	2,700	2,700	2,700	0	2,700
364	LOUISIANA	AIR FORCE	ENGLAND AFB	ALTER DORMITORIES	0	0	3,200	(3,200)	3,200
365	LOUISIANA	AIR FORCE	ENGLAND AFB	BASE SUPPLY COMPLEX	0	0	4,100	(4,100)	4,100
366	LOUISIANA	AIR FORCE	ENGLAND AFB	FLIGHTLINE FENCE AND LIGHTS	0	0	300	(300)	300
367	LOUISIANA	ARMY NATIONAL GU	FORT POLK (LEESVILLE)	MOBILIZATION AND TRAINING EQUIPMENT EXP	3,306	3,306	3,306	0	3,306
368	LOUISIANA	AIR NATIONAL GUA	HAMMOND	COMM-ELECTRONICS TRAINING COMPLEX	650	650	650	0	650
369	LOUISIANA	AIR NATIONAL GUA	NEW ORLEANS NAS	POWER CHECK PAD WITH SOUND SUPPRESSOR	900	900	900	0	900
370	LOUISIANA	NAVY RESERVE	NAVAL AIR STATION NEW ORLEANS	AIRCRAFT POWER CHECK PAD	520	520	520	0	520
371	LOUISIANA	NAVY RESERVE	NAVAL SUPPORT ACTIVITY NEW ORLEANS	COMPUTER FACILITY	305	305	305	0	305
372	LOUISIANA	NAVY RESERVE	NMCRC SHREVEPORT	RESERVE TRAINING BUILDING	3,200	3,200	3,200	0	3,200
373	LOUISIANA	AIR FORCE RESERV	BARKSDALE AFB	ADD/ALTER OPERATIONAL TRAINING FACILITY	1,600	1,600	1,600	0	1,600

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
374				TOTAL, LOUISIANA	44,231	44,231	51,831	(7,600)	51,831
375	MAINE	NAVY	BRUNSWICK NAVAL AIR STATION	CHILD CARE CENTER	1,000	1,000	1,000	0	1,000
376	MAINE	NAVY	BRUNSWICK NAVAL BRANCH MEDICAL CLINA	VIATION PHYSIOLOGY TRAINING FACILITY	2,650	2,650	2,650	0	2,650
377	MAINE	NAVY	KITTERY PORTSMOUTH NAVAL SHIPYARD	CHILD CARE CENTER	1,000	1,000	1,000	0	1,000
378	MAINE	AIR FORCE	LORING AFB	DORMITORY	8,500	8,500	8,500	0	8,500
379	MAINE	DEFENSE AGENCIES	DFSP SEARSPORT - DLA	TERMINAL AUTOMATION	2,700	0	2,700	(2,700)	2,700
380	MAINE	AIR NATIONAL GUA	BANGOR IAP	AIRCRAFT ARRESTING SYSTEMS	760	760	760	0	760
381	MAINE	AIR NATIONAL GUA	BANGOR IAP	COMPOSITE AIRCRAFT ENGINE AND NDI SHOP	1,300	1,300	1,300	0	1,300
382				TOTAL, MAINE	17,910	15,210	17,910	(2,700)	17,910
383	MARYLAND	ARMY	ABERDEEN PROVING GROUND	ADP FACILITY ADDITION	0	1,700	0	1,700	1,700
384	MARYLAND	ARMY	FORT DETRICK	CHAPEL CENTER/CHILD DEVELOPMENT CENTER	2,300	1,300	2,300	(1,000)	1,300
385	MARYLAND	ARMY	FORT GEORGE G MEADE	CHILD DEVELOPMENT CENTER (2)	6,200	6,200	6,200	0	6,200
386	MARYLAND	ARMY	FORT RITCHIE	CHILD DEVELOPMENT CENTER ADDITION	630	630	630	0	630
387	MARYLAND	NAVY	ANNAPOLIS NAVAL ACADEMY	BANCROFT HALL EXPANSION	24,000	0	24,000	(24,000)	0
388	MARYLAND	NAVY	INDIAN HEAD NAVAL EXPLOSIVE ORD TEC	ORDNANCE COUNTERMEASURES LABORATORY	7,700	7,700	7,700	0	7,700
389	MARYLAND	NAVY	INDIAN HEAD NAVAL ORDNANCE STATION	MIX, CAST, CURE FACILITY	10,670	10,670	10,670	0	10,670
390	MARYLAND	NAVY	PATUXENT RIVER NAVAL AIR TEST CENTE	AIRCRAFT FLIGHT SYSTEMS EQUIPMENT LAB	2,000	2,000	2,000	0	2,000
391	MARYLAND	NAVY	PATUXENT RIVER NAVAL AIR TEST CENTE	FLIGHT TEST HANGAR	15,000	15,000	15,000	0	15,000
392	MARYLAND	NAVY	ST INIGOES NAVAL ELECTRONIC SYS ENG	UTILITIES IMPROVEMENTS (INCREMENT II)	2,950	2,950	2,950	0	2,950
393	MARYLAND	AIR FORCE	ANDREWS AFB	PRECISION MEASUREMENT EQUIPMENT LAB	1,350	1,350	1,350	0	1,350
394	MARYLAND	AIR FORCE	ANDREWS AFB	VEHICLE MAINTENANCE/OPERATION COMPLEX	4,200	4,200	4,200	0	4,200
395	MARYLAND	DEFENSE AGENCIES	ANDREWS AIR FORCE BASE - DMSA	CLINIC ANNEX ADDITION/ALTERATION	2,900	2,900	2,900	0	2,900
396	MARYLAND	DEFENSE AGENCIES	ARMED FCS RADIOBIOLOGY RES INST BE	TRESEARCH FACILITY ADDITION	900	900	900	0	900
397	MARYLAND	DEFENSE AGENCIES	FORT MEADE - NSA	CHILLER PLANT	14,000	14,000	14,000	0	14,000
398	MARYLAND	DEFENSE AGENCIES	FORT MEADE - NSA	ELECT DIST UPGRADE	2,323	2,323	2,323	0	2,323
399	MARYLAND	DEFENSE AGENCIES	FORT MEADE - NSA	SPRINKLERS OPS BLDG	5,121	5,121	5,121	0	5,121
400	MARYLAND	DEFENSE AGENCIES	UNI SVC UNIV HEALTH SCI	ALTERATIONS GROUND FLOOR, BUILDING 70	600	600	600	0	600
401	MARYLAND	ARMY NATIONAL GU	CHESTERTOWN	ARMORY, REHAB/ADD	1,129	1,129	1,129	0	1,129
402	MARYLAND	AIR NATIONAL GUA	GLENN L MARTIN AIRPORT	BASE ENGINEER MAINTENANCE FACILITY	1,700	1,700	1,700	0	1,700
403	MARYLAND	AIR NATIONAL GUA	GLENN L MARTIN AIRPORT	COMPOSITE SUPPORT FACILITY	2,150	2,150	2,150	0	2,150
404				TOTAL, MARYLAND	107,823	84,523	107,823	(23,300)	84,523
405	MASSACHUSETTS	ARMY	FORT DEVENS	ELECTRICAL SUBSTATIONS	3,550	3,550	3,550	0	3,550
406	MASSACHUSETTS	AIR FORCE	HANSCOM AFB	UPGRADE GEOPHYSICS LABORATORY	5,600	5,600	5,600	0	5,600
407	MASSACHUSETTS	AIR NATIONAL GUA	BARNES MAP	COMPOSITE BASE ENGR/FIRE STATION FACILITY	2,200	2,200	2,200	0	2,200

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#	LOCATION	SERVICE	INSTALLATION
408	MASSACHUSETTS	AIR NATIONAL GUA	FORT DEVENS
409	MASSACHUSETTS	AIR NATIONAL GUA	OTIS ANGB
410	MASSACHUSETTS	AIR NATIONAL GUA	OTIS ANGB
411	MASSACHUSETTS	ARMY RESERVE	DEVENS
412	MASSACHUSETTS	NAVY RESERVE	NAVAL AIR STATION SOUTH WEYMOUTH
413			
414	MICHIGAN	AIR FORCE	K.I. SAWYER AFB
415	MICHIGAN	ARMY NATIONAL GUA	BERRIEN COUNTY
416	MICHIGAN	ARMY NATIONAL GUA	CAMP GRAYLING
417	MICHIGAN	ARMY NATIONAL GUA	CAMP GRAYLING
418	MICHIGAN	ARMY NATIONAL GUA	MENOMINEE COUNTY
419	MICHIGAN	ARMY NATIONAL GUA	SHIAWASSEE COUNTY
420	MICHIGAN	AIR NATIONAL GUA	SELFRIDGE ANGB
421	MICHIGAN	AIR NATIONAL GUA	SELFRIDGE ANGB
422	MICHIGAN	AIR NATIONAL GUA	SELFRIDGE ANGB
423	MICHIGAN	AIR NATIONAL GUA	SELFRIDGE ANGB
424	MICHIGAN	AIR NATIONAL GUA	W KELLOGG REGIONAL AIRPORT
425	MICHIGAN	ARMY RESERVE	BAY CITY
426	MICHIGAN	NAVY RESERVE	NAF DETROIT
427	MICHIGAN	AIR FORCE RESERV	SELFRIDGE ANGB
428			
429	MINNESOTA	ARMY NATIONAL GUA	CAMP RIPLEY
430	MINNESOTA	ARMY NATIONAL GUA	CAMP RIPLEY
431	MINNESOTA	AIR NATIONAL GUA	DULUTH ANGB
432	MINNESOTA	AIR NATIONAL GUA	DULUTH ANGB
433	MINNESOTA	AIR NATIONAL GUA	DULUTH ANGB
434	MINNESOTA	ARMY RESERVE	ARDEN HILLS
435	MINNESOTA	AIR FORCE RESERV	MINN-ST PAUL IAP
436			
437	MISSISSIPPI	NAVY	MERIDIAN NAVAL AIR STATION
438	MISSISSIPPI	NAVY	PASCAGOULA NAVAL STATION
439	MISSISSIPPI	AIR FORCE	COLUMBUS AFB
440	MISSISSIPPI	DEFENSE AGENCIES	PASCAGOULA NAVAL STATION - DMSA
441	MISSISSIPPI	ARMY NATIONAL GUA	CKERMAN

PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
COMM-ELECTRONICS TRAINING COMPLEX	7,100	7,100	7,100	0	7,100
ADD TO/ALTER MUNITIONS MAINT/STORAGE FAC	2,700	2,700	2,700	0	2,700
FUEL DISTRIBUTION SYSTEM	0	0	5,200	(5,200)	5,200
REGIONAL TRAINING SITE-MAINTENANCE	2,705	2,705	2,705	0	2,705
CONTROL TOWER FACILITY	2,350	2,350	2,350	0	2,350
TOTAL, MASSACHUSETTS	26,205	26,205	31,405	(5,200)	31,405
FITNESS CENTER	0	0	4,300	(4,300)	4,300
ARMORY	0	1,250	1,206	44	1,250
RANGE, MPRC (RETS)	14,483	14,483	7,000	7,483	7,000
WASTE WATER TREATMENT FACILITY	0	0	3,283	(3,283)	3,283
ARMORY	0	1,167	1,167	0	1,167
ARMORY	0	1,450	1,406	44	1,450
ADD TO MUNITIONS MAINTENANCE COMPLEX	1,050	1,050	1,050	0	1,050
ADD TO/ALTER COMP AVIONICS/MAINT SHOPS	1,750	1,750	1,750	0	1,750
AMMUNITION STORAGE IGLOO	700	700	700	0	700
POWER CHECK PAD WITH SOUND SUPPRESSORS	700	700	700	0	700
JET FUEL STORAGE COMPLEX	2,600	2,600	2,600	0	2,600
ADD/ALT ARMY RESERVE CTR W/MAINTENANCE FAC	3,631	3,631	3,631	0	3,631
RESERVE CENTER REHABILITATION	1,000	1,000	1,000	0	1,000
AVIONICS SHOP	1,250	1,250	1,250	0	1,250
TOTAL, MICHIGAN	27,164	31,031	31,043	(12)	31,131
ARMORY	4,219	4,219	4,219	0	4,219
BARRACKS	0	8,800	0	8,800	8,800
ADD TO/ALT MUNITIONS MAINT/STORAGE CPLX	720	720	720	0	720
ADD TO/ALTER COMPOSITE SUPPORT FACILITY	2,700	2,700	2,700	0	2,700
POWER CHECK PAD WITH SOUND SUPPRESSOR	750	750	750	0	750
ARMY RESERVE CENTER W/MAINTENANCE FACILITY	14,160	14,160	14,160	0	14,160
ALTER AIRCRAFT MAINTENANCE FACILITY	370	370	370	0	370
TOTAL, MINNESOTA	22,919	31,719	22,919	8,800	31,719
AIRCRAFT MAINTENANCE FACILITIES	11,800	11,800	11,800	0	11,800
PHYSICAL FITNESS FACILITY	2,220	2,220	2,220	0	2,220
BASE FLIGHT OPERATIONS	1,200	1,200	1,200	0	1,200
MEDICAL/DENTAL CLINIC	2,548	2,548	2,548	0	2,548
ARMORY ADDITION	0	735	0	735	735

#	LOCATION	SERVICE	INSTALLATION
442	MISSISSIPPI	ARMY NATIONAL GUARD	ARMORY
443	MISSISSIPPI	ARMY NATIONAL GUARD	CAMP MCCAIN
444	MISSISSIPPI	ARMY NATIONAL GUARD	CAMP SHELBY
445	MISSISSIPPI	ARMY NATIONAL GUARD	CAMP SHELBY
446	MISSISSIPPI	ARMY NATIONAL GUARD	CAMP SHELBY
447	MISSISSIPPI	ARMY NATIONAL GUARD	FLOWOOD
448	MISSISSIPPI	ARMY NATIONAL GUARD	IUKA
449	MISSISSIPPI	ARMY NATIONAL GUARD	LOUISVILLE
450	MISSISSIPPI	ARMY NATIONAL GUARD	PHILADELPHIA
451	MISSISSIPPI	AIR NATIONAL GUARD	ALLEN C THOMPSON FIELD
452	MISSISSIPPI	AIR NATIONAL GUARD	KEY FIELD
453	MISSISSIPPI	AIR NATIONAL GUARD	KEY FIELD
454			
455	MISSOURI	ARMY	FORT LEONARD WOOD
456	MISSOURI	ARMY	FORT LEONARD WOOD
457	MISSOURI	NAVY	KANSAS CITY MC SUPPORT ACTIVITY
458	MISSOURI	AIR FORCE	WHITEMAN AFB
459	MISSOURI	AIR FORCE	WHITEMAN AFB
460	MISSOURI	AIR FORCE	WHITEMAN AFB
461	MISSOURI	AIR FORCE	WHITEMAN AFB
462	MISSOURI	AIR FORCE	WHITEMAN AFB
463	MISSOURI	AIR FORCE	WHITEMAN AFB
464	MISSOURI	AIR FORCE	WHITEMAN AFB
465	MISSOURI	AIR FORCE	WHITEMAN AFB
466	MISSOURI	AIR FORCE	WHITEMAN AFB
467	MISSOURI	AIR FORCE	WHITEMAN AFB
468	MISSOURI	AIR FORCE	WHITEMAN AFB
469	MISSOURI	AIR FORCE	WHITEMAN AFB
470	MISSOURI	AIR FORCE	WHITEMAN AFB
471	MISSOURI	AIR FORCE	WHITEMAN AFB
472	MISSOURI	AIR FORCE	WHITEMAN AFB
473	MISSOURI	AIR FORCE	WHITEMAN AFB
474	MISSOURI	ARMY NATIONAL GUARD	AURORA
475	MISSOURI	ARMY NATIONAL GUARD	FORT CROWDER

PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
ARMORY ADDITION	0	310	0	310	310
LAND ACQUISITION	0	4,000		4,000	4,000
ALTER ENGINEERING BUILDING	0	0	400	(400)	400
BACHELOR OFFICER QUARTERS	0	0	700	(700)	700
M-16 FIRING RANGE	0	0	300	(300)	300
USPFO	0	1,300	0	1,300	1,300
ARMORY ADDITION	0	710	0	710	710
ORGANIZATIONAL MAINTENANCE SHOP	0	600	0	600	600
ORGANIZATIONAL MAINTENANCE SHOP	0	400	0	400	400
ADD TO AND ALTER BASE SUPPLY WAREHOUSE	2,000	2,000	2,000	0	2,000
ADD TO BASE SUPPLY WAREHOUSE	300	300	300	0	300
COMPOSITE MAINTENANCE HANGAR	0	12,000	0	12,000	12,000
TOTAL, MISSISSIPPI	20,068	40,123	21,468	18,655	41,523
AUTOMATED RECORD FIRE RANGES	2,150	2,150	2,150	0	2,150
INSTRUCTIONAL MEDIA CENTER	8,300	8,300	8,300	0	8,300
FINANCE AND DATA PROCESSING CENTER, PHASE I	0	0	10,000	(10,000)	10,000
B2-ADD TO AND ALTER UTILITIES	7,900	7,900	7,900	0	7,900
B2-AIRCRAFT APRON AND TAXIWAY UPGRADE	7,500	7,500	7,500	0	7,500
B2-AIRCRAFT MAINTENANCE DOCKS	19,000	19,000	19,000	0	19,000
B2-AREA SECURITY IMPROVEMENTS	3,500	3,500	3,500	0	3,500
B2-CONTROL TOWER	2,900	2,900	2,900	0	2,900
B2-DEFENSE ACCESS ROADS	3,000	3,000	3,000	0	3,000
B2-DORMITORY	5,900	5,900	5,900	0	5,900
B2-ENGINE MAINTENANCE SHOP	2,600	2,600	2,600	0	2,600
B2-HYDRANT FUEL/AIRCRAFT SUPPORT SYSTEMS	24,800	24,800	24,800	0	24,800
B2-MAINTENANCE CONTROL COMPLEX	4,300	4,300	4,300	0	4,300
B2-MISSION OPERATIONS CENTER	5,000	5,000	5,000	0	5,000
B2-TEMPORARY LODGING FACILITY	3,200	3,200	3,200	0	3,200
B2-TRANSIENT DORMITORY	6,200	6,200	6,200	0	6,200
B2-UPGRADE AIRFIELD LIGHTING SYSTEM	2,300	2,300	2,300	0	2,300
B2-WEAPONS STORAGE IGLOOS	2,400	2,400	2,400	0	2,400
B2-UNSPECIFIED REDUCTION	0	0	(50,000)	50,000	(25,000)
ARMORY	1,182	1,182	1,182	0	1,182
POST/ENG SUPPLY BUILD	357	357	357	0	357

#	LOCATION	SERVICE	INSTALLATION
476	MISSOURI	ARMY NATIONAL GU	JEFFERSON CITY
477	MISSOURI	AIR NATIONAL GUARD	SECRANS MEMORIAL AIRPORT
478	MISSOURI	AIR NATIONAL GUARD	SECRANS MEMORIAL AIRPORT
479	MISSOURI	AIR NATIONAL GUARD	ST LOUIS-LAMBERT FIELD
480	MISSOURI	AIR NATIONAL GUARD	ST LOUIS-LAMBERT FIELD
481	MISSOURI	NAVY RESERVE	NMCRC SPRINGFIELD
482	MISSOURI	NAVY RESERVE	NMCRC ST LOUIS
483	MISSOURI	AIR FORCE RESERV	RICHARDS-GEBAUR
484			
485	MONTANA	AIR FORCE	MALMSTROM AFB
486	MONTANA	AIR FORCE	MALMSTROM AFB
487	MONTANA	AIR FORCE	MALMSTROM AFB
488	MONTANA	AIR FORCE	MALMSTROM AFB
489	MONTANA	AIR FORCE	MALMSTROM AFB
490	MONTANA	AIR FORCE	MALMSTROM AFB
491	MONTANA	AIR FORCE	MALMSTROM AFB
492	MONTANA	AIR FORCE	MALMSTROM AFB
493	MONTANA	AIR FORCE	MALMSTROM AFB
494	MONTANA	AIR FORCE	MALMSTROM AFB
495	MONTANA	ARMY NATIONAL GU	LIBBY
496			
497	NEBRASKA	AIR FORCE	OFFUTT AFB
498	NEBRASKA	ARMY NATIONAL GU	HASTINGS
499	NEBRASKA	ARMY NATIONAL GU	LINCOLN
500	NEBRASKA	ARMY NATIONAL GU	LINCOLN
501	NEBRASKA	ARMY NATIONAL GU	LINCOLN
502			
503	NEVADA	NAVY	FALLON NAVAL AIR STATION
504	NEVADA	AIR FORCE	NELLIS AFB
505	NEVADA	AIR FORCE	NELLIS AFB
506	NEVADA	DEFENSE AGENCIES	NELLIS AFB
507	NEVADA	DEFENSE AGENCIES	NELLIS AFB - SDIO
508	NEVADA	AIR NATIONAL GUARD	RENO IAP
509			

PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
REGIONAL MAINTENANCE TRAINING SITE	2,395	2,395	2,395	0	2,395
AVIONICS FACILITY	680	680	680	0	680
COMPOSITE SUPPORT FACILITY	2,300	2,300	2,300	0	2,300
ADD TO AND ALTER DINING HALL	350	350	350	0	350
ADD TO/ALTER WEAPONS RELEASE AND AGE SHOP	1,150	1,150	1,150	0	1,150
RESERVE CENTER ADDITION	1,900	1,900	1,900	0	1,900
RESERVE CENTER ADDITION	2,200	2,200	2,200	0	2,200
JET FUEL STORAGE COMPLEX	2,350	2,350	2,350	0	2,350
TOTAL, MISSOURI	125,814	125,814	85,814	40,000	110,814
KC135R REBASING-ACFT PARKING APRON LIGHTS	240	240	240	0	240
KC135R REBASING-ADD TO SPT EQ SHP/STG FAC	1,300	1,300	1,300	0	1,300
KC135R REBASING-ADD/ALTER ALERT CREW FAC	1,300	1,300	1,300	0	1,300
KC135R REBASING-ALERT AREA SEC & BLST FEN	510	510	510	0	510
KC135R REBASING-FLIGHT SIM TNG FACILITY	1,700	1,700	1,700	0	1,700
KC135R REBASING-JET FUEL STG & DISP FACS	5,700	5,700	5,700	0	5,700
KC135R REBASING-PERSONNEL SUPPORT FACS	1,200	1,200	1,200	0	1,200
KC135R REBASING-PUBLICATION DIST FAC	650	650	650	0	650
KC135R REBASING-THREE BAY ACFT MAINT HGR	15,400	15,400	15,400	0	15,400
KC135R REBASING-UPGR/EXP ALERT ACFT PKG	4,100	4,100	4,100	0	4,100
ARMORY	827	827	827	0	827
TOTAL, MONTANA	32,927	32,927	32,927	0	32,927
EXPAND COMMUNICATIONS DUCTWORK	1,150	1,150	1,150	0	1,150
RANGE MULTIPURPOSE INDOOR	336	336	336	0	336
ADD TO AIRCRAFT PARKING RAMP	0	0	597	(597)	597
ARMORY	4,984	4,984	4,984	0	4,984
COMBINED SUPPORT MAINTENANCE SHOP	0	0	3,438	(3,438)	3,438
TOTAL, NEBRASKA	6,470	6,470	10,505	(4,035)	10,505
CHILD CARE CENTER	1,000	1,000	1,000	0	1,000
EXTEND PARALLEL TAXIWAY	4,250	4,250	4,250	0	4,250
LANTIRN MAINTENANCE FACILITY	550	550	550	0	550
CONSOLIDATED MEDICAL FACILITY REPLACEMENT PHA	0	10,000	10,000	0	10,000
MISTY ZEPHYR TEST SITE	6,542	6,542	6,542	0	6,542
ADD TO AVIONICS AND ECM SHOP	600	600	600	0	600
TOTAL, NEVADA	12,942	22,942	22,942	0	22,942

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
510	NEW HAMPSHIRE	AIR NATIONAL GUA	PEASE AFB	ADD TO AIRCRAFT MAINTENANCE HANGAR	1,600	1,600	1,600	0	1,600
511	NEW HAMPSHIRE	AIR NATIONAL GUA	PEASE AFB	ALTER COMP CIV ENGINEERING/AVIONICS SHOP	1,600	1,600	1,600	0	1,600
512	NEW HAMPSHIRE	AIR NATIONAL GUA	PEASE AFB	ALTER FUEL SYSTEMS MAINTENANCE DOCK	1,200	1,200	1,200	0	1,200
513				TOTAL, NEW HAMPSHIRE	4,400	4,400	4,400	0	4,400
514	NEW JERSEY	ARMY	FORT MONMOUTH	IMPROVE ELECTRICAL DISTRIBUTION	8,600	8,600	8,600	0	8,600
515	NEW JERSEY	ARMY	PICATINNY ARSENAL	ARMAMENT TECHNOLOGY LABORATORY	11,800	11,800	11,800	0	11,800
516	NEW JERSEY	NAVY	BAYONNE NAVY PUBS & PRINTING SERV D	PRINTING PLANT	1,000	1,000	1,000	0	1,000
517	NEW JERSEY	NAVY	EARLE NAVAL WEAPONS STATION	FAMILY SERVICES CENTER	570	570	570	0	570
518	NEW JERSEY	NAVY	EARLE NAVAL WEAPONS STATION	PROJECTILE MAGAZINES	13,700	13,700	13,700	0	13,700
519	NEW JERSEY	AIR FORCE	MCGUIRE AFB	ALTER DORMITORIES	4,900	4,900	4,900	0	4,900
520	NEW JERSEY	ARMY NATIONAL GU	NEWTON	RANGE, MINI TANK	251	251	251	0	251
521	NEW JERSEY	ARMY NATIONAL GU	VINELAND	RANGE, MINI TANK	214	214	214	0	214
522	NEW JERSEY	ARMY NATIONAL GU	WASHINGTON	RANGE, MINI TANK	188	188	188	0	188
523	NEW JERSEY	AIR NATIONAL GUA	ATLANTIC CITY	COMP BASE ENGINEERING AND VEH MAINT FAC	2,200	2,200	2,200	0	2,200
524	NEW JERSEY	AIR NATIONAL GUA	MCGUIRE AFB	ALTER AVIONICS SHOP	1,200	1,200	1,200	0	1,200
525	NEW JERSEY	AIR NATIONAL GUA	MCGUIRE AFB	COMPOSITE AIRCRAFT MAINTENANCE FACILITY	1,600	1,600	1,600	0	1,600
526	NEW JERSEY	AIR FORCE RESERV	MCGUIRE AFB	ADD/ALTER OPERATIONAL TRAINING FACILITY	1,050	1,050	1,050	0	1,050
527				TOTAL, NEW JERSEY	47,273	47,273	47,273	0	47,273
528	NEW MEXICO	NAVY	ELEPHANT BUTTE NAVAL SPACE SURV FIE	SPACE SURVEILLANCE ANTENNA MODERNIZATION	4,700	4,700	4,700	0	4,700
529	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	ADD TO AND ALTER COMMUNICATIONS MNT FACS	7,700	7,700	7,700	0	7,700
530	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	ALTER DORMITORIES	4,800	4,800	4,800	0	4,800
531	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	WAR READINESS MATERIEL STORAGE DEPOT	4,850	4,850	4,850	0	4,850
532	NEW MEXICO	AIR FORCE	KIRTLAND AFB	ALTER DORMITORY	5,000	5,000	5,000	0	5,000
533	NEW MEXICO	AIR FORCE	KIRTLAND AFB	SOF-ALTER MAINTENANCE HANGAR	1,850	1,850	1,850	0	1,850
534	NEW MEXICO	AIR FORCE	KIRTLAND AFB	SOF-AVIONICS SHOP	4,400	4,400	4,400	0	4,400
535	NEW MEXICO	AIR FORCE	KIRTLAND AFB	SOF-FIELD TRAINING DETACHMENT FACILITY	2,100	2,100	2,100	0	2,100
536	NEW MEXICO	AIR FORCE	KIRTLAND AFB	SOF-FLIGHT SIMULATOR TRAINING FACILITY	5,000	5,000	5,000	0	5,000
537	NEW MEXICO	ARMY NATIONAL GU	BELEN	ARMORY	0	1,397	1,350	47	1,397
538	NEW MEXICO	ARMY NATIONAL GU	CLOVIS	ARMORY	0	1,603	1,603	0	1,603
539	NEW MEXICO	ARMY NATIONAL GU	CLOVIS	ORGANIZATIONAL MAINTENANCE SHOP	0	0	714	(714)	714
540	NEW MEXICO	ARMY NATIONAL GU	FARMINGTON	ARMORY	0	1,163	1,163	0	1,163
541	NEW MEXICO	ARMY NATIONAL GU	ROSWELL	ORGANIZATIONAL MAINTENANCE SHOP	714	714	714	0	714
542	NEW MEXICO	ARMY NATIONAL GU	SANTA FE	COMBINED SUPPORT MAINTENANCE SHOP	0	3,092	3,092	0	3,092
543	NEW MEXICO	ARMY NATIONAL GU	SANTA FE	U.S. PROPERTY AND FISCAL OFFICE	0	905	905	0	905

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
544	NEW MEXICO	ARMY NATIONAL GU	SPRINGER	ORGANIZATIONAL MAINTENANCE SHOP	0	0	714	(714)	714
545	NEW MEXICO	AIR NATIONAL GUA	KIRTLAND AFB	MEDICAL TRAINING FACILITY	1,300	1,300	1,300	0	1,300
546	NEW MEXICO	ARMY RESERVE	SANTA FE	ARMY RESERVE CENTER	0	0	2,955	(2,955)	2,955
547				TOTAL, NEW MEXICO	42,414	50,574	54,910	(4,336)	54,957
548	NEW YORK	ARMY	FORT DRUM	AIRCRAFT FUEL FACILITIES	3,400	3,400	3,400	0	3,400
549	NEW YORK	ARMY	FORT DRUM	AIRCRAFT HANGARS	31,000	31,000	31,000	0	31,000
550	NEW YORK	ARMY	FORT DRUM	AIRCRAFT PARKING APRON	22,000	22,000	22,000	0	22,000
551	NEW YORK	ARMY	FORT DRUM	AIRFIELD OPERATIONS FACILITIES	14,200	14,200	14,200	0	14,200
552	NEW YORK	ARMY	U.S. MILITARY ACADEMY	ELECTROMAGNETIC SCIENCE LAB RENOVATION	0	3,450	0	3,450	0
553	NEW YORK	NAVY	NEW YORK NAVAL STATION	BACHELOR ENLISTED QUARTERS	4,600	4,600	4,600	0	4,600
554	NEW YORK	NAVY	NEW YORK NAVAL STATION	CHILD CARE CENTER	3,000	3,000	3,000	0	3,000
555	NEW YORK	NAVY	NEW YORK NAVAL STATION	UTILITIES AND SITE IMPROVEMENTS	18,040	18,040	18,040	0	18,040
556	NEW YORK	AIR FORCE	GRIFFISS AFB	SAC REBASING-ADD/ALT INTEGRATED MAINT FAC	2,350	0	0	0	0
557	NEW YORK	AIR FORCE	GRIFFISS AFB	SAC REBASING-HYDRANT FUELING SYSTEM	7,400	7,400	0	7,400	7,400
558	NEW YORK	AIR FORCE	GRIFFISS AFB	SAC REBASING-MUNITIONS STORAGE IGLOOS	2,200	0	0	0	0
559	NEW YORK	AIR FORCE	PLATTSBURGH AFB	ALTER DORMITORIES	8,900	8,900	8,900	0	8,900
560	NEW YORK	AIR FORCE	PLATTSBURGH AFB	NOISE SUPPRESSOR SUPPORT FACILITY	1,000	1,000	1,000	0	1,000
561	NEW YORK	AIR NATIONAL GUA	HANCOCK FIELD	ADD TO AND ALTER VEHICLE MAINT SHOP	2,100	2,100	2,100	0	2,100
562	NEW YORK	AIR NATIONAL GUA	HANCOCK FIELD	ADD TO/ALT MUNITIONS MAINT AND STORAGE	1,250	1,250	1,250	0	1,250
563	NEW YORK	AIR NATIONAL GUA	HANCOCK FIELD	ALTER AIRCRAFT MAINT HANGAR AND SHOPS	2,000	2,000	2,000	0	2,000
564	NEW YORK	AIR NATIONAL GUA	NIAGARA FALLS IAP	ADD TO AND ALTER BASE SUPPLY WAREHOUSE	1,800	1,800	1,800	0	1,800
565	NEW YORK	AIR NATIONAL GUA	NIAGARA FALLS IAP	AIRCRAFT ENGINE SHOP	1,600	1,600	1,600	0	1,600
566	NEW YORK	AIR NATIONAL GUA	NIAGARA FALLS IAP	PETROLEUM OPERATIONS FACILITY	520	520	520	0	520
567	NEW YORK	AIR NATIONAL GUA	NIAGARA FALLS IAP	POWER CHECK PAD WITH SOUND SUPPRESSOR	750	750	750	0	750
568	NEW YORK	AIR NATIONAL GUA	SCHENECTADY COUNTY AIRPORT	FIRE SUPPRESSION SYSTEM	950	950	950	0	950
569	NEW YORK	AIR NATIONAL GUA	SCHENECTADY COUNTY AIRPORT	VEHICLE MAINTENANCE COMPLEX	1,800	1,800	1,800	0	1,800
570	NEW YORK	AIR NATIONAL GUA	STEWART AIRPORT	AERIAL PORT TRAINING FACILITY	2,100	2,100	2,100	0	2,100
571	NEW YORK	NAVY RESERVE	STEWART AIRPORT (ANG)	BACHELOR ENLISTED QUARTERS	3,800	3,800	3,800	0	3,800
572	NEW YORK	NAVY RESERVE	STEWART AIRPORT (ANG)	FUEL SYST. MAINT. HANGAR/CORROSION CONTROL FA	0	5,700	0	5,700	5,700
573	NEW YORK	NAVY RESERVE	STEWART AIRPORT (ANG)	SUPPLY SUPPORT FACILITY	1,820	1,820	1,820	0	1,820
574				TOTAL, NEW YORK	138,580	143,180	126,630	16,550	139,730
575	NORTH CAROLINA	ARMY	FORT BRAGG	AVIATION UNIT MAINTENANCE HANGARS	32,000	32,000	32,000	0	32,000
576	NORTH CAROLINA	ARMY	FORT BRAGG	CHILD DEVELOPMENT CENTER (2)	0	5,300	0	5,300	5,300
577	NORTH CAROLINA	ARMY	FORT BRAGG	MAINTENANCE FACILITY PHASE I	0	7,000	0	7,000	7,000

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578	NORTH CAROLINA	ARMY	FORT BRAGG	SOF HEADQUARTERS FACILITY	0	21,100	0	21,100	21,000
579	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	ELECTRONICS COMMUNICATIONS MAINT SHOP	4,200	4,200	4,200	0	4,200
580	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	ELECTRONICS COMMUNICATIONS MAINT SHOP	7,200	7,200	7,200	0	7,200
581	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	MECHANICS TRAINING BUILDING (INCREMENT II)	4,400	4,400	4,400	0	4,400
582	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	MESS HALL	5,410	5,410	5,410	0	5,410
583	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	OPERATIONS CENTER	0	0	7,000	(7,000)	0
584	NORTH CAROLINA	NAVY	CHERRY POINT MARINE CORPS AIR STATI	AIRCRAFT BOMBING RNGE MODIFICATIONS-INC II	1,800	1,800	1,800	0	1,800
585	NORTH CAROLINA	NAVY	CHERRY POINT MARINE CORPS AIR STATI	APPLIED INSTRUCTION FACILITIES	5,350	5,350	5,350	0	5,350
586	NORTH CAROLINA	NAVY	CHERRY POINT MARINE CORPS AIR STATI	BACHELOR ENLISTED QUARTERS	13,070	0	0	0	0
587	NORTH CAROLINA	NAVY	CHERRY POINT MARINE CORPS AIR STATI	FLIGHT LINE SECURITY IMPROVEMENTS	3,600	3,600	3,600	0	3,600
588	NORTH CAROLINA	NAVY	NEW RIVER MARINE CORPS AIR STATION	AVIATION MAINTENANCE TRAINING BUILDING	6,000	6,000	6,000	0	6,000
589	NORTH CAROLINA	NAVY	NEW RIVER MARINE CORPS AIR STATION	FLIGHT LINE SECURITY IMPROVEMENTS	2,500	2,500	2,500	0	2,500
590	NORTH CAROLINA	NAVY	NEW RIVER MARINE CORPS AIR STATION	MAINTENANCE HANGAR ADDITIONS	5,200	5,200	5,200	0	5,200
591	NORTH CAROLINA	NAVY	NEW RIVER MARINE CORPS AIR STATION	OPERATIONAL TRAINER FACILITY	7,400	7,400	7,400	0	7,400
592	NORTH CAROLINA	NAVY	NEW RIVER MARINE CORPS AIR STATION	PHYSICAL FITNESS CENTER	0	0	2,450	(2,450)	0
593	NORTH CAROLINA	AIR FORCE	SEYMOUR JOHNSON AFB	ADD TO AND ALTER CONVENTIONAL MUN MNT FAC	1,350	1,350	1,350	0	1,350
594	NORTH CAROLINA	AIR FORCE	SEYMOUR JOHNSON AFB	ADD TO AND ALTER FUEL SYS MAINT DOCK	2,200	2,200	2,200	0	2,200
595	NORTH CAROLINA	AIR FORCE	SEYMOUR JOHNSON AFB	WAREHOUSE	950	950	950	0	950
596	NORTH CAROLINA	ARMY RESERVE	ROCKY MOUNT	ADD/ALT ARMY RESERVE CTR/MAINTENANCE FAC	1,247	1,247	1,247	0	1,247
597	NORTH CAROLINA	NAVY RESERVE	NMCRC CHARLOTTE	RESERVE CENTER ACQUISITION	4,170	4,170	4,170	0	4,170
598				TOTAL, NORTH CAROLINA	108,047	128,377	104,427	23,950	128,277
599	NORTH DAKOTA	AIR FORCE	GRAND FORKS AFB	CHILD CARE FACILITY	0	1,900	0	1,900	1,900
600	NORTH DAKOTA	ARMY NATIONAL GUA	BISMARCK	UNITED STATES PROPERTY WAREHOUSE	1,011	1,011	1,011	0	1,011
601	NORTH DAKOTA	AIR NATIONAL GUA	HECTOR FIELD	ALTER AVIONICS SHOP	550	550	550	0	550
602	NORTH DAKOTA	AIR NATIONAL GUA	HECTOR FIELD	COMPOSITE SUPPORT FACILITIES	1,800	1,800	1,800	0	1,800
603				TOTAL, NORTH DAKOTA	3,361	5,261	3,361	1,900	5,261
604	OHIO	AIR FORCE	NEWARK AFB	CHILD DEVELOPMENT CENTER	0	0	680	(680)	680
605	OHIO	AIR FORCE	NEWARK AFB	UPGRADE FIRE PROTECTION SYSTEM	2,300	2,300	2,300	0	2,300
606	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	ADD/ALTER OPTICAL SYSTEMS LAB	0	0	3,700	(3,700)	3,700
607	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	ARMED FORCES COURIER STATION	610	610	610	0	610
608	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	CHILD DEVELOPMENT CENTER	0	0	1,950	(1,950)	1,950
609	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	LAB FUEL STORAGE FACILITY	0	0	5,500	(5,500)	5,500
610	OHIO	DEFENSE AGENCIES	DEFENSE CONSTRUCTION SUPPLY CENTER	AUTOMATED DATA PROCESSING FACILITY	13,600	13,600	13,600	0	13,600
611	OHIO	DEFENSE AGENCIES	DEFENSE CONSTRUCTION SUPPLY CENTER	BULK STORAGE WAREHOUSE	13,000	13,000	13,000	0	13,000

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612	OHIO	AIR NATIONAL GUAMANSFIELD LAHM AIRPORT		AERIAL PORT TRAINING FACILITY	1,600	1,600	1,600	0	1,600
613	OHIO	AIR FORCE RESERVRICKENBACKER ANGB		ADD/ALTER FACILITIES FOR CONVERSION	1,450	1,450	1,450	0	1,450
614	OHIO	AIR FORCE RESERVRICKENBACKER ANGB		ADD/ALTER HANGAR	6,800	6,800	6,800	0	6,800
615				TOTAL, OHIO	39,360	39,360	51,190	(11,830)	51,190
616	OKLAHOMA	ARMY	MCALESTER	AMMUNITION SURVEILLANCE FACILITY	2,200	2,200	2,200	0	2,200
617	OKLAHOMA	ARMY	FORT SILL	CHILD DEVELOPMENT/RELIGIOUS EDUCATION FAC	4,850	2,700	4,850	(2,150)	2,700
618	OKLAHOMA	ARMY	FORT SILL	FIREFINDER CLASSROOM ADDITION	970	970	970	0	970
619	OKLAHOMA	ARMY	FORT SILL	INFANTRY REMOTE TARGET SYSTEM RANGE	3,400	3,400	3,400	0	3,400
620	OKLAHOMA	ARMY	FORT SILL	TACTICAL EQUIPMENT SHOP	6,100	6,100	6,100	0	6,100
621	OKLAHOMA	ARMY	FORT SILL	UNIT CHAPEL	2,000	0	2,000	(2,000)	0
622	OKLAHOMA	NAVY	TINKER AIR FORCE BASE NAVAL AIR DET	AIRCRAFT SUPPORT FACILITIES (INCR III)	21,500	21,500	21,500	0	21,500
623	OKLAHOMA	AIR FORCE	ALTUS AFB	COMMUNITY ACTIVITIES CENTER	2,000	2,000	2,000	0	2,000
624	OKLAHOMA	AIR FORCE	ALTUS AFB	PHYSICAL FITNESS CENTER	3,200	3,200	3,200	0	3,200
625	OKLAHOMA	AIR FORCE	TINKER AFB	ADD TO AND ALTER DEPOT MAT PROC FACILITY	7,000	7,000	7,000	0	7,000
626	OKLAHOMA	AIR FORCE	TINKER AFB	ADD/ALTER INDUSTRIAL WASTE TRTMNT PLANT	1,700	1,700	1,700	0	1,700
627	OKLAHOMA	AIR FORCE	TINKER AFB	AWACS-SUPPLY WAREHOUSE	3,450	3,450	3,450	0	3,450
628	OKLAHOMA	AIR FORCE	TINKER AFB	B1B-RADAR SOFTWARE TEST FACILITY	2,000	2,000	2,000	0	2,000
629	OKLAHOMA	AIR FORCE	TINKER AFB	B2-AVIONICS FACILITY/LAND ACQUISITION	9,600	9,600	9,600	0	9,600
630	OKLAHOMA	AIR FORCE	TINKER AFB	B2-INTEGRATION SUPPORT FACILITY	17,000	17,000	17,000	0	17,000
631	OKLAHOMA	AIR FORCE	TINKER AFB	B2-SECURE STORAGE FACILITY	5,200	5,200	5,200	0	5,200
632	OKLAHOMA	AIR FORCE	TINKER AFB	CHILD DEVELOPMENT CENTER	0	1,550	1,550	0	1,550
633	OKLAHOMA	AIR FORCE	TINKER AFB	ELECTROMAGNETIC PULSE TEST FAC/LAND ACQ	9,300	9,300	9,300	0	9,300
634	OKLAHOMA	DEFENSE AGENCIESFORT SILL - DMSA		HOSPITAL REPLACEMENT PART II	27,000	27,000	27,000	0	27,000
635	OKLAHOMA	ARMY NATIONAL GUBROKEN ARROW		ARMORY	1,045	1,045	1,045	0	1,045
636	OKLAHOMA	ARMY NATIONAL GUCAMP GRUBER		RANGE MODIFIED RECORD FIRE(RETS)	356	356	356	0	356
637	OKLAHOMA	ARMY NATIONAL GUCAMP GRUBER		RANGE, KNOWN DISTANCE	427	427	427	0	427
638	OKLAHOMA	ARMY NATIONAL GUCAMP GRUBER		TRNG SITE, BKS/MS UTIL PH III	3,752	0	0	0	0
639	OKLAHOMA	ARMY NATIONAL GUCAMP GRUBER		TRNG SITE, POST HEADQUARTERS	265	265	265	0	265
640	OKLAHOMA	ARMY NATIONAL GUCAMP GRUBER		TRNG SITE, SEWAGE LAGOON SYS	763	763	763	0	763
641	OKLAHOMA	ARMY NATIONAL GUCAMP GRUBER		TRNG SITE, WAREHOUSE 9600 SQ.FT	320	320	320	0	320
642	OKLAHOMA	ARMY NATIONAL GUCAMP GRUBER		TROOP SUPPORT FACILITY PHASE IV	0	3,752	3,820	(68)	3,752
643	OKLAHOMA	ARMY NATIONAL GUSAND SPRINGS (TULSA)		ORGANIZATIONAL MAINTENANCE SHOP 6	400	400	400	0	400
644				TOTAL, OKLAHOMA	135,798	133,198	137,416	(4,218)	133,198
645	OREGON	ARMY NATIONAL GUKLEIVER		ADD/ALTER ARMORY	0	1,444	1,400	44	1,444

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646	OREGON	ARMY NATIONAL GU	MEDFORD	ADD/ALTER ARMORY	0	832	820	12	832
647	OREGON	AIR NATIONAL GU	AKINGSLEY FIELD	ALERT CREW FACILITY	550	550	550	0	550
648	OREGON	AIR NATIONAL GU	AKINGSLEY FIELD	POWER CHECK PAD WITH SOUND SUPPRESSOR	760	760	760	0	760
649	OREGON	AIR NATIONAL GU	APORTLAND IAP	ADD/ALTER TAXIWAY	0	0	6,000	(6,000)	6,000
650	OREGON	AIR NATIONAL GU	APORTLAND IAP	ADD TO/ALT FUEL SYSTEMS MAINT DOCK	1,200	1,200	1,200	0	1,200
651				TOTAL, OREGON	2,510	4,786	10,730	(5,944)	10,786
652	PENNSYLVANIA	ARMY	NEW CUMBERLAND AD	HAZARDOUS MATERIAL STORAGE FACILITY	14,000	14,000	14,000	0	14,000
653	PENNSYLVANIA	NAVY	PHILADELPHIA NAVAL SHIPYARD	HAZARDOUS AND FLAMMABLE STORAGE WAREHOUSE	0	9,700	10,000	(300)	10,000
654	PENNSYLVANIA	DEFENSE AGENCIES	DEFENSE PERSONNEL SUPPORT CENTER -	DEMOLISH BUILDING M5/PARKING AREA	3,800	3,800	3,800	0	3,800
655	PENNSYLVANIA	ARMY NATIONAL GU	FORT INDIANTOWN GAP	FIRE SUPPRESSION SYSTEM	0	1,200	0	1,200	1,200
656	PENNSYLVANIA	ARMY NATIONAL GU	FORT INDIANTOWN GAP	TRNG SITE, REG MED TNG FACIL	1,551	1,551	1,551	0	1,551
657	PENNSYLVANIA	AIR NATIONAL GU	AGREATER PITTSBURGH IAP	ACCESS ROAD	5,000	5,000	5,000	0	5,000
658	PENNSYLVANIA	AIR NATIONAL GU	AWILLOW GROVE NAS	ADD TO/ALTER AIRCRAFT MAINT COMPLEX	3,000	3,000	3,000	0	3,000
659	PENNSYLVANIA	AIR NATIONAL GU	AWILLOW GROVE NAS	MUNITIONS MAINTENANCE AND STORAGE	2,000	2,000	2,000	0	2,000
660	PENNSYLVANIA	AIR NATIONAL GU	AWILLOW GROVE NAS	UNSUPPRESSED POWER CHECK PAD	700	700	700	0	700
661	PENNSYLVANIA	AIR NATIONAL GU	AWILLOW GROVE NAS	UPGRADE ELECTRICAL DIST SYS (JOINT W AFR)	1,400	1,400	1,400	0	1,400
662	PENNSYLVANIA	AIR NATIONAL GU	AWILLOW GROVE NAS	WEAPONS RELEASE SHOP	1,800	1,800	1,800	0	1,800
663	PENNSYLVANIA	ARMY RESERVE	FT INDIANTOWN GAP (ANNVILLE)	REGIONAL TRAINING SITE-MAINTENANCE	2,600	2,600	2,600	0	2,600
664	PENNSYLVANIA	ARMY RESERVE	JOHNSTOWN	RESERVE CENTER W/MAINTENANCE SHOP	0	3,605	0	3,605	3,605
665	PENNSYLVANIA	NAVY RESERVE	NMCRC READING	HOWITZER SHED	330	330	330	0	330
666	PENNSYLVANIA	AIR FORCE RESERV	GREATER PITTSBURGH IAP	WATER STORAGE TANK	1,200	1,200	1,200	0	1,200
667	PENNSYLVANIA	AIR FORCE RESERV	WILLOW GROVE ARF	ELECTRICAL DISTRIBUTION SYSTEM UPGRADE	1,400	1,400	1,400	0	1,400
668	PENNSYLVANIA	AIR FORCE RESERV	WILLOW GROVE ARF	SECURITY POLICE/COMBAT ARMS TRAINING	1,800	1,800	1,800	0	1,800
669				TOTAL, PENNSYLVANIA	40,581	55,086	50,581	4,505	55,386
670	RHODE ISLAND	NAVY	NEWPORT NAVAL EDUCATION & TRAINING	ELECTRICAL DISTRIBUTION SYSTEM	8,000	8,000	8,000	0	8,000
671	RHODE ISLAND	NAVY	NEWPORT NAVAL EDUCATION & TRAINING	PARKING LOT	0	290	0	290	290
672	RHODE ISLAND	AIR NATIONAL GU	ANORTH SMITHFIELD ANGS	ADD TO BASE SUPPLY WAREHOUSE FACILITY	600	600	600	0	600
673	RHODE ISLAND	AIR NATIONAL GU	ANORTH SMITHFIELD ANGS	COMM-ELECTRONICS TRAINING FACILITY	2,750	2,750	2,750	0	2,750
674				TOTAL, RHODE ISLAND	11,350	11,640	11,350	290	11,640
675	SOUTH CAROLINA	ARMY	FORT JACKSON	CONSOLIDATED FIELD MAINTENANCE FACILITY	0	0	23,000	(23,000)	23,000
676	SOUTH CAROLINA	NAVY	BEAUFORT MARINE CORPS AIR STATION	AVIATION ARMAMENT SHOP	3,950	3,950	3,950	0	3,950
677	SOUTH CAROLINA	NAVY	BEAUFORT MARINE CORPS AIR STATION	CHILD CARE CENTER	970	970	970	0	970
678	SOUTH CAROLINA	NAVY	CHARLESTON NAVAL SUPPLY CENTER	EMERGENCY GENERATORS	700	700	700	0	700
679	SOUTH CAROLINA	NAVY	NAVAL WEAPONS STATION CHARLESTON	ALTERNATE ACCESS ROAD	0	4,600	4,600	0	4,600

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680	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	C17-ADD TO AND ALTER FIELD TRAINING FAC.....	1,900	1,900	1,900	0	1,900
681	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	C17-SHORTFIELD ASSAULT STRIP.....	2,750	2,750	2,750	0	2,750
682	SOUTH CAROLINA	AIR FORCE	MYRTLE BEACH AFB	ADD TO AND ALTER ACFT MAINT UNIT FACS.....	2,350	2,350	2,350	0	2,350
683	SOUTH CAROLINA	AIR FORCE	SHAW AFB	ALTER DORMITORIES.....	5,700	5,700	5,700	0	5,700
684	SOUTH CAROLINA	ARMY NATIONAL GU	EASTOVER	ARMORY.....	0	0	1,500	(1,500)	1,500
685	SOUTH CAROLINA	ARMY NATIONAL GU	LEXINGTON	ARMORY.....	0	0	2,400	(2,400)	2,400
686	SOUTH CAROLINA	AIR NATIONAL GUAM	CENTIRE	COMM-ELECTRONICS TRAINING FACILITY.....	2,000	2,000	2,000	0	2,000
687	SOUTH CAROLINA	NAVY RESERVE	MCRC FT. JACKSON	RESERVE TRAINING BUILDING.....	1,900	1,900	1,900	0	1,900
688	SOUTH CAROLINA	AIR FORCE RESERV	CHARLESTON AFB	ADD/ALTER OPERATIONAL TRAINING FACILITY.....	1,650	1,650	1,650	0	1,650
689				TOTAL, SOUTH CAROLINA.....	23,870	28,470	55,370	(26,900)	55,370
690	SOUTH DAKOTA	AIR FORCE	ELLSWORTH AFB	ADD TO PHYSICAL FITNESS CENTER.....	4,100	4,100	4,100	0	4,100
691	SOUTH DAKOTA	AIR FORCE	ELLSWORTH AFB	SCHOOL.....	0	7,250	7,250	0	7,250
692	SOUTH DAKOTA	ARMY NATIONAL GU	PIERRE	RANGE M16/PISTOL BAFFLED.....	350	350	350	0	350
693	SOUTH DAKOTA	ARMY NATIONAL GU	RAPID CITY	TRNG SITE, BOQ/BEQ FACILITY.....	438	438	438	0	438
694	SOUTH DAKOTA	ARMY NATIONAL GU	SIOUX FALLS	ARMORY.....	1,836	1,836	1,836	0	1,836
695	SOUTH DAKOTA	ARMY NATIONAL GU	WATERTOWN	RANGE, M-16/PISTOL BAFFLED.....	350	350	350	0	350
696	SOUTH DAKOTA	AIR NATIONAL GU	JOE FOSS FIELD	WEAPONS RELEASE SHOP.....	870	870	870	0	870
697				TOTAL, SOUTH DAKOTA.....	7,944	15,194	15,194	0	15,194
698	TENNESSEE	NAVY	MEMPHIS NAVAL AIR STATION	BARRACKS.....	10,000	10,000	10,000	0	10,000
699	TENNESSEE	AIR FORCE	ARNOLD ENGINEERING DEV CENTER	LARGE ROCKET TEST FACILITY (J-6)-PHASE II....	66,000	66,000	66,000	0	66,000
700	TENNESSEE	ARMY NATIONAL GU	BROWNSVILLE	ARMORY.....	0	992	992	0	992
701	TENNESSEE	ARMY NATIONAL GU	CARTHAGE	ARMORY.....	997	997	997	0	997
702	TENNESSEE	ARMY NATIONAL GU	CLINTON	ARMORY.....	0	0	1,160	(1,160)	1,160
703	TENNESSEE	ARMY NATIONAL GU	HUMBOLT	ARMORY.....	0	0	1,453	(1,453)	1,453
704	TENNESSEE	ARMY NATIONAL GU	JACKSBORO	ARMORY.....	1,106	1,106	1,106	0	1,106
705	TENNESSEE	ARMY NATIONAL GU	JACKSON	AVIATION SUPPORT FACILITY.....	0	0	1,636	(1,636)	1,636
706	TENNESSEE	ARMY NATIONAL GU	SELMER	ARMORY.....	751	751	751	0	751
707	TENNESSEE	ARMY NATIONAL GU	SMYRNA	STATE MILITARY ACADEMY.....	856	856	856	0	856
708	TENNESSEE	AIR NATIONAL GUAM	CGHEE-TYSON AIRPORT	COMPOSITE MED TNG AND DINING HALL FAC.....	3,400	3,400	3,400	0	3,400
709	TENNESSEE	AIR NATIONAL GUAM	CGHEE-TYSON AIRPORT	PMEC SUPPORT FACILITY.....	4,200	4,200	4,200	0	4,200
710	TENNESSEE	AIR NATIONAL GUAM	EMPHIS	ADD/ALTER AIRCRAFT HANGAR.....	0	0	4,900	(4,900)	4,900
711	TENNESSEE	AIR NATIONAL GUAM	EMPHIS	AIRCRAFT APRON/FUEL STORAGE AND DISTRIBUTION.	0	0	11,800	(11,800)	11,800
712				TOTAL, TENNESSEE.....	87,310	88,302	109,251	(20,949)	109,251
713	TEXAS	ARMY	FORT BLISS	AMMUNITION SUPPLY POINT IMPROVEMENT.....	3,400	3,400	3,400	0	3,400

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
714	TEXAS	ARMY	FORT BLISS	BARRACKS MODERNIZATION	0	6,400	0	6,400	6,400
715	TEXAS	ARMY	FORT BLISS	BARRACKS MODERNIZATION	0	6,800	0	6,800	6,800
716	TEXAS	ARMY	CORPUS CHRISTI ARMY DEPOT	AIRCRAFT INSTRUMENT CALIBRATION FACILITY	5,200	5,200	5,200	0	5,200
717	TEXAS	ARMY	FORT HOOD	BARRACKS MODERNIZATION	0	11,200	0	11,200	11,200
718	TEXAS	ARMY	FORT HOOD	BATTALION HEADQUARTERS	2,800	2,800	2,800	0	2,800
719	TEXAS	ARMY	FORT HOOD	VEHICLE WASH FACILITY	0	7,400	0	7,400	7,400
720	TEXAS	ARMY	FORT SAM HOUSTON	MEDICAL SYSTEMS EQUIPMENT TRAINING COMPLEX	0	0	3,550	(3,550)	0
721	TEXAS	ARMY	RED RIVER ARMY DEPOT	CENTRAL DISTRIBUTION CENTER - PHASE III	39,000	39,000	39,000	0	39,000
722	TEXAS	NAVY	INGLESIDE NAVAL STATION	BACHELOR ENLISTED QUARTERS	6,200	6,200	6,200	0	6,200
723	TEXAS	NAVY	INGLESIDE NAVAL STATION	EXPLOSIVE ORDNANCE DISPOSAL FACILITY	1,000	1,000	1,000	0	1,000
724	TEXAS	NAVY	INGLESIDE NAVAL STATION	GENERAL WAREHOUSE	4,300	4,300	4,300	0	4,300
725	TEXAS	NAVY	INGLESIDE NAVAL STATION	MAGAZINES	910	910	910	0	910
726	TEXAS	NAVY	INGLESIDE NAVAL STATION	PHYSICAL FITNESS FACILITY	4,870	4,870	4,870	0	4,870
727	TEXAS	NAVY	INGLESIDE NAVAL STATION	PUBLIC WORKS COMPLEX	2,440	2,440	2,440	0	2,440
728	TEXAS	NAVY	LACKLAND AFB NAVAL TECHNICAL TRNG C	SECURITY TRAINING CENTER	4,500	4,500	4,500	0	4,500
729	TEXAS	AIR FORCE	BERGSTROM AFB	CHILD DEVELOPMENT CENTER	0	2,400	0	2,400	2,400
730	TEXAS	AIR FORCE	CARSWELL AFB	NOISE SUPPRESSOR SUPPORT FACILITY	650	650	650	0	650
731	TEXAS	AIR FORCE	GOODFELLOW AFB	FIRE STATION	1,150	1,150	1,150	0	1,150
732	TEXAS	AIR FORCE	GOODFELLOW AFB	PRECISION IMAGERY COMPLEX	2,150	2,150	2,150	0	2,150
733	TEXAS	AIR FORCE	KELLY AFB	ADD TO AND ALTER LOGISTICAL SYS OPS CTR	3,200	3,200	3,200	0	3,200
734	TEXAS	AIR FORCE	KELLY AFB	AIR FORCE SERVICE INFO AND NEWS CTR FAC	4,100	0	4,100	(4,100)	0
735	TEXAS	AIR FORCE	KELLY AFB	CHILD DEVELOPMENT CENTER	0	0	730	(730)	730
736	TEXAS	AIR FORCE	KELLY AFB	GAS TURBINE ENGINE REPAIR FACILITY	14,000	14,000	14,000	0	14,000
737	TEXAS	AIR FORCE	LACKLAND AFB	ADD TO WATER STORAGE AND DIST SYSTEM	3,200	3,200	3,200	0	3,200
738	TEXAS	AIR FORCE	LACKLAND AFB	DLI-DINING FACILITY	3,550	3,550	3,550	0	3,550
739	TEXAS	AIR FORCE	LACKLAND AFB	DLI-STUDENT DORMITORY	11,200	11,200	11,200	0	11,200
740	TEXAS	AIR FORCE	LACKLAND AFB	LOGISTICS COMPLEX	8,000	8,000	8,000	0	8,000
741	TEXAS	AIR FORCE	LACKLAND AFB	SECURITY POLICE TRAINING FACILITY	4,500	4,500	4,500	0	4,500
742	TEXAS	AIR FORCE	LACKLAND AFB	UPGRADE ELECTRIC DISTRIBUTION SYSTEM	3,800	3,800	3,800	0	3,800
743	TEXAS	AIR FORCE	LACKLAND TRAINING ANNEX	ADD TO AND ALTER OPERATIONS FACILITY	1,994	1,994	1,994	0	1,994
744	TEXAS	AIR FORCE	LAUGHLIN AFB	BASE ENGINEER COMPLEX	3,750	3,750	3,750	0	3,750
745	TEXAS	AIR FORCE	LAUGHLIN AFB	WATER STORAGE AND TREATMENT SYSTEM	1,600	1,600	1,600	0	1,600
746	TEXAS	AIR FORCE	RANDOLPH AFB	PETROLEUM OPERATIONS FACILITY	630	630	630	0	630
747	TEXAS	AIR FORCE	REESE AFB	ADD TO AND ALTER FLIGHT SIMULATOR	400	400	400	0	400

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
748	TEXAS	AIR FORCE	REESE AFB	PETROLEUM OPERATIONS FACILITY	830	830	830	0	830
749	TEXAS	AIR FORCE	REESE AFB	SPECIALIZED UPT MAINTENANCE SUPPORT	3,400	3,400	3,400	0	3,400
750	TEXAS	DEFENSE AGENCIES	INGLESIDE NAVAL STATION - DMSA	MEDICAL/DENTAL CLINIC	2,300	2,300	2,300	0	2,300
751	TEXAS	DEFENSE AGENCIES	LACKLAND AIR FORCE BASE - DMSA	MEDICAL CLINIC ADDITION/ALTERATION	6,000	6,000	6,000	0	6,000
752	TEXAS	DEFENSE AGENCIES	FORT SAM HOUSTON - DMSA	HOSPITAL REPLACEMENT PHASE III	53,000	53,000	53,000	0	53,000
753	TEXAS	ARMY NATIONAL GU	CAMP BOWIE, BROWNWOOD	CANTONEMENT FACILITY	0	1,341	0	1,341	1,341
754	TEXAS	ARMY NATIONAL GU	CAMP BOWIE, BROWNWOOD	LAND ACQUISITION	0	1,750	0	1,750	1,750
755	TEXAS	ARMY NATIONAL GU	DALLAS NAS	ARMORY, ADD/ALT	2,562	2,562	2,562	0	2,562
756	TEXAS	ARMY NATIONAL GU	DALLAS NAS	ORGANIZATIONAL MAINTENANCE SHOP	479	479	479	0	479
757	TEXAS	ARMY NATIONAL GU	LAREDO	ARMORY	0	2,263	0	2,263	2,263
758	TEXAS	ARMY NATIONAL GU	ROSENBERG	ARMORY	0	943	0	943	943
759	TEXAS	ARMY NATIONAL GU	SAN ANTONIO	ARMORY, ADD/ALT	2,228	2,228	2,228	0	2,228
760	TEXAS	ARMY NATIONAL GU	SAN ANTONIO	ORGANIZATIONAL MAINTENANCE SHOP	481	481	481	0	481
761	TEXAS	ARMY NATIONAL GU	TEMPLE	ARMORY W/ ORGANIZATIONAL MAINTENANCE SHOP	0	3,792	0	3,792	3,792
762	TEXAS	AIR NATIONAL GU	ADALLAS NAS	ADD TO/ALT COMPOSITE DINING AND TNG FAC	540	540	540	0	540
763	TEXAS	AIR NATIONAL GU	ELLINGTON ANGB	ALTER BASE SUPPLY AND EQUIPMENT WAREHOUSE	460	460	460	0	460
764	TEXAS	AIR NATIONAL GU	ELLINGTON ANGB	AVIONICS SHOP	1,550	1,550	1,550	0	1,550
765	TEXAS	AIR NATIONAL GU	SHEPPARD AFB	AERIAL PORT TRAINING FACILITY	1,050	1,050	1,050	0	1,050
766	TEXAS	AIR FORCE RESERV	BERGSTROM AFB	ADD/ALTER AIRCRAFT SHOPS	3,700	3,700	3,700	0	3,700
767				TOTAL, TEXAS	221,074	261,263	225,354	35,909	261,993
768	UTAH	ARMY	DUGWAY PROVING GROUND	CENTRAL SECURITY OFFICE	1,000	1,000	1,000	0	1,000
769	UTAH	ARMY	DUGWAY PROVING GROUND	VEHICLE MAINTENANCE FACILITY	1,400	1,400	1,400	0	1,400
770	UTAH	AIR FORCE	HILL AFB	CHILD DEVELOPMENT CENTER	0	1,300	1,300	0	1,300
771	UTAH	AIR FORCE	HILL AFB	CONSOLIDATED TELECOMMUNICATIONS FACILITY	7,300	7,300	7,300	0	7,300
772	UTAH	AIR FORCE	HILL AFB	ELECTRONIC COMBAT TEST RANGE THREAT SITES	2,500	2,500	2,500	0	2,500
773	UTAH	AIR FORCE	HILL AFB	EXPLOSIVE ORDINANCE DISPOSAL FACILITY	2,150	2,150	2,150	0	2,150
774	UTAH	AIR FORCE	HILL AFB	MISSILE MAINTENANCE SHOP	0	0	2,350	(2,350)	0
775	UTAH	AIR FORCE	HILL AFB	PROCUREMENT FACILITY CONSOLIDATION	0	3,700	0	3,700	3,700
776	UTAH	ARMY NATIONAL GU	WEST JORDAN	AVN C-12 AIRCRAFT HANGAR	400	400	400	0	400
777	UTAH	AIR NATIONAL GU	SALT LAKE CITY IAP	COMPOSITE VEHICLE AND AGE MAINT FACILITY	2,850	2,850	2,850	0	2,850
778	UTAH	AIR NATIONAL GU	SALT LAKE CITY IAP	FIRE SUPPRESSION AND DETECTION SYSTEM	900	900	900	0	900
779	UTAH	AIR NATIONAL GU	SALT LAKE CITY IAP	TAXIWAY	270	270	270	0	270
780				TOTAL, UTAH	18,770	23,770	22,420	1,350	23,770
781	VERMONT	ARMY NATIONAL GU	ETHAN ALLEN	RANGE, MULTIPURPOSE TANK (RETS)	2,398	2,398	2,398	0	2,398

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
782	VERMONT	AIR NATIONAL GUA	BURLINGTON IAP	ALERT AIRCRAFT SHELTER COMPLEX	3,550	3,550	3,550	0	3,550
783	VERMONT	AIR NATIONAL GUA	BURLINGTON IAP	MUNITIONS MAINTENANCE AND STORAGE CPLX	3,250	3,250	3,250	0	3,250
784				TOTAL, VERMONT	9,198	9,198	9,198	0	9,198
785	VIRGINIA	ARMY	FORT BELVOIR	OLD ENGINEER SCHOOL BUILDINGS RENOVATION	23,000	23,000	23,000	0	23,000
786	VIRGINIA	ARMY	FORT LEE	CHILD DEVELOPMENT CENTER	1,750	1,750	1,750	0	1,750
787	VIRGINIA	ARMY	FORT LEE	ENLISTED PETROLEUM TRAINING FACILITY	0	8,300	0	8,300	8,300
788	VIRGINIA	ARMY	FORT MONROE	CHILD DEVELOPMENT CENTER	1,100	1,100	1,100	0	1,100
789	VIRGINIA	ARMY	FORT STORY	UPGRADE WATER DISTRIBUTION SYSTEM	3,350	3,350	3,350	0	3,350
790	VIRGINIA	NAVY	CHESAPEAKE NAVAL SECURITY GROUP ACT	BACHELOR ENLISTED QUARTERS ADDITION	1,300	1,300	1,300	0	1,300
791	VIRGINIA	NAVY	DAHLGREN NAVAL SURFACE WARFARE CENT	CHILD CARE CENTER	1,000	1,000	1,000	0	1,000
792	VIRGINIA	NAVY	DAM NECK MARINE ENVIRONMENTAL SYSTE	OPERATIONS AND MAINTENANCE FACILITIES	8,000	8,000	8,000	0	8,000
793	VIRGINIA	NAVY	LITTLE CREEK NAVAL AMPHIBIOUS BASE	BERTHING PIERS EXTENSION	3,800	3,800	3,800	0	3,800
794	VIRGINIA	NAVY	LITTLE CREEK NAVAL AMPHIBIOUS BASE	FIRE STATION	1,400	1,400	1,400	0	1,400
795	VIRGINIA	NAVY	NORFOLK NAVAL AIR STATION	AVIATION MAINTENANCE TRAINING FACILITY ADD	4,400	4,400	4,400	0	4,400
796	VIRGINIA	NAVY	NORFOLK NAVAL EASTERN OCEANOGRAPHY	OCEANOGRAPHIC CENTER ADDITION	680	680	680	0	680
797	VIRGINIA	NAVY	NORFOLK NAVAL SUPPLY CENTER	GENERAL WAREHOUSE	6,200	6,200	6,200	0	6,200
798	VIRGINIA	NAVY	NORFOLK NAVAL SUPPLY CENTER	STAND-BY GENERATOR PLANT	300	300	300	0	300
799	VIRGINIA	NAVY	NORFOLK PUBLIC WORKS CENTER	COMMUNITY CENTER	0	0	0	0	332
800	VIRGINIA	NAVY	OCEANA NAVAL AIR STATION	AVIONICS MAINTENANCE TRAINING FACS ADDN	1,480	1,480	1,480	0	1,480
801	VIRGINIA	NAVY	OCEANA NAVAL AIR STATION	CONSOLIDATED AUTOMATED SPT SYS TRNG BLDG	2,200	2,200	2,200	0	2,200
802	VIRGINIA	NAVY	OCEANA NAVAL AIR STATION	MEDIUM ATTACK WEAPONS SCHOOL	6,025	6,025	6,025	0	6,025
803	VIRGINIA	NAVY	OCEANA NAVAL AIR STATION	WEAPONS SYSTEMS TRAINING FACILITY	2,850	2,850	2,850	0	2,850
804	VIRGINIA	NAVY	PORTSMOUTH NORFOLK NAVAL SHIPYARD	ELECTRICAL DISTRIBUTION SYSTEM IMPROVEMENT	9,700	9,700	9,700	0	9,700
805	VIRGINIA	NAVY	QUANTICO MARINE CORPS COMBAT DEV CO	COMMUNICATION OFFICERS SCHOOL ADDITION	3,450	0	3,450	(3,450)	3,450
806	VIRGINIA	NAVY	VIRGINIA BEACH	LAND PURCHASE	0	1,300	0	1,300	1,300
807	VIRGINIA	NAVY	WILLIAMSBURG CHEATHAM ANX NAVAL SUP	SURVEY SUPPORT FACILITY	18,500	18,500	18,500	0	18,500
808	VIRGINIA	NAVY	YORKTOWN NAVAL WEAPONS STATION	HARM MISSILE MAGAZINE	2,900	2,900	2,900	0	2,900
809	VIRGINIA	NAVY	YORKTOWN NAVAL WEAPONS STATION	MISSILE FACILITY	11,100	11,100	11,100	0	11,100
810	VIRGINIA	NAVY	YORKTOWN NAVAL WEAPONS STATION	MISSILE MAGAZINES	4,920	4,920	4,920	0	4,920
811	VIRGINIA	NAVY	YORKTOWN NAVAL WEAPONS STATION	TACIT RAINBOW MISSILE MAGAZINES	2,500	2,500	2,500	0	2,500
812	VIRGINIA	AIR FORCE	LANGLEY AFB	BASE EDUCATION CENTER	3,300	3,300	3,300	0	3,300
813	VIRGINIA	DEFENSE AGENCIES	DEFENSE GENERAL SUPPLY CENTER - DLA	HAZARDOUS MATERIAL WAREHOUSE	6,066	6,066	6,066	0	6,066
814	VIRGINIA	DEFENSE AGENCIES	PORTSMOUTH NAVAL HOSPITAL - DMSA	HOSPITAL REPLACEMENT PHASE I	8,500	8,500	8,500	0	8,500
815	VIRGINIA	DEFENSE AGENCIES	WASHINGTON HEADQUARTERS SERVICES	PENTAGON INCINERATOR	3,500	3,500	3,500	0	3,500

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
816	VIRGINIA	ARMY NATIONAL GUARD	LINGTON HALL STATION	NATIONAL GUARD CENTER PHASE III	0	0	11,000	(11,000)	11,000
817	VIRGINIA	AIR NATIONAL GUA	CAMP PENDLETON ANGB	SITE DEVELOPMENT	780	780	780	0	780
818	VIRGINIA	AIR NATIONAL GUA	RICHARD E BYRD IAP	ADD TO AND ALTER AIRCRAFT ENGINE SHOP	850	850	850	0	850
819				TOTAL, VIRGINIA	144,901	151,051	155,901	(4,850)	165,833
820	WASHINGTON	ARMY	FORT LEWIS	RESERVOIR PROTECTION	770	770	770	0	770
821	WASHINGTON	NAVY	BREMERTON NAVAL HOSPITAL	BACHELOR ENLISTED QUARTERS	1,000	1,000	1,000	0	1,000
822	WASHINGTON	NAVY	BREMERTON PUGET SOUND NAVAL SHIPYA	RCHILD CARE CENTER	1,000	1,000	1,000	0	1,000
823	WASHINGTON	NAVY	BREMERTON PUGET SOUND NAVAL SHIPYA	RINDUSTRIAL SUPPORT COMPLEX (INCREMENT I)	18,900	18,900	18,900	0	18,900
824	WASHINGTON	NAVY	BREMERTON PUGET SOUND NAVAL SUPPLY	EMERGENCY GENERATORS	690	690	690	0	690
825	WASHINGTON	NAVY	EVERETT NAVAL STATION	CARRIER PIER (PHASE II)	11,200	11,200	11,200	0	11,200
826	WASHINGTON	NAVY	KEYPORT NAVAL UNDERSEA WARFARE ENGR	BACHELOR ENLISTED QUARTERS MODERNIZATION	1,850	1,850	1,850	0	1,850
827	WASHINGTON	NAVY	KEYPORT NAVAL UNDERSEA WARFARE ENGR	UNDERSEA WARFARE ENGINEERING CENTER	0	10,400	10,000	400	10,400
828	WASHINGTON	NAVY	OSO JIM CREEK NAVAL RADIO STATION	STAND-BY GENERATOR PLANT	1,200	1,200	1,200	0	1,200
829	WASHINGTON	AIR FORCE	FAIRCHILD AFB	COMMAND POST	0	2,700	2,700	0	2,700
830	WASHINGTON	AIR FORCE	FAIRCHILD AFB	SURVIVAL TRAINING DORMITORY	0	10,000	10,000	0	10,000
831	WASHINGTON	AIR FORCE	FAIRCHILD AFB	TEMPORARY LODGING FACILITY	1,500	1,500	1,500	0	1,500
832	WASHINGTON	DEFENSE AGENCIES	DEF FUEL SUPPORT POINT MANCHESTER -	FUEL PIER	22,600	22,600	22,600	0	22,600
833	WASHINGTON	DEFENSE AGENCIES	FORT LEWIS - DMSA	HOSPITAL REPLACEMENT PHASE VI	16,000	16,000	16,000	0	16,000
834	WASHINGTON	ARMY NATIONAL GU	YAKIMA	ARMORY	2,182	2,182	2,182	0	2,182
835	WASHINGTON	ARMY NATIONAL GU	YAKIMA	ORGANIZATIONAL MAINTENANCE SHOP	333	333	333	0	333
836				TOTAL, WASHINGTON	79,225	102,325	101,925	400	102,325
837	WEST VIRGINIA	ARMY NATIONAL GU	BUCKHANNON	U.S. PROPERTY AND FISCAL OFFICE	0	0	1,500	(1,500)	1,500
838	WEST VIRGINIA	ARMY NATIONAL GU	HUNTINGTON	ARMORY, ADD/ALT	546	546	546	0	546
839	WEST VIRGINIA	ARMY NATIONAL GU	WHEELING	AVIATION SUPPORT FACILITY/ARMORY	0	0	5,326	(5,326)	5,326
840	WEST VIRGINIA	AIR NATIONAL GUA	E WV REGIONAL APT (MARTINSBURG)	ALTER OPERATIONS AND TRAINING FACILITIES	480	480	480	0	480
841	WEST VIRGINIA	AIR NATIONAL GUA	E WV REGIONAL APT (MARTINSBURG)	JET FUEL STORAGE COMPLEX	3,300	3,300	3,300	0	3,300
842	WEST VIRGINIA	AIR NATIONAL GUA	YEAGER AIRPORT	ADD TO SECURITY POLICE OPERATIONS	245	245	245	0	245
843	WEST VIRGINIA	ARMY RESERVE	BECKLEY	ARMY RESERVE CENTER	0	0	3,200	(3,200)	3,200
844	WEST VIRGINIA	ARMY RESERVE	ELKINS	ARMY RESERVE CENTER	0	0	1,400	(1,400)	1,400
845	WEST VIRGINIA	ARMY RESERVE	KINGWOOD	ARMY RESERVE CENTER	0	0	1,400	(1,400)	1,400
846	WEST VIRGINIA	ARMY RESERVE	MORGANTOWN	ARMY RESERVE CENTER	0	0	1,900	(1,900)	1,900
847	WEST VIRGINIA	ARMY RESERVE	RAINELLE	ARMY RESERVE CENTER	0	0	2,200	(2,200)	2,200
848				TOTAL, WEST VIRGINIA	4,571	4,571	21,497	(16,926)	21,497
849	WISCONSIN	ARMY NATIONAL GU	NEW RICHMOND	ARMORY	0	0	0		1,241

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
850	WISCONSIN	ARMY NATIONAL GU	WHITEWATER	ARMORY W/MAINTENANCE SHOP AND VEHICLE STORAGE	0	2,251	0	2,251	2,251
851	WISCONSIN	AIR NATIONAL GU	TRUAX FIELD	ALTER VEHICLE MAINTENANCE SHOP	0	950	950	0	950
852	WISCONSIN	AIR NATIONAL GU	TRUAX FIELD	ALTER WEAPONS SECURITY AND MISSION SUPPORT FL	0	990	990	0	990
853	WISCONSIN	ARMY RESERVE	FORT MCCOY	ARMY RESERVE REGIONAL TRAINING SITE	12,089	12,089	12,089	0	12,089
854	WISCONSIN	ARMY RESERVE	FORT MCCOY	REGIONAL TRAINING SITE-MAINTENANCE	2,641	2,641	2,641	0	2,641
855				TOTAL, WISCONSIN	14,730	18,921	16,670	2,251	20,162
856	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER-ADD TO AND ALTER COMM FAC	720	0	720	(720)	720
857	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER-ADD TO AND ALTER MSL OPS FAC	2,050	0	2,050	(2,050)	2,050
858	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER-GARRISON FACILITIES	52,000	0	52,000	(52,000)	52,000
859	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER-LAND ACQUISITION	780	0	780	(780)	780
860	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER-MAINTENANCE FACILITY	1,550	0	1,550	(1,550)	1,550
861	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER-MISSILE ASSEMBLY FACILITY	24,000	0	24,000	(24,000)	24,000
862	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER-MISSILE RAIL TRAINER FACILITY	4,000	0	4,000	(4,000)	4,000
863	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER-ROAD/RAILROAD AND UTILITIES	14,600	0	14,600	(14,600)	14,600
864	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER-TRAINING FACILITY	2,950	0	2,950	(2,950)	2,950
865	WYOMING	AIR FORCE	FE WARREN AFB	PEACEKEEPER-TRAINING TRAIN SHELTER	2,200	0	2,200	(2,200)	2,200
866	WYOMING	ARMY NATIONAL GU	CAMP GUERNSEY	RANGE, MRF (RETS)	810	810	810	0	810
867	WYOMING	ARMY NATIONAL GU	CHEYENNE	ARMORY ANNEX	0	0	2,351	(2,351)	2,351
868	WYOMING	ARMY NATIONAL GU	CHEYENNE	AVIATION PARKING IMPROVEMENTS	340	340	340	0	340
869	WYOMING	ARMY NATIONAL GU	DOUGLAS	ARMORY	1,033	1,033	1,033	0	1,033
870				TOTAL, WYOMING	107,033	2,183	109,384	(107,201)	109,384
871	CONUS CLASSIF	ARMY	CLASSIFIED LOCATIONS	CLASSIFIED PROJECT	3,900	3,900	3,900	0	3,900
872	CONUS CLASSIF	ARMY	CLASSIFIED LOCATIONS	SOF CLASSIFIED PROJECT	0	0	3,400	(3,400)	3,400
873	CONUS CLASSIF	ARMY	CLASSIFIED LOCATIONS	SOF LAND ACQUISITION	0	0	600	(600)	600
874	CONUS CLASSIF	ARMY	CLASSIFIED LOCATIONS	SOF OPERATIONAL FACILITY	0	0	7,500	(7,500)	0
875	CONUS CLASSIF	DEFENSE AGENCIES	CLASSIFIED LOCATION - DEFENSE LEV.	CHILLED WATER PLANT	4,500	4,500	4,500	0	4,500
876				TOTAL, CONUS CLASSIFIED	8,400	8,400	19,900	(11,500)	12,400
877	CONUS VARIOUS	AIR FORCE	CONUS VARIOUS	CENTRAL OTH-B REAL ESTATE ACQUISITION	5,000	0	5,000	(5,000)	0
878	CONUS VARIOUS	AIR FORCE	CONUS VARIOUS	UNDISTRIBUTED INCREASE	0	0	31,800	(31,800)	0
879				TOTAL, CONUS VARIOUS	5,000	0	36,800	(36,800)	0
880	ASCENSION ISL	NAVY	NAVAL COMMUNICATION DETACHMENT	UTILITIES SUPPORT UPGRADE	3,500	3,500	3,500	0	3,500
881				TOTAL, ASCENSION ISLAND	3,500	3,500	3,500	0	3,500
882	AUSTRALIA	NAVY	EXMOUTH HAROLD E HOLD NAVAL COMM ST	FIRE PROTECTION SYSTEM	610	610	610	0	610
883				TOTAL, AUSTRALIA	610	610	610	0	610

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
884	BAHAMAS	NAVY	ANDROS ISLAND NAVAL UNDERWATER SYST	PHYSICAL SECURITY IMPROVEMENTS	4,140	0	4,140	(4,140)	0
885				TOTAL, BAHAMAS	4,140	0	4,140	(4,140)	0
886	BERMUDA	DEFENSE AGENCIES	BERMUDA - DODDS	ROGER B. CHAFFEE ELEM SCHOOL	4,810	4,810	4,810	0	4,810
887				TOTAL, BERMUDA	4,810	4,810	4,810	0	4,810
888	CANADA	AIR FORCE	VARIOUS LOCATIONS-CANADA	FORWARD OPERATING LOCATIONS	24,000	24,000	24,000	0	24,000
889				TOTAL, CANADA	24,000	24,000	24,000	0	24,000
890	GERMANY	ARMY	ANSBACH	CHILD DEVELOPMENT CENTER	0	2,900	0	2,900	2,900
891	GERMANY	ARMY	AUGSBURG	ELECTRICAL POWER SYSTEM UPGRADE	600	600	0	600	600
892	GERMANY	ARMY	BAUMHOLDER	VEHICLE MAINTENANCE SHEDS	6,400	0	0	0	0
893	GERMANY	ARMY	GRAFENWOEHR	MULTI-PURPOSE TRAINING RANGE	6,500	0	6,500	(6,500)	6,500
894	GERMANY	ARMY	HANAU	AIRCRAFT PARKING APRON REFUELING FACILITY	8,300	8,300	8,300	0	8,300
895	GERMANY	ARMY	HANAU	HARDSTAND	1,750	0	0	0	0
896	GERMANY	ARMY	HANAU	HELICOPTER PARKING APRON	6,500	6,500	6,500	0	6,500
897	GERMANY	ARMY	HEILBRONN	HARDSTAND & WASH FACILITY	5,400	0	0	0	0
898	GERMANY	ARMY	HOHENFELS	FUEL STORAGE FACILITY	1,800	1,800	1,800	0	1,800
899	GERMANY	ARMY	HOHENFELS	HARDSTAND & MAINTENANCE SHEDS	4,250	0	4,250	(4,250)	0
900	GERMANY	ARMY	HOHENFELS	UNACCOMPANIED OFFICER HOUSING	3,150	3,150	3,150	0	3,150
901	GERMANY	ARMY	MAINZ	AVIATION UNIT MAINTENANCE HANGAR	12,000	12,000	12,000	0	12,000
902	GERMANY	ARMY	MAINZ	AVIATION UNIT MAINTENANCE HANGAR	14,400	14,400	14,400	0	14,400
903	GERMANY	ARMY	MANNHEIM	VEHICLE MAINTENANCE SHEDS	8,000	0	0	0	0
904	GERMANY	ARMY	STUTTGART	COMMAND CENTER MODERNIZATION	9,400	9,400	9,400	0	9,400
905	GERMANY	ARMY	VARIOUS LOCATIONS	CHILD DEVELOPMENT CENTER	0	10,569	0	10,569	0
906	GERMANY	ARMY	VARIOUS SITES	WARTIME HOST NATION SUPPORT	4,150	4,150	4,150	0	4,150
907	GERMANY	ARMY	VILSECK	CHILD DEVELOPMENT CENTER	0	3,320	0	3,320	0
908	GERMANY	ARMY	VILSECK	HARDSTAND/TACTICAL EQUIPMENT SHOP & SHEDS	8,800	0	8,800	(8,800)	0
909	GERMANY	ARMY	WUERZBURG	AMMUNITION STORAGE	1,400	1,400	1,400	0	1,400
910	GERMANY	ARMY	WUERZBURG	HELICOPTER PARKING APRON	10,600	10,600	10,600	0	10,600
911	GERMANY	AIR FORCE	HAHN AB	ANTENNA SUPPORT STRUCTURE	2,500	2,500	2,500	0	2,500
912	GERMANY	AIR FORCE	HAHN AB	LANTIRN MAINTENANCE FACILITY	220	220	220	0	220
913	GERMANY	AIR FORCE	HAHN AB	TRAINING/SOFTWARE MAINTENANCE FACILITY	1,400	1,400	1,400	0	1,400
914	GERMANY	AIR FORCE	HAHN AB	UPGRADE WATER STORAGE & DIST SYSTEM	3,800	3,800	0	3,800	0
915	GERMANY	AIR FORCE	HAHN AB	VEHICLE MAINTENANCE FACILITY	3,200	0	0	0	0
916	GERMANY	AIR FORCE	MEHLINGEN ANNEX	OPERATIONS FACILITY	1,100	1,110	1,100	10	0
917	GERMANY	AIR FORCE	RAMSTEIN AB	ADD TO AND ALTER NCO ACADEMY (KAPAUN)	2,500	0	0	0	0

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
918	GERMANY	AIR FORCE	RAMSTEIN AB	ADD TO AND ALTER VEHICLE MAINT FACILITY.....	2,800	2,800	0	2,800	0
919	GERMANY	AIR FORCE	RAMSTEIN AB	ADD TO COMBAT OPERATIONS INTELLIGENCE CTR....	11,600	0	11,600	(11,600)	0
920	GERMANY	AIR FORCE	RHEIN-MAIN AB	ADD TO COMBAT CONTROL FACILITY.....	980	0	980	(980)	0
921	GERMANY	AIR FORCE	RHEIN-MAIN AB	OPERATIONS COMMAND POST.....	2,900	0	2,900	(2,900)	0
922	GERMANY	AIR FORCE	RHEIN-MAIN AB	REFUELING VEHICLE SHELTER.....	280	0	0	0	0
923	GERMANY	AIR FORCE	SEMBACH AB	COMBAT REPAIR EQUIPMENT STORAGE FACILITY.....	1,250	1,250	1,250	0	1,250
924	GERMANY	AIR FORCE	SEMBACH AB	SECURITY POLICE OPERATIONS FACILITY.....	1,800	1,800	0	1,800	0
925	GERMANY	AIR FORCE	SPANGDAHLEM AB	ADD TO AND ALTER WATER STORAGE/DIST SYS.....	4,700	4,700	0	4,700	0
926	GERMANY	AIR FORCE	SPANGDAHLEM AB	COMBAT REPAIR EQUIPMENT STORAGE FACILITY.....	1,250	1,250	1,250	0	1,250
927	GERMANY	AIR FORCE	SPANGDAHLEM AB	F16-WEAPON SYSTEM MAINTENANCE CONTROL.....	5,200	0	5,200	(5,200)	0
928	GERMANY	AIR FORCE	ZWEIBRUCKEN AB	ADD TO AND ALTER SEWAGE TREATMENT SYSTEM.....	4,950	4,950	4,950	0	4,950
929	GERMANY	AIR FORCE	ZWEIBRUCKEN AB	PASSIVE DEFENSE EQUIPMENT STORAGE FAC.....	1,150	1,150	1,150	0	1,150
930	GERMANY	DEFENSE AGENCIES	AUGSBURG - DODDS	HIGH SCHOOL ADDITION.....	6,300	6,300	6,300	0	6,300
931	GERMANY	DEFENSE AGENCIES	FRANKFURT - DODDS	EDWARDS ELEMENTARY SCHOOL.....	7,101	7,101	7,101	0	7,101
932	GERMANY	DEFENSE AGENCIES	GRAFENWOEHR - DODDS	ELEMENTARY SCHOOL ADDITION.....	4,186	4,186	4,186	0	4,186
933	GERMANY	DEFENSE AGENCIES	HOHENFELS - DODDS	ELEMENTARY SCHOOL ADDITION.....	7,177	7,177	7,177	0	7,177
934	GERMANY	DEFENSE AGENCIES	HOHENFELS - DODDS	MIDDLE/HIGH SCHOOL ADDITION.....	9,902	9,902	9,902	0	9,902
935				TOTAL, GERMANY.....	201,646	150,685	160,416	(9,731)	129,086
936	GUAM	NAVY	CAMP COVINGTON MOBILE CONSTR BATTAL	MESS HALL.....	4,300	4,300	4,300	0	4,300
937	GUAM	NAVY	FLEET SURVEILLANCE SUPPORT COMMAND	ELECTRONIC INSTALLATION.....	27,000	27,000	27,000	0	0
938	GUAM	NAVY	NAVY PUBLIC WORKS CENTER	MUNICIPAL SEWER CONNECTION.....	4,150	4,150	4,150	0	4,150
939	GUAM	AIR FORCE	ANDERSEN AFB	ALTER DORMITORY.....	6,500	6,500	6,500	0	6,500
940	GUAM	ARMY RESERVE	APRA HEIGHTS	ADD/ALT ARMY RESERVE CTR/NEW STORAGE BLDG....	957	957	957	0	957
941				TOTAL, GUAM.....	42,907	42,907	42,907	0	15,907
942	HONDURAS	AIR FORCE	LA MESA AB	UPGRADE AIRFIELD PAVEMENTS.....	10,200	0	10,200	(10,200)	0
943	HONDURAS	AIR FORCE	SAN LORENZO AB	AIRFIELD IMPROVEMENTS.....	4,900	0	4,900	(4,900)	0
944				TOTAL, HONDURAS.....	15,100	0	15,100	(15,100)	0
945	ICELAND	NAVY	KEFLAVIK NAVAL AIR STATION	FUEL FACILITIES.....	7,500	7,500	7,500	0	7,500
946	ICELAND	NAVY	KEFLAVIK NAVAL COMMUNICATION STATIO	COMMUNICATIONS ANTENNA.....	7,760	7,760	7,760	0	7,760
947	ICELAND	NAVY	KEFLAVIK NAVAL COMMUNICATION STATIO	TRANSMITTER BUILDING ADDITION.....	690	690	690	0	690
948	ICELAND	AIR FORCE	KEFLAVIK	CW PROTECTION-AVIONICS FACILITY.....	8,900	0	0	0	0
949	ICELAND	AIR FORCE	KEFLAVIK	F15-FUEL SYSTEMS MAINTENANCE DOCK.....	7,400	7,400	7,400	0	7,400
950				TOTAL, ICELAND.....	32,250	23,350	23,350	0	23,350
951	ITALY	NAVY	NAPLES NAVAL SUPPORT ACTIVITY	CMD CTRL COMMS & INTEL COMPLEX (INC II).....	46,600	46,600	46,600	0	46,600

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952	ITALY	AIR FORCE	AVIANO AB	ALTER MUNITIONS STORAGE FACILITY	1,300	1,300	1,300	0	1,300
953	ITALY	AIR FORCE	AVIANO AB	MUNITIONS STORAGE IGLOOS	950	950	950	0	950
954	ITALY	AIR FORCE	AVIANO AB	TRANSIENT DORMITORY	3,800	3,800	0	3,800	0
955	ITALY	AIR FORCE	CROTONE	BASE THEATER	1,950	0	0	0	0
956	ITALY	AIR FORCE	CROTONE	MORALE/WELFARE/RECREATION SUPPLY	450	0	0	0	0
957	ITALY	AIR FORCE	CROTONE	MULTI-PURPOSE SPORTS FIELDS	1,250	0	0	0	0
958	ITALY	AIR FORCE	CROTONE	RANGE FACILITIES	7,000	0	0	0	0
959	ITALY	AIR FORCE	CROTONE	RECREATION CENTER/LIBRARY	3,500	0	0	0	0
960	ITALY	AIR FORCE	CROTONE	YOUTH CENTER	1,250	0	0	0	0
961	ITALY	AIR FORCE	SAN VITO AS	TRANSIENT DORMITORY	2,750	2,750	2,750	0	2,750
962				TOTAL, ITALY	70,800	55,400	51,600	3,800	51,600
963	JAPAN	NAVY	ATSUGI NAVAL AIR FACILITY	MAINTENANCE HANGAR	14,900	14,900	0	14,900	0
964	JAPAN	NAVY	OKINAWA CAMP BUTLER MARINE CORPS BA	COMBINED ARMS STAFF TRAINER FACILITY	3,200	3,200	0	3,200	0
965	JAPAN	NAVY	OKINAWA FUTENMA MARINE CORPS AIR ST	MAINTENANCE HANGAR ADDITION	1,950	1,950	0	1,950	0
966	JAPAN	NAVY	OKINAWA FUTENMA MARINE CORPS AIR ST	TACTICAL SUPPORT VAN PADS	5,500	5,500	0	5,500	0
967	JAPAN	AIR FORCE	KADENA AB	KC135-ADD TO AND ALTER FLIGHT SIM TNG FAC	2,300	2,300	0	2,300	0
968	JAPAN	AIR FORCE	KADENA AB	KC135-FIRE PROTECTION MAINTENANCE FACS	2,000	2,000	0	2,000	0
969	JAPAN	AIR FORCE	MISAWA AB	PROTECTIVE CONSTRUCTION	3,700	0	0	0	0
970	JAPAN	AIR FORCE	YOKOTA AB	JET FUEL STORAGE	4,700	4,700	0	4,700	0
971				TOTAL, JAPAN	38,250	34,550	0	34,550	0
972	JOHNSTON ISLAD	EFENSE AGENCIES	DNA HDQTRS FIELD COMMAND	ALTER POWER PLANT PHASE I	4,500	4,500	4,500	0	4,500
973	JOHNSTON ISLAD	EFENSE AGENCIES	DNA HDQTRS FIELD COMMAND	SHORE LINE PROTECTION PHASE I	1,668	1,668	1,668	0	1,668
974				TOTAL, JOHNSTON ISLAND	6,168	6,168	6,168	0	6,168
975	KOREA	ARMY	CAMP CASEY	BARRACKS	21,000	21,000	0	21,000	0
976	KOREA	ARMY	CAMP CASEY	TACTICAL EQUIPMENT SHOP	3,200	3,200	0	3,200	0
977	KOREA	ARMY	CAMP GARY OWEN	BARRACKS	2,450	2,450	0	2,450	0
978	KOREA	ARMY	CAMP GARY OWEN	TACTICAL EQUIPMENT SHOP	1,750	1,750	0	1,750	0
979	KOREA	ARMY	CAMP HOVEY	TACTICAL EQUIPMENT SHOP	8,200	8,200	0	8,200	0
980	KOREA	ARMY	CAMP HOVEY	TACTICAL EQUIPMENT SHOP	7,100	7,100	0	7,100	0
981	KOREA	ARMY	EASTERN CORRIDOR	UNACCOMPANIED OFFICER HOUSING	4,050	4,050	4,050	0	4,050
982	KOREA	AIR FORCE	KUNSAN AB	AIRCRAFT FUEL SYSTEMS REPAIR DOCK	3,000	3,000	0	3,000	0
983	KOREA	AIR FORCE	KUNSAN AB	ALTER MUNITIONS STORAGE FACILITY	3,200	3,200	0	3,200	3,200
984	KOREA	AIR FORCE	KUNSAN AB	AVIONICS FACILITY	4,700	4,700	0	4,700	4,700
985	KOREA	AIR FORCE	KUNSAN AB	ECM POD SHOP AND STORAGE FACILITY	1,400	1,400	0	1,400	0

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
986	KOREA	AIR FORCE	KUNSAN AB	WAR READINESS MATERIEL VEH STORAGE FAC.....	840	840	0	840	0
987	KOREA	AIR FORCE	OSAN AB	AIRCRAFT PARTS DISTRIBUTION FACILITY.....	3,000	3,000	0	3,000	0
988	KOREA	AIR FORCE	OSAN AB	AIRCRAFT SUPPORT EQ SHOP/STORAGE FACILITY....	1,450	0	1,450	(1,450)	0
989	KOREA	AIR FORCE	OSAN AB	ALTER AVIONICS FACILITY.....	510	510	0	510	0
990	KOREA	AIR FORCE	OSAN AB	CHAPEL CENTER.....	2,600	0	0	0	0
991	KOREA	AIR FORCE	OSAN AB	F16-ADD TO ENGINE INSPECTION & REPAIR FAC....	800	800	0	800	0
992	KOREA	AIR FORCE	OSAN AB	SECURITY POLICE OPERATIONS FACILITY.....	2,400	2,400	0	2,400	0
993	KOREA	AIR FORCE	OSAN AB	SQUADRON OPS/SENSOR MAINTENANCE FACS.....	1,650	0	1,650	(1,650)	0
994	KOREA	AIR FORCE	OSAN AB	WAR READINESS MATERIEL VEH STORAGE FAC.....	840	840	0	840	0
995	KOREA	DEFENSE AGENCIES	CAMP CARROLL - DMSA	FLEET HOSPITAL FACILITY 18.....	6,400	0	6,400	(6,400)	0
996	KOREA	DEFENSE AGENCIES	CAMP CARROLL - DMSA	FROZEN BLOOD FACILITY.....	1,500	1,500	1,500	0	1,500
997	KOREA	DEFENSE AGENCIES	CAMP GARRY OWEN - DMSA	TROOP MEDICAL CLINIC REPLACEMENT.....	800	800	800	0	800
998				TOTAL, KOREA.....	82,840	70,740	15,850	54,890	14,250
999	KWAJALEIN	ARMY	KWAJALEIN	DOCUMENT CONTROL FACILITY ADDITION.....	1,650	1,650	1,650	0	1,650
1000	KWAJALEIN	ARMY	KWAJALEIN	FRESH WATER PRODUCTION FACILITY.....	4,600	4,600	4,600	0	4,600
1001	KWAJALEIN	ARMY	KWAJALEIN	SEWAGE TREATMENT PLANT.....	3,250	3,250	3,250	0	3,250
1002				TOTAL, KWAJALEIN.....	9,500	9,500	9,500	0	9,500
1003	LUXEMBOURG	DEFENSE AGENCIES	ECHTERNACH AIR BASE - DMSA	CONTINGENCY HOSPITAL.....	19,000	0	0	0	0
1004				TOTAL, LUXEMBOURG.....	19,000	0	0	0	0
1005	OMAN	AIR FORCE	SEEB AB	WAR READINESS MATERIEL WAREHOUSE.....	2,200	0	2,200	(2,200)	2,200
1006	OMAN	AIR FORCE	THUMRAIT AB	AIRFIELD IMPROVEMENTS.....	17,000	0	17,000	(17,000)	17,000
1007	OMAN	AIR FORCE	THUMRAIT AB	WAR READINESS MATERIEL WAREHOUSE.....	6,600	0	6,600	(6,600)	6,600
1008				TOTAL, OMAN.....	25,800	0	25,800	(25,800)	25,800
1009	PANAMA	ARMY	FORT KOBBE	AIRCRAFT PARKING APRON EXTENSION.....	7,200	0	7,200	(7,200)	0
1010	PANAMA	AIR FORCE	HOWARD AFB	STOL-ADD TO APRON.....	4,100	0	4,100	(4,100)	0
1011	PANAMA	AIR FORCE	HOWARD AFB	STOL-ADD TO FREIGHT TERMINAL.....	1,250	0	1,250	(1,250)	0
1012	PANAMA	AIR FORCE	HOWARD AFB	STOL-AIRCRAFT ORGANIZATIONAL MAINT FACS.....	710	0	710	(710)	0
1013	PANAMA	AIR FORCE	HOWARD AFB	STOL-SQUADRON OPERATIONS FACILITY.....	1,150	0	1,150	(1,150)	0
1014				TOTAL, PANAMA.....	14,410	0	14,410	(14,410)	0
1015	PHILIPPINES	AIR FORCE	CLARK AB	ADD TO AND ALTER PASSENGER TERMINAL.....	4,050	0	0	0	0
1016	PHILIPPINES	AIR FORCE	CLARK AB	AIRCRAFT OPERATIONAL APRON-PHASE II.....	3,200	0	3,200	(3,200)	0
1017	PHILIPPINES	AIR FORCE	CLARK AB	DORMITORIES.....	6,100	0	6,100	(6,100)	0
1018	PHILIPPINES	AIR FORCE	CLARK AB	F15E-AIRCRAFT CORROSION CONTROL FACILITY.....	2,000	0	2,000	(2,000)	0
1019	PHILIPPINES	AIR FORCE	CLARK AB	F15E-AIRCRAFT ENGINE MAINTENANCE SHOP.....	3,200	0	3,200	(3,200)	0

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
1020	PHILIPPINES	AIR FORCE	CLARK AB	F15E-AIRCRAFT MAINTENANCE DOCK	1,300	0	1,300	(1,300)	0
1021	PHILIPPINES	AIR FORCE	CLARK AB	F15E-AVIONICS INTERMEDIATE MAINT SHOP	1,700	0	1,700	(1,700)	0
1022	PHILIPPINES	AIR FORCE	CLARK AB	F15E-AVIONICS MAINTENANCE SHOP	920	0	920	(920)	0
1023	PHILIPPINES	AIR FORCE	CLARK AB	F15E-EXTERNAL TANK MAINT AND STORAGE FAC	1,000	0	1,000	(1,000)	0
1024	PHILIPPINES	AIR FORCE	CLARK AB	F15E-FLIGHT SIMULATOR TRAINING FACILITY	2,050	0	2,050	(2,050)	0
1025	PHILIPPINES	AIR FORCE	CLARK AB	FLIGHTLINE SECURITY IMPROVEMENTS	440	0	440	(440)	0
1026	PHILIPPINES	AIR FORCE	CLARK AB	MUNITIONS OPERATIONAL COMPLEX-PHASE I	2,400	0	0	0	0
1027	PHILIPPINES	AIR FORCE	CLARK AB	SOF-HELICOPTER APRON	2,000	0	2,000	(2,000)	0
1028	PHILIPPINES	AIR FORCE	CLARK AB	SOF-WEAPON SYSTEMS MAINTENANCE MGMT FAC	1,200	0	1,200	(1,200)	0
1029	PHILIPPINES	AIR FORCE	CLARK AB	VEHICLE MAINTENANCE COMPLEX-PHASE I	4,200	0	4,200	(4,200)	0
1030	PHILIPPINES	AIR FORCE	WALLACE AIR STATION	ADD TO/ALTER RADAR OPERATIONS FACILITY	550	0	550	(550)	0
1031	PHILIPPINES	AIR FORCE	WALLACE AIR STATION	DRONE SUPPORT	3,600	0	3,600	(3,600)	0
1032				TOTAL, PHILIPPINES	39,910	0	33,460	(33,460)	0
1033	PORTUGAL	AIR FORCE	LAJES AFB	COMBAT REPAIR EQUIPMENT STORAGE FACILITY	1,600	1,600	1,600	0	1,600
1034	PORTUGAL	AIR FORCE	LAJES AFB	HYDRANT FUELING SYSTEM	6,100	6,100	6,100	0	6,100
1035	PORTUGAL	AIR FORCE	LAJES AFB	TRANSIENT DORMITORY	0	2,300	2,300	0	2,300
1036				TOTAL, PORTUGAL	7,700	10,000	10,000	0	10,000
1037	PUERTO RICO	ARMY	FORT BUCHANAN	UPGRADE WATER DISTRIBUTION SYSTEM	690	690	690	0	690
1038	PUERTO RICO	NAVY	ROOSEVELT RDS NAVAL COMMUNICATION	STRANSMITTER COOLING SYSTEM	1,300	1,300	1,300	0	1,300
1039	PUERTO RICO	DEFENSE AGENCIES	FORT BUCHANAN - DODDS	HIGH SCHOOL	1,155	1,155	1,155	0	1,155
1040	PUERTO RICO	DEFENSE AGENCIES	ROOSEVELT ROADS - DODDS	ELEMENTARY SCHOOL	3,261	3,261	3,261	0	3,261
1041	PUERTO RICO	DEFENSE AGENCIES	ROOSEVELT ROADS - DODDS	HIGH SCHOOL	3,280	3,280	3,280	0	3,280
1042				TOTAL, PUERTO RICO	9,686	9,686	9,686	0	9,686
1043	SCOTLAND	NAVY	EDZELL NAVAL SECURITY GROUP ACTIVIT	OPERATIONS BUILDING ADDITION	5,820	5,820	5,820	0	5,820
1044	SCOTLAND	NAVY	NAVAL ACTIVITIES MACHRIHANISH	SEAL TEAM OPERATIONS FACS (INCR II)	5,800	5,800	5,800	0	5,800
1045				TOTAL, SCOTLAND	11,620	11,620	11,620	0	11,620
1046	SOMALIA	AIR FORCE	BERBERA	AIRCRAFT APRON-PHASE I	7,000	0	7,000	(7,000)	0
1047	SOMALIA	AIR FORCE	BERBERA	TAXIWAY	8,000	0	8,000	(8,000)	0
1048				TOTAL, SOMALIA	15,000	0	15,000	(15,000)	0
1049	SPAIN	NAVY	NAVAL STATION ROTA	CHILD DEVELOPMENT CENTER	0	1,900	0	1,900	1,900
1050	SPAIN	AIR FORCE	ZARAGOZA AB	AEROSPACE SUPPORT EQUIPMENT SHOP	1,950	1,950	0	1,950	0
1051	SPAIN	DEFENSE AGENCIES	ZARAGOZA AIR BASE - DMSA	SECOND ECHELON MEDICAL LOGISTICS STORAGE	680	0	680	(680)	0
1052				TOTAL, SPAIN	2,630	3,850	680	3,170	1,900
1053	TURKEY	ARMY	LOCATION 276	RECREATION CENTER	1,950	1,950	1,950	0	1,950

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
1054	TURKEY	AIR FORCE	ANKARA	COMBAT READINESS CENTER	4,200	4,200	0	4,200	0
1055	TURKEY	AIR FORCE	BALIKESIR	DORMITORY	3,600	3,600	3,600	0	3,600
1056	TURKEY	AIR FORCE	ERHAC	DORMITORY	2,750	2,750	2,750	0	2,750
1057	TURKEY	AIR FORCE	INCIRLIK AB	COMBAT REPAIR EQUIPMENT STORAGE FACILITY	1,100	1,100	1,100	0	1,100
1058	TURKEY	AIR FORCE	INCIRLIK AB	CW PROTECTION-AVIONICS FACILITY	3,850	3,850	0	3,850	0
1059	TURKEY	AIR FORCE	INCIRLIK AB	WATER DISTRIBUTION MAINS	960	960	0	960	0
1060				TOTAL, TURKEY	18,410	18,410	9,400	9,010	9,400
1061	UNITED KINGDOM	NAVY	LONDON NAVAL ACTIVITIES	AUTOMOTIVE VEHICLE MAINTENANCE SHOP	730	730	0	730	0
1062	UNITED KINGDOM	NAVY	LONDON NAVAL ACTIVITIES	BACHELOR ENLISTED QUARTERS AND MESS HALL	9,400	9,400	0	9,400	0
1063	UNITED KINGDOM	AIR FORCE	BOVINGDON RADIO RELAY SITE	DCS SITE SECURITY	400	400	400	0	400
1064	UNITED KINGDOM	AIR FORCE	HIGH WYCOMBE	DORMITORY	4,100	4,100	0	4,100	0
1065	UNITED KINGDOM	AIR FORCE	RAF ALCONBURY	ADD TO AND ALTER PHYSICAL FITNESS CENTER	2,900	2,900	0	2,900	0
1066	UNITED KINGDOM	AIR FORCE	RAF ALCONBURY	CONVENTIONAL MUNITIONS SHOP	1,300	1,300	1,300	0	1,300
1067	UNITED KINGDOM	AIR FORCE	RAF BARFORD ST JOHN	PHYSICAL PROTECTION	490	490	490	0	490
1068	UNITED KINGDOM	AIR FORCE	RAF BENTWATERS	ALTER MUNITIONS STORAGE FACILITY	2,450	2,450	2,450	0	2,450
1069	UNITED KINGDOM	AIR FORCE	RAF BENTWATERS	CENTRAL POST OFFICE	1,100	1,100	0	1,100	0
1070	UNITED KINGDOM	AIR FORCE	RAF BENTWATERS	CHAPEL	1,400	0	0	0	0
1071	UNITED KINGDOM	AIR FORCE	RAF BENTWATERS	YOUTH CENTER	1,850	1,850	0	1,850	0
1072	UNITED KINGDOM	AIR FORCE	RAF CHRISTMAS COMMON	DCS SITE SECURITY	210	210	210	0	210
1073	UNITED KINGDOM	AIR FORCE	RAF FAIRFORD	DIGITAL EUROPEAN BACKBONE FACILITY	1,350	1,350	1,350	0	1,350
1074	UNITED KINGDOM	AIR FORCE	RAF FAIRFORD	JET FUEL STORAGE/HYDRANT REFUELING SYS	6,900	6,900	0	6,900	0
1075	UNITED KINGDOM	AIR FORCE	RAF FAIRFORD	UPGRADE WATER STORAGE AND DIST SYSTEM	2,700	2,700	0	2,700	0
1076	UNITED KINGDOM	AIR FORCE	RAF LAKENHEATH	STORM DRAINAGE DISPOSAL	860	860	0	860	0
1077	UNITED KINGDOM	AIR FORCE	RAF MILDENHALL	JET FUEL STORAGE	3,400	3,400	0	3,400	0
1078	UNITED KINGDOM	AIR FORCE	RAF MILDENHALL	UPGRADE SEWAGE TREATMENT PLANT	1,650	1,650	1,650	0	1,650
1079	UNITED KINGDOM	AIR FORCE	RAF UPPER HEYFORD	ALTER MUNITIONS STORAGE FACILITY	5,350	5,350	5,350	0	5,350
1080	UNITED KINGDOM	AIR FORCE	RAF UPPER HEYFORD	COMBAT READINESS CENTER	7,840	0	0	0	0
1081	UNITED KINGDOM	AIR FORCE	RAF UPPER HEYFORD	CW PROTECTION-SQUADRON OPERATIONS FAC	2,050	0	0	0	0
1082	UNITED KINGDOM	AIR FORCE	RAF UPPER HEYFORD	F111-ADD TO AND ALTER FLIGHT SIM FAC	2,200	0	0	0	0
1083	UNITED KINGDOM	AIR FORCE	RAF UPPER HEYFORD	F111-ADD TO AVIONICS MAINTENANCE SHOP	3,350	0	0	0	0
1084	UNITED KINGDOM	AIR FORCE	RAF UPPER HEYFORD	F111-ADD TO ENGINE SHOP	3,380	0	0	0	0
1085	UNITED KINGDOM	DEFENSE AGENCIES	BICESTER - DODDS	ELEMENTARY SCHOOL	6,275	6,275	6,275	0	6,275
1086	UNITED KINGDOM	DEFENSE AGENCIES	ROYAL AIR FORCE CHESSINGTON - DMSA	CONTINGENCY HOSPITAL	12,200	0	12,200	(12,200)	0
1087	UNITED KINGDOM	DEFENSE AGENCIES	ROYAL AIR FORCE LANARK - DMSA	FLEET HOSPITAL FACILITY 14	15,000	0	15,000	(15,000)	0

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
1088	UNITED KINGDO	DEFENSE AGENCIES	UPWOOD - DODDS	ELEMENTARY SCHOOL ADDITION	4,175	4,175	4,175	0	4,175
1089				TOTAL, UNITED KINGDOM	105,010	57,590	50,850	6,740	23,650
1090	OVERSEAS CLASS	ARMY	OVERSEAS CLASSIFIED	WAR RESERVE STORAGE	6,100	0	6,100	(6,100)	6,100
1091	OVERSEAS CLASS	AIR FORCE	OVERSEAS CLASSIFIED	F15E-ADD TO AND ALTER FLIGHT SIM FAC	740	0	740	(740)	740
1092	OVERSEAS CLASS	DEFENSE AGENCIES	OVERSEAS CLASSIFIED - NSA	CLASSIFIED PROJECT	23,000	23,000	23,000	0	23,000
1093				TOTAL, OVERSEAS CLASSIFIED	29,840	23,000	29,840	(6,840)	29,840
1094	OVERSEAS VARI	ARMY	OVERSEAS VARIOUS - ARMY	CURRENCY ADJUSTMENT	0	0	(6,360)	6,360	0
1095	OVERSEAS VARI	NAVY	OVERSEAS VARIOUS - NAVY	CURRENCY ADJUSTMENT	0	0	(5,930)	5,930	0
1096	OVERSEAS VARI	AIR FORCE	OVERSEAS VARIOUS - AIR FORCE	CURRENCY ADJUSTMENT	0	0	(8,635)	8,635	0
1097	OVERSEAS VARI	DEFENSE AGENCIES	OVERSEAS VARIOUS - DEFENSE AGENCIES	CURRENCY ADJUSTMENT	0	0	(7,300)	7,300	0
1098	OVERSEAS VARI	DEFENSE AGENCIES	OVERSEAS VARIOUS - DODDS	HOT LUNCH FACILITIES	6,600	6,600	6,600	0	6,600
1099				TOTAL, OVERSEAS VARIOUS	6,600	6,600	(21,625)	28,225	6,600
1100	NATO INFRASTR	NATO INFRASTRUCT	DEFENSE LEVEL ACTIVITIES	DEFENSE LEVEL ACTIVITIES	501,900	424,714	462,300	(37,586)	424,714
1101				TOTAL, NATO INFRASTRUCTURE	501,900	424,714	462,300	(37,586)	424,714
1102	WORLDWIDE UNS	ARMY	WORLDWIDE UNSPECIFIED	PLANNING AND DESIGN	74,420	74,420	72,420	2,000	74,420
1103	WORLDWIDE UNS	ARMY	WORLDWIDE UNSPECIFIED	UNSPECIFIED MINOR CONSTRUCTION	11,000	11,000	11,000	0	11,000
1104	WORLDWIDE UNS	NAVY	WORLDWIDE UNSPECIFIED	ACCESS ROADS	5,810	5,810	5,810	0	5,810
1105	WORLDWIDE UNS	NAVY	WORLDWIDE UNSPECIFIED	PLANNING AND DESIGN	84,970	84,970	84,970	0	84,970
1106	WORLDWIDE UNS	NAVY	WORLDWIDE UNSPECIFIED	UNSPECIFIED MINOR CONSTRUCTION	14,000	14,000	14,000	0	14,000
1107	WORLDWIDE UNS	AIR FORCE	WORLDWIDE UNSPECIFIED	PLANNING AND DESIGN	106,094	106,000	106,094	(94)	106,094
1108	WORLDWIDE UNS	AIR FORCE	WORLDWIDE UNSPECIFIED	UNSPECIFIED MINOR CONSTRUCTION	7,000	24,350	24,350	0	7,000
1109	WORLDWIDE UNS	DEFENSE AGENCIES	WORLDWIDE UNSPECIFIED - DEF. LEV. A	CONTINGENCY CONSTRUCTION	10,000	10,000	10,000	0	10,000
1110	WORLDWIDE UNS	DEFENSE AGENCIES	WORLDWIDE UNSPECIFIED - WASH. HDQ.	PLANNING AND DESIGN	5,180	5,180	5,180	0	5,180
1111	WORLDWIDE UNS	DEFENSE AGENCIES	WORLDWIDE UNSPECIFIED - DMSA	PLANNING AND DESIGN	43,600	43,600	43,600	0	43,600
1112	WORLDWIDE UNS	DEFENSE AGENCIES	WORLDWIDE UNSPECIFIED - SDIO	PLANNING AND DESIGN	2,000	2,000	2,000	0	2,000
1113	WORLDWIDE UNS	DEFENSE AGENCIES	WORLDWIDE UNSPECIFIED - DEF. LEV. A	PLANNING AND DESIGN	29,700	29,700	29,700	0	29,700
1114	WORLDWIDE UNS	DEFENSE AGENCIES	WORLDWIDE UNSPECIFIED - DMSA	UNSPECIFIED MINOR CONSTRUCTION	2,100	2,100	2,100	0	2,100
1115	WORLDWIDE UNS	DEFENSE AGENCIES	WORLDWIDE UNSPECIFIED - SDIO	UNSPECIFIED MINOR CONSTRUCTION	2,000	2,000	2,000	0	2,000
1116	WORLDWIDE UNS	DEFENSE AGENCIES	WORLDWIDE UNSPECIFIED - DEF. LEV. A	UNSPECIFIED MINOR CONSTRUCTION	2,000	2,000	2,000	0	2,000
1117	WORLDWIDE UNS	DEFENSE AGENCIES	WORLDWIDE UNSPECIFIED - JOINT CHIEF	UNSPECIFIED MINOR CONSTRUCTION	7,000	7,000	7,000	0	7,000
1118	WORLDWIDE UNS	ARMY NATIONAL GU	WORLDWIDE UNSPECIFIED	GENERAL REDUCTION	0	0	0	0	(33,100)
1119	WORLDWIDE UNS	ARMY NATIONAL GU	WORLDWIDE UNSPECIFIED	PLANNING AND DESIGN	4,800	4,800	6,858	(2,058)	6,858
1120	WORLDWIDE UNS	ARMY NATIONAL GU	WORLDWIDE UNSPECIFIED	UNSPECIFIED MINOR CONSTRUCTION	7,500	7,500	7,500	0	7,500
1121	WORLDWIDE UNS	AIR NATIONAL GUA	WORLDWIDE UNSPECIFIED	GENERAL REDUCTION	0	0	0	0	(35,052)

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
1122	WORLDWIDE UNSAIR NATIONAL GUA		WORLDWIDE UNSPECIFIED	PLANNING AND DESIGN	6,450	8,250	10,450	(2,200)	8,250
1123	WORLDWIDE UNSAIR NATIONAL GUA		WORLDWIDE UNSPECIFIED	UNSPECIFIED MINOR CONSTRUCTION	2,500	2,500	2,500	0	2,500
1124	WORLDWIDE UNSARMY RESERVE		WORLDWIDE UNSPECIFIED	GENERAL REDUCTION	0	0	0	0	(14,260)
1125	WORLDWIDE UNSARMY RESERVE		WORLDWIDE UNSPECIFIED	LAND ACQUISITIONS	3,414	3,414	3,414	0	3,414
1126	WORLDWIDE UNSARMY RESERVE		WORLDWIDE UNSPECIFIED	PLANNING AND DESIGN	5,388	5,388	6,888	(1,500)	6,888
1127	WORLDWIDE UNSARMY RESERVE		WORLDWIDE UNSPECIFIED	UNSPECIFIED MINOR CONSTRUCTION	1,751	1,751	1,751	0	1,751
1128	WORLDWIDE UNSNAVY RESERVE		WORLDWIDE UNSPECIFIED	PLANNING AND DESIGN	4,224	4,224	4,224	0	4,224
1129	WORLDWIDE UNSNAVY RESERVE		WORLDWIDE UNSPECIFIED	UNSPECIFIED MINOR CONSTRUCTION	1,579	1,579	1,579	0	1,579
1130	WORLDWIDE UNSAIR FORCE RESERV		WORLDWIDE UNSPECIFIED	PLANNING AND DESIGN	10,526	10,526	10,526	0	10,526
1131	WORLDWIDE UNSAIR FORCE RESERV		WORLDWIDE UNSPECIFIED	UNSPECIFIED MINOR CONSTRUCTION	3,109	3,109	3,109	0	4,109
1132				TOTAL, WORLDWIDE UNSPECIFIED	458,115	477,171	481,023	(3,852)	382,061
1133	WORLDWIDE VARNAVY		WORLDWIDE VARIOUS	LAND ACQUISITION	21,000	21,000	21,000	0	21,000
1134	WORLDWIDE VARNAVY		WORLDWIDE VARIOUS	HOST NATION INFRASTRUCTURE SUPPORT	1,000	1,000	1,000	0	1,000
1135	WORLDWIDE VARDEFENSE AGENCIES		WORLDWIDE VARIOUS - DLA	CONFORMING STORAGE FACILITIES	11,000	11,000	11,000	0	11,000
1136				TOTAL, WORLDWIDE VARIOUS	33,000	33,000	33,000	0	33,000
1137	ALABAMA	FH-ARMY	FORT RUCKER	GENERAL OFFICER HOUSING (2)	0	400	0	400	400
1138	HAWAII	FH-ARMY	HELEMANO	FAMILY HOUSING NEW CONSTRUCTION (90)	10,322	10,322	10,322	0	10,322
1139	HAWAII	FH-ARMY	HICKAM AFB	FAMILY HOUSING NEW CONSTRUCTION (20)	2,500	2,500	2,500	0	2,500
1140	HAWAII	FH-ARMY	KANEOHE MCAS	FAMILY HOUSING NEW CONSTRUCTION (40)	4,700	4,700	4,700	0	4,700
1141	HAWAII	FH-ARMY	OAHU	FAMILY HOUSING NEW CONSTRUCTION (300)	0	30,000	0	30,000	18,000
1142	VIRGINIA	FH-ARMY	FORT LEE	GENERAL OFFICE HOUSING (1)	0	210	0	210	210
1143	WORLDWIDE VAR	FH-ARMY	WORLDWIDE VARIOUS	FAMILY HOUSING CONSTRUCTION IMPROVEMENTS	36,329	89,329	36,329	53,000	36,329
1144	WORLDWIDE VAR	FH-ARMY	WORLDWIDE VARIOUS	FAMILY HOUSING PLANNING	1,349	1,349	1,349	0	1,349
1145				SUBTOTAL, CONSTRUCTION	55,200	138,810	55,200	83,610	73,810
1146	WORLDWIDE VAR	FH-ARMY	WORLDWIDE VARIOUS	FAMILY HOUSING FURNISHINGS ACCOUNT	75,530	75,530	75,530	0	75,530
1147	WORLDWIDE VAR	FH-ARMY	WORLDWIDE VARIOUS	FAMILY HOUSING MANAGEMENT ACCOUNT	71,862	71,862	71,862	0	71,862
1148	WORLDWIDE VAR	FH-ARMY	WORLDWIDE VARIOUS	FAMILY HOUSING MISCELLANEOUS ACCOUNT	1,617	1,617	1,617	0	1,617
1149	WORLDWIDE VAR	FH-ARMY	WORLDWIDE VARIOUS	FAMILY HOUSING SERVICES ACCOUNT	55,587	55,587	55,587	0	55,587
1150	WORLDWIDE VAR	FH-ARMY	WORLDWIDE VARIOUS	FAMILY HOUSING UTILITIES ACCOUNT	296,784	296,784	296,784	0	296,784
1151				SUBTOTAL, OPERATIONS	501,380	501,380	501,380	0	501,380
1152	WORLDWIDE VAR	FH-ARMY	WORLDWIDE VARIOUS	FAMILY HOUSING LEASING	319,142	319,142	319,142	0	319,142
1153	WORLDWIDE VAR	FH-ARMY	WORLDWIDE VARIOUS	FAMILY HOUSING MAINTENANCE OF REAL PROPERTY	562,120	562,120	556,520	5,600	556,520
1154	WORLDWIDE VAR	FH-ARMY	WORLDWIDE VARIOUS	FAMILY HOUSING INTEREST PAYMENTS	37	37	37	0	37
1155	WORLDWIDE VAR	FH-ARMY	WORLDWIDE VARIOUS	FAMILY HOUSING MORTGAGE INSURANCE PREMIUMS	21	21	21	0	21

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
1156				SUBTOTAL, NET BUDGET AUTHORITY.....	881,320	881,320	875,720	5,600	875,720
1157	WORLDWIDE VAR	DEBT	VARIOUS LOCATIONS - ARMY	PLUS APPROPRIATION FOR DEBT REDUCTION.....	300	300	300	0	300
1158				TOTAL, FAMILY HOUSING, ARMY.....	1,437,900	1,521,510	1,432,300	89,210	1,450,910
1159	CALIFORNIA	FH-NAVY	MARINE CORPS AIR STATION EL TORO	FAMILY HOUSING NEW CONSTRUCTION (200).....	0	15,000	0	15,000	15,000
1160	CALIFORNIA	FH-NAVY	MARINE CORPS BASE CAMP PENDLETON	FAMILY HOUSING NEW CONSTRUCTION (412).....	10,150	35,150	10,150	25,000	25,150
1161	CALIFORNIA	FH-NAVY	NAVAL COMPLEX SAN DIEGO	FAMILY HOUSING NEW CONSTRUCTION WAREHOUSE....	1,855	0	1,855	(1,855)	0
1162	CALIFORNIA	FH-NAVY	NAVAL AIR STATION MOFFETT FIELD	FAMILY HOUSING NEW CONSTRUCTION (74).....	0	6,600	0	6,600	6,600
1163	CALIFORNIA	FH-NAVY	NAVAL STATION LONG BEACH	FAMILY HOUSING NEW CONSTRUCTION (300).....	0	24,900	0	24,900	0
1164	CALIFORNIA	FH-NAVY	NAVAL STATION LONG BEACH	FAMILY HOUSING OFFICE NEW CONSTRUCTION.....	592	0	592	(592)	0
1165	CALIFORNIA	FH-NAVY	PUBLIC WORKS CENTER SAN FRANCISCO	FAMILY HOUSING NEW CONSTRUCTION (594).....	28,350	50,750	28,350	22,400	28,350
1166	ILLINOIS	FH-NAVY	GLENVIEW NAVAL AIR STATION	FAMILY HOUSING NEW CONSTRUCTION (140).....	0	0	15,300	(15,300)	15,300
1167	MARYLAND	FH-NAVY	NAVAL SUPPORT FACILITY THURMONT	FAMILY HOUSING NEW CONSTRUCTION (11).....	1,160	1,160	1,160	0	1,160
1168	NEW YORK	FH-NAVY	NAVAL POWER TRAINING BALLSTON STATI	FAMILY HOUSING NEW CONSTRUCTION (100).....	0	7,900	0	7,900	0
1169	VIRGINIA	FH-NAVY	PUBLIC WORKS CENTER NORFOLK	FAMILY HOUSING NEW CONSTRUCTION COMMUNITY CEN	332	0	332	(332)	0
1170	CUBA	FH-NAVY	NAVAL STATION GUANTANAMO	FAMILY HOUSING NEW CONSTRUCTION (254).....	0	31,669	0	31,669	31,669
1171	ICELAND	FH-NAVY	NAVAL AIR STATION KEFLAVIK	FAMILY HOUSING NEW CONSTRUCTION (112).....	23,213	23,213	22,913	300	23,213
1172	PHILIPPINES	FH-NAVY	NAVY PUBLIC WORKS CENTER SUBIC BAY	FAMILY HOUSING NEW CONSTRUCTION (216).....	19,000	0	0	0	0
1173	WORLDWIDE VAR	FH-NAVY	WORLDWIDE VARIOUS	FAMILY HOUSING CONSTRUCTION IMPROVEMENTS.....	41,748	65,448	55,448	10,000	41,748
1174	WORLDWIDE VAR	FH-NAVY	WORLDWIDE VARIOUS	FAMILY HOUSING PLANNING.....	1,000	6,100	1,000	5,100	3,100
1175				SUBTOTAL, CONSTRUCTION.....	127,400	267,890	137,100	130,790	191,290
1176	WORLDWIDE VAR	FH-NAVY	WORLDWIDE VARIOUS	FAMILY HOUSING FURNISHINGS ACCOUNT.....	18,688	41,688	18,688	23,000	28,000
1177	WORLDWIDE VAR	FH-NAVY	WORLDWIDE VARIOUS	FAMILY HOUSING MANAGEMENT ACCOUNT.....	51,018	51,018	51,018	0	51,018
1178	WORLDWIDE VAR	FH-NAVY	WORLDWIDE VARIOUS	FAMILY HOUSING MISCELLANEOUS ACCOUNT.....	787	787	787	0	787
1179	WORLDWIDE VAR	FH-NAVY	WORLDWIDE VARIOUS	FAMILY HOUSING SERVICES ACCOUNT.....	35,367	35,367	35,367	0	35,367
1180	WORLDWIDE VAR	FH-NAVY	WORLDWIDE VARIOUS	FAMILY HOUSING UTILITIES ACCOUNT.....	176,096	176,096	176,096	0	176,096
1181				SUBTOTAL, OPERATIONS.....	281,956	304,956	281,956	23,000	291,268
1182	WORLDWIDE VAR	FH-NAVY	WORLDWIDE VARIOUS	FAMILY HOUSING LEASING.....	41,488	41,488	40,800	688	40,800
1183	WORLDWIDE VAR	FH-NAVY	WORLDWIDE VARIOUS	FAMILY HOUSING MAINTENANCE OF REAL PROPERTY..	301,148	321,952	282,300	39,652	328,148
1184	WORLDWIDE VAR	FH-NAVY	WORLDWIDE VARIOUS	FAMILY HOUSING MORTGAGE INSURANCE PREMIUMS...	208	208	208	0	208
1185				SUBTOTAL, NET BUDGET AUTHORITY.....	342,844	363,648	323,308	40,340	369,156
1186				TOTAL, FAMILY HOUSING, NAVY.....	752,200	936,494	742,364	194,130	851,714
1187	CALIFORNIA	FH-AIR FORCE	BEALE AFB	FAMILY HOUSING OFFICE NEW CONSTRUCTION.....	295	0	295	(295)	0
1188	CALIFORNIA	FH-AIR FORCE	EDWARDS AFB	FAMILY HOUSING OFFICE NEW CONSTRUCTION.....	327	0	327	(327)	0
1189	ILLINOIS	FH-AIR FORCE	SCOTT AFB	FAMILY HOUSING OFFICE NEW CONSTRUCTION.....	407	0	407	(407)	0

#	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
1190	LOUISIANA	FH-AIR FORCE	ENGLAND AFB	FAMILY HOUSING MAINTENANCE FACILITY.....	226	0	226	(226)	0
1191	OKLAHOMA	FH-AIR FORCE	TINKER AFB	FAMILY HOUSING OFFICE NEW CONSTRUCTION.....	291	0	291	(291)	0
1192	SOUTH CAROLIN	FH-AIR FORCE	MYRTLE BEACH AFB	FAMILY HOUSING MAINTENANCE FACILITY.....	382	0	382	(382)	0
1193	TEXAS	FH-AIR FORCE	KELLY AFB	FAMILY HOUSING NEW CONSTRUCTION (11).....	1,619	1,619	1,619	0	1,619
1194	GERMANY	FH-AIR FORCE	RAMSTEIN AB	FAMILY HOUSING NEW CONSTRUCTION (200).....	20,660	20,660	18,722	1,938	18,722
1195	KOREA	FH-AIR FORCE	OSAN AB	GENERAL OFFICER HOUSING (1).....	117	0	117	(117)	0
1196	PHILIPPINES	FH-AIR FORCE	CLARK AB	FAMILY HOUSING NEW CONSTRUCTION (450).....	35,427	0	0	0	0
1197	WORLDWIDE	VARFH-AIR FORCE	WORLDWIDE VARIOUS	FAMILY HOUSING CONSTRUCTION IMPROVEMENTS.....	173,349	220,411	250,411	(30,000)	173,349
1198	WORLDWIDE	VARFH-AIR FORCE	WORLDWIDE VARIOUS	FAMILY HOUSING PLANNING.....	8,000	8,000	8,000	0	8,000
1199				SUBTOTAL, CONSTRUCTION	241,100	250,690	280,797	(30,107)	201,690
1200	WORLDWIDE	VARFH-AIR FORCE	WORLDWIDE VARIOUS	FAMILY HOUSING FURNISHINGS ACCOUNT.....	55,536	55,536	55,536	0	51,436
1201	WORLDWIDE	VARFH-AIR FORCE	WORLDWIDE VARIOUS	FAMILY HOUSING MANAGEMENT ACCOUNT.....	37,499	37,499	37,499	0	37,499
1202	WORLDWIDE	VARFH-AIR FORCE	WORLDWIDE VARIOUS	FAMILY HOUSING MISCELLANEOUS ACCOUNT.....	6,649	6,649	6,649	0	6,649
1203	WORLDWIDE	VARFH-AIR FORCE	WORLDWIDE VARIOUS	FAMILY HOUSING SERVICES ACCOUNT.....	27,115	27,115	27,115	0	27,115
1204	WORLDWIDE	VARFH-AIR FORCE	WORLDWIDE VARIOUS	FAMILY HOUSING UTILITIES ACCOUNT.....	236,970	236,970	249,770	(12,800)	236,970
1205				SUBTOTAL, OPERATIONS.....	363,769	363,769	376,569	(12,800)	359,669
1206	WORLDWIDE	VARFH-AIR FORCE	WORLDWIDE VARIOUS	FAMILY HOUSING LEASING.....	101,592	101,592	96,000	5,592	96,000
1207	WORLDWIDE	VARFH-AIR FORCE	WORLDWIDE VARIOUS	FAMILY HOUSING MAINTENANCE OF REAL PROPERTY..	309,349	309,349	287,549	21,800	287,549
1208	WORLDWIDE	VARFH-AIR FORCE	WORLDWIDE VARIOUS	FAMILY HOUSING MORTGAGE INSURANCE PREMIUMS...	90	90	90	0	90
1209				SUBTOTAL, NET BUDGET AUTHORITY.....	411,031	411,031	383,639	27,392	383,639
1210				TOTAL, FAMILY HOUSING, AIR FORCE.....	1,015,900	1,025,490	1,041,005	(15,515)	944,998
1211	WORLDWIDE	VARFH-DEFENSE AGENC	OVERSEAS CLASSIFIED	FAMILY HOUSING NEW CONSTRUCTION (3).....	400	400	400	0	400
1212	WORLDWIDE	VARFH-DEFENSE AGENC	WORLDWIDE VARIOUS	FAMILY HOUSING CONSTRUCTION IMPROVEMENTS.....	200	200	200	0	200
1213				SUBTOTAL, CONSTRUCION.....	600	600	600	0	600
1214	WORLDWIDE	VARFH-DEFENSE AGENC	WORLDWIDE VARIOUS	FAMILY HOUSING CURRENCY ADJUSTMENT.....	0	0	(900)	900	0
1215	WORLDWIDE	VARFH-DEFENSE AGENC	WORLDWIDE VARIOUS	FAMILY HOUSING FURNISHINGS ACCOUNT.....	1,334	1,334	1,334	0	1,334
1216	WORLDWIDE	VARFH-DEFENSE AGENC	WORLDWIDE VARIOUS	FAMILY HOUSING MANAGEMENT ACCOUNT.....	85	85	85	0	85
1217	WORLDWIDE	VARFH-DEFENSE AGENC	WORLDWIDE VARIOUS	FAMILY HOUSING MISCELLANEOUS ACCOUNT.....	1	1	1	0	1
1218	WORLDWIDE	VARFH-DEFENSE AGENC	WORLDWIDE VARIOUS	FAMILY HOUSING SERVICES ACCOUNT.....	376	376	376	0	376
1219	WORLDWIDE	VARFH-DEFENSE AGENC	WORLDWIDE VARIOUS	FAMILY HOUSING UTILITIES ACCOUNT.....	469	469	469	0	469
1220	WORLDWIDE	VARFH-DEFENSE AGENC	WORLDWIDE VARIOUS	FAMILY HOUSING LEASING.....	17,825	17,825	17,825	0	17,825
1221	WORLDWIDE	VARFH-DEFENSE AGENC	WORLDWIDE VARIOUS	FAMILY HOUSING MAINTENANCE OF REAL PROPERTY..	610	610	610	0	610
1222	WORLDWIDE	VARFH-DEFENSE AGENC	WORLDWIDE VARIOUS	FAMILY HOUSING UNDISTRIBUTED INCREASE.....	0	0	900	(900)	0
1223				SUBTOTAL, OPERATION AND MAINTENANCE....	20,700	20,700	20,700	0	20,700

#	LOCATION	SERVICE	INSTALLATION
1224			
1225	WORLDWIDE	VARFH-HOMEOWNERS	WORLDWIDE VARIOUS
1226			

PROJECT	BUDGET REQUEST	PASSED HOUSE	PASSED SENATE	H+/-S	CONFERENCE AGREEMENT
TOTAL, FAMILY HOUSING, DEFENSE AGENCIES	21,300	21,300	21,300	0	21,300
HOMEOWNERS ASSISTANCE FUND.....	5,100	5,100	5,100	0	5,100
TOTAL, HOMEOWNERS ASSISTANCE FUND.....	5,100	5,100	5,100	0	5,100

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

Part A of Title XXXI of Division C of the House bill would authorize appropriations for Department of Energy national security programs in the total amount of $9,677 million.

Part A of Title XXXI of Division C of the Senate amendment would authorize $9,808 million for this purpose.

The conferees agree to an authorization of $9,656.034 million.

The amended budget request, the authorizations contained in the House bill and the Senate amendment, and the conference agreement are presented in the following tables.

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Weapons Activities	4637.909	4637.909	4635.909	4584.707	-53.202
Operating Expenses	3820.270	3804.970	3821.270	3774.573	-45.697
Construction	528.764	528.764	525.764	525.764	-3.000
Capital Equipment	288.875	304.175	288.875	284.370	-4.505
Nuclear Materials Production	2213.574	2158.574	2148.574	2158.574	-55.000
Operating Expenses	1654.691	1654.691	1664.691	1654.691	0.000
Construction	454.458	399.458	379.458	399.458	-55.000
Capital Equipment	104.425	104.425	104.425	104.425	0.000
Defense Waste and Environmental Restoration	1301.731	1636.731	1819.731	1658.967	357.236
Operating Expenses	1084.639	1419.639	1602.639	1441.875	357.236
Construction	166.966	166.966	166.966	166.966	0.000
Capital Equipment	50.126	50.126	50.126	50.126	0.000
Verification and Control Technology	149.878	159.878	184.878	169.878	20.000
Operating Expenses	139.146	149.146	174.146	159.146	20.000
Construction	1.000	1.000	1.000	1.000	0.000
Capital Equipment	9.732	9.732	9.732	9.732	0.000
Nuclear Safeguards and Security	87.208	87.208	87.208	87.208	0.000
Operating Expenses	82.241	82.241	82.241	82.241	0.000
Capital Equipment	4.967	4.967	4.967	4.967	0.000
Security Investigations	41.200	41.200	41.200	41.200	0.000
Operating Expenses	41.200	41.200	41.200	41.200	0.000
New Production Reactors	303.500	303.500	303.500	303.500	0.000
Operating Expenses	203.500	203.500	203.500	203.500	0.000
Construction	100.000	100.000	100.000	100.000	0.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Naval Reactors Development	652.000	652.000	652.000	652.000	0.000
Operating Expenses	562.800	562.800	562.800	562.800	0.000
Construction	35.200	35.200	35.200	35.200	0.000
Capital Equipment	54.000	54.000	54.000	54.000	0.000
TOTAL, DOE DEFENSE ACTIVITIES	9387.000	9677.000	9873.000	9656.034	269.034
Defense Nuclear Facilities Safety Board	0.000	10.000	10.000	7.000	7.000
TOTAL, ATOMIC ENERGY DEF ACTIVITIES (053)	9387.000	9687.000	9883.000	9663.034	276.034
Total DOE Operating Expenses	7588.487	7918.187	8152.487	7920.026	331.539
Total DOE Plant Construction Expenses	1286.388	1731.388	1208.388	1228.388	-58.000
Total DOE Capital Equipment	512.125	527.425	512.125	507.620	-4.505
TOTAL, DOE DEFENSE ACTIVITIES	9387.000	9677.000	9873.000	9656.034	269.034

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Operating Expenses					
WEAPONS ACTIVITIES					
Research and Development	1085.670	1070.370	1090.670	1064.970	-20.700
Nuclear Directed Energy Weapons	(117.700)	(102.400)	(117.700)	(97.000)	0.000
Inertial Confinement Fusion	(160.200)	(160.200)	(160.200)	(165.200)	0.000
Testing	532.600	532.600	532.600	511.700	-20.900
Nuclear Directed Energy Weapons	(110.900)	(110.900)	(110.900)	(90.000)	0.000
Production and Surveillance	2104.097	2104.097	2100.097	2100.000	-4.097
Program Direction	97.903	97.903	97.903	97.903	0.000
Weapons Program	(88.853)	(88.853)	(88.853)	(88.853)	0.000
Community Assistance	(9.050)	(9.050)	(9.050)	(9.050)	0.000
Total, Weapons Activities	3820.270	3804.970	3821.270	3774.573	-45.697
NUCLEAR MATERIALS PRODUCTION					
Reactor Operations	578.049	578.049	578.049	578.049	0.000
Processing of Nuclear Materials	589.609	589.609	599.609	589.609	0.000
Special Isotope Separation	(78.744)	(78.744)	(78.744)	(78.744)	0.000
Supporting Services	282.868	282.868	282.868	282.868	0.000
Enriched Material	168.900	168.900	168.900	168.900	0.000
Naval Reactors Uranium Enrichment	(168.900)	(168.900)	(168.900)	(168.900)	0.000
Program Direction	35.265	35.265	35.265	35.265	0.000
Total, Nuclear Materials Production	1654.691	1654.691	1664.691	1654.691	0.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Operating Expenses (continued)					
DEFENSE WASTE AND ENVIRONMENTAL RESTORATION					
Environmental Restoration	401.293	436.293	640.293	572.000	170.707
Waste Operations and Projects	568.167	568.167	747.167	699.696	131.529
Waste Research and Development	90.225	90.225	200.338	115.225	25.000
Hazardous Waste and Compliance Technology	10.163	10.163	0.000	40.163	30.000
Transportation Management	11.841	11.841	11.841	11.841	0.000
Program Direction	2.950	2.950	2.950	2.950	0.000
Undistributed addition		300.000	0.050		0.000
Total, Defense Waste & Environ. Restor.	1084.639	1419.639	1602.639	1441.875	357.236
VERIFICATION AND CONTROL TECHNOLOGY					
Verification and Control Technology	139.146	149.146	174.146	159.146	20.000
Total, Verification & Control Tech	139.146	149.146	174.146	159.146	20.000
NUCLEAR SAFEGUARDS AND SECURITY					
Nuclear Safeguards and Security	82.241	82.241	82.241	82.241	0.000
Total, Nuclear Safeguards and Security	82.241	82.241	82.241	82.241	0.000
SECURITY INVESTIGATIONS	41.200	41.200	41.200	41.200	0.000
NEW PRODUCTION REACTORS					
New Production Reactors	203.500	203.500	203.500	203.500	0.000
Total, New Production Reactors	203.500	203.500	203.500	203.500	0.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Operating Expenses (continued)					
NAVAL REACTORS DEVELOPMENT					
Plant Development	87.000	87.000	87.000	87.000	0.000
Reactor Development	245.300	245.300	245.300	245.300	0.000
Reactor Operation and Evaluation	217.000	217.000	217.000	217.000	0.000
Program Direction	13.500	13.500	13.500	13.500	0.000
Total, Naval Reactors Development	562.800	562.800	562.800	562.800	0.000
TOTAL, DOE DEFENSE ACTIVITIES OPERATING EXPENSES	7538.487	7918.187	8152.487	7920.026	331.539

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment					
WEAPONS ACTIVITIES					
90-D-101, general plant projects, various locations	28.130	28.130	28.130	28.130	0.000
90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations	1.000	1.000	1.000	1.000	0.000
90-D-103, environment, safety, and health improvements, various locations	10.700	10.700	10.700	10.700	0.000
90-D-121, general plant projects, various locations	30.850	30.850	30.850	30.850	0.000
90-D-122, production capabilities for the nuclear depth/strike bomb (ND/SB), various locations	8.000	8.000	8.000	8.000	0.000
90-D-123, follow on to lance warhead production facilities, various locations	3.000	3.000	0.000	0.000	-3.000
90-D-124, high explosives (HE) synthesis facility, Pantex Plant, Amarillo, Texas	1.800	1.800	1.800	1.800	0.000
90-D-125, steam plant ash disposal facility, Y-12 Plant, Oak Ridge, Tennessee	1.500	1.500	1.500	1.500	0.000

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Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment (continued)					
WEAPONS ACTIVITIES (continued)					
90-D-126, environment, safety, and health enhancements, various locations	26.700	26.700	26.700	26.700	0.000
89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee	9.200	9.200	9.200	9.200	0.000
89-D-125, plutonium recovery modification project, Rocky Flats Plant, Golden, Colorado	45.000	45.000	45.000	45.000	0.000
89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio	3.500	3.500	3.500	3.500	0.000
88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico	3.100	3.100	3.100	3.100	0.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment (continued)					
WEAPONS ACTIVITIES (continued)					
88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico	1.000	1.000	1.000	1.000	0.000
88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico	44.000	44.000	44.000	44.000	0.000
88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations	94.400	94.400	94.400	94.400	0.000
88-D-122, facilities capability assurance program, various locations	83.099	83.099	83.099	83.099	0.000
88-D-123, security enhancement, Pantex Plant, Amarillo, Texas	5.500	5.500	5.500	5.500	0.000
88-D-124, fire protection upgrading, various locations	5.400	5.400	5.400	5.400	0.000
88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas	36.000	36.000	36.000	36.000	0.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) (S in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment (continued)					
WEAPONS ACTIVITIES (continued)					
87-D-104, safeguards and security enhancement II, Lawrence Livermore National Laboratory, Livermore, California.....	7.000	7.000	7.000	7.000	0.000
87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations.....	41.200	41.200	41.200	41.200	0.000
86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California.	5.200	5.200	5.200	5.200	0.000
86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina.....	24.025	24.025	24.025	24.025	0.000
85-D-105, combined device assembly facility, Nevada Test Site, Las Vegas, Nevada.....	9.460	9.460	9.460	9.460	0.000
Total, Weapons Activities.....	528.764	528.764	525.764	525.764	-3.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment (continued)					
NUCLEAR MATERIALS PRODUCTION					
90-D-141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho.	3.500	3.500	3.500	3.500	0.000
90-D-142, coal storage facility environmental upgrade, Feed Materials Production Center, Fernald, Ohio.....	0.920	0.920	0.920	0.920	0.000
90-D-143, plutonium finishing plant fire safety and loss limitation, Richland, Washington.....	0.800	0.800	0.800	0.800	0.000
90-D-146, general plant projects, various locations.....	36.802	36.802	36.802	36.802	0.000
90-D-149, plantwide fire protection, Phase I, Savannah River, South Carolina....	4.900	4.900	4.900	4.900	0.000
90-D-150, reactor safety assurance, Phase I, Savannah River, South Carolina.....	12.700	12.700	12.700	12.700	0.000
90-D-151, engineering center, Savannah River, South Carolina.....	7.000	7.000	7.000	7.000	0.000
89-D-140, additional separations safeguards, Savannah River, South Carolina.....	10.300	10.300	10.300	10.300	0.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment (continued)					
NUCLEAR MATERIALS PRODUCTION (continued)					
89-D-141, M area waste disposal, Savannah River, South Carolina.....	7.800	7.800	7.800	7.800	0.000
89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina.....	40.000	40.000	40.000	40.000	0.000
89-D-148, improved reactor confinement system, Savannah River, South Carolina.....	7.100	7.100	7.100	7.100	0.000
88-D-153, additional reactor safeguards, Savannah River, South Carolina.....	6.400	6.400	6.400	6.400	0.000
87-D-159, environmental, health, and safety improvements, Phases I, II, III, and IV, Feed Materials Production Center, Fernald, Ohio.....	55.111	55.111	55.111	55.111	0.000
86-D-148, special isotope separation project, Idaho Falls, Idaho.....	115.000	40.000	40.000	40.000	-75.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment (continued)					
NUCLEAR MATERIALS PRODUCTION (continued)					
86-D-149, productivity retention program, Phases I, II, III, IV, and V various locations	81.780	81.780	81.780	81.780	0.000
86-D-152, reactor electrical distribution system, Savannah River, South Carolina	3.164	3.164	3.164	3.164	0.000
86-D-156, plantwide safeguards systems, Savannah River, South Carolina	6.181	6.181	6.181	6.181	0.000
85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho	55.000	75.000	55.000	75.000	20.000
Total, Nuclear Materials Production	454.458	399.458	379.458	399.458	-55.000
DEFENSE WASTE AND ENVIRONMENTAL RESTORATION					
90-D-170, general plant projects, various locations	29.036	29.036	29.036	29.036	0.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment (continued)					
DEFENSE WASTE AND ENVIRONMENTAL RESTORATION (continued)					
90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington	1.100	1.100	1.100	1.100	0.000
90-D-172, aging waste transfer lines, Richland, Washington	1.300	1.300	1.300	1.300	0.000
90-D-173, B plant canyon crane replacement, Richland, Washington	1.500	1.500	1.500	1.500	0.000
90-D-174, decontamination laundry facility, Richland, Washington	2.800	2.800	2.800	2.800	0.000
90-D-175, landlord program safety compliance-I, Richland, Washington	4.200	4.200	4.200	4.200	0.000
90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina	3.100	3.100	3.100	3.100	0.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment (continued)					
DEFENSE WASTE AND ENVIRONMENTAL RESTORATION (continued)					
90-D-177, RWMC transuranic (TRU) waste treatment and storage facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho	5.000	5.000	5.000	5.000	0.000
90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho	6.000	6.000	6.000	6.000	0.000
89-D-171, Idaho National Engineering Laboratory road renovation, Idaho	7.400	7.400	7.400	7.400	0.000
89-D-172, Hanford environmental compliance, Richland, Washington	27.600	27.600	27.600	27.600	0.000
89-D-173, tank farm ventilation upgrade, Richland, Washington	15.400	15.400	15.400	15.400	0.000
89-D-174, replacement high-level waste evaporator, Savannah River, South Carolina	9.360	9.360	9.360	9.360	0.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment (continued)					
DEFENSE WASTE AND ENVIRONMENTAL RESTORATION (continued)					
89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina	6.440	6.440	6.440	6.440	0.000
88-D-173, Hanford waste vitrification plant, Richland, Washington	29.100	29.100	29.100	29.100	0.000
87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington	0.700	0.700	0.700	0.700	0.000
87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina	2.790	2.790	2.790	2.790	0.000
83-D-148, non-radioactive hazardous waste management, Savannah River, South Carolina	14.140	14.140	14.140	14.140	0.000
Total, Defense Waste & Environ. Restor...	166.966	166.966	166.966	166.966	0.000
VERIFICATION AND CONTROL TECHNOLOGY					
90-D-186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico	1.000	1.000	1.000	1.000	0.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment (continued)					
NEW PRODUCTION REACTOR					
88-D-154, new production reactor capacity, various locations	100.000	100.000	100.000	100.000	0.000
NAVAL REACTORS DEVELOPMENT					
90-N-101, general plant projects, various locations	8.500	8.500	8.500	8.500	0.000
90-N-102, expended core facility dry cell project, Naval Reactors Facility, Idaho	3.600	3.600	3.600	3.600	0.000
90-N-103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho	0.200	0.200	0.200	0.200	0.000
90-N-104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York	3.900	3.900	3.900	3.900	0.000
89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York	6.500	6.500	6.500	6.500	0.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
Plant and Capital Equipment (continued)					
NEW PRODUCTION REACTOR (continued)					
89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho.....	3.100	3.100	3.100	3.100	0.000
89-N-104, power system upgrade, Naval Reactors Facility, Idaho.....	6.400	6.400	6.400	6.400	0.000
88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho....	3.000	3.000	3.000	3.000	0.000
Total, Naval Reactors Development.....	35.200	35.200	35.200	35.200	0.000
TOTAL, DOE DEFENSE ACTIVITIES PLANT CONSTRUCTION.....	1286.388	1231.388	1208.388	1228.388	-58.000

Fiscal Year 1990 Atomic Energy Defense Activities (053) ($ in millions)

Program	FY 1990 Authorization Request	House Passed H.R. 2461 Authorization	Senate Passed S. 1352 Authorization	FY 1990 Authorization Conference	Conference Change From Budget Request
CAPITAL EQUIPMENT					
Weapons Activities	288.875	304.175	288.875	284.370	-4.505
Nuclear Directed Energy Weapons	(18.505)	(18.505)	(18.505)	(16.000)	0.000
Inertial Confinement Fusion	(8.740)	(24.040)	(8.740)	(8.740)	0.000
Nuclear Materials Production	104.425	104.425	104.425	104.425	0.000
Defense Waste & Environmental Restoration	50.126	50.126	50.126	50.126	0.000
Verification and Control Technology	9.732	9.732	9.732	9.732	0.000
Nuclear Safeguards and Security	4.967	4.967	4.967	4.967	0.000
Naval Reactors Development	54.000	54.000	54.000	54.000	0.000
TOTAL, DOE DEFENSE ACTIVITIES CAPITAL EQUIPMENT	512.125	527.425	512.125	507.620	-4.505
Subtotal, DOE Operating Expenses	7588.487	7918.187	8152.487	7920.026	331.539
Subtotal, DOE Plant Construction	1286.388	1231.388	1208.388	1228.388	-58.000
Subtotal, DOE Capital Equipment	512.125	527.425	512.125	507.620	-4.505
TOTAL, DOE DEFENSE ACTIVITIES	9387.000	9677.000	9873.000	9656.034	269.034

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Operating expenses (sec. 3101)

The House bill contained a provision (sec. 3101) that would authorize $7,918.187 million for operating expenses.

The Senate amendment contained provisions (sec. 3101 and 3151) that would authorize $8,087.487 million for operating expenses.

The conferees agree to an authorization of $7,920.026 million for operating expenses.

Plant and capital equipment (sec. 3102)

The House bill contained a provision (sec. 3102) that would authorize $1,231.388 million for plant construction and $527.425 million for capital equipment.

The Senate amendment contained provisions (sec. 3102 and 3151) that would authorize $1,208.388 million for plant construction and $512.125 million for capital equipment.

The conferees agree to an authorization of $1,228.388 million for plant construction and $507.620 million for capital equipment.

Funding limitations: inertial confinement fusion program (sec. 3103(b))

The House bill contained a provision (sec. 3103(b)) that would require that not less than $184.24 million of funds appropriated for fiscal year 1990 be used for the defense inertial confinement (ICF) program.

The Senate amendment contained a provision (sec. 3103(b)) that would require that not more than $173.94 million of funds appropriated for fiscal year 1990 be used for the defense inertial confinement fusion program.

The conferees agree that $173.94 million of funds authorized to be appropriated for fiscal year 1990 shall be available for the defense inertial confinement fusion program and expect that $173.94 million will be obligated for the ICF program in fiscal year 1990.

Funding limitations: Special Isotope Separation (SIS) project (sec. 3103(c)

The House bill contained a provision (sec. 3101(c)) that would prohibit funds authorized for Project 86-D-148, special isotope separation (SIS) project, from being used for site preparation, construction, or procurement of long-lead materials or equipment.

The Senate amendment contained a provision (sec. 3101(c)) that would prohibit funds authorized for Project 86-D-148 from being used for construction or procurement of long-lead materials or equipment. The provision would allow the Secretary of Energy to transfer not more than $10 million from Project 86-D-148 to operating expenses for the special isotope separation project. The provision would prohibit additional funds from being obligated for construction, including site preparation, in connection with such project until the Secretary has certified to the committees on Armed Services of the Senate and House of Representatives that the technology for special isotope separation has been proven and that all environmental requirements provided in applicable laws have been met.

The House recedes with an amendment that would prohibit funds from being obligated for site preparation for the SIS project until the Secretary of Energy has certified to the Committees on Armed Services of the Senate and House of Representatives that obligation of funds for site preparation is both essential for the national security of the United States and necessary to meet plutonium requirements.

The conferees note the strong conviction of some Members of Congress that it would be unwise to begin site preparation for construction of the SIS production facility until: the need for additional weapons-grade plutonium has been firmly established, and reliable sustained separation of weapons-grade plutonium has been demonstrated in the engineering demonstration system facility at Lawrence Livermore National Laboratory.

Funding limitations: Follow-on-to-Lance warhead (sec. 3103(d))

The Senate amendment contained a provision (sec. 3103(d)) that would limit the obligation of funds for the design and development of a warhead for the Follow-on To Lance (FOTL) missile to a warhead design which the Nuclear Weapons Council certifies that the W84 and/or W85 warheads or their components, unless the Nuclear Weapons Council certifies that the W84 and W85 warheads and their components are incompatible with the FOTL missile.

The House bill contained no similar provisions.

The House recedes with an amendment that funds may not be obligated for advanced development for a warhead for the FOTL missile unless the Secretary of Energy certifies that such warhead is a cost-effective utilization of the W84 or W85 warheads or their components, or that the FOTL missile is not compatible with utilization of the W84 and W85 warheads. The provision would also require that any certification be accompanied by a detailed explanation of the reasons for such certification. The explanation should include the costs and benefits, both financial and military, associated with the warhead selected for the FOTL missile.

The conferees observe that the utilization of the W84 and W85 warhead on the FOTL missile is not inconsistent with the INF Treaty. The INF Treaty does not require the elimination of the nuclear warheads associated with the INF missiles. As a result, the Treaty permits the nuclear warheads associated with INF missiles to be modified and redeployed on other weapons systems.

Technology transfer (secs. 3131-3133)

The Senate amendment contained provisions (secs. 3131-3139) that would: (1) provide authority for the Secretary of energy to permit contractor managers of Department of Energy facilities to enter into cooperative research and development agreements (CRADAs) for the purpose of transferring to the private sector federally developed or controlled technology; (2) revise the procedures under which the Department of Energy contractor managers may obtain title to intellectual property resulting from federally funded research and development; and (3) expand and revise the definition of intellectual property rights in federally funded research which may be protected.

The House bill contained a provision (sec. 3138) that would require the Secretary of Energy to prepare an assessment and report to Congress on the effectiveness of existing programs for the transfer to the private sector of technology developed at the Department of Energy nuclear weapons laboratories.

The conferees agree to provisions that would: (1) extend to government-owned, contractor-operated (GOCO) laboratories the authority contained in section 12 of the Stevenson-Wydler Innovation Act of 1980 (Stevenson-Wydler) (Public Law 96-480 as amended by Public Law 99-502) to enter in CRADAs; (2) require safeguards to avoid conflicts of interest and unjust enrichment of GOCO laboratory operators and employees; and (3) require prompt agency review of any CRADA proposed by a GOCO laboratory. The conferees note that the authorities that would be provided by the conference agreement do not replace existing authorities for technology transfer, but rather are additional authorities to facilitate increased technology transfer.

Section 12 of Stevenson-Wydler permits government-operated federal laboratories to enter into CRADAs. The CRADA is defined to be different from contracts, cooperative agreements, and grants. Thus, a CRADA is an instrument that can be executed without triggering the many legal conditions that are placed on these three other statutory methods under which the federal government enters into legal agreements. Under a CRADA, the government may contribute facilities, property—including intellectual property—and personnel. It may also pay costs associated with the participation of personnel or the contribution of property and facilities. The government may not provide cash under a CRADA. The statutory prohibition on governmental cash contributions to participants in CRADAs prevents a CRADA from being used for sole-source procurement or for grants.

Stevenson-Wydler has been a major benefit to government-owned, government-operated (COGO) laboratories. Hundreds of CRADAs have been signed by the various federal laboratories already covered by section 12. Accordingly, the conference agreement would amend section 12 of Stevenson-Wydler to cover GOCOs, making adjustments to account for the differences between the two types of laboratories. For example, the GOCO laboratories are run by either major corporations or by non-profit organizations, including universities. GOCO employees are private sector employees and are not subject to the legal restraints placed on federal employees.

National security

The conference agreement would amend section 12 to provide that implementation advance program missions at the laboratory, including any national security mission. It would also provide that classified information and unclassified sensitive information be appropriately safeguarded. The conferees recognize that there will be instances where national security concerns supersede technology transfer, and in some instances, commercial promise may not be completely achievable because of the sensitivity of the technology involved. However, because the conference agreement is intended to enhance the country's national security by promoting technology transfer, the conferees understand that "appropriate safeguards" mean those necessary to protect the national security while allowing the transfer of as much information as is consistent with national security. The conferees note that restrictions in export regulations on "sensitive information," while appropriate for export limits, are not necessarily applicable to technology transfer.

In any case, a laboratory under section 12 is contractually required to act, not solely on its own behalf, but as an agent of the federal agency in initiating and implementing these agreements with the private sector.

Definition of a laboratory

To bring GOCOs within section 12, the conference agreement would amend the definition of a federal laboratory in section 12(d)(2) of Stevenson-Wydler to provide

that a group of GOCO facilities under a common contract are a laboratory (for the purposes of section 12 of Stevenson-Wydler) when a substantial purpose of the contract is the performance of research and development for the federal government. For example, the Department of Energy's contract with Martin Marietta Energy Systems (MMES) for the operation of Oak Ridge National Laboratory, the Y-12 Production Facility, the Gaseous Diffusion Plant at Paducah, Kentucky, and assorted smaller entities is a contract covering a group of facilities that has research and development as a substantial purpose. Therefore, CRADAs may be entered into under Stevenson-Wydler for any of the above-mentioned facilities at Oak Ridge and Paducah, MMES is not expected to maintain technology transfer officers at each facility. Other groups of facilities under common contract currently covered by this section include Argonne National Laboratory, Sandia National Laboratory, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Pacific Northwest Laboratories.

The conference agreement would also define as a laboratory a single GOCO facility, the primary purpose of which is research and development. Fermilab and the Solar Energy Research Institute are examples of facilities under this definition. Finally, the conference agreement would define as a laboratory any other GOCO facility whose primary purpose is research and development. Examples include the various research laboratories at the Savannah River Site, the Fast Flux Test Facility and the Environmental and Molecular Sciences Laboratory at Hanford, Washington, and the research components of the Idaho National Engineering Laboratory. In each of these cases, the research laboratories are clearly defined entities with the primary purpose of research and development.

The Department of Energy's GOCO weapons production facilities would not qualify as laboratories because the research and development conducted there does not meet the "substantial purpose" requirement. Examples of facilities that do not qualify include the Amarillo Plant, Ashtabula Extrusion Plant, Fernald Feed Materials Production Center, Hanford Production Reactor, Kansas City Plant, Mound Laboratory, Nevada Test Site, Pinellas Plant, Rocky Flats Plant, Richland Production Facilities, and production facilities at the Savannah River Site. However, the conferees agree that the concept of research and development under Stevenson-Wydler should be construed broadly in areas other than military applications of nuclear energy.

Exclusion of a weapons production facility from the definition of laboratory does not preclude technology transfer. An agency also may use other authority to conduct technology transfer activities. For example, the extension of the CRADA authority to GOCOs would neither alter NASA's right to use the Space Act of 1958 to carry out technology transfer, nor would it alter Battelle's contractual authority to transfer technology arising out of its operation of Pacific Northwest Laboratories through its use permit.

Laboratory missions under a contract

The conference agreement would require, as necessary, that a laboratory's operating contract be modified or that the laboratory agree in separate writing to establish technology transfer as a mission for GOCO laboratories, and to establish the framework for the use of CRADAs to carry out technology transfer. To further the laboratories' mission to carry out technology transfer, contract provisions would require that each laboratory disseminate information regarding the opportunities for the private sector to participate in technology transfer with the laboratory. This would not require a laboratory to solicit bids or publicize each potential CRADA, but it would require a laboratory to make reasonable efforts to ensure that potentially interested persons have the opportunity to learn in a timely manner of opportunity to participate in technology transfer. It is the intent of the conferees that the laboratory managers be granted authority to facilitate technology transfer to the fullest extent authorized by law.

Conflicts of interest

The conference agreement would provide that conflict-of-interest provisions are to be included in a contractor-operated laboratory's operating contract or in a separate writing. The conferees include this provision because GOCO employees are not federal employees and are not subject to all of the laws and regulations that apply to government employees in a GOGO laboratory. Nonetheless, the GOCO laboratories and their employees are expected to maintain high ethical standards and to act in the best interest of the government.

The conference agreement would provide that a GOCO employee with a substantial role in the preparation, negotiations, or approval of a CRADA must disclose any financial or personal interest he or she has in the company with which the laboratory is negotiating.

Agency regulations

The conferees note that an agency may issue regulations relating to technology transfer, including conflict-of-interest, under Stevenson-Wydler, but do not envision overall government regulations. Technology transfer is most successful when agencies handle their own affairs and when government officials, technology transfer experts, and scientists at the local level have latitude in designing and carrying out CRADAs. Any regulations must recognize that a purpose of section 12 of Stevenson-Wydler is to allow prompt consideration and disposition of proposed CRADAs.

Model agreements

The conference agreement would provide that an agency shall develop model agreements for CRADAs. The conferees intend that model agreements will expedite agency review of CRADAs and reduce administrative workload for the agency and the contractor.

Joint work statement

The conference agreement would create a "joint work statement" as an instrument to reach CRADAs. The joint work statement is intended to be an agency's primary tool for ensuring that the contractor and the agency have a common understanding of the scope of work under a CRADA. The agency's approval of a joint work statement sets the parameters within which a contractor may negotiate. The conference agreement requires agency approval of a joint work statement within 90 days. The joint work statement then serves as the basis under which a contractor may negotiate a CRADA. The conferees note that informal discussions prior to submission of a joint work statement would be permissible.

The conferees intend that the 90-day review period be a maximum and expect that approval of routine joint work statements will be expedited. The conference agreement would also provide that if an agency rejects a joint work statement, it must provide a written explanation for the rejection and any resubmission of a joint work statement would then be subject to an additional 90-day review period. If, on the other hand, an agency requests revisions in the joint work statement, review of the revised joint work statement is to be completed within 30 days.

Approval of a CRADA

The conference agreement would require that a CRADA involving a contractor-operated laboratory be approved by the agency before it is effective. The agency would have 30 days to review and approve or request specific modifications to a completed CRADA. The conferees intend that most matters will be resolved during review of a joint work statement, and that review of a CRADA would typically focus on matters necessitated by changed circumstances from the time the agency approved the joint work statement. If the agency requires a modification to a proposed CRADA, it must do so in writing and in a timely manner. Agency review of resubmitted CRADAs also must be concluded within 30 days of submission. The conferees note that agency review of CRADAs proposed by GOCOs is not changed by the conference agreement.

While the conference agreement establishes a formal process that is sequential—submission and approval of joint work statement followed by submission and approval of a CRADA—the conferees do not intend to preclude informal actions, including consultation between a laboratory and a prospective private participant in a CRADA and consultation between a laboratory and its parent agency, to draft a CRADA prior to approval of a joint work statement. Such activities would be particularly appropriate where model agreements are the basis for a CRADA and the conferees would hope that in such circumstances approval of a CRADA could occur shortly after submission.

Intellectual property rights and royalties

The conference agreement would provide that intellectual property rights arising out of work done under CRADAs will be determined in accordance with the CRADA and the appropriate sections of Stevenson-Wydler. Royalties accruing from CRADAs would be retained by the laboratory for use in accordance with Stevenson-Wydler and the operating contract. These funds may be used for the payment of administrative expenses related to the licensing of inventions; to reward laboratory employees, including employees involved in the development of sensitive or classified technology; to further the education and training of employees consistent with the mission of the laboratory and the objectives of the agency; and for scientific research and development consistent with the research and development mission and objectives of the laboratory.

Protection of information

The conference agreement would provide that an agency may exempt from public disclosure certain information brought into a CRADA or generated under a CRADA.

The conferees include this provision because the threat of disclosure under the Freedom of Information Act (FOIA) of commercial information, developed under the CRADA or otherwise, has been the biggest reason to date for companies declining to enter CRADAs, and the conferees desire to

make the CRADA a more effective instrument for cooperative research. When a CRADA provides a FOIA exemption, nonparticipating companies would not be able to obtain the information from the government or the GOCO operator under FOIA or otherwise.

Funding for technology transfer activities

The conference agreement would repeal the one-half percent funding requirement for technology transfer programs under Stevenson-Wydler and the related waiver provisions. These changes are not intended to reduce that commitment to technology transfer but rather acknowledge that this requirement has been universally waived during the Act's 9-year history and that there is a lack of certainty that one-half percent provides the appropriate amount of funding.

The conference agreement would require that agency budgets provide sufficient resources for technology transfer and require an annual report on technology transfer budgets, plans, and accomplishments.

Defense waste cleanup technology program (sec. 3141)

The Senate amendment contained a provision (sec. 3154) that would direct the Secretary of Energy to establish a program for research and development of technologies for environmental restoration and waste minimization. The provision would require the Secretary of Energy to appoint a program manager to supervise and direct the research and development of technologies for environmental restoration and waste minimization. The provision would also direct the Secretary of Energy to coordinate with the Administrator of the Environmental Protection Agency to ensure consistency and to avoid duplication of research and development efforts on technologies for environmental restoration and waste minimization. The provision would also require the Secretary of Energy to submit an annual report on the Defense Waste Cleanup Technology Program.

The House bill contained no similar provision.

The House recedes with an amendment that would clarify the purpose and structure of the Defense Waste Cleanup Technology Program and direct the Secretary of Energy to coordinate such activities, as appropriate, with other federal agencies.

Executive management training in the Department of Energy (sec. 3142)

The Senate amendment contained a provision (sec. 3156) that would direct the Secretary of Energy to establish and implement a program of management training for personnel of the Department of Energy involved in atomic energy defense activities.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would provide that the training program not be limited to the items enumerated in the provision. At a minimum, the training program shall include instruction in (1) Department of Energy policy and procedures for management and operation of atomic energy defense facilities; (2) methods of evaluating technical performance; (3) federal and state environmental laws and requirements for compliance with such laws; (4) methods to evaluate success in meeting program milestones; (5) methods for conducting long-range technical and budget planning; and (6) procedures for reviewing and applying innovative technology to environmental restoration and defense waste management.

Prohibition and report on bonuses to contractors operating defense nuclear facilities (sec. 3151)

The House bill contained a provision (sec. 3134) that would prohibit the payment of bonuses to a contractor operating a Department of Energy defense nuclear facility unless the Secretary of Energy considers the contractor's compliance with all applicable environmental, safety, and health statutes, regulations, and practices in determining the size of such bonus. The provision would apply to contracts signed or renewed after the date of enactment of this Act. The provision would also require the Secretary of Energy to investigate the payment of production bonuses to Rockwell International from 1981 to 1988 to determine whether the payment of such bonuses was under fraudulent circumstances. The Secretary would be required to report not later than 6 months after the date of enactment of this Act to the Committees on Armed Services of the Senate and House of Representatives on the results of the investigation.

The Senate amendment contained no similar provision.

The Senate recedes.

Funding limitations: Strategic Defense Initiative (sec. 3103(a))

The House bill contained a provision (sec. 3103(a)) that would limit the funds appropriated to the Department of Energy for fiscal year 1990 for the Stratetic Defense Iniative (SDI) to $245 million.

The Senate amendment contained a provision (sec. 3103(a)) that would limit the funds for the Strategic Defense Initiative to $200 million.

The conferees agree to a provision that would limit the funds authorized to the Department of Energy for fiscal year 1990 for SDI to $220 million. The conferees observe that the conference report contains a provision (sec. 3124) that would authorize the Secretary of Defense to transfer up to $100 million of funds appropriated to the Department of Defense for fiscal year 1990 for the Strategic Defense Initiative to the Department of Energy for the nuclear directed energy research program in support of SDI.

Preference for Rocky Flats workers (sec. 3152)

The House bill contained a provision (sec. 3135) that would require that any contractor awarded a contract for cleanup, decontamination, or decommissioning of the Rocky Flats Plant, in the event that it is closed, give first preference in hiring employees to those former Rocky Flats employees who, in the judgment of the contractor, are qualified to carry out the work.

The Senate bill contained no similar provision.

The Senate recedes.

Authorization and funding for Rocky Flats agreement (sec. 3153)

The House bill contained a provision (sec. 3136) that would authorize the Secretary of Energy to make payments to carry out an agreement entered into on June 16, 1989 between the State of Colorado and the Department of Energy; and to enable the State of Colorado to ensure the safety, purity, and cleanliness of the drinking water of those communities whose water supply flows through, runs off, or is otherwise affected by air or water emissions of the Rocky Flats Plant, by means of testing and related activities. The provision would also provide that up to $3.435 million be obligated or expended to carry out such agreement and to provide for testing and related activities.

The Senate amendment contained a virtually identical provision (sec. 3144) that differs from the House provision only in that payments would be provided to the affected Colorado communities through the State, rather than solely to the State.

The House recedes.

Moratorium on Los Alamos National Laboratory waste incinerator (sec. 3154)

The House bill contained a provision (sec. 3137) that would prohibit the Los Alamos National Laboratory from incinerating radioactive waste until the State of New Mexico adopts regulations on the incineration of radioactive waste.

The Senate amendment contained no similar provision.

The conferees agree to a provision that would prohibit the Los Alamos National Laboratory from incinerating radioactive waste until the earlier of: (1) August 1, 1990; or (2) the State of New Mexico adopts regulations on emissions resulting from the incineration of radioactive waste.

Production of the 155-millimeter artillery-fired, atomic projectile (sec. 3155)

The Senate amendment contained a provision (sec. 3141) that would exclude from the limitations contained in section 1635 of the Department of Defense Authorization Act for Fiscal Year 1985 (Public Law 98-525) amounts spent exclusively to ensure the safety and security of the warhead for the 155-millimeter, artillery-fired, atomic projectile. The provision would also direct the Secretaries of Energy and Defense to report jointly to the Committees on Armed Services of the Senate and House of Representatives on the implementation and status of this provision.

The House bill contained no similar provision.

The House recedes.

Reports in connection with permanent closures of Department of Energy defense nuclear facilities (sec. 3156)

The Senate amendment contained a provision (sec. 3145) that would require the Secretary of Energy to submit to the Committees on Armed Services of the Senate and House of Representatives a report on training and job placement services needed for employees at a defense nuclear facility that is to permanently cease all production and processing operations to obtain employment in environmental remediation and cleanup activities at the facility. The report would be submitted not later than 120 days before such facility permanently ceases all production and processing operations. The provision would also require a report on the environmental problems, cost of cleanup, and proposed cleanup schedule in connection with the permanent cessation of production operations at a defense nuclear facility.

The House bill contained no similar provision.

The House recedes.

Missions of the defense programs of the Department of Energy (sec. 3157)

The Senate amendment contained provisions (secs. 3146 and 3157) that would amend section 91 of the Atomic Energy Act (42 U.S.C. 2121(a)) to emphasize the importance of the following missions, in addition to the traditional missions of nuclear weapons research, development and production: (1) responsibility for nuclear and hazardous

waste management and environmental restoration of DOE defense sites; (2) research and development of technologies with application to the verification of arms control agreements; and (3) transfer of federally owned or originated technology to state and local governments, private industry, and universities or other non-profit organizations.

The House bill contained no similar provision.

The House recedes. The conferees agree that the Department of Energy, and its predecessors, have historically had authority to carry out these missions, pursuant to section 91 of the Atomic Energy Act or other provisions of law. As a result, the amendment under this section is intended to provide greater visibility to environmental matters, verification, and technology transfer but is not intended to limit or expand any authority of the Department of Energy.

LEGISLATIVE PROVISION NOT ADOPTED

Blue Ribbon Task Group on Environmental Restoration and Defense Waste Management

The Senate amendment contained a provision (sec. 3155) that would establish a Blue Ribbon Task Group on Environmental Restoration and Defense Waste Management at Department of Energy facilities. The Task Group would consist of seven members, three appointed by the President, two appointed jointly by the Majority Leader and Minority Leader of the Senate, and two appointed jointly by the Speaker and Minority Leader of the House of Representatives. The provision would require the Task Group to examine the procedures used in establishing requirements and providing resource, planning, and implementing plans for environmental restoration, defense waste management and compliance with environmental laws at facilities of the Department of Energy that conduct atomic energy defense activities and to report to Congress and the President not later than January 15, 1991. Specifically, the Task Group would be required to report to Congress on (1) improvements to procedures used by the Department of Energy in establishing requirements, providing necessary resources, planning and implementing plans for environmental restoration and defense waste management, compliance with, and enforcement of compliance with, applicable environmental laws; (2) improvements in budgeting organizations and management procedures for environmental restoration and defense waste management; (3) policies and procedures for achieving, maintaining, and enforcing compliance with applicable environmental laws, including recommended changes in existing law or existing federal agency policies consistent with the continued operation of atomic energy defense facilities; (4) measures to bring atomic energy defense facilities into compliance with applicable environmental laws; (5) actions needed to promote the Department of Energy's ability to achieve programmatic milestones; (6) additional funding needed for long-term environmental restoration and defense waste management; and (7) alternative funding mechanisms, including whether a trust fund should be established.

The House bill contained no similar provision.

The Senate recedes.

The Senate conferees are alarmed that the circumstances at the nation's nuclear weapons complex that led the Senate to include this provision will not receive the scrutiny of the proposed Blue Ribbon Task Group. The Senate conferees are extremely disappointed that the House conferees were unwilling to accept the Senate provision or to propose an alternative provision. The Senate conferees believe that the Congress, the executive branch, and the public would benefit from the recommendations of independent experts as proposed in the Senate provision on developing a long-term approach to funding and managing environmental restoration and defense waste activities at the Department of Energy defense facilities. The increased attention at the nuclear weapons complex to matters of environmental protection has resulted in the emergence of a range of economic, technological, and regulatory issues for which there are, as yet, no adequate answers. The Senate conferees had hoped to establish a mechanism for obtaining sound, independent judgment on some of the most pressing problems facing the continued operation of the nation's nuclear weapons complex. Such judgment is needed to help correct the problems that today find many of our defense nuclear facilities with serious problems of environmental contamination and compliance. The Senate conferees are discouraged that the House conferees were unwilling to join them in addressing this concern.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

PART A—CHANGES IN STOCKPILE AMOUNTS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Changes in stockpile requirements (sec. 3301)

The House bill contained a provision (sec. 3306) that would implement the recommendations of the "Report to the Congress on Stockpile Requirements" for changes in requirements for stockpile materials.

The Senate amendment contained a similar provision (sec. 3301).

The House recedes with an amendment that would delete the proposed decrease in the stockpile requirement for germanium because of the continuing review of this requirement within the Defense Department.

Authorized disposals (sec. 3302)

The House bill contained a provision (sec. 3307) that would authorize disposals of 12 materials (including silver) from the stockpile in each of fiscal years 1990 and 1991; provide relief from the statutory cap on disposals during those years; and limit the value of materials disposed of to $180 million during each fiscal year.

The Senate amendment contained a provision (sec. 3303) that would authorize disposals of 11 materials (not including silver) from the stockpile during fiscal years 1990 and 1991; provide relief from the statutory cap on disposals during those years; and provide that this disposal authority is in addition to any other disposal authority.

The Senate recedes with an amendment. The conferees agree to authorize disposals of 11 materials (not including silver) from the stockpile in each of fiscal years 1990 and 1991; provide relief from the statutory cap on disposals during those years; limit the value of materials disposed of to $180 million during each fiscal year; and provide that this disposal authority is in addition to any other disposal authority.

Authorization of acquisitions (sec. 3303)

The House bill contained a provision (sec. 3308) that would require obligation of $180 million in each of the fiscal years 1990 and 1991, subject to such limitations as may be provided in appropriations acts, for acquisition and upgrade of materials for the stockpile. Of this amount, at least $30 million shall be obligated each fiscal year for programs not already required by law for upgrading stockpile materials, and at least $12 million shall be obligated during fiscal year 1990 for the acquisition of germanium.

The Senate amendment contained a provision (sec. 3302) that would require obligation of $140 million in each of the fiscal years 1990 and 1991, subject to such limitations as may be provided in appropriations acts, for acquisition and upgrade of materials for the stockpile.

The Senate recedes with an amendment that would require obligation of $180 million in each of the fiscal years 1990 and 1991 for acquisition and upgrade of stockpile materials, subject to such limitations as may be provided in appropriations acts, at least $30 million of which each year would be for programs not already required by law for upgrading stockpile materials. The conferees also agree to delete the directed purchase of $12 million of germanium contained in the House bill.

PART B—PROGRAMMATIC CHANGES

LEGISLATIVE PROVISIONS ADOPTED

Strategic and critical materials development research, and conservation (sec. 3311)

The House bill contained a provision (sec. 3301) that would amend section 8 of the Stock Piling Act to authorize the President to conduct development and research on strategic and critical materials not already covered in existing authority and on methods to upgrade stockpile materials; to authorize the President to conduct development and research on substitutes, conservation, and more efficient methods of production or use of strategic and critical materials; and to require competitive awards on any grants for research facilities or contracts, including advanced identification of specific research needs by the stockpile manager.

The Senate amendment contained no similar provision.

The Senate recedes with amendment that would delete the requirement in the House bill for competitive awards on any grants for research facilities or contracts. The conferees note that the requirement for competition for any such grants and contracts is contained in Title II of this conference report.

Development of domestic sources (sec. 3312)

The House bill contained a provision (sec. 3301) that would amend the Stock Piling Act to authorize purchases, commitments to purchase, and contracting with domestic facilities to upgrade strategic and critical materials limited to domestic sources for periods up to 5 years.

The Senate amendment contained no similar provision.

The Senate recedes.

National Defense Stockpile manager (sec. 3313)

The House bill contained a provision (sec. 3303) that would provide that the National Defense Stockpile manager be responsible for development and research activities under section 8 of the Stock Piling Act.

The Senate amendment contained no similar provision.

The Senate recedes.

Authority to dispose of materials in the stockpile for international consumption (sec. 3314)

The House bill contained a provision (sec. 3304) that would allow disposals from the stockpile to be open to bid by both foreign and domestic buyers instead of the current restriction to domestic buyers.

The Senate amendment contained no similar provision.

The Senate recedes.

Information included in reports to Congress (sec. 3315)

The House bill contained a provision (sec. 3305) that would require submission of additional information to Congress about anticipated appropriations to the Stockpile Transaction Fund.

The Senate amendment contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISION NOT ADOPTED

Stockpile management

The Senate amendment contained a provision (sec. 3304) that would expand the conditions under which the Stockpile Manager can provide for the rotation of stockpile materials.

The House bill contained no similar provision.

The Senate recedes.

TITLE XXXIV—CIVIL DEFENSE

LEGISLATIVE PROVISION

LEGISLATIVE PROVISION ADOPTED

Civil defense authorization (sec. 3401)

The House bill and the Senate amendment contained almost identical provisions (sec. 3401 in both bills) that would authorize $151.535 million for carrying out the provisions of the Federal Civil Defense Act of 1950.

The conferees agree to adopt the House provision.

In addition, the conferees endorse the language in the House report (H. Rept. 101-121) concerning the Federal National Radio System and the National Warning System.

TITLE XXXV—PANAMA CANAL COMMISSION

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Panama Canal Commission authorization (secs. 3501-3504)

The Senate amendment contained provisions (secs. 1001-1003) that would authorize expenditures for fiscal years 1990 and 1991 for the Panama Canal Commission.

The House bill contained no similar provisions.

The House recedes with an amendment that would limit the authorization of expenditures to fiscal year 1990.

SAM NUNN,
J. JAMES EXON,
CARL LEVIN,
EDWARD M. KENNEDY,
JEFF BINGAMAN,
ALAN J. DIXON,
JOHN GLENN,
ALBERT GORE, Jr.,
TIMOTHY E. WIRTH,
RICHARD SHELBY,
ROBERT C. BYRD,
JOHN W. WARNER,
STROM THURMOND,
BILL COHEN,
PETE WILSON,
JOHN MCCAIN,
SLADE GORTON,
TRENT LOTT,
DAN COATS,
Managers on the Part of the Senate.

From the Committee on Armed Services, for consideration of the entire House bill (except sections 111 through 118, 137, 138, 210, 221, 255, 3103(a), 4101 and 4102) and the entire Senate amendment (except sections 133 through 135, 231, 841, 843, 845, 2301(a) insofar as it addresses MX Rail Garrison facilities, 2836, 310(a) 3142(b), 3142(c), 3142(e), and 3155), and modifications committed to conference, and as exclusive conferees with respect to any proposal to report in total disagreement:

LES ASPIN,
G.V. MONTGOMERY,
BEV BYRON,
NICHOLAS MAVROULES,
EARL HUTTO,
IKE SKELTON,
MARVIN LEATH,
DAVE MCCURDY,
TOM FOGLIETTA,
ROY DYSON,
MARILYN LLOYD,
RICHARD RAY,
JOHN M. SPRATT, Jr.,
GEORGE (BUDDY) DARDEN,
GEORGE J. HOCHBRUECKNER,
JOSEPH E. BRENNAN,
OWEN PICKETT,
H. MARTIN LANCASTER,
WM. L. DICKINSON,
FLOYD SPENCE,
BOB DAVIS,
DAVID O'B. MARTIN,
JOHN R. KASICH,
HERBERT H. BATEMAN,
ANDY IRELAND,
JAMES V. HANSEN,
JOHN G. ROWLAND,

From the Committee on Armed Services, for consideration of sections 111 through 118, 137, 138, 210, 221, 255, and 3103(a) of the House bill and sections 133 through 135, 231, 2301(a) insofar as it addresses MX Rail Garrison facilities, and 3103(a) of the Senate amendment, and modifications committed to conference:

LES ASPIN,
NICHOLAS MAVROULES,
DAVE MCCURDY,
JOHN M. SPRATT, Jr.,
GEORGE J. HOCHBRUECKNER,
JOSEPH E. BRENNAN,
WM. L. DICKINSON,
BOB DAVIS,
JAMES V. HANSEN,

From the Committee on Armed Services, for consideration of sections 4101 and 4102 of the House bill, and modifications committed to conference:

LES ASPIN,
TOM FOGLIETTA,
WM. L. DICKINSON,

From the Committee on Armed Services, for consideration of sections 841, 843, 845, 3142(b), 3142(c), and 3142(e), of the Senate amendment, and modifications committed to conference:

LES ASPIN,
PAT SCHROEDER,
WM. L. DICKINSON,

From the Committee on Armed Services, for consideration of sections 2836 and 3155 of the Senate amendment, and modifications committed to conference:

LES ASPIN,
MARILYN LLOYD,
RICHARD RAY,
JOHN M. SPRATT, Jr.,
JAMES V. HANSEN,

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of Rule XLVIII:

ANTHONY C. BEILENSON,
ROBERT W. KASTENMEIER,
HENRY J. HYDE,

From the Committee on Education and Labor, for consideration of sections 4101 and 4102 of the House bill and section 907 of the Senate amendment, and modifications committed to conference:

AUGUSTUS F. HAWKINS,
PAT WILLIAMS,
TOM PETRI,
STEVE BARTLETT,

From the Committee on Energy and Commerce, for consideration of sections 2836, 3142(a), and 3155 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
PHILIP R. SHARP,
THOMAS A. LUKEN,
DENNIS E. ECKART,
NORMAN F. LENT,
CARLOS J. MOORHEAD,

From the Committee on Foreign Affairs, for consideration of sections 135, 206, 252, 256, 304, 1103, 1106, 1214, 1241 through 1247, 1253, 1254, 1255, 1257, 1258, 1261, 3139, 3141 through 3148, and 3501 of the House bill and sections 229, 236, 251, 304, 804, 805, 840, 904, 905, 906, 910, 911, 916, 918, 919, 920, 921, 923, 924, 928, 930, 931, 932, 935, 937, 938, 940, 941, 943, 1108, and 3143 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
LEE H. HAMILTON,
GUS YATRON,
STEPHEN J. SOLARZ,

From the Committee on Government Operations, for consideration of sections 822, 828, 829, 844, 927, 929, 933, 2831, and 3142(d) of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.
MIKE SYNAR,
BOB WISE,
ALBERT G. BUSTAMANTE,
FRANK HORTON,

From the Committee on the Judiciary, for consideration of sections 1103, 1106, and 1107 of the House bill and sections 552(c), 837, 840, 844, 913, 925, 926, 929, 936, 1103, 3135, and 3142(d) of the Senate amendment, and modifications committed to conference:

ROBERT W. KASTENMEIER,
BARNEY FRANK,
BRUCE A. MORRISON,
CARLOS J. MOORHEAD,

From the Committee on Merchant Marine and Fisheries, for consideration of sections 925, 1001 through 1003, 1103, and 2832 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
GERRY E. STUDDS,
BILLY TAUZIN,
DON YOUNG,
JACK FIELDS,

From the Committee on Post Office and Civil Service, for consideration of sections 841, 843, 845, and 3142 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM (BILL) CLAY,
GERRY SIKORSKI,
GARY L. ACKERMAN,
BENJAMIN A. GILMAN,
FRANK HORTON,

From the Committee on Public Works and Transportation, for consideration of section

2205 of the House bill and sections 656, 925, 2810, and 2831 of the Senate amendment, and modifications committed to conference:

GLENN M. ANDERSON,
JAMES L. OBERSTAR,
DOUGLAS H. BOSCO,
JOHN PAUL HAMMERSCHMIDT,
THOMAS E. PETRI,

From the Committee on Science, Space, and Technology, for consideration of sections 801 and 3131 through 3138 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
MARILYN LLOYD,
DOUG WALGREN,
ROBERT S. WALKER,
SHERWOOD BOEHLERT,

From the Committee on Small Business, for consideration of sections 828, 831, and 832 of the Senate amendment, and modifications committed to conference:

JOHN J. LAFALCE,
NEAL SMITH,

From the Committee on Veterans' Affairs, for consideration of section 907 of the Senate amendment, and modifications committed to conference:

TIM PENNY,
LIZ PATTERSON,
GEORGE E. SANGMEISTER,
JOHN PAUL HAMMERSCHMIDT,
CHRISTOPHER H. SMITH,

From the Committee on Ways and Means, for consideration of section 925 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
ED JENKINS,
THOMAS J. DOWNEY,
PHIL CRANE,
DICK SCHULZE,

Managers on the Part of the House.

ADDITIONAL STATEMENTS

BIOENGINEERING CENTER, WAYNE STATE UNIVERSITY

● Mr. LEVIN. Mr. President, for 50 years, the Bioengineering Center of Wayne State University has worked to reduce human suffering and to lower the costs to society in the areas of automotive crash injury and low-back pain.

Supported by Federal grants and contracts and contributions from industry leaders like the General Motors Corp., the Ford Motor Co., and Motor Vehicle Manufacturers Association, the center operates under the direction of Dr. Albert I. King. Among the dedicated staff of 30 are 4 doctoral-level, full-time researchers and about 6 other researchers, administrative personnel, technicians, and graduate and undergraduate student assistants.

The center likely did not invent the motto "safety first," but no organization cares more deeply about putting the motto into the machinery of our daily lives. The Centers for Disease Control has designated the bioengineering center one of five injury prevention research centers in the United States.

In addition to research into deadly, side-impact crashes, the center works also on testing of auto restraints and advanced dummies for safety testing. The center is also engaged in groundbreaking research into the causes of low-back pain. This combination of medical and engineering talents has proven to be a potent lifesaving force over these 50 years and the men and women of the Bioengineering Center of Wayne State University have earned the deep appreciation of the American people and best wishes for the next half century.●

PUEBLO: HOME OF THE INTERNATIONAL B-24 MEMORIAL MUSEUM

● Mr. ARMSTRONG. Mr. President, Veterans Day is fast approaching, and with it our thoughts turn to the many lives given to protect us and our democracy. Pueblo—a city with a proud heritage in the southern part of Colorado—now has a Memorial Museum commemorating one of World War II's most important aircraft: the B-24 Liberator.

The B-24 Liberator was one of the greatest and most versatile airplanes ever built. It was produced in greater numbers and in more versions than any other World War II aircraft—18,188 in all. Along with the B-17, the Liberator was the mainstay of the American strategic bombing arm between 1941 and 1945.

In addition, the B-24 served as a maritime reconnaissance aircraft, in the antisubmarine operations, as a passenger transport, as a freighter, as a photo reconnaissance platform, as a flying tanker, and in many other roles. It was used by both the Navy and the Army Air Forces, and by the British, the Australians, and later in many South and Latin American air forces.

Mr. President, I want all Americans to know that this amazing airplane and the history surrounding it will be preserved for them and for future generations in the International B-24 Memorial Museum in Pueblo, CO. This museum, formally dedicated 50 years after the first flight of the B-24, will include more than 24 airplanes of various types.

Those who remember World War II may remember the daring raids made by American B-24 squadrons on the Nazi refineries in Ploesti, Romania. They may not remember, however, that Sir Winston Churchill's personal plane during World War II was a B-24, named "Commando." Others may recall the pictures of skies darkened by hordes of Liberators. They may not recall, though, the long lines of B-24's transporting aviation fuel and supplies over the "Hump" from India to China.

The B-24 played a significant role in winning World War II. It is only fitting and proper that there be a U.S. museum to commemorate the service of this great machine.

The force behind the museum is Mr. Bill Feder of Pueblo, CO. When he retired to Pueblo, most of the airplanes at the local aircraft museum were in a dilapidated condition. Bill went right to work, first convincing the city council to give him permission to restore the aircraft, and then work on the aircraft themseleves. Lori Erikson highlights the extent of Feder's contribution when she says, "Thanks to Feder's efforts, the museum today is a far different place from what it was just 5 years ago. Many of the original planes have been renovated, and an additional four have been added to the collection * * *."

Colorado has much to be proud of on this Veterans Day, and especially of Pueblo's B-24 Museum. It will serve as a constant reminder of the service rendered by countless thousands of Americans during World War II.●

CAPITAL GAINS CUTS HELPS SMALL BUSINESS

● Mr. KASTEN. Mr. President, I highly recommend to the Senate a cogent article by Susan Engeleiter, the Administrator of the Small Business Administration, on how a capital gains tax cut would help small business.

Small business is the backbone of America's economy. Mrs. Engeleiter notes that small businesses create two out of every three new jobs in this country. More importantly, small businesses spawn the kind of new ideas, technological advancements and industrial innovations that keep America competitive in the global marketplace.

Many people who would invest in small businesses are convinced not to by the fact that our capital gains tax is too high, practically the highest in the industrialized world. The result is that new companies in America—the small businesses that create the most jobs—do not have enough investors willing to invest in them.

Who gets hit the hardest when this happens? Workers who cannot find jobs—jobs that would have existed if only small companies had been able to keep themselves afloat on the road to growth. Clearly, if making sure all Americans have a good job is important to us, we have to encourage investment in small businesses. And that means cutting the tax rate on capital gains.

I ask that Mrs. Engeleiter's article be printed in the RECORD immediately following my remarks:

The article follows:

[From the Milwaukee Journal, Nov. 5, 1989]

CUT IN CAPITAL GAINS RATE WOULD HELP SMALL BUSINESS

(By Susan Engeleiter)

While it remains unclear whether legislation lowering the capital gains tax rate will be enacted this year, there is no question that such legislation is supported by a bipartisan majority of Congress. Supporters of a lower capital gains tax rate recognize that this issue is not about pitting one economic class against the other, but rather, rewarding investment and encouraging economic growth.

Members of both political parties have joined together, acknowledging that lower taxes on capital gains are crucial to small businesses, and small businesses are the backbone of American competitiveness.

The availability and cost of capital can mean life or death for a small business owner, whether he or she owns a tool and die plant in Wisconsin or a computer company in Massachusetts.

Without a healthy small-business sector, we stand no chance at all of maintaining competitiveness in the global economy. Small businesses create two of every three new American jobs, train two of every three new American workers and spawn more than half our nation's technical innovations.

Why are lower taxes on capital gains vital to small businesses? Research by the US Small Business Administration has found that small companies obtain most of their capital from non-institutional sources—in other words, informal investors rather than organized venture capital companies. These informal investors are often family and friends who provide capital at the critical initial phases of a small firm's development.

These investors are not millionaires. Thirty-one percent have family incomes of less than $60,000. More than 63% have family incomes of less than $100,000.

Informal investment is especially important to minority business owners, who use this type of capital at a higher rate than non-minority businesses. And informal capital is especially important to newly created small companies. Seventy percent of the firms relying on informal investors have been in existence for less than a year.

These investments can make the difference between quick death or stunning success. Back in 1961, for example, six informal investors in Louisville, Ky., chipped in $1,000 each to start a nursing home. That investment has evolved into Humans Inc., which today employs about 46,000 workers and generates annual sales of $3.4 billion.

The cost and availability of capital is a nationwide concern for smaller companies. That's why delegates to the last White House Conference on Small Business ranked capital formation and favorable capital gains treatment as two of their top priorities.

Capital gains taxation is an issue that reaches to the heart of small business' ability to succeed and to the heart of the nation's ability to compete against the world's economic superpowers.

According to a recent study by economists at the Federal Reserve Board, the United States pays as much as 90% more for its capital investment in equipment, factories and research than either Japan or West Germany.

Those opposed to capital gains reform argue against providing favorable tax treatment for investors. But this debate is not about preferential treatment, but rather restoring fairness to the tax code. Without indexing of capital gains to account for inflationary gains, investors will be less willing to provide the long-term capital that small firms need.

Moreover, altering the 1986 Tax Reform Act to stimulate investment in small business is not a bad idea. A recent SBA study finds that as a result of the 1986 and 1987 tax bills, effective tax rates for small business increased more than those for large companies.

The current congressional debate should not be dominated by partisanship or cries of class warfare. The real issue is the need to provide fuel to America's strongest engine for job growth, innovation and competitiveness. That engine is small business.●

PROPOSED FLAG PROTECTION AMENDMENT TO THE UNITED STATES CONSTITUTION

● Mr. HEINZ. Mr. President, today the Senate is considering a constitutional amendment to overcome the decision of the Supreme Court in Texas versus Johnson which licensed the burning and destruction of the American flag. I believe the Supreme Court's opinion was in error. The case, which was decided by a 5-to-4 vote among the Justices, could have been decided differently, and I deeply regret it was not.

While the Court mustered a majority for the Johnson decision by the slimmest possible margin, many noted legal scholars, and defenders of our freedom, have scrutinized this issue and hold, to the contrary, that the Government may protect its most visible symbol. In Street versus New York, Chief Justice Warren wrote, "I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disagreement." In concurrence, Justice Black, who is generally considered a strict interpreter of the constitution and one of the foremost defenders of first amendment protections, wrote, "It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense." Those constitutional scholars, Mr. President, have been narrowly outvoted, at least on this count for now.

Let me discuss the issues in the Johnson case. In Johnson, the Court struck down a Texas statute providing for specific penalties for desecration of the American flag. The Court found that the defendant's incendiary act was expressive conduct and that penalizing him for such expression ran afoul of the protections afforded by the first amendment. Because the Texas statute is nearly identical to a current Federal law protecting the flag, the Court's decision means that flag protection statutes are constitutionally suspect.

I believe the Congress and the States should be empowered with the ability to prohibit the physical desecration of the flag. The American flag for more than two centuries has been the symbol representing our national character. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our aspirations.

In sum and substance, the protection of the flag is a special and deserving case. Irrespective of their social, political or philosophical beliefs, millions of Americans view the flag as something that holds a special place in our hearts, represents our national spirit, and is worthy of special protection. The flag is more than another idea or point of view doing battle in the marketplace of free thought; rather, it embodies not only our highest ideals, but also our history and our identity as a nation, recalling the men and women who made the ultimate sacrifice to secure our Nation's liberties.

Against the values of protecting this unique national symbol, the Court must weigh the values of the expressive conduct under first amendment analysis embodied in flag burning. Contrary to the assertions of some, the first amendment has never conferred blanket protection on expressive conduct or even speech itself.

The first amendment to the U.S. Constitution stipulates that "Congress shall make no law * * * abridging the freedom of speech, or of the press." But despite the absolute language in the constitution, the Supreme Court over the years has fashioned exceptions to this apparently absolute rule.

The Court has recognized that upholding the first amendment does not mean that anything goes. I believe, as did four Justices in the Johnson decision, that a proper balance could have been struck between the communicative value in allowing the flag to be burned and the values embodied in protecting a unique national symbol. But that is not where we are today. The Court has held otherwise.

Thus, the central question before us is whether the Government should fashion laws to protect the American flag. I believe we should. We are not a perfect country, Mr. President, but we strive to make it better every day, and the flag of our country has a special place in our hearts. We love freedoms for which it stands. We cherish it for the duty to which it calls us. We recall the thousands upon thousands of young Americans who have died to defend it. The Court's decision offends because it devalues those sacrifices, and because it cheapens two centuries of efforts, of blood, sweat and tears, by generations of Americans who have labored to build a country of which we can all be proud.

And if one believes that protecting the flag is important, the Senate must also decide how to achieve that goal given an adverse Supreme Court deci-

sion. Some believe a content-neutral statute is sufficient. However, it is my belief that the only way to properly protect the flag is through a constitutional amendment.

Two weeks ago, the Senate approved S. 1338, a bill aimed at restoring through statute some protections for the American flag. The full text of the bill simply said:

> Whoever knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon any flag of the United States shall be fined not more than $1,000 or imprisoned for not more than one year.

The bill also provided for an expedited review for any cases arising under the statute so that the Supreme Court could rule on the matter at the earliest possible date.

I supported this bill while the Senate prepared to act on a constitutional amendment, and in the hope that the narrowly divided Court might reverse its decision. However, in my estimation, the court was clearly saying that any statute which affects expressive conduct, whether Federal or State—and flag burning is deemed expressive conduct in Texas versus Johnson—would be found unconstitutional under the Court's current absolutist reading of the first amendment.

In Texas versus Johnson, the court held that flag burning for expressive purposes is protected by the first amendment. In order to prohibit such conduct, the Government must have a compelling reason that is unrelated to expression. In this case, the Texas State legislature's purpose for enacting the flag desecration statute was to preserve the flag as a symbol of national unity, which is clearly related to expression. Thus, the Court found that the Government's interest in protecting the flag for symbolic reasons is not compelling enough to overcome an individual's first amendment interest in burning the flag for communicative reasons.

The authors of the statutory amendment believe it will protect the physical integrity of the flag in all circumstances. Further, they believe that because the bill makes no attempt to disparage or laud the flag, the court will have to uphold the statute. I disagree. In the Johnson case the court struck down the language of the State statute which sought to curtail one's freedom of expression. This rationale won't change, merely because the statute doesn't explicitly seek to suppress expression. Unless the Justices adopt the minority viewpoint, the Court will overturn any flag protection statute if the end result is restriction of expression.

Therefore, the only proper way for Congress and the States to obtain the power to proscribe protection for the flag is through a constitutional amendment. And I urge my colleagues to support Senate Joint Resolution 180 which is before us today.●

VISUAL PHONICS: CONQUERING ILLITERACY

● Mr. DURENBERGER. Mr. President, I rise today to pay a tribute to an exciting program that is tackling the problem of illiteracy head on and helping thousands of individuals with learning disabilities, deafness, or other symptoms that impair one's ability to learn, to read, speak, spell, and communicate effectively. The program is visual phonics.

Visual phonics is a system of 46 hand signs and written symbols that start at the root of language. By focusing on sound, hand signs and symbols it encourages students and gives them a sense of understanding and a love for language, rather than simply teaching a set of formulas which are often confusing and seem to have more exceptions than rules.

Visual phonics is sponsored by the International Communication Learning Institute, a nonprofit educational organization. Millie Snow, president of ICLI, has spent the last 7 years of her life sharing this program with others and teaching over 60,000 children to read, write, and communicate. Millie knows the difficulties some face when trying to learn to read or write. She herself had learning disabilities in school and has a mother who is deaf. For her, the Visual Phonics Program opened up a whole new world that put into perspective not just the written form of language, but the real power of language—which is sound.

Visual phonics offers a new and exciting way to combat the problem of illiteracy in this country. It is estimated that 20 to 30 million adults in this country lack basic skills to read, write, and solve simple mathematical equations. We are too well aware of the fact that the United States cannot maintain a healthy economy, compete globally, and increase productivity unless everyone in America can read and write. As a democratic nation, we are weakened substantially when large segments of our society are not participating fully in public life.

Because the basis of visual phonics is sound, not rules, it is especially useful in teaching individuals with learning disabilities, deafness, and other communicative disorders. Visual phonics actually started out a program for the deaf but has also been found to be extremely useful in helping autistic children, down's syndrome children, teaching English as a second language, as well as nonhandicapped individuals.

Visual phonics offers hope to so many that might not have otherwise been given a chance. I was heartened to learn of Samantha, an 8-year-old girl who has been hearing impaired since birth, and for whom learning to read and speak was a struggle. Her hearing aids help by amplifying sound, but they don't clarify anything. The time others spent learning rules and formulas, Samantha spent learning visual phonics. With this program, Samantha is now in the top half of her class with goals and aspirations for the future.

Mr. President, as we continue to struggle against the problem of illiteracy, it is encouraging to come across a program like visual phonics and people like Millie Snow who have given so much in order to share with others the gift of reading.●

RESEARCH, PROMOTION, AND CONSUMER EDUCATION FOR CERTAIN AGRICULTURAL COMMODITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 353, S. 1838, a bill dealing with agricultural production programs.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A bill (S. 1838) to establish or modify research, promotion, and consumer education programs for certain agricultural commodities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

There being no objection, the Senate proceeded to consider the bill.

Mr. FOWLER. Mr. President, I rise to introduce free-standing legislation, the Agricultural Programs Act of 1989, to implement checkoffs for a number of important commodity groups which can benefit from such self-help programs. I am undertaking this effort on behalf of myself and Senators COCHRAN, BOND, BOREN, DASCHLE, MCCONNELL, PRYOR, KERREY, WILSON, BOSCHWITZ, COHEN, GRAHAM, DECONCINI, and HEFLIN who are original sponsors of this bill.

Similar legislation was included in this year's budget reconciliation package, but was removed in the interest of a clean bill. I certainly understand why this action was taken. Deficit reduction has to be our top priority, and I agree that we should focus our attention exclusively on that issue in reconciliation.

Thankfully, the checkoff programs I propose have nothing to do with the Federal deficit. That is why I offer them here, because I think it is important to prevent legislation that will not cost the taxpayers anything from being shot down in a deficit reduction debate.

These marketing orders for soybeans, cotton, pecans, Vidalia onions, potatoes, mushrooms, limes, honey, kiwifruit, and papaya are not Govern-

ment spending programs. They will not add to the Federal bureaucracy. All we are doing is allowing these commodity groups to establish and administer their own research and marketing programs, to develop uses and find customers for their products.

These checkoffs are fair programs, run by the farmers themselves, so that those who invest receive the benefits. Similar programs have proven very successful for beef, dairy and other commodities. We should do everything possible to help other farm groups share in these results.

It is no secret that for most of our farmers, their chosen profession has turned out to be a hard way to make a living. Competition from overseas growers has never been stronger. Consumers have never had so many questions about the comparative benefits of different products. The least we can do in the U.S. Senate is support the attempts of our farmers to sort out these complicated business conditions and explore every avenue of success.

SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

This chapter would establish a national promotion and research program for soybeans to be funded by an assessment of all producers.

This chapter would authorize the United Soybean Board to conduct promotion activities, including paid advertising, technical assistance, and trade servicing activities, to enhance the image or desirability of soybeans and soybean products in domestic and foreign markets. In addition, the bill authorizes activities designed to communicate to consumers, importers, processors, wholesalers, retailers or government officials, information relating to the positive attributes of soybeans and soybean products or the benefits of importation, utilization, or distribution of U.S. produced soybeans or soybean products.

It is the intent of the Senate in authorizing the promotion activities as defined in this section, to permit the United Soybean Board to conduct activities which will improve the competitive position of soybeans and soybean products and maintain and stimulate increased sales of soybeans and soybean products both domestically and in foreign countries. Included in this definition are traditional promotion activities such as paid advertising and media relations activities.

It is the intent of the Senate that, to the extent practicable, the Secretary of Agriculture should avoid conducting any referendum required under this chapter during or near the harvest season, in order to maximize participation in, and awareness of, referenda by farmers.

The Senate recognizes the heavy reliance on exports of the domestic soybean industry. If the domestic industry is to maintain and expand its export opportunities, it must provide importing nations with technical assistance relating to the storage, use, or distribution of soybeans or soybean products and other trade servicing activities similar to those being conducted by industry organizations through the cooperator program implemented in conjunction with the Foreign Agricultural Service of the Department of Agriculture.

In addition, the Senate acknowledges that the United Soybean Board must, in certain situations, conduct activities designed to communicate information to those persons that have an influence on purchases, importation, utilization or distribution of soybeans or soybean products. In many instances, those persons include officials of foreign governments. Therefore, the United Soybean Board must be able to communicate with government officials of foreign countries relating to the positive attributes of soybeans or soybean products, or their importation, utilization or distribution or to develop information regarding the effects of existing or proposed impediments to trade or utilization.

The Senate recognizes the potential problems associated with the United Soybean Board engaging in foreign trade activities that may be viewed as establishing or conflicting with the conduct of the official policies of the U.S. Government. A balance must be struck which will allow the United Soybean Board to conduct those activities necessary to facilitate exports, while not authorizing the United Soybean Board to negotiate foreign trade policies on behalf of the U.S. Government. It is not the intent of the Senate that the United Soybean Board independently conduct negotiations with, or represent U.S. Government or domestic soybean producer industry positions to, foreign government officials advocating the removal or modification of tariffs, quotas, or other import barriers.

This would not preclude the United Soybean Board from providing technical assistance to the U.S. Government during negotiations or discussion. Trade negotiations are a function of the U.S. Trade Representative's Office. However, the United Soybean Board must be able to promote its products to those who have an influence on consumption and provide information to consumers, importers, processors, wholesalers, retailers and, as deemed appropriate by the Secretary of Agriculture, foreign government officials relating to the effects of existing or proposed impediments to trade or utilization of soybeans or soybean products.

It is the intent of the Senate that all plans and projects conducted by the United Soybean Board are to be approved by the Agricultural Marketing Service of the Department of Agriculture. The Senate believes that this review process will preclude any activities by the United Soybean Board that could run counter to or obviate other official ongoing or planned trade-related activities of the U.S. Government. The Agricultural Marketing Service in approving any projects which involve interaction with foreign government officials, shall consult with and obtain the views and comments of the Foreign Agricultural Service and the U.S. Trade Representative's Office.

Section 1405(h)(2) of the bill would provide that the National Soybean Promotion Board shall ensure that all plans or projects implemented within a program area are implemented by a single national, nonprofit producer-governed organization that represents soybean producers. The Senate intends that the program areas under the order comprise at least the following: Research; promotion; consumer information; industry information; and producer information. Thus, under the law, the National Soybean Promotion Board could not simultaneously contract with more than one organization in each of these areas; and the number of separate program areas could not be less than those enumerated. Of course, nothing precludes the Board from contracting with the same organization to implement more than one program area.

The bill would also provide, in section 1405(j)(4) that each soybean producer who can establish that he or she is contributing to a qualified State soybean board for a State soybean checkoff program will receive a credit for such contributions of up to one-quarter of one percent of the net market price of soybeans or the equivalent thereof. Also, section 1410(a) of the bill would provide that, with certain very limited exceptions, the bill should not be construed to preempt or supersede the State soybean checkoff programs.

These provisions are designed to ensure that the national soybean checkoff program under the bill does not adversely affect or interfere with the operations of State soybean checkoff programs. Existing State programs, some of which have been in operation for decades, have done important work in their own right in assisting soybean producers in marketing their product and otherwise promoting the interests of producers and their product. The Senate strongly supports continuation of this traditional work of existing State checkoff programs.

It is the intent of the Senate that the Department of Agriculture, in developing regulations and administering the national program under the bill, take steps to facilitate the qualification of existing State soybean checkoff entities as qualified State soybean boards. In that regard, it also is the

intent of the Senate that, to the extent practicable, the Department's regulations and administrative actions related to the qualifications of existing State boards not force States to revise current programs that use soybean checkoff funds or their administration of such programs as a condition for qualifying as a State soybean board, so long as State use of checkoff funds falls generally within the scope of the bill.

Mr. DECONCINI. Mr. President, I heartily support this legislation that bolsters the Cotton Research and Promotion Program. This is a self-help program that has been conducted for 20 years through a voluntary assessment on domestically produced cotton. Currently, the Research and Promotion Program assesses contribution on domestic upland cotton production. These funds are then used for cotton promotion and research and have been responsible for the market recovery from the dramatic losses during the 1950's and 1960's.

Arizona cotton producers strongly support this self-help measure. They see the value in controlling and enhancing the cotton market through their contributions. Arizona has the highest rate of program participation in the country.

This legislation would expand the collection base by authorizing the collection of an equal assessment of the cotton content of imported products. Imported cotton products presently account for 40 percent of the total cotton consumption in the United States. Unfortunately, 80 percent of the cotton in imported product is foreign grown.

Hence, foreign cotton producers have been reaping the benefits of our thriving domestic market; a market that owes its promotion solely to the financing of domestic cotton producers. This legislation would authorize the collection, from foreign producers, of their share of the costs of promoting cotton within the United States and therefore, insure that the beneficiaries of domestic demand share in the responsibilities of promoting the product.

Mr. MITCHELL. Mr. President, I rise to indicate my strong support for the potato title of the legislation introduced by the distinguished Senator from Georgia.

Title VI is based on legislation I introduced on April 14, S. 836, the Potato Research and Promotion Act Amendments of 1989. I was pleased to be joined in that effort by Senator BOND, Senator MCCLURE, and my distinguished colleague from Maine, Senator COHEN. Subsequently, the legislation was cosponsored by Senator PRYOR, Senator BOSCHWITZ, Senator LEVIN, and Senator BURDICK.

Under the authority of the Potato Research and Promotion Act of 1971, the National Potato Promotion Board conducts a program of research and consumer information designed to expand potato markets. The program is generic in nature, does not distinguish between domestic or imported potatoes nor make any reference to any particular brand of potatoes.

The Board's activities were instituted after a referendum of potato producers in the early 1970's and have historically been strongly supported by growers. In fact, growers in 1984 overwhelmingly supported an increase in the assessment in order to raise additional revenues for the National Promotion Board.

In order to pay for its research and consumer information program, the Board collects assessments from domestic producers on the fresh potatoes used for human consumption and for seed.

The only problem with the current program is that not all producers now pay the assessment which fund the National Potato Promotion Board's activities although all potato producers benefit from the Board's efforts to expand markets. The legislation I introduced would have corrected that situation.

First, it would authorize assessments on imported potatoes by extending the assessment to persons engaged in importing potatoes or who act as an agent, broker, or cosignee for any entity that produces potatoes outside the United States for sale in this country. The assessment on imported tablestock, frozen, processed, or seed potatoes would be paid at entry into the United States at a rate established by the Board so that effective assessment shall equal that paid by domestic producers.

Second, S. 836, would eliminate the voluntary nature of the assessment under which producers can petition the Board for a refund of the assessments levied on their potatoes sold in commercial channels. Most producers pay the assessment. In fact, only about five percent of growers take advantage of this authority. But the refunds represent about 15 percent of the total assessment originally collected by the Board.

The rationale for these changes is clear. All producers benefit when the Potato Promotion Board's activities enhance markets. But only some domestic producers now pay an assessment. It's unfair for domestic and foreign producers to get a free ride from the Promotion Board's programs. All producers should pay their fair share of the costs associated with the Board's research and education program.

Mr. President, on July 17, the Agriculture Subcommittee on Domestic Marketing, Consumer Relations and Nutrition held hearings on a variety of promotion bills, including S. 836.

Following the hearing, S. 836 was amended by the committee and included in its package of reconciliation recommendations to the Budget Committee. In all, the committee made four substantive changes to the bill. They are represented in Senator FOWLER's legislation.

First, the committee required a referendum of growers and importers within 24 months to see if a majority agreed to the proposed changes. As introduced, S. 836 did not require a referendum.

Second, the committee required escrow accounts equal to 10 percent of collections in order to provide for refunds in the event the mandatory assessments were rejected. As introduced, S. 836 did not contain a refund provision since it had no referendum.

Third, the committee required that five spots on the National Potato Promotion Board be reserved for importers in order to give foreign producers a voice in the Board's activities. As introduced, S. 836 did not specify the number of importers that had to be represented on the Board. It did, however, provide for their representation on the Board.

Finally, the committee required that USDA's costs of conducting the referendum would be covered by the assessment. As introduced, S. 836 would have required USDA to cover its costs.

I believe potato growers nationwide and in Maine are willing to accept the changes made to S. 836 in the Agriculture Committee because they are similar to ones placed on all of the assessment programs by the committee.

The National Potato Promotion Board and many State potato boards have expressed support for S. 836 because it would have corrected the inequities I've discussed. In addition, it would provide the National Promotion Board increased revenues with which to conduct its ongoing activities.

In closing, Mr. President, the efforts of the National Potato Promotion Board to improve markets for potatoes has benefited all producers, foreign and domestic, large and small, those who pay the assessment and those who decline to do so.

I think it's only fair that all who share in the benefits should pay their fair share. That's what my legislation would have done. That is what the potato title in this legislation would do.

I urge its adoption by the Senate.

Mr. COCHRAN. Mr. President, I am joining my distinguished friend from Georgia, Senator FOWLER, in introducing the Agricultural Promotion Programs Act of 1989. After hours of hearings and meetings, the Agriculture Committee has crafted a series of farmer self-help initiatives which will further strengthen the likelihood that farmers will be able to receive more of

their income from the marketplace and be less dependent on the Government. As producers of the specified commodities develop, finance, and implement nationally coordinated programs for promotion and research, markets should be strengthened and expanded.

The program is designed to:

First. Be fair to all farmers: All who benefit would invest. Refunds would be provided as long as a majority of farmers determined in specified elections that refunds should continue.

Second. Be run by farmers: While the Department of Agriculture would provide oversight and ensure compliance, farmers at State and national levels would make decisions. All farmers investing would be informed about the use of funds.

Third. Cap administrative cost at 5 percent: Funds would be used for needed programs, not administrative overhead.

Fourth. Keep 50 percent of funds in each State: The program would help pinpoint and solve problems in individual States, thus strengthening State research and promotion programs.

Fifth. Be subject to a farmer referendum: After an initial period of time for the program to work, farmers would vote to continue or not, ensuring their right to make the ultimate decisions.

Sixth. Prohibit use of funds to influence U.S. Government actions: In essence, these funds can not be used for lobbying purposes.

Mr. President, the Agricultural Promotion Programs Act of 1989 is strongly supported by numerous national and State producer organizations. It provides an excellent opportunity for agricultural producers to help themselves at no cost to the Government. I hope the Senate responds in a positive fashion by passing this legislation promptly.

Mr. COHEN. Mr. President, I am pleased to join my colleagues in introducing the Agricultural Promotion Program Act of 1989. This legislation, which authorizes coordinated programs of research, development, and promotion of particular agricultural commodities, will significantly enhance the competitive position of agricultural producers. The programs are funded by the commodity producers themselves and, in my view, are precisely the type of self-help initiatives that the Federal Government should encourage.

The bill we are introducing today includes, among other things, important amendments to the Potato Research and Promotion Act of 1971. These amendments—previously introduced by Senator MITCHELL, myself, and others in the Potato Research and Promotion Amendments of 1989—are critical to the continued success of the Potato Promotion Program.

Under the Potato Research and Promotion Act of 1971, the National Potato Promotion Board collects assessments from domestic potato producers to fund its various research and promotional programs. The potato board's activities have received wide support within the potato industry. In fact, in 1984, producers strongly supported an increase in their assessments so that the potato board could continue its fine efforts. There is, however, a significant problem with the current Potato Promotion Program: Although all producers share in the benefits of promoting potato consumption, not all of them share in the burdens of funding the potato board. There are two groups in the potato industry who presently do not participate in the financial support of the potato board: First, potato importers who are not currently assessed; and second, domestic producers who, consistent with present law, seek rebates for their assessments. It is only fair that all of those benefiting from the potato board's promotion of domestic potato consumption should share in its funding.

To close the loopholes and certify that the potato board is more equitably funded throughout the potato industry, our legislation will amend the Potato Research and Promotion Act in two ways: First, it will authorize assessments of potato importers; and, second, it will eliminate the voluntary nature of the assessment insofar as rebates will no longer be permitted.

It is clear that over the past 18 years, the National Potato Research and Promotion Board has become a model for agriculture self-help. It has expanded worldwide potato consumption at virtually no cost to the Government, and is highly regarded by the industry which financially supports it. Our legislation will allow the board to continue its successful programs into the next century, benefiting all producers regardless of size or nationality. For these reasons, I strongly urge my colleagues to support this legislation.

Mr. DOMENICI. Mr. President, I rise in support of legislation before the Senate dealing with promotion programs for agricultural commodities.

First, I would like to comment on those provisions which would amend the Cotton Research and Promotion Act. Specifically, this language would extend the collection of assessments to the upland cotton content of imported products and would discontinue the current practice of allowing a refund of the producer assessment.

Production of upland cotton is very important in New Mexico. In 1988, cotton lint generated approximately $32 million in cash receipts, with an estimated 69,000 acres of upland cotton harvested in the State.

Mr. President, I generally support the concept of self-help programs to allow for market development when such programs are funded and directed by agricultural producers. Given this program's demonstrated successes, a rescission of the refund provision will probably not cause undue hardships for upland cotton farmers.

Upland cotton producers in New Mexico are generally considered some of the strongest supporters of this program. In 1987, they paid an assessment of approximately $2.95 per bale; more then $194,000 was paid into the cotton promotion program by New Mexico farmers. New Mexico has a very low rate of request for refund of the assessment.

Even though I support this legislation, for the record I would hope that the provisions extending the assessment to importers of cotton products be carefully examined. I am concerned that this provision may not be consistent with the General Agreement on Tariffs and Trade [GATT]. Raw cotton and many cotton products entering the United States are subject to import quotas. Once the quota is met, this promotion program cannot assist importers in expanding their share of the market. Thus, a potential GATT conflict could arise because the importer is not treated in a manner consistent with the treatment of the domestic producer.

I would also like to mention my support for the provisions in this bill which would establish a program for promotion of pecans.

Last year, pecans were ranked ninth in terms of cash receipts; New Mexico's crop of 26 million pounds generated approximately $16 million in receipts for our farmers.

In the language before us, a self-help program for farmers could be established to strengthen the pecan industry's market position and to maintain and expand existing and new markets and uses for this important commodity. These efforts could be conducted in the United States and abroad.

Such activities would be directed by a board of 15 members, 7 of whom would be growers, and funded by an assessment on all pecans produced in or imported into this country.

After 24 months, the program would be subject to a referendum to determine if a majority of pecan growers, grower shellers, and importers wish to continue, terminate, or suspend the program.

These provisions were included in the reconciliation package reported by the Senate Budget Committee. The language was clearly extraneous to the reconciliation process, and I supported stripping it from the reconciliation bill.

At that time I indicated there were provisions in that bill I supported; these are some of those. In fact, earlier this year, I cosponsored similar legislation to provide for a promotion program for pecans.

I would like to think my distinguished colleagues, Mr. COCHRAN and Mr. BOND, for their efforts to bring this before the Senate today, and I urge my colleagues to support this legislation.

Mr. BOND. Mr. President, it is with great pleasure that I join my distinguished colleagues, Senators FOWLER, COCHRAN, MCCONNELL, and WILSON in supporting the Agricultural Promotion Programs Act of 1989. Today's action is the result of countless hours of work—work that started with the farmers themselves. In my judgment, passage of this legislation is yet another example of the determination of our Nation's agricultural producers to more directly effect their future.

Commodity promotion is not a new concept, but one that has only recently gained widespread attention. According to the U.S. Department of Agriculture, there are now more than 300 State and Federal promotion programs on more than 80 commodities. Ninety percent of all U.S. producers contribute money to farm commodity promotion and market development programs. All told, more than $530 million is raised annually—$300 million of which is derived from dairy, beef, and pork programs.

Mr. President, these self-help measures are often overlooked. We often hear negative comments related to agriculture—it is expensive, unequitable, and inconsistent. Why is it that we never hear that farmers themselves fund a great deal of their own promotion and research. Are they the only ones who benefit? No, we all do. We, the American consumer, are treated to an abundant, inexpensive, high-quality food supply.

The package passed today is a great victory for farmers across the country. We have authorized, or made changes to several commodity promotion programs. I am especially pleased with the authorization for a national soybean promotion and research program. Let me explain some of the details of the bill:

Authorizes a nationwide checkoff of one-half of 1 percent of the net sales proceeds of each bushel of soybeans. Under current conditions, this equals more than $50 million.

Establishes a farmer-run United Soybean Board which will be charged with allocating funds, subject to the approval of the Secretary of Agriculture.

Maintains existing State programs by requiring that 50 percent of the funds remain at the state level.

Prohibits funds from being used for lobbying.

Permits refunds prior to the referendum. Farmers will then have an opportunity to vote on continuation of the program.

Requires a recall vote at the request of 10 percent of the soybean producers.

Caps administrative expenses at 5 percent.

Mr. President, last week the Senate Agriculture Committee passed the Agricultural Promotion Programs Act of 1989. I applaud the committee's action and believe Senate passage is another step in the right direction. It is very important that Congress pass this legislation this session, thus we will be offering it on every available vehicle. Sure we could wait until the farm bill—but why?

Another important component of this bill is the closure of a loophole in export programs administered by the U.S. Department of Agriculture [USDA]. Under current law, importers of foreign vegetable oil, for example, are able to export a quantity of U.S. origin vegetable oil under a USDA export program, and receive a refund of import duties paid on a like amount of imported oil. The net effect is to allow traders to cycle products of like kind through the United States, essentially duty free.

On August 4, I introduced legislation along with Senators DOLE, LUGAR, PRYOR, BOSCHWITZ, HARKIN, MCCONNELL, BOREN, and CONRAD, which closes this loophole. My bill, S. 1561, prohibits duty-drawback benefits on exports under USDA credit, credit guarantee, bonus, or other export program administered by CCC. Adoption of this provision will eliminate a practice which has undermined the intent of USDA's export programs.

I am hopeful that the House will act quickly on this important package. In closing, I thank my colleagues on the Agriculture Committee, and the committee staff, for their hard work and persistence. I think the result is something we can all be proud of.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

(The text of the bill (S. 1838), as passed, will be printed in a subsequent edition of the RECORD.)

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WELCOMING DELEGATES OF THE FOREIGN POSTAL ADMINISTRATION TO THE 20TH UNIVERSAL POSTAL CONFERENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 222, a concurrent resolution welcoming delegates of the Foreign Postal Administration to the 20th Universal Postal Conference to be held in Washington, DC, just received from the House of Representatives.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 222) to welcome the delegates of foreign postal administrations to the Twentieth Universal Postal Congress to be held in Washington, DC.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. STEVENS. Mr. President, I join our friend in the House in support of House Concurrent Resolution 222, and urge its enactment and its immediate adoption.

This concurrent resolution calls attention to an historic event: the opening of the 20th Congress of the Universal Postal Union [UPU]. The Congress will meet here in Washington from Monday, November 13 through December 15, 1989.

The UPU is the second oldest continously meeting international organization in the world today. It last met in the United States in 1987. At that meeting, the 102 delegates representing 56 nations, free states, and territories convened in a specially decorated hall of the Corcoran Gallery of Art. This year's gathering will find nearly 1,700 individuals representing 170 member administrations of the UPU participating in business sessions held at the Washington Convention Center.

Mr. President, let me briefly describe the origins of this remarkable organization which grew out of a recognition of the bonding value of written communication and the need to improve the often chaotic exchange of mail between nations. In 1872, Montgomery Blair, Postmaster General during Abraham Lincoln's administration, proposed the establishment of a general congress of postal representatives to seek ways to resolve the difficulties. The following year, as a consequence of Blair's proposal, delegates from 15 European and American countries met in Paris to discuss proposals to reduce confusion and simplify the exchange of mail.

Just 2 years after Blair's proposal, the Swiss Government convened representatives from 22 countries who

signed a treaty concerning establishment of a general postal union. In 1878, the name General Postal Union was replaced by Universal Postal Union [UPU]. Since 1947, the UPU has affiliated with United Nations as a specialized agency.

Mr. President, the UPU is one of the finest examples of international cooperation in existence today. In passing House Concurrent Resolution 222, the Congress will affirm this fact and express the hope that the efforts of the Congress will result in improved global communications.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 222) was agreed to.

The preamble was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PLACE H.R. 1805 ON THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 1805, a bill to amend the Federal Employees Health Benefit Program and Government life insurance, be placed on the calendar when received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT THE ARMED SERVICES COMMITTEE HAVE UNTIL 6 P.M. TO FILE CONFERENCE REPORT ON H.R. 2461

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Armed Services Committee have until 6 p.m. to file the conference report on H.R. 2461, the Defense authorization bill.

I further ask unanimous consent that the Defense authorization conference report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The conference report appears in the Morning Business section of today's RECORD.)

ORDERS FOR TUESDAY, NOVEMBER 7, 1989

RECESS UNTIL 10 A.M. AND MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m., Tuesday, November 7, and that following the time for the two leaders there be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF H.R. 2710 AND RECESS FROM 12:30 P.M. TO 2:15 P.M.

Mr. MITCHELL. Mr. President, at 10:30 a.m., the Senate will resume consideration of H.R. 2710, the minimum wage bill.

Mr. President, I ask unanimous consent that the Senate stand in recess from 12:30 to 2:15 p.m. in order to accommodate the party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, if I could make one inquiry. If, in fact, we reach some agreement on extending the debt limit, would it be the majority leader's intention to set aside any pending business to take that up?

Mr. MITCHELL. Yes, it would be. And I assume that would be the desire of the Republican leader and the administration, as well.

Mr. DOLE. That is correct.

Mr. MITCHELL. I would like to proceed to that as promptly as possible, if we can.

RECESS UNTIL 10 A.M., TUESDAY, NOVEMBER 7, 1989

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 10 a.m. tomorrow, Tuesday, November 7.

There being no objection, the Senate, at 5:26 p.m., recessed until Tuesday, November 7, 1989, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 6, 1989:

DEPARTMENT OF STATE

ANTHONY CECIL EDEN QUAINTON, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PERU.

BRADLEY P. HOLMES, OF VIRGINIA, TO BE U.S. COORDINATOR FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY, WITH THE RANK OF AMBASSADOR, VICE SONIA LANDAU, RESIGNED.

DEPARTMENT OF DEFENSE

G. KIM WINCUP, OF MARYLAND, TO AN ASSISTANT SECRETARY OF THE ARMY, VICE DELBERT L. SPURLOCK, JR., RESIGNED.

DEPARTMENT OF JUSTICE

GENE W. SHEPARD, OF IOWA, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF IOWA FOR THE TERM OF 4 YEARS VICE RICHARD C. TURNER, DECREASED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ORREN R. WHIDDON, [redacted] U.S. ARMY.

WITHDRAWAL

Executive message received November 6, 1989, withdrawing from further Senate consideration of following nomination:

Sonia Landau, of New York, to be Coordinator for International Communications and Information Policy, with the rank of Ambassador, vice Diana Lady Dougan, resigned, which was sent to the Senate on January 3, 1989.

EXTENSIONS OF REMARKS

HOSPITAL PATIENT DUMPING

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 6, 1989

Mr. DONNELLY. Mr. Speaker, I am submitting for the RECORD an article from the Wall Street Journal concerning hospital "patient dumping." This is an old article, from last year, but it is of renewed relevance because of legislation I introduced earlier this year which is designed to sanction hospitals which fail to recognize their commitment to care for the poor.

The article points out that, despite laws preventing the practice, many hospitals consistently discharge individuals for economic, and nonmedical, reasons. It is my belief—and the belief underlying my legislation—that hospitals which consistently engage in these practices should not be entitled to tax benefits which they currently receive.

I urge my colleagues to read this excellent article closely.

DUMPING THE POOR: DESPITE FEDERAL LAW, HOSPITALS STILL REJECT SICK WHO CAN'T PAY

(By Clare Ansberry)

Since August 1986, it has been clearly illegal for hospitals to dump the poor. But that didn't save Terry Takewell.

Just a month after the federal law took effect, the 21-year-old diabetic became acutely ill. His neighbors in a small trailer park in Somerville, Tenn., found the young man panting and drenched with sweat from a fever. An ambulance sped him to nearby Methodist Hospital, where the uninsured carpenter already had an outstanding bill of $9,400; a directive in the emergency room told staff members to alert hospital supervisors if Mr. Takewell ever returned.

He was in a hospital bed when an administrator arrived. After speaking to Mr. Takewell briefly, the administrator helped him to his feet and escorted him to the parking lot. Neighbors found him there under a tree and took him home; he died about 12 hours later.

Zettie Mae Hill testified at a congressional hearing last year that she is still torn, wondering whether Mr. Takewell would be alive today if she and other neighbors had directed his ambulance to a different hospital. "We didn't believe the hospital would just let a person die like that for lack of money," she said.

THE HOSPITAL'S ACCOUNT

For its part, the hospital contended that Mr. Takewell left of his own accord. Investigated under the new federal law, the hospital was absolved of any wrongdoing. But that finding outraged at least one attorney, Gordon Bonnyman of Legal Services of Middle Tennessee. "You couldn't find a more unbelievable case, yet nothing was done," he says. "That gives you an idea of how effective the law is."

Each year, despite statutes against the practice, hospitals dump—that is, transfer for economic, not medical reasons—an estimated 250,000 people. Neither anti-dumping laws—federal, state and local—nor the nation's health-care system has overcome market pressure to shun many of the estimated 37 million Americans who have no health-insurance coverage.

Increasingly, they are pariahs, rejected by a system determined to contain medical costs. And while hospitals talk about aiding the sick poor—and many, in fact, do—few welcome the responsibility. Nor do doctors, insurers, employers or Congress.

That helps explain a Chattanoga, Tenn., hospital dispatcher who told an ambulance crew not to bring in an unconscious man found in a poor neighborhood—because, he said, the administrator "would kill us if we took another indigent."

NO OBLIGATION TO PAY

Michael Krentz, the president of the American College of Emergency Physicians, says: "On the one hand, we have a moral, ethical and legal obligation to see a patient. Nobody, on the other hand, has a moral or legal obligation to pay for that care."

The thorny issue came up in the recent presidential campaign. Gov. Michael Dukakis said he wanted employers to provide minimum health-insurance benefits, while Vice President George Bush opposed the idea on the ground that it would increase the cost of doing business and thwart job growth.

Still, a growing number of authorities agree something must be done. The venerable National Academy of Sciences Institute of Medicine contends in a recent study that health care to the indigent is as critical as the AIDS crisis.

In the past, hospitals passed the costs of charity care along to patients covered by insurance. But now insurers have established limits and will pay only so much for any given hospital procedure. Governments are stingier with Medicaid and Medicare payments, too. Fewer than two of five poor Americans are covered by Medicaid today, down from 65% a decade ago. California has dropped 250,000 of the working poor from its Medicaid program.

ABSORBING THE COST

Unable to weather the cuts, more and more cash-poor hospitals are closing, leaving a smaller pool of mostly public and nonprofit hospitals to absorb the annual $7 billion cost of uncompensated care. Joseph Denney, an admissions official at the Ohio State University Hospital, says he is writing letters of protest to more than 15 Ohio hospitals that have transferred indigents to his institution. He wants them to "do their fair share."

Health-industry officials say that laying the blame for dumping the poor isn't all that easy. "You can't just say those big, bad hospitals are dumping people and are morally deficient," says J.B. Silvers, a management professor at Case Western Reserve University's Health Systems Management Center. "Facing deficits, they must ask: 'Do you squeeze on the commercial side where people pay, or do you squeeze on the social side?'"

The health care system is more often choosing the latter course, and overt dumping is the most graphic consequence. Some 15 million Americans are either denied care or don't seek it because they can't afford it, according to a study by the Robert Wood Johnson Foundation. And the numbers are growing each year, the research group reports.

If hospitals don't frankly turn away the uninsured, they will sometimes close their emergency rooms, refuse Medicaid patients, or require payment in advance. "They may lock their doors on the side of the street facing a poor neighborhood," says Mr. Silvers. "It's not actual dumping, but it's the same thing—denying access."

SHUNNING SERIOUS ILLNESSES

In Tennessee, Arthur Kellermann, who heads emergency services at Memphis's Regional Medical Center, says the human cost in pain and suffering is all too frequently ignored in the push to contain medical costs: "We aren't talking about a patient with no money who wants a tummy tuck or a face lift. We are talking about heart attacks and seizures and strokes and gastrointestinal bleeding."

The major push against dumping came two years ago when Congress prescribed it. Under federal law, hospitals doing business with Medicare must treat patients with emergency conditions and all women in active labor, regardless of their ability to pay.

But although the law was praised for acknowledging that problems exist, it has also been critized as largely ineffective. Enforcement regulations have yet to be adopted. Moreover, the law's terms are nebulous. For example, patients must be "stabilized" before being transferred. But, notes Judith Waxman, an attorney with the National Health Law Project: "One doctor's stabilized is another doctor's dump."

Last year in St. Louis, a young uninsured woman, five months pregnant, arrived at a hospital complaining of stomach pains. She was about to be transferred when she gave birth. The baby was stillborn. The hospital proceeded to transfer the woman—dead baby, umbilical cord and all. In Chicago, patients considered to be "stable" and thus transferable included a gunshot victim bleeding profusely from an artery to the brain and a man who had fallen from a third-story window.

IN THE DARK

If most Americans don't even know that an anti-dumping law exists, perhaps it is because no one is required to tell them about it. Even those doctors and hospitals receiving the dumped patients are reluctant to report violations or to move to stop them from fear of souring their relationships with other institutions.

Those who do often are ostracized. Ron Anderson, president and chief executive of Dallas' Parkland Memorial Hospital, says he was warned by peers that he would never find another job in hospital administration in Texas after he advocated a state anti-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

dumping law. And Dr. David Ansell of Chicago's Cook County Hospital says his own hospital held a press conference to rebut his study showing a threefold increase in dumping there.

Ignorance of the law and evident reluctance to report violations help explain why the federal Health Care Financing Administration has found only 61 hospitals among several thousand in the U.S. to have violated the 1986 law. Just two hospitals have been booted out of the Medicare program as a result. Legal Services' Mr. Bonnyman says that problem is more pervasive than it seems. Federal authorities, he says, rely on politically sensitive state boards to rule on complaints. The Takewell case, for instance was considered by a state licensing board dominated by representatives of hospitals.

"There is a built-in conflict of interest that absolutely undermines the enforcement of the law," he claims.

THE IMPERILED UNDERINSURED

While dumping is most closely associated with the uninsured, the country's 50 million underinsured are at risk as well. Consider 61-year-old Mary Marshall, whose symptoms—a 104.8-degree fever, dehydration and hallucinations—caused her family to seek hospitalization. A private Tennessee hospital was prepared to admit her—that is, until it discovered she didn't have group insurance and her own policy provided inadequate coverage. She was told she needed to pay $1,200 out of pocket and was sent home when she couldn't come up with the money. Later, her family took her to a local public hospital, and she was admitted there.

The private hospital treated her like she didn't have any insurance at all," says Mrs. Marshall's daughter Judy Wilkerson. "If you don't have money, you're nothing."

A few states—notably Texas and California—have attacked the dumping problem with their own strict laws and vigorous enforcement. The Texas state attorney general's office is suing Humana Hospital Corp. in Harris County State District Court. The complaint alleges that Humana's Clear Lake Hospital dumped Mary Rourke, a 47-year-old housewife. Mrs. Rourke was admitted to the institution for a prescription-drug overdose and then was transferred to a public hospital—against the advice of the receiving doctor—because she had no insurance. While she was in transit, Mrs. Rourke's heart stopped. Resuscitated, she became comatose. She died without regaining consciousness. A Humana spokesman says he can't discuss details of the matter because it is in litigation but adds: "Certainly, we are defending the case."

NOW, REVERSE DUMPING

Cases such as Mrs. Rourke's are declining in Texas, and officials there credit the state's anti-dumping law. But now they are observing a new phenomenon: "reverse dumping," in which larger hospitals refuse to accept uninsured patients from smaller, less sophisticated ones.

Edwin Norris, the administrator of tiny Culberson County Hospital, which is situated on a desolate stretch of flat Texas highway, spent four hours begging hospitals to take an indigent man whose leg had been all but amputated by a train. Because the small hospital lacks surgical facilities, doctors there couldn't even finish the job of cutting off the leg. "We just tried to make him comfortable until we finally found someone to take him," says Mr. Norris.

"In another remote Texas town, a 17-year-old gunshot victim spent hours in a small hospital while nurses frantically tried to find a large hospital and neurosurgeon to take him. None would, so the family was told to hire an ambulance to take him to the emergency room of a large hospital, McAllen Medical Center. By then, critical hours had passed, and the boy eventually died.

California also is seeing end-runs around its strict laws. Some hospitals in the Los Angeles area, for example, are threatening to close unprofitable emergency rooms to all but private ambulances.

"One way or another, people aren't getting needed health care because they don't have enough money to buy it," says Lois Salisbury, an attorney with Public Advocates in San Francisco who helped lead the fight for an anti-dumping law. "The problem persists in new forms and outpaces . . . legislators."

Another "sordid variation of dumping," she says, consists of admitting and summarily releasing the uninsured after a quick once-over. Last year, an uninsured 27-year-old truck driver was admitted to a California hospital after persuading officials to accept $596 instead of the $1,000 they requested. The man, who had chest pains, was released the next day even though basic tests hadn't been conducted, Ms. Salisbury says. He was told to rest for a week and not lift anything hevy. Several hours later, the man died.

Ms. Salisbury believes hospitals will continue to find ways to avoid caring for the indigent until they get their money. The question is: how to reimburse them. Some health-care experts advocate creating a pool of funds from insurers and those hospitals that don't treat many poor patients to compensate hospitals that do. Others say new taxes, such as an income-based health-insurance tax, will finance care. National health insurance is yet another possible course.

Whatever the solution, it promises to be financially painful, says Ms. Salisbury. Without a remedy, however, the casualties will increase, among the sick and families unable to afford proper care.

The legal-aid attorney recalls the torment of a young mother whose son was injured in an automobile accident in Modesto, Calif. The family was told it had to pay, up front, for surgery. It didn't have the money, and the boy died. "the mother was distraught with guilt," says Ms. Salisbury. "She and her husband were working class, but they couldn't come up with $1,000 to try to save their son's life. That's what they must live with for the rest of their life."

IN RECOGNITION OF THE SWANSON CENTER'S 20TH ANNIVERSARY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 6, 1989

Mr. VISCLOSKY. Mr. Speaker, rise today to recognize the Swanson Center's 20th anniversary. Centered in Michigan City, IN, this not-for-profit organization has established itself during the past 20 years as the comprehensive mental health resource for LaPorte County by providing services at eight locations throughout the county. The success of the Swanson Center may be attributed to its conviction that the mental and emotional well-being of each citizen is important.

As it effectively grasps and deals with today's social problems, the Swanson Center serves as a primary example of a community at work. Since its inception the Swanson Center has developed a full complement of community and clinical services for people of all ages. The Swanson team of board-certified psychiatrists, psychologists, therapists, clinical social workers and other mental health professionals has banded together to provide counseling, crisis assistance, residential and day programs for the chronically mentally ill, substance abuse treatment and support groups for those in need.

Through its fine substance abuse treatment program, the efforts of the Swanson center represent just one of the thousands of organizations daily coping with and solving the drug problems which infiltrate our communities. The Swanson Center offers a multidisciplinary approach which helps people understand and overcome their addictive behaviors.

The therapeutic support groups of the Swanson Center provide a forum for those wishing to discuss their problems with others. At each group meeting, members are able to share comments on such topics as eating disorders, grief, alcoholism and anxiety. Through this analysis, a testing ground is provided to measure personal growth and change.

The contributions of the Swanson Center of LaPorte County over the past 20 years have been immeasureable. Not only have they kept marriages and families together, provided full service care for the chronically mentally ill and solved the problems associated with abuse and addicition, but they have also helped countless others lead more satisfying and productive lives. Through their efforts to improve the mental health of a few, the Swanson Center has bettered the quality of life for everyone in LaPorte County. I am sure that my colleagues will join me in lauding the accomplishments of all those associated with the Swanson Center during the past 20 years and wishing them continued success in the future.

SILENT DECAY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 6, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert the following article by Edward Abrahams, a former staff member of the Joint Economic Committee, into the CONGRESSIONAL RECORD. "Silent Decay" appeared in the Washington Post October 27, 1989, and the article merits close review by the Congress.

SILENT DECAY

(By Edward Abrahams)

In a letter to the editor of this newspaper not long ago Richard Darman stated that we will have deficit reduction in his lifetime. It will not come too soon; America's unmet demands, which are undermining the nation's productivity, are not waiting for the government to get its fiscal house in order.

Most of the country's pressing needs—better education, more effective law en-

forcement, nuclear waste cleanup, scientific research, including a visit to Mars—to name only four things both Republican and Democrats agree are necessary—are also woefully underfunded. But is hard to measure the consequences in lost productivity that result from failure to spend adequately for good schools, an effective war on drugs, cleaning up the environment, or the discovery of a cure for AIDS.

There is one area, however, in which we can accurately gauge the consequences of our lack of investment: the condition of the nation's bridges. While there is always deterioration, the silent decay of our bridges will get worse in the future, unless, quite simply, we spend more to repair and replace them. Their current condition is really a metaphor for our failure to invest sufficiently in the public infrastructure generally. That was true even before the earthquake in California, and all the questions that it has raised about safe construction.

By law every year since 1979 (now biannually) the Federal Highway Administration issues a report on the status of the nation's bridges. These overlooked studies document a consuming nation's propensity to take the foundation of its propensity for granted—its $3 trillion infrastructure investment.

During the past two decades spending for public works as a percentage of GNP declined from 2.3 to 1 percent. A recent study by David A. Aschauer of the Federal Reserve Bank of Chicago demonstrates that this dramatic decline, by raising the cost of doing business, contributes to our low rate of productivity growth. By contrast, the Japanese, whose productivity growth rate is more than five times that of the United States, invested more than 5 percent of their GNP in public facilities between 1973 and 1985.

As a consequence of the declining investment in infrastructure, in 1988, according to the latest report, 41 percent of America's bridges failed to meet federal standards. Though down from a peak of 46 percent in 1983, this alarming figure is much higher than the one third of our bridges which were considered substandard in 1979.

The small improvement since 1983 can be attributed to federal spending. Washington currently spends about $3 billion a year to repair and replace deficient bridges, a figure that has not changed much in the past four years, but one that is unfortunately far below what will be necessary to maintain our aging bridge system in the future.

According to the Federal Highway Administration, deficient bridges may be either structurally deficient, which means they must be restricted to light vehicles, closed, or immediately repaired, or, less seriously, functionally obsolete, meaning that they do not meet specified federal standards, but are still considered safe.

A breakdown of the two categories reveals further how serious the problem is. In 1979 15 percent of the nation's bridges were structurally deficient. Nine years later that number jumped to 24 percent. The number of functionally obsolete bridges grew from 18 percent in 1979 to 22 percent in 1983 before failing back to 18 percent in 1988.

Put more simply, this means that every time a driver crosses a bridge in the United States he has more than two chances in five that the federal government has classified that bridge as substandard and an almost one-in-four chance that something is seriously wrong with it.

Although bridges on and off the federal system are eligible for federal funds for replacement or repair, the government differentiates among them. The majority of deficient bridges are fortunately on lesser-traveled rural roads. Ominously, while the percentage of deficient bridges is falling on these roads, the reverse is true for those bridges over which 85 percent of all traffic flows. Last year 16 percent of the bridges on the interstate system were found to be deficient, up 50 percent in six years.

The bridges in some states are in worse condition than others. Compared to the 68 percent of New York's bridges that were classified deficient in 1988, the District, Maryland and Virginia are doing well. In the District 21 percent of our 237 bridges were found deficient. In Maryland and Virginia the figures were 41 and 34 percent.

The Federal Highway Administration estimates that the cost for replacing or rehabilitating deficient bridges eligible for federal funds is $50.7 billion. Given the magnitude of the present need, the fact that approximately 40 percent of the nation's bridges were built in the 1950s and '60s with life expectancies of 30 to 40 years, and President Bush's inaugural determination that we have more will than wallet, Americans can expect a bumpier ride and a lower standard of living in the future.

U.S. CONGRESS NOT ALONE IN WANTING CYPRUS SETTLEMENT

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 6, 1989

Mr. BROOMFIELD. Mr. Speaker, many of us in the Congress are determined to help find a settlement to the longstanding Cyprus dilemma. We are not alone in our efforts to bring peace to that once-united island. Many nations around the world join us in seeking a negotiated solution to that complex problem.

Several Members of the House routinely join me in trying to find a solution to the Cyprus dilemma. We have introduced various legislative initiatives that focus on the need for progress in solving the Cyprus problem. We frequently work with the administration, whose official policy is to find a peaceful settlement of the Cyprus dispute, and encourage the President and the Secretary of State to seek a timely resolution of the Cyprus dilemma. The U.S. Congress is but one of many players in the international effort to resolve the tragedy of that divided island.

The United Nations is actively involved in finding a fair and balanced solution to the Cyprus dispute. U.N. Secretary General Perez de Cuellar has launched a serious peace effort and organized a series of intercommunal talks between the leader of the Turkish community on that island, Mr. Denktash, and President Vassiliou of the Republic of Cyprus. Although the talks are stalled, all of us hope that they will restart.

The European Community has clearly told the Government of Turkey that the members of that organization will not consider Turkey's application for membership in the EEC unless Turkey withdraws its troops from Cyprus. The Europeans know that Turkey, a NATO member and a democratic nation, is one of the few countries in the world to continue to militarily occupy a sovereign country.

In addition, the over 50 member countries of the Commonwealth of Nations recently crafted a strong declaration calling for a Turkish troop withdrawal from northern Cyprus and voiced strong support for the U.N.-sponsored peace process on that island.

Finally, the nations of the world are united in refusing to recognize the so-called Northern Turkish-Cypriot Republic. Only Turkey has officially recognized that self-styled state while other nations have refused to extend diplomatic recognition of northern Cyprus despite the efforts of Mr. Denktash to win wider support. I was shocked to learn that he recently traveled to Libya where he asked for Colonel Qadhafi's help in winning recognition of northern Cyprus by Middle Eastern nations. While most nations of the world turn their back on that terrorist-supporting madman, Mr. Denktash has chosen to win his favor.

I want to share with my colleagues a Financial Times article concerning the recent Commonwealth of Nations' statement about the importance of having peace on Cyprus.

[From the Financial Times, Oct. 25, 1989]

SPEEDY TROOP WITHDRAWAL FROM CYPRUS URGED

Commonwealth leaders yesterday adopted an unusually strong declaration on Cyprus, which called for the speedy withdrawal of "all foreign forces and settlers" from the island, reports Robert Mauthner from Kuala Lumpur. It also condemned the unilateral declaration of independence by the northern Turkish-Cypriot leadership in 1983.

The final communiqué, warmly welcomed by President George Vassilious of Cyprus, supports his Government's position that the unity, territorial integrity and non-aligned status of Cyprus should be ensured. In his context it called on all states not to recognise the self-styled northern Turkish-Cypriot republic.

Apart from calling for the withdrawal of all foreign troops, a reference mainly to Turkish troops stationed in the north, the communiqué was also implicitly critical of Mr. Rauf Denktash, the Turkish-Cypriot leader, for suggesting that Turkish refugees from Bulgaria might be invited to settle in northern Cyprus.

The leaders expressed their belief that "a sustained and substantive dialogue" within the framework of United Nations-sponsored communal talks was the only way of reaching a just and peaceful solution.

They called upon all parties to co-operate fully with the UN Secretary-General in his attempts to organize substantive talks between the two Cypriot parties.

IMMIGRATION ACT AND JOB BIAS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 6, 1989

Mr. RICHARDSON. Mr. Speaker, the Mexican American Legal Defense Fund, [MALDEF] released a shocking report this weekend showing that there is widespread discrimination in employment against Hispanics as a result of the Immigration Reform and Control Act. The MALDEF report chronicles a number

of incidences of employer discrimination against U.S. citizens and legal residents, simply because of their last name or accent.

For example, Sandra Johnson's job search was going smoothly, until she started using her maiden name, Garcia. At that point interviewers constantly asked for her immigration status and suggested her immigration papers were forged.

Richard Trujillo, a native of Kansas applied for a job as a sandblaster. On his application he indicated he was a U.S. citizen, and provided a drivers license and Social Security card as proof of legal status. The company, however demanded a work visa or "INS number," something no native born citizen would have.

Based on the MALDEF report it is clear that as a result of the Immigration Act, employers are erecting more barriers to employment to people with Hispanic names or accepts. This finding supports and brings into clear light the earlier GAO study which found great ignorance of the 1986 act amongst employers.

As a earlier supporter of the 1986 Immigration Act, I am disturbed to learn that whether through ignorance or malice, there is a serious problem in which the law is being used to bar people from gainful employment. I call on the President and the administration to provide the necessary leadership in reversing this ugly situation.

JOB BIAS CASES TIED TO IMMIGRATION ACT RIGHTS GROUP DESCRIBES MISUSE, MISUNDERSTANDING OF REFORM LAW

(By Jay Mathews)

LOS ANGELES, November 5.—Sandra Johnson, an American of Hispanic descent, thought her job search was going smoothly until she separated from her non-Hispanic husband and began using her maiden name, Garcia. Suddenly interviewers wanted to know her immigration status and began to suggest that her identification papers were forged.

Richard Trujillo, a native of Kansas City, Kan., marked "U.S. citizen" on his 1987 application for a job as a sandblaster and showed his social security card and driver's license. The company demanded an "INS number" or a work visa, and despite his protests that citizens did not carry such documents, denied him the job.

On the eve of the third anniversary of the landmark Immigration Reform and Control Act (IRCA), the Mexican American Legal Defense and Educational Fund (MALDEF) today released several such accounts of illegal discrimination caused by misunderstanding and misuse of the act.

"It is clear that IRCA is the source of increased employment discrimination against 'foreign-looking' and 'foreign-sounding' people," said Antonia Hernandez, MALDEF president and general counsel.

The civil rights group called for more protections for legal U.S. workers from a law originally designed for their benefit, and sharply criticized the General Accounting Office for failing to verify a pattern of discrimination even after discovering that 16 percent of American employers were treating legal immigrants or their descendants differently since IRCA became law.

The percentage "may not seem significant to the . . . GAO, but it affects the livelihood of a large segment of the work force," said MALDEF employment director Jose R. "Beto" Juarez, Jr.

The organization's 118-page report, "The Human Costs of Employer Sanctions," documents missteps in application of IRCA's requirement that employers verify each new worker's legal immigrant status or risk large fines and possible jail terms.

It supports a September report by the U.S. Commission on Civil Rights that the GAO "has understated the extent of discrimination resulting from IRCA."

The MALDEF report, written in collaboration with the American Civil Liberties Union, recommended the GAO expand its investigation of IRCA-related discrimination. If the GAO finds a major problem, a MALDEF official said, Congress might repeal employer sanctions, which the organization has consistently opposed.

In a summary of what it said were hundreds of cases investigated by MALDEF attorneys, the organization said many employers have been unfamiliar with the different documents that can be used to prove a right to work and have insisted on seeing an Immigration and Naturalization Service "green card," only one of many possibilities.

IRCA allowed any undocumented alien who had lived in the United States before Jan. 1, 1982, to seek legal residence status, but MALDEF said it found "employers who have fired legalization applicants who requested assistance with their legalization applications or who used aliases or invalid social security numbers." The report said some employers then hired such people back as "new employees" with reduced wages and benefits.

In one case, the report said, a legal resident accountant from Colombia was denied a job with a major insurance company because he was not a U.S. citizen. When told such discrimination was illegal, the personnel officer replied: "You can think what you want, and besides, you have a strong accent and I have difficulty understanding you. I don't think that the company would like to have you in contact with the customers."

TRIBUTE TO THE EXPANDED FOOD AND NUTRITION EDUCATION PROGRAM OF LAKE COUNTY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 6, 1989

Mr. VISCLOSKY. Mr. Speaker, I rise today to pay tribute to the Expanded Food and Nutrition Education Program [EFNEP] of Lake County, IN, on its 20th anniversary.

Administered by the Cooperative Extension Service of Purdue University, EFNEP has long helped urban and rural families, faced with limited food budgets, to improve the nutritional quality of their diets. Firmly rooted in the belief that a balanced diet will result in both healthier and longer lives, EFNEP trained program assistants provide important information on a one-to-one basis with adults and youths. Since its inception in 1969, EFNEP has served hundreds of families and thousands of individuals. Indeed, EFNEP has improved the quality of life for not only the families it serves, but also all citizens of northwest Indiana.

Mr. Speaker, on the occasion of its 20th anniversary, I again congratulate the Expanded Food and Nutrition Education Program on its outstanding service and wish it continued success in the future.

HONORING MR. AND MRS. JACK HOGAN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 6, 1989

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to a couple who have performed outstanding service to the Queens community. That couple is Mr. and Mrs. Jack Hogan, who as owners of the Fogarty Funeral Home will today celebrate 100 years of service by the funeral home to the Flushing community with a banquet at the Amber Lantern Restaurant in Flushing.

One cannot overestimate the great service Jack and MaryAnn Hogan have performed to their community. The fact that their funeral home handles 250 funerals a year should make it obvious how important it is to the residents of Flushing. The present reputation of the funeral home is largely due to the dedication and hard work of three generations of Hogans.

Jack Hogan's father was the first Hogan to work at the funeral home when he was taken in as an orphan by Mr. Fogarty, the home's first proprietor. Jack Sr., worked hard, looking after the horses that were used to carry the hearses, and eventually earned the confidence of his adoptive father, who sold him the business in 1946.

Jack thus spent his childhood growing up over the funeral home. He must have developed an attachment to it since he only left for a brief time to earn his curator's credentials and soon returned to work with his father. Jack began to manage the home in 1960 and in 1976 assumed the presidency of the corporation.

Of the next generation of Hogans, Jack and MaryAnn's second son, Robert and their daughter, MaryAnn, both work at the family business. Robert recently passed his boards, which means that if Jack decides to retire sometime in the near future, his son will ably fill his shoes. The Hogans have three other children, their first son, John who is a successful Wall Street broker, James, who is in college and Daniel who is in gammar school.

Jack's wife, MaryAnn has also worked at the home since 1980. Prior to 1980 she had acquired a masters in library science and went on to teach in the city's public schools. She has subsequently utilized her talents as a librarian, as director of Community Outreach for the funeral home, setting up a grief therapy library. The library consists of a collection of books and videos which assist people through the bereavement process. Numbered among these books and videos are programs explaining death to children, talking people through bereavement and one for those who "are living when a loved one is dying." These programs are only officially open to clients, but the funeral home makes them available to civic and support groups. Around five to six support groups use the programs monthly.

As a tribute to the outstanding service the Fogarty Funeral Home offers its clients, it has been asked to join Trust 100, a network of individually owned and operated funeral homes that offer expertise large chains cannot match and that are renowned for their independence and high ethical standards.

Besides their outstanding work at the funeral home, Jack and MaryAnn Hogan have been extremely active in other aspects of their community. Mr. Hogan is president of the Flushing Chamber of Commerce, a past president of the Flushing Lions Club, a former president of many church organizations and also a past grand knight of the Olympia Council of the Knights of Columbus. MaryAnn has been extremely active in her community as past president of the Home School Association and numerous church organizations. She is also still active in alumni activities at St. Johns.

Mr. Speaker, in a time dominated by corporate takeovers and giant corporations it gives me great pleasure to witness a family business like the Hogan's prove successful by performing a service so vital to the needs of Flushing residents. I would like to take this opportunity to ask my colleagues to join me in congratulating them and their staff at the Fogarty Funeral Home on their anniversary of service to Flushing.

TRIBUTE TO DR. JOHN S. TOLL

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 6, 1989

Mr. McMILLEN of Maryland. Mr. Speaker, it is with the greatest pride and admiration that I rise to honor Dr. John S. Toll, a man who, through his dedication and commitment, has come to excel beyond comparison in the fields of education and physics. It is today, upon his retirement from the University of Maryland, that I wish to recognize his many great achievements.

Dr. Toll began his career upon graduation with highest honors from Yale University, earning a B.S. in the area of physics. He then went on to complete his masters and Ph.D. degrees from Princeton University in 1952. From 1953 until 1965 Dr. Toll served as a professor and the chairman of the department of physics at the University of Maryland. During this time he also served as the national chairman of the Federation of American Scientists, the chairman for the Research Advisory Committee on Electrophysics for the National Aeronautics and Space Administration, and the chariman of the Phi Beta Kappa Association for the University of Maryland, proving in each instance his determination and commitment to excellence.

In September 1965, Dr. Toll's achievements were recognized by the State University of New York and he was named president of the Stony Brook campus. In July 1978, Dr. Toll returned to the University of Maryland to be awarded the position of president, and to be renamed a professor of physics. Upon completing 10 prosperous years of the presidency, Dr. Toll became the founding chancellor of the University of Maryland System, while serving as professor of physics.

During his term as president of the University of Maryland Dr. Toll initiated many programs which led the university into a new era of excellence. He began by establishing a faculty fund which allowed for promotion of the best teachers and researchers, and which led the university to rank sixth in the Nation in the number of prestigious fellowships won by its faculty. Dr. Toll also added many new educational programs to the university, such as applied molecular biology, nursing informatics, and telecommunications management, as well as creating the Engineering Research Center and the Maryland Biotechnology Institute. In addition to these achievements Dr. Toll helped increase the number of university applicants, honors students, minority enrollments, and degrees awarded. Finally the financial management of the university steadily improved under the direction of Dr. Toll, which led Standard & Poor's, in 1989, to issue an AA+ bond rating for the University of Maryland System, the only public university to receive this high rating. These programs comprise only a small portion of the many achievements that Dr. Toll has accomplished during his career at the University of Maryland.

I know that my colleagues will join me in honoring Dr. Toll for the many years that he has been dedicated to the improvement and advancement of education, especially those years that he served at the University of Maryland.

A TRIBUTE TO DICK SULLIVAN

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 6, 1989

Mr. CLINGER. Mr. Speaker, I want to say a word about an old friend. His name is Dick Sullivan and he was a friend to many in this House of Representatives during a distinguished career that spanned more than three decades.

Dick Sullivan retired last Tuesday and I regret that he will no longer be here and I also regret that I was not on the floor that day to tell him in person of my high regard of him as a person and as a consummate professional. I had forgotten that it was to be his last day.

I first met this most congenial Irishman when I came to Washington in 1975 to serve as chief counsel of the Economic Development Administration during the Ford years. I was greener than green but was immediately thrust into preparation for a hearing before the fearsome Economic Development Subcommittee of the Public Works and Transportation Committee. I will never forget the help that Dick Sullivan gave me in getting ready for that hearing and his patience with me at the hearing itself.

Since coming to Congress and now able to sit on the other side during congressional hearings, I have found Dick Sullivan to be unfailingly cooperative and effective. Although Dick was the majority counsel and a dedicated Democrat he could not possibly have been more helpful to those of us in the minority.

The genius of the Public Works Committee, in my view, has always been the true spirit of bipartisanship that prevails and I believe that Dick Sullivan played a mayor role in promoting this spirit. Rather than foster confrontation, he always sought accommodation and negotiation. He is a master at concensus building and has a keen sense of the politics involved in any issue. His goal was always to serve the Members—all of the Members—well and that he did with great skill right up to last Tuesday.

Dick Sullivan was a towering presence both literally and figuratively in the Public Works Committee and it is hard to imagine the committee functioning without him. We will, of course, but with a little less joy in the process than before.

TRIBUTE TO REV. GRADY WILLIAMS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 6, 1989

Mr. TRAFICANT. Mr. Speaker, I rise to pay tribute to Rev. Grady Williams, who will be honored at a luncheon on November 18, 1989. Reverend Williams is celebrating his silver anniversary as pastor for the Trinity Baptist Church in Warren, OH. He not only has a long and distinguished history of service to the Trinity Baptist Church but also to his community.

Pastor Williams is a native of Ramer, AL. He received his formal education in the Ramer, AL public school, and attended Central Bible College and the American Baptist Theological Extension Unit in Youngstown, OH. Reverend Williams moved to Youngstown in 1948 and began preaching in 1961. He was ordained a Baptist preacher on March 17, 1963. Today Reverend Williams lives in Warren, OH with his wife, Nannie Ellis Williams, and is the father of two daughters, Nanette and Twyla.

Reverend Williams began preaching at the Trinity Baptist Church on October 6, 1964 and has been their pastor ever since. He is the senior pastor among the Afro-American Baptist Churches in Warren, OH. Besides serving his own congregation, Reverend Williams does work for several religious and civic organizations. Presently, he is the president of the Eastern Ohio Baptist Association Congress of Christian Education, and the treasurer of the Trumbull County Ministerial Alliance. Past offices include dean of the Eastern Ohio Baptist Association Congress of Christian Education, president of the Trumbull County Ministerial Alliance, and a board member of Family Services and of the Warren-Trumbull Urban League.

Mr. Speaker, I would like to take this opportunity to congratulate Rev. Grady Williams for his 25 years of impeccable service to Trinity Baptist Church and to his community. He is an understanding and compassionate person who is greatly admired by all. We are deeply indebted to him for his contributions both to his community and to his State. I am honored to represent this outstanding individual.

CUBA, A PARTNER ON THE U.N. SECURITY COUNCIL?

ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 6, 1989

Ms. ROS-LEHTINEN. Mr. Speaker, I cannot believe that the United Nations has chosen Cuba to be a member of the Security Council. Since its inception in 1959 as a Communist totalitarian state under the direction of Fidel Castro, Cuba has given its support to radical groups and subversive movements throughout Central and South America. Cuban activities have militarized and internationalized what would have been otherwise local conflicts.

In 1959, Castro aided armed expeditions against Panama, the Dominican Republic, and Haiti. During the early and mid-1960's, Guatemala, Colombia, Venezuela, Peru, and Bolivia all faced serious Cuban backed attempts to develop guerrilla focos, armed focal points to foment revolution.

In the mid-1970's, Cuba renewed its penchant for direct intervention, not in Latin America but in Africa. In Angola, 20,000 Cuban troops, supported by Soviet logistics and material, assured the supremacy of the Popular Movement for the Liberation of Angola, which had the strongest ties to Moscow of the three movements competing for power after Portugal's withdrawal.

In Ethiopia, the integration of Soviet and Cuban operations was even more complete, with the Soviets providing overall command and control, material, and transport for 13,000 to 15,000 Cuban troops fighting against Somali forces.

During 1981 alone, Cuba quietly increased its presence in Nicaragua to 5,000 personnel, including more than 1,500 security and military advisers; armed Salvadoran guerrillas in El Salvador; established an arms supply network in Costa Rica during the Nicaraguan civil war and later used to supply Salvadoran insurgents; trained guerrillas in Colombia who were attempting to create a people's army.

Mr. Speaker, have we already forgotten Cuba's attempt to build a major air strip in Grenada and weapon caches found on that island? The Security Council of the United Nations has the primary responsibility for the maintenance of international peace and security. Can we trust a man and a country that supports violence and hatred in Latin America and throughout the world?

To this day Fidel Castro continues to supply arms and munitions to leftist insurgents. On May 30, 1989, we learned of that largest cache of weapons ever captured in El Salvador by government forces included a wide variety of modern Soviet-designed small arms and over a quarter of a million rounds of ammunition manufactured in Cuba as recently as 1988.

For this reason I believe that it is a travesty of international justice to select Cuba as a member of the Security Council of the United Nations. I strongly condemn this selection.

REMARKS OF REPRESENTATIVE MATTHEW J. RINALDO ON H.R. 3265, FCC REAUTHORIZATION

Mr. Speaker, I was unavoidably detained on Monday, October 30, and could not speak on the floor in support of the FCC Reauthorization bill, which I cosponsored with the Telecommunications Subcommittee Chairman, the gentleman from Massachusetts, Mr. Markey. I am pleased that the House passed this legislation by voice vote on the suspension calendar.

This bill, as approved by the Energy and Commerce Committee and the Telecommunications Subcommittee, authorizes the full $109.8 million requested in the President's FY90 budget. This is only $800,000 more than the amount that the House appropriated for the FCC in FY90.

The bill as amended sets the FCC's FY91 authorization at $121.5 million. This increase is appropriate for two reasons. First, this figure reflects the FCC's revised estimate of the additional money it will need in 1991 and 1993 to move and consolidate its offices.

Second, this funding increase recognizes that the FCC's workload and responsibility have greatly increased in recent years. The industries regulated by the FCC have become much larger and more important to our overall economic health and our ability to remain competitive. New technical and regulatory challenges for the agency spring up every day, as they have from HDTV to information services in the 1980's. Keeping the FCC well-equipped and able to deal with these new challenges has to be a central part of our communications strategy as we move to the 21st century.

This legislation extends the FCC's Older Americans program, which was originally authored by my colleague from Texas, Mr. Fields. As the ranking Republican on the House Aging Committee, I share Mr. Field's hopes that the Older Americans program will be an important tool that will be used by the FCC to its fullest potential.

The Energy and Commerce Committee adopted an amendment to this legislation relating to the Commission's authority to take into account trade practices of foreign countries. The Administration has raised concerns about this amendment, fearing it may create policy-making authority at the FCC.

I want to assure the House, and especially my Republican colleagues, that the opposite is true. The Committee clearly did not create any new authority for the FCC through this amendment. I worked closely on the language of the provision with the chairmen of the full committee and the subcommittee. I can assure the House that the committee's action makes explicit the limits of existing FCC authority. The committee report makes clear that the president is the policy-maker with respect to trade policy, not the FCC. That will not change after this amendment becomes law.

The only thing this amendment does is remind the FCC that it may take into account the nation's trade policies when the agency makes rules governing telecommunications industries—no more, no less.

I also note that while the administration is concerned about this trade provision, it does not object to passage of the underlying bill.

Finally, I want to mention my concerns on one issue that has been a source of controversy between the Telecommunications Subcommittee and the FCC. The Telecommunications Subcommittee members are in agreement that the Commission should not impose access charges on information service providers.

Twice, the Subcommittee Chairman and I have fought the FCC on this issue. The subcommittee believes strongly that access charges are appropriate and would drive up the public's cost in getting information services. We didn't make these views explicit in the committee report only because FCC Chairman Sikes pledged during our authorization hearing not to impose these fees. We expect the Commission to live up to that pledge and work to make information services widely available for all our citizens.

One again, I am pleased that the House has approved this needed authorization legislation. I hope it will be quickly approved by the Senate and sent to the President for approval.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, November 7, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 8

9:00 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 891, to provide for the modernization of testing of consumer products which contain hazardous or toxic substances.

SR-253

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on S. 1741, to increase competition among commercial air carriers at the Nation's major airports.

SR-301

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Foreign Relations

To hold hearings on the nomination of Ronald J. Sorini, of the District of Columbia, for the rank of Ambassador

during his tenure of service as the United States Negotiator on Textile Matters.
SD-419

Joint Economic
To hold hearings to examine how corporate investment decisions on research and development, capital, and acquisitions are influenced by the equity markets, the cost of capital, and by public policy.
2359 Rayburn Building

10:00 a.m.
Environment and Public Works
To hold hearings on the nomination of Don R. Clay, of Maryland, to be Assistant Administrator of Solid Waste, Environmental Protection Agency.
SD-406

Judiciary
To hold hearings on S. 88, to reform procedures for collateral review of criminal judgements, and S. 1757 and S. 1760, bills to provide special habeas corpus procedures in capital cases.
SD-226

2:30 p.m.
Foreign Relations
To hold hearings on the nominations of Cresencio S. Arcos, Jr., of Texas, to be Ambassador to the Republic of Honduras, and Richard H. Melton, of Virginia, to be Ambassador to the Republic of Brazil.
SD-419

4:00 p.m.
Foreign Relations
Closed briefing on worldwide ballistic missile proliferation.
S-116, Capitol

NOVEMBER 9

9:30 a.m.
Energy and Natural Resources
To hold hearings on a proposed committee amendment to S. 406, Competitive Wholesale Electric Generation Act.
SD-366

Governmental Affairs
To hold hearings on the status of science and math education in the United States
SD-342

Judiciary
To hold hearings on the nomination of Vaughn R. Walker, to be United States District Judge for the Northern District of California.
SD-226

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on S. 712, to provide for a referendum on the political status of Puerto Rico.
SR-332

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the human genome initiative and the future of biotechnology.
SR-253

Foreign Relations
To hold hearings to examine nuclear testing issues; and to consider pending nominations.
SD-419

Judiciary
To hold joint hearings with the Committee on Labor and Human Resources to examine the impact of drugs on families and children.
SD-430

Labor and Human Resources
To hold joint hearings with the Committee on the Judiciary to examine the impact of drugs on families and children.
SD-430

Joint Economic
To hold hearings to examine changes in U.S. economic power and the impact of those changes on national security.
2359 Rayburn Building

10:30 a.m.
Veterans' Affairs
To hold hearings on the nominations of David E. Lewis, of Florida, to be Assistant Secretary for Acquisition and Facilities, Ronald E. Ray, of Florida, to be Assistant Secretary for Human Resources and Administration, and Edward G. Lewis of Virginia, to be Assistant Secretary for Information Resources Management, all of the Department of Veterans Affairs.
SR-418

11:00 a.m.
Select on Indian Affairs
Business meeting, to consider pending calendar business.
SR-485

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Debra Wince-Smith, of Ohio, to be Assistant Secretary of Commerce for Technology Policy.
SR-253

NOVEMBER 13

9:30 a.m.
Labor and Human Resources
To hold hearings on S. 1425, to make nutrition labeling information mandatory and to provide for clear standards governing the claims that can be made about foods.
SD-430

2:00 p.m.
Energy and Natural Resources
To resume hearings on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and S. 1802, related measures with respect to the environment, safety, and health aspects of operation of the Department of Energy's nuclear facilities.
SD-366

NOVEMBER 14

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on potential alternative energy sources for transportation, focusing on compressed natural gas, reformulated gasoline, ethanol, and electricity (electric vehicles).
SD-366

Small Business
To hold hearings on the nomination of Kyo R. Jhin, of Maryland, to be Chief Counsel for Advocacy, Small Business Administration.
SR-428A

Select on Indian Affairs
To hold oversight hearings on Indian Veterans' programs.
SR-485

NOVEMBER 15

9:30 a.m.
Veterans' Affairs
To hold hearings on health care for rural veterans.
SR-418

10:00 a.m.
Special on Aging
To hold hearings to examine the affects of drug abuse on the elderly in urban and rural settings.
SD-628

NOVEMBER 16

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

9:30 a.m.
Energy and Natural Resources
To resume hearings on a committee amendment to S. 406, Competitive Wholesale Electric Generation Act.
SD-366

NOVEMBER 17

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

NOVEMBER 21

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 1236, to provide for a waiting period before the sale, delivery, or transfer of a handgun.
SD-226

DECEMBER 5

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the Department of Energy's implementation of the civilian nuclear waste program.
SD-366

POSTPONEMENTS

NOVEMBER 7

10:00 a.m.
Labor and Human Resources
To resume hearings on S. 722, to revise the authority under the Federal Food, Drug, and Cosmetic Act to regulate pesticide chemical residues in food, and other related issues.
SD-430

NOVEMBER 8

10:00 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to mark up proposed legislation to authorize a new corporation to support State and local strategies for achieving more affordable housing and to increase homeownership.
SD-538

29-059 O-90-39 (Pt. 19)

SENATE—*Tuesday, November 7, 1989*

(Legislative day of Monday, November 6, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Behold, the nations are as a drop of a bucket, and are counted as the small dust of the balance * * *. All nations before him are as nothing; and they are counted to him less than nothing, and vanity.*—Isaiah 40:15, 17.

Eternal God, infinitely wise, Isaiah reminds us of our finiteness and Your infinity; our limited intellects, Your wisdom; our frailty, Your strength. Thou knowest all things—our past, our future and our present condition. Thou knowest the possibility of impending judgment—how close to the precipice we are ethically, morally, economically, financially. In a most precise sense, the Senate is the point of last resort. If they do not respond to our crises, who will? Whatever is humanly possible, whatever the Senate ought to do at this critical time, grant them the wisdom, the will and the courage to do it. Bond them together that, in the great power and potential of their unity, what ought to be done will be done.

In the name of Him, who is Lord of life and the Judge of history. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 7, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time reserved for the two leaders, there will be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 10:30, the Senate will resume consideration of the minimum wage bill, H.R. 2710. Rollcall votes are likely today relative to that measure.

Mr. President, I have been trying now for nearly 2 weeks to get agreement on enactment of a clean debt limit extension bill. It is my intention to set aside any pending business to take that measure up during the day today, and I hope very much that we are going to have agreement on a debt limit extension bill. It is important to our economy and to our country that we not risk the adverse consequences of default by the Government.

I encourage all of my colleagues to join me in making possible the swift enactment of a clean debt limit extension. It has been requested by the administration. It is my understanding that the President supports it, and we certainly here in the Congress ought to be doing our part to enact this debt limit extension bill.

GLOBAL WARMING

Mr. MITCHELL. Mr. President, earlier this year, the President proposed a serious and significant acid rain bill. Unlike the previous administration, President Bush's administration agreed that there had been enough study on acid rain and not enough action. I applaud the President for his efforts in this regard.

But in rhetoric similar to that used by the Reagan administration for 8 years on acid rain, representatives of the Bush administration are now saying that we cannot act to prevent further global warming. As a result, it is reported that EPA Administrator Bill Reilly is in The Netherlands at a global warming conference with no United States proposal on global warming. Instead, according to press reports, Reilly says that the United States needs to study the issue more, and actively opposes an international agreement to control carbon dioxide emissions.

For 8 years, the Reagan administration argued that acid rain controls were unnecessary and too expensive. For 8 years they claimed that the adverse environmental and health effects were too uncertain.

President Bush changed the political landscape on acid rain when he endorsed a 10-million-ton reduction in sulfur dioxide emissions.

Unfortunately, President Bush on global warming sounds like President Reagan on acid rain.

The cost of inaction is higher than the cost of action. That is true for acid rain, urban smog, and toxic air pollutants. It is also true on global warming.

If emissions of greenhouse gases contihue unabated, this planet will experience an unprecedented rate of global warming.

A quick survey of the last few years indicates that weather patterns are already unusual in many parts of the globe, which is consistent with global warming. Powerful hurricanes, extreme drought, and cool wet summers may portend greater change in the future. We cannot prove how that global warming causes all of these changes, but scientists tell us such effects are consistent with the climate change global warming is expected to cause.

If we act today on an international basis, we are still locked in to some global warming due to past emissions. If we do not act today, the future costs may be staggering.

But we can act to limit such costs. We must act.

Today, the Environment and Public Works Committee is marking up provisions relating to pollution controls on automobiles to control urban smog. The provisions the committee will consider would reduce greenhouse gas emissions from cars. Mobile sources account for approximately one-third of this country's carbon dioxide emissions.

It is these kinds of actions that are needed to solve our air pollution problems.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

We have wasted much time wondering if we should act, only to find out we have done too little. I hope the administration will soon acknowledge that delay carries a price of its own and will join us in the Congress in acting to prevent further global warming by controlling carbon dioxide emissions.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business not to extend beyond the hour of 10:30, with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Tennessee.

THE NETHERLANDS CONFERENCE ON GLOBAL WARMING

Mr. GORE. Mr. President, I wish to commend the majority leader on the excellent statement he has just delivered regarding our Nation's representatives now in The Netherlands who are in the process of blocking a global agreement to first, stabilize, and then reduce the emissions of greenhouse gases.

I wish to address the same subject—and I am pleased to see on the floor the Senator from Colorado [Mr. WIRTH] who I am certain will speak on the same subject in just a moment.

As the majority leader has said, this problem called global warming is unprecedented. In fact, what we are witnessing is a coalition between industrial civilization, as it is currently organized and constituted, and the ecological system which sustains life as we know it on this planet. A problem that large is difficult to see, much less respond to. The pattern it encompasses can only be viewed from a distance over time and on a global basis.

Many nations see that pattern; many world leaders see that pattern, and as a candidate for President of the United States, George Bush said that he saw that pattern. He promised the American people in that campaign that in his first year in office, he would confront that problem vigorously.

Let me quote his exact words. Two months prior to the 1988 election in a speech he called his environmental policy statement he said:

> I am an environmentalist, always have been, and I always will be. In my first year in office, I will convene a global conference on the environment at the White House. Those who think we are powerless to do anything about the greenhouse effect are forgetting about the White House effect. As President, I intend to do something about it.

Later in the same speech he again said:

> In my first year, I will convene a global conference on the environment at the White House. The agenda will be clear and we will act.

Mr. President, we now see a different picture. President Bush promised to confront the greenhouse effect with the White House effect. Now what we are seeing is the whitewash effect. He has sent our delegates to this international conference, instructed to block action, stop any progress, tell them that we do not yet know enough to do anything, and to try to stop this catastrophe which is unfolding around the world before our very eyes.

Prime Minister Thatcher of Great Britain went through a transformation a few years ago and began leading on this question. She will deliver a speech tomorrow morning at the United Nations on this same subject. Although I, of course, have not seen the text, I am told that it is going to be very forthcoming and call for leadership.

We have seen Prime Minister Hawke in Australia offering leadership on this question. We have seen other world leaders coming forward to say it is time to act.

Mr. President, only one nation can lead this world. The world has changed with the rise of other economic powers, but to this very day only the United States of America can provide the kind of leadership the world needs in times of genuine crisis.

The changes in the global environment that are now underway constitute a crisis. Where is the United States when the leadership is needed? Where is the President of the United States on this question?

He appointed a head of the Environmental Protection Agency who clearly understands the nature of the problem. In fact, prior to this meeting in The Netherlands, the head of the EPA asked for the flexibility to go to The Hague and join in this international effort to confront the problem. But the President's chief of staff, John Sununu, organized a counter effort which, unfortunately, was successful and, instead of going to The Hague with instructions to act, Mr. Reilly was sent to The Hague with instructions to sit on his hands and counsel the kind of action that the Dutch have seen before from the person who held his finger in the dike while the forces of change are massing, and we must now confront this problem.

Mr. President, we saw in San Francisco the plates of the crust of the Earth move and produce the cataclysmic force which in that instance turned out to be an earthquake that San Francisco and Oakland coped with, with tragic loss of life, but they coped with it.

There are plates of history that move. We are now seeing a very large movement in history, as population has doubled just in 40 years, and will double again in the next 40 years, as the impact of increased population is magnified by technology and as very poor political choices are made which result in the ravaging of the Earth's environment.

It is time for us to face up to this problem. Instead of having the conference here, the President waited, so the Dutch moved into the vacuum, had the conference, organized an agenda for action, and our environmental leaders said, yes, let us go, let us join them, and let us act. But instead, the White House said no, we do not want to act. We do not believe what candidate Bush said. Now that President Bush is writing the instructions, we have decided to simply delay and substitute the "whitewash" effect for the White House effect which was promised as a counter to this problem.

I hope that this administration will quickly change and offer leadership. I yield the floor.

THE ABSENCE OF U.S. LEADERSHIP

Mr. WIRTH. Mr. President, all of us have been proud of the leadership of the United States around the world. The United States has been the leader in innovation from the Wright brothers to all kinds of technology, from the telephone, use of electricity, science, everywhere. It was the leader during World War II. When Western democracy and Western civilization as we know it was threatened, threatened by extraordinary evil powers, the United States took the lead and led our allies. We were proud of that role of the United States. We took the lead after the war through the Marshall plan and other economic development programs and rebuilt ravaged Europe and much of the Far East. The United States was a proud leader for the world.

On environmental issues as well, we have in the past been a proud leader. It was our push on clean air that began to get people to think about removing lead from gasoline and focusing on what we were breathing and what that was doing to people and their lives. On clean water, we cleaned up rivers and lakes in this country, made major efforts, and we will all remember the Cuyahoga River in Ohio catching on fire, now a fishable area. We were a leader again on auto emissions, a leader on research. We have had a proud history, Mr. President, of being a leader.

But that leadership, unhappily, is now gone. We are no longer the leader to which the world looks.

The distinguished Senator from Tennessee and the distinguished majority leader this morning have described the situation in The Netherlands, a situation in which the United States has been not a leader but a delinquent partner.

When industrial nations of the world, 70 of them, their environmental ministers meeting in The Netherlands, looked to the United States and asked us for our leadership, for us to join in and lead on the issue of carbon dioxide emissions so crucial to global warming, the United States ducked. Not only did we duck; we are resisting these efforts. We are resisting the efforts rather than living up to our responsibilities nationally and internationally and our proud legacy of leadership; the United States is not only digging in its heels but we are sliding backward. I am embarrassed, Mr. President.

What is the issue? The issue is that this administration is clearly out of the mainstream of what everybody in the world knows about global climate change and global warming.

From the fluid dynamics lab of NOAA in Princeton comes clear analysis, from the Institute of Space Studies, Goddard Center, New York, comes a clear set of information. From the University of East Anglia in England, from the Soviet Union's research, from the University of California, Irvine, from the National Center for Atmospheric Research, from institution after institution, the overwhelming preponderance of evidence is that we are changing our atmosphere, the world is getting warmer, and we ought to move now.

It is not a question of if this is happening, if the globe is warming; the question is how much, how fast.

The overwhelming preponderance of evidence is in the scientific community, in the United States and around the world, but this administration does not understand that. What do they know that we do not know? This administration is saying to us we cannot do anything. We have to do more research before we can take any steps. Where have they been?

As the distinguished majority leader said, this is reminiscent of the statements made by Ronald Reagan on acid rain, which unfortunately is absurd—the statements about killer trees and clean air.

EPA knows—EPA has done very careful research and knows what we ought to do, and has made recommendations on this front. The State Department and Secretary Baker knows. His first major speech as Secretary of State was on the need for action on global warming.

Who is stopping this? Not DOE, the Department of Energy. They are bewildered as to what they ought to do, and have absolutely changed their research program, knowing the research they were getting previously was lousy and had to be changed.

So who is it? Who is standing in the door of rational behavior and a rational approach? It has to be the White House.

Where is George Bush? Why does he not intervene and exercise the leadership that he was elected to do? Has he been briefed? Mrs. Thatcher has been briefed. She has had a very careful briefing on what has gone on. Chancellor Kohl has been briefed, and has had the best scientists in to tell him personally what is happening.

In 10 days Gorbachev is going to be briefed preparatory to his summit meeting with President Bush. President Gorbachev is being briefed by the best scientific evidence. Where is George Bush? Why is he not doing this?

I ask unanimous consent to proceed for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WIRTH. Why is the President not bringing in at the highest level the experts to tell him what is happening? Why is he allowing the minions of backward thinking to stand in the door and not allow the American people to be proud of our legacy? Why?

We have to know that, and again we urge the President to take the leadership, which he must do. What he should know is what every reputable scientist knows: The atmosphere is getting warmer.

And he should be taking other steps that ought to be taken anyway: Steps in conservation, steps in utility—changing utility rate bases, steps in alternative energy programs, steps in reforestation, stopping deforestation; all elements, Mr. President, which are good for our economy anyway, all items even if there were no global warming which we ought to be doing, items which are good for our national security as we become more and more dependent on imported oil, items which we ought to do anyway, and policies we ought to follow anyway. They are not even doing those.

What is wrong with these people, Mr. President? What is wrong with them? Why do they not understand the crisis that we face and understand these are steps that have to be taken anyway?

I can only come to the conclusion that this is an administration that apparently is more comfortable presiding than governing, but presiding is not good enough. This administration must meet its responsibilities, and govern this country.

I urge the President to get involved personally and understand this. He is being fooled by somebody, Mr. President. The time has come for that to stop.

Mr. FOWLER. Mr. President, will the Senator yield?

Mr. WIRTH. I am happy to yield.

Mr. FOWLER. Mr. President, very briefly I want to commend the Senator from Colorado and the Senator from Tennessee for their leadership in bringing to the attention of our colleagues and our fellow countrymen the fact that sometimes it is more difficult to wage peace than it is to wage war.

As we face a world that is undergoing climatic changes, we are simply not going to be able to have peaceful cooperation across international boundaries if we are not able to get together under the leadership of the United States in recognizing that we must act before a crisis, a global crisis, which can only be solved by the collective cooperation of our scientists, and of our parliamentarians in a crisis that we can prevent.

I thank them for their continued outspokenness as we all work on this problem, and also urge the President of the United States to provide that leadership in these times.

I thank my colleague.

Mr. WIRTH. I yield the floor.

Mr. MACK addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

CUBAN POLITICAL PRISONERS

Mr. MACK. Thank you, Mr. President.

Earlier this morning, I had the honor to meet a fellow by the name of Alberto Grau-Sierra. Alberto Grau-Sierra was recently released from the prisons in Cuba after serving a term of 25 years. He entered the Cuban prisons at the age of 21, and spent those 25 years because he refused to accept political reeducation as they refer to it in Cuba.

I met with him and talked with him about others who today are "plantados" in the Cuban prisons, and I want to refer to them in my comments.

Mr. President, I rise to bring to the attention of the Senate the plight of Alfredo Mustelier, a man who could die in the next few days if he is not freed from Castro's prisons.

Aflredo Mustelier has spent the last 20 years in Cuba's jails. At age 14, he fought with Castro's rebel army. In 1969 he was accused of plotting against Castro with other military officers and was sentenced to 25 years in prison. He is one of three remaining "plantados"—long-term Cuban political prisoners who refuse to accept political reeducation.

Nine days ago, Alfredo Mustelier began a thirst strike, that is, he would take no food or water until he dies or is freed. His wife reports that her husband has been taken to the dreaded

"Rectangle of Death" in the Combinado del Este prison.

Two other plantados have vowed to enter into thirst strikes when Mustelier either dies or is freed. They are Ernesto Diaz Rodriguez and Mario Chanes de Armas. Mario Chanes has been serving longer than any political prisoner on record in the world today—28 years.

These men are willing to sacrifice their lives for their freedom. We must not let their suffering continue in silence.

In a letter to his wife announcing his hunger strike, Mustelier wrote, "All I have left is freedom or death but I will live or die trusting men and Divine Justice, as well as human solidarity."

These men have put their lives in our trust. We—our political leaders, our press, our television networks—must not forsake that trust.

Senator CLAIBORNE PELL and I have circulated two telegrams that we hope every Senator will sign and send with us. The first is to Fidel Castro, requesting that these three remaining plantados be immediately released. The second is to United Nations Secretary General Javier Perez de Cuellar, requesting that he intercede with Castro on this matter.

I ask unanimous consent that both telegrams, the list of Senators and Congressmen who are sending them, short biographies of the three plantados, and an editorial from the Miami Herald be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEXT OF TELEGRAMS URGING THE RELEASE OF CUBAN POLITICAL PRISONERS, NOVEMBER 7, 1989

TELEGRAM TO FIDEL CASTRO

We urge you to immediately release three 'plantados' who have served over 20 years in Cuban prisons. Alfredo Mustelier is now on a hunger strike which could take his life. Ernesto Diaz Rodriguez and Mario Chanes De Armas vow to continue the hunger strike. Their continued imprisonment is in violation of Cuban law, which limits prison terms to 20 years.

TELEGRAM TO UNITED NATIONS SECRETARY GENERAL PEREZ DE CUELLAR

We urge you, pursuant to resolution 1989/113 of the UN Human Rights Commission committing you to continue to monitor human rights in Cuba, to request that the Cuban Government immediately release three Cuban political prisoners: Alfredo Mustelier, Ernesto Diaz Rodriguez and Mario Chanes De Armas. All three vow to enter hunger strikes until they die or are released. We urge you to personally intercede with Fidel Castro to request their immediate release. We appreciate your concern and efforts to promote human rights in Cuba and around the world.

U.S. SENATORS

Connie Mack, Robert Dole, John McCain, Steve Symms, Rudy Boschwitz, John Chafee, Charles Grassley, Pete Wilson, James McClure, Dan Coats, Claiborne Pell, Bob Graham, Tom Harkin, John Kerry, Jeff Bingaman, Quentin Burdick, Dennis DeConcini, Patrick Leahy, and Joseph Lieberman.

U.S. REPRESENTATIVES

Dan Burton and Porter Goss.

THE "PLANTADOS" OF CUBA

ALFREDO MUSTELIER NUEVO

Born January 12, 1943, in Manzanillo, he fought with Castro's rebel army at the age of 14. He became a sergeant in the new Cuban army and was attending the naval academy in Mariel when he became involved with disgruntled military officers who were plotting against the Castro regime. He was arrested in 1969 and was sentenced to 25 years in prison. One of the last remaining long-term political prisoners ("plantados") in Cuba, he is in poor health; he suffers from stomach disorders and his hearing is impaired as a result of repeated blows to the head. He has also suffered damage to one eye as a result of a bayonet blow.

ERNESTO DIAZ RODRIGUEZ

He comes from a family of fishermen and workers from the Cuban port of Cojimar. Imprisoned in 1968 for his activities against the Castro regime, he was serving a 15-year sentence when he was convicted, in 1974, of "conspiring from jail against the state." He is now serving a 40-year sentence. Mr. Diaz Rodriguez is a poet; his poems have been smuggled out of prison through the underground network and have been published in the United States. He is in frail health; he has a hernia, very high blood pressure, colitis, and severe hemorrhoids.

MARIO CHANES DE ARMAS

Born October 25, 1926, in Havana, he is a veteran of the 26th of July attack against Batista's army barracks in Oriente province in 1953. (Castro's movement took its name from that date, which is a national holiday in Cuba.) Later, Chanes trained in Mexico with Castro's men and eventually landed in Cuba in the Granma expedition in 1956 that initiated the war against Batista. He was sentenced to 30 years in prison in 1961 after retiring from the armed forces because of his opposition to the new government. He is also reported to be in poor health, suffering from liver disorders, chronic diarrhea, and nerve damage to his eyes.

[From the Miami Herald, Oct. 30, 1989]

PRISONER OF CONSCIENCE

"New tyrants," wrote poet Joseph Brodsky in an admirable essay, "always introduce a new blend of hypocrisy and cruelty." Fidel Castro, for example, has introduced to the repertoire of tyranny the skillful use of public-relations techniques. His subtlest hypocrisies are reserved for foreign journalists who inquire about his victims. He inflicts his more-refined cruelties upon his old comrades.

One is Maj. Mario Chanez de Armas. Now in his 29th year as a political prisoner, he marked his 63rd birthday on Oct. 25. No other known political prisoner, anywhere, has been held as long.

Major Chanez took part in two events that form part of the mythology of the Cuban Revolution: In the 1953 attack on the Moncada barracks, he rode in Mr. Castro's car. Later, in 1956, Major Chanez was one of Mr. Castro's most trusted men on the Granma expedition, which led to the creation of Mr. Castro's guerrilla army.

The major was imprisoned on both occasions. He escaped after the second arrest and joined the Havana underground. He is rightly regarded as a hero of the insurrection that ousted dictator Fulgenico Batista.

Major Chanez has paid a great price for his erstwhile intimacy with Mr. Castro. He was arrested in 1961 under rather-shadowy circumstances and sentenced to a 30-year prison term. He began his 29th year in prison last July. He is one of the few remaining Cuba *plantados*, long-term prisoners who refuse to accept political re-education.

Former prisoners describe Major Chanez as a brave and modest man who with extraordinary dignity has borne numerous beatings, the solitude of isolation cells, ill health, and the deaths of his parents and only son. He has rejected every dubious opportunity to join the Castro government as a "rehabilitated" hero of the revolution.

Mr. Castro cannot forgive Major Chanez's stubborn contempt for the privileges that the revolution has "generously" offered him. That may be the reason why Mr. Castro cannot bring himself to release his old comrade. During his nearly three cruel decades in prison, Major Chanez has been a constant reminder to Fidel Castro of ideals that the Cuban Revolution once represented—before its leader betrayed it.

Mr. MACK. Let me take another moment to read the telegrams. They are pretty straightforward.

We urge you to immediately release three "Plantados" who have served over 20 years in Cuban prisons. Alfredo Mustelier is now on a hunger strike which could take his life. Ernesto Diaz Rodriguez and Mario Chanes de Armas vow to continue the hunger strike. Their continued imprisonment is in violation of Cuban law, which limits prison terms to 20 years.

There is a similar telegram that is going to the United Nations Secretary General. At this point, we have 19 Senators that are signing on with us.

Again, I ask my colleagues to agree to sign on and help raise this issue. If we cannot bring the attention and focus of world opinion quickly so that Castro will release these three individuals, I believe we are going to unfortunately hear about the death of at least one of them in just the next few days.

Thank you, Mr. President.

EXTENSION OF MORNING BUSINESS

Mr. FOWLER. Mr. President, the hour of 10:30 has arrived, but with all the Senators wanting to speak, I ask unanimous consent that we extend morning business for 20 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HEINZ addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

CONSEQUENCES OF GREENHOUSE GASES

Mr. HEINZ. Mr. President, as was discussed here a moment ago by my distinguished colleague from Colorado [Mr. WIRTH] the evidence on increasing concentration of greenhouse gases in the atmosphere is uncontested. Nobody argues about that. There is virtual scientific consensus on the con-

sequences of that buildup of those greenhouse gases; the biggest one is carbon dioxide.

The only disagreement that exists is over how soon and how profoundly the global warming trend that does exist is going to irreparably and irrevocably affect life on Earth. There is no real disagreement that the consequences will be wide ranging and severe, and there is no contesting the major sources of the problem. One of those sources is the United States. We have 5 percent of the world's population, but we are the most profligate energy user in the world. We account for 20 percent of the world's greenhouse emissions. The Soviet Union, with 18 percent of world greenhouse emissions is just about as bad.

It is certainly within the power of our two countries to significantly reduce not only our greenhouse gas emissions, but the threat of global climate change as well. As I read the newspaper this morning, I have to say that I am concerned, because I do not like what I read; I do not like it, not only in substance, but I do not like it because it is different from what I was reading just a short time ago.

Mr. President, as I say, I do not like the substance of what I read, but what I like even less is the fact that what I am reading now is different from what I read this summer. This summer I read that the nations of the world expressed a common interest in counteracting these alarming trends. At the summer meeting of the G-7 countries, President Bush made the environment a key focus, and the final communique expressed a very strong joint concern for the environment—so much so, that that meeting has been called the green summit.

Now those expressions of interest need to be translated into commitments to action. Frankly, I am concerned, for the world leaders, including President Bush, have reversed course and are headed the other way. As the report from the Netherlands in this morning's newspaper demonstrates, the three principal economic powers of the world, the United States, the Soviet Union, and Japan, are blocking an accord on carbon dioxide, not slash emissions, not to force dramatic changes, but simply to agree to agree on freezing the level of carbon dioxide emissions at something close to the current level, to get that done and implement it fully, not tomorrow, not next week, not next year, but by the year 2000.

As I think about those three countries, Mr. President—ourselves, the Soviet Union and Japan—I am beginning to think that we are acting like the three little pigs in the fable when it comes to global climate change. We all know the wolf is at the door; we all know that hiding behind calls for more studies and additional research is not going to keep environmental destruction at bay, but that appears to be exactly what we are doing.

Mr. President, I think it is a very serious mistake for the Bush administration to reject an emissions freeze out of hand. It is worth remembering that the three little pigs would never have survived had not one of them taken the time and effort to build a brick house, while the others hid behind flimsy facades of straws and twigs.

Leadership is not easy, of course, but as that fable reminds us, it can save life. Mr. President, it may be logical to say that we need more information about the consequences of accepting a plan to freeze emissions of carbon dioxide at current levels, but it is illogical not to weigh the consequences of indecision and inaction on the global environment and our own well-being here in the United States.

The administration is in danger of falling into deep disarray on the question of global climate change. The consequences of miscalculation are potentially catastrophic for ourselves and the world we know.

Mr. President, I yield the floor.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

ADMINISTRATION WANTS MORE STUDIES ON GREENHOUSE GASES

Mr. BOSCHWITZ. Mr. President, I regret that apparently—I say apparently, because I have only read it in the paper and do not know the details of the matter—the United States has decided to not be cooperative at the very early stages of developing some greater international understanding on the emissions of various greenhouse gases. The story in the paper this morning suggested that the administration wants to do more study. I certainly encourage them to do that. I agree that it is not entirely clear what the impact, economically or otherwise, will be of the accumulation of greenhouse gases, but one element of the impact is quite clear, and that is that there is going to be an environmental change, a very probable change in the world temperature that changes the way we live throughout our country. And, while I encourage the administration to undertake additional study, I also encourage them to become very active in whatever world movement there is to examine, study, and ban, or at least lessen the greenhouse gases.

I agree that we cannot entirely wait for certainty on what is going to happen. I have long felt that we simply needed to get on the front curve of the whole business of greenhouse gases. Otherwise, the changes may become inexorable and may become difficult to slow or stop. I believe that President Bush is going to be the environmental President, that quite clearly there is greater emphasis on environmental matters in this administration than in the past administration.

We have before us a clean air bill, the first one submitted to the Congress by a President in well over a decade. Nevertheless, I hope that the White House and the agencies of Government will not delay in paticipating in whatever international conference there be that has substance to it, and that we encourage other countries to become involved—because our lack of involvement causes other countries to have an excuse not to become involved. I see that the Soviet Union, Japan, and possibly Britain, are also opposed to the development of a pact to lessen emissions. As long as we remain on the fringes, or outside, of the world efforts to reduce greenhouse gases, other nations will not cooperate. They will not have a sense of usefulness in combating this problem if we are not part of the entire process. As you know, the Senate will be hosting in Washington next spring an interparliamentary conference on the global environment.

So I say to my colleagues, Mr. President, that I hope our administration will take an aggressive attitude with respect to all of this. I believe the President is entitled to the benefit of the doubt and that indeed he will become the environmental President. But quick action, I think, is necessary if we are to get ahead of the curve. Many things can be done. Even if we do not know the precise nature of the impact of greenhouse gases, either to the environment or to the economy, many things can still be done. For instance, the planting of many new trees, particularly in metropolitan areas, certainly would have a beneficial impact on our environment and on our society as a whole.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

ON THE NEW GAO REPORT

Mr. GORTON. Mr. President, last week, the General Accounting Office released its full report on the selection process for the New Production Reactor Program to supply tritium to maintain this country's strategic defense capability. The investigation into the Department of Energy's NPR selection process produced a number of startling findings that have serious budget and national security implications.

Last year, former Energy Secretary Herrington recommended that two NPR's be constructed, one at the Savannah River site and the other at the Idaho National Engineering Laboratory. At that time, many experts were convinced that the recommended plan was seriously flawed for two reasons. First, it assumed that the existing Sa-

vannah River reactors would operate reliably until a NPR was available. And second, it proposed the least timely, most expensive option in spite of the urgent need and the very real budget pressures we face. The events at Savannah River over the past year and the recent GAO study have confirmed these concerns.

The other option to meet the Nation's future tritium needs is for DOE to acquire and finish the 63 percent complete Washington Nuclear Plant No. 1 [WNP-1] reactor at the Hanford Nuclear Reservation. While DOE views WNP-1 merely as a "contingency," the GAO report demonstrates that WNP-1 is by far both the quickest and least expensive option. The GAO study also points out that revenues from the sale of steam or electricity would reduce the cost of an NPR but did not go into detail on the size of these revenues or the fact that in this use of WNP-1, these revenues would be sufficient to acquire and complete the plant without any appropriated funds.

Our Nation is now without a reliable source of tritium. The existing tritium-producing reactors at Savannah River were shut down more than 1 year ago for health and safety concerns. The seriousness of the problem we face has been clearly articulated by Secretary Watkins in numerous public remarks in which he has stated:

> There is a tritium shortage and we are getting to the limit of our ability to manage it without significantly impacting on our stockpile.

The GAO report recognizes the critical importance of developing new sources of tritium to meet our future needs, but it uncovered a number of deficiencies with the selection process now being followed by DOE. Among the GAO's findings are:

Cost estimates are "inaccurate because DOE used unrealistic assumptions" in their development, and

DOE's report "does not provide clear information concerning the total timeframe necessary to construct and obtain tritium" from the two recommended reactors.

As Congress considers future funding needs for the NPR Program, the GAO reaffirms that completing WNP-1 would cost $1 billion less than constructing a new facility at Savannah River. Further, the net life cycle cost would be $7.6 billion less for WNP-1. The savings are even greater when compared with the untested NPR technology proposed for Idaho.

The GAO also concluded that:

> DOE's proposed two-reactor strategy has the added uncertainty of not yet having detailed reactor designs, without which it becomes very difficult to develop firm estimates.

In other words, the projected costs to construct NPR's at Savannah River and Idaho, $3.2 billion and $4.8 billion, respectively, are extremely optimistic and likely to go much higher.

With regard to completion schedule, the GAO report noted that the time needed for testing, producing and extracting tritium was not included in DOE's projections for Savannah River and Idaho. Instead of DOE's estimated 10 years to provide new production capacity, the GAO concluded that it will take at least 12.5 years to extract tritium at Savannah River and Idaho won't be able actually to produce tritium for at least 16 years.

In contrast, the partially constructed WNP-1 facility would take 7 years to complete including tritium production and extraction, according to the GAO report.

These conclusions mean that while our existing tritium-producing facility at Savannah River faces continued problems and uncertainty, DOE's proposed strategy raises even more serious questions by ignoring the quickest, most cost-efficient option that's available.

Congress will soon face tough decisions on NPR funding. This Senator feels it is imperative that every Member take a close look at the facts and then weigh the importance of the budget and national security implications of this decision.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the report, entitled "Better Information Needed for Selection of New Production Reactor."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. General Accounting Office, Sept. 1989]

NUCLEAR SCIENCE: BETTER INFORMATION NEEDED FOR SELECTION OF NEW PRODUCTION REACTOR

GENERAL ACCOUNTING OFFICE,
Washington, DC, September 21, 1989.

Hon. VIC FAZIO,
House of Representatives.

DEAR MR. FAZIO: On June 29, 1988, you requested that we provide information on the adequacy of the process used by the Department of Energy (DOE) to select a new production reactor for nuclear weapons materials. The new reactor will be used primarily to produce tritium, an important ingredient in nuclear weapons, and one that has to be replenished periodically. Since your request, the need for a new production reactor has become more acute because of increased uncertainty concerning the ability of DOE's tritium-producing reactors to operate until a new reactor can supply tritium.

While DOE has not made a final selection of the reactor technology for the new production reactor, it has recommended a preferred strategy to the Congress—a heavy-water reactor at its Savannah River Site in Aiken, South Carolina, and a modular high-temperature, gas-cooled reactor at its Idaho National Engineering Laboratory near Idaho Falls, Idaho. The recommended strategy and the supporting information used by DOE to select this strategy are contained in DOE's August 8, 1988, report to the Congress entitled Acquisition Strategy for New Production Reactor Capacity.

In your request, you also asked us to answer specific questions pertaining to various aspects of DOE's selection process, including schedule, cost, technology transfer benefits, costs and benefits of one versus two new reactors, and remaining research and development. Information on many of these issues was presented to the Congress as part of DOE's August 8, 1988, report. Therefore, as agreed with your office, this letter addresses the adequacy and completeness of the information DOE provided to the Congress. Appendixes I through V address your specific questions.

RESULTS IN BRIEF

We found that following DOE's August 8, 1988, report, events have occurred that affect the basis on which the DOE strategy was developed. In addition, the information in the DOE report does not provide a complete and accurate picture of all the ramifications of implementing the two-reactor strategy. Specifically,

Conditions have changed with respect to the reliability of the tritium-producing reactors located at DOE's Savannah River Site. DOE assumed that these reactors would continue to be a reliable source of tritium for at least 10 years. The reactors are presently shut down, and it is uncertain when they will be restarted and what actions will be required to ensure their reliability for several more years.

DOE's report to the Congress does not provide clear information concerning the total time frame necessary to construct the two recommended reactors and obtain tritium from them. In addition, the DOE schedule does not provide any contingency for uncertainties in the areas of safety, environmental challenges, and construction delays.

Some cost estimates are inaccurate because DOE used unrealistic assumptions in their development.

The benefits of demonstrating an inherently safe modular high-temperature, gas-cooled reactor for commercial application may be achieved more quickly under another DOE program.

BACKGROUND

DOE is responsible for producing nuclear materials for national defense purposes. To support this effort, DOE has built a nuclear weapons complex consisting of 15 major facilities in 12 different states. One of the primary components of this complex is the production reactors that can produce tritium and plutonium for use in nuclear weapons. The only reactors in the United States capable of producing tritium in sufficient quantities are located at DOE's Savannah River Site. However, these reactors have been shut down since August 1988 because of safety problems. As early as 1982, DOE recognized the need for new production reactors to provide a continuing supply of tritium for nuclear weapons. In addition, the Congress has recongized the need and as a result in December 1987 requested that the Secretary of Energy prepare a report on acquiring replacement reactors. In January 1988, the Secretary asked the Energy Research Advisory Board,[1] an independent

[1] The Energy Research Advisory Board is an independent review board appointed by the Secretary of Energy to provide input to DOE on issues such as candidate technologies for a new production reactor. A panel of 19 experts formed subpanels to concentrate on each technology. Various reports were drawn together from DOE and its subcontrac-

peer review board, to assess four candidate technologies for new production reactor capacity. The four reactor technologies were: (1) heavy-water, (2) modular high-temperature, gas-cooled, (3) light-water, and (4) liquid-metal.

On August 8, 1988, the Secretary of Energy issued a report to the Congress recommending that DOE proceed on an urgent schedule to construct a heavy-water reactor at the Savannah River Site and a modular high-temperature, gas-cooled reactor at the Idaho National Engineering Laboratory. The estimated cost of the two reactors is $6.8 billion.[2] In addition, as a contingency, the report stated that work should continue on the development of a light-water reactor tritium target[3] and on solving the institutional issues associated with acquisition of the Washington Nuclear Plant, Unit 1, a 63-percent complete light-water reactor located on DOE's Hanford Reservation near Richland, Washington. This plant is owned by the Washington Public Power Supply System.

RELIABILITY OF TRITIUM PRODUCTION HAS CHANGED

The reliability of the tritium-producing reactors at the Savannah River Site has changed since DOE made its August 8, 1988, recommendation to the Congress, and this change has a direct effect on the selection process.

In making its August 1988 recommendation, DOE assumed the tritium-producing reactors operating at Savannah River would maintain their operational reliability during the period necessary to provide new production capacity, which is about 10 years, according to DOE. However, the day before the Secretary of Energy announced his recommendations, the reactor operators experienced problems while restarting one of the reactors at Savannah River. Although the reactor was shut down safely, the event cast some doubt on the ability of the operators to properly operate the reactors. In addition, technical problems—cracked pipes, vessel integrity, and the performance of the emergency core cooling system under accident conditions—have been identified.

Plans for the future operation of the reactors depend on resolving numerous technical and resource problems. For example, restart dates depend on which safety improvements must be completed prior to restart and whether additional resources will be needed to complete these improvements. The dates of restart, attainable power levels, and maintenance outage times for all three Savannah River reactors is yet to be determined. In addition, analysis of the condition and the remaining useful lives of each reactor must be completed.

Given these problems, the need for a new production reactor is more acute than it was when DOE made its recommendation to the Congress. Thus, while a new reactor will not provide a solution to the present problems, such a reactor will be needed soon if a long-term source of tritium is to be provided. (See app. I.)

INADEQUATE SCHEDULE INFORMATION AND SCHEDULE UNCERTAINTIES

DOE's August 8, 1988, report to the Congress does not provide a clear schedule for completion of the new production reactors or indicate when tritium will actually be realized. The report states that approximately 10 years would be needed to provide new production capacity.

We found, however, that the 10-year estimate does not include the time needed for testing or the time needed to produce and extract tritium. In the case of the heavy-water reactor, the schedule would thus have to be increased from 10 to 12½ years because 1 year is needed for testing and 1½ years is needed for the production and extraction of a full load of tritium.

The modular high-temperature, gas-cooled reactor is somewhat different since it will be built in phases, but it will be a total of 16 years, instead of 10 years, before DOE will obtain the first full load of tritium, or 50 percent of its goal, from this reactor.

During the selection process, DOE considered two additional reactor technologies—the liquid-metal reactor and the light water/Washington Nuclear Plant, Unit 1, reactor. While DOE did not recommend either of these reactor technologies, DOE did present schedules showing that the liquid-metal reactor would take about 12 years and the Washington Nuclear Plant, Unit 1, which is partially completed, would take about 7 years to complete, including full tritium production and extraction. While the Washington Nuclear Plant, Unit 1, presents the shortest schedule of the four technologies assessed, there are unresolved technical and institutional issues associated with its completion that could extend the schedule. In September 1988, GAO issued a report[4] that addresses technical issues related to target development and institutional issues related to acquisition, and public and political acceptance.

In addition to the known schedule increases, there is clearly potential for each reactor's schedule to increase even further. In this respect, we noted several uncertainties, which DOE is aware of but has not factored into its schedule. These include the safety review process, environmental challenges, and construction delays.

First, the safety review process facing DOE is basically unknown. September 1988 legislation (P.L. 100-456) set up a DOE Defense Nuclear Facilities Safety Board. However, the members were not appointed until July 1989, and the Board's specific requirements are unknown.

Second, DOE's schedule shows an orderly transition from issuance of a final environmental impact statement to the beginning of detailed design. However, environmental challenges, similar to ones faced in the commercial nuclear power industry, are likely to occur and could cause schedule problems.

And last, construction delays may have the greatest potential of all uncertainties to increase the schedules for new production reactors. DOE's schedule shows 5½ years from the start of construction to fuel loading for the heavy-water reactor and a similar schedule for the modular high-temperature, gas-cooled reactor. However, we noted that new commercial reactors, completed between 1977 and 1980 and for which the technology is well known, took about 9 years for the same basic construction period, i.e., from start of construction to fuel loading.[5]

For a further comparison, the scheduled construction time to complete the Washington Nuclear Plant, Unit 1, reactor, which is presently 63-percent complete, is 4 years. DOE estimates, on the other hand, that it will be able to construct a new reactor from scratch in only 5½ years. In other words, DOE's schedule anticipates taking 1½ years longer to construct an entire plant than to complete one that is 63-percent complete.

In addition, there is some uncertainty associated with the ability of any of the reactor technologies to produce the quantities of tritium needed. While all technologies can eventually meet DOE's goal, there are outstanding technical questions that have to be resolved for each technology, and these might delay reactor development. These questions involve design, fuel and target technology, and other technical problems. For instance, the heavy-water reactor will employ a new design that may require some research and development to ensure its success. The modular high-temperature, gas-cooled reactor is a new technology and many technical problems may have to be resolved. If the schedule for resolving these problems is not met, then the overall schedule may increase. (See app. II.)

COST INFORMATION IS UNCLEAR

When the Congress requested DOE to prepare a report on acquiring new production reactors, it also directed DOE to provide a comprehensive comparative financial analysis and cost estimate of alternatives considered. To do this, DOE contracted with Martin Marietta, the operations contractor at its Oak Ridge National Laboratory in Tennessee, to perform the cost study. At DOE's direction, the contractor developed cost estimates for each of the four technologies, assuming each type of reactor would produce 100-percent goal quantity of tritium and take 10 years to construct.

DOE prepared 18 different options for a new production reactor strategy that were submitted to the Congress as part of the August 8, 1988, report. The options consisted of one or more reactor technologies, located at one or more of the three sites being considered. In formulating the options, DOE scaled down the reactor technologies according to the percent of the goal amount of tritium set forth in the options. For example, a full-sized reactor would produce 100 percent of the tritium goal and a half-size would produce 50 percent of the goal.

In developing cost estimates for the 18 options, DOE used Martin Marietta's cost information for full-sized reactors and scaled them down to develop costs for less than full-sized reactors. In our judgment, DOE's scaling assumptions were not realistic and resulted in improper and unrealistic cost estimates for the various options. Martin Marietta provided scaling factors for each cost category, but DOE applied them only to capital costs. Operations costs remained the same except for small adjustments in fuel costs. This methodology resulted in inaccurate operations cost estimates. We applied the Martin Marietta scaling factors to the operations cost and found that net life-cycle costs for DOE's dual reactor options changed by several billion dollars from DOE cost estimates.

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tors to form the background for the study. References to the Energy Research Advisory Board or studies by them refer to the entire base of reports.

[2] The $6.8 billion includes $3.2 billion for the heavy-water reactor and $3.6 billion for the modular high-temperature, gas-cooled reactor. These are capital and pre-operational costs in 1988 dollars.

[3] Tritium targets are tubes containing a lithium compound that are placed in a reactor and irradiated by neutrons, thus producing tritium.

[4] Nuclear Science: Issues Associated With Completing WNP-1 as a Defense Materials Production Reactor (GAO/RCED-88-222, Sept. 21, 1988).

[5] This period was selected because it is prior to the Three Mile Island reactor accident, and is thus more conservative than recent years in which the time frame increased substantially.

In addition, after calculating the cost of a half-sized, modular high-temperature, gas-cooled reactor to be built on a 10-year schedule, DOE decided to increase the schedule to 16 years. DOE, however, did not change the estimated cost to allow for the stretched-out schedule, nor did it perform a timely and consistent cost analysis to determine whether the estimated cost would increase or decrease.

In this connection, it should be recognized that DOE's costs figures for the two-reactor strategy are only initial estimates. However, recently the average final cost of constructing commercial reactors in the United States has exceeded initial cost estimates by a factor of seven, including inflation. Also, DOE's proposed two-reactor strategy has the added uncertainty of not yet having detailed reactor designs, without which it becomes very difficult to develop a firm estimate.

As previously noted, the estimated cost for the recommended two-reactor strategy is $6.8 billion. DOE also provided estimates for the two technologies not selected—the liquid-metal reactor and the Washington Nuclear Plant, Unit 1, completion. The DOE estimated costs for these technologies are $4.4 billion and $2.2 billion, respectively.[6] (See app. III.)

TWO SEPARATE DOE PROGRAMS ARE DEVELOPING SIMILAR REACTOR TECHNOLOGIES

One major benefit associated with selecting the modular high-temperature, gas-cooled reactor technology is the possibility of demonstrating an inherently safe reactor for our commercial nuclear power industry. DOE's selection criteria and its statements to the Congress, standing alone, leave the impression that this benefit is only achievable through the new production reactor program. In this respect, the August 1988 report to the Congress did not provide information that (1) for several years DOE has been funding research and development on an advanced commercial modular high-temperature, gas-cooled reactor; (2) the commercial modular high-temperature, gas-cooled reactor will provide the same major benefit as that expected from the new production reactor; and (3) the commercial version will receive certification by the Nuclear Regulatory Commission.

The Advanced Reactor Program Office under the Assistant Secretary for Nuclear Energy has initiated design work on such a reactor, and is working closely with the Nuclear Regulatory Commission on licensing and certification matters. Presently, the DOE commercial modular high-temperature, gas-cooled reactor program is ahead of its production reactor counterpart. In addition, owing to the involvement of the Nuclear Regulatory Commission and the commercial program's close ties to the commercial power industry, DOE's commercial program is likely to be better suited to transfer the technology to the commercial sector. However, the DOE commercial modular high-temperature, gas-cooled reactor program is for development, and as such, stops short of actual construction.

DOE has recognized that the two modular high-temperature, gas-cooled reactor programs are duplicative and in March 1989 issued a document coordinating the two efforts. The document identifies common design and development activities and also notes differences in the programs. However, the fact still remains that DOE is spending money in two different programs to develop a similar reactor technology. (See app. IV.)

CONCLUSIONS

DOE has recommended a two-reactor strategy that, at best, will provide tritium for national defense purposes in 12½ years. The same strategy will produce a back-up reactor after 16 years that will provide 50 percent of the tritium necessary to meet national defense needs. Schedule uncertainties may further increase the time required to realize tritium from the recommended strategy.

Given the importance of tritium to our national defense and the need for a new production reactor or reactors, it is important that DOE thoroughly assess all available options for tritium production and provide clear and accurate information to the Congress concerning the options. DOE has not yet provided an in-depth or realistic analysis of schedule, costs, and benefits associated with an acquisition strategy.

On May 24, 1989, with your permission we testified on DOE's selection process for a new production reactor before the DOE Defense Nuclear Facilities Panel of the House Committee on Armed Services.[7] We recommended that DOE provide the Congress with an in-depth analysis of schedule, costs, and benefits of each option before reaching a final decision on the new production reactors—now scheduled for late 1991. We continue to support that recommendation.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this review was to assess the process used by DOE for selecting a new production reactor acquisition strategy. The major emphasis of the review focused on the accuracy and completeness of the information used by DOE in its decision process. In addition, we addressed several specific questions relating to the new production reactor program. These included (1) the schedule risk of the various reactor technologies, (2) the accuracy and completeness of cost information, (3) technology transfer benefits, and (4) the remaining research and development associated with each technology.

We reviewed in detail the four candidate reactor technologies evaluated by DOE during its selection process. We also reviewed the cost information used to formulate estimates for the various options. We did not perform an in-depth review of all light-water reactor technologies for tritium production. However, we did include the Washington Nuclear Plant, Unit-1, in our review. This is a light-water reactor, and as such, has features similar to other light-water reactors.

In addition, we reviewed the work performed by the Energy Research Advisory Board and its various technical committees that addressed key technical issues related to each of the reactor technologies. We interviewed the proponents of each reactor technology to determine the status and advantages and disadvantages associated with the technologies. The proponents included General Atomic Technologies (modular high-temperature, gas-cooled reactor), Westinghouse Corporation (heavy-water reactor and light-water reactor/Washington Nuclear Plant, Unit-1), General Electric (liquid-metal reactor), and Rockwell International (liquid-metal reactor). In addition, we obtained some cost information from the proponent organizations. However, the majority of the cost information was obtained from DOE headquarter's officials and Martin Marietta officials at Oak Ridge, Tennessee. We also interviewed officials in DOE's New Production Reactor Project Office, and DOE officials at the Richland and Savannah River Operations offices.

Our review was performed between August 1988 and May 1989 in accordance with generally accepted governmental auditing standards.

Unless you publicly announce its contents earlier, we plan no further disturbance of this report until 30 days after the date of this letter. At that time, we will send copies to the appropriate congressional committees and the Secretary of Energy. We will also make copies available to others upon request.

This work was performed under the direction of Keith O. Fultz, Director. He can be reached on (202) 275-1441. Other major contributors are listed in appendix VI.

Sincerely yours,

J. DEXTER PEACH,
Assistant Comptroller General.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

REVISED CBO COST ESTIMATES OF S. 712

Mr. JOHNSTON. Mr. President, on September 6, 1989, the Committee on Energy and Natural Resources reported S. 712, legislation to provide for a referendum on the political status of Puerto Rico. The purpose of the legislation is to establish the guidelines for a referendum to be held in 1991 which will allow Puerto Ricans to choose between statehood, independence, and enhanced commonwealth status.

Following the reporting of S. 712, the Congressional Budget Office provided cost estimates as required by Senate rules for inclusion in the committee's report. These estimates, which appeared in Senate Report 101-120—star print—provided important economic data, but they also raised several questions regarding CBO's assumptions in calculating these estimates. I wrote to CBO about these questions on October 5 and I am pleased that CBO has revised its estimates based on the additional information provided in my letter.

I ask unanimous consent that the revised CBO estimates be printed in the RECORD at this point. I urge all those interested in S. 712 to consider these revised estimates in lieu of those included in Senate Report 101-120.

[6] These are capital and pre-operational costs in 1988 dollars. The $2.2 billion estimate for the WNP-1 does not include the cost to acquire the partially completed reactor.

[7] *GAO's Views on DOE's New Production Reactor Selection Process* (GAO/T-RCED-89-46, May 24, 1989).

There being no objection, the revised estimates were ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC

Hon. J. BENNETT JOHNSTON,

Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached revised cost estimate of S. 712, as ordered reported by the Committee on Energy and Natural Resources on August 2, 1989. This estimate replaces the estimate CBO prepared on September 6, 1989.

This estimate revises the costs of the independence option in the following two ways. First, the date CBO assumes Puerto Rico would proclaim independence has been changed, based on further information, from fiscal year 1991 to fiscal year 1993. The savings to the Federal Government would then begin in fiscal year 1994 instead of fiscal year 1992. Second, CBO's original estimate of the block grant—to be paid to Puerto Rico beginning in the fiscal year following the proclamation of independence—included Social Security benefits, Federal pensions, salaries and wages and procurement. These Federal expenditures in Puerto Rico should not have been included in the calculation of the block grant and are deleted from the calculation in the revised estimate.

The bill would also have significant revenue effects. These revenue effects are being estimated by the Joint Committee on Taxation and will be provided at a later date.

We hope this revised estimate responds to the concerns mentioned in your letter of October 5, 1989. If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 712.

2. Bill title: The Puerto Rico Status Referendum Act.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on August 2, 1989.

4. Bill purpose: To establish guidelines and provide resources for a referendum during the summer of 1991 in Puerto Rico. The referendum will allow Puerto Ricans to choose between statehood, independence, and enhanced commonwealth status. In addition, the bill outlines the transition provisions for entitlement and Federal programs as well as tax issues for each of the options.

5. Estimated cost to the Federal government: This estimate provides only spending estimates for S. 712. Revenue estimates are being developed separately by the Joint Committee on Taxation. The estimated costs to the Federal Government would be very different depending upon which status option—statehood, independence, or enhanced commonwealth—is chosen. The table below shows the total Federal costs under each alternative.

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
STATEHOOD					
Direct spending:					
Budget authority		1,666	1,810	2,560	3,250
Estimated outlays		1,666	1,810	2,560	3,250
Amounts subject to appropriation action:					
Estimated authorization level	(1)	10	10	10	10
Estimated outlays	(1)	10	10	10	10
Total spending:					
Budget authority/estimated authorization level	(1)	1,676	1,820	2,570	3,260
Estimated outlays	(1)	1,676	1,820	2,570	3,260
INDEPENDENCE					
Total spending:					
Budget authority/estimated authorization level	(1)	(1)	(1)	−100	−300
Estimated outlays	(1)	(1)	(1)	−100	−300
ENHANCED COMMONWEALTH STATUS					
Direct spending:					
Budget authority		0	0	0	0
Estimated outlays		0	0	0	0
Amounts subject to appropriation action:					
Estimated authorization level	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)
Total spending:					
Budget authority/estimated authorization level	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)

[1] Less than $5 million.

BASIS OF ESTIMATE

For purpose of the estimate, CBO has assumed that the referendum would occur and be certified in the summer of 1991, and that procedures for implementing the certified status option would go into effect in fiscal year 1992. The bill has three status options that are discussed in turn. The cost of the referendum would be incurred regardless of the option chosen. Although the bill does not state a specific authorization level, CBO estimates the cost of the referendum would be between $2.5 million and $4 million in fiscal year 1991.

S. 712 would require the U.S. Attorney General to provide for adequate monitoring of the referendum by U.S. Marshals. Based on information from the Department of Justice, CBO estimates that these monitoring activities would cost between $.5 million and $2 million in 1991, depending on how the Marshals Service implements this provision.

If they provide a minimal presence of on-call deputy marshals able to respond to disruptions at polling places, then costs would be toward the lower end of the range. If on the other hand, they create a greater presence by providing more marshals to travel to and monitor all 1,602 polling places during the election, then costs would be closer to the higher end of the range. For purposes of this estimate, we assumed that the primary function of the U.S. Marshals would be to insure law and order at polling places and not to insure against election fraud. We therefore did not estimate the costs that would be incurred to provide oversight and security of ballot boxes and machines.

S. 712 also would require the President to appoint a Referendum Information officer to distribute education information on the referendum. The bill authorizes the appropriation of funds to cover the expenses of the Information Officer. CBO assumed that the Information Officer would be appointed by October 1990 and would work through August of 1991. The estimate covers costs for salaries, overhead, printing, and postage. CBO estimates the costs of these activities would be $2 million in fiscal year 1991.

STATEHOOD

If statehood is certified, Puerto Rico would be treated as any other state effective October 1, 1991. This option would entitle Puerto Rico to representation in Congress and full participation in federal entitlement programs. This provision would also provide for a commission to facilitate the transition to statehood.

Senators and Representatives: Beginning January 1992, Puerto Rico would be represented in Congress by two senators and six representatives. At the same time, the office of Puerto Rico's current delegate to the Congress—the Resident Commissioner—would no longer be necessary. The costs of the additional members would be similar to the costs associated with members of Congress from the states with population size similar to Puerto Rico and of similar distance from Washington, DC. Such costs would total about $7 to $10 million annually. The estimate for 1992 assumes the new members would be sworn in January 1992.

Commissions: S. 712 would require the creation of a seven person commission to examine the applicability of federal laws in Puerto Rico. The commission would be created within 60 days of confirmation of the election results (beginning of November 1991 at the latest) and would have to submit its report by January 1, 1995. CBO estimates the cost of these activities would be $1 million annually in fiscal years 1992–1994.

Entitlement Programs: While Puerto Rico is considered a state for many federal programs, it is not always treated identically to the rest of the 50 states. For example, federal funds available for AFDC and Medicaid are capped in Puerto Rico, and the Food Stamp program is administered as a block grant. Also, SSI is currently not available in Puerto Rico, but the Aid to the Aged, Blind and Disabled (AABD) program is. The estimates for the entitlement programs are complex and uncertain in a number of respects. The uncertainties include the benefit levels for each program, the number of participants in each program, the actual amount of time the transition to statehood would take, and the comparability of the program and population in Puerto Rico to the U.S.

Recent detailed data bases that display the characteristics of current program participants and permit estimates of potential participants are not available for Puerto Rico. This lack of data complicates the estimating process and increases the uncertainty of the estimates. Finally, many of the federal programs, in particular AFDC and Food Stamps, are sensitive to the condition of the economy, particularly the unemployment rate. If the Puerto Rican economy should change under statehood, the costs to the federal government for these programs could change significantly. For example, participation in the Food Stamp and AFDC programs would be higher, if unemployment increased significantly.

Food Stamps: Extending food stamps to Puerto Rico is estimated to increase federal costs by $700 million annually in 1992–95. This estimate assumes a Food Stamp program cost of $1.7 billion in 1992, less $1.0 billion for the existing Nutrition Assistance Program. The $1.7 billion estimate assumes average monthly participation of 1.75 million persons, average monthly benefits of $77 per person, and administrative costs of $115 million. Participation is estimated to remain constant in 1992–1995. Benefits

would increase annually due to cost-of-living adjustments, but the rise in average benefits would be partially offset by decreased Food Stamp benefits for households beginning to receive increased cash welfare, particularly Supplemental Security Income in 1994 and 1995.

These estimates are based on the operation of the Food Stamp program in Puerto Rico prior to July 1982. CBO's estimate that 1.75 million would participate is based on the 1982 average of 1.81 million people, adjusted for the national decline in Food Stamp participation since then. The drop in participation is assumed to be half as large in Puerto Rico as in the rest of the United States, where participation fell from 20.4 million in 1982 to 18.7 million in 1988, and is estimated to remain at 18.7 million in 1992.

CBO's estimate of average monthly benefits of $77 for 1992 assumes that under statehood the Puerto Rican Food Stamp program would follow national standards for maximum benefits and deductions, and that average benefits would be 17 percent larger than in the rest of the United States. Puerto Rican benefits were only 5 percent larger than national food stamp benefits in 1982. However, at that time the Puerto Rican Food Stamp program operated under a special set of lower maximum benefits and deductions that CBO assumed would not be in effect under statehood.

Medicaid: The public health program in Puerto Rico currently covers approximately 2.1 million of the island's 3.3 million persons. CBO assumes that the new program under Medicaid would attempt to cover a significant portion of the persons currently covered. Based on conversations with Puerto Rico's Medicaid staff, the Health Care Financing Administration (HCFA) regional office involved in the current Medicaid program, and previous published work on Puerto Rico's public health program, CBO assumed approximately 1.35 million participants annually. This estimate assumes that the health care system in Puerto Rico would respond to the new program by increasing the supply of services by fiscal year 1992. Also, Puerto Rico would receive $900 million in new federal funds and would be required to put up $184 million in matching monies, assuming an 83 percent match required by current Medicaid law. This amount is considerably less than the $450 million the Commonwealth is currently spending, so it is possible that a state government in Puerto Rico could opt for a more extensive Medicaid program.

Medicare: Under current law, Medicare reimbursements to hospitals in Puerto Rico are determined according to provisions applicable only to such institutions located there. In general, the current level of hospital reimbursement is based on a blend of Puerto Rico's discharge-weighted average costs per case (75 percent) and the U.S. national average costs per case (25 percent). These reimbursements are otherwise similar to those received by U.S. hospitals under the prospective payment system. The per-case payments to particular hospitals are adjusted for case mix, for local wages relative to Puerto Rican wages, and for geographic location (large urban, other urban, and rural) in the same manner as in the U.S. Payments are also updated annually in a fashion similar to provisions applicable to U.S. hospitals. If Puerto Rico were to gain statehood, however, hospitals would be reimbursed according to the method used for reimbursing U.S. hospitals. Puerto Rico's hospital costs would then have negligible relevance to the resulting payment rates, which would, of course, be considerably higher than at present. The estimate is based on GAO's estimate of the increase in Part A reimbursement for 1989 attributable to this change, inflated for growth rates assumed for total hospital payments in CBO's projected baseline.

SSI: Under the statehood option, Puerto Ricans would become eligible for federal SSI January 1, 1994. The estimated increased cost over the current Aid to the Aged, Blind or Disabled (AABD) program is $600 million in 1994 and $900 million in 1995. The current AABD program costs approximately $16 million annually. The first full year estimate of $850 million in 1995 assumes average monthly participation of about 75,000 aged and 115,000 disabled (including blind) persons. Average benefits for the aged are about $260 a month and about $430 a month for the disabled. Estimated costs in 1994 are significantly lower because Puerto Ricans would not be eligible for the first three months of the fiscal year. Also, it is assumed that newly eligible participants would not move onto the SSI program immediately. Estimated administrative costs in 1994 of about $160 million are higher than in 1995 as a result of the large additional cost of processing initial claims. Estimated administrative costs for 1995 are about $35 million.

The estimated costs for SSI benefit payments in Puerto Rico were based on a 1987 study by BAO "Welfare and Taxes: Extending Benefits and Taxes to Puerto Rico, Virgin Islands, Guam, and American Samoa." This study used 1980 census data on incomes in Puerto Rico to estimate the number of people who would be eligible for SSI in Puerto Rico. Because disabled people under the age of 65 are difficult to distinguish on the census, GAO estimated only the number of eligible people aged 65 and over. The estimated average monthly SSI benefit of the latter group was approximately 20 percent higher than the average aged federal SSI benefit in 1979. To estimate the number of disabled eligibles, we assumed the 1979 ratio of U.S. aged SSI recipients to disabled recipients would be the same in Puerto Rico. CBO used the same procedure for the disabled benefit per month relative to benefits per month for persons 65 and over. Following the GAO study, we assumed 43 percent of the estimated eligible population would have participated in 1979. This is the same estimated 43 percent SSI participation rate for aged recipients in the U.S. based on the 1980 census.

The estimated number of Puerto Rican SSI participants was adjusted by the actual growth rate in the U.S. SSI aged and disabled caseloads between 1979 and 1988. The estimated number of participants was further adjusted by CBO's baseline growth for the respective SSI populations between 1989 and 1995. The resultant change between 1979 and 1995 would be a six percent decrease in the aged population and a 65 percent increase in the disabled population. Average benefits for the aged and disabled were adjusted by the growth in U.S. average benefits between 1979 and 1988 and then adjusted further for CBO's projected growth in average benefits between 1989 and 1995. Between 1979 and 1995 the average benefits would increase by 145 percent for the aged and 160 percent for the disabled.

Administrative costs were based on SSA unit costs for workload items in the United States. Estimated costs in 1994 and 1995 reflect adjustments for October payments that get made in the previous fiscal year.

AFDC: Statehood for Puerto Rico would have a relatively small effect on federal spending in the AFDC program, as long as Puerto Rico did not raise its payment standards. CBO estimates that federal outlays would rise by $6 million in 1992 and $70 million in 1995, as a result of higher federal match rate and a lifting of the spending cap. The federal match rate would rise from 75 percent under current law to 83 percent, increasing federal outlays by an estimated $6 million in 1992 and $10 million in 1995. Federal spending is subject to an $82 million cap under current law (including spending on AABD and on foster care and adoption assistance); lifting the cap would add nothing to federal outlays in 1992 but an estimated $60 million in 1995.

Federal outlays resulting from statehood would rise significantly from 1992 to later years because Puerto Rico will have to implement an AFDC-Unemployed Parent (UP) program October 1, 1992, as required by the Family Support Act of 1988 (Public Law 100-485). Based on CBO estimates, about 35,000 AFDC-UP families will participate and federal costs will amount to about $60 million a year, when the program is fully effective in fiscal year 1994 and later.

If Puerto Rico increased its AFDC payment standards, federal costs of statehood would be significantly higher. For example, if states were to put one-half of their savings from the increased federal match rate back into AFDC, federal outlays would rise by another $30 million in 1995. In its 1987 study, GAO estimated that federal outlays, as a result of statehood, would increase by $72 million a year, primarily from a doubling of AFDC payment standards. Whether Puerto Rico would raise its payment standards is uncertain. On the one hand, its standards are low and its sizable savings from expanded Medicaid coverage, along with the smaller savings in AFDC, could be used to pay for increased payment standards. On the other hand, uncertainties surrounding costs of the AFDC-UP program, increased benefits under the Nutrition Assistance Program with statehood, and concern over revenue losses under statehood would argue for caution in raising standards.

Foster Care: Extending the foster care program to Puerto Rico would cost an estimated $3 million annually, starting in 1992. This estimate assumes that 60 percent of the estimated 1,700 children in foster care in Puerto Rico would qualify for federal reimbursements under Title IV-E of the Social Security Act, that the current $100 monthly payment rate would be increased for inflation, and that the ratio of administrative to benefit costs would be the same as in the rest of the United States.

Earned Income Tax Credit [EITC]: On January 1, 1994 Puerto Rico would be subject to U.S. tax laws and as a result some may be eligible for the Earned Income Tax Credit. The estimated cost of the rebatable portion of the EITC in Puerto Rico would be $10 million in 1994 and $300 million in 1955. Because most of the EITC is paid in the form of tax refunds, the cost in 1994 is very small. Most of the cost of the EITC for calendar year 1994 fall in fiscal year 1995.

The Census Bureau has published tables showing families with children under age 18 by 1979 income level for Puerto Rico and the United States. Under current law, families with children and earnings and other income of $19,850 or less are eligible for

EITC. After making adjustments for income and population growth between 1979 and 1989, there would be approximately 334,000 families eligible in Puerto Rico in 1989. This is approximately 5 percent of the U.S. families eligible in 1989. Assuming the average benefit is equal to the U.S. average benefit, the cost to the federal government would increase by 5 percent above current baseline estimates.

ESTIMATED FEDERAL OUTLAYS UNDER STATEHOOD

[By fiscal year in millions of dollars]

	1992	1993	1994	1995
Food Stamps: Estimated Outlays	700	700	700	700
Medicaid: Estimated Outlays	900	1,000	1,100	1,200
Medicare: Estimated Outlays	60	70	80	80
SSI: Estimated Outlays	0	0	600	900
AFDC: Estimated Outlays	6	40	70	70
Foster Care: Estimated Outlays				
Earned Income Tax Credit: Estimated Outlays			10	300
Total Spending: Estimated Outlays	1,666	1,810	2,560	3,250

INDEPENDENCE

If independence is certified, Puerto Rico would become an independent republic upon proclamation. This option would provide for a Joint Transition Commission to facilitate a smooth and equitable transfer of power. Also under independence, the bill would provide for the continuation of federal programs for a period of time.

Commissions: S. 712 would establish a Joint Transition Commission which would oversee the transfer of power from the United States government to the newly established Puerto Rican government. It is anticipated that the Commission would need to establish a number of task forces to handle various aspects of the transition. The costs of this Commission would be borne evenly between the U.S. and Puerto Rican governments. CBO estimates the cost to the federal government would be between $2 million and $3 million annually beginning in fiscal year 1992.

Federal Programs: S. 712 would provide for the continuation of all federal programs until the end of the fiscal year in which independence is proclaimed. At such time, a grant would be paid annually to the Republic of Puerto Rico in an amount equal to the total amount of grants, programs, and services provided by the federal government in such fiscal year through the ninth year following certification of the referendum.

In addition, the bill would allow Puerto Rico to request renewal or continuation of any existing contractual obligations, provided that Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant. Also, all Federal pension programs and Social Security benefits shall continue as provided by U.S. law.

The bill does not address the date of proclamation, but it does state that the procedures for implementing the status option certified shall go into effect on October 1, 1991. The bill then outlines the procedures for implementing independence. The procedures are: (1) election of delegates to a constitutional convention, (2) development and adoption of the constitution, (3) ratification of the constitution, (4) election of officers of the Republic, and then (5) proclamation. The length of time any one of these events would take is uncertain. While most of these procedures have a time limit specified in the bill, the most significant one—the development and adoption of the constitution—does not. The time required to adopt a constitution could range from six months to several years. Based upon discussions with people in Puerto Rico and the knowledge that the current constitution is republican in form and in conformity with the constitution of the United States and has many of the qualifications specified in S. 712, CBO has estimated that a constitution could be adopted within one year. Based upon this assumption and other information in the bill, CBO assumes independence would be proclaimed in fiscal year 1993.

CBO estimates the total amount of grants, programs and services for Puerto Rico in fiscal year 1993 will be $3.8 billion. This estimate was developed by excluding Social Security, other Federal pension system programs, salaries and wages, and procurement from the 1988 federal expenditures in Puerto Rico and adjusting for inflation.

The bill specifies that Social Security and other Federal pension programs would continue and therefore would not be included in the block grant. The bill also specifies—subject to negotiation—the continued U.S. operation and use of military installations; therefore, no defense expenditures in Puerto Rico would be included in the block grant.

The savings to the federal government for fiscal years 1994 and 1995 would be the difference between the 1993 base amount and the 1993 grant adjusted for inflation through 1995. The estimated savings would be $0.1 billion and $0.3 billion in fiscal years 1994 and 1995 respectively. The breakdown between direct spending and authorization levels is difficult to determine, and the bill is unclear if the grant would be an entitlement or not.

ENHANCED COMMONWEALTH STATUS

If enhanced commonwealth is certified, the relationship between Puerto Rico and the United States remains essentially the same. Under this option, the bill would establish a Caribbean Basin passport office and a Senate Liaison office. The bill also would provide for the consolidation of federal grant-in-aid programs.

Passport Office: S. 712 would require the federal government to establish a passport office in Puerto Rico for the Caribbean Basin. The State Department estimates the passport office will receive 50,000 applications per year. The cost estimate includes a one-time $2.5 million cost to setup, equip, and train office staff for the office. The annual operating expenses would be about $1 million annually. This estimate assumes 17 fulltime federal employees.

Liaison Office: S. 712 would establish an Office of Senate Liaison for the Commonwealth of Puerto Rico to facilitate communications between the U.S. Senate and the Commonwealth. The bill would authorize an annual appropriation of $600,000 for salaries and $56,000 for office expenses. This estimate assumes that the Senate Liaison would be appointed by January 1992. CBO assumes that the entire appropriation will be spent in each year.

Federal Programs: If enhanced commonwealth status is elected, section 501 of Public Law 95-134—Authorization, Appropriation-U.S. Territories—would apply to Puerto Rico. Section 501 allows any government agency to consolidate grants-in-aid other than direct payments to individuals for any fiscal year(s). The grant is not to be less than the sum of all grants to which Puerto Rico is otherwise entitled. The grant is to be expended for the programs and purposes authorized, but Puerto Rico will be allowed to determine the proportion of the funds granted which shall be allocated to such programs and purposes. Each government agency shall publish the method by which Puerto Rico shall submit an application for a consolidated grant in the federal register. The agency also may waive the requirement for an application with respect to a consolidated grant. CBO estimates there will be no additional costs for these programs with enactment of this bill.

The CBO assumes that all authorizations are fully appropriated at the beginning of each fiscal year. Outlays are estimated using spendout rates computed by CBO on the basis of recent program data.

These estimates have been developed with the assistance of the General Accounting Office and the Congressional Research Service. Much of the work in this estimate is based on a report the General Accounting Office published in 1987—Welfare and Taxes: Extending Benefits and Taxes to Puerto Rico, Virgin Islands, Guam, and the American Samoa. In addition, the General Accounting Office made available the backup materials developed while preparing the report. These materials were helpful in preparing these estimates. The Congressional Research Service provided assistance in developing the Earned Income Tax Credit estimate and provided invaluable background information on federal programs in Puerto Rico. Finally, the government of Puerto Rico has provided valuable information on the possible costs of S. 712.

6. Estimated Cost to State and Local Governments: The costs to state and local governments would vary considerably depending upon which status option is certified. Under Enhanced Commonwealth, there would be essentially no change; therefore, CBO estimates there would be no cost to the state and local governments. Under Independence, there would be savings to the federal government as indicated above. However, it is unclear to what extent Puerto Rico would pick up the difference in program spending.

Under Statehood, Puerto Rico would incur significant savings in some entitlement programs. The AABD program would be replaced with the federally funded SSI program, and Puerto Rico would save $5 million annually. Currently, Puerto Rico spends $450 million on health care, and under Statehood and the extension of Medicaid, Puerto Rico would spend $184 million on health care for a net savings of $266 million in benefit payments in fiscal year 1992. The savings would be $245 million, $225 million, and $204 million in fiscal years 1993, 1994, and 1995. Puerto Rico would save $6 million, $40 million, $70 million and $70 million in 1992, 1993, 1994 and 1995 respectively on the AFDC program. These AFDC savings would result from provisions in the bill that increase the federal match rate and eliminate the cap on federal funds.

Extending the Food Stamp program to Puerto Rico would increase administrative costs to the island, due to increased costs for eligibility certification, work programs and quality control activities. The net increase would be approximately $75 million with higher costs expected if Puerto Rico opts to distribute coupons rather than cash.

7. Estimate Comparison: None.

8. Previous CBO Estimate: On September 6, 1989, CBO prepared an estimate of S. 712, the Puerto Rico Status Referendum Act. This estimate revises the independence option in the following ways. In the original

estimate, CBO assumed the amount of the block grant would be determined at the end of fiscal year 1991 and the savings to the federal government would begin in fiscal year 1992. In this estimate, the block grant is determined at the end of fiscal year 1993 and the savings to the federal government begin in fiscal year 1994. Also, in the original estimate, the block grant contained federal expenditures in Puerto Rico for Social Security benefits, Federal pensions, defense salaries and procurement. In this estimate, we removed these amounts from the calculation of the block grant.

9. Estimate prepared by: Richard Curley (226-2820), Alan Fairbank (226-2820), Terri Gullo (226-2820), Jim Hearne (226-2820), Lori Housman (226-2820), Julie Isaacs (226-2820), Cory Leach (226-2820), Marta Morgan (226-2820), Don Muse (226-2820), Janice Peskin (226-2820).

10. Estimate approved by: C.D. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

HONORING SAMUEL ALLAN DAUGHERTY

Mr. DOLE. Mr. President, an outstanding humanitarian and dedicated supporter of the Masonry, Samuel Allan Daugherty, has been honored by the Grand Lodge of Ancient and Free Accepted Masons of the State of Kansas. The health care center of the Kansas Masonic Home in Wichita has been designated "the S. Allan Daugherty Medical Pavilion." I am pleased to join Kansas Masons in recognizing this man for his hard work and dedication to the welfare of the residents as well as for his lifelong commitment to the programs of the Masonry.

MASONRY TOUCHES MANY LIVES

The ideology of the Masonry is founded in charity and a deep-rooted interest in making our country a better place in which to live. Deeds such as the creation of hospitals, health care centers, and retirement homes are a valuable boost to communities.

A nonprofit, charitable community designed for health care and retirement living and currently operated by a board of trustees, the Wichita home was founded in 1896. Today the facility stands as the only Masonic home in Kansas; however, admission is granted to Masons and non-Masons alike. With its full staff of resident nurses, health care is readily available to all 300 residents. The addition of the new medical pavilion will further the ability to provide a superior standard of living.

SUPERINTENDENT FOR 21 YEARS

Apart from his family, the Masonry is the most important aspect of Allan's life. A member of Palmyra Lodge No. 23 for 50 years, he is a proud American and a model citizen who touches the lives of those around him.

In October 1958, Allan became superintendent of the Kansas Masonic Home and, until his retirement in 1979, devoted his energies to the responsibility. During his tenure, Allan implemented many operational improvements. He oversaw the development of a vastly improved health care center and residential adult care facility. Occupational and physical therapy units were added, and the overall appearance was improved.

HIS MOST VALUABLE CONTRIBUTION

Allan's tenure as administrator is remembered with much affection and appreciation, primarily due to his contributions in the area of human relations. His genuine concern for remembering the names, interests, and activities of each member, speaks of a man who truly cares about the welfare and happiness of each resident. He enhanced the quality of life for the residents, shared in their joys, and softened difficult and tragic events.

I am pleased to join colleagues and friends of Allan Daugherty in honoring him and in extending my thanks and best wishes.

THE 1,697TH DAY OF TERRY ANDERSON'S CAPTIVITY

Mr. MOYNIHAN. Mr. President, it is now 1,697 days that Terry Anderson has been held captive in Beirut. He has remained at the hands of his captors for over 4½ years.

In a recent essay, Barbara Durkin of the Rochester Democrat and Chronicle reminds us of the richness and ease—or at least the variety—of our daily lives. She also reminds us that this variety does not exist for Terry Anderson, that he endures due to remarkable strength and what must be a stubborn sense of hope.

I ask unanimous consent that this essay be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Rochester Democrat and Chronicle, Nov. 1, 1989]

WHERE IS HIS WELLSPRING OF HOPE?

(By Barbara Durkin)

I sit at my word processor in the morning, my favorite, "oldies" radio station playing softly in the back-ground, having had for breakfast pretty much what I wanted, give or take a few hundred calories.

My desk is situated so that I can look out a wide window at the drifting autumn leaves, and I think of how I've watched more than a dozen seasons in their subtle changing over the past five years.

Later, I'll go to the bank, buy a few odds and ends from the grocery store I love best here in Webster ("where life is worth living") and then pick up one son from school so that we can go and watch the other one in his JV football game.

We'll sit in the bleachers together waiting for their dad to come from work and we'll yell and laugh and guzzle hot chocolate from our Thermos bottle and later eat supper together and talk about homework and the game and even about our desperately ill Gramma, who languishes in Pittsburgh. We traveled there last weekend and will go again as soon as we can, or feel the need to . . .

And over coffee I look again, as I have every day for years and years, at my 5-inch x 7-inch black and white photo of Terry Anderson with its little yellow ribbon attached, the photo of a somber-faced guy I pray for every day, and think even oftener of a man I've never met, but who is nonetheless my brother.

What did Terry have for breakfast today? Did he have coffee or hot chocolate? Could he choose? Does he have the luxury of worrying about too many calories, or is he lucky to get enough of the little buggers each day to keep himself strong and able-bodied?

How long has it been since he's had a hot shower, an afternoon of bright, fresh fall air and sunlight? Does he remember how it feels to holler about things as marvelously insignificant and all-important as high school football games?

We have the right and the privilege of grieving over our ailing parents; Terry probably does not even know that his father and brother have died during his incarceration.

We have the delight and privilege of watching our kids grow and develop, of being part of that process; Terry has a child he has never yet seen, a family and extended family who yearn for his return, but who, for all he knows, may be indifferent to his plight, or may have given up altogether.

All Terry Anderson knows is what his captors allow him to know. The rest must come from inside himself, and from the energy and courage generated among the small band of hostages themselves, from the wellspring of hope and promise that feeds and refreshes the truly brave when all outside help seems to have dried up.

Where does it come from, that fountainhead of valor that keeps these and all those like them all over the world from crumbling into despair?

Look at Terry Anderson's face and read the intrepidity there. He defies the captors to steal his spirit, his mind, his soul.

Is it mere intellect that maintains such integrity? Or is it simply brute determination, mindless and stubborn?

Someday, perhaps after he has had a chance to recuperate and reflect awhile, we will ask what he thinks about that.

But for now, let us assume that it is our love and support that holds him up, because without it he might well crumple like a wornout concertina, never to sing again.

Peggy Say, his sister and most staunch and loyal supporter, has promised never to abandon her struggle to have him freed. To this day, more than five years after his capture, she speaks out for her brother, and urges others to help her carry the burden in prayer and in spirit.

I have met and talked at length with Peggy Say, and I know without a doubt that she believes in her brother's strength and character. "They'll keep him the longest, because he's probably giving them the hardest time," she told me, half-laughing. She also said that he prayed and wanted to share Holy Communion with his fellow captives, and promised to keep faith with them.

There are many mornings when I feel unequal to the task of facing the day. Sometimes there isn't enough money, or there are worries about health, politics, scotched plans, dreams that fray and come apart. But all in all, it's a fine, fine life, a life of choice and what-ifs, a life of maybes and why-nots.

Each day is a challenge and an opportunity, and there's always something around the corner that might prove to be miraculous, amazing, hysterically funny, or somehow fascinating. There are things to see and ex-

perience, things to read, people to giggle and argue with and always, the changing weather to complain about.

Choices, changes, opportunities, and the world always turning.

I think we've got to cherish all our choices and little fights, our chances and our struggles. And if we truly value them, and everything else that makes life so zesty and aggravating, so comfy and scary, then we've also got to keep our brother Terry alive in our hearts and minds with yellow ribbons and prayers and promises to speak of him. We've got to keep him and all the hostages everywhere in the public eye and on the public conscience.

Although this may not be enough to "save" Terry and the others, or to effect their rescue or release, it is something we can do. What we can do, we should do, and must do, in order to reward their most remarkable and extraordinary gallantry.

ON THE OPENING OF THE LAS VEGAS TEMPLE OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

Mr. BRYAN. Mr. President, I rise today to inform the Senate of an historic event in my home State of Nevada. This November 13, the first Las Vegas Temple of the Church of Jesus Christ of Latter-Day Saints will open its doors.

This is a historic occasion for the Nevada membership of the Church of Jesus Christ of Latter-Day Saints. This beautiful temple, which sits on the side of Sunrise Mountain, overlooking the city of Las Vegas and the entire southern Nevada community, is a symbol of the triumph of faith over adversity, a symbol of the American spirit spanning over a century in the pursuit of a better America.

More than 100 years ago, in 1985, members of the Church of Jesus Christ of Latter-Day Saints, trekked across the arid span of the American Southwest and established a settlement in the Las Vegas Valley. Led by William Bringhurst, these dedicated early Nevadans established a settlement and protected their community by building a fort. The "Old Fort" can still be seen today as it was during those pioneer days of the American West.

The tiny enclave of civilization led to an expanding and thriving community of all faiths. The Church of Jesus Christ of Latter-Day Saints was organized into the Moapa Stake in 1912, followed by the LDS Sunday School in Las Vegas in 1914. By 1924 the first LDS ward was organized in the Las Vegas Valley, with Ira J. Earl as bishop, and Joseph Foremaster and Eldon Leavitt, as counselors.

During these early days the faith met in each other's homes and in rented halls. It was in 1924–25 that the first chapel was founded in Las Vegas on the northwest corner of South Sixth Street and Carson Avenue.

Now 64 years later we have seen a thriving church, with a large and still expanding membership, among a vibrant and diverse growing community. It is only fitting that crowning this triumph should stand a magnificent temple celebrating faith, family, and dedication to enduring American values.

We westerners are proud of our pioneer spirit, of our ancestors plunging into a vast and unknown wilderness, of building communities in dangerous territory, against great odds. And the Church of Jesus Christ of Latter-Day Saints is as much a part of the Western heritage as the Pony Express and the Conestoga wagon. So it is not only a tribute to a particular faith we will honor this weekend in Nevada, but in a real sense, we will honor what is great about America.

Mr. President, fellow Senators, this weekend, on a beautiful Nevada mountainside, a historical event will take place, and it is only fitting that we today, note the impact this community has had on the history, and will have on the future, of Nevada and the Western United States.

APPLAUDING THE MASSACHUSETTS GAY-RIGHTS BILL

Mr. CRANSTON. Mr. President, yesterday, the Massachusetts Legislature became the second—Wisconsin was the first—to approve legislation which would outlaw discrimination against gay men and lesbians. The Massachusetts bill bans discrimination in housing, public accommodations, insurance, credit, and employment. I applaud this historic legislation because I firmly believe that discrimination against individuals on the basis of their sexual orientation is wrong.

Various cities have already enacted local statutes and ordinances prohibiting discrimination against gays and lesbians. The Massachusetts legislation poignantly illustrates that more and more Americans oppose the inequity which results when individuals are discriminated against on the basis of sexual orientation.

Mr. President, the time is long past due for our civil rights laws to reflect a fundamental concept of fairness toward gays and lesbians. One cannot determine how long it will be before another State follows the lead of Wisconsin and Massachusetts. However, we have before us in the Senate a bill that I am the principal sponsor of—S. 47, the Civil Rights Amendments Act of 1989—which would provide protection against discrimination for gays and lesbians on a national basis. For those of us determined to eradicate this invidious discrimination throughout the Nation the events in Massachusetts are encouraging and serve as a reminder that passage of S. 47 is an attainable goal.

I ask unanimous consent that an article describing the Massachusetts legislation which appeared in the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 7, 1989]

GAY-RIGHTS BILL PASSES MASSACHUSETTS LEGISLATURE

(By Christopher B. Daly)

BOSTON, November 6.—After 17 years of sometimes nasty, sometimes tedious debate, the Massachusetts Legislature gave final approval today to a sweeping civil-rights law for homosexuals, the second statewide gay-rights bill in the nation.

The legislation, which cleared the Senate 21 to 9, would ban discrimination against gay men and lesbians in housing, employment, credit, insurance and public accommodations. It now awaits the signature of Gov. Michael S. Dukakis (D), who has said he will sign it.

"It's historic," said Arline Isaacson who co-chairs the Massachusetts Gay and Lesbian Political Caucus. "It shows that the Legislature finally believes what we've been saying all along—this bill doesn't give us special privileges or special treatment, but rather it simply grants us equal protection under the law."

"It has far-reaching significance," Robert Bray, a spokesman for the National Gay and Lesbian Task Force, said in a telephone interview from Washington. "When a trendsetting state like Massachusetts legislates civil rights for gays, others will certainly look to Massachusetts."

Bray said the bill's passage would also give a "boost" to national legislation sponsored by Sen. Alan Cranston (D-Calif.) and Rep. Ted Weiss (D-N.Y.), but he acknowledged that passage of a national gay-rights law is some years off. "Our objective is to pass the [federal] bill in what we call 'The Gay 90s'—perhaps around 1995," he said.

Massachusetts has Congress's two acknowledged homosexuals, Reps. Gerry E. Studds (D) and Barney Frank (D).

Isaacson, who shepherded the Massachusetts bill through years of hearings, late-night sessions and parliamentary delays, said the lesson of the Massachusetts campaign for gay rights was to never give up.

Some opponents are not giving up, either. Conservative senators who fought the bill have promised to put the issue to voters in a repeal referendum on the 1990 ballot. But supporters said they were confident they could withstand the challenge, citing a recent poll in which two-thirds of those sampled expressed support for gay civil rights.

The legislation was vigorously opposed by the Roman Catholic church. "Our position hasn't changed," said Gerald D'Avolio, executive director of the Massachusetts Catholic Conference, which represents the state's four archdioceses.

"We don't discriminate. But the bill is a question of an imprimatur," D'Avolio said, reaffirming the church's official disapproval of homosexual activity. "it comes back to the traditional family," he said, adding that the church would "probably" support repeal.

Although many cities and counties around the nation have passed ordinances affirming gay rights, Massachusetts is only the second state to do so. Seven years ago, Wisconsin passed a similar statute.

The Massachusetts laws will protect gays by expanding the powers of the Massachu-

setts Commission Against Discrimination, a state agency that protects racial minorities, the elderly and the handicapped. The law outlaws discrimination based on "sexual orientation," defined as heterosexuality, homosexuality or bisexuality.

Although supporters welcomed the law as a simple but tough measure, they were forced to accept a series of concessions demanded by conservatives. As amended, the law specifically excludes from protection anyone "whose sexual orientation involves minor children as the sex object" and states that the law is not to be construed as "an approval or endorsement of homosexuality or bisexuality."

Other amendments allow owners of two-family homes to refuse to rent to gays, exempt churches from the anti-discrimination rules affecting employers and explicitly reject any form of "preferential treatment" for homosexuals.

First filed in 1973, the Massachusetts legislation languished for years before winning a majority in the House in 1983. Sponsors saw legislative support erode in the mid-1980s as the AIDS epidemic gained attention, but by 1987 majorities in both the House and Senate favored the bill on test votes. Nevertheless, the bill was effectively killed by being held in Senate committees.

Debate on the measure hit a low in 1987 when opponents resorted to name-calling and warned that the bill would legalize sodomy, pederasty and homosexual marriage.

When the 1987 session ended in the first week of January 1988 without final action on the bill, militant gay-rights activists stormed the Statehouse and staged a raucous demonstration that halted business on the Senate floor.

Some demonstrators handcuffed themselves to each other through the arms of chairs in the Senate Gallery, forcing the Senate's doorkeepers to cut them loose. When guards attempted to clear the gallery, scuffles broke out and three guards were later charged with civil-rights violations.

IMPORTANT INSIGHTS FROM THE CAPITOL HISTORICAL SOCIETY'S ANNUAL MEETING

Mr. BYRD. Mr. President, since its inception in 1962, the U.S. Capitol Historical Society has been filling vital roles as the custodian of the Capitol's historical tradition and as an interpreter of that tradition for present and future generations of Americans.

I know that I speak for all of our colleagues in commending Fred Schwengel, the president of the society, and all of the other distinguished and interested men and women who are contributing so much to an effective historical stewardship of one of our country's most significant, respected, and beloved public buildings and institutions.

In September, the society held its annual meeting, and was privileged to hear an address by a leading and widely recognized American historian, Dr. James M. Banner, Jr. Dr. Banner was formerly a member of the faculty at Princeton University and is currently the director of the Washington Seminar on American History and Culture.

Mr. President, I request that the address by Dr. Banner to the annual meeting of the U.S. Captiol Historical Society be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY JAMES M. BANNER, JR., ANNUAL MEETING OF THE U.S. CAPITOL HISTORICAL SOCIETY, SEPTEMBER 26, 1989

Ladies and Gentlemen:

The latest in a long line of speakers before annual meetings of the Society, I feel a bit like Elizabeth Taylor's fifth husband. I know what I'm supposed to do. But how do I make it seem interesting?

Mark Twain once declared that the ideal audience is intelligent, interested in the subject, and thoroughly drunk. I beg your attention, if not your indulgence.

I shall try to keep in mind Thomas Aquinas's admonition to young scholars: "Be brief. Be clear. Be gone."

To those of us who pursue history as a craft, a duty, and a pleasure, the world about us often seems to care little for the past or for those who take a serious interest in it. Evidence of a heedlessness of history and of disrespect for its presence in our lives lies all about. Historic sites—to some hallowed by sacrifice of life (like Manassas Battlefield) or by surpassing vision (like the Seneca Falls meeting house)—are threatened by development or lack of funds. Bicentennial commissions trivialize the Revolution and Constitution by licensing their insignia for application on goods and services. Men who break laws are saluted as patriotic heroes and likened to statesmen like Washington and Lincoln. Even a president of the United States complains that universities are "subsidizing intellectual curiosity." Is it any wonder that we worry that the future may not have a past to recall and that the past may not have a future? "Out of our conception of the past," Thomas Hobbes remarked somewhere, "we make a future." That is, without an accurate conception of the past, we venture toward the future unprepared and unmoored.

It often seems, too, that the house of history is itself divided from within, or that others try to make us so or to so define us, into two distinct, if not antagonistic, camps. Members of these camps, it is said, seek to understand and convey the past from diametric perspectives and with totally different intent. There are, we are told, scholars on the one hand and story-tellers, spread-eagle zealots, and amateurs on the other, and a chasm separates them both. The one—or so the stereotype has it—are overly serious, analytical, critical, and little concerned with the general, reading, and educated public. The others, so this belief has it, are insouciant toward facts and the truth and seek principally the confirmation of filiopietistic and patriotic convention, not the freshening of knowledge.

Yet if evidence to the contrary is needed about the health of history and about the ability of people of different interests, talents, and intentions to inhabit the same house, then in this, its 27th year, the United States Capitol Historical Society bears witness that we need not despair on either count. Indeed, we can reach back to the two great, classic founders of history in the western world, namely Herodotus and Thucydides, for confirmation of the Society's twinned approached to the past. It was Herodotus, traditionally considered the father of history, who approached historical knowledge as the story of a people; it was Thucydides, his great successor, who approached the same kind of knowledge as a challenge of analysis and substantiation. These two approaches, always in tension, have by genius and intention been brought into happy marriage by this organization. I would like to celebrate this fact before you tonight by putting this distinctive, perhaps unique, institution in the context of its time and by taking the liberty to make some modest proposals about its future.

When the Society was born of the vision of Fred Schwengel in 1962, it is doubtful that either the difficulties that attend an initiative of this sort or the opportunities that would open before it could have been envisaged. Historical studies in the United States had not yet emerged from their prosperous post-war condition and were not yet, as we like to say, "in crisis." History was considered to serve its traditional functions. As a subject, it was required in schools and popular in colleges. The GI Bill has attracted to historical scholarship thousands of men who in earlier days would have taken up other pursuits. Our great historical societies, like the Massachusett Historical Society and the New York Historical Society, were sound if not rich and continued to preserve traditional archival materials and confirm traditional social conventions. History among the general public, though often amateurish, had a secure place as confimer of old values, as vehicle of patriotic lore. And that ancient form, the narrative, continued to be a favorite of the serious reading public.

Within a decade—under the spurs of war, the civil rights and women's movements, the demographic revolution of the era, and fresh intellectual currents—all of these traditional features of history were being called into question. Historical studies in schools and colleges were taken at a discount; history, it was said by some, was no longer "relevant," by others too "trendy"; and, assailed from both sides, scholars and teachers of history saw enrollments in history classes begin to fall off. Young people no longer envisaged a future for themselves upon college and university faculties. Economic difficulties born of inflation and cultural pressures deriving from racial, sexual, ethnic, and other factors cast traditional historical institutions into the shadow and, really for the first time, gave them competition from other organizations that began to erode their memberships. Popular history came sometimes to be seen as reactionary and ideological. Patriotism was called into question. At least among academic historians the narrative fell under suspicion, while for the first time since the 1930s the great historical storytellers began to get a hearing, not just for their narratives, but for their attacks upon newer modes of scholarly historical analysis.

Into this sea of conflicting cultural, intellectual, economic, and institutional currents the United States Capitol Historical Society was launched. It's a nice question whether its pilot would have taken the helm had he known of the whirlpools and rips. Yet, needless to say, this ship has passed through its heavy swells and, after 27 years, sails proudly in calmer waters. Why is this so?

No doubt, it has to do with its privileged place within the Capitol and with the energy and clarity of its helmsman and those others who have shared his vision for all these years. However, the Society has endured and prospered for other, less remarked, reasons as well.

That kind of history whose impulses are purely patriotic or partisan is not history at all but romance and myth. The basis of myth is ignorance, wish, exclusion, certainty, opinion. The foundations of historical knowledge are evidence, assessment, judgment, discrimination, inclusion, ambiguity, and uncertainty. In every nation, much that passes for history is really an endeavor to create or sustain a mythic idea of the past, not of its substance for reality; and nothing attaches more easily and with greater injury to the great symbols of a nation or its people—symbols like the Capitol and the Constitution of which it is the living embodiment—than an idea of the past that rouses and gladdens the heart without reference to fact.

This Society has refused to build itself upon such sand. It has answered the desires of the millions of Americans who visit the Capitol for a captivating introduction to its history without flinching from the need to present that history faithfully. As a result, our fellow citizens are introduced—by tour, book, and film—to aspects of the history of the Capitol, the Constitution, and the Congress with fidelity to evidence while in no manner being denied the grandeur and enchantment of the place or diminished in their feelings for the country and what it represents.

History has also to do with more than the presentation of knowledge of the past. It has to do with the discovery, analysis, and assessment of that knowledge—that is, with scholarship. History without scholarship is history without life, just as history without effective presentation is history without audience.

It would have been easy, and not at all surprising, for this Society to have simply ignored the scholarly dimension of historical pursuits—or at least to have done no more than to depend upon others' research and writing. Instead, it has actively underwritten the production and presentation of fresh historical thinking since 1978. Its scholarly symposia have earned for the Society that rarest of tributes: praise of its work from the scholarly community. As many attest, the conferences which Ron Hoffman has organized and the resulting books that he has edited have greatly enriched historical studies of the early nation in this country and have given the Society a footing in the scholarly world enjoyed by few others of its kind.

For still another reason, this society, by endeavoring something unusual, has endured for 27 years. It has held to the conviction that the celebration of a people's history is neither frivolous nor a one-time thing. History is deadly serious and, being so, must be pursued consistently, repeatedly, independently. One has only to compare the Society's work to the two bicentennial endeavors of the past 15 years—those surrounding the Revolution and the Constitution—to understand the advantages of clarity and continuity of purpose and act. Both were irrelevant to the national welfare, not for providing entertainment but for being marginal in most of their elements; not for celebrating the nation's heritage, but for doing so in a narrow and ideological fashion; not for distributing wares that bore the Commission's imprimatur but for cheapening the venerable history of this nation through rank commercialization; not for distributing copies of the U.S. Constitution but for making too few other enduring contributions to the preservation and understanding of the nation's past.

Four years ago, in his address before this annual meeting, Ron Hoffman expressed his hopes that the Bicentennial Commission would avoid sponsoring an "embarrassingly trivial and impermanent celebration" and that it would, among other things, "choose to invest a meaningful portion of (its funding) in the work of preserving and making widely available the records of our past." By example, he singled out the letterpress editions of the papers of the founding fathers and of the great events surrounding the Constitution, the first federal elections, and the meeting of the first Congress. Unfortunately, commission support for these grand ventures was never forthcoming nor, despite some solid ventures in support of instruction, have similar projects of lasting import benefited substantially from the national bicentennial body. It is a great misfortune.

Finally, the Society has prospered by avoiding a narrow focus. It has tried to make contributions to a variety of history's dimensions by undertaking a broad range of activities. It publishes books, leads tours, maintains a department of historical research—whose latest work, a history of the House Ways and Means Committee, is a major contribution to historical knowledge—sponsors scholarly meetings, offers fellowships to scholars, preserves and adds to the brilliant beauty of the Capitol, and always seems to prepare to add something new to its programs.

The Society is now assessing its next departures. How can it make additional contributions to historical understanding? Within its resources, what should it continue to do and what add? I am not privy to the Society's deliberations, and it would be presumptuous of me to make proposals for an organization in which I play no part. I do, however, wish to suggest some issues for your consideration by emphasizing some programs that you now support and by alerting you to some matters that might fall within the Society's compass.

I emphasize immediately that I see nothing extraneous in what the Society already does. Its publications about the Capitol, its tours, its visitors' information center, its films, medals, and calendar, its custodianship of and additions to the Capitol's art, furnishings, and archives—these are all central to its mission and the crown of its achievements. It is unimaginable that they would not continue.

Growing naturally from these core programs are others that, I understand, are now comtemplated—a sound and light program on the Capitol's west front and films about various moments in the nation's collective history. Both continue the Society's efforts to carry historical knowledge to all citizens while providing entertainment to them. They are likely to succeed.

I understand, too, that thought is being given to the extension of the symposia series beyond the years of the Constitution. As a scholar, I welcome that news; as a historian of the early republic, I find it particularly promising. Yet what, some may ask, is an organization devoted to the history of the Capitol and emerging from its special patronage doing supporting analytical scholarship, some of which, as represented by the topics of these symposia, appears to have little to do with the Capitol and its history, and much of which is not likely to find its way into the hands of the general public? These are good questions, and they deserve answers.

The principal value of these symposia has not lain in their subject matter, which has been, and will always be, pursued by scholars—although the papers given at these symposia have made important, occasionally signal, contributions to knowledge and understanding. The chief benefits have lain elsewhere. First, the audiences, increasingly large, have been composed principally of teachers and interested citizens—brought together by the Society to enlarge their knowledge of the nation's history. There are few occassions in which scholars are presented to a room full of informed readers and teachers and asked to speak to them, not to each other. It does a world of good for us all.

Second is the regularity of occurrence of the symposia. That regularity, enhanced by the consistent application and accumulated experience of Ron Hoffman and his associates, makes the annual gatherings widely anticipated events among scholars and teachers who attend. It also means that the contributions of each symposium, made tangible in book form, possess a consistency of appearance, editing, and direction that is rare among books of this sort.

Third, these symposia have for many years focused on the same large subject—the era of the Revolution and Constitution—from different perspectives but always with the same concentration. As a result, a single, though complex, subject of inquiry has gotten repeated scrutiny and has gained immeasurably from this approach.

Fourth and finally, the symposia have produced enduring works of scholarship—not proceedings volumes, not occasional essays, but lasting contributions to knowledge. When the last in this initial series of symposia has been held in 1991, fourteen gatherings will have been convened; well over 100 scholars will have contributed papers, many of them genuine additions to knowledge and understanding; and fourteen volumes of lasting value to historians and others will have been published from them by the University Press of Virginia. This is a grand achievement.

The continuence of these symposia and the extension of their subject beyond the early 1790s is greatly to be desired. Part of their initial success having resided in their focus, it would do well to spend some years on an equally well-defined, yet intellectually rich, period of our history—namely the era from roughly 1790 to 1828, the years of the young republic, bounded on the one hand by the Constitutional Convention and on the other by the emergence of genuinely democratic politics and the settlement of the lingering international issues of the revolutionary era. I hope that the Society will extend this wonderful program in this way.

I would like to turn now to a few other matters where I beg your indulgence for some modest presumptuousness. I would like to offer two or three proposals.

First, I commend to your attention opportunities to commission additional works—both scholarly and popular—on the history of the Capitol, its buildings, its institutions, and its inhabitants—especially lesser known ones.

As you may know, the historical study of this city has greatly matured in the last few years. The principal sponsor of this effort has been the George Washington University, through its history and American studies departments. Now, more is in the wind. The Historical Society of Washington, formerly the Columbia Historical Society, is undergoing a major physical and intellectual revitalization. It might be a partner with this Society is some of its endeavors. In addition,

other institutions, such as the American Institute of Architects, are contributing fresh knowledge to the city's history. For instance, the Institute recently mounted a major exhibition and published a major study of the work of Robert Mills, the great architect of the Washington Monument, the Central Post Office Building, and the Old Patent Office Building. I can also point to an effort, which I am now trying to get underway, to produce a one-volume historical encyclopedia of the District of Columbia, which will be published by the Johns Hopkins University Press.

All of these initiatives add up to a major advance in knowledge about the seat of government. Yet much more could be done. And given the energy of this Society, its epicentral location at the Capitol, its sharp focus upon this great national institution, I urge that the Society, in its own distinctive way, consider how it might provide incentives for the creation of better scholarly history about the Capitol.

I also offer for your consideration some initiatives for the schools. Indirectly, through programs for teachers, its publications, and its forthcoming films, the Society already serves the students of the nation. The question is whether it can do so in more ways, while remaining faithful to its charter mission. I believe that it can.

There is no need to rehearse here the problems of the schools. Their afflictions are great, sometimes seemingly irremediable. Solutions to those problems lie not with the schools and their teachers and administrators alone, but also with families, churches, public leaders, corporate officers, media figures—that is, with all of us. What, if any, contribution could the Society make to remedying the schools' problems?

I would suggest two initiatives—both building upon the Society's existing secondary school program.

The first has to do with teachers. One of the proven ways to teach and revitalize classroom instructors is through subject-intensive workshops—programs, whether they be of weekly meetings or of concentrated periods during the summer, that immerse teachers in a field of inquiry, be it Renaissance art, plant biology, or social psychology. Ideal subjects for such an approach are the history and operations of institutions of government. External funds can be raised for such an endeavor. No more ideal sponsor for such programs could be found than the Society.

What I have in mind is this: the creation of a continuing program of intensive, graduate-level instruction for Washington, D.C., junior and senior high school teachers somewhere in the Capitol Building, sponsored by the Society, and led by senior scholars from the area in subjects related to the Society's interests and mission.

The second initiative has to do with school students themselves. Here, again, I would use the resources of the Society's glorious home, the Capitol itself—not just for tours, not just for films, not just for visits to Congress at work—all of these being useful activities of demonstrated value. Rather, in addition, I would try to develop programs both more extensive and lasting for this city's high school students. Perhaps the Society could host entire classes of students from single schools for up to two weeks in some space in the Capitol in order to immerse them in instruction in the workings of government, or the history of the Constitution, or civic responsibility in a democratic republic.

In any event, my concern would be, not to provide time off from study for internships and days of pleasant diversion, but rather serious, on-site instructions in those matters that are the Society's principal concerns. Such activities would supplement the offerings of hard pressed schools and at the same time draw to the Society by formal association those people in the community whom it wishes to reach.

I cannot resist concluding what I fear is a more serious and programmatic reflection than you bargained for tonight without taxing you for one more moment to speak about the great missing element in this city's collection of active historical societies, of which this one is a leader.

Washington is the greatest repository in the country of resources about the history of the nation. One has only to mention the Library of Congress, the Smithsonian Institution, and the National Archives to make the point. No other location can rival this one; no other institutions, not even our greatest universities, can match these three for their richness in American history. Yet where is the center for advanced study, the research center, to promote the pursuit of knowledge in American history in this city? We have a center for the study of Byzantium and pre-Columbia art—Dumbarton Oaks. We have a center for the interpretation of ancient culture—the Center for Hellenic Studies. We have an institution for the study of English drama and letters—the Folger Shakespeare Library. And in the National Gallery of Art we have the Center for the Advanced Study of the Visual Arts. But where is the National Center for American History and Culture? We don't have one. And we don't have one anywhere in the country.

We should. And it should be in Washington.

Such an endeavor may not be for the Capitol Historical Society to pursue. It probably is not. But its absence affects the Society by leaving it, almost single-handedly, through its annual symposia and the other activities it sponsors, to offer the principal programs in pursuit of fresh knowledge of our history as a people in this city. In a nation as old, as powerful, and as wealthy as ours, that should not be.

This nation was born out of respect for the past. It will be fully seasoned only when it learns to accept its past in all its dimensions, unworthy as well as worthy. Only then will we be able "to disenthrall ourselves," as Abraham Lincoln would have had us do. Only then will we be able to say, "This is our past. It has made us what we are. We are Americans because of it."

I know that it is common, as the Society does in its own general brochure and as the National Archives does above its entrance, to cite the celebrated words of Shakespeare to the effect that "the past is prologue." Well, it just so happens that Shakespeare, in this instance at least, was wrong—dead wrong. The past is not prologue. It is part of the present, the very warp and woof of our lives. Without the past, we have no present; without a memory of the past, we have no capacity to think and to dream. Fortunately, the United States Capitol Historical Society does not act on these words. It has always, as it continues to do, celebrated the existence of the past, attempted to illuminate it for all American citizens, and sought to make the past integral to life on-going. I salute the Society as it marks another year of its own history of doing so.

(James M. Banner, Jr., formerly a member of the history faculty of Princeton University, was founder of the American Association for the Advancement of the Humanities and served as a member of the board of directors of the American Council of Learned Societies. Among other things, he is director of the Washington Seminar on American History and Culture.)

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, debate has now been completed on the underlying minimum wage legislation. I am advised by the manager, the distinguished chairman of the Senate Labor and Education Committee that there are four possible amendments which have been suggested by Senators. They are Senators MCCLURE, DURENBERGER, HATCH, and SYMMS. Those Senators are not present on the floor at the moment, and it is my hope that if a Senator does have an amendment that he wishes to offer that he would come to the floor forthwith to offer the amendment so we can debate it, vote on it, and proceed to disposition of the legislation. If Senators do not intend to offer their amendments, then I would hope that we could get an agreement on a vote on the bill at a time certain. I have discussed this with the distinguished Republican leader, and I now yield to him to invite his comment on the matter and see if we cannot proceed to dispose of this matter.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. The majority leader has stated correctly. We have one problem. The manager on this side, Senator HATCH, had to go to Utah, which I understand was an emergency of some kind, last evening. He will be back around 4 o'clock this afternoon, but Senator KENNEDY is on the floor. We can find another Republican to manage the amendments. I will say that if Senators MCCLURE, DURENBERGER, SYMMS, or HUMPHREY—I know Senator HATCH is thinking about an amendment, but he is not here, and there may be others—but if any of those Senators on this side could accommodate us and come to the floor now and offer their amendments, we can agree to vote maybe before or after our policy luncheons, because sometime today we need to deal with the extension of the debt limit.

I understand the conference on catastrophic was less than enthusiastic, but we are working that out today.

I do know Secretary Brady, who attended our meeting earlier this morning, feels we need to get action today on the debt ceiling extension. It is important we finish minimum wage and get some agreement to vote. I urge my colleagues, those named, or any other Members on the Republican side, if they have amendments to the minimum wage proposal to come to the floor. I also instruct staff to see if we

cannot get some agreement on vote on final passage, notwithstanding any amendments.

Mr. MITCHELL. I appreciate the Republican leader's cooperation in that regard. This is, of course, a situation of which we in the Senate have become all too familiar where Senators indicate an intention to offer amendments but simply are not present to offer them, thereby causing the entire Senate to be delayed.

I made clear last week my intention to proceed to this bill. We had yesterday available for debate and amendments and we had today available for debate and for offering amendments. Every Senator had ample notice we would be dealing with this legislation and ample opportunity to come to the floor and present any amendment. It is not my desire to foreclose any Senator or prevent any Senator from offering such an amendment as he or she wishes to debate the matter, to the extent he or she wishes. It is regrettable we are in a situation where we cannot proceed with this important legislation simply because Senators say they intend to offer an amendment but do not present themselves to offer that amendment. I hope that we will be able to get Senators here to offer their amendments or have them indicate that they do not intend to offer them so that we can proceed to set a vote on final passage today.

As the distinguished Republican leader said, our very highest priority must be to enact the debt ceiling extension today. We are cooperating in that regard to try to bring as clean as possible a debt limit extension bill to the Senate floor and to gain prompt approval of that legislation.

Mr. President, I will now yield the floor. I am going momentarily to suggest the absence of a quorum, with the understanding that we hope to hear shortly from the Senators who have indicated an intention to offer amendments so that we may proceed either to debate, to vote on those amendments, or proceed to set a vote on final passage of the bill in any event, which I hope will be sometime today.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE MONEY MACHINE

Mr. STEVENS. Mr. President, I come to the floor today to discuss an article that appeared in the Washington Post last Sunday entitled "Japan's Money Machine."

Over the last several years, I have made comments on the floor of the Senate concerning an attempt on our part as Americans to try to understand the Japanese a little better, and I pointed out to the Senate that my home in the Anchorage area is closer to Tokyo than it is to Washington, DC. We watch Japan with great interest and try to understand what is going on in Japan.

I ask unanimous consent to place in the RECORD this article by Karel van Wolferen, who is the author of "The Enigma of Japanese Power," which was published this year.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. I call this article to the attention of the Senate because I think it is most important we understand what this writer has brought to us, a world-renowned journalist from The Netherlands who has spent a great deal of time in Japan. He has talked about the changes in the monetary and fiscal policy of Japan and how that has been brought about by Government edict.

Let me quote from this article. Mr. van Wolferen says:

> Here, in a nutshell, is how the money machine works. Paper wealth—horrendously inflated stock and land prices—provides the fuel. In 1987 (the last year for which data are available), the increase in the nominal value of financial stock and land holdings in Japan was actually 40 percent larger than that year's entire Gross National Product. Stocks on the Tokyo exchange routinely sell at minimums of more than 70 times earnings compared with an average multiple of about 13 percent on the New York Stock Exchange. Land prices are even more inflated: by the spring of last year, the total value of Japanese land was more than four times larger than the value of all U.S. land, even though Japan has only one fifty-seventh of the habitable land.
>
> The money machine operates by using this paper wealth as collateral for loans. Novel financing techniques are further applied to reduce the real cost of the created capital to almost nothing. These techniques developed from the "overloans" of the mid-'50s that let commercial banks expand lending to forms without having proportionate deposits with the central bank.

Mr. President, Mr. van Wolferen has brought to us proof in his book about these spurious values. Others are telling us about some of the stock manipulations in Japan. One stock in Japan now sells for in excess of 6,400 times earnings. Those values are brought to our country and placed as loans in our banking system. We have now seen the situation that the 10 largest banks in the world are Japanese banks. Their values are the values that come from the money machine, and not from the production of goods and services that have value throughout the world.

I really think that there is great risk for us, as does this writer. He says:

> As Japanese international financial influence grows, the mutual animosity in the relationship with the United States may be reaching dangerous levels, even through recriminations are still mainly confined to the realm of trade.
>
> American frustrations are compounded because the economic measures that should make a big difference according to theory—such as the 80-percent increase in the value of the yen against the dollar and numerous bilateral trade deals—have left the trade imbalance nearly unaffected. In Japan, on the other hand, commentators and official spokesmen are beginning to respond emotionally to an America that is widely portrayed by local media as a totally unreasonable and never-satisfied nag, unable to come to terms with its supposed economic deterioration. American behavior is nearly unanimously interpreted as motiviated by anti-Japanese, even racist, sentiments.

The problem with the article really is that the conclusion of the writer is really that we should change. He goes on to say:

> Americans would seem "fairer" toward their perplexing ally if they jettisoned the conceits that after 1945 Japan was remade in the free-market American image and that it is guided by the U.S.-inspired constitution. To prevent a serious further deterioration in the Japan-U.S. relationship, a major shift in the way that Americans view Japan is a minimum requirement.

That is where I leave this distinguished author because I think the minimum requirement is some change on both sides, but, above all, it is the time for this Congress to try to understand that we are dealing with a Japan that talks about productivity, and talks about efficiency and the capability of its system compared to ours when really we are talking about a money scheme that has developed a new concept of monetary and fiscal policy that exports inflated stocks, inflated land prices, and as a consequence is seeking economic domination—not too much different from the domination that Japan sought in the days of my youth, in 1941. It is still domination that the Japanese seek. Market share means domination.

I urge we start thinking more about how to deal with this new economic theory that is being exported from Japan. It is not Adam Smith economics, Mr. President.

I send this article to the desk.

[From the Washington Post, Nov. 5, 1989]

JAPAN'S MONEY MACHINE—IT CREATES PLENTY OF YEN, YET NO INFLATION AT ALL

(By Karel van Wolferen)

From time to time over the last several years as you have watched Japanese investors expanding their ownership of global assets at breakneck speed—buying up Columbia Pictures, Rockefeller Center, half of downtown Los Angeles and much else—the thought may have crossed your mind: Do the Japanese have a money machine? Well, in essence, they do.

The Japanese have devised a mechanism that allows them, in principle, to buy whatever the rest of the world is willing to sell. More important than the raw fact of this enhanced buying power is the leverage that the Japanese have gained over the global fi-

nancial system. The money machine is not merely economic but political in character, and its existence provides important insight into the aims and attitudes that drive Japan's international dealings.

By commonly accepted Western notions, the Japanese way of manufacturing money should have disastrously inflationary consequences for an economy. But in one of the most important political developments of the past decade, Japan's financial authorities, financiers and top industrialists have come to realize that their informal control over internal economic processes is so strong that they can escalate the nominal value of capital assets—stocks and land—while keeping that inflation from spilling over into the consumer economy. Borrowing against that paper wealth creates a supply of near costless capital.

Financial circles have tended to view this phenomenon in terms of a "speculative bubble," with the main worry being how long it will last. Far more important is the fact that the phenomenon has become the main instrument through which Japanese economic institutions are greatly increasing their international power. Moreover, the bubble will not burst as long as the political setting in which it has emerged persists.

Here, in a nutshell, is how the money machine works. Paper wealth—horrendously inflated stock and land prices—provides the fuel. In 1987 (the last year for which data are available), the increase in the nominal value of financial stock and land holdings in Japan was actually 40 percent larger than that year's entire Gross National Product. Stocks on the Tokyo exchange routinely sell at multiples of more than 70 times earnings compared with an average multiple of about 13 percent on the New York Stock Exchange. Land prices are even more inflated: By the spring of last year, the total value of Japanese land was more than four times larger than the value of all U.S. land, even though Japan has only one fifty-seventh of the habitable land.

The money machine operates by using this paper wealth as collateral for loans. Novel financing techniques are further applied to reduce the real cost of the created capital to almost nothing. These techniques developed from the "overloans" of the mid-'50s that let commercial banks expand lending to firms without having proportionate deposits with the central bank.

Japan has been the only advanced industrial power to allow this type of funding, which originated in wartime measures to ensure an unimpeded flow of funds to manufacturers of war materiel. The financial institutions selected for this emergency purpose became the postwar *keiretsu* banks, the main money pumps for Japan's economic miracle.

Although comparisons with U.S. numbers are difficult, the rapid expansion of purchasing power shows up in the more comprehensive Japanese measures of money supply, which have been growing at almost twice the rate of GNP while inflation remains below 1 percent.

Economists will point to Japan's huge trade surpluses as the source of its global buying power. But the casuality can also run the other way. By flooding the world with yen, Japan keeps its currency artificially cheap and further stimulates demand for its products.

Access to near costless capital has enabled Japanese financial institutions to expand enormously. The world's 11 largest banks are now Japanese, and Japanese security houses and insurance firms are also expanding their influence in international finance markets. All these institutions coordinate their major foreign activities in informal cartels that flourish under the wings of Japan's Finance Ministry.

At the same time, Japan's manufacturers are once again expanding capacity at a mind-boggling rate—in sectors ranging from office automation and machinery to beer brewing. This expansion is going on with scant regard for medium-term profits. Indeed, the major mental jump required of Americans in understanding this expansion is that economic control, rather than profit-maximizing, is the main driving force.

In fact, traditional market forces have almost nothing to do with the creation and operation of the money machine. The crucial factor was the discovery by those who shape and monitor Japan's financial activities that their control over the economy is such that they can create massive amounts of money without causing massive inflation. Two phenomena undergrid that control.

One is the informal power relations that are the mainstay of the Japanese political system. An elaborate network of personal connections, whose members can be relied upon to behave predictably, prevents the kind of calamity that would be the inevitable result of money-manufacturing in any genuine market economy. A sizable Japanese firm is nearly always ensconced in an intricate nurturing of sister corporations, friends at the bank, industrial associations and ultimately Japan's central monetary authorities and other bureaucrats. In the financial world these connections parallel those of Japanese industry, in which informal cartels give economic powerholders a degree of control over internal and external prices unheard of in free-market economies.

These political connections, which are to a large extent beyond the scrutiny of the law or external regulators, guarantee that a large firm will never go bankrupt or fall into other hands. As a result, spectacular campaigns for long-term market share can be carried out at the expense of short-term profits to an extent totally unthinkable for Western corporations.

A second factor lies in the difference between the underlying aims of Western and Japanese economic endeavor. Industrial expansion in the Western democracies aims to make life more livable and to expand choices for consumers. Japanese aims are much more political: Administrators in industry and government take it for granted that Japan should become ever more invincible in the face of a potentially hostile world. They strive for domination in as many industrial sectors as possible and believe it to be only natural to do this at the cost of other desirables in life. Hence the fact that, although they are statistically the richest people in the world per capita, ordinary Japanese, who do not own land, have hardly benefitted from the spectacular burgeoning of the national wealth.

As Japanese international financial influence grows, the mutual animosity in the relationship with the United States may be reaching dangerous levels, even though recrimination are still mainly confined to the realm of trade.

American frustrations are compounded because the economic measures that should make a big difference according to theory—such as the 80-percent increase in the value of the yen against the dollar and numerous bilateral trade deals—have left the trade inbalance nearly unaffected. In Japan, on the other hand, commentators and official spokesmen are beginning to respond emotionally to an American that is widely portrayed by local media as a totally unreasonable and never-satisfied nag, unable to come to terms with its supposed economic deterioration. American behavior is nearly unanimously interpreted as motivated by anti-Japanese, even racists, sentiments.

Tokyo's officialdom has sought to allay U.S. fears by asserting that Japan is undergoing major structural changes. But whatever the undoubted changes in Japanese society, there is no sign they include the breaking up of the informal alliances among the elite administrators in industry, finance and the government bureaucracy, the heart of Japan's political system.

While the official interpretation holds that internationalization of Japanese firms is causing bureaucrats to lose control over Japanese economic processes, one can make a good case for the reverse: The Ministry of Finance, for instance, is riding higher than it has for decades, precisely because of the new international power of Japan's financial institutions.

The ubiquitous discussions with Japanese about the causes of the unpleasantness between the two countries cannot lead to anything worthwhile—American hopes and beliefs notwithstanding. The same half a dozen names represent Japan at international conferences and seminars. There are "buffers," a species of supposedly internationalist Japanese for which no U.S. counterparts exist. Their mission is propagandistic and, whatever their personal opinions, in public they represent vested Japanese interests.

Japanese of less exalted stature are frequently as frustrated as Americans. They may often be full of personal good will, but they have no way to translate their possible concern into political action. Most telling is the fact that Japanese top officials, who privately decry the absence of effective action, can never publicly advocate major measures when these conflict with the traditional interests of the bureaucratic group they belong to. There is no institution they can appeal to: Japan has no center of political accountability. Being bombarded with criticism without being able to do anything about it causes immense frustration that often prompts arrogant retorts.

That the term "bashing" has entered the discussion on Japan is unfortunate, even pernicious. While Americans may interpret it ironically, in Japan it conveys a deadly serious reality. It has an intimidating effect on a sizable number of serious foreign observers because it associates with unreason any analysis or advocacy of measures for coping with difficulties in the bilateral relationship. Most importantly, it appears to vindicate deepseated Japanese apprehensions that the world really is against Japan.

This appears to be a self-fulfilling anxiety. Unless Japan's administrators end up controlling the global economy, which is very unlikely, their current single-minded pursuit of security for the nation through ever greater international market-shares could very well bring disaster upon Japan. This because the country lacks a political mechanism that can apply preventive measures when disaster looms.

A new, self-righteous and aggressive assertiveness of Japan's representatives in the international arena is beginning to complicate things further. Some veteran observers have begun to compare Japanese international behavior with that of the 1930s. The

absence of the military factor today makes an essential difference, but much else is the same: the danger of "over-reach" through a lack of sober intellectual assessments of the situation; the distrust of international agreements as guarantees for Japanese security; the making of unnecessary enemies; and the flourishing of a nationalistic right-wing that no longer targets primarily Japan's communist neighbors but today has become resoundingly anti-American.

Some Americans have begun to believe that the bilateral friction is caused by reprobate schemers in Tokyo. In a milder temper, the term "unfair" is widely used to describe Japanese practices. This is a pointless position, since it will shock not a single Japanese into politically translatable guilt and only raises the level of animosity.

Americans would seem "fairer" toward their perplexing ally if they jettisoned the conceits that after 1945 Japan was remade in the free-market American image and that it is guided by the U.S.-inspired constitution. To prevent a serious further deterioration in the Japan-U.S. relationship, a major shift in the way that Americans view Japan is a minimum requirement.

There is no precedent in international affairs for the methods Japan is using to increase its political power through economic pursuits. Americans concerned with the future free international flow of goods and capital ought, at least, to investigate how much damage these methods are causing. Because stop-gap unilateral remedies may well make matters worse, the search for solutions must take place in a multilateral context. There are numerous signs that other governments realize they face the same Japan problem that confronts the United States.

The General Agreement on Tariffs and Trade, the most important international body for safeguarding free trade, was never designed to deal with a politically driven economic expansion such as Japan's. It could, however, still provide the conceptual foundations for effective safeguards. But not before the United States and other countries that want to preserve the international free-trade system jointly conclude that inaction now may invite calamity later, not in the least for Japan itself.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

MINIMUM WAGE

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2710, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2710) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

The Senate resumed consideration of the bill.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, we are still working to obtain approval to proceed to a final vote on the minimum wage legislation this afternoon. I am now advised that most and perhaps all of the Senators who had previously indicated an intention to offer amendments to that legislation will not do so, in which event we should be able to schedule a vote for later this afternoon.

I hope that immediately upon the reconvening of the Senate at 2:15, we will be prepared to set a time for that vote.

We are still also working to gain clearance on proceeding to a clean debt ceiling extension bill. As I have indicated, over the past 2 weeks, I have been attempting to gain that approval and will continue to move in that direction.

I am awaiting the results of the conference now occurring with respect to the Catastrophic Health Care Act legislation, but it is my intention, in any event, to proceed to that legislation today, as we must complete action on that debt ceiling extension.

I just recently spoke to the Secretary of the Treasury by telephone. He is, of course, deeply concerned about it. The administration, the President, wants debt ceiling legislation enacted as promptly as possible. It is hopeful we will be able to do so.

That will leave us for a period this afternoon awaiting action on minimum wage and the debt ceiling. It is my hope to gain approval to go, during that period, to the Intelligence Authorization Act. The chairman and ranking member of that committee are prepared to proceed. It is impossible to be certain how many, if any, amendments will be offered and the length of time. It appears we can complete action on that in a few hours this afternoon.

So that the schedule for the remainder of the day, I hope, will be action on and final disposition of the Intelligence Authorization Act, the minimum wage bill, and the debt limit extension. If we do that, particularly the debt limit extension, which we must do, then we will have done a good day's work.

I note the presence of other Senators in the Chamber. I am either going to recess early, or if any Senator wishes to address the Senate—I understand the Senator from Montana does.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business during which the Senator from Montana will be recognized to address the Senate for 5 minutes, and that thereafter, the Senator from Connecticut be recognized to address the Senate for 5 minutes, that upon the completion of his remarks, the Senate stand in recess until the hour of 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for 5 minutes each.

The Senator from Montana.

U.S. POSITION AT ROTTERDAM CONFERENCE ON GLOBAL WARMING

Mr. BAUCUS. Mr. President, this morning, in fact a few minutes ago, the Environmental Protection Subcommittee continued its markup of the clean air legislation, legislation which, among other things, will tackle the problems of urban smog and acid rain.

Mr. President, the statement I am making now is quite timely because the present occupant of the chair was one of the strong participants of that meeting which just occurred a few minutes ago. I, at this time, want to thank the present occupant of the chair, not only as officer of the day but as a member of the environmental protection subcommittee because he is one of the most able Members of that committee and whose assistance all of us in the country, particularly those in the State of Connecticut, very much value and appreciate.

I believe that this legislation also leads us across the frontier of making real, concrete public policy aimed at combating global warming caused by the greenhouse effect. Not only does the bill seek to reduce the buildup of groundlevel ozone smog, itself a greenhouse gas, but it also imposes a tough standard on carbon dioxide, the chief greenhouse gas, from automobiles, one of the critical sources of carbon dioxide. In addition, the acid rain bill that we are about to introduce will help promote energy efficiency, our first line of defense against the buildup of carbon dioxide.

These ongoing efforts to make concrete policies that go directly to controlling crucial greenhouse gases are another crucial step forward for the United States on the path of international leadership to conquer global warming.

We have heard a lot of talk from candidate George Bush about the greenhouse effect, we have even heard talk from some Members of his administration and many of us in this body have spoken out extensively to educate each other and the public on this issue. But our efforts in the Clean Air Act which we are now working on translate all the talk into real action and real policy. Our Clean Air Act moves directly against greenhouse gas buildup through policies that are effective, not just because they are tough, but because they are also workable, practical, and doable. Actions and policies like these are the stuff of the leadership we as a nation must assume within the world community.

Unfortunately, the good news coming out of the Environment Committee has been drowned out by the bleak reports from the Netherlands. There, according to this morning's papers, the Bush administration stands ready to block the efforts of a 70-nation conference calling for controls on carbon dioxide.

A majority of our European allies are ready to declare their commitment to an international effort to deal with the most urgent environmental threat we face. But thanks to this administration the United States—still the leading economic power, the leading military power, and unfortunately, the leading producer of carbon dixoide—can only think to give the problem more study.

Yes, the problem does need more study. But if we had the time merely to study and do nothing else, then the greenhouse crisis would not be the crucial challenge that it is, would not demand the world-class leadership that only the United States can provide. Unfortunately, we can no longer afford study—though it is urgently needed—if the price of study is inaction.

We must be prepared, today, to make exactly the kind of choice that is the essence of leadership.

Though we do not know everything, we know enough today to act.

It is the nature of the climate system that what we do today—the amount of greenhouse gases we put into the atmosphere—will determine the extent and severity of climate change in the next century. If we wait, if we adhere to a course of study alone, then by the time we get more evidence on the greenhouse effect, by the time we see the changes in climate, we will no longer have the option of acting. It will simply be too late.

When the catastrophes of drought and coastal flooding strike us in 2010 or 2020, we will not be able to go back and change the policies of the 1990's that permitted the unchecked buildup of greenhouse gases in the atmosphere. To protect the world we and our children will live in in the 21st century we must make those policies now.

That is the lesson that President Bush and his advisers must accept.

Global warming is a global problem and the United States must step forward as a leader in the world community to find an international solution.

To do this, requires two strategies: First, we must lead by example and shape our own domestic policies to solve the problem as a nation; second, our President must assume a lead role on the world stage and simply take charge of the issue internationally.

To carry out these strategies, we must push forward with the wide array of legislative initiatives that have already been introduced in this Congress. Virtually every one of these proposals would produce a host of environmental, economic and scientific benefits beyond those associated with global warming.

To begin with, we need to complete our work on the Clean Air Act to deal with automotive carbon dioxide and smog and to promote energy efficiency. We must also renew our efforts to adopt legislation to control the use of chlorofluorocarbons, which both destroy the upper atmosphere's ozone shield and are greenhouse gases as well. Many of my colleagues have put forward bills to deal with energy policy, transportation efficiency, science policy, domestic forestry and overseas deforestation. We have to move on all these fronts.

At the same time, this body can no longer content itself with decrying the diplomatic fumbling of this administration while the international community struggles to find a truly international solution to the problem of global warming. That solution will not be found if the United States, the natural leader on this issue, insists on remaining part of the problem. Instead, we must use our power and our leverage to thrust our country and our President into the leadership role that the United States must assume.

This body can no longer content itself with decrying the public fumbling of this administration while the international community struggles to find a truly international solution to the problem of global warming. That solution will not be found if the United States, the natural leader on this issue, insists on remaining part of the problem. Instead, we must use our power and our leverage to thrust our country and our President into the leadership role that the United States must assume.

Mr. President, I yield the floor. Mr. President, I also suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Montana suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

GLOBAL WARMING

Mr. LIEBERMAN. Mr. President, it was a great President, Harry Truman, who popularized the saying, "If you can't stand the heat, get out of the kitchen." Well, thanks to another President, our current President, we may have to change that old saying to, "If you can't stand the heat, get off the planet."

Planet Earth is warming because of the tremendous amount of carbon dioxide, CFC's, nitrous oxides, and a host of other chemicals we are pumping into the atmosphere. The United States, unfortunately, accounts for 25 percent of the global warming problem. Despite virtually unanimous scientific warnings about the dangers of global warming, President Bush apparently does not believe it is time to take strong action.

Like the last administration's approach to acid rain, President Bush wants to study the issue. But the problem is, as it was with that one, for every year we fail to take steps to reduce carbon dioxide and other chemical emissions, we are going to add degrees to the thermometers of the world that our children and grandchildren will inhabit.

Mr. President, we all know that Rome burned while Nero fiddled. I am worried that the Earth is going to warm while President Bush continues to fiddle with our global warming policy. It is time that Congress and the American people turned up the heat on the White House and let the President know that we do not want dustbowls, droughts, and we do not want to turn our agricultural land into deserts. We do not want to flood our coastlines. What we do want is leadership to stop global warming.

I applaud the more than 60 nations that have been working this week in The Netherlands on a resolution to call for the capping of carbon dioxide and other damaging emissions by the year 2000.

I am upset that our ally, Japan, is opposed to, and embarrassed that my own country is also opposed to such restrictions.

Reportedly, President Bush wants to assess the economic impact of these proposals that restrict emissions that contribute to global warming, but I suggest that he also look at the economic impact of failure to take action.

Mr. President, it is not too late for this administration to change its mind. I urge the President to heed the advice of his EPA Administrator, Bill Reilly,

who must at this moment be a very frustrated adviser, and convene an international convention on global warming here in Washington as soon as possible. At that convention the President can redeem his pledge to the American people to be an environmental President and lead the way toward an international agreement to reduce emissions that cause global warming.

The President has a rapidly closing window of opportunity to change his mind on this issue, to take the lead in establishing a safer environment for the next century of human existence. If he fails to act, Congress must pick up the ball and run with it, because the consequences of inaction are simply too great to ignore.

In a news conference just this morning, President Bush said that our global warming policy cannot be driven by what he called the extremes on this issue; but, in fact, the President's position is the extreme position. The consensus judgment among scientists is that we have a real problem, and we should take action right now.

The President also said that American science is the best; I agree that it is. But his policy is not connected to what our science shows.

He also answered the question about global warming by chiding us in Congress, saying we should work on the Clean Air Act, "instead of sitting back there and carping about it." He said that this morning.

Mr. President, we were at work in the Environment Committee this morning at the very moment he uttered those words. In fact, this morning we passed a tough mobile sources part of the Clean Air Act that included a provision in it that will help reduce carbon dioxide emissions from automobiles—a tough leadership provision. Passenger cars will be required to meet a fleet average standard for emissions of carbon dioxide that is dramatically stronger than what exists now.

So Congress is acting; the administration is not. We can only hope that the administration's policy on global warming will change before our climate does.

I thank the Chair and yield the floor.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15.

There being no objection, the Senate, at 12:43 p.m., recessed until 2:15 p.m.

Whereupon, the Senate reassembled at 2:15 p.m., when called to order by the Presiding Officer [Mr. SANFORD].

MINIMUM WAGE

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I rise today to voice my support for increasing the minimum wage.

Raising the minimum wage is important to millions of American workers attempting to provide for themselves and their families. The minimum wage is now $3.35—the rate at which it was set in 1981. The minimum wage has lost one-fourth of its purchasing power to inflation since 1981. While the minimum wage's purchasing power has fluctuated considerably over time, it is less today than at any time since the mid-1950's. A full-time worker paid $3.35 an hour earns less than $7,000 a year, well below the $11,611 poverty level for a family of four.

The decline in the real purchasing power of the minimum wage has created a disturbing paradox. At today's level, in over half of the States, someone working full time at the minimum wage would earn less than if they had gone on welfare. If we truly want to create incentives to get people off of welfare, then we must provide them with good jobs at a livable wage.

The legislation we consider today is a compromise that restores fairness and effectiveness to our minimum wage policy by increasing the Federal minimum wage gradually from $3.35 per hour to $3.80 in 1990 and to $4.25 per hour by 1991. Additionally, the legislation includes a 90-day training wage which would be set at 85 percent of the applicable wage. The training wage would apply only to teenagers. The benefits of increasing the minimum wage far outweigh any disadvantages. This legislation also includes an increase in the exemption for small businesses from $362,500 to $500,000. This increase helps alleviate some of the concerns expressed by small business throughout the Nation.

I would have preferred to increase the wage more rapidly than is provided in this bill. Additionally, I have strong reservations about the utility of a training wage. These are the reasons I voted to override the President's veto on the Minimum Wage Restoration Act earlier this year. However, this legislation represents a workable compromise between the President and those of us in Congress who would have preferred a more aggressive minimum wage program. I am pleased the President has determined that devoting attention to the plight of the working men and women of this country is more important at this time than pursuing cuts in the capital gains tax which only benefits the wealthy.

CONCERNS

Some have expressed a concern that raising the minimum wage will hurt our international competitiveness. It is claimed that this action will raise our labor costs relative to our competitors and thereby price American products out of the global marketplace. America cannot maintain its position in the world economy by lowering our living standards and becoming a low wage country. America became an economic power through productivity growth and ever improving worker skills, not through cheap labor. Investing in our human resources is the path to greater economic competitiveness, as opposed to refusing to pay a livable wage.

Critics of this legislation also claim that an increase in minimum wage will hurt youth employment and do little to help the working poor. This is incorrect. In the United States, it is estimated that 69 percent of workers earning less than $4.55 were adults over 20 years of age—while only about 31 percent were youth. Clearly, it is also the working poor that are earning the minimum wage, not just middle class teenagers with a summer or afterschool job as some of my colleagues would claim.

In fact, many of those earning the minimum wage are single, working mothers. It is the tragedy of this Nation that one of the fastest growing of the low income groups are our single working mothers. I would challenge any of my colleagues to try to live on the current minimum wage—let alone support their children on this income.

WORKING POOR

Mr. President, the problem of the working poor is a serious one in this country. Nationally, almost half of the households below the poverty line are working poor—almost 5.5 million households where 1, 2, 3, 4, or even more members of the household are wage earners but still cannot break above the poverty level. In fact, there are almost 1.3 million households in this country where two people work simply to attain the mean income of about $6,300 per year. There are over 8.4 million American workers living below the poverty level—people who are working hard but still finding it difficult to make ends meet.

NEW MEXICO

According to the New Mexico Department of Labor, an estimated 108,000 New Mexico citizens will benefit from this legislation. A substantial sector of New Mexico's economy is service oriented. Additionally, this increase in minimum wage also will benefit our farmworkers in New Mexico's seasonal agricultural economy.

In New Mexico, 20,000 of the 47,000 families below the poverty level can be classified as working poor with at least the head of household employed. Over 225,000 New Mexicans who are either employed or looking for a job are living at or below the poverty level—

almost one-third of my State's civilian work force is living in poverty.

Mr. President, fairness and equity dictate that we must protect our workers from laboring under poverty wages. This legislation helps assure such protection.

I urge my colleagues to support this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be resinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to consideration of S. 1324, the Intelligence Authorization Act.

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, the only point I would make, and I make it in advance, is it the leader's intention that we could set this aside to take up the debt ceiling? Is that the intention of the leader?

Mr. MITCHELL. Yes, it is. As the minority leader knows, I have been trying for 2 weeks to get a clean debt limit. That has been my objective. It is my understanding we have not been able to get that consent. There is a possibility of one or more matters to be included in a debt limit and we are attempting to clarify that now, but as soon as we can reach agreement in that regard it is my intention to interrupt whatever we are doing to proceed to complete action on the debt limit.

I also hope, as I indicated earlier to the distinguished Republican leader, that we will be able to get clearance on a vote this afternoon on the minimum wage bill. It is my understanding from the chairman of the Intelligence Committee that pending matter can, hopefully, be disposed of in a couple of hours or so. And then we can proceed to dispose of both the debt limit, if we have not already interrupted to do so, and the minimum wage.

Mr. DOLE. If the majority leader will yield further, on the debt ceiling itself it is my hope, and I have not checked with everyone on this side, that we could get some agreement that there may be a leadership amendment in order which might include section 89, catastrophic coverage, and no other amendments to the debt ceiling. That would mean there would be a conference, in any event, with the House.

The sooner we do that the better, because it is now 2:30. It might take sometime to conference those issues on minimum wage. I have indicated to the majority leader as soon as I have an indication from one source I will be able to indicate whether or not there will be any additional amendments.

Senator HATCH, the ranking member on this side, is returning from Utah. I think in addition to that possible amendment there could be one or two additional amendments but I will have the information for the leader and the manager hopefully within the next 30 minutes.

Mr. MITCHELL. In that regard, although I know the distinguished Republican leader needs no persuading, I ask unanimous consent there be printed in the RECORD a letter to me from the Secretary of Labor, dated today, in which, in behalf of the administration, she requests support of the minimum wage bill with no amendments.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF LABOR,
Washington, DC, November 7, 1989.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Washington, DC.

DEAR GEORGE: As you know on October 31, an agreement was announced on a minimum wage package consistent with criteria that the President set forth earlier this year. The minimum wage package would (1) increase the Federal hourly minimum to $4.25 by April 1, 1991, and (2) provide for a training wage for workers under the age of 20.

The Administration supported enactment of H.R. 2710 which passed the House last Wednesday November 1. Accordingly, I ask for your support of this same bill now before the Senate with no amendments attached. This package gives relief of those with the greatest need in our workforce and also protects job opportunities for young workers.

With warm regards,
Sincerely,

ELIZABETH DOLE,
Secretary of Labor.

Mr. MITCHELL. I thought perhaps, if the distinguished Republican leader is encountering difficulty with any of his colleagues, with his own persuasion, he might refer to this letter.

Mr. DOLE. I have already indicated that to my colleagues. And I think that is a real signature, not one of those autopens.

Mr. HEINZ. Will the majority leader yield?

Mr. MITCHELL. Certainly.

Mr. HEINZ. Mr. President, on the issue of a unanimous consent on the debt ceiling I know my position on the necessity of addressing the issue of Social Security off budget is no surprise to any Senator I see in this room.

I have absolutely no objection to a leadership amendment. I would strongly support a leadership amendment with section 89, or catastrophic, or both in it. But I am concerned that we have a very important opportunity to address the issue of how we are going to manage the national debt in future years. The issue of how we treat Social Security in the budget process is directly related to that.

We do not get many debt ceiling bills. We get about one a year. They are always at the end of the year. There is always a rush to take them up. There is never any good time, as they say, to do the necessary work.

It is this Senator's judgment—I thank the majority leader for yielding—that it is time to do our duty on this particular issue. Is is an issue I have addressed three times on the Senate floor; once in 1983, once in 1985, and earlier this year. The problem is the issue has either been attached to another measure that did not go anyplace, or went to conference with the House on the wrong vehicle. We have the opportunity to put it on the right vehicle at the right time. I fully intend to find a way to do that if I can.

Mr. MITCHELL. I thank the distinguished Senator from Pennsylvania. As he knows, there are a number of other Senators who have shared his longstanding interest in that subject. Senator HOLLINGS has been a leader in that regard, as has Senator MOYNIHAN, Senator SANFORD and others, who have introduced legislation and spoken in favor of that over the years. And I, myself, support Senator HOLLINGS' legislation. So we are going to make every effort we can to accommodate the concerns of all of the Senators who have been vitally interested in this subject to see the matter is presented to the Senate for disposition and, hopefully, enacted into law.

Mr. HOLLINGS. Mr. President, the distinguished majority leader and I worked on this all year long. At the beginning of the session the bill was introduced and referred to the Budget Committee and a majority of the Democrats of the Budget Committee are now cosponsors. Altogether, there are over 20 cosponsors.

We started on the temporary debt limit extension and had an understanding at the time that we would then go to the permanent debt limit. I understand, the circumstances that require this kind of request and I am willing to go along.

I hope we can now get an understanding with the majority leader and the minority leader and the distinguished Senator from Pennsylvania perhaps we can get a freestanding bill, I certainly hope we can bring it up this year.

This year is the important year. If we keep on dillying with the real important things—and this is the most important—than we will never get anything done. In this fiscal year alone, we are spending over $300 billion more than we are taking in.

I do not know anyone, other than our senior citizens that will sober this crowd up. They can help by coming

forcefully forward and saying: Quit looting our trust fund that we paid into, and that the next generations are going to be dependent upon.

The raiding of the Social Security trust fund is a treacherous kind of conduct. It ought to be put to a stop. I know the majority leader is now leading the way with our distinguished speaker over on the House side so I hope we can get our Social Security bill passed this year.

Mr. MITCHELL. I thank my colleagues for their comments.

INTELLIGENCE AUTHORIZATION ACT

The PRESIDING OFFICER. Is the request for unanimous consent to proceed to the immediate consideration of Calendar Order No. 317, S. 1324, a bill to authorize appropriations for fiscal years 1990 and 1991 for intelligence activities community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes?

Mr. MITCHELL. Yes, Mr. President, I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S.1324) to authorize appropriations for fiscal years 1990 and 1991 for intelligence activities of the United States Government, the intelligence community staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services, without amendment; and which had been reported from the Select Committee on Intelligence, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in italics, and the parts of the bill intended to be inserted are shown in boldface brackets.)

S. 1324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Years 1990 and 1991".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal years 1990 and 1991 for the conduct of the intelligence activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1990 and 1991, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations [prepared by the Committee of Conference to accompany (————————) of the One Hundred First Congress.]

That Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal years 1990 and 1991 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

[LIMITATION ON USE OF CIA RESERVE FOR CONTINGENCIES

[SEC. 104. Section 502 of the National Security Act of 1947 (50 U.S.C. 414) is amended by adding after the semicolon and before the word "or" at the end of subsection (a)(2): "*Provided, however,* That no funds from the Reserve for Contingencies may be obligated or expended for any operation or activity for which the approval of the President is required by section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422), or for any significant change to such operation or activity, for which prior notice has been withheld;".]

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1990 the sum of $25,068,000 and for fiscal year 1991 the sum of $24,931,000, including $4,500,000 for the Security Evaluation Office.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and thirty full-time personnel as of September 30, 1990 and two hundred and thirty full-time personnel as of September 30, 1991. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal years 1990 and 1991, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence activities.

(c) During fiscal years 1990 and 1991, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal years 1990 and 1991, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1990 the sum of $154,900,000 and for fiscal year 1991 the sum of $164,600,000.

TITLE IV—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

ELIGIBILITY FOR ANNUITY

SEC. 401. (a) The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, is amended—

(1) by redesignating section 236 as section 237; and

(2) by inserting before the heading "Limitation on Number of Retirements," the following:

"ELIGIBILITY FOR ANNUITY

"SEC. 236. A participant must complete, within the last two years before any separation from service, except a separation because of death or disability, at least one year of creditable civilian service during which he or she is subject to this title before he or she or his or her survivors are eligible for an annuity under this title based on the separation. If a participant, except a participant separated from the service because of death or disability, fails to meet the service requirement of the preceding sentence, the amounts deducted from his or her pay during the period for which no eligibility is established based on the separation shall be returned to him or her on the separation. Failure to meet this service requirement does not deprive the individual or his or her survivors of annuity rights which attached on a previous separation.".

(b) This amendment shall be effective on the date of enactment of this Act.

DEATH IN SERVICE BENEFIT FOR FORMER SPOUSES

SEC. 402. (a) Section 232(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, is amended—

(1) by adding at the end of paragraph (1) thereof the following new sentence: "Payment of death in service benefits for former

spouses is also subject to paragraph (4) of this subsection"; and

(2) by adding after paragraph (3) thereof the following:

"(4) If a former spouse eligible for death in service benefits under provisions of this section is or becomes eligible for survivor benefits under section 224, the benefits provided under this section will not be payable and will be superseded by the benefits provided in section 224.".

(b) The amendment made by this section shall take effect on November 15, 1982.

DISABILITY RETIREMENT AND DEATH IN SERVICE BENEFITS

SEC. 403. The Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a et seq.), is amended by adding after section 17 the following new section:

"SPECIAL RULES FOR DISABILITY RETIREMENT AND DEATH IN SERVICE BENEFITS WITH RESPECT TO CERTAIN EMPLOYEES

"SEC. 18. (a) Notwithstanding any other provision of law, an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83 of title 5, United States Code, who—

"(i) has five years of civilian service credit toward retirement under such subchapter III of chapter 83, title 5, United States Code;

"(ii) has not been designated under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), as a participant in the Central Intelligence Agency Retirement and Disability System;

"(iii) has become disabled during a period of assignment to the performance of duties that are qualifying toward such designation under section 203; and

"(iv) satisfies the requirements for disability retirement under section 8337 of title 5, United States Code—

shall, upon his own application or upon order of the Director, be retired on an annuity computed in accordance with the rules prescribed in such section 231, in lieu of an annuity computed as provided by section 8337 of title 5, United States Code.

"(b) Notwithstanding any other provision of law, in the case of an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83, title 5, United States Code, who—

"(i) has at least eighteen months of civilian service credit toward retirement under such subchapter III of chapter 83, title 5, United States Code;

"(ii) has not been designated under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), as a participant in the Central Intelligence Agency Retirement and Disability System;

"(iii) prior to separation or retirement from the Agency, dies during a period of assignment to the performance of duties that are qualifying toward such designation under such section 203; and

"(iv) is survived by a widow or widower, former spouse, and/or a child or children as defined in section 204 and section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, who would otherwise be entitled to an annuity under section 8341 of title 5, United States Code—

such widow or widower, former spouse, and/or child or children of such officer or employee shall be entitled to an annuity computed in accordance with such section 232, in lieu of an annuity computed in accordance with section 8341 of title 5, United States Code.

"(c) Notwithstanding any other provision of law, an officer or employee of the Central Intelligence Agency subject to retirement system coverage under chapter 84 of title 5, United States Code, who—

"(i) has completed at least eighteen months of civilian service creditable under section 8411 of title 5, United States Code;

"(ii) has not been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note);

"(iii) has become disabled during a period of assignment to the performance of duties that are qualifying toward such designation pursuant to such section; and

"(iv) satisfies the requirements for disability retirement under subchapter V of chapter 84, title 5, United States Code—

shall, on the officer's or employee's own application or an application by the Director, be retired on an annuity computed as if the officer or employee, prior to becoming disabled, had been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), in lieu of the annuity amount that would otherwise be computed under subchapter V of chapter 84 of title 5, United States Code.

"(d) Notwithstanding any other provision of law, in the case of an officer or employee of the Central Intelligence Agency subject to retirement system coverage under chapter 84 of title 5, United States Code, who—

"(i) has at least eighteen months of civilian service creditable under section 8411 of title 5, United States Code;

"(ii) has not been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note);

"(iii) prior to separation or retirement from the Agency, dies during a period of assignment to the performance of duties that are qualifying toward such designation pursuant to such section; and

"(iv) is survived by a widow or widower, former spouse, and/or child or children as defined in section 8441 of title 5, United States Code, who would be entitled to a lump-sum survivor benefit, a survivor annuity and/or if applicable, a supplementary annuity, under subchapter IV of chapter 84, title 5, United States Code—

the survivor benefit or benefits of such widow or widower, former spouse, and/or child or children shall be computed as if the officer or employee, prior to death, had been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), in lieu of the benefit amount or amounts that would otherwise be computed pursuant to subchapter IV of chapter 84, title 5, United States Code.

"(e)(1) The annuities provided under subsections (a) and (b) of this section shall be deemed to be annuities under chapter 83 of title 5, United States Code, for purposes of the other provisions of such chapter and other laws (including the Internal Revenue Code of 1986) relating to such annuities, and shall be payable from the Civil Service Retirement and Disability Fund established under section 8348 of such title.

"(2) The annuities and/or other benefits provided under subsections (c) and (d) of this section shall be deemed to be annuities and/or benefits under chapter 84 of title 5, United States Code, for purposes of the other provisions of such chapter and other laws (including the Internal Revenue Code of 1986) relating to such annuities and/or benefits, and shall be payable from the Civil Service Retirement and Disability Fund established pursuant to section 8348 of title 5, United States Code.".

TITLE V—PERSONNEL AUTHORITIES IMPROVEMENTS

DEFENSE INTELLIGENCE COLLEGE GIFT ACCEPTANCE AUTHORITY

SEC. 501. (a) Chapter 155 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2606. Gifts to support the Defense Intelligence College

"(a) The Secretary of Defense is authorized to accept, hold, administer, and use gifts, to include bequests or devises, money, securities, or other property, both real and personal, for the purpose of aiding and facilitating the work of the Defense Intelligence College.

"(b) Gifts of money and proceeds from sales of property received as gifts shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

"(c) For purposes of Federal income, estate, and gift taxation, gifts accepted by the Secretary under this section shall be considered to be to or for the use of the United States.

"(d) The Secretary of Defense shall prescribe regulations to carry out this section.".

(b) The table of contents of chapter 155 of title 10, United States Code, is amended by adding at the end thereof the following:

"2606. Gifts to support the Defense Intelligence College.".

EXTENSION OF DIA EMPLOYEE TERMINATION AUTHORITY

SEC. 502. Section 1604(e)(1) of title 10, United States Code, is amended by striking "during fiscal years 1988 and 1989".

REQUIREMENTS FOR CITIZENSHIP FOR STAFF OF UNITED STATES ARMY RUSSIAN INSTITUTE

SEC. 503. (a) For purposes of section 319(c) of the Immigration and Nationality Act (8 U.S.C. 1430(c)), the United States Army Russian Institute, located in Garmisch, Federal Republic of Germany, shall be considered to be an organization described in clause (1) of that section.

(b) Subsection (a) shall apply with respect to periods of employment before, on, or after the date of the enactment of this Act.

PERMANENT SPECIAL TERMINATION AUTHORITY FOR THE SECRETARY OF DEFENSE

SEC. 504. Section 1590(e)(1) of title 10, United States Code, is amended by striking "during fiscal years 1988 and 1989,".

DEFENSE ATTACHÉ DEATH GRATUITY

SEC. 505. (a) During fiscal year 1990, the Secretary of Defense may pay a death gratuity identical to that payable under section 1489(b) of title 10, United States Code, to the surviving dependents of a member of the Armed Forces who, while serving on active duty assigned to a Defense attaché office outside the United States, died as a result of hostile or terrorist activities.

(b) The death gratuity referred to in subsection (a) may be paid with respect to an individual who died on or after June 15, 1988.

(c) The Secretary of Defense shall submit to Congress no later than March 1, 1990, a

report concerning the advisability of permanent law permitting the payment of death gratuities to the survivors of any member of the armed services who, while on active duty assigned to a Defense attaché office outside the United States, dies as a result of hostile or terrorist activities.

TITLE VI—FBI ENHANCED COUNTER-INTELLIGENCE AUTHORITIES

ADJUSTMENT TO DEMONSTRATION PROJECT FOR THE NEW YORK FIELD DIVISION

SEC. 601. Subsection 601(a)(2) of the Intelligence Authorization Act for fiscal year 1989 is amended by deleting "who are subject by policy and practice to directed geographical transfer or reassignment".

PERSONNEL CEILING ON UNITED STATES AND SOVIET MISSIONS

SEC. 602. It is the sense of the Congress that the ceiling on permanent positions at the United States Mission to the Soviet Union and the Soviet Mission to the United States should not be increased unless—

(a) the National Security Council determines that such increase is essential to the effective functioning of the United States Mission to the Soviet Union; and

(b) the FBI is provided sufficient additional resources to fulfill its responsibilities resulting from the increased number of permanent positions at the Soviet Mission to the United States.

FBI INVESTIGATIONS OF ESPIONAGE BY PERSONS EMPLOYED BY OR ASSIGNED TO UNITED STATES DIPLOMATIC MISSIONS ABROAD

SEC. 603. The FBI shall be responsible for the conduct of all investigations of violations of the espionage laws of the United States by persons employed by or assigned to United States diplomatic missions abroad. All departments and agencies shall report immediately to the FBI any information indicating such a violation. Other departments and agencies shall provide appropriate assistance to the FBI in the conduct of such investigations. Nothing in this provision shall be construed as establishing a defense to any criminal, civil, or administrative action.

TITLE VII—GENERAL PROVISIONS

INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 701. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

TITLE VIII—INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY

SEC. 801. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by deleting all after section 16 and adding the following:

"INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY

"SEC. 17. (a) PURPOSE; ESTABLISHMENT.—In order to—

"(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently, inspections, investigations, and audits relating to programs and operations of the Central Intelligence Agency;

"(2) provide leadership and recommend policies designed to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and to detect fraud and abuse in such programs and operations; and

"(3) provide a means for keeping the Director of Central Intelligence fully and currently informed about problems and deficiencies relating to the administration of such programs and operations, and the necessity for and the progress of corrective actions, and, in the manner prescribed by this section, to ensure the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (hereinafter referred to as 'the intelligence committees') are kept similarly informed of significant problems and deficiencies as well as the necessity for and the progress of corrective actions,

there is hereby established in the Central Intelligence Agency an Office of Inspector General.

"(b) APPOINTMENT; SUPERVISION; REMOVAL.—

"(1) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advise and consent of the Senate. This appointment shall be made without regard to political affiliation and shall be solely on the basis of integrity, compliance with the security standards of the Central Intelligence Agency, and prior experience in the field of foreign intelligence. Such appointment shall also be made on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, or public administration.

"(2) The Inspector General shall report directly to and be under the general supervision of the Director of Central Intelligence.

"(3) The Director may prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation if he determines that such prohibition is necessary to protect vital national security interests of the United States.

"(4) If the Director exercises any power under subsection (3), above, he shall submit an appropriately classified statement of the reasons for the exercise of such power within seven days to the intelligence committees. The Director shall advise the Inspector General at the time such report is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of any such report. In such cases, the Inspector General may submit such comments to the intelligence committees that he may deem appropriate.

"(5) In accordance with section 535 of title 28, United States Code, the Director of Central Intelligence shall report to the Attorney General any information, allegation, or complaint received from the Inspector General, relating to violations of Federal criminal law (title 18, U.S.C. et seq.) involving any officer or employee of the Central Intelligence Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection 535(b)(2) of title 28, United States Code. A copy of all such reports shall be furnished the Inspector General.

"(6) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the intelligence committees the reasons for any such removal.

"(c) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General appointed under this section—

"(1) to provide policy direction for and to conduct, supervise, and coordinate independently, the inspections, investigations, and audits relating to the programs and operations of the Central Intelligence Agency to assure they are conducted efficiently and in accordance with applicable law and regulations;

"(2) to keep the Director fully and currently informed concerning violations of law and regulations, fraud and other serious problems, abuses and deficiencies that may occur in such programs and operations, and to report the progress made in implementing corrective action;

"(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Office of Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

"(4) in the execution of his responsibilities, to comply with generally accepted government auditing standards.

"(d) SEMIANNUAL REPORTS; IMMEDIATE REPORTS OF SERIOUS OR FLAGRANT PROBLEMS; REPORT OF FUNCTIONAL PROBLEMS.—

"(1) The Inspector General shall not later than June 30 and December 31 of each year, prepare and submit to the Director of Central Intelligence a classified semiannual report summarizing the activities of the Office during the immediately preceding six-month period. Within thirty days, the Director shall transmit such reports to the intelligence committees with any comments he may deem appropriate. Such reports shall, at a minimum, include:

"(i) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Central Intelligence Agency disclosed by the Office of Inspector General during the reporting period;

"(ii) a description of the recommendations for corrective action made by the Office of Inspector General during the reporting period with respect to significant problems, abuses, or deficiencies identified in subparagraph (i), above;

"(iii) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

"(iv) a certification that the Inspector General has had full and direct access to all information relevant to the performance of his functions;

"(v) a description of all cases occurring during the reporting period where the Inspector General could not obtain documentary evidence relevant to any inspection, audit, or investigation due to his lack of authority to subpoena such information; and

"(vi) such recommendations as he may wish to make concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Central Intelligence Agency, and to detect fraud and abuse in such programs and operations.

"(2) The Inspector General shall report immediately to the Director of Central Intelligence whenever he becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations. The Director shall transmit such report to the intelligence committees within seven calendar days, together with any comments he may deem appropriate.

"(3) In the event that—

"(i) the Inspector General is unable to resolve any differences with the Director of Central Intelligence affecting the execution of his duties or responsibilities;

"(ii) an investigation, inspection, or audit carried out by the Inspector General should focus upon the Director or Acting Director; or

"(iii) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation,

the Inspector General shall immediately report such matter to the intelligence committees.

"(e) AUTHORITIES OF THE INSPECTOR GENERAL.—

"(1) The Inspector General shall have direct and prompt access to the Director, when necessary for any purpose pertaining to the performance of his duties.

"(2) The Inspector General shall have access to any employee or any employee of a contractor of the Central Intelligence Agency whose testimony is needed for the performance of his duties. In addition, he shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section. Failure on the part of any employee or contractor to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, to include loss of employment or the termination of an existing contractual relationship.

"(3) The Inspector General is authorized to receive and investigate complaints or information from an employee of the Central Intelligence Agency concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received—

"(i) The Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation; and

"(ii) No action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee of the Central Intelligence Agency in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

"(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of his duties, which oath affirmation, or affidavit when administered or taken by or before an employee of the Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal.

"(5) The Inspector General shall be provided with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

"(6) Subject to applicable law and the policies of the Director of Central Intelligence, the Inspector General shall select, appoint and employ such officers and employees as may be necessary to carry out his functions. In making such selections, the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable him to carry out his duties effectively. In this regard, it is the sense of Congress that the Inspector General should create within his organization a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of his duties.

"(7) With the concurrence of the Director of Central Intelligence, the Inspector General may request such information or assistance as may be necessary for carrying out his duties and responsibilities from any federal agency. Upon request of the Inspector General for such information or assistance, the head of the federal agency involved, shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the federal agency concerned, furnish to the Inspector General, or to an authorized designee, such information or assistance.

"(f) SEPARATE BUDGET ACCOUNT.—Beginning with fiscal year 1991, and in accordance with procedures to be issued by the Director of Central Intelligence in consultation with the intelligence committees, the Director of Central Intelligence shall include in the National Foreign Intelligence Program budget a separate account for the Office of Inspector General established pursuant to this section.

"(g) TRANSFER.—There shall be transferred to the Office of Inspector General of the Central Intelligence Agency, the office of that agency referred to as the 'Office of Inspector General'. The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorization, allocations, and other funds employed, held, used, arising from, or available to such 'Office of Inspector General' are hereby transferred to the Office of Inspector General established pursuant to this section.

TITLE IX—INTELLIGENCE OVERSIGHT

"SEC. 901. Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is hereby repealed.

"SEC. 902. Section 501 of title V of the National Security Act of 1947 (50 U.S.C. 413) is amended by striking the language contained therein, and substituting the following new sections:

"GENERAL PROVISIONS

"SEC. 501. (a) The President shall ensure that the Select Committee on Intelligence of the Senate and the Permanent Select Committee of the House of Representatives (hereinafter in this title referred to as the 'intelligence committees') are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activities, as required by this title: Provided, however, That nothing contained in this title shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of such activities: And provided further, however, That nothing contained herein shall be construed as a limitation on the power of the President to initiate such activities in a manner consistent with his powers conferred by the Constitution.

"(b) The President shall ensure that any illegal intelligence activity is reported to the intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.

"(c) The President and the intelligence committees shall each establish procedures as may be necessary to carry out the provisions of this title.

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress under this title. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) As used in this section, the term 'intelligence activities' includes, but is not limited to, 'covert actions', as defined in subsection 503(e), below.

"REPORTING INTELLIGENCE ACTIVITIES OTHER THAN COVERT ACTIONS

"SEC. 502. To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—

"(a) keep the intelligence committees fully and currently informed of all intelligence activities, other than covert actions, as defined in subsection 503(e), below, which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and significant failures; and

"(b) furnish the intelligence committees any information or material concerning intelligence activities other than covert actions which is within their custody or control, and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"PRESIDENTIAL APPROVAL AND REPORTING COVERT ACTIONS

"SEC. 503. (a) The President may authorize the conduct of 'covert actions,' as defined herein below, by departments, agencies, or entities of the United States Government only when he determines such activities are necessary to support the foreign policy objectives of the United States and are important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

"(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than forty-eight hours after the decision is made;

"(2) A finding may not authorize or sanction covert actions, or any aspect of such activities, which have already occurred;

"(3) Each finding shall specify each and every department, agency, or entity of the United States Government authorized to fund or otherwise participate in any significant way in such activities: Provided, That any employee, contractor, or contract agent of a department, agency, or entity of the

United States Government other than the Central Intelligence Agency directed to participate in any way in a covert action shall be subject either to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency, or entity, to govern such participation;

"(4) Each finding shall specify whether it is contemplated that any third party which is not an element of, contractor or contract agent of, the United States Government, or is not otherwise subject to United States Government policies or regulations, will be used to fund or otherwise participate in any significant way in the covert action concerned, or be used to undertake the covert action concerned on behalf of the United States;

"(5) A finding may not authorize any action intended to influence United States political processes, public opinion, policies or media; and

"(6) a finding may not authorize any action which violates the Constitution of the United States or any statutes of the United States.

"(b) To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods, or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in a covert action shall—

"(1) keep the intelligence committees fully and currently informed of all covert actions which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including significant failures; and

"(2) furnish to the intelligence community any information or material concerning covert actions which is in the possession, custody or control of any department, agency, or entity of the United States Government and which is requested by either of the intelligence communities in order to carry out its authorized responsibilities.

"(c)(1) Except as provided by subsections (2) and (3) below, the President shall ensure that any finding approved, or determination made, pursuant to subsection (a), above, shall be reported to the intelligence committees prior to the initiation of the activities authorized.

"(2) On rare occasions when time is of the essence, the President may direct that covert actions be initiated prior to reporting such actions to the intelligence committees. On such occasions, the President shall fully inform the intelligence committees in a timely fashion and shall provide a statement of the reasons for not giving prior notice.

"(3) When the President determines it is essential to meet extraordinary circumstances affecting vital interests of the United States, the President may limit the reporting of findings or determinations pursuant to subsections (1) and (2) of this section, to the chairmen and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate. In such case, the President shall provide a statement of the reasons for limiting access to such findings or determinations in accordance with this subsection.

"(4) In all cases reported pursuant to subsections (c)(1), (c)(2), and (c)(3), above, a copy of the finding, signed by the President, shall be provided to the chairman of each intelligence committee.

"(d) The President shall ensure that the intelligence committees, or, if applicable, the Members of Congress specified in subsection (c)(3), above, are notified of any significant change in a previously-approved covert action, or any significant undertaking pursuant to a previously-approved finding, in the same manner as findings are reported pursuant to subsection (c), above.

"(e) As used in this section, the term 'covert action' means an activity or activities conducted by an element of the United States Government to influence political, economic, or military conditions abroad so that the role of the United States Government is not intended to be apparent or acknowledged publicly, but does not include—

"(1) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of the United States Government programs, or administrative activities;

"(2) traditional diplomatic or military activities or routine support to such activities;

"(3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

"(4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.".

SEC. 903. Section 502 of title V of the National Security Act of 1947 (50 U.S.C. 414) is redesignated as section 504 of such Act, and is amended by deleting the number "501" in subsection (a)(2) of such section and substituting in lieu thereof "503"; and is further amended by adding the following new subsection (d):

"(d) No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government, may be expended, or may be directed to be expended, for any covert action, as defined in subsection 503(e), above, unless and until a Presidential finding required by subsection 503(a), above, has been signed or otherwise issued in accordance with that subsection.".

SEC. 904. Section 503 of title V of the National Security Act of 1947 (50 U.S.C. 415) is redesignated as section 505 of such Act.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, in a moment I will make a request in relationship to consideration of this legislation dealing with the application of the Budget Act. We have advised the Budget Committee of this request and it is my understanding that they pose no objections to it.

This waiver is necessitated by section 403 of the bill, which, in effect, provides that the death and disability benefits for CIA employees who are killed or disabled in the course of official duties overseas are calculated at the same rate, regardless of the particular retirement program in which the employee is enrolled.

The CIA reports that only one or two employees are expected to be affected by this provision, resulted in an estimated annual cost to the government of only $10,000 per year.

In view of this negligible cost involved with this provision, and the desirability of treating all CIA employees similarly in such circumstance, the committee feels this additional entitlement is justified and a waiver of possible points of order under the Budget Act is appropriate.

So, Mr. President, at this time, I ask unanimous consent that in regard to the consideration of this bill, the Intelligence Authorization Act for fiscal years 1990 and 1991, that any points of order under the Budget Act be waived, as they might apply to title IV of the bill as reported by the Select Committee on Intelligence.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BOREN. Mr. President, it is an honor for me to present to the Senate the intelligence authorization bill for fiscal years 1990 and 1991. This is indeed the 13th consecutive year, dating back to the creation of the Senate Select Committee on Intelligence in 1976 that the Senate has had the opportunity to consider an intelligence authorization bill.

Joining me in offering this bill is the distinguished Senator from Maine, the vice chairman of the Intelligence Committee. This is Senator COHEN's next-to-the-last-year of service on the Intelligence Committee and I can think of no one who has made a greater contribution to the work of the committee than he has made. He has become extremely knowledgeable in this area during his 7 years of service on the committee and his insights and judgments have enormously benefited all of us on the committee and have been of great benefit to our country. It has been a privilege for me to work with him to fashion what I believe are sensible bipartisan policies and programs in this critical area of national security.

In addition to Senator Cohen, I also specifically want to thank those Members of the Intelligence Committee who also serve on the Armed Services Committee—Senator NUNN, the distinguished chairman of that committee, Senator WARNER, the ranking member, and Senator GLENN. Without the interests, contribution and support of these crossover Members, the Intelligence Committee's work would be undoubtedly much more difficult and much less successful.

I should also note that the work of the Strategic Forces and Nuclear Deterrence Subcommittee of the Armed Services Committee makes an important contribution to the review of U.S. intelligence activities. As such, I thank Senators EXON and THURMOND, the chairman and ranking member of that

subcommittee, for their careful review and continuing support of our efforts.

Mr. President, because of the sensitivity of the matters dealt with in the intelligence authorization bill, I cannot discuss some of the details in open session. However, the committee's recommendations on these matters have been set forth in the classified supplement to the committee's report on S. 1324 which has been available to Members under the provision of Senate Resolution 400 since early September.

U.S. intelligence is clearly in a period of transition. The late 1970's and early 1980's saw dramatic growth in virtually every aspect of the intelligence budget, and we continue to see improvements in our capabilities as the systems and activities supported by past investment come on line. These improved capabilities were designed to meet the intelligence requirements of the 1980's and, as a result of this growth, I believe that U.S. intelligence is stronger today than it was 10 years ago. Obviously, it is important that these capabilities be maintained and we continue to try to strengthen them.

The budgets we are working on today represent the first ones that will be executed in the decade of the 1990's and, like the budgets of the early 1980's, will determine how well U.S. intelligence will be able to do its job in the latter part of this decade. It is clear, however, that with the budgetary environment today, we are dealing with a situation that is markedly different than it was 10 years ago. Resources are more scarce and the Department of Defense cannot be as generous in allocating funds for those new or improved intelligence programs deemed necessary by intelligence program managers. As such, there is an intense competition for resources between those intelligence activities and initiatives aimed at meeting present needs and those aimed at meeting future needs. The choices to be made are difficult ones and very important ones.

Given this situation and understanding that the budgetary picture is probably going to get worse before it gets better, the committee conducted its review consistent with the following broad framework: First, we took into account the tough budget environment. While we continue to believe that national intelligence activities should be assigned a very high priority in the allocation of our national security resources, we also recognized that savings, wherever possible, in intelligence programs should be desirable and should be undertaken.

Second, we wanted to protect our current intelligence capabilities. Specifically, we wanted to assure adequate support of what we considered to be the core intelligence activities; that is, those activities that clearly are central to the performance of the intelligence mission. We define this category broadly so as to include all types of collection, processing and analysis, as well as counterintelligence and security activities.

I think we have been successful in this goal. None of the potential changes in the budget that we recommend would harm our current capabilities. On the contrary, while I cannot go into detail, I can say that we have moved to correct deficiencies we found in the budget request in this regard, including improvements in our human resource capability in key areas.

Our third goal was to assure adequate investment for the future. We reviewed all intelligence programs against future requirements to ensure that important initiatives to address future threats were properly funded. We have recommended accelerating certain initiatives aimed at improving our national technical means capabilities for arms control monitoring and weapons assessments. We have also funded a number of initiatives aimed at improving our capability to monitor nuclear developments in a peaceful nuclear explosion treaty and threshold test ban treaty environment, and thanks to an amendment by Senator WARNER, the committee has directed the intelligence community to identify new collection and analytical initiatives to help monitor Soviet compliance with a conventional forces arms agreement, as might be expected in the foreseeable future.

Our fourth goal was to look for ways of making intelligence operations more effective with an eye toward achieving savings. In this regard, we have addressed certain organizational, intelligence processing, and personnel issues, which will lead, in our judgment to more cost effective intelligence operations in the future. Further, we took a hard look at management and administrative costs for potential savings and here too we were successful in identifying prudent areas in which savings could be made.

In conducting the review in this fashion, it should not be implied that we were dissatisfied with the overall quality of the budgets submitted to us by the administration. I have the utmost confidence in our Nation's intelligence leadership and recognize that they must cope with budgetary and other difficult decisions every day. The budget requests submitted to us by the Director of Central Intelligence, the various intelligence managers in the Department of Defense, and the other departments were sound. In the end, they earned the strong support of both the Intelligence and Armed Services Committees for the overwhelming majority of their budgetary recommendations.

The authorization bill we are considering today is the principal means by which the committee and the Senate annually establish policies and set priorities for the U.S. intelligence community. As usual, it represents the product of long hours of closed hearings and meetings, and of the review of thousands of pages of highly classified documentation. This year's bill comes to the floor by a somewhat different route, however, than previous authorization bills. The committee reported out this bill initially as an original bill on July 15, 1989, and it was sequentially referred to the committees on Armed Services, Judiciary, and Foreign Relations under the provisions of Senate Resolution 400. During the period of sequential referral, there were additional developments which prompted the committee to ask unanimous consent that the bill be returned to it for consideration of additional amendments. This request was granted by the Senate on October 3, 1989.

The committee subsequently considered and approved two additional amendments to the bill, both of substantial consequence. The first is an amendment, originally offered by Senator SPECTER, to create an independent statutory inspector general for the Central Intelligence Agency. The second is an amendment, offered by Senator COHEN and myself, to add to the bill the noncontroversial portions of a bill reported by the committee 2 years ago, S. 1721, which was previously reported by the committee and approved by the Senate on March 15, 1988 by a vote of 71 to 19. These sections of the bill codify several extremely important procedures under which findings will be issued including such provisions as requiring findings to be in writing and not retroactive.

In addition, Senator COHEN proposed an amendment to require the President to notify the intelligence committees within 48 hours of his authorizing a covert action.

In recent days, Mr. President, the committee was able to reach a compromise with the Bush administration in terms of when covert actions will be reported to the intelligence committees. With this commitment, the 48-hour issue was removed as a source of controversy in the pending legislation.

I am going to ask Senator COHEN later to explain to you the nature and significance of this compromise but suffice it to say the committee believes this agreement should permit the Congress to enact noncontroversial but nonetheless important improvements in the congressional oversight process that was developed last year.

Before I turn to Senator COHEN let me return to the amendment to establish the independent inspector general at the CIA.

This amendment represents a modification of S. 199, introduced by Senator SPECTER earlier this year. S. 199 was virtually identical to another bill, S. 1818 introduced by Senator SPECTER during the 100th Congress. Responding in part to the report of the Iran-Contra committees which had recommended the creation of a statutory inspector general at the CIA, the Intelligence Committee held hearings on S. 1818 in 1988 but deferred any action on the bill largely on the basis of a request from Judge Webster, the Director of Central Intelligence who had only been in the position for 8 months at that time. He requested that he be given more time to implement actions to improve the performance of the existing Office of Inspector General.

Since that time the committee has continued to monitor the status of such actions as well as the activities of the office itself. The committee has in fact asked the DCI to institute inspector general inquires into several matters being investigated independently by the committee, giving us an independent basis to assess the performance of the inspector general's Office. While it is true that the committee has asked for and evaluated a relatively small percentage of the total number of reports produced by the CIA inspector general, we do not believe that review of additional reports would alter our overall perception. In general, we assess such performance as uneven. Some investitations and inspections appear to have been thorough and to have been arrived at through objective consideration and to have arrived at objective conclusions. Others have appeared otherwise. I hasten to add the committee does not attribute the shortcomings it perceives to the competence of individuals involved. The committee has ordinarily found them dilligent and earnest, and I would say honest and honorable. Rather, we believe the shortcomings can largely be the attributed to the institutional framework in which the inspector general at the CIA now operates. He is appointed by and reports to the Director and serves at the pleasure of the Director. He is part of the management team at the Agency. Much of his staff is comprised of CIA employees who rotate into the office for a year or two and then are rotated back into the other jobs within the Agency.

While clearly it is important that the inspector general's staff have Agency experience, the committee does not believe that the current structure promotes thorough and objective investigations and inspections.

It is simply very difficult for someone serving a short-term stint in the inspector general's office seeking promotion in the regular course of Agency professional development and other career work within the Agency to have the same kind of approach to these investigative matters as would be the case with a core staff of professionals who are really following a career path within the inspector general service.

We also cannot ignore the experience of other departments and agencies which now have inspector general under the Inspector General Act of 1978. All Cabinet-level departments and agencies in fact including those with responsibility in the national security area have statutory inspector generals except for the CIA. Their experience seems to have been that the status of the inspector general was enhanced and the performance of these offices improved by such legislation.

That is not to say the CIA is like other departments and agencies. It is not. It has a unique and highly sensitive mission, and its Director has unque and extraordinary authorities under the law. Its employees must meet extraordinarily high standards both for security and suitability. By and large, they are unusually capable and devoted Government employees literally willing to risk life and limb for their country and to work under very difficult conditions.

Mr. President, I would simply add that by the very nature of the work of the Agency, many successes are never known to the American people and many sacrifices and risks of life that are made to serve the national security interests of this country will never be made public. I have never worked with a more extraordinarily capable and dedicated group of individuals. They deserve great credit.

We all have great confidence in the integrity, the honesty, and character of the current Director of the Central Intelligence Agency as well as those who serve immediately with him. And this legislation creating a statutory inspector general at the CIA should not be taken as a reflection on either the Director or any of the employees of the Agency.

We are not recommending this initiative because we have evidence that there are problems with CIA personnel that need to be rooted out. These are hard-working, dedicated people of integrity and judgment, as I have said, making a very significant contribution to the Nation's security. With any department or agency, however, there may occasionally be bad apples. This has historically been a rare exception.

The committee favors creation of an independent inspector general not because we sense there is some wrongdoing waiting to be uncovered out there but, rather, because we see it as an important functional area of the Agency's operation that can and should be improved and strengthened. In the end, we believe it will strengthen the Agency and well serve its Director, providing even greater assurance that applicable laws and policies are being followed.

I know some members of the committee are concerned we not place too heavy a burden on CIA employees, that we not so overload the system with inspectors, lawyers, and accountants that we discourage initiative and risktaking. I share that concern. But I do not believe that creating an Office of Inspector General should or will have this effect. We are talking about ensuring compliance with the law and ensuring compliance with applicable policy in the orders of the President. How can an inspector general discourage innovative and creative operations if they are permitted by law and policy? And if they are not permitted by law or policy, we certainly do not want them in the first place.

Thus, with all due respect to those who genuinely share this concern, I do not find it a pervasive reason to reject this proposal.

Mr. President, I think we have produced a sound proposal that prudently takes account of the unique mission and authorities of the Central Intelligence Agency in creating this statutory Office of Inspector General. We could not simply place the CIA under the Inspector General Act of 1978. It would not fit into this framework. We have, however, crafted a bill that adapts those provisions in the Inspector General Act which can be applied to the CIA, consistent with its existing statutory authorities. We believe it will work.

For example, the Director has the final right to decide whether the inspector general may use the services of other Government agencies and contractors under this bill. The Director may also order the cessation of an investigation or limit its scope for national security reasons, provided that the intelligence committees are advised of the Director's actions.

Before relinquishing the floor to my distinguished colleagues and vice chairman, let me take one moment also to acknowledge Senator SPECTER's unique contribution as the sponsor and prime mover of the inspector general amendment. He recognized this need, and he has persistently and persuasively advocated this change within the committee, eventually bringing a substantial majority to his position. He has also been sensitive to the uniqueness of the Central Intelligence Agency and changes in the system that needed to be made to make this bill applicable to the special circumstances.

I wish to acknowledge the significant contribution made to this effort by Senator GLENN as both a member of the committee and the distinguished chairman of the Governmental Affairs Committee. The Governmental Affairs Committee is, of

course, the committee of primary jurisdiction over the Inspector General Act of 1978. With the fortunate circumstance of having Senator GLENN on the Intelligence Committee and also chairing that very important Committee on Governmental Affairs, we were able to ensure that the concerns of that distinguished committee were addressed, and I believe adequately resolved in our action on the bill. We appreciate the tremendous amount of input that we had from the members of the Governmental Affairs Committee and the members of their staffs as well.

Before I close, Mr. President, let me also summarize the other unclassified provisions of the bill before us.

Title I, indeed, authorizes appropriations for U.S. intelligence activities for fiscal years 1990 and 1991. It also incorporates authorized personnel ceilings for U.S. intelligence agencies for these years.

Title II authorizes appropriations and establishes personnel ceilings for the intelligence community staff for fiscal years 1990 and 1991, the staff which supports the DCI in the execution of his functions as head of the U.S. intelligence community.

Title III authorizes appropriations for the CIA retirement and disability fund for fiscal years 1990 and 1991.

Title IV contains three provisions making adjustments in certain administrative authorities granted the CIA.

Title V contains several provisions relating to the intelligence activities of the Department of Defense, including a 1-year extension of the authority enacted last yeart to pay increased death benefits to defense attachés killed in the line of duty.

Title VI of the bill contains three provisions pertaining to the counterintelligence authorities of the FBI. One of these is particularly significant and that is a provision which makes the FBI responsible for the conduct of all espionage investigations at U.S. diplomatic establishments overseas. The committee has been concerned that in such situations, there has been no U.S. agency expressly in charge. It makes sense to us that we have the FBI, the premier Federal agency in the counterintelligence area, placed in charge of such cases. While we do not intend that the personnel, resources, and authorities of other Federal agencies not be utilized where appropriate in such cases, we believe it will impove the effectiveness of such investigations to place them under FBI supervision.

Title VII of the bill authorizes increases in employee compensation and benefits as may otherwise be authorized by law.

In conclusion, Mr. President, let me simply acknowledge the contributions of all of the members of the committee, as well as our very competent and dedicated staff, to the development of this legislation.

It was a cooperative, productive, and bipartisan effort of which the committee and the Senate, as a whole, can be proud. I urge the adoption of the legislation that is now before us.

Mr. President, I now relinquish the floor so that my colleague, the distinguished vice chairman, for whom I have such admiration, can now make his opening remarks.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, first let me thank my good friend and colleague from Oklahoma. It is customary that we exchange flatteries on the Senate floor. I recall last year I got up and praised the chairman, and I said, "On no other committee can I recall that I have had such cooperation, such a consensus, and such a fine individual to work with as Senator BOREN." Of course, I failed to look out of the corner of my eye. Senator NUNN, the Senator from Georgia was there, and I serve on the Armed Services Committee with Senator NUNN. He pointed out that he had a similar track record, of course, of cooperation, consensus building, and indeed working in a bipartisan fashion to forge a consensus on defense policy, as well as foreign policy. So with that caveat, let me say once again how pleased and proud I am to have served with Senator BOREN, who indeed does try his level best to build a well-considered, bipartisan, common ground among our membership. He truly has been impressive in terms of not only the way he conducts the meetings but in the product we manage to produce.

Senator BOREN has highlighted some of the key provisions of our intelligence authorization bill. I wish to focus on one key provision. That has to do with the notice of covert actions. Last year we passed a measure in this Chamber, S. 1721, which mandated a notification of covert actions—prior notification where possible; but in the event that there could not be prior notification, the measure permitted subsequent notification within 48 hours.

That measure passed by a vote of 71 to 19. There was overwhelming support for that provision. That measure stemmed from the controversy that arose during the Iran-Contra investigation. But the issue goes back to 1980, when Congress amended the National Security Act, specifically section 501(b), to provide that the President must give prior notice of covert actions. In the event that some exigency prevented prior notice, however, he was required to provide notification in a timely fashion.

The phrase "timely fashion" was somewhat ambiguous—I must say deliberately so. But it was framed in order to give the President some flexibility so that in the event that time did not permit, he could delay notice for a few days. That was always the working understanding that the committees, the oversight committees on intelligence, had with the President of the United States.

That worked fine. We had no difficulty whatsoever. In fact, during the first 6 years—at least 5 years of the Reagan administration—there was not only timely notice, but actually prior notice. In virtually every case but one, possibly two, that I am aware of, we always had prior notice—except for that situation called the Iran-Contra scandal.

At that time, during the course of the Iran-Contra hearings, the Justice Department made a determination that the language contained in the 1980 amendments gave the President virtually unfettered discretion to withhold notice for a day, a week, a month, or even a year. They concluded that this was the President's prerogative, and further, that it was recognized as such under the 1980 statute.

We simply could not accept that. That is an intolerable interpretation of what was intended by the 1980 amendments. During that time, there was a colloquy between Senator Javits and Senator Huddleston, in terms of what Congress was seeking to do. Basically, Senator Javits indicated that a President may assert a constitutional power to withhold prior notice. Congress might not agree with it, but he recognized that the President might assert that. But he also indicated during that colloquy, during that debate on the amendment itself, that timely notice meant that the President did not have unfettered discretion.

That is correct, we did not recognize a constitutional power in the President to withhold notice indefinitely or even beyond a few days.

Congress cannot change the President's constitutional authorities. We cannot give him power he does not have. We cannot take away constitutional power he does have. Senator Javits said, "But we are leaving that dispute for another day, specifically reserving both of our positions on this issue, and nothing in this statute should be interpreted as a change in that situation."

Well, we did reserve the dispute for another day. The dispute occurred during the Iran-Contra investigation. That was the constitutional confrontation, as such. In view of the Justice Department's interpretation that timely notification meant whenever the President wants to give notification, the Iran-Contra Investigating Committee recommended a specific, strict 48-hour rule; prior notice in almost all cases, but definitely within 48 hours after the signing of a finding.

Well, Mr. President, I did not reintroduce that legislation this year. It was passed in the Senate; it was not even taken up in the other House last year, due to a number of difficulties the Speaker of the House encountered at that time.

I believe we have the votes to pass a 48-hour notice provision this year. I do not know what the other Chamber would do with that particular measure, but assuming it would pass there, it is clear that the President is going to veto the measure. I do not believe that we have sufficient votes to override a veto. I decided early in this administration that I would work with the White House to try and find an acceptable compromise, something that would return us to an atmosphere of comity and cooperation, giving some flexibility to the President, but recognizing that Congress has a constitutional authority of its own and constitutional responsibilities of its own.

What we decided was the following, Mr. President: After months of negotiation, President Bush sent a letter to Senator BOREN outlining the nature of the controversy that we have encountered over section 510(b), in which he cites the Justice Department's interpretation that a number of factors combine to support the conclusion that timely fashion language should be read to leave the President with unfettered discretion to decide the right moment to provide notification. The President cites that opinion in his letter, dated October 30, 1989, to Senator BOREN.

The key paragraph is the following. He said in essence, notwithstanding what I have just said:

> I intend to provide notice in a fashion sensitive to congressional concerns. The statute requires prior notice or, when no prior notice is given, timely notice. I anticipate that in almost all instances, prior notice will be possible. In those rare instances where prior notice is not provided, I anticipate that notice will be provided within a few days. Any withholding beyond this period would be based upon my assertion of the authorities granted this office by the Constitution.

That may seem to be of minor significance to some Members. Let me suggest to my colleagues that it is of major importance to our committee, because the President has gone on record saying that notwithstanding the Justice Department's prior interpretation of section 501(b)—it is going to be his practice to give prior notice in virtually all cases; and in those rare cases where he does not give prior notice, he will provide subsequent notification within a few days. If he is going to defer notice beyond that period of time, it will have to be not by virtue of any power granted him through the 1970 statute or through any implicit authority we gave him to defer notice indefinitely, but rather through his assertion of constitutional power.

Where does that leave us? Precisely where we were in 1980, when Senator Javits recognized there is always going to be a constitutional tug of war. The President believes he has constitutional power that we believe he does not have. That will have to be fought out at a future time, much as we had the Iran-Contra investigation and fought that issue out at that time.

I think it is important to recognize that any President, this President, any future President, who chooses to defer notice beyond a few days does so at his peril. He does so at his peril because, No. 1, it will certainly undermine the confidence that is necessary for the Executive to function effectively with the congressional oversight committees; No. 2, he certainly runs a risk of having another investigation such as we had with the Iran-Contra affair, threatening to virtually unravel the Presidency depending on the nature of the covert activity; and, indeed, on a third point, he runs the risk, or she runs the risk, depending on who is President at that time, of incurring further restrictions on covert actions.

So I think this is an acceptable compromise, it achieves what I was seeking to achieve, that is, to return us to the working relationship the President had with the oversight committees going back to 1980.

There is an amendment I will offer, after several of my colleagues who wish to speak, that will make a minor change in the amendment itself. It is a technical amendment, so I will not take the time right now. I have two more points, however, that I would like the make rather quickly.

I really cannot leave this discussion without a reference to the reason the President asserts that there are circumstances which he might encounter that would require him to defer notice for a length of time. One case cited has been the Canadian Government assistance in the escape of hostages from Tehran. That is always cited as the reason why the President might want to withhold notice, because the Canadians allegedly said, "If you notify Congress, we will not work with you."

I have tried to find out where that story came from, and, frankly, I cannot find any documented evidence to support the assertion that the Canadian Government insisted that the President not notify Congress that they were assisting us in a covert activity.

Because of the importance of this matter, we went back and looked at the debates during the passage of the amendment in 1980 and found no reference to any assertion that the Canadian Government had insisted upon such a withholding of notice. The Senate Intelligence Committee had two public hearings within a month of the time the escape was made public in January 1980: One in which the Director of Central Intelligence testified and one in which the Director of Operations testified. And the principal focus of the hearing was to find out why notice was not given to the oversight committees. No mention was made at that time of the Canadian Government making any request, either to the CIA, the State Department, or the President, that Congress not be advised. We are told that the House Intelligence Committee also is lacking in such documentation. But in the absence of documentation, we went back further on our own. We went to Cyrus Vance, who was Secretary of State at that time, and presumably would have known of such a request by the Canadian Government. He has indicated that he is not aware of any request by the Canadian Government to withhold notice to Congress. We also contacted Adm. Stansfield Turner, who was Director of Central Intelligence at that time. He also had no recollection of such a request from the Canadian Government, and the same was true of the then Deputy Director of the CIA, John McMahon. We then turned to the current Director Judge Webster, and also to the former Secretary of Defense, Secretary Carlucci. We asked them to locate any documentary evidence that they had that a request had been made. Again, there were no documents in any file indicating that the Canadian Government had ever made such a request. Both Mr. Webster and Mr. Carlucci advised us that an oral request may have been made at a lower level with CIA officials during a meeting back in 1979 in CIA headquarters, and the CIA identified four employees who recalled such a meeting. Two of them remembered a verbal request, two did not remember any such request. But what is clear is that apparently no formal request was ever made to the heads of our Government, not to the CIA Director, not to the Secretary of State, and apparently not to the President of the United States.

So, Mr. President, the allegation that somehow the Canadian Government had intruded upon our constitutional process is not borne out by the record.

It may be that President Carter, because lives were at stake, decided that since there were eight committees that he had to report to at that time, he should withhold notice. But the law has been changed. We do not have eight committees now. We have two committees, one in the House and one in the Senate. And as a matter of fact, notice can be limited to the big eight or perhaps only the House leadership and the Senate leadership. But I think it is important to point out that the

rationale that is frequently offered for withholding notification to the congressional oversight committees is found lacking.

One final point, Mr. President. We spend a lot of time talking about intelligence capabilities, including the technologies involved, and we devote a considerable amount of time to discussions of covert action—but not nearly enough time is devoted to the subject of counterintelligence.

The committee report in this bill reflects some of our efforts to assess the security of our diplomatic establishments. Over the last year we made a broad, comprehensive review of counterintelligence and security programs. We intend to issue a public report of our findings in the very near future. Let me say that, notwithstanding this breakout of glasnost and democratic reforms that is spreading across Europe, it is important that we not lose sight of the fact that these countries place a high premium on obtaining information about the United States' intentions and capabilities. Espionage has not abated in this country. The United States is still a target and indeed, with the lowering barriers of immigration and the burgeoning of contacts at both the governmental and private levels, the present environment is very conducive to espionage. While we are welcoming improved relationships, we have to be sure that our counterintelligence and security capabilities remain strong. I must tell you I am seriously concerned about the insufficient attention given to FBI resources in particular and the Bureau's ability to cope with a vastly changing landscape. The budget request made by the FBI does not appear to be adequate to meet the need. After the FBI counterintelligence budget is folded into the overall FBI budget, and after the FBI budget is folded into the Justice Department budget, and Justice Department budget is folded into the President's budget, the amount of money reserved for counterintelligence is meager indeed. I am going to ask the committee to carefully review this situation in the coming year. If we find a great disparity in terms of money requested in the President's budget and our counterintelligence needs, I am going to be inclined to recommend that the Congress add funding at its own initiative.

Mr. President, let me conclude my remarks with the simple recommendation to my colleagues that they support this legislation. It has received the broad bipartisan approval of the committee and merits the support of our colleagues.

Mr. President, I ask unanimous consent that the full text of the President's letter to the committee be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 30, 1989.

HON. DAVID L. BOREN,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR SENATOR BOREN: The purpose of this letter is to state how I intend to provide notice to Congress of covert action under section 501 of the National Security Act of 1947, as amended. On December 17, 1986, the Assistant Attorney General, Office of Legal Counsel, provided the then Attorney General with an opinion as to the meaning as a matter of law of section 501(b) of the National Security Act. That provision requires the President to "fully inform the intelligence committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given. . . ." The opinion, at page 24, stated that "a number of factors combine to support the conclusion that the 'timely fashion' language should be read to leave the President with virtually unfettered discretion to choose the right moment for making the required notification."

I intend to provide notice in a fashion sensitive to congressional concerns. The statute requires prior notice or, when no prior notice is given, timely notice. I anticipate that in almost all instances, prior notice will be possible. In those rare instances where prior notice is not provided, I anticipate that notice will be provided within a few days. Any withholding beyond this period would be based upon my assertion of the authorities granted this office by the Constitution.

I am sending a similar letter to Senator Cohen.

Sincerely,

GEORGE BUSH.

Mr. WARNER. Mr. President, I rise today to support the provision in the intelligence authorization bill to create an independent inspector general at the Central Intelligence Agency. In my view, this provision would improve the mechanism within the CIA for insuring adequate oversight of intelligence programs. It elevates the authority of the office of inspector general within the agency; it enhances the office's independence; and it strengthens the office's auditing capabilities. The result, in my view, will be a more objective and effective inspector general.

Here, I might add, the Department of Defense has considerable responsibilities in the field of intelligence and has accepted a comparable structure with an inspector general.

Mr. President, in urging my colleagues to support this provision, I emphasize that the CIA Inspector General Act of 1989 is a prudent and considered piece of legislation. I stress the word "considered," because, since the mid-1970's, Congress has periodically studied the operations of the CIA's inspector general, and has repeatedly expressed concerns about its independence, capabilities, and effectiveness. Moreover, within the last 2 years, the Intelligence Committee has renewed its interest in the performance of the CIA's inspector general, and has held three sets of public hearings. It has also held innumerable discussions with leading experts, both in and out of Government, who have had experience with inspector general audits of sensitive national security programs. Members of the committee have discussed the issue at great length both with the DCI and among ourselves. As a result of these deliberations—both past and present—our committee has concluded that we need a stronger, more independent inspector general at the CIA.

I also mentioned that the act is "prudent." Crafted over the course of 2 years of careful deliberations, it recognizes the sensitive nature of CIA operations. Thus, while some of the authorities of the CIA inspector general are similar to those of other inspector generals, others are somewhat different. The act contains the following major provisions:

The inspector general will be independent—appointed by the President and confirmed by the Senate;

The inspector general will be under the general supervision of the DCI, but only the President can remove him from office;

The inspector general will be given the necessary operating powers—access to CIA facilities, power to administer oaths, imposition of GAO audit standards, ability to select staff, and ability to determine audits;

Unlike most other inspector generals, the DCI may prohibit the CIA inpector general from conducting an investigation on national security grounds, but the DCI must then report such a decision to the intelligence committees. This is an appropriate limitation on this inspector general's authority and is very similar to the ability of the Secretary of Defense to prohibit DOD inspector general investigations on national security grounds, with reports to appropriate congressional committees.

And finally, in order to address the civil liberty concerns associated with an intelligence agency investigating domestic activities, the CIA inspector general will have no subpoena power. However, the legislation makes clear that failure to cooperate with an inspector general investigation can be grounds for termination of employment or contract.

Mr. President, as the ranking member on the Senate Armed Services Committee, I believe that no discussion of the issue of an independent inspector general for the CIA is complete without reference to the performance of the inspector general at the Department of Defense. I say this because the same arguments used to

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oppose an independent inspector general at CIA were used to oppose an independent inspector general at DOD—particularly the argument that certain DOD programs were too sensitive to be audited by an inspector general. Yet, despite the concerns raised, the performance of the DOD inspector general has been universally acclaimed. Information from Defense Department testimony given this past year to Congress has indicated that since its creation in 1982—just 7 years ago—the DOD inspector general resulted in 4,200 management improvements within program offices. This has led to an estimated savings of $9.5 billion. Moreover, its work has led to nearly 1,500 indictments and over 1,100 convictions, with monetary recoveries of nearly $685 million. According to the Defense Department, all of this has been done with no additional security problems for the department. In fact, DOD officials have noted that improved management practices resulting from such inspections have resulted in tightened physical and personnel security procedures in various programs, an outcome that few of us foresaw at the time we debated the DOD inspector general.

Mr. President, before finishing my remarks, I should like to note that the CIA Inspector General Act was reported out of committee by an 11-to-4 vote—a testimony to its strong bipartisan support. I commend Senator SPECTER for proposing this legislation, and Senator GLENN for the many fine suggestions his Governmental Affairs Committee staff offered to help strengthen the bill. As usual, Senator BOREN, our chairman, and Senator COHEN, our vice chairman, provided superb leadership in judiciously directing this important piece of legislation. We owe them all a debt of gratitude.

In concluding, Mr. President, I wish to state that I am a long time friend and supporter of the CIA. In the budget process, I have consistently worked to insure a strong U.S. intelligence capability. In short, I believe that intelligence is the foundation of an effective diplomatic and military policy. At the same time, those of us who oversee our intelligence community have a special responsibility to insure that our intelligence programs are run efficiently, legally, and responsibly. It is with this background of strong support for our intelligence agencies and sincere concern for good government that I support the CIA Inspector General Act. I believe that the provisions as currently crafted strike the proper balance between inadequate oversight and excessive oversight, between the inspector general's need-to-know and the need for security. In the long run, the net effect of this legislation will be to increase the confidence that Congress and the American people have in our intelligence operations.

Mr. BYRD. Mr. President, I want to compliment the chairman of the Intelligence Committee, the distinguished Senator from Oklahoma [Mr. BOREN] and the vice chairman of the committee, the distinguished Senator from Maine [Mr. COHEN] for bringing before the Senate this authorization measure. In particular, I wish to congratulate the committee for creating a statutory independent inspector general at the Central Intelligence Agency. This provision will make a vital contribution to the integrity of the Agency and help ensure the appropriate oversight role of the Congress, particularly in the wake of the Iran-Contra fiasco.

The CIA will become the 25th department or agency with an inspector general appointed by the President and confirmed by the Senate. This group already includes every cabinet department and every major executive agency, except the CIA. While the trend over the last decade has been toward more oversight throughout the Federal Government, the CIA has resisted, and Congress has been reluctant to push for, an independent inspector general. In some ways I can understand why there has been such a reluctance to create an independent watchdog to oversee these important programs; we all realize the extremely sensitive and sometimes dangerous nature of intelligence work. These considerations make it easy to frame this debate in terms of the need to protect sources and to avoid compromising covert foreign operations, but the secrecy surrounding these critical programs is exactly why such an office, within the organization of the CIA, with appropriate safeguards to assure both its independence and the security of the CIA itself, is absolutely necessary.

The current Director of Central Intelligence, Mr. Webster, has stated that an independent inspector general would be counterproductive because agency employees would be less candid with someone they saw as an arm of the Congress. The Director's arguments are not new. All 14 of the agencies covered by the Inspector General Act of 1978 originally opposed the concept of statutory inspectors general. Many of the officials at those agencies used the same argument as Mr. Webster, but once established the offices quickly gained acceptance as a valuable management tool for fighting waste and abuse. According to OMB, the inspector general offices have saved the American taxpayers over $100 billion since 1978. This pattern of opposition followed by acceptance has continued as agencies have been added to the act.

The Defense Department was particularly adamant in its opposition to an independent inspector general. But since its establishment in 1982, the DOD Office of the Inspector General has become a model, and has gained wide respect, both within and outside of DOD, for its integrity and independence. I was pleased to cosponsor Senator BENTSEN's amendment in 1982 which created the DOD Office of Inspector General. At the time we hoped to reap considerable benefits from such an office, and we have not been disappointed. Within a year of its inception, the DOD Inspector General's Office had uncovered major problems with the procurement of aircraft engine spare parts. The inspector general has continued to produce substantial savings and has played a key role in uncovering wrongdoing such as the Ill Wind procurement scandal.

Efforts to overhaul and reorganize the existing internal CIA Office of Inspector General have sputtered along for almost 15 years. In 1975 the Rockefeller Commission found that both the staff and the duties of the office were being cut back. The Commission called for strengthening the inspector general reporting requirements. A year later the House Select Committee on Intelligence, headed by Congressman Otis Pike, recommended establishing a powerful, independent inspector general, not only for the CIA, but with jurisdiction over the entire intelligence community. Also in 1976, the Senate Select Committee to Study Intelligence Activities, chaired by Senator Frank Church, found that the internal inspector general at the CIA had been denied access to information which was vital to conducting investigations, and had been blocked from uncovering possible illegal activities. The Committee called for mandatory notification of the Attorney General and the Congress anytime the inspector general suspected illegal activity. In 1987 the Iran-Contra Committee found that the CIA Inspector General did "not appear to have the manpower, resources, or tenacity to acquire key facts uncovered by other investigations." The National Security Reform Act of 1987, introduced by Senator SPECTOR, would have established an inspector general very similar to the one we are considering today.

Mr. President, we have examined this issue long enough. We do not need to wait for another crisis before we take action. From the revelations of the mid-1970's to the Iran-Contra scandal, we have seen too many instances of manipulation, abuse of the system, and even illegal activity for political gain. We must never return to the days when the CIA spied on U.S. citizens and published instructional manuals on assassination.

Mr. President, this legislation and my remarks are in no way meant as an accusation of the current administration or the current Director. Mr. Web-

ster has worked hard to accommodate congressional concerns about the inspector general's current operation. He has improved the inspector general's access to records and increased the responsibilities assigned to the Office. But Mr. Webster will not be the Director of Central Intelligence forever. Some future Director might not share his desire to have an effective inspector general. Furthermore, despite improvements, Mr. Webster has remained reluctant to provide the Intelligence Committees complete access to reports from the current inspector general. I have an article from the Washington Post, July 14, 1989 titled "CIA Chief Fights Congress on Access to Documents." The only way to insure continued effectiveness and proper congressisonal oversight is through this legislation creating an independent inspector general.

As the various commissions and committees discovered, it was during the periods of unscrupulous and illegal activities at the CIA that the internal inspector general was either weak and ineffective, or was blocked from uncovering suspect activities. When oversight was needed most, the internal inspector general was powerless. This legislation is an attempt to avoid any repeat of such a situation. I also think that once this office is created it should be included in the current effort to provide a separate appropriation for each of the inspectors general covered by the Inspector General Act. This would give an additional measure of independence to these offices. There have been examples in the past of agencies attempting to blunt the effectiveness of a new inspector general office by not providing adequate resources. Again, I in no way suggest that the current administration would take this approach, but separate funding would prevent any future attempt to circumvent the intent of this legislation by understaffing the inspector general office.

Opponents of this proposal have expressed concern about the security problems an independent inspector general could create. Although security obviously poses a special problem for an independent observer at the CIA, several other agencies in similar situations have successfully overcome this obstacle. Every other part of the national security establishment has an independent inspector general. That includes the Departments of Defense, Energy, Justice, State, and Treasury. Even the very sensitive activities of the National Security Agency are subject to review by the DOD inspector general and the General Accounting Office. Even with the provision before us, the CIA will remain exempt from GAO oversight.

To protect sensitive and classified programs, the Department heads at Defense, Justice, and Treasury are given the authority to restrict or halt an audit or investigation under special circumstances. The Inspector General Act allows such interference if it is necessary to preserve national security, protect U.S. national interests, or prevent the unauthorized disclosure of classified information. When the Secretary of Defense or Treasury, or the Attorney General, uses this power, Congress must be notified within 30 days. Similar procedures will be available to the Director of Central Intelligence, and will provide more than enough protection for sensitive operations.

Mr. President, only a truly independent inspector general with sufficient power to audit, inspect, investigate, and evaluate these important areas of national security can do this job. This person must be independent and therefore should be appointed by the President and confirmed by the Senate. The position must be created by law, not subject to administrative fiat. This person should be completely accountable to Congress and the people of the United States to insure that U.S. programs are executed properly and efficiently.

It is perhaps understandable that the CIA and its Director have not supported the creation of such an independent office. Perhaps it is human nature not to want an independent authority looking over your shoulder, but I believe the American people deserve to have such a powerful watchdog monitoring the execution of these critical programs.

Mr. CONRAD. Mr. President, I realize the Intelligence Committee negotiated this agreement with the President in good faith, but I do not believe it is enough. Unfortunately, under this agreement the President can basically do what he wants, and only afterward inform the Congress.

During the Iran-Contra affair we witnessed an administration that had little regard for the essence of democratic procedures. I refer to the idea that a popularly elected Congress is responsible for overseeing the conduct of the executive branch.

Three years ago, we saw national security operatives running a secretive, unsupervised foreign policy harmful to U.S. interests.

With good reason, we had openly promised that we would never negotiate with terrorists. And yet unknown to Congress the President's subordinates were selling weapons to Iran.

With good reason, Congress had shut off military aid to the Nicaraguan Contras. And yet high-level National Security employees were finding ways to evade the laws this Congress had enacted.

Now we have the President's promise that will give Congress timely notification, in most cases, prior to covert operations. Of course, in those rare cases where time is of the essence, he has discretionary authority to withhold notification until after the fact. And the President has reserved the option not to tell Congress, if he believes the Constitution so warrants.

Let me repeat—the President can claim it is his constitutional prerogative to withhold information from the elected representatives of the people.

I find nothing in the Constitution that says the President has this authority. Our country needs a strong, effective intelligence capability, but only within the proper system of checks and balances designed by the architects of our Constitution. The greatest threat to democracy is not undue restrictions on the conduct of covert operations; it is the insidious and dangerous justification of constitutionally questionable actions for reasons of national security.

In many case, I find nothing in the committee's agreement with the President that would prevent another Iran-Contra fiasco.

Last year the Senate passed S. 1721, requiring the President to notify Congress of all covert operations within 48 hours. I voted for that legislation, as did a majority of my fellow Senators. In fact, the vote was 71-19 in support of that bill. Now we are told a 48-hour reporting provision would result in a Presidential veto, a veto that would likely be sustained. So the alternative is to allow the President a free hand in covert operations, free from congressional interference.

Granted, the idea of an independent inspector general for the Central Intelligence Agency is a step in the right direction. But simply adding another level of bureaucracy to the CIA is not the answer. It does not get to the heart of the problem.

The answer, Mr. President, is to find the correct balance between Presidential authority in foreign policy and intelligence matters, and congressional oversight of those policies. I do not believe the legislation before us will improve accountability on the part of the administration, nor will it create more effective oversight on the part of Congress. For that reason, I plan to vote against S. 1324.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, it is necessary before we proceed with the consideration of further amendments to clarify the situation to make clear that the committee amendments which were adopted when we last reported the bill back to the committee be considered as original text for purposes of further amendment. I will ask unanimous consent at this time that the committee amendments be adopted en bloc and that the bill, as amended, be considered as original text for purposes of further amendment.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, despite the best efforts of a few Senators and a handful of dedicated executive branch officials, for a long time counterintelligence has been seriously neglected by most of the U.S. Government. That is why I have been trying for several years to do something to improve American counterintelligence.

Mr. President, the distinguished chairman of the Senate Select Committee on Intelligence supports my efforts to improve counterintelligence. Our distinguished colleague, Senator BOREN, has taken an important leadership role in this area himself.

Indeed, our distinguished colleague, Senator BOREN, has been one of the key leaders of the Senate and of the entire Congress in trying to improve counterintelligence, and the American people owe him a lot of credit for his efforts.

Senator BOREN has already in this new fiscal year 1990–91 intelligence authorization bill linked any increase in Soviet diplomatic representation in Washington to an interagency National Security Council decision. This would prevent the State Department from unilaterally bowing to Soviet political pressure to allow an increase in Soviet intelligence officers in the United States.

In addition, such an NSC decision would have to be linked to an increase in the resources of the Federal Bureau of Investigation to maintain counterintelligence surveillance of an increased number of Soviet diplomats.

After all, we know that at least one-third of all Soviet diplomats are KGB or GRU intelligence officers. Even a higher percentage are cooptees of Soviet intelligence services. Indeed, all Soviet citizens within the U.S.S.R. or abroad must be considered to be potential Soviet intelligence agents. This Boren initiative is an important addition to the bill.

Moreover, our distinguished colleague, Senator BOREN, and his committee, have given the Federal Bureau of Investigation a new role in counterintelligence operations abroad against American diplomatic personnel. These are all important new capabilities for improving American counterintelligence.

Nevertheless, despite these proposed valuable reforms, recent news reports increase my concerns about counterintelligence. But before I turn to current problems, there remain some old counterintelligence problems.

I am reminded that the former United States Ambassador to the Soviet Union, Mr. Arthur Hartman, sent back a cable from Moscow in 1987 after it was revealed in the press that the new United States Embassy building being constructed by the KGB for the United States in Moscow was riddled with KGB espionage devices and bugs. Mr. Hartman's cable also came at the time of the espionage scandal involving the United States Marine guards at the United States Moscow Embassy.

Mr. President, I think that it is important for us to remember the title of this highly classified State Department cable from Ambassador Hartman. The title of the Hartman cable, which title is unclassified, was: "Counterproductive Counterintelligence."

Mr. President, as one Senator, I certainly do not believe that counterintelligence is counterproductive. I do not believe that the Senate regards counterintelligence to be counterproductive. Indeed, I do not believe that the American people think that counterintelligence is counterproductive.

However, counterintelligence may seem to be counterproductive to Ambassador Hartman and to the rest of the elitist, accommodationist State Department, and counterproductive even to the equally elitist CIA, which is, of course, the operational arm of the State Department.

After all, I would remind my colleagues that in the late 1970's and early 1980's the State Department twice nominated a certain individual with severe counterintelligence prolems to be Ambassador to two countries.

But the State Department twice also failed to inform the Senate Committee on Foreign Relations that this individual had been seriously compromised by the Communist intelligence services in the Communist-bloc country to which he had previously been assigned as the U.S. Ambassador.

Because of our ignorance of the compromise by Communist-bloc intelligence services of this U.S. Ambassador, the Senate Committee on Foreign Relations voted twice to give its advice and consent to reconfirm this U.S. Ambassador.

Moreover, Mr. President, the full Senate also voted twice to reconfirm this U.S. Ambassador to be the American Ambassador to two other countries.

Mr. President, I would in summary emphasize that the State Department twice deliberately decided not to inform the Foreign Relations Committee or the full Senate that this U.S. Ambassador has been seriously compromised by the intelligence service of the Communist country to which he had previously been posted. It is reasonable to conclude that the State Department covered up this whole affair.

In fact, the Central Intelligence Agency also knew all about this Communist bloc intelligence service compromise of an American Ambassador, and the CIA also covered it up.

In sum, Mr. President, I would reemphasize that the full Senate voted twice to reconfirm an American Ambassador who was clearly subject to blackmail by the intelligence services of Communist powers, and who could easily have been working, unwittingly or wittingly, for Communist powers.

So the Senate was deceived by the executive branch twice on an important counterintelligence issue, and we did not even find out the truth about our credulity until the real facts were finally published in a book authored by a defector from the Communist-bloc intelligence service.

Mr. President, I believe that this important case is merely the tip of the iceberg of a severe American counterintelligence and security problem in our diplomatic community.

I am reliably informed that the CIA has knowledge that many other U.S. Ambassadors and diplomatic personnel have likewise been compromised by the intelligence services of Communist powers. But all of these other comparable compromises have been similarly covered up.

So we have a serious counterintelligence and security problem with our diplomatic personnel overseas.

Mr. President, subsequent to the Senate's unanimous approval of my 1986 counterintelligence improvement amendment to the intelligence authorization bill, there have been five more probable State Department and CIA espionage cases reported in the media. These reports on the five new Soviet mole cases suggest that the CIA and the State Department should have treated my original amendment more seriously.

Mr. President, I was therefore interested in some of the language in the Intelligence Committee's report on this bill that pertains to shortcomings in counterintelligence and security at our embassies abroad. Referring to the grave deficiencies in embassy security that have come to light in recent years, the Intelligence Committee concludes that those deficiencies have not been rectified, and the State Department has been derelict in failing to implement actions that are indispensable for the protection of U.S. diplomatic facilities. That is strong language.

Mr. President, I must agree; I have seen nothing that would make me quarrel with this language. We have had our Embassy typewriters bugged in Moscow; we've had the Marine Guard espionage cases; we've discovered that our new Embassy building in Moscow and our new consulate building in Leningrad have been thoroughly bugged; and, more recently, we've had the investigation of Felix Bloch who was a senior Foreign Service officer and the deputy chief of mission at our Embassy in Vienna, based upon in-

formation that he may have been working for Soviet-bloc intelligence.

Mr. President, there are a total of at least five new State Department and CIA espionage cases reported since my 1986 amendment.

It makes me wonder how many more Soviet spy scandals are out there in the State Department and the CIA that have not been uncovered, and why the State Department and the CIA are not doing more to address these counterintelligence problems.

I know that the Intelligence Committee has been actively involved in trying to improve American counterintelligence, and the Committee has also been doing an admirable job improving embassy security. I applaud these efforts. But I must ask the distinguished chairman, what more needs to be done to improve counterintelligence and Embassy security?

Mr. BOREN. Let me say that you are correct, the Intelligence Committee has been deeply concerned with what appears to us to have been very slow progress at the State Department and at the CIA in addressing what appear to be critical security problems.

To give you one glaring example, the Intelligence Committee was first notified in 1985 that bugging devices had been found in the new chancery building under construction in Moscow. In 1987, after our own review of the situation, the committee recommended that the structure be demolished to ground level, and that we start again. A year and a half later, after more studies, President Reagan reached the same conclusion. It has taken another year to get a decision out of the Bush administration about what to do with a shell of a building, where construction was halted 4 years ago. Why is this decision so difficult?

Senator HELMS is also correct that the Intelligence Committee has made counterintelligence and security problems at diplomatic establishments a focus of its oversight for the last several years. We will, in fact, be issuing a public report on counterintelligence later this year that describes much of our work.

In the meantime, you ask what can be done. I believe it is important for us to obtain the Secretary of State's own assessment of the threat to, and vulnerabilities of, U.S. diplomatic establishments, and that such assessments be supported by the U.S. intelligence community, which in some respects is able to provide a unique source of such information. Moreover, we ought to have a clear picture of precisely what is being done to address these vulnerabilities, and what more needs to be done. The picture is not entirely bleak. The CIA and the State Department have set in motion several initiatives which we believe hold promise for improving the counterintelligence and security posture of our embassies.

Mr. HELMS. Could the distinguished Senator elaborate on some of these initiatives?

Mr. BOREN. Within the limits of classification, I can certainly give you a general idea.

The State Department has established an Office of Counterintelligence Programs within its Bureau of Diplomatic Security which is charged with looking at reports that may indicate possible espionage at U.S. diplomatic establishments, and, as necessary, investigating those reports in the field in cooperation with the FBI. To its credit, the State Department brought in an experienced FBI agent to head this Office, and it seems to be producing results. The Intelligence Committee has been concerned, however, that in the face of budget and personnel pressures, the commitment of the State Department to maintain and support this capability may well wane.

We have been considering whether the budget for this Office should properly be included within the National Foreign Intelligence Program, as are other intelligence elements at the State Department, where it could be integrated with other elements of the U.S. Government involved in counterintelligence activities. In any case, we think there is a compelling need that the status and staffing arrangements for this crucial function be enhanced, whether it stays in the State Department budget or is moved to the intelligence budget.

While our bill would give the FBI overall responsibility for supervising investigations of espionage at all U.S. diplomatic missions, the first critical line of defense will continue to be the State Department's own security officers working under the guidance of the Office of Counterintelligence Programs.

The Department has also considerably enhanced its technical security capabilities in terms of hiring personnel who are able to identify and remedy technical vulnerabilities at diplomatic establishments, as well as involving them in new embassy construction and the security evaluation of new office equipment going into high threat areas. Again, however, the committee fears that these initiatives which are relatively new and are only beginning to show results, could succumb to fiscal limitations.

Secretary Shultz also created a new element within his office of inspector general, shortly before he left office, to do inspections of diplomatic establishments to assess them for compliance with State Department standards. This Office of Security Oversight has been continued by Secretary Baker, who brought in a former head of security at NATO to direct this Office. The committee supports this initiative, but again it is too early to see results. We are aware that the new office has done several inspections and we have received some initial reports, but we have not been able to evaluate for ourselves how well the job is being done. The inspector general has indicated his willingness to cooperate with such an evaluation.

Mr. HELMS. The report also criticizes the failure of the State Department to cooperate with an office established by the Director of Central Intelligence called the Security Evaluation Office, or SEO, which was established as the focal point within the intelligence community for diplomatic security matters. As I understand it, one purpose of this office was to serve as a place where decisions on security being made by the State Department could be challenged by the intelligence community.

Mr. BOREN. The Senator is correct that the report criticizes the State Department for its failure to cooperate with the SEO, although we also note that the intelligence community bears a share of the blame for failing to meet legitimate State Department concerns. In any case, what happened has happened. We believe that it is time to put aside past differences and get on with the job. It appears to us that there is no real dispute that the responsibility for the security of U.S. diplomatic establishments must rest with the Secretary of State. Nor does there appear to be any dispute that the intelligence community can make a unique contribution to the formulation of such security policies, and, indeed, that the DCI, as head of the U.S. intelligence community, should have an opportunity if he should choose to do so, to weigh-in with the Secretary before final decisions are made. This whole area will be subject to discussion with the House Intelligence Committee in our conference on this bill, and I am hopeful that we can reach an agreement on a clear mandate for SEO as a result.

Mr. HELMS. I am, indeed, glad to hear that some progress is being made on counterintelligence, and that the Intelligence Committee is following these developments so closely. I have, as you know, Mr. Chairman, suggested a number of other initiatives in this area which I set forth in a recent letter to the Intelligence Committee.

Mr. President, I ask unanimous consent that my letter of October 18, 1989, to the distinguished chairman of the Senate Select Committee on Intelligence, Senator BOREN, and to the distinguished vice chairman, Senator COHEN, be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered

(See exhibit 1.)

Mr. HELMS. Mr. President, I strongly request that the distinguished chairman and the distinguished vice

chairman muster a majority of their committee in order to require the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, and the Secretary of State, to submit to the Senate Select Committee on Intelligence all of the reports that are requested in my letter. I would like to read and study these reports when they are submitted, and I am certain that all of my colleagues on the Foreign Relations Committee would also like to have these reports.

Mr. President, I ask my distinguished colleague, the chairman, this in all seriousness, but in a spirit of cooperation, because I know that if there is any reluctance or recalcitrance by these executive branch officials to provide these reports so necessary to the Senate's oversight, the Senate may take note, and the reports may wind up being required by law the next time around. After all, protection of American national security requires this, and the American people expect their Senators to protect our national security.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, October 18, 1989.

Senator DAVID BOREN,
Chairman.
Senator WILLIAM COHEN,
Vice Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR SENATORS: As you know, competitive analysis has been demonstrated by the 1975-1976 A Team-B Team exercise to be beneficial to better intelligence support to protecting our national security. It turns out that the Central Intelligence Agency's benign view of the Soviet military threat in the mid-1970s was far too complacent, but we would never have had available the more accurate warning of the growth of Soviet strategic superiority provided by the B Team had it not been for the exercise of competitive analysis. Contending points of view and varying schools of analysis and interpretation are inevitable in the art of intelligence, and experience has shown that we should encourage competitive analysis.

On September 24, 1986, the Senate unanimously agreed to my amendment to S. 2477, the Intelligence Authorization Act for Fiscal Year 1987, directing the CIA to conduct competitive analysis on 32 important intelligence issues. One of these issues, numbered 24, was "The possibility that the CIA and the State Department have been penetrated by the KGB at various levels." The CIA's classified report to the Senate on this topic was received in 1987. It was, however, only a short and cursory paragraph, and it was not the result of competitive analysis.

Since then there have been five probable espionage cases reported in the media which suggest that the CIA and the State Department should have treated my amendment more seriously.

First, the senior foreign service officer Mr. Felix Bloch has been placed on administrative leave by the State Department because he was detected engaging in unreported contacts with Soviet Intelligence and is suspected of espionage. These contacts reportedly even included the passing of a briefcase from Mr. Bloch to a known Soviet Intelligence Officer.

Second, there are recent media reports that the late CIA senior analyst Mr. John Paisley may have been a long-term Soviet mole at the CIA. A recent book has described the details surrounding Mr. Paisley's suspicious death in September, 1978, and the evidence that he might have been recruited during his World War Two Merchant Marine voyages to the Soviet Union to be a long-term Soviet Intelligence mole inside the CIA. Mr. Paisley apparently lied about his wartime visits to the Soviet Union when he entered CIA.

Third, this book also reports that the senior CIA officer Mr. James Speyer Kronthal was a Soviet Intelligence mole inside CIA. Mr. Kronthal apparently committed suicide in 1953, when his treachery was discovered.

Fourth, this book and another recent book have reported the details of the damage caused by the convicted spy Mr. Karl Koecher, a CIA contract employee who was a mole inside the CIA for Soviet/Czech Intelligence.

There is also a fifth probable espionage example that comes from other reports. The State Department's man who supervised the construction of the new U.S. Embassy building in Moscow, which is riddled with Soviet electronic bugging devices for espionage, reportedly was a probable KGB agent. This man has now disappeared, and is believed to be back in the Soviet Union, where he reportedly was promoted by the KGB.

Because the CIA and the State Department did not take my original amendment seriously, and because of the subsequent evidence suggesting serious Soviet Intelligence penetrations of the CIA and the State Department, it is clear that counterintelligence at CIA and the State Department must be strengthened. In accordance with the 1986 Helms amendment, I therefore request that the Senate Select Committee on Intelligence require the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, and the Secretary of State to submit reports, utilizing the method of competitive analysis, on the following:

1. The reason why the 1987 CIA report on this topic was only cursory and failed to fulfill the original 1986 Senate directive for a competitive analysis of whether the CIA and the State Department were penetrated by Soviet-block intelligence services.

2. The evidence which would determine whether the senior foreign service officer Felix Floch, the late CIA senior analyst John Paisley, the former CIA contract employee Karl Koecher, the late senior CIA officer James Kronthal, and the former State Department Moscow embassy building supervisor were spies for Soviet-block intelligence services, including any evidence indicating when they may have first begun spying for Soviet-bloc intelligence services.

3. The circumstances of the detection of Mr. Bloch's, Mr. Paisley's, Mr. Koecher's, Mr. Kronthal's, and the State Department building supervisor's reported dealings with Soviet-bloc intelligence services.

4. The reasons why it took the United States Government an inordinate length of time to suspect Mr. Bloch's, Mr. Paisley's, Mr. Koecher's, Mr. Kronthal's, and the State Department building supervisor's probable espionage dealings with Soviet-bloc intelligence services.

5. The likelihood that there could be similar, though as yet undetected, cases in the State Department and the CIA suggesting the probability of espionage, including a list of all former and current State Department and CIA employees who have had unreported contacts with Soviet-bloc intelligence services, or were involved in false flag entrapments, or were possibly compromised by Soviet-bloc intelligence services.

6. An assessment of the possible damage that Mr. Bloch, Mr. Paisley, Mr. Koecher, Mr. Kronthal, and the State Department building supervisor may have done to United States foreign policy, intelligence, and national security interests by their actions, including an analysis of the damage that they may have done as Soviet-bloc intelligence agents of influence over United States policy.

7. An assessment of whether the Director of the Federal Bureau of Investigation, the Secretary of State, and the Director of Central Intelligence, should establish a joint Security Evaluation Office. The joint Security Evaluation Office would set personnel and physical security standards for all U.S. embassies abroad. These security standards would apply to all personnel of the State Department and all its agencies, and also to all U.S. Government personnel belonging to all U.S. diplomatic missions abroad. These security standards would also apply to all facilities and buildings of all U.S. diplomatic missions. The joint Security Evaluation Office would also monitor the compliance of the State Department and all U.S. mission personnel and facilities with these security standards.

8. An assessment of whether the CIA Chief of Station at each U.S. embassy should make an annual mission security report on each U.S. mission. This annual mission security report would focus upon any possible security breaches by all U.S. mission country team members and any possible compromises of all country team members by foreign intelligence services. It would include all reports of unauthorized foreign contact by mission personnel, and all reports regarding the implementation of the State Department's non-fraternization policy, issues relating to lifestyle, as well as a report on all attempted foreign intelligence penetrations of the physical security of all mission facilities.

9. An assessment of whether each annual security report on each U.S. mission should be forwarded to the State Department Regional Security Officer, to the FBI representative in each mission (where applicable), and to the joint Security Evaluation Office. The joint Security Evaluation Office would analyze these reports, make enforcement recommendations, and consolidate the reports and enforcement recommendations for submission to the Chief of Diplomatic Security at the State Department. The Chief of Diplomatic Security would submit the consolidated annual mission security report and enforcement recommendations to the Assistant Secretary of State for Diplomatic Security and to the Secretary of State. The Secretary of State would use his existing statutory authority to administer and enforce the joint Security Evaluation Office security standards.

10. An assessment of whether the Assistant Secretary of State for Diplomatic Security should submit the consolidated annual mission security report and enforcement recommendations to the Senate Committee on Foreign Relations and to the Senate Select Committee on Intelligence, together

with a summary of all enforcement, corrective and disciplinary actions taken.

11. An assessment of whether upon being transferred back to the United States or being posted to any other permanent change of station, all U.S. diplomatic mission country team members at all U.S. embassies should be interviewed on all security issues, including lifestyle, foreign contact reporting, and non-fraternization policy, by State Department diplomatic security officers, and if there is sufficient reason, by the FBI.

I hope that by posing these questions and asking for these competitive analyses and assessments, progress will be made in improving our counter-intelligence. I appreciate the efforts already being made in this area by the SSCI, and I look forward to working with you further toward achieving additional improvements.

Sincerely,

JESSE HELMS.

Mr. BOREN. I thank the Chair and I yield the floor to my colleagues on the committee.

AMENDMENT NO. 1081

Mr. COHEN. Mr. President, I am advised that I should proceed with this technical amendment at this time. I send the amendment to desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 1081.

On page 33, line 19, strike "when time is of the".

Mr. COHEN. Mr. President, this is a technical amendment. It was inadvertently left out of the bill as reported. As part of the compromise with the White House on terms of providing covert action to Congress. We agreed the phrase "when time is of the essence" be deleted, and, through administrative oversight, it was left in the bill as reported by the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1081) was agreed to.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I support Senate bill 1324. At this time I would like to make just a few comments about the bill overall, before speaking perhaps at some greater length on the inspector general's provision, since it is anticipated that there will be an effort to strike that provision.

First, I compliment the chairman and the vice chairman of the committee for their outstanding work and their leadership. During the course of the past 3 years, during the chairmanship of the distinguished Senator from Oklahoma [Mr. BOREN] and the distinguished Senator from Maine [Mr. COHEN], the committee has functioned, I think, at a very professional level. The resources which have been added during the tenure of the current chairman and vice chairman, I think, are very significant.

The issue of HUMINT, short for human intelligence, which was the subject of an amendment which this Senator offered during the course of consideration of the Department of Defense authorization bill, has also been addressed in an effort to strengthen human intelligence to locate terrorists for whom there are a dozen outstanding indictments from Federal courts, and also to locate our hostages in order to at least make a determination whether any rescue is conceivable.

There are many aspects of the legislation which are very, very important, Mr. President, and they involve the strengthening of the intelligence apparatus of the United States.

With respect to the notice provisions, I compliment Senator COHEN for his diligence in a long battle which he has waged on this issue, and one which I think at this moment has been compromised about as well as it could be.

Following the report on the Iran-Contra affair, the Intelligence Committee labored very long and hard over the issue of notice. We held extensive meetings and markups to try to deal with the problem of the oral findings and the retroactive findings and what the appropriate notice should be.

During the 100th Congress this Senator introduced legislation, as did Senator COHEN. Senator COHEN's legislation took precedence and was passed by a very wide margin, 71 to 19, and it provided for 48-hour notice after covert activities were undertaken. Regrettably, the House did not act, putting the issue back to square one this year.

This Senator introduced legislation, Senate bill 145, which took most of what I had in the 100th Congress on Senate bill 1818, to try to impose some reporting requirements.

Senator COHEN has already referred to the letter from President Bush dated October 30, 1989, where the President states that he anticipates in almost all instances prior notice will be possible. In those rare instances, instances where prior notice is not provided, I anticipate—that is the President's letter—"notice will be provided within a few days, and then any withholding beyond this period would be based upon my assertion of the authorities granted this office by the Constitution."

Mr. President, given our confidence in President Bush, this, I do believe, is a satisfactory solution for the moment. I do not believe, however, that it addresses the institutional problem. It would have been the preference of this Senator that we reach an institutional solution, but it really is not possible, given the position of the House and given the position of the administration.

The letter from President Bush has a reference to both section 501(b) of the National Security Act and an opinion from the Assistant Attorney General on December 17, 1986 which, I believe, puts in sharp contradiction the issue involved here.

Section 501(b) of the National Security Act provide that the President has the duty to "fully inform the Intelligence Committees in a timely fashion of intelligence operations in foreign countries"—fully inform in a timely fashion.

The Attorney General then issued an opinion on December 17, 1986, stating that "a number of factors combined to support the conclusion that the timely fashion language should be read to leave the President with virtually unfettered discretion to choose the right moment for making the required notification.

Mr. President, I submit that that defies the plain meaning of the statute and the basic meaning of the English language, and argument is really not necesary on it. I wondered why the President quoted this language in the first paragraph of the letter, where the second paragraph really provided the assurances which, as I have noted, are satisfactory to this President.

I do believe, as Senator COHEN has already stated, that future administrations ought to be on notice, and I hope that the intelligence committees will maintain this vigilance; that it cannot be accepted by the Congress, under our concept of separation of powers and the Constitution of the United States, that where the law of the land requires timely notice, that the Justice Department can render an opinion that it leaves "unfettered discretion" in the Executive and that that path should be followed. It is up to the Intelligence Committee, in the exercise of oversight, to see to it that the law is followed and to it that there is the appropriate oversight.

Mr. President, this brings me to a very brief statement on the provisions of the inspector general bill, which are really crafted in significant measure to correct this gap.

Mr. COHEN. Will the Senator yield just for a point?

Mr. SPECTER. I do.

Mr. COHEN. I should point out for the purpose of the record here, that the letter originally was going to be sent by President Bush to the Attorney General, indicating that notwithstanding the prior interpretation of the previous administration and the previous Attorney General of section 501(b), this was going to be his policy. And so the President included that first paragraph. Basically, the intent was to advise the Attorney General that notwithstanding the prior inter-

pretation, "This is going to be my policy." So that is the reason why the letter is phrased in the fashion it is.

Mr. SPECTER. Well, I am not totally clear on that yet. Was there a shortage of stationery?

Mr. COHEN. No; the letter was handed to Senator BOREN and myself. We suggested it come to the committee rather than the Attorney General. Basically, it is a situation in which the Justice Department, having committed an error, is very reluctant to admit it.

The better procedure would have been to simply have a new interpretation of section 501(b) by a new administration. That, apparently, could not be achieved. So the President did the following, and that is to advise the current Attorney General. He was advising the current Attorney General how he would proceed, notwithstanding what the Justice Department had done in the past.

Mr. SPECTER. Well, the client always has the prerogative to disregard his lawyer's advice. I hope this President will disregard the advice of that Attorney General back in 1986. I am pleased to hear the addition, the supplement, which Senator COHEN has offered, and that is almost a complete answer to the presence of the first paragraph. I would have preferred the second paragraph to be introduced with a "notwithstanding" or something to that effect.

But, as I say and repeat, this Senator has confidence in this administration and in President Bush that we will get the notice.

Mr. COHEN. If the Senator will yield further, unfortunately, it does put us in the position that each and every succeeding President will have to take a similar pledge, as such, in the absence of legislation. Each President would have to agree with the policy that has now been established by the President.

Mr. SPECTER. Well, I say to the Senator from Maine, I was about to say I regretted to see on the face of this letter in the first paragraph a reference to the Attorney General's opinion because it at least gives the appearance, prior to the Senator's explanation, that there is some substance to the opinion which talks about unfettered discretion. The letter, on its face, absent the explanation of the Senator from Maine, does not signify a retreat from that.

These issues are not really easy issues. The Senator from Maine has labored over them long and hard, and he and I have discussed the matter on a dozen or more occasions.

I would modify what the Senator has just said to this extent; that there is law on the subject. I think timely notice does constitute law.

The 14 months on Iran-Contra, or however long it was, does not constitute timely notice.

Notwithstanding what the Assistant Attorney General said in 1986, timely notice is not equated with unfettered discretion.

It may have to work through the political process as it worked through on the Iran-Contra investigation. I, frankly, hope not. I think the country would be much better off if we had a precise rule and if the group was limited perhaps only to four people, the leadership in both Houses. And where there is talk about not wanting to have the Congress know what the Executive is doing, I understand the separation of powers. But there are quite a few eyes that will see these items in the executive branch.

If we are going to entrust them to Senator MITCHELL and Senator DOLE and Speaker FOLEY and Republican Leader MICHEL; that is pretty top-level assurance. That is at least as good as the delegates of the executive branch, who will see these documents.

That gives a corporate, an institutional review, that is highly valuable. And it takes the review into a new arena. I am not saying there are always yes-men in the administrative branch, but it gives a different perspective. I think the provision of my colleague's bill of 48 hours, which I like second best to mine of 24 hours, would be better for the country.

Mr. COHEN. Let me say to my colleague that he and I share the same opinion.

In fact, if I had the votes it would be a 48-hour notice provision. The fact is we do not have the votes sufficient to override a veto, and that is the reason why we tried to strike this particular compromise to achieve our basic goal: notification to the oversight committees.

I point out that my colleague made a very telling point. While there is a great deal of necessary secrecy that surrounds a covert activity, the truth of the matter is there are many individuals who have notice in the executive branch. In fact, without going into any details, I recall that with respect to one proposed covert activity—a finding was submitted—and we had almost 30 people in the room from the executive branch who had, in my judgment, no business being there.

Yet, to weigh those 30 individuals against the 4 leaders of Congress being notified I thought was a rather preposterous situation to find ourselves in. Certainly, if you weigh the Senate majority and minority leader and two in the House against those who were notified about the sale of weapons to Iran, it puts it in even starker contrast.

Mr. SPECTER. I thank the distinguished vice chairman for those comments. I had started to say the issue on notice, I think, ties into the provision on the inspector general. Both are outgrowths of the experience which we have had over many years, going back to 1976, where it was determined that an inspector general ought to be applied.

Then there were the provisions of timely notice. Then we had the experience of Iran-Contra. It is the experience of this Senator that the absence of a 48-hour provision underscores the necessity for an inspector general. That has been a very carefully crafted provision, which has been worked on in great detail with the leadership of the chairman, Senator BOREN, and the vice chairman, Senator COHEN.

With the addition of Senator GLENN bringing to bear his experience from the Governmental Affairs Committee, where they have the responsibility for other inspectors general, it has been very, very carefully crafted. It does not suggest any question of the capability of the current Director of the Central Intelligence Agency. But the provision calling for independence bears upon the institutional limitations of any agency of Government.

It has been supported by broad experience across a variety of governmental departments, about the effectiveness of the inspector general. Rather than providing for additional management and oversight by the intelligence committees, it is the view of this Senator that it would really provide for less. Because we would have the knowledge that, once an independent inspector general was present, if he disagreed with the Director, that there would be a requirement of notice to the committees within 7 days. We do not have to look over the shoulders of the CIA or the intelligence unit on a continuing basis. There is someone there who will do the first line of activity.

Our experience has been, regrettably, since 1976, that the structure within the CIA and the inspector general has not been sufficient.

As the chairman, Senator BOREN, noted during the course of the past 2 years since this Senator introduced the legislation in the 100th Congress, there has not been the kind of response necessary. That will be detailed when the amendment to strike is put forward, Mr. President. But I do think that these comments are necessary, on the question of notice. They tie in to the overall oversight function.

When we add the independent inspector general to the compromise which has been achieved on notice, it seems to this Senator that in that comprehensive whole, the bill makes good sense.

I thank the Chair and yield the floor.

AMENDMENT NO. 1082

(Purpose: To strike out provisions relating to Inspector General)

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I send an amendment to the desk on behalf of Senator DANFORTH and Senator MURKOWSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. DANFORTH, and Mr. MURKOWSKI, proposes an amendment No. 1082.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 17, strike out line 17 and all that follows through line 4 on page 28.

On page 28, line 5, strike out "TITLE IX" and insert in lieu thereof "TITLE VIII".

On page 28, line 6, strike out "'SEC. 901." and insert in lieu thereof "SEC. 801.".

On page 28, line 8, strike out "'SEC. 902." and insert in lieu thereof "SEC. 802.".

On page 35, line 18, strike out "SEC. 903." and insert in lieu thereof "SEC. 803.".

On page 36, line 6, strike out "SEC. 904." and insert in lieu thereof "SEC. 804.".

Mr. HOLLINGS. Mr. President, this strikes title VIII from the bill which provides for an inspector general at the CIA.

Before going into the reasons for our motion to strike the inspector general provision, let me, in the first instance, say, as the Senator from Maine was relating, we are simply not providing enough for counterintelligence. In all candor, we did not even provide as much as we provided last November under President Reagan for our war against drugs.

The truth is, we really cut last November's authorization some $421 million, which caused cuts in the bill. And, speaking as the chairman of the State, Justice, Commerce Subcommittee of Appropriations, I have been dealing with the Drug Enforcement Administration, the Border Patrol, the FBI, the Bureau of Prisons, and particularly the counterintelligence provision.

I welcome the comments of the Senator from Maine and would also support our distinguished chairman, Senator BOREN, on his initiative concerning counterintelligence.

With respect to our chairman, Senator BOREN, and our vice chairman, Senator COHEN, it is a distinct pleasure, really, to serve on this committee. I started in intelligence work as a member of the Hoover Commission, that is President Herbert Hoover, not J. Edgar Hoover. As a matter of fact, I had the distinction of inspecting and investigating J. Edgar Hoover.

It was in the McCarthy days, back in 1954, when we had all the uproar here in the U.S. Senate and the national Government about spies and security breaches.

President Eisenhower had appointed the Doolittle Commission, which did not fly. And thereupon the President and Congress agreed that President Hoover should take over. I was one of the six under Gen. Mark Clark, Capt. Eddie Rickenbacker, and several others who worked for a year looking into all U.S. intelligence activities.

Back in the 1950's, I handled the Defense Intelligence Agency, the National Security Agency, the Atomic Energy Agency, the FBI, the State Department intelligence bureau, and all the rest.

Since then, I, necessarily, have kept abreast from time to time. Over the years I have developed a tremendous pride in our intelligence agency, particularly the CIA.

Our Central Intelligence Agency has done an outstanding job. No one can ever really speak for them. They are an unusual organization. They operate strictly on a "need to know" basis. A person in the same office, right in the next cubicle, will never know what the person in the next cubicle will be doing, or what their particular work is. They might join each other for lunch and see each other for social weekends or what have you. But one never really knows what the other is doing if he doesn't have "the need to know."

Many of them work their entire lifetimes, and their wives and families, never know that they are really working with the CIA. They operate on a continuing basis of trust. And if there is a breach of that trust, I can tell my colleagues it can be disastrous. It can ruin their work. It can even cost them their lives.

The only thanks they get is having done a good job. They will never read of it, they will never see anything about it, other than the fact that they know themselves that they have done a good job. This is the tremendous dedication and patriotism of the individuals who participate in a very, very necessary agency.

Incidentally, I say to the Senator, I did not think anybody would have the audacity to come up and recommend an inspector general in this day and time what has happened to HUD; They have an inspector general there; After what has happened to the Food and Drug Administration; they have an inpector general there; after what has happened in the Defense Department; they have an inspector general there. They also have one at FEMA, but I will not start on that. I did not think anybody would now think there are any problems that could be solved by a different kind of inspector general.

There are 25 agencies, in the Government that have inspector general, all except the U.S. Senate. We do not have one for us. We have election day, which is a healthy tonic, by the way.

The individuals who come into the Central Intelligence Agency do not serve, I say to the Senator, until their first polygraph. I have not succeeded yet in polygraphing the committee staff, but I say in the same breath, I do not have any reason to now. I did before when I started on this a few years ago. But with the committee as presently constituted, I do not know of any leaks by Senators and I do not know of any leaks by staff members. But if you get a job here in the Nation's Capital as a Capitol policeman, after you apply, the first thing they do is give you a polygraph test. Then they send you down to school, and only then you will get a job at the FBI, Secret Service, and all the others. But when you come to the most important chokepoint, the staffs of the two intelligence committees, we do not have polygraphing, but we do with anybody who goes into the CIA.

I took a polygraph last year or the year before, because I did not want to ask the staff to do anything I would not do myself. They take a couple of hours. I flunked it on the first question. They asked me a question, and I started to answer "In my humble opinion." I flunked that right away. But I took that polygraph test. And every person who comes into the agency takes an initial polygraph when he or she is admitted, takes one 3 years later, and every 5 years thereafter.

If you want to see a crowd whose entire career is based on telling the truth, it is the CIA employees. They will not take a Government pen off the desk even if you tell them, "Go ahead, take it." In a polygraph test, they will be asked it they have taken anything. There is no fraud or abuse in that context because they are testing each other regularly and their entire career depends upon it.

It may be added, the distinguished chairman of our committee has said that he has never worked with a more dedicated, capable group, and I endorse what Chairman BOREN has said. And there is no problem with the Director. We think he is outstanding, I join in Senator BOREN's recognition of Director Webster's work in really getting an active organization going again. It had sort of stood down in the last couple of years since Iran-Contra. Bear in mind, Senator BOREN did not endorse this IG because of any wrongdoing in the Agency.

This provision is a compromise to mollify the Senator from Pennsylvania and the distinguished chairman of Governmental Affairs. He has IG's

coming out of his ears. That is to say, he never met an IG he did not like. He has oversight over all of them in his committee. I would daresay if I was chairman of Governmental Affairs, I would be in a similar position.

The Senator from Pennsylvania has been working on this for quite some time and to get this bill out, there have been some compromises and a lot of work, as the chairman and ranking member have already pointed out. It is not easy to do this work.

Back to a fundamental point. It is a pleasure to work with Senator BOREN and Senator COHEN. They are doing an outstanding job, and I think the Intelligence Committee is doing an outstanding job.

I might add, since I championed my good friend Lt. Col. Oliver North on the Senate floor last week, that I recently had an opportunity to hear him speak. He spoke about the foreign policy of the Government being preempted, and how the power of the President with respect to foreign policy was being eroded by the Congress. Nothing could be further from the truth.

I have to give my friend Ollie a copy of the Constitution, in which we see that foreign policy and all the powers with respect to international affairs, international commerce, and treaties, what have you, are right here in this body. Were it not for the active interest, dedication, and time taken by our Intelligence Committee staff and the members of that committee who are very conscientious and work on these problems, this country would be in a fix. I would much rather rely on the collective judgment of the Congress than the executive branch, although I started some 35 years ago, in the executive branch on the Hoover Commission in the intelligence field.

So I commend the committee; I commend the bill. But I just do not want to ruin an active organization that is needed really to perform some of the most difficult of tasks in the real world in which we live.

To protect this country, we need to have top quality information on an immense variety of subjects. We need to know about Soviet strategic weapons; how to verify arms control treaties. Will Gorbachev survive? What is going to happen in Eastern Europe? How many countries have nuclear weapons and chemical weapons and intercontinental missiles? What will happen to Mexico's economy? Where are the Colombian drug lords? What banks are laundering international drug money? Who in Panama might try to overthrow Noriega and on down the list.

Senator COHEN's observation on Canadian reluctance to cooperate with us during the Tehran rescue effort leads me to comment upon the unique nature of the Central Intelligence Agency. Senator COHEN went down a litany of where was somebody who had evidence to support the allegation that the Government of Canada said they were not going to help with a rescue effort in Tehran back in 1979 or 1978 with President Carter if the Congress was going to be informed. That is no rumor. I do not know anything about Canada. I am not surprised that as the Senator went on a very studied litany, I asked here, there; the next place; I went to that Agency, to that official. The very lack of hard evidence is typical of the way intelligence operates. You do not leave a trail. I am also not a bit surprised that they found two people at CIA working directly on the problem who remembered the Canadian concern.

On this particular score, working with other intelligence agencies, I am concerned about the impact of this provision. I visit, as the chairman of the subcommittee that handles State Department funding, our Embassies abroad. See Agency people from time to time overseas, and if there is one thing they lament, it is the suspicion that friendly foreign intelligence services have about our Intelligence Committees and our operations here in the Congress.

In the last couple of years under Senator BOREN and Senator COHEN, I have had the pleasure of saying, "Do not worry about them." Like they said in the olden days, the only vessel in the world that leaks from the top is the ship of State. The leaks are over in the executive branch, not in the Congress. But there is still that suspicion. It is very difficult to work with other countries' agencies when those agencies are aware that reports are made and that we have an IG who is making a semiannual report to the Director, and then an annual report to the Director.

Then, whenever differences occur between the Director and the differences are forwarded to politicians in the Congress. And the IG is confirmed by the Senate.

Furthermore, the Director does not have the control over this IG that the Secretary of Defense does. The Secretary of Defense controls his IG. Now, in title 8 of this bill, there is a euphemism or expression that the IG will be "under the general supervision of the Director." That is not control. If I worked in the Agency, that would wave a red flag. That would say to me, look, this is how you are going to get a higher mark and better advancement and greater success. You might not do intelligence work all that well, but as far as your career is concerned, please that so-and-so IG who is crossing every i and dotting every t. If you do not do anything, you might be better off than to try to do anything. And that is bad, bad, bad for an intelligence-gathering organization.

To get information, and to be able to act on the information we do get, we need the most energetic and entrepreneurial intelligence service which patriotism and dedication to duty can buy and trust can maintain. We do not need the CIA to be a group of cautious bureaucrats who avoid the risks that come with taking action, who fill out every form in triplicate. But that is what we are going to create with a Presidentially appointed, Senate-confirmed inspector general.

An inspector general created by this bill, Mr. President, would be the third Presidential appointee, Senate confirmed, in the CIA. Only the Director and the principal deputy would out rank him, but the IG would be above the five Deputy Directors, the people who really run the Agency. All of a sudden you have the different departments trying to either gather or monitor or do this or that, and the next thing you know you have an IG over them who is not the Director who is saying do not move; sit still; when in doubt, do nothing; and stay in doubt all the time.

The naysayers, the inquisitors, and the evaluators will have greater weight than do the line managers at CIA, and that is a terrible message. It springs from our post-Vietnam/post-Watergate bad habits, from our aversion to bold action and from our preference for faultfinding over initiative. Sometimes it seems that we would rather prosecute people after a failure than plan for and support success. Certainly we take more pleasure in prosecution. The net result is an aversion to action by the very people who must act if this country is to be warned about those things that threaten us.

A recent issue of Time magazine criticized the paralysis that is overtaking the Government, talking about timid politicians in the Congress and the White House and timid bureaucrats in the executive branch who prefer inaction to the risk of doing something. The regulations we have written and the inspectors we have let loose are the shackles on the sinews of Government. The power of Government is atrophying just at the time that we need the power to attack the great problems that this country faces. A Presidentially appointed IG at CIA will be another link in the chains that tie down our Government and render it passive.

The sponsors said that this provision really springs from the mid-1970's, and I am not surprised at that. The 1970's were the time of the post-Vietnam handwringing, the time when fear of action was raised to an art form, the time when we induced the paralysis of our Government and learned to like it. That era has passed, I hope, and the people today now want a government

that can do something. It is simply anachronistic to saddle the CIA of the 1990's with the bureaucratic deadweight of the 1970's.

This provision would weaken the control that the Director of CIA has over the CIA. The independent IG, according to the provision, would be only under the general supervision of the Director, as I have pointed out, not under his control. He issues semiannual reports. The provision generously permits the Director to comment on the reports. Otherwise, this provision makes him little more than a mailbox for the Inspector General. The director does have the authority under this provision to prohibit the IG from investigating a particular matter but then, of course, the Director has to report his prohibition to the Intelligence Committees within 7 days and attach comments. By so doing he has started trouble over on the Hill. Of course, that is 50 percent of the problem of those working in the executive branch, whether it is the Defense Department, the White House or anyone else—stay clear of Capitol Hill.

The flow of all these new reports to the Intelligence Committees will result in congressional micromanagement of an agency that ought to be under strong centralized executive branch management. This kind of micromanagement through independent IG's may work in some agencies, but of course it did not do much for those I have already listed.

The sponsors of this provision contend that the current IG system at CIA lacks quality. I do not know how they can know it because the Intelligence Committee—Mr. President, I want to emphasize this—we have only reviewed 11 of the 586 reports which the CIA has filed since 1986. It is like drinking water out of a fire hydrant. Now, they are going to put in a new IG, order more reports, scare the devil out of anybody doing a good job down there, and we are going to get mediocrity and everybody is going to say how smart we are, we have squeaky clean Government, mediocrity at its best.

I could speak at length. I know my distinguished colleagues from Missouri and Alaska want to speak on this. I think the distinguished minority leader would also like to speak. We have, incidentally, a letter from the President of the United States. I ask unanimous consent his letter be included in the RECORD. It is dated November 3 to Senator MITCHELL, signed by President Bush.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, November 3, 1989.

Hon. GEORGE J. MITCHELL,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: The Intelligence Authorization Bill (S. 1324) has been the subject of intensive negotiations over the past few months. The main issue was timely notification of covert activities. I am very pleased with the outcome on that issue, and the credit goes to the Chairman and Vice Chairman of the Intelligence Committee. However, there remains one other major point of contention in S. 1324: the statutory Inspector General for CIA. Before the Senate takes action on the legislation, you should be aware of my strong opposition to that provision.

The establishment of a statutory Inspector General at CIA is unnecessary and could be counterproductive to the effective inspection and investigation process in place at the Agency.

My strong reservations regarding the creation of a statutory Inspector General at CIA are shared by a bipartisan group of members on the Intelligence Committee. I agree with the position of Senators Bradley, Danforth, Hollings, and Murkowski that a statutory Inspector General "would inevitably mean more bureaucracy, more regulation, more outside intervention, when the real need is to make CIA more productive, more skilled and more useful in confronting a variety of difficult national challenges."

I hope that I can count on your support for a motion to strike the statutory Inspector General provision from the Intelligence Authorization Bill when it comes to floor.

Sincerely,

GEORGE BUSH.

Mr. HOLLINGS. The President, having been a Director of the Agency himself, and now our Commander in Chief with all the real responsibility, objects very strongly to this particular provision. He supports the work of this Intelligence Committee, he has worked very well with our chairman and ranking member and the members of the committee and he knows the concerns that Senator SPECTER has. But when you get down to the bottom line, and you try to install a new inspector general over all the deputy directors and start pulling the emphasis on audit rather than action, I think we make a bad mistake.

Those in the agency who live in that "need to know" environment are not going to report to that General, I can tell you that right now, whoever he or she may be. That is just the nature of the game, let us say, the nature of those who work in intelligence. They are just not going up there and start confiding to an outside IG, and that IG is going to be under pressure to be given a full report to show you he is doing an A No. 1 job and he is going to turn around inspecting and inhibiting action and that is going to be a tremendous conflict that we in this Government should not have. It should be prevented. I am delighted to yield the floor.

Mr. DANFORTH. Mr. President, much has been said by the several Senators who have spoken on this bill of the tremendous confidence all of us feel in the Director of Central Intelligence, William Webster. He is an outstanding person. He does have the confidence and the support of members of the Senate Intelligence Committee. I think that is a point which has been made very clear by everyone who has spoken so far.

My principal reason for supporting the Senator from South Carolina is this degree of support we all feel for Director Webster. He came into the Central Intelligence Agency as a reformer. He came in in the wake of the Iran-Contra matter, and he was supported to reform the Agency. He was supposed to work closely with Congress.

Mr. President, Bill Webster has worked closely with Congress. He has kept us informed. We have confidence in him.

My view is that we in the Senate, we in the Congress, should attempt to work with Bill Webster, and not work against him. It is because of his strong opposition to the statutory inspector general and I am supporting the Senator from South Carolina.

Mr. President, it is important to understand that we now have an inspector general at the CIA. So the provision that is in the bill before us does not create a new entity. It does not create an inspector general where there is none now. There is an inspector general at the Central Intelligence Agency. The issue before us is not whether to create an inspector general, but rather, whether to have a statutory inspector general appointed by the President of the United States, confirmed by the Senate, and reporting to the Congress. That is the issue before us.

Bill Webster, the Director of CIA, convinced the Intelligence Committee last year not to go forward with this legislation. The Intelligence Committee was willing to go along with him because he made the point at that time he was putting in place internal reforms for the inspector general. That was his desire—to put in internal reforms. And he has done that. The reforms are now under way. He has kept his word to the Intelligence Committee.

I believe, if we have a Director who keeps his word and is putting in place changes and reforms that he thinks are important, we should give him the benefit of the doubt. We should go along with him. We should not attempt to barge in without even looking at those reforms, without even analyzing the reforms that he has put into place. We should not barge in, shove him aside, and say, "Well, we are through with you," in effect, "we have our own statutory inspector general that we want to put in place at the CIA."

Mr. President, it is very interesting that we have a couple of letters from Director Webster, and we also have a letter—as the Senator from South Carolina pointed out—from George

Bush strongly opposing the statutory inspector general.

I have to admit to the Senate that I am no expert on the intricacies of intelligence. I am on the committee, but I do not purport to have the touch that somebody who is involved day to day in the intelligence community would have. Here we have the existing Director of the CIA and a past Director of the CIA, who now happens to be the President of the United States, who have both reached the same conclusion. And the conclusion is to make the inspector general statutory would be counterproductive.

Mr. President, do not ask the Senator from Missouri to explain that. I can only say that the expert opinion of the existing Director and of the past Director, who is now President of the United States, is that it would be counterproductive, that it would make the inspector general less effective rather than more effective if it were statutory.

It is further said that the CIA is an agency which is basically different from the various departments of the executive branch. I believe that is true. The CIA is, by its nature, different. It is not an organization that carries on its activities in full view of the public.

Senator HOLLINGS pointed out that there are only two officials at the CIA who were subject to Senate confirmation: the Director himself and his deputy, and that is it.

This is not like, for example, HHS, where there are countless people at HHS who are subject to confirmation by the Senate, countless people that we have the responsibility, in effect, for putting in place for giving advice and consent to.

That is not the case in the CIA. If we were to establish a statutory Director or a statutory inspector general, this would create a person prestigiously appointed by the President and confirmed by the Senator who is the inspector general, vying with only two people over there who are appointed by the President and confirmed by the Senate who are line officials. It would create in the CIA what would amount to a parallel organization, a parallel hierarchy so that many of the line officials at the CIA would be junior in the hierarchy to the person who is inspecting them.

The concern is that with this paralled organization the confidence that sources must have in the Agency and the confidence that foreign countries must have in the agencies would be weakened. They would not be dealing just with one organization. They would be dealing with two parallel organizations which exist side by side with two chains of command.

Mr. President, obviously, the Central Intelligence Agency is important in our country. Clearly, we have in charge of the agency now a person in whom we have great personal confidence. He is in the process of reforming the inspector general's office at the CIA. In my view we should give him a chance. My view is that this is one opportunity when we in Congress should not gum up the works. I am afraid we would be gumming up the works if we created a statutory inspector general.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. I thank the Chair.

Mr. President, let me state at the outset that I believe the intelligence authorization bill on balance is an excellent one. I commend the chairman, Senator BOREN, and the vice chairman, Senator COHEN. I think they and their staffs both certainly deserve congratulations. I think the bill represents a continuation of their commitment to a bipartisan process.

We have taken a bite at the personnel costs in a way that protects the taxpayer while preserving the capabilities of America's intelligence agencies.

However, I think there is a basic management principle at stake here: if it is not broke, do not fix it. There is a provision in the bill that I believe is very ill advised, and that is title VIII.

I think it is fair to say that the issue of a statutory inspector general has been debated with the best of intentions within the staff of the Intelligence Committee, but the creation of a statutory inspector general for the CIA may have serious unintended consequences. Supporters of the provision have argued that a Presidentially appointed and Senate-confirmed inspector general will strengthen the external oversight of the CIA. I think those are points that have been made by my friend from Pennsylvania and my friend from Ohio.

I believe it may have precisely the opposite effect. We have a situation, Mr. President, where we could very well see the effectiveness of the CIA curtailed, and as a consequence, I think the provision at this time is premature. Let me briefly enumerate some of the reasons why I support the amendment of my friend from South Carolina, which I believe he will introduce at an appropriate time, to strike title VIII.

First, there already is a CIA inspector general, as noted by my colleagues, appointed by the Director of the Central Intelligence Agency. Judge Webster, the DCI, has asked for time to demonstrate that the present inspector general system with the appropriate modifications can work and can work well. After all, the DCI is the one we hold responsible for the operation of the CIA. He should be the one to put in what he considers a workable system. I think it is fair to say that we would all agree in the year-and-a-half since Judge Webster put in his own system, there has been a clear improvement in performance. It certainly has not been a perfect one but it has been good enough to grant the DCI's request for more time. That is what we have here. It is working. Why change it now?

Second, the Intelligence Committee has looked at only a tiny fraction of all the reports produced by the IG. There has not been the sort of thorough systematic evaluation of the present IG's performance by the committee that would justify, in my opinion, a radical and permanent departure of the sort that we are considering before us today.

Third, the existing inspector general has been responsive to congressional requirements. The Intelligence Committee has had no difficulty in obtaining copies of IG reports, when they have been requested.

Fourth, I think Judge Webster wants to use the inspector general as an important tool of internal management. By taking the IG out from under his control—that is really what we are doing here—the Congress would take this tool out of the hands of the DCI. And this is particularly true because this bill gives the DCI less authority over the inspector general than the Secretaries of Defense or Treasury have over their individual IG's.

Fifth, the statutory IG will be seen as, to some extent, an alien outsider, within the intelligence community, and that is a rather tight-knit world out of necessity, dealing in intelligence matters. His presence may provide a temptation, so to speak, to develop some kind of an off-the-books operation that would be outside of the security of the IG and everyone else. I do not know, but that is potentially a threat.

Finally, a statutory IG will inevitably mean more bureaucracy. For goodness sakes, ladies and gentlemen, if there is anything we do not need around here, it is more bureaucracy. We need simplification. One of the difficulties in the Intelligence Committees, when we sit down and revisit situations in an oversight capacity is to try to fix responsibility.

There are so many layers upon layers—I do not care how many people the committee brings in. With an exception perhaps on one occasion, I cannot give you an instance where we have been able to identify just who bore the responsibility. That is why I say, Mr. President, the idea of simplification, lessening the bureaucracy is very appealing to this Senator. I think more regulation means more outside

intervention, more overhead, when the real need is to make the CIA more productive, more skilled, more useful in confronting a variety of different national challenges in the years ahead.

The effort to establish a statutory authority, reflects a particular management philosophy. You are going to dilute the responsibility of existing CIA management by setting a statutory requirement here. It is like putting a comptroller into an organization and having him in there in an independent capacity or in any number of positions. There are pros and cons to it, but there is a high degree of risk associated with it.

Let us be realistic. If we are dissatisfied with the management of the CIA we will not hold the CIA inspector general responsible. The only person we can reach is Judge Webster, or whoever is in that capacity.

We are talking about more micromanaging. I remind my colleagues again that if it is not broken; do not fix it. We know the attitude of our President, who has spoken out urging that this provision in the bill be dropped. I have heard Judge Webster in the committee personally explaining his reasons, and I think they are justifiable.

I do feel that those that are in favor of establishing a statutory inspector general have good points and valid concerns. But, again, I think those of us who believe in clear management responsibility accountability would recognize that this statutory requirement does, in effect, amount to a step backward, because it does not provide clear-out authority—line responsibility—but instead, it interrupts that by creating an inspector general who is confirmed by the Congress, that technically has a responsibility to the President, but who must work within the authority of the Director.

Those are confused signals, Mr. President. They are not as clear as the present system where the Director appoints his own inspector general. So I ask my colleagues, as they reflect on the merits of title VIII, to reflect on whether we want to continue to micromanage yet another area, a very important area, a very different area, very unique area, or if we should wait and determine if indeed there is a need for it.

Mr. President, I feel that a statutory inspector general will weaken the effectiveness of the CIA. As a consequence I urge my colleagues to vote in support of the amendment which will be offered by the Senator from South Carolina. I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. GLENN].

Mr. GLENN. Mr. President, I rise in opposition to this amendment. I rise also in very strong support of this provision in the Intelligence Authorization Act of fiscal 1990, establishing an independent, Presidentially appointed statutory inspector general, an IG at the CIA.

I happen to be a member of both the Senate Select Committee on Intelligence and the Senate Governmental Affairs Committee, which I chair. I have had a unique vantage point, therefore, to assess both the track record of the existing statutory IG's in the Federal Government, as well as a need for a statutory IG at the CIA. I believe the action called for in this legislation is sorely needed and long overdue.

The Governmental Affairs Committee has primary jurisdiction over the statutory inspectors general established throughout the Federal Government under the Inspector General Act of 1978, and all the amendments thereto.

I would say to my colleagues that the Inspector General Act of 1978 was an experiment. We did not know how it would work out. Some departments had internal IG's, and some did not. We wanted to let it work for a number of years and see whether it did any good or not. And contrary to some of the things said here today, I think the inspector general concept has proven it to be spectacularly successful.

Has it solved all the problems of government? No, certainly far from it. But has it proven functional in rooting out much of the fat, fraud, waste, and abuse? Yes, they have.

We have had numerous hearings on the Governmental Affairs Committee that detailed this, and the inspectors general taken together can point to savings in the billions since the first act was passed back in 1978.

The Senator from South Carolina says, in effect, that the chairman of the Governmental Affairs Committee, namely, me, never saw an IG I did not like. Would I not say that is true? But do I think the concept is working and is it good? Yes, I do.

He also said that we had big problems in HUD. Did the IG get those? We had big problems with DOD and FEMA. Why did the IG not get those? Let me address those briefly before I go on to the rest of my statement because I think we have some interesting stories there.

I say to my good friend from South Carolina that it happened to be the HUD IG that pointed out the problem. He was the first one that came out with the very first report on the HUD scandal. It did not come from the Congress or any oversight committees. It came from the IG at HUD doing the job he was there to do.

I am critical of him for not honking louder than he honked because he should have been much more forceful in pointing out the problems at HUD. But he submitted them in reports, and if all of us here on the authorizing committees and my own committee had been as on the ball as we should have been in looking at those reports, we would have picked up this HUD situation long before we did.

So it was the HUD IG that first found that fraud.

Let us go on to DOD. He mentioned the IG there. They have had some of the finest reports on cleaning up things over at the Pentagon. They had 4,200 management improvements the DOD Secretary accepted. Hundreds of millions of dollars were returned because of criminal activity that was uncovered by the IG.

Has it solved all the problems at the DOD? No, it has not. But they have certainly done a good job over there.

DOD IG June Gibbs Brown, and I am sorry to see her leave, has done an excellent job.

Who turned up the Wedtech scandal? It was one tiny news report that caused the SBA IG to look into it and pursue it to the point where we knew that it grew into a scandal of enormous fraud and misuse of Government funds and money. It was an SBA IG that picked up the Wedtech scandal and ran with it.

The Senator also mentioned FEMA, and I do not blame him for being unhappy with FEMA. I am surprised FEMA could not have moved in more quickly after Hugo moved through the State of South Carolina. That was a tragedy.

FEMA had some internal problems, and we decided that we need a permanent IG at FEMA. We passed that just last year hoping to correct some of the deficiencies at FEMA, not that it is going to be a panacea and solve all problems. I will note that after we passed the IG act and made FEMA subject to its provisions last year, the President has yet to nominate the IG.

Would that have solved the problems over there? I do not know that it would have. I am very high on the IG concept and I would be glad to go into it chapter and verse and bring stacks of IG reports over here on the floor and go through what the IG's have been doing. The IG act is really one of the unsung heroic acts of Government as far as I am concerned because they have been doing a good job.

Have they been perfect in rooting out all the fraud, fat, waste, and abuse in the Government? No, they have not. But they certainly have done a very good job.

Let me make one other thing very clear before I go on with the remainder of my statement. Much has been made by the last two Senators who have spoken here on behalf of Judge Webster. I have full trust and confidence in Judge Webster. I think he is

trying to do an outstanding job. I do not question that at all.

But I would submit at the same time that we are not a Government that places a good person in a high level job without restrictions, advice, or regulations. We are Government of laws, not of individuals.

And I would say to my colleagues, did you have the same confidence level in Judge Webster's precedessor? We know that as a result of the Iran-Contra hearings it was recommended in their report that we have a statutory IG at the CIA.

I have full confidence in Judge Webster, too, and if I were sure he was going to be there the next 20 years I might reassess whether we needed an IG at this particular point. We are trying to set up a system with laws and regulations that will function even when we sometimes get a less than outstanding person in a particular position in government.

In short, the IG concept has worked extremely well at other agencies—including agencies with extremely sensitive national security missions such as the Department of Defense and the Department of Energy—and there is no good reason that it won't work at the CIA as well.

The Intelligence Committee has carefully considered the unique nature of the CIA's mission in crafting a bill designed to provide more than adequate assurance that the IG's office will act in a manner consistent with the CIA's mission. Therefore, it may be helpful for those who were not members of the Intelligence Committee to know that we carefully evaluated aspects of the generic IG statute before accepting or rejecting specific provisions.

I am pleased that the bill's original sponsor, Senator SPECTER, and my colleagues on the Intelligence Committee, were willing to accommodate my desire for numerous enhancements of the original legislation in order to bring the bill into greater accord with those aspects of the 1978 Inspector General Act which would enhance the bill's purposes.

Let me just spell out some of those changes that we put in to this bill that bring it into harmony with the Inspector General Act.

The change include:

Requiring notification of the committees where the IG believes problems focus upon the Director of Central Intelligence, or serious problems are found at the Agency.

Would that have prevented some of the difficulties we had in recent years? I do not know. But I know I would feel better about it if we could make certain that we never have some of those things happen again. We have heard the distinguished Senator from South Carolina, my good friend, express his view here on the floor with regard to Ollie North just a couple of nights back about whether we knew everything there was to know about the whole Iran-Contra matter. And I agree with him 100 percent that we still have a lot to learn from that era.

Would this have prevented all that? I do not know. But it might have had an impact.

Additional changes include requiring the IG's access to CIA personnel and contracts; providing for separate budget line for IG's office so he or she cannot be cut off and prevented from doing the job; allowing the IG to hire and fire his own staff, subject to CIA clearance procedures; giving the IG necessary housekeeping powers: For example, access to CIA facilities; power to administer oaths; imposition of GAO audit standards as the basis of the IG work; and allowing the IG to comment on legislation.

Mr. President, these and numerous other changes make the CIA's IG office far more likely to be both effective and objective. Of course, we all recognize that the unique nature of the CIA's sensitive national security mission also requires some changes and accommodations from the standard model of the IG office.

For example, I have no objection to and, in fact, I support, restricting the reporting relationship of the CIA IG to the two intelligence committees of the Congress. Normally, all IG's report both to the relevant authorizing committees in Congress as well as to the Senate Governmental Affairs Committee and the House Government Operations Committee. I do not think that is necessary in this case. Therefore, I am agreeing to give up what would normally be the jurisdiction of the committee I chair in order to accommodate limitations in dissemination of CIA IG reports, despite the fact that we have appropriately cleared staff members on the Governmental Affairs Committee who have the requisite clearances to handle such secrets.

I am less sanguine, however, about the wisdom of other departures from the IG act in this legislation which was adopted by the Intelligence Committee. For example:

The IG has not been given subpoena duces tecum power—for documentary evidence—which all other IG's utilize;

The normally straightforward reporting relationship of the IG to the attorney general has been clouded by requirements that criminal referrals only be made pursuant to CIA guidelines; and

The IG will only routinely obtain the assistance of other Federal agencies by checking with the CIA Director in each instance.

He has to check with the Director before he can even go down and ask that the FBI collect some fingerprints. He has to go to the Director.

I believe these things I have mentioned would be additional tools that would provide a meaningful addition to the IG's powers and independence, without threatening CIA sources and methods. Should another Iran-Contra affair occur, these powers would be necessary to permit the IG to uncover whatever inappropriate activity there might or might not be. The events of the 1980's have demonstrated that a statutory CIA IG supplemented with a vigilant congressional oversight mechanism are necessary to detect and prevent off the books operations amongst White House staff and intelligence community personnel.

However, while I have the aforementioned reservations about this legislation, I am convinced that, on balance, this legislation represents a significant improvement over the existing IG structure at the CIA, and I urge my colleagues to support the adoption of this bill.

Mr. President, I believe it may be helpful for the Senate to understand this issue in the context of the track record of the other statutory IGs that exist throughout the Federal Government. At this time, 25 statutory inspector general positions have been created by the Congress. With the 1988 amendments to the 1978 Inspector General Act, offices of inspector general have been extended to all of the cabinet departments and major Federal agencies—including those with significant national security responsibilities such as the Department of Defense, the Department of State, and the Department of Energy—with the sole exception of the CIA.

It should be no surprise to anyone that there is resistance to a statutory inspector general at the CIA. Most Federal agencies were adamantly opposed to the establishment of a statutory IG for their agency, but most agency heads have rapidly come to appreciate the considerable benefits to be derived from the IG. These statutory IG's have a proven track record of:

First, conducting audits and investigations of Agency programs;

Second, promoting economy and efficiency, and detecting waste, fraud, and abuse within that agency; and

Third, keeping the agency head and Congress fully informed about problems.

An excellent example is provided by the Department of Defense's statutory Inspector General Office which was established in 1982. Clearly, the DOD holds secrets of equal sensitivity and national importance to those in any other agency. Yet to date, there has been no instance where it has been necessary for the Secretary of Defense to shut down any DOD IG audit or investigation, pursuant to the provisions of the law establishing the DOD IG Office.

In other words, Mr. President, when we were establishing the IG to put it into DOD, we heard all these same things about you just cannot have an IG looking at any of these classified materials. So we wrote into that law the authority for the Secretary of Defense to stop an investigation if it was bordering on matters he thought were of such national security concern that the investigation should not continue. Since 1982, there has not been a single case where the Secretary of Defense found it necessary to shut down an audit or an investigation. Nor am I aware of any instance where IG personnel have been criticized for their activities in this regard.

In prepared testimony before the Senate Governmental Affairs Committee on September 28 of this year, DOD Inspector General June Gibbs Brown stated that since enacting a statutory IG at the Pentagon, that office has issued hard hitting audit, inspection, and other types of oversight reports leading to potential savings and cost avoidance of $9.5 billion—$9.5 billion just in DOD—and has provided leadership within the DOD in vital areas such as audit followup, hotline operations, ethics training, fraud awareness, and improving contractor internal controls. Ms. Brown also testified that the DOD has carried out over 4,200 management improvement recommendations made by the DOD IG since 1982 and action is currently under way on over 1,000 other DOD IG recommendations.

Mr. President, everyone likes to complain about waste, fraud, and abuse in the Federal Government. The Defense Department example I just cited shows that the statutory IG's are in the unique position of not just talking about it but actually being able to do something about it. In this era of growing budgetary constraint when it is increasingly important to more effectively use scarce resources and to learn about problems before they get out of hand, the statutory IG performs a significant public service. The CIA is no exception to this need.

Let me cite a few other examples:

The Department of Defense IG is currently investigating the inadequacy of controls over the use of interagency ordering agreements to bypass DOD procurement regulations. The IG has uncovered Pentagon procurement officers' involvement in laundering—and I do not use that word lightly—millions through the Library of Congress for defense items wholly unrelated to the Library's role in order to avoid competitive bidding.

The State Department IG has reported on his efforts to eliminate visa and passport fraud. According to the IG, the going rate for a visa ranges from $4 to $10,000, and there is no ceiling on passports; the price depends on how desperate a person is to get one. Moreover, the IG has pointed out the problem of the deteriorating condition of the Department of State's 2,000 overseas properties, and the overall shortcomings of the security of U.S. personnel, information, and facilities overseas.

The Energy Department IG recently concluded that the bottom line of the Department's policy for indemnifying management and operating contractors is that "it is a rare event when DOE disallows costs incurred under these * * * contracts," which account for about two-thirds of the Department's entire budget. Examples of costs which have been paid by DOE include fines, penalties, claims, losses, and damages. The IG has recommended that the Department consider making important changes to the system—such as increasing the number of contractor personnel whose actions could result in corporate liability and identifying items, such as environmental fines and penalties, for which the contractor would be liable.

The NASA IG reported that his review of the aerospace fastener industry found false certification of fasteners, which led to several indictments, convictions, and fines. The IG eventually testified before Congress concerning new legislation in the aerospace fastener industry.

I cite these as just a few examples of the Federal agencies with statutory IG offices that have responsibility for safeguarding sensitive national security missions.

In the time since the creation of these statutory IG offices there have been no allegations that these IG's compromised sensitive national security information or that the existence of the IG office has prevented the agency head from accomplishing his mission.

I note for my colleagues that the Department of Energy's statutory IG Office was established even prior to the 1978 act; the Department of Energy's statutory IG Office was established in 1977; the NASA IG Office was established in 1978; the Department of State's IG Office was established in 1980; and the Department of Defense's IG Office was established in 1982.

So we have a long track record and there have been no allegations that we have any national security problems at all.

Let me now turn to specific issues raised in regard to the legislation before us today. I begin by noting that the performance of the administratively created CIA inspector general has been found wanting since the mid-1970's. In 1976 the forerunner Intelligence Committees in the House and Senate found a series of problems and defects in the CIA Office of Inspector General ranging from lack of objectivity to insufficient authority and independence.

In November 1987, congressional committees investigating the Iran-Contra affair recommended, among other things, the creation of a statutory inspector general for the CIA, stating that the present office at CIA, "appears not to have had the manpower, resources or tenacity to acquire key facts uncovered by the other investigations of the Iran-Contra affair."

The current CIA inspector general is appointed by and serves at the pleasure of the Director of Central Intelligence. This arrangement necessarily encourages the CIA IG to maintain a favorable relationship with the Director in order to preserve his job rather than act as a proper, independent, fact-finder and, when necessary, a critic of CIA programs, operations, and personnel.

The obvious conclusion is that the CIA IG will remain reluctant to track unwise and perhaps illegal conduct without the explicit approval of the CIA Director.

In my view this is a very serious institutional flaw in the current Office of Inspector General at the CIA. Had we had an inspector general who did not mind looking into the CIA Director himself, would we know more about some of these events of the past few years? I do not know, but we might have.

Opponents of this legislation may argue that the current IG has the requisite independent streak to do the job correctly. But that is not enough assurance for two reasons. First, as I said before, the current IG can be fired by the DCI at any time. Second, there remains an appearance problem which no single individual can overcome.

In addition, the credibility and performance of the CIA's existing IG office has been harmed by an over reliance upon CIA employees who are rotated into the office as inspectors and investigators who have no previous training or experience in such work, and who must return to positions in other parts of the Agency once their tour with the inspector general is completed. So it is difficult to expect thoroughness and objectivity with these inherent institutional constraints. This has been especially true to the individuals assigned to the position of inspector general, several of whom have been reassigned to a senior position within the CIA after their tour as inspector general.

Opponents of this legislation argue that Judge Webster needs to be given sufficient time to bring about additional changes in the CIA IG. However, since the current IG at the CIA serves at the Director's discretion, the office can only be as thorough and objective as the individual DCI wishes it to be.

As I stated before, I believe Director Webster has done a good job at the CIA. I think he is a man of integrity. But both common sense and experience indicate that we must have an institutional check in place to guard against a future DCI who may not live up to Judge Webster's standards. And that check we need against a future DCI who may not live up to Judge Webster's standards is the Presidential control over the hiring and firing of the CIA IG.

Opponents of this legislation have also argued that the creation of a statutory IG would "instill undue risk-aversion in what should be one of our Nation's most entrepreneurial institutions."

This is a mistaken notion and one I find completely unpersuasive. This legislation can only serve to make the CIA averse to violating U.S. law and policy. Bold and creative intelligence operations that fail to live up to this criteria simply do not merit consideration by our Government.

Finally, the bill's opponents argue a future President may use the IG's existence to deny Congress access to information. While that is an interesting hypothesis, it has absolutely no precedent in Congress' 10 years of experience with the other 25 statutory IG offices.

Mr. President, I am second to no one in my desire for our Nation to have a robust and effective intelligence capability. Intelligence is a force multiplier which helps us to properly use the military forces on which we spend hundreds of billions of dollars. We need that robust and effective intelligence capability.

Congress and the American people have entrusted the CIA with our Nation's secrets and provided this vitally important agency with extraordinarily sweeping power and authority to complete its mission. However, with this enormous power comes enormous potential for abuse.

Increased accountability to the American people through their duly-elected representatives is an essential goal in our democratic system of government. The establishment of an independent IG, which makes appropriate accommodations for the unique security concerns of the CIA as this legislation does, is an indisputable means to that end.

Mr. President, let me address a few other items before I yield the floor.

One of the issues raised is that the IG will stifle an already overly cautious CIA. I believe it was described that "we want someone not to audit but to take action." I agree with that 100 percent. But I want to see that action taken where we know what is going on, where we know there is not an abuse of power, and where we know our money is being properly spent. So I say the CIA elements are already inspected regularly for compliance with law and agency policy.

The criticism is that by creating a more powerful IG at CIA, we will be overloading him or her with auditors, accountants, and lawyers, and will further stifle what is already an overly-cautious bureaucracy. However, CIA elements are already inspected regularly for compliance with law and agency policy and this is no new function. The objective of the legislation is to ensure this function is performed better, without fear or favor.

How will it stifle initiative to ensure CIA activities are consistent with law and agency policy? Do we, on the other hand, want initiatives that violate law and Agency policy? The IG will still report to the Director. He does not report separately. The IG will report to the Director and operate under his supervision. The DCI will be in a position to ensure the IG function does not interfere with the conduct of operations.

And the DCI is given express authority to prohibit the IG from looking into matters where it would interfere with the outcome, or where the DCI feels we are getting onto thin ice with security matters which should not be released. And the DCI can stop that. All he has to do, then, is tell the committees.

If the committee chooses to pursue the matter further, they can do that. All we are saying is that he cannot just bottle something up where the investigation might involve the Director.

The DCI will also be in a position to influence the size and staffing arrangements for the IG. There is no requirement in the bill for any larger office than what now exists, nor do we contemplate the need for one. There is no evidence we are aware of in all the other agencies that maintain a statutory IG, that it has made Government bureaucrats any more cautious in carrying out their responsibilities.

Another criticism is that there is insufficient evidence that change is needed in the existing system and that the committee has not looked into this adequately.

I would answer that. The Iran-Contra committee found, 2 years ago, that the CIA IG lacked the resources and tenacity to do an adequate job of investigating the CIA's role in the Iran-Contra scandal. The internal report on Iran-Contra that Judge Webster prepared also found shortcomings. That is the judge's own look at what his own people had prepared for him. The Iran-Contra committee recommended the establishment of an independent, statutory inspector general.

The committee also had access to several recent inspector general reports, some of which were prepared at the committee's request, to the DCI. We do not expect these reports to always be critical. We do, however, expect them to be thorough and objective. This is too often not the case. While we recognize that a change in the status of this office cannot be expected to improve the quality of IG's performance overnight, we believe that in time it certainly will have that effect. We cannot ignore the experience of the Defense and State Departments, whose inspectors general have testified that their operation had been enhanced by their improved status.

Another criticism is that the DCI's control over the CIA will inevitably be weakened by creating an IG appointed by the President for Senate confirmation and that this might make some foreign intelligence services reluctant to cooperate with CIA.

I answer that the bill has been drafted to ensure the DCI will retain appropriate control over the inspector general, except in extreme limited circumstances. For example, if the DCI himself were the focus of an investigation, all of the IG's reports must be channeled through the DCI. The DCI is also given authority to stop the IG from looking into any matter he chooses, if he finds it necessary, to protect vital national security interests. Such decisions need to be reported to the Intelligence Committee, but nothing prevents the DCI from acting where he believes it is necessary.

The bill requires that the IG must comply with all of the security policies of the DCI so he is not a rogue elephant; he is not running off violating the security policies of the DCI. He or she must comply with all of the security policies of the DCI to protect intelligence information.

Foreign intelligence services cannot reasonably perceive from this bill that this change will have any perceptible effect at all on their working relationship with the CIA. The secretaries of State and Defense have not been heard to complain that they have been weakened by the creation of a statutory IG in their Departments. I believe their Departments have been strengthened because of the actions the IG's have been able to make.

Also, I find it difficult to think that by requiring subcabinet officials to be appointed by the President and confirmed by the Senate we are weakening the Department heads' control over them. We do not believe that is the case with all the Assistant Secretaries and Deputy Assistant Secretaries in the Departments of State or Defense or anywhere else.

There are other criticisms, Mr. President, I will be glad to address. Those are some of the main criticisms that are brought up from time to time. I wanted to address those while I had the floor.

In summary, I urge my colleagues to support this important legislation to

establish an independent statutory inspector general at CIA and to oppose this amendment to strike the IG provision from the Intelligence Authorization Act, and I urge support for the whole bill.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. I wonder if the distinguished Senator from Ohio, who just spoke, would help me on a matter. He is chairman of the Governmental Affairs Committee. Would this inspector general come before his committee for confirmation proceedings?

Mr. GLENN. No, he would not. We have given that up, as I indicated early in my remarks. We normally would have that as the committee that oversees the whole inspector general operation. We normally have the right to call them, but we have given it up in this instance so we do not involve more people. We do not see that is necessary. We think that the Intelligence Committee, set up in the special nature in which they were set up, have cognizance over this and can exercise that kind of oversight responsibility.

Mr. CHAFEE. I want to thank the chairman. Mr. President, first of all, I want to say I have great respect for the chairman and vice chairman of the Intelligence Committee and also for the principal author of this inspector general language. Mr. President, I speak from some background in this area. The first 8 years I was in the Senate I had the privilege of serving on the Intelligence Committee.

What are the key points of this legislation that is before us, this particular amendment, and the underlying cause of it being brought up? The reason that the inspector general is before us is to avoid the errors and the scandals of the Iran-Contra era. That keeps coming up, Iran-Contra, Iran-Contra. It seems to me that is a shroud permanently wrapped around the CIA, just like this Nation could not do anything in foreign policy because of Vietnam. So the Iran-Contra atmosphere is all about this inspector general proposal. I think that is unfortunate, Mr. President. I hope that we can move on. We have a new Director, a Director who everybody here shows great respect for. I think we ought to give him a chance. He has an inspector general.

Some say, oh, the powers of that inspector general are not adequate; he serves in this post, and then he goes back into service in the CIA, so, therefore, he is ineffective.

I think, as I say, we ought not to barge in on this new head of the CIA, the Director of Central Intelligence, at this early stage in his term.

What are the high points of this bill that is before us? The two high points that have been discussed both involve two new monitoring requirements. It is told here that we made tremendous progress; that now we have gotten the President to timely report in the case of new findings. So there is an instance where now the Congress is going to be deeply involved, have a report, no question about it. If the President does not report, then he is losing the support that is necessary to him from the respective committees. So there is a case where there is a monitoring requirement.

What is the other big feature of this bill? It is another monitoring requirement. It is the inspector general. Here we have a new inspector general. He is going to be above the five Deputy Directors. There are only two Presidential appointments currently confirmed by the Senate, the Director and Deputy Director. None of the five other Deputy Directors are confirmed. But now we are going to have the inspector general. He is going to come before us. He has to go through confirmation. It seems to me we spend more time trying to determine whether the CIA is doing something wrong than helping it do its job right, to perform its activities in a better fashion.

As I say, I have great respect for the members of the committee, but I do wish that half as much energy would be placed in helping the CIA perform its duties in a better fashion than increasing the number of watchdogs and the amount of monitoring that goes on in this agency.

I think we have to recognize, Mr. President, whether we like it or not, that the CIA is a different agency from the others. It is not the Department of Transportation; it is not the Energy Department; it is not the Department of Defense. The very purpose of the CIA is to operate in a clandestine manner. That is what it is. It is not in a goldfish bowl. It is not an agency that is to have all its activities spread in the public. By its very nature, it is an agency that relies on originality and, indeed, a sense of the free spirit.

Sometimes I wonder, Mr. President, with the bureaucratic levies that are being imposed on that agency, whether it will ever be able to achieve the great intelligence breakthroughs that occurred, for example, in World War II and, in some instances, since then. Always the attitude seems to be we have to watch over that agency more. "Rogue elephant" is a term that has been used in the past.

So we have two more monitoring requirements: The swift reporting of the findings and this inspector general, without even giving the current Director of the CIA an opportunity to see if he cannot perform in a fashion that meets the approval of the committees. So, Mr. President, I hope that this amendment will be accepted. I ask the distinguished sponsor of the amendment if I might be listed as a cosponsor.

Mr. HOLLINGS. I ask unanimous consent the Senator be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I know we are going to vote on this soon. I urge my colleagues to accept this amendment by the distinguished Senator from South Carolina. Subsequently, maybe we will have to go into these inspector general proceedings as is outlined. I do not know. But I do not think it is the way to proceed now. The President, who has had some experience in that agency, a good deal more experience than any of the rest of us have had, is opposed to this idea. We have all seen his letters indicating so.

I thank the Chair.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. I thank the Chair.

Mr. President, we are going to vote shortly on this amendment, but not before a few further thoughts are offered on the subject.

I rise in opposition, and I rise with a very specific concern, and that is the subject of the involvement of the United States in assassinations and coups to overthrow governments in foreign lands.

Mr. President, I am going to take the liberty in this quiet moment of the afternoon to do something I do not believe I have ever done in 13 years in the Senate. I am going to reread a statement I made on the floor on Wednesday, October 18, 1989, in which I said:

"Mr. President, it happens I was one of a small company assembled in the big southwest corner office of the West Wing of the White House in the early afternoon of November 22, 1963, waiting word from Dallas. In any event, no message came; leastwise, none that I recall. Rather, at one point we all seemed to come to the same realization. John F. Kennedy was dead." He had been assassinated.

"Within minutes, Hubert Humphrey burst into the room, tears streaming down his face, grabbing Ralph Dungan by both arms: 'What have they done to us?' he asked."

"We all knew who 'they' were. The right wing in Dallas. And yet, later in the day we learned on the radio that an arrest had been made of a man who had been connected with Fair Play For Cuba, a pro-Castro or sympathetic group. 'Oh, God, I said to myself. They will kill him, too.' This is a matter of record. I began to plead that the Federal Government must get physical custody of Oswald. Late that evening I went out to Andrews Air

Force Base to meet the plane bringing the Cabinet back from its aborted trip to Japan."

You no doubt recall, Mr. President, that the plane had to turn around halfway across the Pacific. "I pleaded with the members of the Cabinet as they came down that we had to get custody of a man called Oswald."

"I really worked on this. Dean Joan Konner of the Columbia School of Journalism recalls my coming into her studio at Channel 13 in New York City to plead the case."

"Assassinations, you see, linger. Societies sicken."

"I had more than Castro in mind. Obviously, we had tried without success to assassinate him. Had he succeeded in an attempt at revenge? But there was something more, Mr. President. It happened that at the time one also knew that we had been in on the assassination of Ngo Dinh Diem in Vietnam." He was the head of that government at that time. "We did not order it. We certainly did not do it. But we were around. I was not then involved in foreign affairs, but had friends who were. These friends were sick at what we had done. Diem was an innocent man; an ally. We had decided we needed a better one. Get out of the truck; say your prayers. Something like that. I don't even want to look it up. It was enough to read Senator COHEN's words of yesterday:

> We have a tendency to take snapshots of today's events and airbrush away unpleasant experiences from our past. But it is important to remember that America reaped no political rewards in the coups that resulted in the deaths of South Vietnam's President Ngo Dinh Diem and Chile's Salvador Allende. And many will always wonder whether our own attempts to murder Fidel Castro played a role in the assassination of President John Kennedy.

"And so I have ever since been of the view, not perhaps an exceptional insight, that assassination works both ways. Hence I went a little sick yesterday morning to read on the front page of the New York Times the headline, 'CIA Seeks Looser Rules On Killings During Coups.' Will we never learn? How little we know. How little we influence actual events. How vast and menacing our image in the world can become because of such statements." I was referring to statements made the previous day by Director Webster. "Statements made to please, But, Mr. President, I will restrain myself." Please what groups I did not and do not know. Nor do I know what specific maneuverings in the executive branch led to Director Webster's statement.

"There is also a matter of law. Not executive orders, but law. To be specific, supreme law. Article VI, Paragraph 2 of the Constitution we are busily amending these days: 'Treaties shall be the supreme law of the land.' "

Article I, section 8, if memory serves, also states "Congress shall have the power to define and punish offenses against the law of nations," the law of nations being a direct counterpart to international law. Treaties become international law when they are sufficiently widely accepted. I suggest that a ban on assassinations is sufficiently accepted around the world to constitute a norm of international law.

"The issue involved is intervention. Intervention in the internal affairs of another nation is a violation of the United Nations Charter, and the charter of the Organization of American States." Mr. President, the U.N. Charter, article II, section 4, says:

> All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the purposes of the United Nations.

This is the heart of the charter, Mr. President: "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state."

In my statement on October 18 I went on the state: "There is a distinction between intervention and merely attempting to influence events in another nation. That is normal. It is diplomacy. It is desirable. It is the way we learn to get along with one another. But it is another thing to seek to coerce in situations of violence; worst of all is the assassinations."

Mr. President, here I would like to apologize for any offense I may have unintentionally given. In my statement I then said, "The word is 'Arabic,' of course, but the calling is age-old, worldwide and universally despised." I was not thoughtful enough when I used the phrase "Arabic, of course." What we mean is only that the word happens to come from the Arab language, has a colorful and historic origin rooted in opposition to the Crusades and has been adopted in other languages, as words are constantly adopted across languages.

I went on the say: "I would further note that the United States is party to the four 1949 Geneva Conventions on the laws of war. Assuming that an internal convulsion rises to the point of international conflict * * * the Geneva Conventions come into play.

At that point, Mr. President, under a set of conventions now so widely adopted as to have the status of law, and of course ratified by the United States with the advice and consent of this Senate, individuals became responsible. Individuals who had never previously been the subject of international law were made such by the Geneva Conventions.

The sequence, Mr. President, was very simple: "The Geneva Conventions codified the judgments made at Nuremberg. Order the murder of a prisoner"—order an assassination—"and you can get yourself hanged."

Mr. President, at Nuremberg the United States, with Supreme Court Justice Jackson on that tribunal along with eminent British jurists and others, convicted men to be hung by the neck until dead for actions which are now codified in the Geneva Conventions and are law. Individuals are responsible under that law.

And so I ask, where are we moving, and where is the sense of history in the events that have been taking place in Washington in recent weeks? Just Saturday morning I opened the New York Times, and read with great interest the headline "U.S. and Soviets Agree To Back U.N. Agencies." Something of note took place. For the first time in the 44-year history of the U.N., the United States and the Soviet Union drafted and proposed a joint resolution in the General Assembly. For the first time ever they held a joint press conference to announce this.

I have since spoken to both the Permanent Representative of the Soviet Union and our own Permanent Representative, the distinguished career Foreign Service Officer, Ambassador Pickering, and they agree that this is a large event. The two powers have come together to say they are going to renew their determination to see that the U.N. Charter works and that the international system enables it to work.

They committed themselves again to the principles of the charter.

Mr. President, on the very next column of the same page I then read the following in a dispatch to the Times: "The Bush administration has sent to Congress a looser interpretation of the executive order banning covert involvement in assassinations overseas, William H. Webster, Director of the Central Intelligence Agency, said in a published report."

That report came from an interview, a luncheon that Judge Webster had with the editors and reporters of the Washington Post.

Mr. President, I ask unanimous consent that the Times story on the United States-Soviet joint initiative be placed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES AND SOVIETS AGREE TO BACK U.N. AGENCIES

(By Paul Lewis)

UNITED NATIONS, November 3.—In a new sign of their improving relations, the United States and the Soviet Union said today they would work together to strengthen the United Nations and its agencies around the world.

The two countries said they planned to submit a draft resolution to the General Assembly calling for the organization to play a

greater role in maintaining peace and fostering international cooperation.

It was the first time in the United Nations' 44-year history—largely a tale of cold war or deadlock between Moscow and Washington—that the two nations have co-sponsored a General Assembly resolution aimed at reinforcing the organization's work, diplomats said.

Even the joint press conference called to introduce the text was the first they have held together at the United Nations.

The resolution, which is likely to win unanimous endorsement, contains no commitments beyond those accepted by Washington and Moscow in signing the United Nations Charter.

But both sides said the draft measure signaled that they want to extend the pledge of cooperation exchanged last month by Secretary of State James A. Baker 3d and Foreign Minister Eduard A. Shevardnadze in Wyoming.

The announcement today was consistent with the Soviet Union's growing support for the United Nations. It also represents the strongest endorsement the Bush Administration has given so far to the organization's role in preserving peace and fighting global problems such as drug trafficking and damage to the environment.

PRESERVE PEACE AND ORDER

In a joint statement, the United States and the Soviet Union said, "What is most important about this resolution is not its specific language but what it symbolizes as a new beginning at the United Nations—a new spirit of constructive cooperation."

They added: "We hope it may offer an example to other member states that it is possible to set aside the tendentious polemics that have been too common in the United Nations in the past."

The two nations pledged to work together through the Security Council to "preserve peace and restore order" in the world.

They said they would also promote "budgetary reform" throughout the United Nations system and eliminate "duplication of effort."

"Today is the end of confrontation," the Soviet Deputy Foreign Minister, Vladimir F. Petrovsky, said at the press conference. "We want a new atmosphere of practical, serious discussion in all bodies of the United Nations."

The resolution also represents a tactical victory for the United States in its long-running war of words with Moscow at the United Nations, diplomats said.

As part of the agreement, the Soviet Union has ended a three-year struggle to persuade the General Assembly to endorse what it called "a new comprehensive approach to international peace and security."

Just what such a commitment might entail has never been clear. The United States, its allies in the North Atlantic Treaty Organization, and some developing countries have opposed the Soviet plan, saying that existing United Nations mechanisms are adequate.

In the course of preparing today's resolution, the Soviet Union told the United States that it hopes to join the organization's Rome-based Food and Agriculture Organization, and eventually the World Bank, the International Monetary Fund and the General Agreement on Tariffs and Trade.

Mr. MOYNIHAN. Mr. President, as I noted, the Times article on Judge Webster's comments was passed on an interview he gave to the Post. I therefore turn to the front page, the same day, Saturday last, of the Post, where one reads the headline: "Administration Alters Assassination Ban." In a story written by David B. Ottaway, and Don Oberdorfer, the Post states that:

CIA Director William H. Webster said yesterday that the Bush administration has given Congress a new legal interpretation of the executive order banning covert U.S. involvement in assassinations that would allow the Central Intelligence Agency to help coup plotters in other countries as long as the death of a political leader is not their explicit goal.

Mr. President, to maintain the contrast with the announcement of the United States-Soviet joint resolution, I ask unanimous consent that the Post article on Judge Webster's comments be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 4, 1989]

ADMINISTRATION ALTERS ASSASSINATION BAN

(By David B. Ottaway and Don Oberdorfer)

CIA Director William H. Webster said yesterday that the Bush administration has given Congress a new legal interpretation of the executive order banning covert U.S. involvement in assassinations that would allow the Central Intelligence Agency to help coup plotters in other countries as long as the death of a political leader is not their explicit goal.

Webster said the still-classified Justice Department opinion issued Oct. 27 recognizes that "you cannot equate violence with assassination." He indicated that the agency thus could assist an attempt to remove a foreign leader who was then killed accidentally.

"Our job is not to be part of a plan to cause the death of a political figure," he said, adding that also means "we shouldn't be part of a plan that we know someone else is going to seek to cause the death of a political figure."

Asked whether this means the ruling does not extend to the killing of a political figure accidentally, Webster replied, "That's the legal guidance."

In a wide-ranging interview with Washington Post editors and reporters, Webster provided an unusually candid account of his views on a variety of issues ranging from the current situation in the Soviet Union, East Germany, Afghanistan, China and Panama to the plight of the hostages held in Lebanon and the investigation into the bombing last December of Pan Am Flight 103.

Apparently seeking to demonstrate that he has gained a mastery of complex foreign policy issues, Webster spoke confidently and in detail on most of those subjects even while seeking to avoid any expression of his own opinions on controversial policy issues. Some senior Bush administration officials have criticized Webster, saying that he has failed to master his subject matter and declined to offer policy advice to the president.

The CIA director made these other points during his 90-minute interview over lunch at The Post:

The administration hopes to locate, seize and bring back to the United States for trial the terrorists responsible for the bombing of Pan Am Flight 103 on Dec. 21, that caused the deaths of all 259 people aboard and 11 others in Lockerbie, Scotland, where it crashed.

Anticipating the possibility of such action, the Justice Department, he said, has created a new term, "rendition," to describe the act of capturing and bringing back to the United States a criminal suspect. Webster confirmed that the United States believes it has the legal basis for kidnapping a terrorist in another country even without the knowledge and permission of its government.

The term was contained in a Justice Department legal opinion issued last June and is particularly aimed at allowing the CIA or Federal Bureau of Investigation to seize a terrorist in countries like Lebanon, where there is no longer any rule of law.

The United States faces "a very real possibility" of having to decide to try to save some, but not all, of the eight American hostages being held in Lebanon by Iranian-inspired terrorists. That choice would arise, Webster said, if the United States acquired firm intelligence on the whereabouts of only some of the hostages. He said the decision about what to do in that case would have to be made by higher-ranking officials.

Webster acknowledged that the CIA and other U.S. intelligence agencies suffer from a serious "intelligence shortfall" about hostages' whereabouts at any given time, a problem complicated by the fact they are not kept all together.

Soviet President Mikhail Gorbachev has consolidated his power and has "running room," Webster said, but at the same time Gorbachev is under mounting pressure to make good on his promised reforms.

The political change underway in East Germany is "one of the phenomena that is going much faster than anybody could have anticipated" and that when this happens "you might have violence." He said he found during a recent European trip that West German leaders were "really worried" that the fast pace of change in East Germany would "backfire" on Gorbachev's reform efforts.

Intelligence reports suggest that probably "thousands" of people have been killed in China since the outbreak of the pro-democracy movement last spring and that a serious power struggle is underway in Beijing and is being conducted within the Communist Party's central military commission, of which Chinese leader Deng Xiaoping is chairman.

CIA analysts believe that the U.S.-backed Afghan resistance is slowly winning the war against the Soviet-supported regime in Kabul and that the Soviet Union, now providing $300 million a month in military aid, has taken on "a very expensive gamble" in Afghanistan.

The coup attempt in Panama early last month failed mainly because its leaders "planned to do it themselves" without any U.S. assistance and to carry out "an old-fashioned coup where people don't have to get hurt."

Speaking about the months-long debate between Congress and the CIA over the meaning of the 1976 executive ban on U.S. involvement in assassinations, Webster said he felt the outcome was that "we're back to a basic executive order that says you [the CIA] will not engage in assassination."

"We now have the extensive opinion from the Department of Justice that gives us an understanding of what the heck that [assassination order] means," he said.

He said the CIA, in seeking the new interpretation, was not seeking "an invitation for

us to engage in more coup plotting . . . but simply, if we are asked to do it, that we be asked to do it under rules that comply with the executive order and are not so unrealistic that we will end up not succeeding."

Webster said the Justice Department had begun drafting the new interpretation immediately after the failed Panama coup Oct. 3, though he said it would have made no difference to the situation in Panama if the new guidelines had already been in place. Webster said Justice's Office of Legal Counsel under Assistant Attorney General William P. Barr, had pored through "boxes of files" concerning its meaning that had accumulated since the original executive order was issued in 1976.

The Justice Department legal opinion, he said, is "not that complicated" but is "several pages" in length. Barr has already briefed him on the meaning of the interpretation, he added.

Another administration official familiar with the drafting of the new opinion said late yesterday that a team of six Justice Department lawyers and another four from the CIA had searched through 160 boxes of documents from the Ford, Carter and Reagan administrations to determine whether the executive order was meant to exclude U.S. involvement in coups where violence and accidental death were possible.

The official said the Justice Department opinion did not constitute a loosening of the rules but rather a clarification of the 1976 executive order.

Asked whether he thought the Senate and House intelligence committees would accept the new interpretation, Webster said there were always "mixed views" among their members about whether the United States "should have anything at all to do with coups." But he said he felt "the air has been sort of cleared" now and that the various conflicting interpretations of the order that had accumulated since 1976 like "barnacles" removed.

Senate intelligence committee sources said that as of late yesterday afternoon, the committee had not received the Justice Department's new legal opinion, though it was expected imminently. Told Webster's description of it, one source said, "I don't think we're going to have a great deal of trouble with it."

Regarding the hostages in Lebanon, Webster was frank about what he called the agency's "intelligence shortfall," which he said stemmed partly from "the nature of terrorism" and partly from the chaotic conditions in Lebanon.

"Over there, you cross the street and people are wondering what you're doing on their side of the street. It's about the world's worst environment to conduct any kind of intelligence," he said, adding, "It's hard for our assets, and we do have assets over there, to communicate with us."

Webster said the CIA was "pretty much" convinced Lt. Col. William R. Higgins had died long before Lebanese terrorists produced last July 31 a videotape of his body hanging from a rope and that there was some intelligence indicating he may have been killed in early July 1988 at the time the USS Vincennes shot down an Iranian jetliner over the Persian Gulf.

SOVIET UNION AND EAST EUROPE: GORBACHEV'S IN CONTROL, BUT TIME IS SHORTENING

Gorbachev has consolidated his political power, but is under growing pressure to show economic results from his *perestroika* reform program, Webster said.

The CIA director, who took pains to say he did not wish to participate in the recent public debate within the administration about Gorbachev's prospects, said "there is a lot of pressure on Gorbachev to make the reforms visible" to the Soviet citizen and consumer.

"The time he has to make things happen is shortening," said Webster, not only because of the economy but also because of conflicts between nationalities in the Soviet Union and the implications of events in Eastern Europe.

Webster was asked about an intelligence estimate that reportedly said Gorbachev could be expected to stay in office for at least two more years. Webester said there were varying opinions about Gorbachev's staying power, but that the two-year minimum was "a kind of working number." He added, "I don't regard it as significant. . . . It doesn't say he will drop out in two years. It says he's got running room."

The degree of Soviet tolerance of independent actions in Eastern Europe, and especially East Germany, was another topic for the CIA director.

What impressed Webster about East Germany—and political leaders he saw during a recent trip to Western Europe—is "the pace of change [which] had reached the point that people were beginning to worry."

A key issue, said Webster, is what will the Soviet Union do about the situation in East Germany. "So far, it doesn't seem they are prepared to do very much."

Regarding the Soviet Union's own efforts at economic reform, Webster said the process of shifting the emphasis in the Soviet economy from military production to consumer goods is proving to be difficult and time consuming. The CIA chief estimates it will take two years to make major shifts from military production, and another two years for consumers to begin to see results.

Gorbachev, who has shaken up the Communist Party Politburo and Central Committee and sponsored a process of contested elections and open parliamentary debate, is under "no imminent political pressure," in Webster's opinion.

Webster said, "It is a widely held view in the [Central Intelligence] Agency that every day [Gorbachev] remains in office and pushes his program, it reduces the likelihood that there will be significant changes in that program if he should go out of office."

Many also think, he went on to say, that if Soviet conservatives should succeed in reversing Gorbachev's policies, "it would be nastier . . . it would require more violence and more repression than has been required" in the past several years.

"Nobody has written Gorbachev off by a long shot," said Webster, in a statement that appeared in contrast with some gloomy assessments heard from Soviet experts and some in the intelligence agencies. "His definable opposition is shrinking," Webster said.

Gorbachev's recent attempts to crack down on some elements of the Soviet press are controversial in Moscow and the United States. Webster mentioned them in passing from another angle, calling Gorbachev's recently revealed sensitivity to the Soviet press "the only indication we have that he is human."

On the political situation in East Germany, where some 5,000 were reported yesterday to have fled to the West German Embassy in Prague, Czechoslovakia, Webster said, "It is going much faster than anyone might have anticipated."

An apparent reason for the continuing flight of refugees, he said, is that the people of East Germany do not appear to be sure yet that the new communist leader, Egon Krenz, has seriously changed to a path of reform.

"Lurking here is a very important issue, reunification," observed Webster. "It has to be discussed. It's there," he said of the "German question, which has suddenly returned to active debate after decades of being mostly dormant.

CHINA'S FUTURE: POWER STRUGGLE PITS REVOLUTIONARY COMRADES

A power struggle is underway for military control of China between senior leader Deng and another aged veteran of the 1949 revolution, Yang Shangkun, according to Webster.

The struggle is being fought out, Webster said, in the Communist Party's Central Military Commission, which makes policy for the armed forces and which is believed to have directed the military crackdown on dissenters last June in Tiananmen Square in Beijing and elsewhere in China.

Deng, 85, is chairman of the military commission, his only remaining official post. Yang, 82, is vice chairman and secretary general of the military commission as well as president of China, a largely ceremonial post. Though they have been comrades for decades, Deng and Yang are reported to have very different ideas. Deng has been the leading advocate of reformist economic policies and, until recently, tolerated a substantial degree of independent political thinking. Yang is reputed to be more conservative in every way, though his precise views on most issues are unknown.

In the power struggle, Webster said, Deng is reported to be supporting the new Communist Party general secretary, Jiang Zemin, as chairman of the military commission. But Webster said the party chief, who was hand-picked by Deng following the June crackdown, "has no constituency of his own" within the Chinese leadership.

Webster said it did not appear likely that there would be another violent eruption as in last summer's events, but that, "I think there is a lot of potential for change inside [the leadership] at this point."

AFGHANISTAN'S CIVIL WAR: GOVERNMENT LOSING DESPITE SOVIET AID

The Soviet Union continues to provide massive military supplies to the beleaguered Afghan government army under President Najibullah but the *mujaheddin* rebels "are winning" the war, Webster said. He acknowledged that the rebels' advance is not rapid, however. "Maybe it seems glacial to some," he said.

The CIA director said the Soviet Union continues to provide supplies and equipment worth $300 million monthly, in a "gamble [that] is very expensive." Over 1,000 surface-to-surface Scud missiles, which the U.S. says cost $1 million each, have been fired since Soviet troops completed their withdrawal early this year, Webster said.

He said the Soviets were surprised that Najibullah was able to survive against the rebel assault after all Soviet troops had been withdrawn. So was the CIA—which, according to government sources, first had predicted that the Soviets would not withdraw from Afghanistan and then predicted that the Soviet-backed regime would quickly fall.

The failure of the rebels to win any dramatic victories has led to descriptions of the Afghan war as a stalemate. But according to

Webster, the rebels are "fighting actively and aggressively on a number of fronts," forcing the Soviet-backed forces to spread themselves thin in self-defense. The Afghan government army, Webster said, has been reduced from 150,000 troops to 120,000 by deaths and desertion.

Though the Najibullah government remains in power in Kabul, said Webster, the rebels control about 85 percent of the territory, leaving the government effectively in charge of only a band of cities linked by a U-shaped road. He said the *mujaheddin* continue to besiege the garrison town of Khost near the Pakistani border, with the Afghan government parachuting men and supplies into combat with the rebels. Khost, he said, might be the first major government-held town to fall.

PAN AMERICAN FLIGHT 103: U.S. SEEKS PROCEDURE FOR SEIZING SUSPECTS

Regarding the investigation into the mid-air bombing that killed all 259 people aboard Pan Am Flight 103 and 11 more on the ground in Scotland, Webster said the U.S. government is still not at the point where it could issue indictments and arrest warrants for anyone.

Webster praised the combined efforts of investigators from four nations to track down the terrorists responsible but said there had been "too much discussion" in the news media about their work.

"It makes it very difficult to lay traps and find new evidence when people start reading about themselves. And it makes countries and [security] services defensive. Right now the name of the game is for the bomb not to have been put on board in their country," he said. He added that by using the term "lay traps," he meant surveillance of suspects.

There have been a recent spate of reports that the bomb that destroyed the Boeing 747 was contained in a suitcase that was placed aboard the plane after it arrived in Frankfurt, West Germany, from Malta. Some sources believe the news leaks to have been the result of British intelligence officials angry at lack of cooperation from West German security officials.

"The assumption is: 'If it turns out to have been on board in my country, we will be accused of not having prevented it,' when the effort really ought to be how did it happen? Who did it? Where?" Webster added.

Asked whether the goal is to apprehend those responsible and bring them back to the United States for trial, the CIA director replied, "That's correct."

Webster said the Pan Am incident had helped the Justice Department to focus on the problem of establishing a legal basis for the capture and return of suspects in the bombing and that "they fashioned a new name, 'rendition.'"

Webster said such a seizure of a terrorist suspect in another country by U.S. authorities was accepted by American courts which "do not much care how the defendant happened to come into America."

"So it isn't an issue of whether they can be tried or not. The issue has become one of international relations, respect for sovereignty, politics," he said.

"It seems to me that you have a different set of circumstances in a country like Lebanon which has no capacity to provide law enforcement or assistance than going to another neighbor such as Sweden or someplace and lifting somebody out of there," he said.

Mr. MOYNIHAN. Mr. President, the new interpretation of the ban on assassinations does not say that assassination cannot be an "implicit goal" or an anticipated effect. The new ruling only states that assassination must not be "their explicit goal," as if coups take place according to written agreements. We will do this, we will not do that; signed, codified.

Mr. Webster said the still classified Justice Department opinion issued October 27 recognizes that "you cannot equate violence with assassination."

Mr. President, I can only read this—and I shall be happy to hear other interpretations—to indicate that violence is all right if it does not explicitly extend to assassination. The United States can be involved in the support of violent actions in other countries.

The UN Charter states that all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of a state. I think it is pretty obvious that to change a government by violence or force is certainly interfering in the territorial integrity and political independence of a state.

Judge Webster—and it is Judge Webster, a former U.S. district judge—said that our job is to refuse to become involved in a plan to cause the death of a political figure. He states that we should not be part of a plan if we know with certainty that someone else is going to seek to assassinate or execute a political figure. But he adds that the ruling does not extend to killing a political figure accidentally. Judge Webster states that this is the legal guidance he has received. We are sorry, you are dead. We had not known that was part of the plan; it was not explicit.

Mr. President, we are now openly announcing to the world that it is all right for our Government to be involved, to use its resources to overthrow other governments, and hope that there are no accidental deaths in the process.

There is something in international law called reciprocity. What is conceded to you by one country, you concede to that same country in return. Mr. President, am I to understand that the United States believes it is all right for other governments to seek to overthrow the Government of the United States, as long as they do not explicitly intend the death of the President of the United States? Would that extent to the Vice President, or is it just to heads of state? Would it extend to any set of individuals?

Mr. President, two centuries ago such a statement by an official of the American government would have caused an outrage. We said in our Constitution—and we did, sir, in the debates that took place in the Congess under the Articles of the Confederation—that the United States would adhere to international law. We took that position in the Continental Congress prior to the Articles of Confederation. I think probably the phrase would have been "law of nations." The term international law came later, in the 19th century. We said, "You can look to us as a country which will abide by the law of nations." A responsible official should not say otherwise.

President Bush went to the United Nations on September 25, and he told the General Assembly, "The founders of this historic institution believed that it was here that the nations of the world might come to agree that law, not force, shall govern." Yet now we are adopting a code which only prohibits the explicit intention to murder a head of state.

Judge Webster went on to make this extraordinary statement, and I am reading now from the Washington Post:

"The coup attempt in Panama early last month failed mainly because its leaders"—the article is quoting Mr. Webster—"planned to do it themselves, without any U.S. assistance, and to carry out * * *" Mr. President I ask your indulgence. Listen to this carefully. These men in Panama planned to carry out the coup without U.S. assistance—a mistake, says Judge Webster. The further mistake was that they planned to carry out "an old-fashioned coup, where people do not have to get hurt."

I see that the distinguished leaders of the Intelligence, Committee are on the floor. Do they wax nostalgic, as the Director of CIA evidently does, for those old-fashioned coups?

Mr. COHEN. Will the Senator yield?

Mr. MOYNIHAN. I will not be long. Mr. President, when I was a youth, a while ago, it was a practice for young men to yearn for an old-fashioned girl, presumably untainted by the snares and delusions of modern life: lipstick, rouge, whatever. Today we long for old-fashioned coups, where only inconsequential people die. The mind reels.

I say simply, sir, that we cannot have it both ways. We cannot have the President of the United States go to the General Assembly and say that the United Nations was founded because Franklin D. Roosevelt, Winston Churchill, and Harry S Truman believed that it was there that the nations of the world might come to agree that law, not force, shall govern and, at the same time, openly assist violent coups. We seem to be saying that law not force shall govern—an excepting when we use force. What do we really think, Mr. President?

I do not think a government can simultaneously have two such ideas in its mind, without raising the question of duplicity, imbecility, weakness of mind or just plain weakness of charac-

ter. Are we a government that believes and states openly that we are for old-fashioned coups, that it was a mistake to try to overthrow the government in Panama without our assistance? This is an elemental violation of law, a violation of treaty law, our law. Nuremberg was our law. It was said at the time, courageously by professors of international law, that Nuremberg had been victor's law. Therefore, we said let us make it treaty law. Let us draw up these conventions and have each of us commit ourselves to abiding by them.

We once believed in these principles, sir. If we do not believe in them any longer, the question arises: What do we believe? Do we truly reject the Charter and the Geneva Conventions? Do we think that there is an exception clause for the United States. All other countries are bound, but not we?

I will tell you, sir, it did not feel that way on November 22, 1963, in the White House, when we knew our President was dead—so very recently after our Government was involved in the death of another President.

This is not why we wrote those clauses into our Constitution.

I see that the distinguished vice chairman of the Intelligence Committee is on the floor. At this point I would rather hear from him than continue my own remarks. If he would allow me just the opportunity to say that he has been courageous on these matters. He has been forthright.

I am also happy to report to the Senate that this afternoon the House-Senate conference on the State Department Authorization bill adopted the amendment which I offered in committee about soliciting and diverting funds, making it a crime under title 18 of the United States Code to seek, under specific circumstances, to avoid prohibitions made by this Congress, the first legislation we shall have out of the Iran-Contra affair.

Yet even as we deal with that last crisis of Government we find the Director of Central Intelligence is openly discussing the use of force in international affairs. Supporting the very conduct we have said we are against when others engage in it. How many speeches have we heard about such conduct on this floor when others have done it? Now we propose to do it ourselves.

I think we need an inspector general, and if we read the press correctly, that inspector general may not only perform audits. He may find himself involved in issues of crime, the type of crimes for which we have in the past adjudged that the punishment was death. I did not know how lost the intelligence community was, how oblivious to the idea of international law it had become. It is eminently law abiding and has respect for the domestic legislation of this country. But the intelligence community does not seem to have absorbed that other fact of our history, a fact which goes back to the beginnings of our history, to the Articles of Confederation and before, much less the Constitution: international law is part of our law.

I speak, sir, as someone who served on the Intelligence Committee for 8 years. I have received the Central Intelligence Agency's medallion for service an award they give sparingly.

I tell you this, sir, I would not have accepted it from a Director who asserted that the United States had the right to violate the Geneva conventions, article 2(4) of the United Nations Charter and the rule of conduct of all civilized nations. If we are not a civilized Nation, what are we? And what are we becoming?

Mr. President, I see that the distinguished vice chairman of the Intelligence Committee is on the floor.

Mr. KERREY. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield for a question, and then I will yield the floor to the Senator from Maine.

Mr. KERREY. I am inquiring of the Senator, as a consequence of a personal interest I expressed earlier in a private conversation, that this proposed policy is one that I find to be an extremely dangerous one.

I share the Senator's belief that the United States of America ought to project its values first and foremost. I am personally concerned and felt it deeply when I see the director of the Central Intelligence Agency saying that violence and assassination are not equivalent, and that if someone were to accidently die during a coup attempt, that would be an acceptable thing to have happened. Having participated in the carrying out of the Phoenix program at one time, I know how easy it is to cross the line and say, well, yes, general so and so accidently died while we were driving him to the base. He fell out of the car while we were going back to the base and/or some other thing.

Once, it seems to me, we have projected a standard, we are willing to accept an assassination if it is accidentally, it seems to me we are projecting to the world a value that is at odds with our most precious values.

I am curious. I have heard the Senator's previous speech and heard pieces of this speech. Is that the principal objection that the Senator from New York is offering to this particular policy.

Mr. MOYNIHAN. I thank the Senator for his remarks.

The Senator from Nebraska is one of the Members of this body who shed blood in this Nation's wars and has done so honorably and been honored for it. No one has more of a right to stand on this floor and ask: what are we becoming? What have we come to?

He speaks of morality. I would simply speak of law. Are we a Nation of laws? If we are, then these laws apply to our activities abroad as well as to our activities at home. That is what our Constitution says. It is our own commitment made in treaties which we negotiated and drafted.

Sir, I think the inspector general will have work to do. I hope he will not, but maybe he will. I would like the RECORD to say, if the committee's proposal is accepted, that part of his responsibility is to see that the laws of nations are observed as well as the laws of the United States, because they are the same. Treaties are the supreme law of this land and they extend to the inspector general's domain as much as any statute enacted here. Treaties are in fact statutes enacted here.

Beyond that I would say simply to the gallant and honored Senator from Nebraska, I do not know what we are coming to when such things can be said and have so little response.

Mr. KERREY. I appreciate the Senator's response. I appreciate his indulgence as well as that of the Senator from Maine and the Senator from Oklahoma. Obviously they have spent an awful lot of time on this. I do not question at all their judgment.

I feel very strongly that the language used by the director of the Central Intelligence Agency is language that should not be policy of the United States. We should not have our political leaders saying that assassination and violence are not equivalent. They are equivalent.

Mr. MOYNIHAN. At the very least, if we say it is right for us to do it to others, it is right if it is done to us. We did not think it was very funny the afternoon we learned John F. Kennedy was dead.

Mr. KERREY. I agree, it should not be our policy.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that two further items be printed in the RECORD at this point. The first is a letter I received after my earlier statement on this issue from Edward E. Rice. Mr. Rice was Deputy Assistant Secretary of State for East Asian and Pacific Affairs at the time of the Diem coup. He states eloquently that he recalls "with particular vividness that we did good neither for ourselves nor for Vietnam by encouraging the Vietnamese who carried it out. I thank the Chair and I yield the floor.

The second item is from the Times of November 1, 1989. It reports that Iran is adopting a law to allow it to seize United States citizens and bring them to Iran to stand trial. The Iranian Parliament acted in response to a Department of Justice opinion stating

that the United States may seize persons abroad and bring them to the United States for trial.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Tiburon, CA, October 23, 1989.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: Permit me to express gratification that you have raised your voice, both on behalf of reason and with passion, against proposals to loosen the rules against United States participation in assassinations. I refer, of course, to your Oped piece in the October 20 New York Times.

Having been Deputy Assistant Secretary of State for East Asian and Pacific Affairs when the coup against Diem was mounted, I recall with particular vividness that we did good neither for ourselves nor for Vietnam by encouraging the Vietnamese who carried it out.

Indeed, on the basis of my experience as a Foreign Service Officer I long ago concluded that our close involvement in the internal affairs of other governments in general, and our use of so-called covert operations in particular, have done our interests little good and much harm. Moreover, that conclusion has been strongly confirmed by my research, subsequent to retirement, of cases in which I had not been personally involved—research done in preparing the manuscript of my recent book "Wars of the Third Kind: Conflict in Underdeveloped Countries."

Sincerely,

EDWARD E. RICE.

[From the New York, Times, Nov. 1, 1989]

IRAN RESPONDS IN KIND TO "BULLYING" BY U.S.

TEHRAN, IRAN, October 21.—Parliament approved a bill today allowing Iran to arrest any American anywhere who offends it.

The Chief Justice, Ayatollah Mohammad Yazdi, said the bill, approved by 150 members of the 270-seat Parliament, responded to the "bullying nature" of the United States.

He referred specifically to a Justice Department ruling that United States Government agents could pursue and apprehend terrorists abroad without the permission of foreign governments, which he called "the worst kind of terrorism and kidnapping."

The bill must be approved by the Council of Guardians, 12 religious leaders and exports on Islamic law who decide constitutional questions.

A statement today from the Revolutionary Guards Corps said tens of thousands of its members would lead demonstrators Saturday outside the former United States Embassy to mark Nov. 4, 1979, "this great day" when militants overran it and seized Americans as hostages.

Mr. COHEN. I would like to take a few moments to offer a comment on this particular subject.

First, let me commend my colleague from New York, who is a noted historian, or I should say a historian of some note. It is important that we have a sense of history in this institution. I believe it was the poet Auden who said that history held one moment burns the hand. Unfortunately, there are not too many who want to hold history, perhaps because of its incendiary effect.

I was struck by some of the comments that had been offered here in opposition to the inspector general provision. I would like to address myself to that in a moment. But I first want to turn to the subject matter addressed by my colleague from New York about the need for us to look back.

It is important that we discuss this sort of nostalgic sense of the Central Intelligence Agency, the sort of swashbuckling view one holds of an unshackled CIA, as if Errol Flynn were somehow in the background of some individuals' minds. I go back to that time of the assassination of Jack Kennedy and look at the report that was filed some 10 or 15 years later by the Senate committee investigating the assassination plots of the CIA. There is some interesting language in this report. It is dated November 18, 1975, and on page 281 it has a statement from President Ford, who said:

"I am opposed to political assassination. This administration has not and will not use such means as instruments of national policy."

And then the report goes on to quote from Richard Goodwin, who served with President Kennedy. He is paraphrasing Kennedy, who reportedly said, "We can't get into that kind of thing, or we would all be targets."

Then we have a statement from the Director of Central Intelligence, Bill Colby, and then finally Richard Helms. There is a very important book written by Thomas Powers, The Man Who Kept The Secrets, about Richard Helms. There is a statement here from Richard Helms. He said:

"As a result of my experiences through the years, when I became Director I had made up my mind that this option * * * of killing foreign leaders, was something that I did not want to happen on my watch. My reasons for this were these:

"There are not only moral reasons but there are also some other rather practical reasons."

And he goes on to talk about how it is impossible in a democratic system to keep this secret. The truth will out. Someone will talk. Someone will talk to a Congressman, a Senator, or to a member of the press. The truth will out.

But, in addition to the truth getting out, he said there is another consideration:

"If you are going to try by this kind of means to remove a foreign leader, then who is going to take his place running that country, and are you essentially better off as a matter of practice when it is over than you were before?"

And he goes on to give an example, President Diem being one, with him having been, I think he used the word here, "eliminated" from the scene. After Diem was eliminated from the scene, we had a revolving door of prime ministers.

In other words, the whole exercise turned out to be to the disadvantage of the United States. "I don't think it is a viable option in the United States of America these days."

Then Chairman Church, at that point, posed a couple of questions and answers. And finally Church said:

"And finally, if we were to reserve to ourselves the prerogative to assassinate foreign leaders, we may invite reciprocal action from foreign governments who assume that if it's our prerogative to do so, it is their prerogative as well, and that is another danger that we at least invite with this kind of action, wouldn't you agree?"

And Mr. Helms said, "Yes, sir."

So there is no disagreement from all of our past DCI's—from Helms to Colby to Turner, I assume up until the present—that this is not and should not be the policy of the United States.

And what does this have to do with the inspector general? Well, it has a lot to do with the inspector general. We have moved from the discussion of the inspector general to the Attorney General because you are also getting involved in a Justice Department interpretation of what bans on assassinations really mean.

But I say this in the context of what is before the Senate tonight, the motion to strike the provision dealing with the inspector general.

I listened with some care and attentiveness to my colleague from Rhode Island, who is not on the floor at this moment. I must say, I was troubled by at least the implications of what was said by my good friend. He spoke again with some sense of nostalgia about the past: What have we done to the CIA; the good old days—as if they really were the good old days.

If you start talking about the good old days, I could talk about Operation Mongoose. The Senator from Nebraska talked about the Phoenix program. And how about ZR/RIFLE? and QJ/WIN, the hired assassin? We can start digging through the good old days and find they really were not quite as good as we would like to imagine in this romantic notion that we now seem to hold of the past.

The suggestion was made that this is somehow a product of that Iran-Contra thing, and someone asked, "When are we going to give it up?" When do we give Iran-Contra up, as if it were simply a passing moment in our history.

Well, the Senator from South Carolina and I were on a plane one time when we first learned about this, coming back from the Far East. We had a pretty good idea what had taken place at that time. It was not just some passing moment in our history, some momentary diversion, a momentary episode in our history. Iran-Contra was a very significant event in our history, and there were some lessons to learn from it.

So we shouldn't just dismiss it, "Oh, this Iran-Contra thing is coming back

to paralyze us once more." We had the potential for having a government within a government, of selling U.S. assets and taking the windfall profits to set up a secret account to run other covert actions with no accountability, no trail, no trace, off the shelf, no records, no one would know. Congress would not know. Maybe the President would not know. That is what was involved in Iran-Contra, not some Iran-Contra thing that passed a couple of years ago, with nothing to trouble us with today.

We nearly saw the unraveling of a Presidency as a result of that. It was significant and we ought not to sweep it into the dustbin of history as if it were nothing.

There was reference made to timely notice. Here goes Congress again getting into this timely notice thing. Well, this timely notice thing was passed back in 1980. Timely notice was put into law as a result of congressional concern about foreign policy actions being taken without any notice whatsoever to the Congress of the United States.

Again, it was suggested that Congress is getting deeply involved in these matters. I hope so. I hope so. I want to be deeply involved in these matters. I think we have acted responsibly. I think we have saved the agency from time to time from some very unwise actions because we were so deeply involved.

And it was also said, "I hope you guys are trying to do something as much to help the Agency as you are to investigate the Agency." The implication is that Congress is micromanaging, that we are Lilliputians tying up this giant Gulliver, interfering with the capability of the Central Intelligence Agency, somehow destroying the very agency itself.

I would ask the Director of the CIA to respond to that; ask the Agency whether or not there has been a substantial increase in its staff; ask whether it has seen a massive increase in funding; ask whether it has seen a substantial increase in its technical capabilities; and ask the Agency, indeed, whether it, as a result of congressional action, has managed to avoid some of the activities which otherwise would cause it great stress.

Those who diminish the significance of the Iran-Contra affair do not understand Iran-Contra. The Agency was not involved in that. That is precisely why the scandal occurred. It was an attempt by the Director and others to circumvent the Agency, to take it out of the Agency, to put it in the White House, where there could be no congressional scrutiny. There are not inspectors general down there, and no congressional oversight of the NSC.

It was not the Agency that got involved in Iran-Contra. It was the White House. It was because the Agency is required by law to provide timely notice, to notify the Hill if we are involved in covert actions. That is why they were not, for the most part, involved in the Iran-Contra scandal.

I do not impute this to my colleague who is offering this amendment. That is not what he has been saying. But those who criticize the committee for having supported the inclusion of the inspector general provision, I think, misunderstand what the committee is seeking to do. It is not to hinder or to hurt the Central Intelligence Agency but indeed to strengthen not only our oversight but indeed their own accountability.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Chair. I had waited until I thought most of the argument would have been concluded on the inspector general issue before speaking in favor of this provision as I authored it in the committee.

I believe that this afternoon's debate has been a compliment and tribute to the U.S. Senate. The contribution made by the distinguished Senator from New York, Senator MOYNIHAN, has been very profound. When he spoke of the events of the assassination of President Kennedy as they bore on this subject, he brought more of a panoramic sweep to the kind of issue that we are discussing.

It is because of the experience that this Senator had as one of the lawyers who worked on the Warren Commission staff and one of the members of the Intelligence Committee now for the past 5 years that I have authored and pressed this issue, because I do not believe that you can control from the outside, either before the fact or during the fact or after the fact; and that to have effective oversight requires someone within the agency, like an inspector general who knows the CIA, who can observe it on a day-in-and-day-out basis. He is appointed by the President—certainly the Director of the CIA has a hand in it—and if the inspector general has a disagreement with CIA Director, obviously, before it is brought before the Intelligence Committee, it is discussed with the CIA Director.

But, when the Warren Commission investigated the assassination of President Kennedy, we found much more than could be comprehended in an investigation. We looked into the physical evidence, as to what happened to President Kennedy on the day of the assassination, and that was relatively direct. We had bullet holes, wounds of entry and exit, and trajectory. When the Commission looked at the role of the FBI and the CIA, it was much more complicated in terms of what had happened.

When the Intelligence Committee looks at the activities of the CIA—we work very hard in the Intelligence Committee behind closed doors—there is no coverage by C-SPAN or C-SPAN-II. And when the comment was made earlier today by the distinguished Senator from Rhode Island, Senator CHAFEE, that if we spent half as much time helping the CIA as we do trying to oversee them—believe me, we spend more than half our time trying to help the CIA.

But it is not possible for the Intelligence Committee to get inside the CIA, as an inspector general could. We do not wish to micromanage the CIA, and we would have to do less if there were to be an independent inspector general who would be looking after the issues day in and day out. And only in the rare occurrence where there was a disagreement would the inspector general come to the Intelligence Committee.

The Department of Defense has had an inspector general for 7 years and that inspector general deals with a great many secrets. There has never been a problem.

The Secretary of Defense, according to information provided by this Senator, has never had to intervene on an investigation conducted by the inspector general of the Department of Defense.

We come to this point in 1989 because of the considered judgment of the committee that we need this action taken. And it is not based merely on Iran-Contra. And it is not based merely upon the action of the 1970's.

The distinguished Senator from South Carolina talks about not responding to the 1970's. Well, Mr. President, the 1970's were important. In 1976 the forerunner of the Intelligence Committee found a series of problems and defects in the CIA office of inspector general ranging from lack of objectivity to insufficient authority and to lack of independence.

Two years later, in 1978, the Senate Select Committee on Intelligence considered creation of a permanent position of inspector general to the CIA with more authority, objectivity, and reporting requirements.

Then we come to Iran-Contra and the expression has been heard on the floor of the Senate "Why look back at Iran-Contra? Why focus on Iran-Contra? Let us move ahead."

Well, Iran-Contra was a major event in the life of this country and we have not corrected the systemic problems of Iran-Contra. We discussed that earlier today with the problem of notice.

We have a President in whom we have confidence and we have accepted his representation that he will answer the questions and tell us about covert

activities. And we have a Director of CIA in whom there is confidence.

But, Mr. President, we do not come to this issue in 1989 without having given the Director of Central Intelligence 2 years to correct the problems which were identified in 1987. The distinguished Senator from Alaska [Mr. MURKOWSKI] says: "If it ain't broke, don't fix it."

Well, it is "broke." And there are specific examples where there is a need for change. The distinguished Senator from Missouri [Mr. DANFORTH] said, "Do not barge in, without looking at reforms. Give the Director the benefit of the doubt."

The same argument was made by the distinguished Senator from Rhode Island [Mr. CHAFEE] "Do not barge in so early."

Mr. President, there were major matters which the Intelligence Committee looked at in the last 2 years where we were totally dissatisfied with what has been going on. There will be, in due course, a motion made to table the amendment to strike the IG provision with respect to the CIA. We had discussed the possibility of a closed session if the motion to table is defeated. I think we may need to call for a closed session to discuss a good many issues which we cannot talk about in an open session. But I think it is appropriate to make a comment in very general terms about a major investigation which was referred by the Intelligence Committee to the CIA.

When the inspector general made his report, the Intelligence Committee found that the CIA inspector general's investigation and subsequent report were flawed and misleading and were contradicted by information in the possession of the inspector general's staff at the time the report was prepared. The Intelligence Committee staff concluded that the IG report was not thorough and was not encompassing of needed reform.

I will not go into any detail on that matter at this time because it would be inappropriate at this session.

I might say the Director of the CIA responded to the comments of the Intelligence Committee, having referred the matter to his own Office of General Counsel, in what I think is fair to say was a very defensive and insufficient matter.

There was a concession by the Director of the CIA that the inspector general erred. The IG's report was an incomplete discussion in certain material effects. He defended it. And I offer this is true, in terms of what he replied. He said "I have yet to see an investigation which could not have been done better the second time around."

Well, that is true. But the issue was the first time around: Was the investigation done in the way which passed minimal standards? Mr. President, I suggest it was not.

Those Senators who were not on the committee, who have not had an opportunity to see the details, may want to see them before the vote on the tabling motion.

There was a second major investigation on the use of certain funds to pay for some legal expenses. The important matter was given to the supervision of only one investigator. The conclusion was that it was poorly investigated. It failed to trace the CIA's decision process in approving the actions taken. It was, simply stated, palpably defective.

It is on the basis of this 2-year history that the committee has come to the conclusion that this kind of action is necessary, action which is backed by the chairman and by the vice chairman who have very detailed experience in intelligence matters, as do the rest of us, but to a lesser extent. Realizing the need for the secrecy of the CIA; an inspector general provision is backed by the chairman of the Armed Services Committee, Senator NUNN, and the ranking Republican, Senator WARNER, who understand the issues of secrecy and of defense. By a wide margin, Senators on the Intelligence Committee voted in agreement with the position which we have taken here.

Mr. President, we have had a very illuminating discussion and historical perspective as to what has happened over the years. When Senator COHEN quotes President Ford as being opposed to assassinations, I can understand a special sensitivity that President Ford would have. He served as a commissioner on the Warren Commission.

I was there as one of the young lawyers when President Ford, then Congressman Ford, was present with Chief Justice Warren in the Dallas jail when Ruby's deposition was taken. That was a striking moment in American history, in the middle of a jail cell. A man under a death sentence for murder could not read a note and the Chief Justice of the United States handed him his glasses so he could read a note which was passed to him. But those of us who participated in that inquiry were traumatized and shocked. It was an experience no one could ever forget.

When Senator MOYNIHAN comments about his experience in hearing of the report of President Kennedy's assassination—well, I will not talk further about my own responsibilities in the field, but some of the documents I had to read were absolutely chilling, in terms of the events of the day. I refer only to the personal issue, not to any Government secrets.

Mr. President, I think a very strong case was made during the course of our committee hearings for this inspector general provision. The inspector general functions day in and day out, not necessarily on matters of overwhelming international importance, but on matters of day in and day out activity that we think would enhance the operation of the CIA.

It has enhanced the operation, Mr. President, of the 25 agencies which have inspectors general. When the distinguished Senator from South Carolina enumerated the long list of problems about HUD, DOD, and FEMA, they were all answered in chapter and verse by Senator GLENN, who has had a lot of experience with inspectors general, as to how those are really success stories when you take a close look at them. So I urge my colleagues, Mr. President, to support a tabling motion when that it appropriate.

Mr. President, I support S. 1324, the Intelligence Authorization Act for Fiscal Year 1990. Senators BOREN and COHEN and other committee members have labored long and hand on this bill to ensure the availability of resources not only for the country's immediate intelligence needs, but also for those long-term requirements which will enhance our confidence that future strategic and conventional arms control treaties can be monitored and verified. That is the type of vision that all should emulate. Certainly some day we will be grateful for their persistence and fortitude in directing these investments.

I also want to take this opportunity to extend my thanks to the chairman and vice chairman of the Intelligence Committee for their cooperation and assistance on two areas of great concern to this Senator. However, before I do, I would like to comment briefly on that portion of the intelligence authorization bill which enhances congressional oversight of covert action. Senator COHEN has labored long and hard to improve the congressional oversight of covert actions. He deserves special credit for his preparation of comprehensive and concise legislation contained in this authorization bill and for his efforts with the past and current administrations to achieve mutually agreeable legislative language.

But, I remain concerned that the administration has chosen to reassert the contention that it has a constitutional prerogative in withholding notification from the Congress on foreign policy programs which it may implement covertly. I equally regret that the administration did not categorically reject the opinion provided by the Assistant Attorney General on December 17, 1986. That opinion holds that "a number of factors combine to support the conclusion that the reporting of covert action 'in a timely fashion' language should be read to leave the President with virtually unfettered discretion to choose the right moment for making the required notification."

Mr. President, I suggest that the door is still ajar for another Iran-Contra issue. I trust it will not be with this administration—which seeks to assure us of its sensitivity to congressional concerns—or even the next. But in time, another administration may interpret the law and the Constitution as justification for conducting a dubious or illegal operation and withholding notification to the intelligence committees. None of us should be happy with this and its potential for generating a crisis of credibility and for weaking the Constitution. Therefore, I remain committed to the need for the prior reporting of all covert actions or, in extremely sensitive programs, the informing of the intelligence committees or the congressional leadership within 24 or 48 hours after the initiation of such covert actions.

In regard to hostages of terrorism, I raised my deep concern before this body on August 2 about the state of our human intelligence capability to locate American hostages who are being held in Lebanon. On that date, I requested that Secretary of Defense Cheney and Director of Central Intelligence Bill Webster provide to the Intelligence and Armed Service Committees a report not only of their efforts, but also of any additional resources that they may require in terms of funds and personnel to prevent the taking of hostages and to secure the release of those already in captivity. On September 2, they responded. Later, in a closed Intelligence Committee hearing, Director Webster outlined his needs in more detail.

In my State alone, my constituents and I have experienced a sense of helplessness and frustration as we watched the wrenching anguish suffered by the Cicippio family as Hizballah terrorists threatened Joe Cicippio with imminent death. Mr. President, I would suggest that a little of each of us is being held hostage, but never to the depth or degree that only a hostage or his family can understand.

In the wake of this concern, Senators BOREN and COHEN readily responded to this call for more resources to enhance our capability to locate hostage takers and hostages.

Next, I want to thank Senators BOREN and COHEN for their support for my initiatives on the CIA inspector general provision. When I first introduced legislation in the 100th Congress calling for an independent inspector general for the Central Intelligency Agency, the need was little understood. Shortly thereafter, the congressional committee investigating the Iran-Contra matter, of which Senators BOREN and COHEN were members, recognized that need. In its final report the Iran-Contra Committee found that CIA's "Office of Inspector General appears not to have had the manpower, resources or tenacity to acquire key facts uncovered by the other investigations." It also recommended that a system be developed so that the CIA has an independent statutory inspector general confirmed by the Senate.

However, this is not the first time that the Congress has highlighted the need for a statutory inspector general for the Central Intelligence Agency. In 1976, the forerunner Select Intelligence Committees on the Senate and House—the so-called Church and Pike committees—found a series of problems with CIA's Office of Inspector General ranging from a lack of objectivity to insufficient authority and independence.

At that time the Congress did not enact legislation to create an independent inspector general for CIA to allow the Director of Central Intelligence time to make internal reforms. Now this, I would suggest, is the crux of the problem. In 1976, the CIA initiated internal reforms in its Office of Inspector General, but those reforms did not go far enough in permanently enhancing the authority and independence of the inspector general. In my view, if a statutory inspector general for the CIA were created a decade ago, the country may have spared itself the grief of the Iran-Contra affair.

As we have learned from the experiences of the 1978 Inspector General Act, no agency head wants his inspector general to be independent and certainly not by statute. What we are dealing with, Mr. President, is an institutional issue. Unless we enact legislation to make the position of CIA's inspector general a truly authoritative and independent one, we are bound to repeat the errors of the past.

Senator BOREN deserves special credit. Without prejudging my proposed inspector general legislation, he believed that, as a minimum, it merited a thorough review. On November 13 and December 16, 1987 and again on March 1, 1988, he scheduled hearings and received testimony from a number of witnesses including Director Webster, Comptroller General Bowsher, and the statutory inspectors general from the Departments of State and Defense.

Recently, Senator BOREN facilitated a late evening markup during which members painstakingly walked through the legislation and reviewed or amended it line by line and word by word to ensure that in creating an inspector general, we were enhancing that office and our congressional oversight responsibility and not impeding the CIA and its director in their authorities, functions and responsibilities. Without the leadership of Senator BOREN, this legislation could not have happened. I would also like to extend by appreciation to two other people.

During the markup of the CIA inspector general bill, Senator GLENN, as a member of the Intelligence Committee and as chairman of the Governmental Affairs Committee, offered insight and amendments to make the inspector general legislation more effective. His experience in overseeing the statutory inspectors general of the Departments and agencies of the Federal Government proved invaluable to this Senator and to the committee.

I would also like to extend my thanks to the Intelligence Committee's General Counsel Britt Snider and my committee liaison Charles Battaglia, for their guidance and management skills in reconciling the many differences which surfaced prior to and during the markup.

Finally, Mr. President, I would like to say a few words about the inspector general section of the authorization bill itself. It would probably be more appropriate to start by saying what it is not. It is not a rebuke of the integrity or leadership of the Director of the CIA or his current inspector general. Nor is the requirement for a statutory inspector general a signal by the committee that it has lost confidence in the ability of the CIA to perform its many missions. Far from it. I have visited with many CIA people around the world and will say with all candor that they are dedicated, highly competent and hardworking Americans who believe very much as I do in the Constitution and laws of the United States.

But there have been aberrations where individuals have strayed from law, policies or programs or where policies or programs have been unclear or even flawed. There must be a mechanism within the agency not only to identify these aberrations, but also to ensure their correction at an early stage. As Senator BOREN has noted and as other Federal department and agency heads have discovered, in the final analysis an independent inspector general will strengthen the Central Intelligence Agency, serve well its Director and enhance its credibility with the Congress and the American public.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS].

Mr. HOLLINGS. Mr. President, I am a little surprised, I am pleasantly surprised, because I enjoyed the comments of our distinguished colleague from New York. I understand the Senator from Pennsylvania is a good trial lawyer and he has latched on to the assassination argument as brought forth by the Senator from New York.

The truth of the matter is that if you find the word "assassination" in the consideration of the inspector general amendment, I will jump off the Capitol dome. I never heard it. It is not in the record. I invite every Senator to go look. We never mentioned it.

We never discussed it. It was not a problem, and no one was talking about it. This bill was marked up in September. Back then when we discussed this, assassination was not raised. If you are going to assume what they are now inferring, that President Bush wants to assassinate somebody, or Director Webster wants to assassinate somebody, an inspector general is not going to stop it.

Yes, the distinguished Senator from New York is great on history, and the Senator from Maine says it is good to remember history, but our distinguished colleague from New York, who is so colorful, makes us forget a lot of history. And what we forget is that when they had the assassination of Diem, and Allende, and the attempts on Castro, and the litany that we have listened to, we did not have an Intelligence Committee. That is why we got the Intelligence Committees, so there could be no attempt or interference or any dealing whatsoever with any kind of assassination that the House Intelligence Committee and the Senate Intelligence Committee would not know about in this Government of ours.

Yes, I praise the Intelligence Committee's role and their work, and the distinguished Senator was seated on the committee. Do not come now and say we need an inspector general to prevent a violation of the executive order.

The Senator from Maine says remember Iran-Contra. I am going to remember it for you. He is right. He and I were returning from the Far East. What really happened, and I do not guess they were listening too closely during the debate on Colonel North's pension, they only caught what my good friend Mrs. McGrory wrote about on the Maryknoll runs. We spoke about it the other evening. It was not exactly all recounted in the RECORD. I did not have anybody to interpret this Geechee language of mine, and when I said Ghorbanifar and several other names, it did not appear when I read the RECORD the next morning. Be that as it may, what really occurred was that we did not want, and certainly I did not, and noboby else wanted, to impeach President Ronald Reagan.

We were into a heck of a situation. We wanted him to tell the truth that the Iran-Contra deal was all his own doing. It was No. 1 on his agenda and program and thought. He was constantly calling them the freedom fighters, referring to the great dedication that they had, constantly having his good friend, Oliver North, not fired. He was let go. When they called him fired, President Reagan said, oh, no, that fellow was a hero. He knew Colonel North had done what he was asked to do. Two hundred talks in one year in the White House, and when we get all that and had a difference of opinion within the Congress, we had a difference of opinion within the Senate, very sharp, very sharp on the House side, but the speaker had the authority and the speaker mandated these riders, the Boland amendments. If they ever controlled, there would have been five of them. It was obvious what was going on. We do not need an inspector general or an Intelligence Committee to tell us now it is five past 6 o'clock. Everybody knew it was obvious what was going on.

They were meeting down in Miami with Calero. We were providing funds, a little restriction here, a little restriction there. They spelled it out to me as a restriction and they could not do anything. On the Defense Appropriations Subcommittee when we went to markup, I said we cannot accept this. The White House crowd said, do not worry about it, the President will sign it. He should have vetoed it. I hope the Moynihan amendment will require him hereafter to act with responsibility and quit playing games. He played a game with the Congress; the Congress played a game with him. And the CIA was not in it; the Director was. And other agencies and individuals were in it: The Defense Department, with 12 shipments of over 5,000 tons; the State Department, 6 ambassadors, 2 under secretaries, the Sultan of Brunei. Yes, I mentioned Ghdrbanifar because Ollie said he did not trust him and he asked the National Security Agency to tap his line and get those conversations. We did not need an inspector general for that. We did not even need an Intelligence Committee for that. We needed to stand up here and tell everybody what was going on. You can go right on down the list of the participants in it, and that is why the President called him a hero. If that is the best the Iran-Contra Committee can come up with, just one little lieutenant colonel and a recommendation for an inspector general, they ought to be ashamed of themselves because the CIA was following executive orders.

So now the so-called rogue elephant is going to be turned into a white elephant. You are going to have an inspector general sitting over there, and I know how to succeed in intelligence work: Do nothing. Everybody is going to praise themselves because we stopped an article about assassination that has nothing to do with this amendment.

This provision section 8 we are striking, we discussed it many times; we discussed it over a year. I can tell you honestly and candidly, I never heard the Senator from Pennsylvania or the Senator from Ohio mention the word assassination. In fact, the Senator from Ohio said if Webster was going to be staying there for 30 years, he would think twice about opposing my amendment. That is exactly what he said. He was satisfied with Webster. But then he said. That the Director is out there with no other advice, no other direction, and that is not the case, because we have the Intelligence Committees that are left out of the history of the distinguished Senator from New York. We put in Intelligence Committees and we work like the Dickens on them. We do not need a little nitpicking inspector general report.

As old Al Smith said, let the record speak. If the distinguished Senator from Ohio thought the inspector general was working well and saved $100 billion since 1978, how about the $360 billion—$360 billion with this HUD scandal, the FSLIC scandal and everything else that is going on, that is what we have to pay for, $360 billion. He said that the HUD inspector general did not have a loud enough honk. If he had squeaked, the then chairman of the Banking Committee, the Golden Fleece Award Senator, would have given a Golden Fleece out in a second. He is the one who used the fellow who squeaked, and so forth, over in the Defense Department on the SST and everything else. You did not need a loud honk for former Senator Proxmire to get it. It not only did not have a loud enough honk, it did not work. It is not working in FEMA; it is not working in the Defense Department. All these inspector general's running around. They think they can solve the problem because I identified it.

We have a Senate that will not stand up and a Congress that will not stand up and say exactly what is going on. When the Iran-Contra affair broke, they danced around the fire. We tried to hold it in the Intelligence Committee. I opposed the Iran-Contra Committee because I knew we could handle it quietly. No, everybody wanted to get on TV. So they all got on. They kept adding on—the House, the Senate, a bipartisan thing—and it turned into a partisan fracas with nothing out of it. Millions of dollars, over $50 million and special prosecutors running around. I truly believe, as I understand it, that Poindexter will finally get the President's records, if he had any, I do not know. If I had been the judge, I certainly would have gotten the man, the commander in chief, who ran the program in the North trial. I hope they reverse that decision and they will not be running around calling an outstanding marine a felon. That is a disgrace.

As to the shredding of documents, they would give him a machine and tell him they want him to grind up to protect your sources and intelligence work, that is normal in intelligence.

Why not go stand up and say you are supposed to shred things. He

learned something from Rosemary Woods.

And the money they say he got there, he did that to defend himself. He could not go down to the FBI and get security; they were out after him. And his classmates at Annapolis are now furnishing him security but we are running around here proud, we got a felon and we got a recommendation for an IG.

Well, it ought to be stricken from the bill and we ought to do our jobs rather than trying to put it off on the lack of law or timely notice, and all of those other things. We did not get into timely notice with an IG. We did not get into assassination with an IG but that has been the argument this afternoon. We got into it when we said "It was not broke; do not fix it"; 11 of 586, that is what the committee thinks of IG reports. They ought to be ashamed of themselves to come out as a committee and say, "Look, we received 586 IG reports and looked at only 11."

What a wonderful cover, calling for an IG in this environment.

What is going to really happen is you have the IG is going to be reporting one thing to the director and then the intelligence committee is going to set up as as referee and if you got a job down at the CIA you better stick with the IG if you want to hold on to your job. And then when we do not know anything, with other countries being so restrictive, then you have mediocrity. You will not have the intelligence on which to work. You will ruin a good agency with this provision.

I agree with Dick Helms and all the other heads of the CIA. If anyone thought assassinations had a productive effect, they are wrong. They do not work. We have the order out. President Bush has put the order out that there shall not be any assassinations, and that has nothing to do with this particular IG provision the IG would never know about it, if there were going to be one. And if it were, I do not see how it could happen without the Intelligence Committee's knowing it.

I can tell you that will never happen with these Intelligence Committees in the House and the Senate so do not come around with a timely notice and an eloquent talk on assassinations and harken back to President Kennedy's assassination in a time when we did not even have intelligence committees. Do not say, "Let us now have an IG. If we had an IG back there then, Kennedy would not have been assassinated. Now Webster wants to assassinate, now Bush wants to assassinate."

What kind of nonsense is this on the floor of the Senate this afternoon? They can all be alarmed and everything else and get up on that high pedestal of being against assassination. Well, they have to crowd me off that pedestal too, because I am up there. We are all against assassinations. That was not in the amendment.

The Senator from Pennsylvania knows it. The Senator from Ohio knows that. We were discussing the general operation down there. We got into this IG and I never heard the word assassination ever mentioned. I hope that we will not table the amendment, that we will sustain a good Director down there who is working on doing his job and doing some real intelligence-gathering and not just publicly say, "Do not deal with this crowd or with this CIA agent or tell him anything because they have an IG that reports to a committee that is going to expose your information because there is going to be a dispute about it because from then on they will just close off all sources."

As it is right now, in the Mideast we do not have any sources. Nobody trusts us. And very few do down in Central America and all these other places.

So we have done a great job this afternoon mismatching some history on assassinations, and I daresay the Warren Commission, the distinguished Senator served on, did not make the findings that are apparently made this afternoon by the distinguished Senator from New York. He might be right. That was not the Warren Commission finding. And let us get to the botton line.

We did not have in the sixties and early seventies an Intelligence Committee in the Senate and an Intelligence Committee over in the House that was overseeing. We have those now. They are working. The responsibility ought to be left to us. They ought to fix it on us and let us work with the Director and Deputy Director and, for heaven's sake, do not put an IG over the five Assistant Directors who are really running the Agency who are not confirmed at all by the Director but by the Senate and a political appointee to be cross-examined up here: Are you going to report this? Are you going to report that? Are you going to report all? At the time he stands up for his confirmation hearing he will be filling out forms that we have given him at the examination for his particular hearing so everything is done right and intelligence is done wrong.

Mr. DECONCINI. Mr. President, I rise in opposition to the amendment of the Senator from South Carolina. I think the work that the Intelligence Committee has done on the IG bill, sponsored by Senator SPECTER and supported by the chairman and the ranking member, is a good bill. In the last Congress I supported the efforts of the Senator from Pennsylvania to institute an IG at the CIA. I do not know what is the basis for the fear of having an independent inspector general review what is going on in the Central Intelligence Agency. What is the worry? Is there something we do not want anybody to know about except maybe the Intelligence Committees?

We saw clearly that there have been Directors who do not tell the Intelligence Committees everything and have even come up to Capitol Hill and fabricated their answers as they were asked questions. And that was former Director Casey. I happened to have just gone on the Intelligence Committee when the Iran-Contra scandal broke. Director Casey came to the committee and he did not tell us the truth. It disturbed me immensely, which, for me, only underscored the need to have an inspector general.

What about all of the programs, which the Senator from South Carolina knows them better than I do, all of the programs that the Agency is involved in? For us not to have an inspector general to review those programs is just irresponsible.

Here we have an opportunity to do what we did in the Defense Department, and I cannot remember in how many other agencies, but well over a dozen other agencies. I recall so well when we were on the floor debating the bill to create an inspector general for the Defense Department, which was supported by Senator Goldwater, who was the chairman of the Armed Services Committee at the time. The Secretary of Defense, Mr. Weinberger, opposed it. They did not want it. But we passed it. We passed it because Senator Goldwater stood on this floor and said, What are we afraid of? We need somebody to look at what is going on in the Defense Department. In my judgment, the DOD IG has produced some very interesting audits and some very interesting reports, and even prosecutions and convictions.

I am not suggesting there is anything criminally wrong with what is going on in the CIA, but I am suggesting that we ought to place the same standards as we do on the Defense Department or any other department where there is an inspector general on the CIA. IG's work and work well. It is beyond me why we are fearful of doing what the Intelligence Committee has reviewed very carefully. This was not something we just willy-nilly went out and did. We reviewed the CIA's programs; how they would be affected.

I want to make it very clear, that this legislation is not meant to cast aspersions on the Director of the Central Intelligence Agency. We do not, in fact, want to leave some message that we do not trust the good gentleman, Mr. Webster. That is not the case at all. We are talking about institutionalizing a very careful, responsible audit approach for this Agency.

Mr. President, the time to establish an independent inspector general at

the Central Intelligence Agency is long past. To those who say a legislatively mandated inspector general would jeopardize the CIA's sensitive missions which depend on airtight security for success, I reply that the CIA cannot afford to be without an independent IG, whose very independence will help guarantee the efficiency and integrity of operations undertaken by this vital Federal agency.

Now, the CIA's inspector general is a career CIA employee, who has been appointed by the Agency's Director rather than by the President and is not subject to Senate approval. For the most part, those who serve on his staff have been rotated into the IG unit from other jobs within the agency and will return to those divisions when their terms in the IG's office expire.

Clearly, such a system calls into question the independence of inspectors who will return to serve among their associates whose work they may be required to audit. Objectivity, the hallmark of reliable auditing, is called into question by the structure of the current IG system at the CIA.

Because many of those now serving in the IG's office do not have accounting and auditing backgrounds, the quality of their work may not conform to the highest standards. As a result, the CIA's program goals may not be achieved in the most cost-effective and productive manner. Efficiency may suffer and untold resources may be lost through possible misuse and mismanagement.

During the last Congress I joined Senator SPECTER to sponsor legislation to establish an independent inspector general at the CIA. I also participated in the Intelligence Committee's review of this legislation, a review which included hearings at which witnesses testified to the benefits which had resulted from the establishment of IG's at almost all Federal agencies.

In addition to the improved efficiency and economy with which those agencies now operate, the cost savings generated by the IG's paid for their operations many times over.

The Intelligence Committee also learned that the IG in no way hampered the most sensitive, classified programs which are carried out by the Department of Defense.

In order to permit changes instituted by the CIA Director to bear results, the Intelligence Committee agreed to continue its review of the IG's work. That review has revealed an Office of Inspector General which delivers an uneven performance, demonstrating that the time has arrived for the statutory creation of an independent, presidentially appointed inspector general at the CIA to ensure that that agency has an effective system of accountability.

The Iran-Contra scandal is a dramatic example of what can happen when the checks and balances of an accounting system are inadequate. The day-to-day operations of a gigantic agency such as the CIA are what need the firm hand, the impartial oversight conducted by a truly independent and accountable inspector general.

With all due respect to my good friend from South Carolina, whose work on Intelligence Committee and defense matters I have such great respect, this is a good piece of legislation that should be implemented.

Mr. BOREN. Mr. President, I have listened carefully to the debate this afternoon as I listened to the debate for many hours and over several days on this issue in the Intelligence Committee. I would like to try to put into perspective for just a moment the work of the Intelligence Committee and the functioning of our intelligence operations and why on balance I feel the proposal for a statutory inspector general is a good one.

The Intelligence Committee is charged with a very, very difficult task.

In our democracy we believe fundamentally that money should be appropriated and that laws should be written by the repesentatives of the people with as much knowledge on the part of the people of the United States as possible. That is fundamental to our constitutional system.

The very idea of doing something behind closed doors or in secrecy as a method of operation does not sit easily or consistently with our constitutional system.

At the same time, we live in a world where, unfortunately, it is necessary at times in order to protect the national security interests of the United States for us to operate in secrecy, for us to have some information that is classified, for the President of the United States and the intelligence community to be able to undertake certain actions that must remain highly classified, sensitive operations that sometimes involve the cooperation of other countries which would simply not be in a position to cooperate if those operations became known publicly.

So we have done our best in the U.S. Senate and in the Congress to craft a compromise which strikes a balance between two principles that we recognize. One is that there should be no action undertaken without accountability to and authorization by those elected by the people and charged with constitutional responsibility to appropriate funds and to approve and make policy desists.

The other is that this system of accountability and appropriation should be carried out in a manner that still protects secrets when those secrets are necessary for very serious national security interests of this country. Those situations where decisions must be kept secret and appropriations must be kept secret should be held to an absolute minimum in a free society.

Those of us on the Intelligence Committee serve on that committee and that committee is charged with exclusive jurisdiction over a number of issues in order to keep to a minimum the number of Members of Congress who must be informed of some of the most highly sensitive details of these programs so that you reduce the likelihood that they will be disclosed.

The members of the Senate Intelligence Committee and particularly the vice chairman, and in cooperating with me as chairman and others have worked very hard to assure that we meet that responsibility, that we keep the trust, that we safeguard classified information, that we be known as a trustworthy committee that can give its advice to the executive branch, that can be an efficient watchdog for the American people and for the rest of the U.S. Congress without compromising that information.

That is why we have strict rules about divulging classified information even to the point, with the support of the two leaders of the Senate, Democratic and Republican, a rule that members of the committee will be removed if indeed they compromise very sensitive security information.

That is why we do not allow documents and notes to even be taken out of our committee space if they deal with sensitive and classified matters.

Mr. President, the responsibilities of being a member of the Intelligence Committee are different than the responsibilities of being a member of any other committee. In the Agriculture Committee, and Finance Committee on which I serve, I am not hesitant to try to form coalitions, to try to build groups that can work together to form a majority to push through a particular amendment or to kill a particular bill on the basis of what I think is right and what is in the interests of my constituents, and what I think is in the interests of the country.

That is not the job of the Intelligence Committee. That is not my job as chairman of the Intelligence Committee. It would not be right for me to behave in that fashion as a member of the Intelligence Committee, particularly in a leadership capacity because we are charged with the responsibility not of following our personal views but of standing as trustees in the sense as guardians for the American people and the remainder of the U.S. Congress on these very sensitive issues. We have to strike that balance.

We have to ask ourselves not only about our own conscientious points of view about matters that are brought

to us, but we have to ask ourselves how the American people would feel about it if they knew about it. How could the rest of the U.S. Senate feel about it if all of our colleagues who served on this committee spent the time necessary to be informed of all of these details? We have to act in a trusteeship role. We cannot vote our own personal philosophies or our own personal partisan points of view. We have to act as responsible trustees for the entire U.S. Senate. We have tried to do that.

If we are going to be faithful to our duty and to our responsibility we also have to strike a very careful balance between the need for effective and true oversight in order to make sure that these decisions are made through the democratic process and the need for the President of the United States and those who served with him to have the flexibility to act as Commander in Chief without the interference of unnecessary restrictions or micromanagement on the part of the Congress to an extent that it would prevent him from acting forthrightly to protect and preserve the national interests of the U.S. Government when emergencies and unforeseen circumstances arise.

That is why the Constitution of the United States says that the President is the Commander in Chief. It is because we in the Congress, none of us, have the foresight to be able to predict the future or to imagine any possible circumstance that might arise, and therefore under the Constitution we entrust that ability to deal in an emergency situation to the President of the United States.

So it is a matter of balance, Mr. President, of careful balance. It is not a matter of taking extreme points of view of either the left or the right; it is not a matter of taking partisan points of view; it is not a matter of taking an extreme point of view that the President has the unfettered right to do anything that he pleases without seeking the appropriation of funds or the approval of the Congress of the United States, and on the other hand, not taking the extreme point of view that we alone in the Congress are the guardians of the national interests of the country. The President also has a critical and important role which we must recognize as Commander in Chief.

So we try to strike that balance. That is what we have tried to do in this particular proposal that is before you. As has been said by Senators on both sides, this is not a matter that deals with the policy or the right to assassinate foreign leaders.

I would like to say to my colleagues, I have read the articles in the newspapers; I have sometimes been quoted in the newspapers myself on this subject. Let me say that the President of the United States has certainly never suggested to me that he wishes to rescind the Executive order issued by his predecessors, Presidents Ford, Carter, and Reagan, which prohibits officials of the U.S. Government from directly or indirectly participating in or planning or assisting in the assassination of foreign leaders; that that is simply an action that is not in keeping with basic American values.

On the other hand, there have been some extreme interpretations made of the Executive order which clearly also go beyond the bounds of reason, interpretations which would indicate that representatives of our Government should not even be allowed to talk with people who are in the process of planning to overthrow tyrannical governments, even governments that are not only hostile to the United States, but governments that exist clearly in opposition to the will of their own people. I think explicitly of the situation in Panama, where we not only have a government, a dictatorship, that is hostile to the interests of this country, that is a threat to the national security interests of this country, not only because it contains within its boundaries an important waterway for international transportation and military use in time of emergency, but because of the role of that particular individual who now holds power illegitimately in that country, to try to undermine the well-being of the United States of America by participation in corruption and particularly in the drug traffic, which poses a threat to our national security.

That same man, who illegitimately holds power, has clearly received the power in spite of the wishes of his own people, who expressed themselves overwhelmingly in an election, the results of which were then altered, according to the testimony of every international observer that happened to be in a position to view and study those election results.

I, for one, do not think that we should say that we simply cannot even talk to people, people who are not planning assassinations, people who are not seeking assassinations, in the case of the recent coup attempt in Panama a few weeks ago, in fact, a person planning a coup to try to bring democracy to that country, who explicitly stated he intended no physical harm to General Noriega and, in fact, that he did not even intend to physically seize him, let alone attempt to assassinate him. That would be an extreme interpretation of the Executive order to say that officials of our Government could not even talk to such a person, who has tried to bring about a change of government that would reflect a true democratic will of the country and to someone who had been indicted by the appropriate judicial panels within the United States.

So, Mr. President, there is, at some point in time, a reasonable balance to be struck on that question, as well. It should be emphasized that the Executive order has not been withdrawn, nor do I know of anyone, including the Director of Central Intelligence or the President of the United States, who advocates the use of assassination as an acceptable policy of the U.S. Government. That does not mean that we must not carefully consider any proposals that they would make in terms of the interpretation of the meaning of the Executive order. We should do that. We will attempt to meet our responsibilities in due course to do that.

I want to set the record straight. As far as I know, these kinds of extreme departure from our past policy have not been intended, as far as I know, by anyone in the executive branch of the Government, either the President or Director of CIA, and they certainly have not been intended by or approved by, in any way, the membership of the Senate Intelligence Committee or, indeed, of any member of the Senate Intelligence Committee.

So what are we dealing with here? We are dealing with striking the balance, Mr. President, between accountability and oversight, which we have tried to make effective. We have made it effective in many ways by setting up our own unit in the Intelligence Committee, which, for the first time, has the ability to examine financial data independently from receiving that data from the policy itself. We have done it on the basis of a regular review and on a quarterly basis of all covert actions in force, which also forces the executive branch to review those policies themselves.

So we have gone a long way toward making oversight more effective. That is the interest, not only of the domestic process, it is in the interest of the intelligence community itself. This committee has not only attempted to get the resources—and the record will reflect this has been said by the Senator from Maine—and the appropriations and the resources made available to the intelligence community since the creation of the Intelligence Committee have increased many times over. It is not only a matter of resource; it is a matter of a buffer of protection to professionals within the agency, to assure that these professionals will never be put in the position of being forced to take actions which in their own minds are questionable from the point of view of law, or questionable from the point of view of policy in the democratic process. Because of the obligation to report to the oversight committees, professionals in the Intelligence Committees are stengthened in their ability to simply refuse to follow orders that are questionable or those which would expose

them to legal jeopardy or professional, personal jeopardy.

So, Mr. President, we are talking about striking the balance. That is what we are trying to do here. I believe that the proposal we have crafted in the Intelligence Committee is one that does just that. This inspector general that we have framed is not exactly like the inspector general that would operate in any other agency. If the inspector general attempted to inappropriately use the resources of some other agency, General Accounting Office or any other agency, in a way that might cause the compromise of sensitive intelligence data under this bill, the Director of the CIA is in power to deny him the right to use those resources and to bring that disagreement to the Intelligence Committee, to notify us of that disagreement.

If the inspector general attempts to delve into areas that might compromise national security, the Director of Central Intelligence, under this bill, is given the right to prohibit him from moving into those areas. The committee must be informed so we can make sure it was a wise and justifiable decision on the part of the Director. We have an inspector general in the Central Intelligence Agency today. The difference between that inspector general and the inspector general we are talking about creating by statute is simply that that inspector general is not confirmed by the Senate, not appointed by the President, and most important, the staff of the office of that inspector general is composed of people who are on career paths within the agency, to rotate in the office of the inspector general, hoping to go on to other careers within the agencies, to receive promotions from others, perhaps even others that it might be their responsibility to investigate during their term as members of the staff of the inspector general's office.

That does not make for an effective inspector general system, Mr. President. It is not a matter of lack of confidence in the present individual inspector general or his staff; it is not a matter of lack of confidence in the current Director of CIA. I have great respect—and I have said it privately and publicly—for Judge Webster, for his honesty and integrity and commitment to the rule of law. It is a matter that we believe that, on balance, the system we are proposing is one that will work more fairly, objectively, and will be in the interest of efficient operation of the intelligence community, the saving of taxpayers' dollars, and the making sure that the spirit of law and proper policy will be followed.

I urge my colleagues to support the committee recommendation. I say this with all due respect to those who have raised concerns on the other side. I had many of those concerns in the beginning myself. That is why I supported several amendments to the original bill when it was introduced. I think now that those amendments have been included, those safeguards have been put in place, and those special powers given to the Director of the Central Intelligence Agency to block any action that would be hasty or ill-advised by the inspector general. I think we have now struck the appropriate balance, and I think it is in the interest of the country, and in the interest of an effective accountable intelligence community, that we pass this legislation.

Therefore, Mr. President, in just a moment, it will be my intention—I have to ask the majority leader to return to the floor. He indicated a moment ago he wished to be on the floor to make another announcement before I make the motion. We will determine in just a moment if he wishes to return to the floor. I intend to move to table the amendment offered by the Senator from South Carolina and his colleagues in just a moment. Again, I want to thank him for his participation. He makes an immense contribution. He has made a great contribution in the course of this debate. I say to him that while he has not prevailed on every issue on this particular bill, this bill is in a different form today than it would have been had the Senator from South Carolina not been a member of the Intelligence Committee.

By adopting some of the amendments that he and others proposed, many of which I supported, I think we have a much better bill. It is a bill that I can certainly now support. I understand there are a few other changes he would have preferred to have made in it before he would have been fully satisfied, and I respect that point of view.

As I say, it is just the nature of the beast that the Intelligence Committee will all have a difficult task in striking this balance. That is what we try to do to the best of our ability.

I will withhold for a moment until the majority leader is able to return to the floor. I suggest the absence of a quorum until such time he does return at which time I will make the tabling motion.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, first I want to congratulate the Intelligence Committee, particularly the chairman, Senator BOREN, and ranking member, Senator COHEN, for reporting a generally good bill on intelligence authorizations.

In this time of rapidly changing governments and their leaders, it is essential that our intelligence agencies, particularly the Central Intelligence Agency, have the capability to move rapidly to keep the President of the United States up to the minute.

Recent questions on whether we had adequate intelligence on the aborted coup in Panama and on the terrorist bombing of Pan Am flight 103 in December of last year should only strengthen our resolve to assist the CIA.

Therefore, I cannot understand why the committee would include in the reported bill the so-called inspector general provision. Make no mistake about it, this provision will hamper efforts to rapidly gather intelligence information.

What waste, fraud, and abuse has occurred at CIA under the very capable leadership of Judge Bill Webster to necessitate this change? What runaway covert operations are we seeking to control?

Some have suggested that this may be just another effort by Congress to run the Agency, and I cannot think of anything that would be more tragic. The Congress cannot pass budgets on time, we cannot pass appropriations bills on time, we don't even seem to be able to get our own mass mailings to constituents in order.

We should also remember that the DCIA, Bill Webster, has already strengthened the Inspector General's Office at the Agency, to ensure that everything is in order. Yet, without any accusation that this new structure has failed, all of a sudden we spring up and try to force a new system down his throat. I think we have helped the CIA just about all they can stand, just about all the President will take.

Mr. President, the administration opposes enactment of this bill unless the Hollings-Danforth amendment to strike the inspector general provision is adopted. I ask unanimous consent that a copy of the statement of administration policy be included at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, November 7, 1989.

STATEMENT OF ADMINISTRATION POLICY

S. 1324—INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991 (BOREN, OKLAHOMA)

The Administration opposes the enactment of S. 1324 unless the provision to establish a statutory Inspector General (IG) at CIA is deleted.

The establishment of a statutory IG is unnecessary and could undermine the effective inspection and investigation process now in place at the CIA. An independent IG may create the impression that the Director of Central Intelligence will be unable to protect intelligence sources and methods, thereby affecting adversely the willingness of human sources and foreign liaison services to cooperate with the CIA. In addition,

other IG-related provisions would interfere unconstitutionally with the President's ability to discharge his constitutional responsibility to appoint and remove officials.

The Administration also has reservations about the following provisions in S. 1324 and urges their deletion:

Section 601 which would expand the demonstration project authorizing pay supplements to FBI agents assigned from other locations to the high-cost New York City area. The expansion would apply to pay supplement to all FBI employees in New York. This would be inconsistent with the intent of the demonstration project, which was to address the difficulties of attracting certain FBI personnel to accept assignments requiring a move to New York. Rather than paying a supplement, recruiting and retention problems for employees already living in New York will be better addressed in a more comprehensive approach to pay reform in high cost areas. The Administration is exploring proposals in this area.

Section 603 which would make the FBI responsible for conducting all investigations of violations of U.S. espionage laws by persons employed by, or assigned to, U.S. diplomatic missions. Such a statutory requirement is unduly restrictive. The Executive branch should retain the discretion and flexibility to determine how best to investigate such legal violations.

The Administration will also seek to have certain program authorization levels reallocated to make them consistent with the Administration's request. Specifically, the Administration urges that enhancements for arms control verification be authorized as requested.

Mr. DOLE. Let me again state, the inspector general provision is a bad idea, particularly at this time. If we further cripple the Central Intelligence Agency, we may simply be removing the United States from any effective ability to intervene in rapidly changing world events.

So I support the Hollings amendment. The CIA needs many, many things—including, in my view, more resources, but the last thing it needs is an independent inspector general.

Just because other agencies have—and perhaps profit from—having an inspector general, that doesn't mean the CIA needs or will benefit from one.

The CIA is different. It is different in function from any other agency of Government, in ways that are obvious to all of us.

The "Dear Colleague" of Senators BOREN and COHEN proposing the independent inspector general provision now in the bill acknowledges this difference very specifically. That is why the proponents have felt it necessary to create a unique kind of inspector general. That, in itself, is an explicit admission that we are not dealing with just any other agency.

Because CIA is different, we have a separate, select committee—with rules that are in many ways unique—to oversee its activities, and the activities of the other intelligence agencies.

Equally important, the CIA already gets plenty of oversight. Within the executive branch, there already is an inspector general in the agency. And, of course, the agency and the DCI are responsible directly to the President, and subject to the oversight of OMB and other standard Government oversight bodies.

Even more important, the agency is subject to oversight by our Intelligence Committee, and its House counterpart.

An independent inspector general is not going to mean better oversight—it's going to mean more back-seat driving, Monday morning quarterbacking, and self-serving second-guessing.

So many Senators stand here on the floor and decry what they claim was a reluctance on the administration's part to act against Noriega; and now some of them want to add on another layer of review and second-guessing—certain to dampen what little initiative might remain in the CIA.

Although our Intelligence Committee has been very solid in preventing leaks, the fact is that leaks do occur already from within the intelligence community. And now we want to add one more bureaucracy, staffed with a few more bureaucrats—expanding the universe of potential leakers a bit more.

Mr. President, the Senator from South Carolina is right. We do not need an independent inspector general. We need a stronger CIA.

I want to include in the RECORD a letter I have received from President Bush, indicating his strong personal opposition to the inspector general proposal. And I would remind the Senate: President Bush speaks not only as our Chief Executive, but as a former Director of Central Intelligence.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, November 3, 1989.

Hon. ROBERT J. DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: The Intelligence Authorization Bill (S. 1324) has been the subject of intensive negotiations over the past few months. The main issue was timely notification of covert activities. I am very pleased with the outcome on that issue, and the credit goes to the Chairman and Vice Chairman of the Intelligence Committee. However, there remains one other major point of contention in S. 1324: the statutory Inspector General for CIA. Before the Senate takes action on the legislation, you should be aware of my strong opposition to that provision.

The establishment of a statutory Inspector General at CIA is unnecessary and could be counterproductive to the effective inspection and investigation process in place at the Agency.

My strong reservations regarding the creation of a statutory Inspector General at CIA are shared by a bipartisan group of members on the Intelligence Committee. I agree with the position of Senators Bradley, Danforth, Hollings, and Murkowski that a statutory Inspector General "would inevitably mean more bureaucracy, more regulation, more outside intervention, when the real need is to make CIA more productive, more skilled and more useful in confronting a variety of difficult national challenges."

I hope that I can count on your support for a motion to strike the statutory Inspector General provision from the Intelligence Authorization Bill when it comes to floor.

Sincerely,

GEORGE BUSH

Mr. DOLE. Mr. President, let us quit tying the hands of our intelligence agencies. We do it too much already. Let's not turn the knots a little bit tighter by foisting on the agency another second-guesser.

Mr. President, I strongly support the Hollings amendment, and urge its adoption.

Mr. DECONCINI. Mr. President, the time to establish an independent inspector general at the Central Intelligence Agency is long past. To those who say a legislatively mandated inspector general would jeopardize the CIA's sensitive missions which depend on air-tight security for success, I reply that the CIA cannot afford to be without an independent IG, whose very independence will help guarantee the efficiency and integrity of operations undertaken by this vital Federal agency.

Now, the CIA's inspector general is a career CIA employee, who has been appointed by the Agency's Director rather than by the President and is not subject to Senate approval. For the most part, those who serve on his staff have been rotated into the IG unit from other jobs within the agency and will return to those divisions when their terms in the IG's office expire.

Clearly, such a system calls into question the independence of inspectors who will return to serve among their associates whose work they may be required to audit. Objectively, the hallmark of reliable auditing, is called into question by the structure of the current IG system at the CIA.

Because many of those now serving in the IG's office do not have accounting and auditing backgrounds, the quality of their work may not conform to the highest standards. As a result, the CIA's program goals may not be achieved in the most cost-effective and productive manner. Efficiency may suffer and untold resources may be lost through possible misuse and mismanagement.

During the last Congress I joined Senator SPECTER to sponsor legislation to establish an independent inspector general at the CIA. I also participated in the Intelligence Committee's review of this legislation, a review which included hearings at which witnesses testified to the benefits which had re-

sulted from the establishment of IG's at almost all Federal agencies.

In addition to the improved efficiency and economy with which those agencies now operate, the cost savings generated by the IG's paid for their operations many times over.

The Intelligence Committee also learned that the IG in no way hampered the most sensitive, classified programs which are carried out by the Department of Defense.

In order to permit changes instituted by the CIA Director to bear results, the Intelligence Committee agreed to continue its review of the IG's work. That review has revealed an Office of Inspector General which delivers an uneven performance, demonstrating that the time has arrived for the statutory creation of an independent, presidentially appointed inspector general at the CIA to ensure that that agency has an effective system of accountability.

The Iran-Contra scandal is a dramatic example of what can happen when the checks and balances of an accounting system are inadequate. The day-to-day operations of a gigantic agency such as the CIA are what need the firm hand of impartial oversight conducted by a truly independent and accountable inspector general.

During my 13 years in the Senate I have been pleased to support all legislation establishing independent inspector generals, and today I am pleased to have the opportunity to support this legislation which would fill the need for an independent inspector general at the CIA.

Mr. D'AMATO. Mr. President, I rise today in support of the inspector general provision of S. 1324. I want to emphasize the importance of this provision to the President and to the CIA.

My colleagues are well aware of the history of the inspector general issue. It is based upon the good work of our distinguished colleague, the junior Senator from Pennsylvania. A "Dear Colleague" letter in support of this provision was circulated, setting forth in detail the history and the reasons for approval of this provision.

My remarks will be brief, because I want to get to the heart of the matter. The heart of the matter is the tension between the necessity of secrecy in our intelligence affairs and the necessity for openness in a democratic society.

This tension is a permanent fact of life, so long as we need a national intelligence capability and so long as our Constitution endures.

The CIA's operations cannot be made public. If they were, the CIA would become instantly ineffective.

On the other hand, if charges are leveled against the CIA, the Agency cannot come forward and defend itself, because to do so, it would have to disclose the details of its activities.

Thus, charges of illegal or unethical behavior against the Agency can be leveled without fear of detailed rebuttal. If the person or organization leveling the charges has public credibility, then the legitimacy of the CIA and, indeed, of the United States' intelligence activities as a whole, are called into question.

While the President has been and remains rightfully determined to protect his constitutional powers over foreign affairs, and has opposed efforts to limit his powers and prerogatives in this area, I believe that this provision helps both the President and the CIA.

The creation of an independent statutory inspector general will enhance the legitimacy of the CIA and protect the President from charges of abuse and misconduct by the CIA or its officers. As the Iran-Contra affair proves, the CIA is one of the few agencies of the U.S. Government that can bring down a President through the actions of a few misguided individuals.

The President has written in opposition to this provision. In his letter of November 3, he quoted approvingly from the "Dear Colleague" letter from our distinguished colleagues, Senators BRADLEY, DANFORTH, HOLLINGS, and MURKOWSKI, as follows:

"A statutory inspector general "would inevitably mean more bureaucracy, more regulation, more outside intervention, when the real need is to make the CIA more productive, more skilled and more useful in confronting a variety of difficult national challenges."

The rebuttal to this argument is simple: What we don't need is a CIA that is more productive, skilled, and useful in ways contrary to law or its own regulations. There is ample evidence that there is a real danger of overzealous persons undertaking activities that are in violation of law or regulation.

The inspector general provision protects against that precise problem and provides added support to the President and the Director of Central Intelligence. The CIA must remain a disciplined tool for our foreign policy that does what it is ordered to do and what it is permitted to do under the Constitution and our law. The IG will be there to make certain that it does.

In addition, the existence of the statutory independent IG will assist the Senate Select Committee on Intelligence to fulfill its oversight responsibilities. The IG will be on site, full time, and the IG's staff will be able to look into complaints or evidence of problems. The IG will continue to share the results of investigations with this committee. That can only help us do our job better.

In conclusion, I strongly support this provision. I urge my colleagues to vote for the motion to table the amendment to strike the IG provision and to vote for the bill as a whole.

Mr. KERRY. Mr. President, I agree with the intent of the committee legislation, which would establish an independent inspector general for the Central Intelligence Agency. However, because I fear that the establishment of such a position could reduce the already inadequate oversight by the Congress that exists today, I will vote against those who would table the Hollings amendment to eliminate the IG.

One lesson I learned from the Iran-Contra affair is that the Congress often does not exercise sufficient oversight over covert intelligence activities as is. The signs of the secret Contra network were there for all to see—I myself tried to investigate them, and was told that the allegations I had heard had already been looked at by the Intelligence Committees and found to be false.

What happened, of course, is that when these questions had been raised, and the Intelligence Committees sought to conduct oversight, they asked the executive branch questions and were lied to.

That unfortunately, was the end of their investigations until the scandal was revealed by the Hasenfus crash, and by a press account in the Middle East.

While I do not agree with the distinguished Senator from South Carolina that an inspector general would cripple the CIA, I do agree with him that the establishment of an inspector general is not the best approach to the issue of oversight.

What is wrong with the inspector general provision is that it substitutes an IG for Congress doing its own work in asking the right questions of the CIA. I fear it would permit the Intelligence Committees to do less, when doing more is needed.

In short, contrary to the intentions of the sponsors, I believe even an ostensibly independent IG has the potential to be more of a figleaf than real oversight, and a figleaf which would make the already difficult job of the Congress in finding out what is going on even harder.

Accordingly, I will vote against this motion to table the Hollings amendment.

Mr. BOREN. Mr. President, I move to table the amendment of the Senator from South Carolina and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma to lay on the table the amendment of the Senator from South Carolina. On this question, the yeas and nays have been

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ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. LIEBERMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—64

Baucus	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Nunn
Bingaman	Gorton	Packwood
Boren	Graham	Pell
Boschwitz	Grassley	Pressler
Breaux	Harkin	Pryor
Bryan	Hatch	Reid
Bumpers	Hatfield	Riegle
Burdick	Heinz	Robb
Byrd	Inouye	Roth
Cohen	Jeffords	Rudman
Conrad	Johnston	Sanford
Cranston	Kennedy	Sarbanes
D'Amato	Kerrey	Sasser
Daschle	Lautenberg	Simon
DeConcini	Leahy	Simpson
Dixon	Levin	Specter
Dodd	Lieberman	Warner
Domenici	McCain	Wilson
Durenberger	Metzenbaum	
Exon	Mikulski	

NAYS—34

Adams	Heflin	McConnell
Bond	Helms	Murkowski
Bradley	Hollings	Nickles
Burns	Humphrey	Rockefeller
Chafee	Kassebaum	Shelby
Coats	Kasten	Stevens
Cochran	Kerry	Symms
Danforth	Kohl	Thurmond
Dole	Lott	Wallop
Ford	Lugar	Wirth
Garn	Mack	
Gramm	McClure	

NOT VOTING—2

Armstrong	Matsunaga

So the motion was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senate majority leader.

SCHEDULE

Mr. MITCHELL. Mr. President, if I might have the attention of my colleagues and the distinguished Republican leader, I am about to propound a unanimous-consent request for the disposition of the debt limit extension and section 89 and the catastrophic health insurance legislation. After I complete the reading of this request, if consent is granted, then I will indicate to my colleagues what our schedule is, or is hoped to be, for the remainder of this evening and tomorrow.

I proceed making this request, Mr. President, by indicating that this is the product of lengthy discussions with the distinguished Republican leader and others who have been concerned about these important legislative matters.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may proceed to the consideration of Calendar item No. 172, the joint resolution increasing the statutory limit on the public debt; that the committee amendment be withdrawn; that the only amendments in order be an amendment relating to a repeal of the section 89 provision that is identical to the language agreed to by the House and Senate conferees on the reconciliation bill and a manager's technical amendment; that there be 30 minutes on the bill, including debate on the amendment, equally divided between Senators BENTSEN and PACKWOOD or their designees.

I further ask unanimous consent that when the Senate receives a bill from the House which relates solely to the issue of the catastrophic health insurance program that the majority leader, after consultation with the Republican leader, may proceed to its consideration, and that the only amendment in order be the text of S. 1726, as passed by the Senate on October 6, and any technical amendments agreed to by both managers; that there be 30 minutes of debate on the bill and the amendment, equally divided by the two leaders or their designees; and that no motions to commit or recommit be in order with respect to either the debt limit or catastrophic health legislation.

In addition, I would like to indicate to the Chair, prior to granting this request, that it is my intention and understanding that no provision on the catastrophic health insurance subject will be included in the reconciliation conference report.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, Mr. President, I think there will be some questions. Hopefully, we can reach an agreement. I know the Senator from Arizona has a question on when we may complete a conference report on catastrophic. The Senator from Wisconsin may have a question on the language of section 89. I think there was sort of an agreement last night that we would pay for repeal of section 89 either in this amendment or in reconciliation. It does not make any difference in which place it is paid for. I think that would be a requirement.

Then I have some indication that we would do all we could to expedite the conference. I understand the House would send us a bill tomorrow; that it is the desire of the leadership of both Houses to expedite the conference on catastrophic. I suggested earlier to the leader perhaps we could agree to take up that conference report before we took up the conference report on reconciliation.

In any event, the Senator from Arizona is here. He may be in a better position to make that request than this Senator.

Mr. McCAIN. I ask the distinguished majority leader if he feels we could get this issue resolved certainly before we are planning to leave, recognizing a failure to act on this very important issue would be a very unfortunate happenstance?

Mr. MITCHELL. Yes, that is my intention; indeed, it is my very strong intention. I have discussed it with the Speaker as recently as a few moments before the last vote. He has assured me that he shares my intention in that regard. Given the fact that the Senate voted by a unanimous vote to accept S. 1726 and the House voted by, I believe, approximately a 5-to-1 margin to repeal the program, I do not believe that it would be responsible or appropriate on the part of this Congress to adjourn sine die without having addressed and resolved this issue because, as the Senator from Arizona and the distinguished Republican leader know, this involves not only the alteration of current law, but also it involves the necessity of private insurers to adjust their contracts in a manner consistent with whatever action we take, and it is my intention and my very strong desire that we proceed promptly.

The Speaker assured me that they have already begun the process of trying to move their bill out to get it over here by tomorrow. It would be my intention to bring up the text of S. 1726 tomorrow and have the conference begin tomorrow and to bring it to a conclusion as soon as possible.

Mr. BENTSEN. Mr. Leader, if you will yield on that, to further address the question and concern of the distinguished Senator from Arizona, if we do not deal with that issue this year, then the part B, the cap will take effect, as well as other benefits. You would have a very difficult time unwinding those benefits once they're in place. I think it would be highly irresponsible for us not to address it before we go home. I think that view is generally shared by the other Members. I will be pushing very hard as chairman of the Finance Committee. I know we have the total cooperation of the ranking minority member in that regard in seeing that we come to a judgment and decision.

Mr. HEINZ. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. HEINZ.

Mr. HEINZ. Mr. President, I listened carefully to the majority leader's propounding of the unanimous-consent request, and I was not surprised. But I was somewhat disappointed not to hear him add to the list of items that might be brought up this evening an amendment that would have the effect of taking the Social Security trust funds off budget and out of the deficit reduction calculations. This is a problem that cannot be ignored. Our current practices obviously encourage and result in a practice of deficit deception.

There may be a way to bring this matter to a vote, other than forcing it to a conclusion tonight. At the present time, I do not know what that is. Therefore, until we can resolve that, I will be constrained, I am sorry to say, to object to the unanimous-consent request. So I do object.

The PRESIDING OFFICER. Objection is heard. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I have had several discussions today with the Secretary of Treasury in this regard, speaking for the President and the administration. We are all public officials with very important public responsibility.

The Secretary of Treasury in my conversations impressed upon me, and I believe the distinguished Republican leader and others, the gravity of the matter which we are here attempting to address. If we are unable to act to extend the debt ceiling, we run the risk of forcing a default by the United States Government for the first time in our Nation's history with consequences that not one of us can now calculate, all of them adverse, and potentially unleashing a course of events which we could not then contain or reverse.

Earlier today and on previous days, we have had colloquys among the Senator from Pennsylvania; the distinguished Senator from South Carolina [Mr. HOLLINGS]; the Senator from New York [Mr. MOYNIHAN]; the Senator from North Carolina [Mr. SANFORD]; and others who are very much interested in this question of removing the Social Security system from the budget. I have expressed my support for that legislation. I have every desire and intention to have that legislation enacted, but I urge the Senator from Pennsylvania to consider the consequences for this Nation of his objecting to this provision, because if he insists on his amendment, then there is a long list of Senators who will insist on their amendments. It is not possible now for anyone to calculate what will occur in the Senate, what the House reaction will be to this list of amendments and what the possible effect will be.

I say to the Senator what I said to him earlier today. I will do everything in my power to bring a legislative vehicle to this floor, possibly the legislation which he and Senator HOLLINGS and others support, and a way others can offer their amendments on budget reform, but do not place this Nation at risk by objecting to this agreement now.

I implore my colleague to permit us to proceed with this debt extension legislation.

Mr. HEINZ. Will the leader yield?

Mr. MITCHELL. Yes.

Mr. HEINZ. Mr. President, I have tremendous respect for the majority leader. I do not doubt the Senator's sincerity in not wanting to bring the Social Security off budget legislation up on this vehicle. It is an issue, however, that we have had weeks to be able to address. Indeed, since Labor Day, we have been talking about bringing it up. In the Committee on Finance, on which I am privileged to serve, back when we were considering the short-term extension of the debt ceiling, both Senator MOYNIHAN and I served notice that we would bring it up on the short term or on the long term extension. Frankly, we have had plenty of time to deal with this issue, and if it is so important I would ask why either, one, we have not dealt with it before now or, two, why we do not at least make an attempt to include it in the unanimous-consent request.

Mr. MITCHELL. My answer is that if the Senator insists on his amendment, then I am advised there are a large number of Senators on both sides of the aisle, Democrats and Republicans, who will insist on their amendments.

Mr. HEINZ. Well, let us find out.

Mr. MITCHELL. If one Senator is to be given special treatment, then other Senators want the same treatment. I say to my colleague I share the view we ought to try to move this other legislation but not at the risk of endangering our Nation's economy. That is what is at risk here.

Mr. BENTSEN. Will the Senator yield?

Mr. HEINZ. Will the Senator yield further? Mr. President, will the Senator yield further?

Mr. Leader, I do not think anybody in this body wants to endanger the Nation's economy. It would be remarkable if one person in the Senate could do that, considering all the things that we have done or not done in the past. I do not know how many times I have been on the Senate floor late at night as we considered debt ceiling bills, and I have heard leaders say on both sides of the aisle, not only on the Democratic side but on our side—Howard Baker used to say it; BOB DOLE used to say it—"the Treasury Department said the world is going to come to an end if we do not pass a debt ceiling bill." Upon one occasion I think it took us 7 or 8 days to pass a debt ceiling bill. The world did not come to an end.

I know the Senator from Maine thinks the world could possibly come to an end. He is not predicting that there is going to be a catastrophe tomorrow if we delay consideration of this for whatever little bit of time it takes. But I must say that I do not see another appropriate vehicle for the consideration of this legislation.

Mr. MITCHELL. What is wrong with the legislation itself as a vehicle? Have we reached a stage in the legislative process where bills cannot stand on their own, where a Senator refuses to offer his legislation on its own? If it has merit, if the Senator believes it has merit, then let us bring that bill to the floor and debate it. This is a commentary on the status the Senate has fallen to where a bill no longer is regarded as a vehicle for action.

Mr. HEINZ. Mr. Leader, if you will yield?

Mr. MITCHELL. We must search for another vehicle.

Mr. HEINZ. I could not agree with the majority leader more. A number of us have introduced bills. He has named some of the people who have: Senator MOYNIHAN, Senator HOLLINGS, Senator SANFORD. The question is, Where are those bills? They are not in my Committee on Finance. They are in the Budget Committee.

The issue of taking Social Security off budget has been raised repeatedly. I first raised it in 1983. We had a vote on the Senate floor. I raised it on poor old Senator SIMPSON's immigration bill in 1985. Senator SIMPSON will not forget that. He keeps reminding me of it every time I see him.

We raised it earlier this year in the form of an amendment. I brought it to the Senate. The Senate adopted the amendment.

So the question is where is the legislation? The answer is it is not here. It is time it was here. Time is of the essence. We are being asked to support a $3.1 trillion debt ceiling bill. The question we might ask is how much higher does the debt ceiling have to go before we deal with an issue directly related to it? This, it seems to me, is the heart of the issue. I must tell the majority leader I cannot agree to his unanimous-consent request.

Mr. BENTSEN. Mr. Leader, will the Senator yield for a point? Let us talk for a minute about what kind of stakes we are playing for.

The Congressional Budget Office sends us a letter telling us that may well have a decline in the dollar and incomplete recovery if the Government were to enter default for just a few days beyond the drop-dead period

we are talking about. CBO also predicts a permanent increase in the yields on Treasury debt as related to other types of debt. They are talking about a general increase in interest rates for the entire country, and that is for just a few days delay in our action. We could have really some disastrous results if default were to continue.

When the Senator says he does not believe one person can cause that to come about, I respond you bet one person can cause it to come about if we do not resolve these issues, and we try to bring in extraneous types of amendments.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. BENTSEN. I personally would not like that kind of responsibility on myself.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. BENTSEN. Yes. I do not have the floor. The floor is held by the majority leader.

Mr. MITCHELL. I will yield to the Senator from Pennsylvania.

Mr. HEINZ. I thank the Senator from Maine, the majority leader.

Let me just say, Mr. President, by way of response to my friend and the chairman of the Finance Committee, he full well knows, because he was in both the markup and the hearings in which I have on several occasions raised this issue, this is not a new issue. So it seems to me if anybody wants to stand on the floor of the Senate and say with total sincerity that there is a problem, let me tell you what the problem is. The problem is the Senate is not doing its job in considering this legislation. There has been ample opportunity to do so and we have not done it. I frankly resent the implication that because the Senate has not done its work, because the committees of the Senate have not reported legislation, somehow it is somebody else's fault who says it is about time for us to do our work.

Mr. SIMPSON addressed the Chair.

Mr. ROCKEFELLER. Will the majority leader yield?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. ROCKEFELLER. Will the majority leader yield?

Mr. MITCHELL. Let me yield to the Republican leader.

The PRESIDING OFFICER. The Senate Republican leader.

Mr. DOLE. Mr. President, I hope there is some way to resolve this. I do not want to quarrel with the majority leader but I think it is fair to say that this debt ceiling legislation has been on the calendar since July 25, and it is not brought up until the last minute. That is the way sometimes I played it, but I generally had about 10 or 12 amendments to take to conference.

I hope there is some way to resolve this problem because I think, as the majority leader has pointed out, if the Senator from Pennsylvania offers an amendment, then I think there will be additional amendments, at least one more on this side. I am not certain about that side. But I am advised by Secretary Brady that it is going to get a little sticky around here tomorrow morning unless something is done.

But I say in fairness again to the Senator from Pennsylvania, we have had plenty of time to bring up the debt ceiling. It has been around since July 25. This is known as a squeeze play which sometimes is used successfully by the leadership. I do not think I was that successful. It was my suggestion we do it this way.

So I would like to get the agreement. I hope that we could find some other way to deal with the Senator from Pennsylvania, but if that amendment were adopted I do not know what would happen on the other side.

Mr. MITCHELL. There is absolutely no way of predicting, and we are getting close to the late hour.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. MITCHELL. I will be pleased to yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I guess I am one who knows the intensity of my friend from Pennsylvania on this issue. I did, right here, a few feet away, assail him at one time with the most remarkable earthy vocabulary that I had yet mustered, which is quite a thing in itself. But this is my fishing companion, my friend. This is his thing. And yet I want to say to the majority leader, sure, we get into partisanship and we whack each other around, but he has kept every promise he ever made, and he just made one moments ago about what he would do on this issue.

He said that this was something he would deal with, even when I had been opposed to him in all the things I have done with him, in his tenure here and serving with him on two committees. I have never doubted his word, nor would I. Nick Brady I have the same high regard for. I do not want to doubt his word. This is his maiden voyage as Secretary of the Treasury. This is not the usual thing, and this is it. It is going to happen.

It takes weeks to address an issue like this because it is so terribly contentious because in one way, at least in my mind, it is a phony baloney to take Social Security and put it off somewhere else so we count it differently. That is my view.

Every one of us is terrified by that issue, totally terrified that in the year 2030 your grandchildren will be out picking in the barnyard on Social Security. There will not be anything left of it because it cannot possibly work the way it works now, and every time we mention it, it is like rolling a bomb under our desks.

That is why it does not move. It is never going to move without a huge debate. It is an extraordinary system that is absolutely in disarray, and in the year 2030 we are going to find it out, and then to put it aside is a most extraordinary thing. That is aside from the issue. But I would love to get into that one with rich detail.

I just say if you do not believe that the stock markets will react, they react to everything. You name it, they will react to it. But when my friend from Pennsylvania says if we think that one person can do that, the answer is, yes, one person can do that and one person is doing that.

Mr. MITCHELL. Mr. President, I yield to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I want to make a point to support the majority leader in what he is trying to accomplish, and make a point through that to the Senator from Pennsylvania. I will take a moment of history.

Back during the war the Federal Government ran the coal mines of this country. After the war was concluded, John L. Lewis, the president of the United Mine Workers, struck the classic deal with coal operators in which he said that he understood that the mines are going to have to be mechanized, and that he understood there are 300,000 or 400,000 miners who will have to be thrown out of work; and that he was willing to face that consequence but only in return for full pension and health benefits for these hundreds of thousands of miners who mine coal with pick and shovel.

Now we are at a point, Mr. President, where the health funds for these miners—whose average is 77 years old or their widows or their spouses who mined coal the hard way, when it was truly, truly a killer industry—where their health benefits are costed.

The Senator from Pennsylvania feels passionate about an issue. You talk about feeling passionate about an issue with 132,000 people who average 77 years old, where with a bill we could cure this problem now—I would give anything, I would give anything to add that attachment to the debt ceiling. That is not something theoretical. That is 132,000 coal miners, elderly and fragile now, and next January may be too late because they are not paying the bills and the doctors are beginning to not see the people. I am not going to do that. I am not going to put the majority leader in that position when it is directly against the interests of 132,000 people who average 77 years old because of what he says—and, that is that the Nation's economy is in peril and at stake.

I understand the passion of the Senator from Pennsylvania. I understand his timing, and I understand his ability to bring this entire process to a halt. I have the same power. The people that I talk about are now and immediate. But I will not bring that up because I understand the condition of the United States of America, and I understand the position of the majority leader in trying to bring the debt ceiling through clean.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I yield to the Senator from Texas.

Mr. GRAMM. I am tempted to say to my dear colleague from West Virginia that if he wants to offer that amendment so badly, maybe he could float the national debt for a few days, and we would let him offer it. [Laughter.]

I do not have the capacity to make that offer. I would like to make a couple of points.

First of all, the issue the distinguished Senator from Pennsylvania wants to debate is an issue that a lot of us want to debate. It is a very serious issue. If this amendment is brought up, there are going to be another half a dozen amendments offered and there is going to be a protracted debate because we are talking about big stakes policy.

I agree with the distinguished Senator. I think we delay these debt ceiling votes until the last minute to try to prevent from being derailed to a debate on these bigger issues.

It seems to me there is one issue that we know is not going to go away. It is this one.

Perhaps we could solve our problem tonight by simply having an agreement that we let this train go because we are facing the debt ceiling tonight or in the morning; that the risks of not meeting that deadline are too great and we simply have an understanding that a year from tonight this same argument will not work; that if the distinguished Senator wants to offer the amendment, then those who have not brought it up before that time are going to be as responsible as he is for holding it up.

I just wonder, Mr. President, if it might not be possible that we have that understanding, and that we not let our Government go into default.

We are one of the few countries on Earth that has never been in default and has never repudiated the currency. I think that is a record. The world is not going to come to an end if we let it pass 3 or 4 hours or 3 or 4 days late. However I do think it is sound policy to protect the fiscal integrity of the country. We do not always contribute to the good financial name of the country. I think we can do that tonight.

I would just ask the leader. Would that not be a solution to our problem?

Mr. MITCHELL. Let me assure the Senator from Texas, and the Senator from Pennsylvania, that I have every intention of seeing that that issue is presented to the Senate for full debate, long prior to the expiration of the debt limit that we are now talking about, and that there will be plenty of opportunity to debate it.

I want to emphasize that the Senator from Pennsylvania is not alone in this regard. Several other Senators have addressed the same issues in the same way as the Senator from Texas has indicated. And as the Senator from Wyoming has indicated. People feel strongly on the other side as well. This is an important issue.

So, yes, I have every intention of seeing that it is brought to the floor for full debate and anybody can offer any amendment they want, and any plan they want, any proposal they want, and let us have a debate and vote on it.

I do not control every committee in the Senate. The Senator from Pennsylvania can stand here and make a speech and say, well, the Senate is not doing its job because they have not acted on my bill. I am on three committees, just like every other Senator. Neither I nor the Republican leader goes around and tells each committee what bill to report out, and when they are to report it out.

I favor this bill. I have spoken in favor of it. But this Senate has not reached the stage, and the powers of the majority leader have not reached the point where I can go around and dictate to every committee what bill they are going to report out. And I do not think the Senator from Pennsylvania would like me to have that power because I might direct that bills be reported out that he does not like.

So let us get it clear the Senate still operates on a committee basis. There are 99 other Senators besides myself who decide what legislation will be reported out.

I assume that the Budget Committee before which that bill now rests ought to have some say about it. I hope the Senator from Pennsylvania will agree that other Senators ought to have the same rights he has.

How would he like it if the chairman of the Budget Committee stood up here, and asked that I direct the Finance Committee to report out a bill that he wants, that perhaps the Senator from Pennsylvania did not like?

So the fact that the Senate has not acted or has not taken up a bill that one Senator happens to like is not evidence that the Senate is not doing its business or acting responsibly. Everybody has their preferences. Everybody has a choice of what to do. So I hope very much that we can resolve this. I thank the Senator from Texas, because he makes a very good suggestion. I have every intention of seeing that this is disposed of, debated, long before we get——

Mr. GRAMM. If I might respond, based on that commitment, I will not be offering my amendment on the subject. I think it is very important, and I hope the Senator from Pennsylvania will allow us to raise the debt ceiling, let the fiscal policy of the Nation go on, knowing that we have an opportunity over the next year to bring this up, debate it, and then it can be offered on the debt ceiling a year from now; and at that point no one can say they were not put on notice if we had not had an opportunity to do it before then.

Mr. RUDMAN. Mr. President, I just want to say to my good friend from Pennsylvania—and he is my good friend—that even if the majority leader were to agree to the request of the Senator from Pennsylvania to include his request, unanimous-consent agreement, I would object to that. The reason I would object to that is because I do not agree at all with the thrust of what the Senator from Pennsylvania is trying to do.

The Senator from North Carolina, Senator SANFORD, has a very innovative proposal with good parts. Senator GRAMM and I have a proposal which we believe has merit and probably can be improved. Our friend from South Carolina [Mr. HOLLINGS] has a very interesting amendment he wishes to introduce. The fact is that if the majority leader would say to my friend from Pennsylvania right now that we will include that amendment, I would object, because I believe that what the Senator from Pennsylvania is trying to do is one of the most important things we have to do. There are reformations to this budget process that about 86 of us have been talking about, including the ranking member from New Mexico of the Budget Committee.

I hope my friend from Pennsylvania would accept the assurances of the majority leader that we can pick sometime maybe early next year, get the Budget Committee to report out these various bills and have a full-scale debate, and then pass whatever we pass. Obviously, what they do in the other body we cannot control. Even if the majority leader grants the request of the Senator from Pennsylvania, I am afraid that will not get him where he thinks it might.

Mr. MITCHELL. I will yield to the Senator from New Mexico and then the Senator from Illinois and then the Senator from South Carolina.

Mr. DOMENICI. Mr. President, might I say first to my friend from Pennsylvania just two things. No one is more concerned about this issue

than the Senator from Pennsylvania. I believe there are many who are on board now, but he is going to be the leader. He raised this issue before anyone else, and clearly he is making a real point about the fiscal implications in the future of continuing to count Social Security reserves as part of the operation budget deficit problem of this country.

So there is no doubt about that. Second, I say to my friend, no one has been more concerned about the American economy than him, and I submit to the Senator that tonight he said he wondered if one person could bring this Government down in terms of the economic side, and he indicated that in years past we debated sometimes 2 weeks after the drop-dead date.

I just remind my friend from Pennsylvania that there has been some dedicated Senators committed to the proposition that we are not going to do that again. They have succeeded. We have taken all of the latitude out of this debt limit, and I believe the Secretary of Treasury is telling us the truth, that we are apt to have to face an American indebtedness tomorrow and the next day, if we do not pass this debt limit. So I think it is serious.

My last point, I say to the Senator from Pennsylvania and other Senators, this is a tremendous policy issue that he intends to debate on this debt limit bill. In fact, we are just beginning to understand the ramifications of it. I do believe it deserves full hearings, and they are beginning to occur. We have had 4 days of hearings in the Budget Committee, with the Government Operations Committee. They have the joint jurisdiction. And this issue of the accumulating balances in Social Security and American fiscal policy are being debated, thought about, and the Senator will remain in the forefront of trying to protect that fund. But it deserves real consideration, along with other trust funds. There are others who want to debate other trust funds, and how do you treat them within this budget?

I join with the others in saying that he is going to get to the point that he desires in plenty of time, and the seniors in this country that are concerned will know that this is not an issue for next week or next month. It can be resolved in the next 4 or 5 months, and they will be protected, because nothing anyone is going to do, including the bill of the distinguished Senator from Pennsylvania, is going to take effect in the short term. It is the long term he is concerned about, and we have time to solve that in due course. I think he has the kind of commitment tonight to assure the seniors that it is going to occur.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I thank the chair and the majority leader. I agree strongly with my colleague from Pennsylvania, if I may have his attention here for a moment. I agree strongly with him on this issue. I agree also with Senator DOMENICI, that it is a question of just huge ramifications, which we should not be deciding quickly and arbitrarily.

The one concern I have, the Senator from Texas asked that we, within a year, do something. My hope is that before April 1 we would do something, so the next budget resolution that we adopt, in fact, reflects this change. I think that is extremely important that we do it. This last budget resolution, as the chairman of the committee knows, I was able to get an amendment adopted where we put Social Security trust fund off to the side, but it was almost unnoticed. I think we have to make this major change. I think it would be a tremendous boon to the economy of our country, if we were to do it. But I would hope that our distinguished colleague from Pennsylvania would withdraw his objection at this point, and then I would join him right after the first of the year, and certainly before April 1, let us have a good, solid, firm discussion here in this body on this really salient issue, and then, I hope, make the right decision.

Mr. MITCHELL. I yield to the Senator from Wisconsin.

Mr. KASTEN. Mr. President, reserving the right to object, I will address a question to the majority leader. In the first paragraph he refers to a repeal of section 89, identical to language agreed by the House and Senate conferees on reconciliation. I ask the majority leader if he would change that part so that we would get in fact a pure repeal of section 89; specifically, I ask if he would be willing to include the language for repeal of section 89 that was the language included in the Packwood et al., package that is now part of the Polish debt issue. There are three or four technical issues that are covered in the Packwood package that are not covered in the reconciliation.

I ask the majority leader if we can change to reference that bill as opposed to reference. I am talking three or four technical issues. I believe the Senator is in agreement with all of them, and I believe we would have a better repeal if we were to go forward.

Mr. MITCHELL. I yield to the chairman of the Finance Committee on that.

Mr. BENTSEN. As I understand it, the Senator is taking about three of four quite technical amendments, some that deal with pensions, and others that deal with section 89. The problem that we are facing is that it is almost 8 o'clock at night, and we have been in conference with the House, and the conferees have agreed to this particular provision as it is now reported back to us. The amendments carry most of what we did in the Finance Committee, and takes care of a great majority of what the Senator's objection is. I know that we had serious objections by the members of the House conferees so far on two or three technical amendments. That is why those provisions are not in this.

Mr. MITCHELL. If I could just add to the Senator from Wisconsin, this has been agreed to in the conference. If we now change that, we do not know what the reaction will be in the House. The whole purpose of putting section 89 in here was, first, at the request of the Republican leadership to which we agreed and, second, it was with the understanding that it would be done in a manner that would be without disagreement.

I am very reluctant now to reintroduce matters that have not been agreed to in the conference without any knowledge of why they were not agreed to in the conference, or what the House reaction will be.

It is my understanding that this provision includes almost everything, nearly everything, the Senator from Wisconsin wanted. Rather than run the risk of delay and having this come back from the House, and here we are getting ever closer to the deadline, I hope that the Senator will permit us to go forward on this basis.

Mr. KASTEN. I think there is no problem. My understanding is that the straight repeal the House voted on 380 to whatever it was, there is no question but that the House membership and the Senate membership and the Senate Finance Committee all agree that these three additional principles should be included. Frankly, it is my understanding there are a few people on the Ways and Means Committee who may not agree with the full House membership, the full Senate membership, and the full Senate Finance Committee.

Mr. BENTSEN. If the Senator will yield on that, it is not my understanding that is the case. The House repealed section 89. The Senator is talking about some things beyond repeal. When you get into some of the pension benefits, you are not just talking about section 89. It is my understanding that the Senator is asking beyond just simple repeal.

This carries simple repeal plus some of the things that the Senator is interested in, I was interested in, and Senator PACKWOOD was interested in. We were not able to get the House conferees to agree to all of those items. But I say to the distinguished Senator he has been able to gain 99 percent of his points, and here, after we have had the conference and it is 8 o'clock at night, we are talking about a debt limit. I do not think we can go back and change the agreement.

Mr. KASTEN. I appreciate what the Senator has been able to do. I am trying, and if he will resist this, I am not going to push this, but I am certain that because I have spoken with some of the leaders of the repeal effort in the House that, if we were to attach the same bill, the House would be willing to take it to a vote in the House, and our repeal people in the House say they easily have the votes for these three additional technical parts. So I do it not believe it would be holding up anything.

Mr. BENTSEN. It is my understanding that the provision that the Senator is probably most interested in is one that I proposed in my section 89 repeal, and I am still interested in it, and I will still push for it. But I do not think we can do it tonight. I would be delighted to pursue it in the coming year.

Mr. KASTEN. The Senator knows how long is has been to get this far. I am not going to push it, but it would seem to me it would just make sense if we put the Senate Finance Committee position into the full Senate position in this package here. If the Senator is unable to do it at this time, I am not going to continue to oppose.

Mr. MITCHELL. I thank the Senator very much.

The Senator from South Carolina asked me to yield to him.

Mr. HOLLINGS. I thank the majority leader for yielding. By this time, if Gramm-Rudman-Hollings had been in force as we designed it we would have a deficit of just $36 billion this year, and be balanced next year. We never contemplated using any Social Security funds next year.

At the beginning of the year, the distinguished Senator from Pennsylvania, with the Senator from New York, Senator MOYNIHAN, put in a Social Security bill, but it kept being put off. "There are complications, save money and exempt the next few years," it was said. First, they said to use $46 billion the first year and now they say use $79 billion each year for the next 3 years.

I thought we should get back to the original intent, and not use any of the trust fund. My bill says take it off budget immediately.

The Senator from Pennsylvania has a point. The Budget Committee chairman has opposed this bill. We had a struggle in the Budget Committee at the very beginning of the year, and the chairman raised a point of order that to even consider my Social Security amendment to the budget resolution was out of order.

As a result of the very spirited discussion we had, we put it in the alternative. You will find in the budget report the deficit with Social Security funds bing employed, and the deficit without Social Security funds.

I worked all year long, and I now have the majority of the Democrats on the Budget Committee cosponsoring the bill, along with the distinguished majority leader.

I think the Senator from Illinois is making a reasonable suggestion to Senator HEINZ, and I think that is the best we can do, and we have to order our priorities. The majority leader has a real problem even though he was committed to call it up on the temporary debt limit and then he was committed to this particular Senator to call it up on this debt limit. But we do not hold each other to that. We are grown men, and he has a bigger responsibility.

I am willing to yield on the same basis as the Senator from Pennsylvania, insisting we get some understanding by March 15. We can meet at the beginning of the year. I just do not want to get into monkeyshines. If we can meet and we can get the assurance of the chairman of the Budget Committee that he would bring it up, we could report it out April 1. If they wanted to add amendments, they could add them. It is not sancrosanct. I just hope they would not get into broad budget reform. My distinguished colleague from North Carolina has budget reform. The Senator from New Hampshire [Mr. RUDMAN] has budget reform. The Senator from Kentucky has budget reform. They have all good bills. But what I am trying to do is the art of the possible. I know the power of the Social Security issue to get our foot in the door, to sober up this crowd here in the National Congress, and do a good job by saving the trust fund for the generations to come.

I will go along with the leader, and I am pleading with my friend from Pennsylvania [Mr. HEINZ] to go along, on the specific understanding that it be called up on the floor. We can get it out of the committee. If we call it for consideration on the floor by April 1, then we have a good understanding.

The Social Security bill happens to be more important than the catastrophic health bill and more important than section 89 and all the things the leader listed. I think that Social Security is more important than the minimum wage bill, and yet we keep yielding, and I do not get satisfaction. I wonder if we can get understanding for some definite day at the beginning of the year. I am convinced we can get it out of the Budget Committee.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. Mr. President, I yield to the chairman of the Budget Committee.

Mr. SASSER. Mr. President, first let me say that I favor the legislation that is being offered by the Senator from Pennsylvania. I think identical legislation was offered perhaps earlier or the same time by the Senator from South Carolina. Legislation has also been offered similar or identical by the Senator from New York. Both myself and the majority leader and others, including the Speaker of the House of Representatives, have announced publicly in the press gallery our strong support of this particular concept.

I see no reason why we could not cooperate and bring this matter to the floor out of the Budget Committee by April 1, as has been proposed by my distinguished friend from South Carolina. Of course, I cannot give any assurances as he understands, that there will not be attempts to amend it because at the present time we have budget reform legislation pending, some by the distinguished majority leader; and Senator COATS has budget reform legislation; the distinguished Senator from North Carolina, Senator SANFORD; Senator GRAMM, of Texas; Senator KOHL, of Wisconsin; Senator MOYNIHAN; and Senator DOMENICI. I have my own budget reform proposal that I want to offer. So the list goes on and on, and, I say to my friend from South Carolina, fully 30 percent of the Members of this body have some idea about how we ought to reform the budget process.

I certainly would be delighted to cooperate and try to bring this legislation dealing with Social Security to the floor, or out of committee, I will put it that way, on or before April 1.

Mr. MITCHELL. I thank the Senator. I yield to the Senator from Virginia.

Mr. WARNER. I thank the distinguished leader. I rise on an entirely different point. I had anticipated being in the capital of my State of Virginia where tonight a historic Governor's race is being decided. I have to be at the airport in 3 hours. I assume if this is carried forth, we may not have further votes tonight. Does the leader care to address this at this time?

Mr. MITCHELL. I will be pleased to respond. Mr. President, if we get this agreement, it is my intention—I will state now what my intention was—to ask that we be permitted to proceed to complete action on the Intelligence Authorization Act, which the chairman assures me will take just a short time and no rollcall vote has been requested—I hope none will be requested—then to proceed to the debt limit bill under this 30-minute agreement. Again no rollcall vote has been requested and I hope that no one would request it.

I ask the distinguished Republican leader if he has any request on his side. If not, we could dispose of both of those measures this evening without any further rollcall votes.

It would then be my intention to recess for the evening and return to-

morrow morning to the minimum wage bill—I understand there is one amendment to that—and a vote on that tomorrow. So that if we can get this agreement, we can complete action on these measures this evening without the necessity of a rollcall vote unless some Senator requests one and I know of none that requests one.

Mr. WARNER. Mr. President, I certainly thank the distinguished minority and majority leader for that. I just wanted to be here if it could occur tonight. As a member of the Intelligence Committee, I have a certain responsibility to that bill.

Mr. DOLE. Mr. President, I know the Senator from Virginia has other obligations tonight too, but there are a couple of bills pending that involve him directly. So I hope we could work it out as quickly as we can.

Mr. MITCHELL. Mr. President, if no other Senator wishes to address the subject, I renew my request as previously stated.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Reserving the right to object, Mr. President, and I suspect the Senator from Maine is not surprised that I do reserve the right to object. Mr. President, we may be making some progress here, I am not sure. Certainly, this is an issue that for the first time we have gotten the Senate's attention to address. But before I deal with the substance of it, I want to make a couple of points for the record in case things do not work out, and I do hope they work out.

The first is to reiterate something I said earlier. We have had numerous opportunities to address this issue this year, and for one reason or another we have procrastinated. It may very well be that the majority leader has no power to encourge or get another committee to report.

Indeed, it has the majority leader who suggested that the way to deal with this issue is to have a bill. Obviously, there are two ways to get a bill. One is to have it reported from a committee—in this case the Budget Committee would be the appropriate committees—the other is to handle it the way we did the McCain amendment where it was brought up on the floor as the result of an agreement and it was not reported out of the Finance Committee. It came to the floor by unanimous consent under an agreement to deal with it. Any of those procedures are fine with me.

But the problem is that none of those procedures have been followed to date. Maybe we wish they had been, but there has been ample opportunity to do so.

The second point I would make is that there is a certain irony, it seems to me, in any protestation of either surprise or opprobrium by anybody who has responsibility for bringing the debt ceiling before us this evening. I have been on the floor repeatedly when the majority leader was on the floor to indicate to him my point of view on the debt ceiling bill. I find it very interesting that neither the majority leader nor, for that matter, the minority leader ever so much as placed a call today, yesterday or on any previous days to discuss how we might avoid this kind of confrontation here on the Senate floor at the 11th hour.

Third, there is an alternative to the problem that might confront the majority leader in refashioning his unanimous-consent request, and that is do something that has been frequently done here on the Senate floor: Namely to bring up the bill, to let us offer amendments and to vote them up or down.

It is the right of Members of the Senate to seek votes on specific legislation at pertinent times and on pertinent matters. Nothing could be more pertinent than the way we are disguising—and I use that word advisedly—disguising the true size of the national debt. Most people look at the budget deficit and they look at the national debt and they say, "Well, I guess that national debt is the accumulation of all those budget deficits that have been reported."

What a surprise it must be for people when they look at the debt ceiling legislation which has roughly a $3.1 trillion increase in the national debt and they find that if they added up all the deficits and surpluses together, the number would be about $700 billion less than what we report as our national debt.

My goodness, how can you have an accurate budget summary and, at the same time, accumulation of so-called Federal budget deficits that is a lot lower than the national debt? The answer is, we are playing a game. We are playing a game with the way we report the budget deficit each year. Was it a plot? No, it is not a plot. Nobody is intending to mislead, I do not think. But we are masking the true deficit.

When we fashioned Gramm-Rudman-Hollings sometime ago, I think the intention of the sponsors was sincere to get the budget deficit down. It has helped some. I do not think anybody intended to pull the wool over anybody's eyes with respect to the deficit. But that is, what has happened.

As a result of that, if we happen to come in on the budget number for fiscal 1990, if we hit that $100 billion target, using the way we report the deficit, what is going to happen is the national debt, will go up by roughly $68 billion more than that $100 billion reported debt. And the total will not be $100 but $168 billion in new debt.

Well, in my home State of Pennsylvania, $68 billion is a lot of money. The number keeps going up every year. Indeed, unless we address this problem, we will, once again, double the national debt by the year 2000. Even if we meet the Gramm-Rudman-Hollings target of a zero budget deficit as we now report it in fiscal 1993. Even if we report a balanced budget for the entire decade of the 1990's, we will double, double the national debt.

I do not know of a single Member of this body, or for that matter the other body, that at some point has not given somewhere between 1 and 1,000 speeches on fiscal responsibility. We all talk fiscal responsibility and here is an issue which strikes at the very heart of all that talk. It is this Senator's view that we cannot continue to duck the issue. We ducked it in 1983. We ducked it in 1985. We ducked it earlier this year. We ducked it on the short-term debt ceiling extension. We have been ducking it all this week, all last week, all the week before. It seems to me it is time to fess up to what we are doing and do something about it.

I am pleased that many of my colleagues are here. In fact, I am glad Senator HOLLINGS is here. He has been in the forefront of this. Senator MOYNIHAN is here. He and I have worked on this issue for some time. I am delighted that JIM SASSER, the chairman of the Budget Committee, was here and supports doing something on this.

But it seems to me, Mr. President, that it is very important that if we are going to find a way to move ahead with the debt ceiling, we do it in a way which is foolproof against delay and procrastination of the kind we have seen over the past weeks, the past months, the past year.

So I am perfectly prepared, if we can find the right set of warranties, to let the majority leader go ahead. But we need to find the right set of warranties.

I think none of us can be sure. This is a point the majority leader himself made. None of us can compel a committee of the Congress to report a bill by a date certain. We can discharge them but we cannot compel them to do their work if they do not want to do it.

One of the ways one can ensure that is to say, unless a committee reports legislation, the sum and substance of which is what we are talking about this evening, that there will be automatically discharged to the Senate for consideration, under a particular kind of consent agreement so there is a vote on it, a particular bill. It could be my bill, S. 1752. It could be the bill of Senator HOLLINGS; it could be the bill of Senator MOYNIHAN.

But I think, Mr. Leader, if we are going to make any progress here this evening, we have to be rather specific about what is going to be done. And, if it is not done, how we are going to pro-

ceed from there and under what rules and regulations.

So, I think maybe we can work this out. But it may be necessary to have an informal discussion to do that. So I will suggest the absence of a quorum.

Mr. MITCHELL. Mr. President, I renew my request.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I yield to the Senator.

Mr. SARBANES. If the majority leader is going to renew his request I will withhold. I think we should approve this request and move the business of the Senate.

I simply say to the Senator from Pennsylvania, he has gotten a number of assurances here tonight in terms of Members responding to the concerns he has expressed.

To now move to the posture of saying: Well, I am going to get a date certain for the discharge of the legislation in order to allow this very important business to be done—every one of us has legislation in a committee we would like to see out here on the floor of the Senate. I think the Senator's bill is an important piece of legislation. But there are lots of other important pieces of legislation as well.

It seems to me a line is being crossed here, expressing a very strong concern and receiving indications from the committee chairman and the leadership with respect to this matter that the Senator is concerned about. It seems to me now he is crossing over a line and that is a tactic that every other Member is going to have to say to himself, "Well, why do I not use the same tactic? I have a similar matter of deep concern and importance to me." I hope we could go ahead and approve this request of the majority leader.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Reserving the right to object, I wonder if the majority leader might respond to what was in effect an inquiry. My inquiry, to repeat it, is that there have been suggestions made by a number of Senators. The chairman of the Budget Committee, the chairman of the Commerce Committee, who is also on the Budget Committee, Senator HOLLINGS, and others, if we could have a date certain for the consideration of this legislation.

I do not know what the majority leader's pleasure is. But let me explain why there is some sensitivity to a specific day.

The Budget Committee has, each year, a harder and harder job to do. It gets tougher and tougher to meet the Gramm-Rudman-Hollings targets.

We tend to get into, early on, a series of very tough negotiations and in order for those negotiations to be meaningful we, obviously, have to know the target at which we are aiming.

If we are going to do what it is that the Senator from South Carolina proposes, or what the Senator from New York proposes, or what I propose—and basically we all pretty much propose the same thing, hardly a penny's worth of difference among our different proposals except the first name on them, of which we are all very proud—the fact of the matter is those bills all do change the Gramm-Rudman-Hollings targets.

They change them in pretty much the same way. There are differences. But change them they do.

So it seems to this Senator important that if we are going to deal with this issue we need to deal with it early next year. The Senator from South Carolina mentioned April. I am not trying to tell the Senate how to do its work but the problem is if we wait until April we may be too far down the road in the Budget Committee in order to advance the difficult negotiations that take place, both in the Budget Committee and with the administration.

Does the Senator from South Carolina have a comment he would like to make? It seems to me if we wait until April that could be too late.

Mr. HOLLINGS. I do not think it is too late, because we know we have to get the reports from the authorizing committees and then we have to get the reports from the appropriations subcommittees. And then, it's on to the Budget Committee. We would still be doing our work and trying to begin the markup in April to get it to the floor.

Senator SIMON, also a member of our Budget Committee, said April 1, but there would be no reason we could not get it out March 15.

S. 1795 is my bill, but the Senator can add his to it, too. There is no jealousy about either one. I would like to have ours because I want Social Security totally off budget, but we can debate that on the floor. S. 1795 is sponsored by the distinguished majority leader and a majority of the Democrats on the Budget Committee.

Now what Senator SASSER, our distinguished chairman, just stated, that he would cosponsor it, there would be no rhubarb about getting the bill out. If we could not get it out by, say March 15, the majority leader could ask for discharge of his own bill. I want to remind him, he is the leader.

Mr. MITCHELL. Mr. President, I previously provided my assurance that I would do everything I could to bring this bill forward; to bring one version of this bill forward, there being several. And, as a product of these being several, we are experiencing these events this evening. And that I would present it to the Senate as soon as I can, so that there may be a full and open debate on the subject and any Senator can offer any amendment that he or she wants.

Evidently that is not sufficient for the Senator from Pennsylvania, who says he wants warranties.

I just say to the Senators that I regard my word as a warranty and I am not prepared to go beyond giving my word.

Mr. HEINZ. If the majority leader is taking my name, on a point of personal privilege, let me explain something.

Mr. MITCHELL. You have been taking my name here all evening.

Mr. HEINZ. But I have not put any words in your mouth, Mr. Leader. And let me explain very clearly that I said the warranties with respect to a specific time. I have never doubted the majority leader's word and any implications that I do, I resent, because I trust his word.

Mr. MITCHELL. Mr. President, we have started here. We had one suggestion for a year from now. Then a suggestion for April 1. Then a suggestion for March 15. If this goes on much longer we will have a suggestion that we do this in the next 10 minutes.

I have made clear what my intention is in this regard. I support this bill. I am a cosponsor of Senator HOLLINGS' bill. And I have every intention of bringing this bill to the Senate as soon as I can for a full and open debate on it.

I am trying to move this debt limit at the request of the President of the United States, and the Secretary of the Treasury, and in behalf of all the people of this country; the consequences of a delay of which could be severe.

I renew my request. I have stated my intentions. If that is not good enough for anybody here, then they can object.

The PRESIDING OFFICER (Mr. LEVIN). Is there objection?

Mr. HEINZ. Mr. President, I am constrained because of circumstances to ask for further clarification.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. I will be constrained to object, even though I am reluctant to do so.

Mr. MITCHELL. Mr. President, I am about to suggest the absence of a quorum. I have no choice but to contact the Secretary of the Treasury, and the President, to advise them of these events and our inability to move this debt limit forward.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE AUTHORIZATION

Mr. BOREN. Mr. President, I ask the Chair, is the pending matter the discussion of the Intelligence Authorization Act?

The PRESIDING OFFICER. That is the pending bill. There is also pending before the body a unanimous-consent request. The pending bill is the bill that the Senator inquires about. There is pending before the body a request for unanimous consent.

Mr. BOREN. Is it in order to proceed with the consideration of the bill at this time?

The PRESIDING OFFICER. It would be in order.

Mr. BOREN. Mr. President, I think we have completed action on most of the matters related to the Intelligence Authorization Act, in light of the vote that we had on the amendment to strike the inspector general provision. I am informed there is one additional amendment to be offered by the Senator from California [Mr. WILSON]. I yield the floor at this time so he might offer that amendment.

The PRESIDING OFFICER. The Senator from California [Mr. WILSON] is recognized.

AMENDMENT NO. 1085

(Purpose: To provide for equity in Federal law enforcement compensation)

Mr. WILSON. I thank the distinguished chairman and manager. I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON], for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. CRANSTON, proposes an amendment numbered 1085.

In preparing for submission to the Congress the Budget of the United States for Fiscal Year 1991, the President shall take into account and, to the greatest extent possible, incorporate into such budget the recommendations of the National Advisory Commission on Law Enforcement as established by section 6160 of the Anti-Drug Abuse Act of 1988.

Mr. WILSON. Mr. President, I did not interrupt the clerk in his reading of this because it is such a brief piece of legislation. Let me just take a moment or two to explain the necessity for it. By the way, I am offering this amendment on behalf of the senior Senator from New Jersey [Mr. BRADLEY] and my senior colleague from California [Mr. CRANSTON].

Mr. President, we were to have received in the Congress by April of this year the report and recommendations of the National Advisory Commission on Law Enforcement as established by the Anti-Drug Abuse Act of 1988. We have not yet done so. I am advised that within about a month that long overdue report will, in fact, be in our hands.

The purpose of the amendment very simply is to see to it that in preparing to submit to the Congress his budget for the coming year, the President shall take into account and, to the maximum extent possible, heed and implement the recommendations of that report to remedy the gross inequity that exists between compensation of agents of the Federal Bureau of Investigation in different parts of the country.

What we presently have in the law is a demonstration project aimed at relieving the very high cost of living of those agents in the New York City area. Mr. President, I am entirely sympathetic to the efforts to relieve the acute cost of living for those agents, but they are not alone in suffering that, and the time has come for an update. That is why I offer this on behalf of the senior Senator from New Jersey, as well as for my colleague from California and myself, because he has a problem with agents in Newark who are experiencing the same kinds of difficulty as their brethren just across the river in New York.

Across the country, Mr. President, in Los Angeles and San Francisco, where there is an even higher cost of living than in New York, FBI agents have taken with some wry irony to posting in their headquarters recruiting posters from the Los Angeles Police Department. The reason is because of the painful contrast between what they receive and what is advertised as starting salary for high school graduates entering as recruits for the Los Angeles Police Department. The salary offered is $32,500; for college graduates, $38,500. In contrast, recruits for the FBI are starting at $26,000 in what is one of the most expensive markets in the country.

Mr. President, I do not begrudge those young officers on the Los Angeles Police Department what they are being offered. They are worth every penny of it and more. Nor do I begrudge the agents in New York the cost-of-living assistance they are getting under a demonstration project. The fact of the matter is we should have done with demonstration projects what is demonstrated, the need to address the cost-of-living requirements of those law enforcement professionals all across the land who are now having to suffer in order to provide the kind of public service upon which we desperately depend. You can imagine the enthusiasm with which an agent in New York receives word that he is to be transferred to the Silicon Valley. The reward for his transfer is that he will experience a cut in compensation as he moves into an even more expensive area in which to live.

Mr. President, I will not go on. I will simply say that the time has come for us to face facts: If we are not to lose valued law enforcement professionals from the Federal Bureau of Investigation, then we must pay them what they are worth. The opportunity to do so is at hand. We dare not to allow another year to go by. That is why this language simply states that the President is urged, with all respect and with great solemnity, but with great urgency, to heed the recommendations of that report so that we do not engage in that very foolish act of losing people whom we cannot afford to lose.

Mr. BOREN. Mr. President, I thank the Senator from California and his colleagues for offering this amendment. We understand the nature of the problem. We are very sympathetic to it. I will say the amendment is acceptable to those on this side of the aisle.

Mr. COHEN. The amendment is completely acceptable to the minority side.

Mr. WILSON. May I thank both the managers and simply add for the RECORD I was remiss in not mentioning what we are talking about is, in fact, not just the FBI, but DEA, Customs, ATF, all of those Federal law enforcement efforts.

Mr. LAUTENBERG. Mr. President, I rise to express my continuing concern about an issue of critical importance to Federal law enforcement in New Jersey.

Last year's Intelligence Authorization Act instituted a pay demonstrated program for the FBI's New York City office. It provided special agents in that office with 25 percent pay bonuses and relocation allowances of $20,000. This program was established to combat the New York City office's significant employee recruitment and retention problem caused by the region's high cost of living. Unfortunately, this demonstration project has had an unintended and severe negative impact on the Newark FBI office.

I know my colleague, Senator BRADLEY, shares my concerns about this matter. We have worked together on this matter. Agents stationed in the Newark FBI office, a mere 9 miles away, were excluded from this program. According to FBI Director William Sessions himself, this situation has caused negative repercussions for the Bureau's Newark office. Although they are subject to the same high cost of living, perform the same type of work, often work together on the same cases, and in some cases even live in the same communities, Newark FBI agents now earn 25 percent less than their New York City counterparts. Due to the proximity of the Newark and New York offices, agents from

those offices work together and interact regularly. It is demoralizing for Newark agents to work alongside New York agents, more than half of whom also live in New Jersey, with the knowledge that the New York agents earn 25 percent more for performing the same job.

However, of greater importance, the New York City demonstration project has created a severe employee retention problem for the FBI's Newark office. Applications for transfer out of Newark have increased dramatically. A substantial number of agents have been granted transfers from Newark to the New York office since the program began. These represent some of the Newark office's most senior agents, whose positions will be filled by relatively new agents. This exodus of seasoned and capable FBI agents out of the Newark office could have a significant impact on Federal law enforcement in New Jersey.

Mr. President, earlier this year, the Senate passed a provision in the supplemental appropriations bill to expand in a revised form the pay demonstration project to New Jersey FBI offices. Unfortunately, that provision was dropped in conference after strong objections were raised by the House.

This is an urgent problem that demands an effective solution. Unfortunately, the problems of attracting and retaining qualified personnel in the face of the high cost of living in New Jersey do not only affect the FBI. New Jersey DEA, INS, Customs, BATF, and other Federal law enforcement employees currently must operate within a compensation system that is inadequate and unresponsive to the high cost of living in our region.

Mr. President, we need to fashion a compensation system in our Nation that fairly accounts for the disparities in cost of living from region to region. As the New York FBI pay project demonstrates, the current system of ad hoc corrections and pay demonstration projects clearly is not satisfactory and creates as many problems for morale as it solves.

The bill before us makes another ad hoc correction in the current New York demonstration project. It expands coverage to include personnel who are not subject to geographical transfer or reassignment. While this addresses a disparity within the FBI's New York office, it fails to address the continuing problem of disparate treatment with law enforcement personnel in New Jersey. Moreover, it creates disparity between personnel in New York performing similar tasks for agencies other than the FBI.

I would note that the National Advisory Commission for Law Enforcement is studying this issue. I have urged the Commission, in its review of compensation issues concerning Federal law enforcement officers, to address this matter affecting the Newark Division FBI Office, and to make a recommendation for increased pay for New Jersey Federal law enforcement personnel that will eliminate the current incentive to transfer out of New Jersey to the New York City office and that would enable the Federal Government to fairly compensate its law enforcement personnel in New Jersey.

Mr. President, I understand that Senator BRADLEY would also like to address this matter. After he has completed his statement, I would hope that the chairman of the committee would be able to make a commitment that the committee will address the broader issues of compensation and retention of law enforcement personnel in New Jersey. I understand that the Advisory Commission will be making its recommendations later this year or very early next year. I would hope the chairman will promise to review the Commission's recommendations promptly and take remedial action in the coming year.

Mr. BRADLEY. Mr. President, I rise to commend my colleague from New Jersey for his work in the Appropriations Committee and for his statement on the problems created by the New York demonstration project for the FBI's office in Newark. As he noted, we have both been actively concerned with these problems and searching for an early solution to them.

I accordingly urge the chairman to consider the steps recommended by Senator LAUTENBERG as well as any recommendation that the Attorney General may make in response to the report of the committee.

Mr. CRANSTON. Mr. President, last year, the Senate Intelligence Committee, with the concurrence of the Senate Judiciary Committee, authorized a pilot program for the New York field office to address problems of retention and recruitment of counterintelligence specialists nationwide. To avoid "morale problems" that could arise if one group of employees was singled out for selective treatment within the same office, the FBI urged that the pay incentive be extended to any employee subject to transfer or reassignment. The committee agreed to expand the program.

This year, the committee again expanded this pilot project to accommodate all employees of the New York field office, regardless of whether the employee could be transferred or reassigned. The reason—"morale problems."

Mr. President, I am here to tell you that the effect of extending special pay compensation for employees in the New York field office has caused "morale problems" in other parts of the country as well. I have heard from hundreds of hard-working FBI agents in Los Angeles, San Francisco, and San Diego who are having an increasingly difficult time making ends meet, and who feel it is unfair to extend special benefits only to the New York office.

These individuals face the high-cost environment of California's major urban centers where cost-of-living expenses exceed those in most other parts of the country. The FBI must compete aggressively with State and local law enforcement operations that often offer greater pay incentives. The designation of New York as the choice for the pilot program ignores the underlying issue of recruitment and retention of Federal law enforcement agents generally.

Mr. President, the New York pilot program began as a modest effort to address counterintelligence personnel problems exclusively, since the Intelligence Committee's jurisdiction over FBI activities is very limited. As you know, the scope of the program has been broadened beyond what the committee originally contemplated, and we are now, in effect, addressing pay problems of the FBI as a whole. While I do not doubt that the New York field office has very real problems, these problems are not confined to New York and are not confined to counterintelligence personnel. Cost-of-living needs in the FBI's California offices and other offices across the country are equally pressing. It is unfair to extend special benefits only to one office when other individuals doing the same type of work are denied such benefits.

Mr. President, I believe we should carefully review whether the current pilot project should be abandoned, whether the pilot project should be extended to other offices in high-cost cities, and whether there are other options available to address the very real problems of FBI personnel compensation.

Mr. BOREN. Mr. President, I am well aware of the problems discussed by my colleagues from New Jersey and California. They have been strong advocates for improvements in this area.

As they well know, the New York demonstration project is not a comprehensive solution. I recognize the problems that the New York project has created. We do need an answer to the problem of attracting and retaining law enforcement personnel in especially high-cost areas like New Jersey and California.

In consultation with other committees with jurisdiction in this area, and working with the Senators from New Jersey, I am committed to taking a close look at the Advisory Commission's findings, and to addressing this matter in the coming year.

The PRESIDING OFFICER (Mr. BRYAN). The question is on agreeing to the amendment.

The amendment (No. 1085) was agreed to.

Mr. BOREN. Mr. President, we are fast coming to a close. I want to thank my colleague, Senator COHEN, and members of our staff who worked especially hard on the authorization this year: George Tenet, staff director; Jim Dykstra, minority staff director; Keith Hall, deputy staff director; Britt Snider, general counsel; Gina Genton; Jim Martin; and members of our Budget Committee, Charlene King, Gary Sojka, Dave Holliday, and John Nelson who have worked very hard to make this possible and have brought forth, I think, a very fine product on behalf of the committee.

If there are no further amendments, and I know of no further amendments, Mr. President, I ask for third reading of S. 1324.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2748, the companion bill to S. 1324.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2748) authorizing appropriations for fiscal year 1990 for intelligence and intelligence related activities, and so forth.

Mr. BOREN. Mr. President, I move to strike all after the enacting clause of H.R. 2748 and substitute in lieu thereof the text of S. 1324.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BOREN. Mr. President, I urge adoption of H.R. 2748, as amended.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 2748), as amended, was passed.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I now move that the Senate insist on its amendment and request a conference with the House of Representatives, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. BOREN, Mr. COHEN, Mr. NUNN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. HATCH, Mr. MURKOWSKI, Mr. SPECTER, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, and from the Armed Services Committee and, Mr. EXON and Mr. THURMOND, conferees on the part of the Senate.

Mr. BOREN. Mr. President, I ask unanimous consent that further consideration of S. 1324 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I thank the majority leader and minority leader and all my colleagues for their cooperation. I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. HEINZ. Mr. President, I anticipate that the majority leader will renew his unanimous-consent request in relation to the debt ceiling in a few minutes. He and I have had an opportunity to discuss the matter, and I want to just briefly review what I believe we have accomplished tonight. I think it has been a major accomplishment.

About 1½ hours ago, everybody, I suppose, anticipated a fairly routine pro forma session where we voice voted the debt ceiling without any amendments, save the section 89 repeal. But I think we have been able to engage the Senate's attention and get a debate started that may realistically be expected when the Senate takes up and works its will on legislation that has the effect, as I am convinced it will, upon enactment, of taking the Social Security trust funds out of the annual deficit accounting game.

I say I am confident the Senate will address that because of several things that have taken place this evening. First, the Senator from South Carolina has announced he has in the Budget Committee the requisite number of votes—a majority of the committee supports either his or another bill in the committee. That was known to me before I came to the floor, but what was not known to me was that the chairman of the Budget Committee apparently now not only supports that bill, but, if I understood his comments correctly, intends to move early next year to take the committee to a markup and to report legislation.

That may have been his intention going back several days, weeks, I do not know, but that has been established and is very good news to this and I think to many Senators.

Third, with that understanding of the process, I have no doubt—and I have never had any doubt—that the majority leader, if given something to work with—and he himself made the point that if he has nothing to work with, he cannot do anything—will bring that legislation before the Senate in a timely fashion.

I worked with the Senator from Maine before he became majority leader. He is not only conscientious and extremely bright, but utterly faithful to his word and totally dependable in that regard. He has even greater responsibility as majority leader, and he does not need any greater encouragement to be the man he has been and is. But I mention that because I know he feels the additional responsibilities that much more, to meet his commitments to the Senate.

I am convinced that we will be able to address this matter before we get too far into the budget process where addressing this issue becomes more confusing and confrontational than it does constructive and useful.

Finally, I think we now all recognize it is going to be important to have a real debate on this issue. We nearly had one started this evening. I am not sure it was what the majority leader wanted, but we had a rather good discussion between Senator DOMENICI, Senator RUDMAN, the Senator from Texas, the Senator from New York, and the Senator from South Carolina.

I have no doubt, Mr. President, that is a tiny smidgeon of what we are going to get into on the Senate floor but with more depth, in more detail, with more perception, both as to what we might be doing and what we need to do. Therefore, we have established, I think, an understanding of how the Senate will proceed. We will address this issue fully and fairly, completely, and to a conclusion. It is subject we have the votes to bring to a conclusion—I do not doubt that.

I thank all Senators for their participation in this discussion and bringing us to this point. Most of all I thank the majority leader for not only his attention but his great, patience in this discussion.

Having seen many leaders under what you might call the gun of the clock, I understand exactly the kind of pressures under which a leader must function. We are very privileged to have a leader who functions very well under any circumstances, including these. I commend him on his very generous—although he may bridle at the word—warranties because, when the majority leader says something, I think that is what they are, and they are good, and there is no need to ask for your money returned. They are currency of the realm as they stand. So, if the majority leader does, in fact, renew his request, I will be delighted to see it agreed to.

Mr. MOYNIHAN. Mr. President, I rise for the briefest purpose of thanking the majority leader for his pa-

tience with us. He has a Social Security caucus on this side in effect. He has met with us repeatedly through the year. We know his purpose. We now have an explicit undertaking and, as a matter of fact, these bills Senator HEINZ and I introduced on the first day of the Congress. He cosponsored mine; I cosponsored his. Before this conference is out, something like it we should like to become law. We thank the majority leader.

Mr. MITCHELL. I thank my colleague from New York and I thank my colleague from Pennsylvania. I appreciate their courtesy in permitting us to go forward, and I repeat my assurance that we are going to get that other matter before the Senate for full and open debate on it because it is an important matter.

Mr. President, I understand, prior to my renewing my request, the distinguished ranking member of the Finance Committee has a question to address to the chairman of the committee, and then I will be prepared to renew my request.

Mr. PACKWOOD. Mr. President, I would like to address a question to the chairman of the committee on section 89. This is, of course, in the bill, and there is about an $800 million loss over the 5 years. Would it be the intention of the chairman to attempt to pay for this when we get to the reconciliation bill?

Mr. BENTSEN. I would say to the distinguished Senator, yes, it would. We provided for that, as the Senate knows, in the Finance Committee bill, and it is certainly my intention to press to see that we cover it in reconciliation.

Mr. PACKWOOD. I thank the Senator.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection? Without objection, the unanimous consent request propounded by the majority leader is agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, let me thank the majority leader, and the distinguished Senator from Pennsylvania.

I think we, obviously, needed to reach this point. I am glad we have done it in the spirit normally generated in this body, and I think we will move very quickly and complete action on the debt ceiling extension which I know will be very pleasing to the Treasury Secretary, Secretary Brady, and to the President of the United States.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 280, the debt limit extension bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 280) increasing the statutory limit on the public debt.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

(a) IN GENERAL.—Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out "$2,800,000,000,000" and inserting in lieu thereof "$2,860,000,000,000".

(b) EFFECTIVE PERIOD.—The amendment made by this section shall apply during the period beginning on the date of enactment of this Act and ending at the close of October 31, 1989.

SEC. 2. CURRENT ACCRUAL VALUE OF CERTAIN OBLIGATIONS ISSUED ON A DISCOUNT BASIS.

(c) Subsection (c) of section 3101 of title 31, United States Code, is amended to read as follows:

"(c) For purposes of this section, the face amount, for any month, of any obligation issued on a discount basis that is not redeemable before maturity at the option of the holder of the obligation is an amount equal to the sum of—

"(1) the proceeds from the original issue of the obligation, plus

"(2) the discount on the obligation amortized to the last day of the month preceding such month.".

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of my colleagues, the chairman and ranking member of the Finance Committee will handle this legislation.

No Senator to my knowledge has requested a rollcall vote. Therefore, we do not anticipate a request for a rollcall vote. Unless such request is forthcoming—and I am not encouraging one and I hope there will not be one—there will be no further rollcall votes this evening.

After we pass this joint resolution, hopefully by voice vote, then we will recess for the evening and return to the minimum wage legislation when the Senate reconvenes tomorrow morning.

I thank my colleagues again.

I thank my colleague again from Pennsylvania, and particularly the distinguished Republican leader.

I now yield to the chairman of the Finance Committee.

The PRESIDING OFFICER. The Senator from Texas [Mr. BENTSEN] is recognized.

Mr. BENTSEN. Mr. President, at midnight on October 31, the U.S. Treasury lost its authority to borrow the cash it needs to pay the government's bills. The amount of debt subject to limit now stands at about $2.87 trillion, and the debt limit has dropped to $2.80 trillion. No further borrowing is now legal.

What this means is this: Until we raise the debt limit, the credit of the United States is cut off. Every day, the cash balances in the Treasury are shrinking. By this Thursday, all the cash will be gone. At that point, the only option will be default.

Default of the United States would be an unthinkable, unmitigated disaster. It would mean that social security and other Federal benefits and pay checks would bounce. It would mean that the bonds of the United States would be worthless. It would undermine the markets and wreak havoc with the economy.

Such a catastrophe must not be allowed to happen. There is no reason for it to happen. We have pending before the Senate a measure, House Joint Resolution 280, which will raise the debt limit to $3.1227 trillion—an amount sufficient to cover the Nation's financing needs through—and probably beyond—September 1990. This legislation has already been passed by the House of Representatives.

We all know that the debt limit must be increased. Twice in October, the Secretary of the Treasury has written to me urging in the strongest terms that we act promptly to address this problem.

On its own merits and in the best interests of our country, the Senate should pass this bill to restore the credit of the United States and avoid the threat of default which now otherwise hangs over our country.

The leadership of the Senate and the House have, on a bipartisan basis, agreed to a procedure which will allow this bill to go forward with a leadership amendment which repeals section 89 of the Internal Revenue Code. The Finance Committee voted to repeal section 89 in the budget reconciliation proposals which we adopted on October 4. The full House voted overwhelmingly to repeal it also as part of the budget reconciliation bill.

Section 89 created an administrative nightmare that had exactly the opposite of its intended effect: Instead of extending health and life insurance coverage, some employers actually canceled their plans altogether. No one wants a cure that is worse than the disease!

We need to get the onerous provision section 89 off the books. We still need to look into how to prevent those rare cases of discrimination that may exist. But right now, as the end of the year approaches, we must repeal section 89.

The leadership amendment also includes technical language requested by the Treasury Department to assure that the trust funds do not suffer any interest losses because of a delay in raising the debt limit.

I hope the Senate will act quickly to approve this measure, with the Bentsen-Packwood amendment, so that the House will be able to act in ample time to meet the urgent need of the Treasury for additional borrowing authority.

Mr. President, I ask unanimous consent that a description of the section 89 repeal amendment be printed in the RECORD and appear as binding legislative history with respect to that amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPEAL OF SECTION 89 NONDISCRIMINATION RULES

PRESENT LAW

Under present law, nondiscrimination rules apply to employer-provided health benefits and group-term life insurance plans (sec. 89). In addition, section 89 requires that certain types of employee benefit plans meet minimum qualification requirements (e.g., that the plan be in writing and that plan participants be notified of plan provisions). Prior to the enactment of section 89 in the Tax Reform Act of 1986, prior law applied other nondiscrimination rules to group-term life insurance plans, cafeteria plans, and self-insured health plans.

Under present law, if the employer has separate lines of business or maintains separate operating units, each separate line of business or operating unit may be tested separately under the nondiscrimination rules relating to qualified plans by taking into account only those employees in that line of business or operating unit. Under present law, it is generally intended that a line of business or operating unit include all employees necessary for the preparation of property for sale to customers or for the provision of services to customers. Whether lines of business or operating units are separate is a facts and circumstances determination requiring examination of each particular situation. Differences and similarities between the services provided and products produced by claimed lines of business or operating units are among the factors to be considered.

The Tax Reform Act of 1986 directed the Secretary to issue guidance on certain pension requirements, including the requirements relating to separate lines of business (sec. 414(r)). Under present law, until the Secretary issues guidance on which taxpayers may rely with respect to such rules, an employer's compliance with its reasonable interpretation of the requirement, based on the statute and its legislative history, if made in good faith, constitutes compliance with the requirement.

Under present law, an employee may exclude from income certain benefits received under an employer-provided dependent care assistance program if certain requirements are satisfied (sec. 129).

REASONS FOR CHANGE

While most employee compensation is taxable income to the employee, employer-provided health coverage generally is excludable from the gross income of the employee receiving the coverage. The annual cost to the Federal Government of this tax-favored treatment is estimated to be $32.6 billion for fiscal year 1990. This cost is projected to increase to $50.8 billion for fiscal year 1994.[1]

In enacting the Tax Reform Act of 1986, the Congress determined that the substantial revenue cost related to employer-provided health insurance coverage is justified only if the tax benefits fulfill important public policy objectives. Increasing health coverage among rank-and-file employees who otherwise would not purchase or could not afford such coverage was identified as a primary policy objective underlying the exclusion for employer-provided health care coverage. Conversely, the Congress believed that the cost to the Federal Government of tax-favored employer-provided accident and health coverage is not justified if such coverage disproportionately benefits highly compensated employees. In order to achieve this objective, nondiscrimination rules were enacted to permit the full exclusion from income of employer-provided health benefits only if the benefits are provided to required numbers of nonhighly compensated employees and the level of benefits provided to highly compensated employees on average does not disproportionately exceed the average benefits provided to rank-and-file employees.

Nondiscrimination in the provision of employer-provided health coverage remains an important policy objective and the significant tax expenditures for employer-provided health coverage is justified only if such coverage does not discriminate in favor of highly compensated employees. However, the present-law nondiscrimination rules, or similar rules, are not at this time an appropriate way of achieving this objective. The present-law rules are overly complex and unduly burdensome on employers and therefore it is appropriate to repeal the present-law section 89 rules.

EXPLANATION OF PROVISION

Repeal of section 89

The provision repeals present-law section 89.

Reinstatement of prior law

The provision generally reinstates the rules applicable before the enactment of section 89. Generally, prior law contained nondiscrimination rules relating to employer-provided self-insured medical reimbursement plans (sec. 105(h)), cafeteria plans (sec. 125), and group-term life insurance plans (sec. 79(d)). These prior-law rules are generally reinstated under the provision. It is recognized that, in some instances, the nature of these benefits may differ from the nature of retirement benefits. Therefore, the Secretary should, where appropriate, interpret the prior-law rules relating to benefits under self-insured medical reimbursement plans and group-term life insurance plans in a different manner than those rules that apply in the area of qualified retirement plans, even where the statutory requirements with respect to such benefits are similiar.

It is understood that, while this legislation has been pending, employers may have adjusted their plans to comply with the health benefit nondiscrimination rules that would apply in the absence of the repeal of section 89. Accordingly, it is intended that, if a plan would have been nondiscriminatory under section 89 for the 1989 plan year, then that plan will be treated as complying with the health benefit nondiscrimination rules reinstated under this provision (sec. 105(h)) for the 1989 plan year.

If, under the nondiscrimination rules relating to voluntary employees' beneficiary associations (sec. 505), a plan is required to meet the nondiscrimination rules relating to group-term life insurance (sec. 79(d)), then the $200,000 compensation limitation of section 505(b)(7) does not apply. Thus, for example, when testing for nondiscrimination related to reserves for group-term life insurance benefits provided to retired employees (sec. 419A(e)(1)), the plan to which the reserves relate does not have to meet the $200,000 compensation limitation.

Separate lines of business or operating units

Under the provision, in the case of any plan year that begins on or before the date the Secretary or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C), an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof). It is intended that the Secretary will, upon the issuance of guidance relating to separate lines of business, grant a reasonable period of time for employers to comply with the guidance.

It is intended that separate lines of business may be established under the reasonable good faith standard under certain circumstances, for example, in the case of operations that are vertically integrated and that traditionally are operated by unrelated entities. For example, a vertically integrated oil company may be able to treat its retail marketing operations as a line of business separate from its production and refining operations because the marketing of petroleum products is traditionally conducted by independent individual operators rather than by integrated companies.

Similarly, horizontally integrated businesses may be treated as maintaining separate lines of business where the employer produces or markets different products (e.g., different types of agricultural crops) through separate business units. Of course, in all cases, all requirements of the separate line of business rules must be satisfied (e.g., sec. 414(r)(2)).

Dependent care assistance programs

Under the provision, the requirments relating to dependent care assistance programs (sec. 129(d)) are modified in several respects. The provision generally reinstates the rules which were applicable to these programs prior to the enactment of the Tax Reform Act of 1986. In addition, the present-law 55-percent benefits test is retained.

Under the provision, if a program fails to meet the requirements of section 129(d), only highly compensated employees must include benefits under the program in gross income. In addition, the 55-percent benefits test may be applied on a separate line of business basis (sec. 414(r)).

[1] See, Joint Committee on Taxation, *Estimated of Federal Tax Expenditures for Fiscal Years 1990-1994*, JCS-4-89 (February 28, 1989).

The provision modifies the rules relating to employees that may be disregarded in determining whether a dependent care assistance program satisfies the nondiscrimination rules of section 129(d). As under present law, employees with less than $25,000 in annual compensation may be disregarded for purposes of the 55-percent benefits test if the dependent care benefits are provided through a salary reduction arrangement. In addition, under the provision, certain employees who have not attained age 21 or who have not completed 1 year of service are disregarded for purposes of the 55-percent benefits test and the reasonable classification test under rules similar to those applicable to retirement plans (i.e., secs. 410(a)(1)(A), 410(a)(3), and 410(b)(4)). The provision also provides that the prior-law rule excluding employees covered by a collective bargaining agreement applies for purposes of the benefits test, as well as the reasonable classification test.

Under the provision, the 55-percent benefits test does not apply to plan years beginning before January 1, 1990.

EFFECTIVE DATE

The provision repealing section 89 and reinstating prior law is effective as if included in the Tax Reform Act of 1986. The line of business provision is effective for plan years beginning after December 31, 1986. The provisions relating to dependent care assistance programs are generally effective for plan years beginning after December 31, 1988.

Mr. BENTSEN. Mr. President, I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon [Mr. PACKWOOD] is recognized.

Mr. PACKWOOD. Mr. President, Senator KASTEN asked to have his name offered, by unanimous consent, as a cosponsor of the section 89 repeal amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I hope we will very quickly pass this. We come to this situation once every 6 months, once every year, once every 18 months, depending on how long we extended the debt ceiling previously. It is urgent.

The chairman of the Finance Committee has laid out the issue very well. I hope we are ready to vote.

Mr. CONRAD. Mr. President, I am dismayed by what we are about to do today. We are called upon to increase the debt limit from $2.8 to $3.12 trillion without any long-term plan to reduce the budget deficit and thus reduce our borrowing needs.

Raising the debt limit is absolutely essential for orderly governmental operation. Not only would the markets be thrown into utter confusion, but the Treasury would have to pay higher interest rates to attract buyers of governmental securities. However, I believe it is irresponsible to increase the debt limit without a plan of action to restrain the increases that will be needed in the future. The administration's request to extend the debt limit to $3.24 trillion was worse, and could have left these fundamental problems unresolved until the middle of 1991. At least this measure will increase the pressure next year to get our fiscal house in order.

In my view the largest threat to our national security is our economic vulnerability. We have engaged in a policy of debt, deficit and decline over the last decade. The evidence is overwhelming. We've tripled the national debt. We have gone from being the largest creditor nation in the world to being the largest debtor nation. Our national savings rate has declined and continues to be lower than our economic competitors. Real interest rates have averaged three times higher in the 1980's than they did in the previous two decades and we've seen our competitive position slip. This is not a policy that can be sustained.

Just last week, the Rockefeller Center was sold to the Japanese. How much more of America is going to have to be sold to foreign interests before America wakes up? How much more of the wealth of this country is going to have to be taken away before America responds and reacts, Mr. President, I think that is the foremost question before the President and the Congress of the United States today.

I believe it is time for the President to come forward with a plan—that is the obligation of the Chief Executive of the country. Now is the time to confront the problem. I urge the President to provide a serious plan in his fiscal 1991 budget recommendations that does not rely on optimistic economic assumptions and one-time budget gimmicks. I urge the President to offer a plan that achieves the Gramm-Rudman target and produces substantial immediate and multiyear savings.

I believe that if the President shows leadership in his budget proposal and Congress acts responsively—if we all come out of our political bunkers and seriously address this issue—the Nation will begin to recover from economic decline. We will be able to respond to the unmet needs of the Nation—inadequate education, health care, environmental pollution, the crumbling physical infrastructure and drug abuse in America. If we can get the budget deficit under control, our country can take these vital actions to improve its competitive position and our economic future will be bright.

The PRESIDING OFFICER. The committee amendment is withdrawn pursuant to the agreement.

AMENDMENT NO. 1086

(Purpose: To repeal section 89)

Mr. BENTSEN. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. PACKWOOD, and Mr. KASTEN, proposes an amendment numbered 1086.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, insert:

TITLE II—REPEAL OF SECTION 89 NONDISCRIMINATION RULES

SEC. 201. AMENDMENT OF 1986 CODE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 202. REPEAL OF SECTION 89.

(a) IN GENERAL.—Section 89 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 89.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 203. REINSTATEMENT OF PRE-1986 ACT NONDISCRIMINATION RULES.

(a) IN GENERAL.—

(1) Each provision of law amended by subsection (b), (c), (d)(1), or (g) of section 1151 of the Tax Reform Act of 1986 is amended to read as if the amendments made by such subsection has not been enacted.

(2) Each provision of law amended by paragraph (22), (27), or (31) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as if the amendments made by such paragraph had not been enacted.

(3) Subparagraph (A) of section 125(g)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "subparagraph (B) of section 410(b)(1)" and inserting "section 410(b)(2)(A)(i)".

(4) Section 162(l)(2) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 401(a)(9) is amended—

(A) by striking "(as defined in section 89(i)(4))", and

(B) by adding at the end the following: "For purposes of this subparagraph, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(6)(A) Subparagraph (C) of section 414(n)(3) is amended by striking "89,".

(B) Paragraph (1) of section 414(r) is amended by striking "sections 89 and" and inserting "section".

(C) Paragraph (2) of section 414(t) is amended by striking "89,".

(7) Sections 3021(c) and 6070 of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed.

(b) EXCEPTIONS.—

(1)(A) Paragraph (7) of section 79(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(7) EXEMPTION FOR CHURCH PLANS.—

"(A) IN GENERAL.—This subsection shall not apply to a church plan maintained for church employees.

"(B) DEFINITIONS.—For purposes of subparagraph (A), the terms 'church plan' and 'church employee' have the meaning given such terms by paragraphs (1) and (3)(B) of section 414(e), respectively, except that—

"(i) section 414(e) shall be applied by substituting 'section 501(c)(3)' for 'section 501' each place it appears, and

"(ii) the term 'church employee' shall not include an employee of—

"(I) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training),

"(II) an organization described in section 170(b)(1)(A)(iii), and

"(III) an organization described in section 501(c)(3), the basis of the exemption for which is substantially similar to the basis for exemption of an organization described in subclause (II)."

(2) Paragraph (2) of section 125(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—

"(A) IN GENERAL.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(B) EXCEPTION FOR CASH AND DEFERRED ARRANGEMENTS.—Subparagraph (A) shall not apply to a profit-sharing or stock bonus plan or rural cooperative plan (within the meaning of section 401(k)(7)) which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

"(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Subparagraph (A) shall not apply to a plan maintained by an educational organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer pay as contributions for post-retirement group life insurance if—

"(i) all contributions for such insurance must be made before retirement, and

"(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 204. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) DEPENDENT CARE ASSISTANCE.—

(1) IN GENERAL.—Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by adding at the end thereof the following new sentence: "If any plan would qualify as a dependent care assistance program but for a failure to meet the requirements of this subsection, then, notwithstanding such failure, such plan shall be treated as a dependent care assistance program in the case of employees who are not highly compensated employees."

(2) EXCLUDED EMPLOYEES.—

(A) Section 129(d) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of paragraphs (3) and (8), there shall be excluded from consideration—

"(A) subject to rules similar to the rules of section 410(b)(4), employees who have not attained the age of 21 and completed 1 year of service (as defined in section 410(a)(3)), and

"(B) employees not included in a dependent care assistance program who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employees, if there is evidence that dependent care benefits were the subject of good faith bargaining between such employee representatives and such employer or employers."

(B) Section 129(d)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking the last sentence.

(3) DELAY IN APPLICATION OF BENEFITS TEST.—

(A) Paragraph (7) of section 129(d) (as in effect after the amendment made by paragraph (14) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988) is redesignated as paragraph (8).

(B) Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (8)".

(C) Section 129(e)(6) is amended by striking "(7)" and inserting "(8)".

(D) Section 129(d)(8) (as redesignated by subparagraph (A)) shall apply to plan years beginning after December 31, 1989.

(b) LINE OF BUSINESS TEST.—

(1) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or before the date the Secretary of the Treasury or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C) of the Internal Revenue Code of 1986, an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof) of such Code.

(2) DEPENDENT CARE.—Paragraph (1) of section 414(r) is amended by striking "section 410(b)" and inserting "sections 129(d)(8) and 410(b)".

(c) GROUP-TERM LIFE INSURANCE.—Paragraph (7) of section 505(b) (relating to $200,000 compensation limit) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply in determining whether the requirements of section 79(d) are met."

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a)(1), (a)(2), and (b)(2) shall apply to years beginning after December 31, 1988.

(2) The amendments made by subsection (a)(3) shall apply to plan year beginning after December 31, 1989.

(3) The provisions of subsection (b)(1) shall apply to years beginning after December 31, 1986.

(4) The amendment made by subsection (c) shall take effect as if included in the amendment made by section 1011B(a)(32) of the Technical and Miscellaneous Revenue Act of 1988.

TITLE III—RESTORATION OF TRUST FUNDS

SEC. 301. RESTORATION OF TRUST FUNDS.

(a) IN GENERAL.—

(1) OBLIGATIONS ISSUED.—Except as provided in subsection (b), within 30 days after the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall issue to each Federal fund obligations under chapter 31 of title 31, United States Code, which bear such issue dates, interest rates, and maturity dates as are necessary to ensure that after such obligations are issued, the holdings of such Federal fund will replicate to the maximum extent practicable the obligations that would have been held by such Federal fund if any—

(A) failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of section 3101(b) of title 31, United States Code, had not occurred, and

(B) issuance of such obligations had occurred immediately on the expirations of the debt issuance suspension period.

(2) INTEREST CREDITED.—On the first normal interest payment date or within 30 days after the expiration of any debt issuance suspension period (whichever is later) to which this section applies, the Secretary of the Treasury shall credit to each Federal fund an amount determined by the Secretary, after taking into account the actions taken pursuant to paragraph (1), to be equal to the income lost by such Federal fund by reason of any failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of such section 3101(b), including any income lost between the expiration of the debt issuance suspension period and the date of the credit.

(b) INTEREST OF MARKET-BASED OBLIGATIONS.—With respect to any Federal fund which invests in market-based special obligations, on the expiration of a debt issuance suspension period to which this section applies, the Secretary of the Treasury shall immediately credit to such fund an amount equal to the interest that would have been earned by such fund during the debt issuance suspension period if the daily balance in such fund that the Secretary was unable to invest by reason of the limitation of such section 3101(b) had been invested each day during such period, overnight, in obligations under chapter 31 of title 31, United States Code, earning interest at a rate determined by the Secretary in accordance with the standard practice of the Department of the Treasury.

(c) CREDITED AMOUNTS TREATED AS INTEREST.—All amounts credited under this section shall be treated as interest on obligations issued under chapter 31 of title 31, United States Code, for all purposes of Federal law.

(d) DEFINITIONS.—For purposes of this section—

(1) DEBT ISSUANCE SUSPENSION PERIOD—The term "debt issuance suspension period" means the period beginning on or after October 31, 1989 and ending on the date of enactment of this Act.

(2) FEDERAL FUND.—The term "Federal fund" means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations

under chapter 31 of title 31, United States Code, in respect of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated; except that such term shall not include the Civil Service Retirement and Disability Fund or the Thrift Savings Fund of the Federal Employees' Retirement System.

Mr. KASTEN. Mr. President, the amendment offered tonight is very simple. It would repeal section 89 and fully restore prior law nondiscrimination rules. This approach has already been approved by an overwhelming 390-to-36 margin by the House of Representatives. It was also unanimously adopted by the Senate Finance Committee—prior to consideration of the reconciliation bill. This amendment incorporates much of the language in the section 89 repeal legislation that I have introduced. I am pleased to see the Senate is ready to act on this matter.

I don't believe my colleagues need for me to reiterate the need for the complete, outright repeal of section 89. We are all aware of the strong case for repeal. We need immediate action on this issue. Every small business in America must be in full compliance with section 89 by December 1, which is just 3 short weeks away. We simply cannot allow this to happen. We must vote to repeal section 89 immediately.

Mr. President, the repeal of section 89 has been repeatedly debated by this body. A consensus has formed. There is no need for further debate, but there is a desperate need for action. Let us finally put ourselves on the side of the small businesses of America. Let us repeal section 89.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, I am extremely pleased that the debt limit bill contains a provision to repeal section 89 of the Internal Revenue Code.

Congress enacted section 89 as part of the Tax Reform Act of 1986 to ensure the equitable distribution of employer-provided health benefits. The rules, suggested by former Treasury Secretary Donald Regan, were based on the philosophy that a firm and its employees should not receive tax favored treatment unless all employees are treated fairly.

While section 89 was enacted with the best of intentions, the law has turned out to be a disaster. The recordkeeping and testing requirements of section 89 create a technical nightmare for employers, forcing them to churn out extraordinary volumes of paperwork to prove their health benefit plans are not discriminatory.

As currently written this complex 200-page behemoth would likely have accomplished the opposite of what its authors intended—rather than extend health and life insurance coverage to all or most of their employees, many businesses would have been prompted to terminate their plans.

Mr. President, 37 million Americans have no health insurance. The last thing the Federal Government should do is exacerbate the problem.

For all of these reasons, I have been pleased to join in the effort to either reform or repeal section 89. Clearly, when Congress recognizes that a mistake has been made, it is our obligation to correct it.

Earlier this year, I hoped section 89 could be modified to accomplish its intended purpose without placing an unfair burden on small businesses. But reform efforts have fallen short. And unless we take action now, we could lose the opportunity to ensure that section 89 will not take effect.

However, while I believe section 89 is fatally flawed, repeal should not be viewed as a justification for discrimination in employer-provided health plans. Businesses must not be allowed to discriminate at taxpayer expense. But it doesn't make any sense to penalize businesses that are upholding the law by forcing them to unravel a tangle of bureaucratic redtape. If they drop their health plans because of the burden imposed by section 89, it will be their employees who suffer.

Mr. President, it would be irresponsible to leave small businesses hanging in the wind any longer. It is time for repeal.

Mr. LEVIN. Mr. President, I want to thank the leadership for its efforts to bring the debt limit extension to the floor of the Senate in a form which should allow us to avoid the devastating economic consequences of default.

I also want to thank the leadership for including in this debt limit extension the repeal of section 89. I voted against the Tax Reform Act of 1986, which included section 89 in the first place. Since that time, it became clear that, as enacted, section 89 was not workable. Proposals were made this year to substantially reform and simplify section 89, and they were clearly preferable to section 89 as it was originally enacted. While I supported drastic reform of section 89, total repeal was also an acceptable approach, and I support it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 1086) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

So the joint resolution (H.J. Res. 280), as amended, was passed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the joint resolution, as amended, was passed.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, the Senator from Nebraska would like to be recorded as voting nay, and to be so recorded in the RECORD.

The PRESIDING OFFICER. The RECORD will so reflect.

Mr. HELMS. Mr. President, I would like to be recorded in the negative.

The PRESIDING OFFICER. The RECORD will so reflect.

EXPLANATION OF VOTE

Mr. SANFORD. Mr. President, I cannot vote to increase the debt limit. It is true that Government will come to a halt unless we can borrow billions more tomorrow, but we need to call a halt to the borrow and spend, borrow and spend policy which has over the past 9 years carried us to the brink of national bankruptcy.

It is time for the Congress to force the White House to stop this borrowing spree, and to join in the effort to stop it.

There were several amendments available to define and curtail the rapid deficits and debt increase. The late hour made it possible for the leadership to insist that these amendments be postponed for another time and another form. That is too bad. We give license to the White House to send us yet another false budget, with hidden deficits and additional secret debt.

I am proud to have voted tonight to oppose such reckless accumulation of debt. I will continue to fight for an honest budget.

The budget we approve, as we once again authorize deeper debt, adds $270 billion to the debt. That is bad enough, but the fiscal irresponsibility is compounded by the fact that the full amount is not revealed. We cover up the full amount of the deficits, and we hide the buildup of the debt. That is why I cannot vote for any additional debt until we start telling the public about how we are creating this debt.

WAIVING THE PRINTING ON PARCHMENT OF THE ENROLLMENT OF HOUSE JOINT RESOLUTION 280

Mr. BENTSEN. Mr. President, I send a joint resolution to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 225) waiving the printing on parchment of the enrollment of H.J. Res. 280.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. Is there further debate on the joint resolution?

The joint resolution (S.J. Res. 225) was ordered to a third reading, read the third time, and passed, as follows:

S.J. RES. 225

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the requirement of sections 106 and 107 of title 1, United States Code, that the enrollment of H.J. Resolution 280 be printed on parchment be waived, and that the enrollment of H.J. Resolution 280 be in such form as may be certified by the Committee on House Administration to be a truly enrolled joint resolution.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FOWLER. Mr. President, I ask unanimous consent that there be now a period for morning business with the Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPEAL FOR RELEASE OF THE LAST PLANTADOS

Mr. PELL. Mr. President, I am participating in this effort to express concern for the fate of the last three plantados who have served terms of up to 25 years in prison in Cuba as a demonstration that the improvement of human rights is a universal principle which has wide bipartisan support in the United States Senate. I have urged my colleges to sign the telegrams that are being sent today to President Castro and United Nations Secretary General Perez de Cuellar because they are straightforward, nonpolitical, and humanitarian appeals for the release of Alfredo Mustelier, Ernestor Diaz Rodriguez, and Mario Chanes de Armas.

I feel particularly close to this situation because I met with these three men along with six other plantados at the Combinado del Este prison during my visit to Cuba last November, almost 1 year ago. I recall vividly their spirit and resolve as well as their genuine enthusiasm for my visit with them which was held in a large room without any government official present. They asked me to do everything possible to urge the Government to release them after all these years. I told them that during my meeting with President Castro on the second day of the visit, I urged him to release all of the political prisoners including the last of the plantados who at that point numbered nine. The Cuban Government, in fact, had been releasing plantados and several of those in the room that day were already slated for release. When I returned from the trip, the Cuban Government notified me that three prisoners were being released as a gesture of goodwill. Soon after, more recent plantados Amado Jesus Rodriguez and Orestes Gonzalez were released and are now living in the United States with their families. The third prisoner Alberto Grau Sierra, with whom I met in prison that eventful day, unfortunately got caught up in the United States Government bureaucracy and, as a result, served his full term and then was released by the Cuban Government. Mr. Grau Sierra is now safely in the United States and I extend a personal welcome to him as he views these proceedings from the gallery.

The hunger strike now being conducted by Alfredo Mustelier and which could turn into a deeply tragic incident if he dies and then is joined by the last two prisoners has forced the issue. It is my hope that President Castro will respond positively to this situation in a humanitarian way and end the incarceration of these three individuals.

ATMOSPHERIC POLLUTION AND CLIMATE CHANGE

Mr. KERRY. Mr. President, I rise to express my great concern over the direction the United States representatives have taken in The Netherlands at the joint ministerial Conference on Atmospheric Pollution and Climate Change. The meeting concluded earlier today and although the United States agreed to sign the final conference document, the U.S. delegation was very clear in its dissension to the section of the document regarding cutting back on carbon dioxide emissions by the year 2000. The United States would not even agree to stabilizing CO_2 levels at the current rate by the year 2000. Instead they have agreed to meet next year to talk about achieving some targeted level by the year 2000.

The environmental threat of global warming is not only very real it is a fundamental problem and we as a nation still have yet to act in response.

This lack of direction and agreement on an issue of such magnitude is not a position that our Nation is accustomed to. Mr. President, I am stunned or perhaps more appropriately saddened by the administration's lack of clear environmental policy. Truthfully, last year I was heartened when George Bush in a campaign pledge issued the John F. Kennedy equivalent of "Ich bin ein environmentalist". And I was pleased when he promised to host an international conference on global warming. This year, however, I am concerned that his leadership has fallen far short on the issue of global warming and the need to cut CO_2 levels. At a press conference today the President said our global warming policy "cannot be driven by extremes on this issue". Mr. President I have to ask, since when is an overwhelming consensus by the world scientific community considered extreme?

When 70 nations join together to discuss policy options for global warming that is a time to seize the moment. There can be no doubt that global warming can only be slowed through global cooperation.

We in the United States emit almost 25 percent of the world's carbon dioxide, and we have offered zero percent of the world leadership on this issue. It is bad enough that the U.S. Government has put off hosting an international conference, but to retreat and isolate ourselves to a point where we are not willing to agree to specific CO_2 target reductions or even to stabilizing current CO_2 levels by the year 2000, is completely irresponsible. For so many years we have displayed our effective leadership on important world issues. Frankly, our leadership on this issue is nonexistent.

In addition to being blatantly wrong on this decision, I am disturbed by the events leading up to the conference. From the beginning the White House sent an extremely mixed message.

First a year ago President Bush said that he planned to do something about the greenhouse effect and that he would host an international conference on global warming. In January Secretary Baker responding to my questions at a Foreign Relations hearing said that we need to move forward on the global warming issue and did not necessarily need to wait for the scientific evidence to be all inclusive. In June, however, at the G-7 meeting the U.S. delegation fell short of taking a leadership role on global warming and in the past few days we have witnessed utter confusion and no real leadership at all.

First the White House Domestic Policy Council, ruled against EPA Director William Reilly's recommendation that the United States at least

agree to stabilizing carbon dioxide at the present levels and furthermore the council decided that no one from the United States would go to the conference. Then the White House permitted Administrator Reilly to go, but go with an entourage to watch over him and guide him. Furthermore, they put Dr. Bromley the President's Science Policy Advisor in charge. Dr. Bromley stated the U.S. position clearly at the Conference today he said—more scientific evidence was needed.

I still want to believe that President Bush is an environmentalist. There is no doubt that we have come a long way from a President who thought that trees kill, to a President who at least symbolically plants a tree wherever he goes. And, I do have to say that the President did make campaign promises on the environment that he has fulfilled. He has proposed a reasonable proposal to begin serious reduction in acid rain. I applaud that initiative. And he has placed two real environmentalists Bill Reilly and Mike Deland in leadership positions in his administration. Mr. President, the jury on the President as an environmentalist is still out but is quickly being swayed in the wrong direction. I hope the President hears the environmental call because immediate, strong leadership is what we need to stem the confusion and direct America's environmental course. Mr. President I realize the conference is over, but I strongly urge the President to reconsider his decision on this issue. I urge that he take hold of this environmental opportunity and move the process forward instead of impeding it. The President must join with the 68 other nations as soon as possible and agree to specific targets which freeze or cut carbon dioxide emission levels.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 71. A concurrent resolution congratulating Malta on the twenty-fifth anniversary of its independence.

At 5:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of further committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the amendments of the Senate numbered 53, 171, and 191 to the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

At 5:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 19. Joint resolution to designate November 8, 1989, as "Montana Centennial Day";

S.J. Res. 215. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day"; and

S.J. Res. 216. Joint resolution designating November 12 through 18, 1989, as "Community Foundation Week."

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1805. An act to amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings, and to make a technical correction relating to the life insurance program;

H.R. 2144. An act to improve forest management in urban areas and other communities, and for other purposes;

H.R. 3086. An act to amend title 5, United States Code, to grant appeal rights to members of the excepted service affected by adverse personel actions, and for other purposes; and

H.R. 3544, An act to authorize the transfer of a specified naval landing ship dock to the Government of Brazil under the leasing authority of chapter 6 of the Arms Export Control Act.

ENROLLED JOINT RESOLUTION SIGNED

At 8:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 19. Joint resolution to designate November 8, 1989, as "Montana Centennial Day."

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3086. An act to amend title 5, United States Code, to grant appeal rights to members of the excepted service affected by adverse personal actions, and for other purposes; to the Committeee on Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

Pursuant to the order of the Senate of November 6, 1989, the following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1805. An act to amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings, and to make a technical correction relating to the life insurance program.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1882. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the 5-year plan and timetable for FDA pesticide analytical methodology research and potential for use of rapid methods in the FDA pesticide monitoring program; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1883. A communication from the Deputy Assistant Secretary, Logistics, Department of the Air Force, transmitting, pursuant to law notice of the conversion of the commissary resale warehouse function at McChord Air Force Base, WA, to performance by contract; to the Committee on Armed Services.

EC-1884. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, information concerning the Department of the Army's proposed Letters of Offers and Acceptance to Saudi Arabia for Defense Articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-1885. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the available data on loan discrimination practices and includes recommendations for appropriate measures to assure nondiscrimatory lending practices; to the Committee on Banking, Housing, and Urban Affairs.

EC-1886. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, the ninth quarterly report on Federal actions taken to assist the homeless; to the Committee on Banking, Housing, and Urban Affairs.

EC-1887. A communication from the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on the processing of deposits made at

automated teller machines; to the Committee on Banking, Housing, and Urban Affairs.

EC-1888. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the General Accounting Office's opinion on the Federal Savings and Loan Insurance Corporation's financial statements for the years ended December 31, 1988 and 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-1889. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the findings of the Department of Defense and the Department of Transportation joint review of special use airspace and focuses on the impact of special use airspace on civil aviation operations and on the quality of the environment; to the Committee on Commerce, Science, and Transportation.

EC-1890. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, notification of the proposed use of $6,500,000 of fiscal year 1989 construction of facilities funds for modifications to the heavy gas reclamation system of the Transonic Dynamics Tunnel at Langley Research Center, Hampton, VA; to the Committee on Commerce, Science, and Transportation.

EC-1891. A communication from the Inspector General, transmitting, pursuant to law, the Army Audit Agency report on the Superfund financial transactions for fiscal year 1988; to the Committee on Environment and Public Works.

EC-1892. A communication from the acting inspector general, Department of Justice, transmitting, pursuant to law, the audit of the Department of Justice, Land and Natural Resources Division Superfund financial activities for fiscal year 1988; to the Committee on Environment and Public Works.

EC-1893. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the audit of the St. Lawrence Seaway Development Corporation's financial statements as of December 31, 1988; to the Committee on Environment and Public Works.

EC-1894. A communication from the inspector general of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the annual report of the mandated Superfund audit activities of the inspector general of the Agency; to the Committee on Environment and Public Works.

EC-1895. A communication from the chairman of the National Cancer Advisory Board, transmitting a draft of proposed legislation to increase the Federal excise tax on cigarettes as a way to reduce the prevalance of smoking and the associated incidence of disease; to the Committee on Finance.

EC-1896. A communication from the Assistant Secretary for Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a report on the progress of an international convention to conserve the Earth's biological diversity; to the Committee on Foreign Relations.

EC-1897. A communication from the chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Delegation Fund Decentralization: Personnel Management Simplification Efforts in the Federal Government"; to the Committee on Governmental Affairs.

EC-1898. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued or released in September 1989; to the Committee on Governmental Affairs.

EC-1899. A communication from the acting director of ACTION, the Federal Domestic Volunteer Agency, transmitting, pursuant to law, a report on the implementation of the requirements of Section 8E of the Inspector General Act; to the Committee on Governmental Affairs.

EC-1900. A communication from the Chairman of the Panama Canal Commission, transmitting, pursuant to law, the report of the Commission on the status of implementation of the requirements of section 8E of the Inspector General Act of 1978; to the Committee on Governmental Affairs.

EC-1901. A communication from the Acting Special Counsel of the U.S. Office of Special Counsel, transmitting, pursuant to law, a report on the objectives of the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-1902. A communication from the Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the semiannual report of the Inspector General of the Federal Home Loan Bank Board for the 6-month period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-1903. A communication from the Acting Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the report of the Commission on the implementation of the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-1904. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, a report on the implementation by the Endowment of the Inspector General Act of 1978; to the Committee on Governmental Affairs.

EC-1905. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, a report on the Commission's implementation of the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-1906. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-98 adopted by the Council on 10-10-89; to the Committee on Governmental Affairs.

EC-1907. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-101 adopted by the Council on 10-10-89; to the Committee on Governmental Affairs.

EC-1908. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-100 adopted by the Council on 10-10-89; to the Committee on Governmental Affairs.

EC-1909. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-99 adopted by the Council on 10-10-89; to the Committee on Governmental Affairs.

EC-1910. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-103 adopted by the Council on 10-10-89; to the Committee on Governmental Affairs.

EC-1911. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-102 adopted by the Council on October 10, 1989; to the Committee on Governmental Affairs.

EC-1912. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the annual report on drug and alcohol abuse prevention, treatment and rehabilitation programs and services for Federal civilian employees; to the Committee on Governmental Affairs.

EC-1913. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the first annual report required by the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-1914. A communication from the Chairman of the U.S. Sentencing Commission, transmitting, pursuant to law, the Commission's initial report on statutory penalties; to the Committee on the Judiciary.

EC-1915. A communication from the National Commander of the American Ex-Prisoners of War, transmitting, pursuant to law, the 1989 audit report as of August 31, 1989; to the Committee on the Judiciary.

EC-1916. A communication from the Secretary of Education, transmitting, pursuant to law, a document entitled "Final Regulations—Student Assistance General Provisions"; to the Committee on Labor and Human Resources.

EC-1917. A communication from the Under Secretary of the Smithsonian Institution, transmitting, pursuant to law, the National Society of the Daughters of the American Revolution's "Annual Proceedings of the Ninety-Eighth Continental Congress"; to the Committee on Rules and Administration.

EC-1918. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize the Department of Veterans Affairs to appoint, without regard to civil service hiring procedures, graduates in certain health-care professions or occupations trained by the Department; to the Committee on Veterans Affairs.

EC-1919. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to require, after the effective date of this amendment, licensure, certification or registration of social workers appointed in the Department of Veterans Affairs; to the Committee on Veterans Affairs.

EC-1920. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to streamline the disciplinary process for employees, to allow for the delegation of authority of the Chief Medical Director in certain situations and for related purposes; to the Commission on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-347. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE JOINT RESOLUTION NO. 31

"Whereas, Congress is considering legislation relating to crop subsidy and deficiency payments; and

"Whereas, The 1988 estimates of the Agricultural Stabilization and Conservation Service indicate that 53.3 million acres were taken out of production in the United States, and 3,084,714 acres were enrolled in California resulting in payments in excess of $285,560,000; and

"Whereas, Farmers may participate under current law in a conservation or set-aside farming program in which a portion of a farmer's base acreage, which is based on farming history, is removed from production for which a subsidy is received; and

"Whereas, The farm conservation or set-aside farming program under current law includes no provision for growing rotation crops on the set-aside ground; and

"Whereas, Emerging technology exists which demonstrate the potential for farmers to farm crops dedicated to producing alcohol for the production of ethanol or biomass as fuel for electrical production; and

"Whereas, A 25 percent reduction in carbon monoxide can be demonstrated by substituting 10 percent ethanol in unleaded gasoline; and

"Whereas, The production of electricity from renewable plant resources limits the need for increased usage of nonrenewable carbon monoxide-producing fossil fuels; and

"Whereas, Growing plants on formerly plowed "down acreage" increases the number of plants taking in carbon dioxide and giving off oxygen through photosynthesis, thus creating a natural carbon filter effect and providing a net decrease in the collective contribution to the greenhouse effect; and

"Whereas, Scientists in the United States have developed effective and competitive biomass systems and related technologies which could impact favorably on the balance of trade problems facing this country now, therefore, be it.

"Resolved by the Senate and Assembly of the State of California, jointly That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation which permits farmers who are enrolled in government set-aside programs to grow rotation crops dedicated as feedstock for conversion to fuel sources on displaced base acreage, and which provides the following:

"(1) The acreage dedicated to a fuel rotation crop is not deducted from the base acreage of a farmer's program crop in the farm conservation and set-aside program administered by the Department of Agriculture.

"(2) Farmers who plant "fuel rotation crops" market these crops solely as fuel crops.

"(3) Farmers maintain displaced base acreage as a part of family farming history and do not receive any other form of governmental subsidy for this acreage; and be it further.

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Agriculture, and to each Senator and Representative from California in the Congress of the United States."

POM-348. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations:

"SENATE JOINT RESOLUTION NO. 45

"Whereas, The Senate of the United States, in action on the appropriations bill for fiscal year 1990, slashed $65 million from the United States Forest Service road construction program; and

"Whereas, The effect of this action will be to reduce the timber sale program in California by 400 million board feet; and

"Whereas, This reduction of available timber supply represents a loss to the housing market by almost half a billion dollars; and

"Whereas, Eight thousand jobs in California will be lost as a result of this reduction; and

"Whereas, The rural counties of California will lose $20 million in desperately needed revenue for schools and transportation if this legislation passes in its current form; and

"Whereas, The loss of roads will prevent the multiple use of the forest for recreationists, such as hunters, fisherpersons, and off-highway vehicle users; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Congress of the United States be memorialized to restore the $65 million appropriation to the United States Forest Service road construction program; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-349. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION NO. 37

"Whereas, The California Army National Guard possesses a long and distinguished history of service to the State of California and the United States; and

"Whereas, The California Army National Guard has consistently demonstrated a high degree of professionalism and mission accomplishment and has repeatedly proven its worth as a first line combat ready organization; and

"Whereas, Recently, the United States Army announced its fiscal year 1992 force structure changes, which will adversely affect the capabilities of three California Army National Guard units; and

"Whereas, These force structure changes would eliminate the headquarters and the Headquarters Detachment of the 49th Military Police Battalion in Walnut Creek, the headquarters and the Headquarters Detachment of the 143rd Military Police Battalion in San Mateo, and the 570th Military Police Company in Concord and Eureka; and

"Whereas, The elimination of these units will result in the loss of cost-effective operational capabilities, 246 part-time and 29 full-time skilled personnel, two-thirds of the state's military police command, and control emergency response teams for wildfires, earthquakes, floods, and other natural disasters, as well as substantial revenue loss for the communities involved; now, therefore, be it

"Resolved by the Senate and the Assembly of the State of California, jointly, That the California Legislature respectfully memorializes the President and Congress of the United States to direct the Department of Defense, the Department of the Army, and the National Guard Bureau of the United States to amend the proposed force structure changes of the California Army National Guard to retain, in an active capacity within the troop structure program for at least the fiscal year 1989 to 1993, inclusive, the headquarters and the Headquarters Detachment of the 49th Military Police Battalion, the headquarters and the Headquarters Detachment of the 143rd Military Police Battalion, and the 570th Military Police Company; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Floor Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Defense, to the Secretary of the Army, and to the Chief of the National Guard Bureau of the United States."

POM-350. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION NO. 25

"Whereas, The National Guard and Reserve possess a proud history of defending our nation during times of armed conflict; and

"Whereas, the National Guard and Reserve serve as equal partners with the active duty forces as part of America's total force; and

"Whereas, Today's National Guard and Reserve possess a greater national defense responsibility than ever before; and

"Whereas, Members of America's active duty forces and their eligible dependents are granted space available travel on military aircraft outside the continental United States (OCONUS); and

"Whereas, No additional cost will be incurred by granting members of America's National Guard and Reserve and their eligible dependents OCONUS space available travel; and

"Whereas, OCONUS space available travel for members of the National Guard and Reserve and their eligible dependents would serve to greatly enhance the recruiting and retention efforts of America's Reserve Components; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the California Legislature respectfully memorializes the President and Congress of the United States to direct the Secretary of Defense to authorize space available travel on military aircraft outside the continental United States for members of America's National Guard and Reserve and their eligible dependents; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Defense."

POM-351. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION NO. 18

"Whereas, Pursuant to the Base Closure Act (P.L. 100-526), the Secretary of Defense has, in accordance with the recommendations of the Commission on Base Realignment and Closure, ordered the termination of activities at, among other military instal-

lations, Mather Air Force Base in Sacramento; and

"Whereas, In addition to the military facilities of the base which are scheduled for closure, the base includes an important hospital serving 84,000 retired military personnel and their dependents within the communities of Carmichael, Citrus Heights, East Sacramento, Elk Grove, Fair Oaks, Folsom, Orangevale, Rancho Cordova, Sacramento, and South Sacramento; and

"Whereas, Mather Hospital provides annually nearly 4,000 inpatient visits and over 205,000 outpatients visits and employs 86 civilians on its staff; and

"Whereas, The disruption to these persons who depend on the continued operation of the hospital would be devastating if the hospital is closed; and

"Whereas, Possibilities for the continuation of operations at Mather Hospital include operation by McClellan Air Force Base, a consortium of federal agencies, or by the United States Department of Veterans Affairs; and now, therefore, be it

"Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to do everything possible to have the operation of Mather Hospital transferred to another federal agency, such as McClellan Air Force Base or the Department of Veterans Affairs, or to a consortium of federal agencies, rather than ordering its closure; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Defense."

POM-352. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION NO. 4

"Whereas, The use, sale, production, and importation of illegal narcotics is a major problem of our society; and

"Whereas, Illegal drugs are entering the United States at an unprecedented rate; and

"Whereas, The Republic of Mexico is the primary source of heroin and marijuana and the transshipment route for at least one-third of the cocaine entering the United States market; and

"Whereas, The United States Customs Service, United States Border Patrol, and local, state, and federal law enforcement agencies are involved in the interdiction of drugs along the California-Mexico border, but their combined resources are not equal to the task; and

"Whereas, It is a generally accepted policy of the state that civilian, rather than military, agencies should have the primary responsibility for drug interdiction and enforcement actions; and

"Whereas, The California National Guard opposes any role which would require it to assume law enforcement functions or otherwise violate state policy in this regard; and

"Whereas, Federal legislation provides for an increased drug interdiction and enforcement role by the California National Guard by authorizing 60 million dollars for use by the states for drug interdiction; and

"Whereas, Since 1983, the California National Guard has been called upon to provide support for drug interdiction and enforcement missions; and

"Whereas, Aviation support is the primary means by which the California National Guard can be of significant assistance to drug interdiction and enforcement operations; and

"Whereas, Existing California National Guard aircraft are of limited value in an aviation support role since their effective operation is influenced by weather conditions and they lack systems capable of readily detecting personnel, vehicles, and aircraft; and

"Whereas, The California National Guard, further, has no aviation support facility near the Mexican border, where the majority of drug trafficking occurs; and

"Whereas, The California National Guard is seeking authorization from the National Guard Bureau to establish the State Area Command Aviation Section at Mather Air Force Base in Sacramento and an attack helicopter battalion at Brown Field in San Diego County; and

"Whereas, The necessary equipment for the helicopter battalion could be obtained by redirecting the issuance of currently budgeted aircraft from the United States Department of Defense; and

"Whereas, The advantages of having a base of operations in proximity to the border are significant, particularly for future, continuing support; and

"Whereas, Brown Field is the key to the success of drug interdiction operations on the border by the California National Guard; and

"Whereas, The California National Guard proposal to support drug interdiction efforts is endorsed by the United States Customs Services, United States Border Patrol, City of San Diego, and San Diego County Sheriff; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the California Legislature respectfully memorializes the President and Congress to direct the United States Department of Defense, the National Guard Bureau, and the Vice President of the United States, who is in charge of the National Narcotics Border Interdiction System, to support and appropriately fund the California National Guard proposal to engage in drug interdiction operations with the acquisition of needed helicopters and surveillance equipment, the establishment of a full-time aviation program to support drug interdiction agencies, and the establishment of a California National Guard attack helicopter battalion at Brown Field in San Diego County; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Department of Defense, to the United States Customs Service, and to the United States Border Patrol."

POM-353. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION NO. 32

"Whereas, A huge oil spill recently occurred in Alaska's Prince William Sound involving the supertanker Exxon Valdez, which has caused significant environmental degradation; and

"Whereas, The Exxon Valdez accident bears disquieting similarities to a tragic incident off Point Reyes, California, in May 1986 when the Keystone Co. tanker Golden Gate ran down a San Francisco fishing vessel, the Jack Jr., and sank her with all hands; and

"Whereas, Both the Exxon Valdez incident and the Golden Gate/Jack Jr. collision occurred after the time when day workers had been relieved from their duties, and the masters were not on the bridge, as a consequence of which adequate lookouts were not present on the bow nor was an extra officer detailed to handle vital radar observation; and

"Whereas, The United States Coast Guard is allowing vessel operators to reduce the manning levels on board United States flag ships, and Exxon and others have applied or are applying to reduce the manning level on ships such as the Exxon Valdez from 24 to 14 crew members, thereby inviting even more disasters at sea and in our bays and harbors; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature urges Congress and appropriate federal agencies, respectively, to take expeditious legislative and regulatory action to prevent calamities such as the Exxon Valdez disaster from occurring again; and be it further

Resolved, That Congress should consider requiring implementation aboard merchant ships of a special sea detail system which is used by the United States Navy to augment the watch with extra persons when a vessel is departing, arriving, or traversing dangerous waters, and that, at the very least, the master would be required to remain on the bridge until the vessel has cleared port and is clear of the offshore sea lanes; and be it further

"Resolved, That the Coast Guard should abandon its practice of permitting reductions in manning levels, and should commence immediate steps to increase manning requirements for the engine room and other appropriate locations to ensure a vessel's ability to perform essential maneuvers and to conform to the policy of the United States and many individual states, including California, to train new merchant marine officers; and be it further

"Resolved, That the Coast Guard should resolve any conflict between operating costs and appropriate safety measures in favor of increased safety; and be it further

"Resolved, That, with respect to tankers of over 10,000 tons, installation and use of safety devices such as automatic radar plotting aids (ARPA), should be required by the Coast Guard regulation so that the ship's navigational and safety equipment is operable before the ship leaves port, and these devices are operated by experienced persons; and be it further

"Resolved, That the vessel traffic systems in all United States ports, including Valdez and San Francisco, should have the authority to order vessels to take actions such as making course and speed changes and remaining in the traffic lanes; and be it further

"Resolved, That Congress and appropriate federal agencies, respectively, include within the scope of the above-proposed legislative and regulatory action all vessels which enter the 200 mile exclusive economic zone of the United States to ensure that safety measures are uniformly adopted within that zone; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Commandant of the United States Coast Guard, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-354. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION No. 8

"Whereas, Traffic congestion is a major problem, and has already reached a critical stage in many parts of California and the nation; and

"Whereas, It is essential that the United States decrease its dependency on foreign oil; and

"Whereas, Air pollution due to motor vehicle emissions is a continuing major environmental problem; and

"Whereas, There are areas in this state and the nation where, at minimal additional cost, commuter rail service can easily be integrated with intercity rail passenger service operated by the National Railroad Passenger Corporation (Amtrak); and

"Whereas, Combining intercity rail passenger service with commuter rail service can, in these times of stringent budgetary restrictions, reduce both the federal and state subsidies for Amtrak and the traffic congestion on our highways; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to include commuter service as a part of the National Railroad Passenger Corporation (Amtrak) rail passenger service in situations where commuter service will enhance rail ridership, especially where commuter service is compatible with and will complement intercity rail passenger service; and be it further

"Resolved, That the Secretary of the Senate transact copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the chairperson of every congressional committee having jurisdiction over the operations of the National Railroad Passenger Corporation, and to the National Railroad Passenger Corporation."

POM-355. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION No. 27

"Whereas, The Army Corps of Engineers has announced a reduction in funding for the dredging and maintenance of low-use harbors and marinas which land less than 25,000 tons of fish; and

"Whereas, This reduction will require state and local governments to contribute substantial funds to dredge and maintain harbors throughout the state, an estimated annual amount of at least $8,000,000 in California; and

"Whereas, Failure to fund these essential dredging and maintenance operations could close the entire commercial fishing industry in California, particularly in light of the efforts of the Department of Fish and Game to reduce the quantity of certain fish being taken and thereby replenishing the resource; and

"Whereas, A continuance of the essential dredging and maintenance activities conducted by the Army Corps of Engineers for California's harbors and marinas is vital to the welfare of all of California's maritime-related industries; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the United States Army Corps of Engineers to reevaluate its proposed reduction in funding for the dredging and maintenance of low-use harbors and marinas, and to consider as its first alternative a proportionate reduction of the funding for the dredging and maintenance of all harbors and marinas; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Army, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-356. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION No. 3

"Whereas, The federal government has established the Asbestos Hazard Emergency Response Act (AHERA) program, which requires school districts nationwide to implement a management plan for the containment or removal of certain asbestos-containing materials by no later than July 9, 1989; and

"Whereas, Sufficient federal appropriations have not been made available to provide funding to school districts in the State of California to pay for the cost of those plans or for the work that may be necessary as a result thereof; and

"Whereas, The cost of providing the plans is in excess of 30 million dollars and the estimated cost of the work to be performed is estimated to be in excess of one billion dollars; and

"Whereas, Additional study is required to accurately identify the health risks associated with nonoccupational exposure to low levels of asbestos; and

"Whereas, The United States Environmental Protection Agency has contracted for a study of asbestos levels in buildings to determine the extent of risk; and

"Whereas, The actual removal of asbestos-containing material can elevate the prevalence of asbestos fibers to dangerous levels if work practices specified by regulation are not followed; and

"Whereas, The California Occupational Safety and Health (Cal-OSHA) program, which would have prime responsibility for inspecting school asbestos removal projects, has not been fully restored due ot staffing shortages; and

"Whereas, The Legislature of the State of California is concerned that school districts may remove absestos materials that are not in a hazardous condition and that the removal work may be performed improperly, creating an imminent hazard for workers and building occupants; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California believes that it is the responsibility of the federal government to ascertain the danger levels of asbestos before mandating a substantial cost to the states for the removal of asbestos-containing materials from the schools; and be it further

"Resolved, That the Legislature of the State of California respectfully memoralizes the President and the Congress of the United States to immediately support and enact emergency legislation to authorize the Environmental Protection Agency to grant a delay in the implementation of the management plan required under the federal AHERA program to any public school, or private nonprofit school, that has demonstrated the willingness to comply with the requirements of that program; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Administrator of the Environmental Protection Agency, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.".

POM-357. A joint resolution adopted by the Legislature of the State of California; to the Committe on Finance:

"SENATE JOINT RESOLUTION No. 48

"Whereas, The Congress of the United States enacted the Jackson-Vanik Amendment to the Trade Act of 1974 (P.L. 93-618, Title IV) in response to the policies of the government of the Soviet Union concerning emigration; and

"Whereas, The purpose of the Jackson-Vanik Amendment was to impose restrictions on trade with the Soviet Union; and

"Whereas, The new Soviet leadership has begun to ease emigration restrictions, and has promised more liberal policies in this area in the future; and

"Whereas, There was a dramatic increase in the number of Soviet citizens allowed to emigrate from the Soviet Union in 1988 and 1989; and

"Whereas, In the previous decade, the emigration polices of the Soviet Union were subject to capricious and arbitary decisions by Soviet governmental leaders; and

"Whereas, Congress is currently considering an 18-month waiver of the Jackson-Vanik Amendment as a result of the policy changes by the government of the Soviet Union, now therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States that, if it acts to waive the Jackson-Vanik Amendment for an 18-month period, that Congress also ensure strong congressional oversight of the Soviet Union's compliance with human rights, in particualr the promulgation of new Soviet legislation establishing the right of its citizens to freely emigrate, progress in resolving long-term refusnik cases, and strict definition of "state secrecy" as it relates to emigration; and be if further

"Resolved, That the Congress conduct public hearings during the 18-month waiver period to monitor the continued progress of the government of the Soviet Union on its emigration policies and to report to the public on whether or not the waiver has resulted in compliance and sustained increased emigration; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to

the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representatives from California in the Congress of the United States."

POM-358. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 15

"Whereas, Some 3.3 million veterans currently reside in the State of California; and

"Whereas, Making home and farm loans available to the state's veterans at a reasonable interest rate has been a state goal since the inception of the Veterans Farm and Home Building Fund of 1943; and

"Whereas, The Veterans Farm and Home Building Fund of 1943, since its creation, has assisted countless thousands of veterans with financing for home and farm purchases; and

"Whereas, Today, the median price of housing in many areas of California exceeds the $90,000 maximum loan possible under the Cal-Vet program, making it difficult for many veterans to take advantage of the program to finance home and farm purchases; and

"Whereas, The state is currently limited by federal law to issuing $340 million in federally tax-exempt general obligation bonds each year to finance the Cal-Vet program; and

"Whereas, Any effort to increase the maximum loan possible under the Cal-Vet program to better accommodate current housing costs would effectively reduce the total number of loans possible, based on the current federal restrictions on the tax-exempt status of general obligation bonds; and

"Whereas, the state's goal of assisting veterans to purchase farms and homes would be enhanced if additional tax-exempt bonds could be made available each year to finance the Cal-Vet program; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President to support and the Congress of the United States to enact legislation which would recognize that the Cal-Vet program contributes to an improved economy of California, and thus the nation, by encouraging home and farm purchases and promoting the construction industry and which would increase to $500 million annually the level of state general obligation bonds for Cal-Vet loans for which tax-exempt status will be granted; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to each Senator on the Senate Armed Services and Veterans Committee, to each Representative on the House Armed Services Committee and the House Veterans Committee, and to the chairperson of each committee of the Senate and House of Representatives for consideration of this legislation."

POM-359. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 5

"Whereas, Congress passed and President Reagan signed House Resolution 2470 (P.L. 100-360), the Medicare Catastrophic Coverage Act of 1988, to provide coverage for catastrophic hospital and medical costs for the nation's 32.4 million Medicare beneficiaries; and

"Whereas, The act was so designed as to benefit about 1 percent of Medicare beneficiaries who are hospitalized annually for longer than 60 days, and the 7 percent of Medicare beneficiaries who pay more than $1,370 annually in out-of-pocket expenses under Medicare, Part B, for physicians' services; and

"Whereas, Those achieving the $1,370 cap will still be required to pay the difference between what Medicare reimburses physicians and what physicians actually charge; and

"Whereas, The act added partial coverage for prescription drugs, which will benefit about 17 percent of Medicare beneficiaries; and

"Whereas, All Medicare beneficiaries, beginning in 1989, will pay $31.70 per month Medicare, Part B, premium for catastrophic coverage, up from $27.90 per month—an increase of over 14 percent; and

"Whereas, Premiums for supplemental insurance to Medicare, so-called "medi-gap" insurance, have increased even though the benefits they cover have generally decreased; and

"Whereas, Fourteen million three hundred thousand individuals will pay an additional catastrophic surtax of $22.50 on each $150 of federal tax liability; and

"Whereas, This 15 percent surtax could amount to as much as $800 per annum for a single person and $1600 for a couple, and will rise to a 28 percent surtax by 1993; and

"Whereas, This surtax method of funding represents a significant departure from the traditional method of spreading the costs of care among current and future beneficiaries; and

"Whereas, The act does not include coverage for the greatest catastrophic need of Medicare beneficiaries—that is, protection against the impoverishing costs of long-term care; and

"Whereas, The act will lower the limits California currently allows for division of property under California's Spousal Impoverishment provisions; and

"Whereas, The act will also affect California's transfer of assets statutes, possibly making a person who gives away or sells his or her resources for less than fair market value ineligible for Medi-Cal benefits for up to 30 months; and

"Whereas, Congress, through this act, has recognized the need to study the advantages of including long-term care as a benefit under Medicare; and

"Whereas, Congress, through this act, has recognized the need for basic health coverage for nearly 40 million uninsured Americans; and

"Whereas, Congress has designated committees to study the prospects of expanding Medicare to include long-term care and basic health care for nearly 40 million uninsured Americans; and

"Whereas, The Legislature of the State of California finds growing dissatisfaction among many of the state's four million senior citizens with several of the provisions of the act; and

"Whereas, The Legislature also finds the same senior citizens expressing both a strong desire for federal legislation that will protect them against the impoverishment of long-term care costs and a willingness to bear a fair share of the costs for such care; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take immediate action to amend the Medicare Catastrophic Coverage Act of 1988; and be it further

"Resolved, That the amendments to the act distribute the costs of the act's new benefits proportionately and fairly among current and future Medicare beneficiaries, as has been previously the practice with both Medicare and Social Security; and be it further

"Resolved, That the amendments include provisions to protect Medicare beneficiaries, current and future, against the impoverishing costs of long-term care; and be it further

"Resolved, That the amendments allow California to provide more progressive Medi-Cal eligibility requirements in terms of division of community property and transfer of assets; and be it further

"Resolved, That the Legislature of the State of California commends the Congress of the United States for forming exploratory committees to research the feasibility of providing long-term care to Medicare beneficiaries and providing medical protection to the nearly 40 million Americans without health insurance; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the California Commission on Aging, and to the California Senior Legislature."

POM-360. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION No. 44

"Whereas, On August 23, 1939, secret protocols reached in an agreement between Nazi Germany and the Union of Soviet Socialist Republic consigned Lithuania, Latvia, and Estonia to the Soviet sphere of interest and opened these independent countries to invasion by the Soviet army; and

"Whereas, Since August 23, 1939, these three Baltic republics have been dominated by the Soviet Union, except for a short period of domination by Nazi Germany; and

"Whereas, The people of Lithuania, Latvia, and Estonia are demonstrating to the entire world the bravery of people who have never forgotten their democratic traditions; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California expresses its admiration for the nations of Lithuania, Latvia, and Estonia and memorializes the President and the Congress of the United States that the Legislature supports American foreign policy which has maintained for the past 50 years that the domination of these republics by the Soviet Union has been illegal and that Lithuania, Latvia, and Estonia are independent nations; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-361. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs:

"SENATE JOINT RESOLUTION No. 9

"Whereas, The San Fernando earthquake of 1971, the Coalinga earthquake of 1983, the Mexico City earthquake of 1985, the Whittier-Narrows earthquake of 1987, and the Armenia earthquake of 1988 all demonstrated the vulnerability of buildings to structural collapse and the real, as well as potential, likelihood for thousands of victims to become trapped in rubble; and

"Whereas, These unfortunate disasters clearly prove the need for the federal government to adequately plan and prepare for assisting state and local governments in critical urban search and heavy rescue activities following a major earthquake; and

"Whereas, It is the general consensus of most experts that a local community must rely upon assistance from neighboring areas, the state, and the federal government to meet the heavy life safety service requirements following a major earthquake, and it is a common opinion that a state will have to rely on its own resources for at least 36 hours after a major earthquake strikes before organized assistance from neighboring states or the Federal government can arrive; and

"Whereas, It is also the opinion of the experts that the first 24 hours is the critical time period in which most injured or trapped victims must be saved; and

"Whereas, Although there is a critical need for a swift, coordinated Federal, State, and local urban search and heavy rescue response capability if the United States is to avoid the tremendous loss of life experienced during the Mexico City and Armenia incidents, unfortunately, local fire, law enforcement, and emergency medical services will likely be too overtaxed to respond to all the public safety and life saving demands following a major earthquake in a metropolitan area; and

"Whereas, Properly equipped and trained urban search and heavy rescue professional and volunteer personnel would significantly enhance the effective rescue of victims trapped in the rubble of collapsed structures; and

"Whereas, Urban search and heavy rescue efforts in a major metropolitan area will require a large number of well-trained personnel, with specialized equipment and apparatus, operating under a well-coordinated and managed response, and personnel and resources from throughout the United States will have to be swiftly transported to the impacted area if victims trapped in collapsed structures following an earthquake are to be saved; and

"Whereas, Four key elements of an effective urban search and heavy rescue capability are: heavy rescue apparatus (units/rigs); proper search and rescue equipment (handtools/protective gear); well-trained personnel skilled in operating the apparatus, utilizing the necessary equipment, and directing the proper procedures in search and rescue efforts; and a swift, preplanned, coordinated Federal, State, and local response; and

"Whereas, It is essential to not only have readily available the necessary quantity of proper equipment and personnel skilled in urban search and heavy rescue procedures, but the ability to transport those resources to the impacted area within the first critical 24 hours following a catastrophic earthquake; and

"Whereas, The federal government has significant resources and personnel appropriate for performing urban search and heavy rescue efforts, as well as the capability of transporting both public and private sector urban search and heavy rescue resources to an impacted area; and

"Whereas, The federal government must be properly prepared to swiftly and effectively assist state and local governments in critical urban search and heavy rescue efforts following a major earthquake in a metropolitan area, and the federal government, in cooperation with state and local jurisdictions, should develop a coordinated urban search and heavy rescue capability; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to direct the appropriate federal agencies and the United States military to work with state and local governments to develop a coordinated urban search and heavy rescue response plan for their respective states and local communities; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-362. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs:

SENATE JOINT RESOLUTION No. 7

"Whereas, It is the responsibility of the Bureau of the Census in the United States Department of Commerce to ensure that all segments of society are fairly and appropriately represented in the census figures which it collects; and

"Whereas, One to 2 percent of the population is generally uncounted in each 10-year canvass; and

"Whereas, There has been a tremendous influx into California of immigrants from Latin America and Southeast Asia over the past decade and it is important to ensure they are represented in census figures; and

"Whereas, The minority populations of major metropolitan area of the State of California are not adequately represented in the federal census; and

"Whereas, Minority populations which are traditionally unrepresented or underrepresented in the census include the homeless new immigrants, persons of Hispanic origins, and the economically disadvantaged; and

"Whereas, The census figures need to be adjusted to include those persons who have not been counted because of cultural, language, housing, and other social and economic barriers; and

"Whereas, The inclusion of these traditionally undercounted groups in the federal census may result in the creation of a new congressional seat for, and a potential increase in federal moneys allocated to, the County of Los Angeles; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the Bureau of the Census and appropriate agencies to develop and implement a method of ensuring that these figures; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Commerce, and to the director of the Bureau of the Census."

POM-363. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION No. 1

"Whereas, For some years most California mobile home parks, pursuant to Sections 798.76 and 799.5 of the Civil Code, have operated with "adults only" residency restrictions, offering an adult or senior lifestyle to more than one-half million Californians of retirement age; and

"Whereas, There is a need for affordable housing for senior citizens and persons of retirement age which mobile homes provide; and

"Whereas, Congress has recently passed, and the President signed, HR 1158, the Federal Fair Housing Amendments Act of 1988, which prohibits "adult only" residency restrictions in most single-family and multiresidential housing but permits 55 years and older senior housing where there are significant facilities and services to meet the physical or social needs of seniors; and

"Whereas, The federal Department of Housing and Urban Development (HUD) has already adopted regulations to enforce provisions of the Fair Housing Amendments Act of 1988, without congressional review; and

"Whereas, The ambiguous nature of the HUD regulations do not clarify what facilities and services will have to be installed for mobile home parks to be allowed to continue to maintain a retirement lifestyle for residents 55 years of age and older but leave to HUD administrators on a local level the power to make such determinations on a case-by-case basis; and

"Whereas, Senior facilities and services which have to be installed may increase the cost of housing in senior mobile home parks; and

"Whereas, The swiftness with which HR 1158 and implementing regulations have become effective has served to create confusion and anxiety among park residents, stir up numerous conflicts between park owners and their residents, and led to lawsuits and a multiplicity of complaints to local and state elected officials; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to support and enact urgency legislation to amend the Federal Fair Housing Amendments Act of 1988 to clarify the intent of Congress with regard to the effect of the requirements for senior facilities and services upon the affordability of senior mobilehome parks for the residents of those parks; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, and each Senator and Representative of the United States, and each Senator and Representative from California in the Congress of the United States and to the Secretary of the federal Department of Housing and Urban Development."

POM-364. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION No. 33

"Whereas, The Tenth Amendment of the United States Constitution, part of the original Bill of Rights, reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"; and

"Whereas, The limits on the authority of Congress to regulate state activities prescribed by the Tenth Amendment have recently been the subject of debate by the United States Supreme Court in the cases of Garcia v. San Antonio Metropolitan Transit Authority (1985), 83 L. Ed. 2d 1016 and South Carolina v. Baker (1988), 99 L. Ed. 2d 592; and

"Whereas, These cases hold that the limits of the Tenth Amendment are structural, and not substantive, leaving states to find protection from congressional regulation through the national political process, rather than through judicially defined spheres of residual state authority; and

"Whereas, These United States Supreme Court decisions invite further federal preemption of state authority; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That it is the consensus of the Legislature that the Tenth Amendment to the United States Constitution is and always has been of operational force governing and balancing the respective powers of the states and the federal government, and the Legislature affirms that the Tenth Amendment is a substantive limit on national power and should be so applied as a test by the courts of the United States and of the several states in the cases coming before them where a question of the exercise of the federal authority is raised; and be it further

"Resolved, That it is the consensus of the Legislature that the Thirteenth, Fourteenth, and Fifteenth Amendment protections of civil rights and civil liberties apply to the states notwithstanding the Tenth Amendment, and that the authority of the federal government pursuant to the Committee Clause to legislate for purposes of guaranteeing civil rights and workers' rights, regulating labor relations, providing for the social welfare, preserving the environment and public health, and protecting consumers, is not diminished by the appropriate and balanced application of the Tenth Amendment to protect the states' capacity to govern and to exercise traditional governmental functions; and be it further

"Resolved, That the Legislature urges the President of the United States and the Members of Congress, in the carrying out of their responsibilities to protect and strengthen the position of the states in the federal union, avoid intrusion upon state prerogatives, and afford protection to the proper governing authorities of the states; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States and each Senator and Representative from California in the Congress of the United States."

POM-365. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION No. 10

"Whereas, Almost 14 years have passed since the end of the Vietnam War, yet thousands of Southeast Asians remain in refugee camps in Thailand, Malaysia, Hong Kong, the Philippines, and other first-asylum countries; and

"Whereas, The future of Cambodia remains uncertain with the threat of the Khmer Rouge's "killing field" regardless of Vietnam's promise to end its 10-year occupation of that country by 1990; and

"Whereas, Many other refugees, of whom 450,000 are Southeast Asians, have made their homes in California and many are now United States citizens and are contributing members of the new country; and

"Whereas, Many refugees in camps in first-asylum countries are husbands, wives, parents, children, and other family members of former refugees who are now citizens living in the State of California, and many of these refugees have remained in refugee camps for the past several years; and

"Whereas, The ceiling for refugees coming from Vietnam in the Orderly Departure Program (ODP) was reduced by 5,500, to a level of 19,500, of which 12,000 was allocated for Amerasians and their family members under the Amerasian Homecoming Act. The total allocations for Southeast Asian refugees, under the first-asylum category, was reduced by 1,000, to a level of 27,000. And the number for Near East, which includes Iran and Afghanistan, was cut by 500, to a level of 6,500, resulting in a total reduction for all three categories of 7,000; and

"Whereas, This decision by the Reagan Administration was made to accommodate the swelling numbers of Soviet refugees by cutting back on the quota of refugees from Asia; and

"Whereas, A large number of Vietnamese who are expected to come to the United States under the Orderly Departure Program are former political prisoners or re-education camp cases, many of whom our government has a special responsibility for because they once worked for the United States or fought side by side with American soldiers, for whom the executive branch and Congress jointly gave special priority when they established the refugee admittance quota; and

"Whereas, Many of the political prisoners or former political prisoners in Vietnam and their relatives are now qualified for admission to the United States as refugees, and this cut weakens the ability to negotiate with the Vietnamese government for the release and emigration of political prisoners; and

"Whereas, The result of this reduction is likely to increase the number of people risking their lives fleeing Vietnam by boat or Laos and Cambodia by land and will contribute to the current crisis of asylum in Southeast Asia; and

"Whereas, The legitimate mechanism for consultation with Congress to raise admissions levels based upon international crisis and demonstrated needs was bypassed in order to make the reallocation, thus affecting the integrity of the United States' refugee policy; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to increase the overall number of admissions of refugees and avoid the possible competition between different refugee groups from different parts of the world; and be it further

"Resolved, That the United States should allow more immigration by raising the quotas for each country, rather than merely shifting numbers from one category to another, therefore forcing conflicts between countries and communities; and be it further

"Resolved, That the United States should have flexibility in adjusting the refugee admittance ceilings to the same level as it was established: 25,000 for the Orderly Departure Program, 28,000 for first asylum in Southeast Asia, and 7,000 for the Near East region; and be it further

"Resolved, That the United States should take an active leadership role within the international community to search for a long-term and satisfactory solution to the current refugee crisis in Southeast Asia; and be it further

"Resolved, That the United States should take all measures to prevent the return to power of the Khmer Rouge regime in Cambodia to avoid the tragedy of another genocidal government; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of State, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and the United Nations High Commissioner for Refugees."

POM-366. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION No. 47

"Whereas, Only one generation of immigrants has entered this nation since the 1965 reforms which eliminated the national origin quota system; and

"Whereas, Only recently have families whose members immigrated under the 1965 reforms been able to be reunited; and

"Whereas, To cut back on the ability of new Americans to be with their family members betrays the core American value and tradition of emphasizing the integrity of the family; and

"Whereas, It is clean that our nation's immigration procedures need revision, but that revision must be fair for all communities in our national fabric, and must not undermine immigration opportunities for Asian Indians, Filipinos, Asian Pacifics, Hispanics, or any other ethnic group; and

"Whereas, Legislation has been introduced in the 101st Congress to address these concerns; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation to reform immigration policy which emphasizes reunification of families, and which is fair to all immigrants of all national, racial, and ethnic identities; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-367. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION No. 30

"Whereas, In 1942, the United States Congress reestablished the policy it had set forth in World War I, by providing for the naturalization of aliens honorably serving in the armed forces of the United States during World War II; and

"Whereas, Many Filipino veterans were unable to meet the filing deadline for naturalization under this provision because the United States Attorney General failed to assign an examiner in the Philippines for a crucial nine-month period; and

"Whereas, Filipinos have subsequently sought redress in the courts for this inequity, only to have favorable decisions overturned on a technicality; and

"Whereas, On January 19, 1989, H.R. 525 was introduced in the United States House of Representatives to extend the filing period for Filipinos who served in the United States armed forces during World War II to become naturalized citizens of the United States; and

"Whereas, On January 25, 1989, S. 60 was introduced in the United States Senate, to also extend the filing period for Filipinos who served in the United States armed forces during World War II to become naturalized citizens of the United States; and

"Whereas, The Department of Justice supports extending the filing period for Filipino war veterans to become naturalized citizens of the United States; and

"Whereas, The proposed legislation would bring relief to the estimated remaining 60,000 to 80,000 Filipino veterans out of the initial 175,000 to 200,000 troops who risked their lives during World War II, surviving the occupation of the islands and the infamous Bataan Death March, and who, now in their mid-60's to mid-90's, have been battling for years to become United States citizens; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to act favorably on legislation pertaining to the naturalization of Filipino veterans of the United States armed forces; and be it further

"Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative in the California Congressional delegation."

POM-368. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION No. 17

"Whereas, The sneak attack on Pearl Harbor on December 7, 1941, was an act of war perpetrated by a foreign nation on our land; and

"Whereas, For our future national safety, each generation of Americans should be reminded not to be lulled into a false sense of security, but to remain alert; now, therefore, be it

"Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to proclaim December 7 as "Pearl Harbor Day," an annual day of national remembrance; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Secretary of State, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-369. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"SENATE JOINT RESOLUTION No. 36

"Whereas, The State of California faces social, cultural, and economic devastation from the impact of its citizens participating in the use, sale, and distribution of illegal drugs; and

"Whereas, California's counties are the state's primary providers of treatment, prevention, and rehabilitation services for that part of the state's population which is in need of anti-drug services; and

"Whereas, California's counties face increasing financial pressure from the substantial costs of providing services relating to the nation's drug epidemic; and

"Whereas, The needs and circumstances of each of California's 58 counties are separate and individual to each county; and

"Whereas, California's smaller counties are forced by current reporting requirements to dedicate a substantial portion of their drug treatment and drug abuse prevention budgets to administrative expenses relative to those reporting requirements; now, therefore be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California commends the United States Congress for its dedication to the prevention of the manufacturing, distribution, and use of illegal drugs in California and the nation through the creation of the Anti-Drug Abuse Act of 1988 (P.L. 100-690); and be it further

Resolved, That the Legislature of the State of California respectfully requests the President, the Congress of the United States, and the Department of Health and Human Services to make every effort to shorten the application process for grants from the Anti-Drug Abuse Act of 1988, to eliminate the specific provisions of the act which restrict the ability of counties to administer funds in the area of greatest need, and to ease the reporting requirements for those counties in which reporting expenses exceed 30 percent of any allocation; and be it further

Resolved, That the Legislature of the State of California respectfully urges the passage of legislation to allow states adequate time to secure federal funds provided by the Anti-Drug Abuse Act of 1988; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States to the Department of Health and Human Services, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-370. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"SENATE JOINT RESOLUTION No. 28

"Whereas, Some 36,000,000 Americans have one or more physical or mental disabilities and this number is increasing as the population as a whole is growing older; and

"Whereas, Discrimination against people with disabilities persists in employment, housing, public accommodations, education, transportation, communication, recreation, health services, institutionalization, voting, and access to public services; and

"Whereas, Discrimination and prejudice deny people with disabilities opportunities available to others in this country and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity; and

"Whereas, Factfinding hearings were held in local communities in all 50 states in 1988 to document incidents of discrimination against people with disabilities; and

"Whereas, There is a need to provide a prohibition of discrimination against persons with disabilities which is parallel in scope to coverage to that afforded to persons on the basis of race, sex, national origin, and religion; and

"Whereas, Discrimination has been well documented in numerous reports and studies, of which one significant publication—"Towards Independence"—was submitted to Congress in 1986 by the National Council on the Handicapped (NCH), an independent federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate and of whom five are Californians with distinguished records of advocacy on behalf of persons with disabilities; and

"Whereas, Subsequent to publishing these public policy recommendations, Senate Bill 2345 and House Resolution 4498 were introduced in the 100th Congress in a significant bipartisan effort to develop a comprehensive federal policy, which will ensure that Americans with disabilities have equality of opportunity, full participation, independent living, and economic self-sufficiency for these citizens; and

"Whereas, These bills which would provide clear, strong, consistent, uniform, and enforceable standards addressing discrimination against persons with disabilities were cosponsored by both United States Senators and 20 members of the House of Representatives from California; and

"Whereas, Other major issues pending before the 100th Congress prevented enactment of the "1988 Americans With Disabilities Act"; and

"Whereas, Similar bills were introduced in 1989 before the 101st Congress to address these critical issues affecting Americans with disabilities; and

"Whereas, Senate Bill 933 was introduced as the Americans with Disabilities Act of 1989 by United States Senator Tom Harkin, is cosponsored by 58 others Senators from both political parties including both Senators from California, and has received the support of President Bush; and

"Whereas, The same measure was introduced as House Resolution 2273 in the House of Representatives is cosponsored by 222 members from both political parties, and is awaiting hearing in four House committees; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact a clear, comprehensive national mandate for the elimination of discrimination against persons with disabilities; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and

Representative from California in the Congress of the United States."

POM-371. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"SENATE JOINT RESOLUTION No. 22

"Whereas, Chronic fatigue syndrome (also known as Epstein-Barr viral syndrome and chronic fatigue immune dysfunction syndrome) is a recently described illness for which there is no known cure; and

"Whereas, The disease can produce extreme debilitation and prevent patients with the illness from working and from undertaking normal daily activities; and

"Whereas, Persons with chronic fatigue syndrome are often misdiagnosed and receive inadequate medical treatment because there is so little known about the disease; and

"Whereas, Patients with chronic fatigue syndrome face difficulty in receiving social services and public assistance despite suffering from extreme debilitation; and

"Whereas, There is a great need for education and training of health professionals regarding chronic fatigue syndrome and for increased public awareness of this disease; and

"Whereas, The mode of transmission of the disease and its natural history are unknown at present; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature recognizes chronic fatigue syndrome as a serious health problem and directs the State Health and Welfare Agency to research the medical and social service components of chronic fatigue syndrome; and be it further

"Resolved, That the Legislature respectfully memorializes the President and the Congress of the United States to direct increased federal funding to research chronic fatigue syndrome and to develop effective treatments or a cure for this disease; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-372. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs:

SENATE JOINT RESOLUTION No. 20

"Whereas, The United States Department of Veterans Affairs, formerly the Veterans' Administration, has recently announced a severe reduction in medical care provided to veterans through the various hospitals and other medical facilities operated by the department; and

"Whereas, The department's medical center at Sepulveda, in the San Fernando Valley area of Los Angeles, has been, since its opening in 1955, one of the nation's superior facilities for the care and treatment of our veteran population; and

"Whereas, The department is required to operate under a nationwide budgetary shortfall of approximately one billion dollars for the present fiscal year, and this has resulted in a reduction of approximately 3.2 million dollars for its Sepulveda medical center; and

"Whereas, The inescapable fact of these budgetary constraints means that many essential services must be reduced and others eliminated entirely; and

"Whereas, Among its cutbacks and eliminations, the Sepulveda medical center has announced its intention to close its 30-bed inpatient Substance Abuse Program; and

"Whereas, This program has been essential to the recovery and well-being of a great many veterans, who are generally younger and victims of posttraumatic stress disorder caused by their service in Vietnam and, without this program, many of these veterans, who have sacrificed so much in the service of their country, will have no alternative to drug abuse and despair; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the President and Congress are respectfully memoralized to direct the Department of Veterans Affairs to reinstate the inpatient Substance Abuse Program at its Sepulveda medical facility; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Veterans Affairs."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1392: A bill to amend the Public Health Service Act to provide grants for the expansion or renovation of biomedical and behavioral research facilities, to establish a National Center for Medical Rehabilitation Research, to establish a senior biomedical scientific service, and for other purposes (Rept. No. 101-192).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1259: A bill to amend section 3143 of title 18, United States Code, to require the detention of any person found guilty of a violent offense pending sentence or appeal, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works:

Forrest J. Remick, of Pennsylvania, to be a member of the Nuclear Regulatory Commission for the term of 5 years expiring June 30, 1994; and

David C. Williams, of Illinois, to be inspector general, Nuclear Regulatory Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE:

S. 1846. A bill to make miscellaneous amendments to Indian laws, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. COATS:

S. 1847. A bill to amend section 1822 of the Anti-Drug Abuse Act of 1986 with respect to drug paraphernalia, and for other purposes; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself and Mr. FORD):

S. 1848. A bill to establish a research and demonstration program to promote cofiring of natural gas and coal in certain boilers and to provide Federal funding to carry out the program; to the Committee on Energy and National Resources.

By Mr. GARN (for himself, Mr. DOLE and Mr. COCHRAN):

S.J. Res. 223. Joint resolution to authorize and request the President to issue a proclamation designating May 1990 as "Neurofibromatosis Awareness Month"; to the Committee on the Judiciary.

By Mr. BYRD:

S.J. Res. 224. Joint resolution to designate the month of May 1990 as "National Trauma Awareness Month"; to the Committee on the Judiciary.

By Mr. BENTSEN:

S.J. Res. 225. Joint resolution waiving the printing on parchment of the enrollment of H.J. Res. 280; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 1846. A bill to make miscellaneous amendments to Indian laws, and for other purposes; to the Select Committee on Indian Affairs.

MISCELLANEOUS AMENDMENTS TO INDIAN LAWS

● Mr. INOUYE. Mr. President, today I am introducing a bill to make technical corrections to many Indian laws. In the 100th Congress, over 30 bills relating to Indian matters were enacted into law. This bill corrects several technical errors that appeared in legislation enacted last year and, in some cases, in earlier years but only recently discovered. In addition, the measure will provide certain changes in some laws that will fulfill the intent of the Congress for those the laws are intended to serve.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF A BILL TO MAKE MISCELLANEOUS AMENDMENTS TO INDIAN LAWS, AND FOR OTHER PURPOSES

Sec. 1. Amends P.L. 100-581, the 1988 Indian Reorganization Act (IRA) Amendments, an Act that made many technical and conforming changes to the IRA and to other Indian laws.

(a)(1) amends section 203 by changing the effective date of the section with respect to distribution of a Choctaw and Chickasaw judgment fund distribution.

(a)(2) amends section 212 which made certain changes to the Indian Self-Determination and Education Assistance Act by referencing the correct sections.

(a)(3) corrects a citation which incorrectly refers to an earlier amendment to the Act being amended rather than to that Act as amended.

(a) (4), (5), and (6) correct three references in the Southern California Indian Land Transfer Act (Title VII of P.L. 100-581).

(b) Amends the Act of July 28, 1955, that provides for the purchase, sale, and exchange of land for the Yakima Indian Reservation, by insuring that such lands are held in trust by the United States for the Yakima Indian Nation (see (a)(3) above).

Sec. 2. Both subsections (a) and (b) make technical corrections to P.L. 93-531, as amended by P.L. 100-472, the Indian Self-Determination and Education Assistance Act.

Sec. 3. (a) amends the 1934 Indian Reorganization Act to insure that the restrictions on alienation of lands apply to lands even though a tribe may have voted not to have the provisions of the act apply to them.

(b) makes a technical correction to section 13 of the 1934 Act.

(c) makes a technical correction to section 1 of the May 1, 1936 Act relating to application of the Indian Reorganization Act to Alaska.

Sec. 4. Makes a technical correction in a land description contained in P.L. 100-425, an Act establishing a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon.

Sec. 5. Amends the 1986 Indian Alcohol and Substance Abuse Prevention and Treatment Act as amended by P.L. 100-690, to make it clear that the amendments did not restrict authorities for financial assistance to tribal organizations for tribal facilities to only those tribal facilities leased to the Federal government.

Sec. 6. Amends the Public Health Service Act to permit the Secretary of Health and Human Services to make grants to Native Hawaiian health centers.

Sec. 7. Amends the Indian Health Care Improvement Act to provide post-doctoral training for psychologists who agree to serve in an Indian or Native Hawaiian health program. Authorizes an appropriation of $1 million for this program.

Sec. 8. Make amendments to the Indian Education Amendments of 1988, title V of P.L. 100-297.

(a) and (b) make conforming cross references to provisions of the Indian Self-Determination and Education Assistance Act which were redesignated by P.L. 100-472.

(c) Makes corrections to the section which sets aside funds for school board training and for school board expenses.

(d) Further clarifies the intent of the Congress, as expressed in certain language of the 1988 amendments, that audit exceptions based on eligibility criteria imposed by the Office of the Inspector General at the Department of Education are not to be subject to recovery, regardless of the date the audit exception notices were made.

(e) Appropriations for the White House Conference on Indian Education were authorized for fiscal years 1988, 1989, and 1990. Since funds have been appropriated in fiscal year 1990, the authorization dates are moved forward to fiscal years 1990, 1991 and 1992. Furthermore, the Executive Director of the National Advisory Council on Indian Education (NACIE) will serve on the working Task Force for the Conference and the Chairman of NACIE will serve on the Advisory Committee. The section also provides that salaries for employees appointed by the Secretaries of the Interior and Education will be paid out of departmental funds, not from funds appropriated for the Conference.

Sec. 9. Provides for a one-year extension of the grace period during which tribes in Wisconsin and Montana may continue to operate certain games that were designated as Class III games in P.L. 100-497, the National Indian Gaming Regulatory Act. Class III gaming requires compacts between tribes and states which in the case of tribes in both Montana and Wisconsin are close to completion but without this amendment the games are technically being operated illegally and are subject to closure by the U.S. Attorneys for the respective states.

Sec. 10. Makes clear that the persons eligible to vote on the amendment to the constitution of the Keweenaw Bay Indian Community shall not be restricted to that class of persons who were previously deemed eligible to vote on the constitution of the Community at the time of its adoption or last amendment, but shall extend to any person who has been deemed eligible to vote in the most recent Community elections of the Tribal Council, and any other persons certified by the Tribal Council to be a member of the Keweenaw Bay Indian Community and eligible to vote in an election for the Tribal Council.

Sec. 11. Makes two amendments to the White Earth Reservation Land Settlement Act. The first amendment provides for exemptions from consideration in determination of entitlement laws of the State of Minnesota relating to spousal allowance and maintenance payments. Such claims under such state laws were never contemplated within the settlement act. The second amendment authorizes the Secretary of the Interior to publish in the Federal Register any allotment or interest claims that are additional to the second list of such claims that have already been published. This latter amendment is needed because claims have been discovered subsequent to the publication of this final list and authorization for further publication is necessary to achieve the purposes of the Act.●

By Mr. BINGAMAN (for himself and Mr. FORD):

S. 1848. A bill to establish a research and demonstration program to promote cofiring of natural gas and coal in certain boilers and to provide Federal funding to carry out the program; to the Committee on Energy and Natural Resources.

NATURAL GAS COFIRING PROMOTION ACT

● Mr. BINGAMAN. Mr. President, I rise on behalf of Senator FORD and myself to introduce the Natural Gas Cofiring Promotion Act of 1989, legislation that will provide incentives for the demonstration and deployment of natural gas cofiring technologies.

Natural gas is our Nation's cleanest fossil fuel. Its combustion emits virtually no particulates, sulfur oxides, or reactive hydrocarbons, and it produces far lower emissions of nitrogen oxides per unit of energy than oil or coal. Natural gas produces only about half as much carbon dioxide per unit of energy as coal. What this adds up to is that natural gas can play an important part in achieving the emissions reductions that will be required when the Congress reauthorizes the Clean Air Act.

Cofiring refers to burning natural gas and coal together in the primary combustion zone of the same boiler. Basic natural gas cofiring involves the injection of natural gas with pulverized coal into the primary combustion zone of a boiler. Since natural gas contains virtually no sulfur or nitrogen, its substitution for a certain percentage of coal will naturally reduce emissions of sulfur dioxides—SO_2—and oxides of nitrogen—NO_x. These two air pollutants are the precursors of acid rain. Tests have indicated that cofiring is potentially one of the most cost-effective ways to reduce SO_2 and NO_x emissions.

Duquesne Light Co., Consolidated Natural Gas Co., and the Gas Research Institute recently completed a cofiring demonstration at Duquesne's Cheswick Power Plant, north of Pittsburgh. The demonstration program documented a 25-percent reduction of NO_x emissions using 6- to 10-percent natural gas cofiring. The program also documented greater than proportional reductions of SO_2 emissions under certain operating conditions. Clearly, this technology is worth pursuing.

In addition to SO_2 and NO_x emissions reductions, cofiring offers other advantages. First, cofiring offers a substantial number of operating flexibilities and efficiencies for electric utility and industrial coal plants and can help old plants operate at or near their rated capacities. Second, using natural gas in coal boilers can widen the range of coals that can be burned. Third, all of this can be accomplished at a very low capital cost and with virtually no technological risk.

In the context of the clean air debate, basic cofiring can be an important bridge technology. Basic cofiring promises to be a cost-effective means for electric utilities with older coal burning plants to achieve emissions reductions during the period preceding the commercial availability of innovative clean coal technologies. Without cofiring, electric utilities will be left with the choice between phasing out still useful old powerplants or making exceptionally large capital investments in retrofitting plants with scrubbers.

Furthermore, cofiring might actually help to preserve mining jobs by making it possible for utilities to continue to burn high-sulfur coal. In many instances, scrubbers may be impractical. Cofiring will make it possible for electric utilities to continue to use their existing coal supplier when a powerplant would otherwise be forced

to switch to low-sulfur coal, reduce output, or even close.

Advanced natural gas cofiring technologies promise to achieve even greater emissions reductions at low capital cost. These technologies are known as gas reburn technologies. This term refers to the injection of natural gas into the upper furnace region of a boiler to produce a fuel-rich zone that reduces NO_x. Tests indicate that 20-percent natural gas cofiring in a reburn application can reduce NO_x emissions by 60 percent and SO_2 emissions by 20 percent. When mated with sorbent injection technology, gas reburn can produce a 50-percent reduction in SO_2 emissions. A demonstration project using gas reburn with in-duct sorbent injection was selected for Federal cost sharing as part of the first round of the Department of Energy's Clean Coal Technology Program.

While basic cofiring technology is commercially available, further testing and full-scale demonstrations are needed. Some of the questions that remain to be answered include:

What is the optimal level of natural gas injection to achieve the maximum environmental and operational benefits of cofiring?

What influence might the use of different boiler types or different coal types have upon the effectiveness of cofiring?

In short, what is needed is a program to obtain critical operating data to define the optimum conditions for using cofiring to reduce emissions. This data will enable utilities and large industrial boiler operators to proceed with confidence in retrofitting their existing coal-fired boilers to accept cofiring.

The Natural Gas Cofiring Promotion Act of 1989 establishes just such a program. This legislation authorizes the Secretary of Energy to administer a 3-year, $27 million program for the research, development, and demonstration of cofiring technologies. These Federal funds would be available on a cost-sharing basis, whereby project sponsors would be required to provide no less than 50 percent of project funding from non-Federal sources.

The proposed level of funding should be enough to fund on a cost-sharing basis five separate cofiring demonstrations over a 3-year period. This could include three field evaluations of basic cofiring technology, one each in the three basic types of coal-fired boilers—tangential, wall-fired, and cyclone boilers—and two demonstrations of advanced natural gas reburn technologies.

A similar bill, H.R. 1706, the Cofiring Promotion Act of 1989, has been introduced in the House of Representatives by Congressman RALPH REGULA.

In closing, cofiring technology has demonstrated great promise. The legislation that Senator FORD and I have introduced today is a modest measure that will help to ensure that this technology will live up to its promise when the time comes for compliance with the anticipated reauthorization of the Clean Air Act. I urge my colleagues to join Senator FORD and me in sponsoring the Cofiring Promotion Act of 1989.

Mr. President, I ask unanimous consent that a section-by-section analysis and the text of the bill that I have introduced be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1848

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Natural Gas Cofiring Promotion Act of 1989".

SEC. 2. FINDINGS.

The Congress recognizes that—

(a) coal is an enormous domestic resource;

(b) certain harmful emissions from the combustion of coal will limit the percentage of the resource base which is deemed "usable";

(c) natural gas is an abundant domestic resource that has superior environmental qualities;

(d) certain technologies combine natural gas with coal in order to reduce sulfur dioxide (SO_2) and nitrogen oxide (NO_x) emissions, particulates and carbon dioxide (CO_2) emissions from the combustion of coal; and improves the operating efficiency of some boilers by reducing slagging;

(e) certain technologies offer the potential to extend the usable coal resource base in the United States; and

(f) the United States will continue to rely on domestic coal as a primary fuel in electric generation.

therefore, it is in the national interest to encourage the utilization of those natural gas technologies that reduce SO_2 and No_x emissions resulting from the combustion of coal.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(a) the term "cofiring" means the injection of natural gas and pulverized coal into the primary combustion zone of an electric utility or an industrial boiler and shall include gas reburn technologies.

(b) the term "gas reburn" means the injection of natural gas into the upper furnace region of an electric utility or an industrial boiler to produce a fuel-rich zone thereby reducing nitrogen oxide emissions.

(c) the term "Secretary" means the Secretary of Energy.

SEC. 4. RESEARCH AND DEMONSTRATION PROGRAM.

(a) The Secretary shall establish and carry out a program of research, development and demonstration of cofiring in utility and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(b) The Secretary shall provide financial assistance under this section to appropriate parties for the research, development and demonstration of cofiring technologies.

(c) The Secretary shall not finance more than 50 per centum of the total costs of a cofiring technology project selected for financial assistance under this section as estimated by the Secretary as of the date of award of financial assistance.

(d) There is authorized to be appropriated to the Secretary not more than $9 million for each of the fiscal years 1991, 1992 and 1993 for purposes of this Section.

SECTION-BY-SECTION ANALYSIS OF THE NATURAL GAS COFIRING PROMOTION ACT OF 1989

Section 1: Short Title—the short title of this legislation is the Natural Gas Cofiring Promotion Act of 1989.

Section 2: Findings—It is found that it is in the national interest to encourage the utilization of natural gas cofiring technologies that reduce sulfur dioxide (SO_2) and nitrogen oxide (NO_x) emissions resulting from the combustion of coal.

Section 3: Definitions—the terms "cofiring", "gas reburn" and "Secretary" are defined for purposes of the legislation.

Section 4: Research and Demonstration Programs

Subsection (a): The Secretary of Energy is authorized to carry out a research, development and demonstration program to determine optimal natural gas cofiring levels for environmental and operational benefits in electric utility and large industrial boilers.

Subsection (b): The Secretary of Energy shall provide financial assistance for the research, development and demonstration of cofiring technologies.

Subsection (c): The Secretary of Energy shall not finance more than 50 percent of the cost of a cofiring technology project selected for financial assistance.

Subsection (d): Not more than $9 million is authorized to be appropriated in each of fiscal years 1990, 1991 and 1992 for the purposes of this section.●

By Mr. GARN (for himself, Mr. DOLE, and Mr. COCHRAN):

S. J. Res. 223. Joint resolution to authorize and request the President to issue a proclamation designating May 1990 as "Neurofibromatosis Awareness Month"; to the Committee on the Judiciary.

NEUROFIBROMATOSIS AWARENESS MONTH

● Mr. GARN. Mr. President, I rise today to draw attention to a genetic disorder that very few people are aware of which at least 100,000 Americans currently have and which 1 in every 4,000 children are born with each year. The disorder is neurofibromatosis, or NF, and it affects all races and ethnic groups, and both sexes. It is a disorder which can cause severe disfigurement, loss of limbs, blindness, deafness, skeletal defects, learning disabilities, and malignancies. There is no cure yet, only hope for a future of understanding and expanded and continued research to find more effective treatment and ultimately a cure.

Today I am introducing a joint resolution to designate the month of May 1990 as "Neurofibromatosis Awareness Month", and I ask my colleagues to join with me in drawing national attention to this disfiguring and often progressive disorder.

NF is a neurological condition that can cause tumors to form on the nerves anywhere in the body at any

time. It affects people of all races and both sexes with varying manifestations and degrees of severity. While research indicates that NF can be inherited, 50 percent of the people with NF have no family history of this disorder. There are two types of NF. NF-1 attacks the peripheral nervous system and is characterized by dark patches on the skin and by tumors on the affected nerves. NF-2 attacks the central nervous system, usually damaging nerves crucial to hearing and balance. NF also leads to learning disabilities. Forty to sixty percent of individuals with NF experience learning disabilities.

A cure for NF has not yet been found and the only treatment at this point is to surgically remove the tumors when they appear and surgically correct resulting orthopedic problems and abnormalities. There is no known method of stopping the tumors from growing. Recent advances in NF research have, however, created an atmosphere of hope. The gene marker for NF-1 has been localized to chromosone 17 and for NF-2 the gene marker is probably on chromosone 22. In the near future this knowledge should provide the means for tracking the gene through a family, which in some cases will allow for prenatal diagnosis. The hope is eventually the genes for these disorders will be isolated and characterized. In addition to these genetic studies, research is being done to understand the mechanisms which control the growth of tumors in NF. Of course it is hoped that all this research will ultimately lead to a cure of the long neglected but far from rare medical problem.

The Neurofibromatosis Foundation has worked extremely hard over the years to bring this disorder to the attention of the general public and to seek support for further research and further education. We can help the Foundation in its unwavering efforts by designating May 1990 as "Neurofibromatosis Awareness Month."

I know all of you share my deep concern for the thousands of individuals afflicted with this disorder and their families and sympathize with them in not knowing what lies ahead, what course the disorder will take. They face a continuous struggle to overcome the psychological impact of the potential disfigurement and often times resulting isolation. It is for these reasons that I seek your support for this resolution.●

ADDITIONAL COSPONSORS

S. 566

At the request of Mr. KASTEN, his name was withdrawn as a cosponsor of S. 566, a bill to authorize a new corporation to support State and local strategies for achieving more affordable housing, to increase homeownership, and for other purposes.

S. 695

At the request of Mrs. KASSEBAUM, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 695, a bill to promote excellence in American education by recognizing and rewarding schools, teachers, and students for their outstanding achievements; enhancing parental choice; encouraging the study of science, mathematics, and engineering, and for other purposes.

S. 804

At the request of Mr. MITCHELL, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 804, a bill to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats.

S. 1006

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1006, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

S. 1170

At the request of Mr. INOUYE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1170, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants.

S. 1227

At the request of Mr. BINGAMAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1227, a bill to amend the Arms Control Act and the Export Administration Act of 1979 to restrict proliferation of missiles and missile equipment and technology.

S. 1277

At the request of Mr. FORD, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1310

At the request of Mr. SIMON, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Iowa [Mr. HARKIN], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 1310, a bill to eliminate illiteracy by the year 2000, to strengthen and coordinate literacy programs, and for other purposes.

S. 1355

At the request of Mr. BUMPERS, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1355, a bill to assist private industry in establishing a uniform residential energy efficiency rating system, and for other purposes.

S. 1365

At the request of Mr. EXON, his name was added as a cosponsor of S. 1365, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize grants to States for projects to demonstrate innovative alternatives to the incarceration of persons for nonviolent offenses and drug-related offenses.

S. 1430

At the request of Mr. KENNEDY, the names of the Senator from Washington [Mr. ADAMS], the Senator from Vermont [Mr. LEAHY], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1430, a bill to enhance national and community service, and for other purposes.

S. 1606

At the request of Mr. KENNEDY, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1606, a bill to amend the Public Health Service Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds, and for other purposes.

S. 1651

At the request of Mr. MCCAIN, the names of the Senator from Colorado [Mr. ARMSTRONG] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organization.

S. 1653

At the request of Mr. BAUCUS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1653, a bill to preserve the solvency of the railroad retirement system.

S. 1670

At the request of Mr. ARMSTRONG, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 1670, a bill to amend title XVIII of the Social Security Act to clarify the medically necessary procedures related to atrophic and weakened jaws are covered under such title, and for other purposes.

S. 1729

At the request of Mr. LEAHY, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 1729, a bill to amend the Commodity Exchange Act to reauthorize such act, and for other purposes.

S. 1791

At the request of Mr. ROCKEFELLER, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1791, a bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

S. 1809

At the request of Mr. ROCKEFELLER, the names of the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 1809, a bill entitled the "Medicare Physician Payment Reform Act of 1989."

SENATE JOINT RESOLUTION 195

At the request of Mr. D'AMATO, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Joint Resolution 195, a joint resolution proclaiming Christopher Columbus to be an honorary citizen of the United States.

AMENDMENT NO. 1054

At the request of Mr. BIDEN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of amendment No. 1054 proposed to S. 1582, a bill to amend the Foreign Assistance Act of 1961 to provide for certain forms of assistance to Poland to ensure the success of freedom and democracy in Poland.

AMENDMENTS SUBMITTED

INTELLIGENCE AUTHORIZATION ACT

COHEN AMENDMENT NO. 1081

Mr. COHEN proposed an amendment to the bill (S. 1324) to authorize appropriations for fiscal years 1990 and 1991 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, as follows:

On page 33, line 19, strike "when time is of the".

HOLLINGS (AND OTHERS) AMENDMENT NO. 1082

Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. MURKOWSKI, and Mr. CHAFEE) proposed an amendment to the bill S. 1324, supra, as follows:

Beginning with page 17, strike out line 17 and all that follows through line 4 on page 28.

On page 28, line 5, strike out "TITLE IX" and insert in lieu thereof "TITLE VIII".

On page 28, line 6, strike out " 'SEC. 901." and insert in lieu thereof "SEC. 801.".

On page 28, line 8, strike out " 'SEC. 902." and insert in lieu thereof "SEC. 802.".

On page 35, line 18, strike out "SEC. 903." and insert in lieu thereof "SEC. 803.".

On page 36, line 6, strike out "SEC. 904." and insert in lieu thereof "SEC. 804.".

COCHRAN AMENDMENT NO. 1083

(Ordered to lie on the table.)

Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 2710, a bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes, as follows:

At the appropriate place, insert the following new section:

SEC. . CONSTRUCTION OF GARMENT OR CRAFT ITEM.

(a) AMENDMENT TO FAIR LABOR STANDARDS ACT OF 1938.—Section 11(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(d)) is amended—

(1) by striking "The" and inserting "(1) Subject to paragraph (2), the "; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) In carrying out paragraph (1), the Secretary shall not make any regulation or order to prohibit an individual from—

"(i) constructing, at any location, any garment or craft item to be used for display purposes at premises that are used for retail sales of fabrics, patterns, notions, or related craft materials; and

"(ii) compensating, in whole or in part, an employee for constructing an item described in clause (i) through an exchange of the value of labor and the value of materials relating to such item as follows:

"(I) The value of labor used in constructing such item shall be determined by multiplying the reasonable amount of time needed to construct such item by the minimum wage rate established in section 6.

"(II) The value of materials use in constructing such item shall be the retail price at which the materials used to construct such item would have been sold to the general public at the premises described in clause (i).".

"(B) Any employer who is subject to this Act, in order to employ any individual to construct any display garment or craft item, shall—

"(i) compensate such individual according to the minimum wage rate established in section 6;

"(ii) ensure that such construction work is performed on a voluntary basis;

"(iii) allow such individual to retain the right of control over all aspects of the construction;

"(iv) allow such individual to retain ownership of the garment or craft item;

"(v) display the garment or craft item for not longer than a 12-week period; and

"(vi) ensure that such individual will be given the garment or craft item in good condition, reasonable wear and tear expected, promptly after the expiration of the display period.".

(b) REGULATIONS OR ORDER—On the date of enactment of this Act, any regulation or order of the Secretary of Labor made under section 11 of the Fair Labor Standards Act of 1938 (29 U.S.C. 210) promulgated prior to such date, that is not authorized by such section as amended by this Act, shall be of no force or effect.

Mr. COCHRAN. Mr. President, several years ago the Department of Labor decided that the voluntary sewing at home of model display garments by employees of retail fabric stores violated the Department's industrial homework restrictions. Enforcement of the decision caused fabric retailers to discontinue their model garment programs.

Under these programs, which were very popular with store employees, an employee received the pattern, fabric, and notions to use in sewing a display garment of the employee's choosing, and the employee became owner of the garment after a brief period for store display.

On November 10, 1988, in an attempt to address some of the concerns of those involved in home sewing who supported the model garment programs, the Department published rules to regulate the programs under the Fair Labor Standards Act. The five-point test and additional recordkeeping requirements imposed by the rules, however, did not meet concerns raised by retailers. As a result, retail fabric stores no longer offer model garment programs to their employees.

The amendment I am filing today, which I had planned to offer during consideration of the minimum wage bill, meets the concerns of retailers while protecting employees under the Fair Labor Standards Act. It will ensure that those employees who wish to volunteer to sew model garments at home will once again have the opportunity to do so. In addition to receiving the finished garment, however, the amendment requires that the employee receive payment at the minimum wage for hours worked at home in sewing it. The employer would be allowed to deduct only the value of the material, pattern, and notions provided to the employee.

Mr. President, by providing a means to account for and compensate employees for their work without requiring excessive recordkeeping, my amendment will encourage the renewal of model garment programs which have been popular with employees of retail fabric stores. I urge my colleagues to join me in supporting this amendment to the Fair Labor Standards Act.

COMMODITY EXCHANGE ACT AUTHORIZATION

GORTON AMENDMENT No. 1084

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill (S. 1729) to amend the Commodity Exchange Act to reauthorize such Act, and for other purposes, as follows:

At the end of title VIII, add the following new section:

SEC. . TRANSFER OF AUTHORITY FOR STOCK INDEX FUTURES.

Section 2(a) (7 U.S.C. 4a) is amended by adding at the end of the following new paragraph:

"(12) Notwithstanding any other provision of law, the functions of the Commodity Futures Trading Commission relating to the regulation of stock index futures under this Act are transferred to the Securities and Exchange Commission.".

INTELLIGENCE AUTHORIZATION ACT

WILSON (AND OTHERS) AMENDMENT NO. 1085

Mr. WILSON (for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. CRANSTON) proposed an amendment to the bill S. 1324, supra, as follows:

In preparing for submission to the Congress the Budget of the United States for Fiscal Year 1991, the President shall take into account and, to the greatest extent possible, incorporate into such budget the recommendations of the National Advisory Commission on Law Enforcement as established by section 6160 of the Anti-Drug Abuse Act of 1988.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

BENTSEN (AND OTHERS) AMENDMENT NO. 1086

Mr. BENTSEN (for himself, Mr. PACKWOOD, and Mr. KASTEN) proposed an amendment to the joint resolution (H.J. Res. 280) increasing the statutory limit on the public debt, as follows:

At the end of the joint resolution, insert:

TITLE II—REPEAL OF SECTION 89 NONDISCRIMINATION RULES

SEC. 201. AMENDMENT OF 1986 CODE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 202. REPEAL OF SECTION 89.

(a) IN GENERAL.—Section 89 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 89.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 203. REINSTATEMENT OF PRE-1986 ACT NONDISCRIMINATION RULES.

(a) IN GENERAL.—

(1) Each provision of law amended by subsection (b), (c), (d)(1), or (g) of section 1151 of the Tax Reform Act of 1986 is amended to read as if the amendments made by such subsection has not been enacted.

(2) Each provision of law amended by paragraph (22), (27), or (31) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as if the amendments made by such paragraph had not been enacted.

(3) Subparagraph (A) of section 125(g)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "subparagraph (B) of section 410(b)(1)" and inserting "section 410(b)(2)(A)(i)".

(4) Section 162(l)(2) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 401(a)(9) is amended—

(A) by striking "(as defined in section 89(i)(4))", and

(B) by adding at the end the following: "For purposes of this subparagraph, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".

(6)(A) Subparagraph (C) of section 414(n)(3) is amended by striking "89,".

(B) Paragraph (1) of section 414(r) is amended by striking "sections 89 and" and inserting "section".

(C) Paragraph (2) of section 414(t) is amended by striking "89,".

(7) Sections 3021(c) and 6070 of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed.

(b) EXCEPTIONS.—

(1)(A) Paragraph (7) of section 79(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(7) EXEMPTION FOR CHURCH PLANS.—

"(A) IN GENERAL.—This subsection shall not apply to a church plan maintained for church employees.

"(B) DEFINITIONS.—For purposes of subparagraph (A), the terms 'church plan' and 'church employee' have the meaning given such terms by paragraphs (1) and (3)(B) of section 414(e), respectively, except that—

"(i) section 414(e) shall be applied by substituting 'section 501(c)(3)' for 'section 501' each place it appears, and

"(ii) the term 'church employee' shall not include an employee of—

"(I) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training),

"(II) an organization described in section 170(b)(1)(A)(iii), and

"(III) an organization described in section 501(c)(3), the basis of the exemption for which is substantially similar to the basis for exemption of an organization described in subclause (II)."

(2) Paragraph (2) of section 125(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—

"(A) IN GENERAL.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(B) EXCEPTION FOR CASH AND DEFERRED ARRANGEMENTS.—Subparagraph (A) shall not apply to a profit-sharing or stock bonus plan or rural cooperative plan (within the meaning of section 401(k)(7)) which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

"(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Subparagraph (A) shall not apply to a plan maintained by an educational organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer pay as contributions for post-retirement group life insurance if—

"(i) all contributions for such insurance must be made before retirement, and

"(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 204. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) DEPENDENT CARE ASSISTANCE.—

(1) IN GENERAL.—Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by adding at the end thereof the following new sentence: "If any plan would qualify as a dependent care assistance program but for a failure to meet the requirements of this subsection, then, notwithstanding such failure, such plan shall be treated as a dependent care assistance program in the case of employees who are not highly compensated employees."

(2) EXCLUDED EMPLOYEES.—

(A) Section 129(d) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of paragraphs (3) and (8), there shall be excluded from consideration—

"(A) subject to rules similar to the rules of section 410(b)(4), employees who have not attained the age of 21 and completed 1 year of service (as defined in section 410(a)(3)), and

"(B) employees not included in a dependent care assistance program who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employees, if there is evidence that dependent care benefits were the subject of good faith bargaining between such employee representatives and such employer or employers."

(B) Section 129(d)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking the last sentence.

(3) DELAY IN APPLICATION OF BENEFITS TEST.—

(A) Paragraph (7) of section 129(d) (as in effect after the amendment made by paragraph (14) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988) is redesignated as paragraph (8).

(B) Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (8)".

(C) Section 129(e)(6) is amended by striking "(7)" and inserting "(8)".

(D) Section 129(d)(8) (as redesignated by subparagraph (A)) shall apply to plan years beginning after December 31, 1989.

(b) LINE OF BUSINESS TEST.—

(1) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or

before the date the Secretary of the Treasury or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C) of the Internal Revenue Code of 1986, an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof) of such Code.

(2) DEPENDENT CARE.—Paragraph (1) of section 414(r) is amended by striking "section 410(b)" and inserting "sections 129(d)(8) and 410(b)".

(c) GROUP-TERM LIFE INSURANCE.—Paragraph (7) of section 505(b) (relating to $200,000 compensation limit) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply in determining whether the requirements of section 79(d) are met."

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a)(1), (a)(2), and (b)(2) shall apply to years beginning after December 31, 1988.

(2) The amendments made by subsection (a)(3) shall apply to plan year beginning after December 31, 1989.

(3) The provisions of subsection (b)(1) shall apply to years beginning after December 31, 1986.

(4) The amendment made by subsection (c) shall take effect as if included in the amendment made by section 1011B(a)(32) of the Technical and Miscellaneous Revenue Act of 1988.

TITLE III—RESTORATION OF TRUST FUNDS

SEC. 301. RESTORATION OF TRUST FUNDS.

(a) IN GENERAL.—

(1) OBLIGATIONS ISSUED.—Except as provided in subsection (b), within 30 days after the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall issue to each Federal fund obligations under chapter 31 of title 31, United States Code, which bear such issue dates, interest rates, and maturity dates as are necessary to ensure that after such obligations are issued, the holdings of such Federal fund will replicate to the maximum extent practicable the obligations that would have been held by such Federal fund if any—

(A) failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of section 3101(b) of title 31, United States Code, had not occurred, and

(B) issurance of such obligations had occurred immediately on the expirations of the debt issuance suspension period.

(2) INTEREST CREDITED.—On the first normal interest payment date or within 30 days after the expiration of any debt issuance suspension period (whichever is later) to which this section applies, the Secretary of the Treasury shall credit to each Federal fund an amount determined by the Secretary, after taking into account the actions taken pursuant to paragraph (1), to be equal to the income lost by such Federal fund by reason of any failure to invest amounts in such Federal fund (or any disnvestment) resulting from the limitation of such section 3101(b), including any income lost between the expiration of the debt issuance suspension period and the date of the credit.

(b) INTEREST OF MARKET-BASED OBLIGATIONS.—With respect to any Federal fund which invests in market-based special obligations, on the expiration of a debt issuance suspension period to which this section applies, the Secretary of the Treasury shall immediately credit to such fund an amount equal to the interest that would have been earned by such fund during the debt issuance suspension period if the daily balance in such fund that the Secretary was unable to invest by reason of the limitation of such section 3101(b) had been invested each day during such period, overnight, in obligations under chapter 31 of title 31, United States Code, earning interest at a rate determined by the Secretary in accordance with the standard practice of the Department of the Treasury.

(c) CREDITED AMOUNTS TREATED AS INTEREST.—All amounts credited under this section shall be treated as interest on obligations issued under chapter 31 of title 31, United States Code, for all purposes of Federal law.

(d) DEFINITIONS.—For purposes of this section—

(1) DEBT ISSUANCE SUSPENSION PERIOD—The term "debt issuance suspension period" means the period beginning on or after October 31, 1989 and ending on the date of enactment of this Act.

(2) FEDERAL FUND.—The term "Federal fund" means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated; except that such term shall not include the Civil Service Retirement and Disability Fund or the Thrift Savings Fund of the Federal Employees' Retirement System.

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

Mr. PRYOR. Mr. President, I would like to announce for the public that the Special Committee on Aging has scheduled a hearing to examine how individuals, hospitals, States, and governments from various countries attempt to purchase prescription drugs at a fair and reasonable cost, and to determine how successful their efforts have been.

The hearing will be held on Thursday, November 16, 1989, beginning at 9:30 a.m. in room 628 of the Dirksen Senate Office Building in Washington, DC.

For further information, please contact Portia Mittelman, staff director at (202) 224-5364.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. FOWLER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 7, 1989, at 2 p.m., to hold a hearing on the nomination of Edwin L. Nelson, to be U.S. district judge for the Northern District of Alabama, G. Thomas Van Bebber, to be U.S. district judge for the District of Kansas, Susan Webber Wright, to be U.S. district judge for the Eastern and Western Districts of Arkansas, and John M. Walker, Jr., to be U.S. circuit judge for the second circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. FOWLER. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on November 7, 1989, at 2 p.m. to hold a hearing on the United States-Japan structural impediments [SII].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FOWLER. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, November 7, beginning at 9:45 a.m., to hold a business meeting to consider the nominations of David C. Williams, to be inspector general, Nuclear Regulatory Commission; and Forrest J. Remick, to be a member of the Nuclear Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. FOWLER. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, November 7, beginning at 10 a.m., to conduct a markup of title II, provisions relating to mobile sources, of S. 1630, the Clean Air Restoration and Standards Attainment Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

Mr. FOWLER. Mr. President, I ask unanimous consent that the Subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, November 7, at 9:30 a.m. to conduct hearings on S. 754 and S. 755, log export legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. FOWLER. Mr. President, I asked unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, November 7, 1989, at 2:30 p.m. to hold a hearing on the preparation for the 1990 farm bill: Reform of Public Law 480, "Food for Peace."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FOWLER. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate November 7, 1989, 9:30 a.m. for a continuation of October 26 hearing concerning the provisions relating to PURPA contained in subtitle B of title III of S. 324, the National Energy Policy Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FOWLER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, November 7, 1989, 10 a.m. for a hearing on strengthening the food safety laws.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FOWLER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, November 2, 1989, at 10 a.m. and Tuesday, November 7, 1989, at 10:30 a.m. to hold closed hearings on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FOWLER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, November 7, 1989, at 2 p.m. to consider the following nominations: Robert C. Duncan to be Director of Operational Test and Evaluation; Duane P. Andrews to be Assistant Secretary of Defense (command, control, communications and intelligence); Robert C. McCormack to be Assistant Secretary of the Navy for financial management; Michael B. Donley to be Assistant Secretary of the Air Force for Financial Management; Susan M. Livingston to be Assistant Secretary of the Army for Installations and Logistics; Ann C. Peterson to be general counsel of the Department of the Air Force; and Craig S. King to be general counsel of the Department of the Navy.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Promotion Programs Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SOYBEANS

Sec. 101. Short title.
Sec. 102. Findings and declaration of policy.
Sec. 103. Definitions.
Sec. 104. Issuance of orders.
Sec. 105. Required terms in orders.
Sec. 106. Referenda.
Sec. 107. Petition and review.
Sec. 108. Enforcement.
Sec. 109. Investigations and power to subpoena.
Sec. 110. Administrative provisions.
Sec. 111. Suspension or termination of orders.
Sec. 112. Authorization of appropriations.
Sec. 113. Regulations.

TITLE II—COTTON

Sec. 201. Short title.
Sec. 202. Legislative findings and declaration of policy.
Sec. 203. Alternative order.
Sec. 204. Referenda requirements for alternative order.
Sec. 205. Producer refunds; termination.
Sec. 206. Definitions.
Sec. 207. Conforming amendment.

TITLE III—PECANS

Sec. 301. Short title.
Sec. 302. Findings and declaration of policy.
Sec. 303. Definitions.
Sec. 304. Authority to issue orders.
Sec. 305. Notice and hearings.
Sec. 306. Findings and issuance of orders.
Sec. 307. Regulations.
Sec. 308. Required terms in orders.
Sec. 309. Permissive terms in orders.
Sec. 310. Assessments.
Sec. 311. Petition and review.
Sec. 312. Enforcement.
Sec. 313. Investigations and power to subpoena.
Sec. 314. Requirement of referendum.
Sec. 315. Suspension or termination of orders.
Sec. 316. Amendments.
Sec. 317. Authorization of appropriations.

TITLE IV—MUSHROOMS

Sec. 401. Short title.
Sec. 402. Findings and declaration of policy.
Sec. 403. Definitions
Sec. 404. Issuance of orders.
Sec. 405. Required terms in orders.
Sec. 406. Referenda.
Sec. 407. Petition and review.
Sec. 408. Enforcement.
Sec. 409. Investigations and power to subpoena.
Sec. 410. Savings provision.
Sec. 411. Suspension or termination of orders.
Sec. 412. Amendments.
Sec. 413. Authorization of appropriations.
Sec. 414. Regulations.

TITLE V—LIMES

Sec. 501. Short title.
Sec. 502. Findings, purposes, and limitations.
Sec. 503. Definitions.
Sec. 504. Issuance of orders.
Sec. 505. Required terms of orders.
Sec. 506. Permissive terms of orders.
Sec. 507. Petition and review.
Sec. 508. Enforcement.
Sec. 509. Investigations and power to subpoena.
Sec. 510. Initial referendum.
Sec. 511. Suspension and termination.
Sec. 512. Amendments.
Sec. 513. Authorization of appropriations.
Sec. 514. Regulations.

TITLE VI—POTATOES

Sec. 601. Short title.
Sec. 602. Findings and declaration of policy.
Sec. 603. Definitions.
Sec. 604. Authority to issue plans.
Sec. 605. Notice and hearings.
Sec. 606. Required terms in plans.
Sec. 607. Alternative plan.
Sec. 608. Assessments.
Sec. 609. Requirement of referendum.
Sec. 610. Amendment procedure.

TITLE VII—HONEY

Sec. 701. Short title.
Sec. 702. Definitions.
Sec. 703. Required terms of orders.
Sec. 704. Collection of assessments; refunds.
Sec. 705. Investigations and power to subpoena.
Sec. 706. Effective date.

TITLE VIII—VIDALIA ONIONS

Sec. 801. Vidalia onions.

TITLE IX—PROHIBITION ON DUTY DRAWBACK

Sec. 901. Prohibition on duty drawback.

TITLE I—SOYBEANS

SEC. 101. SHORT TITLE.

This title may be cited as the "Soybean Promotion, Research, and Consumer Information Act".

SEC. 102. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybeans and soybean products are vital to the welfare of soybean producers and those concerned with marketing, using, and producing soybeans and soybean products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, and consumer information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

(b) POLICY.—It, therefore, is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers

provided in this title, of an orderly procedure for developing, financing (through adequate assessments on all soybeans produced domestically), and implementing a program of promotion, research, and consumer information designed—

(1) to strengthen the position of the soybean industry in the marketplace;

(2) to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products; and

(3) to develop new markets and uses for soybeans and soybean products.

(c) CONSTRUCTION.—Nothing in this title may be construed to provide for the control of production or otherwise limit the right of individual producers to produce soybeans.

SEC. 103. DEFINITIONS.

As used in this title:

(1) BOARD.—The term "Board" means the United Soybean Board established under section 105(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) COMMITTEE.—The term "Committee" means the Soybean Program Coordinating Committee established under section 105(e).

(4) CONSUMER INFORMATION.—The term "consumer information" means information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of soybeans or soybean products.

(5) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(6) FIRST PURCHASER.—The term "first purchaser" means—

(A) except as provided in subparagraph (B), any person buying or otherwise acquiring after harvest from a producer soybeans produced by such producer; or

(B) in any case in which soybeans are pledged as collateral for a loan issued under any Federal price support loan program, the Commodity Credit Corporation.

(7) INDUSTRY INFORMATION.—The term "industry information" means information and programs that will lead to the development of new markets, new marketing strategies, increased efficiency, or activities to enhance the image of the soybean industry.

(8) MARKETING.—The term "marketing" means the sale or other disposition of soybeans or soybean products in any channel of commerce.

(9) NET MARKET PRICE.—The term "net market price" means—

(A) except as provided in subparagraph (B), the sales price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors; or

(B) for soybeans pledged as collateral for a loan issued under any Federal price support loan program, the principal amount of the loan.

(10) ORDER.—The term "order" means an order issued under section 104.

(11) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(12) PRODUCER.—The term "producer" means any person engaged in the growing of soybeans who owns, or who shares the ownership and risk of loss of, such soybeans.

(13) PROMOTION.—The term "promotion" means—

(A) any action (including paid advertising, technical assistance, and trade servicing activities) to enhance the image or desirability of soybeans or soybean products in domestic and foreign markets; and

(B) any activity designed to communicate to consumers, importers, processors, wholesalers, retailers, government officials, or others information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products.

(14) QUALIFIED STATE SOYBEAN BOARD.—

(A) IN GENERAL.—The term "qualified State soybean board" means a State soybean promotion entity that is authorized by State law.

(B) NO STATE SOYBEAN PROMOTION ENTITY.—If no such entity exists in a State, such term means a soybean producer-governed entity that—

(i) is organized and operating within a State;

(ii) receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information programs;

(iii) meets the criteria established by the Board relating to the qualifications of such entity to perform duties under the order, as determined by the Board; and

(iv) is recognized by the Board as the soybean promotion and research entity within the State.

(15) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products, including any research activity designed to identify and analyze barriers to export sales of soybean and soybean products.

(16) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(17) SOYBEAN PRODUCTS.—The term "soybean products" means products produced in whole or in part from soybeans or soybean byproducts.

(18) SOYBEANS.—The term "soybeans" means all varieties of Glycine max or Glycine soya.

(19) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 104. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 102(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this title applicable to producers and first purchasers of soybeans. Any such order shall be national in scope. Not more than one order shall be in effect under this title at any one time.

(b) PROCEDURE.—

(1) PROPOSALS.—The Secretary may propose the issuance of an order under this title, or an association of soybean producers or any other person that will be affected by this title may request the issuance of, and submit a proposal for, such an order.

(2) NOTICE AND PUBLIC COMMENT.—Not later than 30 days after the receipt of a request and proposal by an interested person for an order, or whenever the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given (as provided in paragraph (2)), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this title.

(4) EFFECTIVE DATE.—Such order shall be issued and become effective not later than 120 days following publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend any order issued under this section, consistent with the requirements of section 110(b).

SEC. 105. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order issued under this title shall contain the terms and conditions prescribed in this section.

(b) UNITED SOYBEAN BOARD.—

(1) ESTABLISHMENT.—The order shall provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board shall be soybean producers appointed by the Secretary, on a geographic basis, from State units, as provided in paragraphs (2) and (3). The cumulative number of seats on the Board shall be the total number of seats to which all the units are entitled.

(2) SEATS.—The Secretary shall establish seats on the Board and appoint soybean producers to such seats from nominations received, as follows:

(A) STATE UNITS.—Except as provided in subparagraph (B), each whole State shall be considered as a unit.

(B) COMBINED UNITS.—A State in which average annual soybean production is less than 3,000,000 bushels shall be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean production of less than 3,000,000 bushels shall be grouped with other States with average annual soybean production of less than 3,000,000 bushels into a combined unit, in a manner prescribed in the order, and each combined unit shall group geographically contiguous States together. To the extent practicable, each combined unit shall have an average annual production of soybeans of at least 3,000,000 bushels.

(C) NUMBER OF SEATS PER UNIT.—Subject to subparagraph (F), each unit, as established under subparagraph (A) or (B)—

(i) if its average annual soybean production is less than 15,000,000 bushels, shall be entitled to one seat on the Board;

(ii) if its average annual soybean production is 15,000,000 bushels or more but less than 70,000,000 bushels, shall be entitled to two seats on the Board;

(iii) if its average annual soybean production is 70,000,000 bushels or more but less than 200,000,000 bushels, shall be entitled to three seats on the Board; and

(iv) if its average annual soybean production is 200,000,000 bushels or more, shall be entitled to four seats on the Board.

(D) DETERMINATION OF AVERAGE ANNUAL SOYBEAN PRODUCTION.—For purposes of this section, the Secretary shall determine average annual soybean production applicable to a crop year by using the average of the 5 previous crops of soybeans, excluding the crop in which production was the highest and the crop in which production was the lowest.

(E) REAPPORTIONMENT OF SEATS.—At the end of each 3-year period beginning with the 3-year period starting on the effective date of the order, the Secretary, if necessary, shall adjust any unit to conform with subparagraphs (A) and (B). If the Secretary

makes such an adjustment, the Secretary shall reapportion the seats on the board to conform with subparagraph (C). If payment of refunds following the initial referendum conducted under section 106(a) is authorized by producers, in making such adjustments, the Secretary shall exclude, from each State's annual soybean production, those bushels of soybeans on which such refunds are paid.

(F) ADJUSTMENT OF LEVELS OF PRODUCTION.—At the end of each 3-year period beginning with the 3-year period starting on the effective date of the order, the Board may recommend to the Secretary, to the extent the Board determines appropriate, changes in the levels of production used in subparagraphs (A), (B), and (C) to determine per-unit representation on the Board. The Secretary may amend the order to make such changes in levels of production used to determine per-unit representation. Any such amendment to the order shall not be subject to a referendum of producers. A unit shall not lose, under this subparagraph, Board seats to which the unit is entitled at the time the order is initially issued unless its average annual production, as determined under subparagraph (D), declines below the levels required for representation, as specified in subparagraph (A), (B), or (C).

(3) NOMINATIONS.—

(A) IN GENERAL.—The Secretary shall appoint soybean producers to seats established under paragraph (2) from nominations submitted by each unit. Each unit shall submit to the Secretary at least two nominations for each appointment to the Board to which the unit is entitled, as determined under paragraph (2).

(B) METHOD FOR OBTAINING NOMINATIONS.—

(i) INITIALLY-ESTABLISHED BOARD.—

(I) STATE UNITS.—The Secretary shall solicit nominations for each seat on the initially-established Board to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such board meets the criteria of section 103(14). If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(II) COMBINED UNITS.—The Secretary shall solicit nominations for each seat on the initially-established Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that submits to the Secretary satisfactory evidence that such board meets the criteria of section 103(14).

(ii) SUBSEQUENT APPOINTMENT.—

(I) STATE UNITS.—Nominations for each subsequent appointment to a seat on the Board to which a State unit is entitled shall be made by the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(II) COMBINED UNITS.—The Secretary shall solicit nominations for each subsequent appointment to the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

(iii) REJECTION.—The Secretary may reject any nomination submitted by a unit under this paragraph. If there are insufficient nominations from which to appoint members to the Board as a result of the Secretary rejecting the nominations submitted by a unit, the unit shall submit additional nominations, as provided in this paragraph.

(4) TERMS.—Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially- established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than three 3-year terms.

(5) COMPENSATION.—Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(6) TEMPORARY APPOINTMENTS.—

(A) APPOINTMENT.—Notwithstanding the foregoing provisions of this subsection, the Secretary, under procedures established by the Secretary, shall appoint to the initially-established Board up to three temporary members to serve in addition to the members appointed as otherwise provided in this subsection, as the Secretary determines appropriate for transition purposes under the criteria set out in subparagraph (B). Each such temporary member shall be appointed for a single term not to exceed 3 years.

(B) REPRESENTATION OF CERTAIN STATES.—The Secretary shall make temporary appointments to the initially-established Board to ensure, to the extent practicable, that each State with a State soybean board that, prior to the date of enactment of this Act, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts has representation on the initially-established Board that reflects the relative contributions of such State to the national soybean promotion and research effort.

(7) MEETINGS.—The order shall provide for at least one meeting of the Board annually and specify the circumstances under which additional special meetings of the Board may be held.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board and shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) to elect members of the Board to serve on the Committee;

(4) to approve, modify, or reject budgets submitted by the Committee;

(5) to contract with appropriate persons to implement plans or projects;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order;

(8) to provide the Secretary with prior notice of meetings of the Board at such time as to permit the Secretary to attend such meetings; and

(9) to provide at least annually a report to producers accounting for funds and describing programs implemented.

(d) BOARD VOTING PROCEDURES.—

(1) IN GENERAL.—The order shall establish procedures for the conduct of voting by the Board, as provided in this subsection.

(2) NUMBER OF VOTES PER MEMBER.—Each member of the Board shall be entitled, in any vote conducted by the Board, to cast the number of votes determined under the following rules:

(A) IN GENERAL.—Each member shall be entitled to cast one vote unless a rollcall vote is conducted. On a rollcall vote, each member shall be entitled to cast such additional votes as are assigned to the member under subparagraph (B).

(B) ADDITIONAL VOTES.—The additional votes that each member is assigned for rollcall votes shall be computed as follows:

(i) ASSESSMENT LEVEL.—Except as provided in clause (ii), each unit shall be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit (net of any refunds made under subsection (j)(2)), on the average, during each of the 3 previous fiscal years of the Board.

(ii) PRODUCTION LEVEL.—

(I) FIRST FISCAL YEAR.—During the first fiscal year of the Board, each unit shall be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the 3 immediately preceding crop years.

(II) SUBSEQUENT ADJUSTMENTS.—The order shall provide appropriate adjustments of the procedure for the allotment of votes under clause (i) to apply to allotments of votes during the second and third fiscal years of the Board.

(iii) DIVISION OF VOTES WITHIN UNITS.—A unit's total votes under clause (i) or (ii) shall be divided equally among all the members representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's vote.

(C) PROCEDURAL CHANGES.—On or after the end of the 3-year period beginning on the effective date of the order, the Board may recommend to the Secretary changes in the voting procedures of the Board and the Secretary may amend the order to make such changes. Such changes shall not be subject to a referendum of producers.

(3) MOTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a motion shall carry if approved by a simple majority of members of the Board casting votes.

(B) ROLLCALL VOTES.—Any member of the Board may call for a rollcall vote on any motion. Except as otherwise provided in the bylaws adopted by the Board, whenever a rollcall vote is conducted, the motion shall carry only if it is approved by a simple majority of all votes cast and a simple majority of all units voting (with the vote of each unit determined by a simple majority of all votes cast by members in that unit).

(4) COMMITTEE VOTES.—In any vote conducted by a committee of the Board, each member of the committee shall have one vote.

(5) PROXIES.—A member may not cast votes by proxy.

(e) SOYBEAN PROGRAM COORDINATING COMMITTEE.—

(1) ESTABLISHMENT.—The order shall provide for the establishment of a Soybean Program Coordinating Committee to assist in the administration of the order, as provided in this subsection.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of—

(i) the Chairperson and Treasurer of the Board;

(ii) eight additional members of the Board elected by the Board; and

(iii) nine producers elected by the national, nonprofit soybean producer-governed or-

ganization that conducts activities on behalf of State soybean boards and that, on the date of the enactment of this Act, conducts activities to promote soybeans and soybean products as a cooperator with the Foreign Agricultural Service of the Department.

(B) CERTIFICATION.—To serve on the Committee, each producer elected by the national, nonprofit soybean producer-governed organization shall be certified by the Secretary as a producer who is duly elected by such organization as a representative to the Committee.

(3) TERMS.—Terms of appointment of the Committee shall be for 1 year. No person may serve on the Committee for more than 6 consecutive terms.

(4) COMPENSATION.—Committee members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing duties for the Committee.

(5) CHAIRPERSON.—The Chairperson of the Board shall serve as Chairperson of the Committee.

(6) QUORUM.—Fifteen members of the Committee shall constitute a quorum.

(f) POWERS AND DUTIES OF THE COMMITTEE.—The order shall define the powers and duties of the Committee, which shall include the following:

(1) BUDGETS.—The Committee shall develop and submit to the Board, for approval, budgets on a fiscal year basis of anticipated expenses and disbursements, including probable costs of advertising and promotion, research, consumer information, and industry information projects. The Board shall review and approve, reject, modify, or substitute a budget proposed by the Committee, and submit budgets to the Secretary for the Secretary's approval. Each such budget shall be approved or disapproved by the Secretary within 45 days after the Secretary receives the budget.

(2) PLANS AND PROJECTS.—The Committee shall review, or on its own initiative develop, plans or projects for promotion, research, consumer information, and industry information activities, to be paid for with funds received by the Board. Each such plan or project shall be presented to the Board for approval. The Board may develop plans and projects on its own initiative.

(3) VOTING.—A recommendation to be presented to the Board relating to proposed budgets or proposed plans and projects shall require the concurring vote of at least 13 members present at a meeting of the Committee.

(g) ADMINISTRATION.—

(1) EXPENSES; STAFF.—The order shall provide that the Board shall be responsible for all expenses of the Board and Committee, and that the Board and Committee shall use staff and facilities of established national, nonprofit producer-governed organizations that represent soybean producers to prevent duplication and inefficient use of funds. Staff of such organizations shall not receive compensation directly from the Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of the Board and Committee.

(2) LIMIT ON ADMINISTRATIVE COSTS.—The order shall provide that costs incurred by the Board in administering the order (not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5 percent of the projected level of revenues to the Board (net of any refunds made under subsection (j)(2)) for that fiscal year.

(h) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure coordination and efficient use of funds, the order shall provide that, except as provided in paragraph (4), the Board shall enter into contracts or agreements for the implementation and carrying out of the activities authorized by this title with established national, nonprofit producer-governed organizations that represent soybean producers (including the organization electing representatives to the Committee under subsection (e)(2)), and for the payment thereof with funds received by the Board under the order.

(2) LIMITATION ON AGREEMENTS.—To enhance coordination, the Board, when entering into contracts or agreements for the implementation and carrying out of activities under this title, shall ensure that all plans or projects implemented within each program area defined in paragraphs (4), (7), (13), and (15) of section 403, are implemented by a single national, nonprofit producer-governed organization that represents soybean producers, and there shall not be in force, at any one time, more than one contract or agreement for implementation of plans and projects for each general program area.

(3) REQUIREMENTS.—Any contract entered into under this subsection shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall disclose estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all transactions, account for funds received and expended, make periodic reports to the Board of the activities it has conducted, and make such other reports as the Board or the Secretary shall require.

(4) COMMUNICATIONS TO PRODUCERS.—The order shall provide that—

(A) the Board may enter into contracts or agreements with qualified State soybean boards that apply therefor and agree to the terms thereof, for the implementation of plans or projects to coordinate and facilitate communications to producers regarding the conduct of activities under the order and for the payment of the costs of the plans or projects with funds received by the Board under the order; and

(B) to facilitate the funding of plans or projects described in subparagraph (A), if the order does not authorize the payment of refunds, the Board shall allocate for such funding each year an amount not less than the cumulative amount of all producer contributions to qualified State soybean boards during the previous year that the State boards were unable to retain, and forwarded to the Board, because producers received refunds on such State contributions, as determined by the Board based on information submitted by the qualified State soybean boards.

(5) APPORTIONMENT OF FUNDS TO QUALIFIED STATE SOYBEAN BOARDS.—

(A) IN GENERAL.—In using the funds allocated each year under paragraph (4)(B) for payment of the costs of contracts or agreements described in paragraph (4)(A), subject to subparagraph (B), the Board shall apportion such allocated funds among States so that each qualified State soybean board receives an amount equal to the amount of such allocated funds attributable to refunds in the State during the previous year, as determined by the Board based on information submitted by the qualified State soybean boards.

(B) EXCEPTION.—The Board shall not be required to apportion funds to a qualified State soybean board, as provided in subparagraph (A), if—

(i) the qualified State soybean board has not entered into a contract or agreement with the Board for the implementation of plans or projects described in paragraph (4)(A); or

(ii) the amount to be apportioned to the qualified State soybean board is less than the cost to the Board of overseeing the use of such apportionment during the year involved, and the contract or agreement shall so provide.

(i) BOOKS AND RECORDS OF THE BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(j) ASSESSMENTS.—

(1) IN GENERAL.—

(A) FIRST PURCHASERS.—

(i) COLLECTION.—The order shall provide that each first purchaser of soybeans from a producer shall collect, in the manner prescribed by the order, an assessment from the producer and remit the assessment to the Board. The Board shall use qualified State soybean boards to collect such assessments in States in which such boards operate.

(ii) RATE.—The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser.

(iii) ONE ASSESSMENT.—No more than one assessment shall be made on any soybeans.

(B) DIRECT PROCESSING.—The order shall provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for in subparagraph (A)(ii).

(2) REFUNDS.—

(A) REFUNDS PRIOR TO INITIAL REFERENDUM.—The order shall provide that, during the period prior to the approval of the continuation of the initial order in the referendum provided for in section 106(a), as determined by the Secretary, each producer shall have the right to demand and receive from the Board a refund of any assessment collected from such producer if—

(i) such producer is responsible for paying the assessment; and

(ii) such producer does not support the programs, projects, or activities implemented under the order.

(B) ADMINISTRATION.—Subject to subparagraph (C)(i), any demand by a producer for a refund of an assessment under this paragraph shall be made in accordance with regulations, on a form, and within the time

period (not to exceed 90 days) prescribed by the Board.

(C) SUBMISSION OF REFUND DEMANDS.—

(i) IN GENERAL.—In each State in which a qualified State soybean board collects assessments, as provided in paragraph (1)(A)(i), producers shall submit demands for refunds of assessments to the qualified State soybean board. Such board shall provide notice to producers, in a manner prescribed by the Board, of their right to such refunds, and shall process such submissions under procedures established by State law applicable to refunds of assessments on soybeans, except that if no refunds are allowed under State law, such submissions shall be processed under procedures established under this paragraph.

(ii) NO QUALIFIED STATE SOYBEAN BOARD.—In each State in which there is no qualified State soybean board, producers shall submit demands for refunds of assessments directly to the Board.

(D) TIME LIMIT FOR MAKING REFUND.—Subject to subparagraph (C)(i), each refund to a producer of an assessment under this paragraph shall be made as soon as practicable, but in no event more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid the assessment for which refund is demanded.

(E) ORDER NOT FAVORED.—If the Secretary determines that producers do not favor the continuation of the order in the referendum provided for in section 106(a), refunds shall be made under this paragraph on collected assessments until such collections are terminated, as provided in section 106(a).

(F) REFUNDS AFTER THE INITIAL REFERENDUM.—

(i) IN GENERAL.—The order shall contain provisions relating to refunds after the approval of the order in the initial referendum under section 106(a) as required in this subparagraph.

(ii) AVAILABILITY.—Effective for the period beginning on the date the Secretary determines the result of the initial referendum under section 106(a) and ending on a date (not later than 18 months thereafter) established by the Secretary, the Board shall make refunds available to soybean producers at the end of such period from escrowed funds, as provided for in clause (vii). Such refunds shall be made available, under the procedures specified in subparagraphs (A) through (D) to the extent not inconsistent with this subparagraph, to producers who have requested refunds during such period.

(iii) POLL.—Not later than the end of the period provided for in clause (ii), the Secretary shall conduct a poll of soybean producers, using the procedures provided for in section 106, to determine if producers support the conduct of a referendum on the continuance of the payment of refunds under the order.

(iv) REFERENDUM.—If the Secretary determines, based on the poll conducted under clause (iii), that the conduct of a referendum is supported by at least 10 percent of the producers (not in excess of one-fifth of which may be producers in any one State) who, during a representative period, have been engaged in the production of soybeans, the Secretary shall conduct a referendum among all such producers for the purpose of determining whether such producers favor the continuation of the payment of refunds under the order. Such referendum shall be conducted, under the procedures provided for in section 106, not later than 1 year after the Secretary determines, based on the poll, that the referendum is required.

(v) CONTINUED REFUNDS.—If the Secretary conducts a referendum under clause (iv), the Board shall continue to make refunds available to producers as provided for in clause (ii) during the period prior to the conduct of the referendum, which shall be payable at the end of the period from the escrowed funds, as provided in clause (vii).

(vi) CONTINUATION OR CESSATION OF REFUNDS.—If the Secretary determines, in the referendum conducted under clause (iv), that continuation of the payment of refunds is favored by a majority of the producers voting in such referendum, the Board shall continue to make refunds available to producers as provided for in clause (ii) for each 1-year period that follows until such time as soybean producers approve an amendment to the order to eliminate such refunds. Such refunds shall be payable at the end of each such 1-year period from escrowed funds, as provided in clause (vii). If the Secretary determines in the referendum that continuation of such refunds is not favored by a majority of producers voting in the referendum, the right to such refunds shall cease immediately.

(vii) ESCROW ACCOUNTS.—

(I) ESTABLISHMENT.—The Board and each qualified State soybean board that collects assessments shall establish escrow accounts to be used to pay refunds under clauses (ii) and, if necessary, clauses (v) and (vi).

(II) SEPARATE ACCOUNTS.—Each qualified State soybean board that collects assessments shall establish separate escrow accounts for refunds under each such clause for State funds. The Board shall establish separate escrow accounts for refunds under clauses (ii), (v), and (vi), respectively.

(III) DEPOSITS.—The Board shall deposit into its escrow accounts under clauses (ii), (v), and (vi) 10 percent of the total assessment received by the Board during the time period involved. Each qualified State soybean board shall deposit into each of its escrow accounts 10 percent of collected assessment funds retained by the State board under this subsection during the applicable time period.

(IV) REFUNDS MADE FROM ACCOUNT.—With respect to refunds handled by the Board, refunds requested by producers under clause (ii) or (if refunds are available) under clause (v) or (vi) during the time period involved shall be made from the Board's escrow account applicable to that clause. With respect to refunds handled by qualified State soybean boards, refunds requested by producers under clause (ii) or (if refunds are available) under clause (v) or (vi) during the refund period involved shall be made first from the escrow account under such clause from State funds, and only after such escrow account is exhausted, from the escrow accounts under such clause from Board funds. If the funds in a State board's account for the clause involved, are not sufficient to honor all requests for refunds made by producers from that State during the time period involved, the Board shall pay such refund requests to such producers. If the funds in the Board's escrow accounts are insufficient to honor all requests, the Board and the State shall prorate the amount of such refunds from both accounts among all producers requesting refunds. In applying this clause to refunds under clause (vi), each annual refund period shall be treated separately.

(3) USE.—The assessments (net of any refunds under paragraph (2)) shall be used for—

(A) payment of the expenses incurred in implementation and administration of the order;

(B) the establishment of a reasonable reserve; and

(C) reimbursement to the Secretary of administrative costs incurred by the Secretary to implement and administer the order, other than the referendum conducted under paragraph (2)(F)(iv).

(4) CREDIT FOR CONTRIBUTIONS TO QUALIFIED STATE SOYBEAN BOARDS.—A producer who can establish that such producer is contributing to a qualified State soybean board shall receive credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. For purposes of this title, there shall be only one qualified State soybean board in each State. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced, except that the Board, with the approval of the Secretary, may authorize exceptions to such State-of-origin rule as are appropriate to ensure effective coordination of collection procedures among States.

(k) LOAN COLLATERAL.—

(1) IN GENERAL.—The order may establish a procedure that authorizes the reimbursement of assessments paid by producers if soybeans, pledged as collateral for a loan issued under any Federal price support loan program, are redeemed. In such case, the first purchaser of redeemed soybeans shall be responsible for collecting all assessments due and remitting the assessments in the manner prescribed in the order.

(2) SINGLE PROCESS.—The procedures in the order for the collection of assessments on soybeans that are pledged as collateral for loans issued under any Federal price support program shall ensure, to the extent practicable, that such soybeans are subject to a single process of assessment under the order.

(l) CREDIT FOR CERTAIN COSTS TO STATES.—The order shall provide that the Board may provide a credit to each qualified State soybean board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such fees by the qualified State soybean board is required by State law enacted prior to the date of enactment of this Act, except that the Board may not provide a credit to any qualified State soybean board of an amount that exceeds 2.5 percent of the amount of assessments collected and remitted to the Board under subsection (j).

(m) MINIMUM LEVEL OF ASSESSMENTS TO STATES.—

(1) PRE-REFERENDUM PERIOD.—The order shall contain provisions to ensure that, during the period prior to the conduct of the referendum provided for in section 106(a), each qualified State soybean board receives annually an amount of funds equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988 (excluding the year in which such collections were the highest and the year in which such collections were the lowest), as determined by the Secretary and subject to paragraph (3).

(2) POST-REFERENDUM PERIOD.—The order shall provide, effective after the conduct of the referendum provided for in section

106(a), subject to paragraph (3), that the Board annually shall provide a credit to each qualified State soybean board of an amount by which—

(A) the amount equal to 1 cent times the average number of bushels of soybeans produced in the State during each of the preceding 5 years (excluding the year in which the production is the highest and the year in which the production is the lowest); exceeds

(B) the total amount collected by the qualified State soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under subsection (j).

(3) LIMITATION.—The total amount of credits under paragraph (1) or (2) and assessments retained by the qualified State soybean board for a year may not exceed the total amount of assessments collected in that State under subsection (j) (net of any refunds made under paragraph (2) of subsection (j)) in that year.

(n) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the order, pending their disbursement, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) INCOME.—Income from any such investment may be used for any purpose for which the invested funds may be used.

(o) PROHIBITION ON USE OF FUNDS TO INFLUENCE GOVERNMENTAL ACTION.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or governmental action or policy.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) the development and recommendation of amendments to the order; or

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order.

(p) BOOKS AND RECORDS.—

(1) RECORDKEEPING REQUIREMENT.—

(A) IN GENERAL.—The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order, except that the order shall exempt small producers processing soybeans of their own production who are not required to pay assessments under the order from such recordkeeping and reporting requirements.

(B) DEFINITION OF SMALL PRODUCER.—The order shall define the term "small producer" as such term is used in subparagraph (A).

(2) USE OF INFORMATION.—

(A) IN GENERAL.—Information obtained under paragraph (1) shall be made available to the Secretary as is appropriate for the administration or enforcement of this title, or any order or regulation issued under this title.

(B) OTHER INFORMATION.—In addition, the Secretary shall authorize the use under this title of information regarding first purchasers that is accumulated under a law or regulation other than this title or regulations under this title.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department and agents of the Board.

(B) PERMITTED USES.—Information obtained under the authority of this title shall be made available to any agency or officer of the Federal Government for—

(i) the implementation of this title;

(ii) any investigatory or enforcement action necessary for the implementation of this title; or

(iii) any civil or criminal law enforcement activity if the activity is authorized by law.

(C) OTHER EXCEPTIONS.—Nothing in subparagraph (A) may be deemed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person.

(4) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than 1 year, or both, and if an agent of the Board or an officer or employee of the Department, shall be removed from office.

(q) INCIDENTAL TERMS AND CONDITIONS.—The order shall provide such terms and conditions, not inconsistent with this title, as are necessary to effectuate the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (j).

SEC. 106. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REQUIREMENT.—Not earlier than 18 months or later than 36 months following issuance of an order under section 104, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans for the purpose of ascertaining whether the order then in effect shall be continued.

(2) APPROVAL OF ORDER.—Such order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(3) DISAPPROVAL OF ORDER.—If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within 6 months after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—

(A) REQUIREMENT.—After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) REPRESENTATIVE GROUP OF PRODUCERS.—An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth may be producers in any one State, as determined by the Secretary.

(C) ELIGIBLE PRODUCERS.—Each additional referendum shall be conducted among all producers who, during a representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order.

(2) DISAPPROVAL OF ORDER.—If the Secretary determines, in any referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

(3) OPPORTUNITY TO REQUEST ADDITIONAL REFERENDA.—

(A) IN GENERAL.—To facilitate the periodic determination as to whether producers favor the conduct of an additional referendum under this subsection, the Secretary, 5 years after the conduct of a referendum under this section and every 5 years thereafter, shall provide soybean producers an opportunity to request an additional referendum, as provided in this paragraph.

(B) METHOD OF MAKING REQUEST.—

(i) IN-PERSON REQUESTS.—To carry out subparagraph (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices on a date established by the Secretary, or as provided in clause (ii).

(ii) MAIL-IN REQUESTS.—In lieu of making such requests in person, producers may make requests by mail. Mail-in requests shall be postmarked no later than the date established under clause (i) for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) NOTIFICATIONS.—The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the date established under subparagraph (B)(i) for in-person requests, of the producers' opportunity to request the additional referendum. Such notifications shall explain the producers' rights to, and the procedure specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers may act to request the additional referendum under this paragraph. The Secretary shall take such other actions as the Secretary determines are necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order.

(D) ACTION BY SECRETARY.—As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary shall determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum, as are required under paragraph (1).

(E) TIME LIMIT.—Any additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of such referendum.

(c) PROCEDURES.—

(1) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required under subsections (a) and (b), except for the salaries of Government employees.

(2) DATE.—Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be provided on request. Absentee mail ballots shall be furnished by the Secretary on request made in person, by mail, or by telephone.

SEC. 107. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to any order issued under this title may file with the Secretary a petition—

(A) stating that such order, a provision of such order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling.

(2) PROCESS.—Service of process in such proceeding may be conducted on the Secretary by delivering a copy of the complaint to the Secretary under such rules or regulations as the Secretary considers necessary to facilitate such services of process.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

SEC. 108. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this title.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this title shall be construed as requiring the Secretary to refer to the Attorney General a violation of this title if the Secretary believes that the administration and enforcement of the order or regulation would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of any order or regulation issued by the Secretary under this title, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this title shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 109. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this title or to determine whether any person subject to this title has engaged or is about to engage in any act that constitutes or will constitute a violation of this title, or of any order or regulation issued under this title.

(b) POWER TO SUBPOENA AND TAKE OATHS AND AFFIRMATIONS.—For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

SEC. 110. ADMINISTRATIVE PROVISIONS.

(a) PREEMPTION OF OTHER PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this title may be construed to preempt or supersede any other program relating to soybean promotion, research, or consumer information organized and operated under the laws of the United States or any State.

(2) EXCEPTIONS.—

(A) REFERENDA ON QUALIFIED STATE SOYBEAN BOARDS.—In order to ensure the proper administration of this title, no State may conduct a referendum relating to the continuation or termination of a qualified State soybean board during the period beginning on the date an order is issued under section 104 and ending 18 months after the referendum on such order is conducted under section 106(a), except that such prohibition shall not be construed to apply to a State referendum on approval of modifications to a State soybean promotion program that do not involve termination of the qualified State soybean board.

(B) ASSESSMENTS COLLECTED BY QUALIFIED STATE SOYBEAN BOARDS.—In order to ensure adequate funding of the operations of qualified State soybean boards under this title, whenever an order is in effect under this title, no State law or regulation that limits the rate of assessment that the qualified State soybean board in the State may collect from producers on soybeans produced in such State, or that has the effect of limiting such rate, may be applied to prohibit such State board from collecting, and ex-

pending for authorized purposes, assessments from producers of up to the full amount of the credit authorized for producer contributions to qualified State soybean boards under section 105(j)(4).

(b) AMENDMENTS TO ORDERS.—Except as otherwise provided in sections 105(d)(2)(B) and 105(j)(2)(F), the provisions of this title applicable to orders shall be applicable to amendments to orders.

SEC. 111. SUSPENSION OR TERMINATION OF ORDERS.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or provision.

SEC. 112. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this title.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provision of any order issued under this title.

SEC. 113. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this title, including regulations relating to the assessment of late payment charges.

TITLE II—COTTON

SEC. 201. SHORT TITLE.

This title may be cited as the "Cotton Research and Promotion Act Amendments of 1989".

SEC. 202. LEGISLATIVE FINDINGS AND DECLARATION OF POLICY.

Section 2 of the Cotton Research and Promotion Act (7 U.S.C. 2101) is amended—

(1) in the first paragraph, by striking the fourth and sixth sentences; and

(2) in the third paragraph—

(A) by striking "harvested" and inserting "marketed"; and

(B) by inserting "and on imports of cotton" after "United States" the first place it appears.

SEC. 203. ALTERNATIVE ORDER.

(a) IN GENERAL.—The Cotton Research and Promotion Act is amended by inserting after section 7 (7 U.S.C. 2106) the following new section:

"SEC. 7A. ALTERNATIVE ORDER.

"(a) IN GENERAL.—

"(1) REQUIREMENT TO ISSUE PLAN.—Notwithstanding the provisions of sections 4, 5, 7, and 8 that are inconsistent with this section, the Secretary shall publish the proposed alternative order required by this section, within 60 days of the receipt of a request from a producer or producer organization to implement the Cotton Research and Promotion Act Amendments of 1989.

"(2) TERMS AND CONDITIONS.—Any alternative order issued pursuant to this section shall—

"(A) contain the terms and conditions prescribed in this section; and

"(B) terminate the authority of the Cotton Board to accept and process applications for refunds under section 11.

"(3) RELATIONSHIP TO OTHER ORDER.—

"(A) PROVISIONS.—In issuing the alternative order under this section, the Secretary shall incorporate by reference the provisions of the cotton research and promotion order in effect pursuant to this Act that are not inconsistent with the amendments made pursuant to the alternative order.

"(B) BOARD MEMBERS.—Each member of the Cotton Board that is sitting on the effective date of the alternative order shall continue to serve the full term of appointment of the member pursuant to section 7.

"(b) COTTON BOARD.—

"(1) ESTABLISHMENT.—The alternative order shall provide for the establishment and selection by the Secretary of a Cotton Board.

"(2) POWERS AND DUTIES.—The alternative order shall define the powers and duties of the Cotton Board, which shall include only the powers—

"(A) to administer such order in accordance with the terms and provisions of such order;

"(B) to make rules and regulations to effectuate the terms and provisions of such order, including the designation of the person responsible for collecting assessments;

"(C) to receive, investigate, and report to the Secretary complaints of violations of such order; and

"(D) to recommend to the Secretary amendments to such order.

"(3) COMPOSITION.—

"(A) IN GENERAL.—The alternative order shall provide that the Cotton Board shall be composed of—

"(i) representatives of cotton producers selected by the Secretary from nominations submitted by—

"(I) eligible producer organizations within a cotton-producing State, as certified pursuant to section 14; or

"(II) if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible producer organizations, from nominations made by producers in the manner authorized by the Secretary,

so that the representation of cotton producers on the Board for each cotton-producing State shall reflect, to the extent practicable, the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States; and

"(ii) an appropriate number of representatives, as established by the Secretary, of persons who import cotton into the United States on which assessments are paid under this Act.

"(B) COTTON PRODUCERS.—Each cotton-producing State shall be entitled to at least one representative on the Cotton Board.

"(C) IMPORTERS.—Importer representatives under subparagraph (A)(ii) shall be appointed by the Secretary after consultation with importer organizations certified by the Secretary.

"(D) CONSUMER ADVISORS.—The Secretary may appoint a number of consumer advisors to the Cotton Board not to exceed 15 percent of the membership of the Cotton Board. The Cotton Board shall reimburse the consumer advisors for expenses incurred in attending meetings of the Board in the same manner as the Cotton Board members.

"(c) PLANS AND PROJECTS.—The alternative order shall provide that the Cotton Board shall, subject to subsection (g), develop and submit to the Secretary for the approval of the Secretary any advertising or sales promotion or research and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

"(d) BUDGETS.—The alternative order shall provide that the Cotton Board shall, subject to subsection (g), submit to the Secretary for the approval of the Secretary, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising and promotion and research and development projects.

"(e) ASSESSMENTS.—

"(1) IN GENERAL.—The alternative order shall provide that—

"(A) the producer or other person for whom the cotton is being handled shall pay to the handler of cotton designated by the Cotton Board pursuant to regulations issued under the order;

"(B) such handler of cotton shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board; and

"(C) each importer shall pay to the Cotton Board on imports of cotton,

an assessment in the manner as prescribed by the order, on the basis of bales of cotton handled, for such expenses and expenditures. The provisions of subparagraphs (A) and (B) shall not apply to cottonseed and the products derived from cotton and its seed.

"(2) RESERVE.—The alternative order shall include provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified by the Secretary, and for reimbursing the Secretary—

"(A) for expenses not to exceed $300,000 incurred by the Secretary in connection with any referendum conducted under section 8; and

"(B) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after the alternative order or amendment to the alternative order has been issued and made effective.

"(3) REIMBURSEMENT OF OTHER AGENCIES.—There shall also be included in the alternative order a provision for reimbursing any agency of Government that assists in administering the import provisions of the order for a reasonable amount of the expenses incurred by that agency in connection with providing such assistance.

"(4) DIFFERENT CLASSES.—To facilitate the collection and payment of such assessments, the Cotton Board may designate different handlers or importers, or classes of handlers or importers, to recognize differences in marketing practices or procedures utilized in any State or area, except that no more than one such assessment shall be made on any bale of cotton, unless specifically authorized by this subsection.

"(5) RATE.—The rate of assessment prescribed by the alternative order shall be $1 per bale of cotton handled, plus a supplemental amount not to exceed 1 percent of the value of cotton as determined by the Cotton Board and the Secretary.

"(6) REFERENDA.—No authority under this Act may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this Act.

"(7) SUITS.—

"(A) IN GENERAL.—The Secretary may maintain a suit against any person subject to the alternative order for the collection of such assessment.

"(B) JURISDICTION.—The several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

"(C) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, the remedies provided for elsewhere in this Act or now or hereafter existing at law or in equity.

"(8) COTTON IMPORTS.—Notwithstanding the foregoing provisions of this subsection—

"(A) the rate of assessment on imports of cotton shall be determined in the same manner as the rate of assessment described in the preceding provisions of this subsection;

"(B) the value to be placed on cotton imports for the purpose of determining the assessment on such imports shall be established by the Secretary in a fair and equitable manner; and

"(C) the assessment on such imports shall be reduced by a percentage equivalent to the proportion that exports of cotton that were reentered into the United States in the form of cotton and products derived from such cotton bears to the total exports of cotton of all exporters in the most recent year for which statistics are available.

"(f) BOOKS AND RECORDS.—The alternative order shall provide that the Cotton Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as the Secretary may prescribe, and for appropriate accounting by the Cotton Board with respect to the receipt and disbursement of all funds entrusted to the Cotton Board.

"(g) CONTRACTS AND AGREEMENTS.—

"(1) IN GENERAL.—The alternative order shall provide that the Cotton Board, with the approval of the Secretary, shall enter into contracts or agreements for—

"(A) the development and carrying out of the activities authorized under the order issued pursuant to subsections (a) and (b) of section 6; and

"(B) the payment of the costs thereof with funds collected pursuant to the order, with an organization or association described in paragraph (2).

"(2) ELIGIBLE CONTRACTING ORGANIZATIONS.—For purposes of this subsection, an organization or association is eligible to enter into a contract if the governing body of the organization or association consists of cotton producers selected by the cotton producer organizations certified by the Secretary under section 14, in such manner that the producers of each cotton-producing State will, to the extent practicable, have representation on the governing body of such organization or association in the proportion that the cotton marketed by the producers of such State bears to the total cotton marketed by the producers of all cotton-producing States.

"(3) PROJECTS; BUDGETS.—Any such contract or agreement shall provide that such contracting organization or association shall develop and submit annually to the Cotton Board, for the purpose of review and making recommendations to the Secretary, a program of research, advertizing, and sales promotion projects, together with a budget, or budgets, that shall show the estimated cost to be incurred for such projects, and that any such projects shall become effective on approval by the Secretary.

"(4) RECORDS.—Any such contract or agreement shall also provide that the contracting organization shall keep accurate records of all its transactions and make an annual report to the Cotton Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

"(h) INFLUENCING GOVERNMENTAL ACTION.—The alternative order shall provide that no funds collected by the Cotton Board under the alternative order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (b)(2)(D).".

(b) CONFORMING AMENDMENT.—The matter preceding subsection (a) of section 6 of the Cotton Research and Promotion Act (7 U.S.C. 2105(a)) is amended by inserting after "section 7" the following "or 7A".

SEC. 204. REFERENDA REQUIREMENTS FOR ALTERNATIVE ORDER.

Section 8 of the Cotton Research and Promotion Act (7 U.S.C. 2107) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsections:

"(b)(1) Not later than 120 days after publication of the proposed alternative order pursuant to section 7A(a)(1) and after notice and opportunity for public comment, the Secretary shall issue an alternative order in accordance with section 7A. Such alternative order shall become effective as provided in this subsection.

"(2) Notwithstanding the foregoing provisions of this section, the Secretary shall, within a period not to exceed 8 months after the date of enactment of this subsection, conduct a referendum among persons who have been cotton producers during a representative period, as determined by the Secretary, for the purpose of ascertaining if a majority of those voting approve the proposed alternative order under section 7A. The Secretary shall promptly publish the results of the referendum.

"(3) If the alternative order is approved in the referendum, within a period not to exceed 90 days from publication of the results of the referendum, the Secretary shall publish regulations implementing the alternative order provided for in section 7A. Such alternative order shall be effective on an interim basis beginning with the date of publication and shall continue in effect pending the results of another referendum and issuance of a final regulation as provided in subsection (c).

"(c)(1) If the producers specified in subsection (b) approve the alternative order, the Secretary shall conduct another referendum no sooner than 15 but no later than 30 months after the date of the referendum conducted under subsection (b) to determine whether cotton producers and importers of cotton favor the alternative order issued under section 7A.

"(2) Such referendum shall be conducted among—

"(A) persons who have been cotton producers during a representative period, as determined by the Secretary; and

"(B) persons who are importers of cotton and who, during a 12-month period ending no later than 90 days prior to the conduct of the referendum under this section, paid an assessment on imports of cotton.

"(3) The Secretary shall promptly publish the results of the referendum.

"(4) If the alternative order is disapproved by a majority of cotton producers and a majority of importers of cotton voting in the referendum, the Secretary shall issue an order terminating the alternative order.

"(5) If the alternative order is not disapproved, within a period not to exceed 90 days from publication of the results of the referendum, the Secretary shall publish final regulations implementing the alternative order provided for in this subsection.

"(6)(A) The Board shall place in an escrow account an amount equal to the product obtained by multiplying by 10 percent the assessments collected from producers and importers during the period prior to announcement of the results of the referendum provided for in this subsection. The funds shall be held in the escrow account until the results of the referendum are published by the Secretary.

"(B) If the alternative order is approved, the funds in the escrow account shall be released on publication of the final regulations by the Secretary to be used for the purposes of this Act.

"(C)(i) If the alternative order is not approved in such referendum, the funds in the escrow account shall be refunded to the producers and importers who have requested a refund under clause (ii), after a deduction for a proportionate amount of the expenses incurred by the Secretary and the agency of Government that assists in administering the import provisions of the order as described in section 7A.

"(ii) A producer or importer shall have the right to receive a refund—

"(I) if demand is made personally by the producer or importer, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event later than 90 days after the date of publication of the results of the referendum; and

"(II) on submission of proof satisfactory to the Board that the person or importer paid the assessment for which refund is sought and did not collect the assessment from another person.

"(iii) Any funds not refunded to producers and importers shall be released to be used to carry out this Act.

"(d)(1) If a referendum is conducted under subsection (c), once every 5 years after the date of such referendum, the Secretary shall provide producers and importers an opportunity to request a referendum to determine—

"(A) whether the producers and importers favor continuation of the alternative order to the order required under subsection (b)(1), if such alternative order is then in effect; or

"(B) if such an alternative order is not in effect, whether they favor approval of such alternative order.

"(2) Producers and importers may sign up to request such a referendum at the county office of the Agricultural Stabilization and Conservation Service or the office of the county extension agent or by mailing a request on such date to the Administrator, Agricultural Marketing Service, Washington, District of Columbia.

"(3) The signup date shall be publicized by the Secretary and the Cotton Board at least 60 days prior to such date.

"(4) The Secretary shall conduct such a referendum within 12 months after such signup date if a referendum is requested by 10 percent or more of the number of cotton producers and importers voting in the most recent referendum, except that not more than 20 percent of the persons requesting the referendum may be producers from any one State or importers of cotton.

"(5) The alternative order shall not be effective if the alternative order is disapproved by a majority of cotton producers and a majority of importers of cotton voting in the referendum.

"(e) The disapproval of any alternative order or of an amendment to an alternative order issued under this Act shall not operate to invalidate the order in effect on the date of the referendum.".

SEC. 205. PRODUCER REFUNDS; TERMINATION.

Section 11 of the Cotton Research and Promotion Act (7 U.S.C. 2110) is amended—

(1) by striking "Notwithstanding" and inserting "(a) Except as provided in subsection (b) and notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) The authority of the Cotton Board to accept and process applications for refunds under this section shall terminate if the alternative order issued under section 7A is approved in the referendum provided for under section 8. Such authority shall terminate on the date the Secretary publishes the results of such referendum. Such authority shall be reinstated if the alternative order should be disapproved in any subsequent referendum.".

SEC. 206. DEFINITIONS.

Section 17 of the Cotton Research and Promotion Act (7 U.S.C. 2116) is amended—

(1) by striking subsection (c) and inserting the following new subsection:

"(c)(1) Except as provided in paragraph (2), the term 'cotton' means—

"(A) all upland cotton harvested in the United States, and, except as used in sections 7(e) and subparagraphs (A) and (B) of section 7A(e)(1), includes cottonseed of such cotton and the products derived from such cotton and its seed; and

"(B) imports of upland cotton, including the upland cotton content of the products derived from upland cotton (other than industrial products as defined by the Secretary).

"(2) The term 'cotton' shall not include—

"(A) any entry of imported cotton by an importer that has a value or weight less than a de minimis quantity, established in accordance with regulations issued by the Secretary; and

"(B) any entry by a person during a year if—

"(i) the total cotton imported by that person during the preceding year, including the upland cotton content of products derived from upland cotton (other than industrial products), was less than a de minimis quantity, established in accordance with regulations issued by the Secretary; and

"(ii) such person certifies that the person intends to import less than such de minimis quantity in the current year, except that the term 'cotton' shall include all imports of cotton by such person during the current year if that person actually imports more than the de minimis quantity in the current year.

"(3) The de minimis quantities established under subparagraphs (A) and (B) of paragraph (2) shall be such as to minimize the burden in administering the assessment provisions of this Act but still provide for the maximum participation of imports of cotton in such provisions.";

(2) in subsection (d), by inserting after "cottonseed" the following: "or, for the purposes of sections 3, 6(c), and 13, any person who imports cotton (including cotton described in subparagraphs (A) and (B) of subsection (c)(2),"; and

(3) by adding at the end the following new subsection:

"(h)(1) The term 'importer' means any person who enters, or withdraws from a warehouse, cotton for consumption in the customs territory of the United States.

"(2) The term 'import' means any such entry.".

SEC. 207. CONFORMING AMENDMENT.

Section 7(e) of the Cotton Research and Promotion Act (7 U.S.C. 2106(e)) is amended by adding at the end the following new sentence: "The provisions of this subsection shall not apply to cottonseed and the products derived from cotton and its seed.".

TITLE III—PECANS

SEC. 301. SHORT TITLE.

This title may be cited as the "Pecan Promotion and Research Act of 1989".

SEC. 302. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) pecans are a native American nut that is an important food, and is a valuable part of the human diet;

(2) the production of pecans plays a significant role in the economy of the United States in that pecans are produced by thousands of pecan producers, shelled and processed by numerous shellers and processors, and pecans produced in the United States are consumed by millions of people throughout the United States and foreign countries;

(3) pecans must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of pecans;

(4) the maintenance and expansion of existing markets and development of new markets for pecans are vital to the welfare of pecan producers and those concerned with marketing, using, and producing pecans, as well as to the general economy of the United States, and necessary to ensure the ready availability and efficient marketing of pecans;

(5) there exist established State organizations conducting pecan promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of pecans;

(6) the cooperative development, financing, and implementation of a coordinated national program of pecan promotion, research, and consumer information are necessary to maintain and expand existing markets and develop new markets for pecans; and

(7) pecans move in interstate and foreign commerce, and pecans that do not move in such channels of commerce and directly burden or affect interstate commerce in pecans.

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this title, of an orderly procedure for developing, financing (through adequate assessments on pecans produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, and consumer information designed to—

(1) strengthen the pecan industry's position in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for pecans; and

(3) develop new markets and uses for pecans.

(c) CONSTRUCTION.—Nothing in this title may be construed to provide for the control of production or otherwise limit the right of individual producers to produce pecans.

SEC. 303. DEFINITIONS.

As used in this title:

(1) BOARD.—The term "Board" means the Pecan Marketing Board established in section 308(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) CONFLICT OF INTEREST.—The term "conflict of interest" means a situation in which a member or director has a direct or indirect interest or investment in an entity, corporation, business, or a company dealing directly or indirectly with the Board.

(4) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(5) DISTRICT.—The term "district" means the four geographic subdivisions of the United States that are approximately equal in the production volume of pecans, as determined by the Board and approved by the Secretary.

(6) FIRST HANDLER.—The term "first handler" means the first person who buys or takes possession of pecans from a grower. If a grower markets pecans directly, such grower shall be considered the first handler.

(7) GROWER.—The term "grower" means any person engaged in a proprietary capacity in the production and sale of pecans.

(8) GROWER-SHELLER.—The term "grower-sheller" means a person who—

(A) shells pecans, or has pecans shelled for such person, in the continental United States; and

(B) grows 50 percent or more of the pecans such person shells or has shelled for such person.

(9) HANDLE.—The term "handle" means receipt of inshell pecans by a sheller or first handler, including pecans produced by such sheller or first handler.

(10) IMPORTER.—The term "importer" means any person who imports pecans from a country outside of the United States for sale in the United States.

(11) INSHELL PECAN.—The term "inshell pecan" means a pecan that has a shell that has not been removed.

(12) MARKETING.—The term "marketing" means the sale or other disposition of pecans in any channel of commerce.

(13) MARKETING YEAR.—The term "marketing year" means the 12-month period from October 1 through September 30 or such other period of the time as may be recommended by the Board and established by the Secretary.

(14) MEMBER.—The term "member" means a member of the Board.

(15) PECAN.—The term "pecan" means the nut of the pecan tree carya illinoensis, both inshell or shelled equivalent, grown within the United States, or imported into the United States, that are introduced into the channels of commerce.

(16) PERSON.—The term "person" means an individual, partnership, corporation, association, or any other business unit.

(17) PROMOTION.—The term "promotion" means any action taken by the Board, pursuant to this title, to present a favorable image of pecans to the public with the express intent of improving the competitive position of pecans in the marketplace and stimulating sales of pecans, including paid advertising.

(18) RESEARCH.—The term "research" means any type of test, study, or analysis designed to advance the image, desirability, usage, marketability, production, product development, or quality of pecans.

(19) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(20) SHELL.—The term "shell" means to remove the shell from an inshell pecan.

(21) SHELLED PECAN.—The term "shelled pecan" means a pecan kernel, or portion of a kernel, after the pecan shell has been removed.

(22) SHELLER.—The term "sheller" means any person who—

(A) shells pecans or has pecans shelled for the account of such person; and

(B) purchases more than 50 percent of the pecans such person shells or has shelled for such account.

(23) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 304. AUTHORITY TO ISSUE ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 302(b), the Secretary shall, subject to this title, issue and from time to time amend, orders applicable to growers, shellers, first handlers, and importers of pecans. Any such order shall be national in scope. Not more than one order shall be in effect under this title at any one time.

SEC. 305. NOTICE AND HEARINGS.

(a) ISSUANCE OF AN ORDER.—The Secretary may propose the issuance of an order under this title, or an association of pecan growers or grower-shellers or any other person that will be affected by this title may request the issuance of, and submit a proposal for, such an order.

(b) PUBLICATION OF ORDER.—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

SEC. 306. FINDINGS AND ISSUANCE OF ORDERS.

(a) IN GENERAL.—After notice and opportunity for public comment are given, as provided in section 305, the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this title.

(b) EFFECTIVE DATE.—Such order shall be issued and become effective not later than 120 days following publication of the proposed order.

SEC. 307. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this title.

SEC. 308. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order issued under this title shall contain the terms and conditions prescribed in this section.

(b) PECAN MARKETING BOARD.—

(1) ESTABLISHMENT.—The order shall establish a Pecan Marketing Board to carry out the program referred to in section 302(b).

(2) SERVICE TO ENTIRE INDUSTRY.—The Board shall carry out programs and projects that will provide maximum benefit to the pecan industry in all parts of the United States and only generically promote pecans.

(3) BOARD MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) eight members who are growers;

(B) four members who are shellers;

(C) one member who is a first handler and who derives over 50 percent of the member's income from buying and selling pecans;

(D) one member who is an importer of pecans into the United States, nominated by the Board;

(E) one member representing the general public, appointed by the Board; and

(F) at the option of the Board, a consultant or advisor representing a pecan producing country other than the United States who may be chosen to attend Board functions as a nonvoting member.

(4) REPRESENTATION OF MEMBERS.—

(A) GROWER REPRESENTATIVES.—Of the growers referred to in paragraph (3)(A), two members shall be from each of the four districts in the United States.

(B) SHELLER REPRESENTATIVES.—Of the shellers referred to in paragraph (3)(B)—

(i) two members shall be from east of the Mississippi River; and

(ii) two members shall be from west of the Mississippi River.

(C) FIRST HANDLER REPRESENTATIVE.—The first handler representative on the Board referred to in paragraph (3)(C) shall be from one of the districts.

(D) IMPORTER REPRESENTATIVE.—The importer representative on the Board referred to in paragraph (3)(D) shall be an individual who imports pecans to the United States.

(E) PUBLIC REPRESENTATIVE.—The public representative on the Board referred to in paragraph (3)(E) shall not be a grower, sheller, or first handler.

(5) ALTERNATE FOR EACH MEMBER.—Each member on the Board shall have an alternate with the same qualifications as the member such alternate would replace.

(6) LIMITATION ON STATE RESIDENCE.—There shall be no more than one member from each State in each district, except that the State of Georgia may have two growers from such State representing the district that it is in.

(7) MODIFYING BOARD MEMBERSHIP.—In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall—

(A) review the geographic distribution of pecan production throughout the United States and the volume of imported pecans; and

(B) if warranted, recommend to the Secretary that the Secretary reapportion a district in order to reflect the geographic distribution of pecan production and the quantity of imported pecans.

(8) NOMINATION PROCESS FOR MEMBERS.—

(A) PUBLICITY.—The Board shall give reasonable publicity to the industry for nomination of persons interested in being elected to Board membership.

(B) ELIGIBILITY.—Any person referred to in paragraph (3) shall be eligible to vote at the nomination meetings for members who represent that class of members.

(C) NOMINATION OF MEMBERS.—Each person referred to in subparagraph (B) shall have one vote. The candidates receiving the largest number of votes cast for Board positions for each class of members shall be the nominees for such positions.

(D) CERTIFICATION.—The nominations made under subparagraph (C) shall be certified by the Board to the Secretary no later than May 1 preceding the commencement of the term of office for Board membership, as established in paragraph (9).

(E) APPOINTMENT.—The Secretary shall appoint the Board members certified under subparagraph (D).

(F) INITIAL BOARD.—For the purpose of obtaining nominations for the initial Board, the Secretary shall perform the functions of the Board under this paragraph.

(9) TERMS OF OFFICE.—

(A) IN GENERAL.—The members of the Board shall serve for terms of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) TERMINATION OF TERMS.—Each member shall continue to serve until a successor is appointed by the Secretary.

(C) LIMITATION ON TERMS.—No member shall serve more than 2 consecutive 3-year terms as a member.

(D) VACANCIES.—

(i) SUBMITTING NOMINATIONS.—To fill any vacancy created by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall request that nominations for a successor for such vacancy be submitted by the Board.

(ii) LACK OF NOMINATIONS.—If no eligible nomination is submitted under clause (i), the Secretary shall determine the manner of submission of nominations for the vacancy.

(10) COMPENSATION.—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules to effectuate the terms and provisions of the order;

(3) to meet, organize, and select from among members of the Board a chairperson and such other officers as may be necessary to select committees and subcommittees of Board members;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons as the Board considers necessary and determine the compensation and define the duties of such persons;

(6) to prepare and submit for the approval of the Secretary, prior to the beginning of each fiscal period, a recommended rate of assessment under section 310, and a fiscal period budget of the anticipated expenses in the administration of this title, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, with the approval of the Secretary, to develop and carry out programs or projects of research and development;

(9) to carry out research and development, advertising or promotion, and pay the costs of such projects with funds collected pursuant to subsection (g), subject to subsections (d) and (e) of section 309;

(10) to keep minutes, books, and records that reflect all of the acts and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of growers, grower-shellers, first handlers, and the public to assist in the development of research and promotion programs for pecans;

(12) to refrain from engaging in any action that would be a conflict of interest;

(13) to not engage in any advertising that may be false or misleading;

(14) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this title, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States, except that income from any such invested funds may be used for any purpose for which the invested funds may be used;

(15) to receive, investigate, and report to the Secretary complaints of violations of the order;

(16) to furnish the Secretary with such information as the Secretary may request;

(17) to recommend to the Secretary amendments to the order; and

(18) to develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of programs or projects to carry out this title.

(d) PLANS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of such fiscal year, to submit to the Secretary for approval budgets of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, development, advertising, consumer information, and industry information plans and projects.

(3) INCURRING EXPENSES.—The Board may incur such expenses for research, development, advertising, or promotion of pecans, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) PAYING EXPENSES.—The funds to cover the expenses referred to in paragraph (3) shall be paid from assessments collected under section 310 or funds borrowed pursuant to paragraph (5).

(5) AUTHORITY TO BORROW.—In order to meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(6) LIMITATION ON SPENDING.—Effective on the date that is 3 years after the date of the establishment of the Board, the Board shall not spend in excess of 20 percent of the assessments collected under subsection (g) for administration of the Board.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of pecan promotion, research, consumer information, or industry information, including contracts with grower and grower-sheller organizations, and for the payment of the cost thereof with funds received by the Board under the order.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) GROWER AND GROWER-SHELLER ORGANIZATIONS.—The order shall provide that the Board may contract with grower and grower-sheller organizations for any other services. Any such contract shall include provisions comparable to those provided in paragraph (2).

(f) BOOKS AND RECORDS OF BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) PROHIBITION.—No fund collected by the Board under this title shall in any manner be used for the purpose of influencing legislation or governmental action, other than recommending to the Secretary amendments to this title.

(h) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each first handler, grower-sheller, or importer subject to this title shall—

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this title; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this title, including such records as are necessary to verify any required reports.

(2) TIME REQUIREMENT.—The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal period of the applicability of such records.

(3) OTHER INFORMATION.—In addition, the Secretary shall authorize the use under this title of information regarding first handlers, grower-shellers, and importers that may be accumulated under a law or regulation other than this title or regulations under this title.

(4) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) DISCLOSURE.—Information referred to in subparagraph (B) may be disclosed to the public only if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this title.

(C) BOARD MEMBERS AND EMPLOYEES.—Any disclosure of confidential information in violation of subparagraph (A) by any Board member or employee of the Board, except as required by other law or allowed under subparagraph (B), shall be considered a violation of this title.

(D) GENERAL STATEMENTS.—Nothing in this paragraph shall prohibit the issuance of general statements based on reports of a number of first-handlers, grower-shellers, or importers, subject to the plan if such statements do not identify the information furnished by any person.

(5) AVAILABILITY OF INFORMATION.—

(A) EXCEPTION.—Except as provided in section 312, information obtained under this title may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office.

(6) WITHHOLDING INFORMATION.—Nothing in this subsection shall authorize the Secretary to withhold information from a duly authorized committee or subcommittee of Congress.

(i) OTHER TERMS AND CONDITIONS.—The order also shall contain such terms and conditions, not inconsistent with this title, as necessary to effectuate this title.

SEC. 309. PERMISSIVE TERMS IN ORDERS.

(a) IN GENERAL.—An order issued pursuant to this title may contain one or more of the terms and conditions contained in this section.

(b) EXEMPTIONS.—The order may provide authority to exempt from the order pecans used for nonfood uses, and authority for the Board to require satisfactory safeguards against improper uses of such exemptions.

(c) DIFFERENT PAYMENT AND REPORTING SCHEDULES.—The order may provide authority to designate different payment and reporting schedules for growers, grower-shellers, and importers to recognize differences in marketing practices and procedures utilized in different production areas.

(d) ADVERTISING.—The order may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and sales promotion of pecans and for the disbursement of necessary funds for such purposes, except that—

(1) any such program or project shall be directed toward increasing the general demand for pecans; and

(2) such promotional activities shall comply with other restrictions on the use of funds that are established under this title.

(e) RESEARCH AND DEVELOPMENT.—The order may provide for establishing and carrying on research and development projects and studies to the end that the marketing and utilization of pecans may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(f) RESERVE FUNDS.—The order may provide authority to accumulate reserve funds from assessments collected pursuant to this title, to permit an effective and continuous coordinated program of research, development, advertising, and promotion in years when the production and assessment income may be reduced, except that the total re-

serve fund may not exceed the amount budgeted for the operation of the order for 2 years.

(g) FOREIGN MARKETS.—The order may provide authority to use funds collected under this title, with the approval of the Secretary, for the development and expansion of pecan sales in foreign markets.

(h) OTHER TERMS.—The order may contain such other terms and conditions incidental to and not inconsistent with the terms and conditions specified in this title that are necessary to effectuate the other provisions of the order.

SEC. 310. ASSESSMENTS.

(a) IN GENERAL.—During the effective period of this title, assessments shall be—

(1) levied on all pecans produced in, or imported into, the United States; and

(2) deducted from the payment made to a grower for all pecans sold to a first handler.

(b) LIMITATION ON ASSESSMENTS.—No more than one assessment may be assessed under subsection (a) on a first handler, importer, or grower-sheller for any lot of pecans handled.

(c) REMITTING ASSESSMENTS.—

(1) IN GENERAL.—Assessments required under subsection (a) shall be remitted to the Board by—

(A) a first handler; and

(B) a grower-sheller who markets pecans, in the form of pecans, to consumers either directly, through retail or wholesale outlets, or for export purposes.

(2) TIMES TO REMIT ASSESSMENT.—

(A) FIRST HANDLERS.—Each first handler who is responsible for the remittance of an assessment under paragraph (1) shall remit such assessment to the Board no later than the last day of the month following the month that the pecans being assessed were purchased or marketed.

(B) GROWER-SHELLERS.—Each grower-sheller who is responsible for the remittance of an assessment under paragraph (1) shall remit such assessment to the Board, to the extent practicable, in payments of one-third of the total annual amount of such assessment due to the Board on March 31, June 30, and September 30 or such dates as may be recommended by the Board and approved by the Secretary during the fiscal year that the pecans being assessed were produced and harvested.

(3) IMPORTERS.—Importers of pecans into the United States shall pay the assessment at the time the pecans or pecan equivalents enter the United States and such assessment shall be remitted to the Board.

(d) ASSESSMENT RATE.—

(1) IN GENERAL.—Assessment rates shall be recommended by the Board and approved by the Secretary, except that the maximum assessment shall not exceed—

(A) during the period commencing on the effective date of the issuance of the plan and ending on the date the referendum is conducted under section 314, one-half cent per pound in-shell or the equivalent; and

(B) after such period, up to 2 cents per pound in-shell or the equivalent.

(2) ADJUSTING RATE FOR OUT-OF-SHELL PECANS.—The in-shell rate of assessment established under paragraph (1) shall be established for shelled pecans or pecan equivalents at twice such inshell rate.

(3) SPECIAL STATE ASSESSMENT.—In addition to the maximum assessment rate prescribed in paragraph (1), an additional one-quarter cent special State assessment may be remitted to the Board in a manner prescribed by the Secretary for the purpose of utilizing such funds by the State Board for research projects to promote pecans conducted pursuant to State law.

(e) LATE CHARGE.—

(1) IN GENERAL.—There shall be a late payment charge imposed on any person who fails to remit to the Board the total amount that such person is liable for on or before the due date established by the Board under subsection (c)(2).

(2) AMOUNT OF CHARGE.—The amount of the late payment charge imposed under paragraph (1) shall be prescribed by the Board and approved by the Secretary.

(f) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESTABLISHMENT OF ESCROW ACCOUNT.—The Board shall—

(A) establish an escrow account to be used for assessment refunds; and

(B) place funds in such account in accordance with paragraph (2) during the period beginning on the effective date of the order and ending on the date the referendum is conducted under section 314.

(2) PLACEMENT OF FUNDS IN ACCOUNT.—The Board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(3) RIGHT TO RECEIVE REFUND.—Subject to paragraphs (4), (5), and (6), any grower, grower-sheller, or importer shall have the right to demand and receive from the Board a one-time refund of assessments collected from such grower, grower-sheller, or importer during the period referred to in paragraph (1) if—

(A) such grower, grower-sheller, or importer is responsible for paying such assessments;

(B) such grower, grower-sheller, or importer does not support the program established under this title; and

(C) the program established by this title is not approved pursuant to the referendum conducted under section 314.

(4) FORM OF DEMAND.—Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(5) MAKING OF REFUND.—Such refund shall be made on submission of proof satisfactory to the Board that such grower, grower-sheller, or importer paid the assessment for which refund is demanded.

(6) PRORATION.—If the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible growers, grower-shellers, or importers under this subsection and the program established by this title is not approved pursuant to the referendum conducted under section 314, the Board shall prorate the amount of such refunds among all eligible growers, grower-shellers, and importers who demand such refund.

(7) PROGRAM APPROVED.—If the program established by this title is approved pursuant to the referendum conducted under section 314, all funds in the escrow account shall be returned to the Board for use by the Board and no refunds shall be paid.

SEC. 311. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this title may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling.

(2) PROCESS.—Service of process in such proceedings may be had on the Secretary by delivering a copy of the complaint to the Secretary, under such regulations as the Secretary may prescribe.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in its opinion, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 312(a).

SEC. 312. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this title or a regulation issued under this title.

(b) REFERRAL TO ATTORNEY GENERAL.—The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this title shall be construed as requiring the Secretary to refer to the Attorney General a violation of this title or a regulation issued under this title if the Secretary believes that the administration and enforcement of this title would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of this title or a regulation issued under this title, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under this title or a regulation issued under this title, may be assessed a civil penalty by the Secretary of not less than $1,000 nor more than $10,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal

from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 313. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this title; or

(2) to determine whether a person has engaged or is engaging in any acts or practices that constitute a violation of any provision of this title, or any plan, rule, or regulation issued under this title.

(b) ADMINISTRATION.—For the purpose of any such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry.

(c) SUBPOENA.—Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation.

(d) CONTEMPTS.—Any failure to obey such order of the court may be punished by such court as contempt thereof.

(e) PROCESS.—All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

(f) JURISDICTION.—The site of any hearings held under this section shall be within the judicial district where such person is an inhabitant or has a principal place of business.

SEC. 314. REQUIREMENT OF REFERENDUM.

(a) IN GENERAL.—Not later than 24 months after the effective date of this title, the Secretary shall conduct a referendum among growers, grower-shellers, and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of pecans, for the purpose of ascertaining whether growers, grower-shellers, and importers favor continuation, termination, or suspension of the order.

(b) SUSPENSION OR TERMINATION.—If, as a result of any referendum conducted under this title, the Secretary determines that suspension or termination of an order is favored by a majority of the growers, grower-shellers, and importers voting in the referendum, the Secretary shall—

(1) within 6 months after making such determination, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this title, except for the salaries of Government employees.

(d) MANNER.—

(1) IN GENERAL.—Referenda conducted pursuant to this title shall be conducted in such a manner as is determined by the Secretary.

(2) ADVANCE REGISTRATION.—A pecan grower, grower-sheller, or importer who chooses to vote in any referendum conducted under this title (1) shall register in person prior to the voting period at the appropriate local office of the Agricultural Stabilization and Conservation Service for such pecan grower or grower-sheller, after receiving notice from such office concerning such referendum under paragraph (4).

(3) VOTING.—A pecan grower, grower-sheller, or importer who votes in any referendum conducted under this title shall vote in person at the appropriate local office of the Agricultural Stabilization and Conservation Service.

(4) NOTICE.—Each Agricultural Stabilization and Conservation Service office shall notify all pecan growers and grower-shellers in the area of such office at least 30 days prior to a referendum conducted under this title. Such notice shall explain the procedure established under this subsection.

SEC. 315. SUSPENSION OR TERMINATION OF ORDERS.

(a) MANDATORY SUSPENSION OR TERMINATION.—The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or provision.

(b) OTHER REFERENDA.—

(1) IN GENERAL.—The Secretary may conduct a referendum at any time, and shall hold a referendum on request of the Board or 10 percent or more of growers, grower-shellers, and importers, to determine if growers, grower-shellers, and importers favor the termination or suspension of the order.

(2) SUSPENSION OR TERMINATION.—The Secretary shall terminate or suspend such order, in accordance with section 314(b), whenever the Secretary determines that such suspension or termination is favored by a majority of those voting in a referendum.

(3) COSTS; MANNER.—Subsections (c) and (d) of section 314 shall apply to a referendum conducted under this subsection.

SEC. 316. AMENDMENTS.

The provisions of this title applicable to plans shall be applicable to amendments to plans.

SEC. 317. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this title.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this title.

TITLE IV—MUSHROOMS

SEC. 401. SHORT TITLE.

This title may be cited as the "Mushroom Promotion, Research, and Consumer Information Act".

SEC. 402. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) mushrooms are an important food that is a valuable part of the human diet;

(2) the production of mushrooms plays a significant role in the Nation's economy in that mushrooms are produced by hundreds of mushroom producers, distributed through thousands of wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) mushroom production benefits the environment by efficiently using agricultural byproducts;

(4) mushrooms must be high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of this important product are available to the people of the United States;

(5) the maintenance and expansion of existing markets and uses, and the development of new markets and uses, for mushrooms are vital to the welfare of producers and those concerned with marketing and using mushrooms, as well as to the agricultural economy of the Nation;

(6) the cooperative development, financing, and implementation of a coordinated program of mushroom promotion, research, and consumer information are necessary to maintain and expand existing markets for mushrooms; and

(7) mushrooms move in interstate and foreign commerce, and mushrooms that do not move in such channels of commerce directly burden or affect interstate commerce in mushrooms.

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this title, of an orderly procedure for developing, fi-

nancing through adequate assessments on mushrooms produced domestically or imported into the United States, and carrying out an effective, continuous, and coordinated program of promotion, research, and consumer information designed to—

(1) strengthen the mushroom industry's position in the marketplace;

(2) maintain and expand existing markets and uses for mushrooms; and

(3) develop new markets and uses for mushrooms.

(c) CONSTRUCTION.—Nothing in this title may be construed to provide for the control of production or otherwise limit the right of individual producers to produce mushrooms.

SEC. 403. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(2) CONSUMER INFORMATION.—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of mushrooms.

(3) COUNCIL.—The term "Council" means the Mushroom Council established under section 405(b).

(4) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(5) FIRST HANDLER.—The term "first handler" means any person, as described in an order issued under this title, who receives or otherwise acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, including mushrooms of the person's own production.

(6) IMPORTER.—The term "importer" means any person who—

(A) imports, on average, over 500,000 pounds of mushrooms annually from outside the United States; or

(B) with respect to an amount of mushrooms that, on average, exceeds 500,000 pounds annually, acts as agent, broker, or consignee of any person or nation that produces mushrooms outside the United States for sale in the United States.

(7) INDUSTRY INFORMATION.—The term "industry information" means information and programs that will lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the mushroom industry.

(8) MARKETING.—The term "marketing" means the sale or other disposition of mushrooms in any channel of commerce.

(9) MUSHROOMS.—The term "mushrooms" means all varieties of cultivated mushrooms grown within the United States for the fresh market, or imported into the United States for the fresh market, that are introduced into the channels of commerce, except that such term shall not include mushrooms that are commercially marinated, canned, frozen, cooked, blanched, dried, packaged in brine, or otherwise processed, as may be determined by the Secretary.

(10) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(11) PRODUCER.—The term "producer" means any person engaged in the production of mushrooms who owns or who shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

(12) PROMOTION.—The term "promotion" means any action determined by the Secretary to enhance the image or desirability of mushrooms, including paid advertising.

(13) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of mushrooms.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 404. ISSUANCE OF ORDERS.

(a) GENERAL.—To effectuate the declared policy of section 402(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this title applicable to producers, importers, and first handlers of mushrooms. Any such order shall be national in scope. Not more than one order shall be in effect under this title at any one time.

(b) PROCEDURES.—

(1) ISSUANCE OF AN ORDER.—The Secretary may propose the issuance of an order under this title, or an association of mushroom producers or any other person that will be affected by this title may request the issuance of, and submit a proposal for, such an order.

(2) PUBLICATION OF ORDER.—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this title. Such order shall be issued and, if approved by producers and importers of mushrooms as provided in section 406(a), shall become effective not later than 120 days following publication of the proposed order.

(c) AMENDMENTS.—

(1) IN GENERAL.—The Secretary, from time to time, may amend any order issued under this section.

(2) APPLICATION OF TITLE.—Except as otherwise provided in section 405(g)(2)(B), the provisions of this title applicable to an order shall be applicable to amendments to the order.

SEC. 405. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order issued under this title shall contain the terms and conditions and conditions prescribed in this section.

(b) MUSHROOM COUNCIL.—

(1) ESTABLISHMENT AND MEMBERSHIP OF COUNCIL.—

(A) ESTABLISHMENT.—The order shall provide for the establishment of, and selection of members to, a Mushroom Council that shall consist of at least four members and not more than nine members.

(B) MEMBERSHIP.—Except as provided for in paragraph (2), the members of the Council shall be mushroom producers and importers appointed by the Secretary from nominations submitted by producers and importers in the manner authorized by the Secretary, except that no more than one member may be appointed to the Council from nominations submitted by any one producer or importer.

(2) APPOINTMENTS.—

(A) IN GENERAL.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of mushroom production throughout the United States, and the comparative volume of mushrooms imported into the United States.

(B) UNITS.—In establishing such geographical distribution of mushroom production, a whole State shall be considered as a unit and such units shall be organized into four regions that shall fairly represent the geographic distribution of mushroom production within the United States.

(C) IMPORTERS.—Importers shall be represented as a separate region.

(D) MEMBERS PER REGION.—The Secretary shall appoint one member from each region that produces or imports, on average, at least 35,000,000 pounds of mushrooms annually.

(E) ADDITIONAL MEMBERS.—Subject to the nine-member limit on the number of members on the Council provided in paragraph (1), the Secretary shall appoint an additional member to the Council from a region for each additional 50,000,000 pounds of production or imports per year, on average, within the region.

(3) TERMS; COMPENSATION.—

(A) TERMS.—The term of appointment to the Council shall be for 3 years, except that the initial appointments shall to the extent practicable be proportionately for 1-year, 2-year, and 3-year terms.

(B) COMPENSATION.—Council members shall serve without compensation but shall be reimbursed for their expenses incurred in performing their duties as members of the Council.

(c) POWERS AND DUTIES OF THE COUNCIL.—The order shall define the powers and duties of the Council, which shall include the power and duty—

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules to effectuate the terms and provisions of the order;

(3) to appoint members of the Council to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of mushroom promotion, research, consumer information, and industry information, as well as to contract and enter into agreements with appropriate persons to implement plans or projects;

(5) to develop and propose to the Secretary voluntary quality and grade standards for mushrooms;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order; and

(8) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this title, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States,

except that income from any such invested funds may be used for any purpose for which the invested funds may be used.

(d) PLANS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Council shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Council to submit to the Secretary for approval budgets on a fiscal year basis of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, consumer information, and industry information plans and projects.

(3) APPROVAL BY SECRETARY.—No plan or project of promotion, research, consumer information, or industry information, or budget, shall be implemented prior to its approval by the Secretary.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Council may enter into contracts or agreements for the implementation and carrying out of plans or projects of mushroom promotion, research, consumer information, or industry information, including contracts with producer organizations, and for the payment of the cost thereof with funds received by the Council under the order.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Council a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Council of activities conducted, and make such other reports as the Council or the Secretary may require.

(3) PRODUCER ORGANIZATIONS.—The order shall provide that the Council may contract with producer organizations for any other services. Any such contract shall include provisions comparable to those provided in subparagraphs (A), (B), and (C) of paragraph (2).

(f) BOOKS AND RECORDS OF COUNCIL.—

(1) IN GENERAL.—The order shall require the Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Council.

(2) AUDITS.—The Council shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) ASSESSMENTS.—

(1) COLLECTION AND PAYMENT.—

(A) IN GENERAL.—The order shall provide that each first handler of mushrooms for the domestic fresh market produced in the United States shall collect, in the manner prescribed by the order, assessments from producers and remit the assessments to the Council.

(B) IMPORTERS.—The order also shall provide that each importer of mushrooms for the domestic fresh market shall pay assessments to the Council in the manner prescribed by the order.

(C) DIRECT MARKETING.—Any person marketing mushrooms of that person's own production directly to consumers shall remit the assessments on such mushrooms directly to the Council in the manner prescribed in the order.

(2) RATE OF ASSESSMENT.—

(A) INITIAL RATE.—The rate of assessment prescribed by the order—

(i) for the first year of the order, may not exceed one-quarter cent per pound of mushrooms;

(ii) for the second year of the order, may not exceed one-half cent per pound of mushrooms; and

(iii) for the third and following years of the order, may not exceed one cent per pound of mushrooms, except as provided in subparagraph (B).

(B) ADJUSTMENT OF ASSESSMENT.—Effective beginning with the fourth year of the order, the Secretary may amend the order, on the recommendation of the Council, to prescribe a rate of assessment not to exceed 2 cents per pound of mushrooms. Any such amendment shall become effective on its issuance by the Secretary, except that an amendment that increases the rate of assessment above 1 cent per pound shall not be effective unless approved in a referendum conducted under section 406.

(3) USE OF ASSESSMENTS.—The order shall provide that the assessments shall be used for payment of the expenses in implementing and administering this title, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this title, except for the salaries of Government employees incurred in conducting referenda.

(4) LIMITATION ON COLLECTION.—No assessment may be collected on mushrooms that a first handler certifies will be exported as mushrooms.

(h) PROHIBITION.—The order shall prohibit any funds received by the Council under the order from being used in any manner for the purpose of influencing legislation or government action or policy, except that such funds may be used by the Council for the development and recommendation to the Secretary of amendments to the order as prescribed in this title and for the submission to the Secretary of voluntary grade and quality standards for mushrooms under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

(i) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each handler of mushrooms, importer of mushrooms, and each person marketing mushrooms of such person's own production maintain, and make available for inspection, such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) AVAILABILITY TO SECRETARY.—Such information shall be made available to the Secretary as is appropriate for the administration or enforcement of this title, the order, or any regulation issued under this title.

(3) OTHER INFORMATION.—In addition, the Secretary shall authorize the use under this title of information regarding handlers and importers that may be accumulated under a law or regulation other than this title or regulations under this title.

(4) CONFIDENTIALITY.—

(A) IN GENERAL.—All information obtained by the Secretary under paragraph (1) shall be kept confidential by all officers and employees of the Department and agents of the Council and only such information so obtained as the Secretary considers relevant may be disclosed by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order.

(B) LIMITATIONS.—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by such person.

(5) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Except as provided in section 408, information obtained under this title may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Council or the Department, shall be removed from office.

(6) WITHHOLDING INFORMATION.—Nothing in this subsection shall authorize the Secretary to withhold information from a duly authorized committee or subcommittee of Congress.

(j) OTHER TERMS AND CONDITIONS.—The order also shall contain such terms and conditions, not inconsistent with this title, as are necessary to effectuate this title, including provisions for the assessment of a penalty for each late payment of assessments under subsection (g).

SEC. 406. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order issued under section 404(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 404(b), if the Secretary determines that it has been approved by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum.

(b) SUCCEEDING REFERENDA.—

(1) DETERMINATION CONCERNING ORDER.—

(A) IN GENERAL.—Effective 5 years after the date on which an order becomes effective under section 404(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether they favor continuation, termination, or suspension of the order.

(B) REQUEST FOR REFERENDUM.—Effective beginning 3 years after the date on which an order becomes effective under section 404(b), the Secretary, on request of a representative group comprising 30 percent or more of the number of mushroom producers and importers, may conduct a referendum, to ascertain whether producers and importers favor termination or suspension of the order.

(2) SUSPENSION OR TERMINATION.—If, as a result of any referendum conducted under paragraph (1), the Secretary determines that suspension or termination of an order is favored by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum, the Secretary shall—

(A) within 6 months after making such determination, suspend or terminate, as appropriate, collection of assessments under the order; and

(B) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) MANNER.—Referenda conducted pursuant to this section shall be conducted in such a manner as is determined by the Secretary.

SEC. 407. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this title may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling.

(2) PROCESS.—Service of process in such proceedings may be had on the Secretary by delivering a copy of the complaint to the Secretary, under such regulations as the Secretary may prescribe.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in its opinion, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 408.

SEC. 408. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this title.

(b) REFERRAL TO ATTORNEY GENERAL.—The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this title shall be construed as requiring the Secretary to refer to the Attorney General a violation of this title if the Secretary believes that the administration and enforcement of the order or regulation would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of any order or regulation issued by the Secretary under this title, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 409. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this title or to determine whether any person subject to this title has engaged or is about to engage in any action that constitutes or will constitute a violation of this title or of any order or regulation issued under this title.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of the person and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

SEC. 410. SAVINGS PROVISION.

Nothing in this title may be construed to preempt or supersede any other program relating to mushroom promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State.

SEC. 411. SUSPENSION OR TERMINATION OF ORDERS.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or provision.

SEC. 412. AMENDMENTS.

The provisions of this title applicable to orders shall be applicable to amendments to orders.

SEC. 413. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this title.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provisions of an order issued under this title.

SEC. 414. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this title.

TITLE V—LIMES

SEC. 501. SHORT TITLE.

This title may be cited as the "Lime Research, Promotion, and Consumer Information Act".

SEC. 502. FINDINGS, PURPOSES, AND LIMITATIONS.

(a) FINDINGS.—Congress finds that—

(1) domestically produced limes are grown by many individual producers;

(2) virtually all domestically produced limes are grown in the States of Florida and California;

(3) limes move in large part in channels of interstate and foreign commerce;

(4) in recent years, large quantities of limes have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for limes and the development of additional and improved markets for limes are vital to the welfare of lime producers and other persons concerned with producing, marketing, or processing limes;

(6) a coordinated program of research, promotion, and consumer information regarding limes is necessary for the maintenance and development of such markets; and

(7) lime producers, lime producer-handlers, lime handlers, and lime importers are unable to implement and finance such a program without cooperative action.

(b) PURPOSES.—The purposes of this title are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an adequate assessment) of an effective and coordinated program of research, promotion, and consumer information regarding limes designed—

(A) to strengthen the position of the lime industry in domestic and foreign markets; and

(B) to maintain, develop, and expand markets for limes; and

(2) to treat domestic and foreign producers of limes equitably.

(c) LIMITATIONS.—

(1) QUALITY STANDARDS AND PRODUCTION.—Nothing in this title shall be construed to require quality standards for limes, control the production of limes, or otherwise limit the right of the individual producers to produce limes.

(2) IMPORTED LIMES.—Nothing in this title shall be construed as a trade barrier to limes produced in foreign countries.

SEC. 503. DEFINITIONS.

For purposes of this title:

(1) BOARD.—The term "Board" means the Lime Board provided for under section 505(b).

(2) CONSUMER INFORMATION.—The term "consumer information" means any action taken to provide information to, and broaden the understanding of, the general public regarding the use, nutritional attributes, and care of limes.

(3) HANDLE.—The term "handle" means to sell, purchase, or package limes.

(4) HANDLER.—The term "handler" means any person in the business of handling limes.

(5) IMPORTER.—The term "importer" means any person who—

(A) imports limes into the United States; or

(B) acts as an agent, broker, or consignee for any person or nation that produces limes outside of the United States for sale in the United States.

(6) LIME.—The term "lime" means the fruit of a citrus aurantifolia tree for the fresh market.

(7) MARKETING.—The term "marketing" means the sale or other disposition of limes in commerce.

(8) ORDER.—The term "order" means a lime research, promotion, and consumer information order issued by the Secretary under section 504(a).

(9) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity.

(10) PRODUCER.—The term "producer" means any person who produces limes in the United States for sale in commerce.

(11) PRODUCER-HANDLER.—The term "producer-handler" means any person who is both a producer and handler of limes.

(12) PROMOTION.—The term "promotion" means any action taken under this title (including paid advertising) to present a favorable image for limes to the general public with the express intent of improving the competitive position and stimulating the sale of limes.

(13) RESEARCH.—The term "research" means any type of research relating to the use and nutritional value of limes and designed to advance the image, desirability, marketability, or quality of limes.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 504. ISSUANCE OF ORDERS.

(a) IN GENERAL.—Subject to this title, and to effectuate the declared purposes of this title, the Secretary shall issue and, from time to time, amend lime research, promotion, and consumer information orders applicable to handlers, producers, producer-handlers, and importers of limes.

(b) NOTICE AND PUBLIC COMMENT.—The Secretary shall publish each order proposed to be issued under subsection (a) and give due notice and opportunity for public comment on such order.

(c) SUBMISSION OF A PROPOSED ORDER OR AMENDMENT.—A proposal for an order or amendment under subsection (a) may be submitted by, and an opportunity for public comment may be requested by, any person affected by this title.

(d) INITIAL PROPOSAL.—In the case of the first proposal for an order the Secretary receives under subsection (c), the Secretary shall comply with subsection (b) not later than the end of the 30-day period beginning on the date the Secretary receives such proposal.

(e) FINDINGS AND ISSUANCE OF AN ORDER.—After notice of and an opportunity for public comments has been provided under subsection (b), the order or amendment that is the subject of such notice and public comment shall be issued if the Secretary finds that, on the basis of the evidence introduced by such public comment, the issuance of the order or amendment and all the terms and conditions therein will further the purposes of this title.

(f) EFFECTIVE DATE.—An order issued under subsection (a) shall take effect on the date such order is published in the Federal Register.

SEC. 505. REQUIRED TERMS OF ORDERS.

(a) IN GENERAL.—An order issued by the Secretary under section 504(a) shall contain the terms and conditions described in this section and, except as provided in section 506, no other terms or conditions.

(b) LIME BOARD.—Such order shall provide for the establishment of a Lime Board as follows:

(1) MEMBERSHIP.—The Board shall be composed of—

(A) seven members who are producers and who are not exempt from an assessment under subsection (d)(5)(A);

(B) three members who are importers and who are not exempt from an assessment under subsection (d)(5)(A); and

(C) one member appointed from the general public.

(2) APPOINTMENT AND NOMINATION.—

(A) APPOINTMENT.—The Secretary shall appoint the members of the Board.

(B) PRODUCERS.—The seven members who are producers shall be appointed from individuals nominated by lime producers.

(C) IMPORTERS.—The three members who are importers shall be appointed from individuals nominated by lime importers.

(D) PUBLIC.—The public representative shall be appointed from nominations of the Board.

(E) FAILURE TO NOMINATE.—If producers and importers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order. If the Board fails to nominate a public representative, such member may be appointed without a nomination.

(3) ALTERNATES.—The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(A) be appointed in the same manner as the member for whom such individual is an alternate; and

(B) serve on the Board if such member is absent from a meeting or is disqualified under paragraph (5).

(4) TERMS.—Members of the Board shall be appointed for a term of 3 years. Of the members first appointed—

(A) three members shall be appointed for a term of 1 year;

(B) four members shall be appointed for a term of 2 years; and

(C) four members shall be appointed for a term of 3 years;

as designated by the Secretary at the time of appointment.

(5) REPLACEMENT.—If a member or alternate of the Board who was appointed as a producer, importer, or public representative ceases to belong to the group for which such member was appointed, such member or alternate shall be disqualified from serving on the Board.

(6) COMPENSATION.—Members and alternates of the Board shall serve without pay.

(7) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of duties for the Board, members and alternates shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(8) POWERS AND DUTIES.—The Board shall—

(A) administer orders issued by the Secretary under section 504(a), and amendments to such orders, in accordance with their terms and provisions and consistent with this title;

(B) prescribe rules and regulations to effectuate the terms and provisions of such orders;

(C) receive, investigate, and report to the Secretary accounts of violations of such orders;

(D) make recommendations to the Secretary with respect to amendments that should be made to such orders; and

(E) employ a manager and staff.

(c) BUDGETS AND PLANS.—Such order shall provide for periodic budgets and plans as follows:

(1) BUDGETS.—The Board shall prepare and submit to the Secretary a budget (on a fiscal period basis determined by the Secretary) of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall take effect on the approval of the Secretary.

(2) PLANS.—Each budget shall include a plan for research, promotion, and consumer information regarding limes. A plan under this paragraph shall take effect on the approval of the Secretary. The Board may enter into contracts and agreements, with the approval of the Secretary, for—

(A) the development and carrying out of such plan; and

(B) the payment of the cost of such plan with funds collected pursuant to this title.

(d) ASSESSMENTS.—Such order shall provide for the imposition and collection of assessments with regard to the production and importation of limes as follows:

(1) RATE.—The assessment rate shall not exceed $.01 per pound of limes.

(2) COLLECTION BY FIRST HANDLERS.—Except as provided in paragraph (4), the first handler of limes shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments under this subsection; and

(B) maintain a separate record of the limes of each producer so handled, including the limes owned by the handler.

(3) PRODUCER-HANDLERS.—For purposes of paragraph (2), a producer-handler shall be considered the first handler of limes produced by such producer-handler.

(4) IMPORTERS.—The assessment on imported limes shall be paid by the importer at the time of entry into the United States and shall be remitted to the Board.

(5) EXCEPTIONS.—

(A) DE MINIMIS QUANTITIES.—The following persons are exempt from an assessment under this subsection—

(i) a producer who produces less than 35,000 pounds of limes per year;

(ii) a producer-handler who produces and handles less than 35,000 pounds of limes per year; and

(iii) an importer who imports less than 35,000 pounds of limes per year.

(B) INTRASTATE SHIPMENTS.—Intrastate shipments of limes shall—

(i) be exempt from the assessment required under this subsection; and

(ii) not be included in the calculation of limes produced or handled for purposes of subparagraph (A).

(6) CLAIMING AN EXEMPTION.—To claim an exemption under paragraph (5) for a particular year, a person shall submit an application to the Board—

(A) stating the basis for such exemption; and

(B) certifying that such person will not exceed the limitation required for such exemption in such year.

(e) USE OF ASSESSMENTS.—

(1) IN GENERAL.—Such order shall provide that funds paid to the Board as assessments under subsection (d)—

(A) may be used by the Board to—

(i) pay for research, promotion, and consumer information described in the then current budget of the Board under subsection (c) and for other expenses incurred by the Board in the administration of an order;

(ii) pay such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary; and

(iii) fund a reserve established under section 506(5); and

(B) shall be used to pay the expenses incurred by the Secretary, including salaries and expenses of government employees in implementing and administering the order, except as provided in paragraph (2).

(2) REFERENDA.—Such order shall provide that the Board shall reimburse the Secretary, from assessments collected under subsection (d), for any expenses incurred by the Secretary in conducting referenda under this title, except for the salaries of Government employees.

(f) FALSE CLAIMS.—Such order shall provide that any promotion funded with assessments collected under subsection (d) may not make—

(1) any false or unwarranted claims on behalf of limes; and

(2) any false or unwarranted statements with respect to the attributes or use of any product that competes with limes for sale in commerce.

(g) PROHIBITION ON USE OF FUNDS.—Such order shall provide that funds collected by the Board under this title through assessments authorized by this title may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for in this title.

(h) BOOKS, RECORDS, AND REPORTS.—

(1) BY THE BOARD.—Such order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report regarding the activities of the Board during such fiscal year.

(2) BY OTHERS.—So that information and data will be available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this title (or any order or regulation issued under to this title), such order shall require handlers, producer-handlers, and importers who are responsible for the collection of assessments under subsection (d)—

(A) to maintain and make available for inspection by the Secretary such books and records as may be required by the order; and

(B) to file, at the times, in the manner, and having the content prescribed by the order, reports regarding the collection of such assessments.

(i) CONFIDENTIALITY.—

(1) IN GENERAL.—Such order shall require that all information obtained pursuant to subsection (h)(2) shall be kept confidential by all officers and employees of the Department of Agriculture and of the Board. Only such information as the Secretary considers relevant shall be disclosed and only in a suit or administrative hearing brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party involving the order with respect to which the information was furnished or acquired.

(2) LIMITATIONS.—Nothing in this subsection prohibits—

(A) issuance of general statements based on the reports of a number of handlers, producer-handlers, and importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary, of the name of any person violating an order issued under section 504(a), together with a statement of the particular provisions of the order violated by such person.

SEC. 506. PERMISSIVE TERMS OF ORDERS.

On the recommendation of the Board and with the approval of the Secretary, an order issued under section 504(a) may—

(1) provide authority to the Board to exempt from such order limes exported from the United States, subject to such safeguards as the Board may establish to ensure proper use of the exemption;

(2) provide that, with respect to any Federal marketing order regarding limes, that—

(A) is in effect before the date of the enactment of this title; and

(B) the Secretary determines is comparable to the program established under this title;

there shall be paid to the Board as provided in section 505(d) that portion of the assessment under such section that is greater than the assessment, if any, actually paid on the limes pursuant to such other marketing order;

(3) provide authority to the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures;

(4) provide that the Board may convene from time to time working groups drawn from producers, handlers, producer-handlers, importers, exporters, or the general public to assist in the development of research and marketing programs for limes;

(5) provide authority to the Board to accumulate reserve funds from assessments collected pursuant to section 505(d) to permit an effective and continuous coordinated program of research, promotion, and consumer information, in years in which production and assessment income may be reduced, except that any reserve fund so established may not exceed the amount budgeted for operation of this title for 1 year;

(6) provide authority to the Board to use, with the approval of the Secretary, funds collected under section 505(d) for the development and expansion of lime sales in foreign markets; and

(7) provide for terms and conditions—

(A) incidental to, and not inconsistent with, the terms and conditions specified in this title; and

(B) necessary to effectuate the other provisions of such order.

SEC. 507. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may submit to the Secretary, within a period prescribed by the Secretary, a written petition—

(A) stating that such order, a provision of such order, or an obligation imposed in connection with such order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition that shall be subject to review under subsection (b).

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—A person aggrieved by a ruling under subsection (a)(3) may obtain a review of such ruling by commencing, within the 20-day period beginning on the date such ruling is made, a civil action in the district court of the United States for the district in which—

(A) such person resides; or

(B) carries on business related to the subject matter of such action.

(2) PROCESS.—Service of process in such civil action may be made on the Secretary by delivering to the Secretary a copy of the complaint.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the proceedings to the Secretary with directions—

(A) to make a ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted pursuant to this subsection shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 508.

SEC. 508. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this title.

(b) REFERRAL TO ATTORNEY GENERAL.—The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this title shall be construed as requiring the Secretary to refer to the Attorney General a violation of this title if the Secretary believes that the administration and enforcement of the order or regulation would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of any order or regulation issued by the Secretary under this title, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 509. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this title; or

(2) to determine whether a person has engaged or is engaging in any acts or practices that constitute a violation of any provision of this title, or any plan, rule, or regulation issued under this title.

(b) ADMINISTRATION.—For the purpose of any such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry.

(c) SUBPOENA.—Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation.

(d) CONTEMPTS.—Any failure to obey such order of the court may be punished by such court as contempt thereof.

(e) PROCESS.—All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

(f) JURISDICTION.—The site of any hearings held under this section shall be within the judicial district where such person is an inhabitant or has a principal place of business.

SEC. 510. INITIAL REFERENDUM.

(a) REQUIREMENT.—Not later than 2 years after the date on which the Secretary first issues an order under section 504(a), the Secretary shall conduct a referendum among producers, producer-handlers, and importers who—

(1) are not exempt from assessment under section 505(d)(5); and

(2) produced or imported limes during a representative period as determined by the Secretary.

(b) PURPOSE OF REFERENDUM.—The referendum referred to in subsection (a) is for the purpose of determining whether the issuance of the order is approved or favored by not less than a majority of the producers, producer-handlers, and importers voting in the referendum. The order shall continue in effect only with such a majority.

(c) CONFIDENTIALITY.—The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this section, or section 511, shall be held strictly confidential and shall not be disclosed.

(d) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) IN GENERAL.—The assessments collected from producers, producer-handlers, and importers prior to announcement of the results of the referendum provided for in this section shall be held in an escrow account until the results of the referendum are published by the Secretary. The amount in the escrow account shall be equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(2) APPROVAL OF ORDER.—If the order is approved, the funds in the escrow account shall be released on publication of the final regulations by the Secretary to be used for the purposes of this title.

(3) DISAPPROVAL OF ORDER.—

(A) IN GENERAL.—If the amendment to the order is not approved in such referendum, the funds in the escrow account shall be refunded on a pro rata basis to eligible producers, producer-handlers, and importers on publication of the order terminating the program established by this title, after a deduction for a proportionate amount of the expenses incurred by the Secretary and the agency of Government that assists in administering the import provisions of the order.

(B) RIGHT TO REFUND.—A producer, producer-handler, or importer shall have the right to receive a refund—

(i) if demand is made personally, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event less than 90 days

after the date of publication of the results of the referendum; and

(ii) on submission of proof satisfactory to the Board that the person paid the assessment for which refund is sought and did not collect the assessment from another person.

(C) SURPLUS FUNDS.—Any funds not refunded under this paragraph shall be released to be used to carry out this title.

SEC. 511. SUSPENSION AND TERMINATION.

(a) FINDING OF SECRETARY.—If the Secretary finds that an order issued under section 504(a), or a provision of such order, obstructs or does not tend to effectuate the purposes of this title, the Secretary shall terminate or suspend the operation of such order or provision.

(b) PERIODIC REFERENDA.—The Secretary may periodically conduct a referendum to determine if lime producers, producer-handlers, and importers favor the continuation, termination, or suspension of any order issued under section 504(a) and in effect at the time of such referendum.

(c) REQUIRED REFERENDA.—The Secretary shall hold a referendum under subsection (b)—

(1) at the request of the Board;

(2) if not less than 10 percent of the lime producers, producer-handlers, and importers subject to assessment under this title submit a petition requesting such a referendum; or

(3) whenever the Secretary conducts a referendum regarding limes pursuant to a marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(d) VOTE.—The Secretary shall suspend or terminate the order at the end of the marketing year if the Secretary determines that—

(1) the suspension or termination of the order is favored by not less than a majority of those persons voting in a referendum under subsection (b); and

(2) the producers, producer-handlers, and importers comprising this majority produce and import more than 50 percent of the volume of limes produced and imported by those voting in the referendum.

SEC. 512. AMENDMENTS.

The provisions of this title applicable to orders shall be applicable to amendments to orders.

SEC. 513. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this title.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provisions of an order issued under this title.

SEC. 514. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this title.

TITLE VI—POTATOES

SEC. 601. SHORT TITLE.

This title may be cited as the "Potato Research and Promotion Act Amendments of 1989".

SEC. 602. FINDINGS AND DECLARATION OF POLICY.

Section 302 of the Potato Research and Promotion Act (7 U.S.C. 2611) is amended—

(1) in the first paragraph—

(A) in the first sentence, by inserting "and foreign countries" after "United States"; and

(B) in the second sentence, by inserting "and imported into the United States from foreign countries" after "United States";

(2) in the second paragraph, by inserting "and imported into the United States from foreign countries" after "United States"; and

(3) in the last paragraph, by inserting "and imported into the United States from foreign countries" after "United States" each place it appears.

SEC. 603. DEFINITIONS.

Section 303 of the Potato Research and Promotion Act (7 U.S.C. 2612) is amended—

(1) in subsection (c)—

(A) by striking "forty-eight contiguous" and inserting "50"; and

(B) by inserting after "United States" the following: "and foreign countries"; and

(2) by adding at the end the following:

"(g) The term 'importer' means any person who imports tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes into the United States or who acts as an agent, broker or consignee for any person or nation that produces Irish Potatoes outside the United States for sale in the United States.".

SEC. 604. AUTHORITY TO ISSUE PLANS.

The last sentence of section 304 of the Potato Research and Promotion Act (7 U.S.C. 2613) is amended—

(1) by striking "forty-eight contiguous" and inserting "50"; and

(2) by inserting after "United States" the following: "and foreign countries".

SEC. 605. NOTICE AND HEARINGS.

The first sentence of section 305 of the Potato Research and Promotion Act (7 U.S.C. 2614) is amended by inserting "and importers" after "potato producers".

SEC. 606. REQUIRED TERMS IN PLANS.

Section 308(e) of the Potato Research and Promotion Act (7 U.S.C. 2617(e)) is amended by striking "one cent" and inserting "two cents".

SEC. 607. ALTERNATIVE PLAN.

The Potato Research and Promotion Act is amended by inserting after section 308 (7 U.S.C. 2617) the following new section:

"SEC. 308A. ALTERNATIVE PLAN.

"(a) IN GENERAL.—

"(1) REQUIREMENT TO ISSUE PLAN.—Notwithstanding the provisions of sections 305, 306, 308, and 314 that are inconsistent with this section, the Secretary shall publish the proposed alternative plan required by this section, within 60 days of the receipt of a request from a producer or producer organization to implement such a plan, if the Secretary determines that such alternative plan effectuates the declared policy of this Act.

"(2) TERMS AND CONDITIONS.—Any alternative plan issued pursuant to this section shall contain the terms and conditions prescribed in this section.

"(3) RELATIONSHIP TO OTHER PLAN.—

"(A) PROVISIONS.—In issuing the alternative plan under this section, the Secretary shall incorporate by reference the provisions of the potato research and promotion plan in effect pursuant to this Act that are not inconsistent with the amendments made pursuant to the alternative plan.

"(B) BOARD MEMBERS.—Each board member that is sitting on the effective date of the alternative plan shall continue to serve the full term of appointment of the member pursuant to section 308.

"(b) NATIONAL POTATO PROMOTION BOARD.—

"(1) ESTABLISHMENT.—The alternative plan shall provide for the establishment by the Secretary of a National Potato Promotion Board (hereinafter in this title referred to as 'the board').

"(2) POWERS AND DUTIES.—The alternative plan shall define the powers and duties of the board, which shall include powers—

"(A) to administer such plan in accordance with the terms and conditions of such plan;

"(B) to make rules and regulations to effectuate the terms and conditions of such plan;

"(C) to receive, investigate, and report to the Secretary complaints of violations of such plan; and

"(D) to recommend to the Secretary amendments to such plan.

"(3) COMPOSITION.—

"(A) IN GENERAL.—The alternative plan shall provide that the board shall be composed of representatives of producers, one public representative, and up to five representatives of importers appointed by the Secretary from nominations submitted in accordance with this subsection.

"(B) NOMINATION OF PRODUCER AND IMPORTER REPRESENTATIVES.—Representatives of producers and importers shall be nominated by producers and importers in such manner as may be prescribed by the Secretary.

"(C) NOMINATION OF PUBLIC REPRESENTATIVES.—Public representatives shall be nominated by the board in such manner as may be prescribed by the Secretary.

"(D) FAILURE TO NOMINATE.—If producers or importers fail to select nominees for appointment to the board, or the board fails to nominate public representatives, the Secretary may appoint persons on the basis of representation as provided for in such plan.

"(E) REFERENDUM.—The requirement for inclusion of public representatives on the board shall not be subject to approval in a referendum.

"(4) COMPENSATION.—The alternative plan shall provide that board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the board.

"(5) BUDGET.—The alternative plan shall provide that the board shall prepare and submit to the Secretary for the approval of the Secretary a budget, on a fiscal period basis, of the anticipated expenses and disbursements of the board in the administration of the plan, including probable costs of research, development, advertising, and promotion.

"(c) ASSESSMENTS.—

"(1) RATE.—The alternative plan shall provide that the board shall recommend to the Secretary and the Secretary shall fix the assessment rate at not more than 2 cents per 100 pounds of potatoes handled, except that if approved by producers and importers pursuant to section 314, the rate of assessment shall not exceed one-half of 1 percent of the immediate past 10-calendar-year United States average price received for potatoes by growers as reported by the Department of Agriculture.

"(2) USE.—The alternative plan shall provide that—

"(A) funds collected by the board shall be used for research, development, advertising, or promotion of potatoes and potato products and such other expenses for the administration, maintenance, and functioning of the board, as may be authorized by the Secretary, including any referendum and administrative costs incurred by the Department of Agriculture under this title, except that the provision for payment to the Department of Agriculture for any referendum and administrative costs so incurred shall

not be subject to producer or importer approval in a referendum;

"(B) no advertising or sales promotion program shall make any reference to private brand names or use false or unwarranted claims in behalf of potatoes or their products or false or unwarranted statements with respect to the attributes or use of any competing products; and

"(C) no funds collected by the board shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (b)(2)(D).

"(3) REFUNDS.—The alternative plan shall not provide for a refund of funds collected by the board.

"(d) PROGRAMS AND PROJECTS.—The alternative plan shall provide that the board shall, subject to paragraphs (1) and (2) of subsection (c), develop and submit to the Secretary for the approval of the Secretary any research, development, advertising, or promotion programs or projects, and that any such program or project must be approved by the Secretary before becoming effective.

"(e) CONTRACTS AND AGREEMENTS.—The alternative plan shall provide the board with authority to enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of research, development, advertising, or promotion programs or projects, and the payment of the cost thereof with funds collected pursuant to this title.

"(f) BOOKS AND RECORDS.—The alternative plan shall provide that the board shall maintain books and records and prepare and submit to the Secretary such reports from time to time as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to the board and cause a complete audit report to be submitted to the Secretary at the end of each fiscal period.

"(g) ESCROW ACCOUNT FOR ASSESSMENT REFUNDS.—

"(1) IN GENERAL.—The board shall—

"(A) establish an escrow account to be used for assessment refunds; and

"(B) place funds in such account in accordance with paragraph (2) during the period beginning on the effective date of the alternative plan issued under this section and ending on the date of the referendum on the alternative plan issued pursuant to section 314(e).

"(2) AMOUNT PLACED IN ACCOUNT.—The board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

"(3) RIGHT TO REFUND.—Subject to paragraphs (4), (5), and (6), any producer or importer shall have the right to demand and receive from the board a one-time refund of assessments collected from such producer or importer during the period referred to in paragraph (1) if—

"(A) such producer or importer is responsible for paying such assessments;

"(B) such producer or importer does not support the program established under this title; and

"(C) the alternative plan issued pursuant to this section is not approved pursuant to a referendum conducted under section 314(e).

"(4) FORM OF DEMAND.—Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the board.

"(5) PROOF OF PAYMENT.—Such refund shall be made on submission of proof satisfactory to the board that such producer or importer paid the assessment for which refund is demanded.

"(6) PRORATION.—If the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible producers and importers under this subsection and the alternative plan issued pursuant to this section is not approved pursuant to a referendum conducted under section 314(e), the board shall prorate the amount of such refunds among all eligible producers and importers who demand such refund.

"(h) APPLICATION TO ALL STATES.—Notwithstanding any other provision of this Act, an alternative plan issued under this section shall apply to all 50 States.".

SEC. 608. ASSESSMENTS.

Section 310 of the Potato Research and Promotion Act (7 U.S.C. 2619) is amended—

(1) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsections (a), (b), and (d)"; and

(2) by adding at the end the following new subsection:

"(d)(1) The assessment on imported tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes under an alternative plan issued under section 308A shall be—

"(A) established by the board so that the effective assessment rate shall equal that established on domestic production; and

"(B) paid by the importer to the Potato Board at the time of entry into the United States.

"(2) Each importer under an alternative plan issued under section 308A shall maintain a separate record indicating—

"(A) the total quantity of tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes imported into the United States that are included under the terms of the plan as well as those that are exempt under such plan; and

"(B) such information as may be prescribed by the board.

"(3) Importers responsible for payment of assessments under this subsection shall—

"(A) maintain and make available for inspection by the Secretary such books and records as are required by the plan;

"(B) file reports at the times, and in the manner, and having the content prescribed by the plan; and

"(C) make such information and data available to the board and Secretary as is appropriate or necessary for the effectuation, administration, or enforcement of this title or of any plan or regulation issued pursuant to this title.

"(4) Notwithstanding any other provision of this title, assessments collected under this section shall be used to reimburse the Secretary for costs incurred by the Secretary for implementing and administering the amendments made by Potato Research and Promotion Act Amendments of 1989.".

SEC. 609. REQUIREMENT OF REFERENDUM.

Section 314 of the Potato Research and Promotion Act (7 U.S.C. 2623) is amended—

(1) in subsection (b), by striking "two-thirds of the producers" and inserting "a majority of the producers";

(2) in subsection (c), by inserting "or importers" after "potato producers";

(3) in subsection (d), by inserting "or importer" after "producer"; and

(4) by adding at the end the following new subsection:

"(e)(1) Not later than 120 days after publication of the proposed alternative plan pursuant to section 308A(a)(1) and after notice and opportunity for public comment, the Secretary shall issue an alternative plan under section 308A. Such alternative plan shall become effective as provided in this subsection.

"(2) Not later than 24 months after the date of issuance of the alternative plan, the Secretary shall conduct a referendum among producers and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of potatoes, for the purpose of ascertaining whether the alternative plan issued under section 308A is approved or disapproved by such producers and importers.

"(3) Such alternative plan shall be continued only if the Secretary determines that the alternative plan has not been disapproved by a majority of the producers and importers voting in the referendum.

"(4) If such alternative plan is not approved, the Secretary shall terminate such alternative plan, and the original plan issued under section 308 shall become effective.".

SEC. 610. AMENDMENT PROCEDURE.

Section 316 of the Potato Research and Promotion Act (7 U.S.C. 2625) is amended by inserting before the period at the end the following: ", except that amendments to plans may be implemented through (1) notice and comment procedures, or (2) notice and hearing procedures, with approval by a majority of those persons eligible and voting in a referendum, prior to issuance of the amended plan as determined appropriate by the Secretary".

TITLE VII—HONEY

SEC. 701. SHORT TITLE.

This title may be cited as the "Honey Research Promotion, and Consumer Information Act Amendments of 1989".

SEC. 702. DEFINITIONS.

Section 3 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4602) is amended by adding at the end the following new paragraph:

"(18) The term 'exporter' means any person who exports honey or honey products from the United States.".

SEC. 703. REQUIRED TERMS OF ORDERS.

Section 7 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting after the first sentence the following new sentence: "A State association may nominate not more than one person from such State to serve on the Committee."; and

(B) in paragraph (5), by inserting after the first sentence the following new sentence: "The Committee may nominate not more than one person for each member or alternate position on the Honey Board.";

(2) in subsection (c)—

(A) in paragraph (2), by striking subparagraph (C) and inserting the following new subparagraph:

"(C) two members who are either importers or exporters of which at least one shall be an importer, appointed from nominations submitted by the Committee from recommendations by industry organizations representing importer and exporter interests;";

(B) in the matter following subparagraph (E), by striking "or alternates"; and

(C) in paragraph (4), by striking the period at the end and inserting ", except that if as a result of redistricting the residence of the member or alternate is no longer in the region from which such person was appointed, such member or alternate may serve out the term for which such person was appointed.";

(3) in subsection (e), by striking paragraph (2) and inserting the following new paragraph:

"(2)(A) A producer or producer-packer who produces or produces and handles less than 6,000 pounds of honey per year, or an importer who imports less than 6,000 pounds of honey per year, shall be eligible for an exemption from the assessment if such producer, producer-packer, or importer consumes at home, donates, or distributes directly through local retail outlets the entire amount so produced, produced and handled, or imported.

"(B) In order to claim such exemption, a person shall submit an application to the Honey Board stating that the person's production, handling, or importation of honey for the year for which the exemption is claimed shall meet the requirements of this paragraph.

"(C) If, after a person receives an exemption from the assessment for any year, such person no longer meets the foregoing requirements of this paragraph for an exemption, such person shall file a report with the Honey Board in the form and manner prescribed by the Board and pay the assessment on or before March 15 of the subsequent year on all honey produced or imported during the year."; and

(4) by adding at the end the following new subsection:

"(k) Any patents, copyrights, inventions, product formulations, or publications developed through the use of funds collected by the Honey Board shall be the property of the Honey Board and any funds generated from such patents, copyrights, inventions, or publications shall inure to the benefit of the Honey Board.".

SEC. 704. COLLECTION OF ASSESSMENTS; REFUNDS.

Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) is amended—

(1) by striking subsection (d) and inserting the following new subsection:

"(d) In any case in which a loan is made with respect to honey under the honey price support loan program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Secretary shall provide for the assessment to be deducted from the disbursement of any loan funds made to the producer and for the amount of such assessment to be forwarded to the Honey Board. The Secretary shall provide for the producer to receive a statement of the amount of the assessment deducted from the loan funds promptly after each time any loan funds are disbursed.";

(2) in subsection (f), by inserting after "assessments" the following: "and persons receiving an exemption from an assessment"; and

(3) by striking subsection (h) and inserting the following new subsections:

"(h)(1) Any producer or importer may obtain a refund of the assessment collected from the producer or importer if demand for such is made within the time and in the manner prescribed by the Honey Board and approved by the Secretary, except that during any year the amount of refunds made to each importer, as a percentage of total assessments collected from such importer, shall not exceed the amount of refunds made to domestic producers as a percentage of total assessments collected from such producers.

"(2) Such refund shall be made by the Honey Board in June and December of each year. A producer who has obtained a honey price support loan under the Agricultural Act of 1949 may obtain a refund at that time if the producer has submitted to the Honey Board the statement received under subsection (d) of the amount of assessment deducted from the loan funds and has otherwise complied with this subsection, even though the loan with respect to which the assessment was collected may still be outstanding and final settlement has not been made.

"(i) If a first handler or the Secretary fails to collect an assessment from a producer under this section, the producer shall be responsible for the payment of the assessment.".

SEC. 705. INVESTIGATIONS AND POWER TO SUBPOENA.

The Honey Research, Promotion, and Consumer Information Act is amended by inserting after section 11 (7 U.S.C. 4610) the following new section:

"SEC. 11A. INVESTIGATIONS AND POWER TO SUBPOENA.

"(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this Act or to determine whether any person subject to this Act has engaged or is about to engage in any action that constitutes or will constitute a violation of this Act or of any order or regulation issued under this Act.

"(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from anyplace in the United States.

"(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of the person and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.".

SEC. 706. EFFECTIVE DATE.

Notwithstanding any provision of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.), the Secretary of Agriculture shall issue an amendment to the order provided for by the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.) that implements the amendments made by this title after notice and opportunity for public comment. The amendment shall become effective on the date of the publication of the amendment in the Federal Register.

TITLE VIII—VIDALIA ONIONS

SEC. 801. VIDALIA ONIONS.

(a) PROHIBITION.—No person shall label, package, classify, identify, or otherwise designate for sale any onions as "Vidalia onions", "Vidalias", or with any other usage of the term "Vidalia ", unless such onions—

(1) are produced in the "Production area", as that term is defined in section 955.4 of Federal Marketing Order No. 955, in effect on the date of enactment of this Act, as contained in part 955 of title 7, Code Of Federal Regulations; and

(2) satisfies the definition of the term "Vidalia onions" contained in section 955.5 of the Order.

(b) VIOLATIONS.—A violation of this section shall be considered a violation of paragraphs (4) and (5) of section 2 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b(4) and (5)).

TITLE IX—PROHIBITION ON DUTY DRAWBACK

SEC. 901. PROHIBITION ON DUTY DRAWBACK.

(a) IN GENERAL.—A person shall be ineligible for participation in any export program established under title I or title III of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), or in any other export credit, credit guarantee, bonus, or other export program carried out through, or administered by, the Commodity Credit Corporation or carried out with funds made available pursuant to section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c) with respect to the export of any agricultural commodity or product that has been or will be used as the basis for a claim of a refund, as a drawback, pursuant to section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)), of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(b) VEGETABLE OIL.—A person shall be ineligible for participation in any of the export programs referred to in subsection (a) with respect to the export of vegetable oil or a vegetable oil product that has been or will be used as the basis for a claim of a refund, as a drawback, pursuant to section 313 of the Tariff Act of 1930, of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(c) CERTIFICATION.—A person applying to export any agricultural commodity or product under the export programs referred to in subsection (a) shall certify that none of the commodity or product has been or will be used as the basis of a claim for any refund specified in subsection (a), except that a person applying to export any vegetable oil or vegetable oil product under such programs shall certify that none of the vegetable oil or vegetable oil product has been or will be used as the basis of a claim for any refund specified in subsection (b).

(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations to carry out this section.

(e) APPLICABILITY.—This section shall not apply to quantities of agricultural commodities and products with respect to which an exporter has entered into a contract, prior to the effective date of this section, for an export sale.

ADDITIONAL STATEMENTS

THE UKRAINIAN CATHOLIC CHURCH

● Ms. MIKULSKI. Mr. President, I would like to take a moment today to recognize those people of the Ukraine who are seeking the right to worship freely in the Soviet Union.

Last year was the millenium of Christianity in the Ukraine, and I would like to acknowledge the great significance of this anniversary. The deeply felt celebration of the millenium was a reflection of the fierce independence of the Ukrainian people and of their strong spiritual tradition, which has resisted the antireligion policies of the Soviet state.

It was in Kiev, the capital of the Ukraine, that both Ukrainian and Russian Christianity began. But for hundreds of years the Russian and Soviet Governments have suppressed those faiths. The Ukrainian Catholic and Ukrainian Orthodox Churches were outlawed first by the czars and then by Stalin. It is a great tribute to the people of the Ukraine that their churches have survived centuries of oppression at the hands of Imperial Russia and now the Soviet Union.

Freedom of worship is a fundamental human right and should be respected in every area of the world. Despite the new openness in the Soviet Union, the Ukrainian Catholic and the Ukrainian Orthodox religions remain outlawed, and millions in the Ukraine are denied the right to worship as they choose. Such a basic injustice must be recognized and corrected, and I call on President Gorbachev to take the meaningful step of legalizing these faiths.●

HONORING THE 10TH ANNIVERSARY OF MIDWAY AIRLINES

● Mr. DIXON. Mr. President, I rise today to honor Midway Airlines, a great American corporation based in the State of Illinois, as this company celebrates its 10th anniversary as one of America's premier airlines.

From its November 1, 1979, inaugural flight, Midway Airlines has played an integral part in the renaissance of Chicago's Midway Airport, a feat which in turn has given the Windy City two fine airports. Midway's humble story began on that November day with only three airplanes servicing three cities, and operating out of a deserted airport considered by many to be a relic of the past following the rise of O'Hare Field. From that simple beginning, however, under the capable leadership of founding Chairman Irving T. Tague and current chairman and CEO David Hinson. Midway Airlines has rapidly expanded its fleet and service to its current status of serving over 50 cities nationwide, while being chiefly responsible for the renaissance of one of our Nation's most durable and storied airports.

Midway Airlines has made a smooth transition from the role of regional carrier to one of the Nation's most prominent airlines. It has established itself among the leaders in the airline industry with its stellar safety record during its first decade. Midway Airlines' reputation as one of the Nation's most reliable airlines was confirmed by its No. 1 favorable ranking in the Department of Transportation's July report on consumer complaints.

Midway Airlines is witnessing unprecedented expansion as it enters its second decade. This month Midway will open a second hub located at Philadelphia International Airport. The Philadelphia airport will allow Midway to bring its unique brand of Chicagoan service to an entirely new market of travelers. The 1990's also promise to see Midway Airlines reach out across the world, as plans to make Midway Airlines a truly international airline take place.

I expect the future to bring nothing but continued success for Chicago's "homegrown" airline. Midway's contribution to Chicago and the entire State of Illinois is immeasurable and is appreciated by all Illinoisans. I consider it an honor and a privilege to represent the home State of such a fine corporation and most importantly, the thousands of Illinoisans who comprise the outstanding work force at Midway Airlines. All of us join them in looking forward to Midway's success in its second decade.●

SENATOR HERB KOHL ON NIXON IMPEACHMENT

● Mr. KOHL. Mr. President, I would like to share my thoughts as a member of the Impeachment Trial Committee. First, however, let me say that Senators FOWLER and DANFORTH conducted the proceedings very effectively—and very fairly. Judge Nixon clearly received due process, and I commend my colleagues.

I want to begin by discussing Judge Nixon's motion to dismiss article three. Then I will address the question of Judge Nixon's guilt or innocence.

Judge Nixon essentially makes two arguments with respect to article three—that it's unconstitutional and that its unfair. I do not accept his first argument, but I agree with the second. And it's unnecessary to decide the constitutional question if we believe that article three is in fact unfair. We can and should dismiss it on that ground alone.

Article three is phrased in the disjunctive. It says that Judge Nixon concealed his conversations through "one or more" of 14 false statements. This wording presents a variety of problems. First of all, it means that Judge Nixon can be convicted even if two thirds of the Senate does not agree on which of his particular statements were false. The House managers admitted this. In theory, then, Judge Nixon could be found guilty even if 95 Senators conclude that he told the truth in each of the 14 statements. After all, it takes just 5 Senators on each of the statements to convict by a two thirds majority.

The House is telling us that it's OK to convict Judge Nixon on article three even if we have different visions of what he did wrong. But that's not fair to Judge Nixon, to the Senate, or to the American people. Let's say we do convict on article three. The American people—to say nothing of history—would never know exactly which of Judge Nixon's statements we regarded as untrue. They'd have to guess. What's more, this ambiguity would prevent us from being totally accountable to the voters for our decision.

The House managers tried to answer our concern by saying that we can explain our votes in the RECORD. This is not satisfactory. Our vote should speak for itself. Although it may be desirable to explain our conclusions, we should not have to do so. It's also unrealistic to expect every Senator to describe his or her thought process in detail.

Article three reminds me of the kind or menu that some Chinese restaurants use. We are asked to choose a combination of selections from column "A" and from column "B." This complicates our deliberations, and it puts a tremendous burden on the accused.

I realize that we have used omnibus articles before. But they did not contain the word "OR," and they did not allege 14 crimes. In the Claiborne case, for example, the omnibus article accused him of just two crimes—falsifying tax returns in 1979 and 1980.

But my basic objection is more fundamental: the prosecution should not be allowed to use a shotgun or blunderbuss. We should send a message to the House: "Please do not bunch up your allegations. From here on out, charge each act of wrongdoing in a separate count. Follow the example of prosecutors in court." Such a change would clarify things and allow for a cleaner vote on guilt or innocence. And it would not interfere with the House's constitutional duties. In sum, even if article three is technically permissible under the Constitution, Congress can do better.

I would like to switch gears at this point and talk about the underlying issue—whether Judge Nixon ought to be convicted on articles one and two.

You all know the story by now, and you've heard some excellent analyses of the evidence. Let me start with intangibles. We cannot convict a man on

intangibles, but I think they are important to seeing the big picture. My impression is that Judge Nixon is not a bad or evil person. Instead, Judge Nixon struck me as someone who dug himself into a hole—and then kept digging when he realized he was stuck. He's probably not a liar at heart; but in my judgment, he did lie in this instance.

In objective terms, Judge Nixon had no motive to lie to Federal investigators or the grand jury. He did not do anything illegal in talking to Wiley Fairchild or Bud Holmes. Dumb, perhaps, but not unlawful. Judge Nixon broke no law by telling Holmes about Fairchild's blackmail allegation. And it was probably even legal for Judge Nixon to put in a "good word" for Drew Fairchild with Bud Holmes. Since Judge Nixon sat on the Federal bench, he could properly talk about a State case—especially to an old friend in a tightly knit community. That's why he was never charged with wrongdoing for having these discussions. That's why Yale Law Professor Geoffrey Hazard gave him a clean bill of health on the conversations.

But that's the objective reality. And Judge Nixon, like the rest of us, sees things subjectively, or from his own vantage point. I believe that Judge Nixon thought his conversations were improper or would look bad. It's easy to see why. He gets a good oil deal from Wiley Fairchild—a deal acquired primarily because he was a Federal judge. He promises Wiley that he will help him if he can. And then, when Wiley's son is busted, Judge Nixon puts in a "good word" with the prosecutor. Any public official could easily see how bad this would look in the media. The story would play very, very poorly.

And so I believe Judge Nixon tried to keep his discussions from the authorities. He began digging his hole in that first interview with the prosecutor and FBI. Then he got in deeper in front of the grand jury. And later, at his criminal trial and during the impeachment—when he's spotted in his hole—he down-plays the discussions or says he didn't remember them.

Judge Nixon is right about one thing: the conversations did not amount to much in the end. Drew Fairchild eventually served time in prison for his drug smuggling. He was not spared because of Judge Nixon. But, of course, that's not the issue. We're here to decide whether Judge Nixon made false or misleading statements about his own actions. My conclusion is, he did.

I think so for a number of reasons. First, Judge Nixon's statements were adamant. They were not hedging, like "gee, I might have talked about Drew's case, but I don't think so." No, in the grand jury, Judge Nixon denied any discussions in flat terms. He said he had "nothing whatsoever" to do with Drew Fairchild's case. He said he "never talked to anyone about the case." This from a man who later claimed he spoke to Wiley Fairchild twice about an aspect of the case—blackmail. This from a man who later said he spoke to Bud Holmes about "a matter that you're handling concerning Mr. Fairchild's son."

Now Judge Nixon chooses his words carefully. Everyone who knows him says so. He's a Federal judge. He's observed hundreds of witnesses; he knows how these things work. Yet, before the grand jury, he did not qualify his denials. I think that reveals his intent.

Judge Nixon suggests he was surprised at the first interview, and he complains that he was not asked the right questions. But even if we give him the benefit of the doubt on these points, he had weeks to get his thoughts together before testifying to the grand jury. He knew what was coming. He read about the grand jury in the papers. He hired an attorney. He reviewed a transcript of his first interview. Don't you think he would have racked his brain for every detail? This is a lawyer, after all, a former litigator.

In the grand jury room, Judge Nixon declared that he had nothing to do with Drew Fairchild's case "officially or unofficially." The "official" part is certainly true. But by his own admission, he at least played an unofficial role in communicating Wiley Fairchild's blackmail allegations to Bud Holmes. And no matter how hard Judge Nixon tries to play with words, those communications involved the Drew Fairchild case. I'm not persuaded by the claim that Judge Nixon "mentioned" Drew's case to Bud Holmes but somehow didn't "discuss" it.

Judge Nixon says no one—not Fairchild, Ingram, or Holmes—told the grand jury about the judge's conversations with Holmes or Fairchild, or about the phone call from the farm. Thus, Judge Nixon contends that he is being held to an unfair standard of "testimonial perfection."

However, this argument does not wash. It's easy to understand why Holmes did not bring up the discussions. He'd done some very bad things, like passing Drew's case to the inactive file—after Drew pleaded guilty—to make Judge Nixon look good to Wiley Fairchild. For his part, Carroll Ingram did not tell the grand jury about the phone call because he learned about it only later. Only after Ingram testified did Holmes tell Ingram about the phone call. Ingram subsequently volunteered this new information to the Justice Department.

As for Wiley Fairchild—well, I frankly cannot explain his lapse. But since when do two wrongs make a right? More importantly, Wiley is not the one who's on trial here, and Wiley is not a Federal judge.

I do not mean to suggest that this is an open-and-shut case. One might argue, as Judge Nixon does, that his false statments were not material. In other words, if all Judge Nixon did was talk about blackmail to Wiley Fairchild and Bud Holmes, then his misleading testimony to the grand jury was no big deal—since there never was a blackmail. And one who accepts the Holmes version of events could nevertheless argue that Judge Nixon did no harm by denying that Holmes had discussed the case with him—since their discussion was not itself illegal.

But Judge Nixon took an oath to tell the truth and the whole truth. As a grand jury witness, it was not for him to decide what would be material. That was for the grand jury to decide. Of all people, Federal Judge Walter Nixon certainly knew this.

So I am going to vote "guilty" on articles one and two. Judge Nixon lied to the grand jury. He mislead the grand jury. These acts are indisputably criminal and warrant impeachment. I do not buy the argument that he forgot. It's just not plausible. Nor do I accept the claim that all of the prosecution witnesses are mistaken or lying themselves. On the important points, their stories are consistent. Finally, none of the side issues—like overreaching by Prosecutor Weingarten—rises to the level of exonerating Judge Nixon. On articles one and two, the House proved its case by clear and convincing evidence.

Yesterday, Judge Nixon's Lawyer, Mr. Stewart, said something that remains in my mind. He said the prosecution witnesses became "hostages to their own lies." But I think his phrase really describes Judge Nixon. He became a hostage to his own misleading statements. It's tragic that he ended up that way; and I am saddened that we're here. Nevertheless, the evidence presented to the Senate demands Judge Nixon's removal from office. He is guilty on articles one and two. Article three should be dismissed for the reasons I have stated.●

REMARKS OF JAMES SCHLESINGER AT THE WORLD ENERGY CONFERENCE, MONTREAL, CANADA

● Mr. BENTSEN. Mr. President, for years I have expressed my concerns regarding the impact of foreign oil imports on this Nation's national security. This addiction to imported oil has continued unabated, especially our increased reliance on oil from the Middle East. Former Secretary of Energy, James Schlesinger, recently delivered a speech entitled "Energy and Geopolitics in the 21st Century,"

to the World Energy Conference in Montreal, in which he reminds us and warns us of this continued reliance on foreign oil and the long-term implications to our national security. I wish to take this opportunity to share his insightful remarks with my colleagues.

The statement follows:

ENERGY AND GEOPOLITICS IN THE 21ST CENTURY

(By James Schlesinger)

At this annual gathering of the World Energy Conference I have been asked to discuss energy and geopolitics in the 21st century. One is, no doubt, flattered by the suggestion that he may possess the requisite gift of clairvoyance to foretell long-range energy developments, let alone their prospective impact on geopolitics. After all, it was the physicist, Nils Bohr, who made the comment (sometimes, reflecting the tangled truism of its logic, ascribed to the late Samuel Goldwyn): "prediction is always difficult, especially about the future".

So I shall make my task somewhat less difficult by limiting it in two ways. First, my comments shall not extend beyond the early decades of the next century. Even in the course of twenty five years new technologies could radically alter the shape of the future and one's judgments about it. But the probability, that such new technologies might emerge and on a vast scale be introduced commercially, is mercifully lower than it is over a century or longer. For fifty or a hundred years the only certainty that we can have is that changes we cannot now foresee will significantly alter the face of the future. By contrast, for a few decades ahead, it is far more likely that the outcome will be determined by forces that we can now discern.

Second, I shall confine myself to delineating those major forces or trends—likely to affect developments in the decades immediately ahead. In this way I can avoid the pitfalls of prediction—or the rather beguiling ambiguities of the Delphic Oracle.

One cannot, of course, measure with any precision the strength of such major trends or the pace at which they may influence future developments. Moreover, one has no assurance that such trends will not be reversed. Indeed, the very act of specifying such trends is likely to generate forces or even specific countermeasures that serve to bring about such a reversal. (That risk is inherent in any intelligence projection.) Nonetheless, behind the trends that I shall specify, there is considerable momentum. They may be slowed, but it would take a supreme act of will to reverse them entirely.

The 17th century English political operative and savant, the Marquis of Halifax stated: "the best qualification of a prophet is to have a good memory". Quite right—for as we peer into the future, it is certain to be influenced by the re-emergence of past tendencies which, for one reason or another, have been temporarily submerged. Among such tendencies is the intimate association between energy security and the strength of nations or, more broadly, the strength of alliance systems. That association—which in the past has led to military conflict to establish control over fields of coal or oil—has been partially obscured since World War II. The major power blocs have possessed sufficient energy resources—or sufficient political and military power to assure security of supply. But those halcyon days during which one could, more or less, take energy security for granted and focus on other issues came to an end in 1973. Since then the rise of nationalism, the rebirth of religious fundamentalism, and the weakened cohesion of the major power blocs have all contributed to renewed attention to the issue of energy security.

I shall address these matters, first, by examing the trends in energy, which, in large degree, amount to the re-emergence of older tendencies that had temporarily been suppressed by the Oil Shocks of the 70's. Later, I shall examine the prospective changes in military strength, in political attitudes and in geophysical structures—also a reflection of forces discernible in the past, though less rigorously so then is the case for energy. Finally, I shall attempt to draw some conclusions—prudently falling short of prophecy.

Without doubt, the most significant, indeed the dominant, trend in energy is the rapidly growing dependency on OPEC and producing nations of the Persian or Arabian Gulf. In just four years time the call on OPEC crude has risen by some 35 percent—largely eliminating that atmosphere of desperation, instability, and cut-throat competition that marked OPEC behavior in the middle of the decade. The call on OPEC promises to continue to rise—gradually eliminating whatever surplus capacity presently (or prospectively) exists. In large measure this change in the market has been driven by developments in the United States, the reputed leader of the Free World. Many of the trends marking the American developments apply elsewhere in the Free World, but I shall concentrate initially on the United States, which in this matter has truly forged into the lead.

(1) America's appetite for oil is once again steadily growing. In four years time it has rebounded by some 15 percent from the comparatively low level of 15 million barrels a day in 1985 now approaching the peak reached before the second Oil Shock. At the same time her ability to satisfy that appetite from her domestic resources has been shrinking. The result has been a growth in imports, that has recently accelerated. By the end of 1990 they will have grown by some 4.5 million bpd—roughly doubling in the five year period. Demand continues to rise. Production continues to fall—though the volume of the decline must diminish with time. Nonetheless, by the mid-90s imports will again have grown by a similar volume.

(2) There is nothing that compels import growth to occur at this pace. yet, despite the persistent political rhetoric, not to say handwringing, regarding national security, nothing has been done to arrest the growth of imports—and precious little is likely to be done in the foreseeable future. In this era the United States appears wedded to reliance upon "free market forces". Despite a deep-seated public myth or conceit regarding the robustness of America's energy industry (a conceit not significantly extending into the energy industry itself), America has in Ricardian terms virtually no comparative advantage in the production of crude oil. Indeed, she has an impressively high-cost oil industry, getting higher as depletion proceeds.

To be sure, there exist the usual possibilities of enhancing domestic oil production or achieving fuel substitution and limiting oil consumption through a variety of fiscal or regulatory measures. But fiscal options are drastically limited by the budgetary stalemate and by the political constraints that have led to that stalemate. Discouraging oil consumption or directing usage to other fuels through regulatory devices is highly suspect at this time—save for motives of enviromental protection. Thus, in brief, imports will continue to grow and to grow rapidly—because the measures required to restrain such growth are not in accord with the prevailing national psyche.

(3) Despite the continuing declamations regarding the villainy of the OPEC cartel—which curiously enough reached their peak at precisely the moment of the cartel's greatest weakness—the United States has now unquestionably become the best ally that OPEC has. The growth in U.S. import requirements (followed by a corresponding rise in OPEC production) has done far more to remove excess slack from the market than has any other force. Though it will have much outside assistance, all by itself the U.S. will dissipate much of the remaining surplus capacity and make the market quite snug by the middle 90s.

The United States has become the main engine for the restoration of OPEC power. From the perspective of the cartel, actions should speak louder than words. A friend in need is a friend indeed. The United States has been such a friend.

(4) What is true for the United States is, to a lesser degree, true elsewhere. At least for the OECD nations production has already peaked and will continue to decline. For non-OPEC producers generally including the centrally-planned economies it is likely to stabilize and then decline. World consumption continues to rise, perhaps most markedly among Third World nations.

(5) As the market tightens, excess availability declines, and ultimately prices rise, other nations will pay increasing attention to the rapidly expanding role of the United States in the international oil trade. There will be renewed criticism for its propensity to squander energy. Such criticism flourished during the later 1970s, when the growing U.S. appetite for imports similarly pushed up the market. It will be the Return of the Energy Squanderer.

(6) It should be also noted that the United States will by the mid-90's be facing foreign exchange requirements of over a $100 billion a year just to finance its oil imports. Particularly in light of the present health of the U.S. balance of trade, these additional out payments for oil imports will detract both from the U.S. economy and from the strength of its geopolitical position.

It is not my primary purpose today to speculate on the rate at which prices might be pushed up. If OPEC has learned a lesson from its overreaching at the end of the 70's, it will exhibit restraint and will allow the price to rise sufficiently gradually that it attracts only minimal public attention. Nor is it my purpose to delve deeply into the financial repercussions of the growing oil trade for the balance of payments of importing nations. Suffice it to say that the strong will survive and the weak will be hurt. The main point is to emphasize the steadily growing dependency on OPEC and upon the Persian Gulf, a region of the world not noted for its political stability.

As the outside world becomes steadily more dependent upon Gulf crude, the Middle East will become the focus of a revived and ever increasing external interest. Even without such outside attention, its internal passions and rivalries have turned that region into something like the world's cauldron. Add to those seething rivalries, an ever growing dependency and an ever rising stake, and the Middle East becomes something akin to the Balkans before 1914—a po-

tential tinder box. Any spark must draw the immediate attention of outside forces.

However, what is happening to those outside forces—those changes in military capabilities, political goals and attitudes, the cohesion of alliances, and the relative strength and weakness of economies which together provide the structure of geopolitics? Here the trends are less defined and less certain than they are in energy. Nevertheless, they are sufficiently well-defined that they can be delineated with some precision, even if somewhat speculatively. So here are some major trends that will determine the geopolitical "lines of force".

(1) Perhaps the greatest uncertainty in determining what the geopolitics will be is the evolution of the Soviet Union, which is as yet unresolved. Under Mr. Gorbachev the Soviet Union, at least temporarily, has placed less stress on military intimidation. Moreover, since the Afghani adventure the Soviet Union has faded as a threat. But its future remains uncertain and, reflecting that uncertainty, questions persist regarding the perception of the military threat, superpower rivalry, and East-West tension. Right now one must judge that there will be, at a minimum, an extended armistice in the Cold War—with no return likely to the tensions of either the high point of the Cold War or the early 1980s. Nonetheless, in assessing the geopolitical future the Soviet Union does remain, as Churchill called it, an "enigma".

(2) As the perception of the Soviet threat fades, the nations of the West will gradually (or perhaps precipitously) relax. U.S. military power will be substantially reduced—with the changed appreciation of the threat environment re-enforcing what had already become inevitable because of budgetary pressures.

The power of the West will decline, indeed continue to decline, as it has been doing in some sense since 1939 or 1945. The process of decolonization followed by the general withdrawal of the European colonial powers—perhaps most dramatically exemplified by the withdrawal of British power "east of Suez"—was for a long time masked by the preponderant power after World War II of the United States. It is quite clear, indeed it has become a cliche, that the era of preponderant American power is now ending. The United States will remain the single most powerful state on the world stage, but the unique period of pax Americana is now over. Western power, while it will remain formidable, will gradually be reduced—for demographic if for no other reasons. In the 21st century the population of the Western bloc will have fallen to less than 10 percent of the world's population—in contrast to the 30 percent that it was prior to World War II.

(3) The spread of sophisticated military capabilities is likely to continue. The perceived decline of the Soviet threat—and a less bipolar world means that the number of ready suppliers of military equipment is likely to rise. For similar reasons the inhibitions regarding sales will be weakened. The Middle East will continue to be a major and perhaps growing repository of such sophisticated military equipment. That would substantially reduce the ease and increase the military and political cost of outside intervention.

(4) One should not be misled by the ease of U.S. intervention in the Gulf Tanker War during the later 80's—to protect Kuwaiti tankers and generally to offset Iranian power (despite American protestations of neutrality in the war). Those conditions were unique. Iran—through its own follies and through the course of the war—had largely eliminated it own air and naval capabilities. The flow of events had led it to a point of substantial exhaustion both militarily and economically. Given its weakness, particularly its air and naval weakness, it was remarkably, if not deceptively, easy for the U.S. to neutralize residual Iranian military power. Many in the West, however, are likely to deceive themselves that somehow these unique conditions involving an exhausted Iran is somehow the normal model.

(5) Soviet capacity for military intervention is likely to increase relative to the West—assuming that the Soviet Union can surmount its current "time of troubles". Western military forces will be reduced—along with the inclination, and perhaps the will, to become militarily engaged in the region. At the same time, Soviet conventional forces will remain immense. If logistics are improved, their capability for intervention will grow. The Soviet Union is near at hand; the United States is far distant. Thus, if there were a sudden introduction of outside forces—and that remains a very big if—it becomes increasingly plausible that the outsider would be the Soviet Union. And the temptation to intervene may grow as the long-anticipated decline in Soviet oil production sets in.

(6) What about the Gulf region itself? As the outside world becomes increasingly dependent upon the Gulf, the principal nations of the region will become far more influential than today—with its (temporarily) slack supply conditions and low prices. Their financial difficulties will rapidly or gradually come to an end. Their place in the sun will be restored—along with their self-esteem. They will become increasingly cocky. They will also become more tempting as a target.

(7) The Middle East will likely continue to be marked by disunity. If so, as the oil market tightens, it will be subject to disruptions and supply interruptions—due to indigenous conflicts. It is possible, of course, that the producing states may become more unified. Given the present conditions, and particularly the historic rivalry between the Persian and the Arab this appears implausible. Unity would likely be an imposed unity—an attempt at such imposed unity by the Ayatollah Khomeini has visibly failed. Nonetheless, if such unity could be achieved, it would further enhance the economic and political power of the region relative to the outside world.

Far more likely is a continuation of political disunity alone with limited economic cooperation. The broader OPEC cartel will gradually be replaced by an "inner cartel" of the Gulf nations—those that have the reserves for additional production. The attitude and behavior of this "inner cartel" will come to be the chief, indeed the dominant influence, in oil markets.

(8) Concern about the Soviet Union may at some point revive among the nations of the region—as the memory of the failed Afghan adventure recedes. Although the Soviet Union has proved to be a far weaker competitor in terms of military technology than generally was believed in the 70's, its capacity for local intervention will certainly not diminish and may grow substantially. There are asymmetries in the ways in which the strength of the superpowers are reduced. Consequently, the nations of the region may ultimately choose to adopt the long-time Chinese injunction: bring to one's aid the barbarian far-removed, thereby to neutralize the barbarian close at hand. In a sense that would represent a re-embracing of Persia's historic policy.

What I have outlined, I believe, are the major forces that will be at work. No one can precisely gauge the strength—or the interactions—of these specific forces. That will vary with time and circumstances. No one can predict the future with any confidence. The uncertainties are simply staggering. But where does this all lead us?

We can foresee a world that has grown increasingly and perhaps excessively dependent on the Gulf region for its energy resources and for the performance of its economies. The Middle East will thus become the cockpit of contending world forces—a potential tinder box. If there is a major conflict, the Middle East is likely to be its vortex. "If there ever is a World War III", as one oil industry analyst has hyperbolically observed, "it will be fought over the Middle Eastern oil reserves".

The Middle Eastern nations themselves will be more influential, more self-confident, better armed, and, yet, probably still marked by disunity. Western capacity and inclination for intervention will likely diminish. The ability and the incentive for the Soviets to intervene may grow. Indeed, the latent threat of Soviet domination of the region (and of the world's oil valve)—with all that it implies—will not diminish for a long time. In their relations with the Soviet Union the nations of the Gulf will vary between fear and flirtation.

Let me close with two final observations. First, an early student of geopolitics, Karl Haushofer reached his ultimate conclusion with the pithy observation: "Who controls the Heartland, controls the world." That may have been academic or pseudo-academic melodrama—but it does provide food for thought. It might now be said that whichever great power may come to control the world's oil tap in the Gulf region, will to a large extent control the world.

Second, you will all recall the Beatitude: "The Meek Shall Inherit the Earth". Reportedly it was amended by the late J. Paul Getty to the effect that, the meek may inherit the earth but not the subsoil rights. His judgment has been strongly reinforced by the actions of the Ayatollah Khomeini and by others. Whatever else, those crucial subsoil rights in the Middle East are not now, nor are they likely to be, controlled by the meek.●

LABORATORY COMPETITIVE BIDDING MORATORIUM

● Mr. DURENBERGER. Mr. President, I have introduced a provision to extend the laboratory competitive bidding moratorium every year since 1985. This year the moratorium was approved by the Finance Committee, but because of reasons unrelated to the content of the provision, it was stripped from the reconciliation bill.

At this point, I would like to enter in the RECORD a letter to Mr. Louis B. Hays, the Acting Administrator of the Health Care Financing Administration, communicating my intention to reoffer this moratorium.

The letter follows:

U.S. SENATE,
Washington, DC, November 6, 1989.

Mr. LOUIS B. HAYS,
Acting Administrator, Health Care Financing Administration, Hubert Humphrey Building, Washington, DC.

DEAR MR. HAYS: As you know, the Senate Finance Committee this year again approved a provision extending the laboratory competitive bidding moratorium for another year. Unfortunately, this provision was stripped from the Senate bill for reasons wholly unrelated to the provision itself.

I wanted to let you know that I intend to reoffer the moratorium at the first appropriate opportunity. It is my hope and expectation that under these circumstances, HCFA will *not* implement its competitive bidding demonstration until the Congress has had an opportunity to consider and act on this moratorium. Thank you for your courtesy in this regard.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.●

CHURCH AND STATE: PARTNERS IN FREEDOM

● Mr. DOMENICI. Mr. President, I rise today to introduce into the RECORD what I believe to be a very thoughtful and articulate exposition on the current conflict between church and state.

The material that I am submitting is the text of a homily that the Most Reverend Anthony J. Bevilacqua, Archbishop of Philadelphia, gave recently to the John Carroll Society here in Washington during their celebration of the Red Mass.

The John Carroll Society, named after the first Catholic bishop in the United States, was founded in 1951. The primary purpose of the Society is the enhancement of spirital, intellectual, and social fellowship among lay men and women dedicated to the service of the Archbishop of Washington. The Society draws its members from all areas of professional and business life in the Washington, DC area.

One of the major activities of the John Carroll Society each year, in addition to their works of charity and other community projects, is the sponsorship of the annual Red Mass at the Cathedral of St. Matthew the Apostle. The Red Mass, which originated in Europe many centuries ago, is attended by judges, lawyers, and government officials for the purpose of invoking God's blessing and guidance in the administration of justice.

Archbishop Bevilacqua was the homilist at this year's Red Mass. He spoke on the subject of church and state. Although there is certainly room for discussion on whether Archbishop Bevilacqua's approach would strike the proper balance between Church and State, I found the Archbishop's scholarly approach to be a noteworthy contribution to the debate on this most difficult subject.

Mr. President, I therefore ask that the text of Archbishop Bevilacqua's comments be printed in the RECORD.

The comments follow:

CHURCH AND STATE: PARTNERS IN FREEDOM

Most Rev. Anthony J. Bevilacqua,
Archbishop of Philadelphia

It is fitting that here in the Capital of our Nation, officials of government and members of the legal profession assembly today in prayer with leaders of religion.

The Red Mass, called such because of the color of the vestments worn, has been a tradition of many centuries. It is a spiritual reflection and celebration of the symbiosis of religion and law, of Church and State.

It is a religious expression of gratitude for the many blessings God gives us through government leaders and the law.

It is a time of reconciliation with God asking forgiveness for our failure to acknowledge our dependence on him, our Supreme Lawgiver.

It is a time of petition asking God to bless, strengthen and enlighten our civic and religious leaders, all servants of the law and all people of faith, so that in cooperation and mutual trust, we may more effectively achieve justice and freedom for all people.

It is a time of challenge to religion and law, to Church and State, to government officials and religious leaders, to all citizens and to all faithful, to rediscover those basic moral premises, those essential religious principles that our Founding Fathers brought to the birth of this nation in the Declaration of Independence and in the Constitution.

It is a time of recommitment to those values of life, liberty and justice which are the protection of the sacred dignity and freedom of every individual human life.

It is a time when religious leaders call upon you in public office and in the legal profession to be in your role as we are in our calling—prophets of the law "of nature and nature's God," teachers of moral values, evangelizers for justice and true freedom.

The theme of the partnership of Church and State, embodiments of religion and law, is particularly compelling in this year 1989. This year, both the Church and State, the foundational pillars of our American enterprise celebrate historic bicentennials. Two hundred years ago in 1789, the American nation began a journey along a new path under the Constitution. In that same year, the Catholic Church in the United States also began a journey along a new road. For the first time, it began to walk under the leadership of its own hierarchical Shepherd when John Carroll was appointed its first Bishop.

At this point, I wish to alert you that, though I speak as a Roman Catholic Archbishop and, at times, as a civil lawyer, I will use the reality of the Catholic Church in the United States primarily as a metaphor for religion in general, as an image of all religious faiths.

The new road that the Church and this nation began to walk together in 1789 was primitive and perilous, with mystery always ahead. But the journey was filled with hope, illumined by law and God's word, protected by His angels.

For the most part, it has been an odyssey in which both travelers, Church and State, survived and flourished, largely because of mutual trust and friendship. In spite of attempts to separate one from the other, to put an impenetrable barrier between them, the two knew from the beginning that they needed each other, and along the way they became even more convinced of this truth.

From the very first step, it was the intent of both the State and the Church that they would walk the path not as strangers, and certainly not as enemies, but as friends in mutual support of each other. Thus it was that George Washington unabashedly stated that "of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports." James Madison, often called the Father of the Constitution, said that we cannot govern without God and the Ten Commandments. Jefferson, never labelled as a full-fledged Christian, nevertheless recognized the pragmatic necessity of religion when he asked: "Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that those liberties are the gifts of God." President John Adams echoed the sentiments of the writers of our fundamental law when he said: "Our Constitution was made only for a religious and moral people. It is wholly inadequate for the government of any other."

De Tocqueville, the French political sociologist, recognized during his voyage to Jacksonian America in 1831 the intimate fellowship of Church and State. He called religion "the first of America's political institutions" mainly because he saw religion as the leading defender of freedom.

The affirmation of the Church, on its part, for the fundamental values, rights and freedoms secured in the Constitution is echoed by the voice of the Psalmist: "*Legem tuam dilexi*"—"I have loved your Law."

While the relationship between the companions traveling together, Church and State, has for the most part been one of mutual support and a true blessing for both, the conversation and attitude between them have not always been the most amicable. More recently, there have been times of misunderstanding and dispute. These in turn have led to exchanges of accusations and periods of chilled silence. Especially in the last three decades, it is the perception of many that Church and State, religion and law, are adversaries instead of companions, enemies instead of friends, antagonists instead of partners. In their quest for their respective kingdoms, Church and State are seen as walking with an inviolable, impenetrable, and towering wall between them. The two pilgrims are further portrayed as shouting at each other over the wall in a cacophony of irate disagreements. Some have even suggested that the clash has become a babel of conflicting postures so that neither can understand the other.

This opposition, this impregnable wall between two friends traveling the road of our American experiment cannot endure much longer. If it does, both will suffer and crisis will be upon us. If there is discord between Church and State, the consequence will be a wall between religion and society which can only lead to moral decay in our nation.

A noted weekly news magazine two years ago judged the 80's, "a time of moral disarray." I am no prophet of doom, but even a casual observer of the American scene must admit that there is an undue obsession with self-interests and self-pleasures, that the trend is to eliminate from society and law those religiously-based moral values which were formerly co-natural to them. The clear direction today is toward a secular, anti-religious, humanistic consensus in society and law.

Symptoms of this moral crisis are evident in the high rates of child abuse, in the 1.5 million abortions a year, the increase in the divorce rate, teenage promiscuity and pregnancy, racism, drug and alcohol abuse, scandals in the world of finance, business, politics and even religion. And this is far from a taxative list.

Still relevant today are the words that Will Durant uttered fifty years ago: "We move into an age of spiritual exhaustion like that which hungered for the birth of Christ. The great question of our time . . . is whether men can bear to live without God."

Neither you nor I, not society, not the state, not this democracy can bear to live without God. Not if we want to remain a people of "life, liberty, and the pursuit of happiness."

De Tocqueville again observed, "Despotism may be able to do without faith but freedom cannot . . . How could society escape destruction . . . if it is not subject to God."

The psalmist also warns us: "If the Lord does not watch over the city, in vain does the watchman keep vigil."

My dear friends, how long will it take us to learn this truth. The time has come to restore the vital relationship between the Church and State, between religion and law. We must all read the signs of the times and recognize that more and more people are questioning the secularistic, relativist response to the issues that touch our very life. In education, science, politics, the press, medicine, law, business, family relations, and the world of entertainment, there is an increasing recognition of the need for ethical and moral values based on religion. Our nation is still predominantly a religious people. A poll taken in 1987 reported that 61% of adults over 18 have high confidence in religion. Religion ranked significantly higher than banks, public schools, newspapers, television, unions, and even, with all due respect, the Supreme Court of the United States—though it did come in second. We must realize, as Peter Berger, the religious sociologist, put it, that we live "under a sacred canopy."

Has the time not come for the Church and State, the two travelers along the path of our republic, to stop shouting at each other and start conversing again in a language both can understand?

Should we not engage anew in a dialogue to rediscover those basic values found especially in the Judeo-Christian tradition and in the natural law? I am speaking of those religious values that defend the sacred dignity and inviolable value of every human being. I am speaking of those values which inspired our Founding Fathers to begin the American odyssey, "Sub Deo et Lege", under God and the law. I am speaking of those religious values embodied in the fundamental law of our nation.

If Church and State journeying together are to engage in friendly conversation, there cannot be a towering, impregnable wall between them. Always needed is a clear line of demarcation between Church and State, but it should be one which will still allow their supporting hands to reach out to the other in time of need, which will still allow them to look at the face of the other and see friendship and love in each other's eyes. The total effect of such a synergetic friendship could very well be greater than the sum of what each would do separately.

The words of the Jesuit philosopher and scientist, Teilhard de Chardin, resonate the benefit that will flow from this fellowship of Church and State, religion and law, "Someday after mastering the winds, the waves, the tides and gravity, we shall harness for God the energies of love. And then, for the second time in the history of the world, man will have discovered fire."●

COSPONSORSHIP OF S. 1365 INNOVATIVE ALTERNATIVES TO IMPRISONMENT ACT OF 1989

● Mr. EXON. Mr. President, I rise today to announce my cosponsorship of S. 1365, the Innovative Alternatives to Imprisonment Act of 1989. In doing so, I am pleased to join Senator COATS, and the bill's 12 current cosponsors, in seeking to have this legislation passed by the Senate.

As we are all aware, our Nation's drug crisis is in large part responsible for our ever increasing prison population. Our two-pronged approach of better law enforcement and of tougher sentences has resulted in more prisoners being held for longer periods of time in our State and Federal prisons.

As our Nation's prison population is projected to be over 1 million in the near future, we must come to grips with the simple fact that the great majority of those prisoners will be released back into society at some point in time. Incarceration programs that do not prepare prisoners for that event can exacerbate our problem with crime and surely our problem with drug abuse.

Placing young, first-time, nonviolent offenders with violent, habitual and hardened criminals can hardly be an effective way to prepare them for the difficult transition to the law abiding and productive citizen that we would like them to become.

Our Nation's prisons are funded and designed primarily to keep violent criminals off the street. In their goal of preventing criminals from continuing to inflict violence on the public, our prisons are frankly doing a good job. But, I find that I agree with the sponsor of this bill when he suggests that our prison overcrowding has increased the pressures to release violent prisoners into society merely to create space to incarcerate the newly convicted.

In my view, there is a clear need in this country to begin to explore new innovative methods of incarceration. The increased numbers of criminals being sent to prison has created a pressing need for more prison space. In Nebraska, the problem is becoming acute. Although designed to hold 488 prisoners, Nebraska's penitentiary now houses 758. Although designed to hold 740 prisoners, Nebraska's medium security facilities now hold 1,095. Nebraska's prison population is nearly 50 percent beyond the intended capacity of its prison facilities. I am sure that my colleagues from across the Nation can point to similar or worse statistics.

As our States respond to this need for prison space, we are presented with a rare opportunity to promote new methods of incarceration that are better designed to successfully rehabilitate our prisoners. One idea that may work is the placement of nonviolent offenders in military style, boot camp prison programs. A few States have been experimenting with this new concept which I find to be worthy of support. The Innovative Alternatives to Imprisonment Act of 1989 will provide Federal funding to promote the establishment of additional programs of this type.

In reviewing S. 1365, I find that it would prefer that it also allow our States to experiment with other methods of incarceration that stress drug treatment, literacy education, vocational education, and job training. As a result I intend to urge the Senate to modify the bill in that regard. Although boot camp prisons may show some promise, our States have proven to be laboratories for new ideas and should not be unduly restricted in their efforts.

In Nebraska, we are seeing a dramatic increase in drugs and gang activity. While we must do more to attack the root causes—lack of economic opportunity and hope—of some of the problems, we must also address the immediate problem of stopping this illegal activity. We must also do more to save first time offenders from sinking into the abyss of a life of drug abuse and crime. That is why this bill is so important. The hardcore pushers and dealers deserve long term prison sentences. The first time offenders deserve punishment. But, they also deserve a chance to reform and turn away from a life of helplessness.

Most first time offenders in Nebraska are prosecuted by State law and placed in State prisons. That is as it should be. The Federal Government is spending billions of dollars in a war on drug abuse.

By cosponsoring every one of the earlier antidrug bills, and now this legislation, I want to offer a helping hand to Nebraska by being a bridge between the Federal Government and our State in the vital effort to maintain and improve the "good life" in Nebraska.

I have written to State Senator Jerry Chizek, chairman of the Nebraska Legislature's Judiciary Committee, to apprise him of this opportunity. Congressman PETER HOAGLAND has undertaken a similar initiative in the House of Representatives. I pledge my best efforts to work with those two officials and everyone else in Nebraska to make a positive contribution to Nebraska's future.

I congratulate my colleague from Indiana in introducing this measure and look forward to working with him to

see that this bill passes Congress as soon as possible.●

FUTURES TRADING ACT OF 1989

● Mr. CONRAD. Mr. President, I am pleased to be a cosponsor of S. 1729, the Futures Trading Act of 1989 which will go a long way toward restoring confidence in the commodities futures markets.

The indictments of traders and the soybean emergency problem this summer are signs that the futures trading system is in trouble. Producers, processors, exporters, and others participating in futures markets must have confidence that they are being treated fairly. They must be assured that the Commodities Futures Trading Commission [CFTC] is a tough regulator with adequate tools to keep the markets honest.

Farmers and businesses in North Dakota are very concerned about the health and integrity of the commodities futures markets which are so important to them. They are demanding efficient, competitive, and fair markets.

I believe that when fully implemented, this bill will go a long way toward restoring confidence in these markets and strengthening the regulatory power of the CFTC.

I was pleased that the two strengthening amendments to this bill which I proposed were accepted by the Agriculture, Nutrition, and Forestry Committee. One amendment authorizes the CFTC to suspend or modify the trading rights of anyone indicted for violating trading rules. This directly addresses the problem I raised in hearings that some traders under indictment were still trading for customer accounts.

The second amendment strengthens the conflict of interest rules by requiring a review of the personal and company positions of board members before votes are taken on actions that could affect the markets. This amendment should help to restore public confidence that market decisions take account of everybody's interest, not just those of traders.

The bill also provides that governing boards of exchanges will have better representation from producers and consumers of the traded commodities. This legislation recognizes that individual exchanges are different and allows the CFTC to account for these differences in the regulatory process.

I want to stress the importance of the role of the CFTC in implementation of this legislation. This legislation will succeed only if the CFTC works hard to restore its reputation as a strong and fair regulator. A strong regulatory bill requires a tough regulatory agency.

I urge my colleagues to support this strong bipartisan bill. A strong, efficient, competitive, and honest commodities futures industry is very important to the United States. This bill will help to restore, maintain, and expand our world leadership in commodities futures trading.●

THE IMPORTANCE OF MANUFACTURING AND COMPETITIVENESS IN MAINTAINING A GLOBALLY COMPETITIVE NATION

● Mr. HEINZ. Mr. President, I would like to bring Senators' attention to two speeches given by the Deputy Secretary of Commerce, Thomas J. Murrin, at the First Annual Conference of the Center for Integrated Manufacturing Decision Systems and the Aerospace Industries Association. Deputy Secretary Murrin spoke of the need for the United States to be globally competitive and of the importance of manufacturing to our national and economic security. I have known Tom Murrin for some time, Mr. President. He was formerly at Westinghouse in Pittsburgh, and I regard him as one of our leading hands-on thinkers in manufacturing today. His direct experience in the sector makes him well-qualified to make the judgments he delivers in these remarks, and I think Senators would learn a great deal about the difficulties a critical part of our economy faces by reading these speeches carefully.

To maintain our status as a global leader, it is essential that we revitalize our manufacturing industries. Japan, our biggest competitor, has been highly successful in maintaining the competitiveness of its manufacturing base. Mr. Murrin cites a poll of top manufacturing executives who, in assessing the relative abilities of national industries gave Japan an 85-percent rating to only 30 percent for United States industries. The Japanese have also been able to ensure production at a more rapid and less expensive rate than the United States while still bringing technological advancements and new products to the market.

A key reason for such success in Japanese industries is their use of an integrated production process called concurrent engineering. This process combines the ideas and skills of engineers, manufacturers, and support help together in the production process. If the United States does not start to adopt such an integrated method and move away from our specialist approach to production, we will clearly end up at a disadvantage.

Mr. Murrin also suggests five methods for U.S. industries to follow which he believes are critical to competitiveness and survival in the global market.

First, assure that global competitiveness and world-class manufacturing are top priority objectives in American industries.

Second, increase efforts to educate and motivate employees, so that managers fully understand competitive realities, engineers excel at concurrent engineering, and production personnel are trained to compete with foreign counterparts.

Third, more effectively apply advanced technology to manufacturing. This would include the use of expert systems, artificial intelligence and man-machine interactions such as robots.

Fourth, imaginatively seek lower cost sources of capital.

Fifth, sustain quality and productivity improvement.

While these principles do not embody specific strategies, I believe the methods suggested by Mr. Murrin are a step in the right direction for our industries.

In his speech, Deputy Secretary Murrin stated that achievement of these goals can transform American industry into a highly competitive production system characterized by high productivity, high quality, and a fast flexible response to changing requirements. These goals must be met by our industries, and it is Government's obligation to develop policies to aid them because improvement of manufacturing competitivenses is essential to keeping the United States a forerunner among globally competitive nations.

Mr. President, I ask that the text of Deputy Secretary Murrin's remarks be printed at this point in the RECORD.

The remarks follow:

REMARKS BY THOMAS J. MURRIN AT THE FIRST ANNUAL CONFERENCE, CENTER FOR INTEGRATED MANUFACTURING DECISION SYSTEMS

Thank you—and good morning!

I'm delighted to have this opportunity to participate in this First Annual Conference of the Center for Integrated Manufacturing Decision Systems!

You, your organizations, and your Agenda for these two days are truly outstanding!

The goals of the new Center to "decrease product life cycles" . . . and . . . to "increase decision quality at each stage of the product cycle" are SUPER. And—as stated—"Achievement of these goals can transform American industry into a highly competitive production system characterized by:

Reduced time to go from concept to product;

High productivity;

High quality; and

Fast, flexible response to changing requirement."

So, what you are doing can—and must—contribute significantly to making us Globally Competitive!

Hopefully, my few comments will help to stimulate you to succeed with your current initiatives. Since I will not take all of the allotted time, please plan to comment or question—after my prepared comments.

In my prepared comments, I'll cover:

The Importance of Manufacturing and Competitiveness;

Key Factors Which Determine Competitiveness;

An Example of Their Successful Application;

Some International Competitive Comparisons—and Increasing Challenges; and

Some simple—But Hopefully Significant—Observations and Suggestions for American Industrialists and Academicians like you.

Regarding the Importance of Manufacturing, we are not here just to talk about how to make our factories more productive and profitable. What is at stake, I believe, is our standard-of-living, and our national security . . .

Let me share a couple of quotes with you. . .

The first one is from *The Rise and Fall of the Great Powers.* This is the book in which Professor Paul Kennedy traces 500 years of history from 1500 A.D. to the present and indicates the interdependence of manufacturing and national security.

Kennedy writes—and I quote:

". . . All of the major shifts in the world's military-power balances have followed alterations in the productive balances . . . [This] has been confirmed by the outcomes of the major Great Power wars—where victory has always gone to the side with the greatest material resources. . . .

". . .'War, or the very possibility of war, makes the establishment of a manufacturing power an indispensable requirement for a nation of the first rank.' "

The next quote is from *Manufacturing Matters,* by Professors Cohen and Zysman. They say that:

" 'Manufacturing Matters' mightily to the wealth and power of the United States and to our ability to sustain the kind of open society we have come to take for granted.

"If we are to stay on top—or even high up—we can't just shift out of manufacturing and up into services, as some would have it . . .

"There is absolutely no way we can lose control and mastery of manufacturing and expect to hold onto the high-wage service jobs that we are constantly told will replace manufacturing . . .

"Services are complements—not substitutes or successors—to manufacturing."

Allow me to quote myself. A few years ago, at the NSIA Forrestal Award Dinner, I said that our country is engaged in two worldwide competitions which are like two simultaneous Super, 'Super Bowls':

One is our military and political competition with the Soviet Union.

The other is the industrial and commercial competition we face in the international marketplace; principally with Japan.

Manufacturing is crucial in both of these competitions—and their outcomes will, as I've suggested, greatly influence our national security and our personal standard-of-living.

In their new book, *American Business: A Two-Minute Warning,* Jackson Grayson and Carla O'Dell of the American Productivity Center cite the following seven negative consequences of non-competitiveness:

Reduced Standard-of-Living;

Increased Debt;

Increased Inflation;

Divisiveness;

Reduced National Security;

More Foreign Investment in the U.S.; and

Our Nation Becoming Number 2, or 3, or (Lower).

So we really have several important reasons to excel in Manufacturing and Competitiveness . . .

If Manufacturing is so important, it would appear prudent to ponder the key factors which determine its competitiveness. According to the President's Commission on Industrial Competitiveness—on which I was privileged to serve—four key factors are:

Priorities, Policies and Procedures;

Human Resources;

Technology; and

Cost-of-Capital

I would add:

Sustained Quality and Productivity Improvement.

Time doesn't permit an analysis of how we in the United States compare with leading competitors in regard to these factors—but, in my judgment, the overall situation is very challenging.

For example—to briefly consider the factor of Human Resources at the plant level the typical Japanese factory worker has the following characteristics. He is a high-school graduate who has passed a rigorous Japanese literacy test—applied nationally on a uniform basis. He has studied English for several years—and can read our language readily. He is familiar with basic engineering and scientific know-how—and is usually familiar with current computer technology. Consequently, he can operate well a battery of very sophisticated production machines—can also prepare the programs to automatically control such equipment—and, when necessary, can troubleshoot and repair his equipment.

The top Manufacturing Executive of a leading U.S. multinational company recently shared their assessment of the relative ability of his typical Japanese, European and American workers to assume Expanded Production Roles relating to Maintenance, Quality and Process Control; as follows:

	Percent
Japan	85
Europe	55
U.S.	30

In regard to our Engineers, we typically have "rigid specialists" who—in many respects are not as effective as Japan's "rotating generalists." In Japan, a design engineer routinely rotates to different functions—such as manufacturing or marketing—and readily becomes a practitioner of Concurrent Engineering; which I'll comment on shortly.

The following tabulation contrasts U.S. and Japanese companies in regard to several relevant characteristics:

United States companies	Japanese companies
General	
Research oriented	Manufacturing oriented.
Rigid specialists	Rotating specialists.
Not invented here (NIH) attitudes	Global search.
R&D to fabrication facility gap	Integrated R&D and fabrication facilities.
Linear development process	Looping development (heavy feedback).
Sophisticated designs	Design it for manufacturability.
Short-term, bottom-line orientation	Long-term orientation.
Document based transfer of information.	People-to-people information transfer.
Internal Communication	
Formal	Informal.
Top down	Bottom up.
Job specification	Job rotation.
Command style	Multilevel.
Document oriented	People oriented.
Creativity	
Individual stars (good for start-ups and small companies).	Teams (good for large corporations).
Production	
Focused on developing a detailed specification book.	Phase in information as it develops.
Development	
Few product cycles	Many rapid cycles through development, production, distribution, customer, and back to R&D.
Technical Search	
Narrow, limited searches focused on specific requirements.	Global search seeking opportunities.
Technology Transfer	
R&D plants are separate	R&D plants are integrated at the same site, sometimes within the same building.

By now, you may be wondering if I'll say anything unkind about American Business Executives. In general—in my view—our Executives have not provided effective leadership to assure that our companies are globally competitive. And they definitely have the responsibility to do so. Two weeks ago, I was invited speaker at a CEO Conference in southern California—and, in this regard, I made five simple, but significant, suggestions for American CEOs . . . I introduced these suggestions by opining that they are all critical to competitiveness—but they are not yet adequately implemented by American Executives.

For your information, the following are my five suggestions . . .

Assure that Global Competitiveness, and World-Class Manufacturing, are Top-Priority Objectives in your organization! And personally participate in developing Policies and implementing Procedures to meet or beat your Objectives.

Also, Communicate-and-Cooperate with relevant Leaders in Industry, Government, Labor and Academe.

Increase efforts to Educate and Motivate all of your people! To assure, for example, that your Managers really understand their competitive realities, worldwide; that your Engineers excel at Concurrent Engineering; and that your Production Personnel are trained, motivated and facilitated to compete with their foreign counterparts.

More effectively apply Advanced Technology to Manufacturing! This should include, for example, Expert Systems; Artificial Intelligence; and new Man-Machine Interactions—such as robots which respond to the human voice.

Imaginatively seek Lower Cost Sources of Capital—while aggressively justifying new investments by anticipating the financial benefits of greatly improved quality; radically reduced inventory, building and equipment; and the much more rapid commercialization of new products, and subsequent response to changing customer demands! And ponder the negative long-term implications of not now making such investments!

Finally—but very importantly—sustain Quality-and-Productivity Improvement! For example, prepare to compete for the National Quality Award by seeking excellence in the seven criteria—ranging from Leadership—through Human Resource Utilization—and highlighting Customer Satisfaction.

And challenge—and one that negatively impacts on many of you—is our relatively high Cost of Capital. In their notable article on "Competitiveness" in the July 15, 1988, issue of *Science,* the authors opine that productivity improvements crucially depend on capital formation—which in turn is much influenced by the Cost of Capital. To painfully make this point, they observe that, "In 1985, when American firms had a real cost of funds of 6%, Japanese firms had a real cost of funds of only 1.5%. This means that a U.S. firm should be willing to undertake a project that lowers earnings by a dollar today and raises them by 1.2 constant dol-

lars at some future date, only if the payoff comes in less than three years in the future.

"By contrast, a Japanese firm should be willing to sacrifice a dollar now for 1.2 dollars 12 years in the future. Thus, a U.S. firm would be irresponsible not to adopt a shorter time horizon than its Japanese counterpart."

Despite such competitive challenges, we can—and must—make tremendous improvements in Quality and Productivity. To make this point, let me quickly describe one such success story that I'm very familiar with—the Westinghouse Electronic Assembly Plant in College Station, Texas; the home of Texas A&M. This plant was selected, in a nationwide competition, to be the 1987 Electronics Factory of the Year . . .

College Station is largely the result of motivational DoD programs involving Westinghouse and the Electronic Systems Division of the U.S. Air Force.

The College Station planning began in the early '80s—and was stimulated by extensive U.S. and overseas studies; particularly in Japan.

CMU's Robotics Institute contributed to the success of College Station—and one notable ongoing development may lead to a greatly improved technique for the inspection of soldered joints.

Compared to the parent plant in Baltimore—which was earlier judged to be very competitive—College Station has reduced labor content, and inventories by about 50%! Material losses and manufacturing cycle time have been reduced by about 75%!

Composite yield—the percentage of a large lot of production units that gets perfectly through a multi-step process the first time—has improved from about 20% prevalent in the industry in the early '80s—to a current level at College Station of about 95%.

A key result is a dramatic reduction of cost to DoD of the output of this facility—sophisticated Printed Wiring Assemblies—by more than 50%!

Now for some insights into current and emerging competitive challenges . . .

A recent analysis of the Japanese, American and European Automobile Industry shows that the Japanese have a tremendous advantage in more rapidly, and less expensively, bringing new products to market. Representative comparisons are:

Lead-Time for First Prototype

Japan—6 months.
U.S.—12 months.
Europe—11 months.

Lead-Time for Production Body Die

Japan—13 months.
U.S.—23 months.
Europe—28 months.

Engineering Man-Hours Per Project

Japan—2,700,000.
U.S.—4,890,000.
Europe—6,430,000.

These differences are explained primarily by way in which the Japanese organize their personnel to do such tasks—and the fact that they typically are "rotating generalists" compared to our, and Europe's "rigid specialists," as I mentioned earlier.

In their excellent new book, *Dynamic Manufacturing,* three Harvard Business School professors call this, *Overlapping Problem Solving.* Some refer to this process as Concurrent Design—and DOD has a relevant initiative called Concurrent Engineering. Whatever the title, it's an integrated process which engineers the product and the manufacturing and support processes together. This typically results in the expenditure of much less time, money, people and other resources—often by a factor of one-half—while achieving products and systems that perform much more effectively and reliably.

The Japanese practice this process throughout most of their manufacturing companies. If we don't do the same, we are at a tremendous competitive disadvantage.

Additional competitive insights are provided by four Boston University authors in their report on Evolving Global Manufacturing Strategies: Projections into the 1990s. Based on "their surveys of nearly 1,500 manufacturers in Western Europe, North America and Japan in the last three years, the overall picture which emerges is that the Europeans and Americans seem to be striving for higher quality, while the Japanese are primarily seeking lower costs and flexibility.

"One interpretation of this picture is that the Americans and the Europeans are aiming at overcoming what they perceive to be the relative deficiencies of their manufacturing compared to the Japanese, whereas the Japanese, having been relatively successful in both quality and delivery management, are now aiming at developing a new competitive edge which combines flexibility with low cost manufacture. This interpretation raises the prospect of North American and European firms finally meeting the Japanese threat in terms of quality and delivery, at some time in the future, only to then find a new 'low cost-flexibile manufacturing' threat before them."

In this regard, the Department of Commerce's 1988 Report on Factory Automation in Japan provides some specifics. It states that, "the next major payoff in FA rests with reducing the number of indirect workers. This step will entail the use of expert systems for design and production control and automatic monitoring of test and inspection. The resultant factory is fundamentally different from today's state-of-the-art facility. It will incorporate autonomous control, artificial intelligence, and area control rather than discrete control. Many functions now carried out by managers will be absorbed by the workers.

"Efforts include development of expert systems for product design, production scheduling, maintenance support, production control and cost analysis; application control and cost analysis; application of AI to product inspection—and the application of advanced techniques such as distributed control and fuzzy logic. New techniques in man-machine interaction, such as robots which respond to a human voice, are another major theme.

"And integration of production on a worldwide basis will soon become a reality. Linking global sales and production information via a worldwide VAN network will allow optimization of manufacturing on an international basis. The result is an era of 'multi-domestic production'—an international division of labor with profound implications for marketing and production."

So Japanese Manufacturing is getting very sophisticated. This makes it imperative that you successfully apply much of the advanced know-how that will be described during this Conference.

Let me quickly share one more insight into our competitive challenge—relating to the extraordinary Long-Range Planning being done by the Japanese. About a year ago, some 3,000 Japanese experts—from industry, Government, Academic, Think-Tanks and Finance—completed an 892 page Plan; coordinated by their Science and Technology Agency.

This Plan sets Japanese technology milestones—year-by-year—out through 2015!

The Plan covers 17 Fields—starting with Advanced Materials and their Processing.

The first title indicates how they closely coordinate the development, design and manufacturing of new materials—or components, and products.

Such planning and coordination seems to give added credibility to their aspirations to move the World's Economic Center from the U.S.A. to the Pacific Rim—by about the year 2000!

Finally, let me make a few observations and suggestions that hopefully are relevant and valuable . . .

Our Laboratories and our Colleges are tops in the world. In my view, our top American scientists, engineers, professors and researchers are outstanding—second to none in the world in most important respects. However, they typically have three characteristics that do not contribute to Global Competitiveness. That is, they:

Do not open-mindedly and aggressively seek out relevant know-how from others—and particularly not from foreigners; even when it is indicated that others may have superior know-how;

Do tend to be "rigid specialists"—and somewhat parochial in their perspectives and attitudes. This often makes effective team-building difficult—and sometimes impractical.

Do not appreciate the importance of manufacturing—and do not develop and design materials, components or products with manufacturability in mind. This makes much more difficult—and sometimes impractical—the timely, low-cost manufacture of high-quality world-class products.

Accordingly, let me suggest that:

You more open-mindedly and aggressively seek out relevant know-how. For example, if you haven't made well-planned study trips to Japan and other Pacific Basin countries, this is an excellent way to start. And the new office of Japanese Technical Literature of the U.S. Department of Commerce is one source of helpful information.

You periodically have Conferences such as this. And more frequently meet in small groups—to help assure effective communications and assure effective communications and close cooperation.

In Michael Salkind's relevant recent article in aviation week entitled, "University-Industry Cooperation is Key to Bolstering Technology Base," he states that:

"Mechanisms must be established to encourage industrial collaborators to spend significant time away from the company and on the campus. Since such extended absence from the mainstream normally is considered detrimental to career progression, major shifts in the promotion/reward system may be needed. It is interesting to note that many Japanese industrial personnel spend considerable time on university campuses, many in the United States.

Similarly, academics and researchers should spend more time with organizational units who use their know-how to design, manufacture and service new products—and also with the customers who utimately use them. I urge that you strive to do this—and make it a routine part of teaming arrangements such as you have here.

It's great that such outstanding talents as you are deeply involved in Manufacturing.

This is important and challenging—and should be successful and satisfying.

Since I've been involved on both sides of such University-Industry teams, I'm confident that what you have underway will not be successful—but also can become a model for our Nation in this regard.

When you are successful, you will help to answer affirmatively the crucial question: Globally Competitive: To Be Or Not To Be! It has, "To Be!" I sincerely wish you all possible success—and—satisfaction!

And now, I'll be happy to receive your comments or questions.

REMARKS BY DEPUTY SECRETARY THOMAS MURRIN TO THE AEROSPACE INDUSTRIES ASSOCIATION

Thank you, Ed. Good morning ladies and gentlemen! It is a real pleasure to be here with you, leaders of an industry that is so vital to our economic and military security. I also am pleased to have the opportunity to rejoin some old friends—and to address our overseas friends, competitors, and customers who are taking part in this international conference with its clever new definition of C3: coexistence, competition, cooperation.

Mine is still a relatively new job. Early on, I discovered that a Deputy Secretary of Commerce gets to speak before literally dozens of organizations. I also get to turn down invitations from many others—including more than a few that I never even knew existed. Sometimes—when the request comes from a committee of Congress, for instance—I don't have the luxury of making the decision!

But there wasn't any question in my mind about how to respond when Don Fuqua invited me to speak with you. I had been active in AIA for a long time in my former corporate life, and I have had the privilege of participating in some of this organization's significant efforts—so I didn't hesitate to accept Don's invitation enthusiastically. That is, until I carefully read Don's invitation letter.

Because once I sat down and looked closely at what you wanted me to talk about, I had some real second thoughts! For example, Don asked me to address the question: "What role should the government play in evaluating exports, and foreign investment on the grounds of U.S. long-term economic interests, as opposed to security and foreign policy concerns?"

As if that wasn't "tough enough," he also said that you wanted to get a report on how Commerce is organizing itself to handle its new responsibilities in this area, and "How will it balance its traditional role of encouraging exports—often in opposition to the Defense Department—with the new twist of protecting the industrial base and future U.S. competitiveness?"

Wow!

I certainly don't have all the answers to those very direct and difficult questions, because I'm not like Henry Kissinger, who reportedly was quoted as saying recently that "I'm not as smart as God is, but I am as smart as God was, at my age."

Your questions get right to the heart of complex U.S. security and competitiveness issues that many of us are grappling with. First, I want to assure you that our Department of Commerce is committed to helping you to ensure the continued vitality and competitiveness of the American aerospace industry. We also recognize and appreciate the role that you play in safeguarding democracy around the world through the international sales of military equipment.

Your industry is doubly important today. The military implications of American aerospace excellence are obvious. But now we find ourselves defining security more broadly. Commerce Secretary Mosbacher, in particular, has made it clear that our world standing and success depend as much on ensuring our economic security, as our military security.

That's why we are taking special note of the forecasts which indicate that U.S. aerospace exports in the next year will top $33 billion, with an expected trade surplus of $20 billion. At a time when so much of our attention is turned to our unfavorable overall balance of trade and the problems American industries face in trying to compete in world markets, these encouraging statistics have not gone unnoticed in Washington, especially in our department.

May I suggest that there's really no great "secret" to your success. Your aerospace industry has made the developemnt and application of advanced technologies to produce world-class products a way of doing business. You have made the most of new technologies—and many of you have earnestly embraced total quality management principles. And you have been aggressive in promoting exports. The American aerospace industry is a model for other U.S. industries that need to meet the challenges of international competition head on by applying both managerial and technical solutions to tough problems, and by anticipating what the future will bring.

Where then does the Commerce Department stand? I suspect that some of you here today feel that the Department used to be the American aerospace industry's friend—but our involvement in the FSX deal with Japan may have you "confused."

I want to make it clear that the Commerce Department has not forgotten that its main mission is to promote U.S. business and industrial interests. That assignment is always uppermost in our minds. As someone who spent three dozen years in a corporation that had to worry every day about the realities of competing in the global business world—and Bob Mosbacher comes from essentially the same environment—I know what you go through in trying to fashion promising business strategies to compete fiercely, and to frequently win contracts. Commerce's interests are industry's interests!

So you know how sincerely we feel about our relevant responsibilities, let me read a statement that is etched into the Constitution Avenue façade of the Hoover Building which houses the Commerce Department's headquarters. It seems as timely today as when it was put there—so timely, in fact, that I read this statement during my Senate confirmation hearings.

"The Department of Commerce assembles here the forces designed by Congress to advance the interests of industry and trade. Through experimental research, the dissemination of knowledge and administrative vigilance, it stimulates the progress of America upon land and sea and in the air and thereby speeds the Nation in the march of mankind."

Accordingly, we'd be accused—and rightfully so—of being deaf, dumb, and blind not to see what has been happening in the world marketplace. Our country has lost key industries in the past decade—and we run the risk of losing several more in the deacade ahead. I'm the first one to say that part of our problem has been unfair trading practices by our competitors—and that we haven't always had the opportunity of competing on that proverbial "level playing field." But in some cases, we've lost our industrial pre-eminence because we did not look far enough down the road. For instance, we either licensed technologies too freely; didn't pay enough attention to technical and other competitive advancements elsewhere; or assumed too readily that we couldn't compete in certain markets.

Today, our government is properly concerned about trying to make sure that some years from now we don't find ourselves looking back with "fond memories" to the lead we once had in the aerospace sector. This industry is just too important for that to happen!

That is the context in which the Commerce Department has been operating—and that's the context for the swirling debate about offsets. Should we be subjected to offsets in order to make sales in the aerospace sector? No, most certainly not. Should any U.S. aerospace company have to win a competition by joining a bidding war against other firms—with the winner determined by the size of the offsets they are willing to make? No, most certainly not.

The implications of the growing trend requiring offsets are far-reaching and profound. The net effect of these practices by foreign purchasers can be to enhance their own industrial base—first at the expense of U.S. subcontractors, and then, later, at the expense of the U.S. economy as a whole. We all need to think long and hard about what is happening when other countries make offsets a critical criterion for doing business.

Congress has passed a series of laws to address the problem. The 1989 Defense Authorization Act requires the establishment of an offset policy, safeguards on technology transfer, and a notification requirement for U.S. firms entering into offset arrangements. Accordingly, this administration has responded by directing the National Security Council to chair a group to fulfill the policy development requirements of the new law.

That law also requires—and we strongly advocate—working with our trading partners through multilateral negotiations to make offsets a practice of the past. The goal is to make sure that U.S. firms don't end up competing on the basis of the offsets that they are willing to make, but rather, on the basis of the performance, delivery, cost, and quality of their products.

Will we be successful? It would be naive to think that negotiating agreements to eliminate offsets will be easy. Such agreements may not even be possible! But unless we aggressively try this multilateral approach, we will be doing our companies, and our country, a serious disservice.

This entire issue—and related questions about technology licenses being granted to foreign defense and aerospace companies—focuses attention on the apparent dichotomy within the Department of Commerce's aerospace industry assignment. The fact of the matter is that we are responsible simultaneously to be promoters and regulators of your business. I won't spell out here in detail what we have been doing to fulfill both assignments in a way that supports the interests of both your companies and the country.

I hope that you all had an opportunity yesterday and this morning to get updated on our export control activities by Dennis Kloske, Under Secretary for Export Administration, and Bill Clements, Acting Director of our Office of Technology and Policy

Analysis. I trust that you also learned more about our export promotion activities from Jim Roberts, Deputy Assistant Secretary for Aerospace in our International Trade Administration. I want to put in a "special plug" for the new efforts that Jim's team is making to help your subcontractors locate diversified business opportunities abroad.

The fact that Secretary Mosbacher has selected several of us with aerospace and defense backgrounds to help him deal with such issues is indicative of how serious the Commerce Department is about fulfilling the complex responsibilities we have been assigned.

My own long association with a firm that counted heavily on defense and aerospace-related business, my current chairmanship of the Defense Manufacturing Board which is advising DOD about industry's concerns regarding manufacturing matters, and Jim Robert's experience with Lockheed should indicate that the Commerce Department has some significant insights into the issues that concern you the most. We do know what it feels like to be in your shoes. We do know what it means to win and to lose contracts—and we want to do everything possible to help promote the American aerospace industry so that it can continue to be a very successful sector of the U.S. economy.

Likewise, Dennis Kloske has seen more than one side of the exporting control issue: Earlier from the Department of Defense's interests—and now from the perspective of the Commerce Department.

I know that you are concerned about the way in which the Defense and Commerce Departments collaborate and work together. I know full well what can happen when the left hand and the right hand don't know what each other is doing. That is why both the Secretary and I have made close communications and cooperation with the Department of Defense a cornerstone of our efforts relating to U.S. industrial competitiveness. Specifically, Don Atwood at DOD and I at Commerce are committed to work effectively together.

Our departments naturally have different perspectives on many key issues. But there are increasingly common areas of concern—and we know that the strength of the U.S. industrial base affects both our military and our economic security.

In addition to my serving concurrently as Deputy Secretary of Commerce and chairman of the Defense Manufacturing Board, there are other ways in which our departments have been working together. For example, we have joined, along with several other agencies, in a group effort dedicated to improving the way in which U.S. industry makes use of automated manufacturing techniques. This group is addressing not just the technology side of the automation challenge, but the broad business management issues—including, for example, accounting methods that discourage investments in automation. We also are sharing approaches and information on total quality management as a tool to improve the strength of our industrial base. It is obvious that quality improvement is a key ingredient to both commercial and military success!

And we are cooperating in a variety of projects to improve our technical capabilities in manufacturing, especially through the Commerce Department's National Institute of Standards and Technology and the Military Services. These agencies are working together—and with many of you—on computer-integrated manufacturing technologies, and on related standards. They also are moving ahead together on advanced materials and electronics programs that are crucial to the advancement of our aerospace interests.

And DOC and DOD have common interests in getting a bigger and better "bang for our bucks" from federally sponsored R&D; especially at our national laboratories. That is why the Commerce Department's Technology Administration has been paying special attention to means of removing technology transfer obstacles in industry and government operations—and to reviewing additional incentives to spur domestic technology transfer.

The work force training and motivation issue is another good example of a dual challenge to our departments. During the next several decades, the health of the American industrial base will depend heavily upon whether or not we can improve our educational system and better prepare our workers at a time when technology requirements will be more demanding and when skilled employees, in particular, will be in shorter supply.

We also have similar concerns about foreign investment in U.S. firms. This trend has increased significantly in the past 2 years. The aerospace industry has been no exception, with the sale of Fairchild Industries to Banner and the subsequent sale of Fairchild's space and electronics divisions to Matra of France.

The excellent AIA report on "the U.S. aerospace industry and the trend toward internationalization" highlights the importance of cooperation in expanding export opportunities and financing research and development. It also cites the importance of teaming arrangements in reducing the amount of redundancy in product development in the aerospace industry.

Your report is on target. Cooperation is important in broadening export opportunities, and reducing redundancy in R&D in the industry. Internationalization of the aerospace industry is here to stay! But with the industry's unique importance to U.S. military security and its special contribution to our overall industrial performance and trade balance, it would be irresponsible for our Federal Government to ignore the broader implications of foreign licensing and investment deals in this industry. That is why our department—and especially Secretary Mosbacher—has taken such a keen interest in the earlier FSX deal with Japan, and the South Koreans' current plans for fighter aircraft.

Our world is changing dramatically. Ten years ago—or even 5 years ago—who would have dreamed that we would be delivering Boeing aircraft to Poland, assembling McDonnell-Douglas aircraft in China, considering launches of United States-made satellites aboard Chinese space launch vehicles—and observing admiringly the performance of Russian aircraft at the Paris Air Show? When the times change, so too must the way in which we all view industrial trends.

Happily, one thing which has not changed is the U.S. aerospace industry's commitment to developing and commercializing the most advanced technologies. You are still in the lead when it comes to technology. The AIA's "key technologies for the 1990's program" is designed to keep you out front.

Your industry properly concludes that superior technology was, and is, the key to America's continued leadership, and you—I should say we, because I was directly involved in promoting this effort—decided to do something to safeguard our position in the 1990s and beyond.

I am delighted that this program is moving ahead—and that AIA has organized a special forum of high-level technology policy experts from government, industry, and academe. I am impressed and encouraged that you have formed the National Center for Advanced Technologies to coordinate and facilitate your "Key technologies" program.

Your efforts to first gain consensus and then to develop and commercialize advanced technologies serve as a shining example for our nation at a time when we are trying to forge industry-led partnerships to improve our technological competitiveness. I fully expect that your initiatives will yield large dividends in the future.

But I want to caution you on one important aspect of this program. Please make sure that manufacturability is built into these new systems—because manufacturing technologies are not singled out as a separate category for your key technologies program. Unless you can manufacture products that take maximum advantage of these new technological developments at low cost, high quality, and reliability, and in less time, you aren't ensuring our industry's competitive position.

What's more, your subcontractors also must be able to use more advanced technologies. Today, there are too many smaller American manufacturers who have not yet adopted flexible manufacturing systems. There are too many companies who have not taken advantage of more basic automation techniques, not to mention computer-integrated manufacturing. Their counterparts oveseas are aggressively exploiting these methods—so we must do everything possible to ensure that these U.S. firms do not get left "in the dust."

One option that we have been pushing at the Commerce Department—and which is gaining acceptance—is the concept of shared flexible computer-integrated manufacturing. I am happy to report that several such shared centers—which allow smaller companies to pool their resources to jointly benefit from automation facilities—are in pilot operation now, with more than a dozen other centers in the offing. A new private sector national coalition for flexible automated manufacturing has been formed to advance these kinds of actions that can help both you and your subcontractors.

In closing, I hope it is clear that the role and responsibilities of the Federal Government in general—and the Commerce Department in particular—have been changing as the technological and economic environment faced by our aerospace industry changes. Those of us in key positions at Commerce must be—and are—very mindful of overseas competition and the implications of aerospace industy internationalization on American economic and miltiary well-being. We all need to work together so that this crucial industry remains a strong and vital part of the U.S. and global economies as we move into the 21st century.

Thank you. Good Luck! God bless!●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to

section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $8.5 billion in budget authority, and over the budget resolution by $10.4 billion in outlays. Current level is under the revenue floor by $4.7 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $120.5 billion, $20.5 billion above the maximum deficit amount for 1990 of $100 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 6, 1989.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1990 and is current through November 3, 1989. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 concurrent resolution on the Budget (H. Con. Res. 106). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the 1986 first concurrent resolution on the budget.

Since my report dated October 31, 1989, the President has signed into law the following bills: the Disaster Assistance Act (Public Law 101-134); the Treasury, Postal Service, and General Government Appropriation bill, 1990 (Public Law 101-136); and the Defense Production Act Extension (Public Law 101-137). These actions increased the current level estimate of budget authority, outlays, and revenues.

Sincerely,

ROBERT D. REISCHAUER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 101st CONG., 1ST SESS., AS OF NOV. 3, 1989

[In billions of dollars]

	Current level [1]	Budget resolution, H. Con. Res. 106	Current level +/− resolution
FISCAL YEAR 1990			
Budget authority	1,320.9	1,329.4	−8.5
Outlays	1,175.6	1,165.2	10.4
Revenues	1,060.8	1,065.5	−4.7
Debt subject to limit	2,833.0	3,122.7	−289.7
Direct loan obligations	17.9	19.3	−1.4
Guaranteed loan commitments	107.0	107.3	−.3
Deficit	120.5	[2] 100.0	[3] 20.5

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 268. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[3] Current level plus or minus MDA.

PARLIAMENTARIAN STATUS REPORT 101ST CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS NOV. 3, 1989

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	966,154	796,867	
Other appropriations		214,199	
Offsetting receipts	−193,106	−193,106	
Total enacted in previous sessions	773,048	817,960	1,068,600
II. Enacted this session:			
Adjust purchase price for certain dairy products (Public Law 101-7)		−25	
Implementation of the Bipartisan Accord on Central America (Public Law 101-14)	13	7	
Dire emergency and urgent supplemental appropriations (Public Law 101-45)	−21	802	
Apex Project, Nevada Land and Water Transfer Act (Public Law 101-67)	−2	−2	
Financial Institutions Reform, Recovery and Enforcement Act (Public Law 101-73)	2,200	1,400	594
Allow planting of alternative crops on permitted acreage (Public Law 101-81)	−10	−10	
Disaster Assistance Act of 1989 (Public Law 101-82)	502	504	
Sec. 107: Disaster Relief and Emergency Assistance (Public Law 101-100)		443	
Energy and Water Development Appropriations (Public Law 101-101)	18,625	11,254	
Performance Management and Recognition Systems Reauthorization Act (Public Law 101-103)		−125	
Extension of certain veterans programs (Public Law 101-110)	[1]	[1]	
Interior Appropriations (Public Law 101-121)	11,018	7,352	
Sec. 108: Emergency supplemental to meet the needs of natural disasters (Public Law 101-130)	2,850	1,067	
Disaster Assistance Act (Public Law 101-134)	9	9	
Treasury-Postal Appropriations, 1990 (Public Law 101-136)	18,394	16,268	500
Offsetting Receipts	−5,212	−5,212	
Defense Production Act Extension (Public Law 101-137)	−3	−190	
Total enacted this session	48,363	33,542	1,094
III. Continuing resolution authority: Further Continuing Appropriations (Public Law 101-130)	529,439	351,504	
IV. Conference agreements ratified by both Houses: Child Nutrition and WIC Reauthorization Act (H.R. 24)	[1]	[1]	
V. Entitlement authority and other mandatory items requiring further appropriation action, continued:			
FEMA: Disaster relief	1,100	883	
Firefighting adjustments	624	192	
Administration of territories	1		
Compensation	457	412	
Payment to civil service retirement	(84)	(84)	
Government payment for annuitants	−3	−3	
Total entitlement authority	−1,271	−666	
VI. Adjustment for Economic and Technical Assumptions	−28,685	−26,763	−8,900
Total current level as of Nov. 3, 1989	1,320,894	1,175,577	1,060,794
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		10,377	
Under budget resolution	8,506		4,706

[1] Extension of certain veterans programs (Public Law 101-110) decreases current law estimate for Loan Guaranty Revolving Fund; Child Nutrition-WIC (H.R. 24) increases current law for Child Nutrition Programs. Effects of both are reflected in Further Continuing Appropriations (Public Law 101-130).

Notes.—Numbers may not add due to rounding.

Amounts shown in parenthesis are interfund transactions that do not add to totals.●

THE MANDATORY DETENTION FOR DEFENDANTS CONVICTED OF SERIOUS CRIMES ACT

● Mr. SIMON. Mr. President, I rise today in support of the Mandatory Detention for Defendants Convicted of Serious Crimes Act. The primary purpose of this act is to prevent the release on bail of convicted drug traffickers or violent criminals who are awaiting sentencing or appeal. There is simply no reason that an individual convicted of these offenses should be back on the street. This legislation would ensure that dangerous individuals are kept where they belong, in prison.

In 1984, Congress dramatically changed the bail system. Prior to 1984, a defendant could be detained only if there was a risk that he would flee before trial. After the 1984 act, a defendant could be detained if, after a hearing, he was found to pose a danger to the community. The 1984 Bail Reform Act is an improvement from the old law in protecting the community from dangerous individuals and ensuring that defendants are accorded procedural safeguards. Under current law, however, a judge has discretion to release a convicted defendant pending sentencing or appeal. The purpose of this legislation is to close this loophole by narrowing the judicial officer's discretion in cases where the defendant has been convicted of drug trafficking or violent crime.

Unlike the pretrial detention setting in which the presumption of innocence creates a need for flexibility in setting bail, there is little need for judicial discretion to release those who have been found guilty. While the intent of the bill is to limit judicial discretion in the case of convicted drug traffickers or violent criminals, the Justice Department has recommended that in certain limited circumstances the judicial officer should retain discretion. First, in the presentencing setting, if the attorney for the government will recommend a sentence of no incarceration or if the judicial officer finds that there is a substantial likelihood the defendant's motion for new

trial or acquittal will be granted and the defendant is not likely to flee or pose a danger to the community, the judicial officer may release the defendant. Second, in the appeals setting, if the attorney for the government files a motion indicating that there are exceptional circumstances which warrant release and the defendant is not likely to flee or pose a danger to the community, the judicial officer may order release.

Over the past several months the Judiciary Committee has held numerous hearings on the continuing problem of drugs and violence in America. The hearings demonstrate the grave concern of the American public about drug abuse and the violence that often goes hand in hand with drug trafficking. Various solutions have been suggested to solve the problem, and committee members favor different approaches. The committee is in agreement, however, that those who have been convicted of violent crimes or serious drug trafficking offenses should not be let right back on the street.

S. 1259 will alleviate this problem on the Federal level, serve as a model for the States which are experiencing problems and ensure that drug traffickers and violent criminals will not be out on bail. I urge the Senate to expeditiously pass this important measure.●

A SALUTE TO THE UNIVERSITY OF COLORADO GOLDEN BUFFALOES

● Mr. WIRTH. Mr. President, allow me this opportunity to venture from the forum of political debate to take notice of a success in a separate arena from which we can all gain inspiration. At this time, I would like to extend my congratulations to the University of Colorado Golden Buffaloes who were victorious this weekend over arch-rival Nebraska.

The Buffs have risen from a 1-10 season just 6 short years ago to become a national powerhouse at the collegiate level. Overcoming a series of unfortunate incidents off the gridiron, including the death of star quarterback and team leader Sal Aunese, this group of young men has formed a cohesive unit working to set an inspirational tone for the entire university community. Their dedication and determination has brought them to a level of excellence not seen by the University of Colorado for many years.

The Buffaloes are alone at the top of the Big Eight standings with only two games left in the season. The Buffaloes' defeat of Nebraska at Folsom Field in Boulder on Saturday will all but assure them of a trip to the Orange Bowl to go head-to-head for the national championship against No. 1 ranked Notre Dame. It has been a great season for the Buffs and they played a superb game last Saturday.

What makes the team's achievement so impressive is not just their undefeated record, but the personal and moral change that has occurred in each individual team member. We have all heard the stories about the troubles of athletes at major universities and it would be misleading to say that the CU football team has been without its share of problems. But the Buffs have taken the difficult steps to turn their own lives around and they serve as an inspiration to us all. Head Coach Bill McCartney and the CU team have worked their way into the hearts of every Coloradan and as they are saying in Boulder today, "things have changed."

As the Buffs face their final Big Eight Conference games against Oklahoma State and Kansas State, teams which can not be taken lightly, I join my fellow Coloradans in looking forward to an invitation to the Orange Bowl for CU and a chance to play Notre Dame for the national championship. Congratulations and go Buffs.●

STAR PRINT OF SENATE REPORT 101-170

Mr. FOWLER. I ask unanimous consent that report 101-170, to accompany S. 32 be star printed to reflect the changes which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIBRARY SERVICE AND CONSTRUCTION ACT AMENDMENTS

Mr. FOWLER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2742.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 2742) entitled "An Act to extend and amend the Library Services and Construction Act, and for other purposes," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Hawkins, Mr. Williams, Mr. Ford of Michigan, Mr. Owens of New York, Mr. Hayes of Illinois, Mr. Perkins, Mr. Gaydos, Mr. Miller of California, Mrs. Lowey of New York, Mr. Poshard, Mr. Goodling, Mr. Coleman of Missouri, Mrs. Roukema, Mr. Tauke, Mr. Gunderson, and Mr. Henry, be the managers of the conference on the part of the House.

Mr. FOWLER. Mr. President, I move that the Senate insist upon its amendment, agree to the conference requested by the House, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. KENNEDY, Mr. PELL, Mr. SIMON, Mr. HATCH, and Mrs. KASSEBAUM conferees on the part of the Senate.

Mr. FOWLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Nevada, I ask unanimous consent that the order for the quorum call be dispensed with.

Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 9:06 p.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 10:21 p.m., when called to order by the Presiding Officer [Mr. FOWLER].

ORDERS FOR WEDNESDAY, NOVEMBER 8, 1989

RECESS UNTIL 10:15 A.M.; MORNING BUSINESS; AND RESUME CONSIDERATION OF H.R. 2710

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:15 a.m. tomorrow, Wednesday, November 8, and that following the time for the two leaders, there be a period for morning business until 10:45 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 10:45 a.m., the Senate will resume consideration of H.R. 2710, the minimum wage bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:15 A.M., WEDNESDAY, NOVEMBER 8, 1989

Mr. MITCHELL. Mr. President, if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess under the previous order until 10:15 a.m., tomorrow, Wednesday, November 8.

There being no objection, the Senate, at 10:22 p.m., recessed until Wednesday, November 8, 1988, at 10:15 a.m.

NOMINATIONS

Executive nomination received by the Senate November 7, 1989:

DEPARTMENT OF TRANSPORTATION

BARRY LAMBERT HARRIS, OF MAINE, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, VICE BARABARA MCCONNELL BARRETT, RESIGNED.

GOVERNMENT PRINTING OFFICE

ROBERT WILLIAM HOUK, OF OHIO, TO BE PUBLIC PRINTER, VICE RALPH E. KENNICKELL, JR., RESIGNED.

HOUSE OF REPRESENTATIVES—*Tuesday, November 7, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we view the changes in our communities and even now among the nations, we pray, gracious God, for understanding and wisdom, insight and judgment. May our hopes for justice be known to us and to all people, and may our desire for righteousness cause us to use our resources to promote the peace of our communities and of the world. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the "ayes" appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 105, not voting 77, as follows:

[Roll No. 334]

YEAS—251

Akaka	Brennan	Derrick
Alexander	Broomfield	Dicks
Anderson	Browder	Dingell
Andrews	Brown (CA)	Dixon
Annunzio	Bruce	Donnelly
Anthony	Bustamante	Dorgan (ND)
Applegate	Byron	Downey
Aspin	Callahan	Durbin
Atkins	Campbell (CA)	Dymally
AuCoin	Campbell (CO)	Eckart
Barnard	Cardin	Edwards (CA)
Bartlett	Carper	Edwards (OK)
Bateman	Carr	Emerson
Bates	Chapman	English
Beilenson	Clarke	Erdreich
Bennett	Clinger	Evans
Bereuter	Coleman (TX)	Fascell
Berman	Collins	Fawell
Bevill	Combest	Fazio
Bilbray	Conte	Feighan
Boggs	Cooper	Fish
Bonior	Costello	Flippo
Borski	Darden	Ford (MI)
Bosco	Davis	Frost
Boucher	DeFazio	Gallo
Boxer	Dellums	Gejdenson
Gephardt	McCurdy	Saiki
Gibbons	McDade	Sangmeister
Gillmor	McDermott	Sarpalius
Gilman	McHugh	Saxton
Gingrich	McMillan (NC)	Scheuer
Glickman	McMillen (MD)	Schiff
Gonzalez	McNulty	Schulze
Gradison	Meyers	Schumer
Gray	Mfume	Sharp
Green	Miller (CA)	Shaw
Gunderson	Miller (WA)	Shumway
Hall (TX)	Moakley	Shuster
Hamilton	Mollohan	Sisisky
Hammerschmidt	Montgomery	Skaggs
Harris	Moody	Skeen
Hayes (IL)	Morella	Skelton
Hayes (LA)	Morrison (WA)	Slattery
Hefner	Mrazek	Slaughter (NY)
Hoagland	Murtha	Smith (FL)
Houghton	Myers	Smith (IA)
Hoyer	Nagle	Smith (NJ)
Hubbard	Natcher	Snowe
Huckaby	Neal (MA)	Solarz
Hughes	Neal (NC)	Spence
Hutto	Nielson	Spratt
Johnson (CT)	Nowak	Staggers
Johnson (SD)	Oakar	Stallings
Johnston	Oberstar	Stark
Jones (GA)	Obey	Stearns
Jones (NC)	Olin	Stenholm
Jontz	Ortiz	Studds
Kanjorski	Owens (UT)	Swift
Kaptur	Packard	Synar
Kasich	Panetta	Tallon
Kastenmeier	Parker	Tanner
Kennedy	Patterson	Tauzin
Kennelly	Pease	Taylor
Kildee	Pelosi	Thomas (GA)
Kleczka	Penny	Thomas (WY)
Kolter	Perkins	Torres
Kostmayer	Petri	Traficant
LaFalce	Pickett	Traxler
Lancaster	Poshard	Udall
Lantos	Price	Valentine
Laughlin	Quillen	Vento
Leath (TX)	Rahall	Visclosky
Lehman (CA)	Ravenel	Volkmer
Lehman (FL)	Ray	Walgren
Levin (MI)	Richardson	Waxman
Levine (CA)	Rinaldo	Whitten
Lewis (GA)	Ritter	Williams
Livingston	Rose	Wilson
Long	Rostenkowski	Wise
Luken, Thomas	Roth	Wolpe
Markey	Rowland (GA)	Wyden
Matsui	Roybal	Wylie
Mazzoli	Russo	Yates
McCloskey	Sabo	

NAYS—105

Armey	Gallegly	Lewis (FL)
Ballenger	Gekas	Lightfoot
Barton	Goodling	Lowery (CA)
Bentley	Goss	Lukens, Donald
Bilirakis	Grandy	Machtley
Billey	Hancock	Madigan
Boehlert	Hansen	Marlenee
Brown (CO)	Hastert	Martin (IL)
Buechner	Hawkins	Martin (NY)
Bunning	Hefley	McCandless
Burton	Henry	McCollum
Chandler	Herger	McCrery
Clay	Hiler	McGrath
Coble	Holloway	Michel
Coughlin	Hopkins	Miller (OH)
Cox	Hunter	Moorhead
Craig	Hyde	Parris
Dannemeyer	Inhofe	Pashayan
DeWine	Jacobs	Paxon
Dickinson	James	Pursell
Dornan (CA)	Kolbe	Regula
Douglas	Kyl	Rhodes
Dreier	Lagomarsino	Ridge
Duncan	Leach (IA)	Roberts
Frenzel	Lewis (CA)	Rogers
Rohrabacher	Smith (VT)	Thomas (CA)
Ros-Lehtinen	Smith, Denny (OR)	Upton
Roukema	Smith, Robert (NH)	Vucanovich
Schaefer	Smith, Robert (OR)	Walker
Schroeder	Solomon	Weber
Schuette	Stump	Weldon
Sensenbrenner	Sundquist	Wheat
Shays	Tauke	Whittaker
Sikorski		Wolf
Slaughter (VA)		Young (AK)
Smith (TX)		Young (FL)

NOT VOTING—77

Ackerman	Garcia	Owens (NY)
Archer	Gaydos	Oxley
Baker	Geren	Pallone
Brooks	Gordon	Payne (NJ)
Bryant	Grant	Payne (VA)
Clement	Guarini	Pickle
Coleman (MO)	Hall (OH)	Porter
Condit	Hatcher	Rangel
Conyers	Hertel	Robinson
Courter	Hochbrueckner	Roe
Coyne	Horton	Rowland (CT)
Crane	Ireland	Savage
Crockett	Jenkins	Sawyer
de la Garza	Lent	Schneider
DeLay	Lipinski	Smith (NE)
Dwyer	Lloyd	Stangeland
Dyson	Lowey (NY)	Stokes
Early	Manton	Torricelli
Engel	Martinez	Towns
Espy	Mavroules	Unsoeld
Fields	McEwen	Vander Jagt
Flake	Mineta	Walsh
Florio	Molinari	Watkins
Foglietta	Morrison (CT)	Weiss
Ford (TN)	Murphy	Yatron
Frank	Nelson	

□ 1221

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GEREN. Mr. Speaker, this morning, I was detained on an airplane that could not land on schedule at National Airport because of an emergency at the airport. I was unable to make the vote on approval of the Journal, but had I been present, I would have voted "yea."

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina [Mr. CLARKE] come forward and lead the House in the Pledge of Allegiance?

Mr. CLARKE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 222. Concurrent resolution to welcome the delegates of foreign postal administrations to the Twentieth Universal Postal Congress to be held in Washington, DC.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 82. An act to recognize the organization known as the 82nd Airborne Division Association, Incorporated;

S. 148. An act to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial;

S. 253. An act to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan; and

S. 1563. An act granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

CHRISTY CARL HALLIEN

The Clerk called the bill (H.R. 426) for the relief of Christy Carl Hallien of Arlington, TX.

There being no objection, the Clerk read the bill, as follows:

H.R. 426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Christy Carl Hallien of Arlington, Texas, is relieved of all liability of repayment to the United States of the sum of $18,913.21 plus accrued interest which represents the amount that the said Christy Carl Hallien is indebted to the Department of Defense for payments received for travel and relocation expenses arising from his relocation from Burlington, Vermont, to accept employment with the Department of Defense in Arlington, Texas, in October 1983. The said Christy Carl Hallien was erroneously informed by an agent of the Department of Defense that he was entitled to reimbursement of all travel and relocation expenses incurred relating to such relocation.

(b) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $3,382 to the said Christy Carl Hallien, in full settlement of all claims against the United States for certain real estate costs incurred in the relocation described pursuant to subsection (a).

SEC. 2. No part of the amount appropriated pursuant to subsection (b) of the first section of this Act of relieved from liability pursuant to subsection (a) of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the claims and the relief from liability referred to in the first section of this Act, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section shall be a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MELISSA JOHNSON

The Clerk called the bill (H.R. 429) for the relief of Melissa Johnson.

There being no objection, the Clerk read the bill, as follows:

H.R. 429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT FOR THE BENEFIT OF CLAIMANT.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $125,000 to Melissa Johnson of Barryville, New York. Such sum shall be in full and complete settlement of all claims against the United States arising out of the personal injuries and mental pain and suffering incurred as a result of the sexual assault and molestation of Melissa Johnson by an employee of the United States Postal Service on June 3, 1982, and various other dates.

SEC. 2. DEPOSIT OF AMOUNT IN TRUST ACCOUNTS.

Barbara Johnson Lizzi of Barryville, New York, the mother of Melissa Johnson, shall deposit the sum paid under section 1 in a federally insured depository institution in an interest bearing account or accounts in trust for Melissa Johnson. Barbara Johnson Lizzi shall serve as role trustee of such account or accounts and, as such trustee—

(1) shall pay those debts and obligations which are outstanding at the time the sum is paid under section 1 to the extent those debts and obligations arise from the injuries and pain and suffering described in section 1;

(2) shall, until Melissa Johnson reaches the age of majority under the laws of the State in which Melissa Johnson is residing at the time, pay, from the amounts in the trust account or accounts, expenses incurred for Melissa Johnson's medical care and education; and

(3) shall, when Melissa Johnson reaches the age of majority under the laws of the State in which Melissa Johnson is residing at the time, pay to Melissa Johnson all amounts remaining in the trust account or accounts.

SEC. 3. LIMITATION ON ATTORNEYS' FEES.

Not more than 10 percent of the amount appropriated by section 1 may be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the claim described in section 1, notwithstanding any contract which provides otherwise. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WHITEWORTH, INC., OF GARDENA, CA

The Clerk called the bill (H.R. 568) for the relief of Whiteworth, Inc., of Gardena, CA.

There being no objection, the Clerk read the bill, as follows:

H.R. 568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the last sentence of section 5134(b) of the Internal Revenue Code of 1954 (relating to claims for drawbacks of alcohol taxes in the case of distilled spirits which are unfit for beverage purposes), a claim for a drawback under such section of such Code with respect to the second quarter of 1982 by Whiteworth Incorporated of Gardena, California, shall be treated as timely filled before the end of the six-month period beginning on the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BRUCE C. VEIT

The Clerk called the bill (H.R. 713) for the relief of Bruce C. Veit.

There being no objection, the Clerk read the bill, as follows:

H.R. 713

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENTITLEMENT TO REIMBURSEMENT FOR TRAVEL EXPENSES.

Bruce C. Veit of El Paso, Texas, an employee of the Department of the Army, shall be reimbursed for the costs incurred by him as a result of his relocation from Memphis, Tennessee, to El Paso, Texas, during October and November 1984, as provided by his official travel authorization issued on October 23, 1984.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JUNIOR ACHIEVEMENT OF SACRAMENTO, INC.

The Clerk called the bill (H.R. 715) for the relief of the Junior Achievement of Sacramento, Inc.

There being no objection, the Clerk read the bill, as follows:

H.R. 715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for the purposes of chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act, services performed after June 30, 1977, and before January 1, 1984, in the employ of Junior Achievement of Sacramento, Incorporated, shall not be treated as employment.

(b) For purposes of subsection (a), services shall be treated as peformed after June 30, 1977, to the extent that remuneration for such services is paid after such date.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RICHARD W. IRELAND

The Clerk called the bill (H.R. 757) for the relief of Richard W. Ireland.

There being no objection, the Clerk read the bill, as follows:

H.R. 757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture shall pay, out of any appropriations or other funds available to the Secretary for the reimbursement of relocation expenses under section 5724a of title 5, United States Code, to Richard W. Ireland, $5,102.08. Such sum shall be in full satisfaction of any claim by Richard W. Ireland, an employee of the Farmers Home Administration, for expenses—

(1) which were incurred in connection with the sale of his residence and transportation of his household goods when he was transferred from Auburn, Maine, to Presque Isle, Maine; and

(2) for which he could have been reimbursed under section 5724a had he been able to complete the sale within the two-year time limit prescribed in paragraph 2-6.1e of the Federal Travel Regulations (FPMR 101-7, May 1973) instead of the three-year time period erroneously approved by the State Director of the Farmers Home Administration.

SEC. 2. No part of the amount provided for in the first section of this Act in excess of 10 per centum thereof shall be paid to or received by an agent or attorney on account of services rendered in connection with the claim described in the first section, and the payment or receipt in excess of 10 per centum of the amount provided for in the first section shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILLIAM A. CASSITY

The Clerk called the bill (H.R. 1017) for the relief of William A. Cassity.

There being no objection, the Clerk read the bill, as follows:

H.R. 1017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF LIABILITY.

(a) FOR CERTAIN ERRONEOUS PAYMENTS.—William A. Cassity of Memphis, Tennessee, a former employee of the Department of the Navy, is hereby relieved of liability to the United States in the sum of $14,312.01, representing erroneous payments of relocation expenses incident to his transfer from the United States Postal Service to the Department of the Navy in 1984.

(b) CREDIT TO ACCOUNTS OF THE UNITED STATES.—In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amounts for which liability is relieved by subsection (a).

SEC. 2. PROVISION FOR PAYMENT BY THE SECRETARY OF THE TREASURY.

(a) FOR ANY AMOUNTS ALREADY PAID BY OR WITHHELD FROM WILLIAM A. CASSITY.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to William A. Cassity an amount, if any, equal to the aggregate of any amounts paid by him to, or withheld from sums otherwise due him by, the United States with respect to his indebtedness to the United States referred to in section 1(a).

(b) RESTRICTION ON ATTORNEY'S FEES.—Not more than 10 percent of the amount appropriated in subsection (a) may be transferred, directly or indirectly, to any attorney or other agent as consideration for services rendered to William A. Cassity in connection with the claim for relief of liability made by section 1(a). Any person violating the provisions of this subsection shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SAMUEL R. NEWMAN

The Clerk called the bill (H.R. 1018) for the relief of Samuel R. Newman.

There being no objection, the Clerk read the bill, as follows:

H.R. 1018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Samuel R. Newman of Kings Park, New York, an employee of the Federal Aviation Administration, is relieved of liability to the United States in the sum of $234.29, representing an erroneous payment of travel expenses incident to his emergency return travel from his temporary duty station in Lawton, Oklahoma, in 1985. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount for which liability is relieved by this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILLIAM D. MORGER

The Clerk called the bill (H.R. 1020) to permit reimbursement of relocation expenses of William D. Morger.

There being no objection, the Clerk read the bill, as follows:

H.R. 1020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That William D. Morger is deemed to be an employee transferred by the Bureau of Reclamation, Department of the Interior, from one official station to another for permanent duty in the interest of the Government without a break in service incident to travel performed from Madera, California, to Grand Coulee, Washington, in July 1985, for the purpose of permitting reimbursement of relocation expenses authorized by sections 5724 and 5724(a) of title 5, United States Code, incident to that travel.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHARLOTTE S. NEAL

The Clerk called the bill (H.R. 1021) for the relief of Charlotte S. Neal.

There being no objection, the Clerk read the bill, as follows:

H.R. 1021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTION TO PROVIDE ANNUITY.

For purposes of determining the eligibility of Charlotte S. Neal, of Lynchburg, Virginia, former spouse of the late Lieutenant Commander Michael D. Christian, United States Navy retired, to an annuity under the Survivor Benefit Plan, Lieutenant Commander Christian shall be deemed to have made an election under section 1448(b)(3) of title 10, United States Code, to provide an annuity to Charlotte S. Neal in accordance with the separation agreement incorporated into their divorce decree of August 19, 1983. Such election shall be deemed to have been made as of September 24, 1983, notwithstanding the death of Lieutenant Commander Christian on September 4, 1983.

SEC. 2. LUMP SUM PAYMENT.

The Secretary of the Navy shall pay in a lump sum to Charlotte S. Neal the aggregate amount to which she is entitled by reason of section 1 for the period beginning on October 1, 1983, and ending on the last day of the month in which this Act is enacted.

SEC. 3. DEFINITION.

For purposes of this Act, the term "Survivor Benefit Plan" means the program provided under subchapter II of chapter 73 of title 10, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CATHY-ANNE HUGHES

The Clerk called the bill (H.R. 1177) for the relief of Cathy-Anne Hughes.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be recommitted to the Committee on the Judiciary.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MAURICE G. HARDY

The Clerk called the bill (H.R. 569) for the relief of Maurice G. Hardy.

There being no objection, the Clerk read the bill, as follows:

H.R. 569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), Maurice G. Hardy—

(1) shall be considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to

required periods of residence and physical presence within the United States, and

(2) notwithstanding section 310(d) of that Act, may be naturalized if he is otherwise eligible for naturalization under that Act.

(b) Subsection (a) shall apply only if the beneficiary files a petition for naturalization within two years after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SHELTON ANTHONY SMITH

The Clerk called the bill (H.R. 756) for the relief of Shelton Anthony Smith.

There being no objection, the Clerk read the bill, as follows:

H.R. 756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that (a) subject to subsection (b), in the administration of the Immigration and Nationality Act, Shelton Anthony Smith shall be classified as a child within the meaning of section 101(b)(1)(E) of that Act, upon the approval of a petition field under section 204 of that Act by Garnet Beswick, a citizen of the United States. The petition may be filed in the United States. Upon the approval of such petition, the status of Shelton Anthony Smith shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence if he meets the requirements of clauses (1) through (3) of section 245(a) of that Act.

(b) Subsection (a) shall only apply if the classification petition is filed within two years after the date of the enactment of this Act.

(c) The natural parents, brothers, and sisters of Shelton Anthony Smith shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PABLO CRUZ PATAG

The Clerk called the bill (H.R. 2107) for the relief of Pablo Cruz Patag.

There being no objection, the Clerk read the bill, as follows:

H.R. 2107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), for the purpose of the Immigration and Nationality Act, Pablo Cruz Patag shall be considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee.

(b) Subsection (a) shall only apply if the beneficiary applies to the Attorney General for permanent residence status under the subsection within two years after the date of the enactment of this Act.

(c) Upon the granting of permanent residence to Pablo Cruz Patag, the beneficiary under subsection (a), the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas which are made available to natives of the country of the beneficiary's birth under section 203(a) of the Immigration and Nationality Act or, if section 202(e) of the Act is applicable to the country, from the total number of immigrant visas which are made available to natives of such country under that section.

SEC. 2. The natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2461, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

Mr. MONTGOMERY submitted the following conference report and statement on the bill (H.R. 2461) to authorize appropriations for fiscal year 1990 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

(For conference report and statement, see Proceedings of the Senate of yesterday, Monday, November 6, 1989, at page S 14717.)

CENTENNIAL OF NEHRU'S BIRTH

(Mr. CLARKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLARKE. Mr. Speaker, today the House will consider a resolution honoring the 100th anniversary of the birth of Jawaharlal Nehru, one of the principal leaders in India's long fight for independence and its first Prime Minister.

Nehru was born into a wealthy Indian family and educated in England at Harrow and Cambridge. After spending 2 years as a lawyer in London he returned to India. He became a friend and coworker with Mahatma Gandhi. Nehru was able to attract the younger, educated Indians to Gandhi's policy of nonviolent resistance.

When the Congress party was outlawed by the British in 1921, Nehru was sent to prison. During the next 24 years he was in prison for a total of more than 9 years. He was finally released in June, 1945. Two years later India was free, and he became his country's first Prime Minister.

As Prime Minister Nehru worked to bring India into the modern age. He wanted India to have a place in the world community. He respected democratic values and had a deep concern for India's poor. Nehru commands our admiration for his brave, lifelong commitment to the freedom and welfare of his people. It is fitting that we honor the centennial of his birth.

PROGRAM TO DEAL WITH DUI AND DRUG OFFENDERS

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I rise to proudly describe the first in the country program launched in Butler County, OH. This program, the drug and alcohol resolutions program, offers a shining example of how a local community is tackling the problems of substance abuse and overcrowding in detention centers. It is the only program of its kind in the State of Ohio, and, to our knowledge, it is the first in the United States of which we are aware. I wish to particularly note Judge H. J. Bressler, Jean Glowka, vice president of the resolutions program and director of the Fort Hamilton-Hughes Hospital drug abuse program, and Steven Best, president of Resolutions, Inc.

These local leaders in Hamilton, OH, saw a need and pulled together to meet it. They did not wait for the Federal Government. They took action. The local courts have a backlog of 1,600 people waiting to serve time for DUI and substance abuse, so they did something about it. They turned an abandoned furniture store in downtown Hamilton, OH, into an 85-bed State-approved minimum security institution. DUI and alcohol offenders will serve approved three, 10- to 30-day sentences, and at the same time receive alcohol-drug education and counseling. It will relieve overcrowding and assure that sentences are served in a timely fashion.

Hats off to Butler County, OH.

PRESIDENT WOULD INVOKE SEQUESTRATION FOR DEFENSE-LESS BUT EXEMPT DEFENSE

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, sequestration appears to be the budget option of choice for President Bush. An option—if he is allowed to invoke a special GR procedure to modify the treatment of defense programs.

Mr. Speaker, I say to the President, if he is going to stop pouring concrete for low income housing, we must stop pouring concrete for missile silos.

If he is going to slash funding to fight drug trafficking and chemical dependency, we had better slash funding for chemical weapons.

If he is going to ax cancer research, let us make sure research for star wars is axed as well.

The President easily invokes sequestration for the defenseless while trying to exempt defense. But why should we be surprised?

SEQUESTRATION—A BAD IDEA

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CONTE. Mr. Speaker, does anyone remember the bipartisan budget agreement, dated April 14, 1989? It called for a reconciliation bill that achieves $14 billion in deficit reduction.

Now, the very people who signed that agreement are saying:

Never mind. Forget the $14 billion and the agreement. Let's take the Gramm-Rudman-Hollings across-the-board meat ax cut.

Cut the programs for the farmers, the poor kids in need of an education, those who can't read, poor pregnant women. Cut them all. Why? Because the Budget and the Ways and Means Committees cannot figure out how to make real savings in the entitlement programs that got us into this mess in the first place. And they cannot even agree on some measly revenue increases, like Coast Guard user fees.

I have done a survey of what the effects of a full-year sequestration will be, that I will put into the RECORD. I am putting you on notice what sequestration means. It is a bad idea.

SURVEY OF IMPACTS OF FULL-YEAR SEQUESTER, NOVEMBER 3, 1989 APPROPRIATIONS COMMITTEE, MINORITY STAFF

DEPARTMENT OF AGRICULTURE

Nearly 2,000,000 farmers will have their individual loans and support payments reduced by 5.3%.

1,200 low-income families will be removed from the rural housing assistance program.

Federal support for nutrition programs for the elderly, such as Meals on Wheels, will be reduced by an amount equal to 5 million meals.

Reductions and furloughs of up to 8,800 meat and poultry inspectors will reduce the supply of safe meat and poultry products and have a devastating impact on the industry.

6,000 Soil Conservation Service employees, 11,000 Farmers Home Administration employees, and 13,000 Agriculture Stabilization and Conservation Service employees could be furloughed beginning in the spring of 1990.

$0.2/cwt reduction in the milk support price for dairy farmers will increase the number of dairy farmers going out of business in New England and the Midwest.

U.S. Forest Service

Timber sales volume in the national forest system will be reduced by 350 million board feet, including a reduction of 12 mmbf in Mississippi; 163 mmbf in Oregon; 61 mmbf in Washington; 24 mmbf in Idaho.

Recreation management will be reduced by $1.2 million in Washington and Oregon; $1 million in California; $583,000 in the southwestern states; and $113,000 in West Virginia.

Estimated payments to states and counties will be reduced by $20.2 million, including $8.3 million taken from Oregon; $2.4 million taken from Washington; $2.7 million taken from California; $540,000 taken from Idaho; $185,000 taken from Mississippi; $377,000 taken from Arizona $436,000 taken from Arkansas.

DEPARTMENT OF COMMERCE

The $31 million sequester, added to the $73 million cut in the FY 90 Conference Report, would imperil performance of a fair and complete 1990 Census. Inaccurate income and poverty data resulting from the sequester would distort fund allocations in the public and private sector.

The Census Bureau would impose an immediate, selective hiring freeze.

A reduction in Census follow-up activities may result in a failure to count 1.5-2 million persons, many of whom are minorities. Search Match efforts to locate persons temporarily away from home would be reduced, resulting in a failure to count an additional 1-1.5 million persons. Reductions in past Census Local Review would result in further inaccuracies.

NOAA reductions would result in postponements to the development of two NEXRAD sites, the next generation radar designed for more accurate reporting of severe storms and wind-shear conditions.

National Institute of Standards and Technology would implement major reductions-in-force (RIFs).

The International Trade Administration would initiate a "deep" hiring freeze, resulting in significant lost opportunities to promote U.S. exports in European Community countries, as well as in Poland and Hungary.

The Bureau of Export Administration would implement a hiring freeze, negatively affecting its ability to detect, investigate and prevent the unlawful diversion of U.S. goods and technology and to pursue the Presidents initiative to ban the use of chemicals for warfare.

The Minority Business Development Agency would eliminate one Business Development Center, and two planned Indian Business Development Centers would not be funded.

DEPARTMENT OF DEFENSE

There would be a reduction of 170,000 active duty personnel, 6,000 active duty reservists, and 125,000 drilling reservists throughout the services. The share in active forces for each service equates to: Army—the troop strength in 4 combat divisions; Air Force—100 air, maintenance and service squadrons; Navy—the manning for 8 aircraft carriers; Marines—one combat division; Reserve and National Guard—the strength of the entire selected reserve and guard force would be reduced by 10%.

Civilian layoffs could reach as high as 70,000, affecting every Depot, Ammunition Plant, Logistical Support Center, Naval Repair Station, as well as the civilian activities on all posts throughout the country. A hiring freeze will be implemented in a very short time. Significant furloughs and reductions-in-force will have to be effected if balance is to be maintained in the cuts throughout the Operations as Maintenance accounts.

Readiness impacts include a reduction in track miles, steaming days, and flying hours throughout the services: Army armor battalions will drop below 800 track miles per year; 850 is considered minimum for proficiency. Tactical aircrews will train at levels of 15 to 17 hours per month, as opposed to the 18 to 20 considered barely adequate for combat proficiency. The steaming capability of the Navy will drop below 50 days per year; 55 to 60 days is considered a minimally acceptable figure.

In the military health system there is already nearly half a billion dollars in unfunded CHAMPUS bills, a problem which will be further exacerbated under sequestration.

The Depot Maintenance Backlog, is already over $1.5 billion and will increase under sequestration.

The Real Property Maintenance Backlog currently in excess of $6 billion, will also increase.

Sequestration of Procurement budget authority will slow the rates of production for most programs. As an example, the program to finish the F-15E buyout becomes unexecutable under sequestration. The exact effects on individual projects is unclear, but the reduction in procurement funds will lead to further layoffs in the defense industry.

Sequestration of R & D funds will affect nearly every major weapons system development initiative in the services. Significant delays of several months to a year will occur in such programs as C-17, the Air Force and Navy Advanced Tactical Fighter (ATF), the new SSN-21 attack submarine, B-2, Rail Garrison-MX, LRAACA, JSTARS and Navy's Advanced Tactical Aircraft (ATA). In one instance, the Short Range Attack Missile-SRAM II, the program will have to be completely restructured.

150 military construction and family housing projects will be eliminated, including child care support centers, chapels, recreational facilities, operations and support buildings, and much needed family housing renovation.

DEPARTMENT OF EDUCATION

Education Department will not receive funds for compensatory education (remedial reading and math and special educational training) for 279,000 educationally and economically disadvantaged schoolchildren.

217,000 illiterate adults will not receive basic skills training to enable them to achieve certification of high school equivalency.

250,000 needy college students or aspiring college students will have their Pell Grants terminated.

74,000 awards to needy students under the Supplemental Educational Opportunity Grants and College Work-Study programs will also be eliminated.

All employees will be furloughed for 7 days; no additional employees will be hired for the entire year.

Fraud and abuse monitoring will be dramatically reduced, particularly on the student loan default initiative.

DEPARTMENT OF ENERGY

Over 4800 poor and disadvantaged families will be denied assistance to weatherize their homes, increasing the amount these families pay for heating costs.

Over $1 million will be cut from the Schools and Hospitals program.

The Energy Department would be required to operate with 750 FTE (positions) less than the amount requested for FY '90, resulting in an immediate hiring freeze

across the board, with reductions-in-force and furloughs possible.

Personnel levels at the national laboratories will be severely affected, including reductions at Oak Ridge NL in Tennessee; Los Alamos NL in New Mexico; Livermore NL in California; Argonne NL in Illinois; and Brookhaven NL in New York.

Reduction of $11.8 million in funding for the Superconducting Supercollider.

FOREIGN ASSISTANCE

The Peace Corps budget would be reduced by $9 million.

Aid to Africa would be reduced by $25 million.

Development Assistance for agriculture, health, child survival, AIDS, population and education programs would be reduced by $45 million.

Voluntary contributions to international organizations, such as UNICEF, the U.N. Environmental Program, and the International Atomic Energy Agency would be reduced by $12 million.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

In the Social Security Administration, a $300 million shortfall, described as devastating and staggering, will result in an immediate hiring freeze, and a reduction of 1600 positions through attrition. This will significantly increase waiting and processing times.

Hearing processing times could increase to over a year in some offices. The Disability Determination Services would be unable to process most continuing disability reviews budgeted for FY '90.

A moratorium on the printing and distribution of nearly all public information materials is in effect.

Head Start would lose nearly $70 million from sequestration, which would allow only 16,750 additional children to be served this year, instead of 94,500 as intended by Congress.

For AIDS services, funding for new programs for home health care, subacute, care and community health care services will be reduced. Expansion of pediatric AIDS programs will be limited. 2 fewer grants will be made for construction of care facilities. An estimated 400 people will receive AZT. At CDC, active AIDS surveillance and HIV seroprevalence surveys will be curtailed; the Public Information Campaign and hotline will be reduced; and HIV prevention efforts among college students and out of school youth will be curtailed. At NIH, AIDS research will be reduced by an estimated $40 million.

In the Centers for Disease Control, 300,000 children will not receive measles, mumps, rubella, DTP, or polio vaccines; 85,000 preventive vaccinations will not be given during measles outbreaks; 22,000 fewer cases of gonorrhea will be identified; 200 fewer tuberculosis patients will be treated; and the national surveillance project of birth defects will come to a halt.

At the National Institutes of Health, 500 new grants would not be funded; the remaining grants would be cut by an additional 3%; 18 research centers would be eliminated; 595 research trainee slots would be cut; 74 Minority Training Awards would be eliminated; and 653 universities and research institutions would have their Biomedical Research Support Grants reduced.

At the Food and Drug Administration, a complete hiring freeze would be imposed and furloughs would be possible. Review and approval of new AIDS treatments and products will be slowed. The food safety inspection staff will be cut by 50 inspectors. Reductions in inspection staff will severely curtail efforts to regulate the generic drug industry.

At the Alcohol, Drug Abuse and Mental Health Administration, 177 new and competing grants will not be funded. Of the $415 million added to the block grant in the recent Anti-Drug measure, $43 million is eliminated by the effects of sequester. Of the $25 million added for drug abuse research, $14 million, or 56%, is eliminated. If the $20 million added for alcoholism research, $5.8 million, or 29%, is eliminated.

Funding for many other health programs, like the Maternal and Child Health block grant and Family Planning will be reduced below the FY '89 level, forcing reductions in services.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (LIMITED RESPONSE)

Between 4000 and 5000 new families would be denied subsidized housing assistance.

DEPARTMENT OF INTERIOR

Bureau of Land Management: All eleven new construction projects will be scaled back, divided into phases or delayed, and payment in lieu of taxes to 2000 counties will be reduced by a total of $2.4 million.

Minerals Management Service: new study starts planned for FY '90 will be eliminated, including those affecting marine mammals, and endangered species.

Lost revenues could result from old data being used to determine the fair market value of tracts offered for sale in the Beaufort Sea, and Atlantic and Pacific Regions.

$5,000,000 in revenues collected for the States, Indians and the Federal Government could be delayed by reductions in the collections effort of the royalty management program.

Office of Surface Mining: state regulatory grants and Reclamation grants will be reduced by more than $3,000,000.

U.S. Geological Survey: as many as 800 continuous streamflow stations and 48 water resources investigation projects will be eliminated, and several aspects of the Mississippi-Alabama coastal erosion study directed by Congress will be delayed.

Bureau of Mines: no new contract starts in the research programs will be initiated, and funding of extramural programs at the Idaho National Engineering Lab, Respirable Dust Generic Center, the National Land Reclamation Center and others will be reduced.

U.S. Fish and Wildlife Service

Reductions will occur in consultations on endangered species, listings projects will be deferred and the number and scope of research projects will be reduced.

Visitor services at National Wildlife Refuges and National Fish Hatcheries will be cut, law enforcement patrols will be reduced.

National Park Service

A minimum of 238 units of the National Park Service will see a net loss from FY '89 budgets.

Interpretive services will be decreased by elimination of some roving interpreters, living history demonstrations, campfire programs, special events, school educational tours, and visitor center hours.

Bureau of Indian Affairs

Since teachers were hired for the school year in August, schools will be faced with the necessity of severely cutting the purchase of textbooks and supplies.

In the higher education program 300 fewer Indian students will receive scholarships.

Social Services—increased caseload from Oregon and Washington would cause issuance of regulations resulting in pro-rata reductions in payments affecting 67,000 individuals.

Construction—800 substandard homes would not be repaired.

Bureau of Reclamation

Construction of some new projects may be deferred, and some fish and wildlife mitigation features will not be constructed.

Revenue losses will occur from reductions in the Upper Colorado River Basin Fund; and similar impacts in the Lower Colorado River Basin Project could result in lowering the repayment of interest to the Treasury.

Office of the Secretary

Historic restoration and preservation of the main Interior building would be discontinued.

Oil spill and hazardous waste response would be reduced in the Office of Environmental Project review.

THE JUDICIARY

All automation enhancements would be suspended, further clogging the judicial system in the face of annual 10% workload increases.

Increases in anti-drug functions would be precluded.

Most of the increases provided by the Drug Title of the Transportation Appropriations Bill would be eliminated.

DEPARTMENT OF JUSTICE

On November 1, 1989, the House agreed to the Anti-Drug Title of the Transportation Appropriations Bill. One major impact of a full year's sequestration would be to decimate the increases provided in that Act to finance the War on Drugs. The following programs, administered by the Department of Justice, would be severely affected:

The drug bill added $97 million for the FBI; sequestration automatically cuts that by $79 million, or 81%.

The drug bill added $64 million for the Drug Enforcement Administration at the front lines in the war on drugs; sequestration reduces that amount by $29 million, or 45%.

The drug bill added $24 million for U.S. Marshalls, who are essential to enhance the Judicial processes in the war on drugs; sequestration reduces that amount by $11 million, or 46%.

The drug bill added $17 million for the Immigration and Naturalization Service, including the Border Patrol; sequestration cuts the INS by $36 million, or more than twice the amount added by the drug bill.

The drug bill added $23 million for the support of U.S. prisoners being held in State and local jails pending court action; sequestration reduces that amount by $6 million, or 26%.

The drug bill added $55 million for Federal Prison System salaries and expenses. That money is for the additional personnel and related expenses necessary to manage new prison bedspace prepared for activation; sequestration reduces that amount by $52 million, or 95%.

The Anti-Drug measure also added $81 million for additional personnel and initiatives of U.S. Attorneys; sequestration automatically cuts that by $25 million, or 31%.

DEPARTMENT OF LABOR

20,000 persons will not receive job training under the Job Training Partnership Act.

31,000 unemployed youth will not get summer jobs.

Up to 5 Job Corps Centers will be closed, returning approximately 2,100 unskilled, uneducated, and unemployed young people to the streets.

3,600 senior workers will be denied their community service work opportunities.

81 fewer mine inspectors will reduce mine safety and health inspections by 3,300.

98 fewer OSHA inspectors will result in 3,000 fewer occupational safety and health inspections.

All discretionary contracts will be deferred, and all new program start-ups will be delayed.

No additional employees will be hired for the entire year, leaving the Department 300 employees below its FY 90 target. Every effort will be made to avoid a furlough.

LEGISLATIVE BRANCH (PROPOSED BY CLERK)

A total salary freeze would be imposed.

The LBJ Summer Intern Program would be cancelled.

The Summer Page Program would be cancelled.

Sequestration would result in hiring freezes and a general reduction in support activities.

DEPARTMENT OF STATE

No funds would be available to make up any arrears in assessed U.S. contributions to international organizations or to meet current assessments.

Contributions to International Peacekeeping Activities in Africa, the Persian Gulf, Afghanistan, the Middle East, and elsewhere would be reduced $31 million below the U.S. assessment.

DEPARTMENT OF TRANSPORTATION

The $876 million reduction in transportation programs from a full year sequester will erode safety in all transportation sectors:

The FAA will be forced to implement a hiring freeze, leaving it unable to meet the growth in workload. Without any reprogramming:

The number of air traffic controllers will remain at 16,800, 695 below the 1990 goal of 17,495 controllers;

The number of aviation safety inspectors will remain at 2,311, 347 below the 1990 goal;

The number of aviation security agents will remain at 511, 146 below the 1990 goal.

FAA research and development for measures to protect against terrorism and to improve aviation safety will be cut back.

Rail safety will be eroded by reductions in the number of railroad safety inspectors, elimination of critical dispatcher training, and delays in grade-crossing and signal maintenance improvements.

A freeze on hiring of new motor carrier safety inspectors will leave the Federal Highway Administration below the level necessary to meet the 1990 workload by 150 inspectors. The shortage will cripple FHWA's ability to enforce compliance with federal trucking regulations such as restrictions on transport of hazardous materials.

National Transportation Safety Board staff will be reduced by 14 positions, slowing down investigations into transportation disasters, such as the Sioux City airline crash, and limiting NTSB assistance to foreign investigations of air accidents involving U.S. aircraft.

In Amtrak, the capital improvement program will be devastated by preventing the purchase of 50 new passenger cars and by foregoing needed maintenance and repairs.

In the Urban Mass Transportation Administration, formula grants to states and localities will be reduced by 3.3%. Rural transportation agencies without the resources to make up the reduction will be forced to cut service or raise fares.

DEPARTMENT OF THE TREASURY

Financial Management Service: In order to cut approximately 200 FTE, FMS would furlough all employees for one day per pay period. Personnel actions would result in a slowdown in the processing of claims and redemption work.

FMS reductions in the areas of cash management, debt collection, and financial information would result in the loss of government-wide savings.

FMS will use third class mailings for some payments, increasing delays.

Federal Law Enforcement Training Center: Funding for training materials for basic law enforcement training would be reduced, with unfunded costs passed on to participating agencies (most of which are drug interdiction and law enforcement related).

U.S. Customs Service: Fewer inspectors and import specialists, coupled with cutbacks in overtime, will cause back-ups at airports, a rise in importer complaints and reduced revenue collections.

Secret Service: Since protective activities are non-discretionary, all reductions will be made in the investigative program.

U.S. Mint: An immediate hiring freeze would be enacted.

Coin production would be reduced by 1.5 billion coins, and replacement of worn out and obsolete equipment would be delayed.

Coin shortages can be expected because of production decline and equipment curtailment.

TREASURY DEPARTMENT WAR ON DRUGS

Bureau of Alcohol, Tobacco and Firearms: Staffing reduction of approximately 350 FTE is needed, requiring a hiring freeze, the immediate termination of about 100 temporary positions, and possibly a reduction-in-force (RIF).

If a RIF is required, new ATF agents hired in FY 1989 to combat drug trafficking and violent crime would be terminated. As a result an estimate 767 investigations would NOT be initiated.

U.S. Customs Service: Severely affects the Customs Service war on drugs, a full hiring freeze would be needed of all programs, leading to the reduction of 1500 FTE.

Fewer pilots and other enforcement officers assigned to interdiction will mean that critical locations and time periods will not be covered.

Internal Revenue Service: Loss of information systems support for Criminal Investigation Program's voice secure radio system replacement will continue the exposure of special agents doing drug enforcement investigations to life endangering situations.

TREASURY DEPARTMENT REVENUE COLLECTION ACTIVITIES

Internal Revenue Service reductions will result in the loss of approximately $540 million in revenue forgone that would have been derived from revenue initiatives and enforcement operations.

Processing Tax Returns will be severely affected, with a crippling impact on tax system modernization. In the face of steep increases in maintenance costs for aging systems, capacity problems and system failure are predicted for 1994.

Staffing losses of 376 FTE to ongoing tax processing and computer programming must be achieved by freeze or furlough, leading to growing return inventories, interest paid on late refunds and reduced preparedness for any major filing season problems.

In order to maintain enforcement revenue as high as possible, there would be a relatively major reduction in the issuance of determination letters (down 3,500) to exempt organization and employee annuity plans.

Reductions will cripple the taxpayer service telephone program, with a reduction of 6 million calls answered, and a level of service no higher than 70 percent.

In violation of the terms of a settlement of class action suit, support for a Visually Impaired System will be reduced.

Basic operation losses will cause the audit rate to plummet well below 1.0 percent for the first time, due to a reduction of 22,000 tax examinations. Also, about 650 more audit cases in appeal or litigation status will not be closed, thereby further increasing the inventory.

DEPARTMENT OF VETERANS AFFAIRS

Because of a $44,689,000 sequestration from VA Medical Care, 23,777 fewer patients will be treated at VA Medical centers, and there will be a reduction of 2757 FTEs from VA Medical Centers.

698 fewer patients would be treated at VA nursing homes, and there would be a reduction of 369 FTEs from VA nursing homes.

451 fewer patients would be treated at VA domicilary care facilities.

There would be 540,000 fewer outpatient visits, and 539 fewer patients would receive contract hospital care.

861 fewer patients would receive contract care at community nursing homes, and 611 fewer patients would be treated through grants for State home care.

There would be a total reduction of 4,142 FTEs funded through the Medical Care appropriation and a reduction of 37 FTEs from Medical Administration. Furloughed employees would suffer significant pay losses.

The planned $2.9 million Pocatello, Idaho project would be eliminated from the Fiscal Year 1990 State extended care facilities program.

200 FTEs would be reduced from the Medical Research program.

The VA could not fund any of the 690 medical research proposals currently under review with a start date of April 1, 1990.

Approximately 200 ongoing laboratory closures would be necessary, and there would be no new program initiations by 100 new clinician-investigators. Further, there would be a significant loss of personnel time for smaller research and development projects.

Five projects approved at the August 1989 Merit Review Round would not be funded, and research into limb transplantation and replantation would be eliminated from the Fiscal Year 1990 program.

No new Rehabilitation Research and Development Merit Review projects would be funded. New evaluations would not be initiated, delaying the provision of acceptable rehabilitation technology to the disabled veteran. This prohibition includes evaluations of newly developed robotics and a digital hearing aid.

AMERICAN BATTLE MONUMENTS COMMISSION

Nearly all casual labor would be eliminated, resulting in severely adverse impacts on the daily maintenance and care of cemeteries and memorials.

The current backlog of maintenance, repair and improvement projects would grow substantially.

U.S. ARMY CORPS OF ENGINEERS

The sequestration of $167 million would result in project delays and rescheduling of completion dates in over 200 construction projects. This, in turn, would result in substantial additional costs.

The Corps would experience a reduced capacity to undertake the Administration's new wetlands initiative.

Jurisdictional determinations and planned compliance inspections of permitted projects would be curtailed.

Scheduled site visits would be reduced, as would maintenance efforts at Corps projects.

Reductions-in-force and selective hiring freezes would be necessary.

CEMETERIAL EXPENSES, ARMY

Installation of the handicap lift at Arlington National Cemetery would be deferred, as would the study to repair damage caused by rainwater leaks at the Memorial Amphitheater.

Repairs to the Roosevelt Fountain would be postponed, and equipment purchases would be deferred. Also, road repair would be curtailed.

CONSUMER PRODUCT SAFETY COMMISSION

The $33,960,000 sequestration will result in termination of all temporary employees; elimination of all student aids; the imposition of a partial freeze on all other hires; and a four-day furlough for all remaining employees.

Most hazard contract support would be eliminated, and there would be a reduction in the effort to perform water cooler lead testing. Also, resources for the acquisition of injury data from new hospitals would be unavailable.

The Consumer Hotline would be eliminated.

Engineering and epidemiological assistance for examination of new product hazards would be reduced, as would assistance to states for monitoring compliance with safety standards.

COURT OF VETERANS APPEALS

The $172,000 sequester would result in delays in the appellate process.

The Court would be unable to purchase all of the computer and ADP equipment necessary for the Clerk's office to input data from incoming appeals; to maintain a current docket of cases; and to conduct computer-aided research.

The Court would be unable to hire the staff necessary to direct computer and budget operations.

DELAWARE RIVER BASIN COMMISSION

Under agreement involving fixed percentage cost-sharing among the signatory parties, a cut by one party may result in cuts by other parties; such a "domino effect" may render the Commission incapable of fufilling its mission.

Reductions in personnel-related costs may render the Commission unable to mount water conservation programs designed to cut future capital expenditures and to raise capital for Basin projects.

ENVIRONMENTAL PROTECTION AGENCY

The $77 million reduction from the Superfund account would adversely affect new Superfund enforcement initiatives and activities.

The $107 million reduction from the Construction Grants program would impair the ability of States to assist in the construction of new sewage treatment plants and to capitalize State Revolving Funds.

GENERAL SERVICES ADMINISTRATION

A reduction in the management and administrative accounts will force GSA to furlough the entire staff for 19 days, amounting to an effective pay cut of 6 to 7 percent.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

The Space Station program could be delayed for another year.

Three or four Space Shuttle missions would be cancelled.

Various space science programs would be postponed, resulting in higher costs.

An employment freeze would be imposed for the entire fiscal year.

All employees would be furloughed for fifteen days.

NATIONAL SCIENCE FOUNDATION

Approximately 700 research grants would be reduced, eliminating support for nearly 2,100 people.

Support for new and existing science and engineering centers would be reduced.

Critical research related to global climate change would be curtailed.

NUCLEAR REGULATORY COMMISSION

The $24 million sequester would result in significant reductions in reactor safety reviews and reductions in technical support for special inspections.

The reductions would have a negative impact on the Commission's ability to timely review and resolve licensee requested license amendments. The Commission's capacity to review evolutionary and new standard plant designs will also be impaired.

The Commission's capacity to implement severe accident policies relating to operating reactors will be reduced. There will also be significant reductions in important safety research efforts, including studies to reduce human errors in nuclear power plant operations.

SMITHSONIAN INSTITUTION

Extended summer visiting hours will be cancelled, denying a half million visitors access to the Smithsonian museums.

The production of new permanent and temporary exhibits will be suspended, delaying the replacement of many exhibits that became outdated and obsolete years ago.

Exhibition halls and galleries will be closed, adding to the number that already remain closed to the public because of an inadequate number of guards.

Public education programs at night and on weekends will be reduced because of guard and custodial personnel shortages.

Program reductions and the curtailment of hours of operations will negatively impact revenues generated by museum shops and food service, having a secondary impact on the Institution's trust budget.

Preventative and custodial maintenance projects will be severely affected, adding to the long term repair backlog.

TENNESSEE VALLEY AUTHORITY

A hiring freeze of full-time permanent employees in appropriations-financed programs will be imposed.

A Reduction-in-force will be applied to the extent that attrition is insufficient to absorb budgetary reductions.

U.S. INFORMATION AGENCY

More than 600 positions would be eliminated and significant furloughs would be implemented.

The Voice of America weekly broadcast schedule would be reduced by 66 hours, including 24 hours of Chinese, 7 hours of Polish, and broadcasts reaching Afghanistan, Pakistan and Iran.

Both Radio Marti and the planned TV Marti broadcasts would be seriously curtailed. Radio Marti would eliminate 29 positions and discontinue broadcasting to Cuba on Saturdays and Sundays. TV Marti would broadcast only 3 hours nightly rather than six.

28 overseas posts now operated by USIA would be closed, including posts in Korea, the Philippines, Thailand, Saudi Arabia and others.

Cultural and Educational exchange programs would be curtailed and exchanges with Poland, Hungary, and other Eastern European countries would be greatly restricted.

PRESIDENT SHOULD NOT VETO RECONCILIATION BILL

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, the President, hopefully, will be able to show that he really does not want to inflict pain on the people of the United States when in the next few days he has the obligation to veto or sign a reconciliation bill which this House and the Senate will ultimately send to him. I believe that he needs in the best interests of the people of the United States to sign that bill, and I hope that he is thinking about it.

We do not need any more cuts in the flight administrators in the FAA towers, the flight controllers.

We do not need any more cuts in veterans' medical care benefits.

We do not need any more plants cut out of meat and poultry inspections and closed because there are no inspectors. That is what will be the effect.

Health care, daily standards of living, safety problems, all of them as a result of vetoing the reconciliation bill.

He is going to get a good bill, Mr. Speaker. We hope the President will sign it and not be irresponsible and inflict pain if he thinks he can get political gain, because in the end all he is going to get is political shame.

THE NAVY'S ABYSMAL SAFETY RECORD

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, the U.S. Navy has changed the saying, "Another day, another dollar," to "Another day, another disaster."

Last week, the Navy had five accidents in 4 days. On October 29, a Navy pilot crashed into the U.S.S. *Lexington*, killing five. On the 30th, a sailor died after being washed overboard from the U.S.S. *Vinson*. Also on October 30, five crewmen were injured after a Navy pilot dropped a 500-pound bomb on U.S.S. *Reeves*. Yet another sailor died on the 31st, after he, two shipmates, and 38 missiles were swept overboard from the U.S.S. *Eisenhower*. On November 1, nine more sailors were injured in a fire aboard the U.S.S. *Monongahela*.

Since April, the Navy has a record of 55 sailors dead and 34 sailors injured during seven major accidents.

With this abysmal safety record, please, President Bush—for your own sake—reconsider meeting Soviet General Secretary Gorbachev aboard any United States Navy vessel. Meet on land, where it's safe.

SEQUESTER WILL CLOSE MEAT AND POULTRY PLANTS FOR 28 DAYS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, if President Bush has his way, Americans are going to have to undergo a fairly dramatic change in their diets. Instead of the meatless days once a week of World War II, we are going to have a meatless month once a year so that the President can continue spending billions on star wars, and who knows what else at the Pentagon. Sound farfetched? It is not, not if he gets his way with budget reconciliation.

The President says he prefers a sequester to reconciliation. While these may sound like "high falutin terms," here is what it means to all of us who like a good hamburger, a good steak, or fried chicken once in awhile. Federal law requires that all meat and poultry slaughter and processing plants undergo continuous inspection. If the inspectors are not there, the plants have to close, which in turn means farmers have no markets and products get scarcer, driving up meat and poultry prices for American consumers.

If the President has his way, American meat and poultry plants would have to close for nearly 1 month, 28 days according to industry estimates, to comply with the effects of a Presidential sequester. That is how much a sequester will take out of the Food Safety and Inspection Service budget, and the agency appears to have no other way to comply with a sequester than to lay off inspectors, and with no inspectors, no inspections, means that the meat plants close all over this country.

That is no way to run a railroad.

COMPREHENSIVE ANTIDRUG PACKAGE DOING ABSOLUTELY NOTHING

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, today's Washington Post headline talks about the use of cocaine by the Mayor of Washington, DC.

I met today with Bill Bennett, the President's drug adviser. He said it is now probable that they are going to confiscate more tons of cocaine, 140 tons, than it was estimated that the Nation would consume this year.

I would bring to the attention of my colleagues that several months ago the President presented to this Congress a comprehensive antidrug package. What have we done on that? We have done absolutely nothing in the 6 weeks we have had the package.

I am also told that last week drug czar Bennett met with Speaker FOLEY, Majority Leader GEPHARDT, Minority Leader MICHEL, and Minority Whip GINGRICH, and they promised they would have the President's package on the floor by November 13.

Mr. Speaker, I think it is time that we deliver on that promise. Drugs are America's No. 1 problem. It is time that this House begins to take action.

JAPANESE POLITICIAN SAYS AMERICAN BIGOTRY IS ROOT OF OUR TRADE PROBLEMS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, one of Japan's most popular politicians, Shintaro Ishihara, says that American bigotry is the root of all trade problems. In Ishihara's new book, which is titled "A Japan That Can Say No," he treats Americans like suckers.

Now, I am not surprised at the title of this book. Japan has never had a problem saying no to America. In fact, the only time Japan has said yes to America is when they were asked if they wanted more free rides.

Mr. Speaker, unfortunately Mr. Ishihara is right about one thing. Any country that would return $567 million to Iran is a bunch of suckers.

REPEAL THE CATASTROPHIC TAX

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, I rise today in strong support of complete repeal of the catastrophic tax, and in support of actions to include complete repeal in the debt ceiling bill, which we must address before tomorrow midnight.

Mr. Speaker, the Members of this Chamber spoke resoundingly when we voted complete repeal of the catastrophic tax. I would remind us that the vote on that was 366 to 66, with 196 Democrats voting for complete repeal.

Older Americans need a program that can and will protect them from having to make that tragic decision between their health and bankruptcy. But the catastrophic tax or any derivative is not the answer.

□ 1240

I urge my colleagues to support complete repeal of the catastrophic tax and to allow this measure to be included in the budget-ceiling package.

CALIFORNIA GUARD HELPING EARTHQUAKE VICTIMS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I want to commend the efforts of the California National Guard for the work they have done, and continue to do, to help earthquake victims in the San Francisco Bay area.

The National Guard set up a large tent city in Watsonville to assist those made homeless in the disaster. In conjunction with the Red Cross and local authorities, Guard personnel helped serve warm meals and provide medical assistance. They even rented television sets for the homeless so they could watch the bay-area world series.

National Guard engineers were also at work, clearing roads of downed power lines and other debris in areas hit hardest by the earthquake.

The actions of the California National Guard, prove once again that in times of natural disaster, one thing we can all count on is that our citizen-soldiers are going to be there to lend a helping hand.

Mr. Speaker, I point out that some guardsmen are still on active duty from the Hurricane Hugo and are doing an excellent job also in that area.

WARRANTY AND SERVICE CONTRACT PROTECTION ACT OF 1989

(Mr. CHANDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHANDLER. Mr. Speaker, in recent years, we have seen a prolifera-

tion of extended service contracts. These contracts provide warranty-like coverage beyond the manufacturers' warranty period. A few States regulate these contracts as insurance, but most States have little or no regulatory control. Typically, this extended coverage is sold for an additional charge, much of which goes straight into the dealer's pocket. Accordingly to a Wall Street Journal article, a typical extended service contract for an automobile, which sold for $795, produced a dealer profit of $555.

High dealer profits, though, would not be an issue if consumers were getting their money's worth. Many consumers have found, after having their car or appliance break down, that very few repairs are covered. This, despite lavish promises by the contract seller that nearly all repairs would be covered.

To make matters worse, many of the companies that offer insurance policies to back up these contracts have failed to maintain adequate reserves to pay for repairs and have gone out of business. Some States, such as Washington, hold the dealer who sells another company's extended service contract liable for repairs if the company fails to pay for covered repairs. Many consumers, however, are without this essential protection.

I have been informed by the Attorneys General of several States that this is viewed as a serious consumer problem nationwide. State action has been thwarted, however, by the fact that many of the companies selling these contracts are out-of-State and not easily controlled. Consumer advocate organizations such as the Consumer Federation of American and USPIRG agree that congressional action is needed.

That is why, our colleague from Massachusetts, Mr. DONNELLY, and I are introducing legislation to address this serious consumer problem. My bill would: Subject extended service contracts to a 60-percent excise tax unless they comply with certain reasonable requirements; allow contract sellers to markup the price of the contract by only 100 percent; make sure that the seller of the contract is liable for any necessary repairs; exempt those contracts which reveal the expected cost of performance on the face of the document; exempt those contracts which are subject to full State insurance commission regulation; and require that contract sellers maintain adequate reserves to pay for expected payouts.

The following is an example of how our bill would work:

An automobile dealer sells an extended warranty contract covering mechanical breakdowns for 3 years or 30,000 miles. The consumer pays $800 for this contract. From the $800, the automobile dealer pays a $100 commission to the salesman who sold the contract, and $150 to the company that underwrites the contract. $550 is dealer profit. The underwriter expects to pay out, on average, $100 for actual repairs to the automobile. The contract would be subject to the 60-percent excise tax because the cost to the consumer—$800—would exceed the expected cost of repairs—$100—by more than 100 percent.

Please join us in providing consumers this important new protection.

WE SHOULD NOT PAY OFF CAPTORS

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, with deep budget cuts being debated all about us concerning important domestic programs, today's Washington Post reports that the United States has agreed to return half a billion dollars in claims to Iran. The administration insists that this payment is unrelated to the taking of our hostages.

Just last week Iran passed a law allowing them to arrest any American anywhere for any crime.

Is this how we respond, by giving them money? These actions by our President are inexcusable, and the position of the administration is outrageous in this month, the 10th anniversary of the taking of our hostages.

The payment of this ransom money to a nation which continues to threaten American lives is intolerable. We release their assets, they hold our hostages. We should not pay off the captors.

VOTE FOR TOTAL REPEAL OF CATASTROPHIC CARE BILL

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, "Workers of the world, we are sorry." That is what the sign read on the 72d anniversary of godless communism, the Bolshevik revolution, which today is marking that date.

Mr. Speaker, it is very clear that the people of the world are calling for freedom, not only in the Soviet Union but throughout the world. Today marks the beginning of elections in Namibia, in sub-Saharan Africa.

We here in the Congress, especially on our side of the aisle, are pursuing a goal which the American people have overwhelmingly said that they want. They want us to repeal that reprehensible tax which was associated with the catastrophic-care bill. Mr. Speaker, I hope very much that as we move ahead with this debt-ceiling legislation that we bring about what 366 to 66 in this House voted for earlier this year, and that is total repeal.

SENIORS WANT CATASTROPHIC REPEALED

(Mr. FAWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAWELL. Mr. Speaker, I have been hearing some distressing reports about what might happen in the conference deciding the fate of catastrophic. If the Senate's revision of catastrophic is on the table, some conferees have said they will start loading it up with benefits that both the House and Senate repealed in early October.

In particular, one conferee said he would put back in Medicare part B benefits which would add billions to the cost of the program. He would finance these new benefits with surpluses in the catastrophic program.

As Yogi Bera said, "it's deja vu all over again." We have heard before about surpluses in the catastrophic program, only to find out later that the programs are running huge deficits.

We have heard before from the Washington lobby groups claiming to represent seniors, only to find out later that they don't represent seniors' views.

Seniors want catastrophic repealed. If we start adding a new benefits back in, as the Senate version does, we could be opening the floodgates for those who want to see the whole program restored. We'll have a bad bill flying back at us at midnight Wednesday with a "take-it-or-leave-it" printed on it.

I urge the House conferees on the debt limit to stick with repeal.

TARIFFS THREATEN FUTURE OF SOUTH CAROLINA'S MEDICAL GLOVE INDUSTRY

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, my State of South Carolina has lost hundreds of jobs and now faces the extinction of an entire medical glove industry. This is because the Governments of Thailand and Malaysia have placed export tariffs on raw latex, which has the effect of penalizing our latex glove manufacturers economically who must pay substantially higher prices for the essential raw materials. Malaysia will not allow foreign ownership of latex plantations and forces foreign owners to sell their interests, and both the Malay and Thai Governments have also been dumping lower-priced gloves of questionable quality on our market.

Mr. Speaker, I have brought this matter to the attention of the Secretary of Commerce in an effort to save yet another domestic industry that is being compromised by unfair trade practices. I am pleased to commend Secretary Mosbacher for showing a keen interest and promising to investigate this further.

THE OBSERVANCE OF KRISTALLNACHT

(Mrs. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROS-LEHTINEN. Mr. Speaker, this week signifies the 51st anniversary of Kristallnacht, which commemorates a night of broken glass and placed European Jews at great risk. A duration that highlighted persecution of the Jewish people, a period that was marked by legal segregation, pressured emigration and systematic exclusion from economic life. A time that will always stand out as the ominous turning point in the history of Nazi terror.

Of the 3,500 synagogues in this country, virtually all of them will keep their lights burning through the night of November 9. A special ceremony will be held at Bet Shira, one of Miami's temples that was victimized by desecration last year. However, people of all faiths can join in this month to remember, and to dedicate themselves against racism and hate.

□ 1250

WHERE IS THE PRESIDENT'S DRUG BILL?

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, 63 days ago, President Bush addressed our Nation and this Congress and presented his first national drug control strategy. In the following days, he sent his modest legislative package to this Chamber and to our colleagues in the Senate.

Concurrently, he contacted our Colombian neighbors, who have set out to fight the cocaine cartels which are conducting a campaign of terrorism in Colombia. Our President had words of encouragement for the foresight of the Colombian Government. President Bush followed through when the Colombians asked us to augment our moral support, with more than $90 million in antidrug assistance for Colombia.

To its credit, the Senate acted with dispatch, and passed the President's legislative plan—but we have yet to see a drug bill brought into this Chamber. Now, I ask you, Mr. Speaker, and my distinguished colleagues:

Where is this body's enthusiastic support for the President's first national drug control strategy?

Where is this body's conscience, when the elected Colombian Government and the Colombian judiciary are literally risking their lives to stem the tide of drugs surging toward our shores?

Where is the President's drug bill?

Mr. Speaker, while this Chamber procrastinates, people are dying.

FOCUSING ATTENTION ON THE LIVING, NEEDY CITIZENS IN AMERICA

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, today important elections are being held in the States of Virginia, New Jersey, and New York City. Unfortunately, the main issue having great bearing on the outcomes of these elections is the position of the candidates who are aspiring to office on the issue of the right to life or choice.

To me, Mr. Speaker, we should well focus our attention and our main interest, and I hope this Congress will begin to use influence in future elections, on the issue of the fate of those who are already born and not those who are unborn. Whether or not we have adequate food to feed people who are hungry, homes for people to live in, health care for people who are sick, education for our young, I think is the best focus for the preservation of this democracy we could ever have, because when people have these things they are the kind of fruitful citizens we need in this country.

CATASTROPHIC HEALTH CARE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker our Nation's seniors are getting tired of our excuses and games of "almost"—

For months we have promised to rid senior citizens of the unfair burden caused by the catastrophic, Catastrophic Health Care Act.

We almost kept our promise when we voted to repeal the law outright.

But almost just isn't good enough. Despite all of our discussions—and the overwhelming vote for repeal—the law is still on the books.

If we adjourn this session without coming to an agreement to either repeal or drastically dismantle the most onerous taxing provisions of the Catastrophic Health Care Act—we will be telling our constituents that we can't make good on our commitments.

And when our senior citizens receive their 1989 IRS forms—complete with a whopping tax bill for a Catastrophic Health Insurance Program most don't want and most don't need—we can bank on an outcry that will make the Boston Tea Party look like a quiet Sunday outing at the shore.

Mr. Speaker, I urge my colleagues to remember the old saying that "almost only counts in horseshoes and hand grenades." It's not going to work on catastrophic health care.

PEOPLE ALL OVER THE WORLD MOVING TOWARD FREEDOM

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, first a footnote. I was 1 of the 72 Members in this House who voted against that ridiculous catastrophic health thing, so of course I am going to fight to repeal it.

Now to the sad but pleasurable. When something is very juicy, it bears repeating.

As the gentleman from California [Mr. DREIER], mentioned earlier about the signs in Red Square, and my colleague, the gentleman from Ohio [Mr. BOB MCEWEN], was dying to be out here to mention, I will just underscore what the gentleman from California [Mr. DREIER] said. Remember the old saying going on for most of this century: "Workers of the world unite, you have nothing to lose but your chains?" Can Members believe the sign in Red Square on the 72d anniversary: "Workers of the world, we are sorry?" And next to it a sign that says, "72 years of nothing."

Look at the flow of refugees from East Germany. They are coming across the border 100 an hour like clockwork, seeking what we take for granted: freedom.

Yet, around the Soviet Government, in the Kremlin, they still are stuffing arms into Nicaragua, they still are stuffing arms into Afghanistan, they still have officers leading some of the troop movements in Angola. The beat goes on. The Soviet artillery is still being delivered to Syria to pound the civilian area of what is left of Beirut.

Mr. Speaker, we will accept that apology, but when will we have an apology from the Members of this House who are still apologists for the nine Marxist thugs who are destroying the country of Nicaragua? You better believe you are sorry.

LEGISLATION TO STRENGTHEN DRUG PREVENTION IN SCHOOLS

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, school should be a place for learning, growth, and opportunity. But for too many of our Nation's children, school is a place where drug use, drug trafficking, and drug-related violence are part of the daily routine.

Drugs and learning do not mix, and so long as drugs are commonplace in our Nation's schools, the future of our children—and our Nation—will be at risk.

We must fight back against the drug menace in our schools. We need to strengthen law enforcement so that we can jail drug criminals who prey on children. And we desperately need to improve our drug education and prevention programs.

Today, I am introducing legislation to strengthen drug prevention programs in our Nation's schools. This bill will give local school districts the resources to provide more trained anti-drug abuse counselors in the schools—counselors that have a remarkable record of success in my district and around the Nation.

It is a tragedy each time we lose a child to drugs. This bill will help speed the day when our schools are drug free. I urge all of my colleagues to join me in this effort.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SARPALIUS). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

ESTABLISHMENT OF A SOUTH PACIFIC NUCLEAR FREE ZONE

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 218) concerning the establishment of a South Pacific Nuclear Free Zone.

The Clerk read as follows:

H. CON. RES. 218

Whereas the nations of the South Pacific, which share with the United States a strong interest in nuclear nonproliferation, have negotiated and signed the Treaty of Rarotonga, establishing a South Pacific Nuclear Free Zone;

Whereas the Treaty of Rarotonga came into force on December 11, 1986, with its ratification by 8 nations;

Whereas the Treaty of Rarotonga prohibits the testing, manufacture, acquisition, and stationing of nuclear weapons in the territory of parties to the treaty and the dumping of radioactive wastes at sea;

Whereas 3 protocols to that treaty, which are open for ratification by nuclear-weapon states, require that those nuclear-weapon states that ratify those protocols abide by the treaty's provisions in their territories in the region, not contribute to violations of the treaty or threaten to use nuclear weapons against its parties, and refrain from testing nuclear devices in the zone;

Whereas the Treaty of Rarotonga does not prejudice or in any way affect the rights of all nations to freedom of the seas under international law and leaves to each party policy decisions on visits or passage through its territory by foreign ships and aircraft;

Whereas it has been the policy of the United States to favor the establishment of effective nuclear-weapon-free zones in regions of nonproliferation concern and where such zones would enhance international stability and security;

Whereas the United States has set forth 7 criteria whereby the effectiveness of proposed nuclear-weapon-free zones will be judged, as follows: (1) the initiative is from the nations in the region, (2) all nations whose participation is deemed important participate, (3) adequate verification of compliance is provided, (4) it does not disturb existing security arrangements to the detriment of regional and international security (5) all parties are barred from developing or possessing any nuclear device for any purpose, (6) it imposes no restrictions on international legal maritime and aerial navigation rights and freedoms, and (7) it does not affect the international legal rights of parties to grant or deny others transit privileges, including port calls and overflights;

Whereas the United States has signed and ratified the protocols to the Treaty for the Prohibition of Nuclear Weapons in Latin America (the Treaty of Tlatelolco), establishing a nuclear-weapon-free zone in Latin America, whereby the United States committed itself not to test, manufacture, acquire, or store nuclear weapons in its territories in the region (namely Puerto Rico and the United States Virgin Islands), not to contribute to any violation of the treaty, and not to threaten to use nuclear weapons against the parties;

Whereas the United States is also a party to the Antarctic Treaty, the Seabed Arms Control Treaty, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, which preclude nuclear weapons from these regions;

Whereas in June 1987 testimony before the Congress that has been reaffirmed by the executive branch, a representative of the United States Arms Control and Disarmament Agency stated that in order to advance United States nonproliferation goals, the United States "continues to support efforts to establish effective nuclear-weapon-free zones in other regions of nonproliferation concern, such as the South Asian subcontinent, Africa, and the Middle East";

Whereas support for these nuclear-weapon-free zones does not prejudge United States policy with respect to other proposed nuclear-weapon-free zones, each of which must be judged on its individual merits in accordance with United States national interests;

Whereas in order to maintain the security of United States military forces and their ability to contribute to nuclear deterrence, the United States must preserve the principle of neither confirming nor denying whether particular United States naval vessels or other military forces possess nuclear weapons;

Whereas the United States opposes the adoption of national requirements (such as denial of port access to United States naval vessels that are nuclear powered or may be carrying nuclear weapons) that are inconsistent with the principle of "neither confirm nor deny" and that impede the operation of United States military forces and United States military cooperation with United States friends and allies;

Whereas the protocols to the Treaty of Rarotonga do not conflict with the principle of "neither confirm nor deny" and do not prohibit any current or anticipated activities in United States territories in the South Pacific or elsewhere in the region; and

Whereas the executive branch has stated that while the United States cannot, under current circumstances, sign the protocols to the Treaty of Rarotonga, United States practices and activities in the South Pacific Nuclear Free Zone region are consistent with the treaty and its protocols: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) it is the sense of the Congress that—

(1) the Treaty of Rarotonga is consistent with the Security Treaty between Australia, New Zealand, and the United States (the ANZUS Treaty) and with United States security commitments in the South Pacific since it does not prohibit port calls by naval vessels which are nuclear powered or may be carrying nuclear weapons and does not create other impediments to United States military operations in support of the ANZUS Treaty and other United States security commitments;

(2) the Treaty of Rarotonga satisfies the 7 criteria, set forth in the preamble of this resolution, which have been established by the United States Government for judging the effectiveness of proposed nuclear-weapon-free zones;

(3) signature and ratification of the protocols to that treaty would be in the national interest of the United States; and

(4) signature and ratification of the protocols would not prejudge United States policy with respect to proposals for nuclear-weapons-free zones in other regions, such as those in which the presence of an effective nuclear deterrent has contributed to United States national security by enhancing stability.

(b) Nothing that the executive branch has indicated that United States practices and activities in the region are consistent with the Treaty of Rarotonga and its protocols, it is therefore the sense of the Congress that the United States should sign and ratify the protocols to that treaty.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me at the outset take this opportunity to pay tribute to my colleagues on the other side of the aisle, and in particular to the very distinguished gentleman from Michigan [Mr. BROOMFIELD], the ranking member of the Foreign Affairs Committee; the gentleman from Iowa [Mr.

LEACH], the ranking minority member of the Subcommittee on Asian and Pacific Affairs; and my very good friend, the gentleman from Guam [Mr. BLAZ]. All have played a very helpful role in enabling us to forge a bipartisan consensus on this issue.

This resolution expresses the sense of the Congress that it would be in the national interest of the United States to sign the protocols to the Treaty of Rarotonga, which would establish a nuclear free zone in the South Pacific. That zone would preclude the testing, manufacture, acquisition and stationing of nuclear weapons within the South Pacific while also precluding threats to use nuclear weapons against any of the countries that are located in that part of the world.

□ 1300

During the course of the negotiations which led to the adoption of the Treaty of Rarotonga, the United States expressed a number of concerns about provisions that were in initial drafts of that accord that would have created potential problems for us. At our request, Australia and some of our friends in the South Pacific managed to negotiate those provisions out of the text of the Treaty of Rarotonga. As a consequence, the administration has testified before the Subcommittee on Asian and Pacific Affairs that there is nothing in the Treaty of Rarotonga which would either preclude us from doing anything which we are now doing, or preclude us from taking any actions that we might want to engage in in the future.

Some have expressed a concern that American support for the establishment of a nuclear-free zone in the South Pacific would set a dangerous precedent which might obligate the United States to sign on to nuclear-free zones in other parts of the world where it would not be in our interest to do so. This is an argument which cannot simply be dismissed out of hand as the United States has helped to preserve the peace for four decades to some extent because of our capacity to maintain an effective nuclear deterrent. Nevertheless, I think it is important to say that we have as a nation already subscribed to several nuclear-free zones in other parts of the world. We signed and ratified the protocols to the Treaty of Tlatelolco which establishes a nuclear-weapon-free zone in Latin America, and we are also a party to the Seabed Arms Control Treaty, the Outer Space Treaty, and the Antarctic Treaty, all of which preclude nuclear weapons from those regions.

So there would be nothing new about our willingness to sign the protocols to a treaty establishing a nuclear-free zone in the South Pacific. Furthermore, at the request and suggestion of our friends on the other side of the aisle, we have included in the text of this resolution an explicit statement to the effect that our willingness to support the Treaty of Rarotonga does not constitute a precedent for American support for nuclear-free zones elsewhere in the world, each one of which will have to be addressed on its own merits.

Over the course of the last decade, precisely in order to enable our country to respond to proposals for the establishment of nuclear-free zones in different parts of the world in a rational and intelligent fashion, the administration devised a set of criteria to determine whether any given nuclear-free zone is or is not in our interest. It would appear that the Treaty of Rarotonga establishing a nuclear-free zone in the South Pacific meets each and every one of the criteria we have established for determining whether a nuclear-free zone is in our interest.

Consequently, this resolution which is before the House would express the very strong sense of the House that we should sign the protocols to this treaty. In the final analysis, this is a decision the administration will have to make. Until now, they have not, for a variety of reasons, been willing to sign the protocols, but it is our hope that the adoption of this resolution will enable Members to engage in a little bit of very gentle persuasion with administration officials in the hope that they will review their position, reconsider their unwillingness to sign so far, and go ahead and do so.

The Soviet Union and China have both signed protocols to the Treaty of Rarotonga, and it puts us in a somewhat awkard position in the South Pacific when our potential adversaries are willing to sign the treaty but we are not. I am sure all Members remember that when our country first declared its independence on July 4, 1776, in the historic document in which we laid our case before the world, we said, among other things, that a decent respect for the opinion of mankind obligated us in the process of declaring our independence to set forth the reasons for doing so. I would submit that a decent respect for the options of our friends and allies in the South Pacific, every one of which is a democracy which shares our commitment to the principles of political pluralism, should obligate Members to go along with this request which they have made, particularly since it would in no way adversely affect our own national interests.

Indeed, during August I went on a factfinding mission to the South Pacific, together with my very good friend, the gentleman from American Samoa [Mr. FALEOMAEVAEGA] and the gentleman from California [Mr. DORNAN]. In virtually every one of the countries we visited, Kiribati, Vanuatu, New Caledonia, Western Samoa, Fiji, Papua New Guinea, and a number of others, we found there was very strong interest in this treaty, and a very real hope that the United States would indicate a willingness to support it. That is what we are trying to do this afternoon. I very much hope that the House will endorse this resolution, which will be warmly welcomed by our good friends in the South Pacific.

Mr. LEACH of Iowa. Mr. Speaker, I yield 3 minutes to the distinguished ranking member of the full committee, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, the issue whether the United States should sign the protocols to the South Pacific Nuclear Free Zone Treaty is a highly important and symbolic one in the region.

The previous administration decided against signing, on the grounds that doing so could encourage other, damaging antinuclear proposals elsewhere. The Bush administration still has this issue under review.

I have been interested in the nuclear issue in the South Pacific for several years. I have been particularly concerned with the policy of the labour government in New Zealand which prevents United States naval vessels from entering that country's ports. This policy prevents the United States from fulfilling its defense responsibilities toward New Zealand under the Australia-New Zealand-United States [ANZUS] Security Treaty.

Last year at my request, the minority staff of the committee prepared a report which addressed SPNFZ as well as other regional security issues in the South Pacific. While recognizing that signing the protocols was an important issue, the staff concluded that U.S. relations with the countries of the region should be viewed on a much broader basis.

If the United States were to reconsider signing the protocols, the staff recommended that such a decision be timed carefully. If the United States signs, we should do so in a way that does not contribute to exaggerated antinuclear sentiment in the region and unwise security policies which are based on it.

For me, therefore, the issue of whether the United States should sign the SPNFZ protocols remains open. Nevertheless, I commend the chief sponsor, Mr. SOLARZ, for his seriousness of purpose on this issue.

I know that Mr. SOLARZ and his colleagues on the recent delegation to the South Pacific—the gentleman from California [Mr. DORNAN] and the gentleman from American Samoa [Mr. FALEOMAVAEGA]—heard a great deal on this subject. I also commend Mr. LEACH, the ranking Republican member of the Asia/Pacific Subcommittee, and the other members of the

subcommittee for reporting such a carefully drafted resolution.

This resolution carefully notes that the SPNFZ protocols are not inconsistent with U.S. policies and military operations in the South Pacific. It also expresses the sense of Congress that the United States should sign the protocols.

For these reasons, I feel that we are not going beyond our proper role in submitting this recommendation to the administration. We should recognize, however, that ultimately it is for the President to decide whether the United States should sign the protocols.

I am grateful to the chairman of the Subcommittee on Asian and Pacific Affairs, Mr. SOLARZ, for his cooperative approach to drafting this resolution. I am particularly happy to note that the whereas clauses have been expanded to include recognition of the importance of the principle that the United States cannot—for military and security reasons—modify the policy of neither confirming nor denying the presence of nuclear weapons with U.S. forces.

The whereas clauses also indicate the United States opposes the adoption of national policies that prevent the operation of U.S. forces and military cooperation with our allies and friends. I'm sure Mr. SOLARZ would agree that this includes the policies of the New Zealand Government.

Mr. Speaker, I wish once again to commend Mr. SOLARZ, Mr. LEACH, the ranking Republican member of the subcommittee, the other sponsors for giving us a balanced resolution on this subject. I have no objection to passage of this sense of Congress resolution under suspension of the rules, and support its passage.

Mr. LEACH of Iowa. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. LAGOMARSINO].

□ 1310

Mr. LAGOMARSINO. Mr. Speaker, nations of the South Pacific were represented at the annual South Pacific forum when they met in 1985 in Rarotonga, the capital of the Cook Islands. There, forum members developed and signed the Treaty of Rarotonga, in order to establish a South Pacific nuclear free zone. The treaty entered into force December 11, 1986, with the ratification of the requisite number of signatory countries.

Three protocols to the treaty were developed to be offered to certain nonforum members with Pacific interests. Under the first protocol, the acceding country would pledge not to store nuclear weapons in their territories within the zone. The second protocol pledges not to use or threaten to use nuclear weapons within the zone and the third requires no nuclear testing in the zone.

China, France, Great Britain, the Soviet Union, and the United States were asked to sign the protocols to the treaty. China and the Soviet Union signed the protocols, while the United Kingdom of Great Britain, France, and the United States did not.

Although the Soviets initially signed the protocols, they did so with a reservation implying they would not abide by the treaty. Conversely, the United States declined to sign, yet announced that the principles of the Treaty of Rarotonga would be followed. At the time of the Soviet ratification of the protocols, the offensive reservation language was deleted, no doubt in part to the highly negative reaction of the South Pacific countries.

The establishment of a nuclear-free zone does not in itself guarantee the safety of a region. However, it does provide a mutually agreed framework to help achieve peaceful coexistence on our planet and in the region which is the focus of this legislation: the South Pacific.

The administration's position of not acceding to the protocols was based part due to ongoing arms control negotiations and concerns for the United States ability to meet its security commitments. Since that time, major changes have occurred in the world. Of particular significance, was the conclusion of a Nuclear Weapons Reduction Treaty by then President Reagan and Secretary-General Gorbachev of the Soviet Union. Additional arms control agreements are under development at the time which if successful will indeed advance the cause of peace in the world.

During the administration's hard and difficult negotiations with the Soviet Union, the potential effect of signing protocols to the Treaty of Rarotonga was carefully weighed. A number of difficult and sensitive issues were under consideration which involved other treaties which both the United States and the Soviet Union are party to. The Soviet Union recently admitted that the Krasnoyarsk radar did indeed violate the Anti-Ballistic Missile Treaty, although they denied that charge for years.

The people of the Soviet Union are experiencing unprecedented degrees of political tolerance and freedom of expression. Perestroika is allowing the people to openly talk about the ills of their society and of the control of their lives by Communist Party and military leaders. Sweeping democratic reforms have been instituted in a number of Eastern European countries.

Considering these changes and the many others which have occurred since the issuance of the Treaty of Rarotonga, it appears appropriate for the United States to again review the dynamics concerning the accedence to the protocols of the Treaty of Rarotonga. As the United States has agreed to abide in principle to the Treaty of Rarotonga, perhaps we should now decide whether that policy should be enunciated through the formal signing of the protocols establishing a South Pacific nuclear free zone.

We have a vested interest in the South Pacific as we have two territories which are within the South Pacific nuclear free zone, American Samoa and Jarvis Island. The treaty represents an important issue to American Samoa as it affects her neighbors. In addition, we have enjoyed many years of good relations with the treaty signatory countries, who we consider to be our friends in the South Pacific, and this alone warrants a second look at the signing of the protocols.

Mr. SOLARZ. Mr. Speaker, I yield 6 minutes to my very good friend, the gentleman from American Samoa [Mr. FALEOMAVAEGA], one of the driving forces behind this resolution.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 218, a resolution urging the administration to sign and ratify the protocols of the South Pacific Nuclear Free Zone Treaty, also known as the Treaty of Rarotonga since it was signed by the leaders of the Pacific nations on the island of Rarotonga, Cook Islands. Under that treaty, the nations of the South Pacific have created a nuclear-free zone in the region to combat the specter or nuclear proliferation. I am proud to be an original cosponsor of this legislation and commend House Subcommittee on Asian and Pacific Affairs Chairman, Mr. STEPHEN SOLARZ, and the ranking minority member of the subcommittee, Mr. JIM LEACH, for their leadership on this issue of tremendous concern to the peoples of the South Pacific.

On our visit to the Pacific region last August, my colleagues, Chairman STEPHEN SOLARZ, ROBERT DORNAN, and I met with the leaders of the island nations. Next to the threat of uncontrolled driftnet fishing in the South Pacific by foreign fleets, foremost in the minds of these leaders was our country's lack of support for the Treaty of Rarotonga. The treaty constitutes a symbol for the peoples of the South Pacific, expressing their high level of concern regarding nuclear weapons and the possibilities of nuclear war in the region. By refusing to sign the treaty's protocols, while the Soviet Union and the People's Republic of China have done so, the United States is increasingly being perceived as being insensitive to the needs and desires of its allies in the South Pacific.

If there were good and valid reasons behind our country's failure to sup-

port their friends in the Pacific on this matter of vital importance to them, perhaps I could understand. But, after lengthy review and analysis, it is clear that the treaty and its protocols would not undermine United States security practices or military operations in the South Pacific whatsoever. To the contrary, and in fact the provisions of the treaty were carefully drafted to accommodate U.S. interests. Provisions in the treaty, for example, specifically protect our country's right of air and sea passage through the treaty zone by American planes and ships carrying nuclear weapons.

Moreover, we would not be setting precedent by signing the nuclear-free protocols of the Treaty of Rarotonga. That ground was broken decades ago when the United States signed and ratified the Treaty for the Prohibition of Nuclear Weapons in Latin America, a document substantially identical to the Treaty of Rarotonga Protocols. The United States is also a signatory to the nuclear prohibition contained in the Antarctic Treaty, the Seabed Arms Control Treaty and the Treaty on Principles for Outer Space Exploration. The nations of the South Pacific rightfully ask why we have demonstrated concern for the threat of nuclear devastation to Latin Americans and the inhabitants of Antarctica, the sea floor and outer space, yet refuse to show such sensitivity to the aspirations of the peoples of Oceania.

Our country's lack of responsiveness to the South Pacific's call for a nuclear-free zone cannot help but also be seen by those in the region as tacit encouragement for France's reckless disregard in continuing its long-criticized nuclear testing program in the Pacific. After over 100 nuclear bombs have been detonated deep within French Polynesia's Mururoa Atoll, it has been described by scientific researchers as a "swiss cheese of fractured rock." Leakage of radioactive waste from the underground test sites to the surface waters and air has been predicted, and is inevitable; this embodies the environmental nightmare that the inhabitants of the South Pacific have long dreaded. It is not surprising that reports of increased cancer rates amongst Tahitians have surfaced. The damage to the marine environment can only be imagined.

Mr. Speaker, in looking at the environmental havoc that is a necessary byproduct of nuclear testing, one need only study our country's past experience in the Pacific. After the United States detonated nuclear devices on the Bikini Atoll and other islands in Micronesia—decades ago—the ravaging effects of nuclear radiation on the islands' environment and its former inhabitants are still evident today. These people of the Pacific are still trying to pick up the pieces of their shattered lives and culture.

Mr. Speaker, our great country learned a lesson from its Pacific experience that should never be forgotten. As a result, we have totally stopped our nuclear testing in the Pacific. In the face of that experience and in light of the United States' support of nuclear free zones around the world, how can we sit idly by while our allies ask for our help in stopping this nuclear madness in the fragile marine enviroment of the South Pacific. Mr. Speaker, I strongly urge my colleagues to support this resolution, and I call upon the administration to sign and ratify the protocols of the South Pacific Nuclear Free Zone Treaty.

□ 1320

Mr. LEACH of Iowa. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Speaker, I rise in strong support of this resolution.

The Treaty of Rarotonga, which establishes a South Pacific nuclear free zone, has been signed by the eight primary countries affected and is now awaiting action by the nuclear powers. Now is the time for President Bush to seriously consider adding the United States to the list of signators on this treaty.

The South Pacific is a growing and developing region of the world which has a long history of good relations with the United States. It is important that we act at this time to cement these good relations by approving the Treaty of Rarotonga.

The treaty is designed to enhance the interests of peace along with protecting our national security and the safety of the other cosigners. The treaty asks that we not manufacture or station any nuclear weapons in the zone, threaten the use of nuclear weapons against any of the regional signatories, or test nuclear weapons within this zone. This treaty does not interfere in our necessary security efforts in this vital region of the Pacific nor does it conflict with our current military obligations with the countries of the South Pacific.

The resolution sends a strong signal to the President that the Congress is in support of this treaty for the South Pacific and I urge its support.

Mr. LEACH of Iowa. Mr. Speaker, before yielding to the gentleman from Guam [Mr. BLAZ] for concluding comments on the minority side, let me just say, as the ranking member of the subcommittee on jurisdiction, first, "thanks," to the distinguished leadership of the chairman of the subcommittee and the gentleman from American Samoa [Mr. FALEOMAVAEGA]. Second, I would stress that while the minority also strongly supports this resolution, it is important to register that the administration does have some concern for following through with the recommendations of the resolution at this time. However, the administration's position is very openly intending to imply that at another stage it could well support this particular treaty. There is some speculation, and I stress, it is just speculation, that if we can move to resolve the New Zealand port visitation issue there would be an excellent prospect the administration could favorably reconsider this particular treaty.

There are other concerns that the administration has at its forefront, particularly relating to precedent, but we are, after all, signers of the Treaty of Tlatelolco, which is a nuclear-free zone for Latin America, signers of the Treaty of Antarctica and the Treaty for Outer Space. We are in the awkward position where if we do not follow through with this particular resolution, which has been so carefully crafted to meet very serious American security concerns, the United States will be boxed in the position of appearing to care more for Latins, for people in outer space—if there be any—than they are for people of this particular part of the world.

Mr. Speaker, I am personally very optimistic that, as time goes on, there will be a resolution of this issue, but at this particular stage it does not look to be very likely.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Guam [Mr. BLAZ].

Mr. BLAZ. Mr. Speaker, let me start off by thanking a number of people because we are about to do something memorable today. I should thank the chairman of the subcommittee, the gentleman from New York [Mr. SOLARZ], the ranking minority member of the full committee, the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from Iowa [Mr. LEACH], the gentleman from California [Mr. LAGOMARSINO], the gentleman from American Samoa [Mr. FALEOMAVAEGA], and a number of other people.

Mr. Speaker, practically all the points that need to be mentioned regarding the technical language of this resolution have been mentioned. Let me add a perspective from the standpoint of a son of the Pacific.

Mr. Speaker, over four decades ago, when our country was on its westward journey across the Pacific in the name of freedom, many of these countries that are now asking us to sign this treaty gladly gave their resources, whatever they had, in support of our troops. Over four decades have elapsed, and our help to these countries can be categorized as a mere pittance in terms of the assistance we give other countries. For this reason alone one would like to give some serious thought to doing something in that part of the world.

However, Mr. Speaker, something else should be considered, and that is that there are very few communities on the face of the earth as totally dependent on the resources of the sea, once described as the common heritage of mankind for its survival, and there are very few people that can make an accurate accounting of the true fragility of the sea. And this is what we are talking about.

When the whole world is focusing on the Pacific, we have an opportunity here to participate fully in an initiative in keeping with the tradition of this country. Around the entire world initiatives are being taken everywhere. We stand a chance of playing second fiddle to initiatives in areas where we have led without peer for years, and years, and years.

When one lives, as I do, on the western side of Tahiti, one has a comment to make about the French. I am saying this because of a lot of people, both in this Congress and in the administration, say, "We have some difficulty with this, Mr. BLAZ, because the French are our friends."

May I remind my colleagues that it is the same country, France, that has said, "You cannot have NATO forces on French soil." It is the same country that says it is developing a nuclear capability, not for the allies, not for NATO, but for France. It is the same country that compels our Joint Chiefs of Staff to do a dogleg around France on our way to Libya because somehow we are allies and cannot fly over France because the airspace is for France.

Mr. Speaker, I say to my colleagues, "When you live on the western side of Tahiti and you've heard a hundred detonations, no one around is going to convince me that we haven't touched something in the atmosphere and above the fragility of the sea."

Mr. Speaker, the perspective I am offering my colleagues is, as I say, as my colleague, the gentleman from American Samoa [Mr. FALEOMAVAEGA], from this perspective of the two Members; three Members, the gentlewoman from Hawaii [Mrs. SAIKI] as well, from the Pacific who have to live in this area, and I urge my colleagues, all of my colleagues, to please join me and join the rest of us in signing this and agreeing to this concurrent resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLARZ. Mr. Speaker, to conclude the debate, I yield 2 minutes to the gentleman from Florida [Mr. BENNETT], one of our most distinguished Members and one who personally fought for freedom in the Pacific during the Second World War and whose courageous efforts during those years helped make it possible for us to continue to enjoy the benefits of freedom today.

□ 1330

Mr. BENNETT. Mr. Speaker, about a half century ago it was my privilege on behalf of our country to participate in a war in the South Pacific, specifically among other places in Papua, New Guinea, for about a year.

Mr. Speaker, when I look back upon that and realize that I would not be alive today if it had not been for the kindly interposition of people in that area who saved me from being killed, and when I realize that our forces in the United States came to that area with the armaments of war to participate in a way which had no particular bearing upon the South Pacific and interrupted the Pacific lives that they had, the feeling that I have at this point is one of making another beachhead, a beachhead for peace, a beachhead for love.

The South Pacific, if there is a piece of geography that epitomizes to the heart of most people throughout the world an area of love, affection, understanding and brotherly concern, that is an area that I think best epitomizes that of any that I can think of. So in passing this resolution, which I think is consistent with the national defense interests of our country, I think it is also consistent with the idea that perhaps in doing this we may in fact be establishing a beachhead for peace, a beachhead for love, which can grow in the years to come when in fact all our terrestrial earth may be freed of the curse of nuclear war and be rid of this danger to humankind forever.

Mr. SOLARZ. Mr. Speaker, I do not suppose there is anything to be added after that eloquent statement.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SARPALIUS). The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 218.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CENTENNIAL OF THE BIRTH OF NEHRU

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 217) honoring the centennial of the birth of India's Pandit Jawaharlal Nehru.

The Clerk read as follows:

H. CON RES. 217

Whereas Pandit Jawaharlal Nehru worked for the independence of India for over three decades under the guidance of Mahatma Gandhi's principles of nonviolence;

Whereas Nehru became India's first Prime Minister in 1947;

Whereas Nehru faced immense challenges in leading India through its tumultuous first years, including intense political, religious, and ethnic conflict, as well as dire poverty;

Whereas Nehru played a crucial role in molding a strong, independent, and democratic India;

Whereas throughout his life Nehru exhibited an unwavering commitment to individual and national freedom and the elimination of racial discrimination, hate, disease, and ignorance; and

Whereas Nehru served all humanity through his devoted pursuit of a world free from war: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That, on occasion of the centennial of his birth, the Congress hereby honors the memory of Pandit Jawaharlal Nehru and his contributions to international understanding and respect for human rights and humanitarian principles.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

This resolution honors one of the great men of our century, Pandit Jawaharlal Nehru, on the 100th anniversary of his birth, which will be celebrated on November 14 of this year.

Mr. Speaker, I imagine from time to time during the course of a very long and distinguished career, Mr. Nehru may have said or done things that not everyone in this Chamber would have agreed to. However, I do not think anybody can deny or doubt that Nehru was really not only one of the great nation-builders of our time, but one of the great democrats—with a small "d"—of our time. At a moment when we all look with shock and horror at the suppression of the movement for democracy in China which took place in Tiananmen Square in June, it is a moment for us to reflect on the fact that democracy is alive and well in the second most populous country in the world, India. If democracy has been the system of government in India for the last 40 years, it is in no small measure due to the efforts of Mr. Nehru, first to bring about the independence of India from British rule, and then to consolidate within a newly independent India the principles and practices of democracy.

There will be some 800 million Indians celebrating the centennial of Mr. Nehru's birth next week. The adoption of this resolution would, I think, be a fitting tribute by the U.S. Congress to such a man. It will, I am sure, be warmly received by our friends in India and it will be interpreted as a

sign of respect on the part of the American people for this man who did so much to contribute to the cause of democracy both in India and around the world.

I want to thank my friends on the other side of the aisle for their willingness to join with us in bringing this resolution forward. From time to time we have had some vigorous debates over American policy toward India on this floor, but whatever our differences in the past may have been about some of the issues which concern us on the subcontinent, I am sure all of us can agree that Mr. Nehru is a man worthy of this symbolic commemoration, so I urge adoption of the resolution.

Mr. Speaker, it is particularly appropriate that we honor Pandit Jawaharlal Nehru as throughout his life he was guided by values and principles that Americans have cherished throught the history of our own country. Moreover, as former President John F. Kennedy saids during a 1961 visit by the Indian Prime Minister to the United States, the principles for which Nehru stood "have been identified with the great aspirations of people all over the world."

Perhaps most importantly, Nehru had a keen and unyielding commitment to social justice, and left a private law practice early in his career to take up the cause of Indian freedom. A disciple of Mahatma Gandhi and his principles of civil disobedience in the struggle for Indian independence, Nehru was attracted by, and embraced, Gandhi's insistence on fighting Great Britain with neither fear nor hate.

Nehru was also willing to endure great sacrifices for his principles, and spent more than 9 years in prison for his efforts to promote Indian independence. These efforts were ultimately successful due in large measure to Nehru's ability to attract the younger intelligentsia of India to Gandhi's movement of nonviolent resistance against the British.

Despite the fact that Nehru was born into a family of considerable privilege, his profound sympathy and concern for India's poor characterized many of the political actions he took throughout his career. As Prime Minister, he aroused in his people an awareness of the need for social concern for the poor and outcast, and the importance of an official commitment to alleviating poverty in India. And against great odds, he steadfastly maintained commitments to political quality for all Indian citizens and to religious tolerance within Indian society.

Finally, Nehru, unyielding commitment to democratic values helped lay the foundation for maintenance, and the resiliency, or democracy in India today.

It is these overwhelming accomplishments that we recognize in this resolution, which I strongly urge my colleagues to support.

Mr. LEACH of Iowa. Mr. Speaker, I yield 3 minutes to the distinguished ranking member, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I am happy to join my colleagues in support of this resolution, sponsored by my good friend, the gentleman from New York [Mr. SOLARZ], and the gentleman from Iowa [Mr. LEACH], honoring the centennial of the birth of former Prime Minister Pandit Jawaharlal Nehru of India.

Mr. Speaker, Nehru, as India's first Prime Minister, set this great country on an independent and truly democratic path despite facing immense economic, political, and social challenges. While our two nations have not always agreed in the international arena—and there were times when I felt great frustration over India's policies—we nevertheless have always respected India for its views and vision, and for the leaderhip it has exercised in promoting democracy among the nonaligned nations. Much of this respect is due to our feelings for the integrity and the direction set forth by Prime Minister Nehru.

Knowing how hard Nehru worked to unite this nation, I am disturbed by the recent allegations of human rights violations by India toward some of its citizens. I hope the Indian Government would, during the centennial anniversary of Prime Minister Nehru's birth, consider its policies toward meeting the human rights of all of its citizens, and allow international independent human rights groups access to all parts of India. This should be a minimum requirement in meeting internationally recognized human rights.

Mr. Speaker, as we approach the centennial of the birth of former Prime Minister Nehru, it is most fitting that the United States—the world's oldest, continuing democracy—join India—the world's most populous democracy—in honoring this great world figure, and at the same time, call upon India to live up to his dreams of meeting the human rights needs of all of her people.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as noted, this resolution commemorates the centennial of the birth of one of India's greatest men, its first Prime Minister, and in a very real sense the founder of the modern Indian state, a man still remembered with great affection by the Indian people as "Panditji" or beloved wise man, Jawaharlal Nehru.

In reflection upon the life and career of this extraordinary person, one cannot help being struck by a pattern of profound paradox.

A lifelong agnostic, Nehru was laid to rest in an elaborate and stunningly beautiful ceremony held in accordance with strict Hindu custom. Born into the highest Brahmin caste and educated abroad at the elite English schools of Harrow and Cambridge, Nehru was a cultured patrician dedicated to the emancipation of India's masses from the misery of poverty. A practical politician, he nevertheless was the successor to the uniquely esthetic Mahatma Gandhi and, like his mentor, spent long periods in prison, some 6 years, practicing satyagraha, or nonviolent resistance, against the British. He was a man of aristocratic mien, who in his capacity as statesman helped his own country as well as the developing world in its struggle to shake free from the shackles of colonial bondage.

He was, as he himself once wrote, "a queer mixture of East and West, out of place everywhere, at home nowhere." Yet by the same token, he symbolizes nationalism and the profoundest of calls for sovereign self-respect.

□ 1340

From an American political perspective, two aspects of Nehru's life stand out in sharp relief. First, his strong, almost autocratic hands were instrumental in shaping India into what it is today, the world's largest democracy. Second, he was introduced to the Fabian-style socialism during his English schooldays, and Nehru became impressed by central planning and governmental intervention as potential tools for the development of India's primitive economy.

From a diplomatic perspective, Nehru is perhaps best remembered here in the United States as the articulator of the policy of nonalignment. As we all recall, the clearest expression of the spirit of nonalignment came in the famous Bandung Conference in April 1955, which convened delegates from 29 Asian and African nations at the very height of the first Formosa Strait crisis. It was Prime Minister Nehru who gave voice to what became known as the Bandung spirit, and who outlined the implications of this new Third World outlook for the geostrategy of the superpowers. As he said in his concluding address to the conference:

> For anyone to tell us we have to be camp followers of Russia or America or any country in Europe is not very credible to our new dignity, our new independence, our new freedom, our new spirit.

Frankly, however, one of the historic sore spots in Washington's relations with New Delhi was caused by Nehru's diplomatic deviations from his own policy. While, like Eisenhower, he responded with alacrity in condemning

the foolhardy Anglo-French intervention in the Suez in 1956, his reaction to Russia's brutal suppression of Hungary's popular uprising against Stalinist-style rule was more sadly tepid.

This philosophical aberration aside, I would stress that Indo-American relations, which are warming so noticeably under President Bush and Prime Minister Gandhi, could become umbilically firmer if New Delhi would simply follow more pristinely the foreign policy principles elaborated by Mr. Nehru at Bandung and if it were to backtrack even more decisively from the protectionism and statism that are the unfortunate legacies of Fabian-style socialism.

In conclusion, I commend the gentleman from New York for offering this resolution, and would say that by so honoring this great historic figure we in the Congress can do nothing except help bring India and America closer together. This was, as Nehru himself requested, to be his epitaph:

> A man who with all his mind and heart loved India and the Indian people, and they in turn were indulgent to him and gave him their love most abundantly and extravagantly.

Likewise, this Congress today honors this great man, a symbol of the 20th century, a man of and beyond his time.

Mr. SOLARZ. Mr. Speaker, I yield 3 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, it is only fitting and proper that this resolution is drawn to pay special tribute to this great leader of the world, the late Prime Minister Jawaharlal Nehru of India.

Mr. Speaker, I also would like to extend my appreciation for this opportunity of being a cosponsor of this resolution with the distinguished gentleman from New York [Mr. SOLARZ] and the ranking minority member of the Asia Pacific Subcommittee on Foreign Affairs, the gentleman from Iowa [Mr. LEACH].

Mr. Speaker, it is so easy for me to be standing here before my colleagues and to be talking about freedoms that we here in America enjoy, and I suspect for every reason we take it for granted. Mr. Speaker, as a Vietnam veteran, I have a very personal sense of appreciation of what it means to be living in a free democracy.

Having had the privilege of returning recently with some of my colleagues from El Salvador, Nicaragua, and Panama, I can extend, Mr. Speaker, my feelings from the bottom of my heart to my colleagues what it means to be living in a free society, and so it is true, Mr. Speaker, with Mr. Nehru.

From a wealthy family of India, a graduate of Cambridge University, for some 24 years he associated himself with perhaps the greatest of all leaders of India, the soul and the conscience of the people of India, none other than the Mahatma Gandhi, who so well preached and advocated the movement of nonviolence, which had great impact not only in other countries of the world as well as our own country here in the United States.

Mr. Speaker, what is nonviolence? It is nothing more than to love your enemies as it was taught by the savior some 2,000 years ago, and greatly influenced by the great writer Leo Tolstoy, and then also having Mr. Gandhi, who later influenced the great Martin Luther King, Jr.

Mr. Speaker, Nehru did not hate the good people of England, but he was totally against the policies of colonialism of the British Empire. I pay this special tribute to him because we here in America need to be reminded that this great leader paid his dues in the tremendous sacrifices that he has made to see that the people of India enjoy the democracy that they now have, the largest democracy in the whole world.

Mr. Speaker, I would like to say it is only fitting that I extend my good wishes to the good people of India.

Mr. LEACH of Iowa. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I am very troubled that we are bringing up a resolution that praises one of India's founding fathers for his respect for humanitarian principles and human rights, when the current leader of India, Rajiv Gandhi, the grandson of Nehru, is currently leading one of India's most repressive governments since independence.

Is this resolution the correct signal to send to India, which has the distinction of being the only democracy in the world that refuses to allow Amnesty International inside to investigate the massive reports of human rights abuses. This fact alone should force Members to ask themselves: What does India have to hide?

Amnesty International, recently reported:

> Several thousand political detainees have been held without charge or trial under the Terrorist and Disruptive Activities Act. Political activists and those suspected of assisting them, have been deliberately and unjustifiably killed by police, paramilitary forces and armed forces, and no attempt has been made to bring those responsible to justice. * * * Political activists have also been killed in "encounters" with police. Dozens of prisoners being held across the country have died in custody after being tortured.

If this is what amnesty discovered working outside the country, God only knows what's going on inside.

The Times of India has stated that rape seems to be occurring so frequently that "cop molests woman" has become an almost daily fare for newspaper readers.

Even India Abroad, a progovernment newspaper, recently reported continued state terror against the Sikhs living in the Punjab.

Mr. Speaker, instead of passing resolutions praising India's founding fathers, we should be here today passing resolutions condemning India's repressive leaders. It's time we sent a signal to India that the United States is no longer going to keep its secret. We should be holding public hearings on how India is mistreating its people and on why India will not let Amnesty International investigate.

GANDHI'S GOVERNMENT IS NO FRIEND OF THE UNITED STATES

The New York Times recently reported that "chemical companies in India have sold hundreds of tons of chemicals needed to make poison gas to Iran, Iraq, and Egypt in the last 2 years. Indian officials have admitted that a state-trading company sold Iran 60 tons of thionyl chloride, a chemical used in mustard gas, earlier this year. When the United States Government appealed to India to exercise restraint, India accused the United States of "colonialism."

As a member of the House Human Rights Caucus, we heard testimony from the then United States Ambassador to the United Nations Vernon Walters which confirmed that India, after promising to refrain, introduced a procedural motion that prevented the United Nations Human Rights Commission from censoring Cuba for flagrant human rights abuses. I, along with numerous other members of the caucus, both Democrats and Republicans, were furious at this attempt by India to protect the Cuban dictatorship. Cuba, with over 14,000 political prisoners, has more political prisoners per capita than any other country in the world. Either India supports massive imprisonment of the Cuban people or they are taking orders from Moscow to help Soviet-client states hide their repressive systems from United Nations censor. Earlier this year, after the United States pleaded with India, they again voted to protect Cuba.

India's voting record in the United Nations is even worse than the Soviet Union's when it comes to supporting positions the United States supports.

India failed to vote in favor of condemning the Soviets for shooting down Korean air flight 007; 269 people were killed including a United States Congressman. This tacit approval of air terrorism is even more interesting considering the new book entitled "Soft Target" which claims the 1985 bombing of an Air India jetliner that killed 329 persons over the Atlantic Ocean was an intelligence operation by the Government of India that went awry. You will remember that bomb-

ing was conveniently blamed on Sikh terrorists.

India refused to vote to condemn the Soviet invasion of Afghanistan. Out of a population of 15 million Afghans, more than 1 million people have been killed since the war began, and nearly 5 million more—that's one-third of the total population—have fled to Pakistan and Iran to live as refugees. India not only has diplomatic relations with the Soviet puppet regime in Kabul, they have been providing economic assistance and advisers to a regime the rest of the world shuns. In fact, Prime Minister Gandhi had the nerve to invite the dictator responsible for the killing, Dr. Najibullah, to New Delhi in order to increase his legitimacy.

India has also refused to condemn the Soviet-backed invasion of Cambodia by Vietnam.

Why would the United States, over the past few years, give more than $500 million in aid to India when it turns around and offers a $10.4 million aid package to the Communist Sandinistas in Nicaragua. That's right, the Indian Government indirectly provided our tax dollars to the Communist dictatorship in Nicaragua. In fact, Danial Ortega awarded Prime Minister Gandhi with Nicaragua's highest award, the Order of Augusto Ceasar Sandino, making Gandhi the sixth leader to receive it. Fidel Castro was the first.

The Soviet Union currently provides India with over 80 percent of its military needs along with high-tech weapons that are normally reserved for Warsaw Pact countries. India was the first nation outside the Warsaw Pact to acquire nuclear submarines from the Soviets. India coproduces the Soviet T-72 tank and the Mig 29 fighter bomber.

India has recently tested a nuclear capable missile with a range of 1,500 miles, and are said to be working on a nuclear warhead that could be used with this missile.

Although Pakistan is willing to sign the nuclear nonproliferation treaty if India do likewise, India refuses.

India has forced Sri Lanka to beg for the removal of 45,000 Indian troops that are stationed on that island.

As India continues to blockade Nepal and the basic needs of the people are going unmet. It looks like as long as Nepal refuses to let India dominate its internal affairs, the economic blackmail will continue.

□ 1350

Mr. LEACH of Iowa. Mr. Speaker, I yield 5 minutes to our distinguished colleague, the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I would like to commend the chairman of the Asia Subcommittee for taking a continued interest in the subcontinent. I think we would all agree that this region of the world is and will become even more important to the United States in the 1990's.

Therefore, I join in strong support of the gentleman's resolution recognizing the invaluable work of the late Prime Minister Nehru. I do believe, however, that in so doing, it is important that we question whether the current government's well-documented pattern of human rights abuses against its minorities lives up to the standards of its founding fathers.

Like Mahatma Gandhi, Nehru believed that all members of Indian society should be treated equally and fairly.

With a minority population of 20 percent, India has a long tradition of integration and assimilation of these individuals.

I know that we share the concerns over the continued violence in the Punjab region of India. All of us would agree that violence against innocent men, women, and children cannot be tolerated.

An Amnesty International report issued in August of last year began to lift the lid of secrecy on this situation. The report indicated that the use of antiterrorist laws had led to extreme measures being taken against seemingly innocent people.

Assistant Secretary of State Richard Schifter admitted 2 weeks ago before the Asia Subcommittee that "excessive force, brutality, and torture by the security forces of India are now commonplace."

He also conceded that the State Department has little or no evidence that would suggest that police officials have been brought to justice in these human rights abuses.

An article in yesterday's New York Times illustrated another problem—the shocking disenfranchisement of the poor in India's electoral process. The article detailed the case of the village of Alipur [Al-ip-ur] where "no one could be found who had been able to exercise his or her democratic right" to vote.

This is certainly not the working democracy that Nehru sought to create, which would have included the poor, as well as the right—the minorities, as well as the majority.

It is my belief that in light of the continued repression of these individuals we in the Congress should take every possible step to encourage India to address these issues.

What can we do? First of all, I would urge all of my colleagues to join me in asking Prime Minister Gandhi to allow independent human rights groups, such as Amnesty International or Asia Watch, to enter India to conduct their investigations.

India is the only democracy in the world to refuse to allow Amnesty into their country. Even South Africa and Cuba have allowed Amnesty to conduct their investigations.

Second, I have introduced legislation which would withhold "most favored nation" status for India until she makes progress on human rights. Your cosponsorship of this bill would send a strong signal to India that it is particularly important for a democracy to respect human rights.

My purpose in rising is not to oppose this resolution, but rather to remind my colleagues that in honoring Nehru today, let us keep faith with the ideals he stood for—justice, fair play, and a respect for individual rights. In so doing, we should urge India's Government to live up to the high standards that he set.

Mr. LEACH of Iowa. Mr. Speaker, the minority has no further requests for time, and I yield back the balance of my time.

Mr. SOLARZ. Mr. Speaker, I yield such time as I may consume.

Mr. Speaker, to conclude debate, let me say that I was pleased to hear the last two speakers indicate that they do support the resolution, even if they did have some concerns about the policies of the current Government of India. The purpose of this resolution, of course, was not to precipitate a full-scale debate on American policy toward India, which I would be happy to engage in on some appropriate occasion, but rather to pay tribute to one of the founders of India on the occasion of the centennial of his birth.

If the winds of democracy are now sweeping through much of the world, it is in no small measure due to the continuing relevance of the example set by India over 40 years ago when it won its independence from Great Britain, thanks—among other things—to the efforts of Mr. Nehru.

There are a lot of people who like to say that for the hundreds of millions, indeed billions, of desperately poor people in the world, wanting a full belly is more important than wanting the right to vote. Yet the existence of democracy in India for four decades constitutes a continuing reproach to those who say that man indeed lives by bread alone. Man does not live by bread alone, and if democracy can work in India, where we have hundreds of millions of people still living below the poverty level, it can work anywhere.

So I think it is entirely fitting for us to adopt this resolution today commemorating the centennial of one of the towering figures of our time, Pandit Jawaharlal Nehru, whose contribution to democracy in India has left behind the legacy of political pluralism in India, and has set an example to people all over the world.

Mr. FAZIO. Mr. Speaker, I rise in support of House Concurrent Resolution 217 which honors the centennial of the birth of India's

Pandit Jawaharlal Nehru. The resolution honors Mr. Nehru for his contributions to international understanding and for his respect for human rights and humanitarian principles. Mr. Nehru's commitments to individual and national freedom and to the elimination of racial and ethnic discrimination have been guiding principles for the development of democracy in India. All of us who support these key democratic principles are pleased to support this resolution.

At this time, however, it is important to note that these key democratic principles of individual freedom and the elimination of racial and ethnic discrimination are not being fully honored by the Government of India. Well-documented human rights abuses continue to occur against Sikhs in Punjab and against other minorities elsewhere in India. I call upon the Government of India to honor fully the democratic principles so eloquently advocated by Mr. Nehru. By reaffirming these principles and ending the human rights abuses, the Government of India can more fully realize the promises of democracy to which Mr. Nehru dedicated his life.

Mr. SOLARZ. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SARPALIUS). The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 217.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

EVERGLADES NATIONAL PARK PROTECTION AND EXPANSION ACT OF 1989

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1727) to modify the boundaries of the Everglades National Park and to provide for the protection of lands, waters, and natural resources within the park, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Everglades National Park Protection and Expansion Act of 1989".

TITLE I—EVERGLADES NATIONAL PARK EXPANSION

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Everglades National Park is a nationally and internationally significant resource and the park has been adversely affected and continues to be adversely affected by external factors which have altered the ecosystem including the natural hydrologic conditions within the park;

(2) the existing boundary of Everglades National Park excludes the contiguous lands and waters of the Northeast Shark River Slough that are vital to long-term protection of the park and restoration of natural hydrologic conditions within the park;

(3) wildlife resources and their associated habitats have been adversely impacted by the alteration of natural hydrologic conditions within the park, which has contributed to an overall decline in fishery resources and a 90 per centum population loss of wading birds;

(4) incorporation of the Northeast Shark River Slough and the East Everglades within the park will limit further losses suffered by the park due to habitat destruction outside the present park boundaries and will preserve valuable ecological resources for use and enjoyment by future generations;

(5) the State of Florida and certain of its political subdivisions or agencies have indicated a willingness to transfer approximately thirty-five thousand acres of lands under their jurisdiction to the park in order to protect lands and water within the park, and may so transfer additional lands in the future; and

(6) the State of Florida has proposed a joint Federal-State effort to protect Everglades National Park through the acquisition of additional lands.

(b) PURPOSE.—The purposes of this Act are to—

(1) increase the level of protection of the outstanding natural values of Everglades National Park and to enhance and restore the ecological values, natural hydrologic conditions, and public enjoyment of such area by adding the area commonly known as the Northeast Shark River Slough and the East Everglades to Everglades National Park; and

(2) assure that the park is managed in order to maintain the natural abundance, diversity, and ecological integrity of native plants and animals, as well as the behavior of native animals, as a part of their ecosystem.

SEC. 102. BOUNDARY MODIFICATION.

(a) AREA INCLUDED.—The boundary of the Everglades National Park (hereafter in this Act referred to as the "park") is hereby modified to include approximately one hundred and ten thousand additional acres (hereafter in this Act referred to as the "addition") as generally depicted on the map entitled "Boundary Map, Everglades National Park Addition, Dade County, Florida", numbered 160-20,013, and dated April, 1989. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) BOUNDARY ADJUSTMENTS.—The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") may from time to time make minor revisions in the boundaries of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 and following). In exercising the boundary adjustment authority the Secretary shall ensure all actions will enhance resource preservation and shall not result in a net loss of acreage from the park.

(c) ACQUISITION.—Within the boundaries of the addition described in subsection (a) the Secretary may acquire lands and interests in land by donation, purchase with donated or appropriated funds, or exchange. For purposes of acquiring property by exchange, the Secretary may, notwithstanding any other provision of law, exchange the approximately one acre of Federal land known as "Gilbert's Marina" for non-federal land of equal value located within the boundaries of the addition. Any lands or interests in land which are owned by the State of Florida or any political subdivision thereof, may be acquired only by donation. It is the expressed intent of Congress that acquisition shall be completed within five years of enactment of this section. However, this authority shall remain in effect until all acquisition is completed.

(d) ACQUISITION OF TRACTS PARTIALLY OUTSIDE BOUNDARIES.—When any tract of land is only partly within boundaries referred to in subsection (a), the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries, and any land so acquired and not utilized for exchange shall be reported to the General Services Administration for disposal under the Federal Property and Administration Services Act of 1949 (63 Stat. 377).

(e) OFFERS TO SELL.—In exercising the authority to acquire property under this Act, the Secretary shall give prompt and careful consideration to any offer made by any person owning property within the boundaries of the addition to sell such property, if such owner notifies the Secretary that the continued ownership of such property is causing, or would result in undue hardship.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is herby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act: *Provided,* That with respect to land acquisition within the addition, not more than 80 per centum of the cost of such acquisition may be provided by the Federal Government. Not less than 20 per centum of such cost shall be provided by the State of Florida.

(g) ASSISTANCE.—Upon the request of the Governor of the State of Florida, the Secretary is authorized to provide technical assistance and personnel to assist in the acquisition of lands and waters within the Kissimmee River/Lake Okeechobee/Everglades Hydrologic Basin, including the Big Cypress Swamp, through the provision of Federal land acquisition personnel, practices, and procedures. The State of Florida shall reimburse the Secretary for such assistance in such amounts and at such time as agreed upon by the Secretary and the State. Notwithstanding any other provision of law, reimbursement received by the Secretary for such assistance shall be retained by the Secretary and shall be available without further appropriation for purposes of carrying out any authorized activity of the Secretary within the boundaries of the park.

SEC. 103. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall adminisiter the areas within the addition in accordance with this Act and other provisions of law applicable to the Everglades National Park, and with the provisions of law generally applicable to units of the National Park System, including the Act entilted "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4). In order to further preserve and protect Everglades National Park, the Secretary shall utilize such other statutory authority as may be available to him for the preservation of wildlife and natural resources as he

deems necessary to carry out the purposes of this Act.

(b) PROTECTION OF ECOSYSTEM.—The Secretary shall manage the park in order to maintain the natural abundance, diversity, and ecological integrity of native plants and animals, as well as the behavior of native animals, as a part of their ecosystem.

(c) PROTECTION OF FLORA AND FAUNA.—The park shall be closed to the operation of airboats, except as provided in subsection (d) and except that within a limited capacity and on designated routes within the addition, owners of record of registered airboats in use within the addition as of January 1, 1989, shall be issued nontransferable, nonrenewable permits, for their individual lifetimes, to operate personnally owned airboats for noncommercial use in accordance with rules prescribed by the Secretary to determine ownership and registration, established use, permit conditions, and penalties, and to protect the biological resources of the area.

(d) CONCESSION CONTRACTS.—The Secretary is authorized to negotiate and enter into concession contracts with the owners of commercial airboat and tour facilities in existence on or before January 1, 1989, located within the addition for the provision of such services at their current locations under such rules and conditions as he may deem necessary for the accommodation of visitors and protection of biological resources of the area.

SEC. 104. MODIFICATION OF CERTAIN PROJECT.

(a) IMPROVED WATER DELIVERIES.—(1) The Secretary of the Army, is authorized and directed to construct modifications to the Central and Southern Florida Project (hereinafter in this section referred to as the "project") necessary to improve water deliveries into the Everglades National Park, based upon the findings of the Secretary of the Army's experimental program authorized in section 1032 of the 1984 Supplemental Appropriations Act (97 Stat. 1292, 1293) and generally as set forth in a General Design Memorandum to be prepared by the Jacksonville District and entitled "Modified Water Deliveries to Everglades National Park". The Draft of such Memorandum and the Final Memorandum as prepared by the Jacksonville District, shall be submitted as promptly as practicable following the enactment of this Act to the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation of the United States House of Repesentatives and to the Committee on the Environment and Public Works of the United States Senate. To the extent that any such improved deliveries are found by a court of competent jurisdiction to constitute a taking of private property for public use within the meaning of the Fifth Amendment to the Constitution of the United States, the Secretary of the Interior shall provide just compensation for such taking. Construction of such water delivery and flood protection works are justified by the environmental benefits to be derived by the Everglades ecosystem in general and by Everglades National Park in particular and shall not require further economic justification.

(2) Nothing in this Act shall be construed to limit operation of project facilities to achieve their original design objectives, as set forth in the Congressional authorization and any modifications thereof, provided, however, that the project shall be operated to maximize the restoration of natural hydrologic conditions within Everglades National Park in a manner which is consistent with achieving the other objectives of the project. Any change to the operations of project facilities which would have a significant impact on Everglades National Park and which deviates significantly from the original Congressional objectives of the project, and any modifications thereto, must receive the written concurrence of the National Park Service, in addition to complying with other Federal law.

(b) FLOOD PROTECTION.—

(1) RESIDENTIAL AREAS.—The Secretary of the Army shall undertake such measures as the Secretary of the Army determines are necessary to prevent flood damages to presently developed areas within the section of the East Everglades known as the "eight and one-half square mile area" which are attributable to improved water deliveries under subsection (a).

(2) AGRICULTURAL AREAS.—The Secretary of the Army shall undertake such measures as the Secretary of the Army determines are necessary to prevent and mitigate damages to agricultural lands and crops resulting from—

(A) higher surface water or groundwater levels,

(B) increased frequency or severity of flooding or saturation,

(C) increased hydroperiods, or

(D) a combination of such conditions,

which are attributable to improved water deliveries under subsection (a) or to measures undertaken under paragraph (1) of this subsection.

(3) PAYMENT OF COMPENSATION.—The measures which the Secretary of the Army may undertake under paragraph (2) may include payment of compensation for damages to agricultural lands and crops.

(4) LIMITATION ON MODIFYING IMPROVED WATER DELIVERIES.—The measures which the Secretary of the Army may undertake under paragraph (2) may not include any modification of improved water deliveries under subsection (a) if the Secretary of the Interior determines that such modification will have an adverse effect on the Everglades National Park.

(5) EXPEDITIOUS ACTION.—If, after implementation of improved water deliveries under subsection (a), the Secretary of the Army determines that damages described in paragraph (2) are or will be occurring, the Secretary shall undertake measures under paragraph (2) to prevent or mitigate such damages as expeditiously as possible.

(c) COORDINATION.—The Secretary of the Interior and the Secretary of the Army shall coordinate the land acquisition program under section 102 and the programs under this section in such a manner as will permit such programs to proceed concurrently and as will minimize damages to private lands before their acquisition by the Secretary of the Interior under section 102. None of such programs shall proceed until initial funds have been appropriated for all such programs.

(d) WEST DADE WELLFIELD.—The United States shall not limit operation of the West Dade Wellfield (to be located in the Bird Drive Drainage Basin as identified in the Comprehensive Development Master Plan for Dade County, Florida) if the wellfield's peak pumpage does not exceed 140,000,000 gallons per day unless the Secretary of the Interior determines that, in times of drought (1) reasonable measures to limit demand on the wellfield have not been taken by the operating agency for the wellfield, the South Florida Water Management District or by another competent State or local authority, or (2) additional limitations are necessary to prevent adverse impacts on the resources of the Park, but if the Secretary makes such a determination, the Governor of the State of Florida shall order such reduction in operations on a temporary basis as may be necessary to alleviate adverse impacts on the resources of the Park.

(e) PROTECTION OF NATURAL VALUES.—The Secretary of the Army is directed, in analysis, design, and engineering associated with the development of a general design memorandum for works and operations in the "C-111 basin" area of the East Everglades, to take all measures which are feasible and consistent with the purposes of the project to protect natural values associated with Everglades National Park.

TITLE II—FORT JEFFERSON NATIONAL MONUMENT REDESIGNATION STUDY

The Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, within two years of the date of enactment of this Act, a feasibility and suitability study of expanding and redesignating Fort Jefferson National Monument in the Dry Tortugas as Fort Jefferson National Park. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as alternatives, including a joint Federal/State management scheme, to further protect the waters, reef tracts, fisheries, and shallow banks in and around the Florida Keys and Fort Jefferson National Monument.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 mintues and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I ask unanimous consent that I be permitted to yield 5 minutes of debate time to the gentleman from California [Mr. ANDERSON], chairman of the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on H.R. 1727, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Everglades National Park, one of the great national parks of this country, is today a severely threatened park. Its entire ecology is based on the water that very slowly flows through its grasslands, marshes,

and sloughs. In recent years, alterations to the historic water flow, in quantity, distribution, and quality have severely damaged this very special park. Without concerted action soon, we will lose Everglades National Park with its unique ecology, its wildlife, and its famous "river of grass". For example, the wading bird populations have greatly diminished.

Fortunately, H.R. 1727 gives us a vehicle to address some of the serious issues faced by Everglades National Park. The provisions in this bill, introduced and advocated by the Florida delegation led by the able principal sponsor, Chairman DANTE FASCELL, are directly drawn from the Governor's Task Force on the East Everglades which carefully considered the park's needs. H.R. 1727 modifies the boundaries of the Everglades National Park and provides for the protection of lands, waters, and natural resources within the park. The addition of these lands and the water that accompanies them in the Northeast Shark River slough is critical in order for Everglades National Park to help reverse the park's decline, so well documented by scientists.

The Committee on Interior and Insular Affairs adopted an amendment at the request of the author of this bill, our colleague Congressman FASCELL, that seeks to respond to various issues brought up in the hearing process. The committee reported H.R. 1727 which was subsequently amended by the Committee on Public Works and Transportation. The Committee on Interior and Insular Affairs supports the public works and transportation amendment, and appreciates their cooperation on this important matter. I especially want to thank Chairman ANDERSON and Subcommittee Chairman NOWAK for their assistance.

As amended, H.R. 1727 modifies the boundary of the Everglades National Park by adding the area known as the Northeast Shark River Slough, all 110,000-acre area. The State of Florida provides over 43,000 acres outright and 20 percent of the remaining acquisition cost for the remaining 67,000 acres. The bill directs the acquisition and administration of this area, and directs that the ecosystem will be protected. It directs the Secretary of the Army to construct modifications to the central and southern Florida project in order to improve water deliveries into the park and provides a mechanism for compensation of landowners. It directs the Secretary of the Army to undertake flood protection to the area known as the "eight and one-half square mile area." The Secretary of the Army is also directed to prevent and mitigate damages to agricultural areas which the Secretary of the Army determines are attributable to improved water deliveries to the park of flood protection to the "eight and one-half square mile area". Any measures that the Secretary of the Army undertakes must not have an adverse effect on the park. The bill also directs the Secretary of the Interior and the Secretary of the Army to coordinate land acquisition, provides for the west Dade wellfield and directs the Secretary of the Army to protect the Everglades National Park in the development of a general design memorandum for the C-111 basin. Finally, the bill directs the Secretary of the Interior to prepare and transmit to the Congress a study on the expansion and redesignation of Fort Jefferson National Monument.

Mr. Speaker, I endorse this legislation, and recommend that it should be passed by the House. By directing the restoration of natural water flows into Everglades National Park, H.R. 1727 will help restore that special qualities of the Everglades National Park.

□ 1400

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 1727, the Everglades National Park Protection and Expansion Act. By modifying the boundaries of the Everglades National Park and by restoring the natural flow of water through the Everglades, this legislation provides the needed protection to the lands, waters, and natural resources within the Everglades.

For years we have known that the Everglades National Park was in trouble. Most recently it was discovered that if the current situation in the Everglades is not altered, the Everglades may face ecological collapse within the next decade. Over the years, flood control and water diversions for agricultural and residential purposes have altered the flow of water to the park and have caused dramatic declines and stress on native species. In the last 50 years, the Everglades has lost 90 percent of its wading bird population. In addition, the area's alligator population has continued to decline and endangered species such as the Florida panther, the woodstork, snail kite, and the cape sable sparrow continue to be threatened.

The bill also provides flood protection to local farms and residences which will otherwise be subject to flooding by the change in the water delivery system. By allowing for this protection in cases where the Secretary of the Interior determines that changes will not affect the Everglades, the bill ensures the continued existence of local agriculture.

This legislation enjoys the support of the Governor of Florida, the entire Florida congressional delegation, Dade County, and the municipalities in proximity to the Everglades. The legislation is needed to save the Everglades, and I urge its passage.

Mr. Speaker, it is also worth noting that the expansion area was one of the first places that Secretary Lujan visited as he took office. The Secretary strongly supports this legislation as an improvement in wetlands preservation in Florida.

I might say also that the Director of the National Park System, Mr. Ridenour, called me yesterday and said that he strongly supports the legislation as well.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill.

H.R. 1727, which expands the boundaries of the Everglades National Park, was sequentially referred to the Committee on Public Works and Transportation, after being reported by the Interior Committee, because of its provisions relating to the water resources program of the Corps of Engineers.

The bill calls for modifications to the central and southern Florida project—a Corps of Engineers project for flood control and water supply—to permit reestablishment of the historic sheet flow of water to the park. This flow has been cut off by the project. The modifications which the bill would authorize result from an experimental water delivery program authorized by Congress in 1984 when it became apparent that prior measures to prevent damage to the park from inadequate water deliveries had not been successful.

Our Public Works Committee amended provisions in the bill dealing with flood protection for areas which may be adversely affected by the improved water deliveries of the park. Basically, we increased the flexibility available to the Secretary of the Army in responding to possible flooding problems by making it clear that both structural and nonstructural measures could be employed. With regard to agricultural lands and crops, where there is disagreement as to whether there will be damage, we made it clear that at such time as damages are known to occur, preventive measures are to be undertaken as expeditiously as possible and may include the payment of damages as well as structural and nonstructural measures.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, for purpose of debate only, I yield 3 minutes to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the bill.

This bill extends the boundaries of the Everglades National Park in order to permit a restoration of natural waterflows to the park and to protect lands and resources within the park. The sequential referral was made because of provisions in the bill relating to an existing Corps of Engineers project for flood control and other purposes—the central and southern Florida project—and flood protection measures associated with a new system of waterflows to the park.

The bill authorizes modifications to "the central and southern Florida project," which has significantly altered natural flows into the park, to permit restoration of a sheet flow of water into the park. The modifications to the project, and the improved water deliveries, are based on a plan developed by the Corps of Engineers pursuant to an experimental program authorized by the Congress in 1984.

Our committee amended the portions of the bill dealing with flood protection of residential and agricultural areas which will or may be adversely affected by the new water deliveries. The amendments are designed to increase the flexibility of the Corps of Engineers in addressing potential problems. For an existing residential area, where flooding would be caused, the corps is directed to undertake both structural and nonstructural measures to prevent flood damage. For agricultural areas, there is a lack of agreement as to whether the improved water deliveries will have an adverse impact on ground and surface water levels. The corps is therefore directed to take such measures as are determined necessary to prevent and mitigate damages caused by higher water levels, including structural and nonstructural flood protection measures, and the payment of compensation for damages. These measures may not include any modifications to the new water deliveries if the Secretary of the Interior determines that the modifications will have an adverse impact on the park.

Mr. Speaker, this bill will provide for enhanced protection of the Everglades National Park, while ensuring that those suffering damage are adequately and fairly protected. I urge passage of the bill.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. STANGELAND], a member of the Committee on Public Works and Transportation.

Mr. STANGELAND. Mr. Speaker, I rise to day in support of H.R. 1727, the Everglades National Park Protection and Expansion Act of 1989.

I especially want to thank my colleagues on the Interior Committee for recognizing the Public Works Committee jurisdiction of this bill, and for incorporating our amendments into the floor vehicle that is before us today.

All of us want to protect the Everglades, a truly remarkable national treasure. This bill would ensure that land is responsibly acquired in order to help restore vital elements of the park which have been lost over the years due to changes in water deliveries.

Mr. Speaker, I believe this is a good bill and I urge my colleagues to support it.

□ 1410

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL], the principal sponsor of this measure, who represents this area and who has worked long and hard as the leader of the Florida delegation on this matter.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 1727, which I introduced, to expand Everglades National Park. I am particularly grateful to the chairman of the National Parks and Public Lands Subcommittee, Mr. VENTO, for the consideration given by the subcommittee to this legislation. It indicates his recognition of the serious problems being faced by the park and his willingness to address them. Mr. LAGOMARSINO has also been most helpful in this regard and I thank him as well. In addition, the Public Works and Transportation Committee had sequential referral of this bill and I appreciate the consideration given to it by the Water Resources Subcommittee and its chairman and ranking member, Mr. NOWAK and Mr. STANGELAND, and the full committee chairman and ranking member, Mr. ANDERSON and Mr. HAMMERSCHMIDT.

While Senator GRAHAM and I just introduced this legislation in April, its roots go back more than a year. We, in south Florida, have known for some time that the park is in trouble. In fact, we have been trying to save the Everglades ever since the park was established in the 1940's. The figures are staggering. In the last 50 years, the Everglades has lost 90 percent of its wading bird population; since the 1980 census, the roseate spoonbill population has been depleted by 50 percent; for the last 2 years, at least 50 percent of the park's alligator reproduction has been destroyed. I could give more examples but, suffice it to say, the park is dying.

Mankind has, unfortunately, been one of the major causes of this dramatic decline through water management practices over the years. There has not been any intentional effort to harm the park; to the contrary, we thought—with the best expertise available at the time—that we were doing what was needed to save it. Now we know we were wrong and that what is really needed is to restore the natural flow of water through the entire ecosystem, from Lake Okeechobee down to Florida Bay. To do this will require running the water through the Northeast Shark River Slough, which was left out of the original park years ago.

This new solution—to go back to the way it was in the beginning—is generally accepted by the Corps of Engineers, the South Florida Water Management District and private hydrologists who have spent years studying the area. To this end, Florida's Governor, Bob Martinez, formed a special task force last year to "evaluate the feasibility of acquiring lands in the east everglades through the joint efforts of the State and Federal governments" and to develop an acquisition plan. The East Everglades Land Acquisition Task Force issued its report on October 1, 1988, and it is its recommendations that are incorporated into the legislation before us today.

Mr. Speaker, I am pleased to say that the entire Florida congressional delegation has cosponsored this bill, demonstrating the strong bipartisan support it enjoys. In fact, this is not a partisan issue at all. It is a human issue that recognizes the need to preserve one of (my) State's and our Nation's most unique natural resources and the action that is required to accomplish this.

The importance attached to this project by the State of Florida is clearly demonstrated by the State's willingness not only to donate approximately 43,000 acres of State-owned lands to the Federal Government, but to also provide 20 percent of the cost of acquisition of the privately owned lands.

In addition to the support of our delegation and the State, Dade County and the cities of Miami, Homestead, and Florida City have adopted resolutions expressing support for the legislation and the Miami Herald has endorsed it.

The bill as written will have a minimal impact on traditional hunting and airboat activities in the area. While hunting will be prohibited, as it is in all national parks, there is very little hunting in the expansion area now. Individual airboats will continue to be permitted in the expansion area for those who already held permits as of January 1, 1989, although routes will be restricted and subject to regulation by the National Park Service. The permits will not be transferable and will not be renewable after the lifetime of the current holder. Commercial airboat activities will continue to be operated on a concession basis through the National Park Service. In addition, all these activities will continue to be allowed in the area immediately north of the expansion area, in the water conservation areas.

The legislation provides for flood protection for an 8.5-square-mile residential area in the east everglades

which will otherwise be subject to flooding by the change in the water delivery system. The Governor's task force recommends this flood protection, as does the draft general design memorandum being prepared for this project by the Corps of Engineers. In addition, protection for the agricultural areas adjacent to the expansion area is included, should it be determined that water levels raised as a result of this legislation are causing an adverse impact on this area. Also, language providing for a hydrological transition zone and for assurances for the Dade County wellfield are included.

Title II of this legislation provides for the upgrading of Fort Jefferson National Monument to a national park and for a study to determine whether it should be expanded. Fort Jefferson is one of the most underrated facilities in the National Park System. It has both historical and ecological values and deserves far greater recognition and protection than it has received to date. A Civil War-era fort in the Dry Tortugas Islands, 70 miles from Key West, Fort Jefferson was the site of the incarceration of Dr. Samuel Mudd, who treated John Wilkes Booth after the assassination of President Lincoln. While there, Dr. Mudd treated victims of a yellow fever outbreak. In addition, the fort and its neighboring islands are nesting sites for a number of species of birds, while the surrounding waters provide habitat for a wide variety of marine life.

The operations of the fort have been badly neglected by the Park Service. As a result, it is falling into physical disrepair and the natural resources there are not receiving the attention they need and deserve. Upgrading of the fort to park status would remove it from its present position as a virtual stepchild of Everglades National Park and the study to expand the boundaries would give us additional information on the protection needs of the surrounding waters, reef tracts and fisheries.

Mr. Speaker, enactment of this legislation is vital to the survival of Everglades National Park. I urge our colleagues to support it.

In the other body, the Energy and Natural Resources Committee has already reported its version of this legislation and I strongly hope they will move it quickly so we can begin the appropriations process next year.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the cosponsor of the legislation, the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Speaker, today I rise in support of H.R. 1727, the Everglades National Park Protection and Expansion Act of 1989. I salute the efforts of my distinguished colleague, Congressman FASCELL, for his work in this area.

Mr. Speaker, for years we have sat back and watched the gradual deterioration of our wetlands. The Everglades National Park is one of Florida's most diverse and environmentally rich areas.

H.R. 1727 calls for the acquisition of lands in the east Everglades to permit the restoration of a natural water flow to the existing park. When the boundaries of the park were first drawn, we were unaware of the interdependency of these areas.

The Everglades National Park is a complex ecosystem, home for many species of plant and animal life. Water is its life's blood. We cannot allow the Everglades National Park to die.

I ask for your support of H.R. 1727.

Mr. LARGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. LEWIS] a cosponsor of the legislation.

Mr. LEWIS of Florida. Mr. Speaker, today I rise in support of H.R. 1727 and commend my colleague, the gentleman from Florida [Mr. FASCELL], the bill's author; also, the gentleman from Minnesota [Mr. VENTO], and members of the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation for their leadership in bringing this matter to the floor.

The Everglades are unique not only to the State of Florida but to the entire United States. Established in 1947, the Everglades National Park serves as home for many rare plants and animals inhabiting the south Florida area.

Hundreds of individuals throughout the world travel daily to the park area, viewing first-hand the mystic beauty of the park.

Unfortunately, the ever-increasing growth and development of Florida has damaged the park's natural resources, particularly its water quality, supply, and distribution.

It has become increasingly critical to act now to preserve these areas for future generations.

The Everglades National Park protection and expansion proposal is based on recommendations made by Federal, State, and local committees and has received widespread support from members of the Florida delegation. The measure will add approximately 107,600 acres to the Everglades National Park—35,000 of which will be donated by the State of Florida. Through a cost-share program, State and Federal officials will work closely to acquire the remaining lands.

These acquired lands are important to ensure the continued protection necessary for the entire park area.

Mr. Speaker, it is imperative Congress do all that it can to preserve and protect those areas so unique to this Nation's natural resource heritage.

The Everglades National Park is one of those special areas and deserves our attention.

The Everglades in south Florida are a real treasure, a treasure because they supply the drinking water for over 5 million south Floridians. They supply water for agriculture and other types of life. We cannot allow any further destruction of this great treasure. It is most important to the State of Florida. It is most important to all Members. I urge my colleagues to support this important measure.

Mr. LAGOMARSINO. Mr. Speaker, I am inserting in the RECORD a letter of support from the administration:

SECRETARY OF THE INTERIOR,
Washington, DC, November 7, 1989.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that the House plans action today on H.R. 1727, a bill to authorize the expansion of Everglades National Park. I commend you, Congressman Don Young, and Congressman Dante Fascell for the expeditious action on this important legislation. One of my earliest visits as Secretary of the Interior was to Southern Florida where I toured the park and the proposed addition, and met with local and State officials. I can assure you that preserving the Everglades National Park is among the highest environmental concerns of this Administration.

Particularly important is the opportunity this legislation presents for State-Federal partnerships to enhance and restore significant wetland and endangered species habitat in Southern Florida. A cornerstone of this bill is the State-Federal cost sharing provision for the addition of 110,000 acres to the park. The park is within 65 miles of a high urban area (3.5 million people) and its wetlands play a key role in recharging the Biscayne aquifer which provides drinking water to this portion of the State. Furthermore, park lands nourish and sustain the estuaries on the Gulf Coast and in Florida Bay, supporting substantial commercial and recreational fishing. Moreover, Everglades National Park has been designated a World Heritage Site and an International Biosphere Reserve by the United Nations and a Wetland of International Importance by its Convention on Wetlands. Everglades National Park, the second largest park in the lower 48 states, is home to 13 endangered species.

The Administration has no objection to House passage of H.R. 1727. The Administration will seek changes in the Senate, however, to authorize the Secretary of the Interior to undertake construction of necessary facilities to improve the water flow to the park by providing funds to the Secretary of the Army to construct the facilities, and will also seek an amendment to authorize the Secretary of the Army, in consultation with the Secretary of the Interior and the Governor of Florida, to modify the operation of a nearby water project to improve the water flow to the park.

This additional acreage is critical to the future of this important national park, to the economy and quality of life in Southern Florida, and is among our highest concerns. We urge you to act favorably on H.R. 1727,

and we will work in the Senate to achieve the necessary amendments described above.

Sincerely,

MANUEL LUJAN, Jr.

Mr. Speaker, I yield myself such time as I may consume to conclude on this side by saying that I had the honor of visiting the Everglades National Park on a visit arranged by the chairman of the subcommittee this spring. I was very impressed with the area, and certainly with the need to take the kind of legislation we are taking today. I think this legislation is an outstanding example of cooperation between Federal agencies, the State of Florida, local agencies, and of course, private interests as well.

Some people might wonder why an important bill is on suspension. Certainly the fact that this bill is on suspension does not take away from its importance. This is a very major piece of legislation, perhaps one of the most significant pieces of environmental legislation that we will consider in the 101st Congress.

I would like to also take this occasion to compliment a member of my staff on the subcommittee who has recently retired, but who did accompany Members on this mission, and who did a lot of work on this bill, Mrs. Lori Stillman.

Mr. VENTO. Mr. Speaker, will the gentleman from California [Mr. LAGOMARSINO] yield?

Mr. LAGOMARSINO. Mr. Speaker, I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I want to join in complimenting Ms. Stillman, who has recently left employment with the Hill. We wish her well.

Certainly, she has been a positive help on the consideration of this legislation, and many other proposals that the ranking member, the gentleman from California [Mr. LAGOMARSINO] and myself have worked on for the last 4 or 5 years that we have worked together.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman from California for that compliment.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

I want to point out the importance of this bill. The 110,000-acre addition to the Everglades National Park certainly is an important event, an important environmental land-use policy classification.

□ 1420

The fact is that the Everglades make up the bottom one-third of Florida, maybe one-half of the State, but the park only makes up a small portion of that.

In the process of working on this legislation, obviously we have been helped greatly by the gentleman from California [Mr. ANDERSON], chairman of the Committee on Public Works and Transportation, and the gentleman from New York [Mr. NOWAK], the chairman of the subcommittee, in terms of dealing with legislation that affects the quality of this magnificent resource. Really putting our best effort forward to try to solve these problems is key to preservation of the park. One of the reasons we have had the cooperation of the Governor of Florida and the Florida delegation has been the outstanding service rendered by Superintendent Mike Finley in the Everglades National Park, and before him Superintendent Moorhead that were there. They exemplify the type of good civil servants we have that make it possible to work with State and local governments to accomplish what needs to be accomplished in terms of not only protecting parks, but maintaining them, so they accomplish the purpose of preservation and enjoyment that is promised in the basic laws that created our park system.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of H.R. 1727, the Everglades National Park Protection and Expansion Act of 1989. Today's action represents an important step in the protection and restoration of one of our most important natural treasures, the Florida Everglades.

The Everglades National Park is a unique and majestic element in our system of national parks. It is the second largest of the national parks in the lower 48 States and has been designated as a world heritage site and an international biosphere reserve by the United Nations. It includes valuable pine and cypress forests, sawgrass prairies, incomparable beaches, and diverse fresh and salt water habitat. It is home to a variety of fish and wildlife species, including 13 species which are listed as endangered.

In recent years, however, there have been signs of stress in the park ecology as evidenced by significant declines in the population of numerous species of wildlife, including wading birds, alligators, and panthers. There are indications that these losses are due to changes in the park's hydrologic characteristics caused by manmade modifications of the traditional flow of water into the park—changes that have taken place gradually and often with the best of intentions.

The bill before us today attempts to address the situation by recreating the traditional flow of water into the park. Specifically, the bill would authorize the Secretary of the Interior to expand the park's boundaries by adding approximately 100,000 acres of land along the Northeast Shark River Slough, through which water historically migrated from the north and northeast. The bill also authorizes the Army Corps of Engineers to make modifications to the central and southern Florida project which are necessary to improve the delivery of water to the Shark River Slough Area.

Let me say that I strongly support the bill and the efforts of the Corps of Engineers, the National Park Service, and the State of Florida to preserve and protect this incomparable resource. At the same time, I realize that hydrologic changes of the magnitude envisioned in this bill require a degree of caution to ensure that there is flexibility to address unintended consequences. In that context, I understand that the proposed changes in water deliveries to the park raised concern among elements of the south Dade County agricultural community. These concerns relate to the potential impact of improved water deliveries on agricultural activities that are such an important element in the economy of the area.

While I believe that the potential for adverse impacts on agriculture should not lessen our resolve to save the Everglades, I also feel that we should seek to ensure that, to the extent possible, such adverse impacts are minimized. Frankly, the bill as reported by the Interior Committee did attempt to achieve these ends. Nonetheless, after further review by the Committee on Public Works and Transportation during our sequential referral of the bill, we felt that additional flexibility was warranted.

Therefore, during markup our committee clarified the bill slightly to ensure that the Secretary of the Army, working in cooperation with the Secretary of the Interior, would have adequate authority and flexibility to provide flood protection to developed residential and agricultural areas near where additional water deliveries would be made. It is my understanding that the language developed by our committee is acceptable to all parties and has been incorporated in the bill being considered today.

I want to thank the leadership of the Committee on Interior and Insular Affairs, including Chairman UDALL and the ranking Republican on the full committee, DON YOUNG, as well as the chairman and ranking Republican on the Subcommittee on National Parks and Public Lands, BRUCE VENTO and BOB LAGOMARSINO, for their hard work on this very complicated issue.

I also want to express my appreciation to Chairman ANDERSON for his careful consideration of this bill and for his commitment to the protection of this national treasure. Let me also commend the chairman and ranking Republican on our Water Resources Subcommittee, Mr. NOWAK and Mr. STANGELAND, for the important contributions they made in finding a solution to an issue of substantial concern to many in the affected area.

Finally, I would be remiss if I didn't thank the distinguished chairman of the Committee on Foreign Affairs who represents the southern tip of Florida, DANTE FASCELL, who has dedicated countless hours to the cause of the Everglades. Without his efforts to fashion a workable solution, this important legislation would not have been possible.

In conclusion, I urge my colleagues to support this well-crafted and balanced bill.

Mr. GOSS. Mr. Speaker, as one of the cosponsors of H.R. 1727, the Everglades National Park protection and expansion bill, I rise today to urge my colleagues to support this measure for the good of the Everglades National Park, the State of Florida, and the entire Nation.

Those of us from Florida are well-versed in the many unique traits of the Everglades Na-

tional Park—whose 1.4 million acres constitute the largest remaining subtropical wilderness in the coterminous United States.

The park is home to dozens of species of wildlife, including such endangered animals as the Florida panther, the woodstork, the snail kite, and the cape sable sparrow. It is Florida's most treasured natural resource—a priceless component of our extraordinary quality of life.

But the fact is, the Everglades are in extreme danger of collapsing. Evergrowing development and water diversions have put the park's ecosystem at great risk.

Mr. Speaker, H.R. 1727 would ensure that we take a crucial step toward minimizing that risk and protecting the Everglades for future generations.

In authorizing the expansion of the park to include an additional 110,000 acres, primarily in the east Everglades, the bill clears the path for restoring the vital natural flow of water into the park. The park extension would be funded by a Federal/State partnership, where the Federal Government picks up 80 percent of the estimated $40 million cost of purchasing the land.

This bill enjoys the full support of the entire Florida delegation, as well as the governor. It most certainly warrants the enthusiastic support of this House.

Thank you.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1727, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FURTHER CONFERENCE REPORT ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. SMITH of Iowa submitted the following conference report and statement on the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-332)

The further committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $168,560,000: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: Provided further, that appropriations under this heading may be used to reimburse agencies for any costs incurred by Organized Crime Drug Enforcement Task Forces between October 1, 1989, and the date of enactment of this Act: Provided further, That section 506(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, is amended by adding "or 0.25 percent, whichever is greater," after "$500,000".

And the Senate agree to the same.

Amendment numbered 171:

That the House recede from its disagreement to the amendment of the Senate numbered 171, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $85,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a), of which not to exceed $16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba, including, but not limited to the purchase, rent, construction, improvement and equipping of facilities, operations, and staffing: Provided, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment: Provided further, That the availability of such funds for television broadcasting to Cuba shall be subject to the provisions of Part B, title II of H.R. 1487 as passed the House of Representatives until such time as legislation authorizing such activity is enacted into law.

Section 725 of the International Security and Development Cooperation Act of 1981 (22 U.S.C. 2370 note) is hereby repealed.

And the Senate agree to the same.

Amendment numbered 191:

That the House recede from its disagreement to the amendment of the Senate numbered 191, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 614. The funds appropriated by this Act for the Department of State and the United States Information Agency may be obligated and expended, at a rate of operations not exceeding the rate available for fiscal year 1989 or the rate provided in H.R. 2991 as passed the Senate, whichever is lower and under the authority and conditions in applicable appropriations acts for fiscal year 1989, notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948.

And the Senate agree to the same.

NEAL SMITH,
BILL ALEXANDER,
JOSEPH D. EARLY,
BERNARD J. DWYER,
BOB CARR,
ALAN MOLLOHAN,
JAMIE L. WHITTEN,
HAL ROGERS,
RALPH REGULA,
JIM KOLBE,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
DALE BUMPERS,
FRANK R. LAUTENBERG,
JIM SASSER,
BROCK ADAMS,
ROBERT C. BYRD,
WARREN B. RUDMAN,
TED STEVENS,
MARK O. HATFIELD,
ROBERT W. KASTEN,
PHIL GRAMM,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the further conference on the disagreeing votes of the two Houses on the remaining Senate amendments Nos. 53, 171, and 191 to the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 1990, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action by the managers and recommended in the accompanying conference report:

TITLE II—DEPARTMENT OF JUSTICE

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

Amendment No. 53: Appropriates $168,560,000 for Interagency Law Enforcement as proposed by the Senate. The conference agreement also includes language proposed by the Senate which provides that funds obligated from this appropriation may be used under authorities available to the organizations receiving those funds and also inserts language proposed by the Senate which provides for reimbursement of funds for costs incurred between October 1, 1989 and enactment of this bill. The agreement also includes language proposed by the Senate which amends the Anti-Drug Abuse Act of 1988 to provide revised minimum amounts for State and local law enforcement formula grants to be apportioned to States, of 0.25 percent of $500,000, whichever is greater. The House bill contained no similar provisions.

The conference agreement also deletes language proposed by the Senate which would have limited reimbursement under this appropriation to Justice Department agencies.

The conference agreement of $168,560,000, when added to the $46,361,000 included in Title IV of H.R. 3015, provides a total appropriation of $214,921,000 for Organized Crime Drug Enforcement for fiscal year 1990—the full budget request.

The total amount available of $214,921,000 provides the requested baseline of $206,876,000 and program growth of 94 positions and $8,045,000 to allow the INS to participate in OCDE investigations.

TITLE V—RELATED AGENCIES

RADIO CONSTRUCTION

Amendment No. 171: Appropriates $85,000,000 as proposed by the Senate. The conference agreement also earmarks $16,000,000 to continue the development of television broadcasting to Cuba, including first-year operations as proposed by the Senate but inserts new language that provides that the availability of these funds shall be subject to the provisions of the authorizing legislation as passed the House until such time as such legislation is enacted into law. The House bill contained no similar provisions.

The conference agreement also includes language proposed by the Senate which would repeal Section 725 of the International Security and Development Cooperation Act of 1981 (22 U.S.C. 2370 note). Section 725 imposed economic sanctions on Argentina. The House bill contained no similar provision.

The conferees are agreed that the Government of Argentina has made significant progress in the area of human and political rights and that the repeal of Section 725 of the International Security and Development Cooperation Act of 1981 is in response to the establishment of civilian rule in Argentina. The conferees are also agreed that the repeal of section 725 is not intended to indicate any position concerning any pardon of or amnesty to officials, military or civilian, convicted of past abuses of human rights.

TITLE VI—GENERAL PROVISIONS

Amendment No. 191: Deletes language proposed by the Senate which would have expressed Senate support for additional designations of gateway cities for international air service to foster increased export trade opportunities for such nontraditional international gateway cities. The conference agreement also inserts language not contained in either the House or the Senate bill which provides that the funds appropriated in this Act for the Department of State and the U.S. Information Agency may be obligated and expended at a rate of operations not exceeding the rate available for fiscal year 1989 or the rate provided in H.R. 2991 as passed the Senate, whichever is lower, and under the authority and conditions in applicable appropriations Acts for fiscal year 1989. The conference agreement also contains new language waiving certain provisions of law to permit the obligation of these funds.

The conferees are agreed that in the event an authorization of appropriations is enacted into law for fiscal year 1990 for the Department of State and the United States Information Agency, steps will be taken to restore appropriations for the Department and the Agency using the levels originally recommended in the conference agreement on H.R. 2991 as a guide. The recommendation to provide continuing appropriations rates for these agencies is being taken only due to the lack of an authorization.

NEAL SMITH,
BILL ALEXANDER,
JOSEPH D. EARLY,
BERNARD J. DWYER,
BOB CARR,
ALAN MOLLOHAN,
JAMIE L. WHITTEN,
HAL ROGERS,
RALPH REGULA,
JIM KOLBE,
Managers on the Part of the House.
ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
DALE BUMPERS,
FRANK R. LAUTENBERG,
JIM SASSER,
BROCK ADAMS,
ROBERT C. BYRD,
WARREN B. RUDMAN,
TED STEVENS,
MARK O. HATFIELD,
ROBERT W. KASTEN,
PHIL GRAMM,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

MELVIN PRICE FEDERAL COURTHOUSE

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2890) to redesignate the Federal buildings and courthouse located in East St. Louis, IL, as the "Melvin Price Federal Courthouse", as amended.

The Clerk read as follows:

H.R. 2890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building and the United States Courthouse located at 750 Missouri Avenue in East St. Louis, Illinois, shall be known and designated as the "Melvin Price Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and courthouse referred to in section 1 shall be deemed to be a reference to the "Melvin Price Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great pride that I bring to the House floor for consideration H.R. 2890. This legislation will name Federal buildings located on Missouri Avenue in East St. Louis, IL as the "Melvin Price Federal Building and United States Courthouse".

Mel Price was a special Congressman. Although a quiet and gentle man, he held positions of great power and influence during his long tenure in Congress. He began his career by winning a congressional seat in 1944, while serving in the Army during World War II. His public service continued for 44 years until his death on April 22, 1988.

Congressman Price served as the first chairman of the first permanent Committee on Standards of Official Conduct. He was chosen for this position because of his reputation for fairness. During his long career he also served as chairman of the powerful Armed Services Committee and as chairman of the Joint Committee on Atomic Energy.

Prior to his congressional career, Representative Price grew up in East St. Louis, IL, and attended St. Louis Missouri University. He then worked as a sports editor and newspaper correspondent in St. Louis. Congressman Price served as a member of the St. Clair County Board of Supervisors from 1929 to 1931 and then came to Congress as secretary to Representative Edwin M. Schaefer for 10 years.

Throughout Congressman Price's career in Congress, he worked to improve the strength of our Armed Forces. His personal qualities of integrity, honesty, and dedication to his constituents and to issues he felt were important won him the respect and friendship of his colleagues in Congress.

Mel Price's long and effective public career makes it most appropriate to honor him by naming these buildings after him.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Illinois [Mr. COSTELLO], the author of the bill we are working on and also the successor to Chairman Price in that congressional district.

Mr. COSTELLO. Mr. Speaker, I want to thank the gentleman from California [Mr. ANDERSON], the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. Bosco], the chairman of Subcommittee on Public Buildings and Grounds, and the ranking minority members both of the full committee and the subcommittee.

Mr. Speaker, I believe Chairman ANDERSON said it all in that the fact is this bill would designate the Federal Building and the Federal Courthouse in East St. Louis, IL, after a distinguished Member of this body, Mel Price, who devoted 44 years of his life to serving this country and the people of the 21st Congressional District.

Congressman Price was chairman of the Armed Services Committee, chairman of the Atomic Energy Committee, and served with distinction and honor for the 44 years that he devoted to this institution.

It is not only fitting that the Federal Building and Courthouse in East St. Louis be named after Congressman Price, but it will serve as a reminder to future generations of the contribution that Congressman Price made to the

21st Congressional District and to the people of this country.

Mr. Speaker, I urge support for and the adoption of this legislation.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my support for H.R. 2890, which would name a Federal Building and U.S. Courthouse in East St. Louis, IL, in honor of our former colleague, Mel Price.

Representative Price first arrived in Washington in 1933 to work on the staff of Congressman Edwin Schaefer and stayed for 10 years. While serving in the Army during World War II, Representative Price received word that he had been elected to the 79th Congress. He returned to Washington and served in the House for 43 years until his death last year. I had the privilege of serving with Representative Price for close to 10 years and always thought of him with a great deal of respect and admiration.

In light of his outstanding service to his district in Illinois and to the country, it is a fitting honor to designate the Federal Building and Courthouse in East St. Louis, IL, as the "Melvin Price Federal Building and United States Courthouse".

Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, I wish to thank the gentleman from California [Mr. ANDERSON] for allowing me to participate here today.

Mr. Speaker, this action today is but a small token of thanks for what Congressman Mel Price did for his district, for all of Illinois, and for the Nation as a whole.

Mel Price dedicated his career to helping the people he represented improve their standard of living and quality of life. This is a well-deserved tribute to a true public servant.

During his 44 years in Congress Mel Price was the picture of integrity. His legacy in these Halls is one of fairness, hard work, and compassion.

We always tend to recognize people after they have left us. We're doing that here with Congressman Price, although I'm sure the satisfaction for him was not the credit for getting the job done but more simply just getting the job done.

Still it is fitting that generations in the future will know there is a reason why the Federal Building and Courthouse are named for Congressman Price. I thank the committee and my colleague who so ably carries on Congressman Price's work, Congressman JERRY COSTELLO, for this opportunity to honor a great public servant.

Mr. HAMMERSCHMIDT. Mr. Speaker, I strongly support H.R. 2890 which would name a Federal building and courthouse in East St. Louis, IL, in honor of our former colleague, Melvin Price.

Mel served in the House for 43 years until his death early last year. For 10 of those years, he served as chairman of the House Armed Services Committee. During his long tenure in the House, he also was chairman of the first permanent Committee on Standards of Official Conduct and the Joint Committee on Atomic Energy. We all know of the respect Mel commanded here in Washington and I know he was well loved by his constituents back in Illinois who sent him to Congress time and time again.

It is truly appropriate to recognize the many years of dedicated service of our late friend and colleague by naming the Federal building and courthouse in his hometown of East St. Louis, the "Melvin Price Federal Building and United States Courthouse."

Mr. BENNETT. Mr. Speaker, I rise in strong support of H.R. 2890 to name the Melvin Price Courthouse. This would honor the memory of a very distinguished Member of the U.S. House of Representatives who chaired many important committees, among them the House Armed Services Committee, for many years.

Congressman Price was a man who loved his fellowman and served the public in a humane and loving manner. After his service in the Army in World War II, he came to Congress and started a career which has left many monumental pieces of legislation on the statute books. Certainly he strengthened our military defense and certainly he is greatly missed in Congress today. The naming of this building for him is a well-deserved honor and I hope the measure will pass unanimously.

Mr. ANNUNZIO. Mr. Speaker, I rise today in strong support for H.R. 2890, a bill introduced by my colleague from Illinois, Congressman JERRY COSTELLO, to redesignate the Federal Building Courthouse and the United States Court House in East St. Louis, IL, as the Melvin Price Federal Courthouse.

Mel Price was my close and trusted friend, and I personally witnessed the important contributions he made which left an indelible mark on the history of our Nation. He served the 21st Congressional District of Illinois with distinction for 44 years in the U.S. House of Representatives, from 1944 to 1988, when he passed away.

During his 10 years of service as chairman of the House Armed Services Committee, he gained the respect and admiration of his colleagues, and was instrumental in the modernization of our military forces which under his direction moved their preparedness level into the 21st century.

It is fitting that a courthouse be named after Mel Price, a man who devoted his life to the service of our country. I urge the support of my colleagues in the House or Representatives for H.R. 2890, as a much deserved tribute to Melvin Price, a truly dedicated public servant and outstanding citizen of our Nation and of the State of Illinois.

□ 1430

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SARPALIUS). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 2890, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the Federal Building and United States Courthouse located at 750 Missouri Avenue in East St. Louis, Illinois, as the 'Melvin Price Federal Building and United States Courthouse'.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2890, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

EASTERN AIRLINES LABOR DISPUTE EMERGENCY BOARD

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1231) to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective-bargaining units, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. ESTABLISHMENT.

There is established a commission (hereinafter in this Act referred to as "the Commission") to investigate the labor dispute involving Eastern Airlines and the International Association of Machinists and Aerospace Workers, the Airline Pilots Association, and the Transport Workers Union.

SEC. 2. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall consist of four members, of which not later than 10 days after the date of enactment of this Act—

(1) one member of the Commission shall be appointed by the President Pro Tempore of the Senate;

(2) one member of the Commission shall be appointed by the Speaker of the House of Representatives;

(3) one member of the Commission shall be appointed by the Minority Leader of the Senate, and

(4) one member of the Commission shall be appointed by the Minority Leader of the House of Representatives.

(b) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(d) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the Commission.

SEC. 3. DUTIES.

The Commission shall—

(1) investigate and make findings of fact and recommendations regarding the prompt and equitable settlement of the dispute referred to in section 1;

(2) consider issues arising out of the dispute; and

(3) make policy recommendations to Congress and the Secretary of Transportation concerning—

(A) the powers of the Secretary to intervene on behalf of the public interest to maintain competitiveness in the aviation industry in light of mergers, acquisitions, and bankruptcies of air carriers; and

(B) the adequacy of protection of employee collective bargaining rights in bankruptcy proceedings involving air carriers.

SEC. 4. REPORT.

(a) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Commission shall submit to Congress and the Secretary of Transportation a written report containing its findings and recommendations.

(b) AVAILABILITY TO PUBLIC.—The Secretary of Transportation shall make the report available to the public.

SEC. 5. ADMINISTRATION.

(a) INFORMATION.—The heads of executive agencies, the General Accounting Office, and the Congressional Budget Office, to the extent permitted by law, shall provide the Commission with such information as the Commission may require in carrying out the duties and functions of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without any additional compensation for work performed on the Commission.

(2) TRAVEL EXPENSES.—Such members who are private citizens of the United States may be allowed travel expenses, including a per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under sections 5701 through 5707 of title 5, United States Code.

(c) STAFF.—Subject to the approval of the Secretary of Transportation and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Chairperson of the Commission may hire and fix the compensation of such staff personnel as the Commission determines are necessary to carry out duties and functions of the Commission.

(d) PERSONNEL AND SUPPORT SERVICES.—

(1) DEPARTMENT OF TRANSPORTATION.—On request of the Commission, the Secretary of Transportation shall furnish the Commission with such personnel and support services as are necessary to assist the Commission in carrying out the duties and functions of the Commission.

(2) OTHER AGENCIES.—On the request of the Commission, the heads of other executive agencies and the General Accounting Office may furnish the Commission with such personnel and support services as the head of the agency or Office and the Chairperson of the Commission agree are necessary to assist the Commission in carrying out the duties and functions of the Commission.

(3) REIMBURSEMENT.—The Commission shall not be required to pay or reimburse an agency or the Office for personnel and support service provided under this section.

(e) RECORDS.—

(1) IN GENERAL.—In accordance with section 12 of the Federal Advisory Committee Act (5 U.S.C. App. 2), the Secretary of Transportation shall maintain records of—

(A) the disposition of any funds that may be at the disposal of the Commission; and

(B) the nature and extent of activities of the Commission.

(2) GAO ACCESS.—The Comptroller General of the United States shall have access to such records for the purpose of audit and examination.

(e) EXEMPTION FROM CERTAIN PROVISIONS.—The Commission shall be exempt from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act and sections 4301 through 4308 of title 5 of the United States Code.

SEC. 6. FUNDING.

This Act shall be carried out using funds otherwise available to the Secretary of Transportation for the expenses of advisory committees.

SEC. 7. TERMINATION.

This Act and the Commission shall terminate on the submission of the report required under section 4.

Amend the title so as to read: "An Act to establish a commission to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units, and for other purposes.".

Mr. PETRI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. OBERSTAR. Mr. Speaker, with this unanimous-consent request, we are asking the House to agree to the Senate amendment to H.R. 1231, which the House passed last March 15, by a vote of 252–167, to deal with the Eastern Airlines' management-labor dispute. The bill which the subcommittee on Aviation reported out and which the House passed in March directed the President to establish an Emergency Board under the Railway Labor Act to make recommendations for resolving the disputes between Eastern Airlines and it unions. Our bill incorporated Railway Labor Act procedures which would have required Eastern's employees to return to work under their last contract while the Presidential Emergency Board was reviewing the dispute. Eastern would retain whatever rights it had under its contracts to furlough employees who were not needed because of reduced operations.

When H.R. 1231 was sent to the Senate, that body decided not to take up the bill immediately because they felt that the labor problems might be resolved in the course of Eastern's bankruptcy proceeding. The Senate now concluded that the bankruptcy proceeding is unlikely to resolve the labor dispute. On October 26, the Senate, by a vote of 65 to 35, adopted an amendment in the nature of a substitute to H.R. 1231 proposed by the majority leader of the Senate.

The Senate amendment provides for the appointment of a four-member commission to review the Eastern labor disputes. One member is to be named by the President pro tempore of the Senate, one by the Speaker of the House, one by the minority leader of the Senate and one by the minority leader of the House. The Commission is directed to investigate and make recommendations for the prompt and equitable settlement of Eastern's management-labor disputes. The Commission is further directed to make policy recommendations to the Congress and the Secretary of Transportation concerning the powers of the Secretary to intervene on behalf of the public interest to maintain competitiveness in the aviation industry in light of mergers, acquisitions, and bankruptcies of air carriers. The Commission is also directed to make recommendations on the adequacy of protection of employee collective bargaining rights in bankruptcy proceedings involving air carriers.

Mr. Speaker, the best solution to the Eastern problem would have been for the President to have supported and for the Senate to have passed our bill last March. Had that bill been enacted, I am convinced that the Eastern management-labor disputes would have been resolved; the employees would long ago have been back to work; and Eastern would have been operating full scale. However, given the President's opposition to our bill, and the events that have transpired in the 6 months since we passed that bill, obviously the best—and the only—course of action available to those of us who want to settle the Eastern dispute is to pass the Senate amendments.

We have to be realistic: A stronger bill is not going to pass the Senate. We cannot ignore the agony of the more man 18,000 former Eastern employees who are now on strike or on furlough. Moreover, until the management-labor problems are resolved, it will be extremely difficult for Eastern to reestablish itself as the major airline it was before the bankruptcy.

The best way to get Eastern's employees back to work and reestablish Eastern as a major competitor is to resolve this dispute promptly. Although the Commission established by the Senate bill is not all that I would like to see, it is clearly the last resort, the last, best hope of resolving the management-labor dispute at Eastern and reviving the carrier as a major national competition. Therefore, I urge adoption of the Senate amendment.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks on H.R. 1231 and the Senate amendments thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COAST GUARD AUTHORIZATION ACT OF 1989

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 270 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 270

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2459) to authorize appropriations for the Coast Guard for fiscal year 1990, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered by title instead of by section and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 270 is an open rule providing for the consideration of the bill H.R. 2459, the Coast Guard Authorization Act for fiscal year 1989.

The rule provides for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries.

The rule also provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries as original text for the purpose of amendment.

The rule further provides that the substitute shall be considered by title instead of by section and each title shall be considered as having been read.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 2459 authorizes $3.4 billion for the Coast Guard in fiscal year 1990. Included in the bill is $2.3 billion for operating expenses, $645 million for Coast Guard purchases and improvements, and $420.8 million for retirement benefits.

Mr. Speaker, over the years the Coast Guard has continuously carried out it's traditional mission of search and rescue, marine environment protection, marine safety, and providing navigation assistance for the nations waterways.

In addition the Coast Guard is a valuable part of our national defense, in fact, Mr. Speaker, the Coast Guard is the Nation's first line of defense in tracking and apprehending those that use our airways and waterways for drug smuggling.

This bill provides the necessary funding that would strengthen and improve the drug interdiction capabilities of the Coast Guard.

Finally, Mr. Speaker, the bill provides funding for researching and developing programs that will improve oil and hazardous waste spill prevention and cleanup techniques.

Mr. Speaker, I urge my colleagues to support this rule so that the House can consider this important legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the chairman and ranking Republican member of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES] and the gentleman from Michigan, [Mr. DAVIS] for their leadership in moving this legislation to authorize appropriations for the Coast Guard.

Many Americans take the Coast Guard for granted, often without realizing the many important functions it serves. For example, when we speak of the war on drugs, it is really the Coast Guard that is our first line of defense in that war. They are the ones who confront directly the smugglers who are attempting to bring in large quantities of marijuana by ship. They man the planes which patrol over our coastal waters and track the planes of the drug runners. In port, they are the ones who inspect ships for contraband including drugs. There are other Federal agencies involved in the war on drugs as well. But the Coast Guard is on the front line.

When we had a major oilspill it was ultimately the Coast Guard which we relied on to coordinate the cleanup.

It is the Coast Guard that we turn to for the maintenance of aids to maritime navigation, icebreaking activities, the protection of the marine environment, and the security and safety of waterways, ports, and vessels.

The bill is an important step in providing necessary support and policy guidance for the Coast Guard, but there are still problem areas in the legislation.

I should note that at the time of the Rules Committee meeting the administration took the position that it would oppose the bill unless it was amended to delete four specified provisions.

The Rules Committee has provided an open rule which will allow the full House to make any necessary improvements in the bill. I will support the rule so that the House can get down to business, and move this legislation to support our Coast Guard.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SARPALIUS). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 270 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2459.

The Chair designates the gentleman from Maryland [Mr. MFUME] as Chairman of the Committee of the Whole and requests the gentleman from Missouri [Mr. SKELTON] to assume the chair temporarily.

□ 1440

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2459) to authorize appropriations for the Coast Guard for fiscal year 1990, and for other purposes, with Mr. SKELTON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Louisiana [Mr. TAUZIN] will be recognized for 30 minutes and the gentleman from Michigan [Mr. DAVIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, first let me commend not only the full committee chairman, the gentleman from North Carolina [Mr. JONES], but the ranking minority member, the gentleman from Michigan [Mr. DAVIS] for the excellent work and cooperation that the full committee and all its members have extended to the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries in bringing forth this bill to authorize the activities of the Coast Guard for this year.

Let me also make note that our committee is noted for the manner in which it works across the aisle in a cooperative spirit on behalf of legislation that our committee brings forward, particularly in regard to the work we do for the U.S. Coast Guard.

This bill, H.R. 2459, is a bill that provides for the authorization of $3.37 billion for the U.S. Coast Guard for fiscal year 1990, which is the funding level requested by the administration. The funds are to be used for operating expenses, for acquisition, construction, improvements, research development, bridge administration, and retirement pay.

The bill addresses several other issues under the jurisdiction or affecting the U.S. Coast Guard. Today's Coast Guard operates with primary responsibility for the promotion of safety of life and property at sea, the maintenance of aids to navigation, fisheries enforcement, marine environment protection, polar, Great Lakes and inland waters, icebreaking activities, ensuring the safety of vessels, ports, waterways, and related facilities, and maintaining the readiness to operate as a military service.

The Coast Guard, which is smaller in size than the New York City police force, has nearly 1,100 fewer active duty military personnel than it had a decade ago.

The specific provisions of this bill which I would like to call to the Members' attention are $151 million for high-speed patrol boats, because it is expected that the Coast Guard will be about 30 percent short of these incredibly important vessels by the year 1995.

There is $24 million for radar and for the C-130 aircraft to improve the Coast Guard's surveillance and interdiction capabilities.

There is $20 million for the Coast Guard cutter *Mackinaw*, an important ingredient in our icebreaker activities to keep the shipping lanes of the Great Lakes open.

There is $10 million to acquire 12 modified antisubmarine warfare trainers for the 378-foot cutters.

There is $1 million for continuing procurement of the polar class icebreaker; $750,000 for up to six rigid hull inflatable boats, important and necessary to carry out certain rescue missions in shallow waters; $24 million for research and development; $5 million going to oilspill research, a critical area; $39.6 million to authorize end-of-the-year spending to activate duty personnel at 39,299, an increase of 1,100 from the current figure.

The bill also reestablishes DBS service for New York and New Orleans, areas that have been caught in the 1988 squeeze, areas that the GAO said did not consider these closures as impacting on safety of these two critically important ports.

This bill calls for review of any criminal record of any individual applying for a seaman's license or license renewal. Of course, I need not tell you how important that is in view of the *Exxon Valdez* incident.

It would require the development by the Secretary of Defense of a plan to close radar gaps in the U.S. southern border to improve the surveillance of drug trafficking routes.

It would require a report on the safety, cost, and benefits of double-hulled tankers and barges.

Finally the establishment of a junior reserve officer training corps program in Dade County, FL. It will be the first junior reserve officer training program initiated and recommended indeed by the late Claude Pepper. We have chosen this legislation for this pilot project because of its potential to help the Coast Guard in its efforts to recruit minorities.

Last week we began debate on the comprehensive oilspill legislation. If enacted, this bill will expand greatly the Coast Guard personnel funding requirements. We estimate the Coast Guard will need an additional 450 new billets just to meet these new oilspill requirements. Fortunately, H.R. 2459 addresses this critically important need.

Mr. DAVIS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill is an example of the ability of the minority and the majority to work together. The chairman of the Subcommittee on Coast Guard and Navigation, the gentleman from Louisiana [Mr. TAUZIN], does an excellent job and I am pleased to be able to work with the gentleman, and the chairman of the full committee, the gentleman from North Carolina [Mr. JONES], with whom we have had an excellent relationship. We have worked again this year to come up with the program for the Coast Guard that I think is very cost effective. As we all know, during the past years the Coast Guard has come up with funding that has been very erratic from the Congress, but after getting by for a couple years, more than that, when we have had some battles with the appropriators and the Coast Guard, I think we have finally reached a conclusion that the Coast Guard needs these funds, does spend them very wisely, and the things that the Coast Guard does, they do very well and the taxpayers are well served.

We have before us the authorization for an agency that is unique among Federal agencies. It is unique in its reputation for unselfishly dedicated service by its members and its cost-effective use of its resources. It is an agency that has bravely faced the reduced and erratic appropriations of recent years with unrelenting determination to accomplish every task assigned to it. While the funding authorized in this bill will provide the Coast Guard with the same level as recommended by the President, it will not make the Coast Guard well after years of unpredictable funding. It will provide the money necessary to operate all of the traditional missions of the Coast Guard at the same level as last year, as well as the new equipment that has come on line for its increased participation in the war on drugs.

H.R. 2459 accomplishes far more than just authorizing the funding for the Coast Guard. It also addresses the rules of the road, improves the management and administration of the Coast Guard, and increases the preparedness of response to spills of hazardous substances.

I am particularly pleased with several provisions that affect the Great Lakes. The preliminary steps of the renovation work on the USCGC *Mackinaw* are scheduled to begin in fiscal year 1990, which will give the Great Lakes an additional 15-20 years of service from this invaluable icebreaker. There are no comparable vessels available to keep the lakes clear of ice for shipping during the winter navigation season and there are no current plans to replace the *Mackinaw* with a new icebreaker. During a severe winter, she is our only resource capable of singlehandedly clearing the ice on a continuous basis or going to the rescue of one of the large lake carriers.

Further, there is a requirement for the Secretary of Transportation to study the problem of exotic species being discharged into U.S. waters. This has become a serious problem on the Great Lakes where several harmful new species have been introduced into this closed ecosystem through the discharge of ballast water from foreign vessels. Until this study is conducted, we cannot be sure what impact this practice may be having on other ports around the country, or how to prevent further damage.

We have included a prohibition against reducing any Coast Guard services below last year's level due to increased, but unfunded and unauthorized, participation in drug law enforcement. As committed as I am to the war on drugs, I am opposed to the

Coast Guard expanding its effort in drug interdiction without receiving the proper support and funding. This has been a recurring problem since 1986 when we first found it necessary to enact legislation, the Anti-Drug Abuse Act of 1986, which included a prohibition against the Coast Guard unilaterally expanding its drug enforcement operations at the expense of its more traditional missions. We are not trying to micromanage the Coast Guard, nor are we opposed to the Coast Guard's role in drug interdiction—as long as it is funded. Unfortunately, we have repeatedly watched as the Coast Guard has reduced resources at remote locations, and even attempted to close search and rescue stations, in an effort to find the funding within its own accounts. We cannot stand silently by while the Coast Guard ravages is traditional missions in its pursuit of this sexier new mission. If we were to do so, it would effectively destroy the foundation of this fine service.

Once again this year the Committee on Merchant Marine and Fisheries was instructed to enact recreational boat user fees to meet its requirements of reconciliation. We have historically been opposed to these fees. For the past 3 years we have requested an accurate accounting of the fees which the Coast Guard is authorized to collect, which we have yet to receive. Section 214 is an attempt to clarify and reinforce this requirement. Until we receive an accurate accounting of these fees and can see a direct correlation between the fees collected and the services rendered, we cannot in good conscience enact any new fees.

Mr. Chairman, I urge my colleagues to join me in passage of this bill, H.R. 2459, the Coast Guard Authorization Act of 1989. It is a carefully balanced effort to safeguard the traditional missions of the Coast Guard and at the same time provide the funding needed to continue the war on drugs and renew the Coast Guard's ability to respond to oilspills. This bill is fiscally responsible, and yet it signals to the dedicated men and women of the Coast Guard our faith in them and the job they are doing.

□ 1450

Mr. TAUZIN. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. JONES], chairman of the full Committee on Merchant Marine and Fisheries.

Mr. JONES of North Carolina. Mr. Chairman, I rise in strong support of H.R. 2459, legislation to authorize $3.377 billion for the Coast Guard during the 1990 fiscal year. This overall figure is in line with the administration's request.

If we reviewed the network news over the last year, we would see the Coast Guard confiscating drugs; leading the cleanup of oilspills in Alaska and elsewhere; saving lives following a plane crash in New York City; rushing aid to the U.S. Virgin Islands following Hurricane Hugo; and rescuing people trapped on the bay bridge by the San Francisco earthquake.

These are the dramatic events. Routine Coast Guard duties include saving stranded boaters, testing the competency of mariners, and inspecting vessels to assure they do not harm man or the environment.

We have never given the Coast Guard the money necessary to meet its responsibilities. Yet, somehow it does. Once again, this bill provides the minimum needed to assure the Coast Guard is able to perform its numerous missions.

The funding level in this bill is in line with the President's budget request, but there are two important areas in which the bill differs from the administration version in allocation of funds. In the research and development account, the bill authorizes an additional $5 million to be used for oilspill cleanup research.

In the procurement area, the bill reallocates the $244 million designated in the President's proposal for procurement of an icebreaker. One million dollars is earmarked to continue the procurement of the icebreaker. The remaining funds are designated for: 20 high-speed patrol boats; improved radar for the C-130 aircraft; rehabilitation of the Coast Guard cutter, *Mackinaw*; antisubmarine warfare equipment; and rigid-hulled inflatable emergency rescue boats.

The bill also includes a number of provisions related to matters such as: the zero tolerance program; the establishment of a Coast Guard Junior ROTC Program, which was conceived by the late Claude Pepper; a study of double bottoms and double hulls; criminal records investigations for Coast Guard license applicants and holders; revocation of the licenses of chronic abusers of alcohol; the reestablishment of vessel traffic systems in New York and New Orleans; and the reporting of cases of sexual harassment on vessels.

The bill is a delicate balance between traditional Coast Guard activities and the war on drugs. This bill ensures the Coast Guard will have the resources necessary to fight that war, without neglecting traditional missions.

I am sure we would all like to authorize more money for the Coast Guard. This, however, is the best deal possible in light of the grim budget realities we face. Once again this year we'll just expect the Coast Guard to do their jobs with a constrained budget.

I am proud of the U.S. Coast Guard. The many tragic events of this year have graphically illustrated how important this service is to all Americans. This authorization provides the fuel to power this drug fighting, lifesaving machine. I strongly urge Members to support this important legislation.

Mr. DAVIS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. Chairman, I rise in support of H.R. 2459, the Coast Guard Authorization Act of 1989, and to compliment the gentleman from North Carolina, chairman of the committee; the gentleman from Louisiana, chairman of the subcommittee; and the gentleman from Michigan, the ranking member of the committee and the subcommittee, for bringing forth a solid and responsible bill.

H.R. 2459 provides needed resources to combat the scourge of drug abuse and to maintain the infra-structure and the people who are our first line of defense, the Coast Guard. As the Representative of a coastal district which benefits every day from Coast Guard operations, I have a very real appreciation for the courage and talent of the men and women who risk their lives daily for our protection, and I can think of no better way to thank them—and the committee—than to support this bill. As I indicated in my testimony before the subcommittee last May, we need to provide the Coast Guard with all the resources it needs to carry out the duties we have assigned to it, and the members of the subcommittee and staff have done an excellent job in identifying those needs and providing those resources. They deserve our thanks and our support.

If I may, Mr. Chairman, I would like to engage the gentleman from Louisiana in a brief colloquy on the bill.

Mr. Chairman, section 209 of the bill directs the Secretary to establish a vessel traffic service in New York Harbor and the lower Mississippi River in New Orleans, and not later than 6 months after enactment of the bill, to submit a report to Congress which identifies those U.S. ports and coastal channels through which large quantities of oil or hazardous cargoes are transported and the costs to the United States of establishing adequate vessel traffic services in those ports and coastal channels. Does the committee intend the term coastal channel to encompass the Santa Barbara Channel off California?

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. The gentleman is correct. The committee intends the Santa Barbara Channel to be among those ports and coastal channels which the Coast Guard will study as sited for a vessel traffic service. We are well

aware of the problems in the channel. As outlined in the testimony of the gentleman from California on the bill and that is the reason the provision is included in the bill.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman of the subcommittee for his response.

Mr. TAUZIN. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I rise in strong support of H.R. 2459, the Coast Guard authorization bill.

As a former chairman of the Subcommittee of Coast Guard and Navigation, I commend the current chairman, the gentleman from Louisiana [Mr. TAUZIN] for his leadership in bringing this bill to the floor. I also congratulate the chairman of our full committee, Mr. JONES, and the ranking minority Member, Mr. DAVIS, both long time friends of the Coast Guard, for their work in behalf of this legislation.

Keeping the Coast Guard afloat is a full-time job. In the early years of this decade, we had an administration that thought the Coast Guard should be dismantled, piece by piece, its vessels mothballed, its aircraft grounded, its functions turned over to the private sector.

But Members of this House, from both parties, fought back; fought back not just in the interests of the Coast Guard, but in the interests of our Nation. And the Coast Guard survived.

Then came Gramm-Rudman.

Over the past few years, Gramm-Rudman has instilled more artificial drama into approval of the Coast Guard's budget than the worst television soap opra.

Because of Gramm-Rudman, we must choose each year between the Coast Guard and trains; the Coast Guard and mass transit; the Coast Guard and highways; the Coast Guard and safe air travel. The administration wants us to turn our back on the transportation needs of the country. Well, we won't do that. But if we don't—under Gramm-Rudman—we have to look somewhere other than the budget of the Department of Transportation to find the Coast Guard.

So every year, we scramble. This year, as in years past, we have turned to the defense budget. And this year, as in years past, we have been helped by our colleagues on the Armed Services Committee and the Defense Appropriations Subcommittee.

As a result, this House has approved funding for Coast Guard operations that matches the amount requested by the President; an amount almost equal to that called for in this authorization bill. In so doing, we will keep the Coast Guard operating; we will maintain the status quo; we will avoid disaster, but given what is at stake; given what we should be doing; that is a very small victory indeed.

Listen again to the rhetoric we have heard throughout this past year.

Who in this Chamber, who in the other body, who in the executive branch, has not joined in in declaring an all out war on drugs?

Who has not reflected on the event of this past March in Prince William Sound and said that we must be better prepared to prevent and respond to oilspills and other environmental disasters at sea?

Who has not learned with anger of foreign fishermen stripmining the North Pacific, killing marine mammals and stealing millions of dollars in American salmon?

Who does not remember which Federal agency was first on the scene to help the victims of Hurricane Hugo in Puerto Rico and elsewhere in the Caribbean?

Who has not read over the past decades of rescue after daring rescue at sea, in all weather conditions, day or night, by young men and women—barely out of their teens—who joined the American military for the express purpose, not of learning how to take lives, but how to save them?

Make no mistake, with the exception of the Internal Revenue Service, the U.S. Coast Guard provides the greatest dollar for dollar value of any agency of the Federal Government. And never have we needed it more.

The legislation we are considering today does not promise the Coast Guard what we cannot deliver, for we are handcuffed by Gramm-Rudman and by those among us who read lips far better than they listen to their own rhetoric about national needs. But this bill does promise the Coast Guard the best deal we can get—a survival budget, a status quo budget, a realistic budget. It is not a great budget, but this is a good bill, and I urge its passage today.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I would point out that this gentleman pointed out earlier that 450 new personnel are going to be required in this new oilspill activity bill we are going to consider, I believe, tomorrow on the floor. Is the gentleman aware that not one dime has been appropriated to fill one of those vacancies yet?

Mr. STUDDS. Mr. Chairman, I understand what the gentleman is saying.

Mr. TAUZIN. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE].

□ 1500

Mr. PALLONE. Mr. Chairman, I also would like to speak in favor of the Coast Guard authorization bill and commend both the chairman of the subcommittee, the gentleman from Louisiana, and also the chairman of the full committee, the gentleman from North Carolina, for putting together this legislation.

In particular I wanted to make reference to the vessel traffic system, also known as the VTS, which is a monitoring network of radar, video systems, and TV cameras that exist in a number of harbors around the country and function as a means of preventing accidents that could lead to the discharge of oil or toxic chemicals. In New York Harbor in particular we are very concerned as a result of the *Exxon Valdez* and other incidents that have occurred over the last few months about the possibility of an oilspill, and recognized from the very beginning after the *Exxon Valdez* accident that within the past year or so, as a result of budget cuts, our vessel traffic system or VTS in New York Harbor has basically been dismantled because of the budget situation in the last fiscal year.

This legislation contains an amendment which I sponsored that would reinstitute or restore the VTS for both New York and New Orleans Harbors, and also make a mandatory checking system for the vessel traffic system. For the first time, vessels would be required, if you will, to check in when they entered the harbor in both port areas.

I think this is a very important amendment and very important piece of legislation that contains this amendment because really this is our first defense, if you will, in the event of an oilspill or any other type of discharge which might affect the waters of the harbor, and hence the other waters in the harbor area. In effect, what we are doing with this is authorizing the VTS to be restored, and at the same time, through the efforts of the Merchant Marine and Fisheries Committee and the Coast Guard Subcommittee we have money in the supplemental appropriation bill which passed earlier this year that appropriates funds to do the first part of the restoration of the VTS in these two harbor areas.

I just think this is a very important measure, if you will; it will go far toward preventing future oilspills and other accidents in the harbor, and I just want to reiterate again my concern that the VTS is a very important part of the Coast Guard authorization bill.

Mr. DAVIS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of the Coast Guard authorization bill and want to compliment the gentleman

from North Carolina [Mr. JONES], chairman of the full committee, the gentleman from Louisiana [Mr. TAUZIN], chairman of the Subcommittee on Coast Guard, and the gentleman from Massachusetts [Mr. STUDDS], who has worked so hard with us as a group trying to provide adequate moneys and authorize adequate moneys for the Coast Guard.

This bill fully funds the Presidential level and it allows a very lean but operative budget. It upgrades the VTS systems around the country, and the bill is $3.4 billion in total.

Some may ask why do we have to spend so much money on the Coast Guard. But as one who has sat on this committee for a considerable length of time, 17 years, I have watched this Congress charge the Coast Guard with mission after mission after mission, without adequately funding those missions we give them a charge to fulfill. Drug interdiction is a big one. Oil cleanup, as we know, is a big one because of the *Exxon Valdez*, and I want to compliment the Coast Guard on their activity. Immigration interdiction, navigation, plastics. We just keep charging the Coast Guard, and yet we have never adequately funded them.

I believe this authorization is a piece of legislation that recognizes the importance of the Coast Guard, not because I am from the interior of the United States. I am not. If I was one of those Members I might well say that this is an awful lot of money here. But when we are fighting the battle of drugs, and we are fighting and trying to have our coast lines clean because we are using the oil that is imported to us, and if we are working toward solving the immigration problems and the plastics that are discharged and affect the marine mammals, then this body has a responsibility to fully fund the Coast Guard, as this bill does.

Again I would like to compliment the Coast Guard and Admiral Yost for his activities in Alaska. They are the one agency that I believe has held their head high during this whole tragic incident.

We hope in future legislation that we will be addressing, if not tomorrow the next day, oilspill liability that we will give the Coast Guard further authority and further funding so that we can have the escort vessels in Alaska that they need and so that we can have the VTS's that we need in New York and New Orleans and the other ports where we import so much of our raw products into the United States and export from the United States, and we have a Coast Guard that has the authortiy to do as we charge them to do. That legislation will be taken up tomorrow.

Again I want to thank the committee for the work they have put forth on this bill, which is a proper piece of legislation, and I urge my colleagues to fully support it.

As I have said before, some of the amendments that will be offered are good amendments, and some that will be offered are not so good. I would ask my colleagues to remember that this bill has gone through the committee process for hour after hour and hearing after hearing with the gentleman from Louisiana [Mr. TAUZIN] and in the full committee with the gentleman from North Carolina [Mr. JONES]. So I suggest as Members listen to make sure the amendments offered to this bill are not mischievous and they are, in fact, amendments that are constructive for the Coast Guard and the missions they are charged with.

Mr. TAUZIN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. BENNETT] having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2459) to authorize appropriations for the Coast Guard for fiscal year 1990, and for other purposes, had come to no resolution thereon.

FURTHER CONFERENCE REPORT ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the House immediately consider and agree to the further conference report to accompany the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, and that said conference report and statement of the managers be considered as having been read.

(For conference report, see proceedings of the House of earlier today.)

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. ROGERS. Mr. Speaker, reserving the right to object, and I will not object, but I make this reservation for the purpose of inquiring of the gentleman from Iowa as to the purpose of the action we are being asked to approve?

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I appreciate the gentleman reserving the right to object and for helping to work out this conference report I want to say I thank the committee for temporarily rising to accommodate a time problem that we have.

As the gentleman from Kentucky knows, we had only three further amendments that were added in the Senate.

We have the alternative on the one most controversial amendment of either keeping all of the departments and agencies on a current rate, or instead of that, releasing all of them except the State Department and USIA. It seemed to everyone that it was better to let the antidrug programs and the remainder of Justice Department, the Judiciary, and the Commerce Department, since they were not a part of the argument over a lack of authorization, go on and have the rate in the conference agreement, and that we would only then be holding the Department of State and USIA to the continuing resolution rate until they worked out the problems on the authorization bill.

Mr. ROGERS. If I may try to help clarify the situation, the conference report for this bill, that was approved by the House, was further amended by the Senate, leaving us with three items that were not agreed to, is that correct?

Mr. SMITH of Iowa. That is true.

Mr. ROGERS. The gentleman is saying that the only one with which we really have any disagreement involves the State Department and U.S. Information Agency appropriations?

Mr. SMITH of Iowa. The gentleman is correct, and we are selecting the lesser of two alternatives, neither one of which is very good.

Mr. ROGERS. So the bottom line is that if we approve this conference report today, that is to agree with the Senate amendment to the conference report with an amendment, the State Department and the U.S. Information Agency would be funded at the current fiscal year 1989 levels, or the levels provided in H.R. 2991 as passed the Senate, whichever is lower.

Mr. SMITH of Iowa. The gentleman is correct.

Mr. ROGERS. Until an authorization bill is passed by both bodies and signed by the President, at which time steps would be taken to restore the agencies' appropriations, is that correct?

Mr. SMITH of Iowa. The gentleman is correct.

Mr. ROGERS. As I understand the gentleman further, and I do not like this situation, and I suspect the chairman does not either, we really have no choice because the alternative is what?

Mr. SMITH of Iowa. The alternative is that leaves all of the departments agencies at the current rate, including the drug enforcement agencies that need an increase right away.

□ 1510

Mr. ROGERS. So if the conference report is not agreed to, then not only would Senate and USIA continue at the continuing resolution rate but also the Justice Department and the Commerce Department.

Mr. SMITH of Iowa. That is right.

Mr. ROGERS. The war on drugs?

Mr. SMITH of Iowa. The whole works.

Mr. ROGERS. The whole thing.

Mr. SMITH of Iowa. Yes.

Mr. ROGERS. Well, as the gentleman knows, I do not like the procedure, but I do not think we have many options available.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. (Mr. BENNETT). Is there objection to the request of the gentleman from Iowa?

There was no objection.

A motion to reconsider was laid on the table.

COAST GUARD AUTHORIZATION ACT OF 1989

The SPEAKER pro tempore. Pursuant to House Resolution 270 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2459.

□ 1511

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2459) to authorize appropriations for the Coast Guard for fiscal year 1990, and for other purposes, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from Louisiana [Mr. TAUZIN] had 17 minutes remaining and the gentleman from Michigan [Mr. DAVIS] had 18 minutes remaining.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Chairman, I start off by saying that I have always enjoyed the rapport with this particular committee that I believe is probably the finest committee in the House. They seem to do all of their work in committee.

I am a little bit biased, though, because I sort of think that Chairman WALTER JONES is about the best Congressman in the whole country.

I must say that.

And to the subcommittee chairman and Mr. DAVIS and the great job that they have done, I thank the gentleman for the opportunity of having this time.

Mr. Chairman, I have a buy-American amendment. My buy-American amendment gives American firms a little bit of a weighted chance if in fact the product is made in America with American hands, and about 50 percent of the contents are domestically produced. It is not really protectionist. I want to take a couple of minutes to apprise Members of Congress of a development this year of something that occurred overseas in Japan.

It came out, I think, in the Wall Street Journal or one of the tabloids, newspapers of our country, that Japanese firms bid as low as 1 yen on Japanese contracts to make sure that American firms did not get their foot in the door.

When it became public, the Japanese said they were embarrassed. I am not going to bash Japan. I do not blame Japan.

After all, after that 60 billion dollars' worth of public works scam 4 years ago when we found out their law said that only Japanese companies can apply, the Japanese said, "Yes, that is true. We decided to keep the jobs and the money in Japan. Second of all, why get on our backs? We here in Japan are here to take care of the American people."

I am saying that we here in Congress, our job is we are a lobbyist, folks. We lobby for the American people in general, and specifically in the district we represent.

I am asking Congress to accept the amendment.

Let me say this for those who doubt the validity of the 1-yen incident: It dealt with the Hiroshima Water Works Co. The contract would have cost $80,000. The 1-yen bid, naturally, was accepted, for less than a piece of bubble gum.

But there is at least one kick in it, the Japanese are not going to throw it all down the tube; the Japanese said, "After all, we have an exclusive contract, and they can't get the service or parts from anybody else, so we will still do OK."

So I would hope that my amendment would be approved.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, I congratulate the full committee and the subcommittee and the chairman of each for this legislation. I mostly congratulate the Coast Guard, however, on the magnificent job it is doing for our country.

I do not believe any agency of Government that I have had any connection with has had more heavy responsibilities placed upon it in the short period of time than the Coast Guard in the field of the fight on drugs, in the field of oilspills, in the field of fishing problems that have arisen: the increased number of people who are in trouble with regard to private recreational vessels.

All kinds of problems are put upon the backs of the Coast Guard in these years that are currently with us. They have done a magnificent job.

The purpose of my speaking at this point is to congratulate the committee on bringing this bill forward and to congratulate the Coast Guard on the great job they are doing for us, and to wish them well in the future.

I would hope that we are not going to have to give them such heavy additional responsibilities in the future as they have had to newly assume in the immediate past.

Again, congratulations to them.

Mr. TAUZIN. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman. I rise today in support of H.R. 2459, the Coast Guard Authorization Act for fiscal year 1990. I want to take this opportunity to thank the Coast Guard and Navigation Subcommittee chairman, BILL TAUZIN, and the Merchant Marine and Fisheries Committee chairman, Walter Jones for their efforts to increase funding for the Coast Guard.

I have worked closely with my colleagues on the Merchant Marine and Fisheries Committee to increase funding for the Coast Guard and this bill reflects those efforts. However, concerns about the level of funds available to the U.S. Coast Guard are ongoing. We are continually asking more and more of the Coast Guard without appropriate adequate funds to carry out these important missions such as drug interdiction.

The cost of drug abuse to our Nation is estimated at $100 billion in 1989 alone. This figure includes drug abuse prevention, treatment, related drug crime, violence, death, property destruction, lost productivity and drug enforcement. We must do everything possible to stop this costly and destructive national crisis.

The Coast Guard is on the front line in the battle against drugs—patrolling our waterways and interdicting drugs before they reach our children. These dedicated men and women regularly risk their lives to stop drugs from coming into our country. On an average day, the U.S. Coast Guard seizes more than 3,500 pounds of marijuana and 35 pounds of cocaine.

Earlier this month, on October 2d, the crew of the new 110-foot Coast Guard cutter, *Cushing*, succeeded in making the largest cocaine seizure in maritime history. Over 6 tons of cocaine was confiscated and several arrests were made. This exemplifies the

critical importance of the Coast Guard's role in our efforts to keep drugs from entering our country and ruining the lives of countless individuals and their families.

The Coast Guard is to be applauded for their heroic efforts. And I believe we must continue to do everything possible to insure that funding for these activities keep pace with our demands on the Coast Guard.

Mr. Chairman, I urge my colleagues to support this bill. It is a positive step toward full funding for the Coast Guard. I am especially pleased that the bill requires the Coast Guard to reestablish vessel traffic services in the New York Harbor and that the bill provides $5 million to be used for the development of techniques to improve the prevention and clean-up of oil and hazardous materials spills. Both of these provisions are vital.

An equally important provision responds to a concern I raised last spring in response to the *Exxon Valdez* oil-spill. It requires the Coast Guard to examine the criminal records of applicants for licenses or merchant seamen's documents to determine if the applicant is a current or chronic abuser of alcohol. The Coast Guard is also granted the authority to revoke or suspend the document or license of any seaman who is found to be a current or chronic abuser of alcohol. I am very pleased that the committee has incorporated these important provisions into the bill.

Mr. Chairman, I urge my colleagues to support this important bill.

Mr. TAUZIN. Mr. Chairman, I commend the gentlewoman from New York for the excellent work she did, particularly in assuring that the licensed captains of tankers will be properly licensed in the future.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ORTIZ].

□ 1520

Mr. ORTIZ. Mr. Chairman, I rise in support of the bill H.R. 2459, the Coast Guard Authorization Act of 1989.

I commend my colleagues, the gentleman from North Carolina [Mr. JONES] and the gentleman from Louisiana [Mr. TAUZIN], for all their hard work in putting together this bill which includes much needed improvements and additions to the U.S Coast Guard and also recognizes the need to provide additional funding for the Coast Guard to fight the war on drugs.

As a member of the Coast Guard Subcommittee of the Merchant Marine and Fisheries Committee, and a representative of a Gulf Coast area, I supported full funding for the Coast Guard.

This authorization bill calls for increased funds for operating and maintenance expenses, for additional personnel and for the expansion of the Coast Guard fleet.

This authorization bill includes $151 million for the purchase of at least 20 highspeed patrol boats for its drug interdiction efforts.

It also provides $24 million to mount an Airborne early warning radar on a C-130 aircraft to improve surveillance and interdiction capabilities.

Although the Coast Guard has not yet determined the locations of where the 20 vessels will be assigned, because of the proximity of my Congressional District to the United States Mexican border, I feel certain that South Texas will receive the additional support it needs.

Increased support by the Congress for stepped-up drug efforts are crucial.

By our Nation as a whole, recognizing the serious problem we are facing in our war against drugs, this is sending a clear message to my constituents that we are united in envisioning the day we can be a drug-free nation.

I support H.R. 2459, and urge my colleagues to support passage of this bill.

Mr. DAVIS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield such time as he may consume to gentleman from Florida [Mr. HUTTO], the former chairman of the Subcommittee on Coast Guard and Navigation.

Mr. HUTTO. Mr. Chairman, I wish to commend all of the Subcommittee on Coast Guard and Navigation for the hard work they have put into this legislation.

As Members know, for a number of years we have been trying to get a sufficient level of funding for the United States Coast Guard, and it has been very hard to come by. We have talked about putting it in another department because it has to vie with so many other agencies for funding, including mass transit, highway funds, and many other funding purposes.

I think now the Nation, as well as the Congress, realizes that we have to provide a sufficient level of funding for the Coast Guard to do its job. Through the years we have mandated so many missions for the Coast Guard to carry out, but have not provided the funds to do it.

I want to commend the gentleman, and congratulate the gentleman on getting the amendment to the transportation appropriations bill for the Coast Guard. I am assuming that the authorization level that the gentleman is asking for in this, parallels the amount that was in the appropriations bill. Is that pretty close to correct?

I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, it actually exceeds the amount from the appropriations bill.

Mr. HUTTO. That is the usual case.

How about the amount provided for drug interdiction? That is a big problem we are confronting on a regular basis.

Mr. TAUZIN. It is consistent with the President's request in the area.

I would like to remind the gentleman that we are facing sequestration, and my understanding is it is drug interdiction funds for the Coast Guard that are getting sequestered. Therefore, it is a major problem.

Mr. HUTTO. It is a major problem. I hope we can pass, not only the authorization bill, but pass the other measures that would mitigate the sequestration.

I thank the gentleman for yielding.

Mr. TAUZIN. Mr. Chairman, I want to thank the gentleman publicly. He had chaired the subcommittee, and has moved on to chairman of the Subcommittee on Readiness of the Committee on Armed Services. Were it not for his help and others who represent DOD funding, the Coast Guard could not perform its mission. Work that he and others have done has ensured that DOD money supplements the appropriations we have been able to provide for the Coast Guard which is making a big difference. I thank the gentleman for his help.

Mr. Chairman, I request all my colleagues' support in this bill.

Mr. GEJDENSON. Mr. Chairman, I rise in support of H.R. 2459, legislation to reauthorize the U.S. Coast Guard for fiscal year 1990. As an original cosponsor of this legislation and long-time supporter of the Coast Guard, I would like to commend my colleagues Congressman TAUZIN and DAVIS, chairman and ranking member of the Coast Guard Subcommittee and Congressman JONES, chairman of the Merchant Marine and Fisheries Committee for their work on this bill, their commitment to the Coast Guard, and for bringing this important bill to the floor today.

This legislation increases funding levels for the Coast Guard. It sets priorities for the Coast Guard and recognizes the increasingly important role that the Coast Guard is playing, not just for traditional boating and marine safety but in Federal environmental and national security policies. I would especially like to point to the $24 million authorized in this legislation, an increase of $5 million from the original draft of the legislation for research and development. This legislation recognizes the important work done at the Coast Guard research and development center in Groton, CT and the potential for developing technology to allow the Coast Guard to more effectively carry out its mission.

Since its inception, the mission and responsibility of the Coast Guard has expanded. We depend on the Coast Guard to minimize loss of life, injury and property. We depend on the Coast Guard to defend our shores in times of war. We count on the Coast Guard for enforcement of international maritime laws and agreements. We depend on the Coast Guard to maintain the safety of vessels, ports and

waterways. In addition, the Coast Guard has been given responsibility for protecting the marine environment and for enforcing environmental laws.

On an average day in 1987, Coast Guard personnel saved 16 lives or 1 life of every 91 minutes. During the same period, the Coast Guard assisted 361 people and saved $2,482,357 in property. On an average day Coast Guard personnel completed 154 search and rescue cases. Coast Guard marine safety personnel worked 23 oil and hazardous chemical plants and they boarded 43 vessels for port safety checks.

In the Narragansett Bay, off the coast of Rhode Island, recently, a disaster was avoided because of the quick action taken by the Coast Guard to contain the spill of a Greek tanker that hit a reef and spilled nearly a million gallons of highly toxic fuel oil. This spill was quickly contained because of the swift movement of the Coast Guard.

Mr. Chairman, the Coast Guard has taken on additional responsibility for drug interdiction to prevent illegal drugs from coming into this country. On an average day in 1987, the Coast Guard interdiction efforts netted 3,568 pounds of marijuana, 35 pounds of cocaine, and helped other agencies confiscate 243 pounds of marijuana and 26 pounds of cocaine. Each day, on average, the Coast Guard arrested two drug smugglers. The street value of the illicit drugs seized by coastguardsmen on an average day was $6,431,507 or $12,034 every minute.

To help meet the challenges presented to it in the efforts to fight the war on drugs, in finding ways to prevent oil and chemical spills, to find better ways to cleanup spill once they have occurred and to more effectively carryout its mission, the Coast Guard has placed a great deal of emphasis on its research and development work and this legislation recognizes that need and desire of the Coast Guard.

The Coast Guard's oil identification laboratory, developed and based at the research and development center in Groton, CT, has played a crucial role in discovering who is responsible for oil and hazardous material spills. The Coast Guard Oil Identification Laboratory [COIL] has performed more than 60,000 analyses, involving more than 3,000 cases since its inception in 1978. It has been recognized as a powerful tool for determining the source of oil spills both large and small. This process has made it possible to match a spilled oil with its correct source. This process has also allowed us to find those responsible for a significant number of spills, saving taxpayers large amounts of money in cleanup costs, allowing Federal cleanup dollars expended during an incident to be recovered and enabling the enforcement authorities to assess penalties against those who violated the Federal water quality laws.

In the recent oil spill of the *Exxon Valdez* in the Prince William Sound, where 11 million gallons of crude oil were spilled into one of America's most pristine coastlines and crude oil spread into a slick covering more than 1,600 square miles, the Coast Guard served as the on-scene coordinator, supervising the cleanup and coordinating the Federal response. The Coast Guard Research and Development Center also became the clearinghouse for the more than 600 proposals and suggestions brought to the Coast Guard. Because of their expertise and experience, the R&D center was given the task of reviewing the proposals and evaluating their potential for immediate test and evaluation for application in the Valdez cleanup effort, and their potential for future application.

In addition, the R&D center has been a leader in developing technology to fight the war on drugs more effectively. Work at the center has lead to the development and implementation of unmanned blimps with radar. This enables the Coast Guard and other drug enforcement agencies to see further than surface ships and detect drug traffickers attempting to smuggle shipments of illegal drugs into the United States. I hope that the Coast Guard and the Congress will continue to support the work done at the research and development center which enables the U.S. Coast Guard to carry out its important and expanding missions effectively.

Again, I would like to commend the Merchant Marine Committee and Congressman TAUZIN and Congressman DAVIS for increased funding for research and development and recognizing the increasingly important role that research and development plays in allowing the Coast Guard to carry out the increased number of responsibilities given to it.

Mr. Chairman, I am very proud of the work done by the Coast Guard. It is often a thankless job, but it is one that is vital to the health and safety of the American people and to the security of the United States. This legislation takes an important step in recognizing their role and their importance. I encourage my colleagues to join me in supporting this important legislation.

Mr. CONTE. Mr. Chairman, I want to take a few minutes to talk about helping the Coast Guard. The Coast Guard's appropriation for fiscal year 1990 is almost on the President's desk, and just today we got around to authorizing the programs. Mr. Chairman, this is not the first time that the cart has gone ahead of the horse, and unless the authorizing committee works with more speed, it won't be the last.

We took care of the Coast Guard in appropriations, giving it $2.93 billion under Transportation with another $300 million on its way in the Defense appropriations bill. That's a $100 million increase for the Coast Guard over last year. Mr. Chairman, 20 years ago when there was no authorizing committee, we took care of the Coast Guard, and we'll do so regardless of there being no authorization.

The hard part—and the members of the Merchant Marine Committee ought to know this, since I tell them every year—the hard part is that the Coast Guard has to compete with the FAA, mass transit, highways, and everything else for the same pot of money. When Gramm-Rudman-Hollings started the squeeze, I fought to keep the Coast Guard adequately funded. I even turned to taking some money from defense, with my good friend TED STEVENS from Alaska, to carry the Coast Guard through.

Meanwhile my friends on the Merchant Marine Committee ignored the one major step which could raise $150 million for the Coast Guard. My Coast Guard user fee would do that. All a boater need do is go down to the Post Office and buy a $25 stamp, lick it, and put it on the boat. That's all it takes to raise $150 million directly for the Coast Guard's operating expenses.

Mr. Chairman, the Merchant Marine Committee complained about the lack of funds for the Coast Guard when the transportation Appropriations bill was on the floor last August. Bowing to pressure from boaters—who on average spend over $7,000 to buy a boat, but feel victimized by a $25 charge to help out the Coast Guard—they refused to consider my user fee proposal.

But now the committee has a golden opportunity to show how willing it is to help the Coast Guard get the resources it needs.

In the reconciliation bill there is a $50 million voluntary Coast Guard user fee provision, put in by Senator STEVENS. A boater would just need to buy a stamp which would exempt him from any fees charged by the Coast Guard for services rendered. Otherwise he would pay for specific services provided by the Coast Guard, such as a tow or nonemergency assistance. It will raise $50 million of real revenue—there's no gimmickry or fake savings. It's exactly what President Bush just called for on reconciliation: Real savings with no smoke and mirrors.

The user fee provision needs to stay in reconciliation. The Merchant Marine Committee is $159 million short of the $200 million total savings requirement it was directed to meet in reconciliation, $159 million. That's got to be made up by what's on the table, and the issue on the table is user fees. Or does the committee plan to ignore its budget responsibilities and fail to meet its deficit reduction obligations? I don't think any committee should be allowed to duck on the issue.

That kind of irresponsible behavior is going to lead to a permanent sequester—and the Coast Guard will take reductions from a sequester like everyone else.

Mr. Chairman, if the Merchant Marine Committee members want to help the Coast Guard and meet their budget responsibilities, then they ought to get behind the user fee provision. I'd like to see those words of support for the Coast Guard translate into real action.

Mr. CLEMENT. Mr. Chairman, I am proud to join my chairman, BILLY TAUZIN, and the other members of the Coast Guard Subcommittee, in support of the Coast Guard authorization bill for fiscal year 1990.

Mr. Chairman, let me first commend the work of my chairman. Representative BILLY TAUZIN has ably led our committee and, as evidenced by his Coast Guard funding amendment adopted during consideration of the transportation appropriations bill, his support for and his willingness to fight for the Coast Guard are second to none.

The bill before the House is the product of Chairman TAUZIN's leadership and the support he has earned from all members of the committee. The bill provides the resources the Coast Guard needs to serve our Nation and I urge my colleagues to support it.

Mr. Chairman, I am especially proud of the high-visibility role the Coast Guard has in serving our Nation. From coastal defense to boat-

ing safety to search and rescue to law enforcement, including drug interdiction, the Coast Guard's multimission role poses great challenges to, as well as great excitement for, the men and women of this organization.

Earlier this year, I had the pleasure of visiting with some Coast Guard officers and enlisted personnel while touring Coast Guard bases and facilities in south Florida, Puerto Rico, and the Virgin Islands. I was very impressed with the dedication, skill, and courage of these men and women—perhaps no better exemplified than by the officers and crew of the Coast Guard cutter *Nantucket*.

The officers and crew of the cutter *Nantucket* exhibited the many fine qualities which the citizens of our Nation desire and deserve from the unformed men and women of our military services. And, I firmly believe that we here in Congress must work to assure that the many thousands of Coast Guard men and women who serve our Nation have the resources they need to complete their mission and carryout their assignment.

The task assigned the Coast Guard is great. I believe that the bill before us is an important step in providing the Coast Guard with the resources necessary for meeting its responsibilities and I urge my colleagues to support the bill.

Mr. BONIOR. Mr. Chairman, more than any other Federal agency, the Coast Guard addresses our diverse national priorities—from the environment to personal safety; from trade to drugs. Nowhere is their mission more vital than in my State. In Michigan, the Coast Guard protects a way of life.

The Great Lakes supply us with drinking water. They serve as a home to hundreds of different species of fish and plants. The Great Lakes are the byways that serve our State economy. They support the livelihood of fishermen and others. And they provide hours and hours of recreational opportunities whether it be boating, swimming, or fishing.

Frankly, it doesn't require an active imagination to see what an oilspill would do to my area of the country. While the Great Lakes' oil tankers may not be 978 feet long, they carry refined oil—not crude oil. If we have a spill of refined oil, it is not going to be easy to contain.

Mr. Chairman, last spring's tragedy in Valdez, AK and the smaller spills around the country this summer have highlighted the inadequacies of our cleanup capabilities. We simply do not have the technology. This bill provides $24 million for the research and development of new technologies. This is critical for our future spill response initiatives.

This bill also takes steps to fully mobilize the Coast Guard in the war on drugs. There is no problem so deeply destructive to our communities, our schools, our families, and our youth than the sourge of drugs. If we are serious about reducing the demand for drugs, we have got to take away the temptation. We have got to stop drugs at the border. This bill provides an additional $10 million over last year's figure for our drug interdiction efforts. This funding is an investment in the health of our Nation and the lives of our children.

Third, Mr. Chairman, we must take steps to stop the slow elimination of our fish and wildlife in the Great Lakes area. Last year, three State hatcheries in Wisconsin and Michigan lost their entire young lake trout populations and the cause of this catastrophic loss remains unknown. We've also suffered invasions from the zebra mussel, spiny water flea, and river ruffe. This bill will help us control the introduction of exotic and destructive species in our waters.

The Coast Guard funding for fiscal year 1990 also contains some much-needed funding for the Coast Guard stations in my district. As you may know, Mr. Chairman, the 12th Congressional District of Michigan, which I have the privilege of representing in Congress, is home to the largest concentration of recreational boaters in the United States. All of those boaters, whether they travel by wind or motor, whether they are racing or fishing, rely on the services that the Coast Guard provides.

I am pleased that we have fully funded the Coast Guard stations in St. Clair Shores and Port Huron for fiscal year 1990. The St. Clair Shores station is in the midst of a massive renovation project which is expected to be completed by the peak of the boating season next summer. The Port Huron station is one of the most cost-effective stations in the Great Lakes and will continue to serve the boaters in the St. Clair River and lower Lake Huron.

These stations and the funding that make their operations possible are important in providing rescue, safety, and enforcement services to the boaters of the 12th District. I am proud of my role in securing that funding and will continue to work for adequate Coast Guard funding for the Great Lakes.

The Coast Guard has a long and proud tradition of service to our country. They protect our waters across the Nation and they protect our way of life in Michigan. I urge my colleagues to support this measure.

Mr. TAUZIN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 2459, the Coast Guard Authorization Act of 1989. I wish to commend the gentleman from Louisiana [Mr. TAUZIN], the distinguished chairman of the Coast Guard Subcommittee, as well as the ranking Republican member, the gentleman from Michigan [Mr. DAVIS], for bringing this measure to the floor.

Mr. Chairman, I have long recognized the outstanding service to our Nation provided by the young men and women who make up our Coast Guard. As a senior member of the Select Committee on Narcotics, I have been particularly pleased with the outstanding commendations universally acclaimed for our Coast Guard's drug interdiction efforts.

The U.S. Coast Guard has served our Nation with honor and distinction both in times of war and in times of peace. This legislation authorizes $2.3 billion for the Coast Guard to continue the provision of vital services: To enforce customs laws; provide lifesaving, training, and other safety-related functions; assist in water pollution and oilspill control; enforce fisheries laws and protection of our territorial waters; and, of course, provide assistance to stop the influx of illegal narcotics at our Nation's borders. The total level of funding in this bill represents an increase of $3 million above the President's request and $477 million above the authorization for fiscal year 1989.

Mr. Chairman, recently we were pleased to commemorate the 200th anniversary of the Coast Guard's founding on August 4, 1790. I am confident that my colleagues in the Congress share my pleasure in observing the tremendous progress made since that time by this smallest branch of our Armed Forces. Accordingly, I urge my colleagues to join in supporting H.R. 2549, the Coast Guard Authorization Act of 1989.

Mr. RANGEL. Mr. Chairman, I am pleased to support H.R. 2459, the Coast Guard Authorization Act of 1989. This bill funds essential activities of the Coast Guard for fiscal year 1990. While the Coast Guard is perhaps best known for its search and rescue and drug interdiction activities, it also performs responsibilities relating to marine safety, marine environmental protection, marine science and polar ice operations, and military readiness.

The administration requested a total of $3,374 million for the Coast Guard for fiscal year 1990. H.R. 2459, authorizes $3,377 million for Coast Guard programs. This is a $3 million increase over the administration's request. With regard to drug interdiction, President Bush requested an additional $10 million for this mission over what was contained in the previous administration's budget request. H.R. 2459 contains this additional amount.

Mr. Chairman, I understand that it is the intent of the House Committee on Merchant Marine and Fisheries that the Coast Guard not divert resources from its other missions to fund increases in its drug interdiction mission. Therefore, section 218 of H.R. 2459 prohibits the Coast Guard from reducing any activity carried out in fiscal year 1990 below the amount spent in fiscal year 1989 in order to increase drug interdiction activities.

That this provision was necessary, in the view of the Merchant Marine and Fisheries Committee, to strike a fair balance between the Coast Guard's crucial drug interdiction mission and its other important responsibilities, highlights the central dilemma of trying to fund an all out war on drugs in the current budgetary climate. Drugs are unarguably one of the gravest threats to our country today. The American people want their Government to fund a strong antidrug effort, and they have indicated that they are willing to pay higher taxes to do it. In this respect, they are ahead of their political leadership. The war on drugs must be a top national priority, but we should not try to fund this war by cutting funds for other important programs and services. As the Coast Guard authorization bill makes clear, we will not be able to commit the additional resources needed for a true war on drugs unless we can come up with the additional revenue to support that effort. Robbing Peter to pay Paul is no way to fight a war.

Regarding funding, the Coast Guard received fairly level funding between 1983 and 1987. However, in 1988, the Coast Guard suffered a $103 million shortfall in its appropriations. This cut forced the Coast Guard to drastically scale back drug interdiction and to close or reduce the manning of a number of units. A supplemental appropriation of $60 mil-

lion enabled the Coast Guard to resume its drug interdiction activities.

For Coast Guard operation and maintenance H.R. 2459 authorizes $2,285,200,000, for acquisition and construction $645,050,000, and for research and development $24 million. Of the operation and maintenance funding an amount equal to not more than $39,600,000 shall be used to increase by not more than 1,100 the number of active duty personnel, provided appropriations for this account exceed the $2.24 billion requested by the administration. Despite the steady increase in its responsibilities because of the passage of the Coast Guard High Seas Drug Law Enforcement Act of 1980, the Anti-Drug Abuse Acts of 1986 and 1988, and other laws, the Coast Guard's end-of-year strength of military and civilian permanent personnel is projected to be 43,927 at the end of fiscal year 1990. This number is 1,878 less than the comparable figure of 1980. As of September 30, 1990, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,299. This represents an increase of 1,100 personnel above the administration's request, and is needed to carry out oilspill responsibilities and to maintain its current operational levels in the war on drugs.

Of the acquisition and construction funding of $645,050,000, $151 million shall be used to procure at least 20 high-speed patrol vessels not later than 6 months after the date of the enactment of this act. At present, the Coast Guard operates various size boats, including 16 95-foot cutters, 53 82-foot cutters, 3 110-foot surface effect ships and 37 relatively new 110-foot *Island* class cutters. The Coast Guard's long-term plans for replacing the 82-foot patrol boats rest largely with the new *Heritage* class cutters. However, even if there are no significant delays it could take as many as 7 years to get the first production *Heritage* class cutter into service. Also, $24 million is earmarked to mount an airborne early warning radar on a C–130 aircraft to improve Coast Guard surveillance and drug interdiction capabilities.

Mr. Chairman, H.R. 2459 contains many other worthwhile provisions which I support including two provisions, sections 215 and 219, requiring the Secretary of Transportation to examine the criminal records of license applicants and current license holders seeking renewal and to suspend or revoke the license of any seaman who is a current or chronic alcohol abuser, and directing the Secretaries of the Treasury and Transportation to develop a procedure for the "constructive seizure" of coastwise trading vessels on which drugs are found. This new procedure will protect innocent owners from the economic impact of an actual seizure of their commercial vessels while investigations of possible drug violations are conducted.

H.R. 2459 requires the Transportation and Defense Departments to establish a plan to close existing gaps in radar coverage along the southeast Atlantic coastline, and requires that the Coast Guard identify the needs and costs of outfitting existing aircraft with proper surveillance and reconnaissance equipment to improve the Guard's drug interdiction capabilities.

Mr. Chairman, H.R. 2459 contains important provisions designed to bolster America's efforts in the war against drugs. It was carefully crafted by Chairman WALTER JONES and the other members of the Committee on Merchant Marine and Fisheries. I urge other Members of Congress who are concerned about our Nation's war on drugs to support H.R. 2459.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 2459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1989".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF FUNDS FOR FISCAL YEAR 1990.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1990, as follows:

(1) OPERATION AND MAINTENANCE.—For the operation and maintenance of the Coast Guard, $2,285,200,000. Of amounts appropriated under the authority of this paragraph in excess of $2,242,000, an amount equal to not more than $39,600,000 shall be used to increase by not more than 1,100 the number of active duty personnel.

(2) ACQUISITION AND CONSTRUCTION.—For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including related equipment, $645,050,000, to remain available until expended. Amounts appropriated under the authority of this paragraph in excess of $438,300,000 shall be used as follows:

(A) $151,000,000 shall be used to procure at least 20 high-speed patrol vessels not later than 6 months after the date of the enactment of this Act.

(B) $24,000,000 shall be used to mount an Airborne Early Warning radar on a C–130 aircraft.

(C) $20,000,000 shall be used to rehabilitate the Coast Guard cutter Mackinaw.

(D) $10,000,000 shall be used to acquire 12 modified AN/SQQ–T1 antisubmarine warfare trainers for the Coast Guard's 378-foot cutters.

(E) Not more than $1,000,000 shall be used to continue the procurement of a polar-class icebreaker.

(F) $750,000 shall be used to procure not more than 6 rigid-hulled inflatable, jet-propelled emergency rescue boats suitable for carrying out search and rescue missions in shallow waters. The acquisition of the boats authorized by this subparagraph is not subject to section 665 of title 14, United States Code, unless otherwise available in accordance with that section.

(3) RESEARCH AND DEVELOPMENT.—For research, development, test, and evaluation, $24,000,000, to remain available until expended, of which $5,000,000 shall be used to examine, investigate, and develop improved methods and techniques for the prevention and mitigation of oil and hazardous material spills on the navigable waters of the United States, including arctic waters.

(4) RETIREMENT BENEFITS.—For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $420,800,000, to remain available until expended.

(5) ALTERATION OR REMOVAL OF BRIDGES.—For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $2,300,000 for fiscal year 1990.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1990.

(a) ACTIVE DUTY PERSONNEL.—As of September 30, 1990, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,299. This authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) STUDENT LOADS.—For fiscal year 1990, the Coast Guard is authorized average military training student loads as follows:

(1) RECRUIT AND SPECIAL TRAINING.—For recruit and special training, 2,757 student years.

(2) FLIGHT TRAINING.—For flight training, 110 student years.

(3) PROFESSIONAL TRAINING.—For professional training in military and civilian institutions, 390 student years.

(4) OFFICER ACQUISITION.—For officer acquistion, 900 student years.

SEC. 103. ACQUISITION OF ADDITIONAL ICEBREAKERS.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may acquire additional icebreakers by either—

(1) entering into a multiyear lease for the purpose of acquiring those icebreakers under a bareboat charter, for a term not to exceed 30 years; or

(2) direct purchase.

(b) DETERMINATION OF METHOD AND TERMS.—The Secretary of the department in which the Coast Guard is operating shall—

(1) determine which method described in subsection (a) for acquiring additional icebreakers is in the best interest of the United States;

(2) determine the appropriate terms and conditions of any agreement to acquire icebreakers under this section; and

(3) ensure that any vessel acquired under subsection (a) meets the requirements under section 665 of title 14, United States Code for a vessel to be constructed for the Coast Guard.

SEC. 104. MODIFICATION AND EXTENSION OF RULES OF ROAD ADVISORY COUNCIL AND EXTENSION OF TOWING SAFETY ADVISORY COMMITTEE.

(a) RULES OF THE ROAD ADVISORY COUNCIL.—

(1) MODIFICATION AND EXTENSION.—Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended as follows:

(A) Subsection (a) is amended by striking "Rules of the Road Advisory Council" and inserting "Navigation Safety Advisory Council".

(B) Subsection (b) is amended to read as follows:

"(b) The Council shall advise, consult with, and make recommendations to the Secretary on matters relating to the prevention of collisions, rammings, and groundings, including the Inland Rules of the Road, the International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. Any advice or recommendation made by the Council to the Secretary shall reflect the independent judgement of the Council on the matter concerned. The Council shall meet at the call of the Secretary, but in any event not less than twice during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection.".

(C) Subsection (d) is amended by striking "September 30, 1990" and inserting "September 30, 1995".

(2) REFERENCES.—Each reference to the Rules of the Road Advisory Council in a law, regulation, order, document, record, or paper of the United States is deemed to be a reference to the Navigation Safety Advisory Council.

(b) TOWING SAFETY COMMITTEE.—Subsection (e) of the Act entitled "An Act to establish a Towing Safety Advisory Committee in the Department of Transportation", approved October 6, 1980 (33 U.S.C. 2131a(e)), is amended by striking "September 30, 1990" and inserting "September 30, 1995".

SEC. 105. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE APPOINTMENTS.

Section 4508 of title 46, United States Code, is amended by adding at the end of subsection (b)(2) the following: "The Secretary may not seek, nor take into account, information concerning the political affiliation of individuals considered for appointment to the Committee."

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 8, after line 3, insert the following new section:

SEC. 106. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY SECRETARY.—If the Secretary, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so requires, the Secretary may award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Secretary shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are authorized by this Act (including the amendments made by this Act) to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Secretary shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Secretary shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(2) DOMESTIC FIRM.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, buy American amendment is standard. Buy American language has been adopted onto more than a dozen authorization bills now in the House. It gives a small preferred advantage to American companies, when bidding against foreign companies, for American taxpayer dollars relative to this authorization act, provided that the product is literally put together and assembled by American hands.

Second of all, that it contains at least 50 percent contents that were domestically produced.

I think it offers again an opportunity that instead of having just food stamps, housing vouchers, welfare, we get a chance to keep a couple of companies alive on closed competitive bidding procedures, where many times other foreign firms come in with lower labor wages and come in with loss leaders. I think it is good language. It is a reasonable type of procurement policy. Without question, it is an attempt to get our foot in the door and hopefully down the line with leadership from leaders on the other side like the gentleman from New York [Mr. SOLOMON], the gentleman from Michigan [Mr. DAVIS], and others, maybe we can even give a better shot to American firms.

Mr. Chairman, I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding. This gentleman wishes to acknowledge the contributions of the gentleman from Ohio, and acknowledge that he has a good amendment. We are prepared to accept his amendment, and it has nothing to do with the kind and gentle words that he had for our illustrious chairman, the gentleman from North Carolina [Mr. JONES].

Mr. TRAFICANT. Mr. Chairman, I appreciate those remarks.

I yield to the distinguished minority member, the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS. Mr. Chairman, I appreciate the gentleman yielding.

We talked about a friendly amendment that I have to his amendment.

MODIFICATION OFFERED BY MR. DAVIS TO THE AMENDMENT OFFERED BY MR. TRAFICANT

Mr. DAVIS. Mr. Chairman, I ask unanimous consent to amend line 10 and change the 50 percent to 51 percent.

The CHAIRMAN. The Clerk will report the modification to the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The Clerk read as follows:

On page 1, line 10, strike "50" and insert "51.".

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. TRAFICANT. Mr. Chairman, reserving the right to object, and I will not object, but I would just like to say that I am delighted to see that type of response and that change coming from the ranking member.

Mr. DAVIS. Mr. Chairman, let me just say the reason for that is I serve on the Committee on Armed Services, and in the Defense Department in almost every instance when we have a Buy American issue, it normally is considered that we have to have 51 percent built, or the value be built in the United States to qualify there. So it makes it consistent to what happens with the Department of Defense. I think it is better to have 51 percent than 50 percent, which is over half.

Mr. TRAFICANT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the modification is granted.

There was no objection.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman for Ohio [Mr. TRAFICANT].

The amendment, as modified, was agreed to.

AMENDMENTS OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer several amendments and I asks unanimous consent they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. TAUZIN: Page 5, lines 14 and 15, strike "entering into a multiyear lease for the purpose of acquiring" and insert "a multiyear lease to acquire".

Page 6, line 6, insert a comma after "United States Code".

Page 9, line 20, strike "sentence', except" and insert "sentence ', except".

Page 9, line 25, strike "and" the second place it appears.

Page 10, line 8, strike "requires," and insert "requires.'; and".

Page 10, amend line 11 to read as follows: "in an active status" the third time it appears.

Page 12, line 24, strike "any" and insert "a".

Page 15, lines 23 and 24, strike "(Public Law 92-340, 86 Stat. 424)." and insert "(33 U.S.C. 1221 et seq.).".

Page 20, line 10, strike "conduct a review of" and insert "review".

Page 20, line 17, strike "conduct a review of" and insert "review".

Page 23, line 18, strike "$5,000" and insert "not more than $5,000".

Page 23, line 24, strike "(a)(1)" and insert "(a) CONVEYANCE.—(1)".

Page 24, line 11, strike "(b) The conveyance" and insert "(b) TERMS AND CONDITIONS.—The conveyance".

Page 24, line 21, strike "(c) The conveyance" and insert "(c) REQUIREMENTS.—The conveyance".

Page 25, line 15, strike "(d) The Secretary" and insert "(d) PROPERTY DESCRIPTION.—The Secretary".

Page 25, line 18, strike "(e) For purposes" and insert "(e) DEFINITION.—For purposes".

Mr. TAUZIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Chairman, these amendments are merely technical in nature, to correct grammatical errors in the bill, and to correct punctuation. I ask they be adopted.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendments were agreed to.

The CHAIRMAN. Are there any other amendments to title I? If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—PROGRAMS

SEC. 201. TECHNICAL AMENDMENTS TO ACT TO PREVENT POLLUTION FROM SHIPS

The Act to Prevent Pollution from Ships (33 U.S.C. 1901-1912) is amended—

(1) in section 6(c)(1), by striking "Annex V" and inserting "Annex I and Annex II";

(2) in section 8(c)(1), by inserting "or of this Act" after "Convention"; and

(3) in section 8(e)(2), by inserting "or of this Act" after "MARPOL Protocol".

SEC. 202. TECHNICAL CORRECTIONS RELATING TO SAFEGUARDING MILITARY WHISTLEBLOWERS.

Section 1034 of title 10, United States Code, is amended—

(1) in subsection (c)(1), by inserting "when the Coast Guard is not operating as a service in the Navy" immediately after "in the case of a member of the Coast Guard";

(2) in subsection (c)(5), by inserting "(or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy and to that member)" immediately after "to the Secretary of Defense";

(3) in subsection (c)(6), by inserting "(or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy and to that member)" immediately after "to the Secretary of Defense"; and

(4) in the first sentence of subsection (e), by inserting "(except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)" immediately after "former member of the armed forces".

SEC. 203. MISCELLANEOUS PROVISIONS CONCERNING CONTINUITY OF GRADE, APPOINTMENT, AND RETIREMENT OF COAST GUARD PERSONNEL.

Title 14, United States Code, is amended—

(1) in section 52, by inserting "or admiral" immediately after "to another position as a vice admiral";

(2) in section 271(e), by inserting at the end of the first sentence", except that appointments under this section in the grade of lieutenant (junior grade) or lieutenant shall be made by the President alone" immediately after "consent of the Senate";

(3) in section 289(c), by striking "no less than 75 percent" and inserting "no less than 50 percent"; and

(4) in section 736(c), by adding at the end the following new sentence: "However, the Secretary may adjust the date of appointment—

"(1) if a delay in the finding required under section 734(a) of this title is beyond the control of the officer and the officer is otherwise qualified for promotion; or

"(2) for any other reason that equity requires."

(5) in section 741(a), by inserting "who have 18 years or more of service for retirement and are" after "in an active status".

SEC. 204. AUTHORIZATION OF JUNIOR RESERVE OFFICERS TRAINING PROGRAM PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the "Secretary") may carry out a pilot program to establish and maintain a junior reserve officers training program in cooperation with the Dade County Public School System of Dade County, Florida, as part of the Maritime and Science Technology Academy established by that school system (hereinafter in this section referred to as the "Academy").

(b) PROGRAM REQUIREMENTS.—A pilot program carried out by the Secretary under this section—

(1) shall be known as the "Claude Pepper, Junior Reserve Officers Training Program"; and

(2) shall provide to students at the Academy—

(A) instruction in subject areas relating to operations of the Coast Guard; and

(B) training in skills which are useful and appropriate for a career in the Coast Guard.

(c) PROVISION OF ADDITIONAL SUPPORT.—To carry out a pilot program under this section, the Secretary may provide to the Academy—

(1) assistance in course development, instruction, and other support activities;

(2) commissioned, warrant, and petty officers of the Coast Guard to serve as administrators and instructors; and

(3) necessary and appropriate course materials, equipment, and uniforms.

(d) EMPLOYMENT OF RETIRED COAST GUARD PERSONNEL.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the Secretary may authorize the Academy to employ as administrators and instructors for the pilot program retired Coast Guard and Coast Guard Reserve commissioned, warrant, and petty officers who request that employment and who are approved by the Secretary and the Academy.

(2) EMPLOYMENT CONDITIONS.—(A) The Academy shall pay to each individual employed by the Academy under this subsection, as compensation for that employment, an amount equal to the difference between—

(i) the amount the individual would be paid as pay and allowance if they were considered to have been ordered to active duty during that period of employment; and

(ii) the amount of retired pay the individual is entitled to receive during that period.

(B) The Secretary shall pay to the Academy an amount equal to one half of the amount described in subparagraph (A) of this paragraph, from funds appropriated for that purpose.

(C) Notwithstanding any other law, while employed under this subsection, an individual is not considered to be on active duty or inactive duty training.

SEC. 205. LIMITATIONS ON CONTRACTING OF COAST GUARD SERVICES.

Notwithstanding any other provision of law, an officer or employee of the United States may not enter into any contract for procurement of performance of any function being performed by Coast Guard personnel as of January 1, 1989, before—

(1) a study has been performed by the Secretary of Transportation under the Office of Management and Budget Circular A-76 with respect to that procurement;

(2) the Secretary of Transportation has performed a study, in addition to the study required by paragraph (1) of this subsection, to determine the impact of that procurement on the multimission capabilities of the Coast Guard; and

(3) copies of the studies required by paragraphs (1) and (2) of this subsection are submitted to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 206. LOCAL HIRE.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 666. Local hire

"(a) Notwithstanding any other law, each contract awarded by the Coast Guard for construction or services to be performed in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of Transportation may waive the requirements of this subsection in the interest of national security or economic efficiency.

"(b) LOCAL RESIDENT DEFINED.—As used in this section, 'local resident' means a resident of, or an individual who commutes daily to, a State described in subsection (a).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"666. Local hire.".

SEC. 207. REPORT ON CONTROL OF EXOTIC SPECIES.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Congress a report on the options available to control the infestation of the waters of the United States, including the Great Lakes, by exotic species from the ballast water of vessels operating on the waters of the United States. In preparing this report, the Secretary shall consult with the Secretary of the Interior, the Secretary of Commerce, the Great Lakes Fishery Commission, and other appropriate parties.

(b) EXOTIC SPECIES DEFINED.—In this section "exotic species" means nonnative fish, mollusks, crustaceans, zooplankton, and other aquatic organisms, other than sea lampreys.

SEC. 208. COST OF SECURITY AT KENNEBUNKPORT, MAINE.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) submit a report to the Congress that identifies costs incurred by the Coast Guard in providing security at Kennebunkport, Maine; and

(2) seek reimbursement of those costs from the Secretary of the Treasury.

SEC. 209. VESSEL TRAFFIC SERVICE RESTORATION; EXPANSION STUDY.

(a) RESTORATION.—The Secretary of the department in which the Coast Guard is operating shall establish a vessel traffic service in the New York Harbor area and on the Lower Mississippi River in New Orleans, and shall require vessels that operate in those areas to participate in the service under authority contained in title I of the Ports and Waterways Safety Act of 1972 (Public Law 92-340, 86 Stat. 424).

(b) EXPANSION STUDY.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress that identifies—

(1) those United States ports and coastal channels through which large quantities of oil or hazardous cargoes are transported; and

(2) the costs to the United States of establishing adequate vessel traffic services in those ports and coastal channels.

SEC. 210. LAW ENFORCEMENT SURVEILLANCE.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) submit a report to the Congress that identifies—

(A) the needs for outfitting existing Coast Guard aircraft with surveillance and reconnaissance equipment to assist in the conduct of law enforcement activities; and

(B) the cost of that equipment; and

(2) in cooperation with the Secretary of Defense, establish and submit to the Congress a plan for closing existing gaps in radar coverage along the coastline of the United States on the Gulf of Mexico and the coastline of the southeastern United States on the Atlantic Ocean.

SEC. 211. NUMBERING OF VESSELS.

Section 2101 of title 46, United States Code, is amended by inserting after paragraph (17) the following:

"(17a) numbered vessel means a vessel for which a number has been issued under chapter 123 of this title.".

SEC. 212. CONSTRUCTIVE SEIZURE PROCEDURES.

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of the Treasury, in order to avoid the devastating economic effects on innocent owners of seizures of their vessels, shall develop a procedure for constructive seizure of vessels engaged solely in coastwise trade which are suspected of being used for committing violations of law involving controlled substances.

SEC. 213. STUDY EVALUATING DOUBLE HULLS AND DOUBLE BOTTOMS.

(a) STUDY AND REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report—

(1) evaluating the relative worldwide operating and environmental safety records of tankers equipped with double hulls or double bottoms and those without these features;

(2) evaluating the relative operating and environmental safety records of barges operating on the navigable waters of the United States and equipped with double hulls or double bottoms and those without those features; and

(3) assessing the costs and benefits to owners and operators of tankers and barges of requiring double hulls or double bottoms on some or all new tankers or barges constructed for operation on the navigable waters of the United States.

(b) STUDY REQUIREMENTS.—In preparing a report under this section the Secretary shall—

(1) consult with the American Bureau of Shipping, the American Institute of Merchant Shipping, the National Ocean Industries Association, the Oceanic Society, and any others the Secretary deems appropriate;

(2) review and incorporate the results of past studies conducted by the Coast Guard, the Office of Technology Assessment, and other respected organizations;

(3) pay special attention to the need to prevent serious oil pollution incidents in bays, sounds, harbors, and other nearshore areas of special environmental importance; and

(4) consider separately the costs and benefits to owners and operators of tankers and barges of requiring double hulls or double bottoms on tankers or barges engaged solely in the coastwise trade of the United States.

(c) DEFINITIONS.—For purposes of this section—

(1) "tanker" means a self-propelled tank vessel that is constructed or adapted to carry oil in bulk in the cargo spaces; and

(2) "barge" means a nonself-propelled vessel constructed or adapted to carry oil in bulk as cargo.

SEC. 214. USER FEES REPORT CLARIFICATION.

Section 664(c) of title 14, United States Code, is amended as follows:

(1) in paragraph (1) by striking "collected stating—" and substituting "collected under any law stating—"; and

(2) in paragraph (2) by inserting "under any law" after "collected" the first time it appears.

SEC. 215. REVIEW OF CRIMINAL RECORDS IN ISSUING AND RENEWING SEAMEN'S LICENSES.

Chapter 71 of title 46, United States Code is amended—

(1) in section 7101—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

"(f) The Secretary shall conduct a review of the criminal record of each individual who applies for a license under this section."; and

(2) in section 7109—

(A) by inserting "(a)" before "A license"; and

(B) by adding at the end the following:

"(b) The Secretary shall conduct a review of the criminal record of each holder of a license issued under this part who applies for renewal of that license under this section.".

SEC. 216. BOARD FOR THE CORRECTION OF MILITARY RECORDS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) amend part 52 of title 33, Code of Federal Regulations, governing the proceedings of the board established by the Secretary under section 1552 of title 10, United States Code, to ensure that an application for correction of military records is processed expeditiously and that final action on the application is taken within 10 months of its receipt; and

(2) appoint and maintain a permanent staff, and a panel of civilian officers or employees to serve as members of the board, which are adequate to ensure compliance with paragraph (1) of this subsection.

SEC. 217. CONSIDERATION OF MARITIME ADMINISTRATION VESSELS.

Before acquiring a vessel for use by the Coast Guard, the Secretary of Transportation or the Commandant of the Coast Guard, as appropriate, shall review the inventory of vessels acquired by the Secretary or the Secretary of Commerce as the result of a default under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271-1279c), to determine whether any of those vessels are suitable for use by the Coast Guard.

SEC. 218. PROHIBITION AGAINST REDUCTION IN SERVICES.

Notwithstanding any other law, the Secretary of Transportation may not reduce the level of Coast Guard activity during fiscal year 1990 to increase drug law enforcement if amounts made available from all sources to carry out Coast Guard activities are equal to or greater than the amounts used to carry out Coast Guard activities during fiscal year 1989.

SEC. 219. SUSPENSION AND REVOCATION OF SEAMEN'S LICENSES FOR ALCOHOL ABUSE.

(a) IN GENERAL.—Chapter 77 of title 46, United States Code, is amended by adding the following new section:

"§ 7704a. Alcohol abuse as grounds for revocation

"(a) The Secretary shall suspend or revoke a license, certificate of registry, or merchant mariner's document if the Secretary determines the holder is a current or chronic abuser of alcohol.

"(b) Any determination by the Secretary to suspend or revoke a license, certificate of registry, or merchant mariner's document under this section shall be based on the severity of abuse of alcohol by the holder and the length of time necessary to control that abuse.

"(c) The Secretary shall conduct necessary investigations to determine if a holder is a current or chronic abuser of alcohol, if the Secretary receives information regarding any alcohol-related misconduct of the holder.

"(d) A suspension of a license, certificate of registry, or merchant mariner's document under subsection (a) shall remain in effect until the former holder provides sufficient proof that the former holder is no longer a current or chronic abuser of alcohol.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 77 of title 46, United States Code, is amended by adding "7704a. Alcohol abuse as grounds for revocation." after "7704. Dangerous drugs as grounds for revocation.".

SEC. 220. REQUIREMENT TO REPORT SEXUAL OFFENSES.

(a) IN GENERAL.—Chapter 101 of title 46, United States Code is amended by:

(1) deleting section 10104; and

(2) adding the following new section:

"§ 10104. Requirement to report sexual offenses

"(a) A master or other individual in charge of a documented vessel shall report to the Secretary a complaint of a sexual offense prohibited under chapter 109A of title 18, United States Code.

"(b) A master or other individual in charge of a documented vessel who knowingly fails to report in compliance with this section is liable to the United States Government for a civil penalty of $5,000.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 101 of title 46, United States Code, is amended by striking, "10104. Regulations." and inserting "10104. Requirement to report sexual offenses.".

SEC. 221. SOUTHEAST LIGHTHOUSE PRESERVATION.

(a)(1) The Secretary of the department in which the Coast Guard is operating shall convey, by any appropriate means, all right, title and interest of the United States in the Block Island Southeast Lighthouse to the Block Island Southeast Lighthouse Foundation (hereafter referred to as the "Foundation") of the town of New Shoreham, Rhode Island.

(2) The purpose of this conveyance is to establish and maintain a nonprofit center for the public at the Block Island Southeast Lighthouse for interpretation and preservation of the culture of the United States Coast Guard and Block Island's maritime history.

(b) The conveyance shall be made—

(1) without payment of consideration;

(2) subject to the condition that if the property, or any part of the property, ceases to be used for the purpose of this section, title to all such property shall be deemed to have immediately reverted to the United States; and

(3) subject to such other terms and conditions as the Secretary of the department in which the Coast Guard is operating may impose.

(c) The conveyance shall include provisions necessary to assure that—

(1) the light, antennae, sound signal, and associated equipment which are active aids to navigation shall continue to be operated and maintained by the United States;

(2) the Foundation will not interfere or allow interference in any manner with navigational aids without written permission of the United States;

(3) there is reserved to the United States the right to relocate, replace, or add any navigational aids, or make any changes on any portion of the property as may be necessary for navigation purposes;

(4) the United States shall have the right, at any time, to enter the property without notice to maintain navigational aids; and

(5) the United States shall have an easement for access to the property to maintain navigational aids.

(d) The Secretary of the department in which the Coast Guard is operating shall identify, describe, and determine the property to be conveyed under this section.

(e) For purposes of this section, "Block Island Southeast Lighthouse" means the lighthouse and attached keeper's dwelling, several ancillary buildings, a fog signal, and land necessary to carry out the purposes of this section located in the town of New Shoreham, Rhode Island.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 25, after line 22, add the following new section—

"SEC. . TERMINAL AND TANKER OVERSIGHT AND MONITORING.

"(a) SHORT TITLE.—This section may be cited as the 'Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1989'.

"(b) DEMONSTRATION PROGRAMS.—

"(1) ESTABLISHMENT.—There are established two Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Demonstration Programs (hereinafter referred to as 'Programs') to be carried out in the State of Alaska.

"(2) ADVISORY FUNCTION.—The function of these Programs shall be advisory only.

"(3) PURPOSE.—Prince William Sound Program shall be responsible for environmental monitoring of the terminal facilities in Prince William Sound and the crude oil tankers operating in Prince William Sound. The Cook Inlet Program shall be responsible for environmental monitoring of the terminal facilities and crude oil tankers operating in Cook Inlet located South of the latitude at Point Possession and North of the latitude at Amatul Island, including offshore facilities in Cook Inlet.

"(4) SUITS BARRED.—No program, association, council, committee or other organization created by this section may sue any person or entity, public or private, concerning any matter arising under this section.

"(c) OIL TERMINAL FACILITIES AND OIL TANKER OPERATION ASSOCIATION.—

"(1) ESTABLISHMENT.—There is established an Oil Terminal Facilities and Oil Tanker Operations Association (hereinafter referred to as "Association") for each of the Programs established in subsection (b).

"(2) MEMBERSHIP.—Each Association shall be comprised of four individuals as follows.

"(A) One individual shall be designated by the owners and operators of the terminal facilities and shall represent those owners and operators;

"(B) One individual shall be designated by the owners and operators of the crude oil tankers calling at the terminal facilities and shall represent those owners and operators;

"(C) One individual shall be an employee of the State of Alaska, shall be designated by the Governor of the State of Alaska, and shall represent the State government; and

"(D) One individual shall be an employee of the Federal Government, shall be designated by the President, and shall represent the Federal Government.

"(3) RESPONSIBILITIES.—Each Association shall be responsible for reviewing policies relating to the operation and maintenance of the oil terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of their respective terminals. Each Association shall provide a forum among the owners and operators of the terminal facilities, the owners and operators of crude oil tankers calling at those facilities, the United States, and the State of Alaska to discuss and to propose resolution of all permits, plans, and site-specific regulations governing the activities and actions of the terminal facilities which affect or may affect the vicinity of the terminal facilities and of crude oil tankers calling at those facilities.

"(d) REGIONAL CITIZENS' ADVISORY COUNCILS.—

"(1) MEMBERSHIP.—There is established a Regional Citizens' Advisory Council (hereinafter referred to as "Council") for each of the programs established by subsection (b).

"(2) MEMBERSHIP.—Each Council shall be composed of voting members and non-voting members, as follows:

"(A) VOTING MEMBERS.—Voting members shall be Alaska residents and, except as provided in clause (iii) of this paragraph, shall be appointed by the Governor of the State of Alaska from a list of nominees provided by each of the following interests, with one representative appointed to represent each of the following interests, taking into consideration the need for regional balance on the Council—

"(i) local commercial fishing industry organizations, the members of which depend on the fisheries resources of the waters in the vicinity of the terminal facilities;

"(ii) aquaculture associations in the vicinity of the terminal facilities;

"(iii) Alaska Native Corporations and other Alaska Native organizations the members of which reside in the vicinity of the terminal facilities;

"(iv) environmental organizations the members of which reside in the vicinity of the terminal facilities;

"(v) recreational organizations the members of which reside in or use the vicinity of the terminal facilities;

"(vi) the Alaska State Chamber of Commerce, to represent the locally based tourist industy;

"(vii)(I) for the Prince William Sound terminal facilities Council, one representative selected by each of the following municipalities: Cordova, Whittier, Seward, Valdez, Kodiak, the Kodiak Island Borough, and the Kenai Peninsula Borough;

"(II) for the Cook Inlet terminal facilities Council, one representative selected by each of the following municipalities: Homer, Seldovia, Anchorage, Kenai, the Kodiak Island Borough, and the Kenai Peninsula Borough.

"(B) NON-VOTING MEMBERS.—one ex-officio, non-voting representative shall be desig-

nated by, and represent, each of the following—

"(i) Environmental Protection Agency;

"(ii) Coast Guard;

"(iii) U.S. Forest Service;

"(iv) Department of the Interior;

"(v) Alaska Department of Environmental Conservation;

"(vi) Alaska Department of Fish and Game;

"(vii) Alaska Department of Natural Resources; and

"(viii) Division of Emergency Services, Alaska Department of Community and Regional Affairs.

"(3) TERMS.—

"(A) THREE YEARS.—The voting members of each Council shall be appointed for a term of three years except as provided for in subparagraph (3)(B) of this paragraph.

"(B) INITIAL APPOINTMENTS.—The terms of the first appointments shall be—

"(i) for the appointments by the Governor of the State of Alaska, one third shall serve for three years, one third shall serve for two years, and one third shall serve for one year; and

"(ii) for the representatives of municipalities required by subsection (d)(2)(A)(vii), a drawing of lots among the appointees shall determine that one third of that group serves for three years, one third serves for two years, and the remainder serves for one year.

"(4) SELF-GOVERNING.—Each Council shall elect its own chairperson, select its own staff, and make policies with regard to its internal operating procedures. After the initial organizational meeting called by the Secretary of Transportation under subsection (i) of this section, each Council shall be self-governing.

"(5) DUAL MEMBERSHIP PROHIBITED.—No individual selected as a member of the Council shall serve on the Association.

"(6) DUTIES.—Each Council shall—

"(A) provide advice and recommendations to the Association on policies, permits, and site-specific regulations relating to the operation and maintenance of terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of the terminal facilities;

"(B) monitor through the committee established pursuant under subsection (e) of this section, the enviromental impacts of the operation of the terminal facilities and crude oil tankers;

"(C) monitor those aspects of terminal facilities' and crude oil tankers' operations and maintenance which affect or may affect the vicinity of the terminal facilities;

"(D) review through the committee established under subsection (f), the adequacy of oil spill prevention and contingency plans for the terminal facilities and the adequacy of oil spill prevention and contingency plans for crude oil tankers, operating in Prince William Sound or in Cook Inlet;

"(E) recommend to the Association—

"(i) standards and stipulations for permits and site-specific regulations intended to minimize the impact of the terminal facilities' and crude oil tankers' operations in the vicinity of the terminal facilities;

"(ii) modifications of terminal facilities' operations and maintenance intended to minimize the risk and mitigate the impact of terminal facilities' operations in the vicinity of the terminal facilities' and to minimize the risk of oil spills;

"(iii) modifications of crude oil tanker operations and maintenance in Prince William Sound and Cook Inlet intended to minimize the risk and mitigate the impact of oil spills; and

"(iv) modifications to the oil spill prevention and contingency plans for terminal facilities and for crude oil tankers in Prince William Sound and Cook Inlet intended to enhance the ability to prevent and respond to an oil spill.

"(F) create additional committees of the Council as necessary to carry out the above functions, including a scientific and technical advisory committee to the Prince William Sound Council.

"(7) NO ESTOPPEL.—No Council shall be held liable under state or Federal law for costs or damages as a result of rendering advice under this section. Nor shall any advice given by a voting member of a Council, or program representative or agent, be grounds for estopping the interests represented by the voting council members from seeking damages or other appropriate relief in the event of a spill.

"(8) SCIENTIFIC WORK.—In carrying out its monitoring functions, each Council shall review the scientific work undertaken by or on behalf of the terminal operators or crude oil tanker operators as a result of a legal requirement to undertake that work. Each council shall also review the relevant scientific work undertaken by or on behalf of any government entity relating to the terminal facilities or crude oil tankers. To the extent possible, to avoid unnecessary duplication, the Council shall coordinate its work with the scientific work performed by or on behalf of the terminal operators and with the scientific work performed by or on behalf of the operators of the crude oil tankers.

"(e) COMMITTEE FOR TERMINAL AND OIL TANKER OPERATIONS AND ENVIRONMENTAL MONITORING.—

"(1) MONITORING COMMITTEE.—Each Council shall establish a standing Terminal and Oil Tanker Operations and Environmental Monitoring Committee (hereinafter referred to as the "Monitoring Committee") to devise and manage to comprehensive program of monitoring the environmental impacts of the operations of terminal facilities and of crude oil tankers while operating in Prince William Sound and Cook Inlet. The membership of the Monitoring Committee shall be made up of members of the Council, citizens, and recognized scientific experts selected by the Council.

"(2) Duties.—In fulfilling its responsibilities, the Monitoring Committee shall—

"(A) advise the Council on a monitoring strategy that will permit early detection of environmental impacts of terminal facility' operations and crude oil tanker operations while in Prince William Sound and Cook Inlet;

"(B) develop monitoring programs and make recommendations to the Council on the implementation of those programs;

"(C) at its discretion, select and contract with universities and other scientific institutions to carry out specific monitoring projects authorized by the Council pursuant to an approved monitoring strategy;

"(D) complete any other task assigned by the Council; and

"(E) provide written reports to the Council which interpret and assess the results of all monitoring programs.

"(f) COMMITTEE FOR OIL SPILL PREVENTION, SAFETY, AND EMERGENCY RESPONSE.—

"(1) TECHNICAL OIL SPILL COMMITTEE.—Each Council shall establish a standing technical committee (hereinafter referred to as "Oil Spill Committee") to review and assess measures designed to prevent oil spills and the planning and preparedness for responding to, containing, cleaning up, and mitigating impacts of oil spills. The membership of the Oil Spill Committee shall be made up of members of the Council, citizens and recognized technical experts selected by the Council.

"(2) DUTIES.—In fulfilling its responsibilities, the Oil Spill Committee shall—

"(A) periodically review the respective oil spill prevention and contingency plans for the terminal facilities and for the crude oil tankers while in Prince William Sound or Cook Inlet, in light of new technological developments and changed circumstances;

'(B) monitor periodic drills and testing of the oil spill contingency plans for the terminal facilities and for crude oil tankers while in Prince William Sound and Cook Inlet;

"(C) study wind and water currents and other environmental factors in the vicinity of the terminal facilities which may affect the ability to prevent, respond to, contain, and clean up an oil spill;

"(D) identify highly sensitive areas which may require specific protective measures in the event of a spill in Prince William Sound or Cook Inlet;

"(E) monitor developments in oil spill prevention, containment, response and cleanup technology;

"(F) periodically review port organization, operations, incidents, and the adequacy and maintenance of vessel traffic service systems designed to assure safe transit of crude oil tankers pertinent to terminal operations;

"(G) periodically review the standards for tankers bound for, loading at, existing from, or otherwise using the terminal facilities;

"(H) complete any other tasks assigned by the Council; and

"(I) provide written reports to the Council outlining its findings and recommendations.

"(g) AGENCY COOPERATION.—On and after the expiration of the 180-day period following the date of enactment of this section, each Federal department, agency, or other instrumentality shall, with respect to all permits, site-specific regulations, and other matters governing the activities and actions of the terminal facilities which affect or may affect the vicinity of the terminal facilities, consult with the appropriate Council prior to taking substantive action with respect to the permit, site-specific regulation, or other matter. This consultation shall be carried out with a view to enabling the appropriate Association and Council to review the permit, site-specific regulation, or other matter and make appropriate recommendations. Prior consultation shall not be required if an authorized Federal agency representative reasonably believes that an emergency exists requiring action without delay.

"(h) RECOMMENDATIONS OF THE COUNCIL.—In the event that the Association does not adopt or significantly modifies before adoption any recommendation of the Council made pursuant to the authority granted to the Council in subsection (d), the Association shall provide, in writing, within five days of its decision, to the Council notice of its decision and a written statement of reasons for its rejection or significant modification of the recommendation.

"(i) ADMINISTRATIVE ACTIONS.—Appointments, designations, and selections of individuals to serve as members of the Associations and Councils under this section shall be submitted to the Secretary of Transportation prior to the expiration of the 120-day period following the date of the enactment

of this section. On or before the expiration of the 180-day period following that date of enactment of this section, the Secretary shall call an initial meeting of each Association and Council for organizational purposes.

"(j) LOCATION AND COMPENSATION.—

"(1) LOCATION.—Each Association and Council established by this section shall be located in the State of Alaska.

"(2) COMPENSATION.—No member of an Association or Council shall be compensated for the member's services as a member of the Association or Council, but shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Association or Council not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code. However, each Council may enter into contracts to provide compensation and expenses to members of the committees created under subsections (d), (e) and (f) of this section.

"(k) FUNDING.—

"(1) REQUIREMENT.—Approval of the contingency plans required of owners and operators of the Cook Inlet and Prince William Sound terminal facilities or crude oil tankers shall be effective only so long as the respective Association and Council for a facility are funded pursuant to paragraph (2) of this section.

"(2) RESPONSIBILITY.—

"(A) PRINCE WILLIAM SOUND.—The owners or operators of terminal facilities or crude oil tankers in Prince William Sound shall provide, for the establishment and operation of the environmental oversight and monitoring program in Prince William Sound, $2,000,000, adjusted annually by the Anchorage Consumer Price Index.

"(B) OIL SPILL FUND.—Subject to appropriations laws, the Secretary of the Treasury shall make available from the Oil Spill Liability Trust Fund to the Secretary of Transportation such sums, in addition to those available pursuant to subparagraph (A), as the Secretary of Transportation deems necessary to operate the Prince William Sound Program.

"(3) COOK INLET PROGRAM.—

"(1) Subject to appropriations laws, the Secretary of the Treasury shall make available from the Oil Spill Liability Fund to the Secretary of Transportation, such sums as the Secretary of Transportation deems necessary to establish and operate the Cook Inlet Program established by this section.

"(2) The owners or operators of terminal facilities or crude oil tankers in Cook Inlet may donate, and the Council may accept, funds for establishment and operation of the Cook Inlet environmental oversight and monitoring programs.

"(l) REPORTS.—

"(1) ASSOCIATIONS AND COUNCILS.—Prior to the expiration of the 36-month period following the date of the enactment of this section, each Association and Council established by this section shall report to the President and Congress concerning its activities under this section, together with its recommendations.

"(2) GAO.—Prior to the expiration of the 36-month period following the date of the enactment of this section, the General Accounting Office shall report to the President and Congress at to the handling of funds, including donated funds, by the entities carrying out the programs under this section, and the effectiveness of the demonstration programs carried out under this section, together with its recommendations.

"(m) DEFINITIONS.—As used in this section—

"(1) 'terminal facilities' means—

"(A) in the case of the Prince William Sound Program the entire oil terminal complex located in Valdez, Alaska, consisting of approximately 1,000 acres including all buildings, docks (except docks owned by the City of Valdez if those docks are not used for loading of crude oil), pipes, piping, roads, ponds, tanks, crude oil tankers only while at the terminal dock, tanker escorts owned or operated by the operator of the terminal, vehicles, and other facilities associated with the necessary for assisting tanker movement of crude oil or petroleum products into and out of the oil terminal complex; and

"(B) in the case of the Cook Inlet Program, the entire oil terminal complex including all buildings, docks, pipes, piping, roads, ponds, tanks, vessels, vehicles, tanks, crude oil tankers only while at the terminal dock, tanker escorts owned or operated by the operator of the terminal, emergency spill response vessels owned or operated by the operator of the terminal, and other facilities associated with, and necessary for, assisting tanker movement of crude oil or petroleum products into and out of the oil terminal complex;

"(2) 'crude oil tanker' means a tanker (as that term is defined under section 2102 of title 46, United States Code)—

"(A) in the case of the Prince William Sound Program, calling at the terminal facilities for the purpose of receiving and transporting oil to refineries, operating north of Middleston Island and bound for or exiting from Prince William Sound; and

"(B) in the case of the Cook Inlet Program, calling at the terminal facilities for the purpose of receiving and transporting oil to refineries and operating in Cook Inlet and the Gulf of Alaska north of Amatuli Island, including tankers transiting to Cook Inlet from Prince William Sound; and

"(3) 'vicinity of the terminal facilities' means that geographical area surrounding the environment of terminal facilities which is directly affected or may be directly affected by the operation of the terminal facilities.

"(n) SAVINGS CLAUSE.—

"(1) REGULATORY AUTHORITY.—Nothing in this section shall be construed as modifying, repealing, superseding or preempting any municipal, State or Federal law or regulaton, or in any way affecting litigation arising from oil spills or the rights and responsibilities of the United States or the State of Alaska, or municipalities thereof, to preserve and protect the environment through regulation of land, air, and water uses, of safety, and of related development. The monitoring provided for by this section shall be designed to help assure compliance with applicable laws and regulations and shall only extend to activities—

"(A) that would affect or have the potential to affect the vicinity of the terminal facilities and the area of crude oil tanker operations included in the Programs; and

"(B) are subject to the United States or State of Alaska, or municipality thereof, law, regulation, or other legal requirement.

"(2) RECOMMENDATIONS.—This subsection does not intend to prevent the Association or Council from recommending to appropriate authorities that existing legal requirements should be modified or that new legal requirements should be adopted.

"(p) ALTERNATIVE VOLUNTARY ADVISORY GROUP IN LIEU OF COUNCIL.—The requirements of subsections (d), (e), and (k) as they apply respectively to the Prince William Sound Program and the Cook Inlet Program, are be deemed to have been met so long as the following conditions are met—

"(1) PRINCE WILLIAM SOUND.—With respect to the Prince William Sound Program, the Alyeska Pipeline Service Company or any of its owner companies enters into a contract with the Alyeska Citizens Advisory Committee in existence on the date of enactment of this section, or a successor organization, to fund that Committee or organization on an annual basis and the President annually certifies that Committee or organization meets the purposes, funding, organizational requirements, and membership composition established by this section; and

"(2) COOK INLET—With respect to the Cook Inlet Program, the terminal facilities or the crude oil tanker owners and operators enter into a contract with a voluntary advisory organization whose members represent the interests and citizens of Cook Inlet in a way similar to the representation required by subsection (d)(2)(A) to fund the voluntary organization on an annual basis and the President annually certifies that that organization meets the purposes, fundings, organization requirements, and membership composition established by this section.".

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

□ 1530

Mr. YOUNG of Alaska. Mr. Chairman, I rise today to amend this legislation. My amendment would provide for citizen input into tanker traffic and oil terminal operations in Alaska. This advisory group would be funded largely by private contributions of $2 million a year. It also allows specific projects to be funded from the national oilspill fund at the discretion of the fund operator. Failure by the private sector facilities to provide the resources that they have committed to, would result in that facility loosing its Coast Guard contingency plan. Such plans will be a requirement of operations in the near future.

The language that I am introducing today represents a compromise that is the combined efforts of the communities in Alaska most affected by the *Exxon Valdez* and other spills, fishing groups from all over the State with the common goal of making the transportation of 25 percent of our Nation's oil production safer to transport, and the oil industry. The Alaskan oil industry and all other groups that have been involved with this process have been very forward thinking in their approach to citizen involvement and they too should be commended for their efforts.

Specifically this amendment would set up advisory committees in the

Prince William Sound and in the Cook Inlet. These committees would make recommendations to the terminal operators on safety improvements and environmental concerns. The oil industry is then required to respond specifically in writing if they are not able to comply with the recommendation. The advisory committees will have the resources to hire consultants and to do independent scientific research necessary to fulfill their mandate.

This amendment may provide the model for oil operations around the country. So that through better community involvement we can move forward with more domestic energy production and a safer transportation system. This is a good amendment, Mr. Chairman, and I urge its immediate adoption.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, the chairman of the committee has discussed these amendments with the gentleman from Alaska [Mr. YOUNG], and we have no objection to these amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska [Mr. YOUNG].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: At the end of title II add the following new section:

"SEC. 222. CONSIDERATION OF DEPARTMENT OF DEFENSE HOUSING FOR COAST GUARD.

"Notwithstanding any other provision of law, the Coast Guard is deemed to be an instrumentality within the Department of Defense for the purpose of section 204(b) of Public Law 100-526 (102 Stat. 2628)."

Mr. STUDDS. Mr. Chairman, this amendment, offered by myself and Mr. SOLARZ of New York, is intended to help the Coast Guard cope with its housing problems.

Quite simply, when a military base or its related facilities are closed pursuant to Public Law 100-526, departments and agencies within the Department of Defense are given the first opportunity to obtain that housing. They may buy it at fair market value or they may receive it at no cost. Under the current interpretation of that law, the fifth armed service—the Coast Guard—is given no such opportunity. Our amendment would clarify this interpretation to ensure that the Coast Guard is given equal treatment—the same as the other military services—when it comes to the disposition of housing.

Several weeks ago, I was alerted by the commander of the First Coast Guard District, Admiral Rybacki, that about 240 units of military housing were going to be closed throughout our region and that this housing could help ease the Coast Guard's housing crisis. Almost all of the housing is related to old Nike missile installations and includes units in Massachusetts, New York, Rhode Island, and Connecticut.

The Coast Guard's housing crisis is nationwide. In the first district alone, the Coast Guard has estimated that it needs about 1,300 additional housing units. In New England, we have Coast Guard personnel commuting from New Hampshire to Boston because of the unavailability of affordable housing. Coast Guard families have literally been forced to separate because we don't have suitable housing for the whole family.

Even worse, this crisis is beginning to affect Coast Guard operations. When personnel are forced to live hours away from their stations—and emergencies develop—those folks on call can't respond on time. Sandy Hook, NJ, is just one area where the Coast Guard has documented that operations are suffering.

Unless our amendment passes, the Coast Guard will almost certainly have no opportunity to obtain excess military housing. Thirty-eight Coast Guard families currently living in military housing in New England—on a temporary rental basis—will face eviction if the Coast Guard is unable to secure these quarters.

The commandant, Adm. Paul Yost, has said many times that housing is the Coast Guard's No. 1 priority for its people. Admiral Rybacki has said that Coast Guard men and women are avoiding transfer to the first district because of the housing crisis.

The amendment does not guarantee the Coast Guard anything. It does not guarantee them free housing. It simply allows them to compete equally with the other military services for excess military housing.

Lastly, I would have offered this amendment in our committee had I been made aware of this situation. We have talked with the Armed Services Committee and are aware of no objections. The amendment brings the Coast Guard in line with the other military services, it will not cost a penny and I urge my colleagues to support it.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman fom Louisiana.

Mr. TAUZIN. Mr. Chairman, I want to commend the gentleman from Massachusetts [Mr. STUDDS] for this amendment. It is important to point out that we ask our young Coast Guard men and women to serve in places in America where housing is primarily the highest cost item in a budget. In fact, some of the most expensive housing in America is found near our coasts.

We ask young men and women to serve in these locations. It is almost impossible for them to have their families nearby and afford this kind of housing. Housing on the military base is usually the only available form of housing for them.

Mr. Chairman, I commend the gentleman from Massachusetts [Mr. STUDDS] for making this form of housing available for Coast Guard personnel in these bases that may in fact be closing, and commend the gentleman for the amendment.

Mr. MACHTLEY. Mr. Chairman, I would like to express my support today for the Studds-Solarz amendment to the Coast Guard authorization bill.

This amendment helps to open up the door to many Coast Guard families who are in need of decent, affordable housing.

As it now stands, the Defense Department now has the authority to transfer Department-owned housing properties to Defense agencies, and the uniformed services. Yet, the Coast Guard is not included. This amendment equalizes the status of the Coast Guard with the other services on this important issue.

I know how difficult it is for citizens working in the military and Coast Guard to find affordable housing. In my own district of Rhode Island, I recently discovered that eight service families working for the Navy found the situation so tough that they were living in public housing. Eighteen Navy families receive food stamps, and eight families are receiving AFDC.

In the defense bill of this year, I helped to get $13.7 million to help out with refurbishing affordable Navy housing in Middleton, RI. Certainly, additional housing made available under the Base Closure Act should be made available to those service families—military and Coast Guard—who most need it.

In Rhode Island, Massachusetts, Connecticut, and New York alone the Base Closure Act will close out almost 240 units of housing identified as suitable and desirable for Coast Guard families. Of the 239 housing units, 39 of these units are presently occupied by Coast Guard families who will be forced out. Including the Coast Guard in the group of services with access to Department of Defense housing will greatly ease this burden to Coast Guard employees.

I fully support this amendment to make it easier for all families serving our country to have access to the kind of safe and attractive housing that they deserve. The Coast Guard plays a crucial role for America's coastal security interests. Let's not make it harder for America's Coast Guard families to live by the shores where they work. Let's offer our full support to the Studds-Solarz amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 25, after line 22, add the following:

SEC. 222. COAST GUARD CIVILIAN EMPLOYEE TESTING PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) the interdiction of drugs by the Coast Guard is a compelling governmental interest;

(2) to promote that interest it is necessary to maintain complete public confidence that Coast Guard personnel—

(A) are not involved in illegal drug use; and

(B) do not compromise the Coast Guard's ability to interdict drugs;

(3) random drug testing of all Coast Guard personnel is necessary to maintain that public confidence; and

(4) regulations of the Department of Defense require random drug testing of noncivilian Coast Guard personnel.

(b) DRUG TESTING PROGRAM.—The Secretary of the Department in which the Coast Guard is operating shall require random drug testing of all civilian employees of the Coast Guard.

Mr. SOLOMON. Mr. Chairman, I call Members attention to a full page newspaper ad which appeared in a local home town newspaper, as it has throughout Members' districts as well.

The article starts out by saying, "Only a few people can help a drug addict. unfortunately, you're one of them."

Here is a picture of a CEO, a chairman of the board, who employs 1,000 people.

It goes on to say, "If a drug user works for you, you don't have an alternative. You're involved. And that's hard. Because what truly helps an addict isn't sympathy. You have to be firm. And tough. And give him a choice that may seem heartless." That choice is, "Get well or get out."

Mr. Chairman, as I said before, only a few people can help a drug addict. He is one of them. We Members of Congress are another one of them.

We need to have the same policy in the Federal Government. I offer today this amendment in a continuing effort to put an end to drug abuse in the Federal workplace.

As I previously stated, we have to begin to address the problem of the drug user as well as the drug supplier. And what better place to start than in our own backyard? Because we set the example, and because as long as there is demand, there will always be supply.

This is the forth in a series of random drug testing amendments that I have offered to all authorization bills.

Let us face the fact: We could eliminate every drug lord in the world today and new ones would pop up again because of the enormous profits involved in the deadly trade.

Mr. Chairman, what we do is eliminate the market, eliminate the demand for these deadly drugs.

As the largest employer in the Nation, the Federal Government has a compelling interest in establishing reasonable conditions of employment. It also has the responsibility to set the standard for the private sector.

How can we in the Federal Government expect the public to be drug free, if we ourselves are not. That is why I will be offering this amendment to all authorizing bills for our Federal agencies and departments.

Mr. Chairman, we need to send out a loud and clear message that drug abuse is not compatible with service in the Federal Government, here in Congress, in the Judiciary, or any place in Federal Government.

Mr. Chairman, as you know there are two different departments which operate the Coast Guard. In times of peace it is operated by the Department of Transportation, and in times of war it is operated by the Department of Defense.

Currently the Coast Guard is made up of approximately 38,000 military personnel and 5,500 civilian personnel.

All Members know of the success that the military has had with its random drug testing program, but for those who have not had the benefit of sharing this informatoin, let me call it to their attention again.

In 1982, by their own admission, 27 percent of the U.S. military personnel were using drugs at one time or another. Yet by 1988, just last year, after the implementation of random drug testing programs, military-wide, throughout our entire military, the percentage of drug use in the military dropped to 4.5 percent. That is an 82.4-percent drop in drug use in our military.

Think what it would do to the use of drugs in this country if all our Federal employees dropped that usage by 82 percent. What would happen if all the employees throughout the United States and the private sector dropped the use by 82 percent? Think what it would do to the demand for drugs in this country. It would cut the bottom out of the cost of it. It would no longer be profitable, and therefore, we would go a step forward in eliminating this terrible scourge on the American people and on your children and mine.

Mr. Chairman, I have much more to say about this particular issue, but I would hope that the distinguished subcommittee chairman, whom I have great respect for, the chairman of the subcommittee, whom I share the words of, my good friend from Ohio, one of the best Congressman in Washington, as well and the two ranking members, I thank them for their cooperation.

Mr. TAUZIN. Mr. Chairman, would the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me thank the gentleman from New York [Mr. SOLOMON] for his kind words. Let me also point out that all of the Coast Guard military personnel currently engaged in the war on drugs are part of the random testing that the military does require of its personnel. The gentleman's amendment would require other civilians working for the Coast Guard to be tested, and frankly, I support his amendment.

Mr. Chairman, if we are going to put the Coast Guard in charge of the war on drugs, it seems that at least we ought to require those working for the Coast Guard in all if its activities set the right example by submitting to random testing.

□ 1540

Mr. Chairman, I want to point out that while this may involve some litigation before it is all over, I think this is the right step for us to take, and to try it, and if we can in fact enforce it, it seems to me the right message to send out, that our agency in the front line will establish random testing for all its personnel, not simply those connected with the war.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 2 additional minutes.)

Mr. SOLOMON. Mr. Chairman, let me just say to the gentleman from Louisiana [Mr. TAUZIN] that he knows that in no way am I picking on the Coast Guard because the Coast Guard does one tremendous job, as we all know, and they have a great program of drug testing right now in effect, but we do not want to leave them out because we have offered this to the CIA, of all places; to NASA, of all places, and we intend to do it across the board so that no one is being discriminated against.

Mr. DAVIS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I just want to say to the gentleman from New York [Mr. SOLOMON] that I think he is on the right track, and he has indicated he has offered this amendment before and will be offering it again on other bills. If we are to get serious about trying to do something about the drug problem in this country, it certainly has to start at home, so I appreciate that.

Mr. Chairman, I know that there is always some concern on the part of the Department or any agency in how they are going to carry this program out, or any program, but it is my understanding that the gentleman has had discussions with the Department, with the Secretary, and that he will be working, I am sure, as the sponsor of this amendment on many other bills with the various departments and with the administration to make sure that we can work this out so it will not violate any constitutional rights of any citizens. However, Mr. Chairman, in

fact it is something that is necessary, and I do support the amendment.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Michigan for yielding, and I asked him to yield only to point out that in the little town of Thibodaux, where I was born and raised, the mayor, the chief of police, all the uniformed police officers, every civilian employee of that municipality, submitted to that kind of random testing program. They all come out drug-free, probably, I think the first drug-free police force in America. There was a wonderful ceremony at home. That is the kind of example I want our Coast Guard to set as well and all of its civilian forces, as well as its military operations.

Mr. Chairman, I appreciate the comments of the gentleman from Michigan [Mr. DAVIS] and his support of the Coast Guard in these major efforts.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: At the end of the bill, add the following new section:

"SEC. . BOSTON LIGHT LIGHTHOUSE.

(a) The Congress finds and declares the following:

"(1) the Boston Light station (hereinafter referred to in this section as the "Boston Light") on Little Brewster Island, Boston Harbor, Massachusetts is the nation's oldest lighthouse station.

"(2) The Boston Light is a National Historic Landmark and Little Brewster Island is listed in the National Register of Historic Places. As such, they should be administered in a way that preserves for public enjoyment and appreciation their special historic character.

"(3) The continued operation of the Boston Light by Coast Guard personnel will preserve its special historic character.

"(b) The Secretary of Transportation shall, in consultation with the Secretary of the Interior, the Massachusetts Department of Environmental Management, the Massachusetts Historical Preservation Officer, appropriate local and governmental entities, and private preservation groups, develop a strategy regarding the ownership, maintenance, staffing and use of the Boston Light that will—

"(1) provide improved public access to the Boston Light and Little Brewster Island; and

"(2) preserve the special historic character of Boston Light by ensuring that any proposal to automate or modernize the Light is consistent with the provisions of sections 106 and 110 of the National Historic Preservation Act (16 U.S.C. 470f and 470h-2)."

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, this amendment calls upon the Secretary of Transportation to work with State officials to preserve the special historic character of the Nation's oldest lighthouse, the Boston Light on Little Brewster Island in Boston Harbor.

The amendment does not necessarily require that the light station be permanently staffed by Coast Guard personnel, but it does require that any plan to automate or modernize the light be consistent with its designation as a National Historic Landmark.

The effect of the amendment will be to encourage the Coast Guard to continue working with State officials and private groups to protect the light station from the threat of vandalism, to ensure proper maintenance and to make it more accessible to the public.

The amendment carries with it no additional cost to the Federal Government. It is, I believe, especially appropriate this year, which is the 200th anniversary of the lighthouse service, to take steps to preserve the historic character of the Nation's oldest lighthouse, and I urge adoption of the amendment.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I commend the gentleman from Massachusetts [Mr. STUDDS] again on this important amendment. Lighthouses in America are, of course, a dying breed, and restoring them and keeping them for the National Historic Register and for others to see and witness that era in American maritime history is important, and the Boston Lighthouse is no small example of that. It is one of the oldest.

Mr. STUDDS. It is the oldest.

Mr. TAUZIN. Mr. Chairman, I want to commend the gentleman from Massachusetts [Mr. STUDDS] for his efforts, and I support his amendment.

Mr. STUDDS. Mr. Chairman, let me finally point out that this happens to be the 200th anniversary of the lighthouse service itself, and it is singularly appropriate.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Michigan.

Mr. DAVIS. Mr. Chairman, I would like to say to the gentleman from Massachusetts [Mr. STUDDS] that I support his amendment, but, as all of us know, there are many lighthouses throughout the country. I have a number of lighthouses on the Great Lakes that our people are in the process of restoring. I just got a letter today asking for a contribution to support one of the many lighthouses in my particular area.

Mr. Chairman, this is an excellent idea. I commend the gentleman from Massachusetts [Mr. STUDDS] for his amendment.

Mr. STUDDS. Mr. Chairman, the record will reflect the generosity of the gentleman from Michigan [Mr. DAVIS].

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DAVIS

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 17, line 16, strike "involving" and insert "involving personal use quantities of".

Mr. DAVIS. Mr. Chairman, that word is "quantities of."

Mr. Chairman, I might just say this amendment comes about as a result of the gentleman from Pennsylvania [Mr. WALKER] pointing out an error that we had made in this section of the bill. What we are trying to do is the same thing we did with fishing vessels. It involves principally barges that are going wherever on our waters, and it is to say that, if we discover drugs on one of these vessels, on a person, one of the members who works on the boat, one of the persons who works on the boat has some personal quantity of an illegal drug, that we would not tie up the use of that vessel because one person, unbeknownst to the captain, the owner of this particular vessel; we would not want to stop the use of that vessel, and we failed to put the words "involving personal use quantities of," and I appreciate the gentleman from Pennsylvania who pointed this out to us.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I appreciate the gentleman's amendment, and I am glad that the committee is correcting this. This is something that both the gentleman from Florida [Mr. BENNETT] and the Commandant of the Coast Guard pointed out to me as being a problem because under the provision that was originally in the bill we could have had a drug runner's boat where large quantities were being used, and we would not have been able to use constructive seizure provisions against that kind of a boat. I do not think that was the committee's intention. I think this helps make certain that we are doing that which we have already decided to do with regard to fishing vessels.

Mr. Chairman, I think this is a good amendment, and I am happy the gen-

tleman from Michigan [Mr. DAVIS] has offered it, and I am glad to support it, and I think it helps the administration also move toward a position where they can support the bill.

Mr. DAVIS. Mr. Chairman, I appreciate the gentleman from Pennsylvania [Mr. WALKER] pointing this out to us. It was an error on our part.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I, too, want to commend the gentleman from Pennsylvania [Mr. WALKER] for his help in pointing this problem out to us. I also want to point out that even with the adoption of this language it provides for constructive seizure where there are personal quantities of some drug found on board the vessel. The vessel may, nevertheless, be seized. If the vessel owner at some point does not establish that he had a program aboard that vessel, tried to prevent that from happening, and, when it happens inadvertently, and when someone is on board a vessel without the owner's knowledge, we do not want to stop that vessel from continuing its lawful occupation on the high seas. On the other hand, the vessel owner does not have a plan on board to try to prevent that from happening, he could still see that constructive seizure turned into real seizure.

Mr. Chairman, I want to point that out because this is still a very strong provision in this bill even with the corrective language which, I think, improves it even more.

Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. WALKER] and the gentleman from Michigan [Mr. DAVIS] for these corrections.

Mr. DAVIS. Mr. Chairman, the gentleman from Louisiana [Mr. TAUZIN] makes a very good point.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DAVIS].

The amendment was agreed to.

□ 1550

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 21, beginning on line 19, strike all that follows through page 22, line 2, and renumber subsequent sections accordingly.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, I am hopeful this is a correction I might also be able to convince the committee is something which should be done within the bill. This is a section of the bill that was put in, and I understand what the committee was trying to do, but the Coast Guard itself says that this creates major problems for it. What this section says is that you cannot spend your money in a flexible manner to meet changing national needs, but rather must have a two-tiered system of spending within the bill; one section of the bill aimed at spending money only on drugs, another section of the bill for all other services of the Coast Guard.

Now, the reason why that is a problem is we are dealing with a major national problem in the drug area. It may well be that at some point in the upcoming fiscal year, the Coast Guard will be faced with a major emergency in drugs. They may well have to divert money out of some other thing they are doing temporarily in order to deal with that drug crisis at that time.

This bill in this section says they would not be able to do that. Regardless of the nature of the crisis, regardless of the emergency of the moment, the Coast Guard would be absolutely prohibited from diverting resources from one part of the bill to meeting that drug crisis.

I think the American people would be appalled to find out that Congress is trying to tie the hands of one of the agencies leading the war on drugs in this manner.

Now, I realize the committee is attempting to protect all the other services, but I need to remind the committee that a few weeks ago in the case of Hurricane Hugo, the search and rescue mission of the Coast Guard was augmented out of the drug section of the bill in order to deal with the problems relating to Hugo. The Coast Guard for a period of time decided they had to take money away from drugs in order to deal with the emergency of Hurricane Hugo. I think that is what we want them to do. The intense crisis of that moment was something we knew they had to respond to.

Well, what we have done in this amendment is taken that effort by the Coast Guard to respond to a national emergency and used it to penalize the drug program. What do I mean?

Well, because they responded in the fiscal year 1989 in that manner, it means that the amount of money for drugs for fiscal year 1989 will be lower than what we had originally anticipated be spent for drugs; however, under the bill, that low figure will now become the operative figure for 1990 and the Coast Guard will not have any flexibility to go back and spend additional money; so we have ended up taking money out of drugs, putting it into the search and rescue missions, doing so not only this year, but extending over that priority to next year. In other words, we have undermined the very national priority that we have suggested is the basic mission of the Coast Guard at this point to fight the war on drugs. To this Member that does not make any sense.

It seems to me that what we ought to do is strike this provision, to assure that the Coast Guard has the kind of flexibiity it needs to respond to the war on drugs.

Now, if this was just the people in the White House or OMB saying they want more flexibility, we might have reason to say that we ought not do it, that we ought to be able to set the priorities; but what I have here is a letter from the Admiral who is the Commandant of the Coast Guard also saying that this will hinder their ability to fight the war on drugs, and he says that this section should be deleted because it is something which will undermine the country's national effort to assure that every possible resource is brought to bear on the war on drugs at the moment that it is needed.

I would hope that we could go ahead and strike section 218, give the Coast Guard some flexibility, assure them that we can fight the war on drugs without having some language that we draft here to interfere at the most inappropriate time.

Mr. TAUZIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first of all, let me commend my colleague, the gentleman from Pennsylvania, for the excellent work he has done on this war on drugs; however, let me point out that perhaps he has overstated the case just a bit. If you look at page 13 of the committee report, you find the following committee language:

However, it is not the intention of the Committee to hold the Coast Guard to an exact expenditure figure or to reduce the Coast Guard's ability to respond to possible interdiction opportunities that cannot be reasonably foreseen at this time. Nonetheless, the Committee does intend that the Coast Guard maintain all current missions and that any reductions in service necessitated by inadequate appropriations be equitably distributed among its various missions.

Now, let me tell you the problem. The problem basically is that we have loaded the Coast Guard down with this new mission, the war on drugs, and put it in charge of this war on drugs, we have continually failed to provide the Coast Guard with additional moneys to carry out that war. There was not a dime in last year's drug appropriation measure for the Coast Guard, not one dime. We bought new jails. We paid for new policemen. We paid for education and training and rehabilitation, and we did not give one dime to the Coast Guard. At the same time we watch as the Coast Guard closes down VTS stations in New York and New Orleans, two harbors with massive amounts of dangerous cargo passing through them,

where millions of lives are at stake. We watch as SAR stations around America were shut down, search and rescue stations vital to the protection of lives of Americans, more and more upon the waters.

We had to come in with an emergency appropriation bill for the Coast Guard to in fact reopen some of the search and rescue stations.

When we passed the drug bill in 1986, I want to point out that the language that is in this authorization bill was contained in that drug bill, and no way were the Coast Guard's other activities to be forced to suffer because we put them in charge of the war on drugs. That was the intent of this House when we launched this war on drugs.

Now, if you do not believe me that it is occurring, let me read you some figures.

The practice of reducing overall budget funds for other important missions to fund this war on drugs is already underway. For example, maritime safety programs, the principal structure through which the Coast Guard responds to oil and hazardous material spills, comprised 14.2 percent of the Coast Guard's operating budget in 1980. By 1983, the war on drugs was launched in force. Marine safety accounted for only 7.6. The next year it was only 6 percentage points of the operating budget. On the other hand, the percentage of operating budget for the Coast Guard's drug and interdiction activities grew from 18 percent in 1983 to 24 percent in 1989, a growth rate very near the amount the marine safety mission was cut.

Now, look, none of us in the Coast Guard want to take away this important mission from the Coast Guard. None of us want to see the Coast Guard do anything less than do a masterful job in the interdiction of drugs, but if you mean by adopting this amendment to eliminate the Coast Guard's responsibility for search and rescue, for marine safety and oil and chemical spills, for fisheries enforcement, and for all the other aids to navigation in keeping our ports and harbors safe, then I must tell you we have our priorities set wrong. If we really want to launch this war on drugs and give the Coast Guard the responsibility for it, then do not take $7 million of the $10 million away the President has proposed in sequestration and expect the Coast Guard to do its job.

Mr. Chairman, I respect the gentleman from Pennsylvania's intent, but I must assure him that when we launched this drug bill last year, this language was included, and without the language our committee has given the Coast Guard some flexibility, but maintaining its obligation for search and rescue, for marine safety and all its other important missions, unless we maintain the language we put in this authorization bill, we are going to see a continued slide in the operation of the Coast Guard in the other incredibly important missions of the Coast Guard.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to my friend the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me. I know the point the gentleman is making. I know the committee is sincere in its efforts, but I think that we could achieve a result that would be substantially different from what the gentleman is attempting to do. For example, the Coast Guard from now on in is going to be very reluctant administratively to transfer any moneys out of the drug program to do other things, because what the gentleman effectively has done is frozen them in the drug program and then said you can get the same or greater moneys than the 1989 level in other areas. So the moment they transfer moneys out of the drug area going somewhere else, that is reasonably well protected under this language, but if you have moneys transferred out of those programs—well, you cannot have moneys transferred out to those programs back into the drug effort.

The Commandant in his letter says that kind of inflexibility will really be damaging to their programs.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Just to respond, Mr. Chairman, that flexibility is maintained, and I challenge the gentleman to look at page 13 of the report language of the committee. The report language points out that the Coast Guard does have flexibility to respond to those things that might be unforeseen in its budget to deal with the drug interdiction measure.

□ 1600

It simply says that the Coast Guard should not go carte blanche in cutting and reducing SAR programs and marine safety for the needs of transferring those funds to the drug-interdiction effort. It says to Congress, in effect, that it is up to us to fund that effort, not to take it out of the hide of search and rescue and marine safety.

If the gentleman wants to have the Coast Guard to have more funds for drug interdiction, I will support the gentleman on this floor, in every committee, on the other side of the Chamber, in every conference committee to see to it that that happens, but the committee simply cannot see elimination of search and rescue programs, marine safety programs at the expense of whatever the Coast Guard feels it may need.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, let me make two points. I did in fact support the gentleman when he had an amendment on the floor here to increase the Coast Guard spending. I think it is absolutely essential that we have that, and I am happy to do that.

Let me ask the gentleman if, in fact, he thinks that page 13 of the committee report gives that kind of flexibility, would he be willing to modify that.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. TAUZIN was allowed to proceed for 2 additional minutes.)

Mr. TAUZIN. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, would the gentleman be willing to modify section 218 with language that says except for as provided in the committee report on page 13 so that that kind of flexibility is assured? I mean, the problem is we have a committee report that seems to say one thing, and then we have very, very stringent language in the section.

Mr. TAUZIN. Mr. Chairman, I have no problem accepting that kind of language. The committee report expresses the clear intent of the committee that we do not hold them to exact expenditure figures, but the clear intention is not to wholesale or go out and reduce SAR programs and reduce marine-safety programs. If the gentleman wants to refer to the committee language on page 13 in the bill, I will be happy to accept that kind of language. We can do it by unanimous consent if the gentleman wishes.

Mr. WALKER. If the gentleman will yield further, I just have not had a chance to look carefully at the language.

Mr. TAUZIN. It says, and I will read it,

> It is not the intention of the committee to hold the Coast Guard to exact expenditure figures or to reduce the Coast Guard's ability to respond to possible interdiction opportunities that cannot be reasonably foreseen at this time.

The CHAIRMAN. The Chair would just take a moment to advise the gentleman from Louisiana that he cannot change report language while in the Committee of the Whole.

Mr. TAUZIN. Mr. Chairman, we are not recommending that we change report language.

The CHAIRMAN. The gentleman suggested there might be a unanimous-consent request to do so.

Mr. TAUZIN. The gentleman has suggested that if the gentleman wishes by unanimous consent to amend his amendment to simply refer to that same language in the report, this gentleman would have no objection to that unanimous-consent request.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. Mr. Chairman, I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think that it would be difficult to amend my amendment to strike. What I think I would have to do is probably withdraw that amendment by unanimous consent and then offer language that would say except as referred to on page 13 of the committee report.

Mr. TAUZIN. Mr. Chairman, we will have no objection to that procedure.

Mr. WALKER. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, furthermore, I ask unanimous consent to amend section 218.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania.

There was no objection.

The CHAIRMAN. Does the gentleman have the language? Would the gentleman prefer simply withdrawing?

Mr. WALKER. Mr. Chairman, I will withdraw the amendment, and I will draft some language. I thank the Chair.

Mr. BRENNAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Coast Guard Authorization Act of 1989.

I would first like to thank Chairman JONES for his active leadership of the Merchant Marine Committee, and Mr. TAUZIN, the chairman of the Coast Guard and Navigation Subcommittee, for his strong and consistent support for funding equal to the Coast Guard's continuously expanding scope of operations.

In the past 20 years the Coast Guard has taken on duties never contemplated when it was created in 1915.

The current duties of the Coast Guard range from protecting U.S. fishing rights in the Gulf of Maine to cleaning up oilspills in the Gulf of Alaska, from teaching boating safety in California to hunting down drug smugglers in the Caribbean.

As a member of the Coast Guard Subcommittee, I know the Coast Guard has done its best to take on its new responsibilities.

However, I also know that the Coast Guard has been stretched to its limit, both in manpower and finances.

By 1990, the Coast Guard is expected to have almost 1,900 fewer personnel than it did in 1980. And in 1988 the Coast Guard had almost $103 million cut from its budget, forcing it to cut back programs and shut down installations.

Every State benefits from the Coast Guard's activities.

However, when crunch time has come, we have all too often cut back one of our first lines of defense against the scourge of drugs and the rising tide of ocean pollution.

This bill authorizes $3.4 billion for Coast Guard programs. This is the barebones amount, the minimum budget which will allow the Coast Guard to fulfill its important missions.

I urge the support of this authorization.

Of particular importance are additional funds for the war on drugs, $645 million for necessary acquisition and rehabilitation of ships, and provisions which allow the Coast Guard to revoke the pilot's license of any mariner with a record of alcohol abuse.

In the aftermath of the *Exxon Valdez* disaster no one can fail to realize the importance of adequate funding for the service which polices and safeguards our waters.

The Prince William Sound catastrophe cleanup will cost more than $2 billion—this single event will cost us more than one-half the amount authorized by this bill.

There is no better argument for adequate funding for an all-too-often-ignored service.

The Coast Guard, and our waters, deserve our strong support. I urge my colleagues to vote for this important bill.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are about to wrap up, I believe as soon as we get the language drawn that the gentleman from Pennsylvania [Mr. WALKER] has requested, wrap up consideration of the amendments to the bill.

I simply wanted to, in the time we have while this amendment is being drafted, again thank the chairman of our full committee, the gentleman from North Carolina [Mr. JONES], and all the members of the Committee on Merchant Marine and Fisheries, and the Coast Guard and Navigation Subcommittee, for the work that has gone forward on this bill.

Tommorrow we will likely, or the next day, address the oilspill liability area that is another major area that the Coast Guard is required now to lead in this Nation's efforts for marine safety. When we address that issue, I think we will demonstrate again the importance of the Coast Guard to maritime safety interests of this country.

When we address that bill, we will also be pointing out the Coast Guard will be, as a result of the passage of that bill, 450 billets short of its obligations to perform all the missions we have applied to the Coast Guard.

I am not sure where in this appropriation process, the continuing resolution, or in the conferences that lie between the House and the Senate on various bills dealing with the Coast Guard, we are able to fill that gap, but unless we somehow provide money to the Coast Guard to put to work 450 additional people, all the good work we will do in authorizing Coast Guard activities in marine safety, all the good work we will do in this massive oilspill liability bill, will be for naught, because we cannot get contingency plans underway, and we will not have Coast Guard personnel available to prove them and go through them and make sure, in fact, that every port, every harbor, every bay and channel is adequately protected and will not have the money necessary for the Coast Guard to do its work.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I wanted to update the gentleman on where we have decided to go here since the gentleman is doing a good job of killing time so my amendment can get to the floor. What we have decided to do is take the language reflected in the committee report and just transfer that language directly into the bill so that that language is operative language in the bill as well as language existing in the committee report. I think that helps make it clear to the Coast Guard that we are not being inflexible, that this language is, in fact, giving them a degree of flexibility so that they can respond to unforeseen circumstances.

Mr. TAUZIN. Mr. Chairman, let me thank the gentleman for his forbearance and assistance in working this out. We, indeed, never intended to be so inflexible with the Coast Guard that it could not respond to chance interdiction of drugs, and that is what the language will do. I appreciate his help.

Mr. WALKER. If the gentleman will yield further, that was the fear of both the administration when they looked at it and the Commandant in looking at it was that the language itself appeared to have a great deal of inflexibility in it, and that it would have given him problems.

Mr. TAUZIN. We certainly want to ease the Commandant's fears and agree to this language.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

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Mr. TAUZIN. I am happy to yield to the gentleman from Michigan.

Mr. DAVIS. Mr. Chairman, I might say that the amendment that is being worked on does, I think, resolve the problem. This is a very difficult issue. Everyone in this House understands that the battle against drugs in this country is extremely important. We have also recognized that the Coast Guard has many responsibilities, and tomorrow we are probably going to give them another major responsibility when we pass the oil-spill legislation. But I might also add that in the transportation appropriation bill which has passed both Houses, been in conference and passed both Houses after the conference committee, and I do not know whether the President signed the bill or not, but if he has not, he is going to, as I understand it, but we do have language in there that specifically prohibits the Department from closing any Coast Guard station, search-and-rescue station, and that is one of the main concerns we have.

Mr. Chairman, we all remember the battle we had when the Coast Guard wanted to close some search-and-rescue stations. I think the gentleman's amendment that is being prepared does in fact resolve the problem. It does give the Coast Guard some flexibility and still gives them the main charge of living up to their responsibilities of search and rescue, aids to navigation, response to hazardous spills, and so I think that we have reached a reasonable compromise here.

Mr. Chairman, I appreciate the input that the gentleman from Pennsylvania has had on this issue.

□ 1610

Mrs. UNSOELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in strong support of H.R. 2459, the Coast Guard Authorization Act of 1989 and to commend the distinguished chairman of the Coast Guard Subcommittee for his leadership in bringing this bill before us today.

In particular, I want to draw my colleague's attention to section 220 of the bill. This section requires the master or other person in charge of a documented vessel to report a complaint of a sexual offense prohibited by the Sexual Abuse Act of 1986 and imposes a civil penalty of $5,000 for failure to comply with this provision.

This section stems from a GAO report which found that the Coast Guard has no specific requirements for the reporting of shipboard assaults and other offenses covered by the Sexual Abuse Act. Reports from woman mariners confirm that such incidents are rarely reported to the Coast Guard or other law enforcement authorities. Section 220 of this bill should promote greater awareness of the Sexual Abuse Act within the maritime community, it should provide information on the circumstances and extent of such offenses, and it could serve to increase the willingness of victims to come forward.

Mr. Chairman, this is a good bill and I urge my colleagues support.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 22, line 2 strike the period and insert ", except nothing in this section shall be construed to reduce the Coast Guard's ability to respond to possible interdiction opportunities that cannot be reasonably foreseen on the date of enactment of this act.".

Mr. WALKER. Mr. Chairman, this is the amendment we have discussed. I do not think we need take any further time on it.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding. I would like to rise to compliment the gentleman from Pennsylvania, the gentleman from Louisiana, as well as the gentleman from Michigan with the way that this bill is being handled. It certainly shows that there is no unmovable pride of authorship and when one person sees a problem with a bill that was not anticipated, this House can work together.

I would like, however, for the House to reflect for just a moment on what the mission of the Coast Guard would be if we could get rid of the scourge of drugs, if the flow of drugs was not constantly coming in from our neighbors to the south. I would hope that the House during this moment of reflection would look at what is going on with the President's drug bill; look at what is going on by stopping the funding of the Colombian Government that is so badly needed, and looking at what is going on down there, and look at the opportunities that we have as a Nation to join hands with the Colombian Government and financially to give them some assistance to go against the overwhelming wealth of the drug czars in that part of the world.

I would hope, Mr. Chairman, that this House would move expeditiously to pass this important legislation, and then perhaps we can go back and take another look at the function of the Coast Guard, and some day perhaps in this Chamber this Congress will be talking more about the importance of the safety function of the Coast Guard rather than the law enforcement function of the Coast Guard.

But again, as we see it today, I would like to compliment all of the gentlemen I mentioned for working so hard to address the problem of the law enforcement function of the Coast Guard, which is so important as really one of our first lines of defense against the influx of illegal drugs in this country.

Mr. WALKER. I thank the gentleman for his statement, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the SPEAKER pro tempore [Mr. BENNETT] having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union reported that that Committee, having had under consideration the bill (H.R. 2459) to authorize appropriations for the Coast Guard for fiscal year 1990, and for other purposes, pursuant to House Resolution 270, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 283, nays 3, not voting 47, as follows:

[Roll No. 335]

YEAS—383

Ackerman	Applegate	Barnard
Akaka	Archer	Bartlett
Alexander	Aspin	Barton
Anderson	Atkins	Bateman
Andrews	AuCoin	Bates
Annunzio	Baker	Beilenson
Anthony	Ballenger	Bennett

Bentley	Gillmor	McDade
Bereuter	Gilman	McDermott
Berman	Gingrich	McEwen
Bevill	Glickman	McGrath
Bilbray	Gonzalez	McHugh
Bilirakis	Goodling	McMillan (NC)
Bliley	Goss	McMillen (MD)
Boehlert	Gradison	McNulty
Boggs	Grandy	Meyers
Bonior	Gray	Mfume
Borski	Green	Michel
Bosco	Gunderson	Miller (CA)
Boucher	Hall (OH)	Miller (OH)
Boxer	Hall (TX)	Miller (WA)
Brennan	Hamilton	Moakley
Broomfield	Hammerschmidt	Mollohan
Browder	Hancock	Montgomery
Brown (CA)	Hansen	Moody
Brown (CO)	Harris	Moorhead
Bruce	Hastert	Morella
Buechner	Hawkins	Morrison (WA)
Burton	Hayes (IL)	Mrazek
Bustamante	Hayes (LA)	Murphy
Byron	Hefley	Murtha
Callahan	Hefner	Myers
Campbell (CA)	Henry	Nagle
Campbell (CO)	Herger	Natcher
Cardin	Hiler	Neal (MA)
Carper	Hoagland	Neal (NC)
Chandler	Hochbrueckner	Nelson
Chapman	Holloway	Nielson
Clarke	Hopkins	Nowak
Clay	Horton	Oberstar
Clinger	Houghton	Obey
Coble	Hoyer	Olin
Coleman (MO)	Hubbard	Ortiz
Coleman (TX)	Huckaby	Owens (UT)
Collins	Hunter	Oxley
Combest	Hutto	Packard
Condit	Hyde	Pallone
Conte	Inhofe	Panetta
Cooper	Jacobs	Parker
Costello	James	Parris
Coughlin	Johnson (CT)	Pashayan
Cox	Johnson (SD)	Patterson
Coyne	Johnston	Paxon
Craig	Jones (GA)	Payne (NJ)
Crockett	Jones (NC)	Payne (VA)
Dannemeyer	Jontz	Pease
Darden	Kanjorski	Pelosi
Davis	Kaptur	Penny
de la Garza	Kasich	Perkins
DeFazio	Kastenmeier	Petri
Dellums	Kennedy	Pickett
Derrick	Kennelly	Pickle
DeWine	Kildee	Porter
Dickinson	Kleczka	Poshard
Dicks	Kolbe	Price
Dingell	Kolter	Pursell
Dixon	Kostmayer	Quillen
Donnelly	Kyl	Rahall
Dorgan (ND)	LaFalce	Ravenel
Dornan (CA)	Lagomarsino	Ray
Douglas	Lancaster	Regula
Downey	Lantos	Rhodes
Dreier	Laughlin	Richardson
Duncan	Leach (IA)	Ridge
Durbin	Leath (TX)	Rinaldo
Dymally	Lehman (CA)	Ritter
Dyson	Lehman (FL)	Roberts
Early	Levin (MI)	Robinson
Eckart	Levine (CA)	Rogers
Edwards (CA)	Lewis (CA)	Rohrabacher
Edwards (OK)	Lewis (FL)	Ros-Lehtinen
Emerson	Lewis (GA)	Rose
English	Lightfoot	Rostenkowski
Erdreich	Lipinski	Roth
Espy	Livingston	Roukema
Evans	Long	Rowland (CT)
Fascell	Lowery (CA)	Rowland (GA)
Fawell	Lowey (NY)	Roybal
Fazio	Lukens, Donald	Russo
Feighan	Machtley	Sabo
Fields	Madigan	Saiki
Fish	Markey	Sangmeister
Flake	Marlenee	Sarpalius
Flippo	Martin (IL)	Savage
Ford (MI)	Martin (NY)	Sawyer
Frank	Martinez	Saxton
Frost	Matsui	Schaefer
Gallegly	Mavroules	Scheuer
Gejdenson	Mazzoli	Schiff
Gekas	McCandless	Schroeder
Gephardt	McCloskey	Schuette
Geren	McCrery	Schulze
Gibbons	McCurdy	Schumer
Sensenbrenner	Solomon	Valentine
Sharp	Spence	Vento
Shaw	Spratt	Visclosky
Shays	Staggers	Volkmer
Shumway	Stallings	Vucanovich
Shuster	Stangeland	Walgren
Sikorski	Stark	Walker
Sisisky	Stearns	Walsh
Skaggs	Stenholm	Watkins
Skeen	Studds	Waxman
Skelton	Sundquist	Weber
Slattery	Swift	Weldon
Slaughter (NY)	Synar	Wheat
Slaughter (VA)	Tallon	Whittaker
Smith (FL)	Tauke	Whitten
Smith (NJ)	Tauzin	Williams
Smith (TX)	Taylor	Wilson
Smith (VT)	Thomas (CA)	Wise
Smith, Denny (OR)	Thomas (GA)	Wolf
	Thomas (WY)	Wolpe
Smith, Robert (NH)	Torres	Wyden
	Traficant	Wylie
Smith, Robert (OR)	Traxler	Yates
	Udall	Young (AK)
Snowe	Unsoeld	Young (FL)
Solarz	Upton	

NAYS—3

Armey	Frenzel	Stump

NOT VOTING—47

Brooks	Gaydos	Morrison (CT)
Bryant	Gordon	Oakar
Bunning	Grant	Owens (NY)
Carr	Guarini	Rangel
Clement	Hatcher	Roe
Conyers	Hertel	Schneider
Courter	Hughes	Smith (IA)
Crane	Ireland	Smith (NE)
DeLay	Jenkins	Stokes
Dwyer	Lent	Tanner
Engel	Lloyd	Torricelli
Florio	Luken, Thomas	Towns
Foglietta	Manton	Vander Jagt
Ford (TN)	McCollum	Weiss
Gallo	Mineta	Yatron
Garcia	Molinari	

□ 1640

Mr. ARMEY changed his vote from "aye" to "no".

Mr. WOLPE changed his vote from "no" to "aye".

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2459, COAST GUARD AUTHORIZATION ACT OF 1989

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of the bill H.R. 2459, including corrections in spelling, punctuation, section numbering, and cross-referencing.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana [Mr. TAUZIN]?

There was no objection.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2459, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have taken this time to inquire of the distinguished majority leader the plans for the balance of the evening.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding. I want to inform the Members of our plans for the rest of the day, and possibly the evening.

We are finished with the business for the day. We intend in a few moments to ask for unanimous consent to declare a temporary recess, subject to the call of the Chair. The reason that we cannot leave for the day at this point is that we are still waiting for the debt ceiling to be finished by the other body and to be sent over here. We do not know in what form it will come and what votes or vote will be required here.

It may be, although I do not believe so, that we will not finish it tonight and that we could not do it until in the morning. I hope that is not the case.

We will give Members as much notice and information as we possibly can as soon as we can so that if we are not going to have further votes today, Members will know that at the earliest possible moment. If the vote is going to come, we will try to give 1 hour's notice before the vote would actually occur.

Mr. MICHEL. Mr. Speaker, I thank the distinguished majority leader, because I was going to inquire specifically, with recess authority, what advance time we would be giving Members. I believe that question has been answered, that we would give Members 1 full hour notice when we were going to be reconvening. Is that correct?

Mr. GEPHARDT. Mr. Speaker, that is correct.

Mr. WALKER. Mr. Speaker, would the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, we have heard that there is some thought being given to using the suspension procedure later on tonight if the Senate bill comes over with amendments to it, particularly with regard to the catastrophic bill, that the suspension procedure would be used in order to strike out the catastrophic provisions and send it back to the Senate. Is there any truth to that rumor?

Mr. GEPHARDT. Mr. Speaker, we do not intend to decide at this point exactly what procedure we would use. We have to see what the bill looks like. I cannot imagine, however, that we would try to achieve such a legislative result as the gentleman has described by the use of the Suspension Calendar. We will obviously be in consultation with the minority and with all the Members that will be involved in this before the bill is brought to the floor.

Mr. WALKER. Mr. Speaker, if the gentleman would yield further, I thank the gentleman for his response, and I certainly hope that we could go by procedure that would allow Members a vote on whatever the Senate package is.

Mr. GEPHARDT. Mr. Speaker, let me give the gentleman one possible scenario. We do not know if the Senate may not pass a bill that is of a different time length, but has no other amendments on it. In other words, a clean debt ceiling of a different length, in which case we would have to take it up here. We may well in that kind of circumstance take it up on a Suspension calendar. But we will have to approach that question when we see exactly what they have got.

Mr. MICHEL. Mr. Speaker, the gentleman's intention would be not to use the Suspension Calendar if there is a substantive kind of measure attached. Is that correct?

Mr. GEPHARDT. Mr. Speaker, I cannot make that kind of blanket statement to the gentleman, but obviously we will be consulting with the minority as we approach this question.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Speaker, I was wondering perhaps as a parliamentary reason, a practical reason, why we are doing it this way? Since the gentleman has already indicated that the Senate may or may not send the bill over, we may or may not have a vote on it today, in which case it would go over and we would vote on it tomorrow, as a practical matter, what is wrong with us announcing now that we will go over until tomorrow and vote on it and let us get out of here, instead of waiting 4 or 5 hours to see what the Senate does? Is there a reason why we cannot do it that way?

Mr. GEPHARDT. Mr. Speaker, I appreciate the gentleman's thought. Let me try to explain the dilemma that we face.

If this bill is not finished, in other words, signed by the President by tomorrow night, we face the rescheduling of an auction of Treasury notes and the possibility of real disruption of the financial markets.

At this point in time we do not know how long it is going to take from the time the bill comes over here, is dealt with here. It may have to go back to the Senate at that point. We simply do not know how much activity is going to have to go on, plus the enrollment of the bill, plus getting the bill to the President, having the President sign it, so that a lot of activities that need to take place at the Treasury Department and in the money markets can take place.

This, in short, is a very important decision. This is not to be taken lightly. There is a lot at stake in terms of the stability of the financial markets. We do not want to be in a position where we have interrupted that.

Mr. DICKINSON. Mr. Speaker, I appreciate the gentleman's answer. I can understand part of it. But if, from what the gentleman said, it is just as likely that all of these things will have to transpire tomorrow if we do not get cooperation out of the Senate, in which case we will go through the same thing tomorrow that the gentleman has described as a possible scenario tonight, I wonder if the gentleman could advise the House at what time he would come to a decision there is no need of waiting later today, we will go over until tomorrow, if by that time we have not heard? Can the gentleman give us some sort of a cutoff time, 8 o'clock, midnight?

Mr. GEPHARDT. Mr. Speaker, if the gentleman would yield, I wish I could do that. It is simply impossible at this point to give that kind of advice. We will obviously do the best we can to give Members as much notice and not hold Members here any longer than we absolutely have to.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Mr. Speaker, I think the gentleman makes a very important point in saying that if we do not act responsibly the financial markets will take it as a negative sign that we are not serious about the debt and that could create problems at the bond auction.

Will the gentleman enlighten me as to why we cannot have a clean debt limit? It seems to me the simplest way to solve this problem is for the other body to accept the debt limit that was passed in the House of Representatives many months ago in our budget and just extend it for 1 year. It seems to me the Secretary of the Treasury indicated he wants a long-term debt extention. The administration favors it. The House, both Democrats and Republicans favor it. Why is there such a problem in just getting a straight extension?

Mr. Speaker, it seems to me if the Senate really cares about the kind of reaction we will have in the world marketplace as to whether or not there will be a default, why would they not just simply send us a straight debt limit? It seems that is the easy thing to do.

The House of Representatives did its job a long time ago. Why should we be backed against the wall right now? It seems to be totally irresponsible for the other body to do that.

Mr. GEPHARDT. Mr. Speaker, as the gentleman knows, the other body does not have a Rules Committee as we do, and, therefore, they have to act by unanimous consent.

There were three occasions last week in which the majority leader asked for unanimous consent to bring up the clean debt, and he could not achieve that. So because of the procedures in the other body, we are in a position tonight where we have to stay here and try to get this done.

Mr. RUSSO. If the gentleman will further yield, it seems to me the American people ought to know if there is a problem, the problem is not in the House of Representatives, the problem is in the other body, in the U.S. Senate.

As it was pointed out by one of my colleagues from the other side of the aisle, they do not even have to send a bill to us.

□ 1650

Mr. Speaker, if they just passed the extension that we sent to them months ago, we could avert all these problems, and it seems to me that what the leadership of our body ought to be prepared to do is to require the Senate to do their job on time and not worry about their rules because this idea of pingponging it back and forth and creating the possibility of a default is only going to lie at the State's feet. It is not going to be the President's fault, it is not going to be the House of Representatives fault. It is going to be solely the fault of the U.S. Senate if it does not get done on time, and the record ought to be clear on that.

Mr. Speaker, we ought to move quickly to get rid of this idea of a possible default.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES TODAY

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses on today, subject to the call of the Chair.

The SPEAKER pro tempore (Mr. BENNETT). Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m. on Wednesday, November 8, 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

COMMUNITY FOUNDATION WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 216) designating November 12 through 18, 1989, as "Community Foundation Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so for the simple purpose of identifying our colleague, the gentleman from Minnesota [Mr. VENTO], as the prime mover in this legislation.

Mr. Speaker, having so acknowledged the effort of the gentleman from Minnesota [Mr. VENTO], I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 216

Whereas the citizens of the United States have a strong tradition of contributing generously to the well-being of their communities and the Nation;

Whereas community foundations are tax-exempt organizations formed to attract endowment funds and to distribute foundation earnings to further the well-being of their communities;

Whereas these earnings are distributed by volunteer boards of directors who are knowledgeable of their communities' needs in areas such as education, arts and culture, social services, economic development, health, the environment, and civic affairs;

Whereas community foundations augment the effectiveness of public and other private services by providing essential coordination to these efforts, and address community needs by providing leadership and resources on a permanent basis;

Whereas community foundations are in their seventy-fifth year of existence in the United States, and are the fastest growing form of philanthropy today;

Whereas there are now more than three hundred community foundations in the United States with total assets of over $4,750,000,000; and

Whereas the Nation's citizens who generously support philanthropic and charitable organizations should be highly commended and encouraged to increase and perpetuate private voluntary contributions to community foundations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 12 through 18, 1989, is designated as "Community Foundation Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MONTANA CENTENNIAL DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 19) to designate November 8, 1989, as "Montana Centennial Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so simply to identify our colleague and friend, the gentleman from Montana [Mr. MARLENEE], the chief sponsor of this joint resolution.

Mr. RIDGE. Mr. Speaker, having identified the effort of the gentleman from Montana [Mr. MARLENEE], I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 19

Whereas for a century the people of Montana have made substantial contributions to the economic and social well-being of the United States of America;

Whereas the State of Montana, known as "Big Sky Country", with wide vista and scenic mountains, is a State of incomparable beauty; and

Whereas the history of Montana is forever intertwined with the history of westward expansion in the United States of America: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 8, 1989, is designated as "Montana Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social, and historic contributions of the people of Montana to the United States of America over the past century.

The Senate joint resolution was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ALZHEIMER'S DISEASE MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 16) designating the month of November 1989 as "National Alzheimer's Disease Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I yield to the gentleman from California [Mr. LOWERY].

Mr. LOWERY of California. Mr. Speaker, for the past 6 years I have sponsored legislation in the House of Representatives designating the month of November as National Alzheimer's Disease Month. Each time I speak on this subject, I am reminded of the terrible toll this disorder takes on its nearly 4 million victims and their families. Sadly, today I must again inform my colleagues that the cause of this disease is unknown and no treatment or cure is currently available.

Alzheimer's disease is the most common form of dementing illness. It strikes without warning and slowly and irreversibly destroys brain cells, causing loss of memory, loss of muscle control, impaired judgment, violent mood swings, and aimless wandering.

The numbers tell a frightening story. Alzheimer's disease produces dementia in 15 percent of all individuals over age 64 and causes more than 100,000 deaths each year. We can say with some confidence that Alzheimer's disease is also responsible for more than 50 percent of all nursing home admissions in the United States. Caring for its 4 million victims now costs $80 billion a year. At least 25 percent of Americans now in their 20's and 30's will develop Alzheimer's disease before they die.

It is important to remember that Alzheimer's disease destroys families as well as individuals. Seventy percent of all victims are cared for at home by their spouses, relatives, and friends without any financial assistance. Family care preserves dignity and delays institutional care, but it also comes at a high price. This tragic illness will bankrupt thousands of families this year, giving them no choice but to turn to Medicaid for assistance.

If there is some good news in this story, it lies in the wondrous scientific discoveries of recent years. Insights into the genetic basis of the disease and the human immune system are helping the biomedical community understand why certain nerve cells may be more vulnerable than others. The

experimental drug THA has given us hope that an effective treatment may someday be within our reach.

For now, however, Alzheimer's remains a disease of despair for this country and for the rest of the world. Let us hope that our actions here today will encourage new research and new care alternatives. Alzheimer's disease is a crisis we cannot afford to ignore.

Mr. Speaker, I am proud to have sponsored the House version of this worthy resolution, along with my good friend from South Carolina, BUTLER DERRICK. I thank my colleagues who joined us as cosponsors and both the Alzheimer's Disease and Related Disorders Association and the American Health Assistance Foundation, for helping raise awareness throughout the Nation.

Mr. Speaker, I urge passage of Senate Joint Resolution 16.

Mr. WOLF. Mr. Speaker, I join with my colleagues today in support of House Joint Resolution 185 and commend the gentleman from California [Mr. LOWERY] for introducing this measure to call the public's attention to the debilitating Alzheimer's disease.

It is appropriate that we designate November 1989 as "National Alzheimer's Disease Month" not only to focus national attention on the victims of this debilitating affliction, but also to their families because the tragedy of Alzheimer's for its victims extends both emotionally and financially to their families and friends.

That is why it is so important that we have a special month of recognition for the plight of Alzheimer's victims, the majority of whom are elderly citizens, and their families. This is also an appropriate time to encourage increased support for expansion of care alternatives for those suffering from Alzheimer's and research efforts in the hope of finding a cure for Alzheimer's

I would especially like to recognize the work of the Family Respite Center in the 10th Congressional District of Virginia which provides help to Alzheimer's victims and their families. The Family Respite Center gives family caregivers of Alzheimer's victims a break or respite in their caregiving role and it also provides therapeutic group environment for people in advanced stages of Alzheimer's.

"National Alzheimer's Disease Month" gives us the opportunity to keep the public aware of this devastating illness, recognize those suffering from Alzheimer's and those caring for them, and support research efforts and those seeking a cure and I urge my colleagues to give unanimous approval to House Joint Resolution 185.

Mr. DOWNEY. Mr. Speaker, I would like to rise in support of House Joint Resolution 185, designating November as "National Alzheimer's Disease Month."

As the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I applaud any effort aimed at acknowledging and combatting the debilitating Alzheimer's disease, which affects more than 4 million people nationwide. According to the Alzheimer's Disease and Related Disorders Association, Alzheimer's disease is the fourth leading cause of death among adults, taking more than 100,000 lives annually. More than 11 percent of the population over 65 is afflicted with Alzheimer's disease and the percentage rises to 25 to 50 percent of those over age 85. The lifespan of Alzheimer's victims can range anywhere from 3 to 20 or more years after the onset of the disease.

Alzheimer's disease is a disease that causes victims and their families great pain and suffering. In many ways, it is the worst type of disease because it robs its victims of their ability to think, and it robs their families, emotionally and financially. Approximately 70 to 80 percent of Alzheimer's disease care is provided by families. The cost to a family caring for the Alzheimer's disease patient averages $22,000 annually.

The Select Committee on Aging has been actively involved in bringing the tragedies associated with Alzheimer's disease to the attention of Congress and the American people. Legislation has been introduced aimed at providing more funding and more services to Alzheimer victims. The committee has held several hearings and forums aimed at pinpointing the tremendous need for additional research and funding for the treatment and care of victims of Alzheimer's disease.

My colleagues on the committee and I have worked diligently for a number of years to provide money for diagnosis and treatment, social services, public education, respite care, as well as biomedical research and research centers for victims of this disease. In June 1986, I chaired a field hearing of the Select Committee on Aging in which I learned first hand of the experiences of Long Island families affected by Alzheimer's disease. The Subcommittee on Human Services has oversight responsibility over the Older Americans Act, which has been our Nation's most effective program for providing social and human services for the elderly for almost 25 years. I am proud to say that the 1987 amendments to the act contained a new provision, "Title IIID—Non-Medical Inhome Services for the Frail Elderly," which included first time funding for programs that provide services to victims of Alzheimer's disease and their families. I am pleased that fiscal year 1990 appropriations level for this provision has been increased by $1 million.

The Subcommittee on Human Services also has a strong association with the New York City Alzheimer's Resource Center, located in New York City, and serving the more than 70,000 Alzheimer's disease victims and their families in New York and its metropolitan area. This center, funded in part by the Older Americans Act, began in 1984 as a comprehensive information and referral service and a public education resource, and has now grown to include respite services, and emergency respite care up to 24 hours a day. In addition, the recent addition of an attoreny enables families of victims to receive legal counseling. The New York City Alzheimer's Resource Center is the first of its kind in the Nation to be sponsored by a municipality.

I believe that we must have a two pronged approach to dealing with the devastating Alzheimer's tragedy. By the year 2040, it is estimated that 7.4 million Americans will have a severe form of Alzheimer's disease or a related disorder if no cure or treatment is found. My approach is as follows: First, more research and training, and second, better care and treatment not only for the victims but also for those who bear the burden of caring for them. Progress is being made around the Nation, but much more needs to be accomplished to fulfill our responsibility to these victims of Alzheimer's disease. There needs to be a greater pulbic/private partnership if we are to successfully serve all those stricken with Alzheimer's disease. I was happy to read in a recent issue of Consumer Reports that many insurance companies, in their nursing home policies, now report that their policies specifically spell out coverage for Alzheimer's and related dementias. In the past, policies have been ambiguous.

In addition, more and more Federal grants are being awarded to universities and institutions for research into the causes and treatment of Alzheimer's disease.

As we pause to recognize the millions who suffer from Alzheimer's disease, those who care for them, the scientific, medical, professional and volunteer personnel, and all those involved in the treatment and prevention of this mentally crippling disease during the month of November, let us not forget them during the rest of the year. The prevalence of Alzheimer's disease in our society will grow as the numbers of elderly grow. We must work together to develop a system of long term care which will assist the victims now.

Mr. RIDGE. Mr. Speaker, I appreciate the comments of the gentleman from California [Mr. LOWERY] and his concern for this terrible disease, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 16

Whereas more than two and one-half million Americans are affected by Alzheimer's disease, which is a surprisingly common disorder that destroys certain vital cells of the brain;

Whereas Alzheimer's disease is the fourth leading cause of death among older Americans;

Whereas Alzheimer's disease is responsible for 45 per centum of all nursing home admissions, at an annual cost of more than $80,000,000,000;

Whereas in one-third of all American families one parent will succumb to this disease;

Whereas Alzheimer's disease is not a normal consequence of aging; and

Whereas an increase in the national awareness of the problem of Alzheimer's Disease and recognition of national organizations such as the Alzheimer's Disease and Related Disorders Association and the American Health Assistance Foundation may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for Alzheimer's disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of

November 1989 is designated as "National Alzheimer's Disease Month". The President is requested to issue a proclamation calling upon the people of the United States to observe such month will appropriate ceremonies and activities.

AMENDMENTS OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. SAWYER: Page 2, line 3, strike out "the month of November 1989 is" and insert in lieu thereof "November 1989 and November 1990 are".

Page 2, line 6, strike out "month" and insert in lieu thereof "months".

The SPEAKER pro tempore. The question is on the amendments offered by the gentleman from Ohio [Mr. SAWYER].

The amendments were agreed to

The Senate joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "Joint resolution designating November 1989 and November 1990 as 'National Alzheimer's Disease Month'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

□ 1700

NATIONAL MILITARY FAMILIES RECOGNITION DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 215) acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. BENNETT). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I do so simply to note for the RECORD that it is our colleague, the gentleman from Mississippi [Mr. ESPY] who is the chief sponsor of this resolution, acknowledging the sacrifices that military families have made on behalf of the Nation, and designating November 20, 1989, as National Military Families Day.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 215

Whereas Congress recognizes and supports Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas in times of war and military action military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 68 percent of officers and 48 perent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses or children) account for more than two million seven hundred thousand of the more than four million eight hundred thousand in the active duty community, and spouses and children of members of the Reserves in paid status account for more than one million five hundred thousand of the more than two million seven hundred thousand in the Reserves community;

Whereas spouses, children, and other dependents living abroad with members of the Armed Forces total nearly five hundred thousand and these family members at times face feelings of cultural isolation and financial hardship; and

Whereas military families are devoted to the overall mission of the Department of Defense and have accepted the role of the United States as the military leader and protector of the free world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Congress acknowledges and appreciates the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation; and

(2) November 20, 1989, is designated as "National Military Families Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the several joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 147

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of House Concurrent Resolution 147.

The SPEAKER pro tempore (Mr. SAWYER). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

LONG-TERM WATER SUPPLY NEEDS OF INSULAR AREAS

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introduce legislation which will authorize funding for the Bureau of Reclamation to study the long-term water needs of the insular areas of the United States.

Mr. Speaker, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands comprise this country's overseas territories. None of them has a water supply and distribution system which would be considered adequate by residents of the 50 States. The recent devastation of the Virgin Islands and Puerto Rico by Hurricane Hugo, and a similar devastation of the Manu's group of islands in Samoa in 1987 have brought to the forefront the inadequacy of the water systems in our insular areas. The residents of these areas frequently receive contaminated or inadequate supplies of water. When hurricanes, typhoons, and cyclones come, and they come frequently, there is no drinkable water.

The results of the study this bill authorizes will assist the Federal and territorial governments in determining the magnitude of the problem and the steps that should be taken to correct it.

H.R. 3596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress hereby finds and declares that assuring adequate supplies of potable water for the residents of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands has become a problem of such magnitude that

the welfare and prosperity of these jurisdiction requires the Federal Government to assist in finding permanent, long-term solutions to their water supply problems.

SEC. 2. WATER SUPPLY STUDY.

(a) AUTHORIZATION.—The Secretary of the Interior, acting through the Bureau of Reclamation, is authorized and directed to undertake a comprehensive study of how the long-term water supply needs of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands can be resolved on a permanent basis. Such study for each jurisdiction shall include, but not be limited to—

(1) an assessment of the magnitude and extent of current and expected water supply needs;

(2) an assessment of how the water supply needs can be permanently resolved;

(3) the costs and benefits of alternative water supply solutions;

(4) the need for additional legal authority for the Secretary to take actions to meet the water needs of these jurisdictions; and

(5) specific recommendations for the role of the Federal Government and each local government in solving long-term water supply needs.

(b) SUBMISSION OF THE REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit the studies required by this section, together with supporting documentation and recommendations of the Secretary, to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary, acting through the Bureau of Reclamation, through the end of fiscal year 1983, the sum of $5,000,000, which is authorized to remain available until expended.

AIR TRAFFIC DELAYS AT FAA'S LEESBURG CENTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. OBERSTAR] is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Speaker, last Friday afternoon, air travelers throughout the Nation, but especially in the Washington-Baltimore area, experienced considerable disruption of their travel plans due to air traffic control difficulties.

I thought it would be a useful service to the traveling public, including many of our colleagues who may have been caught in that tangle, to explain what went wrong—or, at least, what we know at this time about the problem.

Friday, November 3 from 4:36 p.m. to 6:51 p.m. there was a computer outage at the air route traffic control center in Leesburg, VA. FAA reports indicate that 639 aircraft were delayed due to the outage. Some 63,000 air travelers were caught in that nationwide web of delays of 30 minutes to 1 hour or more.

The cause of the outage is still under investigation by a team from the FAA's technical center, FAA headquarters, and NYMA, a subcontractor for IBM, which holds the host computer contract.

However, this much we do know:

At 4:36 p.m., a data systems specialist entered a command into a keyboard at the center. Either the keyboard or the computer malfunctioned, causing the host computer to go down. FAA then switched over to the backup system, DARC [Direct Access Radar Channel] and a malfunction triggered a continuous loop of information. A continuous loop is the relay of identical information being transmitted over and over again until capacity is reached.

The heavy air traffic levels exceeded the capacity of the backup system, causing it also to go down. After numerous attempts to alleviate the computer backup problems, the FAA data system specialists successfully brought the host computer system back on line at 6:51 p.m.

The FAA canceled all arrivals into the Leesburg ARTCC airspace 10 minutes after the computer outage, affecting airports nationwide, as the FAA's national flow control center ordered Leesburg-bound aircraft to stay put. Fortunately, no controller errors occurred during the outage.

FAA's host computer contract guarantees a down time of no more than 10 seconds in 20,000 hours of computer time. The contract guarantees approximately 15-percent computer memory usage on a typical day, leaving an 85 percent available capacity. The host computer is 10 times faster and has a memory capacity 3 to 4 times that of the previous (IBM 9020) computer. I mention these facts to emphasize that the incident was not due to a lack of computer capacity, because there is adequate capacity; rather, the problem is attributable to software and to some, as yet unknown, hardware problems.

The host computer was installed at Leesburg in spring 1987 and was commissioned—that is, put in operation—in October, 1987.

This morning, Leesburg experienced two additional outages due to telephone lines being down. Air traffic control information is transferred from facility to facility by phone lines. The FAA's telephone contractor, TELCO, is required by contract to provide backup telephone lines in the event that the primary lines are inoperative. The FAA is investigating why the backup lines, or the transfer to those lines, did not function. The outages occurred this morning at 7:36 a.m. to 7:57 a.m. and at 12:30 p.m.

The Leesburg air route traffic control center handles some 2.3 million aircraft operations per year. The Subcommittee on Aviation of the Committee on Public Works and Transportation, I assure my colleagues, will continue to inquire very carefully into this matter and to report further as additional details unfold.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

[Mr. ANNUNZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

FOREIGN ROLE RISES IN MILITARY GOODS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, on October 23 the New York Times featured a front page article titled "Foreign Role Rises In Military Goods." The day before, on Sunday, Oct. 22—the day before—the Washington Post, in the business section, headlined an article "Defense Firms Take a Global Offensive." Both articles described graphically what is happening to the defense industrial base of this country.

The thrust of the first article in the Times goes into detail on the consequences to America's small manufacturers of shifting much of our subcontracting for weapons systems offshore—a loss of defense contractors from 138,000 in 1982 to fewer than 40,000 in 1987.

Sandy Sugawara's article in the Post reports on the efforts of the large U.S. defense contractors to forge alliances abroad, particularly in Europe, anticipating the emergence of the European Community in 1992.

The comparably cheaper cost of parts from abroad is mentioned, but then also is the efforts of the Congress to bring this about in order to get foreign nations to share in the increasing burden of costly weapons systems.

If you read both of these articles, and I ask that they be included in the RECORD today, it is a devastating commentary on the selling out of the small American businessman not only by the large Defense contractors, but by our own Government and our own Department of Defense.

It is a shocking report.

And the whole premise behind it—the saving of taxpayers money is an absolute fraud. Someone may be saving themselves money, but it is not taxpayers money. Every taxpayers' dollar spent inside the United States returns 42 cents to the municipal, State and Federal governments.

Any item purchased abroad by any government agency must be 42 percent cheaper to be competitive with any comparable U.S. produced item.

But, there is a greater fraud being perpetuated upon the American people and that is that we have a strong defense. Wrong. Our defense is

only as strong as our allies' desire to protect us at risk of being bombed.

With so many of our component weapons parts being sole-sourced out of foreign countries, we and they are liable to being blackmailed. It is absolutely remarkable to me that World War II history has so soon been forgotten.

Denmark capitulated when German bombers flew over the parliament in Copenhagen and Hitler himself called the President threatening that upon the return run, bombs would be dropped.

Think about the response of any of our allies to that kind of threat from the Russians—except this time—the bombs will be nuclear—and many of our sole-source suppliers are within 1 air hour of Russia.

I believe, and it is understandable, that not one of them would or could afford to call the Russians' bluff on this kind of threat. It is against this threat that the shipping offshore of important parts of our defense industrial base borders on lunacy. It is as though the whole purpose of defense has been totally overlooked in a mad race—a crazy effort to build the biggest and the newest weapons for their own sake.

The Post article documenting the growing global involvement of major U.S. defense contractors in consortia with the cartels of Europe and the Far East, gives me a feeling of deja vu. Again back to history—in the years immediately following WW II assessments of actions precipitating the rise of the warlords in the Axis powers, laid much blame at the feet of the cartels.

They became more powerful than the governments using their great wealth and influence to manipulate the will of the people to their own ends. Creating an international elite not answerable to any electorate running roughshod over small nations and peoples.

It was an ugly time in the world, a jungle atmosphere where the rule of power and might almost overcame 2,000 years of Western enlightenment. Bounding back from that threat—after those powers were defeated—laws were put in place in this country to assure that this kind of economic power would never be allowed to be put together again. And peace treaties with the Axis powers proscribed cartels.

This was the aegis of the tough antitrust laws of the forties and fifties. President Eisenhower, the victorious commander of the U.S. Allied effort against the Axis, warned against the future power-gathering of a military industrial complex in his farewell address to the Nation on January 17, 1961.

He said, and I quote:

> In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.
>
> We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together.

I doubt that even President Eisenhower could have believed that the defense industrial complex would assume the international proportions reported by Ms. Sugawara in the Post.

Seemingly this administration has no stomach to take on the challenge of reining these forces in even though the laws are still on the books to stop these kinds of actions.

I believe that foreign nations are all too aware of this. Recently, when the Sony Corporation announced with a great deal of fanfare that they would purchase Columbia Pictures, the words used in their press announcement were interesting. They said that they were purchasing Columbia Pictures in order to—and I quote—"vertically integrate" their company.

Are they aware that title 7 of Clayton Antitrust proscribes the vertical integration of companies? In the strange choice of those particular words, I think they are aware. And I think it was issued as a challenge to this country to stop them—if we have the guts to do it—especially since they offered much more money than the company was judged to be worth.

The silence of this Government to Mr. Morita's challenge is ominous. I am sure there are all sorts of legalisms involved in the decision as to whether a foreign national company is liable under U.S. law to antitrust when the American entity is only a part of the total structure of an international vertically integrated company.

Moreover, it is exactly this new breed of corporation which needs to be examined against our laws. And the question must be raised as to whether a foreign corporation operating inside this country—an international half breed—is subject to the same laws as a wholly owned U.S. corporation.

And in like manner, when U.S. companies forge alliances abroad that under U.S. law would not be in compliance, should not this body examine these alliances and either reassert the stance of this country against cartels, or—to change the law and make it fair for all companies—to write new law to make all companies operating freely inside the country conform to one law no matter in which country the parent company is located.

The silence, both by this body, and by the administration on administering antitrust law gives a signal to foreign companies to move in and try anything. And to U.S. companies moving into alliances abroad—do it—and if questioned, hire lawyers and lobbyists. To small totally owned U.S. companies, the message is—sell out or roll over; there is no protection under U.S. law for you.

A case in point—which I am fighting right now—is that of a small U.S. defense contractor being knocked out by a defense contract by two major multinational defense contractors—GTE-American, and Thomson-CSF, owned by the Government of France.

The American subcontractor, NavCon Defense Electronics of California, a wholly owned U.S. company, was chosen as a subcontractor by Thomson—GTE is the prime contractor—to supply 40 percent of the requirement of radios for the MSE program for the Army.

Into the second year of the contract, Thomson—the French firm—announced to NavCom, the second source U.S. firm, that they would not allow them to produce the next 2 years of radios, because they had purchased a company in Missouri and they wanted all of the business for themselves.

Defenders of this action explain that this is a business decision. You bet it is. In the same way that Toshiba sold strategic technology to the Russians, a business decision or that the United States sold the old Third Avenue El to the Japanese just before WW-II, another business decision.

I admit that it is a profitable decision for Thomson-CSF. The overall contract is worth $4.5 billion—the largest communications contract ever let by the Army. In the initial contract, approximately 25 percent of that amount went to Thomson for the radio and of that amount the U.S. firm, NavCom, was awarded 20 percent of the Thomson contract. U.S. source, U.S. share.

But not now. In a move to circumvent the loss of that share of business, Thomson purchased the Missouri company from another major international defense contractor, Northrop, which enabled them to get control of the rest of the contract and substitute their wholly-owned subsidiary's product for the American content requirement by the Army.

In this whole operation I have been questioning, Who will pay for the start-up costs and the technology transfer to the new company estimated to be somewhere in the ballpark of $10 million? The U.S. taxpayer having already paid once for NavCom being set up and being in operation. I am assured that this is a fixed-price contract and that Thomson will assume the cost. How generous of them. How

generous the original contract that it had that much slack in it.

Strangely enough and rather shocking to me, GTE, the household-name American company, supports this action. The interests of the French Government come ahead of the well-being of a sister American company. A very little sister American company with under a thousand employees. If the contract is lost there will be 200 fewer—most of them minorities.

I was puzzled that the Army—from all indications—is not fighting this move to a foreign sole-source for all of its radios in this program until I read these two articles and realized that the Defense Department apparently has absolutely no concern whatsoever that strategic items and component parts are sole-sourced outside this country even though none of those workers pay taxes into the U.S. Treasury to help support the Federal Department of Defense.

The loss of the MSE radio to total French sourcing is especially critical since the Army did not get control of the data package.

The question now being raised with the Department of Commerce is whether two giant corporations can destroy the only competition—and a satisfactory source of product for radio manufacture in this country.

It is such a picture of big bullies at work that I pray the Commerce Department can be effective in stopping this.

At the time Wilcox, the Missouri firm, was sold to the French, the Commerce Department expressed grave concern that this firm was moving into foreign hands. The concern then was that it manufactured sophisticated ground-based air navigation and landing systems for civil and military application. At that time, it was one of only two U.S. suppliers.

Now they are moving into displacing an American defense contractor with the taking of this contract.

Another story of loss to a small contractor, an aircraft maker of the Exdrone pilotless aircraft, appeared in Defense News, September 9, 1989. Brandebury Aerostructures Inc., of Rockville, MD, long considered to be a frontrunner to win a sole-source contract with the Navy for construction of the Exdrone is charging that the Navy not only awarded the contract to a Canadian firm, but also forced the company to turn over details of its manufacturing process to a foreign company.

Evidently, the reason the Rockville company was going to be a sole source was that they had developed the manufacturing technology for the plane. I guess the Navy is happier with a sole-source in Canada than a sole-source in America, even though the forced transfer of the technology to another firm is an alleged violation of an exemption to the Freedom of Information Act designed to protect trade secrets. It also seems to be an illegal taking of private property no matter who took it.

I do not believe a defense contractor gives up civil rights to bid for DOD business, especially when he uses his own money and his own patents.

Another shocking story.

The story goes on to report that Brandebury Aerostructures' trade secrets were put out to interested bidders by the UAV Joint Project in the Naval Air Systems Command.

If this contract with the Canadian firm stands, Brandebury will be out of business. But, on the contract the Navy will, in the short term, save money. In the long term there will be less money in our tax coffers next year and another dollop of disillusionment and bitterness is added to the rising tide of feeling in this country that our Government is selling us out.

I want to interject here that those workers in the Canadian plant do not pay any taxes to the U.S. Government to keep the U.S. Defense Department going.

You and many of our colleagues are aware of my staunch support for the Department of Defense and for its budgets—even in these tight times. But, the behind-the-scenes view I am gaining of the destruction being wrought by DOD policies on our own people, our own industries, is beginning to change my mind.

I fear these are chilling examples of how the globalization of the large U.S. defense contractors will be worked out. Loyalties will no longer be to the Nation, but to the partnership or to the cheapest producer no matter where it is.

In like manner, it seems, the Defense Department and some Members of the Congress, are not assigning priority to the defense of the United States, but to the building and maintaining of the weapons of war over the sovereignty of the Government to decide its fate at a time of danger.

Testimony abounds that DOD has no idea of what component parts are manufactured offshore nor even in which countries. How this all occurs was reported before Congresswoman MARY ROSE OAKAR's Subcommittee on Economic Stabilization when members of the American Gear Manufacturers Association testified on the capacity of the remaining U.S. gear manufacturers to produce enough for DOD demand during a war.

Citing the loss of DOD business to foreign producers as a threat to the U.S. base, Mr. Morment testified about one contract for gears used in the Army's Hummer—a 4-wheel drive all-terrain vehicle—designed to replace the jeep.

Quoting from the hearing testimony:

> The Army's Hummer, when AM General got the contract, 49 percent of the gears were contracted to Howa in Japan. The other 51 percent of the gears were contracted to Rockwell to comply with Buy American provisions, as loose as they are. This is when the problems started, where we get into the offsets, MOU's and MOA's. Rockwell was in the process of negotiating some sales to Spain. At this time there was some questions about Spanish reauthorization of our access for Air Force Bases in Spain.
>
> Rockwell simultaneously was looking for a nice sale. The Spanish being fairly good businessmen and traders seized upon this opportunity, and as a result Rockwell did not make the gears for the Hummer. That was used as an offset, as part of a MOU to satisfy Spain's need to help develop their own gear industry.

Mr. Morment went on to explain that the Spanish industry was so inexperienced that they were incapable of building the gears and the slowdown was such that the prime contractor, AM General, had to come back to using a domestic source. In the whole process, the demand for domestic gears fluctuated from 180 percent capacity of two U.S. gear manufacturers to zero levels—which could last for 2 to 3 months.

Both companies one in Michigan and one in Charlotte, NC, were so stripped of cash because of these fluctuations—having taken on debt to tool up for the contract—that they had to liquidate the equipment and withdraw from the market—laying off people in the process. Mr. Morment credits the transfer to Spain of the manufacturing in the early days as being the trigger. He also suggests that foreign policy and the search for the cheapest product possible fueled this sorry scenario.

All in the name of false economics ignoring the 42 cents returned on every dollar spent in America, forgetting that 100 percent of a dollar spent offshore is lost forever. And American companies and jobs are lost, also. How stupid it all seems to me.

I hope that I have given you some of the behind-the-scenes stories, put some names and faces to the statistics that were featured in the Post and Times articles. They are not pretty, but from all I have seen, and I could tell you many more similar, this is how it is all spinning out, and spinning down on the future of this country.

The impact can be seen all around us. The trade deficit figures this last quarter are worse than any we have seen in 6 years—despite the low dollar, despite the export efforts. And it makes me ill to think of how much of the money we owe is taxpayers' dollars lost to this country forever.

But over all, the greater loss is our industrial base leading to a loss of control over our defense and our foreign policy. It is at great risk that we forget Ben Franklin's maxim:

For want of a Nail the Shoe was lost; for want of a Shoe the Horse was lost; for want of a Horse the Rider was lost; being overtaken and slain by the Enemy, all for want of Care about a Horse-shoe Nail.

The documents referred to above are as follows:

[From the Washington Post]

DEFENSE FIRMS TAKE A GLOBAL OFFENSIVE—CRITICS SEE OMINOUS CONSEQUENCES IN TREND

(By Sandra Sugawara)

In just eight days last June, Lockheed Corp. Chairman Daniel M. Tellep swept through Europe holding 49 meetings with the top executives of all the major European defense companies and with numerous defense ministries.

At the same time, Tellep ordered up an expansion of Lockheed's office in Brussels and the establishment of new offices in Paris and West Germany. And he started maneuvering Lockheed into a closer relationship with Aerospatiale, the giant French nationalized aerospace company. The two companies signed an agreement to look for projects they can do jointly.

As Tellep was traveling the well-trod path of American defense giants to Europe, Matra, the large French aerospace and telecommunications company, was forging a path in a different direction: from Europe to the United States. In June, Matra announced that it was buying the space and defense electronics division of Fairchild Industries of Chantilly, a major producer of hardware and software for aerospace systems and spacecraft. The $245 million deal gave the French company a long-sought foothold in the American defense market.

"We cannot afford not to have a presence in the U.S. Our strategy is to have an industrial base in the U.S. It's the reason we recently acquired Fairchild's space and defense activities," said Gilbert Croze, president of Matra Aerospace Inc., the U.S. subsidiary.

The two-way traffic reflects significant changes underway in the large and important world of defense production.

"There is a globalization of the defense industry going on," explained Donald J. Neese, vice president of international marketing for Lockheed, which, like most other U.S. defense contractors, wants to be part of the action.

This globalization of the defense market is expected to radically change the defense industry and the way European and American governments buy weapons. Some industry executives predict that as nations share the expense of developing and manufacturing weapons, costs will go down. Pooling of resources between nations also is expected to speed up technical advances.

But critics warn of a more ominous side to this trend.

Some in Congress question whether the United States is making itself dependent on foreign parts that could be hard to get in times of war and whether the United States is giving out critical technology that will erode both the country's industrial base and its national security.

Globalization also is expected to lead to a massive restructuring of the U.S. defense market, something already occurring in Europe, where small firms without the resources to compete are being gobbled up. Substantial layoffs and bankruptcies of weaker U.S. weapons companies are inevitable, industry experts warn.

The changes are propelled by shifting economic, industrial and political currents on both sides of the Atlantic and elsewhere.

The American weapons business is entering a period of overwhelming uncertainty, with changes hitting it from every direction. Federal budget problems and Mikhail Gorbachev's glasnost are causing the Pentagon to scale back its weapons grocery list, sending U.S. defense companies scurrying overseas to look for business.

But in Europe, which has been the primary U.S. defense export market, a stunning series of mergers, consolidations and alliances in preparation for Europe 1992 has created the most formidable competitors that American defense companies ever have gone up against.

In the Middle East, once a gold mine for arms merchants, defense spending has declined 12 percent annually since 1984, according to a study by the Electronic Industries Association. And in Asia, demand has been growing, but so too has the region's fledgling defense industry, much of the new business is going to Asian companies.

With a significant worldwide overcapacity in the defense industry, and with newly fortified European competitors, the U.S. military merchants are scrambling to find new friends, new markets and new ways of doing business.

"To state that we are engulfed by great tidal waves of change almost on a daily basis is to state the obvious," Malcolm R. Currie, chairman and chief executive of Hughes Aircraft Co., said in a recent speech here. "A new industrial game is emerging and everyone, from lofty idealists to pragmatic CEO's [is] trying to define and understand the newly emerging rules of the game and how to survive."

While budget cuts and a lessening of regional and superpower tensions are giving defense industry executives a headache, it is the head-spinning changes going on in Europe that are causing some of the greatest uncertainties for American firms.

In preparation for 1992, when economic barriers between Western European nations are to come tumbling down, large companies like Britain's General Electric Co. (no relation to the U.S. company) and West Germany's Siemens AG have joined together to gobble up competitors like Plessey Co. of Britain. Mergers are creating powerful new companies, such as the giant West German aerospace company resulting from the recently announced decision of Daimler-Benz AG's to take over Messerschmitt-Boelkow-Blohm GmbH (MBB).

France's Thomson-CSF will be an even more formidable competitor in the defense electronics business with its planned takeover of the defense business of Philips NV, the Dutch electronics company. And the merging of the airborne electronics operations of Thomson-CSF and Aerospatiale into a joint venture called Sextant has formed an important player in the avionics world.

Matra, in addition to its move into the American market, has plans to become more "international" by swapping 40 percent of its space and defense division for 20 pecent of GEC and 20 percent of Daimler.

These newly formed or fortified European companies will not just be even tougher competitors in Europe, many intend to grab some of the U.S. market as well. Despite budget cutbacks, the United States remains the largest and thus most desirable military market in the non-communist world, and European firms believe that they now have their best chance ever to win major contracts here.

Nathan Higginbotham, director of strategic planning and technology development for McDonnell Douglas Corp., predicts that more Europeans will follow Matra's suit and acquire U.S. companies. Others, however, say that European executives are wary of plunging in too quickly because of the recent experience of Ferranti, the financially troubled British-based defense electronics firm, which blamed much of its problems on a Lancaster, Pa., defense company its owns called International Signal and Control.

American and European military equipment companies certainly are no strangers to each other. There have been a variety of acquisitions and investments before this year, such as United Technologies Inc.'s 1986 investment in Britain's Westland Helicopters, giving it a 7.9 percent voting share in the company.

In addition, some U.S. defense companies, such as General Dynamics, have long bought weapon parts from foreign companies. And to win overseas sales, American companies over the years have agreed to produce part or all of their product in the buyer's country.

In the past, Congress even has been instrumental in pushing cooperation in an effort to get other nations to assume part of the cost of developing expensive new weapons systems and to encourage cooperation between NATO countries. Since 1986, Congress has appropriated millions of dollars to be used as seed money for joint NATO research and development projects that other countries have agreed to help fund later on.

Until recent times, however, rising U.S. defense budgets made foreign sales icing on the cake for many companies. Now some of those same companies see foreign sales as something far more critical. European companies say Americans who once looked down their noses at the idea of helping a foreign firm sell in the U.S. market now think it's a fine idea, if it will protect their European flank.

"There are now a lot of U.S. companies that want to have detailed discussions with us," said James D. Bell, chairman and president of Thomson-CSF Inc., the U.S. subsidiary of Thomson-CSF, the French defense electronics firm. "There's been a real change in the nature of the international defense marketplace in the past year."

Thomson already has teamed up with a number of U.S. firms, including Raytheon Co., Hughes, Boeing Co. and Texas Instruments Inc. Meanwhile, Matra recently signed an agreement with McDonnell Douglas to market Matra's Mistral missile system to the U.S. military, and McDonnell Douglas also agreed to offer its buyers Matra weapons on its aircraft.

Likewise, LTV Corp, recently teamed with Hollandse Signaalapparanten B.V. or Signaal, a Dutch military electronics manufacturer, to pursue a U.S. Army radar contract. The two companies plan to try to sell radar that Signal had developed for use in Europe to the U.S. Army. And Grumman Corp, and Gruppo Augusta SpA of Italy have a joint effort to sell trainer aircraft to the U.S. Air Force.

This globalization of the defense industry has raised questions on Capitol Hill, where members have charged that U.S. companies are leaking critical technology to foreign countries, eroding any competitive edge the United States might have. The most notable example of this was the outcry over plans to allow Japan to use General Dynamic's F-16 technology to build a new-generation jet fighter called the FSX.

While deals with European partners to date have caused less political hubbub than those with Japanese companies, there have been declarations of concern.

Rep. Mary Rose Oakar (D-Ohio), who is chairman of the House subcommittee on economic stabilization, complained that the Pentagon has no idea what weapons systems are dependent on foreign technology and products, something she said threatens both the U.S. industrial base and military preparedness.

To remedy that, Oakar said that next spring her subcommittee will consider, as part of the reauthorization of the Defense Production Act, legislation that would require the United States to maintain at least the capability to manufacture and assemble all parts and components in U.S. weapon systems. It would allow for presidential waivers in special cases.

The Oakar provision has generated grumblings in the industry, which complaints there already are numerous checks and balances against inappropriate technology leaks. Team arrangements with foreign companies must be approved by the State Department, the Defense Department and, depending on how classified the project is, the intelligence agencies. In addition, an increasing number of arrangements is being reviewed by the Commerce Department. The approval process can take from a month to more than a year.

The Defense Department also has opposed new restrictions on foreign procurements. At a recent trade show of European and American defense companies, Donald J. Atwood, deputy secretary of defense, said, "The Defense Department recognizes that this is an important issue, and we do not take it lightly . . . But no single nation has a monopoly on technology." He said the United States would benefit by pooling its technology with those of other NATO countries.

"Technology transfer is more and more getting to be a two-way street. We tend to think of ourselves as still being the number one technological leader of the world, and that is not" always the case, said Fred Haynes, vice president of planning for the missiles and electronics group of LTV Corp.

Yet, executives say they are braced for more protectionist pressures, particularly if the declining worldwide demand for military aircraft, missiles and other weapons results in more layoffs and forces more weapon-makers to close their doors.

The smaller companies are expected to be the ones that are hit hardest by this process. Few can afford to set up offices in Brussels or West Germany, and many are the subcontractors that could be replaced by foreign teaming arrangements. The National Council for Industrial Defense, which represents small and medium-sized defense companies, has gone to court to protest the Defense Department's policy of waiving "buy American" laws.

"It's going to take a year or two for the effect of the declining U.S. and worldwide defense budget to be felt. At that time, there will be a tremendous ground-swell cry for protectionism, as people start losing their jobs," said Thomson-CSF's Bell, who expects those protectionist cries to occur on both sides of the Atlantic.

Despite such pressures, most executives say that the trend toward internationalization is inevitable, because in many countries, defense spending is simply no longer the top priority it has been for the past several decades. Thus, if governments want to continue buying complex, expensive weapons, they are going to have to eliminate duplicative costs.

For instance, if a Dutch company has developed and tested a sensor that works, the United States will not be able to afford to pay an American company to develop the same thing. "You can't afford to reinvent the wheel when you are poor," said a General Dynamics official.

[From the New York Times, Oct. 22, 1989]

FOREIGN ROLE RISES IN MILITARY GOODS—USE OF PARTS STIRS U.S. FEARS ON DEPENDENCE AND JOBS

(By Richard W. Stevenson)

LOS ANGELES.—The nation's military contractors are increasingly turning abroad for parts and components to build weapons systems, as the Pentagon puts pressure on them to reduce costs and foreign suppliers become more adept.

Foreign companies now provide everything from wing sections and computer chips to nuts and bolts, cutting mostly into the sales of subcontractors and other small to medium-sized American companies.

The trend is intensifying concerns among Government and private analysts about the competitiveness of American weapons technology and the nation's ability to meet its military needs in wartime. And it has brought growing objections from companies, workers and politicians worried about the loss of American jobs and profits.

'UNDESIRABLE' DEPENDENCIES

"Foreign suppliers not only take business away from domestic firms but also can create undesirable foreign dependencies that, during peacetime, could sap the technological competitiveness of U.S. weaponry and that, during wartime, could disrupt the flow of materiel to U.S. or allied forces in combat," said a recent study by the Center for Strategic and International Studies, a research center in Washington.

In one recent deal in which a military supplier bought parts abroad, the Lockheed Corporation selected Daewoo Heavy Industries of South Korea to build portions of the wing for the Navy's P-7A anti-submarine aircraft.

The deal, worth as much as $108 million to Daewoo, drew protects from unions in the United States already concerned by the loss of jobs because of tightened Pentagon spending.

Lockheed responded that Daewoo had offered a better price and production schedule that the other bidders, one American and one Canadian. It defended its choice as necessary at a time of intense Pentagon pressure to keep costs down.

The Lockheed example illustrates a primary force behind the trend. To keep their own bids for scarce Pentagon business as low as possible, American military contractors are buying more parts, ranging from sophisticated electronic components to simple metal casings, from companies in nations with lower wage rates or other cost advantages.

OTHER FACTORS CITED

But industry executives, Government officials and private analysts say the trend is being driven by other factors as well, and can be seen on a number of fronts:

The number of American companies supplying goods to the Pentagon has dropped sharply this decade, as suppliers found the business unprofitable or became exasperated with the bureaucratic requirements of doing business with the Government.

To induce other nations to buy planes, tanks and other weapons from them, many prime contractors routinely agree to buy more parts and components from those countries under what the industry calls "offset"deals.

Foreign competitors have become more aggressive in seeking business in the United States. Foreign corporations have also been acquiring a small but growing number of American contractors.

In some cases the Pentagon is encouraging foreign companies to bid for more of its business, as part of its efforts to promote international cooperation in weapons design and manufacture.

PROCUREMENT FROM ALLIES UP

The trend is hard to document. The Defense Department does track military sales to and purchases from the 19 allies with which the United States has reciprocal military procurement agreements. Pentagon procurement from companies in those nations rose to $3.7 billion in 1987, the most recent year for which statistics are available, from $2 billion in 1983, including prime and major subcontracting awards.

But analysts outside the Government say the figure for procurement from all nations is much higher, especially when smaller supply deals not tracked by the Pentagon are included. The National Council for Industrial Defense, a lobbying group whose members are largely unions and subcontractors, estimated that $20 billion to $30 billion, or roughly 15 percent of the procurement budget, flowed directly or indirectly to foreign companies in 1987.

The report by the Center for Strategic and International Studies found that from 1980 to 1986, import penetration had increased in 104 of the 122 military-related product categories for which data were available.

TREND CALLED INEVITABLE

Pentagon officials say the trend has been inevitable, given the nation's free-trade commitments and the push by many other countries to develop their own technology and military-related industries.

"We're going to lose some business to overseas sources, but we're going to be selling more abroad," said Al Volkman, the Defense Department's director of foreign contracting. He added that American military contractors exported far more weapons and other military-related products than the United States imported, although the surplus has been narrowing. Exports to the 19 nations with which the United States has reciprocal procurement agreements fell to $5 billion in 1986 from $9.7 billion in 1983, before rebounding to $7.9 billion in 1987, the Pentagon said.

The big American prime contractors, which generally retain their reputation for worldwide technical superiority, have felt little pressure so far from foreign competition. Indeed, the Pentagon would be constrained both by political realities and security concerns from ever giving its largest contracts to foreign companies.

But these prime contractors are encountering more competition in selling their weapons abroad. And they say they are increasingly interested in forging joint ventures and other partnerships with foreign companies that have breakthrough technologies or proven designs that might find a market in the United States. Just last week, Lockheed agreed to license the design for a trainer jet from Aermacchi S.p.A. of Italy to

use in a competition for an Air Force contract.

So far, much of the foreign incursion has come on the supply and subcontracting rungs below the prime contractor.

"Most of the first-tier subcontractors have been impacted," said Walter K. Herr, the head of Washington operations for Colt Industries, which makes diesel engines, landing gear, firearms and other products for the military. "For the supplier base it has become a very important issue and a very negative force in terms of our ability to stay in the business and reinvest in facilities" and research and development.

The recent report by the Center for Strategic and International Studies found that the number of American companies supplying manufactured goods to the Pentagon dropped to fewer than 40,000 in 1987 from 138,000 in 1982. Pentagon officials say the decline has not been that sharp, but acknowledge that contractors must sometimes buy parts from abroad.

Prime contractors say that cost pressures are contributing to the trend. When it came to the P-7A program, for example, Lockheed, like all military contractors, was working under the constraints of a Pentagon policy that has put increasing emphasis on cost competition above almost all other considerations in recent years.

"If we don't produce that aircraft at a reasonable price, we wouldn't have jobs for the workers here at Lockheed," said William Spaniel, a spokesman for Lockheed's aircraft-building division. Lockheed also turned to a Canadian company for the landing gear on the plane, rejecting a unit of Colt in the process.

The Center for Strategic and International Studies found one American aerospace contractor that had increased the number of foreign suppliers it was using for a military aircraft program to 263 in 1987 from 194 in 1985, out of a total of 3,200 suppliers. The study did not identify the company.

"If this trend is being followed by other firms and in other sectors, and there is reason to suspect it is, the drive for greater efficiency through cost savings may be counterproductive to the goal of reducing dependence on foreign sources," the study said.

REQUIREMENTS OF OFFSET DEALS

Some prime contractors are also under pressure to buy from foreign suppliers as a result of their offset deals with other nations. Those deals often require contractors to buy a certain quantity of parts from companies in a nation purchasing or coproducing its weapons and other products.

Mr. Herr of Colt said several years ago the company had lost a contract to supply diesel engines for cargo ships being built by the General Dynamics Corporation for lease to the Navy. General Dynamics decided it would buy the engines from a company in the Netherlands to help satisfy an offset obligation to that nation.

Daewoo was invited to bid for Lockheed's P-7A business because of an offset agreement Lockheed made with South Korea as part of an earlier sale of aircraft. But Mr. Spaniel, the Lockheed spokesman, said Daewoo received no guarantees or special treatment and had to win the bidding on merit. "The offset agreement just opened up the opportunity for a South Korean firm to make a bid," he added.

AMERICAN COMPANIES ACQUIRED

Some foreign companies are increasing their presence in the United States by acquiring American companies. Earlier this year, a subsidiary of Huels A.G. of West Germany acquired the Monsanto Company's Electronic Materials subsidiary. The deal was scrutinized by the Bush Administration before being approved because Electronic Materials is the only major American producer of silicon wafers that are a key component of computer chips needed for many military electronics systems.

As part of the Pentagon's effort to spur more international coordination in weapons planning and purchasing, the 19 nations with which the United States has reciprocal military trade agreements are generally given waivers of "Buy American" laws.

Suppliers and subcontractors in the United States, however, say the waivers have become commonplace and do not take into account that many foreign companies are subsidized by their governments, giving them a pricing advantage against American competitors.

□ 1730

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 147

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 147.

The SPEAKER pro tempore (Mr. SAWYER). Is there objection to the request of the gentleman from Georgia?

There was no objection.

NATIONAL BUDGET PRIORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 60 minutes.

Mr. FRANK. Mr. Speaker, several Members of the House today are going to begin what we believe will be a very important discussion about the Federal budget that will set the stage, we hope, for a serious debate about national priorities when we do the budget resolution next year.

As we meet today, we deal with severe difficulties. The sequestration order is in effect under Gramm-Rudman. Whether or not we will be able to lift it and replace its cuts with other measures, we are not sure of.

We have in this country serious problems of inadequate health care systems for many, we have a housing crisis, we have a problem of roads and bridges that need work.

We have in this country a strong and thriving economy and a paradox that for a variety of reasons we have not been able to use the great economic strength of this country to the extent to which we would all like, from the standpoint of many important values.

Simultaneously we have been watching enormous changes in the rest of the world.

Mr. Speaker, I think it is time for the American people to get some financial benefit from the success of the foreign policy that America set out on immediately after World War II.

Briefly—and we will be returning to these themes—America after World War II set itself some tasks; to contain aggressive impulses on the part of a brutal Communist empire led by Josef Stalin; to work with former allies and former enemies to bring into being in Europe and Asia a democratic society that would be prosperous; and quite generously this country from 1945 on has spent large amounts of money to help others and to defend the world.

Most of us believe that most of those expenditures were not only justified but necessary. The problem comes when people become frozen into policies that no longer have a justification, when inertia becomes the central setter of policy. And we see this today when we are asked by the administration and by others to continue a level of military spending that assumes an aggressive and unified Soviet bloc in Eastern Europe and that assumes American allies in Europe and Asia that are poor and are in need of American sheltering umbrellas.

In fact, our allies in Western Europe and in Asia in many cases equal us economically. We have also seen increasingly the triumph of our way in which the world ought to be governed vis-a-vis that of the Soviets, the peoples in Hungary, Poland, now East Germany.

All of those have to be taken into account. We are told by people in the administration and elsewhere that, yes, they understand change is there, but at the same time we are told that we have to continue to spend at a military level that assumes none of these changes.

Forty-four years after the end of World War II, we have more than 300,000 troops in Western Europe protecting Western Europe against a potential military invasion led by the Soviet Union.

Mr. Speaker, I do not think the Hungarian and Polish Armies are going to march into France. I do not think it is appropriate any longer for the American taxpayer to be asked to spend so disproportionately vis-a-vis what the Danes and the Dutch and many of our prosperous European allies spend.

What we believe, Mr. Speaker, is that the way to have a strong America, the best budget for America, which is what we have the obligation to adopt next year, is to recognize the changes that have gone on in the world since World War II, to recognize the greater capacity of our European and Asian allies to share burdens with us, to stop a situation in which America is asked disproportionately to share burdens.

We are not talking about retreating, we are talking about some proportionality. We are talking about economic competitors in Germany and Japan

and Scandinavia and elsewhere working equally, and we are also talking about recognizing what goes on in the Soviet Union. We are talking about leaving in place a very significant military establishment.

But we are also talking about beginning the process of adjustment.

□ 1740

I yield to my friend, the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I want to commend my colleague for his comments.

This year I have taken over the chairmanship of the Subcommittee on International Economic Policy and Trade. What has struck me beyond belief is how unprepared the United States is for this new international economic competition. When we look at the increased trade deficit, the things that we make and sell overseas, that may be nothing compared to the services deficit that we are beginning to face. To finance the debt, we have had to borrow money from overseas.

In 1981 this country was the largest lending nation in the world. Today we are the single largest debtor nation in the world. That is not just a bad slogan. That means that foreigners have lent us the money to finance our deficit, and now we have to send them the interest payment every month. That money, going back to the countries that have bought our debt, has created an additional burden for our trade imbalance.

Through history, we have seen nations prepare for the wrong war and for the wrong battle. The French had the Maginot Line, the Israelis had the Bar-Lev Line, both of which were overrun for the United States to be able to continue its leadership on human rights, on fighting hunger, for freedom and justice around the globe and in this country, we have to make sure that we have the kind of economy that continues to exercise that leadership.

I looked up a few statistics just the other day and found the United States ranked first in military expenditures in the West, especially on nuclear weapons; we are first in safe drinking water; but we are fourth in literacy; 14th in life expectancy; we are 17th in infant mortality. We have 50,000 children living without homes. That is not a strong nation. That is not the nation that will graduate the physicians and physicists that we need for the next generation of battle.

Over the last 30 years we could depend on foreign nationals coming and being educated in this country and wanting to stay here, or graduating from their universities in physics and the sciences and medicine, and wanting to come here. That is not happening.

We are now at the point when it comes to graduating physicists, and then having the universities to have the funds to pay physicists to stay there and teach, is virtually unheard of. Unless we are able to reexamine our priorities, to make sure that we invest in education and health care and housing, and make sure that we have an economy that is strong enough to compete internationally, we will only be able to debate our role, and not exercise the kind of leadership that we have exhibited in the past.

Mr. FRANK. Mr. Speaker, I thank the gentleman from Connecticut for his remarks, and I will ask for remarks from my other friends who will be joining me in a minute.

Let me say, to restate our theme: The gentleman has pointed out some of the areas where America is falling short. We do not believe that America is incapable. We do not believe that America has fallen behind in some areas of international economic competition, and providing some of our own needs, because we are not economically capable. The problem is, that we have assumed, first out of necessity but now out of habit, the role of doing for others what they ought to be able to do for themselves, doing what does not need to be done. We are concerned about our failures, as the gentleman said, to do better in the international economic competition. That is not a sign of weakness in this society. It is a sign of strength, because there are two great competitions going on in the world since World War II. One was the military competition where the only competitor was the United States and the Soviet Union. Virtually no one else had that kind of impact. Also, the civilian competition which recently has pitted the United States, in a much friendlier way, obviously against Japan, against West Germany, against other Western European nations, against other Asian nations.

We have not done as well as a nation in the economic competition as we would like, but that is not a sign of weakness. It is a sign of reflection of the fact that we are the only society in history that could ever have contemplated carrying on both. We have competed with the Russians militarily, while we are competing with European and Asian nations in civilian goods. The problem is, that many of those who have been our civilian competitors have failed to do what they should have been doing to help this country in the military competition. It simply is not reasonable to expect American society to bear a disproportionate share of some defense burden while being then told that we are not able to compete, by the people who are benefiting.

Therefore, yes, we are saying, many Members, that given the changes in the world, given the prosperity of our allies, given the upheavals, the weakening that is taking place in the Soviet empire, which is no longer an empire nearly the way it was, yes, we believe it is possible to spend a little less on American defense, but we want to spend a little less on American defense so we can spend more on American offense. We want to get off this constant defensive of focusing so much of our energies disproportionately in the military race, not abandon it, but give better attention to the civilian economic competition where we have been put at a disadvantage.

Mr. Speaker, I yield to my colleague, the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, I want to commend my colleague from Massachusetts for his articulate description of the state of our Nation today, and the wonderful job I believe that he is doing for our country, particularly by providing Members with an alternative in his Budget for America.

It seems to me that if we look at the Congress of the United States these days, there is not a day that goes by that we do not hear a Congressman talk about how the United States is the richest, most powerful nation on the Earth. I believe the United States is a rich and powerful nation, but I also believe we have to question what we mean. Is it simply that we are talking about spending over $300 billion a year on national defense, or in fact, should we be calling into question what our borders do defend, and whether or not we are spending the necessary resources we have as a nation in the areas in such tremendous need?

I would like to think that many Members are in favor of a very strong national defense, and that by simply getting tough on America's defense budget, does not necessarily mean that somehow we are not as strong on defense issues as any other country. It does seem to me we have to have a lean, tough, defense system in our country. I question whether or not $300 billion a year, that is given to Members by the Committee on the Budget, necessitates that we have a tough and lean defense budget.

When I first ran for Congress, I talked about the fact that we needed to provide more money for affordable housing, health care, and aid for education. Of course, the press comes to me immediately and says, "That is great, Kennedy, but what do you do, how do you pay for it?" Immediately, what they want a person to do is look at the statistics, whether a person is for the MX missile or the B-1 bomber, and whether a person will be willing to cut back on star wars, whether or not a person is really going to be for the D5 missile or the C4 on Trident submarines. Those were all important issues.

It seems to me, that when we come to the Congress and we find that out of $300 million we are spending on national defense, fully $100 billion does nothing more than defend NATO in Europe, and we as a nation are willing to spend about 7.7 percent of GNP on defense issues, the Europeans spend about 3.3 percent of their GNP on defense. If we look at the situation in Japan, it is much worse. We as a nation ask the Japanese to limit them to 1 percent of GNP on their defense systems. Last year, the Japanese spent more money on pinball machines and watching video games than they did defending their own nation. Meanwhile, the United States spent over $47 billion on supplying troops and other necessities to Japan.

It seems to me that at some point when we are subsidizing Europeans at 2 to 1, subsidizing the Japanese at phenomenal numbers, and at the same time we are losing our competitive edge. It is time to ask ourselves some fundamental questions about how our defense dollars are being spent. When we see, as the gentleman from California [Mr. MILLER] can attest to so well with his work on children and families, and find that in our country today, the children under 6 years old, 26 percent of the children under the age of 6 are growing up in poverty, the highest in the history of our country. If we look at the infant mortality rate in the United States today, it is higher than it has ever been in the history of our Nation, not to mention the fact that in our inner cities, it is now higher than it is in Third World countries. Forty percent of the young girls growing up in America, under the age of 14 years old, are going to become pregnant by the time they reach the age of 20. Fifty percent of our kids attending inner-city public schools never graduate from high school. Half of them never graduate.

Will we ignore those facts and say that we are afraid of the Russians, and therefore we have to spend all this money on national defense, or are we going to look at how we spend the money on national defense and whether or not we, in fact, are in need of two missile systems, the MX as well as the Midgetman; whether or not we are in need of two offensive bombers, the B-1 as well as the Stealth; whether or not we need both the D5 as well as the C4 missile on the Trident submarine; whether we need the level of star wars commitment that we are making today? It seems to me that as a nation we can, in fact, and we ought to be able to have these debates in an open public fashion, without having the fear of recriminations, or that somehow or other those Members that want to call into question some of these duplicative systems are, in fact, not standing up for the strongest possible defense of our country.

I want to again commend my colleague, the gentleman from Massachusetts [Mr. FRANK], for his tremendous leadership on this issue. I want to associate myself with the alternatives that are being talked about here in this special order, and I want to suggest that all Members, as Americans, need to call into question the very fundamental issues that a $300 billion defense budget requires.

Mr. FRANK. Mr. Speaker, I thank the gentleman for his remarks, and on a point that he made so well, that if we do not, next year, in the budget, reduce the military budget by $15 to $20 billion, every deficiency that was talked about by the gentleman from Connecticut and the gentleman from Massachusetts, will get worse. Medical care for older people will deteriorate. Children will be further at risk. The infrastructure of this country will deteriorate further. Believe me, we say we want a strong America and want to have a budget for America. The way to do that is to keep, and none of us here is advocating anything else, the most efficient defense establishment in the world.

□ 1750

What we are saying is we do not need that margin of excess. We look at the world today and we look at the changes that have taken place, and it is simply not sensible to spend as if Western Europe were still in ruin and Stalin and Breshnev were still in power.

The American taxpayer and American society are entitled to get some benefit from that shift. We do it, as we say, because that will make America stronger. An America that is being forced and is volunteering to put disproportionate resources into that military effort, is forced therefore to put too little into civilian goods.

Mr. Speaker, I will call on some of my friends in a second. I will ask Members to think, obviously we have to spend more than Japan. The ratio does not have to be as much as it is.

When people want to marvel at the Japanese economic performance compared to that of America, think what it would be like if we were not spending so many hundreds of billions of dollars more than the Japanese in the military area? Think if those resources, those scarce materials, if that capital that we put into defending so much of the world, if some part of it could have been put into civilian competition, things would look very different.

So we want to say that people ought not to be unduly denigrating this country's capacity. The problem is not that we are not capable, it is that we have maintained the wrong kind of commitments. We have our own ability to compete internationally, and we have deprived ourselves domestically, where we have overspent militaristically.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I thank the gentleman from Massachusetts for yielding. I would like to thank the gentleman for calling this special order.

Mr. Speaker, this special order is dedicated to a discussion of what we have termed, "The budget for America." Perhaps we should term it, "The budget for a new America."

We are talking about putting our budget priorities into the perspective of today, not dwelling on the past, not measuring by yesterday's standards and yesterday's values and yesterday's problems, but measuring our budget by tomorrow's challenges.

What we have addressed this evening, of course, is how much defense does the United States need? At this point I think we should reflect on what we have been told by the military strategists in the Pentagon.

I have asked in the past these military strategists how do you determine how much you ask for each year? Their answer, a rather glib one in the past, has always been they never decided this in the past. They said the U.S.S.R. makes that decision for us. Our expenditures merely reflect what is necessary to defend the United States in light of the peril we face from the Soviet Union and from other enemies abroad.

I thought this was not only a glib answer, but one very difficult to counter. But we have to acknowledge that over the past several years our relationship with the Soviet Union has changed remarkably. If in fact our level of defense spending is to be guided by the threat posed to the United States, then we should conclude, I believe, that that threat has been reduced, and as a consequence, our expenditures on defense can be diminished without seriously challenging our national security.

One of the areas that is, of course, debated time and again, is what is an appropriate share of defense for each taxpayer in the United States. References have been made by earlier speakers as to the amounts spent in other countries.

In 1988 the Senate Appropriations Committee came up with information as to how much each citizen of various countries paid for the defense of their own country. I think these statistics are indicative of what we consider to be priorities and what other countries consider to be priorities.

In Japan, one of our leading competitors in the world, each citizen donates $163 a year in the defense of his country. In the Federal Republic of Germany, of course soon to be part of

the Community of Europe, our new competitors in the world, each citizen contributes $454 to the defense of his country. In the United States of America, the figure is $1,164 in defense for every U.S. citizen.

To put it in different terms, percentage of gross national product in the United States, we spend 6.8 percent of our domestic product for defense. In Germany it is 3.1 percent. In Japan, it is barely 1 percent.

If we wonder why we are falling behind, and as the gentleman from Massachusetts said, why we are not seizing the offense and moving forward as a nation in terms of developing our economy, the fact is we are dedicating our resources not to the offensive weapons to build our economy, but on the defensive weapons that I think are guided by yesterday's priorities.

There was a famous Austrian in the 19th century the name of Talleyrand who was asked for his theory on the defense of his nation. He said it quite succinctly. "In time of peace, prepare for war."

Again, that is a very inspiring statement. What we are finding in our military today is when war is threatening, of course, we have to build up the defense; but when peace is threatening, we have to build it up again.

The question that the American people have to ask of Congress and their leaders is, When then can we reorder our priorities? When can we beat the swords into plowshares and start addressing some of the social problems facing America?

Certainly our competitors in the world have found solice, comfort, and even protection in the expenditures of the United States when we provide for their defense through NATO and through our work in Japan.

In doing so, we are in fact shortchanging American priorities. By taking the money and spending it on defense, rather than education, the next generation of Americans will not be as well prepared to do the things necessary for our country in terms of science, engineering and the competitive world they will live in.

In squandering our money and not spending it on the health of Americans we are producing a generation which will not be as healthy and as productive as it should be, a generation, which I might add parenthetically, many of us will rely on to earn the money and pay into Social Security so we can relax in our retirement. If these workers are not prepared by education and by their own health standards to do that, then we will all suffer as a result.

This special order brings us together this evening to broach the subject for America as to whether or not we should reorder these priorities and start as soon as the next fiscal year and decide how much really is necessary for America's defense and how many of these dollars can be transferred to other parts of the element of national security.

Mr. Speaker, I commend my colleague from Massachusetts. I look forward to joining him in this effort. I hope that by work on the Budget Appropriations Committee we can translate some of this fine discussion into policy next year, which I think reflects the best for our country.

Mr. FRANK. Mr. Speaker, I thank the gentleman from Illinois. As the gentleman knows from his work on the Budget and Appropriations Committee, as tight as things have been this year, if we are not able to make a decision to reduce troops in Europe, to rationalize our defense structure, to cut back on unnecessary strategic systems, the pain that will be inflicted in the next Federal budget will be enormous. People in need will be denied.

The paradox of that happening in this wealthy and strong country is what we are here to talk about. We are not here to proclaim America as incapable. What we are saying is that we have by our own mistakes denied our own people the benefit of what we can do.

Let me add, and I think all Members subscribe to this, this is not a call for retreat from America's responsibilities in the world. Many Members believe with regard to Latin American debt, with regard to hunger in Africa, with regard to needs elsewhere in the world, we should be doing more.

In fact, when a chance to advance democracy comes in Eastern Europe, we are less able to contribute than we would like to be because we have unwisely tied down so many of our funds unnecessarily in a military budget that may have made sense once, but which is inflated by any realistic current standards.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from California [Mr. DELLUMS], one of the senior members of the Armed Services Committee who did this country a great favor some years ago by going on to that committee at a time when the views that he had were not always that welcome. The gentleman has been for longer than he might want to remember one of the leaders in speaking out for rationality, efficiency, and sensible conservative principles in defending this country wisely, while also taking care of domestic needs.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman from Massachusetts, my friend, for yielding. I appreciate very much his remarks.

Mr. Speaker, I just want to make two comments. First, I appreciate the gentleman's efforts in trying to challenge this Congress to change the nature of the priorities in this country. As my colleague is aware, 9 years ago Ronald Reagan stood from this podium and offered a budget to America.

He then, in the course of his remarks, said, "If you do not support my budget, pose an alternative."

Well 24 black Members of Congress accepted that challenge, and for 9 consecutive years one of the best kept secrets in this country is that we offered an alternative budget to this Nation.

□ 1800

Mr. Speaker, I believe that the most important statement that a nation can make is how it chooses to spend its money at the national level. That is a statement of how we view our role in the world, the nature of our values and our priorities, and I would hope, and I am sure, that my distinguished colleague, the gentleman from Massachusetts [Mr. FRANK], and others will continue to work with members of the Congressional Black Caucus to offer a budget for America because the budget we offered was not a black budget. It was a budget that dealt with this Nation. It was a budget that has a different vision of America's concerns and priorities in this country and a different vision of our role in the world.

Second, Mr. Speaker, let me come to the concerns specifically that were raised tonight, and that is the military budget. I would like to offer a notion that, if America could elect two Presidents, a President for domestic affairs and a President for foreign affairs slash military affairs, that on domestic affairs America would probably elect a liberal Democrat. But since it cannot, it elects a Democratic Congress that says, "We'll elect Reagan, or we'll elect Bush, but you go to Congress and take care of my Social Security, my education, my housing, et cetera, et cetera."

Mr. Speaker, if America were to elect a President for foreign slash military policy, it would probably elect a moderate to conservative Republican because in America's mind's eye it is the Congress that focuses on domestic issues, but it is the President that deals with the world.

Mr. Speaker, the great tragedy of the party in which I reside; that is, the Democratic Party, is that our response, rather than posing a clear alternative view of the world and a clear then set of policy alternatives, we have in effect said, "When the Republican Party enunciated its view of the world and what our foreign slash military policy should be, the Democratic Party, for the most part, because we're afraid to be labeled soft on defense, soft on the Soviets; the Democratic Party's response has been, 'me too,' but not as loud; 'me too,' not as much; 'me too,' not as fast."

So, the American people are very bright and sophisticated people. They said, "If this party is busy me-tooing the other party, then maybe the other party has the correct analysis and the current policies, and, rather than take a me-too, they take the person that is assertive.

So, Mr. Speaker, we have ended up with moderate to conservative Republicans in the White House with Democrats in the Congress. How do we turn that around?

Mr. Speaker, that is the point where the Democratic Party has the same courage on foreign slash military policy as it apparently has on domestic policy, and that is to pose a clear set of significant alternatives. However, Democrats tend to march in the well and say, "I believe in a strong defense as well," rather than saying, "The world is changing."

Mr. Speaker, we must now embrace a different world of the world. How is the world changing? On an increasing basis the problems of the world do not lend themselves to a military solution. What is happening in Eastern Europe is not happening because we have SDI, B-2, MX, cruise missiles, and all this other insanity capable of destroying human life on this planet, but it is happening because people are realizing that there is a different way to live. People are embracing democratic principles. People want to spend their resources, not pursuing principles and concepts of war, but rather beginning to address the concepts of peace.

The Soviet Union, for example, has to make a decision about whether they pay their miners a good wage or whether they build missiles. They are obviously beginning to opt for the former, as opposed to the latter, so the problems of the world are not lending themselves to a military solution.

Mr. Speaker, the problems of the world are political, and economic, and social and cultural, and they have to begin to be solved in that context. We have to awaken to that reality. Gorbachev is a new reality. INF is a new reality when we have got the Soviet Union saying:

> We're prepared to dismantle the Warsaw Pact if you are prepared to dismantle NATO. We're prepared to close down all of our foreign bases if you're prepared to do likewise.

Mr. Speaker, these people are trying to pursue peace.

Mr. Speaker, I say to the gentleman from Massachusetts [Mr. FRANK], my colleague, "Let's accept for a moment, for the sake of debate, that President Reagan was correct when he said, 'My strategy is to spin the Soviet Union into oblivion.' "

I might add parenthetically that we simultaneously spin ourselves into oblivion because now we have huge deficits, huge debts and are about to lose an entire generation of our young people because of the tragic priorities of this Nation.

But what was his second assumption? He said, "I'll spin the Soviet Union to the table."

Mr. Speaker, let us for the sake of this discussion accept that. Here is the Soviet Union saying, "We're at the table."

Question: Why are we still spending and not negotiating? Even if we accept Reagan's point, the Soviet Union is at the table.

I repeat: Why then are we still talking about $305 billion military budget? Why are we still talking about B-2 bombers that will cost us in excess of $70 billion? Why do we continue to have this Noah's Ark syndrome? We need two bombers? We need two mobile missile systems? We need two of everything, but we do not need two solutions to solve the critical problems of this Nation?

Mr. Speaker, we should have two programs to end poverty, two programs to end the educational problems of this Nation. Twenty-five million Americans are functionally illiterate. Thirty-five million Americans live in poverty. Hundreds of our children are dying every day on the streets of America as a result of drugs and the violence associated with it. But here we are in an abstract discussion of spending more and more money on the military budget.

So, Mr. Speaker, the gentleman from Massachusetts [Mr. FRANK], my colleague, is doing the Congress and the American people a great service because we must challenge our colleagues to get out of this me-too mentality. However, before we can challenge the Republicans to get out of that mentality, we have got to challenge ourselves. The Democratic Party has got to pose a different alternative view of the world. We have to have enough courage to not try to engage in a slide-by by saying that we are strong on defense as well. We have to have enough courage to walk into the well and say: We see a different world. We see a world where the problems in the world are poverty, and hunger and disease. We see a different world where the Soviet Union is saying: Let's come to the table to talk peace. We see a different world where we need to be dealing with the fragile nature of the ecological system that is rendering the next generation's life very dismal.

Mr. Speaker, we need to see a different world that is capable of focusing its energies on this country. My colleague says: Let's have a budget for America, but what that translates into is a different world, a world where we are able to say to this country and the world that we do not need $300 billion military budgets.

So, Mr. Speaker, to summarize what I am saying, first of all I applaud the gentleman from Massachusetts [Mr. FRANK], my colleague. The priorities of this Nation have to change. The Congressional Black Caucus, as I said, for 9 consecutive years has offered a quality of life budget for America, and the last budget that we offered just a few short months ago I felt, in this gentleman's humble opinion, was a brilliant piece of work. We did not cower away from the issue of taxes when President Bush said: Watch my lips; no new taxes, and the Democrats in a great display of leadership said: We're not sure you can have a responsible budget without taxes, but we won't get out in front. Let Bush run first, and we'll follow.

Mr. Speaker, the Black Caucus said: That position lacks leadership, it lacks integrity, it lacks courage. We taxed, but we did it in the finest tradition of the Democratic Party. We taxed the wealthy. We taxed the corporate elite. We taxed the money. We taxed the powerful. We found $21 billion that nobody else found. We cut $18 billion from the military budget. Thirty-nine billion dollars. We added that to a few assumptions that the Congress made. We found $44 billion that we put in nonmilitary issues beyond what the Congress or the President of the United States did.

So, Mr. Speaker, we showed America that the deficit could be reduced, and, interestingly enough, I say to the gentleman from Massachusetts [Mr. FRANK], my colleague, we lowered the deficit several billion dollars below Mr. Bush, but we did not do it by savaging social programs. We did not do it by selling out the military budget. We did not do it by copping out on the issue of taxes. We stood up.

In my opinion I think that the Congressional Black Caucus and those who supported it are really the courageous leadership of the Democratic Party because we said: Here's our point of departure, but we got 135 votes, and, if we offer it next year, maybe we will get a few more.

□ 1810

My colleague's budget may get a few more, until and unless my colleagues come to realize that there is no future in spending billions of dollars at a time when the other guy is saying: Let's come to the table and negotiate, when our society is deteriorating within because of poverty, hunger, disease, crime, drugs and all the other problems that are crippling problems in this country.

So my colleague has done us a great service. I appreciate the generosity of the time that he has given me. We now need to challenge our colleagues. We cannot challenge the Republicans until the Democrats get out of the me, too, mentality.

The gentleman from Massachusetts is saying; I'm not me, too.

The gentleman from Massachusetts is saying: I see a different role in foreign policy, and there is a relationship between foreign and military policy and we ought to be willing to pose the alternative.

I would offer this final point. I believe to a moral certainty that if the Democratic Party has enough courage to pose a significant foreign policy alternative and a military budget framed in that new posture, I believe the American people are prepared to support that, because I truly believe that the American people are prepared to move away from huge military budgets, and I believe the American people want to save this generation of our children and move our society to a higher quality of life.

Mr. FRANK. Mr. Speaker, I thank the gentleman from California.

I agree, the gentleman has been correct, and many of us believe that what we are now saying was relevant and accurate years ago, but as the gentleman said, even conceding that they may have been right then, and I do not, but to concede that, there is no argument left today.

The one thing I would say to my colleague from California that makes me think the kind of leadership he has shown and the effort we are now making may be more successful next year is this. I did not vote for Gramm-Rudman, but it is here. People who look at the budget understand that if you do not make the kind of reductions in the military, $18 to $20 billion that we are talking about in next year's budget, Medicare, education, student loans, public transportation, efforts to combat drugs, they are substantially reduced, and we are going to go to people next year and not just say in the abstract: What do you think about the military budget, but we are going to say to them, do you want to spend billions of dollars thwarting a Hungarian-Polish-East German military invasion of Western Europe, or would you rather put that into housing?

Do you want the B-2 bomber in addition to the B-1 bomber, which we would leave alone, or do you want an adequate medical care system?

Do you want to continue to spend billions of dollars on an SDI which increasingly appears to have been one of Ronald Reagan's genuinely created moments when he came up with a concept that does not appear to correspond very strongly to reality, or would you rather put that into the environment and into trying to rebuild our infrastructure, because that is what we are saying. We want no budget deal. We want no kind of fuzzing of issues. Next year when this House considers the budget for fiscal year 1991, we intend to put to our colleagues on both sides of the aisle these choices, and they are the choices of reality. Keep 300,000 troops in Europe and forget about the infrastructure of this country. Build the B-2 bomber, as well as the B-1 bomber, and forget about adequate medical care. Go ahead with pouring more and more into SDI and forget about education, and forget also about competition of the benign sort with our allies, because they are smart enough to keep encouraging us to put many of our best resources, our best researchers, our scarce materials, and our capital into overspending militarily, and they will be happy to eat our lunch economically.

Ms. SLAUGHTER of New York. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentlewoman from New York.

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, let me take a few minutes to talk about some unpleasant statistics.

Recent estimates indicate that half a million American children, and perhaps three-quarters of a million, live on the streets, in the back of a family car, in a shelter, with a friend, and begin every morning of their lives wondering whether breakfast is going to be served that day.

The tragedy I think in the 1980's is that many Americans have come to believe that the homeless population is an indigenous American population. Not so. We have not seen the like of this since the days of the Dust Bowl in the Great Depression.

Some 220,000 of those homeless children are of school age, and at least 65,000 of them were unable to attend school regularly last year.

The children who make up those statistics are part of our future workforce, but without schooling, they will join the ranks of the unemployed, the underemployed, and perhaps the homeless.

So ask yourselves, where will our engineers, our teachers, our doctors, come from if three-quarters of a million American children right now are denied opportunity. They are the innocent victims of our failure to invest in human capital.

If their suffering does not touch your heart, consider how ignoring their plight will affect your pocketbook.

Failure to invest in these young lives now will mean that society will be taking care of them later. They will not be taxpayers, and the vicious welfare cycle will only perpetuate itself.

Today, more than 1 million American families are on waiting lists for public housing, while the Reagan years brought what was a 78-percent decrease in Federal funding for low-income housing.

Mr. Speaker, let me just mention parenthetically that during that time he was living in subsidized housing. The latest statistics show that anywhere from 350,000 to 3 million Americans are homeless. Forty percent of those are families with children. Something is very wrong.

Think for a moment about the children. If you cannot see their faces, then imagine your own children or grandchildren. How different their lives would be if they had to grow up with no roof over their head—huddling in the cold or spending their nights in crowded shelters that provide neither the warmth nor the security of a permanent home.

Those children will grow up to form a new generation of homeless unless we address the problem now. We cannot afford not to invest in our Nation's future labor force.

The main reason people are homeless is that they do not have jobs, or because they hold low-wage jobs that cannot even pay the rent.

It is estimated that 20 to 30 percent of all homeless people who fall in that category do hold jobs, but simply cannot make ends meet, and the continued loss of jobs in the Nation's manufacturing industries threatens to increase the homeless population even more.

Manufacturing jobs created the America we know today, yet they are being lost despite the continued need for skilled workers.

In October, for example, the overall employment statistics looked good, but the fact is that 13,000 manufacturing jobs were lost.

The service-sector jobs replacing them are, by and large, low paying.

Where are those manufacturing jobs going? They are going abroad. They have all been exported.

In the years since Ronald Reagan took office in 1980, the Federal share of research and development money not tied to national defense has decreased dramatically. Just 10 years ago, 52 percent of Federal research and development money went to nonmilitary projects; in 1989, that portion has fallen to just 34 percent.

Private firms, meanwhile, are taking their research and development dollars overseas. In 1986 and 1987, corporate R&D spending abroad jumped 33 percent. At home, private funding for research and development rose a mere 6 percent.

This defection of R&D dollars and the current policy of funding military research at the expense of civilian technology does not bode well for our economic future. While our trade competitors pour money into civilian technology, the United States concentrates and spends most of its research dollars on the Defense Department.

We must maintain a strong defense posture, but it is also important to realize that long-term neglect of non-

military research and development will weaken our economic base and eventually undermine our national security.

A strong defense is linked invariably to a sound economic base.

We are already seeing the early results of the failure to boost civilian technology in our unprecedented trade deficits and our increasing dependency on foreign investment in our country.

If we cannot compete with foreign industries, it will cost us business and jobs, which will in turn impair our ability to pay for the defense of our country. We seem to be ignoring this important link between civilian research and a strong national defense.

Our budget deficit has ballooned, in part, because we are losing manufacturing jobs to nations that invest more heavily in research and development than we do.

Since 1979, some 1½ million manufacturing jobs have been lost, while the number of jobs in the service sector have nearly tripled.

The tool and die industry is a prime example of our declining industrial base. Our Nation's tool and die industry produces the tools, dies, fixtures, and molds used to shape and form manufacturing parts. Yet this basic industry has been sorely neglected over the past two decades.

In 1969 the United States led the world in production and operation of machines used to shape and cut metal parts, an integral part of manufacturing. Today we have fallen to fourth behind Japan, West Germany, and the Soviet Union.

And too often, products designed in the United States are manufactured abroad because we do not have the skilled toolmakers needed to create the machines, or the engineers and machinists needed to operate them. Some of our largest manufacturers, such as Chrysler, have dropped their machinist apprenticeship programs, which developed the skills needed to make their own tooling.

Today, 1,400 small subcontractors account for 48 percent of our domestic tool production. These companies are struggling to train their workers and update their equipment while at the same time contending with price competition from foreign producers, and as our domestic toolmaking force has dwindled, foreign production has increased.

In 1988, we imported $620 million in tooling products while exporting only 290 million dollars' worth. In 1989 tooling imports are expected to increase 20 percent while exports expand by just 5 percent.

If we are serious about addressing the decline in our Nation's manufacturing base, we must reverse this trend.

We need a comprehensive, well-thought plan that will rebuild the American economy, house the homeless, and provide our children with the skills they need to hold the jobs of the next decade and beyond.

If we are to remain competitive in world markets, we must reinvest in America and work to rebuild the strong position we once occupied. Our economic future—indeed the very future of our Nation—depends on it.

□ 1820

Mr. FRANK. Mr. Speaker, I thank the gentlewoman. I am delighted so many of our colleagues are here to express our commitment to take what has to be the central issue that is before this Congress, and we are not micromanaging here, we are not dealing with detail. Sometimes we have to do that here. But here we face the fundamental question that elected representatives have of how do we allocate the resources of the Nation. It is an issue that we intend to address.

One of those who is well qualified to talk about it from his work on the Committee on Public Works and Transportation, and the very intimate knowledge that he has gotten on transportation and other physical needs of this country, is the gentleman from Minnesota [Mr. OBERSTAR].

Mr. Speaker, I yield to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

I am delighted I stayed to listen to the gentleman's special order. I intended to listen but not to speak, but as the debate has continued, I feel it is a privilege to join in this discussion, because this is perhaps the most fundamental, the most important kind of discussion we have in this Chamber. It is a discussion of choices, of options which we are elected to do, to make these choices on behalf of the people whom we represent.

For the past 9 years we have been making the wrong kinds of choices. We have chosen to spend and invest increasingly greater amounts in the military side of the Federal budget and less proportionately, relatively, in some cases absolutely, on the domestic side of our budget. We have gone from $145 billion of spending on defense in 1981 to well over $300 billion in the current fiscal year. In that same period of time we have decreased in relative terms and in some cases, in some programs, absolute numbers spending on the domestic side by nearly $140 billion in that same period of time. Yet the deficit, despite all of those domestic reductions, had continued to grow.

For example, the Federal Economic Development Administration program, which is designed to create jobs and help people contribute to the growth of our economy in distressed areas, was cut from $600 million for the fiscal year 1980 to $250 million, and just under $200 million for the current year. That did not reduce the deficit. The deficit continued to grow despite reduced spending for creation of jobs in distressed areas of this country.

In the period of the last nine Reagan budgets we have spent more on military marching bands than we have on library services. For the current fiscal year, we spend about $147 million on military marching bands and $137 million on library services. I have nothing against military marching bands. It might be a safe way to conduct war in the future to pit one band from one country against that of another. But I do think that the priorities are wrong, and the choices we have been making are wrong.

To get some idea of the vastness of this $300 billion military budget, I want my colleagues to think about just one fact. Congress established the highway trust fund in 1956, and in the 33 years since then we have invested $172 billion in the highways and bridges of this country, $92 billion of that in the Interstate Highway System, in 33 years. It has taken us that period of time to spend just about half of what we spend in 1 year on the military budget.

The transportation needs of this country, that which is the sinew of economic growth in America, we are spending a paltry amount to stimulate this engine of growth in America. Just a little while ago I reported on the air traffic control outage that occurred last Friday afternoon at Leesburg Center that affected air traffic in the whole east coast corridor and all across America, stranding for well up to an hour some 63,000 air travelers. If we think that is a serious problem, think about Europe, where there is one-fourth the airspace. Europe has four times as many air route traffic control centers as the United States. It has less airspace in which to maneuver aircraft than we have in the United States in total amount of airspace, but even less when we factor in the amount of military airspace reservation, that is, airspace that commercial aircraft cannot travel or use in Europe because it is set aside by U.S. and NATO military requirements. That affects U.S. air carriers. It affects commerce between the United States and the European Economic Community. To the extent that we reduce the military presence in Europe and reduce the demand on that airspace, we increase commercial air travel, increase exchange between the United States and the European Economic Community, which we are trying very hard to do.

We need to reorder our priorities and get back to investment in America. We need to spend some $20 billion between now and the year 2000 on airport improvements, on facilities and

equipment in the air route traffic control program of the U.S. Federal Aviation Administration. We need to spend $51 billion on bridge improvements. Forty percent of the bridge decking of this country is more than 30 years old and will need to be replaced over the next decade. We need to be spending, investing that money now in the future of America's highway needs. We are losing rural highways at the rate of 1½ percent a year. Forty thousand miles of rural highway has been lost in the last 6 years alone. We need to rebuild and reinvest in the rural and the urban infrastructure in America.

At a meeting I attended just a couple of years ago in Phoenix, AZ, to address the issue of infrastructure, the morning TV public service announcement that greeted me that morning as I turned on the television set was: If your license plate ends in 6, this is your voluntary no-drive day. If we continue with the course of misplaced investment in this country, we may soon hear other anncuncements that: If your house number ends in 7, this is your voluntary no-flush day, as we wind down the investment in the water pollution control abatement program and discontinue, as we will in 2 short years, Federal investment in sewage treatment plant construction projects.

It was Eric Hoffer, in conclusion, I would say, San Francisco's longshoreman philosopher, who observed: You can tell the quality of a society by the quality of its maintenance. Show Eric Hoffer clogged sewers, congested highways, and congested airways, and he will show you political systems that do not work either.

Let us all work together, as the gentleman is suggesting, choosing the right priorities, lest Eric Hoffer's brilliant insight become the epitaph for our generation.

Mr. FRANK. Mr. Speaker, I thank the gentleman very much. He has helped us make the point from the knowledge and experience he has gained in his concern with the Committee on Public Works and Transportation.

We want a strong America. The way to make America strong is not to waste money unnecessarily militarily, not to let the rest of the world suffer. I sometimes think, as I look now at the situation in Europe and Asia and I look at how little they spend on the military while they insist that we spend so much more in the face of a threat that is decreasing. It has not gone away. We are not ignoring it. I think that the most popular book in Europe, and the gentleman mentioned libraries, and I think I know what the most popular book in Europe is. It is "Tom Sawyer," because we have been painting their fence for years. We have been allowing them to say to us, "We do not know if we will let you defend us." And we say, "Oh, please, please, can we spend tens of billions of dollars to defend you?" They grudgingly say, "OK."' That was necessary in 1945. It was necessary in the 1950's and 1960's. The Marshall plan, containment, those things have worked.

However, now, without abandoning a strong military, the time has come to recognize these changed realities, and if we do not build up our own health care system and our own transportation systems and improve our own educational system, we deny ourselves today and we deny ourselves tomorrow.

We want to divert resources to our own domestic needs both to give ourselves a better quality of life and to improve our ability to compete and contribute to the rest of the world. We are talking about genuine strength, and genuine strength has to come from a rational redistribution of resources.

One of those, again, who has been through his committee work in Science and Technology and elsewhere very much cognizant of the price we pay for misspending our resources is the gentleman from New York. I am delighted he joined us.

Mr. Speaker, I yield to the gentleman from New York [Mr. SCHEUER].

□ 1830

Mr. SCHEUER. I thank the gentleman for yielding. I was over in my office preparing to go home and I saw this debate beginning to shape up and could not help coming over. I was drawn as if by a magnet.

The enormity of the problem absolutely boggles the mind, a problem that the administration, the Congress, simply cannot face up to making the basic, fundamental decisions that face it. They cannot face up to the exhilarating challenge of the wholly new windows of opportunity that are opening up to us. In fact, to put it in the old man-woman context, we cannot take yes for an answer.

We have been urging the Russians for half a century to wind it down. We have been saying publicly for half a century we want to get rid of the confrontation, we want a world at peace, and yet now, as the signals come flying over us from Europe, so fast that it is almost impossible to comprehend the enormity of those signals, we seem frozen in our ways. The administration is reacting to perestroika, to glasnost, to the utterly incredible events that are taking place in Hungary and Poland with the speed of frozen molasses. They are absolutely turgid in their response to these breathtaking opportunities around the world.

We have two great sources of resources to look to to meet our unmet needs. First is the military. Now we are borrowing $150 billion or $160 billion a year. We are spending in a consumer orgy, an orgy of consumer spending, approximately $150 billion a year. We are spending that much more than we are making.

The Europeans and the Japanese, on the other hand, are spending approximately $160 billion a year less than they are making, and the difference they are loaning to us, and we are borrowing to finance this consumer binge. We have a galloping deficit, and because of this deficit the administration says on the one hand we really are not going to look to the opportunity of reducing military expenditures presented by the awesome changes taking place in Eastern Europe and the Soviet Union; and on the other hand, we are not going to raise taxes. So when we have a military that is frozen and a total budget that is frozen due to our inability to decide that we want to pay for the goods and services, indeed the quality of life that we want to enjoy, then what happens? When health services rise inexorably each year, about twice the rate of the Consumer Price Index, something has to give, because there is no escape hatch.

We are unwilling to reduce the military. We are unwilling to spend more than we are spending now. So as medical expenses, as health care expenses go up at a phenomenal rate, because our health care system is out of control, something has to give. And what gives?

What gives is investments in education, investments in our health care system itself, which now excludes about 35 or 36 million Americans who do not have access to health care. Elderly people do not have access to catastrophic care. They do not have access to long-term care.

My colleagues, there is not a country in the civilized world, not one advanced, developed country that excludes from health care over 10 percent, almost 15 percent of its population, simply excludes them from its health care system, denies elderly catastrophic, long-term care. It is absolutely bizarre.

But the effect of the rising costs of health care, which has totally thrown that system askew is that other expenditures have suffered even more. We heard my colleague, the gentleman from Minnesota, discuss the urgent need to invest in infrastructure, in bridges, in tunnels, in highways. He did not mention sewer systems. He did not mention water systems.

In New York City we have water pipes under our streets made of wood that were installed in the last century. Imagine, in the richest country in the world.

Our kids at school, we have kids at urgent educational risk, urgent risk of educational failure, black, Hispanic,

and white kids too, who come from deprived homes, who if they do not get some help, they do not get an enriched preschool experience, they are going to fail in school.

What does that failure cost our society in terms of drugs, in terms of welfare, in terms of these kids bumping up their heads against the criminal justice system, in terms of babies having babies? It seems to me that we are going to have a whole new underclass coming into existence that cannot read, that cannot write, that cannot count, and that cannot solve problems. Twenty-five percent of our kids fail to finish high school. Twenty-five percent of our adults are functionally illiterate. They cannot read, write or count. They cannot read an instruction sheet, a job instruction sheet at the workplace.

What kind of a country is this that fails to invest in its greatest asset for tomorrow, its kids?

Mr. FRANK. Mr. Speaker, I am about to run out of time. My colleague from California will be coming up next with another hour, and I know there are other Members who want to join in that hour. I would ask the gentleman if he wants to continue, to please do that. I have to finish up, and I appreciate the gentleman's participation.

Mr. SCHEUER. Let me make one final comment. We ought to make vast expenditure cuts in the military, and we could save the entire $150 billion a year that we are borrowing, that we are going into debt over a 5-year period, and we could cut our military budget in half over a 5- to 10-year period. Second, we have that other resource; namely, a $5 trillion GNP.

Mr. FRANK. Mr. Speaker, I am sorry, but I am afraid I will not be able to yield further to the gentleman. I do not have any further time, and I want to put some documents in the RECORD. I very much appreciate the gentleman's contribution, and as I said, my friend, the gentleman from California, will be here.

Mr. Speaker, I will put into the RECORD a statement by 327 American economists on the problems we are facing by insufficient investment in some areas. This also talks about a tax increase. I do not agree with that.

The article referred to follows:

[This "Economists' Statement" in support of increased public investment was signed by 327 American economists.]

In addition to our trade and fiscal deficits, America faces a "third deficit"—the deficiency of public investment in our people and our economic infrastructure. This deficit will have a crippling effect on America's future competitivensss.

Just as business must continually reinvest in order to prosper, so must a nation. Higher productivity—the key to higher living standards—is a function of public, as well as private, investment. If America is to succeed in an increasingly competitive world, we must expand efforts to equip our children with better education and our workers with more advanced skills. We must assure that disadvantaged children arrive at school age healthy and alert. We must prevent drug abuse and dropping out among teen-agers. We must fix our bridges and expand our airports. We must accelerate the diffusion of technology to small and medium sized business.

Yet these needs have been neglected throughout the past decade. In real dollar terms, Federal spending in the 1980s on science and civilian technology has been significantly below the levels in the 1960s and 1970s. Compared to the late 1970s, the Federal Government is now spending less per person on education and less per worker on training. We are devoting less of our national spending to federal investments in highways, mass transit, airports and other transportation infrastructure.

State and local governments have not been able to pick up the slack. In the 1980s, State and local spending on both education and transportation as a percent of GNP has been below the level of the 1970s.

We fully understand the problem that the current U.S. fiscal deficit poses for efforts to expand public investment in these areas. Many of the undersigned have been in the forefront of those arguing that the fiscal deficit must be reduced. But, in economic terms, budget deficit reduction and an expansion in public civilian investment are compatible. Indeed, over the long run we cannot eliminate the twin deficits and maintain our living standards unless we expand our public investments.

Clearly, this will require adjustments in other parts of the Federal budget. Substantial savings are obviously possible in the military and agriculture sectors. And there is no escaping the need for more revenue.

Raising taxes is never popular. Neither is reducing spending on programs which benefit powerful economic or ideological interests. But there is strong evidence that the people know that there is no free lunch. Polls have shown that majorities support a change in priorities and that people are willing to pay for public services that are vital to the Nation's future.

Thus, while there is no easy answer, there is an answer: it is to devote a portion of new revenues raised, and/or savings made from reducing areas of excess spending, to critical public investments. We can afford it. For example, $30 billion in net new public investment would come to approximately one-half of one percent of our GNP in fiscal year 1990. Such an investment, if properly administered, would be a bargain for today's working population. The present generation of workers will have to depend on a much smaller working population to support their retirement. Without adequate training and an efficient economic infrastructure, tomorrow's workers will not be able to maintain tomorrow's retirees in a comfortable and dignified standard of living.

The future will not wait. Each year of delay means another million dropouts and an increase in the number of American workers whose skills are inferior to those against whom they have to compete. It means more deterioration in our roads, bridges and airports. It means falling behind another step in the race for the technologies that will support tomorrow's higher incomes. It means compounding the already massive debt we are leaving to the next generation of workers by denying them the tools they will need to pay off that debt.

We therefore urge you to resist the temptation to deal only with today's crises, as important as it is to solve them. For the sake of our Nation's future, we urge you to raise the monies needed to regain America's competitive edge—before it is too late.

Mr. Speaker, I want to make clear what we are talking about. Many of us believe that we are going to be faced next year in particular with terrible choices in which we will be unable in our budget to provide the kind of assistance that we want in health care, in housing, in education and the environment.

We also have the problem that we are inadequately competing in the domestic and civilian economic competition because of the military. We do not believe a tax increase is necessary. We believe a rational estimate of what America's true defense needs are, which looks at the diminished threat from the Soviet Union, which looks at the turmoil in Eastern Europe, which looks at the capacity of our European and Asian allies to do more, does not reduce America's defense to nothing. It leaves us with a $280 billion-plus defense, a strong and creative one, but it begins the process, not of solving every problem, but of shifting about 5 percent to recognize the reality of the military budget so that we can begin to meet domestic needs without a tax increase, so that we can begin to put the kind of resources into the international economic competition that we ought to be doing.

This is the beginning of an effort that will not culminate until we deal with the budget for fiscal year 1991 next year. When we deal with that next year we want by this to put Members on notice that there will be on this floor, we hope, a series of amendments which will embody not political issues but real choices: medical care versus troops in Europe, SDI versus an effort against drugs, the B-2 bomber program versus efforts to deal with the environment and housing. Those, given limited resources, are the real choices.

We believe a rational look at the world today will say not that America should run away, but that a more realistic assessment internationally of America's defense needs will lead to a stronger America, because it will lead to more resources being made available for human needs and for our competition.

□ 1840

At this point I ask unanimous consent to include in the RECORD statements from some of the other organizations dealing with this issue and look forward to continuation of this on the time of the gentleman from California [Mr. MILLER].

The documents referred to are as follows:

The subject of this, WLL's first Legislative Alert has been carefully chosen—it is the proposal of The Budget for a Strong Amer-

ica which will be the underlying premise of WLL's future legislative action.

WHAT'S MISSING FROM THE FEDERAL BUDGET?

WOMEN'S VALUES!

The federal budget should be a reflection of the priorities and values of the society which produces it. Ours is not.

How can it be when the majority of this country's population—women—are only minimally included in the budget shaping process? Ninety-five percent of the Members of the U.S. Congress are men. They have determined our country's spending priorities.

The result—a budget which overemphasizes the military and undervalues human needs.

Since 1981, military spending has grown by 25%, while domestic discretionary programs have been cut by 19% and low income category programs have been cut by 55% (all % adjusted for inflation). As women state legislators you have been forced to either fund these programs from state revenues or see constituents growl about needed services.

WLL believes that America must be strong, but also believes that national security is not assured by military strength alone.

WLL supports an alternate budget that redefines national priorities—The Budget for a Strong America—now being proposed to Congress by Representatives Frank, Boxer and Berman. Details of The Budget follow inside.

The time has come for women state legislators to join together, pressing for a federal budget that reflects our concerns and funds our priorities. You can be a major player in shaping the FY 91 budget by convincing members of Congress to redirect military expenditures to environmental and human needs.

WHAT WOMEN STATE LEGISLATORS CAN DO . . .

To ensure a more compassionate allocation of our country's resources, you can:

Arrange a meeting with your Senators and Representatives (or call or write them) to urge them to:

Contact Representatives Frank, Boxer and Berman to give their endorsement of The Budget for a Strong America.

Determine the effect of rearranged budget priorities on an area of particular concern to your constituents, e.g. drugs or education; and/or

Write a guest editorial or a letter to the Editor of your local paper, outlining the spending priorities as proposed in The Budget for a Strong America. Use this opportunity to share your vision of a secure America which includes a drug free society, a healthy environment, an educated population, adequate and accessible health care; and/or

Organize a public forum or debate to discuss national security and national spending priorities.

And be sure to send WLL a copy of any guest editorials, articles or copies of any correspondence to or from your Congressmember on the subject of budget priorities. WLL wants to document your efforts!

THE NEED FOR A BUDGET FOR A STRONG AMERICA

DUAL DEFICITS

As state legislators, you are continually confronted with funding shortages. We all know and read about the federal deficit, but just as pressing, though less in the public eye is the deficit in funding America's domestic programs. A crisis is brewing.

As women state legislators you know that the need is most urgent where programs fail to address the drug problem, protect our environment, improve our schools, insure adequate and accessible health care, modernize the country's infrastructure, and care for the homeless—needs that are tragically underfunded:

4 million Americans have serious drug problems, but there are only 260,000 drug treatment slots available.

Of more than 1,200 Superfund sites, fewer than 40 have been cleaned up.

Fewer than 20% of eligible disadvantaged children are served by Headstart.

Half a million women give birth each year—and have no health insurance at all.

Fewer than ½ of all poor children under 13 are covered by Medicaid.

We need 3.7 million more housing units for those with incomes of less than $10,000 and for the homeless.

240,000 of this country's bridges are in urgent need of repair.

Clearly, we can do better. Clearly, we must do better.

"With the cold war cooling, the Pentagon budget could be cut by a third without weakening defense. Think what America could do with the extra $100 billion a year." (Fortune Magazine, July 31, 1989, page 140).

THE BUDGET FOR A STRONG AMERICA PROPOSES TO:

1. Cut $90 billion from the military budget over 3 years ($18 billion in FY 91, $30 billion in FY 92, $50 billion in FY 93)—reductions amounting to less than 10% of overall military spending over 3 years. Suggested cuts include:

Partial troop reductions in Europe and Korea;

Either the MX or the Midgetman;

50% reduction in SDI funding, limited to research;

Redundant conventional weapons;

Setting budget authority for additional research and development $2 billion below FY 90; and

A further 1.5% across the board cut in the military budget.

Even with these cuts, the Pentagon retains a wide variety of tactical nuclear and conventional weapons systems including:

97 B-1B bombers which, if armed with cruise missiles, would perform as B-2s.

18 Trident submarines (1 Trident alone carries enough warheads to hit key targets and destroy every Soviet city of more than 100,000); 97 attack submarines.

1050 Intercontinental Ballistic Missiles.

Either the MX rail garrison or the Midgetman.

The F-14, F-15 and F-16 fighter planes.

We would still have a strong America.

2. The Budget for a Strong America proposes that the money spent by the Pentagon for new weapons systems be cut and redirected in FY 91 as follows:

Deficit reduction, $3 billion.

Drug treatment & enforcement assistance, $1 billion.

Environment, $1 billion.

Medicare, Medicaid, health and nutrition programs, $5 billion.

Housing and community development, $3 billion.

Education, employment & training, social services, $3 billion.

Transportation & infrastructure $2 billion.

Specific services funded by these baseline additions might include enhanced drug enforcement and treatment programs; accelerated Superfund efforts, comprehensive prenatal care, Headstart, etc.

In subsequent years, The Budget for a Strong America would dedicate increasing amounts of the new money to deficit reduction; ⅓ in FY 92 and ½ in FY 93. The remainder would be apportioned among the above budget categories.

The Budget for a Strong America is an idea whose time has come! As the FY 91 budget takes shape between now and January, you can play a major role in assuring that we adequately and compassionately prioritize the spending of this country's resources.

HYPOTHETICAL DEFENSE OUTLAY REDUCTIONS

[As requested by Representative Barney Frank (billions of current dollars)]

	1991	1992	1993
Reduce troops in Europe to 200,000	2.0	4.1	6.4
Reduce carrier battle groups to 10	2.6	4.5	6.8
Reduce troops in Korea to 20,000	0.5	0.7	1.1
Cut 48,500 civilian personnel (10 percent of acquisition workforce)	0.2	0.5	0.8
Fund SDI at $2 billion per year	1.0	2.0	2.0
Cancel strategic programs: D-5 missile, MX missile and rail garrison, B-2 bomber, advanced cruise missile, end Trident sub buy at 18	4.5	7.0	12.1
Cancel conventional programs: ATF, LHX, AMRAAM, F-14, V-22, DDG-51, C-17	2.8	6.7	7.6
Cut budget authority for additional R&D programs $2 billion below fiscal year 1990 level	1.0	2.0	2.0
Total (rounded to nearest b.)	15	28	39

Sources: Defense Budget Project calculations based on DoD, CBO, and CRS data.

The figures in this table represent outlay reductions below the FY 1990 level agreed to at the budget summit, adjusted for inflation. The budget summit agreed to outlays of $299.2 billion for FY 1990; inflation adjusted outlays would be $3098 billion in FY 1991, $318 billion in FY 1992, and $326 billion in FY 1993. It is assumed that, except for the actions described, defense spending would grow at the rate of inflation.

For the force structure savings, it is assumed that the reduction can be made rapidly, beginning at the start of FY 1991, with the reductions completed by the middle of FY 1992. It is assumed that personnel reductions can be accomplished through attrition, by cutting new enlistments (it might be necessary to cut new enlistments by more than half in FY 1991).

Many assumptions underlie these figures. While all of these numbers are rough estimates, the total figure for each year is more reliable than the individual figures, which should be considered only approximations.

ARMS CONTROL AND FOREIGN POLICY CAUCUS,
Washington, DC, September 11, 1989.

Re: Weapon Cuts.
Memo to: Joe Martin.
From: Jordan Goldstein.

After cutting the weapons that you cited, the U.S. would still be left with several important weapons systems, that would give us a strong deterrent force, including the following:

A mobile ICBM, either the MX Rail Garrison or the Midgetman (small ICBM):

18 Trident submarines, 8 of which would carry Trident I missiles, 10 of which would carry Trident II missiles, with each submarine having 24 launchers;

97 B-1B Bombers, which the Air Force claims will be able to penetrate the Soviet Union well into the future, although possibly not against heavily defended targets;

A new Short-Range Attack Missile (SRAM II) for use with the B-1B, and the Air Launcher Cruise Missile;

97 attack submarines, including the last of the SSN-688 Los Angeles class attack submarines (61 authorized through fiscal year 1989, 39 of those in service, and one additional one authorized in fiscal year 1990) and the new SSN-21 Seawolf;

Sea-launched cruise missiles (Tomahawks), both conventional and nuclear, for use on both attack submarines and surface ships;

Tactical nuclear weapons, including the Lance missile, follow on to the Lance missile, and a new tactical air-to-surface missile (SRAM-T) (you may not want to list these weapons, since many people are pushing for negotiations to eliminate or reduce them);

Tactical fighters, such as the F-15 and F-16, as well as carrier-based fighters, such as the F-14.

These are a few of the larger systems, focusing on the strategic nuclear forces. As you requested, I am not including many of the conventional systems that serve the same use as the conventional systems you are cutting. If you would like a list of these systems, let me know. I am also including a speech by Sen. Bumpers, which you may find interesting.

COALITION ENDORSES BUDGET FOR STRONG AMERICA

The Coalition on Human Needs, organized nine years ago to support federal programs addressing low income people's needs for housing, health care, nutrition, education and social services, has endorsed the Budget for a Strong America initiative proposed by Rep. Barney Frank.

Shifting $18 billion from the defense budget to domestic priorities is a modest proposal considering the widening gap between what is needed and what government is investing. In comparison, for example, comprehensive health care would cost the nation an extra $30 billion a year.

In addition, the Government Accounting Office estimates it will cost $50 billion in the short-term just to fix the country's bridges. A similar amount would be required to assure affordable housing for all, including millions of homeless people. And Congress now is struggling over whether we can afford to spend a mere $3 billion a year for child care. The list goes on.

The "Strong America" initiative would make only a downpayment the total bill, but at least it would be an essential first step. Under the Frank plan, additional amounts would be diverted in the following two years.

Besides $3 billion the first year going for deficit reduction, the Strong America initiative would put into budget functions for Medicare, Medicaid and health and nutrition programs, $5 billion; housing and community development, $3 billion; education, employment, training and social services, $3 billion; transportation and infrastructure, $2 billion; drug treatment and enforcement assistance, $1 billion; and environment, $1 billion.

Military experts and financial journals are calling for even larger cuts in the defense budget. In view of the thaw in relations with the Soviet Union—which already is converting some of its weapons factories to production of civilian goods—surely the United States can afford to divert to domestic investment $18 of the $300 billion we spend on the military.

Former Defense Secretary Robert McNamara says we could safely reduce annual defense spending by $150 billion within six years if talks with the Soviets continue on the present track. Business Week forecasts that short-term interest rates could fall to 5 percent and housing construction would surge with the kind of defense reduction called for in the Frank proposal.

The Coalition on Human Needs' endorsement came at its annual board meeting Sept. 14. Since then, we have been encouraging over 100 national organizations which participate in the Coalition to take similar actions. They include religious civil rights, labor and professional groups, and others concerned with the needs of the poor minorities, children, women, elderly and disabled persons.

Along with members of the arms control community, the Coalition is mounting a national campaign to obtain support for the plan from mainstream organizations, public officials at every level and members of Congress.

BUDGET FOR A STRONG AMERICA INITIATIVE
ORGANIZATIONAL ENDORSEMENTS TO DATE

ACORN.
AFSCME.
American Planning Association.
Americans for Democratic Action.
Bread for the World.
Center for Community Change.
Center for Law and Social Policy.
Children's Defense Fund.
Friends Committee on National Legislation.
Full Employment Action Council.
Human Rights Campaign Fund.
Interfaith Action for Economic Justice.
National Association of Social Workers.
National Law Center on Homelessness and Poverty.
National Low Income Housing Coalition.
National Neighborhood Coalition.
National Puerto Rican Coalition.
National Urban League.
Physicians for Social Responsibility.
Professionals Coalition for Nuclear Arms Control.
SANE/FREEZE: Campaign for Global Security.
Union of Concerned Hebrew Congregations.
Women's Action for Nuclear Disarmament.

PROFESSIONALS' COALITION FOR
NUCLEAR ARMS CONTROL,
Washington, DC, November 3, 1989

Representative BARNEY FRANK,
Washington, DC.

DEAR REPRESENTATIVE FRANK: The Professionals' Coalition for Nuclear Arms Control applauds your leadership, and that of other legislators, in proposing the Budget for A Strong America. We stand with you and will work to the fullest to accomplish our common goals.

The timing of this budget initiative could not be better. Over the past several years we have all worked together to establish the principle that arms control is a critical part of national security policy and that the Congress must be a full partner in the policy process.

With your help and others, we have helped preserve the ABM Treaty, prevented the deployment of space weapons, and generally improved the climate for arms control.

Now, with the dramatic changes occurring in the Soviet Union and Eastern Europe, we have the opportunity to go further. We can begin to address national security concerns more broadly to include the economic, environmental and domestic challenges that we face. Further, as a part of this process, we must begin to redefine our national spending and investment priorities.

In the last ten years, for instance, the United States has increased military spending by almost 25 per cent in real terms. As military spending has skyrocketed, crucial domestic programs have been devastated by funding cuts. Each day, many Americans suffer the consequences of these spending priorities. By a conservative count, there are an estimated 600,000 homeless people living on the streets of America. This is not surprising, given that federal housing assistance has been cut by some 75 per cent since 1981.

It is not only the poor who have suffered because of excessive military spending. Crucial programs to protect the environment, strengthen our educational system and provide young families with the opportunity to become homeowners go untended. And, in the final analysis, we all suffer as the economy is weighed down by a tremendous budget deficit of more than $150 billion dollars. The most telling commentaries come from the business press which recognizes that economic growth is impeded by high military spending as recent articles in Fortune and Business Week attest.

The Budget for A Strong America, by proposing significant, yet prudent reductions in military spending coupled with deficit reduction and increases in critical areas of domestic need like education, the environment, housing and health—all without tax increases—provides that kind of careful plan and bold political leadership that the current situation demands.

We are prepared, in concert with other organizations, to make the case for the Budget for A Strong America both to the Congress and to the American people in the coming months. We look forward to working with you and your colleagues.

Sincerely,

DAVID COHEN,
President.

NATIONAL NEIGHBORHOOD COALITION,
Washington, DC, October 12, 1989.

Hon. BARNEY FRANK,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE FRANK: At a recent meeting of our Board of Directors, the National Neighborhood Coalition voted to endorse the "Budget for a Strong America" that you are so ably spearheading.

We, as you, are extremely concerned about the upcoming Fiscal Year 1991 budget "squeeze", and therefore agree that the only way to fund federal programs that help poor neighborhoods is to shift funds from the Department of Defense—particularly from redundant or unneeded military systems—into domestic programs. We are particularly concerned about full funding for low income housing programs such as the renewals of expiring contracts and the impending prepayment problem of privately-owned, federally-assisted housing. Furthermore, funding for the Community Development Block Grant (CDBG) program needs to be maintained and hopefully increased. Additional new appropriations will also be required when new housing authorization legislation is passed.

We need the return of our federal partner, not more federal retreat. During the 1980's, neighborhood groups have been very imaginative in their efforts to provide decent and

affordable housing for low- and moderate-income families. As federal resources have dwindled, local groups have spliced together CDBG funds, foundation grants, tax write-offs, business contributions, and donations from churches to make their housing rehabilitation and production projects financially sound.

We salute you for your efforts, since your concerns are our concerns. Keep up your great work.

Yours truly,

BUD KANITZ,
Executive Director.

Mr. WEISS. Mr. Speaker, I would like to thank my colleagues from Massachusetts and California, Mr. FRANK and Mr. MILLER, for calling this special order today. The issue of budget priorities is a critical one. Obviously, our Nation has been spending needless amounts of money for military purposes for several years. Meanwhile, there are areas of social deterioration which reflect significant underfunding of important social programs. The plan outlined today during this special order would begin to reassemble a budget which reflects the needs of our Nation and the will of our people.

I would like to focus on one specific aspect of today's proposal. It is the missing link between cutting unnecessary defense spending and protecting our economic base. With a program of economic conversion, the program we are discussing today would give communities the chance to adjust to the changes in the budget that are being proposed.

Now, I believe, is a critical time in our Nation's development. Economic conversion has become an indispensable part of the country's economic adjustment to the new economic and military realities we face as a nation. Without it, there will inevitably be even more layoffs and a greater deterioration of U.S. industrial production.

I have reintroduced legislation to create a national plan for the economic conversion of our defense plants and military bases to civilian production. By providing viable civilian alternatives to military spending, this bill would limit the economic dislocation resulting from the cancellation of military contracts or the closing of bases that are judged unnecessary for the defense of our Nation.

Economic conversion, rather than being the economic risk that some have suggested, is an economic opportunity. By applying more of our technical and scientific resources to the civilian economy, we would be better able to address the problems facing many of our Nation's troubled industries. A greater reliance on civilian production could also help train many underemployed and unemployable individuals whose needs are currently unmet.

By creating viable alternatives to military spending, economic conversion would assure the millions of workers in military dependent industries that their jobs will not be sacrificed in the effort to achieve meaningful arms control or defense spending reductions. As a result, proposals for increased military spending would more likely be assessed on their merits, rather than for reasons of job creation. This would significantly enhance the prospects for ending the nuclear arms race.

H.R. 101, the Defense Economic Adjustment Act, would establish local alternative use committees at every defense facility which employs more than 100 employees. These committees, comprised of equal numbers of representatives of management and labor, would be responsibile for developing alternative use plans for the facility in the event that its contract is substantially reduced or eliminated.

The detailed plans developed by the alternative use committee would provide the community and the employees of the defense facility with a viable and workable blueprint for the conversion of the facility. If this process is completed in a timely manner, that is, before the announced contract reduction, the community would be able to implement the transition of the facility, retrain its workers, and start production without the massive employee layoffs and community disruption which often occurs with contract cancellations.

A successful planning strategy must be in place before the contract cancellations are announced. As we saw with the base closing experience, communities scramble to come up with ways to salvage some portion of their work force once a closure is announced. This is because in most cases, there is no advanced planning in the event of a base closure. H.R. 101 would provide for a much more orderly transition.

In addition to the critical preplanning aspect of H.R. 101, the Defense Economic Adjustment Act does a number of other things which would provide a detailed plan for preserving the jobs of those affected by decisions to eliminate unnecessary military spending. Importantly, it is a decentralized plan that places the decisionmaking power in the hands of those directly affected by such cutbacks. The plan contains the following key additional components:

The bill creates a Cabinet-level Defense Economic Adjustment Council charged with developing plans for public projects that address human needs. The Council also acts as a clearinghouse on existing Federal programs relevant to communities affected by military cutbacks and publishes a guidebook for local conversion planners.

The bill also calls for 1 year's advance notification of plans to cut back or terminate a defense contract or a military base. The Defense Economic Adjustment Council is responsible for informing the appropriate local officials and the Alternative Use Committees of pending cutbacks.

Finally, the bill provides for adjustment assistance for communities and workers while conversion is underway. Communities seriously affected by defense cutbacks would be eligible for Federal planning assistance, and individual workers would be eligible for adjustment benefits, including funds for retraining.

If Congress terminates a military contract, the local Alternative Use Committee would be notified in advance. This committee would then put in motion an existing plan to convert the affected plant to civilian production. The Federal Government would provide guidance and support for the workers and their community, but the new enterprise would receive no subsidy and would have to compete on its own in the marketplace.

In closing, I would like to reiterate how important it is to redirect our budget priorities. However, without a program of economic conversion, the reduction of $18 billion in defense expenditures could cause economic displacement. However, the package outlined today, including economic conversion, would go a long way toward strengthening our economy and restructuring our national priorities in a more humane, compassionate direction.

The SPEAKER pro tempore (Mr. SAWYER). Under a previous order of the House, the gentleman from Illinois [Mr. CRANE] is recognized for 60 minutes.

[Mr. CRANE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order and that of the gentleman from Massachusetts [Mr. FRANK] today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REORDERING NATIONAL PRIORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 60 minutes.

Mr. MILLER of California. Mr. Speaker, we are going to continue this discussion of building a budget for America, a budget for a strong America, a reordering of our priorities to recognize realities and changes that have taken place in the world over the last several years and trying to make sure that in fact we have the resources dedicated necessary to make sure that the next generation has the same opportunities and the same chance that many of us have had in life.

I yield to the dean of the California delegation, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. I thank the gentleman from California [Mr. MILLER] for arranging this important and historic series of speeches.

Mr. Speaker, I welcome this opportunity to join my colleagues in underlining the need for a major change in budget priorities—a change to reflect the end of the cold war and the realities of a changing world in the 1990's.

Mr. Speaker, in my 25 years in Congress I have rarely been so optimistic about the future of the world, and the potential future of the world, and the potential ability that we in Congress have to help shape it. I truly believe that for the first time since I have

come here, we have a chance to begin the process of disarmament.

For the past 40 years, in an effort to deter nuclear war and to stand up to the Russian Bear, we have been preparing a military machine which grew larger every year, producing more and newer weapons and new technologies to improve our lethality:

In the past decade, U.S. military spending more than doubled—from less than $130 billion in fiscal year 1979 to $300 billion in fiscal year 1989.

Just during the Reagan years, from 1980 to 1988, we spent $2.2 trillion on the military budget.

In the next few days, we will be voting on a military budget which authorizes $305 billion—nearly a billion dollars every single day. It will include billions for two new land-based missiles, billions for a new bomber force due to cost $70 billion whose mission is unclear, and billions for the strategic Defense Initiative—Reagan's dream and our nightmare. I am pleased that we are going to cut SDI funds for the first time since Reagan introduced his scheme, but I continue to see it as a nightmare especially for the taxpayers, who have already spent over $17 billion on it.

Mr. Speaker, I expect that the House will pass this $305 billion albatross, as will the Senate. But I am here tonight to challenge the Congress to make it the last of the cold war budgets, the last of the budgets generated by the fears of the 1950's rather than the realities of the 1980's and 1990's.

I am here to challenge the Congress next year to put together the first of the post-cold-war budgets, a budget that truly addresses our national security needs and those of the world of the 1990's. That budget should reflect key concepts:

The risk of nuclear war is decreasing. The Soviet military machine still exists, but Mikhail Gorbachev is leading his country into bold new arms control initiatives to which we must respond with equally bold new initiatives. The Intermediate Nuclear Forces Treaty was just a beginning: if we were able to rid the world of one class of nuclear weapons, we can do it with more;

The risk of conventional war in Europe is decreasing—by the hour—as the Eastern European countries stumble over each other to change their forms of government and reject the cloak of the past. It is difficult, today, to find a serious scholar who would argue that Warsaw Pact forces together with Soviet forces seek to invade Western Europe.

Putting together future post-cold-war budgets will not be simple: 40 years of policy are not easily changed in one season. But concepts are already emerging, new thinking is evolving, America's best minds are at work.

Several months ago, at a luncheon hosted by the Arms Control and Foreign Policy Caucus, former Secretary of Defense Robert McNamara outlined a concept and a vision of national security which should challenge all of us. Calling this "the greatest opportunity in 40 years" to end cold war thinking, McNamara recommended a course of action which within the next decade would reduce the U.S. military budget by half, while preserving our security.

Mr. Speaker, I ask consent to insert at the conclusion of my remarks a summary of the caucus luncheon to which I refer, but let me outline the key concepts which Mr. McNamara espoused.

McNamara challenged us to look beyond the START agreement, and to envision not only a START II agreement to reduce strategic warheads by another 50 percent, but ultimately the negotiation of a "stable nuclear environment" in which each side has only a small retaliatory force of some 500 invulnerable warheads on each side. The American people and this Congress know all too well what nuclear overkill is, and would welcome and applaud a goal of such sanity.

McNamara pushed us, similarly, to look beyond the current Vienna negotiations on Conventional Forces in Europe and negotiate and implement Gen. Andrew Goodpaster's proposal for 50 percent reductions in NATO and Warsaw Pact levels. Mr. Speaker, with Eastern European countries competing with each other over who can reject faster outdated Communist ideologies and economic systems and with the Soviets in the midst of making major unilateral reductions in the forces deployed in Eastern Europe, we should wake up to the reality that we don't need to spend over $150 billion a year to protect against something that isn't going to happen.

Finally, McNamara called on us to reject the concept of "bargaining chips" in arms control negotiations, since weapons are rarely bargained away and instead end up wasting money on weapons we don't need—like new inter-continental ballistic missiles.

Mr. Speaker, these are the goals we should be seeking to formulate in our budgets of the future. These are the concepts we should be debating in our political forums at home and our election campaigns and on the floor of this House. Let us do away with the tired old debates over whether we need MX missile or the Midgetman Missile, and reject the notion that either missile increases our security. And then let us build budgets to reflect those realities.

Mr. MILLER of California. Mr. Speaker, I thank my colleague from California for his remarks and for his contribution to this special order and this discussion.

I think he is quite correct. I think this is going to be the beginning of the debate on building a budget for the future, not for the past, and for a chance to reorder the priorities of this Nation and to respond to the needs of the American people, to respond to the needs of America's children and America's families and to respond to the changes that are taking place in the rest of the world so that we can in fact provide for the complete and total national security of this Nation, which includes the well-being of domestic America as well as its military posture overseas and here at home.

I thank the gentleman for his contribution.

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Mr. Speaker, I yield to my colleague, the gentleman from Illinois, who has been a part of the preliminary discussions around tonight's special order, and has been very involved in the Committee on the Budget, and on the Committee on Ways and Means, especially with respect to the issues regarding health care in this Nation, the fact that we now have people in America paying more and more for health care, more per capita than any other country, and yet we find our citizens are essentially dissatisfied with the access to that health care, and it is limited and nonexistent to many people in this country. I welcome the gentleman's remarks.

Mr. RUSSO. Mr. Speaker, I want to thank my good friend, the gentleman from California [Mr. MILLER], and also my good friend, the gentleman from Massachusetts [Mr. FRANK], for taking this time so that we can address the people in this country about what the budget priorities ought to be.

Mr. Speaker, Congress needs to go back to prioritizing its needs and creating a budget accordingly. Congress is now legislating backward and avoiding the tough budget decisions. We need to set our priorities. We need to debate them, and then create laws to accommodate those priorities.

A budget summit only takes away from normal legislative process in a balance of power. We seem to be consumed, these days, with having all kinds of budget summits, budget agreements, and a total lack of debate of the issues that confront the American people.

Before Gramm-Rudman came into existence, Congress was free to debate all of the Nation's problems, not just the national debt. Now we have a more radical budget process which adds another complicated layer onto an already complicated budget process. Former Congressional Budget Office Director, Alice Rivlin, claims "Gramm-Rudman is a well-intended experiment that failed. It is time to recognize the mistake before more damage is done,"

she said. It only exists to give the appearance that the President and the Congress are committed to reducing the deficit.

Gramm-Rudman also forces Members to look at the budget in terms of a year-to-year basis instead of looking at the budget over a 3-year period as we did before Gramm-Rudman. Because so much emphasis is given to the deficit reduction targets, the long-term implications of proposals are not given proper consideration. This has forced Congress to come up with gimmicks to help meet the sequestration goals.

A few examples include the off-budget financing of the savings and loans. Can Members imagine telling the American people that the way we are going to pay for this $50 billion bailout is to put $20 billion of it on the 1989 budget, and $30 billion of it off-budget, so that this enormous cost is hidden. It that the kind of budget we want for America? Oh, by the way, the $200 billion in interest payments we are going to pay, they will show up in terms of taxes on every American citizens in this country. So, rather than be forthright, telling the American people that we need $50 billion to bail out the savings and loans, and doing it up front, we have done it with a big charade, and a huge bill that hits the taxpayers to the tune of $200 billion, all of which could have been avoided if we had done it properly.

Now, let us look at capital gains. We have an enormous debate going on about capital gains, a bondage for the rich, a $24,000 tax cut to people making over $200,000. How is it being used? It is being used as a means of raising revenue. Sure, it raises revenue, for 2 years. Then in the next 8 years it loses $10 billion. What a charade. What a disgrace. What a shame.

Now, let's look at the Post Office. We take the Post Office off budget. It will save $1.7 billion in gimmicks. It does not really save $1.7 billion, but because it is no longer on the unified budget, we do not have to count the $1.7 billion that it costs.

Of course, the biggest ripoff of all is the Social Security Trust Fund surplus. We count the surplus, which this year is about $68 billion, to reach the Gramm-Rudman targets. So, if everything worked out perfectly this year, if we were to hit the magic number of $100 billion as called for under Gramm-Rudman, we really would have to add back in the $68 billion Social Security surplus. So the budget deficit would really be $168 billion, but there is still another gimmick, folks. It is the counting of all other trust funds, which have surpluses of $57 billion. One of the reasons we do not repair bridges and repair roads and repair sewers, is because the last two administrations, this one and the previous administration, do not want to spend the money out of our trust funds, because it makes the budget deficit look better by not spending the $57 billion which is earmarked especially for our infrastructure. If we do everything right, we still have to add the Social Security surplus in of $68 billion, and then the other trust fund surplus of $57 billion, so the real true deficit in America is really $225 billion. However, we are out there trying to convince the American people that the budget deficit is coming down when it is actually going up. Is that fair? Is that what budgeting is all about? Is it a wonder that the American people have little confidence in their leaders?

Before we had Gramm-Rudman, there was the Budget Act whose purpose was to prioritize how the Nation is to spend its money. Gramm-Rudman has put artificial emphasis on the deficit. This has left a number of important policy areas that need spending increases, unable to get them, because of the constraints of Gramm-Rudman. Areas like child care, the war against drugs, the public infrastructure, and health care. In my view, there is no higher priority in this country than quality health care for every American.

Let me go over a few facts and figures for Members. In 1986, over 37 million people were uninsured. This was about 15.6 percent of the total population, and 17.5 percent of the population under age 65. The uninsured have poor health statistics, higher mortality rates than do the insured people. In 1986, 12 million, or one-third of the uninsured were children under the age of 18. Children in low income families are most likely to be uninsured. The United States has one of the highest infant mortality rates among the developed nations, 10.1 deaths per 1,000 births, ranking at about 19th in the world. That is a disgrace, Mr. Speaker. The United States contrasts quite starkly with countries such as Japan, which has a rate of 5.5 percent, the world's lowest rate. Prenatal care is an extremely important factor in preventing infant mortality. Infants born to women who receive no prenatal care are three times more likely to be of low birthweight than those who receive early prenatal care. About one-third of pregnant women, 1.3 million each year, are receiving inadequate prenatal care, with teenagers, least educated, blacks, Hispanics, and poor being the most affected. Health care in the United States is a privilege. Many Americans may not receive needed medical care simply because they are poor. In 1986, 6 percent of all Americans, or about 13.5 million people, reported in a Robert Wood Johnson Foundation survey that they were not able to obtain needed medical care because they did not have the adequate financial resources. An estimated 1 million Americans reported that they actually tried to obtain needed medical care but were refused by doctors or hospitals for financial reasons.

Medicaid does not guarantee its recipients access to needed care. A program may pay providers at such low rates that they are unwilling to treat Medicaid patients, and may limit the number of physician visits or hospital days covered.

□ 1900

Uninsured people who had serious symptoms such as unexplained bleeding or periodic loss of consciousness or fainting, saw physicians 50 percent less often than similar people who had insurance.

Compared to the insured, the uninsured have only two-thirds the number of physician visits and through three-quarters of the hospital days.

Access to health care has been getting worse. Since 1979, the proportion of the population without insurance grew from 14.8 percent of the nonaged to 17.5 percent in 1984, and has stayed at that level through 1986. Medicaid insures just 43 percent of the people in poverty.

One factor responsible for some of the decline in the coverage is the drop in coverage from nonemployment based sources, especially Medicaid. For much of this era, Medicaid and welfare eligibility standards failed to keep pace with inflation. While the absolute number of people in poverty was rising, the number receiving Medicaid remained almost flat for a decade.

Twenty-four percent of the Americans polled said health care should have the highest priority of new Government spending.

Our response to health care in this country is a piecemeal fashion response to deal with the problem. What that piecemeal approach does is make it very inefficient, very complicated, and very costly.

This country spends about 11.2 percent of its gross national product on health care. That is close to $600 billion a year, and there are 37 million Americans uninsured.

We can do better. We should do better. It will not cost us any more money. In fact, if we look at health care on the national scene, tried to implement a universal health care program which incorporates the private sector and the public sector, we could deliver in this country the best quality health care to every American, and it would not cost us $600 billion a year. It will be less money.

That is what we need to do for our people. That is the kind of priority we need.

If there is one thing we hear often at workshops, at meetings with con-

stituents, it is that we need better access to quality health care in this country. We certainly have the best health care available; it is just not available to everybody.

I think it is incumbent upon the leaders in the Congress and the President of the United States to make universal health care the No. 1 priority for the 1990's and the 21st century.

Mr. Speaker, I want to thank my good friend from California for giving me this opportunity to talk about what I think are some of the key priorities for the next year's budget. I hope we have learned one thing, that budget summits stifle debate in the Congress. Budget summits do not allow us to talk about the priorities and needs of America.

What we need to do is figure out what our needs are, what those priorities are, debate them, enact them, and then move forward to pay for them.

Each year, we get $70 to $80 billion in new revenues. The question is how do we spend them. Do we spend them on weapons systems that we know do not work? Do we spend them on weapons systems that we do not know what their mission is?

We are for a strong defense. The question is how do you define a strong defense? Does that mean we have to spend $300 billion to have a strong defense?

I believe we can have a very, very strong defense for $270 billion. Considering that back in 1981 when President Reagan came to power, it was only about $145 billion a year, I think that $270 billion is adequate, more than adequate, because it will make the Pentagon do the things they are not accustomed to doing, and that is prioritizing, figuring out exactly what mission they need to accomplish and how they can achieve that.

I thank the gentleman from California for giving us this opportunity. I look forward to working with him and other Members in setting a true budget priority for the American people.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for his remarks. I think he makes a very telling point in his discussion that the Congress has had to resort to gimmicks rather than setting priorities, that we have engaged in all kinds of what some people call smoke and mirrors, some people call false budget assumptions, taking items on budget, off budget, transferring them between fiscal years. We have done all of that because the Congress either has not had the courage to confront the priorities or the courage to pay for the priorities that it says it is willing to vote for the American people.

I think the gentleman from Illinois makes a very, very tough decision here, and that is we ought to have that debate. We ought to have that debate on this floor of the House of Representatives. Somebody will win and somebody will lose, but the American people will know where we are.

I think the gentleman also makes a very telling point that many of these gimmicks are resorted to because of the enslavement of this Congress to a military budget that has grown bloated, that has grown outdated, that has failed, that is failing to deal with the needs of this country and changes in the rest of the world.

Unless we have that debate about those priorities, I think the gentleman's point is well taken. We will continue all of the gimmicks to keep us away from public accountability for the priorities of this Nation and for the failure of this Nation and for the failures of this Nation to meet its domestic needs. I thank the gentleman for taking part in this evening's debate.

Mr. Speaker, today's debate on a budget for a strong America inaugurates an overdue reexamination of our budgetary priorities as we enter a new decade and prepare for a new century.

More than a decade ago the adequacy of our national security was called into serious question. It was said that our weapons systems were inadequate, our troops underpaid and underskilled, our research and development lagging. A determination was made on a bipartisan basis to increase military spending to meet the security dangers that confronted America.

As a result of that decision, we more than doubled our annual military spending. We have committed hundreds of billions of dollars in public resources to the Pentagon. We simultaneously made substantial reductions in domestic spending, although poverty rates were climbing and while serious deficiencies in health care and education persisted, and while the homelessness and drugs were becoming the national scourges. We continued both the military buildup and a policy of opposition to tax increases, a deadly fiscal combination.

The result has been a tripling of the national debt in just over a decade.

Today we revisit the debate over the allocation of our national resources under dramatically different circumstances. The past year has recorded one of the greatest political revolutions in history. For reasons we can only speculate on, glasnost, economic dissatisfaction, emerging nationalism, the men and women of Eastern Europe have risen up to proclaim the rebirth of democracy.

Within the Soviet Union itself political evolution, economic innovation, military reform that was unthinkable just a few years ago, only a couple of years ago, are now the stories of the nightly news broadcasts. It is not just talk.

President Gorbachev has achieved half of the manpower weapons reductions in Eastern Europe that he promised last December would occur by 1991. As the chairman of our Armed Services Committees said the other day, "If Gorbachev keeps this up, we will all be out of business."

Since 1987, according to the Rand Corp., 200 Soviet design bureaus and several hundred manufacturing plants have been converted from military and defense production.

The American people are naturally enthusiastic about these long overdue changes. But we must be more than pleased and we must offer something more tangible than simple encouragement.

Just as we made dramatic fiscal and budgetary and policy changes in the 1970's to meet our national security needs, we must in the 1990's confront the urgent unmet and ominous dangers that face us here at home. That requires a reexamination of military spending.

A generation ago Gen. Dwight D. Eisenhower observed that the problem in defense is how far you can go without destroying from within that which you are trying to defend from without. Only a few years later President Eisenhower warned of the power of the military-industrial complex to consume vast quantities of our national treasure and dominate our economy.

Mr. Speaker, we cannot continue to spend hundreds of billions of dollars every year, an additional $1.7 trillion by 1994 according to the Pentagon's projections, more than $800 million every day of the year, without allowing severe crises to destroy our Nation from within, crises like the doubling of the national debt in 8 years of the Reagan administration, despite massive cutbacks in domestic spending programs; an increase in interest costs on the debt of more than $100 billion a year, every year; 31 million Americans without health care; fewer than 4 percent of the Superfund toxic wastesites cleaned up; a shortage of 3.7 million housing units for those earning less than $10,000 a year; 100 million dropping out of school each year, and millions more undereducated and unable to qualify for even menial jobs.

Have not the American people had enough of spending billions of America's hard-earned dollars and its hard-earned tax dollars overseas and into wasteful military hardware?

□ 1910

Mr. Speaker, today we are issuing a call for no less than the redeployment of America's fiscal creative and investment resources. As Fortune magazine noted last July, and I quote, "With the cold war cooling, the Pentagon budget could be cut by a third without weakening defense. Think of what America

could do with an extra hundred billion dollars a year," Fortune magazine asked.

Mr. Speaker, we agree. We need a strong defense, but the needs of the military cannot render America weak in every other value, in every other measure of greatness and wealth.

Mr. Speaker, I yield to the gentlewoman from California (Mrs. BOXER), my colleague.

Mrs. BOXER. Mr. Speaker, I want to thank the gentleman from California [Mr. MILLER] for bringing the Fortune magazine article to the attention of the public and to the attention of our colleagues. It is a remarkable piece. It is a consensus of all their economists; this is for Fortune magazine which is very concerned about our economy. It is so clear as we read that article that this is not some idea that is coming forward by a few Members, that this is an idea whose time has come, and I just want to say to the gentleman from California [Mr. MILLER] that I will not be taking an extensive amount of time this evening.

Mr. Speaker, what I want to do is applaud the gentleman from California [Mr. MILLER] and what he is doing for this budget, for America.

As the gentleman from California [Mr. MILLER] knows, this is going to be my last year, next year, on the Committee on the Budget. It has been a very tough term there. After 6 years one must get off the Committee on the Budget and give somebody else that challenge, and it would please me no end to make a contribution in that last year where we really can take this country forward, where we really can look at what it takes to have a strong defense. As Fortune magazine points out, there is room there. What it takes to rebuild the infrastructure of this country, what it takes to bring our kids out of poverty, what it takes to make America competitive, and I think what the gentleman from California [Mr. MILLER] is doing tonight in setting this stage for the budget for America is very, very helpful, and I look forward to working with him as I sit for my final year on that Committee on the Budget.

Mr. MILLER of California. Mr. Speaker, I thank the gentlewoman from California [Mrs. BOXER] for her remarks, and I would just say that we look forward to her cooperation and her leadership. She has been in the vanguard of the efforts to redefine and to reform the military procurement process so that we do not use taxpayer dollars to buy unnecessary hardware, hardware that will not work, procurement procedures that lead to fraud, the fraud of the American taxpayer, the fraud of the American Government by contractors, and I know that when she leaves the Committee on the Budget after her term is up that she will return to the Committee on Armed Services where she will bring this debate within that committee to discuss these kinds of changes and to join our other colleagues who have tried to raise these issues about the misdirection, the misdeployment, of our resources within the Committee on Armed Services. So, I thank the gentlewoman from California [Mrs. BOXER] for joining the gentleman from Massachusetts [Mr. FRANK] and myself in this debate, and all of our colleagues for joining us.

Mr. Speaker, we think that this is a fundamental debate. We think it is a fundamental argument that has to take place. That is not to suggest that my views or the views of my colleagues will necessarily win all of those votes or all of those debates, but we cannot continue to have a system in this House, whether it is budget summits, or whether it is Gramm-Rudman or any other restrictive measure under debate in this House so that we can set priorities. Somebody will win, and somebody will lose. It may very well be that this House will decide that they like the way we are spending money at the Pentagon, they like the way we are spending money in South Korea, they like the way we are spending money in the Philippines, they like the way we are spending money in Western Europe, and that may be it. Fine; then that will be a priority.

However, Mr. Speaker, right now what we have is we have the budgetary process driving a gag order on the debate in this House and the opportunity to offer alternatives, and this debate is about the notion that we believe that America can be strong, but it can only be strong if we are well educated, if we are well housed and we are well trained. We can only be strong if the next generation of infants and of children are treated as an irreplaceable investment, an investment in our future, an investment in the strength of this country.

However, Mr. Speaker, we cannot believe, and we cannot kid ourselves, that we really believe children are the most important resource in this Nation when in fact we will not give their mothers the proper prenatal care, when we will not give them the kind of care that educates them against the use of drugs, the use of alcohol, the use of tobacco during pregnancy. We cannot believe that children are important in this Nation when we refuse to provide them the basic nutrition that they need to thrive as a new-born infant, the basic nutrition that will allow for brain development, for healthy physical development, the basic nutrition that will allow them to go forward then in education. And we cannot believe that we believe that children are important when in fact we only allow 20 percent or 30 percent of the eligible children for Head Start to participate. What about the other kids? What about the other kids that are eligible? The other kids that are entitled to a head start so that they can prosper in our education system? They are denied that access. We cannot say the children are important in this Nation when we deny hundreds of thousands of pregnant women and new-born infants access to the WIC Program, a program that everybody tells us is not only smart in terms of economics, but has a tremendous impact on deferring low-birth-weight babies and providing for a healthy pregnancy.

It cannot be that we can be a strong America if we do not have fundamental research, fundamental innovation taking place within our manufacturing sector. It cannot be that we can be a strong America if our universities do not have up-to-date equipment, if we do not have the capacity to welcome people to those universities, if we allow costs to continue to drive some of our brightest minds, some of our most talented young people away from a college education.

We have got to think about bringing some money home, bringing some money home to America, bringing money home to America to educate our children, to provide a house for a young family, not at the exorbitant interest rates we see today that are driven by the deficit, by the crazy spending that goes on in this Congress.

Mr. Speaker, those are the challenges. Those are the challenges to look at a new world, to look at an opportunity, to look at the nightly news, to understand what is going on in the Soviet Union and Eastern Europe and not to sit around and say, "We're frozen in place because Gorbachev may fail."

It is bigger than Gorbachev. The opportunity is larger than a single personality, and what we should be doing is stepping foward to insure that Mr. Gorbachev succeeds because, if he succeeds, we succeed. If he wins, we win. If he can reduce his military armament, we can reduce ours. We are locked in this thing arm-and-arm. It is not that we can stand by and simply with those people seeking to leave Czechoslovakia, or East Germany, or Hungary, or Poland; we cannot simply tell them that we wish them well. We must take an affirmative stance.

However, Mr. Speaker, we have a pygmy frame of mind on this point. Why? Because we are trapped by the deficit. The largest, wealthiest, richest, most talented country in the world is financially embarrassed to the extent that we cannot extend a hand.

I have listened to people on the other side of the aisle tell me a totalitarian nation has never changed its way. They will never let their people go. They will never allow freedoms.

Mr. Speaker, we now have the opportunity. We now have the opportunity to test it, to test it in the most incredible fashion since 1917, to test it in the most incredible fashion since 1945. Are we going to be bound by a 40-year-old policy? Are we going to be trapped in the cold war? Or is America going to spring forth as a beacon, as a beacon in this world, to help guide and to support people seekng freedom, people seeking democracy, people seeking a different economic system?

Mr. Speaker, that is what we have lectured to our constituents about, it is what we have lectured the children in school about, and now we find out, when the moment has arrived, we are not up to it. We are not up to it. We have a private citizen who offers as much help to the Gdansk shipyard as the President of the United States offered the whole nation of Poland in the name of this country. That cannot be the way it is. That cannot be the way we, as Members of Congress, people who ran for office, lead a nation. We cannot go home and tell our constituents that we cannot respond to the changes in Eastern Europe, that we cannot respond to the plight of the Polish people, we cannot respond to the 10,000 people that crossed over into West Germany today.

□ 1920

What is West Germany's response? They are going to have to build 200,000 new housing units in 4 years. That has got to be three or four times what we are prepared to build on behalf of people who do not have homes in this country. They are responding to the challenge, but they are going to need help. They are going to need help, but we are embarrassed, because we have a deficit. We are sorry. We thought we were going to fight communism with the B-2, so we built a $562 million bomber. All we needed was not to build it and to provide economic assistance, provide economic incentives to the Soviet Union and to others so that they could reform this system, so that they can feed their people this winter. Everybody says this winter is a test. Will Poland survive? Will Gorbachev survive? This is the test. Will the people be fed during this winter, and our response is that we do not know. This is a great nation that responds that way? No, and that is why this debate is taking place today. That is why this discussion is taking place tonight on the floor of the House, because as we listen to the nightly news that 40 ministers within the East German Government resigned today, how do we shore up the hopes and the aspirations of those individuals, and how do we shore up the hopes and the aspirations of the American people about their children, about their families?

The answer is, we choose budget priorities. We choose where we are going to spend our money. We spend our money wisely, and we do not continue the process that we have witnessed around here that has driven the military budget to such an extent that whether you are former Secretary of the Navy Lehman, whether you are Mr. Frank Spinney, Fortune magazine, Forbes magazine, Business Week, people who look at this system and say, "We cannot afford this any longer. It is too bloated. It is too expensive and it is driving us away from the kinds of decisions that we need."

When we see individuals like Mr. David Carnes, the chairman of Xerox, who talks about the mismatch between our employment needs, our employment needs to remain competitive and the quality of young workers that Xerox and others in this country will need and what he tells us is that we are headed for a national disaster, essentially that we will not be able to assemble the kind of labor pool that is necessary for this country to compete.

What is that telling us? It is telling us that as more and more Americans realize that the next year will be economic, that the competition will be worldwide, it will go to the innovative, it will go to the fleet, it will go to those who are creative. The resources will be people. It will be brains. It will be talent. Those will be the resources of the next competition.

We are locked in. We are locked in to fighting the last war. Our allies, the Asians, the Western European and others, are out fighting the next competition. They are stealing our markets. They are stealing our services. They are stealing our competition away.

I just have to think that as we open the new decade, as we open the new century, the challenge for this Congress, and it begins with the question of whether we are going to sequester or not, at some point we have to stop cooking the books. At some point that debate has to take place.

What this is about tonight is a discussion as to whether or not as we start looking down toward the next budgetary year, when we come back in January, will we have the courage to confront these issues straight on? Will we have the courage to present these in terms of amendments that can be voted on on this floor? Can we help their needs, their education needs, the housing needs of the people of this country against that budgetary process?

In the past what has happened is that each and every year that debate has become more and more restricted. It has been more and more chilled by those people who have locked arms, Republicans and Democrats, and decide we just had to get through the budgetary process. We just had to get off stage.

We cannot survive as a country with the continuation of that process.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I just would like to commend the gentleman for the work he has done on this issue and point to two additional factors. One is that we made bad decisions in both our defense and nondefense budgets in this process of just trying to hold on. The fact that we have spent all this money is often directed to the most wasteful programs, to the programs with the least political support and the least rational support, because the defense agencies want to hang on to that which they have the least hold on.

When we look at the economic battle, we recently held a conference at the Library of Congress with the CRS on taking advantage of Gorbachev's proposals on conventional arms reductions, too many of the players in the administration see this as an attempt for the Europeans to cut their defense spending. We are subsidizing the defense of Europe in excess of $100 billion at a time when the European community is pulling its economy together to be the largest, strongest economy in the world. As tough as it has been in the past, we have had several advantages. We have been the largest economy. We were at one time the largest lending economy. We are now the largest debtor economy. We have the largest deficit in services that we have had in 30 years, and unless we start listening to the gentleman and others who are making proposals for utilizing the resources we have to rebuild this country and to provide for the basic needs, we are not going to have that choice for the next generation. Using Social Security to make the budget look more in balance just forces us next year to raise more of the revenue we have for paying off that deficit. We have to make choices to utilize the resources we have on the right kind of defense and nondefense programs.

The gentleman and I worked together on waste in the water program in the West; 45 percent of the water that is used by the farmers in the West, that is federally subsidized, grows crops that are already in surplus. There are farm programs that make sense and do cost taxpayers money. That is not one of them. There are defense systems that make sense. Star wars is not one of them.

The gentleman and I had an amendment, and several others, some months ago to shift about $800 million out of star wars over to drug wars. It would have done a lot more for our society.

It would have put us in much better shape than squandering the money on a system that does not work, and whether you call it magic pebbles or brilliant pebbles or star wars is not going to make America stronger. It is just going to make us poorer.

Again, I would like to thank the gentleman for his contribution.

Mr. MILLER of California. Mr. Speaker, I appreciate the gentleman's remarks.

I say this is a process, tonight we are talking about the military budget. We plan to take additional special orders. The gentleman from Illinois [Mr. RUSSO] raised the issue about health care. We are now told by the Rand Corp., we are told by the National Task Force on Health Care that almost a third of the dollars we are spending may in fact be inefficient. They may be wasteful and they may be not be procuring us any additional health care.

We have got to re-examine that system. We have got an obligation.

The gentleman mentioned the reclamation program. We cannot have a handful of farmers siphoning millions and millions of dollars, farmers who are already worth millions and millions of dollars, siphoning that money out of the Treasury for their own personal greed. All these programs need that kind of re-examination; but as has been pointed out here, that is not what is taking place in the budget process, and that is why this special order has been taken out.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield further?

Mr. MILLER of California. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, the good people of Boston in 1635 decided that a grammar school education was no longer adequate for their citizens to be competitive, so in 1635 the people of Boston started the Boston Latin School. No longer would just the wealthy and those parents who were ready to shoulder enormous burdens give their children a high school education, but every citizen in that area, whether they were rich or poor, or the parent cared or not, to get a high school education. The information necessary to survive in modern society has multiplied a thousandfold since then, but the kids who love in the poor parts of our country, in rural Connecticut, in the major cities of this Nation, when we ask them to try hard in high school and they look at bills of $20,000 per year for college, when they are faced with $80,000 in debt, more than their parents had when they bought their homes, to finish just an undergraduate college education, how can we ask our children to take that kind of risk for this economy?

This Nation ought to be able to provide for everybody who has the ability a college education, and if we are going to move forward as a nation we can no longer allow South Korea to graduate more Ph.D.'s in physics than the United States does. It is not that the United States kids are not bright. They do not have the debt ability. They cannot borrow enough money to get their graduate degrees. Those are the places we need to move those resources to, and if we do not do that we are not going to have a future as a great nation.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman.

I think the point is this. I grew up in this country and ran for this job on the notion that this is an opportunity to participate in a world class Nation, in a world class society with world class opportunities. What we have read more and more by people who are not in the political arena, but people who are dispassionately looking at our system, tell us where we are headed, what we see is that we are losing our opportunity to retain that world class status, and I just do not think we ought to fritter that away on unnecessary spending.

□ 1930

As I pointed out, tonight we are talking about the military. Other nights we will talk about other subjects. Go after giving everybody in this country an opportunity to be the very best they can possibly be, but as we have seen, more and more people are deterred from following that opportunity because of economics, because of the cost of education, because of the inability of their families to provide that, and we cannot let that happen in this country.

We will be very shortly, I guess, debating, maybe next year or the year after, the whole notion of whether or not we are going to start importing not only goods and products, but now we are going to import workers, because we do not have enough engineers, doctors, enough nurses.

Mr. Speaker, I do not have a conceptual problem with that. I have a problem with it if that is going to be a substitute for educating our own children, for investing in our own children, for investing in our own universities. That cannot be the substitute, and that cannot be the policy of this country.

Mr. Speaker, I thank the gentleman for his contribution.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I agree with much of what the gentleman said tonight about the budgetary process. I apologize for coming in a little bit late, but there are a couple of things that I would like to just add to this discussion for food for thought.

First of all, I have done a little research on education, and we do have problems. Our SAT scores are very low. We rank about 47th out of all the countries in the world as far as mathematical skills. I have been told that Japanese students who are in the eighth and ninth grades have more proficient mathematical skills than some of our people who are doing graduate work in some of our universities. So we do have problems.

One of the things that I have found is that we spend more money per capita on education at all levels than any nation in the world. I think that while we are talking about the problems with education, and we do have problems, there is no question about it, and there are a multitude of problems that need to be dealt with, parental involvement, PTA, school boards, maybe incentives for teachers to do better. Some teachers do fine already.

But after looking at all the things that I have looked at, it is not just a question of putting more money or throwing more money at the problem. We have to look at the entire problem and then decide how best to deal with it at a national, State, and local level, and that is why the President had his summit conference on education involving governors and leaders from all over the country, to try to come up with a proposal or proposals to deal with this problem.

With all due respect to my colleagues, I think it is a little simplistic to indicate that just throwing more money at it is going to solve the problem.

Mr. MILLER of California. Let me just say that I do not accept that argument. The issue is not whether or not we are just going to throw more money at this. It is not a pejorative argument. The question is: Are we going to use those resources in the wisest manner or fashion? And I think that is the point the gentleman just raised. We also know that without additional resources we are not going to achieve the kind of excellence that we say we want for our children, because even in the cases where supposedly we are spending the money the wisest, where we are getting the greatest return, we still have hundreds of thousands of people who are eligible for those programs who are not allowed, whether it is Head Start or remedial reading programs, and that is a resource programs. It is not all a Federal problem. It is a State and a local problem. It is a question of where this Nation is going to put its money. If we are not getting the education we want for the billions we are spending, then we ought to reorder that system. We are postponing that under the current system.

Mr. GEJDENSON. The only thing I would object to that the gentleman raises is that it is not simply shuffling

the same number of cards. If we have a roof leaking, moving the shingles around the roof is not always the answer, and I am afraid that that is what the President's conference on education proposed. The President had a wonderful media event. He called in all the Governors. They sat around and held hands. They said, "What are we going to do? We're going to take off some of the Federal shackles on support for education." What does that mean? Money that is presently targeted for handicapped kids, special-needs kids, is going to be moved for the general public of kids. That may be great news for them, but we are not providing enough funds presently for the special-needs kids.

It is also interesting that the gentleman's side of the aisle, when faced with the Soviet threat, always argued we needed more dollars. "We cannot do this without doubling the defense budget." But when it comes to education, when it comes to health care, when it comes to housing, we are supposed to be able to simply shuffle the cards and take care of it.

We have 50,000 children sleeping not in homes but in shelters and under bridges. We cannot do that by simply moving the cards around. We have to provide some additional resources.

Mr. BURTON of Indiana. If the gentleman will yield further, I think that it is a fact that we spend more money on education than any nation in the world. We spend more money on the homeless.

Mr. MILLER of California. Reclaiming my time, we spend more money on health care than any other nation, but we are not getting the health care.

Mr. BURTON of Indiana. Let me finish my thought.

Mr. MILLER of California. That is the point in this debate.

Mr. BURTON of Indiana. I do think we need to reprioritize that spending. The gentleman talks about shuffling the shingles around on the roof. That may sound poetic, I suppose, but the fact of the matter is I really believe, and I think most people believe, that we need to look at the entire problem of education, housing, the homeless, and all of that, and try to decide the best approach to solving it.

Mr. MILLER of California. Reclaiming my time, let me respond to the gentleman. I would just say that if the gentleman is right and if it is just a question of spending those dollars better, then we can take this money and apply it to the deficit, and we can give people relief on the interest payments. We can give people relief on their interest payments that are driven by our interest payments. There is a lot of opportunity here.

It does not necessarily mean that every dollar we take out of misguided military spending and wasteful military spending in Europe or elsewhere has to be applied to domestic programs. It may be, and many of my colleagues who have participated in these discussions say, "I want to apply it to the deficit." That is a very proper idea, because that is general relief for the American taxpayer, if we can whittle away at that deficit, but that is not what has been done.

We had the great budget cuts supposedly of 1981, 1982, 1983, and the deficit just kept getting larger and larger and larger. We would like to see that trend reversed.

Mr. BURTON of Indiana. If the gentleman would yield further for just a moment more, I think that before we decide to make quantum additional spending or take a quantum leap toward additional expenditures in the area of education, we ought to take a look and make sure we are headed in the right direction.

As I said before, we are spending more money on education per capita than any other country.

Mr. MILLER of California. If the gentleman will excuse me, I mean that in the most courteous fashion, one of the people who has been involved in this discussion and in this special order, and I have only 3 minutes left, and I want to make sure he has an opportunity to speak, because the gentleman has shown up. I thank the gentleman for coming over and participating in this debate, and I hope we can have more of this kind of debate on the floor during the budget process and elsewhere.

I yield to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding. I am sorry I am late. I would have enjoyed participating in the discussion going on with the other colleague.

Let me say that the irony of the discussion that has been going on over these last several days and in the other body at this very moment, the dispute that is going on regarding the budget and the phoniness of the arguments that continue to be made on this question, it is just literally amazing.

I want to compliment my friend, the gentleman from California, for a statement that he made earlier concerning his willingness to look at all of the issues. It is no secret to the Members of this body that my friend from California and I do not agree on a lot of issues that come before this House, but we are in substantial agreement on the process that we have started out talking about tonight on this side of the aisle.

It is time that we start making choices, that we start bringing various issues to the floor and voting on them and making those hard choices. We are going to find, as some now would like to see us take a little different approach on sequestration for defense, that there are going to be those of us who have been on the other side of the defense question who are going to say, "Let the ax fall where it may." It is not a good way to run a country, but we have been playing this game far too long, as we debate tonight increasing our debt limit to $3.1 trillion.

I have been here 8 years, 11 now, but I have watched our Nation's debt grow as we have played the "read-my-lips, no-new-taxes, cut-spending," and we are unable to find 218 votes on either side of the aisle to do the job.

I think tonight, and we are going to hear over these next several weeks, and I look forward to next year when we see an effort in this country, and this country sees an effort on this side of the aisle, and I predict it will become a bipartisan issue to truly deal with our Nation's debt in an open and honest way, and this debate today has started it. We are going to find we are going to have differences of opinion, but that is what we were elected to do.

I commend my friend from California for taking this special order and look forward to working with him and with all Members of this body in the resolution of this question to truly bring about an honest balanced budget and pay-as-you-go is a term I think the gentleman has coined, and I have used it so many times in showing support with the gentleman from California [Mr. MILLER] and CHARLIE STENHOLM, and I am looking forward to having that become a reality.

Mr. MILLER of California. I thank the gentleman from Texas for his remarks and for his participation. I think it is very important. I think that what Members of Congress will see and hopefully others will come and join us, that this is not about being liberal or conservative. This is about honest debate about honest government and about honest budgeting.

□ 1940

We are going to see also that a number of these votes that we hope to present over the coming months will be in fact bipartisan votes, because I think there is good will on both sides that says we cannot continue down this path. We cannot keep robbing from our children and our grandchildren. We have all said it in our townhall meetings. We have all said it in the editorial boards. It is about time we start to put that in place.

It is not just about one side having its way all of the time. It is about debate, and it is about winning, and it is about losing, and it is about some priorities of this Nation for the time being or whatever will be different than mine, but I think, as my colleague from Texas [Mr. STENHOLM] points out, it is about real debate, it is about real budget priorities, and it is about real deficit reduction, not what

we are going to see here tonight, and not what we are going to see in the coming weeks as the last days of this budget year run out.

I thank every Member who participated in this special order, and we plan to have others on other subjects.

SEQUESTRATION AND THE MILITARY BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. BATEMAN] is recognized for 10 minutes.

Mr. BATEMAN. Mr. Speaker, I came to the floor some time ago in the hopes that as we waited for the action of the other body I might be able to address a very particular and somewhat more limited issue than that which has been addressed in the preceding special order. I listened to it with great interest, and like my colleague, the gentleman from Texas, who recently came into the Chamber, I am in accord with that view that we are not doing a good job in this Congress institutionally in the manner in which we go about making our decisions on our fiscal affairs, on our budget, and especially on the ordering of our priorities.

I think the Budget Act of 1972, with now engrafted upon it the Gramm-Rudman-Hollings provision, is a demonstrated failure in the context of giving us the institutional and procedural basis on which this country determines its priorities and acts upon them in a logical and coherent manner, and in a manner which brings us to a balanced budget.

But that is not the narrow issue, the specific issue that originally brought me to come to the Chamber this evening. It is a problem that arises out of Gramm-Rudman-Hollings, and I think my colleagues need to understand the dimensions of the problem.

When we adopted the Gramm-Rudman-Hollings budgetary discipline measure, the not just tacit but the stated assumption was that sequestration was so mindless and so irrational that it is the disciplinary mechanism which will make it unnecessary for us to have sequestration, and will force the Congress to act in a fiscally responsible manner and still meet the budget deficit reduction. I had some concern about Gramm-Rudman for those very reasons when we enacted it, and those concerns have certainly come back to haunt I hope all of us, but they certainly haunt me.

For now, instead of saying that sequestration under Gramm-Rudman, because it is indiscreet, because it is not coherent, because it is not done on a rational basis, recognizes no priorities, notwithstanding this we can live with it, we can endure a Gramm-Rudman sequestration for the entire fiscal year of 1990. There are ways in which we could I assume as a nation muddle through that, and perhaps in many regards it is better than not doing so. But there is one area that I do not think it is tolerable or forgivable for us to let it happen, and that area is in the area of our military personnel.

The nature of Gramm-Rudman and the sequestration now in place, if continued for a year, dictates $16 billion in reductions in expenditures, one-half of which must come from the defense budget, even though the defense budget is some 26 or 27 percent of the total Federal budget. Of the $8 billion that must come from the defense budget, $3.3 billion of that falls on the military personnel accounts, and we cannot change that under Gramm-Rudman. We cannot say we ought to protect our personnel who pledge their life and limb to protect their country, and who have certain expectations, having been recruited and encouraged and solicited to make the military their career. Gramm-Rudman does not permit us to protect them from the budgetary ax that falls. $3.3 billion of the Defense Department $8 billion must come from military personnel accounts. It cannot come from procurement. It cannot come from operations and maintenance. It cannot come from research and development. It comes out of the personnel accounts.

Members may say because of Gorbachev, which I have heard a great deal of tonight, we can stand reductions in our military forces, and it is my view that over time, and done the right way, we can indeed ratchet down our end strength requirements if we do it logically, and if it is done coherently, and if it is done bilaterally. But for this country to disarm itself on the basis of arbitrary, unthinking, mindless reductions is not a tolerable way to go.

We cannot even enjoy the luxury of saying we could reduce the Army a little bit more, the Navy a little bit less, the Marines a little bit less, the Air Force a little bit less. Gramm-Rudman says that the defense reductions in personnel must come line by line, and the Air Force must take its percentage, whether they can afford it or not, or whether our security can afford it. The Navy must take the requisite percent, whatever it may be, and whether or not it is more or less affordable, and on and on across the board. We cannot even say we will transfer people from the active services to the reserves, because that is more efficient. That would be more cost-effective and less damaging to our defense, but even with the reserves we take the arbitrary percentage of manpower in the reserves out of each branch of the service. We cannot even make those kinds of rational decisions.

The Office of the Secretary of Defense advises me that under a Gramm-Rudman sequestration for 1 year, we lost 170,000 uniformed personnel. The Secretary of the Navy advises me, when I inquired, that the Navy's share of those reductions would be between 76,000 and 80,000 people.

This is intolerable. We must find a way, at the very worst we must find a way to create some flexibility if the Department of Defense and the military personnel accounts are not going to be savaged, and our security undermined, and if we have not sold out on our commitments to the people who proudly wear our uniform and are entitled to much better treatment from us.

□ 1950

THE IMPACT OF BUDGET CUTS

The SPEAKER pro tempore (Mr. SAWYER). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, before I get into my special order, I think I would like to point out that some of the things that have been discussed tonight are very beneficial to my colleagues, and I hope my colleagues who have not been paying close attention to the discussion tonight, the special orders, will take the opportunity to glance through the CONGRESSIONAL RECORD tomorrow because some of the discussion and debate that has taken place regarding education and defense bear some close scrutiny.

My colleague from Virginia [Mr. BATEMAN] just pointed out that as many as 170,000 uniformed service people might be relieved of their duties because of the budget cuts that will be necessitated by the Gramm-Rudman-Hollings sequestration which is currently in effect. That is something that I think is intolerable.

We do need to prioritize our spending. I think all of our colleagues believe that. We need to make sure that the programs we are spending those moneys for are well thought out, well organized, and well planned so that the money is being spent in the most effective way.

PLIGHT OF CUBAN POLITICAL PRISONERS

Mr. Speaker, it was brought to my attention tonight that a tragic situation is unfolding in the country of Cuba, just 90 miles south of Miami, FL.

Today, a gentleman who had been in prison for 25 years in one of Fidel Castro's gulags, Mr. Alberto Gran Sierra, came to visit me. He told me the thing that sustained him throughout his 25 years was his firm belief that God was with him and looking out for him because, like his former colleague Ar-

mando Valladares, without firm reliance on God Almighty, they probably would not have been able to survive.

Mr. Sierra brought to my attention, as have some of my colleagues such as the gentlewoman from Florida, that there are three people who are still languishing in Fidel Castro's prisons tonight who have been there for 20 to 25 years. One of them is the longest political prisoner in the world. He has been in prison in Castro's gulags for longer than even Nelson Mandela, who is imprisoned in South Africa.

These three gentlemen have decided to go on a hunger strike. And if the hunger strike does not work, they have decided to carry that even further, to go on a waterless or liquidless diet, which would kill them in a short period of time.

They have signed or agreed to a mutual pact in which all of them, one after another, would go on this strike to force Fidel Castro to let the plantados go.

There is more than just these three in those prisons, but these three are men of courage who are willing to literally lay their lives on the line over the next few days, weeks and months to show Fidel Castro and the world that they mean to put every bit of political pressure on Mr. Castro so that they will be released and that their colleagues will be released as well.

Tonight Alfredo Mustelier Nuevo—and I hope I pronounced that right—who was born January 12, 1943, and who fought with Fidel Castro's rebel army when he was 14 years old, is on this hunger strike and now the gentleman is not even taking liquids.

He has been on a hunger strike now for 11 days. I understand he has been on a no-water or no-liquid diet for 3 days.

Mr. Speaker, I have been told by some scientific experts that you cannot survive much more than 4 or 5 days without liquids, without the real possibility of dying. If he does not make it, then Ernesto Diaz Rodriguez, who has been in jail down there for over 15 years, will also take the same action. If he does not make it, then Mario Chanes de Armas will also take part in the hunger strike to try to force Fidel Castro to let these political prisoners, these plantados, out of the Communist Cuban gulags.

The reason for this special order tonight is to try to focus attention of the world and that of our colleagues on the inhumane treatment that Fidel Castro is perpetrating upon these people who have done nothing more than disagree with the way he runs that country.

But that is the way it works in Communist countries. The Communist dictators around the world, Nicaragua, Cuba, the Soviet Union and elsewhere, have had a pattern of taking those who disagree with them and throwing them into gulags where they suffer deprivation, they suffer from inhumane treatment, and the torture that they have to endure is almost unbelievable in many cases.

The world turns its back on them.

Well, tonight a couple of us in this body want to focus attention on what is going on in those gulags, focus attention on what these three gentleman are enduring, focus attention on their heroism, what they are willing to do to try to bring about freedom for people who have been languishing in Castro's gulags for as long as 25 years.

We talk about human rights in the world and my colleagues and I come to this body on a regular basis and talk about human rights violations in places like Cuba, Nicaragua, Soviet Union, and elsewhere. We talk about them for a few minutes and then it is over with. We go to our homes and we literally forget about it. That should not happen.

In a country like the United States of America, we should make absolutely sure that every minute of every day someone is talking about man's inhumanity to man in particular the inhumanity being caused by the Communist system around the world and people like Fidel Castro.

Fidel Castro has lost the confidence of the Cuban people. He has had to kill some of the political leaders because they were becoming too popular and he throught he might be overthrown by some of his colleagues in the military. He used the ruse that they were dealing in drugs when in fact we know he was eliminating political opponents or possible political opponents.

So he is the type of person who will do anything to perpetuate himself in power.

The one thing that he cannot do is he cannot fool the people of the world if the facts are brought out. The people in Havana, Cuba, and throughout the Cuban island know that this man's economic policies have failed, they know of the repression of many people in that country and they know of the atrocities that have been taking place in these gulags.

We tonight want to make sure that this stays on the front burner, that these people who are laying their lives on the line are not standing alone. Sure they are fighting this battle in their prison cells tonight pretty much by themselves, they cannot see this television broadcast.

But my colleagues and others who may be paying attention will know that there are at least some of us in this body who feel very, very strongly that pressure should continually be brought to bear on Fidel Castro until he releases those people from the Communist gulags throughout Cuba immediately.

I have with me tonight one of the newest Members of the Congress, who was recently elected from Miami. She is a Cuban-American. She understands the plight of the people down there because she is literally one of them.

Mr. Speaker, I yield to her at this time.

Mrs. ROS-LEHTINEN. I thank the gentleman very much.

I would like to thank my colleague from Indiana [Mr. BURTON] for taking the leadership on this terrible situation which is confronting these plantados. I encourage him to continue his battle and do all he can to make sure that we focus on this terrible situation in Cuba and keep the issue, as he said, on the front burner.

Mr. Speaker, my congressional office was, as well, blessed today with the presence of several former Cuban political prisoners who collectively have several hundred years that they have served in Fidel Castro's gulag.

The former political prisoners are members of an organization that is very active in my congressional district. It is called the EX Club. It is made up of former political prisoners who served more than enough of their time in Cuba's jails.

They are very concerned, as the gentleman is and as I am and many of us in this body, about the health of one of their colleagues still held against his will in jail in Cuba. The EX prisoners who visited me today are Manuel del Valle, Dr. Alberto Fibla, Gloria Lassalle, who by the way is just one of the female Cuban political prisoners, one of many, several hundred, who have served their time in jail and were later freed. Many of them still remain in jail in Cuba.

□ 2000

She was representing the feminine portion of the EX-Club organization. Dr. Pedro Fuentes Cid, Siro del Castillo, Rolando Borges, Dr. Angel Cuadra. I later met with a prisoner who was just released this year and arrived in Miami, just a few days ago. That was Alberto Grau Sierra. Mr. Grau has served 25 years in jail. He was one of the last "plantados," the people who do not cooperate with their captors, one of the last "plantados" left in Castro's dungeons. Upon his release, Mr. Grau said something interesting. He said that although he was happy to be living among free men now, he said that he remained "sad for having left behind 10 million enslaved men and women." He was referring to everyone in our country of origin in Cuba, and his brother, as a matter of fact, had served 15 years in jail and was finally freed after a long appeal process.

These are the three "plantados" which the gentleman has pointed out, are still in these hellish holes which

pass for incarceration facilities in Cuba. These three "plantados," as the gentleman from Indiana pointed out, are Alfredo Mustelier Nuevo, Mr. Ernesto Diaz Rodriguez, and Mario Chanes de Armas. Mr. Diaz was originally sentenced to 15 years in this prison. Later it was extended to 40 year, and now he has served more than 21 years. Mr. Chanes is not in his 29th year as a political prisoner. It is Mr. Mustelier's case that worries authorities because he is now, as the gentleman pointed out, gone on a hunger strike, and also a thirst strike. It is doubtful that he can survive this horrible ordeal. He has been on a hunger strike since October 28, and is now abstaining from fluids as well.

Today, the gentleman from New Mexico [Mr. RICHARDSON] and I, with the gentleman from Indiana, Mr. BURTON's help, collected signatures from Members of the Congress to gather support for the cause of Mr. Mustelier, Mr. Diaz, and Mr. Chanes. We have written to the United Nations Secretary, Perez de Cuellar and Fidel Castro himself.

The telegram reads:

We urge you to immediately release three "plantados" who have served over 20 years in Cuban prisons. Alfredo Mustelier is now on a hunger strike which could take his life. Ernesto Diaz Rodriguez and Mario Chanes de Armas vow to continue the hunger strike. Their continued imprisonment is in violation of Cuban law, which limits prison terms to 20 years.

The telegram to Perez de Cuellar, the United Nations Secretary General:

We urge you, pursuant to resolution 1989/113 of the UN Human Rights Commission committing you to continue to monitor human rights in Cuba, to request that the Cuban Government immediately release three Cuban political prisoners: Alfredo Mustelier, Ernesto Diaz Rodriguez and Mario Chanes de Armas. All three vow to enter hunger strikes until they die or are released. We urge you to personally intercede with Fidel Castro to request their immediate release. We appreciate your concern and efforts to promote human rights in Cuba and around the world.

Castro's typical reaction, as all Members know, is to ignore such pleas and to continue with his repressive tactics. However, we must do all we can, and we must continue the pressures on Fidel Castro. We must contact international organizations such as the Cuban-American National Foundation, such as Freedom House, so that they can continue their vigil over this terrible situation which is affecting many other prisoners as well.

The treatment that these 3 "plantados" are receiving are actually just symbols of the illness which is pervasive in Fidel Castro's Cuba. This dictator, as all Members know, has no regard for human rights and is treating these three "plantados," these three men of valor, as whipping boys for his demented obsession.

I commend the gentleman for all that he has done. We must continue the pressure on Fidel Castro and let Members do all we can to secure the immediate release of these three "plantados."

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentlewoman for her contribution. Before the gentlewoman goes, I presume she has read Armando Valladares' book, "Beyond All Hope." I had the opportunity to read it, the Reader's Digest condensed version on a plane trip from my district to Washington. I literally started crying on this plane. I think the people who were sitting around me thought I was suffering from some kind of a personal problem because of the emotional impact it had on me.

I think that if everyone of my colleagues and everyone in this country had the opportunity to read that book, they would really have an in-depth view of what it is like to live in one of Castro's gulag, and the inhuman treatment that these people have to endure, the torture, the repression, that they endure on a daily basis, and there is no hope of getting out when there is a dictator like Fidel Castro. The gentlewoman has probably had the experience of hearing many stories of this tonight, and before we leave, if the gentlewoman would like to relate one or two of those stories to my colleagues, and bring up anything having to do with the inhuman treatment, I would like to hear.

Mrs. ROS-LEHTINEN. Mr. Speaker, we know, based on the title of Armando Valladares' book, "Beyond All Hope," gives a person a good idea of what the prisoners have to endure on a daily basis. Against all expectations of survival, against all human sacrifices that anyone could believe would be possible. These are the obstacles that are in their way. Certainly, Armando Valladares' book, and much of the testimony that he has participated in here in Congress tells Members a lot about the plight of these political prisoners. A person like Ambassador Valladares, who is the U.S. Ambassador to the United Nations as it relates to human rights, a perfect spokesman, because he has endured all of the terrible situations that confront these prisoners daily. We have here a letterhead from one of the various organizations, the EX-Club that I had mentioned, and each one of these prisoners listed on this letterhead, which is terribly long, obscenely long, of people who have suffered countless years of oppression in, as the gentleman accurately called this gulag, that that Fidel Castro has. Every one of these names can fill volumes of the spirit of humankind. We can say that each one can speak volumes about the suffering, but it also says a great deal about the spirit of mankind, about the spirit of endurance, and what one can put up with, and what one can really resist because he knows that there is a goal, and that ultimate goal is freedom, is liberty, is love of man, and it is also love of God. It is this other being that I think guides every one of the prisoners.

As I say, many of them are women who have endured countless tales of horror in Fidel Castro's jail. I hope that we can hear more from them in the months to come about how they were deprived of their family and deprived of their children. One of the prisoners who started one of the assemblies of Cuban political prisoners actually lost her child as she gave birth in a Cuban jail, and she was not given the proper medical attention. We certainly need to do all we can to call attention to this plight.

I commend my colleague, the gentleman from Indiana, for all that he is doing to bring it to light, to America's conscience.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentlewoman for those comments.

On television, the past few days, we have seen the media focus a great deal of attention on the exodus of people from East Germany through Czechoslovakia and West Germany and freedom. We have seen people tossing their East German money out the windows of the trains, and pushing their cars, when they would not run, just to get to freedom. In fact, one television report I saw, it had the cars lined up, leaving the Communist East German section, and they were lined up as far as a person could see; as far as the eye could see, there was car after car after car, waiting in line to get to freedom. The people, when they went through on trucks, in cars, and every other way, they were getting out of Communist East Germany into freedom and were smiling and talking of leaving everything behind because there is so much to gain by getting to a free country.

I commend the media for focusing attention on that right now. However, right now, 99 miles south of Miami, FL, there is a place where we cannot focus media attention, but the tyranny is no less great than it is in East Germany. People in Cuba, by the hundreds of thousands, would love to come to freedom, and to be in a free country, if they had the opportunity, but they cannot.

□ 2010

Then you have the people like these three gentleman who have spent 20 years-plus, one being the longest political prisoner in the world, in those gulags, and nobody is hearing about it tonight except possibly from the two of us telling them about it.

The media should, in addition to focusing attention upon the flight from

East Germany and people's hunger for freedom, should focus upon those that are fighting that silent battle that is not being televised, and they should be broadcast as the man of the week.

I suggest to Peter Jenning tonight that Peter Jenning's man of the week ought to be this gentleman who is starving to death in that Cuban prison. I suggest to the gentlewoman from Florida that we should write a letter to him and suggest he make this man his man of the week, because they talk about human rights all the time, and being the person of the week would focus a great deal of attention of Fidel Castro and his inhumane treatment of these people.

People are fighting to get freedom all over the world, in Hungary, in Poland, in Czechoslovakia, in East Germany, in Nicaragua, in the Soviet Union, and elsewhere and sure, attention should be focused on them.

But there is an Iron Curtain around Cuba that does not allow the media to focus on a lot of these things. We need to focus on them.

The gentlewoman from Miami has done an excellent job tonight in focusing on this. I would like to join with the gentlewoman in writing one more letter, maybe tomorrow, to Peter Jennings, to make Mr. Mustelier, focus attention on his plight and the plight of the other plantados down there.

Mrs. ROS-LEHTINEN. Mr. Speaker, I look forward to working with my colleague in getting that done. I thank the gentleman very much for bringing this to the attention of the body.

Mr. BURTON of Indiana. Mr. Speaker, I yield back the balance of my time.

BANNING THE EXPORT OF OLD GROWTH LOGS FROM PUBLIC LANDS

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. UNSOELD. Mr. Speaker, today I am introducing legislation to ban the export of the Northwest's most precious timber resource—old growth trees. At a time when thousands of millworkers and their families are threatened by the timber supply problem, it is ridiculous to continue exporting our most valuable timber.

I represent southwest Washington, one of the most timber-intensive areas in the country. I am also known as something of an environmentalist. From both an economic and environmental perspective, it grieves me to see what the unrestricted export of raw logs has done to the Northwest.

In the area of forest products, the Northwest has been relegated to the status of a colony—exporting low-value raw materials and importing high-value finished products.

My legislation is patterned after the successful ban on the export of unprocessed western red cedar from public lands enacted by my predecessor, Representative Don Bonker. The bill would extend the ban to old growth logs at least 24 inches in diameter. It would have the effect of halting the export of approximately three-fourths of the logs now harvested from Washington State lands and exported without any processing whatsoever.

Because of the high value of old growth timber, and because of its vital role in the ecology and heritage of the Northwest, it is essential that we conserve this timber and reserve harvested old growth for domestic processing.

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The United States is now the only major exporter of high quality softwood logs in the world. If my home State of Washington were a separate country, it would be the second largest exporter of raw logs in the world. Log exports from Washington grew from less than 10 percent of the timber harvest in 1964 to about 40 percent of the total.

We are virtually alone among timber-producing nations in allowing our precious forest resources, and the processing jobs that go with them, to be exploited by others. Canada and a dozen other countries have either banned or greatly restricted log exports to conserve their timber for domestic processing.

With two exceptions—the annual ban on the export of Federal logs, and the ban on the export of unprocessed western red cedar—we have allowed this destructive reverse colonialism to continue unabated.

Largely as a result of the booming log export trade, the Northwest is facing the most serious log shortage in its history. Dozens of mills are shutting down because they cannot outbid export brokers for scarce timber. And as our remaining unprotected old growth forests dwindle, it makes no sense to allow the unrestricted and unsustainable export of raw logs from our public forests.

Although there has been a ban on the export of logs from Federal lands in the West since 1973, national forests in Washington contribute less than 20 percent of the total harvest. In Washington, two-thirds of the harvest from State lands is exported, and 80 percent of that is old growth. Absent congressional action, the State is powerless to slow the export of logs cut from its own lands.

Private landowners in Washington, who contribute over 60 percent of the timber harvest, find it difficult to resist the higher prices commanded by the export market. To make matters worse, the booming export market has spurred overcutting on private lands, creating a timber gap that will reduce the timber supply for decades.

This leaves the small and independent sawmills, which lack their own timber lands, almost entirely dependent on the national forests. That is why the controversy over the spotted owl, which has greatly reduced the timber output of the Northwest's national forests, has so devastated the economies of many timber-based communities.

Mr. Speaker, we in the Northwest have the best forests and the most efficient mills in the world—computerized mills ready, willing, and able to cut to metric dimensions or other specifications.

We are selling raw logs to Japan and other Pacific Rim trading partners instead of lumber, paper, and plywood, in large part, because there are barriers to free trade in finished products. For example, Japan has an escalating tariff structure for finished wood products: the greater the value added to the wood product, the higher the tariff. There are also formidable nontariff barriers, such as discriminatory building standards and a complex distribution system.

In the competition over the processing of our timber resource, we've been taken to the cleaners. Our competitors have been tougher, smarter, and more aggressive than we have been. It's time we established wiser resource and trade policies.

I also believe we must promote the export of finished wood products. For years, we have been far behind Canada and other countries which have aggressively pursued markets for these high value products. We could greatly improve our trade imbalance with the Pacific Rim through such export promotion and by using our timber resource and domestic markets as leverage to win back the economic benefits of processing.

Another important Northwest resource—offshore fisheries—provides an excellent example of what we can do to improve our resource and trade policies. Not so long ago, commercial fishing in the North Pacific and Bering Sea was dominated by foreign fishermen. Northwest lawmakers determined that it was time to get more economic benefit from the fisheries resource and sought to Americanize both the catching and processing of this valuable resource. We now have a billion-dollar fisheries industry in the Northwest.

Mr. Speaker, I believe it is high time we took a tougher, smarter approach

to other trade and resource policies. There is no good reason why we should continue to be a virtual colony in the area of forest products. We need to make the best possible use of our precious timber resource, and I would suggest that we start by passing this legislation.

A copy of the bill follows:

H.R. 3605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPORT RESTRICTION.

Section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406) is amended by adding at the end thereof the following new subsection:

"(1) EXPORTS OF UNPROCESSED OLD GROWTH LOGS.—(1) No unprocessed old growth logs harvested from lands that are west of the 100th meridian in the contiguous 48 States and are owned or administered by any State or by the United States Government may be exported from the United States.

"(2) The export restrictions contained in this subsection apply to any contract entered into on or after the date of the enactment of this subsection.

"(3) As used in this subsection, the term 'unprocessed old growth logs' means timber with a large end diameter of 24 inches or greater that has not been processed to the extent described in subparagraphs (A) through (E) of subsection (i).".

RECESS

The SPEAKER pro tempore (Mr. SAWYER). Pursuant to the previous order of the House of today, the House stands in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 14 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2140

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 9 o'clock and 48 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed an amendment in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 280. Joint resolution increasing the statutory limit on the public debt.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 225. Joint resolution waiving the printing on parchment of the enrollment of H.J. Res. 280.

MAKING IN ORDER ON WEDNESDAY, NOVEMBER 8, 1989, CONSIDERATION OF A BILL ON MEDICARE CATASTROPHIC HEALTH COVERAGE UNDER SUSPENSION OF THE RULES

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it be in order on Wednesday, November 8, 1989 for the Speaker to entertain a motion to suspend the rules and pass a bill relating to the subject matter of Medicare catastrophic health coverage.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. MICHEL. Reserving the right to object, Mr. Speaker, and I certainly do not intend to object, but for the edification of whatever the Members, it is my understanding that in all the negotiations that have been taking place during the course of the day, that having considerable problems working out the catastrophic health problem, that we would consider the debt ceiling tonight with section 89, and then in keeping with the request of the distinguished majority leader that tomorrow we would have one suspension made in order, and that would be the catastrophic health issue in which we could deal with that and send it back over to the other body where the distinguished gentleman from Arizona would again make his case and ultimately get to conference.

□ 2150

If I might ask a question then on that: Is there agreement in the leadership that before we would adjourn sine die that that issue of catastrophic health would be resolved one way or another?

Mr. GEPHARDT. Absolutely.

Mr. MICHEL. I think that is what most of our Members would be concerned about, that it would not just be left hanging there, that we would have to come to some resolution. But personally I am in favor of that methodology, because it gives us an opportunity really to work the wills of both Houses one against the other, and in the normal process come out with hopefully some kind of agreement in which we could adopt conference reports on both sides of the Capitol.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PUBLIC DEBT STATUTORY LIMIT INCREASE

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the joint resolution (H.J. Res. 280) increasing the statutory limit on the public debt, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read as follows:

Senate amendment: Page 1, after line 6, insert:

TITLE II—REPEAL OF SECTION 89 NONDISCRIMINATION RULES

SEC. 201. AMENDMENT OF 1986 CODE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 202. REPEAL OF SECTION 89.

(a) IN GENERAL.—Section 89 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 89.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 203. REINSTATEMENT OF PRE-1986 ACT NONDISCRIMINATION RULES.

(a) IN GENERAL.—

(1) Each provision of law amended by subsection (b), (c), (d)(1), or (g) of section 1151 of the Tax Reform Act of 1986 is amended to read as if the amendments made by such subsection had not been enacted.

(2) Each provision of law amended by paragraph (22), (27), or (31) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as if the amendments made by such paragraph had not been enacted.

(3) Subparagraph (A) of section 125(g)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "subparagraph (B) of section 410(b)(1)" and inserting "section 410(b)(2)(A)(i)".

(4) Section 162(l)(2) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 401(a)(9) is amended—

(A) by striking "(as defined in section 89(i)(4))", and

(B) by adding at the end the following: "For purposes of this subparagraph, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".

(6)(A) Subparagraph (C) of section 414(n)(3) is amended by striking "89,".

(B) Paragraph (1) of section 414(r) is amended by striking "sections 89 and" and inserting "section".

(C) Paragraph (2) of section 414(t) is amended by striking "89,".

(7) Sections 3021(c) and 6070 of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed.

(b) EXCEPTIONS.—

(1)(A) Paragraph (7) of section 79(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(7) EXEMPTION FOR CHURCH PLANS.—

"(A) IN GENERAL.—This subsection shall not apply to a church plan maintained for church employees.

"(B) DEFINITIONS.—For purposes of subparagraph (A), the terms 'church plan' and 'church employee' have the meaning given such terms by paragraphs (1) and (3)(B) of section 414(e), respectively, except that—

"(i) section 414(e) shall be applied by substituting 'section 501(c)(3)' for 'section 501' each place it appears, and

"(ii) the term 'church employee' shall not include an employee of—

"(I) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training),

"(II) an organization described in section 170(b)(1)(A)(iii), and

"(III) an organization described in section 501(c)(3), the basis of the exemption for which is substantially similar to the basis for exemption of an organization described in subclause (II)."

(2) Paragraph (2) of section 125(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—

"(A) IN GENERAL.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(B) EXCEPTION FOR CASH AND DEFERRED ARRANGEMENTS.—Subparagraph (A) shall not apply to a profit-sharing or stock bonus plan or rural cooperative plan (within the meaning of section 401(k)(7)) which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

"(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Subparagraph (A) shall not apply to a plan maintained by an educational organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer pay as contributions for post-retirement group life insurance if—

"(i) all contributions for such insurance must be made before retirement, and

"(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 204. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) DEPENDENT CARE ASSISTANCE.—

(1) IN GENERAL.—Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by adding at the end thereof the following new sentence: "If any plan would qualify as a dependent care assistance program but for a failure to meet the requirements of this subsection, then, notwithstanding such failure, such plan shall be treated as a dependent care assistance program in the case of employees who are not highly compensated employees."

(2) EXCLUDED EMPLOYEES.—

(A) Section 129(d) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of paragraphs (3) and (8), there shall be excluded from consideration—

"(A) subject to rules similar to the rules of section 410(b)(4), employees who have not attained the age of 21 and completed 1 year of service (as defined in section 410(a)(3)), and

"(B) employees not included in a dependent care assistance program who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employees, if there is evidence that dependent care benefits were the subject of good faith bargaining between such employee representatives and such employer or employers."

(B) Section 129(d)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking the last sentence.

(3) DELAY IN APPLICATION OF BENEFITS TEST.—

(A) Paragraph (7) of section 129(d) (as in effect after the amendment made by paragraph (14) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988) is redesignated as paragraph (8).

(B) Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (8)".

(C) Section 129(e)(6) is amended by striking "(7)" and inserting "(8)".

(D) Section 129(d)(8) (as redesignated by subparagraph (A)) shall apply to plan years beginning after December 31, 1989.

(b) LINE OF BUSINESS TEST.—

(1) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or before the date the Secretary of the Treasury or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C) of the Internal Revenue Code of 1986, an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof) of such Code.

(2) DEPENDENT CARE.—Paragraph (1) of section 414(r) is amended by striking "section 410(b)" and inserting "sections 129(d)(8) and 410(b)".

(c) GROUP-TERM LIFE INSURANCE.—Paragraph (7) of section 505(b) (relating to $200,000 compensation limit) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply in determining whether the requirements of section 79(d) are met."

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a)(1), (a)(2), and (b)(2) shall apply to years beginning after December 31, 1988.

(2) The amendments made by subsection (a)(3) shall apply to plan years beginning after December 31, 1989.

(3) The provisions of subsection (b)(1) shall apply to years beginning after December 31, 1986.

(4) The amendment made by subsection (c) shall take effect as if included in the amendment made by section 1011B(a)(32) of the Technical and Miscellaneous Revenue Act of 1988.

TITLE III—RESTORATION OF TRUST FUNDS

SEC. 301. RESTORATION OF TRUST FUNDS.

(a) IN GENERAL.—

(1) OBLIGATIONS ISSUED.—Except as provided in subsection (b), within 30 days after the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall issue to each Federal fund obligations under chapter 31 of title 31, United States Code, which bear such issue dates, interest rates, and maturity dates as are necessary to ensure that, after such obligations are issued, the holdings of such Federal fund will replicate to the maximum extent practicable the obligations that would have been held by such Federal fund if any—

(A) failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of section 3101(b) of title 31, United States Code, had not occurred, and

(B) issuance of such obligations had occurred immediately on the expiration of the debt issuance suspension period.

(2) INTEREST CREDITED.—On the first normal interest payment date or within 30 days after the expiration of any debt issuance suspension period (whichever is later) to which this section applies, the Secretary of the Treasury shall credit to each Federal fund an amount determined by the Secretary, after taking into account the actions taken pursuant to paragraph (1), to be equal to the income lost by such Federal fund by reason of any failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of such section 3101(b), including any income lost between the expiration of the debt issuance suspension period and the date of the credit.

(b) INTEREST ON MARKET-BASED OBLIGATIONS.—With respect to any Federal fund which invests in market-based special obligations, on the expiration of a debt issuance suspension period to which this section applies, the Secretary of the Treasury shall immediately credit to such fund an amount equal to the interest that would have been earned by such fund during the debt issuance suspension period if the daily balance in such fund that the Secretary was unable to invest by reason of the limitation of such section 3101(b) had been invested each day during such period, overnight, in obligations under chapter 31 of title 31, United States Code, earning interest at a rate determined by the Secretary in accordance with the standard practice of the Department of the Treasury.

(c) CREDITED AMOUNTS TREATED AS INTEREST.—All amounts credited under this section shall be treated as interest on obligations issued under chapter 31 of title 31, United States Code, for all purposes of Federal law.

(d) DEFINITIONS.—For purposes of this section—

(1) DEBT ISSUANCE SUSPENSION PERIOD.—The term "debt issuance suspension period" means the period beginning on or after October 31, 1989 and ending on the date of enactment of this Act.

(2) FEDERAL FUND.—The term "Federal fund" means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated; except that such term shall not include the Civil Service Retirement and Disability Fund or the Thrift Savings Fund of the Federal Employees' Retirement System.

The SPEAKER. Is a second demanded?

Mr. ARCHER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 280, the joint resolution now under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the motion to suspend the rules and pass House Joint Resolution 280 as amended by the Senate. If this debt limited increase is not enacted tonight, the Department of the Treasury will not be able to auction bonds tomorrow and the country will be in default on Thursday for the first time in history.

At my request, the Congressional Budget Office has submitted a report describing the financial and economic consequences of a Treasury default.

Mr. Speaker, I am including as part of the RECORD the report describing the possible consequences of the Treasury default.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 6, 1989.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The attached memorandum responds to an inquiry from the staff of the Committee on Ways and Means with respect to the possible consequences of a temporary Treasury default caused by the debt ceiling.

If you would like more information on this issue, please give me a call.

Sincerely,

ROBERT D. REISCHAUER.

FINANCIAL MARKET AND ECONOMIC CONSEQUENCES OF TEMPORARY TREASURY DEFAULT DUE TO DEBT CEILING IMPASSE

If a new debt ceiling is not enacted by November 9, Treasury will be in technical default. There would be a permanent cost of default that would be reflected in a higher cost of debt issuance now and in the future. But the extent of the short-term market reaction will depend on the expected duration of default. If the duration is perceived as lasting no more than a few days, the consequences could be:

A permanent increase in yields on Treasury debt relative to those on other securities;

A rise in the overall level of interest rates in the U.S. relative to those abroad, possibly followed by an incomplete recovery;

A decline in the value of the dollar, also possibly followed by an incomplete recovery.

A delay expected beyond November 15, however, could potentially cause disruption beyond the credit markets to those sectors of the economy that had planned on government payments in addition to receipts of interest payments. The Federal Reserve can try to stabilize financial markets but it cannot override the effects of Treasury default.

This memo is in three parts. The first describes how the Treasury and the Fed would handle a default. The second section is a discussion of how the market for Treasury debt would be affected. The third section offers some thoughts on the wider effects: those on interest rates more generally, on the value of the dollar, and the economy.

WHAT A DEFAULT IS AND HOW IT WOULD BE HANDLED

The Treasury's debt-issuance authority expired on October 31. Treasury ended that day with cash balances of $43 billion, boosted by its actions to borrow extra cash while it was still permissible. Treasury's cash is projected to hemorrhage rapidly. CBO and Treasury analyses indicate that the government will run out of money on November 9, when $14 billion worth of short-term bills mature. The cash crisis deepens on November 15, when the Treasury faces $24 billion in maturing debt and a $24 billion interest payment. Therefore, the Congress must act in time for Treasury to borrow money on November 9th.

Should this not happen, the Treasury would notify the Federal Reserve that it will run out of cash on November 9. At that point, the Fed would instruct banks not to honor Treasury checks. There is no legal basis for paying some checks and not others. Nor does the Treasury have overdraft privileges at the Fed. Many categories of government payments would be affected. By November 9, nearly all Social Security checks and other retirement checks for the month will have been cashed. But debt redemption and interest payments, as well as payments to federal workers, defense contractors, Medicare providers, state and local governments, and many others would be blocked. On an ordinary business day, such checks issued by the Treasury total at least $3 billion.

EFFECTS ON TREASURY INTEREST COSTS

The permanent costs of even temporary default would be higher rates required to issue Treasury debt in the future. This, of course, would increase the budget deficit. Debt default is abrogation of a contract between the Treasury and the purchaser of the debt. By increasing the probability of future unscheduled delays in debt redemption or payment of interest, default would be factored in the pricing of Treasury instruments. By analogy, Germany's proximity to Russia has, in the view of market practitioners, meant Germany has had to pay a few extra pfennigs in case an outside force might someday cause effective default.

It is hazardous to guess the amount by which Treasury interest rates may rise. Some people we talked to mentioned 30 basis points, based on the spread of REFCORP debt over comparable Treasury debt. This spread is chosen as a possible indicator of what the "full faith and credit" of the U.S. government is worth. But the true cost may well be higher, since REFCORP debt was priced in the expectation there would not be an important funding problem with principal or interest payments.

Holders of maturing Treasury debt would have no recourse at the Treasury. They would simply have to hold the debt until Treasury reopened for business, or find someone else in the market willing to hold the debt until Treasury reopened. In effect, the maturity of the matured debt would be extended by the delay.

Prices of outstanding, non-maturing Treasury debt may rise or fall but on balance would probably fall and increase interest rates. Similarly, prices of future issues would be lower than they would have been in the absence of a default. Purchasers of such debt would now have to consider the increased probability of future debt ceiling impasses that would delay scheduled redemption and interest payments, and they would demand an extra return from existing holders who wanted to sell.

Not only could Treasury interest rates rise even more because of increased costs from uncertainty of default, but many firms that had planned interest income from Treasury obligations would be forced to develop contingencies.

The Federal Reserve would undoubtedly try to stabilize the market to the extent possible but would not be able to remove the consequences of default already mentioned.

The Fed would probably not redeem maturing Treasury debt since this would be tantamount to direct lending to the Treasury and to supporting the market for Treasury debt. The former is prohibited by law, and the latter is an action that was ended by the Fed in the Treasury-Fed accord of March, 1953.

WIDER FINANCIAL AND ECONOMIC EFFECTS

A Treasury default could reduce attractiveness of investments in the U.S. relative to those abroad since the dollar's status as a "flight to quality" currency might be weakened. If this happened, it could prompt a decline in the value of the dollar and some rise in overall U.S. interest rates some part of which could be long lasting. If a default were to erode the confidence of world investors (many of whom invest in U.S. Treasury securities), it could lower the demand for dollars en route to purchases of Treasury debt. This could force the dollar down and increase overall interest rate levels. Most observers to whom we talked think that these effects would be largely temporary, reversing themselves partially once Treasury debt management returned to normal. However, even these temporary effects could be a significant shock to the economy.

If the dollar depreciation and rise in overall interest-rate levels are large enough, they could affect the economy by raising prices and slowing economic growth. A sharp decline in the dollar would be expected to raise the prices of imports and other tradeable goods, and this effect, together with the associated increases in overall interest rate levels, could slow the economy in the short run.

Mr. Speaker, the ramifications are very serious, and should be a matter of concern for all Members of this House. Let me describe those consequences: First there would be a permanent increase in the borrowing cost of the U.S. Government. Let me repeat that: A permanent increase. There would

also be a rise in the overall interest rates of the United States relative to those abroad and a decline in the value of the dollar.

No one knows for sure what the magnitude of those consequences will be. However, we do know that the risks are tremendous. We risk destabilizing financial markets both at home and abroad. We risk substantially higher budget deficits because of substantially higher interest costs. And there is a risk of precipitating a recession.

The debt limit increase is identical to what the House agreed to when it passed the budget resolution conference agreement last May. This resolution increases the public debt limit to $3,123 billion, an amount sufficient to carry the Government's borrowing needs through September of next year.

The Senate amendment to this debt ceiling bill is reasonable. The Senate amendment would repeal section 89. This repeal is identical to that approved by the House conferees in the reconciliation conference earlier today. With only minor protaxpayer modifications, this provision is identical to the earlier provision adopted by the House by a vote of 390 to 36.

There is one other technical amendment included in the Senate amendment. This provision would restore to all affected trust funds interest lost due to the inability of Treasury to borrow money after October 31.

Mr. Speaker, I urge the House's approval for this legislation so that we can send this bill to the President tonight, and avoid the terrible consequences of default.

Mr. Speaker, I am including an explanation of the portion of the amendment which repeals section 89 to be deemed as legislative history for this provision.

——. REPEAL OF SECTION 89 NONDISCRIMINATION RULES

PRESENT LAW

Under present law, nondiscrimination rules apply to employer-provided health benefits and group-term life insurance plans (sec. 89). In addition, section 89 requires that certain types of employee benefit plans meet minimum qualification requirements (e.g., that the plan be in writing and that plan participants be notified of plan provisions). Prior to the enactment of section 89 in the Tax Reform Act of 1986, prior law applied other nondiscrimination rules to group-term life insurance plans, cafeteria plans, and self-insured health plans.

Under present law, if the employer has separate lines of business or maintains separate operating units, each separate line of business or operating unit may be tested separately under the nondiscrimination rules relating to qualified plans by taking into account only those employees in that line of business or operating unit. Under present law, it is generally intended that a line of business or operating unit include all employees necessary for the preparation of property for sale to customers or for the provision of services to customers. Whether lines of business or operating units are separate is a facts and circumstances determination requiring examination of each particular situation. Differences and similarities between the services provided and products produced by claimed lines of business or operating units are among the factors to be considered.

The Tax Reform Act of 1986 directed the Secretary to issue guidance on certain pension requirements, including the requirements relating to separate lines of business (sec. 414(r)). Under present law, until the Secretary issues guidance on which taxpayers may rely with respect to such rules, an employer's compliance with its reasonable interpretation of the requirement, based on the statute and its legislative history, if made in good faith, constitutes compliance with the requirement.

Under present law, an employee may exclude from income certain benefits received under an employer-provided dependent care assistance program if certain requirements are satisfied (sec. 129).

REASONS FOR CHANGE

While most employee compensation is taxable income to the employee, employer-provided health coverage generally is excludable from the gross income of the employee receiving this coverage. The annual cost to the Federal Government of this tax-favored treatment is estimated to be $32.6 billion for fiscal year 1990. This cost is projected to increase to $50.8 billion for fiscal year 1994.[1]

In enacting the Tax Reform Act of 1986, the Congress determined that the substantial revenue cost related to employer-provided health insurance coverage is justified only if the tax benefits fulfill important public policy objectives. Increasing health coverage among rank-and-file employees who otherwise would not purchase or could not afford such coverage was identified as a primary policy objective underlying the exclusion for employer-provided health care coverage. Conversely, the Congress believed that the cost to the Federal Government of tax-favored employer-provided accident and health coverage is not justified if such coverage disproportionately benefits highly compensated employees. In order to achieve this objective, nondiscrimination rules were enacted to permit the full exclusion from income of employer-provided health benefits only if the benefits are provided to required numbers of nonhighly compensated employees and the level of benefits provided to highly compensated employees on average does not disproportionately exceed the average benefits provided to rank-and-file employees.

Nondiscrimination in the provision of employer-provided health coverage remains an important policy objective and the significant tax expenditures for employer-provided health coverage is justified only if such coverage does not discriminate in favor of highly compensated employees. However, the present-law nondiscrimination rules, or similar rules, are not at this time an appropriate way of achieving this objective. The present-law rules are overly complex and unduly burdensome on employers and therefore it is appropriate to repeal the present-law section 89 rules.

[1] See, Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 1990-1994*, JCS-4-89 (February 28, 1989).

EXPLANATION OF PROVISION

Repeal of section 89

The provision repeals present-law section 89.

Reinstatement of prior law

The provision generally reinstates the rules applicable before the enactment of section 89. Generally, prior law contained nondiscrimination rules relating to employer-provided self-insured medical reimbursement plans (sec. 105(h)), cafeteria plans (sec. 125), and group-term life insurance plans (sec. 79(d)). These prior-law rules are generally reinstated under the provision. It is recognized that, in some instances, the nature of these benefits may differ from the nature of retirement benefits. Therefore, the Secretary should, where appropriate, interpret the prior-law rules relating to benefits under self-insured medical reimbursement plans and group-term life insurance plans in a different manner than those rules that apply in the area of qualified retirement plans, even where the statutory requirements with respect to such benefits are similar.

It is understood that, while this legislation has been pending, employers may have adjusted their plans to comply with the health benefit nondiscrimination rules that would apply in the absence of the repeal of section 89. Accordingly, it is intended that, if a plan would have been nondiscriminatory under section 89 for the 1989 plan year, then that plan will be treated as complying with the health benefit nondiscrimination rules reinstated under this provision (sec. 105(h)) for the 1989 plan year.

If, under the nondiscrimination rules relating to voluntary employees' beneficiary associations (sec. 505), a plan is required to meet the nondiscrimination rules relating to group-term life insurance (sec. 79(d)), then the $200,000 compensation limitation of section 505(b)(7) does not apply. Thus, for example, when testing for nondiscrimination related to reserves for group-term life insurance benefits provided to retired employees (sec. 419A(e)(1)), the plan to which the reserves relate does not have to meet the $200,000 compensation limitation.

Separate lines of business or operating units

Under the provision, in the case of any plan year that begins on or before the date the Secretary or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C), an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof). It is intended that the Secretary will, upon the issuance of guidance relating to separate lines of business, grant a reasonable period of time for employers to comply with the guidance.

It is intended that separate lines of business may be established under the reasonable good faith standard under certain circumstances, for example, in the cases of operations that are vertically integrated and that traditionally are operated by unrelated entities. For example, a vertically integrated oil company may be able to treat its retail marketing operations as a line of business separate from its production and refining operations because the marketing of petroleum products is traditionally conducted by independent individual operators rather than by integrated companies.

Similarly, horizontally integrated businesses may be treated as maintaining sepa-

rate lines of business where the employer produces or markets different products (e.g., different types of agricultural crops) through separate business units. Of course, in all cases, all requirements of the separate line of business rules must be satisfied (e.g., sec. 414(r)(2)).

Dependent care assistance programs

Under the provision, the requirements relating to dependent care assistance programs (sec. 129(d)) are modified in several respects. The provision generally reinstates the rules which were applicable to these programs prior to the enactment of the Tax Reform Act of 1986. In addition, the present-law 55-percent benefits test is retained.

Under the provision, if a program fails to meet the requirements of section 129(d), only highly compensated employees must include benefits under the program in gross income. In addition, the 55-percent benefits test may be applied on a separate line of business basis (sec. 414(r)).

The provision modifies the rules relating to employees that may be disregarded in determining whether a dependent care assistance program satisfied the nondiscrimination rules of section 129(d). As under present law, employees with less than $25,000 in annual compensation may be disregarded for purposes of the 55-percent benefits test if the dependent care benefits are provided through a salary reduction arrangement. In addition, under the provision, certain employees who have not attained age 21 or who have not completed 1 year of service are disregarded for purposes of the 55-percent benefits test and the reasonable classification test under rules similar to those applicable to retirement plans (i.e., secs. 410(a)(1)(A), 410(a)(3), and 410(b)(4)). The provision also provides that the prior-law rule excluding employees covered by a collective bargaining agreement applies for purposes of the benefits test, as well as the reasonable classification test.

Under the provision, the 55-percent benefits test does not apply to plan years beginning before January 1, 1990.

EFFECTIVE DATE

The provision repealing section 89 and reinstating prior law is effective as if included in the Tax Reform Act of 1986. The line of business provision is effective for plan 1986. The line of business provision is effective for plan years beginning after December 31, 1986. The provisions relating to dependent care assistance programs are generally effective for plan years beginning after December 31, 1988.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in reluctant support of this legislation to extend the permanent debt ceiling to $3.12 trillion. I realize that voting to increase our debt authority to such a staggering amount is difficult for many Members. Certainly it is for me.

However, the consequences of not enacting this legislation tonight are even more staggering. Treasury needs new authority by tomorrow to fulfill the obligations of the Government. Default would strike a devastating blow to the country's premier credit rating.

In addition to increasing the debt service cost to the taxpayers, default would increase interest rates for everyone—individuals as well as businesses. As unpalatable as raising the debt limit might be, the financial security of the Nation must override our reluctance to vote for House Joint Resolution 280.

The one bright spot in this process is the fact that the bill contains the promise of finally repealing the controversial section 89 of the Internal Revenue Code.

To my fellow Members of the House, I would pass on a rule of thumb gleaned during my service on the Ways and Means Committee, which as been underscored by the section 89 debate.

Simply stated, when 435 Members of Congress can identify an Internal Revenue Code provision by number there has to be something seriously wrong with that provision. Ladies and gentlemen, we all know what section 89 is.

With the passage of this debt limit extension tonight, we are finally bidding section 89 an overdue but not particularly fond farewell.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I rise for passage of this debt limit legislation not because I support it but because to fail to support it would be irresponsible.

Equally irresponsible has been the concealment of Federal funds deficit from the general public. I take this time to talk about the failure of the system to deal with the Federal funds deficit—the amount of money the Federal Government owes at the end of each fiscal year.

What we are saying in taking this action to raise the U.S. debt limit to a figure over $3 trillion is—

That the U.S. economy is so weak that the President and the Congress are afraid to tell the American people the truth about it; and,

That the Federal Government is unable to deal with the economic problems facing our Nation and, instead, we are relying upon the Japanese and the Europeans to bail us out.

There is great concern. Dr. Robert Triffin, professor emeritus of economics at Yale and a prime mover in the construction of the European Monetary System, said last month, at an international banking conference at Pace University in New York, that foreigners have been financing about 80 percent of the U.S. external and internal deficits in amounts of hundreds of billions of dollars.

Since my earliest years in the Congress I have been worrying with the lack of management of the Federal deficit. My hope that it would accomplish three major goals caused me to cosponsor the Congressional Budget and Impoundment Act of 1974.

I believed its passage would bring about these primary results: That the Presidential administrations and Congresses would deal openly and truthfully with the real deficit, the Federal funds deficit; that the same set of economic and budget assumption rules would apply to budgetary decisionmaking at all levels; and, that Congress would institute a practice of handling Federal program funding within the boundaries established by a budget resolution adopted by the Congress.

Despite the efforts of the past 15 years, none of the major goals of the Budget Act have been fully reached. This failure flows from the ostrich-like reluctance of Presidential administrations and Congresses to deal with the massive internal threat of the Federal funds deficit.

That hesitation endangers national security, is a breeding ground for economic chaos, could imperil two centuries of political stability; and, demonstrably limits congressional options for responding to national needs.

In the last 9 years the size of the Federal funds deficit has more than tripled. During the same period the Federal debt subject to limit has increased by more than 187 percent. At the same time net interest payments on the public debt have rocketed upward by 145 percent. Table I tracks the history of these three developments from 1981.

TABLE I.—COMPARING FEDERAL FUNDS DEFICIT WITH FEDERAL DEBT SUBJECT TO LIMIT AND NET INTEREST ON THE DEBT: FISCAL YEARS 1981–1989

[In billions of dollars]

Fiscal year	Federal funds deficit	Public debt subject to limit	Net interest on the debt
1981	$85.8	$998.9	$68.8
1982	134.2	1,142.9	85.0
1983	230.8	1,377.9	89.9
1984	218.2	1,573.0	111.1
1985	266.4	1,823.8	129.4
1986	283.0	2,111.0	136.0
1987	222.3	2,336.0	136.6
1988	252.9	2,586.9	151.7
1989	283.0	2,829.5	169.0

Data Sources: Budget of the United States: Historical Tables, Fiscal Year 1990, submitted to the 101st Congress by President Ronald Reagan; Monthly Statement of Public Debt of the United States, September 30, 1989, U.S. Department of the Treasury.

The current method of calculating the unified budget deficit is a major factor in limiting the Congress' options for responding to national needs. It uses trust fund reserves, including those from Social Security, to hide the real culprit, the Federal funds deficit. The surge in the Federal funds deficit has already shoved the net interest payments on the Federal debt from $69 million in 1981 to $169 billion in 1989.

That $100 billion boost in the net interest payments means Congress had—

$100 billion less to spend on educating our children;

$100 billion less to fight the war on drugs;

$100 billion less to help clean up our water and air;

$100 billion less to keep rural hospitals open;

$100 billion less to aid farmers fill the food and fibers needs for the Naiton; and,

$100 billion less for preventing floods, building highways, housing and water and sewer systems, helping expand private sector jobs, and improving bus and railway services.

Mimicking the artful dodger, the President and the Congress, in 1985, veered even further away from tackling the Federal funds deficit by embracing the hollow promise of the Gramm-Rudman deficit management scheme.

Although Gramm-Rudman did not drive down the real deficit—the Federal funds deficit—it did engineer three unfortunate deeds.

First. Attention was shifted even further from the Federal funds deficit problem by spreading yet another veil of deception over the real deficit.

Second. A third deficit figure was added to the public debate, adding to the public confusion about the monster hiding in the deficit closet.

Third. It increased the pressure to siphon trust fund reserves into the gap between the Federal funds and the unified budget deficit. This intensified the threat to the Federal Government's ability to fulfill commitments made to the American people when the trust fund dollars were collected.

The Gramm-Rudman deficit targets focus the current battle on the unified budget deficit—which is little more than 60 percent of the problem. At the same time, it lets the real, larger and more dangerous deficit, the Federal funds deficit, continue its cancerous growth.

Table II compares the three deficits and the trust fund reserves.

The following table illustrates that the current policy of using the surpluses of the Social Security and other trust funds to "reduce" the budget deficit hides the growing problem of the federal funds deficit.

TABLE II.—COMPARING FEDERAL FUNDS DEFICIT WITH UNIFIED BUDGET DEFICIT GRAMM-RUDMAN-HOLLINGS MAXIMUM DEFICIT AMOUNT

[In billions of dollars]

Fiscal year	Federal funds deficit	Social Security + surplus — deficit	Trust funds + surplus — deficit	Other unified budget + surplus — deficit	Gramm-Rudman-Hollings maximum — deficit amount targets
1969	−$4.9	+$3.7	+$4.4	$3.2	
1970	−13.2	+5.9	4.5	−2.8	
1971	−29.9	+3.1	+3.8	−23.0	
1972	−29.3	+3.0	+2.9	−23.4	
1973	−25.7	+0.5	+10.3	−14.9	
1974	−20.1	+1.8	+12.2	−6.1	

TABLE II.—COMPARING FEDERAL FUNDS DEFICIT WITH UNIFIED BUDGET DEFICIT GRAMM-RUDMAN-HOLLINGS MAXIMUM DEFICIT AMOUNT—Continued

[In billions of dollars]

Fiscal year	Federal funds deficit	Social Security + surplus — deficit	Trust funds + surplus — deficit	Other unified budget + surplus — deficit	Gramm-Rudman-Hollings maximum — deficit amount targets
1975	−60.1	+2.1	+5.4	−53.2	
1976	−76.1	−3.2	+5.6	−73.7	
1977	−63.1	−3.9	+13.4	−53.6	
1978	−71.9	−4.3	+17.0	−59.2	
1979	−58.5	−2.0	−20.3	−40.2	
1980	−82.5	−1.1	+9.9	−73.8	
1981	−85.8	−5.0	+11.9	−78.9	
1982	−134.2	−7.9	+14.2	−127.9	
1983	−230.8	+0.2	+22.9	−207.7	
1984	−218.2	+0.3	+32.6	−185.3	
1985	−266.4	+9.4	+44.7	−212.3	
1986	−283.0	+16.7	+45.1	−221.2	−171.9
1987	−222.3	+19.6	+53.0	−149.7	−144.0
1988	−252.9	+38.8	+59.0	−155.1	−144.0
1989	−283.0	+54.0	+68.0	−161.0 [1]	−136.0
1990	−276.0	+65.0	+70.0	−141.0 [1]	−100.0
1991	−287.0	+75.0	+68.0	−144.0 [1]	−64.0
1992	−291.0	+86.0	+64.0	−141.0 [1]	−28.0
1993	−304.0	+99.0	+63.0	−143.0	(1)
1994	−303.0	+113.0	+62.0	−128.0	(1)

[1] 1989 data is based on Congressional Budget Office estimates.

Data sources: Budget of the United States: Historical Tables, Fiscal Year 1990, submitted to the 101st Congress by President Ronald Reagan; The Economic and Budget Outlook: An Update, August, 1989, Congressional Budget Office [Years 1989–1994], and Sec. 622(7), Title 2, United States Code [Gramm-Rudman-Hollings Maximum Deficit Amount data].

Serious problems result from the current method of calculating the unified budget deficit.

First. It undermines the confidence of the American people in the willingness of the President and the Congress to put the Nation's fiscal house in order.

Second. It robs the Nation of an opportunity to raise the national savings rate which is essential to a secure and strong economic future.

Third. It exposes U.S. political and economic policy decisions to more pressure from foreign lenders whose loans are helping finance the Federal deficit.

Fourth. It limits the baby boom generation's chances to build reserves in the Social Security trust funds for future pension benefits and threatens the Nation's ability to make good on pension benefits promises.

Fifth. It increases the share of Federal spending dedicated to paying interest on the Federal debt.

Sixth. It weakens the potential for public backing for the tough deficit management decisions indispensable to avoiding an economic disaster.

No one claims the job of bringing the Federal funds deficit under control will be easy. It won't be. Analysis of the percentage share of Federal spending in fiscal year 1988 demonstrates just how hard it will be. Even if all Federal spending had been ended, except that financed by major trust funds and that for national defense-related programs and interest on the public debt, the 1988 budget would still have been in the red.

Table III illustrates the problem.

TABLE III.—FEDERAL SPENDING AS A PERCENT OF TOTAL BUDGET OUTLAYS

[In percent]

	Subcategory		Category	
	1980	1988	1980	1988
I. Major trust fund spending			34.9	34.5
1. Social Security	19.3	20.0		
2. Medicare	5.8	7.2		
3. Civil service retirement/worker compensation	2.5	2.5		
4. Unemployment compensation	3.0	1.4		
5. Military retirement	2.0	1.7		
6. Railroad retirement	0.8	0.4		
7. Highway	1.4	1.2		
8. Airports and Airways	0.1	0.1		
II. National Defense (excluding military retirement)			26.4	29.4
9. Military personnel	6.8	7.0		
10. Operations and maintenance	7.4	7.7		
11. Procurement	5.0	7.1		
12. Research, development, test, and evaluation	2.2	3.2		
13. Military construction	0.5	0.6		
14. Family housing	0.4	0.3		
15. Veterans programs	3.6	2.7		
16. All other	0.5	0.8		
III. Interest on debt			8.8	13.8
IV. Entitlements/other mandatory spending (except trust funds)			10.6	12.0
17. Medicaid	2.3	2.8		
18. Student financial assistance	0.9	0.7		
19. Public assistance (includes food stamps/housing)	6.2	5.9		
20. Farm price support	0.5	1.1		
21. Financial institutions deposit insurance	0.1	0.9		
22. All other	0.6	0.6		
V. All other spending			19.3	10.3
23. Agriculture (except farm price supports)	1.1	0.5		
24. Commerce and Housing credit (except line 13)	1.6	0.8		
25. Community and Regional Development	1.6	0.4		
26. Education (except amounts in lines 10, 21, 28)	1.7	0.9		
27. Energy (includes REA and alcohol fuels)	0.5	0.2		
28. Health (except amoun's in lines 2, 9, 21)	1.6	1.2		
29. Transportation (except amounts in 7, 8)	2.1	1.1		
30. Foreign Aid	2.0	0.7		
31. Law Enforcement	0.8	0.8		
32. Natural Resources (includes flood control)	2.4	1.3		
33. Social services	1.4	0.7		
34. Training and employment	1.1	0.5		
35. All other	1.1	1.2		
Federal funds deficit as percent of total actual spending			14.0	23.8

Note.—1 percent of outlays equalled $6.1 billion in 1980 and $11.0 billion in 1988.

Data source: Budget of the United States: Historical Tables, Fiscal Year 1990, submitted to the 101st Congress by the President.

The public's isolation from deficit reality must be ended. Mastery of the Federal funds deficit depends on it. That can happen only when the American people have a clear view of the Federal funds deficit, the truth about the problem.

I have introduced two bills aimed at doing that. One, H.R. 3411, would require the President to include in the budget he sends to the Congress each year data on actual and estimated Federal funds deficits for a 5-year period. The second, H.R. 1420, would forbid using the reserves of the Social Security trust funds and other trust funds in determining whether the budget deficit estimates meet the requirements of Gramm-Rudman.

Together, these two bills revise the definition of deficit. If the unvarnished truth about the deficit is not put before the American people, Presidents and Congresses will continue to tinker at the margins of the problem.

And, the Federal funds deficit will continue to straitjacket the Nation's future.

During the Reagan Presidential administration we saw a series of astounding definition changes:

From funding education for the young is a national interest to funding education for the young is the burden of State and local government;

From veterans have earned the right to federally funded health care to veterans who can't buy it for themselves have a right to federally funded health care; and,

From deficits are a liberal plot to wreck the Nation to deficits paid for by future generations are a conservative plan to save the Nation.

The Reagan era is over. The Nation needs to return to a common sense deficit definition. One that reveals the truth. Redefining deficit to mean the Federal funds deficit not only is using common sense, it is telling the truth.

Congress needs to pass the debt limit bill and get on with the business of no-frills, no smoke-and-mirrors, no gimmicks, no nonsense deficit reduction.

For further reference I submit an article by Leonard Silk headlined in his October 27, 1989, New York Times column, Economic Scene, as "The Changes Forced by Deficits".

THE CHANGES FORCED BY DEFICITS

(By Leonard Silk)

The White House and Congress still pay lip service to the importance of getting rid of the budget deficit. But virtually nobody believes that the Government will come close to balancing its budget in the foreseeable future. This means that the budget deficit subtracting from the already low national savings rate, the United States has been compelled to sell assets to foreigners to maintain its existing level of consumption and investment.

How long can this go on? Nobody knows, but a lot of non-economists instinctively feel it cannot go on indefinitely. In a speech to the United Nations Association in New York this week, H. Ross Perot, the Texas entrepreneur, held up a recent cover of Time magazine, showing George Washington, with a tear rolling down his cheek, to mourn "the death of Government."

Mr. Perot said the United States was surrendering its world economic and political leadership role and, by refusing to discipline itself, piling unsustainable burdens of debt on its children.

There are still some economists who share this anxiety. At an international banking conference at Pace University in New York this week, Robert Triffin, professor emeritus of economics at Yale and a prime mover in the construction of the European Monetary System, observed that foreigners have been financing about 80 percent of the United States external and internal deficits, to the tune of hundreds of billions of dollars. "Such an absurd pattern of international financial policies cannot continue indefinitely," he said.

But a great many economists and policy makers, at home and aboard, argue that this circular pattern, with the United States running big trade deficits, foreigners recycling the dollars and buying up American assets, and Americans emitting i.o.u.'s, can go on for a long time and that there is no urgent need to get rid of the budget and trade deficits.

At the Pace conference, Sylvia Ostry, special adviser to Canada's Secretary of State for External Affairs, said the threat of a dollar crisis, which she called "the best international argument to spur U.S. budget action," had become "embarrassingly less credible in the face of reasonable exchange rate stability and, indeed, recent dollar strengthening."

Politically here at home, there is little prospect of decisive action to get rid of the deficit by steeply increasing taxes or cutting expenditures. Gramm-Rudman is simply forcing more spending off budget as with the bailout of savings and loans.

And President Bush holds to "read my lips, no new taxes" harder than ever; David Broder, the political columnist of The Washington Post, says that having lost ground with his party's right wing on the two crucial issues of anti-Communism and anti-abortion, Mr. Bush is less willing than ever to change his anti-tax position, vital to retaining the support of his political base.

Does all this mean that with the true fiscal deficit (counting tax expenditures and off-budget as well as on-budget spending) likely to persist and even widen, Americans and their political representatives will simply settle down to enjoy the trade deficit, the deficit in the balance of payments on current account, the continuing inflow of capital and the transfer of assets to foreigners?

Mrs. Ostry suggests they cannot and will not. "In the absence of fiscal action, the stalled current-account adjustment process will once again create mounting popular demands to 'do something,'" she said. What will that "something" be?

One thing is likely to be is more Japan-bashing. The Japanese themselves are worried about that trend and have begun some American-bashing of their own. Their importation of former President Ronald Regan for healing speeches appears designed to head off an American anti-Japan attack.

Another American response, directed more broadly at not only Japan but also the newly industrialized countries in Asia and the uniting Europe, will be a tougher trade policy, already labeled, among other things, "aggressive reciprocity," "bilateral activism" and "unilateralism." But as the current trade talks in Geneva show, the United States is still holding the line against out-and-out protectionism and instead seeking to open markets for trade in services and agricultural products where it has strength.

A third area where the United States may press harder is on the "competitiveness" front, which may mean more government-industry research, as in semiconductors or other high-technology fields, and less anti-trust resistance to collaboration by private companies.

Further, the United States is likely to press its allies harder to take over military and foreign-aid and foreign-loan burdens that this country has been carrying since the postwar period, when its economic strength was dominant. But there is uncertainty and anxiety here about what the consequences would be of trying to transfer such responsibilities to Japan, West Germany and others.

Thus, the startling changes in the United States' economic and financial position, exacerbated by the failure of the country to discipline itself at home, is forcing a fundamental and potentially hazardous restructuring of America's external and domestic policies.

Mr. CONTE. Mr Speaker, I rise in support of the amendment repealing section 89 of the Internal Revenue Code. Since January of this year when I was the first original cosponsor of H.R. 634, a bill to repeal section 89, I have fought long and hard for repeal.

On September 27, acting on an amendment first brought to the Rules Committee by me, this body voted 390 to 36 to add a provision to the budget reconciliation bill for total repeal of section 89.

We don't need section 89. What we need is to contain rising health and insurance costs now inhibiting increased coverage. And we also need to apply the Regulatory Flexability Act to the IRS so that any proposed benefits regulations will not adversely impact on small business.

Small business wants repeal, America wants repeal. Let's kill this turkey for Thanksgiving. Let's recede and concur to kill section 89.

Mr. HOAGLAND. Mr. Speaker, I want to take this opportunity to explain my reasons for opposing House Joint Resolution 280.

As I indicated in a statement issued when I opposed the budget agreement this last spring, I believe we must take bolder actions to close the deficit and that we should, as soon as possible, begin to reduce the national debt.

I do not feel that voting to increase the debt ceiling is consistent with those objectives.

I do favor, however, the repeal of section 89 and have previously demonstrated so by voting for its repeal and by cosponsoring legislation to repeal it.

Mr. ARCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and concur in the Senate amendment to House Joint Resolution 280.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 99, not voting 65, as follows:

[Roll No. 336]

YEAS—269

Akaka	Archer	Beilenson
Alexander	Atkins	Bennett
Anderson	Ballenger	Bereuter
Andrews	Barnard	Bevill
Annunzio	Bartlett	Bilbray
Anthony	Bateman	Bliley

Boehlert	Houghton	Payne (VA)
Boggs	Hoyer	Pease
Bonior	Hunter	Pelosi
Borski	Hutto	Penny
Bosco	Hyde	Perkins
Boucher	Johnson (CT)	Pickle
Boxer	Johnson (SD)	Porter
Brennan	Johnston	Price
Browder	Jones (GA)	Quillen
Brown (CA)	Jontz	Rahall
Bruce	Kanjorski	Ravenel
Buechner	Kaptur	Regula
Bustamante	Kastenmeier	Rhodes
Byron	Kennedy	Richardson
Campbell (CO)	Kennelly	Ridge
Cardin	Kildee	Ritter
Carper	Kleczka	Roberts
Chandler	Kolbe	Robinson
Chapman	Kolter	Ros-Lehtinen
Clarke	Kostmayer	Rose
Clay	Kyl	Rostenkowski
Clinger	LaFalce	Roukema
Coble	Lancaster	Rowland (CT)
Coleman (MO)	Lantos	Rowland (GA)
Coleman (TX)	Laughlin	Roybal
Collins	Leath (TX)	Sabo
Combest	Lehman (CA)	Saiki
Condit	Lehman (FL)	Sarpalius
Conte	Lent	Sawyer
Coughlin	Levin (MI)	Scheuer
Coyne	Levine (CA)	Schiff
Darden	Lewis (CA)	Schroeder
de la Garza	Lewis (GA)	Schulze
Derrick	Lipinski	Sharp
DeWine	Livingston	Shaw
Dickinson	Long	Sikorski
Dicks	Lowery (CA)	Sisisky
Dingell	Lowey (NY)	Skaggs
Dixon	Machtley	Skeen
Donnelly	Madigan	Skelton
Dymally	Markey	Slattery
Eckart	Martin (IL)	Slaughter (NY)
Edwards (CA)	Martin (NY)	Slaughter (VA)
Emerson	Martinez	Smith (FL)
Engel	Matsui	Smith (VT)
Erdreich	Mavroules	Smith, Robert (OR)
Espy	Mazzoli	
Evans	McCloskey	Snowe
Fascell	McCollum	Solarz
Fawell	McCrery	Spratt
Fazio	McCurdy	Staggers
Feighan	McDade	Stallings
Fields	McDermott	Stangeland
Fish	McGrath	Stenholm
Flippo	McHugh	Studds
Frank	McMillan (NC)	Sundquist
Frenzel	McMillen (MD)	Swift
Frost	McNulty	Synar
Gaydos	Meyers	Tauke
Gejdenson	Mfume	Tauzin
Gekas	Michel	Taylor
Gephardt	Miller (OH)	Thomas (GA)
Geren	Miller (WA)	Torres
Gillmor	Moakley	Udall
Gingrich	Mollohan	Unsoeld
Glickman	Montgomery	Upton
Gonzalez	Morella	Valentine
Goodling	Morrison (WA)	Vento
Gradison	Murtha	Visclosky
Grant	Nagle	Volkmer
Gray	Natcher	Walgren
Green	Neal (MA)	Walker
Gunderson	Nelson	Walsh
Hamilton	Nowak	Weldon
Hammerschmidt	Oberstar	Wheat
Harris	Obey	Whittaker
Hastert	Olin	Whitten
Hawkins	Ortiz	Wilson
Hayes (IL)	Owens (UT)	Wise
Hayes (LA)	Oxley	Wolf
Hefner	Panetta	Wolpe
Hiler	Parker	Wylie
Hochbrueckner	Parris	Yates
Horton	Patterson	Young (AK)

NAYS—99

Armey	Callahan	Dellums
AuCoin	Campbell (CA)	Dorgan (ND)
Baker	Costello	Dornan (CA)
Barton	Cox	Douglas
Bates	Craig	Downey
Bentley	Crane	Dreier
Bilirakis	Dannemeyer	Duncan
Brown (CO)	DeFazio	Durbin
Burton	DeLay	Dyson
Early	Lightfoot	Sangmeister
Edwards (OK)	Lukens, Donald	Savage
English	McCandless	Schaefer
Gallegly	McEwen	Schuette
Gibbons	Miller (CA)	Sensenbrenner
Gilman	Moody	Shays
Goss	Moorhead	Shumway
Grandy	Mrazek	Smith, Denny (OR)
Hall (TX)	Murphy	
Hancock	Myers	Smith, Robert (NH)
Hansen	Neal (NC)	
Hefley	Nielson	Solomon
Henry	Pallone	Spence
Herger	Pashayan	Stark
Hoagland	Paxon	Stearns
Holloway	Petri	Stump
Hopkins	Pickett	Thomas (CA)
Hubbard	Poshard	Thomas (WY)
Huckaby	Pursell	Traficant
Inhofe	Ray	Vucanovich
Jacobs	Rinaldo	Watkins
James	Rogers	Williams
Kasich	Rohrabacher	Wyden
Lagomarsino	Roth	Young (FL)
Lewis (FL)	Russo	

NOT VOTING—65

Ackerman	Garcia	Rangel
Applegate	Gordon	Roe
Aspin	Guarini	Saxton
Berman	Hall (OH)	Schneider
Brooks	Hatcher	Schumer
Broomfield	Hertel	Shuster
Bryant	Hughes	Smith (IA)
Bunning	Ireland	Smith (NE)
Carr	Jenkins	Smith (NJ)
Clement	Jones (NC)	Smith (TX)
Conyers	Leach (IA)	Stokes
Cooper	Lloyd	Tallon
Courter	Luken, Thomas	Tanner
Crockett	Manton	Torricelli
Davis	Marlenee	Towns
Dwyer	Mineta	Traxler
Flake	Molinari	Vander Jagt
Florio	Morrison (CT)	Waxman
Foglietta	Oakar	Weber
Ford (MI)	Owens (NY)	Weiss
Ford (TN)	Packard	Yatron
Gallo	Payne (NJ)	

□ 1020

Mr. EDWARDS of Oklahoma changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GALLO. Mr. Speaker, yesterday I was not able to be present for rollcall vote 335 due to the Governor's election in New Jersey. If I had been present I would have voted aye on H.R. 2459, legislation to authorize appropriations for the U.S. Coast Guard.

I also was absent for rollcall vote 336. If I had been present, I would have voted aye on House Joint Resolution 280, the debt limit extension.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent on November 7 for rollcall No. 334, to approve the Journal, rollcall No. 335, final passage of the Coast Guard authorization for fiscal year 1990, and rollcall No. 336, the debt limit increase. Had I been here, I would have cast the following votes: "aye," "aye," and "aye."

THE ANOMALY IN HOUSE RULES RELATING TO THE INTELLIGENCE COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. YOUNG] is recognized for 5 minutes.

Mr. YOUNG of Florida. Mr. Speaker, a resolution pending before the Rules Committee really caught my attention. Authored by House Intelligence Committee Chairman TONY BEILENSON, it gives the Speaker blanket access to the Intelligence Committee's proceedings and information.

As a former member of the Intelligence Committee, I knew that the majority leader and minority leader were both ex officio members and assumed that the Speaker already had such access. So I wondered why the Beilenson resolution was necessary.

I went back and reviewed House Rule 48, which governs the Intelligence Committee's activities, and sure enough, in what amounts to a real anomaly, there is no provision allowing the Speaker, who is just two heart beats away from the Presidency, such broad access to the Intelligence Committee. Instead, I reconfirmed that any Member of Congress not on the Intelligence Committee, can only gain access to the Intelligence Committee's proceedings and information if that committee votes to allow such access and found that this restriction also applies to the Speaker of the House. Given these restrictions, I now understand the rationale for the Beilenson proposal.

Mr. Speaker, what really disturbs, me, however, is how long it has taken to address this anomaly. The House Intelligence Committee was established more than 12 years ago. What did previous Speakers do if they wanted to learn about important intelligence matters? As best as I can determine, they were informally briefed from time to time by key commtitee members and staff, apparently in violation of rule 48. An example of what I am talking about is discussed in a recently published book about former Speaker Jim Wright entitled "The Ambition and the Power." The book's author, John Barry, described in some detail how Speaker Wright allegedly learned from the previous chairman of the House Intelligence Committee some extremely sensitive intelligence information. When I checked with the members and staff of the Intelligence Committee to see if there was any record of the former Speaker being briefed on this matter, I learned there was none. If Mr. Barry's assertions are correct, then this was another violation of rule 48 which, inter alia, requires a written record of any dealings by Intelligence Committee members or staff with anyone who is not a member of the committee, including the Speaker of the House.

Mr. Speaker, members of the Intelligence Committee are entrusted with the most sensitive national security secrets of our country. Those who receive that information must be responsible in keeping that information from any one except those legally and properly cleared for access to such material. That includes, Mr. Speaker, obeying the law and rules of the House that relate to the Intgelligence Committee and its members and staff.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLEMENT (at the request of Mr. GEPHARDT) for today, on account of official business.

Mr. HERTEL (at the request of Mr. GEPHARDT) for today, on account of medical reasons.

Mr. BROOKS (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIDGE) to revise and extend their remarks and include extraneous material:)

Mr. RITTER, for 60 minutes, on November 8.

Mr. DREIER of California, for 60 minutes, today and on November 8.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BATEMAN, for 10 minutes, today.

(The following Member (at the request of Mr. SCHEUTTE) to revise and extend his remarks and include extraneous material:)

Mr. YOUNG of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. OBERSTAR, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ECKART, for 60 minutes each day, on November 8, 14, and 15.

(The following Member (at the request of Mr. FRANK) to revise and extend his remarks and include extraneous material:)

Mr. ESPY, for 5 minutes, today.

(The following Member (at the request of Mr. HARRIS) to revise and extend their remarks and include extraneous material:)

Mr. LEVIN of Michigan, for 5 minutes, on November 8.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RIDGE) and include extraneous matter:)

Mr. HORTON.

Mr. GALLO.

Mr. FIELDS.

Mr. RINALDO.

Mr. SOLOMON.

Mrs. ROS-LEHTINEN.

Mr. MACHTLEY in two instances.

Mr. OXLEY.

Mr. BEREUTER.

Mr. LAGOMARSINO.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. DINGELL.

Mr. COLEMAN of Texas.

Mr. BATES.

Mr. MURTHA in two instances.

Mr. TORRES.

Mr. MILLER of California in two instances.

Mr. FRANK.

Mr. MATSUI.

Mr. JACOBS.

Mr. WISE.

Mr. FEIGHAN.

Mr. AUCOIN.

Mr. TRAFICANT.

Mrs. BOXER.

Mr. BONIOR.

Mr. RAHALL.

(The following Members (at the request of Mr. HARRIS) and include extraneous matter:)

Mr. ESPY.

Mr. LAUGHLIN.

Mr. GEREN.

Mr. BERMAN in two instances.

Mr. STARK.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 82. An act to recognize the organization known as the 82d Airborne Division Association, Inc. to the Committee on the Judiciary.

S. 148. An act to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial; to the Committee on Banking, Finance and Urban Affairs.

S. 253. An act to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan; to the Committees on Agriculture and Science, Space, and Technology.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3287. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds;

H.R. 3318. An act to redesignate the Federal building in Houston, Texas, known as the Concorde Tower, as the "George Thomas 'Mickey' Leland Federal Building"; and

H.J. Res. 425. Joint resolution designating November 12, through 18, 1989, as "Community Foundation Week."

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 19. Joint resolution to designate November 8, 1989, as "Montana Centennial Day."

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill and a joint resolution of the House of the following titles:

H.R. 2916. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for Sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes; and

H.J. Res. 35. Joint resolution designating November 5-11 1989, as "National Women Veterans Recognition Week."

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 24 minutes p.m.) under its previous order, the House adjourned until tomorrow, Wednesday, November 8, 1989, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1989. A letter from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting notification of the decision to convert to contractor performance the commissary resale warehouse function at Travis Air Force Base, CA, which was found to be the most efficient and cost-effective method of accomplishment, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); Public Law 100-202, section 8074 (101 Stat. 1329-75); Public Law 100-463, section 8061; to the Committee on Appropriations.

1990. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-105, "Board of Trustees of the University of the District of Columbia Amendment Act of 1989", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1991. A letter from the Secretary, Department of Health and Human Services, transmitting a report, "Childhood Injuries in the United States", pursuant to 42 U.S.C. 280b-2; to the Committee on Energy and Commerce.

1992. A letter from the Director, International Development Cooperation Agency, transmitting a report on the implementation of the Inspector General Act Amendments of 1988; to the Committee on Government Operations.

1993. A letter from the Chairman, National Endowment for the Humanities, transmitting a report on the implementation of the Inspector General Act Amendments of 1988, pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee on Government Operations.

1994. A letter from the Acting Administrator, Panama Canal Commission, transmitting notification of the determination that it is in the public interest to make a proposed contract award to Management Information Systems Consulting Services without obtaining full and open competition, pursuant to 41 U.S.C. 253(c)(7); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPIN: Committee of conference. Conference report on H.R. 2461 (Rept. 101-331). Ordered to be printed.

Mr. SMITH of Iowa: Further committee of conference. Conference report on H.R. 2991 (Rept. 101-332). Ordered to be printed.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 3033. A bill to control the export, to countries pursuing or expanding the ability to produce or deliver chemical or biological weapons, of items that would assist such countries in acquiring such ability, to impose sanctions against companies which have aided in the proliferation of chemical or biological weapons, to provide for sanctions against countries which use or prepare to use chemical or biological weapons in violation of international law, and for other purposes; with an amendment (Rept. 101-334, Pt. 1). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the clerk for printing, and bills referred as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1011. A bill to provide for the establishment of the National Commission on Natural resources Disasters, to provide for increased planning and cooperation with local firefighting forces in the event of forest fires, and for other purposes; with an amendment; referred to the Committee on Interior and Insular Affairs for a period ending not later than November 13, 1989, for consideration of such provisions of the bill and the amendment recommended by the Committee on Agriculture as fall within the jurisdiction of the Committee on Interior and Insular Affairs pursuant to clause 1(1) of Rule X. (Rept. 101-333, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BATES (for himself, Mr. DYMALLY, Mr. WALSH, Mr. EVANS, Mr. LEVINE of California, Mr. WAXMAN, Mr. MILLER of California, Mr. FAZIO, Mr. DELLUMS, Mr. RICHARDSON, Mr. EDWARDS of California, and Mr. BERMAN):

H.R. 3591. A bill to provide for a review of, and submission of recommendations to the Congress regarding the use of excess property at the Marine Corps Base, Camp Pendleton, CA, by the Secretary of the Interior; jointly, to the Committees on Armed Services, Interior and Insular Affairs, and Government Operations.

By Mr. CHANDLER (for himself and Mr. DONNELLY):

H.R. 3592. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on optional extended warranty and service contracts having an expected cost to the issuer of less than 50 percent of the cost to the consumer; to the Committee on Ways and Means.

By Mr. DE LUGO (for himself, Mr. ANDERSON, Mr. HAMMERSCHMIDT, Mr. ROE, Mr. MINETA, Mr. SHUSTER, Mr. OBERSTAR, Mr. STANGELAND, Mr. NOWAK, Mr. SAVAGE, Mr. BOSCO, Mr. EMERSON, and Mr. FUSTER):

H.R. 3593. A bill to provide emergency assistance to areas that sustained damages as a result of Hurricane Hugo, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DEFAZIO (for himself, Mr. AUCOIN, Mrs. SCHROEDER, Mr. RAHALL, Mr. JONTZ, Mr. KANJORSKI, Mr. PENNY, Mr. JOHNSON of South Dakota, Mr. ATKINS, Mrs. BOXER, Mr. MILLER of California, Mr. LEWIS of Georgia, Mrs. UNSOELD, Mr. FRANK, and Ms. SLAUGHTER of New York):

H.R. 3594. A bill to reduce the retirement pay of former Presidents in cases where their earned income exceeds a certain amount; to the Committee on Post Office and Civil Service.

By Mr. DICKINSON: (for himself and Mr. SOLOMON):

H.R. 3595. A bill to protect the retired pay of certain members of the Armed Forces convicted of an offense under section 2071(b) of title 18, United States Code; to the Committee on the Judiciary.

By Mr. FALEOMAVAEGA (for himself, Mr. DE LUGO, Mr. UDALL, Mr. MILLER of California, Mr. AKAKA, Mr. FUSTER, Mr. BLAZ, and Mr. LAGOMARSINO):

H.R. 3596. A bill to direct the Secretary of the Interior to conduct a study on the long-term water supply needs of the insular areas; to the Committee on Interior and Insular Affairs.

By Mr. HOPKINS:

H.R. 3597. A bill to amend title 5, United States Code, to provide that Federal employees who are voluntarily or involuntarily separated from service as a result of the closure or realignment of a military installation under title II of the Defense Authorization Amendments and Base Closure and Realignment Act shall be eligible for early retirement; to the Committee on Post Office and Civil Service.

By Mr. JACOBS:

H.R. 3598. A bill to amend chapter 24 of title 38, United States Code, to extend the time period during which benefits under such chapter may be utilized by veterans whose medical disabilities have prevented them from using such benefits; to the Committee on Veterans' Affairs.

By Mr. JOHNSON of South Dakota:

H.R. 3599. A bill to amend the Internal Revenue Code of 1986 to permit taxpayers to elect a deduction for State sales taxes in lieu of the deduction for State income taxes; to the Committee on Ways and Means.

By Mr. JONTZ:

H.R. 3600. A bill to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. LOWEY of New York (for herself and Mr. MILLER of California):

H.R. 3601. A bill to amend the Drug-Free Schools and Communities Act of 1986 to provide for increased use of counselors in drug abuse education and prevention programs in elementary and secondary schools and to provide for additional training for school personnel with respect to drug abuse education and prevention; to the Committee on Education and Labor.

By Mr. RAHALL (for himself and Mrs. LOWEY of New York):

H.R. 3602. A bill to require the States to establish drug-free school zones and increased penalties for drug trafficking on school grounds and drug trafficking near school grounds that involves minors, and for other purposes; to the Committee on Education and Labor.

By Mr. DENNY SMITH (for himself, Mr. SMITH of New Hampshire, Mrs. BENTLEY, Mr. HANSEN, Mr. JONES of North Carolina, Mr. LANCASTER, Mr. DONALD E. "BUZ" LUKENS, Mr. MCCLOSKEY, Mr. REGULA, Mr. ROWLAND of Connecticut, and Mr. SUNDQUIST):

H.R. 3603. A bill to direct the heads of Federal departments and agencies to disclose information concerning United States personnel classified as prisoners of war or missing in action from World War II, the Korean conflict, and the Vietnam conflict; to the Committee on Government Operations.

By Mr. SOLOMON (for himself and Mr. DICKINSON):

H.R. 3604. A bill to provide that forfeiture of an individual's office as a retired military officer by reason of conviction under section 2071(b) of title 18, United States Code, shall not result in the loss of such individual's military retired pay or other personnel benefits incident to status as a retired military officer; to the Committee on Armed Services.

By Mrs. UNSOELD (for herself and Mr. DEFAZIO):

H.R. 3605. A bill to amend the Export Administration Act of 1979 to prohibit the export of unprocessed old growth logs harvested from public lands; to the Committee on Foreign Affairs.

By Mr. WISE (for himself, Mr. MURPHY, Mr. KANJORSKI, Mr. STAGGERS, and Mr. RAHALL):

H.R. 3606. A bill to amend the Black Lung Benefits Act to provide a de novo hearing before an administrative law judge for certain claims filed under that act; to the Committee on Education and Labor.

By Mr. DONNELLY (for himself, Mr. RUSSO, and Mr. ARCHER):

H.R. 3607. A bill to repeal Medicare provisions in the Medicare Catastrophic Coverage Act of 1988; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WYDEN (for himself, Mr. DINGELL, and Mr. MARKEY):

H.R. 3608. A bill to amend the Securities Exchange Act of 1934 to require more prompt reporting in holdings and transactions of corporate insiders; to the Committee on Energy and Commerce.

By Mr. DANNEMEYER (for himself, Mr. BLILEY, Mr. BARTON of Texas, and Mr. HUNTER):

H.J. Res. 432. Joint resolution proposing an amendment to the Constitution of the United States relating to voluntary prayer in public schools; to the Committee on the Judiciary.

By Mr. HAMILTON:

H. Res. 282. Resolution authorizing the printing of the joint committee print entitled "Medical Alert" as a House document; to the Committee on House Administration.

By Mr. MILLER of California (for himself, Mr. AUCOIN, Mr. BRYANT, Mr. COLEMAN of Texas, Mr. DEFAZIO, Mr. DIXON, Mr. DURBIN, Mr. ENGEL, Mr. FAUNTROY, Mr. FUSTER, Mr. GEPHARDT, Mr. GREEN, Mr. HAWKINS, Mr. HOCHBRUECKNER, Mr. KENNEDY, Mr. DE LUGO, Mr. NCNULTY, Mr. MOAKLEY, Mr. MOODY, Mr. PEASE, Mr. MANTON, Mr. PENNY, Mr. RANGEL, Mr. RUSSO, Mr. SCHEUER, Mr. TORRES, Mr. PAYNE of New Jersey, Mr. PANETTA, Mr. SCHUMER, Mr. BROWN of California, Ms. KAPTUR, Mr. OBERSTAR, Mr. OWENS of New York, Ms. PELOSI, Mr. BUSTAMANTE, Mr. COSTELLO, Mr. MATSUI, Mr. ROWLAND of Georgia, Mr. BATES, Mrs. BOXER, and Mr. FOGLIETTA):

H. Res. 283. Resolution expressing the sense of the House of Representatives that the President should vote in support of increasing the international minimum age for combat to 17 years of age in the United Nations Convention on the Rights of the Child; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, 300.

The SPEAKER presented a memorial of the House of Representatives of Illinois, relative to support of H.R. 3380; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. CALLAHAN introduced a bill (H.R. 3609) to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States, which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. CONDIT, Mr. BILBRAY, and Mr. ENGEL.

H.R. 173: Mr. HASTERT.

H.R. 201: Mr. MCEWEN and Mr. TRAFICANT.

H.R. 215: Mr. VENTO.

H.R. 245: Mr. THOMAS of Wyoming.

H.R. 488: Mrs. LOWEY of New York.

H.R. 509: Mr. ANDERSON, Mr. BERMAN, Mr. BRUCE, Mr. CHANDLER, Mr. CONYERS, Mr. DREIER of California, Mr. FEIGHAN, Mr. FLORIO, Mr. GALLO, Mr. GOSS, Mr. GRANT, Mr. GREEN, Mr. JONES of Georgia, Mr. THOMAS A. LUKEN, Mr. MOORHEAD, Mr. NATCHER, Mr. NEAL of Massachusetts, Mr. PACKARD, Mr. RAHALL, Mr. ROSE, Mr. SAXTON, Mr. SCHUETTE, Mr. SCHUMER, Mr. SMITH of New Hampshire, Mr. SPRATT, Mr. STARK, Mr. STENHOLM, Mr. THOMAS of California, and Mr. WALSH.

H.R. 560: Mr. MAVROULES, Mr. ROSE, Mr. IRELAND, and Mr. CARPER.

H.R. 567: Mr. BROWN of California and Mr. SOLOMON.

H.R. 675: Mr. CONDIT.

H.R. 844: Mr. HAYES of Louisiana and Mr. SAXTON.

H.R. 913: Mr. DERRICK, Mr. FALEOMAVAEGA, Mr. JONES of Georgia, Mrs. SAIKI, and Mr. ESPY.

H.R. 976: Mr. SCHEUER.

H.R. 1074: Mr. SKEEN and Mr. BROWDER.

H.R. 1159: Mr. SHUMWAY.

H.R. 1167: Mr. MCDADE, Mr. MANTON, Mr. GONZALEZ, Mr. POSHARD, Mr. HORTON, and Mr. FALEOMAVAEGA.

H.R. 1306: Mrs. MORELLA.

H.R. 1371: Mr. CARPER.

H.R. 1390: Mr. GEKAS, Mr. LEWIS of Georgia, Mr. BLILEY, and Mr. ROBERTS.

H.R. 1515: Mr. BROOMFIELD, and Mr. SMITH of Vermont.

H.R. 1613: Mr. GUNDERSON, Mr. BURTON of Indiana, Mr. EDWARDS of Oklahoma and Mr. RIDGE.

H.R. 1632: Mr. VENTO.

H.R. 1693: Ms. SCHNEIDER.

H.R. 1729: Mr. NEAL of North Carolina, Mr. BEREUTER, Mr. TRAFICANT, Mr. JACOBS, Mr. CAMPBELL of Colorado, Mr. HORTON, Mr. COLEMAN of Missouri, Mr. ROE, Mr. PAYNE of New Jersey, Mr. ATKINS, Mr. EMERSON, Mr. WALSH, Mr. HYDE, Mr. OWENS of Utah, Mr. TOWNS, and Mr. SLATTERY.

H.R. 2116: Mr. STENHOLM.

H.R. 2140: Mr. CLAY, Mr. OWENS of Utah, and Mr. BURTON of Indiana.

H.R. 2174: Mr. POSHARD.

H.R. 2418: Mr. JOHNSON of South Dakota and Mr. STALLINGS.

H.R. 2436: Mr. HORTON, Mr. THOMAS A. LUKEN, Mr. ROE, Mr. KASICH, Ms. PELOSI, Mr. FAUNTROY, Mr. MCEWEN, Mr. BUSTAMANTE, and Mr. TRAFICANT.

H.R. 2479: Mr. FUSTER.

H.R. 2532: Mr. STOKES, Mr. OWENS of Utah, Mr. ROYBAL, Mr. DYMALLY, Mr. TORRES, and Mr. OBERSTAR.

H.R. 2584: Mr. JONES of North Carolina, Mr. PAYNE of New Jersey, Mr. SANGMEISTER, Mr. ROSE, Mr. GILMAN, and Mr. HAYES of Illinois.

H.R. 2647: Mr. OWENS of Utah.

H.R. 2765: Mr. BORSKI, Mr. CHANDLER, Mr. ENGEL, Mr. FAZIO, Mr. FISH, Mr. GRANT, Mr. HORTON, Mr. JONES of Georgia, Mr. JONTZ, Mr. KOLBE, Mr. MCCANDLESS, Mr. MANTON, Mr. MARTINEZ, Mr. MOORHEAD, Mr. OWENS of Utah, Mr. PAXON, Mr. PAYNE of New Jersey, Mr. PORTER, Mr. RIDGE, and Mr. WAXMAN.

H.R. 2996: Mr. JOHNSTON of Florida.

H.R. 3004: Mr. STUDDS, Mr. VENTO, and Mr. SIKORSKI.

H.R. 3069: Ms. LONG, Ms. SLAUGHTER of New York, Mr. KLECZKA, Mr. YATES, Mr. PAYNE of New Jersey, Mr. ENGEL, and Mr. ESPY.

H.R. 3101: Mr. ESPY and Mr. MFUME.

H.R. 3122: Mr. BOUCHER, Mrs. LLOYD, Mr. ESPY, and Mr. HAYES of Louisiana.

H.R. 3251: Mr. JOHNSTON of Florida.

H.R. 3280: Mr. SPENCE, Mr. BATES, Mr. ROBINSON, Mr. DORNAN of California, Mr. WISE, Mr. BUSTAMANTE, Mr. HEFNER, Mr. RHODES, Mr. ESPY, and Mr. KASTENMEIER.

H.R. 3306: Mr. WYDEN, Mr. MORRISON of Connecticut, Mr. CROCKETT, Mr. ACKERMAN, Ms. KAPTUR, Mr. ROE, Mr. HERTEL, Mr. BERMAN, Mr. GEJDENSON, Mr. ATKINS, Mr. FALEOMAVAEGA, and Mrs. LLOYD.

H.R. 3321: Mr. BALLENGER, Mr. STUMP, Mr. RAHALL, and Mr. BARNARD.

H.R. 3343: Ms. LONG, Mr. PICKETT, Mr. GLICKMAN, Mr. ANDREWS, Mr. TAUZIN, Mr. GEKAS, Mr. EDWARDS of Oklahoma, and Mr. HAYES of Louisiana.

H.R. 3347: Mr. SKEEN and Mr. BUECHNER.

H.R. 3409: Mr. VENTO, Mr. HOCHBRUECKNER, Mr. ATKINS, Mr. MURPHY, Mr. SPRATT, Mr. JONTZ, Mr. HARRIS, and Mr. COSTELLO.

H.R. 3413: Ms. SCHNEIDER, Mrs. COLLINS, and Mr. RIDGE.

H.R. 3423: Mr. ATKINS, Mrs. COLLINS, Mr. MARKEY, Mr. WEISS, Mrs. BOXER, Mr. MRAZEK, Mr. STUDDS, and Mr. WAXMAN.

H.R. 3430: Mr. STOKES, Mr. JONTZ, Mr. ESPY, Mr. RAVENEL, Mr. RHODES, and Mr. TALLON.

H.R. 3456: Ms. PELOSI.

H.R. 3464: Mr. GEREN, Mr. CARPER, and Mr. HAYES of Louisiana.

H.R. 3480: Mr. JOHNSON of South Dakota, Mr. COURTER, Mrs. MARTIN of Illinois, Mr. FAUNTROY, Mr. WOLPE, Mr. HORTON, Mr. JONTZ, Mr. BURTON of Indiana, Mr. TORRICELLI, Mr. PENNY, Mr. CAMPBELL of Colorado, Mr. BOUCHER, Mr. PAYNE of Virginia, and Mr. BLILEY.

H.R. 3500: Mr. MACHTLEY and Mr. KOSTMAYER.

H.R. 3541: Mr. HYDE, Mr. BRUCE, Mr. ROSTENKOWSKI, Mr. CRANE, Mr. DURBIN, and Mr. PORTER.

H.R. 3552: Mr. LANCASTER and Mr. DORGAN of North Dakota.

H.R. 3561: Mr. WHITTAKER, Mrs. ROS-LEHTINEN, Mr. ARMEY, Mr. CONDIT, Mr. SLATTERY, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. ROE, Mr. FALEOMAVAEGA, and Mr. HANSEN.

H.R. 3562: Mr. SMITH of Vermont.

H.R. 3575: Mr. LEWIS of Florida, Mr. ARMEY, Mr. DORNAN of California, Mr. HANSEN, Mr. LAGOMARSINO, Mr. ROE, Mr. BENNETT, Mr. BROWN of California, Mr. GONZALEZ, Mr. POSHARD, and Mr. CROCKETT.

H.J. Res. 106: Mr. AKAKA, Mr. ANDERSON, Mr. APPLEGATE, Mr. AUCOIN, Mr. BARNARD, Mr. BEILENSON, Mr. BENNETT, Mr. BEREUTER, Mr. BILIRAKIS, Mr. BOEHLERT, Mrs. BOGGS, Mr. BONIOR, Mr. BORSKI, Mr. BOSCO, Mr. BOUCHER, Mr. BROWDER, Mr. BROWN of California, Mr. BROWN of Colorado, Mr. BUECHNER, Mr. BUNNING, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mr. CALLAHAN, Mr. CLEMENT, Mr. CLINGER, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. CONDIT, Mr. COSTELLO, Mr. COX, Mr. COYNE, Mr. CRANE, Mr. CROCKETT, Mr. DARDEN, Mr. DELAY, Mr. DIXON, Mr. DONNELLY, Mr. DORGAN of North Dakota, Mr. DREIER of California, Mr. DUNCAN, Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. ENGEL, Mr. ESPY, Mr. FAZIO, Mr. FEIGHAN, Mr. FIELDS, Mr. FORD of Tennessee, Mr. FRENZEL, Mr. FROST, Mr. GALLEGLY, Mr. GALLO, Mr. GAYDOS, Mr. GEREN, Mr. GILMAN, Mr. GORDON, Mr. GOSS, Mr. GRANT, Mr. GREEN, Mr. GUARINI, Mr. GUNDERSON, Mr. HALL of Ohio, Mr. HAMMERSCHMIDT, Mr. HANCOCK, Mr. HASTERT, Mr. HAYES of Illinois, Mr. HEFLEY, Mr. HENRY, Mr. HERGER, Mr. HILER, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUNTER, Mr. HYDE, Mr. INHOFE, Mr. IRELAND, Mrs. JOHNSON of Connecticut, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. JONTZ, Mr. KOLTER, Mr. LAGOMARSINO, Mr. LAUGHLIN, Mr. LEACH of Iowa, Mr. LEATH of Texas, Mr. LENT, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr.

LIGHTFOOT, Mr. LIVINGSTON, Mrs. LLOYD, Mr. LOWERY of California, Mr. DONALD E. LUKENS, Mr. MADIGAN, Mr. MARKEY, Mr. MCCRERY, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCGRATH, Mr. MINETA, Mr. MOAKLEY, Mr. MOORHEAD, Mr. MONTGOMERY, Mr. NAGLE, Mr. NEAL of North Carolina, Mr. NIELSON of Utah, Mr. ORTIZ, Mr. PANETTA, Mr. PARKER, Mr. PARRIS, Mr. PASHAYAN, Mr. PAXON, Mr. PAYNE of Virginia, Mr. PETRI, Mr. POSHARD, Mr. RAHALL, Mr. RAVENEL, Mr. REGULA, Mr. RHODES, Mr. ROBINSON, Mr. ROGERS, Mr. ROSE, Mrs. ROS-LEHTINEN, Mr. SAVAGE, Mr. SCHEUER, Mr. SCHIFF, Mrs. SCHROEDER, Mr. SCHUETTE, Mr. SHAW, Mr. SHUSTER, Mr. SIKORSKI, Mr. SKELTON, Mr. SLATTERY, Mr. SLAUGHTER of Virginia, Mr. DENNY SMITH, Mr. SMITH of Texas, Mr. SMITH of Florida, Mr. ROBERT F. SMITH, Mrs. SMITH of Nebraska, Mr. SOLARZ, Mr. SPENCE, Mr. SPRATT, Mr. STANGELAND, Mr. STENHOLM, Mr. STOKES, Mr. STUDDS, Mr. SUNDQUIST, Mr. SWIFT, Mr. SYNAR, Mr. TALLON, Mr. TAUKE, Mr. TAUZIN, Mr. TAYLOR, Mr. THOMAS of Wyoming, Mr. THOMAS of California, Mr. TRAXLER, Mrs. UNSOELD, Mr. UPTON, Mr. VANDER JAGT, Mr. VENTO, Mr. WAXMAN, Mr. WELDON, Mr. WOLPE, Mr. WYLIE, Mr. YOUNG of Florida, Mr. OBERSTAR, and Mr. HEFNER.

H.J. Res. 180: Mr. CARPER, Mr. FROST, Mr. WILSON, Mr. HOCHBRUECKNER, Mr. LANCASTER, Mr. FALEOMAVAEGA, Mr. CLEMENT, Mr. ENGEL, Mr. GORDON, Mr. EVANS, Mr. LAGOMARSINO, Mr. YOUNG of Florida, Mr. POSHARD, Mr. COSTELLO, Mr. ROE, Mr. HORTON, Mr. FAUNTROY, Mr. FAZIO, Mr. CLARKE, Mr. HANCOCK, Mr. BATES, and Mr. DICKS.

H.J. Res. 183: Mr. QUILLEN, Mr. PEASE, and Mr. WALGREN.

H.J. Res. 214: Mr. MORRISON of Connecticut.

H.J. Res. 255: Mr. FORD of Michigan, Mr. POSHARD, Mr. VENTO, Mr. SMITH of Vermont, Mr. KASICH, Mr. ATKINS, Mr. GEREN, Mr. HUGHES, Mr. SUNDQUIST, Mr. HAMILTON, Mr. NATCHER, and Mr. ESPY.

H.J. Res. 282: Mrs. BENTLEY, Mr. CLEMENT, Mr. SUNDQUIST, Mr. HANCOCK, Mr. CONDIT, Mr. PALLONE, Ms. SLAUGHTER of New York, Mr. GRAY, Mr. SOLOMON, Mr. FISH, Mr. ROBINSON, Mr. POSHARD, Mr. STOKES, Mr. CLARKE, Mr. LEWIS of Georgia, Mr. KENNEDY, Mr. PICKETT, Mr. VOLKMER, Mr. MCMILLEN of Maryland, Mr. STARK, Mr. ENGEL, Mr. HILER, Mr. HUTTO, Mr. GILMAN, Mr. REGULA, Mr. MCDERMOTT, Mr. ROSE, Mr. DE LA GARZA, Mr. WYLIE, Mr. BUECHNER, and Mr. DOWNEY.

H.J. Res. 345: Mrs. BENTLEY, Mr. BARTLETT, Mr. TALLON, Mr. MORRISON of Connecticut, Mr. FRENZEL, Mr. UPTON, Mr. WEBER, Mr. APPLEGATE, Mr. BURTON of Indiana, Mr. SMITH of Florida, Mr. GOODLING, Mrs. SAIKI, Mr. SKELTON, Mr. BOSCO, Mr. EDWARDS of Oklahoma, Mr. STANGELAND, Mr. NIELSON of Utah, Mr. HANSEN, Mr. FROST, Mr. BRUCE, Mr. DARDEN, Mr. SKAGGS, Mr. SMITH of New Hampshire, Mr. ASPIN, Mrs. MORELLA, Mr. CHANDLER, and Mr. HUBBARD.

H.J. Res. 385: Mr. BOSCO, Mr. BRENNAN, Mr. CHANDLER, Mr. DAVIS, Mr. DEFAZIO, Mr. DE LUGO, Mr. EVANS, Mr. FISH, Mr. FLAKE, Mr. HOYER, Mr. INHOFE, Mrs. JOHNSON of Connecticut, Mr. JONES of North Carolina, Mr. KASICH, Mr. LEHMAN of California, Mr. MCCLOSKY, Mr. MCDERMOTT, Mr. LIVINGSTON, Mrs. LOWEY of New York, Mr. MFUME, Mr. MILLER of Ohio, Mr. MURPHY, Ms. OAKAR, Mr. PORTER, Mr. SAXTON, Mr. SMITH of New Hampshire, Mr. TANNER, Mr. MYERS of Indiana, Mr. BOUCHER, Mr. CARDIN, Mr. ROBERT F. SMITH, Mr. OWENS of Utah, and Mr. SCHUETTE.

H.J. Res. 409: Mr. ROSE.

H.J. Res. 417: Mr. OWENS of Utah.

H.J. Res. 426: Mr. APPLEGATE, Mr. ATKINS, Mr. BATES, Mr. BEVILL, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BOEHLERT, Mr. BONIOR, Mrs. BOXER, Mr. BRENNAN, Mr. BROOKS, Mr. BROOMFIELD, Mr. BRUCE, Mr. CALLAHAN, Mr. CLARKE, Mr. CLEMENT, Mrs. COLLINS, Mr. DYMALLY, Mr. ERDREICH, Mr. FALEOMAVAEGA, Mr. FAUNTROY, Mr. FAZIO, Mr. FRENZEL, Mr. GEJDENSON, Mr. GONZALEZ, Mr. HARRIS, Mr. HAWKINS, Mr. HORTON, Mr. HUNTER, Mr. KASICH, Mr. LEACH of Iowa, Mr. LENT, Mr. LEWIS of California, Mr. LIVINGSTON, Mr. MCGRATH, Mr. MARTINEZ, Mr. MATSUI, Mr. MRAZEK, Mr. PANETTA, Mr. PAYNE of Virginia, Mr. RANGEL, Mr. ROE, Mr. SAVAGE, Mr. SKELTON, Mr. STAGGERS, Mr. TOWNS, Mr. VOLKMER, Mr. WELDON, and Mr. YOUNG of Florida.

H. Con. Res. 57: Mr. COSTELLO, Mrs. MORELLA, Mr. HAYES of Louisiana, Mr. CHANDLER, Mrs. COLLINS, Mr. ROE, Mr. CONDIT, Mr. BRENNAN, Mr. DE LA GARZA, Mr. PAYNE of New Jersey, Mrs. LLOYD, and Mr. POSHARD.

H. Con. Res. 146: Mr. EVANS, Mr. GORDON, Mr. LANTOS, Mr. CLEMENT, Mr. COYNE, Mr. CLAY, Mr. BRUCE, Mr. MILLER of California, Mr. FOGLIETTA, Mr. LEHMAN of California, Mr. FAZIO, Mr. NAGLE, Mr. JONTZ, Mr. CAMPBELL of Colorado, Mr. HARRIS, Mr. WALSH, and Mr. WISE.

H. Con. Res. 147: Mr. PETRI, Mr. DONALD E. LUKENS, Mr. HYDE, Mr. SENSENBRENNER, Mr. INHOFE, Mr. MOORHEAD, Mr. VENTO, and Mr. HILER.

H. Con. Res. 162: Mr. BROWN of California and Mr. GRANT.

H. Con. Res. 206: Mr. LEVINE of California, Mr. PEASE, Mr. APPLEGATE, Mr. BATES, Mr. PAYNE of New Jersey, and Mr. MAVROULES.

H. Con. Res. 216: Mr. ROHRABACHER, Mrs. MORELLA, Mr. HUNTER, Mr. HUCKABY, Mr. RHODES, Mr. BILIRAKIS, and Mr. CHAPMAN.

H. Con. Res. 220: Mrs. COLLINS, Mr. HARRIS, and Mr. RIDGE.

H. Res. 19: Mr. BURTON of Indiana.

H. Res. 279: Mr. SOLOMON.

H. Res. 280: Mr. WALKER and Mrs. BENTLEY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 147: Mr. GEJDENSON and Mr. LEWIS of Georgia.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1465

By Mr. GUNDERSON:

(To the substitute amendment offered by Mr. JONES of North Carolina.)

—Strike "tankers" and insert in lieu thereof "tank vessels".

—Strike "oil tanker" and insert in lieu thereof "tank vessel".

EXTENSIONS OF REMARKS

CONGRESS SHOULD SET THE EXAMPLE IN WAR AGAINST DRUGS

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. ROHRABACHER. Mr. Speaker, most Americans believe that illegal drug abuse is the gravest threat to our Nation's well-being. However, if Congress is to have credibility in fighting the war against drugs, I believe we must set a moral example for all Americans.

Drug use, especially in the workplace, is accompanied by a host of problems: an increase in health care costs for treatment of both workers and their families, reduced productivity and increased safety threats both on and off the job. Drug testing provides employers with an effective tool for employers to detect and deter drug abuse.

Currently, Members are prevented under House rules from using their official expense funds to test their employees for drug use. In fact, I recently received a letter dated October 16, 1989, and signed by the chairman of the Committee on House Administration, which stated, "the Committee policy is that reimbursement is not allowable" for drug testing in congressional offices. I believe we should encourage Members to undertake a meaningful drug-free workplace policy and that policy should include drug testing.

Last Thursday, I introduced legislation that will allow Members to use their own office funds to test their staffs and themselves for drugs. Of course, House Resolution 280 does not mandate drug testing for all Members and staff. All my legislation does is allow Members to spend their office funds to avail themselves of drug testing if they choose to do so.

Congress has passed laws requiring drug testing in the public sector—and encouraging drug testing in the private sector—as part of the "drug free workplace" legislation. Shouldn't Congress set an example in the war on drugs instead of exempting ourselves from the fight?

I urge my colleagues to join me in cosponsoring this legislation. Having the opportunity for Members to test themselves and their staffs for drugs can demonstrate our commitment to a drug-free America. I believe that the following Los Angeles Times article will be of interest to many Members of Congress.

[From the Los Angeles Times, Nov. 3, 1989]

ROHRABACHER ASKS DRUG TESTS FOR U.S. HOUSE

(By Robert W. Stewart)

WASHINGTON.—Orange County Rep. Dana Rohrabacher called on Congress Thursday to open a Capitol Hill front in the war on drugs.

Rohrabacher introduced legislation that would allow members of the House of Representatives to use money set aside to run their offices to pay for drug tests for themselves and their congressional staffs.

"Congress is not exempt from the war on drugs," said Rohrabacher (R-Lomita). "Drug testing is a way that we can prove we have personally joined the fight."

Rohrabacher said he saw no conflict between the drug initiative and his political background as a Libertarian. The Libertarian philosophy calls for minimal government regulation of citizens' private lives.

"We're not trying to sneak up on people and put them in jail," Rohrabacher said. "What we're trying to do is provide incentives in our system to people who might be susceptible to drug abuse and give them an incentive not to use drugs." Despite endorsements by eight other congressman who attended a Capitol Hill press conference, Rohrabacher's suggestion to test staff members did not meet with universal approval.

"How about testing for typing? Let's start with that," said Rep. Andy Jacobs (D-Ind.). "There is the doctrine of probable cause before we start searching and seizing people's blood . . . I'm getting a little tired of spending taxpayers' money for political grandstanding."

Rep. Don Edwards (D-San Jose), a member of the House Judiciary Committee, said random drug testing is "a terrible waste of money as well as a dreadful invasion of privacy often casting suspicion on innocent people."

"The way to detect drug or alcohol problems," Edwards added, "is for members to closely supervise their staffs and their work, which they should always be doing anyway."

Federal law requires all federal agencies, including the offices of individual congressman and congressional committees, to establish policies to keep drugs out of the workplace.

However, the House Committee on Administration has ruled that House members cannot use funds from their office budgets to pay for drug testing because there are no provisions for it in federal law. Rohrabacher's legislation would reverse that ruling.

"We are specifically prohibited from using our office expenses to promote a drug-free environment through the use of random drug testing," Rohrabacher said.

"I think it's irresponsible for Congress to encourage one policy through laws in the public and private sector and then make that policy unworkable for our own offices."

Aides said at least three congressmen—E. Clay Shaw Jr. (R-Fla.), Joe Barton (R-Tex.), and Robert S. Walker (R-Pa.)—already test staff members for drug use, apparently paying for it with their own funds.

In Rohrabacher's office, staff members are required to sign a letter pledging to avoid drug use and agreeing "to submit to drug testing, when and as deemed appropriate by Congressman Rohrabacher."

If a staff member were to test postive, a second test would be performed, according to the terms of the letter. If the second test were positive, Rohrabacher said he would reserve the right to fire the employee or refer him to a drug counseling program.

If his funding bill is enacted, Rohrabacher said, he will contact with a private testing company to periodically test his staff and himself for drug use. (During his 1988 election campaign, Rohrabacher, 42, declined to discuss whether he had ever used marijuana as a college student.)

Among those joining Rohrabacher at Thursday's press conference were Reps. C. Christopher Cox (R-Newport Beach) and William E. Dannemeyer (R-Fullerton). Dannemeyer said he had conducted drug testing among his staff several years ago at his own expense. All the staff members passed, a Dannemeyer aide said later.

"If we're going to convince the American people that we, the political leaders of this country, are serious about stopping drug use in this nation, we have to set an example," Dannemeyer said.

Prospects for passage are uncertain. The Rohrabacher legislation is co-sponsored by Rep. Newt Gingrich (R-GA.) and a dozen other congressmen, Rohrabacher aides said. They said the bill probably would be referred to the House Committee on Administration.

"If it gets to the floor, it would pass so that in the next election members would not be accused of being pro-drugs," Edwards said. "But we hope it does not reach the floor because it would be a serious constitutional violation."

Rohrabacher noted that "once these funds are available, the public will be able to determine who's serious and who's not about the war on drugs by what policy they've instituted in their own offices."

ADMINISTRATION SHOWDOWN OVER WATER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. MILLER of California. Mr. Speaker, a quiet, but intense, environmental battle is taking place within the administration that could affect the President's environmental credibility and the future of California.

The issue is simple. The Interior Department has proposed to renew 40-year irrigation contracts with some California farmers without looking at the environmental impact of this action. The Environmental Protection Agency, joined by the Council on Environmental Quality, are following common sense and legal precedent by urging Interior to prepare an environmental impact statement. So far, the Interior Department has refused to comply.

A recent Los Angeles Times editorial correctly pointed out that this is an easy choice for the Bush administration. "The only reasonable answer is to proceed with the environmental impact report," the Times noted. "For the Administration to uphold [Secretary] Lujan's defiance of EPA would have the same effect as saying it believes in the National En-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

vironmental Policy Act, the keystone of American environmental law, only when it chooses to."

This is not a minor issue for California's water future. At stake is enough water to meet the yearly needs of 5 million people. Why shouldn't we look at all alternatives? Why shouldn't we find ways of meeting the water needs of farmers, cities, and the environment too? As the Times editorial noted, "To ignore the environmental effects of such diversion is to show indifference to massive alterations in California's water system over the years and to defy the changing nature of its water needs."

The choice for President Bush is easy. He should end the internal bickering over this issue and immediately order Secretary Lujan to prepare a comprehensive environmental impact statement on the Friant contract renewals.

Mr. Speaker, the Los Angeles Times editorial presents a thoughtful perspective on this problem. I would like to urge all my colleagues to take a few moments to read this important editorial.

[From the Los Angeles Times, Nov. 3, 1989]

ENVIRONMENTAL SHOWDOWN

The Bush Administration's schizophrenia over the environment and natural resources is nowhere more apparent right now than in the proposed renewal of 40-year irrigation contracts between the U.S. Bureau of Reclamation and California farmers. The internal struggle represents a major conflict between the Environmental Protection Agency and Secretary Manuel Lujan Jr.'s Department of the Interior, with the Council on Environmental Quality siding with EPA. This is viewed by many in the Administration as a critical test case. The issue has not caught much attention outside of selected California constituencies, but its outcome could determine the Administration's future course on environmental matters and Lujan's ability to survive as a politically viable secretary of interior.

If the Administration follows logic and apparent legal precedent, it will order a full environmental impact study of the contract renewals and their considerable effect on California's complex water distribution system. If the Administration elects to hew to the narrow and tenuous legal claims of the Department of the Interior, it will reject an environmental study. The question is whether the Administration will relent now and maintain President Bush's desire to be a friend of the environment. Or whether it will side with mostly Republican friends in the agricultural community, give away considerable environmental credibility, and possibly lose the issue in the courts anyway.

The only reasonable answer is to proceed with the environmental impact report. This may embarrass Secretary Lujan, but it will not necessarily mean the farmers will lose any of the water they have been using from the Bureau of Reclamation's Central Valley Project the past 40 years. For the Administration to uphold Lujan's defiance of EPA would have the same effect as saying it believes in the National Environmental Policy Act, the keystone of American environmental law, only when it chooses to. From that point on, any claim by Bush that he is a friend of the environment will have quite a hollow ring.

The somewhat unfortunate scapegoat of the affair is the Orange Cove Irrigation District on the east side of the San Joaquin Valley, the first of some 300 districts to sign water delivery contracts with the Central Valley Project, in July, 1949. Orange Cove is not typical of the agribusinesses that have been the principal targets of conservation organizations such as the Natural Resources Defense Council for receiving subsidized federal irrigation water, sometimes for growing subsidized crops. Most Orange Cove farms are small family operations that use water efficiently. Lujan issued a new 40-year contract to Orange Cove last summer in defiance of EPA's decision. The Department of Interior claims that other federal law requires it to renew the contracts and that no formal impact study was required. The Council on Environmental Quality, an arm of the White House that attempts to settle intra-Administration disputes of this sort, has sided with EPA. Lujan has had the matter under review ever since and is expected to announce a decision soon.

The EPA position reportedly also has struck a sympathetic chord within the Justice Department where Richard Stewart is the chief environmental lawyer, a former Harvard Law professor and former chairman of the board of the Environmental Defense Fund. Stewart, however, must defend the Department of Interior against a Natural Resources Defense Council lawsuit that seeks to force Interior to do the environmental analysis.

While only the one irrigation district is directly involved, the outcome of the dispute will set a precedent for hundreds of contracts that will be expiring throughout the West. The Central Valley Project of California alone distributes some 7 million acre-feet of water a year, or more than seven times as much water as the city of Los Angeles uses annually.

To ignore the environmental effects of such diversions is to show indifference to massive alterations in California's water system over the years and to defy the changing nature of its water needs. The Bush Administration could set national water policy ahead by years if it approved the environmental studies, perhaps in a joint venture with California, and used them as the centerpiece for the reconciliation of a variety of water problems affecting both farmers and city folk.

A TRIBUTE TO MS. JULIA ANN ROZUM

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. MURTHA. Mr. Speaker, a testimonial dinner will be held November 12 to honor one of Johnstown's most distinguished citizens and a long time public servant for the people of the 12th Congressional District of Pennsylvania. Ms. Julia Ann Rozum wil be retiring in January 1990 from her position as district magistrate in the Johnstown area, and her presence in the magistrate's office will be missed.

Julia has a long, impressive résumé of honors and appointments during her distinguished career. Since her appointment as Justice of the Peace in 1964, and through her current position as district magistrate, Julia has seen many different administrations of different political persuasions come and go in Pennsylvania, but she has continued to work diligently for the people of her hometown, Johnstown.

I'm shocked that Julia is retiring. It doesn't seem possible that this energetic, caring, and wonderful person could have reached the age where she would even think of retiring. But I think a greater shock may come when we realize that Julia is serious, and that we won't be able to count on her kind words and fair, impartial judgment as a magistrate every day in the future.

I would like to extend my congratulations and all my best wishes to Julia upon her retirement. No one deserves the chance to relax a little more than she does, for few people have given as much of themselves to their community. The Johnstown community, Julia, thanks you for all your hard work on our behalf.

TRIBUTE TO THE SOCIETY FOR THE BLIND

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to the Society for the Blind and congratulate them on 35 years of outstanding service to the Sacramento community.

For well over three decades, the Society for the Blind and their corps of dedicated volunteers, have provided assistance to individuals and their families who are coping with sudden or gradual vision loss. The society provides a variety of invaluable assistance programs that range from counseling, clinical services, and a products for independent living store, to leisure activities such as travel instruction and recreation. These programs have succeeded in assisting blind individuals to achieve the highest level of functioning as they strive for independent community living.

Through their expertise, commitment, and dedication to service, the staff and volunteers of the Society for the Blind have been able to offer our citizens a place to turn. These dedicated individuals have contributed tens of thousands of volunteer hours in an effort to help people help themselves. The Society for the Blind is an excellent example of the success of volunteerism.

Mr. Speaker, I commend all the volunteers and staff of the Society for the Blind for their many accomplishments and the vital assistance they have provided to the citizens of my community. I ask that my colleagues join me in saluting this organization for their dedication and commitment to the welfare of others and I extend best wishes for their continued success in all of their future endeavors.

HUNGARIAN MINISTER PERSECUTED IN ROMANIA

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. FEIGHAN. Mr. Speaker, I rise today to protest the ongoing persecution of religious figures in Romania. The latest target of Romania's Government is a Hungarian Reformed minister, Rev. Laszlo Tokes, in Transylvania, Romania. Reverend Tokes is the son of the former Deputy Bishop of Cluj-Napoca (Kolozsvar), Rev. Dr. Istvan Tokes.

The Reverend Tokes is a deeply religious man who is very conscious of his Hungarian nationality. He has been an outspoken critic of the Romanian Government's horrid human and religious rights record. As a result, he has twice been transferred and now works as the pastor of the Hungarian Reformed congregation at Timisoara (Temesvar). Since April of this year, Reverend Tokes has been forbidden to exercise his ministerial functions, and efforts are underway to remove him from his congregation which nonetheless has remained solidly in support of him.

Throughout September and October, authorities have increased their pressure through intimidation and harrassment of the minister and his friends. A Romanian court has ruled that Reverend Tokes must leave his church, but he is making use of his right to appeal. In the meantime, the Reverend has moved into a room behind the church vestry with his wife and small son and has refused to move. On October 20, he was able to enter the church and deliver his sermon. The services ended with an open demonstration by the congregation of their support for Reverend Tokes. Whether he will be able to officiate again remains to be seen. Several of his colleagues and friends have also reportedly been harrassed and brutalized during the past months.

Reverend Tokes has become an important symbol for religious and personal freedom, as well as a strong advocate for the right to Hungarian ethnicity in Transylvania. Mr. Speaker, I hope that my colleagues in the House of Representatives will join me in protesting the Romanian Government's outrageous behavior. And I urge the administration to join our protests as well.

FOREST SERVICE CHIEF SHOULD BE COMMENDED

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. RAHALL. Mr. Speaker, on September 28, 1989, the Subcommittee on Mining and Natural Resources conducted an oversight hearing on the implementation of the Federal Onshore Oil and Gas Leasing Reform Act of 1987. A major focus of this hearing was to examine whether the Forest Service intended to improve its evaluation of the environmental consequences of oil and gas leasing during the land use planning stage.

Today, I would like to commend the Chief of the Forest Service, Dale Robertson, for his response to the recommendations made by the General Accounting Office and the concerns I, and many others, have raised over the adequacy of many existing forest planning documents to effectively address the environmental consequences of oil and gas exploration and development activities. On October 11, 1989, Chief Robertson advised his regional foresters to begin taking the necessary steps to rectify the current situation.

In my view, the actions being contemplated are crucial if we are to have an effective and viable leasing program on Forest Service lands. This is something that has not escaped Chief Robertson's attention, and again, I commend him for his initiative in this matter.

I insert a memorandum dated October 11, 1989, from Chief Robertson to his regional foresters in the RECORD following my remarks.

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Date: 11 Oct. 1989.

Reply to: 2820-2
Subject: Schedule for Completing Analysis — Oil and Gas Leasing
To: Regional Foresters

REPLY DUE NOVEMBER 15

The General Accounting Office has testified at a recent Congressional Hearing that very few Forest Land and Resource Management Plans (FLRMP's) for the National Forest System are adequate for oil and gas leasing.

We must assure FLRMP's provide a good basis for oil and gas leasing decisions where there is oil and gas potential or interest in leasing. There has been some reluctance to amend or revise plans and environmental documents due to the current regulatory effort and adverse court decisions. There can be no further delay.

By November 15, please send us your schedule for completing the necessary analysis to make leasing decisions in your Region. You should use the enclosed "Supplemental Guidance for Oil and Gas Leasing Analysis" to help determine what needs to be done for your schedule. Your schedule should provide that the highest priority analysis will be done first and all analysis will be complete by December 31, 1992.

F. DALE ROBERTSON,
Chief.

TRIBUTE TO BENJAMIN STURGES

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to a dedicated and loyal servant of the people of Rhode Island, Mr. Benjamin Sturges.

Born and raised in Providence, RI, Benjamin attended St. Paul's School and Yale University. After graduating from the Yale law school in 1934, he was employed by the law firm of Hinkley, Allen. In 1940, he joined the Navy and served in World War II until 1946 when he retired with the rank of Commander.

It was, however, his community service and volunteer work that separated Benjamin from the ordinary man. He became a trustee of South County Hospital 30 years ago and has held many positions on the board. Currently on the finance and development committee and investment committee, Benjamin has also contributed to the Hospital Association of America and the Health Planning Council. Both Benjamin and his wife Sandol have supported Planned Parenthood on national and State levels. And finally, he was instrumental in the founding of the National Volunteer Trustees of Not-For-Profit Hospitals.

I would like to thank Benjamin for his dedication and hard work he has given to his fellow Rhode Islanders. His devotion to his job is a testament to the strong moral fiber of his character and his love for fellow mankind. I hope others will follow Benjamin's example and live in the principle of "Non Sibi."

CUBAN POLITICAL PRISONERS VISIT WASHINGTON

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, today I had a visit from Alberto Grau Sierra, an individual whose courage and fortitude speaks loudly and positively for the strong spirit of man.

Alberto Grau Sierra was a student when he was arrested in his home on September 4, 1964, and charged with plotting against the life of Fidel Castro. He received a 25-year sentence and quickly established himself as a "plantado," steadfast political prisoners who continued to resist the regime while in prison. He is a deeply religious man and belonged to a council that organized religious activities in prison.

He comes from one of the most prominent families in Cuba; one relative, Ramon Grau San Martin, served as Cuba's President from 1944 to 1948. The family was anti-Batista and originally sympathetic to Castro's revolution, but turned against it when its Communist direction became obvious.

His brother, Frank Grau Sierra, was arrested on the same charge he was, and served 15 years before being released in 1979. His cousins, Ramon and Polita Grau, were also plantados who served long prison sentences for organizing the Peter Pan operation, which in 1962 sent 14,000 Cuban children to the United States. Alberto's uncle, Rene Grau Marin, was imprisoned for helping anti-Castro groups in the Pinar del Rio region of Cuba.

I was also honored with the visit of Dr. Alberto Fibla, who served over 20 years as a Cuban political prisoner and with other men and women who have suffered years of hardship such as Pedro Fuentes Cid, Gloria Lassalle, Manuel del Valle, Siro del Castillo, Rolando Borges, and Dr. Angel Cuadra. All came to speak on behalf of three plantados still in Cuban jails for political reasons: Alfredo Mustelier—who is still on hunger and liquid strike—Ernesto Diaz Rodriguez, and Mario Chanes de Armas who vow to continue the strike. We must do all we can to continue the pressure on Fidel Castro.

Today, I am joining Representative BILL RICHARDSON in collecting signatures from Members of Congress supporting a telegram we are sending Castro and the United Nations General Secretary, calling for the release of all three Cuban plantados.

REPRESENTATIVE LENT'S AMENDMENT WOULD STILL CLEAN THE AIR

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. FIELDS. Mr. Speaker, on Sunday, October 22, Long Island's Newsday published an editorial which summed up clearly and succinctly the reasons for promoting a wide range of practical and alternative fuels, not just methanol. Newsday commends our colleague, Representative NORMAN LENT of New York, for supporting an amendment offered in the Subcommittee on Health and the Environment of the Committee on Energy and Commerce by RALPH HALL and myself to the Bush administration's clean air bill. The Fields-Hall amendment was adopted by the Subcommittee and greatly improves the bill. The amendment has been misinterpreted by some commentators, but I applaud Newsday for correctly recognizing that it merely makes the President's alternative fuels program more workable and cost-effective, while achieving equal or greater emission reductions.

Our amendment would allow EPA and States flexibility to decide which fuels should be required to reach our clean air goals. The Newsday editorial wisely points out that methanol may be a good choice in the future, but for now, it presents an array of problems—it's toxic, corrosive and expensive.

Mr. Speaker, I ask that the Newsday editorial, entitled "Representative Lent's Amendment Would Still Clean the Air," be printed in its entirety in the CONGRESSIONAL RECORD.

REPRESENTATIVE LENT'S AMENDMENT WOULD STILL CLEAN THE AIR

Introducing (tah-dah) the Clean-Air Car: It's just like any other car, but it costs more, gets worse mileage and can't be driven outside the New York metropolitan area. But it will contribute to clean air. Want one?

No? We're not surprised. And it's one reason why Rep. Norman Lent (R-Far Rockaway) was right to endorse an amendment to President George Bush's clean-air legislation, cutting back a requirement that Detroit build cars that use clean-burning methanol.

Instead, the bill approved by Lent's subcommittee will promote a range of more practical alternative fuels and help build a market for the clean-running cars, too.

Lent was the point man for the Bush clean-air bill in a House energy subcommittee, so it was a surprise when he backed an amendment to a major part of the Bush bill. The bill would have required Detroit, by 1997, to sell 1 million cars a year that used alternative fuels, the fuel of choice being methanol, in polluted areas like New York and Long Island.

Problems: Methanol-fueled cars are technologically tricky and would be expensive. You couldn't drive one to, say, Aunt Hanna's in Ohio because fuel wouldn't be available there. Methanol is colorless, odorless, toxic and corrosive—all good arguments for using other alternative fuels and for building cars that can run on a variety of them. While other fuels aren't as clean as methanol, they're close.

Even at that, people will have to be induced to buy the cars. The amended bill would require that owners of fleets of 15 or more locally operated vehicles, like local governments, use clean-burning cars. It would leave it to the states to figure what fuels to require, so that areas with plentiful natural gas, for example, could mandate that fuel.

The White House reportedly can live with the amended bill if the House leaves the door open to switching to methanol later. That should be done. But the bill as is does the job. Congress can buy it without hesitation.

COMPROMISE WORKS FOR WAGE INCREASES

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. BEREUTER. Mr. Speaker, the agreement that this body reached last week on the minimum wage increase reflects a common concern for the Nation's workers and employers. The rate of inflation certainly has justified adoption of a $4.25 hourly minimum wage increase over a 3-year period. Yet, raising the rate too precipitously could cause those now earning the minimum wage to lose jobs. And, too large an increase in the minimum wage could have a negative effect on small business.

Mr. Speaker, this Member would note a November 4, 1989, editorial in the Beatrice (NE) Daily Sun which quite accurately describes our action on minimum wage legislation—"a reasonable step made possible by reasonable compromise."

[From the Beatrice Daily Sun, November 4, 1989]

COMPROMISE WORKS FOR WAGE INCREASES

(By Kent Thomas)

Score one for bipartisanship on Capitol Hill.

The House-approved increase in the hourly minimum wage is a reasonable step made possible by reasonable compromise.

Assuming that the Senate will vote the same way—a virtual cinch—the wage scale will rise to $3.80 next April 1, an increase of 45 cents over the current rate. Then another 45-cent increase will take the minimum to $4.25 on April 1, 1991.

Another cinch is that President Bush will sign the compromise measure after he vetoed a Democratic bill in June to raise the wage scale higher and faster. He to had compromised his earlier position.

Naturally, there are some members of Congress who feel the wage increase is too little, too late while others believe no increase is justifiable. Forturnately, those feeling either way were in the small minority of the House. The approval vote was a convincing 382-37.

Another important part of the wage bill is establishment of a subminimum "training wage" that would allow employers to pay teenagers 85 percent of the prevailing minimum wage for their first three months in the work force. Plus, the subminimum could be paid for an additional three months provided the youths were in certified training programs.

In granting minimum wage increases, it's important for members of Congress to be cautious and frugal since it's not them, but the nation's private business employers who have to come up with the money to pay for such increases.

The compromise bill just approved by the House is reasonable for employees and employers alike and therefore should serve the nation well. The Senate and President Bush should add their blessing quickly to the wage increase and almost certainly will.

WE'RE NOT GAINING ON INFRASTRUCTURE CRISIS, IT'S GAINING OMINOUSLY ON US

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mrs. BOXER. Mr. Speaker, I wish to bring to the attention of the members an article which I found of interest:

[From the Los Angeles Times, Oct. 26, 1989]

WE'RE NOT GAINING ON INFRASTRUCTURE CRISIS, IT'S GAINING OMINOUSLY ON US

(By George Miller)

Transportation: Deteriorating bridges and highways can no longer be ignored. Snail's-pace driving and the quake prove that.

Perhaps it requires a 7.1-magnitude earthquake to shake Americans into paying attention to our decaying transportation system.

Just a few years ago, one of the most popular buzzwords in Washington was infrastructure. Capitol Hill and the press corps were awash with study after study illustrating the deteriorating state of our bridges, highways and railroads.

In a nation where swift and safe transportation is essential, those reports added up to trouble, with a capital T. Unfortunately, solving the great infrastructure crisis added up to dollars, with a capital D. And so the President, Congress and legislatures alike swept the crisis under the rug.

But the Northern California quake changes the politics, and the reality, of addressing our infrastructure dilemma:

According to the Federal Highway Administration, more than 132,000, or 23%, of America's bridges are structurally unsound; one fails every two days.

Two-thirds of the interstate highway system is in substandard condition.

The Army Corps of Engineers has concluded that there are 3,000 unsafe dams in populated areas, not a conforting thought to those who live in earthquake-prone regions.

Nowhere is a quality transportation service more essential to productivity and competitiveness than in California, which has experienced a jobs-and-population explosion in the 1980s. Between 1964 and 1984, the state highway system grew by 29%. But over the past two decades, traffic has grown five times faster than capacity; in another 20 years, there will be 9 million more Californians driving 41% more cars on 50,000 additional miles of highway.

No one has seriously planned for the statewide traffic jam that looms. Indeed, those studying the problem note that freeway congestion will grow five times worse by the year 2010, reflecting not only more cars on the road, but also longer commutes for people forced to buy in distant, but more affordable, suburbs. As a result, the average sloth-like speed of 35 m.p.h. will slow to a snail's-pace 19 m.p.h.

This isn't to say there are no plans to spend money for transportation and infrastructure. But most of the billions are intended to keep us at current, unsatisfactory levels. For example, a 1988 survey predicted that Southern California would have to spend $110 billion over the next 20 years to build a freeway and transit syustem that would permit residents to travel as easily as they could in 1984. Nationwide, we must spend $65 billion annually just to stay even, according to the National Council on Public Works.

There is speculation that safety improvements on the collapsed Insterstate 880 freeway were deferred because of inadequate state funds, a direct consequence of the fiscal myopia celebrated by California politicians and voters alike over the past decade. Now, in the wake of a transportation crisis generated by the earthquake, legislative leaders are discussing a huge gasoline tax increase to finance repair of the state's quake-damaged infrastructure.

But roads and bridges damaged by the quake are a drop in the bucket compared to the overall need in California, let alone the entire country. And as with so many of our deferred priorities, we are facing the question that won't go away: Who pays?

If anything, the quake response will mislead Californians about how difficult it will be to address transportation improvements so critical to the state's safety and economic security. Congress will waive restrictions on how much California can receive in emergency federal transportation aid and not require the typical matching monies from state and local governments. But future federal support will demand substantial local shares—and that means taxes and user fees.

Now, while the terrible tragedy on Interstate 880 is fresh in our minds, is the time to began serious planning, including discussion of how to fairly finance improvements and expansions to our infrastructure. We need an infrastructure improvement policy in California and throughout the nation that doesn't depend on the next quake to generate public support.

RESOLUTION CALLING ON PRESIDENT BUSH TO SUPPORT EFFORTS TO BAN CHILDREN FROM COMBAT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. MILLER of California. Mr. Speaker, children are being recruited by governments and insurgent groups as soldiers in armed conflicts throughout the world. Armies and guerilla movements are increasingly capitalizing on the impressionable minds of children in order to indoctrinate them for armed conflict. Indeed, there are an estimated 200,000 child soliders in the world today. In the Iran-Iraq war alone, 95,000 child soldiers lost their lives.

The specter of children serving in combat has provoked international outrage. Efforts are now underway at the United Nations to raise the international minimum age for combat from 15 to 17 years of age.

The vehicle for this increase is the proposed Convention on the Rights of the Child, a treaty that would place basic human rights for children in international law for the first time. The treaty will be considered by the General Assembly on November 20. In its present form, it maintains the minimum age for combat at 15, but a last-ditch attempt is being made to reconsider this critical issue and increase the minimum age to 17.

In the past, our administration has opposed and blocked such efforts. Indeed, the United States is now the sole obstacle to raising the minimum combat age. It is therefore timely to advise the President where the House stands on sending 15- and 16-year olds into combat.

Today, I am introducing a resolution expressing the sense of the House that the President should support efforts to ban children from the battlefield and raise the international minimum combat age.

The U.N. Convention on the Rights of the Child is a landmark treaty that represents a decade of hard work by scores of nations. When it is approved, it will set the standard for how nation's can treat their children. It would be a stain on our country's reputation if we were the sole reason that the treaty failed to protect children from serving in combat.

In the United States, we do not allow 15- and 16-year olds even to enlist in the Armed Forces, not to mention serve in combat positions. How can we justify blocking efforts by the international community to set the same standard worldwide?

ST. THERESE HOLY NAME SOCIETY CELEBRATES 60TH ANNIVERSARY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. MURTHA. Mr. Speaker, I would like to recognize the St. Therese Holy Name Society on the occasion of their 60th anniversary. The society was formed as a spiritual and social organization in 1929 by the parishioners of St. Therese Parish in Johnstown, PA. On November 12, the society will gather to celebrate their 60th anniversary, and to honor two of their oldest members, Mr. Joseph Fink and Mr. Frank Intihar.

The St. Therese Holy Name Society has served the St. Therese Parish and the Johnstown community for the last 60 years. Through numerous fundraising efforts and hours of volunteer work by its members, the society has been instrumental in the improvements to the facilities of the parish and the community service that St. Therese has done over the years. I want to congratulate the members of the St. Therese Holy Name Society, and especially Joseph Fink, and Frank Intihar, for their dedication to the betterment of the Johnstown community, and wish the St. Therese Parish well in its next 60 years.

TRIBUTE TO THE LATE ISABEL VARGAS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. MATSUI. Mr. Speaker, I rise in great sadness today to advise you that an outstanding citizen of Tracy, CA, Isabel Vargas, has recently passed away. She has made numerous contributions to the community and we will all miss her presence.

Mrs. Vargas' career of public service began early when in 1941, she volunteered for the USO during World War II. She also devoted her time to teaching catechism at several churches in both Tracy and Fremont, CA, and served as a positive role model for young women by contributing her time and efforts to St. Jude's Young Ladies Institute and the Catholic Daughters of America.

Mrs. Vargas was a woman who gave of herself in many ways. Being an active member in her community was a very important priority of hers. She served in many community organizations and clubs over the years, including St. Bernard's Catholic Church's Altar Society, Soroptimist International, California Women for Agriculture, St. Mary of the Palms Parents Club, and the Sao Gabriel Council of SPRSI.

Mrs. Vargas' outstanding contributions to various organizations, clubs, and communities were acknowledged through her receipt of various awards, such as the Pius X Award for Catechetical Service, the Mattie Heywood Award from Soroptimist International, and the 1989 Women of Distinction Award.

Mrs. Vargas is survived by her husband, Ernest E. Vargas; her daughter and son-in-law, Susan Vargas Murphy and Dave Murphy of Sacramento; her son, Emanuel Vargas; her mother, Annie E. Maciel; her brother, Tony Maciel; her sister, Anita DeValle; and four grandchildren, John, Joe, Anna, and Selena Murphy. I offer my sincerest sympathy to her entire family and friends. We will all mourn the loss of such a giving, dedicated, and exceptional woman.

BEACHWOOD BISONS—HIGH SCHOOL FOOTBALL CHAMPS FROM BEACHWOOD, OH

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. FEIGHAN. Mr. Speaker, I would like to take this opportunity to congratulate the Beachwood Bisons, high school football champs from Beachwood, OH. The Bisons posted a 9–1 regular season record, their best in 30 years, and they captured the inaugural crown of the MAC–8 League. For the first time ever, Beachwood High School went to the State playoffs. I would also like to salute each

and every player and coach that had a hand in their great success:

Nick Petty (Slot/LB); Greg Tate (WR/DB); Gregg Eisenberg (QB/PK); Mike Silverstein (LB/DB); Rodney Lemons (WR); Mark Thomas (RB); Dave Norr (Slot/LB); Dawann Gray (RB); Jeff Murphy (RB); Ryan Peters (LB); Paul Creel (DL); Scott Safenovitz (LB/DL); Jon Wynbrandt (OL/DL); Raphael Stoner (OL/DL); Chanan Bergman (LB).

Terrence Riley (WR/DB); Andre Grimes (WR); Tony Britt (QB/DB); Mike Gottfried (QB/DB); Troy Thomas (WR/DB); Doug Bloom (Slot/DB); Paul Martin (DB); James Woolfork (RB); Scott Kulberg (LB/PK); Scott Peterson (LB); Marty Shagrin (RB/LB); Jason Brinson (RB); Dave Goldberg (OL); Aaron Grossman (LB); Adam Poklar (OL).

Rob Silver (OL); David Markowitz (C); Adam Rosenberg (OL/DL); Chris Gardner (OL); Joel Blumenthal (DL); Jim Travarca (DL); Toriano Davis (WR); Adrian Martinez (OL/DL); Ed Blaugrund (DL); Dan Sidenberg (OL); Dave Melnick (DL); Mark Melnick (DL); Derrick Britton (WR); Aaron Weisenberg (WR).

Joe Peralla, Head Coach; Tony Iliano, Assistant; Bob Mandato, Assistant; Micky Iliano, Assistant; Rick Iosue, Assistant; Jack Rotsky, Assistant; Bill Schumacher, Athletic Director; Mike Sherer, Trainer; Alan Rosenthal, Team Doctor; Lee McMurrin, Superintendent; Randy Boroff, Principal; Joe LaGuardia, Assistant Principal.

Thanks again for a terrific and memorable season.

HONORING THE NEW OFFICERS OF THE ST. GERMAIN MANOR

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. MACHTLEY. Mr. Speaker, I rise today to honor the new officers of the St. Germain Manor in Woonsocket, RI, who will assume their positions on November 12, 1989.

The president of St. Germain Manor will be Beatrice St. Germain while the seat of vice president will be filled by Sylvia Duellette. Rosa Rousseau will be the secretary and Florence Ballou will fill the role of treasurer. Lillian Savard will act as corresponding secretary.

The St. Germain Manor opened on August 18, 1971, when Beatrice St. Germain became its first tenant. Since that day, the manor has been home for the elderly and handicapped in Woonsocket. Annual events which are popular at the manor are the Easter dinner, which I attended this year, the mother/father dinner, the Thanksgiving dinner, and the Christmas/New Years dinner. At the present time, St. Germain Manor provides housing for 154 families.

I would like to wish my best to the new officers of the St. Germain Manor and hope that they continue to create a spirit of love and hope within the manor. Their dedication to the manor is a testament to their unselfish devotion and desire to create a home for their fellow tenants.

INTRODUCTION OF THE DRUG FREE SCHOOL ZONES ACT OF 1989

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. RAHALL. Mr. Speaker, I am pleased today to be introducing the Drug Free School Zones Act of 1989. This has been an area of interest to me since last year, when I learned that a few States were creating drug free school zones voluntarily, and enacting laws to back up their school safety zones.

The State of Pennsylvania in October of last year enacted legislation to assure school safety zones, or drug free school zones, backed by a new State law which imposed penalities and assures prosecution and sentencing of violators who traffick in drugs, or involve minor children in such illegal activities, on or near school property.

The bill which I am introducing will require that 33 percent of a Governor's allocation of funds, which currently is 30 percent of a State's total allocation under the Drug Free School and Communities Act shall be spent on establishing and maintaining drug free school zones. Under my bill, if a State has a law enacted that imposes criminal penalties and assures prosecution and sentencing of anyone found to be trafficking in drugs, especially drug trafficking which involves minor children, on or near school property, such State is required to spend not less than 33 percent of the funds allocated to its chief executive officer for this purpose.

If States do not have such a law on the books upon enactment of this act, such States are given phase-in time to enable their state legislatures to meet and to enact such laws. Consideration is given to the fact that some States meet annually, while others meet biennially.

Should a State fail to enact school safety laws by the dates established in the statute then the 33 percent of a Governor's funds intended to be spent for establishing and maintaining drug free school zones will revert to the local education agencies, intermediate educational agencies, and consortia, for their use in their drug abuse education and prevention programs required by the Drug Free Schools and Communities Act.

Programs carried out with assistance under the Drug Free School Zones Act must include the following:

First, the determination, with assistance of municipal authorities and local law enforcement agencies, as appropriate, of the geographical boundaries of schools within the state and the posting of signs indentifying school properties as drug free school zones;

Second, assisting teachers, administrators, athletic directors, and other school personnel in cooperating fully with law enforcement officials to punish violators of laws relating to drugs;

Third, informing the community, with, to the extent practicable, the cooperation of the local news media, of the content and intent of the State school safety laws, if and when enacted by the States;

Fourth, employing, as a resource for advice and support with respect to implementation of State school safety zone laws, the services of the local or substate regional advisory council on drug abuse education and prevention established or designated by the local application submitted under the Drug Free Schools and Communities Act; and

Fifth, communication to students, teachers, athletic directors, and other school personnel by administrators that activities that are illegal and harmful to the health and well-being of students will not be tolerated within a school or its surrounding environment.

Mr. Speaker, I have been asked, "why introduce a drug free school zones bill?" More specifically, I have been asked "why take away a portion of the Governors' 30 percent setaside of a State's allocation for this purpose?"

First, if we are serious about fighting a war or drugs, and if we are serious about getting the message on antidrug abuse to our children at the earliest possible age as part of their daily learning process while in school, then let us put some teeth into it by imposing our highest expectations upon the State legislatures and their chief executives to pass school safety laws that impose penalties, assure prosecution, and sentencing of drug traffickers who are caught dealing drugs on or near school property.

Second, let us give our teachers, students, administrators, and parents relief from the anxieties they must feel when the know that drug sales and drug usage are occurring on school grounds, in school hallways, and in school lavatories. Let us give them the security that can come from knowing that State laws are in place against the sale, distribution, and use of illegal drugs, including alcohol, which never forget is an illegal drug in the hands of students under 21 years of age in most States. Let us send clear and meaningful signals to students of all ages that illegal drugs carried to school in school bags and stored in school lockers, along with guns and knives in many instances, if found will not be tolerated, and that appropriate action will be taken against them.

Let us also send a strong message to teachers, parents, and students, and particularly that majority of students who do not abuse drugs at school or in the community, that activities designed by drug pushers to establish a territory or turf for drug sale or distribution on or near their schools simply will not be tolerated, and that this isn't just rhetoric. We mean business and we mean to put laws on the books to protect against violators, and to assure that they can and will be severely punished for such violations.

Very young children are impressionable and even at very early ages understand such as stop signs, or signs posted setting local or State speed limits for automobiles. They know, early on, that if adults are caught violating posted signs, they can and will be prosecuted under State or local laws. They understand these signs and the fact that there is something called the law that will kick in if and when an adult is found in violation—and so too they will regard posted drug free school zone signs. From this will come the security of

knowing that anyone invading a drug-free school zone, bringing the danger of drugs into their schools, will be severely punished.

I know that there are great forces—made up of students, teachers, parents, and community groups—in West Virginia that are strongly committed to drug-free schools. I know also that legislation has been introduced, but not enacted, to make it a criminal offense for drug traffickers to operate on or near school property in my State. My bill will provide the incentive to Governors and State legislatures to enact such laws as quickly as possible, and provide incentives to entire communities to get involved in establishing drug free zones as an integral part of establishing drug free schools and keeping them that way.

The President, in his message to the people on drug abuse on September 5, called upon the States to enact necessary laws giving school and other officials more authority to deal with actual drug dealers and users on or near school property.

I took the liberty, just prior to the President's summit on education on the University of Virginia campus, of sending him my own thoughts on what I believed would be the foremost challenges to education in the coming decade and beyond. Included in my position paper is a section on drug free schools, and my thought that perhaps the Drug Free Schools and Communities Act ought to help fund drug free school zones and, by extension, establish drug free schools as a result. I am fulfilling my responsibility by introducing the Drug Free School Zones Act today, and calling upon the States to enact laws similar to the one in place in Pennsylvania, and the one proposed in West Virginia, for the sake of assuring school safety.

As I said earlier, State Representative Dale Manuel has introduced a bill which is before the West Virginia Legislature, requiring a minimum 2-year prison sentence of anyone over 21 caught selling drugs within 1,000 feet of a school. Although I personally believe the age of majority should be used—the age of 18 years—I just hope that West Virginia Representative Manuel's bill should be enacted at the earliest practicable date.

The bill I am introducing will give the State's local schools districts tangible, visible evidence of the nature and strength of the Federal and the State commitment to fighting the war on drugs.

The drug of choice among all ages of abusers in West Virginia is alcohol, beginning as early as 10 and 11 years of age. The spread of cocaine and crack use has not yet reached the vast proportions experienced by other States and localities—but it is beginning to appear throughout our State.

I have been questioned as to whether there is actually much of a need for drug abuse education and prevention programs in rural areas and I can answer the question with a resounding yes. Just because, as one questioner put it, a school is located in rural America in the middle of a corn field, doesn't mean there is no drug abuse going on. The isolation, the remoteness of such rural schools alone can create an environment into which drug dealers can move and zero in, preying on those feeling of isolation and of being far removed from the kinds of nondrug, community, and family structured activities that keep other young people happily involved and off drugs.

Poverty is another common denominator among young people who abuse drugs. Poor youths may only too quick reach for a drug high from dealers only too happy to supply their needs. Poverty among Appalachian children is high, and many students, particularly those of high school age, with no money, no jobs and few prospects, are pitifully ripe for the drug dealers lying in wait for them. And they are there, in rural, poor America.

While West Virginia has the lowest crime rate in the country, we have only to become smug and complacent about it to bring the drug lords into our midst.

If drug dealing cartels thinks we are not looking over their shoulders, that we are not intensely aware of the insidious ways in which they operate, they will move in and wreak havoc on unsuspecting students, parents, teachers, and communities overnight.

That old West Virginia saying, "an ounce of prevention is worth a pound of cure." could not be more true when applied to the drug and alcohol abuse problems in this Nation. Let us continue, and strongly, to fund drug abuse education and prevention programs. We will save billions of dollars in the future by keeping kids off drugs in the first place, rather than have to make the expensive and long-term financial commitment to treating them after the fact.

During abuse among school-age students is on the decline. That is a positive statement that, a few years ago, we did not think we would be able to make in 1989. Let's keep it that way—on the decline and on the way out. Let us spend our scarce resources provided under the Drug Free Schools and Communities Act on education and prevention now, so that the bill for treatment and long-term rehabilitation will not be insurmountable in the near future. And while we are doing that for our school children, other components of the Omnibus Anti-Drug Abuse Act will be triggered as well to provide treatment and rehabilitation, and criminal penalties as appropriate will be meted out to those in violation of the act.

We have declared a war on drugs.

There is still much to do, and we have no time to drag our feet on enacting State laws that impose stiff penalties on those who deal in illicit drugs, or in the unlawful distribution leading to abuse among minors of licit drugs, such as alcohol, on or near schools and school property.

Mr. Speaker, I welcome Representative NITA LOWEY, of New York, as a cosponsor of this bill, and it is my sincere hope that other of my colleagues will join me in cosponsoring the Drug Free School Zones Act which I am introducing today.

PAPAL WHIPPERSNAPPER ON THE HILL

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. JACOBS. Mr. Speaker, I am outraged about this column which takes our colleague from California to task.

I know BOB DORNAN and I know he has a wonderful sense of humor. His floor remarks reported in this column were obviously satire.

BOB DORNAN would never confess the case for the anti-Catholic bigots who say Catholics are incapable of serving objectively in public office.

The columnist is obviously dull-witted. BOB was only kidding.

By the way, remember the telegram Al Smith sent to the Pope when Smitty lost the 1928 election? It said, "Unpack."

PAPAL WHIPPERSNAPPER ON THE HILL

(By Lars-Erik Nelson)

WASHINGTON.—Remember the "Kennedy quarter?" It was a little joke of anti-Catholic bigotry in 1960. People would cut a small piece of red electrical tape and place it like a cap on George Washington's head. Get it? If Jack Kennedy becomes President, we'll all take orders from the Pope.

I had forgotten about that until Rep. Robert Dornan (R.-Calif.) stood up on the House floor Wednesday and told all his fellow Catholic members of Congress that the Pope wanted them to vote against Medicaid financing of abortions for victims of rape and incest.

Dornan was so excited that his thoughts literally tumbled out. "The Holy Father is a father in Rome, as is Mother Teresa, fighting for her Earthly life at this moment," he said, "The Pope had a Mass on this lawn and he said, 'Stand up for life.' "

Dornan challenged the right of his fellow Catholics to defy their church hierarchy by voting to fund Medicaid abortions. "What kind of hubris and chutzpah does someone have who says, 'I know more than all the doctors and fathers and leaders of my church'?"

In Dornan's view, the church—or maybe just Dornan—has a right to demand a "Catholic loyal vote, like all loyal ethnic groups." When 45 Catholic representatives nevertheless voted—unsuccessfully—to fund abortions for victims of rape and incest, Dornan thundered, "It is getting to be a disgrace in this House"—and listed the names of the offenders in the Congressional Record. This a strange sight to see enshrined in an official journal of the U.S. government: Robert Dornan's list of bad Catholics.

But now apparently we have three "whips" to give voting instructions in the House: Bill Gray of Pennsylvania for the Democrats, Newt Gingrich of Georgia for the Republicans—and self-appointed papal whip Robert Dornan to make sure the Catholics vote Catholic.

"If there's some instruction from the Pope to House members on how to vote, I haven't heard about it," said Bill Ryan of the U.S. Catholic Conference. "But the church does expect Catholics to translate their beliefs into practice."

Dornan is not exactly acting on his own. Archbishop Roger Mahony of Los Angeles

has written Roman Catholic legislators in California to advise them that it is their religious duty to oppose abortion, and New York's Cardinal O'Connor has made life uncomfortable for pro-choice Catholic politicians like Geraldine Ferraro and Mario Cuomo.

But seldom has there been such blatant public arm-twisting of Catholics as Dornan's speeches on the House floor. "That's totally out of order," said the Rev. Robert Drinan, a Roman Catholic priest and former Democratic congressman from Massachusetts. "The church has never tried to tell Catholics in Congress how to vote."

But Dornan succeeds both in embarrassing Catholics and in putting them on the defensive. Rep. Nancy Pelosi (D-Calif.) felt obliged to preface her vote in favor of Medicaid abortion-funding by saying that she was a mother of five who had 13 years of Roman Catholic education—which taught her to respect the beliefs of others.

Rep. David Obey (D-Wisc.), another member of Dornan's list of Catholic defectors, said, "I need no lectures from anyone about the value of human life. My wife and I lost a child at birth."

And Rep. Andy Jacobs (D-Ind.) said he was both a Roman Catholic and a vegetarian: "I do not believe in killing anything . . . but I am not, in good conscience, capable of forcing any woman to have [a rapist's] baby."

Frances Kissling of Catholics for Free Choice, which favors abortion rights, was chagrined by Dornan's outburst.

"Dornan has no right to tell Catholic congressmen what the Pope wants them to do," she said, "Middle-of-the-road Catholics find it very troubling when someone tells them they are not free to vote their consciences on a matter of public policy. This is precisely the kind of thing that leads to a resurgence of the anti-Catholic feeling that Catholics are not fit to hold public office. We don't need that."

COMMEMORATING THE LAS VEGAS, NV, TEMPLE OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. BILBRAY. Mr. Speaker, I rise today in honor of the opening of the Las Vegas, NV, Temple of the Church of Jesus Christ of Latter-day Saints. The open house period will be from November 13 through December 9, 1989. It is a pleasure to join in the celebration of this auspicious occasion.

The area of the Nevada desert known as "The Meadows" was a welcome sight in the 1800's to travelers. Water in abundance in Las Vegas awaited them. This natural stopping place was chosen by a party of members of the Church of Jesus Christ of Latter-day Saints.

Members of the Church of Jesus Christ of Latter-day Saints, led by William Bringhurst, established a settlement and fort. Part of the original old fort, erected in 1855, still stands.

Moapa Stake of the Church of Jesus Christ of Latter-day Saints was organized at Overton, NV, June 1, 1912, with Willard L. Jones as president. This stake comprised LDS Church membership in Clark and Lincoln Counties.

The first LDS Sunday school was organized in Las Vegas by Newell Leavitt in 1914. The first dependent branch was organized in 1915 with Charles C. Ronnow as branch president. Ira J. Earl became president in 1920 and the branch became independent from the Bunkerville ward in 1922.

The LDS first ward was organized in the Las Vegas Valley in 1924, with Ira J. Earl as bishop, Joseph Foremaster and Eldon Leavitt as counselors.

The saints first met in homes, then in rented halls on Fremont Street. The first chapel was constructed in 1924 and 1925 on the northwest corner of South Sixth Street and Carson Avenue.

From the first beginnings, until this very day, the LDS Church has kept pace in a growth pattern with that of Clark County. Church membership has been the combination of the offspring of the early pioneer families and the innumerable move-ins and converts.

From the pioneer spiritual glow of the old fort to the magnificient new Las Vegas Temple is a period of great growth in LDS membership from a small company of people to over 90,000 in the present Las Vegas Temple District.

Mr. Speaker, I thank my colleagues for this opportunity to commemorate the opening of the Las Vegas NV, Temple in the permanent history of this body. It is a great privilege.

NEW JERSEY PRIDE HONOR ROLL: VOLUNTEER SERVICE

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. GALLO. Mr. Speaker, I rise in recognition of an individual who exemplifies the spirit of voluntarism within his community.

On November 10, Firefighter Richard E. Hurd will be honored by the West Caldwell Volunteer Fire Department for 60 years of service as volunteer firefighter at the company's annual testimonial dinner.

In a nation that depends upon volunteers in the fire service—85 percent of all firefighters in the United States are volunteers—Richard E. Hurd is by far unique in his 60 years of dedicated serivce as an active firefighter.

Voluntary community service is always a praiseworthy enterprise, although most volunteers have the opportunity to control the time and place for their voluntary service.

A firefighter never knows where or when his or her services will be required. It may be before dawn on a Sunday morning or on a freezing cold night in January. It may be raining or snowing. The roads may be icy or impassable.

A firefighter does know that lives could hang in the balance. That every minute is crucial. That knowing what to do must be second nature, not something you have to think about.

You must know the limits of your equipment. The location of the closest water source or the nearest medical service.

And, once you know those things, you teach them to your fellow firefighters.

Understanding all of that, to think of an individual who has done all of those things as a volunteer in service to his community for 60 years is to understand the meaning of total commitment and lifetime service to those who are most in need.

During those 60 years, Richard E. Hurd has an outstanding record of over 60 percent attendance at all calls and drills—major conflagrations and chimney fires, lifesaving rescues and car fires, false alarms, and near-catastrophies.

He has served as an apparatus driver for 56 years and has trained at least three generations of his colleagues as a driver training and operations specialist who has set training standards within his department for 47 years.

Thirty years before the State of New Jersey enacted the Uniform Fire Safety Act, Richard Hurd assisted in the formation of the Fire Prevention Bureau.

He served as deputy chief for 10 years, first assistant chief for 12 years, second assistant chief for 8 years, and captain for 3 years.

Richard Hurd is the first and only member of the department to hold the title of "Honorary Chief."

Mr. Speaker, on behalf of my colleagues in the House, I wish to recognize and commend Richard E. Hurd of the West Caldwell Fire Department, West Caldwell, NJ, who symbolizes the true meaning of voluntarism through 60 years of dedicated service to the people of his community.

HONORING RICHARD MOORE, TRUSTEE, LITTLE LAKE CITY SCHOOL DISTRICT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. TORRES. Mr. Speaker, I rise today to recognize a very special individual, Richard Moore, trustee, Little Lake City School District. Mr. Moore is retiring from the school board after 8 years of service and will be honored at a special dinner on Friday, November 17, 1989.

Richard is currently director of purchasing for the Department of Water and Power [DWP] where he has also served as Equal Employment Opportunity coordinator, member of the Affirmative Action Advisory Council, and President of the DWP Latin American Employees Association.

From 1974 to 1979, Richard was a Monterey Park reserve police officer. He graduated from the Los Angeles County sheriff's Reserve Academy with awards for highest level of achievement in academics and physical training. He volunteered 20–30 hours per month, performing regular police duties. In 1976, he received the city's award as Reserve Officer of the Year.

Richard Moore is a dedicated community servant who has served on the police advisory and toxic waste committees for the city of Santa Fe Springs. He has been a member of the Community Playhouse board of directors

and has served on the Little Lake school board since November, 1981.

He was born on August 23, 1941, in Alhambra, CA. He attended local schools and graduated from Cantwell High School in Montebello. He is a proud alumnus of California State University, Los Angeles.

Richard and his wife Pauline live in Santa Fe Springs. They have four children, Richard, Theodore, Ann Marie, and Linda.

Mr. Speaker, on November 17, the citizens of Santa Fe Springs will honor Richard Moore, an exemplary citizen, for his contributions to the residents of his community. I ask my colleagues to join me in saluting Richard Moore for his outstanding record of service to the citizens of Santa Fe Springs.

A TRIBUTE TO THE FIRE SERVICE CAUCUS

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. STEARNS. Mr. Speaker, I rise today to pay a much-deserved tribute to a group of men and women in this country who are responsible for saving thousands of lives and preserving millions of dollars' worth of property every year—this Nation's firefighters.

One of the first organizations I joined when I came to Congress in January was the fire service caucus, led by Congressman CURT WELDON, of Pennsylvania, who is himself a former fire chief. I am also proud to say that both my wife's father and grandfather served as firefighters in Yonkers, NY, which makes me particularly sensitive to the dedication and hard work of this tough group of individuals.

Firefighters put their lives on the line every day, not only in fighting fires, but in preventing them, and responding to other emergencies.

I recently became a cosponsor of a very important piece of legislation called the Enclave Fire Protection Act, introduced by Congresswoman JAN MEYERS, of Kansas. This proposal recognizes that local fire response teams often do not have the access necessary to inspect Federal, State, or regional sites in order to prevent an incident. Fire departments need advance planning to determine better how to respond to a situation at a given site. Without the ability to go in and determine in advance what problems may exist, the local personnel are essentially denied crucial information that could make the difference in responding to a fire. An unfortunate incident underscores the need for this legislation. Recently in Kansas City, an explosion occurred, and six firefighters died. Had the local fire department been able to go onto the site in advance, and undertaken the necessary preincident planning and inspections to facilitate response in an emergency, this tragedy could have been prevented. We need to ensure that this will not happen again.

I truly admire these men and women, and appreciate very much their contributions. I can say that from personal experience, from a time when one of my small motels experienced a fire. Had it not been for the quick action of the local fire service, that motel would not be standing today. I want to add my thanks to those of all of my colleagues in Congress who are members of the fire service caucus, and honor our country's firefighters here today.

TRIBUTE TO PATRICIA MACOMBER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Ms. Patricia Macomber on the completion of her term as president of the Santa Barbara Board of Relators. Ms. Macomber will be honored at the annual installation dinner and dance on November 18.

Serving on the board of directors of the Santa Barbara Board of Realtors since 1984, Ms. Macomber was a member of several committees as well as chairman of the multiple listing committee and State director to the California Association of Realtors.

During her presidency, she led efforts to lobby national representatives to protect property rights, especially in the matters of mortgage interest deductability and reinstatement of capital gains treatment.

At the State level, she led members in support of ACA 2, the school bond measure and in opposition to licensing exemptions for bank employees.

Locally, Ms. Macomber worked with the mayor on a program which provides assistance to renters by creating a fund where loans can be made for security deposits. She also spearheaded fundraising efforts for the Goleta Valley Youth Sports Association facility and Santa Barbara City College Learning Resource Center.

Patty Macomber has demonstrated a strong commitment to the board of realtors as well as to the community and I ask my colleagues to join me in recognizing Ms. Macomber for her exemplary record of professional and civic achievements.

THE NEW ENGLAND CHASSIDIC CENTER

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. FRANK. Mr. Speaker, one of the most socially useful organizations which is headquartered in my congressional district is Rofeh International, which is directed by Grand Rabbi Levi Y. Horowitz, the Bostoner Rebbe, of the New England Chassidic Center. The center is an important religious organization, and as part of its overall religious work, it provides a number of important services to meet the spiritual and physical needs of a very side range of people.

Rofeh International is one of the most significant of these. It is a medical referral organization, which provides indispensable help to sick people in taking advantage of the great medical resources of the Boston area. Rofeh provides people with referrals to the appropriate medical specialists and facility, and provides to those who travel to Boston from faraway, a total range of services from housing, transportation, and food through interpreters and the kind of friendship that is so important to those who are ill.

On November 19, the New England Chassidic Center is holding its annual dinner, at which large numbers of people pay tribute to Grand Rabbi Horowitz, and help to support the important work of the center. Among the highlights of the dinner is the presentation of two awards—to Mr. Mervin D. Gray, as the "Man of the Year" of the Chassidic Center; and to Dr. George Pl Canellos, as the recipient of the Rofeh International "Harry Andler Memorial Award."

This is a significant occasion and the two recipients are people who are very much deserving of the praise they receive. I ask that we print here the program descriptions of Mr. Gray and Dr. Canellos for their great charitable work.

THE NEW ENGLAND CHASSIDIC CENTER

Alan J. Tichnor, newly elected National President of United Synagogues of America, will present Mervin D. Gray with the New England Chassidic Center "Man of the Year" award at its 74th Anniversary Tribute Dinner.

The award is given annually to an outstanding communal leader who personifies the ideals of human kindness, who has given of his energy and ability to many religious and humane causes, and who works towards the continued growth and expansion of the New England Chassidic Center and Jewish life.

Mervin Gray started his activities in the Jewish Community over 40 years ago when he developed a close friendship with the late Rabbi Sidney Steiman. His first involvement was as an officer of Temple Israel, Nantasket, and then as an officer of the Associated Synagogues of Massachusetts (now the Synagogue Council of Massachusetts), where he is currently a member of the Kashruth Commission.

Over 35 years ago, Mervin and his wife Rosalind joined Temple Emeth in Chestnut Hill. He became active in a variety of committees including those of Ritual, Finance, Membership and Adult Education. After being elected to the Board, he later became an Officer and in 1975, President of the Temple. Mr. Gray was instrumental in founding the Regional Hebrew High School.

For many years Mervin attended the Simchat Torah celebration and the Purim Seudot at the New England Chassidic Center where he is a member and enjoyed taking his children to observe the Matzoh Baking at the Center. He belongs to the special Lamed Vov Club of the New England Chassidic Center as well as being a great friend and supporter of the Bostoner Rebbe's medical referral organization, Rofeh International, which provides housing, Kosher food, interpreters and moral support to patients and their families from all over the world who come to the Boston area for its renowned medical expertise.

Mervin has helped organize a series of successful breakfast meetings to unite people involved in a variety of projects at the Chassidic Center, including the well-known Shabbaton Program that brings college students and other young adults together for a

traditional Shabbas weekend with the Rebbe.

Mr. Gray's involvements and affiliation are legion. When Israel Bonds came into existence, he was part of the team that went house to house encouraging people to support the state. He subsequently became Action Day Grand Marshall, Congregations Chairman and is now a member of the Campaign Cabinet.

The Grays maintain membership in Congregation Kadimah Toras Moshe, where his late parents, Fanny and Abraham worshipped for many years. They are also active with the Solomon Schechter Day School where the Grays chaired the 1988 Grandparents Day.

For 35 years Mervin participated in the New England Region Federation of Men's Clubs Annual Laymen's Institute at Camp Tel Noar. In recent years he has been a member of its Board of Overseers and is Chairman of the Chancellor's Council, N.E. Region.

For five years he served on the original synagogue program council of the Combined Jewish Philanthropies, which allocated funds for innovative religious programming.

He has been the recipient of the Israel Bond Service Award at Temple Emeth; the National Community Service Award of the Jewish Theological Seminary; and he and his brothers were presented the Generation Award by the Israel Bond Organization at the Spring Valley Country Club.

Mervin, with his brothers Milton B. and the late Robert H., founded the firm of Gray, Gray and Gray, Certified Public Accountants, in 1948. Mervin is currently the senior partner.

The Grays live in Needham. They have a daughter Rena, married to Robert Fein. The Feins live in Newton Centre with their three children Elana, Talia and Jeremy. Their son Hillel lives in Somerville and their other daughter lives in San Diego.

Mervin will receive the "Man of the Year" award for service to the Rebbe, the Chassidic Center and the Jewish Community. This is a particularly meaningful event since it enhances the concept of Ahavas Yisroel, love of all Jews, and demonstrates that in the Boston community, all elements can join hands for worthy endeavors.

ROFEH INTERNATIONAL "HARRY ANDLER MEMORIAL AWARD"

Dr. George P. Canellos is a world-renowned physician and teacher. Dr. Canellos is Chief of the Dana-Farber Cancer Institute's Division of Medical Oncology and Professor of Medicine at Harvard Medical School as well as a Physician at the Brigham and Women's Hospital and Consultant to the New England Deaconess and Beth Israel Hospitals and the Children's Hospital Medical Center.

Born in Boston, Dr. Canellos received an A.B. degree with honors from Harvard College and graduated with an M.D. in 1960 from the Columbia University college of Physicians and Surgeons.

Before working at Dana-Farber, Dr. Canellos served at the National Cancer Institute in a variety of positions culminating as NCI's Clinical Director and Acting Associate Director for Medical Oncology at the Division of Cancer Treatment.

Dr. Canellos' main interest has been in the area of cancer chemotherapy with emphasis on the treatment of malignant lymphomas and he has published extensively in this area as well as serving on the editorial boards of such prestigious medical journals as New England Journal of Medicine, Blood, Cancer Investigation, Cancer Research, CRC, Journal of Clinical Oncology and the European Journal of Cancer and Clinical Oncology.

The ROFEH award is presented annually to a member of the Greater Boston medical community for Outstanding Humanitarian service combined with the Highest Professional Merit.

Dr. Canellos' efforts on behalf of Rofeh International are but one facet of his contributions to the field of medicine which has brought him great statute and recognition. His involvement with Rofeh International typifies the selfless and altruistic devotion which characterize all of Dr. Canellos' achievements. Dr. Canellos has unselfishly devoted much of his precious time and effort to the care of patients sponsored by Rofeh International.

FOREST GROVE GRIMMETT: A DREAM COME TRUE

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. AuCOIN. Mr. Speaker, in the western end of the country, the summers are full of fast food shops and processing plants that give the youth of the Forest Grove—population 12,000—area their best hope for summer jobs. In the evenings, the ball fields fill with players of all ages in the shared dream of hits and runs and K's in the rites of summer, much like everywhere across the country in its 144-year love affair with baseball.

The last time anyone from western Washington County, OR, tasted real success on the diamond was in 1958, when the girls of summer, the Meadowlarks, sponsored by Larkin Lumber Co., and behind the blazing pitching of Louise Mazzuka, finished second to Stratford, CT in the women's softball nationals. Seasons upon seasons since have been played for the love of the game, for the pleasure of the trips to Tigard and Seaside and Newberg, for the crack of the bat.

But today, in the White House Rose Garden, along side Rickey Henderson and Dave Stewart and Jose Canseco of the World Series Champion Oakland A's stood seven members of the Senior Babe Ruth World Series Champions Forest Grove Grimmett.

Oh sure! Oakland swept and outscored the bay rival Giants 32–14 in four games. But when the talented Grimmetts went into Owensboro, KY, in late August, the beat Missouri 10–6, blanked Cape Cod 6–0, and took back-to-back victories from Arizona 9–3 and 6–1, racking up a 31–10 scoring edge in its four-game championship sweep.

During the regular season, Forest Grove compiled a 51–8 record behind Ricky Ward's .454 hitting—84 for 183, 9 home runs, 67 RBI's and 85 runs scored. Mike Smith—74 for 178, .416—drove in a team high 89 runs while John Campbell—.366 and 76 runs scored—stole 25 bases.

Along with speed and power, manager Ken Bond put together an outstanding pitching staff, which posted a 2.80 team ERA with 393 strike outs in 383 innings while yielding only 309 hits.

Leading the staff was 17-year-old Bob Chouinard. During the summer of 1988, Chouinard had a 14–4 record with a 2.07 ERA and 92 K's in 104 innings. During the 1989 regular season, Chouinard soared to 21–1, dropping his ERA to 1.92 with 141 K's in 117 innings. And he added consistent power to the Grimmett offense with a .376 average in 192 at bats. Bob Kindred, at 16, went 13–2, 2.49 ERA and 66 K's as the Grimmett's second regular season ace.

In a country deeply committed to its national pastime, national champions rarely emerge from the ball yards of small communities, but Grimmett's championship is no fluke. Since 1979, Grimmett has:

Been to the Senior Babe Ruth Baseball State playoffs every year;

Won State for the last 8 years;

Played in the regionals for the last 8 years; and

Traveled to Kinston, NC, for the national tournament in 1986.

"It seems like once we got the winning feeling," Bond told The News-Times, Oregon, sports editor Jeremy Conant, "the kids began to believe that wearing a Grimmett uniform carries the enthusiasm and confidence that has got us through many scrapes."

To Bond, the World Series sweep is a once-in-a-lifetime dream come true, But Grimmett loses only four players from its championship team because of age. Both Chouinard and tournament MVP Travis Baptist are expected back next year and Bond has outstanding rookies waiting in the wings.

For their championship season, congratulations to Manager Bond, his assistant Skip Campbell, and the entire World Series championship team of Jack Applegate, Ben Buchanan, Keith Feist, Mike Smith, Ricky Ward, Aaron Weiss, Travis Baptist, John Campbell, Bob Chouinard, Chris Tews, Kurt Bierek, Greg Davis, Eric Emerick, Mike Glaze, Tim Hasselman, and Bill Kindred.

And just wait until next year.

A TRIBUTE TO LEVI STRAUSS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to commend one of the largest employers in my congressional district, Levi Strauss, and to applaud its decision to relocate its operations headquarters to El Paso earlier this year.

With 26 manufacturing plants throughout the country, Levi Strauss is one of the largest garment makers in the United States, manufacturing men's jeans, youth wear, sports clothes, and women's clothes. In my district, Levi Strauss operates five manufacturing plants and one finishing center, making it the largest concentration of Levi plants in a single city. Its recent decision to concentrate their operations functions in El Paso will be, in my opinion, both beneficial to Levi Strauss and to El Paso. The operations division of Levi

Strauss is in charge of manufacturing and finishing garments that the company produces, and is largely responsible for assigning garment orders from corporate headquarters in San Francisco among Levi Strauss' plants.

Mr. Speaker, Levi Strauss has long been a valued business partner among the economic community in El Paso, and I am pleased to learn that they consider El Paso a good city not only for their production facilities, but also for administrative and operation functions.

TRIBUTE TO WILLIAM ANDERSON

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to William Anderson. He is being honored on November 17 at a recognition dinner for his contributions to Pony League baseball and his continuing service to the sport of baseball.

Mr. Anderson began his baseball career in the Mill Creek Park League where he played under Walter "Farmer" School. He then joined the service and while serving in World War II sustained a knee injury that kept him from a serious career in baseball. But the injury did not change his love for the sport and he continued to be actively involved in baseball.

William Anderson has been especially active with Pony League and Little League baseball. He coached the Little League team known as the Uptown Kiwanis who won the State championship in 1954. In 1955 he coached the Pony League team from Youngstown that was the runner-up in the Little League World Series. Mr. Anderson continued his involvement in baseball by managing the class B league from 1956 until 1964.

Following Mr. Anderson's experience in the "B" league he was made the field director for Pony Baseball, Inc., since he has held a variety of positions in the Pony baseball organization. He was appointed vice president of the east zone of Pony baseball in 1977. He served as chairman of the board of directors of Pony baseball from 1981 to 1982. Presently, he is serving his second 2-year term as the chairman of the board of directors since his election in 1987.

Mr. Anderson attended South High School in Youngstown and has supported its sports program for years including officiating football, basketball, and baseball games. He lives in Boardman, OH, with his wife, Edith. They have two daughters, Ruth and Beth, and five grandchildren.

Mr. Speaker, I would like to take this opportunity to congratulate William Anderson for his service to Pony baseball and to our community. He is known as a team player who deserves our appreciation for the time and dedication he has given to the youth of our community. I am honored to represent this outstanding individual.

DEMAND FOR FLAG AMENDMENT REMAINS STRONG IN HEARTLAND OF AMERICA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. SOLOMON. Mr. Speaker, the evidence is mounting that congressional leadership is out of touch with mainstream America on the issue of flag burning.

With the exception of inside the Washington Beltway and the northeastern seaboard, even newspaper editorial writers are criticizing Congress for refusing to consider a constitutional amendment against desecration of the American flag.

And that doesn't include countless petitions circulating all over the country, filled with signatures demanding a vote on a constitutional amendment and refuting all claims that the issue is dead.

Fortunately, Mr. Speaker, in exchange for passage recently of a flag desecration statute, you promised us a future vote on a constitutional amendment. The statute has gone into effect, and was immediately defied by radical groups more interested in flaunting their contempt for America than in exercising any first amendment rights. It is high time, Mr. Speaker, to take the next step, the only step that will withstand any court challenge.

In the meantime, it is my privilege to submit for today's RECORD a typical editorial, published recently in the the Record of Troy, NY.

DISHONORABLE ACTION

It was not even close. The United States Senate, in a stern rebuff to all of us who believed the only way to outlaw desecration of the flag of the United States was by Constitutional amendment, shot down efforts to move that proposed amendment through Congress and on to the States.

The distortion of the purpose of the proposed amendment and the meaning of its rejection continued right to the very end.

For one thing, it was called an amendment to outlaw flag-burning even though the clear intent was to outlaw all forms of desecration, including flag-burning as a protest.

For another, the proposed amendment was described by its opponents as an assault on the Bill of Rights of the Constitution.

As we have pointed out in this space on several occasions since the high court ruling was handed down, the First Amendment does not even mention "expression" among those activities it protects.

It does protect "Freedom of religion, of speech, of the press and the right of petition."

The wording: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

What those who expressed fear of an amendment of the Bill of Rights fail to realize—or refuse to admit—is that the Bill of Rights has been amended over and over again by a Supreme Court that fails to interpret this great document literally.

As Republican Minority Leader Robert Dole said in arguing in favor of the amendment, it is "preposterous" that flag burning should be considered an expression of free speech.

He said, "You burn a flag, that is conduct, malicious conduct, not speech."

As for the argument that it would set a dangerous precedent to amend the Bill of Rights after it has stood for 200 year, why did the framers of the Constitution include a provision for amending the document?

If they did not want the Bill of Rights amended, why did they not exclude those amendments from tampering.

Perhaps we can take some comfort in the fact that we do have a federal law that bans desecretion of our flag.

But the constitutionality of that law is yet to be tested in the Supreme Court.

We must be vigilant. We must make certain if that law is declared unconstitutional we will settle for no less from Congress than an amendment to the Constitution protecting the flag.

Meanwhile, let us not forget the names of those 48 Senators who dishonored our country by refusing to protect its flag.

MEMORIAL DAY FOR THE VICTIMS OF COMMUNISM

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. HORTON. Mr. Speaker, I rise today once again to remember the victims of communism. Seventy-two years ago today, Bolshevik forces stormed the Winter Palace in Leningrad, overthrew the provisional government of Alexander Karensky, and began the enslavement of millions of people around the world. Today, people across this Nation and throughout the world are paying tribute to the victims of that day in 1917 and all of those who have, unfortunately, followed.

From Vladimir Lenin and Joseph Stalin, to Pol Pot and Li Pong, Communist leaders have all shown a pattern of brutal oppression when imposing the will of their regimes on their nations. Be it Stalin's purges of 1937, the killing fields of Cambodia, or this summer's bloody crackdown in Tianianmen Square, men and women have been murdered in the name of communism. Today, we remember these victims and call on the leaders of the Communist world to put an end to their unmerciful practices.

From its first days, the Communist leaders have used slogans and propaganda to inspire the masses. In 1917, it was "All Power to the Soviets" and "Land to the Peasants, Factories to the Workers." It is my sincere hope that glasnost and perestroika have more substantive meaning then these earlier inculcations.

While it is impossible for anyone to make amends for past atrocities, the opportunities are present for today's Communist leaders to make a break with the past. Mikhail Gorbachev can prove himself to be a true refomer by permitting the nationalist factions within the Soviet Union to determine their own future.

I am encouraged by the move toward democracy in Poland. The possibility exists for other positive developments in East Germany and Hungary. It doesn't take a genius to see

that democracy is on the move in the Communist world.

So on this 72d anniversary of the "Great October Revolution" we remember with sadness those victims who have been murdered and tortured at the hands of Communist despots. We are heartened by recent changes and call on today's Communist leaders to break from the practices of their predecessors and permit these democratic yearnings to be fulfilled.

MADE IN THE U.S.A.

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. WISE. Mr. Speaker, nearly all Members agree that the Nation's chronic trade deficit is a continuing threat to our future economic security.

For those of us who have seen factories close and move overseas, the problem is closer to home. Disrupted lives and community upheaval cannot begin to be represented by Department of Commerce figures. It comes as no surprise that many of our constituents are demanding that we do more to improve American competitiveness and rebuild America's industrial base.

Congress has debated complex trade issues for years. While positive steps have been taken to address the trade deficit, it is apparent that a solution to the problem will require a more comprehensive approach, involving consumers as well as business and government. One of the best allies in strengthening this country's manufacturing base are the millions of American consumers who are increasingly demanding products which are "Made in the U.S.A."

That is why I introduced H.R. 3359, legislation which will help American consumers make informed choices about the products they choose to buy. This legislation would require product advertisers to include a simple disclosure containing country of final assembly and content. If 50 percent or more of the component parts come from one particular country, that country must be named. If no country is the country of origin of 50 percent or more of the parts, the disclosure must state simply "of imported parts" or "of domestic parts."

U.S. consumers generally prefer domestically made products, and all other things being equal, will select an American product over an imported one. A recent survey by Cambridge Reports found that the percentage of Americans consciously refusing to buy a foreign-made product rose from 21 to 37 percent from 1985 to 1988. Another survey by Business Week reports that, assuming products made in Japan and the United States are equal in quality, 66 percent of the respondents would buy an American product, even if it meant paying more for it. Country of origin disclosure will encourage this growing desire of American consumers to buy made in the U.S.A. products and to recognize the impact of their buying habits.

Yet consumers' desire to buy responsibly is hindered by two problems: First, the growing number of products which are assembled domestically or elsewhere, from imported components; and second, consumers are confused and misinformed about where many products are made.

As more and more finished products are made from foreign components, it becomes more difficult to discern the country of origin. The effects of outscourcing can be dramatic. A recent study completed by the Small Business Administration Office of Advocacy, Globalization of Production, reports that a positive trade balance in the auto parts industry has turned into a $7 billion annual deficit. As more and more foreign auto manufacturers bring their operations to the United States, often bringing their parts suppliers with them, a car supposedly made in the U.S.A. may actually contain a majority of imported components.

It is no wonder that with increasing diversification, consumers are confused about where many products are made. Many famous products thought to be made in this country are not: Bell telephones, NBA basketballs, American Tourister luggage, Keds tennis shoes, and the Pontiac Lemans are among the many products which are imported. A recent consumer survey by the Made in the U.S.A. Foundation, found that a majority of respondents were misinformed about the country of origin of a number of American automobiles. The fact that consumers do not know where many popular products are made, and yet want to know this information before buying a product demonstrates the necessity of disclosure legislation.

The recent experience in America's apparel industry shows how important and effective consumer awareness can be in reviving domestic manufacturing. After years of recession and moving overseas, domestic apparel manufacturers are moving back. Part of this is due to the consumer awareness, which has been encouraged by Federal statutes requiring country of origin disclosure in apparel products.

American competitiveness can be restored and increased with the help of American consumers. What better allies than the creators and benefactors of U.S. economic stability.

POSTEMPLOYMENT RESTRICTIONS: COVERED ACTIVITIES

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. SMITH of Texas. Mr. Speaker, the President's "Governmentwide Ethics Act of 1989" includes reform of postemployment restrictions. Among other things, it would extend the provisions to all three branches of the Government.

Postemployment restrictions are notable in part for the amount of confusion and misunderstanding that attaches to them.

The restrictions, for instance, do not prevent a former Government employee from working for a given employer. They do restrict narrowly defined activities.

To support my colleagues consideration of these proposals, I am submitting for the RECORD today additional comments on activities covered by postemployment restrictions.

These supplement the findings of the House bipartisan task force, which is to be commended for its yearlong efforts on ethics reform.

COVERED ACTIVITIES

GUIDELINES

Given the policy-making nature of legislative activity (as opposed to the more "commercial" nature of regulated executive branch activity), an extension of "revolving door" statutes to the legislative branch should be narrowly drawn so as not to be unnecessarily burdensome on First Amendment activities.

An extension of the statutes to the legislative branch should establish a "substantially relevant correlation between the government interest asserted and the state's interest" to restrict First Amendment activities.

1. Current Law

Section 207 restrictions apply to narrowly defined activities and not to post-government employment. Nothing in the statutes prevents a former government employee from working for a given employer.

The law does not approach the kinds of restrictions found in the private sector where, for example, "anti-competitive" covenants in private employment contracts bar a former employee from working for clients of the fomer employer for a period of years.

Activities that are the subject of the "revolving door" statutes are related to private advocacy and other representational type activities before or to the Federal Government or a Federal Court, where the Federal Government is involved.

Representational activities can be oral or written and are defined more broadly than "lobbying". Filing a claim can be a representational activity. Physical presence, sitting in a public meeting, can be representional if to do so is an attempt to influence.

It does not matter whether compensation is received for the activity.

2. Issues in Equal Application to the Legislative Branch

Whether representational activities covered by Section 207 before the executive branch differ substantially from representational activities before the legislative branch and, if so, whether the difference is cause for heightened First Amendment concerns.

The "particular matters" that are the subject of Section 207 protections in the executive branch include rulemaking, other proceedings, applications, requests for rulings or other determinations, contracts, claims, controversies, investigations, charges, accusations and arrests.

Generally, the representational activities of an individual seeking a favorable resolution of such before a Federal agency is thought of as exercising a form of "commercial" speech. Commercial speech is entitled to a much lesser degree of First Amendment protection than is the activity of an individual advocating a public policy position.

The business of the legislative branch, however, is the debating and making of public policy.

Thus, representational activities before the legislative branch generally are likely to receive substantially more scrutiny by the courts than those before executive branch agencies.

Still, First Amendment rights are not absolute.

Restrictions on even "political" speech have been upheld by the courts when found to be narrow restrictions which promote a "compelling" enough government interest. (Buckley v. Valeo, 424 U.S. 1, 25)

And a restriction may be upheld if it is not substantial or is somewhat indirect.

A key is not only whether the interest is substantial or compelling but whether the statute has been narrowly drawn and is not unnecessarily burdensome on First Amendment activities. There needs to be a "substantially relevant correlation between the governmental interest asserted and the State's effort" to restrict expression. (Shelton v. Tucker, 364 U.S. 479, 485)

INTRODUCTION OF CAMP PENDLETON PRESERVATON ACT OF 1989

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. BATES. Mr. Speaker, today I am introducing the Camp Pendleton Preservation Act of 1989, an important piece of legislation designed to preserve and protect the lands and wildlife at Camp Pendleton.

Camp Pendleton is the single remaining open preserve between Los Angeles and San Diego, in an area that has long been troubled by the threat of overdevelopment. Without the natural buffer provided by the 125,000-acre Marine Corps training base, southern California faces the prospect of becoming "San Angeles": a vast, urban sprawl from the Mexican border to the northern suburbs of Los Angeles.

San Diego was once home to many major military bases. When these bases closed, the Federal Government turned the properties over to the State and local governments, in accordance with exisiting laws. Although these lands were to be used by the local government for beneficial public purposes, many of the former bases are today buried under housing tracts and other development. This loss of potential public land warns us that local government is unable to withstand the pressure to allow commerical development.

Camp Pendleton is not just an open preserve separating San Diego and Los Angeles, but also a valuable wildlife refuge. A number of species, classified as endangered species under Federal law, make their homes on Camp Pendleton. The California least tern, the light footed clapper rail, and a 50-head herd of bison are all among the endangered species residing on this property. Also, the Santa Margarita River and Santa Margarita Mountains, sustain unique environmental resources on this property.

I do not foresee the U.S. Marine Corps leaving Camp Pendleton, and my bill is certainly not designed with that intent. I would like to see the Marines occupying Camp Pendleton, and preserving its natural beauty, for as long as they wish. However, the decision last year to close obsolete military bases made it strikingly apparent that the preservation of the open lands at Camp Pendleton may not always be guaranteed by the Marine Corps. One need only look to San Francisco's Presidio, another base that supposedly would never close, to find an example of legislative foresight guaranteeing preservation in the event of an unexpected closure.

With its 17 miles of beach-front land, vast wooded areas and recreational facilities, Camp Pendleton should not be lost to land developers. If and when the U.S. Marine Corps ever vacates Camp Pendleton, my legislation will require that the Secretary of Defense notify the Secretary of the Interior, who will then have 90 days to review the property. This review process is designed to determine Camp Pendleton's suitability for classification as a national park or other wildlife region under the administration of the Department of the Interior. The Secretary will then be required to make recommendations to Congress which provide for the maximum preservation of the Camp Pendleton property. After the review by the Secretary of the Interior, Congress will have 270 days to act upon the Secretary's recommendation, during which time no Federal agency will be allowed to sell or use the land in any way.

Assuming that the Marines never leave Camp Pendleton, there are still tangible benefits to be gained from the passage of this bill. Currently, the base must devote an entire office to the prevention of encroachment by developers, who constantly propose plans for building airports or drilling oil on base property. If my legislation is passed, the Marine Corps will no longer need to spend its energies fending off would-be invaders, for the land would not be available to developers whether it was declared surplus or not. I encourage all of my colleagues who wish to preserve one of the last unspoiled stretches of southern California coastline for posterity to become cosponsors of the Camp Pendleton Preservation Act of 1989.

TRIBUTE TO STUART ZIMRING

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. BERMAN. Mr. Speaker, I rise today to recognize a distinguished community leader. Stuart Zimring is being honored by the Juvenile Justice Connection Project for his outstanding contributions to the organization. As this year's recipient of the JJCP's "Circle Award," he is being cited for his continuing support for troubled youth and their families.

For almost a decade, Stuart and his law firm—Levin, Ballin, Plotkin, Zimring, and Geffen—have served as pro bono counsel for the Juvenile Justice Connection Project. Stuart has played an active and continuing role in the JJCP and is a strong believer in its credo of preventing delinquency and child abuse before it occurs.

Stuart and his firm recognize a responsibility to the wider community. The firm also undertakes pro bono work for the Valley Interfaith Council, the Greek Heritage Society, and the San Fernando Valley Child Guidance Clinic.

Stuart is also active in other areas of the community. He is a past committee chairman and current board member of Bet Tzedek—the Jewish legal service agency that provides legal assistance for those other wise unable to afford it. He is also a trustee of the San Fernando Valley Bar Association—two of his law partners are past presidents of the organization.

Stuart is also an active member of the Jewish community. He is a director of both the Adat Ari El Synagogue and the Brandeis Bardin Institute.

It is a privilege and pleasure for me to request that my colleagues join me in saluting Stuart Zimring—a community leader and role model for all.

FUNDING TO FAMILY PLANNING GROUPS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. ENGEL. Mr. Speaker, I wish to express my deep disappointment over the recent decision by a Federal appeals court prohibiting groups in New York, which receive funds under title X of the Public Health Act, from providing abortion counseling.

As a result of this decision, as many as a dozen family planning clinics in my home State of New York have had their existence placed in jeopardy. Without Federal assistance, these clinics, most of which operate in impoverished areas, will be unable to provide the whole range of health programs currently available to the public.

Once again, the antichoice legacy of the Reagan administration has directly damaged the availability of health care to those who need it most. Our Government speaks out on educating our young people about the importance of practicing safe sex and realizing the danger of AIDS, then it turns around and attacks the health care centers that disseminate this vital information.

I remind the Court of Appeals for the Second Circuit and my colleagues in Congress that abortion remains a legal and safe choice for women to decide for themselves. The clinics in question in this matter inform their clients about all of the legal options available to them. To outlaw even the mention of abortion during counseling is both unrealistic and unfair to those seeking expert medical advice.

I maintain a consistent prochoice position because I believe it is not the role of Government to tell a woman what to do with her body. In this case, I believe it is equally unjust for a court to dictate to health care providers that they cannot offer sound, legal advice to their clients.

This matter will likely be taken up in a higher court in the near future. I will continue to stand by the groups that are working hard to offer the best medical advice they possibly can to the people seeking their assistance. Free exchange of knowledge is a basic constitutional right that must not be abandoned.

GREENVILLE, MS, NAMES TEACHER OF THE YEAR

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. ESPY. Mr. Speaker, I rise today to recognize the outstanding career of Alfolonia Moore of Greenville, MS. She has been named the Greenville Public School District's Teacher of the Year after serving her community for 24 years.

Mrs. Moore teaches first graders their ABC's but also manners, values, and social skills. Even when her McBride Elementary School students move on to other grades, she keeps track of their educational achievements. Former students often visit her as they move on to junior high and high school.

As our world becomes more complicated and we get confused about what represents quality education, we should turn to teachers like Mrs. Moore. Congratulations to Mrs. Moore and I wish for her many more years of teaching.

HURRICANE HUGO DISASTER RECONSTRUCTION BILL

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. DE LUGO. Mr. Speaker, today, I am introducing a bill, H.R. 3593, the Hurricane Hugo disaster reconstruction bill to provide emergency assistance to the areas that sustained damages as a result of this most terrible storm.

As I speak today, 7 weeks after Hurricane Hugo struck the Virgin Islands, Puerto Rico, and South Carolina, no more than 20 percent of the power has been restored on St. Croix, for example, and only 35 percent of the debris has been cleared. Less than 20 percent of the phones have been restored. The recovery and rebuilding has begun, but it is going to be a long and slow process, at best.

The initial relief efforts in the Virgin Islands, Puerto Rico, and South Carolina, focused on providing food, water, medicine, and temporary shelter. While it was urgent to meet these needs immediately, such efforts are really only a small part of the entire recovery effort.

In the case of the Virgin Islands, to rebuild the infrastructure and bring back the economy of St. Croix which was literally wiped out will require the special assistance of the Federal Government as provided in this bill—to clear and rebuild the roads, clean the harbors, rebuild the piers, rebuild the powerlines, repair and rebuild public buildings and facilities, clean and restore flood control projects and watershed areas, and beaches which are important to the tourist economy.

It will also increase the ceiling on one flood control project on which the Virgin Islands will still meet its local matching requirements. It also makes a technical correction which waives the annual limits for the territories on highway emergency repair funds just as the continuing resolution which the House passed on October 19 waived this limit on a national basis.

The Government of the Virgin Islands is doing its best to rebuild, but its resources are severely strained. My bill addresses this by allowing Virgin Islands to make use of the professional and technical expertise of the Army Corps of Engineers and the Department of Transportation for important projects. The Army Corps is familiar with the Virgin Islands and over the years has worked on many of the projects which need to be restored. Their work will ensure the most cost effective use of the financial assistance already allocated. The authorization of two Federal Highway Administration technicians to assist with highway repairs and reconstruction to be funded out of the Virgin Islands' share of the highway trust fund ensures the same cost effective use of resources.

Finally, it would provide that the General Services Administration be reimbursed for expenses incurred for storm repair or renovation, particularly in South Carolina and Puerto Rico, from funds already appropriated for such purpose.

Even though there are laws already on the books to take care of disasters, they cannot take care of a disaster of this magnitude. There is simply no Federal legislation to cover the kind of disaster that hit the Virgin Islands—knocking out all power, all phones, and all communications. Let me describe it this way. I recently heard one of my colleagues describe the effects of a plant closing in his district, which was devastating to the people involved. No doubt about it. I told him that I understood exactly what he was saying because in my district, the entire island of St. Croix has been closed down and 55,000 people have been affected.

Before I conclude, Mr. Speaker, I want to thank the chairman of the House Public Works and Transportation Committee, GLENN ANDERSON; and JOHN PAUL HAMMERSCHMIDT, ranking minority member of the committee; NORM MINETA, chairman of the Surface Transportation Subcommittee, whose own district suffered major earthquake damage; and HENRY NOWAK, chairman of the Subcommittee on Water Resources; for all of their assistance in helping me prepare this bill. I have appreciated so much all of the support they have given me in recent weeks.

I sincerely hope, Mr. Speaker, that with your support and that of my distinguished colleagues on the Public Works Committee, this bill will pass the House very soon. The people of the Virgin Islands are in desperate need.

ACCESS CHARGES FOR ENHANCED SERVICE PROVIDERS AND COMMERCIAL RADIO OPERATOR EXAMINATIONS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. MARKEY. Mr. Speaker, for the purpose of clarification, I submit for my colleagues' information two issues not explicitly addressed in the committee report on H.R. 3265, the Federal Communications Commission Authorization Act of 1989.

For over 2 years, I and many of my colleagues on the Energy and Commerce Subcommittee on Telecommunications and Finance have been concerned about the potentially harmful impact that access charges levied on enhanced service providers [ESP's] might have on the development of the information services industry and the consumers and institutions they serve.

As has been articulated on numerous occasions through subcommittee hearings and correspondence, my colleagues and I are convinced that requiring ESP's, as users of the network, to pay carrier access charges would seriously injure the enhanced services industry, render advanced information services unaffordable for many residential and small business consumers, and impede America's competitiveness.

In the past, the Federal Communications Commission [FCC] has raised, rejected, and raised once again the idea of assessing ESP access charges. Each time, the cacophony of voices, both public and private, opposed to such a fee has drowned out the few supporting the idea. If the United States is going to have information services develop to its fullest potential—with affordable access to all those who need it—there needs to be in place a regulatory commitment to ensuring these goals. Let us, therefore, lay this matter to rest once and for all. The ESP access charge issue should not be resurrected again. ESP's should not be forced to pay usage-sensitive access charges for access to the interstate network either directly or by backdoor devices such as a precondition to obtaining any of the open network architecture services.

During the subcommittee's September 14, 1989, FCC authorization hearing, Chairman Sikes stated that he does not intend to require ESP's to pay carrier access charges in order to obtain access to the interstate telephone network. Because of the clarity of the Chairman's statement, and the good faith assurances we have received from the Commission since then, this issue was not addressed in the accompanying legislation. The Commission appears to understand the strength of our concern on this matter. Nonetheless, I intend to conduct active oversight of this issue and, if the Commission varies from these expressed concerns, we intend to take appropriate and prompt action.

Mr. Speaker, I would also like to address another issue in the FCC authorization report dealing with the commercial radio operator examinations. I want to make clear that it is the committee's intention that the Commission shall also ensure that examinations thoroughly test commercial radio operator candidates on all statutory and regulatory duties and that these examinations are revised periodically to reflect the introduction of new technology. The Commission will, of course, consider all applicants as to how they can be best used to meet the requirements of this provision.

TRIBUTE TO MARLA GIBBS

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. BERMAN. Mr. Speaker, I rise today to honor a distinguished citizen of Los Angeles, Marla Gibbs. She is not only an internationally acclaimed actress, she is also a visionary philanthropist and dedicated activist. She is being honored at the Juvenile Justice Connection Project Circle Awards Dinner [JJCP]. As the recipient of the JJCP's prestigious William Shatner Award, Marla is being recognized for her devotion to helping children grow into successful members of the community.

Marla is devoted to helping others. In addition to her substantial work for the Juvenile Justice Connection Project, she is the founder of Concerned Helpers of Inner Community Endeavors [CHOICE], a nonprofit group set up to fund other nonprofit agencies dealing with a variety of urgent concerns.

In 1982, Marla witnessed the fulfillment of a long held dream. The Crossroads Arts Academy—a center for the development of the creative arts—opened its doors in the heart of Los Angeles' inner city Crenshaw district. Crossroads has become a key facilitator in linking and enhancing a diverse and multicultural neighborhood and is a model for similar operations throughout the country.

Marla's professional work has been acclaimed by both her peers and her fans. The NAACP has presented her with its prestigious Image Award for best actress in a comedy series seven times. She was nominated for the best supporting actress Emmy for 4 consecutive years and was the first recipient of the Essence Women Award.

Marla is the mother of Jordan, Dorian, and Angela and the grandmother of Amil.

It is with pleasure and pride that I ask my colleagues to salute Marla Gibbs—an exemplary citizen, a dedicated professional and a compassionate and effective activist in our community.

JAPAN'S INVASION: A MATTER OF FAIRNESS

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. OXLEY. Mr. Speaker, I'd like to submit for the RECORD an insightful article regarding foreign investment in this country, written by Peter G. Peterson and published in the Wall Street Journal on Friday, November 3, 1989. It is my thought that my colleagues might find it instructive.

JAPAN'S INVASION: A MATTER OF FAIRNESS

(By Peter G. Peterson)

Is the U.S. suffering from a dangerous Japanese invasion? The American public seems to believe so. Opinion polls show Americans fear Japanese competition more than Soviet aggression and believe that growing Japanese investment here is a bad thing.

As an investment banker involved in some trans-Pacific mergers and acquisitions, I believe that foreign investment here can be very positive. Japan's Bridgestone is now investing $1 billion in a productivity renovation—far more than Firestone's former American owners could have invested—that should ensure that Firestone remains competitive and its American workers keep their jobs. Similarly, when the current controversy over the Sony-Columbia Pictures deal dissipates, the positive side will become clearer: Sony's intent is to arrest Columbia's drift and help the studio realize its potiential as an *American*-based leader in global entertainment.

Whatever the merits of such deals, however, the fears of Americans are real—however heightened by media pandering to American xenophobia and latent racism. The U.S. edition of Newsweek sounded a martial note in its cover story on Sony's purchase of Columbia: "Japan Invades Hollywood." In the Japanese edition, that same cover was toned down to "Japan Moves Into Hollywood." Apart from that stunning difference of nuance, it is worthwhile to ask why Newsweek saw Sony's move as so controversial that it warranted a cover story, while a similar Australian deal (Qintex's planned takeover of MGM/UA) was mainly treated by the media as a minor business-news item.

THE RELEVANT CONTEXT

Some Japanese say: "It isn't right for Americans to criticize Japan for buying so much. British, Canadian and Dutch investors buy many companies in the U.S. too. Nobody worries about a British, Canadian or Dutch invastion!" Indeed, Japan is popularly vilified as the chief foreign "invader," even though its direct investments in the U.S. amount to half the British total and about the same as the Dutch. Japan ranks only fourth in the most sensitive investment area: manufacturing. Few reporters covering the "invasion" bother to set the issue in the relevant context: American firms, which began a long global investment binge in the 1950s, still earn three times as much from their foreign investments as foreigners do here.

Some Japanese also remark: "America's big twin deficits are the fundamental problem. Why not solve these instead of criticizing Japan?" I would like to think that I have as long a record as anyone of trying to convince Americans that so long as our savings rate remains low, our cost of capital high and our budget deficits massive, the U.S.'s unprecedented trade and current-account deficits are largely inevitable. Condemned to foreign financing of our deficits until we fix the underlying causes, our only real choice is how we prefer these inevitably huge amounts to flow here. Should we not encourage some of this capital to flow into long-term, productivity enhancing investments rather than into volatile financial instruments from which it can take rapid electronic flight?

But what the Japanese may not have fully grasped is that while these realities, brought on by our own national policies, need to be better explained to an increasingly worried American public, the emotional energy in this debate is not really about economics and finance, but politics and psychology. It is not about facts, but about fears. It is not so much about the present as it is about the future. And it is not so much about any one issue as it is about a general perception of unfairness.

In every Japanese acquistion of an American company or skyscraper, many feel a vague fear about Japanese ascendancy and American decline. It behooves Japanese investors to realize that Japan's role in the U.S. is different from that of other foreign investors. Japan is not just any nation, but the world's wealthiest in asset terms. It is not just any foreign creditor, but the one upon which we are becoming the most dependent, and with which we suffer by far the worst trade deficit. It is not just any competitor, but our strongest competitor. Nor is Japan just any ally, but one whose culture is vastly different from our own and poorly understood here. And World War II has yet to fully fade from the collective memory.

These fears of Japan are virulent—even when the data show that Japanese direct investments represent a peripheral 1.5% of total U.S. corporate assets. However, Fred Bergsten of the Institute for International Economics projects that during the 1990s Japanese foreign investment will likely grow fivefold, to about $300 billion. Today's fears plus that prospect could well lead to an explosive backlash.

The possibility of such a backlash is aggravated by American perceptions of Japanese unfairness in four key areas:

1. Trade "fairness." The Japanese point to the progress they have made in opening their market to American goods—tariffs reduced or eliminated, import-promotion campaigns, major growth in domestic demand, and accepting a strong yen. Indeed, real progress has been made. However, some influential voices in Tokyo now seem to be saying, "We have done enough. We can't help the poor quality of U.S. goods or the unwillingness of U.S. companies to do business the Japanese way."

Certainly there is truth in this. Still, many high-quality U.S. products can't get into the Japanese market. I can't imagine a smaller, lighter, better cellular phone than the Motorola model I carry with me. Yet Motorola's chairman, Robert Galvin, tells me that this product line has had a devil of a time cracking the invisible barriers of Japan's market. And that is only one story among many, from oranges to rice to airport construction. Japan continues to take even small market-opening measures only after tenacious negotiations and enormous pressure. As an economic superpower, and a country that has benefited so much from easy access to the U.S. market, Japan should open its markets widely, rapidly, generously, graciously and on its own initiative.

2. Investment "fairness." At a time when the Japanese are actively buying American companies, it remains extremely hard for foreigners to buy Japanese companies. Foreign investment in Japan, as a percentage of GNP, is less than one-tenth what it is in the U.S. Not that there is a flood of potential U.S. buyers, but some American companies do want to make acquisitions in Japan and are willing to pay the price. But most Japanese companies aren't for sale to anyone, including other Japanese.

Unless the Japanese find creative ways to encourage two-way foreign investment (Why can't Japanese prefectures have "Invest in Japan" offices here?), the acrimony previously reserved for trade issues may spill over into demands for investment "reciprocity." That atmosphere could threaten the world's tenuous balance of capital flows—and further poison American views of Japanese investment here.

Among the ways to defuse American fears of Japanese investment as well as com-

plaints about the difficulties foreigners face in entering Japan would be for Japanese companies to opt for more strategic alliances and global joint-ventures with American companies, or perhaps cross-ownership of shares. Two-way flows and private-sector partnerships would emphasize that both sides can win together.

3. "Unfair" practices by Japanese companies operating here. The record of Japanese companies in the U.S. is generally good. Yet because of the special sensitivities to Japanese investment, the impact of every incident is multiplied. Heading the list is the tendency of Japanese manufacturers in the U.S. to rely about three times more than other foreign firms on parts from back home. This gives credence to the nightmare future in which low-wage Americans assemble high-tech, high-value-added parts from Japan. To allay this fear, Japanese companies should find ways to buy from local U.S. suppliers and must strive to bring the most advanced elements of their R&D and productive processes to the U.S.

Japanese human-resources practices may also feed the fear factor. Top American executives at some Japanese-owned companies complain that real decision-making remains in Tokyo or in the hands of resident Japanese. Women, minorities and unions have criticized some Japanese companies in the U.S. for failing to embrace American standards of equal opportunity. If a million Americans are going to work for Japanese companies by the year 2000, as some experts predict, these companies would do well to Americanize their operations as much as possible.

TAKING THE LEAD

4. "Unfairness" in burden sharing. Americans are chafing at paying 6% or more of U.S. GNP to underwrite Free World military security, and still more for "economic peacekeeping" efforts to aid developing nations and multilateral financial institutions. I doubt the American public will feel that any trade or investment practices are fair unless the Japanese, who spend far less, share generously in the burdens—particularly those of economic and global-environmental security.

All these perceptions of unfairness charge the emotional atmosphere of the U.S.-Japan relationship in ways that are hard to explain by economic data alone. Yes, the U.S. must work much harder at cutting deficits, lowering capital costs and restoring competitiveness; we don't have to pressure Japan to make these indispensable changes. But if we are to minimize the impending anti-Japanese backlash, Japan must not wait for the U.S. to get its own house in order. It must lead with meaningful actions to address American fears. Japan's leaders must rise above the technical issues that divide us and hold out a hand in partnership as befits two allies. This hand of friendship must clasp not only the political leaders in Washington, but must reach down through every level of American society.

A GROSS INJUSTICE

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. LAUGHLIN. Mr. Speaker, a gross injustice has recently been inflicted on one of the most livable and enterprising cities in the entire State of Texas. The city, Victoria, TX, which I represent, was ranked in the bottom 10 of the most livable cities in the country by the 1989 edition of "Places Rated Almanac."

It is beyond me how a well-known publisher like Prentice Hall of New York, could arrive at this conclusion. How, for example, could anyone rank Washington, DC, fourth and the city of Victoria in the bottom 10 of 333 cities examined?

How is the District of Columbia, with a sea of drug dealers and more violent death per year than Beiruit, a better place to live than a community that works together to fight the drug plague?

Just today, the morning headline in the paper says that the Mayor of Washington, DC, was supplied cocaine by a convicted criminal, while earlier this year, Juan Linn Elementary in the Victoria Independent School District won the national drug free school recognition for outstanding drug abuse educational program. What does that say about livable conditions?

How is Victoria, a community that takes pride in their schools and recognizes the importance of education, a less attractive place to live than Detroit?

The truth is the contrary. Victoria is one of the best places to live, and a wonderful place to raise a family. Not only do I think so, Mr. Speaker, but so do the over 57,000 residents of Victoria.

Victoria is a city of warm people, good climate, and excellent living conditions. For a medium-size city, its educational opportunities, hospitals, transportation infrastructure, and free enterprise spirit are excellent. Victoria is becoming recognized across the United States and by overseas investors as an ideal place for business expansion and new manufacturing facilities.

Estimates are that Victoria's population has increased by nearly 20,000 over the last 20 years, and high growth is expected to continue.

Victoria has its problems, just like any city, however, instead of demanding more Federal funds to address their problems, they look among themselves for solutions. You will not find the roads littered with potholes or the curbs filled with trash. Truly, this is a community that works hard to provide the best environment for raising a family and for teaching our youth the important values in life.

Finally, Mr. Speaker, I was not surprised to learn that of the 10 best places to live chosen by Publisher Prentice Hall of New York, not one was in the Southwest. This indicates an increasing discomfort and uncertainty on the part of Northeasterners about the large population migration that continues away from the east coast and to great places like Victoria.

HAMILTON, OH, OFFERS NEW INNOVATIVE PROGRAM TO DEAL WITH DUI AND DRUG OFFENDERS

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I rise to proudly describe a "first in the country" program launched in Butler County, OH. This program, the drug and alcohol resolutions program offers a shining example, of how a local community is tackling the problems of substance abuse and overcrowding in detention centers. It is the only program of its kind in the State of Ohio, and the first in the Nation of which we are aware.

I wish to particularly note four individuals instrumental in establishing this program: Judge H.J. Bressler of area 3 court, Jean Glowka, vice president of Resolutions, a subsidiary of the Fort-Hamilton-Hughes Hospital, Steve Best, marketing director of Resolutions, and Ralph Martin, administrator of this new facility and a highly respected former policeman.

These local leaders saw a need and pulled together to meet it. They didn't wait for the Federal Government. They took action. The local courts have a backlog of 1,600 people waiting to serve time for DUI and substance abuse. So they did something about it. They turned an abandoned furniture store in downtown Hamilton, OH, into an 85-bed State-approved minimum security institution. DUI offenders will serve 3, 10-to-30-day sentences and at the same time receive alcohol/drug education and counseling. It will relieve overcrowding and assure that sentences are served in a timely fashion.

Hats off to Butler County, Ohio.

Mr. Speaker, in the past I have spoken here of local cooperation in dealing with the drug problem. This is what I am talking about. Here we have cooperation among Drug and Alcohol Resolutions Inc., the Butler County Sheriff's Department, the Butler County Commissioners, and the judges and cities in Butler County.

This is an example of how we Americans will succeed in battling the drug problem on the local level. And as this facility officially opens its doors, I want to take notice of this outstanding and innovative example of local cooperation.

Mr. Speaker, I submit for the RECORD an interesting article by Mike Fening of the Middletown Journal on this program and one by Rob Daumeyer of the Hamilton Journal-News.

[From the Middletown (OH) Journal, Nov. 4, 1989]

(By Mike Fenning)

HAMILTON.—The first Ohio facility to incarcerate drunken driving offenders while providing education and rehabilitation programs was dedicated here Friday by a host of politicians, law enforcement personnel and business leaders.

About 100 area leaders attending a late morning ceremony at the Butler County Minimum Security Jail on Second Street here. The jail, a satellite facility to the county jail, will accept its first inmate Monday afternoon, according to Jean Glowka, vice president of Resolutions, the Fort Hamilton-Hughes Hospital corporation formed to operate the jail.

The 85-bed jail will be operated by the county sheriff's department, Drug and Alcohol Resolutions Inc. and county commissioners.

"We are making history, not only in Butler County but in the state of Ohio," Glowka said. "It will be a very unique program, combining incarceration with alcohol/drug education."

Resolutions incorporates alcohol and drug education programs for DUI offenders sentenced to three-, 10- and 30-day terms. Officials hope it will reduce the current 1,600-case backlog of convicted DUI offenders waiting to serve their jail sentences in the county.

"It will help reduce the backlog in the jails while offering help to the people convicted of DUI," Glowka said.

The jail will be operated by Horizons, under the auspices of the sheriff's department and Capt. Ralph Martin.

"This will not only reduce the backlog in the county jail but it will serve to uplift the morale of the street officers and judges who sentence the offenders," Sheriff Richard Holzberger said.

County Commissioner Courtney Combs said "it is indeed a historic day in Butler County. We're here to solve problems. We realize the problems and we have the solutions."

Combs also gave credit to Area 3 Court Judge H.J. Bressler, who two years ago pressed officials to seek a remedy for the mounting DUI problem in the county.

"He came up to me two years ago and said three-time (DUI) offenders were laughing at him." Combs said of Bressler. Many DUI offenders wait as long as 18 months to serve their jail terms, Combs added.

Resolutions is a private corporation that will charge the DUI offenders for their stay in the jail. It will also recoup money through court fines imposed by municipal and county courts, officials said.

"Many times it's easy for the state and federal government to tell us what to do and not give us the dollars to do it," Combs said. "Through cooperation we are taking the bull by the horns" to solve the local problem.

Middletown Police Chief Earl Smith said the new jail should relieve overcrowding at the city jail, as well.

"Our jail stays full practically all the time," he said. "This should relieve the pressure."

The cities of Hamilton, Middletown and Fairfield, and the county have reserved anywhere from 15 to 30 beds for the DUI offenders that originate out of their courts.

The building being used for the jail was formerly an abandoned furniture store.

[From the Hamilton Journal-News, Nov. 4, 1989]

(By Rob Daumeyer)

HAMILTON.—Butler County's justice system received a major shot in the arm Friday as a new minimum security jail opened to help relieve the county's huge backlog of DUI offenders waiting to serve time.

The Second Street jail is the first of its kind in Ohio, and should reach its 85-inmate capacity in 30 days, according to James Kingsbury, president and CEO of Fort Hamilton-Hughes Memorial Hospital.

Fort Hamilton-Hughes will own and operate the facility under the name Drug and Alcohol Resolutions. The facility will be a satellite of the Butler County Jail, under the jurisdiction of the county sheriff.

"This venture is creative, innovative and progressive and will become a model program for other communities who must deal with jail overcrowding," Kingsbury said.

The facility was dedicated Friday morning in a ceremony attended by government, hospital and court officials from all corners of Butler County, including U.S. Rep. Donald "Buz" Lukens, State Rep. John Boehner, County Commissioners Courtney Combs and Henry Helton, Sheriff Richard Holzberger and several county and state judges.

More than 1,600 convicted DUI offenders in Butler County are waiting to serve jail time, and it will take a year for the new jail to cut through that backlog, according to jail administrator Capt. Ralph E. Martin of the Butler County Sheriff's Department.

"After one year we should be able to take people on drug- and alcohol-related crimes," Martin said. "But for now, it will be strictly DUI."

Jean Glowka, director of Fort Hamilton-Hughes' Horizon drug and alcohol rehabilitation center, will be vice president of the facility in charge of the rehabilitation and education. Steve Best will serve as marketing director.

Education and rehabilitation are the cornerstones of the operation, Glowka said, with the goal of sharply cutting the rate of repeat offenses.

"The prisoners will receive treatment all day long," she said. "They won't be allowed to lay in bed and say, 'I don't want to participate.' If they say that, they will be sent back to the main jail."

Treatment will include lectures, drug, and alcohol tests and counseling, Glowka said.

"But this is a jail," she warned. "They will be booked, strip-searched and surveilled."

There will only be one full-time deputy assigned to the minimum-security jail at any time, Martin said, because it is unlikely the prisoners would present a threat to others or to the facility.

Inmates will be considered non-violent and will have undergone intensive screening through the main jail, he said.

The program will be made available to people with DUI sentences of three, 10 or 30 days. There is a separate dormatory for women, which will be used for men much of the year.

"We should see a boost in morale from police and judges, because they know that people can be sentenced the day they are convicted," Glowka said.

Kingsbury closed the ceremonies by telling the crowd of about 100 that he hoped not to see them back as guests.

"But if we do, I hope we can help you," he said.

WHERE IS THE ENVIRONMENTAL PRESIDENT?

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 7, 1989

Mr. STARK. Mr. Speaker, so much for the environmental President. President Bush has promised to take the lead internationally in addressing global warming, perhaps the greatest threat to the environment we face. Well, he has taken the lead. He's taken the lead for ignoring the greenhouse effect in the face of clear scientific evidence. He's taken the lead for the "do nothing and the problem will go away" school of thought. He's leading us, but he's leading us backward.

The latest example of the President's leadership on this issue occurred yesterday in the Netherlands. President Bush led the charge in blocking efforts by other industrialized nations to take responsible action on global warming. While the majority of industrialized nations were proposing a ceiling for CO_2 emissions, President Bush's representatives—joined only by Japan and the Soviet Union—were working hard to thwart the agreement.

More study is needed, the President says, as if virtually the entire scientific community doesn't agree that our dumping of tons of CO_2 into the atmosphere has created an unnatural warming of global temperatures. It makes good sense to cap CO_2 emissions at 1989 levels.

This was suggested by EPA Administrator William Reilly, as was a plan to hold an international conference to negotiate a global warming treaty. Both of these ideas were rejected by President Bush's Domestic Policy Council. Those of us who applauded the President's choice of Mr. Reilly to lead the EPA are deeply disturbed to find his advice being overidden time after time on this issue.

Where is President Bush's leadership on bringing a world environmental conference to the United States? Where is his leadership on reducing auto emissions in the Clean Air Act?

Cooperation and commitment to a healthy environment for our fragile planet is one of the things that can bring nations all over the world together. International efforts to this end are the hope of humanity, and President Bush's attempt to thwart them by naming them extremist is not the leadership we need.